

# JUDICIAL COUNCIL MEETING

## AGENDA

Monday, February 24, 2014

Judicial Council Room

Matheson Courthouse

Salt Lake City, 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 Paul Maughan  
Bar Commission. . . . . John Lund, esq.  
(Tab 2 - Information)
5. 9:40 a.m. Ethics Advisory Committee Update. . . . . Brent Johnson  
(Information)
6. 9:50 a.m. Senior Judge Certifications. . . . . Alison Adams-Perlac  
(Tab 3 - Action)
7. 10:00 a.m. Final Report of the Remote Services Subcommittee. . . Judge James Brady  
(Tab 4 - Action)
- 10:30 a.m. Break
8. 10:40 a.m. Legislative and Budget Highlights. . . . . Daniel J. Becker  
(Information) Rick Schwermer
9. 11:10 a.m. Language Access Committee Update. . . . . Judge Vernice Trease  
(Information)
10. 11:30 a.m. Executive Session . . . . .
- 12:30 p.m. Lunch
11. 1:00 p.m. Adjourn

## **Consent Calendar**

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

### **1. Committee Appointments (Tab 5)**

**Brent Johnson  
Alison Adams-Perlac  
Liz Knight  
Debra Moore  
Jessica Van Buren**

# TAB 1

# JUDICIAL COUNCIL MEETING

## Minutes

Monday, January 27, 2014

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. Gregory Orme for Hon. James Davis  
Hon. Glen Dawson  
Hon. George Harmond  
Hon. Thomas Higbee  
Hon. David Marx  
Hon. Paul Maughan  
Hon. David Mortensen  
Hon. Reed Parkin  
Hon. John Sandberg  
Hon. Randall Skanchy  
John Lund, esq.

### **STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Alison Adams-Perlac  
Dawn Marie Rubio  
Debra Moore  
Jody Gonzales  
Rick Schwermer  
Tim Shea  
Nancy Volmer  
Ron Bowmaster  
Derek Byrne  
Kim Matheson  
Karolina Abuzyarova

### **EXCUSED:**

Hon. James Davis

### **GUESTS:**

Joanne Slotnik, JPEC  
Bob Fotheringham, JPEC  
Marissa Lang, SL Tribune

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

Chief Justice Durrant welcomed everyone to the meeting. A special welcome was extended to Judge Orme who was sitting in for Judge James Davis.

**Motion:** Judge Parrish moved to approve the minutes from the December 16, 2013 Judicial Council meeting. Judge Mortensen seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reported on the following item:

Justice Durham was presented with the Rosa Parkes Award, on behalf of NAACP, at a luncheon held on Martin Luther King Day.

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

Mr. Becker reported on the following items:

2014 Legislative Session. The 2014 Legislative Session began today. Chief Justice Durrant will deliver the *State of the Judiciary Address* this afternoon. Members of the Council were invited to attend.

The Appropriations Committees are scheduled to meet on the afternoon of January 28 and for several afternoons following, to discuss base budgets.

Mr. Becker, Mr. Wahl and Mr. Schwermer met with Representative Eric Hutchings last week to review the courts budget requests. Mr. Becker and Mr. Schwermer met with Senator Lyle Hillyard to review the court budget requests.

Funding has been approved for an additional courtroom at the Silver Summit Courthouse. The Juab County Courthouse is on schedule for completion. Concrete for the Ogden Juvenile Courthouse has been poured.

Judicial Announcement/Retirement. Due to health reasons, Judge Karla Staheli has announced her upcoming resignation, effective February 1, 2014. Judge Steven Hansen has announced his upcoming retirement, effective July 1, 2014.

Judicial Appointments. Governor Herbert has appointed 37 of 112 state court judges during his term of office as the governor. There are six appointments pending.

Trial Court Executive Appointment. Ms. Neira Siaperas has been appointed to fill the vacancy for a court executive in the Third District Juvenile Court. Mr. Becker provided background information on her experience with the courts.

JPEC. The Judicial Performance Evaluation Commission (JPEC) has finalized their work with regard to the certification process for judges up for retention in 2014. The final reports will be released later today following the Council meeting. A letter was sent by Chief Justice Durrant, on behalf of the Council, to JPEC's chair and executive director regarding JPEC's discussion at their December meeting regarding whether the Judicial Council should continue to receive copies of the retention reports for judges up for retention. The commission, at their January 7 meeting, determined to continue sending the Judicial Council the retention reports and other information they have received in the past.

Annual Report. A copy of the 2014 Annual Report to the Community was distributed to members of the Council. The focus for this year's report is on programs being operated by judges. Copies of the report will be distributed to legislators and to the public. Court executives will receive copies to have available at all court locations.

Snowmass Council and Board Meetings. Mr. Wahl highlighted the following regarding the Council and Board meetings to be held in Snowmass, Colorado in July in conjunction with the Bar's Summer Conference: 1) a lodging preference request was sent to Council and Board members by Ms. Jody Gonzales which included the reimbursable maximum lodging rate per night, mileage rate, out-of-state per diem rate, and a list of available condominiums; 2) beginning travel date for the Council of July 15 with their meeting scheduled on July 16; 3) beginning travel date for Board members of July 16 with their meetings scheduled on July 17; and 4) budget for these meetings.

Mr. Lund provided his opinion of the available lodging and location of the meetings.

#### 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:*

Justice Parrish reported on the following:

The committee is meeting weekly. The minutes from the January 10 meeting are included in the Council material. Further update will be provided with Mr. Schwermer's legislative update.

##### *Policy and Planning Meeting:*

Judge Dawson reported on the following:

He noted that the minutes from the January meeting, included in the Council material, accurately reflect the issues discussed. He highlighted the following from the meeting: 1) adoption of local rule in Sixth District for orders to show cause, 2) discussion of the comments to Rule 4-603 – mandatory e-filing, and 3) discussion of performance evaluations of senior judges and court commissioners.

##### *Bar Commission Report:*

Mr. Lund reported on the following:

Mr. Curtis Jensen, Bar president and Chief Justice Durrant met last Friday.

The Bar's 2015 Summer Conference will be held in Sun Valley, ID.

Elections for the Bar president will be held in the spring to include the following two candidates: 1) Tom Seiler, Fourth District; and 2) Angelina Tsu, Third District.

#### 5. MID-YEAR CASE FILING REVIEW AND UPDATE ON THE COURTS PERFORMANCE STANDARDS: (Kim Matheson)

Chief Justice Durrant welcomed Ms. Matheson to the meeting. Mr. Becker introduced Ms. Matheson as a member of the Court Services staff, and he mentioned that she would provide data on case filings and referrals for the first six months of FY 2014.

Ms. Matheson reviewed case filings in district court from July 2013 to December 2013. She highlighted the following case filing data in her review: 1) criminal case filings in district court, 2% increase; 2) domestic case filings in district court, 3% decrease; 3) general civil case filings in district court, 4% decrease; 4) judgment case filings in district court, 3% decrease; 5) probate case filings in district court, 1% increase; 6) property rights case filings in district court, 0% change; 7) tort case filings in district court, 6% increase, 8) traffic case filings in district court, 12% decrease, and 9) overall district court case filings, 3% decrease.

She reviewed the juvenile court referrals from July 2013 to December 2013. She highlighted the following referral data in her review: 1) felony, 2% decrease; 2) misdemeanor, 15% decrease; 3) infraction, 36% decrease; 4) contempt, 4% increase; 5) status, 5% decrease; 6) traffic, 0% change; 7) adult violation, 5% decrease; 8) child welfare, 3% increase, 9) termination of parental rights, 10% decrease; 10) voluntary relinquishment, 7% increase; 11) domestic/probate, 1% increase, and 12) overall juvenile court referrals, 8% decrease.

Ms. Matheson reviewed the following areas relative to court performance standards: 1) district court, average days active cases are pending; 2) statewide time to disposition report; 3) statewide justice courts time to disposition report; and 4) availability of reports on an internal webpage. Ms. Matheson demonstrated how to access the court performance standard reports online.

The question was asked relative to case filing and referral data showing decreases in juvenile referrals. Mr. Becker provided a response to possible reasons for the decreases.

Chief Justice Durrant thanked Ms. Matheson for her update.

**6. LEGISLATIVE UPDATE AND INTERIM HIGHLIGHTS: (Rick Schwermer)**

Mr. Schwermer provided a legislative update to the Council.

He highlighted the following bills being considered this legislative session in his update:

1) HB 70 – Forcible Entry Amendments – this bill modifies the Utah Code of criminal Procedure regarding the use of forcible entry by law enforcement officers when conducting a search or making an arrest, 2) SB 132 – Human Services Amendments – this bill amends provisions of the Utah Code relating to the Office of Guardian ad Litem, 3) HB 238 – Local Referendum Requirements Amendments – this bill amends provisions of the Election Code relating to local referenda, 4) HB 251 – Unsworn Declaration Amendments – this bill makes amendments to the Judicial Code, and 5) grand jury panel discussion, nothing filed yet.

Discussion took place.

**7. RULE FOR FINAL ACTION: (Alison Adams-Perlac)**

The district court judges in the Sixth District requested approval of a local rule, Rule 10-1-602 – Orders to show cause, which was previously approved as a local rule in the Fifth District. The rule requires a first appearance to be held prior to an evidentiary hearing when an order to show cause is requested in any case in which a commissioner is unavailable.

Discussion took place.

**Motion:** Judge Mortensen moved to approve Rule 10-1-602 – Orders to show cause as a local rule for the Sixth District and publish it for comment. Judge Harmond seconded the motion, and it passed unanimously.

**8. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE: (Joanne Slotnik)**

Chief Justice Durrant welcomed Ms. Joanne Slotnik and Mr. Bob Fotheringham to the meeting.

Ms. Slotnik introduced Mr. Fotheringham to the Council noting that he is one of the Supreme Court's appointments to the commission. Mr. Fotheringham provided background information of his experience.

Ms. Slotnik and Mr. Fotheringham highlighted the following in their update: 1) the 2014 evaluations for the judges up for retention in 2014 have been completed, 2) reviewed the process for completing the evaluations, 3) reports will be sent to the appropriate judges today, 4) copies of the reports will be sent to members of the Council, 5) the judges' narratives will be reviewed, 6) the 2014 retention reports will be made available to the public nearer to election time, and 6) a justice court amendment bill will be introduced this legislative session relative to the justice court evaluation process.

Discussion of available information for retiring judges being considered for certification as senior judges took place.

**9. BUDGET HIGHLIGHT – SENIOR JUDGE BUDGET: (Ray Wahl)**

Mr. Wahl reviewed the current senior judge budget and the use of this budget. He highlighted the following: 1) \$223,100 was allocated to the senior judge budget for FY 2014, 2) no additional funding was included in the FY 2014 allocation, 3) 77% of the budget has been spent during the first seven months of this fiscal year, 4) 35% of the budget is used to provide senior judge assistance for use with backlog, 5) 65% of the budget is used to provide senior judge assistance due to retirements or unique circumstances, 6) approximately 400 senior judge days were used as the estimate for funding the senior judge budget in FY 2014.

The senior judge budget will be discussed further at the April Council meeting when the FY 2015 spending plan will be considered.

**10. SENIOR JUDGE CERTIFICATION: (Alison Adams-Perlac)**

The following retired judges have applied for appointment as Inactive Senior Judges: 1) Judge Kay Lindsay, and 2) Judge Tyrone Medley. Both judges meet the minimum performance standards.

**Motion:** Judge Maughan moved to forward the recommendations, on behalf of the Council, to the Supreme Court to certify Judge Kay Lindsay and Judge Tyrone Medley as inactive senior judges. Judge Skanchy seconded the motion, and it passed unanimously.

**11. EXECUTIVE SESSION:**

An executive session was not needed at this time.

**12. ADJOURN**

The meeting was adjourned.



# TAB 2

# **Management Committee Minutes**

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE  
MINUTES**

**Tuesday, February 11th, 2014  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah**

**MEMBERS PRESENT:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Kimberly K. Hornak, Vice Chair  
Hon. James Davis  
Hon. George Harmond  
Hon. John Sandberg  
Hon. Randall Skanchy

**STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Alison Adams-Perlac  
Jody Gonzales  
Debra Moore  
Dawn Marie Rubio  
Rick Schwermer  
Tim Shea  
Brent Johnson  
Liz Knight  
Jessica Van Buren  
Carol Price  
Ron Bowmaster

**EXCUSED:**

**GUESTS:**

**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 Hornak 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:

**2014 Legislative Session - Budgets.** The Appropriations Subcommittees spent the first week reviewing base budgets and identified one-time funding options that could be eliminated. Mr. Becker noted some of the identified funding is being proposed to address the courts budget requests. Expansion requests will be considered today.

**Security.** The need for adjustment to the security fee has been addressed with the Sheriff's Association. Background was provided by Mr. Becker on this matter. A Security Fee Amendments Bill is being drafted to adjust the fee and bring the account back into balance.

**Legislative Leadership Meetings.** Chief Justice Durrant, Mr. Becker and Mr. Schwermer met with the Senate and House leadership to discuss proposed legislation and other matters.

**Liaison Involvement.** Representative Peterson met with the Liaison Committee on Friday, February 7, regarding HIB 336 – Court System Task Force.

Legislation Update. Mr. Schwermer reviewed SB 54 – Elections Amendments – sponsored by Senator Bramble. This bill amends provisions of the Election Code relating to nomination of candidates, primary and general elections, and ballots. Discussion took place.

**3. COMMITTEE APPOINTMENTS: (Brent Johnson, Alison Adams-Perlac, Liz Knight, Debra Moore, and Jessica Van Buren)**

The Ethics Advisory Committee recommended the reappointment of Judge Michele Christiansen to serve a second term on the committee.

**Motion:** Judge Davis moved to approve reappointment of Judge Michele Christiansen to serve a second term on the Ethics Advisory Committee and place it on the February Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

The Language Access Committee recommended the following committee reappointments: 1) Judge Rick Romney to serve a second term as the justice court judge representative, 2) Ms. Maureen Magagna to serve a second term as the clerk of court representative, and 3) Mr. Ghulam Hasnain to serve a second term as the registered interpreter representative.

**Motion:** Judge Sandberg moved to approve the recommendations of the Language Access Committee to reappoint Judge Rick Romney, Ms. Maureen Magagna, and Mr. Ghulam Hasnain for second terms on the committee and place it on the February Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

The Guardian ad Litem Oversight Committee has a vacancy on the committee with the appointment of Mr. John Pearce to the Court of Appeals bench. The following names have been submitted for consideration in filling the vacancy: 1) Ms. Jacey Skinner, Governor's General Counsel; 2) Mr. David Littlefield, attorney; and 3) Ms. Dixie Jackson, attorney.

The Guardian ad Litem Oversight Committee recommended the appointment of Ms. Jacey Skinner to fill the vacancy on the committee.

**Motion:** Judge Hornak moved to approve the recommendation of the Guardian ad Litem Oversight Committee to appoint Ms. Jacey Skinner to serve on the committee and place it on the February Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

The Uniform Fine and Bail Committee recommended the appointment of Judge James Brady as the committee chair with the expiration of Judge David Connors second term who served as the committee chair.

**Motion:** Judge Hornak moved to approve the appointment of Judge James Brady as the chair of the Uniform Fine and Bail Committee and place it on the February Judicial Council consent calendar. Judge Sandberg seconded the motion, and it passed unanimously.

The Committee on Resources for Self-Represented Parties has submitted recommendations to fill several vacancies on the committee.

First, there is a vacancy for a justice court judge representative with Judge John Baxter's third term expiring at the end of February. The following justice court judges have been advanced for consideration: 1) Judge Vernon "Rick" Romney, Provo City Justice Court; and 2) Judge Marsha Thomas, Taylorsville Justice Court.

**Motion:** Judge Sandberg moved to approve the appointment of Judge Marsha Thomas to serve on the Committee on Resources for Self-Represented Parties as the justice court judge representative and place it on the February Judicial Council consent calendar. Judge Davis seconded the motion, and it passed unanimously.

There is a vacancy for a community representative with Ms. Shauna O'Neill's term expiring. Ms. Susan Griffith is being recommended by the committee to fill the vacancy.

**Motion:** Judge Hornak moved to approve the appointment of Ms. Susan Griffith to serve as the community representative on the Committee on Resources for Self-Represented Parties and place it on the February Judicial Council consent calendar. Judge Harmond seconded the motion, and it passed unanimously.

The Committee on Resources for Self-Represented Parties is recommending reappointment of the following members to serve a second term on the committee: 1) Ms. Barbara Procarione, Judicial Team Manager – Seventh District Court – serving as a court clerk representative; and 2) Ms. Virginia Sudbury – attorney – serving as a private attorney representative.

**Motion:** Judge Harmond moved to approve the recommendations, on behalf of the Committee on Resources for Self-Represented Parties, to reappoint Ms. Barbara Procarione and Ms. Virginia Sudbury to serve a second term on the committee and place it on the February Judicial Council consent calendar. Judge Davis seconded the motion, and it passed unanimously.

**4. Limited Audit, 7<sup>th</sup> District, Carbon County District and Juvenile Courts: (Heather Mackenzie-Campbell)**

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

Ms. Mackenzie-Campbell reported on the limited audit of the Seventh District, Carbon County District and Juvenile Courts which was prompted by the appointment of a new clerk of court in October of 2012. She highlighted the following in her report: 1) 5 of 12 observations were found during the audit process and were noted as significant areas for improvement, 2) 15 effective procedures were recognized during the audit process, and 3) responses to the audit were received prior to issuing of the draft report.

**Motion:** Judge Sandberg moved to accept the limited audit of the Seventh District, Carbon County District and Juvenile Courts. Judge Hornak seconded the motion, and it passed unanimously.

**5. COURT SECURITY AUDIT REVIEW: (Carol Price)**

Chief Justice Durrant welcomed Ms. Price to the meeting.

Ms. Price reported on the Security Review – Preliminary Report of the Seventh District and Juvenile Courthouse in Castledale – Emery County.

The security review of the Emery County courthouse found that the procedure of screening patrons for weapons was not being done. A meeting was held with the Emery County sheriff and the Emery County commissioners to discuss the current contract and the need to provide perimeter security. The sheriff agreed to abide by the contract for the remainder of the year.

Judge Harmond provided background on the previous sheriff and contracted services.

**Motion:** Judge Sandberg moved to accept the Security Review – Preliminary Report of the Seventh District and Juvenile Courthouse in Castledale – Emery County. Judge Hornak seconded the motion, and it passed unanimously.

**6. SENIOR JUDGE GORDON LOW – TRAINING HOURS: (Ray Wahl)**

Mr. Wahl responded to a request made by Senior Judge Gordon Low regarding the annual training hours needed to remain certified as an active senior judge during times when he is out of the country on a teaching assignment for the State Department.

Mr. Wahl noted that Judge Low and other senior judges are asked from time to time by the State Department to participate in providing education and examining judicial systems in other countries. Judge Low has been involved with this program twice in the past for six-month periods, and he just left for a third trip. With this, he will miss the following judicial training opportunities (training hours): 1) Legislative Update, 2) Utah State Bar's Spring Conference, 3) District Court Conference, and 4) Annual Judicial Conference. Upon his return, he will have limited opportunities to obtain training hours for the current year. Mr. Wahl noted that he will not be up for recertification as an active senior judge until December of 2015.

Mr. Wahl's recommended that the Policy and Planning Committee consider the education requirements, in a broader sense, to possibly include other options for obtaining training hours when senior judges are unable to attend the provided conferences, as they review the evaluation process for senior judges. The Management Committee was in agreement with Mr. Wahl's recommendation.

**7. E-FILING EXEMPTION REQUEST: (Debra Moore)**

Ms. Moore provided background information on the Prosecutors Information Management System (PIMS). She also reminded members of the Management Committee of the Council's adoption of Rule 4-603 – mandatory electronic filing with a March 31, 2014 effective date for all documents to be filed electronically for criminal cases, except for the information which would have an effective date of January 1, 2015 to be filed electronically.

A request for exemption from the electronic filing deadline of March 31, 2014 for criminal cases has been received from Mr. Blake Nakamura of the Salt Lake District Attorney's office. Ms. Moore reviewed details of the request for exemption.

Ms. Moore noted that the Legal Defenders Association (LDA) and the Utah County Attorney's Office are both using the court's system for electronic filing of documents in criminal cases. Discussion took place.

Ms. Moore will respond to Mr. Nakamura and invite him to attend the February 24 Judicial Council meeting and present his request for exemption to the Council.

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

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

**Motion:** Judge Skanchy moved to approve the agenda for the February 24 Council meeting as amended. Judge Sandberg seconded the motion, and it passed unanimously.

**9. ADJOURN**

The meeting was adjourned.

# **Liaison Committee Minutes**



**JUDICIAL COUNCIL LIAISON COMMITTEE MEETING**

**Minutes  
Friday, January 31, 2014  
Matheson Courthouse  
Council Room**

**Honorable Jill Parrish, Presiding**

**ATTENDEES:**

Hon. Thomas M. Higbee  
Hon. David Marx  
Hon. David Mortensen  
Justice Jill Parrish

**STAFF PRESENT:**

Alison Adams-Perlac  
Daniel J. Becker  
Katie Gregory  
Brent Johnson  
Nancy Merrill  
Debra Moore  
Rick Schwermer  
Tim Shea  
Ray Wahl

**EXCUSED:**

**GUESTS:**

Hon. Brent McCullagh

---

**1. WELCOME: (Justice Jill Parrish)**

Justice Parrish welcomed everyone to the meeting.

***Motion:** Judge David Mortensen moved to approve the minutes from the Liaison Committee Meeting on January 24, 2014 and January 27, 2014. Judge David Marx seconded the motion, and the motion carried unanimously.*

**2. H.B. 75 Restoration of Civil Rights for Nonviolent Felons  
(Chief Sponsor: Curtis Oda) (Justice Jill Parrish)**

This bill exempts nonviolent felons from the categories of restricted persons who are prohibited from possessing a dangerous weapon.

The committee agreed that the bill is policy.

***Liaison Committee's position:** No position but the committee has drafting concerns*

3. **H.B. 85 Electronic Filing of Traffic Citations and Accident Report Amendments  
(Chief Sponsor: Jon Cox) (Judge David Marx)**

This bill amends provisions related to the electronic filing of a misdemeanor or infraction citation.

The bill will exempt 4<sup>th</sup>, 5<sup>th</sup>, and 6th class counties from filing misdemeanors and infractions electronically. The committee agreed that the bill will impact justice and judiciary authority and is in conflict with the court rule.

*Liaison Committee's position: Oppose*

4. **H.B. 287 Arbitration for Dog Bites Amendments  
(Chief Sponsor: LaVar Christensen) (Judge David Mortensen)**

This bill modifies Title 18, Chapter 1, Injuries by Dogs, by creating a provision for using arbitration in personal injury from a dog attack.

The committee had some discussion on the intention of the bill they agreed it is policy.

*Liaison Committee's position: No position*

5. **H.B. 296 Concealed Weapon Permit Exemptions Amendments  
(Chief Sponsor: Richard A. Greenwood) (Judge David Marx)**

This bill changes the annual requalification and revocation requirements for a law enforcement official or judge to retain a concealed weapon permit.

The bill allows the commissioner of public safety to establish the annual requalification requirements for judges and law enforcement for concealed weapons. The committee had discussion on the intent and ramifications of the bill.

*Liaison Committee's position: No position*

6. **S.B. 112 1<sup>st</sup> Sub. Game Fowl Fighting Amendments  
(Chief Sponsor: Gene Davis) (Judge David Mortensen)**

This bill amends provisions of the Utah Criminal Code relating to animal cruelty.

*Liaison Committee's Position: No position*

**7. S.B. 159 Bail Amendments  
(Chief Sponsor: Scott K. Jenkins) (Judge David Mortensen)**

This bill allows a court to order bail money to be paid to a judgment creditor.

The committee discussed the bill and agreed it has drafting problems. They concurred that it defeats the purpose of bail in criminal cases. Mr. Johnson discussed the possibility of adding the language of this bill to the contempt statute. Mr. Schwermer informed the committee that there is an \$119,000 fiscal note attached to the bill. The committee agreed that they oppose the bill currently drafted; specifically as it applies to criminal cases.

*Liaison Committee's position: Oppose*

**8. S.B. 161 Criminal Surcharge Amendments  
(Chief Sponsor: Wayne A. Harper) (Judge David Marx)**

This bill amends Title 51, Chapter 9, Funds and Accounts Act, in relation to the distribution of criminal surcharges.

The bill reallocates the surcharge collected to local authorities. The committee agreed that the bill is policy but the 5% of funds that they are intending for reallocation is not actually 5%.

*Liaison Committee's position: No position but the numbers are inconsistent and contradictory*

**NEXT MEETING:**

**February 7, 2014  
12:00 p.m.  
Board Room**

# JUDICIAL COUNCIL LIAISON COMMITTEE MEETING

Minutes  
Friday, February 7, 2014  
Matheson Courthouse  
Council Room

Honorable Jill Parrish, Presiding

**ATTENDEES:**

Hon. David Marx  
Hon. David Mortensen  
Justice Jill Parrish

**STAFF PRESENT:**

Daniel J. Becker  
Chief Justice Durrant  
Brent Johnson  
Nancy Merrill  
Dawn Marie-Rubio  
Tim Shea  
Rick Schwermer  
Ray Wahl

**EXCUSED:**

Judge Thomas Higbee

**GUESTS:**

Chief Justice Matthew Durrant  
Hon. Kim Hornak  
Representative Jeremy Peterson

---

1. **WELCOME: (Justice Jill Parrish)**

Justice Parrish welcomed everyone to the meeting.

***Motion:*** Judge David Marx moved to approve the minutes from the Liaison Committee Meeting on January 31, 2014. Judge David Mortensen seconded the motion, and the motion carried unanimously.

Mr. Schwermer informed the Liaison Committee that Representative Jeremy Peterson will be attending the meeting at 1:00 p.m. to explain his intentions with the Court System Modification Amendments the Task Force Project. Representative Peterson would like to receive feedback from the Liaison Committee on the project.

Mr. Schwermer reviewed with the committee information regarding the task force project and Court System Modification Amendments bills. The committee had further discussion on the potential bills.

2. **H.B. 75 (1<sup>st</sup> Sub) Restoration of Civil Rights For Non Violent Felons  
(Chief Sponsor: Curtis Oda) (Justice Jill Parrish)**

This bill exempts nonviolent felons from the categories of restricted persons who are prohibited from possessing a dangerous weapon.

The committee agreed the bill is policy but raised drafting concerns.

*Liaison Committee's position: No position but there needs to be drafting clarity on standards for judges*

3. **H.B. 251 1<sup>st</sup>. Sub Unsworn Declarations Amendments  
(Chief Sponsor: Kay L. McIff) (Judge David Mortensen)**

This bill makes amendments to the Judicial Code.

The committee agreed that the drafting issues are resolved and agreed that they support the bill. On line 24 subsection (1) the committee suggested inserting "Procedure and Evidence" instead of "Criminal Procedure, Civil Procedure".

*Liaison Committee's position: Support*

4. **H.B. 305 Safety Belt Law Revisions  
(Chief Sponsor: Lee B. Perry) (Justice Jill Parrish)**

This bill modifies the Motor Vehicle Safety Belt Usage Act by amending provisions relating to safety belt compliance for civil litigation.

*Liaison Committee's position: No position*

5. **H.B. 318 Right of Parents and Children Amendments  
(Chief Sponsor: LaVar Christensen) (Judge Kim Hornak)**

This bill modifies Title 78A, Chapter 6, Juvenile Court Act, by permitting a parent who has been served with a petition for termination of parental rights to request a jury trial.

Mr. Schwermer informed the committee that there is a fiscal note of approximately \$3,000,000 on the bill. The committee agreed that the bill is policy.

*Liaison Committee's position: No position*

6. **H.B. 319 Court System Modification Amendments  
(Chief Sponsor: Jeremy A. Peterson) (Judge David Mortensen)**

This bill creates a new circuit court with limited jurisdiction.

The committee agreed that there are numerous drafting, structural, and philosophical problems with the bill.

*Liaison Committee position: Oppose*

**7. S.B. 54 Election Amendments  
(Chief Sponsor: Curtis S. Bramble) (Judge David Mortensen)**

This bill amends provisions of the Election Code relating to nomination of candidates, primary and general elections, and ballots.

Mr. Schwermer explained that the sponsor is not willing to change any wording in the bill. The committee agreed that the bill is policy. If the bill passes they discussed the possibility of JPEC fixing the bill next year because of the candidate declaration timing.

*Liaison Committee's position: No position*

**8. S.B. 93 Internal Audit Amendments  
(Chief Sponsor: Howard A. Stephensen) (Judge David Marx)**

This bill establishes the Governor's Office of Internal Audit Services and amends provisions related to the auditing of state agencies and school districts.

The committee agreed that the bill does not affect the courts.

*Liaison Committee's position: No position*

**9. S.B. 167 Regulation of Drones  
(Chief Sponsor: Howard A. Stephensen) (Justice Jill Parrish)**

This bill establishes provisions for the appropriate use of unmanned aerial vehicles by government entities.

The majority of the bill is policy. The committee had some rule making concerns and Mr. Schwermer suggested that other groups may oppose it.

*Liaison Committee's position: No position*

**10. S.B. 173 1<sup>st</sup> Sub Child Protection Amendments  
(Chief Sponsor: Todd Weiler) (Judge Kim Hornak)**

This bill modifies provisions of the Juvenile Court Act.

The bill is policy, though the committee reviewed some drafting concerns on lines 13-15.

*Liaison Committee's position: No position but drafting issues*

**11. S.B. 177 Sex Offenders Amendments  
(Chief Sponsor: Jerry W. Stevenson) (Judge David Mortensen)**

This bill modifies the Utah Criminal Code and the Utah Code of Criminal Procedure regarding sex offender registration violations.

*Liaison Committee's position: No position*

**12. H.B. 323 Divorce Orientation Course Timing  
(Chief Sponsor: Jim Nielson) (Judge David Mortensen)**

This bill amends provisions of the mandatory divorce orientation course.

Mr. Schwermer explained that the bill tries to find a compromise between having to take the divorce orientation course before filing for divorce and having to take the divorce orientation class within the first 30 days. He explained that the program was given to the Judiciary to administer. The committee had further discussion about line 61 that affects the courts. They discussed potential contract implications with providers.

*Liaison Committee's position: No position but there is policy concerns*

**13. Other Business:**

**NEXT MEETING:**

**February 14, 2014  
12:00 p.m.  
Council Room**

**Policy and Planning Committee  
Minutes**



## **Minutes of the Policy and Planning Committee**

February 7, 2014

Draft. Subject to approval

### **Members Present**

Glen R. Dawson, Paul G. Maughan, Reed S. Parkin, Randall Skanchy

### **Members Excused**

Thomas Higbee, John R. Lund

### **Staff**

Alison Adams-Perlac

#### **(1) Approval of minutes.**

The minutes of January 3, 2014 were approved as prepared.

#### **(2) Rule 4-405. Juror and witness fees and expenses.**

Ms. Adams-Perlac discussed a proposed change to rule 4-405. The proposal increases the rate for jury snacks or breaks from \$3.00 to \$4.00. The change was recommended as the rate for jury snacks and breaks has always been tied to the state rate for breaks, which is currently \$4.00.

Judge Dawson moved to approve the proposal and to put it on the Judicial Council's consent calendar. Judge Parkin seconded the motion and it passed unanimously.

#### **(3) Rule 3-306. Language access in the courts.**

Ms. Adams-Perlac discussed a proposed change to rule 3-306. The proposal adds a residency requirement for interpreters seeking to be credentialed as certified, approved, or registered court interpreters. This issue has been raised as a concern because out-of-state interpreters have sought to take advantage of the training and credentialing process in Utah, but are not available to interpreter because they are not located in Utah. Problems arise when these individuals are added to the interpreter roster, but cannot be counted on to interpret when needed.

Judge Parking suggested that the Language Access Committee consider charging for the training, in addition to deciding not to credential these individuals.

Judge Dawson moved to approve the proposal and to put it on the Judicial Council's consent calendar. Judge Maughan seconded the motion and it passed unanimously.

#### **(4) Rule 4-202.02. Records classification.**

Ms. Adams-Perlac discussed a proposed change to rule 4-202.02 regarding records in cases where a minor seeks judicial consent to obtain an abortion. She stated that the juvenile court requested that

records in these cases be classified in order to give the court direction on who may access these records. Absent an articulated classification, these records are considered juvenile court legal records, which parents and others may access. Currently, the juvenile court has been treating these records as sealed. Juvenile court cases present unique records access concerns, since records are considered on a case basis, rather than a hearing basis.

Judge Parkin asked whether the statute gives direction on how these records should be classified. The Committee reviewed Utah Code section 76-7-304.5. The statute states that the proceedings are confidential, and that the Judicial Council should make rules regarding access to records in this context. The Committee felt that the statute made it clear that these records are confidential, and that a sealed designation was appropriate.

Judge Dawson moved to approve the proposal and to forward it to the Judicial Council's consent calendar. Judge Maughan seconded the motion and it passed unanimously.

**(5) Rule 11-201. Senior judges; Rule 11-203. Senior justice court judges.  
Discussion of residency and education requirements.**

Ms. Adams-Perlac discussed the proposal to require Utah residency for active senior judges. Judge Parkin stated that there is an assumption that if an active senior judge is in Utah and is available for service. He stated that the purpose of this designation is so that the judge can be utilized to cover hearings when necessary. Judge Maughan suggested changing the language of the proposal to state that an active senior judge must be a current resident and must accept case assignments. Judge Parkin suggested that "available for service" language be added.

Judge Maughan moved to approve the amended proposal for each rule and to forward them to the Judicial Council's consent calendar with the senior judge performance evaluation plan when approved. Judge Dawson seconded the motion and it passed unanimously.

The Committee discussed education requirements for senior judges, and whether or not they should be adapted to allow for more teaching. Ms. Adams-Perlac informed the Committee that the Management Committee would be discussing this issue, but that the Policy and Planning Committee would likely have to consider this issue as well.

Judge Maughan recommended that Tom Langhorne provide input. Judge Dawson suggested that the policy be liberal and flexible, as the senior judges are providing a service to the court. Judge Parkin suggested that the rule might be changed to provide for a review of the requirements on a case-by-case basis as needed.

Ms. Adams-Perlac reminded the Committee to provide feedback on the commissioner/senior judge performance evaluation plans as soon as possible. Judge Dawson stated that he is comfortable with the plans as currently written.

The meeting was adjourned at 1:40 p.m.

**TAB 4**



# Utah State Courts

---

## Committee on Remote Hearings and Services

---



---

Report to the Judicial Council  
February 24, 2014

---

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.

## **Report of the Committee on Remote Hearings and Services**

---

(1)	Summary .....	4
(2)	Committee's charge.....	4
(3)	Community input.....	6
(a)	Opinions expressed at meetings in Randolph and Kanab .....	6
(b)	Opinion survey.....	7
(4)	Remote hearings .....	8
(a)	Laws regulating proceedings with testimony.....	8
(i)	Current Utah law .....	8
(ii)	Analysis .....	9
(iii)	Laws of other states .....	10
(b)	Laws regulating proceedings without testimony.....	10
(i)	Current Utah law .....	11
(ii)	Analysis .....	11
(c)	Due process balancing test.....	13
(d)	Recommendations .....	14
(i)	Improve video quality .....	14
(ii)	Consent; judge's discretion .....	15
(5)	Remote services.....	16
(a)	Inventory of clerical services .....	16
(b)	Models for remote services.....	16
(i)	Courthouse-to-courthouse communication .....	18
(ii)	On-line services.....	19
(iii)	Services at any courthouse .....	19
(iv)	District-wide limits.....	19
(c)	Recommendations .....	20
(6)	Costs and savings .....	20
(7)	Committee members and staff.....	21
(8)	Appendix A. Amendments to statutes and rules (Excerpts).....	22
(a)	Remote hearings.....	22

(i)	Rule of Criminal Procedure 17.5. Hearings with contemporaneous transmission from a different location.....	22
(ii)	Rule of Juvenile Procedure 29B. Hearings with contemporaneous transmission from a different location.....	23
(iii)	Rule of Juvenile Procedure 37B. Hearings with contemporaneous transmission from a different location.....	24
(iv)	Rule of Civil Procedure 43. Evidence.....	24
(v)	Code of Judicial Administration Rule 4-106. Electronic conferencing.	24
(b)	Remote services .....	25
(i)	Section 78A-2-104.....	25
(ii)	Rule of Civil Procedure 77. District courts and clerks.....	25
(iii)	Rule of Appellate Procedure 39. Duties of the clerk.....	25
(iv)	Code of Judicial Administration Rule 3-302. Clerk of the Court.....	26
(v)	Code of Judicial Administration Rule 9-105. Justice Court hours.....	26
(9)	Appendix B. Inventory of technological capability.....	27
(a)	Current.....	27
(b)	Planned.....	28
(10)	Appendix C. Courtroom video configuration.....	29
(11)	Appendix D. Survey about remote court services and hearings.....	30
(12)	Appendix E. Courthouses under consideration.....	44
(13)	Appendix F. District court hearings FY 2013.....	45
(14)	Appendix G. Juvenile court hearings FY 2013.....	47

This report along with committee agendas, minutes and meeting materials are available on the committee's webpage:

[http://www.utcourts.gov/committees/remote\\_services/](http://www.utcourts.gov/committees/remote_services/).

## **(1) Summary**

Remote hearings and services will save court users time and money. The financial savings to the courts are minimal, and so the courts may never see a return on the investment.

A major benefit of remote hearings and services is convenience. A major cost is the loss of personal contact.

A communication network established for remote hearings can also improve the educational opportunities of judges and clerks and—with the cooperation of the courts and the bar—lawyers.

Although our respondent pool was small, participant opinion seems to support remote hearings and services.

Rules of administration and rules of procedure will need to be amended to enable remote hearings and services. Other states have enabling laws in place.

The quality and reliability of the audio-video communication must be improved. Improved communication is available.

Due to procedural differences among districts, the courts may not yet be capable of some statewide remote services. The courts are capable of district-wide remote services, but a district's leaders will need to commit to the effort.

The convergence of data, voice and video in a single network affects service delivery and the distribution of work.

## **(2) Committee's charge**

The Judicial Council formed this committee to examine the options available for remote hearings and services now that the judiciary so thoroughly relies on electronic filing, electronic records and electronic case management. The administrative office of the courts, working with judges and clerks, has been expanding the electronic capabilities of the courts for more than 25 years. That investment enables the district court to require lawyers to electronically file cases, and the juvenile court and the appellate courts will soon follow. The AOC is building the capability for self-represented parties to electronically file some documents.

Our role is to examine whether and how to use the courts' electronic capabilities to provide in our smaller court sites convenient hearings and services usually associated only with larger operations. For example, using video communication to conduct a hearing, which might otherwise require parties, lawyers or witnesses to travel long distances. Or using video communication to conduct that hearing sooner than might otherwise be possible or to reduce the cost of transporting prisoners.

Electronic filing, electronic records and electronic case management have produced a measurable decline in the traditional clerical tasks associated with processing cases. The Judicial Council asked that we examine what further services, traditionally provided to the public at a court's front counter, might be better provided through electronic communication. For example, ordering a copy of a record. Or asking for procedural information. The courts' Self Help Center is a virtual center meeting the needs of thousands of people each year by email and phone. There are no face-to-face meetings. Would a similar approach to clerical tasks benefit the public and the courts?

We focused on the 16 court sites that have fewer than 1,000 district court case filings annually.<sup>1</sup> In ascending order they are:

- Manila, in Daggett County, 8<sup>th</sup> Judicial District, a contract site
- Junction, in Piute County, 6<sup>th</sup> Judicial District, a contract site
- Loa, in Wayne County, 6<sup>th</sup> Judicial District, a contract site
- Randolph, in Rich County, 1<sup>st</sup> Judicial District, a contract site
- Morgan, in Morgan County, 2<sup>nd</sup> Judicial District
- Panguitch, in Garfield County, 6<sup>th</sup> Judicial District, a contract site
- Kanab, in Kane County, 6<sup>th</sup> Judicial District, a contract site
- Beaver, in Beaver County, 5<sup>th</sup> Judicial District
- Monticello, in San Juan County, 7<sup>th</sup> Judicial District
- Castle Dale, in Emery County, 7<sup>th</sup> Judicial District
- Nephi, in Juab County, 4<sup>th</sup> Judicial District
- Salem, in Utah County, 4<sup>th</sup> Judicial District, a contract site
- Duchesne in Duchesne County, 8<sup>th</sup> Judicial District
- Moab, in Grand County, 7<sup>th</sup> Judicial District
- Fillmore, in Millard County, 4<sup>th</sup> Judicial District, a contract site
- Manti, in Sanpete County, 6<sup>th</sup> Judicial District

A "contract site" is one in which the AOC contracts with the county to perform the duties of the clerk of the court.

We use the phrase "remote" hearings and services to describe transactions in which the judge or clerk is in one location and the person or persons with whom they are doing business are elsewhere. Communication between the locations is contemporaneous using audio or video technology, supplemented by any computer applications needed to complete a transaction.

We are committed to improving hearings and services. We see no benefit to conducting remote hearings and services simply because we can. We believe that for a hearing or service to be improved it needs to be more immediately available, increase public safety, save time or money for the public, or save time

---

<sup>1</sup> See [Appendix E](#).



or money for the courts. In addition, remote hearings and services must meet traditional court values:

- provide fair and impartial justice under the law;
- ensure public access to the courts;
- ensure transparent proceedings; and
- justify the public's confidence in the courts.

### **(3) Community input**

The committee is made up exclusively of court personnel, so we committed ourselves to seek the opinions of those who might be most affected by our recommendations. Given the relatively short timeline for our investigation, consideration and report, we could not meet in all of the sites under consideration, but we met in Randolph and in Kanab. We invited to those meetings the county commissioners, county justice court judge, county attorney, county sheriff, and county clerk. We also invited the trial court executive and the clerk of the court for the judicial district and the juvenile and district court judges of the district. And we invited up to 25 of the lawyers who had participated in a hearing at either of the two locations during 2013.

Since we could not meet in all of the locations under consideration, we invited the county and district officials for each location to participate in a survey of their opinions. We also invited all of the lawyers who had participated in a hearing at any of the locations during 2013 to share their thoughts.

#### **(a) Opinions expressed at meetings in Randolph and Kanab**

It is clear from our discussions that judges and local officials are legitimately proud of their courts and want to ensure that the courts continue to serve the public. Officials strongly expressed the opinion that the legal business of the county, civil and criminal, should be conducted in the county. Several people made the point that they want the judge to maintain a personal connection with those who come to court.

The judges who travel—sometimes a long distance—to the smaller courthouses are always willing to do so. The judges want to maintain that connection to the community.

Some people remarked that when a hearing is face-to-face the judge is better able to "size up" an individual, to decide whether the person is sincere and telling the truth, and to decide whether the person understands the proceedings. Similarly, the judge is better able to impress upon the person the importance of the proceedings and what is expected of the person when he or she is physically before the judge.

Some people expressed concern that if the technology fails, the hearing may have to be postponed or the service delayed. Others expressed concern about the cost. The courts under consideration are in smaller communities with a smaller tax base, and capital and maintenance investment in equipment can be very expensive. Some were concerned that remote hearings and services would not actually improve the hearings and services. Some were concerned that remote hearings and services would grow beyond what might be originally proposed, isolating the community from its court.

Having expressed a strong preference for conducting business in person, the participants also agreed that there are some proceedings that can legitimately be conducted remotely. The participants were more comfortable with the concept of remote clerical services than with remote hearings. But there was a consensus that even some hearings could be conducted remotely: "routine" or "minor" hearings; hearings for which a person would have to travel a long distance; hearings in which contemporaneous video communication is as effective as face-to-face communication.

#### **(b) Opinion survey**

Because we were able to meet with relatively few attorneys, judges and local officials, we surveyed the county and district officials for each court site under consideration and all of the lawyers who had participated in a hearing at any of those locations during 2013.

The survey was distributed by email to 845 individuals including 72 judges, 663 attorneys, and 110 elected officials and court staff. One hundred seventeen people responded, which is a 13.8% response rate.

For a complete report of all responses, see [Appendix D](#). Generally speaking, those responding believe that:

- A large majority of the members of the respondent's community have access to the internet. (Respondents believe less strongly that members of the respondent's community are comfortable with internet transactions.)
- Conducting hearings and services remotely is a good option when necessary. (Respondents believe less strongly that conducting hearings and services remotely is as good as in person.)
- Conducting hearings remotely is appropriate for hearings without testimony. (Respondents believe much less strongly that conducting hearings with testimony is appropriate.)
- Remote services and hearings can save court users time and money.
- Remote hearings and services require that the quality and dependability of communications be improved.

When given the opportunity to express opinions about remote hearings and services, the responses ranged from very favorable ("Great idea. Let's do it!") to

very unfavorable ("Please, please, please never permit them."). From constructive criticism ("I feel that clients often need to face the judge in a formal court setting in order to respect the orders of the court and have a desire to follow them.") to criticism that is less than helpful ("Maybe our state would be better served by being remotely served by the California State Courts, or maybe the New York State Court offices provide a superior product at a reduced cost.").

Overall, the opinions from the survey paralleled the opinions expressed at the meetings in Kanab and Randolph, recognizing the benefits as well as the drawbacks of remote hearings and services. Respondents viewed remote hearings favorably but cautiously. Two of the strongest themes are that hardware and software must work well and simply, and the video quality must be improved. Collectively, the respondents had experience in all of the courthouses under consideration.

#### **(4) Remote hearings**

##### **(a) Laws regulating proceedings with testimony**

###### **(i) Current Utah law**

If a defendant is charged with a sexual offense against a child, Rule of Criminal Procedure 15.5 permits the testimony of a victim or witness younger than 14 to be taken in a room other than the courtroom and transmitted by closed circuit under specified conditions. Rule of Juvenile Procedure 29A and URJP 37A contain similar provisions.

Rule of Civil Procedure 43(a) requires that "the testimony of witnesses shall be taken orally in open court, unless otherwise provided...."

Rule of Evidence 611 directs the judge to control the mode of examining witnesses, but the context implies that the discretion may be limited to ensuring that the mode of questioning determines the truth, does not waste time, and protects the witness from harassment or embarrassment.

Section 78A-6-317(1) provides that a child who is the subject of an abuse, neglect or dependency petition, the child's parents, guardian, foster parents and pre-adoptive parents, and any relative caring for the child are entitled to be present and to be heard at each hearing.

Section 78B-13-111(2) of the Utah Uniform Child Custody Jurisdiction and Enforcement Act allows the judge to permit an individual residing in another state to testify by telephone, video or other electronic means before a designated court or at another location in that state. Section 78B-14-316(6) has a similar provision as part of the Uniform Interstate Family Support Act.

Although not a statute or rule, the Judicial Council's Language Access Plan permits interpretation of proceedings by remote means that meet specified quality control conditions.<sup>2</sup>

(ii) **Analysis**

*Permissibility of testimony by telephone in state trial*, 85 A.L.R.4th 476, originally published in 1991, provides an excellent collection of state court opinions on whether the law of the jurisdiction allows testimony by telephone.<sup>3</sup> The article and the cases it cites show that the outcome in any particular case depends on the circumstances. Working from those outcomes, we reach the following conclusions:

- Courts are reluctant to permit testimony by contemporaneous transmission without a rule permitting it.
- If the jurisdiction has a rule permitting testimony by contemporaneous transmission, the courts will apply that rule.
- If the rule describes particular circumstances, the judge's discretion is limited to those circumstances.
- If the rule establishes standards for more general application, the judge may exercise discretion in a wider array of circumstances as long as the record shows that the judge meets those standards.
- The rules, whether describing standards or particular circumstances, are limited by the right to confront witnesses as it may exist under the confrontation clause and the due process clause of the state and federal constitutions or under the jurisdiction's statutes and rules.

Remote testimony probably would not be permitted under existing Utah laws. Rule of Civil Procedure 43 (a) requires testimony in open court unless otherwise provided by the civil rules, the rules of evidence or a statute. Code of Judicial Administration 4-106 allows the judge to conduct a hearing using telephone or video conferencing, but URCP 43(a) does not recognize the authority of the Code of Judicial Administration to modify the requirement for testimony in court.

If the courts want to provide for remote testimony, the rules should expressly authorize it. The difference between Federal Rule of Civil Procedure 43(a) and Federal Rule of Criminal Procedure 26 is telling. FRCP 43(a) expressly allows the judge to permit testimony by contemporaneous transmission in civil cases.

---

<sup>2</sup> Language Access Plan, August 9, 2011. Page 16.

<sup>3</sup> The article analyzes only cases involving testimony by telephone. Adding a visual component to the remote testimony should better achieve the objectives of in-person testimony.

For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

FRCP 43 describes the high standards<sup>4</sup> the judge must apply when deciding whether to permit remote testimony without limiting the rule to any particular circumstances. The cases interpreting the federal rule apply an “abuse of discretion” standard of review, but the record must show good cause, compelling circumstances and appropriate safeguards.

FRCrP 26, which serves in criminal cases the same purpose as Rule 43 in civil cases, does not have such a provision, and, without it, appellate courts have held that the trial judge does not have the discretion to permit testimony by contemporaneous transmission.<sup>5</sup>

Applying the equivalent of FRCP 43(a) in criminal and juvenile cases would be problematic. URCrP 15.5, URJP 29A and URJP 37A allow a minor to testify outside the presence of the defendant in specified circumstances with specified controls. Many jurisdictions have a similar rule or statute. These rules are, in essence, a particular example of the standards laid down in FRCP 43(a): good cause; compelling circumstances; and appropriate safeguards. If the equivalent of FRCP 43(a) is enacted as part of the criminal or juvenile rules, the federal rule’s breadth would completely swallow the very specific conditions of the current state rules.

### **(iii) Laws of other states**

At least the following jurisdictions have a rule or statute the same as or similar to FRCP 43(a): Arkansas, Delaware, District of Columbia, Guam, Illinois, Kansas, Maine, Montana, Nevada, North Dakota, Tennessee, Virgin Islands, Washington and Wyoming. In addition, at least the following states have rules of their own that allow remote testimony: Alaska, Florida, Idaho, Indiana, Louisiana, Maryland, Texas and Wisconsin.

### **(b) Laws regulating proceedings without testimony**

When testimony is by contemporaneous transmission from another location, the witness is absent and the other participants are in the courtroom. When conducting a conference or hearing without testimony, any of the participants, including the judge, might be in another location. Indeed, they might be in several locations. Testimony by contemporaneous transmission is limited by the right to

---

<sup>4</sup> In the note to the 1996 amendment, the advisory committee says: “The very ceremony of trial and the presence of the factfinder may exert a powerful force for truth-telling. The opportunity to judge the demeanor of a witness face-to-face is accorded great value in our tradition. Transmission cannot be justified merely by showing that it is inconvenient for the witness to attend the trial.”

<sup>5</sup> See e.g., *United States v. Diaz*, 356 F. App’x 117, 128 (10th Cir. 2009).

confront witnesses. Conducting a conference or hearing by contemporaneous transmission is limited by the right of the participants to be present.

**(i) Current Utah law**

Article 1, Section 12 of the Utah Constitution says: "In criminal prosecutions the accused shall have the right to appear and defend in person and by counsel...." The right of the defendant to be present attaches at every critical proceeding.<sup>6</sup> This section of the constitution does not apply to civil cases.

Rule of Criminal Procedure 17 restates the constitutional provision and then describes how the defendant can waive that right. The defendant may waive the right in writing in misdemeanors and infractions. In any type of case other than a capital felony, the defendant can effectively waive the right by voluntarily being absent after notice of the hearing.<sup>7</sup>

There are no rules granting to civil parties the right to be present at hearings, but it is generally accepted. The right is not an absolute right.<sup>8</sup>

Code of Judicial Administration Rule 4-106 allows the judge to permit "any hearing [to] be conducted using telephone or video conferencing."

Section 75-5-303(5) establishes not just the right but the duty of the respondent in an adult guardianship proceeding to be present in the courtroom.

Section 77-36-2.6(1) allows arraignment or initial appearance of a defendant arrested for domestic violence to be conducted by video.

Section 78A-6-111(2) provides that if the minor is required to appear in juvenile court, then the parents, guardian, or person with legal custody of the minor is also required to appear unless excused by the judge. Unlike Section 78A-6-317, the statute does not require the minor or others to be present.

**(ii) Analysis**

*Constitutional and statutory validity of judicial videoconferencing*, 115 A.L.R.5th 509, originally published in 2004, provides an excellent collection of state and federal opinions on whether the law of the jurisdiction allows the judge to proceed with a hearing when a party is required to participate by contemporaneous video transmission.

---

<sup>6</sup> *State v. Maestas*, 2012 UT 46, 299 P.3d 892, 915 cert. denied, 133 S. Ct. 1634, 185 L. Ed. 2d 620 (U.S. 2013).

<sup>7</sup> Rule 17, rather than describing voluntary absence as a waiver of the right to be present, permits the court to proceed in the defendant's absence.

<sup>8</sup> See *State prisoner's right to personally appear at civil trial to which he is a party—state court cases*, 82 A.L.R.4th 1063, originally published in 1990.

### (A) Criminal proceedings

With only a few cases to the contrary, the right to be present under the Federal Rules of Criminal Procedure is consistently held to require the defendant's physical presence.<sup>9</sup> Some state appellate courts have similar holdings, but the greater weight of state authority recognizes that the right to be present at critical proceedings is a qualified right. The defendant's presence is required only to the extent that absence would hinder a fair and just hearing or result in the denial of an underlying constitutional right.

The cases interpreting the right to be present under Article 1, Section 12 of the Utah Constitution and under URCrP 17 recognize the right as a qualified right.<sup>10</sup>

Based on the ALR article and the cases it cites, we reach the following conclusions:<sup>11</sup>

- If there is no testimony, the right to confront witnesses is not an issue.
- If the jurisdiction has a rule permitting a hearing to be held with the defendant participating by contemporaneous transmission, the courts will apply that rule. If the rule describes particular circumstances, the judge's discretion is limited to those circumstances.
- The rules are limited by the right to be present, as it may exist under the due process clause of the state and federal constitutions or under the jurisdiction's statutes and rules.
- The right to be present, even at a critical proceeding, is not absolute. The defendant's presence is required only to the extent that absence would hinder a fair and just hearing or result in the denial of an underlying constitutional right.
- Participating in a hearing by contemporaneous transmission satisfies the right to be present at a critical proceeding—at least if the defendant's physical absence does not:
  - affect the defendant's ability to defend against the charges;
  - cause the proceedings to be unfair (for example, cannot see or hear the judge; unable to understand rights or charges, defendant's demeanor is important or fact-finder cannot observe demeanor, defendant at greater risk of prejudice than with a personal appearance); or

---

<sup>9</sup> See FRCrP 10. An amendment has since allowed video arraignments.

<sup>10</sup> *State v. Maestas*, 2012 UT 46, 299 P.3d 892, 915 cert. denied, 133 S. Ct. 1634, 185 L. Ed. 2d 620 (U.S. 2013).

<sup>11</sup> Some of the conclusions should be viewed with caution. The courts frequently applied a "plain error" standard because the objection was raised for the first time on appeal.

- result in the denial of an underlying constitutional right (for example, right to counsel and to confer with counsel, right to confront witnesses, knowing and voluntary waiver of rights).

At least the following states have a statute or rule permitting a judge to proceed with a criminal hearing at which the defendant attends by means of contemporaneous transmission: Alaska, Florida, Idaho, Indiana, Louisiana, Missouri, Oregon and Wisconsin.

Although the Utah courts have used video to conduct some arraignments and initial appearances when a criminal defendant is in jail, our research suggests that, without a statute or rule authorizing its use or the defendant's consent, this may be contrary to Utah law, except initial appearance and arraignment by video in a prosecution for domestic violence, which is permitted by Section 77-36-2.6(1).

### **(B) Civil proceedings**

Usually a civil party is under no physical restraints. If a party does not attend a hearing of which the party had notice, the judge usually treats absence as waiver of the right to be present and proceeds with the hearing. Courts consistently hold that an incarcerated civil party does not have a right to be released to attend a civil hearing.<sup>12</sup> But the courts also consistently hold that, if an incarcerated party cannot attend a civil hearing, trial courts cannot dismiss the action, strike a claim, stay the proceedings until release, or proceed without the party's participation without first considering whether contemporaneous transmission is a reasonable alternative.<sup>13</sup>

### **(c) Due process balancing test**

As with many questions of law and policy, whether to permit testimony or participation at a hearing by contemporaneous transmission—and to what extent it can be required—require balancing competing interests.

The balancing test of *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976), requires consideration of three factors: (1) the interest that will be affected by the state action; (2) the risk of wrongly depriving a person of that interest through the procedure used, and the value of other procedural safeguards; and (3) the government's interest, including the fiscal and administrative burdens of the other procedural requirements.

---

<sup>12</sup> In *Bustillo v. Hilliard*, 16 Fed. Appx. 494 (7th Cir. 2001), the inmate participated in the trial by videoconferencing. In the court's word: "Bustillo participated in the trial; he testified, presented evidence, examined adverse witnesses, looked each juror in the eye, and so on. Jurors saw him (and he, them) in two dimensions rather than three. Nothing in the Constitution or the federal rules gives a prisoner an entitlement to that extra dimension, if for good reasons the district judge concludes that trial can be conducted without it." *Id.* at 495.

<sup>13</sup> See the summary of cases collected in 115 A.L.R.5th 509.



A party's interest in criminal and civil hearings is a given. Those interests range from deprivation of liberty to deprivation of property, but all are important to the person involved. The government has an obvious interest in lowering the cost of hearings. The crucial consideration of the balancing test appears to be the middle factor: How can the court minimize the risk of wrongly depriving a person of his or her interest by conducting, through contemporaneous transmission, the functional equivalent of a hearing at which everyone is physically present?

**(d) Recommendations**

Permitting participants to attend hearings by contemporaneous transmission provides an important public service by reducing travel costs, and we recommend that the courts pursue that objective.

**(i) Improve video quality**

Like many committees, we have used VIA3, aka "Viack," when conducting our meetings. The application allows multiple participants from several locations to converge electronically, using commonly available hardware and software, such as: a computer's camera, microphone and speakers; an internet connection; and the VIA3 application, which is available for free. For meetings VIA3 serves reasonably well at modest cost.

The courts also use VIA3 for video arraignments and detention hearings in several locations. We believe that VIA3 does not offer video transmissions of sufficient quality to use as a substitute for attendance in court. We have had the opportunity to compare VIA3 with another application that provides a similar service, and that comparison has shown that there are products and services that will improve the quality of the video transmission. The courts must improve the quality of the transmission before broadening the use of contemporaneous transmissions to participate in hearings. The AOC should research several systems before investing in a solution.

Whatever system is used, it should accommodate participation by users outside the courts' network. Courthouse-to-courthouse transmissions will add some convenience over personal attendance at a distant hearing, but enabling a person to participate in a hearing wherever that person may happen to be uses the internet's capability more fully. If, in a particular case, a judge is concerned about the integrity of a person's participation—coaching a witness off-camera, for example—the judge can direct that the person participate from the more controlled environment of a courthouse.

To minimize the risk that a remote hearing might wrongly deprive a person of his or her interest, the video system should mimic personal attendance as much as possible.

- The remote participants should be able to see and hear the courtroom participants and vice-versa.
- The remote participants should be able to see and hear each other.
- The public should be able to see and hear the remote participants from the courtroom.
- If counsel and client are in different locations, they should be able to communicate confidentially.
- Documents, photos and the like that are delivered in the courtroom should be delivered previously or simultaneously to the remote participants.
- There should be a verbatim record of the proceedings.
- The system should support remote interpreting.<sup>14</sup>

We believe that the courtroom configuration described in [Appendix C](#) offers the appropriate safeguards, and we recommend a rule of administration that establishes this configuration as a minimum requirement. This configuration is much more elaborate, and consequently more expensive, than the simple arrangements now being used. Sometimes, a VIA3 connection includes nothing more than a laptop for the defendant in the jail and one for the judge in the courtroom.

#### (ii) Consent; judge's discretion

The criminal and juvenile rules of procedure that we recommend in [Appendix A](#) describe the hearings that we believe are appropriate for video participation. We recommend that some hearings require the consent of the participant, and others not. We recommend that witness testimony in criminal and juvenile cases not be allowed unless the party not calling the witness waives in-person cross examination of the witness.

In civil cases, rather than describe particular hearings, we recommend that the judge exercise discretion within express standards. The principles described in FRCP 43(a)—good cause; compelling circumstances; and appropriate safeguards—are appropriate standards for that decision, and, within the further restrictions imposed in criminal and juvenile proceedings, we recommend that they be applied in those proceedings as well.

---

<sup>14</sup> Since 2010, the AOC has offered remote interpreting of hearings in some courthouses. The systems use audio only, and they have been installed in Vernal, Roosevelt, Moab, Richfield and Manti. The National Center for State Courts recommends video capability.

## **(5) Remote services**

### **(a) Inventory of clerical services**

Clerks perform numerous and varied tasks for judges and court commissioners, helping them to manage cases, but the tasks for the public are relatively few. Generally speaking a court user, including a lawyer, will contact the clerk to:

- file a document;
- pay money;
- copy a record;
- schedule a hearing; or
- get information.

These are sometimes referred to as "front counter" transactions, because they traditionally occur at the front counter of the clerk's office. Which of these might be done remotely while continuing to provide the level of service that the public has the right to expect of its courts?

### **(b) Models for remote services**

The committee discussed three methods by which these clerical services might be improved by remote communication.

- Using internet communication to allow a clerk from one courthouse to complete a transaction with a court user in another courthouse.
- Using internet communication to complete a transaction wherever the court user may happen to be.
- Using electronic case management to allow a court user to complete a transaction in any courthouse, without regard for the venue for that user's case.

All of the models are variations on the theme of moving the work to where the clerks happen to be. The services are provided remotely in the first two models; in the last model the services are in person, but district-wide.

- A court clerk should have the knowledge, skills and abilities to handle transactions for any case in the district.
- Any information that a clerk could deliver in person can be delivered by telephone or video communication.
- Similarly, a court user can schedule a hearing with a phone call.
- With electronic records, a clerk can access a document and email it to the court user in another location.

- By reversing that transaction, a court user can email a document<sup>15</sup> to the clerk, who can file it and docket the transaction.
- A clerk in one location can process a payment from a court user in another.

All of the models might be implemented on a district-wide basis, but expanding beyond the boundaries of a judicial district may be beyond the judiciary's capacity, at least for the immediate future. For any of the options to be implemented, the local management team must commit itself to district-wide services without regard to county venue. For example, personnel in the Seventh District now conduct transactions on cases across the district regardless of the county in which the case is filed. And in all of the judicial districts other than the urban districts, district court and juvenile court personnel are trained to handle the business of both courts.

Two court policies should be addressed to simplify remote services:

- Currently some cases in different counties share the same case number. Unique case numbers will allow clerks to identify and process a case regardless of the county of venue. The AOC should research and implement a system of unique case numbers.
- Online credit and debit card transactions regularly occur throughout the state without regard to the location of the case. However, to make a cash payment or telephone payment, the transaction must occur at the courthouse in which the case is located. A clerk at a different courthouse can accept the payment, but, to maintain proper accounting and audit controls, the clerk at the remote courthouse must receipt the payment to "trust without a case" and write a check on that trust account to the courthouse in which the case is located, where the clerk must then account for the check in the normal course. The AOC should research and implement a simpler method that maintains appropriate controls.

There are several statutes and rules that require courts to be open during normal business hours. We believe they do not apply. No one is proposing that we lock the courthouse doors or limit the hours of operation. Indeed, the objective is to make court services more readily available, not less.

The better question is: What does it mean for the clerk to be "in attendance"? Rule of Civil Procedure 77(c) provides:

The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays, and legal holidays.

---

<sup>15</sup> A self-represented party only. Lawyers are required to e-file documents which is different from emailing them.

There is an equivalent rule of appellate procedure, but no equivalent in the rules of criminal or juvenile procedure. Code of Judicial Administration 9-105(2) imposes a similar requirement on the clerks of the justice court.

Do these rules require the clerk to be physically in the office or is the clerk's virtual attendance sufficient? Not surprisingly the rules give no guidance; they were written at a time when physical attendance was the only option. We believe that the concept of remote services is the electronic equivalent of an unattended front counter with a sign "Please ring the bell for assistance."

If the Judicial Council wants to pursue this approach, it should adopt a rule requiring courts to be open with a clerk in attendance either physically or immediately available by contemporaneous communication. Simultaneously the Supreme Court should amend its rules to delete those same provisions.<sup>16</sup>

Does the legislature limit the extent to which the Judicial Council can provide remote services? Section 78A-2-104(12) provides:

The Judicial Council may by rule direct that a district court location be administered from another court location **within the county**.

Subsection (12) was added in 1991 as part of court consolidation. It clearly contemplates administering a court from another location, but it limits that other location to some place within the same county. The current statute would enable Provo, for example, to administer American Fork or Spanish Fork, but it does not permit Ogden to administer Morgan. If the courts want to provide remote services from a different courthouse, eliminating "within the county" or changing it to "within the judicial district," removes the legislative restriction.

#### **(i) Courthouse-to-courthouse communication**

In this model a court user goes to a courthouse for clerical services, but the transaction is with a clerk who works elsewhere.

With electronic filing in the district court, the courts have already seen a significant reduction in the number of people coming to courthouses.<sup>17</sup> We began our research by considering how, for smaller courthouses, this reduced need might be met by a full-time clerk in a different, typically larger, courthouse more efficiently than by a part-time clerk in the smaller location.

The smaller courthouses on which we focused cannot be abandoned. There needs to be a clerk physically present—if for no other reason than to accept the

---

<sup>16</sup> The requirements of clerks' offices appear to be more properly within the administrative authority of the Judicial Council than the procedural authority of the Supreme Court. See Section 78A-2-104(5) and Section 78A-2-107(2).

<sup>17</sup> From May through December, 2013—the months following mandatory civil e-filing in the district court—walk-in traffic in the Matheson Courthouse declined by 16% over the same period from 2012.

fine of the person who insists on paying with pennies. But the overall obligations within the office might be reduced.

Staff in the contract sites has already been reduce based on the clerical weighted caseload study. For example, Kanab has gone from 2.0 FTE to 1.25; Panguitch from 1.5 to .75; and Loa and Junction have been reduced to .25 FTE. Before reducing these minimal staffing levels even further, the effect of remote services needs to be better measured.

**(ii) On-line services**

Court users can complete some transactions online with little or no participation by court personnel: paying a fee or fine, for example; or obtaining a document through XChange. These self-service transactions can be conducted statewide.

Other transactions can be conducted remotely, but a court clerk needs to assist with the transaction: scheduling a hearing, for example; or explaining a process. In this model the court user uses telephone or email to reach a courthouse, rather than driving to it. Using internet communication to provide the clerical services wherever the court user may happen to be expands upon the model used by the Self Help Center, which has no in-person contacts. Clerks routinely offer these services now, but the court user is limited to the courthouse in which the case is filed. It is possible for the user's phone call or email to be routed anywhere in the district to be handled by the next available clerk.

**(iii) Services at any courthouse**

In this model it is the case that is "remote," since the court user and the court clerk are on opposite sides of the same counter: a very traditional interaction, but on a district-wide rather than a county-wide basis.

**(iv) District-wide limits**

Except for online self-service transactions, the over-arching impediment to statewide service in any of these models is the lack of uniform procedures and practices among different types of cases and among courthouses.

The procedures for probating a will bear no resemblance to those for a divorce. A divorce looks nothing like a personal injury action. A personal injury action is significantly different from a prosecution for shoplifting. The procedures for shoplifting are different from robbery. Robbery by an adult is different from robbery by a juvenile.

Add to these differences established by law the different practices that have evolved among courthouses due to judicial discretion, and it becomes apparent that court staff, trained in local procedures and practices, would not be able to accommodate all of the variations. The error rate would be very high.

Practices vary even within a district, but the variations should be sufficiently limited to allow clerks to be trained in any special requirements.

Some expressed concern that clerks in one courthouse processing records for another may not have the same attention to detail and quality as for one's own courthouse. Perhaps, but this problem should be minimized if the service remains within the district.

### **(c) Recommendations**

We recommend that the AOC research and implement a simpler method of processing cash and telephone payments at remote courthouses and a system of unique case numbers.

We recommend modifying XChange to allow a court user access to his or her case information and records without charge, similar to the access provided to lawyers in district court cases and similar to access provided to parties through the juvenile court's My Case. We recommend exploring and expanding other self-service options, like OCAP and internet-based information and forms.

We recommend amending statutes and rules and establishing telephone or video communication to enable all three models for those judicial districts in which local management teams commit to district-wide services. Telephone communication is probably sufficient for clerical transactions. Telephone communication is cheaper than video, and most clerical transactions do not need to convey the nuanced communication of a remote hearing.

### **(6) Costs and savings**

The courts are unlikely to enjoy even modest savings from conducting remote hearings. Judges in some districts will travel less frequently to some hearings, but it is unlikely that those savings will recoup the capital and maintenance costs of audio-video communications. Conducting clerical transactions remotely may reduce the overall need for staff, but the effect of remote services needs to be evaluated before savings can be calculated.

The real savings from remote hearings and services will be enjoyed primarily by the public: lawyers and parties who would otherwise have to wait a little longer for a hearing to be held or drive a little farther to attend a hearing or to conduct a transaction in person.

An additional benefit is the increased opportunity for live continuing education. Judges and clerks in rural communities have always faced more difficulties in attending classes than those along the Wasatch Front. The communication network established for remote hearings could easily be used for remote live classes as well.

The education classes offered by the bar to lawyers are separate from judicial education, but, with the cooperation and investment of the bar, the judiciary could offer its network to provide rural lawyers with more opportunities for live classes.

The primary drawback to remote hearings is the diminished personal interaction of the participants. This was noted in the committee's discussion with community leaders in Randolph and Kanab and in the survey responses. The formality of the courtroom impresses. The judge's presence compels. The demeanor of a witness is telling. Judges should consider these factors when considering whether to use video for a particular hearing or witness.

On the other hand, community leaders and survey respondents also noted that, by reducing travel to the courthouse, remote hearings and services will save court users time and money, which is a valid consideration in the due process balancing test. A jailed defendant appearing by video at an arraignment does not need to be transported, improving security as well as saving money. A lawyer appearing at a conference by video does not charge the client for travel time and expenses. Similarly an expert witness testifying by video does not charge the client for travel time and expenses. A person who pays a fine online does not have to wait in line. A probation officer who reports on a defendant's progress or violation can return to his or her casework immediately after the hearing.

**(7) Committee members and staff**

- James Brady, Committee Chair, District Court Judge Fourth District
- Kim Allard, Director, Court Services
- Ron Bowmaster, Director, Information Technology
- Corrie Keller, Committee Staff, Trial Court Executive, First District
- Wallace Lee, District Court Judge, Sixth District
- Alyn Lunceford, Director, Facilities Management
- Heather Mackenzie-Campbell, Director, Internal Audit
- Maureen Magagna, Clerk of the Court, Second District
- Mary Manley, Juvenile Court Judge Seventh District
- Karlin Myers, Justice Court Judge, Hurricane City
- Claudia Page, Clerk of the Court, Seventh District
- Wendell Roberts, Trial Court Executive, Sixth District
- Rick Schwermer, Assistant Court Administrator
- Tim Shea, Senior Staff Attorney, Administrative Office of the Courts



**(8) Appendix A. Amendments to statutes and rules (Excerpts)**

Although our motivation has been improving hearings and services in our smaller courthouses, these proposed rules are not limited by the size of an operation. They should be vetted by the committees responsible for the rules and by the judges and lawyers involved in the different types of cases.

**(a) Remote hearings**

**(i) Rule of Criminal Procedure 17.5. Hearings with contemporaneous transmission from a different location.**

(a) The court may conduct the following hearings with the defendant attending by contemporaneous transmission from a different location:

(a)(1) arraignment;

(a)(2) bail;

(a)(3) change of plea;

(a)(4) early case resolution;

(a)(5) initial appearance;

(a)(6) law and motion;

(a)(7) pretrial conference;

(a)(8) review;

(a)(9) roll call;

(a)(10) waiver of preliminary examination; and

(a)(11) any hearing from which the defendant has been excluded under Rule 17.

(b) The court may conduct the following hearings with the defendant attending by contemporaneous transmission from a different location if the defendant waives attendance in person:

(b)(1) preliminary examination;

(b)(2) probation violation;

(b)(3) restitution;

(b)(4) sentencing; and

(b)(5) trial.

(c) For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous

transmission from a different location if the party not calling the witness waives confrontation of the witness in person.

**(ii) Rule of Juvenile Procedure 29B. Hearings with contemporaneous transmission from a different location.**

(a) In any delinquency proceeding or proceeding under Section 78A-6-702 or Section 78A-6-703 the court may conduct the following hearings with the minor or the minor's parent, guardian or custodian attending by contemporaneous transmission from a different location:

(a)(1) arraignment;

(a)(2) contempt

(a)(3) detention;

(a)(4) law and motion;

(a)(5) pretrial conference;

(a)(6) review; and

(a)(7) warrant.

(b) The court may conduct the following hearings with the minor or the minor's parent, guardian or custodian attending by contemporaneous transmission from a different location if the minor or the minor's parent, guardian or custodian waives attendance in person:

(b)(1) adjudication

(b)(2) certification to district court;

(b)(3) disposition;

(b)(4) expungement;

(b)(5) permanency;

(b)(6) preliminary hearing;

(b)(7) restitution;

(b)(8) shelter; and

(b)(9) trial.

(c) For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location if the party not calling the witness waives confrontation of the witness in person.

**(iii) Rule of Juvenile Procedure 37B. Hearings with contemporaneous transmission from a different location.**

(a) In any abuse, neglect, dependency, or substantiation proceeding and in any proceeding for the termination of parental rights, the court may conduct hearings with the minor or the minor's parent, guardian or custodian attending by contemporaneous transmission from a different location if the minor or the minor's parent, guardian or custodian waives attendance in person.

(b) For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location if the party not calling the witness waives confrontation of the witness in person.

**(iv) Rule of Civil Procedure 43. Evidence.**

(a) Form. In all trials, the testimony of witnesses shall be taken in open court, unless otherwise provided by these rules, the Utah Rules of Evidence, or a statute of this state. For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

**(v) Code of Judicial Administration Rule 4-106. Electronic conferencing.**

Intent:

To authorize the use of electronic conferencing hearings with contemporaneous transmission from a different location in lieu of personal appearances in appropriate cases.

To establish the minimum requirements for contemporaneous transmission from a different location.

Applicability:

This rule shall apply to all courts of record and not of record.

Statement of the Rule:

~~(1) In the judge's discretion, any hearing may be conducted using telephone or video conferencing.~~

~~(2) Any proceeding in which a person appears by telephone or video conferencing shall proceed as required in any other hearing including keeping a verbatim record.~~

(1) If the courtroom satisfies paragraph (3), the judge may participate in a hearing by contemporaneous transmission from a different location.

(2) If the courtroom satisfies paragraph (3), the court may, for good cause, permit counsel to participate in a hearing by contemporaneous transmission from a different location.

(3) If a witness, party, attorney or judge attends a hearing by contemporaneous transmission from a different location, the contemporaneous transmission must enable:

(3)(A) the courtroom participants to see and hear the remote participants and vice-versa;

(3)(B) the remote participants to see and hear each other;

(3)(C) the public to see and hear the remote participants from the courtroom;

(3)(D) a party and the party's lawyer to communicate confidentially;

(3)(E) documents, photos and other things that are delivered in the courtroom to be delivered previously or simultaneously to the remote participants;

(3)(F) interpretation for a person of limited English proficiency; and

(3)(G) a verbatim record of the hearing.

**(b) Remote services**

**(i) Section 78A-2-104.**

(12) The Judicial Council may by rule direct that a district court location be administered from another court location within the county judicial district.

**(ii) Rule of Civil Procedure 77. District courts and clerks.**

~~(c) Clerk's office and eOrders by clerk. The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays, and legal holidays. All motions and applications in the clerk's office for issuing mesne process, for issuing final process to enforce and execute judgments, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the court are grantable of course by the clerk; but such action may be suspended or altered or rescinded by the court upon cause shown.~~

**(iii) Rule of Appellate Procedure 39. Duties of the clerk.**

~~(a) General provisions. The office of the Clerk of the Court, with the clerk or a deputy in attendance, shall be open during business hours on all days except Saturdays, Sundays and legal holidays.~~

[Re-number following paragraphs.]

**(iv) Code of Judicial Administration Rule 3-302. Clerk of the Court.**

[Add]

(3) The clerk's office shall be open and available to transact business during business hours on all days except Saturdays, Sundays, and legal holidays. When the clerk's office is open, the clerk or a deputy shall be physically present or immediately available by contemporaneous transmission from a different location.

**(v) Code of Judicial Administration Rule 9-105. Justice Court hours.**

(2) Justice Courts shall be open and available to transact judicial business every business day, Monday through Friday, excluding holidays as defined in Utah Code Section 63G-1-301, and unless specifically waived by the Judicial Council. ~~The Justice Court judge shall be available d~~During the scheduled hours of court operation and the Justice Court judge or clerk shall be in attendance at the court during the regularly scheduled hours of operation, physically present or immediately available by contemporaneous transmission from a different location.

**(9) Appendix B. Inventory of technological capability**

**(a) Current**

In addition to normal capabilities like email, text messaging, and telephone conferencing, and YouTube, Twitter and Facebook accounts, the courts feature:

**Electronic filing.** Attorneys must file district court papers electronically.

**Electronic payments.** Lawyers pay filing fees, if there is one, as part of the electronically filed paper. Any person who is obligated to pay a fine or fee to the court may do so by an on-line or telephone debit or credit card transaction.

**On-line Court Assistance Program (OCAP).** OCAP prepares documents ready for filing based on answers to questions asked in an on-line interview.

Documents can be prepared for divorce, eviction, guardianship of a minor or a protective order.

**On-line juror qualification.** A juror can complete his or her qualification requirements by providing specific identifying information. The juror can also request scheduling accommodations or to be excused from service.

**On-line transcript requests.** Anyone can request an official transcript of any district court hearing. A transcript of a juvenile court hearing can be requested in the same manner, but the person requesting the transcript must first have the juvenile court judge's approval. Section 78A-6-115(1)(b).

**On-line training.** The AOC has built a series of public on-line training videos using the Adobe Captivate application. The videos include several topics, for example, e-filing and guardianship of a minor.

**Self Help Center.** The Self Help Center is staffed by licensed attorneys. It is a virtual center, providing information by phone and email. The Self Help Center attorneys cannot give legal advice or represent someone in court. They can:

- answer questions about the law, court process and options;
- provide court forms and instructions and help completing forms;
- provide information about the caller's case;
- provide information about mediation services, legal advice and representation through pro bono and low cost legal services, legal aid programs and lawyer referral services; and
- provide information about resources provided by law libraries.

**VIA3 (Viack).** The courts use VIA3, which allows video participation and document sharing at meetings. The courts use VIA3 for video arraignments and detention hearings.

**Voice Over Internet Protocol (VOIP).** The state courts' telephone system uses VOIP rather than traditional telephone service.

**Web-based Information and Forms.** The AOC publishes information about a variety of topics. Some topics include forms. The forms are Microsoft Word and Adobe PDF files that can be completed manually.

**My Case** allows the user to view information about his or her juvenile case, such as court orders, money owing, and upcoming hearings. The user can also make a payment using a debit or credit card.

**WebX** The court also uses WebX to allow video participation and document sharing at meetings.

**XChange** is a web-based, publicly available subscription service that allows the user to search all district court and justice court cases. If the records in those cases are public and are electronic, the user can view, print and save a copy of those records.

**(b) Planned**

**Electronic filing.** The AOC is working to build electronic filing capability in the juvenile court and in the appellate courts.

**On-line Court Assistance Program (OCAP).** The AOC is working to allow an OCAP user to electronically file a document prepared on OCAP.

**Web-based Information and Forms.** The AOC will continue to develop and publish information and forms on additional topics. The State Law Library is planning a service called "Navigator," which will allow a remote user to ask a law librarian for help navigating the courts' website.

**XChange.** The AOC is working on a service that will allow the occasional user to access district and justice court records on a "pay-per-view" basis, rather than a subscription. And the AOC is working to allow a district court party free access to the information and records in his or her case.

## **(10) Appendix C. Courtroom video configuration**

Four high definition cameras:

- One trained on the courtroom
- One trained on the judge
- One trained on the counsel tables and podium
- One trained on the witness

One monitor for the judge and one for the clerk

One large screen monitor for other participants and the public capable of displaying four simultaneous views

Audio connection to public address system

Two VGA connections, one at each counsel table

- Connection to the courthouse public address system
- Connection to the video display monitors

Four LAN connections at counsel table

- VoIP connections
  - Open channel to public address system
  - Private channel to defendant
- Used for private communications between counsel and client
- Used for private communications for remote translation service

Kill switches controlled at the bench for each camera and for the public address system.<sup>18</sup>

Estimated cost: \$10,000 to \$20,000, depending on the cost to integrate with existing courtroom electronic systems.

---

<sup>18</sup> Existing recording and sound systems in some courtrooms do not allow the judge to mute a bench conference or other off-the-record conversation from the public address system and yet still record the conversation for purposes of appellate review. Regardless of whether a courtroom is equipped with the hardware and communication network to enable remote hearings, this capability should be built into all courtrooms.



## (11) Appendix D. Survey about remote court services and hearings

The Utah Judicial Council has appointed a Committee on Remote Services to consider whether and to what extent the public in our smallest communities might be better served by the opportunity for court services and hearings provided from a larger operation within the judicial district by means of contemporaneous transmission. And to consider how to upgrade the quality of audio/video communication for those services and hearings.

By "remote" services and hearings we mean transactions in which the clerk or judge is in one location and the person or persons with whom they are doing business are elsewhere.

Communication between the locations would be contemporaneous using audio or video technology, supplemented by any computer applications needed to complete a transaction.

Remote services and hearings beyond those already authorized will require either statutes or rules. And we would need to improve the quality of the audio/video communication. But before pursuing those objectives, the committee would like your opinion of the merits. Please take about 10 minutes to share with us your thoughts on the desirability of providing services and holding hearings in which the court and at least one participant are in different locations.

To take the survey, please [click here](#).

	Total Responses	Rating Average	Strongly Agree	Agree	Unsure	Disagree	Strongly Disagree	No Response
<b>1. General</b>								
A large majority of people in my community have access to the internet.	116	4.08	48	42	16	7	3	1
A large majority of people in my community are comfortable making transactions over the internet.	113	3.73	36	32	30	9	6	4
<b>2. Remote Services</b>								
Remote services save court users' time and money.	116	4.16	54	38	16	5	3	1
Remote services are nearly as good as being there.	115	3.32	21	41	19	22	12	2
Remote services are a good option when necessary.	115	4.14	48	51	6	4	6	2
<b>3. Remote Hearings</b>								
Remote hearings save court users' time and money.	116	4.14	53	40	14	4	5	1
Remote hearings are nearly as good as being there.	115	3.18	16	41	18	28	12	2
Remote hearings are a good option when necessary.	116	4.08	45	52	9	3	7	1

	Total Responses	Rating Average	Strongly Agree	Agree	Unsure	Disagree	Strongly Disagree	No Response
Remote hearings are appropriate for hearings without testimony.	115	4.09	44	52	9	5	5	2
Remote hearings are appropriate for hearings with testimony.	116	2.69	11	17	31	39	18	1
Whether to "appear" remotely should require the consent of a civil party/attorney.	116	3.46	25	40	20	25	6	1
Whether to "appear" remotely should require the consent of a criminal party/attorney.	117	3.69	34	39	22	18	4	0

### Comments

Respondent	4. Please share your opinions about remote services.	5. Please share your opinions about remote hearings.
1	The courts have many resources that could be accessed through remote means. Resources may be limited in smaller sites...remote services linking smaller sites to larger sites in the state could give the public additional services that they may not otherwise receive.	Many short hearings, such as for continuances, etc., that do not require testimony, would be perfect to be conducted remotely. It would save costs in travel, security, attorney fees, etc. Remote hearings with the jails and prison would result in a huge savings in travel and security costs.
2	The devil is in the details. All services are not equal. Some remote service delivery may be appropriate. Other, absolutely not.	Very few hearings should be conducted remotely. Some initial appearances, perhaps. Some scheduling conferences, perhaps. Again, it depends on the hearing.
3	The Government process in any aspect should be about service to the citizen using that service. Face to face, person to person. You are blindly looking at cost verses customer service. Remote services will erode public trust and respect for the court system. I am 100% this proposal.	See response to #4 above, answer is the same.
4	I think they should be expanded.	It can save hours of driving for a hearing which may only last a few minutes. This is especially important in bad weather.
5	I disagree with the entire concept and small/rural communities need to continue to receive onsite services in all aspects.	I disagree with the entire concept and small/rural communities need to continue to receive onsite services in all aspects.
6	I do not live in a rural area so am not sure of the impact, but theoretically I can see the value of	[same as above]

Respondent	4. Please share your opinions about remote services.	5. Please share your opinions about remote hearings.
7	<p>having the option when necessary</p> <p>Remote hearings are convenient, but we have too many technical problems.</p>	<p>They are wonderful when everything works.</p>
8	<p>Whether to appear remotely should be in the discretion of the judge. The quality of the technology is not good enough for a hearing requiring testimony. Also, it is often unreliable, which forces us to conduct a hearing over the phone, because it is too late to travel to one site, when it fails.</p>	<p>See above</p>
9	<p>It will have to depend on how easy the technology is to use for it to be effectively utilized.</p>	<p>I think this would be very good for any number of hearings, especially for status conferences and scheduling conferences.</p>
10	<p>OK for simple transactions as long as users pay a fee to cover the cost of the technology. If the public is not complaining, money should not be spent on this project. Further, people who move to or stay in remote areas know they will not have as good access to public facilities.</p>	<p>If attorneys are involved and there is no testimony being taken, these are fine in many circumstances. However, there are many instances when you want the parties there, for example on orders to show cause for failure to prosecute.</p>
11	<p>Will cost more to have extra staff</p>	<p>no opinion</p>
12	<p>I think remote services have a very positive benefit on the public. Having remote services available, in all locations, make it (or could make it) a lot easier to access information, complete filings, ask questions and access court forms. I think we should have an IM/Chat option for the public to utilize when they have questions regarding a specific case or general information questions (like workforce services). These IM's could be directed to different JA's, depending on the subject or if it is a specific case or general question. I think this suggestion and any other type of remote services could help increase our satisfactory rates from patrons and our customer service we are able to provide to the public. The courts are all about being fair and accessible to the public</p>	<p>I think having the options of remote hearings is more of a benefit and convenience for the courts rather than for the public. If I'm not mistaken, I'm under the impression that the judge will remain at his location and appear for the hearing by utilizing the remote services and the parties/counsel will still have to appear in the courtroom at the designated courthouse in which the case was filed. If this is correct, the savings in money and time would only be on the benefiting end of the courts, as there would be significant change to the practice of counsel or the parties. There may be, however, some downfalls to having remote hearings on both sides. If the judge or counsel want to have a private bench conference, without the parties being privy to conversation, this will no longer be able to take place. It may be harder to understand, hear, or communicate with remote hearings, also if the equipment was to go down, that would be a problem. This happens with video court sometimes and it puts us all behind schedule. I think if all</p>

---

**4. Please share your opinions about remote  
Respondent services.**

---

---

**5. Please share your opinions about remote  
hearings.**

---

13 No response.

14 We live in a retirement community, I would say the vast majority of citizens do not know how to work a computer. With this in mind the people do not feel comfortable with electronic equipment. People want to have a face to face meeting/hearing so they can understand, ask questions and converse with a person.

15 I think it's a great idea for almost every service.

16 I think it's a fantastic idea for certain hearings such as scheduling conferences and some motion practice.

17 We often use Viack for non-hearing appearances involving inmates at the jail and prison. It is a very efficient and cost effective method.

parties are physically present at the hearing, there is less chance of any confusion taking place, by any party. For example, sometimes with telephone conferences, you get people talking over each other and it can get confusing or overwhelming at times. You end up having parties or even the judge having to repeat themselves. One good thing that would benefit security and the Sheriff office with having remote hearings is the cost, time, and personnel it takes to transport an inmate to court. With remote hearings, we would be able to hear the case without having the inmate leave the jail. This however, may make it harder for counsel and/or public defenders, as they would not be able to be in two places at once, if representing another client on another case. It may make it harder for them to communicate with their clients, specifically those that are incarcerated.

Remote services are a great options for parties who are unable to attend a hearing. Even if they don't participate actively in the hearing, they can hear what is going on. I don't think they would be a good option for hearings in which testimony would be taken. It would be too hard for the fact finder to assess credibility.

We have conducted a few telephonic hearings in this county. We are limited on the number of people we can connect due to technology. The quality of the hearings are never good as there is always feedback, poor audio quality, etc. Plus you never know which party is speaking.

They are good for counties such as Millard County where the access to important things like the courts makes it more available to more people.

We have done some, would like to see access to more.

I have conducted remote hearings with persons who are in other locations, even other states. Remote hearings make it difficult to handle

---

---

**4. Please share your opinions about remote services.**

**5. Please share your opinions about remote hearings.**

---

**Respondent**

18 Great idea  
19 I think it would save everyone time and money  
20 Remote Services should be encouraged in all forms. Easier greater access by email and website to court services would save a lot of time and money in our community.

21 No response.

22 This Court just changed from County operated to State. The big fear amount locals was that they would be dealing with a machine instead of a real person.

23 Remote services are a good option and save court personnel time. They are convenient for the parties to use if they are comfortable using the internet.

24 This would be beneficial in our area. We would be better able to serve the public in our area.

25 We are not set up to do it here in Sevier County but Sanpete County does it with inmates. I don't know much about it.

26 I'm unsure what type of services you are talking about when you reference remote services. We already have mandatory e-filing at all court sites.

evidence and to make a sensible determination of credibility. However, when necessary, they can be very helpful.

Great idea  
I think it would save everyone time and money  
Defendants in criminal cases should not be allowed to appear by video in much more than an initial appearance. Defense Attorneys should be treated differently and given that opportunity regularly to save money. For evidentiary hearings fact witnesses should only appear by video upon stipulation of the parties but other witness, ie. expert, character, should be allowed to appear by video.

They work OK when an evidentiary hearing is not required.

I know that attorneys would prefer not to travel to remote courts whether it is in their clients best interest or not. I do know that in Ogden when an attorney is present by telephone in the courtroom he is at a disadvantage to the people who are present before the Judge.

I do not like remote hearings because I don't feel they leave a big enough impact on the defendants as compared to appearing personally before a judge in the in-court setting. Remote hearings are often times hard for parties to hear all that is going on.

This would be beneficial. We have many requests to appear by VIACK and by telephone. Right now it is somewhat cumbersome to have the judge in one location, the clerk in another and the attorneys in still another location. I am excited to hear there is a possibility that better equipment may be coming.  
Thank you!

I don't know much about it.

I strongly feel that hearings that require testimony should not be held remotely. It would be difficult to determine the credibility of witnesses when held

Respondent	4. Please share your opinions about remote services.	5. Please share your opinions about remote hearings.
27	Valuable. Remote services should be used more for handling government business. Stop the big retreats and Wasatch front business meetings. Find a way to engage remote communities in discussions and decisions that take place at the Capitol.	remotely Band width should match the occasion. Some transactions deserve face to face interaction. The public/government side of the e-debate should yield to the needs and desks of the private side.
28	The only remote service I have observed is video and whether that is adequate depends on the hearing type and issues addressed. It may well be better than nothing, however.	See 4
29	An excellent idea.	Another great idea.
30	When reliable, they can be useful in some circumstances. Looking up files, filing documents for pro se, and paying fees, fines.	Again, if they are reliable, it would save all parties money while efficiently dealing with routine matters. Not a good decision for evidentiary hearings, sentencing or trials.
31	It only makes sense to serve people where they are and reduce the burden on parties who either have to lose their case or travel in inclement weather or who don't have means to travel.	It would actually reduce security issues if adversaries weren't in the same courtroom. This is a tangential observation, but it's true.
32	With the technology available today i think remote services should be ideal.	Would be helpful specifically for non-testimonial hearings.
33	Remote services are a major mistake. They are unprofessional and demeaning to the Court. Remote services deny a party the basic, due process right to face the opposition in front of the Court. Remote services have not yet and probably never will reach the same quality as a personal appearance.	Please, please, please never permit them. The professionalism of the court system has been downgraded too much during the past years. Efforts should be made to upgrade the Courts and not downgrade and cheapen them.
34	No response.	May cases involve pro se parties. One of the problems with remote hearings is that all documents to be referred to at the hearing would have to be filed/provided prior to the hearing. A good number of pro se parties will not do so.
35	Remote hearings and services would be a disservice to the community!	Remote hearings and services would be a disservice to the community!
36	No response.	Great idea. Should be used more frequently when appropriate. There is Skype, video conferencing software. We need to do it more often and not just in remote communities but on Wasatch front. Driving less especially in winter is almost a

Respondent	4. Please share your opinions about remote services.	5. Please share your opinions about remote hearings.
37	In appropriate cases remote services would be an excellent option, especially for parties traveling from far away. Hearings with witness testimony may be less well served, as the opportunity to observe the demeanor and determine credibility can be negatively impacted by doing it remotely. The parties/counsel in consultation with the court should decide on a case by case basis whether the cost and hassle of personal appearance is justified compared to the convenience and cost-savings of remote appearance. No 'one size fits all' response to that question seems to exist.	requirement to keep air clean. We can all contribute to that goal. I live and work in SLC, so have the benefit of excellent connectivity. It is also both time-consuming and expensive to travel to the rural courts, which I do on occasion. It would thus be extremely beneficial to be able to appear remotely in appropriate circumstances. However, I would want the option of appearing in person when the circumstances justify it, and not be forced to do so remotely if not in my client's best interests to do so.
38	Most of my clients are in remote areas of the state of Utah and Nevada. I represent Indian Tribes and there are limited funds to run governments and represent private parties. Remote services would help save money and provide more court services.	The only concern I have is cross examination of witnesses and being able to adequately hear the questions. Other than that, I think that all court systems should offer these types of services.
39	It would be helpful, especially in rural areas.	I love the idea. They would take some getting used to. But, these types of hearing will allow parties to chose from a larger pool of competent attorneys. Currently some attorneys refuse to take cases outside their area due to lengthy traveling & unfamiliarity with certain courts.
40	Let's do it.	Let's do it.
41	There are a large number of hearings in which parties and/or their attorneys could appear remotely without any problems.	I think it is a great idea for many types of hearings. Especially those hearings which do not require documentary evidence to be presented. I had a factual witness appear in a case via Skype; his testimony was necessary but was short -- thus appearance via Skype was a good method and avoided having to have him travel 1200 miles round-trip to provide 10-15 minutes of testimony.
42	I think it is great to have this for filing papers and things like that. I do think there should still be at least one clerk in every courthouse.	I think it is appropriate for preliminary matters but I do not support the idea of criminal defendants being confronted with witnesses across the country via Skype.
43	All of this is subject to the implementation of COMPETENT electronic services - just having a monitor and camera is not likely sufficient. The	Good idea. This would allow for more frequent hearings for small communities. Now parties must wait on a judge to appear, with electronic hearings

Respondent	4. Please share your opinions about remote services.	5. Please share your opinions about remote hearings.
	connections should be complete duplex (both parties can speak at the same time) and should have the ability for the judge to control the camera(s) to observe not only the witness but the other parties. Example, the judge should see the witness, the parties at the tables and the courtroom generally. The judge should also have access to an electronic "board" for exhibits etc.	The court could have more frequent hearings.
44	Remote services are a very helpful option that allows for greater efficiency due to the reduction of travel time and can help reduce overall costs. However, remote services can be more complex and difficult to always guarantee a satisfactory result. Overall, I believe that things that can be done remotely, should be worked towards.	As an attorney who has cases in nearly every county in the state, I strongly believe that remote hearings would be a helpful, efficient, and beneficial option for hearings and other proceedings. Due to the size of our state and the number of small communities that are not near large population centers where a wide range of legal expertise is available, I believe that remote proceedings would potentially be an excellent option that could both reduce costs and allow for an increased offering of affordable legal services to Utah's residents. Though I do not believe that remote hearings should be the standard unless a sufficient quality of the connection can be guaranteed. If that connection is not excellent, then hearings can be frustrating, over-long, unproductive, and difficult for one or more parties to hear the entire proceedings. One possible option could be similar to Utah's federal bankruptcy court where a judge in Salt Lake City allows parties to appear at a specified location elsewhere in the state and the connection can be closely monitored.
45	No response.	Absolutely necessary. If I can have an out of state expert testify remotely, it greatly reduces the cost to my client and increases the chances of them getting their day in court.
46	Needed in remote areas because of travel conditions for clients and attorneys. Many times travel takes longer than court appearance.	Some hearings lend themselves to remote hearing more than others. When testimony requiring cross examination is to take place remote hearing present a problem to witnesses as well as attorney and judges because of hearing and other technical problems.
47	I travel to hearings across Utah. In the 5th District,	See above. I would like to see remote hearings for



Respondent	4. Please share your opinions about remote services.	5. Please share your opinions about remote hearings.
	<p>you travel 5 hours to attend a 45 minute hearing for oral argument. If you fly, you will have to wait 5-6 hours for the return flight unless the court schedules the hearing between 10 and 12; which it never does. That same with Daggett County and Uintah County, only you don't have the option of waiting on a flight. I think remote services would be fantastic.</p>	<p>all of the districts.</p>
48	<p>Remote services mean that the resolution does not take place informally. Furthermore, the 'remoteness' reduces civility.</p>	<p>Remote hearing results in the parties, attorneys and the court not being fully invested. There is little or no chance that civility and/or professionalism will improve. When the parties, attorneys, court staff and the judge are all together, professionalism and civility improve. This will not happen in remote hearings. The more the system puts barriers between the parties, attorneys, court staff and judges, the less civil and professional everyone is.</p>
49	<p>I think this is an appropriate option</p>	<p>A few months ago I was in another country and needed to file an answer in a case in SLC, UT while I was in this country. I e-filed my answer. It felt good to know that although absent i could still do necessary work without returning to my office. Also i recently spoke with another attorney who also being out of the country was pleased he could e-file with the court from his outside location. We noted that the only thing lacking was court appearances by video. I think this would be a good avenue to investigate.</p>
50	<p>No response.</p>	<p>Would keep costs down and expand pool of attorneys a person could choose from.</p>
51	<p>No response.</p>	<p>Remote hearings are appropriate when testimony is not needed. However, Sometimes the best incentive for people to be reasonable and settle cases is the fact that it costs money to pursue their position. This includes the cost to appear at trial. If we take away that cost by allowing everything to be done remotely it could "disincentives" appropriate motivations to settle cases.</p>
52	<p>Expenses in civil cases should reflect the reduced costs of remote hearings. I'm not sure that criminal testimony should be done remotely.</p>	<p>I think that you will lose all or the majority of access to body language and visual cues when doing remote services.</p>

Respondent	4. Please share your opinions about remote services.	5. Please share your opinions about remote hearings.
53	Please see my response under No. 5. Offensive and pathetic proposal.	This is ridiculous. I am a local prosecutor and am offended that the larger jurisdictions and/or the State are apparently seeking to provide "superior" services by using remote technology to allow litigants to appear on the Wasatch front. I am additionally offended by the State Courts seemingly trying to replace rural, local, prosecutors, judges and rural lawyers with lawyers from the Wasatch front. What a great idea. Some of us in rural Utah are becoming sickened by the State Court's continuous assault on the rural lawyers. I will seek to do everything in my political power to prevent this hair brain proposal from becoming a reality. Maybe we don't need our State Court Offices either. Maybe our state would be better served by being remotely served by the California State Courts, or maybe the New York State Court offices provide a superior product at a reduced cost. Testimony is always best in person.
54	I would encourage them.	If the parties want to use them, I think they are a good option.
55	Some people are afraid of cameras. You should provide simple instructions.	E-filing seems to be working well.
56	No response.	Should be much more readily available.
57	Should be much more readily available.	Since there are times a party will unreasonably withhold consent for another party to remotely "appear" at a hearing, I think remote appearance should be allowed by either consent of the parties OR by order of the court.
58	No response.	Great idea. Let's do it!
59	Great idea. Let's do it!	Certainly appropriate for hearings that do not involve testimony or extensive argument. Hearings on more complicated matters would be difficult. Hearings with testimony that is more than just minor foundation testimony should be avoided. It would be too hard to cross-examine the witness or the judge or jury to accurately judge the witness's credibility.
60	Generally it's very good to have remote services available.	Remote hearings can be very difficult to follow when an interpreter is required. It will be very confusing and the record will be very confusing when transcribed. In addition it is much more
61	No response.	

---

**4. Please share your opinions about remote services.**

**5. Please share your opinions about remote hearings.**

---

62 I have had extensive experience with remote hearings in Montana. They are not all that user friendly and are especially difficult if there is testimony. With respect to hearings involving attorneys, remote hearings are more acceptable.

63 I think court services can be effective on a remote basis. Self-help information and filing procedures seem to be effective and lately require less clean-up after the fact when things go wrong and need an attorney. Basic services should be support remotely. There is great frustration in not being able to be assisted by a clerk by phone. I think that would persist with computer or television screen services.

64 No response.

difficult to make a finding of credibility. I think that serious hearings should be done in person whenever possible. Minor hearings are fine remotely.

The use of remote hearings other than for criminal arraignments is not useful and should be utilized with caution. The accused can only think that they have been mistreated and one of the most important purposes of courts is to do justice. Hearings where evidence is presented at all are difficult when done by video. Hearings where only argument occurs are great.

I feel that clients often need to face the judge in a formal court setting in order to respect the orders of the court and have a desire to follow them. I have experienced remote hearings in criminal initial appearances, and find that they often leave the defendant with a bad attitude toward the judge and the system. Often they feel like they are not heard. There are too many technical problems and remote services are not often as effective as personal attendance. Most people are too nervous to pay attention to the court via television or computer screen. Many clients need the satisfaction of being present before the judge to come to rest with a ruling that may be adverse to them. There is an expectation of compliance with live proceedings that I do not believe is as strong in remote hearings - including routine scheduling conferences and such where only attorneys normally appear. There are growing problems with attorneys who take matters at great distances away from their offices and then balk at appearing for live hearings. In my opinion that is a detrimental development. Overlap in scheduling between districts and courts may

<b>Respondent</b>	<b>4. Please share your opinions about remote services.</b>	<b>5. Please share your opinions about remote hearings.</b>
65	No response.	necessitate some remote hearings for non-evidentiary type hearings. It is regrettable that requests for remote attendance is a growing trend. I appear in Rich County on a few occasions a year. During some hearings, the Court has the parents travel to Cache County for hearings even though it's a Rich County case. It's often expensive and takes hours of travel for the parents involved. It would be wonderful if we could have remote video hearings. We would not have to force the parents to travel long distances and we could review cases more often.
66	I believe that they could be very useful in remote and difficult to reach places like Randolph. There had previously been rumors, however that the State was planning on shutting the Rich County courthouse. The institution of remote services may start those again.	I would not mind having remote hearings, as these were not hearing at which testimony as taken, or oral argument. There can be benefits to seeing a person while they are being subjected to questions, or watching opposing counsel as they put forth their argument that would be lost if these were handled remotely.
67	I think it is a good idea considering our location. However, I do not think it is as good as all parties being present. Newell Harward Wayne Co Commissioner	I think many cases can be held effectively remote, but each case needs to be considered on its own complexity, and the personalities involved. Newell Harward Wayne Co Commissioner
68	I like the idea of being able to transact business remotely rather than drive 50 miles to the nearest court house.	I'm concerned that being viewed as a picture on a computer will de-humanize the process.

**Courthouses**

<b>6. Please check the courthouses in which you conduct business. (Choose all that apply.)</b>	<b>Response Percent</b>	<b>Response Count</b>
Beaver in Beaver County	16.8%	19
Castle Dale in Emery County	17.7%	20
Duchesne in Duchesne County	27.4%	31
Fillmore in Millard County	29.2%	33
Junction in Piute County	9.7%	11
Kanab in Kane County	18.6%	21
Loa in Wayne County	12.4%	14
Manila in Daggett County	9.7%	11
Manti in Sanpete County	35.4%	40
Moab in Grand County	26.5%	30

<b>6. Please check the courthouses in which you conduct business. (Choose all that apply.)</b>	<b>Response Percent</b>	<b>Response Count</b>
Monticello in San Juan County	25.7%	29
Morgan in Morgan County	18.6%	21
Nephi in Juab County	31.9%	36
Panguitch in Garfield County	17.7%	20
Randolph in Rich County	8.8%	10
Salem in Utah County	5.3%	6
Other (please specify)	32.7%	37
Wasatch		
Santaquin in Utah County		
Roosevelt in Duchesne County		
Vernal in Uintah County		
St. George in Washington County		
Farmington in Davis County		
Price, and Vernal		
Box Elder, Weber, Salt Lake, Farmington, and others.		
Nephi in Juab County		
Ogden in Weber County		
Davis County and Second District		
All Districts		
All Districts		
Price District		
Richfield in Sevier County		
Salem matters are heard in Spanish Fork		
No rural practice		
Davis County		
All over the state of Utah		
Iron County and Washington County		
Salt Lake, Davis, Weber, Utah		
Lehi in Utah County		
Delta Justice Court		
Vernal and Roosevelt		
Tooele County and Uintah County and San Juan County		
St George and Cedar City		
Richfield in Sevier County		
Justice Courts throughout the state.		
Roosevelt in Duchesne County, Heber City in Wasatch County, Vernal in Uintah County		
Iron County		
Washington County, Iron County and Sevier County		
Richfield in Sevier County; Price in Carbon County		
Richfield in Sevier County; Price in Carbon County		

6. Please check the courthouses in which you conduct business. (Choose all that apply.)	Response Percent	Response Count
Monticello in San Juan County, Price in Carbon County, Junction in Piute County		
Cedar City		
Iron County, Washington County, Sevier County		
Rich		

(12) Appendix E. Courthouses under consideration

City	County	District	Contract Site	FY 2014 Budget	FY 2014 Lease	FY 2014 Clerks	FY 2013 DC Cases	FY 2013 DC Hearings	FY 2013 JC Referrals	FY 2013 JC Hearings	Judge-Days Per Year <sup>19</sup>	Closest Judge	Miles to Closest Judge <sup>20</sup>
Beaver	Beaver	5		\$92,800	\$115,000	2.00	300	680	120	281	72	Cedar City	52
Castle Dale	Emery	7		\$194,400	\$92,000	2.00	376	1021	190	397	50	Price	30
Duchesne	Duchesne	8		\$324,600	\$83,314	2.00	507	2241	405	929	156	Duchesne	0
Fillmore	Millard	4	K	\$63,300	\$98,963	1.25	569	1104	159	312	98	Spanish Fork	95
Junction	Piute	6	K	\$9,500	\$39,140	0.25	37	30	6	9	36	Richfield	45
Kanab	Kane	6	K	\$191,900	\$38,614	2.25	268	822	186	226	48	Richfield	147
Loa	Wayne	6	K	\$9,500	\$16,302	0.25	78	147	28	46	36	Richfield	45
Manila	Daggett	8	K	\$8,500	\$28,814	0.25	29	52	2	1	12	Vernal	64
Manti	Sanpete	6		\$423,900	\$53,168	4.00	851	1793	321	605	96	Richfield	48
Moab	Grand	7		\$867,400	\$155,000	3.00	547	1054	264	1280	80	Moab	0
Monticello	San Juan	7		\$219,100	\$30,000	2.50	348	716	245	584	50	Monticello	0
Morgan	Morgan	2	K	\$32,100	\$18,053	0.75	200	409	34	32	45	Ogden	24
Nephi	Juab	4		\$315,900	\$250,000	2.00	422	1368	4	89	146	Spanish Fork	34
Panguitch	Garfield	6	K	\$32,200	\$32,314	0.75	250	356	63	138	48	Richfield	80
Randolph	Rich	1	K	\$11,700	\$11,700	0.25	82	150	9	3	36	Logan	70
Salem	Utah	4	K	\$2,500	\$999	0.15	436	0	0	0	0	Spanish Fork	4

<sup>19</sup> Regularly scheduled law and motion days. Trials and longer hearings are scheduled as needed.

<sup>20</sup> Zero miles indicates that a judge's primary office is in the courthouse under consideration.

(13) Appendix F. District court hearings FY 2013

Type of Hearing	Beaver	Castle Dale	Duchesne	Fillmore	Junction	Kanab	Loa	Manila	Manti	Moab	Monticello	Morgan	Nephi	Panguitch	Randolph
Accounting				1											1
Appoint Counsel			1												
Arraignment	16	49	243	47	1	23	2		21	54	25	1	62	2	15
Bail Hearing			20			1				5	4				2
Bench Trial	3	8	6	10	1	11	1	1	24	21	5	10	13	1	3
Change of Plea	11		1	2		17			2	27	9		16		
Comm Recom Rev			1							1					
Competency		1	1	2						1	5	2	6		
Contempt										3					
Custody												6			
Default Judgment												1			
Drug Court		274								249	118				
Evidentiary													81		
Immed Occupancy													1		
Initial Appearance	113	110	361	110		69	17	3	146	166	130	29	118	81	
Jury Trial	6	5	35	10		7			10	3	5	5	16	9	
Jury Trial-Expedited			1								1				
Law and Motion	156	193	618	319	23	129	100	10	709	104	111	180	428	115	44
Order of Settlement		1												1	
Order to Show Cause	84	97	155	105	3	98	3	4	104	79	34	26	178	75	47
Preliminary Injunction				2						2					
Preliminary Hearing	82	89	374	125		49	6	7	159	139	96	14	95	18	9
Pretrial Conference	18	19	50	45		56	4	4	69	30	8	15	79	16	20



Type of Hearing	Beaver	Castle Dale	Duchesne	Fillmore	Junction	Kanab	Loa	Manila	Manti	Moab	Monticello	Morgan	Nephi	Panguitch	Randolph
Probable Cause												1			
Protective Order	11	25	8	20		9	1	2	20	54	25	4	13	4	2
Resolution			1			9									
Restitution	3		1	2		1					3		1		
Review	126	86	102	60	1	168	4	18	404	57	74	73	94	12	2
Roll Call						28									
Sanctions			28	10								1	1		
Sentencing	39	48	206	80	1	39	7	2	73	18	16	18	70	17	5
Status Conference			12												
Summary Judgment						10						2			
Supplemental Order	8	14	9	24		7	2	1	30	34	44	17	22	2	
Suppression													3		
Temp Restrain Order	1		2	1						2	2		1	1	
Trial De Novo	3	2	5						2	3	1	4		2	
Waive Prelim Hearing				129		91			20				18		
Waiver Hearing													52		
Writ to Enforce Jdmt										2					
<b>Total</b>	<b>680</b>	<b>1021</b>	<b>2241</b>	<b>1104</b>	<b>30</b>	<b>822</b>	<b>147</b>	<b>52</b>	<b>1793</b>	<b>1054</b>	<b>716</b>	<b>409</b>	<b>1368</b>	<b>356</b>	<b>150</b>

(14) Appendix G. Juvenile court hearings FY 2013

Hearing	Beaver	Castle Dale	Duchesne	Fillmore	Junction	Kanab	Loa	Manila	Manti	Moab	Monticello	Morgan	Nephi	Panguitch	Randolph
Abortion									1						
Adoption		5	13	3		2			2	1	6			3	
Arrestment	40	60	93	62	4	30	13		171	91	104	10	16	30	
Arrestment / Pretrial		4	32			1			1	1		5	1		
Bail Hearing				7							5				
Bench Warrant		1							1	5					
CW - 6 Month Review	17	25	46	20		42	11		70	34	27		4	35	
CW - Adjudication	10	21	3			1				12	10				
CW - Contempt	2	4	5			3	1			16	14				
CW - Disposition	18	13	22	10			2			39	26		4		
CW - Evidentiary		1	1								1				
CW - Ex parte Motion						2									
CW - Expedited Shelter	5	1	8							1	3		2		
CW - Expedited Shelter Cont.	5														
CW - Further Disposition			1	3					7					2	
CW - Hearing														4	
CW - Motion		4	5							4	1				
CW - Permanency	17	8	15	6		2			5	14	6		1	1	
CW - Permanency Cont. 90 days	5		4	4						2			1		

Hearing	Beaver	Castle Dale	Duchesne	Fillmore	Junction	Kanab	Loa	Manila	Manti	Moab	Monticello	Morgan	Nephi	Panguitch	Randolph
CW - 2nd Permanency Cont. 90													1		
CW - Post Termination Review		2	7								7			1	
CW - Pretrial	12	34	39	12		19	2		24	43	24		8	5	1
CW - Pretrial Continue	1		29	1		4			1	2	9		4		
CW - Review	56	54	140	54		15			55	178	63		12	5	
CW - Shelter Hearing	10	8	10	1						26	5				
CW - Shelter Hearing Continue	3									7	8				
CW - Term Parent Rights - Disp		1	1							2	11				
CW - Term Parent Rights - PT	4	2	15	1					3	2	4				
CW - Term Parent Rights - TL	8	1	5	1					1	2	3				
CW - Trial	1	2								1	4				
CW - Voluntary Relinquishme nt	9	2	7	1						1	9				1
Contempt Detention	2	26	47	21		13			24	99	39		4	1	
Hearing	1	4	2						1	8					
Disposition	3	1	6	3		1			6	6	11				
Emancipation Exparte Motion									2						
						12			12					4	

Hearing	Beaver	Castle Dale	Duchesne	Fillmore	Junction	Kanab	Loa	Manila	Manti	Moab	Monticello	Morgan	Nephi	Panguitch	Randolph
Exparte Review	9	1													
Expungement Further Disposition	1	5	1	2		3			3	1	1		4		
Hearing			13	11		6			4					2	
Initial Hearing			1			2		1	1			2			
Motion		22	4	10						1	18	6			
Pretrial Protective Order - Hearing	11	5	70	24		18	1		41	3		3	13	9	
Protective Order - Evidentiary				3		3			13	4				1	1
Protective Order - Exparte	1	2	9							2				1	
Restitution				5					4	1					
Review	25	72	253	44	5	46	15		143	635	146	14	12	33	
Review-O&A	1		7			1	1		4	1	4		1		
Trial	4	3	10	7					3	17	25		1		1
<b>Total</b>	<b>281</b>	<b>397</b>	<b>929</b>	<b>312</b>	<b>9</b>	<b>226</b>	<b>46</b>	<b>1</b>	<b>605</b>	<b>1280</b>	<b>584</b>	<b>32</b>	<b>89</b>	<b>138</b>	<b>3</b>

**TAB 5**

# Administrative Office of the Courts

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

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

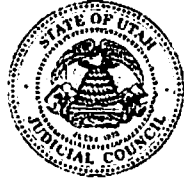
## MEMORANDUM

To: ~~Management Committee~~  
From: ~~Brent Johnson, General Counsel~~  
Re: Ethics Advisory Committee  
Date: January 24, 2014

---

Judge Michele Christiansen's term on the Ethics Advisory Committee expires at the end of January 2014. Judge Christiansen is eligible for another term and has expressed a desire to serve. Judge Christiansen has been a very valuable member of the Committee. Judge Christiansen is always engaged in discussions and provides valuable opinions and insight. I therefore recommend that Judge Christiansen be reappointed to the Ethics Advisory Committee.

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.



## Administrative Office of the Courts

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

### MEMORANDUM

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

**To:** Management Committee  
**From:** Alison A. Adams-Perlac *alisonad@utcourts.gov*  
**Date:** February 5, 2014  
**Re:** Language Access Committee Reappointments

Three members of the Language Access Committee seek reappointment under Code of Judicial Administration, Rule 1-205(3)(A)(i)(c). Judge Rick Romney, Maureen Magagna, and Ghulam Hasnain are valuable members of the Committee. It is recommended that these individuals be reappointed.

Judge Rick Romney has indicated a willingness to be reappointed to serve as the justice court judge on the Language Access Committee. Judge Romney has served on the Committee since February 2011, and has attended 80% of the meetings. In addition to serving on the Language Access Committee, he currently chairs the Fourth District Justice Court Judges Education Committee. He previously served on the Technology Committee. Judge Romney has brought valuable insight to the Language Access Committee regarding how interpreters are used in justice court. He has been enthusiastic about the Committee's goals and has offered his local bench as a test group for trainings sponsored by the Committee. He has provided helpful suggestions for how language access can be improved in the justice court.

Maureen Magagna has also indicated a willingness and desire to be reappointed as the clerk of court on the Committee. She has served on the Committee since February 2011, and has attended 72% of the meetings. In addition to the Language Access Committee, Ms. Magagna currently serves on the Remote Access Committee, the Front Counter Services Committee, and the JA3 Project Committee. She has previously served on the Technology Committee and the Accounting Committee. Ms. Magagna always participates in the Language Access Committee meeting and provides helpful feedback and suggestions for improving language access in the courts.

Ghulam Hasnain has indicated a willingness to be reappointed as the registered interpreter on the Language Access Committee. He has served on the Committee since January 2011, and has attended 80% of the meetings. He does not serve on any other court committees. Mr. Hasnain always participates in the meeting and provides useful insight on how culture impacts language interpretation in the courtroom.

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.

**Language Access Committee Reappointments**

**February 5, 2014**

**Page 2**

**It is recommended that Judge Rick Romney, Maureen Magagna, and Ghulam Hasnain be reappointed to serve second terms on the Language Access Committee.**



Utah Office of Guardian ad Litem  
Oversight Committee

To: The Utah Judicial Council  
From: Elizabeth Knight, Director, on behalf of the GAL Oversight Committee  
Date: February 4, 2014  
Subject: Nominees for Oversight Committee

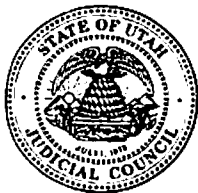
There is currently one vacancy on the Guardian ad Litem Oversight Committee due to the resignation of John Pearce. For the Council's consideration to fill these vacancies, the Oversight Committee submits the names of Jacey Skinner, David Littlefield and Dixie Jackson.

Jacey Skinner currently serves as the Governor's General Counsel. She replaced John Pearce when he was appointed to the Court of Appeals. Ms. Skinner was previously the Director of the Sentencing Commission and has advised the Legislature, the Governor and others regarding the sentencing and release of juvenile and adult offenders. Ms. Skinner has also been an Assistant District Attorney with Salt Lake County.

David Littlefield is a partner with the firm of Littlefield and Peterson. While his practice currently focuses on immigration law, he served as a Guardian ad Litem for over 15 years. Mr. Littlefield also developed a volunteer program to assist with the Guardian ad Litem program.

Dixie Jackson started at the Office of Guardian ad Litem in October of 2006. Ms. Jackson represented children in both juvenile and district court. Ms. Jackson left the Office of Guardian ad Litem in October of 2013, and now serves as conflict counsel and as a PGAL for our office.

We are fortunate to have several highly qualified nominees and appreciate your consideration of these individuals.



## Administrative Office of the Courts

Chief Justice Christine M. Durham  
Utah Supreme Court  
Chair, Utah Judicial Council

February 5, 2014

Daniel J. Becker  
State Court Administrator  
Myron K. March  
Deputy Court Administrator

### MEMORANDUM

**TO:           Judicial Council Management Committee**

**FROM:       Debra Moore**

**RE:           Uniform Fine and Bail Schedule Committee**

---

The second term of Second District Judge David Connors on the Uniform Fine and Bail Schedule Committee expired on February 1, 2014. Judge Connors currently serves as Chair of the Committee and, therefore, the Council should appoint another member of the Committee as Chair.

Judge Connors recommends that Fourth District Judge James Brady be appointed Chair. Judge Brady is in his first term as a Committee member. He has been actively involved in the Committee's recent decision, as reported to you last month, to change the historical manner in which it has recommended fine/bail amounts, and to conduct a survey of district and justice court judges regarding their use of the bail schedule in sentencing. Judge Brady is willing to serve if appointed.

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



# Administrative Office of the Courts

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

February 6, 2014

Daniel J. Becker  
State Court Administrator  
Ray Wahl  
Deputy Court Administrator

## MEMORANDUM

**TO:** Management Committee  
**FROM:** Jessica Van Buren, State Law Librarian  
**RE:** Nominees for Committee on Resources for Self-Represented Parties

---

We have a number of vacancies to fill on the Committee on Resources for Self-Represented Parties.

### Justice Court Judge

Judge John Baxter has served as Chair of this committee for three terms. His final term expires at the end of February. The Board of Justice Court Judges has advanced the following names for consideration:

- **Judge Vernon "Rick" Romney**, Provo City Justice Court
- **Judge Marsha Thomas**, Taylorsville Justice Court

Judge Romney is currently serving on the Court Interpreter Committee, and you are considering his reappointment for another term to that committee.

### Community Representative

**Susan Griffith** has submitted her application for one of two vacant community representative positions, replacing Shauna O'Neill. Her letter of interest and resume are included for your consideration.

### Continuing Members

These current members of the Committee, whose first terms expire at the end of February, have expressed a desire to continue serving for another term:

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

**Barbara Procarione** – Judicial Team Manager, Seventh District Court. She represents court clerks.

**Virginia Sudbury** – Attorney. Her position on the committee is “private attorney experienced in providing services to self-represented parties.”

Next month I will present candidates for additional vacancies on the committee, including

- Community representative
- Juvenile court judge
- Law school representative
- Legal service organization representative (2 positions)
- OCAP Board representative

Thank you for your consideration of these candidates.

# TIMPANOGOS

L E G A L C E N T E R

**BOARD MEMBERS:**

**President:**

Richard W. Sheffield

**Vice President:**

James H. Backman

**Treasurer:**

Bill O. Jaspersen

**Secretary:**

Lisa A. Hancock

**At Large:**

Craig Carlile

February 4, 2014

RE: The Standing Committee on Resources for Self-Represented Parties

Dear Members of the Judicial Council,

I was contacted by Jessica Van Buren about the need to fill a position on the Standing Committee on Resources for Self-Represented Parties. This is something in which I have great interest as I am the Executive Director of a non-profit organization which is committed to increasing pro bono work among members of the Bar in the Fourth Judicial District. As part of our services we help pro se litigants in family law cases. Each week I supervise the Family Justice Center clinic in Provo. We have helped hundreds of people, the majority of which are self-represented. We frequently use the Utah Courts website and OCAP documents together with materials produced by Utah Legal Services. I am very familiar with the resources that are used by self-represented parties. I know the obstacles these people face. I have a sincere interest in continuing to find solutions for these families.

I also work at BYU's law school with Jim Backman who was one of the original members of The Standing Committee on Resources for Self-Represented Parties. I am familiar with the work done by this committee. I look forward to the opportunity to contribute to the outstanding work being performed by this group.

I have attached a copy of my resume. I am available at the time the current committee meets. If you have any other questions, please let me know.

Sincerely,

*Susan Griffith*

Susan Griffith  
Executive Director  
Timpanogos Legal Center

**Clinics:**

Family Justice Center  
Tuesdays 5 pm – 8 pm  
Health & Justice Bldg.  
151 S. Univ. Ave.,  
Provo

FLC Document Clinic  
Monthly  
Food & Care Coalition  
299 E. 900 S., Provo

# SUSAN GRIFFITH

10215 N. 6890 W. • Highland, UT 84003 • Phone: 801-722-5804 • griffiths@law.byu.edu

---

## Professional Experience

**TIMPANOGOS LEGAL CENTER (TLC)—PROVO, UT** 2011 to present  
Executive Director and Supervising Attorney

- I am responsible for developing the services we provide including the walk-in and document clinics. I supervise all work at the clinics.
- I recruit and train volunteer attorneys. I mentor these new attorneys and attorneys not familiar with family law as they undertake pro bono cases.
- I wrote the grant and am responsible for reporting and complying with the terms.

**PART-TIME FACULTY, BRIGHAM YOUNG UNIVERSITY, J. REUBEN CLARK LAW SCHOOL— PROVO, UT** 1995 to present  
Permanent Part-Time Faculty, Assistant Director of Externships and LAWHELP Seminars

- Each semester I teach two classes: Domestic Violence Intervention (fall), Elder Law (fall), Child Advocacy (winter) and Domestic Relations (winter). All of my classes are practical skills classes in which the students work in the community.
- I supervise students at the Family Justice Center where we aid low-income people primarily with family law issues. During the course of each semester we talk to over 100 people about their legal issues.
- Collaborating with community agencies and professionals is a central part of my work. Some of the groups I've worked extensively with include the Central Utah Bar Association, Community Action, Centro Hispano, the Children's Justice Center, the Center for Women and Children in Crisis, Wasatch Mental Health, Victim Advocates, the Division of Child and Family Services.
- I supervise law students in externships across the world in a variety of placements. I teach the students how to learn from their experiences. I understand the skills which are necessary to constantly improve.
- Through my teaching, I stay on top of national trends and I have the opportunity to compare best practices in other jurisdictions.

**UTAH ATTORNEY GENERAL'S OFFICE, CHILD PROTECTION—PROVO, UT** 2003 to 2004  
Assistant Attorney General in the Fourth District Juvenile Court

- I represented the Division of Child and Family Services in Juvenile Court proceedings.
- Full time litigation experience including shelter hearings, dispositions, mediations, pretrials, review hearings, adjudications, Order to Show Cause proceedings, and trials. Extensive experience with Drug Courts and Domestic Violence Courts.

**UTAH LEGAL SERVICES— PROVO, UT** 1985 to 1993  
Managing Attorney, Staff Attorney, Clerk

- I developed the Protective Order program for Utah County. I wrote and monitored the grant for the program, as well as provided the legal representation and supervised the support staff.
- Carried a full caseload, even as managing attorney, in which I primarily handled contested divorce and custody cases in which there were issues of abuse.
- Represented clients in a variety of proceedings including OSC's, pretrials, protective orders and trials.

## Education

**BRIGHAM YOUNG UNIVERSITY—  
PROVO, UT**  
**Bachelor of Science in Psychology, 1984**  
**Juris Doctorate, J. Reuben Clark Law School 1987**

## Committees, Boards and Task Forces

---

- UNIVERSITY COMMITTEE ON ACADEMIC INTERNSHIPS, PROVO, UT** 2010 to present
- UTAH COUNTY DOMESTIC VIOLENCE COALITION, PROVO, UT** 1995 to present
- Chair of the Protective Order Subcommittee
- UTAH CRIME VICTIMS LEGAL CENTER BOARD, SLC, UT** 2007 to present
- Board Member
- UTAH COUNTY VICTIMS RIGHTS COMMITTEE, PROVO, UT** 2006 to present
- Committee Member
- UTAH COUNTY CHILD ABUSE PREVENTION TEAM (CAP TEAM), PROVO, UT** 1995 to 2007
- Chair of the CAP Team for three years
- WASATCH MENTAL HEALTH ADVISORY BOARD MEMBER, PROVO, UT** 2002 to 2008
- Founding Chair of the Trustees for the Friends of Wasatch Mental Health
- CHILD ABUSE AND NEGLECT COUNCIL, SALT LAKE CITY, UT** Approximately 2000-2003
- Served as the Utah County representative for this advisory council to the Division of Child and Family Services