

JUDICIAL COUNCIL MEETING

Minutes
April 22, 2019
Provo Courthouse
Training room A
137 Freedom Blvd.
Provo, Utah 84601
9:00 a.m. – 4:00 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Appleby, Vice Chair
Hon. Kevin Allen
Hon. Augustus Chin
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.

Excused:

Ray Wahl

AOC Staff:

Hon. Mary T. Noonan
Kim Allard
Heidi Anderson
Shane Bahr
John Bell
Cathy Dupont
Kim Free
Alisha Johnson
Brent Johnson
Jim Peters
Nini Rich
Neira Siaperas
Nancy Sylvester
Keisa Williams
Jeni Wood

Guests:

Jim Bauer,
Judge James Brady, Fourth District
Judge Dennis Fuchs, Senior Judge
Justice Deno Himonas, Supreme Court
Michele Mattsson, Appellate Mediator
Judge Reuben Renstrom, Justice Court
Commissioner David Roth, JPEC Chairman
Mark Urry, Fourth District TCE
Shelly Waite, Fourth District Juvenile Court
David Walsh, Office of Management and Budget
Dr. Jennifer Yim, JPEC

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Chief Justice Durrant noted this would be Judge Kevin Allen and Judge David Marx's last Council meeting, as they are retiring.

Motion: Judge Kate Appleby moved to approve the Judicial Council minutes from the March 8, 2019 meeting, as presented. Judge Augustus Chin seconded the motion, and it passed unanimously.

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

Chief Justice Durrant said the Supreme Court met with the three candidates for the State Court Administrator position and that further discussions would take place during an executive session.

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

Judge Mary Noonan announced Ray Wahl will leave the courts on June 21. Mr. Wahl was absent from the Council meeting due to an out-of-state training obligation. The Human Resources Director position will soon be posted. The Court Services Director position is open for 30 days.

At the March 8 Judicial Council meeting, they discussed problem-solving courts. Judge Noonan explained that Shane Bahr will lead a committee to respond to the Council’s request for an inventory of problem-solving courts, and their supports. The report will include analysis and recommendations.

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)

Judge Noonan also addressed the Council’s recent request that all human resources policies be reviewed. Code of Judicial Administration, Rule 3-402 governs review of human resources policies and procedures. The rule specifies members (by job title) of the review committee. Rule 1-204 also applies to human resource policies. To the extent that the rules may conflict, Brent Johnson will advance proposed rule amendments.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Liaison Committee Report:

Justice Thomas Lee said the Liaison Committee met and discussed the legislative update and structure, the possibility of a keynote speaker, creating a CLE course, and breakout sessions. The committee will meet regularly to continue their outreach efforts, including meeting with the Office of Legislative Research. A recommendation was made to have more members of the judiciary be part of the Liaison Committee during the legislative session. Judge Noonan noted Tom Langhorne is creating a legislative session survey that should be sent this week. Cathy Dupont said they are working to create more opportunities to meet with legislators.

Policy and Planning Committee Report:

Judge Derek Pullan noted much of the work is reflected in the minutes. The committee will work on the exercise policy at their May meeting. The court commissioner conduct rule has been recommended for public comment. The intern rule is on hold, pending a review of the human resources policies. There has been difficulty with the 60-day under advisement for cases policy. Judge Pullan will speak with JPEC and Judge Noonan before moving forward on this.

Bar Commission Report:

Rob Rice said the Bar Commission approved \$20,000 to support the LPP program. The Bar tabled the ABA/OPC Committee's reorganization proposal. Chief Justice Durrant thanked the Bar for their support with the LPP program.

5. FY2019 YEAREND SPENDING PLAN: (Judge Mary T. Noonan)

Judge Noonan recommended new procedures to the yearend spending plan for this year and the budget plan for FY 2020, based, in part, upon the feedback received from the System Review Report.

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.
- The Council should adopt a yearend spending plan for 2019 in April and a Budget Plan for FY20 in May.

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.

John Bell provided the Council with a history of yearend spending amounts and procedures. FY19 yearend spending is \$1,385,000, which includes 1) estimated turnover savings, 2) available funds from TCE/AOC budgets, 3) reserve balance, and 4) fiscal note S.B. 039. Mr. Bell explained the new request form for unspent fiscal year money.

Heidi Anderson reviewed the budget requests from the IT Department. Ms. Anderson said every device throughout the state would need to move to Windows 10, because as of January 2020 all previous Windows versions will no longer support security updates. Ms. Anderson said Windows 10 is expected to last five years.

Ms. Anderson stated Microsoft Office applications need to be updated due to many computers being outdated and security vulnerabilities. In an effort to save money, the IT Department did not upgrade MS Office for users who stated they did not use the program. The cost of Google Suite is expected to double in the next two years. InformaCase was requested from Chris Palmer. The software would allow a paging system to notify employees of any incidents via computers and cell phones. Many VOIP systems are not working effectively.

Ms. Anderson said security is always the highest priority. The other requests were prioritized by need and date requirements.

Shelly Waite noted that due to unforeseen circumstances with the Fourth District budget, funding for this request was unavailable. In January 2019, it was decided Judge Doug Nielsen would move to the Provo Courthouse. Budgets for chambers in the new courthouse had already been established. Dustin Treanor told Ms. Waite the normal budget for chambers is \$13,000.

Requests received are as follows:

1) Network security (IT priority #1)	\$183,479
2) Windows 10 upgrades (IT priority # 2)	\$486,000
3) MS Office and components end of life (IT priority #3)	\$125,090
4) Multi-port data switch replacement (IT priority #4)	\$512,000
5) Replace wireless LAN controllers (IT priority #5)	\$161,000
6) Create redundancy site in St. George (IT priority #6)	\$376,000
7) Mobilize software to convert PowerBuilder Code to JAVA (IT priority #7)	\$350,000
8) InformaCast Fusion subscription (IT priority #8)	\$34,588
9) VoIP phone replacements (IT priority #9)	\$18,000
10) Fiscal note for SB39-Technology updates to support Assisted Outpatient Treatment for Mental Illness	\$12,000
11) Prepay NCSC annual dues	\$134,000
12) Chambers furniture for Judge Douglas Nielsen	\$13,000

Nini Rich assisted the Council members with prioritizing and approving the budget requests. Ms. Rich noted the prepay NCSC annual dues of \$134,000 was taken off the budget requests because it will be funded in the next fiscal year. Fiscal note for SB39 – Technology updates to support Assisted Outpatient Treatment for Mental Illness was also removed from the list.

Motion: Judge Todd Shaughnessy moved to approve the following budget items as prioritized below and with the below listed amounts, as follows:

1 st – Network security	\$183,479
2 nd – Windows 10 upgrades	\$486,000
3 rd – Mobilize software to convert PowerBuilder Code to JAVA	\$350,000

Judge Paul Farr seconded the motion, and it passed with Judge Derek Pullan and Judge Mark May voting no.

Motion: Judge Kara Pettit moved to approve the following budget items as prioritized below and with the below listed amounts, as follows:

4 th – Multi-port data switch replacement	\$318,953
5 th – InformaCast Fusion subscription	\$34,588

Judge Appleby seconded the motion, and it passed with one member voting no.

The remaining items were not approved for funding.

Kim Allard presented a proposal to extend her retirement date to April 30, 2020 and remain with the courts on a part-time basis to continue work on the OCAP project in lieu of hiring a contractor. The OCAP program is funded through the cost associated with the program. Ms. Allard's income, moving forward, would be funded by the OCAP funds received.

Motion: Judge David Marx moved to approve moving Kim Allard to part-time, as presented. Judge Kara Pettit seconded the motion, and it passed unanimously.

6. FY2020 BUDGET PLAN: (Judge Kate Appleby, Judge Todd Shaughnessy, and Judge Mary T. Noonan)

Judge Shaughnessy said the Management Committee met with members of the Supreme Court to address the roles of the Supreme Court and the Judicial Council. Conversations are ongoing. Judge Appleby noted she received positive feedback from the NCSC report and the courts transparency. Judge Appleby said rather than to wait until the following Council meeting to approve minutes, the minutes could be approved by email, and posted timelier.

The Board of Juvenile Court Judges would like a monthly update from the Council. Chief Justice Durrant welcomed Board members to the Council meetings in an effort to see how the Council operates and to receive immediate information. It was recommended addressing this open invitation with the Boards.

7. SYSTEM REVIEW DISCUSSION: (Judge Mary T. Noonan)

The Council discussed the possibility of creating a budget committee to review requests prior to having the Council make a decision, and educating the judiciary about the Council's structure and role. Chief Justice Durrant would like the structure of the Council to be reviewed. Justice Lee proposed adding a review of the constitution of the Council, including the number of Council members. Justice Lee also suggested a review of Policy & Planning's workload. Judge Noonan suggested a retreat for the Council to address the history, current role, and future role of the Council and other issues.

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

Chief Justice Durrant welcomed 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. This is a request for one-time funding for FY2020. 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. After further discussion, Ms. Williams will follow up with Harvard to see if there is a possibility to delay the study.

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 –

- Hold PCs for X period of time for questions and PSA
- 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
- 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).

Chief Justice Durrant thanked Ms. Williams and Ms. Anderson.

Motion: Judge Appleby moved to approve the option 2, as amended to include Ms. Williams contact Harvard to see if there is a possibility to delay the study. Judge August Chin seconded the motion, and it passed unanimously.

9. SENIOR JUDGE APPLICATIONS: (Nancy Sylvester)

Chief Justice Durrant welcomed Nancy Sylvester. Ms. Sylvester reviewed applications from Judge David Marx and Judge Mark DeCaria for active senior judge status. Both judges meet the qualifications required for active senior judge status.

Chief Justice Durrant thanked Ms. Sylvester.

Motion: Judge Appleby moved to approve Judge David Marx and Judge Mark DeCaria as active senior judges, as presented. Rob Rice seconded the motion, and it passed with Judge Marx abstaining from his item.

10. APPROVAL OF INTERLOCAL AGREEMENT: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Mr. 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 effective July 1 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. Mr. Peters noted Wellsville and Logan courts are not interested in this agreement.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Appleby moved to approve the proposed interlocal agreement between Hyrum Justice Court and the towns of Nibley and Mendon, as presented. Judge Farr seconded the motion, and it passed unanimously.

11. APPELLATE MEDIATION PROGRAM REPORT: (Michele Mattsson)

Chief Justice Durrant welcomed Michele Mattsson. Ms. Mattsson said the appellate mediation program began in 1998. Ms. Mattsson has been the Chief Appellate Mediator for 18 years. Settlements through mediation 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. In 2018, there were 68 appellate mediations, of those, 43 settled through mediation (63%). On average, in 2018, cases were in mediation 75 days. Divorce cases are the most common and most often settled cases, followed by real estate, labor commission, and personal injury.

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

Chief Justice Durrant thanked Ms. Mattsson for excellent work in this successful mediation program. Judge Appleby said the feedback about the program and Ms. Mattsson is always favorable.

12. BOARD OF DISTRICT COURT JUDGES MEMBERSHIP: (Shane Bahr)

Chief Justice Durrant welcomed Shane Bahr. Mr. Bahr 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 nations 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.

Mr. Bahr reviewed the proposed changes to Code of Judicial Administration rule 6-101 that are needed to comply with the request and sought a May 1 effective date, if approved. Judge Pullan recommended not making a determination on this item until the system, including the Council and Boards, could be more fully vetted in June.

Chief Justice Durrant thanked Mr. Bahr.

Motion: Judge Kevin Allen 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)) with an effective date of May 1. Justice Thomas Lee seconded the motion, and it passed with Judge Pullan voting no.

13. FOURTH DISTRICT REPORT: (Judge James Brady and Mark Urry)

Chief Justice Durrant welcomed Judge James Brady and Mark Urry. The new Provo Courthouse broke ground on May 24, 2016 and was substantially completed November 16, 2018. The total cost of the courthouse was \$91,581,580, and was funded through revenue bonds. The courthouse is occupied by the district court, juvenile court, Office of Guardian ad Litem, and Child-Welfare Mediation. The former courthouse was sold to Mountainland Technical College. The former Orem Juvenile Courthouse will be occupied by the Department of Children and Family Services, and the former Provo Juvenile Courthouse will be occupied by Juvenile Justice Services. The new courthouse is the second largest courthouse in Utah, consisting of 230,000 square feet, 8 stories, and 16 courtrooms, with the space for 2 additional courtrooms. The courthouse won the Utah Construction & Design: 2018 Utah Most Outstanding Project of the Year and the Associated General Contractors: 2018 Most Outstanding Government/Public Building awards.

Chief Justice Durrant thanked Judge Brady and Mr. Urry for their report.

14. WELLBEING TASK FORCE REQUEST: (Kim Free)

Chief Justice Durrant welcomed Kim Free. Ms. Free presented the Creating a Well-Being Movement in the Utah Legal Community Report and Recommendation from the Utah Task Force on Lawyer and Judge Well-Being. Ms. Free requested the Council approve the temporary task force to become a permanent committee. The task force must decide which governing body they will report.

Chief Justice Durrant thanked Ms. Free.

Motion: Judge Appleby moved to approve the Wellbeing Task Force Report and to move to continue the task force operation status quo until a decision could be made later as to a permanent committee status, as amended. Justice Lee seconded the motion, and it passed unanimously.

15. PROBLEM-SOLVING COURT RECERTIFICATIONS: (Judge Dennis Fuchs)

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs addressed Judge Mary Manley's Seventh District adult drug court approval for recertification, noting that the letter provided by Judge Manley showed her court is now in compliance. Judge Fuchs next reviewed the letter received from Judge Brent Bartholomew regarding his Fourth District juvenile dependency drug court. Judge Fuchs noted both courts are now in compliance and seek recertification.

Motion: Judge Shaughnessy moved approve the recertification of Judge Mary Manley's Seventh District adult drug court and Judge Brent Bartholomew's Fourth District juvenile dependency drug court, as presented. Judge Appleby seconded the motion, and it passed unanimously.

16. THIRD DISTRICT FAMILY DEPENDENCY DRUG COURT REQUEST: (Judge Dennis Fuchs)

Judge Fuchs next addressed the Third District West Jordan Family Dependency Drug Court (FDDC) request, which Judge Tupakk Renteria would be assigned. 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.

The 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. In 2018, West Jordan FDDC participants increased by 11 and averaged between 20 and 26 participants per bi-weekly court review. The total time for pre-court staffing and court reviews doubled, therefore limiting their ability to adequately problem solve with participants. Due to the increased caseload, seven cases were transferred from West Jordan to Matheson. All referrals, that were not a Judge Jimenez child welfare case, were diverted to a Matheson FDDC.

If approved, Judge Renteria is already declining Juvenile Treatment Court participation (current caseload is four youth) would be replaced with an FDDC. The four remaining juveniles from the treatment court could be transferred to Judge Beck's team at the Matheson, if needed. Both the child welfare team and DCFS approved the proposed date and timeframe. 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.

Judge Fuchs reviewed the declining participation in the West Jordan Juvenile Drug Court, and therefore, requested eliminating the West Jordan Juvenile Drug Court program.

Chief Justice Durrant thanked Judge Fuchs.

Motion: Judge Appleby moved to approve changing the Third District Drug Court to a Family Dependency Drug Court, as presented. Judge Pettit seconded the motion, and it passed unanimously.

17. ONLINE DISPUTE RESOLUTION REQUEST FOR ADDITIONAL PILOT PROGRAMS: (Justice Deno Himonas)

Chief Justice Durrant welcomed Justice Deno Himonas. Justice Himonas said they would like to expand the program to a court with a different make-up of cases and to add an additional court in a rural district. As facilitators are located throughout the state, distance is not an issue. Ms. Anderson said an expansion will use approximately three hours of IT resources. Justice Himonas noted training of clerks is important. The clerk in West Valley, along with Court Services, and IT will conduct training for other clerks if additional locations are approved. Judge Brendan McCullagh will follow up with the Board of Justice Court Judges.

Motion: Judge Mark May moved approve adding the program to two additional courts. Judge Marx seconded the motion, and it passed unanimously.

18. ONLINE DISPUTE RESOLUTION PILOT PROGRAM UPDATE: (Justice Deno Himonas)

Justice Himonas stated the ODR online program began seven months ago. Compared to January 2018 to January 2019:

- Hearings scheduled dropped from 120 cases to 25 cases
- Trials dropped from 7 to 6
- Average length of trials increased from 30 to 38
- Default judgments decreased from 94 cases to 15 cases
- In-court mediated/stipulated judgments dropped from 7 to 3 cases
- Average number of scheduled cases per week decreased from 44.75 to 17.5
- Average number of default judgments per week decreased from 23.5 to 3.75 judgments

Process changes:

- Case initiations before ODR were 6 minutes and now are 2 minutes
- Service, including data entry before ODR were 3 minutes and are now less than 1 minute

Justice Himonas said other states are reaching out to Utah to better understand and perhaps duplicate the online program. The courts submitted the program for the Best of Utah award. Announcement of the winner will take place on June 4.

Chief Justice Durrant stated this program is in line to be a huge success. Chief Justice Durrant thanked Justice Himonas and Ms. Anderson.

**19. JUDICIAL PERFORMANCE EVALUATION COMMISSION (JPEC) REPORT:
(Dr. Jennifer Yim and Commissioner David Roth)**

Chief Justice Durrant welcomed Dr. Jennifer Yim and Commissioner David Roth. Dr. Yim first noted the evaluation of justice court judges poses a particular challenge to JPEC, due to varied caseloads and court locations. JPEC provides full-time justice court judges with an evaluation identical to the evaluations completed for district court judges, including surveys and courtroom observation. There is 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 has the ability to complete more than twenty-five mid-level evaluations in the current evaluation cycle. Despite 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 more options to provide these 20-25 judges with meaningful feedback about their performance. The challenges of providing an expanded evaluation to smaller courts include: 1) geographic location, 2) varied hours, and 3) travel costs and an unreliable method of data collection.

Ken Gardner from the Policy Institute at the University of Utah completed a study assessing potential methods for evaluation. JPEC proposed 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.

Obstacles prohibiting recordings:

- 1) 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, and
- 3) Costs, technical, and logistical challenges to video camera placement and operation.

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. JPEC's request included recording and storage of video data of judicial proceedings. Chief Justice Durrant said the idea of video-based evaluations

would help JPEC with their job. There was discussion about suspending the portion of the rule that forbids recording in the courtroom. Ms. Anderson requested to be informed of any changes.

Dr. Yim next explained how appointment dates of judges effects evaluations. 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. Article 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.

Chief Justice Durrant thanked Dr. Yim and Commissioner Roth.

20. BOARD OF JUSTICE COURT JUDGES REPORT: (Judge Reuben Renstrom and Jim Peters)

Chief Justice Durrant welcomed Judge Reuben Renstrom. Judge Renstrom said there are 117 justice courts are in operation, with 80 judges. Many judges have more than one court assigned. In 2018, justice courts consisted of 69% of filings in Utah. Justice Court updates include the completion of the presiding judge manual and working with JPEC to improve the evaluation process. As filings decline, decreased revenue will continue to make cities and counties question their commitment to having a court. Possible initiatives include procedural reforms, substantive reforms may be required, and request the Council propose changes to the legislature. Justice court judges tend to feel that they cannot get ahead.

There are three workgroups:

- Clerk certification program
- Online resources for clerks
- Clerks conference planning

Judge Renstrom recommended the Council consider authorizing the justice courts (specifically chambers and revenue streams) be considered as a study item.

Chief Justice Durrant thanked Judge Renstrom and Mr. Peters.

21. RECOGNITION OF OUTGOING COUNCIL MEMBER: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant presented Judge David Marx with a Council plate and thanked him for his years of dedicated service to the Judicial Council.

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

There was no old business or new business discussed.

23. EXECUTIVE SESSION

Motion: Judge Appleby moved to go into an executive session to discuss a personnel issue. Judge Shaughnessy seconded the motion, and it passed unanimously.

24. CONSENT CALENDAR ITEMS

a) Probation Policy. Delete policy 5.8. Approved without comment.

b) Forms Committee Forms. Forms: Domestic Relations Injunction; Application for Temporary Restraining Order; Order on Application for Temporary Restraining Order; and Writ of Assistance. Approved without comment.

25. ADJOURN

The meeting adjourned.