JUDICIAL FINANCE COMMISSION
State of Missouri

CITY OF ST. LOUIS, HON. PAUL M. BERRA, COMPTROLLER, HON. VINCENT C. SCHOEMEHL, JR., MAYOR, AND HON. THOMAS E. ZYCH, PRESIDENT OF THE BOARD OF ALDERMEN, as members of the Board of Estimate and Apportionment of the City of St. Louis, Petitioners,	
vs.	No. 84-0007
22ND JUDICIAL CIRCUIT COURT, HON. GARY M. GAERTNER, HON. ANNA C. FORDER, HON. JAMES S. CORCORAN, HON. JAMES J. GALLAGHER, HON. WILLIAM A. GEARY, HON. MICHAEL F. GODFREY, HON. JAMES L. SANDERS, HON. RICHARD J. MEHAN, HON. P.F. PALUMBO, HON. GEORGE A. ADOLF, HON. CHARLES D. KITCHIN, HON. WILLIAM M. NICHOLLS, HON. THOMAS F. MCGUIRE, HON. HAROLD F. FULLWOOD, HON. JEAN C. HAMILTON, HON. THOMAS W. CHALLIS, HON. DANIEL T. TILLMAN, HON. EDWARD M. PEEK, HON. THOMAS C. MUMMERT, III, HON. EVELYN M. BAKER, HON. BRENDAN RYAN, HON. MICHAEL J. HART, HON. THOMAS M. O'SHEA, HON. ARTHUR F. MIORELLI, HON. THOMAS C. GRADY, HON. BOOKER T. SHAW, HON. ROBERT G. DOWD, JR., HON. MICHAEL B. CALVIN, HON. JAMES R. DOWD, HON. FLOYD MCBRIDE and HON. JACK L. KOEHR Respondents.	

STATEMENT OF THE CASE, FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

STATEMENT OF THE CASE

This matter appears before the Judicial Finance Commission upon a petition filed on June 19, 1984, by the City of St. Louis, Petitioner herein, seeking the determination that the City is not legally obligated to provide any of the disputed items requested by the Circuit Court in its 1984-85 budget as detailed below.

A separate suit for declaratory judgment was filed in Cole County Circuit Court, pursuant to §§ 527.010, et seq., RSMo 1978, to determine the rights and duties of the City of St. Louis, the State of Missouri, the 22nd Circuit Court and the Circuit Clerk with respect to funding the Court at any level over the Court's 1980-81 budget figure. City St. Louis v. State of Missouri, et al., No. CV184-580CC. That suit is still pending.

Pursuant to § 50.640.2, RSMo Supp. 1983, a settlement conference was held on July 26, 1984, at the Civil Courts Building in St. Louis with the Honorable Byron Kinder and the Honorable Archie McGee in attendance. The majority of the line items in dispute were settled at that time.

Subsequent to that conference the Honorable Freeman Bosley, Jr., Circuit Clerk of the City of St. Louis, entered an appearance on his own behalf in order to represent the interests of his office separate and apart from the other divisions of the Circuit Court.

Following written notice to the parties, a hearing was held in St. Louis on August 14-16, 1984. Petitioner was represented by Julian Bush and Edward Hanlon, Assistant City Counselors. The Circuit Court was represented by Messrs. John C. Shepherd, G. Keith Phoenix and Raymond R. Fournie of the firm of Shepherd, Sandberg & Phoenix. The Circuit Clerk was represented by Douglas Forsyth, Sr., from the firm of Coburn, Croft, & Putzell and Jimmie Edwards, Legal Counsel to the Circuit Clerk.

Pursuant to Rule 3.01 of the Finance Commission Rules of Practice and Procedure, the Honorable Floyd McBride recused himself from the case. Sitting for him at the hearing was the Honorable Daniel J. O'Toole of the 21st Circuit Court. At the request of the Circuit Clerk, the Honorable Robert G. Dowd also recused himself. Sitting for

him, as his alternate, was the Honorable James R. Reinhard, Chief Judge of the Eastern District Court of Appeals.

FINDINGS OF FACT

1. Petitioner City of St. Louis, "the City", is a constitutional charter city organized and existing under the laws of Missouri. Petitioner Paul M. Berra, the duly elected comptroller of the City of St. Louis, petitioner Vincent C. Schoemehl, Jr., the duly elected mayor, and petitioner Thomas E. Zych, the President of the City Board of Aldermen, comprise the Board of Estimate and Apportionment of the City of St. Louis.

2. Respondent 22nd Judicial Circuit of the City of St. Louis is the Circuit Court of the City of St. Louis, the "Court", comprising 24 circuit judges and 7 associate circuit judges. The individual respondents are respectively the duly appointed and acting circuit judges and associate circuit judges of the 22nd Judicial Circuit and the Circuit Clerk.

3. Freeman R. Bosley, Jr., is the duly elected and qualified Circuit Clerk of the 22nd Judicial Circuit. He has served in that capacity since January 3, 1983, to date uninterrupted. Among the duties of this position is the preparation and submission of a budget proposal for the operation of his office.

4. The Circuit Clerk has intervened in this proceeding on behalf of his own department's interests.

5. The fiscal year and the budget year of the City of St. Louis runs from May 1 to April 30 pursuant to Section 5.14.020 Revised City Code. The budget is submitted by the City's Board of Estimate and Apportionment as a bill and then considered by the City's legislative body, the Board of Aldermen. The Board of Aldermen may reduce the

budget, but may not increase it.

6. Prior to introducing its budget bill, the City's Budget Director receives budget requests from all departments and offices that the City is required to fund and makes recommendations regarding said estimates to the Board of Estimate and Apportionment. Hearings are held at which officials and representatives of the various departments and offices are given an opportunity to present their budgets and the members of the Board of Estimate and Apportionment are given an opportunity to inquire as to the estimates.

7. The City is constitutionally required to have a balanced budget.

8. The City has incurred deficits during the four previous fiscal years totalling approximately $15,000,000.00.

9. The City has in the past three fiscal years reduced the number of positions in its table of organization through layoffs and leaving unfilled vacancies, cutbacks in the delivery service and closed some of its health care facilities to reduce its expenditures.

10. Pending approval of the proposed 1984-85 budget, the same level of services provided in the prior fiscal year are currently being provided. Programs or services initially proposed in the 1984-85 budget request for the Circuit Court are not currently being funded.

11. The City's policy on merit pay increases for its general scale employees (the bulk of City employees) is to restrict such increases to between 20% and 33% of such employees, yet the City did not inform the Court or any of its constituent departments of this policy until after it had filed its petition with the Finance Commission and had reached settlement conference negotiations.

12. The City's budget includes no amounts for capital equipment

and capital improvements. The City's budget does, however, include an amount of $1,000,000.00 for emergency repairs to buildings and structures and $800,000.00 for emergency equipment. These amounts are available on a city-wide basis, so that all requests for such funds must be evaluated by the City on the basis of need.

13. The City's overall general operating budget (which includes the budget of the Circuit Court) for fiscal year 1984-85 is approximately 5% higher than the City's budget for fiscal year 1983-84.

14. The Circuit Court's original budget request for 1984-85, $15,238,224.00 was approximately 6.7% higher than its stipulated 1980-81 budget of $14,282,656.00, and 13% higher than its 1983-84 budget of approximately $13,000,000.00. Subsequent adjustments and compromises bring the negotiated final request much closer to the 1983-84 budget figure. The 1983-84 budget represented an effort on the part of the Court to cut back on previously existing services in order to cooperate with the City's response to its fiscal crisis.

15. The City's overall general operating budget for fiscal 1984-85 is approximately 8% higher than the City's operating expenditures for fiscal 1983-84.

16. The City adopted a policy of refusing to honor expense vouchers presented for payment after February 14, 1984, in order to further conserve financial resources. As a result, actual expenditures for fiscal 1983-84 are less than the originally approved budgets for 1983-84.

17. The City's proposed budget for 1984-85 assumes a balanced budget, i.e., general operating revenue approximately equals general operating expenditures.

18. The City has dramatically improved its financial position

over the past five years. Due to the fiscal retrenchment measures undertaken by the current administration, there exists, as of the end of the fiscal 1983-84, a budget surplus of $59,363.00 compared to a $15,000,000.00 deficit accumulated from 1979 to 1983. The City's debt service fund has decreased to less than half of what it was for fiscal 1979-80. On June 5, 1984, the voters approved a new tax measure anticipated to bring in an estimated $12,000,000.00 of additional revenue for fiscal 1984-85 and $18,000,000.00 for each fiscal year thereafter. The Mayor has publicly stated there will be no layoffs or reductions in service for 1984-85.

19. The City's counter proposal to the Court's budget represents an approximate 9% decrease in that budget.

20. Budgets of the Police Department, Police Pension Fund and the Fire Department Pension Fund have been increased in the 1984-85 budget.

21. The Circuit Court's budget is divided into the following "departmental" budgets: Circuit Clerk - Department 310; Court en banc (Administrator) - Department 311; Board of Jury Supervisors - Department 313; Sheriff - Department 315; Juvenile and Probation - Department 320; and Probate - Department 314.

22. On April 25, 1984, the Court submitted its budget for fiscal 1984-85 to the City. The initial 1984-85 requests for each department as compared with the 1983-84 requests are as follows:

	1984-85	1983-84
Dept. 310 Clerk	$ 2,857,254.00	$ 2,197,360.00
Dept. 311 Court en banc	1,078,085.00	1,028,395.00
Dept. 313 Jury Supervisor	242,255.00	214,945.00

Dept. 314 Probate	77,940.00	78,935.00
Dept. 315 Sheriff	4,096,575.00	3,383,765.00
Dept. 320 Juvenile	6,886,115.00	6,174,785.00
TOTAL	$15,238,224.00	$13,078,190.00

23. After submission of the Court's budget on April 25, 1984, hearings on the budget were held before the City's Board of Estimate and Apportionment on April 26, May 23 and June 7, 1984.

24. Thereafter, the Board of Estimate and Apportionment introduced a budget bill in the City's Board of Aldermen, reducing the Court's budget requests without informing the Court and without the Court's consent to $11,900,000.00, allocated as follows:

Clerk	$ 1,209,430.00
Administrator	1,045,430.00
Probate	45,090.00
Juvenile	5,851,820.00
Sheriff	3,515,110.00
Board of Jury Supervisors	233,120.00
TOTAL COURT	$11,900,000.00

This amount is less than the approved 1983-84 Circuit Court budget of $13,078,190.00.

25. The reductions in the Court's budget was ordered by the Board of Estimate and Apportionment and executed by Stephen P. Mullin, Budget Director for the City. In attempting to keep within his designated ceiling, Mr. Mullin accomplished the reductions in part by using actual expenditures from the previous fiscal year as a guide and in part by arbitrarily cutting back departments to achieve the City's

desired goal. He admits that he is not in the best position to exercise professional discretion over the specialized constituent budgets of the Court.

26. The City, in its petition to the Judicial Finance Commission, has specifically challenged all line items in the Court's original individual department budgets which it reduced in arriving at its final budget figure of $11,900,000.00. These include:

Budget 310 (Circuit Clerk)

5121 Special Personal Service
5131 Witness Fees
5132 Juror Fees
5201 Office Supplies
5202 Printed Supplies
5401 Office Equipment
5501 Postage
5503 Office Services
5505 Allowances-Personally Owned Cars
5507 Repairs to Building Structure
5508 Repair to Office Equipment
5510 Repair of Office Equipment
5512 Cleaning Services
5830 Special Purposes (REJIS Conversion)
5832 Staff Development
5833 Alarm System

Budget 311 (Circuit Court, General)

5101 Salaries Regular Employees
5215 Painting Supplies
5228 Building and Maintenance Supplies
5401 Office Equipment
5429 Security Equipment
5530 Xerox Machine
5572 REJIS
5803 Prof. Liability Ins.
5831 Judicial Education
5833 Legal Services
5834 Misc. Expenses of Court
5836 Janitorial Service
5838 Restroom facilities

Budget 313 (Jury Commissioner)

5501 Postage

Budget 314 (Probate Division)

5202 Printed Supplies
5206 Household Supplies
5401 Office Equipment
5501 Postage
5503 Office Services
5510 Rental, Office Equipment
5520 Travel Expenses
5530 Miscellaneous Contractual Services

Budget 315 (Sheriff)

5101 Salaries
5201 Office Supplies
5202 Printed Supplies
5210 Wearing Apparel
5403 Motor Vehicle
5412 Communication Equipment
5429 Security Equipment
5501 Postage
5503 Office Services
5505 Allowance - Personally Owned Cars
5506 Repairs Motor Vehicles
5508 Repairs Office Equipment
5516 Transport of Prisoners
5572 REJIS
5586 Equipment Service by ESD
5831 Liability Ins.
5832 Deputy Training Refresher

Budget 320 (Probation & Juvenile)

5101 Salaries
5172 Overtime
5201 Office Supplies
5202 Printed Supplies
5204 Laundry & Cleaning Supplies
5205 Medical, Surgical & Lab Supplies
5206 Household Supplies
5208 Food Supplies
5211 Ed. & Rec. Supplies
5230 Misc. Supplies
5501 Postage
5503 Office Services
5505 Allowance--Personally Owned Cars
5508 Repairs to Equipment
5512 Cleaning Services
5516 Transportation of Children
5530 Miscellaneous Contractual Services
5572 REJIS
5804 Misc. Expenses
5831 Staff Development
5832 Institutional Payments
5834 Branch Probation Unit

27. As a result of the settlement conference held on July 26, 1984, the majority of the disputed items were settled. The City, Court and Circuit Clerk have stipulated that the following compromise amounts be recommended for inclusion in the 1984-85 budget, subject to any future determination that neither the specific line items, nor the bottom line of the budget exceeds that which may be lawfully imposed pursuant to the provisions of Article X, Section 21 of the Missouri Constitution:

Dept.	Line Item	Amount
310	5121 (Special Personal Services)	8,000
	5131 (Witness Fees)	15,000
	5132 (Juror Fees)	600,000
	5201 (Office Supplies)	60,000
	5406 (Household Equipment)	7,500
311	5101 (Salaries)	593,726
	5215 (Painting Supplies)	3,000
	5228 (Building & Main. Supplies)	3,000
	5401 (Office Equipment)	795
	5429 (Security Equipment)	15,000
	5530 (Xerox Machine)	3,640
	5803 (Pro. Liability Insurance)	12,635
	5831 (Judicial Education)	16,000
	5833 (Legal Services)	8,000
	5834 (Misc. Expenses of Court)	7,645
	5836 (Janitorial Service)	88,140
313	5501 (Postage)	14,540

314	5202	(Printed Supplies)	4,000
	5206	(Household Supplies)	1,250
	5401	(Office Equipment)	10,000
	5501	(Postage)	8,000
	5503	(Office Services)	10,000
	5510	(Rental, Office Equipment)	2,000
	5520	(Travel Expenses)	550
	5530	(Misc. Contractual Services)	3,000
315	5101	(Salaries)	2,900,000
	5201	(Office Supplies)	4,400
	5202	(Printed Supplies)	4,000
	5210	(Wearing Apparel)	50,000
	5403	(Motor Vehicle Equipment) (The City agrees that it will purchase the two requested motor vehicles in a vehicle pool to be utilized with the purchase of other motor vehicles to be used by the City.)	
	5412	(Communications Equipment)	12,975
	5429	(Security Equipment) (The Sheriff's office will attempt to arrange a lease purchase agreement)	56,300
	5501	(Postage)	19,000
	5503	(Office Services)	2,000
	5505	(Allowance-Personally Owned Cars)	60,000
	5506	(This line item has been absorbed in line item 5586.)	
	5508	(Repairs, Office Equipment)	3,000
	5586	(Equipment Service by ESD) (The Sheriff's office agreed to a $20,000 allocation provided that the City will pay for and absorb any excess for all gasoline, repairs required on motor vehicles, washing of said motor vehicles and any towing required for said motor vehicles.)	

	5831	(Liability Insurance) (Agreement remains to be put in writing)	
	5832	(Deputy Training Refresher)	10,000
320	5172	(Overtime)	6,050
	5201	(Office Supplies)	14,000
	5202	(Printed Supplies) (and the City will absorb any costs for those supplies requested through its printing department, Multigraph.)	6,000
	5204	(Laundry and Cleaning Supplies)	2,676
	5205	(Medical, Surgical and Lab Supplies)	2,000
	5206	(Household Supplies)	7,500
	5208	(Food Supplies)	84,000
	5211	(Educational and Recreational Supplies)	2,000
	5230	(Misc. Supplies)	5,000
	5501	(Postage)	12,000
	5503	(Office Services)	13,500
	5505	(Allowance-Personally Owned Cars)	25,000
	5508	(Repairs to Equipment)	11,000
	5512	(Cleaning Services)	43,925
	5516	(Transportation of Children)	2,000
	5804	(Misc. Expenses)	12,000
	5831	(Staff Development)	5,000
	5834	(Br. Probation Unit)	6,000

With respect to Line Item 5572 (REJIS), the parties agree to the budget estimate on this line item for each department (with the exception of Dept. 310) as submitted by Petitioners with the understanding that should the cost to any department exceed said estimate, the cost will be absorbed by the City of St. Louis and not be assessed against any department's budget.

28. During the hearing proceedings the following were also settled: all remaining disputed items in the Department 315 budget, and Line Item 5208 (Food Supplies) in the Department 320 budget.

29. During the hearing proceedings agreement was also reached on compromise funding levels for the following line items in the Circuit Clerk's budget:

Line Item	Amount
5202 Printed Supplies	$ 45,000
5401 Office Equipment	$ 37,500
5521 Postage	$ 65,000
5503 Office Services	$241,000
The Circuit Clerk's 84-85 Budget Request in Line Item 5503, Office Services, includes both computer project and non-computer project items. The figure of $241,000 includes all non-computer project related expenses and an amount of $138,500 for financial software.	
5505 Allowance-Personally Owned Cars	$ 2,000
5507 Repairs to Buildings and Structures	-0-
5508 Repairs to Office and Other Equipment	$ 14,000
5510 Rental of Office Equipment	$ 60,000
5512 Cleaning Services	$ 10,000
5832 Staff Development	$ 15,000
5833 Alarm System	$ 2,500

By entering into the above Stipulation, the City of St. Louis did not admit that the above sums are necessary for the operation of the 22nd Judicial Circuit Court for this or any subsequent fiscal year, nor did the Circuit Clerk or the 22nd Judicial Circuit Court admit that such sums are sufficient for the operation of the 22nd Judicial Circuit Court for this or any subsequent fiscal year.

30. The parties have stipulated that the level of activity of the 22nd Judicial Circuit Court that the City of St. Louis was required to support on November 4, 1980, was at least $13,430,751, if appropriations are considered, or $13,980,114 if actual expenditures are considered.

When the cost of services previously performed by city employees and now undertaken by the Court is taken into consideration, those figures swell to $13,733,293.00 for appropriations and $14,282,656.00 for expenditures. Such services include:

Dept.	Line Item	Cost
310	5512 (Cleaning Services)	42,000.00
311	5836 (Cleaning Services)	88,140.00
	5100 (Maintenance Workers, Salaries & Fringes)	59,867.00
	5215 (Painting & Supplies)	4,000.00
	5228 (Bldg. & Maintenance Supplies)	4,000.00
314	5503 (Cleaning)	6,180.00
315	5101 (Salaries)	302,542.00
	(These costs are associated with hiring additional deputy sheriffs to provide security for the Court, the Mayor and the Board of Alderman)	

31. The parties have stipulated that the following line items include the following amounts necessitated by acts of the General Assembly since November 4, 1980:

(a) Department 310, Line Item 5401 - $2,000, for a tape recorder necessitated by § 543.335, RSMo Supp. 1984, pertaining to recording of trial de novos.

(b) Department 310, Line Item 5501 - $5,000, for outside counsel authorized by § 483.260, RSMo Supp. 1983.

(c) Department 311, Line Item 5112 - $16,992, required by § 478.248, RSMo Supp. 1983, which insures the availability of a judge around the clock to admit persons to bail.

(d) Department 315, Line Item 5501 - $7,000, for postage necessitated by § 535.030, RSMo Supp. 1983 on service of summons in landlord-tenant actions.

(e) Department 315, Line Item 5210 - $22,000 for uniform allowance for sheriffs, authorized by § 57.295, RSMo Supp. 1983.

(f) Department 320, Line Item 5101 - $98,908, for court review of children placed in foster care, necessitated by §§ 210.810 and 210.720, RSMo Supp. 1983.

(g) Department 320, Line Item 5530 - $25,000, for guardian ad litem appointments, necessitated by § 210.160, RSMo Supp. 1983.

32. Four line items in the Department 311, Court en banc, budget remain in dispute. The first, Line Item 5838, is for the addition of three restroom facilities for which $67,200.00 was requested so that these would separate facilities for men and women in three of the jury assembly rooms in the Municipal Courts Building. The amount of $50,000 had been allocated under this line item for fiscal year 1983-1984. However, the bid cost exceeded that amount, sufficient funds were not available in fiscal year 1983-1984 and it was decided this item would be budgeted for fiscal year 1984-1985 in the amount of $67,200.00. The Budget Director for the City of St. Louis admitted there were no other public restrooms in any other municipal buildings that are to be used by both men and women. In addition, the jurors

for those jury rooms find it virtually impossible to use the other public restrooms in the Municipal Courts Building because they are unsanitary and often not in working order.

33. At the request of the City Budget Director, the Court Administrator submitted the remaining Line Items, 5839, 5840, 5841, by way of Capital Improvement Request Forms and attached them to, and noted them in, the itemized budget request for Department 311; further, the costs associated with these items were included in the request forms.

The purpose of the Capital Improvement Request Forms was to set up a pool of funding for all of the City's capital improvement needs. This pool of funds never materialized. The Budget Director for the City of St. Louis never informed the Circuit Court of this change nor further instructed the Circuit Court to modify its request procedure accordingly.

34. The Court Administrator followed the guidelines of the City in submitting Line Items 5839, 5840 and 5841 of Department 311 and the City was aware of their existence and cost. The Court maintains these items are in dispute. The City maintains they are not part of any budget request.

35. Line Item 5840 for $166,166 represents improvements and refurbishment to jury rooms for Criminal Divisions 17, 18, 19, 21 and 24 in the Municipal Courts Building. The item is prompted by citizen complaints to the Court and the Mayor's office about the conditions in which they must function while serving as jurors.

36. Line Item 5839 for $51,000 represents an attempt to complete a waiting area separate from the confines of a jury room which would

be available to jurors during court proceedings. This lounge was originally intended to have restroom facilities so that the jurors would not have to utilize the public restrooms. Those facilities were never completed.

This waiting area is offered as an alternative solution to the problem of forcing jurors to mingle with defendants in criminal cases in public areas of the Municipal Courts Building.

37. The 26-story Civil Courts Building has four automated elevators for the primary transportation of the public, witnesses, litigants, jurors, employees, staff members, attorneys, judges, law enforcement officers, and prisoners. These four have taken the place of ten manually operated elevators. Two-thirds of the cost of the requested fifth elevator has already been allocated in existing City ordinances 58499 and 58750.

38. Three line items in the Department 320, Probation and Juvenile Court, budget remain in dispute. The first, Line Item 5105, is for salaries. The Court has requested $4,532,035. Last year $4,303,822 was expended and $4,289,070 was appropriated; this year the City contests all sums in excess of $4,056,535, which is less than actually expended in 1983-1984. The Juvenile Court's original budget request of $4,632,035 was reduced by the Circuit Court by $100,000 prior to submitting the budget requests to the City.

The Juvenile Court, in past attempts to cooperate with the City with respect to its financial difficulties, left unfilled the following positions: assistant administrator, six youth leaders, assistant superintendent of detention; three clerk typists, assistant cook, a data processing technician, and a staff psychologist. The Juvenile

Court has consented for 1984-1985 to not fill seven of these positions - assistant administrator and six youth leaders.

The Court wishes to add one security officer to increase the number to six for the entire complex. It also wishes to reclassify a watchman as a security officer, a groundskeeper as an assistant maintenance worker who will do both maintenance and groundskeeper work and a clerk typist II as a clerk typist III because the person involved has been performing the functions of clerk typist III for the past five years without the requisite compensation.

39. The Court gave "step" pay increases to 32% of its employees. At no time did the City ever communicate to the Court that between 20% and 35% of its own employees received step increases and that this was considered the acceptable norm. Nevertheless, the Juvenile Court employee's step increases were within those parameters.

40. Expert testimony concerning the needs and performance of the Juvenile Court was provided by Charles Epperson, Supervisor of the Status Offender Unit Program; Mr. Louis McHardy, Director of the National Council of Juvenile and Family Court Judges; William Donnelly, Director of Father Dunne's Newsboy's Home; and Mr. Hunter Hurst, Director of the National Center for Juvenile Justice, on behalf of the Court. Evidence was adduced that the salary and personnel requests were requisite for the effective operations of the Court.

41. The Budget Director for the City of St. Louis made budget reductions in Line Item 5105 as well as Line Items 5530, Miscellaneous Contractual Services, and 5832, Institutional Payments, without conducting any studies on the needs of the Juvenile Court, without consulting any experts in the field or without even consulting anyone from the

Juvenile Court in an attempt to discover its needs, requirements and functions.

42. Line Item 5530, Miscellaneous Contractual Services, includes attorney's fees for guardian ad litem service and representation of indigent parents, dental care and the Court's Status Offender Unit, the "Diversion Program". The Court requested $169,500 and the City allocated $65,000 which was $18,892 less than that expended in 1983-1984. The increase over that requested in this budget item for 1983-1984 is for the most part accounted for by the following:

a. $15,000 represents an increase of the hourly rate paid for attorneys' services from $15 per hour to $20 per hour.

b. $67,500 is for the portion of the Court's Status Offender Unit, the "Diversion Program", not covered by Federal or State Funds. The Status Offender Unit Program serves approximately 1,200 children per year and results in a monetary savings to the City of St. Louis and the State of Missouri by diverting needy children from the traditional juvenile court system. In addition, there are resulting long term benefits to the children and society when learning and disciplinary disabilities can be effectively handled in this manner instead of making a borderline case a part of the juvenile and ultimately criminal justice system.

43. Line Item 5832, Institutional Payments, represents funds for the placement of abused children in private institutions. The Court has requested $700,000 for this purpose. The City has allocated $425,000 which is $111,000 less than expended in 1983-1984. The Court requested increasing this budgetary line item because of an increase in the rate paid to the institutions from $25 per day per child to $30

per day per child. The private institutions had originally asked $35 per day per child in order to be able to continue to accept the Court's children.

The $30 per day per child amount is far under the national average for such care. Further, child care could not be provided for that amount without being subsidized.

44. The City of St. Louis operates no such institutions and therefore has no alternative but to place these children in private institutions.

45. The estimate of $700,000 for Line Item 5832 was for an average population of 64 children. During the first quarter of fiscal year 1984-85 the average daily population was 70 children.

46. The Juvenile Court of Pittsburgh, Pennsylvania, which handles approximately the same number of referrals as the City Juvenile Court, has a budget of more than $15 million, twice that being requested here. Expert testimony maintained that the 22nd Circuit Juvenile Court is equally effective.

47. At the time Circuit Clerk Freeman R. Bosley, Jr., took office in 1983, the record-keeping system in the Circuit Clerk's office was ineffective in meeting the needs of an efficient Court system. The financial accounting system was -- and is -- kept by hand. Files were kept in stacks on window sills and piles on the floor. $180,000.00 was found on the premises with no owner identification. Mr. Bosley determined that the existing conditions must be radically improved by automating the financial accounting system to improve daily operations, meet statutory financial reporting requirements and improve internal

control procedures. His budget proposal for 1983-84 contained a request for a computerized financial accounting system.

48. All parties to this case acknowledge the necessity of automation in the Clerk's office.

49. In 1983 Mr. Bosley contracted with the accounting firm of Ernst & Whinney to conduct a needs assessment of his office and make proposals for automation options. As a result of the Ernst & Whinney study, the Clerk was advised that the integration of the existing automated case management system with an automated financial accounting system would be the most advantageous method to improve service to the Court and the general public. The Clerk's attempt to initiate such a project on an in-house mainframe computer with funds from his 1983-84 budget has been the subject of litigation and is currently on appeal in the Supreme Court, Bosley v. Berra, No. 65957, docketed for January, 1985, term.

50. The budget dispute regarding the reasonableness of this comproject was also submitted to the Judicial Finance Commission, and the Commission has issued an opinion finding that the initiation of the project in the middle of a budget year, when it exceeded the scope of the original line item, was not reasonable, City of St. Louis v. 22nd Judicial Circuit, No. 84-0006.

51. Line Items 5503 and 5830 in the Circuit Clerk 1984-85 budget pertain to the same IBM 4331 mainframe computer, computer software and related operational expenses.

52. The Regional Justice Informations System - REJIS - was organized to provide the St. Louis metropolitan area and surrounding counties with computer services for agencies that are engaged in activities

related to justice and to the court activities of those units. Rejis handles civil as well as criminal matters. The Clerk's office currently contracts with Rejis for automated caseload processing.

53. Rejis is owned in part by the City of St. Louis.

54. Rejis operates with the approval of the State Judicial Records Committee.

55. The Court en banc approved the Circuit Clerk's 1983-84 and 1984-85 budget requests.

56. The Clerk sought and received interim approval from the State Judicial Records Committee for the proposed automation of the 22nd Judicial Circuit's records until such time as it is ascertained that the proposed system would provide:

> (a) all information necessary for the Statewide Judicial Information System (SWJIS) to the satisfaction of the State Judicial Records Committee, and
>
> (b) all information necessary for management and operational information needs to the satisfaction of the 22nd Judicial Circuit Court en banc, the circuit clerk and external users of information presently provided by Rejis.

57. Expert testimony indicates that there would be no differential in reliability and response time between either Rejis or an in-house computer in the Clerk's office.

58. Confidentiality of computerized records is a function of programming computer software and of providing systematic security.

59. Rejis serves client courts, universities and hospitals which all have needs and concerns for confidentiality of records. Rejis meets these needs with, inter alia, a system of limited accessibility

to operations areas and of a scheme of "dedicated" computer terminals which restricts access to information to those individuals and agencies who are rightfully privy to it.

60. At the August, 1984, hearing before the Judicial Finance Commission, the City agreed to provide the Clerk through Rejis with whatever computer services his office might desire, irrespective of cost.

CONCLUSIONS OF LAW

I.

This Commission has jurisdiction over this proceeding pursuant to Section 477.600 RSMo Supp. 1983 which provides that the Commission shall examine the budget request of the circuit court upon the petition of the county governing body and issue a written opinion, stating the conclusions of the Commission as to the reasonableness of the circuit court budget request.

Section 50.640 RSMo Supp. 1983, a companion section, requires that a governing body include the court's budget proposal in its final budget recommendation as a prerequisite to petitioning the Commission for review of disputed items. This the City has failed to formally do here. The City's Board of Estimate and Apportionment cut the Court's proposed budget of $15,238,224.00 to $11,900,000.00, recommending this figure to the Board of Aldermen. [1] The Court protested these steps on several occasions and has called the City's attention to this statutory

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[1] The annual budgetary experience in the City of St. Louis is sui generis. While the fiscal year began on May 1, the actual 1984-85 budget was not signed into law until October. It is our understanding that during this interim period, existing accounts have been left open to provide a mechanism for funding governmental activities. Funding of pre-existing disputed line items continues at requested levels, pending the outcome of this case.

requirement. We also are mindful of the Supreme Court's recent admonition on this requirement and call it to the City's attention:

> In denying respondent's budget request and enacting a budget omitting these funds, petitioner acted contrary to the procedure mandated in § 50.640, RSMo Cumm. Supp. 1983. For future reference, we call to the petitioner's attention § 50.640.2 "If the county government body deems the estimates of the circuit court to be unreasonable, the governing body may file a petition for review with the judicial finance commission...after the estimates are included in the county budget". (Emphasis added.)

In Re 1983 Budget For Circuit Court of St. Louis, 665 S.W. 2d 943, n. 2 (Mo. banc 1984).

In our continuing effort to provide a forum for resolving budget grievances of local governments who labor under both severe fiscal restraints and the spectre of increasing budget requests, we will entertain this petition. However, we note for the future that in the absence of satisfying this statutory requirement, the indulgence of the Supreme Court in reviewing our decision, should either party choose to appeal it, may not be so easily invoked.

II.

Section 476.270 RSMo 1978 provides as follows:

> All expenditures accruing in the circuit courts, except salaries and clerk hire which is payable by the state, except all expenditures accruing in the municipal divisions of the circuit court, and except as otherwise provided by law, shall be paid out of the treasury of the county in which the court is held in the same manner as other demands.

III.

Article X, Section 21 of the Missouri Constitution provides:

> The state is hereby prohibited from reducing the state financed proportion of the costs of any existing activity or service required of counties and other political subdivisions. A new activity or service or an increase in

the level of any activity or service beyond that required by existing law shall not be required by the general assembly or any state agency of counties or other political subdivisions, unless a state appropriation is made and disbursed to pay the county or other political subdivision for any increased costs.

IV.

Section 211.011 RSMo 1978 provides:

The purpose of [the Juvenile Court law] is to facilitate the care, protection and discipline of children who come within the jurisdiction of the juvenile court. This chapter shall be liberally construed, therefore, to the end that each child coming within the jurisdiction of the juvenile court shall receive such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the state and that when such child is removed from the control of his parents the court shall secure for him care as nearly as possible equivalent to that which should have been given him by them.

V.

Article VII, Section 3, of the Missouri Constitution provides:

The City of St. Louis, as now existing, is recognized both as a city and as a county unless otherwise changed in accordance with the provisions of this constitution.

VI.

Section 483.082, RSMo 1978 provides:

Notwithstanding the provision of any other statute to the contrary, it shall be the duty of the clerks of all courts to keep such records of the courts and in such a manner as may be directed by rule of the supreme court so that they shall accurately record all essential matters relating to the causes and matters within the jurisdiction of the court which are and have been pending before the court, including pleadings, motions and related documents, transactions, orders and judgments or decrees related thereto showing the course and disposition of causes and matters, the taxing and collection of court costs, and the setting of trial calendars or dockets of pending cases.

2. Recognizing that improved methods and systems of keeping records and data have been and will continue

to be developed from time to time and that all court clerks should be empowered to utilize improved methods, systems and techniques of keeping records of essential matters, and notwithstanding the provisions of any other statute to the contrary, the methods, forms and system of keeping all such files and records shall be as directed and approved by rule of the supreme court.

VII.

Section 483.150, RSMo 1978 provides:

> The clerks of the several courts of record shall keep a true account of all fines, penalties, forfeitures and judgments imposed, adjudged or rendered in favor of the state or any county by their respective courts, distinguishing those payable to the state from those payable to the county, and shall keep the same open for the inspection of the judges of the respective courts and the county treasurer.

VIII.

Supreme Court Administrative Rule 1.23 provides:

> Data processing for courts shall be handled on computer equipment managed and controlled by the courts. In exceptional instances where extreme care has been taken to assure the welfare of the courts, explicit approval may be obtained from the Supreme Court upon recommendation of the State Courts Data Processing Committee to utilize facilities not totally managed and controlled by the courts.

IX.

The intervenor in this case, Circuit Clerk, Freeman R. Bosley, Jr., has an interest in these proceedings different from that of the general public. Judicial Finance Commission Rule of Practice and Procedure 13.09.

Circuit Court En Banc Budget

X.

There remain in the Court en banc budget, Department 311, four disputed requests. The first, Line Item 5838, construction of restroom facilities in each of three jury rooms which have only one unisex

facility now, first appeared as a line item in the Court's 1983-84 budget when $50,000.00 was originally allocated for the project but found to be insufficient to complete the work. Consequently, the work was never begun.

The inadequacy of the present arrangement has been documented, not only for the Court but also for the City, by repeated complaints from citizens who have performed their civic duty of serving on juries and who therefore have had first hand experience with the deplorable conditions under which juries of the 22nd Circuit must labor. Facilities in the jury rooms are inadequate and use of the public restrooms is virtually impossible.

It is well established that the duty to provide a suitable and convenient place for the holding of court necessarily includes a proper and sufficient courtroom with facilities for conducting trials by jury, including an adequate and sufficient jury room and the necessary conveniences. Castle v. State, 237 Ind. 83, 143 N.E. 2d 570 (1957).

The City of St. Louis recognized the inadequacy of these facilities in its approval and appropriation in the 1983-84 budget of funds for the very same project. The City now refuses to provide the necessary $17,000.00 to complete funding. This request represents a project previously acknowledged by the City, its taxpayers and the Court to be necessary for the adequate operation of the courts and is reasonable.[2]

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[2]In reaching our decision on this and the other jury facility questions, we note that we have had the benefit not only of testimony from the court administrator but also of correspondence from a St. Louis juror to the Mayor's office, characterizing the conditions to which she was exposed, including jury rooms, restrooms and hallways as "deplorable", and photographs of the very same facilities.

XI.

The remaining items in the Department 311 budget are also capital improvements. While these do not appear in the Court's 1984-85 budget documents which were discussed with the Board of Estimate and Apportionment, they were enumerated and requested in a separate, officially sanctioned Capital Improvements Request Form. As this procedure was mandated by the City Budget Director, the City would seem to be estopped from now contending that these items are not properly part of the Court budget request presently before this Commission. Not only are they part of that budget request, but by not specifically challenging them in its Petition for Review, the City has not formally thrown them into dispute. It was only at the settlement conference and hearing stage of proceedings that the City initially objected to these items. Therefore, while we are not required to inquire into their reasonableness, we will deem the City's petition to be amended to include these three items: Line Item 5839, Capital Improvement-Jurors' Lounge, $51,000; Line Item 5840, Capital Improvement-Jury Rooms, $166,166; and Line Item 5841, Capital Improvement-Elevators, $125,000.[3]

After reviewing the testimony presented by the Court, we conclude that the Court has carried its burden of proof in establishing the reasonableness of each of these items. Section 50.640 RSMo Supp. 1983.

Line items 5839 and 5840 refer to jury rooms and a jurors' lounge which permits jurors to gather in a location other than the public

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[3]The City's position on these items puts the Court in a "Catch 22" situation: procedural directives from the City would have to be ignored in order to establish the existence of the very items addressed by the directives. Good faith negotiations within the meaning of the County Budget Law, 50.525 RSMo et seq., cannot be conducted under such circumstances.

hallways of the Municipal Courts building where criminal trials are held. At present jurors must share those hallways at their peril with defendants awaiting trial who may be previously convicted felons.

Other jurisdictions have maintained that Courts may determine the suitability and sufficiency of their facilities and may exercise control over the courthouse to the extent required to assure the provision, equipment and maintenance of rooms and facilities essential for their proper and efficient operation. Zangerle v. Court of Common Pleas, 141 Ohio 70, 46 N.E. 2d 865 (1943). The securing of a suitable, convenient and comfortable place for the transaction of the public business falls within the inherent authority of a court to control its courthouse. State ex rel. Finley v. Pfeffer, 163 Ohio 149, 126 N.E. 2d 57 (1955). A court has not only the right but the duty to see that it is properly equipped in its accommodations and furnishings so as to be able to act effectively as a court. Castle v. State, 143 N.E. 2d at 572. Providing these facilities is the primary and paramount purpose of a courthouse. Zangerle v. Court of Common Pleas, 46 N.E. 2d at 870.

The City contends that the Court cannot establish that any essential function of the Court has been damaged by failure to fund these items. In doing so, the City misconstrues the burden of proof which rests with the Court. Section 50.540.2 requires only that the item in dispute be established as reasonable. Case law has previously delineated those expenditures which can be considered "lawful" or reasonable:

1. Those the General Assembly has fixed by statute or absolutely reposed in the court's discretion.

2. Those the local government unit (in this case the city), which is required to provide the funds to

meet such expenditures, may have authorized previously, with or without request. (For example-see Mashak v. Poelker, 367 S.W. 2d 625 (Mo. banc 1963).

3. Those reasonably necessary for the court to carry out its functions. (For example-State v. Becker, 351 Mo. 769, 174 S.W. 2d 181 (1943).

State ex rel. Judges for the 22nd Judicial Circuit v. City of St. Louis, 494 S.W. 2d 39, 41 (Mo. banc 1973).

While the court must establish necessity in fact, it need not establish injury in fact. Id at 42; In re The 1983 Budget of the Circuit Court of St. Louis, 665 S.W. 2d at 945. That potential jurors are discouraged from fulfilling their civic responsibility to the best of their ability is sufficient here to carry the requisite burden of proof.

XII.

The final disputed line item in the Department 311 budget concerns automation of a manually operated elevator in the Civil Courts Building. In 1982 the Court undertook the project of converting the ten manually operated elevators in the Civil Courts Building to automated elevators. To date, four such elevators have been converted and $200,000.00 of the $325,000.00 cost of automating a fifth has already been approved in City Ordinances 58499 and 58750. Because of the design of this building, elevators are the main source of transportation for all jury panels, the public, witnesses, litigants, judges, lawyers, staff, law enforcement personnel and prisoners.[4] Even with the completion of this item, the elevators will be operating at only half of design capacity for this building. We cannot find such a request unreasonable.

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[4]The Civil Courts Building, constructed in 1926, is a high rise structure consisting of thirteen floors, each of which has its own mezzanine level. Therefore, the building is actually twenty-six stories high.

Where county commissioners in another jurisdiction have refused to sanction the utilization of an elevator in a courthouse where it was the principal means of reaching the courtrooms, authority may be found for the proposition that the court was still entitled to the benefit of its use:

> Considering, too, the great cost of the edifice, and of the elevator itself, it would be most unreasonable that the court, its judge, the officers, jurors, attorneys, parties, and witnesses, and the people generally who chose to attend upon the proceedings of the court, should be compelled to seek an entrance to so noble a seat of justice by way of obscure and distant stairways, when the county had provided a convenient and fit approach in the center of the building, and near to the doors of the court room. To prevent the use of the elevator, under the circumstances, appears as a perversion of the very purpose for which the courthouse was built.

Bd. of Commissioners v. Stout, 136 Ind. 53, 35 N.E. 683, 686 (1893).

The St. Louis Circuit Court is no less entitled to the benefits of such a project, especially as it is almost within its grasp. Once again, the City is now objecting to the funding of a project which it approved in the past, even though it is now in the best financial position it has been in for the past five years.

Case authority has established that each of the facilities requested here is imperative to the proper administration of justice. McIntyre v. County Commissioners of Bristol, 256 Mass. 520, 254 N.E. 2d 247 (1969). The Court has established that each is directly related to its adequate functioning. Therefore, each qualifies as a legitimate request. The Court must prevail.

XIII.

There remains the petitioner's contention that the Court's request in excess of the City's counter proposals, which in each instance was $0.00, represents an indulgence in "amenities, sometimes

genuine improvement in services which either are not essential or not placed in jeopardy by the level of funding offered by the City, and sometimes folly and outright waste". As such, the City argues, each is precluded by the Hancock Amendment, Article X, Section 21, Mo. Const.

The City cites Boone County v. State of Mo., 631 S.W. 2d 321 (Mo. banc 1982) for the proposition that the term "increase in the level of any activity" encompasses every increase in the level of operation of...government. Id. at 325. The Supreme Court in Boone County held that a salary increase enacted into law by the General Assembly, which increased payments by the county over the amount required at the time of the ratification of the Hancock Amendment, November 4, 1980, should be paid from the state treasury.

The City also cites State ex rel. Sayad v. Zych, 642 S.W. 2d 907 (Mo. banc 1982) for the proposition that the Court, like the St. Louis Board of Police Commissioners, is a state agency.

While the majority of this Commission has concluded in the past that the courts are an independent, co equal branch of government and not just another "state agency" for purposes of Hancock, we do not need to reach such an analysis here. Under the facts presented here, this Commission fails to see how any of these items could be characterized as a new or increased level of activity for the purposes of Hancock. They represent, instead, the completion of existing projects or the continued maintenance of existing facilities acknowledged to be necessary for the operation of the courts. As such, none would seem to fall within the ambit of Hancock.

Juvenile Court Budget

XIV.

There remain in the Juvenile Court, Department 320 budget, three disputed line items: 5101, Salaries; 5530, Miscellaneous Court Services; 5832, Institutional Payments. The Court in Line Item 5101 is requesting $4,632,035.00 for salaries while the City is offering only $4,056,535.00, less than the Juvenile Court's actual expenditures during fiscal year 1983-84. Included in the Court's request is funding for seven of thirteen previously existing positions which have remained unfilled for several years in response to the City's fiscal strains, and the addition of a new position for a security guard.

The existing slots sought to be filled include an assistant superintendent for the juvenile detention facility, an assistant cook, three clerk typists, a data processor and a psychologist.[5] Evidence produced by the Court establishes that each position will facilitate the statutory obligations of the juvenile court. Section 211.011 RSMo 1978.

Furthermore, it has been established in Missouri that the juvenile division of a circuit court may provide for such additional personnel (in either the administration or detention departments) as are reasonably necessary to properly carry on functions of that court. State ex inf., Anderson v. St. Louis County, 421 S.W. 2d 249 (Mo. banc 1967).

The Court has produced expert testimony, unrefuted by the City, that the filling of these positions is in the best interests of the operation of the Court. The fact that the Court has managed to function without them in the past several years in an attempt to

[5] While six of these positions have not yet been filled, the psychologist's slot was filled and is currently being funded by the City.

respond to the City's fiscal crisis does not recommend that such emergency measures be established as the status quo. The filling of these positions merely represents a return to normal levels of operation. Additional clerk typists help the Court to process the myriad reports and forms which must be prepared to facilitate court proceedings. See Sections 211.322 and 211.161 RSMo 1978. Cooks, guards, supervisors relieve the pressure placed on co-workers forced to temporarily shoulder an increased work load and, most importantly, relieve the threat of lawsuits which result from inadequate staffing and supervision. Doe v. New York City Department of Social Services, 649 F. 2d 134 (C.A. N.Y. 1981), appeal after remand 709 F. 2d 782, cert. denied Catholic Home Bureau v. Doe, 104 S.Ct. 195 (1983). Furthermore, the City's financial condition is improving.

In establishing its priorities the court must primarily be guided not only by consideration of the City's financial position but by its concern for the children in its care. The primary concern of the juvenile court must be the best interest of these children. In re Interest of R.L.P., 652 S.W. 2d 185 (Mo. App. 1983). The Court has carried its burden of proof on this issue.

XV.

The same rationale pertains to Line Item 5530, Miscellaneous Court Services. The City offers $65,000.00 for this item, $85,500.00 was approved in 1983-84 and the Court requests $169,500.00 for 1984-85. This category includes attorneys' fees for court appointed attorneys, fees for dentistry services and funds to partially subsidize part of the cost of the Court's diversion program for juveniles, the Status Offender Unit. The Court has presented evidence justifying each category of services under this line item. First, the sum of $10,000.00 to

provide the Court with the services of two dentists merely replaces the services previously provided by Washington University School of Dentistry. The University has declined to continue these services. The services have been regularly provided in the past, the estimated cost is approximately that which was previously provided, and the services are necessary because future placement of the children often requires that such basic health needs first receive attention. Furthermore, evidence demonstrates that bringing professionals to the children is more cost efficient than taking the children to a City clinic, accompanied by a deputy juvenile officer, and having them wait hours for service.

The attorneys' fees in question involve a $5 increase, from $15 to $20 per hour, for court appointed attorneys. Evidence has established that the accepted rate of compensation in St. Louis for attorneys is $75-$150 per hour. Employment of attorneys is necessary for the handling of guardian ad litem and indigency proceedings in juvenile court. Sections 210.160 and 476.270 RSMo 1978.

Finally, this Line Item includes $67,500.00 for the Juvenile Court's diversion program. The purpose of this program is to serve first or second time minor offenders, children who are either offenders by virtue of their status--age--or termed incorrigable. The thrust of the program is to take that child out of the court system so that he or she does not become stigmatized by the processes of formal court, such as detaining a child pending a court hearing, taking a child through a hearing and proving him guilty of wrong doing, placing the child on probation in a public or private institution. A diversion program avoids the negative labeling processes that take place as a result of introduction to the court system. The advantages of this program accrue

not only to the child who is diverted from the court system but also to the system itself. The traditional juvenile court produces a recidivism rate of 50% while diversion program disposition results in a 20% recidivism rate.

Experts in the field of juvenile law who are familiar with the St. Louis program deem it to be one of the most efficiently run in the country. Every circuit court in the State of Missouri operates "diversion" opportunities for juveniles, albeit not on as sophisticated a level as the 22nd Circuit. Not every circuit has the same demand for these services, the same daily population to serve with its diversity of needs, or the same detrimental alternative facing these children should this alternative become unavailable. The City contends that this is the best program in the state and therefore should be cut because the City can't afford the best program in the state. This Commission strongly disagrees. We do not see how the City can <u>not</u> afford it. With all due regard to the City's financial plight, a plight which is now clearly easing under able stewardship, we are not talking here about a motor pool or typewriters, paint for hallways or paper clips, we are talking about children. It is incomprehensible to us that this Juvenile Court's provision of such a fine program under the existing budget restrictions should be a source of criticism, rather than a source of pride, to this City.

XVI.

Line Item 5832 pertains to institutional payments, <u>per diem</u> fees which the court pays to private institutions to feed, clothe and house abused and abandoned children, wards of the court who cannot appropriately be placed in a detention facility. While in many localities the governing body will operate its own facilities for

these children, the City of St. Louis does not provide this alternative. The court is thus compelled to rely on private facilities, which operate in a consortium. Furthermore, evidence demonstrates that the requested increase still puts the per diem compensation to the institutions far below the cost to the City of maintaining a child in the juvenile detention center.[6] Not only is this a bargain, it is an imperative. Without the increase, these institutions cannot continue to accept the City's children. Providing these services is essential.

The purpose of the juvenile court is to prevent the social, physical and psychological deterioration of children. In re Ayres 513 S.W. 2d 231 (Mo. App. 1974). The Court's budget requests attempt to carry out this mission in a prudent and most efficient manner. The shoestring proposals from the City would strangle that attempt. The request for each of these line items is reasonable and should be funded by the City.

XVII.

Petitioner again maintains that the Hancock Amendment precludes funding of any of these items in the juvenile court budget. We are mindful that this is a question of law which awaits judicial determination. However, in examining the facts of the case, we conclude that, insofar as the actual staff positions in the 5105 account or services in the 5530 and 5832 accounts have been previously funded by the City, and the Court can justify their continued existence, they are not foreclosed by the Hancock Amendment. These items cannot be

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[6]The consortium of institutions which provide these services actually requested a ten dollar increase to $35.00 per diem, which would more closely approximate, but not meet, costs in serving these abused children. Through the efforts of Juvenile Court Judge Floyd McBride, the request was reduced to reflect only a five dollar increase. Costs in the juvenile detention center are approximately $67 per diem.

said to be a new level of activity or service, nor can they be said to be an increased level of activity or service "beyond that required by existing law" because Section 211.011 RSMo 1978 et seq. has established a continuing mandate for the adequate "care, protection and discipline of children". Similarly, the funding of a new staff position and the participation of the City in funding of the diversion program cannot only be found to involve activities required by this existing law, but can also be characterized as incident to the operation of a juvenile court. Goodwin v. Circuit Court of St. Louis County, Nos. 83-1161 and 83-1163 (3th Cir., August 23, 1984).

Circuit Clerk's Budget

XVIII.

Finally, we are presented with the issue of the Circuit Clerk's request for funding of an IBM mainframe computer, Department 310, Line Items 5503 and 5830.[7] In our consideration of the City's 1983-84 petition (No. 84-0006) on this same issue, we concluded that initiation of a project which impacts on future budget years required a clear understanding of all involved parties. The mortgaging of the financial future of both a court and a local government demands full disclosure and frank discussion. This can best be accomplished at the beginning of the fiscal year rather than in the middle of the year.

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[7] Line items 5503 and 5830 cover the computer, software and anticipated costs attendant on conversion from Rejis to an in-house system and implementation of an integrated case tracking and financial accounting system on this computer.

Having concluded that the [illegible] of previously approved funds was not within the contemplation of the parties and therefore the requested expenditure was not reasonable, we now address the reasonableness of the request in the 1984-85 budget for a mainframe computer, housed in the Clerk's office, to implement an integrated case management and financial accounting system for the Circuit Clerk.[8]

The City has already acknowledged the necessity of an automated financial accounting system for the Clerk's office, already provides computerized caseload tracking through the Regional Justice Information System, "Rejis", and has already agreed to supply the Clerk with anything that a new in-house computer would provide his office. Therefore, the issue of economic reasonableness need not be addressed here, in spite of the Clerk's contention that his proposal would be more cost effective than combined utilization of Rejis.

The only issue remaining before us then, is whether it is reasonable to propose housing a mainframe computer on the premises of the Clerk's office to run an integrated caseload tracking, financial accounting system. The Clerk contends that considerations of confidentiality and efficiency are of paramount importance and necessitate an in-house operation. The City maintains that Rejis can meet established standards of confidentiality and efficient operation and, therefore, installation of a new computer would be duplicative of existing capabilities.

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[8] In reaching our conclusion on the reasonableness of the 1983-84 requested expenditure, the Commission weighed both existing case authority, which addresses the concept of reasonableness in terms of necessity, and statutory law which now places the issue of reasonableness in the context of a balancing of the court's necessary expenditures with all other necessary expenditures of government and government's total available revenues. Section 50.640 RSMo Supp. 1983.

We conclude that the orderly [illegible] of the Clerk's office of the Circuit Court would not be placed in jeopardy in the absence of housing a mainframe computer in the Clerk's office, in light of the fact that equivalent services would seem to be available from Rejis. With respect to the question of efficiency, witnesses testified that there would be no differential in reliability and response time on either system. With respect to the issue of confidentiality, testimony established that having computer hardware--the mainframe computer--in one location or another would make no guarantee of confidentiality. Confidentiality resides in software--programming--and in systematic security precautions. Rejis has an established record of providing the necessary confidentiality and security for clients who are obligated to provide such considerations, courts, universities, hospitals and it has received the approval of the State Judicial Records Committee. Supreme Court Administrative Rule 1.2[illegible]. In light of the evidence produced by both parties and in the absence of any evidence that the Clerk's proposed system cannot be run from Rejis or that service from Rejis would be so inadequate as to jeopardize the orderly operation of the court, we find that no necessity for an in-house operation exists at this time. In re 1983 Budget for the Circuit Court of St. Louis, 665 S.W. 2d at 945.

The City has agreed to provide the Clerk with whatever computer services he finds he needs. The Clerk has commendably spent considerable time and effort to professionally assess his office's needs and to identify and provide a comprehensive solution to these problems. It is now the responsibility of the City to provide those services in a timely fashion. In spite of the ever present fiscal concerns which have pervaded other budget item negotiations between the City and the

Court, we note that no question of financial unreasonableness is raised here as long as the Rejis system is utilized by the Clerk's office. Provided the City follows through in good faith with its representations of cooperation, no need to operate an in-house computer exists. The request is not reasonable under the present circumstances.

XIX.

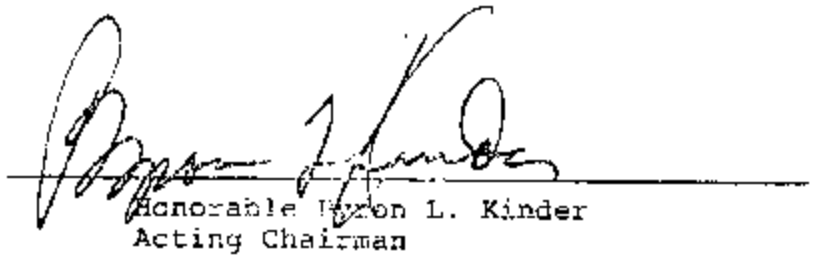
Finally, both parties agree that the following line items: 5401 and 5501 in Department 310, 5112 in Department 311, 5501 and 5210 in Department 315, and 5101 and 5530 in Department 320, include funding necessitated by acts of the General Assembly since November 4, 1980. Each of these items presents a purely legal question, each is the subject of pending litigation in the Cole County Circuit Court, City of St. Louis v. State of Missouri et al., No. CV184-580CC, and none has been specifically challenged by the City on the grounds of factual reasonableness, other than in the context of the Hancock Amendment, Similarly, the City's challenge, on Hancock grounds, of the bottom line dollar figure of the Court's 1984-85 budget request, as it exceeds the 1980-81 budget appropriation, is also governed by these judicial considerations. Therefore, we decline to address either issue at this time. State Tax Commission v. Administrative Hearing Commission, 641 S.W. 2d 69 (Mo. banc 1982).

DECISION

It is the decision of this commission that Petitioner, the City of St. Louis, is obligated to fund Line Items 5838, 5839, 5840 and 5841, all pertaining to capital improvements in the Department 311 budget, as well as Line Items 5101, 5530 and 5832 in the Department 320 budget. However, under the present circumstances, the City is

not obligated to fund Line Items 5[illegible] and 5330 in the Department 310 budget, insofar as they pertain to the in-house computer project.

Dated this 24 day of October, 1984



Honorable Byron L. Kinder
Acting Chairman

Honorable Douglas Haile
Honorable Gene Huckstep
Honorable Archie McGee
Honorable Daniel J. O'Toole
Honorable James R. Reinhard
Honorable John M. Yeaman