

JUDICIAL COUNCIL MEETING

AGENDA April 22, 2019 Provo Courthouse 137 N. Freedom Blvd. Provo, Utah 84601

Chief Justice Matthew B. Durrant Presiding

1. 9:00 a.m. Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant
(Tab 1 – Action)
2. 9:05 a.m. Chair’s Report..... Chief Justice Matthew B. Durrant
3. 9:10 a.m. Administrator’s Report Judge Mary T. Noonan
4. 9:20 a.m. Reports: Management Committee Chief Justice Matthew B. Durrant
Liaison Committee.....Justice Thomas Lee
Policy & Planning Committee Judge Derek Pullan
Bar Commission..... Rob Rice, esq.
(Tab 2 – Information)
5. 9:30 a.m. FY2019 Year-End Spending Plan..... Judge Mary T. Noonan
(Tab 3 – Action)
6. 10:10 a.m. FY2020 Budget Plan..... Judge Kate Appleby
(Discussion) Judge Todd Shaughnessy
Judge Mary T. Noonan
- 10:40 a.m. Break and Court Tour
7. 11:10 a.m. System Review Discussion..... Judge Mary T. Noonan
(Tab 4 – Discussion)
8. 11:40 a.m. PC/PSA Programming Keisa Williams
(Tab 5 – Action) Heidi Anderson
9. 11:50 a.m. Senior Judge Applications Nancy Sylvester
(Tab 6 – Action)
- 12:00 p.m. Break for Lunch
10. 12:10 p.m. Approval of Interlocal Agreement Jim Peters
(Tab 7 – Action)

11. 12:20 p.m. Appellate Mediation Program Report Michele Mattsson
(Tab 8 – Information)
12. 12:35 p.m. Board of District Court Judges Membership Shane Bahr
(Tab 9 – Action)
13. 12:45 p.m. Fourth District Court Report Judge James Brady
(Tab 10 – Information) Mark Urry
14. 12:55 p.m. Wellbeing Task Force Request Justice Paige Petersen
(Tab 11 – Action) Kim Free
15. 1:05 p.m. Problem-Solving Court Recertifications Judge Dennis Fuchs
(Tab 12 – Action) Melissa Sanchez
16. 1:15 p.m. Third District Juvenile Family Dependency Drug Court Request
..... Judge Dennis Fuchs
(Tab 13 – Action)
17. 1:30 p.m. Online Dispute Resolution Request for Additional Pilot Programs
..... Justice Deno Himonas
(Action)
18. 1:40 p.m. Online Dispute Resolution Pilot Program Update Justice Deno Himonas
(Information)
19. 1:50 p.m. Old Business/New Business Judge Mary T. Noonan
(Discussion)
20. 2:10 p.m. Judicial Performance Evaluation Commission Report Dr. Jennifer Yim
(Tab 14 – Information) Commissioner David Roth
- 2:30 p.m. Break
21. 2:40 p.m. Board of Justice Court Judges Report Judge Reuben Renstrom
(Information) Jim Peters
22. 2:55 p.m. Recognition of Outgoing Council Member
..... Chief Justice Matthew B. Durrant
23. 3:00 p.m. Executive Session – There will be an executive session
24. 4:00 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.

1. Probation Policy 5.8
(Tab 15)

Neira Siaperas

2. Forms for Final Approval
(Tab 16)

Forms Committee – Brent Johnson

Tab 1

JUDICIAL COUNCIL MEETING

Minutes

March 8, 2019

Hyatt Place Hotel

1819 South 120 East

St. George, Utah 84790

12:30 p.m. – 4:00 p.m.

Chief Justice Matthew B. Durrant, Presiding

Attendees:

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

Excused:

Hon. Kevin Allen

Staff:

Hon. Mary T. Noonan
 Ray Wahl
 Shane Bahr
 Cathy Dupont
 Jim Peters
 Clayson Quigley
 Neira Siaperas
 Jeni Wood

Guests:

John Baldwin, Utah State Bar
 Dickson Burton, Utah State Bar
 Hon. Sam Chiara, Eighth District
 Travis Erickson, Seventh District TCE
 Judge Dennis Fuchs, Senior Judge
 Herm Olsen, Utah State Bar
 Joyce Pace, Fifth District TCE
 Hon. Jeffrey Wilcox, Fifth District

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

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

Motion: Judge Kate Appleby moved to approve the Judicial Council minutes from the February 25, 2019 meeting, as presented. Judge David Marx seconded the motion, and it passed unanimously.

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

Chief Justice Durrant was encouraged with the employee participation in the National Center for State Courts (NCSC) System Review and found the report findings helpful. Chief Justice Durrant thanked the System Review Steering Committee for their work on this project.

3. ADMINISTRATOR'S REPORT: (Judge Mary T. Noonan)

Judge Mary Noonan stated all court employees received a copy of the NCSC System Review Report. Judge Noonan encouraged TCEs to hold conversations in their districts about the report findings. The System Review Steering Committee will meet to discuss the second, more in-depth, review to be held after the new State Court Administrator is hired.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Liaison Committee Report:

Justice Thomas Lee noted the committee opted to wait until the 2020 legislative session to remind judges of proper protocols if contacted by legislators or their staff. Justice Lee thanked Cathy Dupont, Mike Drechsel, and the members of the Liaison Committee for their dedication to this session.

Policy and Planning Committee Report:

Judge Derek Pullan stated the committee would hold their work on the Human Resources exercise policy and secondary employment of interns, pending review of the Human Resources manual in its entirety by the Human Resources Committee.

Bar Commission Report:

Rob Rice noted the Bar Commission approved a \$200 application fee and a \$200 yearly license fee for Licensed Paralegal Practitioners. Mr. Rice noted Dickson Burton worked hard on educating legislators about the services performed by attorneys and was pleased the proposed bill to tax services did not pass.

5. BUDGET UPDATE: (Judge Mary T. Noonan)

Judge Noonan received positive feedback for the courts presence during the legislative session. Cathy Dupont spoke with Senator Stevenson, Senate Appropriations Chair, who expressed his gratitude for Chief Justice Durrant's conversation with them.

6. BOARD OF DISTRICT COURT JUDGES REPORT: (Judge Sam Chiara and Shane Bahr)

Chief Justice Durrant welcomed Judge Sam Chiara and Shane Bahr. Mr. Wahl and members of the Facilities Committee will attend a meeting in the Fifth District on March 18 to discuss a possible federal court request for additional space in the shared St. George courthouse. Recently, there were approximately 60 potential jurors in the St. George courthouse for a federal court trial. Mr. Wahl will review the current St. George federal court lease.

The Board approved a recommendation to add a Fifth District Court membership to the Board of District Court Judges. Two of the ten positions on the Board are shared by the Fifth, Sixth, Seventh, and Eighth Districts. The Fifth District is one of the nation's fastest growing metropolitan areas. The Sixth, Seventh, and Eighth Districts are comprised of mostly rural and low-density populations. These demographics no longer represent much of the population in the

Fifth District. The Council agreed this was a positive change. Mr. Bahr will seek approval for the new position with the Management Committee and Policy & Planning Committee.

The Board would like to expand commissioner-held pro se domestic calendars in the Third and Fourth Districts to other districts. The Timpanogas Legal Center volunteered to provide legal counsel for a commissioner-held pro se calendar pilot program in Duchesne County. Mr. Rice noted the Bar has a list of pro bono attorneys that may be able to provide assistance as well.

Judge Connors informed the Board that the American Bar Association (ABA) Trial Judge Committee encouraged additional outreach programs between the Bar and local courts. The Board discussed increasing student participation by moving Constitution Day to March to provide advanced notice to schools.

The Board will work to improve methods of communications with district court judges as recommended in the NCSC Report.

Chief Justice Durrant thanked Judge Chiara and Mr. Bahr for their report.

7. WEST VALLEY JUSTICE COURT MENTAL HEALTH COURT AND DAVIS COUNTY DEPENDENCY DRUG COURT UPDATE: (Judge Dennis Fuchs)

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs stated that the Council had previously conditionally approved the recertification of the West Valley Justice Court Mental Health Court for 30 days. The contract for drug testing recently changed to Volunteers of America (Cornerstone). The court corrected its drug testing procedures and is now in compliance. Judge Fuchs next discussed the Davis County Dependency Drug Court conditional certification. The court provided a letter stating they believe a misunderstanding occurred because they have complied with drug testing seven days a week for the past several years.

Judge Fuchs is seeking full recertification for both courts at this time.

Motion: Judge Appleby moved to approve recertification of the West Valley Justice Court Mental Health Court and the Davis County Dependency Drug Court. Judge Shaughnessy seconded the motion, and it passed unanimously.

8. REVIEW OF PROBLEM-SOLVING COURTS CERTIFICATIONS: (Judge Dennis Fuchs)

Judge Fuchs said that every two years he visits each court for purposes of certification. Some of the adult drug court recertification requests submitted to the Council in January were completed on the previous version of the form. Revisions to the adult drug court recertification form were approved; the remaining problem-solving court recertification checklists are being updated. Judge Manley's adult drug court has not met employment or education requirements but should soon be in compliance. Neira Siaperas will contact the Division of Children and Family Services to assist Judge Manley and her team with education opportunities. Once the issues are resolved, the recertification will be added to the Council's consent calendar.

Motion: Judge Appleby moved to reject Judge Manley's Seventh District adult drug court approval for recertification until they meet the drug testing and education/work requirements, and when in compliance, to add this item to the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

The Council addressed noncompliance with Judge Brent Bartholomew's Fourth District Juvenile dependency drug court. Judge Fuchs understood that Utah County Substance Abuse is ensuring drug testing is done as required.

For future requests, Judge Fuchs will submit a brief summary of the requests and any discrepancies identified. Chief Justice Durrant thanked Judge Fuchs.

Motion: Judge Kara Pettit moved to reject the recertification of Judge Bartholomew's Fourth District Juvenile dependency drug court due to noncompliance with high risk/high needs, and to have Judge Fuchs follow up with Judge Bartholomew. When in compliance, this item will be added to the Judicial Council consent calendar. Judge Appleby seconded the motion, and it passed unanimously.

9. LEGISLATIVE UPDATE: (Cathy Dupont)

Cathy Dupont provided status on various bills and identified bills with fiscal notes. Ms. Dupont noted Mike Drechsel worked on the bail bond bill, which may be funded with one-time funding. There is a fair amount of one-time money available this year. Ms. Dupont and Mr. Drechsel are closely monitoring the status of bills. Ms. Dupont will send a list of approved bills after the session concludes.

10. TCE REPORT: (Travis Erickson and Joyce Pace)

Chief Justice Durrant welcomed Travis Erickson and Joyce Pace. Mr. Erickson and Ms. Pace introduced themselves. Mr. Erickson said the TCEs reviewed the employee survey results and selected five items to focus on including: pride, understanding the mission of the courts, morale, feeling appreciated, input in decisions, and making decisions on personal work. Each district holds an annual awards program. Some districts give years of service plaques to employees. Ms. Pace noted employees have expressed sincere appreciation for incentive awards and years of service recognition.

Ms. Pace said an employee mentioned that after 22 years with the courts, her best experience was meeting with Chief Justice Durrant and members of the AOC. Mr. Erickson thanked the Council for their efforts in clerical salary increases. TCEs are committed to focusing on recommendations made in the NCSC Report. Mr. Erickson said the TCEs have discussed giving staff letters of accomplishment from the Council. Judge Shaughnessy thanked the TCEs for their initiative with clerical increases.

Juvenile court updates

- Implementation of Tangible incentives for probationers – statewide training
- Implementation of Massachusetts Youth Screening Instrument (MAYSI-2) – Fifty-two questions designed to assess the mental health needs of juveniles

- Approved MOU which provides access to Department of Human Services (DHS) – contracted treatment interventions
- Acting as a resource for schools as they develop interventions for truancy and minor delinquency matters

Chief Justice Durrant thanked Mr. Erickson and Ms. Pace for their report.

11. FIFTH DISTRICT REPORT: (Judge Jeffrey Wilcox and Joyce Pace)

Chief Justice Durrant welcomed Judge Jeffrey Wilcox and Joyce Pace. Judge Wilcox noted the Fifth District has six district court judges, three juvenile court judges, and no commissioners. Over the past six months, case filings have remained about the same, with the exception of juvenile court cases and civil cases. However, Judge Wilcox talked about the anticipated group in Washington County and large subdivision housing presently being built. Because of this anticipated group, Judge Wilcox believes there is a need for an additional judge in the District. The Fifth District has now taken work in Beaver County back, but they did appreciate the temporary assistance provided by Judge Lyman and the Sixth District. Juvenile court judges are assisting district courts with their caseloads. The district recently has needed to use more senior judge services; however, the lack of courtroom space is an impediment to senior judge usage. Judge Wilcox offered to provide data to support the need for either a judge or commissioner. An official request for an additional judge or commissioner was not made.

Judge Wilcox said approximately 80% of PC statements include PSAs. Judge Wilcox noted Ms. Pace has worked hard at improving the districts morale. Washington County is the replicator site for the entire court computerized system. Ms. Pace said IT is upgrading the redundant site with additional cooling systems and new equipment.

Fifth District Court is comprised of:

- Washington County – population 166,000
- Iron County – population 48,000
- Beaver County – population 6,600

Chief Justice Durrant thanked Judge Wilcox and Ms. Pace for their report.

12. UTAH STATE BAR WELCOME AND REPORT: (Dickson Burton and Herm Olsen)

Chief Justice Durrant welcomed Dickson Burton and Herm Olsen. Mr. Burton thanked the Council for holding this meeting in St. George in conjunction with the Bar Spring Convention.

Mr. Burton and other Bar members are involved with the Supreme Court's Lawyer Wellness Committee. Dr. Matthew Thiese from the University of Utah will conduct a study for the Wellness Committee. The study, funded by the Bar, is expected to be completed in July. This year's Bar Summer Convention will be held in Park City, which will provide a more affordable Convention site and hopefully increased attorney participation.

Chief Justice Durrant thanked Mr. Burton and Mr. Olsen for their report.

13. OLD BUSINESS/NEW BUSINESS: (Judge Mary T. Noonan)

Judge Noonan explained adding old business/new business to each agenda provides an opportunity for Council members to revisit previous topics or to propose new topics for discussion. There was brief discussion on self-reporting for problem-solving courts. Judge Mark May said the juvenile courts have expressed frustration with the process. They are heavily invested in drug courts and should provide the best service possible. Judge Pullan said with Judge Fuchs being part-time and there being no audit system in place, the Council may want to consider what resources are needed to provide service to the problem-solving courts. Judge Shaughnessy said, after a review is done, the Council might want to request funding from the legislature for a problem-solving coordinator and staff. Judge Noonan would like an analysis of problem-solving courts functions and resources and then readdress the issue with the Council in June. Judge Pullan recommended speaking with the National Center for State Courts to review processes that other states use.

Judge Pullan recommended reviewing the outcome of the legislative session and what was learned. Justice Lee said an important step is to give thought to the level of communication between the Liaison Committee and the Council during the session. Because Liaison is an extension of the Council, therefore, the Council may want to have more input than at each monthly Council meeting.

14. EXECUTIVE SESSION

There was no executive session held.

15. CONSENT CALENDAR ITEMS

There were no consent calendar items.

16. ADJOURN

The meeting adjourned.

Tab 2

Draft

JUDICIAL COUNCIL MANAGEMENT COMMITTEE

**Minutes
April 9, 2019
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 Appleby, Vice Chair
Hon. David Marx
Hon. Todd Shaughnessy

Excused:

Shane Bahr

Staff Present:

Hon. Mary T. Noonan
Ray Wahl
Heidi Anderson
Brody Arishita
Cathy Dupont
Kim Free
John Larsen
Jim Peters
Neira Siaperas
Keisa Williams
Jeni Wood

Guests:

Judge Barry Lawrence

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 Kate Appleby moved to approve the February 25, 2019 Management Committee meeting minutes, as presented. Judge David Marx seconded the motion, and it passed unanimously.

2. ADMINISTRATORS REPORT: (Judge Mary T. Noonan)

Judge Mary T. Noonan said Kim Allard announced her retirement. The court services director position has been posted and the human resources director position will be posted soon.

At the March 8 Judicial Council meeting, they discussed problem-solving courts centering on the self-report certification process and how problem solving courts are coordinated at the state and local levels. Judge Noonan stated Shane Bahr will be reviewing problem-solving courts' inventory to provide objective information to the Judicial Council concerning local and statewide problem solving courts, and their coordination. The inventory report will include recommendations concerning problem solving court coordinating options for the Council to consider.

The scope of the Utah Problem Solving Court Inventory will include:

- Analyzing problem solving courts generally in terms of day to day function;
- Identifying current resources that support problem solving courts at the state and local level;
- Identifying gaps in resources at the state and local level;
- Investigating how other states coordinate and manage problem solving courts at state and local levels.
- Recommending improvements for the function and coordination of Utah problem-solving courts.

Recommended committee members are:

- Chair, Shane Bahr, District Court Administrator
- District Court Judge Jeffrey Wilcox (Fifth District Adult Drug Court)
- Juvenile Court Judge Mark May (Third District Dependency Drug Court)
- Wendell Roberts, Trial Court Executive (Sixth District)
- Neira Siaperas, Juvenile Court Administrator
- Court Coordinator/Clerk
- Other (e.g. Dennis Fuchs, Senior Judge)

As per Code of Judicial Administration Rule 3-402 and the Judicial Council's request, a committee comprised of Judge Noonan, Ray Wahl, Cathy Dupont, Shane Bahr, Brent Johnson, Neira Siaperas, and Michael Drechsel review the Human Resources policy manual. Judge Noonan believes there is an issue with rule 3-402 and HR policies. Brent Johnson will work on revisions to rule 3-402. Rob Rice has committed to serve as a consultant to the committee.

Judge Noonan noted the new budget process will be discussed at the April 22 Council meeting.

3. FY2019 YEAR-END SPENDING PLAN AND FY2020 BUDGET PLAN RECOMMENDATIONS: (Judge Mary T. Noonan)

Judge Noonan presented a recommended approach to establishing a year-end spending plan for this year and a budget plan for FY 2020. The change is based upon the feedback received from the System Review Report. The recommended change will clearly establish that the Judicial Council will develop and approve both plans.

Judge Noonan stated specifically, it is recommended:

- That training will be provided to the Council on the budget in the form of a power point.

- Any proposed spending items will be detailed in a form provided to the Council that summarizes the request, the purpose of the request, and any alternatives to the funding that has been considered.
- It is recommended that the goal of the Council should be to adopt a spending plan for the remainder of this year at their April meeting and a budget plan for FY 2020 in their May meeting.

Several people will be involved in the training and development of these plans:

- Judge Noonan will be involved in discussing the recommended change based upon the system review and overarching considerations of the change
- Ray Wahl and John Bell will be involved in the “training” aspect of the budget
- Nini Rich will assist in facilitating and guiding the discussion
- Subject matter experts who make spending request(s) will be available to discuss their request(s) and answer any questions the Council may have.

4. **PC/PSA PROGRAMMING: (Keisa Williams and Heidi Anderson)**

Keisa Williams reviewed programming cost and time estimates for the PC/PSA program. The Harvard Salt Lake County Study needs to begin soon to avoid loss of funding. Judge Shaughnessy confirmed this is a request for one-time funding for FY2020.

Option 1:

2,080 hours
 Harvard Study \$ 36,000
 NLETs \$225,000
 DMF \$ 36,000
 Xchange \$ 15,000
\$ 312,000
 \$ 31,200 (+10%)
\$ 343,200 Total

Option 2:

2,650 hours
 Harvard Study \$ 51,000
 NLETs \$255,000
 DMF \$ 36,000
 Xchange \$ 15,000
\$ 357,000
 \$ 35,700 (+10%)
\$ 392,700 Total

Ms. Williams explained option 2 would additionally

- WS Manually Calculated PSA PDF for Salt Lake County (new estimate)
- Display Utah PSA with ability to Manually Calculate PSA for NCIC hit record (new application)
- Open Queue for anyone with ability to sort by location
- Table by locations for different Pretrial Services
- Notification (new estimate)
- Need to know by login who is doing the PSA and what location PC was filed in (Salt Lake County Pretrial Services would not pay for SL ORIs)

Heidi Anderson noted there are nine resource developers in IT. If the PC/PSA programming is approved, some IT projects may be delayed, as resources will need to be redirected to the program. Ms. Anderson will identify which projects may be delayed at the April 22 Council meeting. It was noted, the level of need for developers should be accurately assessed before contractors are hired. Ms. Williams said Salt Lake County will prepare their own manual calculations. Until the programming is approved and in place, the current processes

will remain as is. Ms. Williams noted once a decision is made, a second request will be submitted to identify specific needs.

5. PROBATION POLICY 5.8: (Neira Siaperas)

Neira Siaperas reviewed probation policy 5.8 Community Ride-A-Long, and noted the Board of Juvenile Court Judges voted to delete the policy because the probation no longer offers.

Motion: Judge Appleby moved to approve the deletion of probation policy 5.8, as presented and to put it on the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

6. BOARD OF DISTRICT COURT JUDGES MEMBERSHIP: (Judge Barry Lawrence)

Judge Barry Lawrence stated the Board of District Court Judges asks that the Judicial Council establish a permanent position on the Board for a representative from the Fifth Judicial District. The Board requests this position be added in order to gain better representation from districts and regions across the state. Currently the board consists of ten positions. Two of the positions on the board are shared by the Fifth, Sixth, Seventh and Eighth Judicial Districts. Under the current rotation, it is possible that no judge from the Fifth District would sit on the Board. This is concerning given the size and needs of this growing district. The Fifth District is home to Washington County and the nation's fastest growing metropolitan area. The result of this growth brings unique needs and challenges to the Fifth District that may not be represented by the other districts which share these positions on the Board. The Sixth, Seventh and Eighth Districts are comprised of mostly rural and low density populations. These demographics no longer represent much of the population in the Fifth District.

Judge Lawrence reviewed the proposed changes to Code of Judicial Administration rule 6-101 that are needed to comply with the request.

Motion: Judge Appleby moved to approve the permanent addition of a Fifth District Court Judge on the Board of District Court Judges and to approve the proposed rule change to Code of Judicial Administration rule 6-101, as amended (correcting (3)(F)), and to place this item on the Judicial Council agenda. Judge Shaughnessy seconded the motion, and it passed unanimously.

7. COMMUNITY CORRECTIONS PROJECT: A PROPOSAL FROM PEW TRUST: (Ray Wahl)

Ray Wahl provided background on this project. In September, 2018 Connie Utada (Pew Trust) and the Arnold Foundation published a chart book called "Probation and Parole Systems Marked by High Stakes, Missed Opportunities," which has a number of interesting graphics and data points about the supervision systems throughout the country and some of the challenges that exist. The book explains that the supervised populations total 4.5 million people, throughout the nation. That's more than all the people in jail, state, and federal prison combined. This number has dropped 11 percent in the last 10 years, but makes up 2 percent of the U.S. population. In other words, 1 in 55 U.S. adults are subject to surveillance and court-ordered rules. This is a population that has long been overlooked yet plays a critical role, and deserves considerable attention, in terms of public safety.

Expectation of the Courts:

Given that the judiciary is a key component of supervision, it would be ideal to have a representative from the judiciary participating in the work group. Access to individual-level data from the courts that the Pew Trust would analyze and present to the taskforce and to work with data/research staff to determine what data is available (e.g. unique identifier information and case dispositions, probation sentence and/or prison sentence disposition, criminal history, etc.).

Mr. Wahl said the committee should consider whether to embark on this project or maintain focus on the NCSC system review.

Motion: Judge Shaughnessy moved to not approve adding a judicial representative to the Community Corrections Project. Judge Appleby seconded the motion, and it passed unanimously.

8. APPROVAL OF INTERLOCAL AGREEMENT: (Jim Peters)

Jim Peters said presently Mendon City does not have a justice court, therefore, they are contracted through Nibley. Nibley Justice Court would like to discontinue operations and enter into an interlocal agreement with Hyrum Justice Court. If the Nibley Justice Court's discontinuance is approved, then Mendon requested to enter into an interlocal agreement with Hyrum Justice Court. Mr. Peters noted Hyrum Justice Court agreed to expand their territorial jurisdiction to both Nibley and Mendon. There was discussion about the distance between Mendon and Hyrum.

Judge Marx recommended review of statutes regarding justice court requirements in each county.

Motion: Judge Marx moved to approve the proposed interlocal agreement between Hyrum Justice Court and the towns of Nibley and Mendon, as presented, and to place this item on the Judicial Council agenda. Judge Appleby seconded the motion, and it passed unanimously.

9. LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURTS: (Ray Wahl)

Mr. Wahl said in 2017, the National Center for State Courts (NCSC), with support from the State Justice Institute (SJI), launched the Family Justice Initiative (FJI) Project to evaluate and improve the way state courts handle domestic relations cases. The Institute for the advancement of the American Legal System (IAALS) and the National Council of Juvenile and Family Court Judges supported this work alongside NCSC. The FJI Project is modeled on that of the CCJ Civil Justice Improvements Project which resulted in the recommendations for civil justice reform contained in A Call to Action: Achieving Civil Justice for All. The first phase of the FJI Project entailed an assessment of the current landscape and best practices in domestic relations cases, described above. During the second phase of the project, the FJI Advisory Committee developed bold recommendations for family justice reform - contained in the Family Justice Initiative: Principles for Family Justice Reform and the supplemental A Model Process for Family Justice Initiative Pathways. The third and final step will be to implement the Principles in four pilot courts across the country. NCSC staff identified Utah as the ideal initial implementer, given Utah's history for court innovations, the strength of case management data

available, and the OCAP system, which interfaces with court users and could potentially be modified to solicit information to establish the most appropriate "pathway" for resolution of domestic relations cases. The Utah Judicial Council received a report on FJI in January 2019, at which time the Fifth and First Judicial District indicated interest in participating in the program. That the First Judicial District benefits from a part-time commissioner working to resolve domestic relations cases would make the project that much more likely to be successful.

The NCSC is seeking the following assistance if the First District serves as the demonstration model for FJI.

- Technical assistance from NCSC 's Research Department to capture what is currently working effectively in the first Judicial District's handling of domestic relations cases and monitoring of progress toward project objectives;
- Technical assistance and project support by NCSC, IAALS and NCJFCJ to provide connect the First Judicial Districts with optional best practices and resources in the handling of domestic relations cases, including special topics such as self-represented litigants, high-conflict cases and simplification of processes;
- Participation in an All-Sites Meeting to occur in Denver or Arlington intended to highlight practices, review data, and provide technical assistance to each of the four pilot sites.
- Inclusion in a report, to be distributed nationally that documents the experiences of the pilot sites and presents bold recommendations to the national court community regarding family- centered justice.

NCSC would ensure that participation as a demonstration site did not impose new burdens, but rather could capitalize on the First Judicial District's strengths in order to provide data and insights on what is working well. In turn, NCSC would provide insights and recommended processes to address common challenges in domestic relations utilizing a Pathways approach. A preliminary tool for identifying case characteristics and Pathways has been created, and the First Judicial District's insight would be sought towards refining the instrument. NCSC would like to begin in April, working remotely with the AOC to consider potential modifications to the OCAP, then visiting the First Judicial District for approximately 3-4 days on site in April or May to understand the First Judicial District processes and to set up a process for monitoring program performance going forward. It is expected that program data could be collected remotely, thus minimizing any additional data collection. A go-live date for the new processes would be established subsequently but it is estimated that data would be collected for a period of 12 months from each of the 4 sites.

After further discussion, the committee did not approve to be a party of this study.

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

Chief Justice Durrant addressed the proposed agenda for the April 22, 2019 Judicial Council meeting to be held in the Provo Courthouse. The Landscape of Domestic Relations Cases in State Courts and the Community Corrections Project: A Proposal from Pew Trust will be removed from the Council agenda.

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

11. EXECUTIVE SESSION

An executive session was held.

12. 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
March 1, 2019 – 12:00 p.m. to 2:00 p.m.

DRAFT

MEMBERS:

PRESENT EXCUSED

Judge Derek Pullan, <i>Chair</i>	•	
Judge Kevin Allen		•
Judge Augustus Chin	•	
Judge Ryan Evershed	•	
Judge John Walton (<i>via phone</i>)	•	
Mr. Rob Rice	•	

GUESTS:

Kim Free

STAFF:

Nancy Sylvester
Minhvan Brimhall

(1) WELCOME AND APPROVAL OF MINUTES:

Judge Pullan welcomed members to the meeting. The committee considered the minutes from the January 4, 2019 meeting. With no additional changes, Judge Chin motioned to approve the draft minutes. Rob Rice seconded the motion. The committee voted and the motion passed unanimously.

(2) HR 480 – EMPLOYEE EXERCISE POLICY:

Judge Pullan welcomed Kim Free, HR Interim Director, to the meeting. Judge Pullan provided an overview of the reason for the exercise policy and its current standing. The policy originated as a request by TCE's to allow for employees to participate in an exercise program during their work day. This committee reviewed exercise policies from other state agencies and asked the previous HR director to come up with a policy that would be meaningful, low cost, and attract employees to participate. The current policy was reviewed by the TCE's who questioned the specificity of the time frame permitted and asked for a more flexible program, allowing employees to participate during hours outside of the lunch hours. This committee also reviewed how the policy addresses an injury sustained by an employee while on their exercise time.

Ms. Free is currently on a committee addressing wellness in the legal profession. She reviewed the policy as currently written and observed that it is already antiquated in that it does not address wellness generally, nor does it inform an employee how to meaningfully apply the policy. The policy allows for 30 minutes, but does not account for time the employee will need to dress, location of where they may shower or clean up after exercise, or the facility where exercise may occur, i.e. a gym inside the work location, a gym at an outside location, park, etc. The policy also does not address resources like employee discounts or incentive programs.

Ms. Free requested additional time to create a new policy that would address the concerns of the Judicial Council, incorporate an appropriate workout policy, and meet many of the TCE's requests.

The committee unanimously granted Ms. Free's request. Judge Pullan asked that this policy be taken off the committee's queue until Ms. Free is ready. Ms. Free thanked the committee for time to work on this policy.

Judge Pullan reminded the committee that at the last Judicial Council meeting, the Council raised a concern that the HR policy manual had not been updated for several years. Rule 3-402 of the Judicial Administration states that the HR policy review committee should review and update the policies every 3 years. The HR policy committee consists of district court judges, court clerks, and staff from the HR department. Judge Pettit brought this rule to the attention of the Council and asked that the HR policy be reviewed and updated. Rob Rice mentioned that the National Center for State Court is a great place to start on information regarding court HR policies, and suggested looking at their model as a means to tailor and adapt a policy for the Utah State courts.

Ms. Free indicated that Judge Noonan is aware of the outdated policy and has scheduled a meeting in April to review and address these issues. Judge Pullan would like to be invited to the meeting if approved by Judge Noonan.

(3) COURT COMMISSIONER CONDUCT COMMITTEE:

Ms. Sylvester reported that Michael Drechsel circulated rule 3-201.02 to the court commissioners, TCE's, and presiding judges for review. He did not receive any feedback on the revisions to the rule. Ms. Sylvester said the chair of the Court Commissioner Conduct Committee was involved in drafting the new language. She noted that JPEC has been receiving complaints on commissioners and has not known where to send them until now. JPEC is now aware of where to send them, but advertisement of this process has been lacking.

The committee noted that this rule is intended to conform to the Judicial Conduct Commission's processes as much as possible. The changes would preserve the ability of the chair to engage in an initial review of and recommendation on the complaint, and that review and recommendation will be forwarded on to the committee.

Ms. Sylvester recommended that amendments to Rule 4-202.02 be made in conformity with the confidentiality section of Rule 3-201.02 to address records access.

Judge Chin moved that Rule 3-201.02 and the accompanying amendments to Rule 4-202.02 be recommended to the Judicial Council for public comment. Mr. Rice seconded the motion. The motion passed unanimously.

Ms. Sylvester will discuss these recommendations with Mr. Drechsel.

(4) HR 500.11.2 – INTERN WORK CONFLICT:

The committee continued discussion of Justice Himonas' concerns regarding the current work conflict policy for interns. The current policy forces interns to essentially choose between being employed with the courts, and being employed with a firm or organization outside of the courts. Interns are not allowed to work on court cases in which the firm may have a case before the court. If they do, could the case be challenged later down the road? Should cases that involve interns be screened out by the intern's employer outside of the courts?

Judge Pullan noted that it appears that this request came from Justice Himonas and Justice Pearce but not necessarily the appellate courts as a whole. He noted that the committee needs better understanding of Justice Himonas' concerns and how they may be addressed. For example, should this be a matter that is handled individually by the judge or justice on the case? Should this policy apply to all state courts or only to the appellate courts? Does there need to be a distinction in the rule?

Ms. Free shared that the idea behind an intern program is to provide the intern with an opportunity to learn and gain knowledge within their field of interest, and receive training in preparation to take on roles and duties that are associated with their field. Interns, wherever they are hired, are held to the same level of responsibility and accountability in their work ethics, job performance, and adherence to the rules, policies and procedures of that

employment. The question that needs to be asked is what are we asking of them and what do we provide for them to accomplish the things we ask of them. Are we training them to one day become a judge, or are we having them file papers all day? Ms. Free said that interns should be required to take ownership of their learning, but we need to provide the means and resources to assist in that learning.

Judge Pullan noted that one of the best learning experiences for any attorney, whether for a short period or long, is an internship that is meaningful and has the ability to impact the intern's growth and development.

The committee asked that Ms. Free review the request from Justice Himonas and see if a policy exists in other jurisdictions or if one is needed. If it exists, does it meet the current practical needs of an intern, while addressing the concerns raised by the committee?

Ms. Free will review the current HR onboarding policies for interns and see if changes need to be made. Ms. Free thanked the committee for allowing her time to review Justice Himonas' request and said she hopes to provide the committee with information that will address all of its concerns by the May meeting.

(5) CJA 3-101 / 3-104 / 3-111 – JUDICIAL PERFORMANCE STANDARDS:

The committee did not have concerns regarding the rule as it is written, but rather had concerns about how judges would receive notice under the new definitions for cases under advisement. The committee discussed concerns about cases are not getting reviewed in time, which becomes an issue for the public. Judge Evershed noted that juvenile court judges receive a notice when a case is nearing the timeframe for review. But district court judges do not necessarily receive a notice in their queues. On cases that are filed by a pro se litigant, the forms are printed and placed in the judge's box for review. Another issue that judges have noted is that they receive some items in their queue that do not need to be signed but that take up space. Those items can cause them to miss the items that do require a signature. Many judges would like to see a separate queue box, one for signatures and one for things that do not require a signature. Judge Pullan observed that the committee should work out some lingering questions about technology solutions regarding "submitted to the judge" or "submission."

The committee recommended the rule as written but recognized that Judge Noonan needed to have a talk with Jennifer Yim at JPEC before the rule goes on to the Council. Judge Pullan offered to go with Judge Noonan to that meeting.

Ms. Sylvester will discuss with Judge Noonan the committee's recommendation and schedule a meeting to resolve the technical concerns.

(6) CJA 3-111 – PERFORMANCE EVALUATIONS OF SENIOR JUDGES AND COURT COMMISSIONERS:

The committee reviewed rule 3-111 of the Judicial Performance standards for senior judges and court commissioners. The recommended change to the rule was submitted by the Forms Committee. The recommended amendment to the rule is to change the language for amount of time for submission from 60 days to two months. This rest of the rule amendments surrounding the 60 days to two months amendment are scheduled to move forward May 1, 2019.

As this rule is also on the agenda under the cases under advisement discussion, the committee recommended waiting to move it forward until Rule 3-101 is resolved.

(7) CJA 2-207 – ANNUAL REVIEW – CHAPTER 4 RULES

Ms. Sylvester reminded the committee members that for the April meeting they will need to review their assigned rules listed at the end of the materials packet and come prepared with a brief report. The review is to determine if the rule is still current as written, needs revision, or is no longer used in practice and should be removed.

As some members will be on vacation during the week of April 1, 2019, the committee agreed to cancel the April 5 meeting and reconvene the annual review at the May 3 meeting.

(7) ADJOURN

With no further items for discussion, Judge Evershed moved to adjourn the meeting. Judge Chin seconded the motion. The motion passed unanimously. The meeting adjourned at 1:50 PM. The April 5 meeting is canceled. The next meeting is scheduled for May 3, 2019, from 9 am to 5 pm, in the Judicial Council Conference Room (N31).

Tab 3

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. This is a request to the Judicial Council to allocate the use of these anticipated unspent funds for projects that could be delivered prior to June 30, 2019

Date: 3/14/2019

Department or District: Information Technology

Presented by: Heidi Anderson

Request title: **Network Security (IT Priority 1)**

Amount requested: **\$183,479.00**

Purpose of funding request:

Increase/improve network security

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Following our security purchases in FY19 there are still items remaining to be addressed. The proposed expenses are for 3 year pricing which is a more cost efficient solution for the courts.

Description 3 year security costs	One-Time Cost
TS - Apex licenses for ISE 3 year 650 licenses	\$21,000.00
TS - VPN licenses for terminal server access 3 year 750 licenses	\$4,700.00
DUO multi factor 3 year 300 users	\$31,779.00
Mobile Device Manager 3 year	\$70,000.00
Variphy VOiP Analytic System	\$32,000.00
W. Jordan core switch upgrade - switches are end of life	\$24,000.00
	\$183,479.00

Alternative funding sources, if any:

We would move this to a carry-over request for FY 2020 one time spending.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

The network security for the courts will be at risk.

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. This is a request to the Judicial Council to allocate the use of these anticipated unspent funds for projects that could be delivered prior to June 30, 2019

Date: 3/19/2019

Department or District: Information Technology
Presented by: Heidi Anderson

Request title: **Windows 10 upgrades (IT Priority 2)**

Amount requested: **\$486,000**

Purpose of funding request:

Upgrade existing Windows 7 operating system to Windows 10 Enterprise (Long Term Service Branching)

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Microsoft has announced its Windows 7 operating system has reached its end of life. In January 2020 Microsoft will discontinue all security patches and system support. We have 2,100 computers/laptops that need to be upgraded. This request will cover the licensing costs for Windows 10 Enterprise and provide funding for contractors to assist with its deployment.

Alternative funding sources, if any:

Windows 10 Professional can be obtained for \$336,000. This option is less expensive now but will require an upgrade in 3 years at a similar (most likely higher) cost.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?
We would move this to a carry-over request for FY 2020 one time spending.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?
The operating system on every computer and laptop will be at risk for security issues as support from the manufacturer is discontinued.

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. This is a request to the Judicial Council to allocate the use of these anticipated unspent funds for projects that could be delivered prior to June 30, 2019

Date: 3/14/2019

Department or District: Information Technology

Presented by: Heidi Anderson

Request title: **MS Office and Components End of Life (IT Priority 3)**

Amount requested: **\$125,090**

Purpose of funding request:

Replace software that is no longer supported by the manufacturer and is no longer receiving security updates

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Microsoft Office 2007 and components has reached its end of life and although still usable, it will no longer receive security updates putting any device running this version at risk.

With Software Assurance (maintenance plan)

Qty	2003 & 2007 Office	2016 Cost	Total Cost
3	Pro	\$601.27	\$1,803.81
264	Standard	\$440.92	\$116,402.88
Individual components			
13	2003 & 2007 Excel	\$171.71	\$2,232.23
4	2003 & 2007 Powerpoint	\$171.71	\$686.84
4	2007 Visio Pro	\$343.62	\$1,374.48
2	2007 Visio Std	\$178.94	\$357.88
13	2007 Word	\$171.71	\$2,232.23
		Total	\$125,090.35

Alternative funding sources, if any:

Without Software Assurance

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

Qty	2003 & 2007 Office	2016 Cost	Total Cost
3	Pro	\$ 363.81	\$ 1,091.43
264	Standard	\$ 266.84	\$ 70,445.76
Individual components			
13	2003 & 2007 Excel	\$ 103.98	\$ 1,351.74
4	2003 & 2007 Powerpoint	\$ 103.98	\$ 415.92
4	2007 Visio Pro	\$ 343.62	\$ 1,374.48
2	2007 Visio Std	\$ 178.94	\$ 357.88
13	2007 Word	\$ 103.98	\$ 1,351.74
	Total		\$ 76,388.95

If this request is not funded at this time, what are the consequences or is there an alternative strategy?
 We would move this to a carry-over request for FY 2020 one time spending.

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. This is a request to the Judicial Council to allocate the use of these anticipated unspent funds for projects that could be delivered prior to June 30, 2019

Date: 3/14/2019

Department or District: Information Technology

Presented by: Heidi Anderson

Request title: **Multi port data switch replacement**

Amount requested: **\$512,000.00 (IT Priority 4)**

Purpose of funding request:

Replace 94 multi-port network data switches

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Replace network data switches for which manufacturer hardware support will end next year (2020). Replacement of all switches at once helps to maintain network reliability and ensures the switches can transfer data properly.

Alternative funding sources, if any:

We would move this to a carry-over request for FY 2020 one time spending.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

We would continue to use out of warranty and non-supported network data switches. As switches fail, they would require replacement on an emergency basis and jeopardize our network reliability.

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

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Date: 3/14/2019

Department or District: Information Technology

Presented by: Heidi Anderson

Request title: **Replace Wireless LAN controllers (IT Priority 5)**

Amount requested: **\$ 161,000**

Purpose of funding request:

This will allow the IT group to replace our wireless LAN controllers in SLC and St George

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

We have been notified that support for our current wireless LAN controllers will end this year. The next Cisco engineering release (August 1, 2019) will be the final software maintenance release/bug fix. This will end our product support. After August 1, Cisco will no longer develop, repair, maintain, or test the product software. The hardware support ends on July 31, 2023.

We recommend purchasing the controller with the redundancy capability.

Description	
3 year wireless costs upgrade	One-Time Cost
Wireless controller upgrade redundancy	\$161,000.00

Alternative funding sources, if any:

Purchase the produce with no redundancy.

Description	
3 year wireless costs upgrade	One-Time Cost
Wireless controller upgrade no redundancy	\$131,000.00

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

We will no longer receive security software releases and will be unable to support new wireless access points.

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. This is a request to the Judicial Council to allocate the use of these anticipated unspent funds for projects that could be delivered prior to June 30, 2019

Date: 3/14/2019

Department or District: Information Technology
Presented by: Heidi Anderson

Request title: **Create redundancy site in St. George (IT Priority 6)**

Amount requested: **\$376,000**

Purpose of funding request: Create a redundant failover site in St. George

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Our second site in St George is only set up as a true Disaster Site. This means if our computer room fails we will need a week to 10 days to get our court applications back up and running. This proposal will bring us to a true warm site where we can fail quickly back and forth between Salt Lake and St George. This will reduce the down time to about 30 minutes rather than up to 10 days.

Alternative funding sources, if any:

We would move this to a carry-over request for FY 2020 one time spending and return for council funding as a budget increase in FY 2021. The legislature has not shown an interest in funding IT related projects to this point.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

We will continue with our current strategy of backup files and systems. Delaying this decision can have serious consequences. Since the council has led out in moving to an electronic court system, delaying the creation of a redundant site could cause significant delays in court proceedings while we wait for our current backup systems to be restored. As we have moved to an electronic court process, the ability to do basic court tasks is hindered when our system is down.

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. This is a request to the Judicial Council to allocate the use of these anticipated unspent funds for projects that could be delivered prior to June 30, 2019

Date: 4/3/2019

Department or District: AOC IT

Presented by: Heidi Anderson

Request title: **Mobilize Software to convert Powerbuilder Code (IT Priority 7)**

Amount requested: **\$350,000**

Purpose of funding request:

This software is an integral piece required to convert all the Powerbuilder code to Java. This will allow the entire development team to be able to read all areas of the CORIS rewrite rather than being forced to rely on the three individuals that know the Powerbuilder code.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

We have Powerbuilder licenses for three individuals who are using it for our CORIS rewrite. This project is converting our current application to Java/Bootstrap. As a result, the coding process has become very inefficient. When a coder needs to know how his code is impacting the application and screens, a Powerbuilder user has to review the work and let the coder know what his code did. With only 3 licenses, the development is moving very slowly. Adding additional Powerbuilder licenses will remove the bottleneck we are experiencing. This tool will also allow us to be able to move applications to Java/Bootstrap more quickly than the current process.

From a security risk and architectural perspective, our current version of SAP PowerBuilder 12.6 and InfoMaker 12.6 are past end-of-life, which occurred June 30, 2018. There is no support for our current development and application platforms available from SAP. A new company, Appeon, acquired PowerBuilder and significantly changed the product requiring different skill sets, technologies, and licensing models. Upgrading to Appeon's Powerbuilder and the new technologies required to support it, will significantly increase our support costs and incur a substantial expense and commitment into additional Microsoft development and server products as well. It is important that we remediate this risk by prioritizing a rapid conversion of the Utah Court's Power Builder apps to a secure, futureproof, and maintainable Java Web applications architecture.

Alternative funding sources, if any:

None

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

We would not be able to purchase the tool and would continue the development using the three developers. Migration efforts will remain slow and security vulnerabilities will continue to increase while our ability to maintain the legacy applications will continue to decrease.

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

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Date: 3/14/2019

Department or District: Information Technology

Presented by: Heidi Anderson

Request title: **InformaCast Fusion subscription (IT Priority 8)**

Amount requested: **\$34,588** (1 Year 1050 users is \$16,717.96)

Purpose of funding request:

We desire to move our InformaCast paging system to a cloud based service. We currently have 1,050 licenses for court users.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Moving our InformaCast paging system to cloud fusion licenses will allow us to send pages and Emergency messages/alerts to phones, computers, and mobile devices.

Alternative funding sources, if any:

None, however a one year subscription is \$16,718.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Our current system can only send pages to phones and does not allow us to implement a building emergency paging process for court security needs.

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. This is a request to the Judicial Council to allocate the use of these anticipated unspent funds for projects that could be delivered prior to June 30, 2019

Date: 3/14/2019

Department or District: Information Technology

Presented by: Heidi Anderson

Request title: **VoIP phone replacements (IT Priority 9)**

Amount requested: **\$18,000**

Purpose of funding request:

VoIP phone replacement 5 button phones

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

The current VoIP phones are 10 years old and we are finding more frequent requests for replacement. We are adding stock to replace them as they fail. This request will allow us to have a supply on hand for replacements

Alternative funding sources, if any:

We would not purchase additional phones and replace them as we are currently doing.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Replace phones as they fail. This could result in a person not having a phone while one is in transit.

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. This is a request to the Judicial Council to allocate the use of these anticipated unspent funds for projects that could be delivered prior to June 30, 2019

Date: 4/12/2019

Department or District: AOC

Presented by: John Bell

Request title: Fiscal Note for SB39-Technology Updates to support Assisted Outpatient Treatment for Mental Illness

Amount requested: **\$12,000**

Purpose of funding request:

The fiscal note for this bill included this explanation: *Enactment of this legislation could cost the Courts \$12,000 from the General Fund one-time in FY 2019 for updates to their technology system*

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

These funds attached to SB39 are to be used for technology updates to support the bill language.

Alternative funding sources, if any: None

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

N/A

Request to the Judicial Council to allocate anticipated year end funds for use in FY 2019

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. This is a request to the Judicial Council to allocate the use of these anticipated unspent funds for projects that could be delivered prior to June 30, 2019

Date: 4/12/2019

Department or District: AOC

Presented by: John Bell

Request title: **Prepay NCSC annual dues**

Amount requested: **\$134,000**

Purpose of funding request:

Prepay the courts' annual dues

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

This is a recurring charge built into our base budget. It should be understood that this is a FY 2020 expense because it applies to services for that fiscal year. Pre-paying uses cash but does not use FY 2019 budget.

Alternative funding sources, if any:

None

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Request to the Judicial Council to use Unspent FY 2019 Funds in FY 2020

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. The Legislature approved for the Judicial Branch to carry forward unspent FY 2019 funds into FY 2020. This is a request to the Judicial Council to allocate the use of these approved unspent funds.

Date: 4/11/2019

Department or District: 4th District Juvenile Court
Presented by: Shelly Waite

Request title: Chambers furniture

Amount requested: \$13,000.00

Purpose of funding request:

Judge Nielsen recently moved into the AF courthouse. He is requesting an opportunity to change the chambers furniture.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Judge Nielsen came to the 4th District Juvenile Court September of 2016 as a new Judge. At that time some relocation had happened and the Commissioner moved down to the Provo office with a caseload and Judge Nielsen went into the Orem building. The chambers in the Orem building had been recently upgraded to support two Judges in Orem prior to the Commissioner leaving. At that time Judge Nielsen said he was fine to just use the chambers as is. Recently again with the building of the new Provo courthouse Judge Nielsen's caseload moved to the American Fork courthouse. Judge Bazzelle who had been in AF for several years chose to relocate to the new courthouse. Judge Nielsen again moved into chambers that had been done chosen by Judge Bazzelle several years ago. Judge Bazzelle did not take this furniture with her because she received new chambers furniture in the new Provo courthouse. Judge Nielsen is requesting an opportunity to change out the chambers furniture to fit more of his style and he has not had an opportunity to pick his own chamber furniture since becoming a Judge.

Alternative funding sources, if any:

Local District Budget FY 2020 and FY 2021. We may need to stretch the funding over a couple fiscal years.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

The consequences would be the inability to fund from the local budget in one fiscal year and just taking longer to upgrade the chambers furniture as the local budget would allow.

Judicial Council Fiscal Year 2019 Year End Spending Plan

Mary T. Noonan – Interim Court Administrator

Ray Wahl – Deputy Court Administrator

John Bell - Finance Director

Objectives

- * Understand year end spending process
- * Understand projections and carry forward authority
- * **Prioritize and adopt year end spending plan for fiscal year 2019**

Authority of Judicial Council and State Court Administrator

Article VIII, Section 12 of the Utah Constitution vests authority with the Judicial Council to adopt rules for the administration of the state courts.

Consistent with that authority, UCA 78A-2-104(4) provides:

The Judicial Council is responsible to develop uniform administrative policy for operation of the courts.

The presiding officer of the Judicial Council is responsible to implement the policies developed by the Council, with the aide of the State Court Administrator.

Forecasting Process

- * The finance department examines spending monthly throughout the fiscal year.
- * Spending is considered:
 - * Cyclical - predictable
 - * One time - unpredictable
 - * Constant – easily predictable
- * Savings are forecasted monthly
 - * Personnel savings are forecasted based upon pay periods.
 - * Other expenses and revenue are straight line forecasted based upon fiscal months with adjustments for one time or large purchases.

Carry Forward Authority and History

- * Carry forward authority is granted through legislative intent language.
- * Judicial Council allocates these funds for use in next fiscal year.
- * If remaining funding at the end of the year is greater than the allowed carry forward amount, the funding lapses to the state general fund and may be reallocated by the legislature during the next legislative session.

Historical Carry Forward

FY 2015	FY 2016	FY 2017	FY 2018	FY 2019 (est.)
\$ 2,326,300	\$ 1,831,300	\$ 2,341,800	\$ 2,500,000	\$ 2,500,000

Year End Spending Process

- * Available amount is allocated by the Judicial Council.
- * Timing is important– purchases made with these funds must be delivered by the end of the fiscal year.
- * Payments will be processed through year end and remaining funds will be reported through the closeout process to the Utah State Division of Finance.

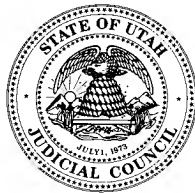
Funding Available

- * Forecasted 2019 unspent funds - \$ 3,885,000
 - * Authorized carry forward - \$(2,500,000)
 - * Available for year end spending - \$ 1,385,000
-
- * This is one time funding and should not be utilized to fund ongoing projects.

Requests for Prioritization

* Network Security -	\$ 183,479
* Windows 10 Upgrades -	\$486,000
* Microsoft Office Upgrades -	\$125,090
* Switch Replacement -	\$512,000
* Wireless LAN Controllers -	\$161,000
* Redundancy Site (St. George) -	\$376,000
* Mobilize Software for Powerbuilder Code -	\$350,000
* InformaCast Fusion Subscription -	\$ 34,588
* VoIP Phone Replacements -	\$ 18,000
* SB39 Fiscal Note – Technology Upgrades -	\$ 12,000
* Prepay Annual NCSC Dues -	\$134,000
* Judge Chamber Furniture (4th Juvenile) -	\$ 13,000
 * Total Requests:	 \$2,405,157

* See attached.



Administrative Office of the Courts

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

April 12, 2019

Hon. Mary T. Noonan
Interim State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Judge Mary T Noonan, Acting State Court Administrator

FROM: John G Bell, Director of Finance

RE: Year end spending

The purpose of this memorandum is to provide a history of year end spending. The Finance team reviewed available data from the prior five years.

FY 2019

At this point in the year, we anticipate unspent funds at yearend of \$1,385,000. This number is comprised of the following amounts.

FY 2019 Estimated Year End Funds	
Estimated turnover savings at 4/11/2019	\$2,300,000
Available funding from TCE/AOC budgets	1,184,000
Reserve balance	389,000
Fiscal Note SB039 Assisted Outpatient Treatment Technology upgrades	12,000
Subtotal	3,885,000
Authorized carry forward funds to be allocated for FY 2020 one time funding	(2,500,000)
Funds available for year end spending allocation	\$1,385,000

FY 2018

- Toward the end of the fiscal year, the courts finalized a contract with CCJJ for work on the CARE system to meet their needs. The initial payment covered work for multiple years which provided additional year end funds.
- Legislation passed in the 2018 General Session added an additional \$42,000 in fiscal notes to the FY 2018 budget.
- The combined total of funds available at the end of FY 2018 allowed for the following expenditures.

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

FY 2018 Additional expenses at year end	
Information Technology	
Salt Lake & St George servers	562,800
Three year bundle pricing: Network monitoring and defending attacks from outside Web protection, monitoring and defending attacks going out of the network Logon attack monitor and defending software Network Scanners actively scans network for security holes	548,200
Software upgrades (Adobe)	72,000
Gartner license	37,000
West Jordan touch panel upgrade	25,000
West conference room Audio Visual Upgrade	8,000
Small conference room Audio Visual Upgrade	8,000
Conference room B/C Audio Visual Upgrade	6,000
Conference room A Audio Visual Upgrade	18,000
Justice court Google accounts	22,500
Total IT expenditures	1,307,500
Non IT expenditures	
ODR (for FY 2018)	10,000
West conference room chair replacement	9,200
NCSC (prepaid FY 2019 dues prior to July 1)	134,400
Grand total	1,461,100

FY 2017

Although we had excess funds in FY 2017, they did not become known until after June 30 as we were closing the books with no opportunity to expend them. We lapsed \$411,000 of general fund.

FY 2016 & FY 2015

Each of these years ended with no unspent funds and nothing lapsed however financial reports we have generated and data files from those years do not reveal a year end plan to expend excess funds (if any).

Request to the Judicial Council to use Unspent FY 2019 Funds in FY 2020

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2019 are to be spent between July 1, 2018 and June 30, 2019; however current spending patterns will not fully expend our appropriations by June 30. The Legislature approved for the Judicial Branch to carry forward unspent FY 2019 funds into FY 2020. This is a request to the Judicial Council to allocate the use of these approved unspent funds.

Date:

Department or District:
Presented by:

Request title:

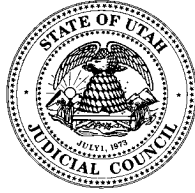
Amount requested: \$

Purpose of funding request:

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Alternative funding sources, if any:

If this request is not funded at this time, what are the consequences or is there an alternative strategy?



Administrative Office of the Courts

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

April 2, 2019

Hon. Mary T. Noonan
Interim State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Management Committee

FROM: Ray Wahl, Deputy State Court Administrator

RE: Recommended approach to year-end spending and budget plan

The purpose of this memo is to outline for the Management Committee a recommended approach to establishing a year end spending plan for this year and a budget plan for FY 2020 (next year). The reason for this recommended change is based upon the feedback we all received from the System Review Report. The recommended change will clearly establish that the Judicial Council will develop and approve both plans.

Specifically, it is recommended:

- That training will be provided to the Council on the budget in the form of a power point.
- Any proposed spending items will be detailed in a form provided to the Council that summarizes the request, the purpose of the request, and any alternatives to the funding that has been considered.
- It is recommended that the goal of the Council should be to adopt a spending plan for the remainder of this year at their April meeting and a budget plan for FY 2020 in their May meeting.

Several people will be involved in the training and development of these plans:

- Judge Noonan will be involved in discussing the recommended change based upon the system review and overarching considerations of the change
- Ray Wahl and John Bell will be involved in the “training” aspect of the budget
- Nini Rich will assist in facilitating and guiding the discussion
- Subject matter experts who make spending request(s) will be available to discuss their request(s) and answer any questions the Council may have

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

Because this is a new proposed process, it is anticipated that we all will learn a great deal about what worked well and areas that may need improvement. However, the focus of the recommended change is clear – the Council will be in charge of the development and approval of both budget plans.

Tab 4

Mary Campbell McQueen
President

Daniel J. Hall
Vice President
Court Consulting Services
Denver Office

To: Utah Judicial Council Steering Committee
Hon. Mary T. Noonan
Hon. Kate Appleby
Hon. Todd Shaughnessy
Ray Wahl
Neira Siaperas

From: Patti Tobias, Principal Court Management Consultant
National Center for State Courts
James D. Gingerich, Director, State Courts Partnership

Date: March 6, 2019

Re: Interim Report to Utah Judicial Council Steering Committee

In January 2019, the National Center for State Courts (NCSC) received a request from Judge Mary T. Noonan, Interim State Court Administrator, Utah Administrative Office of the Courts (AOC), to provide advice and assistance to a special Steering Committee of the Utah Judicial Council in a project to assess the perceptions and needs of the judges and employees of the Utah State Courts. The project was initiated in anticipation of the search for and employment of a new State Court Administrator. Patti Tobias and J.D. Gingerich, consultants with the NCSC, were assigned to the project. Telephone conferences between the consultants and members of the Steering Committee took place on January 31, 2019, February 6, 2019, and February 13, 2019 to discuss the project and in anticipation of an initial site visit scheduled for February 18, 2019 through February 21, 2019.

During the three-day visit, individual interviews were conducted by the NCSC consultants with almost fifty participants at the Matheson Courthouse in Salt Lake City, Utah, either in-person or via video teleconference. Participants included a broad spectrum of the Utah judicial branch, selected by the members of the Steering Committee, including justices and judges from the Supreme Court, Court of Appeals, district courts, juvenile courts, justice courts, and court commissioners. Included among the judicial participants were current and former members of the Utah Judicial Council and current and former members of each of the District, Juvenile, and Justice Court Boards. The group included judges in their first term of service and those with more than twenty years of service. Staff participants from local courts included judicial assistants from district and juvenile courts, chief probation officers, probation officers,

trial court executives, court clerks, operations managers, and judicial training coordinators. Included within the judicial and staff participants were individuals from each of the eight judicial districts. Several employees of the AOC were also interviewed, ranging from senior managers to administrative assistants. Each of the potential interviewees received a written invitation from Judge Noonan which included a description of the process (a sample copy of the invitation is attached and labeled “Attachment A”).

The interviews were generally thirty minutes in length and followed a common order, utilizing seven primary questions (a copy of the interview outline utilized is attached and labeled as “Attachment B”). Several participants also accepted the invitation extended by the NCSC consultants to send additional comments following the interview via email.

Following is a summary and report of the responses, organized by the general themes provided in the questions. The responses have been combined and consolidated, in an attempt to provide the most common perceptions and concerns that were expressed. An attempt has also been made to identify issues that are deemed most relevant and potentially helpful for use during the interview of candidates and subsequent discussions surrounding the selection process for a new State Court Administrator. More detailed responses, including specific examples that were provided by interviewees and other more specific concerns not directly relevant to the selection process, will be provided as the project proceeds, to the extent that the anonymity of the interviewees can be appropriately protected.

The following information represents the views and perceptions of the participants, as shared during the interview process. None of the comments, assertions, or conclusions have been verified, nor should they be viewed as those of the NCSC consultants. Two particular comments were expressed by almost every participant and should be noted at the outset. First, there was an overwhelming appreciation expressed about the process itself and the opportunity afforded to be involved and to share suggestions and concerns. Second, as either an initial or final comment to the interview, the participants stated that, while they may have shared serious and important problems and concerns, the problems are not representative of the overall excellence of the system and its employees. They noted that they were proud of the system and its history, believe that it is served by talented and dedicated judges and staff, and that it is providing excellent service for the state’s citizens.

Governance

- Among judges at all levels and many local court management personnel there is a perception that the AOC “controls” the judicial branch, not the Judicial Council, and an expressed preference that the AOC adopt as its primary role that of supporting the state judiciary and the judicial branch.
- There is not a good understanding of the structure, organization, and governance of the judicial branch by many judges and court staff and there exists, in some instances, confusion about the role, responsibility, and authority of many of the entities/units and positions within the branch.

- Among judges who serve or have served as members of the Judicial Council, there is a perception that the AOC sometimes attempts to limit the active involvement of Judicial Council members or fails to take steps to facilitate and support the more active involvement of members through such actions as the control of information, the limited amount of time between the provision of information and required action, and requests that members limit input and discussion. There is also a perception among a more limited group that the AOC does not always follow up and implement decisions/requests of the Judicial Council where those decisions are contrary to the preferred outcome of the AOC. There was agreement that the AOC should have a role in studying policy options and making recommendations and, once adopted by the Judicial Council, implementing the policy.
- There is a perception that the members of the Judicial Council have, for many years, failed to exercise their leadership authority and responsibility for the judicial branch and have delegated that responsibility to the AOC. There is also an expressed acknowledgement by many that this outcome is primarily a result of a history of excellent service provided by the AOC and judicial confidence in the work and leadership of the AOC.
- The governance system is seen (by judges and court staff) as being complex (multiple boards and committees) and there is limited understanding about the purpose/responsibility/authority of each, current membership, or information about meetings, current activities, decisions, and recommendations.
- The complexity of the governance system is seen as causing delay sometimes in the consideration, adoption, and implementation of programs, policies, and procedures. It was also noted that the structure can result in decisions and recommendations being made without notice to and input from others who may be impacted by the decisions and without sufficient information about the impacts which the decisions may have on available personnel and financial resources. Further, there is a sense that there may be a lack of accountability for the many issues that are being considered.
- There is a perception by administrative court staff, including local line staff, managers, and within the AOC, that some judges attempt to control issues and decisions that are within the responsibility of administrative staff and that there is no adequate process to raise and address such issues when they arise.
- On the more specific issue of decision-making and governance as it relates to the consideration, adoption, prioritization, and advancement of the legislative priorities for the judicial branch, concern was expressed by some judges in all aspects of the process.
- There is a perceived fault in the structure between the Boards and the Judicial Council. There is no mechanism for reports and recommendations of official action from the Boards directly to the Judicial Council.
- No participants in the interviews expressed a need or desire for major changes in the governance structure. Some suggestions were made relating to slight revisions in the determination of representation on the Judicial Council, Boards and Committees. Overall, an assumption of a more vigorous leadership role by the Judicial Council, a clarification of some roles and responsibilities within the judicial branch, and a renewed commitment

by the AOC to the role of service to and support of the Utah State Courts were identified as the most important areas for improvement.

Communication

- Communication from the Judicial Council and Boards is perceived as good, but there is a reliance on oral reports by representatives and others involved in meetings and on the availability of written meeting minutes, neither of which were perceived to provide the most effective or accurate forms of information sharing.
- Communication does not extend far enough throughout the judicial branch; it may reach those who are directly involved and/or impacted but does not extend to all.
- Justice court judges and staff are often not included in the information sharing that does take place.
- Communication from the Judicial Council is good but there is not adequate communication from and between the Boards. The AOC does not assume the responsibility of informing others about Board activities and decisions unless directed by the Board.
- There is a reliance on the posting of meeting minutes for “communication” to have taken place; but the minutes are not complete, and some people don’t know they exist nor take the time to read them.
- During one legislative session, some judges were specifically directed not to communicate with each other, with the suggestion that, by doing so, judges would lose judicial immunity. Many judges question and/or disagree with this legal conclusion.
- The communication surrounding the adoption and advancement of legislative priorities could be strengthened.
- Sometimes, statewide communication that is provided is not effective; it often comes too late for it to be helpful.
- There are special communication problems between judicial assistants, judges, and local court managers including court clerks, trial court executives, and chief probation officers.
- Important decisions are sometimes made at the AOC that have impacts on judges without sufficient consultation and communication. One example provided involved the adoption of the policy for judicial performance evaluations and a perceived failure to request or consider input from the bench.
- Judges are at fault for failing to take the time to access or read the communication that is provided, but then complain about the communication “failures”.
- If one does not have access to or attend all of the meetings, it is very difficult to know what is really going on within the Utah State Courts.
- Court employees receive good communication about those issues that directly affect them but not about anything else going on in other parts of the judicial system.
- There are special challenges with communication between and from Trial Court Executives.
- There should be targeted training on how clerks, chief probation officers and trial court executives can communicate more effectively.

Culture

- Opportunities are sometimes provided to speak but often nothing is done based upon what was said. Some people “give up” because there is little feedback or follow-up after input is provided.
- The phrase “this is the way we have always done it” is sometimes heard; there is a perception of resistance to change generally and to any ideas that are contrary to those of the AOC leadership. One example provided referenced the AOC formula used to determine judgeship needs and a failure to recognize a problem after it was apparent. Other references were to budget priorities and needs established by judges and an unwillingness by the AOC to consider revisions. Also mentioned was a request to receive specific comments from employees provided as a part of the employee survey and an unwillingness to change the policy.
- By both their actions and their direct comments, the AOC leadership has created a perception that open and honest communication is not always welcomed, to the point that some are afraid to speak.
- Some line employees are afraid of judges and of senior management and find it difficult to speak out.
- The decision- making system is seen as complicated and it therefore takes too long for decisions to be made and action to be taken. This acceptance of slow progress on some matters has become a part of the culture.
- Judges often seek involvement in decisions about administrative issues when those issues may be outside of their responsibility or authority. Examples most often provided involved personnel matters for individuals who work with but do not report to judges.
- Especially at the local court level, there is a real emphasis on valuing the voice of all employees. However, this may be more dependent on a particular location and individual leaders rather than a result of the broader culture.
- Concerns were expressed by some judges and employees of a culture and/or an appearance of male dominance in leadership positions and the existence of an “old boys’ network”.
- In recent months the culture is improving. There seems to be a greater willingness to encourage people to speak out and share ideas and suggestions.
- There is a different culture in juvenile court and district court; juvenile courts are more focused on open collaboration, innovation, and customer service and value the contributions of employees.
- Some employees at the local courts, many of whom have no direct contact with the AOC or its staff, perceive that the AOC is only there to tell them what to do, not to provide assistance and support.
- Working at the AOC is like a “triage unit”; the staff is spread too thin and employees must answer to every judge and court in the state. The staff is required to respond to the most pressing issues and has little time to engage in planning or improvement of services and support.

- There is a perception of control by the AOC of Trial Court Executives. The AOC is seen as discouraging open communication and of potential consequences for employees who raise questions.
- Court culture is dependent on the location. This is particularly true in rural districts where one controlling person can disrupt the desired culture of the organization.

Onboarding/Training

- New judge orientation and mentoring programs have improved in recent years. There is some difficulty with the timing of the orientation since not all judges come to the bench at the same time.
- The continuing education provided to both judges and staff by the AOC is generally perceived as very good, with a few exceptions, dependent upon the group or the particular training topic.
- Onboarding provided to new Judicial Council and Board members is in need of review and improvement.
- The creation of the Training Coordinator positions at the local courts is viewed as a positive step and has been well received.
- There are concerns about out of state education programs by both judges and administrative staff. Funds are budgeted for use by judges in the districts but the decisions about programs and attendance are still controlled by the AOC. These decisions are seen as inconsistent. National conference participation and attendance by administrative staff has been greatly limited. There is a perception that a different policy is applied to employees at the AOC.
- The mentoring programs that have been developed are seen as helpful and should be given additional support and provided for all positions.
- Best practice manuals for some positions and employee groups are viewed as very helpful. They are needed for all groups.
- There should be a greater use of and access to online training.
- Some of the training documents and materials are outdated and in need of revision.
- Additional training targeted at judges and judicial assistants as teams should be developed.
- More supervisory and management training is needed, more leadership training should be provided for all judges and managing staff; and more joint training for presiding judges and Trial Court Executives would be beneficial.

Recommendations/Advice for the New State Court Administrator

- The new State Court Administrator should demonstrate support to all departments and units within the Utah State Courts.
- A philosophy of “service and support” should be adopted for the AOC. The State Court Administrator should set the tone and expectation, with a focus on internal customer service.

- There is a need to begin with a “clean slate”; no assumptions should be made and time should be taken to listen and observe.
- Strengthening all forms of communication throughout the judicial branch should be a primary focus.
- A comprehensive review of the structure, performance, expectations, and assignments of all AOC positions and personnel is needed.
- The AOC should develop the internal capacity to anticipate trends.
- Past problems within the AOC Human Resources department should be noted and reviewed and a new course should be adopted for all human resource policies and procedures.
- When working with the Judicial Council, open discussion and debate should be supported and encouraged. New approaches to the development of legislative and budget priorities is needed.
- Be seen as approachable, transparent, caring, and open to new ideas. Take actions to build trust.
- Take steps to ensure that ALL units and departments statewide understand and are aware of the availability of AOC services and support.
- Address the perception that the AOC is overstaffed versus the concerns expressed that additional staffing in some areas is critical.
- Take the time to visit local courts as a means to understand the culture and better understand the work being done daily in the districts. Seek greater input and do a lot of listening before making decisions.
- Take a fresh look at all internal business practices and departments.
- Take steps to strengthen judicial branch governance and decision-making, including a review of where decisions should be made and by whom, who should be consulted before making the decision, and who should be informed after making the decision.

Sexual Harassment Policies and Procedures

- There was a wide range and somewhat conflicting responses about the provision of sexual harassment training – whether it had been offered, the frequency of the training, the content of the curriculum, and who offered it.
- Irrespective of the response about past practices, almost all participants agreed that more frequent training in the future that is mandatory and more effective would be beneficial and supported.
- Generally, those interviewed expressed confidence they would know or could determine what to do, where to go, and how to report an incident if necessary.
- Several specific concerns were mentioned. One person noted that the list of to whom to report an incident included all men. Others noted there was not a clear line of reporting, i.e., when the supervisor is the one who is the accused. These special situations are not addressed in the training.
- There was expressed a lack of clarity on what constitutes “sexual harassment” and on the standards of conduct that should apply.

- A need for sensitivity training for male employees was mentioned.
- Specific concerns were expressed about the role of the former AOC Human Resources director and the perception that no action would be taken if and when complaints were made.
- Most of those who were interviewed indicated that they had not observed sexual harassment, nor were they aware of problems or complaints by others.
- Fear of retaliation and the observance of retaliation was expressed by some, noting that they would not report an incident if they experienced it.
- There was a sentiment that the official policy is difficult to locate and understand. The development of a brief reference tool made available to all judges and employees should be considered.
- Concern was expressed about the power differential inherent between judicial officers and employees.
- One person shared personal experience as a victim of sexual harassment. It was reported and there was satisfaction with the resolution.

Other Issues

- Several employees within the AOC noted the legacy of the reduction in force that took place in 2008 and the necessity that individuals assume additional duties, sometimes unrelated to their primary work and work assignments that occurred for reasons that no longer exist.
- Performance reviews offering written feedback for improvement should be reinstituted.
- The retirement and departure of a large number of senior officials, the impending retirement of several others, and the hiring of a new State Court Administrator has created stress and concern for many.
- Concerns were expressed about the involvement by members of the Supreme Court in personnel matters and in issues within the responsibility of the Judicial Council.
- There is concern about the loss of institutional knowledge.
- The AOC is seen as being “disconnected” from the rest of the court system. In some cases, this includes a physical barrier since other court employees cannot physically access the AOC from within the building.
- Security in courtrooms is a concern. Bailiffs are provided only for criminal cases and not civil or family law cases.
- The existence of salary compression was mentioned as a problem with respect to several positions across the judicial branch.
- Several participants expressed the view that their court or their positions were overlooked by the rest of the judicial branch, that no one advocates on their behalf, and that they do not feel supported.
- Employee surveys need to be timely; otherwise they are not helpful.
- More formal opportunities to provide input, like these interviews, should be instituted on a regular basis.

- Judges have constant contact with several court employees (such as clerks and judicial assistants) but have no input in the employment or dismissal of staff nor are they invited to participate in their evaluations. Judges should not control these positions, but there should be some opportunity for input.
- There is a perception that a salary gap exists between local court salaries and the salaries of similar positions with similar responsibilities within the AOC – AOC employees receive higher salaries and have additional benefits.
- There is an “us-them” feeling between employees and judges in the 3rd District and those serving in other districts.
- The court should find ways to provide incentives and rewards for outstanding employees and other ways to show appreciation and support to employees more generally. The system should provide opportunities for employees to be engaged outside of their specific job tasks so that they can feel that they are making a difference.
- The addition of the degree requirement for clerk positions has created problems with retention and a lack of availability of the most qualified candidates.
- The employment process utilized by the AOC Human Resources Department is not effective in that it excludes input from those most knowledgeable about the positions and the relative strength of candidates in the initial review and selection of candidates.

The AOC Human Resources Department

- Several of the questions – culture, communication, governance, sexual harassment policy – prompted responses that included concerns about policies and practices of the Human Resources Department. Several participants also used specific examples of personal experiences with the department and its former director as the basis for their concerns. The comments, which were not verified, included references to nepotism, retaliatory actions, intimidation, and the failure to appropriately receive, investigate, and respond to complaints. Other concerns involved the use of insensitive language, inappropriate use of authority to control local court employment-related activities and operating the office in a way as to be perceived as inaccessible and unwilling to assist when requested. Not all of the comments were negative; the most common positive responses were in relation to the sexual harassment training provided to local courts that was deemed as being helpful and well done. Several participants indicated that they were aware of the staffing change that had occurred in the department and expressed “appreciation” and “relief”. One person stated that “so many people immediately feel better now that this action has been taken”. These comments were reflected in responses from both AOC employees and local court employees.

Final Note to the Interim Report

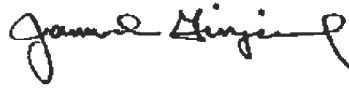
As a final note to the report, it may be appropriate to again call attention to the NCSC consultants’ initial comment that almost every one of the participants began or ended their interview with a statement that, overall, they were very pleased with the current state and operation of the Utah State Courts. These generally positive comments and perceptions can be

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Interim Report to Utah Steering Committee
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lost after reading a long list of concerns. The charge given to the NCSC consultants and the organization of this report created a primary focus on the concerns and suggestions for improvement raised by the participants. If and when individuals indicated that they had no concerns about particular areas of inquiry – and there were many such responses – those responses were not captured in the report. Hopefully its overall content will prove helpful in providing a better understanding of the perceptions and concerns of a significant number of judges and court employees, as one basis for helping court leaders determine appropriate responses and develop areas of focus and direction for the future.



Patti Tobias
Principal Court Management Consultant



James D. Gingerich
Director, State Courts Partnership

Attachment A

As you probably know, we are in the process of hiring a new State Court Administrator. As part of that process, the Judicial Council has decided that it is time to do an independent, comprehensive review of our governance and administrative processes to ensure that we continue to provide the citizens of Utah an open, fair, efficient, and independent system for the advancement of justice, and that we are a place that both welcomes our employees at all levels and not only accepts, but encourages their advice and input. In short, the Council believes this is a perfect time to candidly assess how we are doing, and we seek nothing less than a frank, independent evaluation to help us chart a course for the future.

The evaluation will proceed in stages, alongside the selection process for our new State Court Administrator. The first stage is a high-level review and the second stage will be conducted when the new State Court Administrator is hired and be a more in-depth assessment. Outside consultants from the National Center for State Courts (NCSC) will do the evaluation. The NCSC consultants will coordinate their work with a steering committee consisting of Judge Kate Appleby, Utah Court of Appeals, Judge Todd Shaughnessy, Third District Court, Neira Siaperas, Juvenile Court Administrator, and Judge Mary Noonan, Interim State Court Administrator.

The assessment will include a review of our governance structure, including the role of the Judicial Council, Boards of Judges, administrative committees, advisory groups and the Administrative Office of the Courts. But the goal of the review is to dig deeper than this. To get behind these structures and behind the organization charts and assess whether these systems are really working as intended. And, to the extent they are not, what exactly do we need to do to fix them. We also want to make sure we understand our culture and how that impacts the work life of our employees and the ability of our judges to fulfill their constitutional responsibilities.

The consultants have been provided a wide range of written materials, and the next step in their work will be a three-day onsite visit February 19, 20, and 21. They will be meeting with a variety of individuals from as many corners of our court system and our state as we can reasonably manage. To maximize the number of people they can speak with, the interviews will be held in the Matheson Courthouse, but videoconferencing will be available for those who can't be here in person. Each interview is anticipated to last about 30 minutes. At the conclusion of these interviews, the steering committee will get an initial report and develop a roadmap for the next stage of the process.

This is where you come in. The steering committee has identified you as someone we believe can provide helpful insight. We are hoping that you can take some time out of your busy schedule to meet with the NSCS consultants as a group of three on one of the days they will be here, or join them by videoconference if you can't be here in person.

We understand this is short notice, and we know you undoubtedly have a busy schedule. However, we believe this review will play an essential part in assessing how we are doing and what we can do better, and we believe you may have something important to add to that conversation.

Please email Jeni Wood as soon as possible with your available dates and times on February 19, 20, and 21, and whether you can meet in Salt Lake or would like to videoconference (in person meetings are preferred, but we understand that will not be possible for everyone). If you need assistance covering calendars, getting supervisor permission, or with other logistical matters, please let Ray Wahl know. If you are unable to attend, please let Jeni Wood know that as well, and feel free to pass along any thoughts or comments. Finally, we are extending this invitation to more than will be able to meet with our consultants, on the theory that some will be unable to make it. If we end up having more people sign up than time permits, we will let you know and ask for your thoughts in another form.

To make the interviews as meaningful as possible, we ask you to take some time and think carefully, critically, and constructively about your role - be it judicial assistant, probation officer, court clerk, trial court executive, AOC management, judge, presiding judge, board or Council member - and your experiences, both positive and negative. Consider providing specific examples of things that have worked and things that haven't. And if you have thoughts about how our system can do better, please come prepared to talk about them.

Thank you in advance for your help on this important project.

Judge Mary T. Noonan
Interim State Court Administrator

Attachment B

Thank you so much for taking your time to meet with us today. My name is Patti Tobias and my colleague is J.D. Gingerich. As outlined in Judge Noonan's email, we have been asked to interview you and others to listen to your insights and experience. We have a few questions to ask each of you and then at the end of these three days we will summarize the broad themes we have heard in a memorandum this weekend to Judge Noonan and the Steering Committee. We will not identify any names so please candidly share your experiences, both positive and negative. And please provide any specific examples of things that have worked and things that haven't worked. And again, thank you!

1. Governance

The Steering Committee is interested in your thoughts about the Utah Courts Governance structure which includes the Judicial Council, the Boards of Judges, Administrative Committees, advisory groups, the Administrative Office of the Courts, the local bench, Trial Court Executives, Probation Chiefs and Clerks of the Court. We know how it works on paper but we are interested to know how you think it works at a *practical* level. Do you have any comment about the various units and departments within and the organization of the judicial branch and the impacts that this governance structure has on you and the work that you do? And on the transparency of the system? (Specific examples)

2. Communications

How effective would you say the internal communication is within the judicial branch - by and between the Judicial Council, the Boards of Judges, Administrative Committees, advisory groups, the Administrative Office of the Courts, the local bench, Trial Court Executives, Probation Chiefs and Clerks of Court and other court employees and by and between those units and individual employees? (Specific example)

3. Culture

How would you rate or describe the culture of the judicial branch as it relates to the ability of employees to feel safe and comfortable asking questions, raising concerns, suggesting improvements, and feeling like their voice is heard? Do you feel supported in your work? (specific example)

4. Onboarding and Training

Did you and do you receive adequate training to succeed and advance in the courts? What suggestions do you have to improve the training you have received? (specific example)

5. New Director

You will soon have a new state court administrator. What would you advise him or her about the perception that you and others have about the AOC, its services, and the support that it provides to the judicial branch? (specific example)

6. Harassment

Have you received training on issues of sexual harassment and the judicial branch policies related to harassment? Do you feel that you have sufficient information and support should the need ever arise to report an incident?

7. Other Insights and Comments

Do you have any other thoughts about how the Utah Courts can do better? (specific example)

If we ran out of time and you have additional information to offer, please feel free to email us by the end of the day Thursday. Here is our Email address.

Tab 5

PC/PSA Programming Cost and Time Estimates

COST BREAKDOWN					
Option 1:			Option 2:		
Harvard Study	\$ 36,000	1.8 mo.	Harvard Study	\$ 51,000	2.6 mo.
NLETs	\$225,000	11.5 mo.	NLETs	\$255,000	15.1 mo.
DMF	\$ 36,000	1.8 mo.	DMF	\$ 36,000	1.8 mo.
Xchange	<u>\$ 15,000</u>	<u>0.8 mo.</u>	Xchange	<u>\$ 15,000</u>	<u>0.8 mo.</u>
	\$ 312,000	15.9 mo.		\$ 357,000	20.3 mo.
	<u>\$ 31,200 (+10%)</u>			<u>\$ 35,700 (+10%)</u>	
	\$ 343,200			\$ 392,700	
			*Difference from option 1: +\$49,500, +4.4 months		
Statutory Changes:					
Cash Only	\$ 1,800				
CORIS Tinder Type	<u>\$38,700</u>				
	\$40,500				
	<u>\$ 4,050 (+10%)</u>				
	\$44,550				

DESCRIPTION	
Option 1: (2,080 Hours Total)(\$312,000)(Extended: \$343,200)	Option 2: (2,650 Hours Total)(\$397,500)(Extended: \$437,250)
1. Harvard Study Changes (240 hrs)(\$36,000)(1.8 mo) <ul style="list-style-type: none"> Estimates for random questions from Salt Lake Pretrial Services. We would need to hold PCs for a period of time to see if we get response from Pretrial Services with the questions. Need to enhance the PC process for showing the Question for random SIDs (Odd) to Judge as part of the process for reviewing the PC. We would have to code a random routine that <u>Enhancement List:</u> <ul style="list-style-type: none"> Random Routine for Odd SID for PCs for Salt 	1. Harvard Study Changes (340 hrs)(\$51,000)(2.6 mo.) <ul style="list-style-type: none"> Estimates for random questions from Salt Lake Pretrial Services. We would need to hold PCs for a period of time to see if we get response from Pretrial Services with the questions. Need to enhance the PC process for showing the Question for random SIDs (Odd) to Judge as part of the process for reviewing the PC. We would have to code a random routine that <u>Enhancement List:</u> <ul style="list-style-type: none"> Random Routine for Odd SID for PCs for Salt

<p>Lake to be held, even SIDs for PC would pass through.</p> <ul style="list-style-type: none"> ○ Hold PCs for X period of time for Questions ○ WS for Salt Lake County Pretrial Services to call us with Questions. ○ Save data for questions and notify Judge ○ PC Changes for displaying Questions to Judge ○ Testing by Developer: 20 hrs 	<p>Lake to be held, even SIDs for PC would pass through.</p> <ul style="list-style-type: none"> ○ Hold PCs for X period of time for Questions and PSA ○ WS for Salt Lake County Pretrial Services to call us with Questions. ○ Save data for questions and notify Judge ○ PC Changes for displaying Questions to Judge ○ WS Manually Calculated PSA PDF for Salt Lake County (New estimate) ○ Testing by Developer
<p>2. NLET manual calculations - <u>no</u> Utah data (1,500 hrs)(\$225,000)(11.5 mo)</p> <ul style="list-style-type: none"> • This option runs the PSA before we do the NLETS query. • If the NLETS returns a hit and the score of the PSA is detained send it through to the Judge for the PC with the PSA to be processed . • Anything that is not detained with Utah data and has no NLETS data send the PC and the PSA to the Judge. • The PSA with a status of not detained and has a NLETS hit we would hold the PC. • Create a queue for staff to be able to view the NLETS data within and an application to manually score the PSA and save that the PSA was manually calculated. • <u>Enhancement List:</u> <ul style="list-style-type: none"> ○ Change batch workflow and coding ○ Change PSA report ○ Staff Queue ○ Holding PC Logic ○ PC/Workspace Changes ○ Manually Calculating Application for creating a PSA ○ Testing By Developers 	<p>2. NLET manual calculations – <u>with</u> Utah data (1,700 hrs)(\$255,000)(15.1 mo)</p> <ul style="list-style-type: none"> • This option runs the PSA before we do the NLETS query. • If the NLETS returns a hit and the score of the PSA is detained send it through to the Judge for the PC with the PSA to be processed . • Anything that is not detained with Utah data and has no NLETS data send the PC and the PSA to the Judge. • The PSA with a status of not detained and has a NLETS hit we would hold the PC. • Create a queue for staff to be able to view the NLETS data within and an application to manually score the PSA and save that the PSA was manually calculated. • <u>Enhancement List:</u> <ul style="list-style-type: none"> ○ Change batch workflow and coding ○ Change PSA report ○ Staff Queue ○ Holding PC Logic ○ PC/Workspace Changes ○ Display Utah PSA with ability to Manually Calculate PSA for NCIC hit record (New Application) ○ Open Queue for anyone with ability to sort by location

	<ul style="list-style-type: none"> ○ Table by locations for different Pretrial Services ○ Need to know by login who is doing the PSA and what location PC was filed in (SL Co Pretrial Services would not pay for SL ORIs). ○ Testing By Developers
3. DMF (240 hrs)(\$36,000) (1.8 mo.) <ul style="list-style-type: none"> • The ability for each county to have their own DMF. • The DMF for each county would be used in the PC and PSA applications. • <u>Enhancement List:</u> <ul style="list-style-type: none"> ○ Maintenance Application for County based DMF with the ability for AOC to maintain County level DMFs ○ PSA Changes for County Based DMF based on where it falls in matrix ○ PC Changes for DMF ○ Order changes for DMF ○ Testing by Developer: 20 hrs 	3. DMF (240 hrs)(\$36,000)(1.8 mo.) <ul style="list-style-type: none"> • The ability for each county to have their own DMF. • The DMF for each county would be used in the PC and PSA applications. • <u>Enhancement List:</u> <ul style="list-style-type: none"> ○ Maintenance Application for County based DMF with the ability for AOC to maintain County level DMFs ○ PSA Changes for County Based DMF based on where it falls in matrix ○ PC Changes for DMF ○ Order changes for DMF ○ Testing by Developer: 20 hrs
4. Xchange (100 hrs)(\$15,000)(0.8 mo) <ul style="list-style-type: none"> • Need a batch process to be able to flag PCs and PSAs as being deleted after 90 days or a period of time. • We will also need to make changes in Xchange and Doc Manager to prevent these documents from being accessed. • <u>Enhancements:</u> <ul style="list-style-type: none"> ○ Create a batch program that update security level of the document both in DocMgr and CORIS ○ Xchange Changes ○ Doc Manager Changes ○ Testing by Developer 	4. Xchange (100hrs)(\$15,000)(0.8 mo.) <ul style="list-style-type: none"> • Need a batch process to be able to flag PCs and PSAs as being deleted after 90 days or a period of time. • We will also need to make changes in Xchange and Doc Manager to prevent these documents from being accessed. • <u>Enhancements:</u> <ul style="list-style-type: none"> ○ Create a batch program that update security level of the document both in DocMgr and CORIS ○ Xchange Changes ○ Doc Manager Changes ○ Testing by Developer

Required Statutory Changes – Related to PC/PSA Systems:**Cash Only Check Box (12 hrs) (\$1,800)**

- Need to remove the check box on the PC for Case Only
- Enhancements:
 - Hide the Checkbox on the PC screen
 - Testing by Developer
 - Deployment

CORIS Cash Only/Tender Type (HB 428) (258 hrs) (\$38,700)

- Due to the language in HB248 it will require changes in our database and applications.
- The systems impacted are Probable Cause, CORIS, Warrants and Public Safety shared database.
- The changes will require developers to change fields in the database, screens that present the data and business logic that is built off of the current fields.
- We currently have logic related to bailable, not bailable or cash only.
- Now the logic will require including the same along with the addition of the tender type.
- We additionally discussed the changes we would need to make on our side with Public Safety development staff and they stated it would require code changes on their side.
- Enhancements:
 - 4 Application areas impacted
 - Database changes from one field to two in all areas
 - Screen changes across all areas
 - Changes to CORIS
 - Changes to Courts/Public Safety shared interface
 - Warrants
 - Testing by Developer, Testing within courts IT, staff, and Public Safety

***** CRIMINAL HISTORY RECORD *****

***** Introduction *****

This rap sheet was produced in response to the following request:

Purpose Code C
Attention AOC-TEST

The information in this rap sheet is subject to the following caveats:

This record is based only on the FBI number in your request-UCN:

1234567EA8 Because additions or deletions may be made at any time, a new copy should be requested when needed for subsequent use. (US)

All entries contained in this FBI record are based on fingerprint comparisons and pertain to the same individual. (US)

The use of this record is regulated by law. It is provided for official use only and may be used only for the purpose requested. (US)

***** IDENTIFICATION *****

Subject Name(s)

DOE, JOHN JOE

DOE, JOHN (AKA)

DOE, JOHN J (AKA)

DOE, JOHN JOEY (AKA)

LEAR, JOHN JOSEPH (AKA)

LEAR, JOHN (AKA)

LEOR, JON (AKA)

TEST, JANE (AKA)

TEST, JANE M (AKA)

TEST, JON T (AKA)

Subject Description

FBI Number

1234567EA8
(UT)

State Id Number

CO123456 (CO)

UT1234567

Social Security Number

333224444

333225555

Sex

Male

Race

White

Height

5'08"

Weight

128

Date of Birth

1967-11-18

1969-11-18

Hair Color

Brown

Eye Color

Brown

Fingerprint Pattern

DO1111111111111111 (FPC)

Scars, Marks, and Tattoos

Code	Description, Comments, and Images
ART ARM	, ARTIFICIAL ARM, NONSPECIFIC
MOLE FACE	, FACE, MOLE
SC R SHLD	, SCAR ON RIGHT SHOULDER

Place of Birth	Citizenship
Colorado	United States

Caution Information

Registered Sex Offender

***** CRIMINAL HISTORY *****

***** INDEX OF AGENCIES *****

Agency DOC-SEX OFFENDER REG; UT018215C;

* * * END OF RECORD * * *

***** CRIMINAL HISTORY RECORD *****

***** Introduction *****

This rap sheet was produced in response to the following request:

Purpose Code C
Attention AOC-TEST

The information in this rap sheet is subject to the following caveats:

This record is based only on the FBI number in your request-UCN:

999999J1 Because additions or deletions may be made at any time, a new copy should be requested when needed for subsequent use. (US)

All entries contained in this FBI record are based on fingerprint comparisons and pertain to the same individual. (US)

The use of this record is regulated by law. It is provided for official use only and may be used only for the purpose requested. (US)

***** IDENTIFICATION *****

Subject Name(s)

TEST, JOHN AINSWORTH

TEST, JOHN A (AKA)

TEST, JOHN (AKA)

TEST, JOHN A (AKA)

TESTT, JOHN DOE (AKA)

Subject Description

FBI Number

999999J1

State Id Number

UT123456 (UT)

Social Security Number

333224444

Sex

Male

Race

White

Height

5'11"

Weight

139

Date of Birth

1951-10-01

Hair Color

Brown

Eye Color

Blue

Fingerprint Pattern

11111111111111111111 (FPC)

Place of Birth

SOMEWHERE

Citizenship

United States

***** CRIMINAL HISTORY *****

===== Cycle 001 =====

Earliest Event Date 1972-04-07

Arrest Date 1972-04-07

Arrest Case Number 123465

Arresting Agency CA012345 SHERIFF'S OFFICE

Subject's Name TEST,JOHN DOE

Charge 1

Charge Literal FAIL TO APPEAR

Severity Unknown

===== Cycle 002 =====

Earliest Event Date 1975-02-12

Arrest Date 1975-02-12

Arrest Case Number 1234567

Arresting Agency CA01234680 SHERIFF'S OFFICE

Charge 1

Charge Literal BURGLARY

Severity Unknown

===== Cycle 003 =====

Earliest Event Date 2004-04-23

Arrest Date 2004-04-23

Arrest Case Number 123456789

Arresting Agency CA0124680 SHERIFF'S OFFICE

Charge 1

Charge Literal 001 COUNTS OF POSSESS NARCOTIC CNTL SUB

Severity Unknown
Charge 2
Charge Literal 001 COUNTS OF PROSTITUTION
Severity Unknown

Court Disposition (Cycle 003)
Court Case Number
Court Agency CA036123J JUSTICE COURT
Charge 1
Charge Literal 11350 A HS-POSSESS NARC CONTROL SUBSTANCE
Charge Description Charge Severity:Unknown
Disposition (CONVICTED-PROBATION
-036MO PROBATION - FINE

-DISM 1210.1(D)PC)

***** INDEX OF AGENCIES *****

Agency SHERIFF'S OFFICE; CA012345;

Agency SHERIFF'S OFFICE; CA01234680;

Agency SHERIFF'S OFFICE; CA0124680;

Agency

JUSTICE COURT; CA01236123J;

* * * END OF RECORD * * *

Tab 6



Administrative Office of the Courts

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

MEMORANDUM

Hon. Mary T. Noonan
Interim State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester *Nancy D Sylvester*
Date: March 29, 2019
Re: Certification of Senior Judges

Justice Court Judge David Marx and Second District Judge Mark DeCaria have both applied for Active Senior Judge Status. I have attached their application forms, which show compliance with the minimum qualifications for office and with judicial performance standards. Neither judge has complaints pending before the Judicial Conduct Commission or the Utah Supreme Court. The Board of Justice Court Judges also recommends Judge Marx's certification. It appears appropriate to certify both.

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**

I, David C. Marx, apply for the office of active senior judge 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.
- (5) I comply with the restrictions on secondary employment provided by the Utah Code.
- (6) I am physically and mentally able to perform the duties of judicial office.
- (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.
- (9) I will satisfy the education requirements of an active justice court judge.
- (10) I will accept assignments, subject to being called, at least two days per calendar year.
- (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 will continue to meet the requirements for certification as those requirements are determined by the Judicial Council to apply to active senior justice court 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 four years in office, whichever is greater, and
- (16) I did not resign from office 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 PRIVATE and my retirement date is 5/1/2019.
- (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.
- (22) The address at which I can be contacted after retirement is:

 PRIVATE

 PRIVATE

 My email address & phone #: _____ PRIVATE _____

JUDICIAL PERFORMANCE EVALUATION INFORMATION

I further declare as follows:

- (23) I have not had more than an average of three cases per calendar year under advisement more than two months after submission with no more than half of the maximum exceptional cases in any one calendar year; and
- (24) I have had no cases under advisement more than six months 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.

2016	2017	2018	2019
30+	44	62	30 + scheduled

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

JUDICIAL INSTITUTE LOCAL DISTRICT
 JCS ANNUAL CONFERENCE

- (28) I have attended the spring conference in the years indicated.

2016	2017	2018	2019
YES	Yes	Yes	Scheduled

- (29) 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.

Date

3/22/2019

David C. Marx

Please complete and return by March 22, 2019 to:

Nancy Sylvester
 P.O. Box 140241
 Salt Lake City, Utah 84114-0241

Phone: 801-578-3808
 Fax: 801-578-3843
 Email: nancyjs@utcourts.gov



Senior Judge Application Active Status

Qualifications for Office

I, Mark R. DeCaria, 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.

A handwritten signature in black ink, appearing to read "MRD", is located at the bottom right of the page.

- 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 PRIVATE and my retirement date is 4/15/2019.
- 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: _____

Judicial Performance Evaluation Information

- 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.

I will attend sufficient # of hours to meet the requirement. me



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.

Annual Spring Conference, Annual fall conference
weber county Bar luncheons

- 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.

Date

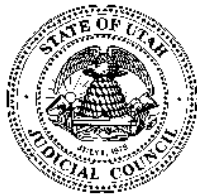
3/29/19

Mark R. DeCaria

Please complete and return by March 29, 2019 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

Hon. Mary T. Noonan
Interim State Court Administrator
Ray Wahl
Deputy Court Administrator

April 1, 2019

MEMORANDUM

TO: Members of the Utah Judicial Council

FROM: Jim Peters 
Justice Court Administrator

RE: Request to Expand the Territorial Jurisdiction of the Hyrum Justice Court

The cities of Hyrum, Nibley and Mendon are located in Cache County, Utah. At present, Nibley and Hyrum each have a justice court; Mendon contracts with Nibley for justice court services. Effective July 1, 2019, Nibley would like to discontinue operations of its court and enter into an interlocal agreement with Hyrum for justice court services. If approved, Nibley would no longer be able to provide such services to Mendon. Mendon would therefore like to enter into an interlocal agreement with Hyrum for justice court services as well. Accordingly, Hyrum is seeking approval from the Judicial Council to expand the territorial jurisdiction of its justice court to include cases that originate within the geographical limits of Nibley and Mendon.

To that end, I have collected and reviewed the following documents:

- Hyrum's Application to Expand the Territorial Jurisdiction of an Established Justice Court
- Hyrum Resolution 19-04, authorizing the execution and delivery of an interlocal agreement between Hyrum and Nibley, together with a form of that interlocal agreement
- Hyrum Resolution 19-05, authorizing the execution and delivery of an interlocal agreement between Hyrum and Mendon, together with a form of that interlocal agreement

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

- Nibley Resolution 19-07, authorizing the execution of agreements relating to discontinuing its justice court, including an agreement terminating the interlocal agreement between Nibley and Mendon and a Separation Agreement and Release between Nibley and Judge Trevor Cook, Nibley's current judge, executed as of March 28, 2019
- Letters from each of the cities' mayors requesting a waiver of the timelines contemplated by Section 78A-7-102(4)(c)(ii) of the Utah Code be waived, so that Hyrum can be authorized to serve Nibley and Mendon as of July 1, 2019

Based on my review of the foregoing documents, I would recommend that Hyrum's request to expand the territorial jurisdiction of its justice court be approved. In addition, I would recommend that such approval be effective as of July 1, 2019. I look forward to answering any questions you may have at your upcoming meeting. If any of you would like to review one or more of the documents referred to above in the meantime, please let me know and I will email you. Thanks.

Tab 8

APPELLATE MEDIATION OFFICE

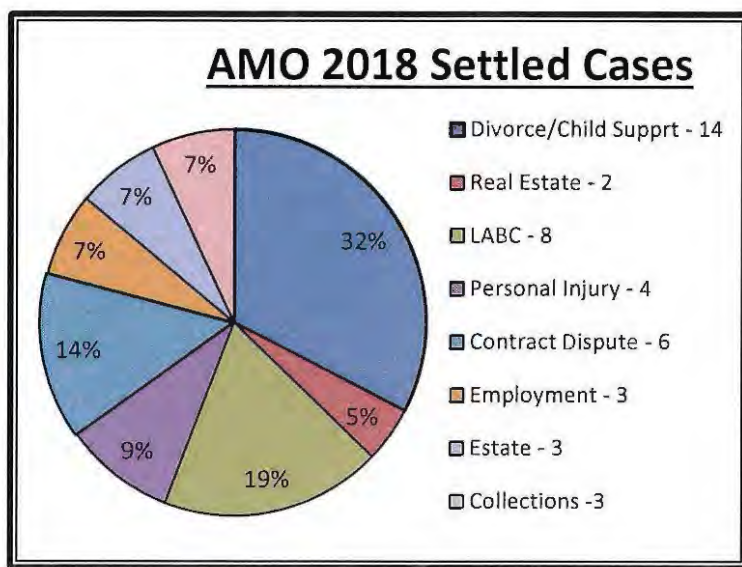
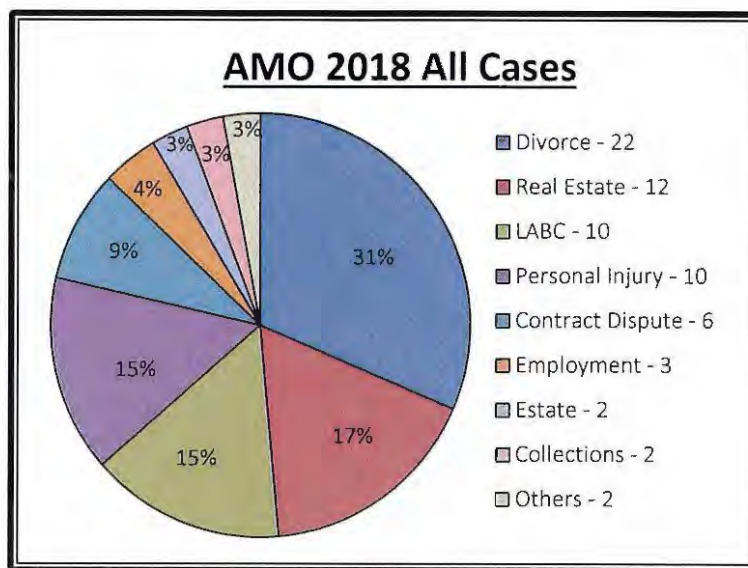
Mediating Late and Mediating Successfully-- A Service to the Public

- Since 1998 the Appellate Mediation Office (AMO) has helped litigants resolve their disputes in a professional, kind, and welcoming environment.
- The AMO brings experience and compassion. For 18 years, attorney Michele Mattsson has been the Chief Appellate Mediator. Paralegal Shauna Hawley has been the administrative assistant for six years. They provide a supportive, caring environment in which litigants in high stress, high conflict situations can resolve their disputes.
- The number of cases settled by the AMO is similar to the number of opinions authored by each Court of Appeals (COA) judge. The AMO and COA judges work in cooperation to serve the public. Parties have the option of resolving their own disputes or of a judicial opinion.
- The AMO has a broad reach. Not only are appellate cases resolved through mediation, but also related proceedings, including district court and federal court cases. The AMO also helps settle a significant number of agency cases. The impact is positive. Settlements resolve pressing issues, eliminate the possibility of reversals, and the parties are more likely to comply with an agreement they help craft.
- Mediations are cost efficient. Cases are typically mediated before briefs are written, which saves the parties tens of thousands of dollars. Mediations also save time. A case resolved through mediation is quicker than one decided by judicial opinion. Most importantly, the emotional toll on the parties is lessened when a case settles in mediation.
- Over 50% of the cases referred to the AMO settle. Here is a snapshot of 2018:

Number of cases ordered into mediation	68
Cases settled	43
Percentage of cases settled	63%

- Case demographics:

Divorce/Child support	22
LABC/WFS	10
Personal injury	10
Real Estate/Landlord	12
Contract disputes	6
Collections	3
Estate	3
Employment	2
Miscellaneous	5



- Demographics of cases settled in mediation closely reflect demographics of cases ordered into mediation. Divorce cases are the most common and most often settled followed by real estate, Labor Commission, and personal injury cases.

- Most mediations are in-person; some are by phone; some are both. In 2018, 56 cases were mediated in-person; 12 by phone.

- The AMO is efficient. In 2018:

- Average time cases were in mediation 75 days
- Average time Labor Commission cases were in mediation 86 days
(Settlements have to be reviewed and approved by the Labor Commission.)
- Average time domestic cases were in mediation 70 days

- The AMO provides a valuable service to parties and attorneys. Questionnaires submitted by participants in appellate mediation show overwhelming support for the office:

"The mediation offered by the Court of Appeals was very helpful and a great service to these parties. Litigation had been ongoing for almost 4 years, with many more pending had we not been able to settle."

"My compliments to the mediator who has an excellent working knowledge of Workers Compensation law and mediator skills to guide the parties in a complex matter."

"This was an excellent mediation. I appreciated the expertise & demeanor of the mediator, Michele Mattsson. She was professional, helpful, kind, patient, and had a good sense of humor. Thank you. I also appreciated the order requiring the parties to bring settlement authority to the mediation."

"Michele Mattsson did a great job. She was diligent in getting this difficult case settled."

"For cases of a certain size this process is a must, typically where pride is much higher than dollars. Thanks so much for your professionalism and sincerity."

"I thought the expertise and commitment to resolution expressed by the Appellate Mediation Office was infectious and pushed this matter to resolution."

"This is my second experience with Ms. Mattsson as mediator. In both cases she helped the parties reach an agreement when I came into the mediation believing it was a waste of time."

"I'm so pleased with the mediated outcome."

"Great experience; glad case was screened for mediation, which I thought was helpful."

"Michele was a great mediator. She helped facilitate a discussion between the parties and internally with clients that allowed both parties to find a mutually agreeable resolution. I'm not sure we would have been able to get there without her involvement."

The Salt Lake Tribune

The state panel that investigates teacher misconduct cases is accused of pushing for unfair punishments. Now it faces an audit.



(Steve Griffin | The Salt Lake Tribune file photo) Utah State Board of Education members Carol Lear and Kathleen Riebe listen to comments during a February board meeting.



By Courtney Tanner

Published: September 6, 2018

• Updated: September 08, 2018

The Utah Board of Education voted unanimously Thursday to review the state panel that investigates teacher misconduct amid accusations that it has handed out uneven and unfair punishments.

The audit comes as part of a settlement from two lawsuits, one filed by a teacher who had his license permanently revoked and the other by a teacher who had his temporarily suspended. They accused the Utah Professional Practices Advisory Commission, or UPPAC, of recommending harsher-than-necessary and often inconsistent discipline. The last time the panel was reviewed was in 2014, after a spike in sexual impropriety allegations against Utah instructors.

“There was some merit to some of their points,” said Ben Rasmussen, UPPAC’s executive secretary and director of law and professional practices for the board. “We felt it would be in everyone’s best interest to settle and look at how we can improve the process.”

One of the teachers, Eric Kohler, was accused in 2015 of grooming a female student and talking to her about his sexual dreams. The other, Michael Furness, was investigated in 2014 and 2015 for allegedly harassing colleagues and excessively disciplining a student who has special needs. Neither was criminally charged.

As part of the settlement, Kohler’s revocation was shortened to a 4½-year suspension; Furness’ three-year suspension was reduced to 1½ years.

“At no time did either of these teachers say they did nothing wrong,” said Tracey M. Watson, general counsel for the Utah Education Association, which represented the two instructors along with the legal firm Zimmerman Booher. “But it was an age-old question: Did the punishment fit the misconduct?”

Kohler and Furness’ attorney Julie Nelson added that the review should help “make sure everyone’s interests are heard,” from parents to teachers to administrators. “We are happy with the settlement and the review.”

The board of education’s audit of UPPAC will include creating a seven- to 11-member committee to examine the proceedings of the panel for “overall fairness,” from the initial decision to open an investigation to the final action. The task force will be appointed by board Chairman Mark Huntsman and will include teachers and lawyers and one member of the Utah Education Association, per the settlement.

“It’s probably good to get it done,” Huntsman said of the review. “I think it’s time.”

UPPAC is itself an 11-member advisory commission that hears cases against teachers accused of a range of misconduct, including sexual improprieties, fiscal mismanagement and inappropriate drug and alcohol use on school grounds. It

recommends a punishment — including suspension or revocation of a teaching⁰⁰⁰¹⁰⁸ license — to the board of education.

Teachers who violate professional standards account for less than 1 percent of the more than 31,000 licensed educators in Utah. Since 1992, the state board has revoked or suspended about 300 licenses. (State law automatically and permanently revokes licenses for instructors convicted of criminal sexual activity with a minor.)

In 2018, UPPAC has opened 68 cases against teachers. Last year, it opened a 10-year high of 81.

Christopher Cherrington | The Salt Lake Tribune

“I would have no problem with a review of our commission,” said Jo Jolley, a member of UPPAC for the past three years.

Members of the board of education, which have sometimes had a tense relationship with the disciplinary panel, supported the review during a 20-minute discussion Thursday. Kathleen Riebe, who represents District 10 in Cottonwood Heights and took part in the settlement negotiations, said one thing she hopes to see out of it is a clearer list of the consequences for teachers.

“If you do A, then B will happen. If you do C, then D,” she said. “As I teacher, I want those. If people know they’re going to lose their job, then they’ll be more aware of what’s going to happen.”

The current process for punishment was created before the widespread use of social media, Riebe added, so updates to those standards would also be welcome.

Board member Carol Barlow Lear, who represents District 7 in Salt Lake City, heralded the settlement as a win “in lieu of a longer, more expensive, ongoing disputation.”

Cases Settled as a Result of Mediation
Fiscal Year Year January 1, 2018 to June 30, 2018

1. **Allstate v. Burk - 20170755** - Burk was driving a Dodge truck leased by his brother's company when he rear-ended a slow-moving 1967 Ford truck on I-15. The elderly driver of the Ford, Mr. Pickett, was killed. Mr. Pickett's family appealed the trial court's determination that the leased truck was not a "temporary substitute vehicle" and thus not covered by company insurance.

Notice of Appeal filed: 09/15/17

Pourover date: 10/10/17

Docketing Statement filed: 10/20/17

Rec'd by Mediation: 10/24/17

Order for Mediation sent: 10/06/17

Mediation originally scheduled: 11/06/17

Mediation held: 11/03/17

Settled: 11/30/17. Settlement efforts continued after the mediation until the matter was resolved.

Dismissed: 01/18/18. Once the agreement was drafted and terms of the settlement fulfilled, the appeal was dismissed.

2. **Lampson v. Lampson - 20170595** - complicated divorce case.

Notice of Appeal filed: 07/26/17

Pourover date: N/A

Docketing Statement filed: 08/09/17

Rec'd by Mediation: 08/18/17

Order for Mediation sent: 08/18/17

Mediation originally scheduled: 09/22/17

Mediation held: 09/28/17 & 10/30/17

Settled: 10/30/17. The case involved complex tax issues including alimony recapture, and insurance coverage issues. It was necessary for both parties to do extra research and consult with accounting/tax experts before a settlement could be reached. At the second mediation, the matter was resolved.

Dismissed: 01/19/18. The appeal was dismissed after terms of the agreement were fulfilled.

3. **Velocity v. Bendtsen - 20170875** - Bendtsen appealed summary judgment arguing he was not responsible for the debt. (Summary judgment had also been entered against Rocky Mountain Shoe, a defunct company, for which Bendtsen had been an officer.)

Notice of Appeal filed: 10/30/17

Pourover date: 11/24/17

Docketing Statement filed: 11/16/17

Rec'd by Mediation: 11/29/17

Mediation originally scheduled: 12/12/17

Mediation held: 12/12/17

Settled: 12/12/17. A settlement was drafted and signed at mediation.

Dismissed: 01/26/18. The appeal was dismissed after terms of the agreement were fulfilled.

4. **Ansah v. Smith - 20170358** - multi-state paternity case.

Notice of Appeal filed: 05/04/17

Pourover date: N/A

Docketing Statement filed: 05/24/17

Rec'd by Mediation: 06/02/17

Order for Mediation sent: 06/06/17

Mediation originally scheduled: 06/27/17

Mediation held: 06/27/17 & 06/28/17. It was complicated two day mediation involving multiple out-of-state attorneys.

Settled: 01/23/18. It took months of post-mediation efforts, working with experts, and resolving issues in Michigan before a settlement could be reached.

Dismissed: 01/29/18. Once the terms of the agreement were fulfilled, the appeal was dismissed.

5. **Peck v. Steagall - 20170371** - Husband and wife owned a 1977 Cessna airplane which suffered significant damage. The plane was repaired over several years and sold by the wife after her husband died. Wife appealed the trial court's determination that she was liable to the purchaser for fraudulent non-disclosure and breach of duty to repair the plane. The court awarded the purchaser damages, interest, costs, fees, and the airplane.

Notice of Appeal filed: 05/08/17

Pourover date: 05/20/17

Docketing Statement filed: 05/30/17

Rec'd by Mediation: 06/02/17

Order for Mediation sent: 06/05/17

Mediation originally scheduled: 06/28/17

Mediation held: 06/28/17

Settled: 01/16/18. It took a great deal of post-mediation effort before the case was resolved.

Dismissed: 02/08/18. The appeal was dismissed after settlement requirements were fulfilled.

6. **Holman v. Holman - 20170621** - Grandparents gave family property to one son for safekeeping so they could qualify for Medicaid. The brother subsequently died. Litigation ensued between the brother's son, who claimed ownership of the property, and his aunts and uncles.

Notice of Appeal filed: 08/04/17

Pourover date: 08/24/17

Docketing Statement filed: 08/25/17
Rec'd by Mediation: 10/25/17
Order for Mediation sent: 10/25/17
Mediation originally scheduled: 11/17/17
Mediation held: 11/17/17
Settled: 11/17/17. A settlement agreement was drafted and signed at mediation.
Dismissed: 02/08/18. Once the terms of the agreement were fulfilled, the appeal was dismissed.

7. **Weldon v. Weldon - 20170988** - complicated divorce case.

Notice of Appeal filed: 12/14/17
Pourover date: N/A
Docketing Statement filed: 01/02/18
Rec'd by Mediation: 01/04/18
Order for Mediation sent: 01/04/18
Mediation originally scheduled: 01/19/18
Mediation held: 01/19/18
Settled: 01/19/18
Dismissed: 02/13/18. The appeal was dismissed after the agreement was finalized and approved.

8. **Hardman v. Hardman - 20170873** - multi-issue divorce case.

Notice of Appeal filed: 11/02/17
Pourover date: N/A
Docketing Statement filed: 11/22/17
Rec'd by Mediation: 11/29/17
Order for Mediation sent: 11/29/17
Mediation originally scheduled: 01/10/18
Mediation held: 01/05/18
Settled: 01/05/18. A settlement agreement was drafted and signed at mediation.
Dismissed: 02/13/18. After terms of the agreement were fulfilled, the appeal was dismissed.

9. **Allred v. Delta - 20170497** - Employee sought worker's comp benefits for low-back injury, abdominal problems and anxiety after she was injured on the job. Employee appealed the determination that only her low-back injury resulted from the accident and was a temporary injury.

Notice of Appeal filed: 06/21/17
Pourover date: N/A
Docketing Statement filed: 07/11/17
Rec'd by Mediation: 07/17/17
Order for Mediation sent: 07/19/17
Mediation originally scheduled: 08/24/17
Mediation held: 09/12/17 and 10/02/17

Settled: 02/05/18. Even after two mediation sessions, it took additional time, effort, and research to resolve the case. Issues of insurance, impact of employee's long-term disability status, and her future employment status had to be resolved.

Dismissed: 02/14/18. The case was dismissed after Labor Commission approval.

10. **JMT USA v. Vortex - 20170853** - Vortex and its owner appealed trial court's ruling that it owed money for goods and services, arguing payments hadn't been credited and workmanship was defective.

Notice of Appeal filed: 10/24/17

Pourover date: 11/16/17

Docketing Statement filed: 10/31/17

Rec'd by Mediation: 11/20/17

Order for Mediation sent: 11/20/17

Mediation originally scheduled: 12/05/17

Mediation held: 12/05/17

Settled: After participating in the mediation process, Vortex elected not to pursue the appeal.

Dismissed: 02/23/18

11. **Castro v. LABC - 20170917** - Pizza driver hurt her left knee getting into car while working. She appealed medical panel's determination that her knee issue was pre-existing and getting into a car wasn't enough to tear her meniscus.

Notice of Appeal filed: 11/27/17

Pourover date: N/A

Docketing Statement filed: 12/18/17

Rec'd by Mediation: 12/21/17

Order for Mediation sent: 12/21/17

Mediation originally scheduled: 01/12/18

Mediation held: 01/12/18

Settled: 01/12/18. Case settled at mediation.

Dismissed: 03/08/18. The appeal was dismissed after Labor Commission approval.

12. **Singh v. Diaz - 20170506** - Lease dispute between chef and his commercial landlord. Chef claimed he was paying a disproportionate share of utilities (there was no meter) and common area maintenance expenses.

Notice of Appeal filed: 06/27/17

Pourover date: 06/27/17

Docketing Statement filed: 07/17/17

Rec'd by Mediation: 08/03/17

Order for Mediation sent: 08/08/17

Mediation originally scheduled: 08/29/17

Mediation held: 09/05/17

Settled: 01/09/18. This was a highly contentious case that took months of effort after mediation to settle.

Dismissed: 03/20/18. After the agreement terms were fulfilled, the appeal was dismissed.

13. Singh v. Diaz - 20170905 - This appeal involved trial court's augmentation of damages awarded in the case between landlord and chef.

Notice of Appeal filed: 11/16/17

Pourover date: 12/07/17

Docketing Statement filed: 12/01/17

Rec'd by Mediation:

Order for Mediation sent:

Mediation originally scheduled:

Mediation held: This case resolved with the other appeal involving the same parties.

Settled: 01/09/18

Dismissed: 03/20/18. After the terms of the agreement were fulfilled, the appeal was dismissed.

14. Tafti v. Arabani - 20180096 - complicated divorce case.

Notice of Appeal filed: 02/01/18

Pourover date: N/A

Docketing Statement filed: 02/14/18

Rec'd by Mediation: 02/20/18

Order for Mediation sent: 02/20/18

Mediation originally scheduled: 03/15/18

Mediation held: 03/15/18

Settled: 03/15/18. A settlement agreement was drafted and signed at mediation.

Dismissed: 03/21/18

15. Castro v. Lemus - 20180094 - biological father appealed determination that presumed father, not he, had legal rights to the child.

Notice of Appeal filed: 01/31/18

Pourover date: N/A

Docketing Statement filed: 02/20/18

Rec'd by Mediation: 02/23/18

Order for Mediation sent: 02/23/18

Mediation originally scheduled: 04/05/18

Mediation held: 04/05/18

Settled: As a result of mediation discussions, the case was certified to the Supreme Court.

Dismissed: 04/12/18 Certified

16. Martin v. WCF - 20170457 - employee lost his left leg just above the knee after falling and getting his leg caught in an auger at work. The issue was whether the employee's injury was caused by the "willful failure" of his employer entitling employee to an additional 15% compensation. Employee appealed conclusion he wasn't entitled to extra 15%.

Notice of Appeal filed: 06/07/17

Pourover date: N/A

Docketing Statement filed: 06/28/17

Rec'd by Mediation: 07/11/17

Order for Mediation sent: 07/12/17

Mediation originally scheduled: 07/26/17

Mediation held: For nearly a year, the AMO had frequent conversations with counsel to discuss settlement and to monitor the status of the case. A stay was granted so the parties could obtain guidance from the Supreme Court in Rojas v. Labor Commission, Case No. 20160644, involving the same issue.

Settled: 04/12/18. After Rojas was decided, the parties were able to reach a settlement.

Dismissed: 04/18/18

17. Catlin v. Shepherd - 20180054 - A skier and a snowboarder collided at Solitude. Both suffered significant injuries—the skier broke his pelvis and shoulder; the snowboarder was life-flighted to the hospital with a ruptured spleen. The jury found them both at fault (no cause for plaintiff skier). Costs were awarded to snowboarder. Skier appealed.

Notice of Appeal filed: 01/18/18

Pourover date: 02/07/18

Docketing Statement filed: 02/06/18

Rec'd by Mediation: 02/09/18

Order for Mediation sent: 02/09/18

Mediation originally scheduled: 03/23/18

Mediation held: 03/23/18

Settled: 03/23/18. A settlement agreement was drafted and signed at mediation.

Dismissed: 04/19/18. After terms of the agreement were fulfilled the appeal was dismissed.

18. Rote v. Muskat - 20170511 - Scaffolding fell on a fuel line connected to fuel storage tanks. Employee tried to turn off the valve and was buried in pressurized oil. Several years ago we settled the indemnity (damages) portion of the claim. The parties were back to settle the medical expenses portion of the claim.

Notice of Appeal filed: 06/26/17

Pourover date: N/A

Docketing Statement filed: 07/17/17

Rec'd by Mediation: 10/02/17

Order for Mediation sent: 10/02/17

Mediation originally scheduled: 01/31/18

Mediation held: 01/31/18

Settled: 04/09/18. At mediation, the parties agreed upon five areas that needed to be resolved. Some of these issues were resolved at mediation (there was sufficient documentation.) Other issues took additional time and research to resolve.

Dismissed: 04/20/18. After Labor Commission approval, the appeal was dismissed.

19. Smith v. Enterprise - 2018012 - Smith suffered a head injury and lost her sense of taste and smell after she was hit in an airport crosswalk by a vehicle owned and operated by Enterprise. Enterprise's fault was conceded. Jury awarded Smith \$1.5M. Enterprise appealed.

Notice of Appeal filed: 02/12/18

Pourover date: 02/21/18

Docketing Statement filed: 03/02/18

Rec'd by Mediation: 03/12/18

Order for Mediation sent: 03/12/18

Mediation originally scheduled: 04/10/18

Mediation held: 04/10/18

Settled: 04/17/18. Continued efforts after the mediation led to a settlement.

Dismissed: 05/04/18. The appeal was dismissed after the terms of the agreement were fulfilled.

20. Hunt v. Hunt - 20170809 - multi-issue divorce case.

Notice of Appeal filed: 10/03/17

Pourover date: N/A

Docketing Statement filed: 10/07/17

Rec'd by Mediation: 10/31/17

Order for Mediation sent: 10/31/17

Mediation originally scheduled: 11/28/17

Mediation held: 11/28/17

Settled: 11/28/17. Settlement agreement was drafted and signed at mediation.

Dismissed: 05/08/18. Case was dismissed after settlement terms were fulfilled.

21. CJM Holdings v. Beehive Telephone - 20180135 - Beehive purchased CJM's promissory note from Zions. CJM brought suit in response to Beehive's foreclosure efforts asking the court to declare it wasn't in default.

Notice of Appeal filed: 02/16/18

Pourover date: 03/12/18

Docketing Statement filed:

Rec'd by Mediation: 03/20/18

Order for Mediation sent: 03/20/18

Mediation originally scheduled:

Mediation held: The AMO worked informally with the parties until a settlement was reached.

Settled: 04/27/18

Dismissed: 05/10/18

22. **WCF v. LABC - 20180091** - Question of which insurance company was liable. WCF, who insured the employee in 2015, paid claims for his right shoulder injury. In 2016, when the employee was covered by UBIC, he suffered a left shoulder injury. WCF appealed the determination that the injuries were connected and that it was liable for the second injury.

Notice of Appeal filed: 02/05/18

Pourover date: N/A

Docketing Statement filed: 03/23/18

Rec'd by Mediation: 03/08/18

Order for Mediation sent: 03/07/18

Mediation originally scheduled: 04/03/18

Mediation held: 04/03/18

Settled: 05/24/18. Continued efforts after the mediation led to a settlement.

Dismissed: 06/12/18. The appeal was dismissed after Labor Commission approval.

23. **Adams v. Adams - 20180030** - complicated divorce case.

Notice of Appeal filed: 01/11/18

Pourover date: N/A

Docketing Statement filed: 01/31/18

Rec'd by Mediation: 02/09/18

Order for Mediation sent: 02/09/18

Mediation originally scheduled: 02/27/18

Mediation held: 04/09/18 and 05/07/18

Settled: 05/07/18

Dismissed: 08/02/18. The case settled at the second mediation session where the agreement was drafted and signed. It took several months before the terms of the agreement were fulfilled. Then the case was dismissed.

24. **Jensen v. Jensen - 20180218** - complicated divorce case.

Notice of Appeal filed: 03/20/18

Pourover date: N/A

Docketing Statement filed: 04/09/18

Rec'd by Mediation: 04/13/18

Order for Mediation sent: 04/13/18

Mediation originally scheduled: 05/09/18

Mediation held: 05/09/18

Settled: 05/09/18. A settlement was reached at mediation and an agreement signed.

Dismissed: 08/02/18. After the terms of the agreement were fulfilled, the appeal was dismissed.

25. Kohler v. Board of Education - 20170278 - This appeal was brought by the Utah Education Association on behalf of a teacher.

Notice of Appeal filed: 06/02/17

Pourover date: N/A

Docketing Statement filed: 06/22/17

Rec'd by Mediation: 07/05/18

Order for Mediation sent: 07/09/18

Mediation originally scheduled: 07/20/18

Mediation held: 07/20/18

Settled: 07/20/18

Dismissed: 8/13/18. A settlement agreement was signed at mediation which resolved issues concerning the teacher. The agreement also dealt with future protocols for teacher discipline proceedings. The parties agreed to a neutral review of the teacher discipline process. The appeal was dismissed after the agreement was ratified by the entire Board of Education. (The Board Chair and a Board member attended the mediation.)

26. Furness v. Board of Education - 20170444 - This was an appeal by the Utah Education Association on behalf of a PE teacher.

Notice of Appeal filed: 06/02/17

Pourover date: N/A

Docketing Statement filed: 06/22/17

Rec'd by Mediation: 07/05/18

Order for Mediation sent: 07/09/18

Mediation originally scheduled: 07/20/18

Mediation held: 07/20/18

Settled: 07/20/18

Dismissed: 08/13/18. The settlement agreement drafted and signed at mediation resolved the issues concerning the teacher. The agreement also clarified discipline procedures and protocol for teachers in the future. The parties agreed to a neutral review of the teacher discipline process. The appeal was dismissed after the agreement was ratified by the full Board of Education.

27. Ruelas v. LABC - 20180136 - Employee appealed determination that only her shoulder was injured during an industrial accident. She wanted her employer to pay for cervical spine surgery which she argued was necessitated by the industrial accident.

Writ of Review 02/23/18

Pourover date: N/A

Docketing Statement filed: 03/21/18

Rec'd by Mediation: 03/22/18

Order for Mediation sent: 03/22/18

Mediation originally scheduled: 04/25/18

Mediation held: 04/25/18 and 06/14/18

Settled: 06/14/18

Dismissed: 08/13/18. The case settled after a second mediation session and was dismissed after Labor Commission approval.

28. **Bailey v. LABC - 20180384** - Employee was shot seven times when he intervened between two residents in the course and scope of his employment. The case concerned whether he was totally and permanently disabled.

Writ of Review filed: 05/23/18

Pourover date: N/A

Docketing Statement filed: 06/13/18

Rec'd by Mediation: 06/26/18

Order for Mediation sent: 06/27/18

Mediation originally scheduled:

Mediation held: In June 2018, the Appellate Mediation Office (AMO) began assisting counsel and the parties in finalizing a settlement agreement and obtaining Labor Commission approval.

Settled: 07/19/18

Dismissed: 08/16/18. After Labor Commission approval was obtained and requirements of the settlement met, the appeal was dismissed.

29. **Bellows v. MicroFocus - 20170799** - Software salesmen brought suit against former employer for non-payment of commissions.

Notice of Appeal filed: 10/03/17

Pourover date: 10/26/17

Docketing Statement filed: 10/13/17

Rec'd by Mediation: 03/05/18

Order for Mediation sent: 03/06/18

Mediation originally scheduled:

Mediation held: In March 2018, the AMO began assisting the parties with settlement discussions.

Settled: 08/17/18

Dismissed: 08/20/18

30. **Bacon v. Bacon - 20180323** - multi-issue divorce case.

Notice of Appeal filed: 04/26/18

Pourover date: N/A

Docketing Statement filed: 06/11/18

Rec'd by Mediation: 06/12/18

Order for Mediation sent: 06/12/18

Mediation originally scheduled: 06/25/18

Mediation held: 06/28/18

Settled: 08/14/18

Dismissed: 08/30/18. Extensive conversations and negotiations continued with counsel and parties after the mediation. Time was also spent drafting and re-drafting settlement documents ultimately leading to resolution.

31. **Bacon v. Bacon - 20180453** - This second and related appeal, concerning other divorce issues, was resolved in conjunction with Case No. 20180323.

Notice of Appeal filed: 06/08/18

Pourover date: N/A

Docketing Statement filed: 06/29/18

Rec'd by Mediation: 06/12/18

Order for Mediation sent: 06/12/18

Mediation originally scheduled: -6/28/18

Mediation held: 06/28/18

Settled: 08/14/18

Dismissed: 08/30/18. After settlement obligations were fulfilled, the appeal was dismissed.

32. **Chandra v. Chandra - 20170964** - complicated divorce case.

Notice of Appeal filed: 12/04/17

Pourover date: N/A

Docketing Statement filed: 12/12/17

Rec'd by Mediation: 12/12/17

Order for Mediation sent: 12/13/17

Mediation originally scheduled: 01/03/18

Mediation held: 01/03/18

Settled: 09/14/18. After months of effort, husband/dad elected not to pursue his appeal.

Dismissed: 09/14/18

33. **Martin v. Clayton - 20170035** - The case concerned division of oil and gas royalties by members of a family partnership. Clayton appealed the trial court's determination that he had breached the partnership agreement by purchasing shares from Martin without disclosing a new oil and gas lease.

Notice of Appeal filed: 01/05/17

Pourover date: 02/22/17

Docketing Statement filed: 01/17/17

Rec'd by Mediation: 02/28/17

Order for Mediation sent: 03/03/17

Mediation originally scheduled: 03/17/17

Mediation held: 03/17/17

Settled: 09/20/18. The mediation office worked with the parties for

months. The complicated nature of the settlement and a stay for further proceedings at the trial court added to the time, but ultimately efforts paid off and the case settled.

Dismissed: 09/25/18

34. In re Estate of Phillips - 20180168 - Half-siblings (two brothers and a sister) with different mothers disputed who was entitled to their deceased parents' annuities.

Notice of Appeal filed: 03/05/18

Pourover date: 03/23/18

Docketing Statement filed: 04/06/18

Rec'd by Mediation: 04/12/18

Order for Mediation sent: 04/13/18

Mediation originally scheduled: 05/04/18

Mediation held: 05/04/18

Settled: 09/20/18. The parties came to an agreement in principle at the mediation. It took several months to draft and agree upon the settlement language and to fulfil the terms of the settlement.

Dismissed: 09/28/18

35. Visser v. Robinson - 20180318 - Appellants took out two loans on behalf of a dissolved business entity. They appealed the trial court decision holding them personally liable for repayment of the loans.

Notice of Appeal filed: 04/26/18

Pourover date: 05/08/18

Docketing Statement filed: 08/02/18

Rec'd by Mediation: 08/02/18

Order for Mediation sent: 08/02/18

Mediation originally scheduled: 08/21/18

Mediation held: Writ of Review: 09/18/18

Settled: 09/18/18. Settlement agreement drafted and signed at mediation.

Dismissed: 10/3/18. Appeal was dismissed after terms of the agreement were fulfilled.

36. Call v. Call - 20180650 - complicated divorce case.

Notice of Appeal filed: 08/15/18

Pourover date: N/A

Docketing Statement filed: 09/04/18

Rec'd by Mediation: 09/07/18

Order for Mediation sent: 09/07/18

Mediation originally scheduled: 09/28/18

Mediation held: 10/02/18

Settled: 10/02/18. Settlement was reached and an agreement drafted at mediation.

Dismissed: 10/5/18

37. **First Class Rental v. White - 20180625** - First Class and White settled their dispute over whether White had damaged a house boat at Lake Powell. White appealed the trial court's refusal to award him attorney's fees claims from the collection agency that was involved in the case for a time.

Notice of Appeal filed: 08/07/18

Pourover date: 08/28/18

Docketing Statement filed: 08/14/18

Rec'd by Mediation: 08/30/18

Order for Mediation sent: 08/31/18

Mediation originally scheduled: 09/27/18

Mediation held: 09/27/18

Settled: 09/27/18. A settlement was reached and an agreement signed at mediation.

Dismissed: 10/11/18. After terms of the agreement were fulfilled, the case was dismissed.

38. **Wash. County School Dist. v. LABC - 20180552** - In 2003, Brown was injured while working as a school bus driver when he fell off the school bus steps. He was compensated for this injury. Years later, Brown was injured when a student unexpectedly jumped on his back. The Commission concluded that the 2003 injury significantly contributed to the outcome of the second injury. The school district appealed.

Writ of Review filed: 07/18/18

Pourover date: N/A

Docketing Statement filed: 08/07/18

Rec'd by Mediation: 09/24/18

Order for Mediation sent:

Mediation originally scheduled:

Mediation held: The mediation office worked informally with the parties to resolve the case.

Settled: 10/29/18

Dismissed: 11/01/18

39. **Trujillo v. Moss - 20180751** - Suit was brought against landlord. The dog of his tenant bit a visiting child. The child's family appealed the trial court's determination that landlord was not liable.

Notice of Appeal filed: 09/06/18

Pourover date: 10/03/18

Docketing Statement filed: 09/25/18

Rec'd by Mediation: 10/10/18

Order for Mediation sent: 10/11/18

Mediation originally scheduled: 10/26/18

Mediation held: 10/26/18

Settled: 10/26/18. Case was settled at mediation.

Dismissed: 11/07/18. Appeal was dismissed after paperwork was finalized and the terms of the agreement were fulfilled.

40. **Huntoon v. Sweet - 20180219** - Dispute between business partners regarding the use, possession, and ownership of real property and a boat storage building.

Notice of Appeal filed: 03/21/18

Pourover date: 04/06/18

Docketing Statement filed: 04/06/18

Rec'd by Mediation: 04/13/18

Order for Mediation sent: 04/13/18

Mediation originally scheduled: 05/02/18

Mediation held: 05/02/18

Settled: 11/10/18. Post mediation efforts led to a settlement.

Dismissed: 11/14/18

41. **Washenko v. Lovelady - 20170076** - Partner appealed determination by trial court that he took money from partnership without approval.

Notice of Appeal filed: 01/25/17

Pourover date: 02/17/17

Docketing Statement filed: 02/10/17

Rec'd by Mediation: 02/21/17

Order for Mediation sent: 02/22/17

Mediation originally scheduled: 03/14/17

Mediation held: 06/01/17

Settled: 11/14/18. After changes in counsel, stays, a bankruptcy, resolution with third parties, months of effort, a settlement was finally reached.

Dismissed: 11/21/18

42. **Woodbury v. YP Advertising - 20180404** - Attorney obtained a default judgment against Yellow Pages for overbilling. That judgment was set aside and attorney appealed.

Notice of Appeal filed: 05/29/18

Pourover date: 06/08/18

Docketing Statement filed: 06/13/18

Rec'd by Mediation: 06/18/18

Order for Mediation sent: 06/19/18

Mediation originally scheduled: 07/12/18

Mediation held: 08/17/18

Settled: 08/17/18. The parties settled in principle at mediation. It then took time for corporate approvals and to draft the settlement.

Dismissed: 12/17/18. The appeal was dismissed after the terms of the agreement were fulfilled.

43. **Buxton v. Buxton - 20180723** - divorce case.

Notice of Appeal filed: 09/08/17

Pourover date: 09/27/17

Docketing Statement filed: 02/06/18

Rec'd by Mediation: 08/15/18

Order for Mediation sent: 08/15/18

Mediation originally scheduled: 09/05/18

Mediation held: 09/05/18

Settled: 12/13/18. It took time and extra effort for this complicated and contentious appeal to resolve.

Dismissed: 12/18/18

Tab 9

MEMORANDUM

TO: Judicial Council Management Committee

FROM: Board of District Court Judges

RE: Fifth District Representation on the Board of District Court Judges

Dear Chief Justice Durrant and members of the Judicial Council,

At this time, the Board of District Court Judges asks that the Judicial Council establish a permanent position on the Board for a representative from the Fifth Judicial District. The Board requests this position be added in order to gain better representation from districts and regions across the state.

Currently the board consists of ten positions¹. Two of the positions on the board are shared by the Fifth, Sixth, Seventh and Eighth Judicial Districts. Under the current rotation, it is possible that no judge from the Fifth District would sit on the Board. This is concerning given the size and needs of this growing district.

The Fifth District is home to Washington County and the nation's fastest growing metropolitan area². The result of this growth brings unique needs and challenges to the Fifth District that may not be represented by the other districts which share these positions on the Board. The Sixth, Seventh and Eighth Districts are comprised of mostly rural and low density populations. These demographics no longer represent much of the population in the Fifth District.

Additionally, the First District, historically being most similar to the Fifth District, has one dedicated position on the Board. Presently, there are four District Court Judges in the First District. In the 2017 legislative session the number of Fifth District Judges was increased from five to six judges³. The Sixth, Seventh, and Eighth Districts combined have eight judges. This imbalance underscores the need to add a dedicated position to the Board in order to maintain equal representation across the state.

The proposed rule change is attached hereto.

Rule 6-101. The Board of District Court Judges.

¹ UCJA 6-101

² St. George metro area reported fastest growing in the nation by the U.S. Census Bureau in 2018.
<https://www.census.gov/newsroom/press-releases/2018/popest-metro-county.html>

³ Utah Code 78A-1-103. 2017 legislation increasing the number of Fifth District Judges HB77

Intent:

To establish the Board of District Court Judges.

To prescribe the composition of the Board's membership, the method of selecting Board members and officers, and the members' terms of office.

To establish the procedure of the Board in the conduct of Board meetings.

Applicability:

This rule shall apply to the Board of District Court Judges.

Statement of the Rule:

(1) There is hereby established a Board of District Court Judges.

(2) Members of the Board shall be elected by the district court judges present at the district court business meeting at the annual judicial conference. The judges present at this meeting shall constitute a quorum. Nominations may be made only by district court judges, and must come from the judicial district or districts in which the vacancy exists.

(3) The Board shall consist of the following ten eleven positions:

(3)(A) one from the First Judicial District;

(3)(B) two from the Second Judicial District;

(3)(C) three from the Third Judicial District;

(3)(D) two from the Fourth Judicial District;

(3)(E) one from the Fifth Judicial District;

(3)(E)(F) two from the ~~Fifth~~, Sixth, Seventh or Eighth Judicial District.

(4) Members of the Board shall serve staggered three-year terms or until a Board member is replaced or resigns.

(5) There shall be a Chair and Vice Chair of the Board selected from among the Board. The Vice Chair shall be elected by the Board members and shall be in the first or second year of a three-year term. The Vice Chair shall serve as Chair in the absence of the Chair or at the request of the Chair.

(6) The Vice Chair shall become Chair of the Board during the second or third year of a three-year term. The Chair shall preside over all meetings of the Board and over the annual district court business meeting.

(7) If a vacancy occurs for any reason between annual district court business meetings, the Board shall elect a replacement for the unexpired term of the vacancy. The Board shall adhere to the district makeup of the Board in this selection.

(8) Should the Chair of the Board resign or leave the Board for any reason, the Vice Chair shall become Chair, serving both the unexpired term of the Chair and full term as Chair.

(9) In the event that the Vice Chair of the Board resigns or leaves the Board for any reason a new Vice Chair shall be selected by the Board from among its members to serve the unexpired term of the Vice Chair.

(10) The Board shall meet a minimum of once every two months to transact any and all business that is within its jurisdiction.

(11) The Board shall act by majority vote. All members of the Board have the right to vote. Six members of the Board constitute a quorum.

(12) When a Board member is unable to attend a Board meeting, that member may designate a district judge, from the same district or districts represented by the absent member, to attend the meeting on behalf of the absent member. The substitute judge shall be provided with a copy of the agenda and other meeting materials, may attend the open and closed sessions of the meeting, and may participate in the discussion of agenda items. However, the substitute judge may not make motions or vote on Board issues.

(13) Board meetings shall be conducted in accordance with Robert's Rules of Order.

(14) All business conducted by the Board shall be conducted in accordance with this Code.



Judge Samuel Chiara
Chair, Board of District Court Judges

Tab 10

Fourth Judicial District Courthouse

Courthouse Facts and Figures

GROUND BREAKING: May 24, 2016

SUBSTANTIAL COMPLETION: November 16, 2018

TOTAL PROJECT COST: \$91,581,580 –funded through revenue bonds

LAND ACQUISITION: Acquired through a land exchange between the State of Utah, Provo City and Utah County

BUILDING ARCHITECT: VCBO Architecture; Salt Lake City, Utah

BUILDING CONSTRUCTION: Okland Construction; Salt Lake City, Utah

ART SCULPTURE: Name- *Circling Spire*; Artist- Lyle London; 35' x 12' x 12'

BUILDING OCCUPANTS: Consolidates District Court, Juvenile Court, Office of Guardian ad Litem, and Child Welfare Mediation into one location

TOTAL EMPLOYEES: 100

EXISTING PROVO DISTRICT COURTHOUSE: Sold to Mountainland Technical College; **Orem**

Juvenile Courthouse: To be occupied by Department of Children and Family Services; **Provo Juvenile**

Courthouse: To be occupied by Juvenile Justice Services

BUILDING STRUCTURE FACTS:

- 2nd Largest Courthouse in Utah
- 230,000 square feet facility
- 8 stories
- 16 Courtrooms (and 2 shelled courtrooms for future expansion)
- 2,500 Tons of steel
- 52,539 square feet of windows
- 12,539 Cubic Yards of Concrete: Equivalent to pouring a sidewalk (4 feet wide & 4 inches deep) 48 miles long stretching from Provo to Salt Lake City!

MOST TECHNOLOGICALLY ADVANCED COURTHOUSE IN THE STATE:

- **Courtroom Audio Video Advancements:** Each counsel table and lectern in all 16 courtrooms has VGA, HDMI video and analog audio inputs. The video source will be viewable on monitors placed throughout the courtroom (counsel tables, lectern, witness box, clerk station, judge's bench, and a large audience monitor).
- 73 Wireless access points
- 28 new 48 port switches to support 1,344 wired network ports
- Over 200,000 feet of cable stretching from Provo to Murray, Utah.

AWARD WINNING FACILITY:

- **Utah Construction & Design:** 2018 Utah Most Outstanding Project of the Year
- **Associated General Contractors:** 2018 Utah Most Outstanding Government/ Public Building

Tab 11

Creating a Well-Being Movement in the Utah Legal Community

Report and Recommendations from

**THE UTAH TASK FORCE
ON LAWYER AND JUDGE WELL-BEING**

February 2019

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INTRODUCTION: A Call to Action

The National Task Force on Lawyer Well-Being sounded a wake-up call in 2017 with its report titled “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change.” The Report drew upon a 2016 study of nearly 13,000 practicing lawyers commissioned by the American Bar Association and the Hazelden Betty Ford Foundation. The Report’s message is clear: too many lawyers are struggling. The 2016 Study found that a high rate of lawyers experience some level of problem drinking, depression, and anxiety.¹

While most lawyers may not have a mental health or substance abuse disorder, that does not mean they are flourishing. The Report notes that many lawyers struggle with stress, work addiction, and sleep deprivation.² And “[m]any lawyers experience a ‘profound ambivalence’ about their work”³ Job dissatisfaction and attrition are challenges for lawyers and legal employers alike.

These problems start early. While law students generally begin law school with “high life satisfaction and strong mental health measures,”⁴ this changes for the worse within the first year. “Law students are among the most dissatisfied, demoralized, and depressed of any graduate student population.”⁵

These problems are compounded by the tendency of lawyers and law students to avoid seeking help.

The National Task Force’s report focused on five central themes:

(1) identifying stakeholders and the role each of us can play in reducing the level of toxicity in the legal profession;

¹ THE PATH TO LAWYER WELL-BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE 7 (Aug. 2017) [hereinafter *THE PATH TO LAWYER WELL-BEING*] (citing Patrick R. Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46, 46 (2016)).

² *Id.* The Study found that 21–36% of lawyers are problem drinkers, 28% struggle with depression, and 19% experience anxiety. See Patrick R. Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46, 46 (2016).

³ *Id.* (citing Jerome M. Organ, *What Do We Know About the Satisfaction/Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being*, 8 U. ST. THOMAS L. J. 225, 225 (2011); Lawrence S. Krieger & Kennon M. Sheldon, Ph.D., *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554, 554 (2015)).

⁴ *Id.* at 35.

⁵ *Id.* (citing Abigail A. Patthoff, *This Is Your Brain on Law School: The Impacts of Fear-Based Narratives on Law Students*, 2015 UTAH L. REV. 391, 424 (2015)).

- (2) eliminating the stigma associated with help-seeking behaviors;
- (3) emphasizing that well-being is an indispensable part of a lawyer's duty of competence;
- (4) educating lawyers, judges, law schools, and law students on lawyer well-being issues; and
- (5) taking small, incremental steps to change how law is practiced and how lawyers are regulated to instill greater well-being in the profession.

The National Task Force issued a call to action, challenging leaders in the legal profession to “get serious” about the well-being of lawyers.

The Utah Supreme Court and the Utah State Bar have accepted the challenge. Together, we have established the Utah Task Force on Lawyer and Judge Well-Being to create a well-being movement in the Utah legal community.

THE UTAH TASK FORCE ON LAWYER AND JUDGE WELL-BEING

Our Mission: Creating a well-being movement in the Utah legal community

The Utah Task Force on Lawyer and Judge Well-Being is co-chaired by Utah Supreme Court Justice Paige Petersen and Utah State Bar President Dickson Burton. In the summer of 2018, Justice Petersen and Mr. Burton gathered stakeholders from throughout the legal community to form the Task Force. The Task Force includes representatives from the following groups, entities, and fields: judges, the Administrative Office of the Courts, the Utah State Bar, the Office of Professional Conduct, other regulators, lawyers from large and small private firms, solo practitioners, legal employers, Young Lawyers Division, Lawyers Helping Lawyers, Minority Bar Association, the University of Utah S.J. Quinney College of Law, Brigham Young University J. Reuben Clark Law School, the Department of Substance Abuse and Mental Health, the field of Applied Positive Psychology, and the Utah Psychological Association.

The Task Force was charged with the following assignment: 1) carefully review the National Task Force Report, and 2) using it as a springboard, draw upon the expertise of Task Force members to develop recommendations for each stakeholder category in the Utah legal community. We have done so, and our recommendations are included in this report.

The Task Force believes it is crucial to gather data up front in order to set a baseline for lawyer well-being in Utah. This will allow us to measure our efforts going forward to determine what is working, what isn't working, and whether we have unique challenges in Utah that we must address.

This is our call to action. We hope these recommendations will be a valuable resource for judges, lawyers, legal employers, law students, law schools, regulators, and the Bar as we create our own well-being movement in Utah.

TASK FORCE CHAIRS

Honorable Paige Petersen
Dickson Burton

CHIEF STAFF

Kim Free, PhD

STAFF ATTORNEY

Elizabeth Wright

COMMITTEE MEMBERS

Wendy Archibald
Barbara Dickey
Robert Denny
Cathy Dupont
Dr. Valerie Hale

Honorable Kim Hornak

Honorable Elizabeth Hruby-Mills

Brent Kelsey

Martha Knudson

Cassie Medura

Brook Millard

Andrew Morse

Chris Newbold

James Sorenson

Cara Tangaro

CONSULTANTS

Rick Schwermer

John Baldwin

THE PROBLEM⁶

Practicing lawyers experience high rates of mental health and substance abuse disorders, along with general job dissatisfaction, stress, and anxiety.

problem drinking - 21–36%

depression - 28%

anxiety - 19%

elevated stress - 23%

work addiction - 25%

suicide

sleep deprivation

work-life conflict

avoid seeking help

job dissatisfaction and ambivalence

attrition

⁶ THE PATH TO LAWYER WELL-BEING 7 (citing Patrick R. Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46, 46 (2016)); Anne M. Brafford, *Building the Positive Law Firm: The Legal Profession at Its Best*, (Aug. 1, 2014) (Master's Thesis, Univ. Pa., on file with U. Pa. Scholarly Commons Database), https://repository.upenn.edu/mapp_capstone/62/; Jerome M. Organ, *What Do We Know About the Satisfaction/Dissatisfaction of Lawyers? A Meta-Analysis of Research on Lawyer Satisfaction and Well-Being*, 8 U. ST. THOMAS L. J. 225, 225 (2011)).

WHAT IS WELL-BEING?

Well-being is a broad concept. It is more than the absence of substance abuse or mental health disorders. It is “a continuous process toward thriving”⁷ in all dimensions of life. This includes:

Emotional: Recognizing the importance of emotions; developing the ability to identify and manage our own emotions to support mental health, achieve goals, and inform our decision-making; seeking help for mental health when needed.

Occupational: Cultivating personal satisfaction, growth, and enrichment in our work; obtaining financial stability.

Intellectual: Engaging in continuous learning and the pursuit of creative or intellectually challenging activities that foster ongoing development; monitoring cognitive wellness.

Spiritual: Developing a sense of meaning and purpose in one’s life.

Physical: Striving for regular physical activity, proper diet and nutrition, sufficient sleep, and recovery; minimizing the use of addictive substances; seeking help for physical health when needed.

Social: Developing a sense of connection, belonging, and a well-developed support network while also contributing to our groups and communities.

⁷ THE PATH TO LAWYER WELL-BEING 9.

THE CASE FOR WELL-BEING

Beyond being the right thing to do, there are other important reasons to focus on well-being.

First, well-being is preventative. By proactively identifying and implementing well-being strategies, we can help reduce the chances of Utah lawyers and judges becoming unwell in the first instance.⁸

Second, well-being is strongly connected to ethics and professionalism. Rule 1.1 of the Utah Rules of Professional Conduct requires lawyers to provide competent representation,⁹ which is negatively impacted when a lawyer's well-being declines. For example, alcohol abuse and major depression impair core functions necessary for competent lawyering – causing diminished memory, reduced problem-solving skills, and impaired executive function.¹⁰

Finally, well-being is good for business. People who are thriving perform better, are more likely to enjoy their careers, are less likely to leave their jobs, and have more satisfied clients.¹¹

⁸ See THE PATH TO LAWYER WELL-BEING 33 (speaking to the creation and utility of preventative well-being programs).

⁹ UTAH SUPREME COURT RULES OF PROF'L CONDUCT 1.1 (2019).

¹⁰ THE PATH TO LAWYER WELL-BEING 8–9.

¹¹ *Id.* at 8.

HOW DO WE BEGIN?

How do we start a well-being movement in the Utah legal community? To answer that question, Task Force members developed recommendations specific to the following sectors of the legal community:

Judges

Lawyers and Legal Employers

Regulators

Utah State Bar

Law Schools

RECOMMENDATIONS FOR JUDGES

1. Determine judges' well-being baseline. Commission a scientific study of judges to measure well-being, including stress, depression, anxiety, substance abuse, and attitudes toward seeking mental health and substance abuse treatment. If possible, this study should also measure data specific to judges, such as secondary trauma and compassion fatigue. The study will be confidential and scientifically valid. Because there will be a financial cost for this, we recommend coordinating with similar studies of lawyers and law students, if possible, to share costs.
2. Create a framework for future studies at regular intervals. These studies will measure changes from the baseline and evaluate where well-being has improved or worsened, which efforts are working, which efforts are not working, and what specific challenges judges continue to face. This information will ensure that we continue to improve our efforts to increase judicial well-being in an evidence-based manner. These studies will be confidential and scientifically valid. Because there will be a financial cost for this, we recommend coordinating with similar studies of lawyers and law students, if possible, to share costs.
3. Communicate that well-being is a priority. We encourage judges and other leaders in the judicial branch to communicate the importance of well-being whenever possible and in multiple media. This can be done not only during presentations and speeches or in written articles, but more informally in judges' interactions with lawyers and other judges in and outside of court. We note that these efforts are already underway. At the 2018 Utah State Bar Summer Convention in Sun Valley, Idaho, Chief Justice Matthew Durrant focused on the importance of lawyer well-being in his address to the convention. And as co-chair of this Task Force, Justice Petersen has spoken about well-being to incoming law students at the University of Utah College of Law during orientation week, to judges at the 2018 annual judicial conference, to lawyers at the 2018 Utah State Bar Fall Forum, to firm leaders/managing partners at a Bar-sponsored breakfast for leaders of large law firms, and to women lawyers at the 2019 Banter With the Bench event.

4. Develop high quality training on well-being for new judge orientation, the annual judicial conference, and annual bench-level conferences. Well-being education should be integrated into new judge training in order to prepare new judges for the challenges and stressors they will face, and provide them with tools to handle those challenges as effectively as possible. High quality well-being education should also be included at the judicial conference and bench-level conferences. Topic ideas can be found in Appendix B to the National Task Force Report.
5. Update policies regarding impaired judges and educate judges about those policies. The courts currently have policies and procedures for impaired judges. These policies should be reviewed and modified as necessary to reflect the current understanding of behavioral and mental health issues. These policies and procedures should be communicated to judges and presiding judges through educational materials, trainings, and bench meetings.
6. Reduce the stigma attached to substance abuse and mental health disorders, and encourage help-seeking behavior. Train presiding judges to identify mental health and substance use disorders amongst judges, and eliminate the stigma associated with mental health and substance use disorders. Encourage presiding judges to convey an attitude of support. Include this role in presiding judge education.

RECOMMENDATIONS FOR LAWYERS AND LEGAL EMPLOYERS

1. Educate law firms on how to form a well-being committee. We will conduct in-person meetings with a number of local law firms, yet to be determined. We will communicate why it is in a firm's interest to prioritize lawyer well-being, including that lawyers who are well balanced mentally, physically, and emotionally are more successful in their performance and better stewards of the practice of law. We will guide any interested law firm in establishing its own internal well-being committee.
2. Assist firms in establishing policies and practices to support lawyer well-being. We suggest using the Lawyer Well-Being Tool Kit as a guide when speaking to firms/partners/boards. (See Appendix B of the National Task Force Report.)

RECOMMENDATIONS FOR REGULATORS

“Regulators” are broadly defined by the ABA as including the highest court in each state and all stakeholders who assist that court in regulating the practice of law.¹² This “includes lawyers and staff in regulatory offices; volunteer lawyer and non-lawyer committee, board, and commission members; and professional liability lawyers who advise law firms and represent lawyers in the regulatory process.”¹³ In Utah, “regulators” include the Utah Supreme Court, the Utah State Bar, the Office of Professional Conduct, the Committee on Ethics and Discipline of the Supreme Court, the Supreme Court’s Advisory Committee on Continuing Legal Education, the Utah State Bar’s Admissions Committee, and the Utah State Bar’s Character and Fitness Committee.

Regulators are well positioned to identify conditions that can be detrimental to well-being, and they can be instrumental in improving regulatory processes to address conditions that produce toxic professional environments.

1. Revise rules as needed to prioritize lawyer well-being. We recommend evaluating relevant rules to prioritize rehabilitation over punishment where appropriate. This would include evaluating the rules governing Lawyer Discipline and Disability and any other relevant rules, and considering alternatives to discipline such as diversion programs. The ABA has recognized that to accomplish other professional objectives, the profession must first have healthy, competent lawyers.¹⁴ Healthiness, competency, and contentedness stem from effective rehabilitation. Amendments that prioritize rehabilitation over punishment will promote lawyer well-being, provide a healthier, more competent bar, and will ultimately protect clients.
2. Evaluate amending the rules of professional responsibility to endorse well-being as part of a lawyer’s duty of competence. Lawyers owe a duty of competence to their clients.¹⁵ “Competent” representation is defined as requiring “the legal knowledge, skill,

¹² Resolution 105, AMERICAN BAR ASSOCIATION (Feb. 5, 2018), https://www.americanbar.org/news/reporter_resources/midyear-meeting-2018/house-of-delegates-resolutions/105/.

¹³ THE PATH TO LAWYER WELL-BEING 25.

¹⁴ *Id.*

¹⁵ MODEL RULES OF PROF’L CONDUCT r. 1.1 (AM. BAR ASS’N 2018), https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/.

thoroughness and preparation reasonably necessary for the representation.”¹⁶ We should study amending applicable rules to include well-being as part of a lawyer’s duty of competence. In the event of such an amendment, the intention would not be for lawyers to be punished for failing to satisfy the well-being requirement. Instead, enforcement of this provision would proceed only in the case of actionable misconduct in client representation or in connection with disability proceedings.¹⁷ The intent of this proposed modification is to “remind lawyers that their mental and physical health impacts clients and the administration of justice.”¹⁸

3. Expand continuing education curriculum to include well-being topics. Regulators should evaluate expanding continuing education curriculum to include well-being topics. We should consider whether this should take the form of a required well-being hour of credit per reporting period, or simply granting CLE credit for this type of programming. In 2017, the ABA proposed a new rule that would require “lawyers to earn at least one credit hour every three years of CLE programming that addresses the prevention, detection, and/or treatment of ‘mental health and substance use disorders.’”¹⁹ Topic ideas can be found in Appendix B to the National Task Force Report. We note that this effort is already underway: for example, at the 2018 Utah State Bar Fall Forum, the MCLE Board granted CLE credit for well-being-related programming, including a plenary session addressing well-being topics and a day-long track of well-being-related sessions.
4. Re-evaluate bar application inquiries about mental health history. There is controversy regarding whether bar admission agencies should eliminate inquiries about applicants’ mental health as part of fitness evaluations for licensure. Some argue that those inquiries discourage people in need of help from seeking it. Others contend that this information is necessary to evaluate the risk applicants might pose to the public. In 2015, the ABA adopted a resolution that such inquiries should be more narrowly focused “on conduct or behavior that impairs an applicant’s ability to practice law in a competent, ethical, and

¹⁶ *Id.*

¹⁷ THE PATH TO LAWYER WELL-BEING 26.

¹⁸ *Id.*

¹⁹ *Id.* (citing RULES OF THE STATE BAR OF CAL., Title 2, Div. 4, R. 2.72 (2017)).

professional manner.”²⁰ We recommend evaluating current admission inquiries to ensure they closely focus on such conduct or behavior rather than more general diagnosis or treatment history, as appropriate.

²⁰ AM. BAR ASS’N RESOL. 102 (August 2015).

RECOMMENDATIONS FOR THE UTAH STATE BAR

In addition to the recommendations for regulators that may involve the Bar, the following recommendations are specific to the Utah State Bar.

1. Sponsor a study to determine Utah lawyers' well-being baseline. Commission a scientific study of Utah lawyers to measure well-being, including stress, depression, anxiety, substance abuse, and attitudes toward seeking mental health and substance abuse treatment. The study will be confidential and scientifically valid. Because there will be a financial cost to this, we recommend coordinating with similar studies of judges and law students, if possible, to share costs.
2. Create a framework for future studies at regular intervals. These studies will measure changes from the baseline and evaluate where well-being has improved or worsened, which efforts are working, which efforts are not working, and what specific challenges Utah lawyers continue to face. This information will ensure that we continue to improve our efforts to increase lawyer well-being in an evidence-based manner. These studies will be confidential and scientifically valid. Because there will be a financial cost for this, we recommend coordinating with similar studies of judges and law students, if possible, to share costs.
3. Sponsor high-quality CLE programming on well-being-related topics. Develop and gather existing educational programming on well-being-related topics. Bar leadership should adopt a goal of providing at least one well-being-related educational opportunity at the Spring and Summer Conventions and the Fall Forum, and at other Bar-sponsored events where appropriate and possible. As noted above, these efforts have already begun: the 2018 Fall Forum included a plenary session addressing well-being and a day-long track of sessions filled with well-being-related topics. These sessions were full and well-received. The Bar has planned additional well-being-related programming for its 2019 events and conventions.
4. Consider creating "best practice" model policies. The National Task Force recommends that state bar associations develop "best practice" model policies for legal employers in

areas that affect well-being, such as: responding to lawyers in distress, responding to lawyers with substance abuse problems, diversity and inclusion, mentoring, work-life balance, etc.²¹ We should assess whether any such policies are already being developed (for example, by the Utah Center for Legal Inclusion), and if not, whether this is something the Bar would want to undertake.

²¹ THE PATH TO LAWYER WELL-BEING 41.

RECOMMENDATIONS FOR LAW SCHOOLS

Both law schools are committed to improving the culture of legal education and the law school experience, which currently can be detrimental to students' mental, emotional, and physical health. This is a lofty goal that will require commitment from faculty, students, and employers. Such change will not happen overnight. But by taking incremental steps, we can begin a process of cultural transformation that will lead to a healthier law school environment over time.

1. Sponsor a study to determine first-year law students' well-being baseline. Commission a scientific study of Utah law students to measure well-being, including stress, depression, anxiety, substance abuse, and attitudes toward seeking mental health and substance abuse treatment. We recommend an initial study be administered to incoming students as early as possible. The study will be confidential and scientifically valid. Because there will be a financial cost for this, we recommend coordinating with similar studies of judges and lawyers, if possible, to share costs.
2. Create a framework for future surveys at regular intervals. Future studies should be repeated at set intervals (for example, at the end of 1L, 2L, and 3L years). These studies will measure changes from the baseline and evaluate where well-being has improved or worsened, which efforts are working, which efforts are not working, and what specific challenges law students at the University of Utah and Brigham Young University continue to face. This information will ensure that we continue to improve our efforts to increase law student well-being in an evidence-based manner. These studies will be confidential and scientifically valid. Because there will be a financial cost for this, we recommend coordinating with similar studies of judges and lawyers, if possible, to share costs.
3. Continue current efforts. Both law schools have already implemented some strategies to promote student welfare.
 - a. The strategies they have in common include:
 - (i) disseminating information about University and community resources (Wellness Center; Counseling Center; OEO; Title IX Office; Center for Sexual Assault; etc.);

- (ii) working with Career Services to provide more information to students about non-law firm and other non-traditional employment opportunities; and
 - (iii) actively encouraging employers to focus on critical professional skills that are not reflected in grades.
- b. Additional strategies at the University of Utah College of Law include:
 - (i) mindfulness/meditation sessions (Mindful Mondays);
 - (ii) a new spring upper-division course titled Mindful Lawyering taught by professor Cliff Rosky (students will complete pre- and post-course empirically validated assessments that will measure stress, well-being, and mindfulness. Professor Rosky is willing to share his findings with the committee);
 - (iii) mandatory stress management sessions for first-year students; and
 - (iv) therapy dogs during exams.
- c. Additional strategies at Brigham Young University Law include:
 - (i) leadership training – communicating to students that a law degree is a leadership degree through a variety of leadership courses and newly created leadership fellowships;
 - (ii) professional identity formation – based on Neil Hamilton’s book “Road Map,” first-year curriculum includes weekly classes on the development of twenty professional competencies. Five of those competencies are reflected in students’ grade point averages. Other competencies include trustworthiness, good judgment, problem solving, work ethic, and interpersonal and organizational skills;
 - (iii) training all faculty and employees on this approach;
 - (iv) hiring a counselor charged, in part, with developing a more robust well-being program; and

- (v) instituting a Wednesday Forum, which focuses on innovative changes in legal practice that broaden the range of career alternatives for students.
4. Create a new student organization to promote student well-being and/or a student well-being committee. The group would: a) sponsor well-being-related activities that would be student-led and student-driven; b) sponsor a series of presentations on student well-being (stress management, physical health, resiliency training) by either the student well-being group or by the law school; and c) coordinate with the Student Counseling Center to have an on-site counselor for a portion of the week (subject to budgetary approval).
 5. Continue developing peer-to-peer mentoring programs. Both schools have mentoring programs that pair incoming first-year students with either second or third-year students. The law schools will continue to train the mentors to focus on more than academic success. Mentors can provide encouragement and perspective to first-year students, with emphasis on mental and emotional well-being. Further, mentors can help detect when a student is struggling, and assist in getting help.
 6. Educate professors on well-being issues specific to law students. Topics relevant to law students can be found in Appendix E of the National Task Force Report.

NEXT STEPS

These recommendations are intended to start a well-being movement in Utah. But we must do more than begin. We aim to lay a foundation that will support well-being efforts in the long term. We recommend the following two steps to transition into implementing the recommendations we have set forth.

1. Establish a permanent Committee on Lawyer and Judge Well-Being. The Task Force is a temporary group of experts formed to make recommendations on how Utah can start its own well-being movement. We now need to implement those recommendations, gather data about whether they are working, and then adapt and improve based on the evidence we collect. This is a long-term endeavor. To do this, we need a permanent committee.
2. Determine whether we need a paid director for the Committee. The work load for this committee may be too much to rely entirely upon volunteers. Questions to consider include: do we need a paid director; who should employ the director; what are the responsibilities of this position; and is this a full or part-time job?

CONCLUSION

Elevating the well-being of the members of our legal community is a big task. We must be innovative. And we must be willing to gather data and assess our efforts critically, so that we can continuously improve.

As with any endeavor of such magnitude, it begins with a single step. These recommendations represent our first steps toward a well-being movement in Utah. We hope these recommendations will create a path toward greater well-being for all the members of our legal community.

APPENDIX A

Implementation Plan Timeline:

2019

Jan–May	Release report and prepare action plans for permanent committee
June	Distribute study to gather local baseline data
July	“Kick-off” Action Plan (new FY’20) Summer Bar Conference, Park City, Utah

2020

June	Distribute local study to compare data
------	--

2023

June	Distribute local study to compare data/revisit work
------	---

Tab 12



Senior Judge Dennis Fuchs <dfuchs@utcourts.gov>

Drug Court Certification

2 messages

Judge Mary Manley <mmanley@utcourts.gov>
To: Judge Dennis Fuchs <dfuchs@utcourts.gov>

Tue, Mar 19, 2019 at 8:12 AM

Judge Fuchs,

I have had an opportunity to discuss employment requirements as they relate to drug court certification with my team. As previously committed, the requirement for gainful employment and/or community service hours has been eliminated from Phase I and Phase II drug court requirements. Per my understanding, the Judicial Council sought a further guarantee that employment/community service requirements would not be mandated in child and family plans involving drug court participants in Phases I and II. We are able and willing to comply with this request the manner of which I am outlining below in the event there are further questions.

Child and family plans are in place throughout the entirety of a case with some front end requirements that require immediate attention and some on the back end that add supports when a child is returned home. By statute, plans are required within 45 days of disposition. Gainful employment is a common child and family plan term, but it is almost always a back end service. Because not all cases that involve substance abuse disorder qualify as high-risk/high-need, and because many cases are still in the assessment stage when the child and family plan is ordered, we are not always able to distinguish the non-drug court plan from the drug court plan. Therefore, any child and family plan requirements for gainful employment will indicate that a good cause exception applies during Phases I and II of drug court (or longer as needed), should drug court be court ordered. This language will also be part of the court order for drug court.

If you need a more formal letter, I am happy to provide one; otherwise, I await the Council's decision.

Thank you.

Judge Dennis Fuchs <dfuchs@utcourts.gov>
To: Judge Mary Manley <mmanley@utcourts.gov>

Tue, Mar 19, 2019 at 8:39 AM

Thanks Mary. I will forward on to the council

Sent from my iPhone
[Quoted text hidden]



Senior Judge Dennis Fuchs <dfuchs@utcourts.gov>

Certification of Dependency Drug Court5 messages

Senior Judge Dennis Fuchs <dfuchs@utcourts.gov>
To: Judge Brent Bartholomew <bbartholomew@utcourts.gov>

Mon, Mar 11, 2019 at 12:08 PM

Brent the Judicial Council was reviewing checklists for certification this last Friday. On your checklist you submitted to me you indicated that your dependency drug court was not screening for high risk high needs individuals. Since this is a best practice the council would like you to explain why. I am wondering if this was a mistake on your part. Usually the treatment agency is doing the screening and letting you know who is acceptable and who is not. Please let me know what your court is doing.

The council is requiring courts for certification to meet best practices. Thanks, Dennis

Judge Brent Bartholomew <bbartholomew@utcourts.gov>
To: Senior Judge Dennis Fuchs <dfuchs@utcourts.gov>

Mon, Mar 11, 2019 at 12:09 PM

I will look into this and get back to you.

[Quoted text hidden]

Senior Judge Dennis Fuchs <dfuchs@utcourts.gov>
To: Judge Brent Bartholomew <bbartholomew@utcourts.gov>

Mon, Mar 11, 2019 at 12:11 PM

Thank you!

[Quoted text hidden]

Judge Brent Bartholomew <bbartholomew@utcourts.gov>
To: Judge Dennis Fuchs <dfuchs@utcourts.gov>

Mon, Mar 11, 2019 at 1:55 PM

Dennis,

I got the email below from Kay Allen, our Family Drug Court coordinator.

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

Brent Bartholomew

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

From: **Kay Allen** <kaya@utcourts.gov>
Date: Mon, Mar 11, 2019 at 12:19 PM
Subject: Re: Certification of Dependency Drug Court
To: Judge Brent Bartholomew <bbartholomew@utcourts.gov>

This must have been a mistake. Amy is screening for high risk/high need. She isn't using the RANT. She is using the UFACET and the SDM risk assessment.

On Mon, Mar 11, 2019 at 12:11 PM Judge Brent Bartholomew <bbartholomew@utcourts.gov> wrote:

Kay,

Would you please look over the email below and send me a return email. Alternatively, you can talk with me in person.

Thanks,

Judge Bartholomew

[Quoted text hidden]

--
Kay L. Allen
Probation Officer and Family Drug Court Coordinator
4th District Juvenile Court
801-354-7220
kaya@utcourts.gov

Judge Dennis Fuchs <dfuchs@utcourts.gov>
To: Judge Brent Bartholomew <bbartholomew@utcourts.gov>

Mon, Mar 11, 2019 at 3:46 PM

Thanks

Sent from my iPhone

[Quoted text hidden]



Senior Judge Dennis Fuchs <dfuchs@utcourts.gov>

Certification of Dependency Drug Court

Judge Brent Bartholomew <bbartholomew@utcourts.gov>
To: Judge Dennis Fuchs <dfuchs@utcourts.gov>

Mon, Mar 11, 2019 at 1:55 PM

Dennis,

I got the email below from Kay Allen, our Family Drug Court coordinator.

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

Brent Bartholomew

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

From: **Kay Allen** <kaya@utcourts.gov>
Date: Mon, Mar 11, 2019 at 12:19 PM
Subject: Re: Certification of Dependency Drug Court
To: Judge Brent Bartholomew <bbartholomew@utcourts.gov>

This must have been a mistake. Amy is screening for high risk/high need. She isn't using the RANT. She is using the UFACET and the SDM risk assessment.

On Mon, Mar 11, 2019 at 12:11 PM Judge Brent Bartholomew <bbartholomew@utcourts.gov> wrote:

Kay,

Would you please look over the email below and send me a return email. Alternatively, you can talk with me in person.

Thanks,

Judge Bartholomew

[Quoted text hidden]

--
Kay L. Allen
Probation Officer and Family Drug Court Coordinator
4th District Juvenile Court
801-354-7220
kaya@utcourts.gov

Tab 13

APPLICATION FOR INITIAL PROJECT PLANNING APPROVAL FOR PROPOSED PROBLEM SOLVING COURT PROJECT

Name/Working Title of Proposed Project: Family Dependency Drug Court/Judge Renteria

Court Location: Third District Juvenile Court-West Jordan

Application Submitted by: Melissa Sanchez

I. Target Population

Describe the types of cases or the description of the population that will be served by this project. Please be specific.

The target population is Child Welfare cases where children were removed from the home due to parental substance abuse. The parents are eligible for Family Dependency Drug Court (FDDC) after reunification services are ordered and an assessment is completed that indicates a substance abuse disorder and is identified as high risk/high need. This target population would be served at the West Jordan Courthouse. Currently, one FDDC (Judge Jimenez) manages all participant referrals for this location.

II. Purpose/Goal of Project

Please explain why you believe this project is necessary or desirable. How will a problem solving approach benefit your target population?

Third District Juvenile Court has four Family Dependency Drug Courts, three at the Matheson Courthouse and one at the West Jordan location. There was a significant increase of referrals from the West Jordan child welfare teams in 2018. In 2017, the West Jordan FDDC averaged 13.3 cases per month that attended drug court reviews bi-weekly. In addition, the range of participants attending FDDC per month was 11 (least amount) to 15 (most amount).

In 2018, West Jordan FDDC participants increased by 11 and averaged between 20 and 26 participants per bi-weekly court review. Total time for pre court staffing and court reviews doubled. In addition, the ability to staff cases adequately and for the judge and team to problem solve with the participant has been significantly reduced.

Due to the increased caseload, seven cases were transferred from West Jordan to Matheson. The case transfer increased participant numbers by 20% in two Matheson FDDC courtrooms (Judge Hornak and Judge May). In addition, all referrals that were not a Judge Jimenez child welfare case were diverted to a Matheson FDDC.

III. What is the size of the proposed project?

Approximately how large is your target population and how many participants would likely be served by the proposed project?

The project would include a Juvenile Court Judge, Assistant Attorney General, Guardian Ad Litem, Parental Defense Attorney and DCFS Drug Court Liaison. The target population would include Child Welfare cases the West Jordan Courthouse serves. The amount of participants an additional FDDC would support is 12-15 parents biweekly and an average of 50 additional participants per year at the West Jordan Courthouse.

IV. What is the anticipated impact on court staff, clerks and judges, and how will that need be met?

The impact will be moderate. Judge Renteria has time blocks set on Thursday afternoons for Juvenile Treatment Court. The FDDC will replace that time block. West Jordan's Juvenile Treatment Court participants have declined in 2018 and the current caseload is 4 youth. Those youth will be transferred to Judge Beck's Juvenile Treatment Court held at the Matheson Courthouse. The youth and families are open to the transfer.

The most impact will be on the child welfare team, however, they have reported an interest in participating and becoming an FDDC team. In addition, DCFS would be impacted in that a DCFS FDDC Liaison would be needed. There have been discussions with the DCFS Region Director, DCFS Program Manager and DCFS Supervisor regarding this proposal. They recognize the need for an additional FDDC and filling the Liaison position. Treatment Providers reported that a Thursday afternoon FDDC is ideal for them to appear and transport participants. In 2018, up to 50% of Judge Jimenez's FDDC participants were from Judge Renteria and his child welfare team.

The FDDC Program has the ability to accommodate an additional FDDC as early as May 2019. The fundamentals of the program are established and in full operation within all Third District Juvenile Court FDDC's. An orientation and observation for the team would take place within the month of April or May.

IV. Funding considerations/stakeholders

Identify the stakeholders and what they will need to contribute to the project. If you have identified a funding source to support the project, please specify.

No additional funding will be needed. Any program cost(s) will be absorbed and included in the current contract with Salt Lake County Behavioral Health and subsequent contracts. Salt Lake County Behavioral Health had no concerns with the submission of this application.

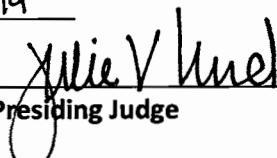
Trial Court Executive Comment: I fully support this application for an additional Family Dependency Drug Court in the 3rd District Juvenile Court.

Date: 3/20/19

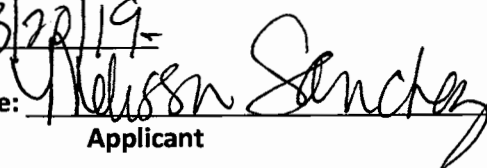
Signature: James N. Bauer
Trial Court Executive

Presiding Judge Comment:

Date: 3.20.19

Signature: 
Presiding Judge

Date: 3/22/19

Signature: 
Applicant



Memorandum

To: Judge Dennis Fuchs

From: Melissa Sanchez

Date: April 1, 2019

Re: Eliminating West Jordan Juvenile Drug Court

Phasing out the Juvenile Drug Court in West Jordan to add a Family Dependency Drug Court is due to the lack of Juvenile Drug Court referrals this year and the increase of family drug court participants.

Youth participating in the West Jordan Juvenile Drug Court decreased from six youth in February 2018 to three youth in February 2019. This decline has been consistent throughout the year. Judge Renteria will continue to hold drug court reviews with the three youth until they are discharged or graduate. The cases will not be transferred to the Matheson Courthouse.

In the event West Jordan drug court referrals increase, Judge Beck has agreed to travel to the West Jordan Courthouse and conduct Juvenile Drug Court at that location.

Tab 14



Gary R. Herbert
Governor

Spencer J. Cox
Lieutenant Governor

State of Utah

Judicial Performance Evaluation Commission

Jennifer MJ Yim
Executive Director

Utah State Capitol Complex, Senate Building, Suite 330 • Salt Lake City, Utah 84114
801-538-1652 • FAX: 801-538-1024 • www.judges.utah.gov

January 8, 2019

Chief Justice Matthew Durrant
Utah Judicial Council
Matheson Courthouse
450 S. State Street
Salt Lake City, UT 84114

Dear Chief Justice Durrant:

On behalf of JPEC, I am writing to request a judicial rule change that would facilitate JPEC's efforts to provide a substantive evaluation to all judges in Utah.

As you know, the evaluation of justice court judges poses a particular challenge to JPEC, largely because of the varied caseloads among justice courts but also sometimes because of their locations. Since its inception, JPEC has worked diligently to develop innovative and careful ways to evaluate justice court judges. The Commission provides full-time justice court judges with an evaluation identical to state trial court judges, including surveys and courtroom observation. The Commission developed a mid-level evaluation for justice court judges with at least 0.2 FTE weighted caseload but fewer than 50 attorneys appearing in the judge's court. JPEC hired a new staff person to conduct court user interviews outside the courtrooms of mid-level judges. JPEC is poised to do over twenty-five mid-level evaluations in the current evaluation cycle, and the program appears to be going well.

Despite these program developments, justice court judges with weighted caseloads smaller than 0.2 FTE receive an evaluation that consists only of JPEC consideration of the Judicial Council certification plus any judicial discipline issued by the Supreme Court about the judge. JPEC is working to assess whether more can be done to provide these 20-25 judges with meaningful feedback about their performance.

The challenges of providing an expanded evaluation to basic evaluation courts are numerous. The geographic location, varied hours, and low caseloads make travel prohibitively expensive and an unreliable method of data collection. With these challenges in mind, the Commission hired the Kem Gardner Policy Institute at the University of Utah to complete a study assessing potential methods for evaluation. At JPEC's direction, the Institute met with the Board of Justice Court Judges and contacted all basic evaluation judges to participate in

Chief Justice Matthew Durrant
Page 2

interviews as parts of the study. A copy of the study report is attached for your reference. As you can see in the report, the judges' cooperation and active participation resulted in a high-quality, productive study for which JPEC is greatly appreciative.

At the conclusion of the study, JPEC's executive director and a commissioner, who is also a member of its Justice Court Subcommittee, met with the Board of Justice Court Judges to discuss the report. JPEC has arrived at the proposal to conduct a pilot project to collect video recording data from which an evaluation of the judge's performance may be completed. Commissioners and the Board have both expressed initial support for this proposal as a potentially viable way to conduct these evaluations.

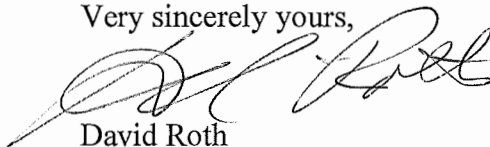
However, much stands in the way of collecting video recording data. The Commission sees three main obstacles:

1. Judicial Council Code of Judicial Administration Rule 4-401.02(3)(B)(ii) prohibits the video recording of judicial proceedings using portable electronic devices.
2. JPEC lacks authority to require the placement of video cameras in courthouses.
3. There are numerous cost, technical, and logistical challenges to video camera placement and operation, many of which could be tested through a pilot project.

At this time, we believe that a cooperative pilot project could be possible should the first obstacle above be addressed. For multiple reasons, permissions should include recording and storage of video data of judicial proceedings. If the Judicial Council is willing to allow JPEC to record court proceedings for the purpose of judicial evaluation, through a rule change or alternative means, JPEC and the Board of Justice Court Judges will be able to work together to find a small number of judges to volunteer to assist with a pilot effort.

Admittedly, much still needs to be determined about a basic evaluation using video recording data. However, JPEC considers this first step preliminary and necessary to a pilot project aimed at providing a meaningful evaluation to judges of basic evaluation courts. JPEC stands ready to answer any questions you may have about this proposal. Its upcoming presentation to the Judicial Council on January 28 may be an opportune time to begin the conversation, and I would be pleased to participate in such a discussion. Thank you for your consideration of this matter.

Very sincerely yours,



David Roth
Chairperson

Enclosure

cc: Jennifer Yim, Executive Director
Rick Schwermer, State Court Administrator
Mary Noonan, Acting State Court Administrator

Judicial Performance Evaluations

**Authored By: Samantha Ball, Research Associate
Dianne Meppen, Director of Survey Research**

June 2018



Judicial Performance Evaluations

Authored by: Samantha Ball and Dianne Meppen

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Overview

The Kem C. Gardner Policy Institute contracted with the Judicial Performance Evaluation Committee (JPEC) to recommend changes to the judicial performance evaluation process for lower caseload judges in Utah.

This report contains:

- An overview of methodology,
- A discussion of the purpose and value of judicial evaluation programs generally,
- A discussion of model state programs, including lower caseload judge evaluation practices,
- An assessment of performance review literature and discussion of how it relates to judicial performance evaluation,
- Insights from interviews with 16 of Utah's 20 lower caseload judges,
- Summary of Administrative Office of Courts (AOC) data collection and court clerk interviews and,
- Evaluation and training options to increase the value of judicial performance evaluation for lower caseload judges in Utah.

Methodology

The Gardner Policy Institute completed an overview of judicial performance evaluation practices through a literature review, a discussion with the Board of Justice Court Justices, telephone interviews with employees working with judicial performance evaluation issues, and interviews with 16 of 20 lower caseload judges in Utah, and 17 court clerks. The performance evaluation literature review focuses on judicial performance evaluation and highlights evaluation of lower court judges. The literature review draws from The Institute for the Advancement of the American Legal System (IAALS), academic texts and journal articles, and state judicial performance evaluation model program websites.

In March 2018, the Gardner Policy Institute facilitated a discussion during a Board of Justice Court Judges' meeting. Judges were asked to provide feedback on what they found valuable in judicial performance evaluations, the best way to collect such information on lower caseload judge performances given the limited courtroom observation and data collection opportunities, and what questions they thought were important to ask lower caseload judges.

Between April 18, 2018 and May 17, 2018, the Gardner Policy Institute interviewed 16 of the 20 lower caseload judges in Utah. They were asked 19 questions about their experience as a lower caseload judge and about their ideas regarding training, mentorship, observation, data collection, and how to create a more meaningful judicial performance evaluation process for lower caseload judges. Each interview lasted for about 30 minutes.

In June 2018, the Gardner Policy Institute interviewed 17 justice court clerks to better understand their data collection practices and capabilities.

All of these sources were used to inform final recommendations on how to best evaluate lower caseload judges' judicial performance. Throughout the discussion, highlights and quotations from judge interviews are highlighted in red.

Judicial Performance Evaluations Programs

Judicial performance evaluation programs vary greatly by state. There are differences in the purpose of performance evaluation, the methodologies used, the people who conduct and participate in the evaluations, and the characteristics evaluated (for instance, including service to the legal community). Judicial performance evaluations can be used to further a judge's professional development, to provide information that will increase public confidence in the courts, to provide information to committees or other bodies, and to provide voters with judge-specific information during a retention election.

Adding to the complexity, state judicial structures vary notably, and judicial performance evaluation processes do not treat all types of judges uniformly. For instance, some states determine whether to retain their judges based solely on the outcome of partisan elections; some conduct a judicial performance to inform voters during a retention election and/or for professional development purposes; and others conduct performance evaluations for only a specified group of judges (such as appellate and Supreme court judges, or those in bigger counties who have opted for a review system).

According to the IAALS, Utah is one of six states that use judicial performance evaluations to educate voters prior to a retention election.¹ Alaska and Utah are the only two states to provide judicial performance evaluation retention recommendations for every judge in the state.²

In Utah, information collected for the judicial performance evaluation process differs depending upon whether a judge's caseload is considered high (more than 50 attorneys appear before them in an evaluation period), mid-level (fewer than 50 attorneys and .2 or higher caseload in at least one location) or basic low level (less than .2 weighted caseload at each location they serve). Currently, the lowest level caseload judges receive a retention election recommendation based upon their adherence to the three requirements for being a judge in Utah:

- having no less than 30 hours of continuing education;
- having no cases under advisement for more than two months; and
- not being subject to more than one public reprimand issued by the judicial conduct commission or the Utah Supreme Court.

Utah is the only state with a system that clearly delineates different standards of performance evaluation for different judges throughout the state based upon the judge's caseload level.

Utah's judicial performance evaluation process (JPE) was established in 1986. It incorporates many of the best practices for JPE suggested by the IAALS' Quality Judges Initiative and is considered a model for other states.^{3 4 5} As early as 1998, an American Judicature Society Report recognized Utah as having a model program that incorporated many of the following strong evaluation system features:⁶

- establishing clear rules
- providing adequate funding
- developing clear and measurable standards
- adopting random sampling and follow up whenever possible ensuring confidentiality to promote candid responses incorporating self-improvement components
- requiring judges to review results before they are public
- effectively disseminating results to the public
- incorporating results in designing judicial education programs; partnering with print media
- leaving the process open to amendment
- establishing training program for all evaluation commissioners, and
- involving the public and educating them about the process.⁷

Judicial performance evaluation has two main purposes: facilitating judges' professional development and informing voters prior to retention elections. Utah's judicial performance evaluation system meets both of these by conducting both a midterm and retention election evaluation on five aspects of a judge's ability: legal ability, integrity, judicial temperament, administrative performance, and procedural fairness.

Strong judicial evaluation systems are designed to "focus on the judge's competence and freedom from bias."⁸ Evaluating judicial performance involves "assessing various judicial qualities with objective criteria and methodology."⁹ In 2002, the American Bar Association (ABA) issued guidelines that emphasized criteria such as "integrity (emphasizing freedom from bias), legal knowledge, effective communication, courtroom effectiveness, management skills, punctuality, service to community and the profession, and working well with colleagues."¹⁰

In 2005, the ABA updated its guidelines, recommending "behavior-based instruments" that describe specific behaviors rather than scales on characteristics such as legal knowledge as well as getting information from multiple sources "including court staff, law enforcement officers whose duties bring them in regular contact with the judge and attorneys, jurors, litigants and witnesses who have appeared before the judge."¹¹ Moreover, JPE processes should provide judges with the "opportunity to respond to any overall assessments of their performance or to any recommendations concerning their retention before those assessments or recommendations are made public."¹²

Model programs

Along with Utah, there are several other states frequently identified as having exemplary judicial performance evaluation programs, most notably Alaska, Colorado, and Arizona. Missouri is also highlighted as the state that first introduced merit-based non-partisan judicial selection. This section describes these model programs and provides details regarding how they evaluate part-time judges.

Alaska

In Alaska, full-time judges are nominated by the Alaska Judicial Council, appointed by the governor, subject to retention elections, and required to fill out a questionnaire that provides information about their caseload, any legal or disciplinary information, relevant health information, and process feedback. Judges also provide a list for review of three trials, three non-trial cases, and any other significant cases. An independent contractor surveys all members of the bar association regarding each judge's legal ability, fairness, integrity, temperament, diligence and administrative skills. A

similar survey is done for peace and probation officers, social service professionals, and court staff, and an additional survey for jurors.¹³ Alaska holds statewide public hearings for all judges standing for retention, examines judicial records, provides opportunity for judge interviews and disseminates results.

Alaska has a different evaluation process for limited jurisdiction judges who are hired by the court system and not subject to retention elections (called magistrate judges in Alaska). Magistrate judges do not fit neatly into a single description. Some magistrate judges serve small communities, but 12 work in Anchorage. Most magistrate judges are full-time, but a few are part-time. Magistrate judges need not be lawyers. Unlike Utah's lower level caseload judges, magistrates in Alaska are state employees. However, they do not follow the same hiring and retention process as other state judges in Alaska. Magistrate judges in Alaska are hired by the presiding judge in each district.

Each magistrate is assigned a training judge who serves as both an advisor and evaluator. The magistrate has a training judge until he or she has enough experience to become a training judge themselves.

Alaska used to evaluate magistrate judges using the same comprehensive statewide survey of lawyers, social workers, and others that was being used to evaluate full-time judges. However, many magistrates in smaller jurisdictions felt the process was unfair and reviewers thought that much of the feedback was poor quality.

A revised process created in 2013 established a statewide panel comprised of training judges, senior magistrate judges and senior judges. At least two of the statewide panel members must be magistrate judges. Each magistrate is reviewed by a three-judge subset of the state panel – including at least one of whom is a magistrate and usually led by the magistrate's training judge. The three-member panel may recommend reappointment if two of the three participating members agree with the recommendation. If the three are considering not recommending the judge or are in disagreement, they may ask other panel members to participate in the evaluation. In that case, recommendation can only occur with a majority of the panel in agreement.¹⁴ The revised process also included a one-year probationary review for new magistrates that relies upon training and presiding judges to evaluate a magistrate's performance by interviewing people in the community who work closely with the magistrate judge.

The statewide panel considers an extensive magistrate performance evaluation created by the training judge based on observation of the courtroom and attention to the quality of a magistrate's administrative work. The evaluation provides rankings of "needs improvement," "meets expectations," or

“exceeds expectations” for the magistrate’s integrity, fairness; judicial temperament and demeanor; diligence; teamwork; and professional knowledge and judgment. The magistrate must meet or exceed expectations in each of these areas in order to receive a retention recommendation. Rankings are based upon interviews with attorneys, police officers, social workers, and court staff in the magistrate’s community conducted by the training judge. Additional comments are also included in each of these areas, with each section typically including a few sentences of description. Input from interviews with other stakeholders such as litigants may also be included.

Alaska’s reforms rely on more open-ended questions and are focused on collecting information from the attorneys who work most closely with a magistrate judge. In the case of the one-year probation review, the process relies solely on qualitative data. The evaluations are conducted primarily for retention recommendation. Midterm evaluations are conducted midway through each four-year term, but may be waived by the presiding judge after the first two terms.¹⁵

Like Utah, this lowest level of Alaska’s judiciary has consolidated over time and may continue to do so as part-time magistrates begin to serve multiple courts over larger geographic areas. Alaska has also improved technology in order to allow for some proceedings (such as status hearings) to be conducted by video conference.¹⁶

Colorado

Colorado’s judicial performance evaluation system relies on a performance commission of ten people in each judicial district, as well as one state commission. Commissioners evaluate judges regarding their integrity, legal knowledge, communication skills, judicial temperament, administrative performance, and service to the legal profession and public.

Commissioners must consider the following survey responses in their evaluation:

For trial judges: attorneys (including prosecutors, public defenders, and private attorneys), jurors, litigants, law enforcement personnel, court employees, court interpreters, probation office employees, social services employees, crime victims, and appellate judges.

For appellate judges: attorneys (including prosecutors, public defenders, and private attorneys), other appellate judges, appellate staff attorneys, self-represented litigants, and district judges.

The commissioners must also use courtroom observation, judge self-evaluation, a review of the judge’s decisions, caseload statistics and reports, judge interviews, a performance standards matrix, and information from meetings held with a representative of the District Attorney’s Office and/or a representative

of the Public Defender’s Office when requested. Finally, commissioners may also use additional information submitted by the members of the public, public hearings, or information from other interviews.¹⁷

Colorado conducts surveys on all state judges whether full or part-time, attorney or non-attorney, rural or non-rural. Colorado does not survey magistrate or municipal judges, with the exception of Denver city judges, who by mutual agreement are evaluated by the same process as state judges. Magistrates are assessed through a human resource performance review process at the local judicial district level and municipal judges may or may not receive a performance evaluation depending upon each municipality’s process.

Collecting a sufficiently large survey sample has been a challenge for part-time judges in Colorado, but the samples are generally somewhat diverse in terms of respondent categories such as litigant, juror, and staff. For all surveys, Colorado uses several lists that show all of the people who appear before a judge. All of these surveys are mailed, several times if needed. Attorneys receive an online survey based upon their email address. The overall response rate of 13% reflects a much lower response rate for litigants (8%) than attorneys (29%).

Like Utah, Colorado evaluates judges twice during their term. During the midterm evaluation, commissioners may indicate if a judge needs to participate in a performance improvement plan. If so, the chief district judge is responsible for seeing to it that the judge complies with the performance improvement plan. If the judge does not comply, then by law the retention recommendation for that judge must be “does not meet performance standards.” All judges are categorized as either meeting or not meeting performance standards during the retention election evaluation process.

Arizona

As required by its Constitution, Arizona conducts judicial evaluation for Supreme Court judges, Court of Appeals, and Trial Court judges working in counties at or above 250,000 people. Other counties could vote to include themselves in the evaluation system but have not.

In odd numbered years, paper surveys are distributed to all jurors, litigants, witnesses, and people who represent themselves and appeared before a judge. Attorneys and court staff receive emailed surveys if they were in a judge’s courtroom during this time. Surveys ask about a judge’s legal ability, integrity, communication skills, judicial temperament, administrative performance, and settlement activities. A report is generated from the survey results.

Judges also complete a self-evaluation (which allows comparison between their perspective and the

perspectives of those surveyed), and the public may provide written comments.

“Each judge is then assigned to a Conference Team composed of one public volunteer, one attorney volunteer, and one judge volunteer. The Conference Team meets with the judge to review the Data Report, survey and public comments, and helps the judge set performance goals. This results in a Conference Team Report,” which is used (without identifying information) to create more effective judicial education programs.¹⁸ The performance standards generally look at judicial temperament, legal ability, communication skills, integrity, and management/administrative duties by scoring on a scale from 0 to 4. If a judge scores below an average of 2 or if 25 percent or more give a judge a poor rating in any category, the threshold standard is not met.

The survey response rate tends to vary by respondent group, with returns from the 2017 survey at 22% of attorneys, 14% of litigants/witnesses and 51% of jurors.¹⁹

Arizona does not require any evaluation for lower district court judges.

Missouri

Since 1940, Missouri has had the Non-Partisan Court Plan for appellate and trial judges, touted as “the foundation for merit-based judicial selection in America.”²⁰ Courts in St. Louis, Kansas City, Clay County, Platte County, and Greene County follow a plan that includes non-partisan selection and characteristics such as a review of the candidate’s character, experience, professional strengths, and legal analysis skills. This process is only for state judges and tends to be in the most heavily populated areas of the state. Municipal judges are elected through partisan elections.²¹

Considering state systems that are frequently identified as model programs underscores the diversity of the nation’s judicial evaluation system. Missouri, the state that first embraced merit-based judicial selection, does not extend that approach throughout all areas of the state. Colorado and Arizona, both of which have extensive judicial performance evaluation processes, do not extend the processes to the municipal court level. Alaska does provide an evaluation of its magistrate judges, but it has recently revised this evaluation in light of the realities of data collection at this court level. Currently, Utah’s evaluation of lower caseload judges involves reporting only completion of the state’s three judicial requirements as the basis for retention election recommendation. Each state strikes a different balance in its effort to select and retain qualified judges when they have varying jurisdictions, demands and resources.

Performance Review Literature as it Relates to Judicial Performance Evaluation

Reviewing performance evaluation – or performance appraisal – literature provides an opportunity to consider how judicial performance evaluations differ from government and business employee evaluations, as well as what can be learned and adopted from these sectors. The following review highlights performance appraisal literature discussion points that inform possible revision of Utah’s judicial performance evaluation of lower caseload judges. Relevant portions of the Gardner Policy Institute’s lower caseload judge interviews are highlighted for consideration.

To begin, many question the effectiveness of performance evaluations. One survey showed that more than 70% of managers had deliberately inflated or deflated evaluations for reasons related to their personal relationships with employees or because there was an unintended incentive within their organization to provide higher or lower employee evaluations.²² Moreover, only 20% of federal employees reported that the appraisal system motivated them to do a better job and a meta-analysis of more than 600 studies found that at least 30% of evaluations decreased employee performance.²³

Nonetheless, most entities use performance evaluation systems, and revisions to judicial performance evaluations for lower caseload judges can be built around the known strengths and weaknesses of these systems. For instance, research has found that interactions with employees and considerations for reviewers differ depending on whether the appraisal is conducted for developmental purposes or administrative purposes. Evaluation feedback given for administrative purposes tends to be more lenient but less influential than evaluation feedback given for developmental purposes.²⁴ Ratings intended to inform employee training and development may also be more accurate than ratings associated with negative or positive administrative consequences.²⁵

Gardner Policy Institute interviews with lower caseload judges provide support for this distinction, showing a notable increase in enthusiasm and engagement when discussing training possibilities as opposed to discussing ways to recraft the retention election recommendation format.

The enthusiasm many lower caseload judges expressed for professional development during one-on-one interviews lends support to the notion that development-oriented evaluations will be influential. Training (professional development) was one of the most robust areas

of discussion. A large majority of judges felt that ongoing training was important for lower caseload judges: "...especially each year when new laws come out."

Many made creative suggestions regarding how to improve the training. Most commonly, judges expressed a need for more mock trial practical experience. Most also expressed a strong preference for in-person training over methods such as webinars, but added that a mix of offerings is important to meeting different judge's scheduling needs.

Two judges noted the distinction between rural and urban judges is more important than the difference between attorney and non-attorney judges.

"I don't have the volume and therefore the experience needed to deal with some of our more complicated and serious cases on a regular basis...the distinction should be an urban track and a rural track." Lower caseload judges felt their relative lack of exposure to different kinds of cases created a need for more practical role-playing training, including scenarios such as sentencing rather than the more typical reviews of the intricacies of the law. Some judges expressed a desire to have training on how to carry out sentencing when there are insufficient counseling and transportation options to meet the needs of the community.

"We don't have the same resources...no buses, taxis, etc."

Evaluation processes have a subjective component and can be difficult to conduct in a way that consistently promotes employee productivity. However, performance appraisal literature suggests any system should have an ongoing process involving goal setting, monitoring and data availability, continuous feedback and annual assessment.²⁶ Adapting this concept to judicial performance evaluation processes is challenging. General job performance appraisal systems involve an employer with an ongoing relationship with an employee. In contrast, a judge may or may not have a relationship with the midterm evaluator/s, and the administrative outcome of the retention election evaluation is determined by the voters.

Any judicial performance evaluation will involve one or more people assessing the judge. Performance evaluation literature outlines several possible concerns to consider in terms of evaluators' objectivity and bias. Possible cognitive biases include:

- Leniency error, where managers give more favorable reviews for reasons such as wanting to maintain a good

working relationship with an employee or having empathy for an employee's personal situation,

- Severity error, where managers want to send a message to an employee by giving a very good or very poor review,

- The spillover effect (also known as the halo or black mark effect) when an employee who is exceptionally good or bad in one area will be rated in the same way in other areas,

- The recency effect – when the most recent impression colors evaluators' assessments of previous work,

- Contrast error, when people are rated against others rather than based upon performance standards, and

- Outcome bias, when an outcome is made the focal point regardless of whether or how the employee contributed to that outcome, are common.²⁷

Evaluator training can reduce the influence of cognitive bias. This is a particularly important consideration if creating evaluation panels or providing courtroom observers (two of the options discussed in the recommendation section). Although training can be provided to judicial performance evaluation evaluators to guard against potential bias, is not possible to provide such training to those responsible for the ultimate review – voters.

It is also important to employ question wording that reflects readily observable behaviors rather than general attributes or performance criteria. For instance, survey questions such as "The judge's ruling cited applicable substantive law" and "The judge writes opinions that clearly set forth any rules of law to be used in future cases" are preferable to survey items like "legal knowledge" or "The judge is competent in the law."²⁸

Implicit bias on the basis of factors such as race, ethnicity, or gender is another possibility. Some studies show male and Caucasian judges being recommended at significantly higher rates than women and judges of color. In 2012, IAALS' review looked at retention evaluation programs in Alaska, Arizona, Colorado, and Utah found that most differences in evaluation scores were small, but women and minority judges scored lower on a few questions related to legal ability, communication skills, and temperament. In several studies, the observed bias was only present in attorney surveys – not surveys of other respondent groups. Based on these findings, IAALS recommends broad surveys that reach a variety of respondent groups (not limited to attorneys); promoting awareness of implicit bias; and developing surveys in consultation with experts.²⁹

Research also suggests a relationship between public service motivation (PSM) and employee performance that may be important for understanding lower caseload judge's motivations. Findings suggest that contrary to previous research - which showed a

relationship between PSM and employee performance generally - the relationship actually depends upon the type of work an employee does. People-processing behavior (like processing forms at the Department of Motor Vehicles) is not changed due to PSM, but people-changing behavior (like school teacher's or lower court judges who focus on individual needs in order to produce a desired result) is changed.³⁰

Interviews brought to light the unique relationship that judges in lower caseload courts are likely to have with the people they serve. In many cases, lower caseload judges know a significant portion of the people they see in the courtroom and might better understand the different factors contributing to the person's circumstance than they would if they served a large community. At least four of the judges interviewed mentioned they considered their work to be service to their community. Some saw their work as a way to give back to their community and mentioned the importance of the human service component of their work as well as the emotional toll of seeing people with major troubles in their lives. These judges felt emotionally attached and two stated that they considered the work a "privilege" despite the challenges.

Several judges thought some of the urban judges, some presenters at AOC conferences, had a condescending attitude towards lower caseload judges. This is a cognitive bias that was not found in the research, but should be considered when identifying evaluators for low caseload judges

Several lower court judges spoke about their desire to be "as good at my job as any full-time judge." One judge wanted to hear feedback from defense attorneys because they argue before a lot of other judges and he would like to improve at his job. He wanted the same full review as other judges, adding "Small courts shouldn't be viewed as less capable or held to a different standard. It is a dangerous way to think. Everyone should expect the same standard from their judges."

In terms of structure, judicial performance evaluation processes can draw from variations in traditional evaluation systems of other entities. For instance, immediate supervisors may also serve a development appraisal role while other managers serve the judgmental appraisal role.³¹ Outside expert appraisal – including using clients or customers – can be used for employee reviews, especially the government where the taxpayers and voters are the clients and

customers.³² Similarly, the current Utah system for mid-level judges can even be loosely compared to the 360-Degree Appraisal process where an employee is evaluated by subordinates, supervisors, colleagues, and self-appraisal.³³

Given that the administrative "feedback" voters give judges is less detailed and more permanent than would be typical of feedback from an employee's supervisor, judicial performance evaluation can incorporate alternatives to supervisor appraisals such as: self-appraisal, peer review, subordinate appraisals, and team manager appraisal. Self-appraisal is particularly useful for professional development and research indicates peer review can be just as accurate as supervisor ratings.³⁴ Subordinate appraisal could be particularly useful for judges who work closely with a clerk, and team manager appraisal could be used to increase organizational understanding.³⁵ Combinations of these can be considered for the judicial performance evaluation process both in terms of data collection and selection of evaluators.

Many of the judges voiced their interest in self-evaluation when discussing the possibility of creating court video for review by other judges. They noted they can't know their own tone and mannerisms without being able to review it themselves. Several have participated in and benefited from the National Judicial College at the University of Nevada, Reno, which provided a mock trial experience that included a video and subsequent review by the judge and other students.

Mentoring is also a consideration in this process, though it is not usually associated with evaluation. In a phone conversation, public administration scholar James Bowman of the Askew School of Administration and Policy at Florida State University suggested mentoring as a way to strengthen professional development among lower caseload judges. Providing a mentor is a natural choice for a job that involves on-the-job learning and infrequency of work case types.³⁶ When considering revision of a system with a purpose of better serving the public - like lower court judge performance evaluation - focusing on high quality professional development is sensible. Mentoring is already important to lower caseload judges in Utah, but revising the selection process to provide preference to judges who are eager to serve as a mentor and/or have an established relationship with a lower caseload judge could increase the potential for lower caseload judges' professional development - particularly since the majority of lower caseload judges indicated they had learned the most from their conversations with other judges.

In several cases, judges brought up the topic of mentoring before they were asked about it. All of the judges interviewed expressed support for mentoring in theory, but several had mixed reviews of their experience with mentors. Some mentors were either not accessible or a lack of connection between the two prompted the new judge to identify other judges who could serve the same purpose.

The majority of judges indicated that speaking with other judges about cases was either one of the most important or the most important way they prepared for their job.

Successful performance evaluation systems that aim to create a “partnership perspective,” where both individual action/effort and system influence is reviewed, can lead to a more productive performance evaluation. Additionally, the literature suggests employees must accept the appraisal system as useful and valid in order for it to be effective. Judge interviews suggest the Judicial Performance Evaluation Commission (JPEC) is already well recognized as the organization charged with appraising the performance of Utah judges and that judges and JPEC already share an interest in creating a system that serves the public well.³⁷ Incorporating the judges’ feedback regarding performance evaluation revisions will strengthen that partnership.

Administrative Office of the Courts (AOC) Justice Court Data / Court Clerks Interviews

The Gardner Policy Institute contacted representatives from the AOC familiar with Utah’s current evaluation process in an effort to assess the information available from low caseload courts. The AOC collects the same information for all of the courts in Utah, including Justice Courts. AOC notes there can be some variation in justice court collection practices, this happens in district level courts as well. For each case, the AOC collects:

- Judge name
- Attorney name
- Attorney email address
- Dates of appearance
- Appearance type
- Case
- Location
- Attorney bar number
- Attorney bar license state

– Hearing type identification

The AOC does not collect contact information such as phone numbers or email addresses for court clerks, bailiffs, jurors, litigants, caseworkers, law enforcement officials, court interpreters, social service employees, or the families and friends of litigants. This information is not collected consistently by justice courts. Currently, such information may be (but is not necessarily) found in prosecutor’s files, court files, and audio recordings of court proceedings. Surveying these groups would require additional effort by the judges and/or court clerks to consistently collect and record contact information or to provide written surveys or survey links at the time of court appearance.

Court Clerk Interviews

To gain a better understanding of the differences in justice courts regarding data collected, the institute conducted phone interviews with 17 of the 20 justice court clerks. Results from interviews show the large disparity between these courts. Information gathered from clerks includes court session hours, average cases seen, attorney appearances, and court staff. Clerks were also asked about the data that they collect and its availability. When asked to review information collected from these clerk interviews, the AOC said the data collected looks “very reasonable.”

The following is a summary of findings for each question asked the justice court clerks. Specific details per court can be found in Appendix B.

- Amount of court hours – Court sessions in these justice courts range greatly from one hour per month to 16 hours. Though most of the courts have a consistent starting time for their sessions, many shorten or extend court hours based on number of cases scheduled on a given day.
- Cases per month – The average number of cases seen in court sessions during a month varies by court significantly. The number of cases reported by clerks range from a low of seven cases to 150 cases per month.
- Attorney appearances - The typical number of attorney court appearances differs, with one court reporting an average of one attorney appearance per month to another court reporting a high of 30 attorneys per month. Many clerks indicate that the same attorneys can appear in their court more than one time in a month. The prosecuting attorney is the most frequently seen attorney, then public defenders, but less frequently. Information about attorney appearances in these courts is available through CORIS. Some clerks have the information in case files as well.

- Court staff – All low-case level courts have a clerk, and a few courts have a second or backup clerk. Most courts have a bailiff though a few operate without one. All clerks report having an interpreter on call to use when needed though the frequency of use varies. A small number report having back-up interpreters available to their courts. Contact information for all court staff is available through court clerks.
- Jury trials – Almost all clerks indicate they have not had a jury trial in their court for years, if at all. One court only recently had a jury trial. Court clerks were uncertain regarding the availability of contact information for jurors.
- Court information – Clerks from the various courts collect and store different amounts of data. Any information regarding the court proceeding required by AOC is automatically sent to the state through their integrated software platform. The majority of clerks report they keep contact information for litigants, witnesses, law enforcement, and interpreters in individual case files. A small number of clerks do not currently keep contact information at the court but say the prosecutor's office or law enforcement does. One clerk in rural Utah described the challenge of contact information in her area:

"Internet service in our county is not good and many cannot afford nor know how to use computers. A phone number and address is often that of a family member or friend. It is not uncommon to see addresses written as 'five miles past the windmill.' Most feel nothing good comes in the mail so mailing things isn't always effective. It is a real challenge."

- Audio / Visual equipment – A sampling of clerks were asked about video capabilities in their respective courtrooms. Very few have video recording equipment though several clerks volunteered that security cameras exist.

Clearly, any enhanced judicial performance evaluation processes in these smallest caseload courts would need to take in to consideration the unique differences of each court.

Evaluation and Training Options

A revision of Utah's judicial performance evaluation process for lower caseload judges should consider the

real differences in work and data collection possibilities between these courts and courts in more populated areas. The three options provided attempt to maximize value while taking JPEC's funding constraints and small sample sizes of low-caseload courts into account. Appendix C combines judicial performance evaluation best-practices based upon model programs and performance review literature to provide an option focused mostly on the professional development component of judicial performance evaluation. This section also includes ongoing training options based on the feedback of the judges interviewed. Regardless of the options selected, two reform elements should be considered:

Judge Response - Allow each judge to respond to the findings of the impartial evaluator assessments before retention recommendations are released to the public. Giving lower caseload judges an opportunity to respond to their assessments is consistent with other model state evaluation processes and may be particularly important given the relatively small sample of performances being evaluated, and

Judge Self-Appraisal - Each judge should provide a self-appraisal that is reviewed by JPEC along with the impartial observer report. The self-appraisal, interview assessments and lower caseload judge responses should be combined in a manner consistent with (but not identical to) the current mid-level judge midterm and retention reviews.

With lower caseload courts varying significantly in terms of remoteness, amount of scheduled court time, availability of clerk assistance, relationship with the local government and types of cases and considerations typical of their jurisdiction, it is difficult to estimate the cost of uniformly implementing potential reforms.

Evaluation Options

A. Evaluation by an Impartial Observer(s)

This (these) impartial observer(s) would be hired by JPEC to perform the following:

1. Phone Interviews - Phone call evaluations to litigants, court staff and attorneys for each judge. Evaluation calls would be made by trained JPEC staff or an independent research firm. Frequency of interviews would depend on number of cases before a court to obtain similar samples.
2. Court Video Review - Review of a minimum of four hours of videotaped court proceedings per judge. This requires JPEC to create a common system of equipment and procedures that either identifies usable video from an ongoing stream or requires starting a recording each time courtroom work is

conducted. Video evaluations would be best performed by an evaluator with some legal experience. This option draws from an idea put forth by panel members at the March 2018 Board of Justice Court Judges meeting - creating a rotating panel of three judges who would review courtroom video of the lower caseload judges in order to provide feedback. During interviews, lower caseload judges were asked what they thought of this idea. They had a range of responses, described in Appendix A.

The pros and cons of implementing this reform include:

Pros:

- Allows observation of judges at work in courtroom, yet avoids wasted trips by observers to unreliably attended remote courtroom sessions.
- Allows both evaluators and lower caseload judges to view subtle characteristics such as demeanor.
- No additional cost to increase amount of video collected to review.
- The number of staff in low caseload courts is small and limited numbers of attorneys appear in court session
- Many attorneys that evaluate judges may only have one experience before the judge they are evaluating.

Cons:

- Most courtrooms do not have a video camera and additional funding would be needed for installation, data management and maintenance.
- May face resistance from local administrators and some lower caseload judges.
- Low response rate coupled with limited number of people to interview
- Self-selected survey responses, particularly from a limited pool of potential respondents, provide a false sense of representative data.

Costs:

- JPEC administration (bid process and coordinating installation with lower caseload courts) – estimated 100 hours.
- Equipment (20 cameras including installation/software/travel).
- Training for lower court staff and oversight, estimated 20 hours.
- Ongoing equipment, IT maintenance, and employee training.

- Training time for observers, estimated 20 hours training
- Video observation (4 hours per judge) / summarize observation (2 hours per judge). Total 120 hours

Price Range: Video camera costs depend upon the quality of camera selected and whether training can be conducted at time of installation. Less expensive cameras are less secure. The estimated cost of panel creation would slightly reduce slightly JPEC administrative costs because collecting contact information for interviews would no longer be necessary.

Unprompted, several lower court judges expressed the opinion that their employer would be unlikely to pay for the cost of video equipment.

Five judges expressed genuine enthusiasm for having video of their courtrooms (one even wondered why it wasn't already being done). Five supported a video but preferred the idea of having an observer, two thought a video was better than no change, and three opposed to videos due to discomfort in front of a camera and/or concerns about the practicality of video. A video supporter suggested having the lower caseload judge present when the panel reviews the video of them so they can provide context for the proceedings. Judges also saw self-appraisal of tone and demeanor as a potential opportunity associated with the video review proposal.

B. Email surveys to all attorneys and court employees and distribute surveys to other respondent groups in the courtroom

Like the Arizona and Colorado evaluation processes for larger caseload judges, Utah could opt to email surveys to all attorneys and court employees working with lower caseload judges, and to distribute surveys (offering an online survey link as well as a paper survey) to those who appear before a judge. Non-attorney surveys could be distributed by local clerk. The response rate for these surveys is likely to be low and vary based upon respondent group, with jurors most likely to respond, attorneys second most likely, litigants least likely and other respondents somewhere in between.

There are several limitations to consider when considering the data likely to be collected from this effort. Using scientific methods, with a random sample selected from a population, an optimal number of surveys to conduct and the associated error rate can be

calculated. In this case, the varying caseloads for lower caseload justice courts means there is no one-size-fits-all number or percent of surveys to be completed in order to have a specified error rate. Interviewing or attempting to interview all potential participants in the lowest caseload justice courts (those seeing below 20 cases per month) would be ideal. For larger lower caseload courts being considered in this research, larger samples are needed than would be required if a random sample was possible. At least 100 to 200 completed interviews would be appropriate for these courts. Unfortunately, based on the experiences of other states trying to survey these same groups, we can expect a low response rate (sometimes under 10%) particularly for some categories of respondents. Additionally, self-selection is likely to play a large part in respondent selection, so the sample is not random. For nonscientific samples, more data simply means more data to use in the evaluation process, not necessarily representative data. Generally, collecting as much information as possible for each of these courts with the recognition that it is not likely a true representation of the population is the best way to view these efforts.

The pros and cons of implementing this reform includes:

Pros:

- Data is collected
- Provides lower caseload judges with more feedback.
- Opportunity to hear feedback from litigants, friends and family.

Cons:

- Low response rate coupled with limited number of people to survey
- Self-selected survey responses, particularly from a limited pool of potential respondents, provide a false sense of representative data.
- Need for mailing addresses (particularly for litigants, friends and families) means additional time requirements for court clerks.

Costs:

- Survey design – estimated 15 hours.
- Printing costs - survey/instructions/envelope – estimated 800 mailed surveys per judge (could vary widely)
- Return mailing costs
- Survey data entry - JPEC/subcontractor – estimated 160 hours (assumes 10% mailed back response rate).
- JPEC time for evaluation data summary – estimated 10 hours per judge. Total 200 hours.

C. In-Person Observation

Trained observers could visit each of the lower court judges in their courtroom at least twice a year.

Some judges interviewed preferred the idea of having an observer rather than having a video camera in the courtroom because they believed their assessment would be more nuanced. Others added a caveat that the observer should be someone well-trained in the law.

Two judges shared stories they had heard about observer evaluations that contained suggestions for the judge that were not legally appropriate. Critics of this approach thought the expense of sending an observer would be too great, or were worried an observer was unlikely to have much to observe.

The mixed view on the value of observers expressed by judges is reflected in the model state programs examined: Alaska and Colorado require courtroom observation. Arizona does not.

The pros and cons of implementing this reform includes:

Pros:

- In-person assessment of judge in courtroom.

Cons:

- Difficult to anticipate court schedules to remote areas. Good possibility of traveling to a remote location and being unable to view the judge at work.
- High travel costs associated with multiple trips to remote locations each year.
- Lower chance of observing a variety of cases and behavior than with the video option.

Costs:

- Design of observation guide, estimated 8 hours.
- Training observers, estimated 20 hours
- Observer time to observe (4 hours per judge) / summarize observation (2 hours per judge). Total 360 hours assuming one-half hour preparation time for each observation, two hours of observation, one-half hour to complete each evaluation, and driving time to each destination twice a year.
- Travel expenses for 14 overnight stays for areas 3.5 or more hours from Salt Lake City.

Ongoing Training Options

A. Strengthened Mentorship Selection Process

The new evaluation process should be coupled with a strengthened mentor experience for new lower caseload judges. In order to increase the chances of a lasting and meaningful connection, preferential treatment should be given to judges who are eager to serve as a mentor and who have an established relationship with the lower caseload judge.

B. More Practical, Mock-Trial Style Training

Although not under JPEC's purview, more practical, mock-trial style training should be integrated in the AOC continuing education for lower caseload judges. This was one of the most frequently mentioned ideas in judge interviews. Additionally, performance evaluation literature shows that evaluation feedback given for training purposes tends to be more influential than feedback given for administrative purposes. Offering mock-trial training allows for assessment and feedback on the judge's knowledge and courtroom behaviors.

In Summary

This report represents a range of possible reforms that require JPEC's assessment in order to determine the appropriate course of action given data collection limitations and finite resources. Regardless of which reform or reforms is selected by JPEC, the Gardner Policy Institute recommends a transparent reform process involving outreach to lower caseload judges, and feedback from lower caseload judges in mind. Particularly for experienced lower caseload judges who are comfortable with the current review and retention process, emphasizing a partnership approach to reform is important to acceptance and success.

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Appendix A – Judge’s Survey Responses

Interviews with 16 of Utah’s 20 low caseload judges were conducted and analyzed by Gardner Policy Institute staff. Common themes reported throughout the Literature Review and Recommendation sections. Interviewers used a general question guide but probed and clarified with additional questions during the discussions. Select comments from the interviews are included below. A comment was removed if the sentiment was repeated in another comment. Any identifying information has been removed.

Question 1 - How long have you held your current position?

Responses range from 2-37 years in their current position.

Question 2 - What educational and work background has best prepared you for your position as a judge?

Most judges felt best prepared with some sort of law-related background, others as administrators or as leaders in the community in some sort of capacity.

Life experience and doing it. Figuring it out. Nothing quite prepares you. There are statutes, codes and laws but nothing quite prepares you for sitting at the bench. You have to experience it.

This is a hard question. Have a [few degrees including] a JD, they all have been helpful, but the most helpful has been experience on the job. Time in legislature and executive branch helped me understand different government agencies and how to look up law and how government works. AOC training was also very helpful.

Common sense. Anything involved with working with the public. With regard to education, things change quickly now. Without a young clerk who is good with a computer, I would struggle. At the time, I was becoming a judge there was no education except what you get from going to meetings. District court judges were very willing to help the justice court judges. Judges would suggest I keep a difficult case under advisement and they would guide me through it.

In Utah, very few justice court judge requirements. I have been an attorney and feel as if that qualifies me for being a judge. Saying that, a lot of colleagues are not attorneys and that is why I think the justice courts can be viewed as the redheaded stepchild.

Question 3 - When you were first appointed to the court, what kind of training were you given? Probe: Did you feel prepared for the courtroom after that training?

Week-long new judge training through AOC. Because of my legal background, I didn't get as much out of this training as someone without a legal background would have. I would have wanted more mock trial experience where they provide some kind of trial script and run through scenarios. The legal stuff in the AOC training was fine, they are required to provide that, but I would have liked more practical experience. Liked the three month training at the [REDACTED] school. We would look at a film and receive feedback on our participation in a mock trial experience. You'd have people as prosecutors and defenders and others and it was run as a real trial. Then you would sit with a real attorney to review the video. It was really helpful. As a judge, it would be really nice as well because I knew I would make mistakes. People who haven't been on the bench need more practical input, maybe an event where they tell you here is how to handle an objection Here is how you talk to defendants. Also, I could have used help on how to look up a case. They show you here is your account but they don't show other mechanics. It takes us (lower caseload judges) a lot longer to learn because some judges will see more in one day than I see in three months. The most helpful training wasn't the training provided by the AOC, I spent time up on the bench watching what the judge did. That was the most valuable. I was sitting right next to two judges (people I knew previously and reached out to) and that is where I got an understanding of what I'm supposed to do.

So the AOC gives you a week's worth of training in Salt Lake. A lot of it is observing other judges and then meeting with them after to explain what we had seen. But that was the only formal training we received before taking the bench. We did have to pass a written exam at the end of the week, but it was an open book test. And we could use a bench book.

I am invited and have gone to all of the new judge orientations. I was also assigned a judge mentor, we still talk. That judge comes and sits in my court and gives me feedback.

Once hired, I went to Salt Lake and spent a week with several different judges. A lot of it was in house learning

the law and court system and what you could do. I went to their court and saw how they run. I went to three different courts that week and spoke with the judges. It was a pretty good orientation. It was hands-on... this is what you need to do. Most who presented the classes were judges and work for the court administrators office.

New judge orientation that was held in Salt Lake. This was a week's worth of sitting in classes. Judge [REDACTED] taught a course and several other judges also taught courses. I was able to speak to these judges about my questions as well. There was instruction at AOC on the basics of being a justice court judge. The Legal Institute was extremely helpful for a non-attorney judge. I have taken all the classes offered.

I went to a week-long judges' training through the AOC. And then I've had a mentor judge down here. Anytime I have any questions, need anything, or need any help, I've been able to go to that judge for help.

I went through the AOC's week long induction course and traveled through the courts to study how courts worked throughout Utah. Then we had a lot of class time and met a lot of judges. It was good training. If you pass the course, then they vet you, and you can be a judge.

I was given new judge week-long orientation. I have taken advantage of the Legal Institute's ongoing process. I took classes on criminal law, small claims, contracts, sometimes more than once to stay up on things. The Legal Institute runs the AOC and selects the professors (example of one from BYU) and they are top notch. This year, there was a class at the conference on Constitutional amendments worth eight hours of continuing education.

AOC's training is a two-day training. To some extent it prepared me. I learn by doing. It is probably a lot harder for guys who are not attorneys.

Question 4 - Have you received ongoing training?

Most judges are self-motivated and utilize all options given to them. They tend to prefer the localized focus of district trainings, and continue to utilize judge mentors, officially appointed or not.

AOC conferences and district training. I appreciate the district training because it is aimed at the district level. Every couple of months, the judges here meet with the sheriff's department and the county attorneys and we go through issues that might be a problem with us. Sometimes those things are new things and how to deal with them, as well as new laws and how we can work together to deal with them. I think that within the

county itself, we are all on the same page, it is only a 2-3 hour training every couple of months and those are extremely beneficial to me. Sherriff knows what we want and we expect and we know what the sheriff can and can't do and the county attorney knows how to deal with things between the two of us.

Absolutely - lots of it. The court requires that we maintain 30 hours of certification/education credits. My first 5-6 years, I never did less than 80-90 hours. That's how I completed my course in Legal Studies through AOC. This year will focus on new issues among the judges; demographic issues (a group of homeless, or different nationalities, or people who are subject to the 4th amendment). We do it all. And those trainings are awesome. We do a weeklong training every year in the spring.

Yes, we are required to do at least 30 hours a year. I probably do double that. The AOC offers plenty of opportunities and trainings you can go to. And our district meets once a year and gives 4-5 hours of training that deals with issues we are facing locally. There are plenty of opportunities. You could probably attend a training once a week if you were willing to travel. But our district meets once a year.

I opted to go to the Legal Institute. I am not a lawyer and needed training. I don't want to look like an oddball or make mistakes in front of lawyers representing clients. I attended a drug seminar where they talked about substance abuse problems and how you handle voluntary rehab. Got different ideas about how you might handle such a person. I'll do anything that will help me. Drugs and alcohol are at the root of a lot of problems so it helps to understand what is going on. Also, [REDACTED] District does little seminars like small claims action. I've attended some of those. It keeps us sharp on topics.

Spring conferences are required. There is also usually a District training for the [REDACTED] District with other justice court judges where the district judges pick a topic. I like the district trainings better because they are based on a new issue or something where there was a question. The Spring Conferences tend to have the same topics each year. An example is small claims training each year, which you wouldn't go to unless you don't like the other option, then you go to the small claims again and it feels pointless. This year, looking forward to the Wildlife violation focus. Probably not a topic of interest for most judges, but a big issue for the area I serve and other rural counties. The Spring Conference tends to focus on topics that would be of more interest to non-lawyers. As a lawyer, I know most of it.

I go to Spring Conference every year and I went to new judge orientation. I also go to sit in other judges' courtrooms about eight times a year. I call other judges to make sure I've made the right call.

I'm more focused on district training of 4-6 hours each year and short courses offered by AOC and taught by contracted professors. They can last anywhere from 2-8 hours. I have done three or four of those; one on constitutional law, one on the Supreme Court, and another on evidence. Also, I watch 2-4 webinars per year on targeted areas, as well, like small claims or domestic violence. I find them very helpful.

I attended the AOC training. Also, have attended Reno National Judicial College several times on topics such as bias, ethics, sentencing guidelines etc.

We are required to have 30 hour a year of additional training and most judges get more than that. Seems like the court is always putting on a seminar somewhere on different things like domestic violence and small claims.

...the best was a break out session on jury trials. Judges brought their materials to the session and talked about things like why they accepted some jury instructions and not others, or 'here is why I allow some questions and why I don't allow others.' Very hands on and practical - most helpful thing of the week by far.

Question 5 - How valuable do you feel the training you have received has been in aiding in your professional growth?

Most find it valuable, but still rely on relationships with other judges to supplement what is offered with applied advice and observation.

Annual conference provides between 20-25 hours and that has always been helpful. I have to admit that the most beneficial source of education for me has been just reading appellate cases. Back in the early days of my career, you had to subscribe to receive appellate cases every month, now they are available on the web and I monitor it daily.

Helpful, but kind of overkill. There should be different tiers of training. I have to take a week of vacation from my day job to go to a week of training where we have too many breaks. They actually did the best job they ever have this year. Kristine Prince and Kim Free have been over education and they both are fantastic.

I think it's essential. Especially the annual trainings they have once a year in St. George. Not only are the classes really good, the networking with other judges is as beneficial or more beneficial than the actual coursework. Anytime I have a question, I can reach out

to a more senior judge. Networking with other colleagues is the most helpful thing.

I think what they have come up with works well. But I also reach out to other judges and sit in their courtrooms.

Invaluable in two ways: one, it updates you on changes of how you do your job and what is required of you; two, it allows you to interact with other judges throughout Utah. You interact with them and can talk to them and ask questions. Really excellent trainings.

Invaluable. So closely related to trends and the legislative process and the new rules that are generated every year. I couldn't do without it.

It's a must. Things change every year.

It's been really valuable for me. I always learn something new or pick up something new. And in the judicial world, it's always changing. So just trying to figure out how to handle different cases, that's been helpful too.

Yes, listening to other judges helps me to be better at my profession. Sometimes I'd like to know how others handle things, I sit and observe other judges. Classes do that also, but if we're not sure of ourselves in something like small claims, it is useful to see what they do in another courtroom.

I love AOC and I know they are trying, but I did not feel prepared to sit on the bench due to AOC training. I felt prepared because I sat next to a judge after reaching out to two judges I knew. We need more mock arraignments. Other judges say hey you got that right and what you could do better, so that when someone comes in regarding something that matters to the people in your courtroom (a lot of people may only come in once when something is important enough to them to take the time to come in), you do a good job. If judges are unprepared it looks bad for everybody and can undermine confidence in the judiciary. People already sometimes have the impression that these courts are kangaroo courts. They aren't seen in a real court house, but a school or city building. Don't want to add to that impression by making it apparent that the judge doesn't know what he is doing.

Question 6 - Do you think additional or ongoing training would be valuable for low caseload judges (and especially non-attorney judges in this case) Do you think it's needed at this level?

Most judges find value in ongoing training, and some had specific ideas on how to especially cater to low-case load and/or rural judges.

Certainly there is but I wouldn't separate it based upon that distinction. We don't need to have more training, there should be different types of training for different types of courts. The judges in West Valley and Salt Lake don't need training on practical role playing or certain types of cases, they deal with hundreds of filings every week, whereas judges in really small communities - I mean I'll get a DUI or domestic violence every three or four months - I don't have the volume and therefore the experience needed to deal with some of our more complicated and serious cases on a regular basis. On the education committee, I pushed for this but didn't get anywhere because rural judges are not the priority; the distinction should be an urban track and a rural track. The rural track could spend a lot of its time giving each other pointers, role playing, covering the basics that the big city courts would be yawning and saying 'why do we need this?' There is so much esoteric information covered at our trainings that the practical trainings - with checklists and forms and role playing and seeing how people do sentencing - would be far more valuable for the small judges whether they are lawyers or not. All small court judges would benefit from role playing.

Absolutely I feel that it's valuable. Not only valuable, but it keeps us focused on who we are and what we do. There are two kinds of judges, career and service judges. In small communities, we still have to deal with the same things that city judges do. But we are service judges and do it as a service for our community. We don't do it for the money or the prestige. I have known these people [that appear in court] their entire lives. I know what their issues are, they are my people. Someone who is circuiting around once or twice a month doesn't get to know anyone.

One thing that could be helpful is a bench book. Step 1, Step 2, put in a trial script. Had it [for a past position], and it allowed me to just worry about the law rather than the mechanics. I know that this information can be put together but it hasn't been. Example, small claims from A to Z. If a situation came up for the first time in awhile, you could think 'I've got a book.' No panic mode. I am working on a bench book now.

If they could figure out how to condense it down. I think that the new lady at the AOC office really understands. In the past, you went there and the same people presented every year. The same kind of topics and you went there as a requirement. Kim Free I think understands 'let's get this done and get home,' so the days are longer but she has better topics and if you get done in 45 minutes she says 'great go home,' whereas in the past they'd string it out for the whole hour. She's more interested in getting you the information so that

you can learn rather than filling the time. I'd much rather have that. Give me a slide so that I can read it rather than drone on.

Always. When I did initial training, there were three other judges. One had just about 10% of my caseload because he lived in a tiny town. When we got back together a year later and talked it was amazing how different our experiences had been and how much more I had had to learn based on the caseload versus what he had experienced with a small caseload. So I think even the small courts need to have additional training because they don't see cases as often. Same need for both attorney and non-attorneys. I have taken courses at the Legal Institute who bring in a BYU or UofU law professor for very concentrated and condensed helpful classes.

Yes, extremely valuable. Laws change all of the time. Sentencing guidelines, bail changes, for example. If I wasn't going to training, I wouldn't know changes. Wouldn't know how to set bail. It is not set in stone, it's always changing.

Of course, especially for every year when new laws come out. Even though our caseload is small, we need to know how to apply new laws - the Spring conference is particularly important in this way. Sometimes things like mandatory counseling might not be available. We need training on how to comply with the laws. Fall meeting with our district is also important in terms of feedback back-and-forth with each other on our experiences. In our spring conference, I wish we would spend more time on how changes apply to our courts.

I think if you take advantage of what is offered, it would take care of the need. I think what I would like to see offered is if we were to do mock trials. Have somebody walk you through the actual process of doing it instead of just talking about it. Especially because you have your peers watching you, so it would be a little more realistic.

Yes, I absolutely do. I don't think you can ever know enough.

Question 7 - In terms of ongoing training, is there a certain way... in-person, a webinar, Skype, etc. that would be best and make it more likely for you to participate?

Most prefer in-person, but understand the convenience of technology for those who have long distances to travel or work other jobs. Webinars are a good solution for law updates.

Live is always best, but I complained last year to the education director about the number of trainings and how we are required to go but don't get paid for it and I have to take time off of my paid work to attend the

trainings. I really appreciate [when I receive substantial credit hours in one training]. I don't need a webinar training as much this year because of that. In year's past, I was always scrambling to get additional hours and I needed a webinar option more. There are so many sarcastic, patronizing judges in big cities that think this is what they do all day long and they are experts with it. They are patronizing to judges who do this very minimally, where it is not part of muscle memory to cite statutes. I like the live sessions, but you get a lot of judges who don't want to be there and a lot of judges who make sarcastic comments and then a lot of judges who are afraid to make comments because the West Valley judge who intimidates some people may make a comment. A webinar would be beneficial for someone who is intimidated. Or smaller groups where only rural judges were there and the more outspoken big city judges wouldn't be there to intimidate. Some judges are afraid to speak up and say they don't know something. Need an area where we can talk openly and help each other rather than have people criticize the non-law trained rural judges.

I have multiple jobs and getting away is tough. But I do try to make it to the meetings and I think that I learn so much. Sometimes I learn more during lunch hour than I learn in the meeting itself. If I were just to sit at a screen, I don't think I would gain as much as I do from the association with other judges in the meeting and the things we discuss. Easier to look at a screen, but need the association.

When the whole state gets together, I don't get as much out of it as I do at district meetings. Part of it is that we are all from smaller courts with the same issues. In-person training is my preference.

No preference. All meet a certain necessity. Maybe online is all you can do based on the time or the long drive.

Internet is an issue, I prefer in-person, but will try to make it work if internet is required.

I would attend no matter how it was offered. However, because of the networking benefits, I think the live conferences are more beneficial.

I prefer webinars. For most judges in smaller courts, it is a part time thing. I have a full time job and do this on the side. For me, going to St. George for training is two wasted days of driving. Webinars can have the same information but you can control the timing and listen twice if you would like to. With today's technology, I don't need to see another person. Don't need the camaraderie of meetings.

I don't feel like I want a webinar or tech alternative to in-person training. But, if people are more comfortable

with technology, especially younger judges, it could be a good thing. Using technology is the same for younger judges as me writing things in cursive.

I am close enough to Salt Lake City that going to a training there is not a big deal. But technology could be used, especially if it is just an update on a law. For practical training, there is a benefit to being hands-on.

Face-to-face training is my best method of learning. When you can interact with your instructor, it is easier to ask questions and follow through with things, and they can make sure you understand what you are learning.

In a classroom where you can interact and ask questions. On a webinar, you don't know who you are interrupting. Tougher to keep on track with a webinar but Skype might be a little better.

I like in-person for more in-depth and the ability to ask questions, but I really find value in the targeted subjects and convenience of a webinar. Just makes it hard to ask questions.

Question 8 - Have you had a mentor in your current position? Do you still have a mentor that works with you now or was that just when you were new?

Mentoring is invaluable, but many take advantage of those with which they have personal relationships, rather than the appointed mentor. A few judges had feedback on how to improve the mentor selection process.

I was given an AOC mentor who is a really nice guy. I can call him but my experience with sitting next to the two judges I knew was really the best. With just the assigned mentor, I wouldn't have been as well prepared. People I know better are the people I reach out to first.

I kind of had an unfortunate experience, the judge that was supposed to mentor me was retiring right as I got put on the bench. So I had very little of an actual one-on-one mentor. Luckily I had made connections with other judges so I was able to reach out by phone or text when I needed to. But I didn't really have a mentor right at first.

My mentor was a non-attorney judge. He said, 'Remember, you don't have to be a mean guy to do this job. Remember good people make mistakes.' Some people get power and they go a little crazy. Other advice was, 'If you get to a problem, call a recess or postpone for a couple of weeks.' I have made friends with a lot of judges. I know about 40 judges. I've called a lot of them with hypothetical questions. Almost like having 40 books.

My first mentor it was kind of difficult because he was quite a distance away from me. Now I reach out to the closest presiding judge.

I mentor now, and one of the judges I mentored was a former prosecutor and I learned as much from him as he did me.

I didn't have them. I was handed city and county docket books. You were on your own. I had nothing. I had no one. I went to local court with a judge who had been there a couple of years as well as some other courts. They were all mentors, they were all willing to do it, but nothing official. Still, I had special people to talk to and I still do. I still call some of these judges occasionally to get advice.

Yes but didn't need it after awhile. I called him with questions once in awhile. He said he would visit to observe me in court but he didn't. Would answer questions but I needed someone who is invested. In terms of assigning a judge, I think it would be good to ask the judge if they have someone they already know who would feel comfortable being their mentor. I think they assigned me the person who was the most experienced judge, which is fine, but sometimes he wouldn't answer my questions or it was hard to get ahold of him, so sometimes I ended up calling district court judges that I had worked for. I felt more comfortable with them. Need to feel comfortable or its not that beneficial. You need mentors when you are new. In a smaller court, once you see the cases, you pretty much see the same ones all the time. And once you see one come out of the blue, you probably won't see it again and you won't have time to call someone. No mentor needed past a year.

Question 9 - Do you think mentors would be valuable to most lower caseload judges?

All judges agree they are valuable, some with caveats.

It is great. I went to my mentor's courtroom and he came down to mine. I've talked to him numerous times on the phone. The mentoring program is one of the best things that happens in the program for a new judge. A mentor has been through it all.

Yes, especially if not they are not attorneys. They are drinking through the firehose. In rural areas, there are not as many attorneys.

No question they would. For any caseload judge, a mentor would be very helpful.

... Mentors are valuable for attorney judges too - it is a whole different world behind the bench.

To a certain extent, yes. It depends on what judge you get. Aware of some who have been named as mentors in the past and they are pathetic. They don't do anything. They are condescending. They did not even contact their mentee. I know they try to guard against that. I was asked to mentor and I said I didn't feel qualified to mentor a full time judge. I could mentor a lawyer, I do that every day. Education Committee should assign mentors based upon personalities. Some of these relationships don't work and others are awesome. I know a judge who called his mentor everyday.

Yes, a very good thing when they first come on the bench at least. To be able to call with a question or problem would have been helpful.

Absolutely. It is very important to have someone you can go to. It was very important in my first year because I had situations come up that had never been touched on in my initial training, things I didn't even know about.

Absolutely. We say this all the time at the conferences, getting the particulars of say the subpoenas, pre-trial conferences, prosecution, warrants for arrests, all those procedural details are key to knowing how to do all of those things but time spent talking with one another about cases and processes, and things we have tried that work or didn't work (something only experience delivers to a judge) is equally important. We cherish those moments that we typically only get in the hallway. That is where we compare notes and they are great notes. We don't waste time. We mentor one another every chance we get.

If we think we know it all, we are the ones who are losing and so are the people who come into see us. Not sure we need a mentor but if there were judges of greater or equal knowledge that judges knew they could call and they would always be glad to talk to. I still have questions. Small claims is an area I have more questions because there is a lot of grey area involved, you have to determine if people are telling the truth. Knowing you can discuss it with someone else is good -- not sure if that is called a mentor. I feel fortunate there are other judges I can call to discuss a matter.

They're not only valuable, but they're necessary. But not for the entire time they are there. There is now something called presiding judges. Each district elects a presiding judge. The presiding judge can provide direction to judges in their district or you, as a judge, can go to the presiding judge for advice. Every two years we elect another one.

Yes - you have to be able to have some support and be able to ask a question.

Question 10 - What are the greatest challenges that you have faced as a judge in your court? Do you think that the challenges you face differ from those of your colleagues in larger districts or with larger caseloads?

Judges have challenges offering necessary treatment options due to their remote location. For others, their challenges are administrative.

My biggest problems is that about 80% of the people that come before me are people I know. It could be through work, family, church etc. I don't imagine that is a problem in the bigger courts. If I recused myself every time I knew someone, I wouldn't be here very much.

The greatest challenge is I am a humanist. There are days when I go home, I sit in a dark place, and I cry because of what people do to themselves. The biggest challenge is not wearing my heart on my sleeve. The biggest challenge is how people react to what I ask people do. It's hard in a bigger court. How do you focus on an individual when there are 299 people right after the first waiting to see you. The smaller courts are good because I can take time with the individual and help them with their problems.

There are two categories to this question. The first being administrative: In smaller courts, the judge needs to be on top of all the administrative stuff, where in bigger courts, the judge may know nothing of the administrative side. So I have to know everything, where bigger court judges they rely on their staff of clerks. Two, and I assume this issue is the same with all judges, but about once a month I have to deal with either rowdy defendants or 'constitutionalists.' They are difficult to deal with.

The main challenge in my courts is diminishing community service options. We used to have places to send people) like Deseret Industries but they don't do it anymore. I am very limited to like the two animal shelters. The schools don't want to take them because they have a record. So my hands are tied as far as community service. The maintenance crews with the two cities I'm in will sometimes take them. The big thing in the Legislature this year is they want us to tell people, especially indigent people, that they have the right to do community service. When there is no community services, I don't know how to give them community services. It didn't become a law but I can see that forthcoming. If that happens, they are going to do community service and not pay a fine.

The biggest obstacle that I have run into is when I have people who come in front of me who need some sort of treatment like rehab. They'd benefit more from some sort of treatment than they ever would from going to jail or getting a fine. The resources are so limited, there's

not a lot I can do for them. What they need is just not available and they don't have the money to pay for the treatment. When I go to these conferences, I listen to these places that have drug and traffic courts. And they have resources to pay for treatment for people who cannot afford it. And that's probably the biggest challenge I've got.

Probably the biggest challenge I face, and maybe it's just because I'm more remote, but it would be access to different programs and different things like that. We just don't have those things for our lower case courts, like treatment centers, counselors, community service centers, different places that I can refer people to for help, we just don't have that down here. I serve, not like a lower income area, but people don't get out of town, they can't. It costs them too much to travel outside of the area to go get that treatment. So that makes it hard.

Probably dealing with the city. They tried to shut down the court and I hear they are going to try to shut it down again. I don't think they want to be in the business of running the court, but they claimed it was financial until I showed them that they had made money every year since I had been a judge. Justice court shouldn't be there to make the city money, it is a benefit to the citizens and the city to come to court. When I was hired, the mayor said 'I don't care if you make money or lose money, I just want you to treat the people well and for them to feel that they have been heard.' That is the right approach, not looking at it as a revenue generator.

My biggest challenge is the pay. Very little money. I feel like it's glorified community service. I have the ability to make more money as a lawyer and I leave paying work at my law firm every time I go to court and it's frustrating. Cities don't allot much to the judges or the clerks. You don't want courts on the backburner, they are a fairly important thing and it makes me nervous. I always put uncontested cases on my calendar mostly because I want to make sure that my court staff is doing what it is supposed to and that payments are being made. Its a battle every month- insufficient resources.

Getting the proper education, counseling, other resources for the drug problem. I didn't have to do as much with this years ago. In other areas, there are better facilities and programs for people. In a smaller court, we don't have it or it's far away, and especially difficult if someone doesn't have a license or transportation. Court plays a big role in trying to make people more productive but we don't always have access to the resources we need.

Getting interpreters, they have to know well in advance. Cops don't have computers in their cars because of

internet issues so I can't issue warrants. I do my E-verify stuff at home.

Biggest thing is that the caseload is so small it means you see things infrequently and it may be a year or so before you see it again and then it will be forgotten. That is why I am putting together a bench book. It would be great to have if you can't remember. Can't always call on the AOC or a mentor at 7:00 at night, so a bench book would be a resource. I know that AOC would help me if they could.

Used to be getting attorneys to show up on time and now in the last 18 months it has been getting them to show up *at all*. Really hinders the process of moving cases through. It is difficult. I have two courts, and each court meets one day a week, an hour and a half at one court and an hour at the other court. One of them is going to every other week for an hour and a half. I don't know about others experiences with getting attorneys to come in. I think where they have larger volume courts, the attorney can show up and do two or three cases versus coming for one, but I don't know.

My greatest challenge is that I am so limited on resources since I am so remote. I do not have a defense counsel that sits in my court. I have a victim advocate. I don't have ankle monitoring. I don't have counseling readily available. People have to drive 55-60 miles to get counseling. My challenge is how do you follow sentencing guidelines when people don't have transportation?

Question 11 - Are you familiar with the performance evaluation that judges with higher caseloads receive? Have you seen those evaluations that are longer and more in depth? (If the judge is unfamiliar, provide information on higher caseload judge evaluation as well as on lower caseload judge evaluations if needed)

Familiarity and perceived personal value of high caseload evaluations varied.

Oh yeah. We've gone over them over and over again. We don't go through that evaluation process in the lower courts. We don't have to do some of the things they have to do, but we are familiar with them.

They went over it in orientation, but I've never read one.

Yes. I read through all of them each election cycle. I think that also can provide some learning experience.

I've seen them in voting pamphlets for district courts.

I have never looked at one.

I haven't seen those, but I am familiar with how they're evaluated versus how I am evaluated.

I looked at them some time ago, but I didn't get to into them because they weren't applied to my position.

Question 12 - The highest caseload judges receive survey feedback from attorneys, jurors and staff in the following five areas. Would you value feedback on these areas as well? They are legal ability, integrity, judicial temperament, administrative performance and procedural fairness.

Most of the judges welcome any feedback to be better at their position, with the caveat it may be a challenge to obtain a necessary and fair sample with their low caseloads.

Yes. I want to be a better judge. Small courts are my foot in the door for working my way to a judge position in a bigger court. Only drawback is if there is only one attorney and that person doesn't like you, it may be biased. I strongly support giving all judges feedback on integrity, judicial temperament (critical) and procedural fairness (really important for every judge) I also want feedback on administrative performance, but with a caveat. My clerk wears five hats in the city. She is a great worker, but we are probably not doing things as well as someone who has it as their full-time job. I would still like to know areas where I could get better but not have it held against me during a retention recommendation when it is a matter of resources. They are very part-time but I want it to get better.

My colleagues, 87 or 90 of us, are getting smaller as judges get more than one court. My impression is that the non-law judges get scared to death about JPEC. Everyone is worried about job security and losing their job. Colleagues are worried they will lose their jobs and rely on the income from these jobs and so are annoyed by JPEC. For me, I do not rely on it and so I will take constructive feedback at anytime. I am okay if I am not retained. A lot of them are probably a little bit worried about JPEC giving unfavorable feedback that could lead to them losing their jobs. I would love to get feedback on my legal ability. I have not even had someone ask for a trial. I would care more about what the lawyers say than about what the layperson has to say. A lot of times laypeople don't even understand the law. Sometimes you have to make a decision that you don't even agree with but the law requires it. If people leave the courtroom mad, why would they be judging judicial fairness. I think that the lawyers would understand it though. I'm okay with anything for me. If I had a bigger court, I would enjoy the feedback. I would like to know if I treated a woman different from a man. In terms of legal acumen, I think that the lawyers are going to be better equipped to assess. Judges get more scrutiny

than the average profession. I think that any categories that you add are going to scare a lot of judges because they will be scared about losing their jobs. Me, I'd love to know about my integrity, just don't go to small claims court because everyone in small claims court leaves mad - which I think is a sign of a good judge. In most disputes there is usually some truth on both sides and so both sides leave mad. Administrative performance has always been a concern for me because my clerk handles all of that. I mean, clerks run the courts but it's the judges' necks that are on the line. Somebody that I rarely see is administrating most aspects of my court and yet I am the one who is held accountable. That is why I have my staff put every case on the docket. I don't have control over a lot of the administrative things that go on because I am not there, I don't think that is favor. It's kind of stressful to be a judge. So much scrutiny. Most are trying to do their best. It's intimidating to know that there are people who are subjectively evaluating them.

I'd love to be evaluated on all of these areas, but how can you measure it when I'm in court two days a week? I have been observed, they interviewed those leaving my courtroom and also reached out to prosecutor and defense attorneys. I got the feedback via phone call that same day. It was five years ago, so I think it may have been a pilot case, but I remember the list of questions was not that long. Another time I'm pretty sure the person told me in advance that they'd be sitting in my courtroom to observe me.

If you are a small court, you have maybe three defense attorneys come to your court all of the time and let's say that one or two of them don't do a good job and you have to get after them or maybe you practiced law against them and never got along with them, then they can really make you look bad. I think feedback is always good and everyone should have a channel for feedback. I know people come in and observe court, and some nights, court runs real smooth and everybody's respectful and everything goes well and other nights you have guys not very fun to deal with and you get after them. And so if that was going to be used then would say make it a specifically balanced thing where I am visited quite often. On the other hand, some judges aren't nice judges but may behave like an angel when observed. You'd need a good sampling. In my courtroom, I know when there is an observer because so few people are there.

All would be very valuable. I would want to know if I fell short in any of these areas.

I'd probably find value in getting feedback on legal ability. The number of attorneys I see is only 1-2 per year,

maybe a couple by phone. No value on hearing feedback in the other four areas.

I don't think they'd be too useful because of the low case load. I finished up my court load for the day and I only had seven cases and two of them didn't show which is common. Where is your survey group going to come from? I hold court once a week for three hours.

I have been through evaluations when they came down years ago. I had ten attorneys instead of 100. They asked questions of people coming and going. They also surveyed out in the lobby. The report was interesting because it was interesting to see what other people thought. If you think you are being pleasant and other people think you are being pleasant as well, it's a good deal.

I think all of those, I would like to know how I am doing. It shouldn't matter which court the defendant goes to. They are entitled to have a judge that is proficient in all those areas. And if we are not getting feedback on if we are treating people with the right respect, or with the attorneys as well, I don't know how we are going to get better.

It would be really great to get feedback in all of those areas. But I have had one jury trial in ten years. I probably have in a year, maybe five or six outside attorneys that come here. So it would be difficult who you would survey to get that information. We are in a teeny tiny little spot. Our entire court staff is fifteen or less. I wouldn't know how to tell you where to go or what to do.

Legal ability - Most people wouldn't know that much about it. Only a limited number of attorneys come in. Integrity - this is the most important. If you put aside what the judge is doing to run his court it is the next most important thing. A judge has to have that. Yes - Judicial temperament - I've seen a few judges lose their cool. I've never lost it. Administrative performance - I don't know how you would rate these small courts in that way. Procedural fairness - I don't think it would hurt to ask. I don't know how you would gain anything by asking it - not in my court.

Most cases I see are misdemeanors or infractions; small stuff. I don't think anyone I see would think they are treated differently. I would like to be evaluated, I'm always looking to be better.

Some sound good and others not. Legal ability not so much. I don't know that my caseload is big enough. I feel like when I'm voted back in, 70-80% of the county people know me at least by name, and re-election tells me whether I am doing my job well or not. I don't see enough attorneys. The county receives an evaluation

form and I feel that would be more accurate. I would want to know whether other people think I am fair.

These areas are all appropriate. I may add something along the lines of procedural competence. As far as lower caseload, I have never understood why they couldn't survey attorneys. They can get the name of every attorney that appears before me from my court calendar. The attorneys don't have to be surveyed in person. They can do it online, by mail. Jurors, I don't know. I can see where that would make sense in a busier court. I have only done three trials in my career.

Question 13 - In mid-level caseload judicial performance evaluations, court staff and others in the courtroom, including staff, litigants, participants and observers like family are asked questions in the evaluation process. How useful do you think these observations are or would be?

Some judges welcome hearing from the families of litigants; others wouldn't find it meaningful. Concerns with adequate sampling was again brought up by many.

I don't think it would be useful to me. The retention election tells me if they are being treated right or not.

Absolutely. I would think that they would come up with that earlier. There is nothing that would define our court better than coming to court and talking to everyone in it. I have always wondered, why don't you just ask the defendants? They don't have to like it, but for the most part, their opinions are just as valuable as anyone else's. And we may have only four or five attorneys appear before us in a year's time, defending different people. It would certainly identify the particular court.

I get what JPEC is doing. I think it is good for judges to have feedback. It's just weird when you have a court proceeding with lots of emotion because someone is charged with a crime, and families will always support their loved ones. They don't understand the legal nuances. They have a simplistic understanding and sometimes are out of touch with reality - I don't personally care about what someone's family says or what a losing party says. I care about what people who see the judge day-in day-out say about fairness, impartiality, legal acumen etc. Court staff and prosecuting and defense attorneys who understand it better means more to me than a passionate heated mother whose son was just found guilty. I don't really care what the family members or the litigants say. People have thanked me after court even though they didn't win but others are not looking at things objectively.

Very helpful, but I guess there has been cases where observers have tried to interview those leaving my courtroom and they didn't want to talk.

Valuable, if I was on the wrong path, or stepping out of bounds, or over the top on some decisions, I would want to know about it. For example, if I was tougher on a 27 year old male for a DUI than I would have been on a 27 year old female, I would want to know. I would want to know if I wasn't being equal. People have their prejudices whether they know it or not. I take criticism well and use it to better myself. I will sometimes ask the defendant if they think they were treated fairly.

They would be useful - the problem again is that if they are going to have someone there to do that, is hitting a time when people come. There have been some court sessions where no one shows up. The clerk and I sit there for an hour and we leave. They would have to structure those around a busier docket, which we do have. They would have to be intentional in watching the schedule. That feedback would be helpful. It's hard when sample is so small, only a small portion may be relevant.

Sometimes litigants come in and they only know court off of what they've seen on TV. So they may feel like they're not getting a fair shake or that we're not following the law. So sometimes they might be a bit biased. But most any feedback would be good feedback.

It would just be really hard to get a good sample. Of course, mail is more anonymous than in person. But I don't know at that would be effective. I think you'd get a skewed answer. I think the people that are mad enough with the court would respond negatively. The general type of person who comes to court probably wouldn't respond anyway.

I would say prosecuting and defense attorneys or the people that come in to your court or your staff who are in the court. These small courts are a different world. I'll go for weeks and months and never have an attorney in my court. Our staff would definitely be a good source to evaluate. The family is a pro and con situation. If the family is happy with what happened, your evaluation is great. If the family is not happy then the judge is an idiot. In these small communities you may get that. So far in my court, I have never seen that. 90% of the time if it is a young boy or girl and their family is there, they always say thank you when they leave. The people in small communities are just different. (Probe – what about staff?) One clerk in each court and no other court staff. (Probe – what about peer evaluations?) If they are an honest evaluation, they are all good. It is when they are dishonest that it is not good.

I would love to have that feedback. Could be their first and only time in court. I especially would want to know if the family and defendant feel that they received fair treatment. I think it is very important to get feedback from these groups, especially because of what we do as a justice court.

Have to do a bigger sampling. Some defendants are habitual. They hate the judge no matter how you treat them. Others don't understand. Example: I gave a break on fines to one woman who pled guilty but had some for mitigating circumstances. I thought that I was helping her out but I found out she went out and told my clerk how big of a jerk I was whereas another person who had to pay fines because I followed protocol thought I am nice. Need a large sampling to get rid of two sides of the spectrum and focus on the middle. The same problem would exist for clerks, one of my clerks right now has made a threat towards another clerk so I had to get after her, so her review of me is probably not that good right now. But she probably won't say why, she will just say I am not fair. Depends on the working relationship with the clerk.

Anything to make things better is fine. I figure I am being looked at every day. You never know who is saying things to evaluate you. As long as you do what's right, there is no need to worry.

They would be good. The problem you run into is that we are so small that everybody knows everybody. I don't know how much honesty you would get. When it's someone's buddy or good friend. Bi-partisanship, I don't know how that would work.

Question 14 - Are those the sources if the court were to gather information, are those the sources you would want and look at?

While some thought they were all good sources to focus on, others had feedback on why some sources might be more challenging than others.

Yes, look at anyone.

Those sources seem great if there were people.

The regional meetings that we hold once a year is where we actually get our feedback. You don't single out a person, you speak to everyone and the person who is in the wrong knows that it's them. For example, speaking to everyone about opening courts on time. Then you're not singling out a specific judge for being lazy or anything like that.

Lawyer feedback means a lot more to me because they understand legal challenges. Court staff is good but there is a big problem because you know who your

court staff is and they could fear retaliation. Most people don't dare approach a judge with concerns. I would weigh litigant input less than lawyers.

I would look to a mentor. The new presiding judge office perhaps. There are four judges in our district and two will retire this year. We need to have a presiding judge to make sure judges are doing what they should. We could also call this a mentor.

I truly think that interviewing the defendants is the way to go. We don't have a lot of really angry people leave the courtroom. I am such a small court that I can take the time with each defendant and talk to them and smooth ruffled feathers. I think surveying the defendants would show a decent number of people who were happy. Not happy maybe, but satisfied with their day in court.

I think the clerks have a lot of insight into what is going right and wrong. I think it would be good to get feedback from them. Because a lot of them work with more than one judge. And they might be able to pick up the goods and bads, what is working and what's not from several sources. And share that with whichever judges they are working with.

I question whether court staff will give you an objective answer because of relationships between judge and staff. I have only one clerk in each court. Neither is going to be negative regardless yet those are the two that really know what happens in court and how it functions. How objective can that be? Attorneys will be the best source. I have about seven attorneys who handle criminal law and some I will only see about each year, others I see once a month. I would rely more on an objective survey from a prosecutor because he is independent. I don't have a dog in the race. I would use public defenders as well.

I only saw four litigants in person out of 20 last month, most telephonically, or they don't show up. It would be hard to interview people in my courtroom for that reason.

I don't think [there are others to look at]. It's been a year since I had an attorney though.

Defense attorneys go before a lot of other courts and judges. I want to hear from them. I want to know how to get better. I want the same full review as other judges. Small courts shouldn't be viewed as less capable or held to a different standard. It is a dangerous way to think. Everyone should expect the same standard from their judges.

Question 15 - Do you have a concern that if you see people frequently in your court that they would have a hard time being candid in an evaluation?

There is little concern this would be the case; most judges believe frequent associates would be candid.

I wouldn't really have an issue. I have substituted in other courts and I got the feeling if you polled those lawyers, I would get a good evaluation.

When I filled those out for a judge when practicing law, I kind of thought that if I really hammered the judge, how would that work out? So I think sometimes you go more lenient than you want to. In my court I wouldn't really worry about the attorneys because they are all on a rotation. They are obviously getting the appointments from me, and I knew them all as an attorney and got along with all of them, so I wouldn't worry about it for myself, but I could see it being a problem in some courts.

Yeah, I can see where that might happen. I could see that going either way. It could either help you or hurt you depending on how they feel they were treated and their individual personalities. Certainly anyone coming through the court is going to have an opinion one way or another whether they were treated fair or not. I would hope, if I am doing my job right, they will feel like they were heard, and feel like they get a fair shot. That's always what I strive to do. I guess no, I don't think it would concern me if those people were interviewed.

No worry about being candid - not the attorneys I deal with. They would all be above that concern.

No. If anybody is surprised by that they probably shouldn't be in the professional arena. The people gathering or reviewing the data, this is kind of a human experience we are having here.

I think people are candid. If I didn't handle someone well, I think they would say so.

I don't think so. I definitely have regulars, but those regulars are repeats for alcohol and drugs, so whether they're under the influence would be an issue. I think my other regulars would be candid and I'd like to hear from them. Sometimes I already ask them for feedback.

Once again, I can only speak to my court. I get along so well with our county attorneys, public defenders, etc. I get along so well with everybody that it might be skewed to the positive when maybe it shouldn't be. I have one clerk. She does tons of stuff. She does the work of about 6 people and she does it well. But they would never say anything bad about me. And that's not really productive because if you are doing something wrong they'd never say anything. They're loyal. But you don't survive in these little courts by being a jerk. You have to represent the community. And you have to be honorable and have integrity.

I think you'd get a pretty honest answer. No one really has a problem voicing their opinion.

Question 16 - What methods of gathering information could provide good information on a performance evaluation? For instance, would a review of a video of court proceedings be valuable? Could you tell if you were being observed? Is there something else that you can think of that would be a good way to evaluate in the low caseload level courts?

Responses are subjective due to various factors, but they also offer suggestions due to these factors.

A person would need to know the court calendar before they come. Things change very quickly, especially between Friday and Monday morning. I don't even know if it will happen. I would hate to have someone come down for nothing. I'm audio/video 'camera shy.'

Any of them would probably work. It would be quite an expense for someone to come down here from the Wasatch area. And I don't know if any method is better than another for fact finding. All are good.

Any of them. An observer is probably the best, but probably subjective. I have some additional ideas: More mock trials. In the 5-day training when I started they had 1.5 hour mock trial sessions, and at the end I got to sit at the bench. I was also helpful to see how other judges ruled and their different styles.

I don't know as it would be too valuable because I would sit there and visit with the observer because there is not too much going on. The observer wouldn't have much to observe.

I generally know who is going to be there, and again, sometimes I'll ask people in my court their feedback. We have no video capabilities, it would have to be audio. I welcome any evaluation method.

I had the new guy came down. It has been hard for him to get to every court but he did come and talk to both of my clerks but I happened to be a day we didn't have court. Court wasn't in session that day. One judge has 10 courts. I think the guy was down here to go to other courts and he stopped by my court. (Probe – any other methods – video?) It would not be really helpful so I don't think so. But I don't think it could hurt.

I have not seen any observers in my courtroom yet, but I would like independent feedback on how I am doing. (Probe: Do you think that the video would be just as valuable as an observer?) Some things may not be caught on video. However, it is better than nothing even if something is lost. Could have an experienced judge give feedback and walk through the video with

the judge on the video. I may have habits or a tone that I don't know about that I could see in the video. It adds value to the video if used this way as a joint review.

I wonder who would set up the video. Would the state set it up? I don't think the county would go for it, even the district court doesn't have video. They are doing audio for all cases. Probably a good way to collect information. Not a fan of being on camera so would rather have audio than video even if the state set it up.

I would think the best way to do it would be to send the observers. It doesn't matter what type of technology you use, you will lose something. You don't get the whole picture unless you're actually there. I think sending the observers would be the best, most accurate method. But I wouldn't be opposed to having it taped and reviewing the tapes later.

I'm not sure about audio, sometimes I think body language and being able to see the whole picture is important. I know it's not feasible at this point, but I would love an observer to come in and just watch or a video.

In the state I came from, every court proceeding is recorded. We should have video. It can be embarrassing but you learn a lot about yourself by viewing yourself. I remember one example of a judge who always has his hand over mouth. I have had Jim Peters observe my court and my mentor but not another observer from JPEC. Open to what observers have to say but some JPEC observers have not been qualified. They are just a layperson. No legal knowledge or training. I think the most important observers would be other judges. The mentor is supposed to go observe and it was helpful when my mentor did.

It would be good. We have the capability. We've used video between defendant and jail. I think it would work. Live in-court or a person could observe us. It wouldn't hurt my feelings if they did. Call the clerk to find out how many cases - we might have 1-16 - to try to maximize number observed.

This is another lack of resources. We do not have video set up in our courtroom. I have requested to get grant money to see if we can't get that resolved up here. I think the observers in the courtroom are your first hand account, get their input on things. Audio is always an option. But the observers are important and in court observers are always an option.

To my knowledge, I have not had an observer in my court. I would welcome video on an everyday basis in court. Being able to critique ourselves may be the greatest learning experience we have because none of us know what we look like, what our ticks, facial expressions, nonverbal communication, quirks look like. I think it

would be great for all of the courts to video all proceedings.

Video and audio recordings of proceedings. I suggest going through with the judge and have the judge comment as well. Two people might interpret differently. For instance, repeat people might get shorter treatment, more habitual offenders. Judge could give context/background.

We don't video, we have audio. Observer would be better than audio or video. You can see how many people are there and what is going on. Are people respectful? Still not sure that an observer is practical for someone to the state to come down given small number of people.

Question 17 - Is it ever a concern that an observer or video would catch you on a bad day or catch you with a rotten case?

Most aren't worried, but again, an adequate sample would mitigate this concern.

Yes but not really. It's so infrequent, that I'm is not really concerned about having them observe on a bad day. However, I would want to have several days evaluated because just one day doesn't show a complete picture or a variety of cases.

Yeah, we're all human. I am sure I perform better on some days than other. But I would hope that anyone who visits my court would be treated fairly and consistently. I think it would happen, but I am not overly concerned about that.

They have to do a bigger sampling. Some defendants are habitual. They hate the judge no matter how you treat them. Others don't understand. Here is an example: Gave a break on fines to one woman who pled guilty but had some for mitigating circumstances. I thought that I was helping her out but I found out she went out and told my clerk how big of a jerk I was whereas another person who had to pay fines because I followed protocol thought I am nice. You need a large sampling to get rid of two sides of the spectrum and focus on the middle. The same problem would exist for clerks, one of my clerks right now has made a threat towards another clerk so I had to get after her, so her review of me is probably not that good right now. But she probably won't say why, she will just say I am not fair. Depends on the working relationship with the clerk.

No. I understand you can't slap people around like Judge Judy. I could stay home if I thought I was having a bad day. Only felt about 10 people out of all of the people I see needed to go to jail. I do alternative things.

No. Good days - that's all that we are allowed to have on court days. It's not like I have to sit on the bench every single day. I could be busier and be much happier. Not that I want to see more crime, that's not where I was going with that. Sometimes I feel like my education and training is not put to use as much as I would like.

No, but that is possible. Every case is different. I think if you video you do it 100% of the time or not at all. People in your court room have different demeanors and it may be done of those days and you video it. It may happen once every five years and you video that day.

I'm not allowed to have bad days. I'm a judge. I have to be above all of that.

I would hope that the sample would be larger than that. Unfortunately you have cases where you have the defendant for four years, the fine is \$1500 and they have paid \$150 in four years and it can be frustrating, but those cases should be taken as well as the cases where the fine was \$120 and they paid it and went on their way.

Everyone has times they say something they wish they hadn't. You need a good sample size.

Question 18 - One suggestion is to have a rotating panel of two or three judges that review judges on a regular basis like every four or every six months. Would that be better than observation or do you think observation is the best in terms of having someone review and watch the proceedings?

The responses to this idea are mixed, while offering what they think would work best for their circumstances.

If there was a judge who was willing to go to smaller courts and sit and give advice, that seems to make more sense. It would be more practical and efficient because they have knowledge. Send a senior judge - someone who has done what I have done. Not just someone from the state. If it was an in-person judge, that would be great - I would love to get that advice.

Observation is best, but you could have a video mixed in as well. If an observer was also one of the ones watching the video, it could also be valuable because they would have a feel for the judge and courtroom.

Panel is a better idea. As I've heard judges discuss being observed, my perception is that those observers are not necessarily law trained and don't understand some of the canons of ethics of what judges can and can't do. I specifically remember a judge whose observer observed an insurance case where they asked why he didn't do the following, when those were things he couldn't do. So he was being judged based on things

that he couldn't do. Having judges observe - some are really good and would be really helpful. I would welcome the panel of judges more than an untrained person without the knowledge of the structure of courts and what judges are allowed to do.

As far out as we are, it would be easier to have audio than to send an observer.

Downside of that is that some judges think they are the greatest thing on earth. Some don't like or are critical of other judges. Others don't care and think 'do whatever you want in your court.' I'm more hesitant on rotating panel. If another judge nitpicked, and you already had a poor relationship with him, you would probably get defensive. Being on each other's panels may not work for judges. A judge is kind of on an island -- you make decisions and don't really have anyone to talk to about them. I wouldn't be agreeable with the rotating panel idea unless everyone got to vote on who is on the panel, judges that are fair and don't have an agenda. My experience with the AOC's office is that they frequently picks the same judges to do the trainings and stuff - judges that like to talk the most, and think they are the smartest, kind of bullies in a way, especially towards the non-attorney or rural judges, or know-it-all judges. I don't see that as beneficial.

I don't have a problem with that. If three judges want to come in to my courtroom and evaluate, it probably would be good. If they can see something that you might not be doing right, I don't have a problem with that - not at all.

I prefer not to have this happen, but the courtroom is open.

I think that might be a good way to do it because they'll get a higher volume of data from the lower case judges. And it would be less expensive as well, than sending out observers.

It would be intimidating. The judges in our district, there are 12 of us and three of them have been judges longer than I have. The rest of them are younger than me. Half of us are attorney trained and half of us are lay judges. I think with the little judges, you can carry the evaluation a little too far. The local people know whether or not you're a good judge. And if you're not a good judge, they'll get rid of you. As far as a bunch of people coming into evaluate you, this is a small town. I know everybody. I know half of the names of the dogs in this town. I know everybody.

Probably just as useful as an observer.

Question 19 - Is there anything else that you would like to learn that would add to performance input for

professional development and retention evaluation purposes?

We need to be trained more in actual conducting cases and trials. I share a prosecutor who works at a dozen courts and he will tell me stories about how other judges conduct cases. The judges are ignoring procedures and I think it is because they have never been trained on what they have to do, need to do and are constitutionally obligated to do. I think they need to see more of other judges who know how to do it properly so that they can learn. More mock trial situations.

Yeah, I wish we spent more time in human services, psychology, family, things like that. We have left that to who we call health professionals, but they don't get involved unless there is money involved or if certain events come about, like domestic violence. And it's kind of unfortunate. In a small town, you're not going to have mental health professionals. This is all about people and families. I wish we put a little more energy in that. I can go to class for the next twenty years, but the people never change. They wear different clothes and have different names, but they're the same. The things that change are the laws. They change all the time.

For professional development, we need diversity in our training. This year I tried to provide that diversity as an education director for the [REDACTED] district. I brought in a Fish and Games officer and he talked about using them for community services. Nobody uses wildlife resources for their community services. Nobody had thought about it. You can pick up litter or help transport ducks to a new place. This coming fall I am trying to do a course with a lady who escaped polygamy and is now a social worker helping other people to make the transition. She came and talked to our entire department because we have an issue with polygamy moving into our area, and I thought that would be great to have all the judges have access to that. That's diversity and a cultural thing that everyone needs to be aware of. As far as the JPEC part, I think it works well for little teeny courts. We have enough to do.

Within the system, having AOC, friends, attorneys, and lay judges with the same situations willing to share experiences. Willing to see if you're going down the wrong line. I hope those friend judges would say something. Also, we don't have the same resources in rural areas. There is a major difference between Salt Lake Justice and [REDACTED] Justice. I don't want to be judged on how people respond. There are no buses, taxis, etc. These people would have to break the law to get those resources.

I'll tell you what really helps in training and teaching judge is when we met in St. George with just judges from our

area. We talked about what is happening in our courts and how we can help each other out. That was one of the best things that happened. The training was great but that was a hands-on with judges that are having the same problems. We really help each other down in this area. All the judges down here know each other. I think the courts in Utah probably do as fine a job or better than most states do. They have hired good people to be judges. (Probe: Would a more rigorous performance evaluation at this level improve the courts?) No and I don't think it should be changed.

No, I don't think so. I just kind of have wondered, I know there is not the money to have observers and things for lower court judges. So I'm glad we've had this conversation because I've wondered what they are going to do with lower court judges.

I don't know nearly enough to feel like I know enough. It's an ongoing learning experience. Every time the legislature meets each year, our jobs change. Any education that could be provided, I would be interested in.

JPEC is doing a great job. I'm impressed by them at our trainings. They are out to help. But we have a lot of non-legal judges I think are probably terrified of them. For lawyers, we are in court all of the time and I think it is easier for us.

No, I don't think so. I just kind of have wondered, I know there is not the money to have observers and things for lower court judges. So I'm glad we've had this conversation because I've wondered what they are going to do with lower court judges.

Can't think of anything. Pop in and take a look at us every now and then. I don't think it hurts. Come have a conversation with defendants.

I am a very fortunate judge with an excellent clerk and two other county judges that are willing to help. My concerns are resource concerns, where smaller areas can't do the new laws, particularly in relation to evaluation and treatment.

I believe that there needs to be a change made to the new electronic filing system that tracks cases under advisement. In a new system, the clerk reviews and has to send it to the judge's queue for a signature. I had a case where it never sent the notice to submit that triggers the 60 days. I finally asked the clerk what was going on since the stuff had been there a long time. Why didn't this guy ever file a notice to submit? She sent it to him and it was so old that the order wouldn't come up. When he looked into the actual case, he had filed two notice to submits last year and my clerk had just never taken them and put them in my queue. Now

I am held responsible for it even though she is the gatekeeper. So now it will show that I didn't get the review and signature within a 60 day period when it is not my fault at all. These things should be taken into consideration as far as leeway in recommending retention. I suggest having a mechanism such as an email of the notice to submit sent to the judge.

I want to be every bit as professional as the judge with the biggest court in Utah. I also don't want to be at a disadvantage if I am applying for another judge position. I want to have the same full review as other full caseload judges.

I'll tell you what really helps in training and teaching judge is when we met in St. George with just judges from our area. We talked about what is happening in our courts and how we can help each other out. That was one of the best things that happened. The training was great but that was a hands-on with judges that are having the same problems. We really help each other down in this area. All the judges down here know each other. I think the courts in Utah probably do as fine a job or better than most states do. They have hired good people to be judges. (Probe: Would a more rigorous performance evaluation at this level improve the courts?) No and I don't think it should be changed.

No. I like the fairly narrow focus of webinars that target specific cases, and how helpful that can be for brushing up on topics.

Training is pretty darn good. Anything to help me improve. I welcome any evaluation method. I will say I do think my court is used as a pre-trial before it goes to the next level.

Appendix B – Court Clerk Interview Responses

Court	Estimated Court Hours	Approx. Cases Per Month	Number of Jury Trials	Number of Attorneys Monthly
Randolph	Generally 2-3 hours	15-30 - Summer is busier.	Less than 1 jury trial per year	County attorney are there regularly and others come about 2 times a month The attorneys are all different.
Aurora	1 hour ("4 minutes to 45 minutes")	13 cases average	Never had a jury trial.	The city prosecutor comes as needed. No other attorneys come to this court
Stockton	About 10 hours	12-20 cases per month	No jury trials	1 legal defender / 1 prosecuting attorney between 20-25 other attorneys
Blanding	1 to 2 hours.	60-80 a month	Hardly ever	Less than 5 in a year (1 is court appointed) Some appear more than 1 time a year.
Alpine and Highland	4 hours	Between both Alpine and Highland – 150 cases per month	About 1 a year. Have not one in a while	8 attorneys a month. Some come several times a month.
Fillmore	3-4 hours	in May 2018 - 54 cases	Not many. We had one 2 years ago.	About 1-2 a month
Beaver	2 hours	???	Never had a jury trial.	10 or less a year including a public defender and two back-up defenders
Manti	Mondays and 1 times a month on Tuesday	Typical day 15 pretrials 0- 12 arraignments / 1 contempt 1 review/ 6 order to show cause 10 pretrial (maybe talk to lori)	Had one last week - most settle before they happen	
Hyrum	8 hours	60-70	One jury trial in 19 years.	9 – 10 attorneys Always the same ones
Mantua	8 hours	0 – 20 (really varies)		Not many attorneys
Plain City	3-4 hours	20	Not had one in 16 years.	3-4 per month Generally different attorneys
Wayne Co	2 hours. Judge meets individually with people one day for 2 hours	average 7 per month	0-1 a year	5 attorneys per month Generally the same attorneys appear
Manila	1 -2 hours	Average 10-12	Very rare	Less than 10-15 per year

Panguitch City	1 hour per month	5-6 per month	Not often - haven't had one in past year or two	9-10 attorneys Public defender and 3-4 different ones
Garfield	1-2 hours per month	20 per month	Very few (1 in last 5 years)	34-per month Public defender and other attorneys
Smithfield	7 hours per month	40-60 per month	None in 8 years.	6-10 a month Mostly the same - the prosecuting attorney and public defender regularly
Minersville	8 hours per month	Less than 10 cases	None in 15 years	Maybe 1 attorney a year

Appendix C - Improving Judicial Evaluation by Emphasizing Professional Development

Information from the literature review and interviews with lower level caseload judges underscores the heightened effectiveness of evaluation conducted for professional development purposes rather than for administrative purposes such as retention election recommendations. This information has important implications for Utah's current developmental midterm evaluation and administrative retention evaluation system. High turnover of judges based upon the political tides of public opinion does not serve the public good. Improving and maintaining the quality of judge's work - and identifying any judges who lack competence in administering the law - is in the public interest. Thus, focusing on the developmental side of judicial performance evaluation may minimize the tension and ambiguity that can be associated with typical appraisals used for administrative purposes. Should Utah choose to focus on reforming the professional development portion of its judicial evaluation process, the following option should be considered.

Create a State Evaluation Panel and Geographically-Based Subpanels

Creating a state judicial performance evaluation panel and geographically-based four-judge subpanels is a modified version of Alaska's magistrate judge evaluation process, drawing particularly from its one-year probation review.

The state evaluation panel of 8-12 judges should include at least two lower level court judges. The others should be divided between senior judges and judges who are serving or have served as a district education director. Under this system, each lower court judge would be reviewed by a subpanel of four judges, including one lower caseload judge, at least one senior judge, and at least one education director judge. Each subpanel would include an education director from the same general geographic area to provide synergy with district education efforts (which were already lauded by several of the judges interviewed for being well-focused on the specific education needs of lower case judges).

This system is similar to the evaluation panels in Alaska's magistrate review panel structure. However, it does not include a training judge (mentor/evaluator) position because of concern that a new lower caseload judge would be unlikely to turn as openly to a mentor with questions if that mentor also served as a primary evaluator for retention.

Including a lower caseload judge in the evaluation process addresses lower caseload judges' concern that evaluators and/or observers may not understand their situation. Consequently, it could increase the perceived legitimacy of the process among lower level caseload judges.

Although the Alaskan magistrate evaluation process and the Arizona Conference Team model both base their evaluation in part on surveys of attorneys and other respondent groups, surveys of Utah's lower caseload judges are unlikely to yield similarly meaningful results. Both Arizona and Alaska's systems address (either substantially or wholly) judges who are practicing before a much larger number of attorneys and other professionals. However, Utah is designing an evaluation for only the 20 lowest caseload judges. The low survey response rates typical of such an effort would be particularly problematic for interpreting results.

Instead, a member of the subpanel evaluating team could interview people who have regularly been in the courtroom and observed the judge at work. This may include attorneys, court employees, law enforcement, social workers, police officers, and court interpreters. These interviews would be qualitative in nature but include a detailed discussion of the judge's administrative skills, legal knowledge, judicial temperament, procedural fairness and integrity to the extent possible for each interview. Interviews could be conducted in person or over the phone, and the questions asked during the interview should be derivative of (but need not be identical to) the intercept survey questions used for Utah's mid-level judge evaluations.

Ideally, the judge conducting the interviews would be the district education director for the lower caseload judge being evaluated or the education director for a district near the lower caseload judge being evaluated. However, it is likely that in some cases other subpanel judges will conduct interviews. For instance, some subpanels may evaluate more lower caseload judges than other subpanels and consequently require more than one subpanel judge to conduct the interviews.

Providing this sort of education/evaluation overlap serves to make professional development an ongoing component of the lower caseload judge's tenure. The subpanel judge who completes the interview should summarize the findings in a report to be reviewed by the subpanel either through a conference call or in an in-person meeting.

The pros and cons of implementing this reform includes:

Pros:

- Legal expertise included in evaluation
- Regional focus in evaluation
- Lower caseload panel judge provide insight in evaluation

- Potentially wide range of respondent groups
- Links evaluation and training through district education directors

Cons:

- No direct courtroom observation
- Dependent upon existing judges to volunteer their time, otherwise would require paying panelists.
- No survey data (quantitative)
- Dependent on the willingness and availability of judge panel volunteers
- Sizable time requirement to arrange, conduct, and interviews

Costs:

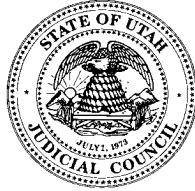
- Administrative time
- Possible paid panelists.
- Operationalization of judge panels including initial planning meetings, information sharing and recruitment – estimated 45 hours.
- Collection of contact information for interviews from lower caseload clerks and judges – estimated 25 hours initially and 7 hours ongoing annually.
- Possible travel cost reimbursement for volunteer judges (including fuel, meals, and lodging).
- JPEC retention report - estimated 8 hours per judge, 160 hours total.

Price Range: Depends upon whether administrative time is assigned to existing staff time or requires additional employee work, whether evaluation subpanels meet in person or by conference call, and whether subpanels choose to discuss each judge individually or discuss multiple judges in one meeting.

Judicial Appointment Date Effects on JPEC Midterm Evaluations

- Midterm evaluation outcomes *for newly appointed judges*
 - Full midterm evaluation (maximum evaluation period = almost 21 months)
 - A less meaningful midterm evaluation – The compressed evaluation of a very newly appointed judge may not produce an accurate measure of judicial performance over time.
 - Partial midterm – A “partial midterm” is a midterm evaluation missing one or more respondent groups (e.g., court staff respondents, courtroom observations, attorney respondents, court user interviews). (Utah Code § 78A-12-203(7)(d)(ii).)
 - No midterm – Receiving no midterm evaluation occurs when the appointment date timing (or the judge’s first day on the bench) results in JPEC’s inability to conduct an evaluation of the judge’s performance.
- A judge's date of appointment (Senate confirmation) determines the year the judge must first stand for retention election, as the Utah Constitution requires the judge to stand for the first general election at least three years after appointment. (Utah Const. art. VIII, § 9.)
 - For example, a judge appointed between now and Election Day 2019 (Nov 5) will need to stand for the 2022 retention election.
 - A judge elected just after Election Day 2019 will stand for the 2024 retention election.
- Affected time period
 - Judicial appointments made from May through early November of odd-numbered years
 - Compare to prior April judicial filing deadline: February through early November of odd-numbered years
- Relevant evaluation milestones in odd-numbered years
 - Court staff survey conducted September 1
 - Courtroom observation complete by September 30
 - Evaluation cycle ends September 30
 - Judicial Council certification due by October 1
 - Attorney survey conducted October 15
 - Deliberations begin mid-December
- Potential remedies
 - A judge who receives a partial midterm evaluation from JPEC may state an acknowledgement of that fact on his/her Voter Information Pamphlet page at the judge’s retention election. (Utah Code § 78A-12-203(7)(d)(iii).)
 - JPEC works, where possible, to provide unofficial midterm data to judges who receive no midterm. The data provided have no official standing with JPEC and are provided solely for performance feedback to the judge prior to the retention evaluation.
 - Where possible, avoid judicial appointment during the affected time period.
- State court positions potentially at risk
 - 1st District – one district position
 - 2nd District – one district position
 - 3rd District – three district positions

Tab 15



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

TO: Members of the Judicial Council Management Committee

FROM: Neira Siaperas
Utah Juvenile Court Administrator

DATE: April 9, 2019

RE: Proposed Deletion of Probation Policy

The Board of Juvenile Court Judges has proposed deletion of the following policy which is now advanced to Management Committee for review and consideration. Additionally, I seek placement on the Judicial Council's consent agenda for April 22, 2019.

Section 5.8, Community Ride-A-Long [Recommendation to Delete]—*this policy, last updated in 2008, gives probation officers guidance regarding their on-duty participation in law enforcement ride-a-long programs. The recommendation to delete this policy is based upon several factors.*

- *Probation's practice of regular participation in ride-a-long programs is anachronistic, and hearkens back to a time when probation was more heavily focused on interdiction and suppression of delinquency by participation with Warrant Squads, Gang Units and Serious Habitual Offender (SHOCAP) programs.*
- *Current probation practice takes a more modern approach of less confrontational, evidence-based community supervision and case management.*
- *This philosophical shift in probation work has resulted in a drastic reduction in the frequency of probation participating in ride-a-long programs.*
- *Any on-duty participation in such programs by court employees is already governed by human resource policies that require management approval on a case-by-case basis.*

I will be available to respond to questions during your meeting on April 9, 2019.

Thank you.

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

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.

5.8 Community Ride-A-Long

Policy:

The probation department may partner with peace officers to coordinate efforts to effect the interest of the court and the minors on probation or under the jurisdiction of the court

Scope:

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

Authority:

- UCA 76-8-307
- UCA 77-7-3
- UCA 78-3a-113
- Utah State Courts Personnel Policies & Procedures
 - Section 5 - Code of Personal Conduct 500
- PO Policy Manual 5.4
- PO Policy Manual 5.5
- PO Policy Manual 5.6

Procedure:

1. Probation staff may participate in a peace officer ride-a-long with the approval of management.
 - 1.1 The probation officer must discuss in advance with the peace officer what's to be expected of them and adhere to their local law enforcement agency's policy regarding ride-a-longs.
 - 1.2 If the probation officer is requested to carry handcuffs or OC spray, they shall comply with policy 5.4 handcuffs and policy 5.5 OC spray.
2. Probation staff must refrain from interacting with peace officers who are effecting an arrest, interrogation, or searches.
 - 2.1 The exception is if the probation staff is commanded by the peace officer to assist in the effect of an arrest or to prevent the commission of any offense by another person.
 - 2.2 Should 2.1 occur, the probation staff shall notify their immediate supervisor in a written memo by the following business day.
Reassignment of the case may be considered to avoid any appearance of impropriety.

3. If a probation officer is requested to fill out a witness statement, supplemental report, or referral by a peace officer, the probation staff shall notify their immediate supervisor in a written memo by the following business day
4. In the case of a critical incident, refer to policy 5.6 Critical Incident Reporting.
5. Probation officers are prohibited from carrying firearms while functioning as an employee of the court.
6. Probation officers are encouraged to wear clothing identifying their affiliation with the court.
7. Communication with the news media shall be referred to the Trial Court Executive or designee, refer to policy 5.6 Critical Incident Reporting.

History:

Effective June 13, 2008

FOR DELETION

Tab 16

☐ This is a private record

Name

Address

City, State, Zip

Phone

Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

**Application for Temporary
Restraining Order**
(Utah Rule of Civil Procedure 65A)

☐ Hearing Requested

Plaintiff/Petitioner

v.

Defendant/Respondent

Case Number

Judge

Commissioner

1. I need immediate relief. There will be irreparable harm (harm that cannot be undone) unless the court issues a temporary restraining order. (Describe in detail the irreparable harm and why you need immediate relief. Attach additional pages if needed.):

☐ I am attaching the documents listed below as evidence of the irreparable harm:

2. The irreparable harm would be worse than any harm the other party could suffer if this order is issued because:

3. The temporary restraining order, if issued, would not be against the public interest because:

4. There is a substantial likelihood that I will prevail on the merits of the underlying claim in this case, or the case presents serious issues on the merits which should be the subject of further litigation because:

5. Notice (Choose one.)

☐ I gave notice or tried to give notice of the Application for Temporary Restraining Order to the opposing party or their attorney in the following manner:

☐ I did not give notice and should not be required to give notice of the Application for Temporary Restraining Order to the opposing party or their attorney. Immediate and irreparable injury, loss or damage will occur if notice is provided before the hearing because:

6. ☐ Children

I ask the court for a temporary restraining order regarding the following minor children: (attach additional sheets if needed.)

Child's name (first, middle and last)	Month and year of birth

The temporary restraining order regarding the children should (choose all that apply):

☐ Award

☐ petitioner ☐ respondent

temporary physical custody of the children listed above.

☐ Order

☐ petitioner ☐ respondent

to immediately return the children listed above to the custody of

☐ petitioner ☐ respondent

☐ Issue a Writ of Assistance to Remove Children directing law enforcement to take custody of the children and deliver them to:

☐ petitioner ☐ respondent

☐ Other orders about the children:

7. ☐ I ask the court for a temporary restraining order regarding other issues as follows:

8. I understand the court could order me to deposit money or post a bond to cover costs, attorney fees or damages resulting from a wrongful order or injunction.

I should not be required to deposit money or post a bond:

☐ because none of the parties will incur costs, attorney fees or damages as the result of a wrongful order or injunction.

☐ for the following substantial reason (Explain.):

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and served a copy of this Application for Temporary Restraining Order on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Signature ►

Date

Printed Name

 Name

 Address

 City, State, Zip

 Phone

 Email

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<div data-bbox="181 1115 399 1146" data-label="Text"> <hr/> Plaintiff/Petitioner </div> <div data-bbox="181 1184 217 1213" data-label="Text"> V. </div> <div data-bbox="181 1281 466 1314" data-label="Text"> <hr/> Defendant/Respondent </div>	<div data-bbox="865 936 1421 1050" data-label="Section-Header"> <p>Order on Application for Temporary Restraining Order and Notice of Hearing</p> </div> <div data-bbox="865 1115 1040 1144" data-label="Text"> <hr/> Case Number </div> <div data-bbox="865 1213 950 1247" data-label="Text"> <hr/> Judge </div> <div data-bbox="865 1312 1255 1344" data-label="Text"> <hr/> Commissioner (domestic cases) </div>
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The matter before the court is ☐ Plaintiff/Petitioner's ☐ Defendant/Respondent's Application for Temporary Restraining Order.

The court finds:

1. The application:

☐ was served on all parties.

☐ was not served on

☐ plaintiff/petitioner ☐ defendant/respondent

because immediate and irreparable injury, loss or damage would have occurred if they had been notified.

☐ was not served on all parties, but should have been.

2. The party requesting the temporary restraining order:
- ☐ has shown there would be irreparable harm if the temporary restraining order is not granted.
- ☐ has not shown there would be irreparable harm if the temporary restraining order is not granted.
3. The irreparable harm to the moving party:
- ☐ would be worse than any harm the proposed temporary restraining order would cause the other party.
- ☐ would not be worse than any harm the proposed temporary restraining order would cause the other party.
4. The temporary restraining order:
- ☐ would not be against the public interest.
- ☐ would be against the public interest.
5. ☐ There is a substantial likelihood that the moving party will prevail on the merits of the underlying claim, or the case presents serious issues on the merits which should be the subject of further litigation.
- ☐ There is not a substantial likelihood that the moving party will prevail on the merits of the underlying claim, or the case does not present serious issues on the merits which should be the subject of further litigation.

The court orders:

6. The application for temporary restraining order is ☐ granted ☐ denied.
7. ☐ Temporary physical custody of the parties' minor children listed below is awarded to
- ☐ petitioner ☐ respondent

Child's name (first, middle and last)	Month and year of birth

8. ☐ Custody of the minor children listed below must immediately be returned to
☐ petitioner ☐ respondent.

Child's name (first, middle and last)	Month and year of birth

9. ☐ A Writ of Assistance to Remove Children will be issued directing law
enforcement to help
☐ petitioner ☐ respondent
regain custody of the minor children listed below.

Child's name (first, middle and last)	Month and year of birth

10. ☐ Other orders:

11. This order expires 14 days after it is issued, unless modified by the court.

12. The party requesting the temporary restraining order

☐ is required to deposit money or post a bond with the court in the amount of
\$_____.

☐ is not required to deposit money or post a bond with the court.

Notice of Hearing

The court has scheduled a hearing about the temporary restraining order at the following location, date, and time.

El tribunal ha programado una audiencia sobre <temporary restraining order> en la fecha y hora que sigue.

Courthouse Address (Dirección del tribunal):

Date (Fecha): _____ Time (Hora): _____ [] a.m. [] p.m.

Room (Sala): _____

Judge or Commissioner (Juez or Comisionado): _____

Commissioner's or Judge's signature may instead appear at the top of the first page of this document.

Date and Time Signature ►
Commissioner or Judge _____

Attendance

You must attend. If you do not attend, you might be held in contempt of court and the relief requested might be granted. You have the right to be represented by a lawyer.

Evidence

Bring with you any evidence that you want the court to consider.

Asistencia

Presentarse es obligatorio. Si usted no llegara a presentarse, se lo podría encontrar en desacato de las órdenes del juez y la reparación solicitada podría ser otorgada. Usted tiene el derecho de que lo represente un abogado.

Pruebas

Traiga con usted cualquier prueba que quiera que el tribunal tome en cuenta.

Interpretation

If you do not speak or understand English, the court will provide an interpreter. Contact court staff immediately to ask for an interpreter.

ADA Accommodation

If you need an accommodation, including an ASL interpreter, contact court staff immediately to ask for an accommodation.

Finding help

The court's Finding Legal Help web page (www.utcourts.gov/howto/legalassist/) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

Interpretación

Si usted no habla ni entiende el Inglés el tribunal le proveeré un intérprete. Contacte a un empleado del tribunal inmediatamente para pedir un intérprete.

Adaptación o Arreglo en Caso de Discapacidad

Si usted requiere una adaptación o arreglo, que incluye un intérprete de la lengua de signos americana, contacte a un empleado del tribunal inmediatamente para pedir una adaptación.

Cómo encontrar ayuda legal

La página de la internet del tribunal Cómo encontrar ayuda legal (www.utcourts.gov/howto/legalassist/index-sp.html) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner	Writ of Assistance to Remove Children Utah Code 78A-5-102
v.	Case Number _____
Defendant/Respondent	Judge _____
	Commissioner (domestic cases) _____

To any law enforcement officer in the State of Utah:

You are authorized and directed to:

[] Take custody of the following minor children:

Child's name (first, middle and last)	Month and year of birth

[] Deliver the following minor children to _____,
who is entitled to custody.

Child's name (first, middle and last)	Month and year of birth

- ☐ Enter private property as necessary to take custody of the minor children.
- ☐ Restrain any person who attempts to prevent you from carrying out this writ.
- ☐ Use force reasonable under the circumstances to gain entry into private property, including a residence, if there is reason to believe that the minor children are within and, after notice of your purpose and demand for admission, there is no response or you are not admitted within a reasonable time.
- ☐ Execute this writ only between 6:00 am and 10:00 pm.
- ☐ Execute this writ at any time.

Commissioner's or Judge's signature may instead appear at the top of the first page of this document.

Date

Signature ►

Commissioner or Judge

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____</p> <p>Petitioner</p> <p>_____</p> <p>v.</p> <p>_____</p> <p>Respondent</p>	<p>Domestic Relations Injunction (Utah Rule of Civil Procedure 109)</p> <p>_____</p> <p>Case Number</p> <p>_____</p> <p>Judge</p> <p>_____</p> <p>Commissioner</p>
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Because this matter involves divorce, annulment, temporary separation, custody, parent-time, child support, or paternity, the court makes the following orders. These orders apply to the petitioner and respondent named above.

1. **The parties must not:**

- a. harass, intimidate or disturb the peace of the other party, by any means, including electronically.
- b. commit domestic violence or abuse against the other party or a child.
- c. use the other party's name, likeness, image, or identification to get credit, open an account for service, or obtain a service.
- d. cancel or interfere with telephone, utility, or other services used by the other party.
- e. cancel, modify, terminate, change the beneficiary, or allow to lapse for voluntary nonpayment of premiums (without the written consent of the other party or pursuant to further order of the court) any policy of
 - i. health insurance,
 - ii. homeowner's or renter's insurance,
 - iii. automobile insurance, or
 - iv. life insurance

2. **If the petition involves the division of property, personal property or debts, the parties must not:**

transfer, encumber, conceal, or dispose of your property or the other party's property unless:

- a. you have the written consent of the other party or
- b. you have a court order

except in the usual course of business or to provide for the necessities of life.

3. **If the petition involves minor children, the parties must not:**

a. Take the children on non-routine travel unless:

- i. you have the written consent of the other party or
- ii. you have a court order, or
- iii. the following information has been provided to the other party:
 - an itinerary of travel dates and destinations;
 - how to contact the children or traveling party; and
 - the name and telephone number of an available third person who will know the children's location.

b. In the presence or hearing of the children:

- i. demean or disparage (talk badly about) the other party;
- ii. attempt to influence the children's preference regarding custody or parent time; or
- iii. say or do anything that would negatively affect the love and affection of the children for the other party, or involve the children in the issues of the petition.

c. Make parent time arrangements through the children.

4. When the children are under a party's care, that party must use best efforts to prevent others from doing anything described above, and if necessary remove the children from the situation.

5. This domestic relations injunction is effective:

- for the **petitioner** when the petition is filed.
- for the **respondent** when they receive a copy of the injunction entered by the court.

6. The domestic relations injunction is in effect until:

- the final decree is entered,
 - the petition is dismissed,
 - the parties otherwise agree in a writing signed by all parties, or
 - the court orders otherwise.
7. A party may ask to modify or dissolve the domestic relations injunction by filing a motion.
- The motion will be decided as quickly as possible if it is filed **before** an answer to the petition or other responsive pleading is filed. The moving party must serve the nonmoving party at least 48 hours before a hearing.
 - If the motion is filed **after** a responsive pleading is filed, Utah Rule of Civil Procedure 7 or Rule 101 apply.
8. If there is another order with conflicting provisions governing the parties or their minor children, the parties must comply with the provisions of the other order.
9. This domestic relations injunction does not apply to the Office of Recovery Services.

<judge's signature will appear at the top; automatically generated by court>

Certificate of Service

I certify that I filed with the court and served a copy of this Domestic Relations Injunction on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Signature ►

Date

Printed Name