

**RESOLUTION 2014-12**

**A RESOLUTION REQUESTING THE RECERTIFICATION OF THE  
TOOELE COUNTY JUSTICE COURT**

**WHEREAS**, the provisions of Utah Code Annotated 78A-7-103 require that Justice Courts be recertified at the end of each four-year term; and

**WHEREAS**, the present term of the Tooele County Justice Court shall expire in February of 2015; and

**WHEREAS**, the members of the Tooele County Commission have received an opinion letter from Doug Hogan, County 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 Tooele County Commission have determined that it is in the best interests of Tooele County to continue to provide for a Justice Court.

**NOW, THEREFORE, BE IT RESOLVED** as follows:

1. Tooele County, through its duly authorized representatives, hereby requests recertification of the Tooele County Justice Court by the Justice Courts Standards Committee and the Utah Judicial Council.

2. The Tooele County Commission hereby affirms its willingness to continue to meet all requirements set forth by the Judicial Council for continued operation of the Tooele County Justice Court for the next four-year term of court, except as to any requirements waived by the Utah Judicial Council.

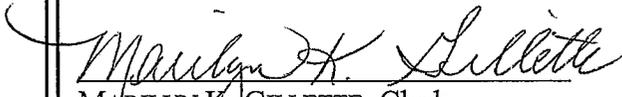
**EFFECTIVE DATE:** This resolution shall take effect immediately upon passage.

Res. 2014-12

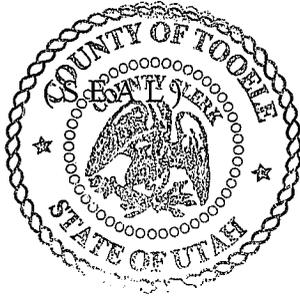
**APPROVED BY THE BOARD OF COUNTY COMMISSIONERS** of Tooele  
County, State of Utah, this 30<sup>th</sup> day of September 2014.

**ATTEST:**

**TOOELE COUNTY COMMISSION:**

  
Marilyn K. Gillette, Clerk

  
J. BRUCE CLEGG, Chairman



Commissioner Clegg voted aye  
Commissioner Hurst voted aye  
Commissioner Milne voted aye

**APPROVED AS TO FORM:**

  
DOUG HOGAN  
Tooele County Attorney

TOOELE COUNTY ATTORNEY'S OFFICE



Doug Hogan, County Attorney  
Gary K. Searle, Chief Deputy Attorney

Scott A. Broadhead, Deputy Attorney  
Robert L. Clegg, Deputy Attorney  
Scott Shields, Deputy Attorney

October 16, 2014

Justice Court Standards Committee  
Attention: Richard Schwermer  
Administrative Office of the Courts  
P.O. Box 140241  
Salt Lake City, UT 84114-0241

Re: Request for Recertification of the Tooele County Justice Court

Dear Committee Members:

Please find enclosed a copy of Tooele County's resolution requesting recertification of its justice court. Also enclosed is a copy of the Tooele County Attorney's letter to the Tooele County Commission outlining the requirements for the operation of the justice courts and an original Court Certification Affidavit prepared by Judge John Mack Dow. The court security plan for the Gordon R. Hall Courthouse in Tooele has not changed since it was last submitted with the 2010 recertification paperwork.

Pursuant to the enclosed documents, Tooele County requests recertification of its justice court. Please feel free to contact me at (435) 843-3126 if you have any questions.

Respectfully,

Doug Hogan  
Tooele County Attorney

Enclosures

cc: Judge John Mack Dow  
Tooele County Commission

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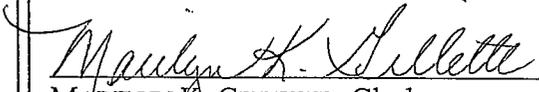
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Res. 2014-12

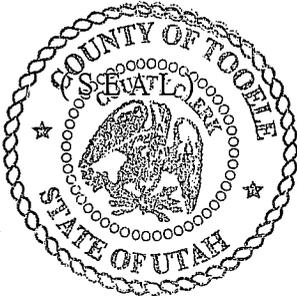
APPROVED BY THE BOARD OF COUNTY COMMISSIONERS of Tooele  
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ATTEST:

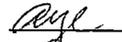
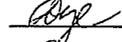
TOOELE COUNTY COMMISSION:

  
MARILYN K. GILLETTE, Clerk

  
J. BRUCE CLEGG, Chairman



Commissioner Clegg voted  
Commissioner Hurst voted  
Commissioner Milne voted


APPROVED AS TO FORM:

  
DOUG HOGAN  
Tooele County Attorney

TOOELE COUNTY ATTORNEY'S OFFICE



Doug Hogan, County Attorney  
Gary K. Searle, Chief Deputy Attorney

Scott A. Broadhead, Deputy Attorney  
Robert L. Clegg, Deputy Attorney  
Scott Shields, Deputy Attorney

September 24, 2014

Tooele County Commission  
47 South Main Street  
Tooele, UT 84074

Re: Requirements for the Operation of the Justice Court in Tooele County

Dear Commissioners:

Pursuant to the requirements of the Utah Judicial Council, this letter is for the purpose of advising you of all of the requirements for the operation of a justice court within the boundaries of Tooele County and the feasibility of maintaining the existing justice court.

Statutes of the State of Utah require that certain standards be met in the operation of a justice court. These statutory requirements include:

1. All official court business shall be conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice (Utah Code Ann. 78A-7-213).
2. Each court shall be opened and judicial business shall be transacted every day as provided by law (78A-7-213), although the judge is not required to be present during all hours that the court is open.
3. The hours that the court will be open shall be posted conspicuously at the court and in local public buildings (78A-7-213).
4. The judge and the clerk of the court shall attend the court at regularly scheduled times (78A-7-213).
5. The entity creating the Justice Court shall provide and compensate a judge and clerical personnel to conduct the business of the court (78A-7-206 and 78A-7-207).

6. The entity creating a Justice Court shall assume the expenses of travel, meals, and lodging for the judge of that court to attend required judicial education and training (78A-7-205).
7. The entity creating a Justice Court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (78A-7-103).
8. The entity creating the Justice Court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (78A-7-103).
9. The entity creating the court shall provide adequate funding for attorneys where persons are indigent as provided by law (78A-7-103).
10. The entity creating the court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (78A-7-103).
11. Witnesses and jury fees as required by law shall be paid by the entity which creates the court (10-7-76 and 17-50-319).
12. Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (78A-7-120 and 78A-7-121).
13. Every entity creating a court shall pay the judge of that court a fixed compensation, within the range provided by statute (78A-7-206).
14. Court shall be held within the jurisdiction of the court, except as provided by law (78A-7-212).
15. The entity creating the court shall provide and keep current for the court a copy of the Utah Code, the Justice Court Manual, state laws affecting local governments, Utah Court Rules Annotated, local ordinances, and other necessary legal reference material (78A-7-103).
16. All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78A-7-215.
17. All justice courts shall use a common case management system and disposition reporting system as specified by the Judicial Council (78A-7-213).

In addition to those requirements which are directly imposed by statute, section 78A-7-103 directs the Judicial Council to promulgate minimum requirements for the creation and certification of Justice Courts. Pursuant to statute, the Judicial Council has adopted the following minimum requirements:

1. That the Court be opened for at least one hour each day that the court is required to be open as provided by law. Additional hours of operation are specified in C.J.A. Rule 9-105.
2. That the judge be available to attend court and conduct court business as needed.
3. That the minimum furnishings for a courtroom include: a desk and chair for the judge (on a six inch riser), a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public.
4. A judicial robe, a gavel, current bail schedules, a copy of the Code of Judicial Administration, and necessary forms and supplies.
5. Office space for the judge and clerk (under certain circumstances this space may be shared, but if shared, the judge and clerk must have priority to use the space whenever needed). The office space shall include a desk for the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box, a typewriter or word processor, and access to a copy machine.
6. A clerk must be present during the time the court is open each day and during court sessions, as required by the judge.
7. The entity must have at least one peace officer (which may be contracted).
8. A court security plan must be submitted consistent with C.J.A. Rule 3-414.
9. Each court must have at least one computer with access to the internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety. Monthly reports must also be electronically submitted

September 24, 2014

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to the Administrative Office of the Courts monthly. Also note that all justice courts shall use the CORIS case management system (78A-7-213).

10. Each court shall report required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically, as described in number 9 above.

Having worked directly with the Tooele County Justice Court and having reviewed the above-referenced requirements, the case load, as well as the financial and physical requirements of the court, it is my opinion that it is feasible for Tooele County to continue operating its justice court. It is my recommendation that Tooele County maintain the existing justice court and apply for recertification to the Utah Judicial Council.

If you have any questions regarding these requirements or my recommendation, please feel free to contact me.

Respectfully,

A handwritten signature in black ink, appearing to be "Doug Hogan", written in a cursive style.

Doug Hogan  
Tooele County Attorney

COURT CERTIFICATION AFFIDAVIT

Court Location: Tooele Justice Court

Judge: John M. Dow

Address: 74 South 100 East

Tooele, Utah 84074

Telephone: 435-843-3231

Level of Court (Circle one) I II III IV

Average Case Filings Per Month: 710

Daily Court Hours: 8 hours

Number of Full-time Clerks: 3  
# Hours Worked Per Week Per Clerk: 40

Number of Part-time Clerks: 3  
# Hours Worked Per Week Per Clerk: 19

This form is divided into two parts. Section I contains those requirements that are statutory and are **not** waivable. Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived pursuant to the procedure set forth in the instructions to applicant included with the application for certification.

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Comes now Judge John Mack Dow,

Justice Court Judge for Tooele County Justice Court

\_\_\_\_\_ and,

except as specifically noted below, certifies as follows:

**SECTION I**

**THE FOLLOWING 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. All official court business is conducted in a public facility. yes
2. Court is open daily. yes
3. The hours of court operation are posted conspicuously. yes
4. The judge and the clerk attend court at regularly scheduled times based on the level of the court. yes
5. The judge is compensated at a fixed rate, within the statutory range. yes
6. The responsible governmental entity provides and compensates sufficient clerical personnel necessary to conduct the business of the court. yes
7. The responsible governmental entity assumes the expenses of the travel of the judge for purposes of required judicial education. yes
8. The responsible governmental entity assumes the expenses of the travel of each clerk for the purposes of attending training sessions conducted by the Judicial Council. yes
9. The responsible governmental entity provides 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. 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. Fines, surcharges and assessments which are payable to the state are forwarded as required by law. YES
11. Court is held within the jurisdiction of the court, except as provided by law (78A-7-212).  
YES
12. All required reports and audits are filed as required by law or Rule of the Judicial Council.  
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. Court is open each day as appropriate for the classification of the court. YES
2. The judge is available to attend court and to conduct court business as needed. YES
3. Minimum furnishings in the courtroom include:
  - 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. At least one computer with internet access yes
  - w. Access to a copy machine yes
4. The appropriate number of clerks as required by the classification of the court are present during the time court is open each day and as needed during court sessions. yes
5. Does the applicant have a law enforcement department? yes/NO
6. If the applicant does not have a law enforcement department, identify the law enforcement agency which will provide law enforcement services for the applicant: \_\_\_\_\_  
Toole County Sheriff
- 
7. A security plan has been filed consistent with C.J.A. Rule 3-414. yes
8. The court electronically reports to the Driver License Division, the Bureau of Criminal Identification and the Administrative Office of the Courts as required. yes
9. If the court is a **Class I** court:
- a. Judge is employed on a full-time basis yes
  - b. Dedicated courtroom which meets the master plan guidelines adopted by the Judicial Council yes
  - c. Court has a jury deliberation room yes
  - d. Judge's chambers, clerk's office, and courtroom are in the same building yes
  - e. Judge has his or her own private chambers yes
  - f. Clerk's office is separate from any other entity yes

- g. Court is open during normal business hours YRS
10. If the court is a **Class II** court:
- a. Court is open (check one)
1. 201-300 average monthly filings: at least 4 hrs./day
2. 301-400 average monthly filings: at least 5 hrs./day
3. 401-500 average monthly filings: at least 6 hrs./day
- b. Trial calendar is set at least weekly \_\_\_\_\_
- c. Courtroom configuration is permanent \_\_\_\_\_
- d. Courtroom, judge's chambers, and clerk's office are within the same building \_\_\_\_\_
- e. Judge has his or her own private chambers \_\_\_\_\_
11. If the court is a **Class III** court:
- a. Trial calendar is set at least every other week \_\_\_\_\_
- b. Court is opened (check one):
1. 61-150 average monthly filings: at least 2 hrs./day
2. 151-200 average monthly filings: at least 3 hrs./day
12. If the court is a **Class IV** court:
- a. Trial calendar is set at least monthly \_\_\_\_\_
- b. Court is open at least 1 hour per day \_\_\_\_\_
13. **If you have responded with a "no" to any item in Section II above, you must request a waiver or extension below and justify that request.** 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 requested extension period. (To receive a waiver or extension of any requirement, the information requested in this section must be provided. Remember that statutory requirements cannot be waived or extended).



I am familiar with the minimum operational standards for this court, and except as noted above, those standards are currently met or exceeded. During the current term of the court, I have met with the appropriate governing body of the City to review the budget of the court, review compliance with the minimum requirements and operational standards, and discuss other items of common concern.

DATED this 8 day of October, 2014.

JM Dow  
Justice Court Judge

I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed on this 8<sup>th</sup> day of Oct., 2014.

Rebecca Poulsen

