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CIVIL DIVISION
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MAY 11 2012

CHRISTOPHER D. RICH, Clerk
By MIREN OLSON
DEPUTY

THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

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

IN RE: FACILITIES, EQUIPMENT,
STAFF, PERSONNEL, SUPPLIES AND
OTHER EXPENSES OF THE
MAGISTRATE DIVISION

**ORDER DENYING MOTION TO
VACATE 1994 ORDER**

The Cities of Garden City and Meridian (collectively "Cities") petitioned¹ to vacate a prior order ("1994 Order"²) issued pursuant to I.C. § 1-2218 on August 12, 1994, requiring each City to provide suitable and adequate quarters for the magistrate's division of the district court. Ada County opposed the petition.

The *en banc* Panel³ heard oral argument on the Cities' petition on March 2, 2012. Based on the following, the Court denies the Cities' petition to vacate the 1994 Order.

BACKGROUND

The Idaho Supreme Court recently considered a similar petition filed by the City of Boise and took the opportunity to discuss the relevant factual and legal background. *City of Boise v. Ada County*, 147 Idaho 794, 798-801, 215 P.3d 514, 518-21 (2009). Some of that background is relevant to the *en banc* Panel's decision.

In 1969, the Idaho Legislature established the magistrate's division of the district court, eliminating probate courts, police courts, and justice of the peace courts. *See* 1969 Idaho Sess. Laws chs. 100-28, pp. 344-95; *See* I.C. § 1-2201; I.C. § 1-103. The legislation took effect January 11, 1971, and as part of that legislation, the Legislature made the counties primarily

¹ In its decision dismissing the declaratory judgment action, Case No. CV-OC-2010-4980, filed by Ada County, the *en banc* Panel ruled it would consider the Cities' Motion to Vacate and all accompanying documents filed in opposition or support of that Motion in this proceeding.

² Order No. 94-08-112.

³ A panel, comprised of the majority of the Fourth Judicial District district court judges, sitting as an *en banc* panel (hereinafter "*en banc* Panel"). District Judge Mike Wetherell, a former Boise City councilman, did not participate on the *en banc* Panel, having recused himself. Likewise, when District Judge Lynn Norton took the bench, given her prior employment with Ada County, she did not become part of the *en banc* Panel.

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1 responsible for providing quarters, facilities, equipment, staff, and supplies for the magistrate's
2 division. *See* I.C. § 1-2217.⁴ However, the Legislature also empowered the majority of the district
3 judges in a judicial district to order a city to provide for “quarters, facilities, equipment, staff, and
4 supplies for a magistrate's division of the district court.” *See* I.C. § 1-2218. That section provides
5 as follows:

6 Any city in the state *shall*, upon order of a majority of the district judges in the
7 judicial district, provide suitable and adequate quarters for a magistrate's division
8 of the district court, including the facilities and equipment necessary to make the
9 space provided functional for its intended use, and *shall* provide for the staff
personnel, supplies, and other expenses of the magistrate's division.

10 I.C. § 1-2218 (emphasis added).

11 The Legislature offset the costs for providing facilities for the magistrate's division
12 through apportioning court fees imposed on individuals found guilty of felony, misdemeanor, and
13 infraction offenses. I.C. § 31-3201A; *City of Boise*, 147 Idaho at 798, 215 P.3d at 518. Pursuant to
14 the statute, fees collected for such convictions are apportioned to either the county or the city,
15 depending on which entity provides the court facilities. *Id.*

16 On the day the court reform legislation took effect January 11, 1971, the district judges of
17 the Fourth Judicial District entered an order requiring Boise City to provide a magistrate's division
18 of the district court. The order stated:

19 It is hereby Ordered that, pursuant to Section 1-2218, Idaho Code, the City of
20 Boise, Idaho, shall provide suitable and adequate quarters for two magistrates of
21 the Fourth District Court Magistrates Division, including two courtrooms with
22 related facilities and equipment necessary to make the space provided functional
for its intended use, and the necessary supplies and non-judicial staff personnel to
operate said courts.

23 As the Idaho Supreme Court found:

24 To comply with the order, Boise City established magistrate court facilities in an
25 old fire station on Kootenai Street in Boise. The facility housed support personnel,
26 equipment, and supplies for two magistrate judges and was used to process
27 misdemeanor and traffic violations. All other magistrate's division functions were
housed in facilities provided by Ada County in the Ada County Courthouse.

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29 ⁴ I.C. § 1-2217. Facilities and equipment provided by county. “Each county in the state shall provide suitable and
30 adequate quarters for the magistrate's division of the district court, including the facilities and equipment necessary to
31 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.”

1 [footnote omitted.] With the exception of the magistrate judges, all workers at the
2 Kootenai Street facility were Boise City employees.

3 The City's magistrate facilities remained on Kootenai Street until a new facility
4 was opened in August 1981. Construction of the new facility was prompted by an
5 order the district judges of the Fourth Judicial District issued on October 9, 1980.
6 The 1980 Order provided:

7 Pursuant to the authority of section 1-2218, Idaho Code, the City of Boise
8 City, Idaho, be, and

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HEREBY IS ORDERED to 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.

Boise City's new facility—the Barrister facility—consisted of five courtrooms and
various equipment, staff, and supplies. By 1983, all misdemeanor and infraction
cases filed by Boise City, Ada County, the Idaho State Police, Idaho Fish and
Game, and the cities of Meridian, Garden City, Kuna, and Eagle were processed at
the Barrister facility. [footnote omitted.] Felony arraignments were also conducted
there. Pursuant to Idaho Code section 31-3201A, Boise City received the statutory
fees for all convictions processed at the Barrister facility.

Boise City initially paid for all of the personnel, equipment, and supplies at the
Barrister facility. Over time, however, Ada County began to supplement the
Barrister personnel with its own employees. [footnote omitted.]

City of Boise, 147 Idaho at 799-800, 215 P.3d at 519-520.

At this time, the Trial Court Administrator approached Garden City and Meridian and
requested those cities make voluntary contributions to help fund the Barrister facility. *Id.*
However, the mayors of two of those cities denied that request. In response, Ada County and
Boise City filed a joint petition asking the district judges of the Fourth Judicial District to order
contribution pursuant to I.C. § 1-2218. The Petition provided in relevant part as follows:

V.

In Fiscal Year 1992, the City of Boise provided approximately \$663,000
for the operation of the traffic court located at 7180 Barrister Drive in the City of
Boise. This represents twenty (20) full-time employees, equipment, and supplies.
There are additional funds expended for the operation and maintenance of the
buildings and grounds.

1 VI.

2 In the Fiscal Year 1992, Ada County provided six (6) full-time clerical
3 staff, plus one (1) supervisor for all clerical staff. Ada County also provided certain
4 computer equipment, printers, desks, chairs, and supplies.

5 VII.

6 The City of Meridian issues citations which are processed through the
7 Magistrate's Division of the Fourth District court located at 7180 Barrister Drive
8 in the City of Boise. The citations filed by the City of Meridian were 1,484 in
9 1989, 2,457 in 1990, and 4,295 in 1991.

10 VIII.

11 The City of Meridian received revenue from the citations issued of \$79,110
12 in Fiscal Year 1991 and a projected \$101,563 in Fiscal Year 1992 (based upon the
13 first 5 months). The City of Meridian makes no contribution toward the
14 maintenance of quarters for the Magistrate's Division of the Fourth District Court.

15 IX.

16 The City of Garden City issues citations which are processed through the
17 Magistrate's Division of the Fourth District court located at 7180 Barrister Drive
18 in the City of Boise. The citations filed by the City of Garden City were 6,387 in
19 1989, 8,162 in 1990, and 9,383 in 1991.

20 X.

21 The City of Garden City received revenue from the citations issued of
22 \$185,119 in Fiscal Year 1991 and a projected \$180,188 in Fiscal Year 1992 (based
23 upon the first 5 months). The City of Garden City makes no contribution toward
24 the maintenance of quarters for the Magistrate's Division of the Fourth District
25 Court.

26 Affidavit of Heather M. McCarthy, Ex. A filed in Case No. CV-OC-2010-24980 in opposition to
27 the Cities' Motion to Vacate. Ada County and Boise City requested that the *en banc* Panel appoint
28 a Special Master and ultimately require the Cities enter into a cost sharing arrangement.

29 On August 12, 1994, the district judges granted the petition and entered an order requiring
30 the cities of Garden City and Meridian to provide suitable and adequate quarters for a magistrate's
31 division of the district court ("1994 Order"). The 1994 Order provides as follows:

32 Having reviewed the Petition filed by the City of Boise and Ada County, the
undersigned District Judges of the Fourth Judicial District have concluded that the
volume of work generated by the processing of citations and complaints through
the Magistrate Division of the Fourth Judicial District have reached such levels
that it is no longer reasonable for the City of Boise and Ada County to bear sole

1 financial responsibility for the processing of citations and complaints issued by
2 other municipalities.

3 NOW, THEREFORE, IT IS HEREBY ORDERED THAT, the City of
4 Garden City, Idaho, pursuant to authority provided in Idaho Code 1-2218, provide
5 by October 1, 1994 suitable and adequate quarters for the magistrate's division of
6 the Fourth Judicial District, including the facilities and equipment necessary to
7 make the space provided functional for its intended use, and shall provide for the
8 staff personnel, supplies, and other expenses of the magistrate's division. The
9 suitability of said quarters, facilities, equipment staff personnel, supplies, and other
10 expenses are subject to final approval by this Court.⁵

11 FURTHER, THAT the City of Meridian, Idaho, pursuant to authority
12 provided in Idaho Code 1-2218, IS HEREBY ORDERED to provide by October 1,
13 1994 suitable and adequate quarters for the magistrate's division of the Fourth
14 Judicial District, including the facilities and equipment necessary to make the
15 space provided functional for its intended use, and shall provide for the staff
16 personnel, supplies, and other expenses of the magistrate's division. The suitability
17 of said quarters, facilities, equipment staff personnel, supplies, and other expenses
18 are subject to final approval by this Court.

19 IT IS SO ORDERED.

20 A majority of the District Judges of the Fourth Judicial District signed this Order on August 12,
21 1994. The Trial Court Administrator served the 1994 Order on both of the Cities.

22 In response, on August 26, 1994, the Cities requested the judges to reconsider the 1994
23 Order or, in the alternative, to delay implementing the 1994 Order for one year. *See* Affidavit of
24 Heather M. McCarthy, Ex. F filed in Case No. CV-OC-2010-24980 in opposition to the Cities'
25 Motion to Vacate. Subsequent to that request, the Cities, the Trial Court Administrator and the
26 Administrative Judge engaged in a number of discussions regarding what facilities would
27 adequately meet the court needs. *See generally*, Affidavit of Heather M. McCarthy, filed in Case
28 No. CV-OC-2010-24980 in opposition to the Cities' Motion to Vacate. In addition, the
29 Administrative Judge, the Honorable Gerald Schroeder, informed the Cities that they would have
30 additional time to meet the requirements of the 1994 Order. *Id.* After Administrative Judge

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⁵ The language mirrors the statutory language and does not run afoul of the holding in *Twin Falls County. Twin Falls County v. Cities of Twin Falls and Filer*, 143 Idaho 398, 146 P.3d 664 (2006). Unlike the order in *Twin Falls County*, the 1994 Order only requires the Cities to provide suitable and adequate quarters for a magistrate's division—it does not require the Cities to reimburse the County for its use of the County's facilities. *See also City of Boise*, 147 Idaho at 807, 215 P.3d at 527.

1 Schroeder left the District Court to become a Supreme Court Justice, there was little follow
2 through and neither City provided facilities as ordered in the 1994 Order.

3 In 2010, following the Supreme Court's decision in the *City of Boise*, Ada County filed a
4 declaratory judgment action asking that the 1994 Order be declared "in full effect" and requesting
5 the court interpret the 1994 Order. This *en banc* Panel dismissed that action on May 11, 2012, and
6 ordered the Cities' Motion to Vacate be heard in a proceeding similar to the City of Boise petition
7 proceeding asking the judges to vacate the 1980 Order affecting the City of Boise.

8 ANALYSIS

9 Unlike the City of Boise, the Cities do not move to vacate the 1994 Order on the basis
10 there has been a "substantial and material change of circumstances that would justify" rescinding
11 the 1994 Order. *See City of Boise*, 147 Idaho 794, 804, 215 P.3d 514, 524. They do not challenge
12 the caseload and revenue data cited by the City of Boise and Ada County in their 1994 petition
13 which ultimately provided the factual basis for the judges' 1994 Order. Instead, the Cities argue
14 that before a majority of the district court judges in an affected district may *initiate* an order
15 pursuant to I.C. § 1-2218, those judges must afford the affected city "due process." They contend
16 the 1994 Order violated due process because they were not afforded a *formal*⁶ opportunity to be
17 heard *before* it was issued.

18 The Cities rely on language in the *City of Boise* decision to argue that judges ordering
19 facilities be provided pursuant to I.C. § 1-2218 must use formal procedures similar to those
20 applicable to proceedings for injunctive relief. However, the Supreme Court's analogy was clearly
21 limited to *post*-decision reviews of orders issued under section 1-2218 and made clear that while
22 the order, once issued, resembled a permanent injunction, the Supreme Court was not intending to
23 impose all of the procedures attendant to injunctive relief to these I.C. § 1-2218 orders.

24 Although *not the same in all respects*, section 1-2218 orders are *similar* to
25 permanent mandatory injunctions [footnote omitted] in that they impose an
26 affirmative, continuing obligation on cities to provide for a magistrate's division of
27 the district court. Both types of orders have "prospective application subject to
28 continuing supervision," "are open-ended in nature," and "concern [] a continuing

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30 ⁶ As the Supreme Court noted, there had been on-going discussions with the Cities for literally years. *City of Boise*,
31 147 Idaho at 799-801, 215 P.3d at 519-521.

1 situation.” 42 Am.Jur.2d *Injunctions* 302 (2009). Accordingly, an examination of
2 the standards governing review of injunctions is warranted.

3 *City of Boise*, 147 Idaho at 804, 215 P.3d at 524 (emphasis added). To treat the judges’ initial
4 assessment that a city’s burden on the magistrate division justifies requiring that city to provide
5 facilities as authorized by statute like an injunctive relief proceeding creates the same evils the
6 Supreme Court avoided in *City of Boise*. It would make the judges litigants. They are not litigants.

7 The Legislature specifically empowered the district judges, in an exercise of discretion, to
8 order a city to provide adequate facilities based on the judges’ determination such facilities were
9 necessary. *Id.* In the absence of the judges’ order, the county is required to provide them. I.C. § 1-
10 2217. While not spelled out in the statute, the Supreme Court discussed what factors the district
11 judges use in determining whether to issue an order pursuant to I.C. § 1-2218. It is *not* based on
12 the adequacy of the present courthouse. *City of Boise*, 147 Idaho at 810, 215 P.3d at 530. It is
13 clearly based on an analysis of the magistrate division caseloads generated by that city. As the
14 Supreme Court opined:

15 Nothing in section 1-2218 requires the district judges to find that existing county
16 facilities are unsuitable or inadequate or that a separate facility is necessary before
17 issuing a section 1-2218 order. [footnote omitted] Rather, the “suitable and
18 adequate” requirement contained in the statute refers to the type of quarters a city
19 must provide if ordered to house a magistrate’s division. The “necessary”
20 requirement refers to the facilities and equipment a city must provide to make the
21 quarters functional for their intended use. Accordingly, the panel did not err in
22 concluding that the construction of the new courthouse was not a substantial and
23 material change of circumstance.

24 . . . Where a panel of judges is considering whether to vacate or modify an
25 existing order *the primary consideration relates to the magistrate’s division
26 caseload generated by the city. Section 1-2218 is obviously designed to allow the
27 district judges to require a city to provide the necessary facilities to accommodate
28 that caseload.*

29 *Id.* (emphasis added). That is what happened here.

30 The Cities contend that the actual decision to order them to provide facilities pursuant to
31 I.C. § 1-2218 violated due process unless they had been provided a formal hearing before the
32 judges decided the then caseloads generated by each city⁷ warranted the 1994 Order. However,

31 ⁷ There is no evidence that present caseloads generated by either city has gone down.

1 the Legislature made them responsible for providing facilities when the district judges determined
2 it was necessary. Generally, the legislative process itself is sufficient to comport with minimal
3 federal due process requirements. *See* 16B AM.JUR. 2D CONSTITUTIONAL LAW § 960; *Rea v.*
4 *Matteucci*, 121 F.3d 483, 485 (9th Cir. 1997). In fact, “the Supreme Court has made clear that the
5 legislative process provides all the *process* that is constitutionally due before Congress may enact
6 a provision’ that alters a substantive entitlement to property.” *Adams v. United States*, 796 F.
7 Supp. 2d 67, 75 (D.D.C. 2011) (citing *Atkins v. Parker*, 472 U.S. 115, 128–30 (1985); *Bi—*
8 *Metallic Inv. Co. v. State Bd. of Equalization*, 239 U.S. 441, 445–46 (1915); *Decatur Liquors,*
9 *Inc. v. District of Columbia*, 478 F.3d 360, 363 (D.C.Cir.2007)). Due process does not require the
10 judges engage in some formalized process to come to a conclusion that a city’s magistrate
11 division caseload justifies imposing a requirement to provide facilities.

12 Finally, the language of I.C. § 1-2218 makes clear that cities are free to decide how they
13 will comply with orders issued pursuant to that section. The only mandatory obligations the
14 statute imposes are that the quarters be “suitable and adequate,” consist of the facilities and
15 equipment necessary to make the space provided functional for its intended use, and include the
16 staff, personnel, supplies, and other expenses of a magistrate's division. As such, once the district
17 judges order a city to provide a magistrate's division, the discretion regarding how to comply with
18 the order lies with the city. *City of Boise*, 147 Idaho at 807, 215 P.3d at 527.

19 Based on this analysis, the *en banc* Panel denies the Cities’ request that the *en banc* Panel
20 vacate the 1994 Order.

21 **IT IS SO ORDERED** that the Cities’ request to vacate the 1994 Order is **DENIED**.

22 **IT IS FURTHER ORDERED** that,

23 The Trial Court Administrator update the caseload and revenue statistics related to each
24 City.

25 **IT IS FURTHER ORDERED** that,

26 The Trial Court Administrator, under the supervision of the Administrative Judge or his
27 designee, meet with representatives from the Cities of Meridian and Garden City to prepare a plan
28 and a schedule on how the Cities will comply with the 1994 Order. After reviewing the statistics
29 and meeting with appropriate stakeholders, including Magistrate Judges, the Trial Court
30 Administrator shall inform the Cities what minimum requirements are necessary to fulfill the
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1 magistrate division requirements using the prior Trial Court Administrator's letters as a starting
2 point.

3 **IT IS FURTHER ORDERED** that,

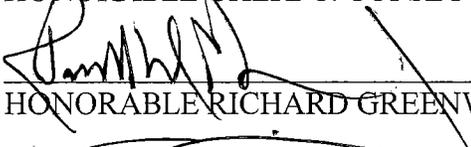
4 The Trial Court Administrator shall report back to the Administrative Judge or his
5 designee no later than September 4, 2012.

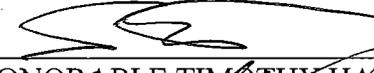
6 **IT IS SO ORDERED.**

7 DATED this ~~12th~~ day of May 2012.

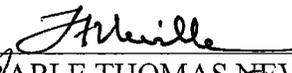
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11 HONORABLE DEBORAH BAIL

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15 HONORABLE RICHARD GREENWOOD

16 
17 HONORABLE TIMOTHY HANSEN

18 
19 HONORABLE MICHAEL MC LAUGHLIN

20 
21 HONORABLE THOMAS NEVILLE

22 
23 HONORABLE PATRICK OWEN

24 
25 HONORABLE RONALD WILPER

CERTIFICATE OF MAILING

I hereby certify that on this 11 day of May 2012, I mailed (served) a true and correct copy of the within instrument to:

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