

# JUDICIAL COUNCIL MEETING

## Minutes

March 8, 2019

Hyatt Place Hotel

1819 South 120 East

St. George, Utah 84790

12:30 p.m. – 4:00 p.m.

*Chief Justice Matthew B. Durrant, Presiding*

### Attendees:

Chief Justice Matthew B. Durrant, Chair  
Hon. Kate Appleby, Vice Chair  
Hon. Augustus Chin  
Hon. Ryan Evershed  
Hon. Paul Farr  
Justice Thomas Lee – by phone  
Hon. David Marx  
Hon. Mark May  
Hon. Kara Pettit  
Hon. Derek Pullan  
Hon. Todd Shaughnessy  
Hon. John Walton  
Rob Rice, esq.

### Excused:

Hon. Kevin Allen

### Staff:

Hon. Mary T. Noonan  
Ray Wahl  
Shane Bahr  
Cathy Dupont  
Jim Peters  
Clayson Quigley  
Neira Siaperas  
Jeni Wood

### Guests:

John Baldwin, Utah State Bar  
Dickson Burton, Utah State Bar  
Hon. Sam Chiara, Eighth District  
Travis Erickson, Seventh District TCE  
Judge Dennis Fuchs, Senior Judge  
Herm Olsen, Utah State Bar  
Joyce Pace, Fifth District TCE  
Hon. Jeffrey Wilcox, Fifth District

## 1. **WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)**

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

**Motion:** Judge Kate Appleby moved to approve the Judicial Council minutes from the February 25, 2019 meeting, as presented. Judge David Marx seconded the motion, and it passed unanimously.

## 2. **CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant was encouraged with the employee participation in the National Center for State Courts (NCSC) System Review and found the report findings helpful. Chief Justice Durrant thanked the System Review Steering Committee for their work on this project.

**3. ADMINISTRATOR'S REPORT: (Judge Mary T. Noonan)**

Judge Mary Noonan stated all court employees received a copy of the NCSC System Review Report. Judge Noonan encouraged TCEs to hold conversations in their districts about the report findings. The System Review Steering Committee will meet to discuss the second, more in-depth, review to be held after the new State Court Administrator is hired.

**4. COMMITTEE REPORTS:**

**Management Committee Report:**

The work of this committee is reflected in the minutes.

**Liaison Committee Report:**

Justice Thomas Lee noted the committee opted to wait until the 2020 legislative session to remind judges of proper protocols if contacted by legislators or their staff. Justice Lee thanked Cathy Dupont, Mike Drechsel, and the members of the Liaison Committee for their dedication to this session.

**Policy and Planning Committee Report:**

Judge Derek Pullan stated the committee would hold their work on the Human Resources exercise policy and secondary employment of interns, pending review of the Human Resources manual in its entirety by the Human Resources Committee.

**Bar Commission Report:**

Rob Rice noted the Bar Commission approved a \$200 application fee and a \$200 yearly license fee for Licensed Paralegal Practitioners. Mr. Rice noted Dickson Burton worked hard on educating legislators about the services performed by attorneys and was pleased the proposed bill to tax services did not pass.

**5. BUDGET UPDATE: (Judge Mary T. Noonan)**

Judge Noonan received positive feedback for the courts presence during the legislative session. Cathy Dupont spoke with Senator Stevenson, Senate Appropriations Chair, who expressed his gratitude for Chief Justice Durrant's conversation with them.

**6. BOARD OF DISTRICT COURT JUDGES REPORT: (Judge Sam Chiara and Shane Bahr)**

Chief Justice Durrant welcomed Judge Sam Chiara and Shane Bahr. Mr. Wahl and members of the Facilities Committee will attend a meeting in the Fifth District on March 18 to discuss a possible federal court request for additional space in the shared St. George courthouse. Recently, there were approximately 60 potential jurors in the St. George courthouse for a federal court trial. Mr. Wahl will review the current St. George federal court lease.

The Board approved a recommendation to add a Fifth District Court membership to the Board of District Court Judges. Two of the ten positions on the Board are shared by the Fifth, Sixth, Seventh, and Eighth Districts. The Fifth District is one of the nation's fastest growing metropolitan areas. The Sixth, Seventh, and Eighth Districts are comprised of mostly rural and low-density populations. These demographics no longer represent much of the population in the

Fifth District. The Council agreed this was a positive change. Mr. Bahr will seek approval for the new position with the Management Committee and Policy & Planning Committee.

The Board would like to expand commissioner-held pro se domestic calendars in the Third and Fourth Districts to other districts. The Timpanogas Legal Center volunteered to provide legal counsel for a commissioner-held pro se calendar pilot program in Duchesne County. Mr. Rice noted the Bar has a list of pro bono attorneys that may be able to provide assistance as well.

Judge Connors informed the Board that the American Bar Association (ABA) Trial Judge Committee encouraged additional outreach programs between the Bar and local courts. The Board discussed increasing student participation by moving Constitution Day to March to provide advanced notice to schools.

The Board will work to improve methods of communications with district court judges as recommended in the NCSC Report.

Chief Justice Durrant thanked Judge Chiara and Mr. Bahr for their report.

**7. WEST VALLEY JUSTICE COURT MENTAL HEALTH COURT AND DAVIS COUNTY DEPENDENCY DRUG COURT UPDATE: (Judge Dennis Fuchs)**

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs stated that the Council had previously conditionally approved the recertification of the West Valley Justice Court Mental Health Court for 30 days. The contract for drug testing recently changed to Volunteers of America (Cornerstone). The court corrected its drug testing procedures and is now in compliance. Judge Fuchs next discussed the Davis County Dependency Drug Court conditional certification. The court provided a letter stating they believe a misunderstanding occurred because they have complied with drug testing seven days a week for the past several years.

Judge Fuchs is seeking full recertification for both courts at this time.

**Motion:** Judge Appleby moved to approve recertification of the West Valley Justice Court Mental Health Court and the Davis County Dependency Drug Court. Judge Shaughnessy seconded the motion, and it passed unanimously.

**8. REVIEW OF PROBLEM-SOLVING COURTS CERTIFICATIONS: (Judge Dennis Fuchs)**

Judge Fuchs said that every two years he visits each court for purposes of certification. Some of the adult drug court recertification requests submitted to the Council in January were completed on the previous version of the form. Revisions to the adult drug court recertification form were approved; the remaining problem-solving court recertification checklists are being updated. Judge Manley's adult drug court has not met employment or education requirements but should soon be in compliance. Neira Siaperas will contact the Division of Children and Family Services to assist Judge Manley and her team with education opportunities. Once the issues are resolved, the recertification will be added to the Council's consent calendar.

**Motion:** Judge Appleby moved to reject Judge Manley's Seventh District adult drug court approval for recertification until they meet the drug testing and education/work requirements, and when in compliance, to add this item to the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

The Council addressed noncompliance with Judge Brent Bartholomew's Fourth District Juvenile dependency drug court. Judge Fuchs understood that Utah County Substance Abuse is ensuring drug testing is done as required.

For future requests, Judge Fuchs will submit a brief summary of the requests and any discrepancies identified. Chief Justice Durrant thanked Judge Fuchs.

**Motion:** Judge Kara Pettit moved to reject the recertification of Judge Bartholomew's Fourth District Juvenile dependency drug court due to noncompliance with high risk/high needs, and to have Judge Fuchs follow up with Judge Bartholomew. When in compliance, this item will be added to the Judicial Council consent calendar. Judge Appleby seconded the motion, and it passed unanimously.

#### **9. LEGISLATIVE UPDATE: (Cathy Dupont)**

Cathy Dupont provided status on various bills and identified bills with fiscal notes. Ms. Dupont noted Mike Drechsel worked on the bail bond bill, which may be funded with one-time funding. There is a fair amount of one-time money available this year. Ms. Dupont and Mr. Drechsel are closely monitoring the status of bills. Ms. Dupont will send a list of approved bills after the session concludes.

#### **10. TCE REPORT: (Travis Erickson and Joyce Pace)**

Chief Justice Durrant welcomed Travis Erickson and Joyce Pace. Mr. Erickson and Ms. Pace introduced themselves. Mr. Erickson said the TCEs reviewed the employee survey results and selected five items to focus on including: pride, understanding the mission of the courts, morale, feeling appreciated, input in decisions, and making decisions on personal work. Each district holds an annual awards program. Some districts give years of service plaques to employees. Ms. Pace noted employees have expressed sincere appreciation for incentive awards and years of service recognition.

Ms. Pace said an employee mentioned that after 22 years with the courts, her best experience was meeting with Chief Justice Durrant and members of the AOC. Mr. Erickson thanked the Council for their efforts in clerical salary increases. TCEs are committed to focusing on recommendations made in the NCSC Report. Mr. Erickson said the TCEs have discussed giving staff letters of accomplishment from the Council. Judge Shaughnessy thanked the TCEs for their initiative with clerical increases.

Juvenile court updates

- Implementation of Tangible incentives for probationers – statewide training
- Implementation of Massachusetts Youth Screening Instrument (MAYSI-2) – Fifty-two questions designed to assess the mental health needs of juveniles

- Approved MOU which provides access to Department of Human Services (DHS) – contracted treatment interventions
- Acting as a resource for schools as they develop interventions for truancy and minor delinquency matters

Chief Justice Durrant thanked Mr. Erickson and Ms. Pace for their report.

**11. FIFTH DISTRICT REPORT: (Judge Jeffrey Wilcox and Joyce Pace)**

Chief Justice Durrant welcomed Judge Jeffrey Wilcox and Joyce Pace. Judge Wilcox noted the Fifth District has six district court judges, three juvenile court judges, and no commissioners. Over the past six months, case filings have remained about the same, with the exception of juvenile court cases and civil cases. However, Judge Wilcox talked about the anticipated group in Washington County and large subdivision housing presently being built. Because of this anticipated group, Judge Wilcox believes there is a need for an additional judge in the District. The Fifth District has now taken work in Beaver County back, but they did appreciate the temporary assistance provided by Judge Lyman and the Sixth District. Juvenile court judges are assisting district courts with their caseloads. The district recently has needed to use more senior judge services; however, the lack of courtroom space is an impediment to senior judge usage. Judge Wilcox offered to provide data to support the need for either a judge or commissioner. An official request for an additional judge or commissioner was not made.

Judge Wilcox said approximately 80% of PC statements include PSAs. Judge Wilcox noted Ms. Pace has worked hard at improving the districts morale. Washington County is the replicator site for the entire court computerized system. Ms. Pace said IT is upgrading the redundant site with additional cooling systems and new equipment.

Fifth District Court is comprised of:

- Washington County – population 166,000
- Iron County – population 48,000
- Beaver County – population 6,600

Chief Justice Durrant thanked Judge Wilcox and Ms. Pace for their report.

**12. UTAH STATE BAR WELCOME AND REPORT: (Dickson Burton and Herm Olsen)**

Chief Justice Durrant welcomed Dickson Burton and Herm Olsen. Mr. Burton thanked the Council for holding this meeting in St. George in conjunction with the Bar Spring Convention.

Mr. Burton and other Bar members are involved with the Supreme Court's Lawyer Wellness Committee. Dr. Matthew Thiese from the University of Utah will conduct a study for the Wellness Committee. The study, funded by the Bar, is expected to be completed in July. This year's Bar Summer Convention will be held in Park City, which will provide a more affordable Convention site and hopefully increased attorney participation.

Chief Justice Durrant thanked Mr. Burton and Mr. Olsen for their report.

**13. OLD BUSINESS/NEW BUSINESS: (Judge Mary T. Noonan)**

Judge Noonan explained adding old business/new business to each agenda provides an opportunity for Council members to revisit previous topics or to propose new topics for discussion. There was brief discussion on self-reporting for problem-solving courts. Judge Mark May said the juvenile courts have expressed frustration with the process. They are heavily invested in drug courts and should provide the best service possible. Judge Pullan said with Judge Fuchs being part-time and there being no audit system in place, the Council may want to consider what resources are needed to provide service to the problem-solving courts. Judge Shaughnessy said, after a review is done, the Council might want to request funding from the legislature for a problem-solving coordinator and staff. Judge Noonan would like an analysis of problem-solving courts functions and resources and then readdress the issue with the Council in June. Judge Pullan recommended speaking with the National Center for State Courts to review processes that other states use.

Judge Pullan recommended reviewing the outcome of the legislative session and what was learned. Justice Lee said an important step is to give thought to the level of communication between the Liaison Committee and the Council during the session. Because Liaison is an extension of the Council, therefore, the Council may want to have more input than at each monthly Council meeting.

**14. EXECUTIVE SESSION**

There was no executive session held.

**15. CONSENT CALENDAR ITEMS**

There were no consent calendar items.

**16. ADJOURN**

The meeting adjourned.