

**UTAH JUDICIAL COUNCIL
TASK FORCE ON JUSTICE COURT REFORM**

Via Webex

**January 15, 2021
12:00 p.m. – 1:30 p.m.**

MEMBERS PARTICIPATING

Judge Paul Farr, Chair
Ms. Anna Rossi Anderson
Judge Brian Brower
Mr. Paul Burke
Senator Kirk Cullimore
Judge Brent Dunlap
Judge Roger Griffin
Representative Craig Hall
Judge Ryan Harris
Ms. Joanna Landau
Mr. Ryan Robinson
Mr. George Sutton
Ms. Ann Marie Taliaferro
Commissioner Jerry Taylor
Mr. Roger Tew

MEMBERS EXCUSED

Mr. Ron Gordon

STAFF PARTICIPATING

Ms. Amy Hernandez
Mr. Jim Peters
Ms. Kim Zimmerman

GUESTS PARTICIPATING

Mr. Dillan Passmore
Mr. Larry Webster

MINUTES

1. Welcome and Approval of Minutes:

Judge Farr welcomed everyone to the meeting. He asked for approval of the minutes from the meeting held on December 18, 2020.

Motion: Judge Brower made a motion to approve the minutes from the Task Force meeting held on December 18, 2020. Commissioner Taylor seconded the motion. The motion passed unanimously.

Judge Farr proposed canceling the Task Force meeting scheduled for February 19, 2021 as it presents a conflict with the legislative session. As the Task Force was in favor of the proposal, Judge Farr indicated that the next meeting would be held on March 19, 2021.

2. Review of Other Reform Materials and Proposals:

Judge Farr began by reviewing several recommendations that preceded those proposed by the Board of Justice Court Judges, including the following:

- **COSCA Policy Paper:**
The Conference of State Court Administrators is a group of state court administrators from around the country. It issued a policy paper in 2013-2014 that recommended that justice court judges be required to have law degrees, be courts of record and appeal on the record, that courts be funded in a manner that promotes the perception and actuality of judicial independence, and that they be managed by professional court administrators.
- **Nehring Commission:**
The Judicial Council commissioned an internal study in 2007. It was chaired by Justice Nehring. His group recommended making all justice court judges state employees with a fixed salary of 90%, requiring all justice court judges to have at least a four-year degree, and making future judicial openings full-time.
- **6th Amendment Center:**
The Sixth Amendment Center conducted an in-depth study of justice courts based on concerns in Utah with indigent defense. Based on the study, they reported in 2015 that the structure and processes in justice courts are resulting in denial of counsel and that the de novo appeal process is not set up to rectify the denial of counsel issue.
- **Ferguson Report:**
The report was done in 2015 and concluded that judicial authority should not be used as a means to compel payment of fines and fees to advance a municipality's financial interests. Such court practices have a disproportionate effect on poor and minority communities.
- **California Reforms:**
As of 2001, all justice courts in California have been consolidated with the superior courts. The purpose was to improve services to the public by consolidating court resources, offering greater flexibility in case assignments, and saving taxpayer dollars.
- **Missouri Municipal Courts**
In 2015, the Missouri Municipal Courts identified best practices indicating that courts should operate independently, as part of the judicial branch, and distinguishable from the municipalities' other functions. In addition, consolidation should be allowed and encouraged, municipal courts should not be viewed as revenue generators, courts should transition to courts of record, and the administrative office of the courts should have a more active role in court administration.

- **Idaho Reforms**
Beginning in 1961, Idaho passed a constitutional amendment consolidating courts. A magistrate system was created. The position is full time. As of 1998, all magistrates are lawyers. One previous Idaho Supreme Court justice credits these changes as “the two legislative achievements that are most responsible for insuring that Idaho provides high quality justice to those who come into our courts.”

3. Review Recommendations Received to Date:

Judge Farr next reviewed the attached Summary of Recommendations with the Task Force. It lists all of the recommendations presented so far, the source(s) for each recommendation, the model that would accommodate each one to be implemented, and other relevant considerations. The Task Force discussed several of the recommendations as Judge Farr went through the list.

4. Discussion on Reform Recommendations:

With the foregoing in mind, Judge Farr opened up the meeting to a discussion of what the Task Force wants to recommend to the Judicial Council. The group discussed whether to temper its recommendations based on cost or make whatever recommendations it thinks are required to create the best system possible--recognizing that cost may prevent some of them from being implemented right away. Following discussion, a consensus emerged around the latter approach.

In addition, the group determined it would be helpful to get an idea of where each member of the Task Force is at with regard to each recommendation. They wondered whether Judge Farr or Mr. Peters could conduct a “straw poll” that would not commit anyone to a particular position, but would allow the group to see what everyone generally supports versus other ideas that may be more controversial. Judge Farr agreed to work with Mr. Peters to conduct such a poll. He also agreed to provide a proposal for the Task Force to react to. Again, nothing about the ideas in that proposal would be binding; it would simply provide a starting point for further discussion. Judge Farr will see that both of those are done before the group’s next meeting on March 19.

5. Adjourn:

There being no other business, the meeting adjourned at 1:30 p.m.

NEXT MEETING:

**March 19, 2021
Via Webex
12:00 p.m. – 2:00 p.m.**

<u>Recommendation</u>	<u>Input Received</u>	<u>Accommodating Model</u>	<u>Considerations</u>
1. Eliminate de novo appeals	<ul style="list-style-type: none"> *Conference of State Court Administrators 2013-14 Policy Paper. *Board of Justice Court Judges Recommendations. *Senator Cullimore's small claims proposal. *JPEC proposal regarding transparency and judicial feedback. 	Modified Tiered (reform limited to one tier only) Magistrate State Courts	<ul style="list-style-type: none"> *25 states plus DC require this. *De novo appeals are a product of non-lawyer judge * Would require courts to be courts of record, which, under current constitutional provisions, would require full-time courts, law degrees for judges, and governor appointment of judges.
2. Expand jurisdiction to Class A's	*Board of Justice Court Judges Recommendations.	All models	
3. Judges to be members of the Bar	<ul style="list-style-type: none"> *Conference of State Court Administrators 2013-14 Policy Paper. *Board of Justice Court Judges Recommendations. 	Modified Tiered (reform limited to one tier only) Magistrate State Courts	
4. Remove geographic restrictions for application	*Board of Justice Court Judges Recommendations.	All models	
5. Transition to full-time judges	<ul style="list-style-type: none"> *Board of Justice Court Judges Recommendations. *JPEC proposal regarding transparency and judicial feedback. * Keisa Williams presentation on pretrial release practices. * Nehring Commission recommendation 	Modified Tiered (reform limited to one tier only) Magistrate State Courts	
6. Fixed salaries for judges	<ul style="list-style-type: none"> *Board of Justice Court Judges Recommendations. * Nehring Commission recommendation 	All models	
7. Enhance magistrate capacity	<ul style="list-style-type: none"> *Board of Justice Court Judges Recommendations. * Keisa Williams presentation on pretrial release practices. 	Modified Tiered (reform limited to one tier only) Magistrate State Courts	
8. Courts under AOC umbrella	<ul style="list-style-type: none"> *Board of Justice Court Judges Recommendations. *Dr. Kim Free's presentation on clerk and judge training. 	Magistrate State Courts	

<u>Recommendation</u>	<u>Input Received</u>	<u>Accommodating Model</u>	<u>Considerations</u>
9. Clarify code re: 3rd branch of government	*Board of Justice Court Judges Recommendations.	All models (but unnecessary for some)	
10. Standardize budgets	*Conference of State Court Administrators 2013-14 Policy Paper. *Board of Justice Court Judges Recommendations. * Nehring Commission recommendation	Magistrate State Courts	
11. Consolidate part-time clerical positions	* AOC audit dept. 12/18. Local gov. control of clerks creates conflict of interest and separation of duties concerns. *Dr. Kim Free's presentation on clerk and judge training.	Magistrate State Courts	
12. Expand small claims jurisdiction	*Senator Cullimore's small claims proposals. *Justice Himonas' online dispute resolution presentation.	Modified Tiered Magistrate State Courts	* Should be considered with the expansion of the ODR program.
13. Improve pretrial release practices	* Keisa Williams presentation on pretrial release practices.	Modified (limited reform) Tiered (limited reform) Magistrate State Courts	* Legal challenges to the current system at the state and federal level are likely.
14. Improve indigent defense practices (provide counsel at first appearance, standardize forms and practices, improve certification standards)	*Joanna Landau's presentation. * 6th Amendment Center report	Modified (limited reform) Tiered (limited reform) Magistrate State Courts	

OTHERS

15. Discontinue accounting Model 2 (local government receipts and deposits funds)	*Recommended by AOC audit dept. 12/18	All models
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