

**UTAH JUDICIAL COUNCIL
POLICY, PLANNING, & TECHNOLOGY COMMITTEE
MEETING AGENDA**

December 1, 2023 – 12:00 p.m. to 2:00 p.m.

Webex

12:00	Welcome and approval of minutes	Action	Tab 1	Judge Chiara
12:05	CJA 4-208. Automated case processing procedures	Action	Tab 2	Michael Drechsel
12:15	CJA 4-202.02. Records classification CJA 4-202.03. Records access	Action	Tab 3	Stacy Haacke Daniel Meza Rincon Keisa Williams
12:40	CJA 3-104. Presiding judges	Action	Tab 4	Keisa Williams
12:50	May/November meetings (reduce to 4 hours)	Discussion		Keisa Williams
1:00	Technology report/proposals	Discussion		Brody Arishita
1:50	Old Business/New Business			
2:00	Adjourn			

2024 Meetings:

January 5, 2024	July 5, 2024
February 2, 2024	August 2, 2024
March 1, 2024	September 6, 2024
April 5, 2024	October 4, 2024
May 3, 2024 (all day)	November 1, 2024 (all day)
June 7, 2024	December 6, 2024

TAB 1

Minutes

November 3, 2023

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

Webex video conferencing
November 3, 2023 – 9 a.m. – 5 p.m.

DRAFT

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Samuel Chiara, <i>Chair</i>		•	Keri Sargent Paul Barron
Judge Suchada Bazzelle	•		
Judge Jon Carpenter	•		
Judge Michael DiReda		•	STAFF: Keisa Williams Brody Arishita Minhvan Thach
Judge James Gardner	•		

(1) Welcome and approval of minutes:

Judge Gardner welcomed committee members to the meeting. The committee considered the minutes from the October 6, 2023 meeting. Judge Gardner noted that his name was misspelled in several places. With those corrections, Judge Gardner moved to approve the minutes as presented. Judge Bazzelle seconded and the motion passed. Judge Carpenter abstained.

The committee welcomed Judge Carpenter as the new member of the Policy, Planning, and Technology Committee.

Under rule 1-204(6), the Policy, Planning, & Technology Committee may elect its chair on a schedule deemed appropriate by the committee. Judge Chiara has been the committee's chair for the past year. Judge Carpenter moved to recommend Judge Chiara remain as the chair for an additional year. Judge Bazzelle seconded the motion. The motion passed unanimously.

(2) Rules back from public comment:

- **CJA 6-301. Authority of court commissioner as magistrate**
- **CJA 4-202.08. Fees for records, information, and services**
- **CJA 4-202.02. Records classification**
- **CJA 4-202.03. Records access**

CJA 6-301:

One comment was received for CJA 6-301. The commenter appeared primarily concerned with potential inefficiencies, delays, and more work for public defenders, referring specifically to subsections (4), (5)(C), and (5)(D). Ms. Williams advised that she does not believe commissioners have the authority to perform

most of the tasks the commenter suggested. Following a discussion, the committee made the following amendments:

- Deleted “and subject to de novo review by the district court” from subsection (4) because it is already stated in (6)(A)
- Deleted subsection (5)(D) entirely because the issue is addressed in subsection (3)(G)

CJA 4-202.08:

An internal comment was submitted to Ms. Williams regarding subsections (3)(C) and (7)(B). The court does not charge a fee for electronic copies of a court reporter’s stenographic text and non-subscription access to public online services is now available. Following a discussion, the committee made the following amendments:

- Deleted subsection (3)(C)
- Deleted “When non-subscription access becomes available” from subsection (7)(B)

CJA 4-202.02 and 4-202.03:

One comment was received for rules 4-202.02 and 4-202.03. The commenter believes sealing video records will impede public scrutiny of court proceedings and strongly objects. Ms. Williams raised the same concerns discussed at an earlier meeting regarding the court’s inability to blur or redact Webex videos and the potential for sensitive or non-public information included in those videos to be released (i.e., video of a victim). Following a discussion, the committee made no additional amendments to the rule.

Ms. Williams recommend that the rules be approved on an expedited basis. The court will need time to hire court commissioners and requests for video recordings are received on a regular basis. Ms. Williams recommends a January 1, 2024 effective date for all four rules.

With no further discussion, Judge Gardner moved to recommend to the Council that CJA rules 6-301, 4-202.08, 4-202.02 and 4-202.03 be approved as final with a January 1, 2024, effective date. Judge Bazzelle seconded the motion. The motion passed unanimously.

(3) CJA 3-101. Judicial performance standards
CJA 3-104. Presiding judges

Ms. Williams met with the Management Committee in October to discuss CJA rules 3-101 and 3-104 as requested. The Management Committee agreed with the PP&T committee that the proposed amendments provide much-needed clarity and asked that the committee conduct one final review and continue pursuing amendments through the usual rulemaking process.

The PP&T committee asked court staff to notify the boards of judges when the proposed amendments go out for public comment to give the boards an opportunity to provide additional feedback.

With no further discussion, Judge Carpenter moved to recommend to the Council that CJA rules 3-101 and 3-104 be published for a 45-day public comment period. Judge Bazzelle seconded the motion. The motion passed unanimously.

Technology report/proposals:

The Technology Advisory Committee will be reviewing the IT emergency response plan and email retention policy on November 16th. Mr. Arishita will provide a report to the PP&T committee at the December meeting.

Old Business/New Business:

Judge Gardner asked Ms. Williams how requests for rule amendments make it onto the PP&T committee's agenda. Requests for rule amendments can come from the Management Committee, Judicial Council, boards of judges, or AOC leadership. Those are generally communicated to the PP&T committee through meetings, Ms. Williams, or a PP&T committee member. Most requests for rule amendments are brought by court staff. Employees must vet their proposal through all relevant bodies within the court system and submit a rule amendment request online before it will be added to the PP&T committee's queue. Ms. Williams works with staff on those requests to determine whether the rules are ready to be placed on the committee's agenda. Individual judges can request rule amendments by contacting Ms. Williams directly. She will guide them through the process.

Ms. Williams will provide the committee with a link to the online request form following the meeting.

The committee discussed whether all-day meetings in May and November are necessary or if a half day would be sufficient. The issue will be discussed further at the December meeting.

Adjourn: With no further items for discussion, the meeting adjourned at 9:50 a.m. The next meeting will be held on December 1, 2023, at noon via Webex video conferencing.

TAB 2

CJA 4-208. Automated case processing procedures

Notes: The proposed language makes it clear that an automatic expungement can only occur through the automated process established and approved by the Judicial Council. There is nothing in Rule 4-208 that prohibits a judge from manually issuing an automatic expungement order. There are judges who have been asked for — and who have issued — automatic expungement orders manually on an ad hoc basis.

Utah Code section [77-40a-201\(7\)](#) says, "The Judicial Council and the Supreme Court shall make rules to govern the process for automatic expungement." Rule 4-208 is the Judicial Council's rule for the processing procedures (which compliments the Supreme Court's [Rule 42](#) of the Rules of Criminal Procedure). When a judge manually issues an automatic expungement order, it causes a significant amount of friction for BCI to process the order outside of the established workflows for all other automated orders. For individuals who need an expungement order more quickly than the automated process would permit, the petition-based process is available.

Location of the Rule *

Code of Judicial Administration ▼

CJA Rule Number or HR/Accounting Section Name *

4-208

Brief Description of Rule Proposal *

Amend the automatic expungement rule to make it clear that automatic orders cannot be issued manually by a judge on an ad hoc basis.

Reason Amendment is Needed *

I am requesting that language be added to Rule 4-208 that makes it clear that an automatic expungement can only occur through the automated process established and approved by the Judicial Council. There is nothing in Rule 4-208 that prohibits a judge from manually issuing an automatic expungement order. There are judges who have been asked for — and who have issued — automatic expungement orders manually on an ad hoc basis. 77-40A-201(7) says "The Judicial Council and the Supreme Court shall make rules to govern the process for automatic expungement." Rule 4-208 is the Judicial Council's rule for the processing procedures (which compliments the Supreme Court's Rule 42 of the Rules of Criminal Procedure). When a judges manually issues an automatic expungement order, it causes a significant amount of friction for BCI to process the order outside of the established workflows for all other automated orders. For individuals who need an expungement order more quickly than the automated process would permit, the petition-based process is available.

Is the proposed amendment urgent? *



Yes



No

If urgent, please provide an estimated deadline date and explain why it is urgent.

This is urgent because the practice of manually issuing automatic expungement orders creates significant processing friction for BCI and is not consistent with the entire structure of automatic expungement since the concept was first introduced into statute through HB0431 in the 2019 General Session.

Rule 4-208. Automated case processing procedures.**Intent:**

The intent of this rule is to govern the Administrative Office of the Court's development and implementation of automated expungement and deferred traffic prosecution processes.

This rule applies to cases in district and justice courts.

Statement of the Rule:

(1) **Definitions.** "Expunge" means to seal or otherwise restrict access to the individual's court record.

(2) **Automated expungement and deferred traffic prosecution processes**

(2)(A) The Administrative Office of the Courts shall develop and implement automated expungement and deferred traffic prosecution processes.

(2)(B) Automated processes must comply with the requirements outlined in the Utah Rules of Procedure and the Utah Code.

(2)(C) All automated processes developed by the Administrative Office of the Courts shall be approved by the Utah Judicial Council.

(2)(D) No automatic expungement orders under Utah Code Title 77, Chapter 40a, Part 2 shall issue outside of the automated processes approved by the Utah Judicial Council.

(3) **Standing and automated orders**

(3)(A) The presiding officer of the Judicial Council may appoint a district court presiding judge as a signing judge for automatic expungements in all district courts within the presiding judge's district in accordance with Rule 3-108.

(3)(B) The presiding officer of the Judicial Council may appoint a district court presiding judge as a signing judge for automated deferred traffic prosecution orders in all district courts within the presiding judge's district with jurisdiction over eligible cases in accordance with Rule 3-108.

(3)(C) A justice court presiding judge may act as a signing judge for automatic expungements and automated deferred traffic prosecution orders in all justice courts within the presiding judge's district. The length of the assignment must coincide with the judge's term as a presiding judge.

(3)(D) If the district or justice court presiding judge determines that the requirements under the Utah Code, Utah Rules of Procedure, and this rule have been met, the

presiding judge shall issue a standing order authorizing the Administrative Office of the Courts to prepare and automatically affix the presiding judge's judicial signature to orders of expungement and deferred traffic prosecution issued in relation to cases from that judicial district.

(3)(E) The form and content of automated orders must be approved by the Utah Judicial Council.

(4) **Notice of action taken.** The Administrative Office the Courts shall send notice that an order of deferred traffic prosecution has been issued in accordance with the Utah Rules of Procedure. Notifications and orders may be sent electronically.

Effective ~~May/November 1, 20~~ January 1, 2024

TAB 3

CJA 4-202.02. Records classification

CJA 4-202.03. records access

Notes: Juvenile court staff are working on updates to CARE record classifications in preparation for the launch of a juvenile court version of “MyCase.” The majority of the proposed amendments are intended to clarify the classification of and access to juvenile court records for both court staff and patrons.

4-202.02:

(2)(II) - Added language that the records could be closed for good cause as provided in [78A-6-209\(4\)\(b\)](#).

(6)(D) – Added dispositional reports to the list of social records based on language found in [URJP 45](#).

(6)(I) – Added nonjudicial adjustment records to the list of social records because there is no court adjudication when a youth enters into a nonjudicial adjustment agreement with probation, and therefore, no legal records.

(6)(J) – Added records filed with the court that are received pursuant to the ICJ to the list of social records because they are received from another state and are more akin to a report or evaluation, rather than a pleading or legal document.

(7)(C) – Added probable cause statements to the list of legal records because they are similar to other legal documents listed in (7)(C) and it provides clarity for probation and clerks of court when those documents are filed in a case.

4-202.03:

(2)(A) – Proposed amendments align with [78B-6-141\(3\)](#) and allow access to attorneys with a signed release from an authorized individual.

(2)(B) – Allows access to attorneys with a signed release from an authorized individual.

(5)(D) – Added language that an attorney for a parent or guardian of the subject of the record if unemancipated may have access to social records because the parent or guardian has access but the rule does not technically give the attorney for the parent or guardian access.

(5)(O) – Added language regarding dispositional reports based upon language found in [URJP 45\(a\)\(4\)](#).

(5)(P) & (5)(Q) – Restricted access to juvenile court medical and mental health records.

Under GRAMA, medical and mental health records are classified as both “private” ([63G-2-302\(1\)\(b\) & \(3\)](#)) and “controlled” ([63G-2-304](#)). Medical records are “private,” unless releasing the records to the subject of the record would be detrimental to the subject of the record’s mental health or the safety of another, or release would violate professional practice or medical ethics, in which case the records are “controlled.”

Under [63G-2-202](#), “private” records (1)(a) may be disclosed to the subject of the record and individuals with a power of attorney from the subject of the record, whereas “controlled” records (2) may only be disclosed to physicians, social workers, etc. if they have a release from the subject of the record and anyone with a court order (*with a few unrelated exceptions*).

Sensitive medical and mental health records are filed in nearly every juvenile court case. When a clerk of court receives a records request from the subject of the record or someone with a power of attorney, they have no way to determine whether releasing those records would be detrimental to the subject’s mental health or the safety of another, or whether it would constitute a violation of normal professional practice and medical ethics. As such, the juvenile court recommends limiting access to attorneys involved in the case, government entities with custody, guardianship, etc., court personnel, and anyone with a court order. That would ensure a judicial officer is making release decisions about safety, professional practice, and ethics.

The proposed language in (5)(Q) comes from [63G-2-304](#).

(8) – Added language that juvenile probation files are not open for inspection except by court order as found in [78A-6-209\(5\)](#). These files may include sensitive information such as ICJ records from other states, shared education or DCFS records, mental

health questionnaires, unredacted victim information, police reports, documents shared by other entities, etc.

Rule 4-202.02. Records Classification.**Intent:**

To classify court records as public or non-public.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Presumption of Public Court Records.** Court records are public unless otherwise classified by this rule.

(2) **Public Court Records.** Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) appellate filings, including briefs;

(2)(D) arrest warrants, but a court may restrict access before service;

(2)(E) audit reports;

(2)(F) case files;

(2)(G) committee reports after release by the Judicial Council or the court that requested the study;

(2)(H) contracts entered into by the judicial branch and records of compliance with the terms of a contract;

(2)(I) drafts that were never finalized but were relied upon in carrying out an action or policy;

(2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;

(2)(K) financial records;

(2)(L) indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:

(2)(L)(i) amount in controversy;

(2)(L)(ii) attorney name;

(2)(L)(iii) licensed paralegal practitioner name;

(2)(L)(iv) case number;

(2)(L)(v) case status;

(2)(L)(vi) civil case type or criminal violation;

(2)(L)(vii) civil judgment or criminal disposition;

(2)(L)(viii) daily calendar;

(2)(L)(ix) file date;

(2)(L)(x) party name;

(2)(M) name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;

(2)(N) name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;

(2)(O) name, business address, business telephone number, and business email address of a lawyer or licensed paralegal practitioner appearing in a case;

(2)(P) name, business address, business telephone number, and business email address of court personnel other than judges;

(2)(Q) name, business address, and business telephone number of judges;

(2)(R) name, gender, gross salary and benefits, job title and description, number of hours worked per pay period, dates of employment, and relevant qualifications of a current or former court personnel;

(2)(S) unless classified by the judge as private or safeguarded to protect the personal safety of the juror or the juror's family, the name of a juror empaneled to try a case, but only 10 days after the jury is discharged;

(2)(T) opinions, including concurring and dissenting opinions, and orders entered in open hearings;

(2)(U) order or decision classifying a record as not public;

(2)(V) private record if the subject of the record has given written permission to make the record public;

(2)(W) probation progress/violation reports;

(2)(X) publications of the administrative office of the courts;

(2)(Y) record in which the judicial branch determines or states an opinion on the rights of the state, a political subdivision, the public, or a person;

(2)(Z) record of the receipt or expenditure of public funds;

(2)(AA) record, minutes, or transcript of an open meeting;

(2)(BB) official audio record, minutes, or transcript of an open hearing;

(2)(CC) record of formal discipline of current or former court personnel or of a person regulated by the judicial branch if the disciplinary action has been completed, and all time periods for administrative appeal have expired, and the disciplinary action was sustained;

(2)(DD) record of a request for a record;

(2)(EE) reports used by the judiciary if all of the data in the report is public or the Judicial Council designates the report as a public record;

(2)(FF) rules of the Supreme Court and Judicial Council;

(2)(GG) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40;

(2)(HH) statistical data derived from public and non-public records but that disclose only public data; and

(2)(II) notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the delinquency history summary of the person are public records. The delinquency history summary shall contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses. The juvenile court may close these records to the public if the court finds, on the record, that the records are closed for good cause.

(3) Sealed Court Records. The following court records are sealed:

(3)(A) records in the following actions:

(3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(iii) Section 76-7-304.5 – Consent required for abortions performed on minors; and

(3)(A)(iv) Section 78B-8-402 – Actions for disease testing;

(3)(B) expunged records;

(3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section 77-23a-15;

(3)(D) records showing the identity of a confidential informant;

(3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code Section 7-2-6;

(3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;

(3)(G) records designated as sealed by rule of the Supreme Court;

(3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings;

(3)(I) on appeal, any record previously designated as sealed by another court;

(3)(J) video record of a court proceeding, other than security video; and

(3)(K) other records as ordered by the court under Rule 4-202.04.

(4) Private Court Records. The following court records are private:

(4)(A) records in the following actions:

(4)(A)(i) Section 26B-5-332, Involuntary commitment under court order;

(4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System database;

(4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed;

(4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed;

(4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court restitution judgment; and

(4)(A)(vi) Section 26B-8-111, Sex designation changes, and name changes combined with sex designation changes for both minors and adults, except that:

(4)(A)(vi)(a) the case history is public for minors; and

(4)(A)(vi)(b) the case history and record of public hearings are public for adults.

(4)(B) records in the following actions, except that the case history, judgments, orders, decrees, letters of appointment, and the record of public hearings are public records:

(4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations orders, except that an action for consortium due to personal injury under Section 30-2-11 is public;

(4)(B)(ii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;

(4)(B)(iii) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(4)(B)(iv) Title 78B, Chapter 12, Utah Child Support Act;

(4)(B)(v) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(4)(B)(vi) Title 78B, Chapter 14, Uniform Interstate Family Support Act;

(4)(B)(vii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(4)(B)(viii) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);

(4)(C) records related to determinations of indigency;

(4)(D) an affidavit supporting a motion to waive fees;

(4)(E) aggregate records other than public aggregate records under subsection (2);

(4)(F) alternative dispute resolution records;

(4)(G) applications for accommodation under the Americans with Disabilities Act;

(4)(H) jail booking sheets;

(4)(I) citation, but an abstract of a citation that redacts all non-public information is public;

(4)(J) judgment information statement;

(4)(K) judicial review of final agency action under Utah Code Section 80-2-707;

(4)(L) the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, maiden name and mother's maiden name, and similar personal identifying information;

(4)(M) the following personal identifying information about a person other than a party or a victim or witness of a crime: residential address, personal email address, personal telephone number; date of birth, driver's license number, social security number,

account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information;

(4)(N) medical, psychiatric, or psychological records;

(4)(O) name of a minor, except that the name of a minor party is public in the following district and justice court proceedings:

(4)(O)(i) name change of a minor, unless the name change is combined with a sex designation change;

(4)(O)(ii) guardianship or conservatorship for a minor;

(4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party;

(4)(O)(iv) protective orders and stalking injunctions; and

(4)(O)(v) custody orders and decrees;

(4)(P) nonresident violator notice of noncompliance;

(4)(Q) personnel file of a current or former court personnel or applicant for employment;

(4)(R) photograph, film, or video of a crime victim;

(4)(S) record of a court hearing closed to the public or of a child's testimony taken under URCrP 15.5:

(4)(S)(i) permanently if the hearing is not traditionally open to the public and public access does not play a significant positive role in the process; or

(4)(S)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to release the record without prejudice to the interests that justified the closure;

(4)(T) record submitted by a senior judge or court commissioner regarding performance evaluation and certification;

(4)(U) record submitted for in camera review until its public availability is determined;

(4)(V) reports of investigations by Child Protective Services;

(4)(W) statement in support of petition to determine competency;

(4)(X) victim impact statements;

(4)(Y) name of a prospective juror summoned to attend court, unless classified by the judge as safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;

(4)(Z) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs filed pursuant to court order;

(4)(AA) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure;

(4)(BB) records related to Court Commissioner Conduct Committee and Council actions under Rule 3-201.02, other than a public censure by the Council, and

(4)(CC) other records as ordered by the court under Rule 4-202.04.

(5) Protected Court Records. The following court records are protected:

(5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the courts concerning litigation, privileged communication between the courts and an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-judicial, or administrative proceeding;

(5)(B) records that are subject to the attorney client privilege;

(5)(C) bids or proposals until the deadline for submitting them has closed;

(5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;

(5)(F) court security plans;

(5)(G) investigation and analysis of loss covered by the risk management fund;

(5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;

(5)(I) confidential business records under Utah Code Section 63G-2-309;

(5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:

(5)(J)(i) interfere with an investigation;

(5)(J)(ii) interfere with a fair hearing or trial;

(5)(J)(iii) disclose the identity of a confidential source; or

(5)(J)(iv) concern the security of a court facility;

(5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;

(5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;

(5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;

(5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation, or parole;

(5)(O) record the disclosure of which would jeopardize life, safety, or property;

(5)(P) strategy about collective bargaining or pending litigation;

(5)(Q) test questions and answers;

(5)(R) trade secrets as defined in Utah Code Section 13-24-2;

(5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;

(5)(T) presentence investigation report;

(5)(U) except for those filed with the court, records maintained and prepared by juvenile probation; and

(5)(V) other records as ordered by the court under Rule 4-202.04.

(6) Juvenile Court Social Records. The following are juvenile court social records:

(6)(A) correspondence relating to juvenile social records;

(6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;

(6)(C) medical, psychological, psychiatric evaluations;

(6)(D) pre-disposition, dispositional, and social summary reports;

(6)(E) probation agency and institutional reports or evaluations;

(6)(F) referral reports;

(6)(G) report of preliminary inquiries; ~~and~~

(6)(H) treatment or service plans;

(6)(I) nonjudicial adjustment records; and

(6)(J) documents filed with the court that were received pursuant to the Utah Interstate Compact for Juveniles.

(7) Juvenile Court Legal Records. The following are juvenile court legal records:

(7)(A) accounting records;

(7)(B) discovery filed with the court;

(7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees, probable cause statements;

(7)(D) name of a party or minor;

(7)(E) record of a court hearing;

(7)(F) referral and offense histories

(7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.

(8) Safeguarded Court Records. The following court records are safeguarded:

(8)(A) upon request, location information, contact information, and identity information, other than the name of a petitioner and other persons to be protected, in an action filed under Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(8)(B) upon request, location information, contact information and identity information, other than the name of a party or the party's child, after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;

(8)(C) upon request, if the information has been safeguarded under paragraph (8)(A) or (8)(B), location information, contact information and identity information, other than the name of a party or the party's child, in a proceeding under Title 30, Husband and Wife.

(8)(D) location information, contact information, and identity information of prospective jurors on the master jury list or the qualified jury list;

(8)(E) location information, contact information, and identity information other than name of a prospective juror summoned to attend court;

(8)(F) the following information about a victim or witness of a crime:

(8)(F)(i) business and personal address, email address, telephone number, and similar information from which the person can be located or contacted;

455 (8)(F)(ii) date of birth, driver's license number, social security number, account
456 description and number, password, identification number, maiden name,
457 mother's maiden name, and similar personal identifying information.

458

459 *Effective: January 1, 2024*

Rule 4-202.03. Records Access.**Intent:**

To identify who may access court records.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Public Court Records.** Any person may access a public court record.

(2) **Sealed Court Records.** No one may access a sealed court record except as authorized ~~under (2)(A) and (2)(B)~~ below or by order of the court. A judge may review a sealed record when the circumstances warrant.

~~(2)(A) **Adoption decreerecords.** An adoptive parent or adult adoptee may obtain a certified copy of the adoption decree upon request and presentation of positive identification. Upon request and presentation of positive identification, an adoption petition, and any other documents filed in connection with the adoption, may be open to inspection and copying:~~

~~(2)(A)(i) by a party to the adoption proceeding while the proceeding is pending or within six months after the day on which the adoption decree is entered;~~

~~(2)(A)(ii) when the adoption document becomes public on the one hundredth anniversary of the date of the final decree of adoption was entered;~~

~~(2)(A)(iii) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;~~

~~(2)(A)(iv) by an attorney with a release from an individual authorized access under this rule that is signed and notarized not more than 90 days before the date of the request;~~

~~(2)(A)(v) by an individual who was 18 years of age or older at the time of adoption, or their adoptive parent, unless the final decree of adoption was entered by the juvenile court; and~~

~~(2)(A)(vi) by an individual who was a minor at the time of adoption, if the individual is 18 years of age or older and was born in the state of Utah, but only to the extent the birth parent consented to access under the Utah Adoption Act or if the birth parents listed on the original birth certificate are deceased.~~

(2)(B) **Expunged records.**

(2)(B)(i) The following may obtain certified copies of the expungement order and the case history upon request and ~~in-person~~ presentation of positive identification:

(2)(B)(i)(a) the petitioner or an individual who receives an automatic expungement under Utah Code Chapter 40a or Section 77-27-5.1;

(2)(B)(i)(b) a law enforcement officer involved in the case, for use solely in the officer's defense of a civil action arising out of the officer's involvement with the petitioner in that particular case; ~~and~~

(2)(B)(i)(c) parties to a civil action arising out of the expunged incident, if the information is kept confidential and utilized only in the action; ~~and-~~

(2)(B)(i)(d) an attorney with a release from an individual authorized access under this rule that is signed and notarized not more than 90 days before the date of the request.

(2)(B)(ii) Information contained in expunged records may be accessed by qualifying individuals and agencies under Utah Code Section 77-40a-403 upon written request and approval by the state court administrator in accordance with Rule 4-202.05. Requests must include documentation proving that the requester meets the conditions for access and a statement that the requester will comply with all confidentiality requirements in Rule 4-202.05 and Utah Code.

(2)(C) Video records. An official court transcriber may obtain a video record of a court proceeding for the purposes outlined in Rule 5-202. A court employee may obtain a video record of a court proceeding if needed to fulfill official court duties.

(3) Private Court Records. The following may access a private court record:

(3)(A) the subject of the record;

(3)(B) the parent or guardian of the subject of the record if the subject is an unemancipated minor or under a legal incapacity;

(3)(C) a party, attorney for a party, or licensed paralegal practitioner for a party to litigation in which the record is filed;

(3)(D) an interested person to an action under the Uniform Probate Code;

(3)(E) the person who submitted the record;

(3)(F) the attorney or licensed paralegal practitioner for a person who may access the private record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(3)(G) an individual with a release from a person who may access the private record signed and notarized no more than 90 days before the date the request is made;

(3)(H) anyone by court order;

(3)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(3)(J) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(3)(K) a governmental entity with which the record is shared under Rule 4-202.10.

92
93 **(4) Protected Court Records.** The following may access a protected court record:

94 (4)(A) the person or governmental entity whose interests are protected by closure;

95 (4)(B) the parent or guardian of the person whose interests are protected by closure if
96 the person is an unemancipated minor or under a legal incapacity;

97 (4)(C) the person who submitted the record;

98 (4)(D) the attorney or licensed paralegal practitioner for the person who submitted the
99 record or for the person or governmental entity whose interests are protected by closure
100 or for the parent or guardian of the person if the person is an unemancipated minor or
101 under a legal incapacity or an individual who has a power of attorney from such person
102 or governmental entity;

103 (4)(E) an individual with a release from the person who submitted the record or from the
104 person or governmental entity whose interests are protected by closure or from the
105 parent or guardian of the person if the person is an unemancipated minor or under a
106 legal incapacity signed and notarized no more than 90 days before the date the request
107 is made;

108 (4)(F) a party, attorney for a party, or licensed paralegal practitioner for a party to
109 litigation in which the record is filed;

110 (4)(G) anyone by court order;

111 (4)(H) court personnel, but only to achieve the purpose for which the record was
112 submitted;

113 (4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

114 (4)(J) a governmental entity with which the record is shared under Rule 4-202.10.
115

116 **(5) Juvenile Court Social Records.** The following may access a juvenile court social record:

117 (5)(A) the subject of the record, if 18 years of age or over;

118 (5)(B) a parent or guardian of the subject of the record if the subject is an
119 unemancipated minor;

120 (5)(C) an attorney or person with power of attorney for the subject of the record;

121 (5)(D) an attorney for a parent or guardian of the subject of the record if the subject is an
122 unemancipated minor;

123 (5)(~~ED~~) a person with a notarized release from the subject of the record or the subject's
124 legal representative dated no more than 90 days before the date the request is made;

125 (5)(~~EE~~) the subject of the record's therapists and evaluators;

126 (5)(~~GF~~) a self-represented litigant, a prosecuting attorney, a defense attorney, a
127 Guardian ad Litem, and an Attorney General involved in the litigation in which the record
128 is filed;

(5)(~~HG~~) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(~~IH~~) the Department of Human Services, school districts and vendors with whom they or the courts contract (who shall not permit further access to the record), but only for court business;

(5)(~~J~~) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(~~KJ~~) a governmental entity with which the record is shared under Rule 4-202.10;

(5)(~~LK~~) the person who submitted the record;

(5)(~~ML~~) public or private individuals or agencies providing services to the subject of the record or to the subject's family, including services provided pursuant to a nonjudicial adjustment, if a probation officer determines that access is necessary to provide effective services; and

(5)(~~NM~~) anyone by court order.

(5)(O) Dispositional reports on delinquency cases may be accessed by the minor's counsel, the prosecuting attorney, the guardian ad litem, and the counsel for the parent, guardian, or custodian of a child. When a minor or minor's parent, guardian, or custodian is not represented by counsel the court may limit inspection of reports by the minor or the minor's parent, guardian, or custodian if the court determines it is in the best interest of the minor.

(5)(~~PN~~) Juvenile court competency evaluations, psychological evaluations, psychiatric evaluations, psychosexual evaluations, sex behavior risk assessments, and other sensitive mental health and medical records may be accessed only by:

~~(5)(N)(i) the subject of the record, if age 18 or over;~~

~~(5)(N)(ii) an attorney or person with power of attorney for the subject of the record;~~

(5)(~~PN~~)(iii) a ~~self-represented litigant,~~ a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(~~PN~~)(iiv) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(~~PN~~)(iiv) court personnel, but only to achieve the purpose for which the record was submitted; and

(5)(~~PN~~)(ivi) anyone by court order.

(5)(Q) When releasing records under (5)(P)(iv), the court should consider whether releasing the records to the subject of the record would be detrimental to the subject's mental health or the safety of any individual, or would constitute a violation of normal professional practice and medical ethics.

(5)(~~RE~~) When records may be accessed only by court order, a juvenile court judge will permit access consistent with Rule 4-202.04 as required by due process of law in a manner that serves the best interest of the child.

(6) **Juvenile Court Legal Records.** The following may access a juvenile court legal record:

(6)(A) all who may access the juvenile court social record;

(6)(B) a law enforcement agency;

(6)(C) a children's justice center;

(6)(D) public or private individuals or agencies providing services to the subject of the record or to the subject's family;

(6)(E) the victim of a delinquent act may access the disposition order entered against the minor; and

(6)(F) the parent or guardian of the victim of a delinquent act may access the disposition order entered against the minor if the victim is an unemancipated minor or under legal incapacity.

(7) **Safeguarded Court Records.** The following may access a safeguarded record:

(7)(A) the subject of the record;

(7)(B) the person who submitted the record;

(7)(C) the attorney or licensed paralegal practitioner for a person who may access the record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(7)(D) an individual with a release from a person who may access the record signed and notarized no more than 90 days before the date the request is made;

(7)(E) anyone by court order;

(7)(F) court personnel, but only to achieve the purpose for which the record was submitted;

(7)(G) a person provided the record under Rule 4-202.04 or Rule 4-202.05;

(7)(H) a governmental entity with which the record is shared under Rule 4-202.10; and

(7)(I) a person given access to the record in order for juvenile probation to fulfill a probation responsibility.

(8) Records prepared and maintained by juvenile court probation that are not filed in a juvenile court case are not open for inspection except by order of the court.

(98) Court personnel shall permit access to court records only by authorized persons. The court may order anyone who accesses a non-public record not to permit further access, the violation of which may be contempt of court.

(109) If a court or court employee in an official capacity is a party in a case, the records of the party and the party's attorney are subject to the rules of discovery and evidence to the same extent as any other party.

208 *Effective: January 1, 2024*

TAB 4

CJA 3-104. Presiding judges

Notes: At its November meeting, the Judicial Council asked PP&T to review the case under advisement reporting requirements in rule 3-104. Specifically, the Council asked the following questions:

1. Why should state level administrators wait an additional 30 days to report cases to the Management Committee under (3)(L)(iv)?
2. What happens if a judge doesn't comply with the reporting requirements in (3)(L)(ii)?
3. Should judges be required to explain how they intend to resolve the case(s) or issue(s) included in the monthly report?

The timing of state level administrator reports depends on how often the Management Committee wants to see them. I think the intent behind (3)(L)(iv) was to give judges time to resolve a case or issue before it was elevated. It's my understanding that judges are sometimes unaware of an issue until after they receive a monthly report from court staff. I've deleted (3)(L)(iv) and added a line to (3)(L)(iii) requiring monthly reports to the Management Committee, but it's really about their preference.

Paragraph (3)(L)(v) already addresses what happens when a judge fails to comply with their reporting requirements. Again, the timing of state level administrator reports depends on the Management Committee's preference, but two consecutive months makes sense to me.

I've added language to (3)(L)(ii) requiring an explanation on how a judge intends to resolve a case or issue, but I don't know that it's necessary. Is the reason sufficient?

Rule 3-104. Presiding judges**Intent:**

To establish the procedure for election, term of office, role, responsibilities and authority of presiding judges and associate presiding judges.

Applicability:

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

Statement of the Rule:**(1) Election and term of office.**

(1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

(1)(B) Associate presiding judge.

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

(1)(C) **Removal.** A presiding judge or associate presiding judge may be removed as the presiding judge or associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or associate presiding judge shall then be selected as provided in this rule.

(2) Court organization.**(2)(A) Court en banc.**

(2)(A)(i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court executive from court en banc meetings called for the purpose of discussing the performance of the court executive. In single-judge courts, the judge shall meet with the court executive to discuss and decide court business.

(2)(A)(ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate presiding judge, if any, is present, the presiding judge's designee shall preside.

(2)(A)(iii) Each court shall have a minimum of four meetings each year.

(2)(A)(iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how matters may be placed on the agenda.

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

(2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

(2)(A)(viii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the applicable sections of the Utah Constitution, statutes, and this Code.

(2)(B) **Absence of presiding judge.** When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

(3) **Administrative responsibilities and authority of presiding judge.**

(3)(A) **General—Caseload—Appeals**

(3)(A)(i) **Generally.** The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the authority to delegate the performance of non-judicial duties to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(A)(ii) **Caseload.** Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.

(3)(A)(iii) **Appeals.** Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

(3)(B) **Coordination of judicial schedules.**

(3)(B)(i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an orderly plan of judicial absences from court duties.

(3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

(3)(C) Authority to appoint senior judges.

(3)(C)(i) The presiding judge is authorized to assign a senior judge for judicial assistance consistent with Rule 3-108.

(3)(C)(ii) The presiding judge will notify the State Court Administrator or designee when a senior judge assignment has been made.

(3)(D) Court committees. The presiding judge shall, where appropriate, make use of court committees composed of other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or the court en banc.

(3)(E) Outside agencies and the media.

(3)(E)(i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative of the court.

(3)(E)(ii) Generally, the presiding judge or, at the discretion of the presiding judge, the court executive shall represent the court and make statements to the media on matters pertaining to the total court and provide general information about the court and the law, and about court procedures, practices and rulings where ethics permit.

(3)(F) Docket management and case and judge assignments.

(3)(F)(i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and systems of managing dockets.

(3)(F)(ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an equitable distribution of the workload and the prompt disposition of cases.

(3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

(3)(F)(iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite the disposition of cases.

151 (3)(G) **Court executives.**

152
153 (3)(G)(i) The presiding judge shall review the proposed appointment of the court
154 executive made by the State Court Administrator and must concur in the
155 appointment before it will be effective. The presiding judge shall obtain the
156 approval of a majority of the judges in that jurisdiction prior to concurring in the
157 appointment of a court executive.

158
159 (3)(G)(ii) The presiding judge for the respective court level and the state level
160 administrator shall jointly develop an annual performance plan for the court
161 executive.

162
163 (3)(G)(iii) Annually, the state level administrator shall consult with the presiding
164 judge in the preparation of an evaluation of the court executive's performance for
165 the previous year, also taking into account input from all judges in the district.

166
167 (3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the
168 court executive, including coordination of annual leave.

169
170 (3)(G)(v) Pursuant to Council policy and the direction of the state level
171 administrator, the court executive has the responsibility for the day-to-day
172 supervision of the non-judicial support staff and the non-judicial administration of
173 the court. The presiding judge, in consultation with the judges of the jurisdiction,
174 shall coordinate with the court executive on matters concerning the support staff
175 and the general administration of the court including budget, facility planning,
176 long-range planning, administrative projects, intergovernmental relations and
177 other administrative responsibilities as determined by the presiding judge and the
178 state level administrator.

179
180 (3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of
181 courtrooms and facilities.

182
183 (3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in
184 consultation with the presiding judge, shall:

185
186 (3)(I)(i) coordinate the compilation of management and statistical information
187 necessary for the administration of the court;

188
189 (3)(I)(ii) establish policies and procedures and ensure that court personnel are
190 advised and aware of these policies;

191
192 (3)(I)(iii) approve proposals for automation within the court in compliance with
193 administrative rules.

194
195 (3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall
196 oversee the development of the budget for the court. In contract sites, the court
197 executive shall supervise the preparation and management of the county budget for the
198 court on an annual basis and in accordance with the Utah Code.

199
200 (3)(K) **Judicial officers.** In the event that another judge or commissioner of the court
201 fails to comply with a reasonable administrative directive of the presiding judge,

interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge may:

(3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

(3)(K)(ii) Discuss the position with other judges and reevaluate the position.

(3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

(3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

(3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

(3)(K)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

(3)(L) Cases under advisement.

(3)(L)(i) A case is considered to be under advisement ~~when the entire case or any issue in the case has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge" is defined as follows:~~ if it meets the criteria outlined in rule 3-101.

~~(3)(L)(i)(a) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;~~

~~(3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or~~

~~(3)(L)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.~~

~~A case is no longer under advisement when the judge makes a decision on the issue that is under advisement or on the entire case.~~

~~The final determination occurs when the judge resolves the pending issue by announcing the decision on the record or by issuing a written decision;~~

~~regardless of whether the parties are required to subsequently submit for the judge's signature a final order memorializing the decision.~~

(3)(L)(ii) Once a month, each judge shall submit a statement on a form to be provided by the State Court Administrator notifying the presiding judge of any cases or issues held under advisement for more than two months, ~~and the~~ reason why the case or issue continues to be held under advisement, and the plan to resolve the case or issue.

(3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement. State level administrators shall present these monthly reports to the Management Committee.

~~(3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level administrator shall report that fact to the Management Committee.~~

(3)(L)(iv) If a judge fails to submit a statement required under (3)(L)(ii), the presiding judge shall notify the appropriate state level administrator. If a judge fails to submit a statement for two consecutive months, the state level administrator shall notify the Management Committee.

(3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

(3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel file in the Administrative Office.

(3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the justice court administrator to develop a rotation of magistrates that ensures regular availability of magistrates within the district. The rotation shall take into account each magistrate's caseload, location, and willingness to serve.

Effective May/November 1, 202_3