

**UTAH JUDICIAL COUNCIL  
POLICY, PLANNING and TECHNOLOGY COMMITTEE  
MEETING MINUTES**

Webex video conferencing  
August 2, 2024 – 12 p.m.

**MEMBERS:**

**PRESENT**

**EXCUSED**

Judge Samuel Chiara, <i>Chair</i>	✓	
Judge Suchada Bazzelle	✓	
Judge Jon Carpenter	✓	
Judge Michael DiReda	✓	
Judge James Gardner		✓

**GUESTS:**

Judge Kate Appleby  
Judge Jennifer Valencia  
Paul Barron  
Keri Sargent  
Meredith Mannebach  
Jace Willard

**STAFF:**

Keisa Williams  
Cindy Schut

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

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the June 14, 2024, meeting. With no changes, Judge Carpenter moved to approve the minutes as presented. Judge DiReda seconded the motion. The motion passed unanimously.

**(2) Rules back from public comment:**

**CJA 4-601. Selection of indigent aggravated murder and defense fund counsel (REPEAL)**  
**CJA 2-212. Communication with the Office of Legislative Research and General Counsel**  
**CJA 4-907. Divorce education and divorce orientation course**  
**CJA 1-204. Executive Committees**  
**CJA 4-202.01. Definitions**

The public comment period on the above rules has closed. No public comments were received. Rules 2-212, 4-601, and 4-907 were approved on an expedited basis and are currently in effect. Following a discussion, the Committee made no additional amendments.

***Judge Bazzelle moved to recommend to the Judicial Council that rules 1-204 and 4-202.01 be approved as final with a November 1, 2024 effective date. Judge DiReda seconded the motion. The motion passed unanimously.***

**(3) CJA 4-206. Exhibits**

Rule 4-206 is back from public comment. Court staff submitted two comments. Jace Willard reviewed recent statutory amendments related to the receipt, retention, and disposal of court exhibits and provided an overview of court staff's proposed rule amendments. A detailed memo is included in the meeting materials. In summary, the need to amend the rule goes back to legislation passed in 2023 (SB120), which prohibits courts from

disposing of any evidence admitted in criminal cases and significantly restricts state agencies' disposal of evidence in criminal cases. The 2024 amendments (SB76 and HB328) add to those restrictions. Following a discussion, the committee agreed with the proposed amendments and determined that expedited approval was necessary to ensure the rule reflects the statute. Because the amendments are substantive, the rule must be sent out for a second round of public comments. Adjustments can be made as needed after the comment period.

***Judge DiReda moved to recommend to the Judicial Council that 4-206 be approved on an expedited basis with an immediate effective date, followed by a second round of public comments. Judge Bazzelle seconded the motion. The motion passed unanimously.***

#### **(4) CJA 6-104. District court water judges**

Judge Jennifer Valencia and Senior Judge Kate Appleby reviewed proposed amendments to CJA Rule 6-104 as described in detail in the memo provided to the committee members. In summary, the proposed amendments add a new subsection pertaining to the reassignment of water cases upon the retirement or resignation of a water judge. The intent is to "grandfather in" all currently assigned water cases. Future assignments and reassignments would be made by the Senior Water Judge on a random basis. The Board of District Court Judges supports the amendment.

Following a discussion, the Committee changed new (5)(A) to read, "the assignment and reassignment of water law cases to water judges," to further clarify that the supervising water judge is responsible for all reassignments.

***Judge DiReda moved to recommend to the Judicial Council that the amendments to CJA rule 6-104 be published for a 45-day comment period. Judge Carpenter seconded the motion. The motion passed unanimously.***

#### **(5) CJA 4-202.02. Records classification.**

##### **CJA 4-202.03. Records access.**

Keri Sargent reviewed the Utah Office Victims of Crime's (UOVC) new statutory requirement to file "nonpublic restitution records" with the court. These records only need to be filed when: 1) there is restitution in a case; 2) UOVC has a restitution claim; and 3) the defendant has requested a hearing regarding restitution. Nonpublic restitution records can only be accessed by the prosecuting agency and defense counsel and should be provided to those parties by UOVC. As such, the proposed amendments to rule 4-202.02 classify those records as sealed and UOVC is granted access in rule 4-202.03.

The Board of District Court Judges has been working with adult probation and parole (AP&P) on reclassifying progress/violation (P/V) reports as protected records. P/V reports could include information about a defendant's substance abuse or mental health classes. Currently, P/V reports and proposed orders are submitted to the court as one document. Once the order is signed, the P/V report becomes a public record. AP&P submitted a version of the report that removes the judge's signature block and creates a separate probation order template. The board did not find any concerns with separating the report and order. The proposed amendments to rule 4-202.02 reclassify P/V reports as protected records. AP&P will begin related programming and training on their end.

***Judge Carpenter moved to recommend to the Judicial Council that CJA rule 4-202.02 and rule 4-202.03 be published for a 45-day public comment period. Judge Bazzelle seconded the motion. The motion passed unanimously.***

**(6) CJA 4-905. Restraint of minors in juvenile court.**

The proposed amendment to rule 4-905 fixes an incorrect reference in paragraph (4). Headings were added per an ongoing project to reformat CJA rules. Ms. Williams noted that clerical changes are also needed in several other CJA rules to update statutory references related to the recodification of the Domestic Relations Code in SB 95.

Following a discussion, the committee determined that non-substantive, clerical changes can be made by staff without sending the rules out for public comment in accordance with CJA rule 2-203(3). Staff must place the rules on the Judicial Council's consent agenda, with a memo identifying them as clerical, non-substantive changes.

***Judge Bazzelle moved to put clerical, non-substantive changes to CJA rules 4-905, 4-508, 4-510.06, 4-903, 4-907, 10-1-303, and 4-510.06 on the Council's consent calendar. After the Council meeting, staff may update the rules on the webpage. Judge Carpenter seconded the motion. The motion passed unanimously.***

**Technology report/proposals:**

Ms. Williams sought approval of the IT Strategic Plan.

***Judge DiReda moved to send the proposed plan to the Management Committee for final approval. Judge Bazzelle seconded the motion. The motion passed unanimously.***

**(7) CJA Rule 4-101. Manner of Appearance**

The public comment period for CJA rule 4-101 ends August 10<sup>th</sup>. To date, two comments were received, and both were from juvenile court staff. The Supreme Court recently adopted related rules of civil, criminal, and juvenile procedure, with a September 1, 2024 effective date. To align with that date, Ms. Williams recommended that the committee review rule 4-101 before the end of the comment period.

The committee discussed the two comments received from court staff about including language on the court's website related to remote proceedings in juvenile court and including party names in notices. The committee determined that the rule does not need adjustment, but the website should be updated to include juvenile court information. Party names will be included in the caption of each notice. In juvenile court, the name of the minor is spelled out. If any additional public comments are received, they will be addressed by an email vote prior to the Judicial Council meeting.

***Judge Carpenter moved to send CJA Rule 4-101 to the Judicial Council with a recommendation that it be approved as final with a September 1, 2024 effective date. Judge Bazzelle seconded the motion. The motion passed unanimously.***

**Old Business/New Business:** None

**Adjourn:** With no further items for discussion, the meeting adjourned at 12:54 p.m. The next meeting will be held on September 5, 2024, at noon via Webex video conferencing.