

Judicial Council FY 2017 Budget Planning Agenda

August 14, 2015
Matheson Courthouse
Conference Room W19A
SLC, UT

Overview

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| 8:30 | Welcome—Chief Justice Matthew B. Durrant |
| 8:35 | Governor's Office of Management and Budget Economic Presentation—Phil Dean |
| 8:55 | Overview of Budget Planning Session—Dan Becker |
| 9:10 | Fiscal Trends & Restricted Funds Report—Derek Byrne
Caseload Data Presentation Overview—Kim Allard |
| 10:00 | Break |

Building Block Presentations

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| 10:10 | Reports and Budget Requests from Boards and Committees <ul style="list-style-type: none">• Court Facilities Planning Committee• Appellate Courts• Board of District Court Judges• Technology Standing Committee• System Wide Requests• Board of Juvenile Court Judges |
| 11:30 | State Court Administrator's Analysis and Recommendations—Dan Becker |
| 12:00 | Lunch |
| 1:00 | Building Block Discussion and Judicial Council Decisions on Proposed FY 2017
Legislative Requests |
| 1:30 | Proposed Legislation—Rick Schwermer |
| 2:00 | Adjourn |

NOTE: Judicial Council Meeting immediately follows the budget session.

To: Members of the Judicial Council
From: Dan Becker
Subject: Court Administrator's Review and Recommendations: FY 2017 Budget Request

Background

The following material is prepared for the Judicial Council as a compliment to the budget material prepared by the individual boards, Council standing committees, and offices. Each budget request advanced for consideration has been prepared from the perspective of the individual court level or committee and represents their specific needs and priorities without regard to the requests made by other components of the court system. The recommendations which follow reflect, in large part, the work of a committee of senior administrators and court executives who carefully reviewed and considered all requests from a system-wide perspective.

For FY 2017, the various boards and committees have submitted requests for new funds totaling \$6,862,200, of which, \$2,939,700 are on-going funding requests, \$3,922,500 are one time funding requests, and \$867,500 are for FY 2016 supplemental funding. This year funding requests were received from the Appellate Courts, Board of District Court Judges, Board of Juvenile Court Judges, the Board of Justice Court Judges, the Facilities Standing Committee, the Technology Standing Committee, and system needs advanced by the Administrative Office of the Courts.

Backdrop for Recommendations

State of the Economy

By most indicators, the state's economy is in relatively good shape. Revenue projections call for continued growth, although it is important to note that most new revenue is in education fund rather than general fund. Low unemployment figures also point to an improving economy. Pending decisions on new prison construction and Medicaid expansion, as well as education and transportation funding will be significant drivers in executive and legislative budget decisions.

Workload Trends

Case filings for both district and juvenile courts show modest declines from last year, minus 2% and 3%, respectively. The appellate courts showed little change over last year, while the justice court case filings again showed a significant drop of 7%. When case weights are applied to filings, weighted workloads increased by 4% in district courts and were flat in the juvenile courts. There are two exceptions to the relatively good filing to staffing ratios found across the state; the same two exceptions as last year – judicial needs in the 4th Juvenile Court and the 5th District Court. The 5th District Court remained relatively unchanged at 131% of standard, while the 4th Juvenile Court has increased from 132% to 147% of standard. Requests to add judges in both of these courts are back before the Council.

Performance Measures

All of the court performance measures reflect continued impressive performance. The time to disposition guidelines adopted by the Judicial Council in 2013 show the district courts at or exceeding the guidelines in many case types, while the guidelines are being met or exceeded for all case types in the juvenile courts.

Council Principles and Strategic Agenda

One of the ways the various budget requests are assessed is the extent to which they are consistent with the Judicial Council's Mission, Principles, and Strategic Agenda. Reconciling budget requests with this document (included in *Navigating the Budget of Utah's Courts*) is one way to ensure that spending requests are in line with our values and short and long term objectives. All of the submitted requests are consistent with the Council's articulated principles and several directly advance our strategic agenda.

Recommendations

There were a total of 17 separate requests made this year. Several would be best addressed by one time funding and can, therefore, be deferred until the April 2016 Council meeting when the one time spending plan is considered. Other requests need to be advanced because they address expenses that have already been incurred (jury, witness, interpreter supplemental) or because of contractual obligations (lease increases). The balance of the requests, if advanced, would involve funding by the legislature through either new general fund dollars or through a fiscal note. One request (justice court administrator) might be addressed through a combination of funding alternatives.

New Funding Recommendations

Judgeship Requests

The two requests for judgeships, the 4th Juvenile Court and 5th District Court, advanced by the Judicial Council to the 2015 Legislature but not funded, are again before the Council. Both the Juvenile and District Boards have made these requests their top priority. The need for a new judgeship in the 4th Juvenile Court is greater this year (132% to 147% of standard), while the need in the 5th District Court has remained about the same (132% to 131% of standard). It is recommended that both judgeships be again advanced for funding.

Again, I renew my caution that receiving two judgeships in one year is a difficult task because of limited fiscal note funding. That difficulty will be even greater this year due to the increased cost of a judgeship, which is now over \$417,000. To increase our prospects for getting judgeships funded, it is recommended the Council, for this year only, reduce the number of judicial assistants that accompany a judgeship from two to one, bringing the cost of a judgeship down to about \$341,400. Mandatory e-filing in juvenile court will begin in October of 2015 and, like the district court, there will be efficiencies and opportunities for savings. It is recommended that the first priority for such savings be applied to providing the second judicial assistant for these courts should the judgeships be funded at this lower cost.

Like last year, the Council will need to decide which of the two judgeships is to be regarded as the priority request in the event funding is available for only one.

Lease Increases

The Facility Standing Committee has advanced a request for \$260,000 to cover lease increases in non-state owned buildings. Most are relatively small adjustments to existing leases, with the exception the increase for Dushesne County. The larger increase in Dushesne County is required to cover the increase cost associated with a major addition to the existing facility needed to accommodate the two new judgeships created in FY 2013. These increases are contractual obligations which must be advanced for new funding.

Replacement of General Fund to Court Complex Fund

Last year the Council advanced a replacement of general fund dollars to the Trust Fund Account which the legislature approved. This is a very similar request. As a temporary budget reduction measure, the legislature cut \$300,000 in General Fund dollars and replaced it with \$300,000 in court complex funds. In ensuing years, increases for cost of living adjustments and benefits have increased this amount by \$14,400. The \$314,400 General Fund request would be applied

to reducing the Court Complex Restrict Account to \$4,593,500, the amount necessary when this account is switched over to covering the bond for the new Provo Courthouse.

This need has been discussed with the legislative fiscal analyst who is in agreement that the measure was intended to be temporary and needs to be reversed. It is recommended that this request be advanced.

CORIS, AIS, and Jury Management System Re-write

This request deals with the need to re-write the CORIS, AIS, and Jury Management systems into a web based application. As the write up in your budget briefing book explains, these systems have served us extremely well for two decades, but they are in need of modernization. By re-writing the CORIS, AIS, and Jury Management systems to an internet application our entire operation would become web based, providing much need flexibility with our limited programming staff. We would no longer have to support two separate technologies. As noted, the longer we delay this re-write, the more vulnerable we become due to fact that Power Builder programmers are becoming increasingly difficult to employ. This project would also allow us to program the new applications called for in our Technology Strategic Plan in the same web based technology used for the CARE system. Meaning the accounting, scheduling, calendaring, and OCAP e-filing applications would be brought up in the new web based environment. In addition, should the Council approve moving forward with the On-Line Dispute Resolution (ODR) proposal, the \$500,000 request for ODR would not needed, but instead would be incorporated into the new applications resulting from this re-write project.

This re-write project would require funding for contract programmers over a two year period. Thereafter, the efficiencies provided by operating in an all web environment would position us well for the future with existing staff. The fact that this requires \$2,500,000 in onetime, rather than ongoing funding, should improve the chances of it being funded. However, I would recommend that we look internally to funding as much of this cost as possible. I would recommend that we obligate \$250,000 in one time funding from both the FY 2017 and FY 2018 spending plans, \$200,000 in Exchange funds from both FY 2017 and FY 2018, and \$100,000 in OCAP funds from FY 2017, for a total of \$1,000,000 as the courts contribution to this expense. In so doing, we would reduce the request for one time funding by the legislature to \$1,500,000.

In order to begin this project in January as proposed, it is also recommended that unobligated carry forward funds from FY 2015 be applied to the \$208,000 needed for the first phase of the re-write, the conversion of the AIS and Jury Management systems.

Jury, Witness, Interpreter

There are two requests related to juror, witness, and interpreter funding: 1) \$975,000 in ongoing funding to bring the base budget in line with actual expenditures: and, 2) \$867,500 for FY 2016 supplemental funding to cover the deficit for FY 2016.

The long standing practice followed by the legislature has been to allow deficit spending in this line item, which is provided for in statute, and to fund the deficit through supplemental funding, as opposed to using ongoing funds to bring the base in line with actual expenditures. The base budget is essentially the same as it was in 2000, when the demand, particularly for interpreters, was considerably less.

It is recommended that both of these requests be advanced.

Deferrals

District Court Law Clerks

The Board of District Court Judges has requested two additional law clerks, the number of law clerks presently funded with one time funds. Rather than seek an appropriation, I recommend this request be deferred until the April 2016 Council meeting and considered in the context of available fiscal note or on-going funds, or, in the alternative, to again be funded with one time funds.

Five-Year Technology Computer Replacement

It is recommend the replacement schedule for computer equipment be addressed through end of the year equipment funds, and if such funds are inadequate, that it be deferred and considered for one time funds in the April spending plan. This need has been successfully addressed in this manner for the last several years.

District Court Program Administrators Supplemental Funding

It is recommended that the requests to add funds to these two positions be deferred to the April Council meeting for consideration as part of the 2016 spending plan. One position, which is entirely funded by a VAWA grant, is underfunded by as much as \$15,000 because of a reduction in VAWA funds and the escalating position costs due to cost of living and benefit increases. The second position has permanent funding for three quarters of the cost of the position and has been funded for the other one quarter of the position with one time funds. The request is to bring the position to full time with permanent funds.

Volunteer Court Visitor Program

This program was initially established through grant funding and for the last two years has been funded, in whole or in part, by the Judicial Council with one time funds. It was the intent of the Council to use one time funding as a bridge to requesting permanent funding from the legislature. Last year I recommended that that this request not be advanced for permanent funding because it would compete against our judgeship requests, and instead be funded with one time funds for the coming fiscal year. I make the same recommendation this year.

This program has been operating since 2011 and a decision needs to be made as to whether this should be a permanent program, and if so, whether it we should seek on-going funding and at what level. A suggestion has been made that we use the next year to look at making operational changes in order to better define what the ongoing staffing requirements will be in a maintenance mode. Significant resources have been required in the initial development and implementation. I think this is a sound suggestion, especially considering the other requests that are being proposed for advancement to the legislature. However, the Council should plan on making a decision of the future of this program at the August Budget Session in 2016.

Audio-Video Upgrade in Price

A solid case has been made for upgrading the audio-video equipment in the Price Courthouse to take better advantage of the remote technology equipment recently installed in the more rural areas of the district. Rather than seek an appropriation, I recommend using end of the year equipment funds to address this need, as well as add other remotes sites to the extent funds are available. If sufficient funds are not available at year end, this request should be deferred until the April Council meeting for one time funding.

Alternate Funds

Justice Court Administrator

I am recommending that the Council consider creating a full time, dedicated justice court administrator position. The Board of Justice Court Judges supports this proposal.

Unlike the appellate, district, and juvenile courts, the justice courts do not have a full time administrator. The assistant court administrator has for the last twenty plus years divided his time between justice court needs and other responsibilities. Over the years, these other responsibilities have increased in number and complexity and include: alternative dispute resolution programs, problem solving court programs, legislative liaison, rules of criminal

procedure, and the commissioner conduct committee. In addition, I increasingly look to this position to be involved in issues such as JPEC, JRI, indigent representation, and pretrial release.

There are more than enough justice court needs and issues to warrant the full time attention of an administrator, something that is no longer possible under the present staffing arrangement.

Rather than seek an appropriation, I recommend this need be addressed through the following combination of internal funds: 1) the elimination of the half time justice court program administrator position and a redirection of those funds; 2) partial funding from Justice Court Technology, Education, and Security Funds; and, 3) partial funding from one time funds; roughly one-third from each source. Opportunities may be presented in the future to secure fiscal note funding associated with justice court legislation. If that materializes, such funds should be used to cover the cost of the justice court administrator position allowing the restoration of funds to the technology, education and security fund, and the elimination of the use of one time funds for this purpose.

Appellate Courts Administrative Assistant

The appellate courts are requesting funding to replace a position lost to budget reductions during the last recession. The expectation when this downsizing occurred was that offices which lost positions would reorganize the work in order to operate with the revised staffing level. This has been done effectively throughout the organization and this process is recommended as the means for addressing this need, rather than seeking new funding.

I hope this review and these recommendations prove useful as you consider this year's requests.

JUDICIAL COUNCIL MEETING

AGENDA

Friday, August 14, 2015
Large Conference Room A
Matheson Courthouse
Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

1. 2:00 p.m. Welcome & Approval of Minutes Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 2:05 p.m. Chair's Report. Chief Justice Matthew B. Durrant
3. 2:15 p.m. Administrator's Report. Daniel J. Becker
4. 2:30 p.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant
Liaison Committee. Judge David Mortensen
Policy and Planning Judge Reed Parkin
Bar Commission. John Lund, esq.
(Tab 2 - Information)
5. 2:40 p.m. Rules for Final Action. Alison Adams-Perlac
(Tab 3 - Action)
6. 2:50 p.m. Senior Judge and Commissioner Certifications. Nancy Sylvester
(Tab 4 - Action)
7. 3:00 p.m. Court Commissioner Conduct Committee
Update. Judge Michele Christiansen
(Information)
8. 3:20 p.m. Justice Court Judge Certifications. Rick Schwermer
(Action)
9. 3:30 p.m. Executive Session
10. 3:35 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) Alyn Lunceford
Ray Wahl
2. Rules Published for Comment
(Tab 6) Alison Adams-Perlac

TAB 1

JUDICIAL COUNCIL MEETING

Minutes
Monday, July 20, 2015
1004A Conference Room, 1st Fl
Ogden Juvenile Courthouse
Ogden, Utah

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, Vice Chair
Justice Thomas Lee
Hon. Marvin Bagley
Hon. Ann Boyden
Hon. Glen Dawson
Hon. Paul Farr
Hon. Thomas Higbee
Hon. David Marx
Hon. David Mortensen
Hon. Reed Parkin
Hon. Randall Skanchy
Hon. Kate Toomey
John Lund, esq.

EXCUSED:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Dawn Maric Rubio
Rick Schwermer
Tim Shea
Alison Adams-Perlac
Alyn Lunceford
Nancy Sylvester

GUESTS:

Colin Winchester, JCC
Aimee Thoman, JCC
Brad Christopherson, Farmington
Mike Kendall, Davis County
Judge Mary Noonan, 4th Dist
Judge Michelle Heward, 2nd Dist
Judge John Morris, 2nd Dist
Judge Brent West, 2nd Dist
Judge Jeffrey Noland, 2nd Dist
Travis Erickson, 2nd Dist TCE

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

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

Motion: Judge Toomey moved to approve the minutes from the June 22, 2015 Judicial Council meeting. Mr. Lund seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reported that he will be attending the CCJ/COSCA meeting in Omaha, Nebraska later in the week.

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

Mr. Becker reported on the following items:

Site Assessment of Procedural Fairness Practices. The Utah Courts, along with three other court sites, has been selected to participate in a site assessment of procedural fairness

practices. The study will be coordinated by the Center for Court Innovation through a Bureau of Justice Assistance Grant.

Council Study Committee Updates. Mr. Becker reported on the following two committees: 1) Representation Committee – they are meeting monthly, drafting a final report and final legislation, and they will be prepared to report to the Council at its October meeting; and 2) Pre-Trial Release Committee – they are meeting monthly, and they will be prepared to report to the Council at its November meeting.

Judicial Confirmation. Ms. Elizabeth Knight was confirmed as the Third District Juvenile Court Judge on July 15. She will be sworn in on August 14. Ms. Kristin Fidel will fill in as the acting GAL Director until a successor is named.

Judicial Performance Evaluation Commission (JPEC) Update. Mr. Schwermer provided an update on the survey process for the 2016 retention election for judges. A handout outlining the current format and the proposed format for the adjective question summary included with evaluation results was distributed to members of the Council.

4. COMMITTEE REPORTS:

Management Committee Report:

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

Liaison Committee Report:

No meeting was held in July, but a meeting will be held in August.

Policy and Planning Meeting:

Judge Parkin reported that several rules will be recommended for final action later in the meeting.

Bar Commission Report:

Mr. Lund reported on the following items: 1) the Bar's Summer Convention to be held July 29 – August 1 in Sun Valley, Idaho; and 2) winding up the work of the Future's Commission.

Mr. Lund highlighted the following relative this year's summer convention: 1) the keynote address will be given by Justice Anthony Kennedy, and 2) a judges and lawyer reception will be held on July 31.

5. RULES FOR FINAL ACTION: (Alison Adams-Perlac)

Chief Justice Durrant welcomed Ms. Adams-Perlac to the meeting.

The public comment period for the rules listed below has closed with no public comments being received.

CJA 01-0205 – Standing and ad hoc committees. The rule is being amended to eliminate the Justice Court Standards Committee and provides for the Judicial Council's Management Committee to review standing and ad hoc committees every six years and make a recommendation to the Judicial Council as to whether the committee shall continue.

CJA 03-0109 – Ethics Advisory Committee. The rule is being amended to include the following: 1) to allow the committee 60 days to issue an opinion, 2) to allow the committee chair to extend the time for deliberations on an opinion when necessary, and 3) to allow the boards of judges to request reconsideration of an opinion.

CJA 03-0112 – Justice Court Standards Committee. The rule is being repealed. The Justice Court Standards Committee will be eliminated with responsibility of the justice court standards being moved to the Board of Justice Court Judges.

CJA 03-0418 – Model Utah Jury Instructions. The proposed rule is new and provides direction on developing jury instructions on the Model Utah Jury Instructions to the appropriate committees.

CJA 04-0202.02 – Records classification. The rule has been amended to classify affidavits supporting motions to waive fees as private records.

CJA 06-0501 – Reporting requirements for guardians and conservators. The rule has been amended to require a guardian or conservator to file a verified Private Information Record with the Administrative Office of the Courts (AOC) within seven days of appointment.

CJA 09-0101 – Board of Justice Court Judges. The rule has been amended to give the Board of Justice Court Judges responsibility for overseeing justice court standards.

CJA 09-0108 – Justice Court Standards. The proposed rule is new and outlines the justice court standards as previously outlined in Rule 3-112.

The Policy and Planning Committee recommended approval of the proposed rules for final action, effective November 1, 2015.

Motion: Judge Hornak moved to approve the rules for final action as recommended by the Policy and Planning Committee, effective November 1, 2015. Judge Toomey seconded the motion, and it passed unanimously.

6. SENIOR JUDGE CERTIFICATION: (Nancy Sylvester)

Chief Justice Durrant welcomed Ms. Sylvester to the meeting.

Judge O. Lane McCotter has applied to be appointed as an active senior justice court judge. He meets the minimum performance standards, and the Board of Justice Court Judges recommended approval for certification as an active senior justice court judge.

Motion: Judge Higbee moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge O. Lane McCotter as an active senior justice court judge. The motion was seconded, and it passed unanimously.

7. LEGISLATIVE UPDATE: (Rick Schwermer)

Mr. Schwermer highlighted the following from the July Legislative Interim meetings:

1) Judiciary Committee – family law – child welfare discussions, 2) Judiciary Committee – judicial discretion in sentencing amendments, 3) Judiciary Committee – interim study items, and 4) status of Justice Reinvestment Initiative relative to sentencing guidelines.

8. JUDICIAL CONDUCT COMMISSION UPDATE: (Colin Winchester)

Chief Justice Durrant welcomed Mr. Winchester to the meeting.

Mr. Winchester introduced Aimee Thoman, Investigative Counsel, to the Judicial Conduct Commission.

Mr. Winchester highlighted the following in his update of the Judicial Conduct Commission's activities: 1) the lowest number of complaints received by the Judicial Conduct Commission in FY 2014, with 70 complaints being received; 2) reported the number of complaints received each year for the past four years, overall, and by court type; 3) no public disciplines took place in FY 2014; 4) four dismissals with a warning were issued in FY 2014; 5) 11 complaints pending in FY 2014; 6) the Judicial Conduct Commission meets every other month; 7) complaints received by the Judicial Conduct Commission are resolved within 120

days; and 8) upcoming legislation.

Mr. Winchester was thanked for his update.

9. FARMINGTON INTERLOCAL AGREEMENT: (Rick Schwermer)

Chief Justice Durrant welcomed Mr. Brad Christopherson, Farmington City representative, and Mr. Mike Kendall, Davis County representative to the meeting.

Farmington City is requesting approval to enter into an interlocal agreement with the following governing entities effective January 1, 2016: 1) West Bountiful, 2) Kaysville City, 3) Fruit Heights City, 4) West Point, and 5) Davis County. With this, they are requesting that the required notice period of 180 days be waived.

Mr. Schwermer reminded the Council of Davis County's previous requests to waive the two-year waiting period to dissolve their justice court, with the recent request being denied at the Council's March 13 meeting. Discussion with Davis County and affected municipalities resulted in Farmington City's proposed interlocal agreement. He mentioned that Farmington City previously had a justice court in the early 1990s which was dissolved. At that time, they entered into an interlocal agreement with Davis County.

Discussion took place.

Mr. Kendall provided insight from Davis County's point of view.

Motion: Judge Toomey moved to approve the creation of the Farmington Justice Court and to allow them to enter into an interlocal agreement with the interested governing entities and to waive the required notice period of 180 days allowing them to begin operation on January 1, 2016. Mr. Lund seconded the motion, and it passed unanimously.

10. BOARD OF JUVENILE COURT JUDGES UPDATE: (Judge Mary Noonan, Judge Michelle Heward, and Ms. Dawn Marie Rubio)

Chief welcomed Judge Noonan and Judge Heward to the meeting.

Judge Noonan thanked the Council, on behalf of the Board of Juvenile Court Judges, for their support of the need for a second law clerk for the juvenile bench.

One of the past goals of the Board of Juvenile Court Judges was to study law clerk needs for the juvenile bench, statewide. During the Judicial Council's April budget session, funding for an additional juvenile law clerk position was approved. Interviews have been conducted, and the new juvenile law clerk will soon begin working for the courts.

Judge Noonan highlighted the following board goals in her update: 1) e-filing – implementation of the juvenile court e-filing action plan, 2) judicial leadership in education of youth in State care, and 3) evaluating representation in juvenile court proceedings.

She mentioned that Rule 4-905 – Restraint of minors in juvenile court was adopted by the Judicial Council at their June meeting and is out for public comment.

Chief Justice Durrant thanked Judge Noonan for her update.

11. EXECUTIVE SESSION

An executive session was not needed at this time.

12. TOUR OF OGDEN JUVENILE COURTHOUSE: (Travis Erickson)

Mr. Travis Erickson led a tour of the new Ogden Juvenile Courthouse for Judicial Council members and AOC staff.

13. LUNCH/SECOND DISTRICT AND JUVENILE COURT UPDATE: (Judge John Morris, Judge Brent West, Judge Jeff Noland, and Travis Erickson)

Chief Justice Durrant welcomed Judge John Morris and Judge Brent West to the meeting.

Judge Morris highlighted the following in his update to the Council on Second District:

1) three counties included in Second District, 2) staffing of the district, 3) seven specialty courts, 4) a regional substance abuse treatment program, and 5) participated in various pilot programs throughout the years.

Chief Justice welcomed Judge Noland and Mr. Erickson to the meeting.

Judge Noland highlighted the following in his update to the Council on Second District Juvenile: 1) staffing of the district, 2) a decrease in felony case filings has been seen, 3) specialty courts, 4) educational achievement court, 5) three child welfare courts for parents, 6) paperless in the district, 7) training in Bridges Out of Poverty Program.

Chief Justice Durrant thanked the judges in the Second District for their update.

14. ADJOURN:

The meeting was adjourned.

TAB 2

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

**Tuesday, August 4th, 2015
Matheson Courthouse
450 South State Street
Salt Lake City, Utah**

MEMBERS PRESENT:

Chief Justice Matthew B. Durrant, Chair
Hon. Kimberly Hornak
Hon. David Marx
Hon. Randall Skanchy
Hon. Kate Toomey

EXCUSED:

GUESTS:

Judge Stephen Roth

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Alison Adams-Perlac
Alyn Lunceford
Nancy Sylvester

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 Toomey moved to approve the July 7, 2015 Management Committee meeting minutes. Judge Marx seconded the motion, and it passed unanimously.

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

He reported on the following items:

Futures Commission Report. The Utah State Bar released the Futures Commission on the Practice of Law report entitled *Report and Recommendations on the Future of the Legal Services in Utah*, last week. A copy of the report was circulated among members of the Management Committee.

Budget and Planning Session. Mr. Wahl will preview the agenda for the Budget and Planning Session later in the meeting.

3. COMMITTEE APPOINTMENTS: (Alyn Lunceford and Ray Wahl)

The Facilities Standing Committee has a vacancy for a justice court judge representative with Judge Stephen Stream's term expiring. Judge Jon Carpenter has expressed interest in filling the vacancy.

The Facilities Standing Committee recommended the appointment of Judge Jon Carpenter to fill the vacancy for a justice court judge representative.

The Standing Committee on Children and Family Law Committee has two vacancies to fill with the second terms expiring for Judge Douglas Thomas and Mr. Adam Caldwell. Rule 1-301 (3)(B) allows for a person to serve more than two consecutive terms on the committee if the Council determines "that exceptional circumstances exist which justify service of more than two consecutive terms". The Standing Committee on Children and Family Law deem that exceptional circumstances exist. Mr. Wahl noted the exceptional circumstances.

Motion: Judge Toomey moved to approve the third terms for Judge Douglas Thomas and Mr. Adam Caldwell on the Standing Committee on Children and Family Law and the appointment of Judge Jon Carpenter as the justice court judge representative on the Facilities Standing Committee and place it on the August Judicial Council consent calendar. Judge Hornak seconded the motion, and it passed unanimously.

4. **SENIOR JUDGE CERTIFICATION – EDUCATIONAL REQUIREMENTS** **EXCEPTION REQUEST: (Nancy Sylvester)**

Chief Justice Durrant welcomed Ms. Sylvester to the meeting.

Ms. Sylvester reported that Judge Michael Lyon has applied for reappointment as an active senior judge. He meets the minimum performance standards, but he did not meet the education requirement of 30 hours in 2014, and he may not meet the requirement of 30 hours for 2015. Until June of this year, he had been out of the country serving an LDS mission. Judge Lyon is requesting an exception be granted for his education requirements for 2014 and 2015.

The following rules were referenced relative to education requirements for active and inactive senior judges:

Rule 3-111(4)(D) – Compliance with education standards. Satisfactory performance is established if the senior judge or court commissioner annually complies with the judicial education standards of this Code, subject to the availability of in-state education programs.

Rule 3-403(3)(A)(ii) – Inactive senior judges and retired judges. Upon applying for active senior judge status, the senior judge would be excused from having to complete active senior judge education hours during his inactive or retired period by meeting one of four conditions met:

- 1) He complied with his education requirements during his last active senior judge term and fewer than 3 years have passed since then;
- 2) For 3 years prior to his application, he met the MCLE requirements for his bar license;
- 3) He attended 30 hours of approved judicial education during the year prior to his application; or
- 4) He attended the new judge orientation for courts of record during the year prior to his application.

The following options were provided to members of the Management Committee as they considered Judge Lyon's request to grant an exception of his education requirements for 2014 and 2015 relative to his reappointment as an active senior judge: 1) excuse the 2014 hours, excuse part of the 2015 hours and prorate the remaining hours; 2) excuse the 2014 hours and require the 2015 hours be met; or 3) require all 2014 and 2015 hours be met.

Discussion took place.

Motion: Judge Skanchy moved to excuse the 2014 education requirement of 30 hours but require Judge Lyon to meet the 2015 education requirement of 30 hours. Judge Toomey seconded the motion, and it passed unanimously.

5. SOCIAL MEDIA POLICY: (Alison Adams-Perlac)

Chief Justice Durrant welcomed Ms. Adams-Perlac to the meeting.

Ms. Adams-Perlac provided background information on the proposed change to the rule by the Appellate Courts and the reasoning for the change.

The rule has been amended to allow a justice or judge to grant a limited exception to the Social Media policy to allow a law clerk to identify the judge or justice they work for on professional networking sites only.

Discussion took place.

An amendment to the language was suggested.

Motion: Judge Hornak moved to approve the recommended change made by Policy and Planning to the Social Media policy, including the suggested language change. Judge Skanchy seconded the motion, and it passed unanimously.

6. RECERTIFICATION OF EMERY COUNTY JUSTICE COURTS: (Rick Schwermer)

Mr. Schwermer provided background information on the Emery County Justice Courts.

The first precinct is located in Castle Dale, and the second precinct is located in Green River. For approximately seven years, there has not been a judge living in Green River. The judge serving the first precinct has also been traveling to Green River to attend to their court matters.

Mr. Schwermer recommended that Emery County simply undo the division of having two precincts and a dissolution would not be required.

Discussion took place.

Motion: Judge Hornak moved to request Emery County undo the precinct divisions that exist within their justice courts. Judge Marx seconded the motion, and it passed unanimously.

7. FY 2015 SENIOR JUDGE BUDGET: (Ray Wahl)

Mr. Wahl provided an overview of the FY 2015 senior judge budget: He highlighted the following in his update: 1) the budget was overspent by \$8,764.14; 2) senior judge use by court type; 3) use of 313 days of senior judge time; 4) the many retirements during FY 2015 played a role in high senior judge usage; 5) by rule, senior judges are to be provide with a set of code books, annually; 6) by rule, bar dues for senior judges are to be paid for by the courts; 7) \$900 from the judicial operations budget is available for senior judges to use each fiscal year; and 8) address the budget allotted for senior judge usage annually as the need dictates.

Discussion took place.

Discussion included the following things to consider relative to the senior judge budget and the use of senior judges: 1) the process for assigning a senior judge, 2) selection of active senior judges, 3) consideration of providing the number of hours an active senior judge was called upon in prior year(s) before reappointment, 4) consideration of electronic proficiencies of the active senior judges, and 5) consideration of offering electronic copies of code book

information rather than hardbound copies.

There was consensus that the number of hours a senior judge has served in each year of a term be provided to the Judicial Council at the time a senior judge is up for reappointment.

8. PREVIEW OF AUGUST 14 BUDGET SESSION: (Ray Wahl)

Mr. Wahl mentioned that the annual budget and planning session will be held on Friday, August 14 beginning at 8:30 a.m. with the Judicial Council and Management Committee meetings to follow.

Mr. Becker highlighted the following FY 2017 budget requests: 1) Fifth District judgeship request, 2) Fourth District Juvenile judgeship request, 3) CORIS rewrite request, and 4) Justice Court Administrator position request.

9. STATUS REPORT OF INDIGENT REPORT LOGISTICS: (Judge Stephen Roth)

Chief Justice Durrant welcomed Judge Roth to the meeting.

Judge Roth requested guidance from the Management Committee relative to the Trial Court Indigent Defense Representation Committee Report and the Sixth Amendment Center Report. Concern was expressed with the timing relative to release of the Sixth Amendment Report and reporting the findings and recommendations to the Council in October to allow time for the legislative process to take place.

Legislation is being drafted to establish an Indigent Defense Commission.

Discussion took place.

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

Chief Justice Durrant reviewed the proposed Council agenda for the August 14 Council meeting.

Motion: Judge Hornak moved to approve the Council agenda for the August 14 Council meeting. Judge Toomey seconded the motion, and it passed unanimously.

11. ANNUAL AWARDS: (Ray Wahl)

Mr. Wahl highlighted the award types given at the Annual Judicial Conference to include: 1) Amicus Curiae, 2) Quality of Justice, 3) Service to Courts, 4) Judicial Administration, 5) Records Quality – none submitted this year, and 6) Meritorious Service.

Names and the nomination forms for those nominated were reviewed and discussed.

Motion: Judge Skanchy moved to approve the recommended award recipients to include the additional recipient noted at the meeting. Judge Toomey seconded the motion, and it passed unanimously.

12. EXECUTIVE SESSION:

An executive session was not held at this time.

13. ADJOURN

The meeting was adjourned.

TAB 3



Administrative Office of the Courts

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

MEMORANDUM

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

To: Judicial Council
From: Alison Adams-Perlac *Handwritten signature*
Date: August 10, 2015
Re: Rules for Final Action

The public comment period for rules 1-205, 3-201, 4-502, and 4-503 of the Utah Code of Judicial Administration has closed and the proposals are ready for final action by this Council. The proposals received the following comments. Each of the proposals were recommended for final action by the Policy and Planning Committee. If the Council approves these proposals, they will be effective November 1, 2015.

CJA 1-205. Standing and ad hoc committees. Amend. Adds a criminal law professor to the Model Criminal Jury Instructions Committee.

The amendment is at line 93. The proposal received the following comment:

The rule needs to be more precise. What is a "criminal law professor"? Absurdly, but grammatically correctly, a teach of the law who commits a crime would qualify. More realistically, however, we have two ABA approved law schools in the state but also "legal studies" and "criminal justice departments in at least 3 state universities: UVU, SLCC and Weber State. There are a number of other schools who educate people interested in professions related to criminal law. I suppose POST (peace officer standards and training) would qualify. Those undergraduate departments employ JD's, and non-JD's as both full time (tenure track) professors and part time adjunct professors. Some of those professors are judges. (I have taught for many years at UVU), some are practicing or formerly practicing attorneys, some are non of that. Both BYU and the U of U also use adjunct professors, from time to time. They have been known to utilize brilliant scholars who have never touched a Utah case. So, what's a "criminal law professor". Someone who teaches full time at an ABA approved law school? An adjunct at those schools? Someone who has taught in some capacity at some time

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.

but no longer teaches? Does it include undergraduate full or part time teachers? I can speculate at what is intended – but we should create rules that solve riddles, not create them.

Judge James Taylor, submitted by email May 15, 2015

The Policy and Planning Committee considered the comment and voted to recommend the proposal, amending “criminal law professor” in line 93 to “professor of criminal law,” to the Council for final action.

CJA 3-201. Court commissioners. Amend. Provides a public comment period for commissioner nomination and reappointments.

The amendments are at lines 54-61, 64, 77-93, 100, and 107-10. The proposal received the following comment:

Regarding the appointment and removal of hearing commissioners, the proposed rule is a step in the right direction. I would recommend putting the name of a nominated hearing commissioner to a vote of the family law section of the bar prior to appointment, and if the family law section does not approve the nominee, giving the family section trump power over appointment. In terms of maintaining the commissioner on the bench, I would give the family law section trump power annually to remove the commissioner by majority vote. The attorneys who practice before the commissioners know how effective they are. I think our knowledge is far better than that of a committee or a judge.

Ted Weckel, May 15, 2015

The Policy and Planning Committee voted to recommend the proposal, as written to the Council for final action.

CJA 4-502. Expedited procedures for resolving discovery issues. Repeal. Repeals rule 4-502 as expedited procedures for resolving discovery issues are now covered by rules 26, 30, 37, and 45 of the Utah Rules of Civil Procedure.

The proposal received no public comments. The Policy and Planning Committee voted to recommend the proposal, as written to the Council for final action.

CJA 4-603. Mandatory electronic filing. Amend. Provides that a person seeking a hardship exemption may do so by filing a written request, in lieu of a form provided by the AOC, with the District Court Administrator.

The amendments are at lines 14 and 15. The proposal received no public comments. The Policy and Planning Committee voted to recommend the proposal, as written to the Council for final action.

Encl. CJA 1-205
CJA 3-201
CJA 4-502
CJA 4-603

Rule 1-205. Standing and ad hoc committees.

Intent:

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

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

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

Applicability:

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

Statement of the Rule:

(1) Standing committees.

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

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

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

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

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

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

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

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

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

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

(1)(A)(x) Language Access Committee;

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

(1)(A)(xii) Committee on Model Utah Civil Jury Instructions; and

(1)(A)(xiii) Committee on Model Utah Criminal Jury Instructions.

(1)(B) Composition.

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

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

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

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

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

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

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

(1)(B)(viii) The Committee on Judicial Outreach shall consist of one appellate court judge, one district court judge, one juvenile court judge, one justice court judge, one state level administrator, a state level judicial education representative, one court executive, one Utah State Bar representative, one communication representative, one law library representative, one civic community representative, and

one state education representative. Chairs of the Judicial Outreach Committee's subcommittees shall also serve as members of the committee.

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

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

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

(1)(B)(xii) The Committee on Model Utah Civil Jury Instructions shall consist of two district court judges, four lawyers who primarily represent plaintiffs, four lawyers who primarily represent defendants, and one person skilled in linguistics or communication.

(1)(B)(xiii) The Committee on Model Utah Criminal Jury Instructions shall consist of two district court judges, one justice court judge, four prosecutors, four defense counsel, one professor of criminal law, and one person skilled in linguistics or communication.

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

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

(1)(D)(i) The Technology Committee shall terminate on June 30, 2016.

(1)(D)(ii) The Uniform Fine/Bail Schedule Committee shall terminate on June 30, 2018.

(1)(D)(iii) The Ethics Advisory Committee shall terminate on June 30, 2019.

(1)(D)(iv) The Justice Court Standards Committee shall terminate on June 30, 2014.

(1)(D)(v) The Judicial Branch Education Committee shall terminate on June 30, 2020.

(1)(D)(vi) The Court Facility Planning Committee shall terminate on June 30, 2015.

(1)(D)(vii) The Committee on Children and Family Law shall terminate on June 30, 2017.

(1)(D)(viii) The Committee on Judicial Outreach shall terminate on June 30, 2016.

(1)(D)(ix) The Committee on Resources for Self-represented Parties shall terminate on June 30, 2016.

(1)(D)(x) The Language Access Committee shall terminate on June 30, 2017.

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

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

(3) General provisions.

(3)(A) Appointment process.

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

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

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

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

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

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

(3)(B) Terms. Except as otherwise provided in this rule, standing committee members shall serve staggered three year terms. Standing committee members shall not serve more than two consecutive

146 terms on a committee unless the Council determines that exceptional circumstances exist which
147 justify service of more than two consecutive terms.
148 (3)(C) Members of standing and ad hoc committees may receive reimbursement for actual and
149 necessary expenses incurred in the execution of their duties as committee members.
150 (3)(D) The Administrative Office shall serve as secretariat to the Council's committees.

Rule 3-201. Court commissioners.

Intent:

To define the role of court commissioner.

To establish a term of office for court commissioners.

To establish uniform administrative policies governing the qualifications, appointment, supervision, discipline and removal of court commissioners.

To establish uniform administrative policies governing the salaries, benefits and privileges of the office of court commissioner.

Applicability:

This rule shall apply to all trial courts of record.

Statement of the Rule:

(1) Definition. Court commissioners are quasi-judicial officers established by the Utah Code.

(2) Qualifications.

(A) Court commissioners must be at least 25 years of age, United States citizens, Utah residents for three years preceding appointment and residents of Utah while serving as commissioners. A court commissioner shall reside in a judicial district the commissioner serves.

(B) Court commissioners must be admitted to practice law in Utah and exhibit good character. Court commissioners must possess ability and experience in the areas of law in which the court commissioner serves.

(C) Court commissioners shall serve full time and shall comply with Utah Code Section 78A-2-221.

(3) Appointment - Oath of office.

(A) Selection of court commissioners shall be based solely upon consideration of fitness for office.

(B) When a vacancy occurs or is about to occur in the office of a court commissioner, the Council shall determine whether to fill the vacancy. The Council may determine that the court commissioner will serve more than one judicial district.

(C) A committee for the purpose of nominating candidates for the position of court commissioner shall consist of one judge from each court that the commissioner will serve, three lawyers, and two members of the public. Committee members shall be appointed by the presiding judge of the district court of each judicial district. The committee members shall serve three year terms, staggered so that not more than one term of a member of the bench, bar, or public expires during the same calendar year. The presiding judge shall designate a chair of the committee. All members of the committee shall reside in the judicial district. All members of the committee shall be voting members. A quorum of one-half the committee members is necessary for the committee to act. The committee shall act by the concurrence of a majority of the members voting. When voting upon the qualifications of a candidate, the committee shall follow the voting procedures of the judicial nominating commissions.

(D) If the commissioner will serve more than one judicial district, the presiding judges of the districts involved shall select representatives from each district's nominating committee to form a joint nominating committee with a size and composition equivalent to that of a district committee.

(E) No member of the committee may vote upon the qualifications of any candidate who is the spouse of that committee member or is related to that committee member within the third degree of relationship. No member of the committee may vote upon the qualifications of a candidate who is associated with that committee member in the practice of law. The committee member shall declare to the committee any other potential conflict of interest between that member and any candidate as soon as the member becomes aware of the potential conflict of interest. The committee shall determine whether the potential conflict of interest will preclude the member from voting upon the qualifications of any candidate. The committee shall record all declarations of potential conflicts of interest and the decision of the committee upon the issue.

(F) The administrative office of the courts shall advertise for qualified applicants and shall remove from consideration those applicants who do not meet minimum qualifications of age, citizenship, residency, and admission to the practice of law. The administrative office of the courts shall develop uniform guidelines for the application process for court commissioners.

(G) The nominating committee shall review the applications of qualified applicants and may investigate the qualifications of applicants to its satisfaction. The committee shall interview selected applicants and select the three best qualified candidates. The committee shall receive public comment on those candidates as provided in paragraph (4).

(H) When the public comment period has closed, the comments shall go to the nominating committee. If any comments would negatively affect the committee's decision on whether to recommend a candidate, the candidate shall be given notice and an opportunity to respond to the comments. If the committee decides not to recommend a candidate based on the comments, the committee shall select another candidate from the interviewed applicants and again receive public comment on the candidates as provided in paragraph (4).

(I) The chair of the nominating committee shall present the names, applications, and the results of background investigations of the nominees to the judges of the courts the court commissioner will serve. The committee may indicate its order of preference.

(HJ) The judges of the courts the court commissioner will serve shall select one of the nominees by a concurrence of a majority of judges voting. The concurrence of each court independent of the others is necessary for selection.

(IK) The presiding judge of the district court of the district the court commissioner will primarily serve shall present the name of the selected candidate to the Council. The selection shall be final upon the concurrence of two-thirds of the members of the Council. The Council shall vote upon the selection within 45 days of the selection or the concurrence of the Council shall be deemed granted.

(JL) If the Council does not concur in the selection, the judges of the district may select another of the nominees or a new nominating process will be commenced.

(KM) The appointment shall be effective upon the court commissioner taking and subscribing to the oath of office required by the Utah Constitution and taking any other steps necessary to qualify for office. The court commissioner shall qualify for office within 45 days after the concurrence by the Council.

(4) Public comment for appointment and retention.

(A) Final candidates for appointment and court commissioners who are up for retention shall be subject to public comment.

(B) For final candidates, the nominating committee shall be responsible for giving notice of the public comment period.

(C) For court commissioners, the district in which the commissioner serves shall be responsible for giving notice of the public comment period.

(D) The nominating committee or district in which the commissioner serves shall:

(i) email notice to each active member of the Utah State Bar including the names of the nominees or court commissioner with instructions on how to submit comments;

(ii) publish the names of the nominees or court commissioner with instructions on how to submit comments in a newspaper of general circulation; and

(iii) allow at least 10 days for public comment.

(E) Individuals who comment on the nominees or commissioners should be encouraged, but not required, to provide their names and contact information.

(F) The comments are classified as protected court records and shall not be made available to the public.

(45) Term of office. The court commissioner shall be appointed until December 31 of the third year following concurrence by the Council. At the conclusion of the first term of office and each subsequent term, the court commissioner shall be retained for a term of four years unless the judges of the courts the commissioner serves remove the commissioner in accordance with paragraph (6)(C). The term of office of court commissioners holding office on April 1, 2011 shall end December 31 of the year in which their term would have ended under the former rule.

(5) Performance evaluation and public comments.

(A) The presiding judge of the district shall prepare an evaluation of the commissioner's performance on an annual basis, on forms provided by the administrative office. The presiding judge shall provide copies of the evaluation to the Judicial Council. A copy of the performance plan and any subsequent evaluation shall be maintained in the official personnel file in the administrative office. Court commissioners shall comply with the program for judicial performance evaluation, including any recommendations made in the evaluation.

(B) When the public comment period has closed, the comments shall go to the presiding judge in the district in which the commissioner serves. If any comments would negatively affect the presiding judge's

decision on whether to discipline or remove the commissioner from office, the commissioner shall be given notice and an opportunity to respond to the comments.

(6) Removal and sanctions.

(A) If the commissioner's performance is not satisfactory, the presiding judge, with the concurrence of the judges of that jurisdiction, may discipline the commissioner or remove the commissioner from office. If the commissioner disagrees with the presiding judge's decision, the commissioner may request a review of the decision by the Management Committee of the Council.

(B) The court commissioner may be removed by the Council:

(i) as part of a reduction in force;

(ii) for failure to meet the evaluation and certification requirements; or

(iii) as the result of a formal complaint filed under CJA Rule 3-201.02 upon the concurrence of two-thirds of the Council.

(C) The court commissioner may be removed without cause by the judges of the courts the commissioner serves at the conclusion of a term of office. Removal under this paragraph shall be by the concurrence of a majority of all judges of the courts the commissioner serves. A decision to remove a commissioner under this paragraph shall be communicated to the commissioner within a reasonable time after the decision is made, and not less than 30 days prior to termination.

(D) The court commissioner may be sanctioned by the Council as the result of a formal complaint or by the presiding judge or judges of the courts the commissioner serves. Sanctions may include but are not limited to private or public censure, restrictions in case assignments, mandatory remedial education, suspension for a period not to exceed 60 days, and reduction in salary.

(7) Salaries and benefits.

(A) The Council shall annually establish the salary of court commissioners. In determining the salary of the court commissioners, the Council shall consider the effect of any salary increase for judges authorized by the Legislature and other relevant factors. Except as provided in paragraph (6), the salary of a commissioner shall not be reduced during the commissioner's tenure.

(B) Court commissioners shall receive annual leave of 20 days per calendar year and the same sick leave benefits as judges of the courts of record. Annual leave not used at the end of the calendar year shall not accrue to the following year. A commissioner hired part way through the year shall receive annual leave on a pro-rated basis. Court commissioners shall receive the same retirement benefits as non-judicial officers employed in the judicial branch.

(8) Support services.

(A) Court commissioners shall be provided with support personnel, equipment, and supplies necessary to carry out the duties of the office as determined by the presiding judge.

(B) Court commissioners are responsible for requesting necessary support services from the presiding judge.

~~Rule 4-502. Expedited procedures for resolving discovery issues.~~

~~Intent:~~

~~To further the just, speedy, and inexpensive determination of civil actions.~~

~~Applicability:~~

~~This rule shall apply to motions and stipulations for extraordinary discovery, motions to compel discovery and motions for a discovery protective order in the district court.~~

~~Statement of the Rule:~~

~~(1) In all cases counsel shall:~~

~~(1)(A) Promptly notify the court of any stipulations for extraordinary discovery entered pursuant to Rule 26(c)(6)(A), including notice to the court of any stipulations that extend the presumptive deadlines set forth in Rule 26(c)(6). Stipulations shall be prepared on or substantially comply with the form accompanying this rule.~~

~~(1)(B) Promptly notify the court of any settlements or stipulations in the case, particularly where such settlements or stipulations may affect a pending motion or trial date.~~

~~(2) The parties shall do the following before filing with the court any discovery motion, including a Motion for Extraordinary Discovery under Utah R. Civ. P. 26(c)(6)(B), Motion to Compel under Utah R. Civ. P. 37, or Motion for Protective Order under Utah R. Civ. P. 37:~~

~~(2)(A) Meet and confer regarding the issues, in person or by telephone, and attempt in good faith to resolve or narrow the issues without court involvement.~~

~~(2)(B) File and serve on all parties a "Statement of Discovery Issues", in a form consistent with the requirements of Rule 10. The statement shall not exceed four pages and shall not include exhibits. The statement should contain at least the following:~~

~~(2)(B)(i) the precise relief sought;~~

~~(2)(B)(ii) the basis or reason for the relief sought;~~

~~(2)(B)(iii) a statement regarding proportionality under Utah R. Civ. P. 26(b)(2); and~~

~~(2)(B)(iv) a statement in compliance with Rule 26(c)(6), if applicable; and~~

~~(2)(B)(v) a certification stating that the parties have met and conferred regarding the issues and attempted in good faith to resolve or narrow the issues without court involvement.~~

~~The party shall also file and circulate in accordance with the requirements of Utah Rule of Civil Procedure 7(f)(2) a separate proposed form of Order consistent with the relief sought.~~

~~(2)(C) Within five days following service of the "Statement of Discovery Issues", any party objecting to the relief sought may file and serve a "Statement in Opposition" in a form consistent with the requirements of Rule 10. The opposition shall not exceed four pages and shall not include exhibits. The opposition should briefly address pertinent issues raised in the statement. The party shall also file a separate proposed form of Order consistent with the relief sought. The parties' written submissions will be docketed and placed in the court file.~~

37 ~~(2)(D) Upon filing the opposition, or expiration of the time for doing so, either party may, and the party~~
38 ~~seeking relief shall, file with the court a Request to Submit for Decision under Utah R. Civ. P. 7(d).~~

39 ~~(2)(E) The court will promptly set a telephone conference to discuss the matter, and will advise the~~
40 ~~parties by email or telephone of the date and time for the conference. The court reserves the right to~~
41 ~~decide the issue(s) without a telephone conference if it determines that a conference is unnecessary, and~~
42 ~~in its discretion, may require the appearance of counsel and/or the parties in lieu of a telephone~~
43 ~~conference.~~

44 ~~(2)(F) The court will resolve most if not all discovery issues during or in advance of the phone~~
45 ~~conference. The court anticipates that no discovery motions will be necessary, but if appropriate, the~~
46 ~~court will use the telephone conference to set a briefing schedule for a motion addressing all unresolved~~
47 ~~issues together with a hearing date, if needed. In most circumstances, the court anticipates adopting one~~
48 ~~or the other of the proposed Orders.~~

49 ~~(3) If the discovery deadline passes and a Certificate of Readiness for Trial has not been filed, the~~
50 ~~court may at its discretion issue an order to show cause why the case should not be dismissed. At that~~
51 ~~hearing, the court will dismiss the case without prejudice, order deadlines for specific actions to be taken,~~
52 ~~or set a trial date. If actions are not completed as ordered, the matter may be dismissed without further~~
53 ~~notice. If parties wish to stay proceedings, they should file an appropriate motion during the pendency of~~
54 ~~the case deadlines.~~

55 ~~Stipulation for Extraordinary Discovery —~~ PDF | Word

Rule 4-603. Mandatory electronic filing.

Intent:

To require that documents in district court criminal cases be filed electronically.

To provide for exceptions.

Applicability:

This rule applies in the district court.

Statement of the Rule:

(1) Except as provided in Paragraph (2), pleadings and other papers filed in criminal cases in the district court on or after March 31, 2014 shall be electronically filed using the electronic filer's interface.

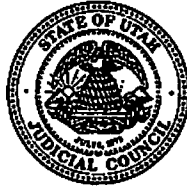
(2)(A) A self-represented party who is not a lawyer may file pleadings and other papers using any means of delivery permitted by the court.

(2)(B) A lawyer whose request for a hardship exemption from this rule has been approved by the Judicial Council may file pleadings and other papers using any means of delivery permitted by the court. To request an exemption, the lawyer shall submit a the-written request outlining why the exemption is necessary to the District Court Administrator ~~Judicial Council's General Counsel on a form approved by the Judicial Council.~~

(2)(C) The Information may be filed using any means of delivery permitted by the court until January 1, 2015, at which time it shall be electronically filed using the electronic filer's interface.

(3) The electronic filer shall be an attorney of record and shall use a unique and personal identifier that is provided by the filer's service provider.

TAB 5



Chief Justice Matthew B. Durrant
Chair, Utah Judicial Council

MEMORANDUM

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

To: Judicial Council Management Committee
From: Courts Facility Planning Committee
Date: July 28, 2015
Re: Courts Facility Planning Committee Membership

This memo is requesting approval of Justice Court Judge Jon Carpenter to replace Justice Courts Judge Stephen Stream on the Court Facility Planning Committee. Judge Carpenter has expressed his interest in serving on the committee. Judge Carpenter is the Carbon County Justice Court Judge, and he is interested in the proposed new court facility in Carbon County.

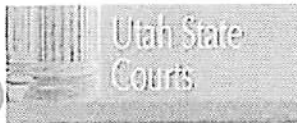
The term for this position is three years and is limited to two terms of service.

I have attached Judge Carpenter's email response to this memo.

Thank you for your consideration.

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

450 South State Street / P.O. Box 140241 / Salt Lake City, Utah 84114-0241 / 801-578-3819 / Fax: 801-578-3843



Alyn Lunceford <alynl@utcourts.gov>

Fwd: Judicial Council Facilities Standing Committee

1 message

Rick Schwermer <ricks@utcourts.gov>
To: Alyn Lunceford <alynl@utcourts.gov>

Fri, Jun 19, 2015 at 12:49 PM

Here's the only name I got.

----- Forwarded message -----

From: **Judge Jon Carpenter** <jcarpenter@utcourts.gov>
Date: Wed, May 20, 2015 at 11:16 AM
Subject: Re: Judicial Council Facilities Standing Committee
To: Rick Schwermer <ricks@utcourts.gov>

Rick,

I am interested in the opportunity to serve on this committee. Please let me know if I need to take any further steps.

Thanks,

Jon

On May 11, 2015 11:19 AM, "Rick Schwermer" <ricks@utcourts.gov> wrote:

There will be a vacancy on this Judicial Council Standing Committee this fall. The Council is seeking a justice court judge to serve a three year term.

The committee meets four or five times per year, on Fridays at noon. It is a very small committee so we need someone that can attend all the meetings. Judge Stream, whose term is expiring, will attend the July meeting so the first meeting for the new justice court representative will be on November 13.

This committee identifies state facility needs and develops long term plans for facility management. If you have an interest please email me in the next few weeks. Thanks!

--

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

--

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

MEMORANDUM

TO: Management Committee

FROM: Ray Wahl, Staff, Standing Committee on Children and Family Law

RE: Committee Appointments

DATE: July 22, 2015

The terms of two members of the Standing Committee on Children and Family Law expired in May of 2015; Judge Douglas Thomas and Adam Caldwell. Both have served two terms on the committee. Rule 1-301 (3)(B) allows for a person to serve more than two consecutive terms on a committee if the Council determines "that exceptional circumstances exist which justify service of more than two consecutive terms". The committee thinks those exceptional circumstances exist for the following reasons:

- In the case of Judge Thomas, his leadership has moved the amendment of Rules 101, 109, and 4-903. Some of these rules will be vetted by the Supreme Court or Rules of Civil Procedure in the near future. Judge Thomas possesses the institutional knowledge about changes to these rules and has been a strong advocate for their amendment with the Family Law Section of the Bar. The Committee feels that the chair should see to closure these rule changes without interruption.
- In the case of Adam Caldwell, he chairs the subcommittee that has worked on changes to Rule 4-903 for over 3 years. The rule has been vetted by the Family Law Section of the Bar, he has made presentations to the Bar about the rule change, and the Rules of Civil Procedure will soon take up the changes. The committee feels it would be important for the chair of the subcommittee to continue to serve and see the rule change to closure.

Feel free to contact Judge Lyman, the co-chair of the committee or Ray Wahl for further explanation about the exceptional circumstances.

Cc: Judge Douglas Thomas

Judge Paul Lyman

TAB 6



Administrative Office of the Courts

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

MEMORANDUM

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

To: Judicial Council
From: Alison Adams-Perlac *Alison Adams-Perlac*
Date: August 10, 2015
Re: Rules for Public Comment

The Policy and Planning Committee recommends the following amendments to rule 4-202.02 of the Utah Code of Judicial Administration for public comment. If no concerns are raised, the proposed amendments will be published for comment and will be subject to change after the comment period.

CJA 4-202.02. Records classification. Amend. Deletes maiden name and mother's maiden name from the lists of private and safeguarded information. Classifies juvenile court mediation disposition notices as juvenile court social records. Exempts information required by Utah Court section 78A-6-304(4) from being classified as safeguarded.

Court services recommended that maiden name and mother's maiden name no longer be classified as private and safeguarded information since this information is required by the Office of Vital Statistics to be in a paternity decree so that a birth certificate may be issued. This information was originally included in the rule to deter identity theft. However, more recent identity authentication programs ask for more obscure information such as first childhood pet, etc.

The Court Mediation Program requested that the juvenile court mediation disposition notices be classified so that they have some protection. The Legal Department recommended that the notices be classified as Juvenile Court Social

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

450 South State Street / P.O. Box 140241 / Salt Lake City, Utah 84114-0241 / 801-578-3821 / Fax: 801-578-3843 / email: alisonap@utcourts.gov

Amendments to the Utah Code of Judicial Administration Recommended for
Public Comment
August 10, 2015
Page 2

Records, since they are not yet incorporated into an order. The Legal Department recommended exempting the information required by Utah Code section 78A-6-304(4) from the safeguarded classification, since it is required to be included in child welfare petitions by statute.

Encl. CJA 4-202.02

Rule 4-202.02. Records classification.

Intent:

To classify court records as public or non-public.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) Court records are public unless otherwise classified by this rule.

(2) Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) arrest warrants, but a court may restrict access before service;

(2)(D) audit reports;

(2)(E) case files;

(2)(F) committee reports after release by the Judicial Council or the court that requested the study;

(2)(G) contracts entered into by the judicial branch and records of compliance with the terms of a contract;

(2)(H) drafts that were never finalized but were relied upon in carrying out an action or policy;

(2)(I) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;

(2)(J) financial records;

(2)(K) indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:

(2)(K)(i) amount in controversy;

(2)(K)(ii) attorney name;

(2)(K)(iii) case number;

(2)(K)(iv) case status;

(2)(K)(v) civil case type or criminal violation;

(2)(K)(vi) civil judgment or criminal disposition;

(2)(K)(vii) daily calendar;

(2)(K)(viii) file date;

(2)(K)(ix) party name;

(2)(L) name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;

(2)(M) name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;

(2)(N) name, business address, business telephone number, and business email address of a lawyer appearing in a case;

(2)(O) name, business address, business telephone number, and business email address of court personnel other than judges;

(2)(P) name, business address, and business telephone number of judges;

(2)(Q) name, gender, gross salary and benefits, job title and description, number of hours worked per pay period, dates of employment, and relevant qualifications of a current or former court personnel;

(2)(R) unless classified by the judge as private or safeguarded to protect the personal safety of the juror or the juror's family, the name of a juror empaneled to try a case, but only 10 days after the jury is discharged;

(2)(S) opinions, including concurring and dissenting opinions, and orders entered in open hearings;

(2)(T) order or decision classifying a record as not public;

(2)(U) private record if the subject of the record has given written permission to make the record public;

(2)(V) probation progress/violation reports;

(2)(W) publications of the administrative office of the courts;

(2)(X) record in which the judicial branch determines or states an opinion on the rights of the state, a political subdivision, the public, or a person;

(2)(Y) record of the receipt or expenditure of public funds;

(2)(Z) record or minutes of an open meeting or hearing and the transcript of them;

(2)(AA) record of formal discipline of current or former court personnel or of a person regulated by the judicial branch if the disciplinary action has been completed, and all time periods for administrative appeal have expired, and the disciplinary action was sustained;

(2)(BB) record of a request for a record;

(2)(CC) reports used by the judiciary if all of the data in the report is public or the Judicial Council designates the report as a public record;

(2)(DD) rules of the Supreme Court and Judicial Council;

(2)(EE) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40;

(2)(FF) statistical data derived from public and non-public records but that disclose only public data;

(2)(GG) Notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the delinquency history summary of the person are public records. The delinquency history summary shall contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses.

(3) The following court records are sealed:

(3)(A) records in the following actions:

- 74 (3)(A)(i) Title 78B, Chapter 6, Part 1, Utah Adoption Act six months after the conclusion of
75 proceedings, which are private until sealed;
- 76 (3)(A)(ii) Title 78B, Chapter 15, Part 8, Gestational Agreement, six months after the conclusion of
77 proceedings, which are private until sealed; and
- 78 (3)(A)(iii) Title 76, Chapter 7, Part 3, Consent required for abortions performed on minors;
- 79 (3)(B) expunged records;
- 80 (3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section
81 77-23a-15;
- 82 (3)(D) records showing the identity of a confidential informant;
- 83 (3)(E) records relating to the possession of a financial institution by the commissioner of financial
84 institutions under Utah Code Section 7-2-6;
- 85 (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
- 86 (3)(G) records designated as sealed by rule of the Supreme Court;
- 87 (3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal
88 proceedings; and
- 89 (3)(I) other records as ordered by the court under Rule 4-202.04.
- 90 (4) The following court records are private:
- 91 (4)(A) records in the following actions:
- 92 (4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;
- 93 (4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System database;
- 94 (4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed;
- 95 (4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed; and
- 96 (4)(B) records in the following actions, except that the case history; judgments, orders and decrees;
97 letters of appointment; and the record of public hearings are public records:
- 98 (4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations orders, except that an
99 action for consortium due to personal injury under Section 30-2-11 is public;
- 100 (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;
- 101 (4)(B)(iii) Title 75, Chapter 5, Protection of Persons under Disability and their Property;
- 102 (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;
- 103 (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;
- 104 (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;
- 105 (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;
- 106 (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and
- 107 (4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);
- 108 (4)(C) aggregate records other than public aggregate records under subsection (2);
- 109 (4)(D) alternative dispute resolution records;
- 110 (4)(E) applications for accommodation under the Americans with Disabilities Act;

- 111 (4)(F) citation, but an abstract of a citation that redacts all non-public information is public;
- 112 (4)(G) judgment information statement;
- 113 (4)(H) judicial review of final agency action under Utah Code Section 62A-4a-1009;
- 114 (4)(I) the following personal identifying information about a party: driver's license number, social
115 security number, account description and number, password, identification number, ~~maiden name and~~
116 ~~mother's maiden name~~, and similar personal identifying information;
- 117 (4)(J) the following personal identifying information about a person other than a party or a victim or
118 witness of a crime: residential address, personal email address, personal telephone number; date of birth,
119 driver's license number, social security number, account description and number, password, identification
120 number, ~~maiden name~~, ~~mother's maiden name~~, and similar personal identifying information;
- 121 (4)(K) medical, psychiatric, or psychological records;
- 122 (4)(L) name of a minor, except that the name of a minor party is public in the following district and
123 justice court proceedings:
- 124 (4)(L)(i) name change of a minor;
- 125 (4)(L)(ii) guardianship or conservatorship for a minor;
- 126 (4)(L)(iii) felony, misdemeanor or infraction;
- 127 (4)(L)(iv) child protective orders; and
- 128 (4)(L)(v) custody orders and decrees;
- 129 (4)(M) personnel file of a current or former court personnel or applicant for employment;
- 130 (4)(N) photograph, film or video of a crime victim;
- 131 (4)(O) record of a court hearing closed to the public or of a child's testimony taken under URCrP 15.5:
- 132 (4)(O)(i) permanently if the hearing is not traditionally open to the public and public access does not
133 play a significant positive role in the process; or
- 134 (4)(O)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to
135 release the record without prejudice to the interests that justified the closure;
- 136 (4)(P) record submitted by a senior judge or court commissioner regarding performance evaluation
137 and certification;
- 138 (4)(Q) record submitted for in camera review until its public availability is determined;
- 139 (4)(R) reports of investigations by Child Protective Services;
- 140 (4)(S) victim impact statements;
- 141 (4)(T) name of a prospective juror summoned to attend court, unless classified by the judge as
142 safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;
- 143 (4)(U) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs
144 filed pursuant to court order;
- 145 (4)(V) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure;
- 146 (4)(W) an addendum to an appellate brief filed in a case involving:
- 147 (4)(W)(i) adoption;

(4)(W)(ii) termination of parental rights;
(4)(W)(iii) abuse, neglect and dependency;
(4)(W)(iv) substantiation under Section 78A-6-323; or
(4)(W)(v) protective orders or dating violence protective orders;
(4)(X) other records as ordered by the court under Rule 4-202.04.
(5) The following court records are protected:
(5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the courts concerning litigation, privileged communication between the courts and an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-judicial, or administrative proceeding;
(5)(B) records that are subject to the attorney client privilege;
(5)(C) bids or proposals until the deadline for submitting them has closed;
(5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;
(5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;
(5)(F) court security plans;
(5)(G) investigation and analysis of loss covered by the risk management fund;
(5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;
(5)(I) confidential business records under Utah Code Section 63G-2-309;
(5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:
(5)(J)(i) interfere with an investigation;
(5)(J)(ii) interfere with a fair hearing or trial;
(5)(J)(iii) disclose the identity of a confidential source; or
(5)(J)(iv) concern the security of a court facility;
(5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;
(5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;
(5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;
(5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation or parole;

- 185 (5)(O) record the disclosure of which would jeopardize life, safety or property;
- 186 (5)(P) strategy about collective bargaining or pending litigation;
- 187 (5)(Q) test questions and answers;
- 188 (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
- 189 (5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal
- 190 proceedings;
- 191 (5)(T) presentence investigation report; and
- 192 (5)(U) other records as ordered by the court under Rule 4-202.04.
- 193 (6) The following are juvenile court social records:
- 194 (6)(A) correspondence relating to juvenile social records;
- 195 (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse
- 196 evaluations, domestic violence evaluations;
- 197 (6)(C) mediation disposition notices;
- 198 (6)(D) medical, psychological, psychiatric evaluations;
- 199 (6)(~~DE~~) pre-disposition and social summary reports;
- 200 (6)(~~EE~~) probation agency and institutional reports or evaluations;
- 201 (6)(~~FG~~) referral reports;
- 202 (6)(~~GH~~) report of preliminary inquiries; and
- 203 (6)(~~HJ~~) treatment or service plans.
- 204 (7) The following are juvenile court legal records:
- 205 (7)(A) accounting records;
- 206 (7)(B) discovery filed with the court;
- 207 (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders,
- 208 decrees;
- 209 (7)(D) name of a party or minor;
- 210 (7)(E) record of a court hearing;
- 211 (7)(F) referral and offense histories
- 212 (7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.
- 213 (8) The following are safeguarded records:
- 214 (8)(A) upon request, location information, contact information and identity information other than
- 215 name of a petitioner and other persons to be protected in an action filed under Title 77, Chapter 3a,
- 216 Stalking Injunctions or Title 78B, Chapter 7, Protective Orders;
- 217 (8)(B) upon request, location information, contact information and identity information other than
- 218 name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party
- 219 or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform
- 220 Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family
- 221 Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;

222 (8)(C) location information, contact information and identity information of prospective jurors on the
223 master jury list or the qualified jury list;

224 (8)(D) location information, contact information and identity information other than name of a
225 prospective juror summoned to attend court;

226 (8)(E) except as required by Utah Code section 78A-6-304(4), the following information about a victim
227 or witness of a crime:

228 (8)(E)(i) business and personal address, email address, telephone number and similar information
229 from which the person can be located or contacted;

230 (8)(E)(ii) date of birth, driver's license number, social security number, account description and
231 number, password, identification number, ~~maiden name, mother's maiden name,~~ and similar personal
232 identifying information.

**ADDITIONAL COUNCIL
MEETING HANDOUTS**

JUSTICE COURT JUDGES' ORIENTATION

Orientation Dates: August 10-14, 2015

1. Full Name: BRIAN EDWARD BROWER
2. Home Address: 672 N. 4100 W.
WEST POINT, UT 84015
3. Home Phone Number: 801-840-2008
4. Date of Birth: 02-23-1968
5. Current Occupation: CLEARFIELD CITY ATTORNEY
6. Expected Part-Time Employment While Serving as Judge: _____
NOTHING LINED UP AT THIS TIME
PRIVATE PRACTICE (NOT CRIMINAL) POTENTIAL
7. Past Educational Background: BA-ENGLISH WEBER STATE
JD - UNIVERSITY OF UTAH
8. Previous Employment History: CLEARFIELD CITY ATTORNEY,
LAYTON CITY PROSECUTOR, MURRAY CITY
PROSECUTOR, DEPUTY WEBER COUNTY ATTORNEY

SCORE:	<u>85%</u>
BCI:	
CERT:	<u>485</u>

6. What parts of the Code of Judicial Conduct do not apply to part-time justice court judges?

All of the provisions are applicable to F/T & P/T judges.
conduct

7. Does a defendant who has been cited for speeding have a right to have a formal information filed if he so requests?

Yes.

8. What is the correct class of misdemeanor for the following offense?

"Any person willfully violating his written promise to appear in court, given as provided in this act is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested."

- a. Infraction
- b. Class C misdemeanor
- c. Class B misdemeanor
- d. Class A misdemeanor

misdemeanors w/ no prescribed punishment are class "B."

9. List four enhanceable offenses on which justice courts must maintain records of conviction.

DUI's

DV's

Theft

No Insurance

Poss. Drugs (marij./speed) or paraphernalia

10. Justice court judges are required to attend the Annual Spring Conference

- a. every year
- b. every four years
- c. whenever they feel that they need some additional judicial education
- d. every year if their municipality/county funds them to go

14. Can the trial court judge rely on defense counsel to inform the defendant of his rights and the consequences of his plea?

___ Yes ☒ No *ultimately, it is the Judges responsibility to make sure the D is informed & understands; however, a judge may have counsel assist w/ that process.*

15. Must an information or sworn statement always be filed prior to the issuance of a bench warrant?

___ Yes ☒ No *can issue for FTA on citation*

16. The standard for issuing a search warrant is:

- a. an articulable suspicion
- ☒ b. probable cause
- c. reasonable suspicion
- d. some evidence

17. A "no bail" warrant can:

- a. only be issued by a district court judge
 - ☒ b. never be issued by a justice court judge under any circumstances
 - ~~c.~~ be issued by a justice court judge if there is a strong reason to believe the defendant will not appear if released on bail
 - ~~d.~~ can be used in both misdemeanor and felony cases
- ~~both C and D~~

18. The maximum sentences for the following are:

Class B misdemeanor	Fine <u>\$500 \$1,000</u>	Jail <u>180 days</u>
Class C misdemeanor	Fine <u>\$750</u>	Jail <u>90 days</u>
Infractions	Fine <u>\$750</u>	Jail <u>0</u>

JUSTICE COURT JUDGES' ORIENTATION

Orientation Dates: 8/10 - 8/14

1. Full Name: Brook Jason Sessions
2. Home Address: 5321 W Elsmere Lane
Herriman UT 84096
3. Home Phone Number: 801-636-7422
4. Date of Birth: 12-15-66
5. Current Occupation: Attorney / Mediator
6. Expected Part-Time Employment While Serving as Judge: _____
Mediation
Bankruptcy debtor cases
7. Past Educational Background: Juris Doctor Univ. of Oregon
USU - Bachelors Business Finance
8. Previous Employment History: Brook Sessions PC

SCORE:	<u>85%</u>
BCI:	<u>No</u>
CERT:	<u>YES</u>

6. What parts of the Code of Judicial Conduct do **not** apply to part-time justice court judges? *The Code of Judicial Conduct applies to Justice Court Judges - Except that Justice Court judges retain a limited ability to practice law. - But not Prosecution, criminal defense or a few others.*
7. Does a defendant who has been cited for speeding have a right to have a formal information filed if he so requests? *Yes*

8. What is the correct class of misdemeanor for the following offense?

"Any person willfully violating his written promise to appear in court, given as provided in this act is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested."

- a. Infraction
b. Class C misdemeanor
☒ c. Class B misdemeanor
d. Class A misdemeanor
9. List four enhanceable offenses on which justice courts must maintain records of conviction.

*DUI
Theft
Possession
Domestic Violence*

10. Justice court judges are required to attend the Annual Spring Conference
- ☒ a. every year
b. every four years
c. whenever they feel that they need some additional judicial education
d. every year if their municipality/county funds them to go

14. Can the trial court judge rely on defense counsel to inform the defendant of his rights and the consequences of his plea?

___ Yes ☒ No

15. Must an information or sworn statement always be filed prior to the issuance of a bench warrant?

___ Yes ☒ No

16. The standard for issuing a search warrant is:

- a. an articulable suspicion
- ☒ b. probable cause
- c. reasonable suspicion
- d. some evidence

17. A "no bail" warrant can:

- ☒ a. only be issued by a district court judge
 - b. never be issued by a justice court judge under any circumstances
 - c. be issued by a justice court judge if there is a strong reason to believe the defendant will not appear if released on bail
 - d. can be used in both misdemeanor and felony cases
- both C and D

18. The maximum sentences for the following are:

Class B misdemeanor	Fine <u>\$1,000</u>	Jail <u>6 months</u>	<u>180 days</u>
Class C misdemeanor	Fine <u>\$750</u>	Jail <u>3 months</u>	<u>90 days</u>
Infractions	Fine <u>\$750</u>	Jail <u>/</u>	<u>N/A</u>

JUSTICE COURT JUDGES' ORIENTATION

Orientation Dates: Aug. 10-14

1. Full Name: Cyndee Celeste Probert
2. Home Address: 195 South 100 West PO Box 560148
Scipio UT 84656
3. Home Phone Number: 435-758-9109
4. Date of Birth: 08-13-81
5. Current Occupation: Homemaker
6. Expected Part-Time Employment While Serving as Judge: _____

7. Past Educational Background: High School - Lone Peak - 1999
SU - 1999 - 2000
American Institute for Medical Assisting - 2000 - 2001
8. Previous Employment History: Millard Co. Deputy Auditor - 2001-2004
Millard Co. Court Clerk - 2004-2007
Fillmore City Court Clerk - 2004-2010

SCORE:	<u>80%</u>
BCI:	<u>No Connections, warrants, P.O.s</u> <u>showing as of 8/14/15</u> <u>Adelphi</u>
CERT:	<u>YES</u>

6. What parts of the Code of Judicial Conduct do **not** apply to part-time justice court judges?

All parts apply whether full or part time

7. Does a defendant who has been cited for speeding have a right to have a formal information filed if he so requests?

yes

8. What is the correct class of misdemeanor for the following offense?

"Any person willfully violating his written promise to appear in court, given as provided in this act is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested."

- a. Infraction
- ☒ b. Class C misdemeanor
- c. Class B misdemeanor
- d. Class A misdemeanor

9. List four enhanceable offenses on which justice courts must maintain records of conviction.

DUI
Domestic Violence
possession of drugs
Theft

10. Justice court judges are required to attend the Annual Spring Conference

- ☒ a. every year
- b. every four years
- c. whenever they feel that they need some additional judicial education
- d. every year if their municipality/county funds them to go

14. Can the trial court judge rely on defense counsel to inform the defendant of his rights and the consequences of his plea?

___ Yes X No

15. Must an information or sworn statement always be filed prior to the issuance of a bench warrant?

___ Yes X No

16. The standard for issuing a search warrant is:

- a. an articulable suspicion
- b. probable cause
- c. reasonable suspicion
- d. some evidence

17. A "no bail" warrant can:

- a. only be issued by a district court judge
 - b. never be issued by a justice court judge under any circumstances
 - c. be issued by a justice court judge if there is a strong reason to believe the defendant will not appear if released on bail
 - d. can be used in both misdemeanor and felony cases
- both C and D

18. The maximum sentences for the following are:

Class B misdemeanor Fine 1,000 Jail 180 days

Class C misdemeanor Fine 750 Jail 90 days

Infractions Fine 750 Jail None



FY 2016 Proposed Additional Carry Forward Plan--September 2015

One-time Spending Plan Proposal					
#	Available One-time Funding	Funding Type	Amount	#	Proposed One-time Spending Plan
1	Additional Carry Forward Identified and Available After Fiscal Year 2015 Closing	Internal Savings	408,000	1	Start CORIS Rewrite Project in FY 2016 -- Authorized by the Judicial Council at the August Council Meeting
				2	Data Wiring & Installation Costs Associated with Credit Card Machines Authorized Last FY by the Judicial Council
				3	Courtroom Technology, Remote Services
				4	Additional Reserve (Will Increase Reserve to \$260,848)
					Amount
					208,000
					40,000
					100,000
					60,000
Total Available One-time Funds			\$ 408,000	Total One-time Expenditures	
				\$ 408,000	

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