

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

FILED
A.M. 11:53 P.M.

DEC 21 2016

CHRISTOPHER D. RICH, Clerk
By KARI MAXWELL
DEPUTY

IN RE: LACK OF FACILITIES,
EQUIPMENT, STAFF PERSONNEL,
SUPPLIES, AND OTHER EXPENSES OF
THE MAGISTRATE DIVISION
PROVIDED BY THE CITIES OF
MERIDIAN AND GARDEN CITY IN
SUPPORT OF MAGISTRATE DIVISION,

Case No. CV-OT-2014-06552

MEMORANDUM DECISION AND
ORDER ON MERIDIAN'S AND GARDEN
CITY'S PROPOSALS FOR MAGISTRATE
FACILITIES

PER CURIAM

I. INTRODUCTION AND SUMMARY

In 1994, pursuant to Idaho Code section 1-2218, Meridian and Garden City (collectively the "Cities") were ordered to provide their own magistrate facilities. The Cities have not complied with this order.

On November 4, 2016, a panel of District Judges for the Fourth Judicial District (the "Panel" or the "Court") heard evidence regarding the Cities' respective proposals to comply with the 1994 Order by providing magistrate facilities.¹ In addition to presenting their proposals to the *en banc* panel, the Cities argued in the alternative that the 1994 Order should be rescinded.

Having considered the evidence and arguments, the Court concludes that Garden City's use of magistrate facilities has sufficiently declined since 1994, such that Garden City should be relieved of the obligation to provide magistrate facilities. Meridian, on the other hand, should not

¹ The November 4, 2016 *en banc* panel consisted of the undersigned Judges Hansen, Moody, Hippler, Reardon, Owen, Norton, Medema, Hoagland, and Bail. Judges Greenwood and Scott disqualified themselves from participating in the decision in this case and did not attend the November 4, 2016 hearing.

WVA

be relieved of its obligation to provide magistrate facilities; its use of magistrate facilities has tripled since the 1994 Order was issued.

Turning its attention to Meridian’s proposal to comply with the 1994 Order, the Court concludes that the proposal is inadequate. The Court also concludes that to limit the fragmentation of services, minimize waste, and avoid confusion by the users of the magistrate courts, it is necessary to broaden the scope of services that Meridian will have to provide. However, rather than immediately requiring Meridian to resubmit a new proposal in furtherance of what is admittedly an imperfect solution—building separate magistrate court facilities—the Court will schedule the enforcement of the 1994 Order after the 2017 legislative session to give Meridian, Ada County, and the other interested parties, an opportunity to find a legislative solution.

II. BACKGROUND²

The cases currently handled in the magistrate’s division of the district court were once processed in a dizzying array of miscellaneous city, justice of the peace, probate, and police courts. However, in 1969, the legislature restructured the courts to provide for the current unified magistrate and district courts. Pursuant to that court reform legislation, the county³ provides magistrate facilities and necessary equipment and personnel, unless the sitting district judges of a judicial district, in their discretion, shift the responsibility to provide magistrate services to a city

² See generally, *City of Boise v. Ada County*, 147 Idaho 794, 215 P.3d 514 (2009); and *Ada County v. City of Garden City, et. al.*, 155 Idaho 914, 318 P.3d 904 (2014), which set forth much of the relevant factual and procedural history.

³ See Idaho Code § 1-2217, which provides: “Facilities and equipment provided by county. Each county in the state shall provide suitable and adequate quarters for the magistrate’s division of the district court, including the facilities and equipment necessary to make the space provided functional for its intended use, and shall provide for the staff personnel, supplies, and other expenses of the magistrate’s division.”

in the district. Idaho Code § 1-2218.⁴ Further, in the event the county provides the magistrate facilities, it gets five dollars of a fee charged to each person convicted of a felony, misdemeanor or infraction. If the city provides the magistrate facilities, then seven dollars and fifty cents of the fee ultimately go to the city. *See* Idaho Code § 31-3201A.

In 1971, on the day the court reorganization legislation took effect, this Court ordered the City of Boise to provide limited magistrate facilities, which it did at the old fire station on Kootenai Street. By 1980, Boise had outgrown this facility, so the Court issued a new § 1-2218 order—ultimately resulting in Boise’s opening of the five-courtroom facility on Barrister Street. In addition to Boise’s infractions and misdemeanors, the Barrister facility processed infractions and misdemeanors for Ada County, the Idaho State Police, Idaho Fish and Game, Meridian, Eagle, Kuna and Garden City. Magistrates housed at Barrister also handled felony arraignments. Boise received the seven dollars and fifty cent fee from each conviction processed at the Barrister facility.

Initially, Boise paid for all of the equipment, supplies and personnel for Barrister’s operations. Eventually, Ada County began to provide additional personnel and also sought voluntary financial contributions from the other cities whose cases were processed at Barrister. Meridian and Garden City refused to make any contribution. Consequently, Ada County and Boise petitioned the district judges to address the Cities’ refusal to contribute. On August 12, 1994 this Court issued an order pursuant to Idaho Code § 1-2218, requiring Garden City and Meridian to provide magistrate facilities (the “1994 Order”). That order provides:

[T]he . . . District Judges of the Fourth Judicial District have concluded that the

⁴ § 1-2218 provides: “Facilities and equipment provided by city. Any city in the state shall, upon order of a majority of the district judges in the judicial district, provide suitable and adequate quarters for a magistrate’s division of the district court, including the facilities and equipment necessary to make the space provided functional for its intended use, and shall provide for the staff personnel, supplies, and other expenses of the magistrate’s division.”

volume of work generated by the processing of citations and complaints through the Magistrate Division . . . have reached such levels that it is no longer reasonable for the City of Boise and Ada County to bear sole financial responsibility for the processing of citations and complaints issued by other municipalities.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT * * * [the Cities of Garden City and Meridian] . . . provide by October 1, 1994 suitable and adequate quarters for the magistrate's division of the Fourth Judicial District, including the facilities and equipment necessary to make the space provided functional for its intended use, and . . . provide for the staff personnel, supplies and other expenses of the magistrate's division. The suitability and adequacy of said quarters, facilities, equipment, staff[,] personnel, supplies and other expenses are subject to final approval by this Court.

After the Cities filed a request that the Court reconsider the order, or delay its implementation for a year, the Cities were given until October 1, 1995 to comply with the Order. They did not comply, nor did they formally seek relief from the Order. However, by 1998, Ada County began exploring building a new facility that would consolidate magistrate and district court matters into a single courthouse. This resulted in the construction of the current Ada County Courthouse on Front Street—completed in January 2002.

To meet its § 1-2218 obligations, Boise negotiated a contract to pay Ada County for the use of Ada County's new courthouse and the county's personnel, supplies and equipment.⁵ Meridian and Garden City refused to enter into similar agreements. Nonetheless, since its completion in 2002, Meridian and Garden City have utilized the new Ada County's Courthouse and Ada County's personnel, equipment and supplies for the magistrate matters stemming from the Cities' jurisdiction without payment or contribution to the County. In other words, the Cities' respective obligations under the 1994 Order have gone unmet.

In 2010, following additional unsuccessful attempts to enter into agreements with the

⁵ After the Idaho Supreme Court issued its opinion in *Twin Falls County v. City of Twin Falls*, 143 Idaho 398, 146 P.3d 664 (2006)—holding that a city could not be ordered to pay money to a county under § 1-2218 in lieu of being required to provide facilities—Boise challenged its obligation to pay under the agreement it had reached with Ada County. This Court denied the City's challenge, and the Idaho Supreme Court affirmed—holding that Boise had voluntarily agreed to meet its obligation to provide facilities by paying the county, and the panel could enforce the agreement as a means of complying with the § 1-2218 order. *City of Boise v. Ada County*, 147 Idaho 794, 215 P.3d 514 (2009).

Cities for financial contribution, Ada County sought declaratory relief to enforce the 1994 Order. This Court dismissed the County's complaint, holding that a declaratory relief action was not the "proper mechanism to consider the issues." *See Ada County v. Garden City et., al.*, 155 Idaho at 917, 318 P.3d at 907. In 2011, the Cities filed a motion seeking to vacate the 1994 Order, which this Court denied. The Cities appealed, but the Idaho Supreme Court affirmed, holding:

[T]he record does not disclose that [the Cities] have suffered any harm as a result of the 1994 Order in the almost 20 years from the date of its entry. They have not been required to make any expenditures or to construct any facilities pursuant to the 1994 Order. Although the 1994 Order requires them to provide quarters and facilities for the magistrate's division and Ada County has sought payment for their use of the county courthouse, the Cities have not been required to pay one penny or to provide any quarters or facilities for a magistrate's division. Furthermore, there is no plan, proposal, or schedule from any interested party regarding what the Cities must, might or could do to comply with the 1994 Order. Therefore, we are not presented with a justiciable controversy.

Id. at 918, 908.

However, the Idaho Supreme Court directed the district court to adopt local rules to establish the process for "determining whether and how the Cities are to comply with the requirements of the 1994 Order." *Id.* at 919, 909. As a result, this Court adopted *Local Administrative Rules of Procedure for Compliance with an Order Issued Pursuant to I.C. § 1-2218, June 16, 2014* (hereinafter "Local Rules"). The Idaho Supreme Court approved the Local Rules. *See Order Adopting Local Rules*, Supreme Court Docket No. 40084-2012.

Pursuant to the Local Rules, the Cities "shall submit a written proposal to the District Judge Panel for its approval outlining how it will comply with the [§ 1-2218] Order." Local Rule 3. On February 26, 2016, this Court issued an order requiring the Cities to submit, no later than June 1, 2016, "a proposal as to how the Cities intended to comply with the 1994 Order requiring the Cities to provide adequate facilities." On June 1, the Cities filed their joint proposal, which did not identify any plan to comply with the 1994 Order. This Court rejected the Cities' proposal, writing: "When the Court ordered the Cities to deliver a proposal for

providing adequate magistrate facilities, the Court expected the Cities to comply with the Court's Order and Rule 3. Instead, the Cities took nearly four months to submit a filing that does not even attempt to comply with the Court's Order or the Rule." *See Memorandum Decision and Order*, August 2, 2016. The Court then ordered the Cities to provide actual proposals for the requisite facilities by August 31, 2016. In response, the Cities filed motions for permissive appeal, which this court—and subsequently the Idaho Supreme Court—denied.

The Cities submitted their proposals by the August 31 deadline, and subsequently filed additional supportive materials and testimony.⁶ A public hearing was held before this Court on November 4, 2016. At the hearing, counsel for Garden City and Meridian each presented argument in favor of their respective proposals, as well as their alternative requests to be relieved of responsibility under the 1994 Order. The mayors of Garden City and Meridian also testified at the hearing. Ada County appeared and argued against vacating the 1994 Order and also pointed out deficiencies in the proposals. Other interested persons, including the cities of Boise, Kuna, Eagle and Star, were given notice and an opportunity to appear. None elected to be heard.

III. LEGAL STANDARDS

The legislature provided that a majority of the district court judges in a relevant district could relieve a county from the obligation to provide magistrate facilities and place that burden on a city. Idaho Code § 1-2218. The legislature also provided for limited user-generated funding for a county or city, depending on which entity the district court requires to furnish the magistrate facilities. But, as to when and whether a district court ought to encumber a city with this responsibility, the legislation is silent. This binary decision—county or city—must be made without legislative guidance as to the circumstances and considerations that should be weighed.

⁶ Meridian, Garden City and Ada County all submitted various affidavits and declarations with attached exhibits that are of record and have been considered by the Court.

However, the Idaho Supreme Court, in a triad of cases,⁷ has attempted to shed some light on what a district court panel can and cannot do in determining whether and how to shift the magistrate facilities burden to a city.

In its most recent decision involving Idaho Code § 1-2218 disputes—*Ada County v. City of Garden City*—the Idaho Supreme Court outlined the process both for initially ordering a city to provide magistrate services and then implementing such an order. Specifically, the Court held that an order under § 1-2218 commences a proceeding for enforcement of the order. *Ada County*, 155 Idaho at 919, 318 P.3d at 909. As part of that process, a city is entitled to an “opportunity to appear and be heard before being required to provide any specific quarters, facilities equipment or expenses.” *Id.* In this case, that process is defined by the Local Rules. Pursuant to the Local Rules, the Cities are given the opportunity to present their plans and evidence in support of the plans. It is then up to this Court to determine if those plans are adequate, and if not, the Court can require the Cities to submit new plans that address any inadequacies noted by the Court. *See* Local Rule 5.⁸ Only when the Cities have been ordered to implement an approved specific plan will the matter be ripe for appellate review. *Ada County*, 155 Idaho at 919, 318 P.3d at 909.

Next, in *Twin Falls County*, the Supreme Court examined how a district court panel may force a city to comply with a § 1-2218 order. The Court looked to the literal wording of Idaho Code sections 1-2217 and 1-2218 and concluded that a district court panel may not compel a city to contribute financially to a county or other entity to fulfill its obligations under a § 1-2218

⁷ *Twin Falls County v. City of Twin Falls*, 143 Idaho 398, 146 P.3d 664 (2006); *City of Boise v. Ada County*, 147 Idaho 794, 215 P.3d 514 (2009); *Ada County v. City of Garden City, et. al.*, 155 Idaho 914, 318 P.3d 904 (2014).

⁸ Local Rule 5 provides: “Following the hearing on the proposal, the District Judge panel will either approve or disapprove the proposal. If the proposal is approved, the District Judge panel shall order the city to act in conformity with the proposal within a time set in the decision. If the proposal is not approved, the District Judge panel may order the city to re-submit a supplemental proposal pursuant to the procedures set forth above.”

order. Instead, a court may only order a city to provide—in bricks and mortar—the magistrate facilities and related personnel, equipment and supplies—“suitable and adequate quarters.” Beyond that, “the legislature has given cities the discretion to decide how they want to go about providing such quarters.” *Twin Falls County*, 143 Idaho at 400, 146 P.3d at 666.

While *Twin Falls County* prohibited a district court from ordering a city to pay the county for magistrate facilities, the final case, *City of Boise*, confirmed that a city could elect to meet its obligation by contracting with a county (or conceivably another city) to provide the same. Indeed, *City of Boise* gave wide latitude to cities to develop creative approaches to comply with a § 1-2218 order.⁹ However, *City of Boise* also gives the district court the prerogative—and responsibility—to ensure that whatever approaches a city may elect, the result is suitable and adequate magistrate facilities and services.

In addition, *City of Boise* established the standards for addressing a request to vacate a § 1-2218 order. The Court likened a motion to set aside a § 1-2218 order to a motion to set aside a permanent mandatory injunction. A motion to set aside an injunction requires the movant to make a showing of good and sufficient cause. 147 Idaho at 804, 215 P.3d at 524. Good cause may be demonstrated, by a preponderance of the evidence, that:

[A] change in circumstances has rendered the original injunction inequitable. The changed circumstances may be one of either fact or law. In either case, the change in circumstances must be sufficiently significant or substantial to make modification of the injunction just and equitable, or to make the injunction in its original form inequitable, no longer justified, or wrong, inequitable, or unjust. Under this standard, a court has broad discretion in deciding whether to grant a party’s motion to modify or set aside an injunction.

Id. (citations and internal quotations omitted).

Thus, as to a city’s motion to vacate a § 1-2218 order, the city must prove that the order

⁹ *City of Boise* also clarified that a § 1-2218 proceeding is not an administrative proceeding because it involves judicial decision making. However, it also is not a civil action. Rather it is a unique proceeding for which the district court is granted jurisdiction by the legislature, and the court may rely on its “inherent power to fashion suitable rules for carrying out [its] constitutional and statutorily mandated duties.” 147 Idaho at 802, 215 P.3d at 522.

is no longer justified because of a change in law or in the factual circumstances. Finally, a district court panel has broad discretion in deciding whether to deny or grant the request. *See Id.* at 805, 525.

IV. FINDINGS AND CONCLUSIONS

With these general principles in mind, we next address whether circumstances have changed such that the Court should withdraw the initial 1994 Order as to either City; and if the order is not withdrawn as to a City, whether that City has submitted a sufficient proposal for magistrate facilities.

A. Whether the §1-2218 Order Will Be Rescinded.

Given the unique posture of this case—namely that the original § 1-2218 Order was issued twenty-two years ago—it is appropriate for this Court to consider both the original circumstances and reasons for the 1994 Order, and whether circumstances have changed enough to relieve one or both of the cities from the order. This Court concludes that the Order was justified in 1994, and that the present circumstances justify compelling Meridian—but not Garden City—to provide magistrate facilities.

This Court has very broad discretion to order a city to provide magistrate facilities. Indeed, Idaho Code sections 1-2217 and 1-2218 place no limitations on the discretion of the court to shift that obligation from a county to a city. The legislature left the choice of which entity should provide facilities—county or city—to the district court panel. Further, it “was not the Legislature’s intent to relieve cities of their pre-existing obligation to maintain local courts but, rather, to provide a unified system and to ensure that where cities provided facilities for the magistrate’s division . . . the facilities were suitable and adequate to do the job.” *City of Boise*, 147 Idaho at 809, 215 P.3d at 529. Likewise, the statute does not limit a district court’s

determination as to which matters may be required to be handled at those facilities. The court has the authority to require that the facilities be capable of handling any magistrate court matter, criminal or civil, that originates from within the city, and the discretion to determine if the proposed facilities are suitable and adequate to meet those ends.

Addressing a motion to vacate an existing § 1-2218 order, the Court in *City of Boise* explained that a City's magistrate caseload volume may support issuing an order pursuant to § 1-2218 in the first place. *City of Boise*, 147 Idaho at 809, 215 P.3d at 529. It noted that "the legislature quite clearly contemplated" that cities that "generate a substantial amount of court business . . . would have a role in shouldering the cost burden of magistrate's division facilities." *Id.*, at 808, 528. In upholding the denial of the request to vacate Boise's § 1-2218 order, the Court noted that the substantial magistrate caseload generated by Boise was the original basis for the order, and that caseload continued to support the order despite a number of other changes in Ada County and to its court facilities. *Id.* at 809-10, 529-30.

This is the same consideration that prompted and justified the 1994 Order. In that order, this Court specifically proclaimed: "[T]he volume of work generated by the processing of citations and complaints through the Magistrate Division . . . have reached such levels that it is no longer reasonable for the City of Boise and Ada County to bear sole financial responsibility for the processing of citations and complaints issued by other municipalities." In 1991, 4,295 of the criminal citations handled in the Ada County magistrate division originated in Meridian. Garden City originated 5,478 in that same year.¹⁰ In 1991, this represented significant usage of Boise City's and Ada County's magistrate facilities. This does not include the civil magistrate proceedings that the Cities generated. In addition, both Meridian and Garden City elected to

¹⁰ Figures for 1991 are the closest to 1994 available to the Court. See *May 11, 2012 Order Denying Motion to Vacate 1994 Order*, at p. 4.

maintain their own municipal police force, another factor that would have supported shifting the magistrate facilities responsibility to those cities.¹¹ Thus, the Court was justified in originally requiring both Cities to provide their own magistrate facilities.

We must now determine if circumstances still justify requiring the Cities to provide their own magistrate facilities. Starting with the primary question of usage, the evidence is that, as of 2015, the current caseload for criminal citations¹² is approximately as follows: Garden City: 5% (3,516); Meridian: 20% (13,761); Boise 47% (31,651); Ada County 7% (4,861); Eagle 3% (1,119); Kuna 2% (719); Star 1% (370)¹³. Declaration of Christopher D. Rich, Exhibit A. Notably, Meridian's percentage of criminal citations processed through the magistrates division in 2007¹⁴ was 11,496 (of a total 92,017 for the entire county) or approximately 12%. Likewise Garden City had 9,532 total criminal citation in FY 2007, or approximately 10%. *Id.* Between 1991 and present, Meridian's criminal citation volume has nearly tripled, growing steadily, as a percentage, from 10% to 20%. On the other hand, Garden City—landlocked and increasingly gentrified—has seen its total usage drop from 10% to 5%, and from 5,478 to 3,516 in real numbers.

Based on the Cities' respective current use of Ada County's magistrate facilities, it is equitable and appropriate to enforce the § 1-2218 Order against Meridian. Garden City is not

¹¹ A city employing a police agency that issues criminal citations and makes arrests resulting in convictions receives additional portions of fines generated through the prosecution, as well as any forfeitures generated. *See e.g.*, Idaho Code § 19-4705. From fines and fees, in 1991, Meridian received \$79,110 and Garden City received \$185,119. *See May 11, 2012 Order Denying motion to vacate 1994 Order*, at p. 4. In 2015, Meridian received \$453,971.40 and Garden City Received \$168,215.36 as represented by Ada County at the November 4, 2016 hearing in this matter.

¹² The number or percentage of civil matter matters generated from each city has not been provided to the Court. Based on Meridian's current population of approximately 90,000 people as compared to a total population of approximately 435,000 people in Ada County, Meridian likely contributes significantly to the magistrate civil caseload. In comparison, Garden City's has a population of 11,550. *See* United States Census Bureau <http://www.census.gov/quickfacts/table/PST045215/1629620,1652120,1608830,16001> (2015 figures).

¹³ Total criminal citations for Ada County in 2015 numbered 67,515. Declaration of Christopher D. Rich, Exhibit A.

¹⁴ The Court was not provided criminal citation numbers from 1992 to 2007.

similarly situated. Given its decreased total and relative consumption of magistrate services, equity no longer currently compels the enforcement of a § 1-2218 order against Garden City. Thus, as to Garden City, the 1994 Order will not be enforced at this time.

B. Meridian's Reasoning for Vacating the 1994 Order Is Not Persuasive.

1. *Ada County's Capacity for Meridian's Matters*

When the 1994 Order was entered, Meridian's magistrate cases were handled at the courthouse on Barrister Street and district court matters were processed at the old Ada County Courthouse on Jefferson Street. Then—just as now—Meridian refused to contribute financially. Subsequently, the new Ada County Courthouse was constructed. There, all Ada County adult magistrate and district court cases are processed. Without question, this consolidation resulted in efficiencies, cost savings and convenience. Meridian argues that the construction of the new Ada County Courthouse is a change in circumstances sufficient to require rescinding the 1994 Order. Meridian reasons that the courthouse has capacity to handle its magistrate matters, so Meridian should not be required to build its own facilities. Meridian misses the point. The 1994 Order was issued not simply because additional facilities were needed—though they likely were—but because it was “no longer reasonable” for the City of Boise and Ada County to pay Meridian's way. *See* 1994 Order. That calculus—as to Meridian—has not changed.

The Idaho Supreme Court has held that the fact that current county facilities are sufficient to handle a city's cases does not make a § 1-2218 order inappropriate. *City of Boise*. 147 Idaho at 809-10, 215 P.3d at 529-30. The very same argument Meridian advances today was rejected when Boise made it nearly a decade ago. In turning away that argument, the Idaho Supreme Court stated that the “fact that a courthouse may contain more judicial space than necessary to

accommodate the present county caseload has no bearing on the responsibilities a city may have to provide for handling of city-generated cases.” *City of Boise*, note 20. The Court further held:

The panel did not abuse its discretion in concluding that the City remained obligated under the 1980 Order despite the construction of the new Ada County Courthouse. Nothing in section 1-2218 requires the district judges to find that existing county facilities are unsuitable or inadequate or that a separate facility is necessary before issuing a section 1-2218 order. Rather, the “suitable and adequate” requirement contained in the statute refers to the type of quarters a city must provide if ordered to house a magistrate’s division. The “necessary” requirement refers to the facilities and equipment a city must provide to make the quarters functional for their intended use. Accordingly, the panel did not err in concluding that the construction of the new courthouse was not a substantial and material change of circumstance.

City of Boise, 147 Idaho at 810, 215 P.3d at 530. In short, the fact that the Ada County courthouse has the capacity to host Meridian’s magistrate court obligations does not make it equitable to require it to do so—particularly without compensation.

2. *Meridian Citizens’ will be Doubly Taxed.*

Meridian argues that requiring it to pay for magistrate facilities amounts to double taxation. This same double taxation argument was rejected by the Idaho Supreme Court when Boise City made it in *City of Boise*. In *City of Boise*, the Idaho Supreme Court held that a § 1-2218 order does not constitute a tax—let alone an unlawful, duplicative and non-uniform one. *City of Boise*, 147 Idaho at 811-12, 215 P.3d at 531-32. This Court likewise rejects the argument that Meridian citizens would be doubly taxed by requiring Meridian to follow a court order issued pursuant to § 1-2218.

Boise’s residents are paying a disproportionately greater burden for magistrate facilities; a fact Meridian disregards in advancing its argument. Boise citizens pay property taxes in Ada County that support the existence of the Ada County courthouse. Boise citizens also contribute, above and beyond their county property taxes, to the Ada County courthouse because Boise City pays Ada County for Boise’s use of the Ada County courthouse. By requiring Meridian to

comply with the 1994 Order, the two largest consumers of magistrate services—Boise and Meridian—will each pay for their own magistrate services. As noted by the Idaho Supreme Court, there is nothing about this scheme that amounts to double taxation. It is similar to other schemes. Taxes fund municipal pools, but cities may still charge an admittance fee. Taxes fund parks, but cities may still charge when parks are used for special events. Taxes fund city streets, but cities may still install meters and charge users for parking.

3. Separate Magistrate Facilities Would Be Inefficient and Inconvenient.

Meridian maintains that forcing it to construct and operate its own separate magistrate court facility will result in inefficiencies, duplication and confusion, and will otherwise reduce many of the advantages and conveniences resulting from the consolidation of court facilities and services. Meridian's argument is cogent, largely accurate, and ultimately unavailing.

First, it is entirely within Meridian's power to avoid this result. Meridian can contribute financially to Ada County for its proportionate use of the existing facilities—just as Boise does. Meridian has elected not to do so. The Court would be remiss if it failed to point out that negotiating a monetary contribution to Ada County would cost Meridian exponentially less than what it will cost to construct, equip, supply and operate its own magistrate facility.¹⁵

Second, ensuring that the Meridian facilities provide a full array of magistrate related services will minimize the fragmentation of services and the related confusion inherent in handling different stages of the same magistrate case at two different locations. Further, the

¹⁵ Reportedly, Boise currently pays approximately \$1,000,000 a year to Ada County for its § 1-2218 obligations. Boise is responsible for generating approximately 50% of the county's criminal citations. Meridian accounts for 20%. Using Boise's payment as a starting point, back of the napkin math suggests a yearly payment by Meridian of approximately \$400,000. In contrast, constructing, equipping and supplying a suitable and adequate courthouse will likely cost several million dollars. The yearly cost to run, maintain and staff the magistrate facilities would also likely far exceed—many times over—the estimated yearly payment to Ada County of approximately \$400,000. The income Meridian receives from its criminal citations—\$453,971.40 in 2015—would more than cover such a payment to Ada County.

Court will ensure that the services that are provided are suitable and adequate.

Lastly, while there are some significant disadvantages to separate magistrate facilities, they do not outweigh the inequities that flow to Ada County and Boise from their having to continue to carry Meridian's weight.

C. The Suitability and Adequacy of Meridian's Proposed Facilities

Since Meridian has elected to provide magistrate facilities, the Court next turns to an examination of Meridian's proposal. Meridian, after consulting with the National Center for State Courts, submitted two concept drawings.¹⁶

Meridian's concept drawings are inadequate—falling far short of a complete proposal. A proposal should include a developed plan for a specific building, on a particular parcel of land, with a clearly defined timeline for the various phases of construction, and with an identification of the equipment, staff, personnel, and supplies to be acquired for the operation of the magistrate facility. Meridian's proposal misses this mark.

Meridian acknowledged the two concept drawings it submitted did not adequately address all of the items required for an adequate facility. Additionally, the space programming study submitted by Meridian did not address the requirement that the city "shall provide for the staff personnel, supplies, and other expenses of the magistrate's division." I.C. § 1-2218.

Pursuant to Local Rule 5, "[i]f the proposal is not approved, the District Judge panel may order the city to resubmit a supplemental proposal." Therefore, Meridian must identify the specific facility it intends to utilize, and supplement its proposal with greater detail as to that facility. Meridian must provide an additional space programming study explaining how Meridian

¹⁶ With the National Centers of State Court's assistance, Meridian conducted a space planning review of two sites. Meridian studied the former Meridian City Hall and the Meridian Police Department headquarters. The "plan" is attached at Exhibit 3 of the Declaration of Keith Bird. While Exhibit 1 to that declaration states four sites and any other Meridian-owned property were considered, no study or plan for any other facility or site was offered into evidence.

will provide all of the items identified as suitable and adequate to comply with the 1994 Order. It must also comply with the Court Facility Design Guidelines for the State of Idaho, NCSC (2015).

In addition to again referring Meridian to the items in the list of requirements provided by the Court previously on October 30, 2015,¹⁷ the Court also provides the following direction and enhancements to its requirements:

* The facility must be able to handle all infractions and misdemeanors originating in Meridian, from start to finish—including petit jury trials.¹⁸ This will prevent piecemeal prosecution of cases, where some hearings in a case are processed in Meridian and others in Boise—and the related confusion and inconvenience to the parties. The court will need to operate each weekday, given that some misdemeanors require a defendant to see a judge within 24 hours of arrest.

* The courthouse facility must consist of at least two courtrooms—three will likely eventually be needed—capable of handling the full array of criminal magistrate matters, including petit jury trials. This will accommodate Meridian’s continued growth.

* The facility should include chambers for at least two judges and all related staff, including in-court clerks. It will also require retaining sufficient additional counter and other clerks (some of whom should be crossed-trained to perform in-court duties) and a supervising clerk. The Court will work with the Ada County Clerk and Meridian to ensure Meridian provides adequate clerk staffing.

* The facility must have adequate security. Two security guards, as proposed by Meridian, are wholly insufficient. There needs to also be at least one marshal for each courtroom in session, and sufficient security for the public entrance screening station, as well as the central control station. Further there must be security to patrol the facility and respond to security and emergency needs. Security for the facility should be consistent with the specifications submitted by Ada County. *See* Declaration of Dana Ho. There needs to be at least two secured parking spaces.

¹⁷ *See Meridian and Garden City’s Joint Proposal Regarding Compliance with the 1994 Order*, Exhibit J: *Minimum Needs as Identified by the District Court* (6/25/12) (and revised 10/30/15). The *Declaration of Keith Bird* purports to attach as Exhibit 2 to that Declaration the “most recent document” outlining the Court’s list of Needs, but Bird’s Exhibit 2 was superseded by the 10/30/15 revision cited above.

¹⁸ This also gives the Administrative District Judge the flexibility to assign one or more magistrates to work up to full time at the facility, including by assigning civil matters involving Meridian property or residents to be adjudicated at the facility.

* The courthouse must have multiple holding cells sufficient for numerous prisoners—at least 25—including cells for high level security risk prisoners and additional holding cells where attorneys can meet in private with in-custody clients. Misdemeanants are often in custody, particularly given the fact many are being held on other unrelated felony charges or on warrants for parole and probation violations.

If Meridian’s supplemental proposal will include the renovation of an existing facility,¹⁹ it must provide a Facility Condition Assessment of that facility addressing its suitability to serve as a courthouse. The Facility Condition Assessment must certify it meets security protocol, structural, plumbing, and electrical standards of a courthouse. It must contain an extensive narrative, supplemented by drawings and photographs—including of the conditions observed—and specify a summary budget to address any deficiencies and to render the facility adequate.²⁰ The proposal and budget must include a staffing plan for the required court and security personnel that Meridian must provide, as well as for the necessary equipment and supplies. In summary, Meridian must provide a new proposal with sufficient detail to allow the Court to evaluate whether the proposal would result in suitable and adequate facilities.

D. Scheduling to Pursue a Legislative Solution.

The Court recognizes that its limited options for implementing a § 1-2218 order, as decided in the *Twin Falls County* case, dictate a less than perfect result in this case. Without the ability to require cities to contribute financially for their use of county magistrate facilities, district court panels are constrained in their ability to do justice. Former Chief Justice Schroeder envisioned such infelicitous outcomes in his dissent in *Twin Falls County*. He argued that

¹⁹ While Meridian asked for an order directing it to build a facility, this is not within the Court’s authority. *Twin Falls County*, 143 Idaho at 400, 146 P.3d at 666 (“Again, under the clear language of [I.C. § 1-2218], district judges are not given the authority to decide on the city’s behalf how the city should comply with the statute.”).

²⁰ The budget must also include cost to make the facility compliant with the ADA and all relevant current codes applicable to a courthouse facility.

denying district judges the ability to require cities to pay for magistrate services rather than construct separate facilities ignores the legislature's intent to unify the courts and do away with a multiplicity of inferior courts scattered about a county and their resulting inefficiencies, undue "provincial influence" and the uneconomical provision of court services. He warned of a result that is not "driven by legislative mandate" and that "ignores the sad lessons of history."

Twin Falls County, 143 Idaho at 402, 146 P.3d at 668. He wrote:

To read I.C. § 1-2218, which was part of the sweeping reform of 1971, as intending for the Cities to provide for magistrate facilities only if those facilities were the 'bricks and mortar' of an individual city would frustrate the legislative intent to replace the patchwork quilt of local courts with one, efficient, unified, integrated system of justice.

Twin Falls County, 143 Idaho at 404, 146 P.3d at 670.

Had this Court the power to order Meridian to pay its proportionate share of the financial burden of processing its magistrate cases, the efficiencies, convenience and overall cost savings achieved through the integration of all court proceedings at a central location would not be sacrificed. Also, Meridian's financial burden in complying with the § 1-2218 order would be exponentially smaller. The ability to make that happen rests only with Meridian and the legislature.

Therefore, the panel will schedule Meridian's next hearing, at which it will have to present a new proposal for magistrate facilities, to take place after the adjournment of the 2017 legislative session. This will give the legislature an opportunity to address this important issue. A legislative fix might include empowering a district court panel to order proportionate payment; it might reallocate the payment of fines, fees and forfeitures and, in exchange, shift entirely to county funded magistrate facilities; it might repeal § 1-2218 altogether and place the cost of magistrate facilities solely on counties without recompense; or it might provide some other solution. If the legislature does not act—or proposals to the legislature are not forthcoming—

then this Court will rapidly proceed toward ensuring that Meridian provides the magistrate facilities, personnel, equipment and supplies required by this Court's 1994 Order and this Order.

V. ORDER

Based on the foregoing, IT IS HEREBY ORDERED AS FOLLOWS:

A. The 1994 Order as to Garden City will not be enforced at this time. However, should Garden City's utilization of magistrate facilities significantly increase, in either total numbers or as a percentage of other users, or should circumstances otherwise warrant it, the Court may impose obligations under § 1-2218 in the future;

B. The 1994 Order as to Meridian is not vacated and Meridian must comply with the order. Meridian must submit a proposal for the provision of magistrate services in conformity with the Court's decision herein;

C. Meridian is directed to meet with the Administrative District Judge and/or any designees to discuss and further identify the Court's requirements, and to schedule further proceedings. At that time, the Court will also discuss setting a deadline for Meridian's submission of a new proposal. The schedule for hearing on the new proposal will be set so as to give the parties, and other interested persons and political subdivisions, an opportunity to seek remedial legislation; and

D. This Order is not intended to be final and appealable, but rather is interlocutory in nature.

IT IS SO ORDERED by the en banc panel.

Dated this ~~21st~~ day of December, 2016.



Judge Deborah A. Bail



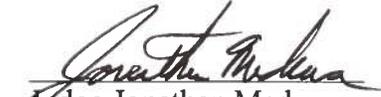
Judge Timothy Hansen



Judge Steven Hippler



Judge Samuel Hoagland



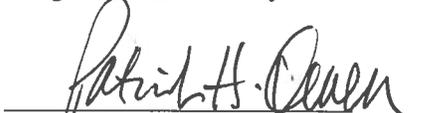
Judge Jonathan Medema



Judge Melissa Moody



Judge Lynn Norton



Judge Patrick Owen



Judge Michael Reardon

CERTIFICATE OF MAILING

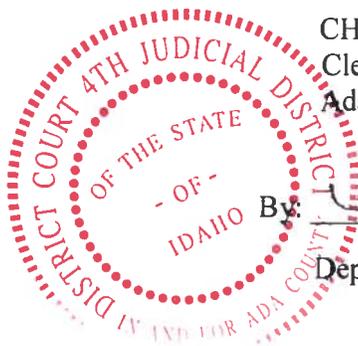
I, Christopher D. Rich, the undersigned authority, do hereby certify that I have emailed on this 21st day of December, 2016, one copy of the ORDER to each of the attorneys of record in this matter as follows:

ADA COUNTY PROSECUTING ATTORNEY
JAN M. BENNETTS
THEODORE E. ARGYLE
LORNA K. JORGENSEN
CIVIL DIVISION
200 W. FRONT STREET, ROOM 3191
BOISE, IDAHO 83702
VIA EMAIL: teda@adaweb.net and ljorgensen@adaweb.net

MICHAEL W. MOORE
BRADY J. HALL
MOORE & ELIA, LLP
PO BOX 6756
BOISE, IDAHO 83707
VIA EMAIL: mike@melawfirm.net and brady@melawfirm.net

FRANK WALKER
CHARLES I. WADAMS
GARDEN CITY ATTORNEY'S OFFICE
6015 GLENWOOD
GARDEN CITY, IDAHO 83714
VIA EMAIL: cwadams@gardencityidaho.org and frankwalker@boiselaw.net

CHRISTOPHER D. RICH
Clerk of the District Court
Ada County, Idaho



By: *Yuri Maxwell*
Deputy Clerk