

MEMORANDUM OF LAW

DATE: August 18, 1987

TO: C.M. Rice, Deputy Chief

FROM: City Attorney

SUBJECT: Legal Counsel for ARJIS

Arising from a recent lawsuit, you ask who is the legal counsel for ARJIS. Historically, the City Attorney's office has advised and represented the legal interests on ARJIS. However, Nancy Angus, ARJIS Administrator, confirms there is no formal resolution of the Board of Directors appointing this office as legal counsel.

Since ARJIS (Automated Regional Justice Information System) was created by a Joint Powers Agreement on December 1, 1980, we look directly to the provisions of the agreement which provide at Section 4:

4. Powers of ARJIS Board of Directors

As may be necessary for the accomplishment of the purposes of this Agreement, ARJIS shall have the power, in its own name, to make and enter into contracts; to employ agents and employees; to provide for employee retirement, health and welfare benefits; to acquire, hold and dispose of property, real and personal; to sue and be sued in its own name; to hire legal counsel and to incur debts, liabilities or obligations. However, the debts, liabilities and obligations of ARJIS shall not constitute any debt, liability or obligation of any of the Member or Ex-officio Agencies which are parties to this Agreement. The Treasury of the City of San Diego shall be the depository of funds of ARJIS and the Treasurer of the City of San Diego shall be the ex-officio Treasurer of ARJIS. The Auditor/Comptroller

of the City of San Diego shall be the ex-officio Auditor/Comptroller of ARJIS and shall draw warrants or check-warrants against the funds of ARJIS in the Treasury when the demands are approved by the Board of Directors, or such other persons as may be specifically designated for that purpose in

the bylaws. Said Auditor/Comptroller and Treasurer shall comply with all duties imposed under Article 1, Chapter 5, Division 7, Title I, of the California Government Code commencing with Section 6500. The City of San Diego shall determine reasonable charges to be made against ARJIS for the services of the Treasurer and Auditor/Comptroller. At the end of each fiscal year there shall be an audit conducted by an independent, accredited certified public accountant.

Emphasis added.

As you can readily see, the City Treasurer and the City Auditor/Comptroller are designated as the matching officials for ARJIS and compensation is charged against ARJIS for their duties. As to legal counsel, however, the joint powers agreement does not name the City Attorney, but rather gives that power to the Board of Directors.

We are informed by the ARJIS Administrator that no resolution of the Board of Directors exists as to legal counsel since the past work has been accomplished by this office on a voluntary basis. Consistent with Section 4, then, the Board of Directors has the power to name legal counsel and should do so by resolution. ARJIS Board of Directors Bylaws, Article II, Section 2. While volunteer legal assistance can be accepted by the Board, matters that require significant legal time must be expected to be compensated by a reasonable charge similar to the charges provided for the services of the Treasurer and Auditor/Comptroller in Joint Powers Agreement, Section 4.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

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