

JUDICIAL COUNCIL MEETING

AGENDA

Monday, June 24, 2013
Courtroom, 2nd Flr
Garfield County Courthouse
Panguitch, Utah

Chief Justice Matthew B. Durrant, Presiding

1. 9:00 a.m. Welcome & Approval of Minutes Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 9:05 a.m. Chair's Report. Chief Justice Matthew B. Durrant
3. 9:15 a.m. Administrator's Report. Daniel J. Becker
4. 9:30 a.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant
Liaison Committee. Justice Jill Parrish
Policy and Planning Judge Greg Orme
Bar Commission. John Lund, esq.
(Tab 2 - Information)
5. 9:40 a.m. Standing Committee on Children and Family Law
Update. Judge Thomas Higbee
(Information) Ray Wahl
6. 10:00 a.m. Proposed Study Item. Daniel J. Becker
(Tab 3 - Information)
7. 10:20 a.m. Kanab Justice Court – Dissolution Issue. Rick Schwermer
(Tab 4 - Action)
- 10:40 a.m. Break
8. 10:50 a.m. City Arrangement with Online Traffic School Provider
to Collect Plea in Abeyance Fee. Ray Wahl
(Tab 5 – Action)
9. 11:10 a.m. Senior Judge Certification. Tim Shea
(Tab 6 – Action)
10. 11:05 a.m. Sixth District Update and Tour of Panguitch
Court Facility. Judge Wallace A. Lee
(Information) Wendell Roberts

- 12:00 p.m. Lunch
11. 12:30 p.m. Executive Session.
12. 12:50 p.m. Preliminary FY2015 Budget Related Issues.Daniel J. Becker
13. 1:50 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.

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|--|---------------|
| 1. Committee Appointment
(Tab 7) | Ron Bowmaster |
| 2. Rules for Final Comment
(Tab 8) | Tim Shea |
| 3. HR Policy Approval
(Tab 9) | Rob Parkes |
| 4. Grant Approval
(Tab 10) | Katie Gregory |
| 5. Revised Continuity of Operations Plan
(Tab 11) | Carol Price |

TAB 1

JUDICIAL COUNCIL MEETING

Minutes

Monday, May 20, 2013

Matheson Courthouse

Salt Lake City, UT

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, vice chair
Justice Jill Parrish
Hon. Judith Atherton
Hon. Glen Dawson
Hon. George Harmond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. Reed Parkin
Hon. John Sandberg
Hon. Larry Steele
John Lund, esq.

EXCUSED:

STAFF PRESENT:

Daniel J. Becker
Diane Abegglen
Jody Gonzales
Tim Shea
Nancy Volmer
Katie Gregory
Rob Parkes
Brent Johnson
Kim Allard
Liz Knight
Mark Bedel

GUESTS:

Joanne Slotnik, JPEC
Shannon Sebahar, JPEC
Colin Winchester, JCC
Judge David Connors
Judge Mark May
W. Thiel, citizen

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

Chief Justice Durrant welcomed everyone to the meeting.

Motion: Judge Parkin moved to approve the minutes from the April 22, 2013 Judicial Council meeting. The motion was seconded, and it passed unanimously.

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

Chief Justice Durrant reported on the following:

He spoke at the District Court Conference held at the first of May, and he attended the Appellate Court Conference held May 15-17.

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

Mr. Becker reported on the following items:

GAL Director. Mr. Becker introduced Ms. Liz Knight, GAL Director, to the Council. He provided background information on her experience.

Judicial Retirements. Judge Larry Steele has announced his upcoming retirement, effective December 1. Judge Paul Iwasaki has announced his upcoming retirement, effective September 16.

JPEC. Mr. Myron March resigned from his position on the Judicial Performance Evaluation Commission, effective immediately. An appointment to fill the vacancy will be made by the Supreme Court.

Juvenile Court Administrator. The job announcement to fill this vacancy has been reposted for an additional 30 days.

Case Filings/Weighted Caseload. The case filing reports as of April 30, 2013 reflect a 1% decrease in district court case filings and a 10% decrease in juvenile court referrals. The weighted caseload data reflects that collectively statewide, the number of judges needed closely matches the number of actual judges in both district and juvenile court. For comparison, in 2009 there were five of the eight districts over 100% for weighted caseload in district court and six of the eight districts were over 100% for weighted caseload in juvenile court.

Court Presentations. Mr. Becker recently participated in several court conferences by providing presentations for Washington State and South Dakota.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durrant 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:

No meeting was held in May.

Policy and Planning Meeting:

Judge Orme reported on the following:

A meeting was held in May. The majority of the meeting consisted of time spent discussing and considering several rules.

Judge Orme noted that further amendments to Rule 4-202.02 – Records Classification has been drafted to include a new classification of “safeguarded” which deals with identifying information of victims and witness of a crime. An additional handout was distributed to Council members noting the additional recommended amendment.

Motion: Judge Orme moved to further amend Rule 4-202.02 to include the new classification of “safeguarded” and publish the rule for comment. Judge Dawson seconded the motion, and it passed unanimously.

Bar Commission Report:

Mr. Lund reported on the following:

An additional \$20 per lawyer assessment will be requested along with payment of the Utah State Bar dues to fund the Client Security Fund. This amount is the same that has been requested for the past few years.

Continued funding of the employee assistance program through Blomquist Hale is currently being evaluated by the Bar Commission. Discussion took place.

Mr. Curtis Jensen, incoming Bar President, and Ms. Lori Nelson, Bar President, recently met with a congressional delegation on ABA Day in Washington DC.

The Modest Means Program currently has 110 lawyers available to take cases in the program, and there have been 65 referrals to date. Providing more awareness of the program to the courts and the judges is the next activity the Bar will place its focus.

5. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Joanne Slotnik and Shannon Sebehar)

Chief Justice Durrant welcomed Ms. Slotnik and Ms. Sebehar to the meeting.

Ms. Slotnik introduced Ms. Sebehar, House of Representatives appointment.

Ms. Sebehar provided her background.

Ms. Slotnik mentioned the resignation of Mr. Myron March, Commission member. An appointment to fill the vacancy is forthcoming. Ms. Kelsie Strong, has been appointed by the Senate to fill the vacancy left with the resignation of Mr. Chris Buttars in December 2011.

Ms. Slotnik and Ms. Sebehar highlighted the following in their update: 1) appellate opinion evaluation, 2) juror survey questions, 3) audit of the survey results, 4) juvenile court staff survey, 5) appellate court survey, 6) attorney surveys, and 7) important dates regarding judges up for retention in 2014 and judges up for retention in 2016.

It was noted that the appellate opinion evaluation would be considered further in a future pilot. Clarification was requested on the continued study of the appellate opinion evaluation.

Discussion took place relative to the accuracy of the survey results. Ms. Sebehar provided details on what the Commission has planned with regard to auditing of the survey results.

Discussion also took place regarding whether a survey should be counted when a respondent does not complete all questions.

Ms. Slotnik and Ms. Sebehar were thanked for their update.

6. JUDICIAL CONDUCT COMMISSION REPORT: (Colin Winchester)

Chief Justice Durrant welcomed Mr. Winchester to the meeting.

Mr. Winchester highlighted the following in his report: 1) Terry Welch appointed as a new member on the Commission, 2) disposition times for dismissals with warning, 3) disposition times for public sanction cases, 4) the Commission's goal to complete 90% of preliminary investigations in 90 days, 5) an average of nine months to process a complaint from receipt to the Supreme Court, and 6) reviewed the process undertaken by the Commission when a complaint is received. Discussion took place regarding the length of time it takes the Commission to handle all elements of a complaint.

Discussion took place.

Mr. Winchester was thanked for his update.

7. **RULES FOR CONSIDERATION: (Tim Shea)**

Chief Justice Durrant welcomed Mr. Shea to the meeting.

Rules for Expedited Effective Date. The following rules were recommended to be published for comment.

Rule CJA 02-0103 – Open and closed meetings. Technical changes were made to meet the requirements of SB 77 – Availability of Government Information, with an effective date of May 14.

Rule CJA 02-0104 – Recording meetings. Amendments were made to meet the requirements of additional public records to be published on the Utah Public Notice Website with the passage of SB 77 – Availability of Government Information, with an effective date of May 14.

Rule CJA 04-0906 – Guardian ad litem program. The rule will implement the requirements of Section 78A-2-228 for private guardian ad litem attorneys, effective July 1.

Rule CJA 06-0401 – Domestic relations commissioners. The rule includes dating violence protective orders, authorized by HB 50, with authority of court commissioners, effective May 14.

Motion: Judge Steele moved to approve the rules being recommended for expedited effective date and to be published for comment. Judge Sandberg seconded the motion, and it passed unanimously.

Rules for Final Action. The following rules were recommended for approval:

Rule CJA 02-0206 – Effective date of rules. Rules effective dates designated as May 1 and November 1 for Judicial Council rules.

Rule CJA 04-0610 – Appointment of justice court judges to preside at first appearances, preliminary hearings and arraignments. A technical amendment was made.

Rule CJA 07-0304 – Probation supervision. This rule amended probation supervisory techniques and correction plans.

The effective date for the rules for final action is November 1 if approved.

Motion: Judge Steele moved to approve the rules being recommended for final action as presented. Justice Parrish seconded the motion, and it passed unanimously.

Rule 1-206 – Criteria for leadership positions. The intent of this rule is to describe the qualities and interests expected of judges selected to serve on the Judicial Council, on the boards of judges, and as a presiding judge.

Mr. Shea mentioned that Policy and Planning was unable to reach a recommendation regarding the rule, therefore, it was presented to the Council for their consideration. He provided background information on creation of the rule. He noted that the Board of District Court Judges opposed the rule, and the Board of Juvenile Court Judges and the Board of Justice Court Judges support the rule. Discussion took place. Some members of the Council were of the opinion the rule was unnecessary and suggested that the matter should be handled by the individual boards and respective court districts.

Motion: Judge McCullagh moved to send Rule 1-206 out for comment. The motion was seconded. Judge Harmond, Judge Atherton, Judge Dawson, Judge Mortensen, Judge Sandberg, Judge Maughan, and Mr. John Lund voted no, and the motion failed.

Clarification on Rule 4-906 was provided. Discussion took place.

8. COMMISSIONER COMPENSATION: (Rob Parkes)

Mr Parkes reviewed the proposed commissioner compensation to include the one percent cost-of-living adjustment. A comparison of the commissioner's annual salary to the district judge's salary from 2005 to the present time was provided. It was noted that funding is available for the cost-of-living adjustment.

Motion: Judge Hornak moved to approve the cost-of-living adjustment for court commissioners. Judge Mortensen seconded the motion, and it passed unanimously.

9. ETHICS ADVISORY OPINION FOLLOW-UP: (Brent Johnson and Judge David Connors)

Chief Justice Durrant welcomed Mr. Johnson and Judge Connors to the meeting.

Mr. Johnson reminded the Council that he presented information at their February 2013 meeting on Informal Opinion 12-02 as it relates to the use of a preapproved roster of service providers created by the courts and making referrals. At that time, a motion was made to request the informal opinion be reconsidered by the Council at their May meeting.

The Board of District Court Judges expressed their concerns regarding Informal Opinion 12-02, in writing. The Board asked for clarification as to whether or not "service provider" includes private probation supervisors who do not provide treatment, but only supervise probation. They also were interested in an appropriately screened rotation process among private probation supervisors. It was noted that the Board of Justice Court Judges shared some of the same concerns expressed by the Board of District Court Judges. Discussion took place.

Motion: Judge Orme moved to designate a working group to consist of Judge Dawson, Judge McCullagh and Judge Parkin to work with Mr. Johnson to review Informal Opinion 12-02 and determine if revisions are necessary and whether the opinion should remain as an informal opinion or amended as a formal opinion. Judge Dawson seconded the motion, and it passed unanimously.

10. UPDATE AND RECOMMENDATIONS OF THE UNIFORM FINE AND BAIL COMMITTEE: (Judge David Connors)

Chief Justice Durrant welcomed Judge Connors to the meeting.

Judge Connors provided an update to the Council on the work of the Uniform Fine and Bail Committee, and he noted that revisions, based on new legislation, were made to the Uniform Fine and Bail Schedule. The recommendations, on behalf of the Committee, are outlined in the information provided for the Council.

He mentioned an item for discussion at the 2014 meeting for the Committee to revisit the basis for calculating the fine amounts and consider making them all "round" numbers and consistent.

Motion: Judge McCullagh moved to approve the changes and recommendations as outlined by the Uniform Fine and Bail Committee. Justice Parrish seconded the motion, and it passed unanimously.

11. INITIATIVE ON UTAH CHILDREN IN FOSTER CARE: (Katie Gregory)

Chief Justice Durrant welcomed Ms. Gregory to the meeting.

Background information on the Initiative on Utah Children in Foster Care (IOU) was given. IOU, spearheaded by Justice Christine Durham (then Chief Justice of the Utah Supreme Court) and in cooperation with Utah Governor Olene Walker, was formed in 2005 as a collaborative effort between child protection agencies, business leaders, religious groups and public officials to improve the lives of youth in foster care.

Ms. Gregory noted that Justice Durham was unable to attend today. She mentioned that at a recent meeting, focus was placed on collective accomplishments of the Initiative. With the help of Ms. Misty Butler and Mr. Ryan Carrier, a document (distributed to the Council) was prepared providing highlights and accomplishments of the Initiative. Ms. Gregory provided an update to the Council on the highlights and accomplishments of the Initiative on Utah Children in Foster Care to include: 1) IOU committee members and affiliated subcommittees, and 2) highlighted the work of the subcommittees

Chief Justice Durrant expressed his gratitude for the accomplishments of the Initiative on Utah Children in Foster Care.

12. BOARD OF JUVENILE COURT JUDGES UPDATE: (Judge Mark May and Katie Gregory)

Chief Justice Durrant welcomed Judge May and Ms. Gregory to the meeting.

Judge May provided an update to the Council on the activities of the Board of Juvenile Court Judges. He highlighted the Board's goals to include: 1) design "best practices" guide regarding juvenile court practices on immigration, 2) implement first year of the Juvenile Court Two-Year Electronic Conversion Plan, 3) improve permanency for older youth, and 4) give input to Juvenile Sentencing Guidelines Revision Committee.

A copy of the juvenile court electronics records update was distributed and briefly reviewed.

Judge May and Ms. Gregory was thanked for the update.

13. ONLINE COURT ASSISTANCE PROGRAM (OCAP) Enhancements: (Kim Allard)

Chief Justice Durrant welcomed Ms. Allard to the meeting.

Ms. Allard provided background information on the Online Court Assistance Program (OCAP). The program was established in statute in 2000 to provide the public with information about civil procedures and to assist the public in preparing and filing civil pleadings and other papers in the following court proceedings: 1) uncontested divorces, 2) enforcement of orders in the divorce decree, 3) landlord and tenant actions, and 4) other types of proceedings approved by the Online Court Assistance Program Policy Board.

Ms. Allard highlighted the following in her update: 1) the OCAP policy board membership, 2) better user features, 3) user account, 4) access to Self-Help Center, 5) interview improvements, 6) improved document navigation, 7) selected divorce program changes, and 8) electronic filing.

It was noted that a small claims version will be developed for use by justice courts and that electronic filing directly from OCAP is scheduled for this fall.

**14. UINTAH/HUNTSVILLE JUSTICE COURT INTERLOCAL AGREEMENT:
(Daniel J. Becker)**

Mr. Becker reminded the Council of Huntsville Town's earlier request for approval to enter into an inter-local agreement with Uintah Justice Court. Huntsville Town currently receives services from the Roy City Court. Huntsville Town has renewed that request and is prepared to move forward.

At the present time, all parties are in agreement to allow Huntsville Town to enter into an inter-local agreement with the Uintah Justice Court. The Management Committee recommended approval of a September 1 effective date.

Motion: Judge McCullagh moved to approve the inter-local agreement between Huntsville Town and the Uintah Justice Court, effective September 1, 2013. Judge Hornak seconded the motion, and it passed unanimously.

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

15. EXECUTIVE SESSION

An executive session was held.

Motion: Judge Harmond moved to request Mr. Colin Winchester, Executive Director of the Judicial Conduct Commission, act as special counsel by assisting in the investigation and prosecution, if necessary, in the matter before the Court Commissioner Conduct Committee. Judge Steele seconded the motion, and it passed unanimously.

16. ADJOURN

The meeting was adjourned.

TAB 2

Management Committee Minutes

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

**Tuesday, June 11th, 2013
Matheson Courthouse
450 South State Street
Salt Lake City, Utah**

MEMBERS PRESENT:

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

EXCUSED:

GUESTS:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Katie Gregory
Rob Parkes
Heather Mackenzie-Campbell
Ron Bowmaster
Carol Price

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

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

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

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

He reported on the following items:

Judicial Retirement. Judge Bill Thorne, Court of Appeals, has announced his upcoming retirement, effective September 15, 2013. Mr. Becker anticipates a two-month vacancy in the Court of Appeals after the effective date. CCJJ is in the process of selecting the membership of the Appellate Nominating Commission.

Justice Court Dissolutions. Mr. Becker reminded the Committee of Salt Lake and Davis County's letters sent last year with their intent to dissolve their justice courts. With no action taken during the 2013 Legislative session, Mr. Becker sent letters to both justice courts asking for the status of their intent to dissolve their justice courts. Davis County has responded noting they do not intend to dissolve their court at this time and will reinstate the process if they determine otherwise. No response has been received by Salt Lake County.

Juvenile Court Administrator. The job announcement has closed. A stronger application pool has been received. Interviews will be held at the end of the month.

PJ/TCE/Clerk of Court Workshop. This workshop was held June 6-7. It went very well. Sessions included: 1) a media relations role reversal, 2) judicial workspace demonstrations, 3) handling court grievances, 4) applied skills for having productive but difficult conversations, and 5) team discussion on individual court issues.

Criminal E-Filing. A proposed criminal e-filing implementation schedule has been received from Mr. Mark Nash. Ms. Debra Moore will work with Mr. Nash to refine the schedule. Implementation of a rule change to allow for mandatory criminal e-filing may be considered at a later date.

3. COMMITTEE APPOINTMENT: (Ron Bowmaster)

The Standing Committee on Court Technology has a vacancy for a district court judge representative. The Board of District Court Judges has forward the following three names for the Council's consideration in filling the vacancy: 1) Judge Mark Kouris, 2) Judge Andrew Stone, and 3) Judge Michael Westfall.

Discussion took place. Mr. Becker suggested the Committee take into consideration any committee assignments currently being undertaken by the judges being considered.

Motion: Judge Hornak moved to recommend the appointment of Judge Michael Westfall to fill the district court judge vacancy on the Standing Committee on Court Technology and place it on the June Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

4. HR POLICY APPROVAL: (Rob Parkes)

Mr. Parkes reviewed amendments made to the following policies:

Grievance and Appeal. Mr. Parkes provided background information on the policy prior to the amendment. Amendments to the policy include: 1) removal of a Career Service Review Board, 2) time limit to submit a grievance has been changed from 90 days to 60 days, and 3) creation of the Grievance Review Panel which includes the Juvenile Court Administrator, District Court Administrator and Assistant Court Administrator.

Motion: Judge Sandberg moved to approve the Grievance and Appeal Policy as amended and place it on the June Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

Social Media Policy. At the request of the court executives, the social media policy was amended to be consistent with Informal Opinion 12-01. As amended, the policy will allow an employee to identify her/himself as an employee of the Utah judiciary, but may not identify a specific judge they may work with.

Motion: Judge Harmond moved to approve the Social Media Policy as amended and place it on the June Judicial Council consent calendar. Judge Sandberg seconded the motion, and it passed unanimously.

5. GRANT APPROVAL: (Katie Gregory)

Chief Justice Durrant welcomed Ms. Gregory to the meeting

Ms. Gregory provided background information on receipt of funding from the Court Improvement Program (CIP) Grant. The courts have received funding through this grant since the mid 1990's. In 2012, the Children's Bureau reauthorized the COP grant program for five years and combined the three grants (basic, data collection and analysis). The last approval received on the Court Improvement Grant took place in March of 2012. The amount of funding to be approved each year during the five year cycle is \$442,632.

Mr. Becker suggested that approval of the grant funding for the five-year period be granted, unless a substantial change takes place during that time period, in which case, Ms. Gregory should bring such changes to the Committee for further approval.

Motion: Judge Sandberg moved to approve the Court Improvement Program (CIP) Grant for a five-year period, unless a substantial change takes place during that time frame. Judge Harmond seconded the motion, and it passed unanimously.

6. SPECIAL AUDIT, FIFTH DISTRICT, WASHINGTON COUNTY, DISTRICT AND JUVENILE COURT: (Heather Mackenzie-Campbell)

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

Ms. Mackenzie-Campbell provided an update on the Special Audit, Fifth District, Washington County, District and Juvenile Court. She highlighted the following in her update: 1) 14 effective procedures, and 2) 5 of 20 observations were deemed as significant areas for improvement. The five significant areas of improvement include: 1) complete the Hand Receipt Book Log according to the accounting policies and procedures, 2) review hand receipt books quarterly and semi-annually, 3) enter juror payments in FINET within 10 calendar days from the last date of service, 4) account for and safeguard undeliverable juror and witness checks, and 5) train clerks on the accounting policies and procedures for crediting an accounts receivable.

Motion: Judge Hornak moved to accept the audit as presented. Judge Sandberg seconded the motion, and it passed unanimously.

7. MID-YEAR AUDIT STATUS REPORT: (Heather Mackenzie-Campbell)

Ms. Mackenzie-Campbell provided a mid-year audit status report. She highlighted the following in her status report: 1) audits completed, 2) audits/reviews in progress, 3) audit follow-up, 4) customer service, 5) presentations/training, 6) committee membership, and 7) state auditor's office liaison.

8. CITY ARRANGEMENT WITH ONLINE TRAFFIC SCHOOL PROVIDER TO COLLECT PLEA IN ABEYANCE FEE: (Heather Mackenzie-Campbell and Brent Johnson)

Ms. Mackenzie-Campbell provided background information to a city arrangement with an online traffic school provider to collect the plea in abeyance fee in St George. The matter has been referred to the State Auditor's office, with no action taken at this time. Concern was expressed with this practice and that it may be taking place in other cities and counties. Discussion took place.

Mr. Johnson will submit a GRAMA request of the contract. If the necessary information is not noted, a limited audit may be scheduled at a later date.

**9. DELTA CITY JUSTICE COURT CLERK'S PART-TIME DUTIES:
(Heather Mackenzie-Campbell and Brent Johnson)**

Ms. Mackenzie-Campbell reminded the Committee of the matter of the Delta City Justice court clerk working for both the justice court and the Millard County sheriff's office which was noted at the May meeting. The matter was deferred to this meeting for further discussion to allow Mr. Brent Johnson to be present.

Ms. Mackenzie-Campbell noted that a letter was sent to Judge Robison, Millard County Justice Court, in February regarding the situation. As of this date, that matter has not been addressed, and the clerk continues to divide her time between the two assignments. Discussion took place as to the best method of handling the matter.

A letter will be sent to the Delta City Justice Court Judge, the Delta City Mayor, and the Delta City Attorney to address and remedy the situation. The matter will be placed on the July 22 Judicial Council agenda for further action, if it has not been addressed by this time.

10. REVISED CONTINUITY OF OPERATIONS PLAN: (Carol Price)

Chief Justice Durrant welcomed Ms. Price to the meeting.

Ms. Price reviewed the proposed changes to the Continuity of Operations Plan. She highlighted the changes to the COOP: 1) the reduction of the number of essential functions from 45 to 3, 2) a change to the mission essential functions, 3) change to plan for succession, and 4) change to communication plan.

Motion: Judge Hornak move to approve the revised Continuity of Operations Plan (COOP) as submitted and place it on the June Judicial Council consent calendar. Judge Sandberg seconded the motion, and it passed unanimously.

11. NOMINATING COMMISSION RULES – PROPOSED AMENDMENTS: (Daniel J. Becker)

Mr. Becker reviewed two proposed amendments to the Judicial Nominating Commission Rules to include: 1) Rule 356-101-4 – applicants applying for additional judicial vacancies will be responsible for submitting the appropriate number of copies every time they apply, and 2) Rule 356-101-7 – upon removal of an applicant from the list of nominees selected by the nominating commission and selection of another nominee, the commission shall again allow public comment on the nominees for a minimum of 10 days if it can do so before the expiration of the commission's original 45-day deadline. Statute requires the Judicial Nominating Commission to seek input on behalf of the Judicial Council on all proposed amendments to the Commission Rules.

Discussion took place. No concerns were expressed with the proposed amendments. Mr. Becker will respond to Mr. Gordon on behalf of the Judicial Council.

12. KANAB JUSTICE COURT DISSOLUTION: (Rick Schwermer)

Mr. Schwermer reminded the Committee that Kanab City did not submit a recertification affidavit at the time of recertification of the municipal justice courts in January of 2012. The requirement was waived until July 1, 2012. If they did not submit a recertification affidavit at that time, it would be treated as a request to dissolve the court, effective July 1, 2013.

Mr. Schwermer provided background information relative to the Kanab Justice Court. Kanab Justice Court is requesting dissolution of their justice court effective July 1, 2013. Upon dissolution, their court cases would be directed to the Kane County Justice Court. Kane County contends it has not received proper notice of the dissolution and is not prepared to take on the additional cases at this time.

Discussion took place.

The matter has been placed on the June Judicial Council agenda for further discussion.

13. JUSTICE COURT TECHNOLOGY, TRAINING, AND SECURITY GRANT APPROVAL: (Rick Schwermer)

Mr. Schwermer reviewed the process undertaken by the Board of Justice Court Judges in determining what requests are recommended for funding through the Justice Court Technology, Security Training Grant.

He noted a total of \$303,748.00 in ongoing grant funds.

Mr. Schwermer highlighted the following requests to include: 1) justice court support, 2) justice courts' CORIS infrastructure, 3) continuation of current level of funding for legal institute for justice court judges "Certificate in Judicial Studies" program, 4) ongoing continuation of current level of funding for justice court judges education programs, 5) continuation of current level of funding for expanded mentoring program, 6) law and literature program, 7) orientation review, 8) new justice court clerk skills workshop, and 8) outreach committee. Mr. Schwermer reviewed the items the Board of Justice Court Board did not recommend for approval.

Discussion took place.

Motion: Judge Sandberg moved to approve the recommendations as submitted by the Board of Justice Court Judges. Judge Atherton seconded the motion. The motion passed with Judge Harmond voting no.

14. INTERPRETER PAYMENTS: (Tim Shea and Rosa Oakes)

Mr. Shea asked for direction on what situations requiring interpretation are the court's responsibility in providing and paying for the service: The following situations have arisen where interpretation has been provided by the staff interpreters where a request for payment has been made to the courts: 1) translation of transcripts or audio record of a hearing, 2) translation of service plans, 3) translation of taped interrogations to assist the defense attorney, 4) interpreters at divorce mediation when mediators are private service providers, and 5) interpreters for Legal Aid Society of Salt lake in the Matheson Courthouse.

Discussion took place. The Committee referred the matter to Policy and Planning to create a definition for use by a judge of what court interpreter services are provided for and paid for by the courts.

15. HARDSHIP EXEMPTION RULE REQUEST FOR RULE 4-503(2)(B): (Debra Moore)

The Utah State Bar's Pro Bono Commission is requesting a hardship exemption to the mandatory electronic filing requirements in support of the following two requests: 1) special project involving the representation of defendants appearing for specific hearings during the Third District Court's weekly debt collection calendar, and 2) permanent exemption for future pro bono projects.

Discussion took place.

Motion: Judge Atherton moved to allow a hardship exemption to mandatory electronic filing in support of the special project involving the representation of defendants appearing for hearings held during Third District Court's weekly debt collection calendar for a period of 6 months or until January 1, 2014. Judge Harmond seconded the motion, and it passed unanimously.

The Committee chose not to address the second request. It has been noted that this is the first hardship exemption to mandatory electronic filing to be granted by the Management Committee, and as such, should be reported to the Judicial Council at its June meeting.

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

Chief Justice Durrant reviewed the proposed Council agenda for the June 24 Council meeting.

Mr. Becker provided clarification on the FY 2015 budget related issues item.

Motion: Judge Atherton moved to approve the agenda for the June 24 Council meeting. Judge Harmond seconded the motion, and it passed unanimously.

17. ADJOURN

The meeting was adjourned.

Policy and Planning Committee Minutes

Minutes of the Policy and Planning Committee					
Meeting Date June 7, 2013			Meeting Room Judicial Council Room		
Committee Member	Present	Excused	Committee Member	Present	Excused
Judge Glen Dawson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judge Gregory Orme, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. John Lund	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judge Reed Parkin	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judge Paul Maughan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judge Larry Steele	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Staff: Rick Schwermer, Tim Shea					

Approve minutes of May 3, 2013	By Judge Orme
Motion: Approve as prepared.	By Acclamation
Vote: Yes All No Abstain	Pass <input checked="" type="checkbox"/> No Pass <input type="checkbox"/>

Guardianship recommendations	By Tim Shea
<p>Discussion: Mr. Shea reviewed the report he had given to the Council. He asked the committee whether they wanted to pursue any of the recommendations at the end of the report. He said that consolidating the guardian's authority and responsibility into a single section of the Probate Code might help clarify for lawyers and judges, but the public would largely be unaware. The court's new webpages include an extensive discussion of the guardian's and conservator's authority and responsibilities.</p> <p>Requiring that the petition to appoint a conservator, and not just the notice of hearing, be served seems a basic due process requirement. The petition is required to be served in a guardianship proceeding. After discussion, the committee recommended that amendments to the service requirements be presented to the Bar's legislative committee for inclusion in legislation that they may be running in 2014.</p> <p>The last two recommendations, requiring a visitor in every petition and requiring a background check of the guardian or conservator could be done by court rule, but both steps would be expensive. After discussion, the committee suggested that Mr. Shea draft a rule or guidelines that would describe circumstances when appointment of a visitor would be most helpful to the judge.</p>	

Rule 9-301. Record of arraignment and conviction.	By Judge Reed Parkin
<p>Discussion: Judge Parkin asked whether to continue the requirement that justice court records include a written and signed statement about enhanced penalties for future convictions now that justice court proceedings are recorded. Mr. Schwermer recommended not eliminating the requirement because prior convictions are more difficult to challenge when there is a signed representation that all required procedures had been followed. Without that statement, the prior conviction would be presumed to have complied with the law, but, if challenged, the prosecutor would have to find and present other evidence of regularity. Mr. Schwermer said that the prosecutor may have problems of proof because the record of arraignment and conviction required by Rule 9-301 is required to be kept permanently, but the audio record of proceedings is not.</p> <p>Judge Parkin asked whether there should be a similar requirement for district court. Judge Orme said that</p>	

the same principle applies, but that there are simply far fewer enhanceable offenses in district court.
After discussion, the committee decided not to pursue any amendments.

Rule 4-404. Jury selection and service.				By Tim Shea					
<p>Discussion: Mr. Shea identified the amendments necessary to implement HB 227, which is effective January 1. A person who has been summoned for jury service would be exempt for two years even though s/he did not have to report to the courthouse. Judge Maughan asked whether this could be monitored. Mr. Shea said that the court can monitor who is supposed to attend and has not, but cannot monitor who is supposed to call in and has not.</p> <p>Mr. Shea asked the committee whether the rule should take the further step of cycling through all potential jurors in the master list before qualifying the same person a second time. After discussion, the committee decided not to propose the amendment.</p>									
Action: Discuss with the Liaison Committee as possible legislation the concept of cycling through all potential jurors in the master list before qualifying the same person a second time.									
Motion: Recommend that the remaining amendments be published for comment.				By Mr. Lund					
Vote:		Yes	All	No	Abstain	Pass	<input checked="" type="checkbox"/>	No Pass	<input type="checkbox"/>

Rule 1-205. Standing and ad hoc committees. Rule 3-306. Court interpreters.				By Tim Shea		
<p>Discussion: Mr. Shea said that the Court Interpreter Committee is recommending that its name be changed to the Language Access Committee to recognize that the committee's scope is broader than just providing an interpreter in the courtroom.</p> <p>The committee also recommends that the rule permit a judge to bring in an interpreter from another state, and Utah would recognize the interpreter's credentials. Currently, the court treats the out-of-state interpreter as a "conditionally approved" interpreter even though the interpreter may have higher qualifications.</p> <p>The committee recommends that the provision permitting an employee to have a first-hand conversation with a person of limited English proficiency without an interpreter include a requirement that the employee be acting within guidelines established in the Human Resources Policies and Procedures, which now includes a description of the requirements for a second language stipend.</p> <p>The committee also recommends that the Council establish a process by which a party, witness, victim or person who will be bound by a legal proceeding can file a complaint for failure to follow the rule.</p> <p>Finally, the committee recommends that the provision summarizing the laws on charging a fee for an interpreter include a reference to Title VI.</p>						
Motion: Recommend that the amendments be published for comment.				By Judge Dawson		
Vote:	Yes	All	No	Abstain	Pass <input type="checkbox"/>	No Pass <input type="checkbox"/>

Rule 4-508. Guidelines for ruling on a motion to waive fees.				By Tim Shea	
Discussion: Mr. Shea said that the Board of Juvenile Court Judges has asked that the rule recognize the form approved for use in juvenile court and recognize the standing of only the minor or a minor's parent, guardian or authorized representative to file a motion to waive fees.					
Motion: Recommend that the amendments be published for comment.				By Judge Parkin	
Vote:	Yes	All	No	Abstain	Pass <input checked="" type="checkbox"/> No Pass <input checked="" type="checkbox"/>

Rule 4-110. Transfer of juvenile cases from district and justice courts to the juvenile court.					By Tim Shea			
Discussion: Mr. Shea said that under Section 78A-7-106, the justice court can transfer a qualifying case to the juvenile court at any time, not only after entry of judgment. The proposed amendment conforms the rule to the statute. The limitation on transfers from the district court to the juvenile court remains.								
Motion: Recommend that the amendments be published for comment.					By Judge Steele			
Vote:	Yes	All	No	Abstain	Pass	<input checked="" type="checkbox"/>	No Pass	<input checked="" type="checkbox"/>

Rule 3-402. Human resources administration.				By Tim Shea	
Discussion: Mr. Shea said that a recent amendment to the human resources policies and procedures, changed the name of the Career Service Review Board to the Grievance Review Panel. The proposed amendment makes a similar change.					
Motion: Recommend that the amendments be published for comment.				By Acclamation	
Vote:	Yes	All	No	Abstain	Pass <input checked="" type="checkbox"/> No Pass <input checked="" type="checkbox"/>

TAB 3

2013-14 Study Item: Expanding Technology Applications in Order to Improve Access, Productivity, and Service in Low Volume Courthouses

Opportunity Area

Now that mandatory e-filing of civil, domestic, and citation cases is a reality and juvenile and criminal e-filing is in development, the opportunity exists to re-think how best to deliver services through low volume courts. This is particularly true in rural county seats where the state court system purchases needed clerical services for court functions through contracts with the individual counties.

Much of the work presently contracted for is greatly reduced under mandatory e-filing, e.g., accepting paper filings, preparing and maintaining case files, cash receipting, making copies, and data entry. This begs the question, what services are we receiving for the dollars being spent and is there a more cost effective and efficient way to provide the services that are needed? Are we purchasing coverage, rather than actual processing work, and, if so, how often is that coverage actually being used? Is it possible to provide such coverage remotely from a clerks office in another county?

The opportunities are not limited to contract sites and electronically moving processing work from one site to another. In fact, because the entire court record is now electronically accessible to a judge regardless of where a judge is located, doesn't it behoove us to more fully assess the potential for conducting court hearings remotely. What are the possibilities for making better use of available judge time by increasing the type and number of hearings conducted remotely by installing technology expressly designed for delivering high quality video resolution and sound at both ends of a conversation. For example, if such technology were in place in every rural courthouse, could not attorneys, litigants, interpreters, the public, be in a courtroom in one location and the judge in a courtroom in a distant location and conduct a hearing in the same manner as if both were in the same courtroom. The savings could be substantial not just in judge time, but also the added convenience of participants. This could also provide another avenue for the use of senior judges.

Issues to be Studied

- Assess the impact of the electronic record and e-filing on the actual activities being performed in low volume, contract sites and the extent to which the hours being contracted for are in fact being used, e.g., transactions per site, frequency and duration of transactions, and cost per transaction.

- Inventory the activities being performed and determine which could be remotely performed and which would need to be performed on site. Determine how best to handle actions requiring more immediate attention, such as protective orders.
- Determine what it means for a court to be “open” or said differently, a clerk to be “in attendance”? What changes are needed to allow “open” to mean that a person can conduct court business remotely, including across county lines? Can this be accomplished within existing rules or would rule and/or statutory changes be required?
- Determine what the cut off should be for providing clerk office services remotely and when on site staffing is required. For those contract sites which will continue to be staffed on site, how should the contract be modified to account for work and time savings resulting from the electronic record.
- Identify all policy and operational issues which would need to be resolved for expanding the types of proceedings which can be conducted remotely. What rule changes, if any, would be necessary?
- What would be the equipment and cost requirements be for allowing court patrons to do clerks office business remotely from another courthouse (presumably, the same business could be done from home or any internet site, if more convenient) and, for the expanded use of remote hearings.
- Identify both the initial one time costs, ongoing costs, and any potential ongoing savings resulting from eliminating or reducing existing contracts and other savings.
- Assess from a user perspective the pros and cons of increasing the amount of court related work done remotely.

Study Process

- Judicial Council forms an ad hoc committee. Provides that recommendations, including draft rule changes, should be made to the Council six months from commencement of study.
- Membership should include: rural representatives from the boards of district, juvenile, and justice courts; court executives and clerks of court; practicing attorneys; public advocates; and, AOC (Shea, Allard, Bowmaster, Schwermer, and Luncelford)

TAB 4

Kane County Letter



Kane County Attorney's Office

JIM R. SCARTH

Kane County Attorney

ROBERT VAN DYKE

Deputy Kane County Attorney

KENT A. BURGGAFF

Deputy Kane County Attorney

76 North Main, Kanab, Utah 84741

Phone: 435-644-5278 / Fax: 435-644-8156

Email: attorney@kane.utah.gov

May 28, 2013

Kanab City Council
76 No. Main Street
Kanab, UT 84741

RE: *Kanab City Justice Court Dissolution*

Dear Mayor Laycock and City Council Members,

As you are aware, during the last few months Kane County and Kanab City have been working towards a resolution regarding dissolution of the Kanab City Justice Court. Although initially it appeared that we had reached a favorable resolution, negotiations have now fallen through, and it appears that the Court may be on a timeline to dissolve in less than five weeks.

Kane County simply has not had adequate time to prepare or budget for the impact of the projected dissolution of your Court. In January of 2012, the Judicial Council met and discussed the recertification of the Kanab City Justice Court because Kanab City had failed to provide an ordinance of recertification. The Judicial Council decided to recertify the court by waiving and extending the deadline for the ordinance until July 1st of 2012. If the ordinance was not received by that time, the Judicial Council would treat the lack of action as Kanab City's notice of intent to dissolve. Neither the Judicial Council nor Kanab City made Kane County aware of the January decision of the Judicial Council or the passing of the July 1st deadline. Sometime late last year the Kanab City Manager informed me personally that the Court would be dissolved as of July 1st 2013. As of today the County has yet to receive any official notice of the City's intentions.

I do not state the above as part of a threat of any proposed action on the part of the County or to blame anyone. I simply want you to understand that the County is not prepared to take over the Court on July 1st without undue burden to the County budget, my office personnel, and the County Justice Court personnel, not to mention the confusion to the defendants and other litigants whose cases are now being heard in the City Court who have not been notified of the impending change.

I hope that you can also see the concern that your constituents may have with the sudden change to the Court. For example a criminal defendant may have a trial that is heard by Judge Johnson and then after the Court is dissolved that same defendant is sentenced by Judge Heaton who does not have the benefit of hearing the merits of the case. Similarly, in a small claims case, Judge Johnson may have held an evidentiary hearing on a significant motion which after the

hearing is being briefed, or he has taken the matter under advisement. Then the Court is dissolved and Judge Heaton would have to make a substantive decision without having the benefit of the evidence or oral argument presented to Judge Johnson. These are significant issues which need time and planning to make sure that individuals are treated fairly.

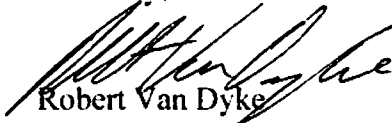
I therefore ask that that you pass an ordinance of recertification which will recertify the Kanab City Justice Court through the end of Judge Johnson's current term. Then, if you continue to desire to dissolve the Court, one year before the end of the current term you may follow the established procedures for its formal dissolution.

If that is not acceptable, at a minimum I ask that you join with me in requesting that the Judicial Council extend the dissolution from July 1st of this year until January 1st of next year to allow proper time to budget and prepare for wind-up and transfer of case-loads. In particular, we need to ensure that defendants and litigants are adequately notified of the change-over so that pending City Court criminal cases and small claims procedures are not disrupted.

For your information the Judicial Council will be meeting June 24th in Panguitch and I have requested that they place the Kanab City Justice Court on their agenda. I have specifically requested that they waive the ordinance requirement completely and recertify the Court through the duration of Judge Johnson's current term or that alternatively they extend the dissolution until the end of the calendar year.

Please let me know your decision with regard to this matter as soon as possible. Thank you.

Sincerely,



Robert Van Dyke
Chief Deputy Kane County Attorney

CC: Judge Gary Johnson
Judge Kirk Heaton
Commissioner Jim Matson
Richard H. Schwermer, AOC ✓



Kane County Attorney's Office

JIM R. SCARTH

Kane County Attorney

ROBERT VAN DYKE

Deputy Kane County Attorney

KENT A. BURGGRAAF

Deputy Kane County Attorney

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June 3, 2013

Chief Justice Matthew B. Durrant
Utah Judicial Council
Utah Supreme Court
P.O. Box 140210
Salt Lake City, Utah 84114-0210

*Also sent via facsimile transmission to: 801-238-7980
801-578-3999*

RE: *Kanab City Justice Court Dissolution*

Dear Chief Justice Durrant:

Forgive me for interrupting your busy schedule for what may seem a trivial matter. I have made several attempts to contact Richard Schwermer of the AOC, who I understand is assigned to Justice Courts. Although he has responded to me in the past, for unknown reasons he has not responded to my recent emails or phone calls. In previous conversations with Mr. Schwermer and with Kanab City, I believe that the Kanab City Justice Court is set to dissolve on July 1st, 2013. In short I am requesting that the Judicial Council consider the Kanab City Justice Court Dissolution at the June 24th meeting in Panquitch. For reasons discussed below, Kane County is objecting to the dissolution taking place July 1st, 2013. We further request one of three possibilities: 1) the Council waive the recertification ordinance requirement entirely and allow the Kanab City Justice Court to continue until a time when Kanab City affirmatively acts to dissolve; 2) the Council extend the date of dissolution to July 1st, 2014, so as to comply with the notice requirements of state law; or 3) the Council extend the date of dissolution at least until January 1st, 2014, to allow a minimal period of planning to take place before dissolution.

In January of 2012, the Judicial Council met and discussed recertification of all the Justice Courts in the state, including the Kanab City Justice Court. Most of the Justice Courts in the State had completed all of the requirements for recertification. Even though Kanab City had met all of the substantive requirements to recertify, for some unknown reason, they had failed to

provide an ordinance of recertification. The Council decided to recertify the Kanab City Justice Court by waiving and extending the deadline for the ordinance until July 1, 2012. If the ordinance was not received from Kanab City by that time, the Judicial Council indicated that it would treat the lack of action as Kanab City's notice of intent to dissolve. (Please see the attached minutes from the Judicial Council Meeting held in January, 2012.)

I must assume that the Judicial Council fully expected Kanab City to comply by July 1st of 2012, and did not expect them to remain out of compliance. However, Kanab City has yet to provide the recertification ordinance, and Kane County is left to assume at this point that the Judicial Council is treating the City's inaction as notice of intent to dissolve, exactly as the Council said it would do in the January 2012 meeting. This places the Court on a timeline to dissolve this July. As you are aware, notice of intent to dissolve a Class III or Class IV Justice Court shall be given by July 1, at least one year prior to the effective date of the dissolution, to both the Judicial Council and to the County that receives the case load of the dissolving Court. Utah Code §78A-7-123(2)(a)&(c).

Kane County has not received proper notice of the dissolution for it to occur July 1st of this year. Just a few weeks ago I researched the minutes of the Judicial Council meetings and became aware of the January 2012 decision. I have searched Kanab City records and I have not been able to find any official action regarding their intentions to dissolve their Court, or any official decision to refuse to recertify. My belief is that the Kanab City Council did discuss this issue in several meetings but did so in closed session and did not take any action. The earliest information the County received regarding this issue was provided in an email to me from the Kanab City Manager at the end of July 2012, where he requested a meeting regarding the City Justice Court. (Please see attached email). I believe that we did meet July 27, 2012, and he discussed the possibility that the Court would be dissolved. It wasn't until much later in the year that the Kane County Justice Court and the Kane County Board of Commissioners were adequately informed about the City's intentions with the Court. As of today there is still no official written notice of intent from the City. Clearly the County did not receive notice by July 1st, 2012 and under state code, this would place the Court on a track to dissolve July 1st of 2014, not 2013.


Earlier this year the City and the County entered into negotiations where we could agree on a final date of dissolution and the manner in which the dissolution could take place without

having to approach the Judicial Council. Just over a week ago those negotiations failed and we are uncertain about how to proceed. The County at this point has several budget concerns and more importantly we are concerned about how to transfer cases from one Court to the other. It is possible at this point that the County Justice Court Judge will be required to sentence criminal defendants without having the benefit of having heard their case. Additionally, he could be required to make rulings on substantive issues in both criminal and small claims cases without the benefit of taking evidence or hearing oral argument. I hope you can see that dissolution in just over four weeks would be not only illegal, but impracticable and unjust.

Although the notice requirement for dissolution is at least one year, under state code, upon request of a County or Municipality, the Judicial Council may shorten the period of dissolution. U.C.A. 78A-7-123(3). Kane County is not making that request and I am unaware of any request from Kanab City to shorten the period. However, if the Council determines that the dissolution shall proceed on the timeline established by state code (July 1st, 2014), Kane County would not object to Kanab City's request to shorten that period by six months to January 1st, 2014.

Again, I am requesting that this matter be placed on your June 24th Judicial Council meeting agenda. At a minimum the County needs until January 1st, 2014, in order to properly prepare for the dissolution of the Kanab City Justice Court. Please let me know of your decision and if a representative from the County would be able to attend the meeting. Thank you.

Sincerely,



Robert Van Dyke
Chief Deputy Kane County Attorney

cc : Judge Gary Johnson, Kanab City Justice Court
Judge Kirk Heaton, Kane County Justice Court
Commissioner Jim Matson, Kane County
Mayor Nina Laycook, Kanab City
Richard H. Schwermer, AOC

78A-7-123. Dissolution of justice courts.

(1) (a) The county or municipality shall obtain legislative approval to dissolve a justice court if the caseload from that court would fall to the district court upon dissolution.

(b) To obtain approval of the Legislature, the governing authority of the municipality or county shall petition the Legislature to adopt a joint resolution to approve the dissolution.

(c) The municipality or county shall provide notice to the Judicial Council.

(d) Notice of intent to dissolve a Class I or Class II justice court to the Judicial Council shall be given not later than July 1 two years prior to the general session in which the county or municipality intends to seek legislative approval.

(e) Notice of intent to dissolve a Class III or Class IV justice court to the Judicial Council shall be given not later than July 1 immediately prior to the general session in which the county or municipality intends to seek legislative approval.

(2) (a) A county or municipality shall give notice of intent to dissolve a justice court to the Judicial Council if the caseload of that court would fall to the county justice court. A municipality shall also give notice to the county of its intent to dissolve a justice court.

(b) Notice of intent to dissolve a Class I or Class II court shall be given by July 1 at least two years prior to the effective date of the dissolution.

(c) Notice of intent to dissolve a Class III or Class IV court shall be given by July 1 at least one year prior to the effective date of the dissolution.

(3) Upon request from a municipality or county seeking to dissolve a justice court, the Judicial Council may shorten the time required between the city's or county's notice of intent to dissolve a justice court and the effective date of the dissolution.

Renumbered and Amended by Chapter 3, 2008 General Session

JUDICIAL COUNCIL MEETING

Minutes

Monday, January 23rd, 2012

Judicial Council Room

Matheson Courthouse

Salt Lake City, 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 Hammond
Hon. Paul Maughan
Hon. Brendan McCullagh
Hon. David Mortensen
Hon. Gregory Orme
Hon. John Sandberg
Hon. Paul Lyman for Hon. Larry Steele
Hon. Keith Stoney
Hon. Thomas Willmore
Lori Nelson, esq.

EXCUSED:

Hon. Larry Steele

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Diane Abegglen
Jody Gonzales
Lisa-Michele Church
Debra Moore
Rick Schwermer
Tim Shea
Nancy Volmer
Tom Langhorne
Shari Veverka
Ron Bowmaster

GUESTS:

Aaron Falk, SL Tribune
Joanne Slotnik, JPEC
J. Daniel Bertch, Draper City
Jonna Crump, Draper City
Doug Ahlstrom, Draper City
Rodney Snow, Utah State Bar
Robert Rice, Utah State Bar
John Baldwin, Utah State Bar
Michelle Harvey, Utah State Bar
Sue Crisman

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

Chief Justice Durham welcomed everyone to the meeting. She excused Judge Steele from the meeting, and she noted that Judge Paul Lyman would be sitting in for Judge Steele.

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

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

Chief Justice Durham reported on the following:

Judge Tyrone Medley received the Civil Rights Award at an event held by the Salt Lake Chapter of the NAACP on January 16.

The State of the Judiciary will be given later this afternoon. A legislative leadership meeting is scheduled for February 2.

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

Mr. Becker reported on the following items:

State of the Judiciary Address. The State of the Judiciary will be given this afternoon; once to the House and once to the Senate. Transportation details were provided to Council members who planned to attend the State of Judiciary.

Legislative Appropriations Process. The Appropriations Subcommittee will begin their work on Wednesday, January 25. Mr. Becker mentioned the dates the Executive Appropriations Committee is scheduled to meet during the 2012 Legislative Session. Preliminary numbers relative to the State's budget were provided. The courts budget will be considered by the Appropriations Subcommittee on Friday, February 3. Mr. Becker, Mr. Wahl and Mr. Schwermer met with Representative Hutchings, co-chair of Appropriations, on January 18.

Juab County Court Facility Update. A letter was sent to the Juab County Attorney on behalf of the courts to express our understanding of the county's desire to move forward with building a new court facility, but if the project does not move forward; the Judicial Council will consider moving court to an adjacent county. Mr. Becker highlighted the following areas being addressed, temporarily, to help with the current needs of the court facility: 1) Viack is being set up to reduce the need to transport prisoners from the county jail to the court facility, and 2) addressing issues to improve building security. Mr. Becker noted that Viack would be operational in the court facility in approximately four weeks.

The first planning session with the Juab County Commission and the Juab County Attorney has been held to address the needs of the new court facility. Monthly meetings will be held during the planning process.

Judicial Performance Evaluation Commission. Ms. Slotnik will provide an update on behalf of the Commission later in the meeting. Vacancies on the Commission were noted and included: 1) a vacancy to fill Mr. Chris Buttars' position who recently resigned, and 2) a vacancy to fill Mr. V. Lowry Snow's, commission chair, who resigned to fill Representative David Clark's vacancy in the House of Representatives.

Judicial Appointments. Mr. Curt Garner, the Governor's appointee to fill Judge Peuler's position in the Third District, has withdrawn his application.

Judge Tyrone Medley has announced his upcoming retirement effective June 29, 2012.

The Nominating Commission will post notices to fill Judge Peuler's and Judge Medley's vacancies at the same time.

Annual Report. Mr. Becker noted that a copy of the current Annual Report was provided to each member. He commended Ms. Volmer for a well-prepared report.

April Council Meeting. Mr. Becker made a request to the Management Committee to change the April 23 meeting to April 30. The Committee approved the date change. Ms. Judy Gonzales will send a notice to the Council with the April meeting date change.

Executive Session. An executive session will need to be held later in the meeting.

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. Chief Justice Durham noted that the minutes reflect a vacancy on the Judicial Conduct Commission for a lawyer representative. Mr. Jim Jardine has replaced the current Commission chair.

Liaison Committee Report:

Justice Parrish reported on the following:

She mentioned that the Committee has held two meetings. She updated the Council on the types of legislation being introduced and the position being taken by the Committee on particular pieces of legislation.

Policy and Planning Meeting:

Judge Orme reported on the following:

The meeting minutes accurately reflect the issues discussed.

Several rules are being considered for final action later on the agenda and published for comment on the consent calendar. Judge Orme mentioned that discussion took place relative to a rule for court referees and social media.

Bar Commission Report:

Chief Justice Durham reported that Ms. Nelson and other members of the Bar were meeting with the Governor, and she would be late to the meeting. Chief Justice Durham mentioned that she and Mr. Becker met with Bar leadership last week to discuss the pro bono initiative which will be presented later on the agenda.

5. SIX MONTH WORKLOAD REVIEW: (Kim Allard)

Chief Justice Durham welcomed Ms. Allard to the meeting.

Ms. Allard reviewed district court case filings and juvenile court referrals for the first six months of FY 2012 compared to FY 2008.

Overall, district court case filings show an overall increase of 5% for the first six months of FY 2012 compared to FY 2008. The increase is due to a 72% increase in judgements. She highlighted the following district court case filing data to include: 1) criminal, 10% decrease; 2) felonies, 2% decrease; 3) misdemeanors, 23% decrease; 4) domestic, 6% increase; 5) divorce, 3% increase; 6) custody and support, 82% increase; 7) paternity, 2% decrease; 8) general civil, 10% decrease; and 9) debt collection, 17% increase. She noted the change to the small claims category with the move of small claims to justice courts.

Juvenile court referral data included: 1) felony, 28% decrease; 2) misdemeanor, 16% decrease; 3) adult violations, 25% increase; 4) child welfare proceedings, 4% decrease; 5) termination of parental rights, 17% decrease; 6) voluntary relinquishment, 24% increase; and 7) domestic/probate, 33% increase.

Discussion took place.

Ms. Allard was thanked for her update.

6. RULES FOR FINAL ACTION: (Tim Shea)

Chief Justice Durham welcomed Mr. Shea to the meeting.

Mr. Shea reported that there were six rules being recommended for approval. The first three rules included:

CJA 03-0101. Judicial Performance Standards. This is a new rule that establishes standards of performance for minimum education and cases under advisement for application by the Judicial Performance Evaluation Commission.

CJA 04-0704. Authority of county clerks to extend payment schedule and dismiss citations. The rule has been amended to allow clerks to dismiss citations as permitted in the Uniform Fine/Bail Schedule.

CJA 04-0907. Mandatory divorce education. The rule simplifies the policy on access to divorce orientation courses and divorce education courses.

Motion: Judge Hornak moved to approve CJA 03-0101 as recommended. Judge Atherton seconded the motion, and it passed unanimously.

Motion: Judge Maughan moved to approve CJA 04-0704 and CJA 04-0907 as recommended. Judge Stoney seconded the motion, and it passed unanimously.

Mr. Shea reviewed the following rules being recommended for approval:

CJA 04-0202.02. Records classification. The rule has been amended to modify records to be classified as sealed, private and protected.

CJA 04-0202.04. Request to access a record associated with a case; request to classify a record associated with a case. The rule has been amended to move from Rule 4-202.02 to this rule descriptions of records that require judicial approval to classify as non-public.

CJA 04-0202.09. Miscellaneous. This rule has been amended to require a person filing a record with the court to identify the record as non-public if it qualifies as non-public.

CJA Appendix I. Summary of Classification of Court Records. This rule is new and summarizes the classification of record series by case type.

Motion: Judge Mortensen moved to approve the rules as recommended. Judge Harmond seconded the motion, and it passed unanimously.

7. NEW JUSTICE COURT JUDGE CERTIFICATION: (Rick Schwermer)

Mr. Schwermer presented the recommendations for justice court judge certification for Mr. Ray Robert Richards.

Motion: Judge McCullagh moved to certify Mr. Ray Robert Richards as a justice court judge. The motion was seconded, and it passed unanimously.

8. MUNICIPAL JUSTICE COURT RECERTIFICATION: (Rick Schwermer)

Mr. Schwermer reminded the Council that justice courts are certified every four years by the Council. The certification process involves application by the sponsoring governmental entity, and a review of compliance with statutes and with Judicial Council operational standards.

He reviewed the courts not found in compliance to include:

Delta. They are open Monday through Thursday, and they hold court two Fridays per month. Two to three Fridays per month they are not open. The committee recommends a waiver if the city agrees to post its hours on their website, and if they add a drop-box so filings and payments can be made on Fridays when the court is not open. Delta has agreed to the conditions.

Motion: Judge Mortensen moved to grant a waiver to the Delta Justice Court as recommended by the committee. Judge Orme seconded the motion, and it passed unanimously.

Draper. As a Class I court, the judge is presumed to be full time. Mr. Schwermer reminded the Council that a waiver was granted in 2009 relative to the full-time judge requirement. The Management Committee discussed the matter in their January meeting and recommended the issue of what constitutes a full-time justice court judge be referred to Policy and Planning for further review and a one-year waiver be granted to Draper while the issue is studied further. Discussion took place and input was given by Draper Justice Court officials.

Motion: Judge Hornak moved to allow Policy and Planning to review the issue of what constitutes a full-time justice court judge further and grant the Draper Justice Court a one-year waiver while the issue is being addressed. Judge Stoney seconded the motion, and it passed unanimously.

Heber. There is no victim/witness room available in the facility, and the judge finds a gavel "unnecessary". A letter has been sent to the Heber Justice Court with no response. Judge Stoney provided information relative to the Heber Justice Court building. Discussion took place.

Motion: Judge Hornak moved to conditionally decertify the Heber Justice Court if they do not comply by February 1. Judge Sandberg seconded the motion. Judge McCullagh moved to amend the motion to allow the Heber Justice Court to comply by February 27. Judge Maughan seconded the amendment, and it passed unanimously. The motion passed as amended.

Hildale. They do not appear to be open on Fridays, and the judge has been "temporary" for several years. A senior judge has been holding court ever since the previous judge left office. Hildale has responded noting that they will be open on Fridays, but they would like permission to keep using a senior judge for a year, while the process to replace him takes place. Options and discussion took place relative to the continued use of a senior judge.

Motion: Judge Stoney moved to decertify Hildale if they have not begun the process to fill their justice court judge vacancy by June 1. Judge Hornak seconded the motion, and it passed unanimously.

Naples. The Naples facility is not within the boundaries of the municipality. This is a recent move, based on the new county facility opening and security concerns. Naples has responded that they will comply.

Orderville. There is no space for a jury, and there is no jury deliberation room. The judge responded that he will comply.

Parowan. The requirement is for two separate tables for counsel. The city uses a 12 foot long table with sufficient separation provided. The city requests a waiver.

Motion: It was moved and seconded to allow a waiver of the requirement for two separate tables for counsel. The motion passed unanimously.

Santa Clara. The court is not open on Fridays. Santa Clara has responded that they will be open on Fridays as required.

Kanab. The judge, rather than the city, submitted a recertification affidavit. Separately, the city has asked for an extension of time to consider all of their options relative to the court, rather than providing the required ordinance for recertification. Discussion took place.

Motion: Judge McCullagh moved to certify Kanab, waiving the requirement to pass an ordinance for recertification until July 1, 2012. If the recertification ordinance has not been received by that date, it will then be treated as a request to dissolve the court, [inaction by Kanab] and the court will be dissolved effective, July 1, 2013. Judge Stoney seconded the motion, and it passed unanimously.

Mr. Tom Langhorne, new Education Director, was introduced and welcomed.

9. LEGISLATIVE UPDATE: (Rick Schwermer)

Mr. Schwermer provided a legislative update to the Council. He noted that all the courts bills have sponsors, and he highlighted the status of the Self-Help Center Bill.

10. SENIOR JUDGE CERTIFICATION: (Tim Shea)

Mr. Shea reported that Judge J. Dennis Frederick has applied to be appointed as an Inactive Senior Judge.

Motion: Judge Orme moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge J. Dennis Frederick as an Inactive Senior Judge. Judge McCullagh seconded the motion, and it passed unanimously.

11. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Joanne Slotnik)

Chief Justice Durham welcomed Ms. Slotnik to the meeting.

Ms. Slotnik highlighted the Commission's proposed 2012 statutory changes and rationale for changing the following statutes: 1) 78A-12-203 - Judicial performance evaluations, 2) 78A-12-204 - Judicial performance survey, 3) 78A-12-205 - Minimum performance standards, and 4) 78A-12-206 - Publication of the judicial performance evaluation. She noted that the proposed change to the minimum performance standards would exclude juror responses.

Court-room observation feedback and their weight will be used with regards to a minimum performance standard for procedural fairness with the 2014 judges up for retention. She mentioned that training for courtroom observers is ongoing.

Discussion took place with concern being expressed over the proposal to eliminate juror survey responses from the minimum performance standards.

Reports relative to 2012 judges up for retention and 2014 mid-term will be sent out between now and mid-February.

Ms. Slotnik reported that the Commission received grant funding from the State Justice Institute (SJI) to work with the National Center for State Courts (NCSC) on the pilot program relative to evaluating part-time justice court judges. The pilot, which includes the 2014 part-time justice court judges up for retention, will begin in mid-February and run for six months.

She highlighted the following changes in membership to the Commission: 1) Mr. Chris Buttars has resigned from his position on the commission leaving a vacancy, and 2) Commission chair, V. Lowry Snow has resigned his position to fill the vacancy in the House of Representatives left by Representative David Clark. Mr. Tony Schofield will step in as Commission chair until the elections are held in July.

Ms. Slotnik highlighted the following relative to public comments: 1) they are not viewable by the public, 2) comments will be part of the 2012 retention evaluation reports, and 3) public comments in the 2012 reports will be placed on the website.

Chief Justice Durham thanked Ms. Slotnik for her update.

12. UTAH STATE BAR PRO BONO PROGRAM: (Rod Snow and Rob Rice)

Chief Justice Durham welcomed Mr. Rod Snow, Bar president and other State Bar leadership in attendance.

Mr. Snow introduced members of the State Bar Commission who were present. He mentioned that the Bar is working to create a voluntary program whereby more lawyers are available to provide pro bono services in Utah.

Mr. Rice provided an overview of the Pro Bono Commission which will be a program of the Utah State Bar. The basic concept is three fold and will include the following areas of focus: 1) to develop and maintain a list of volunteer lawyers who are willing to provide pro bono legal services; 2) to institute a "check yes" campaign that will work in connection with the Bar's annual application process allowing for members to check a box saying that they are willing to be part of a pool of lawyers that will provide pro bono legal services, with this, a centralized electronic database will collect the information gathered by participating lawyers; and 3) to create district-based pro bono committees in each of the eight judicial districts statewide.

It was noted that similar district-based pro bono commissions currently exist in other states. Mr. Rice highlighted other non-profit services that currently provide legal representation for low-income Utahns. However, there is still a large number of civil legal cases where no attorney has been able to assist low-income Utahns in resolving those problems. Creation of the Pro Bono Commission would be a partial solution and would help make a dent in resolving those matters.

The Pro Bono Commission would consist of 15 members in the legal community to serve on the statewide commission. Ms. Michele Harvey would support the Commission as the coordinator by assisting with the overall statewide needs as well as the creation of individual committees in each judicial district. The basic charge for each district-based committee will include: 1) creating a committee suited to the needs of district, and 2) create a vehicle through which volunteer lawyers will be matched with pro bono clients.

The Bar Commissioners will be serve as co chairs in each of the district committees. Ms. Sue Crisman will be involved in supporting the Commission at the district and statewide levels. In the future, the Bar intends to fund part-time private staff members to assist in the matching of lawyers and pro bono clients.

Mr. Rice noted that several members of the Bar had the opportunity to review the program set up in Albuquerque. Upon review of Albuquerque's program, it was determined that judicial support and involvement in the process of recruiting lawyers to become involved in providing pro bono legal services was important to success of the program.

A draft copy of the proposed resolution was distributed to members of the Judicial Council. Mr. Rice asked the Council to consider passing a resolution to include the following: 1) to endorse conceptual support for the Pro Bono Commission, 2) to allow district court judges and other judiciary staff to participate as members of the Pro Bono Commission, and 3) if the Council supports the concept, allow district court judges to serve on the district-based committees as co chairs.

The question was asked regarding participation by the federal court. Mr. Rice mentioned that there currently is participation on behalf of the federal courts. It was noted that the focus has primarily been on state court judges with the program being district-based.

Questions were asked and discussion took place.

Mr. Rice was asked if the Board of District Board Judges were apprised of the Pro Bono Commission. He mentioned that a slightly different concept was presented to the Board of District Court judges at the end of 2011 than what is called for in the proposed resolution, but it reflects input provided by the Board of District Court judges. Ms. Moore provided her opinion on behalf of the Board regarding their view of the concept.

The need for pro bono services in rural districts relative to juvenile court cases was discussed. Mr. Rice provided clarification relative to training, mentoring and resource availability in areas outside of the lawyer's expertise.

Mr. Rice reviewed the logistics in setting up the Pro Bono Commission. He mentioned that participation by the judiciary would be made by invitation and be voluntary.

Motion: Judge Orme moved to defer the Council's consideration of the resolution until the February meeting, refer it to Policy & Planning for any suggestions and simultaneously send it to the Board of District Court judges for their consideration. It was amended to allow for the Council to accept in concept the Bar's process to create the Pro Bono Commission and move forward with creation of the committees. Judge Orme accepted the amendment. Judge Hornak seconded the motion to include the amendment. The motion passed with Judge Maughan voting no.

Motion: Judge Hornak moved to enter into an executive session to discuss matters of security and personnel issues. Ms. Nelson seconded the motion, and it passed unanimously.

13. EXECUTIVE SESSION:

An executive session was entered into at this time.

14. ADJOURN

The meeting was adjourned.

Kanab City Letter

Mayor

Nina Laycook

City Manager

Duane Huffman

Treasurer

RaeLene Johnson



KANAB

— UTAH —

City Council

James G. Sorenson

Cheryl Brown

Kirt Carpenter

Joe B. Wright

Brent Chamberlain

June 18, 2013

Chief Justice Matthew B. Durrant
Utah Judicial Council
Utah Supreme Court
P.O. Box 140210
Salt Lake City, UT 84114

RE: Kanab City Justice Court Dissolution

Dear Chief Justice Durrant and Members of the Judicial Council:

I understand that at the June 24th meeting, the Judicial Council is scheduled to discuss a request from Kane County Chief Deputy Attorney Robert Van Dyke to have the Kanab City Justice Court remain open beyond July 1, 2013.

For the last year, Kanab City has operated under the understanding that the Judicial Council dissolved the court effective July 1, 2013 (see enclosed correspondence with Mr. Schwermer). Mr. Van Dyke's assertions of inadequate notice are a result of the unique manner in which this court is being dissolved; however, it is clear that Mr. Van Dyke and the Kane County Justice Court have indeed been aware of the court's dissolution.

The Kanab City Court is an enormous financial drain on the citizens of Kanab, and we believe that justice will still be well served by the Kane County Justice Court (which is also located in Kanab City). This confusion about the status of the Kanab City Court risks perpetuating that burden.

I will be in attendance at the June 24th meeting to answer any questions members of the Judicial Council may have in this regard.

Sincerely,

Duane Huffman, City Manager

— A Western Classic —

From: Rick Schwermer
To: Duane Huffman
Cc: Rick Schwermer; Mayor Lavcock; Judge Kirk Heaton; Judge Gary Johnson; Dan Becker
Subject: Re: Kanab City Justice Court
Date: Tuesday, July 31, 2012 2:46:41 PM

Duane -

Thanks for the follow-up. Unless the city has other plans, we are assuming that the court will be closing June 30, 2013. Jurisdiction over current cases and future filings would then shift to the Kane County Justice Court on July 1, 2013. You would need to resolve with the county who would be responsible for prosecution, but other than that, I'm not aware of anything further you would need to do in advance of that date. Please let me know if you have questions. - Rick

On Mon, Jul 23, 2012 at 1:57 PM, Duane Huffman <duane.huffman@kanab.net> wrote:

Hi Rick,

I following-up on your letter from 1-26-12 concerning the Kanab City Justice Court. The letter stated that if no request for re-certification was received by July 1, 2012, then the Judicial Council would take that as notification of the intent of the City to dissolve the court effective July 1, 2013.

No request for re-certification was prepared by the Kanab City Council, so I am writing for information to better understand the next steps in the court's dissolution.

Thanks.

Duane Huffman

City Manager

Kanab City

76 N Main

Kanab, UT 84741

duane.huffman@kanab.net



Ph [435-644-2534](tel:435-644-2534)

<http://www.kanab.utah.gov/>



--

Richard Schwermer
Assistant State Court Administrator
ricks@utcourts.gov
801-578-3816 (Matheson Office)
801-538-1751 (Capitol Office)
801-231-8979 (cell phone)



TAB 5

City Arrangement with On-Line Traffic School Provider to Collect Plea in Abeyance Fee

- Referred to the State Auditor's Office (SAO) June 2012
- Audit has not been performed and not an SAO priority
- 35% surcharge distribution negatively impacted (example attached)
- Vendor may have similar agreements with other cities/counties
- Discussion and direction



Heather Mackenzie-Campbell <heatherm@utcourts.gov>

Concern

3 messages

Heather Mackenzie-Campbell <heatherm@utcourts.gov>

Wed, Jun 20, 2012 at 1:41 PM

To: "Empey, Debbie" <dempey@utah.gov>

Cc: Dan Becker <danb@utcourts.gov>, Rick Schwermer <ricks@utcourts.gov>

Bcc: Diane Williams <dianelw@utcourts.gov>, Heather Mackenzie-Campbell <heatherm@utcourts.gov>

Debbie,

Dan Becker directed me to report this matter to your office.

I received a call from a person that would like to remain anonymous. The caller reported that St George City has contracted with a vendor called Street Rules (www.streetrules.com) to manage the online payment processing of traffic school fees and plea in abeyance fees. The processing of the payment for the traffic school fee is acceptable.

However, the collection of the plea in abeyance fee seems to violate UCA 51-4-2 Deposits of Political Subdivisions. In addition, the vendor's disbursement of 50% of the plea in abeyance fee to the city provides the city with more revenue per UCA 78A-7-120 and the inter-local agreement.

The remaining 50% of the plea in abeyance fee is paid to the Washington County Justice Court. The partial amount is distributed first to security surcharge (\$8+\$32). The remainder is distributed to criminal surcharge and plea abeyance fee. For example, for an offense requiring a \$90 plea in abeyance fee, the city receives \$45 then the remaining \$45 is distributed by the court as follows in CORIS:

ST security fee state portion \$25.60

SJ security fee local government portion \$6.40

SL 35% surcharge \$1.25 (s/b \$12.96)

PN Plea in Abeyance Fee \$3.25 (split 40% Wash Co. and 60% St George City)

The complete distribution shorts the state \$11.71 surcharge 35% and Washington County \$16.95; St George City receives \$16.95 more revenue.

If this practice continues unchecked in St George City, the state surcharge account will decrease. If the vendor has made similar revenue disbursement arrangements with other justice courts the problem could be compounded.

The contact number for St George City Traffic School online is 1-888-312-6552. When 1-888-312-6552 is entered in Google, and the name www.streetrules.com is listed along with several more Utah justice courts and one state operated court (Spanish Fork) tied to that number.

I called Spanish Fork City district court to ask what Street Rules payment collection and disbursement practices are for Spanish Fork City's traffic school. The explanation sounded proper.

The clerk told me the defendant pays the PIA fee equal to the fine on the UF&BS for the offense directly to the court, which a clerk receipts on the case and the distribution is correct. The Traffic School Fee is paid to the vendor. Our office provided guidance to the court executive when the vendor approached Spanish Fork City to be the traffic school payment interface a year or so ago. The actual class is taught by the Spanish Fork Police Dept.

Please feel free to follow-up with me on this matter. Traffic School Best Practices, a GC Opinion, is attached as a reference.

Thank you, Heather

—
Heather Mackenzie-Campbell, CFE
Director, Internal Audit
Utah State Courts
801-578-3889
heatherm@utcourts.gov
www.utcourts.gov

 **Traffic_School_Best_Practices.pdf**
312K

Washington County Justice Court- St. George City traffic citations – plea in abeyance process

For a defendant that qualifies for a no appearance plea in abeyance on a traffic citation prosecuted by St. George City, the process is as follows:

The defendant logs into the Traffic School providers link on the St. George City website. After answering some questions to determine eligibility, the defendant pays a fee by credit card. For example a speeding violation, 7 mph over, the defendant pays \$115 on-line, \$70 for the traffic school fee and \$45 of a \$90 Plea in Abeyance Fee (PIA).

Upon completion of the on-line traffic school course, the defendant prints out the completion certificate and PIA agreement and turns it into the city prosecutor's office for review and signature approval. The defendant is required to attach a money order for the remaining \$45 Plea in Abeyance Fee. The prosecutor's office sends the PIA agreement and money order to the court.

CORIS Screen print for St. George City traffic citations – PIA through traffic school provider:

The court receipts the \$45 partial PIA fee on the case. The PN –Plea in Abeyance and SL-35% Surcharge distributions are negatively affected by this practice.

Revenue Receivable

Assess Fee Distribution Codes Hypothetical Fine

Account: **PLEA ABEY MISDMNR** Case: **135704539** Traffic Citation Remove Due Date

Name: **COX, DARRAH ANETTE**

Account: **1** of **1** Account Date: **05/13/2013** Date Due:

Distribution	Original Amount	Adjustment to Date	New Due Amount	Credit to Date	Paid to Date	Balance	New Credit	New Paid
PN	3.70	.00	3.70	.00	3.70	.00		
SJ	6.40	.00	6.40	.00	6.40	.00		
SL	1.30	.00	1.30	.00	1.30	.00		
ST	25.60	.00	25.60	.00	25.60	.00		
SY	8.00	.00	8.00	.00	8.00	.00		
Totals	45.00	.00	45.00	.00	45.00	.00	.00	.00

☒ Adjust Amount Due ☐ Apply New Credit ☐ Redistribute Credits and Amounts Paid

☐ Surcharge Included Amount: Reason:

☐ Surcharge Added Amount:

☒ Select by distribution code Click on distribution to be adjusted

Calculate Distribution **Undo** **Display Violations** **New Distribution** **Enter** **Exit**

Remove A/R / Restore Bail Forfeitable

The Washington County interlocal agreement is for 60% of plea in abeyance fees and fines to be paid to St. George City 60%. St. George City receives more than 60% of the PIA fee under this practice.

CORIS Screen print for the correct practice if 100% of the PIA fee is paid to the court:

The revenue distribution when a PIA fee of \$90 is paid in full to the court is displayed below. The correct amounts are distributed to all revenue codes. The PN –Plea in Abeyance Fee and SL-35% Surcharge distributions are correct.

Revenue Receivable

Assess Fee

Distribution Codes

Hypothetical Fine

Account

PLEA ABY. MISDMNR

Case

105705445

Traffic Court Case

Remove Due Date

Name

PERTEGHELLA, RENATO

Account

1

of

1

Account Date

11/17/2010

Date Due

11/17/2010

Distribution	Original Amount	Adjustment to Date	New Due Amount	Credit to Date	Paid to Date	Balance	New Credit	New Paid
PN	37.04	.00	37.04	.00	37.04	.00		
SJ	6.40	.00	6.40	.00	6.40	.00		
SL	12.96	.00	12.96	.00	12.96	.00		
ST	25.60	.00	25.60	.00	25.60	.00		
SY	8.00	.00	8.00	.00	8.00	.00		
Totals	90.00	.00	90.00	.00	90.00	.00	.00	.00

☒ Adjust Amount Due
 ☐ Apply New Credit
 ☐ Redistribute Credits and Amounts Paid

☐ Surcharge Included
 ☐ Surcharge Added

Amount

Reason

☒ Select by distribution code
 Click on distribution to be adjusted

Calculate Distribution

Undo

Display Violations

New Distribution

Enter

Exit

Remove A/F / Restore Bad Forfeitable

TAB 7

TAB 8



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: June 11, 2013
Re: Rules for comment

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

Rule summary

CJA 01-0205. Standing and ad hoc committees. Amend. Changes the name of the Court Interpreter Committee to the Language Access Committee.

CJA 03-0306. Court interpreters. Amend. Creates a complaint process for failure to follow the requirements of the rule. Clarifies that Rule 3-306 is not authority to charge for language access costs. Cites the competing authority of federal and state law. Recognizes interpreter credentials from other states. Requires staff to be acting within the scope of human resource policies and procedures, which includes qualifications for a second language stipend, before engaging in a first-hand conversation with a person of limited English proficiency.

CJA 03-0402. Human resources administration. Amend. Changes the name of the career service review board to the grievance review panel.

CJA 04-0110. Transfer of juvenile cases from district and justice courts to the juvenile court. Amend. Technical change, recognizing that Section 78A-7-106 governs transfer of cases from justice court to juvenile court.

CJA 04-0404. Jury selection and service. Amend. Implements the requirement of Section 78B-1-110 that compliance with a summons satisfies a person's jury service obligation for two years. Permits a court to establish a shorter term of service than is provided by rule, but not longer.

CJA 04-0508. Guidelines for ruling on a motion to waive fees. Amend. Includes juvenile court within the guidelines of the rule.

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.

Rule 1-205. Standing and ad hoc committees.

Intent:

To establish standing and ad hoc committees to assist the Council and provide recommendations on topical issues.

To establish uniform terms and a uniform method for appointing committee members.

To provide for a periodic review of existing committees to assure that their activities are appropriately related to the administration of the judiciary.

Applicability:

This rule shall apply to the internal operation of the Council.

Statement of the Rule:

(1) Standing committees.

(1)(A) Establishment. The following standing committees of the Council are hereby established:

(1)(A)(i) Technology Committee;

(1)(A)(ii) Uniform Fine/Bail Schedule Committee;

(1)(A)(iii) Ethics Advisory Committee;

(1)(A)(iv) Justice Court Standards Committee;

(1)(A)(v) Judicial Branch Education Committee;

(1)(A)(vi) Court Facility Planning Committee;

(1)(A)(vii) Committee on Children and Family Law;

(1)(A)(viii) Committee on Judicial Outreach;

(1)(A)(ix) Committee on Resources for Self-represented Parties;

(1)(A)(x) ~~Court Interpreter Language Access~~ Committee; and

(1)(A)(xi) Guardian ad Litem Oversight Committee.

(1)(B) Composition.

(1)(B)(i) The Technology Committee shall consist of one judge from each court of record, one justice court judge, one lawyer recommended by the Board of Bar Commissioners, two court executives, two court clerks and two staff members from the Administrative Office.

31 (1)(B)(ii) The Uniform Fine/Bail Schedule Committee shall consist of one district
32 court judge who has experience with a felony docket, three district court judges who
33 have experience with a misdemeanor docket, one juvenile court judge and three justice
34 court judges.

35 (1)(B)(iii) The Ethics Advisory Committee shall consist of one judge from the Court of
36 Appeals, one district court judge from Judicial Districts 2, 3, or 4, one district court judge
37 from Judicial Districts 1, 5, 6, 7, or 8, one juvenile court judge, one justice court judge,
38 and an attorney from either the Bar or a college of law.

39 (1)(B)(iv) The Justice Court Standards Committee shall consist of one municipal
40 justice court judge from a rural area, one municipal justice court judge from an urban
41 area, one county justice court judge from a rural area, and one county justice court
42 judge from an urban area, all appointed by the Board of Justice Court Judges; one
43 mayor from either Utah, Davis, Weber or Salt Lake Counties, and one mayor from the
44 remaining counties, both appointed by the Utah League of Cities and Towns; one county
45 commissioner from either Utah, Davis, Weber or Salt Lake Counties, and one county
46 commissioner from the remaining counties, both appointed by the Utah Association of
47 Counties; a member of the Bar from Utah, Davis, Weber or Salt Lake Counties, and a
48 member of the Bar from the remaining counties, both appointed by the Bar Commission;
49 and a judge of a court of record appointed by the Presiding Officer of the Council. All
50 Committee members shall be appointed for four year staggered terms.

51 (1)(B)(v) The Judicial Branch Education Committee shall consist of one judge from
52 an appellate court, one district court judge from Judicial Districts 2, 3, or 4, one district
53 court judge from Judicial Districts 1, 5, 6, 7, or 8, one juvenile court judge, the education
54 liaison of the Board of Justice Court Judges, one state level administrator, the Human
55 Resource Management Director, one court executive, one juvenile court probation
56 representative, two court clerks from different levels of court and different judicial
57 districts, one data processing manager, and one adult educator from higher education.
58 The Human Resource Management Director and the adult educator shall serve as non-
59 voting members. The state level administrator and the Human Resource Management
60 Director shall serve as permanent Committee members.

31 (1)(B)(vi) The Court Facility Planning Committee shall consist of one judge from
62 each level of trial court, one appellate court judge, the state court administrator, a trial
63 court executive, and two business people with experience in the construction or
64 financing of facilities.

65 (1)(B)(vii) The Committee on Children and Family Law shall consist of one Senator
66 appointed by the President of the Senate, one Representative appointed by the
67 Speaker of the House, the Director of the Department of Human Services or designee,
68 one attorney of the Executive Committee of the Family Law Section of the Utah State
69 Bar, one attorney with experience in abuse, neglect and dependency cases, one
70 attorney with experience representing parents in abuse, neglect and dependency cases,
71 one representative of a child advocacy organization, one mediator, one professional in
72 the area of child development, one representative of the community, the Director of the
73 Office of Guardian ad Litem or designee, one court commissioner, two district court
74 judges, and two juvenile court judges. One of the district court judges and one of the
75 juvenile court judges shall serve as co-chairs to the committee. In its discretion the
76 committee may appoint non-members to serve on its subcommittees.

77 (1)(B)(viii) The Committee on Judicial Outreach shall consist of one appellate court
78 judge, one district court judge, one juvenile court judge, one justice court judge, one
79 state level administrator, a state level judicial education representative, one court
80 executive, one Utah State Bar representative, one communication representative, one
81 law library representative, one civic community representative, and one state education
82 representative. Chairs of the Judicial Outreach Committee's subcommittees shall also
83 serve as members of the committee.

84 (1)(B)(ix) The Committee on Resources for Self-represented Parties shall consist of
85 two district court judges, one juvenile court judge, one justice court judge, three clerks of
86 court – one from an appellate court, one from an urban district and one from a rural
87 district – one member of the Online Court Assistance Committee, one representative
88 from the Utah State Bar, two representatives from legal service organizations that serve
89 low-income clients, one private attorney experienced in providing services to self-

90 represented parties, two law school representatives, the state law librarian, and two
91 community representatives.

92 (1)(B)(x) The ~~Court Interpreter~~ Language Access Committee shall consist of one
93 district court judge, one juvenile court judge, one justice court judge, one trial court
94 executive, one court clerk, one interpreter coordinator, one probation officer, one
95 prosecuting attorney, one defense attorney, two certified interpreters, one approved
96 interpreter, one expert in the field of linguistics, and one American Sign Language
97 representative.

98 (1)(B)(xi) The Guardian ad Litem Oversight Committee shall consist of seven
99 members with experience in the administration of law and public services selected from
100 public, private and non-profit organizations.

101 (1)(C) The Judicial Council shall designate the chair of standing committees.
102 Standing committees shall meet as necessary to accomplish their work but a minimum
103 of once every six months. Standing committees shall report to the Council as necessary
104 but a minimum of once every six months. Council members may not serve, participate
105 or vote on standing committees. Standing committees may invite participation by others
106 as they deem advisable, but only members designated by this rule may make motions
107 and vote. All members designated by this rule may make motions and vote unless
108 otherwise specified. Standing committees may form subcommittees as they deem
109 advisable.

110 (1)(D) Six months before the scheduled termination of a standing committee, the
111 Management Committee shall review the performance of the committee and make
112 recommendations to the Judicial Council regarding reauthorization. Unless reauthorized
113 by the Judicial Council, the committees shall terminate on the date indicated and every
114 six years thereafter.

115 (1)(D)(i) The Technology Committee shall terminate on June 30, 2006.

116 (1)(D)(ii) The Uniform Fine/Bail Schedule Committee shall terminate on June 30,
117 2006.

118 (1)(D)(iii) The Ethics Advisory Committee shall terminate on June 30, 2007.

119 (1)(D)(iv) The Justice Court Standards Committee shall terminate on June 30, 2008.

120 (1)(D)(v) The Judicial Branch Education Committee shall terminate on June 30,
121 2008.

122 (1)(D)(vi) The Court Facility Planning Committee shall terminate on June 30, 2009.

123 (1)(D)(vii) The Committee on Children and Family Law shall terminate on June 30,
124 2009.

125 (1)(D)(viii) The Committee on Judicial Outreach shall terminate on June 30, 2010.

126 (1)(D)(ix) The Committee on Resources for Self-represented Parties shall terminate
127 on June 30, 2010.

128 (1)(D)(x) The Court Interpreter Committee shall terminate on June 30, 2011.

129 (1)(D)(xi) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight
130 Committee, recognized by Section 78A-6-901, shall not terminate.

131 (2) Ad hoc committees. The Council may form ad hoc committees or task forces to
132 consider topical issues outside the scope of the standing committees and to
133 recommend rules or resolutions concerning such issues. The Council may set and
134 extend a date for the termination of any ad hoc committee. The Council may invite non-
135 Council members to participate and vote on ad hoc committees. Ad hoc committees
136 shall keep the Council informed of their activities. Ad hoc committees may form sub-
137 committees as they deem advisable. Ad hoc committees shall disband upon issuing a
138 final report or recommendations to the Council, upon expiration of the time set for
139 termination, or upon the order of the Council.

140 (3) General provisions.

141 (3)(A) Appointment process.

142 (3)(A)(i) Administrator's responsibilities. The state court administrator shall select a
143 member of the administrative staff to serve as the administrator for committee
144 appointments. Except as otherwise provided in this rule, the administrator shall:

145 (3)(A)(i)(a) announce expected vacancies on standing committees two months in
146 advance and announce vacancies on ad hoc committees in a timely manner;

147 (3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve from
148 each prospective appointee and information regarding the prospective appointee's
149 present and past committee service;

150 (3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the
151 prospective reappointee, the length of the prospective reappointee's service on the
152 committee, the attendance record of the prospective reappointee, the prospective
153 reappointee's contributions to the committee, and the prospective reappointee's other
154 present and past committee assignments; and

155 (3)(A)(i)(d) present a list of prospective appointees and reappointees to the Council
156 and report on recommendations received regarding the appointment of members and
157 chairs.

158 (3)(A)(ii) Council's responsibilities. The Council shall appoint the chair of each
159 committee. Whenever practical, appointments shall reflect geographical, gender,
160 cultural and ethnic diversity.

161 (3)(B) Terms. Except as otherwise provided in this rule, standing committee
162 members shall serve staggered three year terms. Standing committee members shall
163 not serve more than two consecutive terms on a committee unless the Council
164 determines that exceptional circumstances exist which justify service of more than two
165 consecutive terms.

166 (3)(C) Members of standing and ad hoc committees may receive reimbursement for
167 actual and necessary expenses incurred in the execution of their duties as committee
168 members.

169 (3)(D) The Administrative Office shall serve as secretariat to the Council's
170 committees.
171

1 **Rule 3-306. ~~Court interpreters~~ Language access in the courts.**

2 Intent:

3 To state the policy of the Utah courts to secure the rights of people under Title VI of
4 the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. in legal proceedings who are
5 unable to understand or communicate adequately in the English language.

6 To outline the procedure for certification, appointment, and payment of court
7 interpreters for legal proceedings.

8 To provide certified interpreters in legal proceedings in those languages for which a
9 certification program has been established.

10 Applicability:

11 This rule shall apply to legal proceedings in the courts of record and not of record.
12 This rule shall apply to interpretation for non-English speaking people and not to
13 interpretation for the persons with a hearing-impaired impairment, which is governed by
14 Utah and federal statutes.

15 Statement of the Rule:

16 (1) Definitions.

17 (1)(A) "Appointing authority" means a judge, commissioner, referee or juvenile
18 probation officer, or delegate thereof.

19 (1)(B) "Approved interpreter" means a person who has been rated as "superior" in
20 ~~the Oral Proficiency Interview conducted by Language Testing International~~ testing and
21 has fulfilled the requirements established in paragraph (3).

22 (1)(C) "Certified interpreter" means a person who has successfully passed the
23 examination of the Consortium for Language Access in the Courts and has fulfilled the
24 requirements established in paragraph (3).

25 (1)(D) "Committee" means the ~~Court Interpreter~~ Language Access Committee
26 established by Rule 1-205.

27 (1)(E) "Conditionally-approved interpreter" means a person who, in the opinion of the
28 appointing authority after evaluating the totality of the circumstances, has language
29 skills, knowledge of interpreting techniques, and familiarity with interpreting sufficient to
30 interpret the legal proceeding. A conditionally approved interpreter shall read and is

bound by the Code of Professional Responsibility and shall subscribe the oath or affirmation of a certified interpreter.

(1)(F) "Code of Professional Responsibility" means the Code of Professional Responsibility for Court Interpreters set forth in Code of Judicial Administration Appendix H. An interpreter may not be required to act contrary to law or the Code of Professional Responsibility.

(1)(G) "Legal proceeding" means a proceeding before the appointing authority, court-annexed mediation, communication with court staff, and participation in mandatory court programs. Legal proceeding does not include communication outside the court unless permitted by the appointing authority.

(1)(H) "Limited English proficiency" means the inability to understand or communicate in English at the level of comprehension and expression needed to participate effectively in legal proceedings.

(1)(I) "Registered interpreter I" means a person who interprets in a language in which testing by the Consortium for Language Access in the Courts or Language Testing International is not available and who has fulfilled the requirements established in paragraph (3) other than paragraph (3)(A)(v).

(1)(J) "Registered interpreter II" means a person who interprets in a language in which testing by the Consortium for Language Access in the Courts or Language Testing International is available and who has fulfilled the requirements established in paragraph (3) other than paragraph (3)(A)(v).

(1) (K) "Testing" means using an organization approved by the committee that uses the American Council on the Teaching of Foreign Languages (ACTFL) scale.

(2) Court Interpreter Language Access Committee. The Court Interpreter Language Access Committee shall:

(2)(A) research, develop and recommend to the Judicial Council policies and procedures for interpretation in legal proceedings and translation of printed materials;

(2)(B) issue informal opinions to questions regarding the Code of Professional Responsibility, which is evidence of good-faith compliance with the Code; and

(2)(C) discipline court interpreters.

31 (3) Application, training, testing, roster.

62 (3)(A) Subject to the availability of funding, and in consultation with the committee,
63 the administrative office of the courts shall establish programs to certify and approve
64 court-interpreters in English and the non-English languages most frequently needed in
65 the courts. The administrative office shall publish a roster of certified, approved, and
66 registered interpreters ~~and a roster of approved interpreters~~. To be certified, ~~or approved~~
67 or registered, an applicant shall:

68 (3)(A)(i) file an application form approved by the administrative office;

69 (3)(A)(ii) pay a fee established by the Judicial Council;

70 (3)(A)(iii) pass a background check;

71 (3)(A)(iv) complete training as required by the administrative office;

72 (3)(A)(v) obtain a passing score on the court interpreter's test(s) as required by the
73 administrative office;

74 (3)(A)(vi) complete 10 hours observing a certified interpreter in a legal proceeding;
75 and

76 (3)(A)(vii) take and subscribe the following oath or affirmation: "I will make a true and
77 impartial interpretation using my best skills and judgment in accordance with the Code
78 of Professional Responsibility."

79 (3)(B) A person who is certified in good standing by the federal courts or by a state
80 having a certification program that is equivalent to the program established under this
81 rule may be certified without complying with paragraphs (3)(A)(iv) through (3)(A)(vii) but
82 shall pass an ethics examination and otherwise meet the requirements of this rule.

83 (3)(C) No later than December 31 of each even-numbered calendar year, certified,
84 ~~and approved, and registered~~ interpreters shall pass the background check for
85 applicants, and certified interpreters shall complete at least 16 hours of continuing
86 education approved by the administrative office of the courts.

87 (4) Appointment.

88 (4)(A) Except as provided in paragraphs (4)(B), (4)(C) and (4)(D), if the appointing
89 authority determines that a party, witness, victim or person who will be bound by the
90 legal proceeding has a primary language other than English and limited English

proficiency, the appointing authority shall appoint a certified interpreter in all legal proceedings. A person requesting an interpreter is presumed to be a person of limited English proficiency.

(4)(B) An approved interpreter may be appointed if no certified interpreter is reasonably available.

(4)(C) A registered interpreter may be appointed if no certified or approved interpreter is reasonably available.

(4)(D) A conditionally-approved interpreter may be appointed if the appointing authority, after evaluating the totality of the circumstances, finds that:

(4)(D)(i) the prospective interpreter has language skills, knowledge of interpreting techniques and familiarity with interpreting sufficient to interpret the legal proceeding; and

(4)(D)(ii) appointment of the prospective interpreter does not present a real or perceived conflict of interest or appearance of bias; and

(4)(D)(iii) a certified, approved, or registered interpreter is not reasonably available or the gravity of the legal proceeding and the potential consequence to the person are so minor that delays in obtaining a certified or approved interpreter are not justified.

(4)(E) The appointing authority may appoint an interpreter with certified or approved or equivalent credentials from another state if the appointing authority finds that the approved, registered or conditionally approved interpreters who are reasonably available do not have the language skills, knowledge of interpreting techniques, or familiarity with interpreting sufficient to interpret the legal proceeding. The appointing authority may consider the totality of the circumstances, including the complexity or gravity of the legal proceeding, the potential consequences to the person of limited English proficiency, and any other relevant factor.

~~(4)(E)~~ (4)(F) No interpreter is needed for a direct verbal exchange between the person and court staff if the court staff can fluently speak the language understood by the person and the employee is acting within guidelines established in the Human Resources Policies and Procedures. An approved, registered or conditionally approved

120 interpreter may be appointed if the court staff does not speak the language understood
121 by the person.

122 ~~(4)(F)~~ (4)(G) The appointing authority will appoint one interpreter for all participants
123 with limited English proficiency, unless the judge determines that the participants have
124 adverse interests, or that due process, confidentiality, the length of the legal proceeding
125 or other circumstances require that there be additional interpreters.

126 ~~(4)(G)~~ (4)(H) A person whose request for an interpreter has been denied may apply
127 to review the denial. The application shall be decided by the presiding judge. If there is
128 no presiding judge or if the presiding judge is unavailable, the clerk of the court shall
129 refer the application to any judge of the court or any judge of a court of equal
130 jurisdiction. The application must be filed within 20 days after the denial.

131 (5) Payment.

132 (5)(A) The ~~interpreter fees and expenses~~ for language access shall be paid by the
133 administrative office of the courts in courts of record and by the government that funds
134 the court in courts not of record. The court may assess the ~~interpreter fees and~~
135 ~~expenses as costs to a party as otherwise provided by law. (Utah Constitution, Article I,~~
136 ~~Section 12, Utah Code Sections 77-1-6(2)(b), 77-18-7, 77-32a-1, 77-32a-2, 77-32a-3,~~
137 ~~78B-1-146(3), and URCP 54(d)(2), and Title VI of the Civil Rights Act of 1964, 42 U.S.C.~~
138 ~~2000d, et seq., and regulations and guidance adopted under that title.)~~

139 (5)(B) A person who has been ordered to pay ~~for an interpreter fees and expenses~~
140 for language access ~~after filing an affidavit of impecuniosity~~ may apply to the presiding
141 judge to review the order. If there is no presiding judge, the person may apply to any
142 judge of the court or any judge of a court of equal jurisdiction. The application must be
143 filed within 20 days after the ~~denial order~~.

144 (6) Waiver. A person may waive an interpreter if the appointing authority approves
145 the waiver after determining that the waiver has been made knowingly and voluntarily. A
146 person may retract a waiver and request an interpreter at any time. An interpreter is for
147 the benefit of the court as well as for the non-English speaking person, so the
148 appointing authority may reject a waiver.

49 (7) Removal from legal proceeding. The appointing authority may remove an
150 interpreter from the legal proceeding for failing to appear as scheduled, for inability to
151 interpret adequately, including a self-reported inability, and for other just cause.

152 (8) Discipline.

153 (8)(A) An interpreter may be disciplined for:

154 (8)(A)(i) knowingly making a false interpretation in a legal proceeding;

155 (8)(A)(ii) knowingly disclosing confidential or privileged information obtained in a
156 legal proceeding;

157 (8)(A)(iii) knowingly failing to follow standards prescribed by law, the Code of
158 Professional Responsibility and this rule;

159 (8)(A)(iv) failing to pass a background check;

160 (8)(A)(v) failing to meet continuing education requirements;

161 (8)(A)(vi) conduct or omissions resulting in discipline by another jurisdiction; and

162 (8)(A)(vii) failing to appear as scheduled without good cause.

163 (8)(B) Discipline may include:

164 (8)(B)(i) permanent loss of certified or approved credentials;

165 (8)(B)(ii) temporary loss of certified or approved credentials with conditions for
166 reinstatement;

167 (8)(B)(iii) suspension from the roster of certified or approved interpreters with
168 conditions for reinstatement;

169 (8)(B)(vi) prohibition from serving as a conditionally approved interpreter;

170 (8)(B)(v) suspension from serving as a conditionally approved interpreter with
171 conditions for reinstatement; and

172 (8)(B)(vi) reprimand.

173 ~~(8)(C) Any person may file a complaint in writing on a form provided by the program~~
174 ~~manager. The complaint may be in the native language of the complainant, which the~~
175 ~~AOC shall translate in accordance with this rule. The complaint shall describe in detail~~
176 ~~the incident and the alleged conduct or omission. The program manager may dismiss~~
177 ~~the complaint if it is plainly frivolous, insufficiently clear, or alleges conduct that does not~~

178 ~~violate this rule. If the complaint is not dismissed, the program manager shall mail the~~
179 ~~complaint to the interpreter at the address on file with the administrative office.~~

180 (9) Complaints.

181 (9)(A) Any person may file a complaint about a matter for which an interpreter can be
182 disciplined. A party, witness, victim or person who will be bound by a legal proceeding,
183 may file a complaint about the misapplication of this rule.

184 (9)(B) The complaint shall allege an act or omission for which an interpreter can be
185 disciplined or that violates this rule. The complaint shall be in writing and signed and
186 filed with the program coordinator. The complaint may be in the native language of the
187 complainant, which the AOC shall translate in accordance with this rule. The complaint
188 shall describe the circumstances of the act or omission, including the date, time,
189 location and nature of the incident and the persons involved.

190 (9)(C) The program coordinator may dismiss the complaint if it is plainly frivolous,
191 insufficiently clear, or does not allege an act or omission act or omission for which an
192 interpreter can be disciplined or that does not violate this rule.

193 (9)(D) If the complaint alleges that the court did not provide language access as
194 required by this rule, the program coordinator shall investigate and recommend
195 corrective actions that are warranted.

196 (9)(E) If the complaint alleges an act or omission for which the interpreter can be
197 disciplined, the program coordinator shall mail the complaint to the interpreter at the
198 address on file with the administrative office of the courts and proceed as follows:

199 ~~(8)(D)~~ (9)(E)(i) The interpreter shall answer the complaint within 30 days after the
200 date the complaint is mailed or the allegations in the complaint are ~~considered deemed~~
201 true and correct. The answer shall admit, deny or further explain each allegation in the
202 complaint.

203 ~~(8)(E)~~ (9)(E)(ii) The program ~~manager~~ coordinator may review records and interview
204 the complainant, the interpreter and witnesses. After considering all factors, the program
205 ~~manager~~ coordinator may propose a resolution, which the interpreter may stipulate to.
206 The program ~~manager~~ coordinator may consider aggravating and mitigating
207 circumstances such as the severity of the violation, the repeated nature of violations,

the potential of the violation to harm a person's rights, the interpreter's work record, prior discipline, and the effect on court operations.

~~(8)(F)~~ (9)(E)(iii) If the complaint is not resolved by stipulation, the program ~~manager~~ coordinator will notify the committee, which shall hold a hearing. The committee chair and at least one interpreter member must attend. If a committee member is the complainant or the interpreter, the committee member is recused. The program ~~manager-coordinator~~ shall mail notice of the date, time and place of the hearing to the interpreter. The hearing is closed to the public. Committee members and staff may not disclose or discuss information or materials outside of the meeting except with others who participated in the meeting or with a member of the Committee. The committee may review records and interview the interpreter, the complainant and witnesses. A record of the proceedings shall be maintained but is not public.

~~(8)(G)~~ (9)(E)(iv) The committee shall decide whether there is sufficient evidence of the alleged conduct or omission, whether the conduct or omission violates this rule, and the discipline, if any. The chair shall issue a written decision on behalf of the committee within 30 days after the hearing. The program ~~manager-coordinator~~ shall mail a copy of the decision to the interpreter.

~~(8)(H)~~ (9)(E)(v) The interpreter may review and, upon payment of the required fee, obtain a copy of any records to be used by the committee. The interpreter may attend all of the hearing except the committee's deliberations. The interpreter may be represented by counsel and shall be permitted to make a statement, call and interview the complainant and witnesses, and comment on the claims and evidence. The interpreter may obtain a copy of the record of the hearing upon payment of the required fee.

~~(8)(I)~~ (9)(E)(vi) If the interpreter is certified in Utah under Paragraph (3)(B), the committee shall report the findings and sanction to the certification authority in the other jurisdiction.

~~(9)~~ (10) Fees.

~~(9)(A)~~ (10)(A) In April of each year the Judicial Council shall set the fees and expenses to be paid to interpreters during the following fiscal year by the courts of

record. Payment of fees and expenses shall be made in accordance with the Courts Accounting Manual.

~~(9)(B)-(10)(B)~~ The local government that funds a court not of record shall set the fees and expenses to be paid to interpreters by that court.

~~(10)-(11)~~ Translation of court forms. Forms must be translated by a team of at least two people who are interpreters certified under this rule or translators accredited by the American Translators Association.

~~(11)-(12)~~ Court employees as interpreters. A court employee may not interpret legal proceedings except as follows.

~~(11)(A)-(12)(A)~~ A court may hire an employee to be an interpreter. The employee will be paid the wages and benefits of the employee's grade and not the fee established by this rule. If the language is a language for which certification in Utah is available, the employee must be a certified interpreter. If the language is a language for which certification in Utah is not available, the employee must be an approved interpreter. The employee must meet the continuing education requirements of an employee, but at least half of the minimum requirement must be in improving interpreting skills. The employee is subject to the discipline process for court personnel, but the grounds for discipline include those listed in this rule.

~~(11)(B)-(12)(B)~~ A state court employee employed as an interpreter has the rights and responsibilities provided in the Utah state court human resource policies, including the Code of Personal Conduct, and the Court Interpreters' Code of Professional Responsibility also applies. A justice court employee employed as an interpreter has the rights and responsibilities provided in the county or municipal human resource policies, including any code of conduct, and the Court Interpreters' Code of Professional Responsibility also applies.

~~(11)(C)-(12)(C)~~ A court may use an employee as a conditionally-approved interpreter under paragraph (4)(C). The employee will be paid the wage and benefits of the employee's grade and not the fee established by this rule.

Rule 3-402. Human resources administration.

Intent:

To establish guidelines for the administration of a human resources system for the judiciary.

Applicability:

This rule shall apply to all state employees in the judicial branch.

Statement of the Rule:

(1) A department of human resources is established within the Administrative Office to direct and coordinate the human resources activities of the judiciary.

(2) The department of human resources shall provide the necessary human resources services to the judiciary in compliance with the state constitution, state statute and this Code. The department of human resources shall keep all state employees in the judicial branch informed of benefits, compensation, retirement and other human resources related matters.

(3) The human resources policies and procedures for non-judicial employees:

(3)(A) shall include classification of exempt and non-exempt positions, guidelines governing recruitment, selection, classification, compensation, working conditions, grievances and other areas deemed necessary; and

(3)(B) shall be based upon the following merit principles:

(3)(B)(i) The recruitment, selection and promotion of employees is based on relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment.

(3)(B)(ii) A salary schedule which provides for equitable and adequate compensation based upon studies conducted every three years of the salary levels of comparable positions in both the public and private sector and available funds.

(3)(B)(iii) Employee retention on the basis of adequate performance. Where appropriate, provision will be made for correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.

(3)(B)(iv) Fair treatment in all aspects of human resources administration without regard to race, color, religion, sex, national origin, age, creed, disability, political

31 affiliation or other nonmerit factors and proper regard for employees' constitutional and
32 statutory rights as citizens.

33 (3)(B)(v) Notification to employees and an explanation of their political rights and
34 prohibited employment practices.

35 (4) The state court level administrator shall be responsible for the day-to-day
36 administration of the human resources system within that court level. A director of
37 human resources, appointed by the State Court Administrator, shall be responsible for
38 directing and coordinating the human resources activities of the human resources
39 system and will assist the state level administrators and court executives with human
40 resources related matters.

41 (5) Human resources policies and procedures and a Code of Ethics for non-judicial
42 employees shall be adopted by the Council in accordance with the rulemaking
43 provisions of this Code and shall be reviewed every three years.

44 (5)(A) There is established a human resources policy and procedure review
45 committee responsible for making and reviewing proposals for repealing human
46 resources policies and procedures and promulgating new and amended human
47 resources policies and procedures. The committee shall consist of:

48 (5)(A)(i) the director of human resources;

49 (5)(A)(ii) two trial court executives;

50 (5)(A)(iii) a district court clerk of court;

51 (5)(A)(iv) a juvenile court clerk of court;

52 (5)(A)(v) a probation supervisor from the juvenile court; and

53 (5)(A)(vi) an assistant clerk of court from the district court or circuit court.

54 (5)(B) The chair of the committee shall be designated by the director in consultation
55 with the state court administrator. Other members of the committee shall be appointed
56 in a manner consistent with Rule 1-205. The department of human resources shall
57 provide necessary support.

58 (5)(C) New and amended policies and procedures recommended by the committee
59 shall be reviewed by the court executives prior to being submitted to the Judicial

30 Council. The Court Executives may endorse or amend the draft policies and procedures
61 or return the draft policies and procedures to the committee for further consideration.

62 (6) A ~~career-service-review board~~ grievance review panel is established within the
63 grievance process to sit as a quasi-judicial body and review any action taken under the
64 authority of the judiciary's human resources procedures and which pertains to employee
65 promotions, dismissals, demotions, wages, salary, violations of human resources rules,
66 benefits, reductions in force and disciplinary actions.

67 (7) An official human resources file for each employee shall be maintained in the
68 Administrative Office and shall include the following records: leave records, education
69 records, biographical information, performance plans and appraisals, records of official
70 human resources action, records of official disciplinary action and supporting
71 documentation, letters of commendation, job applications and payroll and benefits
72 information.
73

**Rule 4-110. Transfer of juvenile traffic-cases from Ddistrict and Jjustice
Ccourts to the Jjuvenile Ccourt.**

Intent:

To establish criteria and procedures for transferring juvenile traffic-cases from the district and justice courts to the juvenile court for post-judgment proceedings.

Applicability:

This rule applies to juvenile, district and justice courts.

Statement of the Rule:

(1) The justice court may transfer a criminal matter in which the defendant is a minor to the juvenile court under Section 78A-7-106.

~~(1) Juvenile traffic cases may be transferred from the~~ (2) The district and justice courts may transfer a traffic matter in which the defendant is a minor to the juvenile court for post-judgment proceedings if:

(2)(A) the case has been adjudicated, either by the entry of a guilty plea or by a trial on the merits; and all of the following conditions exist;

~~(2)(A) T~~ (2)(B) there is an outstanding fine or restitution obligation or a compensatory service order; and

~~(2)(B) R~~ (2)(C) reasonable collection efforts have been made, including the issuance of an order to show cause or bench warrant; and

~~(2)(C) A~~ (2)(D) an order has been issued to the State Driver's License Division suspending the juvenile's minor's driver's license; and

~~(2)(D) T~~ (2)(E) the juvenile minor is in contempt of the district or justice court.

~~(2) (3)~~ Fine revenue generated by the juvenile court in cases transferred for post-judgment proceedings shall be considered is state revenue.

~~(3) (4)~~ Cases transferred from the district or justice court shall be accompanied by an order of transfer and a mailing certificate verifying that a copy of the order was mailed to the juvenile minor and, where available, to the juvenile's minor's parent, guardian or custodian.

Rule 4-404. Jury selection and service.

Intent:

To identify the source lists from which the master jury list is built.

To establish a uniform procedure for jury selection, qualification, and service.

To establish administrative responsibility for jury selection.

To ensure that jurors are well informed of the purpose and nature of the obligations of their service at each stage of the proceedings.

Applicability:

This rule shall apply to all trial courts.

Statement of the Rule:

(1) Master jury list and jury source lists; periodic review.

(1)(A) The state court administrator shall maintain for each county a master jury list as defined by the Utah Code.

(1)(B) The master jury list for each county shall be a compilation of the following source lists:

(1)(B)(i) driver licenses and identification cards for citizens of the United States 18 years of age and older from the Drivers License Division of the Department of Public Safety; and

(1)(B)(ii) the official register of voters from the Elections Division of the Office of the Lt. Governor.

(1)(C) The Judicial Council may use additional source lists to improve the inclusiveness of the master jury list for a county.

(1)(D) At least twice per year the state court administrator shall obtain from the person responsible for maintaining each source list a new edition of the list reflecting any additions, deletions, and amendments to the list. The state court administrator shall renew the master jury list for each county by incorporating the new or changed information.

(1)(E) The master jury list shall contain the name, address, and date of birth for each person listed and any other identifying or demographic information deemed necessary

by the state court administrator. The state court administrator shall maintain the master list on a data base accessible to the district courts and justice courts of the state.

(1)(F) The state court administrator shall compare the number of persons on each master jury list for a county with the population of the county 18 years of age and older as reported by the Economic and Demographic Data Projections published for the year by the Office of Planning and Budget. The state court administrator shall report the comparison to the Judicial Council at its October meeting during even numbered years. The sole purpose of this report is to improve, if necessary, the inclusiveness of the master jury list.

(2) Term of service and term of availability of jurors.

(2)(A) The following shall constitute satisfactory completion of a term of service of a juror:

(2)(A)(i) ~~service-serving~~ on a jury panel for one trial whether as a primary or alternate juror regardless of whether the jury is called upon to deliberate or return a verdict;

(2)(A)(ii) reporting once to the courthouse for potential service as a juror;

(2)(A)(iii) complying with a summons as directed, even if not directed to report to the courthouse; or

(2)(A)(iii) expiration of the term of availability.

(2)(B) The term of availability of jurors shall be as follows, unless a shorter term is ordered by the court:

(2)(B)(i) one month for the trial courts of record in Salt Lake county;

(2)(B)(ii) three months for the trial courts of record in Davis, Utah, and Weber counties; and

(2)(B)(iii) six months for all other courts ~~unless otherwise ordered by the court.~~

(3) Random selection procedures.

(3)(A) Random selection procedures shall be used in selecting persons from the master jury list for the qualified jury list.

(3)(B) Courts may depart from the ~~principal-principle~~ of random selection in order to excuse or postpone a juror in accordance with statute or these rules and to remove jurors challenged for cause or peremptorily.

50 (4) Qualified jury list.

61 (4)(A) For each term of availability as defined above, the state court administrator
62 shall provide, based on a random selection, to the court the number of jurors requested
63 by that court. This shall be the list from which the court qualifies prospective jurors. The
64 names of prospective jurors shall be delivered to the requesting court in the random
65 order in which they were selected from the master jury list. The court shall maintain that
66 random order through summons, assignment to panels, selection for voir dire,
67 peremptory challenges, and final call to serve as a juror; or the court may rerandomize
68 the names of jurors at any step.

69 (4)(B) For each term of availability the court should request no more than the
70 number of prospective jurors reasonably calculated to permit the selection of a full jury
71 panel with alternates if applicable for each trial scheduled or likely to be scheduled
72 during the term. The number of prospective jurors requested should be based upon the
73 size of the panel plus any alternates plus the total number of peremptory challenges
74 plus the anticipated number of prospective jurors to be postponed, excused from
75 service or removed for cause less the number of jurors postponed to that term.

76 (4)(C) The clerk of the court shall mail to each prospective juror a qualification form.
77 The prospective juror shall file the answers to the questions with the clerk within ten
78 days after it is received. The state court administrator shall develop a uniform form for
79 use by all courts. In addition to the information required by statute, the qualification form
80 shall contain information regarding the length of service, and procedures and grounds
81 for requesting an excuse or postponement.

82 (4)(D) If a prospective juror is unable to complete the answers, they may be
83 completed by another person. The person completing the answers shall indicate that
84 fact.

85 (4)(E) If the clerk determines that there is an omission, ambiguity, or error in the
86 answers, the clerk shall return the form to the prospective juror with instructions to make
87 the necessary addition, clarification, or correction and to file the answers with the clerk
88 within ten days after it is received.

39 (4)(F) The clerk shall review all answers and record the prospective juror as qualified
90 or disqualified as defined by statute.

91 (4)(G) The clerk shall notify the state court administrator of any determination that a
92 prospective juror is not qualified to serve as a juror, and the state court administrator
93 shall accordingly update the master jury list.

94 (4)(H) A prospective juror whose qualification form is returned by the United States
95 Postal Service as "undeliverable," or "moved - left no forwarding address," or
96 "addressee unknown," or other similar statement, shall not be pursued further by the
97 clerk. The clerk shall notify the state court administrator who shall accordingly update
98 the master jury list.

99 (4)(I) If a prospective juror fails to respond to the qualification questionnaire and the
100 form is not returned by the U.S. Postal Service as undeliverable, the clerk shall mail the
101 qualification form a second time with a notice that failure to answer the questions may
102 result in a court order requiring the prospective juror to appear in person before the
103 clerk to complete the qualification form. If a prospective juror fails to answer the
104 questions after the second mailing, the qualification form and a summons may be
105 delivered to the sheriff for personal service upon the prospective juror. The summons
106 shall require the prospective juror to answer the questions and file them with the court
107 within ten days or to appear before the clerk to prepare the form. Any prospective juror
108 who fails to answer the questions or to appear as ordered shall be subject to the
109 sanctions set forth in the Utah Code.

110 (5) Excuse or postponement from service.

111 (5)(A) No competent juror is exempt from service.

112 (5)(B) Persons on the qualified juror list may be excused from jury service, either
113 before or after summons, for undue hardship, public necessity or because the person is
114 incapable of jury service under the Utah Code. The court shall make reasonable
115 accommodations for any prospective juror with a disability. Excuse from jury service
116 satisfies the prospective juror's statutory service obligation.

117 (5)(C) A prospective juror may be postponed to later in the term or to a future term
118 for good cause.

119 (5)(D) Without more, being enrolled as a full or part-time post-high school student is
120 not sufficient grounds for excuse from service.

121 (5)(E) Disposition of a request for excuse from service or postponement may be
122 made by the judge presiding at the trial to which panel the prospective juror is assigned,
123 the presiding judge of the court, or the judge designated by the presiding judge for that
124 purpose. The presiding judge may establish written standards by which the clerk may
125 dispose of requests for excuse from service or postponement.

126 (6) Summons from the qualified jury list.

127 (6)(A) After consultation with the judges or the presiding judge of the court, the clerk
128 shall determine the number of jurors needed for a particular day. The number of
129 prospective jurors summoned should be based upon the number of panels, size of the
130 panels, any alternates, the total number of peremptory challenges plus the anticipated
131 number of prospective jurors to be postponed, excused from service or removed for
132 cause. The clerk shall summon the smallest number of prospective jurors reasonably
133 necessary to select a trial jury.

134 (6)(B) The judge may direct that additional jurors be summoned if, because of the
135 notoriety of the case or other exceptional circumstances, the judge anticipates
136 numerous challenges for cause.

137 (6)(C)(i) The summons may be by first class mail delivered to the address provided
138 on the juror qualification form or by telephone.

139 (6)(C)(ii) Mailed summonses shall be on a form approved by the state court
140 administrator. The summons may direct the prospective juror to appear at a date, time,
141 and place certain or may direct the prospective juror to telephone the court for further
142 information. The summons shall direct the prospective juror to present the summons for
143 payment. The summons may contain other information determined to be useful to a
144 prospective juror.

145 (6)(C)(iii) If summons is made by telephone, the clerk shall follow the procedures of
146 paragraph (9) of this rule.

147 (7) Assignment of qualified prospective jurors to panels. Qualified jurors may be
148 assigned to panels in the random order in which they appear on the qualified jury list or

149 may be selected in any other random order. If a prospective juror is removed from one
150 panel, that prospective juror may be reassigned to another panel if the need exists and
151 if there are no prospective jurors remaining unassigned.

152 (8) Selection of prospective jurors for voir dire. Qualified jurors may be selected for
153 voir dire in the random order in which they appear on the qualified jury list, or may be
154 selected in any other random order.

155 (9) Calling additional jurors. If there is an insufficient number of prospective jurors to
156 fill all jury panels, the judge shall direct the clerk to summon from the qualified jury list
157 such additional jurors as necessary. The clerk shall make every reasonable effort to
158 contact the prospective jurors in the order listed on the qualified jury list. If after
159 reasonable efforts the clerk fails to contact a juror, the clerk shall attempt to contact the
160 next juror on the list. If the clerk is unable to obtain a sufficient number of jurors in a
161 reasonable period of time, the court may use any lawful method for acquiring a jury.
162

Rule 4-508. Guidelines for ruling on a motion to waive fees.

Intent:

To promote statewide consistency in deciding motions to waive fees in civil cases and in the expungement of criminal records in which the moving party is not a prisoner.

To promote statewide consistency in deciding motions to waive fees in juvenile court cases in which the moving party is not a prisoner.

Nothing in this rule should be interpreted as limiting the discretion of the judge to decide a motion to waive fees.

Applicability:

This rule applies to all civil and small claims cases and in the expungement of criminal records in which the moving party is not a prisoner.

This rule applies to all juvenile court cases in which the moving party is not a prisoner.

As used in this rule "fee waiver" and similar phrases include waiving the fee in full or in part, as may be ordered by the judge.

Statement of the Rule:

(1) The moving party must complete a motion to waive fees and a financial affidavit approved by the Board of District Court Judges or, in the juvenile court, by the Board of Juvenile Court Judges. The moving party must provide supporting documentation of the claims made in the affidavit. In juvenile court, the minor or a minor's parent, guardian or authorized representative may move to waive fees.

(2) Upon the filing of a motion to waive fees and financial affidavit, the court, sheriff or any other provider of a service offered by or through a government entity shall do what is necessary and proper as promptly as if the fee had been fully paid.

(3) A motion to waive fees may be decided without notice to the other parties, requires no response, request to submit for decision or hearing. The court will review the affidavit and make an independent determination whether the fee should be waived. The court should apply a common sense standard to the information and evaluate whether the information is complete, consistent and true. Section 78A-2-304 requires a

30 party to pay a full or partial fee if the financial affidavit and any further questioning
31 demonstrate the party is reasonably able to pay a fee.

32 (4) In general, a party is reasonably able to pay a fee if:

33 (4)(A) gross monthly income exceeds 100% of the poverty guidelines updated
34 periodically in the Federal Register by the U.S. Department of Health and Human
35 Services under the authority of 42 U.S.C. 9902(2).

36 (4)(B) the moving party has liquid assets that can be used to pay the fee without
37 harming the party's financial position;

38 (4)(C) the moving party has credit that can be used to pay the fee without harming
39 the party's financial position;

40 (4)(D) the moving party has assets that can be liquidated or borrowed against
41 without harming the party's financial position;

42 (4)(E) expenses are less than net income;

43 (4)(F) Section 30-3-3 applies and the court orders another party to pay the fee of the
44 moving party; or

45 (4)(G) in the judge's discretion, the moving party is reasonably able to pay some part
46 of the fee.

47 (5) If the moving party is represented by private counsel, the motion to waive fees
48 may be granted in proportion to the attorney's discount of the attorney fee. The moving
49 party's attorney must provide an affidavit describing the fee agreement and what
50 percentage of the attorney's normal, full fee is represented by the discounted fee.

51 (6) A motion to waive fees should be ruled upon within ten days after being filed.

52 (6)(A) If the fee is fully waived, the court, sheriff or any other provider of a service
53 offered by or through a government entity shall do what is necessary and proper as
54 promptly as if the fee had been fully paid.

55 (6)(B) If the fee is not fully waived, the court, sheriff or any other provider of a service
56 offered by or through a government entity may require payment of the fee before doing
57 what is necessary and proper. If the service has already been performed, the court,
58 sheriff or service provider may do what is necessary and proper to collect the fee,
59 including dismissal of the case.

30 (6)(C) If the fee is not fully waived, the court shall notify the party in writing of the fee
61 amount, the procedure to challenge the fee; the consequences of failing to pay the fee.

62 (6)(D) If the motion is rejected because of a technical error, such as failure to
63 complete a form correctly or to attach supporting documentation, the court shall notify
64 the moving party, and the moving party may file a corrected motion and affidavit within
65 14 days after being notified of the decision.

66 (7) In addition to any statutory remedies, an order granting a fee waiver may be
67 reviewed at any time if the court has jurisdiction of the case. If the court determines,
68 after waiving a fee, that the moving party is reasonably able to pay the fee, including
69 from the proceeds of a judgment, the court may modify its previous order. The court
70 may allocate the fee among the parties under Utah Rule of Civil Procedure 54, Utah
71 Code Section 30-3-3, or as otherwise provided by law.
72

TAB 9

Grievance and Appeal Policy

GRIEVANCE AND APPEAL

PURPOSE

The purpose of this policy is to establish a procedure for resolving employee complaints on specific work related issues. Early resolution of complaints is advantageous to both employees and management. Therefore, both employees and management shall endeavor to resolve complaints shall be resolved at the lowest possible level of management, but if need be, by an intermediate supervisor or the Career Service Review Board means of a formal grievance process.

SCOPE

This policy establishes standing, grounds, procedures, deadlines, rights and responsibilities for filing a grievance. It also creates a Career Service Review Board to hear and decide grievances.

This policy applies to all career service employees.

CROSS REFERENCES

Rule 45, Utah Rules Civil Procedure

Classification, Policy 330

Rule 4-202.02, Code of Judicial Administration

Rule 3-402, Code of Judicial Administration

Refer to definition section for first, second and third level of review.

POLICY AND PROCEDURE

- I. Standing.
 - I.1 Only a career service employee may submit a grievance.
 - I.2 When several employees allege the same grievance, they may submit a joint grievance. Each employee shall sign any written statement of the grievance or appeal of a decision. If a decision at some level of review resolves the grievance for some but not all of the employees, an employee remaining dissatisfied may seek review of the decision at the next higher level.
2. Grounds for Grievance.
 - 2.1 An employee may file a grievance based upon an act, occurrence, omission, or

condition of employment which is alleged to have caused direct harm to the employee: sSuch as a dismissal, demotion, suspension, written reprimand, salary adjustment, violation of HR rules, administration of benefits, reduction in force, and other disciplinary action.

2.2 An employee may grieve a promotion, dismissal, demotion, suspension, written reprimand, salary adjustment, violation of HR rules, administration of benefits, reduction in force, and other disciplinary action which is alleged to have caused direct harm to the employee, to all levels of the grievance procedure, pursuant to Section 5 through 9 below.

2.3 An employee may grieve all other matters only to the ~~third~~second level of review.

2.4 An employee may not submit a grievance solely concerning the content of a performance evaluation. However, an employee can refer to the content of an evaluation in a grievance relating to 2.21.

3. Employee Rights.

3.1 For the purpose of submitting a grievance, an employee may:

3.1.1 be represented at any level of the grievance procedure;

3.1.2 request a reasonable amount of time during work hours to confer with a representative, prepare the grievance, and attend hearings; and

3.1.3 call employees or others as witnesses at a grievance hearingmeeting; and

~~3.1.4 petition a court of record to issue a subpoena on the employee's behalf to compel attendance at a hearing.~~

3.2 No manager or other employee may intimidate, coerce or retaliate against any employee for use of or participation in grievance procedures.

4. Time Limits.

4.1 An employee shall, pursuant to subsection 5.1.1 below, submit a grievance within 9060 days after the event giving rise to the grievance or within 9060 days after the employee knows, or, with the exercise of reasonable diligence should have known, of the event giving rise to the grievance.

4.1.1 Absent a showing of excusable neglect, failure to meet these time requirements shall be grounds for dismissing the grievance. Excusable neglect means that the failure to meet the time requirements resulted from an unexpected hindrance or accident, and not from the employee's carelessness, inattention or willful disregard of the grievance process .

4.2 If a grievant fails to appeal a decision on a grievance to the next level of review within the time permitted, or fails to appear at a hearing or mediation meeting set pursuant to sections 5, 6 or 7 below, all right of further review shall be waived and the grievance shall be deemed disposed of on the basis of the last decision.

4.3 The grievant and the reviewer may agree to waive a grievance step or waive or extend the time for taking a grievance step. The parties shall submit the agreement to the director, who shall place the agreement in the grievance file. If the parties are unable to reach agreement, a party may submit an extension request to the director.

4.3.1 A single extension of time shall not exceed 30 days. The parties or director may not extend a grievance step by more than a total of 960 days.

4.3.2 The waiver/extension agreement must be written and signed by the parties.

4.3.3 The director shall place a copy of the notice granting or denying an extension in the grievance file.

4.4 If management fails to act within the time limits established in this policy, the employee may proceed to the next step.

5. Procedure for Submitting Grievance.

5.1 An employee shall first discuss the issue request a meeting with the employee's supervisor. The supervisor shall have five5 working days to respond verbally conduct the meeting. If the matter being grieved was the direct result of a decision made by a person in the line of authority above the supervisor, the supervisor shall refer the matter to the person who made the decision and that individual shall conduct the meeting.

5.1.1 If the employee is dissatisfied with the verbal decision result of the

meeting, the employee shall, within 5 working days, submit thea formal written grievance to the supervisorindividual who conducted the meetingin writing, stating the problem, the direct harm, and the requested relief. The employee shall include all relevant evidence and affidavits, to the best of the employees knowledge, to allow the supervisor to make an informed decision. This information submitted with the grievance shall include, but is not limited to: the admitted and disputed allegations; the issues; the direct harm suffered; the relief requested; and the witnesses, exhibits, and other evidence, if any. Intentional withholding of this information shall be grounds for dismissal of the grievance.

5.1.2 The supervisorindividual shall, within 5 working days, respond in writing, stating the decision and the reasons. The supervisor shall provide a copy to the first level of review.

5.1.3—If the decision being grieved was made by the State Court Administrator, the grievance shall be submitted to the director and shall proceed according to section 5.4 below.If the matter being grieved was the direct result of a decision made by a person in the line of authority above the supervisor, the supervisor shall refer the matter to the person who made the decision and intervening steps shall be waived.

5.1.3.1 — If the decision being grieved was made by the State Court Administrator, the grievance shall be submitted to the director and shall proceed according to section 5.6 below.

5.2 If the grievant is dissatisfied with the supervisor'sinitial written decision, the grievant shall, within 15 days of receiving the decision, submit the grievance, the supervisor'sinitial response, and a written request for review to the first level of review and shall provide a copy to the director. The first level of review is the direct supervisor of the individual who provided the initial written decision .The first level of review shall have ten10 working days to issue a written decision, including the reasons for the decision, and shall provide a copy to the grievant, the second level of review, and the director.

5.3 If the grievant is dissatisfied with the first level of review's decision, the grievant shall, within 15 days of receiving the decision, submit the grievance, all prior management responses, and a written request for review to the second level of review and shall provide a copy to the director. The second level of review is the direct supervisor of the individual who provided the first level review. The second

level of review shall have ten 10 working days to issue a written decision, including the reasons for the decision, and shall provide a copy to the grievant, and the director.

5.3.1 If the first level of review was the Trial Court Executive or Division Director the grievant shall proceed to section 5.4 and bypass the second level of review and proceed with a request for mediation if desired.

5.4.5.4 If the grievant is dissatisfied with the second level of review's decision, the grievant shall, within 15 days of receiving the decision, submit the grievance, all prior management responses, and a written request for mediation to the director. The director shall have ten 10 working days to schedule mediation, using a mediator acceptable to both the grievant and management, or to provide written response as to denial of the mediation request why.

5.5 If -mediation is not successful, the grievant shall, within 15 days of the mediation, submit the grievance, all prior management responses and a written request for review to the third- Grievance Review Panel, which includes the Juvenile Court Administrator, District Court Administrator and Assistant Court Administrator, level-of-review and shall provide a copy to the director. The third-level-of review Review Panel shall have ten 15 working days to set a meeting date at which the grievant will have the opportunity to present their position. Upon completion of the meeting The Grievance Review Panel shall then have 15 working days to -issue a written decision, including the reasons for the decision, and shall provide a copy to the grievant and the director.

5.6 If the grievant is dissatisfied with the third level of review's decision, the grievant shall, within 15 days of receiving the decision, submit the grievance, all prior management responses, and a written request for review to the director. The decision of the Grievance Review Panel shall be considered final.

5.7 Upon submission of the grievance to the director, the director shall make an initial determination of jurisdiction of the Career Service Review Board (board), pursuant to Section 8 below. If the director denies the grievance for lack of jurisdiction, the director shall issue a written decision denying jurisdiction within ten days and provide a copy to the parties and to the board.

5.7.1 Either party may request a review of the director's determination of jurisdiction by the board. The request shall be filed within five working days with the director.

~~5.7.2 The board shall have ten working days to issue a written decision and notify the parties.~~

~~5.7.3 If the director or the board determines that the board has jurisdiction, the director shall set a date for a hearing within 30 days of determination of jurisdiction.~~

~~6. Hearing.~~

~~The board shall conduct the hearing to obtain full disclosure of relevant facts and to provide all parties a reasonable opportunity to present their position.~~

~~6.1 The hearing shall be electronically recorded.~~

~~6.2 Management has the burden of proof in all grievances resulting from dismissals, demotions, suspensions, written reprimands, reductions in force, and other disciplinary actions. The grievant has the burden of proof in all other grievances.~~

~~6.2.1 Management at the third level of review shall represent the interest of management at the hearing.~~

~~6.3 The board shall permit all parties the opportunity to present evidence and rebuttal evidence, conduct cross examination, argue and respond to arguments.~~

~~6.4 The board shall determine the order of presentation of the evidence.~~

~~6.5 The board may ask questions of witnesses.~~

~~6.6 Testimony shall be given under oath or affirmation.~~

~~6.7 The board shall issue a written decision within 30 days after the hearing is adjourned.~~

~~6.7.1 The decision shall include the board's findings and conclusions, and any relief granted.~~

~~6.8 If the board does not issue its decision within 30 days after the hearing, the courts shall not be liable for any claimed back salary or benefits between the time the decision is due and the time the decision is issued.~~

~~6.9 An employee called to appear as a witness at a grievance hearing shall be~~

~~permitted to attend if the party calling the employee notifies the employee and the employee's supervisor at least two days prior to the hearing.~~

~~7. Career Service Review Board.~~

~~7.1 Administration.~~

~~7.1.1 The Presiding Officer of the Judicial Council shall appoint a five member Career Service Review Board and shall name one member to serve as Chair of the board. The Judicial Council shall confirm the appointments.~~

~~7.1.1.1 Board members shall be knowledgeable of employee relations and merit principles in public employment, and at least one member shall be a member of the Utah State Bar.~~

~~7.1.1.2 Board members may not hold or be a candidate for paid elective public office or be an officer or committee member of a political party or an employee association.~~

~~7.1.2 Board members may not be employed by the courts.~~

~~7.1.3 A Board member's term of office shall be three years. Terms shall begin on July 1 and shall be staggered so the term of no more than two members expires each year. If a member does not complete a term of office, the Presiding Officer of the Judicial Council shall appoint a replacement for the unexpired portion of that term.~~

~~7.1.4 The Presiding Officer of the Judicial Council may remove a board member for cause.~~

~~7.1.5 Board members shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties.~~

~~7.1.6 The director shall serve as staff to the board. Papers required or permitted to be filed with the board shall be filed with the director. The director shall maintain the record of a grievance, including the recording of the hearing. The director shall provide a copy of all orders and decisions of the Board to the parties.~~

~~7.2 Authority.~~

~~7.2.1 At least three members of the board must be present for the board to conduct business. Action by a majority of the members of the board present is an action of the board. Any member of the board may be present by means of a telephone conference call.~~

~~7.2.2 The board shall serve as the final administrative body to review grievance appeals. The board has jurisdiction over appeals from a management decision regarding a: promotion, dismissal, demotion, suspension, written reprimand, salary adjustment, violation of personnel rules, administration of benefits, and reduction in force.~~

~~7.2.3 Board members may administer the oath or affirmation to a witness.~~

~~7.2.4 The board may petition a court of record to issue a subpoena on the board's behalf.~~

~~7.2.5 The board shall not award costs or attorney fees.~~

~~7.2.6 The board may make rules governing the conduct of its proceedings.~~

~~7.2.7 Proceedings before the board are closed meetings and shall be held in Salt Lake County unless otherwise ordered by the board.~~

86. Records.

~~8.1 The Administrative Office of the Courts shall bear the cost of recording a hearing. The cost of a transcript of the hearing shall be paid by the party requesting the transcript. A copy of the tape shall be made available to the grievant upon request at no cost.~~

~~8.1.2 The supervisor who receives the first written statement of the grievance Human Resource Office shall establish and maintain a file for the grievance. The file so established shall contain the initial written complaint and the decision on the complaint. The file shall also contain the employee's requests for review and the decision of each level of review. The file may contain any document germane to the issues of the grievance. The reviewer shall request the file from the prior level of review Human Resource Office.~~

~~8.3 The record shall include the file required by 8.2 above, the recording of the hearing, and any evidence submitted at the hearing.~~

8.46.2 The record shall be a private administrative record under Rule 4202.02, Code of Judicial Administration. ~~The Board may declare the record or part of it to be confidential or order the record or part of it to be sealed.~~

8.56.3 Management shall maintain the grievance file separate from the employee's personnel file. Management shall maintain the grievance file for a period of at least three years beyond the separation of all grieving employees.

8.66.4 If management rescinds or modifies disciplinary action against an employee as a result of the grievance process, management shall remove the record of the disciplinary action from the employee's personnel file.

~~1. Records.~~

~~9.1 The Administrative Office of the Courts shall bear the cost of recording a hearing. The cost of a transcript of the hearing shall be paid by the party requesting the transcript. A copy of the tape shall be made available to the grievant upon request at no cost.~~

~~9.2 The supervisor who receives the first written statement of the grievance shall establish a file for the grievance. The file so established shall contain the initial written complaint and the decision on the complaint. The file shall also contain the employee's requests for review and the decision of each level of review. The file may contain any document germane to the issues of the grievance. The reviewer shall request the file from the prior level of review.~~

~~9.3 The record shall include the file required by 9.2 above, the recording of the hearing, and any evidence submitted at the hearing.~~

~~9.4 The record shall be a private administrative record under Rule 4-202.02, Code of Judicial Administration. The Board may declare the record or part of it to be confidential or order the record or part of it to be sealed.~~

~~9.5 Management shall maintain the grievance file separate from the employee's personnel file. Management shall maintain the grievance file for a period of at least three years beyond the separation of all grieving employees.~~

~~9.6 If management rescinds or modifies disciplinary action against an employee as a result of the grievance process, management shall remove the record of the disciplinary action from the employee's personnel file.~~

Policy on the Use of Social Media

POLICY ON THE USE OF SOCIAL MEDIA 560

PURPOSE

The purpose of this policy is to:

- A. Recognize the growing use of social media by the Judiciary and its employees;
- B. Recognize the value of Social Media networks as a means for the professional development of employees and as a tool for the Judiciary;
- C. Advise employees of the risks of Social Media activity and the need to adhere to applicable Codes of Conduct and other policies when using Social Media in order to preserve the integrity, dignity and independence of the judiciary;
- D. Avoid loss of productivity and distraction from employees' job performance; and
- E. Ensure that the Judiciary's IT resources are used only for appropriate purposes.

SCOPE

For purposes of these guidelines, Social Media is used in its broadest sense and includes:

- A. Electronic, web-based technology that allows instant, widespread and interactive communication or,
- B. Activity on the internet that involves posting by the employee.
- C. Examples of Social Media include, but are not limited to blogging, podcasting, hosting or updating any form of website, posting comments, photos, other graphics, documents, links, status updates, or multimedia materials to a third-party hosted website, saving website bookmarks to a public site, filling out surveys, or sharing or participating in any other way on a social networking site like Facebook, LinkedIn, a micro blogging site like Twitter, developing or contributing to a wiki like Wikipedia or a virtual world like Second Life, and so on.
- D. This policy applies to all court employees.

APPLICABILITY

As used in this policy, "employees" means court employees, court interns, court externs, and court volunteers, and bailiffs and security officers. "Employee" does not include judges, court commissioners, senior judges or judges pro tempore, whose conduct is governed by the Code of Judicial Conduct.

POLICY AND PROCEDURE

1. RISKS OF SOCIAL MEDIA ACTIVITY

Your online communications may be seen by others as a representation of your character, judgment and values and you may be perceived as an extension of the Judiciary regardless of your intent. Be mindful of the following:

- 1.1 You have a position of public trust and owe significant legal and ethical obligations to the public and to the Judiciary. These obligations include duties to maintain confidential information, avoid conflicts of interest, and observe high standards of conduct in order to preserve the integrity, dignity and independence of the Judiciary.
- 1.2 Any Social Media post should be presumed public and permanent. Social media posts can be copied, forwarded or subpoenaed. They are impossible to retrieve or eradicate and may be seen by wide and unintended audiences. You have no control over a post's dissemination or ultimate use.
- 1.3 Posting some types of information on Social Media may be misleading (even though it is not so intended) and may jeopardize your professional image or reputation and, by extension, the Judiciary. You should be especially careful when posting or sharing photographs and personal information, and be similarly cautious when sharing political, religious or social opinions.

2.COMPLIANCE WITH OTHER POLICIES

Social Media shall never be used in a way that violates statutes, court rules, any Court policy or other ethical or professional responsibility. If a Social Media activity would violate a statute, court rule, court policy or other ethical or professional responsibility in another forum, it will also violate them in an online forum. In particular, the following policies should be kept in mind:

- Employee Code of Personal Conduct 500
- Professional Conduct of Court Commissioners
- Code of Judicial Conduct
- Standards of Personal Conduct to employees of the Utah State Juvenile Court

3.OFFICIAL BUSINESS AND EMPLOYMENT RELATED USE OF SOCIAL MEDIA

Use of Social Media for official business or employment-related purposes is permitted under the following conditions:

- 3.1 Only employees authorized by the state court administrator may prepare and modify Social Media content.

- 3.2 Only authorized employees may prepare and modify Social Media content. Content must be relevant to the mission and functions of the Judiciary and meet the goals or purposes developed by the Judicial Council and the AOC.
- 3.3 Supervisors are responsible for ensuring compliance with this policy. Supervisors are authorized to remove content that does not meet the requirements of this policy or that may be illegal or offensive. Removal of such content may be performed without advance notice to, or the permission of, the individual who posted the content.
- 3.4 Employees are not entitled to any expectation of privacy associated with any Social Media activity related to official business or employment-related purposes even where private technology resources are used.

4.USE OF COURT TECHNOLOGY RESOURCES

Court technology resources may be used by employees only in accordance with the following provisions:

- 4.1 Employees may use court technology resources to access and participate in Social Media for official business and employment-related purposes only in accordance with the provisions of Section 3 of this policy.
- 4.2 Employees may make occasional and incidental use of Court technology resources to access and participate in Social Media for personal purposes. However, such personal use is limited and subject to the conditions set forth in this policy and in Section 9 of the Code of Personal Conduct and must not detract from the Court's integrity, dignity or functions. Such activities also may not interfere with the timely performance of work duties.
- 4.3 Employees may not use Court technology resources to support personal business ventures. Employees may not use Court technology resources to engage in outside activities, except as permitted under Section 8 of the Code of Personal Conduct.
- 4.4 Employees are prohibited from installing software or applications on Court technology resources to support Social Media except for official purposes pursuant to Section 3 of this policy.
- 4.5 Use of the Court email address for the purpose of establishing or creating a social networking account or site (for example, blogs, Facebook, You Tube, Twitter, Second Life, etc.) is not permitted, except for official purposes pursuant to Section 3 of this policy.

- 4.6 Employees are not entitled to any expectation of privacy related to the use of court technology resources for Social Media purposes. This includes Social Media activity, which is personal in nature and done during non-work hours.

5. PERSONAL USE OF SOCIAL MEDIA DURING AND AFTER WORK HOURS WHERE YOU IDENTIFY YOURSELF, DIRECTLY OR INDIRECTLY, AS A JUDICIAL EMPLOYEE

The Utah Judicial Council respects the right of employees to use Social Media as a vehicle for self-expression and public conversation, and will not discourage or discriminate against employees who participate in Social Media. Employees are, however, required to comply with the restrictions on personal use stated in this policy and specifically, with the following:

- 5.1 In all Social Media activities, the employee must abide by the Code of Conduct for Judicial Employees, including the obligation not to reveal any confidential, sensitive or non-public information obtained through the course of employment by the Court.
- 5.2 Judicial employees are expected to avoid impropriety and conduct themselves in a manner that does not detract from the integrity, dignity and independence of the Judiciary. Common sense counsels discretion in the nature and subject matter of internet postings.
- 5.3 An employee may identify her/himself as an employee of the Utah Judiciary generally, but and may not specify their title or position, or identify the court, judge or department for whom they work, but may not identify a specific judge.
- 5.4 Employees are personally responsible for comments they post on Social Media, and can be held personally liable for comments that are defamatory, obscene, discriminatory or otherwise offensive or unlawful.
- 5.5 If employees choose to identify themselves as judicial employees on Social Media, some readers may view them as spokespersons for the judiciary or the Courts. Because of this possibility, employees must state that any views they express on Social Media are their own and not those of the Judiciary or any Court.
- 5.6 The employee must regularly review the social media and websites that they create or host and promptly remove third-party posts that (1) compromise court security or the safety of judges and employees (2) reveal non-public court records or other confidential judicial information and (3) contain information that the employee could not have posted personally under this policy.
- 5.7 Employees must comply with all copyright laws and reference or cite sources appropriately. Plagiarism applies online as well.

5.8 You must obey the law and the rules of the website or social network site in which you participate. Further, even if not explicitly directed by this policy, you should obey other applicable legal and ethical rules.

5.9 Online Recommendations

Some sites, such as LinkedIn, allow members to “recommend” current or former co-workers. If a judicial employee does this, it may give the appearance that the judiciary or a particular judge endorses the individual being recommended. This could create a liability situation if another entity hires the recommended person on the basis of the recommendation. Accordingly, employees may not participate in employee recommendations for reasons of liability, unless permission is obtained from the State Court Administrator.

6.USE OF PERSONAL EQUIPMENT DURING NON-WORK TIME WHERE YOU DO NOT, DIRECTLY OR INDIRECTLY, IDENTIFY YOURSELF AS A JUDICIAL EMPLOYEE

It is not the goal or intent of this policy to regulate your personal Social Media activities where you do not, directly or indirectly, identify yourself as a judicial employee and when you are not at work and are not using Court technology resources. However, certain activities might impact your working relationships or rights that the AOC has the ability to regulate. As a consequence, the following conditions apply even to your after hours, personal Social Media activities:

6.1 All employees must ensure that they are familiar with Judicial policies and confidentiality guidelines to avoid any Social Media activity that might violate those policies. In addition, you should ensure that your Social Media activities do not violate a State or AOC policy regarding harassment, discrimination, retaliation, or other similar policies pertaining to how employees interact with each other. If you post or say something online that makes another employee feel uncomfortable at work, your activity may result in an investigation and possible discipline.

6.2 Employees must at all times comply with the restrictions and prohibitions of Sections 5.1, 5.2, and 5.6 of this policy.

7.PROHIBITED ACTIVITIES

Notwithstanding any other provision of this policy, employees are prohibited from engaging in the following Social Media activity, whether the activity is during or after work or whether the activity is using personal or Judiciary technology resources and regardless of whether Judiciary employment is identified:

7.1 Seal and Logos

The seal, logos, trademarks or service marks of the Judiciary, the AOC and any individual court or judicial department or committee may not be used in any manner without express permission from the State Court Administrator.

7.2 Confidential Information

One of the most important obligations of employees is to ensure that non-public information learned in the course of employment is kept confidential.

Confidential information is strictly forbidden from any discourse outside of the appropriate employees of the Court. Confidential information is not to be discussed or referred to in Social Media, even in private messages between site members who have authorized access to the information. Employees must also refrain from discussing any of the Court's internal processes and procedures, whether they are of a non-confidential or confidential nature.

~~7.3 Online Recommendations~~

~~Some sites, such as LinkedIn, allow members to "recommend" current or former co-workers. If a judicial employee does this, it may give the appearance that the judiciary or a particular judge endorses the individual being recommended. This could create a liability situation if another entity hires the recommended person on the basis of the recommendation. Accordingly, employees may not participate in employee recommendations for reasons of liability, unless permission is obtained from the State Court Administrator.~~

7.43 Creating Profiles.

Employees are prohibited from creating profiles or editing existing profiles about court employees or judges on websites without permission. Employees must have permission from the State Court Administrator before creating any profile, making edits or otherwise posting information about a judge on sites such as Wikipedia or judgopedia.com.

7.54 Honest Communications

You must avoid deceptive behavior and misrepresentations online. This includes engaging in online activity, such as communicating electronically or creating websites or accounts, while employing a misleading alias or suggesting that you are someone else. This provision does not apply to the routine and accepted practice on the Internet of employing a nickname or other opaque user name to create an account or make a posting; provided the user name is not misleading or deceptive in the context used or would not otherwise violate any provision of this policy had the employee's true identity been disclosed.

7.85 Security Protocols

Observe security protocol. Employees must not post any content that may pose a threat to court security. For questions, contact the court security director.

7.96 Courtroom Employees

Unless otherwise authorized by the applicable judge, employees who work in the courtroom are prohibited from using computers, handheld wireless devices, blue-tooth enabled earpieces and headsets, and other hands-free wireless devices, for non-work related reasons when Court is in session or the courtroom is otherwise occupied.

8.MONITORING EMPLOYEES' USE OF SOCIAL MEDIA

The AOC reserves the right to monitor employees' use of Social Media by monitoring its employees' Internet activities during work hours and when using Court technology resources. The AOC further reserves the right to visit and monitor Social Media sites to ensure that employees are not violating this or other judicial policies.

9.DISCIPLINARY ACTION

Violations of this policy may result in disciplinary action up to and including termination. The AOC has the right to request employees to cooperate in any investigation regarding alleged violation of this policy by allowing access to employee Social Media used for personal purposes.

Tab 10

Judicial Council Grant Application Proposal Code of Judicial Administration 3-411

FEDERAL GRANTS

Contact Person/Phone: Katie Gregory Date 5/28/2013

Judicial District or Location: Administrative Office of the Courts

Grant Title Court Improvement Program (CIP) Grant Grantor: Children's Bureau (DHHS)

Grant type (check one): ☐ New ☒ Renewal ☐ Revision

Grant Level (check one): ☒ Low ☐ Med. ☐ High.
Under \$1,000,000 \$1,000,000 to \$10,000,000 Over \$10,000,000

Issues to be addressed by the Project: Improvements in delivery of child welfare services and case management in juvenile courts, including training of juvenile judges, and child welfare professionals and improvements to systems that collect, share and report child welfare data

Explanation of how the grant funds will contribute toward resolving the issues identified: Funding programs, training, equipment, assessments, computer programming and data collection and analysis

Fill in the chart(s) for estimated state fiscal year expenditures for up to three years:

Total Funding Sources

			(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
			MATCHING STATE DOLLARS					
CASH MATCH	Other Matching Funds from Non-State Entities		General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
State Fiscal Year	Grant Amount							
FY								\$0
FY								\$0
FY								\$0

			(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
			MATCHING STATE DOLLARS					
IN-KIND MATCH	Other Matching Funds from Non-State Entities		General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
State Fiscal Year	Grant Amount							
FY 12-14 (Basic)	\$155,006		\$51,669					\$206,675
FY12-14 (Data)	\$144,350		\$48,117					\$192,467
FY 12-14 (Training)	\$143,279		\$47,760					\$191,039

Comments In 2012, the Children's Bureau reauthorized the CIP grant program for 5 years and combined the 3 grants (basic, data collection & analysis, and training) into one application and reporting process. The FY12-14 amounts listed above represent awards for the second of five years.

Will additional state funding be required to maintain or continue this program or its infrastructure when this grant expires or is reduced? Yes ☐ No ☒ If yes, explain: _____

Will the funds to continue this program come from within your existing budget: Yes ☐ No ☐ N/A ☒

How many additional permanent FTEs are required for the grant? 0 Temp FTEs? 1.75

This proposal has been reviewed and approved by the following:

- ☐ The court executives and judges in the affected district(s).
- ☒ The Grant Coordinator and the Budget Manager at the Administrative Office of the Courts.
- ☐ The affected Board(s) of Judges

Approved by the Judicial Council _____ by _____
Date _____ Court Administrator

Copy forwarded to Legislative Fiscal Analyst _____
date _____



ADMINISTRATION FOR
CHILDREN & FAMILIES

320 L'Enfant Promenade, S.W., Washington DC 20447 www.acf.hhs.gov

May 09, 2013

Utah Administrative Office of the Courts
450 South State Street
Salt Lake City, UT 84114-0241

Re: Notice of Grant Award - FY 2013

Dear Grantee:

This grant is awarded under the provisions State Court Improvement - Basic Program in accordance with Section 438 of the Social Security Act. These funds must be obligated **no later than 09/30/2014** and liquidated **no later than 12/30/2014**. Any funds that remain unobligated or unliquidated after these dates will be recouped by this agency.

Appropriation	CAN	Allotment	This Action	Cumulative
75-3-1512	2013G996437	132,371		132,371
75-3-1512	2013G996471	22,635	(13)	22,635
Total				155,006

EIN:	1-876000545-H1	Fiscal Year:	2013
Document Number:	G-1301UTSCIP	CFDA #:	93.586

With the acceptance of this award, you agree to administer this grant in compliance with conditions set forth in the applicable Program Instructions, terms and conditions, Departmental regulations, and OMB Circulars. Terms and conditions can be found at: www.acf.hhs.gov/grants/terms-and-conditions. Further, in accordance with Department of Treasury regulations 31 CFR Part 205, implementing the Cash Management Improvement Act, you agree to limit your request to draw Federal funds to the minimum amount needed and to time the request in accordance with the actual, immediate cash requirements necessary to carry out programs funded through this award. Failure to adhere to these requirements may cause the suspension of grant funds.

Funds included in this award will be made available through the DHHS Payment Management System (PMS). Questions pertaining to payments should be directed to DHHS Division of Payment Management, Post Office Box 6021, Rockville, MD 20852; telephone 1-877-614-5533.

Fiscal reporting questions regarding this grant should be directed to your Regional Office of the Administration for Children and Families.

Please transmit a copy of this letter to the office authorized to request funds covered by this award.

Sincerely,

Patrick A. Wells
Director, Division of Mandatory Grants

Note: This award reduces the FY 2013 State Court Improvement- Basic Program funding to the State in accordance with Public Law 112-25, the "Budget Control Act of 2011" enacted August 2, 2011 (commonly referred to as "sequestration"). The initial FY 2013 award was issued April 17, 2013.



ADMINISTRATION FOR
CHILDREN & FAMILIES

370 L'Enfant Promenade, S.W., Washington DC 20447 www.acf.hhs.gov

April 25, 2013

Utah Administrative Office of the Courts
450 South State Street
Salt Lake City, UT 84114-0241

Re: Notice of Grant Award - FY 2013

Dear Grantee:

This grant is awarded under the provisions State Court Improvement - Data Program in accordance with Section 438 of the Social Security Act. These funds must be obligated **no later than 09/30/2014** and liquidated **no later than 12/30/2014**. Any funds that remain unobligated or unliquidated after these dates will be recouped by this agency.

Appropriation	CAN	Allotment	This Action	Cumulative
75-3-1512	2013G991512	144,350	144,350	144,350

EIN: 1-876000545-H1
Document Number: G-1301UTSCID

Fiscal Year: 2013
CFDA #: 93.586

With the acceptance of this award, you agree to administer this grant in compliance with conditions set forth in the applicable Program Instructions, terms and conditions, Departmental regulations, and OMB Circulars. Terms and conditions can be found at: www.acf.hhs.gov/grants/terms-and-conditions. Further, in accordance with Department of Treasury regulations 31 CFR Part 205, implementing the Cash Management Improvement Act, you agree to limit your request to draw Federal funds to the minimum amount needed and to time the request in accordance with the actual, immediate cash requirements necessary to carry out programs funded through this award. Failure to adhere to these requirements may cause the suspension of grant funds.

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Fiscal reporting questions regarding this grant should be directed to your Regional Office of the Administration for Children and Families.

Please transmit a copy of this letter to the office authorized to request funds covered by this award.

Sincerely,

Patrick A. Wells
Director, Division of Mandatory Grants

*Annual: This award is an estimate of your final FY 2013 award, final allocations will be published soon, and if necessary, the sequestration reduction will be reflected in a subsequent award.



ADMINISTRATION FOR
CHILDREN & FAMILIES

370 L'Enfant Promenade, S.W., Washington D.C. 20447 www.acf.hhs.gov

April 25, 2013

Utah Administrative Office of the Courts
450 South State Street
Salt Lake City, UT 84114-0241

Re: Notice of Grant Award - FY 2013

Dear Grantee:

This grant is awarded under the provisions State Court Improvement - Training Program in accordance with Section 438 of the Social Security Act. These funds must be obligated **no later than 09/30/2014** and liquidated **no later than 12/30/2014**. Any funds that remain unobligated or unliquidated after these dates will be recouped by this agency.

Appropriation	CAN	Allotment	This Action	Cumulative
75-3-1512	2013G991513	143,279	143,279	143,279

EIN: 1-876000545-H1

Document Number: G-1301UTSCIT

Fiscal Year: 2013

CFDA #: 93.586

With the acceptance of this award, you agree to administer this grant in compliance with conditions set forth in the applicable Program Instructions, terms and conditions, Departmental regulations, and OMB Circulars. Terms and conditions can be found at: www.acf.hhs.gov/grants/terms-and-conditions. Further, in accordance with Department of Treasury regulations 31 CFR Part 205, implementing the Cash Management Improvement Act, you agree to limit your request to draw Federal funds to the minimum amount needed and to time the request in accordance with the actual, immediate cash requirements necessary to carry out programs funded through this award. Failure to adhere to these requirements may cause the suspension of grant funds.

Funds included in this award will be made available through the DHHS Payment Management System (PMS). Questions pertaining to payments should be directed to DHHS Division of Payment Management, Post Office Box 6021, Rockville, MD 20852; telephone 1-877-614-5533.

Fiscal reporting questions regarding this grant should be directed to your Regional Office of the Administration for Children and Families.

Please transmit a copy of this letter to the office authorized to request funds covered by this award.

Sincerely,

Patrick A. Wells
Director, Division of Mandatory Grants

*Annual: This award is an estimate of your final FY 2013 award, final allocations will be published soon, and if necessary, the sequestration reduction will be reflected in a subsequent award.

TAB 11

Proposed Substantive Changes to the
Continuity of Operations Plan
June, 2013

The most significant change to the COOP is the reduction of the number of essential functions from 45 to 3. Whereas the current COOP is simply a list of priority cases, the new mission essential functions include:

- #1 – Accept, Process, and Track Court Filings**
#2 – Hold Hearings (or Oral Arguments)
#3 – Issue Orders, Injunctions, Decisions or Adjudications

Two Essential Support Activities are also included:

- #1 – Payroll**
#2 – Information Technology

Pg.#	Current COOP	Proposed COOP
10	Assumption that IT functions will be degraded or unavailable	Assumption that IT functions will be available within four hours of disruption upon switch to redundant data center
11	Chair of the Judicial Council authorized to activate the COOP. Successors are Vice Chair, State Court Administrator, Deputy Court Administrator	Chief Justice authorized to activate COOP. Successors are State Court Administrator and Deputy Court Administrator.
13 - 15	Teams in the emergency structure have only minimal duties listed.	More detailed direction is provided for each team in the Emergency Organization.
19	Listed computer database information is now outdated and inaccurate, i.e., Groupwise email system. Only applies to court databases.	Information technology section reflects change to Google-based system. Addresses all of the other IT-related functions such as e-filing, e-payments, etc.
20	Vital records section is inadequate as it only addresses database issues.	Vital records section addresses the extensive amount of paper files still in the courthouse.
20	Essential Function operations are very general and don't provide enough direction to staff.	Detailed guidance is now provided to members of the Advance and Mission Essential Function Teams in the form of a thorough checklist included as an appendix to the plan.
23	Interagency Dependencies are very general and incomplete	Interagency Dependencies are more thorough and are included in the checklist noted above.
26	Appendix A – Essential Functions of each court level are listed	This Appendix is eliminated. New Mission Essential Functions are moved to the Executive Summary
30	Appendix C – Lists membership of each team in the Emergency Organization	TCEs now appear on both the Reconstitution and Emergency Mgt. Teams.
41	Appendix C – Lists members of the Essential Function Team	Essential Function Teams will not be pre-identified. It will be up to the managers and supervisors to have accurate, up-to-date contact information available at all times. They will call in essential staff based on availability and other factors unique

		to the emergency.
	Drive Away Kit checklist	No longer necessary since we will be moving to other court sites. Also, a detailed list of necessary resources is now included in the detailed guidance provided to the Advance and Essential Function Teams.
38	Communication Plan	Updated plan to include more use of social media for communication purposes.

**ADDITIONAL COUNCIL
MEETING HANDOUTS**

Summary of Statutes and Application

Generally stated, the termination of the legal parent/child relationship is the exclusive jurisdiction of the juvenile court. Any person may file a petition to terminate parental rights in the juvenile court and such petitions are governed by Part 5 of the Juvenile Court Act. A parent responding to a petition for termination of parental rights in the juvenile court has the right to an attorney, as granted in sections 78A-6-506(2), 78A-6-111 of the Juvenile Court Act.

Termination of parental rights and adoptions are interrelated. While the juvenile court has primary jurisdiction for parental terminations, the jurisdiction of juvenile courts to complete adoptions is limited. Utah Code Ann. §78A-6-103(p) provides that the juvenile court has jurisdiction to conduct adoptions only when it has previously, in a separate case, entered an order terminating the rights of a parent.

Similarly, district courts have primary jurisdiction for adoptions and the jurisdiction of district courts to terminate parental rights is limited. District courts can only terminate parental rights if the termination is sought “for the purpose of facilitating the adoption of the child.” Utah Code Ann. §78B-6-112(1). Unlike the Juvenile Court Act, under the Adoption Act a petition for termination in the district court may either be joined with the adoption petition or filed as a separate proceeding, and it may be filed before or after a petition to adopt the child is filed. Utah Code Ann. §78B-6-112(2).

Issue #1

Some felt that statutes and rules should be amended to grant juvenile courts the same jurisdiction for adoptions that exists in the district courts. Those advancing this position felt like, in cases where an adoption required a forced termination of parental rights, the litigants should have greater access to the court “specializing” in termination issues and concurrent jurisdiction is the best way to facilitate that access. They felt like the current structure limits access to juvenile courts in these situations when it should be at least equally available.

Others opposed this. They felt like the historical and constitutional history of adoptions in the district court should not be changed and asserted the following in support of their position.

- such a change goes beyond the historical role of juvenile courts, which should focus on abuse/neglect and delinquency.

- no need for this change has been demonstrated as the options currently available to litigants have met the needs.
- if both courts had authority to handle adoptions it would lead to forum and/or judge shopping.
- the proposal runs counter to the efforts of both courts to delineate their separate roles.
- the district bench has developed an institutional expertise in adoptions that would be difficult to develop in juvenile court.
- concurrent jurisdiction in adoptions could lead to competition between the courts for resources.

Issue #2

As it is now, a juvenile court can only hear an adoption if it has previously, in a separate case, terminated the parental rights of the child. Some felt like in order to eliminate a double filing fee and grant easier access to juvenile court when termination will be an issue, this two step process should be eliminated and a litigant should be allowed to file the petition to terminate, followed by the adoption, in the same petition.

Other opposed on a couple of grounds. First, this two step process maintains the historical separation of authority for adoption by, in practical effect, requiring that only those cases where termination is really the issue proceed to adoption in juvenile court. Second, these instances are relatively few and just waiving the filing fee on the adoption petition would be an easier fix than amending the statute for so few cases.

Issue #3

Generally the juvenile courts have jurisdiction for termination of parental rights cases, but a petitioner can seek termination of parental rights in district court if termination will “facilitate” an adoption. Some felt that this standard was too loose and had the potential to leave children without one or more parents if the adoption isn’t more concretely tied to the termination. The Utah Supreme Court has recently cleared up some of the confusion created by the statute by

holding that a termination petition may only be filed if an adoption petition is also pending.¹ Some felt like statutory tightening to solidify the principles set out in the *R.B.F.S.* case would be appropriate.

Others opposed, feeling like it wasn't that big of an issue and that the *R.B.F.S.* case substantially solved the problem.

Issue # 4

Some felt like juvenile courts should be given authority to grant adoptions for all children in its jurisdiction. By way of example, occasionally when a child comes before the court on delinquency matters the court finds that they live with someone other than parents, typically grandparents or other relatives. Some felt that the juvenile court should have the option of making temporary placements like this permanent, both by adoption and guardianship, when it is in the best interest of the child to do so.

Other felt like the issue comes up so rarely that statutory change is not warranted. The same thing could be accomplished by the existing two step process outlined above.

Issue #5

Some felt that the district courts should have the option to transfer adoption cases where contested termination is involved to the juvenile courts. The advantage would be that juvenile courts have more training and experience in these types of cases and often could handle them from a foundation of greater experience.

Others felt that the same grounds upon which opposition to concurrent adoption jurisdiction under issue No. 1 above apply equally here. All this would do is change the person selecting the juvenile court from the litigant to the district judge. Still others felt that district courts are perfectly capable of handling these cases and the juvenile court would end up with just the messy ones. Whatever increased workload on the juvenile court would be difficult to determine and thus the likely result would be increased work in juvenile courts without any increase in resources.

¹ In the Matter of the Adoption of R.B.F.S., A.M.F.S., R.E.F.S. and O.J.F.S., 2011 UT 46.

Issue # 6

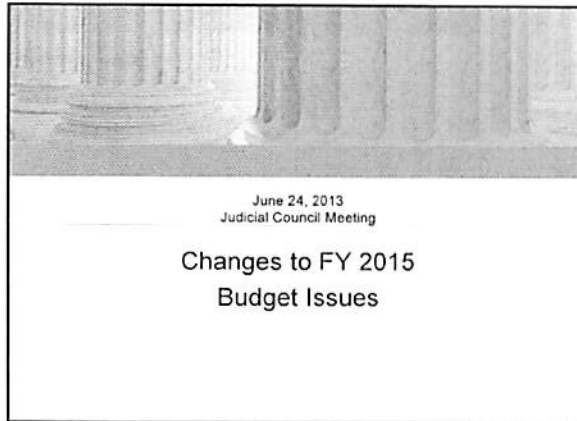
Under existing law parents are entitled to a public defender for all petitions for termination of parental rights filed in the juvenile court and are likely not entitled to a public defender for similar petitions in district court. We considered three options, in addition to the possibility of leaving it the way it is. First, we considered recommending that no parents get a public defender. Second, we considered recommending that all parties to a termination case in both courts get a public defender. Third, we considered recommending that parents only get a public defender when DCFS (or another state agency) is the petitioning party. We recognize that the ultimate decision here is a policy decision that will have to be made by first by the Judicial Council and then ultimately by the legislature. Any discussion on this point with the legislature could generate considerable interest.

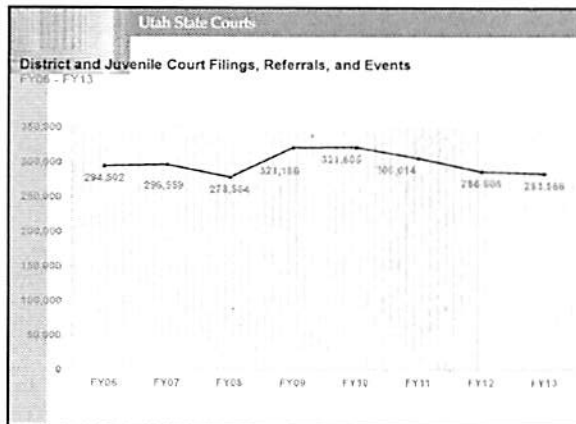
Issue # 7

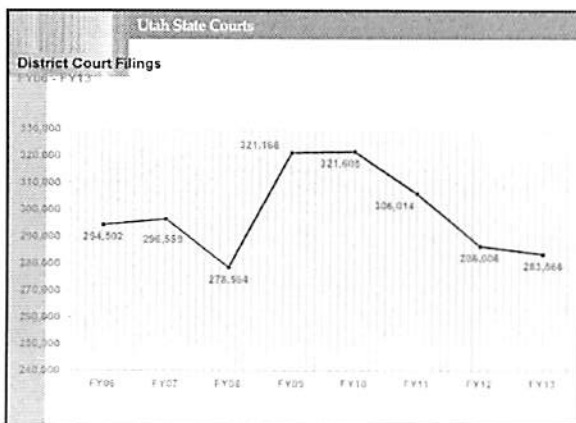
The Juvenile Court Act provides that appeals from juvenile court cases must be taken within 15 days, including both adoptions and terminations. In district court the appeal time is 30 days for both adoptions and terminations. Some felt like the times should be synchronized. Others felt like it was not worth the trouble.

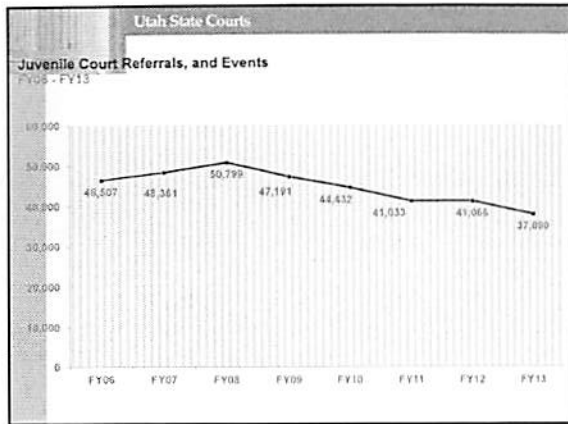
Issue # 8

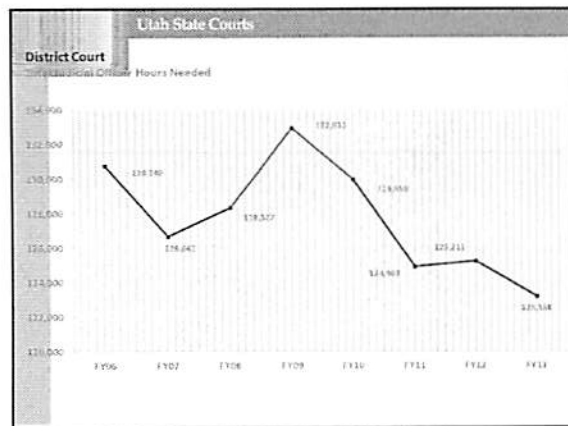
The Adoption Act and the Juvenile Court Act have vastly different procedures for consents to adoption and relinquishment of parental rights and authorize different people to take them. All agreed that they should be the same and that consistency would promote uniformity in practice and reduce mistakes. The differences came in how to make them consistent. Some felt that notaries should be allowed to take consents and relinquishments and that the standards should be relaxed accordingly. Others felt that the requirements should be tightened so that only judges should be able to take them.

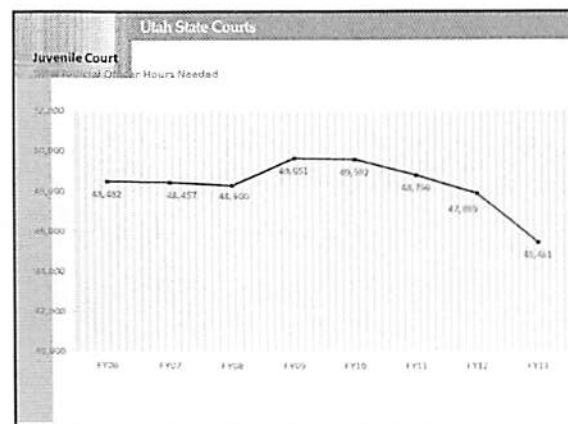


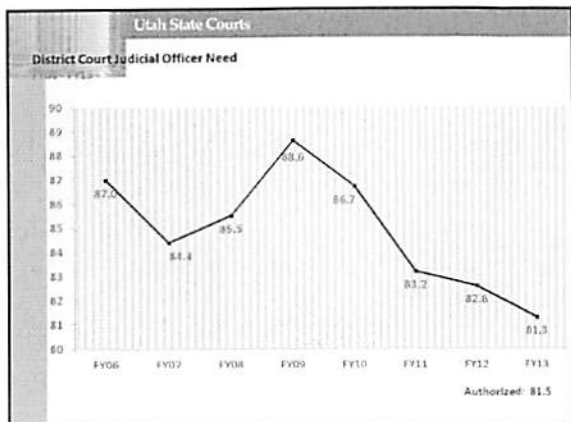


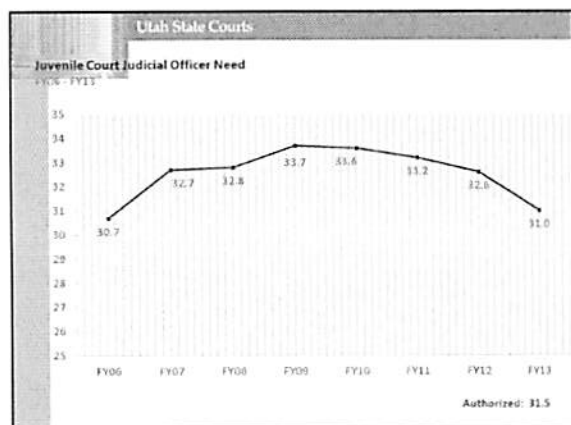


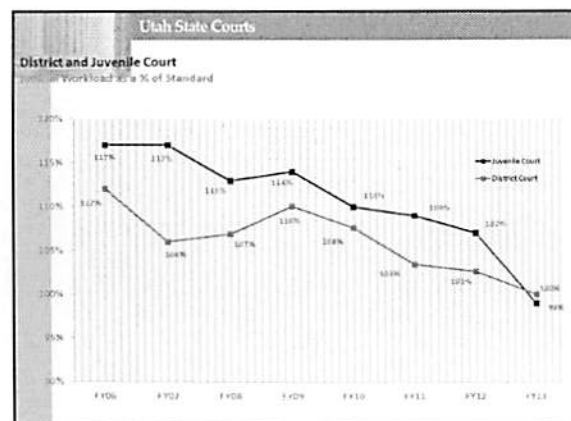












Utah State Courts

Mandatory e-Filing Savings

- District Court: impact projected to be between 8% and 16% (29 and 58 FTE)
- Juvenile Court: impact projected to be 6 FTE
- Between September of 2012 and April of 2013, workforce downsized by 4% or 14 FTE
- Propose reaching the bottom limit of projected impact (8%) in District Court by July 1, 2014 and downsizing Juvenile Court by 3 FTE, for a total of 18 FTE
- 18 FTE would result in \$900,000 in ongoing savings being available for reallocation
- Projected turnover for clerks offices in FY 2014 is 48 positions

Options for Addressing Judgeship Requests

1. Don't consider requests (Boards have not recommended)
2. Defer request and provide assistance through visiting judges, other court levels within a district, and senior judges
3. Seek an appropriation for one or both judgeships (\$350,000 each)
4. Seek legislation increasing the number of judges, but not seek an appropriation (use savings from mandatory e-filing)
5. Seek legislative/executive authorization to transfer judgeship(s), increase authorized positions in some courts, decrease in others

4th Juvenile Court Request

- Juvenile and District Court currently share a commissioner 50/50
- 4th District Court has sufficient domestic workload to justify 2 full time commissioners; currently has 1.5
- With next District Court vacancy, transfer .50 commissioner to District Court and transfer the District Court judgeship to Juvenile Court
- Juvenile Court would move from 122% to 110%, or from being down 1 judge to being down .50 of a judge

District Court would move from 93% to 96%, or from being up 1 judge to being up .50 of a judge

5th District Court Request

- 5th District Court is at 118%, or down .90 of a judge
7th District Court is at 69%, or up .90 of a judge

Mandatory e-Filing Savings

- District Court: impact projected to be between 8% and 16% (29 and 58 FTE)

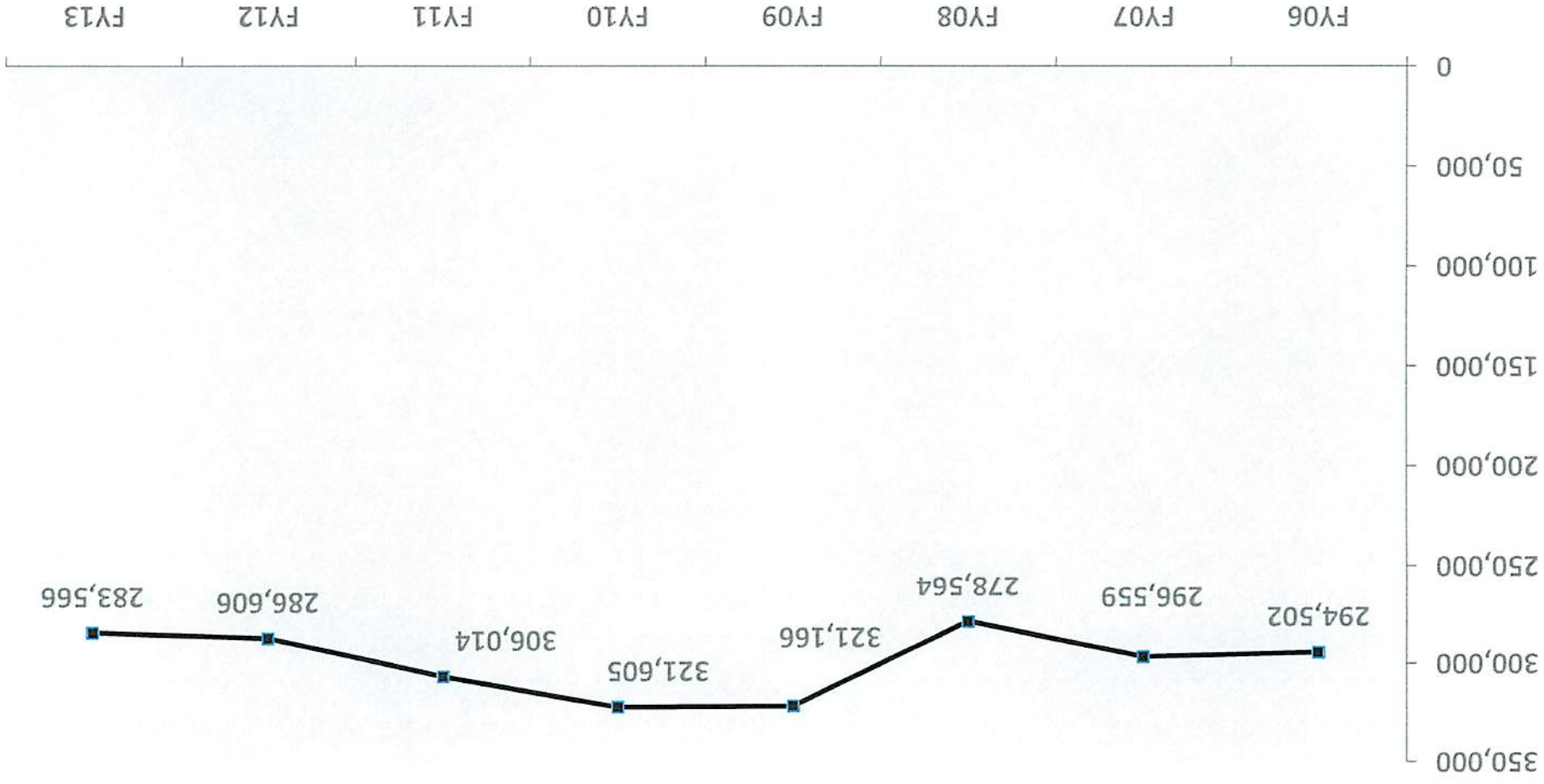
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- 18 FTE would result in \$900,000 in ongoing savings being available for reallocation
- Projected turnover for clerks offices in FY 2014 is 48 positions

Possible Uses for Savings

- Address FY 2015 budget requests
- Address ongoing needs currently being met with one time funding (e.g., law clerks, tuition assistance)
- Address deficits resulting from reductions in interest and fees collected (i.e., trust fund, ADR)
- Court visitor program (grant expires in 2014)
- Selectively restore funds lost during recession (e.g., mental health funds, education)

District and Juvenile Court Filings, Referrals, and Events

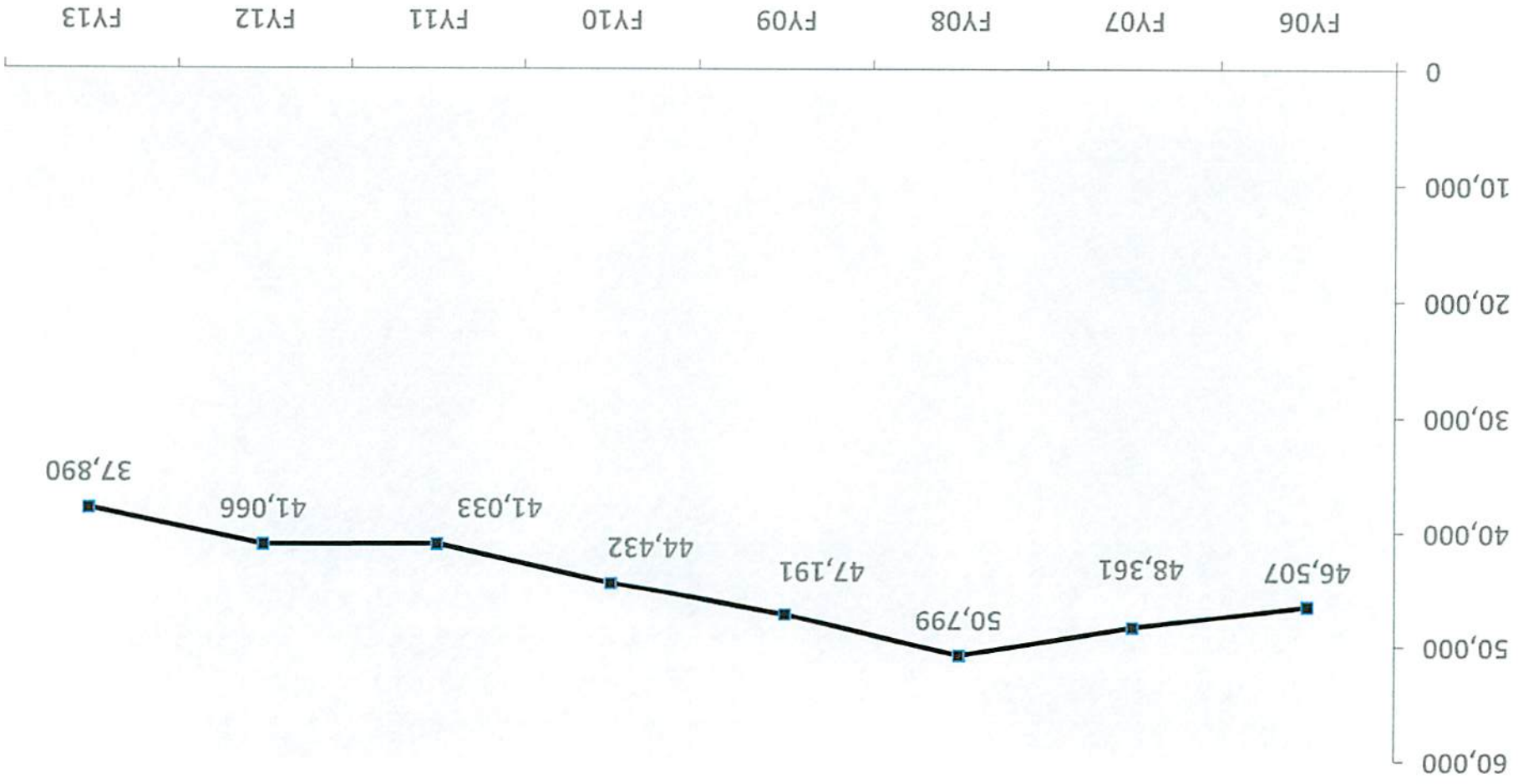
FY06 - FY13



District Court Filings
FY06 - FY13



Juvenile Court Referrals, and Events
FY06 - FY13



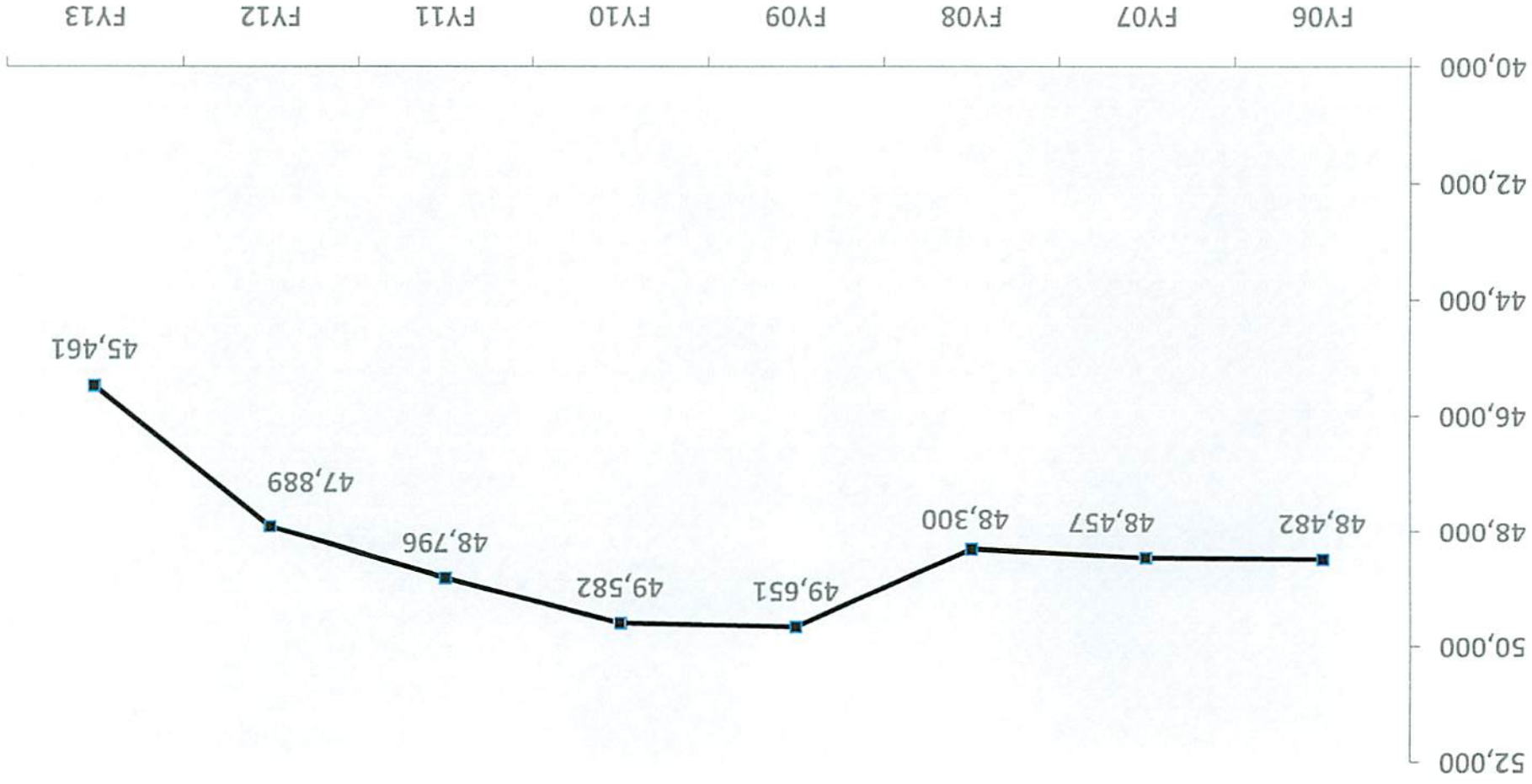
District Court

Total Judicial Officer Hours Needed

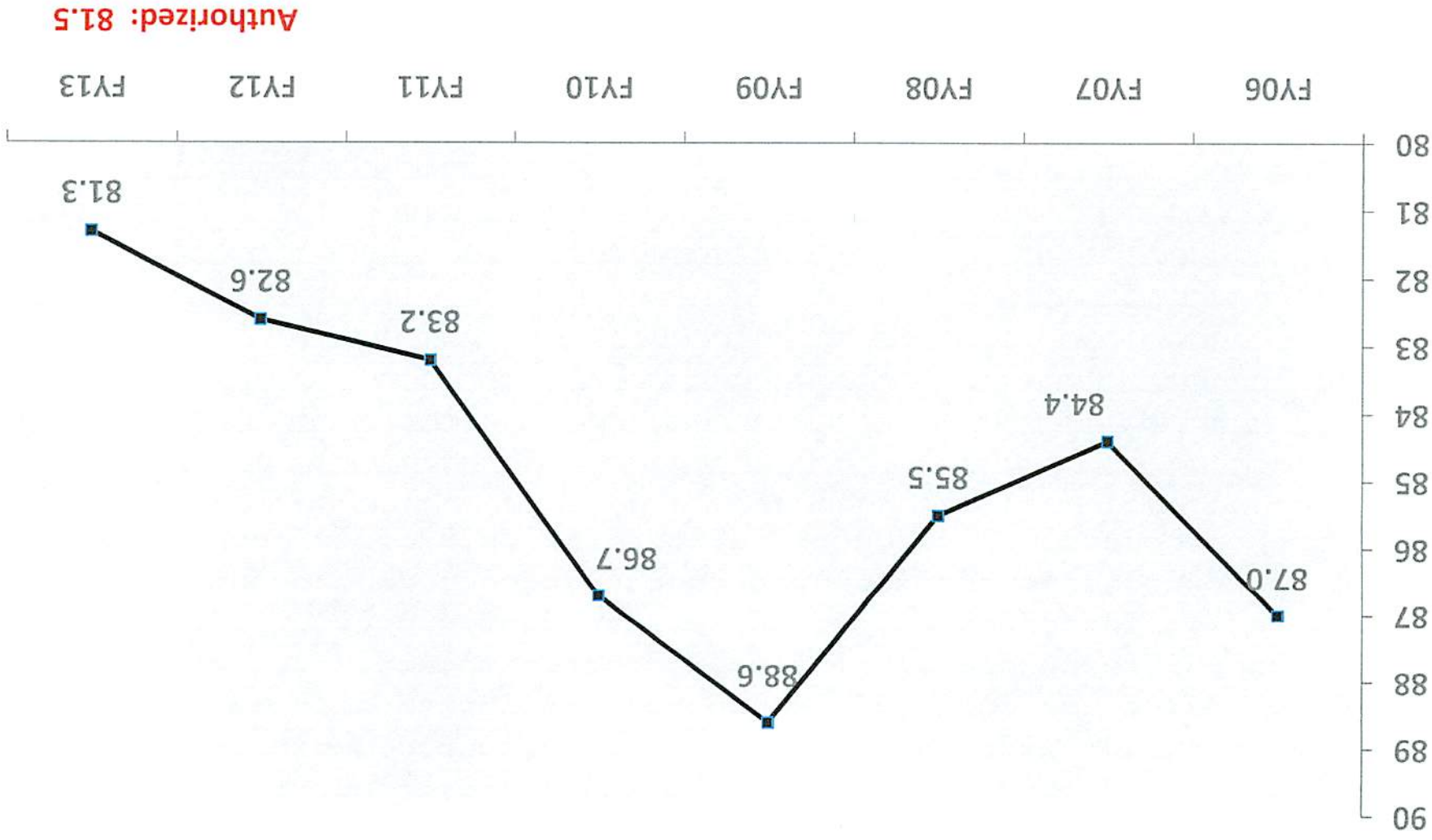


Juvenile Court

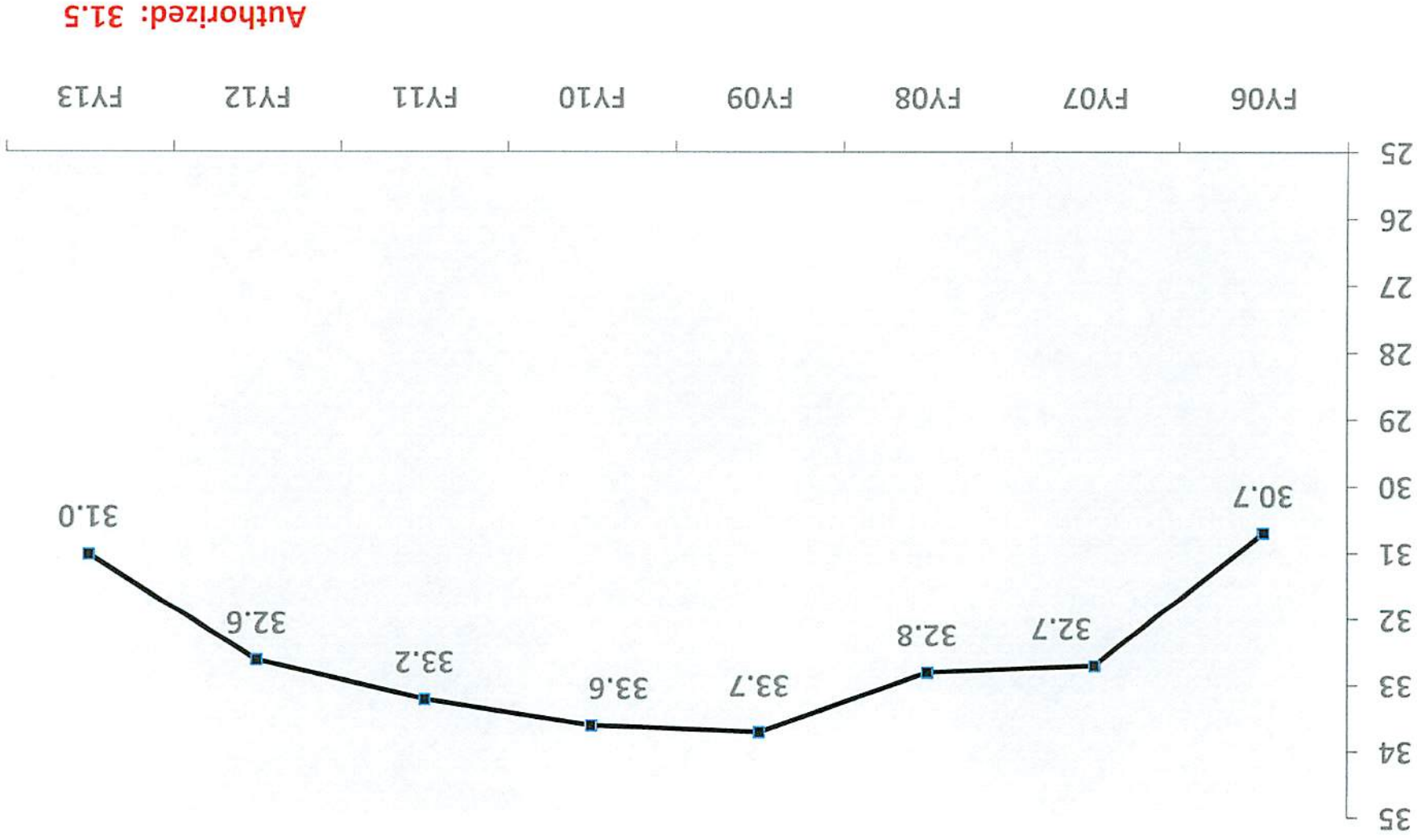
Total Judicial Officer Hours Needed



District Court Judicial Officer Need
FY06 - FY13



Juvenile Court Judicial Officer Need
FY06 - FY13



District and Juvenile Court Judicial Workload as a % of Standard



Options for Addressing Judgeship Requests

1. Don't consider requests (Boards have not recommended)
2. Defer request and provide assistance through visiting judges, other court levels within a district, and senior judges
3. Seek an appropriation for one or both judgeships (\$350,000)
4. Seek legislation increasing the number of judges, but not seek appropriation (use saving from mandatory e-filing)
5. Seek legislative/and executive authorization to transfer judgeship(s), increase authorized positions in some courts, decrease in others

4th Juvenile Court Request

- Juvenile and District Court currently share a commissioner 50/50
- 4th District Court has sufficient domestic workload to justify 2 full time commissioners; currently has 1.5
- With next District Court vacancy, transfer .50 commissioner to District Court and transfer the District Court position to Juvenile Court
- Juvenile Court would move from 122% to 110%, or from being down 1 judge to being down .50 of a judge

District Court would move from 93% to 96%, or from being up 1 judge to being up .50 of a judge

5th District Court Request

- 5th District Court is at 118%, or down .90 of a judge
7th District Court is at 69%, or up .90 of a judge

Mandatory e-Filing Savings

- District Court: impact projected to be between 8% and 16% (29 and 58 FTE)

Juvenile Court: impact projected to be 6 FTE

- Between September of 2012 and April of 2013, workforce downsized by 4% or 14 FTE
- Propose reaching the bottom limit of projected impact (8%) in District Court by July 1, 2014 and downsizing Juvenile Court by 3 FTE, for a total of 18 FTE
- 18 FTE would result in \$900,000 in ongoing savings being available for reallocation
- Projected turnover for clerks offices in FY 2014 is 48 positions

Possible Uses for Savings

- Address FY 2015 budget requests
- Address ongoing needs currently being met with one time funding (e.g., law clerks, tuition assistance)
- Address deficits resulting from reductions in interest and fees collected (i.e., trust fund, ADR)
- Court visitor program (grant expires in 2014)
- Selectively restore funds lost during recession (e.g., mental health funds, education)