

**JUDICIAL COUNCIL  
BUDGET AND PLANNING SESSION**

**Minutes  
August 17, 2018  
Large Conference Room (A)  
Matheson Courthouse  
450 S. State St.  
Salt Lake City, Utah 84111  
8:30 a.m. – 1:30 p.m.**

*Chief Justice Matthew B. Durrant, Presiding*

**Attendees:**

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

**Staff:**

Richard Schwermer  
Ray Wahl  
Jacey Skinner  
Katriina Adair  
Holly Albrecht  
Kim Allard  
Heidi Anderson  
Shane Bahr  
John Bell  
Suzette Deans  
Michael Drechsel  
Cathy Dupont  
Geoff Fattah  
Kim Free  
Alisha Johnson  
Heather Marshall  
Rob Parkes  
Jim Peters  
Nathanael Player  
Nini Rich  
Dawn Marie Rubio  
Karl Sweeney  
Nancy Sylvester  
Chris Talbot  
Jessica Van Buren  
Jeni Wood

**Excused:**

**Guests:**

Hon. James Brady  
Phil Dean, GOMB  
Hon. David Mortensen  
Annie Knox, Deseret News

Joyce Pace  
Russ Pearson  
Justice John Pearce  
Neira Siaperas  
Hon. Randall Skanchy  
Peyton Smith  
Gary Syphus, LFA  
Judge Douglas Thomas  
David Walsh, CCJJ  
Larry Webster  
Mark Urry

**1. WELCOME: (Chief Justice Matthew B. Durrant)**

Chief Justice Durrant welcomed everyone to the meeting.

**2. GOVERNOR'S OFFICE OF MANAGEMENT AND BUDGET ECONOMIC PRESENTATION: (Phil Dean)**

Chief Justice Durrant welcomed Phil Dean, Budget Director and Chief Economist from the Governor's Office of Management and Budget. Mr. Dean presented demographic statistics for the state of Utah. Mr. Dean stated Utah is the second fastest growing state, with an anticipated population growth to reach 3.2 million. Mr. Dean noted Utah's construction industry is very strong in the private sector and with state projects, including a new prison, Salt Lake airport remodeling, and roads. Mr. Dean said the general fund ended the year with a surplus. Mr. Dean stated there is discussion in the Legislature about a possible economic downturn. Mr. Dean highlighted the components of Utah's economy, including population, employment, and educational components.

Chief Justice Durrant thanked Mr. Dean for his update.

**3. OVERVIEW OF BUDGET PLANNING SESSION: (Richard Schwermer)**

Mr. Schwermer provided an explanation of the process for budget requests and the duties of the Judicial Council.

**4. CASELOAD DATA PRESENTATION OVERVIEW: (Heather Marshall)**

Heather Marshall reviewed statistics for Supreme Court case filings; Court of Appeals case filings; District Court case filings, Justice Court filings, and Juvenile Court referrals. Ms. Marshall highlighted district and juvenile court weighted caseloads. Ms. Marshall noted the districts share approximately the same time-to-disposition percentages.

Ms. Marshall noted criminal jury trials over the past year have increased significantly in every district except the Seventh District. However, civil jury trials have remained steady. The committee discussed possible reasons for this outcome. Judge Augustus Chin said newer attorneys tend to request more jury trials. Mr. Schwermer noted jury trials have a considerable impact on the courts resources.

Ms. Marshall reviewed justice court filings. Mr. Schwermer thanked Jim Peters for his work with the justice courts to better address case processing delays.

Ms. Marshall next addressed juvenile court cases. Delinquency cases have declined by more than 50% over the last 10 years. Mr. Schwermer noted the decrease in delinquency cases is a national trend.

Chief Justice Durrant thanked Ms. Marshall for her work on this presentation.

## **5. FISCAL TRENDS AND RESTRICTED FUNDS REPORTS: (John Bell)**

John Bell highlighted the FY 2020 annual budget plan. Mr. Bell presented the fiscal data and trends.

**Children's Legal Defense Fund (CLDF).** The primary source of revenue to the CLDF comes from a \$4 fee included in various civil filings and the marriage license fee. Remaining revenue comes from the sale of Divorce Education videos, however very few are purchased as patrons have now moved on to online classes, and the fee assessed for the Divorce Education classes. Current CLDF revenues are not sufficient to cover the appropriation due to COLA and benefits increases since FY 2008 for the staff paid from these funds. The fund balance is sufficient to cover revenue shortages for a short period, but future action may be needed if civil filings do not increase. With a balance of approximately \$300,000 as of the end of FY 2018, the CLDF fund will only cover shortages on a very short-term basis.

**Court Complex Fund.** The Court Complex Fund was created to fund construction and operating expenses for the courts in 1998. During the 2018 Legislative session, the Judicial Council requested \$313,400 ongoing GF to reduce the Court Complex Restricted account appropriation so complex revenue would remain solvent for the Provo Courthouse bond. The Legislature approved this request. The result, as shown on the chart, keeps the fund solvent through the FY 2020 but estimated revenue is not keeping up with expenditures. The revenue assumption used in the chart estimates revenue decreases of 1% annually with adjustments according to civil filing trends.

**Security Fee.** The Legislature provided a \$500,000 one-time funding increase to the security account in the 2018 General Session. These one-time funds are being used to offset a 10% reduction in FY 2018 and will be passed through to the county sheriffs.

**Justice Court Technology, Security, and Training Account (JCTST).** The JCTST fund has generated sufficient revenue to cover expenses until recently and will be carefully monitored to make sure the account can be sustainable for the future. The account reserve is diminishing. Based upon the collections for the past five fiscal years, projected FY 2019 revenue will be about \$842,000.

**Trust Interest Account.** The courts plan to implement Automatic Clearing House (ACH) payments to further reduce credit card and other related banking expenses. Court administrators will closely monitor the Trust Account and bring further concerns to the Judicial Council.

**Summary.** The Judicial Council is responsible for administering 14 General Fund Restricted Accounts, 21 Dedicated Credit Accounts, and the investment of over \$44 million in trust funds. The accounts reported thus far are those that bear close monitoring. Although the Law Library Fund, Alternative Dispute Resolution Fund, and the Justice Court Technology, Security, and Training Account have shown improvement they are being watched for future action as needed. The Security Fee Fund, Children's Legal Defense Fund, Court Complex Account, and the Trust Interest Account are also being monitored to ensure budgeted obligations can be funded from future revenues.

**6. REPORTS AND BUDGET REQUESTS PRESENTATION:**

The FY19 general fund budget for the district courts is \$51,799,100 with 486 FTEs.

**All Districts: Clerical Staff Salary Adjustments (Russ Pearson and Larry Webster)**

Chief Justice Durrant welcomed Russ Pearson and Larry Webster. Mr. Pearson noted the Board of District Court Judges and the Board of Juvenile Court Judges prioritized this request – number one. Over the past year, there has been a 20% turnover of judicial assistant staff in the districts. The cost of training new employees is significant.

The request for the districts' clerical staff salary adjustments is \$1,420,000 in ongoing money, which includes a salary increase of 4.5% or 5.75% for each Clerk of Court, team and case managers, and judicial assistants, depending on their current level.

Chief Justice Durrant thanked Russ Pearson and Larry Webster for their presentation.

**Third District Increase Judge and Judicial Staff (Judge Randall Skanchy)**

Chief Justice Durrant welcomed Judge Randall Skanchy. Judge Skanchy thanked Rick Schwermer and Ray Wahl for their continued assistance with senior judge support. Judge Skanchy said the lack of judicial officers affects procedural fairness in the courts due to the high volume of cases. Judge Skanchy noted there are enough courtrooms to cover additional judicial officers.

The request for the Third District increase judicial officers and judicial staff positions is \$1,809,900 ongoing funds and 12 FTEs.

Chief Justice Durrant thanked Judge Skanchy for his presentation.

**Third District Drug Court Clerk (Peyton Smith)**

Chief Justice Durrant welcomed Peyton Smith. Currently, Salt Lake County has five drug courts. Third District is short 16 clerks. Each day in drug court takes about three days of one judicial assistant's time. Adding a dedicated drug court clerk would help maintain consistency, better contact outside court entities, and relief to existing clerks. Judge Skanchy said realistically one clerk would not be enough.

The request for the Third District drug court clerk position is \$67,800 ongoing funds and 1 FTE.

Chief Justice Durrant thanked Peyton Smith for his presentation.

**Fourth District Support Services Coordinator (Judge James Brady and Mark Urry)**

Chief Justice Durrant welcomed Judge James Brady and Mark Urry. Judge Brady introduced Mark Urry. Judge Brady thanked the Council and those involved for their support in building the new Provo Courthouse. The new courthouse will be large enough to house the district and juvenile courts as well as the Guardian ad Litem office. There will be 16 courtrooms, 34 restrooms, 8 elevators, and 100 tables/desks with computers. The IT, HVAC, and elevator requirements will be significant. Mark Urry noted the new courthouse will be the second largest courthouse in the state with 250,000 square feet. Mr. Urry noted a dedicated support services coordinator would work to coordinate services for all of the courts needs and work with the other Fourth District courthouses.

The request for the Fourth District support services coordinator position is \$72,000 ongoing funds and 1 FTE.

Chief Justice Durrant thanked Judge James Brady and Mark Urry for their presentation.

**Technology Standing Committee: (Justice John Pearce and Heidi Anderson)**

Chief Justice Durrant welcomed Justice John Pearce. Justice Pearce stated he appreciates Ms. Anderson's ability to review all aspects of the court needs. Ms. Anderson described the disaster recovery process in St. George. Ms. Anderson noted if the courts system went down, the only thing that would be readily available are emails. Justice Thomas Lee asked what type of disaster they believe may cause a court system failure. In the event of a significant earthquake, the entire court organization would be out of commission for 23 hours and included all of the case management systems.

Ms. Anderson addressed the request for a five-year computer replacement schedule. All computers will need to be upgraded to Windows 10. Some courtrooms' audio/visual equipment is nearly 17 years old, therefore, they need to be replaced. Justice Pearce noted most requests are invisible to court personnel but are vital to the daily operation of the courts.

The Technology Standing Committee requests:

- First priority: Five year computer replacement schedule (\$250,000 ongoing funds)
- Second priority: Create redundancy site in St George (\$373,400 one-time funds and \$70,500 ongoing funds)
- Third priority: Implement audio/visual courtroom replacements (\$400,000 ongoing funds)
- VOIP phone system: (\$25,000 ongoing funds)

Chief Justice Durrant thanked Justice John Pearce and Ms. Anderson for their presentation.

**System Wide Requests: (Nini Rich, Judge Douglas Thomas, and Nathanael Player)  
Alternative Dispute Resolution:**

Nini Rich explained the need for an additional child welfare mediator. Mr. Schwermer noted Ms. Rich has been working with judges to utilize the mediation program more. Judge Shaughnessy suggested the demand for mediation would increase.

Chief Justice Durrant thanked Ms. Rich for her continued dedication to the mediation program.

The request for the ADR Program child welfare mediator is \$53,800 ongoing funds and .5 FTE.

**Self-Help Center:**

Chief Justice Durrant welcomed Judge Douglas Thomas. Judge Thomas reviewed the Self-Help Center's (Center) fund balance. Nathanael Player said the Center is open Monday – Thursday. This additional resource would allow the Center to be open on Friday.

The request for the Self-Help Center is for one additional attorney and to increase current staff to fulltime is \$196,000 ongoing funds and 2.25 FTEs.

**Court Facilities Planning Committee: (Judge David Mortensen and Chris Talbot)**

Chief Justice Durrant welcomed Judge David Mortensen and Chris Talbot, the new Facilities Director. Judge Mortensen said the Wasatch County expansion has been a problem for six years and is now at a critical stage. Judge Shaughnessy said walking jurors to a nearby justice court is difficult.

Chris Talbot reviewed the request for the Kane County security perimeter noting the very short distance from the building entrance to the courtroom. The proposal is to add approximately 500 square feet to the building to allow a greater distance between the entrance and the courtroom.

The local Sheriff requested a Millard County juvenile holding cell. Mr. Talbot spoke with the court security director regarding this request. Mr. Talbot noted the request is to review possible options, but they are not requesting funds at this time.

Judge Mortensen reviewed the Manti request. This request was presented to the Council in January 2018 for discussion. They are now seeking approval to move forward with construction. Judge Mortensen said, if approved, the Manti project would begin next year.

The Court Facilities Planning Committee requests:

- First priority: Lease contract increases (\$21,500 ongoing funds)
- Second priority: Wasatch County Justice Center Expansion (\$200,000 ongoing lease increase)
- Third priority: Kane County perimeter security (\$50,000 ongoing lease increase)
- Millard County juvenile holding cell (\$100,000 one-time funds)

Chief Justice Durrant thanked Judge Mortensen and Mr. Talbot for their presentation.

**7. STATE COURT ADMINISTRATOR'S ANALYSIS AND RECOMMENDATIONS: (Richard Schwermer)**

Mr. Schwermer explained the process of his recommendations and reviewed the FY 2020 ongoing budget requests of \$4,636,500 and one-time budget requests of \$473,400, with the following recommendations. Mr. Schwermer noted requesting too many items without significant justification might appear to the Legislature as though the courts are not prioritizing requests, as they should be.

All districts: Clerical staff (JA) salary adjustments. (\$1,420,000 ongoing funds). Mr. Schwermer said judicial assistants are vital to the efficient operation of the courts. The courts have not asked the Legislature for funding for salary adjustments in the past. Mr. Schwermer noted this would be a difficult request for the Legislature to approve. Salary ranges have kept pace with the CIP, but are approximately 10% below market levels. Recommendation: Advance as a building block.

Third District increase judicial officer and staff. (\$1,809,900 and 12 FTEs ongoing funds). Mr. Schwermer noted the ability of the Third District to meet its fundamental, core obligations to the public is impaired, and additional resources are necessary. Recommendation: Fiscal note request for two FTE judges and staff.

Third District drug court clerk. (\$67,800 and 1 FTE ongoing funds). Mr. Schwermer stated this request could perhaps be fulfilled by reallocating an existing FTE to have one coordinator for all Third District Court adult problem-solving courts. Recommendation: Pursue alternative funding option (grant funding) or reallocation of existing resources, including other clerical vacancies.

Fourth District support services coordinator. (\$72,000 and 1 FTE ongoing funds). Mr. Schwermer said a remedy to this request could be to convert a future vacancy to this function. Recommendation: Address by converting existing resources, or defer and revisit in April.

Five-year computer replacement schedule. (\$250,000 ongoing funds). Mr. Schwermer stated timely replacement of hardware is essential, especially given current cybersecurity concerns. This need was met in the past by using one-time funds. Recommendation: Defer for one-time funds in September and/or April.

Implement audio/visual courtroom replacements. (\$400,000, 5 FTEs). Mr. Schwermer noted this project can proceed incrementally as one-time funds are available. Recommendation: Defer to September/April for potential one-time funding.

Create redundant site in St George. (\$373,400 one-time funds and \$70,500 ongoing funds). Mr. Schwermer stated this rollover functionality is essential to our core mission of service to the public. Recommendation: Building block request for the one-time and ongoing funds.

VOIP upgrades. (\$25,000 ongoing funds). Mr. Schwermer said this request is small enough to be funded internally and possibly revisited in April. Recommendation: Defer for internal or one-time funding.

ADR: Child welfare mediator. (\$53,800 and .5 FTE ongoing funds). Mr. Schwermer noted the empirical effectiveness of the program is clear. While generally the courts do not fund personnel with one-time money, this particular contract arrangement is amenable to one-time funding. Recommendation: Defer for one-time funding.

Self-Help Center: Add attorney and increase staff hours. (\$196,000 and 2.25 FTEs ongoing funds). Mr. Schwermer said it is clear that our resources are insufficient to meet demand of providing services to litigants with few if any other alternatives. Mr. Schwermer said Nathanael Player supported the possibility of having the five employees move from part-time to fulltime first. This will allow the Center to be open on Fridays. Recommendation: Advance the 1.25 FTE increase this year as a building block.

Lease contract increases. (\$21,500 ongoing funds). Mr. Schwermer said this is an obligation, but this year the amount is small enough that we can absorb the increases without seeking an appropriation. Recommendation: Eliminate.

Wasatch County Justice Center expansion. (\$200,000 ongoing lease increase). Mr. Schwermer said one-time money is usually more plentiful than ongoing funds. Recommendation: Proceed with the cost estimate process with the possibility of using a one-time building block request this year.

Kane County perimeter security. (\$50,000 ongoing lease increase) Mr. Schwermer noted this issue has only recently been raised, and given the nature of the problem, the volume of traffic in the courthouse, and the method of funding, it appears that more conversation may be needed and other solutions explored. Recommendation: Eliminate and study further.

Millard County juvenile holding cell. (\$100,000 one-time funds). Mr. Schwermer discussed separate scheduling of district and juvenile court calendars. Additionally, it is not clear that this is a court responsibility. Further, the proposed remodel does not solve the sight/sound restriction for juveniles. Recommendation: Eliminate.

## **8. BUILDING BLOCK DISCUSSION AND JUDICIAL COUNCIL DECISIONS ON PROPOSED FY2020 BUDGET REQUESTS: (Ray Wahl)**

Ray Wahl explained the three-step process for categorizing and prioritizing the building blocks. Mr. Wahl reviewed the budget categories that must be determined when prioritizing the budget requests: 1) obligations, 2) deferral or alternative funding, 3) elimination, 4) building blocks, 5) supplemental, and 6) fiscal note building blocks. Mr. Schwermer noted it is imperative to have a reason associated with each of the decisions. Justice Lee said the Legislature trusts that the requests from the courts have been fully vetted.

Chief Justice Durrant requested Jacey Skinner comment on the budget process. Ms. Skinner said the Legislature prefers to know all of the court's needs, not only the requests the Council has prioritized. Judge John Walton said perhaps the courts should request the total number of judges needed to bring all of the districts' judicial officers current.

<b>Categorization of Each Request:</b>	<b>Decision:</b>
All districts: Clerical staff (JA) salary adjustments	Appropriation building block \$1,420,000
Third District increase judicial officers and staff	Fiscal note building block \$1,809,000 + 12 FTEs
Third District drug court clerk	Appropriation building block and alternate funding \$67,800 + 1 FTE
Fourth District support services coordinator	Defer until April
Five-year computer replacement schedule	Defer until April



Implement audio/visual courtroom replacements	Defer until April
Create redundancy site in St George	Appropriation building block \$373,400 one-time funds and \$70,500 ongoing funds
VOIP upgrades	Defer until April
ADR: Child welfare mediator	Defer until April
Self-Help Center: Increase staff hours	Appropriation building block \$97,400 ongoing funds
Lease contract increases	Eliminate
Wasatch County Justice Center expansion	Appropriation building block \$200,000 one-time funds
Kane County perimeter security	Defer to April
Millard County juvenile holding cell	Eliminate

**Motion:** Judge Mark DeCaria moved to approve the categorization of the requests. Judge Toomey seconded the motion, and it passed unanimously.

**Motion:** Judge Pettit moved to approve the Third District Court request for four judicial officers at \$1,809,900. Judge Toomey seconded the motion. The motion passed with Judge Pullan voting no.

**Motion:** Judge Pettit moved to amend the request from the Self-Help Center to increase current staff hours. Judge Toomey seconded the motion, and it passed unanimously.

The Committee completed the prioritized list by confidential vote. The results of the voting are as follows:

- 1) Clerical staff (JA) salary adjustments;
- 2) Third District - four judicial officers and staff;
- 3) Redundancy site in St. George;
- 4) Self-Help Center increase staff hours; and
- 5) Third District drug court clerk.

Judge DeCaria moved to approve the list as prioritized as listed above. Judge Walton seconded the motion, Judge Marx voted no, the motion passed.

**Motion:** Judge Shaughnessy moved to approve the Manti courthouse construction request. Judge Chin seconded the motion, and it passed unanimously.

**9. PROPOSED LEGISLATION: (Jacey Skinner)**  
Jacey Skinner did not present.

**10. ADJOURN**  
The meeting adjourned at 2:15 p.m.