

JUDICIAL SYSTEM

THE SEARCH

322981

**JUDICIAL SYSTEMS
TASK FORCE**
Judge Bryant H. Croft
Third Judicial District Court

Jay V. Barney
Attorney at Law

Richard Peary
Utah Court Administrator

Mrs. Lloyd Bliss
Citizen Representative

Paul & Peters, Chief Agent
Adult Probation & Parole

Hans Chamberlain
Iron Co. Attorney

Reid Russell, Director
Technical Assistance Bureau of SWAP

Judge Geraldine Christensen
Justice of the Peace

Professor Kline Strong
College of Law, Univ. of Utah

Father John Hedderman
Citizen Representative

Chief Judge Thornley K. Swan,
Second Judicial District Court

John Hill, Director
Salt Lake Legal Defender Assoc.

Judge Stanton Taylor
Ogden Municipal Court

Judge Paul C. Keller
Fifth District Juvenile Court

David L. Wilkinson
Asst. Attorney General

Chief Leroy Jacobsen
Ogden City Police Dept.

David S. Young
Director, Statewide Association
of Prosecutors.

Franklin Johnson
Attorney at Law

TABLE OF CONTENTS

Introduction	1
Standard 1.1 Selection of Judges	2
Standard 1.2 Retention of Judges	3
Standard 1.3 Compensation of Judges	3
Standard 1.4 Discipline and Removal of Judges	5
Standard 1.5 Education of Judges	6

INTRODUCTION

The judge is the pivoted point of the court. If he is ignorant, without virtue or incompetent, or if he is not concerned for individual rights and freedoms or for providing a calm, deliberative setting for settling the problems the court deals with in such magnitude, then our courts will be viewed with disdain, fear, and contempt, not attitudes consistent with respect for law essential in a free society.

The judges exercising criminal jurisdiction in this country are guilty, in some degree, of these faults. Judges exercise enormous discretionary power and function alone and without any direct supervision. Their quality, therefore, is a more vital matter than that of the other participants in the criminal justice system.

1.1 SELECTION OF JUDGES

STANDARD

The selection of judges for all Utah courts, including supreme, district, juvenile, city, and justice courts, should be based on merit.

Judges should be selected by judicial nominating commissions selected or constituted from the jurisdictions to be served. These judicial nominating commissions should be comprised of representatives from the judiciary, the general public, and the legal profession for the purpose of nominating a slate of qualified candidates eligible to fill judicial vacancies.

The power of appointment would fall with the governor or appropriate executive office.

UTAH STATUS AND COMMENTS

a) Utah Law: In Utah, two nomination commissions, one for the supreme court and one for the district courts, submit a list of three names to the Governor. The Governor chooses one who serves until the next general election, when he must run, along with the other supreme and district court judges, in a contested election. Any member of the Utah Bar may run against a judge; and, if he wins, he will serve as a judge in place of the man he defeated. If no one files to oppose a judge, the election asks only if the voters wish to retain the judge in his position. If the answer is no, the nomination commission selects three names and the process begins again.

METHOD OF IMPLEMENTATION

Legislative action to amend current statutes to fall in harmony with the standard.

1.2 RETENTION OF JUDGES

STANDARD

At the end of the term of office, the judge should be required to run in an uncontested election at which the electorate is given the option of voting for or against his retention. Efforts should be made to inform the public concerning the competence and performance of judges. If the vote is in favor of retention, he should thereby become entitled to another term of the same length as the initial term. This applies to all justices or judges--to include supreme court, district court, juvenile court, city court and justice of the peace courts.

A mandatory retirement age should be set for all judges, subject to a provision enabling judges over the age to sit at the discretion of the presiding or other appropriate administrative judge for limited periods of time.

UTAH STATUS AND COMMENTS

- a) Utah Law: Supreme court judges serve for 10 year terms and must retire at age 70. All run in contested elections.
- b) Where Utah Differs: Utah judges retire later and serve longer terms (10 years and 6 years) and run in contested elections.

METHOD OF IMPLEMENTATION

Legislative action to change Title 20, Chapter 1, Section 7.7 to fall in harmony with this standard.

1.3 COMPENSATION OF JUDGES

STANDARD

Judges should be adequately compensated. Justices of the peace

should be put on an adequate salary scale by their governing bodies. For purposes of determining adequacy, comparison should be made to national statistics and other appropriate data.

UTAH: STATUS AND COMMENTS

a) Utah Practice: Supreme court judges are paid \$30,000 a year in Utah. District court judges and juvenile court judges receive \$27,500 a year. One district court judge is designated Chief Judge of the Judicial Council for which he receives an additional \$1,000. City court judges receive an average of \$16,500 with a high of \$19,800 and a low of \$12,996. Below is a chart illustrating the pay spread of justices of the peace:

ANNUAL GROSS COMPENSATION

	No.	%
Under \$100	14	12.2%
\$100 to \$499	29	25.2%
\$500 to \$999	14	12.2%
\$1,000 to \$1,999	21	18.2%
\$2,000 to \$2,999	7	6.1%
\$3,000 to \$3,999	5	4.3%
\$4,000 to \$4,999	5	4.3%
\$5,000 to \$9,999	4	3.5%
\$10,000 to \$14,999	1	.9%
\$15,000 to \$24,999	1	.9%
\$25,000 to \$29,999	1	.9%
\$30,000 and over	1	.9%
No answer; Don't know	12	10.4%
Total Respondents	115	100.0%

Median

"Annual Compensation"
\$500-\$999

b) Where Utah Differs'; The 1975 Utah Legislature approved increases in compensation for the judges in Utah's courts. Before those increases, Utah ranked last of the 50 states in judges' salaries.

METHOD OF IMPLEMENTATION

The legislature or appropriate governing body should adjust the pay scale of judges and justices of the peace in accordance with this standard.

1.4 DISCIPLINE AND REMOVAL OF JUDGES

STANDARD

Judges, including justices of the peace, should be subject to discipline or removal for permanent physical or mental disability seriously interfering with the performance of judicial duties, willful misconduct in office, willful and persistent failure to perform judicial duties, habitual intemperance, or conduct prejudicial to the administration of justice.

The commission on judicial qualifications should be composed of one Utah House representative from the judiciary committee, one Utah Senate representative from the judiciary committee, two members of the Utah Bar, two members of the judicial council, and a lay citizen selected jointly by the speaker of the House and the president of the Senate. The commission should be empowered to investigate charges bearing on judges's competence to continue on the bench and should be empowered to take appropriate action regarding their conduct.

UTAH STATUS AND COMMENTS:

a) Utah Law: There are three roads to judicial removal in Utah; impeachment and conviction by the House and Senate respectively by a two-thirds vote of both, removal by a two-thirds vote of both houses acting concurrently and by a commission on judicial qualifications.

The commission on judicial qualifications, with the help of three "masters" who are judges or justices and hear and take evidence and report to the commission, may recommend removal or retirement to the supreme court. The supreme court may accept, modify or reject the commission's findings.

b) Where Utah Differs: In Utah, all methods mentioned in the commentary of the standard are available. Impeachment, recall, and removal by a commission can be used in our state. The only difference between our state and the standard is that the commission on judicial qualifications cannot themselves remove a judge or justice.

METHOD OF IMPLEMENTATION

Legislative action to amend UCA 49-7A-38.

1.5 EDUCATION OF JUDGES

STANDARD

All Utah judges should maintain and improve their professional competence by regular continuing professional education. To accomplish this, the State of Utah should create and maintain a comprehensive program of judicial education.

Planning for such a program should recognize the extensive commitment of judge time, both as faculty and as participants, that will be required. Likewise, adequate funds to prepare, administer, and

conduct the programs should be provided. Judges should not be required to attend judicial education programs at their own expense. Financial support of judicial education programs should recognize that continued, effective performance of judicial office requires that the judge keep abreast of developments in the law and the administration of justice.

The program for the State of Utah should contain the following features:

1. All new trial judges, within one year of assuming judicial office, should attend at least one local orientation program and one national in-resident basic education program. The local orientation program should come immediately before or within three months of the time the judge first takes office. It should include visits to all institutions and facilities to which criminal offenders may be sentenced.

2. The judicial council and juvenile court administrator's office should be responsible for the orientation program for new judges and should provide a program for each judge to attend a national in-resident graduate or refresher course at least every third year. In addition to the orientation program and the program to send judges to national judicial colleges, the judicial council, in conjunction with the juvenile court administrator's office, should plan local programs dealing with specific topics and a two-or three-day annual state conference for trial and appellate judges. This conference should focus on problems and needs of the judiciary in the State of Utah and should utilize to the maximum extent possible local instructors and resources. This conference should be conducted in addition to the annual judicial conference provided in Section 78-3-27, Utah Code Annotated, 1953, as amended; which states in part:

a. There should be established an annual judicial conference for all courts of this state, the purpose of which shall be to facilitate the exchange of ideas among all courts and judges and to study and improve the administration of the courts.

b. The administrator of the courts and the administrator of the juvenile courts, under the supervision and directions of their respective council and board, should be responsible for the planning and supervision of the conference.

3. The tasks of organizing and conducting continuing judicial education are the responsibility of the Utah court system and should be carried out under the supervision of the judicial council and chief judge through the office of the court administrator. Judicial education programs exclusively for the juvenile court should be carried out under the supervision of the board of juvenile court judges through the juvenile court administrator's office.

4. A bench manual should be prepared as a part of the judicial education program, which should include forms, samples, rule requirements, and other pertinent information that a trial judge should have readily available. This should include sentencing alternatives and information concerning correctional programs and institutions.

5. As part of the judicial education program for Utah, provision should be made for training non-judicial auxiliary and administrative personnel, including opportunities to attend recognized national programs.

6. Judicial education programs for justices of the peace should be included as part of the overall program. However, in-state education programs for justices of the peace should be conducted separately from the programs for other judges, owing to the specialized needs of justices of the peace and the differences in education and background to the rest of the judiciary. All justices of the peace shall attend one of two annual institutes to be supervised by the Utah supreme court and shall be reimbursed by their respective counties or cities for costs incurred while attending the institute.

7. The office of court administrator should publish periodically--and not less than quarterly--a newsletter with information from the chief justice, the court administrator, correctional authorities, and others. This should include articles of interest to judges, references to new literature in the judicial and correctional fields, and citations of important appellate and trial court decisions.

This newsletter should be sent to all judicial officers and court personnel and coordinated with other government agencies with an emphasis on personnel with an impact or an interest in the judicial system.

The office of court administrator should, on an ongoing basis, make available to trial judges educational material and professional literature such as weekly legal summaries, cassettes, and periodicals.

8. Utah should adopt a program of sabbatical leave for the purpose of enabling judges to pursue studies and research relevant to their judicial duties.

UTAH STATUS AND COMMENTS

a) Utah Practice: In the past, no judicial agency in the state provided any kind of pre-service or in-service training for its personnel. All training, except for a few professional-organization seminars, was provided by sending personnel out of the state. Although this out-of-state training was essential and contributed greatly to improving the expertise of the state's judiciary, there was no uniform or systematic approach to training. Many of the small, part-time prosecutor agencies and judicial jurisdictions rarely sent their people to conferences or training seminars. In the larger jurisdictions, it was often the same persons who were trained year after year. A great deal of the training received out of state is still relative only to the problems incurred within larger state judicial systems, and does not apply specifically to matters indigenous to Utah.

A survey was conducted in four segments of the judicial system: the juvenile court, the general court system (supreme court, district court, city and justice of the peace courts), the state, county, and city prosecutors, and the public defenders. The survey indicates that there is not an organized training program for judicial system personnel.

ULEPA has formulated plans to organize the education of Utah's judiciary in an on-going program. Upgrading and professionalizing personnel within the judicial system of Utah can best be derived by designing and implementing at the state level coordinated pre-service and in-service training programs. This can be accomplished on both an in-state and out-of-state basis.

Accomplishment of a coordinated training program will be achieved through the Office of Court Administrator, the Juvenile Court Administrator, and the Statewide Association of Prosecutors. A survey was conducted to ascertain exactly what training has been received by agency and individuals throughout the judicial system. From this base, further programs will be developed to meet realistic needs. Again, both in-state and out-of-state training will be utilized.

In accordance with the goals and objectives previously stated relating to judicial training, the minimums will be achieved in 1974 and the optimum are expected to be reached in the following two years.

In 1973, a coordinating body was established to evaluate and direct prosecutorial training on both pre- and in-service basis. This coordination came about through the establishment of a Statewide Association of Prosecutors (SWAP) headed by a director-coordinator with the necessary staff personnel. SWAP will be fully organized by 1975.

It is also anticipated that within four years, a statewide defense-counsel service organization will be created. Next year, evaluation will be done to ascertain methods for implementation.

Within five years, the project should be operating at near capacity. Through this organization, defense-counsel training will be evaluated and coordinated.

In 1973, a coordinating administrative office for Utah's courts was established. This office will evaluate and direct court personnel training within one year.

Through development of both pre- and in-service training programs administered at the state level, there will be a general upgrading of professional expertise throughout the whole judicial system. Not only will the judiciary, prosecution and defense be able to update and continue their legal educations, but administrative and clerical personnel will also be able to keep abreast of any new developments in court management or court administration.

For the past three years, it has been anticipated that there would be a project funded to develop minimum standards and to design a curriculum for training of the judiciary in the state. This anticipation has become a reality due to the enticing of sponsors for such a project. The Office of Court Administrator, the juvenile court administrator and SWAP, by actual implementation of training programs for judicial personnel and establishment of facilities for handling training needs, are expected to be completed within the next one to three years.

A struggle has existed between state and regional people over how best to provide training. However, the creation of SWAP solved this problem in the area of prosecutorial training. The Office of Court Administrator has done the same for judges and court-related personnel. By 1976, or 1977, the statewide public defender's offices will aid in this last field of judicial training. Because training is not a tangible commodity, some resistance to budget allocations will always be present; but as more efficiency is demonstrated, this resistance will be overcome.

By 1975, all of Utah's judicial personnel will be receiving training, and all judges presently sitting will have completed advanced in-service training and all court personnel will be taught in accord with the list of goals adopted by LEAA in its plan shown below:

1. To provide 80 hours of basic level training for new prosecutors, district, juvenile, city, and supreme court judges, and public defenders within the first year of service.
2. To provide prosecutors and public defenders with a minimum of 40 hours of job-related training each year after the first year of service.
3. To provide a minimum of 16 hours of job-related training to justices of the peace annually.
4. To provide 20 hours of in-service training to supreme, district, juvenile and city judges annually.
5. To provide 20 hours minimum job-related training to all court-related personnel annually.

b) Where Utah Differs: Utah has no constitutional or statutory requirements for training of the judiciary. There are occasional conferences sponsored by LEAA but no required and on-going program. Utah does have plans to bring itself up to the purpose of this standard, as you have read above. The judicial council has adopted the intent of the ABA Standards on Judicial Education which closely parallels this standard.

METHOD OF IMPLEMENTATION

Items 1 through 7, of the standard, are being implemented by the State Office of Court Administrator, the Juvenile Court Administrator's office, and LEPA; legislative action will be needed for item 8.

END