

**UTAH JUDICIALCOUNCIL  
POLICY, PLANNING and TECHNOLOGY COMMITTEE  
MEETING MINUTES**

Webex video conferencing  
June 2, 2023: 12:00 p.m.

**MEMBERS:**

**PRESENT**

**EXCUSED**

Judge Samuel Chiara, <i>Chair</i>	•	
Judge Suchada Bazzelle	•	
Judge Augustus Chin	•	
Judge Michael DiReda	•	
Judge James Gardner	•	

**GUESTS:**

Keri Sargent  
Paul Barron  
Judge Fuchs  
Chris Palmer

**STAFF:**

Keisa Williams  
Brody Arishita  
Minhvan Thach

**(1) Welcome and approval of minutes:**

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the May 5, 2023 meeting. With no changes, Judge Gardner moved to approve the minutes as presented. Judge Chin seconded the motion. The motion passed unanimously.

**(2) Adult Drug & MH court certification checklists**

Judge Fuchs proposed amendments to presumed certification criteria #30 in all checklists that deal with adult drug and mental health courts. Judge Fuchs states in part, "The reason for the change would be that in Utah, by Statute, we require a plea before a participant may be put in a Problem-Solving Court. In most cases by the time a participant has an attorney appointed and discovery completed, more than 50 days have passed. In addition, in Utah we take individuals into the programs as a condition of a probation violation."

Judge Fuchs proposed the following language: "Clients are placed in the program as soon after an arrest, a plea, sentencing, or a probation violation as possible. It is understood that the sooner treatment starts the better the outcomes."

Judge Fuchs presented the proposed amendments to the Council in May. The Council recommended that the amendments be brought to the committee for discussion. Judge Fuchs noted that Utah cannot meet the '50 days after arrest' criteria and further recommended that the requirement be moved from the "Presumed Certification Criteria" section to the "Non-Certification-Related Best Practice Standards" section.

The committee discussed and recommended the following proposed amendments:

- Move item #30 from the "Presumed Certification Criteria" section and make it new item #17 in the "Non-Certification-Related Best Practice Standards" section.
- Renumber the items in the "Presumed Certification Criteria" section.

- Amend the language in the new #17 to read as follows: “Clients are placed in the program within 50 days after change of plea, sentencing, or a finding that a probation violation has occurred, or within a short period of time thereafter. The earlier treatment begins, the better the outcomes.”

***With no further discussion, Judge DiReda moved to recommend to the Council that the amended language be changed from a “Presumed Certification Criteria” requirement to a “Non-Certification-Related Best Practice Standards” item. Judge Gardner seconded the motion. The motion passed unanimously. Judge Fuchs will present the proposed amendments to the Council.***

**(3) Back from public comment:**

- **CJA 6-507. Court visitors**
- **CJA 3-414. Court security**

**CJA 6-507:**

No public comments were received. Below is a summary of the proposed amendments. No additional amendments were recommended.

1. replace “protected person” and “ward” with “respondent” where applicable;
2. clarify who may receive a court visitor report or notice (lines 68-75);
3. require the court visitor to file a Council-approved Order on Review form (lines 85-87);
4. delete the reference to language access because language access is addressed elsewhere in the Code of Judicial Administration (lines 59-62); and
5. provide the court with broad discretion in taking action on a report (lines 101-109).

***The committee discussed and did not recommend additional amendments. With no further discussion, Judge Gardner moved to recommend to the Council that CJA 6-507 be approved as final with a November 1, 2023 effective date. Judge Chin seconded the motion. The motion passed unanimously.***

**CJA 3-414:**

Of the 7 public comments received, 6 were from prosecutors or law enforcement officers objecting to the removal of “law enforcement official” from lines 199-200. When the committee discussed the rule draft in February, it was the understanding of the Office of General Counsel that the Judicial Council issued a statewide policy several years ago preventing prosecutors from carrying firearms in courthouses and that the Council’s policy was captured and enforced via local court security plans. With that understanding in mind, the Office of General Counsel did not intend for the removal of “law enforcement official” to have a substantive effect, but rather to provide clarification of existing policy.

The Office of General Counsel has since learned that, while the issue was discussed with the Judicial Council several years ago, the Council did not issue a statewide policy. Currently, local courts have the discretion to permit or prohibit the possession of firearms by prosecutors through their local court security plans and practices vary across the state. With that in mind, the Security Director and Office of General Counsel recommended leaving “law enforcement official” in the rule, allowing prosecutors to carry if possession is permitted by their local court security plans.

To Judge Brady’s point in his public comment, “court staff” and “court personnel” are used throughout the rule and are not necessarily intended to encompass the same people in each section. Following a discussion, the committee made the following amendments:

- (lines 68-70) amended to read: “(4)(C) The court executive shall make available a copy of the current local security plan to all judges, commissioners, court employees, volunteers, and security personnel.”

- (lines 71-72) amended to read: “(4)(D) The local plan shall clearly delineate the responsibilities between court employees, judges, court commissioners, and any individual issue court identification (“court personnel”) and law enforcement personnel for all areas and activities in and about the courthouse.”
- (line 276) change “court staff” to “court employees”
- (line 287) change “court personnel” to “court employees”
- (lines 300-304) amended to read: “Court personnel with a valid court-issued identification card may bypass security screening at any facility where they have been granted access.
- (line 305) change “will” to “shall”.

***With no further discussion, Judge Gardner moved to recommend to the Council that CJA 3-414 be approved as final with a November 1, 2023 effective date. Judge DiReda seconded the motion. The motion passed unanimously.***

#### **(4) CJA 4-202.11. Vexatious record requester (NEW)**

During the last session (S.B. 231), the legislature created a new code section (63G-2-209) under GRAMA that outlines a detailed process for government entities to petition the State Records Committee for relief from a person the government entity deems a “vexatious requester.” Under 63G-2-702(5), the section governing applicability of GRAMA to the judicial branch, the Judicial Council may now:

- (a) establish a process for an administrative unit of the judicial branch to petition for relief from a person that the administrative unit claims is a vexatious requester; and
- (b) establish an appellate board to hear a petition for relief from a person that an administrative unit of the judicial branch claims is a vexatious requester.

The court has its share of what may be considered vexatious requesters that utilize a considerable amount of staff time. As such, the Office of General Counsel is proposing a new rule. The Management Committee already hears records access appeals in accordance with Rule 4-202.07. It makes sense to follow a similar process by designating the Management Committee the “appellate board” to hear vexatious requester petitions and the Office of General Counsel the “administrative unit” authorized to petition for relief.

The rule draft is very similar to 63G-2-209, but the process is intended to be less formal, in keeping with how the Management Committee handles records access appeal hearings under 4-202.07.

The committee discussed and recommended the following amendments:

- Replace “petitioner” with “Office of General Counsel” throughout
- (line 16) replace “Management Committee” with “Committee”
- Replace “Judicial Council” with “Council”
- In (7)(B), if allowed under the code, remove the one-year limit on the Management Committee’s ability to waive response requirements.

***With no further discussion, Judge Chin moved to send new rule CJA 4-202.11 to the Council, with a recommendation that it be published for a 45-day public comment period. Judge Gardner seconded the motion. The motion passed unanimously.***

#### **Technology report/proposals:**

Judge Pullan and Brody Arishita believe the Tech Advisory group will need to meet more frequently than quarterly due to the increase in workload. That topic will be discussed at the next advisory subcommittee meeting in June.

#### **The subcommittee will be working on the following projects:**

- Email Retention
- Reviewing 5 Draft Policies
  - [Acceptable Use Draft Policy](#)

- [Information Security Draft Policy](#)
  - [IT Information Security Risk Management Draft Policy](#)
  - [IT Policies, Standards & Practices](#)
  - [Software Development Draft Policy](#)
- Statewide Form for Audio Requests

IT is still working on updating the strategic plan and developing training on CyberSecurity. Both will go to the advisory subcommittee for review.

**Old Business/New Business:**

The committee will have a quorum at the July 7 meeting.

**Adjourn:** With no further items for discussion, the meeting adjourned at 1:15 pm. The next meeting will be held on July 7, 2023 at 12 PM via Webex video conferencing.