

**JUDICIAL COUNCIL MEETING**

**Minutes**

**March 12, 2021**

**Meeting conducted through Webex**

**12:00 p.m. – 3:30 p.m.**

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

**Members:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Todd Shaughnessy, Vice Chair  
Hon. Brian Cannell  
Hon. Samuel Chiara  
Hon. Augustus Chin  
Hon. David Connors  
Hon. Ryan Evershed  
Hon. Paul Farr  
Hon. Michelle Heward  
Justice Deno Himonas  
Hon. Mark May  
Hon. David Mortensen  
Hon. Kara Pettit  
Hon. Derek Pullan  
Hon. Brook Sessions  
Rob Rice, esq.

**Excused:**

Cathy Dupont

**Guests:**

John Baldwin, Utah State Bar  
Hon. M. Christiansen Forster, Court of Appeals  
Dr. Daniel Levin, P.O. Program Coordinator  
Travis Erickson, TCE Seventh District Court  
Heather Farnsworth, Utah State Bar  
Hon. Barry Lawrence, Third District Court

**AOC Staff:**

Hon. Mary T. Noonan  
Michael Drechsel  
Shane Bahr  
Heidi Anderson  
Geoff Fattah  
Amy Hernandez  
Alisha Johnson  
Jordan Murray  
Chris Palmer  
Jim Peters  
Jon Puente  
Clayson Quigley  
Nini Rich  
Neira Siaperas  
Nick Stiles  
Karl Sweeney  
Nancy Sylvester  
Keisa Williams  
Jeni Wood

**Guests Cont.:**

Brooke McKnight, Clerk of Court, Second District  
Russ Pearson, TCE Eighth District Court  
Hon. J.A. Petry, Vernal Justice Court  
Heather Thuet, Utah State Bar  
Larry Webster, TCE Second District Court

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Due to the coronavirus pandemic, the Council held their meeting entirely through Webex.

**Motion:** Judge David Connors moved to approve the February 22, 2020 Judicial Council meeting minutes, as amended to change on page 3 under the grant rule moratorium from “lifted” to temporarily modified. Judge Brook Sessions seconded the motion, and it passed unanimously.

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

Chief Justice Durrant thanked everyone for their support with the recommendation for Ron Gordon to fill the State Court Administrator position, effective June 1<sup>st</sup>.

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

Judge Mary T. Noonan announced that the Legislature’s budget decisions have been distributed and will be addressed later in the meeting. The 1% merit increase was not funded; however, the 3% COLA increase was funded.

Brent Johnson provided, via email, a brief overview of the intended course of action in regard to the Risk Phase Response Plan due to the conditions of the pandemic and the state of emergency changing rapidly in recent weeks. The COVID-19 infection rates have dropped significantly since early January. The vaccination pace has quickened. The CDC issued new guidance related to those who have been vaccinated. And the Utah Legislature passed a bill that will end the statewide mask mandate on April 10 and codifies criteria for the end of the state of emergency. These developments have resulted in many questions about how the judiciary will conduct business in the coming months.

The Risk Phase Response plan was approved and adopted by the Management Committee. Over the next few weeks the Risk Phase Response Plan will be reviewed with an eye toward answering questions and providing guidance that will take the courts through the end of the pandemic. Modifications to the Risk Phase Response Plan will be proposed to the Management Committee at their April 13 meeting. The requirements in the current Risk Phase Response Plan will govern until then.

The answers to the many questions that have arisen are not known at this time. The Management Committee will continue to be guided by the principles of safety and following the science. As the various administrative orders have emphasized, the courts will continue to make decisions independent of what other entities have decided because the courts are in the unique position of compelling individuals to visit our buildings. At the same time, the Management Committee understands the crisis fatigue under which we have all been operating for a year and will ease any restrictions that are no longer necessary according to the science. Mr. Johnson will address the current Risk Response Plan and current Administrative Order with the changing COVID environment.

**4. COMMITTEE REPORTS:**

**Management Committee Report:**

The work of this committee is reflected in the minutes.

**Budget & Fiscal Management Committee Report:**

Judge Mark May said the committee met last week. The work of the committee will be addressed later in the meeting.

**Liaison Committee Report:**

Judge Kara Pettit noted Michael Drechsel distributed the results of the legislative session. Judge Pettit thanked Mr. Drechsel and Jim Bauer for their work on the session. The committee will next work on updating the benches about legislative changes.

**Policy and Planning Committee Report:**

Judge Derek Pullan said the grant guardrails project continues to move forward with a monthly reporting to the Policy & Planning Committee. The rest of the work is reflected in the minutes.

**Bar Commission Report:**

Rob Rice had nothing new to report as the Bar has not met since the last Council meeting and members of the Bar will provide a report to the Council.

**5. UTAH STATE BAR REPORT: (Heather Farnsworth, John Baldwin, and Heather Thuet)**

Chief Justice Durrant welcomed Heather Farnsworth, John Baldwin, and Heather Thuet. Ms. Farnsworth introduced President-Elect Heather Thuet.

**Bar Conventions**

- The Fall 2020 Forum was held virtually with 2,892 attendees
- The Spring 2021 Convention will be held virtually beginning March 25
- They are hoping for an in-person Summer Convention in Sun Valley at the end of July

Michelle Oldroyd, Director of Diversity, will work on ensuring that legal education programming is focused on these issues and provides a diverse panelists canvas. Mark Morris, Bar Commission and Chair of the Early Diversity Outreach Committee, is working with the test center for legal inclusion to introduce young children to lawyers and encourage them to consider a legal education.

Shawn Newell and Andrew Morris, co-chairs for the Excessive Force Seminar, are working with various community members and police departments.

Judge Tom Wilmore and Eric Christiansen Chair the Bar's Regulatory Reform Committee. The role has been to provide education and information to Bar members and to encourage participation.

Martha Knudsen, Wellness Representative for the Bar, is working on wellness efforts, such as monthly CLEs and may move to monthly activities post-pandemic, such as hiking or yoga.

The virtual Bar exam was successful and they may allow for the July exam to be held virtually.

The American Bar Association (ABA) has a program that will allow 10 judicial interns from diverse backgrounds to participate fully funded.

The selection committee is working to fill the Bar Commission Executive Director position. They anticipate an offer to be extended by the end of April.

Katie Woods is running alone in the President Elect Retention Election.

Chief Justice Durrant and Judge Augustus Chin thanked John Baldwin for his many years of service as the Executive Director. Mr. Baldwin said this last year has been such a challenge and thanked the Judiciary who have worked hard to keep the wheels of justice moving in a fair and equitable manner. Many Bar members have dedicated a considerable amount of their time to the justice system this year.

Chief Justice Durrant thanked Ms. Farnsworth, Mr. Baldwin, and Ms. Thuet. Chief Justice Durrant believed the Bar is fortunate to have their leadership.

**6. BOARD OF DISTRICT COURT JUDGES REPORT: (Judge Barry Lawrence and Shane Bahr)**

Chief Justice Durrant welcomed Judge Barry Lawrence and Shane Bahr. The Board has been participating in roundtable virtual discussions about Webex, evictions, and jury trials. The district conference will be held virtually in May. The bench has been having difficulties with evictions due to the constant changing rules, both locally and federally. The jury trials that have been conducted recently have gone well. Next week there will be two jury trials held simultaneously. Judge Lawrence noted that the districts will need additional resources to operate the jury trials. Moving forward, they would like to reconstruct additional courtrooms for jury trials. Mr. Bahr said some of the districts have been hiring staff to assist with the jury trials.

The Fee Waiver Audit has been addressed with the bench to ensure compliance and uniformity. The Board agreed with Mr. Quigley’s recommendation on weighted caseloads. If an expert panel is created, the Board would like to be included in that.

Chief Justice Durrant thanked Judge Lawrence and Mr. Bahr.

**7. LEGISLATIVE UPDATES: (Michael Drechsel and Jim Bauer)**

Chief Justice Durrant welcomed Michael Drechsel and Jim Bauer. Mr. Drechsel stated Mr. Bauer was unable to attend.

No.	PRIORITY	ONGOING FUNDING		ONE-TIME FUNDING		NOTES
		COUNCIL REQUEST	ACTUAL APPROPRIATION	COUNCIL REQUEST	ACTUAL APPROPRIATION	
1	<b>TECHNOLOGY INVESTMENT</b>	\$ 1,452,000	\$ 650,000		\$ 802,000	Partially funded - see the following six rows below (SB0002)
	IT Developers	\$ 650,000	\$ 650,000	\$ -	\$ -	Funded
	Online Court Assistance Program (OCAP)	\$ 210,000	\$ -	\$ -	\$ 210,000	Funded one-time
	Cybersecurity Infrastructure	\$ 450,000	\$ -	\$ -	\$ 450,000	Funded one-time
	Rural Courthouse Bandwidth Increases	\$ 25,000	\$ -	\$ -	\$ 25,000	Funded one-time
	Webex Licensing	\$ 45,000	\$ -	\$ -	\$ 45,000	Funded one-time
	Microsoft Licensing	\$ 72,000	\$ -	\$ -	\$ 72,000	Funded one-time
2	<b>PUBLIC OUTREACH COORDINATOR</b>	\$ 120,000	\$ -	\$ -	\$ 120,000	Funded one-time (SB0002)
3	<b>PUBLIC SAFETY OUT-OF-STATE CRIMINAL HISTORY REVIEW</b>	\$ 220,500	\$ 220,600	\$ -	\$ -	Funded (SB0002)
4	<b>COURT COMMISSIONERS – RECRUIT &amp; RETAIN</b>	\$ 92,500	\$ -	\$ -	\$ -	Not funded
5	<b>JUDICIAL ADMINISTRATION CERTIFICATE PROGRAM</b>	\$ 50,000	\$ -	\$ 10,000	\$ -	Not funded
	<b>TOTAL</b>	\$ 1,935,000	\$ 870,600	\$ 10,000	\$ 922,000	

Mr. Drechsel reviewed legislative bills and noted unless otherwise identified, changes to the bills become effective May 5.

**HB260S04. Criminal Justice Modifications.** This bill relates to the courts keeping criminal accounts receivable. The courts have been providing the Department of Corrections or other entity with any money owed. The bill requires the courts to keep the delinquent accounts until the person has completed their sentence. This will create a lot of management issues moving forward. Approximately 11,000 accounts are sent to corrections annually. Those will now stay with the courts; therefore, court personnel will be needed to manage the accounts. None of the accounts that have been sent to corrections or any other entity will be returned to the courts. The bill becomes effective July 1. The legislature appropriated \$658,000 ongoing and \$32,500 FY21 one-time, with a reduction of \$197,000 in FY22 one-time impact for this bill. Those funds are what was estimated for eight clerk positions to manage these accounts.

**SJR003. Joint Resolution Dissolving Smithfield City Justice Court.** The fiscal impact from Smithfield will bring money into the courts, which will hopefully offset and defray the added burden the First District Court will have since there is no Cache County Justice Court.

**HB220S02. Pretrial Detention Amendments.** This bill received \$6,000 in FY22 one-time funds and is associated with legislative funded Public Safety Out-of-State Criminal History Report of \$220,600 ongoing funds. These are IT-related development impacts that the courts need to have for changes to the system. This bill largely rolls back the changes made in HB206.

**HB003. Current Fiscal Year Supplemental Appropriations.** This bill requires the Judicial Council to report to the IGG Appropriations Subcommittee about the San Pete County Courthouse by October 1. This is an effort to reduce the cost per square foot as well as try to increase the utilization of the courthouse space. The topic of the Manti Courthouse received attention from a few local legislators. The Manti Courthouse did not receive funding, most likely due to cost.

**HB101S03. Prohibited Persons Amendments.** This bill requires the court, prosecutor, and defense counsel to ensure that a person is made aware of firearms restrictions every time a person enters a plea in a criminal case where that person would by virtue of the plea, become a restricted person for firearms.

**HB0143. Driver License Suspension Amendments.** This bill removes the courts ability to suspend a person's driver's license, except under certain circumstances.

Chief Justice Durrant thanked Mr. Drechsel and Mr. Bauer.

## **8. TCE REPORT: (Russ Pearson and Travis Erickson)**

Chief Justice Durrant welcomed Russ Pearson and Travis Erickson. Mr. Pearson reminded the Council that their last report was one year ago when the pandemic began. The TCEs expressed their gratitude to the Council, Management Committee, and the AOC for their leadership. The Administrative Orders and Risk Response Plans have been incredibly helpful. The past year has seen virtual meetings versus in-person which has resulted in less travel time

but more correspondence. Many of the districts have stocks of PPEs but understand when the courts are fully operational they may need additional supplies. They expect a need for more hand sanitizer wipes as more jury trials are scheduled. The TCEs have worked with staff and IT in transitioning them to work from home.

Mr. Erickson mentioned the TCEs have adapted to a new environment and challenges, that have provided opportunities to grow. There have been more meetings which resulted in additional, quicker updates. Meeting and collaborating with community partners have been a great experience and benefited the courts. The TCEs appreciated the hard work of the IT Department, especially in the rural areas. The judges who would normally travel are finding virtual hearings more convenient and allowing for additional time on the bench. Court patrons have also benefited from not have to pay for travel to courthouses in the rural areas.

The training of virtual and hybrid hearings has gone very well. The virtual experience has allowed the districts to institute more programs. The TCEs look forward to preserving those benefits. Mr. Erickson noted the Clerks of Court have done exceptional work and thanked the Council for their support. The part-time staff have appreciated additional work hours. The districts continue to adjust and adapt to the duties of the courts.

The Eighth District Court held jury trials through video jury selection and may continue through the Yellow phase with virtual jury selection. This allows potential jurors to spend less time with the process (1.5 hours vs half a day in-person). Judge Samuel Chiara noted that defense counsel stated that they were surprised at how well the virtual jury selection process worked. Feedback from jurors has shown an appreciation for the efficient process. Judge Chiara received requests to continue with virtual hearings.

The districts are transitioning from desktops to laptops. Chief Justice Durrant stated the TCEs have met the challenges faced this year.

Chief Justice Durrant thanked Mr. Pearson and Mr. Erickson.

**9. PROPOSED ONE-TIME FY21 AND FY22 CARRYFORWARD REQUESTS:  
(Judge Mark May and Karl Sweeney)**

Chief Justice Durrant welcomed Judge Mark May and Karl Sweeney.

**Court Security Partner Recognition Coins**

\$1,833

One-time funds

To purchase 300 award coins. Court Security gave up all General Funds in the FY 2021 budget cuts and is entirely funded by the Court Security restricted fund today. UCA 78A-2-602 says Court Security funds are to be used by the Court “to contract for court security at all district and juvenile courts throughout the state” therefore Court Security must petition to use General Funds. This request would fund Court Security recognition efforts for 3+ years.

**Motion:** Judge Connors moved to approve the Court Security Partner Recognition Coins for \$1,833 in one-time funds, as presented. Judge Paul Farr seconded the motion, and it passed unanimously.

**Contractor Support for Critical IT Projects**

\$225,000

One-time funds

The IT team leadership has been focused on delivering critical COVID projects. Due to this priority, several of the other critical IT deliverables have taken a hit. The department requested funding to hire four additional contract Sr. Project Managers (SPMs) to get the following priorities back on track: Windows 10 upgrades, court data redundancy project, MyCase Pro se, CORIS re-write. If these SPMs prove capable, they would be offered a chance to interview for fulltime positions that come open if the Legislative IT request for \$650,000 in new IT development personnel is approved. This request would fund the period from April 1 – June 30. A separate request to use FY 2022 carryforward funds to extend the temporary assignment from July 1 – September 30 will be made in May 2021.

Mr. Sweeney said the Finance Department has not received any one-time request, other than the one listed above. Judge Connors would like funding to transfer Webex recordings to FTR. Mr. Sweeney said the funds are appropriated for this process.

**Motion:** Judge May moved to approve the Contractor Support for Critical IT Projects for \$225,000 in one-time funds, as presented. Justice Deno Himonas seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Judge May and Mr. Sweeney.

**10. HARVARD PSA UPDATE: (Judge Todd Shaughnessy and Keisa Williams)**

Chief Justice Durrant welcomed Judge Todd Shaughnessy and Keisa Williams. Jim Greiner and other Harvard study personnel presented at the February 22 Management Committee meeting, reviewing Utah Code § 77-20-1. Right to Bail – Pretrial Status Order – Denial of Bail – Detention Hearing – Motion to Modify, effective October 1, 2020. Some changes included the presumption ROR release in most situations; least restrictive measures if OR is not warranted; lower cash bail amounts; and ability to pay analysis for any bail amounts. Eight interviews were conducted with the Public Defenders, State’s Attorneys, Sheriff’s, and judges and the study counties (Utah, Davis, Weber and Morgan). Data analysis was conducted in the Davis, Utah, and Weber/Morgan jails, along with data received from the AOC of pretrial participants.

**PSA Tool**

- The Public Safety Assessment (PSA) was developed by Arnold Ventures after analyzing hundreds of thousands of criminal records.
- The PSA determines category of risk for a defendant of committing a new crime, a new violent crime, or failing to appear.
- The PSA uses nine factors and weighs them to determine the risk category.
- The PSA is paired with a Decision-Making Framework (DMF) which allows localities to determine their risk thresholds.

**PSA Factors – The PSA uses nine factors to assess the likelihood of pretrial success.**

- 1) Age at current arrest
- 2) Current violent offense
- 2a) Current violent offense and 20 years old or younger
- 3) Pending charge at the time of arrest
- 4) Prior misdemeanor conviction
- 5) Prior felony conviction
- 5a) Prior conviction (misdemeanor or felony)
- 6) Prior violent conviction
- 7) Prior failure to appear in the past 2 years
- 8) Prior failure to appear older than 2 years
- 9) Prior sentence or incarceration

**PSA Study**

- When an arrestee receives a Probable Cause review, the judge has a 50% chance to receive a PSA-DMF System Report.
- The study is a Randomized Controlled Trial (RCT) in four Utah counties. (Weber, Morgan, Utah, Davis)
- Study officially started on April 15, 2019.
- Study is scheduled to stop randomization on April 15, 2021.
- Two years of randomization followed by two years of follow up on each study participant.

**COVID Interviews**

- COVID shut down the courts in March, 2020
- Jury trials stopped, hearings moved online
- Jails stopped booking all but the worst offenders
- Crime levels likely stayed same with domestic violence cases increasing
- Heavier reliance on citations
- Judges likely more lenient on bail and FTA warrants
- Technology may have helped or hurt defendants in their criminal case based on technology competency
- No significant change in demographics for those being arrested

Pretrial Utah Code § 77-20-1 interviews were conducted 1.5 months after implementation of the revised statute. Opinions on how many people were being released as a result of the statute were mixed. The opinion of the judge interviewed, who likely had the most direct experience on the matter, suggested there was a significant increase in the release rate. There was similar disagreement and uncertainty about change in conditions ordered by the judge. Interviews were conducted before the technology to transfer the arrestee's ability to pay was implemented. Most of those interviewed agreed that in the absence of the ability to pay, judges presumed indigency. All interviewees agreed that the new law had no effect on the demographics of the defendants being released OR, remanded, or released with conditions.

The adjusted anticipated number of PSAs across all study counties for the full study was approximately 17,000. The current number of PSAs is approximately 14,500. This number is



sufficiently large enough to analyze the impact of the PSA. The study is still on track to end randomization on April 15th 2021. Average NCA/FTA scores caused by COVID are not significant enough to affect the validity.

A concern was raised about the viability and validity of the study due to the pandemic and legislative changes. The study group felt despite the changes, they will still be able to draw statistically valid conclusions. Judge Shaughnessy explained that the purpose of the PSA study was to study judges to determine what affects the use of the PSA has on judges' decisions at the probable cause stage. The study is being conducted in 7-8 courts in the Second and Fourth Districts. Keisa Williams noted that although the numbers show a decline at this time, when additional case types are added, more PSAs are expected.

Chief Justice Durrant thanked Judge Shaughnessy and Ms. Williams and noted that Ms. Williams is an extremely valuable asset to the Judiciary.

#### **11. BOARD OF APPELLATE COURT JUDGES REPORT: (Judge Michele Christiansen Forster and Nick Stiles)**

Chief Justice Durrant welcomed Judge Michele Christiansen Forster and Nick Stiles. The Board has met a couple of times over the past few months. The Board welcomed Nick Stiles and are happy to have him on board.

##### **AIS**

- Staff has identified newest priorities
- The IT Department will begin making progress on these priorities again post-COVID demands

##### **Appellate Board Conference**

- Selected dates: September 9th and 10<sup>th</sup>
- The Education Department is working through the list of 23 great ideas. A noteworthy idea was women on the Supreme Court – Justice Ginsburg to be taught by Lauren Andersen
- Conference will be at Matheson

##### **Appellate E-filing**

- The first phase is complete and provided good guidance into the best program for e-filing and the rough cost of building the program
- The Grants Coordinator is working on potential funding for the project
- The appellate courts and the IT Department are working together to move the project forward

Mr. Stiles and the Clerks of Court have been working on office logistics post-COVID world. This includes implementing some of the new HR policies in terms of incorporating remote work where possible.

The appellate courts have been identifying their computer inventory process at the request of the IT Department in an effort to eliminate excess devices.

Staff and Chairs of Supreme Court Advisory Committees have begun the process of preparing to fill the upcoming vacancies due to terms ending this summer.

Chief Justice Durrant thanked Judge Christiansen Forster and Mr. Stiles.

**12. SENIOR JUDGE CERTIFICATIONS: (Nancy Sylvester)**

Chief Justice Durrant welcomed Nancy Sylvester. Juvenile Court Judge Jim Michie, who will also retire shortly, applied for inactive senior judge status. Justice court Judge David C. Dahlquist, who will retire shortly, applied for active senior judge status. Neither Judge Dahlquist nor Judge Michie has any complaints pending before the Utah Supreme Court or the Judicial Conduct Commission, The Board of Justice Court Judges has recommended Judge Dahlquist's appointment.

Chief Justice Durrant thanked Ms. Sylvester.

**Motion:** Judge Farr moved to approve Judge Jim Michie as an inactive senior judge and Judge David Dahlquist as an active senior judge, as presented. Justice Himonas seconded the motion, and it passed unanimously.

**13. WEIGHTED CASELOADS NCSC REPORT: (Clayson Quigley)**

Chief Justice Durrant welcomed Clayson Quigley. Mr. Quigley reported on the National Center for State Courts (NCSC) Weighted Caseload Report (Report) at the last Council meeting. The Council requested at that time Mr. Quigley seek review and recommendations from the Boards and appropriate stakeholders. Mr. Quigley presented to the various Boards and committees most impacted by the Reports. Overall, Mr. Quigley's impression was that the Boards have greater confidence in the Report and generally support the proposal for implementing the recommendations and further studying the issues highlighted in the Report.

The Board of Justice Court Judges raised concerns about the Report not including justice court caseload reports. However, the methodology validated by the NCSC is the same used for the justice court analyses. The Justice Court Report has a different formula for determining judicial hours because of the unique structure of the justice courts. Should the Council choose to study the judicial standard year formula, significant attention would be given to this matter. This is an important tool justice court judges use to help negotiate salaries with their city officials.

The Clerks of Court noted that the Report did not directly concern their group. They agreed generally with the recommendations and acknowledged that in many ways they are doing the things the judicial weighted caseload falls short of doing. For example, by rule they have an expert panel that meets regularly to review and revise the Clerical Weighted Caseload. They also have a detailed methodology with accompanying documentation of their surveys and other key documents. The Clerks of Court expressed that if the Judicial Standard Year Formula is studied, so should the formula for deciding clerical availability. Additionally, the Clerks of Court asked that representatives of the Clerks of Court be included on the expert panel. The perspectives and assistance from the Clerks of Court was key to the recent Juvenile Court Judicial Weighted Caseload. Across the board, there is overwhelming support for the use of a three-year average when determining judicial and clerical need.

Chief Justice Durrant thanked Mr. Quigley.

**Motion:** Judge Shaughnessy moved to immediately adopt the 3-year period for all planned weighted caseload efforts and that in the coming year the Council agreed to study the judge year, as presented. Judge Connors seconded the motion, and it passed unanimously.

**14. OFFICE OF FAIRNESS AND ACCOUNTABILITY REPORT: (Jon Puente)**

Chief Justice Durrant welcomed Jon Puente. Mr. Puente made an offer to fill the Public Outreach Coordinator position. The Office will include the Director of the Office of Fairness and Accountability, the Communications Director, the Public Outreach Coordinator, and the Court Interpreter Program Coordinator. Mr. Puente is working on gathering data to identify any disparities in the judiciary system and to use the information gathered to make data driven policy decisions to remedy disparities that disproportionately affect historically marginalized racial and ethnic minorities. It will take a minimum of six months to gather data and approximately three years to collect a good sample of criminal adjudication process data. Once the data is received and reviewed, the Office can then create policies.

Methods and standards for identifying disparities include self-identification, race perceived, Census demographics options, and current Utah category options. Demographic variables should reflect the nuances of local communities.

Mr. Puente will begin writing a strategic plan for the Management Committee's approval. The plan will include the creation of a committee. Judge Pullan and Judge Michelle Heward support Mr. Puente's roll and plan. Mr. Puente asked that the Council remember that systemic change does not happen quickly. Mr. Puente eventually wants to work on diversity on the Utah bench, which could take 10 years. Judge Pettit informed Mr. Puente that the Judiciary does not have control on judicial appointments and in the past, there have been discussions on this matter. Mr. Puente clarified that he would like to create a large, diverse pool of judicial applicants.

Judge Shaughnessy believed that if the Office is functioning as it was intended, some of the messages delivered may be difficult and uncomfortable. Judge Noonan would like a formal rule established that would send a message to the community that the creation of an advisory council is a showing of a permanent, important effort of the courts.

Chief Justice Durrant thanked Mr. Puente.

**15. OLD BUSINESS/NEW BUSINESS**

Karl Sweeney sought approval from the Council of the acceptance of \$180,000 in Justice Assistance Grant (JAG) funds from the Commission on Criminal and Juvenile Justice (CCJJ). These funds will be used to cover costs related to HB206 from the 2020 Legislative session. The carryforward spending request was approved in the June 22, 2020 Judicial Council for \$288,900 with a stipulation that \$180,000 of additional funds to address HB206 would not be requested from carryforward funds pending a reply from CCJJ on our request for a \$180,000 grant.

Judge Pullan reminded the Council that Old Business/New Business items should not be action items noting that systemically the Council should not be in the habit of adding action items to this section of the meeting. Rather, items should be on the Council agenda which is approved by the Management Committee.

**Motion:** Judge Shaughnessy moved to suspend the requirement that matters under the Old Business/New Business items not be action items and approve the JAG funds in the amount of \$180,000, as presented. Justice Himonas seconded the motion, and it passed unanimously.

Mr. Sweeney stated that Amy Hernandez, Domestic Violence Program Coordinator, was approached with a proposal from the Utah Domestic Violence Coalition (UDVC). The UDVC invited the courts to execute a non-binding memorandum of understanding which would accompany a UDVC grant application to the Federal Office of Violence Against Women. If successful, the courts would receive approximately \$254,000 in funds as a subrecipient of funds from the UDVC grant to be used to fund the contract position in the Domestic Violence Program, currently filled by Daniel Levin.

A grant was in place through December 31, 2020 from the Utah Office of Victims of Crime to fund work performed by Dr. Levin as a contractor working with the Domestic Violence Program. When that grant ended, a stopgap funding was approved by the Judicial Council in the form of a \$50,000 carryforward request to fund this position between January 1 and June 30, 2021.

Judge Pullan questioned why this was brought to the Council's attention at the last minute. Amy Hernandez noted they were not contacted until Monday. Judge Connors preferred to have a better analysis of resources than "ordinary course of business" as that phrase was not definitive of what resources are being requested. Mr. Murray stood by the assessment and noted what was presented was his best effort and was based on the results of communications with the AOC Directors. Ms. Hernandez said this request would not add more resources.

**Motion:** Justice Himonas moved to approve the MOU in the amount of \$254,000, as presented. Judge Chin seconded the motion, and it passed unanimously.

Justice Himonas said the ODR program will be expanded to several justice courts on April 15<sup>th</sup>. Judge Farr recollected that the program was authorized statewide, once training is complete.

## **16. EXECUTIVE SESSION**

An executive session was not held.

## **17. CONSENT CALENDAR ITEMS**

a) Committee Appointments. Reappointment of Judge Mike Junks to the Uniform Fine Committee. Appointment of Chip Royce to the Language Access Committee. Appointment of Judge James Brady as Chair and the appointment of Judge Michele Christiansen Forster to the Facilities Committee. Appointment of Melissa Kennedy to the Education Committee. Approved without comment.

b) CJA Rules for Public Comment. CJA Rules 1-204 and 2-103 for public comment. Approved without comment.

c) Probation Policies. Amendments to probation policies 2.3, 2.9, and 4.8. Approved without comment.

**18. ADJOURN**

The meeting adjourned.