

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

Webex video conferencing
November 1, 2024 – 12 p.m.

MEMBERS:

PRESENT

EXCUSED

| | | |
|--------------------------------------|---|---|
| Judge James Gardner, <i>Chair</i> | ✓ | |
| Justice Paige Petersen | | ✓ |
| Judge Angela Fonnesbeck | ✓ | |
| Judge Jon Carpenter | ✓ | |

GUESTS:

Keri Sargent
Tucker Samuelson
Daniel Meza-Rincon
Shannon Treseder
Stacy Haacke
Meredith Mannebach
Chris Palmer

STAFF:

Keisa Williams
Brody Arishita
Cindy Schut

(1) Welcome and approval of minutes:

Judge Gardner welcomed the committee members to the Policy, Planning, and Technology Committee (PP&T). PP&T considered the minutes from the October 4, 2024 meeting. With no changes, Judge Carpenter moved to approve the minutes as presented. Judge Fonnesbeck seconded the motion. The motion passed unanimously.

(2) Rules back from public comment:

- **CJA 3-102. Assumption of judicial office**
- **CJA 4-206. Exhibits**
- **CJA 4-101. Manner of appearance**
- **CJA 4-202.02. Record classification**
- **CJA 4-202.03. Records access**
- **CJA 6-104. District court water judges**

The proposed amendments to rules 3-102, 4-206, and 4-101 were approved on an expedited basis and are back from a 45-day public comment period. No public comments were received.

The proposed amendments to rule 6-104 clarify that the supervising water judge is responsible for reassigning water cases upon the retirement of a water judge. No public comments were received. The proposed amendments to rule 4.202.02 reclassify probation progress/violation reports as protected records, classify “nonpublic restitution records” as sealed records in accordance with Utah Code, and update statutory references to account for the recodification of the Domestic Relations code. The proposed amendments to rule 4-202.03 authorize the Utah Office for Victims of Crime (UOVC) to access sealed “nonpublic restitution records.” Two public comments were received.

The committee discussed the comments, including when the records would be sealed (upon filing), what parties would have access to them, and the IT programming necessary to facilitate compliance with the rule, if the court were to implement the process contemplated in Mr. Hains' comment. Unsealing the records to allow attorneys in a case to access nonpublic restitution records without filing a motion, while also shielding the records from offenders, would require programming to create special classification / access privileges in the courts' case management systems. The committee reasoned that attorneys will already have access to the records because the UOVC is required to provide copies to the court, prosecutor, and counsel for the offender under 63M-7-527; sealed documents are in the court record on appeal; and filing a motion to access them is not too onerous because the number of appeals is low. Based on the discussion, the committee determined that the language in 4-202.03(2)(D) is unnecessary and removed it from the rule draft. The committee asked Ms. Williams to make a note of the committee's reasoning with respect to Mr. Hains' comment in the memo to the Judicial Council.

Following further discussion, Judge Gardner moved to send rules 4-202.02, 6-104, and 4-202.03, as amended, to the Judicial Council with a recommendation that they be approved as final with a May 1, 2025 effective date. Judge Carpenter seconded the motion. The motion passed unanimously.

(3) CJA 4-403. Electronic signature and signature stamp use

The District, Juvenile, and Justice Court Boards of Judges (Boards) proposed amendments to rule 4-403 that would grant judges and commissioners more discretion than what is authorized under the rule. PP&T sought feedback from the Boards on three versions of rule 4-403 with varying levels of discretion. The Boards were not in agreement. PP&T took the underlying question of discretion to the Council, along with two versions of rule 4-403. The Council voted to grant each district the authority to add document types through a standing order issued by the Presiding Judge of the district, provided individual judicial officers maintain the discretion to restrict the use of their signature. The Council asked PP&T to conduct one final review before sending the rule out for public comment.

The committee discussed language at the end of subsection (4) ("The judge or commissioner must review the document prior to granting such authorization") and the practical implications of requiring a judge to review and sign a formal order after the judge orally gave clerks the authority to sign an order on the record during a court proceeding. Ms. Sargent noted that court clerks could document in a minute entry that an oral ruling had been issued and that clerks were granted the authority to sign the order, which would satisfy audit requirements. The committee agreed that a minute entry would suffice and changed the language in subsection (5) from "in writing and documented" to "must be documented in writing" for clarity purposes. The committee asked Ms. Williams to notify the Boards of that change and ensure they have an opportunity to provide feedback when the rule is posted for comment.

Following further discussion, Judge Carpenter moved to send rule 4-403 to the Judicial Council with a recommendation that it be posted for a 45-day public comment period. Judge Gardner seconded the motion. The motion passed unanimously.

(4) 4-410. Courthouse closure

In a recent security training, staff identified an issue in rule 4-410 with respect to emergencies that require immediate action. As currently written, the only person authorized to make courthouse closure decisions is a presiding judge, but presiding judges may not be on site or available when immediate decisions must be made regarding safety and building closure. Following discussion, the committee

agreed that the rule should be amended to outline a clear line of authority when immediate decisions must be made, referring judges and court staff to the local security plans for each facility.

Following further discussion, PP&T directed Ms. Williams to take the proposed amendments to rule 4-410 to the AOC Directors for review and recommendations.

(4) CJA 4-202.08. Fees for records, information, and services

The proposed amendments in lines 104-108 were sent out for public comment. No public comments were received. At its September meeting, the Judicial Council agreed that the term “minimal” in line 94 should be changed to a set dollar amount to ensure consistent application across the state and \$10.00 was deemed to be a reasonable amount. The Council also agreed that access to audio via the FTR Cloud should be \$10.00 per transaction (lines 35-36). Staff are proposing additional amendments in line 90 and lines 127-136. The additional proposed amendments would allow the Data and Research department to waive fees for bulk data.

Following discussion, Judge Carpenter moved to recommend to the Judicial Council that rule 4-202.08 be sent out for public comment. Judge Gardner seconded the motion. The motion passed unanimously.

Technology report/proposals:

The Strategic Plan and Emergency Response Plan have been approved by the Management Committee. The Technology Advisory Subcommittee (TAC) is continuing to work on identifying essential functions for each court level. TAC will meet with juvenile, justice, district, and appellate courts to list main essential functions and work within those groups to develop workarounds in the event an essential function is lost.

Mr. Arishita gave the committee more information about the software that will roll out at the end of November. Employees will begin to see 3–5-minute training videos to enhance cybersecurity awareness and knowledge among all staff members. The new software will focus on the latest cybersecurity trends, with the long-term goal of making employees more aware and informed.

Old Business/New Business: The committee decided to defer the discussion on the draft style guide until next month's meeting to allow for input from Justice Petersen. The committee discussed the goal of reducing meeting times to 1.5 hours when possible.

Adjourn: With no further items for discussion, the meeting adjourned at 1:22 p.m. The next meeting will be held on December 6, 2024, at noon via Webex video conferencing.