

JUDICIAL COUNCIL MEETING

AGENDA

**October 22, 2018
Price Courthouse
120 East Main Street
Price, Utah 84501
12:30 p.m. – 3:20 p.m.**

Chief Justice Matthew B. Durrant Presiding

Lunch will be served at 12:00 p.m.

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|-----|------------|--|
| 1. | 12:30 p.m. | Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant
(Tab 1 – Action) |
| 2. | 12:35 p.m. | Oath of Office – Judge Kevin Allen Chief Justice Matthew B. Durrant |
| 3. | 12:40 p.m. | Chair’s Report Chief Justice Matthew B. Durrant |
| 4. | 12:45 p.m. | Administrator’s ReportRichard Schwermer |
| 5. | 12:55 p.m. | Reports: Management Committee Chief Justice Matthew B. Durrant
Liaison CommitteeJustice Thomas Lee
Policy and Planning Judge Derek Pullan
Bar Commission..... Rob Rice, esq.
(Tab 2 – Information) |
| 6. | 1:05 p.m. | Rule 4-409 for Public Comment Michael Drechsel
(Tab 3 – Action) |
| 7. | 1:15 p.m. | Rules for Final Approval 3-401, 3-414, 4-202.03, 4-202.09, 4-403, 4-701 ..
(Tab 4 – Action)..... Michael Drechsel |
| 8. | 1:25 p.m. | Professional Appearance Policy Rob Parkes
(Tab 5 – Action) Michael Drechsel |
| 9. | 1:45 p.m. | Senior Judge Certifications Nancy Sylvester
(Tab 6 – Action) |
| 10. | 1:55 p.m. | Seventh District Report..... Judge Doug Thomas
(Information) Travis Erickson |

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|-----|-----------|--|
| | 2:10 p.m. | Break |
| 11. | 2:20 p.m. | Executive Session – There will be an executive session |
| 12. | 3:20 p.m. | Adjourn |

Consent Calendar

The consent calendar items in this section are approved without discussion if no objection has been raised with the Administrative Office of the Courts or with a Judicial Council member by the scheduled Judicial Council meeting or with the Chair of the Judicial Council during the scheduled Judicial Council meeting.

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|---|---|
| 1. Committee Appointments
(Tab 7) | Ethics Advisory Committee – Brent Johnson
Standing Committee on Children and Family Law – Ray Wahl |
| 2. Probation Policies 1.5, 1.6, 2.3, 2.4, 4.12
(Tab 8) | Dawn Marie Rubio |
| 3. New Senior Judge Questionnaires
(Tab 9) | Nancy Sylvester |
| 4. Probate Cover Sheet Revisions
(Tab 10) | Kristine Laterza |

Tab 1

JUDICIAL COUNCIL MEETING

Minutes

September 18, 2018

Snowbird Resort – Cliff Lodge

Tenth Floor, Twin Peaks B Conference Room

9320 Cliff Lodge Dr.

Snowbird, Utah 84092

12:30 p.m. – 4:00 p.m.

Chief Justice Matthew B. Durrant, Presiding

Attendees:

Chief Justice Matthew B. Durrant, Chair
 Hon. Kate Toomey, Vice Chair
 Hon. Augustus Chin
 Hon. Mark DeCaria
 Hon. Ryan Evershed
 Hon. Paul Farr
 Justice Thomas Lee
 Hon. David Marx
 Hon. Mark May
 Hon. Kara Pettit
 Hon. Derek Pullan
 Hon. Todd Shaughnessy
 Hon. John Walton
 Rob Rice, esq.

Staff:

Richard Schwermer
 Ray Wahl
 Jacey Skinner
 Kim Allard
 Heidi Anderson
 Brody Arishita
 Shane Bahr
 Cathy Dupont
 Kim Free
 Tom Langhorne
 Suzy Lee
 Heather Marshall
 Chris Palmer
 Jim Peters
 Nancy Sylvester
 Jeni Wood

Excused:

Dawn Marie Rubio

Guests:

Senior Judge Dennis Fuchs
 Judge Diana Hagen
 Justice Deno Himonas
 Peyton Smith

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

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

Motion: Judge Kate Toomey moved to approve the Budget & Planning and the Judicial Council minutes from the August 17, 2018 meeting. Judge Augustus Chin seconded the motion, and it passed unanimously.

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

Chief Justice Durrant said he attended a meeting with the Judicial Executive Compensation Committee during which the courts relayed the message that the recent raises helped increase the quality of judges who have been confirmed to the bench. Chief Justice Durrant thanked Jacey Skinner for her comments to the committee. Dickson Burton also presented to the Committee. Ms. Skinner said the Committee members were very attentive to the court's needs. Richard Schwermer said there was discussion on rural versus urban judicial salary needs. The committee will make a recommendation to the legislature prior to the 2019 session.

3. ADMINISTRATOR'S REPORT: (Richard Schwermer)

Mr. Schwermer distributed the 2018 Human Resources AOC survey results. The results have consistently increased over the past several years.

Mr. Schwermer said the Judicial Performance Evaluation Commission (JPEC) conducted a member survey that covered issues such as procedural fairness, courtroom observation, and judges' self-evaluations. The commission prioritized procedural fairness adjustments and yearly survey high, and appellate opinion and litigant surveys low for attention this year.

There was a meeting to discuss the Manti project. Mr. Schwermer explained the Matheson Courthouse bond expired this year and the timing of the Provo Courthouse will be complete next year so that money can be used for Provo. A similar option is less attractive for Manti. The Facilities Committee suggested the Manti project be presented to the legislature during their next session for funding.

Mr. Schwermer said the courts had a booth at the recent FanX event. Mr. Schwermer noted there were more than 20 court volunteers. Approximately 2,500 people stopped at the booth for brief discussions. The event was a successful public outreach event, and hopefully a booth can be acquired for next year again.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflective in the minutes.

Liaison Committee Report:

Justice Thomas Lee had to leave the meeting early.

Policy and Planning Committee Report:

Judge Derek Pullan said the committee recently finalized their work on the Professional Appearance Policy. The policy will be presented to the Council in October.

Judge Pullan said they are working on the rule that will consolidate multiple probation cases involving a single defendant. Utah Code § 77-18-1(12)(2)(b) states the court has continuing jurisdiction, however, if a defendant has multiple cases throughout multiple jurisdictions, there is concern as to which court should have jurisdiction if the probation is consolidated. Judge Pullan recommended having the statute amended before the rule is

finalized. Ms. Skinner said the proposed amendment to the statute could perhaps be included in a housekeeping bill.

Bar Commission Report:

Rob Rice said John Lund on behalf of the Bar is taking the lead on exploring the possibility of creating a committee to review the rules of professional conduct that address how Licensed Paralegal Practitioner's will work in law firms, advertising for attorneys, affiliating other professions with law firms. Mr. Rice noted Dickson Burton is the co-chair of the lawyer and judge well-being committee. The committee will have a presentation at the Bar's fall forum.

5. EDUCATION COMMITTEE REPORT: (Judge Diana Hagen, Tom Langhorne, Kim Free)

Chief Justice Durrant welcomed Judge Diana Hagen, who discussed judicial education. Tom Langhorne thanked the Council for their continued support of the Education Department. Annually, the Department holds more than 114 day-long classes for court staff including of more than 3,000 students, 24 statewide conferences, and 2 academies. The Department created manuals for presiding judges, TCE's, and clerks of court. The redesigned New Judge Orientation course also now includes one-on-one specialized training.

Kim Free said justice courts now have presiding judges. The presiding judges are participating in the annual Judicial Conference. Mentors are experimenting with using cameras at the new judges' benches to facilitate remote video assistance. Ms. Free attended the national court educators' conference where many states sought the advice of Mr. Langhorne and the Utah courts. Judge Hagen thanked the Council for its support.

Chief Justice Durrant said the level of our judicial education programming is due to the hard work of many talented individuals.

6. REVIEW OF CURRENT JUDICIAL WORKLOAD DATA INPUTS: (Kim Allard)

Kim Allard noted this is a follow up to a recent discussion about the process and application of judicial weighted caseloads. Ms. Allard said the weighted caseloads are calculated twice a year to estimate time required to address case filings. This began in approximately 1997 for district courts and 1999 for juvenile courts.

The standard work time used to calculate a weighted caseload is 1,540 work hours per year based on 7-hour per day for direct case work. Additional considerations in the calculation include travel time and administrative responsibilities. Cross-jurisdictional work and senior judge work is not counted in weighted caseloads. Ms. Allard stated weighted caseloads are based on the districts, not the judges.

Ms. Allard said it might be more beneficial to review multiple years' worth of weighted caseloads. Mr. Schwermer explained that this presentation was to inform the Council of how the final calculations are made and to provide options for consistent application of the information. Justice Lee noted this presentation was very helpful.

Ms. Allard said it is possible to include committee assignments and travel time related to those assignments. Mr. Schwermer said the Legislature has confidence in the courts' weighted caseload formula. Judge Shaughnessy would like to include a three or five year average. Ms. Allard will include a three-year average when providing the data assessment. Chief Justice Durrant recommended Ms. Allard present this data to the Boards.

7. COURT COMMISSIONER CONDUCT COMMITTEE REPORT: (Judge Michele Christiansen Forster, Jacey Skinner)

Judge Michele Christiansen Forster was unable to attend. Ms. Skinner said prior to last week, no complaints were received this year. Ms. Skinner reviewed rule 3-201.02 with the Council. Currently, there are commissioners in the First, Second, Third, and Fourth Districts. Mr. Schwermer said the members of the Committee are the three presiding judges of the Second, Third, and Fourth Districts, as well as John Lund, and Steve Johnson. All members are ex officio and do not meet unless there is a non-frivolous complaint received.

Chief Justice Durrant said we need to be sure the public has information necessary to file a complaint. Mr. Schwermer noted informal complaints are sent to the presiding judge of that district, whereas, a written formal complaint is ones received by Chief Justice. Mr. Schwermer stated the process for a formal complaint begins with Ms. Skinner and the chair, who will initially decide if the complaint is frivolous. If the chair finds it to be non-frivolous the committee will meet. Judge Shaughnessy suggested that perhaps more than one person should make that determination.

Chief Justice Durrant asked Ms. Skinner to relay to Judge Christiansen Forster the Council's appreciation for her work.

8. REVIEW OF REVISED CERTIFICATION STANDARDS AND CERTIFICATION OF PROBLEM SOLVING COURTS: (Senior Judge Dennis Fuchs)

Chief Justice Durrant welcomed Senior Judge Dennis Fuchs. Judge Fuchs first reviewed his proposed revisions to the modified adult problem solving court checklist.

Judge Fuchs reviewed the status of the below listed courts. Judge Fuchs is seeking recertification on all courts except for the Second District Juvenile Drug Court (Ogden); Third District Juvenile Dependency Drug Court (West Jordan); Fourth District Juvenile Dependency Drug Court (Orem), and Fourth District Juvenile Dependency Drug Court (Spanish Fork); and American Fork Juvenile Dependency Court. Judge Fuchs noted in February 2018, conditional certification was approved for the Weber County Adult Drug Court (Judge Bean); American Fork Juvenile Dependency Court (Judge Bazzelle); and Washington County Adult Mental Health Court (Judge Walton).

Adult Drug Courts

First District Adult Drug Court, Logan, Judge Willmore
 First District Adult Drug Court, Brigham City, Judge Maynard
 Second District DUI Court, Ogden, Judge DiReda
 Second District Adult Drug Court, Riverdale Justice Court, Judge Renstrom

Second District Dependency Drug Court, Ogden, Judge Heward
 Third District Adult (ASAP) Drug Court, Salt Lake City, Judge Blanch
 Third District Adult Drug Court, Tooele, Judge Bates
 Third District Dependency Drug Court, West Jordan, Judge Jimenez
 Fourth District Adult (Probation) Drug Court, Provo, Judge Eldridge
 Fourth District Dependency Drug Court, Orem, Judge Nielsen
 Fourth District Dependency Drug Court, Spanish Folk, Judge Smith
 Sixth District Adult Drug Court, Richfield, Judge Bagley
 Seventh District Dependency Drug Court, Price, Judge Bunnell
 Eighth District Adult Drug Court, Vernal, Judge McClellan

Juvenile Drug Courts

Second District Juvenile Drug Court, Ogden, Judge Noland

Veteran Courts

Third District Veteran Court, Salt Lake City, Judge Hansen
 Fourth District Veteran Court, Provo, Judge Powell

Mental Health Courts

First District Adult Mental Health Court, Brigham City, Judge Cannell
 Second District Adult Mental Health Court, Ogden, Judge Hyde
 Second District Adult Mental Health Court, Farmington, Judge Dawson

Policy and Planning convened a committee to review the current certification checklist. Judge Pullan reviewed the proposed amendments to the adult court checklist. Judge Fuchs said he would like approval of the modified checklist so he can begin using it immediately.

Mr. Schwermer said there are three issues for the Council to address: 1) does the Council accept the proposed revisions to the adult checklist; 2) revision of rule 4-409; and 3) what to do with current issues with problem-solving courts not meeting the testing requirements.

Judge Pullan said he prefers to wait until a rule is in place before any notice is sent to the courts that are not in compliance.

Motion: Judge Shaughnessy moved to have Policy & Planning revise rule 4-409 and address the revisions at the next Council meeting. Judge David Marx seconded the motion, and it passed unanimously.

Motion: Judge Shaughnessy moved to approve the changes to the adult court checklist as presented. Justice Lee seconded the motion, and it passed unanimously.

Motion: Judge Shaughnessy moved to approve recertification of the above listed courts, with the exception of the Second District Juvenile Drug Court (Ogden); Third District Dependency Drug Court (West Jordan); Fourth District Dependency Drug Court (Orem), and Fourth District Dependency Drug Court (Spanish Fork); and American Fork Juvenile as presented. Justice Lee seconded the motion, and it passed unanimously.

9. ONLINE DISPUTE RESOLUTION: (Justice Deno Himonas, Heidi Anderson, and Brody Arishita)

Chief Justice Durrant welcomed Justice Deno Himonas. Justice Deno Himonas stated the small claims ODR program would require all litigants to initially create a case in the program. The pilot program will begin September 19 in West Valley Justice Court. This will be reviewed in 2019 to determine if it is successful. There are six facilitators for the pilot, including Nini Rich, and several other lawyers and mediators. Justice Himonas said there is an information sheet attached with the complaint that explains how a litigant can opt out of the program, such as if there was a language barrier or lack of internet. A facilitator is automatically assigned when a case is created and will respond within 24-48 hours.

Brody Arishita explained the program. An ODR email account will provide access to litigants with questions about the program. Justice Himonas thanked everyone involved with this program. The next step for the committee is to create a Spanish version. At this time, any cases with language barriers will need to take the traditional route for their case. Rob Rice said the Bar is interested in linking this program with their assistance programs. Justice Himonas said this would be addressed in the next phase.

Motion: Judge Pullan moved to amend the summons form with moving the language “if you are unable to participate . . .” from page 4 to page 3. The Council agreed.

Motion: Judge Kara Pettit moved to approve the small claims ODR program as presented, with the exception of the amended summons. Judge Paul Farr seconded the motion, and it passed unanimously.

10. COMMISSIONER EVALUTIONS: (Nancy Sylvester)

Nancy Sylvester reviewed commissioner evaluations for Commissioners Michelle Blomquist (Third District), Kim Luhn (Third District), Joanna Sagers (Third District), and Thomas Patton (Fourth District).

11. PROPOSED COUNCIL LEGISLATION: (Jacey Skinner)

Ms. Skinner welcomed Judge May to the Liaison Committee. Ms. Skinner reviewed proposed changes to Utah Code § 78A-2-220 Authority of Magistrate. Ms. Skinner next reviewed the proposed amendments to the housekeeping bill. Ms. Skinner will discuss the possibility of adding Utah Code § 77-18-1, after further discussion with Policy & Planning.

Ms. Skinner addressed current issues arising during interim. Ms. Skinner said there might be a possibility that a bill will be run that allows automatic expungement of certain low-level offenses. CCJJ is discussing having more expungement fairs to allow individuals easier access. Ms. Skinner said there is discussion on revising how a grand jury operates. Judge Toomey recommended having more than one judge make a decision on convening a grand jury.

Court security was discussed.

Motion: Judge Shaughnessy moved to approve the housekeeping bill as amended, adding § 77-18-1 with the understanding that this statute will be reviewed by Policy & Planning. Judge Toomey seconded the motion, and it passed unanimously.

12. APPROVAL OF NEW COMMISSIONER – THIRD DISTRICT COURT: (Peyton Smith)

Chief Justice Durrant welcomed Peyton Smith. Mr. Smith stated Commissioner T. Patrick Casey will retire in October. Mr. Smith noted they held a 10-day comment period on the applicants for the commissioner position. The Third District recommended Russell Minas be approved for this position.

Motion: Judge Toomey moved to approve Russell Minas be approved as the new Third District Court Commissioner. Judge Walton seconded the motion, and it passed with Judge Marx abstaining.

13. JPEC RULE 597-3-2 AND 597-3-4 PROPOSED CHANGES: (Richard Schwermer)

Mr. Schwermer addressed the proposed changes to the Judicial Performance Evaluation Committee rule 597-3-2. This rule is currently out for public comment. Ms. Skinner noted that for judicial applicants all comments are public unless the provider of the comments specifically requests they be confidential. Section (5) allows comments to be submitted anonymously. Judge Shaughnessy said there would be concern for judges if 597-3-4(5) is approved. Mr. Schwermer said Dr. Yim would like feedback from the Council on these proposed rule changes. The Council agreed to provide comment on the rule. The Council recommended a similar process as exists with judicial applicants.

14. EXECUTIVE SESSION

Judge Toomey moved to go into an executive session to discuss a personnel matter and litigation. Judge Pullan seconded the motion, and it passed unanimously.

15. CONSENT CALENDAR ITEMS

1) Probation Policies. Revisions to rules 2.10, 3.1, 4.3, and 4.13 and the deletion of rules 3.2, 3.3, and 3.4. Approved without comment.

2) Rules for Public Comment. Code of Judicial Administration Appendix I. Rule 4-202.02. Approved without comment.

3) Committee Appointments.

Technology Committee appointment of Judge Clemens Landau. Approved without comment.

Self-Represented Parties Committee appointment of Charles Stormont and Shawn Newell. Approved without comment.

16. ADJOURN

The meeting adjourned.

Tab 2

JUDICIAL COUNCIL MANAGEMENT COMMITTEE

Minutes
October 9, 2018
Council Room
Matheson Courthouse
450 South State Street
Salt Lake City, Utah 84111
12:00 p.m. – 2:00 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members Present:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Toomey, Vice Chair
Hon. David Marx
Hon. Todd Shaughnessy

Staff Present:

Richard Schwermer
Ray Wahl
Jacey Skinner
Shane Bahr
Michael Drechsel
Brent Johnson
Kristene Laterza
Jim Peters
Dawn Marie Rubio
Karl Sweeney
Nancy Sylvester
Diane Williams
Jeni Wood

Excused:

Guests:

Judge James Brady

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

Chief Justice Matthew Durrant welcomed everyone to the meeting.

After reviewing the minutes, the following motion was made:

Motion: Judge David Marx moved to approve the September 4, 2018 Management Committee meeting minutes. Judge Kate Toomey seconded the motion, and it passed unanimously.

2. ADMINISTRATOR'S REPORT: (Richard Schwermer)

Richard Schwermer said the Bail Bond Industry requested to have a representative appointed to the Uniform Fine and Bail Schedule Committee. Shane Bahr noted Clayson Quigley staffs the committee and they only meet once or twice a year. Jacey Skinner

recommended inviting the Bail Bond Industry to attend the meetings but not become voting members as only judges are members of the committee. Arguably this is a judicial function.

Mr. Schwermer said the proposed Manti Courthouse was ninth on the Building Board list this year.

3. JUDICIAL COUNCIL COMMITTEE ASSIGNMENTS: (Richard Schwermer)

Mr. Schwermer stated Judge Mark DeCaria has been replaced as a Council member by Judge Kevin Allen. Judge Allen will attend the October Council meeting. Mr. Schwermer proposed moving Judge Kara Pettit from Policy & Planning to the Liaison Committee and placing Judge Kevin Allen on the Policy & Planning Committee.

Motion: Judge Toomey moved to approve moving Judge Kara Pettit from the Policy & Planning Committee to the Liaison Committee and placing Judge Kevin Allen on the Policy & Planning Committee. Judge Marx seconded the motion, and it passed unanimously.

4. PROBATION POLICIES 1.5, 1.6, 2.3, 2.4, AND 4.12 (Dawn Marie Rubio)

Dawn Marie Rubio announced Dennis Moxon is now the permanent Assistant Juvenile Court Administrator for delinquency. He previously was appointed on an interim basis. Ms. Rubio addressed each of the proposed policies. Policy 1.5 is recommended for deletion upon the approval of the new Professional Appearance Policy. Policy 1.6 was last updated in 2001. The amendment to this policy addresses technology in courtrooms. Policy 2.3 was last updated in 2009. Amendments to this policy are required to be in compliance with H.B. 239. Policy 2.4 was updated last year, however, further revision was required to conform to changes in statute from H.B. 239. Policy 4.12 has been rendered obsolete by changes in section 2.3, therefore, this policy is recommended for deletion. Judge Todd Shaughnessy would like a final review of the draft for typographical errors. Ms. Rubio will do so.

Motion: Judge Toomey moved to approve the proposed changes, as amended to correct clerical errors, to policies 1.6, 2.3, and 2.4, and the deletion of policies 1.5 and 4.12, and to place this item on the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

5. COMMITTEE APPOINTMENTS: (Ray Wahl and Brent Johnson)

Standing Committee on Children and Family Law

Ray Wahl reviewed James Hanks' position on the committee. The Standing Committee recommended the reappointment of James Hanks.

Motion: Judge Shaughnessy moved to approve the reappointment of James Hanks to the Standing Committee on Children and Family Law, and to place this item on the Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

Ethics Advisory Committee

In the absence of Brent Johnson, Ray Wahl addressed the attorney vacancy. The Ethics Advisory Committee recommended Ryan Tenney, Michael Hinckley, or Amy Oliver.

Motion: Judge Marx moved to approve the appointment of Ryan Tenney to the Ethics Advisory Committee, and to place this item on the Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

6. AUDIT REPORT – AMENDED MORGAN COUNTY JUSTICE COURT FULL AUDIT REPORT: (Karl Sweeney and Diane Williams)

Karl Sweeney discussed a revision to the Morgan County Justice Court full audit.

Motion: Judge Marx moved to accept the amended Morgan County final audit report. Judge Toomey seconded the motion, and it passed unanimously.

7. NEW SENIOR JUDGE QUESTIONNAIRES: (Nancy Sylvester)

Nancy Sylvester reviewed recent amendments to Code of Judicial Administration rule 3-111, which revised the active senior judge performance evaluation process. The rule amendments will be effective November 1 and will require the revision of the senior judge questionnaires. Ms. Sylvester presented the proposed new senior judge questionnaires and noted they will not be used until January 2019, after rule 3-111 changes are in effect. Judge Shaughnessy questioned the mechanics of how jurors will receive this form. Ms. Sylvester believes the forms will be available for them during their service as jurors.

Motion: Judge Toomey moved to approve the proposed amendments to the senior judge questionnaire with the understanding that they will not be used until rule 3-111 is in effect, and to place it on the Judicial Council's consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

8. PROFESSIONAL APPEARANCE POLICY: (Michael Drechsel)

Michael Drechsel reviewed the professional appearance policy that was created by a committee comprised of Human Resource personnel and other employees located throughout the courts. The business casual and the courtroom standard guidelines were combined to create the standard professional attire guideline. Mr. Drechsel said Policy & Planning felt as though the courts need a unified statewide policy. Judge Toomey recommended a new photo to replace the picture of a tattoo on a bare foot. Judge Toomey thanked the Policy & Planning Committee for their work on the policy.

Motion: Judge Shaughnessy moved to approve the professional appearance policy, and to place it on the Judicial Council's agenda. Judge Toomey seconded the motion, and it passed unanimously.

9. PROBATE COVER SHEET REVISIONS: (Kristene Laterza)

Kristene Laterza presented proposed revisions to the probate cover sheet. Ms. Laterza explained the language was simplified to aid self-represented parties. Mr. Schwermer noted court rules require the Judicial Council's approval of any cover sheet revisions.

Motion: Judge Toomey moved to approve the revisions to the probate cover sheet as presented, and to place it on the Judicial Council's consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

10. UNIFORM FINE AND BAIL COMMITTEE REPORT AND RECOMMENDATIONS: (Judge James Brady)

Judge James Brady presented the recommended changes to the bail schedule. Judge Brady noted the bail schedule is typically updated annually to stay in compliance with new laws. This proposed schedule includes the creation of four new offense categories: 1) person crimes; 2) public safety crimes; 3) property crimes; and 4) other crimes. Judge Brady said Court Services conducted a study and found that with these changes only one court would have lower revenue. Judge Brady would like to change the title of the document to “fine schedule” and remove “bail.” Mr. Schwermer said the bail schedule is needed to allow for jails to set bail amounts. Judge Brady said sometimes jails set bail and release individuals prior to judges being able to review the case and determine bail. This can be a problem if the judge orders a different amount of bail set or if the judge determines the person is not to be released from custody. The committee agreed that a bail schedule is needed, though perhaps it can be separated from the fine schedule.

Judge Shaughnessy said the fine issue has been addressed nationally and would like to be to have standards to follow. Mr. Schwermer proposed the review of money in the criminal justice system as a Council study item.

Judge Marx prefers to have this item readdressed with the Management Committee with an updated bail schedule and a side-by-side comparison of the current and the proposed schedule. Mr. Schwermer recommended having Kim Allard attend the meeting to answer questions about the revenue impact projections. Judge Brady can report to the committee at the December 11 meeting if need be.

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

Chief Justice Durrant addressed the proposed agenda for the October 22, 2018 Judicial Council meeting that will be held in the new Price Courthouse. The committee agreed to remove the Uniform Fine & Bail Committee agenda item.

Motion: Judge Toomey moved to approve the Judicial Council agenda, as amended. Judge Shaughnessy seconded the motion, and it passed unanimously.

12. EXECUTIVE SESSION

An executive session was held.

13. ADJOURN

The meeting adjourned.

**UTAH JUDICIAL COUNCIL
POLICY AND PLANNING COMMITTEE
MEETING MINUTES**

Judicial Council Room (N301), Matheson Courthouse
450 South State Street, Salt Lake City, Utah 84114
January 1, 2019 – 12:00 p.m. to 2:00 p.m.

DRAFT

MEMBERS:

PRESENT EXCUSED

Judge Derek Pullan, <i>Chair</i>	•	
Judge Augustus Chin		•
Judge Ryan Evershed	•	
Judge Kara Pettit	•	
Judge John Walton	•	
Mr. Rob Rice	•	

GUESTS:

Chris Palmer

STAFF:

Michael Drechsel

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Pullan welcomed the committee to the meeting.

The committee considered the minutes from the September 7, 2018 meeting. No amendments were proposed to the draft minutes.

Mr. Rice moved to approve the draft minutes, with the previously identified amendment.

Judge Evershed seconded the motion.

The committee voted and the motion passed.

(2) UPDATES:

Judge Pullan updated the committee membership regarding the status of CJA 6-305 (working rule number for proposed new rule regarding consolidation of probation in district court criminal matters). Judge Pullan noted that the Judicial Council believed a legislative amendment to Utah Code § 77-18-1(12) was advisable prior to moving forward on this rule. No discussion occurred and no action was taken on this update item.

Judge Pullan updated the committee membership regarding a new project that will be addressed by the committee at the next meeting. This project is to amend CJA 3-201 / 3-201.02 as it relates to the Court Commissioner Conduct Committee. Ms. Jacey Skinner will be providing the committee with a proposed revision of the rules for future consideration. No discussion occurred and no action was taken on this update item.

(3) UPDATE ON CJA 3-414 – BAILIFF STAFFING ISSUES

Mr. Chris Palmer updated the committee membership on the developments related to proposed revisions to CJA 3-414 regarding bailiff staffing issues. The committee had previously discussed amending language in CJA 3-414 to more clearly specify which hearings the sheriff would be required to bailiff. After further consideration between the last time this was addressed by the committee and now, Mr. Palmer has decided to recommend that the proposed revisions to CJA 3-414 be pulled for the time being so that a legislative solution can be pursued. Judge Pullan asked about whether the proposed legislative solution would be a joint request. It is not clear that it will (or won't) be. Mr. Palmer stated he would like the legislature to clarify the situation through amendments to the law. One of the primary issues to address is what the statute means when it says the sheriff shall "attend" court. The committee discussed the underlying issues and how the process would move forward. Mr. Palmer noted that the sheriffs are aware of the situation. Judge Pullan stated that this would be removed from the Policy and Planning work queue for the time being. No action was taken by the committee on this update item.

(4) PRESENTATIONS REGARDING ANNUAL REVIEW OF CJA:

Michael Drechsel, Judge Pettit, Mr. Rice, and Judge Pullan presented their notes of their respective reviews of the sections of the Code of Judicial Administration that were previously assigned, recommending future work to amend the rules, as follows:

Michael Drechsel – CJA 1-101 through 1-305:

CJA 1-304("intent" (8)): "assure" should be changed to "ensure"

Judge Pettit – CJA 2-101 through 2-212:

CJA 2-208(2): amend rule to show that official version of Code of Judicial Administration is online?

CJA 2-212: Communication to Office of Legislative Research and General Counsel (*the committee agreed that no action should be taken on this particular rule at this time*)

Mr. Rice – CJA 3-101 through 3-503:

CJA 3-101(4): in regarding to physical and mental competence is established if "the response of the judge" is complete and accurate. The question is, the "response" to what? The rule doesn't specify what the judge is responding to.

CJA 3-101(5) (not an actual section of CJA yet – draft version from previous project): would allow Judicial Council to certify a judge even if not meeting performance standards . . . this had been previously proposed but was seen as potentially diminishing the role of JPEC.

CJA 3-106(3)(B): should the rule be narrowed from "any individual, group, or agency" to a smaller subset of people? Is that list too broad?

CJA 3-106(5)(A): should the rule include "the Court Administrator, or a designee" in order to bring the rule into conformity with current practice

CJA 3-106(1)(d) and 3-107(1)(B): "The Council may endorse, oppose, amend or take no position on proposed legislative initiatives" and "The Council may endorse, oppose, or take no position on proposed executive policy initiatives" (respectively): should these be amended for consistency to state "The Council may endorse, oppose, recommend amendment(s) to, or take no position on proposed legislative initiatives / executive policy initiatives."

CJA 3-202: what purpose is this rule serving? Should other rules be amended to remove references to "referee"?

CJA 3-302 and CJA 3-303: Should these two rules be combined or at least revised for consistency? Why do district court clerks have more duties than justice court clerks? There isn't anything wrong substantively with these rules, but shouldn't they at least be consistent?

CJA 3-413: should this rule be revised to reflect modern practice?

CJA 3-417: why was this rule enacted? Is it necessary in light of the requirements of federal and state law? Rob Rice noted that this rule is a good idea and there is nothing wrong with it, but why is this a rule when there are so many other obligations that employers have that have not been reduced to rule?

CJA 3-501: should this rule be amended to include parental leave? Many employers are adding this as a benefit to retain employees.

Judge Pullan – CJA 3-101 through 3-307:

CJA 3-103(2) and 3-104(3)(O) and 3-111(1)(D): because justice courts now have presiding judges, should these rules be amended to put the responsibility on those judges (consistent with their district court counterparts)?

CJA 3-106(1)(d) and 3-107(1)(B): *see notes above regarding these same rules*

CJA 3-201 and 3-201.02: these rules are the subject of another recently opened project and will be addressed by the committee when a proposed draft of the revisions is received from Jacey Skinner.

CJA 3-202: this rule may need to be amended if the recommendations of the domestic case management processing committee are adopted (for the person responsible for designating the “track” a case will follow).

OTHER MINOR REVISIONS:

CJA 3-102(1)(C): add commas

3-104(3)(E)(i): strike the word “total” from the rule (awkward usage)

CJA 3-109(7)(A): change 30 days to 28 days

After the committee members outlined the above rules for possible revision, the committee instructed Mr. Drechsel to contact any relevant court personnel to inquire regarding the need for change. Mr. Drechsel is to report back to the committee at the next meeting with any input from those individuals, and with draft rules prepared for further discussion, if warranted.

(5) CJA 4-409 – COUNCIL APPROVAL OF PROBLEM SOLVING COURTS:

Judge Pullan reintroduced the matter to the committee. At the conclusion of the last meeting, the committee had agreed that the certification criteria in CJA 4-409 should be moved to the certification checklist. After that meeting, Mr. Drechsel was presented with a list of items that it was believed should remain in the rule. Mr. Drechsel incorporated those into the proposed draft version of CJA 4-409 found in the meeting materials. Mr. Drechsel walked the committee through the proposed draft. The committee spent significant time discussing subsections (5) and (6) of the proposed draft.

The committee discussed what “structural inability” means, noting that it isn’t clear what would be a “structural” inability. Specific “presumed” criteria were reviewed and discussed as examples of what it might mean to have a “structural inability” to meet those criteria. The committee wasn’t certain that the use of “structural inability” is too broad or too narrow because the scope of the term isn’t easily comprehended. The committee discussed the other criteria that were included in this draft of the rule. After discussion of subsection (5), the committee determined that as many of the “requirements” that remained in the draft rule should be moved to the certification checklist and presented to the Judicial Council at the October 22 meeting. If there are contrary opinions about that approach, those can be expressed at that meeting.

The committee then spent significant time addressing subsection (6) “Certification.” The committee made significant revisions to the draft included in the materials, including reordering the options available to the Judicial Council, and providing a more specific process for determining de-certification (including notice, opportunity to be heard, specific identification of the deficiency, and time to correct).

After all of the consideration of this item, Judge Pettit moved to recommend to the Judicial Council that this rule be approved, subject to the changes discussed in this meeting being incorporated into the rule. Judge Evershed seconded that motion. The motion passed.

(6) RECORDING / PHOTOGRAPHY IN COURTHOUSES:

Mr. Drechsel reminded the committee that they began discussion on this topic at the last meeting. Mr. Drechsel explained the purpose behind the proposed rule 4-401. Judge Pettit asked why the proposed rule 4-401 is even necessary, since the existing rule 4-401.02 seems to already cover (or be capable of covering) the issue. The committee discussed First Amendment “auditors”, individuals who are recording in jury assembly areas, requests to

use the facilities for commercial purposes, and A/V Friendly areas in courthouses. Judge Pullan noted that he was very concerned about a person recording in the jury assembly areas, but is recording in the common areas of the courthouses a real problem. Judge Evershed noted that in some courthouses (i.e., Vernal) the common areas are indistinguishable from areas where people are directly entering and exiting courtrooms for hearings, waiting for hearings, etc. Mr. Drechsel also pointed out that with the resolution of cameras, a person could approach the counters with a camera recording and could capture sensitive information while someone is performing their work. Judge Pullan feels a rule like 4-401 would be impossible to enforce. Judge Walton pointed out that the rule would allow action to be taken when the recording does become an issue. Judge Pullan noted that a tourist who wanted to take a picture in the rotunda would be prohibited by the rule. Judge Evershed noted that the general orders could allow for that. Judge Pullan wanted to know why the rule itself couldn't be drafted to accommodate such behavior. Judge Evershed and Rob Rice noted that the general orders would be tailored to allow recording on a per site basis, rather than trying to make a rule that accommodates every location in the state. Judge Pullan worries that the rule would cause people to feel that the courts aren't transparent. Judge Pettit still believes that the existing rule 4-401.02(3) has capacity to already deal with these issues. Judge Pettit did not want there to be inconsistency between rules. Judge Evershed noted that he liked the intent of Rule 4-401.02 (allowing use of devices) as opposed to the intent of proposed Rule 4-401 (to restrict action). Rob Rice wondered whether the rule language could state that court security has discretion to prohibit recording if it is disruptive or threatens to undermine court operations, noting that appropriate use of photography and recording seems to be the norm and inappropriate behavior is the exception. Judge Pettit noted that such language, as suggested by Rob Rice, already exists in Rule 4-401.02(3)(B)(iii). The committee discussed whether the rule should have discretion because that might start down the path of content-related enforcement. Judge Pettit continued to point out that the current version of 4-401.02 is capable of dealing with this.

The committee asked Mr. Drechsel to invite Brent Johnson to come present to the committee on this particular proposal in November.

(7) ADJOURN

The meeting adjourned at approximately 2:00 p.m. The next meeting will be held on November 2nd, 2018, starting at 9:00 A.M.

Tab 3



Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator

Ray Wahl
Deputy Court Administrator

Jacey Skinner
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Members

FROM: Michael C. Drechsel, Associate General Counsel – AOC

DATE: Friday, October 12, 2018

RE: CJA 4-409 (Council Approval of Problem Solving Courts) and Certification Checklist

The Policy and Planning Committee made a review of CJA 4-409 (Council Approval of Problem Solving Courts) and the related certification checklist. Part of this review involved the formation of a subcommittee to revise the certification checklist. The subcommittee's revised checklist was presented to, and approved by, the Judicial Council at the September 18 meeting.

The proposed version of CJA 4-409 that is being presented to the Judicial Council has two primary changes: 1) any criteria used to review and certify a problem solving court have been moved to the revised checklist; and 2) the certification process, and options available to the Judicial Council as part of the certification review, have been clarified.

This proposed rule has not yet been published for public comment.

CERTIFICATION CRITERIA MOVED FROM RULE TO CHECKLIST

The Policy and Planning Committee recommends to the Judicial Council that any certification criteria that have historically been found in CJA 4-409 be moved to the certification checklist. These criteria are located in subsection (5) of the current version of CJA 4-409. The Committee believes having all criteria in the checklist promotes clarity and efficient operations. Moving the criteria in the rule to the checklist required the Committee to make revisions to the certification checklist adopted by the Judicial Council at the September 18 meeting. As a result, a new draft

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

of the checklist is provided for your review. Beyond incorporating the criteria from the rule, this draft of the checklist also makes stylistic changes for clarity and ease of use by both the person conducting the review and the court being reviewed. It groups all of the “REQUIRED” criteria into a single, color-coded (blue) list. Those are followed by color-coded (purple) “PRESUMED REQUIRED” criteria. Finally, there are a number of criteria that have previously been deemed as aspirational best practices, but which have not been required for certification. Those are included in a color-coded (red) concluding section of the checklist document.

CERTIFICATION PROCESS AND OPTIONS

The current version of CJA 4-409 states the following as it relates to Judicial Council review of a problem solving court:

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

This language has been expanded in the proposed draft of CJA 4-409 to outline that, at the time of review, the Judicial Council may certify, de-certify, or conditionally certify the court. it also outlines a process for de-certification / conditional certification, including notice and an opportunity to be heard. If conditional certification is ordered, the process requires the Judicial Council to outline specific conditions that must be met to be certified and a timeframe in which to do so.

In drafting this memo, it also seemed wise to incorporate language into the rule that states that a problem solving court can be reviewed by the Judicial Council at any other time (beyond the typical two-year review) when there is reason to do so. This was not something that was discussed by Policy and Planning. This could be incorporated into the first line of subsection (6) of the rule by stating,

(6) **Certification.** Each court must be certified by the Judicial Council at minimum every two years, or more frequently as determined necessary by the Judicial Council.

CJA 4-409
PROPOSED DRAFT
(REDLINE)

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

Intent:

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

Applicability:

This rule applies to all trial courts.

Statement of the Rule:

(1) Definitions.

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

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

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

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

(3)(A) Each problem solving court shall annually report at least the following:

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

(3)(A)(ii) The number of participants removed in the most recent year;

(3)(A)(iii) The number of participants that graduated or completed the program in the most recent year; and

(3)(A)(iv) Recidivism and relapse statistics for as long a period of time as is available, but at least for one year. If the court has been in existence

for less than one year, then for the amount of time the court has been in existence.

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

~~(5) Requirements to O~~Operations of the a **Problem Solving Court.** All problem solving courts ~~must~~shall be required to adhere to the following:

(5)(A) Each problem solving court must adhere to the “Required Certification Criteria” outlined in the respective Certification Checklist applicable to that problem solving court, as promulgated and amended and approved by the Judicial Council.

(5)(B) Each problem solving court must adhere to the “Presumed Certification Criteria” outlined in the respective Certification Checklist applicable to that problem solving court, as promulgated and amended and approved by the Judicial Council, unless:

(5)(B)(i) the program can show sufficient compensating measures or a structural inability to meet the presumed requirement; and

(5)(B)(ii) the Judicial Council specifically waives that requirement.~~the following requirements~~

~~(5) —, unless specifically waived by the Judicial Council~~

~~(5)(A)~~(5)(C) To commence participation in a problem solving court:

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

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

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

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

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

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

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

(5)(F) —

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

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

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

(6) Certification. Each court must be certified by the Judicial Council every two years. Each problem solving court shall cooperate with the Judicial Council certification review process.

(6)(A) Certification requires all courts to meet the minimum requirements stated in this rule. Upon review, the Judicial Council may:

- 99 (6)(A)(i) certify a problem solving court that adheres to all requirements as
100 outlined in subsection (5) of this rule;
- 101 (6)(A)(ii) de-certify a problem solving court that fails to adhere to one or more
102 requirements as outlined in subsection (5) of this rule; or
- 103 (6)(A)(iii) conditionally certify a problem solving court that fails to adhere to one
104 or more requirements as outlined in subsection (5) of this rule;.
- 105 (6)(B) To de-certify or conditionally certify a problem solving court, the Judicial Council
106 shall:
- 107 (6)(B)(i) inform the problem solving court of the requirement(s) that are not
108 being adequately met; and
- 109 (6)(B)(ii) provide to the problem solving court an opportunity to respond
110 regarding the requirement(s) that are not being adequately met.
- 111 (6)(C) In the event that the Judicial Council determines that the problem solving court
112 should be conditionally certified, the Judicial Council shall:
- 113 (6)(C)(i) outline specific conditions necessary to be certified; and
- 114 (6)(C)(ii) provide the problem solving court with a specific period of time in
115 which to remedy any such deficiency.
- 116 (5)(J) —In the event that a conditionally certified problem solving court fails to meet the
117 conditions outlined by the Judicial Council within the time allotted, the Judicial
118 Council shall de-certify the problem solving court, or for good cause shown,
119 extend the period of time to remedy any deficiency.
- 120 ~~(6) —Evaluation and Reporting Requirements. Each problem solving court shall~~
121 ~~annually report at least the following:~~
- 122 ~~(6)(A) The number of participants admitted in the most recent year;~~
- 123 ~~(6)(B) The number of participants removed in the most recent year;~~
- 124 ~~(6)(C) The number of participants that graduated or completed the program in the most~~
125 ~~recent year; and~~
- 126 ~~(6)(D) Recidivism and relapse statistics for as long a period of time as is available, but~~
127 ~~at least for one year. If the court has been in existence for less than one year,~~
128 ~~then for the amount of time the court has been in existence.~~
- 129 (7) **DUI Courts.** The following courts are approved as DUI Courts: Riverdale Justice Court
130 and other courts as may be approved by the Judicial Council in the future.

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

134 *Effective May/November 1, 20____*

CJA 4-409
PROPOSED DRAFT
(CLEAN)

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

Intent:

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

Applicability:

This rule applies to all trial courts.

Statement of the Rule:

(1) Definitions.

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

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

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

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

(3)(A) Each problem solving court shall annually report the following:

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

(3)(A)(ii) The number of participants removed in the most recent year;

(3)(A)(iii) The number of participants that graduated or completed the program in the most recent year; and

(3)(A)(iv) Recidivism and relapse statistics for as long a period of time as is available, but at least for one year. If the court has been in existence

for less than one year, then for the amount of time the court has been in existence.

- (4) **Grants.** In addition to complying with the requirements of CJA Rule 3-411, an applicant shall notify the Judicial Council of any application for funds to operate a problem solving court, whether or not the court would be the direct recipient of the grant. This notification should be made before any application for funding is initiated.
- (5) **Requirements to Operate a Problem Solving Court.** All problem solving courts shall be required to adhere to the following:
- (5)(A) Each problem solving court must adhere to the “Required Certification Criteria” outlined in the respective Certification Checklist applicable to that problem solving court, as promulgated and amended and approved by the Judicial Council.
- (5)(B) Each problem solving court must adhere to the “Presumed Certification Criteria” outlined in the respective Certification Checklist applicable to that problem solving court, as promulgated and amended and approved by the Judicial Council, unless:
- (5)(B)(i) the program can show sufficient compensating measures or a structural inability to meet the presumed requirement; and
- (5)(B)(ii) the Judicial Council specifically waives that requirement.
- (5)(C) To commence participation in a problem solving court:
- (5)(C)(i) In a criminal proceeding, a plea must be entered before a person may participate in the court. Testing and orientation processes may be initiated prior to the plea, but no sanctions may be imposed until the plea is entered other than those which may be imposed in a criminal proceeding in which a person is released before trial. Prior to the acceptance of the plea, each participant must sign an agreement that outlines the expectations of the court and the responsibilities of the participant.
- (5)(C)(ii) In juvenile dependency drug court, sanctions may not be imposed until the parent has signed an agreement that outlines the expectations of the court and the responsibilities of the participant.
- (6) **Certification.** Each court must be certified by the Judicial Council every two years. Each problem solving court shall cooperate with the Judicial Council certification review process.

- 66 (6)(A) Upon review, the Judicial Council may:
- 67 (6)(A)(i) certify a problem solving court that adheres to all requirements as
- 68 outlined in subsection (5) of this rule;
- 69 (6)(A)(ii) de-certify a problem solving court that fails to adhere to one or more
- 70 requirements as outlined in subsection (5) of this rule; or
- 71 (6)(A)(iii) conditionally certify a problem solving court that fails to adhere to one
- 72 or more requirements as outlined in subsection (5) of this rule;.
- 73 (6)(B) To de-certify or conditionally certify a problem solving court, the Judicial Council
- 74 shall:
- 75 (6)(B)(i) inform the problem solving court of the requirement(s) that are not
- 76 being adequately met; and
- 77 (6)(B)(ii) provide to the problem solving court an opportunity to respond
- 78 regarding the requirement(s) that are not being adequately met.
- 79 (6)(C) In the event that the Judicial Council determines that the problem solving court
- 80 should be conditionally certified, the Judicial Council shall:
- 81 (6)(C)(i) outline specific conditions necessary to be certified; and
- 82 (6)(C)(ii) provide the problem solving court with a specific period of time in
- 83 which to remedy any such deficiency.
- 84 (6)(D) In the event that a conditionally certified problem solving court fails to meet the
- 85 conditions outlined by the Judicial Council within the time allotted, the Judicial
- 86 Council shall de-certify the problem solving court, or for good cause shown,
- 87 extend the period of time to remedy any deficiency.
- 88 (7) **DUI Courts.** The following courts are approved as DUI Courts: Riverdale Justice Court
- 89 and other courts as may be approved by the Judicial Council in the future.
- 90 (8) **Communications.** A judge may initiate, permit, or consider communications, including ex
- 91 parte communications, made as part of a case assigned to the judge in a problem solving
- 92 court, consistent with the signed agreement.

93 *Effective May/November 1, 20__*

**CJA 4-409
CERTIFICATION
CHECKLIST
(REDLINE)**

UTAH JUDICIAL COUNCIL
UTAH ADULT DRUG COURT CERTIFICATION CHECKLIST
REVISED AND ADOPTED OCTOBER 22, 2018

Many of these ~~standards~~ criteria enumerated in this certification checklist are ~~direct~~ restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, published by the National Association of Drug Court Professionals (NADCP). Those are indicated by a **BPS** following the standard, and the citation to the section of the NADCP document in which the standard is found. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	Eligibility and exclusion criteria are specified in writing.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
<input type="checkbox"/>	<input type="checkbox"/>	4	Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	5	Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
<input type="checkbox"/>	<input type="checkbox"/>	7	Current or prior offenses may not disqualify candidates from participation in the Drug Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	8	Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court.	I.D.
<input type="checkbox"/>	<input type="checkbox"/>	9	If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I. E D.
<input type="checkbox"/>	<input type="checkbox"/>	10	The program has a written policy addressing medically assisted treatment.	
<input type="checkbox"/>	<input type="checkbox"/>	11	Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court.	III.C.
<input type="checkbox"/>	<input type="checkbox"/>	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team.	III.D.
<input type="checkbox"/>	<input type="checkbox"/>	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. <u>* In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.</u>	III.E.
<input type="checkbox"/>	<input type="checkbox"/>	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate.	III.E.*

YES NO

#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
	<i>* In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.</i>	
<input type="checkbox"/> <input type="checkbox"/>	15 The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
<input type="checkbox"/> <input type="checkbox"/>	16 If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
<input type="checkbox"/> <input type="checkbox"/>	17 The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
<input type="checkbox"/> <input type="checkbox"/>	18 The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
<input type="checkbox"/> <input type="checkbox"/>	19 The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
<input type="checkbox"/> <input type="checkbox"/>	20 Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members.	IV.A.
<input type="checkbox"/> <input type="checkbox"/>	21 The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
<input type="checkbox"/> <input type="checkbox"/>	22 The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.EA.
<input type="checkbox"/> <input type="checkbox"/>	23 For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.EA.
<input type="checkbox"/> <input type="checkbox"/>	24 Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
<input type="checkbox"/> <input type="checkbox"/>	25 Drug testing is performed at least twice per week.	VII.A.*
<input type="checkbox"/> <input type="checkbox"/>	26 Drug testing is random, and is available on weekends and holidays.	VII.B.*
<input type="checkbox"/> <input type="checkbox"/>	27 Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
<input type="checkbox"/> <input type="checkbox"/>	28 Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
<input type="checkbox"/> <input type="checkbox"/>	29 Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns,	VII.G.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
			unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	
<input type="checkbox"/>	<input type="checkbox"/>	30	Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing.	VII.I.
<input type="checkbox"/>	<input type="checkbox"/>	31	The program requires at least 90 days clean to graduate.	
<input type="checkbox"/>	<input type="checkbox"/>	32	The minimum length of the program is twelve months.	
<input type="checkbox"/>	<input type="checkbox"/>	33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
<input type="checkbox"/>	<input type="checkbox"/>	36	Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	37	If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
<input type="checkbox"/>	<input type="checkbox"/>	38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
<input type="checkbox"/>	<input type="checkbox"/>	39	Treatment providers are licensed or certified to deliver substance abuse treatment, <u>as required by the Department of Human Services or other relevant licensure or certification entity.</u>	V.H.*
<input type="checkbox"/>	<input type="checkbox"/>	40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
<input type="checkbox"/>	<input type="checkbox"/>	42	There is a secular alternative to 12-step peer support groups.	
<input type="checkbox"/>	<input type="checkbox"/>	43	Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	44	Participants are not excluded from participation in Drug Court because they lack a stable place of residence.	VI.D.
<input type="checkbox"/>	<input type="checkbox"/>	45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program.	VI.E.*
<input type="checkbox"/>	<input type="checkbox"/>	46	Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court.	VI.I.*
<input type="checkbox"/>	<input type="checkbox"/>	47	At a minimum, the prosecutor <u>/assistant attorney general</u> , defense counsel, treatment representative, law enforcement, <u>a guardian ad litem (in dependency courts)</u> , and the judge attend each staffing meeting.	VIII.B.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	48	At a minimum, the prosecutor / <u>assistance attorney general</u> , defense counsel, treatment representative, law enforcement, <u>a guardian ad litem (in dependency courts)</u> , and the judge attend each Drug Court session.	VIII.A.*
<input type="checkbox"/>	<input type="checkbox"/>	49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case.	VIII.B.
<input type="checkbox"/>	<input type="checkbox"/>	50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
<input type="checkbox"/>	<input type="checkbox"/>	51	Court fees <u>are disclosed to each participant</u> , are reasonable, and <u>are</u> based on each participant's ability to pay. <u>Any fees assessed by the Drug Court must be reasonably related to the costs of testing or other services. See CJA 4-409(5)(G)</u>	
<input type="checkbox"/>	<input type="checkbox"/>	52	Treatment fees are based on a sliding fee schedule <u>and are disclosed to each participant</u> .	
<input type="checkbox"/>	<input type="checkbox"/>	53	The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
<input type="checkbox"/>	<input type="checkbox"/>	54	<u>The Drug Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).</u>	VIII.C.*

YES	NO	#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures or a structural inability to meet the standard, compliance with the standard may be waived.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.
<input type="checkbox"/>	<input type="checkbox"/>	3	The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
<input type="checkbox"/>	<input type="checkbox"/>	4	Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
<input type="checkbox"/>	<input type="checkbox"/>	5	The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
<input type="checkbox"/>	<input type="checkbox"/>	6	The judge presides over the Drug Court for no less than two consecutive years.	III.B.
<input type="checkbox"/>	<input type="checkbox"/>	7	The Judge spends an average of at least three minutes with each participant.	III.F.*

YES	NO	PRESUMED CERTIFICATION CRITERIA		BPS
		#	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures or a structural inability to meet the standard, compliance with the standard may be waived.</i>	
<input type="checkbox"/>	<input type="checkbox"/>	8	The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.
<input type="checkbox"/>	<input type="checkbox"/>	9	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	10	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
<input type="checkbox"/>	<input type="checkbox"/>	11	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
<input type="checkbox"/>	<input type="checkbox"/>	12	Drug test results are available within 48 hours.	VII.H.
<input type="checkbox"/>	<input type="checkbox"/>	13	Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled.	VII.B.
<input type="checkbox"/>	<input type="checkbox"/>	14	Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population.	VII.D.
<input type="checkbox"/>	<input type="checkbox"/>	15	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
<input type="checkbox"/>	<input type="checkbox"/>	16	Standardized patient placement criteria govern the level of care that is provided.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	17	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	18	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
<input type="checkbox"/>	<input type="checkbox"/>	19	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	20	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	21	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
<input type="checkbox"/>	<input type="checkbox"/>	22	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
<input type="checkbox"/>	<input type="checkbox"/>	23	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	24	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.

YES	NO	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures or a structural inability to meet the standard, compliance with the standard may be waived.</i>		BPS
<input type="checkbox"/>	<input type="checkbox"/>	25	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	26	Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program.	VI.D.
<input type="checkbox"/>	<input type="checkbox"/>	27	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	28	All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	29	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	30	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose.	VI.L.
<input type="checkbox"/>	<input type="checkbox"/>	31	Clients are placed in the program within 50 days of arrest.	
<input type="checkbox"/>	<input type="checkbox"/>	32	Team members are assigned to Drug Court for no less than two years.	
<input type="checkbox"/>	<input type="checkbox"/>	33	All team members use electronic communication to contemporaneously communicate about Drug Court issues.	
<input type="checkbox"/>	<input type="checkbox"/>	34	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	35	New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	36	The Drug Court has more than 15 but less than 125 active participants.	IX.A.*
<input type="checkbox"/>	<input type="checkbox"/>	37	The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
<input type="checkbox"/>	<input type="checkbox"/>	38	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court.	X.C.
<input type="checkbox"/>	<input type="checkbox"/>	39	A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
<input type="checkbox"/>	<input type="checkbox"/>	40	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
<input type="checkbox"/>	<input type="checkbox"/>	41	The program conducts an exit interview for self-improvement.	

YES	NO	#	NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
<input type="checkbox"/>	<input type="checkbox"/>	1	The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.
<input type="checkbox"/>	<input type="checkbox"/>	2	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
<input type="checkbox"/>	<input type="checkbox"/>	3	Treatment providers have substantial experience working with criminal justice populations.	V.H.
<input type="checkbox"/>	<input type="checkbox"/>	4	For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
<input type="checkbox"/>	<input type="checkbox"/>	5	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
<input type="checkbox"/>	<input type="checkbox"/>	6	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	7	Female participants receive trauma-related services in gender-specific groups.	VI.F.
<input type="checkbox"/>	<input type="checkbox"/>	8	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court.	VI.I.
<input type="checkbox"/>	<input type="checkbox"/>	9	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
<input type="checkbox"/>	<input type="checkbox"/>	10	Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program.	VIII.F.
<input type="checkbox"/>	<input type="checkbox"/>	11	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
<input type="checkbox"/>	<input type="checkbox"/>	12	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
<input type="checkbox"/>	<input type="checkbox"/>	13	The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
<input type="checkbox"/>	<input type="checkbox"/>	14	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes.	X.F.
<input type="checkbox"/>	<input type="checkbox"/>	15	Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.

Tab 4



Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator

Ray Wahl
Deputy Court Administrator

Jacey Skinner
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Michael C. Drechsel, Associate General Counsel – AOC

DATE: Monday, October 1, 2018

RE: CJA Rule 3-401 – Office of General Counsel – Rule Revisions

The proposed revisions to CJA Rule 3-401 – *Office of General Counsel* (hereinafter “the Rule”) were instigated by Mr. Brent Johnson, General Counsel, as the result of a court records request. Upon reviewing the Rule in connection with the records request, it became apparent that several of the Rule’s provisions were no longer consistent with preferred practice or were now addressed by Utah Code and/or other rules (where once they were not).

The Policy and Planning Committee addressed the proposed revisions on May 4, 2018. After discussing the proposed revisions, Policy and Planning recommended that the proposed revisions be submitted to the Judicial Council for authorization to publish for public comment. The Judicial Council authorized that publication and the Rule was published for comment on June 26, 2018. The public comment period remained open until August 10, 2018. No public comments were received in relation to the proposed revisions.

The Policy and Planning Committee reviewed the Rule again on September 7, 2018. Without any additional modification, the Policy and Planning Committee now recommends that the Judicial Council adopt the revised version of CJA Rule 3-401 as a final rule, with an effective date of November 1, 2018.

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

Amendments to Subsection (3)(A)

The current version of the Rule requires the Office of General Counsel (“the Office”) to consult with the presiding officer of the Judicial Council when there are workload issues. The Office has not encountered a situation that seemed to require such coordination with the presiding officer. In light of the fact that this hasn’t appeared to be necessary for many years, it is recommended that the requirement be removed from the Rule.

The Rule also prohibits the Office from providing “legal counsel or advice to judicial officers on issues which are pending before that court for resolution.” CJA Rule 3-401(3)(A)(ii)(a). The Office believes this restriction is too broad. For example, the Office occasionally helps judges resolve motions for disqualification. Although such assistance never specifically tells a judge what to do, the assistance might be considered legal advice that would be prohibited under the current version of the Rule. Also, although the attorneys in the Office are not law clerks to judges, there are times when judges contact the Office to bounce ideas around. Considering the experience and expertise of the attorneys in the Office, it seems incongruent that the Rule puts the attorneys in the Office in a position different than other judges and law clerks with whom a judge can discuss ideas.

Finally, the Rule requires that judicial officers seeking requests for legal representation: 1) make such requests in writing; and 2) send a copy of the request to the Office of the Attorney General. Common practice has shown that oral requests have proven to be every bit as effective as the written requests required by the Rule. In addition, when requests are received by the Office, the Office (not the judicial officer) informs the Office of the Attorney General. This practice has worked well for many years. As a result, these provisions don’t appear to be necessary based upon customary practice.

Amendments to Subsection (3)(B)

The current version of the Rule addresses requests for legal assistance regarding “courts not of record.” These are NOT requests made to the Office, but rather are made to the city or county that is responsible for the “court not of record.” The Rule currently requires a copy of any such request to be sent to the Office. The proposed revision would eliminate that requirement. The Office has not been receiving those copies and does not see a need for such a requirement.

Amendments to Subsection (3)(D)

The current version of the Rule addresses requests for legal advice related to ethics opinions regarding the Code of Judicial Administration. This process is outlined with greater precision and clarity in CJA Rule 3-109(4) (Ethics Advisory Committee – “Submission of Requests”). As a result, this section of the Rule is unnecessary and can be safely removed.

Amendments to Subsection (4)

The current version of the Rule contemplates a Memorandum of Understanding between the Office and the Office of the Attorney General regarding the provision of legal services to the judiciary. Many years ago, such an agreement may well have existed, though the Office was unable to locate a copy. No such agreement has been in effect or referenced by either party for many years. In addition, the relationship between the two offices is now governed by Utah Code section 63G-7-901. As a result, a Memorandum of Understanding is no longer necessary.

CONCLUSION

These proposed revisions are made consistent with CJA Rule 2-207(2), which requires a “Periodic review of the Code.” That review is made “for the purpose of determining the continuing viability, utility and practicality of the rules.” See CJA Rule 2-207(2)(B). “Rules which are outdated or inconsistent with other rules, legislation or preferred practice shall be modified, amended or repealed.” See CJA Rule 2-207(2)(C). Adopting these proposed revisions will give meaning and effect to CJA Rule 2-207 and will result in code provisions that align with current practice, without any meaningful disadvantages.

Rule 3-401. Office of General Counsel.

Intent:

- To establish the office of General Counsel within the Administrative Office.
- To identify the office of General Counsel as the primary authority for coordinating the provision of legal services to the judiciary.
- To establish uniform procedures governing the provision of legal services to the judiciary.
- To define the relationship between the office of General Counsel and the Office of the Attorney General.

Applicability:

This rule shall apply to the judiciary.

Statement of the Rule:

- (1) **Establishment of office of general counsel.** The office of General Counsel is established within the Administrative Office to provide legal services to the judiciary.
- (2) **Responsibility.** The office of General Counsel shall have primary responsibility for providing the following legal services:
 - (2)(A) informal advice and counsel;
 - (2)(B) written opinions;
 - (2)(C) legislative drafting;
 - (2)(D) legal representation in administrative and judicial proceedings where the claimant is seeking declaratory, injunctive, or extraordinary relief or where risk management coverage is not provided;
 - (2)(E) negotiation, drafting, and review of contracts and leases;
 - (2)(F) consultation, drafting, and review of judicial policies and procedures;
 - (2)(G) staff support to committees established by the Council and the Supreme Court; and
 - (2)(H) coordination of and arrangement for legal representation by the Attorney General's Office or outside counsel in appropriate cases.
- (3) **Protocol for requesting legal assistance.**
 - (3)(A) **Courts of record.**
 - (3)(A)(i) Non-judicial officers and employees of the state.

(3)(A)(i)(a) All requests for legal assistance, other than requests for informal advice or counsel, shall be in writing and directed to the appropriate state level administrator, who shall refer appropriate requests to the office of General Counsel.

(3)(A)(i)(b) All requests for legal representation and indemnification shall be made in writing by the employee or officer who is named as a defendant. The request shall be made within ten days of service and directed to the office of General Counsel. A copy of the request shall be sent by the individual officer or employee to the Office of the Attorney General at that time. General Counsel shall be responsible for coordinating the legal representation of non-judicial officers and employees with the Attorney General's Office.

(3)(A)(ii) Judicial officers.

(3)(A)(ii)(a) All requests for legal assistance from judicial officers, other than requests for informal advice or counsel, shall be in writing and directed to General Counsel. ~~In cases where there are conflicts, time constraints or other judicial priorities, General Counsel shall consult with the presiding officer of the Council prior to responding to such requests. General Counsel shall not provide legal counsel or advice to judicial officers on issues which are pending before that court for resolution.~~

(3)(A)(ii)(b) All requests for legal representation and indemnification shall be made ~~in writing~~ by the judicial officer who is named as a defendant. The request shall be made within ten days of service and directed to General Counsel. ~~A copy of the request shall be sent by the judicial officer to the Office of the Attorney General at that time.~~ General Counsel shall be

responsible for coordinating the legal representation of
judicial officers with the Attorney General's Office.

(3)(B) **Courts not of record.** All requests for legal assistance, representation and indemnification shall be made in writing by the officer or employee seeking assistance and directed to the appropriate governmental entity. ~~A copy of the request for assistance shall be sent by the officer or employee to the Office of General Counsel at that time.~~

(3)(C) **Judicial council, boards of judges, committees and task forces.** All requests for legal assistance from the Council, the Boards, committees or task forces established by the Council or the Supreme Court shall be in writing and directed to General Counsel from the presiding officer of the Council, Board, committee or task force.

~~(3)(D) **Code of judicial conduct.** All requests for legal advice concerning the Code of Judicial Conduct shall be made by individual judges in writing and directed to the Office of General Counsel for referral to the Ethics Advisory Committee.~~

(4) **Relationship to attorney general's office.** The provision of legal services to the judiciary by the Office of General Counsel and the Office of the Attorney General shall be governed ~~by the Memorandum of Understanding entered into between the Council and the Attorney General's office which shall be reviewed and updated annually if appropriate~~ this rule and Utah Code section 63G-7-901.

Effective May/November 1, 20__



Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator

Ray Wahl
Deputy Court Administrator

Jacey Skinner
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Michael C. Drechsel, Associate General Counsel – AOC

DATE: Tuesday, October 2, 2018

RE: CJA 3-414 Amendment re: court security director possessing a firearm and color-coded ID badges

Two amendments form the subject of this proposed revision of CJA 3-414: 1) permitting the court security director to possess a firearm in courthouses under specific circumstances; and 2) requiring color-code ID badges for individuals who have access to non-public areas of the courthouses. Policy and Planning Committee recommends adopting the first revision, but allowing the Committee time to rework the language related to the second revision.

Court Security Director Possessing a Firearm in a Courthouse

Under the current version of this rule, the Court Security Director is not permitted to possess a firearm in a courthouse. After review by Policy and Planning, and after seeking public comment, it is recommended that the rule be amended to permit the Court Security Director to possess a firearm in a courthouse so long as all of the following are met: a) the Court Security Director has a concealed weapon permit for the type of firearm being possessed; b) the local security plan permits the conduct; and c) the Court Security Director has received specifically identified training / retraining. One public comment was received in connection with the publication of this rule, as follows:

“I feel that ANY member of law enforcement and court staff should be able to carry into a courthouse (when qualified) for the basic purpose of protection.”

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

The Policy and Planning Committee considered this comment, but determined that the comment: i) was beyond the scope of the currently proposed revision; ii) did not object to the proposed revision; and iii) did not offer any additional insight into the policy considerations at stake in the proposed revision. After discussing the matter, Policy and Planning voted in favor of recommending to the Judicial Council that this amendment be approved, to be made effective November 1, 2018.

In drafting this memo, it was noted that each group that is permitted to possess a firearm in a courthouse under this rule (law enforcement officers, judge / law enforcement officials, and court commissioners) are nevertheless restricted from possessing a firearm in a courthouse if that person is present in the courthouse as a party to litigation. From a policy perspective, that same restriction should be enforced against the Court Security Director. Therefore, it is recommended that CJA 3-414(7)(B)(iv) be amended (amendment in bold and underlined) to state: “A person permitted under subsections (i), (ii), (iii), **or (vi)** to possess a firearm nevertheless shall not possess a firearm in a courthouse if the person is appearing at the courthouse as a party to litigation. A person possessing a firearm in a courtroom shall notify the bailiff of the judge.” This particular amendment to the rule was not submitted as part of the public comment process, as it was only noticed while preparing this memo.

Color-coded ID Badges

In drafting this memo, a question arose as to whether the term “non-court employees” (as used in the proposed amendment) is the most accurate language to describe the target groups. In addition, it was not clear in the proposed rule what limitations / privileges exist in connection with each color of badge. As a result, it is recommended that the Judicial Council refer CJA 3-414(8)(E)(v) back to the Policy and Planning Committee for further work prior to adoption.

Rule 3-414. Court Security.

Intent:

To promote the safety and well-being of judicial personnel, members of the bar and citizens utilizing the courts.

To establish uniform policies for court security consistent with Section 78A-2-203.

To delineate responsibility for security measures by the Council, the administrative office, local judges, court executives, and law enforcement agencies.

Applicability:

This rule shall apply to all courts.

Section (7) on weapons shall not apply to trial exhibits.

Statement of the Rule:

(1) Definitions.

(1)(A) Court security. Court security includes the procedures, technology, and architectural features needed to ensure the safety and protection of individuals within the courthouse and the integrity of the judicial process. Court security is the joint effort of law enforcement and the judiciary to prevent or control such problems as, disorderly conduct, physical violence, theft, bomb threats, prisoner escapes, assassinations, and hostage situations.

(1)(B) A key manager is a person authorized by the court executive or Deputy State Court Administrator to issue, retrieve, activate, and deactivate keys and/or access cards to courthouses in their districts.

(1)(C) Presiding judge. As used in this rule, presiding judge includes the judge of a single-judge courthouse. The presiding judge may delegate the responsibilities of this rule to another judge.

(2) Responsibilities of the Council.

(2)(A) The Council shall ensure that all design plans for renovation or new construction of court facilities are reviewed for compliance with The Utah Judicial System Design Standards.

(2)(B) As a condition for the certification of a new justice court or the continued certification of an existing justice court, the justice court shall file an acceptable local security plan with the Court Security Director and shall file amendments to

the plan with the Court Security Director as amendments are made. The local security plan shall provide for the presence of a law enforcement officer or constable in court during court sessions or a reasonable response time by the local law enforcement agency upon call of the court.

(3) Responsibilities of the Administrative Office.

(3)(A) The state court administrator shall appoint a Court Security Director who shall:

(3)(A)(i) review and keep on file copies of all local security plans; and

(3)(A)(ii) periodically visit the various court jurisdictions to offer assistance in the development or implementation of local security plans.

(3)(B) The state court administrator shall appoint a court executive in each judicial district to serve as a local security coordinator.

(3)(C) The Court Security Director shall promulgate general security guidelines to assist local jurisdictions in the development of court security plans.

(4) Responsibilities of the court executive.

(4)(A) The court executive designated as the local security coordinator shall:

(4)(A)(i) in consultation with the law enforcement administrator responsible for security and with the judges responsible for the security plan, develop and implement a local security plan for each court of record facility within the district;

(4)(A)(ii) annually review the local security plan with the presiding judge and the law enforcement administrator to identify deficiencies in the plan and problems with implementation;

(4)(A)(iii) file an acceptable local security plan with the Court Security Director; and

(4)(A)(iv) file amendments to the plan with the Court Security Director as amendments are made.

(4)(B) The local security plan for a courthouse and any amendments to it shall be approved by a majority of the judges of the district of any court level regularly occupying the courthouse. Voting shall be without regard to court level. As used in this subsection the term “judges of the district of any court level occupying the courthouse” shall include all judges of the district court of the district and all judges of the juvenile court of the district regardless of whether a particular judge occupies the courthouse so long as at least one judge of that court level occupies the courthouse. The term also includes the justices of the Supreme Court, the

judges of the Court of Appeals and all justice court judges who actually occupy the courthouse.

(4)(C) The court executive shall provide a copy of the current local security plan and annual training on the plan to all court personnel, volunteers and security personnel.

(4)(D) The local plan shall clearly delineate the responsibilities between court personnel and law enforcement personnel for all areas and activities in and about the courthouse.

(4)(E) The court clerk or probation officer, under the supervision of the court executive, shall provide timely notice to transportation officers of required court appearances and cancellation of appearances for individuals in custody. The court shall consolidate scheduled appearances whenever practicable and otherwise cooperate with transportation officers to avoid unnecessary court appearances.

(4)(F) To the extent possible, the clerk of the court shall establish certain days of the week and times of day for court appearances of persons in custody in order to permit transportation officers reasonable preparation and planning time. The court shall give priority to cases in which a person in custody appears in order to prevent increased security risks resulting from lengthy waiting periods.

(5) Responsibilities of law enforcement agencies.

(5)(A) The law enforcement agency with responsibility for security of the courthouse, through a law enforcement administrator, shall:

(5)(A)(i) coordinate all law enforcement activities within the courthouse necessary for implementation of the security plan and for response to emergencies;

(5)(A)(ii) cooperate with the court executive in the development and implementation of a local security plan;

(5)(A)(iii) provide local law enforcement personnel with training as provided in this rule;

(5)(A)(iv) provide court bailiffs; and

(5)(A)(v) provide building and perimeter security.

(5)(B) The law enforcement agency responsible for court security shall be as follows:

(5)(B)(i) The Department of Public Safety for the Supreme Court and the Court of Appeals when they are in session in Salt Lake County. When

convening outside of Salt Lake County, security shall be provided by the county sheriff. The Department of Public Safety may call upon the Salt Lake County Sheriff for additional assistance as necessary when the appellate courts are convening in Salt Lake County.

(5)(B)(ii) The county sheriff for district courts and juvenile courts within the county.

(5)(B)(iii) The county sheriff for a county justice court and the municipal police for a municipal justice court. The county or municipality may provide a constable to provide security services to the justice court. If a municipality has no police department or constable, then the law enforcement agency with which the municipality contracts shall provide security services to the justice court.

(6) Court bailiffs.

(6)(A) Qualifications. Bailiffs shall be “law enforcement officers” as defined in Section 53-13-103. At the discretion of the law enforcement administrator and with the consent of the presiding judge, bailiffs may be “special function officers” as defined by Section 53-13-105.

(6)(B) Training. Prior to exercising the authority of their office, bailiffs shall satisfactorily complete the basic course at a certified peace officer training academy or pass a waiver examination and be certified. Bailiffs shall complete 40 hours of annual training as established by the Division of Peace Officer Standards and Training. Bailiffs shall receive annual training on the elements of the court security plan, emergency medical assistance and the use of firearms.

(6)(C) Physical and mental condition. Court bailiffs shall be of suitable physical and mental condition to ensure that they are capable of providing a high level of security for the court and to ensure the safety and welfare of individuals participating in court proceedings. Bailiffs shall be capable of responding appropriately to any potential or actual breach of security.

(6)(D) Appointment. The appointment of a bailiff is subject to the concurrence of the presiding judge.

(6)(E) Supervision. The court bailiff shall be supervised by the appointing authority and perform duties in compliance with directives of the appointing authority.

(6)(F) Responsibilities. Court bailiff responsibilities shall include but are not limited to the following.

- 134 (6)(F)(i) The bailiff shall prevent persons in custody from having physical
135 contact with anyone other than the members of the defense counsel's
136 team. Visitation shall be in accordance with jail and prison policies
137 and be restricted to those facilities.
- 138 (6)(F)(ii) The bailiff shall observe all persons entering the courtroom, their
139 movement and their activities. The bailiff shall control access to the
140 bench and other restricted areas.
- 141 (6)(F)(iii) The bailiff shall search the interior of the courtroom and restricted
142 areas prior to the arrival of any other court participants. Similar
143 searches shall be conducted following recesses to ensure the room is
144 clear of weapons, explosives, or contraband.
- 145 (6)(F)(iv) Bailiffs shall wear the official uniform of the law enforcement agency
146 by whom they are employed.
- 147 (6)(F)(v) Bailiffs shall comply with the directives of the judge or commissioner
148 with respect to security related activities and shall perform other
149 duties incidental to the efficient functioning of the court which do not
150 detract from security functions. Activities wholly unrelated to security
151 or function of the court, including personal errands, shall not be
152 requested nor performed.
- 153 (6)(F)(vi) Bailiffs shall perform responsibilities provided for in the local court
154 security plan.
- 155 (6)(F)(vii) The bailiff shall maintain a clear line of sight of all courtroom
156 participants and shall be between individuals who are in custody and
157 courtroom exits.

158 (7) **Weapons.**

159 (7)(A) Weapons generally.

- 160 (7)(A)(i) A courthouse is presumed to be free of all weapons and firearms
161 unless a local security plan provides otherwise in accordance with this
162 rule. No person may possess an explosive device in a courthouse.
163 Except as permitted by this rule, no person may possess a firearm,
164 ammunition, or dangerous weapon in a courthouse.
- 165 (7)(A)(ii) All firearms permitted under this rule and a local security plan:

- 166 (7)(A)(ii)(a) and carried upon the person shall be concealed unless
167 worn as part of a public law enforcement agency
168 uniform;
- 169 (7)(A)(ii)(b) shall remain in the physical possession of the person
170 authorized to possess it and shall not be placed in a
171 drawer, cabinet, briefcase or purse unless the person
172 has physical possession of the briefcase or purse or
173 immediate control of the drawer or cabinet or the
174 drawer or cabinet is locked; and
- 175 (7)(A)(ii)(c) shall be secured in a holster with a restraining device.
- 176 (7)(B) Persons authorized to possess a firearm or other weapon.
- 177 (7)(B)(i) The following officers may possess a firearm and ammunition in a
178 courthouse if the firearm is issued by or approved by the officer's
179 appointing authority, if possession is required or permitted by the
180 officer's appointing authority and the local security plan, and if the
181 officer presents valid picture identification:
- 182 (7)(B)(i)(a) "law enforcement officer," as defined in Section 53-13-
183 103;
- 184 (7)(B)(i)(b) "correctional officer," as defined in Section 53-13-104;
- 185 (7)(B)(i)(c) "special function officer," as defined in Section 53-13-
186 105;
- 187 (7)(B)(i)(d) "federal officer," as defined in Section 53-13-106; and
- 188 (7)(B)(i)(e) a private security officer, licensed under Utah Code
189 Title 58, Chapter 63, Security Personnel Licensing Act,
190 hired by the court or the court's banker to transport
191 money.
- 192 (7)(B)(ii) A judge or law enforcement official as defined in Section 53-5-711
193 may possess in a courthouse a firearm and ammunition for which the
194 judge or law enforcement official has a valid certificate of qualification
195 issued under Section 53-5-711 if possession is permitted by the local
196 security plan.
- 197 (7)(B)(iii) A court commissioner may possess in a courthouse a firearm and
198 ammunition for which the court commissioner has a concealed
199 weapons permit, but only if the court commissioner has obtained the

200 training and annual retraining necessary to qualify for a certificate
201 issued under Section 53-5-711 and if possession is permitted by the
202 local security plan.

203 (7)(B)(iv) A person permitted under subsections (i), (ii) ~~or~~, (iii), or (vi) to possess
204 a firearm nevertheless shall not possess a firearm in a courthouse if
205 the person is appearing at the courthouse as a party to litigation. A
206 person possessing a firearm in a courtroom shall notify the bailiff or
207 the judge.

208 (7)(B)(v) If permitted by the local security plan, court personnel and volunteers
209 may possess in a courthouse an otherwise legal personal protection
210 device other than a firearm. Court personnel and volunteers shall not
211 possess a personal protection device while appearing as a party to
212 litigation. Court personnel and volunteers shall not possess a firearm
213 while on duty.

214 (7)(B)(vi) The Court Security Director may possess in a courthouse a firearm
215 and ammunition for which the court security director has a concealed
216 weapons permit, but only if possession is permitted by the local
217 security plan and the director has obtained the training and annual
218 retraining necessary to:

219 (7)(B)(vi)(a) qualify for a certificate issued under Section 53-5-711;

220 (7)(B)(vi)(b) qualify as a Utah police officer firearms instructor in
221 accordance with Utah Administrative Code R728-502-
222 9(4); or

223 (7)(B)(vi)(c) qualify as a retired law enforcement officer in
224 accordance with United States Code Title 18, Part I,
225 Chapter 44, Section 926C.

226 (7)(C) Firearm training requirements.

227 (7)(C)(i) To requalify for a certificate issued under Section 53-5-711 a judge
228 shall annually complete with a passing score a range qualification
229 course for judges and law enforcement officials established by the
230 Department of Public Safety or a course established by any law
231 enforcement agency of the state of Utah or its political subdivision for
232 the requalification of its officers.

(7)(D) The cost of firearms, ammunition, initial qualification, requalification and any other equipment, supplies or fees associated with a certificate of qualification issued under Section 53-5-711 shall be the responsibility of the judge or court commissioner and shall not be paid from state funds.

(8) **Security devices and procedures.**

(8)(A) Metal detectors. The use of metal detectors or other screening devices, Where present, shall be used by the law enforcement agency responsible for security/bailiff services.

(8)(B) Physical search. Searches of persons in or about the courthouse or courtroom shall be conducted at the discretion of the law enforcement agency responsible for security when the local law enforcement agency has reason to believe that the person to be searched is carrying a weapon or contraband into or out of the courthouse or when the court so orders. No other person is authorized to conduct such searches. Written notice of this policy shall be posted in a conspicuous place at the entrance to all court facilities.

(8)(C) All persons in custody shall be kept in a holding cell, restrained by restraining devices, or supervised at all times while in court unless otherwise specifically ordered by the judge in whose courtroom the individual appears.

(8)(D) Extra security. In anticipated high risk situations or a highly publicized case, the law enforcement agency responsible for security should, on its own initiative or in response to an order of the court, provide extra security including additional personnel, controlled access, etc. A written operational plan outlining and assigning security duties should be developed in conjunction with the presiding judge, the court executive and the Court Security Director.

(8)(E) Courthouse Access Control. Only judges, court staff, and security and maintenance staff assigned to the courthouse will be granted access card/keys and only to those areas of the courthouse to which the individual needs access. No access cards or keys shall be issued solely for convenience purposes. Any exceptions to this rule must be pre-approved, in writing, by the Deputy State Court Administrator.

(8)(E)(i) Access cards or keys will be issued by a key manager only with the prior written authorization of the court executive(s) or Deputy State Court Administrator. Detailed recording of all card/key transactions will be the responsibility of the key manager. Supervisors shall recover all

issued keys/cards from court personnel who are terminated, suspended or transferred or if loss of privileges is part of an adverse personnel action. Supervisors will return the cards/keys to the court executive who will deactivate the access card. If the access card is not returned as required, the supervisor will immediately contact the key manager to deactivate the card.

(8)(E)(ii) Court personnel shall possess their court-issued identification at all times when in the courthouse or staff parking area. Court personnel may not loan their identification cards, access cards or keys to others and must report any lost or missing identification or access card key to the key manager or their direct supervisor as soon as possible after the loss is discovered. Any lost access card will be deactivated before a replacement card is issued.

(8)(E)(iii) Court personnel with a court-issued identification card may bypass security screening only when they are assigned to that particular courthouse. Court personnel from other courthouses will be required to successfully pass through the security screening area before being allowed entry.

(8)(E)(iv) The court executive will undertake a semiannual review of access card records to ensure that no unauthorized use is occurring.

(8)(E)(v) Locally produced proxy access cards and badges issued to non-court employees (excluding assigned DFCM and security) will incorporate a distinctive background color to visually identify personal access levels. Access badges issued to persons with an approved local background check will use an orange background and those without an approved local background check will be issued a badge with a yellow background.

(8)(F) In order to protect the safety and welfare of court customers, no one is permitted to block the entry or exit of a courthouse and no one is permitted to picket, parade, proselytize, demonstrate or distribute leaflets, pamphlets, brochures or other materials inside a courthouse.

(9) **Transportation of persons in custody.**

(9)(A) The federal, state, county or municipal agency with physical custody of a person whose appearance in court is required is responsible for transportation of that person to and from the courtroom.

(9)(B) The transportation officer shall:

(9)(B)(i) remain present at all times during court appearances;

(9)(B)(ii) be responsible for the custody of such persons;

(9)(B)(iii) support the court bailiff in the preservation of peace in the courthouse and courtroom;

(9)(B)(iv) provide advance notice of the transportation and of any extraordinary security requirements to the law enforcement agency responsible for court security, to the judge, and to the bailiff;

(9)(B)(v) comply with any regulations of the county sheriff regarding the transportation of persons in custody to court; and

(9)(B)(vi) return the person in custody to the proper place of confinement.

(9)(C) The law enforcement agency responsible for court security shall provide assistance to the transportation officer as circumstances dictate.

Effective May/November 1, 20__



Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator

Ray Wahl
Deputy Court Administrator

Jacey Skinner
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Members

FROM: Michael C. Drechsel, Associate General Counsel – AOC

DATE: Monday, October 15, 2018

RE: CJA 4-202.03 – Records Access (licensed paralegal practitioners and entities/individuals providing services to juveniles)

Two separate amendments are recommended related to the rule governing access to court records: 1) access to categories of records by Licensed Paralegal Practitioners; and 2) access to juvenile court social and legal records by entities / individuals providing services to juveniles, as necessary to provide those services, including probation officers for purposes of facilitating non-judicial adjustments. These amendments were published for public comment. No comments were received.

LICENSED PARALEGAL PRACTITIONERS

This amendment would permit Licensed Paralegal Practitioners (LPPs) to access private, protected and safeguarded records to the same extent a party, or an attorney representing a party, could access those same categories of records. Such access will often be necessary to permit the LPPs to fulfill their legal obligations. No greater access to records is afforded to LPPs than to a party or an attorney representing a party.

ENTITIES / INDIVIDUALS PROVIDING SERVICES TO JUVENILES

This amendment is necessary to permit juvenile to receive informed, effective services from service providers (individuals and entities). The amendments affect access to both juvenile social records and juvenile legal records, with the access to social records being curtailed to

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

release only when access is necessary to provide effective services. For purposes of services provided as part of a non-judicial adjustment of a case, juvenile probation officers would serve as the gatekeepers in determining whether providing access to the record(s) is necessary to provide effective services to the juvenile.

Rule 4-202.03. Records access.**Intent:**

To identify who may access court records.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Public Court Records.** Any person may access a public court record.

(2) **Sealed Court Records.** An adoptive parent or adult adoptee may obtain a certified copy of the adoption decree upon request and presentation of positive identification. Otherwise, no one may access a sealed court record except by order of the court. A judge may review a sealed record when the circumstances warrant.

(3) **Private Court Records.** The following may access a private court record:

(3)(A) the subject of the record;

(3)(B) the parent or guardian of the subject of the record if the subject is an unemancipated minor or under a legal incapacity;

(3)(C) a party, ~~or~~ attorney for a party, or licensed paralegal practitioner for a party to litigation in which the record is filed;

(3)(D) an interested person to an action under the Uniform Probate Code;

(3)(E) the person who submitted the record;

(3)(F) the attorney or licensed paralegal practitioner for a person who may access the private record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(3)(G) an individual with a release from a person who may access the private record signed and notarized no more than 90 days before the date the request is made;

(3)(H) anyone by court order;

(3)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(3)(J) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(3)(K) a governmental entity with which the record is shared under Rule 4-202.10.

(4) **Protected Court Records.** The following may access a protected court record:

(4)(A) the person or governmental entity whose interests are protected by closure;

(4)(B) the parent or guardian of the person whose interests are protected by closure if the person is an unemancipated minor or under a legal incapacity;

(4)(C) the person who submitted the record;

(4)(D) the attorney or licensed paralegal practitioner for the person who submitted the record or for the person or governmental entity whose interests are protected by closure or for the parent or guardian of the person if the person is an unemancipated minor or under a

legal incapacity or an individual who has a power of attorney from such person or governmental entity;

(4)(E) an individual with a release from the person who submitted the record or from the person or governmental entity whose interests are protected by closure or from the parent or guardian of the person if the person is an unemancipated minor or under a legal incapacity signed and notarized no more than 90 days before the date the request is made;

(4)(F) a party, ~~or~~ attorney for a party, or licensed paralegal practitioner to litigation in which the record is filed;

(4)(G) anyone by court order;

(4)(H) court personnel, but only to achieve the purpose for which the record was submitted;

(4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(4)(J) a governmental entity with which the record is shared under Rule 4-202.10.

(5) **Juvenile Court Social Records.** The following may access a juvenile court social record:

(5)(A) the subject of the record, if 18 years of age or over;

(5)(B) a parent or guardian of the subject of the record if the subject is an unemancipated minor;

(5)(C) an attorney or person with power of attorney for the subject of the record;

(5)(D) a person with a notarized release from the subject of the record or the subject's legal representative dated no more than 90 days before the date the request is made;

(5)(E) the subject of the record's therapists and evaluators;

(5)(F) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(G) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(H) the Department of Human Services, school districts and vendors with whom they or the courts contract (who shall not permit further access to the record), but only for court business;

(5)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(J) a governmental entity with which the record is shared under Rule 4-202.10;

(5)(K) the person who submitted the record;

(5)(L) public or private individuals or agencies providing services to the subject of the record or to the subject's family, including services provided pursuant to a nonjudicial adjustment, if a probation officer determines that access is necessary to provide effective services,

(5)(~~L~~M) anyone by court order.

(5)(~~MN~~) Juvenile court competency evaluations, psychological evaluations, psychiatric evaluations, psychosexual evaluations, sex behavior risk assessments, and other sensitive mental health and medical records may be accessed only by:

(5)(~~MN~~)(i) the subject of the record, if age 18 or over;

(5)(~~MN~~)(ii) an attorney or person with power of attorney for the subject of the record;

(5)(~~MN~~)(iii) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(~~MN~~)(iv) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(~~MN~~)(v) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(~~MN~~)(vi) anyone by court order.

(5)(~~NO~~) When records may be accessed only by court order, a juvenile court judge will permit access consistent with Rule 4-202.04 as required by due process of law in a manner that serves the best interest of the child.

(6) **Juvenile Court Legal Records.** The following may access a juvenile court legal record:

(6)(A) all who may access the juvenile court social record;

(6)(B) a law enforcement agency;

(6)(C) a children's justice center;

(6)(D) ~~a~~ public or private individuals or agencies providing services to the subject of the record or to the subject's family; and

(6)(E) the victim of a delinquent act may access the disposition order entered against the defendant.

(7) **Safeguarded Court Records.** The following may access a safeguarded record:

(7)(A) the subject of the record;

(7)(B) the person who submitted the record;

(7)(C) the attorney or licensed paralegal practitioner for a person who may access the record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(7)(D) an individual with a release from a person who may access the record signed and notarized no more than 90 days before the date the request is made;

(7)(E) anyone by court order;

(7)(F) court personnel, but only to achieve the purpose for which the record was submitted;

(7)(G) a person provided the record under Rule 4-202.04 or Rule 4-202.05;

(7)(H) a governmental entity with which the record is shared under Rule 4-202.10; and

- 111 (7)(l) a person given access to the record in order for juvenile probation to fulfill a probation
112 responsibility.
- 113 (8) Court personnel shall permit access to court records only by authorized persons. The court
114 may order anyone who accesses a non-public record not to permit further access, the violation
115 of which may be contempt of court.
- 116 (9) If a court or court employee in an official capacity is a party in a case, the records of the party
117 and the party's attorney are subject to the rules of discovery and evidence to the same extent
118 as any other party.



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MEMORANDUM

TO: Judicial Council Members

FROM: Michael C. Drechsel, Associate General Counsel – AOC

DATE: Monday, October 15, 2018

RE: CJA 4-202.09 – Miscellaneous (requirements for email record requests)

CJA 4-202.09 outlines a number of miscellaneous rules related to court records access. The proposed amendment provides greater detail in regarding to court records access requests involving email records. It requires that the request be “sufficiently detailed to identify the email(s) sought with reasonable specificity” and requires the request to be “narrowly tailored to yield a search that is not unduly burdensome.” It also permits the court IT department to develop the actual parameters of the search once a request is received. This permits the IT department the greatest flexibility of approach to identify and provide the requested records.

The proposed amendment was published for public comment. No comments were received.

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

Rule 4-202.09. Miscellaneous.

Intent:

To set forth miscellaneous provisions for these rules.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) The judicial branch shall provide a person with a certified copy of a record if the requester has a right to inspect it, the requester identifies the record with reasonable specificity, and the requester pays the fees.

(2)(A) The judicial branch is not required to create a record in response to a request.

(2)(B) Upon request, the judicial branch shall provide a record in a particular format if:

(2)(B)(i) it is able to do so without unreasonably interfering with its duties and responsibilities; and

(2)(B)(ii) the requester agrees to pay the additional costs, if any, actually incurred in providing the record in the requested format.

(2)(C) The judicial branch need not fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

(3) If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the judicial branch may provide the requester with the facilities for copying the requested records and require that the requester make the copies, or allow the requester to provide his own copying facilities and personnel to make the copies at the judicial branch's offices and waive the fees for copying the records.

(4) The judicial branch may not use the form in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record.

(5) Subject to the Government Records Access Management Act (GRAMA) and Chapter 4, Article 2 of the Code of Judicial Administration, a request for email correspondence shall be sufficiently detailed to identify the email(s) sought with reasonable specificity. The request shall be narrowly tailored to yield a search that is not unduly burdensome. Requests shall include the subject matter of the email(s), the identity of individuals to whom the email(s) were sent or received, if known, and the date, or approximate date(s) of email(s). Upon receipt of a request, the person handling the request will forward it to the Court Information Technology Department, a representative of which will develop the parameters of the search.

~~(6)~~ Subpoenas and other methods of discovery under state or federal statutes or rules of procedure are not records requests under these rules. Compliance with discovery shall be governed by the applicable statutes and rules of procedure.

~~(7)~~ If the judicial branch receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect, it shall allow access to the information in the record that the requester is entitled to inspect, and shall deny access to the information in the record the requester is not entitled to inspect.

(87) The Administrative Office shall create and adopt a schedule governing the retention and destruction of all court records.

(98) The courts will use their best efforts to ensure that access to court records is properly regulated, but assume no responsibility for accuracy or completeness or for use outside the court.

(109)(A) Non-public information in a public record. The person filing a public record shall omit or redact non-public information. The person filing the record shall certify that, upon information and belief, all non-public information has been omitted or redacted from the public record. The person filing a private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social record shall identify the classification of the record at the top of the first page of a classified document or in a statement accompanying the record.

(109)(B) A party may move or a non-party interested in a record may petition to classify a record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social or to redact non-public information from a public record.

(109)(C) If the following non-public information is required in a public record, only the designated information shall be included:

(109)(C)(i) social security number: last four digits;

(109)(C)(ii) financial or other account number: last four digits;

(109)(C)(iii) driver's license number: state of issuance and last four digits;

(109)(C)(iv) address of a non-party: city, state and zip code;

(109)(C)(v) email address or phone number of a non-party: omit; and

(109)(C)(vi) minor's name: initials.

(109)(D) If it is necessary to provide the court with private personal identifying information, it must be provided on a cover sheet or other severable document, which is classified as private.

(110)(A) Notwithstanding Rule 4-202.02, except as otherwise ordered by the court and except as provided in subsections (B) and (C), if a case involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, all records shall be classified as public records under Rule 4-202.02.

(110)(B) Except as provided in subsection (C), all records in a case that involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, shall be protected if the case also involves commercial information as that term is defined by Utah Code § 59-1-404.

(110)(C) For a case described in subsection (B):

(110)(C)(i) if a request for a specific record, or access to all records in a case, is made to the court and notice is given to the taxpayer, such record or records shall be released within 14 days after notice is given to the taxpayer, except for specific records ordered by the court to be classified as sealed, private, protected, or safeguarded pursuant to a motion made under Rule 4-202.04(3);

74 (110)(C)(ii) thirty days after the issuance of a non-appealable final order by the court, all records shall be
75 public unless the court orders specific records to be classified as sealed, private, protected, or
76 safeguarded pursuant to a motion made under Rule 4-202.04(3).
77 (110)(C)(iii) The public shall have access to the case history, notwithstanding the limitations in this rule
78 applicable to the underlying records.



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Richard H. Schwermer
State Court Administrator

Ray Wahl
Deputy Court Administrator

Jacey Skinner
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Members

FROM: Michael C. Drechsel, Associate General Counsel – AOC

DATE: Monday, October 15, 2018

RE: CJA 4-403 - Electronic signature and signature stamp use (court visitors)

This proposed amendment to the Code of Judicial Administration would add the ability of a court clerk to use a judge's signature stamp on orders appointing a court visitor. Prior to this amendment, there had been some confusion about whether this was permitted under the rule. Making the authorization explicit in the rule resolves the confusion and conforms the rule to current practice in some courts.

This proposed amendment was published for public comment. No comments were received.

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

Draft March 21, 0218

Rule 4-403. Electronic signature and signature stamp use.

Intent:

To establish a uniform procedure for the use of judges' and commissioners' electronic signatures and signature stamps.

Applicability:

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

Statement of the Rule:

(1) A clerk may, with the prior approval of the judge or commissioner, use an electronic signature or signature stamp in lieu of obtaining the judge's or commissioner's signature on the following:

(1)(A) bail bonds from approved bondsmen;

(1)(B) bench warrants;

(1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or when stipulated by both parties in contested cases;

(1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);

(1)(E) orders to show cause;

(1)(F) orders to take into custody;

(1)(G) summons;

(1)(H) supplemental procedure orders;

(1)(I) orders setting dates for hearing and for notice;

(1)(J) orders on motions requesting the Department of Workforce Services (DWS) to release information concerning a debtor, where neither DWS nor the debtor opposes the motion; ~~and~~

(1)(K) orders for transportation of a person in custody to a court hearing; and

(1)(L) orders appointing a court visitor.

(2) When a clerk is authorized to use a judge's or commissioner's electronic signature or signature stamp as provided in paragraph (1), the clerk shall sign his or her name on the document directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.

(3) All other documents requiring the judge's or commissioner's signature shall be personally signed by the judge or commissioner, unless the judge or commissioner, on a document by document basis, authorizes the clerk to use the judge's or commissioner's electronic signature or signature stamp in lieu of the judge's or commissioner's signature. On such documents, the clerk shall indicate in writing that the electronic signature or signature stamp was used at the direction of the judge or commissioner and shall sign his or her name directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.



Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator

Ray Wahl
Deputy Court Administrator

Jacey Skinner
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Members
FROM: Michael C. Drechsel, Associate General Counsel – AOC
DATE: Monday, October 15, 2018
RE: CJA 4-701 Failure to Appear

This proposed revision would bring CJA 4-701 into conformity with S.B. 58, which bill eliminated failure to appear (Utah Code § 77-7-22) as a distinct criminal offense. CJA 4-701 currently makes an oblique reference to failure to appear as a criminal offense by stating that “a separate offense of Failure to Appear need not be filed.” This proposed amendment eliminates that reference.

This proposed amendment was published for public comment. No comments were received.

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

Rule 4-701. Failure to appear.**Intent:**

To establish a procedure for handling cases in which the defendant fails to appear and fails to forfeit bail.

Applicability:

This rule shall apply to cases in which the defendant's appearance is not required.

Statement of the Rule:

(1) When a case is filed, the clerk may mail to the defendant a notice indicating the bail amount. If the defendant fails to appear or forfeit the bail amount within fourteen days after receiving a citation, the clerk may increase the bail amount by \$50 and mail the defendant a delinquency notice.

(2)(A) If the defendant fails to appear or forfeit the bail amount within forty days after receiving a citation, the court may increase the bail amount by \$75 and issue a warrant for failure to appear; ~~a separate offense of Failure to Appear need not be filed.~~

(2)(B) If the defendant is a juvenile, the court may issue a bench warrant or order to take the defendant into custody. If a bench warrant is issued, a special designation or "flag" shall be placed on the warrant indicating that the defendant is a juvenile.

(3) If a minor fails to appear in juvenile court on a charge which would constitute an infraction if committed by an adult:

(3)(A) The court shall not issue an Order for Detention.

(3)(B) The court may authorize the probation department to file an order to show cause.

Tab 5

Utah State Courts

Professional Appearance Policy

Purpose

The purpose of this policy is to establish consistent statewide guidelines for a court employee's appearance. As a court employee you are interacting with the public, stakeholders, and coworkers in a variety of settings from the front counter to the courtroom, to the community, and offices in courthouses throughout the state. Your responsibility is to present a clean, neat, and professional appearance ensuring that it is within the professional guidelines and responsibilities of your position. This policy is designed to present the guidelines so that each employee can make an informed decision which conforms with both the policy and the employee's individual style.

The following guidelines apply to all court employees. Exceptions to this policy may be made where required by law to accommodate religious beliefs, a medical condition, or disability. The images presented throughout the policy are to provide examples of appearance that do or do not comply with the guidelines of the policy and should not be considered an inclusive list.

Essential Guidelines

Personal Grooming

As a court professional please follow all reasonable personal grooming guidelines, including regular bathing and use of deodorant. Also, please be considerate of others and avoid highly fragrant perfume/cologne/essential oils or grooming products as they may affect others in the work environment.

Tattoos and Piercings

Visible tattoos on the face are not allowed. Other visible tattoos are permitted so long as they are not obscene, violent, profane, racist, sexual, or gang related. Accordingly, any prohibited tattoo(s) should be covered with clothing compliant with this policy or by the use of concealing makeup.

Ear piercings, ear gauges, eyebrow, and nose piercings should be of professional appearance and consistent with your job responsibilities. Septum, lip, and tongue rings or studs are not professionally appropriate and are not to be worn on duty. Body piercings with jewelry that can be seen through or under clothing are not to be worn during work hours.

Essential Guidelines

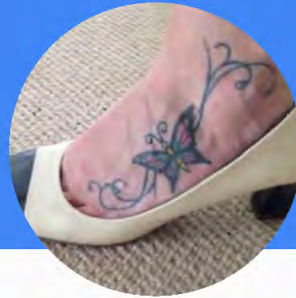
Style is a personal preference but should remain within guidelines



Acceptable



Not Acceptable



Acceptable



Acceptable



Acceptable

Visible tattoos on face
are prohibited

Standard Professional Attire Guideline⁰⁰⁰⁰⁷⁹

Court employees have various roles throughout the judiciary which may have guidelines unique to the role. The following guidelines should be adhered to when appropriate given your role.

Standard Professional Attire Guideline

The standard professional attire guideline applies Monday through Friday unless one of the other guidelines detailed elsewhere in this policy is applicable. The standard professional attire guideline includes the following:

- **Blouses or collared button down dress shirts**
- **Sweaters, cardigans, and vests**
- **Dress pants, trousers, or slacks**
- **Skirts or dresses**
- **Professionally appropriate leggings or tights may be worn under skirts or dresses or with a long tunic but not as pants.**
- **Dress shoes or dress boots**
- **Blazers, suits, ties are optional, but preferred, when working in court**

Standard Professional Attire Guideline

000080



Acceptable



Not Acceptable

Leggings are worn as pants and not beneath a skirt, dress, or long tunic are prohibited.



Acceptable



Acceptable



Acceptable

Standard Professional Attire Guideline⁰⁰⁰⁰⁸¹



Acceptable



Acceptable



Acceptable



Acceptable

Standard Professional Attire Guideline

000082



Acceptable



Not Acceptable

Guidelines require that leggings should only be worn beneath a skirt, dress, or long tunic.



Acceptable

Blazers, suits, ties are optional when appearing in court.



Acceptable

Casual Day Guideline

000083

Juvenile Court probation work crew staff and probation officers on a tracking assignment may dress to the guideline as detailed below .

Casual Day Guideline

The casual day guideline is applicable on Friday, for full day trainings, or, as occasions require, on a day designated by district or administrative management. Employees working and/or appearing in court on a casual day must comply with the standard professional attire guideline. Casual day guideline clothing includes the following:

- Jeans without holes or excessive fading patterns
- Cargo pants
- Casual shoes, boots, or athletic shoes
- Collared polo shirt — court logo or other small brand logo is acceptable
- Graphics or logos are not permitted on attire other than a court logo or small brand logo

Additional casual guidelines may be applied by management on a limited basis for district/office approved off-site activities.

Casual Day Guidelines

000084



Not Acceptable

Jeans are torn.



Acceptable



Not Acceptable

Sweatshirts are prohibited.



Not Acceptable

T-shirts alone are prohibited.



Acceptable

Casual Day Guideline



Not Acceptable

Tank tops are prohibited.



Not Acceptable

Athletic wear is prohibited.



Not Acceptable

Jeans are torn and unbuttoned shirt with t-shirt does not meet guidelines.



Acceptable

Position Based Exceptions

000086

Juvenile Court probation work crew staff, probation officers on a tracking assignment, and designated information technology staff may dress to the guidelines detailed below .

Juvenile Court Probation Work Crew Staff

The base guideline of appearance for staff on a work crew assignment is the casual day guideline. Additional attire considered appropriate includes:

- T-shirts without graphics (small brand logo acceptable)
- Sweatshirt or hoodie without graphics (small brand logo acceptable)
- Shorts that fall within 3 inches of the knee (no cut-offs, athletic shorts, board shorts)
- Overalls
- Hats without logo or graphics (small brand logo acceptable)
- For safety reasons open toe shoes or sandals are not allowed

Probation Officers on a Tracking Assignment

Probation officers on a tracking assignment have the option to change from the business casual and/or courtroom guidelines to the casual day guideline prior to leaving on a tracking assignment. Additional attire considered appropriate on a tracking assignment include a sweatshirt or hoodie without graphics (small brand logo acceptable) and, in cold weather, appropriate winter hats may be worn (small brand logo acceptable). For safety reasons open toe shoes or sandals are not allowed.

Information Technology Staff

Information Technology staff, as designated by the IT Director, who do not have regular interaction with the public and/or whose job duties regularly include the installation and maintenance of computer hardware have the option of conforming with the casual day dress guidelines Monday through Friday.

Work Crew Guidelines

000087



Not Acceptable

T-shirts with large logos
are not permitted



Acceptable



Acceptable

Shorts are not cut offs and
fall within 3" of knee



Not Acceptable

Athletic or board shorts are
not permitted

Work Crew Guidelines

000088



Not Acceptable



Acceptable



Acceptable



Acceptable

Sweatshirts or hoodies
with large logos are not
permitted

Prohibited Attire and Enforcement

Prohibited Attire

The following is a list of prohibited attire, not to be considered inclusive, is subject to modification by management and may be subject to the Position Based Exceptions detailed elsewhere in this policy.

- Flip flops (other thong style sandals must include a heel strap), athletic sandals, slippers
- T-shirts (with or without logo)
- Hats, beanies
- Tank tops, tank top dresses, tube tops, crop tops, halter tops, off the shoulder tops, and spaghetti straps
- Athletic wear
- Overalls
- Rompers
- Leggings or tights worn without skirt, dress or long tunic
- Sweatshirts/hoodies
- Inordinately revealing or tight clothing
- Skirts or dresses more than 3 inches above the knee (worn without tights or leggings)

Enforcement

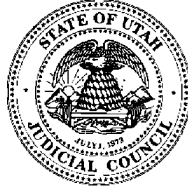
Management shall enforce the policy and employees determined to be inappropriately attired may be sent home, on their own time, to change into appropriate attire. Employees with ongoing violations of the professional appearance policy will be subject to discipline in accordance with personnel policies and procedures.

Examples of Prohibited Attire

000090



Tab 6



Administrative Office of the Courts

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

MEMORANDUM

Richard H. Schwermer
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester *Nancy D. Sylvester*
Date: October 2, 2018
Re: Certification of Senior Judges and Commissioners

Judge Glen Dawson (Retiring, Second District Court) and Judge Susan Weidauer (Retired, Sandy City Justice Court) have applied to be active and inactive senior judges, respectively. Inactive Senior Judge Kay Lindsay has applied for a new senior judge term. I have attached their application forms, which show compliance with the minimum qualifications for office and with judicial performance standards. None of the judges has complaints pending before the Judicial Conduct Commission or the Utah Supreme Court. The Board of Justice Court Judges also recommends Judge Weidauer's certification. It appears appropriate to certify all three judges. The Council's certification decision will be forwarded to the Utah Supreme Court for its consideration in the appointment process.

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.



Senior Judge Application Active Status

Qualifications for Office

I, Glen R. Dawson, hereby apply for the office of Active Senior Judge and declare as follows:

- 1) I was retained in the last election in which I stood for election.
- 2) I voluntarily resigned from judicial office, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, have recovered from or have accommodated that disability.
- 3) I am physically and mentally able to perform the duties of judicial office.
- 4) I demonstrate appropriate ability and character.
- 5) I am admitted to the practice of law in Utah, but I do not practice law.
- 6) I am eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.
- 7) I am familiar with current statutes, rules and case law, the use of the electronic record, and judicial workspace.
- 8) I am a current resident of Utah and available to take cases.
- 9) I will satisfy the education requirements of an active judge.
- 10) I will accept assignments at least two days per calendar year, subject to being called.
- 11) I will conform to the Code of Judicial Conduct, the Code of Judicial Administration, and rules of the Supreme Court.
- 12) I obtained results on the most recent judicial performance evaluation prior to termination of service sufficient to have been certified for retention regardless of whether the evaluation was conducted for self-improvement or certification;
- 13) I continue to meet the requirements for certification for judicial performance evaluation as those requirements are established for active senior judges.
- 14) I was not removed from office or involuntarily retired on grounds other than disability.

- 15) I was not suspended during my final term of office or final six years in office, whichever is greater.
- 16) I did not resign as a result of negotiations with the Judicial Conduct Commission or while a complaint against me was pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause.
- 17) I will submit relevant information as requested by the Judicial Council.
- 18) My date of birth is , and my retirement date is 12/31/2018.
- 19) I have not been subject to any order of discipline for conduct as a senior judge.
- 20) There ☐ is ☒ is not a complaint against me pending before the Supreme Court or before the Judicial Conduct Commission after a finding of reasonable cause.
- 21) During my current term there have been 0 orders of discipline against me entered by the Supreme Court, and I have attached a copy of each, if applicable.
- 22) The address at which I can be contacted after retirement is:

My email address and phone number are:

Judicial Performance Evaluation Information

I further declare as follows:

- 23) I have held no more than three cases per calendar year under advisement more than 60 days after submission.
- 24) I have held no cases under advisement more than 180 days after submission.
- 25) I am in substantial compliance with the Code of Judicial Conduct.
- 26) I am physically and mentally fit for office.
- 27) I have obtained the following judicial education hours for the years indicated.

2015	2016	2017	2018
30	30	30	30

If you have fewer than 30 hours for the current year, list any course you plan to complete before the end of the year and the estimated number of hours associated with the course.

- 28) I understand that I must contact the Administrative Office of the Courts and request transfer to inactive status prior to any planned leaves of absence that could interfere with my ability to fully comply with annual education requirements.

I waive my claim of confidentiality and request that a copy of any complaints submitted to the Judicial Conduct Commission be sent to the person shown below, if requested.

Oct. 1, 2018
Date

Glen R. Dawson
Glen R. Dawson

Please complete and return by October 1, 2018 to:

Nancy J. Sylvester
P.O. Box 140241
Salt Lake City, Utah 84114-0241
Fax: 801-578-3843
Email: nancyjs@utcourts.gov



Senior Judge Application

Inactive Status

I, Kay A. Lindsay, apply for the office of senior judge, inactive status, and declare as follows:

- 1) I was retained in the last election in which I stood for election.
- 2) I voluntarily resigned from judicial office, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, have recovered from or have accommodated that disability.
- 3) I am physically and mentally able to perform the duties of judicial office.
- 4) I demonstrate appropriate ability and character.
- 5) I am admitted to the practice of law in Utah, but I do not practice law.
- 6) I am eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.
- 7) There ☐ is ☒ is not a complaint against me pending before the Supreme Court or before the Judicial Conduct Commission after a finding of reasonable cause.
- 8) During my current term there have been 0 orders of discipline against me entered by the Supreme Court, and I have attached a copy of each, if applicable.
- 9) The mailing address and phone number at which I can be contacted after retirement are:

number are:

I waive my claim of confidentiality and request that a copy of any complaints submitted to the Judicial Conduct Commission since 12/1/2013 (separation date) be sent to the person shown below, if requested.

Aug-29, 2018
Date

Kay A. Lindsay
Kay A. Lindsay

Please complete and return no later than July 27, 2018 to:

Nancy Sylvester
P.O. Box 140241
Salt Lake City, Utah 84114-0241
Fax: 801-578-3808
Email: nancyjs@utcourts.gov



Senior Judge Application

Inactive Status

I, Susan Weidauer, apply for the office of senior judge, inactive status, and declare as follows:

- 1) I was certified by the Judicial Council for retention election or reappointment the last time the Council considered me for certification.
- 2) I voluntarily resigned from judicial office, was laid off pursuant to a reduction in force, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, recovered from or have accommodated that disability.
- 3) I demonstrate appropriate ability and character.
- 4) I was in office for at least five years. My separation date is 1/1/13.
- 5) I comply with the restrictions on secondary employment provided by the Utah Code.
- 6) There ☐ is ☒ is not a complaint against me pending before the Supreme Court or before the Judicial Conduct Commission after a finding of reasonable cause.
- 7) During my current term there have been 0 orders of discipline against me entered by the Supreme Court, and I have attached a copy of each.
- 8) The mailing address and phone number at which I can be contacted after retirement are:

[REDACTED ADDRESS AND PHONE NUMBER]

I waive my claim of confidentiality and request that a copy of any complaints submitted to the Judicial Conduct Commission be sent to the person shown below, if requested.

9-28-18

Date

Susan Weidauer
Weidauer

If you wish to apply for appointment, please complete and return no later than October 12, 2018 to:

Nancy J. Sylvester
P.O. Box 140241
Salt Lake City, Utah 84114-0241
Fax: 801-578-3843
Email: nancyjs@utcourts.gov

Tab 7




Administrative Office of the Courts

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

Richard H. Schwerner
State Court Administrator
Ray Wahl
Deputy Court Administrator

October 1, 2018

MEMORANDUM

TO: Utah Judicial Council
FROM:  Brent M. Johnson
RE: Ethics Advisory Committee Vacancy

The Ethics Advisory Committee has a vacancy for an attorney member due to the expiration of Tawny Anderson's term. We have solicited applications and I am attaching a summary of all applicants. The chair and the co-chair have reviewed the applications and make the following recommendations in the order of preference: Ryan Tenney, Michael Hinckley, and Amy Oliver. Their resumes are attached.

I am not familiar with any of the candidates and have nothing to add and therefore submit the above names as suggested.

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

Ethics Advisory Committee 2018 Applicants

Name of Applicant	Years of Practice	Practice Area	Committee(s) currently on	Located in Salt Lake area	Employers (Most recent listed first)	Number of times previously applied	Other committee applying to
Davis, Erik	22	Higher Education Law	None	No - Provo	*BYU – Office of General Counsel *BYU – Adjunct Professor of Law *Snell & Wilmer – Associate Attorney *Van Cott, Bagley, Cornwall & McCarthy – Associate Attorney *Utah Supreme Court – Judicial Clerk (Justice Durham)	0	None
Oliver, Amy	18	Civil Litigation	Utah State Bar Character and Fitness Committee	Yes	*U.S. Securities and Exchange Commission – Trial Counsel *U.S. Attorney’s Office – Special Assistant US Attorney * U.S. Attorney’s Office – Assistant US Attorney *Perkins Coie Brown & Bain – Litigation Associate *Latham & Watkins – Litigation Associate	1	None
Christiansen, Erik	28	Commercial Litigation and Regulatory Defense	*Utah State Bar Litigation Section *ABA House of Delegates Representative	Yes	*Parsons Behle & Latimer – Shareholder/Commercial Litigation *Stroock & Stroock & Lavan – Associate *Milbank, Twee, Hadley & McCloy – Associate	Applicant does not know	None

Name of Applicant	Years of Practice	Practice Area	Committee(s) currently on	Located in Salt Lake area	Employers	Number of times previously applied	Other committee applying to
Tenney, Ryan	15	Appellate	None	Yes	*U.S. Attorney's Office – Assistant U.S. Attorney *Utah Attorney's Office – Assistant Utah Attorney General *BYU – Adjunct Professor *Howard, Lewis & Petersen – Associate Attorney *Utah Court of Appeals – Law Clerk (Judge Jackson)	2 – Utah Rules of Evidence Committee – rejected both times	None
Brown, Wendy	3.5	Criminal Defense	None	Yes	*The Stone Law Firm – Associate Attorney *Utah Court of Appeals – Judicial Clerk (Judges Mortensen, Greenwood, and Orme)	0	Also applied to Rules of Criminal Procedure and Resources for Self-Represented Parties
Crandall, Kimberly	18	Criminal Law	Currently on Pretrial Release and Supervision, and Utah State Bar Awards Committee	Yes	*Salt Lake County District Attorney's Office – Deputy District Attorney since 2001	2-3	Also applied to Resources for Self-Represented Parties
Strand, Peter	?	?	?	?	No resume provided – applicant did not submit completed application packet	1	Yes

Name of Applicant	Years of Practice	Practice Area	Committee(s) currently on	Located in Salt Lake area	Employers	Number of times previously applied	Other committee applying to
Hinckley, Michael	6	Criminal Prosecution	None	Yes	*Utah Attorney General 's Office – Assistant Attorney General *Salt Lake Community College – Adjunct Professor *Salt Lake City Prosecutor's Office – Associate Prosecutor *Utah Fourth District Court – Law Clerk (Judge Howard) *Utah County Attorney's Office – Extern *BYU – Research Assistant * Utah County Attorney's Office – Extern	No	Also applied to Resources for Self-Represented Parties
Walquist, Todd	15	Medical Malpractice and Attorney Discipline	Currently on MUJI – Civil Committee	Yes	*Nielson & Associates – Associate Attorney *Todd Wahlquist, PLLC – General Counsel *Utah State Bar – Deputy Senior Counsel *Walquist Law Firm, Inc. – Owner/Attorney *Nielson & Associates – Associate Attorney *Utah Fourth District Court – Judicial Extern (Judge Hansen) *BYU – Research Assistant	4	Also applied to Civil Rules and Rules of Professional Conduct Committee

Name of Applicant	Years of Practice	Practice Area	Committee(s) currently on	Located in Salt Lake area	Employers	Number of times previously applied	Other committee applying to
Nelson, Debra	14	Criminal Appeals	Committee on Appellate Representation	Yes	*Salt Lake Legal Defender Association – Appellate Attorney *Bugden & Issacson – Contract Attorney *Utah Court of Appeals – Judicial Clerk (Judge Greenwood) *Salt Lake Legal Defender Association – Law Clerk *Utah Guardian ad Litem	4	Also applied to Rules of Criminal Procedure
Brown, Michael	9	Criminal Defense	None	No – Provo	*Utah County Public Defender Association – Trial Attorney *Esplin & Weight – Associate Attorney *Utah Valley University - Instructor	0	Also applied to Rules of Criminal Procedure

RYAN D. TENNEY

6306 W. 8755 S., West Jordan UT 84081
801-703-4913 • rdtenney@gmail.com

LEGAL EXPERIENCE

United States Attorney's Office (Salt Lake City, UT)

2017–Present

Assistant United States Attorney, Appellate Section

- Represent the United States in criminal appeals before the Tenth Circuit Court of Appeals
- Represent the United States in habeas petitions in United States District Court
- Recipient: 2017 U.S. Attorney's "Rising Star Award" (for distinguished performance by an Assistant United States Attorney with less than 5 years of experience in office)

Utah Attorney General's Office (Salt Lake City, UT)

2007–2016

Assistant Utah Attorney General, Criminal Appeals Division

- Represented the State of Utah as appellate counsel in over 120 appeals before the Utah Supreme Court and the Utah Court of Appeals, as well as in approximately 30 post-conviction cases in state district courts
- Presented oral argument 19 times before the Utah Supreme Court and over 60 times before the Utah Court of Appeals
- Authored a merits-stage amicus brief on behalf of Utah and 38 states that was filed with the United States Supreme Court in *Vermont v. Brillon*, 556 U.S. 81 (2009)
- Was commended by the Utah Court of Appeals for both brief writing and oral advocacy in published appellate opinions (*State v. Rasabout*, 2013 UT App 71, ¶9 n.2, 299 P.3d 625 (briefing); *State v. Beckstrom*, 2013 UT App 186, ¶1 n.1, 307 P.3d 677 (oral argument))
- Received Criminal Appeals Division's Best Brief Award for 2009 & 2013, runner-up for 2011 and 2012

J. Reuben Clark Law School, BYU (Provo, UT)

2008–Present

Adjunct Professor

Courses taught:

- Appellate Brief Writing (2L/3L seminar) (2014-present)
- Legal Research & Writing (International LLM program) (2008-present)

Howard, Lewis & Petersen (Provo, UT)

2004–2007

Associate Attorney

- General civil litigation practice, with an emphasis on complex motions and appeals

Judge Norman Jackson, Utah Court of Appeals

2003–2004

Law Clerk

- Prepared draft opinions and oral argument memoranda in both civil and criminal appeals

EDUCATION

J. Reuben Clark Law School, BYU (Provo, UT)

2000–2003

Juris Doctorate (cum laude)

- Received John S. Welch Award for Outstanding Legal Writing
- Selected to the Order of the Barristers
- Brief Writer and Team Director for National Moot Court Team
- Best Brief: 2002 Rex E. Lee Moot Court Competition (Provo, UT); Best Oralist: 2002 Evans Regional Moot Court Competition (Madison, WI)
- Teaching Assistant: Legal Writing and Appellate Advocacy

University of Utah (Salt Lake City, UT)

1995, 1998–2000

Honors Bachelor of Arts, History (magna cum laude)

- Dean's List (1995, 1998-2000)
- Awarded Honors Baccalaureate Scholarship (May 2000), History Department Scholarship (1995, 1998-2000), Steffenson-Cannon Scholarship (1998-2000)

LEGAL PUBLICATIONS & PRESENTATIONS

- Speaker: "Appellate Oral Arguments," Utah Attorney General's Office CLE (November 2017)
- Author: *Reading Law: The Interpretation of Legal Texts* (Book Review), 27 Utah Bar Journal 34, (Jan./Feb. 2014)
- Panelist: "Effective Oral Arguments," Utah Attorney General's Office CLE (November 7, 2012)
- Speaker: "Brief Writing From An Appellate Practitioner's Perspective," Utah Association of Justice's Annual Convention (September 8, 2011)
- Speaker: "Appellate Oral Arguments," University of Utah Appellate Litigation Seminar (July 1, 2011 & November 28, 2012)
- Speaker: "Utah Standards of Review: A Practitioner's Perspective," Utah State Bar Spring Convention (March 2011)
- Moderator: "Victims' Rights Under the Utah Constitution," Constitutional Law Section CLE (May 2010)
- Author: *State v. O'Bannon and the Future of Utah Child Abuse Prosecutions*, The Prosecutor (monthly newsletter of statewide prosecutor association) (July 2012)
- Author: *The Utah Marshaling Requirement: An Overview*, 17 Utah Bar Journal 22 (Aug./Sept. 2002)
- Author: *Tom Green, Common Law Marriage, and the Illegality of Putative Polygamy*, 17 Brigham Young Journal of Public Law 141 (2002)

UTAH STATE BAR SERVICE

- Appellate Section, Executive Board Member (2015-present)
- Ethics Advisory Opinion Committee, Member (2010-2013)
- Governmental Affairs Committee, Member (2010)
- Constitutional Law Section, Chair (2009-2010), member of the Executive Committee (2007-2009)

Michael V. Hinckley

408 N. 1348 E., Lehi, UT 84043 mvhinck@gmail.com 435-764-6375

Experience

Assistant Attorney General, Utah Attorney General's Office, Salt Lake City, UT, June 2016–Present

- ♦ Prosecute complex felony insurance fraud and related crimes
- ♦ Conduct pre-filing investigations in conjunction with state investigators including the writing and/or approval of warrants and investigative subpoenas for phone records, bank records and other financial documents
- ♦ Conduct pre-filing witness interviews
- ♦ Research legal issues pertaining to motions in pending cases; write and argue motions
- ♦ Negotiate appropriate case dispositions
- ♦ Determine if charges should be filed and determine appropriate charges to file
- ♦ Extensive preliminary hearing, jury trial, and bench trial experience
- ♦ Direct and cross-examine expert witnesses including medical, financial, and other experts
- ♦ Prepare and conduct cross-examination of defense witnesses and anticipate defense strategy
- ♦ Prepare police, civilian, expert, and professional witnesses
- ♦ Research legal issues and respond to pre- and post-conviction motions, both in motion practice and in oral argument
- ♦ Conduct plea negotiations and determine proper dispositions
- ♦ Train junior attorneys in trial preparation, trial skills, oral advocacy, and strategy using live witnesses and motions within my assigned case load and trials

Adjunct Professor, Salt Lake Community College, Salt Lake City, UT, January 2018–Present

- ♦ Plan, organize, and teach a Political Science course introducing students to American political institutions
- ♦ Use media and interactive discussion designed to encourage critical thinking and to improve student understanding and about how political decisions impact regular citizens
- ♦ Ensure that the content and level of material asked in exams are adequately covered in classroom teaching

Associate Prosecutor, Salt Lake City Prosecutor's Office, Salt Lake City, UT, August 2015–June 2016

- ♦ Screened and prosecuted a high-volume case load including driving under the influence, domestic violence, drug offenses, theft offenses, traffic citations, sexual solicitation, assault and other misdemeanor and infraction level offenses
- ♦ Extensive jury trial, bench trial, and motion hearing experience both in justice court and district court
- ♦ Prepared police and civilian witnesses

Law Clerk/Bailiff, Judge Howard, Utah 4th District Court, Provo, UT, June 2014–August 2015

- ♦ Drafted bench memoranda and court decisions
- ♦ Performed legal research and analysis; analyzed records, trial transcripts, briefs, and case law
- ♦ Consulted with the judge on complex legal matters
- ♦ Provided court security

Michael V. Hinckley Resume

Extern, Utah County Attorney's Office, Provo, UT, May–August 2013

- ♦ Prosecuted crimes on the county level; tried a misdemeanor level jury trial
- ♦ Prepared and filed documents with the court

Research Assistant, J. Reuben Clark Law School, Provo, UT, October 2012–April 2014

- ♦ Performed research for various scholarly articles regarding the treatment of the mentally ill in both criminal and civil contexts

Extern, Utah Attorney General's Office, Salt Lake City, UT, June–August 2012

- ♦ Assisted in prosecuting insurance fraud and related crimes
- ♦ Developed case strategy, screened cases, and drafted court filings
- ♦ Attended suspect interviews and helped prepare for and conduct a preliminary hearing

Education & Memberships

Utah State Bar, October 2014

U.S. District Court, District of Utah, October 2014

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

Juris Doctor, April 2014

- ♦ GPA 3.51, *cum laude*, Dean's List Fall 2012, Fall 2013
- ♦ Journal of Public Law; Associate Editor, 2012–2013, Managing Editor of Articles, 2013–2014
- ♦ Author, *An Unreasonable Expectation? Warrantless Searches of Cell Phones*, 2013 B.Y.U.L. REV. 1363

Utah State University, Logan, UT

Bachelor of Science in Political Science and History, May 2010

- ♦ Honors: *cum laude*, Pi Sigma Alpha, and Phi Alpha Theta
- ♦ S. George Ellsworth Scholarship (full tuition), 2008–2009

Interests

- ♦ Marathon running, snowboarding, classic literature, World War II, World War I, and Cold War history, hiking, American Sign Language (beginner)

References

- ♦ **Judge Fred D. Howard**, Retired Utah District Court Judge, Utah Fourth District Court
164 East 3800 North, Provo, UT 84604
801-921-1115
- ♦ **Daryl L. Bell**, Director, Insurance Fraud Section, Utah Attorney General's Office
1385 S. State, Suite 110, Salt Lake City, UT 84115
dbell@utah.gov
801-330-0801
- ♦ **Erwin Petilos**, Assistant Attorney General, Insurance Fraud Section, Utah Attorney General's Office
1385 S. State, Suite 110, Salt Lake City, UT 84115
epetilos@agutah.gov
562-618-3562

AMY J. OLIVER

4015 S. Splendor Way, Holladay, UT 84124 • (801) 560-1946 • airo8@yahoo.com

LEGAL EXPERIENCE

U.S. SECURITIES AND EXCHANGE COMMISSION, Salt Lake City, Utah 2/15-present

Trial Counsel, Division of Enforcement

Serve as trial counsel for litigation in federal district courts and agency administrative proceedings. Litigation involves application of federal securities regulations, principles, decisions, statutes, and laws to specific issues or problems. Represent the SEC throughout the course of the litigation, including trial; address highly complex legal and factual issues; and manage cases efficiently. Supervise the conduct of cases and make strategic decisions to address problems or obstacles that arise during litigation. Make recommendations to the Commission regarding the filing and settlement of litigated actions. Foster productive work relationships with federal and state regulators and criminal authorities, and engage in public outreach and representational opportunities to showcase the goals and strategic vision of the Commission.

UNITED STATES ATTORNEY'S OFFICE, Salt Lake City, Utah 4/16-present

Special Assistant United States Attorney, Criminal Division

Serve as trial counsel for the United States in the U.S. District Court for the District of Utah for white collar prosecutions. Obtained jury verdict finding defendant guilty of making a false declaration before a court of the United States and making a false statement to a federal officer.

UNITED STATES ATTORNEY'S OFFICE, Salt Lake City, Utah 4/06-2/15

Assistant United States Attorney, Civil Division

Represented federal agencies and employees in litigation before the U.S. District Court for the District of Utah, the Tenth and Second Circuit Courts of Appeals, and the Utah Supreme Court in cases involving employment discrimination, torts, civil rights, land use, immigration, and judicial review of agency action. Representation included ten trials, evidentiary hearings, oral arguments, motions practice, depositions, and investigations.

PERKINS COJE BROWN & BAIN, P.A., Phoenix, Arizona 6/03-3/06

Litigation Associate

Argued pro bono appeal before the Ninth Circuit; obtained verdict for client in breach of contract trial; represented employers in wrongful termination and discrimination actions before state and federal courts; represented media in defense of libel and defamation litigation; represented defendants in antitrust, CERCLA, and toxic tort litigation. Representation included trial, oral arguments, depositions, motions practice, and conducting investigations.

LATHAM & WATKINS LLP, Washington, D.C. 9/00-5/03

Litigation Associate

Researched and wrote briefs and motions for cases before federal appellate and district courts; took and defended depositions; participated in negotiations with the Dept. of Justice in complex healthcare fraud civil litigation; worked with the ABA to draft standards for representation, adjudication, care and custody of unaccompanied alien minors.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP, Boston, Massachusetts 6/99-8/99

Summer Associate

STOEL RIVES, LLP, Salt Lake City, Utah 6/98-8/98 and 8/99

Summer Associate

UTAH SUPREME COURT LAW LIBRARY, Salt Lake City, Utah 8/96-8/97

Legal Research/Reference Librarian

Provided legal research and reference services to the court, attorneys general and other patrons; maintained law library accounts; received and maintained updates on treatises; and processed, catalogued and filed government documents.

EDUCATION

HARVARD LAW SCHOOL, J.D. *cum laude*, June 2000

Honors:

Dean's Award for Community Leadership
Phi Kappa Phi Graduate Scholarship
Harvard Women's Law Journal, Managing Editor

Activities:

Student Government Vice President (elected)
Student Government Section Representative (elected)
Strategic Planning Committee Student Representative

UNIVERSITY OF UTAH, B.S. *summa cum laude* in Political Science with a History minor, June 1995 Graduate study in Political Science and History, 1995-1996

Honors:

Presidential Scholarship (full tuition & books)
United States Senate Youth Scholarship
Alumni Association Scholarship
Golden Key National Honor Society Scholarship
Phi Alpha Theta Honor Society
Graduated in three years

Activities:

Student Alumni Association President
Hinckley Institute of Politics Vice Chair
Delta Kappa Sorority Vice President
Financial Aid & Scholarship Student-Faculty Committee
Political Science Department Student Representative
Associated Students of the University of Utah

TEACHING EXPERIENCE

THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL, Washington, D.C.8/02-5/03 *Adjunct Professor, Legal Research and Writing Program*

Taught required Legal Research and Writing course. Teaching included legal writing and analysis, the research and writing of pretrial motions and appellate briefs, and practice in preparing and presenting oral arguments.

HARVARD LAW SCHOOL, PROF. JONATHAN ZITTRAIN, Cambridge, Mass.1/00-5/00 *Teaching Fellow*

Participated in course design and content development for The Internet: Business, Law, and Strategy; prepared class readings and handouts; led class city council simulation; provided assistance to students with papers and exams.

UNIVERSITY OF UTAH, DEPT. OF POLITICAL SCIENCE, Salt Lake City, Utah.....9/95-6/96 *Teaching Assistant*

Conducted lectures and exam reviews for two courses of American Government and one course of Introduction to Political Theory; conducted course reviews, graded assignments and exams; and other duties as assigned.

COMMUNITY INVOLVEMENT

UTAH STATE BAR CHARACTER AND FITNESS COMMITTEE, Salt Lake City, Utah..... 8/06-present *Member*

Review character and fitness applications of individuals wishing to sit for the Utah Bar Exam; conduct investigative interviews and formal hearings; make oral and written decisions regarding the character and fitness of applicants for admission and readmission to the Bar.

INTERMOUNTAIN PKU AND ALLIED DISORDERS ASSOCIATION, Salt Lake City, Utah. 8/08-present *President and Founder*

Serve as President of 501(c)(3) non-profit organization dedicated to providing support and services to individuals and families dealing with PKU and other allied disorders. Plan, organize, and coordinate projects and initiatives to raise public awareness of the rare conditions and provide services to families impacted by PKU.

NATIONAL PKU ALLIANCE, Eau Claire, WI 3/09-present *Board President*

Serve as Board President of 501(c)(3) non-profit organization whose mission is to improve the lives of individuals with PKU and find a cure. Plan, organize, and coordinate initiatives, policies, and processes for organization that align with its strategic vision and priorities.

UTAH NEWBORN SCREENING ADVISORY COMMITTEE, Salt Lake City, Utah 1/09-present
Member

Serve as public member of the Newborn Screening Advisory Committee of the Utah State Department of Health.
 Provide guidance and recommendations with respect to the State of Utah's newborn screening program.

WOMEN LAWYERS OF UTAH, Salt Lake City, UT 12/13-present
Board Secretary, Committee Member

Serve as Secretary of the Board of Directors and member of the Career Development/Advancement Committee. Plan, organize, and coordinate projects and initiatives of the organization.

BEEHIVE HONOR SOCIETY, Salt Lake City, UT 6/06-6/09
President and Board Member

Served as President and Board Member of academic and service honor society at the University of Utah. Raised scholarship funds and presided over selection and induction of society members and scholarship recipients.

UNIVERSITY OF UTAH ALUMNI ASSOCIATION, Salt Lake City, UT 6/07-6/09
Board of Directors

Served as member of governing body of the University of Utah Alumni Association. Participated on the Scholarships and Awards committee; made selections for Founders' Day honorees and recipients of \$150,000 in scholarships.

OTHER EXPERIENCE

HARVARD LAW SCHOOL ALUMNI ASSOCIATION OF UTAH, Salt Lake City, UT 4/14-present
President

Responsible for reviving Harvard Law School alumni organization for State of Utah. Work with Board of Directors to develop local programs and services for alumni, current students, and newly admitted students.

HARVARD COLLEGE, Cambridge, Massachusetts 8/98-6/00
Freshman Proctor

Served as academic adviser and counselor in residence for 32 Harvard College freshmen. Administered residential disciplinary system, advised students on course selection, and counseled students regarding college adjustment issues.

UNITED STATES SUPREME COURT, Washington, D.C. 9/93-12/93
Intern

Conducted tours of the Supreme Court building and gave lectures regarding its history and function; processed all public photograph orders, including phone orders and written correspondence; and catalogued court related media.

PUBLICATIONS

Improving the Tax Code to Provide Meaningful and Effective Tax Incentives for Higher Education, 12 U. Fla. J.L. & Pub. Pol'y 91 (2000).

Note, *Regulating the Growing Internet Pharmacy Industry*, 28 J.L. Med. & Ethics 98 (2000).

PRESENTATIONS

Panelist, "Stop Fraud Utah"

Community Forum sponsored by Federal, State, and Local Law Enforcement (Orem, 2017)

Guest Speaker, "Securities Law Seminar Course,"

University of Utah S.J. Quinney College of Law (Salt Lake City, 2017)

Guest Speaker, "Practical Politics and Policymaking: Career Reflections"

BYU Public Affairs Lecture Series (Provo, 2016)

Guest Interview, "Falling for Financial Fraud"

BYU Radio, Top of Mind with Julie Rose (Provo, 2016)

Guest Speaker, "Business Organizations Course,"

University of Utah S.J. Quinney College of Law (Salt Lake City, 2016)

Panelist, "SEC Investigations and Related Issues: What Corporate, Securities, In-House, Regulator, and Investment Counsel Should Know"

Utah State Bar Summer Convention (San Diego, 2016)

Panelist, "How Can State and Federal Regulators Better Coordinate on Enforcement Actions"

NASAA/SEC Annual Section 19(d) Conference (Washington, D.C., 2016)

Panelist, "Update from the Salt Lake Regional Office,"

Securities Section of the Utah State Bar (Salt Lake City, 2015)

Moderator, "Civil Penalties in SEC Enforcement Actions – What Practitioners and Corporate Counsel Need to Know,"

Federal Bar Association and Securities Section of the Utah State Bar (Salt Lake City, 2015)

Author and Presenter, "Managing Privacy Issues in Federal Records,"

U.S. Attorney's Office (Salt Lake City, 2014)

Author and Presenter, "Surfing, Chatting, Blogging and Downloading: Employee Privacy Rights in the Internet Age,"

State Bar of Arizona, Employment & Labor Law Section (Phoenix, 2006)

Presenter, "Managing the Legal Risks of Blogging," Alaska Corporate Counsel (Anchorage, 2006)

Author and Presenter, "Surfing, Chatting and Downloading: Employee Privacy Rights in the Internet Age,"

Perkins Coie Brown & Bain Labor and Employment Law Update (Phoenix, 2006)

Author and Presenter, "Untangling the Vines of Employee Privacy: The Legal Side of High Tech Abuse,"

Arizona Employers' Council (Phoenix, 2005)

Author and Presenter, "Answer: The Fair Labor Standards Act" and "We, the Jury,"

Brown & Bain Labor and Employment Law Update (Phoenix, 2004)

PROFESSIONAL AWARDS

U.S. Securities and Exchange Commission, Chairman's Award for Community Service, 2017

U.S. Attorney's Office for the District of Utah, U.S. Attorney's Award, 2016

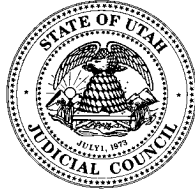
U.S. Securities and Exchange Commission, Division of Enforcement Director's Award, 2016

BAR ADMISSIONS

Utah State Bar, admitted 2000

District of Columbia Bar, admitted 2001 (inactive)

State Bar of Arizona, admitted 2003 (inactive)



Administrative Office of the Courts

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

October 1, 2018

Richard H. Schwermer
State Court Administrator
Ray Wahl
Deputy Court Administrator
Jacey Skinner
Deputy Court Administrator

MEMORANDUM

TO: Management Committee/Utah Judicial Council

FROM: Ray Wahl

RE: Standing Committee on Children and Family Law

Utah Code of Judicial Administration rule 1-205(3)(A) governs the appointment and reappointment process for Judicial Council committees. The Standing Committee on Children and Family Law is seeking approval for a second term reappointment of James Hanks. Mr. Hanks fills an attorney position on the committee. Mr. Hanks' original appointment is November 23, 2015.

Statement of interest: Mr. Hanks has expressed his willingness to serve a second term.

Attendance record: Mr. Hanks has been very diligent in attending standing committee meetings.

Assessment of level of contributions to the work: Because of Mr. Hanks' experience in domestic law, he was instrumental in the completion of the work of the Domestic Case Process Improvement Committee, which then by vote of the Judicial Council, has become the agenda moving forward for the standing committee.

List of other current and past committee assignments: Mr. Hanks' serves on the Utah State Bar's committee on Domestic Cases, but he does not serve on any other court committees.

Below is a list of current committee members and their positions. Currently, the committee has three positions that remain unfilled, in accordance with rule 1-205(1)(B)(vi): House of Representatives position; psychologist position; and a member of the public.

Judge Sherene Dillon
Judge Douglas Thomas

Co Chair, Second District Juvenile Court
Co Chair, Seventh District Court

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

Judge Brent Bartholomew
Commissioner Michelle Blomquist
Mark Brasher
Jared Hales
James Hanks
Judge Elizabeth Hruby-Mills
Russell Minas
Nini Rich
Dawn Marie Rubio
Stacey Snyder
Anna Trupp
Senator Todd Weiler
Ray Wahl

Fourth District Juvenile Court
Third District Court
Department of Human Services
Attorney
Attorney
Third District Court
Attorney
Administrative Office of the Courts
Juvenile Court Administrator
Guardian ad Litem Director
Child Advocate
Utah State Senate
Staff, Deputy Court Administrator

Tab 8



Administrative Office of the Courts

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

Richard H. Schwermer
State Court Administrator
Ray Wahl
Deputy Court Administrator
Jacey Skinner
Deputy Court Administrator

TO: Members of the Judicial Council Management Committee

FROM: Dawn Marie Rubio, J.D.
Utah Juvenile Court Administrator
Commissioner, Interstate Compact for Juveniles

DATE: October 9, 2018

RE: Proposed Probation Policies Review and Approval

The Board of Juvenile Court Judges, Juvenile Trial Court Executives, Statewide Chiefs of Probation, and the Probation Policy Workgroup vetted the following policies which are now advanced to Management Committee for review and consideration. Additionally, I seek placement on the Judicial Council's consent agenda for October 22, 2018.

Section 1.5, Dress Code [Recommendation to Delete]—This policy, last updated in 2001, currently provides guidance to probation staff regarding appropriate dress and grooming. Since its inception, this policy coexisted with *Human Resource Policy Code of Personal Conduct 500, section 14-Professional Appearance*, sowing confusion among staff and administration alike. As the Human Resource Policy has recently been updated with the express intention of providing professional appearance guidance to all court staff, and was approved at the most recent meeting of the Policy and Planning Committee, it is respectfully recommend that it be deleted upon final approval of the updated *Professional Appearance* section in the Human Resource Policy.

Section 1.6, Courtroom Etiquette [Recommendation to Approve]—This policy, last updated in 2001, primarily required revision in order to provide probation staff with direction regarding the use of technology in courtrooms. Additionally, proposed changes recognize the existence of a variety of judicial preferences regarding traditional courtroom customs and courtesies, and clearly subordinate the practice of those listed in probation policy to the preferences of judges and commissioners in their own courtrooms.

Section 2.3, Case and Referral Transfers (formerly Case Transfers-Intake) [Recommendation to Approve]—This policy, last updated in 2009, required revision in order to conform to changes in statute resulting from HB 239 last year. The purpose of the policy is to provide direction to probation officers when transferring referrals and cases between judicial districts. Noteworthy

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.

changes include addressing all types of referral and case transfers in a single policy, ensuring probation staff's collaboration with their clerical counterparts, and new requirements to eFile case transfer forms.

Section 2.4, Nonjudicial Adjustment [Recommendation to Approve]—This policy, last updated in 2017, required further revision in order to conform to changes in statute resulting from HB 239, passed in 2017, as well as HB 132 passed earlier this year. Noteworthy changes include clarification of conditions requiring the offer of nonjudicial adjustment, a listing of offenses requiring prosecutor screening prior to an offer of nonjudicial adjustment, and direction regarding the use of a new Family Size/Income Statement to obtain information for the sliding scale calculator.

Section 4.12, Case Transfer- Supervision [Recommendation to Delete]— This policy, last updated in 2009, has been rendered obsolete by changes in Section 2.3 Case and Referral Transfers (formerly Case Transfers-Intake) Therefore, we recommend the deletion of this policy to coincide with the approval of the update to Section 2.3.

I will be available to respond to questions during your meeting on October 9, 2018.

Thank you.

cc:

Honorable James R. Michie, Jr., Chair-Board of Juvenile Court Judges

ATTACHMENTS

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Utah State Courts

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Section 1.5 Dress Code

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Policy:

The Juvenile Court staff shall maintain a professional image in their appearance in the courtroom, in the office, or in the community.

Scope:

This policy applies to all staff of the Utah State Juvenile Court.

Authority:

- [UCA 78A-6-206](#) Utah Rules of Judicial Administration
- Operation of the Courts - [Rule 3-201](#)
- Utah State Courts Personnel Policies & Procedures - [Section 120](#)

Procedure:

1. The Juvenile Court acknowledges that there are different levels of professional attire which correlate with the environment in which the function occurs.
 - 1.1 There are five distinct levels of environment. The dress policy identifies these levels and the corresponding appropriate dress for employees of the court.
 - 1.2 If the dress standard of any of the levels is in conflict, then the employee shall defer to the higher standard.
2. Employees who dress inappropriately may be sent home on their own time to change into appropriate attire.
 - 2.1 Employees who repeatedly dress inappropriately will be disciplined in accordance with Utah State Courts Personnel Policies and Procedures.
3. Management is expected to enforce the dress code policy.
 - 3.1 Compliance with all policies, including dress attire, will be part of each employee's performance plan.
4. For the COURTROOM, the following are minimum apparel standards. All must be modest in fit and appearance:
 - 4.1 Dress shoes.
 - 4.2 Dress slacks (cotton acceptable). Dresses, skirts or skorts are also acceptable for female staff. All must be modest in fit and appearance.
 - 4.3 Dress shirts, with or without court logo. Blouses, shells or sweaters are also acceptable for female staff. Ties and socks must be worn by male staff.
 - 4.4 Suit or Sport Coats are not mandatory but are preferred. Sweaters and vests are also acceptable.
5. For the COURTHOUSE/OFFICE, the following are minimum apparel standards. All must be modest in fit and appearance:
 - 5.1 Dress shoes.
 - 5.2 Socks for male staff.
 - 5.3 Dress slacks (cotton acceptable). Dresses, skirts or skorts are also acceptable for female staff.
 - 5.4 Dress shirts or Polo shirts, with or without court logo. Blouses, shells or sweaters are also acceptable for female staff. Ties are optional. All must be modest in fit and appearance.
6. For the COMMUNITY/AGENCY VISITS, the following are minimum apparel standards. All must be modest in fit and appearance:
 - 6.1 Dress shoes.
 - 6.2 Socks for male staff.
 - 6.3 Dress slacks (cotton acceptable). Dresses, skirts or skorts are also acceptable for female staff.
 - 6.4 Dress shirts or Polo shirts, with or without court logo. Blouses, shells or sweaters are also acceptable for female staff. Ties are optional. All must be modest in fit and appearance.

7. For FIELD VISITS/TRAINING , the following are minimum apparel standards. All must be modest in fit and appearance: 000119

- 7.1 Dress shoes, athletic footwear, hiking or work boot. For safety reasons, sandals will not be allowed when staff is conducting field visits. However, they are acceptable when staff attends training that does not require special footwear.
- 7.2 Dress slacks or jeans (cotton acceptable).
- 7.3 Dress shirts or Polo shirts, with or without court logo. Blouses, shells and sweaters are acceptable for female staff. For safety reasons, it is suggested that staff not wear ties on field visits.
- 7.4 Probation staff will not change into tracking attire until they have made all preparations necessary and are ready to leave the building to do field supervision. Probation staff will not remain in the court building wearing tracking attire.

8. For WORK CREWS , the following are minimum apparel standards. All must be modest in fit and appearance:

- 8.1 Shoes or Boots
- 8.2 Jeans / Levis
- 8.3 T-shirt without obscene logos or wording
- 8.4 Appropriate long or short sleeved casual shirt
- 8.5 Shorts during hot weather, no shorter than 4" above the knee.
- 8.6 Hats can be worn, no obscene logos or wording

9. Dress down days may be designated by the Trial Court Executive of each district as deemed appropriate and should be within the parameters of FIELD VISITS/TRAINING .

History: Effective March 1, 2011

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Section 1.6 Courtroom Etiquette

Policy:

This policy ~~is to establish~~^{es} guidelines for appropriate court etiquette for ~~non-judicial personnel~~ **probation department staff**.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

- **Human Resources Policy and Procedures**
 - [Code of Personal Conduct 500](#)
 - [Policy on the Use of Social Media 560](#)

Procedure:

1. **The probation officer shall follow any direction given by the Judge/Commissioner in regard to courtroom rules and decorum. In the absence of specific direction, the probation officer shall follow standard professional courtroom etiquette outlined below:** ~~When appearing in court, the staff should adhere to the following practices of professional courtroom demeanor:~~
 - 1.1. Be on time for all scheduled court hearings;
 - 1.2. **Stand in order to be recognized and address the Court;** ~~Stand when addressing the Judge/Commissioner~~
 - 1.3. Address the Judge/**Commissioner** as “Your Honor” **or “Judge/Commissioner”;** ~~and~~
 - 1.4. Ask permission to approach the bench **when applicable.**
 - 1.5. ~~Stand in order to be recognized to address the bench and wait for permission to speak.~~

2. **The probation officer shall not engage in distracting behavior while**
~~Distractions in the courtroom. should be kept to a minimum.~~
 - 2.1. Staff **The probation officer shall** should not participate in casual conversation while court is in session.
 - 2.2. **The probation officer shall limit** entering and exiting the courtroom while court is in session. ~~should be held to a minimum.~~
 - 2.2.1. ~~Staff who are directly involved with the proceeding should ask permission from the judge to be excused prior to leaving the courtroom.~~
 - 2.3. **The probation officer shall not eat or drink in the courtroom while court is in session.**
3. ~~Staff should speak clearly and concisely to articulate their thoughts.~~
 - 3.1. ~~No food, drink, candy or gum is allowed in the courtroom.~~
4. **The probation officer shall** ~~Only~~ discuss a case with the Judge/**Commissioner** in open court with the defendant **all parties to the case** present. ~~Never privately discuss a case with the judge. You may talk to a supervisor, county attorney, or other appropriate individuals.~~
 - 4.1. ~~The judge may be contacted when the probation officer believes that a minor has violated the court's order and a request is being made by the court to issue an order of detention for the minor.~~
5. **The probation officer shall** ~~Employees should dress in accordance with the dress code~~ **professional appearance policy as outlined in the Utah State Courts Personnel Policies and Procedures Manual while in** ~~for the~~ courtroom **(see Section 5-Personal Conduct, Code of Personal Conduct 500, 14 Professional Appearance).** ~~(Section 1.5)~~
6. **Probation officers directly involved in the court proceeding shall not use computers, handheld wireless devices, bluetooth enabled earpieces and headsets, and other hands-free wireless devices, for non-work related reasons when court is in session or the courtroom is otherwise occupied, unless authorized by the judge. (Policy on the Use of Social Media 560)**

See Also:

- [Courtroom Etiquette Video](#)

History:

Effective March 1, 2001

Updated by Policy Group August 21, 2018

Approved by Probation Chiefs September 4, 2018

Approved by Juvenile Trial Court Executives September 6, 2018

Approved by Board of Juvenile Court Judges September 19, 2018

OLD-WITH EDITS

Section 1.6 Courtroom Etiquette

Policy:

This policy establishes guidelines for appropriate court etiquette for probation department staff.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

- Human Resources Policy and Procedures
 - [Code of Personal Conduct 500](#)
 - [Policy on the Use of Social Media 560](#)

Procedure:

1. The probation officer shall follow any direction given by the Judge/Commissioner in regard to courtroom rules and decorum. In the absence of specific direction, the probation officer shall follow standard professional courtroom etiquette outlined below:
 - 1.1. Be on time for all scheduled court hearings;
 - 1.2. Stand in order to be recognized and address the Court;
 - 1.3. Address the Judge/Commissioner as “Your Honor” or “Judge/Commissioner”; and
 - 1.4. Ask permission to approach the bench when applicable.
2. The probation officer shall not engage in distracting behavior while in the courtroom.
 - 2.1. The probation officer shall not participate in casual conversation while court is in session.
 - 2.2. The probation officer shall limit entering and exiting the courtroom while court is in session.

- 2.3. The probation officer shall not eat or drink in the courtroom while court is in session.
3. The probation officer shall only discuss a case with the Judge/Commissioner in open court with all parties to the case present.
4. The probation officer shall professional appearance policy as outlined in the Utah State Courts Personnel Policies and Procedures Manual while in for the courtroom (see Section 5-Personal Conduct, Code of Personal Conduct 500, 14 Professional Appearance).
5. Probation officers shall not use computers, handheld wireless devices, bluetooth enabled earpieces and headsets, and other hands-free wireless devices, for non-work related reasons when court is in session.

See Also:

- [Courtroom Etiquette Video](#)

History:

Effective March 1, 2001

Updated by Policy Group August 21, 2018

Approved by Probation Chiefs September 4, 2018

Approved by Juvenile Trial Court Executives September 6, 2018

Approved by Board of Juvenile Court Judges September 19, 2018

Section 2.3 Case Transfers - Intake

Policy:

This policy is intended to provide direction when transferring intake cases between districts.

Scope:

This policy applies to all probation staff of the Utah State Juvenile Court.

Authority:

- [UCA 78A-6-103](#)
- [UCA 78A-6-110](#)

Procedure:

1. Proceedings in minor's cases shall begin in the district of the minor's residence or where the alleged violation occurred.
2. Prior to the petition being filed:
 - 2.1 A delinquency referral will be received by the jurisdiction where the minor lives if the minor is not placed in detention. (A delinquency referral will be date stamped upon receipt and then sent to the jurisdiction where the minor lives to begin the time line if the minor is not placed in detention.)
 - 2.2 When the minor is detained outside the jurisdiction of his/her residence, the probation officer may coordinate with the prosecuting attorney to file a petition. Within five working days, the petition must be filed or the referral must be transferred to the jurisdiction of residence.
 - 2.3 The referral will be sent by the receiving district to the district where the minor lives. (Within five working days, the petition must be filed or the referral must be sent by the receiving district to the jurisdiction of residence where the minor lives to have the petition filed.)
 - 2.4 Denied offenses that occur in another jurisdiction, other than where the minor resides, will be transferred to the jurisdiction where the offense occurred within five working days. Prior to transfer of the case,

the minor must sign a Denial of Offense and Waiver to Hearing Form per district policy.

3. After the petition is filed:
 - 3.1 When the case is transferred for adjudication only, a packet containing the minute sheet, case history sheet and police report or other documents shall be sent by the clerical staff to the district where the offense occurred.
 - 3.2 When a case is transferred for adjudication and disposition, the clerical staff of the district transferring the case shall send all documents, legal and (dispositional reports packet) social files, to the receiving district.
4. The probation officer shall prepare the (dispositional reports packet) social file and ensure that the packet file:
 - 4.1 Contains a copy of all dispositional reports,
 - 4.2 Contains a copy of evaluations and/or assessments, if any,
 - 4.3 Is in neat order.
5. Upon completing the (dispositional reports packet) social file for transfer, the probation officer will prepare an information on the case transfer sheet. The transfer sheet and the (dispositional reports packet) social file will be reviewed by the supervisor and must be given to the clerk for transfer.

History: Effective May 1, 2002.

Revised: November 6, 2009

Section 2.3.1 Case Transfer Form

- [Complete the Case Transfer Form online](#)

Section 2.3 Case and Referral Transfers

Policy:

This policy provides direction for the transfer of cases and referrals for minors that reside out of the district where an offense occurs.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court

Authority:

- [UCA 78A-6-603](#)
- [UCA 78A-6-110](#)
- [Utah Rules of Judicial Administration, Rule 16](#)

Procedure:

Referral Processing

1. The probation department shall ensure that all referrals are entered into CARE upon receipt by the court.
2. The probation department of the district where the offense occurred shall request that their prosecutor screen all referrals on minors that do not reside in their district to determine legal sufficiency to proceed, qualifications for a nonjudicial offer or to petition the referral.
3. The probation department of the district where the offense occurred shall send the referral to the district office email address where the minor resides for further processing of the referral.
 - 3.1. A case note shall be entered into CARE indicating the date the referral was sent, the district it was sent to, and the decision of the prosecutor of the sending district.
 - 3.2. The screening sheet or email from the prosecutor shall be eFiled into CARE as Probation Record Shared document type, titled Prosecutor Screening Form/Email.
4. The probation officer shall proceed with all referrals and cases received from another district as though the referral or case originated in their district and was screened by their district's prosecutor.

Nonjudicial Adjustments

5. The probation officer shall request that the prosecutor in the county where the episode occurred review the referral when the minor or the minor's parent/guardian/custodian:
 - 5.1. declines the offer of a nonjudicial adjustment;
 - 5.2. cannot be located; or
 - 5.3. failed to appear after receiving notice for a preliminary interview.
6. The probation officer shall submit the case to the prosecutor in the county where the episode occurred for review and decision when the minor fails to substantially comply with the nonjudicial adjustment.

Peoned Offenses

7. The probation department of the sending district shall collaborate with their clerical department regarding any cases being transferred.
8. The probation officer from the sending district office shall contact the probation department of the receiving district to notify them of the transfer.

Adjudicated Cases

9. The probation officer shall obtain approval from a probation supervisor or chief probation officer prior to transferring a case. The probation officer shall enter a case note documenting the date and name of probation supervisor or chief probation officer approving the case transfer. The probation supervisor shall review the electronic file for quality assurance prior to transfer of the case.
10. The probation department of the sending district shall collaborate with their clerical department regarding any cases being transferred.
11. The probation officer from the sending district office shall contact the probation supervisor of the receiving district office to notify them of:
 - 11.1. the case transfer;
 - 11.2. current court orders;
 - 11.3. status of the minor's assessments/case plan; and
 - 11.4. any other pertinent case information.

12. The probation officer of the sending district shall update the case profile screen in CARE and any other information relating to the case.
13. The probation officer of the sending district shall provide contact information as well as any reporting instructions to the minor and the minor's parent/guardian/custodian.

History:

Approved by Probation Chiefs June 13, 2018

Approved by Juvenile Trial Court Executives August 3, 2018

Approved by Board of Juvenile Court Judges September 19, 2018

NEW-APPROVE

DISTRICT JUVENILE COURT
FOR _____ COUNTY, State of Utah

STATE OF UTAH, in the interest of _____ DOB: _____ A person under eighteen years of age	<p style="text-align: center;"><u>INFORMATION ON CASE TRANSFER</u></p> Case No. _____
--	--

1. This case is being transferred from the _____ District, _____ Office to the _____ District, _____ Office for:
 adjudication of allegation(s) INC _____
 supervision by _____
 all further proceeding _____
2. The present status of the case is: _____
3. The reason for the transfer is:
 adjudication of allegation(s) INC _____
 The facts are denied and the incidents occurred in the _____ District.
 The minor resides in the _____ District.
 at the following address: _____
 the transfer has been requested by: _____
4. Family Requests Appointment of Counsel: No Yes
5. Interpreter Needed No Yes, specify language _____
6. Other pertinent information: _____

DATED: _____

Clerk or Intake/Probation Officer

(Please note: This form shall be completed and eFiled by the sending probation officer.)

Section 2.4 Nonjudicial Adjustment

Policy:

All eligible youth will be provided the opportunity to participate in the nonjudicial adjustment process regardless of national origin, race, ethnicity, socioeconomic, or custody status. This policy provides direction to probation staff regarding nonjudicial adjustments with minors referred to the Utah State Juvenile Court.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

- UCA 76-5
- UCA 76-5-401-3
- UCA 76-9-7
- UCA 78A-6-105
- UCA 78A-6-602
- Utah Code of Judicial Administration Rule 7-301
- Utah Rules of Juvenile Procedure Rule 15
- Utah Rules of Juvenile Procedure Rule 16
- Accounting Manual Policy 02-15
- Probation Policy 4.15 Probation Responses to Compliant and Noncompliant Behavior
- Statewide Sliding Fee Scale
- **Utah Juvenile Court: Nonjudicial Adjustment Process 3.0**

Procedure:

1. The probation officer shall ~~is required by statute to~~ offer a nonjudicial adjustment to a minor **when all three of the following exist** when he/she:
 - 1.1. ~~is~~ **The referred al is with for** a misdemeanor (excluding misdemeanors outlined in paragraph **Section 23 below**), infraction or status offense; **and**
 - 1.2. **The minor** has fewer **only one or** than three **two** prior adjudicated episodes (excluding contempts); and
 - 1.3. **The minor** has no more than **only one, two or** three prior unsuccessful nonjudicial attempts.

2. **The probation officer may still offer a nonjudicial adjustment when the above conditions listed in Section 1 are not met, except as outlined in Section 3 below.**
3. The probation officer shall not offer a nonjudicial adjustment to a minor charged with any of the following offenses listed under [UCA 76-5-401.3](#):
 - 3.1. a Third Degree Felony if an adolescent who is 17 years of age engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years of age;
 - 3.2. a Third Degree Felony if an adolescent who is 16 years of age engages in unlawful adolescent sexual activity with an adolescent who is 12 years of age;
 - 3.3. any Class A Misdemeanor if an adolescent who is 16 years of age engages in unlawful adolescent sexual activity with an adolescent who is 13 years of age;
 - 3.4. a Class A Misdemeanor if an adolescent who is 14 or 15 years of age engages in unlawful adolescent sexual activity with an adolescent who is 12 years of age;
 - 3.5. a Class B Misdemeanor if an adolescent who is 17 years of age engages in unlawful adolescent sexual activity with an adolescent who is 14 years of age;
 - 3.6. a Class B Misdemeanor if an adolescent who is 15 years of age engages in unlawful adolescent sexual activity with an adolescent who is 13 years of age;
 - 3.7. a Class C Misdemeanor if an adolescent who is 12 or 13 years of age engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years of age; and
 - 3.8. a Class C Misdemeanor if an adolescent who is 14 years of age engages in unlawful adolescent sexual activity with an adolescent who is 13 years of age.
4. **The probation officer shall screen the following offenses with the prosecutor prior to offering a nonjudicial adjustment:**
 - 4.1. **Driving Under the Influence;**
 - 4.2. **Reckless Endangerment Creating a Substantial Risk of Death or Serious Bodily Injury;**
 - 4.3. **Negligent Homicide;**
 - 4.4. **Sexual Battery;**
 - 4.5. **Possession of a Dangerous Weapon, Firearm, or Short Barrelled Shotgun on or About School Premises;**
 - 4.6. **Possession of a Dangerous Weapon by a Minor if the dangerous weapon is a firearm; or**
 - 4.7. **Any other offense when the youth has a current**

suspended order for custody.

5. The probation officer shall request **that** the prosecutor **in the county where the episode occurred** to review the referral if **when** the minor or the minor's parent/guardian/custodian declines the offer of a nonjudicial adjustment.
6. The probation officer shall conduct a preliminary **interview and Pre-Screen Risk Assessment (PSRA) as outlined in Probation Policy 2.1 Preliminary Interview. The probation officer shall complete** a Protective **and** Risk Assessment (PRA) on all minors who score moderate or high risk on the PSRA prior to offering the nonjudicial adjustment. The probation officer shall also complete a case plan with any minors who score moderate or high risk and are offered a nonjudicial adjustment.
7. The probation officer may request that the prosecutor **in the county where the episode occurred** review the referral when:
 - 7.1. the PSRA indicates the minor is high risk; or
 - 7.2. the PSRA indicates the minor is moderate risk and the referral is for a Class A misdemeanor violation under [Title 76, Chapter 5 \(Offenses Against Persons\)](#), or [Title 76, Chapter 9 \(Offenses Against Public Order and Decency\), Part 7, Miscellaneous Provisions.](#)
8. **The probation officer may be directed by** the prosecutor or the Court ~~may direct the probation officer to offer a nonjudicial adjustment to any minor not prohibited by statute. not covered by paragraphs 3 and 4 above.~~
9. A minor is not required to admit to an offense for a nonjudicial adjustment to be completed.
10. The probation officer shall enter an intake decision ~~shall be entered~~ within 30 days of the intake date. The probation officer shall enter a case note in CARE when additional time beyond the 30 days is needed by the prosecutor to review the referral or if there are other extenuating circumstances.
11. The payment of a financial penalty **fee and/or** restitution shall be based upon the ability of the minor's family to pay as determined by the statewide sliding **fee** scale.
 - 11.1. Information for the sliding fee scale shall be obtained from the Family Size/Income Statement. The**

Family Size/Income Statement shall be eFiled (see Addendum 2.4.1 Family Size/Income Statement).

11.2. A minor may not be denied a nonjudicial adjustment due to the inability to pay.

11.3. Any minor in the custody of the state shall not be assessed a fee.

12. The nonjudicial closure may include:
 - 12.1. payment of a ~~financial penalty fee~~ not to exceed \$250;
 - 12.2. payment of victim restitution for material loss (uninsured property loss; out of pocket monetary loss; lost wages; or medical expenses); restitution shall be considered separately from a ~~financial penalty fee~~ and is not limited to \$250 (see Addendum 2.4.2 Probation Practices to Determine Restitution);
 - 12.3. ~~satisfactory completion of community service~~ **hours**;
 - 12.4. referral to an appropriate provider for screening, assessment, counseling, treatment **and/or intervention**;
 - 12.5. ~~attendance~~ **participation in** substance use disorder programs, **interventions**, or counseling programs;
 - 12.6. compliance with specified restrictions on activities and associations; ~~and~~
 - 12.7. other reasonable actions that are in the interest of the minor, ~~and the community and the victim~~;
 - 12.8. participation in probation meetings at the request of the probation officer; and**
 - 12.9. participation in the juvenile court truancy mediation and/or victim-offender mediation pre-meetings.**
13. The **nonjudicial** adjustment shall reflect a completion date for the agreed terms and conditions and shall not exceed 90 days from the date the adjustment was signed. The probation officer may request permission from the Court for an additional 90 days ~~may be obtained~~ by submitting the Report & Recommendation Regarding Nonjudicial document.
14. The probation officer shall eFile a modification form when changes to the existing nonjudicial adjustment become necessary (Addendum 2.4.3 Modification of Nonjudicial Agreement).
15. The probation officer shall employ and document interventions or sanctions to address non-compliant behavior when a minor fails to comply with the conditions of the nonjudicial adjustment (see Probation Policy 4.15 Probation Responses to Compliant and Noncompliant Behavior).

16. The probation officer shall submit the case to the prosecutor **in the county where the episode occurred** for review and direction, when a minor fails to substantially comply with the nonjudicial adjustment. Failure to pay a ~~fine or~~ fee may not serve as the basis to refer the case to the prosecutor for further action.
17. The probation officer shall mark each nonjudicial adjustment successful or unsuccessful on the nonjudicial screen in CARE.
 - 17.1. The probation officer shall eFile a modification form when a nonjudicial adjustment has been marked as unsuccessful and there are outstanding order fulfillment items (see Addendum 2.4.3 Modification of Nonjudicial Agreement).

History:

Effective: March 1, 2001

Revised and Approved: June 9, 2017

Effective: August 1, 2017

Updated by Policy Group June 20, 2018

Approved by Probation Chiefs June 26, 2018

Approved by Juvenile Trial Court Executives August 3, 2018

Approved by Board of Juvenile Court Judges September 19, 2018

Addendum 2.4.1 Family Size/Income Statement

Addendum 2.4.2 Probation Practices to Determine Nonjudicial Restitution

Addendum 2.4.3 Modification of Nonjudicial Agreement

Section 2.4 Nonjudicial Adjustment

Policy:

All eligible youth will be provided the opportunity to participate in the nonjudicial adjustment process regardless of national origin, race, ethnicity, socioeconomic, or custody status. This policy provides direction to probation staff regarding nonjudicial adjustments with minors referred to the Utah State Juvenile Court.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

- UCA 76-5
- UCA 76-5-401.
- UCA 76-9-7
- UCA 78A-6-105
- UCA 78A-6-602
- Utah Code of Judicial Administration Rule 7-301
- Utah Rules of Juvenile Procedure Rule 15
- Utah Rules of Juvenile Procedure Rule 16
- Accounting Manual Policy 02-15
- Probation Policy 4.15 Probation Responses to Compliant and Noncompliant Behavior
- Statewide Sliding Fee Scale
- Utah Juvenile Court: Nonjudicial Adjustment Process 3.0

Procedure:

1. The probation officer is required by statute to offer a nonjudicial adjustment to a minor when all three of the following exist:
 - 1.1. The referral is for a misdemeanor (excluding misdemeanors outlined in Section 3 below), infraction or status offense; and
 - 1.2. The minor has only one or two prior adjudicated episodes (excluding contempts); and
 - 1.3. The minor has only one, two or three prior unsuccessful nonjudicial attempts.
2. The probation officer may still offer a nonjudicial adjustment when the above conditions listed in Section 1 are not met, except as outlined in Section 3 below.
3. The probation officer shall not offer a nonjudicial adjustment to a

minor charged with any of the following offenses listed under UCA 76-5-401.3:

- 3.1. a Third Degree Felony if an adolescent who is 17 years of age engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years of age;
 - 3.2. a Third Degree Felony if an adolescent who is 16 years of age engages in unlawful adolescent sexual activity with an adolescent who is 12 years of age;
 - 3.3. any Class A Misdemeanor if an adolescent who is 16 years of age engages in unlawful adolescent sexual activity with an adolescent who is 13 years of age;
 - 3.4. a Class A Misdemeanor if an adolescent who is 14 or 15 years of age engages in unlawful adolescent sexual activity with an adolescent who is 12 years of age;
 - 3.5. a Class B Misdemeanor if an adolescent who is 17 years of age engages in unlawful adolescent sexual activity with an adolescent who is 14 years of age;
 - 3.6. a Class B Misdemeanor if an adolescent who is 15 years of age engages in unlawful adolescent sexual activity with an adolescent who is 13 years of age;
 - 3.7. a Class C Misdemeanor if an adolescent who is 12 or 13 years of age engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years of age; and
 - 3.8. a Class C Misdemeanor if an adolescent who is 14 years of age engages in unlawful adolescent sexual activity with an adolescent who is 13 years of age.
4. The probation officer shall screen the following offenses with the prosecutor prior to offering a nonjudicial adjustment:
 - 4.1. Driving Under the Influence;
 - 4.2. Reckless Endangerment Creating a Substantial Risk of Death or Serious Bodily Injury;
 - 4.3. Negligent Homicide;
 - 4.4. Sexual Battery;
 - 4.5. Possession of a Dangerous Weapon, Firearm, or Short Barrelled Shotgun on or About School Premises;
 - 4.6. Possession of a Dangerous Weapon by a Minor if the dangerous weapon is a firearm; or
 - 4.7. Any other offense when the youth has a current suspended order for custody.
 5. The probation officer shall request that the prosecutor in the county where the episode occurred review the referral when the minor or the minor's parent/guardian/custodian declines the offer of a nonjudicial

adjustment.

6. The probation officer shall conduct a preliminary interview and Pre-Screen Risk Assessment (PSRA) as outlined in Probation Policy 2.1 Preliminary Interview. The probation officer shall complete a Protective and Risk Assessment (PRA) on all minors who score moderate or high risk on the PSRA prior to offering the nonjudicial adjustment. The probation officer shall also complete a case plan with any minors who score moderate or high risk and are offered a nonjudicial adjustment.
7. The probation officer may request that the prosecutor in the county where the episode occurred review the referral when:
 - 7.1. the PSRA indicates the minor is high risk; or
 - 7.2. the PSRA indicates the minor is moderate risk and the referral is for a Class A misdemeanor violation under Title 76, Chapter 5 (Offenses Against Persons), or Title 76, Chapter 9 (Offenses Against Public Order and Decency), Part 7, Miscellaneous Provisions.
8. The probation officer may be directed by the prosecutor or the Court to offer a nonjudicial adjustment to any minor not prohibited by statute.
9. A minor is not required to admit to an offense for a nonjudicial adjustment to be completed.
10. The probation officer shall enter an intake decision within 30 days of the intake date. The probation officer shall enter a case note in CARE when additional time beyond the 30 days is needed by the prosecutor to review the referral or if there are other extenuating circumstances.
11. The payment of a financial fee and/or restitution shall be based upon the ability of the minor's family to pay as determined by the statewide sliding fee scale.
 - 11.1. Information for the sliding fee scale shall be obtained from the Family Size/Income Statement. The Family Size/Income Statement shall be eFiled (see Addendum 2.4.1 Family Size/Income Statement).
 - 11.2. A minor may not be denied a nonjudicial adjustment due to the inability to pay.
 - 11.3. Any minor in the custody of the state shall not be assessed a fee.
12. The nonjudicial closure may include:

- 12.1. payment of a fee not to exceed \$250;
 - 12.2. payment of victim restitution for material loss (uninsured property loss; out of pocket monetary loss; lost wages; or medical expenses); restitution shall be considered separately from a fee and is not limited to \$250 (see Addendum 2.4.2 Probation Practices to Determine Restitution);
 - 12.3. service hours;
 - 12.4. referral to an appropriate provider for screening, assessment, counseling, treatment and/or intervention;
 - 12.5. participation in substance use disorder programs, interventions, or counseling programs;
 - 12.6. compliance with specified restrictions on activities and associations;
 - 12.7. other reasonable actions that are in the interest of the minor, the community and the victim;
 - 12.8. participation in probation meetings at the request of the probation officer; and
 - 12.9. participation in the juvenile court truancy mediation and/or victim-offender mediation pre-meetings.
13. The nonjudicial adjustment shall reflect a completion date for the agreed terms and conditions and shall not exceed 90 days from the date the adjustment was signed. The probation officer may request permission from the Court for an additional 90 days by submitting the Report & Recommendation Regarding Nonjudicial document.
 14. The probation officer shall eFile a modification form when changes to the existing nonjudicial adjustment become necessary (Addendum 2.4.3 Modification of Nonjudicial Agreement).
 15. The probation officer shall employ and document interventions or sanctions to address non-compliant behavior when a minor fails to comply with the conditions of the nonjudicial adjustment (see Probation Policy 4.15 Probation Responses to Compliant and Noncompliant Behavior).
 16. The probation officer shall submit the case to the prosecutor in the county where the episode occurred for review and direction, when a minor fails to substantially comply with the nonjudicial adjustment. Failure to pay a fee may not serve as the basis to refer the case to the prosecutor for further action.
 17. The probation officer shall mark each nonjudicial adjustment successful or unsuccessful on the nonjudicial screen in CARE.

- 17.1. The probation officer shall eFile a modification form when a nonjudicial adjustment has been marked as unsuccessful and there are outstanding order fulfillment items (see Addendum 2.4.3 Modification of Nonjudicial Agreement).

History:

Effective: March 1, 2001

Revised and Approved: June 9, 2017

Effective: August 1, 2017

Updated by Policy Group June 20, 2018

Approved by Probation Chiefs June 26, 2018

Approved by Juvenile Trial Court Executives August 3, 2018

Approved by Board of Juvenile Court Judges September 19, 2018

Addendum 2.4.1 Family Size/Income Statement

Addendum 2.4.2 Probation Practices to Determine Nonjudicial Restitution

Addendum 2.4.3 Modification of Nonjudicial Agreement

Section 4.12 Case Transfers - Supervision

Policy:

This policy is intended to provide direction when transferring formal probation/state supervision cases between districts and to prevent the mishandling of files.

Scope:

This policy applies to all probation staff of the Utah State Juvenile Court.

Authority:

UCA 78A-6-103

Rules of Judicial Administration

Juvenile Court Operations - Rule 7-304 & Rule 7-305

Procedure:

1. When a minor is on formal probation/state supervision moves outside the geographical area of the district, the probation officer shall notify the receiving district office Chief Probation Officer and Clerk of Court prior to sending the file. The receiving office will acknowledge and reply in writing that the transfer request has been received and assigned.
2. The sending probation officer shall make contact with the receiving probation department and request information on office location, probation officer assignment and reporting instructions in order to provide the minor with reporting instructions.
3. The sending probation officer will complete the Instruction to Report Form ADDENDUM 4.12.1 and give that information to the minor prior to moving to the receiving district. A copy of this form will be placed in the social file.
4. The sending probation officer will update the profile screen in C.A.R.E. with the minor's new address.
5. The sending supervisor shall review the social file for quality assurance prior to transfer of the case. The reviewed file shall be sent within 14 working days or less to avoid interruption of probation services.

History: Effective Date?

Board of Juvenile Court Judges Approved 12/11/2009

Trial Court Executives Approved 11/6/2009

Chief Probation Officer Approved 10/8/2009

JCPO Manual Committee Approved 10/21/2009

Addendum 4.12.1 Instructions to Report Form

- Instructions to Report Form -  PDF

OLD-DELETE

Tab 9



Administrative Office of the Courts

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

MEMORANDUM

Richard H. Schwermer
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Management Committee and Judicial Council
From: Nancy Sylvester
Date: September 28, 2018
Re: CJA Rule 3-111 Questionnaires

Amended CJA Rule 3-111 is effective November 1, 2018. The amendments, among other things, replace the active senior judge performance evaluation process in paragraph (1) with a new process in paragraph (3)(B). Amended (3)(B) provides that the surveys the Judicial Council collects from the trial court executives, the Court of Appeals Clerk of Court, the Justice Court Administrator, and the presiding judges on an active senior judge's performance will be informed by anonymous questionnaires completed each time the senior judge completes an assignment. In the trial courts, court staff and jurors will complete the questionnaires, and in the Court of Appeals, the other judges on the panel to which the senior judge is assigned and the law clerks with whom the senior judge works will complete the questionnaires.

During the Council's discussions last fall regarding certification of senior judges for retention, it was discovered that presiding judges and trial court executives have had no meaningful information upon which to evaluate the senior judges accepting assignments in their districts. As such, the Judicial Council amended paragraph (3)(B) to provide a process by which *jurors, staff, and others could provide input, specifically through the use of questionnaires on non-legal ability*. These questionnaires would inform the presiding judges' and TCEs' responses to the surveys they are provided. In essence, the PJ and TCE survey responses that are provided to the Council prior to a senior judge's certification would be a distillation of the questionnaires. And because the questionnaires would provide ongoing feedback, any issues that arise during the course of a senior judge's term of office could be addressed early on, rather than at the end. *Attorney feedback would then provide the Council with information on the judge's legal ability.*

This idea for these questionnaires came from the senior judges and PJ's and was supported by the TCE's. It is a modified version of the process JPEC already uses to evaluate justice court judges in the smallest courts. Attached are the proposed questionnaires and amended Rule 3-111.

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.

Juror Questionnaire on Senior Judge Performance

Please tell me about your experience today. How well did the judge:

- a) Demonstrate courtesy toward attorneys, court staff, and others in the court?

- b) Maintain decorum in the courtroom?

- c) Demonstrate judicial demeanor and personal attributes that promote public trust and confidence in the judicial system?

- d) Display fairness and impartiality toward all parties?

- e) Clearly communicate court procedures and decisions?

Judge: _____ Courthouse: _____ Date: _____

Name of person completing survey (optional): _____

Thank you for taking the time to fill out this questionnaire. We appreciate your service.

Court Staff Questionnaire on Senior Judge Performance

Please tell me about your experience today. How well did the judge:

- a) Demonstrate courtesy toward attorneys, court staff, and others in the court?

- b) Maintain decorum in the courtroom?

- c) Demonstrate judicial demeanor and personal attributes that promote public trust and confidence in the judicial system?

- d) Prepare for the hearing or oral argument?

- e) Display fairness and impartiality toward all parties?

- f) Clearly communicate court procedures and decisions?

- g) Manage his or her workload?

- h) Use the court's case management system in all cases?

Judge: _____ Courthouse: _____ Date: _____

Name of person completing survey (optional): _____

Thank you for taking the time to fill out this questionnaire. We appreciate your service.

Court Staff: Please return this survey to the presiding judge in your district upon completion.

Appellate Panel Questionnaire on Senior Judge Performance

Please tell me about your experience today. How well did the judge:

- a) Demonstrate courtesy toward attorneys, court staff, and others in the court?

- b) Maintain decorum in the courtroom?

- c) Demonstrate judicial demeanor and personal attributes that promote public trust and confidence in the judicial system?

- d) Prepare for the hearing or oral argument?

- e) Display fairness and impartiality toward all parties?

- f) Clearly communicate court procedures and decisions, if applicable?

- g) Manage his or her workload?

- h) Use the court's case management system?

Judge: _____ Courthouse: _____ Date: _____

Name of person completing survey (optional): _____

Thank you for taking the time to fill out this questionnaire. We appreciate your service.

Court Staff: Please return this survey to the Court of Appeals presiding judge upon completion.

Appellate Law Clerk Questionnaire on Senior Judge Performance

Please tell me about your experience today. How well did the judge:

- a) Demonstrate courtesy toward attorneys, court staff, and others in the court?

- b) Maintain decorum in the courtroom?

- c) Demonstrate judicial demeanor and personal attributes that promote public trust and confidence in the judicial system?

- d) Prepare for the hearing or oral argument?

- e) Display fairness and impartiality toward all parties?

- f) Clearly communicate court procedures and decisions, if applicable?

- g) Manage his or her workload?

- h) Use the court's case management system?

Judge: _____ Courthouse: _____ Date: _____

Name of person completing survey (optional): _____

Thank you for taking the time to fill out this questionnaire. We appreciate your service.

Rule 3-111. Performance evaluation of active senior judges and court commissioners.**Intent:**

To establish a performance evaluation, including the criteria upon which active senior judges and court commissioners will be evaluated, the standards against which performance will be measured and the methods for fairly, accurately and reliably measuring performance.

To generate and to provide to active senior judges and court commissioners information about their performance.

To establish the procedures by which the Judicial Council will evaluate and certify senior judges and court commissioners for reappointment.

Applicability:

This rule shall apply to presiding judges, the Board of Justice Court Judges and the Judicial Council, and to the active senior judges and court commissioners of the Court of Appeals, courts of record and courts not of record.

Statement of the Rule:**(1) Performance evaluations.****(1)(A) Court commissioners.**

(1)(A)(i) On forms provided by the administrative office, the presiding judge of the a district or court level a court commissioner primarily serves shall complete an annual evaluation of the court commissioner's performance by June 1 of each year. If a commissioner serves multiple districts or court levels, the presiding judge of each district or court level shall complete an evaluation.

(1)(A)(ii) The presiding judge shall survey judges and court personnel seeking feedback for the evaluation. During the evaluation period, the presiding judge shall review at least five of the commissioner's active cases. The review shall include courtroom observation.

(1)(A)(iii) The presiding judge shall provide a copy of each commissioner evaluation to the Judicial Council. Copies of plans under paragraph (3)(G) and all evaluations shall also be maintained in the commissioner's personnel file in the administrative office.

(1)(B) Active senior judges. ~~On forms provided by the administrative office, the presiding judge of the Court of Appeals shall complete an evaluation of the appellate senior judge's performance every eighteen months starting after the senior judge's initial term. An active senior judge's performance shall be evaluated by attorneys as provided in paragraph (3)(A) and by presiding judges and court staff as provided in paragraph (3)(B).~~

~~(1)(C) On forms provided by the administrative office, the presiding judge of the district an active senior judge primarily serves shall complete an evaluation of the senior judge's performance every eighteen months starting after the senior judge's initial term.~~

~~(1)(D) On forms provided by the administrative office, the chair of the Board of Justice Court Judges shall complete an evaluation of the active senior justice court judge's performance every eighteen months starting after the senior judge's initial term.~~

~~(1)(E) The presiding judge shall provide a copy of each commissioner evaluation to the Judicial Council. (1)(F) If a senior judge receives an overall "Needs Improvement" rating on the performance evaluation, the evaluator shall provide a copy of the evaluation to the Judicial Council.~~

(2) **Evaluation and certification criteria.** Active senior judges and court commissioners shall be evaluated and certified upon the following criteria:

(2)(A) demonstration of understanding of the substantive law and any relevant rules of procedure and evidence;

(2)(B) attentiveness to factual and legal issues before the court;

(2)(C) adherence to precedent and ability to clearly explain departures from precedent;

(2)(D) grasp of the practical impact on the parties of the commissioner's or senior judge's rulings, including the effect of delay and increased litigation expense;

(2)(E) ability to write clear judicial opinions;

(2)(F) ability to clearly explain the legal basis for judicial opinions;

(2)(G) demonstration of courtesy toward attorneys, court staff, and others in the commissioner's or senior judge's court;

(2)(H) maintenance of decorum in the courtroom;

(2)(I) demonstration of judicial demeanor and personal attributes that promote public trust and confidence in the judicial system;

(2)(J) preparation for hearings or oral argument;

(2)(K) avoidance of impropriety or the appearance of impropriety;

(2)(L) display of fairness and impartiality toward all parties;

(2)(M) ability to clearly communicate, including the ability to explain the basis for written rulings, court procedures, and decisions;

(2)(N) management of workload;

(2)(O) willingness to share proportionally the workload within the court or district, or regularly accepting assignments; ~~and~~

(2)(P) issuance of opinions and orders without unnecessary delay; ~~and~~

~~(2)(Q) Senior judges shall also be evaluated on their ability and willingness to use the court's case management systems in all cases.~~

(34) Standards of performance.

(34)(A) Survey of attorneys.

(34)(A)(i) The Council shall measure satisfactory performance by a sample survey of the attorneys appearing before the active senior judge or court commissioner during the period for which the active senior judge or court commissioner is being evaluated. The Council shall measure satisfactory performance based on the results of the final survey conducted during a court commissioner's term of office, subject to the discretion of a court commissioner serving an abbreviated initial term not to participate in a second survey under Section (32)(A)(vi) of this rule.

(34)(A)(ii) **Survey scoring.** The survey shall be scored as follows.

(34)(A)(ii)(a) Each question of the attorney survey will have six possible responses: Excellent, More Than Adequate, Adequate, Less Than Adequate, Inadequate, or No Personal Knowledge. A favorable response is Excellent, More Than Adequate, or Adequate.

(34)(A)(ii)(b) Each question shall be scored by dividing the total number of favorable responses by the total number of all responses, excluding the "No Personal Knowledge" responses. A satisfactory score for a question is achieved when the ratio of favorable responses is 70% or greater.

(34)(A)(ii)(c) A court commissioner's performance is satisfactory if:

(34)(A)(ii)(c)(1) at least 75% of the questions have a satisfactory score; and

(34)(A)(ii)(c)(2) the favorable responses when divided by the total number of all responses, excluding "No Personal Knowledge" responses, is 70% or greater.

(34)(A)(ii)(d) The Judicial Council shall determine whether the senior judge's survey scores are satisfactory.

(34)(A)(iii) **Survey respondents.** The Administrative Office of the Courts shall identify as potential respondents all lawyers who have appeared before the court commissioner during the period for which the commissioner is being evaluated.

(34)(A)(iv) **Exclusion from survey respondents.**

(34)(A)(iv)(a) A lawyer who has been appointed as a judge or court commissioner shall not be a respondent in the survey. A lawyer who is suspended or disbarred or who has resigned under discipline shall not be a respondent in the survey.

(34)(A)(iv)(b) With the approval of the Management Committee, a court commissioner may exclude an attorney from the list of respondents if the court commissioner believes the attorney will not respond objectively to the survey.

(34)(A)(v) **Number of survey respondents.** The Surveyor shall identify 180 respondents or all attorneys appearing before the court commissioner, whichever is less. All attorneys who have appeared before the active senior judge shall be sent a survey questionnaire as soon as possible after the hearing.

(34)(A)(vi) **Administration of the survey.** Court commissioners shall be the subject of a survey approximately six months prior to the expiration of their term of office. Court commissioners shall be the subject of a survey during the second year of each term of office. Newly appointed court commissioners shall be the subject of a survey during the second year of their term of office and, at their option, approximately six months prior to the expiration of their term of office.

(34)(A)(vii) **Survey report.** The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity.

(34)(B) **Non-attorney Surveys.**

(3)(B)(i) **Surveys of presiding judges and court staff regarding non-appellate senior judges.**
The Council shall measure performance of active senior judges by a survey of all presiding judges and trial court executives, or in the justice courts, the Justice Court Administrator, of districts in which the senior judge has been assigned. The presiding judge and trial court executive will gather information for the survey from anonymous questionnaires completed by court staff on the calendars to which the senior judge is assigned and by jurors on jury trials to which the senior judge is assigned.
The Administrative Office of the Courts shall distribute survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the ~~number and percentage of respondents for each of the possible responses on each survey question and all comments, retyped and edited as necessary to redact the respondent's identity.~~ The Judicial Council shall determine whether the qualitative assessment of the senior judge's judge indicates satisfactory performances ~~survey scores are satisfactory.~~

(3)(B)(ii) **Surveys of Court of Appeals presiding judge and clerk of court.** The Council shall measure performance of active appellate senior judges by a survey of the presiding judge and clerk of court of the Court of Appeals. The presiding judge and clerk of court will gather information for the survey from anonymous questionnaires completed by the other judges on each panel to which the appellate senior judge is assigned and by the appellate law clerks with whom the appellate senior judge works. The Administrative Office of the Courts shall distribute the survey forms with instructions to return completed surveys to the Surveyor. The survey questions will be based on the non-legal ability evaluation criteria in paragraph (2). The Surveyor shall provide to the subject of the survey, the subject's presiding judge, and the Judicial Council the responses on each survey question. The Judicial Council shall determine whether the qualitative assessment of the senior judge indicates satisfactory performance.

(34)(C) Case under advisement standard. A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the senior judge or court commissioner for final determination. The Council shall measure satisfactory performance by the self-declaration of the senior judge or court commissioner or by reviewing the records of the court.

(34)(C)(i) A senior judge or court commissioner in a trial court demonstrates satisfactory performance by holding:

(34)(C)(i)(a) no more than three cases per calendar year under advisement more than 60 days after submission; and

(34)(C)(i)(b) no case under advisement more than 180 days after submission.

(34)(C)(ii) A senior judge in the court of appeals demonstrates satisfactory performance by:

(34)(C)(ii)(a) circulating no more than an average of three principal opinions per calendar year more than six months after submission with no more than half of the maximum exceptional cases in any one calendar year; and

(34)(C)(ii)(b) achieving a final average time to circulation of a principal opinion of no more than 120 days after submission.

(34)(D) Compliance with education standards. Satisfactory performance is established if the senior judge or court commissioner annually complies with the judicial education standards of this Code, subject to the availability of in-state education programs. The Council shall measure satisfactory performance by the self-declaration of the senior judge or court commissioner or by reviewing the records of the state court administrator.

(34)(E) Substantial compliance with Code of Judicial Conduct. Satisfactory performance is established if the response of the senior judge or court commissioner demonstrates substantial compliance with the Code of Judicial Conduct, if the Council finds the responsive information to be

complete and correct and if the Council's review of formal and informal sanctions lead the Council to conclude the court commissioner is in substantial compliance with the Code of Judicial Conduct. Under Rule 11-201 and Rule 11-203, any sanction of a senior judge disqualifies the senior judge from reappointment.

(34)(F) **Physical and mental competence.** Satisfactory performance is established if the response of the senior judge or court commissioner demonstrates physical and mental competence to serve in office and if the Council finds the responsive information to be complete and correct. The Council may request a statement by an examining physician.

(3)(G) Performance and corrective action plans for court commissioners.

(3)(G)(i) The presiding judge of the district a court commissioner serves shall prepare a performance plan for a new court commissioner within 30 days of the court commissioner's appointment. If a court commissioner serves multiple districts or court levels, the presiding judge of each district and court level shall prepare a performance plan. The performance plan shall communicate the expectations set forth in paragraph (2) of this rule.

(3)(G)(ii) If a presiding judge issues an overall "Needs Improvement" rating on a court commissioner's annual performance evaluation as provided in paragraph (1), that presiding judge shall prepare a corrective action plan setting forth specific ways in which the court commissioner can improve in deficient areas.

(45) Judicial Council certification process

(4)(A) **July Council meeting.** At its meeting in ~~August~~ July, the Council shall begin the process of determining whether the senior judges and court commissioners whose terms of office expire that year meet the standards of performance provided for in this rule. The Administrative Office of the Courts shall assemble all evaluation information, including:

(45)(A)(i) survey scores;

(45)(A)(ii) judicial education records;

(45)(A)(iii) self-declaration forms;

(45)(A)(iv) records of formal and informal sanctions;

(45)(A)(v) performance evaluations, if the commissioner or senior judge received an overall rating of Needs Improvement; and

(45)(A)(vi) any information requested by the Council.

(45)(B) **Records delivery.** Prior to the meeting the Administrative Office of the Courts shall deliver the records to the Council and to the senior judges and court commissioners being evaluated.

(45)(C) **July Council meeting closed session.** In a session closed in compliance with Rule 2-103, the Council shall consider the evaluation information and make a preliminary finding of whether a senior judge or court commissioner has met the performance standards.

(45)(D) **Certification presumptions.** If the Council finds the senior judge or court commissioner has met the performance standards, it is presumed the Council will certify the senior judge or court commissioner for reappointment. If the Council finds the senior judge or court commissioner did not meet the performance standards, it is presumed the Council will not certify the senior judge or court commissioner for reappointment. The Council may certify the senior judge or court commissioner or withhold decision until after meeting with the senior judge or court commissioner.

(45)(E) **Overcoming presumptions.** A presumption against certification may be overcome by a showing of good cause to the contrary. A presumption in favor of certification may be overcome by:

(45)(E)(i) reliable information showing non-compliance with a performance standard; or

(45)(E)(ii) formal or informal sanctions of sufficient gravity or number or both to demonstrate lack of substantial compliance with the Code of Judicial Conduct.

(45)(F) **August Council meeting.** At the request of the Council the senior judge or court commissioner challenging a non-certification decision shall meet with the Council in ~~September~~August. At the request of the Council the presiding judge shall report to the Council any meetings held with the senior judge or court commissioner, the steps toward self-improvement identified as a result of those meetings, and the efforts to complete those steps. Not later than 5 days after the ~~August~~July meeting, the Administrative Office of the Courts shall deliver to the senior judge or court commissioner being evaluated notice of the Council's action and any records not already delivered to the senior judge or court commissioner. The notice shall contain an adequate description of the reasons the Council has withheld its decision and the date by which the senior judge or court commissioner is to deliver written materials. The Administrative Office of the Courts shall deliver copies of all materials to the Council and to the senior judge or court commissioner prior to the ~~September~~August meeting.

(45)(G) **August Council meeting closed session.** At its ~~September~~August meeting in a session closed in accordance with Rule 2-103, the Council shall provide to the senior judge or court commissioner adequate time to present evidence and arguments in favor of certification. Any member of the Council may present evidence and arguments of which the senior judge or court commissioner has had notice opposed to certification. The burden is on the person arguing against the presumed certification. The Council may determine the order of presentation.

(45)(H) **Final certification decision.** At its ~~September~~August meeting in open session, the Council shall approve its final findings and certification regarding all senior judges and court commissioners whose terms of office expire that year.

227 ~~(45)~~(l) **Communication of certification decision.** The Judicial Council shall communicate its
228 certification decision to the senior judge or court commissioner. The Judicial Council shall communicate
229 its certification decision for senior judges to the Supreme Court and for court commissioners to the
230 presiding judge of the district the commissioner serves.

Tab 10

UTAH DISTRICT COURTS COVER SHEET FOR PROBATE ACTIONS

000158

CHOOSE [X] ONE

- \$360 [] Adoption/Foreign Adoption, plus [] \$8 Vital Statistics per child (§ 26-2-25)
- \$360 [] Conservatorship
- \$360 [] Estate Personal Rep
- \$35 [] Foreign Probate - Moving an out of state probate matter to Utah.
- \$360 [] Gestational Agreement
- \$360 [] Guardianship of an Adult
- \$360 [] Guardianship of a Minor
- \$35 [] Guardianship by the parent(s) of an Adult Child
- \$360 [] Minor's Insurance Settlement
- \$360 [] Name Change
- \$360 [] Supervised Administration
- \$360 [] Trust
- \$360 [] Unspecified (other) Probate

Annual Accounting by Guardians or Conservators

- \$ 15 [] Estate valued at \$50,000 or less
- \$ 30 [] Estate valued at \$50,001- \$75,000
- \$ 50 [] Estate valued at \$75,001- \$112,000
- \$ 90 [] Estate valued at \$112,001- \$168,000
- \$175 [] Estate valued at more than \$168,000

Interpretation: If you do not speak or understand English, contact the court at least 3 days before the hearing or mediation and an interpreter will be provided.

Interpretacion. Si usted no habla o entiende el Ingles, contacte al tribunal pro lo menos 3 dias antes de la audiencia o mediacion y le proveeran un interprete,

PETITIONER or name of person seeking appointment as personal representative, guardian, conservator, or the name change filer:

Name

Address

City, State, ZIP

Phone

Email

ADDITIONAL PETITIONER or name of other person seeking appointment as personal representative, guardian, conservator, or name change filer: Attach additional sheet if more than two petitioners.

Name

Address

City, State, ZIP

Phone

Email

RESPONDENT/PROTECTED OR INCAPACITATED PERSON/OTHER this is the name of the party of concern, for example, the name of the alleged incapacitated person in a guardianship or conservatorship case. Attach additional sheet if more than one party.

Name

Address

City, State, ZIP

Phone

Email

MINOR'S NAME for minor guardianship or conservatorship, minor's name change, or minor's insurance settlements. Attach additional sheet if more than one minor.

Name

Address

City, State, ZIP

Phone

Email

DECEDENT/DECEASED PERSON'S NAME for estate matters such as an application for appointment of personal representative. Attach additional sheet if more than one decedent.

Name

ATTORNEY INFORMATION

Choose [X] one:

☐ For Petitioner(s)

☐ For Minor(s)

☐ For Respondent/Protected or
Incapacitated Person/Other

☐ None

Name and Bar #

Address

City, State, ZIP

Phone

Email

Utah District Court Cover Sheet for All Civil Actions Except Probate Cases

Interpretation. If you do not speak or understand English, contact the court at least 3 days before the hearing or mediation, and an interpreter will be provided.

Interpretación. Si usted no habla o entiende el Inglés contacte al tribunal por lo menos 3 días antes de la audiencia o mediación y le proveerán un intérprete.

Plaintiff/Petitioner (First)

Name _____
 Address _____
 City, State, Zip _____
 Phone _____ Email _____

First Plaintiff/Petitioner's Attorney*

Name _____
 Bar Number _____

Plaintiff/Petitioner (Second)

Name _____
 Address _____
 City, State, Zip _____
 Phone _____ Email _____

Second Plaintiff/Petitioner's Attorney*

Name _____
 Bar Number _____

Defendant/Respondent (First)

Name _____
 Address _____
 City, State, Zip _____
 Phone _____

First Defendant/Respondent's Attorney*

Name _____
 Bar Number _____

Defendant/Respondent (Second)

Name _____
 Address _____
 City, State, Zip _____
 Phone _____

Second Defendant/Respondent's Attorney*

Name _____
 Bar Number _____

*Attorney mailing and email addresses provided by Utah State Bar.

Total Claim for Damages \$ _____ **Jury Demand** ☐ Yes ☐ No **\$250** ☐ Jury Demand

Schedule of Fees: §78a-2-301 (Choose ☒ all that apply. See Page 2 for fees for claims other than claims for damages.)

PLEASE CHOOSE ONE:

- ☐ No monetary damages are requested (URCP 26: Tier 2)
- ☐ Damages requested are \$50,000 or less (URCP 26: Tier 1)
- ☐ Damages requested are more than \$50,000 and less than \$300,000 (URCP 26: Tier 2)
- ☐ Damages requested are \$300,000 or more (URCP 26: Tier 3)
- ☐ Damages are unspecified.
Circle one: Tier 1 Tier 2 Tier 3
- ☐ This case is exempt from URCP 26. (E)

— — MOTION TO RENEW JUDGMENT — —

- \$37.50 ☐ Damages \$2000 or less
- \$92.50 ☐ Damages \$2001 - \$9,999

\$180 ☐ Damages \$10,000 & over

— — COMPLAINT OR INTERPLEADER — —

- \$75 ☐ Damages \$2000 or less
- \$185 ☐ Damages \$2001 - \$9999
- \$360 ☐ Damages \$10,000 & over
- \$360 ☐ Damages Unspecified

— — COUNTERCLAIM, CROSS CLAIM, THIRD PARTY CLAIM, OR INTERVENTION — —

- \$55 ☐ Damages \$2000 or less
- \$150 ☐ Damages \$2001 - \$9999
- \$155 ☐ Damages \$10,000 & over

Choose ☒ One

Fee	Case Type
----- APPEALS -----	
\$360	<input type="checkbox"/> Administrative Agency Review
Sch	<input type="checkbox"/> Tax Court (Appeal of Tax Commission Decision) Court: Refer to Clerk of Court upon filing.
\$225	<input type="checkbox"/> Civil (78A-2-301(1)(h)) (E)
\$225	<input type="checkbox"/> Small Claims Trial De Novo (E)
----- GENERAL CIVIL -----	
Sch	<input type="checkbox"/> Civil Rights
\$0	<input type="checkbox"/> Civil Stalking (E)
\$360	<input type="checkbox"/> Condemnation/Eminent Domain
Sch	<input type="checkbox"/> Contracts
Sch	<input type="checkbox"/> Contract: Employment Discrimination
Sch	<input type="checkbox"/> Contract: Fraud
Sch	<input type="checkbox"/> Debt Collection
Sch	<input type="checkbox"/> Eviction/Forcible Entry and Detainer (E)
\$360	<input type="checkbox"/> Extraordinary Relief/Writs
\$360	<input type="checkbox"/> Forfeiture of Property (E)
Sch	<input type="checkbox"/> Interpleader
Sch	<input type="checkbox"/> Lien/Mortgage Foreclosure
Sch	<input type="checkbox"/> Miscellaneous Civil
\$360	<input type="checkbox"/> Post Conviction Relief: Capital (E)
\$360	<input type="checkbox"/> Post Conviction Relief: Non-capital (E)
Sch	<input type="checkbox"/> Property Rights
\$360	<input type="checkbox"/> Registry Removal (Gun/White Collar)
Sch	<input type="checkbox"/> Sexual Harassment
Sch	<input type="checkbox"/> Water Rights
\$360	<input type="checkbox"/> Wrongful Lien
Sch	<input type="checkbox"/> Wrongful Termination
----- TORTS -----	
Sch	<input type="checkbox"/> Automobile Tort
Sch	<input type="checkbox"/> Intentional Tort
Sch	<input type="checkbox"/> Malpractice-Medical Tort
Sch	<input type="checkbox"/> Malpractice-Legal Tort; Other
Sch	<input type="checkbox"/> Premises Liability
Sch	<input type="checkbox"/> Asbestos
Sch	<input type="checkbox"/> Product Liability (NOT Asbestos)
Sch	<input type="checkbox"/> Slander/Libel/Defamation
----- DOMESTIC RELATIONS -----	
\$0	<input type="checkbox"/> Protective Orders (E)
\$310	<input type="checkbox"/> Marriage Adjudication (T2)
\$310	<input type="checkbox"/> Custody/Visitation/Support (T2)
\$310	<input type="checkbox"/> Divorce/Annulment (T2)
	<input type="checkbox"/> Check if child support, custody or parent-time will be part of decree
	<input type="checkbox"/> Check if Temporary Separation filed
\$8	<input type="checkbox"/> Vital Statistics §26-2-25 per form
\$115	<input type="checkbox"/> Counterclaim: Divorce/Sep Maint.

Fee	Case Type
\$115	<input type="checkbox"/> Counterclaim: Custody/Visit/Support
\$155	<input type="checkbox"/> Counterclaim: Paternity/Grandparent Visitation
\$100	<input type="checkbox"/> Domestic Modification (T2)
\$100	<input type="checkbox"/> Counter-petition: Domestic Mod.
\$360	<input type="checkbox"/> Grandparent Visitation (T2)
\$360	<input type="checkbox"/> Paternity/Parentage (T2)
\$310	<input type="checkbox"/> Separate Maintenance (T2)
\$35	<input type="checkbox"/> Temporary Separation (E)
\$35	<input type="checkbox"/> Uniform Child Custody Jurisdiction & Enforcement Act (UCCJEA) (E)
\$35	<input type="checkbox"/> Uniform Interstate Family Support Act (UIFSA) (E)
----- JUDGMENTS -----	
\$35	<input type="checkbox"/> Foreign Judgment (Abstract of) (E)
\$50	<input type="checkbox"/> Abstract of Judgment/Order of Utah Court/Agency (E)
\$30	<input type="checkbox"/> Abstract of Judgment/Order of Utah State Tax Commission (E)
\$35	<input type="checkbox"/> Judgment by Confession (E)
----- PROBATE -----	
Use the Utah District Court Cover Sheet for Probate Actions for the following:	
Adoptions/foreign adoptions;	
conservatorships; estate personal rep;	
foreign probate; gestational agreements;	
guardianships; minor's settlements; name changes; supervised administration cases;	
trusts; other probate actions	
----- SPECIAL MATTERS -----	
\$35	<input type="checkbox"/> Arbitration Award (E)
\$0	<input type="checkbox"/> Determination Competency-Criminal (E)
\$135	<input type="checkbox"/> Expungement Petition (E)
\$0	<input type="checkbox"/> Hospital Lien (E)
\$35	<input type="checkbox"/> Judicial Approval of Document: Not Part of Pending Case (E)
\$35	<input type="checkbox"/> Notice of Deposition in Out-of-State Case/Foreign Subpoena (E)
\$35	<input type="checkbox"/> Open Sealed Record (E)
\$50	<input type="checkbox"/> Petition for Adjudication of Priority to Funds on Trustee's Sale