

## Memorandum

TO: Robin Jean Davis  
FROM: Arthur Angus, Jess Gundy  
RE: Check out Procedure for WVSCA Vehicles  
DATE: August 25, 2016

There are currently no formal written policies or procedures that governs requesting a WVSCA vehicle, however; the procedure we utilize for signing out a vehicle normally entails getting on the WVSCA intranet and filling out a request (copy is attached to this memo). Sometimes requests are made by e-mail. On other occasions a request is either made verbally in person or over the telephone.

On occasions where the destination was not recorded, the vehicle was normally operated by a runner who was traveling to numerous locations within the Charleston area. On other occasions we were aware of where the vehicle was being driven because one of us was the operator and we were either driving it locally or taking it to be serviced.

When a written request is made by a court employee over the intranet or by e-mail the destination is always recorded because that is one of the required fields on the request. When a court employee makes a verbal request they will state where they are going or we will ask in order to record it in the destination field on the reservation program. In the past, when a Justice or the Court Administrator would make a verbal request we would not always inquire what their destination was if they did not voluntarily give one.

The only person we can recall that failed to provide a destination when asked was Justice Loughry.

Cc: Other Justices

**SUPREME COURT OF APPEALS**STATE CAPITOL COMPLEX  
ROOM E-301

CHARLESTON, WEST VIRGINIA 25305

(304) 558-4811

ROBIN JEAN DAVIS

*Justice*

## Memorandum

TO: Steve Canterbury, Administrative Director

FROM: Robin Jean Davis, Justice *RJD*

RE: Administrative Conference on August 31, 2016

DATE: August 2, 2016

Steve,

I am requesting that three items be placed on the August 31 Administrative Conference. They include court cars, court gas cards, and educational conferences for the Justices. I am requesting that these items be discussed for several reasons. First, over the past two years, all members of the Court have been concerned about auditing, budgeting, limiting expenses and transparency in all aspects of our Court family. In fact, we have insisted that all divisions make a concentrated effort to reduce spending as the Chief has said over and over we are out of money.

Secondly, a series of recent newspaper articles and audits show very clearly that members of the Legislature, the Auditor's Office and the State newspapers are exposing and questioning the use of vehicles by high-ranking administrators and are also focusing on improper expenditures and reimbursements from high-ranking officials in state government. One need only to look at the following articles to understand my concerns:

1. Charleston Gazette, May 20, 2016. WV prison chief target of investigation. audit shows by Eric Erye.
2. Charleston Gazette-Mail, July 27, 2016. Audit reviews state-owned fleet of vehicles by Eric Erye.
3. Charleston Daily Mail, July 28, 2016. New audit of state vehicle fleet overdue
4. Jackson Hole Daily, July 19, 2016. Prosecuting attorney in Wyoming found guilty of misusing county money to buy cameras and other items for personal use by Wyoming In Brief.

More specifically, I am identifying my areas of concern, including, but not limited, to the following:

1. Court Cars:

- A. Audit.
- B. Inadequate Monitoring of Court Vehicles.
- C. Assignment of Court Vehicles for court purposes and court business.
- D. IRS issues.
- E. Establish written policies.

2. Court Gas Cards:

- A. Audit.
- B. Inadequate and/or No tracking system.
- C. IRS issues.
- D. Establish written policies.

3. W. Va. Supreme Court Justices Expenditure for out of state and in-state Educational Conferences:

- A. Audit Expenses.
- B. Limit the number of out of state and in-state conferences.
- C. Establish written policies.

cc: Other Justices

## Memorandum

TO: Arthur Angus  
Jess Gundy

FROM: Robin Jean Davis *RJD*

RE: Check Out Procedure for WVSCA Vehicles

DATE: August 24, 2016

Could you please provide to me, in writing, the procedures and/or policies which you have implemented for all Court personnel and Justices in the recent past? It is my understanding that beginning in 2011, you began to maintain records regarding use of the State cars.

I have generally reviewed the State car use documents which you provided to me. Based upon my review, I have the following questions:

1. On many occasions for all vehicles, no destination was recorded. Why?
2. When a car is checked out, do you ask each person the destination?
3. Has any person or person(s) refused to provide you that information? If so, please state to me, in writing, that person or person(s), including any Justice on the WVSCA.

I realize that Arthur is on vacation and will not be returning to the office until Monday, August 29, 2016. If possible, I would like to have answers to these questions no later than Tuesday morning, August 30, 2016.

cc: Other Justices

## Memorandum

TO: Steve Canterbury, Administrative Director

FROM: Robin Jean Davis, Justice *RJD*

RE: State Cars Owned by WVSCA

DATE: August 25, 2016

I requested from Sue Troy documentation regarding use of state cars owned by the WV Supreme Court. I asked her also to match those uses to Court owned gas cards.

My review indicates that the information regarding destination, was sometimes not recorded. Sue has provided me information, to date, for the years 2016, 2015, 2014, and 2013. Sue is still working on 2012 and 2011.

I am still reviewing the information. However, I would like answers to the following questions:

The following is the 2015 schedule of car use for Justice Loughry:

<u>Date</u>	<u>Destination</u>	<u>Days</u>	<u>Gas</u>
March 13-16	No Record	Fri.-Monday	Charleston
March 24-26	No Record	Tues.-Thurs.	Elkview
May 4-8	No Record	Mon.-Fri.	Ivydale Charleston
June 26-29	No Record	Fri.-Monday	Sutton Charleston
July 17-20	No Record	Fri.-Monday	Charleston Sutton Elkins
Aug. 3-7	No Record	Mon.-Fri.	Ivydale Charleston

<u>Date</u>	<u>Destination</u>	<u>Days</u>	<u>Gas</u>
Aug. 19-21	No Record	Wed.-Fri.	Sutton Weston
Oct. 19-23	Morgantown	Mon.-Fri.	
Oct. 22		Thursday	Parsons
Nov. 10-16	No Record	Mon.-Mon.	Cov. Va Cumb. Md. Sutton Charleston
Nov. 23-25	No Record	Mon.-Wed.	Weston
Dec. 11-14	No. Record	Fri.-Mon.	Parsons
Dec. 18-28 (11 days)	No Record	Fri.- 2 <sup>nd</sup> Monday	Lost Creek Weston Berkeley Springs

Please let me know the following:

1. Why are there no destinations listed?
2. On the dates listed, do you know what Court events were scheduled?
  - March 24-26 - Tuesday through Thursday
  - May 4-8 - Monday through Friday
  - August 3-7 - Monday through Friday
  - August 19-21 - Wednesday through Friday
  - Nov. 10-16 - Monday through Monday
  - Nov. 23-25 - Monday through Wednesday
3. What Court meetings and/or hearings would be held on these weekends?
  - March 13-16 - Friday through Monday
  - June 26-29 - Friday through Monday
  - July 17-20 - Friday through Monday
  - Dec. 11-14 - Friday through Monday
  - Dec. 18-28 - Friday through Second Monday  
(11 days)
4. Were the destinations actually listed by Justice Loughry Court events scheduled

for the entire WV Supreme Court?

5. On June 26-29, July 17-20, August 3-7 and August 19-21 was the Court in recess?
7. On November 23-25, December 11-14 and December 18-December 28 was the Court in recess?

cc: Other Justices

## Memorandum

TO: Steve Canterbury, Administrative Director

FROM: Robin Jean Davis, Justice *RJD*

RE: State Cars Owned by WVSCA  
Corrected Memorandum

DATE: August 30, 2016

I requested from Sue Troy documentation regarding use of state cars owned by the WV Supreme Court. I asked her also to match those uses to Court owned gas cards.

My review indicates that the information regarding destination, was sometimes not recorded. Sue has provided me information, to date, for the years 2016, 2015, 2014, and 2013. Sue is still working on 2012 and 2011.

I am still reviewing the information. However, I would like answers to the following questions:

The following is the 2016 schedule of car use for Justice Loughry:

<u>Date</u>	<u>Destination</u>	<u>Days</u>	<u>Gas</u>	<u>Corrected</u>
Feb. 5-6	No Record	Fri.-Sat.	No State Gas Card Used	
Feb. 26- March 1	Morgantown	Fri.-Tues.		
March 20-22	No Record	Sun.-Tues.	Weston	
May 23-27	Shepardstown	Mon.-Fri.	Winch, VA Ivydale Charleston	
June 10	No Record	Friday		No State Gas Card Used



Please let me know the following:

1. Why are there no destinations listed?
2. On the dates listed, do you know what Court events were scheduled?  
March 20-22 - Sunday through Tuesday  
June 10 - Friday
3. What Court meetings and/or hearings would be held on these weekends?  
Feb. 5-6 - Friday through Saturday
4. Were the destinations actually listed by Justice Loughry Court events scheduled for the entire WV Supreme Court?

cc: Other Justices

## MEMORANDUM

TO: Chief Justice Ketchum  
Justice Workman  
Justice Benjamin

FROM: Justice Loughry

DATE: August 26, 2016

RE: Use of Court Vehicles

As each of you are now aware, Justice Davis has recently questioned the use of Court vehicles. Her new and singular interest in *my* usage of Court vehicles is designed to distract from concerns I recently voiced regarding the unapproved use of \$11,360.03 of State money for a private party for circuit judges and their spouses that was held on October 8, 2013, in her home (see the documentation in the notebook for the August 29 administrative conference). This fishing expedition is also clearly in retaliation for inquiries I made regarding the unilateral authorization of payments by our Court Administrator, Steve Canterbury, to Mark Starcher totaling approximately \$1 million and the depletion of the Court's so-called rainy day fund in the amount of \$26 million, which has never been accounted for despite numerous inquiries from more than one justice. Notwithstanding the obvious motivation for her recent inquiries, I feel that I should provide each of you with a response relative to her memorandum to Arthur Angus and Jess Gundy, dated August 24, 2016, their responsive memorandum to her dated August 25, 2016, as well as various memoranda from Justice Davis to Steve Canterbury, each dated August 25, 2016, regarding my use of Court vehicles. I unhesitatingly assure each of you that on the dates mentioned in Justice Davis' various memoranda to Mr. Canterbury, I was acting in my capacity as a Justice of this Court in utilizing a Court vehicle.

Regarding the memorandum to Mr. Angus and Mr. Gundy, as each of you is well aware, the Court has no written policy regarding the use of Court vehicles by either the members of this Court or Court employees—a fact confirmed by Mr. Angus and Mr. Gundy in their responsive memorandum to Justice Davis dated August 25, 2016. While Mr. Angus and Mr. Gundy represent that I am the only person who has not provided them with a destination for the use of a Court vehicle when asked, I assume they have never asked other justices or Court employees for their destinations. Indeed, as readily seen in information provided by Mr. Angus, as summarized in the attached charts, Mr. Canterbury utilized a Court vehicle on at least 38 occasions without providing a destination. Similarly, on at least 8 occasions, Justice Benjamin checked out a Court vehicle without stating a destination. There are entries for Justice Workman's use of a Court vehicle without a destination being supplied, as well. Likewise, Justice Davis did not list a destination for her use of a Court vehicle on multiple occasions. And, as we are all aware, Chief Justice Ketchum has utilized a Court vehicle for many years without documentation concerning the same, and he has occasionally checked out other Court vehicles without providing a destination. In short, the information retained by Mr. Angus and Mr. Gundy demonstrates that it is a common practice for Justices, as well as Court employees, to utilize Court vehicles without providing destinations—a fact that is undoubtedly attributable to the lack of a written policy requiring the same. Further, to the extent Mr. Angus and Mr. Gundy have referenced a vehicle request that can be completed on the Court's Intranet site, not

only is this the first I have ever heard of such a request, I have never been asked by either Mr. Angus or Mr. Gundy to complete such an on-line request.

While ALL justices have used Court vehicles on numerous occasions without providing either Mr. Angus or Mr. Gundy with destinations, I would never question that your use of vehicles on any of those dates was for anything other than you acting in your capacity as a Justice of this Court. Although Justice Davis has suggested that Court vehicles can only be used for official Court functions, as every member of this Court is aware, we are often called upon to speak individually as heads of the Judicial Branch of state government. In fact, such requests are not unlike the Governor being called upon to speak as head of the state's Executive Branch. Consequently, whether Court events were scheduled on certain dates when I had use of a Court vehicle and whether those events were for the entire Court is entirely irrelevant. Certainly, there could be no objection by a member of this Court to the use of a Court vehicle for speaking at a high school civics class, a legal education program, a graduation ceremony, or similar events, or visiting courthouses in the state, or engaging in any myriad of activities and functions that can arise in our capacity as justices. As for the use of Court vehicles during Court recesses by any justice, it is axiomatic that the function of the state's judiciary is year-round. Clearly, our roles as constitutional officers do not end during Court recesses. To suggest otherwise, as Justice Davis has done, is absurd, particularly since she has used Court vehicles during Court recesses.

In the event the Court decides it wants to formulate a written policy regarding the use of Court vehicles by members of this Court and judicial employees, which I would encourage, one area that should be addressed is the propriety of sitting Justices utilizing Court vehicles and Court security personnel to attend campaign functions related to their bid for reelection. While campaigning to become a Justice of this Court, I personally observed Justice Davis arrive at more than one campaign event in a Court vehicle being driven by Court security. In fact, after announcing her bid for reelection in 2011, Justice Davis used a Court vehicle 18 times that year. Then, in 2012, the year of the election, she checked out a Court vehicle on 37 occasions associated with 57 days of travel accompanied by Court security. Following her reelection, Justice Davis' use of Court vehicles drastically declined. For example, in 2013, she checked out a Court vehicle on only 2 occasions. These are the kinds of issues that I believe we should explore in developing a written policy, in addition to whether we want to require members of the Court to designate a destination when utilizing a Court vehicle.

Lastly, to the extent that Justice Davis' memoranda were directed to Mr. Canterbury, it is without question that he controls neither my schedule nor the schedule of any justice on this Court. Because the information sought by Justice Davis is well outside Mr. Canterbury's bailiwick, her memoranda are undoubtedly designed to elicit planned responses from Mr. Canterbury in their attempt to impugn my character. I refuse, however, to be bullied for raising issues concerning the clearly improper expenditure of State funds for a private party, the money paid to Mr. Starcher, and the depletion of the Court's rainy day fund without adequate explanation.

cc: Justice Davis  
Steven Canterbury

**SIDLEY**

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AMERICA • ASIA PACIFIC • EUROPE

April 11, 2018

Denny Rhodes, Director  
West Virginia Legislative Auditor's Office  
Post Audit Division  
1900 Kanawha Boulevard, East  
Room W-329  
Charleston, West Virginia 25305-0610

Dear Mr. Rhodes:

Justice Davis received your letter dated April 5, 2018, via hand delivery on Monday, April 9, 2018. She has reviewed the reservation list compiled by your office and is providing the requested information to the extent she can.

Due to the age of the entries on your list, Justice Davis independently recalls very few of them. However, she was able to obtain a copy of Arthur Angus' personal calendar for the relevant period and with the aid of those calendars she is able to provide the missing designations and purposes for most of the trips. Justice Davis has no personal or office calendars to assist her in this review.

We have prepared a chart to supply the missing information from your reservation list to the extent we have it. Have included the information from your chart for the relevant entries and anything we have added or corrected is highlighted in yellow. You should know that on some of the entries where you have indicated that the car was reserved for trips, Mr. Angus' calendar reflects no Court trip with Justice Davis on those dates. Because of this, Justice Davis believes the car was reserved but not used by Justice Davis on those dates, and has included a designation of "Do not believe car was used" on the chart. A copy of Justice Davis' reservation chart is attached hereto as Exhibit I.

Mr. Angus and Mr. Gundy are two of the Court Security Officers for the entire Court. One part of their job duties is to drive the justices to Court functions. That has been the pattern and practice for many years.

Over the years, the Court has been exposed to disgruntled litigants and others who write threatening letters and make threatening and harassing phone calls. Some of these individuals have even shown up at the Administrative Office and Supreme Court Clerk's Office which appearances have necessitated Court Security escorting them from the Supreme Court Offices.

# SIDLEY

Denny Rhodes, Director

April 11, 2018

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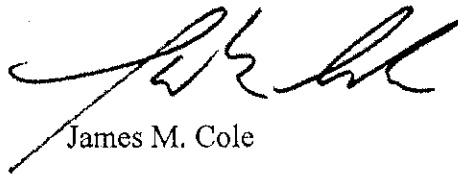
Justice Davis has, in the past, been threatened to the point some threats have been considered as death threats. This is another reason she was driven by Mr. Angus.

While at the capitol complex, the justices are physically protected by Mr. Angus and Mr. Gundy who maintain offices both inside and outside the Justices' Chambers. The Justices' Chambers are also secured by a security code key pad. Additionally, the chamber door is reinforced with level three Kevlar ballistic material.

Finally, the Court Security Officers maintain security research which clearly explains the need for justices', or an individual justice's, security when traveling. See Exhibit 2 titled: Murdered Justice: An Exploratory Study of Targeted Attacks on the Justice Community.

Should you have any further questions, please do not hesitate to contact me.

Sincerely,



James M. Cole

JMC:mjp

Enclosures

## RESERVATION CHART

## EXHIBIT 1

Destination	Reservation	Beginning Date	Ending Date	Purpose
Stonewall	Davis/Arthur	9/14/11	9/14/11	Specific purpose of trip not listed on calendar.
Charleston	Davis/Arthur	9/20/11	9/20/11	Do not believe car was used.
Morgantown	Davis/Arthur	10/4/11	10/4/11	Speaking Engagement at Lakeview
Clarksburg Village Senior Conference Ctr.	Davis/Arthur	10/17/11	10/17/11	Specific purpose of trip not listed on calendar.
Beckley	Davis/Arthur	10/25/11	10/25/11	Do not believe car was used.
Princeton	Davis/Arthur	11/10/11	11/10/11	Board of Education Truancy Meeting
Charleston	Davis/Arthur	1/26/12	1/26/12	Prosecuting Attorney Conference
Charleston	Davis/Arthur	2/10/12	2/10/12	Do not believe car was used.
Boone/Lincoln/ Putnam	Davis/Arthur	2/22/12	2/22/12	Met with Judge Thompson; looked at New Family Court Facility. In Hamlin looked at Methodist Church for potential Court Annex; Met with Putnam Co. Judges

## RESERVATION CHART

## EXHIBIT 1

Mercer/ Wyoming/ McDowell	Davis/Arthur	2/28/12	2/28/12	Security Audit and Met with Judges
Spencer/Clay/ Fayetteville	Davis/Arthur	3/15/12	3/16/12	Security Audit and met with Judge Alsop. Security Audit and met with Judge Hatcher.
Pocahontas/ Greenbrier	Davis/Arthur	3/28/12	3/28/12	Security Audit and Meetings
Jackson County	Davis/Arthur	4/9/12	4/9/12	Met with Sheriff Bright; Security Audit and Truancy follow up
Taylor/Barbour/ Monroe & Summers Counties	Davis/Arthur	4/12/12	4/13/12	Security Audit and Truancy follow up meeting with Judge Moats. Security Audit and Truancy follow up meeting with Judge Irons.
Greenbrier	Davis/Arthur	5/4/12	5/4/12	Justice McHugh and Justice Davis spoke at the Greenbrier
Jackson County	Davis/Arthur	5/29/12	5/29/12	Specific purpose of trip not listed on calendar.

## RESERVATION CHART

EXHIBIT 1

Destination should be New Martinsville, Wetzel Co., Tyler Co., Pleasants Co. Wood County	Davis/Arthur	6/22/12	6/22/12	Security Audits
Bridgeport	Davis/Arthur	7/24/12	7/24/12	ARP - Do not believe car was used.
Morgantown	Davis/Arthur	8/4/12	8/4/12	Specific purpose of trip not listed on calendar.
Destination should be Morgantown Princeton	Davis/Arthur	8/13/12	8/14/12	Circuit Clerk Conference in Morgantown Waterfront Do not believe car was used on 8/14/12
	Davis/Arthur	8/21/12	8/24/12	Do not believe car was used.
Greenbrier County	Davis/Arthur	8/29/12	8/29/12	Do not believe car was used.
Webster Springs	Davis/Arthur	9/7/12	9/7/12	Security Audits
Snowshoe	Davis/Arthur	9/16/12	9/16/12	Specific purpose of trip not listed on calendar.
Elkins	Davis/Arthur	9/25/12	9/25/12	Do not believe car was used.
Buckhannon/ Morgantown	Davis/Arthur	10/9/12	10/9/12	Spoke at Rotary Club and met with Newspaper
Oglebay/ Wheeling	Davis/Arthur	10/16/12	10/16/12	Do not believe car was used.



## RESERVATION CHART

## EXHIBIT 1

Princeton	Davis/Arthur	10/18/12	10/18/12	Do not believe car was used.
Huntington	Davis/Arthur	10/24/12	10/24/12	Specific purpose of trip not listed on calendar.
Logan	Ketchum/Davis /Arthur	11/1/12	11/1/12	Court Business
Wheeling Ohio County Courthouse	Davis/Arthur	4/25/13	4/25/13	Specific purpose of trip not listed on calendar.
Clay	Davis/Arthur	1/17/14	1/17/14	Specific purpose of trip not listed on calendar.
Boone	Davis/Arthur	4/7/14	4/7/14	LAWS program at courthouse
The Greenbrier	Davis/Arthur	7/17/14	7/24/14	CCJ/COSCA Conf. 7/20-7/22/2014* travel shows personal vehicle used. (See attached Exxon Mobil Statement) Scott Segal drove Robin Jean Davis. RJD returned to Charleston, WV with Pat Tillery.

## RESERVATION CHART

## EXHIBIT 1

The Greenbrier Courtroom #4 Kanawha County	Davis/Arthur	9/22/14	9/25/14	Plantz Hearing. Justice Davis did not attend the Plantz hearing. Arthur Angus transported Circuit Judges Wilkes, Miller and Sweeney to Courtroom #4 in Kanawha County.
Chapmanville Funeral Home, Teays Valley	Davis/Arthur	12/17/14	12/17/14	Funeral of Judge Spaulding
	Davis/Arthur	9/14/15	9/14/15	Do not believe car was used.
Cross Lanes Christian School	Davis/Arthur	11/9/15	11/9/15	School Function/ Judging
Monroe Co.	Ellis/Davis/ Lori P.	1/19/18	1/19/18	Robin Jean Davis was not on this trip. Reservation under the name Lori Paletta- Davis and Kim Ellis

City	State	NAME	VEHICLE	START TIME	END TIME	EXPLANATION
St Louis	MO	Steve Canterbury	Buick LaCrosse-Black	7/18/2012 0:00	7/30/2012 23:59	Annual Meeting of COSCA/CCJ
Huntington	WV	steve canterbury	Buick Lucerne-Mocha	8/15/2012 0:00	8/15/2012 23:59	County Com. Mtg/re: Magistrate Security
Martinsburg	WV	Steve Canterbury	Buick Lucerne-Mocha	8/23/2012 0:00	8/24/2012 23:59	Law Library Removal/Business Court remodeling
Charleston	WV	Steve	Buick Lucerne-Mocha	8/31/2012 0:00	8/31/2012 23:59	Community Corrections Subcom mtg
Huntington	WV	Steve	Buick Lucerne-Mocha	9/25/2012 0:00	9/25/2012 23:59	Magistrate space renovation mtg w/ County Com.
Marlinton	WV	Steve Canterbury	Buick Lucerne-Mocha	9/26/2012 0:00	9/26/2012 23:59	Mtg. with magistrates, county staff, re: magistrate space
Marlinton	WV	Steve	Buick Lucerne-Mocha	9/27/2012 8:00	9/27/2012 18:00	Mtg. with magistrates, circuit clerk – space allocation
Martinsburg	WV	Steve	Buick Lucerne-Mocha	10/8/2012 6:00	10/10/2012 9:00	Business Court Grand Opening
Martinsburg	WV	Steve	Buick Lucerne-Mocha	10/15/2012 6:00	10/19/2012 9:00	Jefferson Drug Court mtg/Berkeley Drug Court mtg/Fed. Judge Gina Groh Investiture
Washington	DC	Steve Canterbury	Buick LaCrosse-Black	11/13/2012 0:00	11/16/2012 23:59	COSCA/NCSC** Meetings
Salem	WV	Steve	Buick LaCrosse-Black	12/17/2012 8:00	12/18/2012 18:00	Juv. Justice Reform Meeting
Harrisville	WV	Steve	Buick LaCrosse-Black	12/18/2012 0:00	12/19/2012 0:00	Ritchie County Com. re: inadequate Family Court space
Charleston	WV	Steve	Buick LaCrosse-Black	12/20/2012 0:00	12/20/2012 23:59	Kanawha County Courthouse for Justice McHugh's portrait unveiling
Blank		Steve	Buick LaCrosse-Black	2/8/2013 17:00	2/11/2013 10:00	Blank
Wayne	WV	steve	Buick LaCrosse-Black	3/8/2013 0:00	3/8/2013 23:59	Wayne County Judicial Annex meeting
Washington	DC	Steve	Buick LaCrosse-Black	3/12/2013 7:00	3/15/2013 18:00	Justice Center Meeting
Blank		Steve	Buick LaCrosse-Black	3/29/2013 9:00	4/5/2013 15:00	Blank
Charleston	WV	Steve	Buick LaCrosse-Black	5/20/2013 0:00	5/20/2013 23:59	Andrew Schneider mtg: LGBTQ rights in court
Charleston	WV	Steve	Buick LaCrosse-Black	6/27/2013 6:00	6/28/2013 11:00	LAAC*** Tech Meeting
Charleston	WV	Steve Canterbury	Buick Lucerne-Mocha	6/28/2013 0:00	6/28/2013 23:59	LAAC*** Tech Meeting
Burlington	VT	Steve	Buick LaCrosse-Black	7/23/2013 6:00	8/5/2013 18:00	Annual COSCA/CCJ Meeting
Wheeling	WV	steve	Buick LaCrosse-Black	8/11/2013 8:00	8/16/2013 19:00	Cir. Clerks Conf
Fairmont	WV	Steve	Buick LaCrosse-Black	8/27/2013 9:00	8/28/2013 18:00	Mtg. w/ Barb Core re: clerks and tech
Charleston	WV	Steve	Buick LaCrosse-Black	8/29/2013 0:00	8/29/2013 23:59	Gov's Com. on Crime, Delinquency, and Corrections
Baltimore	MD	Steve	Buick LaCrosse-Black	9/16/2013 7:00	9/20/2013 18:00	Presenter at NCSC Court Tech Conf.
Glade Springs	WV	Steve Canterbury	Buick LaCrosse-Black	9/26/2013 0:00	9/27/2013 23:59	Judicial Conference
Roanoke	WV	steve	Buick Lucerne-Mocha	10/1/2013 7:00	10/3/2013 18:00	Stonewall Resort – Family Court Conference
Washington	DC	Steve	Buick LaCrosse-Black	11/18/2013 7:00	11/25/2013 10:00	COSCA/NCSC Meetings
Blank		Steve Canterbury	Buick Lucerne-Mocha	12/23/2013 20:00	12/24/2013 23:59	Blank
Charles Town	WV	Steve	Buick Lucerne-Mocha	12/26/2013 0:00	12/26/2013 23:59	Emergency meeting with Judge Yoder
Blank		Steve	Buick Lucerne-Mocha	12/27/2013 0:00	12/27/2013 23:59	Blank
Buchhannon	WV	Steve	Buick Lucerne-Mocha	12/30/2013 0:00	12/31/2013 23:59	Judge Keadle Retirement
Franklin	WV	Mr. "C"	Buick Lucerne-Mocha	1/5/2014 0:00	1/8/2014 23:59	Franklin for Family Court plan mtg.; Romney mtg. w/ Drug Court, Judge Parsons, Judge Carl
Princeton	WV	Steve Canterbury	Buick Lucerne-Mocha	2/6/2014 0:00	2/6/2014 23:59	Mtg. w/ former Magistrate Fowler and Ad. Counsel
Charleston	WV	Steve Canterbury	Buick Lucerne-Mocha	2/18/2014 0:00	2/18/2014 23:59	Mtg. re: Kanawha Family DV Court; staff
Charleston	WV	Steve	Buick Lucerne-Mocha	2/19/2014 0:00	2/19/2014 23:59	Bar Association re: Bar budget
Charleston	WV	Steve	Buick Lucerne-Mocha	2/20/2014 0:00	2/20/2014 23:59	Presentation at retirement of Mental Hygiene Com. Tom Hayes
Charleston	WV	Steve Canterbury	Buick Lucerne-Mocha	2/24/2014 0:00	2/24/2014 23:59	City Center East w/ Real Estate Agent and Owner's Rep
Charleston	WV	Steve	Buick Lucerne-Mocha	2/25/2014 0:00	2/25/2014 0:00	City Center East w/ Architect
Huntington	WV	Steve	Buick Lucerne-Mocha	2/26/2014 0:00	2/26/2014 0:00	Cabell Judge Chris Chiles' Investiture
Charleston	WV	Steve	Buick Lucerne-Mocha	2/27/2014 0:00	2/27/2014 0:00	City Center East mtg. w/ Justice Reinvestment Consultants
Parkersburg	WV	Steve	Buick Lucerne-Mocha	2/28/2014 0:00	2/28/2014 0:00	Judge J. D. Beane mtg. and lunch
Greenbrier	WV	Steve	Buick Lucerne-Mocha	4/8/2014 0:00	4/8/2014 23:59	White Sulphur Springs Prep. Mtg. for CCJ/COSCA Annual Meeting in WV
Blank		Steve	Buick Lucerne-Mocha	4/15/2014 9:00	4/18/2014 18:00	Blank
Louisville	KY	Steve Canterbury	Buick LaCrosse-Black	5/15/2014 0:00	5/16/2014 23:59	Opening of New CSG**** HQ
Philadelphia	PA	Steve	Buick LaCrosse-Black	5/27/2014 7:00	6/2/2014 18:00	Mid-Atlantic CCJ/COSCA Conf
Washington	DC	Steve	Buick LaCrosse-Black	6/11/2014 9:00	6/16/2014 10:00	Justice Center Mtg.

White Sulphur Springs	WV	Steve Canterbury	Buick LaCrosse-Black	6/30/2014 14:00	7/2/2014 14:00	Annual Mtg. Prep/walk through
Bridgeport	WV	Steve	Buick LaCrosse-Black	8/24/2014 7:00	8/25/2014 18:00	Juv. Justice Reform Mtg
Washington	DC	Steve	Buick LaCrosse-Black	9/9/2014 8:00	9/11/2014 19:00	Justice Center Mtg.
<b>Blank</b>		Steve Canterbury	Buick Lucerne-Mocha	9/23/2014 14:00	9/26/2014 17:00	<b>Blank</b>
Charleston	WV	Steve Canterbury	Dodge Caravan-Black	10/23/2014 0:00	10/23/2014 23:59	Mtg. w/ Tom Potts of Silling Associates re: Harrison Annex
Moundsville	WV	Steve Canterbury	Buick LaCrosse-Black	2/6/2015 0:00	2/6/2015 23:59	Mtg. w/ Marshall Judge Karl w/ Ad. Counsel
Washington	DC	Steve	Buick LaCrosse-Black	2/22/2015 17:00	2/26/2015 17:00	Justice Center "Stepping Up" Mental Health provision conf.
Monroe CO.	WV	Steve Canterbury	Buick LaCrosse-Black	4/15/2015 0:00	4/15/2015 23:59	Union mtg. with Monroe Judge Irons and County Comm. re: magistrate space
McDowell	WV	Steve Canterbury	Buick LaCrosse-Black	5/1/2015 0:00	5/1/2015 23:59	Welch Annual Law Day Presentation
Annapolis	WV	Steve	Buick LaCrosse-Black	5/12/2015 12:00	5/16/2015 18:00	CCJ/COSCA MidAtlantic Conf
Keyser	WV	Steve Canterbury	Buick LaCrosse-Black	5/22/2015 0:00	5/22/2015 23:59	Grand Opening Family Court
Eastern Panhandle	WV	Steve Canterbury	Buick LaCrosse-Black	7/1/2015 0:00	7/1/2015 23:59	Charles Town Juv. Drug Court mtg.
Washington	DC	Steve	Buick LaCrosse-Black	7/2/2015 0:00	7/3/2015 0:00	Justice Center
<b>Blank</b>		Steve	Buick LaCrosse-Black	8/12/2015 0:00	8/12/2015 23:59	<b>Blank</b>
Lexington	KY	Steve	Buick LaCrosse-Black	8/28/2015 13:00	8/31/2015 17:00	Justice Center Mtg. w/ CSG Staff
Flatwoods	WV	Steve	Buick LaCrosse-Black	10/28/2015 0:00	10/29/2015 23:59	Presenter/WVRJA S. Markle Retirement
Washington	DC	Steve Canterbury	Buick LaCrosse-Black	11/17/2015 10:00	11/23/2015 10:00	COSCA/NCSC Meetings
Fairmont	WV	Steve	Buick LaCrosse-Black	1/6/2016 0:00	1/6/2016 23:59	Investiture of Marion Judge Wilson
Keyser	WV	Steve Canterbury	Buick LaCrosse-Black	2/2/2016 0:00	2/2/2016 23:59	Investiture of Mineral Judge Courier
Bluefield	WV	Steve	Buick LaCrosse-Black	2/3/2016 0:00	2/3/2016 23:59	Investiture of Fed. Magistrate Aboulhosn
Charleston	WV	Steve	Buick LaCrosse-Black	2/23/2016 0:00	2/23/2016 23:59	Mtg. with Andrew Schneider re: LGBTQ rights in court
Huntington	WV	Steve	Buick LaCrosse-Black	3/8/2016 0:00	3/8/2016 23:59	Robert Shell Center -- Juv. Justice Reform mtg.
Davidson	NC	Steve	Buick LaCrosse-Black	3/10/2016 16:00	3/11/2016 17:00	Intern program interviews and presentation
Fayetteville	WV	Steve	Buick LaCrosse-Black	3/15/2016 0:00	3/15/2016 23:59	Mtg. w/ Family Court re: adequate space
Clarksburg	WV	Steve Canterbury	Buick LaCrosse-Black	3/21/2016 9:00	3/21/2016 9:00	Investiture of Fed. Magistrate Aloï
Fayetteville	WV	Steve	Buick LaCrosse-Black	3/28/2016 13:00	3/28/2016 17:00	Mtg. w/ Circuit Clerk Kessler re: e-filing
Montgomery	WV	Steve	Buick LaCrosse-Black	3/29/2016 0:00	3/29/2016 0:00	Future of WV Tech/Foster Children
<b>Blank</b>		Steve	Buick LaCrosse-Black	3/31/2016 0:00	3/31/2016 23:59	<b>Blank</b>
Princeton	WV	Steve	Buick LaCrosse-Black	6/15/2016 0:00	6/15/2016 23:59	Investiture of Mercer Judge Wills
Greenbrier	WV	steve	Buick LaCrosse-Black	6/17/2016 0:00	6/17/2016 23:59	Lewisburg Investiture of Judge Dent
Spencer and Calhoun	WV	Steve Canterbury	Buick LaCrosse-Black	7/6/2016 0:00	7/6/2016 23:59	Mtg. w/ Judge-Elect Ashley

## Completed List of State Car Use for Steve Canterbury

I have listed below each item in the spreadsheet provided by Denny Rhodes on March 26, 2018. If the item had a blank, I have entered "(Blank)" to indicate so, followed by what I have found through my personal calendars and/or scrapbook clippings to have been the destination. The purpose of going to each destination follows, and the line is completed by the dates as listed in the spreadsheet. Every line has been addressed.

If "(Blank)" is in bold, that indicates that I have been unable to determine where I went on that date. Alas, I have not been able to find all of the items in my own personal calendars. The blank dates could very well be in the more complete calendars kept by my two executive assistants, Ms. Mary Greene and Ms. Joan Mullins. All of my calendars should be on file in the Administrative Director's Office if you wish to check on those dates.

If you have any questions about any of this, please don't hesitate to contact me.

St. Louis – Annual Meeting of COSCA/CCJ\* – 7/18/12 – 7/30/12

Huntington – County Com. Mtg/re: Magistrate Security – 8/15/12 -- 8/15/12

Martinsburg – Law Library removal/Business Court remodeling – 8/23/12 – 8/24/12

(Blank) – Charleston -- Community Corrections Subcom mtg -- 8/31/12 – 8/31/12

(Blank) – Huntington – Magistrate space renovation mtg with County Com. – 9/25/12 – 9/25/12

(Blank) – Marlinton – Mtg. with magistrates, county staff, re: magistrate space – 9/26/12

(Blank) – Marlinton – Mtg. with magistrates, circuit clerk – space allocation – 9/27/12

Martinsburg – Business Court Grand Opening – 10/8/12 – 10/10/12

Martinsburg – Jefferson Drug Court mtg/Berkeley Drug Court mtg/Fed. Judge Gina Groh Investiture –  
10/15/12 - 10/19/12

(Blank) -- D.C. – COSCA/NCSC\*\* Meetings – 11/13/12 – 11/16/12

Charleston is incomplete as a destination for 12/17/12 – 12/21/12

Salem – Juv. Justice Reform Meeting – 12/17/12 – 12/18/12

Harrisville – Ritchie County Com. re: inadequate Family Court space – 12/18/12 – 12/19/12

Charleston – Kanawha County Courthouse for Justice McHugh's portrait unveiling – 12/20/12

No explanation for 12/21/12 (except that Mr. Angus might have been on annual leave during December and the car wasn't properly checked in by Deputy Gundy until 12/21/12)

(Blank) -- 2/8/13 – 2/11/13

(Blank) Wayne – Wayne County Judicial Annex meeting – 3/8/13 – 3/8/13

(Blank) D.C. – Justice Center Meeting – 3/12/13 – 3/15/13

(Blank) -- 3/29/13 – 4/5/13

(Blank) – Charleston – Andrew Schneider mtg: LGBTQ rights in court – 5/20/13

Steve's Interns -- not Canterbury himself! -- 6/12/13 – 6/21/13

(Blank) – Bronze Chevy was likely reserved for interns in my name; it had been wrecked earlier in

June. I don't recall ever driving the bronze Chevy. In any case, no one was driving it on 6/19/13!

(Blank) -- Charleston (back and forth from Capitol) – LAAC\*\*\* Tech Meeting – 6/27/13 – 6/28/13

Charleston -- (back and forth from Capitol) – LAAC\*\*\* Tech Meeting – 6/28/13 – 6/28/13

Vermont – Annual COSCA/CCJ Meeting (in Burlington) – 7/23/13 – 8/5/13

Cir. Clerks Conf. – in Wheeling at Oglebay – 8/11/13–8/16/13

(Blank) -- Fairmont – Mtg. w/ Barb Core re: clerks and tech -- 8/27/13 – 8/28/13

Charleston – Gov's Com. on Crime, Delinquency, and Corrections – 8/29/13

Baltimore – Presenter at NCSC Court Tech Conf. – 9/16/13 – 9/20/13

Glade Springs – Judicial Conference – 9/26/13 – 9/27/13

(Blank) -- Stonewall Resort – Family Court Conference – 10/01/13 – 10/03/13

(Blank) -- D.C. – COSCA/NCSC Meetings – 11/18/13 – 11/25/13

(Blank) – 12/23/13 – 12/24/13

(Blank) -- Charles Town -- Emergency meeting with Judge Yoder -- 12/26/13 -- 12/26/13

(Blank) -- 12/27/13 -- 12/29/13

(Blank) -- Buchhannon -- Judge Keadle Retirement -- 12/30/13 -- 12/31/13

(Blank) -- Franklin for Family Court plan mtg.; Romney mtg. w/ Drug Court, Judge Parsons, Judge Carl --  
1/5/14 -- 1/8/14

Mercer -- Princeton mtg. w/ former Magistrate Fowler and Ad. Counsel -- 2/06/14 -- 2/06/14

(Blank) -- Charleston -- Mtg. re: Kanawha Family DV Court; staff -- 2/18/14

Northpark Charleston -- Bar Association re: Bar budget -- 2/19/14

Charleston -- Presentation at retirement of Mental Hygiene Com. Tom Hayes -- 2/20/14

(I have no idea why the car is listed as being turned in on 2/21/14, especially since that's  
a Saturday. Perhaps there was an entry error.)

(Blank) -- Charleston -- City Center East w/ Real Estate Agent and Owner's Rep -- 2/24/14

Charleston -- City Center East w/ Architect -- 2/25/14

Huntington -- Cabell Judge Chris Chiles' Investiture -- 2/26/14

Charleston -- City Center East mtg. w/ Justice Reinvestment Consultants -- 2/27/14

Parkersburg -- Judge J. D. Beane mtg. and lunch -- 2/28/14

Greenbrier -- White Sulphur Springs Prep. Mtg. for CCJ/COSCA Annual Meeting in WV -- 4/8/14 -- 4/8/14

(Blank) -- 4/15/14 -- 4/18/14

(Blank) Louisville -- Opening of New CSG\*\*\*\* HQ -- 5/15/14 -- 5/16/14

(Blank) Philadelphia -- Mid-Atlantic CCJ/COSCA Conf. -- 5/27/14 -- 6/2/14

Wash D.C. -- Justice Center Mtg. -- 6/11/14 -- 6/16/14

Lewisburg -- Actually, White Sulphur Springs -- Annual Mtg. Prep/walk through -- 6/30/14 -- 7/02/14

Bridgeport -- Juv. Justice Reform Mtg. -- 8/24/14 -- 8/25/14

(Blank) -- D. C. -- Justice Center Mtg. -- 9/09/14 -- 9/11/14

(Blank) -- 9/23/14 -- 9/26/14

(Blank) -- Charleston -- Mtg. w/ Tom Potts of Silling Associates re: Harrison Annex -- 10/23/14 -- 10/23/14

Moundsville – Mtg. w/ Marshall Judge Karl w/ Ad. Counsel – 2/05/15 – 2/06/15  
(Blank) – D.C. – Justice Center “Stepping Up” Mental Health provision conf. – 2/22/15 – 2/26/15  
Monroe Co. – Union mtg. with Monroe Judge Irons and County Comm. re: magistrate space – 4/15/15  
McDowell – Welch Annual Law Day Presentation – 5/01/15 – 5/01/15  
(Blank) – Annapolis, MD – CCJ/COSCA MidAtlantic Conf – 5/12/15 – 5/16/15  
Mineral – Keyser – Grand Opening Family Court – 5/22/15 – 5/22/15  
Eastern Panhandle – Charles Town Juv. Drug Court mtg. – 7/01/15  
D.C. – Justice Center 7/2/15 – 7/3/15  
(Spreadsheet notes I returned car on 7/04/15, unlikely since that’s a holiday.)  
(Blank) – 8/12/15 – 8/12/15  
(Blank) -- Lexington – Justice Center Mtg. w/ CSG Staff -- 8/28/15 – 8/31/15  
(Blank) – Flatwoods – Presenter/WVRJA S. Markle Retirement – 10/18/15 – 10/19/15  
Wash, D.C. – COSCA/NCSC Meetings – 11/17/15 – 11/23/15  
Fairmont – Investiture of Marion Judge Wilson – 1/06/16 – 1/06/16  
Mineral County – Keyser – Investiture of Mineral Judge Courier – 2/02/16 – 2/02/16  
(Blank) – Bluefield – Investiture of Fed. Magistrate Aboulhosn – 2/03/16 – 2/03/16  
(Blank) – Charleston – Mtg. with Andrew Schneider re: LGBTQ rights in court – 2/23/16 – 2/23/16  
Huntington – Robert Shell Center -- Juv. Justice Reform mtg. – 3/08/16 – 3/08/16  
(Blank) – Davidson, NC – Intern program interviews and presentation – 3/10/16 – 3/11/16  
(Blank) – Fayetteville – Mtg. w/ Family Court re: adequate space – 3/15/16 – 3/15/16  
Clarksburg – Investiture of Fed. Magistrate Aloi – 3/21/16 – 3/21/16  
Montgomery – Actually Fayetteville – Mtg. w/ Circuit Clerk Kessler re: e-filing – 3/28/16  
Montgomery – Future of WV Tech/Foster Children – 3/29/16  
(Blank) -- 3/31/16 – 3/31/16  
Princeton – Investiture of Mercer Judge Wills – 6/15/16 – 6/15/16



Greenbrier – Lewisburg Investiture of Judge Dent – 6/17/16 – 6/17/16

Lewisburg – Investiture of Judge Dent – 6/17/16 – 6/17/16 (Accidental double entry from above)

Spencer and Calhoun Counties – Mtg. w/ Judge-Elect Ashley – 7/06/16 – 7/06/16

\*COSCA = Conference of State Court Administrators; CCJ = Conference of Chief Justices

\*\*NCSC = National Center for State Courts

\*\*\* LAAC = Language Access Advisory Committee of COSCA/CC

\*\*\*\*CSG = Council of State Governments

SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA

EXHIBIT

10


GARY L. JOHNSON  
ADMINISTRATIVE DIRECTOR



ADMINISTRATIVE OFFICE  
BUILDING 1, ROOM E-100  
1900 KANAWHA BOULEVARD, E  
CHARLESTON, WV 25305-0832  
(VOICE) 304/558-0145  
(FAX) 304/558-1212  
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MEMORANDUM

TO: Gary L. Johnson, Administrative Director

FROM: Joan Mullins, Executive Assistant 

DATE: February 16, 2018

SUBJECT: Office Calendars

I have been asked to provide the daily calendars from the previous Administrative Director as well as yourself. I checked my files and have the calendars for 2005-2012. The 2013-2016 calendars that were previously in my files are now missing. I do have the previous year, 2017 of yours.

STEVEN D. CANTERBURY

EXHIBIT

11

Justin

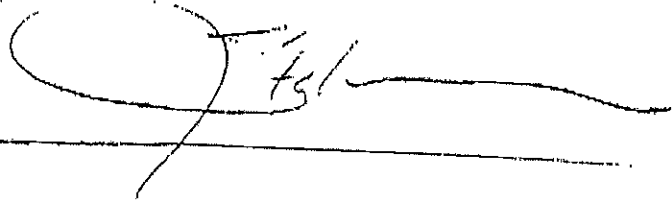
Thanks for meeting with me earlier today. I appreciate your work.

If you can add that "unlike Loughry" line, I'd appreciate it. Of course, you could always just strike the "like Loughry" allusions.

Here's the revised letter. <sup>You already have copies of these</sup> Could you make a copy for Aaron, please?

I have just placed in the mail the original and the check to Administrative Director Johnson. He should receive it no later than Monday.

Thanks



FAX-(304) 347-4889

2 pp., including this one

STEVEN D. CANTERBURY

May 9, 2018

Mr. Gary Johnson  
Administrative Director  
West Virginia Supreme Court of Appeals  
State Capitol  
Building 1, Room E-100  
Charleston, WV 25305

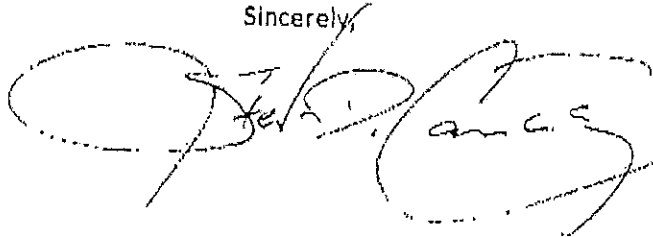
Dear Director Johnson,

On Wednesday, May 9, 2018, I learned from Legislative Post Audit Division Audit Manager Justin Robinson that I owe the State of West Virginia \$911.04 for overpayments in reimbursements for parts of several trips that will be outlined in the Division's upcoming report. I had made every attempt to prorate any personal expenses that were incurred on those trips so that there would not be such improper reimbursements; but I made several honest mistakes, errors that were not caught by the Administrative Office's Finance Division as the forms were processed.

Therefore, I have enclosed a check for \$911.04 to reimburse the state for those erroneous reimbursements to me between July 2010 and November 2016.

If you have any further questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven D. Canterbury". The signature is written in a cursive style with some loops and is positioned below the word "Sincerely,".

Cc: Aaron Allred, Legislative Auditor/Manager, West Virginia Legislature

Justin Robinson, Audit Manager, Legislative Post Audit Division

SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIAGARY L. JOHNSON  
ADMINISTRATIVE DIRECTORADMINISTRATIVE OFFICE  
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www.courtswv.gov

March 1, 2018

**SUBJECT: RESPONSE TO LEGISLATIVE AUDIT REQUESTS ON BEHALF OF THE  
SUPREME COURT OF APPEALS OF WEST VIRGINIA**

Dear Mr. Rhodes:

Through this communication I respond on behalf of the Supreme Court of Appeals of West Virginia ("Court") to the following inquiries that the Legislative Audit Committee has submitted to my attention as a part of the Legislative Audit currently in process:

- January 5, 2018, Introductory Letter from Denny Rhodes to Judge Johnson (no response needed);
- January 17, 2018, Letter from Denny Rhodes to Lori Paletta-Davis regarding Opening Conference (see below);
- January 23, 2018, Entrance Conference Summary Document (no response needed);
- January 31, 2018, Email from Justin Robinson Requesting to Meet with Mr. Arthur Angus (see confirmation letters);
- February 12, 2018, Letter from Denny Rhodes to Lori Paletta-Davis regarding Justice Ketchum Check (see below);
- February 14, 2018, Letter from Denny Rhodes to Lori Paletta-Davis regarding Elizabeth Parsons (see below); and,
- February 28, 2018, Letter from Denny Rhodes to Judge Johnson regarding production of annual reports (see below).

Thank you for your patience in this process to date. If you have any questions whatsoever, please let me know.

**January 17, 2018, Letter from Denny Rhodes to Lori Paletta-Davis.**

1. Court policy or policies concerning the use of state vehicles by staff and Justices.  
There is no Court policy concerning the use of vehicles by staff and/or Justices.
2. WEX billing invoices for July 6, 2016 and April 6, 2017 that are not available in wvOASIS.  
Please find these two (2) documents attached.
3. State vehicle use logs or records maintained by the Court for Fiscal Years 2013 to the present.  
Documents responsive to this request (Fiscal 2013 through February 2018) were previously submitted on February 22, 2018.

4. Any information concerning the Court's tax reporting for Justices' personal use of state vehicles, including any documented wage adjustments pursuant to IRS guidelines for reporting taxable fringe benefits due to elected officials being considered "control employees".  
We have not located any records generated for any Court employees, including Justices, for the referenced audit time frame.
5. Any additional information concerning other wage adjustments due to staff or Justices receiving other taxable fringe benefits, such as employer provided lunches, as part of their employment with the Court.  
We have not located any records generated for any Court employees, including Justices, for the referenced audit time frame.
6. Court policy or policies for documenting and reporting taxable fringe benefits provided to staff or Justices as part of their employment with the Court.  
There is no policy.
7. The name and title of the individual(s) who are currently responsible, or were responsible, for the tracking and reporting of employer provided fringe benefits.  
The Payroll/Human Resources/Personnel Division is responsible for generation of the proper tax reporting forms. Tammy Smith is presently the Payroll/Human Resources/Personnel Director.
8. Additionally, it has also been suggested that current Court policy for the use of state vehicles does not require, and may even exempt, Justices from providing reasoning for their use of state vehicles. If this is true, please explain how the Court can accurately report the use of state vehicles by Justices for tax purposes of the purpose of the vehicles' use is not provided to the Administrative Office of the Court.  
As described above, there is no policy regulating the use of state cars by employees, including Justices. I am unable to explain the second portion of your question. NOTE: The employee Personnel Manual does include a small section that covers travel-related policy/procedure. This section is attached.

**January 31, 2018, Email from Justin Robinson Requesting to Meet with Mr. Arthur Angus.**

The requested meeting with Mr. Angus transpired. I am in receipt of the final summary of the meeting, which Mr. Angus had an opportunity to review and modify. The final summary is attached.

**February 12, 2018, Letter from Denny Rhodes to Lori Paletta-Davis regarding Justice Ketchum Check in the amount of \$863.28.**

I became aware during your session with Mr. Arthur Angus of a check that Justice Ketchum apparently had written for the sum of Eight Hundred Sixty Three Dollars and Twenty Eight Cents (\$863.28). I had no knowledge of this check or the corresponding note to Ms. Racer-Troy prior to that meeting. With reference to your inquiries regarding this check as detailed in your February 12, 2018, correspondence, I have no first-hand knowledge. Justice Ketchum has, however, provided to me a memorandum dated February 26, 2018, addressing the items of inquiry numbered 1 through 5 detailed in the February 12, 2018, correspondence. That memorandum from Justice Ketchum is attached.

1. through 5. See attached Memorandum from Justice Ketchum.
6. I attach the set of fuel card records spanning 2009 through 2016, which Justice Ketchum has described were the records that he used to make the referenced calculation. These fuel card records are attached.

**February 14, 2018, Letter from Denny Rhodes to Lori Paletta-Davis regarding Elizabeth Parsons.**

The meeting with Ms. Parsons that you requested was conducted on Friday, February 23, 2018. I am today in receipt of your summary report and will review it before the end of the week and talk with Ms. Parsons so that she can provide you with any thoughts that she might have on the content.

**February 28, 2018, Letter from Denny Rhodes to Judge Gary Johnson regarding production of Annual reports and related items.**

By email correspondence today, on behalf of Judge Johnson, I requested an extension of time to produce the requested annual report records, from this Friday, March 2, 2018, to next Friday, March 9, 2018.

I hope that you find the information provided here responsive to your requests. I am available for clarification and/or to produce supplemental information, as needed.

Additionally, I would like to reaffirm my request for any employee meeting requests to come through my office, and that I attend any such discussions. I look forward to hearing back from you in this regard.

Thank you for your time and consideration in this matter.



Lori J. Paletta-Davis, Esq.  
Administrative Counsel  
Supreme Court of Appeals of West Virginia  
Building 1, Room E-100  
1900 Kanawha Boulevard, East  
Charleston, WV 25305  
(304) 340-2911 Office  
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WEST VIRGINIA LEGISLATIVE AUDITOR'S OFFICE  
Post Audit Division

1900 Kanawha Blvd. East, Room W-329  
Charleston, WV 25305-0610  
(304) 347-4880



Denny Rhodes  
Director

March 6, 2018

Sue Racer-Troy, Director  
Division of Financial Management  
WV Supreme Court of Appeals  
Capitol Complex  
1900 Kanawha Blvd., East  
Building 1, Room E-100  
Charleston, WV 25305-0830

Dear Ms. Racer-Troy:

Enclosed is the summary of our meeting on Monday, March 5, 2018. We would like you to review this document for accuracy and note any information we may have incorrect and clarify any statements we may have misunderstood. Please feel free to make note of any errors directly to the enclosed document and return it to us so that we may make the necessary corrections. We will then resubmit the document to you for final approval and signature. If there are no errors and this summary does accurately reflect our meeting, please send us a letter attesting to its accuracy, as well as a copy of the enclosed summary that is signed by you on the first page and initialed by you on each subsequent page.

Please provide your response by Thursday, March 8, 2018. We thank you again for meeting with us on short notice and for assisting us in our audit process. If you have any questions or concerns regarding this request, please feel free to contact Justin Robinson, Audit Manager. Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "Denny Rhodes".

Denny Rhodes

c. Lori J. Paletta-Davis, Esq., Administrative Counsel



## **Post Audit Meeting Summary**

### **March 5, 2018 Meeting with Sue Racer-Troy, Director – Division of Financial Management**

#### **Meeting Attendees**

Denny Rhodes, Director, Post Audit Division

Aaron Allred, Legislative Auditor

Justin Robinson, Audit Manager, Post Audit Division

Doren Burrell, Legislative Services Attorney

Sue Racer-Troy, Director of Division of Financial Management, WV Supreme Court of Appeals

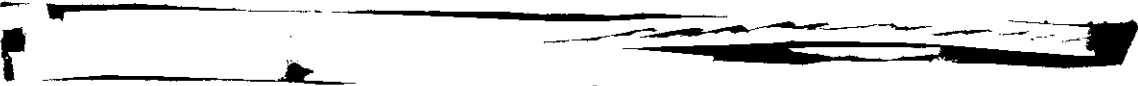
Lori Paletta-Davis, Administrative Counsel, WV Supreme Court of Appeals

#### **Background**

Ms. Racer-Troy has been employed since July 2012 with the WV Supreme Court of Appeals, preceded by Mr. Michael Proops as Director of the Division of Financial Management

#### **Use of State-Owned Vehicles**

- Ms. Racer-Troy informed Mr. Steve Canterbury that the commuting by Justice Ketchum in a state vehicle was a taxable event under the IRS Taxable Fringe Benefit Guidelines sometime soon after becoming aware of the commuting. Mr. Canterbury informed her that it was none of her business and not to treat it as taxable. Mr. Canterbury also frequently reminded Ms. Racer-Troy he could terminate her employment at any time for any reason. Ms. Troy felt some pressure due to this statement and in turn, allowed this to go on without being taxed per IRS rules.
- Some circuit judges used the US General Services Administration (GSA) rate over the \$0.15 rate allowed per W.Va. code.
- Circuit judges traveling from their primary place of work to a secondary place of work (county to county courts) are eligible.
- Ms. Racer-Troy confirmed that Justice Ketchum would use the \$0.15 reimbursement rate for general commuting but would charge the GSA rate for attending conferences.
- Ms. Racer-Troy was notified by Mr. Canterbury of the existence of a policy voted on by the Justices that would allow them to determine themselves what constituted business trips in state vehicles and how to report it sometime in August of 2016.
- Ms. Racer-Troy is uncertain if she made Gary Johnson aware of the taxable fringe benefits associated with the Justices' use of state owned vehicles when Mr. Canterbury was fired.
- The issue of the taxable fringe benefit was not addressed at all with Gary Johnson until the IRS audit.
- The Court did not directly inform the IRS of the commuting by Justice Ketchum.

- The primary focus of the IRS audit concerned the classification of some employees as contract employees. Ms. Racer-Troy stated to us during the meeting that she had told Mr. Canterbury that this treatment was improper prior to the IRS audit, but he repeatedly told her to stay out of it.
- Michael Proops did not inform Ms. Racer-Troy of any taxable fringe benefit issues concerning the Justices' use of state vehicles during his time as Director of the Division of Financial Management.
- There are no internal controls in place to ensure that the Justices did not double charge by receiving mileage reimbursement for the use of a state vehicle when getting travel settlements, other than the signed form.
- There is only one Personal Identification Number (PIN) assigned to all fuel cards for the entire Supreme Court vehicle fleet. There are also no other ways to identify specific instances of vehicle use by a particular individual outside of the reservation log, which is optional to Justices currently as they are not required to report their use.
- 
- Justice Ketchum did not seek the advice of or consult with Ms. Racer-Troy when determining the reimbursement check of \$843.28. Justice Ketchum gave Ms. Racer-Troy no explanation of what it was for or how he calculated other than the attached memo.
- Ms. Racer-Troy is aware of the IRS rules requiring a mileage log for vehicle use and the requirement that all miles be treated as personal miles and fully subject to the general valuation rule per IRS Publication 15-B, without relief from other valuation methods, where such a mileage log does not exist.
- Ms. Racer-Troy had no knowledge of Justice Loughry's possession of a desk, nor any knowledge of the fuel card analysis Former Justice Benjamin had conducted regarding Justice Loughry's personal use of a state vehicle.
- The court used the Fixed Asset Inventory Management system in WVFIMS, but from her inspection it appeared the Court had not updated or utilized it since 2010. Mr. Canterbury had informed her this was intentional because he did not want others knowing what the Court had. Since 2010, even IT inventory such as servers, routers, computers, etc. had not been recorded. The IT department of the court may have kept an internal record in an Access database.
- Two Buicks use and have maintained use of the On-Star navigation service.
- Mileage logs for vehicles are not kept in vehicles per best business practices.
- The Court had travel expense policies that were submitted to the State Auditor's Office. When the Justices revised their policy in August/September of 2016, the updated policy was also given to the State Auditor's Office.

- Ms. Racer-Troy was aware that Connic Toney, a secretary of the Court, was allowed to commute to work in a state vehicle. Ms. Racer-Troy was uncertain about the length of time she was allowed to do so but stated that Ms. Toney was afforded special treatment by Mr. Steve Canterbury during his time as Court Administrator.

SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA

EXHIBIT

14

GARY L. JOHNSON  
ADMINISTRATIVE DIRECTOR



ADMINISTRATIVE OFFICE  
BUILDING 1, ROOM E-100  
1900 KANAWHA BOULEVARD, E.  
CHARLESTON, WV 25305-0832  
(VOICE) 304/558-0145  
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March 8, 2018

Joint Committee

MAR 09 2018

Post Audit Committee

Mr. Denny Rhodes, Director  
WV Legislative Auditor's Office  
1900 Kanawha Blvd., East  
Building 1, Room W-329  
Charleston, WV 25305-0610

Dear Mr. Rhodes:

I have reviewed the summary notes from our meeting on Monday, March 5, 2018. There are a few items which I wish to clarify in the meeting notes:

1. *"Ms. Racer-Troy informed Mr. Steve Canterbury that the commuting by Justice Ketchum in a state vehicle was a taxable event under the IRS Taxable Fringe Benefit Guidelines sometime soon after being aware of the commuting. Mr. Canterbury informed her that it was none of her business and not to treat it as taxable. Mr. Canterbury also frequently reminded Ms. Racer-Troy he could terminate her employment at any time for any reason. Ms. Troy felt some pressure due to this statement and in turn, allowed this to go on without being taxed per IRS rules".*

This statement is not entirely accurate. Mr. Canterbury did tell me that it was "none of my business". However, he did not tell me to "not treat it as taxable". At that time, I had no involvement in payroll or the production or accuracy of employee W-2's. Human Resources/Payroll was a separate division which operated independently of Finance. I told Mr. Canterbury that commuting was taxable event because I knew that was an accurate statement. Whether or not it was reported on Justice Ketchum's W-2 was not known to me, since I did not produce or review any employee W-2's.

It is also not accurate that I "allowed this to go on without being tax per IRS rules". Since Human Resources/Payroll group was an independent division, I had no power to require that the mileage be reported. It's simply not true that I allowed it to go on.

2. *"Some circuit judges used the US General Services Administration (GSA) rate over the \$0.15 rate allowed per W.Va.Code".*

This statement is true but requires clarification. The circuit judges who claimed the GSA rate did so when they were traveling between courthouses in different counties. Some circuit judges are in multi-county circuits and are required to travel between two or more courthouses. This would be allowed under the accountable plan as business travel from a primary work location to a secondary work location.

WV Code §6-7-5 allows reimbursement from a circuit judge's residence to the "place of holding any term of court in a county other than that of his residence". Circuit judges who claimed the GSA rate did not claim mileage from their place of residence. The GSA rate was used when they traveled between work locations. A copy of the code is attached.

3. *"Ms. Racer-Troy confirmed that Justice Ketchum would use the \$0.15 reimbursement rate for general commuting but would charge the GSA rate for attending conferences".*

This statement is true but I wish to clarify why different rates were claimed. WV Code §6-7-5 allows for commuting reimbursement for justices and circuit court judges when holding court. Justice Ketchum claimed the commuting reimbursement when traveling to Charleston for court.

When Justice Ketchum traveled for conferences or other engagements, he claimed the GSA rate. In my opinion, this is proper since the travel is not related to holding court, as described in WV Code §6-7-5. See attached memorandum from Sara Thompson which addresses the mileage reimbursement for the fall 2017 Circuit Judge's Education conference.

4. *"The Court did not directly inform the IRS of the commuting by Justice Ketchum".*

Since I did not have any involvement in the production or review of employee W-2's, I cannot verify that statement. The Director of Human Resources would be able to verify what was reported on Justice Ketchum's W-2's.

5. *"The court used the Fixed Asset Inventory Management system in WVFIMS, but from her inspection it appears that the Court had not updated or utilized it since 2010. Mr. Canterbury had informed her this was intentional because he did not want others knowing the Court had. Since 2010, even IT inventory such as server, routers, computers, etc. had*

*not been recorded. The IT department of the court may have kept an internal record in an Access database”.*

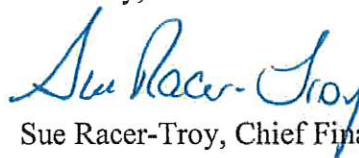
After returning to the office on Monday afternoon, I reviewed the fixed assets in FIMS. The last acquisition date for technology equipment (servers, routers, computers, etc.) is 07/09/2010. No technology equipment was added after that date. The last acquisition date for vehicles is 09/24/2013. No vehicles were added after that date.

*“Mr. Canterbury had informed her this was intentional because he did not want others knowing the Court had”.* I don’t recall that Mr. Canterbury told me this specifically related to the fixed asset inventory. He often referred to being an third branch of government and the independence that came with that. I felt that best practices were not always followed due to wanting to exercise independence. Keeping fixed asset records in a separate internal database is, in my opinion, not a best practice.

6. *“Ms. Racer-Troy was aware that Connie Toney, a secretary of the Court, was allowed to commute to work in a state vehicle. Ms. Racer-Troy was uncertain about the length of time she was allowed to do so but stated that Ms. Toney was afforded special treatment by Mr. Steve Canterbury during his time as Court Administrator.”*

This statement is not entirely accurate. I heard other employees in the breakroom discussing Ms. Toney and her use of a state vehicle. Apparently someone in the group had observed her getting out of a state vehicle one morning and believed that she driven the vehicle to work. She had no work-related reason to have the vehicle so there was a discussion of why she was allowed to use the vehicle. I had no firsthand knowledge of Ms. Toney using a state vehicle. My only knowledge of this was “gossip” that I heard in the breakroom.

Sincerely,



Sue Racer-Troy, Chief Financial Officer

**ADVISORY OPINION NO. 2012-52**  
**Issued On February 7 10, 2013 By The**  
**WEST VIRGINIA ETHICS COMMISSION**

**OPINION SOUGHT**

A **Municipal Public Servant** asks under what circumstances, if any, a municipality may permit its officials and/or employees to use public equipment for personal purposes.

**FACTS RELIED UPON BY THE COMMISSION**

The Requester is a municipal police chief and has been employed in that capacity for many years. According to the Requester, during his tenure, the City had an unwritten practice of allowing employees to use City equipment for personal purposes, without charge. The practice evidently did not, however, permit the use of City equipment for commercial purposes.

In addition to the unwritten practice, the City has had in place a written rule concerning the use of City resources. The Requester states that he and members of the City's governing body were unaware of the existence of the Ordinance until recently. Specifically, the Ordinance reads, in pertinent part:

[N]o municipal officer or employee shall use or authorize the use of municipal time, facilities, equipment or supplies for private gain or advantage to himself [sic] or any other person or group; provided however, that this prohibition shall not apply where Council has authorized the use of such time, facilities, equipment or supplies and the Municipality is paid at such rates as are normally charged by private sources for comparable items.

As a supplement to the Ordinance, the City has adopted a price list setting forth the hourly rate for the use of the City's equipment. Those rates are significantly lower than private commercial rates. For example, the City charges an hourly rate for the use of equipment and an additional \$12/hour charge for a City employee to operate the equipment. By contrast, the nearest private businesses charge a minimum daily rate to rent equipment.

**CODE PROVISIONS AND LEGISLATIVE RULE RELIED UPON BY THE COMMISSION**

W. Va. Code § 6B-2-5(b) reads in relevant part:

A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person.

...

The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent

services, without compensation, does not constitute the use of prestige of office for private gain.

Title 158, Series 6, Section 5. Use or Removal of Government “Property” reads:

5.1 Removal – Public officials and public employees shall not remove government property from the work-place for their private benefit.

5.2. Improper Use – Public officials and public employees shall not use government property for personal projects or activities that result in private gain. This subsection does not apply to the de minimis use of government property.

### **ADVISORY OPINION**

In establishing the Ethics Act, the Legislature sought to create a code of ethics to guide public officials and employees in their public service. The expressed goal was to assist public servants in avoiding conflicts between their public service and any outside personal interests. W. Va. Code § 6B-1-2(d).

The Ethics Commission takes administrative notice that there appears to be a common misconception among local governments officials and employees. They believe that they are permitted to use public equipment for personal purposes as long as: they use it for purely personal, not commercial reasons; and their use of such equipment does not interfere with the government’s need to use such equipment, e.g. on weekends.

The private gain provision of the Ethics Act, however, is not limited to commercial use. Instead, if an individual derives a benefit from the use of public equipment, that constitutes private gain. Even if an individual’s use does not result in a cost to the government, still the individual benefited from the use of public equipment. Absent access to the use of public equipment, the individual would have incurred the expense of renting or purchasing the equipment. See Advisory Opinion 2010-18. (Municipal public servants’ private use of Sam’s card obtained as a complement to the City’s Sam’s Club membership prohibited even when no additional cost to City).

Generally, when public servants avail themselves of public resources not available similarly to the general public, this constitutes private gain. In some instances limited use of public resources by public employees constitutes a permissible fringe benefit. For example, in Advisory Opinion 2008-07, the Commission ruled that municipal employees (but not elected or appointed officials) were permitted limited free use of municipal pool, so long as they did not interfere with the public’s use and enjoyment, or cause the municipality to lose money. Similarly, in a companion ruling, Advisory Opinion 2008-05, the Ethics Commission authorized County Parks Commission employees (but not appointed members of the board thereof) limited free or discounted use of the golf course and recreational facilities under certain conditions.



The Commission must determine whether a municipality may permissibly extend the use of public equipment as a fringe benefit. In considering whether a fringe benefit would create an impermissible use of public office for private gain, the Commission has looked to the benefit conferred on the employee, whether there is a rational basis for the decision, and the cost to be borne by the governmental entity in providing the benefit. The analysis herein is limited to the use of public equipment, not hand tools. The Commission recognizes the difference in value between the use of a backhoe and a hammer or screwdriver.

After discussion, the Ethics Commission tabled this opinion at its February 7, 2013 meeting. Thereafter, staff sought comments from various governing bodies to determine their thoughts on the questions posed, and to ascertain their present practices. In response, the Commission received numerous comments with a variety of opinions. For example, many expressed concerns about liability, while others mentioned wear and tear on the equipment and questioned who would be responsible for the cost of repairs if damage resulted from a non-public use of equipment. Others were concerned about the different treatment between use by employees when the general public is prohibited from using the equipment. Another commenter pointed out that employee use of the equipment may constitute a taxable fringe benefit. The commenters were unanimous, however, in opposing the adoption of any policy permitting use of public equipment for any non-public purpose. Potentially, a governing body may bear an inordinate cost by providing such a fringe benefit if an employee using public equipment: is in an accident and injures her/himself or another person; damages the property of another; or damages the equipment beyond repair.

The City's Ordinance provides for employees' use of equipment for personal – not commercial – purposes at competitive rates. This provides a convenience to employees permitting them to obtain the use of equipment without having to travel. Nonetheless, the Commission hereby finds that any benefit to public employees is far outweighed by the cost to the governing body. Therefore a governing body may **not** permit the use of public equipment by public employees except for public purposes.<sup>1</sup>

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

s/s R. Kemp Morton, Chairperson  
R. Kemp Morton, III, Chairperson

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<sup>1</sup> Additionally, elected or appointed members of a governing body are similarly prohibited from using public equipment. To permit their use of public equipment would unlawfully confer additional compensation to them. See, e.g. Advisory Opinion 2009-02 (may not extend County wellness program to elected officials); Advisory Opinion 2010-08 (may not extend current term of office); and Contract Exemption 2009-01 (Mayor may not be employed as Police Chief, Head of the Street Department, and/or Assistant Fire Chief).

## ADC REPORTING REQUIREMENTS

*Effective July 1, 2016*

### A. Monthly Progress Reports

1. An electronic monthly progress report (MPR) is due to be submitted via the West Virginia Offender Case Management System (WVOCMS) by 4:00 PM on the 10<sup>th</sup> day of month following the reporting period. Example: July monthly report is due on August 10. The deployment of an OCMS-based monthly reporting form has been in effect since July 1, 2015.

The reports section of the login screen has a button for "ADC monthly report" and each month the Adult Drug Court Probation Officer (ADCPO) will add a new report that summarizes the program data previously submitted on the written MPR. The Division of Probation Services (DPS) will access the submitted information on the 10<sup>th</sup> day of the month through the WVOCMS. The report will pull data directly from the system and it will only work properly if each program's data is kept up to date in the system. The ADCPO is responsible for submitting the monthly progress reports.

2. Minutes/notes must be recorded for the quarterly Local Advisory Committee (LAC) meetings and must be submitted for each meeting. The meeting notes/minutes are to be submitted via email to the Deputy Director by the 10<sup>th</sup> day of the next calendar month in which the LAC meeting occurs.

*NOTE: If the 10<sup>th</sup> day of the month falls on a weekend or a holiday, the report will be due the last business day before the 10<sup>th</sup> day of the month. Example: If a state holiday falls on a Monday, the 10<sup>th</sup> day of the month – then the monthly report is due by 4:00 PM on the Friday before the Holiday.*

### B. Financial Accounting

1. Monthly Invoicing for Services:
  - a) All local programs must have an approved Memorandum of Understanding (MOU) in place with a Qualified Service Provider (QSP) before any billing can be submitted to the Administrative Office (AO).
  - b) A monthly master invoice signed by the ADCPO and the QSP Director must be submitted (scanned and emailed) to the Drug Court Development and Training Coordinator and copied to the Deputy Director for Drug Courts by 4:00 PM on the 10<sup>th</sup> day of each month. A copy of the current MOU must also be sent each month with the monthly master invoice. A sample invoice will be provided by the Division of Probation Services.

*NOTE: All backup documentation of the services provided should be reviewed and maintained at the local drug court level by the ADCPO and the QSP. The invoice must be signed by the adult drug court probation officer and the director of the*

entity being paid pursuant to the MOU. In the event of an audit, it is those two signatories who will be responsible for producing any required documentation for review by an auditor.

- c) The master invoice must have all fields completed with accurate information, including: Name and mailing address of the drug court; date the invoice was completed; invoice number; project number (*assigned and provided*); county org number (*assigned and provided*), name of the qualified service provider (*named in the MOU*), the billing month and year, a description of all services being billed, name of the payee (who the check will be payable to), the Federal Employer Identification Number (FEIN) for the payee, mailing address of the payee, and signatures of both the ADCPO and the QSP director.
  - d) All invoices must have an invoice number and follow this format: 3 characters to identify the program (ADC), two digits to identify the billing month (i.e. 07), and 4 digits to indicate the billing year (i.e. 2016). Therefore, the invoice for July 2016 would be numbered ADC-07-2016.
  - e) The Adult Drug Court Project number is 12302. This should be on every QSP invoice submitted.
  - f) Each county has its own assigned county organization number (Co. Org#). A list will be provided to all ADCPOs. The Co. Org # for the headquarter county of the ADCPO is to be used for the monthly billing invoice for services. *A list of County Org numbers will be provided by the Division of Probation Services.*
  - g) Each individual service billed must be listed under the DESCRIPTION column of the invoice. The NUMBER, HOURS, RATE, and AMOUNT columns must also be completed and must not exceed the amounts approved in the local fiscal year budget and local MOU.
  - h) List the agency that will receive the payment. This agency is required to have a FEIN. Provide the FEIN and the mailing address for the payee agency. The payee will most often be either the local QSP or a county commission serving as the fiscal agent for the local DRC.
2. Monthly invoices for case managers who are independent contractors (not employed/contracted through the QSP):
- a) An approved memorandum of understanding (MOU) must be in place for the independent contracted case manager before any billing can be submitted. A monthly invoice signed by the ADCPO and the case manager must be submitted (scanned and emailed) to the Deputy Director for Drug Courts by the 10<sup>th</sup> day of each month. A copy of the current MOU must also be sent each month with the monthly invoice.
  - b) Invoices must have an invoice number, a project number (12302) and a county organization number (Co. Org#) which is assigned for each county.

The Co. Org # for the headquarter county of the ADCPO is to be used for the monthly billing invoice for services. The case management service billed must be listed under the DESCRIPTION column of the invoice. The NUMBER, HOURS, RATE, and AMOUNT columns must also be completed and must not exceed the amounts approved in the local annual budget and local MOU.

**NOTE: Effective July 1, 2016, the hiring of a case manager as an independent contractor is NO LONGER an option.** All newly hired/contracted drug court case managers must be hired through the QSP and possess a relevant master's or bachelor's degree involving coursework equivalent to a major whose subject matter is directly applicable to probation work and/or behavioral health services (counseling/psychology, criminal justice, social work, board of regents with a human services specialization, recreational therapy, political science, nursing, sociology/criminology, teacher education, or behavioral health, etc.) Candidates must have a valid driver's license and reliable transportation and must pass a NCIC/CIB background check and a drug screen. *A copy of the new targeted case manager job description is provided by DPS.*

### 3. Monthly Financial Reconciliation Report

- a) The purpose of the monthly financial reconciliation (MFR) is to report on balances of income and expenditures in a program's fundraising/donations account. This section does not pertain to the drug court participant fees account which is covered in in the Monthly Drug Court Fee Remittance section of this document. Each month's data must be entered on the corresponding monthly worksheet (tabs at the bottom of the form). Monthly, each ADCPO must complete and submit either the MFR form or an account statement(s) covering the same reporting month. (NOTE: review the instructions for the MFR to see which elements must be present if the ADCPO is submitting a statement instead of the MFR). The MFR or statement must be submitted even if no account activity occurs during the month. Detailed instructions for completing the MFR will be included with the form when it is sent out at the beginning of each fiscal year. The Court does not need a report on how these funds are spent, but does require a monthly balance of the account. The MFR must be submitted (scanned and emailed) to the Deputy Director for Drug Courts by the 10<sup>th</sup> day of each month. **NOTE:** Supreme Court employees must not collect any money or manage any financial accounts, including donations.

### 4. Monthly Drug Court Fee Remittance

- a) Participant drug court fees are to be used to pay for incentives, supplies, graduation ceremonies, participant meals & snacks, and other costs associated with the participants' treatment and activities so long as the expenditures directly benefit the drug court participants.
- b) Local advisory committees set the local drug court fees for each ADC; however, participants cannot be required to pay more than \$100.00 in drug court fees in Phase I of adult drug court program, and cannot be required to pay more than \$700.00 in total in adult drug court fees.

- c) Drug court fees paid by the participants shall not be paid to or collected by the adult drug court judge or adult drug court probation officer. The ADC may make arrangements to have fees paid to the county clerk, circuit clerk, or other appropriate agency designated by the drug court judge/advisory board. The local ADC board is responsible for designating the entity which collect the drug court fees for their program and which will be responsible for the monthly remittance of the drug court fee funds to the Administrative Office of the Court.
- d) The designated drug court fee collection/remittance entity is responsible for collecting the fees for the ADC program and is required to remit all fees collected to the Supreme Court's Division of Financial Management on a monthly basis, no later than the 10<sup>th</sup> day of the following calendar month. The Financial Management Division will deposit each monthly remittance into the specific paying ADC program's account. *For example, if Cabell Co. ADC remits a check for \$1,000 in drug court fee collections for the month of July, then that \$1,000 will be allocated specifically to the Cabell Co. ADC program in the accounting system.*
- e) A check payable to "The State of West Virginia" must be sent directly to Sue Troy, Director, Division of Financial Management, Supreme Court of Appeals of West Virginia, Administrative Office of the Courts, 1900 Kanawha Boulevard East, Building 1 Room E-100, Charleston, WV 25305. Please note on the memo line of the check that this constitutes ADC Fees with an identification of the specific ADC program, e.g., "ADC Fees for Kanawha County ADC."
- f) All purchases made for the adult drug court with the participant drug court fees must be paid with a State P-card. The ADC purchases using the drug court fee collections will be the responsibility of the probation office P-card holder. Each of the probation P-card holders will get an increase of \$1,000 per month on their monthly purchasing limit that is specifically allocated only to the adult drug court. The P-card holders will use ADC Project # 2411 and their assigned county Org# on their P-card logs for all ADC incentive purchases. The monthly p-card log and corresponding receipts will be due by the 10<sup>th</sup> day of the month following the reporting period (i.e. July purchases need to be submitted by August 10). Submit the log and receipts via email to both \* PCard@courtswv.gov and to Lora.Maynard@courtswv.gov. NOTE: New programs must ensure they have funds in their designated accounts prior to any purchases.

5. Travel and Training Expenses:

- a. Monthly travel expense account forms for the ADCPO must be submitted (scanned and emailed) to the Deputy Director for Drug Courts for processing and payment. The form must be signed by the ADCPO and a local supervising authority before submission to the AO. Project # 12302 and the local Co. Org # should be noted on the top of the form.
- b. In-state and/or out-of-state training requires pre-approval by Deputy Director for Drug Courts. A detailed request must be sent in writing using an Application for Education Benefits form (found on the court website) and attaching an agenda/description of the specific training.

NOTE:

- Travel Expense Form can be found on the WVSCA website at:  
<https://intranet.courtswv.gov/forms/ACGeneral/TravelExpenseForm.pdf>
- State Travel Regulations can be found at:  
<http://www.state.wv.us/admin/purchase/travel/TravelRule.pdf>
- Per Diem Rates can be found at: <http://www.gsa.gov/portal/category/100000>

6. Equipment Purchases:

- a) The AO will purchase laptops and cell phones for each ADCPO. In the event, the ADCPO chooses to use their personal cell phone in lieu of a Court issued cell phone, a monthly reimbursement of \$29.99 may be approved. The cell phone number must be provided to the Deputy Director of Drug Courts. The ADCPO must complete an Employee Reimbursement Form (not the travel expense sheet) and provide a copy of the first page of each monthly bill attached to the reimbursement request form. The form and the back-up documentation should be sent to the Deputy Director of Drug Courts via email. The aforementioned form is provided on the Court's website.
- b) Some items such as the PBT and some printer/scanner combos require the completion of a Property Purchase Order form that must be signed by the ADC Judge or the Chief Circuit Court Judge. This form is to be properly completed (sent via email) to the Deputy Director for Drug Courts for approval and submission to the IT department. The IT department will not process the request without approval from the Division of Probation Services. The form can be found on the Court's website.
- c) Only the items specified in the local program's fiscal year budget is approved for purchase and is limited to the amount approved. Invoices and/or receipts must be sent to the Drug Court Development and Training Coordinator for processing and payment. Project # 12302 and the local Co. Org # should be noted on the top of the invoice/receipt.

*NOTE: If equipment is purchased on the P-card make sure the county's P-card Log indicates Project # 12302 and the Co Org# beside any drug court purchase to ensure proper coding and payment at the state level. The P-card Log process continues as normal by the P-card holder.*

7. Drug Testing

- a) ADC's have separate drug testing accounts set up with Alere Toxicology (12-panel urinalysis, and the Oral Intercept devices, and all GC/MS confirmations -EXCEPT EtG), Redwood Toxicology Services (13-panel I-cup, EtG lab, and suboxone dips), and Intrinsic Interventions (K2, tramadol, fentanyl dips). ADC drug testing supplies are to be used for ADC participants only. The monthly master bill will be sent directly to the Deputy Director of Drug Courts for review and approval. After

approval the bill will be forwarded to the Accounting Dept. for appropriate coding and payment.

- b) **The Deputy Director for Drug Courts is responsible for setting up the drug court drug testing accounts for each drug court program with each vendor. The Chief PO shall notify the Deputy Director of the name, physical address, mailing address, office phone number, office fax number, and email address of the new ADCPO as soon as possible so the Deputy Director can notify the vendor and begin the process. This must be done with all new hires whether it is the implementation of a new program or the hiring of a new officer in an existing program. In addition, the Deputy Director needs to be notified immediately when an ADCPO leaves the position so the account's primary contact can be changed until the time a new ADCPO is hired.**

8. Other Expenses

- a) Only the items specified in the "other" category of the local program's fiscal year budget is approved for purchase and is limited to the amount approved. Invoices and/or receipts must be sent to the Drug Court Development and Training Coordinator for processing and payment. **Project # 12302 and the local Co. Org #** should be noted on the top of the invoice/receipt.

NOTE: If items are purchased on the P-card, make sure the county's P-card Log indicates **Project # 12302 and the Co Org#** beside any Drug Court purchase to ensure proper coding and payment at the state level. The P-card Log process continues as normal by the P-card holder. The Division of Probation Services does not receive this information.

D. Other Periodic Reporting:

1. Drug Court Meetings/Training

- a. ADCPOs are required to attend the statewide drug court conference (usually held in every other year (i.e., 2014, 2016, etc.)
- b. During the years without a drug court conference, ADCPOs may be required to attend a state-wide networking meeting and may also be required to complete a written periodic report and provide oral presentations on the results of the report to meeting participants. A hard copy of the report will be filed in the individual ADC program files at the Division of Probation Services.
- c. In addition, there may be periodic drug court specific training workshops, technical assistance training events, and/or statewide program evaluation meetings held that will require participation from the ADCPOs. Notification from the Division of Probation Services will be provided to the ADCPOs on such events/opportunities.

2. On-site Visits

- a. Court staff will conduct at least one on-site/closed-circuit conferencing review visit to each program during a fiscal year. Visits will be more frequent for programs in the development stage. Court staff will review the progress of the local program and the work of the ADCPO and will observe a staffing meeting, a P&E team meeting, and drug court proceeding. ADCPOs may be required to complete a written periodic report and orally present the results of the report during the site visit. A hard copy of the report will be filed at the Division of Probation Services.

### 3. New Hires/Staffing Changes

- a. When a new ADCPO is hired or a staffing change is made in the ADCPO position, the Chief PO must notify the Deputy Director as soon as possible so necessary steps can be made regarding access to drug court specific systems (i.e. Court email, OCMS, drug testing accounts, etc.) All ADCPO's require an email account request form and OCMS account form to be completed and submitted to the Deputy Director for Drug Courts before the Court's IT department will consider any requests for new accounts. These forms will be provided upon request to the Deputy Director for Drug Courts.
- b. Drug court case managers (SCAWV approved) may be issued a Court email account and given access to the Drug Court Tab of the OCMS with permission from the Deputy Director for Drug Courts. The ADCPO or the Chief PO will be required to complete a request forms as mentioned above in part a. The ADCPO or the Chief PO must notify the Deputy Director of Drug Courts immediately when a case manager resigns or is terminated from the position. The Deputy Director will disable all Court related accounts to which the case manager has access (such as email account, database account, etc.) as soon as possible.  
**THIS IS VERY IMPORTANT!**

### E. WV Offender Case Management System

1. The ADCPO is responsible for ensuring that all necessary information is input into the appropriate database in a timely manner. The database used by West Virginia's ADC system are essential for case management. They are also the best means for providing an easily-accessible source for case information both within the ADC program and between the ADC program and the DPS. The databases are also able to quickly prepare many mandatory reports.
2. ADC-related databases will provide the DPS with information that will be used to evaluate ADC programs. Databases are the simplest and most cost-effective means of collection and analysis of the necessary information. The sound evaluation of ADC programs is essential to report to the legislature and support efforts to seek grant funding.
3. The proper use of databases will also help to ensure continuity and consistency in and among ADC programs. The information is maintained in a way that is consistent among successive ADCPOs, and in a way that is consistent among various ADC programs.



WEST VIRGINIA LEGISLATIVE AUDITOR'S OFFICE  
*Post Audit Division*

1900 Kanawha Blvd. East, Room W-329  
Charleston, WV 25305-0610  
(304) 347-4880



Denny Rhodes  
Director

March 14, 2018

Gary Johnson, Administrative Director  
WV Supreme Court of Appeals  
Capitol Complex  
1900 Kanawha Blvd., East  
Bldg. 1, Room E-100  
Charleston, WV 25305-0830

Dear Judge Johnson:

An examination of State Purchasing Card records shows repeated purchases of gift cards of varying denominations allegedly used by the Drug Courts. The State Auditor's Purchasing Card Policies and Procedures Manual Section 6.4, Usage Restriction states in part:


*"...The P-card may be used for the purchase of gift cards, where authorized by applicable laws, rules and regulations, or other governing instrument, only upon prior approval of the transaction by the State Auditor's Office P-Card Division. Gift card purchases are not to be made until after prior approval has been received."* [Emphasis Added]

It is our understanding this permission has not been granted to the West Virginia Supreme Court of Appeals or its employees. **Until this permission can be obtained, it is our recommendation that the purchase of gifts cards using the State Purchasing Cards issued to all employees under the purview of the Supreme Court cease.**

Pursuant to West Virginia Code §4-2-5, documentation of any authorization granted by the State Auditor's Office to use the State Purchasing Cards for the purchase of gift cards should be sent to us upon receipt of this correspondence. Additionally, we advise that you inform all employees issued State Purchasing Cards to cease the purchase of gift cards until such authorization is granted. We ask that you provide copies of any communications sent to staff notifying them to cease the use of the State Purchasing Cards to purchase gift cards when such communication is made. This issue will be presented to the Post Audits Subcommittee in a future

audit report. Should you have any questions, please feel free to contact Justin Robinson, Audit Manager.

Sincerely,

  
Denny Rhodes

cc: Justices of the WV Supreme Court of Appeals

**Post Audit  
Meeting Summary  
Angela King, Adult Drug Court Probation Officer  
Stephanie Bond, Probation Services Director  
April 27, 2018**

**Meeting Attendees:**

Justin Robinson, Audit Manager, Post Audit Division  
Adam Fridley, Audit Manager, Post Audit Division  
Melissa Bishop, Assistant Director, Post Audit Division  
Judith Strawderman, Auditor, Post Audit Division  
Christian Baumgarner, Auditor, Post Audit Division  
Sarah Warden Auditor, Post Audit Division

Angela King, Adult Drug Court Probation Office, Kanawha County Drug Court  
Stephanie Bond, Probation Services Director, Probation Services Division West Virginia  
Supreme Court of Appeals  
Sue Racer-Troy, Director of Division of Financial Management, WV Supreme Court of Appeals  
Lori Paletta-Davis, Administrative Counsel, WV Supreme Court of Appeals

**Background:**

Angela King has worked as an Adult Probation Officer for the past 7 years. She started her current position with the Adult Drug Court 3 years ago. She coordinates the drug court program in Kanawha County which included screening, budgeting, supervision of offenders, and monitoring case management. She answers to Judge Jennifer Bailey. In her position, she is on call 24 hours a day, 365 days a year.

Stephanie Bond has been employed by the Probation Services Division of the WV Supreme Court of Appeals, since July 24, 2017. She oversees the Drug Court Program for the State of West Virginia.

**Kanawha County Drug Court Program:**

- The program started in 2009 and has had approximately 120 participants graduate.
- There are currently 27 participants with a capacity of 50. The normal range is between 20-45 participants.
- Ms. King and Ms. Bond were unable to provide an estimate of the total number of participants over the years.
- The use of gift cards was part of the Kanawha County Program when Ms. King started with the court.
- Ms. King is on state time when she acquires or purchases incentive items for Kanawha County.
- The use of gift cards, especially the large denomination Visa/ MC cards is for convenience and planning.

- Due to the \$1000 per month limitation on fund availability, the purchasing of the gift cards allows for setting aside funds for months when a high expenditure is anticipated: graduations, outings, Christmas, etc.
- The maximum dollar amount for VISA/MC or fuel cards that go directly to the participants is typically \$100. Any amount over \$100 is being used to purchase incentives, food for programs, other items necessary for the drug court outside of the purview of regular supplies.
- Higher denomination VISA/MC are seen as a convenience because the secretaries do not have time to go out and purchase everything and reimbursement process is more complicated

### **State Drug Court Program:**

- The Drug Court Program is a diversion program designed to give people a reason to stay clean. The incentive portion of the program is based on the principle of rewarding good behavior. The incentive program for each drug court varies. All counties have access to a drug court, but not all counties have an individual court. Some counties are under a regional court.
- The funds for the Adult Drug Court incentives are provided from the drug court entry fees. Each court sets its own fees with the maximum fee being \$800. Each participant within a given jurisdiction pays the same fee.
- The fees are collected by the appropriate circuit clerk's office, which then forwards them to the West Virginia Supreme Court of Appeals at the end of the month.
- If a participant is unable to pay the actual cash to participate in the program they can work off their fee through things such as community service or volunteer service. The purpose of the fee is so the participant has a vested interest in participating in the program.
- Each court used to maintain control over their funds. In July or August 2015 all funds were moved to central accounting through the WV Supreme Court of Appeals.
- These are special funds and are deposited in Oasis by county. Each jurisdiction continues to have its own specific funding.
- Each month, each county gets a running balance of what is in their accounts.
- When the Drug Court fees were centralized, some counties had grant money comingled with the entrance fees. It has not been possible to separate out these funds.
- There was a build up of funds prior to 2015. Some individual counties, such as Hampshire had accrued a balance of approximately \$63,000. When the funds for the Drug Courts were centralized with the WV Supreme Court of Appeals, the beginning fund was about \$300,000. Entrance fees have been sufficient to maintain the incentive programs, so there has been a consistent excess of \$300,000.
- The WV Supreme Court of Appeals would like to get something into Code which would allow for the spending down of the account surpluses.
- The West Virginia State Treasurer manages the actual accounts. It is not known if they are interest bearing.
- The incentive program is not set up to reward the individual with the exact dollar amount of goods which was paid as an entry fee into the program. Fees go "in one pot" and are shared amongst participants.

- The only state (general fund) monies used are for the Juvenile Drug Court system.
- Phase-progressions are equitable (i.e., reaching a certain goal = \$20 gift card), but there are discretionary incentives as well, which may be more specific to the participant's needs (diapers, car battery, clothing, etc.)
- It is possible to be terminated from the program. All participants will not graduate.
- Termination from the program occurs when all means to aid the participant have been exhausted, they participant decides they no longer wish to participate, or the participant commits another crime of a serious nature (felony). Judicial discretion dictates whether the commission of an additional crime warrants termination form the program.

**P-Cards/Gift Card Policy:**

- There is a monthly spending limit of \$1000 per month, per county on the p-card for incentives.
- Ms. Racer-Troy indicated it is possible to request a one-time or temporary spending increase for a month when a certain need arises.
- Gift card purchases were supposed to have been preapproved according to the WV Auditor's Office Purchasing Card Policies and Procedures. This was not taking place with the Drug Court incentive Program.
- Judge Gary Johnson sent out a memo to cease using p-cards for the purchase of gift cards in February.
- Since then, there has been a meeting with Mr. Wright, from the State Auditor's office, examining potential solutions to the issue of purchasing gift cards. The outcome is still pending, but the Court has not ruled out the possibility of continuing to use P-cards to purchase gift cards; including large denomination gift cards.
- Ms. Bond is awaiting the approval of drafted policies from the Justices, but the topic has not been discussed in Administrative Conference to date.
- In the past there was no formal policy for tracking gift card use through the Drug Court.
- There is discussion of tracking the cards by who they go to, either by name or by unique participant number given to each individual in the program.
- Although receipts are kept for purchases made with a gift card which has been purchased with a p-card, they are typically not reconcilable. There has been no formal policy to match the receipts to the actual gift card.
- Gift cards have been tracked in Court data bases, but not by serial number. It was suggested by the audit managers this would be a necessary level of accountability. This was well-received by Ms. Bond and Ms. King.
- With the hold on the use of gift cards another avenue which is being pursued is the use of purchase orders.

Date	Location	HOTEL	Conference/Location of Conference	Milage from Airport to Hotel	Actual Rental Milage	Distance from Hotel to Conference
July 19-25, 2013	San Francisco, CA	Parc 55 Wyndham San Francisco Union Square/ 55 Cyril Magnin Street San Francisco, CA 94102	National law conference/	27 miles	472 miles	
January 23-29, 2015	San Antonio, TX	Westin Riverwalk San Antonio/ 420 West Market St. San Antonio, TX 78205	National Conference of Chief Justices/ Westin Riverwalk Hotel in San Antonio, TX	17 miles	407 miles	
July 10-16, 2015	Montreal, QC	Hyatt Regency Montreal/ 1255 Rue Jeanne-Mance, C.P. 130 Montreal ( Quebec)	AAJ Conference/ Montreal Convention Center	27 miles	607 miles	1.3 km
July 24-29, 2015	Omaha, NE	Hilton Hotel & Resort/ 1001 Cass Street Omaha, NE 68102	Conference of Chief Justices/ Hilton Omaha Hotel in Omaha, NE	8 miles	475 miles	
January 29 - February 4, 2016	Monterey, CA	Hyatt Regency Resort/ 1 Old Golf Course Road Monterey, CA 93940	Chief Justices Mid-Year Conference/ Hyatt Regency Hotel in Monterey, CA	6 miles	177 miles	
January 26 - February 2, 2017	Scottsdale, AZ	JW Marriott/ 5402 East Lincoln Drive, Scottsdale, AZ 85253	Conference of Chief Justices/ JW Marriott Camelback in Scottsdale, AZ	25 miles	523 miles	
July 21-26, 2017	Boston, MA	Sheraton Boston Hotel/ 33 Dalton Street Boston, MA 02199	AAJ Conference/ Hynes Convention Center in Back Bay	13 miles	336 miles	

Date	Destination Event	Destination City	Start Date	End Date
Jul-14	AAJ Conference	Baltimore	7/26/2014	7/29/2014
Jan-14	2014 Fall Circuit Judges Conference	Daniels		
Jan-15	National Conference of Chief Justices	San Antonio	1/24/2014	1/28/2014
Mar-15	Argument docket at WVU	Morgantown	3/4/2015	3/4/2015
May-15	Spring Circuit Judges' Conference	Roanoke		
Jul-15	AAJ Conference	Montreal	7/11/2015	7/15/2015
Jul-15	Conference of Chief Justices	Omaha & Chicago	7/25/2015	7/29/2015
Oct-15	2015 Fall Circuit Judges' ed conf.	Morgantown	10/14/2015	
Nov-15	ABA Appellate Judges Conference	DC		
Jan-16	Chief Justices Mid-Year Conference	Monterey, CA		
Feb-16	Oral Arguments	Morgantown	2/9/2016	2/24/2016
May-16	4th Circuit Judicial conference & Spring Circuit Judges ed conf.	White Sulfur Springs	5/21/2016	5/25/2016
Jun-16	National Symposium on Eyewitness Identification	New Haven, CT	6/27/2016	6/19/2016
Jul-16	New Appellate Judges Seminar	NY		
Jul-16	Conference of Chief Justices	Jackson, WY		
Sep-16	court arguments at MU	Huntington		
Sep-16	constitutional week at MU	Huntington	9/7/2016	9/23/2016
Sep-16	2016 Inter-Court Conference	Asheville	9/28/2016	9/30/2016
Jan-17	conf of chief justices	Scottsdale, AZ		
Feb-17	argument docket at wvu	Morgantown	2/28/2017	2/28/2017
Apr-17	argument docket in Tucker co	Parsons, WV	4/4/2017	4/4/2017
May-17	Spring Circuit Judges ed conf	Davis, wv		
Jul-17	AAJ Conference	Boston	7/22/2017	7/25/2017
Aug-17	Conf of Chief Justices	Philadelphia	8/5/2017	8/9/2017
Sep-17	Argument docket	Wheeling	9/5/2017	9/20/2017
May-14	WV Judges' Ed conf	Huntington		
Jul-13	National law conference	San Francisco		
May-13	Spring Judicial Conference	Bridgeport		
Mar-13	National Judicial College	Reno		

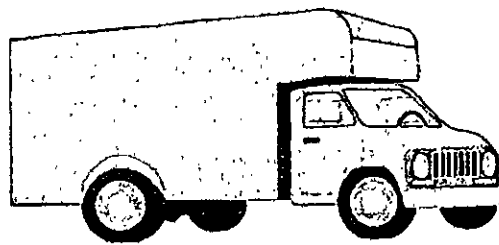
600423

STATEMENT 062113

### Young's Moving Service

5311 Keith Drive  
Cross Lanes, WV 25313

Phone: (304) 541-9393



## INVOICE

Date: 21 June 2013

*Thurs.*

For: Moving services performed on ~~Friday~~, June 20, 2013, to wit: loaded items from the State Capitol, delivered an item to Dudley Drive, returned to State Capitol to finish loading and delivered remaining items to Venable Drive Warehouse in Kanawha City.

0180-2014-5403-130-300

### Bill To:

West Virginia Supreme Court of Appeals  
Building 1, Room E-100  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0832

RECEIVED  
WV SUPREME COURT  
JUN 27 2013

ADMINISTRATIVE OFFICE

### Description of Charges:

Labor:	9.0 hours @ \$85.00 per hour	\$765.00
Mileage:	84 miles @ \$0.85 per mile	\$71.40
<b>TOTAL:</b>		<b>\$836.40</b>

I CERTIFY THAT THE ABOVE MERCHANDISE WAS RECEIVED IN GOOD CONDITION AND CONFORMED TO SPECIFICATIONS.

DATE June 29, 2013

SIGNED P. Fletcher Adams

Payment is due upon receipt.

Please make all checks payable to Scott Young.

*Requests from June 1 and June 18  
consolidated into one move.  
PFA*

## Thanks for your business!



BASKET ESSENTIAL

INVOICE COVER SHEET

AUDITOR ENTRY ID: I 7 14658646  
WVFIMS DOCUMENT ID: I 14658646

STATE ORGANIZATION: 2400  
STATE ORGANIZATION NAME: SUPREME COURT  
ORGANIZATION CONTACT: SUE TROY  
ORGANIZATION ADDRESS: BLDG 1 ROOM E-100

EXHIBIT

21

CHARLESTON WV 25305-0000  
ORGANIZATION: 2400  
ORGANIZATION NAME: SUPREME COURT

DATE PREPARED: 07/08/13  
DOCUMENT AMOUNT: 836.40  
VENDOR INVOICE NUMBER: STATEMENT062113  
AGENCY COMMITMENT:  
AGENCY DOCUMENT:

SPECIAL AUTHORIZATION: 4  
OPEN END CONTRACT NUMBER:  
DUE DATE: 07/08/13  
SPECIAL HANDLING: N  
VENDOR NUMBER: 600423  
VENDOR NAME: YOUNGS MOVING  
VENDOR ADDRESS: 5311 KEITH DR

CROSS LANES WV 25313-

CONTACT PERSON/PHONE: SANDRA K. JOHNSON 304-558-0145 EXT:  
CASH ADVANCE: N BEGIN TRAVEL: / / END TRAVEL: / /

COMMENTS:

ELECTRONICALLY AUTHORIZED BY: SANDRA K. JOHNSON DATE: 2013-07-08  
INVOICE AUDITOR

APPROVED BY AUDITOR: \_\_\_\_\_ DATE: \_\_\_\_\_

FUND	FY	ORG	ACT	OBJ	GRANT	AMOUNT
0180	2014	2400	130	020		836.40
TOTAL INVOICE AMOUNT						836.40

SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA

STEVEN D. CANTERBURY  
ADMINISTRATIVE DIRECTOR



ADMINISTRATIVE OFFICE  
BUILDING 1, ROOM E-100  
1900 KANAWHA BOULEVARD, E.  
CHARLESTON, WV 25305-0832  
(VOICE) 304/558-0145  
(TTY) 304/558-4219  
(FAX) 304/558-1212  
[www.state.wv.us/wvscal/](http://www.state.wv.us/wvscal/)

DATE: June 18, 2013

TO: Young's Moving Service

Scott Young

FAX # 304-

FROM: Fletcher Adkins  
ADMINISTRATIVE OFFICE FAX # - 304-558-1345

Scott,

On Thursday, June 20<sup>th</sup>, we need to move furniture from the Capitol to the Venable Avenue warehouse. Please have your movers report to the East-Wing dock of the Capitol Building by 9:00 a.m. Since the state will be celebrating the 150<sup>th</sup> anniversary of statehood, some of the streets will be blocked. I arranged with Matt Brown, Capitol Security Manager, for you to have access. Please enter the Capitol grounds from the east, on Quarrier Street. There will be a road block at California Avenue. Show the guards this letter and they will allow you access.

As agreed, the rate will be \$85 per hour for the truck, driver and helper and \$.85 per mile for the fuel. If you have any questions, call me at 541-5164.

Handwritten signature of P. Fletcher Adkins in cursive script.  
P. Fletcher Adkins  
Director, Admin. Service

FACSIMILE TRANSMITTAL SHEET + No (0) PAGES

SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA

STEVEN D. CANTERBURY  
ADMINISTRATIVE DIRECTOR



ADMINISTRATIVE OFFICE  
BUILDING 1, ROOM E-100  
1900 KANAWHA BOULEVARD, E.  
CHARLESTON, WV 25305-0832  
(VOICE) 304/558-0145  
(TTY) 304/558-4219  
(FAX) 304/558-1212  
[www.state.wv.us/wvscal/](http://www.state.wv.us/wvscal/)

DATE: June 1, 2013

TO: Young's Moving Service

Attn: Tonja Young

Scott Young

FAX # 304-586-0300

FROM: Fletcher Adkins  
ADMINISTRATIVE OFFICE FAX # - 304-558-1345

Scott,

*Thurs. 20th*  
On ~~Friday~~, June ~~21<sup>st</sup>~~, the furniture in Justice Loughry's office will be moved to make way for office renovation. I would like you to provide assistance to move the furniture in the Capitol Building and some moving to the Venable Warehouse.

As we have agreed, the rate will be \$85 per hour for the truck, driver and helper and \$.85 per mile for the fuel. The move will start around 9:00 a.m. If you have any questions, call me at 304-541-5164.

P. Fletcher Adkins  
Director, Admin. Service

FACSIMILE TRANSMITTAL SHEET + *no* (0) PAGES

VCM 1800015559

EXHIBIT

22

CSI 708

18000168240



INVOICE

March 19, 2018

West Virginia Commission on Special Investigations  
attn: James S. Powers  
301 Eagle Mountain Road  
Room 218  
Charleston, WV 25311-1061

Appraisal of "Cass Glibert" Executive Desk -	\$150.00
Sales Tax	EXEMPT
Total Due	\$150.00

Due Upon Receipt

Questions? Please contact Chuck Hamsher - 304-345-0123

 SCANNED

PAID  
3/20/18

Joint Committee on Government & Finance

I hereby certify that the  
items/service has been received  
and approved for payment

Charles Bellum 3/19/18  
Name Date

The Purple Moon Inc. 906 Quarrier Street Charleston, WV 25301 304.345.0123



March 18, 2018

James S. Powers  
West Virginia Commission on Special Investigations  
301 Eagle Mountain Road  
Room 218  
Charleston, WV 25311-1061

RE: Appraisal of "Cass Gilbert" Executive Desk

Dear Mr. Powers;

Per your request we have examined and evaluated an executive desk previously utilized at the West Virginia Supreme Court of Appeals and, at the time of our inspection, stored in a warehouse on Venable Avenue in Charleston, WV.

This desk is one of ten placed in the West Virginia Capitol for the West Virginia Supreme Court of Appeals in the East Wing towards the completion of the Capitol in 1932. These desks and certain other furnishings are among those chosen by architect Cass Gilbert's firm to place in the completed Capitol Complex. While it is not clear if Mr. Gilbert designed the desk or approved the design for use they have come to be known as the "Cass Gilbert Desks". Gilbert was known for particular attention to details.

The mahogany, walnut and walnut veneer Federal-style desk measures 72" x 40" x 30.75" with 8 drawers. The veneers used in the panels and top of the desk were painstakingly chosen and matched. The desk retains all of its original brass hardware. Drawer joints are dovetailed and the drawer sides and bottoms are also constructed from fine wood. No repairs were noted.

There is some damage to the desk with scraping and scratches on the left side, top right corner of the desk and some damage to the veneer at three places along the top front. (See photos Exhibit A). Due to the location we were unable to inspect and evaluate the back of this desk.

Early to mid-20th century furnishings with a connection to a prominent architect continue to be in demand in the marketplace. The provenance and pedigree of furnishings certainly enhances its desirability and value. For Cass Gilbert in particular there is considerable interest. The State of Minnesota recently undertook an effort to identify and return original furnishings designed by Cass Gilbert for their 1905 Gilbert-design Capitol. This project was part of an overall restoration and was done in conjunction with the Minnesota Historical Society and the Cass Gilbert Society.

As the architect of such prominent buildings as the United State Supreme Court, The Woolworth Building and other historic structures, items and furnishings attributed Cass Gilbert are at a premium in the current market.

Considering the current market demand for fine furnishings such as this "Cass Gilbert Desk", its historical significance and impeccable provenance the desk would have a Fair Market Value of \$42,500 in current condition. Full restoration could increase this value.

The Purple Moon Inc. 906 Quarrier Street Charleston, WV 25301 304.345.0123

The definition of Fair Market Value is set forth in Treasury Regulation §1.170A-1(c)(2) which states that the Fair Market Value is "The price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts." Estate Tax Regulation §20.2031-1(b) expands the definition by stating "...nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate."

The sales comparison approach to value was employed to determine fair market value. In the sales comparison approach, the most appropriate market is researched to locate comparable items which have sold in the past on which an opinion of value can be based. Adjustments in value are made to reflect differences (if any) in value relevant characteristics between the comparable properties and the subject properties.

This appraisal is based only on the readily apparent identity of the items appraised. In my opinion, no further opinion or guarantee of authenticity, genuineness, attribution or authorship is necessary.

No guarantee is given or implied that this item will or would sell in the marketplace for the amount determined.

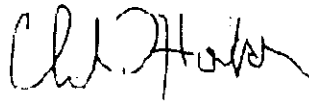
The Purple Moon, Inc. is a West Virginia corporation specializing in 20th Century antiques furnishings, accessories and art. As its president I have two decades of experience evaluating, identifying and valuing 20th Century items.

I have no bias with respect to the property that is the subject of this report or to the parties involved with this appraisal.

My engagement in this appraisal was not contingent upon developing or reporting predetermined results. My compensation for completing this appraisal is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

I regard all information concerning this appraisal assignment as confidential. I retain a copy of this document along with my original notes in the assignment workfile, and I will not allow others to have access to these records nor comment on them without your written permission.

Sincerely,

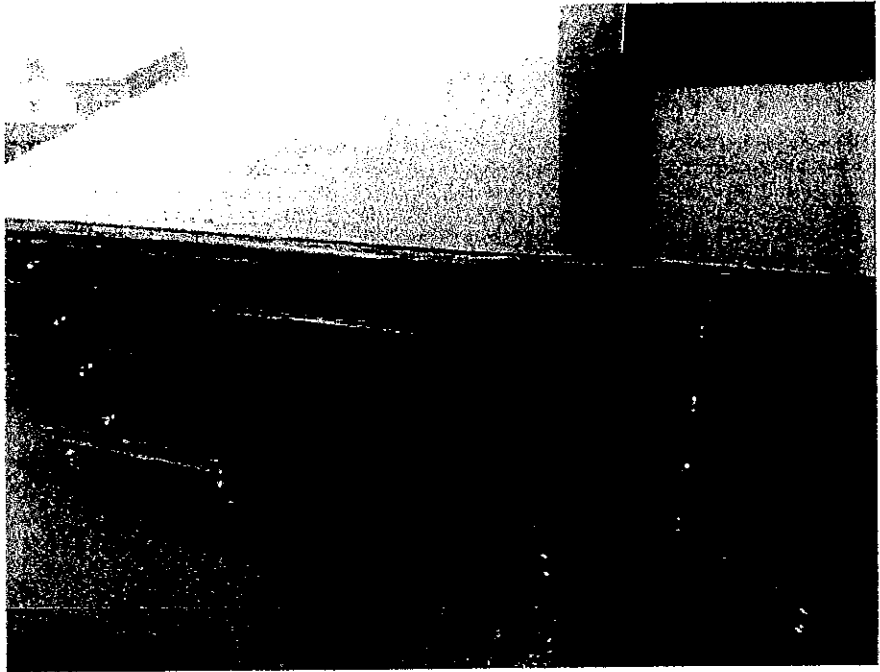


Charles T Hamsher  
President - The Purple Moon Inc.

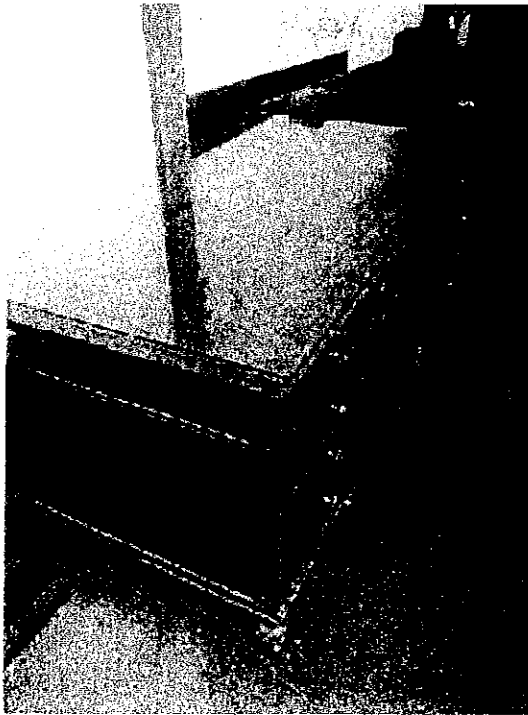
Attachment: Exhibit A - Photos

The Purple Moon Inc. 906 Quarrier Street Charleston, WV 25301 304.345.0123

Exhibit A - Photos

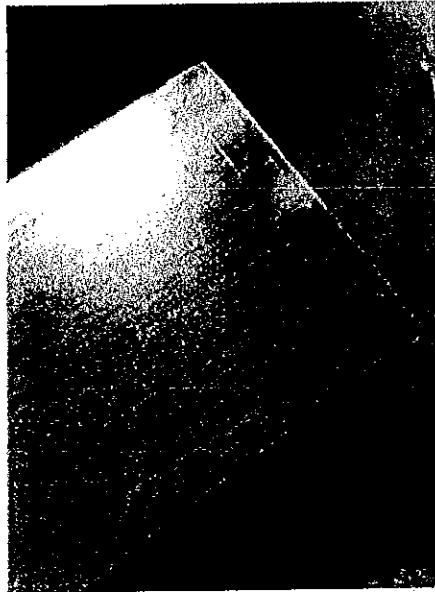
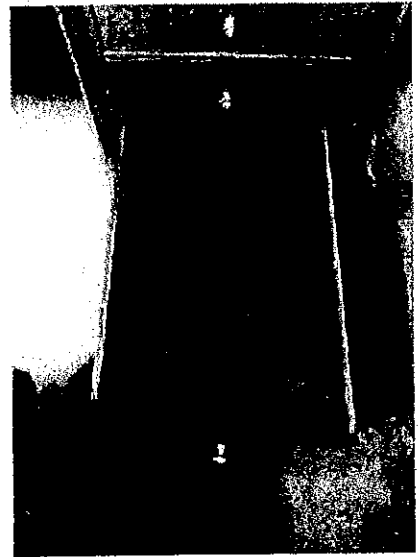


The Purple Moon Inc. 906 Quarrier Street Charleston, WV 25301 304.345.0123

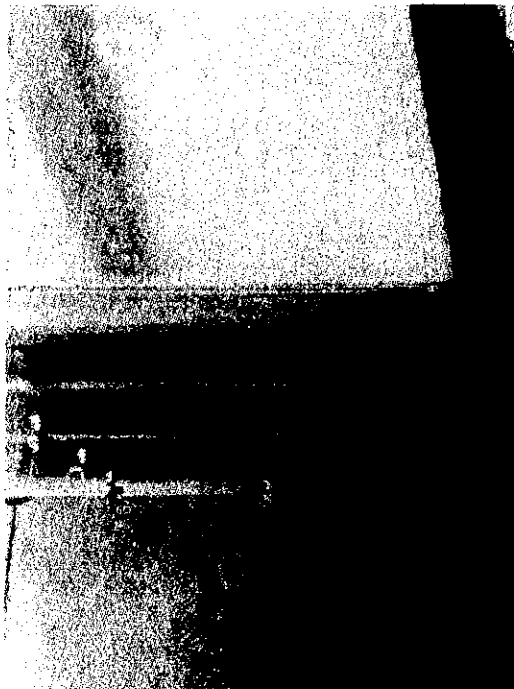
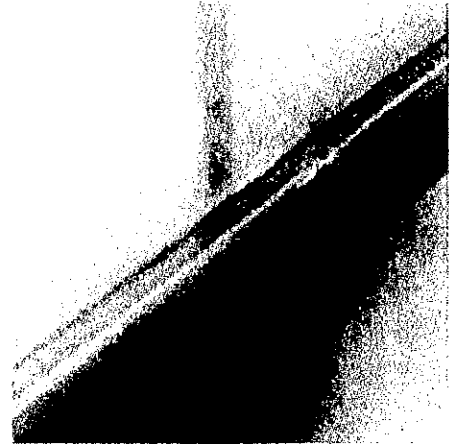
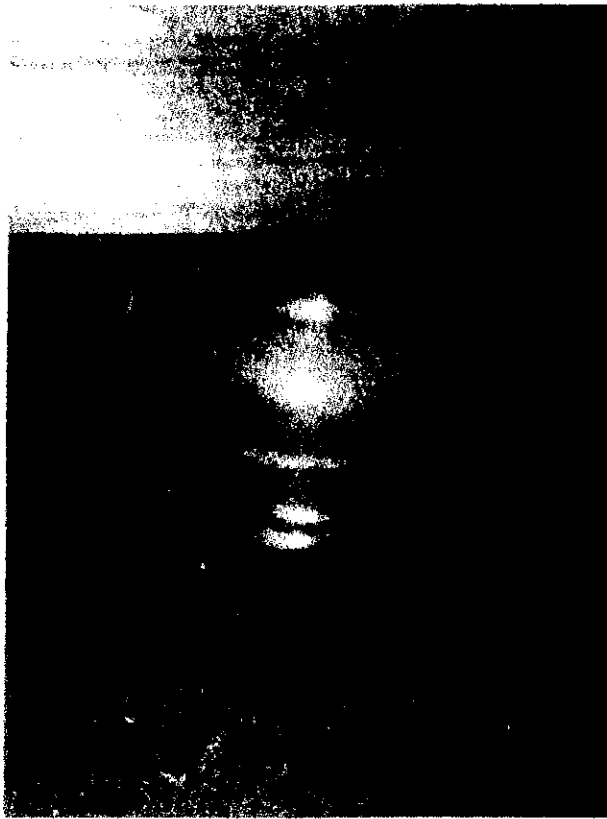


The Purple Moon Inc. 906 Quarrier Street Charleston, WV 25301 304.345.0123





The Purple Moon Inc. 906 Quarrier Street Charleston, WV 25301 304.345.0123



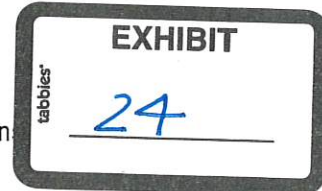
The Purple Moon Inc. 906 Quarrier Street Charleston, WV 25301 304.345.0123

Vice-Chair Householder: I was going to ask, so you don't think you have the fox guarding the hen house?

Justice Loughry: Absolutely not...So, so in the past, um invoices would come in, invoices would get paid, invoices would go out. There's not a single invoice that comes in, my understanding is there's not a single invoice that comes into our court system where at least two individuals review those and, and you know I've been asked since this occurred many times, "Well don't the justices sign off on every invoice that comes through the court system?" Well, no. And of course not because we have more than twenty, keep in mind we're talking about an entire court system in all 55 counties. We have more than 25,000 invoices that come through the court system every single year, and on top of that we have another 10-15,000 transactions on our purchasing cards, so we're also sitting down.... We haven't had written procedures and protocols, and I want to have written procedures and protocols for everything. We need that, we just...the people of West Virginia deserve that. So we want to put things in place so not only this will never happen again but it doesn't matter who is in the Chief position or whose in the Legislature or whatever...Another big thing, that we did and I know I touched upon it, but the change of the Chief Justice position is huge. It's not about me, I'm talking about twenty years down the road. If you look, let's look at renovation period, okay, these renovations occurred from 2008 until 2014. Alright, I wasn't even on the court until 2013, so for that 6 year period you had five individuals who served in a one-year capacity, as Chief Justice I think that creates an impossibility. It puts a lot of pressure on each one of those individuals for any long term project. I think that's one more example.

Vice-Chair Householder: Well you, know there a lot of public pressure from this body to do something because I don't think you'd dispute that it was outrageous, there were a lot of claims. I mean the average tax payer they're out-out-raged, what they, from what was reported so we want to make sure there are some safe guards or assurances that this will, will not happen again.

Justice Loughry: I think that that is an absolutely legitimate concern and question. There is nobody more outraged by these purchases than me. Many people in this room have known me for more than two decades, and they know, I would have never approved such things, however there was clearly a failure of oversight at the court. These things happened. We can't go back and change them, but what we can do is go forward, make sure something like this never happens again.



[https://www.wvgazettemail.com/opinion/daily\\_mail\\_opinion/commentary/justice-allen-loughry-citizen-whole-high-court-story-daily/article\\_f48df220-6f9a-51ca-b6bd-6368cf8be009.html](https://www.wvgazettemail.com/opinion/daily_mail_opinion/commentary/justice-allen-loughry-citizen-whole-high-court-story-daily/article_f48df220-6f9a-51ca-b6bd-6368cf8be009.html)

## Justice Allen Loughry: Citizens deserve whole high court story (Daily Mail)

By Allen H. Loughry II Dec 7, 2017



West Virginia Chief Justice Allen Loughry II

Many have heard or read about the renovations at the West Virginia Supreme Court of Appeals. News media have boiled this down to a "he said/he said" situation, but that ignores the clear and critical facts.

My very first act upon becoming Chief Justice in 2017 was to fire the court administrator, Steve Canterbury, for a decade of misfeasance and mismanagement. The Supreme Court consists of five justices, and it takes three votes to take such an action. Until that time, Canterbury had a stronghold on the court's financial and administrative decisions.

I became so troubled by some of the actions of Canterbury and the failure of a majority of the court to even attempt to hold him accountable that I personally contacted the United States Attorney's Office. That was not an easy decision to make, and I am clearly receiving some payback for taking these actions.

#### **Hoppy Kercheval: State Supreme Court spends big on its own office furniture (Daily Mail)**

Even with a strong three-vote majority, Canterbury was not left with unfettered authority. He had strict spending limitations of \$20,000. That rule has been in place since 2009, when it was introduced by, and later signed by, Canterbury. Any expenditure above the limit has to be presented to the full Supreme Court for a vote by the majority.

That brings us to the \$32,000 couch in my office. This item, along with other expenditures above the administrative director's \$20,000 limit, was never brought before the court for approval. This is a clear violation of court rules and, in my opinion, is a misappropriation of state money.

If you don't have the legal authority to spend it, you can't spend it. I am also deeply troubled by the amounts for some of these everyday items.

#### **Gazette editorial: Supreme Court should offer people an inventory**

Another important fact lost in this web of deceit is that the Supreme Court did not waste \$3.7 million on renovations. There were serious electrical, heating, cooling, plumbing and structural issues that had not been addressed in 80 years.

In 2008, five years before I became a justice, the five sitting justices began renovating three separate floors of the court that were in need of repair. In fact, nearly 80 percent of the court's renovations were completed before I was sworn in as a justice in 2013, and 100 percent well before I became chief justice in 2017.

These important projects were not waste. The waste comes in when Canterbury spent ridiculous and inexcusable amounts of money without approval or legal authority on some of the furnishings.

Why didn't I know? Didn't I ask? After all, isn't Canterbury an employee of the court accountable to us justices?

These are simple questions. I worked for years trying to get information from Canterbury, but I was in the minority, and making him answer my questions was a near impossibility.

Furthermore, he often ridiculously proclaimed that, as administrative director, he was a constitutional officer with separate sovereign authority. This is clearly not accurate.

What about that couch? I specifically asked Canterbury the cost and was told \$1,700. He said the Supreme Court had "government contracts" and received 70 percent off of all our furniture purchases, declaring they were "dirt cheap."

But, don't justices individually review and approve all invoices? The administrative office handles the finances of the entire judicial branch which includes 74 circuit courts, 47 family courts and 158 magistrates throughout the state.

Our finance division handles between 35,000 and 40,000 invoices and purchasing card transactions per year. Reviewing and approving these transactions is one of the reasons we hire an administrative director.

I understand that as chief justice, I must answer for the court's decisions, even if I wasn't around when they occurred or if they occurred under someone else's leadership. While I have attempted to do this, many of those answers have been lost in the understandable outcry over excessive expenditures.

 **Daily Mail editorial: State Supreme Court must be accountable**

When Canterbury was terminated last January, he stood before all five justices and told the three of us who voted to fire him, "I will destroy you!"

These are not the kind of employment details that should play out in public; however, Canterbury's all-out war of lies on individual justices and on this court has spiraled out of control. I will no longer sit silent while he destroys the reputation of this fine institution.

Upon my becoming the chief justice in 2017, the majority of the court has worked together to begin building a much needed structure.

We fired Canterbury and hired a new administrative director who is open and transparent. We reduced our spending by approximately \$7 million.

We eliminated nonessential positions and with the help of the National Center of State Courts, we began a massive reorganization.

We completely reorganized our probation division, saving millions of dollars and setting up a system where sexual offenders will be more closely watched.

We have made changes to our drug courts that will save significant amounts of money.

We have started putting procedures in place in our finance division that will change the transparency of the court forever. Even the simplest of actions with an invoice is now at least a two-person process.

We have even made a change in the term of our chief justice. Instead of a one-year rotation, the chief justice is now selected for a four-year term with the ability to serve for subsequent terms. This allows for more accountability and consistency.

I want to change the culture and perception of corruption that has plagued our government for countless generations. I am the chief justice, but I am also a taxpayer of this state, and I simply will not stand for excessive and wasteful spending.

The citizens of West Virginia deserve the whole story. I will do my part to ensure that the appropriate

people are held responsible.

Allen H. Loughry II is chief justice of the West Virginia Supreme Court.





EXHIBIT  
25  
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EXHIBIT

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27





WV Legislative Photography. Photo by Perry Bennett



WV SUPREME COURT OF APPEALS INTRANET

Angus, Arthur

Requestor: \*

Vehicle Requested \*

Beginning Date: \*   12 AM  :00

Ending Date: \*   12 AM  :00

Destination \*

Email Address: \*

Phone: \*

Notes:

Save Cancel

**From:** Bundy, Jennifer  
**To:** [Johnson; Gary <Gary.Johnson@courtsww.gov>](mailto:Gary.Johnson@courtsww.gov); [Morris; Christopher <Christopher.Morris@courtsww.gov>](mailto:Morris; Christopher.Morris@courtsww.gov); [Troy; Sue <Sue.Troy@courtsww.gov>](mailto:Troy; Sue.Troy@courtsww.gov)  
**Subject:** what Kenny wants  
**Date:** Wednesday, October 18, 2017 4:01:34 PM

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Putting this in writing so it's not just on my Post-It notes.

Kenny Bass office 304-345-4115, cell 304-539-9122

Wants to do a "Waste Watch" story on renovations in Chief Justice Loughry's office in 2013. "Waste Watch" is a segment done throughout the Sinclair Broadcasting network.

He says he has copies of bills "down to the penny" on some expenses such as \$34,000 for a couch, \$40,000 for the floor, window dressings and furniture (he didn't tell me an amount for those). He has receipts and photos of the couch and floor. He has copies of letters between the Supreme Court and the company that worked on the floor design.

He says the renovation of Chief Justice Loughry's office cost twice as much as the renovation of any other office.

He does not have any information about expenses of renovating any other offices. He thinks Justice Davis uses her own desk and Justice Benjamin got a desk from archives.

He wants to know if the Court approved the expenses, and why.

He wants to take video in Chief Justice Loughry's office and in the courtroom. He says he has never seen any of the offices. Story to run Oct. 30. He's not available tomorrow but is available Friday and any day next week from 9:30 a.m. to 6 p.m.

Jennifer Bundy  
Public Information Officer  
Supreme Court of Appeals of West Virginia  
1900 Kanawha Blvd. E., Building 1, Room E-100  
Charleston WV 25305  
Office: 304-340-2305  
Cell: 304-437-5442  
Fax: 304 558-7990

**From:** Bundy, Jennifer  
**To:** [Loughry; Allen <Allen.Loughry@courtswv.gov>](mailto:Allen.Loughry@courtswv.gov)  
**Subject:** Fwd: Just FYI about furniture  
**Date:** Wednesday, November 29, 2017 12:54:58 AM  
**Attachments:** [image001.png](#)  
[image001.png\\_MAGNETFORENSICS0](#)

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Sent from my iPhone

Begin forwarded message:

**From:** Kennie Bass <[kbass@sbgvtv.com](mailto:kbass@sbgvtv.com)>  
**Date:** November 28, 2017 at 6:59:56 PM EST  
**To:** "Bundy, Jennifer" <[Jennifer.Bundy@courtswv.gov](mailto:Jennifer.Bundy@courtswv.gov)>  
**Cc:** Christopher Swope <[crswope@sbgvtv.com](mailto:crswope@sbgvtv.com)>  
**Subject:** RE: Just FYI about furniture

Jennyfer,

Thank you for the information about the state equipment at the homes of the other justices. The only reason I have been asking follow-up questions is that some of the answers I've gotten have raised those additional questions. For example, when asking about state property at the chief justice's home, there was no mention of a state-owned desk when he sent responses to me about the couch. Technically, he answered my question. But I was aware the justice had a desk. It is only when I asked specifically about it did its existence come to light. What if I had not been aware of the desk? I may never have known to even ask about it.

I appreciate the chief justice's time in helping answer my questions. However, from this end, it feels an awful lot like he's parsing his responses. News of the desk only came out when I specifically asked about it. If that is the way the court is going to function when asked questions, you as a former reporter would obviously see the need for follow-up queries. I have been told the desk is an historic Cass Gilbert desk. Is that the case? That is an extremely valuable piece of furniture, both historically and monetarily. If that is not the case, a simple clarification from you would be welcome.

Additionally, can you explain exactly why it isn't possible for us to take video of the couch? I would like to be able to clearly say why the court isn't allowing us to document a piece of publicly-owned property in a publicly-funded building. That way I can be correct and exact when I do my story on the court's efforts at transparency, using the chief justice's own statement.

I'm sorry if the justice believes these continuing questions are a problem or a nuisance. The reason I have so many questions is that there seems to be several

questionable decisions either being made or having been previously made by the court involving public money. Those are questions that always must be answered if our elected officials are to be held accountable for those decisions.

In that vein, do you have any information about the final disposition of the grandfather clock which used to be in the justices conference room? I am interested in finding out what happened to that clock. If you can provide that information I would appreciate it.

Thank you,

**Kennie Bass**

News Anchor/Reporter

WCHS (ABC 8) / WVAH (FOX 11)

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[wchstv.com](http://wchstv.com) [wvah.com](http://wvah.com)



Sinclair provides services to WVAH pursuant to a shared services agreement.

**From:** Bundy, Jennifer [<mailto:Jennifer.Bundy@courtswv.gov>]

**Sent:** Tuesday, November 28, 2017 5:06 PM

**To:** Kennie Bass <[kbass@sbgvtv.com](mailto:kbass@sbgvtv.com)>

**Subject:** RE: Just FYI about furniture

Kenny:

Chief Justice Loughry has asked that I provide a final response to these continuing questions.

For clarification, the couch was abandoned property, and it was not a gift. The Ethics Act is not implicated.

Also for clarification, the Court has a longstanding practice of providing the Justices an opportunity to establish a home office, with Court-provided technology equipment (i.e. computers) and furniture to suit their respective needs.

It is not possible to accommodate your request to photograph the couch.



Jennifer Bundy  
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**From:** Kennie Bass [<mailto:kbass@sbgty.com>]  
**Sent:** Tuesday, November 28, 2017 3:15 PM  
**To:** Bundy, Jennifer  
**Cc:** Christopher Swope  
**Subject:** RE: Just FYI about furniture

Jennifer,

Thank you for your responses. Some questions which were unanswered? If the Albrights left the couch to the court, doesn't that make the couch state property? Did the Albrights ever specifically say the couch was Justice Loughry's to use as he saw fit, or was it a gift to the state? And if it's state property, then why did Justice Loughry need a couch at his home? Is he entertaining guests in his home office?

Which brings up the question of the desk. I suppose you can justify that as furniture for a home office, however, can you please find out and let me know how many of the other four justices have state property, (desks, couches, chairs, coffee makers, etc.) at their home offices?

Thank you,

**Kennie Bass**

News Anchor/Reporter  
WCHS (ABC 8) / WVAH (FOX 11)  
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Twitter: @KennieBassWCHS  
Facebook: [facebook.com/Kennie-Bass-257839674292570/](https://www.facebook.com/Kennie-Bass-257839674292570/)  
[wchstv.com](http://wchstv.com) [wvah.com](http://wvah.com)



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**From:** Bundy, Jennifer [<mailto:Jennifer.Bundy@courtswv.gov>]

**Sent:** Tuesday, November 28, 2017 2:18 PM

**To:** Kennie Bass <[kbass@sbgvtv.com](mailto:kbass@sbgvtv.com)>

**Subject:** Just FYI about furniture

I just wanted you to know that I was always told that all the furniture in Justice Albright's office was his own furniture. Justice Albright's bio, which I have printed and electronic copies of if you need to see them, said: Since 1959 he has been an officer and director of Albright's of Belpre, Inc., a family corporation which owns and operates Belpre Furniture, a retail furniture business with locations in Belpre, Ohio, and Parkersburg.

After Justice Albright died, I clearly remember Steve Canterbury telling me that the Albright family, including his wife and son, came in to his office at the Capitol and picked out what furniture they wanted to keep and what they did not want. They left what they did not want.

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**From:** Bundy, Jennifer  
**To:** [Morris; Christopher <Christopher.Morris@courtswv.gov>](mailto:Morris; Christopher.Morris@courtswv.gov); [Johnson; Gary <Gary.Johnson@courtswv.gov>](mailto:Johnson; Gary.Gary.Johnson@courtswv.gov); [Loughry; Allen <Allen.Loughry@courtswv.gov>](mailto:Loughry; Allen.Allen.Loughry@courtswv.gov)  
**Subject:** FW: Response to your questions  
**Date:** Wednesday, November 29, 2017 4:19:40 PM

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**From:** Phil Kabler [mailto:[philk@wvgazette.com](mailto:philk@wvgazette.com)]  
**Sent:** Wednesday, November 29, 2017 11:17 AM  
**To:** Bundy, Jennifer  
**Subject:** Re: Response to your questions

Under the West Virginia Freedom of Information Act (W.Va. Code 29-B-1-1 et seq), I request the following information regarding the Supreme Court's practice of providing technology and furniture for justices in order to maintain home offices:

1. Written policy statement regarding establishing home offices for justices.
2. Inventory of technology and furniture provided to each justice.
3. Expenditures for technology and furniture, specific to each justice.

As per state FOIA law, I will anticipate a response within five business days.

Thanks in advance,

Phil Kabler  
Charleston Gazette-Mail

On Tue, Nov 28, 2017 at 5:06 PM, Bundy, Jennifer <[Jennifer.Bundy@courtswv.gov](mailto:Jennifer.Bundy@courtswv.gov)> wrote:  
Phil:

Chief Justice Loughry has asked that I provide a final response to these continuing questions.

For clarification, the couch was abandoned property, and it was not a gift. The Ethics Act is not implicated.

Also for clarification, the Court has a longstanding practice of providing the Justices an opportunity to establish a home office, with Court-provided technology equipment (i.e. computers) and furniture to suit their respective needs.

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Fax: [304 558-7990](tel:304-558-7990)

**From:** Phil Kabler [mailto:[philk@wvgazette.com](mailto:philk@wvgazette.com)]  
**Sent:** Tuesday, November 28, 2017 2:52 PM

**To:** Bundy, Jennifer  
**Subject:** Re: Response to your questions

I sent two more questions to Justice Loughry, but have not received responses.

Can you make sure they are relayed to him?

1. Given the Ethics Act prohibition on accepting gifts valued at more than \$25, how were you able to accept the couch as a gift from Mrs. Albright (or her son)?
2. Am I correct to understand there is another piece of furniture in your residence that needs to be moved back to state property?

Thanks,  
Phil

On Tue, Nov 28, 2017 at 2:17 PM, Bundy, Jennifer <[Jennifer.Bundy@courtswv.gov](mailto:Jennifer.Bundy@courtswv.gov)> wrote:  
I think you are just going to have to go with what ya got.

**From:** Phil Kabler [mailto:[philk@wvgazette.com](mailto:philk@wvgazette.com)]  
**Sent:** Tuesday, November 28, 2017 2:03 PM  
**To:** Bundy, Jennifer  
**Subject:** Re: Response to your questions

Thanks.

Editors inform me that the cellphone picture in the Twitter feed is not of sufficient quality to use in print edition of the paper.

Also, I think they want a photo showing couch in its current locale.

Please advise.

Thanks,  
Phil

On Tue, Nov 28, 2017 at 1:29 PM, Bundy, Jennifer <[Jennifer.Bundy@courtswv.gov](mailto:Jennifer.Bundy@courtswv.gov)> wrote:  
Phil:

I am responding on Chief Justice Loughry's behalf because he is in a meeting.

1. You didn't indicate whether the court employees were "on the clock" when they were moving the couch; however, that would be moot if the couch is public property.

Answer: The Albrights didn't want the couch and Chief Justice Loughry didn't want the couch any more. It was private property until Chief Justice Loughry donated it to the state, which made it public property. There is nothing wrong with state employees moving a donation to the state in a state van on state time. Yes, they were Supreme Court employees on work time using a state van. If anyone was trying to hide something or thought anything was improper, they certainly would not have moved the couch in the middle of the afternoon on a bright, sunny day.

2. Editors want a photo of the couch.

Answer: I believe you already have a photo. You tweeted it earlier today.

Chief Justice Loughry is not going to have any further comment about this.

Jennifer Bundy  
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Justice Robin Jean Davis responds to Phil Kabler's West Virginia Freedom of Information Act (W. Va. Code § 29-B-1-1 *et seq.*) request regarding "the Supreme Court's practice of providing technology and furniture for Justices in order to maintain home offices" as follows:

I have been a member of the Supreme Court of Appeals of West Virginia since December 16, 1996. For the past twenty-one years, since my time on the Court, I have never heard of or seen any verbal or written policy of providing the Justices an opportunity to establish a home office with furniture supplied by the West Virginia Supreme Court. The Justices have been provided computers and printers for off-campus use. Justices also have been provided Court cell phones.

I was not consulted prior to the publication of the statements contained in Mr. Kabler's article, nor do I agree with the statements that have been made on behalf of the Court about a practice of establishing "home offices" with furniture for Justices. I have confirmed this fact by requesting memos from Kimberly Ellis, Director, Division of Administrative Services, and Sue Racer-Troy, Director, Division of Financial Management, both of which are attached hereto.

12.6.17

**SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA**

GARY L. JOHNSON  
ADMINISTRATIVE DIRECTOR



ADMINISTRATIVE OFFICE  
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CHARLESTON, WV 25305-0832  
(VOICE) 304/558-0145  
(FAX) 304/558-1212  
[www.courtswwv.gov](http://www.courtswwv.gov)

To: Justice Robin Davis  
From: Sue Racer-Troy *SR*  
Date: November 29, 2017  
Subject: State property at Justice's homes

I am not aware of, nor heard any mention of a policy (verbal or written) regarding state property kept at home offices of any Justices. The lack of written policies and procedures is an on-going problem which has existed for some time. But in this case, I was not aware of even a verbal policy regarding home offices for the Justices.

Many employees are assigned computer equipment, such as laptops, that can be used either at their workplace or home. It was my understanding that the Justices likely had laptops at their homes, but I was not aware of any other state property that was not kept on the premises.

During the five years that I have worked for the court, I am not aware of any furniture or fixtures that were purchased with state funds and delivered to the homes of any Justices. I've reviewed payments to Scott Young (dba Young's Moving Service) for the 2012 calendar year. I was unable to locate any record of furniture or fixtures being moved to the homes of any Justices.

**SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA**

GARY L. JOHNSON  
ADMINISTRATIVE DIRECTOR



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(FAX) 304/558-1212  
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**Memorandum**

To: The Honorable Justice Robin J. Davis, Supreme Court of Appeals of West Virginia  
From: Kimberly Ellis, Director of Administrative Services *KME*  
Date: November 30, 2017  
Re: Policies or Practices related to Court furniture or fixtures for use at Justice's Homes

This Memorandum is in response to your inquiry to me, in my capacity as Director of Administrative Services, to research and identify any written, historical and/or verbal policies or practices wherein Justices are provided with furniture or fixtures purchased or owned by the Court for use at their homes. You also directed me to identify my job responsibilities and experience related to the oversight, specification, procurement and inventory of new and used furniture under the purview of the Court.

I have been Director of Administrative Services since November 1, 2015. Prior to my tenure as Director, I was Deputy Director of Administrative Services from May 2013 to October 2015. As Director, my responsibilities include, but are not limited to, the specification, procurement (with authorization from the Court and the Administrative Director) and inventory of furniture items for the West Virginia Supreme Court Offices, and for Magistrate Courts and Family Courts throughout the state of West Virginia. I am also responsible for the oversight of the delivery, receipt, and general disposition of the Court's used furniture inventory stored and maintained in the Court's two warehouses located at Leon-Sullivan Way and at Venable Avenue.

When a furniture item is purchased by the Court, a file is generated by me and/or my staff which contains approved quotes, purchase orders, invoices, and any other relevant documentation about the purchase or item. Each file is identified by the location where the furniture item is in use. For example, documentation of a purchase of a desk chair ordered for Magistrate Court in Wayne County would be found in the Wayne County file in my office. The Financial Division also retains more detailed financial records of the purchase in electronic format through WVOasis.

After research of the records kept in the Administrative Services Division, my review of the policies I am aware of pertaining to operations at the Court, my discussions with Sue Troy, Director of the Court's Financial Division, and based on my personal knowledge during my



tenure as Deputy Director and Director of Administrative Services, I have been unable to identify any written, historical and/or verbal policies or practices related to the provision of furniture or fixtures purchased or owned by the Court for use at a Justice's home.

During my research, which included review of documents available to me going back to as far as 2010, I did not locate any records documenting that any used furniture items were moved from the Court's offices or from either of the Court's warehouses to a Justice's home. Based on my discussions with Sue Troy, it is my current understanding that she is also unaware of any records available to her that document any new or used furniture purchased for or located at a Justice's home. It is also my understanding that Mrs. Troy has been directed to submit her findings separately once she has completed her research.

As Director, I have not arranged to have new or used furniture or fixtures delivered to a Justice's home. During my tenure as Deputy Director, I did not arrange to have new or used furniture or fixtures delivered to a Justice's home. During my tenure as Deputy Director, I am not aware of my predecessor, Fletcher Adkins, arranging for furniture or fixtures to be delivered to a Justice's home. Notwithstanding, I did not contact Mr. Adkins (who is currently retired) for purposes of this memorandum, but will do so if requested by you or any other member of the Court.

Since becoming Director, I have exercised due diligence to improve the detail of our filing and tracking system of all Court assets, including furniture and fixtures, but the "system" I inherited is primarily paper files and could and should be updated to an electronic format so that it will be more comprehensive, accessible, and easily searchable. It is my suggestion that we improve our existing system by creating a central electronic database wherein all court assets (of a minimum value to be determined by the Court) located in the Supreme Court offices or warehouses, or in Magistrate and Family Courts in the 55 counties, are logged into the central database so that the description, value, purchase date and location of each asset is easily accessible and can be revised when an asset is relocated or retired. This improved central database would also assist the court in being more transparent with regard to the Court's assets located throughout the state. I have had some discussion with Sue Troy about these improvements and she suggested that we may be able to accomplish this by using WVOasis or another existing internal computer program which would minimize any additional cost to the Court to implement the new central database.

If you are requesting different or additional information, please let me know at your convenience and I will promptly conduct any necessary additional research and supplement this memorandum.

cc: File

**From:** Bundy, Jennifer  
**To:** [Loughry; Allen <Allen.Loughry@courts.wv.gov>](mailto:Allen.Loughry@courts.wv.gov)  
**Subject:** Latest version of statement  
**Date:** Thursday, November 30, 2017 6:04:55 PM

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It is entirely appropriate for Supreme Court Justices to have desks and computers for home offices due to their heavy caseload and the amount of time they spend working at home. Justices do not work 9-5 jobs and frequently deal with emergency matters during the evening and also when Court is not in session. Nevertheless, the desk has been taken to storage until it is needed in another Supreme Court office. The desk was not returned because its use was inappropriate, but because issues such as this are becoming an obstacle to the Court completing its important work.

Jennifer Bundy  
Public Information Officer  
Supreme Court of Appeals of West Virginia  
1900 Kanawha Blvd. E., Building 1, Room E-100  
Charleston WV 25305  
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**From:** Bundy, Jennifer  
**To:** [Loughry; Allen <Allen.Loughry@courtsvw.gov>](mailto:Allen.Loughry@courtsvw.gov)  
**Subject:** RE: couch  
**Date:** Thursday, November 30, 2017 6:09:12 PM

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Phil:

Chief Justice Loughry asked me to respond.

No, this is not the desk that Justice McHugh and Justice McGraw used. It is the desk that Chief Justice Loughry used for ten years when he was a law clerk.

It is entirely appropriate for Supreme Court Justices to have desks and computers for home offices due to their heavy caseload and the amount of time they spend working at home. Justices do not work 9-5 jobs and frequently deal with emergency matters during the evening and also when Court is not in session. Nevertheless, the desk has been taken to storage until it is needed in another Supreme Court office. The desk was not returned because its use was inappropriate, but because issues such as this are becoming an obstacle to the Court completing its important work.

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**From:** Loughry, Allen  
**Sent:** Thursday, November 30, 2017 12:40 PM  
**To:** Bundy, Jennifer  
**Subject:** FW: couch

**From:** Phil Kabler [<mailto:philk@wv gazettemail.com>]  
**Sent:** Wednesday, November 29, 2017 1:24 PM  
**To:** Loughry, Allen <[Allen.Loughry@courtsvw.gov](mailto:Allen.Loughry@courtsvw.gov)>  
**Subject:** Re: couch

I raise this question, in part, because it is lighting up on Twitter at the moment:  
Is the antique desk that was used by Justices McHugh and McGraw, commonly referred to as the "Cass Gilbert desk" currently in your residence on Scenic Drive?

Thanks,  
Phil.

On Tue, Nov 28, 2017 at 2:00 PM, Phil Kabler <[philk@wvgazettemail.com](mailto:philk@wvgazettemail.com)> wrote:

Thanks for the response through Jennifer.

Two more questions, and I promise I'll be finished.

1. Given the Ethics Act prohibition on accepting gifts valued at more than \$25, how were you able to accept the couch as a gift from Mrs. Albright (or her son)?
2. Am I correct to understand there is another piece of furniture in your residence that needs to be moved back to state property?

Thanks,

Phil

On Tue, Nov 28, 2017 at 10:52 AM, Phil Kabler <[philk@wvgazettemail.com](mailto:philk@wvgazettemail.com)> wrote:

Thanks for the clarification.

Couple of more questions: You didn't indicate whether the court employees were "on the clock" when they were moving the couch; however, that would be moot if the couch is public property.

Also, editors would like to get a picture of the couch in the warehouse, if that's possible.

Thanks,

Phil

On Tue, Nov 28, 2017 at 10:01 AM, Loughry, Allen <[Allen.Loughry@courtswv.gov](mailto:Allen.Loughry@courtswv.gov)> wrote:

Phil, Justice Albright owned a furniture store and bought all of his office furniture including that couch. No one has ever disputed that. It was all his. These are more lies from Steve, but he will say absolutely anything to damage me and the Court. It was all his furniture and they took some and left some behind after he died in office. When I spoke with his widow yesterday she knew exactly what couch I was talking about, but said she still did not want it.

As far as the couch being moved and being stored in a state facility, after reading your story and the innuendo within, and after the Albrights said they still did not want it back, I decided that I no longer wanted this couch under any circumstances. I did not want to keep getting accused of things. It's just not worth it. As far as I am concerned it is now property donated to the state of West Virginia so it is no longer private property. The court can use it. I would never store private property on state property under any circumstances. As I said yesterday, this was not state property, but you basically accused me of stealing state property in your column without even asking me about it so I decided to give it to the court and the court can use it in one of its offices. I'm hopeful that further clarifies this.

Sent from my iPhone

On Nov 28, 2017, at 9:09 AM, Phil Kabler <[philk@wvgazettemail.com](mailto:philk@wvgazettemail.com)> wrote:

Thanks for the clarification.

Couple of additional questions:

Is there a way to verify that the late Justice Albright bought the couch?

Also, were court employees "on the clock" when the couch was moved, and if the couch is private property, can it be stored in a state facility?

(Recall Ethics Commission fine v. Chris Jarrett for storing personal

property at the Water Authority HQ.)  
Thanks,  
Phil

On Mon, Nov 27, 2017 at 6:14 PM, Loughry, Allen  
<[Allen.Loughry@courts.wv.gov](mailto:Allen.Loughry@courts.wv.gov)> wrote:

I have just spoken with Justice Albright's son, the owner of the couch. He told me again he did not want the couch and for me to keep it. This is not State property. However, as I said previously, I am not keeping it and the State can have it.

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**From:** Loughry, Allen  
**Sent:** Monday, November 27, 2017 5:57 PM  
**To:** '[philk@wvgazette.com](mailto:philk@wvgazette.com)' <[philk@wvgazette.com](mailto:philk@wvgazette.com)>  
**Subject:** couch

Phil, I do not have twitter, but I have been informed that you posted a photo today. Here is my response to your photo and to your story. Please let me know if you receive this. Thanks. Allen  
You have been misinformed. The couch you are referring to is not state property. It was never state property. It was the property of Justice Joe Albright. He purchased all of the furniture in his office. After he passed away, his family said they had no further use for it and they did not want the couch returned to them. Nonetheless, I am so sick of the lies and innuendo coming from our fired, disgruntled former administrator Steve Canterbury, that I had the couch taken back to the supreme court warehouse. Today I called Nancy, Justice Albright's widow, and asked her again if she wanted the couch and she said she did not. I have also left a message for his son and will offer him the same.

AFFIDAVIT

I, Kimberly Ellis, being first duly sworn upon her oath, depose and say as follows:

1. My name is Kimberly Ellis, and I am over the age of eighteen.
2. I am currently employed with the Supreme Court of Appeals of West Virginia as the Director of Administrative Services in the administrative offices.
3. I began working for the Supreme Court of Appeals of West Virginia as Deputy Director of Administrative Services on May 16, 2013.
4. I have held the position of Director of Administrative Services since November 1, 2015.
5. My duties include, but are not limited to, managing the fleet vehicles, overseeing two warehouses, managing security systems, overseeing facilities planning and upkeep for the lower courts in all 55 counties, and consultation/facilitation regarding selection and procurement of furniture and equipment for the Court.
6. Construction on Justice Loughry's office began in June 2013.
7. My initial meeting with Justice Loughry to discuss the renovations to his office occurred before I was an employee of the Court and while I was an employee of Silling Associates. The initial meeting occurred in Justice Loughry's current office. At that time, there was a desk in his office. The desk was an antique walnut desk, specified by Cass Gilbert.
8. During my initial meeting with Justice Loughry to discuss the renovations to his office, there was a green leather couch in his office. That couch is now at the Venable Avenue warehouse.
9. During my initial meeting with Justice Loughry to discuss the renovations to his office, Justice Loughry did not mention to me that the desk in his office was a Cass Gilbert desk.
10. I left the employment of Silling Associates and began working for the Supreme Court of Appeals of West Virginia prior to the beginning of construction on Justice Loughry's office.
11. Justice Loughry was very involved in the decisions regarding the renovations to and furnishing of his office.
12. The construction costs associated with the renovations to Justice Loughry's office were discussed with Justice Loughry and a detailed cost estimate was provided to Justice Loughry by the Contractor before construction began.

13. The pillows for Justice Loughry's couch were ordered well after the renovations were completed. Justice Loughry decided that he wanted custom pillows and he personally selected the fabrics and down inserts for the pillows.

14. Justice Loughry wanted a West Virginia map on the floor of his office. Justice Loughry hand-sketched the West Virginia map and the placement of his furniture on a shell floor plan of his office, which also included his handwritten notes about other items he wanted for his office and their locations.

15. Justice Loughry wanted Tucker County to stand out on the map. He wanted the granite that was selected for his bathroom floor to be used for Tucker County.

16. Justice Loughry was updated throughout the project. I do not recall any surprises regarding the map.

17. I was asked by Justice Davis about a written or oral policy on allowing the Justices to have a home office with furniture provided by the Court, and I drafted a memo to Justice Davis in response to her request.

18. I was first made aware that a couch was at Justice Loughry's house when I received a call from Paul Mendez, a Court employee who works for my Division, informing me that he had been instructed to go to Justice Loughry's house and remove a green leather couch. During that phone call, Mr. Mendez also informed me that Justice Loughry had a Cass Gilbert desk at his house that he also wanted to remove, but they were only getting the couch at that time.

19. At the time of the phone call from Mr. Mendez referenced above, I did not know that a Cass Gilbert desk or any other Court furniture was located at Justice Loughry's residence.

20. Other than Mr. Mendez, the only information that I had about the couch being returned to the warehouse was from information that I saw on social media.

21. It is my understanding that the couch was picked up on a Monday and the desk was supposed to be removed on the following day. However, Paul Mendez told me that Justice Loughry called off the removal of the desk for the following day and told Paul to be on standby because Justice Loughry wanted to wait until his neighbor left so that pictures wouldn't be taken and posted on social media again.

22. A few days after the couch and desk were both delivered to the warehouse, I went to the warehouse and observed and photographed the couch and the desk.

23. I received a phone call from Justice Loughry on the evening of January 4, 2017, which was the day that Steve Canterbury was fired. Justice Loughry called me at night on my personal cell

phone and asked me to keep our conversation off the record. He informed me that he had fired Steve Canterbury. He also said that it was his understanding that I was a spy or loyal to Steve Canterbury, but I had nothing to worry about because they liked me. I felt like this was a threat and feared for my employment with the Court.

24. It is my understanding that Justice Loughry also made a similar statement to my former assistant, Tamerra Gilmore. Based on information and belief, while I was out of the office on Court business, Justice Loughry instructed Tamerra to come into his office and shut the door, and then told Tamerra that he believed that she and I were spies for Steve Canterbury. Tamerra found another job and resigned from her position with the Court shortly thereafter.

25. On October 18, 2017, Sue Troy came to my office and requested my files on the renovations to Justice Loughry's office and Justice Davis' office. I provided her with my files on that date.

26. On the following day, October 19, 2017, I was contacted by Joan Mullins in the Administrative Office, and I was told that Judge Johnson wanted to see me in his office immediately. When I arrived at Judge Johnson's office, Justice Loughry was sitting at a table with administrative counsel sitting on both sides of him. Judge Johnson and Sue Troy were also present. Justice Loughry began questioning me about the costs associated with his office. Justice Loughry asked me if I recalled a meeting with him where I had written down on a piece of paper the cost for Justice Ketchum and Justice Workman's offices, and I said that I did not. During this same meeting, Justice Loughry said that he had specifically told me over and over again that regardless of what is spent on his office, it was not to cost more than Justice Ketchum or Justice Workman's office, and he asked me if I recalled that conversation, and I said no. I felt like he was trying to intimidate me and coerce me to lie.

27. Not long after the October 19, 2017, meeting in Judge Johnson's office, my personal office was relocated from an office suite located down the hall from the Court's main Administrative Office to a smaller office located within the Court's main Administrative Office between the offices of the Court's two Administrative Counsel who were present at the October 19, 2017, meeting.



Kimberly Ellis  
Kimberly Ellis

STATE OF Florida;

COUNTY OF Volusia, to-wit:

Kimberly Ellis, being personally known to me, appeared before me in my said County and State on the 19th day of July, 2018, and after being duly sworn, says that the information in the foregoing Affidavit is true to the best of her information and belief; and wherein stated to be upon information, she believes said statements to be true.

Caroline B Michie  
NOTARY PUBLIC



CAROLINE B MICHIE  
Commission # GG 111726  
Expires June 5, 2021  
Bonded Thru Budget Notary Services

My commission Expires: 5-5-21