

JUDICIAL COUNCIL MEETING

AGENDA

Monday, April 30, 2012

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

- | | Noon | Lunch |
|----|------------|---|
| 1. | 12:30 p.m. | Welcome & Approval of Minutes Chief Justice Matthew B. Durrant
(Tab 1 - Action) |
| 2. | 12:35 p.m. | Chair's Report. Chief Justice Matthew B. Durrant |
| 3. | 12:45 p.m. | Administrator's Report. Daniel J. Becker |
| 4. | 1:00 p.m. | Reports: Management Committee. . . . Chief Justice Matthew B. Durrant
Liaison Committee. Justice Jill Parrish
Policy and Planning Judge Greg Orme
Bar Commission. Lori Nelson, esq.
(Tab 2 - Information) |
| 5. | 1:15 p.m. | Resources for Self-Represented Parties
Committee Update. Judge John Baxter
(Information) Tim Shea |
| 6. | 1:35 p.m. | Definition of a "Full-Time" Judge for the Code
of Judicial Conduct. Tim Shea
(Tab 3 - Action) |
| | 1:55 p.m. | Board of Justice Court Judges Update. Judge David Marx
(Information) Rick Schwermer |
| | 2:15 p.m. | Break |
| 7. | 2:30 p.m. | Judicial Performance Evaluation Commission
Update. Joanne Slotnik |
| 8. | 3:00 p.m. | Overview of Issues Related to Weapons Background
Checks. Brent Johnson
(Tab 4 - Information) |

9. 3:20 p.m. Report from the Study Committee on
Technology Brought into the Courtroom. Diane Abegglen
(Tab 5 - Action)
10. 3:50 p.m. FY 2013 Operations Budget Approval. Daniel J. Becker
(Tab 6 - Action) Ray Wahl
11. 4:20 p.m. Certification of Senior Judge. Tim Shea
(Tab 7 - Action)
12. 4:25 p.m. Executive Session.
13. 4:50 p.m. Adjourn

Consent Calendar

The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.

1. Committee Appointments
(Tab 8) Brent Johnson
Tom Langhorne
Ron Bowmaster
Tim Shea
2. Security Review
(Tab 9) Carol Price
3. Problem Solving Courts Application
Approval
(Tab 10) Rick Schwermer
4. Rule to be Published for Comment
(Tab 11) Tim Shea
5. Appointments Required by 2013 Legislation
(Tab 12) Daniel J. Becker

TAB 1

JUDICIAL COUNCIL MEETING

Minutes

Thursday, March 15th, 2012

Sabra Ballroom G

Lexington Hotel

St George, UT

Chief Justice Christine M. Durham, Presiding

ATTENDEES:

Chief Justice Christine M. Durham
Hon. Kimberly K. Hornak, vice chair
Justice Jill N. Parrish
Hon. Judith Atherton
Hon. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. John Sandberg
Hon. Larry Steele
Hon. Thomas Willmore
Lori Nelson, esq.

EXCUSED:

Hon. Keith Stoney

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Jody Gonzales
Lisa-Michele Church
Debra Moore
Tim Shea
Rick Schwermer (by phone)

GUESTS:

Justice Matthew Durrant
Judge Kate Toomey
Rod Snow, Utah State Bar President
John Baldwin, Utah State Bar
Russ Pearson, 8th Dist TCE
Peyton Smith, 3rd Dist TCE
Judge Janice Frost
Rick Davis

1. **WELCOME AND APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)**

Chief Justice Durham welcomed everyone to the meeting.

Motion: Justice Parrish moved to approve the minutes. Judge Mortensen seconded the motion, and it passed unanimously.

2. **CHAIR'S REPORT: (Chief Justice Christine M. Durham)**

Chief Justice Durham mentioned that she had nothing new to report. She distributed perpetual calendars to the members as a reminder of the time spent together as a Council.

3. **ADMINISTRATOR'S REPORT: (Daniel J. Becker)**

Mr. Becker reported on the following items:

He circulated a copy of a publication authored by himself and Chief Justice Durham for the Harvard Kennedy School entitled *A Case for Court Governance Principles*, of which, he will

be presenting at the National Association of Court Managers (NACM) Conference in Orlando in July. The publication was also a focal point at a *The Fourth National Symposium on the Future of Courts Conference* given last year in Williamsburg.

Criminal E-Filing. Criminal E-filing is underway for two weeks in a pilot mode in Weber County. The test mode allows for paper filings as well as electronic filings to be received to assess the accuracy of the electronic records. Once that test has been completed, the plan is to move criminal e-filings to Davis County. A plan to move towards criminal e-filing statewide is being prepared.

Case Filing Review. Mr. Becker provided a review of case filings for the period of July 2011 through February 2012. The court's caseload continues to fall to pre-recession levels. He highlighted the following case filing statistics: 1) contracts, 30% decrease; 2) debt collection, 12% decrease; 3) general civil cases, 15% decrease; 4) criminal cases, 4% decrease; 5) misdemeanors, 8% decrease; 6) misdemeanor DUIs, 15% decrease; 7) domestic cases, 1% decrease; 8) probate cases, 3% decrease; 9) property rights, 1% decrease; 10) torts, 6% decrease; 11) traffic, 21% decrease; 12) judgments, 5% increase; and 13) overall case filings, 6% decrease for the first 8 months.

Juvenile referrals reflected similar data as reported previously. He highlighted the following juvenile referral statistics: 1) felonies, 10% increase; 2) misdemeanors, 9% increase; 3) child welfare proceedings, 6% increase; 4) termination of parental rights, 19% decrease; and 4) overall juvenile referrals, 2% increase.

Title VI Compliance. Mr. Becker distributed a copy of a letter sent by the US Department of Justice to the Director of the North Carolina Administrative Office of the Courts regarding an investigation relative to compliance of Title VI and providing meaningful access to state court proceedings and operations for limited English proficient (LEP) individuals.

Legislative Audit. An entrance conference was held with legislative auditors yesterday relative to an audit on the DCFS child welfare process. The audit was requested by Representative Watkins and Representative Harper. The audit will address the types of coordination and training that is in place between DCFS and the groups they interface with.

American Judicature Study. A study dealing with merit selection was circulated among Council members. Mr. Becker highlighted criteria included in the study. He noted that Utah did not participate in the survey.

Court's System Failure. Mr. Becker reviewed the details relative to the system failure that affected the court's computer systems on March 9. An HVAC problem in the Matheson courthouse was the source of the failure. He reviewed the steps taken to get the system back online which included replacement of a switch, and the steps being taken in the instance of a similar occurrence.

NCSC Case Study. Mr. Wahl provided an overview of *A Case Study: Reengineering Utah's Courts through the Lens of the Principles for Judicial Administration*. He provide background information in preparation of the case study to include: 1) development of principles for judicial administration by the National Center for State Courts (NCSC) and the Conference of State Court Administrators (COSCA), 2) comparison of the Utah court system and the principles for judicial administration by Mr. Lee Suskin to test the principles, and 3) completion of the final report as presented in the case study. The report is a reflection of how the Utah court system is viewed relative to the principles for judicial administration.

It was noted that the case study would be useful for training new judges. Council

members, etc.

Presentation to Chief Justice Durham. Judge Hornak recognized Chief Justice Durham for her years of service as the Chair of the Judicial Council, as well as, accomplishments during her ten-year tenure as chair.

Chief Justice Durham offered a few comments.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durham reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

Justice Parrish reported on the following:

No report was given at this time. A more detailed report will be provided later on the agenda. She expressed her appreciation to the AOC staff for all they did supporting the courts during the 2012 Legislative Session.

Policy and Planning Meeting:

Judge Orme reported on the following:

The Policy and Planning Committee meeting minutes accurately reflect the items discussed. Judge Orme highlighted the following items discussed: 1) continued work on the court referee rule, 2) pro bono resolution as listed later on the agenda, and 3) proposed rule on mandatory e-filing on the consent calendar.

Bar Commission Report:

Ms. Nelson reported on the following:

The Bar Commission is schedule to meet today at 1:00 with the Southern Utah Bar Association. Leadership training will be held tomorrow. Mr. Bill Robinson, ABA Bar President, will provide the keynote address on Saturday morning.

5. REMARKS FROM UTAH STATE BAR PRESIDENT/PRESIDENT-ELECT: (Rod Snow and John Baldwin)

Mr. Snow and Mr. Baldwin were welcomed to the meeting.

They mentioned that Mr. Bill Robinson, ABA president, will be providing the keynote address at the Bar's conference on Saturday. A meeting with Mr. Robinson will be held on Friday afternoon at the Dixie Center where all are invited to attend.

An update was provided on the status of Utah Legal Services. Additional sources of funding are being sought.

The Bar is moving forward with the Pro Bono initiative.

The courts staff was thanked for all they do for the Bar.

It was noted that the Pro Bono resolution will be discussed later on the agenda.

Chief Justice Durham thanked Mr. Snow and Mr. Baldwin for their update.

6. PERFORMANCE EVALUATIONS: (Chief Justice Christine M. Durham)

Chief Justice Durham reminded the Council of the discussion which took place at the February meeting with Mr. Schofield, Commission Chair and Ms. Slotnik, Director of JPEC. At that meeting, the desire for more formal communication between JPEC and the Council was suggested, and the Council was invited to attend the April 10 JPEC meeting.

After consulting with Justice Durrant, the following Council members will represent the Council at the April 10 JPEC meeting: 1) Justice Matthew Durrant, 2) Judge Kimberly Hornak, 3) Judge Greg Orme, 4) Judge David Mortensen, and 5) Judge Brendan McCullagh. Mr. Dan Becker and Mr. Rick Schwermer will also attend.

Questions and concerns to be brought to the attention of the JPEC membership were discussed to help guide the presentation of the Council's representatives.

7. BOARD OF DISTRICT COURT JUDGES UPDATE: (Judge Kate Toomey and Debra Moore)

Chief Justice Durham welcomed Judge Toomey to the meeting.

Judge Toomey provided an update to the Council on the activities of the Board of District Court Judges. She highlighted the following in her update: 1) monitoring statewide implementation of new civil discovery rules, 2) fee waiver guidelines and procedures, 3) domestic case study, 4) mental health court, and 5) revised statewide district court judges benchbook.

Other areas of focus included: 1) continue to meet with presiding judges and court executives, 2) provide assistance to Judge Denise Lindberg on the *Model Utah Jury Instructions* for criminal cases, and 3) explained the steps taken by the Board to fill the Capital Litigation Research Attorney vacancy, and 4) continued work with the IT Department on computer issues and case management design.

Judge Toomey thanked the Council and the Liaison Committee for expressing the court's concerns relative to the JPEC legislation which would have eliminated jury surveys from the minimum performance standards.

Chief Justice Durham thanked Judge Toomey for her update.

Motion: Judge Hornak moved to enter into an executive session to discuss an issue concerning professional competence. Judge McCullagh seconded the motion, and it passed unanimously.

8. PRO BONO RESOLUTION: (Tim Shea)

Mr. Shea reviewed the Pro Bono resolution, which had been requested by the Utah State Bar, being recommended by the Policy and Planning Committee and endorsed by the Board of District Court Judges.

Motion: Ms Nelson moved to accept and approve the recommended Pro Bono resolution as presented. Judge McCullagh seconded the motion, and it passed unanimously.

9. TRIAL COURT EXECUTIVES UPDATE: (Russ Pearson and Peyton Smith)

Mr. Pearson and Mr. Smith were welcomed to the meeting. They highlighted the following in their update to the Council: 1) the process and response of going paperless and the use of the electronic record in each district, and 2) case pending reports.

Mr. Becker commended the court executives for all they do in their districts, and particularly, their activities associated with the transition to the electronic record.

Chief Justice Durham thanked them for their update.

10. LEGISLATIVE REPORT: (Daniel J. Becker and Ray Wahl)

Mr. Schwermer provided an update on the bills considered by the Liaison Committee during the 2012 legislative Session.

The following bills were highlighted:

HB 49 - Firearms Revisions - failed.

HB 161 - Rights of Parents and Children - passed.

HB 231 - Guardianship Amendments - to be considered next year.

HB 357 - Guardian ad Litem Amendments - amended and passed.

HB 393 - Juvenile Competency Amendments - passed and funded.

SB 100 - Law Library Self-Help Center - passed.

SB 200 - Justice Court Amendments - passed.

SB 214 - Justice Court Process Amendments - passed.

Mr. Becker distributed a summary sheet on the Courts' 2012 General Session Building Block Requests and Results. He highlighted the following in his update: 1) the Self-Help Center was approved for statewide funding, 2) increase the OCAP spending cap, 3) juror/witness/interpreter deficit funding, 4) transfer of ongoing general funding for contracts and leases, 5) additional funding for federal assistance for grants, 6) GAL requests did not receive funding, 7) the request for funding the construction of a new juvenile court facility in Ogden was not approved as there were no buildings funded this year with appropriated funds, 8) approval of \$1.6 million towards the architectural design for the Ogden juvenile court facility, 9) the Northern Utah County Land Bank Request was not approved as there were no land banking requests approved, and 10) he indicated the courts budget will increase by almost \$4 million for FY 2013.

The following actions taken during the 2012 Legislative Session relative to compensation were highlighted: 1) the courts received over \$2.8 million in funding for compensation which will cover the one percent COLA and the majority of the benefit increases, 2) \$1 million of the \$2.8 million will cover the increase in judicial retirement, 3) the new judicial salary is \$133,450, 4) reviewed the increases in dental benefits, and 5) a potential increase in co-insurance built into the Appropriations Act.

The following non-court areas were highlighted: 1) \$200,00 funding for statewide legal services, 2) elimination of the receiving centers statewide for Juvenile Justice Services, 3) the apparent closing of Weber County Detention Center, 4) DCFS - loss of federal funding, and 5) the use of one-time funding for FY 2013 to cover ongoing requirements in Corrections and Juvenile Justice Services.

Mr. Becker noted that the one-time spending plan and use of carry-forward funding will be calendared for the April Council meeting.

11. SENIOR JUDGE CERTIFICATION: (Tim Shea)

This matter was discussed during the executive session.



- 12. EXECUTIVE SESSION:**
An executive session was held at this time.

- 13. ADJOURN**
The meeting was adjourned.



TAB 2

Management Committee Minutes

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

**Tuesday, April 10th, 2012
Matheson Courthouse
450 South State Street
Salt Lake City, Utah**

MEMBERS PRESENT:

Chief Justice Matthew B. Durrant, Chair
Hon. Kimberly K. Hornak, vice chair
Hon. Judith Atherton
Hon. George Harmond
Hon. John Sandberg

EXCUSED:

GUESTS:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Lisa-Michele Church
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Heather Mackenzie-Cambell
Brent Johnson
Carol Price

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Durrant)

Chief Justice Durrant welcomed everyone to the meeting. After reviewing the minutes, the following motion was made:

Motion: Judge Hornak moved to approve the minutes. Judge Harmond seconded the motion, and it passed unanimously.

2. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

Judicial Performance Evaluation Commission Meeting. Mr. Becker updated the Committee on the meeting with JPEC. He highlighted the following in his report: 1) court and judicial staff attending the meeting, 2) discussion of the evaluation process, 3) Council issues and concerns with the evaluation process, and 4) a request that meetings between JPEC and Council representatives be held twice yearly. Viewpoints of the meeting were provided by members of the Committee.

Ms. Slotnik will provide a JPEC Update to the Council on April 30.

American Fork City. American Fork has hired a consultant to conduct a feasibility study on creating a justice court.

Legislative Action Plan. Mr. Becker reviewed the process by which legislation, requiring action on behalf of the courts, is managed. He mentioned that Mr. Schwermer prepares an action plan which is reviewed by AOC senior management and the steps taken to ensure that every

piece of legislation is appropriately implemented.

Seventh District Court Executive. Ms. Terri Yolenek has been hired to fill the court executive vacancy in the Seventh District. Mr. Becker provided a brief background of her experience.

3. THIRD DISTRICT, SALT LAKE COUNTY, HERRIMAN CITY JUSTICE COURT FULL AUDIT FINAL REPORT: (Heather Mackenzie-Campbell)

Chief Justice Durrant welcomed Ms. Mackenzie-Campbell to the meeting.

Ms. Mackenzie-Campbell provided the final audit report on the Herriman City Justice Court. She reported that the court and Herriman City chose to follow Accounting Model 2. The court clerks perform case recordkeeping duties and employees, who work for Herriman City, receipt and deposit court-collected funds. This audit was the first to deal with Accounting Model 2.

Based upon the audit, 18 effective procedures were recognized and 16 of 40 observations were deemed as significant weaknesses. Ms. Mackenzie-Campbell highlighted the following significant weaknesses: 1) separation of duties, 2) safeguards over assets, 3) review court payments receipted by clerks, and 4) daily balancing procedures.

She noted that the response to the audit has been good.

Motion: Judge Atherton moved to accept the report as prepared by the Audit Department. Judge Sandberg seconded the motion, and it passed unanimously.

4. CALENDAR 2011 CONTRACT DISTRICT COURT EXPENDITURE AUDIT: (Heather Mackenzie-Campbell)

Ms. Mackenzie-Campbell reviewed the details of the calendar year 2011 expenditure audit. The audit was completed on the following contract court sites: 1) Rich County District Court, 2) Morgan County District Court, 3) Utah County - Salem District Court, 4) Millard County District Court, 5) Wayne County District Court, 6) Piute County District Court, 7) Garfield County District Court, 8) Kane County District Court, and 9) Daggett County District Court. The purpose of the audit is to determine the actual and necessary materials and supplies expense for each contract site.

Motion: Judge Hornak moved to accept the contract site expenditure audit for calendar year 2011 as prepared. Judge Harmond seconded the motion, and it passed unanimously.

5. COMMITTEE APPOINTMENTS: (Brent Johnson, Ron Bowmaster, and Tim Shea)

The Ethics Advisory Committee has a vacancy for an attorney representative. The following are offered for consideration: 1) Mr. Paul C. Burke, 2) Ms. Tawni J. Anderson, and 3) Ms. Lori J. Seppi. Mr. Johnson provided background information on the candidates and recommended the vacancy be filled by Ms. Anderson.

Motion: Judge Harmond moved to approve the recommendation of Ms. Tawni J. Anderson to fill the attorney representative vacancy on the Ethics Advisory Committee and place it on the April Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed

unanimously.

The Standing Committee on Education has a vacancy for an adult educator from higher education. The adult educators being considered include: 1) Professor Brian Stecklein, Associate Dean of Continuing Education at Weber State; and 2) Dr. Sandi Pershing, Assistant Vice President of Continuing Education and professor in the Masters in Public Administration program at the University of Utah. The Committee recommends Dr. Pershing to fill the vacancy.

Motion: Judge Sandberg moved to approve the recommendation of Dr. Sandi Pershing to fill the adult educator from higher education vacancy on the Standing Committee on Education and place it on the April Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

Judge Kent Nielsen resigned from his position on the Committee. Judge Jody Petry is being recommended to fill the vacancy left by Judge Kent Nielsen.

Motion: Judge Atherton moved to approve the recommendation of Judge Jody Petry to fill the vacancy on the Standing Committee on Education for a justice court judge representative and place it on the April Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

The Standing Committee on Court Technology recommends the reappointment of Judge Dane Nolan to serve a second term on the Committee.

Motion: Judge Harmond moved to approve the reappointment of Judge Dane Nolan to serve a second term on the Standing Committee on Court Technology and place it on the April Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

The Court Interpreter Committee has a vacancy for a certified Spanish interpreter left by Mr. Luther Gaylord who has completed his second term. The following two people have applied: 1) Ms. Gabriela Gostic, and 2) Miquel Medina. Mr. Shea provided his observation relative to the two candidates, and the Committee made no recommendation regarding the two candidates. Discussion took place.

Motion: Judge Harmond moved to approve Mr. Miquel Medina to fill the vacancy on the Court Interpreter Committee for a certified Spanish interpreter and place it on the April Judicial Council consent calendar. Judge Atherton seconded the motion, and it passed unanimously.

The Court Interpreter Committee has a vacancy for a criminal defense lawyer left by Ms. Debrorak Kreeck-Mendez who has completed her second term. The following two lawyers have applied and no recommendation was made by the Committee: 1) Mr. David Brown, and 2) Mr. Robert Engar.

Motion: Judge Sandberg moved to approve Mr. David Brown to fill the criminal defense lawyer vacancy on the Court Interpreter Committee and place it on the April Judicial Council consent

calendar. Judge Harmond seconded the motion. Discussion took place. Judge Atherton moved a substitute motion to approve Mr. Robert Engar to fill the criminal defense lawyer vacancy on the Court Interpreter Committee and place it on the April Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

The Court Interpreter Committee has a vacancy for a linguistics professor left by Mr. Daryl Hague who has completed his third term. The following two logistic professors have applied with no recommendation on behalf of the Committee: 1) Ms. Jennifer Andrus, and 2) Mr. William Eggington.

Motion: Judge Hornak moved to approve Ms. Jennifer Andrus to fill the linguistics professor vacancy on the Court Interpreter Committee and place it on the April Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

6. SECURITY REVIEW - TOOELE: (Carol Price)

Ms. Price was welcomed to the meeting. She provided an overview of the procedures used in conducting a security audit.

Ms Price provided an update to the Committee on the security review conducted on the Third District and Juvenile Courthouse located in Tooele. She reviewed her findings and recommendations for this facility. She noted that court security training will be held in May, of which, several officers from Tooele are scheduled to attend.

7. REQUEST TO AUTHORIZE RULE 4-501 BE PUBLISHED FOR COMMENT: (Tim Shea)

Mr. Shea requested the Management Committee, act on behalf of the Council, and authorize Rule 4-501 - Expedited Jury Trial be published for comment. This will allow for the comment period to end before the May Council meeting where final action can be taken on the rule. The rule is slated to take effect July 1, 2012.

Motion: Judge Sandberg moved to authorize Rule 4-501 - Expedited Jury Trial be published for comment. Judge Atherton seconded the motion, and it passed unanimously.

8. APPROVAL OF INITIAL PROJECT PLANNING FOR PROPOSED PROBLEM SOLVING COURT: (Rick Schwermer)

Mr. Schwermer reviewed the approval and certification process for problem solving courts.

Sevier County has submitted an *Application for Initial Project Planning Approval for Proposed Problem Solving Court Project*. There will be no request for additional funding, as the County plans to reallocate the use of existing resources. Discussion took place.

Motion: Judge Atherton moved to recommend the Sevier County's request for application of initial project planning of a problem solving court and place it on the April Judicial Council consent calendar. The motion was seconded, and it passed unanimously.

9. APPROVAL OF KANE COUNTY DRUG COURT APPLICATION: (Rick Schwermer)

Mr. Schwermer provided information to the Management Committee on the request for application for a drug court in Kane County. He noted that they applied for a federal grant before submitting their request to the Judicial Council for approval for establishing a drug court.

He expressed his concerns with the judicial resource availability outlined in their proposal, as well as other concerns. Discussion took place.

Motion: Judge Hornak moved to defer a decision until Mr. Schwermer and Judge Fuchs have met with Kane County officials with recommended changes to the project plan, and a new project plan has been resubmitted. Judge Atherton seconded the motion, and it passed unanimously.

10. REPORT FROM THE STUDY COMMITTEE ON TECHNOLOGY BROUGHT INTO THE COURTROOM: (Justice Jill Parrish and Diane Abegglen)

Justice Parrish was welcomed to the meeting. She provided background information regarding the charge of the Study Committee on Technology Brought into the Courtroom. The committee's original charge was to conduct a study of the public's access to information on trial court proceedings, the issues surrounding technology being brought into the courtrooms and its impact on court operations, safety and security, and issues relating to the possible use of recording equipment in the justice courts.

The study combined several independent inquiries including: 1) the use of phones and cameras in courtrooms and jury rooms conducted by the Board of District Court Judges; 2) study of the use of social media and technology brought into courtrooms by the Public Outreach Committee, and 3) use of recording technology in the justice courts. The committee determined that these issues, along with the issue of video technology in trial courtrooms, should be consolidated into a single report covering all trial courtroom technology issues.

Justice Parrish noted that rules permitting electronic media coverage vary widely in scope and approach across the country. Every state permits some type of electronic media coverage of its trial or appellate courts. Presently, Utah is one of the most restrictive states in the country. The proposed revision of Rule 4-401 permits electronic media coverage of open judicial proceedings while allowing a judge to prohibit or restrict such coverage to protect fair trial rights, privacy, security and other important issues.

With regard to technology brought into courtrooms, the recommendations of the Social Media Subcommittee of the Judicial Outreach Committee would allow the use of electronic portable devices in courthouses and courtrooms, and the Board of District Court Judges recommend that their use be prohibited. The Study Committee recommends the following: 1) include a policy that allows the use of such technology in the courthouse and courtrooms but allows individual trial judges the ability to regulate or prohibit electronic portable devices in courtrooms, 2) allow electronic portable devices to be used in common areas of the courthouse, 3) the policy is subject to further restrictions by individual judges, and 4) the policy will prohibit photos and recordings.

During the 2011 Legislative Session, the Utah Legislature passed legislation requiring verbatim audio recording of all justice court proceedings effective July 1, 2012. The Rules of Judicial Administration were amended to establish technical standards for each level of justice court. Some funding for implementation has been provided through a grant from the Security,

Education, and Technology Fund. The Study Committee recommends that the issues and challenges faced with this move be assigned to another committee or the Justice Court Board for further monitoring and followup.

The Study Committee recommends the adoption of the proposed Rule 4-401 and the proposed policy on possession and use of electronic devices in court facilities.

Discussion took place on how to address the recommendations at the Council meeting. Members of the Committee and Boards would like to provide feedback at that time. Copies of the report will be made available to the public at the Council meeting.

The Committee was thanked for their work.

11. REVIEW OF FY 2013 BUDGET RECOMMENDATIONS: (Daniel J. Becker and Ray Wahl)

Mr. Becker reviewed the FY 2013 budget recommendations.

He highlighted the following recommendations for the FY 2013: 1) \$875,000 in ongoing funds will need to be allocated to include: funding for the OCAP program; Google mail overhead, \$41,000; career track increases and market comparability increases, \$484,000.

The amount of one-time funding totals \$2,154,000 which includes \$1.5 million in carry-forward funding. The recommended use of one-time funding includes: 1) continued funding for time-limited law clerks, 2) continued funding for the juvenile law clerk, 3) programming required for the CARE program, 4) one-time shortage in tobacco settlement for drug court use, 5) continued funding for the four time-limited clerk positions in the clerk's offices, 6) \$161,000 towards equipment for bench needs in district and juvenile court for judges working with electronic records, 7) fund IT's request for \$159,000 to cover the expansion of wireless services in the courthouses and to cover disk storage requirements, and 8) \$281,000 in reserve.

More details will be provided at the April Council meeting.

A proposed revision to the hourly contract rate for court interpreters that would provide a 1% adjustment was distributed.

12. TERM OF OFFICE: (Brent Johnson)

Mr. Johnson was welcomed to the meeting.

The effective date for the term of office for Judge Hruby-Mills has been questioned as it relates to the 2014 retention election or beyond.

Discussion took place relative to the effective date for the term of office for judges as stated by statute and the constitution. The two potential conflicting dates are: 1) date of confirmation, or 2) the date the oath of office is taken.

Mr. Johnson and Mr. Shea offered opinions and options to take relative to Judge Hruby-Mills. Mr. Johnson will discuss with Judge Hruby-Mills the possibility of meeting with the Lt Governor's office to discuss the conflict. Staff will prepare draft legislation to address this issue for consideration at the August Council meeting.

13. APPOINTMENTS REQUIRED BY 2012 LEGISLATION: (Daniel J. Becker)

Mr. Becker mentioned that there are two pieces of legislation that require the Judicial Council to designate a representative to serve on their committees. They include: 1) SB 182 - Expungement of Drug Offenses, and 2) HB 162 - Veterans Reintegration Task Force.

Discussion took place.

Mr. Becker recommended the appointment of Mr. Rick Schwermer as the court representative to serve on both committees.

Motion: Judge Atherton moved to approve the recommendation for Mr. Schwermer to serve on the requested committees and place it on the April Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

14. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reviewed the proposed Council agenda for April 30.

Motion: Judge Atherton moved to approve the April Council agenda as amended. Judge Harmond seconded the motion, and it passed unanimously.

Motion: Judge Hornak moved to enter into an executive session to discuss issues of professional competence. The motion was seconded, and it passed unanimously.

15. EXECUTIVE SESSION

An executive session was entered into at this time.

16. ADJOURN

The meeting was adjourned.

Policy and Planning Committee Minutes

Minutes of the Policy and Planning Committee					
Meeting Date April 7, 2012			Meeting Room Judicial Council Room		
Committee Member	Present	Excused	Committee Member	Present	Excused
Judge Paul Maughan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judge Larry Steele	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ms. Lori Nelson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judge Keith Stoney	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judge Gregory Orme, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judge Thomas Willmore	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Staff: Dan Becker, Rick Schwermer, Tim Shea					

Approve minutes of March 2, 2012	By Judge Orme
Motion: Approve as prepared.	By Acclamation
Vote: Yes All No Abstain	Pass <input checked="" type="checkbox"/> No Pass <input type="checkbox"/>

Rule 4-501. Expedited jury trial.	By Tim Shea
<p>Discussion: Mr. Shea said that this rule establishing the pilot program required by the Expedited Jury Trial Act has previously been reviewed and approved by the Board of District Court Judges and this committee, but has not yet been published for comment. Legislation this year amended the Act, and the highlighted rule amendments are intended to include those new provisions. So that the rule can be in place by July 1, the start of the pilot program, Mr. Shea asked the committee to recommend that the Management Committee, acting on behalf of the Judicial Council, approve that the rule be published for comment when that committee meets on Tuesday.</p> <p>Judge Maughan said that the limitation of appeals to errors of law is not really a limitation. Judge Orme said that if an error of law caused the judgment to be reversed and remanded, the further proceedings at the trial court would continue to be subject to the previous agreement of the parties. Mr. Shea said that is the correct conclusion from the rule, and that it probably does not need to be expressly stated.</p>	
Motion: Recommend that the Management Committee, acting on behalf of the Council, approve that the rule be published for comment.	By Acclamation
Vote: Yes All No Abstain	Pass <input checked="" type="checkbox"/> No Pass <input type="checkbox"/>

Rule 4-409. Council approval of Problem Solving Courts.	By Tim Shea
<p>Discussion: Mr. Shea said Comment 4 to Rule 2.9 of the Code of Judicial Conduct allows ex parte communications regarding cases in problem solving courts if those communications are allowed by other law. Judge Royal Hansen has asked that the rule on problem solving courts be amended to allow such communications.</p> <p>Judge Orme asked whether permissible ex parte communications should be limited to counsel or extended to parties. Judge Willmore spoke in favor of the wider scope because not just lawyers but parties, counselors and case workers might need to speak with the judge. Judge Orme said that the provision was too broad, and should be limited to appropriate communications. Judge Willmore reviewed the relevant</p>	

provision from a standard agreement form completed by the defendant. After discussing options, the committee approved adding "consistent with the signed agreement" to the current proposed restrictions. Judge Orme also suggested amendments that would remove the focus from ex parte communications, but still make them permissible. Those amendments were approved.

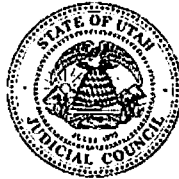
Motion: Recommend that the Council publish the rule, as amended, for comment.	By Acclamation
Vote: Yes All No Abstain	Pass <input checked="" type="checkbox"/> No Pass <input type="checkbox"/>

Court referees.	By Judge Keith Stoney
<p>Discussion: Mr. Shea said that, as a result of the discussion at the last meeting, the approach proposed by Rule 3-202 and Rule 4-704 is substantially different from the direction previously under consideration, but consistent with the committee's original idea. This pair of rules would prohibit court referees by any title and allow clerks, with the approval of the judge and consent of the parties, authority to process certain cases to determined outcomes.</p> <p>Judge Orme said that the previous model would not have violated the Ohms decision. He reminded the committee that the justice court clerks are executive branch employees, but that may not matter as much if there is no discretion, only a ministerial process. Judge Stoney suggested that rather than "authorize" the clerk to dispose of cases as provided, the rule should be amended so the judge can "direct" the clerk to do so.</p> <p>Judge Stoney reviewed the questions raised in Mr. Shea's memo, and the committee decided that each was best left to the agreement of the prosecutor.</p> <p>Mr. Schwermer will present the proposal to the Board of Justice Court Judges, representing that the committee will recommend that court referees be prohibited, and inquiring how, in light of that, the clerk's ministerial function might be improved.</p>	
Action: Review by the Board of Justice Court Judges and report back to the committee.	

Definition of "full-time" justice court judge	By Tim Shea
<p>Discussion: Mr. Shea said that as a result of previous discussions, he proposed amending the "Applicability" section of the Code of Judicial Conduct to define a "full-time" judge as one who has a judicial weighted caseload measure of 1.0, whether from one court or by aggregating multiple courts.</p> <p>The committee amended the draft to describe the weighted caseload measure "as approved by the Judicial Council." the draft will be sent to that committee when it is submitted to the Judicial Council.</p> <p>The committee voted to send the draft to the Judicial Council with the recommendation that it ask the Supreme Court to amend the Code of Judicial Conduct accordingly. The Ethics Advisory Committee has authority to recommend changes in the Code of Judicial Conduct, so the committee voted to simultaneously forward a copy of the draft to the Ethics Advisory Committee, with the request that that committee communicate to the Supreme Court its endorsement of the amendment.</p>	
Motion: Recommend that the Judicial Council recommend the provision, as amended, to the Supreme Court	By Acclamation
Vote: Yes All No Abstain	Pass <input checked="" type="checkbox"/> No Pass <input type="checkbox"/>

Attorney General request to amend Rule 4-202.02.	By Tim Shea
<p>Discussion: Mr. Shea said that Matthew Anderson from the Attorney General's office has requested that the Judicial Council amend Rule 4-202.02 to classify presentence investigation reports as "protected" rather than the current "private" because GRAMA classifies the record as "protected." The AG also requests that the Council amend Rule 4-202.02 to require judges to evaluate progress/violation reports and classify them as "public" or "private" depending on the circumstances.</p> <p>Mr. Shea said that in a telephone conversation, the AG had argued that the Council does not have the discretion to classify records other than as classified by GRAMA. Mr. Shea said that he disagrees with that position; the executive department agencies can classify their records as they see fit, but when a record is filed with the court it becomes a court record subject to the classification approved by the Judicial Council.</p> <p>Mr. Shea said that access to protected records is similar but different under Judicial Council rule compared to GRAMA. Under Rule 4-202.03, the parties and their lawyers have access to protected records, but under Section 63G-2-202(4), they would not, unless ordered by the court or unless the AG provided them with power of attorney or a notarized release.</p> <p>Mr. Shea said that GRAMA does not mention progress/violation reports, but that it does classify as protected "records relating to ... probation ... that would interfere with the control and supervision of an offender's ... probation"</p> <p>The committee decided to invite Mr. Anderson to the next meeting.</p>	

TAB 3



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Tim Shea *TJ*
Date: April 17, 2012
Re: Definition of "full-time" judge for the Code of Judicial Conduct

The Policy and Planning Committee recommends that the Judicial Council recommend to the Supreme Court the attached amendment to the Applicability section of the Code of Judicial Conduct, which defines a "full-time" judge. The purpose of the amendment is to clarify the current provision that prohibits full-time judges from practicing law.

As proposed, a full time judge is any judge of a court of record and a justice court judge whose judicial weighted caseload measure shows the need for at least one judge, whether from a single court or an aggregate of multiple courts. The intent is that the weighted caseload measure for the court(s) would govern, regardless of how many hours the judge is actually working.

The committee recognizes that if a small justice court wants any realistic opportunity to hire a lawyer as its judge, the part-time judge has to be permitted to practice law—within certain restrictions—in order to make a living wage. However, the committee concludes that at some point a person is so thoroughly identified as a judge that the person should not be permitted to practice law. The Code of Judicial Conduct recognizes this distinction by prohibiting only full-time judges from practicing law, but there has never been a definition of what constitutes a full-time judge.

Some judges in large courts work less than what traditionally has been considered full-time—40 hours per week—and claim not to be full time, even if the volume of filings makes the court a Class I court. Some judges serve in multiple smaller courts—fewer than 40 hours in any one, but perhaps more than 40 hours collectively—and claim not to be full-time. Finally, some large courts with multiple judges hire at least some judges to work fewer than 40 hours per week, not because the court's caseload does not warrant an additional full-time judge, but for budgetary or personnel management reasons.

Using the weighted caseload formula to determine full-time status is not without problems, especially the problem of a borderline court that might move above or below

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efficient, and independent system for the advancement of justice under the law.

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the mark from year to year. Measures do indeed fluctuate, but the general trend over time is for the number of filings to increase. Despite the problems, the weighted caseload formula is the best tool we have to measure the expected work of a judge. In addition the judges and the governing bodies establishing the courts have experience with the formula in the context of setting salaries.

For these reasons, the committee recommends the amendments.

Encl. Applicability section of the Code of Judicial Conduct

copy Ethics Advisory Opinion Committee

Code of Judicial Conduct**APPLICATION**

The Application section establishes when the various Rules apply to a judge or judicial candidate.

I. APPLICABILITY OF THIS CODE

(A) The provisions of the Code apply to all full-time judges. Parts II through IV of this section identify those provisions that apply to three distinct categories of part-time judges. Canon 4 applies to judges and judicial candidates.

(B) A judge, within the meaning of this Code includes a court commissioner.

(C) A "full-time" judge, within the meaning of this Code, includes any judge of a court of record and a judge of a court not of record who:

(1) serves in a court whose judicial weighted caseload measure, as approved by the Judicial Council, shows the need for at least 1.0 judges; or

(2) serves in more than one court whose total judicial weighted caseload measure, as approved by the Judicial Council, shows the need for at least 1.0 judges.

COMMENT

[1] The Rules in this Code have been formulated to address the ethical obligations of any person who serves a judicial function and are premised upon the supposition that a uniform system of ethical principles should apply to all those authorized to perform judicial functions.

[2] The determination of which category and, accordingly, which specific Rules apply to an individual judicial officer depends upon the facts of the particular judicial service.

II. ACTIVE SENIOR JUDGE

An active senior judge appointed under Rule 11-201 of the Rules of Judicial Administration is not required to comply:

(A) at any time with Rule 3.8 (Appointments to Fiduciary Positions);

(B) with Rule 3.9 (Service as Arbitrator or Mediator), except while serving as a judge; or

(C) at any time with Rule 3.11(B) (Financial, Business, or Remunerative Activities).

COMMENT

[1] For the purposes of this section, an active senior judge is subject to this Code during any term of office to which he or she has been appointed to serve.

III. PART-TIME JUSTICE COURT JUDGE

A part-time justice court judge , including an active senior justice court judge appointed under Rule 11-203 of the Rules of Judicial Administration,

(A) is not required to comply:

(1) with Rules 2.10(A) and 2.10(B) (Judicial Statements on Pending and Impending Cases) and 3.14 (Reimbursement of Expenses and Waivers of Fees or Charges) except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), and 3.11 (Financial, Business, or Remunerative Activities)); and

(B) shall not practice law in the court on which the judge serves nor act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

COMMENT

[1] When a part-time justice court judge is no longer serving as a judge, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the informed consent of all parties, and pursuant to any applicable Rules of Professional Conduct.

IV. JUDGE PRO TEMPORE

A judge pro tempore appointed under Rule 11-202 of the Rules of Judicial Administration shall not practice law in the same small claims division in which the judge serves. The same small claims division means the courthouse at which the judge serves and includes small claims appeals heard at that courthouse. A judge pro tempore is not required to comply:

(A) except while serving as a judge, with Rules 1.2 (Promoting Confidence in the Judiciary), 2.4 (External Influences on Judicial Conduct), 2.10 (Judicial Statements on Pending and Impending Cases), or 3.2 (Appearances before Governmental Bodies and Consultation with Government Officials); or

(B) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.6 (Affiliation with Discriminatory Organizations), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.13 (Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), 4.2 (Political and Campaign Activities of Judges in Retention Elections), and 4.3 (Activities of Judges Who Become Candidates for Nonjudicial Office).

V. SENIOR JUDGE

A senior judge is not required to comply with the provisions of this Code.

VI. TIME FOR COMPLIANCE

A person to whom this Code becomes applicable shall comply immediately with its provisions, except that as to Rules 3.8 (Appointments to Fiduciary Positions) and 3.11 (Financial, Business, or Remunerative Activities) compliance shall occur as soon as reasonably possible, but in no event later than one year after the Code becomes applicable to the judge.

COMMENT

[1] If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Rule 3.8, continue to serve as fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Rule 3.11, continue in that activity for a reasonable period but in no event longer than one year.



TAB 4

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: **Judicial Council**
From: **Brent Johnson, General Counsel**
Re: **Weapons Background Check System**
Date: **April 25, 2012**

I recently attended a conference sponsored by the FBI on the National Instant Criminal Background Check System (NICS). Dan suggested that it might be useful to inform the Judicial Council of potential issues in this area. The FBI is working with states to help them comply with federal requirements on reporting information to the NICS. At the present time, the federal government is using a carrot to assist states in their efforts to comply. The carrot is in the form of federal grants for those who qualify. In the future, they will be using a stick in the form of losing a portion of Byrne funding. The mandatory penalties will not be in effect until 2018. In the meantime, there may be significant hurdles that states must overcome to ensure compliance.

It is possible that we could qualify for federal funding to assist with the transition. There are two important requirements to qualify for that funding. The first is that the state report the approximate number of cases that will be placed on the NICS. BCI has submitted those reports for the past couple of years. The second requirement is that the state have a process for individuals to petition the appropriate body to have their names removed from the NICS. Approximately one dozen states have passed such laws and I believe that most have established a process through their courts. There may be a couple of states that have done this through administrative review, with subsequent judicial review. BCI has apparently been reluctant to press for legislation because it involves placing a weapons issue before the Legislature and it involves requirements imposed by the federal government. At some point, however, there will need to be something in place in order to avoid a loss of federal grant money. (If I recall correctly it is about a five percent reduction.)

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efficient, and independent system for the advancement of justice under the law.**

We are already complying with many requirements because BCI uses the information for local background checks. However, the federal requirements do not fit neatly into categories that we are already using. We transmit all required information to BCI. BCI must then identify the information that they send to NICS. When we send information to BCI, we will need to flag the cases that must then be sent to NICS. The challenges in some areas might be significant.

The requirements and difficulties in each area are as follows:

1. The states are required to report all civil commitments. We are complying with this requirement to some extent. However, there are problems. In order for the information to be accepted by the NICS there needs to be at least two pieces of identifying information, such as social security number, birth date, drivers license number, etc. Under the current civil commitment laws, petitioners are not required to submit this type of identifying information. A change in the law may be necessary to require petitioners to include as much identifying information as possible. This should probably be done by statute, but we could perhaps explore enacting a rule that sets forth what must be included in a petition for a civil commitment.
2. Incompetency. We are required to report every judicial determination of incompetency. This presents similar difficulties to civil commitment cases. However, there is typically more identifying information in a criminal case. We simply need to make certain that incompetency determinations are sent to the NICS.

There is an additional challenge in justice courts. It is sometimes evident that a defendant is incompetent. However, the parties don't seek a competency evaluation because of the cost and the time that it would take for the evaluation, balanced against the severity of the offense. There are limitations on being able to hold a defendant if there is an attempt to restore competency and those attempts often are not justified in a case where the maximum jail time is six months. Those justice court cases are therefore often simply dismissed. It will be important for justice courts to make a determination on competency so that those cases may be sent to the NICS. This may simply be an education issue but it might also require statutory or rule changes to allow justice courts to make those determinations with or without an evaluation by qualified professionals.

3. Guilty and mentally ill. The court must also send to the NICS all determinations of guilty and mentally ill. I believe that we are already doing fairly well on this requirement, but we have some of the same difficulties with identifying information. This might also be an education issue.

4. Domestic violence criminal offenses. The domestic violence issues are perhaps the most challenging. We are required to report convictions of certain misdemeanor domestic violence offenses. The problem here is that the state's definition of domestic violence crimes does not match the federal definition. In order to qualify, one of the elements of the offense must be the use or attempted use of physical force or the threatened use of a deadly weapon. The offense must also be committed by a current or former spouse, parent or guardian of the victim, by a person with whom the victim shares a child in common, or by a person who is cohabiting with the victim as if a spouse, parent, or guardian. The definition is both narrower and broader than Utah's definition of a cohabitant. It is narrower in that it does not include others related by blood or marriage or others residing together. It is broader in potentially including parent/child relationships.

The challenges are thus to first identify those crimes that have physical force or use of deadly weapons as one of the elements. In Utah, some domestic violence offenses, such as telephone harassment, do not fit the criteria. Also, in some statutes, there may be an element of violence in one subsection, but not another. Prosecutors will need to make certain that they list the specific subsection in their informations. However, that will not completely solve the problem. In some cases prosecutors will list several different subsections as alternate bases for conviction. If conviction occurs, there will need to be clarity as to the subsection under which the conviction occurred. This will need to be recorded in CORIS for sending to the NICS. After the domestic violence crimes are identified, then prosecutors will need to identify whether the defendant is in the class of individuals who come within the federal statute. The courts will also need to make certain that this information is recorded in CORIS. This will be an education issue for judges. Prosecutors will carry much of the burden.

5. Orders of protection. We are required to report to the NICS all orders of protection--such as cohabitant abuse protective orders, stalking injunctions, criminal protective orders, etc.-- that involve intimate partners. The challenge here is to identify only those protective orders that involve intimate partners so that only those are sent to the NICS. Utah's definition of cohabitant is much broader than the federal definition of intimate partner. Intimate partners include only spouses and ex-spouses, and certain other cohabitants. We will need to make certain that all of our orders of protection include places to designate whether the parties are intimate partners. This will require form changes and education. When the orders are entered into the domestic violence system, there will need to be a way to flag those that must be sent to the NICS. We are required to send all protective orders to BCI. However, BCI will need to easily identify those orders that are then forwarded to the NICS.

6. Unlawful user of, or person addicted to, any controlled substance. We are required to report anyone who is an unlawful user of a controlled substance. One of the challenges here will be reporting use or addiction that is not charged as a criminal offense. For example, a common condition of probation is that a person refrain from using a controlled substance. If a person violates probation by using a controlled substance, that must be reported to the NICS. This will also apply to child welfare cases and parents who are substance abusers. This may require computer programming changes and education.

These are some of the bigger challenges of which we are aware. There may very well be others as we proceed. I have participated in several meetings with representatives from BCI and the Utah Prosecution Council. Cooperation and coordination will be very important. At this point, follow-through is also a challenge. Because the hard deadlines are years away, the issues have not been prioritized. However, each agency has been working on some issues. The Judicial Council may be involved in policy decisions at some point.

**ADDITIONAL COUNCIL MEETING
HANDOUTS**



FINAL REPORT

Judicial Council Study Committee
on Technology Brought into the Courtroom

April 10, 2012



*Attachments to the final report are available on the Study Committee's website at:
[http://www.utcourts.gov/committees/Tech in Courtrooms/](http://www.utcourts.gov/committees/Tech_in_Courtrooms/)

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INTRODUCTION

In February 2011, the Judicial Council established a committee to study issues surrounding technology being brought into courtrooms and its impact on court operations, security and safety. Specifically, the Study Committee on Technology Brought into the Courtroom (the Committee) was asked to study the pros and cons of expanding media coverage in trial courtrooms to include the use of video technology, and to consolidate into a single report the Judicial Outreach Committee's and the Board of District Court Judges' independent inquiries on the use of electronic portable devices in courthouses and courtrooms. The Committee was also asked to report on the Board of Justice Court Judges' monitoring of the Davis County pilot program on the use of recording equipment in justice courts. Finally, the Committee was asked to report its findings and recommendations to the Judicial Council by April 2012, including any proposed rule changes.

CAMERAS IN THE COURTROOM

A. Background and Overview

From the 1970s through the 1990s, many state courts implemented experimental rules allowing electronic media coverage of judicial proceedings. Nearly all of these experimental state rules have now been made permanent. Presently, every state in the nation permits some type of electronic media coverage of its trial or appellate courts. The District of Columbia is the only jurisdiction that prohibits such coverage.

State rules permitting electronic media coverage vary widely in scope and approach. Restrictions on coverage generally fall into three categories: (1) restrictions based upon type of court (i.e., trial court vs. appellate court); (2) prohibitions on coverage of certain types of proceedings, witnesses, or trial participants, such as juveniles, sexual

Massachusetts, Missouri, North Carolina, New Jersey, Ohio, Oregon, Rhode Island, Texas, and Virginia.

Tier 3: States that allow appellate coverage only or that have such restrictive trial coverage rules that coverage is essentially prohibited: (15 states) Alabama, Arkansas, Delaware, Illinois, Louisiana, Maine, Maryland, Minnesota, Mississippi, Nebraska, New York, Oklahoma, Pennsylvania, South Dakota, and Utah.¹

The arguments for and against cameras in the courtroom have remained constant over the years. Camera proponents base their arguments on First and Sixth Amendment guarantees of freedom of the press and public trials, and on the belief that televised court proceedings serve to educate the public and inspire confidence in the justice system. Opponents raise concerns about the adverse impact cameras can have on trial participants and argue that broadcast coverage may, in fact, diminish the public's confidence in the justice system.

The concern most often raised about electronic media coverage is that such coverage may harm the decorum of the proceedings and negatively impact trial participants. The extensive empirical research and broad-based experience of other states, however, suggest that these concerns are unfounded. For example, several states, including Arizona, California, Florida, Hawaii, Kansas, Louisiana, Maine, Massachusetts, Minnesota, New Jersey, New York, Ohio, Virginia, and Washington, have studied the impact of electronic media coverage on courtroom proceedings, focusing particularly on the effect that cameras have upon courtroom decorum and

¹ Under existing Rule 4-401, Utah Code of Judicial Administration, video recording and audio recording of appellate proceedings is permitted to preserve the record and as permitted by procedures of those courts, but is prohibited in trial proceedings except to preserve the record. Still photography of trial and appellate proceedings is permitted at the discretion of the judge presiding over the proceeding.

circumstances of the *Estes* case and suggested that technological advancements might one day lead to a different result.

In *Chandler v. Florida*, 449 U.S. 560 (1981), the Supreme Court revisited the issue of cameras in the courtroom and unanimously upheld the Chandler defendants' burglary convictions even though a brief part of the trial was televised over their objections. Chief Justice Warren Burger, writing for the Court, held that states should be free to develop their own procedures for broadcasting trials, and that such television coverage was not an inherent violation of due process. After *Chandler*, states rapidly began to open their doors to television cameras on a permanent or experimental basis.

Federal courts, by comparison, expressly prohibit electronic media coverage of criminal proceedings under Rule 53 of the *Federal Rules of Criminal Procedure*. In 1988, the federal judiciary appointed a committee to study the issue, and that committee recommended a three-year pilot program, for civil cases only, in several federal district and circuit courts of appeals. The pilot program was in effect from 1991 through 1994. Notwithstanding the Federal Judicial Center's ultimate recommendation that federal trial courts allow cameras in civil proceedings, the federal judiciary declined to continue the program when the study period expired.

In 1996, the U.S. Judicial Conference rescinded its camera-coverage prohibition for courts of appeals and allowed each appellate court the discretion to permit broadcasting of oral arguments. Presently, two courts of appeals—the Second and the Ninth—allow such coverage. In September 2010, the U.S. Judicial Conference approved a new pilot project to evaluate the effect of cameras in federal district courtrooms and of the public release of digital video recordings of some civil proceedings. The pilot project is national in scope and is expected to last for approximately three years.

supported by reasons found by the judge who is presiding over the proceeding to be sufficiently compelling to outweigh the presumption. Section (2)(B) identifies nine factors that may guide judges in exercising their discretion. Section (2)(C) requires the judge to make particularized findings on the record supporting a prohibition of electronic media coverage or restricting such coverage beyond the limitations provided by the proposed rule. Such findings can be made orally or in a written order.

Section 3(A) requires news reporters who desire permission to provide electronic media coverage to file a written request with the court at least 24 hours prior to the proceeding (the current rule), but allows the judge to grant such a request on shorter notice or to waive the requirement for a written request upon a showing of good cause. Section 3(B) allows the judge to terminate or suspend electronic media coverage at any time without prior notice under certain circumstances.

Section 4 regulates conduct in the courtroom. It also places responsibility for pooling arrangements on the shoulders of news reporters rather than the judge who is presiding over the proceeding or court staff. Section 5 addresses sanctions for violations of the rule.

Section 6 sets forth several categorical restrictions on electronic media coverage under the rule, including prohibitions against photography of minors, of jurors unless dismissed, in camera hearings, confidential communications, and of documents not part of the official public record. Subparts (6)(A), (6)(B), and (6)(C) exist under the current rule. Subparts (6)(D), (6)(E), and (6)(F) are new under the proposed rule.

2. Distinguished between the possession and use of mobile devices in court facilities and the possession and use in courtrooms, with there being greater restrictions on the latter;
3. Generally allowed the use of portable devices by lawyers and members of the public in both facilities and courtrooms, subject to certain restrictions enumerated in the policy, including a ban on using the devices to record proceedings;
4. Allowed an individual judge to further restrict or totally prohibit the possession or use of mobile devices in his/her courtroom based on certain articulated circumstances related to safety, security, the fair administration of justice, privacy and other factors;
5. Prohibited juror use in courtrooms and possession while deliberating; and
6. Allowed for the screening of mobile devices upon entry to court facilities and confiscation where appropriate.

The Subcommittee's proposed policy, with minor non-substantive changes, was approved by the Judicial Outreach Committee on a vote of 6-4 and subsequently sent to this Committee for debate and consideration.

2. Board of District Court Judges' Report

A subcommittee of the Board of District Court Judges undertook a study of the issue of cell phones in the courts and provided a report to the Board in early 2011. The subcommittee report, located behind Tab 10, was adopted by the Board and submitted to this Committee for consideration. As the report indicates, the Board reviewed a number of reported circumstances where the administration of justice was significantly undermined by the presence of cell phones in the courtroom. The Board concluded that the potential damage caused by electronic devices in the courtroom

5. The judiciary should recommend that the legislature enact a statute making a juror's violation of these instructions a Class B misdemeanor. Jurors should be instructed of the possible penalty for failure to abide by the court's instructions.

B. Findings and Recommendations

The Committee recommends a policy which attempts to balance the interests of the public and the judiciary. The proposed policy is built on the philosophy that the judiciary should focus on regulating conduct that is injurious to the judicial process and not on regulating the types of electronic devices that may or may not be allowed in the courthouse or individual courtrooms.

The majority of the members of the Committee concluded that electronic portable devices such as personal digital assistants (PDAs), smart phones, and tablet and laptop computers have become a common and necessary tool for people observing or participating in judicial proceedings. They are the everyday tools of lawyers and the clients they represent: as necessary today as pen and paper and books have always been. Jurors, witnesses, consultants, parties and the public at large have come to expect that their ability to communicate - and to continue the business of their everyday lives - will not automatically cease when entering a courthouse. Members of the press are increasingly using these technologies to report on judicial proceedings in a more effective and timely manner.

The Committee's recommended policy on the possession and use of electronic devices in court facilities, set forth in its entirety behind Tab 11, acknowledges the realities of today's technologically sophisticated and dependent society; reflects a reasoned approach and a fair accommodation of the needs of all participants in the judicial process; and preserves the fair and impartial administration of justice.

significant issues and challenges the courts can expect to face as justice courts implement the digital audio recording mandate statewide. These issues include:

1. Funding - Financing for audio equipment, particularly in Class I and Class II justice courts, will be largely funded by local government. In many cases, that cost will be significant. Technical standards for Class III and Class IV justice courts are much less costly and should be fully funded through the Security, Education and Technology grants.
2. Records - It is critical that individual justice courts maintain control and dissemination of the audio records. The records are clearly a public record; however, questions such as how the recordings can be used and who may have ready access to them are yet to be clarified.

The issues and challenges that have surfaced to date, and those issues which will likely arise when full implementation takes place, are beyond the scope of this committee's assignment. Therefore, the Committee recommends that these issues be assigned to another committee or perhaps to the Justice Court Board itself for further monitoring and follow up.

CONCLUSION

The Committee recommends the adoption of proposed Rule 4-401 and the proposed policy on the possession and use of electronic devices in court facilities.

TAB 6

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TAB 8


Ethics Committee Appointment

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Judicial Council
From:  Brent Johnson, General Counsel
Re: Ethics Advisory Committee
Date: April 25, 2012

The Ethics Advisory Committee has been lacking an attorney member for some time. I was finally able to attract several applicants. I recommended to the Management Committee that Tawni Anderson be appointed as the attorney member of the Ethics Advisory Committee. The Management Committee approved this recommendation. Attached is Ms. Anderson's resume. I believe that Ms. Anderson will be an excellent member.

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

450 South State Street / P.O. Box 140241 / Salt Lake City, UT 84114-0241 / 801-578-3800 / FAX: 801-578-3843

TAWNI J. ANDERSON
HALL, PRANGLE & SCHOONVELD LLC
136 E. South Temple, Suite 2450
Salt Lake City, Utah 84111
Office (801) 320-0900 Cell (801) 450-9312
E-mail: tanderson@hpslaw.com

EDUCATION

University of Utah College of Law. J.D., May 1998

- William H. Leary scholar
- European Union Law Award, Spring 1998
- Legal Writing Teaching Assistant, 1997-98
- Traynor Moot Court Competition, 1996-97 (third in a field of thirty-six teams; second-highest oral argument score)

University of Utah. Graduate work in English literature, 1993-1994

Reed College. B.A., French Literature, December 1991

French, German, Latin, Greek, and English literature and language; Medieval French and German language and literature; rhetoric and literary theory.

PROFESSIONAL

Directing Partner of the Salt Lake City office of Hall, Prangle & Schoonveld, LLC. 2009-present.

Responsible for running day-to-day operations of the SLC office, direct supervision of all Utah cases, attorneys, and staff in coordination with managing partner Eric P. Schoonveld. Manage case load of 90+ complex medical malpractice cases for clients throughout the State of Utah, and handle all appellate matters originating from our office. In addition, I handle appeals for other clients and for amici curiae, particularly involving health care issues.

Attorney at Richards Brandt Miller Nelson. March 2009-October 2009.

Focus on appellate advocacy and consulting. Non-appellate litigation includes medical malpractice defense, insurance defense, employment law, and complex commercial litigation.

Attorney at Dewsnap, King & Olsen. August 2005-March 2009

Plaintiffs' medical malpractice litigation, products liability, appellate advocacy and appellate consulting.

Attorney at Snell & Wilmer L.L.P. February 2001-August 2005

Appellate advocacy and consulting, including pre- and post-trial appellate consulting. Medical malpractice defense, pharmaceutical products liability defense, employment law, legal malpractice defense, and insurance defense.

Law Clerk to Judge Norman H. Jackson, Utah Court of Appeals. Aug. 1998-Jan. 2001

Reviewed briefs and trial records, made recommendations for dispositions of appeals, and drafted and edited published opinions and unpublished memorandum decisions. Performed research for and partially drafted *Utah Standards of Appellate Review—Revised*, 12 Utah Bar J. 8 (Oct. 1999).

Law Clerk. Ray, Quinney & Nebeker. Summers of 1996, 1997, and 1998

Drafted motions, memoranda, and appellate briefs in a wide variety of cases, including, torts, corporate law, insurance defense, construction law, employment law, and bankruptcy.

PROFESSIONAL AND CIVIC ACTIVITIES

- Utah Supreme Court Appellate Rules Advisory Committee, 2007-present
- Utah State Bar
 - Appellate Section: Chair, 2006-2007; Chair Elect 2005-2006; Secretary/Treasurer 2004-2005; Executive Committee Member (2003-2004, 2007-present)
 - Litigation Section
 - Minority Bar Association
- Utah Defense Lawyers' Association
 - Amicus Committee, 2009-present
- Utah Association for Justice (formerly Utah Trial Lawyers Association)
 - Board of Governors, 2007-present; Chair, Amicus Committee, 2007-present; Education Committee, 2005-07
 - Editor of and frequent contributor to UAJ's *Utah Trial Journal*
- American Bar Association
 - Tort Trial & Insurance Practice
 - Tenth Circuit Reporter, *Tort Trial & Insurance Practice Law Journal*, 2004-06
- Member: Federal Bar Association, Salt Lake County Bar Association, David K. Watkiss-Sutherland II Inn of Court

- Other community service roles and activities: Co-Chair, Third Annual Native American Law Symposium, Univ. of Utah College of Law; Treasurer, Native American Law Students Association, University of Utah; Utah AIDS Foundation Government Relations Committee; Volunteer Gardener, Utah AIDS Foundation Garden Project; Volunteer Server, St. Vincent de Paul Soup Kitchen; Volunteer English as a Second Language instructor.

PRESENTATIONS AND PUBLICATIONS (selected)

Sherman, Tawni J., *Superseding and Staying Judgments in Utah*, in *Superseding and Staying Judgments: A National Compendium*, Roger D. Townsend, ed. (American Bar Association, 2007).

Appellate Practice, Utah Association for Justice (formerly Utah Trial Lawyers Association) and the Utah State Bar's "Nibbled to Death by Ducks (or Dealing With Those Nasty Little Gotchas That Will Turn Your Hair Gray)", October 18, 2007

Appellate Strategies for Trial Lawyers, Utah Trial Lawyers Annual Convention, October 14, 2006

Persuasive Briefing, Utah Trial Lawyers Annual Convention, September 13, 2006

**Standing Committee on Education
Appointment**

Standing Education Committee's Recommendation to Fill Standing Education Committee Vacancy

Rule 1-205 (1) (B) (v) requires the Standing Committee to include "one adult educator from higher education". That position has been vacant for a considerable time.

The director of the Judicial Institute recruited interested adult educators from University of Utah, BYU, Utah State, Westminster College and Weber State. Two faculty responded by expressing interest in the vacant position.

Specifically, Professor Brian Stecklein, Associate Dean of Continuing Education at Weber State and Dr. Sandi Pershing, Assistant Vice President of Continuing Education and professor in the Masters in Public Administration program at University of Utah both applied.

During the Standing Committee's March 26, 2012 meeting, the committee found both to be very acceptable and qualified candidates for the vacancy, but expressed a preference for Dr. Pershing.

Their bios and C.V.s are attached.

Respectfully submitted,
Tom Langhorne
Judicial Institute Director

Brian R. Stecklein
4629 W 5925 S
Hooper, Utah 84315
Work: (801) 626-6787
Home: (801) 776-5971
Cell: 801-540-1543

Career Objective

To acquire a position of leadership within an organization that believes in team efforts, supports a strong mission, responds to community demands, and maintains balance by adhering to strong educational ideals.

Professional Experience

Aug 2009 – Present

Associate Dean of Continuing Education

Oversee all credit and non-credit programs that meet the needs of non-traditional students, specifically relating to face to face courses at off-campus sites, online, two-way audio and video, and independent study formats. This includes oversight of three off-campus centers. Develop and lead the mission, vision, and values that supports the organization and institutional objectives. Look to the future and expansion of off-campus centers. Work with student services to better fill student needs. Manage a budget of five million plus dollars. Develop appropriate policies and procedures fulfilling the intent of state and regional policies.

1999 – Aug 2009

Director

July 2004 – August 2009 Director of Credit Programs

Develop credit programs that meet the needs of non-traditional students, specifically relating to face to face courses at off-campus sites, online, two way audio and video, and independent study courses. This includes the management of two off campus centers. Formed a new team, leading them in the creation of a new mission, vision, and values that supports the organization and institutional objectives. Developed a vision bringing all possible course formats together that increased the student understanding of their options. Planned and developed off-campus centers that included a major renovation. Work closely to bring student services to the centers to better fill student needs. Manage a budget of five million plus dollars. Develop appropriate policies and procedures fulfilling the intent of state and regional policies.

April 2002 - July 2004 Director of Operations

Worked within a completely restructured organization and was asked to head up the operations side of Continuing Education. This included enrollment services, faculty support (WSU online), and backend support for program developers. Managed an instructor wage budget of 4 plus million dollars. Developed strategies for enrollment services within Continuing Education. Provided leadership for twenty four professional and classified staff members. Was the leader of the Lynx/Banner implementation for Continuing Education and served on the Student Team. This required obtaining a knowledge of all aspects of the student module provided by SCT Banner. Implemented process improvement systems increase customer service for enrollment management within CE. Worked closely with campus enrollment services to develop procedures that would insure correct processing of student information.

July 1999- April 2002 Program Director

Oversight for evening, weekend, off-campus, concurrent enrollment, early college, study abroad, international, and conferencing programs within Weber State University. Worked

closely with program administrators to develop strategic initiatives for each of these areas. Provided secure relationships with the central administration which included deans, department chairs, associate provost, and provost of the institution.

1994 - 1999

Program Administrator for Evening, Weekend, & Off-campus Programs

Responsible for evening, weekend, and off-campus credit programs in a seven-county area with more than 350 courses per term, serving approximately 1600 full time equivalent students or 7,000 - 8,000 duplicated head count. Work closely with six deans, more than thirty department chairs, central administration, and outside agencies in order to provide well-organized offerings for non-traditional students that has seen a continual 5% growth pattern for the past four years. Responsibilities have included:

- Developing course schedules to meet clients needs
- Originating letters of agreement for adjunct and overload faculty
- Managing an instructor payroll of more than \$2,000,000
- Administering two leased off-campus sites, which led to the campus buying their own facility
- Developing a general education program to serve a community college need
- Providing leadership for a five-person team
- Serving on campus committees to represent Continuing Education issues
- Producing overall marketing plans for new and existing students
- Evaluating degree programs to be offered in the evening or off-campus
- Coordinating courses that use video conference tools between Weber and Davis Counties
- Building relationships with both internal and external customers in order to represent their needs
- Developed and implemented an overall marketing plan

1990 - 1994

Program Administrator for Conferences

Responsible for the overall direction, development, and administration of over 35 conferences per year. Provided leadership to conference committees, both internally and externally to facilitate quality revenue-generating activities. Worked for over two years on a conference center design team. This team was charged with representing many community interests and coming to consensus on the overall design of both the physical facilities and amenities. Responsibilities have included:

- Managing gross revenues of more than \$500,000
- Constructing speaker contracts
- Negotiating facility contracts
- Scanning market needs in order to offer new and different activities
- Marketing and promoting conferences through-out the state of Utah and the nation
- Providing leadership to a support staff who supported me and five other professionals
- Determining the feasibility of each activity

Volunteer Experience

1996-1998

District Commissioner for the Boy Scouts of America

Represent the Boy Scouts of America by serving more than 500 adult volunteers and approximately 3,000 youth members. Work with two other individuals to provide the overall direction of this effort. Actively recruit, train, and provide leadership for a volunteer staff of 55 people. Build relationships with community leaders in six cities to

2006 - Present continue the growth of the organization.
Scout Master for the Boy Scouts of America

Education

1998 Weber State University, Ogden Utah
Master of Education, Curriculum Design and Instruction,

1990 Weber State University, Ogden Utah
Bachelor of Science
Art/Photography major with a Psychology minor

Awards

1977 Eagle Scout
1988 Best of College Annual Photographers' Forum
1990 Best Graduating Art/Photography student award
1998 Phi Kappa Phi graduate
2007 Hemmingway Faculty Collaboration Award
2011 Received State Funds to Develop a Contract Management Program
2012 Received State Funds to increase online enrollment \$88,000
2012 College Access Challenge Grant \$74,000

BIOGRAPHICAL SKETCH

Dr. Sandi Pershing is the Assistant Vice President of Continuing Education, and a professor in the Master of Public Administration program at the University of Utah. Sandi earned a Bachelor of Arts and an MPA from the University of Wyoming, after which she received her Ph.D. in Public Administration from Arizona State University. Previous related positions that Sandi has held include: Director of Professional Education – University of Utah Continuing Education Division; Program Manager – University of Utah MPA Program; and Faculty Associate – Arizona State University, School of Public Affairs. She has worked as an organizational consultant and trainer in the areas of teamwork, organizational change, strategic planning, leadership, learning transfer, time management, creativity, management, and conflict resolution. Sandi co-edited *Classic Readings in Organizational Behavior* (2008) with J. Steven Ott and Richard Simpson, and *Classics in Public Administration* (2003) with Jay Shafritz and Albert Hyde.

**Curriculum Vitae
Sandra J. Pershing**

Personal

BIRTHPLACE: Portland, Maine

ADDRESS: (Home)
1273 Tomahawk Drive
Salt Lake City, UT 84103
(801) 674.5108

(Office)
Continuing Education
University of Utah
1901 E. South Campus Dr. Rm. 1215
Salt Lake City, UT 84112
Phone: (801) 581-7297
Fax: (801) 585-5414
E-mail: sparkes@aoce.utah.edu

Education

PH.D. PUBLIC ADMINISTRATION (2000)
Arizona State University
Dissertation: "Knowledge Transfer Action Planning: A model for training transfer"

MASTERS OF PUBLIC ADMINISTRATION (1996)
University of Wyoming

B.A., THEATRE AND DANCE (1992)
University of Wyoming

Professional Experience

CONTINUING EDUCATION,
UNIVERSITY OF UTAH
SALT LAKE CITY, UTAH

ASSISTANT VICE PRESIDENT
CONTINUING EDUCATION

(SEPTEMBER 2007-PRESENT)

- Provide executive leadership, operations, and policy recommendations for a complex system of ten programming units, four support teams, distance learning, and off-campus learning facilities. Our units serve approximately 17,000 potential, current, returning, and off-campus students – approximately 30,000 enrollments - annually in both credit and non-credit courses and programs. We have 150 employees and a budget of close to \$11 million dollars per year.
- Support our collective mission to enrich all lives in our expanding community by encouraging and providing a lifetime of learning.
- Promote our ongoing efforts in and around excellence in customer service. Efforts have resulted in improved internal and external service, and a decrease in Petitions for Exception to Policy of 92%.

- Lead teams in the development and implementation of new programs such as: Non-Profit Leadership, Fire Service Leadership, Distance Education, For-Credit technology courses, and international partnerships in the English Language Institute and Youth Education.
- Oversee decision making and provide budgetary oversight for the division. CE experienced an increase in gross revenue on the Ledger 2 side from \$3.7 million in FY 2004 to \$6.0 million in FY 2007.
- Lead a division that has grown from 24,995 enrollments in Academic year 2004-05 to 28,059 in 2006-07.
- Facilitate strategic planning, process improvement, and organizational change efforts.
- Supervise, recruit, and hire key staff members to lead programs.
- Work with Academic Program Advisory Committee, who provides Continuing Education with programmatic advice and oversight.
- Work collaboratively across campus to integrate CE and to support the campus community and beyond through our fundamentally cutting-edge programs.
- Demonstrate commitment to a climate that broadly values diversity, access, and civility.
- Interpret and apply campus academic policies and standards to various categories of continuing education classes and situations.
- Assist with the development and instruction of post-graduate professional development that plays a key role in economic development.
- Contribute to the University's accreditation process, and also participate internally in the re-accreditation process for the English Language Institute.
- Actively represent CE to students, potential students, professional organizations, CE's Advisory Committee, articulation partners, businesses and other relevant constituencies.
- Provide curricular leadership in relation to CE goals by initiating, sustaining, designing, approving, delivering, or eliminating academic programs and curricula, working with unit leaders and considering student needs and available resources.
- Participate in fund development efforts, which include: the application for \$1 million dollar endowments for both the Osher Lifelong Learning Institute and the Osher re-entry scholarship; successful attainment of the Jack Kent Cooke Foundation grant; and other funding for both Professional Education and Youth Education.
- Develop external relationships by actively engaging in maintaining and expanding links with the regional, national and international communities, and interacting with Deans in similar positions at other institutions.
- Serve as a Commissioner, regional officer, and board member for the University Continuing Education Association.

ASSOCIATE DEAN

CONTINUING EDUCATION

(SEPTEMBER 2004 – SEPTEMBER 2007)

- Provide leadership to nine programming and four support units .

- Facilitate strategic planning, process improvement, and organizational change efforts.
- Supervise, recruit, and hire key staff members to lead programs.
- Assist with decision making and budgetary oversight.
- Work with Academic Program Advisory Committee, who provides Continuing Education with programmatic advice and oversight.
- Represent Continuing Education on campus, in the community, statewide, and nationally.
- Serve as a Commissioner, regional officer, and board member for the University Continuing Education Association.

DIRECTOR

PROFESSIONAL EDUCATION – CONTINUING EDUCATION

(JULY 2004 - SEPTEMBER 2004)

- Provide leadership for department providing educational programs to assist individuals and organizations as they face today's business challenges.
- Supervise, recruit, and hire key team members.
- Oversee budget and all programmatic decision making.

TRAINER AND CONSULTANT

(AUGUST 1995 – PRESENT)

- Consult and train public, private, and non-profit organizations in effective management, leadership, creativity, collaboration, conflict resolution, strategic planning, communication, motivation, teamwork, empowerment, and fair employment procedures.
- Develop and implement training programs to suit needs of clients and their employees.

**CENTER FOR PUBLIC POLICY AND ADMINISTRATION,
UNIVERSITY OF UTAH
SALT LAKE CITY, UTAH**

FACULTY MEMBER

MASTER OF PUBLIC ADMINISTRATION EDUCATION

(AUGUST 2000 – PRESENT)

- Teach the following courses in the Traditional and Executive MPA Programs: Training and Development in Public and Non-Profit Organizations; Foundations of Public Administration; Introduction to Public Administration; Practice of Public Management; Leadership, Productivity and Change; Research Design; Administrative Theory.
- Serve on departmental admissions committee.
- Supervise MPA major papers and doctoral dissertations.
- Instructor of Strategic Leadership and Change course in the Executive MPA Program at Zayed University in Abu Dhabi.
- Capstone instructor for Hainan, China MPA Cohort.

PROGRAM MANAGER

MASTER OF PUBLIC ADMINISTRATION EDUCATION

(APRIL 2002-JULY 2004)

- Provide academic and career advisement for current and prospective MPA students;
- Responsible for marketing, curriculum development, program evaluation, information management, and general program oversight;
- Faculty advisor for MPA Student Association;
- Supervise office staff members.
- Provide assistance with the Center's ULEAD training and development program and the Utah Research Connection.

**SCHOOL OF PUBLIC AFFAIRS, ARIZONA STATE UNIVERSITY
TEMPE, ARIZONA**

FACULTY ASSOCIATE, STUDENT SERVICES COORDINATOR, AND GRADUATE ASSOCIATE

(AUGUST 1998- MAY 2000)

- Provided academic and career advisement for current and prospective MPA students;
- Worked to develop and market the School's Bachelor of Interdisciplinary Studies program;
- Worked with MPA students to encourage movement into the School's doctoral program;
- Coordinated training workshops through the Advanced Public Executive Program for employees from a variety of public sector communities, including: law enforcement, fire service, and municipal clerks. Responsible for content development, staffing, planning, facilitation, expenditure tracking, constituent relations, correspondence, and assessment.
- Taught the following courses in the MPA Program: Public Affairs; Public Sector Human Resource Development; Internship Course; Organizational Change and Development; Lecturer in Organizational Theory Course- Subject: Organizational Change

**UNIVERSITY OF WYOMING
LARAMIE, WYOMING**

DEPARTMENT OF POLITICAL SCIENCE, GRADUATE TEACHING ASSISTANT

(AUGUST 1994- MAY 1996)

- Instructed undergraduate Political Science courses, and managed staff of fellow TA's.

DEPARTMENT OF INFORMATION TECHNOLOGY, ASSISTANT

(AUGUST 1994- JANUARY 1996)

- Responsible for creating and coordinating the release of software training materials for UW faculty and staff.

Publications

Books:

2006 - *Classic Readings in Organizational Behavior*, 4th edition. With J.S. Ott and R. Simpson.

2003 - *Classics in Public Administration*, 5th edition. With J. Shafritz and A. Hyde.

02 – *Classic Readings in Organizational Behavior*, 3rd edition. With J.S. Ott and R. Simpson.

Book Chapters:

2001 - "*Human Resource Management Change in State and Local Government*," with N. Joseph Cayer, in, K. Tom Liou, ed. *Handbook of Public Management Practice and Reform*, Marcel Dekker.

Articles:

2008 – "*Re-positioning of CE to Cope with Fiscal Challenges*," With Robert Hansen and Bill McClure. *Continuing Higher Education Review*.

2005 – "*Strengthening the University-Public Sector Partnership: Giving Credit Where Credit is Due*," with K. MacDonald and W.D. Patton. *Public Administration Quarterly*, Vol. 28, Issue 3 & 4.

Works in Progress:

Forthcoming – *Organization Theory: Historic to Post Modern Thinking and Influences*. With E. Austin. Forthcoming.

2008 – "*Key lessons on engaged collaboration: The case of the Nonprofit Academy for Excellence at the University of Utah*." Co-authors: Anne O'Brien, Sandra Parkes and Nancy Winemiller Basinger. Forthcoming.

Presentations

2011, 2010, 2009, and 2008 – University of Utah Faculty Leadership Development program. *Organizational Change*

2011 – Western Social Science Association Conference – *Meeting PA Practitioner Needs: Executive Education – Current Challenges/Future Opportunities*

2010 and 2009 – Campus Design and Construction Team strategic plan facilitator

2010 – Utah Municipal Clerk's Institute and Academy – *Establishing Your Legacy*

2009 – Agile Leadership Conference – *Leading in Changing Environments*

2009 – National Conference for Librarians – *Bridging Divides*

2009 – Utah Municipal Clerk's Institute and Academy – *Leading Up*

2009 and 2008 – National Conference for University Continuing Education Association. *Trends in Continuing Higher Education*.

2008 – State Arts Leadership Conference – *The Art of Change*

2008 – University of Utah Fine Arts Leadership Team. *Organizational Change*

2007 – Fire Service Leadership Academy. *Leadership and Change*

2007 - National Council of Non-Profit Organizations. *Effective Partnerships*

2007 – Utah Municipal Clerk's Institute. *Personal Power*

2007 – University Continuing Education Association. *The Future of Continuing Higher Education and Academic Partnerships*

2007 – Osher Lifelong Learning Institute. *Lifelong Learning in the Boomer Generation*

1996 – Fire Leadership Academy Presenter. *Leadership and Organizational Change*

2006 – Utah Municipal Clerk's Academy. *Organizational Change*

2005 – Utah Municipal Clerk's Institute. *Creativity*

2005 – Salt Lake Valley Fire Alliance Annual Leadership Symposium – Keynote speaker on *Leadership*

2005 – University Continuing Education Association National Conference. *The Knowledge Transfer Action Plan as a Tool for Outcomes-Based Assessment.*

2004 – National Council of Appellate Staff Attorneys. *Time Management*

2003 – Administrative Office of the Courts – Management and Leadership Development Program. *Effective Teams, Orientation to Management, and Teamwork*

2002 – Higher Education Leadership Program, Academic Outreach and Continuing Education. *Training Transfer*

2002 – International Personnel Managers Association. *Managing Organizational Change*

2002 – Faculty Member, Intermountain Academy for Public Excellence

2000 – University of Utah Professional Development Program. *Conflict Management*

2001 – Teaching in Public Administration 2000 Conference. Presented “*Learning Transfer in MPA Students*” co-authored with Charles H. Kime.

2001 – American Society of Public Administrators – 2000 National Conference. Presented “*The Spirit of Public Service: From the Classroom to the Field*” co-authored with Steve Francis.

1998 - Western Social Science Association 1998 Conference Presented, “*New Thinking in the Public Sector: Challenging the Way We Work*” co-authored with Charles H. Kime.

1998 - Teaching in Public Administration 1998 Conference Presented, “*Experiential Review: Reflection, Transfer and Follow-Up*” co-authored with Ina Wintrich

1998 - Parents Anonymous of Arizona. *Effective Leadership for Management Team*

1997 - Arizona Municipal Clerks' Institute. *Creativity*

1996 - City of Laramie, Wyoming. *Quality Management and Teamwork*

1996 - Rhone Poulenc of Wyoming (Now OCI Chemicals). *Teambuilding and Motivation*

1996 - Denver Lower Downtown Development District, Inc. - Conflict Management Consultant

1994 - Distributive Education Clubs of America Wyoming State Conference, Keynote Speaker

Memberships, Service, and Awards

2005 – 2010 - Board Member, Regional Representative, and Commission Chair of University Professional and Continuing Education Association.

2004 – 2007 – Institute Director for Utah Municipal Clerks Institute and Academy

2008 - Assistant Vice President for Diversity search committee

2007 – present - Diversity Education Initiative Committee

2007 – present – Undergraduate Council

2007 - Participated in international forum on Continuing Higher Education in Beijing, China.

2007 – present – Chair, Fine Arts General Education Committee

2004 – present - Curriculum Review Board

2004 – present - Special Fees Committee

2005 - Registrar Search Committee

2004 – 2007 - International Studies Board

2005 – 2006 - Park City Institute Committee member

2004 - Wendy Rice Faculty Service Award

2003 – Consulting Editor, Dictionary of Public Administration, J. Shafritz, editor.

2000-2002 - Volunteer Program Coordinator, The Road Home Shelter. Created award-winning Arts For Kids program.

1999– present - member, Pi Alpha Alpha National Honorary Society for Public Affairs and Administration

2000- Distinguished Faculty Associate Award, Arizona State University School of Public Affairs

1996- Outstanding MPA Student, University of Wyoming

1997– 1999 ASU MPA Committee

1998 - ASU School of Public Affairs Director Search Committee

1999– 1999 – ASU Bachelor of Interdisciplinary Studies Committee

1998- Presidential Management Internship Nomination Committee

1997– 1998 – ASU DPA Executive Committee

1998– 1998 – ASU DPA Student Executive Committee

1999– 2000 - Editor, ASU School of Public Affairs Newsletter

1997– 1998 - Member, City of Goodyear General Plan Committee

1996 – present - Member, American Society for Public Administration (Arizona Chapter Board Member, Newsletter Editor, Mentoring Committee Member, and Web Page Master, 1996 – 2000.)

To: Judicial Council Management Committee
From: Tom Langhorne, Judicial Institute Director
Date: April 5, 2012

Judge Kent Neilson has resigned his Education Standing Committee position. The Board has approved Judge G.A. "Jody" Petry to replace him.

st Judges'

**Standing Committee on Court
Technology Appointment**

Utah Court of Appeals

Chambers of
Judge Carolyn B. McHugh

450 South State Street
Salt Lake City, Utah 84114 - 0230
(801) 578-3950
FAX (801) 238-7981

March 21, 2012

Judicial Council
Management Committee
Matheson Courthouse
450 South State Street
Salt Lake City, Utah 84111

Attention: Jody Gonzales

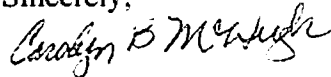
Re: Membership Recommendation From The Standing Committee on Court Technology

Dear Council Members:

The Technology Committee develops and recommends to the Judicial Council the information technology plans and priorities governing the Utah courts of record. I currently serve as the chairperson of the Technology Committee.

As of April 26, 2012, Judge Dane Nolan will have completed his first term as a member of the committee. Judge Nolan's contributions have greatly benefitted our work. I am therefore pleased to report that he has indicated a desire to serve a second term. Accordingly, I request that the Management Committee and the Judicial Council act favorably on this petition for Judge Nolan's reappointment to the Technology Committee.

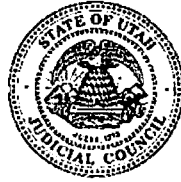
Sincerely,



Carolyn B. McHugh
Presiding Judge,
Utah Court of Appeals

c: Ron Bowmaster

**Court Interpreter Committee
Appointments**



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Management Committee
From: Tim Shea *T. Shea*
Date: April 21, 2013
Re: Committee appointments

The Court Interpreter Committee has a vacancy ready to be filled. The committee recommends policies and procedures governing the qualification, training, and appointment of court interpreters.

Luther Gaylord is one of two certified Spanish interpreters on the committee, and he has completed his second term. After sending an email to all certified interpreters in Utah, two have applied:

- Gabriela Grostic
- Miguel Medina

The Management Committee recommends the appointment of Miguel Medina

Debrorak Kreeck-Mendez is a criminal defense lawyer, and she has completed her second term. After notice to the Criminal Law Section, two defense lawyers have applied:

- David Brown
- Robert Engar

The Management Committee recommends the appointment of Robert Engar.

Daryl Hague is a linguistics professor at BYU, and he has completed his third term. After sending an email all of the logistics professors at the University of Utah and Brigham Young University, two have applied.

- Jennifer Andrus
- William Eggington

The Management Committee recommends the appointment of Jennifer Andrus.

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

450 South State Street / POB 140241 / Salt Lake City, Utah 84114-0241 / 801-578-3808 / Fax: 801-578-3843 / email: tims@email.utcourts.gov

January 19, 2012

Administrative Office of the Courts
Mattheson Courthouse
450 South State Street
Salt Lake City 84230
Attn:
Rosa Oaks

Dear Mrs. Oaks

I am interested in applying for the vacancy for the Interpreter Committee that just became available. I believe that I can be a fit candidate for the position. My background in the profession will bring valuable contributions to the committee. I will point out that I am an extremely passionate about the profession and have dedicated the past 11 years to enhance my participation in different areas of the profession in general. I respectfully ask that I be considered for this vacancy and it will be a great honor to be part of your committee.

Thank you in advance for your consideration,

Sincerely

Gabriela Grostic

Gabriela Grostic Certified Court Interpreter for the Salt Lake Immigration Court. I obtained my certification in 2002. I have been a professional interpreter for the last twenty years. I have been a conference interpreter since 1987 and started my career as a Court Interpreter for Third District Court In Salt Lake City Utah since 2001. I graduated in 1997 from the University of Texas at El Paso I received a degree in Communications and a minor in translation and Interpretation . I attended The Institute for Court Interpretation at the University of Arizona Agnese Haury Institute for Court Interpretation in 2001. I have been working as an independent contractor as a trainer for the past 8 years. I have participated in teaching the Certified Court Interpreters workshop as a trainer and facilitator since the year 2002 and for the past 5 year I have been one of the two lead instructor for the Certified Court Interpreter workshop non-language specific for the Administrative Offices of the Court . I also taught in Salt Lake Community College Immigration course.

Salt Lake City; January 13, 2012

To Whom It May Concern

This is to express my interest in the vacancy that the Judicial Council has for a Certified Interpreter on its Court Interpreter Committee. I am excited to be able to participate in the research, development, and recommendation of policies and procedures for interpretation in legal proceedings and translation of printed materials to the Judicial Council.

I have been interpreting since 2008. This has been a rewarding experience full of opportunities both in the personal and professional arena. For me, interpretation is a passion, not just a profession. I would be thrilled to be able to contribute with these processes, as I am an active part of them when I exercise my role as a Certified Court Interpreter. At the same time I enjoy learning as it constitutes a never-ending process in our lives.

Sincerely,

Miguel Medina

Certified Spanish Court Interpreter

Miguel Medina

317 E Fenton Ave
South Salt Lake, Utah - 84115
miguelmedina88@hotmail.com
Home phone: 801-268-0474
Mobile: 801-641-1667

WORK EXPERIENCE

Justice Courts and District Courts in the State of Utah

08/2007 - Present

Certified Spanish Court Interpreter

Sight, simultaneous, and consecutive interpretation English/Spanish, Spanish/English in a court setting.

CommGap. International Language Services

01/2011 - Present

Interpreter

Sight, simultaneous, and consecutive interpretation English/Spanish, Spanish/English in the Health Care field.

Verizon Wireless

08/2001 -01/2011

Salt Lake City - UTAH

Bilingual Coordinator of Customer Service

Support to Customer Service Representatives in credit negotiations, handset discounts and general inquiries. Escalation calls from customers who want to address their concerns to a supervisor.

Respond to a variety of telephone inquiries from wireless customers and re-sellers. Effectively satisfy and complete all customer calls entering the Call Center.

EDUCATION

UNIVERSITY OF UTAH HEALTH CARE

Medical Terminology Training

20 Contact Hours

100% Award

Salt Lake City - Utah - 12/2009

SPANISH COURT INTERPRETER CERTIFICATION PROGRAM

Salt Lake City-Utah - 07/2008

UNIVERSITY OF PHOENIX

Master of Business Administration

Salt Lake City-Utah - 06/2004

Maintained 3.58 GPA. Employed full time concurrent with education.

Bachelor of Business Administration, Universidad Tecnologica del Centro

Guacara, Venezuela - 07/1994

DAVID W. BROWN
ATTORNEY AT LAW

BLAKE PROFESSIONAL PLAZA, SUITE F
2880 WEST 4700 SOUTH
WEST VALLEY CITY, UTAH 84118
(801) 964-6200 (801) 967-7600 FAX



January 23, 2012

Rosa Oakes
rosao@email.utcourts.gov

Re: Committee Vacancy for Criminal Defense Lawyer

Dear Ms. Oakes:

I am submitting this letter and resume to apply for the vacancy announced by the Utah Judicial Council for a criminal defense attorney on its Court Interpreter Committee.

I believe my expertise as a criminal defense attorney over the last 20-plus years would be perfect for this position.

I have litigated all types of criminal cases, state and federal, felonies and misdemeanors, and have done so in almost every district or justice court in the state of Utah. I have also utilized interpreters throughout my criminal practice.

In my service as a judge pro tempore for the last six years, primarily in Park City and West Valley City, Utah, I also have had the opportunity to rely upon interpreters during small claims trials. I believe that experience would be most beneficial for service on this committee.

If you should have any questions, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in cursive script, reading "David W. Brown".

David W. Brown

DWB:kd
Enclosure

DAVID W. BROWN
6542 West 3880 South
West Valley City, Utah 84128
Home: (801) 250-6875; Work: (801) 964-6200
Email: lwfrmdwb@hotmail.com

EDUCATION

Legal: J.D., Brigham Young University, April 1990
Undergraduate: B.A., Penn State University, 1975, Journalism

WORK EXPERIENCE

Judge Pro Tempore, Third District Court and Justice Courts	9/06 to Present
Law Office of David W. Brown - Blake Professional Plaza 2880 West 4700 South, Suite F, West Valley City, Utah 84118 Attorney/Owner of general litigation firm, specializing in criminal cases.	12/92 to Present
J.H. Bottum & Associates - Salt Lake City, Utah Associate Attorney with litigation firm specializing in securities.	5/90 to 11/92
Gregory Hadley & Associates - Provo, Utah Law clerk with general practice firm.	1989-1990
Thomson, Rhodes & Cowie - Pittsburgh, Pennsylvania Law clerk for national litigation firm.	4/89 to 8/89
Harding & Associates - American Fork, Utah Law clerk for personal injury, general practice firm.	11/88 to 1990
Hansen & Associates - Salt Lake City, Utah Law clerk in major, complex product liability litigation.	4/88 to 9/88
Inteldex, Inc. - State College, Pennsylvania Investigator for personal injury, workers compensation, and insurance fraud in eight-state area.	2/81 to 8/87
Centre Daily Times - State College, Pennsylvania Assistant Sports Editor. Extensive writing experience, contributing stories and leads to Associated Press, United Press International and Soccer America.	2/77 to 2/81
Somerset Daily American - Somerset, Pennsylvania Sports Editor. Supervise sports department. Design and lay out sports pages, football tabloid. Interview top coaches and players, college and professional.	6/75 to 2/77

HONORS AND ACTIVITIES

- 2011 NBI Seminar: How to Deal with Impossible Clients, Witnesses and Counsel
- 2010 NBI Seminar: The Criminal Defense Trial from A to Z
- 2008 NBI Seminar: Criminal Justice Updates and Current Issues
- Member of UAJ, UACDL, Litigation Division of Utah State Bar and Salt Lake County Bar Association, 2000 to Present
- Area Chairman, Pennies-By-The-Inch Campaign, 2008-2012
- District Chairman, Pennies-By-The-Inch Campaign, 2003 to 2007
- Advertising Chairman, Cyprus High School Booster Club, 2005
- Organization Head, Scout Troops 811/3811, Great Salt Lake Council, Boy Scouts of America, 1995 to 2000.
- Articles Editor, Utah Bar Journal, 1992 to 1995
- Editor, BYU Journal of Public Law, 1989-90
- BYU "Highest Grade" Award in Criminal Trial Practice, Fall Semester, 1989
- BYU "Highest Grade" Award in Product Liability, Winter Semester 1990
- American Inn of Court, BYU Chapter, 1989-90
- Negotiation Forum, BYU Chapter
- Vice President, Association of Trial Lawyers of America, BYU Chapter
- Recipient of Scripps-Howard Foundation, Lawrence J. Fagan Journalism Scholarship, 1974-75
- Vice President, Kappa Tau Alpha (Journalism Honor Society), 1975

PERSONAL

Born September 25, 1953, Altoona, PA.
Married, 6 children, 8 grandchildren

REFERENCES

Judge Robin W. Reese, Third District Court, 450 South State Street, Salt Lake City, UT 84114, (801) 238-7365

Gregory Skordas, Skordas, Caston & Hyde, 341 South Main, #303, Salt Lake City, Utah 84111; (801) 531-7444

Loren E. Weiss, Van Cott, Bagley, Cornwall & McCarthy, 36 South State St., P.O. Box 45340, Salt Lake City, Utah 84111-1478, (801) 237-0319

ROBERT K. ENGAR

2895 Filmore St | Salt Lake City, UT 84106 | (801) 641-7885 | robertengar@gmail.com

EXPERIENCE

Trial Attorney, Salt Lake Legal Defender Association, SLC, UT, October 2006-present

- Representation of indigent individuals charged with misdemeanor and/or felony crimes
- Handled over 1,000 cases, which included a caseload of 100-200 cases at a given time
- Lead or co-counsel in both Justice and District courts on over 20 jury trials (with favorable verdict in the majority of cases), drafted and argued numerous pre-trial motions, drafted appellate briefs, negotiated dismissals or plea agreements for cases that did not proceed to trial
 - Have appeared and argued before most judges at the Third District Court in Salt Lake City
- Graduate of Trial Skills Academy, California Western School of Law, San Diego, CA, April 2007

Research Assistant, David A. McPhie, Attorney at Law, SLC, UT, June 2005-September 2006

- Research in the following areas of law: family, wills/estates/trusts, contracts, civil procedure

Law Clerk, Arrow Legal Solutions Group, P.C., Sandy, UT, summer 2005

- Researched ERISA and disability benefits

Extern/Law Clerk, Jardine Law Offices, SLC, UT, summer 2005

- Drafted complaints, discovery pleadings, motions, and performed assigned research tasks
- Assisted in client interviews and settlement negotiations

Extern, McKay, Burton & Thurman, SLC, UT, summer 2004

- Wrote memos, pleadings, and performed assigned research tasks
 - Assignments were in following areas of law: agency and piercing corporate veils, employment, contracts, bankruptcy, procedure, family
- Attended hearings, client interviews, and depositions

EDUCATION

J. Reuben Clark Law School, Brigham Young University, Provo, UT

Juris Doctor, April 2006 | Admitted Utah State Bar, October 2006

- Highest Scholastic Achievement Award, Federal Tax 2, Winter 2006
- Journal Board member, Executive Editor, *Journal of Public Law*, 2005-06
- Studied Transnational and Business Law in London, Winter 2005
- Champion, Negotiation Competition, Fall 2005

University of Utah, Salt Lake City, UT

Honors Bachelor of Arts, Accounting, Spanish Minor, August 2002, *magna cum laude*

- Senior Honors Thesis, "The Changing Environment of Merger and Acquisition Accounting"
- School of Business Accounting Scholar Award, 2002
- Associated Students of U of U Assembly Representative for the School of Business, 2000-01

OTHER SKILLS/INTERESTS

- Volunteer Missionary, LDS Church, Cherry Hill, NJ, 1997-99; speak and write Spanish fluently
- Enjoy Ultimate Frisbee and other sports, marathons, traveling, movies, games, reading

January 26, 2012

Court Interpreter Committee
Utah Courts
Salt Lake City, UT

Dear Members of the Court Interpreter Committee,

I am writing to apply for the vacant position of expert in linguistics for the Utah Judicial Council's Court Interpreter Committee. I learned of this opportunity from Dr. Marianna Di Paolo, who is the expert in linguistics on the Advisory Committee on Model Civil Jury Instructions. My interest in serving on the Court Interpreter Committee stems from my ongoing sociolinguistic research on domestic violence and the U.S. Law of Evidence. In that research, I consider the relationship between social practice and linguistic choices, and the role that this sociolinguistic relationship plays in interactions between members of the court and domestic violence victims. I began this research while earning my Ph.D. from Carnegie Mellon University. I am currently an Assistant Professor of Rhetoric and Writing at the University of Utah, with a joint appointment in the University Writing Program and the English Department. Please see my CV, which is included with this letter, for a list of my publications, research, and teaching.

The goal of the court interpreter is to achieve both cross-linguistic and cross-cultural translation, a difficult goal that requires deep knowledge of multiple language systems and social norms. The court interpreter's task is complex. They have to be able to negotiate interrelated, sociolinguistic issues of language and culture to capture the meaning of the utterance, while maintaining fidelity to the linguistic structure of the original utterance. Because of my knowledge of language structure and use and my research in the role language plays in legal contexts, I am well situated to comment on and explain court interpretation issues that arise at the intersection of law, language, and culture.

I am well versed in research on linguistic interaction from both rhetoric and sociolinguistics, with significant knowledge of the forensic linguistics literature, including that on translationⁱ. I am also familiar with the Utah Code of Professional Responsibility, Utah State Judicial Council Rule 3-306, The Court Interpreters Act (28 USCS § 1827), Federal Rule of Evidence 604, as well as the significant case law on the topicⁱⁱ.

Please let me know if I can provide any further information.

With best wishes,



Jennifer Andrus, Ph.D.
Assistant Professor of Rhetoric and Writing
University of Utah
j.andrus@utah.edu
801-703-4102

¹ Berk-Seligson, S. *The Bilingual Courtroom: Court Interpreters in the Judicial Process*, (U of Chicago Press, 1990/2002). Berk-Seligson, S. "Interpreting for the Police: Issues in Pre-Trial Phases of the Judicial Process" *Forensic Linguistics* 7.2 (2000); De Jongh, E. M. *An Introduction to Court Interpreting: Theory & Practice* (University of America Press, 1992); Egginton, W. (2004) "Rhetorical influences: As Latin was, English is?" in C. L. Moler & A. Martinovic-Zic (eds.) *Discourse across language and culture*. John Benjamins. Gibbons, J. & Turell, M. T. *Dimensions of Forensic Linguistics* (John Benjamins, 2008); Hale, S. "Clash of World Perspectives: The Discursive Practices of the Law, the Witness and the Interpreter." *Forensic Linguistics* 4.1 (1997); Hale, S. & Gibbons, J. "Varying Realities: Patterned Changes in the Interpreter's Presentation of Courtroom and External Realities." *Applied Linguistics* 20.1 (1999); Miller, M. A. "Language in the Law: Finding Justice in Translation: American Jurisprudence Affecting Due Process for People with Limited English Proficiency Together with Practical Suggestions" *Harvard Latino Law Rev.* 14 (2011); Shulman, M. B. "No Hablo Ingles: Court Interpretation as a Major Obstacle to Fairness for Non-English Speaking Defendants" *Yale Law Rev* 46 (1993)

² Some of the most recent opinions from the Appellate Circuits are: *Ramos-Martínez v. U.S.* (2011). United States Court of Appeals for the First Circuit, 638 F.3d 315; *U.S. v. Solorio* (2011) United States Court of Appeals for the Ninth Circuit, No. 10-10304; *U.S. v. Hasan* (2010). United States Court of Appeals for the Tenth Circuit, 609 F.3d 1121; *U.S. v. Belfast* (2010) United States Court of Appeals for the Eleventh Circuit, 611 F.3d 783.

Dr. Jennifer Andrus
Assistant Professor
Department of English &
University Writing Program

University of Utah
Salt Lake City, UT
j.andrus@utah.edu

Education

PhD in Rhetoric, Carnegie Mellon University, May 2009.

Dissertation title: *The "Excited Utterance" and the Rhetorical Agent: How Language Ideology Shapes Agency in the American Law of Evidence*

MA in Rhetoric and Composition, New Mexico State University, 2003

BA in English, University of Utah, 2001

Academic Appointments

Assistant Professor of English & the University Writing Program,
University of Utah, July 2010-Present

Coordinator of Writing 1010: Introduction to Academic Writing
University of Utah, July 2010-Present

Post-Doctoral Fellow
Carnegie Mellon University, 2009-2010

Publications

Peer Reviewed Articles

"Victim Agency: Fractal Recursivity in the Language Ideology of the US Law of Evidence and Domestic Violence." *Language in Society*, forthcoming, December 2012.

"Critical Discourse Analysis and Rhetoric/Composition." (With Tom Huckin and Jen Clary-Lemon) *College Composition and Communication*, special issue on method, forthcoming, December 2012.

"Beyond texts in context: Recontextualization and the co-production of texts and contexts in the legal discourse, excited utterance exception to hearsay." *Discourse & Society* 22.2 (March 2011).

"A Legal Discourse of Transparency: Discursive Agency and Domestic Violence in the Technical Discourse of the Excited Utterance Exception to Hearsay." *Technical Communication Quarterly* 20.1 (January 2011): special issue on technical communication and law, co-edited by Mary Lay Schuster and Jessica Reyman.

"The Development of an Artefactual Language Ideology: Historicizing the Metadiscourse of the Hearsay and the Excited Utterance Exception Rules in the Anglo-American Law of Evidence." *Language and Communication* 29.4 (October 2009), 312-327.

"The Excited Utterance: Constructing an Essential Link between the Event and the Statement in Anglo-American Hearsay Doctrine." *Texas Linguistic Forum*, 51 (2007).

"Mobility, Indexicality, and the Enregisterment of 'Pittsburghese'" (second author with Barbara Johnstone and Andrew Danielson). *Journal of English Linguistics*, 34(7), 77-104. (2006).

Book Reviews

Book Review of *Courtroom Talk and Neocolonial Control* (2008), by Diana Eades. *Language in Society* 39.2 (April 2010).

Book Note on *The Discourse Reader*, 2nd edition (2006), edited by Adam Jaworski and Nikolas Coupland. *Language in Society* 37.3 (June 2008).

Book Note on *Language and the Law* (2007), by Sanford Schane. *Language in Society* 37.3 (June 2008).

Encyclopedia Article

"Rhetorical Discourse Analysis." *The Encyclopedia of Applied Linguistics*, ed. Chapelle, C.A. Oxford, UK: Wiley-Blackwell, 2013.

Work in Progress

Domestic Violence, Agency, and Language: Evaluating Speech in the U.S. Law of Evidence, book manuscript intended for submission to Oxford University Press's "Language and Law" series.

"Photographs, Witnesses and Bodies: Toward a Visual Rhetoric of Law," being prepared for submission to *Rhetoric and Philosophy* with Nathan Atkinson.

Selected Presentations

National and International Conferences

"Photographs, Witnesses and Bodies: Toward a Visual Rhetoric of Law." (With Nathan Atkinson) *Rhetoric Society of America*, Philadelphia, PA, May 2012.

"Body of Evidence: Embodiment of Violence in the US Law of Evidence." *American Studies Association*, Baltimore, MD, October 2011.

"Reliable Speech, Unreliable Speakers: The Legal Infantilization of Female Victims of Domestic Violence." *Association for the Study of Law, Culture and the Humanities*, Las Vegas NV, March 2011.

"From Event to Text: The Effects of Entextualization in/on the Excited Utterance Exception to Hearsay." Top Papers in Law and Communication panel at the *National Communication Association*, Chicago, IL, November 2009.

"The Speaking Individual: The Effects of Institutional Discourses and Text Production on Discursive Agency." *National Communication Association*, Chicago, IL, November 2009.

"The (De)Construction of Identity: The Role of Narrative in the Excited Utterance." *Rhetoric Society of America*, Seattle, WA, May 2008.

"Managing the Hysterical Woman: Discursive Agency, Domestic Violence, and the Excited Utterance Exception to Hearsay." *Rhetoric Society of America*, Seattle, WA, May 2008.

"The Excited Utterance: Constructing an Essential Link between the Event and the Statement in Anglo-American Hearsay Doctrine." *Symposium about Language and Society—Austin*, XV. Austin, Texas, April 2007.

"Representing Reality: Institutional Event and the Excited Utterance." *National Communication Association*. Boston, MA, November 2005.

"Standardizing a Vernacular, (Re)mediating a Fragment: The Rhetorical Construction of Pittsburghese" *National Communication Association*. Boston, MA, November 2005.

"Whose Social Meaning? Pittsburgh Monophthongal /aw/ in Perception and Production" (second author with Barbara Johnstone, Anna Macadam Schardt, Dan Baumgardt, Carnegie Mellon University; Scott F. Kiesling, University of Pittsburgh). *New Ways of Analyzing Variation*. Ann Arbor, MI, 2004.

Workshops

"Critical Discourse Analysis" (with Tom Huckin). *Rhetoric Society of America, Summer Institute*. Boulder, Colorado, June 2011.

"Fieldwork Ethics" (second presenter with Barbara Johnstone). *New Ways of Analyzing Variation*. Ann Arbor, MI, 2004.

Local Presentations

"'I changed alot of things .. I just used some of them and I forgot to cite what I used': The Complexities of Plagiarism in a Global University" (first author with David Stanfield). The Communication Symposium at Carnegie Mellon, June 2010.

"Smart or Pretty? The Double-Bind of Representations of Women in the Media." Undergraduate Discussion Series, Carnegie Mellon University, April 2009.

"Language Ideology and Reflective Practice: English as a Second Language in the First-Year Writing Classroom." The Communication Symposium at Carnegie Mellon. June 2006.
<http://english.cmu.edu/research/symposium/past/2006/index.html>

Teaching

Courses Taught

Legal Discourses (WRITG 4905/ENGL 5970), University of Utah (Spring 2012)
History and Theory of Rhetoric (WRITG 7760), University of Utah (Fall 2011)
Discourse Analysis (ENGL 5970), University of Utah (Spring 2011)
Writing for Publication (WRITG 6000), University of Utah (Spring 2011)
History and Theory of Writing (WRITG 3890), University of Utah (Fall 2010)
Introduction to Academic Writing (WRITG 1010), University of Utah (Fall 2010, Fall 2011)
Identity, Discourse and Power, Carnegie Mellon University (Spring 2010)
Argument, Carnegie Mellon University (Fall 2009)
Feminist Rhetorics, Carnegie Mellon University (Spring 2009)

Grants and Awards

University Teaching Grant, University of Utah: \$1604.69.

Grant to purchase audio recording and transcription equipment for use in the courses such as Discourse Analysis.

College of Humanities, International Travel Grant, University of Utah: \$1500.

Grant to attend the International Society for the History of Rhetoric's biannual conference in Bologna, Italy.

College of Humanities, Interdisciplinary Research Grant (with Tom Huckin), University of Utah: \$8000.

Grant to host an invitational conference on North American CDA.

"From Event to Text: The Effects of Intertextualization in/on the Excited Utterance Exception to Hearsay" selected for Top Paper Panel in the Law and Communication Division of NCA, 2009.

Academic Service

Statewide Concurrent Enrollment of WRTG 1010 Project: Funded by the Utah State Legislature and tasked by the legislature and the Board of Regents, this project's aim is to develop a rigorous WRTG 1010 concurrent enrollment curriculum. I was one of seven people from various universities in Utah, collaborating on the course development (Fall 2011) and implementation (Spring 2012).

North American Critical Discourse Analysis seminal conference (May 2011), co-hosted with Tom Huckin.

Job Search Committee for position in the University Writing Program (Fall 2010-Spring 2011), University of Utah. Chaired by Maureen Matheson.

Library Committee (Fall 2010-present), University of Utah. Chaired by Richard Preiss.

Professional Affiliations

Rhetoric Society of America, Association for the Study of Law, Culture, and Humanities, National Council of Teachers of English, National Communication Association, Law and Society, Modern Language Association

January 31, 2012

Court Interpreter Committee
Administrative Office of the Courts
Scott M. Matheson Courthouse
450 South State Street
Salt Lake City, Utah

Dear Committee Members,

Please accept the accompanying material as my application to serve on the Court Interpreter Committee. As directed, I have provided my resume as well as a brief synopsis of my professional involvement in forensic linguistics as a published researcher, conference presenter and expert witness. Much of this work focuses on linguistic issues involving language minority concerns including a recent publication co-authored with Judge Lynn W. Davis of the 4th District Court that discusses interpreting and translation issues in the court system. This article was published in the *Harvard Latino Law Review*, Spring 2011. In addition to my involvement in forensic linguistics, I believe my administrative experience as a department chair (2007 to present), and member of the Board of Directors of TESOL (Teachers of English to Speakers of Other Languages, 2003-2006) indicates an understanding of, and appreciation for committee work.

Sincerely,

Dr. William G. Eggington
Chair and Professor,
Linguistics and English Language Department,
4064c JFSB, Brigham Young University.
Provo, Utah 84602
801-422-3483

Curriculum Vitae: December 2011

WILLIAM GREGORY EGGINGTON

4064c JFSB, Brigham Young University
Provo, Utah 84602
Ph: 801-422-3483
Fax: 801-422-4720
E-mail: william_eggington@byu.edu

EDUCATION

Ph.D. Linguistics. University of Southern California, 1985.

Ph.D. dissertation entitled *Toward a language policy for the Hacienda-La Puente School District* involved conducting a sociolinguistic survey of a multi-cultural, multi-lingual community in order to provide information for a language policy for a school district. The languages of the immigrant communities involved included Spanish, Chinese (Mandarin), Korean, Vietnamese, Cambodian, Laos and Hmong. The dissertation was directed by Dr. Robert Kaplan.

M.A. Linguistics, University of Southern California, 1981.

B.A. (Summa Cum Laude) English and Teaching English as a Second Language. Brigham Young University - Hawaii, (with secondary teaching credential), 1975.

PROFESSIONAL EXPERIENCE

University and Public Education

May 2007 – present: Chair, Department of Linguistics and English Language, Brigham Young University.

Oct 2007 – present: Professor, Department of Linguistics and English Language, Brigham Young University, Provo, Utah, U.S.A. (Assistant Professor, 8/88 - 4/92; Associate Professor, 4/92 - 7/97, Professor, 7/97 - present)

Jan 2003 – May 2003: Visiting Professor, Brigham Young University – Hawaii. Charged with the responsibility of developing a comprehensive language policy for the campus.

June 1998 – Oct 2001: Associate chair, English Department, Brigham Young University, Provo, Utah, U.S.A.

August 1988 – Oct 2001: Professor, English Department (Associate to Linguistics Department), Brigham Young University, Provo, Utah, U.S.A.

Brigham Young University teaching assignments include:

Undergraduate classes: Introduction to Language, History of the English Language, English Grammar and Usage, Semantics, Discourse Analysis, Forensic Linguistics, Seminar in Contrastive Rhetoric, Seminar in Language and Society, Seminar in the Sociopolitics of the English Language, Language Planning and Policy in the Pacific Rim.

Graduate classes: Varieties of English, Sociolinguistics, Semantics and Pragmatics, Language and Literature, Advanced Grammar, Language Policy and Planning.

Brigham Young University responsibilities include:

Chair: Department of Linguistics and English Language, May 2006 - present
Chair: College of Humanities, Rank and Status Committee (Tenure Committee) 2005-2007
Associate Chair, English Department (responsible for the language and editing "area", Independent Study, Salt Lake Center, Department Honors Advisor and various department assignments)
Olympic Coordinating Committee, Language (responsible for developing a language plan to enable the university to better provide its linguistic resources during the 2002 Winter Olympic Games)
Member, Pre-dental Committee, December 1997 - July 1998
Elected to English Department Restructuring Committee, November 1997.
Elected to Faculty Advisement Council (equivalent of Faculty Senate) representative for three year term (1993 - 1995) serving on the Teaching, Scholarship, Citizenship and Evaluation Sub-committee.
Elected to English Department Faculty Council, 1993.
English Department Language Section Head, 1994 - 1995
College of Humanities, Ph.D. in Applied Linguistics proposal committee, 1994
Nominated to various departmental committees including recruitment committee, rank and status committee,
Student awards committee, faculty development committee.

1995 - 1996 Visiting faculty, Languages, Literature and Communications Division, Brigham Young University - Hawaii, faculty exchange program.

1992 - 1993 Visiting Scholar, Centre for Applied Linguistics and Languages, Griffith University, Brisbane, Australia.

1988 - 1988 Visiting Scholar, Institute of Applied Linguistics, Brisbane College of Advanced Education, Brisbane, Australia.

1984 - 1988 Lecturer, Senior Lecturer, Head of Division, Darwin Institute of Technology (now Northern Territory University). Separate positions and responsibilities include.

1/87-7/88 Senior Lecturer, Division of Language Studies, Faculty of Education.

1/86-7/88 Head of Division, Division of Language Studies.

Duties: Responsible for the administration and development of the following language related programs offered by the Institute:

The Graduate Diploma in Applied Linguistics (TESL--Teaching English as a Second Language) and (Bilingual Education),
ESL/Multicultural units in the Bachelor of Education course,
College level ESL (English for Academic Purposes) courses,
Diploma in Translating and Interpreting,
English language support classes for students,
Teaching community and modern languages.

Duties also include a half teaching load in the Graduate Diploma in Applied Linguistics program as

described below.

During this period I:

Oversaw the re-accreditation of the Graduate Diploma, and its development into a broader Applied Linguistics course with internal and external offerings focusing particularly on the needs of teachers in Aboriginal community schools where the main language is an English based Creole; Wrote and taught an extensive external unit on the Structure of English for the Graduate Diploma Course. Commenced the unification of various uncoordinated small scale ESL support services spread throughout the Institute into one centralized ESL program and contributed towards the expansion of that program; Prepared a successful submission for the Institute to be granted a registered ELICOS (English Language Intensive Course for Overseas Students) program; Prepared a number of submissions to ADAB (Australian Development Assistance Bureau) and IDP (International Developmental Programs) offering the Institute's services for various ADAB/IDP projects. In all, I was responsible for a division comprised of 2 senior lecturers, 4 lecturers and 1 part-time lecture in the Advanced Education (University level) sector of the Institute and 5 full-time and 8 part-time lecturers in the TAFE (Technical and Further Education) sector. At times I served as Acting Dean, Faculty of Education.

1984-1985

Lecturer (Grade 1) in the Graduate Diploma in Applied Linguistics program.

Duties: Lecturing in a program designed to train qualified and practicing teachers so they may become ESL specialists. Classes taught in this program include: Linguistics for English Language Teachers, The Structure of English, TESL Methodology, Psycholinguistics, Sociolinguistics, ESL Testing and Measurement, ESL Research Methodologies, Bilingual Approaches

I also coordinated and supervised the practice teaching component of the course, and supervised at least 15 student research projects. One of my research students was awarded the Northern Territory Institute of Educational Research 1986 Award for Outstanding Educational Research.

1979-1984: Assistant Lecturer at the American Language Institute, University of Southern California

Duties: Teaching non-native English speaking students English for Academic Purposes. The American Language Institute conducts one of the most prominent and effective English for Academic Purposes programs in the United States. During my time at the Institute, I concentrated on the intermediate and advanced levels and contributed towards the development of a thematic whole-skills approach to academic English as a Second Language.

1979-1984 Teacher (part-time and full-time) at the La Puente Valley Adult School, Hacienda-La Puente School District, Los Angeles, California.

Duties: Teaching English to adult non-native English speaking students. The program operated at the La Puente Valley Adult Schools was recognized as one of the most effective in California. I was mostly involved in teaching the advanced pre-college classes.

1975-1978 Administrator, program developer and instructor for the Adult Migrant Education Centre, Queensland Department of Education, Brisbane Australia.

Duties: Administering a state-wide English program for non-native English speaking secondary students; developing curriculum for the secondary program and an adult second language literacy program; teaching non-native English speaking adult professionals and refugees in an intensive ESL program.

1974-1975 Secondary Teacher (English and Humanities), Kahuku High School, Kahuku, Hawaii,

1973-1975 Administrator, program developer and instructor at the Language Training Mission, Brigham Young University - Hawaii.

Duties: Adminstrating, developing programs, and teaching in an intensive Korean language course for missionaries preparing to go to South Korea.

Consultancies

Legal:

12/11 – 01/12: Expert witness for Glenn Gimbut, City Attorney, City of San Luis, Az., in a case involving the ability of a non-native English speaker to comprehend complex spoken and written English. (Case found in favor of City Attorney, currently under appeal)

05/11 – 09/11: Expert witness for V. John Ella of Jackson Lewis LLP, Minneapolis, Minnesota in a case involving trade-mark infringement. (Case settled)

06/10 – 08/10: Expert witness for the Federal Defender's Office (Salt Lake City) in a case involving a defendant's English language proficiency (case dismissed).

08/08 – 09/10: Expert witness for Edwin S. Wall, P.C (Salt Lake City) in a case challenging the conclusions of a former FBI document examiner who claims a defendant wrote a series of threatening letters. (Services no longer needed due to prosecution's withdrawal of examiner's services based upon results of evidentiary hearing).

11/09 – 5/10: Expert witness for Sheiness, Scott, Grossman and Cohn, LLP (Houston, Texas) in a case involving the meaning of a term in a legal contract. (case settled)

09/09 – 12/09: Expert witness for Attorney Jon H. Rogers (Salt Lake City, Utah) in a case involving the scope of a "provided, however, that" clause in a legal contract. (case settled)

12/08 – 6/09: Expert witness for Druyon Law Offices (Bountiful, Utah) in a case involving identifying the author of a police statement.

02/08 – 04/08: Expert witness for the Federal Defender's Office (Salt Lake City) in a criminal case involving the ability of a native American to understand his Miranda Rights.

05/07 – 03/08: Expert witness for the Federal Defender's Office (Salt Lake City) in a case involving the English language proficiency of a Korean immigrant charged with a criminal activity.

06/07 – 08/08: Expert witness for the Federal Defender's Office (Salt Lake City) in a case challenging the conclusions of a document examiner who claims a defendant wrote a series of threatening letters.

06/07 – 08/07: Expert witness for Van Cott, Bagley, Cornwall & McCarthy (Salt Lake City, Utah) in a case involving the referent of an exclusionary clause in a disputed contract between two legal firms.

02/07 – 06/07: Forensic document examiner in a case requiring the identification of the author of a series of documents (Strict confidentiality required)

03/07 – 11/07: Expert witness for Glenn Ioffredo, Maitland, Fl. in a case involving the interpretation of ambiguous references in a will.

09/06 – 05/08: Expert witness for The Sandage Law Firm, P.C., Kansas City, Mo. in a case involving the determination of a crime as a hate crime based upon the defendant's use of an ethnic epithet. (pro bono)

3/00 -- present: Expert Witness for Craig Cook, Attorney-at-law, (Salt Lake City, Utah) in a case involving a content analysis of a signed, but undated holographic will.

12/04 – 6/05: Consulting Expert Witness for Wilmer Cutler Pickering Hale and Dorr (Washington D.C.) in a case involving generic use of a trade name.

04/02 -- 12/03: Expert witness for the California State Attorney General (Sacramento) in a case involving the readability of parole documentation.

2/02 – 10/02: Expert witness for Nielsen and Senior (Salt Lake City, Utah) in a case involving the scope of an exclusionary clause in a mining lease agreement.

08/02-- 02/03. Expert witness for Ted Weckel, (Attorney-at-law, Utah) in a case involving the English language proficiency of a Cambodian refugee charged with criminal activity.

11/00 – 05/02. Expert Witness for Kaye, Scholer LLP (New York, Los Angeles) in a case involving national and international brand name infringement.

3/01 - 6/02. Expert witness for Robert Lucherini, Attorney-at-law (Las Vegas, Nevada) in a case involving the English language proficiency of a Chinese-Vietnamese immigrant under criminal investigation.

12/00 - 3/01. Expert witness for Giauque, Crocket, Bendinger & Peterson (Salt Lake City, Utah) in a case involving Utah's Official English policy. (pro bono)

08/96 -- 12/97 Expert Witness for Abbott and Walker, Attorneys-at-law (Provo, Utah), in a case involving the meaning of two related words in a "non-compete clause" within a sale-of-business contract.

12/91 -- 3/92. Expert Witness for Holme, Roberts and Owen, (Salt Lake City, Utah) in a case involving the meaning of a mining contract between the State of Utah and an international mining company.

General Applied Linguistics:

8/97 - 6/99. Sorenson Development Corporation, Salt Lake City, Utah, ESL Applications for Sorenson Vision Project.

Duties: Advising on the development of materials and applications for video-conferencing technology for ESL purposes.

7/95 - 09/00. National Languages and Literacy Institute of Australia (NLLIA), Olympic Games Language Policy Project.(With Dr. Ellen Touchstone, Touchstone Language Management, Los Angeles)

Duties: To develop an "international event language provision policy and plan" for the Sydney 2000 Olympic Games. As an international event, the organizers of the Olympic Games must provide language services for the international community. The Sydney Olympic Committee worked with the NLLIA to develop a language provision plan for their games. The first step in the process is to evaluate language provision for the Atlanta Games. The specific objective of this consultancy was to conduct a sociolinguistic survey of participants during the Atlanta Games to evaluate language provision at those games. We undertook this task July-August 1996, and wrote a report which was presented to the Prime Minister's office.

10/92 - 10/96. LDS Church Education System (CES), South Pacific Region.

Duties: Visited, researched and participated in a task-force formed by the CES to investigate the effectiveness of CES schools in Samoa, Tonga, Fiji and Kiribati. As part of this consultancy, I prepared a "white" discussion paper for the CES on bilingual education which has been disseminated for further action.

8/92 - 10/92. Australian Language and Literacy Council (ALLC).

Duties: Researched and wrote a report which placed the Australian Language and Literacy Policy into rational frameworks. The ALLC advises the Australian Federal Government's Minister of Employment, Education and Training. My rationale frameworks paper is now being used to evaluate current language policy in Australia.

8/88 to 11/88. ELICOS Program (English Language Intensive Course for Overseas Students), University of Queensland.

Duties: I was asked to conduct a number of staff training workshops with ELICOS personnel.

7/88. International Development Program.

Duties: Through a contract arranged by the Brisbane College of Advanced Education, Institute of Applied Linguistics, assisted in the development of the English Language Testing Service General Listening test.

12/85. Murdoch University.

Duties: Investigating the American Language Program at the University of Southern California with the aim of assisting those preparing for the Yan Chep University project.

9/82. University of California at Santa Barbara.

Duties: Developing and teaching a course on second language literacy to Teachers of English as a Second Language.

12/80, 1/81, 5/81, 7/81. California Department of Education, Office of Staff Development.

Duties: Planning, implementing and participating in a number of "institutes" sponsored by the department of train ESL teachers from Baja California Department of Education, Mexico.

Professional Organizations, Editorial Boards

Linguistics Society of America

International Association of Forensic Linguists

Teachers of English to Speakers of Other Languages (TESOL Inc.).

Involvement includes:

Member, Board of Directors, 2003-2006, Convention Chair, San Antonio, 2005.

Convention Local Organizing Committee Member, 2000 - 2002.

Chair, Applied Linguistics Interest Section, 1997 - 1998,

Editor, Sociopolitical Concerns Column, TESOL Matters, 1994 - 1996,

Chair, Sociopolitical Concerns Standing Committee, 1992-1993,

Chair of the Peace Education Sub-committee of the Sociopolitical Concerns Standing Committee, 1990-1991,

Invited to participate as an "expert researcher" in the 3rd Annual Research Fair at TESOL 1992,
Abstract reader for TESOL 1991, 1992, 1993, 1997 Conference, Applied Linguistics Special Interest
Section,
Abstract reader for TESOL 1994, 1995 Research Special Interest Section,
Colloquium co-chair (with Helen Wren) for 1992, Sociopolitical Concerns Committee, Academic Session,

Colloquium co-chair (with Natalie Kuhlman) for 1996, 1997, Annual Cross-cultural Literacy Colloquium,
Colloquium co-chair (with William Grabe) for 1996, Thirty Years of Contrastive Rhetoric. This colloquium
was selected as the Presidential Colloquium for TESOL 1996,
Colloquium chair for 1997 Applied Linguistics Interests Section Academic Session,
Discussion Session program organizer for 1997 Applied Linguistics Interests Section, Discussion
Sessions.

Member, International Association of Forensic Linguists

American Association of Applied Linguistics (AAAL). Involvement includes: AAAL '97, Program Strand
Coordinator, Language Policy Strand., Abstract reader for AAAL Conference, 1993, 1995, 1997.

Large Grants Assessor for the Research Grants Committee of the Australian Research Council
(Australian Government) Department of Employment, Education and Training. Involvement includes
the evaluation of large research grants (above \$100,000) in the fields of linguistics, sociolinguistics
and educational linguistics.

Editorial Board, *Current Issues in Language Planning*, London: Multilingual Matters, 1999 - present.

Manuscript Reviewer/Referee, *Asian Journal of English Language Teaching*, 1996-present. Involvement
includes reviewing manuscripts for acceptance in the journal published by the Chinese University of
Hong Kong (Dr. Gwendolyn Gong and Dr. George Braine, Editors).

Past Organizational Involvement

Australian Council of TESOL Associations (ACTA) and a member of the executive board of that
organization.

Applied Linguistics Association of Australia (ALAA) and the Northern Territory representative
Association of Teachers of English as a Second Language, Australia (ATESL, N.T.).
Australian College of Education.

Conference Organization

Convention chair for TESOL (Teachers of English to Speakers of Other Languages) Annual Convention
and Exposition to be held at San Antonio, Texas, March-April 2005. The conference will attract over
8,000 participants.

Local conference chair for TESOL (Teachers of English to Speakers of Other Languages) Annual
Convention and Exposition held at Salt Lake City, April 2002. The conference attracted over 6,500
participants.

Co-convener of the AILA/ALAA (International Applied Linguistics Association/Applied Linguistics
Association of Australia) International Pre-Congress Conference held in Darwin, August 1987 focusing
on applied linguistics in Aboriginal education.

PUBLICATIONS

Peer Reviewed Book Publications as Editor

- Directions in Applied Linguistics*. P. Bruthiaux, D. Atkinson, W. Eggington, W. Grabe, V. Ramanathan (eds.). London: Multilingual Matters, 2005.
- The Sociopolitics of English Language Teaching*. J. Kelly-Hall and W. Eggington (eds.), London: Multilingual Matters 2000.
- Language Policy: Dominant English, Pluralist Challenges*. W. Eggington and H. Wren (eds.), Amsterdam: John Benjamins Publishing Co. 1997.
- Language: Maintenance, Power and Education in Australian Aboriginal Contexts*. C. Walton and W. Eggington (eds.), Darwin, Australia: Northern Territory University Press. 1990.
- Names in Mormon Practice and Belief*. William G. Eggington, Dallin D. Oaks and Paul Baltes (eds.). New York: Edwin Mellin Press (under contract).

Peer Reviewed Journal Articles and Book Chapters

- "Finding Justice in Translation: Recent American Jurisprudence Affecting Due Process for Linguistic Minorities Together with Practical Solutions" (with Judge Lynn W. Davis, Maxwell Alan Miller, Adam Prestidge). In *Harvard Latino Law Review*. Spring 2011.
- "Towards Accommodating the "Tragedy of the Commons" Effect in Language Policy Development." *Current Issues in Language Planning*. 11(4), 2010
- "Teacher Research Used to Evaluate Sheltered Instruction in a Science Classroom Setting" (with Kalani J. Eggington) *Electronic Journal of Literacy Through Science*. Volume 9 (Fall '09 - Spring '10), 2010.
- "Unplanned language planning." In R. Kaplan (ed.), *Oxford Handbook of Applied Linguistics*. 2nd Edition Oxford: Oxford University Press (2010)
- "Is There a Drift Towards Universal English-Based Rhetorical Patterns?" Proceedings of the 18th International Congress of Linguistics, Linguistics Society of Korea. 2008
- "Deception and Fraud." In *Dimensions of Forensic Linguistics*, M. Teresa Turell and John Gibbons (eds.). Amsterdam: John Benjamins 2008.
- "So, You Want to Chair a Conference" (with M. Algren, E. Dwyer, B. Witt) in *Leadership Skills for English Language Educators*. N. Anderson, C. Coombe, M. McClosky (eds.) University of Michigan Press. 2008.
- "Language Policy and Planning: Introduction." In *Directions in Applied Linguistics*. P. Bruthiaux, D. Atkinson, W. Eggington, W. Grabe, V. Ramanathan (eds). London: Multilingual Matters, 2005.
- "Rhetorical Influences: As Latin was, English is?" In *Discourse across Languages and Cultures*. C. M. Moder, A. Martinovic-Zic (eds.), Amsterdam: Benjamins, 2004.
- "The Sociolinguistics of Mormon Naming Practices." In *Names in Mormon Practice and Belief*. William G. Eggington, Dallin D. Oaks (eds.). New York: Edwin Mellin Press (forthcoming).
- "Language Revitalization Planning within a Power/Solidarity Framework". In *Current Issues in Language Planning*: Vol 2:2&3, 2001: 231-241.
- "Unplanned language planning." In R. Kaplan (ed.), *Oxford Handbook of Applied Linguistics*. Oxford: Oxford University Press, pp. 404-414. 2001.
- "Bilingual creativity, multidimensional analysis, and world Englishes (with W. Baker)." In *World Englishes*, Vol. 18, No. 3, pp. 343-357. 1999. Oxford: Blackwell Publishers.
- "Written Academic Discourse in Korean: Implications for Effective Communication." In D. Oaks (ed.), *Applications of Linguistics: An Introductory Reader*. Fort Worth, Texas: Harcourt. 1998. Reprinted from "Written Academic Discourse in Korean: Implications for Effective Communication." In R. Kaplan, U. Conner (eds.) *Writing Across Languages: Analysis of L2 Text*. Reading MA.: Addison-Wesley, 1987 (see below).
- "To maintain, or to empower or to try to do both? Language policy in the South Pacific." In Frank Brinkhuis & Sascha Talmor (eds.), *Memory, History and Critique: European Identity at the Millennium. Proceedings of the Fifth Conference of the International Society for the Study of European Ideas (ISSEI)*, 19-24 August 1996, University for Humanist Studies, Utrecht, The Netherlands. CD-ROM. (University for Humanist Studies/International Society for the Study of European Ideas, 1998). Marketed and distributed by MIT Press Journals, Cambridge MA, USA
- "Language Policy and English as a Metaphor." In W. Eggington and H. Wren (eds.) *Language Policy*:

Dominant English, Pluralist Challenges. Amsterdam: John Benjamins Publishing Co. 1997.

- "The roles and responsibilities of ESL teachers within national language policies." In W. Eggington and H. Wren (eds.) *Language Policy: Dominant English, Pluralist Challenges*. Amsterdam: John Benjamins Publishing Co. 1997.
- "Analogical Modeling - A New Horizon". In W. Eggington (ed.), *Revista di Linguistica*, Special Edition on Analogical Modeling. Pisa, Italy. 7, II, 1995 (published 1996).
- "English: Everyone's Rock at the Center of the World?" In *Journal of Asian Pacific Communication*. Avon, England: Multilingual Matters, Vol 6: 139-151, 1995.
- "Language Planning and Policy in Australia." In W. Grabe (ed.), *Annual Review of Applied Linguistics*, 1994. Cambridge University Press. 137-155, 1994.
- "Language Planning, Language Teaching: An Exercise in HUMAN Resource Management". In *TESOL: Building on Strength*. Sydney: ACTA, 1993.
- "From Oral to Literate Culture: An Australian Aboriginal Experience." In F. Dubin and N. Kuhlman (eds.) *Cross-Cultural Literacy: Global Perspectives on Reading and Writing*. Regents/Prentice Hall, 81-98. 1992.
- "Our Weakness in Writing: The Literacy Continuum Applied to Book of Mormon Peoples. *Occasional Papers Series*. Provo, Utah: FARMS. 1992.
- "The History of the LDS Church in Australia." Requested contribution for *The Encyclopedia of Mormonism: The History, Scripture, Doctrine, and Procedure of the Church of Jesus Christ of Latter-Day Saints*. Macmillan. 1991.
- "Evaluating the Impact of Bilingual Education in Aboriginal communities in the Northern Territory" (with R. Baldauf). In R. Baldauf and A. Luke (eds.) *Language Planning and Education in Australasia*, Avon, England: Multilingual Matters. 1990.
- "Aboriginal English Prose: Similarities and Differences to Standard Australian English Prose." In C. Walton and W. Eggington (eds.) *Language: Maintenance, Power and Education in Australian Aboriginal Contexts*. Northern Territory University Press, 1990.
- "Editors' Introduction." In C. Walton and W. Eggington (eds.) *Language: Maintenance, Power and Education in Australian Aboriginal Contexts*. Northern Territory University Press, 1990.
- "Vocabulary Development in Aboriginal Languages" (with R. Baldauf). In Istvan Fodor and Claude Hagege (eds.) *Language Reform: History and Future*. Hamburg: H. Buske Publishing House, 1989.
- "Written Academic Discourse in Korean: Implications for Effective Communication." In R. Kaplan, U. Conner (eds.) *Writing Across Languages: Analysis of L2 Text*. Reading MA.: Addison-Wesley, 1987.
- "Discourse Analysis as a Pedagogical Tool" (with T. Ricento). In *CATESOL (California TESOL) Occasional Papers*, Fall 1983.
- "Teaching English in Korea." In *TESL Reporter* Vol. 07 No 4 Summer 1974.

Professional Reports, Proceedings and Miscellaneous Publications

- "Unrestricting the Academic Restricted Code." *MEXTESOL National Convention, Selected Presentations*, October 2004.
- "Reversing Samoan Language Shift." Web-published by U.S. Congressman Eni Faleomavaega, <http://www.house.gov/faleomavaega/eggingtonspeech.pdf>. Paper presented at International Samoan Language Commission conference, Los Angeles, December 2003.
- "When a language dies, it doesn't stink." In *TESOL Matters*, Washington, DC: TESOL Publications, June 2002.
- "Toward a Language Services Plan for the Salt Lake City 2002 Olympic Games: A Report for the Salt Lake Olympic Committee" 1999.
- "Non-English Language Services at the Atlanta Olympic Games: A Report to the National Language and Literacy Institute of Australia." (with E. Touchstone). 1997.
- "Of things professional and corporate." In *TESOL Matters*, Washington, DC: TESOL Publications, October 1996.
- "Sociopolitical Concerns at TESOL'96" (with David Shea). In *TESOL Matters*, Washington, DC: TESOL Publications, December 1995.

"Sociopolitical Issues at TESOL '95." In *TESOL Matters*, Washington, DC: TESOL Publications, June 1995

"Policies of the Oppressed: Positive and Negative Language Policies." In *Network Notes* 4, May 1994.

"The Written English Metaphors We Live, Plan, Teach and May Be Bound By" *Interchange*. Brigham Young University, General and Honors Education. December 1993.

"Preparing for Choices." In *TESOL Matters*, Washington, D.C: TESOL Publications, June 1993.

"Policies of the Oppressed: Positive and Negative Language Policies." In *TESOL Matters*, Washington, D.C: TESOL Publications, June 1993.

"On the Sociopolitical Nature of TESOL." In *TESOL Matters*, Washington, D.C: TESOL Publications, January 1993.

Numerous Peer and Non-Peer Reviewed Local Publications Available on Request

Peer Reviewed Journal Publications as Editor

"Special Section on Analogical Modeling" W. Eggington (ed.), *Revista di Linguistica*, Pisa, Italy 1995.

Professional Newsletter Publications as Editor

"Sociopolitical Concerns Column." *TESOL Matters*, TESOL Publications, 1994 - 1996

QATESOL News, Queensland, Australia. January 1977-December 1978.

PAPER PRESENTATIONS:

Peer Reviewed National and International Conferences

Elicited Imitation as a Determiner of the Need for a Court Interpreter" (with T. Cox and S. Wood). International Association of Forensic Linguistics Conference, Birmingham, U.K. July 2011.

"The Consequences of Feigned Comprehension in Interrogation Settings" (with T. Cox and S. Wood). International Association of Forensic Linguistics Conference, Birmingham, U.K. July 2011.

"Culture(s) in Global and Local Englishes: Theory and Teaching Practice" (with U. Connor). TESOL, 2011. New Orleans, LA. March 2011.

"Toward solving the language testing paradox in English language planning, teaching and learning." Invited Opening Plenary Speaker. Current Trends in Language Testing Conference, Dubai, UAE. November 2010. Funded by U.S. State Department.

"Toward solving the language testing paradox in English language planning, teaching and learning". Teacher seminar, Sultan Qaboos University, Oman, November 2010. Funded by U.S. State Department.

"Thinking about Culture in TESOL." Invited Plenary Speaker. MIDTESOL Conference, Dubuque, Iowa, October 2010.

"What Linguistics Can Tell Us about Strategies for Teaching Metaphor." Invited Plenary Speaker. MIDTESOL Conference, Dubuque, Iowa, October 2010.

"Towards Accommodating the "Tragedy of the Commons" Effect in Language Policy Development." Applied Linguistics Association of Australia Conference, Brisbane, Australia, July 2010.

"Towards Accommodating the "Tragedy of the Commons" Effect in Language Policy Development." American Association of Applied Linguistics Conference, Atlanta, Georgia, March 2010.

"Re-imagining Culture in TESOL" (with Dr. Ulla Connor). Invited luminary speaker. TESOL International Conference, Boston, MA March 2010.

"Fake Comprehension Strategies by Non-native English Speakers in Police Interrogations." International Association of Forensic Linguistics Conference, Amsterdam, NL., July 2009.

"Opposing Language Restrictionist Policies in the U.S." International Association of Applied Linguistics, Essen, Germany, August 2008.

"Is There a Drift Towards Universal English-Based Rhetorical Patterns?" 18th International Congress of Linguistics. Seoul, Korea, July 2008.

"Language Planning at U.S. Universities" (with Norm Evans), TESOL, New York City, March 2008 (Invited Featured Speaker)

"From Learner Voice to Academic Voice," TESOL Arabia, Dubai, UAE, March 2008. (Invited Featured Speaker).

- "Linguistic Elements of Hate Crimes." International Association of Forensic Linguistics Conference, Seattle, WA, July 2007.
- "From Language Teacher to Language Planner" (with Norman Evans). TESOL, Seattle WA, April 2007 (Invited spotlight)
- "Resolving Trade Name Legal Disputes through Corpus Research" (with M. Davies). The American Association of Applied Corpus Linguistics. American Association of Applied Corpus Linguistics." Flagstaff, Az., October 2006.
- "Is There a Drift Toward Universal English-based Rhetorical Patterns? Applied Linguistics Association of Australia Conference, Brisbane, Australia, July 2006.
- "The Public Face of Language Planning." Applied Linguistics Association of Australia Conference, Brisbane, Australia, July 2006.
- "Language Planning and Foreign Language teaching in the U.S. " Applied Linguistics Association of Australia Conference, Brisbane, Australia, July 2006.
- "Leading with Action Research" (with K. Egginton). TESOL, Tampa, Fl. March 2006.
- "Teachers of English to Speakers of Other Languages (TESOL): Why, What and How We Advocate." National Council of Teachers of English Conference, Pittsburgh, PA, November 2005.
- "Incorporating Academic Restricted Code in Language-in-Education Planning." 14th World Congress of Applied Linguistics, Madison, Wisconsin, July 2005.
- "Studies in Forensic Linguistics for Pre-Law Students." International Association of Forensic Linguistics Conference, Cardiff, Wales, July 2005.
- "Home Literacy Influence and Academic Success." (with E. Petelo) TESOL, San Antonio, U.S.A., March 2005.
- "Harnessing the power of language planning for university contexts." Invited, funded featured speaker. TESOL Arabia Conference, Dubai, UAE, February 2005.
- "Unrestricting the Academic Restricted Code." MEXTESOL National Convention, Morelia, Mexico, October 2004.
- "Unrestricting the Academic Restricted Code through Language Planning." Featured Speaker, Bennion Teachers Workshop, Utah State University. July 2004.
- "Language Planning in Applied Linguistics Theory and Practice." American Association of Applied Linguistics. Portland, May 2004.
- "From Brand Name to Generic Name: The Kelley Blue Book Cases". American Names Society Conference at Linguistics Society of America conference, Boston, MA, January 2004
- "Reversing Samoan Language Shift." International Samoan Language Commission Conference, Los Angeles, December 2003.
- "Lessons in language services from four previous Olympics " First Beijing 2008 Olympic Cultural Festival. (Invited). Beijing, China, September 2003.
- "From Brand Name to Generic Name: The Kelley Blue Book Cases." International Association of Forensic Linguistics Conference, Sydney, Australia, July, 2003.
- "Are we really participating in linguistic genocide?" Invited Spotlight Session, TESOL 2003, Baltimore, Md. April 2003
- "English within the power/solidarity paradigm." Spotlight session, TESOL, 2002, Salt Lake City, Utah, April 2002.
- "Writing programs in conflict: ESL writing versus freshmen composition programs." AAAL 2001, St. Louis, March 2001.
- "Toward an Understanding of Linguistic Predictors of Academic Success." Georgetown University Roundtable, May 2000.
- "The so-far successful resistance to Official English in Utah." AAAL 2000, Vancouver, March 2000.
- "An analysis of American/Brazilian business communication." (with Jennifer Harrington) TESOL '99, New York, New York, March 1999.
- "Integrating video-conferencing into EFL curricula." TESOL '99, New York, New York, March 1999.
- "Rhetorical Style: As Latin Was, English Is?" Invited featured speaker, University of Wisconsin Linguistics Symposium on Discourse Across Languages and Cultures, September 1998.
- "Foundations for a Language Policy for the Olympic Games." Invited to present to the Sydney 2000 Olympic Language Policy Consortium, Sydney, Australia, August 1998
- "Utah's language planning response to changing demographics" (co-presented with Laura McCrea) TESOL'98, Seattle, Wa., March 1998.
- "Solving EFL communication problems through interactive video" (Technology Connects Symposium) (co-presented with Marian Ashley) TESOL'98, Seattle, Wa., March 1998.
- "Exploring the scope of "language" in language-in-education policy" (Co-presented with Brent Green). American Association for Applied Linguistics Conference, Orlando, Florida, March 1997.
- "Predictors of academic success in an oral society" (co-presented with Brent Green) in the "Contact, contexts and contrast in cross-cultural literacy colloquium." TESOL '97, Orlando, Florida, March 1997.
- "About language -- the latest from and to applied linguists". Applied Linguistics Interest Section Academic Session, TESOL '97, Orlando, Florida, March 1997.
- "Rhetorical influence: As Latin was, English is." To be presented at the World Englishes Conference, Honolulu, Hawaii, December 1996.
- "To maintain, or to empower or to try to do both? Language policy in the South Pacific." Invited to present at the "Post Colonial

- Language Problems and Language Planning: Assessing the Past Half Century Workshop" of the Memory, History and Critique: European Identity at the Millennium, Fifth Conference of the International Society for the Study of European Ideas, Utrecht, The Netherlands, August 1996.
- "Chinese cultural influences on topic choice and rhetorical style." (Co-presented with Diana Nelson), TESOL '96, Chicago, IL, March 1996.
- "To boldly go where no feminist theory has gone before." Popular Culture Association International Conference, Honolulu, HI, January 1996.
- "Grammars of academic success." Invited to present at the Teacher's Seminar, Liahona, Tonga, June 1995.
- "Elementary, secondary and community literacies in conflict." TESOL '95, Long Beach Ca. March 1995.
- "Hybrid literacies in international communication." Invited to present for the "New Directions in Intercultural Literacy Studies Colloquium", TESOL '95, Long Beach, Ca. March 1995.
- "Copy this down: From language policy to classroom practice." American Association of Applied Linguistics Conference, Long Beach Ca., March 1995.
- "Contrastive discourse analysis of World English literatures." (Co-presented with Wendy Baker). Ninth Annual International Conference on Pragmatics and Language Learning. University of Illinois at Urbana-Champaign, March 1995.
- "Literacies in conflict: From primary to secondary school literacies in an Aboriginal community." Invited as a featured speaker (with honorarium), Australian Council of TESOL Associations Conference, Sydney, Australia, January 1995.
- "Language and language-in-education policy in English dominant nations." In Language Policy Colloquium, Australian Council of TESOL Associations Conference, Sydney, Australia, January 1995.
- "The English language metaphors we write by." Invited as a featured speaker (with honorarium). Australian Council of TESOL Associations Conference, Sydney, Australia, January 1995.
- "Literacies in conflict: From elementary to secondary school literacies in an Aboriginal community." TESOL '94, Baltimore, MD. U.S.A., March 1994.
- "English intrusion in academic genres." Invited to present for the "New Directions in Intercultural Literacy Studies Colloquium", TESOL '94, Baltimore, MD. U.S.A., March 1994.
- "Text and Context in Australian Aboriginal Rhetorics." Pragmatics Research Parasession, 8th Annual International Conference on Pragmatics and Learning, University of Illinois at Urbana-Champaign, March 31 - April 2 1994.
- "Korean Written Discourse Styles: Towards an International Discourse?". Invited to present for the "New Directions in Intercultural Literacy Studies Colloquium", TESOL '93, Atlanta, Ga. U.S.A., April 13-17 1993.
- "From the Past to the Present: A Conceptual Overview of Language Policies in English Speaking Nations." Invited to present for the "Language Policies in English Speaking Nations Colloquium", TESOL '93, Atlanta, Ga. U.S.A., April 13-17 1993.
- "Stylistic Norms and Cultural Variation: A Comparison of Narrative Fiction by European-American and Mexican American Male and Female Authors" (with Joanna Brooks). American Association for Applied Linguistics Conference, Atlanta, Ga. U.S.A., April 17-20 1993.
- "Language Planning, Language Teaching: An Exercise in HUMAN Resource Management" Invited as a "featured" speaker at the Australian TESOL Conference/Summer School, Sydney, Australia, January 17 1993.
- "The Development of Peace Approaches in Materials and Teaching." Presentation at TESOL '92, Vancouver, B.C., March 3 - 8 1992.
- "Policies of the Oppressed: Positive and Negative Language Policies." American Association Applied Linguists Conference, Seattle, March 1 1992.
- "Policies of the Oppressed: Positive and Negative Language Policies." TESOL Conference, Vancouver, March 5 1992.
- "What it Means to Read and Write in Australian Aboriginal Culture." Presented as part of the 7th Annual Cross-Cultural Literacy Colloquium at the TESOL (Teachers of English to Speakers of Other Languages) Conference, 24-29 March 1991, New York. Invited to participate in this colloquium.
- "Culture and Cognition: Research from Australian Aboriginal Education." Presented as part of the Culture and Cognition Research Colloquium at the TESOL (Teachers of English to Speakers of Other Languages) Conference, 24-29 March 1991, New York. Invited to participate in this colloquium.
- "From Oral to Literate Culture: The Australian Aboriginal Experience." Presented at the TESOL (Teachers of English to Speakers of Other Languages) Conference, 6-10 March 1990, San Francisco.
- "Varieties of English." Invited to present in the Applied Linguistics Academic Interest Section at the TESOL (Teachers of English to Speakers of Other Languages) Conference, 6-10 March 1990, San Francisco.
- "Contrastive Analysis of Varieties of Australian Aboriginal Text." Presented at TESOL 23rd Annual Convention, San Antonio, Texas, U.S.A. March 1989.
- "Evaluating the Impact of Bilingual Education in Aboriginal Communities in the Northern Territory." Presented at the ANZAAS (Australian and New Zealand Association for the Advancement of Science) Congress, Townsville, Australia, August 1987.

- "A Contrastive Analysis of Aboriginal English Prose." Presented at the AILA (International Applied Linguistics Association) Congress, Sydney, Australia, August 1987.
- "Aboriginal English Prose: Similarities and Differences to Standard Australian English Prose." Presented at the Cross Cultural Issues in Educational Linguistics Conference, Batchelor, Australia, August, 1987.
- "The Impact of Sociolinguistics Research on Language Development Programs." Presented at the Australian TESOL Summer School, Sydney, Australia, January 1987.
- "The Value of Language Planning Theory on Adult ESL Program Design." Presented at the Applied Linguistics Association of Australia Conference, Adelaide, Australia, August, 1986.
- "Theoretical Foundations of Adult Second-Language Literacy Methodologies." Presented at Applied Linguistics Association of Australia Conference, Adelaide, Australia, August, 1986.
- "Toward a Language Plan for Southern California." Presented at the TESOL National Convention, Houston, March 1984.
- "Contrastive Rhetoric: Applications in a Korean-English Context." Presented at the TESOL National Convention, Toronto, March 1983.
- "A Case for the Cost-Effectiveness of Adult ESL Programs." Presented at the TESOL National Convention, Toronto, March 1983.

Numerous peer reviewed regional/local conference papers. List available upon request

SIGNIFICANT GRANTS, AWARDS AND RECOGNITION

- Mentoring Environment Grant (\$20,000) to mentor students to present at the International Association of Forensic Linguistics Conference, July 2009.
- Mentoring Environment Grant (\$10,400) to mentor students to present at the International Association of Forensic Linguistics Conference, July 2005.
- Brigham Young University, Performing Arts Management. Invited to serve as cultural advisor and to accompany BYU's Ball Room Dance Ensemble on their Hawaii, Tahiti, Australian and New Zealand tour (with spouse), Summer 2005.
- Elected, Board of Directors, Teachers of English to Speakers of Other Languages (TESOL) 2003-2006. As such, served as Convention Chair, March 2005.
- Brigham Young University, Performing Arts Management. Invited to serve as cultural advisor and to accompany BYU's Folk Dance Ensemble on their Australian and New Zealand tour (with spouse), Summer 2000.
- Brigham Young University, College of Humanities, Barker Lectureship. A lectureship and grant to research "linguistic predictors of academic success." 1998 - 1999. \$4000.
- Brigham Young University, Religious Studies Center. A research grant to research cross-cultural and cross-linguistic communication between the U.S.-based LDS Church headquarters and its Brazilian branch office. September 1998. (\$3000) Brigham Young University, Film Committee (with Dr. Paul Baltes). A grant to develop an "Introduction to Language, Multimedia Tutorial." Awarded January 1996. \$20,000.
- Brigham Young University, College of Humanities. A grant to research language provision at the Nagano Olympic Games. Awarded November 1997. \$4000.
- National Language and Literacy Institute of Australia. A grant to research language provision at the Atlanta Olympic Games. Awarded February 1996. \$4,800.
- Polynesian Studies Institute, Research Grant. A grant to study the "Predictors of Academic Success at a Tongan High School." Awarded November 1995. \$4,500.
- Australian Government Department of Education, Employment and Training (DEET), Canberra, Australia. Literacy Innovations Grant to research the "Transition from Upper Primary to Junior Secondary Schooling in an Urban Aboriginal Context." Awarded March 1993. \$10,000.
- College of Humanities, Brigham Young University, Provo, Utah. Travel Grant to conduct a 2 week lecture tour in the People's Republic of China, in conjunction with Beijing Normal University. March 1993. \$5,000.
- Kennedy International Center, Brigham Young University, Provo, Utah. International Studies Grant to research "Positive and Negative Language Policies in Aboriginal Communities." Awarded May 1992. \$5,900.
- College of Humanities, Brigham Young University, Provo, Utah. Professional Development Leave Grant to research "Positive and Negative Language Policies in Aboriginal Communities." Awarded May 1992. \$4,400.

PERSONAL

Married to Pamela Joy Eggington (B.Ed., Elementary Teaching Credential, Graduate TESOL Certificate).
Three children:

William Barry Eggington, Owner and CEO, Eggington Productions, a computer animations producer (see <http://www.eggington.net>)

Kalani Joy Eggington, PhD student, Curriculum and Instruction, University of Queensland, Australia.
Science Teacher., 2002 Olympics Torch bearer

Julie Malia Eggington, Ph.D. Bio-chemistry, University of Wisconsin, Madison. Clinical Variant Specialist,
Myriad Genetics, Salt Lake City, Utah.

Speaker of Korean.

**Dr. William G. Eggington,
Forensic Linguistics Experience, January 2012 with Selected Annotations**

Chair, Department of Linguistics and English Language
Brigham Young University, Provo, Utah, 84604)
(wegg@byu.edu, 801-615-0751)

Publications Involving Forensic Linguistics:

"Finding Justice in Translation: Recent American Jurisprudence Affecting Due Process for Linguistic Minorities Together with Practical Solutions" (with Judge Lynn W. Davis, Maxwell Alan Miller, Adam Prestidge). In *Harvard Latino Law Review*. Spring 2011.

This article, co-authored with Judge Lynn W. Davis of the Utah State 4th District Court along with two BYU students, focuses on actual and potential miscarriages of justice due to the inadequate provision of interpreters and translators involving non-native English defendants.

"Deception and Fraud." In *Dimensions of Forensic Linguistics*, M. Teresa Turell and John Gibbons (eds.). Amsterdam: John Benjamins 2008.

Research Presentations Involving Forensic Linguistics:

Elicited Imitation as a Determiner of the Need for a Court Interpreter" (with T. Cox and S. Wood). International Association of Forensic Linguistics Conference, Birmingham, U.K. July 2011.

This presentation focused on the use of "elicited imitation" as a cost-effective and practical English language testing protocol for determining the need for interpreter support.

"The Consequences of Feigned Comprehension in Interrogation Settings" (with T. Cox and S. Wood). International Association of Forensic Linguistics Conference, Birmingham, U.K. July 2011.

This presentation examines the phenomena of non-native English speakers feigning comprehension – a normal language acquisition strategy that can lead to unreliable outcomes in interrogation settings.

"Toward solving the language testing paradox in English language planning, teaching and learning." Invited Opening Plenary Speaker, Current Trends in Language Testing Conference, Dubai, UAE. November 2010. Funded by U.S. State Department.

"Toward solving the language testing paradox in English language planning, teaching and learning". Teacher seminar, Sultan Qaboos University, Oman, November 2010. Funded by U.S. State Department.

"Fake Comprehension Strategies by Non-native English Speakers in Police Interrogations." International Association of Forensic Linguistics Conference, Amsterdam, NL., July 2009.

An earlier version of the July 2011 presentation described above.

"Linguistic Elements of Hate Crimes," International Association of Forensic Linguistics Conference, Seattle, WA, July 2007.

"Resolving Trade Name Legal Disputes through Corpus Research" (with M. Davies). The American Association of Applied Corpus Linguistics. American Association of Applied Corpus Linguistics." Flagstaff, Az., October 2006.

"Studies in Forensic Linguistics for Pre-Law Students." International Association of Forensic Linguistics Conference, Cardiff, Wales, July 2005.

From Brand Name to Generic Name: The Kelley Blue Book Cases". American Names Society Conference at Linguistics Society of America conference, Boston, MA, January 2004

From Brand Name to Generic Name: The Kelley Blue Book Cases. International Association of Forensic Linguistics Conference. Sydney, Australia, July, 2003.

Professional Affiliations:

Member, International Association of Forensic Linguistics (journal submissions reviewer)

Member, Linguistics Society of America

Member, Teachers of English to Speakers of English International Association (former member, Board of Directors, 2003-2006)

Consultancies:

12/11 – 01/12: Expert witness for Glenn Gimbut, City Attorney, City of San Luis, Az., in a case involving the ability of a non-native English speaker to comprehend complex spoken and written English. (Case found in favor of City Attorney, currently under appeal)

05/11 – 09/11: Expert witness for V. John Ella of Jackson Lewis LLP, Minneapolis, Minnesota in a case involving trade-mark infringement. (Case settled)

06/10 – 08/10: Expert witness for the Federal Defender's Office (Salt Lake City) in a case involving a defendant's English language proficiency (case dismissed).

08/08 – 09/10: Expert witness for Edwin S. Wall, P.C (Salt Lake City) in a case challenging the conclusions of a former FBI document examiner who claims a defendant wrote a series of threatening letters. (Services no longer needed due to prosecution's withdrawal of examiner's services based upon results of evidentiary hearing).

11/09 – 5/10: Expert witness for Sheiness, Scott, Grossman and Cohn, LLP (Houston, Texas) in a case involving the meaning of a term in a legal contract. (case settled)

09/09 – 12/09: Expert witness for Attorney Jon H. Rogers (Salt Lake City, Utah) in a case involving the scope of a "provided, however, that" clause in a legal contract. (case settled)

12/08 – 6/09: Expert witness for Druyon Law Offices (Bountiful, Utah) in a case involving identifying the author of a police statement.

02/08 – 04/08: Expert witness for the Federal Defender's Office (Salt Lake City) in a criminal case involving the ability of a native American to understand his Miranda Rights.

05/07 – 03/08: Expert witness for the Federal Defender's Office (Salt Lake City) in a case involving the English language proficiency of a Korean immigrant charged with a criminal activity.

06/07 – 08/08: Expert witness for the Federal Defender's Office (Salt Lake City) in a case challenging the conclusions of a document examiner who claims a defendant wrote a series of threatening letters.

06/07 – 08/07: Expert witness for Van Cott, Bagley, Cornwall & McCarthy (Salt Lake City, Utah) in a case involving the referent of an exclusionary clause in a disputed contract between two legal firms.

02/07 – 06/07: Forensic document examiner in a case requiring the identification of the author of a series of documents (Strict confidentiality required)

03/07 – 11/07: Expert witness for Glenn Ioffredo, Maitland, FL in a case involving the interpretation of ambiguous references in a will.

09/06 – 05/08: Expert witness for The Sandage Law Firm, P.C., Kansas City, Mo. in a case involving the determination of a crime as a hate crime based upon the defendant's use of an ethnic epithet. (pro bono)

3/00 -- present: Expert Witness for Craig Cook, Attorney-at-law, (Salt Lake City, Utah) in a case involving a content analysis of a signed, but undated holographic will.

12/04 – 6/05: Consulting Expert Witness for Wilmer Cutler Pickering Hale and Dorr (Washington D.C.) in a case involving generic use of a trade name.

04/02 – 12/03: Expert witness for the California State Attorney General (Sacramento) in a case involving the readability of parole documentation.

2/02 – 10/02: Expert witness for Nielsen and Senior (Salt Lake City, Utah) in a case involving the scope of an exclusionary clause in a mining lease agreement.

08/02-- 02/03. Expert witness for Ted Weckel, (Attorney-at-law, Utah) in a case involving the English language proficiency of a Cambodian refugee charged with criminal activity.

11/00 -- 05/02. Expert Witness for Kaye, Scholer LLP (New York, Los Angeles) in a case involving national and international brand name infringement.

3/01 - 6/02. Expert witness for Robert Lucherini, Attorney-at-law (Las Vegas, Nevada) in a case involving the English language proficiency of a Chinese-Vietnamese immigrant under criminal investigation.

12/00 - 3/01. Expert witness for Giauque, Crocket, Bendinger & Peterson (Salt Lake City, Utah) in a case involving Utah's Official English policy. (pro bono)

08/96 -- 12/97 Expert Witness for Abbott and Walker, Attorneys-at-law (Provo, Utah), in a case involving the meaning of two related words in a "non-compete clause" within a sale-of-business contract.

12/91 -- 3/92. Expert Witness for Holme, Roberts and Owen, (Salt Lake City, Utah) in a case involving the meaning of a mining contract between the State of Utah and an international mining company.

TAB 9

2012

Security Review – Final Report Third District and Juvenile Courthouse Tooele

Carol A. Price
Court Security Director
Utah State Courts
3/19/12

Executive Summary

Background

Address:	74 South 100 East, 84074
Ownership:	State-owned
Square Footage:	30,000
Courtrooms:	1 District, 1 Juvenile, and 1 shelled
Security Contract amount:	\$40,000 bailiff / \$90,000 security
Security staffing:	Full time
Court Employees:	34 (2007)
Co-locators:	Tooele County District Attorney, Tooele County Justice Court
Security model:	Security screening, central control room
Intrusion alarm system:	Peak Alarm, motion sensor and breakage
Reported Incidents:	None - 2008 through 1/26/12
Previous Studies:	None

Security Review Objectives

The purpose of the court security review process is to preserve the integrity of the judicial process and to assure the safety of participants by identifying and correcting deficiencies in the physical and procedural security of Utah State Court facilities. This is achieved by comparing procedural and physical security practices and features to assure compliance with:

- Rule 3-414 of the Utah Rules of Judicial Administration
- Security contracts between the AOC and local sheriff's offices (scope of services)
- Local security plans
- Utah Judicial Design Standards (2011)
- Generally accepted security practices
- "Steps to Best Practices for Court Building Security," National Center for State Courts (2010).

Scope

This security review does not include commentary on cash handling or other financial procedures as these matters are addressed by internal auditors under Rule 3-415 of the Utah Code of Judicial Administration. Additionally, this review does not address the risk of terrorist attack such as a bombing or chemical/biological/radiological (CBR) attack. Instead, the review is meant to limit the everyday security threats posed by persons who feel compelled to disrupt

court proceedings, retaliate for their perceived injustice or generally behave inappropriately at the courthouse.

The review was accomplished by two site visits. The first occurred (unannounced) on January 3, 2012 and involved observations while attending Drug Court with Judge Adkins. The second visit was on January 25 and was a meeting with Mike Ferrin (DFCM), TCE Duane Betournay and TCE Peyton Smith, and Lt. Harrison, Sgt. Scharmann and Officer Ostler of the Tooele County Sheriff's Office. In addition to the two visits, email communication was received from Judges May and Adkins.

Summary of Observations

Commendable Procedures

Based on the results of the review, the court is recognized for complying with judicial rule, local security plans and generally accepted security practices in the following areas:

- Good courtroom management skills were displayed by the officer charged with monitoring in-custody persons. Very clear directions and expectations for behavior were given to the inmates.
- Employee identification/access cards are consistently and frequently (quarterly) audited by DFCM
- Duress alarms are consistently and frequently (quarterly) tested jointly by DFCM and the Sheriff's Office
- Judges were complimentary of the performance of current security personnel

Significant Areas for Improvement

The Tooele Courthouse security has several areas that need improvement:

- Patrons are not adequately screened for weapons
- Annual employee training is significantly overdue
- Public counters do not adequately prevent the public from gaining access to staff/judicial areas

Observations and Recommendations

The recommendations for correcting the deficiencies are given without regard to cost and are provided with the acknowledgment that solutions often involve a combination of responses. The following observations and recommendations are presented in random order.

1. Patrons are not adequately screened for weapons.

Criteria: Rule 3-414(7)(A)(i). *A courthouse is presumed to be free of all weapons and firearms unless a local security plan provides otherwise in accordance with this rule. Except as permitted by this rule, no person may possess a firearm, ammunition, or dangerous weapon in a courthouse; local security plan (p. 3); security service contract (scope of work clauses), and general security practice.*

Observation: I was able to bring in a Gerber Tool with knife blades and other dangerous tools into the courthouse without being challenged. The tool was in a purse and was sent through the x-ray machine (Photos 1-3).

Recommendation: Officers should enroll in the online weapon recognition training being offered free-of-charge by the Courts. The existing computer monitor should be replaced with a larger monitor with better resolution to assist officers in the identification of potential threats.

Management response:

- **Actions to be taken:** Two of the three training slots allocated to Tooele County have already been utilized. Both Officers have completed the training. The additional slot has been allocated and an officer will complete this training within the next 2 weeks. As additional slots become available, all staff will complete training.

In addition, a new monitor has been acquired to replace the existing outdated monitor. This will be in place and operational by March 15, 2012.

- **Person(s) responsible:** Lt. David Harrison, Sgt. Frank Scharmann
- **Implementation date:** As listed above.

2. Annual employee security training is overdue.

Criteria: Rule 3-414 (4)(D). *The court executive shall provide a copy of the current local security plan and annual training on the plan to all employees, volunteers and security personnel.*

Observation: It is unknown when the last training was held for employees.

Recommendation: Online security training for staff will be available in May/June. While awaiting this training availability, the Court Security Director and Sheriff's Sergeant should arrange with the Court Executives for active gunman training for employees.

Management response:

- **Actions to be taken:** As per the recommendation, active gunman training, as well as routine security training will be carried out in Tooele as soon as practical. The training will be conducted by the Tooele County Sheriff's Office in consultation with the Court Security Director
- **Person(s) responsible:** Lt. David Harrison, Sgt. Frank Scharmann, Carol Price
- **Implementation date:** To be completed by June 1, 2012

3. Public reception area counters provide opportunities for the public to access the secure staff and judicial areas.

Criteria: Judicial System Design Standards 5.5.5. *The single most important security feature of the Clerk's Office is its ability to separate the public from vulnerable zones and to maintain a secure envelope for the transportation of documents, money or evidence.*

Observation: The public reception area is shared by both District Court and Juvenile Court and has individual counter stations to provide assistance to patrons (Photos 4 and 5). While the counter height is significant and is likely to discourage attempts to vault it, there is also an ADA compliant

counter that would allow easier access to the staff (non-public) areas. In either case, the current set up does not constitute a "secure envelope" as the standard outlines.

Recommendation: Remodel the reception area to provide a truly secure envelope where there is no opportunity for a member of the public to gain access by crawling or vaulting over the counter. This would involve a complete, unbroken barrier between the court staff and members of the public.

Management response:

- **Actions to be taken:** A building block proposal will be submitted for the 2014 legislative session. This will also require a commitment from the County to modify their counter space. Without modifications, interior sections of the building will still be vulnerable to public access.
- **Person(s) responsible:** Duane Betournay, Alyn Lunceford
- **Implementation date:** As directed by the Office of Fiscal Operations

4. Incoming US Postal Service mail is not screened.
--

Criteria: "Steps to Best Practices for Court Building Security," National Center for State Courts (2010), page 30. *All mail, packages, and parcels from USPS, FedEx, UPS, DHL and other carriers should be thoroughly screened (x-rayed) upon being received at the mailroom. This includes all USPS mail delivered and picked up from the local post office.*

Observation: While security officers utilize the x-ray machines to examine deliveries from FedEx and other delivery services, the USPS mail enters the courthouse unscreened. This provides an opportunity for someone to send a dangerous item into the courthouse, not the least of which includes an explosive device.

Recommendation: The Trial Court Executives, Clerk of Court, security officers and Court Security Director should meet to develop an effective mail handling

procedure to assure that incoming mail is safe to distribute. The procedure should then be included in the local security plan.

Management response:

- **Actions to be taken:** All mail will be screened at the point of entry
- **Person(s) responsible:** Sgt. Frank Scharmann
- **Implementation date:** Immediate

5. The jury assembly room on the second floor was unsecured and unattended.

Criteria: Generally accepted security practice.

Observation: During an unannounced visit on January 3, the jury assembly room doors were unlocked and open while no one was present (Photo 6). It should be noted, however, that on the second visit (January 25), the door was properly secured.

Recommendation: Consistently secure all doors that are not in use.

Management response:

- **Actions to be taken:** A sweep of the jury assembly room will be made each day prior to the building being opened to the public.
- **Person(s) responsible:** Sgt. Frank Scharmann
- **Implementation date:** Immediate

6. Courtrooms searches for weapons and contraband are not adequate.

Criteria: "Steps to Best Practices for Court Building Security," National Center for State Courts (2010), page 12. *"Conduct a sweep in the morning before a proceeding is held and at the end of the day."*

Observation: Court security staff indicated that they search each courtroom on a weekly basis for any items that may have been left in the courtroom.

Recommendation: Courtroom searches should be conducted before and after each court session to check for contraband or weapons. This practice augments the weapon screening process taking place at the front entrance and addresses the possibility of someone "planting" a weapon in the courtroom. Supervisory security personnel should also implement an internal testing procedure where items are left in the courtroom to determine the effectiveness of the officers' searching techniques.

Management response:

- **Actions to be taken:** A sweep of each courtroom, and visiting room will take place prior to the building being opened to the public each business day.
- **Person(s) responsible:** Sgt. Frank Scharmann, Tooele County Sheriffs personnel.
- **Implementation date:** Immediate

7. Evacuation drills for court staff and building occupants are not regularly held.
--

Criteria: Generally accepted security practice and Department of Facilities Construction and Management (DFCM) guidelines.

Observation: It is believed that the last courthouse evacuation drill occurred over four years ago. Court employees and security staff hired during this time, then, have never experienced a drill and may be unclear of a proper evacuation response.

Recommendation: Hold an unannounced evacuation drill annually and correct any deficiencies in the response.

Management response:

- **Actions to be taken:** Staff of the Tooele County Courthouse, and Tooele County Sheriffs will meet to ensure that emergency procedures for evacuations have been updated, and that there is a clearly identified floor monitor assigned for each floor. Following this meeting, a drill will be held, and a debriefing will take place after the drill.
- **Person(s) responsible:** Sgt. Frank Scharmann, Craig Ludwig, Kyle Memmott
- **Implementation date:** Completion by June 30, 2012

Photo Section



Photo 1. As presented through x-ray.



Photo 2. Without carrying case.

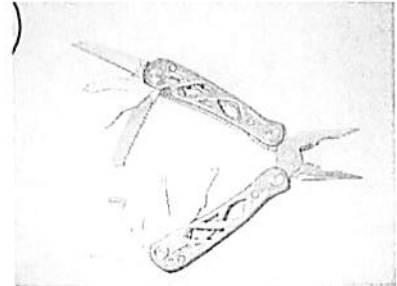


Photo 3. With exposed blades and tools.

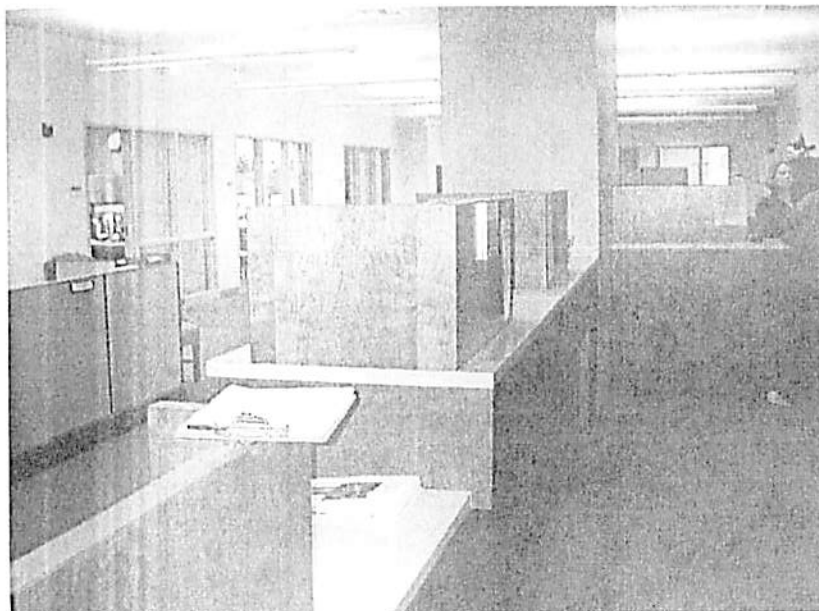


Photo 4. Juvenile Court Reception.



Photo 5. District Court Reception.



Photo 6 – Jury assembly area.

TAB 10

OFFICE OF
SEVIER COUNTY ATTORNEY

DALE P. EYRE
County Attorney

Sevier County Justice Complex
835 East 300 North, Suite 100
Richfield, Utah 84701
Telephone (435) 896-2675
FAX No. (435) 896-1706

CASEY W. JEWKES
Deputy County Attorney

March 21, 2012

Debra Moore
Administrative Office of the Courts
450 South State
PO Box 140241
Salt Lake City, UT 84114-0241

Rick Schwermer
Administrative Office of the Courts
450 South State
PO Box 140241
Salt Lake City, UT 84114-0241

Re: Sevier County Mental Health Court

Dear Ms. Moore and Mr. Schwermer:

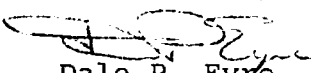
Since August of last year, Sevier County has been trying to initiate a mental health court. There are three pending cases and four more probationers who desperately need the services of a mental health court. I am writing to see if there is anything more we can do to receive authorization.

We have operated a drug court program for more than ten years. We have had phenomenal success and it has become a crucial element of our criminal justice system. Because of its current structure, we could incorporate a mental health court without additional personnel or funding. In fact, we could be operating tomorrow with your approval.

As the person responsible for law enforcement in this county, I can assure you that this small group of repeat offenders will continue to commit crimes until a mental health court is in place. They do not belong in prison but their criminal records are becoming substantial. We have tried to do everything that is required to be certified for a mental health court. We are hoping that approval could be granted at your April meeting. If there is anything else that myself, the judges, or our commissioners can do, please let me know.

Thank you for your assistance in this matter.

Respectfully Yours,


Dale P. Eyre
Sevier County Attorney

DPE:kt

**APPLICATION FOR INITIAL PROJECT PLANNING APPROVAL
FOR PROPOSED PROBLEM SOLVING COURT PROJECT**

Name/Working Title of Proposed Project: Sixth District Mental Health Court

Court Location: 845 E. 300 N. Richfield, UT 84701

Application Submitted by: Wendell L. Roberts, Sixth District Trial Court Executive

I. Target Population

Describe the types of cases or the description of the population that will be served by this project. Please be specific.

Initially the target population will be those individuals that present themselves before the court with a felony charge and having a diagnosis of either schizophrenia, schizoaffective or bi-polar disorder.

II. Purpose/Goal of Project

Please explain why you believe this project is necessary or desirable. How will a problem solving approach benefit your target population?

This is a population that more frequently comes before the courts. It has been documented that many have been diagnosed with a mental illness and find themselves facing serious charges. When a Mental Health Court (MHC) is formed, the courts have the ability with the cooperation from community agencies to develop a plan to establish well defined goals that if followed will allow the mentally ill to return to society saving the defendant from going further into the justice system and saving money. The three goals that were explained for a MHC are first to get them to buy into the MHC concept by coming to court on a regular basis. The second goal for the MHC is to assist and empower the individual to return to the routine of taking their appropriate medications. After those previous two goals have been met then the focus will be to help them not to fall back into behaviors that led them into court in the first place. That is usually by using illegal substances in place of their prescribed medications due to convenience, lack of resources or proper support. Graduation from the MHC needs to be done in a way that is supportive because with a MHC, not like Drug Courts, the support for aftercare is more of a way of life than an acute fix.

III. What is the size of the proposed project?

Approximately how large is your target population and how many participants would likely be served by the proposed project?

Where there is no funding at present for counseling and for a caseworker Central Utah Counseling believes that most of the targeted population will be covered with Medicaid which will help them with billing and funding for those admitted into a MHC. At the present they feel a good starting figure would be to serve up to seven. This of course would be carefully monitored.

IV. What is the anticipated impact on court staff, clerks and judges? How will that impact be met?

The initial impact will be minimal. We currently have all the necessary players from our existing drug court. We will hold the mental health court on the same day as Judge Wallace A. Lee has his drug court here in Richfield. The MHC staffing before court will take place in conjunction with the drug court staffing in the morning. That staffing will be followed by the drug court at 9:00 AM and the same team members will come back to the courts for our MHC at 1:00 PM before the afternoon calendar begins.

V. Funding considerations/stakeholders

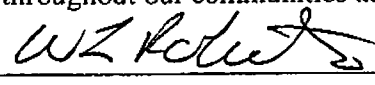
Identify the stakeholders and what they will need to contribute to the project. If you have identified a funding source to support the project, please specify.

The stakeholders at the moment are those same stakeholders as we have with drug court. This has been discussed with the county attorney's office, the defense attorney, mental health administrator and the judges in Sixth District. As soon as it was decided to go forward with this application for a MHC in our area there have been individuals identified that have come into the system recently who have been identified as beneficiaries of a MHC.

Trial Court Executive Comment:

Previous to coming to work with the courts I had spent a considerable amount of time in my education, professional and personal life working with those with mental illnesses. I have seen these individuals as they have fallen in the cracks of our judicial system. Once I started working with the courts I once again realized how the courts can be part of the problem or the solution. I believe a MHC in this area would be very beneficial for our community here in Sevier County and our District. I also am hoping this collaborative effort will spread throughout our communities across the state.

Date: 2/15/12

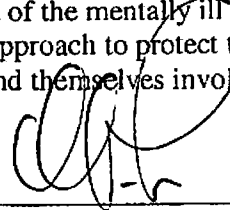
Signature: 

Trial Court Executive

Presiding Judge Comment:

I am very supportive of the effort to begin a Mental Health Court in Sevier County. I have seen the tremendous benefit to the community and individual which results from drug courts in our district and wish to see a similar model employed for the benefit of the mentally ill in our area. A Mental Health Court will be an effective, humane, enlightened approach to protect the community and provide resources to help mentally ill individuals who find themselves involved with the criminal justice system.

Date: 2/15/12

Signature: 

Presiding District Court Judge

TAB 11



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Tim Shea *TS*
Date: April 6, 2012
Re: Rules for comment

The Policy and Planning Committee recommends that the following rules be published for comment.

Rule Summary

CJA 04-0409. Council approval of Problem Solving Courts. Amend. Regulates ex parte communication in problem solving courts, as recognized by the Code of Judicial Conduct and consistent with the signed agreement.

Encl. Draft rules

The mission of the Utah judiciary is to provide the people an open, fair,
efficient, and independent system for the advancement of justice under the law.

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Rule 4-409. Council approval of Problem Solving Courts.

Intent:

To establish criteria for the creation and operation of problem solving courts, and to create a process for ongoing reporting from and evaluation of problem solving courts.

Applicability:

This rule applies to all trial courts.

Statement of the Rule:

(1) Definitions.

(1)(A) Applicant. As used in this rule, an applicant is the problem solving court judge, court executive, or other representative of the problem solving court as designated by the problem solving court judge.

(1)(B) Problem solving court. As used in these rules, a problem solving court is a targeted calendar of similar type cases that uses a collaborative approach involving the court, treatment providers, case management, frequent testing or monitoring and ongoing judicial supervision. Examples include drug courts, mental health courts and domestic violence courts.

(2) Initial application. Prior to beginning operations, each proposed problem solving court must be approved by the Judicial Council and agree to comply with any published standards. An application packet, approved by the Judicial Council, shall be made available by the Administrative Office of the Courts. This packet must be submitted to the Council for approval by the applicant at least 90 days in advance of the proposed operation of a new court.

(3) Annual report. Existing problem solving courts must annually submit a completed annual report on a form provided by the Administrative Office of the Courts.

(4) Grants. In addition to complying with the requirements of CJA Rule 3-411, an applicant shall notify the Judicial Council of any application for funds to operate a problem solving court, whether or not the court would be the direct recipient of the grant. This notification should be made before any application for funding is initiated.

(5) Operation of the problem solving court. All problem solving courts must adhere to the following requirements, unless specifically waived by the Judicial Council:

(5)(A)(i) In a criminal proceeding, a plea must be entered before a person may participate in the court. Testing and orientation processes may be initiated prior to the plea, but no sanctions may be imposed until the plea is entered other than those which may be imposed in a criminal proceeding in which a person is released before trial. Prior to the acceptance of the plea, each participant must sign an agreement that outlines the expectations of the court and the responsibilities of the participant.

(5)(A)(ii) In juvenile dependency drug court, sanctions may not be imposed until the parent has signed an agreement that outlines the expectations of the court and the responsibilities of the participant.

(5)(B) Eligibility criteria must be written, and must include an assessment process that measures levels of addiction, criminality, and/or other appropriate criteria as a part of determining eligibility.

(5)(C) The frequency of participation in judicial reviews will be based on the findings of the assessments. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable. Otherwise, judicial reviews should be conducted by the same judge each time.

(5)(D) Compliance testing must be conducted pursuant to a written testing protocol that ensures reliability of the test results.

(5)(E) Treatment must be provided by appropriately licensed or certified providers, as required by the Department of Human Services or other relevant licensure or certification entity.

(5)(F) Each problem solving court must have written policies and procedures that ensure confidentiality and security of participant information. These policies and procedures must conform to applicable state and federal laws, including the Government Records and Access Management Act, HIPAA, and 42 CFR 2.

(5)(G) Any fees assessed by the court must be pursuant to a fee schedule, must be disclosed to each participant and must be reasonably related to the costs of testing or other services.

(5)(H) Courts must conduct a staffing before each court session. At a minimum, the judge, a representative from treatment, prosecutor, defense attorney, and in dependency drug court a guardian ad litem, must be present at each court staffing.

(5)(I) At a minimum, the judge, a representative from treatment, prosecutor, defense attorney, and in dependency drug court a guardian ad litem, must be present at each court session.

(5)(J) Each court must be certified by the Judicial Council every two years. Certification requires all courts to meet the minimum requirements stated in this rule.

(6) Evaluation and Reporting Requirements. Each problem solving court shall annually report at least the following:

(6)(A) The number of participants admitted in the most recent year;

(6)(B) The number of participants removed in the most recent year;

(6)(C) The number of participants that graduated or completed the program in the most recent year; and

(6)(D) Recidivism and relapse statistics for as long a period of time as is available, but at least for one year. If the court has been in existence for less than one year, then for the amount of time the court has been in existence.

(7) DUI Courts. The following courts are approved as DUI Courts: Clearfield Justice Court, Holladay Justice Court, Riverdale Justice Court, Davis County Justice Court, Taylorsville Justice Court, and other courts as may be approved by the Judicial Council in the future.

(8) Communications. A judge may initiate, permit, or consider communications, including ex parte communications, made as part of a case assigned to the judge in a problem-solving court, consistent with the signed agreement.

TAB 12

To: Members of the Judicial Council

From: Dan Becker

Subject: Consent Calendar: Council Appointments

Date: April 25, 2012

The Judicial Council is required to make appointments to two committees established by 2012 Legislature. The two new committees are the Committee to Study the Expungement of Drug Offenses (SB 182) and the Veterans Reintegration Task Force (HB 162).

I recommended to the Management Committee that Rick Schwermer be our representative on both committees and they concurred. Rick has been involved in early discussions on both of these issues.