

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING MINUTES**

Webex video conferencing
September 3, 2021: 12 pm -2 pm

MEMBERS:

	PRESENT	EXCUSED
Judge Derek Pullan, <i>Chair</i>	•	
Judge Brian Cannell	•	
Judge Samuel Chiara		•
Judge David Connors	•	
Judge Michelle Heward	•	
Mr. Rob Rice	•	

GUESTS:

Judge Kate Appleby
Judge Brower
Jim Peters
Jordan Murray
Karl Sweeney
Lauren Anderson
Kim Zimmerman
Paul Barron
Meredith Mannebach
Gage Hansen
Lauren Andersen
Jody Thenot
Michael Drechsel
Wayne Kidd

STAFF:

Keisa Williams
Minhvan Brimhall

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Derek Pullan welcomed the committee to the meeting. The committee considered the minutes from the August 6, 2021 meeting. With no corrections, Judge David Connors moved to approve the minutes as presented. Rob Rice seconded the motion. The motion passed unanimously.

This is Mr. Rice's final meeting as a member of the committee. Judge Pullan and the committee members expressed appreciation for Mr. Rice's dedication, service, and significant contributions to the committee.

(2) Water Law:

- CJA 6-104. District Court Water Judges (NEW).

Judge Kate Appleby discussed a new proposed rule establishing water law judges. The rule is modeled after the existing rule for tax judges. As a result of the drought this year, litigation surrounding land and property rights and water usage have increased and some regions in the state may be pulled into litigation with another state. The new rule provides guidance for judges who hear those cases.

The committee discussed the proposed rule as drafted by Judge Appleby and created a subcommittee to review the proposal and seek feedback from the Board of District Court Judges. Judge Connors will chair the subcommittee. The other members will be Judge Appleby, Judge Chiara, and potentially Mr. Rice's replacement, Margaret Plane. The subcommittee will provide an update at a future meeting.

(3) Justice Court Board Recommendations:

- CJA Appendix B. Justice Court Standards
- CJA 3-303. Justice Court Clerks.

Jim Peters and Judge Brian Brower presented updated proposals to the Justice Court standards for recertification and certification requirements for Justice Court clerks. Mr. Peters presented the original proposal at the January 2021 meeting. The committee asked Mr. Peters to seek further input from the Utah Leagues of Cities and Towns and the Utah Association of Counties, as well as court clerks throughout the state. The amended proposals have been vetted by the Board of Justice Court Judges and discussed with lead court clerks from all regions within the state, many of which welcome the proposals as presented.

The committee expressed continued concerns with a rule requiring Justice Court clerks to be certified annually, however, the committee was more comfortable with the amended language in rule 3-303 as presented. Due to potential regulatory changes in statute in the upcoming legislative session, Judge Pullan recommended holding off on approving the Justice Court certification standards in Appendix B. Jim Peters will work with Michael Drechsel to determine whether the proposed changes could be incorporated into statutory amendments next session. Mr. Peters will provide an update at a future meeting.

Judge Heward moved to recommend that the Judicial Council approve rule 3-303 for public comment. Mr. Rice seconded and the motion passed unanimously.

(4) Grants.

- CJA 3-411. Grant Management
- Accounting Manual – Section 11-07.00 – Special Funds – Grants (Federal & Non-Federal)

Jordan Murphy and Karl Sweeney met with each member of the committee to review specific sections of the Accounting Manual and the Grant Management rule.

Mr. Murphy presented the committee with an alternative to the language in section (4)(B) creating a process for approving “urgent” requests. The Chief Justice could, at any time, add last minute urgent requests to the Council’s agenda for discussion. The committee determined that urgent requests should be approved with a $\frac{3}{4}$ majority vote.

Section (12) provides “guardrails” for when external parties are seeking court support for their own grant opportunities. The court could act as a stakeholder and non-financial collaborator. These would mainly be used in low-risk applications.

After further discussion, Judge Connors moved to adopt the alternative version of section (4)(B) with the minor modification to a $\frac{3}{4}$ th majority vote. Judge Cannell seconded and the motion passed unanimously.

Judge Michelle Heward moved to recommend that the Judicial Council publish the Grant Manual and CJA 3-411 for public comment. Judge Cannell seconded and the motion passed unanimously.

(5) Automatic Expungements.

- Automatic Expungement Orders
- Presiding Judge Standing Order
- CJA 4-208. Automatic Expungement of Cases (NEW)

Ms. Williams presented revised amendments to the Automatic Expungement Orders and the Presiding Judge Standing Order. In previous meetings, the committee expressed concerns about including “the court finds” in an automated order that a judge has not reviewed. The committee also felt that the procedures surrounding automatic expungements should be captured in the Rules of Criminal Procedure. The automated orders were amended to remove “the court finds,” and the following language was added:

“This case has been identified by the Judiciary’s automated expungement review process as one meeting the requirements for automatic expungement. Expunging the records associated with case number [case_number] is statutorily mandated.”

Ms. Williams met with Doug Thompson, the Chair of the Rules of Criminal Procedure Committee, to discuss the proposed orders and rule 4-208. The criminal rules committee is working on a new rule, URCrP 42, governing expungements. That rule is currently in draft form. Mr. Thompson did not express concerns with the proposed orders as drafted and did not feel that rule 4-208 would conflict with URCrP 42 in any way. Because rule 42 is not yet in place and rule 4-208 has not been approved, Ms. Williams recommended removing the references to rule 42 and 4-208 from the automated and standing orders.

Proposed rule 4-208 is not required for the implementation of an automated expungement process. The purpose would be to memorialize (in rule) what we’re already doing – ensuring that any automated expungement programming or processes are developed by the AOC, are in compliance with the code and rules of procedure, and are approved by the Judicial Council, including the form and content of automated orders. A rule may alleviate some of the discomfort many judges feel in having their signatures affixed to an order they haven’t reviewed. It may also provide clear direction for the Administrative Office of the Courts as employees with institutional knowledge leave the court.

Judge Brian Cannel moved to recommend that the Judicial Council approve the Automatic Expungement Orders and Standing Order as final, and CJA 4-208 for public comment. Mr. Rice seconded and the motion passed unanimously.

(6) Rules back from public comment.

- CJA 4-403. Electronic Signature and Signature Stamp Use
- CJA 3-415. Auditing
- CJA 7-302. Court reports prepared for delinquency cases

No public comments were received on CJA rules 4-403, 3-415, and 7-302. CJA 4-403 was approved by the Judicial Council on an expedited basis so no further action is needed on that rule. Ms. Williams recommend rules 3-415 and 7-302 be forwarded to Judicial Council for final approval.

Judge Connors moved to recommend that the Judicial Council approve rules 3-415 and 7-302 be approved as final. Judge Heward seconded and the motion passed unanimously.

ADJOURN:

With no further items for discussion, the meeting adjourned without a motion. The next meeting will be on November 5, 2021 at 9 AM via Webex video conferencing. The November meeting is the bi-annual daylong meeting.