

SIXTH DISTRICT COURT

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IN THE SIXTH JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTIES OF SEVIER, SANPETE,
WAYNE, PIUTE, GARFIELD AND KANE

**IN RE THE MATTER OF SECURITY
IN THE COURTHOUSES OF THE
SIXTH JUDICIAL DISTRICT**

**SUPPLEMENT TO
GENERAL ORDER
2002-1
(Gun Lockers)**

Presiding Judge: K. L. McIff

Owing to an apparent misunderstanding on the part of some officials, we issue this brief supplement restating in simple, direct and abbreviated form the basis for the Court's General Order 2002-1. We indulge the assumption that the public interest will be served if the *lawfulness* of the order is further illuminated.

For some one hundred and fifty years, the courts of this state, relying on their inherent powers, have maintained weapon-free courthouses. In 1996 the legislature amended UCA 78-7-6 in essence recognizing the continuing right of the judiciary to adopt rules for "security in and about a courthouse" and also providing for establishment of a "secure area" the violation of which would constitute a felony. However, the legislature limited potential "secure areas" to those areas "not . . . normally accessible to the public" [UCA 76-8-311.1(1)(e)(ii)].

In response, the judicial council established "secure areas" that corresponded with the narrow statutory definition. Consequently, it's rule [CJA 3-414(7)] limits "secure areas" to the area in front of the *bar* in the courtrooms and the inner sanctum of court buildings where no one

except court personnel and jurors are permitted to go. At the same time, however, the council maintained the weapon-free status of the entire building. CJA 3-414(8).

The net result is that courts are less able to rely on the protection of the statute, UCA 78-7-6(2)(a), to keep guns out of courthouses and courtrooms. Perimeter security – metal detectors and all – established in courthouses around the state from the small such as Sevier to the large such as Matheson in Salt Lake County, necessarily relies upon court rules and to some extent the inherent power of the courts. It has been the latter power on which the courts have relied since territorial times. The statute provides no protection in the hallways, corridors, foyers, waiting areas, and even the spectator areas of the courtrooms because these areas are “normally accessible to the public,” and therefore fail to satisfy the legislative definition.

House Bill 82 adopted by the 2002 Legislature *does not mandate* installation of gun lockers. Rather it conditions this requirement upon whether or not the judiciary establishes a “secure area”. The operative language is as follows:

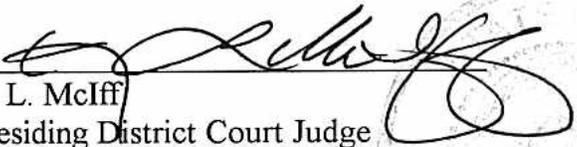
If the [judicial] council establishes a secure area . . . it shall provide a secure firearms storage area on site [Emphasis added.]

Secure areas were established by the judicial council and by local security committees, but that occurred several years ago. The legislature has belatedly changed the rules. This warrants re-examination by the courts. Decisions must be made whether to accept the newly imposed gun-locker condition or suspend establishment of so-called “secure areas”. Such a suspension does not alter the weapon-free status of a courthouse. That will remain under the council’s rule [CJA 3-414(8)] adopted in conformity with UCA §78-7-6(2), and under the inherent authority of the court. The only difference is whether a felony penalty is available in very limited instances.

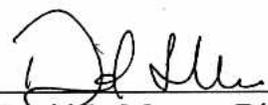
The foregoing reflects the backdrop against which this court weighed the benefit of continuing to maintain “secure areas” or to simply rely on the inherent power of the court to maintain weapon-free status throughout court buildings enforceable by the contempt power. Since “secure areas” are almost non-existent in five of the six counties in this district, the potential benefit is far outweighed by the compromise of security attendant installation of gun lockers. Even in state-of-the-art courthouses with perimeter security, continued maintenance of “secure areas” has marginal benefit because the areas of greatest risk in these buildings cannot qualify under the legislature’s narrow definition.

It remains the collective view of the judges of the Sixth District Court that it can best maintain the security so important to its core functions if it relies on the inherent power of the court rather than accept a condition which by its own language is not mandatory, but conditional, and which by its nature does more to compromise than aid security. It mixes guns and courthouses, a fatally flawed combination.

Dated this 17th day of May, 2002.


K. L. McIff
Presiding District Court Judge

WE CONCUR,



David L. Mower, District Judge



Paul D. Lyman, Juvenile Court Judge

**[In re storage of Concealed Firearms in Courthouses:
Response of the Utah Board of District Court Judges to a public safety issue.]**

The Board of District Court Judges hereby unanimously:

1. Adopts the following principles:
 - A) Security in and about courthouses is an essential and core function of the judiciary.
 - B) Security is also a legitimate concern of the legislative and executive branches who respectively enjoy the powers of funding and enforcement.
 - C) The judiciary has inherent power to define and maintain the environment considered essential to the very existence of minimally fulfilling its conceptual role as part of the three-branch system of government.
 - D) The judiciary's inherent power includes the right to prohibit weapons in courtrooms and, where the circumstances warrant, the entire courthouse.
2. Endorses in full General Order 2002-1 of the Sixth Judicial District Court relating to House Bill 82.
3. Encourages the District and Juvenile Courts throughout Utah to adopt orders prohibiting weapons from Utah's courthouses.
4. Encourages the Judicial Council to ratify this Resolution and to take such action as may be appropriate consistent with its objectives.
5. Authorizes communication of this Resolution to interested representatives of the legislative and executive branches of government.

-- Adopted May 15, 2002
by unanimous vote of the
Utah Board of District Court Judges.