

## JUDICIAL COUNCIL MEETING

### AGENDA

**Monday, January 25, 2016**

**Judicial Council Room**

**Matheson Courthouse**

**Salt Lake City, Utah**

*Chief Justice Matthew B. Durrant, Presiding*

1. 9:30 a.m. Welcome & Approval of Minutes . . . . Chief Justice Matthew B. Durrant  
(Tab 1 - Action)
2. 9:35 a.m. Chair's Report. . . . . Chief Justice Matthew B. Durrant
3. 9:40 a.m. Administrator's Report. . . . . Daniel J. Becker
4. 9:50 a.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. 10:00 a.m. Rules for Final Action. . . . . Alison Adams-Perlac  
(Tab 3 – Action)
6. 10:15 a.m. Legislative Update and Interim Highlights. . . . . Rick Schwermer  
(Information)
7. 10:25 a.m. Board of Juvenile Court Judges Update. . . . . Judge Paul Lyman  
(Information) Dawn Marie Rubio
8. 10:45 a.m. Model Utah Civil Jury Instruction Amendments. . . . . Nancy Sylvester  
(Tab 4 – Action)
- 10:50 a.m. Break
9. 11:05 a.m. Judicial Performance Evaluation Commission (JPEC)  
Update. . . . . Joanne Slotnik  
(Information)
10. 11:25 a.m. Fifth District Mental Health Court of Iron County  
Application. . . . . Rick Schwermer  
(Tab 5 – Action)

11. 11:35 a.m. Naples City Justice Court Resolution. . . . .Rick Schwermer  
(Tab 6 – Action)
12. 11:40 a.m. North Salt Lake Justice Court Proposed Inter-  
Local Agreement. . . . .Rick Schwermer  
(Tab 7 – Action)
13. 11:45 a.m. Justice Court Judge Certification. . . . .Rick Schwermer  
(Tab 8 – Action)
14. 11:50 a.m. FY 2016 Spending Plan Amendment. . . . .Daniel J. Becker  
(Action)
15. 12:00 p.m. 2016 Council Meeting Date Revisions. . . . .Daniel J. Becker  
(Tab 9 – Action)
16. 12:05 p.m. Presentation on Jury Trials in District Court and  
Six-Month Filing Trends. . . . .Kim Allard  
(Information) Tucker Samuelson
17. 12:35 p.m. Executive Session
- 12:40 p.m. Lunch
18. 1:10 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. Rules for Public Comment  
(Tab 10) Alison Adams-Perlac
2. Committee Appointment  
(Tab 11) Tim Shea

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Note: Chief Justice Durrant will deliver his *State of the Judiciary Address* to the Legislature beginning at 2:00 p.m.

Transportation to the Capitol will be provided for Council members able to attend, and it will leave immediately following the Council meeting.

**TAB 1**

# JUDICIAL COUNCIL MEETING

## Minutes

Monday, December 14, 2015

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

**Chief Justice Matthew B. Durrant, Presiding**

### **ATTENDEES:**

Chief Justice Matthew B. Durrant  
Justice Thomas Lee  
Hon. Marvin Bagley  
Hon. Paul Farr  
Hon. Thomas Higbee  
Hon. David Marx  
Hon. David Mortensen  
Hon. Mary Noonan  
Hon. Reed Parkin (by phone)  
Hon. Randall Skanchy  
Hon. Kate Toomey  
John Lund, esq.

### **ESCUSED:**

Hon. Ann Boyden  
Hon. Mark DeCaria

### **STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Jody Gonzales  
Debra Moore  
Dawn Marie Rubio  
Rick Schwermer  
Tim Shea  
Alison Adams-Perlac  
Jason Ralston  
Nini Rich  
Nancy Sylvester

### **GUESTS:**

Justice Deno Himonas  
Hon. Royal Hansen  
Hon. James Blanch  
Hon. Elizabeth Hruby-Mills  
Ms. Juli Blanch  
Ms. Jessica Miller, SL Tribune

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 November 23, 2015 Judicial Council meeting. Judge Higbee seconded the motion, and it passed unanimously.

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

Chief Justice Durrant had nothing new to report.

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

Mr. Becker reported on the following items:

Council Photo. Copies of the Council photo were distributed to members of the Council.  
Governor's FY 2017 Budget Recommendations. The Governor's FY 2017 budget recommendations were released last week. All budget requests submitted by the courts were addressed in his recommendations.

Revenue Projections. The State's revenue projections were released last week. The breakdown of one-time and ongoing funding was provided, noting that the majority of new funding will be in the Education fund.

Mandatory E-Filing in Juvenile Court. The effective date for mandatory e-filing in juvenile court was December 1 with no major issues resulting from it.

Judicial Retirement. Judge Charlene Barlow has announced her upcoming retirement, effective July 1, 2016.

Court Security Director. Ms. Carol Price has submitted her resignation, effective December 31, to pursue other interests. Mr. Wahl will be the contact person in the interim.

State of the State Courts Poll. The findings from the State of the State Courts poll, conducted by the National Center for State Courts, were briefly reviewed by Mr. Becker.

Legislative Update. Mr. Schwermer highlighted the following in his legislative update: 1) bills are being filed for the 2016 Legislative Session, and 2) proposed legislation that would amend the Utah Constitution relative to judges of courts not of record, requiring them to be practicing attorneys.

Discussion took place.

#### **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 November. The Liaison Committee will meet following today's Council meeting.

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

Judge Parkin reported on the following items: 1) a meeting was held with many rules being discussed and reviewed, and 2) two rules will be considered later on the agenda for final action relative to pre-trial release and supervision.

##### ***Bar Commission Report:***

Mr. Lund reported on the following items: 1) the Utah Bar Foundation and management of the Interest on Lawyer Trust Accounts (IOLTA) as it relates to funding sources used to provide legal aid to those who cannot afford legal services, and 2) discussion of the attorney referral program by the Management Committee for requested posting on the court's website as it relates to access to justice.

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

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

The Policy and Planning Committee recommended final action be taken on the following two rules relative to creation of a Standing Committee on Pretrial Release and Supervision: 1) CJA 1-205 – Standing and ad hoc committees, and 2) Rule CJA 3-116 – Pretrial Release and Supervision Committee.

Discussion took place relative to who should be included in the membership of the committee.

**Motion:** Judge Skanchy moved to approve the proposed amendments to Rule CJA 1-205 – Standing and ad hoc committees as recommended by the Policy and Planning Committee, on an expedited basis. Judge Toomey seconded the motion, and it passed unanimously.

**Motion:** Judge Skanchy moved to approve Rule CJA 3-116 – Pretrial Release and Supervision Committee as recommended by the Policy and Planning Committee, on an expedited basis. Judge Toomey seconded the motion, and it passed unanimously.

**6. OPEN AND PUBLIC MEETING LAW ORIENTATION: (Alison Adams-Perlac)**

Ms. Adams-Perlac provided annual training on the Open and Public Meetings Act, to Council members, as required by Rule 2-103 and 2-104. She highlighted the following: 1) intent of Rule 2-103 is to establish procedures consistent with the philosophy of the Utah Open and Public Meetings Act; 2) requires the Administrative Office of the Courts to provide annual training to Council members; 3) the Council meetings must be open unless they are closed in the right way for the right reason; 4) what a meeting is; 5) public notice must be given; 6) audio recording and minutes; 7) public access to the meeting; 8) closed meetings—how the meetings are closed, reasons for closing a meeting, and limits on decisions made in a closed meeting; and 9) access to meeting records.

**7. OVERVIEW AND USAGE OF THE COURTS WEBSITE: (Jason Ralston)**

Chief Justice Durrant welcomed Mr. Ralston to the meeting.

Mr. Ralston provided an overview of the usage of the courts website as tracked in July 2015. He highlighted the website statistics and trends to include the following: 1) statistics were tracked by Google Analytics; 2) measures were defined either as sessions or page views; 3) website totals by page views in July, 590,677; 4) website totals by sessions, 279,873; 5) reviewed the top 20 web pages visited; 6) reviewed the statistics of the top 20 web pages visited per page view; 7) grouped content; 8) self-help pages; 9) court calendars; 10) court rules; 11) court directory; 12) user locations; 13) mobile device usage; and 14) summary of the website statistic and trends.

Mr. Ralston mentioned that he and Ms. Lisa Crenshaw are responsible for updating the courts website.

Chief Justice Durrant thanked Mr. Ralston, as well as Ms. Crenshaw, for the work they do to continually keep the courts website updated.

**8. REPORT OF THE SUPREME COURT TASK FORCE TO EXAMINE LEGAL LIMITED LICENSING: (Justice Deno Himonas and Tim Shea)**

Chief Justice welcomed Justice Himonas and Mr. Shea to the meeting.

Justice Himonas highlighted the following in his report of the Supreme Court Task Force to Examine Limited Legal Licensing: 1) committee charge; 2) committee membership; 3) creation of a workgroup to evaluate the limited license legal technician program in place in Washington State; 4) creation of a workgroup to evaluate other emerging strategies, in existence, who address access to justice matters; 5) development of a white paper entitled *Non-Lawyer Legal Assistance Roles: Efficacy, Design and Implementation* by Mr. Tom Clarke, Director of Research and Technology for National Center for State Courts; 6) programs in existence nationally; 7) recommended title; 8) recommended practice areas; 9) recommended authority of the licensed paralegal practitioner; 10) recommended educational requirements; and 11) recommended licensing and other regulations.

The committee charge included the following: 1) examine emerging strategies and programs that authorize individuals to provide specific legal assistance in areas currently

restricted by licensed lawyers, and 2) recommend whether similar programs should be established in Utah.

Mr. Shea reviewed the recommendations as proposed by the task force included: 1) create a subset of discrete legal services that can be provided by a licensed paralegal practitioners in the three practice areas: a) temporary separation under Section 30-3-4.5, divorce, paternity, cohabitant abuse and civil stalking, custody and support and name change; b) eviction; and c) debt collection; 2) appoint a steering committee to plan, design, and implement the program details; 3) the Board of Bar Commissioners should implement, as soon as possible, the recommendations of its Futures Commission to develop an online lawyer directory and for increasing the use of discrete task legal services; 4) create a pilot program of assisted resolution of family law and/or debt collection cases involving self-represented parties; 5) continue to plan, design, and build an online dispute resolution application; and 6) request funding for expansion of the Self-Help Center.

Questions were asked concerning the reaction of Bar members to the proposed changes. Discussion took place.

Chief Justice Durrant thanked Justice Himonas for all the work and effort put into the recommendations provided by the task force.

**Motion:** Judge Skanchy moved to approve assignment to an ad hoc committee, those recommendations relating to case management by court commissioners. Justice Lee seconded the motion, and it passed unanimously.

#### **9. JUSTICE COURT RECERTIFICATIONS: (Rick Schwermer)**

The Board of Justice Court Judges proposed recertification of the municipal justice courts up for recertification in 2016, and including the following four courts with recommended waivers: 1) Gunnison – recommended a four-year waiver of the requirement for a secure cash box as all payments are received by the city treasurer, 2) Mantua – recommended a four-year waiver of the requirement for a six-inch riser as the current built-in four-inch riser is sufficient, 3) Providence – recommended a four-year waiver of the requirement for separate counsel tables as the current 10-foot long table provides adequate space and separation, and 4) Roy – recommended a waiver of the requirement for a dedicated courtroom. The court has preference in the use of the room, and the configuration is appropriate.

**Motion:** Judge Marx moved to approve the municipal justice courts up for recertification in 2016, which included granting the recommended waivers, for the following courts: 1) Gunnison, 2) Mantua, 3) Providence, and Roy. The motion was seconded and it passed unanimously.

#### **10. PROPOSED SENIOR JUDGE RULE CHANGE (Rule 3-103 – ADMINISTRATIVE ROLE OF JUDGES): (Daniel J. Becker)**

Mr. Becker reminded members of the Council that this matter was discussed briefly by Judge Noel Hyde, on behalf of the Board of District Court Judges, in November when he provided a board update to the Council in November.

The proposed rule change provides for immediate and continuous use of a senior judge for the length of a vacancy resulting when a sitting judge is absent due to retirement, disability or death until the judge is permanently replaced or the presiding judge of that district determines that full-time coverage of the senior judge can be decreased or eliminated.

The change limits the assignment process under (B) of the rule which provides for consideration of active judges before active senior judges. Under the existing rule, coverage is typically provided by another judge within a judicial district. If such a judge is not available, a

judge from another judicial district is sought, and if one is not available, senior judge coverage is sought.

The existing rule is intended to have full use of active judges before any senior judge is called. The proposed rule reverses the presumption. The existing process has served the courts well in most instances.

Mr. Becker highlighted the following instances where the existing process has not been effective in providing senior judge coverage: 1) when a judge is appointed to a higher court level, 2) death of a judge, 3) disability, or 4) serious illness. In these instances, a vacancy can last up to six months. Most vacancies are filled within 20-40 days when a judge retires.

Mr. Becker suggested the Council to consider amending the rule to address lengthy vacancies resulting from the following: 1) judicial appointment to a higher court level, 2) serious illness, or 3) disability. He suggested that no change to the rule be made relative to routine judicial retirements.

Mr. Becker reviewed the current process used to provide senior judge coverage when requested by the districts.

Discussion took place, by Council members, regarding the need to ensure that judges within a district be considered, and then available judges outside the district before considering the use of senior judges. A suggestion was made to redraft the proposed rule to put discretion with the presiding judge on the use of a senior judge after considering the availability of judges within and outside the district, rather than automatically appointing a senior judge immediately for the duration of the vacancy.

**Motion:** Justice Lee moved to approve the proposed rule change in concept, and then send it to the Policy and Planning Committee for redrafting, along the lines discussed. Judge Toomey seconded the motion, and it passed unanimously.

**11. ADR COMMITTEE UPDATE: (Judge Royal Hansen and Nini Rich)**

Chief Justice Durrant welcomed Judge Royal Hansen and Ms. Nini Rich to the meeting.

Judge Hansen and Ms. Rich highlighted the following in their update to the Council: 1) a Best Practice Guide for Utah Mediators is near completion with an anticipated draft to be presented to the Council at their April meeting; 2) the Alternative Dispute Resolution Act was due to sunset July 1, 2016, and it has been reauthorized for an additional 10 years; 3) Ms. Nini Rich and Ms. Michele Mattsson were awarded the *2015 Peacekeeper of the Year Award* by the Utah Council on Conflict Resolution; 4) continuation of the ADR Department's annual 40-hour mediation training program; 5) ADR program statistics for FY 2015; and 6) ADR program descriptions.

**12. CRIMINAL JURY INSTRUCTION COMMITTEE UPDATE: (Judge James Blanch and Alison Adams-Perlac)**

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

Judge Blanch highlighted the following in his update to the Council: 1) overview of what the committee has been undertaking and the direction they plan to take in the future, 2) approval of jury instructions for sexual offenses which will be published by the end of the week, 3) offenses most frequently charged will be prioritized and addressed, 4) subcommittees have been created to address these offenses, 5) members of the committee will serve as subcommittee chairs rather than non-members of the committee serving as subcommittee chairs, 6) recent committee turnover, and 7) expressed his appreciation to Ms. Adams-Perlac for all she does as the AOC staff member to the committee.

Chief Justice Durrant thanked Judge Blanch for his update to the Council.



**13. JUDICIAL OUTREACH COMMITTEE UPDATE: (Judge Elizabeth Hruby-Mills)**

Chief Justice Durrant welcomed Judge Hruby Mills to the meeting.

Judge Hruby-Mills highlighted the following in her update to the Council: 1) committee membership, 2) inclusion of the FY 2015-2016 Strategic Communication Plan in the Council materials, 3) Rule 3-114 – Judicial Outreach, 4) holding community forums, and 5) Divorce Education for Children – exploring expansion of the program to St. George and the Farmington Courthouses.

Chief Justice Durrant thanked Judge Hruby-Mills for her update. Judge Hruby-Mills was thanked for her involvement in screening the applications for the Communications Director position.

**14. CIVIL JURY INSTRUCTION COMMITTEE UPDATE: (Juli Blanch and Nancy Sylvester)**

Chief Justice Durrant welcomed Ms. Blanch and Ms. Sylvester to the meeting.

Ms. Blanch and Ms. Sylvester highlighted the following in their update: 1) the Introduction to the Model Utah Jury Instructions, Second Edition; 2) what the committee has completed and what they are currently working on; 3) committee membership and terms; 4) history of the committee; 5) makeup of the subcommittees and their charge; 6) calendar, in place, with dates for subcommittees to present their draft instructions to the committee; 7) instructions being sent out for comment once approved by the committee; and 8) term limit compliance of committee members.

Questions were asked of Ms. Blanch, and she provided responses.

Concern was expressed with the introduction in the rule relative to the Civil Jury Instruction and approval of the instructions.

Discussion took place.

The Committee will review a possible amendment to the language of the rule and present it to the Council for final approval at the January Council meeting.

Chief Justice Durrant thanked Ms. Blanch and Ms. Sylvester for their update.

**15. EXECUTIVE SESSION**

An executive session was not held at this time.

**16. ADJOURN**

The meeting was adjourned.

**TAB 2**

# **Management Committee Minutes**

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE  
MINUTES**

**Tuesday, January 12, 2016  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah 84111**

**MEMBERS PRESENT:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Randall Skanchy  
Hon. Thomas Higbee  
Hon. David Marx  
Hon. Kate Toomey

**EXCUSED:**

**GUESTS:**

Judge Greg Orme  
Judge Fred Voros

**STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Jeni Wood  
Debra Moore  
Heather Mackenzie-Campbell  
Rick Schwermer  
Tim Shea  
Brent M. Johnson  
Ron Bowmaster  
Alison Adams-Perlac

**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 December 8, 2015 Management Committee meeting minutes. Judge Higbee seconded the motion, and it passed unanimously.

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

Dan Becker reported on the following items:

**Communications Director.** Mr. Geoff Fattah has been appointed as the court communication director. He will begin working for the courts on January 25.

**Judicial Retirement.** Judge Scott Johansen retired, effective December 31, 2015. Mr. Becker noted that Judge Johansen was a huge advocate for children, and he will be missed.

**TCE Retirement.** Sylvester Daniels, Second District TCE, retired effective December 31, 2015. The job announcement to fill his vacancy closed last week.

**Case Filing Update.** Mr. Becker provided a case filing update for the first six months of FY 2016.

In district court, the case filings were down from 144,148 in FY 2015 compared to 135,225 in FY 2016, which represented a 6% decrease.

In juvenile court, referrals were down from 16,760 in FY 2016 compared to 14,824 in FY 2016, which represented a 12% decrease.

In justice courts, the case filings were down from 236,378 in FY 2015 compared to 214,238 in FY 2016, which represented a 9% decrease.

Mr. Becker did not have information, at this time, relative to case filings in the Appellate courts.

Online Dispute Resolution. Mr. Becker, Justice Himonas, and Mr. Shea met with the Board of District Court Judges at their December meeting regarding online dispute resolution. Concerns had earlier been expressed by members of the board.

More detailed information was shared with the board on the types of actions and court level online dispute resolution was envisioned. The board's concerns centered on expansion of online dispute resolution to district court trials. Mr. Becker agreed to bring to the board any proposed application in the district court. The board did not have concerns about the use of online dispute resolution for small claims cases in justice court.

Limited Legal Practitioner. Discussion took place relative to the limited legal practitioner recommendations regarding case management involvement, on the front end, by court commissioners. Mr. Becker recommended that instead of creating an ad hoc committee, the Resources for Self-Represented Parties Committee be authorized to expand their role on this matter. With this, he recommended that the Resources for Self-Represented Parties Committee create a subcommittee, including members from the existing membership and to include the addition of commissioners from the Second District and the Fourth District.

Mr. Becker noted that Judge Marsha Thomas, chair of the Resources for Self-Represented Parties Committee, has agreed with the recommendation. Commissioner Sagers would be included on the subcommittee, since she was involved with this recommendation.

### **3. 2015 AUDIT STATUS REPORT: (Heather Mackenzie-Campbell)**

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

Ms. Mackenzie-Campbell discussed the details of the 2015 Audit Status Report presented to the Committee. Ms. Mackenzie-Campbell noted that in 2015 the audit department conducted and completed eight audits, and they are currently finishing the remaining two audits, listed in the Audits/Reviews in Progress section.

### **4. 2016 AUDIT SCHEDULE: (Heather Mackenzie-Campbell)**

Ms. Mackenzie-Campbell mentioned that the next two audits to be conducted include: 1) Provo City Justice Court; and 2) Utah County District Court, Provo. Ms. Mackenzie-Campbell noted that the audit department continues to provide training for new employees and new justice court judges.

The Board of Justice Court Judges recommended the following justice courts be scheduled for audits in 2016: 1) Iron County Justice Court, 2) Fillmore City Justice Court, and 3) Morgan County Justice Court.

The following district courts are being recommended for audits: 1) Tooele Juvenile Court, 2) San Juan District Court, and 3) Morgan County District Court.

**Motion:** Judge Marx moved to approve the 2016 proposed audit schedule as presented. Judge Toomey seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Ms. Mackenzie-Campbell for an update on the 2016 audit schedule.

**5. FY 2016 SPENDING PLAN AMENDMENT: (Daniel J. Becker)**

Mr. Becker noted at the last Judicial Council meeting it was requested to adopt a rule change relative to use of senior judges. Mr. Becker reviewed the budgetary ramifications with this change. The proposed change provides that a presiding judge will have the authority to obligate senior judge funds.

The Court of Appeals has requested coverage for two vacancies resulting from Judge Jim Davis' retirement and Judge John Pearce's appointment to the Supreme Court. The requested plan adjustment is for \$100,400 within this fiscal year. The current senior judge budget plan for this fiscal year is \$168,700 in base budget funding and an additional \$111,700 in one-time funding. With the Court of Appeals' request of \$100,400, there would be a deficit. Mr. Becker recommended an adjustment of an additional \$100,000, which would cover the Court of Appeals' request, as well as, any additional requests that may come in. He noted that the expense will extend beyond this fiscal year and beyond the \$100,000 request.

Mr. Becker discussed several options for covering increased senior judge expenses and the pros and cons of each.

Discussion took place.

**Motion:** Judge Skanchy moved to advance the full amount of the Court of Appeals request to the January Council meeting. Judge Toomey seconded the motion, and it passed unanimously.

**6. SELF-REPRESENTED LITIGANT E-FILING: (Ron Bowmaster)**

Chief Justice Durrant welcomed Mr. Bowmaster to the meeting.

Mr. Bowmaster highlighted the following relative to self-represented litigant e-filing: 1) current status of the self-represented litigants programming, 2) current IT projects, and 3) the potential disparities with self-represented litigants' electronic filing. Mr. Bowmaster stated that OCAP was designed to allow self-represented litigants to be able to e-file. However, the self-represented litigants electronic filing issue is currently on hold, due to the department's priorities and resources.

Mr. Bowmaster mentioned the current process for self-represented litigants relative to filing a document at courthouses. It was noted that OCAP currently requires a username and password, however, an ID is required to make a payment to the court.

Possible options to allow self-represented litigants to e-file documents were discussed. Mr. Becker asked if a similar capability for e-filing that is being created for U.S. attorneys could be developed. That option for self-represented litigants was discussed, along with the fact that this process would require a self-represented litigant to go through an e-filing vendor.

Discussion took place.

It was agreed that the option of, on request by a self-represented party, assigning a unique identifier so a party could e-file through an approved vendor. No rule change is necessary.

**7. PRE-TRIAL RELEASE AND SUPERVISION – PROPOSED COMMITTEE MEMBERSHIP: (Alison Adams-Perlac)**

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

Ms. Adams-Perlac reviewed the proposed committee membership of the Pretrial Release

and Supervision Committee to include: 1) two district court judges, 2) one juvenile court judge, 3) two justice court judges, 4) one prosecutor, 5) one defense attorney, 6) one county sheriff, 7) one representative of counties, 8) one representative of a county pretrial service agency, 9) one representative of the Utah Insurance Department, 10) one representative of the Utah Commission on Criminal and Juvenile Justice, 11) one commercial surety agent, 12) one state senator, 13) one state representative, and 14) the courts general counsel or designee. Proposed names were provided as potential members. Discussion took place.

**Motion:** Judge Skanchy moved to approve the appointment of Judge Todd Shaughnessy to serve as the chair of the Pretrial Release and Supervision Committee and the appointment of Judge George Harmond to serve as a district court judge representative on the committee. Judge Higbee seconded the motion, and it passed unanimously.

**Motion:** Judge Toomey moved to approve the appointment of Judge Angela Fannesbeck to serve as the juvenile court judge representative on the Pretrial Release and Supervision Committee. Judge Higbee seconded the motion, and it passed unanimously.

**Motion:** Judge Toomey moved to approve the appointment of Judge Brendan McCullagh and Judge Rick Romney to serve as the justice court judge representatives on the Pretrial Release and Supervision Committee. Judge Skanchy seconded the motion, and it passed unanimously.

**Motion:** Judge Toomey moved to approve the appointments on the Pretrial Release and Supervision Committee to include: 1) Mr. Robert Hilder, prosecutor; 2) Mr. Patrick Corum, defense attorney, and 3) Mr. Scott Carver, Salt Lake County undersheriff. Judge Marx seconded the motion, and it passed unanimously.

**Motion:** Judge Toomey moved to approve the appointments on the Pretrial Release and Supervision Committee to include: 1) Mr. Adam Trupp, Utah Association of Counties; 2) Mr. Pat Kimball, Director of Salt Lake County Pretrial Services; and 3) Mr. Brett Barrett, Utah Insurance Department. Judge Marx seconded the motion, and it passed unanimously.

**Motion:** Judge Toomey moved to approve the appointments on the Pretrial Release and Supervision Committee to include: 1) Ms. Jennifer Valencia, Utah Commission on Criminal and Juvenile Justice; 2) Mr. Gary Walton, Beehive Bailbonds; and 3) Mr. Brent Johnson, courts general counsel. Judge Skanchy seconded the motion, and it passed unanimously.

The Management Committee was in agreement to appointing a state senator and state representative upon completion of the 2016 Legislative Session.

#### **8. 2016 COUNCIL MEETING DATE REVISION: (Daniel J. Becker)**

Mr. Becker noted when the Council calendar was originally set; the annual conference dates were not known. The Annual Judicial Conference has now been scheduled for October 5-7 in Park City.

He recommended the following changes be made to the 2016 Judicial Council calendar: 1) the September meeting to be scheduled for September 12, and 2) the October 24 Judicial Council meeting to be moved to October 4, in conjunction with the Annual Judicial Conference.

Upon approval of these changes, it was proposed to hold the September 13 Management Committee meeting at the end of the September 12 Judicial Council meeting.

**Motion:** Judge Toomey moved to approve the proposed changes to the 2016 Judicial Council Calendar, as well as, moving the September 13 Management Committee meeting to the end of the September 12 Judicial Council meeting. Judge Skanchy seconded the motion, and it passed unanimously.

**9. NAPLES CITY JUSTICE COURT RESOLUTION: (Rick Schwermer)**

Chief Justice Durrant welcomed Mr. Schwermer to the meeting.

Mr. Schwermer provided background on the Naples City Justice Court and the Uintah County Justice Court.

Naples City approved Naples City Resolution No. 15-285 which allows for the following: 1) revoking their application to recertify the Naples City Justice Court, 2) requesting decertification of the Naples City Justice Court, and 3) inclusion of Naples City within the territorial jurisdiction of the Uintah County Justice Court, and 4) Naples City is requesting an effective date of January 1, 2016 for their request.

**Motion:** Judge Toomey moved to recommend approval of the proposed resolution to the Council. Judge Higbee seconded the motion, and it passed unanimously.

**10. NORTH SALT LAKE JUSTICE COURT PROPOSED INTERLOCAL AGREEMENT: (Rick Schwermer)**

The City of North Salt Lake is requesting to expand the territorial jurisdiction of the North Salt Lake Justice Court by entering into an interlocal agreement with West Bountiful, effective July 1, 2016.

**Motion:** Judge Toomey moved to recommend approval, of an interlocal agreement between the North Salt Lake Justice Court and the City of West Bountiful, for the Council's consideration at their January meeting. Judge Marx seconded the motion, and it passed unanimously.

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

Chief Justice Durrant reviewed the proposed Judicial Council agenda for the January 25 Council meeting.

**Motion:** Judge Marx moved to approve the Council agenda for the January 25 Council meeting as amended. Judge Toomey seconded the motion, and it passed unanimously.

Mr. Shea mentioned that there is a vacancy on the Standing Committee on Technology due to the appointment of Judge Pearce as a Justice to the Supreme Court.

The Court of Appeals recommended the appointment of Judge Stephen Roth to fill the vacancy on the Standing Committee of Technology, temporarily, until the two judicial vacancies on the Court of Appeals have been filled and a permanent Court of Appeals replacement can be appointed to the Standing Committee on Technology.



**Motion:** Judge Toomey moved to approve the appointment of Judge Stephen Roth to fill the vacancy on the Standing Committee on Technology until a permanent appointment can be made, once the two judicial vacancies on the Court of Appeals have been filled, and place it on the January Judicial Council consent calendar. Judge Marx seconded the motion, and it passed unanimously.

**Motion:** Judge Toomey moved to enter an executive session. Judge Marx seconded the motion, and it passed unanimously.

**12. ADJOURN**

The meeting was adjourned.

# **Policy and Planning Committee Minutes**

**Minutes of the Policy and Planning Committee**  
**January 8, 2016**  
**Draft**

**Members Present**

Marvin Bagley, Ann Boyden, Mark DeCaria, John Lund, Mary Noonan, Reed S. Parkin

**Members Excused**

None

**Staff**

Alison Adams-Perlac

**Guests**

Dan Becker

**(1) Approval of Minutes**

Judge Parkin moved to approve the minutes of the December 4, 2015 meeting. Judge DeCaria seconded the motion and it passed unanimously.

**(2) Justice Court E-filing**

Ms. Adams-Perlac reviewed the proposed rule that would make e-filing discretionary in criminal cases in justice court between July 1, 2016 and June 30, 2017, and mandatory after July 1, 2017. She stated the Board of Justice Court judges proposed these dates and that Ron Bowmaster agreed that e-filing in justice court can be ready by July 1, 2016 for criminal cases. Judge Parkin stated that he has talked to Bob Church at the Utah Prosecution Council regarding the proposed dates and the Prosecution Council does not have any concerns.

Ms. Adams-Perlac stated that Mr. Becker expressed some concern regarding the 1 year time period between the discretionary and mandatory filing periods. She stated the time period was only 6 months in the district and juvenile courts. Mr. Becker joined the meeting and agreed with those concerns.

The committee discussed changing the time period so there will only be 6 months between the discretionary and mandatory e-filing periods.

Mr. Lund moved to recommend the proposed rule, amending "June 30, 2017" in line 9 and "July 1, 2017" in line 12 to both read "December 31, 2016," to the Council for public comment. Judge Bagley seconded the motion and it passed unanimously.

**(3) Language Access Rules**

Ms. Adams-Perlac discussed rules 3-306.01 through 3-306.05. She stated the rule 3-306 has been broken into parts, so that it is easier to navigate. She stated the Language Access Committee reviewed and revised the rule proposals over a number of months before voting to recommend them to the Policy and Planning Committee for its approval.

Ms. Adams-Perlac reviewed rules 3-306.01 and 3-306.02. She stated that the changes in these rules are non-substantive, since they simply move language to another subpart, and include language that is in rule 3-306 currently.

Ms. Adams-Perlac then reviewed rule 3-306.03. She stated that this rule adds a requirement that an interpreter certified by the rule must immediately report any criminal charges or convictions and any Utah State Court cases they are personally involved in as a party to the program coordinator. The amendment also provides that an interpreter who speaks a language in which the court lacks certified interpreters may seek an exemption from the requirement to pay the application fee, and to obtain a passing score on the court interpreter's test, for good cause shown. The Language Access Committee shall consider the request and may set conditions for the exemption. The rule also reiterates that all interpreters, except the four staff interpreters in the Third District, are independent contractors.

Ms. Adams-Perlac reviewed rule 3-306.04. She stated that the only amendment to this portion of the rule is that the Judicial Council shall conduct a market survey every three years, rather than annually, to determine whether the hourly rates for interpreters should be changed. The committee asked questions regarding the market survey process. Mr. Becker stated that Human Resources usually conducts these surveys. Ms. Adams-Perlac stated that she also receives information from a national listserv through the National Center for State Courts. She stated that she reviews the fees rates nationally and regionally.

Mr. Lund suggested changing "conduct" to "review" and adding "conducted by the Language Access Program Manager" after survey on line 89. The committee agreed.

Finally, Ms. Adams-Perlac reviewed rule 3-306.05. She stated that this rule includes unprofessional behavior toward a client, judge, court staff, or Language Access Committee member, or being charged with, or convicted of, a crime to the list of things for which an interview may be disciplined. She explained some of the problems that have arisen due to unprofessional behavior by contract interpreters. She explained that the rule also gives an interpreter coordinator the discretion to decline to assign an interpreter listed on the statewide roster as long as the coordinator otherwise follows rule 3-306.04 in assigning an interpreter.

Judge Noonan suggested adding court security to the list in lines 22 and 23. The committee agreed.

Ms. Adams-Perlac stated that the rule also provides that if the Language Access Program Coordinator files a formal complaint, the Language Access Program Manager has the responsibility to fulfill the duties of the Coordinator under the rule.

Ms. Adams-Perlac reviewed other changes to the rule regarding the appeals process, which would allow a panel of the Language Access Committee to reach a decision following the Coordinator's proposed resolution, and would allow an appeal from that panel's decision to the main committee.

Judge Noonan recommended removing "particularly" from line 62, changing "shall be" to "is" on lines 81, 83, 84, and 120. She also suggested adding "by a majority" after "determine" on line 93, and "chair" after panel on line 95. The committee agreed with Judge Noonan's amendments.

Judge Noonan moved to recommend the proposals, as amended, to the Judicial Council for public comment. Judge Boyden seconded the motion and it passed unanimously.

#### **(4) Senior Judge Assistance**

Ms. Adams-Perlac explained the proposed rule. She stated that the Council had approved that would give presiding judges more discretion in appointing a senior judge, if certain conditions were met. Mr. Becker gave more background. The committee discussed the proposal at length, including the Council's discussions on the issue. Judge Noonan expressed that the rule should allow for presiding judges to have more discretion to appoint a senior judge in emergency situations, e.g. a trial, when a calendar is set, etc. Mr. Becker explained that appointing a senior judge can be problematic when it is done without taking the budget process into account. The committee discussed requiring the presiding judge to develop a plan in conjunction with the AOC regarding how the senior judge will be funded. Mr. Becker stated that this is generally happening, and it works. Ms. Adams-Perlac suggested that the rule provide more

guidance to presiding judges regarding how to make these requests and what should be considered. The committee also discussed that the rule should apply only to unexpected vacancies.

The committee asked Ms. Adams-Perlac to revise the proposal to address its concerns, and to bring the proposal back to the next meeting.

#### **(5) Other Business**

There was no other business and 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 *Alison Adams-Perlac*  
Date: January 19, 2016  
Re: Rules for Final Action

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The public comment period for rule 4-202.02 of the Utah Code of Judicial Administration has closed. The proposal received no public comments. The Policy and Planning Committee voted to recommend the proposal, as written, for final action by the Council.

**CJA 04-0202.02. Records classification.** Amend. Records classification. Amend. Deletes maiden name and mother's maiden name from the lists of private and safeguarded information. Classifies juvenile mediation disposition notices as juvenile court social records. Notes a statutory exception to the protection of certain victim information.

The changes are at lines 115-16, 120, 197, 226, and 231. If the proposal is approved by the Council, the amendments will be effective May 1, 2016.

Encl. CJA 4-0202.02.

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

**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;



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

72 (3) The following court records are sealed:

73 (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;

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

(5)(O) record the disclosure of which would jeopardize life, safety or property;

(5)(P) strategy about collective bargaining or pending litigation;

(5)(Q) test questions and answers;

(5)(R) trade secrets as defined in Utah Code Section 13-24-2;

(5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;

(5)(T) presentence investigation report; and

(5)(U) other records as ordered by the court under Rule 4-202.04.

(6) The following are juvenile court social records:

(6)(A) correspondence relating to juvenile social records;

(6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;

(6)(C) mediation disposition notices;

(6)(D) medical, psychological, psychiatric evaluations;

(6)(~~D~~E) pre-disposition and social summary reports;

(6)(~~E~~F) probation agency and institutional reports or evaluations;

(6)(~~F~~G) referral reports;

(6)(~~G~~H) report of preliminary inquiries; and

(6)(~~H~~I) treatment or service plans.

(7) The following are juvenile court legal records:

(7)(A) accounting records;

(7)(B) discovery filed with the court;

(7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;

(7)(D) name of a party or minor;

(7)(E) record of a court hearing;

(7)(F) referral and offense histories

(7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.

(8) The following are safeguarded records:

(8)(A) upon request, location information, contact information and identity information other than name of a petitioner and other persons to be protected in an action filed under Title 77, Chapter 3a, Stalking Injunctions or Title 78B, Chapter 7, Protective Orders;

(8)(B) upon request, location information, contact information and identity information other than name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family 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.

**TAB 4**



## 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:** Nancy Sylvester  
**Date:** December 30, 2015  
**Re:** Introduction to MUJI 2d

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On December 14, Juli Blanch and I met with the Council to report on the Model Utah Civil Jury Instructions Committee. During our presentation, several Council members raised some concerns with the language as currently written in the MUJI 2d website introduction. Among other minor edits, the following amendments (attached) attempt to address those concerns:

- In the first paragraph, I modified the language to say the Council supports the committees' efforts, rather than approves them. I also noted that the Judicial Council does not review the instructions for legal sufficiency.
- In the second paragraph, I added in a reference to rule 3-418, which guides the committees' work. I also modified the last sentence to reflect the fact that any judge, no matter the court level, can review an instruction for legal sufficiency.

I look forward to discussing these amendments with the Council.

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 / Tel: 801-578-3808 / Fax: 801-578-3843 / email: nancyjs@utcourts.gov



## Introduction to the Model Utah Jury Instructions, Second Edition.

On October 27, 2014, the Civil and Criminal Model Jury Instructions Committees, formerly under the Utah Supreme Court's authority, became standing committees of the Utah Judicial Council. The committees continue to draft new and amended instructions reflecting Utah law. The Judicial Council supports the committees' efforts to create instructions for use in jury trials through this Second Edition of the Model Utah Jury Instructions (MUJI 2d). The Judicial Council does not review each jury instruction for legal sufficiency. ~~approves this Second Edition of the Model Utah Jury Instructions (MUJI 2d) for use in jury trials.~~

An accurate statement of the law is critical to instructing the jury, but accuracy is meaningless if the statement is not understood, or is misunderstood, by jurors. As Utah Code of Judicial Administration Rule 3-418 provides, MUJI 2d is intended to be an "accurate statement[] of the law using simple structure and, where possible, words of ordinary meaning." These instructions are a summary statement of Utah law, but they are not the final expression of the law. Thus, in any case before them, ~~the Utah Supreme Court or Court of Appeals~~ a judge may review a model instruction for legal sufficiency.

At times there may be multiple versions of an instruction. Alternative instructions are provided only when 1) the law itself is unclear, 2) there is no controlling statutory or case law, or 3) the statutory law and/or case law are incomplete, internally inconsistent, or inconsistent with each other. The alternative instructions are different statements of the law based on differing authority. The order of the alternatives does not imply preference. When an alternative instruction is provided, the judge should determine which version of the instruction, if any, is appropriate in a particular case.

MUJI 2d is drafted without using gender-specific pronouns whenever reasonably possible. However, sometimes the simplest, most direct statement requires using pronouns. The criminal committee uses pronouns of both genders as its protocol. In the trial of criminal cases, often there will not be time to edit the instructions to fit the circumstances of a particular case, and the criminal instructions are drafted so that they might be read without further concern for pronoun gender. The civil committee ~~uses~~ offers multiple masculine pronouns as its protocol. In the trial of civil cases there ~~often~~ is often more time to edit the instructions. Further, in civil cases, the parties are not limited to individual males and females but also include ~~also~~ government and business entities and multiple parties. Judges and lawyers should ~~replace masculine with feminine or impersonal~~ choose the pronouns to that fit the circumstances of the case at hand. Judges and lawyers ~~also are~~ also encouraged in civil cases to use party names

instead of "the plaintiff" or "the defendant." In these and other circumstances, judges and lawyers should edit the instructions to fit the circumstances of the case.

Judges should instruct jurors at times during the trial when the instruction will be most helpful. For example, instructions relevant to a particular part of trial may be given just before that part. Additionally, the fact that an instruction has historically been categorized as an opening or closing instruction does not mean there is not a better time during the trial to read it. To protect the integrity of the process or to help the jurors understand their responsibilities, a judge might repeat an instruction during or at the end of trial.

When preparing written instructions, judges and lawyers should include the title of the instruction. This information helps jurors organize their deliberations and decision-making. Judges should provide a copy of the written instructions to each juror. This is permitted under the rules of procedure and is a sound practice because it allows each juror to follow the instructions as they are read and to refer to them during deliberations.

There are areas of the law in which there are no Utah model instructions. When this comes up, the judge must still instruct the jury on the law. The judge's task is to further the jurors' understanding of the law and their responsibilities through accuracy, clarity, and simplicity. To assist in this task, links on this page lead to principles for plain-language drafting and to the pattern instructions of some other jurisdictions.

MUJI 2d is a continual work in progress, with new and amended instructions being published periodically on the state court web site. In order to provide the best instructions possible, both the Civil and Criminal Model Jury Instructions Committees recently adopted the practice of accepting formal comments on each instruction. We The Judicial Council encourages lawyers and judges to share their experiences and suggestions with the standing committees. Judges and lawyers who draft a clearer instruction than is contained in these model instructions are also encouraged to share it with the appropriate committee.

**TAB 5**

# **Fifth District Mental Health Court of Iron County**

## **Participant Handbook**

Fifth District Court, Iron County

40 North 100 East

Cedar City, UT 84720

Phone: (435) 867-3240

Fax: (435) 867-3212

Southwest Behavioral Health Center

245 East 680 South

Cedar City UT 84720

Phone: (435) 867-7654

### **Important Contact Information:**

**Law Enforcement Tracker:** \_\_\_\_\_

**Case Worker:** \_\_\_\_\_

**Emergency Crisis Line:** \_\_\_\_\_

## **Handbook Content**

Mission Statement .....	3
Introduction .....	3
About the Fifth District Mental Health Court Program .....	3
Accessing the Mental Health Court Program .....	4
Eligibility Criteria .....	4
The In-Court Experience: .....	5
Potential Applicants .....	5
New Charges .....	5
In-Court Arrests .....	6
Termination from the Program .....	6
Regular/Random Drug and Alcohol Testing .....	6
Program Rules, Sanctions and Rewards .....	6
Other Expectations .....	8
The Mental Health Court Phases .....	8
Graduation from the Fifth District Mental Health Court Program .....	10

### **Mission Statement**

The Fifth District Mental Health Court is a community-based program that provides court supervision and services to mentally ill offenders through the cooperation of state, county, and local government and non-profit service agencies to promote engagement in treatment, improve quality of life, decrease recidivism, and increase community safety and awareness.

The Mental Health Court program has been developed to help participants achieve stability and accountability in their lives. The program is designed to promote self-sufficiency and return the participant to the community as a productive and responsible citizen. The treatment team and community resources are available to guide and assist the participant, but the final responsibility belongs to the participant.

### **Introduction**

Welcome to the Fifth District Mental Health Court program. This handbook provides overall information about the Mental Health Court program, provides contact information for resources available to you as a participant, and answers questions and addresses concerns. As a participant, you will be expected to comply with all court orders, the Mental Health Court Agreement you sign, the treatment plan developed for you by the treatment team, and the rules and specific instructions given to you by your case worker and law enforcement tracker. You are encouraged to share this handbook with your therapist, family and friends.

### **About the Fifth District Mental Health Court Program**

The Fifth District Mental Health Court program is a voluntary program for mentally ill offenders who acknowledge their disability and who are committed to treatment. The program consists of intensive supervision of participants by their treatment team, frequent appearances before the Mental Health Court judge, mandatory integrated mental health and substance abuse treatment, and regular/random drug and alcohol testing.

The treatment team includes the following personnel: The Clinical Director of Southwest Behavioral Health Center, a therapist, a case worker, a law enforcement tracker, and the assigned Mental Health Court judge. The participant's criminal defense lawyer and the State's prosecutor also participate in the Mental Health Court program.

Participants are required to maintain a minimum of six (6) months of mental health stability and abstinence from drug and alcohol use before graduation from the program, although the length of the program may vary depending on individual circumstances. A thorough aftercare plan must also be developed by each participant, with the help of a member of the treatment team, prior to graduation. The program length is typically approximately eighteen (18) months, but is also largely determined by the participant's progress.

### Accessing the Mental Health Court Program

A mentally ill offender accesses the Mental Health Court program through an application process. The process begins with negotiations between the offender's defense attorney and the original case prosecutor.

Access to the Mental Health Court program requires the approval of the original case prosecutor. Once the original case prosecutor and defense attorney have agreed that the defendant is a suitable candidate for the program, the defense attorney must notify the Mental Health Court judge's clerk to place the applicant on the Mental Health Court docket. The defense attorney must also notify the Mental Health Court evaluator to schedule a mental health evaluation for the defendant.

The mental health evaluation will be conducted by the mental health provider (Southwest Center). The mental health provider will administer the Risk and Needs Triage (hereinafter "RANT"), a rational, evidence based tool to assess risk and guide placements based on criminogenic need. After the evaluation, if the defendant meets specific criteria, the evaluation results will then be presented to the treatment team. The RANT will help determine the level of risk and guide the decision-making process for the treatment team. If the defendant is assessed as high-risk high-need, and the treatment team deems the defendant an appropriate candidate, the defendant will be admitted. At the next Mental Health Court hearing date, the defendant will be notified as to the team's admission decision. If the defendant is accepted into the program, the County Attorney's Office will draft plea agreement documents outlining the terms agreed upon by the defense and prosecution. At that time, the defendant will be offered a place in the Fifth District Mental Health Court program. Before being excused from the hearing, the defendant will be notified of his/her next court date.

If the defendant is not accepted into the program, the case will be returned to the originating judge/court for further disposition. The defendant will be notified in court of the decision and will be notified of his/her next court date.

Guilty pleas and sentencing: The defendant will be required to enter a plea before participating in the Mental Health Court program. Depending upon the negotiations between the prosecutor and the defense attorney, an offender's participation may be a condition of a plea in abeyance or a condition of probation. Under either scenario, you (the defendant), as the Mental Health Court participant, will not be allowed to withdraw your guilty plea if you are terminated or withdraw from the Mental Health Court program.

### Eligibility Criteria

The defendant must have a mental illness which is related to a current criminal charge and/or for whom mental health treatment in a court supervised program can be expected to foster recovery and reduce recidivism. In addition, the defendant must be assessed as being high-risk high-need according to the RANT to be eligible for admission. Moderate to low risk offenders will not be eligible for admission based upon evidence based practices suggesting that this treatment is most effective for the high risk offenders. The defendant must have been diagnosed by a mental health

professional as seriously and persistently mentally ill, with one or more of the following disorders: Schizophrenia, Schizo-Affective Disorder, Bipolar Disorder, Anxiety Disorder, and/or Post Traumatic Stress Disorder.

Each defendant will receive a criminal background check, by the law enforcement tracker, to assess for criminogenic risk prior to final acceptance. Participants will not generally be excluded from admission solely because of prior treatment failures or a current lack of motivation for treatment.

You may be excluded from the Mental Health Court program if you commit a sex offense, a violent offense, or an offense involving the use of a weapon. Applicants who have Axis II personality disorders and/or disorders where drug or alcohol use are the primary concern may be excluded.

### **The In-Court Experience**

Mental Health Court takes place on the first and third Wednesdays of each months in Judge Walton's courtroom at the Fifth District Court in Cedar City. If court is changed or canceled, notice of changes will be provided in court on the preceding court date. Occasionally, the Court must be closed on a day typically scheduled for Mental Health Court. Participants are still obligated to check in with the treatment team to make a brief report. These check-in hearings will be held at the Southwest Behavioral Health Center.

Fifth District Mental Health Court  
Judge Walton's West Courtroom  
40 North 100 East  
Cedar City, UT 84720  
(435) 867-3240

Southwest Behavioral Health Center  
(Treatment Team - Second Floor)  
245 East 680 South  
Cedar City, UT 84720  
(435) 867-7654

All participants enter the courtroom as a group, and after reporting to the Court, the participant is expected to remain in the courtroom until all hearings have ended. The judge will dismiss all participants when the hearings have been completed.

Each participant will make an account of events occurring in the past two (2) weeks. This report should include therapy attendance, work, vocational training and/or school attendance, medication compliance, and any questions or concerns the participant may have. The judge will make comments, recommendations, orders or sanctions regarding the participant's progress over the previous two (2) weeks.

Potential applicants: The applicant will be transported from jail or asked to come forward to discuss their case with the judge. The applicant will be notified that they will be required to comply with a mental health evaluation. The evaluator will either come to the jail to conduct the interview, or the applicant will be instructed to schedule an appointment with the evaluator at the Southwest Behavioral Health Center. The judge will instruct the applicant to be truthful in the evaluation. Before being excused from the hearing, the applicant will be notified of the next court hearing date.



New Charges: If a participant incurs new criminal charges after admission into the Mental Health Court program, the County Attorney's Office will determine whether to pursue the new charges within Mental Health Court or in traditional court. New charges may also constitute a violation of the defendant's plea in abeyance agreement or terms of probation.

In-Court Arrests: It is not uncommon for participants to be taken into custody during court proceedings. A participant may be taken into custody during court for violations of court orders or Mental Health Court rules.

Termination from the Program: If the participant is terminated from the Fifth District Mental Health Court program, he or she may have their original sentence imposed. If participating in the program as a term of probation, the participant will be brought before the Court for an order to show cause hearing to discuss why the original sentence should or should not be imposed. If participating in the program as a plea in abeyance case, the participant will be required to come before the Court for an order to show cause hearing to discuss why his or her plea should or should not be entered and be sentenced accordingly.

### **Regular/Random Drug and Alcohol Testing**

As the participant progresses through the program, drug and alcohol testing will be required on a less frequent basis. The prosecutor(s) and the Mental Health Court judge will have access to all drug and alcohol testing results, including any "stalls" and failures to test. The judge may order a test at any time. A "stall" is considered the inability to produce a urine or breath sample within a reasonable amount of time of the request. A reasonable amount of time is typically no less than twenty (20) minutes. A "stall," failing to appear for a test, providing adulterated urine, or failing to produce a urine or breath sample will be considered a positive test. Further, verbal admission of drug or alcohol use will be considered a positive test. One of the goals of the Mental Health Court is to help the participant achieve total abstinence from alcohol and illicit drugs; however, a positive breath test or urine test will not automatically disqualify a participant from the program. The judge will review your overall performance with the Mental Health Court staffing team to determine appropriate consequences.

Drug and alcohol tests may be conducted at any time, in any private place, day or night, and at the discretion of any member of the treatment team. These tests may also be conducted by any member of the treatment team or by the Southwest Behavioral Health Center staff at the team's request.

### **Program Rules, Sanctions and Rewards**

While in Mental Health Court, the participant agrees to abide by the following rules:

- Maintain regular contact with tracker and case worker, with a minimum of contact being once a week
- Immediately notify tracker/case worker of any alcohol/drug relapse
- Remain alcohol and drug free
- Take all prescribed medications as prescribed
- Comply with all alcohol/drug testing requests (failure to produce a sample upon request =

- a failed test)
- Comply with all orders of the Court
- Comply with all directives of the treatment team
- Attend all assigned court hearings, therapy, counseling, and classes (unless excused by the treatment team)
- Maintain a current address and telephone number with tracker/case worker
- Obtain approval from tracker for acceptable/suitable housing situation
- Obtain approval from tracker for any address/phone number changes BEFORE they happen
- Follow the rules of the house where residing
- Commit no law violations
- Notify tracker of any contact with law enforcement within twenty-four (24) hours
- Do not leave Iron County without prior permission/approval from the treatment team
- Do not possess dangerous weapons (defined by the treatment team) without written consent from the Court
- No threatening behavior/statements
- No manipulation (example: staff verses tracker or staff verses staff)
- Be honest at all time, with everyone

Possible sanctions which may be issued by the tracker, treatment team or judge:

- Law violations may result in citation or arrest by law enforcement
- Major rule violations/issues of safety may result in participant being taken into custody, as determined necessary by the Court
- Modification of treatment
- Additional NA/AA meetings
- Administrative sanctions (residential treatment, admission to B-Med, etc.) to be issued by the judge
- Forty-eight (48) hours (or more) of jail time as determined appropriate/necessary by the judge
- Community service
- Daily activity log/work search log
- Curfew
- Essay (either handed in to the case worker or read aloud in court)
- Round table (a meeting with the team to identify problems and create solutions)
- Revocation of privileges (travel plans, previously approved activities, etc.) for a period of time
- Dismissal from the Mental Health Court program

Rewards which may be given for exceptional behavior:

- Bus passes
- DI vouchers
- Certificate of Achievement
- Certificate of Recognition

- Candy bars
- Gift cards
- Permission to travel outside of Iron County
- Curfew extensions
- Modification of treatment

### **Other Expectations**

The participant is required to be on time to all appointments. If this is avoidable, the participant must give as much notice as possible of the missed appointment, reschedule immediately, and notify the case worker.

The participant is expected to dress appropriately for court. Dress conservatively and always be neat and clean. Avoid wearing items that may identify a personal association with any group, gang or club. Avoid wearing facial piercings, hats or shorts. Items of clothing bearing violence, sexual, drug or alcohol related themes are inappropriate.

The participant is expected to maintain the confidentiality of other Mental Health Court participants. Treatment cannot success unless all participants maintain the confidentiality of other participants and information disclosed in treatment.

### **The Mental Health Court Phases**

#### **Phase 1: Orientation Phase**

This phase will concentrate on getting the participant familiar with the Mental Health Court process. The participant will be informed of the program requirements, and work on an individualized plan with their Mental Health Court counselor. The requirements of this phase are:

- ▶ Bi-weekly court appearances
- ▶ Weekly contact with the Mental Health Court tracker and case manager
- ▶ Compliance with all mental health and substance abuse treatment plans and directives
- ▶ Participation in group therapy as recommended by the treatment team or as directed by the Court
- ▶ A substance abuse screen
- ▶ Regular and random drug screens
- ▶ Adherence to a nightly curfew of 9:00 p.m.

#### **Phase 2: Treatment Phase**

In this phase, the participant works closely with the Mental Health Court and treatment team to refine their treatment goals and objectives, and they begin a more intensive level of group and individual psycho-social and functional skill development. The requirements of this phase are:

- ▶ Bi-weekly court appearances
- ▶ Contact with the Mental Health Court tracker and/or case manager three (3) times per month
- ▶ Compliance with all mental health and substance abuse treatment plans and directives
- ▶ Participation in group therapy as recommended by the treatment team
- ▶ Regular and random drug screens
- ▶ Adherence to a nightly curfew of 10:00 p.m.

### Phase 3: Transition Phase

In this phase, the participant becomes more involved in community re-integration, as well as establishing and maintaining appropriate social, educational, vocational skills, and wellness-oriented personal support systems. The requirements of this phase are:

- ▶ Once-a-month court appearances
- ▶ A minimum of five (5) hours per month involvement in productive activities (i.e. employment, community service, education) as approved by the treatment team
- ▶ Contact with the Mental Health Court tracker and/or case manager twice a month
- ▶ Compliance with all mental health and substance abuse treatment plans and directives
- ▶ Start participation in a NAMI group
- ▶ Regular and random drug screens
- ▶ Adherence to a curfew: Sunday through Thursday - 10:00 p.m.; Friday and Saturday - 11:00 p.m.

### Phase 4: Independence Phase

Phase 4 is a pre-graduation phase, where the participant must independently demonstrate a commitment to sustained behavior change prior to receiving an actual reduction or dismissal of charges. At court, participants report personal progress toward mental health recovery and achievements in productive activity (i.e. employment, community service, education). At the successful conclusion of Phase 4, a graduation ceremony is held and the participant formally exits the Mental Health Court program. The requirements of this phase are:

- ▶ Once-a-month court appearances
- ▶ Contact with the Mental Health Court tracker and/or case manager monthly
- ▶ Compliance with all mental health and substance abuse treatment plans and directives
- ▶ Regular and random drug screens
- ▶ Involvement in a productive activity (i.e. employment, community service, education)

Participants who are only required to appear in court one time per month shall appear on the first Mental Health Court session of each month, unless specifically directed otherwise.

### **Graduation from the Fifth District Mental Health Court Program**

In order to graduate from Mental Health Court, the participant must:

1. Have completed all requirements of each phase;
2. Have demonstrated continuous sobriety from prescription/illicit drug abuse and alcohol use;
3. Have demonstrated stability in Mental Health Court compliance;
4. Provide proof of successful completion of all court-ordered treatment;
5. Have no outstanding warrants, fines, fees, or restitution in any Utah court; and
6. Have a Mental Health Court treatment team approved aftercare plan.

The participant's family is invited to attend court on the day of graduation to observe and celebrate the participant's hard work and dedication to self-improvement. The judge will congratulate the participant on the successful completion of the Fifth District Mental Health Court program. The participant's defense attorney will make a motion to have the participant's case disposed of based on the terms of the Mental Health Court agreement which the participant signed upon entering the program. Graduates are encouraged to continue with mental health treatment and medication compliance. The graduate will then be asked to share a few words of encouragement with the participants who are still in the program.

**TAB 6**

Naples City Resolution No.15-285

**A RESOLUTION OF THE NAPLES CITY COUNCIL REVOKING THE APPLICATION TO RE-CERTIFY THE NAPLES CITY JUSTICE COURT AND REQUESTING DECERTIFICATION OF THE NAPLES CITY JUSTICE COURT AND INCLUSION OF NAPLES CITY WITHIN THE TERRITORIAL JURISDICTION OF THE UINTAH COUNTY JUSTICE COURT .**

WHEREAS Naples City has previously established a Justice Court to hear and decide cases arising within the municipal boundaries of Naples City; and

WHEREAS Naples City Justice Court is scheduled for re-certification in February 2016; and

WHEREAS Naples City has previously submitted a request and packet for re-certification of the Naples City Justice Court; and

WHEREAS the number of cases being filed in the Naples City Justice Court has declined significantly; and

WHEREAS Naples City has previously contracted with Uintah County to utilize the Justice Court facilities at Uintah County Justice Center; and

WHEREAS Naples City has, since April 2015, utilized the Uintah County Justice Court clerks to handle Naples City Justice Court cases; and

WHEREAS during negotiations with the Uintah County Commission regarding use of facilities and other Justice Court services, including clerk services, it has been determined to be in the best interests of the citizens of Uintah County and the citizens of Naples City to terminate, dissolve, or decertify the Naples City Justice Court and include Naples City within the territorial jurisdiction of the Uintah County Justice Court; and

WHEREAS an agreement has been reached with Uintah County to take over Justice Court services for Naples City, and include cases arising within the boundaries of Naples City within the jurisdiction of the Uintah County Justice Court effective January 1, 2016; and

WHEREAS the Naples City Justice Court has not yet been re-certified.

NOW THEREFORE BE IT RESOLVED by the legislative body of Naples City, Utah as follows:

1. The application of Naples City for re-certification of the Naples City Justice Court previously submitted is hereby rescinded and withdrawn and revoked, and the Resolution requesting re-certification is Revoked and Rescinded.

2. It is the intent of Naples City that the existence of the Naples City Justice Court as a separate entity be terminated immediately upon the date that the present certification of that court ends and that thereafter Naples City shall be included within the territorial jurisdiction of the Uintah County Justice Court pursuant to the provisions of Utah Code Ann. Section 78A-7-105 (1) which states "The territorial jurisdiction of County Justice Courts extends to the limits of the precinct for which the Justice Court is created and includes all cities or towns within the precinct, except cities where a municipal Justice Court exists."

3. Naples City has entered into an agreement with Uintah County for the extension of the territorial jurisdiction of the Uintah County Justice Court to include Naples City upon the dissolution or termination of the municipal Justice Court.

4. Delivery of this resolution shall constitute notice to Uintah County and to the Judicial Council of the intent to dissolve the Naples City Municipal Justice Court.

5. To the extent that not re-certifying the Naples City Justice Court is not sufficient to effect a dissolution of the Naples City Justice Court, delivery of a copy of this resolution shall constitute notice pursuant to the provisions of Utah Code Ann. section 78-7-123 (2) of intent to dissolve the Naples City Justice Court, and a request to terminate the Court and waive the waiting period.

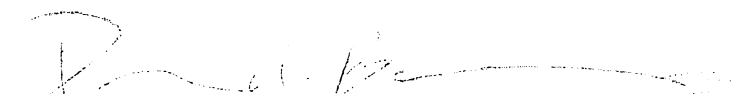
6. The Naples City Justice Court is a class V Court.

7. The Uintah County Justice Court has available a full-time Judge and adequate staff and modern up-to-date fully compliant facilities capable of assuming the small caseload of the Naples City Justice Court and request is made that the dissolution of the Naples City Justice Court be made effective as of January 1, 2016 or at the earliest possible date thereafter.


8. The Mayor of Naples City and the City Manager of Naples City and the City Attorney of Naples City are hereby authorized to execute any additional documents, give other notices and otherwise take all actions necessary to accomplish the purposes set forth in this Resolution.

9. This resolution shall become effective immediately upon adoption and execution.

Dated this 30<sup>th</sup> day of December, 2015.

  
\_\_\_\_\_  
Dean Baker, Naples City Mayor

Attest:

  
\_\_\_\_\_  
Nikki Kay, City Recorder



Dennis L. Judd, Naples City Attorney

I hereby certify that an executed copy of the attached Resolution was delivered to Uintah County by delivery to the Uintah County Clerk, Mike Wilkins, and the Uintah County Commission Chairman, Mike McKee, at the Uintah County offices by hand delivery on the 31<sup>st</sup> day of December, 2015.

**Interlocal Agreement for Justice Court services between  
Uintah County and Naples City**

THIS AGREEMENT is made and entered into pursuant to section 11-13-101 et seq. Utah Code Ann. 1953 as amended; commonly referred to as the Interlocal Cooperation Act by and between Uintah County a body politic, corporate and political subdivision of the State of Utah (hereinafter "County"), and Naples City a municipal corporation of the State of Utah, (hereinafter "Naples"), with Naples and County jointly referred to as "parties".

WITNESSETH

WHEREAS, Title 11 Chapter 13, Utah Code Ann. 1953 as amended provides for Interlocal cooperation between local governmental units; and

WHEREAS, County currently has established a Justice Court, and has provided court facilities and court clerical staff consistent with the requirements of Utah law and sufficient to operate the County Justice Court; and

WHEREAS, Naples has established a municipal justice court in accordance with the provisions of Utah law and has contracted with the County Justice Court judge to serve as the justice court judge for the Naples City Justice Court and has a contract with County for the use of County Justice court facilities; and

WHEREAS, County is desirous of making the most cost effective use of its resources relating to Justice Court services; and

WHEREAS, Naples desires to make the most efficient use of the currently established County Justice Court and the staff hired and employed by County on the basis of mutual advantage to each of the parties; and

WHEREAS, Naples wishes to contract with County for County to provide Justice Court services for Naples, and

WHEREAS, Naples has determined that it is more cost effective to dissolve its court and has negotiated with County to provide Justice Court services; and

WHEREAS, Naples shall decertify and terminate its Justice Court and Uintah County Justice Court shall become the Justice Court for Naples City and shall provide all Justice Court Services for cases arising in Naples City and previously filed in the Naples Justice Court beginning January 1, 2016 as set forth herein.

WHEREAS, Naples shall continue to separately pay the County Justice Court Judge as the Justice Court Judge for Naples City through December 31, 2016, thereafter all compensation shall be paid by Uintah County; and

WHEREAS, County has determined that it is in the best interest of County to enter into this agreement and has adopted by resolution this Interlocal Agreement and

WHEREAS, Naples has determined that it is in the best interest of Naples to enter into this agreement and has resolved by resolution of the Naples City Council to enter into this agreement.

NOW THEREFORE, in consideration of the promises and in compliance with and pursuant to the terms and provisions of the Interlocal Cooperation Act as herein above set forth County and Naples hereby agree as follows:

1. County shall provide all Justice Court services, facilities, and clerk services, as provided in this agreement and shall become the Justice Court for Naples City, in all respects and shall maintain a Justice Court in compliance with required state standards. Pursuant to UCA 78A-7-105 the territorial jurisdiction of the Uintah County Justice Court shall include the area within Naples City upon the termination, dissolution, or decertification of the Naples City Justice Court. Until such time as the Naples City Justice Court is legally or officially terminated the County Justice court shall provide the Justice Court services as outlined in this agreement and on the terms set forth in this agreement, but if required, acting in the name of the Naples City Justice Court.

2. Pursuant to this agreement County shall receive, and collect, and remit according to the provisions of State law fines and forfeitures and fees for cases within the territorial boundaries of Naples City

3. Fines, forfeitures, fees, and other amounts if any received and collected for cases arising in the jurisdictional area of Naples City or for the Naples City court shall be separately entered and processed in the applicable State court software, programs, etc. for the cases arising in or within the jurisdiction of Naples City.

4. Naples shall direct and advise law enforcement agencies and law enforcement officers operating within the territorial jurisdiction of the Naples City to deliver and file all citations, cases and other court related documents arising in their Naples City at the location of and with the clerks of the Uintah County Justice court.

5. Citations and information's issued for cases arising in Naples City shall give the address and contact information of the Uintah County Justice Court for purposes of responding to those citations, information's, etc.

6. Uintah County court clerks and staff shall provide the same services for cases arising in the territorial jurisdiction of Naples City as for those arising within the territorial jurisdiction of the Uintah County Justice Court. For efficiency in prosecution, cases arising in Naples City that require the presence of Naples City Prosecutor shall be scheduled for hearing on one or two days per month as needed, generally separate from the County cases. Proceedings that require the presence of the Naples City Prosecutor or where the input to the Court from the Prosecutor is useful shall be scheduled for hearing separately from other County cases on one or two days per

month as needed. Arraignments or appearances which do not involve the Naples City Prosecutor may at the convenience or discretion of the Justice Court Judge be scheduled along with other County Justice Court cases.

7. County, through its Justice Court, will pay for and provide the necessary offices and court space including all associated costs, equipment, personnel including the clerks and judges to conduct Justice court services for County and for Naples provided that Naples shall continue to separately compensate the Naples Justice Court Judge, until December 31, 2016.

8. All employees of the Uintah County Justice Court including those providing services for Naples shall continue to be employees of Uintah County.

9. Naples will provide and pay for a prosecutor or prosecutors as needed to prosecute cases arising in Naples City and shall be responsible for all obligations and liabilities associated there with.

10. Naples shall be responsible to pay the cost of court-appointed legal counsel for indigent defendants that are eligible for said services in cases prosecuted by Naples and shall be entitled to receive any compensation recovered pursuant to an order of the court for reimbursement of indigent criminal defense costs and expenses.

11. In consideration of the services to be provided pursuant to this agreement the local jurisdiction share of all fines and forfeitures collected by the Justice Court in relation to matters filed and arising out of Naples shall be remitted 40% to the County Treasurer and 60% to the Naples City Treasurer on a monthly basis for the calendar year 2016. All amounts collected by the Justice Court which are required to be remitted to the State of Utah or other agencies of the State of Utah shall be remitted as required by law by the Justice Court and shall not be included in the calculation of distribution between County and Naples, for calendar year 2016. Beginning in 2017 fifty-percent (50%) will be remitted to Uintah County and fifty-percent (50%) to Naples City, for cases prosecuted by Naples.

12. County through its County Justice court shall provide Naples with regular reports showing the cases filed for Naples, the total amount of fines and forfeitures, the amount remitted to Naples etc.

13. Naples shall pay to County for all building usage and Justice Court services for calendar year 2015 the total sum of twenty-thousand (\$20,000.00), in satisfaction of all obligations on claims therefore.

14. Naples City shall notify the Administrative office of Courts on or by December 31, 2015 of its termination and request to decertify the Naples City Justice Court and of the assumption of Naples City Justice Court Services by Uintah County beginning January 1, 2016.

15. The effective date of this agreement shall be December 31, 2015, and shall become effective upon the adopted resolution of approval of the agreement, and filed the agreement with the respective keeper of records of each entity.

16. This agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one in the same instrument.

17. In satisfaction of the requirements of the Utah Interlocal Act and in connection with this agreement, the parties agree as follows:

(A) This agreement shall be authorized by the legislative body of each party by resolution;

(B) This agreement shall be reviewed as to proper form in compliance with applicable law by the duly authorized attorney on behalf of each party;

(C) An original counterpart of copy of this executed agreement shall be filed with the keeper of records of each party;

(D) Except as otherwise specifically provided herein, each party shall be responsible for its own costs of any action done pursuant to this agreement;

(E) No separate legal entity is created by the terms of this agreement. To the extent that this agreement requires administration other than as set forth herein, it shall be administered by the County Justice Court Judge or by the authorized representative of the Uintah County Commission;

(F) No real or personal property shall be acquired jointly by the parties as a result of this agreement. To the extent that a party acquires, holds, or disposes of any real or personal property for use in the joint undertaking contemplated by this agreement, such party shall do so in the same manner that it deals with other property of such party or under applicable Utah law.

(G) This agreement contains the entire agreement between the parties with respect to the subject matter thereof. This agreement may not be enlarged, modified or altered except in writing and approved and signed by the parties in accordance with applicable law.

(H) If required by applicable law or judicial Council rule or policy this agreement shall be submitted for review and approval by the Utah Judicial Council. If the purpose and intent of this agreement cannot be accomplished due to actions of any state agency or other legal impediment the parties shall modify the agreement to comply with legal requirements and shall continue to provide services as under prior arrangements with the financial provisions as set forth herein.

IN WHITENESS WHEREOF, Naples City, by resolution duly adopted by its City Council, caused this agreement to be signed by its Mayor and attested by its Recorder, and Uintah County, by resolution of its Board of County Commissioners, has caused this agreement to be signed by the chairman of said Board and attested by its Clerk, all on the day and year appearing below their respective signatures.

UINTAH COUNTY, UTAH

\_\_\_\_\_  
Michael J. McKee, Chair  
Uintah County Commission

ATTEST:

\_\_\_\_\_  
Michael W. Wilkins  
Uintah County Clerk- Auditor

APPROVED AS TO FORM:

\_\_\_\_\_  
Jonathan A. Stearmer  
Chief Deputy Uintah County Attorney

NAPLES CITY, UTAH

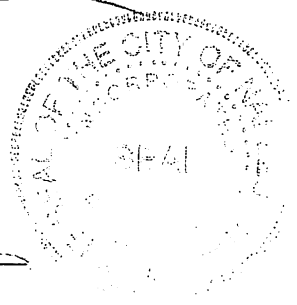
\_\_\_\_\_  
Dean Baker  
Mayor

ATTEST:

\_\_\_\_\_  
Nikki Kay  
Recorder

APPROVED AS TO FORM:

\_\_\_\_\_  
Dennis L. Judd  
Naples City Attorney



**TAB 7**



# CITY OF NORTH SALT LAKE

---

10 East Center Street  
North Salt Lake, Utah 84054  
(801) 335-8700 Voice  
(801) 335-8719 Fax  
[www.nslcity.org](http://www.nslcity.org)

LEONARD K. ARAVE  
Mayor

D. BARRY EDWARDS  
City Manager

December 29, 2015

Utah Judicial Council  
Administrative Office of the Courts  
450 State Street  
P.O. Box 140241  
Salt Lake City, UT 84111

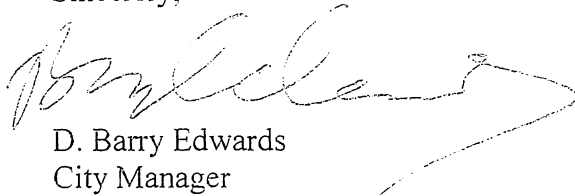
Dear Judges:

This is to serve as official notification that the City of North Salt Lake intends to expand the territorial jurisdiction of the North Salt Lake Justice Court. We are anticipating combining courts with the city of West Bountiful beginning July 1, 2016. The two cities are in the final states of entering into an interlocal agreement, and once that has been fully executed, we will forward a copy to your office.

The North Salt Lake Justice Court is currently classified as a Class II court, and based on provided information, we will not require any changes to our filing limits as a Class II court when this transaction is complete.

Please let me know if you have any questions or concerns. Thank you.

Sincerely,



D. Barry Edwards  
City Manager



**TAB 8**

## JUSTICE COURT JUDGES' ORIENTATION

Orientation Dates: JAN 4-16 - JAN 8-16

1. Full Name: Cordell Pearson
2. Home Address: 777 N. 1000 E. ITAH  
84723
3. Home Phone Number: ---
4. Date of Birth: 12/15/44
5. Current Occupation: Retired
6. Expected Part-Time Employment While Serving as Judge: NONE
7. Past Educational Background: HIGH SCHOOL - SOME COLLEGE
8. Previous Employment History: COMMANDER OF CENTRAL  
UTAH NARCOTICS TASK FORCE

SCORE:	<u>80%</u>
BCI:	<u>OK</u>
CERT:	<u>YES</u>

-4 80%

## JUSTICE COURT JUDGES

### Orientation Exam

Name: Cordell Pearson Orientation Dates: 1/8/16

1. What is the maximum contempt penalty that a justice court judge can order?  
\$500.00 + 5 DAYS
2. What is the subject matter and territorial jurisdiction of YOUR justice court?  
JUSTICE COURTS HAVE SUBJECT MATTER JURISDICTION OVER INFRACTIONS B+C MISDEMEANORS COMMITTED BY PERSONS 18 YEARS OR OLDER. UC 78A-7-106 EXCEPT AS NOTED 16 & 17 YEARS OLD WILDLIFE, MOTOR VEHICLES TRAFFIC, FINANCIAL RESPONSIBILITY OF MOTOR VEHICLE OWNER, OFF HIGHWAY VEHICLES, STATE BOATING ACT
3. What is the standard of proof in a criminal proceeding?  
BEYOND A REASONABLE DOUBT
4. Under what circumstances can a justice court judge deny bail?  
NONE
5. How many jurors hear a jury trial in justice courts?  
FOUR

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

2-10A - 2-10B + 3.14 EXCEPT WHILE SERVING AS  
A JUDGE ON ANY TIME WITH RULES 3.14-3.8-3.9  
3-10 + 3.11. CANNOT PRACTICE LAW IN DISTRICT WHERE  
YOU SERVE

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.

**DRUGS, SCHOOL ZONES, DOMESTIC VIOLENCE, THEFTS**

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

11. Read each fact situation and indicate whether the judge's conduct may be prohibited by the Code of Judicial Conduct.

a. A defendant calls the judge at home and wants to tell him or her about evidence in his case. May the judge listen?

\_\_\_ Yes     ~~X~~ No

b. May a judge solicit money for the Boy Scouts of America?

\_\_\_ Yes     ~~X~~ No

c. May a judge hear a case involving his nephew?

\_\_\_ Yes     ~~X~~ No

d. May a judge be a delegate to the Republican Convention?

\_\_\_ Yes     ~~X~~ No

e. May a judge allow Channel 5 to video tape a trial?

~~X~~ Yes     ~~X~~ No

f. May a judge charge for performing a wedding outside regular court hours?

~~X~~ Yes     \_\_\_ No

*WE DID NOT COVER THIS. I WOULD NOT LET THEM. UNTIL IT WAS APPROVED BY UTAH COURT PLO*

12. In the state of Utah does the defendant have a right to a trial by jury in a Class C misdemeanor?

~~X~~ Yes     \_\_\_ No

13. Can justice court judges appoint public defenders?

~~X~~ Yes     \_\_\_ No

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 \$1000.00 Jail 1 YEAR

Class C misdemeanor Fine \$750.00 Jail 9 MONTHS

Infractions Fine 750.00 Jail NO JAIL

TRUE OR FALSE

19. T ☒ F A pro se defendant may not cross-examine prosecution witnesses because only attorneys may practice before the court.
20. T ☒ F A defendant has 10 days from the entry of judgment in a criminal matter in a justice court to appeal for a trial de novo to be held in the circuit/district court.

**TAB 9**



**JUDICIAL COUNCIL  
2016 MEETING DATES**

**Meetings are generally scheduled on the fourth Monday of the month beginning at 9:00 a.m. Meetings will be held in the Council Room of the Matheson Courthouse unless otherwise noted.**

Monday, January 25, 2016 (State of the Judiciary to follow the Council meeting)

Monday, February 22, 2016

Friday, March 11, 2016 (in conjunction with the Bar's Spring Convention in St. George)

Monday, April 25, 2016

Monday, May 23, 2016

Monday, June 27, 2016

Monday, July 18, 2016

Friday, August 19, 2016 (Council Budget and Planning Meeting - Matheson Courthouse)

<b>PROPOSED CHANGES</b>
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**Monday, September 12, 2016**

**Monday, October 24, 2016 – CHANGE THIS MEETING TO Tuesday, October 4 prior to the Annual Judicial Conference.**

<b>END OF PROPOSED CHANGES</b>
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Monday, November 21, 2016

Monday, December 19, 2016

**Bar Conferences:**

Spring Convention in St George - March 10-12, 2016

Summer Convention in San Diego, CA - July 6-9, 2016

Fall Forum – Tentative dates – Nov 17-18, 2016

**COSCA/CCJ Meetings:**

2016 CCJ Midyear Meeting – Jan 30 – Feb 3

2016 CCJ/COSCA Annual Meeting – Jul 23-27

2016 COSCA Midyear Meeting – Dec 1-3

**TAB 10**



# 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:** September 15, 2015  
**Re:** Rules for Public Comment

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The Policy and Planning Committee recommends the following amendments to rules 3-302, 3-306, 4-106, 4-408.01, 4-602, 9-105, and 9-302 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.

### 1. Remote Hearings

**CJA 03-0302. Clerk of Court.** Amend. Provides that the clerk's office shall be open during all business hours except Saturdays, Sundays, and holidays. Provides that during hours of operation, the clerk or deputy shall be physically present, or immediately available remotely.

The amendments are at lines 32-24.

**CJA 04-0106. Electronic conferencing.** Amend. Authorizes the use of remote conferencing in lieu of personal appearances when certain requirements are met.

The amendments are at lines 1, 3, 5, and 9-20.

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](mailto:alisonap@utcourts.gov)

**CJA 09-0105. Justice Court hours.** Amend. Provides that during hours of operation, the justice court judge or clerk shall be physically present, or immediately available remotely.

The amendments are at lines 11-13.

## **2. Language Access Program**

Because these rule amendments work off the original rule, I only redlined new language and amendments to the rule. However, the final rules will be redlined in their entireties, since they are new rules.

**CJA 03-0306.01. Language access definitions.** New. Defines terms applicable to rules 3-306.02 through 3-306.05 of the Utah Code of Judicial Administration.

The amendments are at 3-14, and 44-218.

**CJA 03-0306.02. Language Access Committee.** New. Outlines the Language Access Committee's responsibilities.

The amendments are at lines 2-5.

**CJA 03-0306.03. Interpreter certification.** New. Outlines the process for becoming a certified interpreter. Provides a process whereby an exception may be made to one or more of the requirements as determined by the Language Access Committee. Reiterates the policy that contract interpreters are independent contractors.

The amendments are at lines 2-7, 28-39, and 43-44.

**CJA 03-0306.04. Interpreter appointment, payment, and fees.** New. Outlines the interpreter appointment process. Provides that the Judicial Council will review a market study every three years in order to set hourly rates for interpreters.

The amendments are at lines 3-8, and 89-91.

**CJA 03-0306.05. Interpreter removal, discipline, and formal complaints.** New. Outlines the interpreter discipline process. Provides that an interpreter may be disciplined for unprofessional conduct, or for being convicted of, or charged with, a crime. Revises the formal complaint process so that following a proposed resolution by the Language Access Program Coordinator, an interpreter may request a hearing before a panel of the Language Access Committee, and may appeal that panel's decision to the Language Access Committee.

The amendments are at lines 3-6, 22-24, 34-35, 40-43, 61-63, and 70-120.

### **3. Victims' Rights Committees**

**CJA 04-0602. Victims' Rights Committees.** Repeal. Repeals the rule because the process for establishing Victims' Rights Committees is now outlined by Utah Code section 77-37-5.

Because it is recommended for repeal, the entire rule is stricken.

### **4. Administration of Trial Courts**

**CJA 04-0408.01.** Amend. Removes Morgan from the list of district courts administered by a county or municipality, since it is administered by the Administrative Office of the Courts.

The amendments is at line 12.

### **5. Mandatory E-filing in Justice Court Criminal Cases**

**CJA 09-0302. Mandatory electronic filing.** New. Provides that e-filing will be discretionary in justice court criminal cases from July 1, 2016 to December 31, 2016. Provides that e-filing will be mandatory in justice court criminal cases beginning December 31, 2016.

Because it is a new rule, the entire rule is redlined.

Amendments to the Utah Code of Judicial Administration Recommended for  
Public Comment  
January 19, 2016  
Page 4

Encl.	CJA 3-302
	CJA 4-106
	CJA 9-105
	CJA 03-0306.01
	CJA 03-0306.02
	CJA 03-0306.03
	CJA 03-0306.04
	CJA 03-0306.05
	CJA 04-0602
	CJA 04-0408.01
	CJA 09-0302

**Rule 3-302. Clerk of the Court.****Intent:**

To describe the role of the Clerk of the Court.

To specify the procedure by which the Clerk of the Court is selected.

**Applicability:**

This rule shall apply to the trial courts of record.

**Statement of the Rule:**

(1) The Clerk of the district and juvenile courts shall be appointed by the court executive with the concurrence of a majority of the judges assigned to that court location. In locations of the district court administered by contract with the administrative office of the courts, the elected county clerk shall serve as Clerk of the Court.

(2) The Clerk of the Court shall:

(A) take charge of and safely keep the court seal;

(B) take charge of and safely keep or dispose of, according to law, all books, papers and records filed or deposited in the Clerk's Office;

(C) issue all notices, process and summonses where authorized by law;

(D) keep a record of all orders, judgments and decrees as required by law and this Code;

(E) keep minutes of court proceedings;

(F) keep a fee record as provided in this Code;

(G) keep records of jurors' services as provided in this Code;

(H) keep records of witnesses' attendance as provided in this Code;

(I) keep a record of executions as provided in this Code;

(J) take and certify acknowledgments and administer oaths;

(K) keep a record of fines, penalties, costs, and forfeitures as required by law and this Code;

(L) prepare revenue reports, reconcile accounting ledgers to bank statements, maintain and serve as custodian of trust accounts and perform such other accounting duties as assigned by the court executive;

(M) keep a record of court exhibits and ensure the safekeeping of exhibits;

(N) supervise such deputy clerks as required to perform the duties specified in this rule;

(O) keep such other records and perform such other duties as assigned by the court executive in accordance with applicable law and the provisions of this Code.

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

1 **Rule 4-106. ~~Electronic Remote~~ conferencing.**

2 **Intent:**

3 To authorize the use of ~~electronic~~ conferencing from a different location in lieu of personal  
4 appearances in appropriate cases.

5 To establish the minimum requirements for remote appearance from a different location.

6 **Applicability:**

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

8 **Statement of the Rule:**

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

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

12 (1) If the requirements of paragraph (3) are satisfied, the judge may conduct the hearing remotely.

13 (2) If the requirements of paragraph (3) are met, the court may, for good cause, permit a witness, a  
14 party, or counsel to participate in a hearing remotely.

15 (3) The remote appearance must enable:

16 (3)(A) a party and the party's counsel to communicate confidentially;

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

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

20 (3)(D) a verbatim record of the hearing.



**Rule 9-105. Justice Court hours.****Intent:**

To establish minimum court hours for Justice Courts.

**Applicability:**

This rule shall apply to all Justice Courts.

**Statement of the Rule:**

(1) Every Justice Court shall establish a regular schedule of court hours to be posted in a conspicuous location at the court site.

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

(3) Justice Courts shall provide, at a minimum, the following hours of operation:

Number of Average Monthly Filings	Hours Per Day
0-60	1
61-150	2
151-200	3
201-300	4
301-400	5
401-500	6
501 or more	8

(4) The Justice Court judge may schedule the court hours to meet the needs of the litigants and the availability of bailiff and clerk services.

(5) Court hours shall be set at least quarterly and the Justice Court judge shall annually send notice to the Administrative Office of the Courts of the hours which have been set for court operation.

1 **Rule 3-306.01. Language access definitions, ~~in the courts~~.**

2 **Intent:**

3 To define terms used in rules 3-306.01 through 3-306.05.

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

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

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

11 **Applicability:**

12 This rule shall apply to terms used in rules 3-306.01 through 3-306.05, ~~legal proceedings in the courts~~  
13 ~~of record and not of record. This rule shall apply to interpretation for non-English speaking people and not~~  
14 ~~to interpretation for persons with a hearing impairment, which is governed by Utah and federal statutes.~~

15 **Statement of the Rule:**

16 ~~(1) Definitions.~~

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

19 ~~(12)(B)~~ "Approved interpreter" means a person who has been rated as "superior" in testing and has  
20 fulfilled the requirements established in paragraph (3).

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

24 ~~(14)(D)~~ "Committee" means the Language Access Committee established by Rule 1-205.

25 ~~(15)(E)~~ "Conditionally-approved interpreter" means a person who, in the opinion of the appointing  
26 authority after evaluating the totality of the circumstances, has language skills, knowledge of interpreting  
27 techniques, and familiarity with interpreting sufficient to interpret the legal proceeding. A conditionally  
28 approved interpreter shall read and is bound by the Code of Professional Responsibility and shall  
29 subscribe the oath or affirmation of a certified interpreter.

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

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

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

39 ~~(19)(4)~~ "Registered interpreter" means a person who interprets in a language in which testing is not  
40 available and who has fulfilled the requirements established in paragraph (3) other than paragraph  
41 ~~(3)(A)(vi)~~.

42 ~~(10)(J)~~ "Testing" means using an organization approved by the committee that uses the American  
43 Council on the Teaching of Foreign Languages (ACTFL) scale.

44 ~~(2) Language Access Committee. The Language Access Committee shall:~~

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

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

49 ~~(2)(C) discipline court interpreters.~~

50 ~~(3) Application, training, testing, roster.~~

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

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

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

57 ~~(3)(A)(iii) pass a background check;~~

58 ~~(3)(A)(iv) provide proof that the applicant is a Utah resident;~~

59 ~~(3)(A)(v) complete training as required by the administrative office;~~

60 ~~(3)(A)(vi) obtain a passing score on the court interpreter's test(s) as required by the administrative~~  
61 ~~office;~~

62 ~~(3)(A)(vii) complete 10 hours observing a certified interpreter in a legal proceeding; and~~

63 ~~(3)(A)(viii) take and subscribe the following oath or affirmation: "I will make a true and impartial~~  
64 ~~interpretation using my best skills and judgment in accordance with the Code of Professional~~  
65 ~~Responsibility."~~

66 ~~(3)(B) A person who is certified in good standing by the federal courts or by a state having a~~  
67 ~~certification program that is equivalent to the program established under this rule may be certified without~~  
68 ~~complying with paragraphs (3)(A)(v) through (3)(A)(viii) but shall pass an ethics examination and~~  
69 ~~otherwise meet the requirements of this rule.~~

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

73 ~~.(4) Appointment.~~

~~(4)(A) Except as provided in paragraphs (4)(B), (4)(C) and (4)(D), if the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and limited English proficiency, the appointing authority shall appoint a certified interpreter in all legal proceedings. A person requesting an interpreter is presumed to be a person of limited English proficiency.~~

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

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

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

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

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

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

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

~~(4)(F) No interpreter is needed for a direct verbal exchange between the person and court staff if the court staff can fluently speak the language understood by the person and the state court employee is acting within guidelines established in the Human Resources Policies and Procedures. An approved, registered or conditionally approved interpreter may be appointed if the court staff does not speak the language understood by the person.~~

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

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

~~(5) Payment.~~

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

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

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

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

~~(8) Discipline.~~

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

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

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

~~(8)(A)(iii) knowingly failing to follow standards prescribed by law, the Code of Professional~~

~~Responsibility and this rule;~~

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

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

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

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

~~(8)(B) Discipline may include:~~

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

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

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

~~(8)(B)(iv) prohibition from serving as a conditionally approved interpreter;~~

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

~~(8)(B)(vi) reprimand.~~

(9) Complaints.

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

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

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

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

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

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

(9)(E)(ii) The program coordinator may review records and interview the complainant, the interpreter and witnesses. After considering all factors, the program coordinator may propose a resolution, which the interpreter may stipulate to. The program coordinator may consider aggravating and mitigating circumstances such as the severity of the violation, the repeated nature of violations, the potential of the violation to harm a person's rights, the interpreter's work record, prior discipline, and the effect on court operations.

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

(9)(E)(iv) The committee shall decide whether there is sufficient evidence of the alleged conduct or omission, whether the conduct or omission violates this rule, and the discipline, if any. The chair shall

184 issue a written decision on behalf of the committee within 30 days after the hearing. The program  
185 coordinator shall mail a copy of the decision to the interpreter.

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

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

193 ~~\_(10) Fees.~~

194 ~~(10)(A) In April of each year the Judicial Council shall set the fees and expenses to be paid to~~  
195 ~~interpreters during the following fiscal year by the courts of record. Payment of fees and expenses shall~~  
196 ~~be made in accordance with the Courts Accounting Manual.~~

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

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

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

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

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

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

1 **Rules 3-306.02. Language Access Committee.**

2 **Intent:**

3 To outline the responsibilities of the Language Access Committee.

4 **Applicability:**

5 This rule applies to the Language Access Standing Committee of the Judicial Council.

6 **Statement of the Rule:**

7 The Language Access Committee shall:

- 8 (1) research, develop and recommend to the Judicial Council policies and procedures for  
9 interpretation in legal proceedings and translation of printed materials;  
10 (2) issue informal opinions to questions regarding the Code of Professional Responsibility, which is  
11 evidence of good-faith compliance with the Code; and  
12 (3) discipline court interpreters as provided by rule 3-306.06.



**Rule 3-306.03. Interpreter certification.****Intent:**

To outline the procedure for certification of interpreters for legal proceedings.

**Applicability:**

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

**Statement of the Rule:**

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

(1)(A) file an application form approved by the administrative office;

(1)(B) pay a fee established by the Judicial Council;

(1)(C) pass a background check;

(1)(D) provide proof that the applicant is a Utah resident;

(1)(E) complete training as required by the administrative office;

(1)(F) obtain a passing score on the court interpreter's test(s) as required by the administrative office;

(1)(G) complete 10 hours observing a certified interpreter in a legal proceeding; and

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

(2) A person who is certified in good standing by the federal courts or by a state having a certification program that is equivalent to the program established under this rule may be certified without complying with paragraphs (1)(A) through (1)(H) but shall pass an ethics examination and otherwise meet the requirements of this rule.

(3) A person certified under this rule has an ongoing obligation to immediately report to the program coordinator any criminal charges or convictions they have and any Utah State Court cases they are personally involved in as a party.

(4) When the interpreter speaks a rare language and the courts lack certified interpreters in that language, the Language Access Committee may, for good cause shown, exempt an interpreter from meeting one or both of the requirements listed in subparagraph (1)(B) and (1)(F). An interpreter seeking an exemption shall make a written request, outlining the reasons for the exemption, to the Language Access Program Coordinator. The Language Access Committee shall consider the request at its next meeting following the request, and may require the interpreter making the request to appear at the meeting or to provide more information.

38        (5) If an exemption is granted, the interpreter shall meet the conditions set by the committee and shall  
39        apply for an extension of the exemption annually, or as otherwise required by the committee.

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

43        (7) With the exception of staff interpreters who are employees of the courts, court interpreters,  
44        including those listed on the statewide roster, are independent contractors.

**Rule 3-306.04. Interpreter appointment, payment, and fees.****Intent:**

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

To outline the procedures for appointment and payment of interpreters for legal proceedings.

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

**Applicability:**

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

**Statement of the Rule:****(1) Appointment.**

(1)(A) Except as provided in paragraphs (1)(B), (1)(C) and (1)(D), if the appointing authority determines that a party, witness, victim or person who will be bound by the legal proceeding has a primary language other than English and limited English proficiency, the appointing authority shall appoint a certified interpreter in all legal proceedings. A person requesting an interpreter is presumed to be a person of limited English proficiency.

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

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

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

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

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

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

(1)(E) The appointing authority may appoint an interpreter with certified or approved or equivalent credentials from another state if the appointing authority finds that the approved, registered or conditionally approved interpreters who are reasonably available do not have the language skills, knowledge of interpreting techniques, or familiarity with interpreting sufficient to interpret the legal proceeding. The appointing authority may consider the totality of the circumstances, including the

complexity or gravity of the legal proceeding, the potential consequences to the person of limited English proficiency, and any other relevant factor.

(1)(F) No interpreter is needed for a direct verbal exchange between the person and court staff if the court staff can fluently speak the language understood by the person and the state court employee is acting within guidelines established in the Human Resources Policies and Procedures. An approved, registered or conditionally approved interpreter may be appointed if the court staff does not speak the language understood by the person.

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

(2) Court employees as interpreters. A court employee may not interpret legal proceedings except as follows.

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

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

(2)(C) A court may use an employee as a conditionally-approved interpreter under paragraph (1)(D). The employee will be paid the wage and benefits of the employee's grade and not the fee established by this rule.

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

(4) Waiver. A person may waive an interpreter if the appointing authority approves the waiver after determining that the waiver has been made knowingly and voluntarily. A person may retract a waiver and

request an interpreter at any time. An interpreter is for the benefit of the court as well as for the non-English speaking person, so the appointing authority may reject a waiver.

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

(6) Payment.

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

(6)(B) A person who has been ordered to pay fees and expenses for language access may apply to the presiding judge to review the order. If there is no presiding judge, the person may apply to any judge of the court or any judge of a court of equal jurisdiction. The application must be filed within 20 days after the order.

(7) Fees.

(7)(A) Every three years, the Judicial Council shall review a market survey conducted by the Language Access Program Manager and shall set the fees and expenses to be paid to interpreters during the following three fiscal years by the courts of record. Payment of fees and expenses shall be made in accordance with the Courts Accounting Manual.

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

1 **Rule 3-306.05. Interpreter removal, discipline, and formal complaints.**

2 **Intent:**

3 To outline the procedures for interpreter removal and discipline.

4 **Applicability:**

5 This rule shall apply to the Language Access Program Manager, the Language Access Program  
6 Coordinator, the Language Access Committee, interpreter coordinators and contract interpreters.

7 **Statement of the Rule:**

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

11 (2) Discipline.

12 (2)(A) An interpreter may be disciplined for:

13 (2)(A)(i) knowingly making a false interpretation in a legal proceeding;

14 (2)(A)(ii) knowingly disclosing confidential or privileged information obtained in a legal  
15 proceeding;

16 (2)(A)(iii) knowingly failing to follow standards prescribed by law, the Code of Professional  
17 Responsibility and this rule;

18 (2)(A)(iv) failing to pass a background check;

19 (2)(A)(v) failing to meet continuing education requirements;

20 (2)(A)(vi) conduct or omissions resulting in discipline by another jurisdiction; and

21 (2)(A)(vii) failing to appear as scheduled without good cause;

22 (2)(A)(viii) unprofessional behavior toward a client, judge, court staff, court security, or  
23 Language Access Committee member; and

24 (2)(A)(ix) being charged with, or convicted of, a crime.

25 (2)(B) Discipline may include:

26 (2)(B)(i) permanent loss of certified or approved credentials;

27 (2)(B)(ii) temporary loss of certified or approved credentials with conditions for reinstatement;

28 (2)(B)(iii) suspension from the roster of certified or approved interpreters with conditions for  
29 reinstatement;

30 (2)(B)(iv) prohibition from serving as a conditionally approved interpreter;

31 (2)(B)(v) suspension from serving as a conditionally approved interpreter with conditions for  
32 reinstatement; and

33 (2)(B)(vi) reprimand.

34 (3) As long as he or she complies with rule 3-306.04, an interpreter coordinator has the discretion to  
35 decline to assign an interpreter listed on the statewide interpreter roster.

36 (34) Filing of Formal Complaints.

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

(4)(B) A formal complaint shall be filed with the Language Access Program Coordinator. However, the Language Access Program Coordinator may file a formal complaint with the Language Access Program Manager, in which case, the program manager will fulfill the program coordinator's responsibilities under this rule.

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

(5) Investigation by program coordinator.

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

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

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

(35)(EC)(i) The interpreter shall answer the complaint within 30 days after the date the complaint is mailed or the allegations in the complaint are will be deemed to be true and correct. The answer shall admit, deny or further explain each allegation in the complaint.

(5)(C)(ii) Unless the program coordinator determines the allegation in the formal complaint to be egregious, the interpreter shall remain on the court interpreter roster until a final decision on discipline has been made.

(35)(EC)(iii) The program coordinator may review records and interview the complainant, the interpreter and witnesses. After considering all factors, the program coordinator may propose a resolution, which the interpreter may stipulate to. The program coordinator may consider aggravating and mitigating circumstances such as the severity of the violation, the repeated nature of violations, the potential of the violation to harm a person's rights, the interpreter's work record, prior discipline, and the effect on court operations.

(35)(EC)(iv) When the investigation of the formal complaint is complete, the program coordinator shall notify the interpreter, in writing, of the proposed resolution. Within 15 days of the proposed resolution, the interpreter shall, in writing, either accept the discipline by consent or request a hearing by a panel of the Language Access Committee. If the complaint is not resolved by stipulation, the

program coordinator will notify the committee, which shall hold a hearing. If the interpreter fails to respond to the program coordinator's proposed resolution, or fails to request a hearing within 15 days, the interpreter will be deemed to have stipulated to the proposed resolution.

(6) Hearing by panel.

(6)(FA) The program coordinator shall notify the chair of the Language Access Committee if the interpreter requests a hearing by a panel. The chair of the Language Access Committee shall assign three members of the Committee, including one interpreter, to serve on the panel for the hearing, and shall assign one of the panel members to chair the hearing. The chair of the panel is responsible for sending notice to the interpreter, the complainant and the program coordinator.

(6)(GB) The hearing before the panel is private and closed to the public. The hearing shall be recorded. The hearing is informal and is not governed by the Rules of Civil Procedure and the Rules of Evidence. The interpreter, the complainant, and the program coordinator may attend the hearing. The interpreter and the program coordinator may each bring counsel to the hearing. The chair may limit others in attendance to those persons reasonably necessary to the proceedings. The program coordinator and the interpreter may submit exhibits and call witnesses. Panel members and staff may not disclose or discuss information or materials outside of the meeting except with others who participated in the meeting or with a member of the panel.

(6)(HC) If any party fails to appear, the panel may proceed on the evidence before it. If the complainant fails to appear, the panel may dismiss the Formal Complaint.

(6)(HD) The panel shall determine by a majority whether there is a preponderance of evidence of the alleged conduct or omission, and whether the alleged conduct or omission violates this rule or the Code of Professional Responsibility. Within 30 days, the panel chair will inform the program coordinator, the interpreter, and the complainant, in writing, of its decision and the findings of fact supporting it. The panel may discipline the interpreter as provided under paragraph (2)(B), including permanently removing the interpreter's credentials.

(6)(JE) The interpreter may appeal the decision to the Language Access Committee by sending a written request to the program coordinator within 15 days of the date of the panel's decision.

(7) Appeal hearing before the Language Access Committee.

(7)(KA) The committee chair and at least one interpreter member must shall attend the hearing before the Language Access Committee. If a committee member is the complainant or the interpreter, the committee member is recused. Members of the panel are also recused. The program coordinator shall mail notice of the date, time and place of the hearing to the interpreter and the complainant. At least 6 days before the hearing, the interpreter and program coordinator may submit briefs and exhibits, which the committee shall review. The information the committee may consider is limited to information presented to the panel. The hearing is closed to the public. Committee members and staff may not disclose or discuss information or materials outside of the meeting except with others who participated in the meeting or with a member of the Committee. The committee may review records and interview the



111 interpreter, the complainant and witnesses. A record of the proceedings shall be maintained but is not  
112 public.

113 ~~(73)(EB)(iv)~~ The committee shall decide whether there panel is sufficient evidence of the alleged  
114 conduct or omission, whether the conduct or omission violates this rule, abused its discretion in making its  
115 decision. If the committee determines the panel abused its discretion, the committee may dismiss the  
116 Formal Complaint or discipline the interpreter differently as appropriate. If the committee determines that  
117 the panel did not abuse its discretion, the interpreter shall be disciplined according to the panel's decision,  
118 and the discipline, if any. The chair of the committee, or the chair's designee, shall issue a written  
119 decision and analysis on behalf of the committee within 30 days after the hearing. The program  
120 coordinator shall mail a copy of the decision to the interpreter. The committee's decision is final.

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

126 ~~(8) (3)(E)(vi)~~ If the interpreter is certified in Utah under ~~Paragraph (3)(B)~~ rule 3-306.03(1), the program  
127 coordinator, panel or committee ~~shall~~ may report any final findings and sanction to ~~the~~ other agencies and  
128 certification authorities ~~in the~~ in the other jurisdictions.

1        **Rule 4-602. Victims' Rights Committees.**

2        **Intent:**

3        ~~To provide consistency in the establishment of the Victims' Rights Committees in accordance with~~  
4        ~~Utah Code Ann. Section 77-37-5.~~

5        ~~To establish the Commission on Criminal and Juvenile Justice as the responsible agency for the~~  
6        ~~development of policies and procedures which govern the operation of the Victims' Rights Committees.~~

7        **Applicability:**

8        ~~This rule shall apply to the judiciary and the Commission on Criminal and Juvenile Justice.~~

9        **Statement of the Rule:**

10        ~~(1) On or before July 1st of each odd-numbered year, the presiding judge of the district court in each~~  
11        ~~judicial district shall appoint the chair of the Victims' Rights Committee for that judicial district.~~

12        ~~(2) The chair of the committee shall have experience in and knowledge of the criminal justice system~~  
13        ~~and shall have an interest in the rights of victims and witnesses. The chair shall not be a member of the~~  
14        ~~judiciary or be employed by the judicial branch of government.~~

15        ~~(3) On or before September 1st of each odd-numbered year, the chair shall appoint the members of~~  
16        ~~the Victims' Rights Committee. Members shall consist of: a county attorney, a sheriff, a corrections field~~  
17        ~~services administrator, a juvenile court representative, an appointed victim advocate, a municipal~~  
18        ~~attorney, a municipal chief of police and other representatives as appropriate. Members shall have~~  
19        ~~experience in and knowledge of the criminal justice system and shall have an interest in the rights of~~  
20        ~~victims and witnesses.~~

21        ~~(4) The chair may succeed himself or herself at the discretion of the presiding judge. The members of~~  
22        ~~the committee may succeed themselves at the discretion of the chair.~~

23        ~~(5) The Committee shall act as a clearinghouse to distribute and standardize information relevant to~~  
24        ~~victims of crime and the services available to them within the judicial district. It shall assume a leadership~~  
25        ~~role in developing an educational program for the public as well as professionals who provide services to~~  
26        ~~victims. Victims who have complaints may submit them in writing to the Committee. The Committee will~~  
27        ~~note them for informational purposes and then forward them to the appropriate agency for action. Minutes~~  
28        ~~of the Committee meetings shall be forwarded to the Commission on Criminal and Juvenile Justice for~~  
29        ~~distribution to local Committees on a statewide basis. The Commission shall also provide minutes of the~~  
30        ~~meetings of the Governor's Council on Victims to the local Committees.~~

**Rule 4-408.01. Responsibility for administration of trial courts.**

**Intent:**

To designate the court locations administered directly through the administrative office of the courts and those administered through contract with local government.

**Applicability:**

This rule shall apply to the trial courts of record and to the administrative office of the courts.

**Statement of the Rule:**

(1) All locations of the juvenile court shall be administered directly through the administrative office of the courts.

(2) All locations of the district court shall be administered directly through the administrative office of the courts, except the following, which shall be administered through contract with county or municipal government: Fillmore, Junction, Loa, Manila, ~~Morgan~~, Panguitch, Randolph, and Salem.

**Rule 9-302. Mandatory electronic filing.**

**Intent:**

To provide that documents filed in criminal cases in justice court be filed electronically.

To provide for exceptions.

**Applicability:**

This rule applies in the justice court.

**Statement of the Rule:**

(1) Except as provided in paragraph (3), pleadings and other papers filed in criminal cases in justice court between July 1, 2016 and December 31, 2016 may be electronically filed using the electronic filer's interface.

(2) Except as provided in paragraph (3), pleadings and other papers filed in criminal cases in justice court on or after December 31, 2016 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 written request outlining why the exemption is necessary to the Justice Court Administrator.

(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 11**



Timothy M. Shea  
Appellate Court Administrator

Andrea R. Martinez  
Clerk of Court

## Supreme Court of Utah

450 South State Street  
P.O. Box 140210  
Salt Lake City, Utah 84114-0210  
Appellate Clerks' Office  
Telephone 801-578-3900

January 11, 2016

Matthew B. Durrant  
Chief Justice  
Thomas R. Lee  
Associate Chief Justice  
Christine M. Durham  
Justice  
Deno G. Himonas  
Justice  
John A. Pearce  
Justice

**To:** Judicial Council  
**From:** Tim Shea *T. Shea*  
**Re:** Temporary appointment of Judge Stephen Roth to the  
Technology Committee

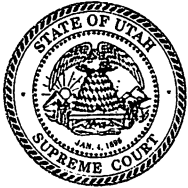
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Justice Pearce's appointment to the Supreme Court creates a vacancy on the Standing Committee on Court Technology as the representative of the Court of Appeals. The committee develops and then recommends to the Judicial Council, plans, priorities, and strategies that guide and govern the use of technology in Utah's courts.

The Court of Appeals nominates Judge Stephen Roth to serve until the its two judicial vacancies are filled and the full court has an opportunity to nominate a permanent replacement. I ask that the Management Committee and the Judicial Council appoint Judge Roth to serve temporarily on the Technology Committee.

copy: Ron Bowmaster  
Judge Stephen Roth

**ADDITIONAL COUNCIL  
MEETING HANDOUTS**



Timothy M. Shea  
Appellate Court Administrator

Andrea R. Martinez  
Clerk of Court

## Supreme Court of Utah

450 South State Street  
P.O. Box 140210  
Salt Lake City, Utah 84114-0210  
Appellate Clerks' Office  
Telephone 801-578-3900

December 9, 2015

Matthew B. Durrant  
Chief Justice  
Thomas R. Lee  
Associate Chief Jus.  
Christine M. Durham  
Justice  
Deno G. Himonas  
Justice

**To:** Ray Wahl  
**From:** Tim Shea *T. Shea*  
**Re:** Estimated cost of senior judges in the court of appeals in FY 2016

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My best estimate of what senior judges in the court of appeals will cost in FY 2016 is \$100,500. This includes the work for:

- 40 opinions assigned from January through May, 2016;
- 5 opinions already assigned to Judge Bench in October and November, 2015; and
- payments to Judge Bench and Judge Billings for work done in FY 2016 on opinions assigned in FY 2015.

In addition, I believe we will need about \$4,400 for work done in FY 2017 on opinions assigned to senior judges January through May, 2016. We certainly will have expenditures next fiscal year for opinions assigned this fiscal year, but the estimate itself is speculative.

At the moment we do not anticipate needing senior judges beyond the 40 opinions planned for January through May.

I want to thank Milt for digging up two years of payment statements by Judge Bench, Judge Billings and Judge Greenwood, without which this estimate would not be possible. A brief explanation:

The payment statement form distinguishes between "in court calendar" time and "outside preparation" time. In the appellate context that distinction is a bit misleading. First, because the actual time in court is very short, about 30 minutes per case. Second, the "outside" time is not just the time to prepare in advance for oral argument but also the time to conference after oral argument and to draft, circulate and issue the opinion. On average those tasks are scattered over the 110 days following oral argument. The senior judges appear to be reporting these latter tasks as preparation time because it is not time spent inside the courtroom, but neither is it technically preparation.



An interesting aside—at least I found it interesting—the ratio of “preparation” time to “in court” time is nearly the same for Judge Billings (2.2:1) and Judge Bench (2.5:1), whereas Judge Greenwood’s ratio is 3.7:1. It may be simply that Judge Greenwood differentiates the two categories in a manner different from the other two. Ultimately the nature of the work does not affect the total cost, although I did use it to estimate the 2017 expenses of 2016 assignments.

More important is the average time per opinion for each judge. The average time per opinion by Judge Greenwood (26 hours) is nearly the same as for Judge Bench (28 hours). The average time per opinion for Judge Billings is higher (35 hours), but she has far fewer opinions assigned than the other two. I believe our plan for January through May is to use primarily Judge Bench and Judge Greenwood, so I did not include Judge Billings’ average in calculating the average time per opinion. If we need to assign opinions to Judge Billings, presumably the cost will go up a bit.

I based the averages on the number of authored majority opinions assigned to each judge. In the two years examined, Judge Billings had 6 opinions assigned, Judge Bench 27, and Judge Greenwood 25. For each opinion that the senior judge must write, he or she will also participate in about 4 other opinions. At a minimum, the senior judge will need to prepare to discuss those opinions at oral argument or conference, and will also need to review, consider, comment, and vote on those opinions. It is entirely circumstantial, but the senior judge might write a concurring or dissenting opinion, which obviously will take more time.

I do not have a way to differentiate between the time a senior judge spends on his or her own opinions and the time the senior judge spends on the opinions of other judges. Consequently I have used the opinions assigned to the senior judge as a proxy for the other work. Although the calculations below show the average time per assigned opinion, recognize that the measure includes time spent on the opinions of others.

Having been drilled in middle school algebra to show my work, here it is. There may be some rounding errors.

	Billings	Bench	Greenwood	FY 2016 Estimate
Opinions assigned FY 2014 & 15	6	27	25	45
“In court” hours FY 2014 & 15	60	240	140	325
“Preparation” hours FY 2014 & 15	148	528	520	909
Total hours FY 2014 & 15	208	768	660	1234

	Billings	Bench	Greenwood	FY 2016 Estimate
Average hours / opinion	35	28	26	27
Ratio "Prep time" : "In-court" time	2.5:1	2.2:1	3.7:1	2.8:1

Salary / hour	\$73.20
Benefits (% of salary)	
LTD	0.006
UCI	0.002
Worker's Comp	0.0088
FICA	0.062
Medical	0.0145
Term Pool	0.0551
Total cost / hour	\$84.07

Total estimated cost of FY 16 assignments	\$103,739
Carry-over of FY 15 assignments	\$1,161
Subtotal	\$104,900
Estimate of FY 16 assignments carried over to FY 17	\$4,400
Total estimated cost of senior judges in FY 16	\$100,500

copy: Judge Voros  
 Judge Orme  
 Lisa Collins  
 Derek Byrne

SUMMARY OF APPEALLATE COURT SENIOR JUDGES LABOR EXPENSES  
BY FISCAL YEAR

SENIOR JUDGE	FY2014	FY2015	FY2016	TOTAL
JUDGE BENCH	37,323.97	18,417.99	8,101.05	63,843.01
JUDGE BILLINGS	12,166.06	2,288.02	320.14	14,774.22
JUDGE GREENWOOD	71,358.96	12,170.34	0.00	83,529.30
TOTAL	120,848.99	32,876.35	8,421.19	162,146.53

1: Labor expenses include Fed / FICA, Health Insurance, and Unemployment Insurance / Workers Comp.

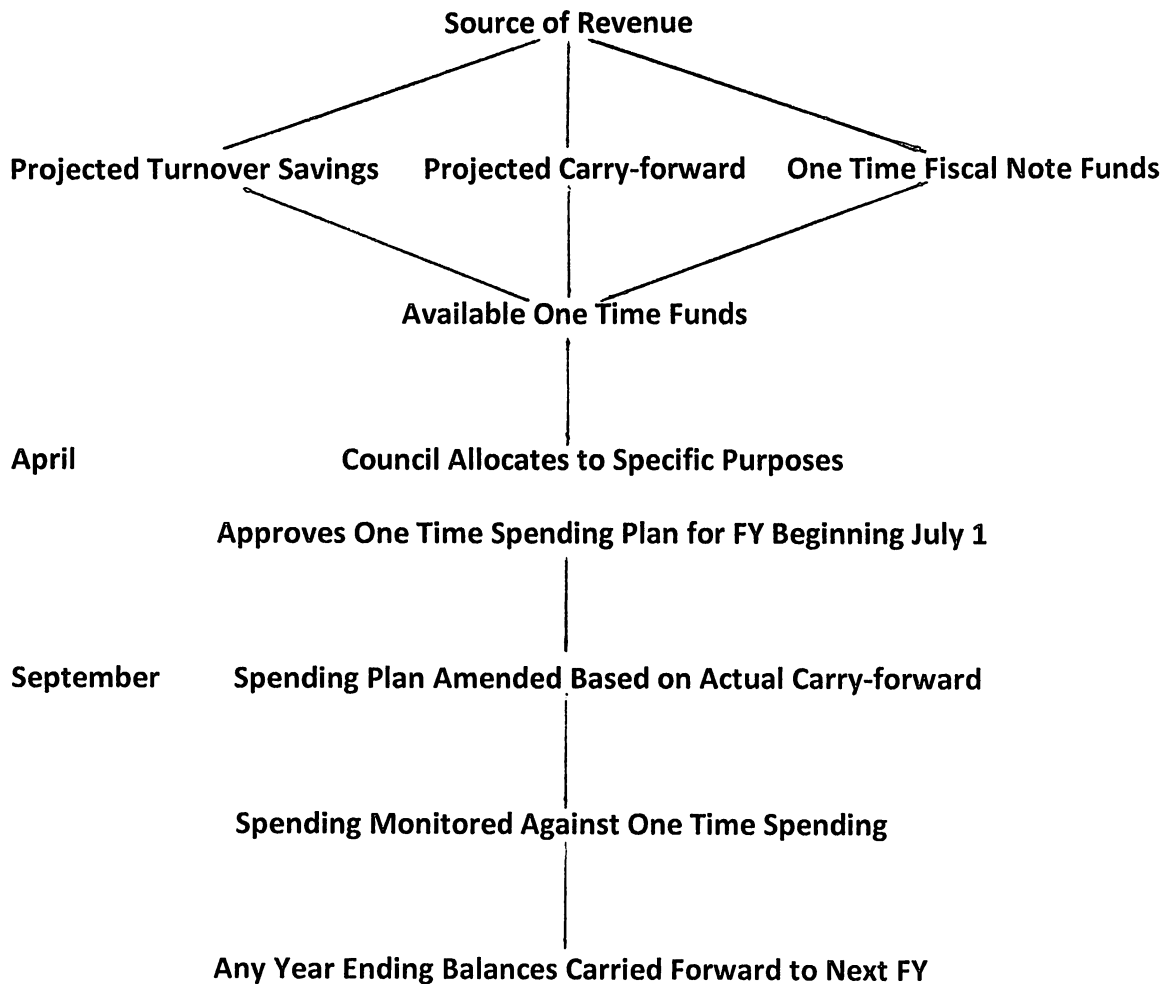
2: FY2014 excludes July and August activity.

3: FY2016 is through the pay period ending 11/20/2015

## FY 2016 Senior Judge Budget

Base Budget (on going funds)	168,700
Total Onetime Funds Added to Spending Plan	90,000
<b>Total Budgeted for FY</b>	<b>258,700</b>
Expenditures to Date	- 107,000
Known existing obligations (1/1/16- 1/30/16)	- 100,000
<b>Projected Balance for Remainder of FY</b>	<b>51,700</b>
COA Request	- 100,400
<b>Projected Deficit if COA Request Approved</b>	<b>-48,700</b>
Recommendation for Increasing Budget	100,000
Available for Balance of FY	51,300
<b>Total Revised Budget</b>	<b>358,700</b>

## Annual One Time Spending Plan



# **FY 2016 One-time Spending Plan**

1. Employee Incentive Awards	200,000
2. Employee Assistance Program	10,000
3. Employee Second Language Stipend	88,400
4. Employee Tuition Assistance	100,000
5. Education- Succession/ Certification Training	40,000
6. PJ/TCE Leadership Conference	40,000
7. Grant Matching Funds	50,000
8. Contract Site Adjustment Funds	10,000
9. Juvenile Court Extradition Funds	10,000
10. Judicial Operations Funds	46,600
11. Utah Code	62,000
12. Pro Tem, Interpreter Coord./Jury Coord. Training	9,000
13. Senior Judge Additional Funds	90,000
14. Volunteer Court Visitor Program	160,100
15. 4 <sup>th</sup> Juvenile Clerical Support	58,700
16. Courtroom Technology, Remote Services	1 56,200
17. District Court Program Adm. ( .5 FTE)	41,500
18. Time Limited Law Clerks (2 FTE)	177,600
19. 4 <sup>th</sup> District Court Scanning Project	28,800
20. CORIS Rewrite Advance Funds	208,000
21. Cash Receipting Equipment Wiring and Installation	40,000
22. Reserve	260,848

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Total One-time Budget	1,863,748
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## FY 2017 Spending Plan Projections

<b>Amount of FY 2016 Spending Plan</b>	<b>1,863,748</b>
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Known items to be eliminated

4 <sup>th</sup> District Scanning Project	- 28,800
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CORIS Rewrite Advance Funds	- 208,000
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Cash Receipting Equip. Wiring and Installation	- 40,000
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<b>Adjusted Amount of FY 2016 Spending Plan</b>	<b>1,586,948</b>
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Obligations Already made by Council for FY 2017 Spending Plan

CORIS Rewrite (August Budget Session)	250,000
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Justice Court Administrator Position (.5 FTE) (August Budget Session)	7 5,000
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4 <sup>th</sup> District Court Law Clerk Bailiff Supplement (tentative action Nov. Council Meeting)	150,000
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Total Additional Obligations	475,000
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### Additional Budget Issues

- Volunteer Court Visitor Program
- Additional COA coverage
- if a District or Juvenile Court Judge Appointed to COA (90,000 per position)
- Judge Johansen vacancy will last 6 months
- As of 7/1/2016, 26 judges are eligible to retire without any actuarial reductions.  
Average number of days for a judicial vacancy over past 5 years = 53  
Daily cost of a senior judge for district or juvenile court = 585.60  
If half of judges elect to retire (53 x 585.60 = 31,036.80 x 13 = 403,478.40
- Reduced carry-forward because of higher expenditures within the FY

Average amount of combined one time carry forward and turnover savings over the past ten years = 1,551,853