



JUDICIAL COUNCIL AGENDA

October 25 & 26, 1999
Site Visit - Kanab, Utah
Sixth Judicial District Court — Kane County

Continental Breakfast & Lunch Provided

Chief Justice Richard C. Howe, Presiding

<u>Item:</u>	<u>Time:</u>	<u>Subject:</u>	<u>Presenter:</u>
1.	8:30 a.m.	Continental Breakfast	
2.	9:00 a.m.	Welcome/Approval of Minutes (Tab 1 - Action)	Chief Justice Howe
3.	9:05 a.m.	Report from Chairman/New Committee Assignments.	Chief Justice Howe
4.	9:20 a.m.	State Court Administrator's Report	Daniel J. Becker
5.	9:45 a.m.	Judicial Council Sub-Committee Reports (Tab 2 - Information)	Chair, Management Committee Chair, Policy & Planning Committee
6.	10:10 a.m.	Ratification of Susan Bradford as Third District Court Commissioner (Information)	Chief Justice Howe, Hon. Anne M. Stirba, Dan Becker
7.	10:20 a.m.	Break	
8.	10:35 a.m.	Follow-Up: Family Law Workshop (Information)	Hon. Michael Glasmann/ Tim Shea
9.	10:50 a.m.	Certification of Stockton/Rush Valley Justice Court (Tab 3- Information/Action)	Richard H. Schwermer

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| 10. | 11:00 a.m. | Probation Officers' Salary Survey
(Tab 4 - Information/Action) | Myron March,
Barbara Hanson |
| 11. | 11:20 a.m. | Presentation re: Facilities in 6 th District,
Kane County Location;
Update: Perimeter Security in 2 nd District
Juvenile Court Ogden Location
(Tab 5 - Information/Discussion) | Gordon Bissegger |
| 12. | 11:45 a.m. | Remarks & Presentation by 6 th District Judge
(Information) | Hon. David Mower |
| 13. | 12:05 p.m. | Update on 6 th District
(Information) | Brent Bowcutt |
| 14. | 12:15 p.m. | Executive Session | |
| 15. | 12:30 p.m. | Lunch | |
| 16. | 1:30 p.m. | Council Tour of Sites/Adjourn | |

Press
(Tab 6)

Consent Calendar

The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.

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| 1. | Appointment to Standing Committee on Court Facilities Planning
(Tab 7) | Holly M. Bullen |
| 2. | Amended Policy re Making Change for Court Patrons
(Tab 8) | Heather Mackenzie-Campbell |

**NEXT MEETING: NOVEMBER 22, 1999 - 9:00 a.m.
COUNCIL ROOM, MATHESON COURTHOUSE**

**JUDICIAL COUNCIL
MINUTES**

**Tuesday, September 14, 1999
The Inn At Prospector Square
2200 Sidewinder Drive
Park City, Utah**

Chief Justice Richard C. Howe, Presiding

Members Present:

Chief Justice Richard C. Howe
Hon. Russell W. Bench
Hon. Robert Braithwaite
Hon. Michael Burton
Hon. Michael Glasmann
Hon. Ronald Hare
Hon. Scott Johansen
Hon. Kay Lindsay
Hon. Leonard H. Russon
Hon. John Sandberg
Hon. Anthony Schofield
Hon. Anne M. Stirba
Hon. Stan Truman
Scott Daniels, Esq.

Staff Present:

Daniel J. Becker
Myron K. March
Matty Branch
D. Mark Jones
Richard Schwermer
Tim Shea
Jan Thompson
Ray Wahl
Cathie A. Montes

Guests:

Mary Boudreau, *Utah Children*
Jerry D. Howe,
*Office of Legislative Research and
General Counsel*

Welcome/Approval of Minutes

Chief Justice Howe welcomed all those in attendance. He noted that this would be the last meeting for four outgoing Council members: Judge Robert Braithwaite (5th District); Judge John Sandberg (Justice Court); Judge Michael Burton (3rd District); and Judge Anthony Schofield (4th District). The minutes of the Council's last meeting and the budget and planning session were reviewed; following this review, a motion was made.

Motion

A motion was made to approve the minutes of the Council's August business meeting and budget and planning session. The motion was seconded and carried unanimously.

Chairman's Report

Chief Justice Howe presented his monthly report to the full Council. He noted that he attended the re-dedication of the Davis County Court Complex in Farmington. Prior to the re-dedication ceremony, he reported that he attended the monthly meeting of the Constitutional Revision Commission. He offered remarks to the Revision Commission on judicial retention and selection. Steven Stewart, Fran Wikstrom, and a majority of the Judicial Conduct Commission were in attendance, as were members of the Utah Bar Commission. The three-hour meeting consisted of the Revision Commission hearing remarks made by the aforementioned groups. Both the Conduct Commission and the Bar Commission recommended that no action be taken by the CRC with regard to changes in the retention process. The Revision Commission was without a quorum; therefore, no action was taken. Those members in attendance agreed that no changes should be made. Marty Stephens, Speaker of the House of Representatives, alluded that this issue would likely be discussed during the next Legislative session. Scott Daniels indicated that the Bar Commission would likely maintain its position.

Administrator's Report

Dan Becker reported on the following matters:

- Mary Manley has been appointed as the new Juvenile Judge in the Seventh District.
- Justice I. Daniel Stewart has announced his retirement from the Utah Supreme Court, effective January 17, 2000. In view of this announcement, Mr. Becker indicated that the deadline for applications for the now two vacancies has been extended to September 30th.
- Judge Louis Tervort of the Sixth District has given notice of his intent to retire as of July 1, 2000. His notice was given well in advance, as there is no nominating commission in place in the Sixth District.
- Judge Burton Harris, senior judge in the First District, has asked to be removed from active Senior Judge list.

The final item on which Mr. Becker reported was an item discussed at the Management Committee's last meeting. The issue which was raised stemmed from a discussion held at a Court of Appeals' bench meeting, and concerns an outreach program, to establish and/or develop better dialogue between the Legislature and the local judiciary. The format would be a round table discussion, followed by a reception. The round table would address issues raised by legislators. As issues are discussed, a greater understanding may be developed between legislative members and the judiciary. If this suggestion adopted, the plan could be implemented in October or November. Mr. Becker stated that the Management Committee supported the idea.

Mr. Becker explained that these functions would be coordinated by the presiding judges and court executives in the respective districts. The invitations would include a request for legislators to consider what they feel are issues of particular interest. It is hoped that judges on all levels would attend their local receptions.

Chief Justice Howe also expressed his support of this idea, saying that legislators are interested in activities in their legislative districts. Judge Sandberg said he would like to see justice court judges invited, as some judge have already developed contact with their legislators.

Motion

To authorize the Administrative Office of the Courts staff to proceed with this recommendation as proposed, by making the necessary arrangements and contacting presiding judges. The motion was seconded and carried unanimously.

Subcommittee Reports

Judge Schofield reported to the Council, for informational purposes, on two items discussed at the last meeting of the Management Committee. The first matter discussed was that of security in the Second District Juvenile Court in Ogden. He explained the problems encountered in that location, adding that the Second District Juvenile Court approached Gordon Bissegger regarding added perimeter security. Mr. Bissegger identified a potential source of funding administered by the Division of Facilities Construction and Maintenance (DFCM). However, this is a one-time funding source. Following discussion of the matter, the Management Committee did not feel this was best approach and determined this option should not be pursued, as it would only be a short-term solution.

Myron March said that thus far, bailiffs can provide security at court locations, but not perimeter security. The Weber County Sheriff was successful in obtaining money from the County Commission for one bailiff position. One possible solution discussed was to seek legislative funding. Alternatively, approval could be given for the one-time money while attempting to obtain more secure funding during the next fiscal year. Mr. March continued by saying that this is an issue with which both the Council and the Security Committee have struggled for the past several years. State statute dictates that the Sheriff has the responsibility of providing and assuming the costs for said security; however, this is only limited to bailiff security. The Ogden and Provo facilities are unique in that these juvenile court locations stand alone and are not co-located as are the other locations. The Management Committee recommended that the court executive coordinate discussions between the Sheriff and the court regarding alternatives other than the use of one-time funding. Following further discussion, Chief Justice Howe suggested that any action on this matter should be deferred pending the

outcome of discussions between the Second District court executive and the Weber County Sheriff. He suggested that if no progress has been made by the Council's next meeting, the Council may re-visit this issue.

Judge Schofield continued his report by informing the Council that the Management Committee also discussed the issue of performance evaluations. This was a matter discussed by the Court of Appeals. Judges who are subject to performance evaluations actually receive two evaluations. The first is in conjunction with the retention election, and the second is performed two years prior, and is for the purpose of self-improvement. Media requests for this information have increased, including requests for the self-improvement evaluations. Some judges have expressed concern over these requests, in that self-improvement evaluations are intended for use only by the individual judge. Judge Schofield indicated that the Management Committee took no action on the matter.

There was extensive discussion regarding the evaluations, their purpose, and their release. A suggestion was made to educate judges on the fact that this information is, in fact, confidential. The Chairman suggested that the Boards of Judges may be approached for feedback from their respective groups. Following additional discussion, a motion was made.

Motion

A motion was made to inform the Boards of Judges of this issue, along with background information solely for informational purposes; that further, no action is requested by the Council. The motion was seconded and carried with one opposed.

Judge Braithwaite reported to the Council on behalf of the Policy and Planning Committee. He said the committee met on Friday, September 10th. One item discussed at that meeting was a proposed draft on the rule regarding senior judges. The draft was circulated to the Council for review. The major items Judge Braithwaite reviewed were as follows:

- qualification
- minimum and maximum number of days per year
senior judges can serve
- qualifications/requirements to be an active senior judge
- no public sanctions by the Judicial Conduct Commission
more serious than a public reprimand
- term of office

Tim Shea asked that the Council's rules regarding approval and/or adoption of this rule be suspended as there is some urgency in this matter. Some content changes were made. A change was suggested concerning page 2, line 6 of the proposed draft regarding the phrase, "public reprimand". Ideas for revision of the language were discussed. Jerry Howe of the Constitutional Revision Commission was in attendance. He indicated that the Commission, after reviewing the draft, noted that there were no oversights regarding senior judges. Mr. Shea explained the difference between a senior judge, and an active senior judge. A senior judge's duties are limited to performing marriages; further, a senior judge must refrain from practicing law to retain senior judge status. Senior judges are invited to the Annual Judicial Conference as a courtesy. With regard to a reprimand, the Council was asked whether the continued discretion not to certify a judge as a senior judge is a good policy, and how much discretion it (the Council) would like to maintain in this process. Myron March indicated that some years ago, the Council's past rule was that if there was a reprimand, senior judges could not become active senior judges. This rule was reviewed and the language was revised to allow for review on a case-by-case basis. Following additional discussion, a motion was made.

Motion

A motion was made to forward the draft to the Supreme Court, with the amendments as discussed, allowing the Council discretion not to certify senior judges in instances of public reprimand within two years of retirement; mandatory on all other disciplines more serious than public reprimand and permissing. The motion was seconded and carried with one abstention.

Motion

A motion was made to approve the rule, as amended, and advance same to the Supreme Court. The motion was seconded and carried with one abstention.

Tim Shea was asked to re-draft the new rule with the amended language. Following this, a motion was made.

Motion

A motion was made to approve the rule as amended. The motion was seconded and carried unanimously.

The Liaison Committee had no new report since the last Council meeting.

Judge Glasmann reported to the Council on the Family Law Workgroup. He said that work is progressing with regard to finalization of the program to be held on September 24th. He reviewed with the Council a proposed outline of discussion topics. Council members were reminded of the location of the workshop and that it would last the entire day. Tim Shea presented an overview on the amount of time proposed for discussion of each of the topics. He

continued by saying that, following the discussion of the small groups, reports would be given from the discussion groups and discussion results would be synthesized. Following the overview, Council members selected the groups in which they would participate.

Nominating Commissions

Tim Shea presented a report to the Council regarding nominating commissions. He began by saying that by rule, nominating commissions submit five names to the Governor. The proposed amendment would direct nominating commissions to submit at least five, but not more than seven names for appellate positions; and at least three, but not more than five names for trial court positions. Mr. Shea outlined all changes, and indicated that these amendments eliminate the need for tie provisions, and that as a result, the rule conforms with the statute.

Motion

A motion was made to approve the amended rule. The motion was seconded and carried unanimously. Approval is made on an emergency basis, under Rule 2-205, and does not require approval by the Utah Supreme Court.

National Council of Juvenile/Family Court Judges' Conference: July, 2000 at Snowbird

Ray Wahl informed the Council that the National Council of Juvenile/Family Court Judges will hold its annual conference in July of 2000 at Snowbird. Mr. Wahl indicated that the conference will feature items issues directly relating to family law, as well as broader judicial issues, which would likely be of interest to the Council. The Council noted the conference dates, which are: July 16-19, 2000.

Proposed Calendar Dates for Judicial Council and Management Committee

Dan Becker reviewed the proposed dates with the Council, and mentioned issues for the Council's discussion with respect to some of the dates listed. The first issue concerned site visits which the Council holds during the course of the year. Mr. Becker suggested consideration of 1) locations not yet visited by the Council, or 2) locations where there are issues of interest to the Council. Among these locations were: Tooele, where the issue of either a new court site or remodeling of the existing site could be a future consideration; and Junction, which is the sight of a new courthouse built by Piute County. It has been in operation for two years; however, the Council has not yet conducted a site visit. Beaver County has a similar facility which the Council has not toured.

Chief Justice Howe suggested that the Council conduct site visits in Tooele and Junction. Lodging arrangements will likely be made in Panguitch. There being no further discussion on this matter, the locations of the Council's site visits were firmed.

The second issue for the Council's discussion was the issue of the annual convention of the Utah State Bar. The Bar will hold its 2000 annual convention in San Diego instead of Sun Valley, Idaho. In the past, the Council has elected not to hold its July meeting in conjunction with the annual Bar convention in any location other than Sun Valley. The Management Committee has made the same recommendation for the year 2000, and has extended this recommendation to the Boards of Judges. However, judges are encouraged to attend the Bar convention individually, if they so choose.

As an alternative, Judge Johansen suggested that the Council re-schedule its July 25th meeting to coincide with the conference to be held by the National Council of Juvenile/Family Court Judges. Following some discussion of possible scheduling conflicts, a motion was made.

Motion

A motion was made to approve July 19th as the date for the Council's July meeting, subject to the possibility of change as the date approaches. The motion was seconded and carried with one opposed.

Specialty Courts

Rick Schwermer presented this matter for further discussion by the Council, as a follow-up to those discussions held at the Council's August meeting. He indicated that there between 10 - 14 specialty courts in Utah, either in existence or pending formation. Some of the issues for the Council's consideration are: what, if anything, should be done regarding existing specialty courts; and 2) the potential growth of these courts.

Mr. Schwermer outlined the pros and cons which were discussed. The positive aspects were: their success thus far; positive public relations; cost efficiency; collaboration between the judicial branch and local governments; the accountability of defendants; and public trust and confidence, in that these courts focus on outcome rather than process. He listed the cons as follows: neutrality, in that judges assume a role different from their traditional role in becoming part of a "therapeutic team", which could lead to an erosion of the "rule of law"; the possibility of compromising the judicial branch as a separate branch of government; judicial conduct, in that ex parte communications could become an issue; insufficient administration; accountability for outcomes; and resource costs.

Mr. Schwermer continued his presentation by listing several categories of potential positions the Council could adopt. First, asserting a leadership position and lending support where appropriate. Second, rejecting the judiciary's role in these efforts; however, he pointed out that such a position would not be consistent with the mission of the judiciary. Third, responding individually, and participating on a case-by-case basis, where appropriate and where resources are available. He was asked to what extent the Legislature could create specialty courts despite what the judiciary feels is appropriate. He indicated that the constitution allows the Legislature to create entire classes of courts. There may be an initiative undertaken in the future to provide funding for expansion of drug courts. The task force on crime prevention has expressed much interest in drug courts, since they are seen as a possible solution to addressing the problem of drug abuse. A detailed discussion ensued, and Tim Shea suggested that the judiciary might consider ways to incorporate therapeutic justice into the traditional concept of the court system.

Some of the Council members feel that there is a place in the judiciary for specialty courts, such as the drug courts and domestic violence courts. Support was given for pleas in abeyance to be the dividing point in order to preserve the rule of law. Dan Becker sought clarification regarding expenses related to specialty courts. Judge Burton is supportive of funding for expenses related to traditional types of support services; however, expenses related to supervision should be more closely reviewed. The following motion was made:

Motion

A motion was made to support drug, tobacco, and domestic violence courts, inclusive of the plea in abeyance factor, and that support is also given for expenses related to support personnel for these courts. That further, other specialty courts -- and judges for those courts -- will be considered on an individual basis. This motion is made with the understanding that such a position can be justified only when contrasting issues, such as judicial conduct, avoiding the appearance of impartiality, and ex parte communications, are closely examined and addressed. The motion was seconded and carried unanimously.

Other Business

Rick Schwermer presented to the Council, for informational purposes, that an invitation has been extended to the Administrative Office of the Courts to tour a mental health court. When this issue was presented to the Management Committee, that committee's recommendation was to participate in an investigational phase of this type of specialty court, by sending a member of the AOC staff and one judge to visit this court. This is in keeping with the Council's motion to review additional specialty courts on an individual basis, and would also answer questions which some Council members may have with respect to mental health courts. A motion was made following this presentation.

Motion

A motion was made for a representative of the Administrative Office of the Courts and a District Court judge, to be selected by the Board of District Court Judges, should tour the mental health court facility. The motion was seconded and carried unanimously.

Motion

A motion was made for the Council to convene an Executive Session. The motion was seconded, carried unanimously, and the Council proceeded accordingly.

Motion

Pursuant to the Council's Executive Session, the following motion was made: That a letter should be sent to the City of Garland, with a copy of same to Judge DeVerl Payne, informing the City that the Council had voted not to certify Judge Payne because he had not provided information required by the Council. That further, the Council has since learned of Judge Payne's desire to retire. In view of this, the Council acknowledges and wishes to express its appreciation to Judge Payne for over 30 years of service to the Utah judiciary. The motion was seconded and carried unanimously.

Motion

A motion was made to re-certify Judge Dee Alldredge for reappointment. The motion was seconded, with six members supporting, and six opposed. Scott Daniels abstained. Chief Justice Howe voted to re-certify Judge Alldredge for reappointment.

There being no further business, the meeting was adjourned.

SUMMARY MINUTES
POLICY AND PLANNING COMMITTEE OF THE JUDICIAL COUNCIL

September 10, 1999
Administrative Office of the Courts

Members Present

Judge Braithwaite, Chair
Judge Ronald Hare
Judge Johansen

Members Absent

Scott Daniels
Judge Michael Glassman

Staff Participating

Peggy Gentles

Judges pro tem performing marriages

Peggy Gentles referred the Committee to her memorandum discussing judges pro tem conducting marriages. This issue had been raised a couple of meetings ago. After discussion, Judge Johansen moved that the Committee recommend to the Supreme Court that Rule 11-202 be amended to allow judges pro tem to conduct marriages. Judge Hare seconded the motion. The motion passed unanimously.

Judge Pro Tem appointment process

Peggy Gentles referred the Committee to the draft of Rule 11-202 that had been proposed for amendment to provide for an appointment process for judges pro tem appointed for a six month terms. The Committee reviewed the proposed rule, and made a few changes. Judge Johansen observed that the rule provided for giving the Utah Bar Journal a copy of the press release. However, the Bar Journal is usually not published on a timely basis so using the Bar Journal to notify attorneys of the opening impractical. The Committee recommended that the proposed rule as amended be advanced.

Forms Process

Peggy Gentles referred the Committee to Tim Shea's memo concerning the forms process. The Boards of Judges had been consulted concerning the proposal that the Committee had considered previously. Judge Braithwaite expressed a concern that the proposal appeared to make most forms mandatory. Judge Johansen stated that he read the proposal to state that required forms would be relatively rare. The Committee asked that language be added to indicate that it was expected that most forms would be advisory only.

Peggy Gentles referred the Committee to her memorandum concerning Utah Legal Services forms. The Committee asked that the forms that Legal Services had prepared be provided to the R and D workgroups as appropriate.

Senior Judges

Peggy Gentles referred the Committee to the memorandum from Tim Shea concerning a senior judge issue that had recently been raised by the Constitutional Revision Commission. Mr. Shea had prepared a draft Rule 11-201 that incorporates some changes. Judge Johansen asked why senior judges were required to be receiving retirement compensation and why they were prohibited from having practiced law any time since the termination of judicial service. He moved that, unless there was a reason such was required, that the two provisions (1)(A)(iii) and (iv) be deleted. Proposed Rule 11-201 limited active senior judges to 45 days per calendar year. The Committee asked that the 45 days be changed to 90 and that the rule be amended to allow the Supreme Court to extend the 90 day period for individual cases where judicial economy and time requirements dictated the continued appointment. Proposed Rule 11-201, as amended by the Committee, was recommended to the Judicial Council for further action.

**MANAGEMENT COMMITTEE
MINUTES**

**Tuesday, October 12, 1999 - Noon
Scott M. Matheson Courthouse - Judicial Council Room
450 South State St.
Salt Lake City, Utah**

Chief Justice Richard C. Howe, Presiding

Members Present:

Chief Justice Richard C. Howe
Hon. Russell W. Bench
Hon. Anne M. Stirba

Staff Present:

Daniel J. Becker
Myron K. March
Holly M. Bullen
Peggy Gentles
Barbara Hanson
Fred Jayne
D. Mark Jones
Heather Mackenzie-Campbell
Richard Schwermer
Tim Shea
Ray Wahl
Cathie A. Montes

Welcome/Approval of Minutes

Chief Justice Howe welcomed all those in attendance. The minutes of the Committee's September meeting were distributed and reviewed, after which time a motion was made.

Motion

A motion was made to approve the minutes of the Committee's last meeting. The motion was seconded and carried unanimously.

Review of Agenda

Dan Becker reviewed the agenda for the Council's next meeting, which will be a site visit to Kanab, Utah. This meeting was originally scheduled as a two-day site visit. However, Mr. Becker said that the business meeting could be conducted in the morning, with the afternoon devoted to the site tour. Travel days for attendees would be Sunday afternoon, October 24th, and Tuesday, October 26th.

Mr. Becker informed the Committee of a suggestion made by Brent Bowcutt, Sixth District Court Executive. Mr. Bowcutt has offered to arrange for attendees to have dinner on October 25th at a dinner theater playhouse which involves audience participation. In discussing the issue, it was expressed that this might be a different and enjoyable induction for new Council members. Some Committee members indicated that they recalled having attended this dinner theater playhouse, and were agreeable to this suggestion. Mr. Becker was directed to proceed with making the arrangements. The balance of the agenda was discussed, and Mr. Becker reminded the Committee that the Kanab court site has been discussed by the Standing Committee on Facilities for possible future replacement or remodeling. During the site visit, the adequacy of the facility and any alternatives to replacement can be examined.

It was noted that one item not on the agenda was the ratification of the nomination of Susan Bradford as the new commissioner in the Third District. Dan Becker explained that this matter was conducted via a poll of the full Council. All but two members of the Council voted to address this matter through a poll, and approve of said nomination as well. Judge Stirba indicated that the Third District judges met on or about October 7th, and Susan Bradford was chosen by the judges at this meeting; that further, due to the increased caseload for the other two commissioners, Judge Stirba was asked whether the Council could be polled in order to expedite the matter and fill the vacancy created by the departure of Commissioner Lisa Jones. Judge Stirba thanked Chief Justice Howe and the Council members for their willingness to promptly act on this matter per her request. Myron March suggested that this matter be placed on the Council's agenda as an update so as to be reflected in the minutes. Chief Justice Howe agreed that this should be done.

Rick Schwermer updated the Committee on an agenda item discussed by the Council. This item concerned specialty courts, and in particular, an invitation to observe and investigate a mental health court in Seattle, Washington. The Board of District Judges designated Judge Anthony Schofield to be a member of the participating team. Mr. Schwermer raised the question of whether a report on this visit should be added to the Council's agenda. There was discussion as to whether this item could be deferred to the Council's November agenda, eliminating any possible scheduling conflicts and travel time. Dan Becker suggested Judge Schofield's participation via telephone, thus enabling him to report to the Council without the need to travel to Kanab.

There was no further discussion of agenda items.

Racial and Ethnic Fairness Task Force Proposal

Judge Tyrone Medley and Jennifer Yim presented to the Management Committee a proposal for implementation of the recommendations made by the Task Force on Racial and Ethnic Fairness in the Legal System. The Task Force seeks approval and authorization from both

the Management Committee and the Council to advance their proposal through the legislative process. This proposal involves the funding of a Racial and Ethnic Justice Commission for a one-year period. A concept paper containing the draft proposal, background information, and justification was distributed to the Committee.

The Task Force requests that the director of this commission should be housed within the Commission on Criminal and Juvenile Justice (CCJJ). The commission would be modeled after the existing Utah Sentencing Commission. The staff person would coordinate efforts of a follow-up advisory committee, and report to the commission chair. During the one-year period, the commission would use a final report, to be prepared by the task force, to achieve the following objectives: draft an implementation plan, propose potential legislation, and assist in location of funding sources for said implementation efforts.

Judge Medley provided background information and justification for the proposal, and informed the Management Committee that the Task Force is on schedule for release of its report. The report is scheduled for release in early 2000. A task force retreat is scheduled for early December for final review and approval of the report. Prior to this, the subcommittees are scheduled to meet and finalize their individual reports.

Judge Medley indicated that the purpose behind the concept is that, without a strong implementation effort, the work of the task force – including resources and time – would be wasted. Operations Committee members have discussed ways for implementation, and a consensus was reached that the appropriate way to deal with this issue would be to attempt to seek legislation. The Task Force has communicated with some legislative contacts, and it is likely that the legislation would be in the form of a fiscal note bill and a Senate bill, with Senator Pete Suazo as the sponsor. Additional support is also being sought in the House of Representatives. There is a chance that this initiative may compete with the Council's priorities.

The one-time money proposed (\$90,000) is envisioned as a bridge to a permanent position, and possibly an ongoing commitment by the Commission on Criminal and Juvenile Justice. The proposal has not been budgeted out beyond the first year. Chief Justice Howe asked whether the CCJJ could absorb the expense for the director position outlined in the proposal, since this agency is the recipient of numerous grants, or whether their budget is already allocated. Dan Becker indicated that the Commission functions as a conduit between receipt of the grant money and distribution of those monies to local government agencies. For that reason, the Commission may not be able to absorb this cost.

The Committee discussed the proposal in further detail, and it was suggested that the full Council should seek to find an appropriate way to endorse the proposal. It was also suggested that another report be presented to the Council at its December meeting, following the Task Force retreat. With respect to legislation, Rick Schwermer explained the legislative process. He indicated that the conflict may not be a direct one; however, this is contingent upon how the initiative is presented, and whether the funding sought will be sought from the same source as

that being sought by the courts. Senator Suazo will advance this separately from Council and courts' items. A motion was made at the conclusion of the discussion.

Motion

A motion was made: 1) to accept the proposal advanced by the Task Force on Racial and Ethnic Fairness; 2) to endorse the approach contained within said proposal; and 3) to invite and request a report on the findings and recommendations from the final report of the Task Force in December regarding the proposal to be presented to the Legislature. That further, the issue of the funding request as it relates to the Council's budgeting and priorities be calendared for discussion by the Council at its meeting in Kanab. The motion was seconded and carried unanimously.

Following the motion, Judge Medley thanked the Management Committee and the full Council for its continued support throughout the process undertaken by the Task Force. Chief Justice Howe, on behalf of both the Committee and the Council, acknowledged the efforts of the Task Force.

Administrator's Report

Dan Becker updated the Committee on the status of the process to fill the positions on the Supreme Court bench. A total of 51 applications were received by the September 30th deadline. The Nominating Commission will hold its first meeting on November 2nd.

He continued by saying that the Constitutional Revision Commission will again meet on October 8th. The issue of judicial retention will be addressed as a carryover item from the last meeting. Rep. Lamont Tyler and Rep. Katherine Bryson will be in attendance, and it is anticipated that a position paper from the CRC may result, said position being that there is no reason to change the judicial retention process. This issue is also on the agenda of the Judiciary Interim Committee.

Mr. Becker informed the Committee of the following personnel matters:

- Jerome Battles has been selected to replace Rolen Yoshinaga as Director of Information and Technology. He has 20 years of experience and is currently in the private sector. He will begin in mid-December.

- Mike Strebel, Second District Juvenile Court Executive, has informed the AOC of his intent to retire, effective February 1st. The process for filling his position will begin immediately.

Vacancy on Standing Committee on Court Facilities Planning

Holly Bullen presented this matter to the Committee by recalling that Neal Stowe, whose term of service on this committee has ended, did not wish to renew his term of service due to other commitments. After conducting a search of candidates, two names were advanced to the Management Committee: Archie Phillips, formerly of the State's Division of Facilities, Construction and Management (DFCM), now on staff at the University of Utah; and Frank Fuller, currently retired. Both individuals were on the team who designed the Matheson Courthouse. Ms. Bullen explained the recruitment procedure, and Dan Becker indicated that Gordon Bissegger has informed the candidates of their consideration for an appointment to this committee by the Management Committee. The standing committee meets six times yearly. A motion was made following this discussion.

Motion

A motion was made to invite Frank Fuller for a term of service on the Standing Committee on Court Facilities Planning. The motion was seconded and carried unanimously.

Appointment of Judge Lyle Anderson as Domestic Violence Commissioner

Tim Shea presented to the Management Committee on behalf of Brent Johnson a memorandum drafted by Mr. Johnson. The memorandum concerned the appointment of Judge Lyle Anderson by the Navajo Nation as a domestic violence commissioner within the tribe's court system. As such a commissioner, Judge Anderson would serve that part of the reservation within Utah which has no Navajo court locations. Also attached was a contractual agreement between the Utah court system and the Navajo Nation. As a commissioner, Judge Anderson could make a recommendation for an order, at which time a Navajo court judge would sign the final order and forward said order back to Judge Anderson. The agreement would appoint Judge Anderson, and other judges or magistrates who may wish to participate in the protocol to do so, authorizing them to assist in domestic violence actions arising within or outside of the Navajo Nation. It also authorizes law enforcement officials to assist with service of process.

The Committee asked the following questions with regard to this agreement:

- whether this agreement includes tribal members filing cohabitant abuse petitions, and if so
- where the petitions are filed, e.g., in the Seventh District or the tribal courts;

- whether a state court judge will use state court time, facilities and resources to handle non-state court matters, and if so, the ethical and legal considerations involved in such matters.

It was recommended that, if the aforementioned issues have been explored, addressed, and found to be appropriate, appointments or designees should be named by the State's judiciary (e.g., the Utah Supreme Court). Tim Shea indicated that the authority of Judge Anderson, or anyone else, as a commissioner in the tribal court would be circumscribed by any statutes or rules established by the Navajo Nation for their commissioners.

Because Mr. Johnson was out of town and therefore unavailable to report to the Committee, and since Judge Anderson will be in attendance at the Council's next meeting, it was recommended that both Judge Anderson and Brent Johnson report to the Council on this issue for further discussion and consideration at the meeting in Kanab. A request was made for a more detailed, written explanation to be included with the packet of materials for the Council's review. Further discussion on the matter was deferred accordingly.

Final Report on Capital Law Clerk

Peggy Gentles presented this item to the Committee for informational purposes. She began by saying that for the past two years, the capital law clerk position, held by Mark Field, was funded by and through a grant from the State Justice Institute (SJI). The grant funding ended as of September 17th. However, since money was appropriated for a capital law clerk position during the last legislative session, Mr. Field is now a permanent staff attorney. His job description and responsibilities remain the same.

In fulfilling the grant requirements, Ms. Gentles prepared a final report for distribution to all designated SJI libraries. This final report outlined the duties, responsibilities, and projects undertaken by Mr. Field during the duration of the grant period. A motion was made following Ms. Gentles' overview.

Motion

A motion was made to approve the final report of the Utah Capital Litigation Law Clerk Project. The motion was seconded and carried unanimously.

Removal of Attorney from List

Tim Shea distributed to the Management Committee a letter from Roger Tschanz, a private attorney, requesting to have his name removed from any and/or all future survey lists concerning judicial performance and evaluation. Mr. Shea indicated that there is no formal process for following through on such requests. He therefore brought the matter to the Committee's attention.

It was suggested that a response to the Mr. Tschanz's correspondence be drafted acknowledging receipt of the letter. That further, pursuant to the request, confirmation would be given that his name would be removed from all survey contact lists. There was brief discussion on the steps to be taken regarding removal of the name from the list, to ensure that this can be done. A motion was made at the conclusion of the Committee's discussion.

Motion

A motion was made to request that survey consultants remove the name of Roger Tschanz from all survey contact lists. The motion was seconded and carried unanimously.

Final Audit Reports/Follow-up Re Making Change for Court Patrons

Heather Mackenzie-Campbell presented to the Committee, for informational purposes, two final audit reports. They were: a report on the short audit conducted in St. George, and the State Auditor's final report. The latter report included an audit of the AOC's Finance Department, and several district and juvenile court locations in the state. Both reports included findings, recommendations, and responses from management in the various locations. These responses contained an outline of actions to be taken, and the deadlines for those actions. Ms. Mackenzie-Campbell summarized the number of findings that were common to the courts which were reviewed.

With regard to the AOC audit, the following weaknesses were found to be significant:

- inadequate separation of programmer duties
- inadequate fixed asset procedures and controls

Ms. Mackenzie-Campbell stated that these weaknesses have been resolved internally. In the area of court operations, the following weaknesses were found to be significant:

- inadequate separation of duties
- accounts receivable weaknesses

She noted that these weaknesses are not uncommon in rural court sites, due to the limited number of court personnel in those locations. However, these locations will be monitored periodically for separation of duties. She concluded by saying that all managers have taken the appropriate action to correct the problems. Dan Becker added that, in most instances, the reasons for the weaknesses may be attributable to a lack of follow through, rather than a lack of training.

Ms. Mackenzie-Campbell also presented a follow-up on the issue of making change for court patrons. Fred Jayne assisted in this follow-up, indicating to the Committee that the former policy in not making change was instituted as a result of a prior recommendation by the State Auditor's Office. At that time the State Auditor indicated that making change was against sound fiscal policy. The Auditor's Office has since rescinded this policy. An amended policy was drafted and presented to the court executives and clerks of court for their feedback, and the final draft was distributed to the Management Committee. Mr. Jayne indicated that one court executive and five clerks of court supported the policy to make change; all others were opposed to the policy change, for the following reasons: 1) the potential conflict between clerk staff workload and making bank transactions. 2) Mr. Jayne stated that the initial concern by the State Auditor's Office was that making change solely for that purpose increases the potential for error and fraud. Based on the aforementioned reasons, the new policy is not mandatory, but does permit making change. There are certain circumstances where requests for change may be declined, e.g., if the cash change fund is insufficient. The discretion will be left to the managers in each court location. Following additional discussion, a motion was made.

Motion

A motion was made to accept the recommendation with regard to the amended policy, and to place same on the Council's consent calendar. The motion was seconded and carried unanimously.

Probation Officers' Salary Survey

Myron March and Barbara Hanson presented this issue to the Management Committee. Mr. March began by explaining that the market survey analysis, which was begun in 1996, involved a survey of all probation officer staff. Thereafter, it was agreed that one-third of the staff would be reviewed every year. This analysis was funded through turnover savings. However, this revenue source is nearly depleted. The Council recommended that the market survey for probation officers be pursued, but that it be advanced to the Legislature jointly with the Division of Human Resource Management (DHRM). This request would be advanced separately from the courts' budget request. However, the methodology was to be agreed upon between the both departments.

In past years, evaluation of survey findings has been done with the intent to lag the market by no more than 5.5%. However, this year, the courts' strategy has been altered so as to strive to be within 11% of market rates. This was done in order to facilitate agreement of the methodology by DHRM. That agency has also included an additional parameter, which is that the job being increased must experience a minimum turnover rate of 25%.

The methodology was presented to the Committee, as well as the cost of market adjustments for probation officers. The current step range, proposed step range, comments and costs for Probation Officer levels 1, 2, and 3, probation supervisors, and probation chiefs 1 and 2 were also reviewed. The entry level will essentially be raised by four steps. Other levels will be raised by two steps. Mr. March reported that the legislative fiscal analyst supports this approach, and it will be advanced, in conjunction with the Executive Branch, to the legislative subcommittee dealing with salary adjustments. Dan Becker clarified that this is one of the items for which alternative funding would be pursued rather than seeking judiciary appropriation.

This item will be presented to the Council per the endorsement of the Management Committee.

New Committee Assignments

Dan Becker reviewed with the Management Committee the proposed assignments to the Council's subcommittees. He indicated that primary consideration was given to continuity on these subcommittees. The recommendations were as follows:

Management Committee: Hon. Anne M. Stirba, Chair;
 Hon. Russell W. Bench, Council Vice-Chair
 Chief Justice Richard C. Howe
 Hon. Clair Poulson
 Hon. Lynn Davis

Liaison Committee: Hon. Leonard H. Russon, Chair
 Hon. L.A. Dever
 Hon. Stan Truman
 Hon. Kay Lindsay

Policy & Planning Committee: Hon. Michael Glasmann, Chair
 Hon. Scott Johansen
 Hon. Ronald Hare
 Hon. Lyle Anderson
 Scott Daniels

The Committee approved of the proposed assignments. This matter will be included as part of the report of the Management Committee.

There being no further business, the meeting was adjourned.



TOWN OF STOCKTON

18 N. Johnson St. P.O. Box 240

Stockton, Utah 84071

PHONE# (435) 882-3877

FAX # (435) 833-9031

Administrative Office of the Courts
Justice Court Standards Committee
450 South State Street
P.O. Box 140241
Salt Lake City, Utah 84114

Dear Committee Members:

We, the Town of Stockton, do hereby request a waiver of the one year waiting period for the reorganization and enlargement of our Justice Court. The Town of Stockton has had a Police Department and Justice Court for over 15 years. Last year we were approached by Mayor Odell Russell of the Town of Rush Valley located southwest of Stockton. Rush Valley does not have a police department or court. The County will respond to that area on an emergency basis but there is no assigned officer patrolling that area on a consistent basis and the Rush Valley Town Council decided they would like to have an officer in Town on a daily basis.

We have been in negotiations with Rush Valley for this contract for about one year and are now in agreement to the terms of the contract, therefore we are submitting an application to create a new court jurisdiction to include the Towns of Stockton and Rush Valley. We feel the creation of this new court would not impact any other court in the area. With no County Officer assigned to the area, the County Court would not be impacted.

We respectfully request that we be allowed to start the new jurisdiction for the Stockton/Rush Valley Court by October 1, 1989. If you have any questions or need more information, please call Ellen L. Montague, Court Clerk at 435-882-3877.

Sincerely,

Barry J. Thomas
Mayor

elm

APPLICATION FOR NEW JUSTICE COURT

Name of Entity: TOWN OF STOCKTON/TOWN OF RUSH VALLEY

Proposed Court Location: 18 N. JOHNSON ST., STOCKTON, UTAH

Anticipated Level of the Court (Circle one):

I

II

III

IV

Anticipated average case filings per month: 70-80

Please attach a map which shows the boundaries of the proposed Court's jurisdiction. (The map should also show all Courts which are located within 25 miles of the location of the Court).

State the population within the jurisdiction of the proposed court according to the most recent figures. STOCKTON 479 - RUSH VALLEY 425

List all law enforcement agencies which will be regularly involved in law enforcement within the jurisdiction of the proposed court.

STOCKTON/RUSH VALLEY POLICE DEPARTMENT

If the applicant has a law enforcement department, state the number of sworn law enforcement officers within the department.

2 FULL TIME & 2 PART TIME

If the applicant does not have a law enforcement department, identify the law enforcement agency which will provide law enforcement services to the proposed Court.

List all existing Justice Court locations within 25 miles of the proposed Court:

<u>Name of Existing Court</u>	<u>Address</u>	<u>Miles from Location of Proposed Court</u>	
STOCKTON JUSTICE COURT	18 N JOHNSON, STOCKTON UT	0	(7 fr Rush Valley)
TOOELE VALLEY JUSTICE COURT	47 S MAIN, TOOELE UT	7	(14 fr Rush Valley)
GRANTSVILLE JUSTICE COURT	429 E MAIN, GRANTSVILLE UT	17	(24 fr Rush Valley)

For each Court listed above, list the average number of cases filed each month during the most recent calendar year which would have been filed in the proposed Court, had the proposed Court been in operation.

70-80

If waiver or extension of any requirement is requested, please specify each requirement and indicate factors which demonstrate a need for the waiver or extension. For any requested extension, please include the time requested. For each requested waiver, please indicate whether or not this application is conditioned upon receiving a waiver. Remember, those items which are statutory are not waivable (Numbers 1-16).

Waiver of the 1 year waiting period as the Town of Stockton has had a court for over 15 years and Rush Valley has no police or court and are only served on a call out basis by the Tooele County Sheriff's Department. We feel there would be no adverse effect on any other court in the County area.

I am familiar with the minimum operational standards for a Justice Court. Enclosed please find a written opinion from our attorney WAYNE JONES, advising the undersigned entity of all requirements for the creation and operation of a Justice Court, and the feasibility of this entity maintaining a Justice Court. Also, please find enclosed a resolution requesting certification for a new Court which resolution affirms that the undersigned entity is willing to meet all requirements for certification (except when the application is conditioned upon receiving a waiver) during the initial term of the proposed Court.

DATED this 9th day of August, 1999.

Barry A. Shaw

Mayor

Title

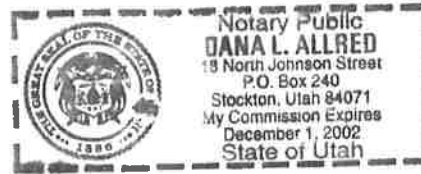
SUBSCRIBED AND SWORN to before me this 9 day of August, 1999

Barbara A. Allred

NOTARY PUBLIC

Residing at: _____

Commission Expires:



SECTION I

THE FOLLOWING TWELVE ITEMS ARE STATUTORY AND CANNOT BE WAIVED.
CERTIFICATION WILL NOT BE GRANTED UNLESS EACH REQUIREMENT IS MET.

Please indicate YES OR NO to each of the following:

1. Arrangements have been made so that all official court business will be conducted in a public facility. yes
2. Court will be open daily. yes
3. The hours of court operation will be posted conspicuously. yes
4. The judge and the clerk will be required to attend court at regularly scheduled times based on the level of the court. yes
5. The judge will be compensated at a fixed rate. yes
6. The responsible governmental entity will provide and compensate sufficient clerical personnel necessary to conduct the business of the court. yes
7. This entity will assume the expenses of the travel of the judge for purposes of required judicial education. yes
8. This entity will assume the expenses of the travel of the clerk for the purposes of attending training sessions conducted by the Judicial Council. yes
9. The responsible governmental entity will provide the Court with:
 - a. Sufficient prosecutorial support yes
 - b. Funding for attorneys for indigent defendants, as appropriate yes
 - c. Sufficient local law enforcement officers to attend court as provided by statute yes
 - d. Security for the court as provided by statute yes
 - e. Witness and juror fees yes

- f. A current copy of the motor vehicle laws of the state of Utah, appropriate copies of the Utah Code, the Justice Court manual, state laws affecting local governments, local ordinances and other necessary legal reference materials yes
10. Procedures have been adopted to insure that fines, surcharges and assessments which are payable to the state will be forwarded as required by law. yes
11. Court will be held within the jurisdiction of the court, except as provided by law (78-5-107). yes

SECTION II

Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived or an extension granted pursuant to the procedure set forth in the instructions to applicant included with this application for recertification.

Please indicate YES OR NO to each of the following:

1. Arrangements have been made so that court will be open for at least one hour each day, or more as appropriate for the classification of the court. yes
2. Arrangements have been made so that the judge will be available to attend court and to conduct court business as needed. yes
3. Minimum furnishings in the courtroom have been provided, including:
 - a. Desk and chair for the judge yes
 - b. A six inch riser yes
 - c. Desk and chair for the Court Clerk yes
 - d. Chairs for witnesses yes
 - e. Separate tables and appropriate chairs for plaintiffs and defendants yes
 - f. A Utah State flag yes
 - g. A United States flag yes
 - h. A separate area and chairs for at least four jurors yes
 - i. A separate area with appropriate seating for the public yes
 - j. An appropriate room for jury deliberations yes
 - k. An appropriate area or room for victims and witnesses which is separate from the public yes
 - l. A judicial robe yes
 - m. A gavel yes
 - n. Current bail schedules yes

- o. A copy of the Code of Judicial Administration yes
- p. Necessary forms and supplies yes
- q. Office space for the judge yes
- r. Office space for the court clerk yes
- s. Secure filing cabinets yes
- t. Appropriate office supplies yes
- u. A cash register or secured cash box yes
- v. A typewriter or word processor yes
- w. Access to a copy machine yes
4. The appropriate number of clerks will be provided as determined by the approved classification of the court, and a clerk will be provided as needed during the time court is open each day during court sessions. yes
5. I am familiar with the minimum operational standards for this court, and except as noted below, those standards are currently in place and available to the court. yes

Any exceptions to the above are specifically set forth as follows:

would ask for a waiver of the 1 year waiting
period

DATED this 9 day of August, 1999

Bany S. Shaw

MAYOR

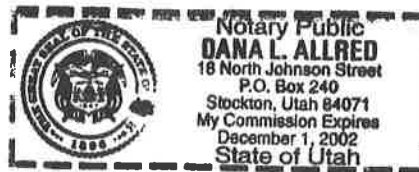
Title

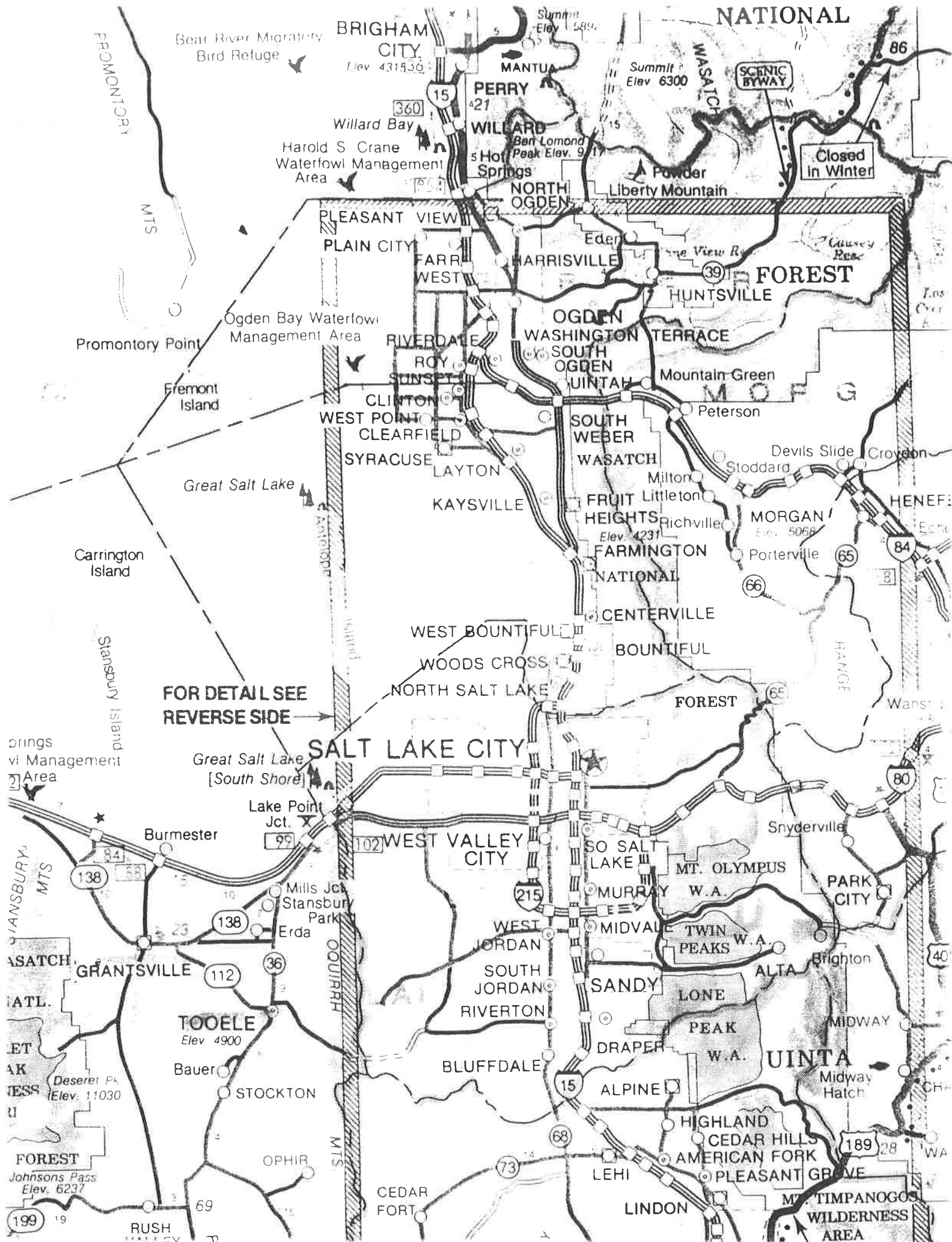
SUBSCRIBED AND SWORN to before me this 9th day of August, 1999.

Dana L. Allred
NOTARY PUBLIC

Residing at: _____

Commission Expires:





Wayne David Jones
Attorney, Town of Stockton
815 Country Club Dr.
Stockton, Utah 84071

November 1, 1998

To whom it may concern:

Although the Town of Stockton and the Town of Rush Valley are small municipalities, each is located along a busy state highway which is experiencing steady increases in traffic. Stockton operates a full time police department and issues a substantial number of citations to drivers who violate traffic and criminal laws. Rush Valley, however, must rely on minimal police services provided by the Tooele County Sheriff. The two towns are preparing to enter into an agreement whereby the Stockton Police Department would provide regular police service to Rush Valley, in exchange for reasonable compensation.

The Town of Stockton presently operates a justice court which meets the minimum requirements of a class III court in the state of Utah. In conjunction with the proposed intergovernmental agreement between the two towns for the provision of police services, Stockton now proposes to expand the jurisdiction of its justice court to include Rush Valley. This joint effort will provide much-needed services to Rush Valley by enabling the Town to better enforce the law and protect its citizens. This will result in benefit to Stockton as well because of the additional resources that Rush Valley can provide. It will be much more efficient to operate one larger, busier court than two smaller, less active courts. Stockton alone presently meets the minimum requirements for a class III court. Increasing its jurisdiction will allow the Court to become more active and effective in administering justice in central Tooele County.

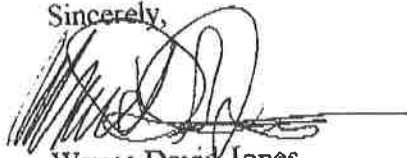
The Stockton Court now receives an average of 65-70 citations per month. This number will increase with the addition of Rush Valley. The Court clerk's office is open eight hours a day, and the Judge holds court weekly. Court is held in the Stockton Town Hall in the council chamber, and the Judge and clerk have an office across the hall from the chamber. This arrangement has been adequate for the needs of the Court.

The Town of Stockton retains me as prosecutor to screen and prosecute all cases which are to be filed in the justice court. I have current copies of the Utah Code and Stockton Ordinances, and will receive a current copy of Rush Valley Ordinances in the near future. The Court also has current copies of State and local codes. The Court has all other codes and schedules required by law, including the Code of Judicial Administration, the Justice Court Manual, and the Uniform Bail Schedule. Funding is also available to provide indigent defense to those who qualify.

Stockton maintains a police department which consists of two full time officers plus a number of part time officers. The Department also provides the Court with an armed bailiff at all times when Court is in session. The Court pays all witness fees as required by law. The Judge attends Judicial education conferences at the Town's expense, and the clerk attends the annual court clerks' conference.

Expanding the Court's jurisdiction to include Rush Valley will serve the public interest and the interest of the citizens of both municipalities. We hope to implement the above changes as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wayne David Jones', with a horizontal line extending to the right.

Wayne David Jones
Attorney, Town of Stockton

RESOLUTION NO. 99-8

A RESOLUTION REQUESTING THE RECLASSIFICATION AND CERTIFICATION OF
THE STOCKTON/RUSH VALLEY MUNICIPAL JUSTICE COURT.

WHEREAS, the provisions of the U.C.A. 78-5-139 require that Justice Courts be certified, and

WHEREAS, the Towns of Stockton and Rush Valley have contracted with an Inter-local agreement from Stockton's Police Department to also serve Rush Valley, and

WHEREAS, the Town of Rush Valley does not want to have a separate court but would like to also contract with Stockton's current Justice Court for services, and

WHEREAS, the members of the Stockton Town Council have received an opinion letter from Wayne Jones, Town Attorney, which sets forth the requirements for the operation of a Justice Court and feasibility of continuing to maintain the same, and

WHEREAS, the members of the Stockton Town Council have determined that it is to the best interests of the Town of Stockton to continue to provide for a Municipal Justice Court and include Rush Valley in their jurisdiction;

BE IT RESOLVED, the Stockton Town Council hereby requests reclassification to a Class III court and increased jurisdiction to include the Town of Rush Valley by the Justice Court Standards Committee and the Utah Judicial Council.

BE IT FURTHER RESOLVED that the Stockton Town Council of the Town of Stockton hereby affirms their willingness to continue to meet all requirements set forth by the Judicial Council for continued operation of the Stockton/Rush Valley Municipal Court for the remainder of this certification term.

Approved and signed this 6th day of August, 1999.

Town of Stockton

by: Barry J. Thomas
Barry J. Thomas, Mayor

Attest:

Ellen L. Montague
Ellen L. Montague, Recorder

COPY

INTERLOCAL AGREEMENT FOR LAW ENFORCEMENT SERVICES
TOWNS OF STOCKTON AND RUSH VALLEY

THIS AGREEMENT made and entered into on this 13 day of Sept., 1999, by and between the Town of Stockton and the Town of Rush Valley, municipal corporations of the State of Utah, hereinafter referred to as "Stockton" and "Rush Valley."

AGREEMENT FOR SERVICES

WHEREAS, as a municipal corporation, Rush Valley has a responsibility to preserve the peace, prevent crime, detect and arrest offenders, suppress riots, protect persons and property, enforce applicable state and local laws, and to perform all duties required of Rush Valley by ordinance or resolution; and,

WHEREAS, Rush Valley has not appointed a Town Marshal or Chief of Police and does not presently have a police force or law enforcement officers; and,

WHEREAS, Rush Valley is desirous of entering into a written agreement with Stockton for the purpose of providing law enforcement personnel capable of acting within the jurisdiction of Rush Valley to enforce all applicable state laws, town ordinances and resolutions; and,

WHEREAS, both Rush Valley and Stockton recognize that Stockton has an established municipal police department complete with qualified personnel and the necessary equipment to handle the law enforcement needs of Rush Valley; and,

WHEREAS, both Rush Valley and Stockton have a mutual desire to conserve public funds to be expended for law enforcement needs; and ,

WHEREAS, both Rush Valley and Stockton shall retain their power of self-determination and home rule and sovereign immunity, neither being subordinate to the other and Rush Valley seeking to provide effective police protection without incurring a burdensome financial investment relating to acquisition of equipment and the hiring of personnel for police protection; and,

WHEREAS, under Title 11, Chapter 13 and under Title 78, Chapter 5, the Towns of Stockton and Rush Valley are authorized to enter interlocal agreement with other local government agencies for police protection and the creation of a justice court; and,

NOW, THEREFORE, for and in consideration of the mutual exchange of promises, herein made, the sufficiency of which is hereby acknowledged, the parties hereto do agree and covenant as follows:

activity within Rush Valley consistent with due process. Said Municipal Court shall put a separate computer code on all citations written in Rush Valley allowing activities to be tracked and reviewed. Activity reports and revenue reports will be given to the Rush Valley Town Council on a quarterly basis. It is also agreed as part of the consideration supporting this agreement that the Towns of Stockton and Rush Valley shall hold a retention election on about November 2, 1999, to determine if the present justice shall be retained as the new justice for the Stockton-Rush Valley Justice Court.

6. The towns of Stockton and Rush Valley hereby create a Commission composed of the Mayor and Town Council of Stockton and the Mayor and Town Council of Rush Valley. Said Commission shall insure that proper police coverage is maintained and see that this Agreement is implemented. The Commission shall have the right to review and approve all personnel actions within the Police Department. The Commission shall review or hear comments and complaints from the public regarding the operation of the police department, justice court and town prosecutor. The Commission shall review and approve changes to the Police Department Policies and Procedures and assure those policies and procedures are followed. If a vacancy occurs in the Stockton-Rush Valley Municipal Court justice position, prosecutor, or defense, or if additional officers of the court are needed, the Commission shall choose two applicants out of a pool of qualified applicants and the Mayors of Stockton and Rush Valley shall choose the best applicant. The respective Commission members need not jointly meet to carry out its purposes; however, nothing contained herein shall prohibit joint meetings of the councils upon mutual agreement. Each town council must approve any decision or action required to be made by the Commission by a majority vote of a quorum of that town council to be effective.

7. Amendments or modifications may be made in writing to this Agreement by mutual agreement of the Commission.

8. In the event of a material breach of any obligation or covenant under this Agreement, the non-breaching party may give the breaching party written notice of the specifics of the breach, and the breaching party shall have 30 days in which to cure the breach. Only if the breach is not cured within the specified period shall the non-breaching party be entitled to pursue remedies it may have by reason of the breach. A non breaching party may terminate this agreement after giving 15 days notice after the specified curative period. In the event of mutually pursued arbitration or independent court action to enforce this agreement, the prevailing party shall be entitled to reasonable attorney fees and actual costs.

9. Each party and the attorney for each party has reviewed this agreement. Accordingly, the rule requiring construction against the drafting party shall not be applicable.

DATED this 13 day of September 1999.

1. The currently acting Chief of Police of Stockton, James Parker, is hereby appointed Chief of Police of Rush Valley and his deputy officers and subordinates shall be deemed to be police officers for Rush Valley pursuant to applicable sections of the Utah State Law and the ordinances and resolutions of Rush Valley.
2. Stockton shall provide 24 hour law enforcement services for and in behalf of the Town of Rush Valley. Stockton shall provide Rush Valley with reasonable traffic control during peak rush hour times, on a daily basis, with not less than 10 hours total weekly. The Town Council of Rush Valley shall take proper action to appoint the Stockton Police Chief as the Chief of Police of Rush Valley and further to appoint other law enforcement officers of Stockton as law enforcement officers of Rush Valley. The Chief of Police shall act at the direction of the governing bodies of Rush Valley and Stockton in accordance with state law. It is mutually agreed that patrol vehicles employed by law enforcement personnel under the terms of this Agreement shall have a designation on the vehicle as follows: "STOCKTON-RUSH VALLEY POLICE." All property which was the property of the Town of Stockton shall remain the property of the Stockton and property purchased for the use of the police department after this agreement shall be the property of the Town of Stockton.
3. Rush Valley shall assume responsibility for the actions of the law enforcement officials herein mentioned when performing police duties within the corporate boundaries of Rush Valley with an Errors & Omissions Insurance Policy. Stockton shall assume responsibility for the actions of the law enforcement officials herein mentioned when performing police duties within the corporate boundaries of Stockton with an Errors & Omissions Insurance Policy. Rush Valley agrees to hold the Town of Stockton harmless and to indemnify the Town of Stockton for any claims, liabilities or damages arising out of law enforcement and police protection/services, actions or omissions which occur in Rush Valley. Stockton agrees to hold the Town of Rush Valley harmless and to indemnify the Town of Rush Valley for any claims, liabilities or damages arising out of law enforcement and police protection/services, actions or omissions which occur in the Town of Stockton.
4. Rush Valley agrees to compensate Stockton \$15,000.00 for one year for the services herein specified. Rush Valley also agrees to relinquish all revenue from citations to cover the extra cost burden to Stockton. The initial term of this agreement is for one year and shall commence upon cert. and shall terminate on . Compensation due in accordance with this Agreement shall be made quarterly, in advance, commencing the day of , 1999. The initial term shall automatically be extended by successive renewal periods of two years each unless either Stockton or Rush Valley gives the other party notice of termination no less than 60 days prior to the expiration of the then current term.
5. Stockton Municipal Court shall seek and obtain proper certification and shall become the Stockton-Rush Valley Municipal Court. It shall be Stockton's responsibility, on behalf of Rush Valley, to prosecute any criminal cases arising from law enforcement

Odell Russell
Mayor, Rush Valley, Utah

ATTEST:

Dawnan Allen
Town Clerk, Rush Valley, Utah

(Seal)

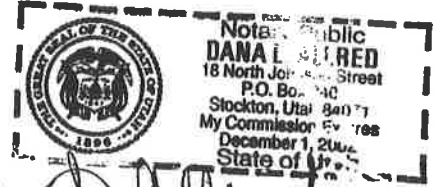
Approval of Form and Content:

[Signature]
Rush Valley Attorney

Barry J. Shown
Mayor, Stockton, Utah

ATTEST:

Dana L. Hildred
Town Clerk, Stockton, Utah



(Seal)

Approval of Form and Content:

[Signature]
Stockton Attorney

SALARY SURVEY SUMMARY FOR MARKET ADJUSTMENTS JULY, 2001

Methodology: In keeping with our original plan of surveying approximately one-third of our job classifications every third year, three levels of probation officers were selected as benchmarks this year: Probation Officer II, Probation Supervisor and Probation Chief II. Data for associated jobs (Probation Officer I, III, and Probation Chief I) was extrapolated from the benchmark data to develop a proportional adjustment recommendation. An attempt was made to select comparison locations based upon relative population and cost-of-living in the area.¹ Although it was not possible to find many precisely comparable location matches based upon these factors, this information did help to eliminate locations where population and cost-of-living data suggested that a radically different economy from ours exists. The following metro areas were surveyed:

Metro Area/County/State
Phoenix/Maricopa/Arizona
Tucson/Pima/Arizona
Fresno/Fresno/California
Valejo/Solano/California
Colorado/Statewide Court System
Boise/Ada/Idaho
Billings/Yellowstone/Montana
Las Vegas/Clark/Nevada
Reno/Washoe/Nevada
New Mexico/Statewide Court System
Eugene/Lane/Oregon
Portland/Multnomah/Oregon
San Antonio/Bexar/Texas
Austin/Travis/Texas
Seattle/King/Washington
Spokane/Spokane/Washington
Wyoming/Statewide Court System

In past years, we have evaluated our survey findings with the intent to lag the market by no more than 5.5%. This year, we have begun to alter our strategy to strive to be within 11% of market rates. This is being done primarily for budgetary reasons but also because the Executive Branch has changed their strategy from seeking to be within 5.5% of market to maintaining an 11% differential. They have also included an additional parameter which is that the job being increased must be experiencing at least a 25% turnover rate.

¹ Population data was assembled from U.S. Census Bureau estimates and cost-of living comparisons were derived from the Money Magazine Cost of Living Comparators, published by Forbes.

Summary:

Probation Officers - the midpoint of our Probation Officer II pay range lags the average survey midpoint by 9.74%. Although this percentage falls short of the 11% guideline by 1.26%, we are recommending that the salary range be increased by two steps from step range 41 - 56 to 43 - 58 which would result in a one step increase (or an increase to the new entry) for incumbents.

In the case of the Probation Officer I classification, which is tied to the P.O. II benchmark, there is a large separation between the level I and II ranges in our existing pay plan. This is due to the fact that historically, it was felt that people ought to start at a comparatively low rate of pay when they are yet untested and then experience a marked advancement once they have earned some practical experience. Our recent experience with deputy court clerks suggests that in the long run, that approach results in significant problems with recruitment of entry level employees. This, plus the high turnover rate we are currently experiencing among Probation Officer I's, indicates that it is time to narrow the gap between the P.O. I's and P.O. II's to the normal four step spread. Currently, there is a six step spread between the level I and II. The recommendation, therefore, is to increase the P.O. I salary range from steps 35 - 50 to 39 - 54, resulting in a 2 step increase to incumbents (or an increase to the new entry) for incumbents.

The P.O. III classification, also tied to the P.O. II benchmark, should receive the same increase as the benchmark which would involve a step range increase from 45 - 60 to 47 - 62, again resulting in a one step increase for incumbents or an increase to the new entry.

Probation/Intake Supervisor and Probation Chief II - the midpoints of our Probation/Intake Supervisor and the Probation Chief II pay ranges lag the average survey midpoint by anywhere from 15.45 to nearly 30%. However, the turnover rate for these positions is very low and in order to transition into the methodology being utilized by the Executive Branch, the recommendation for increases for these levels is as follows:

Probation/Intake Supervisor - from step range 47 - 64 to 51 - 66

Probation Chief I - from 49 - 64 to 53 - 68

Probation Chief II - from 51 - 66 to 55 - 70

The resulting salary increases would be one step to incumbents or an increase to the new entry of the salary range.

COST OF MARKET ADJUSTMENTS FOR PROBATION OFFICERS
FY 2001

Job Title	Current Step Range	Proposed Step Range	Comments	Cost
P.O. I	35 - 50	39 - 54	2 Step increase or to new entry = \$ 12.92	\$ 79,335
P.O. II	41 - 56	43 - 58	1 Step increase or to new entry = \$ 14.40	78,055
P.O. III	45 - 60	47 - 62	1 Step increase or to new entry = \$ 16.05	48,187
Probation Supvr.	47 - 62	51 - 66	1 Step increase or to new entry = \$ 17.87	27,375
P.O. Chief I	49 - 64	53 - 68	1 Step increase or to new entry = \$ 18.86	8,473
P.O. Chief II	51 - 66	55 - 70	1 Step increase or to new entry = \$ 19.92	9,621
Total Salary Costs				\$ 251,046
Estimated Benefits Costs (27%)				\$ 67,783
Combined Costs				<u>\$ 318,329</u>



Sixth Judicial District

K. L. Melby, District Judge
David L. Mower, District Judge
Louis G. Tervort, Juvenile Judge

Brent Bowcutt, Court Executive
Clarinda Barclay, Juvenile Court Clerk
Steven Higgins, Chief of Probation
Marie L. Hintze, District Court Clerk

June 27, 1997

Gordon Bissegger
Administrative Services Director
230 South 500 East, Suite 300
Salt Lake City, UT 84102

Dear Gordon:


I seek the support of the Standing Committee on Facilities and Planning, and the Judicial Council for the State Courts to participate with Kane County in the development of a new or remodeled court facility. Kane County will build new jail facilities, and would like the Courts to participate in co-locating the court facilities with the County's jail.

Several months before this request, the County had asked the State to assume the administration of the court operations, making this a primary site. With the support of the AOC, I advised the County that we could not support the conversion of Kane County to a primary court location without the existing facility being remodeled to accommodate the consolidation of the District and Juvenile Courts.

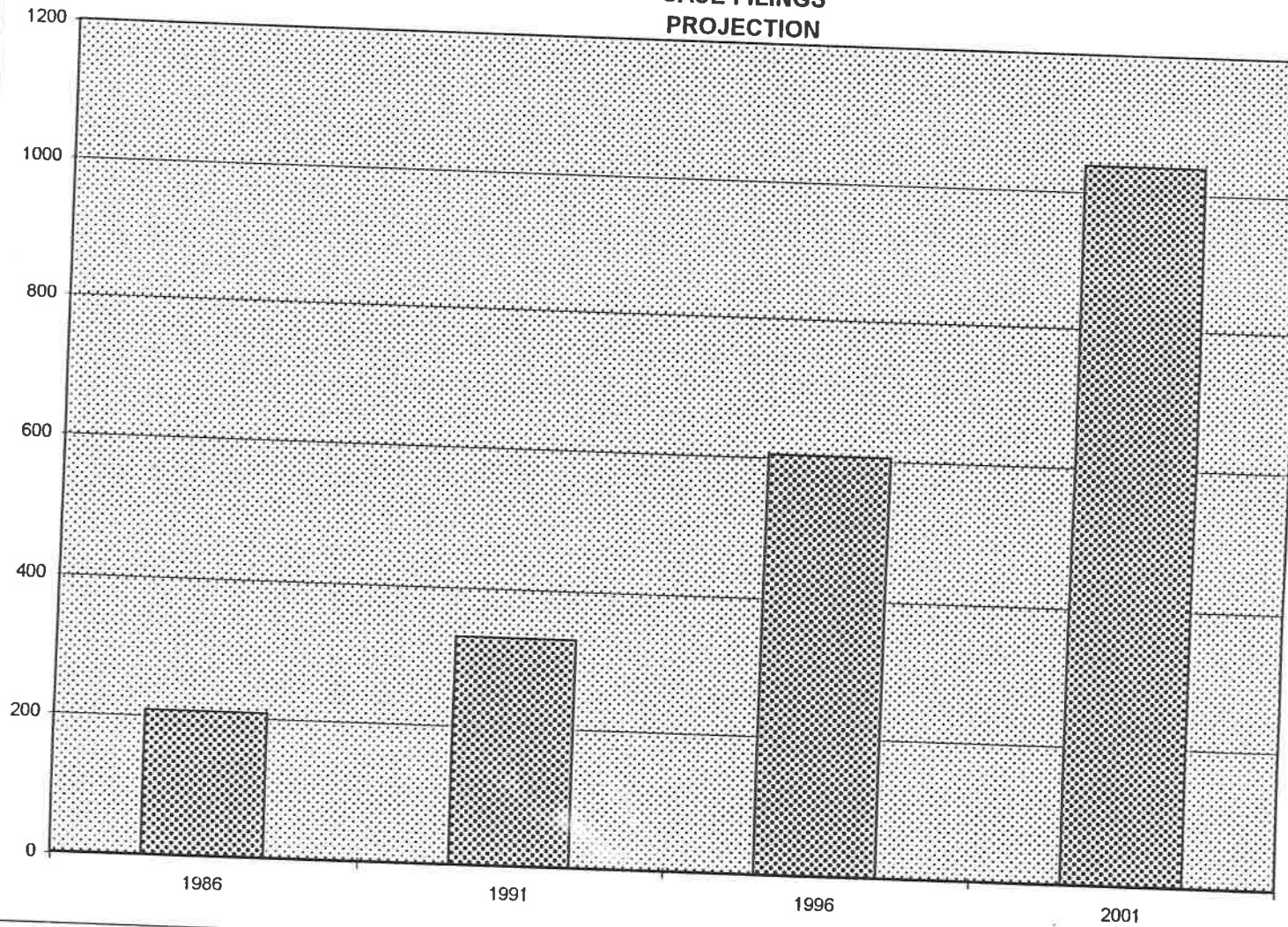
I recommend participation with the County in upgrading the court facilities whether it be a remodel of the existing facility, or a new co-located court/jail facility. The advantages to the Courts are as follows:

1. **Improve Security:** At present there is no secure entrance for the Judges. The Judges and Jury share a common hallway with the public and prisoners.
2. **Consolidation of the District and Juvenile Court Operations:** A State managed court operation, with improved efficiency and service to the public.
3. **To accommodate growth**

Sincerely,


Brent Bowcutt
Sixth District Court Executive

**KANE COUNTY
CASE FILINGS
PROJECTION**



KANE COUNTY

JUVENILE COURT TOTAL REFERRALS

YEAR	REFERRALS	DIFFERENCE	PERCENT DIFFERENCE
1986	89		
1991	136	47	53%
1996	296	160	118%
	Projection		
2001	548.27	252.27	85%

DISTRICT COURT TOTAL FILINGS

YEAR	REFERRALS	DIFFERENCE	PERCENT DIFFERENCE
1986	118		
1991	193	75	64%
1996	310	117	61%
	Projection		
2001	502.48	192.48	62%

COMBINED TOTAL REFERRALS

YEAR	REFERRALS	DIFFERENCE	PERCENT DIFFERENCE
1986	207		
1991	329	122	59%
1996	606	277	84%
	Projection		
2001	1,040	434	72%

KANE COUNTY BENCH DAYS 1986

		PROJECTION FOR 2001
DOMESTIC*	38	65
LAW AND MOTION	37	63
PRELIMINARY HEARINGS ^	23	39
TRIALS	19	33
TOTAL	117	201

Projections are based on the caseload data.

* Domestic includes juvenile court bench days.

^ Includes preliminary hearings, waivers and initial appearances conducted by the justice court and reimbursed by the state courts

KANE COUNTY FINANCING

COMMUNITY IMPACT BOARD	\$	1,200,000.00	BUY DOWN
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RURAL DEVELOPMENT AGENCY			LOAN
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Administrative Office of the Courts

Chief Justice Michael D. Zimmerman
Chair Utah Judicial Council

M E M O R A N D U M

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

TO: Gordon Bissegger
FROM: Paul B. Platt
DATE: February 9, 1998
SUBJECT: Progress Report on Kane County Project

Please review the following update of recent progress on the Kane County facility project.

On December 29, 1997 architect consultant Scott Evans and I met with the Kane County Commission. During this meeting we were able to present and discuss the results of Scott's work in conceptualizing a remodel design for the existing county courthouse facility. This design assumes a scenario that would have the Sixth District Court occupy the county's space in the existing facility. Mr. Evans also presented a construction cost estimate of 2.24 million to complete the proposed remodel (please review attached summary). The presentation was generally favorably received by the County Commission and by those present at the meeting. The county indicated that it wanted to have the building appraised before committing on a purchase price, and committed to attempting to have this process completed by the February meeting of our Standing Committee on Facilities Planning.

On February 2, 1998 the Kane County Commission again met to address their building program issues. This meeting was attended by Brent Bowcutt, Sixth District Trial Court Executive. Based on Brent's account, at this meeting the County Commission decided to appoint a citizen's committee to study the county's facility development options and recommend a course of action. Included in the scope of their study are the issues of jail expansion, present and future county office space needs, and the question of whether to sell the existing county courthouse facility to the state, and if so for how much. I understand this panel is to take approximately one month to conclude its study and present its findings to the County Commission. I don't know when this is set to occur.



PROJECT...: KANAB COURT REMODEL AND ADDITION / 25,540 SF
 OWNER....: KANE COUNTY, UTAH
 ARCHITECT: SCOTT P. EVANS AND ASSOCIATES
 COMMENT...: CONCEPTUAL CONSTRUCTION COST ESTIMATE

23 DEC 1997

PAGE 1

SYSTEM SUMMARY REPORT

SYSTEM		TOTAL COSTS	% TOTAL	COST/SF
1 SITE		198,971	8.86	7.79
2 FOUNDATION		30,317	1.35	1.18
3 FLOORS		26,166	1.16	1.02
5 ROOF		89,804	4.00	3.51
6 EXTERIOR WALLS		78,628	3.50	3.07
7 INTERIOR WALLS		125,582	5.59	4.91
8 OPENINGS		124,436	5.54	4.87
9 FINISHES		248,311	11.06	9.72
10 SPECIALTIES		219,147	9.76	8.58
12 PLUMBING		68,448	3.05	2.68
13 HVAC		287,727	12.82	11.26
14 ELECTRICAL		283,437	12.63	11.09
<hr/>				
SUBTOTALS		1,780,974	79.36	69.73
GENERAL CONDITIONS	5.00%	89,048	3.96	3.48
OVERHEAD & PROFIT	5.00%	89,048	3.96	3.48
DESIGN CONTINGENCY, ALLOW	10.00%	178,097	7.93	6.97
INFLATION TO 1-99, ALLOW	6.00%	106,858	4.76	4.18
<hr/>				
TOTALS		2,244,027	100.00	87.86

BUDGET REQUEST FOR PERIMETER SECURITY

(Perimeter Security = Manning magnetometers and security control centers, patrolling building and grounds.)

SECOND DISTRICT OGDEN JUVENILE COURT

Issue: The Ogden Juvenile Court currently has magnetometers at the entrance to the facility to screen the public against introduction of weapons into the courthouse. The magnetometers are manned by deputies of the Weber County Sheriffs Office. The Sheriff's Office currently sustains the cost for deputies to perform this security function. Over the years since the construction of the building about 10 years ago, the volume of public passing through the magnetometers has dramatically increased (the average is now 584 per day as opposed to nearly half that number when the building first opened), and the 1 deputy currently assigned is inadequate to cover the security needed to screen the public. The Sheriff needs one additional deputy to meet the workload. (For the time being, there is one additional deputy manning the magnetometer, but he has been pulled from patrol duty temporarily until this request has been resolved one way or the other.)

This need is complicated by three other factors:

1. The Sheriff has no funding to provide this additional deputy.
2. The Sheriff is already subsidizing the cost of the perimeter security needed for the new District Court building in Ogden. It is costing the Sheriff about \$170,000 per year, and the current contract provides only \$110,000 to sustain this cost. His position is he does not have the budget to subsidize court security any further
3. The policy of the Judiciary has been that in keeping with provisions of State Statute the cost for security of the Juvenile Court is a responsibility of the Sheriff. (See memo from Brent Johnson attached, which concludes that Juvenile Court security belongs to the Sheriff. For his part, the Sheriff believes the statute requires that he provide security to the Juvenile Court for transportation of prisoners and for bailiff services, but not for perimeter security in part because the court's local security plan does not require it. Brent's conclusion is that "security" is all inclusive. Also, the legislature has not chosen to fund the courts for Juvenile Court security.)

The Problem: In light of this situation, the Sheriff has expressed frustration at not being able to provide the necessary security for the Juvenile Court building, and has requested the court to fund the additional security officer needed for the Juvenile Court. If this is impossible, it is the Sheriff's belief that his officers currently assigned to Ogden Juvenile Court perimeter security would be better utilized in other capacities because the current complement of about 1.0 FTE officer is seriously compromising the building security (at times when only one officer can attend the magnetometer people are queuing up at the entrance and some are getting through unchecked - hence might as well not fund any security support at all because so many compromises are occurring, and his officers could be better utilized elsewhere).

Proposed Solution: In reviewing this problem with the court, DFCM staff have suggested it might be possible to shift O&M fund savings from one of the courts building accounts to perimeter security for Ogden Juvenile Court. However, this would be a onetime shift of funds that would need to be reallocated back to building O&M the following year. The proposal would be to shift funds from the Matheson Courthouse O&M budget to perimeter security for Ogden Juvenile Court in the amount of \$36,000. In a year these funds would shift back to the Matheson account because DFCM believes these

funds will be needed to support Matheson expenses by that time. Mike Strebel, Juvenile Court Executive, reports that the Sheriff has agreed to request additional funds from the County Commission to fund this deputy in future years if the courts will provide the initial funding (the Sheriff's existing budget will not support the additional officer).

Implications of Proposed Solution: (A) The priority for funding courthouse perimeter security followed by the Judicial Council has been: (1) the state owns the building; (2) the court has a lease purchase or option to purchase the building; and, (3) the court occupies essentially the entire building. Finally number (4), the juvenile court benefits from this policy only in situations where it is collocated with the district court (statewide there are only three courthouses where the juvenile court is not collocated with the district court - Vernal, Provo and Ogden), otherwise the County Sheriff has been responsible to cover security and the cost thereof for the juvenile court.

(B). The Ogden Juvenile Court meets the above criteria in that it is a state owned building, but it fails to meet criteria number 4 because it is solely a juvenile court facility.

(C). While this request covers only one year for the initial funding of a security officer at Ogden Juvenile Court to meet what the Sheriff and court staff consider to be an emergency situation, if it is granted it is possible that other County Sheriff's will make the same request, or will argue that existing district court perimeter security contracts are not sufficient to cover their cost and these ought to be shored up first (even though the proposal involves one time money).

(D) Failure to act in this instance may result in no **perimeter security** at all for the Ogden Juvenile Court building, which has risk management implications for both the court and the Sheriff.

Administrative Office of the Courts

Chief Justice Michael D. Zimmerman
Chair Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator

To: Myron March, Deputy Court Administrator
From: *B*/Brent Johnson, General Counsel
Re: Juvenile Court Security
Date: July 10, 1996

Issue:

What security services are the county sheriffs to provide for the juvenile courts and what compensation are they to receive for those services?

Discussion:

The county sheriff must provide bailiff services in the juvenile court similar to those services that are provided in the district courts. Utah Code Ann. § 17-22-27 states: "The sheriff shall assign peace officers or special function officers...to serve as court bailiffs and security officers in the courts of record and county justice courts as required by the rules of the Judicial Council." The juvenile courts are courts of record and therefore the sheriff is required to assign court bailiffs and security officers to the juvenile court. These juvenile court bailiffs and security officers must comply with the obligations set forth by rule of the Judicial Council, which rule is 3-414, Utah Code of Judicial Administration.

Rule 3-414 (5)(B)(ii) states: "The county sheriff shall be responsible for the provision of security services at all district court sites and all juvenile court sites within that jurisdiction." Essentially, the sheriff has the same obligation to the juvenile court that the sheriff has to the district court. Pursuant to Paragraph (6) of that rule, the bailiffs are to observe courtrooms, conduct courtroom searches, and perform all responsibilities "defined in the local court security plan." If the local juvenile court security plan requires a bailiff to provide security services outside of the courtroom setting, the sheriff must provide those services. The local security plans must be reasonable and must be within Judicial Council guidelines, but it is evident that the

Myron March
Memorandum
Page Two

security plans can and should include provisions for perimeter security. The district courts have had perimeter security plans in place for some time, and it would be difficult to argue that perimeter security at the juvenile court is not an important consideration.

Compensation of juvenile court bailiff services is a slightly more difficult issue. Section 17-22-27(2)(a) states: "The State Court Administrator shall enter into a contract with the county sheriff for bailiffs and building security officers for the district and circuit courts within the county. The contract shall not exceed amounts appropriated by Legislature for that purpose." Paragraph (b) of that section states: "The contract shall specify the agreed services, cost of services, and terms of payment."

The import of these sections is that, although the sheriff is required to provide bailiff services for all courts, we are only required to enter into contracts for the district and circuit courts. We are not obligated to contract for bailiff services to the juvenile court and thus we are not obligated to facilitate payment for juvenile court services.

The contract's primary purpose is to facilitate payment to the sheriff. The contract is a conduit by which payment can flow from the Legislature to the courts to the sheriff. We are not prohibited from entering into such contracts with the juvenile court, but whether the contract exists or not, the sheriff is obligated to provide services in accordance with the Judicial Council's rule and local security plans. If the Legislature chooses to appropriate funds for services to the juvenile courts, we can serve as a conduit for those funds. We cannot spend funds that are not appropriated and we are not obligated to seek the appropriation.

Conclusion:

The county sheriff is obligated to provide security services to the juvenile court. The security services are to be the same as those provided to the district courts, in accordance with local security plans. The provision of those services is without regard to payment, although if the Legislature chooses to appropriate funds for juvenile court security services, we can certainly act as the conduit for those funds. We are not obligated to seek an appropriation or pay funds from other sources. Please let me know if you have any questions.

(4) Upon being sued for damages for an escape or rescue he may introduce evidence in mitigation and exculpation. 1953

17-22-18. Rescues — Sheriff's liability.

He is liable for the rescue of a person arrested in a civil action equally as for an escape. 1953

17-22-19. Action for escape or rescue — Defenses.

An action cannot be maintained against the sheriff for a rescue or for an escape of a person arrested upon an execution or commitment, if after his rescue or escape and before the commencement of the action the prisoner returns to the jail or is retaken by the sheriff or by any other person. 1953

17-22-20. Only written directions to sheriff binding.

No direction or authority by a party or his attorney to the sheriff in respect to the execution of process or the return thereof or to any act or omission relating thereto is available to discharge or excuse the sheriff from liability for neglect or misconduct, unless it is contained in a writing, signed by the attorney of the party or by the party, if he has no attorney. 1953

17-22-21. Process justifies sheriff's action.

A sheriff is justified in the execution of, and must execute, all process, writs and orders regular on their face and issued by competent authority. 1953

17-22-22. Process to be exhibited.

The officer executing process must then, and at all times subsequent as long as he retains it, upon request show the same with all papers attached to any person interested therein. 1953

17-22-23. Crier of court.

The sheriff in attendance upon court must, if required by the court, act as crier thereof, call the parties and witnesses and other persons bound to appear at the court, and make proclamation of the opening and adjournment of court and of any other matter under its direction. 1953

17-22-24. Service of papers, other than process, on sheriff — Powers of successor.

Service upon the sheriff of a paper other than process may be made by delivering it or a copy thereof to him or to one of his deputies or to a person in charge of his office during office hours, or, if no such person is there, by leaving it in a conspicuous place in the office. When any process remains with the sheriff unexecuted, in whole or in part, at the time of his death, resignation of office or at the expiration of his office such process shall be executed by his successor in office; and when the sheriff sells real estate under and by virtue of an execution or order of court he or his successor in office shall execute and deliver to the purchaser all such deeds and conveyances as are required by law and necessary for that purpose, and such deeds and conveyances shall be as valid in law as if they had been executed by the sheriff who made the sale. 1953

17-22-25. Service of process on sheriff — When constable to act.

In cases where it appears in any court of record that the sheriff is a party, or where an affidavit is filed with the clerk of the court stating partiality, prejudice, consanguinity or interest on the part of the sheriff, the clerk of the court shall direct process to any constable of the county, whose duty it shall be to execute it in the same manner as if he were sheriff. 1953

17-22-26. Sheriff — Process on behalf of state — Fees.

(1) The sheriff shall without fee serve and return all process in criminal cases to which the state is a party, that are

lawfully issued by any court of the state, except as otherwise provided by law.

(2) If the process issues from a court outside of his county, he is entitled to his actual expenses necessarily incurred. The expenses shall be paid by the county where the process was issued. 1953

17-22-27. Sheriff — Assignment of court bailiffs — Contract and costs.

(1) The sheriff shall assign peace officers or special function officers, as defined under Sections 77-1a-1 and 77-1a-4, to serve as court bailiffs and security officers in the courts of record and county justice courts as required by the rules of the Judicial Council.

(2) (a) The state court administrator shall enter into a contract with the county sheriff for bailiffs and building security officers for the district and circuit courts within the county. The contract shall not exceed amounts appropriated by the Legislature for that purpose. The county shall assume costs related to security administration, supervision, travel, equipment, and training of bailiffs.

(b) The contract shall specify the agreed services, costs of services, and terms of payment.

(c) If the circuit court is located in the same facility as a state or local law enforcement agency and the county sheriff's office is not in close proximity to the court, the State Court Administrator in consultation with the sheriff may enter into a contract with the state or local law enforcement agency for bailiff and security services subject to meeting all other requirements of this section. If the services are provided by another agency, the county sheriff shall have no responsibility for the services under this section.

(3) (a) At the request of the court, the sheriff may appoint as a law clerk bailiff graduates of a law school accredited by the American Bar Association to provide security and legal research assistance. Any law clerk who is also a bailiff shall meet the requirements of Subsection (1) of this section.

(b) The sheriff may appoint a law clerk bailiff by contract for a period not to exceed two years, who shall be exempt from the deputy sheriff merit service commission. 1992

CHAPTER 23

COUNTY SURVEYOR

Section

- | | |
|----------------------|---|
| 17-23-1. | Duties of county surveyor — Election requirements — Contract option. |
| 17-23-2. | Office supplies — Filing and indexing fees — Records remain public property. |
| 17-23-3. | Seal. |
| 17-23-4. | Duty respecting maps filed for record. |
| 17-23-5. | Maps for county or county officers. |
| 17-23-6. | Repealed. |
| 17-23-7. | Survey by direction of court — Compensation. |
| 17-23-8 to 17-23-11. | Repealed. |
| 17-23-12. | Additional powers. |
| 17-23-13. | Setting monuments. |
| 17-23-14. | Disturbed corners — County surveyor to be notified. |
| 17-23-15. | Removal, destruction, or defacement of monuments or corners as misdemeanor — Costs. |
| 17-23-16. | Resurveys. |
| 17-23-17. | Map of boundary survey — Procedure for filing — Contents — Marking of monuments — Record of corner changes. |
| 17-23-17.5. | Corner perpetuation and filing — Definitions |


Administrative Office of the Court

Chief Justice Richard C Howe
Chair Utah Judicial Council

Daniel J. Becker
State Court Administrator
Myron K. March
Deputy Court Administrator
450 So. State St.
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Salt Lake City, Utah 84114-0241
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MEMORANDUM

TO: Management Committee of the Utah Judicial Council

 FROM: Holly M. Bullen
Assistant State Court Administrator

DATE: September 27, 1999

RE: Appointment to Standing Committee on Court Facilities Planning

In October there will be a vacancy on the Standing Committee on Court Facilities Planning for a representative from the business community. Neal Stowe has served a three-year term in that position, but Mr. Stowe indicated he did not desire a second term. Gordon Bissegger, who serves as staff to the Committee, suggested that the following individuals be considered for appointment to the position:

- **Archie Phillips** - He used to work for the State Division of Facilities Construction and Management (DFCM) and was the architect assigned to the Matheson Courthouse project from DFCM. He is currently an architect for the University of Utah; he is on their staff.
- **Frank Fuller** - He succeeded Archie Phillips as the DFCM project architect for Matheson Courthouse. He is currently retired.

Gordon commented that "Both architects did an excellent job for us."

We would appreciate your consideration of this appointment at your October 12 meeting. Thank you.

c: Gordon Bissegger

MAKING CHANGE FOR COURT PATRONS

Current Policies:

1. Cash Change funds are to be used exclusively for making change in operations where cash sales and receipts are made.
2. Cash Change funds can not be used for any expenditure or to cash checks.

Proposed Policies:

1. Cash Change funds **can** be used to make change where cash sales and receipts are made. Cash Change funds/court collected cash **may** be used to break down larger denominations of currency for court patrons for purposes other than making a payment. A clerk **may** make change for a court patron, if the court's cash change fund amount and composition is sufficient.
2. Cash Change funds/court collected cash **can** be used to make change when a travelers check, cashier's check, or money order presented to the court for more than the amount due. Two party checks can not be accepted for payment. The court clerk should take appropriate steps to assure the validity and ownership of the check or money order (Refer to Procedures).
3. The clerk **can not** give change on a personal or business check received for a payment. A personal or business check must be written for the amount due.
4. Cash Change funds and/or court collected cash **can not** be used for:
 - a) Any expenditures;
 - b) Cashing personal or business check, traveler's check, cashier's check, or money order; or
 - c) Cashing a State of Utah reimbursement check, such as petty cash reimbursement, employee travel reimbursement, etc.

Note: The court case management systems are not programmed to track information related to cashing checks unrelated to a payment.

PROCEDURES:

1. A traveler's check is to be signed a second time by the "owner" when presented for payment. The clerk could ask to see the payer's Driver's License or other type of picture ID with a signature to prove ownership.