

JUDICIAL COUNCIL MEETING

AGENDA

May 24, 2021

Meeting held through Webex

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
(Information)
3. 9:10 a.m. Administrator's Report Judge Mary T. Noonan
(Information)
4. 9:20 a.m. Reports: Management Committee Chief Justice Matthew B. Durrant
Budget & Fiscal Management Committee..... Judge Mark May
Liaison Committee..... Judge Kara Pettit
Policy & Planning Committee Judge Derek Pullan
Bar Commission..... Rob Rice, esq.
(Tab 2 - Information)
5. 9:45 a.m. ADR Committee Report Judge Royal Hansen
(Tab 3 - Information) Nini Rich
6. 10:00 a.m. Board of Juvenile Court Judges Report Judge Michael Leavitt
(Information)
7. 10:10 a.m. An Action Plan for Compiling Judicial Council History Cathy Dupont
(Information)
8. 10:20 a.m. GAL Oversight Committee Report Bob Yeates
(Information) Stacey Snyder
- 10:30 a.m. Break
9. 10:40 a.m. Uintah County and Vernal City Interlocal Agreement Jim Peters
(Tab 4 - Action) Brent Johnson
10. 10:55 a.m. Justice Court Judge Certification Jim Peters
(Action)

11. 11:00 a.m. Frequency of Board Reports to the Judicial CouncilJim Peters
(Tab 5 - Action)
12. 11:15 a.m. Setting a Realistic Goal for Processing the Jury Trial Backlog.....
(Discussion) Judge Mary T. Noonan
Michael Drechsel
13. 11:25 a.m. Budget and Grants..... Judge Mark May
(Tab 6 - Action) Karl Sweeney
Judge Mary T. Noonan
Bart Olsen
Jordan Murray
Lucy Ricca
Alicia Green
- 12:10 p.m. Lunch Break
14. 12:20 p.m. Facility Planning Committee ReportJudge James Brady
(Action) Chris Talbot
15. 12:35 p.m. CJA Rules 1-204, 2-103, and 4-403 for Final Action.....Keisa Williams
(Tab 7 - Action)
16. 12:40 p.m. Pretrial Release Committee MembershipKeisa Williams
(Tab 8 - Action)
17. 12:45 p.m. Jury Trials Update..... Judge Mary T. Noonan
(Information) Cathy Dupont
18. 1:00 p.m. Old Business/New Business All
Career Ladder Follow Up Karl Sweeney
(Discussion)
19. 1:20 p.m. Executive Session
20. 1:30 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. CIP Grant Renewal
(Tab 9) Bridget Koza
2. Committee Appointments
(Tab 10) ADR Committee – Nini Rich
Pretrial Release Committee – Keisa Williams
3. CJA Rules 1-205, 3-419, 4-202.02, 4-206, and 4-401.02 for Public Comment
(Tab 11) Keisa Williams

Tab 1

JUDICIAL COUNCIL MEETING

Minutes

April 26, 2021

Meeting conducted through Webex

9:00 a.m. – 1:30 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. David Connors
Hon. Paul Farr
Hon. Michelle Heward
Justice Deno Himonas
Hon. Mark May
Hon. David Mortensen
Hon. Kara Pettit
Hon. Derek Pullan
Rob Rice, esq.

Excused:

Hon. Augustus Chin
Hon. Ryan Evershed
Hon. Brook Sessions

Guests:

Hon. Dennis Fuchs, Senior Judge
Ron Gordan, General Counsel to the Governor
Amy Hawkes, OLRGC
Hon. Keith Kelly, Third District Court

AOC Staff:

Hon. Mary T. Noonan
Cathy Dupont
Michael Drechsel
Shane Bahr
Kara Mann
Meredith Mannebach
Jordan Murray
Bart Olsen
Jim Peters
Clayson Quigley
Nini Rich
Neira Siaperas
Nick Stiles
Karl Sweeney
Nancy Sylvester
Keisa Williams
Jeni Wood

Guests Cont.:

Hon. Michael Leavitt, Fifth Juvenile Court
Commissioner Gil Miller, JPEC
Lucy Ricca, Supreme Court
Hon. Rick Romney, Provo Justice Court
Hon. Jennifer Valencia, Second District Court
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. Due to the coronavirus pandemic, the Council held their meeting entirely through Webex.

Motion: Judge Paul Farr moved to approve the March 12, 2021 Judicial Council meeting minutes, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

Judge Shaughnessy requested removing the Statement in Support of Guilty Plea from the Forms Committee Forms consent calendar item until further review by the bench. The Council approved removing the item. All other forms will remain on the consent calendar.

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

Chief Justice Durrant and other members of the Judiciary will meet with legislative personnel to discuss several topics.

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

Judge Mary T. Noonan and Chief Justice Durrant will meet with Brad Wilson, Speaker of the House and President of the Senate, Stuart Adams to provide an opportunity to hold a conversation about the mental health initiative, lead by Judge Kara Pettit; the courts preparation for holding safe in-person jury trials; and the May 18th special legislative session. The Judiciary will request \$11M in funding.

Cathy Dupont introduced Amy Hawkes from the Office of Legislative Research and General Counsel.

Judge Noonan and Ms. Dupont have been in communications with the Health Department to determine what recommendations they have, if any, to adjust court safety measures as more people are being vaccinated. Dr. Jeanmarie Mayer offered to conduct a return tour of the courthouse to fully understand the layout for jury trials and offer guidance. Additional discussions will be held with the Management Committee to allow the courts to open safely. Judge Noonan will ask the Health Department if a fully vaccinated attendee (such as a witness or juror) would need to take rapid COVID testing before entering a courtroom.

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 Pettit said the committee has concluded most of its work from this past session. There will be further discussions on pretrial changes.

Policy and Planning Committee Report:

Judge Derek Pullan noted some of the work of the committee will be discussed in this meeting.

Bar Commission Report:

Rob Rice mentioned that the new President-Elect is Katie Woods. Mr. Rice noted there are three finalists to replace John Baldwin. The hybrid Summer Convention will be held in Sun

Valley allowing for both live presentations and options for participants to attend virtually. The 2022 Summer Convention will be held in San Diego.

5. REGULATORY REFORM INNOVATION OFFICE REPORT: (Lucy Ricca)

Chief Justice Durrant welcomed Lucy Ricca. Ms. Ricca noted the rates of complaints are very low, with approximately one complaint for every 2,000 – 3,000 services. Judge Shaughnessy questioned the reliance of AOC resources. Ms. Ricca stated very limited AOC resources are used because staffing resources and tech-related expenses are paid through the grant, with the exception of a part-time employee. They were relying on the IT Department; however, they have moved away from those services. The grant funds will be spent by around the end of 2022. Ms. Ricca said outside researchers are studying the impact on access to justice.

Mr. Rice would like additional context on each of the organizations. The website will include information on each of the authorized entities.

Sandbox activity (October 2020 - February 2021)

- 20 entities approved to offer services
 - Low Risk = 3 (AGS Law, Blue Bee, Firmly)
 - Low/Moderate = 6 (FOCL Law, LawPal, R&R, Rocket Lawyer, Tanner, Xira)
 - Moderate = 11 (1Law, Davis & Sanchez, DSD Solutions, Estate Guru, Law HQ, Law on Call, Nuttall, Brown & Coutts, Off the Record, Pearson Butler, Sudbury Consulting, Timpanogos Legal Center)
 - High=0
- 9 entities reporting at least one data report to date.
- 612 legal services sought from approximately 500 unduplicated clients
 - Low=51 legal services sought
 - Moderate=359 legal services sought
 - 442 legal services have been delivered by a lawyer (or lawyer employee) or software for form or document completion only with lawyer involvement
 - 170 legal services have been delivered by software with lawyer involvement
 - The rank of legal category addressed has been 1) End of Planning; 2) Business; 3) Marriage/Family; 4) Financial; 5) Housing Rental; and 6) Real Estate. Six legal categories accounted for 83% of legal services. The remaining 15 possible legal categories accounted for 17%.
 - To date no complaints have been communicated by entities nor by consumers directly to the Office that would indicate harm.
 - Based on reviewing mismatches of services sought and received given fees paid, there was no evidence supporting unnecessary or inappropriate purchases of legal services. In communicating with entities regarding the amount paid for services, the amount paid reasonably fit their respective business models.
 - Applicable mismatches between services sought and received were linked to quality control of legal service intake coding (improving service sought identification methods) and error in the process of linking life events to appropriate legal needs. The Office concluded that mismatches were not harms.
 - Legal results were appropriate given legal matters and scope of service.
 - Services will continue to be monitored for complaints and results.

- A pilot of the vanguard service audit of a moderate risk entity is ongoing.

Chief Justice Durrant thanked Ms. Ricca.

6. BOARD OF JUSTICE COURT JUDGES REPORT: (Judge Rick Romney and Jim Peters)

Chief Justice Durrant welcomed Judge Rick Romney and Jim Peters. There are 111 justice courts, Levan and Smithfield Justice Courts closed April 1. There are four justice courts that are considering combining. Chris Bown has been selected to serve in the Taylorsville Justice Court. Of the 77 judges, 62 are male and 29 of the 77 judges do not have law degrees.

Board goals

- Exploring options for judicial wellness
- Strengthen the relationship with the AOC
- Launch the clerk certification program

Prior to the pandemic the courts recognized that they needed to update their standards. They are now working on remote hearings and expanding the ODR program. Jim Peters is gathering feedback on the clerk certification program before addressing it with the Council. Judge David Connors was concerned about the morale from the clerks being required to recertify annually to maintain their employment. Mr. Peters explained that this has been addressed; the end of year exam has been replaced with an assessment. Judge Romney believed the results of the Justice Court Task Force will determine what life will look like for justice courts in five years.

Chief Justice Durrant thanked Judge Romney and Mr. Peters.

7. JUDICIAL PERFORMANCE EVALUATION COMMISSION REPORT: (Dr. Jennifer Yim and Commissioner Gil Miller)

Chief Justice Durrant welcomed Dr. Jennifer Yim and Commissioner Gil Miller. Dr. Yim provided the Council with the Supporting Performance Improvement: Judicial Evaluation Proposal for Basic Level Justice Court Judges April 12, 2021 draft proposal. This proposal covers JPEC's efforts as it has worked to develop a more substantive evaluation for justice court judges with very low caseloads. The formal effort began in 2017 and included a study conducted by the Kem C. Gardner Policy Institute (Gardner study) and a pilot project to test electronic observation methods. This proposal also presents findings from the pilot project and makes recommendations for further action.

Currently, JPEC evaluates 91% of all Utah judges using a variety of means, including surveys, courtroom observation, and intercept interviews. The remaining 9% of judges, those with courts with weighted caseloads of less than 0.20, are classified as "basic evaluation" judges and receive only Judicial Council certification, tracking of judicial discipline, and public comment.

The Gardner study, which interviewed nearly all basic evaluation justice court judges found that the judges desired increased feedback and the associated training that the evaluative

feedback would identify, in order to maintain and improve their judicial skills. The study recommended consideration of electronic evaluation as an option that may effectively address the geographic, calendar, and caseload challenges of evaluating these courts.

JPEC designed a pilot project to test several electronic observation techniques, with the goal of being able to offer courtroom observation to basic evaluation judges. The pilot project began in early 2020, cost \$12,769, excluding staff time, and studied the following:

1. Technology options for electronic observation, movable camera vs. fixed camera;
2. Electronic observation in comparison to the in-person observation completed for full evaluation judges;
3. Video options, live stream vs. pre-recorded; and
4. Audio observation in comparison to video observation.

JPEC concluded that courtroom observation conducted through Webex conferencing provided courtroom observation of comparable quality to in-person observation. In addition, it is a cost-effective option with little disruption to existing practice. JPEC recommends the implementation of an electronic courtroom observation program to supplement the basic evaluation conducted for justice court judges. Further, JPEC recommends a one-time grant process to lessen the financial burden on courts associated with the procurement of technology required for judicial evaluation. Chief Justice Durrant felt like this was a great advancement.

Dr. Yim next presented the 2020 Retention Judge Feedback Survey. In early 2021, JPEC conducted an electronic survey of judges retained in the 2020 election. The purpose of the survey, the second in JPEC's history, was to solicit feedback about several aspects of JPEC's evaluation process. The survey utilized online survey software in anonymous mode so that the responses of individual judges could not be identified. Fifty-nine judges received survey invitations by email. After 3 reminders over eight days, the survey was closed with 49 of 59 judges responding, a response rate of 83%. Since judges receive different types of evaluations based, in part, on their weighted caseloads, the survey only asked questions relevant to a judge's specific evaluation experience. Some survey questions thus have larger numbers of total possible responses than others. Survey questions included scaled items, open-ended items, and one question asking for judges to rank elements of the evaluation for their usefulness to performance improvement.

The survey contained seven main sections:

Introduction	Respondents indicated whether this evaluation was their first retention evaluation by JPEC.
Communication	Respondents rated whether they understood the evaluation process and made suggestions if they wanted to receive more information.
Evaluation Results	Respondents evaluated the production of their reports, the helpfulness of the information contained in them, the accuracy of the evaluation, and the usefulness of the feedback.
Commission Process	Respondents evaluated the commission's use of blind review during deliberations along with the Voter Information Pamphlet page produced for the election.

JPEC Website	Respondents evaluated JPEC's website, judges.utah.gov, used for posting evaluation results.
Improvements	Respondents weighed in on other potential sources of judicial performance data for use in evaluations.
Overall Evaluation	Respondents provided an overall assessment of their satisfaction with the performance evaluation experience.

Summary Findings

Overall, including the quality, accuracy, and helpfulness of the evaluations, most surveyed judges expressed satisfaction with their performance evaluation experience with JPEC.

When judges do not hold positive perceptions, they were more likely to “neither agree nor disagree” with statements rather than to register disagreement. Newly appointed judges differed slightly from those judges who have gone through more than one retention election. Newer judges tended to express stronger agreement about many aspects of their evaluation, whereas more long-standing judges tended to “agree” rather than “strongly agree.”

Dr. Yim explained the proposed changes to CJA Rule 4-401.02 noting that the amendments have been approved by Brent Johnson. Dr. Yim will send the proposed changes to Policy & Planning.

Judge Shaughnessy wondered if there would be resistance using video to evaluate an in-court proceeding. Dr. Yim confirmed cameras will not be used in courtrooms without a judge's permission. Dr. Yim believed as the courts move back to in person hearings, JPEC will move to in person evaluations but also use virtual means for evaluations.

Chief Justice Durrant thanked Dr. Yim and Commissioner Miller.

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

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs reviewed the following problem-solving courts ready for recertification noting that all of the courts meet all of the Required and Presumed Best Practices. The two DUI courts in the state are addressing the recent legislative bill. Judge Fuchs may propose amended practices in the future. Judge Fuchs will meet with Judge Noonan and Jim Peters to further address this.

ADC1Millard	Adult Drug Court	Millard County	Judge Howell
ADC1Juab	Adult Drug Court	Juab County	Judge Howell
ADC1Utah	Adult Drug Court	Utah County	Judge Howell
AMHC1SaltLake	Adult Mental Health Court	Salt Lake County	Judge Trease
AMHC2SaltLake	Adult Mental Health Court	Salt Lake County	Judge Brereton
JFDDC1Weber	Juvenile Family Dependency Drug Court	Weber County	Judge Jensen

Chief Justice Durrant thanked Judge Fuchs.

Motion: Judge Farr moved to approve all problem-solving courts listed above, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

9. SENIOR JUDGE CERTIFICATIONS: (Nancy Sylvester)

Chief Justice Durrant welcomed Nancy Sylvester. Justice court Judge Scott J. Cullimore, who retired April 2, 2021, has applied for active senior judge status. District court Judge Ernie Jones, who retired March 16, 2021 has also applied for active senior judge status. Neither judge has complaints pending before the Utah Supreme Court or the Judicial Conduct Commission.

Chief Justice Durrant thanked Ms. Sylvester.

Motion: Judge Connors moved to approve Judge Scott J. Cullimore and Judge Ernie Jones as active senior judges, as presented. Judge Farr seconded the motion, and it passed unanimously.

10. CJA RULES 2-211, 10-1-502, 10-1-602 FOR FINAL APPROVAL: (Keisa Williams)

Chief Justice Durrant welcomed Keisa Williams. Policy and Planning recommended that CJA Rule 2-211 be approved as final with a May 1, 2021 effective date, and that Rules 10-1-502 and 10-1-602 be repealed on an expedited basis with a May 1, 2021 effective date, followed by a 45-day comment period.

CJA 2-211. Compliance with the Code of Judicial Administration and the Code of Judicial. The Judicial Council approved sending the proposed amendments to rule 2-111 out for public comment. Following a 45-day comment period, one non-substantive comment was received. Policy and Planning adopted most of the commenter's proposed amendments and made additional changes to ensure the employee reporting structure matches the discrimination and harassment reporting structure in HR policy 550.

CJA 10-1-502. Orders to Show Cause and CJA 10-1-602. Orders to Show Cause

The Supreme Court approved revisions to URCP Rule 7, and created new URCP rules 7A and 7B. Rules 7A and 7B to create a new, uniform process for enforcing court orders through regular motion practice. They replace the current order to show cause process found in rule 7(q) and in the two local court identical rules. All three rules will be effective on May 1, 2021. The Fifth District Court bench objected to the repeal of their local rule, 10-1-502, expressing that a repeal would result in a delay in resolving alleged court order violations. The Sixth District Court bench is not objecting to the repeal of local rule 10-1-602.

After careful consideration, Policy and Planning recommends that both local rules be repealed. The Committee feels that CJA rules should not conflict with the URCP and that rules of procedure should be uniform across the state. Judge Shaughnessy preferred to have a rule in place so as not to delay proceedings.

Chief Justice Durrant thanked Ms. Williams.

Motion: Judge Shaughnessy moved to approve CJA Rule 2-211 with an effective date of May 1, 2021 and repeal rules 10-1-502 and 10-1-602 effective May 1, 2021 followed by a 45-day comment period, as presented. Judge Farr seconded the motion, and it passed unanimously.

**11. UNIFORM FINE COMMITTEE REPORT & UNIFORM FINE SCHEDULE:
(Judge Jennifer Valencia, Shane Bahr, and Clayson Quigley)**

Chief Justice Durrant welcomed Judge Jennifer Valencia, Shane Bahr, and Clayson Quigley. The Uniform Fine Committee undertook review and consideration of the application of the \$10 Security fee increase from 2020, application of changes from the 2021 legislative session, handling specific requests from external agencies, and adjustments to make matters consistent between CORIS, SMOT and related sources. They further considered HB0020, HB0026 and other recent legislative measures after discussion with Ms. Williams and Michael Drechsel. As a result of these discussions the Uniform Fine Schedule Preamble has been revised.

Judge Valencia confirmed that the USAAV DUI Statutory Overview will not be included in the Fine Schedule, however, there will be a link to it. Judge Pullan questioned the Preamble's language in respect to the constitution. Ms. Williams felt the language was fine, however, on page 4 the language should be corrected.

Chief Justice Durrant thanked Judge Valencia, Mr. Bahr, and Mr. Quigley.

Motion: Judge Connors moved to approve the Fine Schedule, as amended to correct the language on the bottom of page 4. Judge Farr seconded the motion, and it passed unanimously.

12. APPOINTMENT OF TAX JUDGES: (Judge Keith Kelly and Shane Bahr)

Chief Justice Durrant welcomed Shane Bahr. Under CJA Rule 6-103 the Council shall formally designate at least three volunteer district court judges as tax judges, considering the knowledge and experience of the judge in relation to the theory and practice of ad valorem, excise, income, sales and use, and corporate taxation. There are currently four judges serving as tax court judges: Judge Keith Kelly, Third District Court (Supervising Tax Court Judge); Judge Andy Stone, Third District Court; Judge David Connors, Second District Court; and Judge Noel Hyde, Second District Court. Historically, there have been six active tax court judges and the tax court judges believe having six tax court judges is needed to help spread out the work. Most recently, Judge Todd Shaughnessy and Judge Samuel Chiara have asked to be removed from the tax court judge list. Judge Kent Holmberg and Judge Kara Pettit have expressed interest in being appointed as tax court judges to fill the two vacancies.

Chief Justice Durrant thanked Mr. Bahr.

Motion: Judge Shaughnessy moved to approve Judge Kent Holmberg and Judge Kara Pettit, as presented. Judge Connors seconded the motion, and it passed with Judge Pettit abstaining as to herself.

**13. LANGUAGE ACCESS COMMITTEE REPORT AND REAUTHORIZATION:
(Judge Michael Leavitt and Kara Mann)**

Chief Justice Durrant welcomed Judge Michael Leavitt and Kara Mann. The Language Access Committee requested to be reauthorized as a standing committee for another six years in accordance with CJA Rule 1-205. The Language Access Committee provides immense support and work for Utah State Courts. A sampling of the work the committee has completed within the past six years includes:

- Creating and distributing a bench card on spoken language interpreters
- Creating and distributing a bench card on sign language interpreters
- Creating a handbook for Interpreter Coordinators
- Drafting an English Written Exam policy for interpreter candidates
- Recommending the video equipment purchased to capture ASL on the record
- Proposing revisions to HR Policy 570-Second Language Stipend
- Proposing revisions to the Court's Accounting Manual Section 09-00.00
- Reviewing the court employee second language stipend scoring requirement
- Completing a survey of second language stipend employees
- Revising the Code of Professional Responsibility for Court Interpreters Exam
- Digitizing interpreter files
- Reviewing 11 formal complaints filed against court interpreters
- Participating in seven community outreach events
- Creating and distributing a guide on resuming court operations for court interpreters due to the COVID pandemic
- Determining how the courts can offer interpreter testing and training requirements during the COVID pandemic

Utah continues to see exponential population growth, which includes a growing non-English speaking population within the state. This directly impacts the courts as there will be an increased demand for interpreters. The Language Access Committee asks to be reauthorized with the committee's focus continuing to be on researching and developing policies and procedures for interpretation in legal proceedings and translation of printed materials, with any necessary recommendation going to the Judicial Council; issuing informal opinions to questions regarding the Code of Professional Responsibility; and disciplining court interpreters as provided by CJA Rule 3-306.05.

Judge Leavitt said the juvenile court is working to identify how to provide fairness and accountability, including reviewing their language access practices. Judge Shaughnessy complimented Judge Leavitt and Ms. Mann on their well-written report.

Chief Justice Durrant thanked Judge Leavitt and Ms. Mann.

Motion: Judge Shaughnessy moved to approve the reauthorization of the Language Access Committee for six years, as presented. Judge Farr seconded the motion, and it passed unanimously.

14. **BUDGET AND GRANTS: (Judge Mark May and Karl Sweeney)**

Chief Justice Durrant welcomed Judge Mark May and Karl Sweeney.

Roosevelt Courthouse

\$33,800 ongoing funds

Alternate funding: None

As part of the budget cutting process for FY 2021, the courts took the approach of taking cuts by tiers – with those that involved personnel cuts being the last cuts to make. The first cuts decided on were cuts to items called “Administrative” which including reduced travel, meals, office supplies, etc. These totaled almost 100 cuts for \$653,000, one of which was to close the Roosevelt courthouse and shift operations to Duchesne thus saving \$33,800 in annual lease payments. This cut was determined at a later date to not be feasible but that change was not communicated to Finance and thus ended up in the final list provided to the Legislative Fiscal Analyst. The last cuts made were to personnel including leaving 40 positions open (generating one-time turnover savings) and pledging \$475,000 in ongoing turnover savings. If done properly, ongoing turnover savings would have been increased by \$33,800 and the Administrative cuts would have been reduced by \$33,800.

Motion: Judge May moved to approve the Roosevelt Courthouse ongoing funds request in the amount of \$33,800, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

Court Commissioners – Recruit and Retain

\$92,500 ongoing funds

Alternate funding: None

As part of the budget cutting for FY 2021, the courts committed to taking \$475,000 of ongoing turnover savings to meet the overall budget reduction. The courts forecasted this would take the entire fiscal year of 2021 to accumulate. The courts recently eliminated two positions in the Third Juvenile Court. These eliminated positions boosted ongoing turnover savings by \$147,000. This allows the courts to reconsider the court commissioners request that has been put forward in two different legislative sessions for ongoing funding. Mr. Sweeney stated this request could be delayed until June and noted the courts have funding to approve this item without seeking legislative funding.

A motion was not made. The Council chose to delay this item until June.

Proposed Sunset for Career Ladder – Overview of HR Comp Policy with Various Options

\$500,000 one-time funds

Alternate funding: None

The current Career Ladder tool was put in place decades ago, when the issue of “unfunded liabilities” seemed to be a lesser concern across all branches of state government. Prior to 2010, the entire state operated under a “salary step” structure which inherently created financial obligation challenges. For example, at the time Utah Code required a separation of no less than 2.75% between every salary step. This resulted in too many situations where an agency

or branch might have the budget to give a 1% or 2% increase, either to an individual staff or a group of “like staff” but the only available tool was a salary step increase.

Bart Olsen reviewed the two purposes of this proposal: to recognize good work and to move to a more impactful compensation strategy moving forward. Judge Noonan said there have been multiple discussions through various forums vetting this proposal. There is a concern for those that are still in the process of the career track. Mr. Olsen of those who didn’t support the transition, many did not understand the proposal. The proposal includes that employees maintain a specific skillset and continued training.

Judge Shaughnessy thought a careful balance needed to be struck because the high-turnover rate for JAs impacts the courts greatly.

A motion was not made. The Council will address this item at a later time.

Request Delegation of Authority to State Court Administrator of Limited Use of One-Time Turnover Savings

In its April 15, 2021 meeting, the Budget and Fiscal Management Committee approved seeking authorization from the Council to provide the State Court Administrator and Deputy State Court Administrator delegated authority for the use of up to 7% of estimated annual one time turnover savings, not to exceed \$250,000 in a fiscal year, to address superior performance by court personnel in accepting mid to-long term special projects, leading change initiatives, and other types of similar assignments that merit timely, significant recognition. This request complements a similar approval by the Council in February 2020 to delegate authority to the Administrators to use up to 20% of estimated annual ongoing turnover savings not to exceed \$110,000 in a fiscal year.

Motion: Judge Shaughnessy moved to approve delegating authority from the Judicial Council to the State Court Administrator limited use of one-time turnover savings funds in the amount of \$250,000, as presented. Judge May seconded the motion, and it passed unanimously.

Jordan Murray presented the first quarter grant portfolio report.

Chief Justice Durrant thanked Judge May and Mr. Sweeney.

15. OLD BUSINESS/NEW BUSINESS

Judge Pullan said when limited parties file notices of appearances in case, the system automatically identifies them as attorneys. This is an issue when there are sealed documents. Judge Pullan will work with the IT Department to correct this error.

The Council confirmed their July 19th meeting will not be held in conjunction with the Bar’s Summer Convention in Sun Valley.

Mr. Rice said PCRA cases are too specialist to staff on a pro bono basis. The Bar will help as they can. The Pro Bono Commission said perhaps this should be less of looking for a volunteer and more towards looking for funding. Mr. Quigley was going to research how many

PCRA cases. Mr. Rice expects that the need may exceed the Indigent Defense Commission's capacity. Judge Pullan thanked Mr. Rice for following up on this issue. Judge Pullan reached out to a large law firm who agreed to accept an appointment. The current bench book advises judges to contact the Pro Bono Commission. Mr. Rice recommended the Commission provide better communication with the courts. Judge Pullan said this is a funding problem. Judge Shaughnessy felt there may be a method to contract PCRA attorneys outside of the Indigent Defense Commission. Shane Bahr mentioned the Board of District Court Judges addressed this item and felt that it was a funding issue. Judge Noonan thought a workgroup could be created to continue discussions and propose a plan. Judge Shaughnessy believed the Attorney General's Office would support this direction. Judge Pullan questioned if PCRA cases might be a Council study item and opposed a workgroup for the Council and instead, address this through the Board. Nick Stiles provided that he never placed a case with pro bono council when he was over the Bar's Access to Justice.

Ms. Dupont annually provides a memo to the TCEs and judges confirming their Judicial Operations Budget and out-of-state travel requirements. Ms. Dupont explained the base amount is \$500 a year from the legislature. When funding is available, the Council increases by an additional \$400 with one-time funding. Last year the Council chose not to add \$400 to the standard \$500 Judicial Operations Budget. A significant amount of judges do not use their full amount (approximately 65% of judges use the funds). Some judges were concerned about the restrictions of the budget. Ms. Dupont will send a budget request to the Budget & Fiscal Management Committee in May for the additional \$400. The Council agreed to have Ms. Dupont send the memo now.

16. EXECUTIVE SESSION

Motion: Judge Michelle Heward moved to go into an executive session to discuss a personal matter. Judge Connors seconded the motion, and it passed unanimously.

17. CONSENT CALENDAR ITEMS

a) Forms Committee Forms. Ex Parte Verified Motion to Enforce Domestic Order Order on Motion to Enforce Domestic Order; Ex Parte Verified Motion to Enforce Order (not domestic); Order to Attend Hearing; Order on Motion to Enforce Order (not domestic); Ex Parte Verified Motion to Enforce Writ of Garnishment; Order to Attend Hearing – Garnishee; Order on Motion to Enforce Writ of Garnishment; Acknowledgement of Firearm Restriction; OCAP provisions; Motion for Temporary Order – with children; Order on Motion for Temporary Order - with children Parenting Plan; Garnishee Answers to Interrogatories for Earnings; Petition to Modify Divorce Decree; and Findings of Facts and Conclusions of Law on Petition to Modify Decree. Approved with one removal.

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

18. ADJOURN

The meeting adjourned.

Tab 2

**JUDICIAL COUNCIL'S
MANAGEMENT COMMITTEE**

**Minutes
May 11, 2021
Meeting held through Webex
12:00 p.m. – 2:00 p.m.**

Chief Justice Matthew B. Durrant, Presiding

Committee Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Todd Shaughnessy, Vice Chair
Hon. Paul Farr
Hon. Mark May
Hon. David Mortensen

Excused:

Guests:

Brett Folkman, TCE First District Court
Ron Gordon, General Counsel to the Governor
Justice Deno Himonas, Supreme Court
Hon. Clark McClellan, Eighth District Court
Chris Morgan, TCE Sixth District Court
Russ Pearson, TCE Eighth District Court
Hon. Rick Romney, Provo Justice Court

AOC Staff:

Hon. Mary T. Noonan
Cathy Dupont
Michael Drechsel
Heidi Anderson
Shane Bahr
Paul Barron
Tracy Chorn
Brent Johnson
Wayne Kidd
Bridget Koza
Jordan Murray
Jim Peters
Jon Puente
Clayson Quigley
Nini Rich
Neira Siaperas
Nick Stiles
Chris Talbot
Keisa Williams
Jeni Wood

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

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

Motion: Judge Paul Farr moved to approve the April 13, 2021 Management Committee minutes, as presented. Judge Mark May seconded the motion, and it passed unanimously.

The committee unanimously approved by email on April 16, 2021 amendments to the Risk Response Plan.

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

Judge Mary T. Noonan highlighted that Mr. Gordon, Judge Noonan and Cathy Dupont participate in weekly State Court Administrator transitioning meetings. Judge Noonan appreciates Mr. Gordon's forward-thinking questions and felt this would be a seamless transition.

The Management Committee will meet on May 21st to address potential amendments to the Risk Response Plan and the Administrative Order regarding pilot jury trials and changes recommended by public health officials. Recommendations included removing Hepa filters and when social distancing cannot be met, adding plexi glass. There will be a meeting tomorrow with the health department to discuss mobile testing services.

3. SETTING A REALISTIC GOAL FOR PROCESSING THE JURY TRIAL BACKLOG: (Judge Mary T. Noonan and Michael Drechsel)

Chief Justice Durrant, Judge Noonan, Ms. Dupont, and Michael Drechsel met with President Stuart Adams and Speaker Brad Wilson to discuss the backlog of jury trials. Mr. Drechsel met with the TCEs to set realistic goals for the trials. Resource constraints largely revolve around personnel, prosecutors, and defense attorneys. The TCEs agreed that having access to senior judges would help, however, senior judges would need JA assistance as well. Many districts lack adequate JAs to staff the normal judges as well as senior judges. There may need to be additional JA assistance to meet the demand of the backlog of trials. Funding for senior judges and JAs has been submitted as part of the ARPA funding requests.

The TCEs felt like goals would be helpful per district as to the process of accomplishing jury trial backlog cases. Some districts have a light backlog of cases, whereas, some districts have a significant amount. This will be addressed with the Board of District Court Judges. There are approximately 350 jury trials per year (about 300 of those are criminal), this equals about 4.5 jury trials per judge per year.

Judge Todd Shaughnessy thought setting goals would be a good idea noting that the Third District Court continues to deal with prosecutors and defense attorneys' reluctance. Once the Third District Court began holding jury trials, they noticed more cases have settled. The Third District Court created a master calendar of jury trials with rotating assignment of judges. This enables a large number of cases to be added to one list. Having senior judges assist with the trials will be a huge help. Technical support for Webex jury selection will be important especially when using senior judges as they may not be familiar with Webex. Judge Shaughnessy preferred to have senior judges handle the trials so judges could continue their daily work.

Judge May wanted to include juvenile courts in the discussions, especially where some youth cannot be vaccinated. Judge May believed the court system shouldn't be delayed due to a person's personal choice of not wanting to be vaccinated.

Mr. Drechsel noted the legislature was most concerned about district court jury trials, they did not address juvenile or justice courts. Judge David Mortensen preferred giving the districts a list to complete that will allow consistent goals to be set. Chief Justice Durrant agreed with Judge Mortensen's recommendation and requested including juvenile courts. The Third District Courthouse courtrooms are available every Friday for justice courts to hold jury trials. If

the courts move to the Yellow phase, all courts could potentially move to holding trials. The one issue Judge Shaughnessy felt may be a problem would be COVID testing. Judge Paul Farr said a typical justice court jury trial is half a day with four jurors. Judge Shaughnessy thought perhaps testing could be eliminated if Webex jury selection was done and all other safety measures were in place. Judge Farr confirmed COVID testing would be an issue. Judge Noonan will address justice courts testing for half day jury trials with the health department.

Judge May questioned if someone was vaccinated would they need to be tested. Brent Johnson is addressing this issue and it will be further addressed on May 21st. Shane Bahr asked when moving to the Yellow phase if there will be technical constraints that will hinder the courts. Heidi Anderson noted technology will depend on the requested item as some items may not be available. Ms. Anderson's team is working to adjust technology in those situations.

4. EIGHTH DISTRICT COURT SENIOR JUDGE USAGE PLAN: (Judge Clark McClellan and Russ Pearson)

Judge Ed Peterson retired from the Eighth District Court in December, 2020. Due to several conflicts with the new judge and there only being three judges in the Eighth District Court, many cases needed to be conflicted out. Judge Peterson is an active senior judge and is willing to absorb 17 cases. CJA Rule 3-104 states that any service of a senior judge beyond 14 days must be approved by the Management Committee. Judge Clark McClellan anticipates Judge Peterson will serve 41 days and proposed a senior judge budget of \$28,000. Because of where Judge Peterson resides, there shouldn't be a need for travel expenses.

Judge McClellan certified that there is an extraordinary need for assistance in the Eighth District Court. Ms. Dupont explained that the senior judge budget would be adequate to cover this expense.

Motion: Judge Shaughnessy moved to approve the requested 41 days of senior judge usage in the Eighth District Court in the amount of \$28,000, as presented. Judge Farr seconded the motion, and it passed unanimously.

5. CIP GRANT RENEWAL: (Bridget Koza)

Utah State Courts receives CIP funds from the U.S. Department of Health and Human Services' the Administration for Children and Families through three formula grants: basic grant, data grant, and training grant. Beginning September 1, 2021, all three grants will be merged into one grant and the courts will be required to use at least 30% of funds for collaboration and data sharing. Utah's CIP has been in existence since 1993.

The courts are required to plan for and implement a minimum of three projects: (1) a project to continuously improve the quality of child welfare court hearings and reviews; (2) a project to continuously improve the quality of legal representation for parents, children and youth or the child welfare agency; and (3) a joint project with the Division of Child and Family Services to improve a specific safety, permanency, or well-being outcome.

Bridget Koza requested the renewal of the CIP Grant in the amount of \$449,425 with \$149,808.33 for a total of \$599,233.33. In-kind match is provided by general funds for salaries and benefits of child welfare mediators within the AOC, provided by other child welfare

programming work performed by the Court's IT department, and a portion of the contracted fee that is paid to the Parental Defense Alliance of Utah, which provides training support to parents representing parents in child welfare proceedings in juvenile court.

Motion: Judge May moved to approve the CIP Grant renewal request for \$449,425 with \$149,808.33 for a total of \$599,233.33, as presented and to place this item on the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

6. UTAH COUNTY AND VERNAL CITY INTERLOCAL AGREEMENT: (Jim Peters and Brent Johnson)

The Management Committee considered a proposal to consolidate the Uintah County and Vernal City Justice Courts at its meeting on January 12, 2021. Following discussion, Brent Johnson was asked to provide a legal opinion about the proposal. After reviewing the relevant statutes, Mr. Johnson concluded that Uintah County cannot use an interlocal agreement to dissolve its justice court. To combine the operations of the two courts, either Vernal must dissolve its court pursuant to Utah Code § 78A-7-123(2) so that its cases automatically go to the county justice court, or Vernal and Uintah County must enter into an interlocal agreement that does not purport to dissolve the either of their justice courts.

The Management Committee reviewed an amended Interlocal Agreement that removes any language as to the dissolution of the Uintah County Justice Court. The request moves to expand the territorial jurisdiction of the Vernal City Justice Court and the process of facilitating the transfer of cases from the Uintah County Justice Court to the expanded Vernal City Justice Court to be completed by the end of June, 2021. Mr. Johnson did not feel this would impede court operations and as the staff is already low and many functions have been transferred over already. Judge May was concerned that a city would take over the county duties. Mr. Peters said there is precedence for this and the statute permits this process.

Mr. Peters said there are two courts within a few blocks of each other, each with three JAs. This will be an effort to streamline operations and be more efficient. Mr. Johnson said the Council's role is to determine whether they will continue to meet standards and that this situation does meet all standards.

Judge Shaughnessy asked what would happen with the cases if Vernal City Justice Court dissolved? Mr. Johnson confirmed the dormant Uintah County Justice Court would take responsibility for those cases; the cases would not be sent to the district court. A county justice court can dissolve with a 1-2-year notice to allow district courts to ensure adequate resources to take those cases.

Motion: Judge Shaughnessy moved to approve sending this item to the Judicial Council for consideration, as presented. Judge Farr seconded the motion, and it passed unanimously.

7. EXPUNGEMENT UPDATE: (Justice Deno Himonas, Heidi Anderson, Clayson Quigley, and Jon Puente)

Judge Noonan explained that the workgroup has been updating the Judiciary with the passed legislation. Ms. Anderson said they are addressing concerns about judges' signatures and IT ensuring accurate information. The legislation included the deletion of traffic cases, this will

require rule amendments, and is the largest volume for deletion. These do not go through a judge, they are simply deleted through IT. The programming is done without any concerns. This will take a considerable amount of time for the IT Department.

Legislation also included acquittals and dismissals with prejudice. The programming has been built and IT has tested the path with BCI. The order has been programmed. They are still working on the required post-notification. The volume of cases is quite low. One issue is in the notification process the prosecutor must be notified. Gathering the email addresses of prosecuting agencies has been quite difficult. Paul Barron noted some of the council of record may have retired or moved on. Judge Shaughnessy didn't feel as though it was the courts responsibility to track them down.

The third item legislation included was the clean slate eligible items, when they are low level misdemeanors. These require a prenotification to the prosecutor. The notification is important because an objection can be filed. Judge Shaughnessy wondered if an excel spreadsheet with all of the cases for that prosecutor's office could be sent at once. Judge May wondered if a public notice could be sent. Justice Deno Himonas thought a public notice would be too much. The committee recommended emailing either the entire list to the Utah Prosecuting Agency to be distributed or emailing to the original counsel of record.

Judge Noonan suggested a review of the tasks and proposed timeline be presented to the Council in June to allow for a more complete scenario. Judge Shaughnessy requested the proposal include very specific dates. This item will be removed from the May Council agenda.

8. FREQUENCY OF BOARD REPORTS TO THE JUDICIAL COUNCIL: (Jim Peters and Judge Rick Romney)

CJA Rule 1-303(3) requires that the Board of District Court Judges, the Board of Juvenile Court Judges and the Board of Justice Court Judges report to the Judicial Council a minimum of once every three months. These boards are chaired by Judge Barry Lawrence, Judge Michael Leavitt and Judge Rick Romney, respectively. Each of them supports the idea of reporting to the Judicial Council on a less frequent basis. Historically, the practice was to report every six months.

Motion: Judge May moved to approve the proposed changes to CJA Rule 1-303 that would allow the Boards to report to the Council every six months, as presented. Judge Mortensen seconded the motion, and it passed unanimously.

9. JUSTICE COURT CERTIFICATION: (Jim Peters)

This item will be address at the Council meeting.

10. AUDIT REPORT OF NEPHI DISTRICT COURT: (Wayne Kidd and Tracy Chorn)

The Nephi District Court audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing. Tracy Chorn, Internal Auditor, served as the lead auditor for this review.

Motion: Judge Mortensen moved to approve the Nephi District Court audit, as presented. Judge Farr seconded the motion, and it passed unanimously.

11. AUDIT REQUEST OF XCHANGE FEES: (Wayne Kidd)

The Audit Department received a request from the State Court Administrator to conduct an audit of Xchange fees. An internal audit of Xchange fees has not been conducted in the past. There are questions about whether the fee amounts are reasonable, necessary, or insufficient to cover the costs of the Xchange service. In addition, the Audit Department has been made aware of concerns that the fee collection process may lack adequate controls.

Motion: Judge Shaughnessy moved to approve the Audit Department's request to conduct a Xchange Fees audit, as presented. Judge Mortensen seconded the motion, and it passed unanimously.

**12. COMMITTEE APPOINTMENTS: (Nini Rich and Keisa Williams)
ADR Committee**

Nini Rich addressed a judicial vacancy on the ADR Committee. Judge Troy Little expressed interest in serving on the committee.

Motion: Judge Farr moved to approve the appointment of Judge Troy Little to the ADR Committee, as presented, and place this on the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

Pretrial Release and Supervision Committee

Keisa Williams addressed two vacancies on the Pretrial Release and Supervision Committee due to Senator Hillyard's resignation on the committee and Representative Hutchings is no longer in the House. Senator Michael McKell and Representative Karianne Lisonbee expressed interest in serving on the committee. A message has been sent to President Adams to replace the Senate position on this committee.

Motion: Judge Shaughnessy moved to approve the appointment of Representative Karianne Lisonbee and the Senator assigned from President Adams to the Pretrial Release and Supervision Committee, as presented, and place this on the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

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

Chief Justice Durrant addressed the Judicial Council agenda.

Motion: Judge Farr moved to approve the Judicial Council agenda, as amended to remove CJA Rule 1-205 from the agenda to the consent calendar, add CJA Rule 4-403, and remove the expungement item to the agenda. Judge May seconded the motion, and it passed unanimously.

14. OLD BUSINESS/NEW BUSINESS: (All)

There was no additional business addressed.

15. EXECUTIVE SESSION

An executive session was held.

16. ADJOURN

The meeting adjourned.

**JUDICIAL COUNCIL'S
BUDGET & FISCAL MANAGEMENT COMMITTEE**

**Minutes
May 13, 2021
Meeting held through Webex
12:00 p.m. – 1:00 p.m.**

Members Present:

Hon. Mark May, Chair
Hon. Augustus Chin
Justice Deno Himonas
Hon. Kara Pettit

Excused:

Cathy Dupont
Michael Drechsel
Shane Bahr

Guests:

Ron Gordon, General Counsel to the Governor
Alicia Green, Probation Officer
Joyce Pace, TCE, Fifth District Court
Larry Webster, TCE, Second District Court

AOC Staff Present:

Hon. Mary T. Noonan
Holly Albrecht
Alisha Johnson
Jeremy Marsh
Jordan Murray
Jim Peters
Neira Siaperas
Nick Stiles
Karl Sweeney
Chris Talbot
Jeni Wood

1. WELCOME AND APPROVAL OF MINUTES: (Judge Mark May)

Judge Mark May welcomed everyone to the meeting. Judge May noted this is Judge Mary T. Noonan's last Budget meeting. Judge May addressed the meeting minutes.

Motion: Judge Augustus Chin moved to approve the April 15, 2021 minutes, as presented. Judge Mark May seconded the motion, and it passed unanimously.

2. PERIOD 10 FINANCIALS AND TURNOVER SAVINGS UPDATE: (Alisha Johnson)

Alisha Johnson reviewed the Period 10 Financials.

#		Funding Type	Amount
1	Carried over Ongoing Savings (from FY 2020)	Internal Savings	44,296
2	Current YTD Ongoing Turnover Savings FY 2021	Internal Savings	677,012
	TOTAL SAVINGS		721,308
3	Ongoing Turnover Savings Pledged to Budget Cuts (retirements)		(245,300)
4	Ongoing Turnover Savings Pledged to Budget Cuts (non-retirements)		(230,148)
5	Previously Pledged - Child Welfare Mediators (August 2020 Judicial Council meeting)		(55,000)
6	Restoration of unintended budget cut for Roosevelt Courthouse		(33,800)
Actual Turnover Savings for FY 2021 as of 5/6/2021			\$ 157,060

#		Funding Type	Amount
1	One Time Turnover Savings (from actual payroll data versus budget)	Internal Savings	2,094,085
2	Est. One Time Savings for pay period 5 periods remaining (\$70k / period)	Internal Savings (Est.)	350,000
Total Potential One Time Savings			\$ 2,444,085

FY22 Legislature appropriations/fiscal notes. Ms. Johnson explained the incremental workload in relation to fiscal notes. There is flexible spending available in fiscal notes, however, there are notes that are not allowed to be deviated from because they must be complied with statute.

Available Funding	Funding Type	Funds Go To	One Time	Ongoing
3% COLA, 401k match, and benefit adjustments	Appropriation	Various	\$ 466,600	\$ 2,001,300
ISF adjustments (Risk, Fleet, DTS)	Appropriation	Various		\$ 53,100
IT Infrastructure and Development	Appropriation	IT	\$ 802,000	\$ 650,000
Public Outreach and Education Coordinator	Appropriation	OFA	\$ 120,000	
PSA / NCJC contract	Appropriation			\$ 220,600
Court Commissioners- Recruit & Retain	N/A	N/A		
Judicial Administration Certificate Program	N/A	N/A		
Sex Offender Registry Amendments	Fiscal Note	Case Processing	\$ 99,600	\$ 36,000
Abuse, Neglect, and Dependency Proceedings Amendments	Fiscal Note	Case Processing		\$ 800
DUI Liability Amendments (HB0139 2020 GS)	Fiscal Note	Case Processing		\$ 1,400
Warning Labels Amendments (HB0243 2020 GS)	Fiscal Note	Case Processing		\$ 200
Prisoner Offense Amendments (SB0032 2020 GS)	Fiscal Note	Case Processing		\$ 3,000
Pretrial Detention Amendments	Fiscal Note	IT Funding	\$ 6,000	
Joint Resolution Dissolving Smithfield City Justice Court	Fiscal Note	1st District		\$ 82,000
24-7 Soberity Program Expansion	Fiscal Note	Case Processing		\$ 18,100
Criminal Justice Modifications	Fiscal Note	Districts	\$ (197,000)	\$ 594,000
Criminal Justice Modifications	Fiscal Note	Case Processing		\$ 64,000
Criminal Offense Amendments	Fiscal Note	Case Processing		\$ 8,200
Conceal Carry Firearms Amendments	Fiscal Note	Case Processing		\$ (12,300)
Self Defense Amendments	Fiscal Note	Case Processing		\$ 3,000
Conviction Reduction Amendments	Fiscal Note	Case Processing	\$ 18,500	\$ 2,800
Public Access to Court Records	Fiscal Note	IT Funding	\$ 118,000	
Online Impersonation Prohibition	Fiscal Note	Case Processing		\$ 1,100
Total Incremental Funds			\$ 1,433,700	\$ 3,727,300

3. FY 2021 CARRYFORWARD SPENDING REQUESTS: (Karl Sweeney)

One-time requests

Technology Improvements – Supreme/Appellate Courts Computers at Benches \$5,320

Alternate funding: None, without remodeling the benches.

The Supreme Court and Court of Appeals do not have any computers or monitors in their courtrooms. That need has now been realized, and we respectfully submit this request for funding to place eight monitors and docking stations on the appellate benches.

Motion: Judge May moved to approve the Technology Improvements – Supreme/Appellate Courts Computers at benches one-time funds request to be sent to the Judicial Council, as presented. Judge Chin seconded the motion, and it passed unanimously.

Facilities – Public Transit Program

\$25,000

Alternate funding: None

To provide Court employees state-wide with an opportunity to receive a 50% reimbursement of the costs paid for utilizing public transit until the funds are depleted. One-time funds are requested to evaluate the response from employees and determine if this plan is well-utilized.

Motion: Justice Himonas moved to approve the Facilities – Public Transit Program one-time funds request to be sent to the Judicial Council, as presented. Judge Chin seconded the motion, and it passed unanimously.

Second District (Farmington) – A/V Carts

\$6,000

Alternate funding: None

This request is for three A/V carts for the Farmington Courthouse. The parts can be ordered and the carts constructed by the A/V team in the IT Department, who indicated that the cost of the carts will be about \$2,000 each. A motion was not made on this item.

Facilities – Taylorsville State Office Building (TSOB) Probation IT Equipment

\$25,000

Alternate funding: None

The Third District Juvenile Court is relocating/combining the West Valley and City Probation offices into a new space in the TSOB around January 2022. The State (DFCM) and City of West Valley are covering the cost of the construction and a new furniture package. The Court still needs to provide a new network circuit, data fiber runs and hardware (router, WAN access points, etc.) for functionality in the new space.

Motion: Judge Chin moved to approve the Facilities – TSOB Probation IT Equipment one-time funds request to be sent to the Judicial Council, as presented. Justice Himonas seconded the motion, and it passed unanimously.

Facilities – Price GAL Tenant Improvement

\$24,800

Alternate funding: None

County reimbursement for tenant improvement construction costs to build out the existing second floor storage space into two GAL offices in the Price Courthouse.

Motion: Justice Himonas moved to approve the Facilities – Price GAL Tenant Improvement one-time funds request to be sent to the Judicial Council, as presented. Judge Chin seconded the motion, and it passed unanimously.

4. GRANT COORDINATOR REPORT: (Jordan Murray)

Jordan Murray requested approval for the following grants.

Hewlett Grant

\$140,000 FY22

\$110,000 FY23

\$250,000 Total

No cash or in-kind match required

Provides contractor & consultant compensation for Utah's Office of Legal Services Innovation ("Innovation Office") over a two-year period for the Executive Director, Data Analyst, and Project Manager. These funds would also support the hiring of a Website Marketing Contractor as well as an IT Consultant, in addition to fees for Auditor Contractors. The SJI Grant currently funds the contractors, with the exception of Helen Lindamood, who is a court employee. Mr. Murray will correct the request.

Motion: Justice Himonas moved to approve sending the Hewlett Grant to the Council, as presented. Judge Chin seconded the motion, and it passed unanimously.

UServe Utah Grant

Cash match

\$5,071 Grant

\$2,000 other matching funds from non-state entities

\$53,901 matching state dollars from general fund

\$60,972 Total

In-kind match

\$5,071 Grant

\$19,555 matching state dollars from other source

\$24,626 Total

These grant funds would ensure the Village Project can continue providing reimbursement for approved personal expenses volunteer mentors incur during their individual mentoring activities. This incentive promotes more robust volunteer participation, and by financially supporting volunteers the project is more likely to retain dedicated, trained volunteers. With this financial support from Userve Utah, the project expects to serve 70 at-risk youth during FY22.

Motion: Justice Himonas moved to approve sending the UServe Utah Grant to the Council, as presented. Judge Chin seconded the motion, and it passed unanimously.

CIP Grant for Renewal

In-Kind match

\$449,425 Grant

\$149,808.33 matching state dollars from the general fund

\$599,233.33 Total

Improvements in child welfare proceedings to provide for the safety, well-being and permanency of children and families; increasing child-welfare expertise through cross-training of

juvenile judges, attorneys, and child welfare professionals; and improvements to systems that collect, share, and report child welfare data that improve data sharing and collaboration between the court, child welfare agency, and tribes. The Management Committee approved sending this item to the Judicial Council consent calendar.

6. OLD BUSINESS/NEW BUSINESS: (All)

Additional ARPA Request

\$613,600 for JA pay

\$997,000 for senior judges

Alternate funding: None

Mr. Sweeney presented additional ARPA funding request for senior judge coverage, which includes additional JA coverage to assist with the backlog of jury trials throughout the state.

Mr. Talbot contracts a company to receive parking fees at the Matheson, however, this has been suspended during the pandemic. This affects the Facilities funding by \$250,000 - \$300,000 per year. The department is adapting but will most likely continue to request funding on various items.

There will be additional requests next month from the HR, IT and Education Departments.

7. ADJOURN

The meeting adjourned.

Tab 3

Utah Court-Annexed Alternative Dispute Resolution Program

ADR Committee Update to the Judicial Council – May 24, 2021

History

In 1994, the Utah State Legislature enacted the Utah Alternative Dispute Resolution Act (ADR Act) which required the Judicial Council to implement a program utilizing Alternative Dispute Resolution in the state courts. The program was implemented by the Judicial Council and Supreme Court rules in January, 1995.

Covid-19 Response

All mediation programs directly administered through the ADR Office (Child Welfare, Co-parenting and Restorative Justice) were shifted online in April 2020 and continue to be offered exclusively online as of May 2021. Private ADR providers on the Utah Court Roster report conducting 63% of sessions online in the 2020 calendar year.

ADR Programs

Child Welfare Mediation	Statewide (Juvenile Court cases involving abuse or neglect)
Co-Parenting Mediation	Third District (U.C.A. §30-3-38)
Divorce Mediation	Statewide (U.C.A. §30-3-39)
General Civil Referrals	Statewide (Mediation or Arbitration) (UCJA 4-510.05)
Restorative Justice	Statewide (Juvenile Truancy & Victim/Offender Mediation)
Probate Mediation	Statewide (UCJA 6-506)
Small Claims Mediation	Various Justice Courts
Small Claims Appeals	Second and Third Districts

ADR Program Structure and Rationale

The Utah Court ADR Programs are structured in various ways. Generally speaking, if the program is mandatory, we have more interest in quality assurance and require more training, oversight and evaluation:

- For **General Civil and Probate case referrals** we administer a Court Roster of private mediators and arbitrators who have met specific education, experience and ethical requirements outlined in UCJA 4-510.03. Parties select their own mediator.
- For **Mandatory Divorce Mediation** we have a sub roster of Divorce Mediators who have received additional specialized training and mentoring.
- For **Co-parenting Mediation** referrals, which are required to be mediated within 15 days of filing, we screen cases, contact parties and assign mediations to a closed roster of private providers with specialized experience and training.
- For **Child Welfare Mediation** cases which are court-ordered and subject to very tight statutory timelines, we provide court staff mediators hired and trained specifically for these cases, as well as administrative support and supervision.
- For **Juvenile Court Victim/Offender and Truancy** cases, we provide court staff mediators hired and trained specifically for these case types.
- **Small Claims Mediation** programs utilize trained volunteer mediators and are administered through collaborations with universities and other nonprofit organizations.

Utah Court-Annexed ADR Program – 2020 Annual Report
Page 2

ADR Program Statistics and Services –FY2020

- More than 1,850 cases were referred directly to court-administered ADR Programs. In addition, more than 4,000 cases were mediated by private providers selected by parties.
- Six ADR staff mediators (5 FTE) were assigned 1,242 Child Welfare mediations statewide. Of those cases mediated, 91% were fully resolved. (Since 1998, the Child Welfare Mediation Program has conducted over 18,500 mediations for the Utah State Juvenile Courts.)
- Three Juvenile Justice Mediators (2.5 FTE) were assigned 141 Truancy mediations and 78 Victim/Offender mediations statewide.
- More than 250 *pro bono* Divorce and Co-parenting mediations were arranged by ADR staff.
- Over 500 *pro bono* mediations were provided through ADR Program collaborations with nonprofit community organizations and educational institutions.
- The Utah Court Roster lists 172 ADR Providers who mediated 3,785 cases and arbitrated 27 cases in the 2020 calendar year. Twenty-five new applications and 181 roster re-qualifications were processed by the ADR Office in 2020.
- 592 *pro bono* mediations and 2 *pro bono* arbitrations were provided by members of the Utah Court Roster.
- The ADR Committee of the Utah Judicial Council continues to provide ethics outreach and education using the Utah Mediation Best Practice Guide. The Committee continues to review and update the Best Practice Guide based on input from outreach efforts and developments in the field of ADR.
- The ADR Committee created an on-line ethics examination for new applicants to the Utah Court Roster which expanded the scope of the exam to cover all Utah court rules and statutes that govern ethical behavior of mediators who are members of the Utah Court Roster. The online exam contains live links to the relevant rules and statutes.
- Ongoing ADR Training and information are provided to court personnel through a 40-hour Basic Mediation Training, New Judge Orientations and specialized training sessions arranged for judges, court staff and supervisors.
- Outreach and education are provided to the Utah State Bar, Utah State Legislature, Utah ADR Providers and court clients through reports, seminar and conference presentations and the ADR web site.

Utah Judicial Council's ad hoc Committee on Alternative Dispute Resolution

Committee Membership as of May 14, 2021

Judge Royal I. Hansen, Chair, Third District Court

Judge Ryan M. Harris, Utah Court of Appeals

Commissioner Michelle C. Tack, Third District Court

Michele Mattsson, Chief Appellate Mediator, Utah Court of Appeals

Professor James Holbrook, S.J. Quinney College of Law, University of Utah

Professor Carolynn Clark, University of Utah, Conflict Resolution Program

Professor Benjamin Cook, J. Reuben Clark College of Law, Brigham Young
University

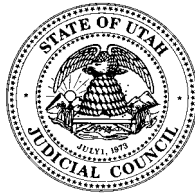
Michelle M. Oldroyd, Utah State Bar, Director of Professional Education

Marcella L. Keck, Attorney/Mediator

Kent B. Scott, Attorney/Mediator

Nini Rich, staff, ADR Director, Administrative Office of the Courts

Tab 4



Administrative Office of the Courts

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

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee

FROM: Jim Peters, Justice Court Administrator

DATE: May 3, 2021

RE: Expansion of the Vernal City Justice Court

The Management Committee considered a proposal to consolidate the Uintah County and Vernal City Justice Courts at its meeting on January 12, 2021. Following discussion, Brent Johnson was asked to provide a legal opinion about the proposal. After doing so on February 16, 2021, I sent the attached email to officials in Uintah County and Vernal City. They have now provided the following for your review:

- Response dated April 30, 2021 regarding the Management Committee Action
- Application dated April 28, 2021 to Expand the Territorial Jurisdiction of the Vernal City Justice Court
- Map of Uintah County
- Uintah County Resolution No. 03-22-2021 R1 amending the Interlocal Agreement for Justice Court Services between Uintah County and Vernal City and Clarifying that the Uintah County Justice Court is Suspended as of the Effective Date of the Interlocal Agreement
- Vernal City Resolution 2021-06 amending the Interlocal Agreement between Uintah County and Vernal City for Justice Court Services
- Amended Interlocal Agreement for Justice Court Services
- Utah Code 78A-7-102
- Utah Code 78A-7-123

Brent Johnson and I will be available at next week's meeting to answer your questions.

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



James Peters <jamesp@utcourts.gov>

Interlocal Agreement for Justice Court Services

1 message

James Peters <jamesp@utcourts.gov>

Wed, Feb 17, 2021 at 8:26 PM

To: Quinn Bennion <qbennion@vernalcity.org>, bstringer@uintah.utah.gov

Cc: Dennis Judd <judd@easilink.com>, jonathan@uintahcountyattorney.org

Bcc: "Judge G.A. Petry" <gapetry@utcourts.gov>, Judge Ray Richards <rrichards@utcourts.gov>

Good evening! The Management Committee of the Judicial Council met yesterday afternoon. Among other things, they considered the interlocal agreement that Vernal City and Uintah County have executed in order to combine their justice courts. As you recall, that agreement had been presented back on January 12, but the committee at that point had some doubt as to whether the city and the county could proceed as contemplated by the agreement. At that point, the Management Committee asked General Counsel for the Administrative Office of the Courts to provide an opinion. He did that yesterday. After reviewing the relevant statutes, he has concluded that Uintah County cannot use an interlocal agreement to dissolve its justice court.

Dissolution is governed by Section 78A-7-123 of the Utah Code. That section addresses two scenarios. The first is a dissolution where cases from the dissolved court would be heard by the district court. The other is a dissolution where cases from the dissolved court would be heard by the county justice court. Dissolution where cases from the dissolved court would be heard by a municipal court is not addressed by this section. As such, the only way to shift cases from a county court to a municipal court is for both to enter into an interlocal agreement, as contemplated by 78A-7-102(4). Doing so does not dissolve either court, however.

Section 78A-7-102(4)(a) allows "a municipality that has a justice court [to] expand the territorial jurisdiction of the justice court by entering into an agreement...with one or more other municipalities, or the county in which the municipality exists." But Section 78A-7-102(4)(e)(i) requires "[a] municipality or county that has a justice court at the time of executing an interlocal agreement...[to] resume operation of the justice court upon termination of the interlocal agreement or dissolve [at that point]..." To do either, each of the two justice courts that enter into an interlocal agreement must remain in existence throughout the term of the agreement.

The Management Committee agreed with the analysis of General Counsel. As such, it cannot recommend the expansion of the Vernal City Justice Court under these conditions. To combine the operations of the two courts, either (i) Vernal must dissolve its court pursuant to 78A-7-123(2), so that its cases automatically go to the county justice court, or (ii) Vernal and Uintah County must enter into an interlocal agreement that does not purport to dissolve either of their justice courts. Notice must be provided to the Management Committee either way, and that can come through me. If either the city or the county would like the Management Committee to consider a different analysis of the statutes that relate to the agreement already submitted, that can be provided to me as well.

I can imagine this isn't the update you were hoping to get from me. I'm sorry for the setback. Please let me know if you have any questions I can answer as you determine next steps.

Best regards,

Jim Peters
Justice Court Administrator
Administrative Office of the Courts



**Response to Email Notification Regarding Judicial Council Management
Committee Action**

The reported action of the Management Committee of the Judicial Council as contained in an email from James Peters sent February 17, 2021 at 8:26 PM objected to the language in Section 9 (D) of the Interlocal Agreement expanding the Vernal City Justice Court which referred to the Uintah County Justice Court being "dissolved".

Please take notice that the Interlocal Agreement has been amended to remove Section 9 (D). That is the only reference in the Interlocal Agreement to dissolution of the Uintah County Justice Court and the removal of that section alleviates the concerns expressed and conveyed.

The Notice to the Judicial Council of the Expanded Jurisdiction of the Vernal City Justice Court dated December 29, 2020 made no reference to dissolution of the Uintah County Justice Court, and therefore does not need to be modified.

As set forth in the notice to the Judicial Council "pursuant to Section 78A-7-102 (4) (d) the Judicial Council shall certify the expansion of a Justice Court if it determines that the Expanded Justice Court is in compliance with the operating standards established by statute and the Judicial Council.". Vernal City represents that its court is in compliance and will continue to be in compliance with the standards and therefore "the Judicial Council shall certify the expansion".

As noted in the email message the expansion of the territorial jurisdiction of the Vernal City Justice Court is independent of the issue related to the future existence or dissolution of the Uintah County Justice Court. The notice dated December 29, 2020 is not affected by the slight modification of the Interlocal Agreement and the 180 day implementation time should run from the date of the December 2020 notification.

Request is made that the Judicial Council certify the expansion of the Vernal City Justice Court as provided by statute and that the process of facilitating the transfer of cases from the Uintah County Justice Court to the expanded Vernal City Justice Court be scheduled to be completed by the end of June, 2021.

Until further action by Uintah County the Uintah County Justice Court shall not be "dissolved" but all cases will be filed and adjudicated in the expanded Vernal City Justice Court.

Respectfully submitted this 30 day of ^{April}~~March~~, 2021


Doug Hammond, Mayor


County Commission Chairman

Vernal City
April 2021

**APPLICATION
TO EXPAND THE
TERRITORIAL JURISDICTION
OF AN
ESTABLISHED JUSTICE COURT**



NOVEMBER 2017

JUSTICE COURT STANDARDS
FOR THE TERRITORIAL EXPANSION OF
ESTABLISHED JUSTICE COURTS

OPERATIONAL STANDARDS

The minimum requirements for the expansion of an established Justice Court are similar to those for the creation of a new Justice Court. They reflect both statutory requirements and standards which have been adopted by the Judicial Council. Classification for expanded Courts will be based upon anticipated filings (i.e. the average number of cases per month which would have been filed in the expanded Court had the expanded Court been in operation during the most recent calendar year).

The classification of an expanded Court is determined upon approval of this application and is subject to review and possible reclassification whenever the Court is recertified. While the standards for some areas of court operation are uniform for all classifications of Justice Court, other standards are developed on a continuum, reflecting the difference in the time needed to competently manage caseloads at different levels.

Waiver or extension of any requirement promulgated by the Judicial Council may be obtained at the discretion of the Judicial Council. Considerations for waiver or extension will be made on a case by case basis in consideration of, among other things, public convenience and the increased efficiencies, if any, to be gained by expanding the territorial jurisdiction of an established Justice Court.

CLASS I

MINIMUM REQUIREMENTS [Note that the following are **minimum** requirements. In order to adequately function as a Class I Court, it may be necessary for your court to exceed the minimum requirements.]

- FILINGS:

501 or more citations or cases filed per month.

- HOURS:

Court Open: Full time

Judge: Full time

- FACILITY:

Dedicated Courtroom (with juror deliberation room)

Judge's Chambers

Clerk Office

Co-located in the same facility

(Meet the Master Plan Guidelines adopted by the Judicial Council)

- CLERICAL RESOURCES:

At least three full-time clerks

- **PROSECUTION:**

Prosecutor to screen cases and represent the county or municipality at trial.

- **INDIGENT DEFENSE:**

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

- **LEGAL RESOURCES:**

The following must be available and kept current:

- a. Utah Code
- b. Local ordinances
- c. Justice Court Manual
- d. Code of Judicial Administration
- e. Uniform Bail Schedule
- f. Other legal resources as required under §78A-7-103.

- **LAW ENFORCEMENT:**

The local government expanding the court must have at least one employed or contracted peace officer.

- **BAILIFF:**

The local government expanding the court must provide a sworn law enforcement officer to attend court when required and provide security for the court.

- **SECURITY PLAN:**

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

- **JURY/ WITNESS FEES:**

Local government is responsible for payment of statutory juror and witness fees.

- **EDUCATION:**

Local government is responsible for the cost of attendance at Judicial Council mandated training (at least 30 hours per year for judges and 10 hours per year for clerks).

- **REPORTING:**

All reports and audits shall be made and timely filed as provided by law or by rule of the Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically (via the internet).

CLASS II

MINIMUM REQUIREMENTS [Note that the following are **minimum** requirements. In order to adequately function as a Class II Court, it may be necessary for your court to exceed the minimum requirements.]

- FILINGS:

201 to 500 citations or cases a month.

- HOURS:

Court Open:

201-300 filings At least 4 hours per day

301-400 filings At least 5 hours per day

401-500 filings At least 6 hours per day

Judge available when needed. Trial calendar set at least weekly.

- FACILITY:

Courtroom (configuration is permanent but may be shared)

Judge's Office

Clerk Office

(Courtroom and office must be co-located in the same building)

- CLERICAL RESOURCES:

201-275 filings At least one full-time clerk

276-350 filings 1.5 FTEs

351-425 filings 2.0 FTEs

426-500 filings 2.5 FTEs

- PROSECUTION:

Prosecutor to screen cases and represent the county or municipality at trial.

- INDIGENT DEFENSE:

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

- LEGAL RESOURCES:

The following must be available and kept current:

a. Utah Code

b. Local ordinances

c. Justice Court Manual

d. Code of Judicial Administration

e. Uniform Bail Schedule

f. Other legal resources as required under §78A-7-103.

- LAW ENFORCEMENT:

The local government expanding the court must have at least one employed or contracted peace officer.

- **BAILIFF:**

The local government expanding the court must provide a sworn law enforcement officer to attend court when required and provide security for the court.

- **SECURITY PLAN:**

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

- **JURY/ WITNESS FEES:**

Local government is responsible for payment of statutory juror and witness fees.

- **EDUCATION:**

Local government is responsible for costs of attendance at Judicial Council mandated training (at least 30 hours per year for judges and 10 hours per year for clerks).

- **REPORTING:**

All reports and audits shall be made and timely filed as provided by law or by rule of Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically, via the internet.

CLASS III

MINIMUM REQUIREMENTS [Note that the following are **minimum** requirements. In order to adequately function as a Class III Court, it may be necessary for your court to exceed the minimum requirements.]

- **FILINGS:**

61-200 citations or cases per month.

- **HOURS:**

Court Open

61-150 filings At least 2 hours a day

151-200 filings At least 3 hours a day

Judge available as needed. Trial calendar set at least every other week.

- **FACILITY:**

Courtroom (access to public facility for trials, arraignments, etc.)

Judge's /clerk office

(Meets minimum requirements)

- **CLERICAL RESOURCES:**

At least one clerk required to be available daily during the scheduled hours of court operation and during court sessions as needed.

- **PROSECUTION:**

Prosecutor to screen cases and represent the county or municipality at trial.

- **INDIGENT DEFENSE:**

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

- **LEGAL RESOURCES:**

The following must be available and kept current:

- a. Utah Code
- b. Local ordinances
- c. Justice Court Manual
- d. Code of Judicial Administration
- e. Uniform Bail Schedule
- f. Other legal resources as required under §78A-7-103.

- **LAW ENFORCEMENT:**

The local government expanding the court must have at least one employed or contracted peace officer.

- **BAILIFF:**

The local government expanding the court must provide a sworn law enforcement officer to attend court when required and provide security for the court.

- **SECURITY PLAN:**

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

- **JURY/ WITNESS FEES:**

Local government is responsible for payment of statutory juror and witness fees.

- **EDUCATION:**

Local government is responsible for costs of attendance at Judicial Council mandated training (at least 30 hours each year for judges and 10 hours per year for clerks).

- **REPORTING:**

All reports and audits shall be made and timely filed as provided by law or by rule of Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically, via the internet.

CLASS IV

MINIMUM REQUIREMENTS [Note that the following are **minimum** requirements. In order to adequately function as a Class IV Court, it may be necessary for your court to exceed the minimum requirements.]

- **FILINGS:**

0-60 citations and/or cases per month.

- **HOURS:**

Court open at least one hour per day. Judge available as needed and trial calendar set at least monthly.

- **FACILITY:**

Courtroom (access to public facility for trials, arraignments, etc.)
Judge's/clerk office (can be a shared resource but court has priority when needed.)
(Meets minimum requirements)

- **CLERICAL RESOURCES:**

At least one clerk required to be available daily during the scheduled hours of court operation and during court sessions.

- **PROSECUTION:**

Prosecutor to screen cases and represent the county or municipality at trial.

- **INDIGENT DEFENSE:**

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

- **LEGAL RESOURCES:**

The following must be available and kept current:

- a. Utah Code
- b. Local ordinances
- c. Justice Court Manual
- d. Code of Judicial Administration
- e. Uniform Bail Schedule
- f. Other legal resources as required under §78A-7-103.

- **LAW ENFORCEMENT:**

The local government expanding the court must have at least one employed or contracted peace officer.

- **BAILIFF:**

The local government expanding the court must provide a sworn law enforcement officer to attend court when required and provide security for the court.

- **SECURITY PLAN:**

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

- **JURY/ WITNESS FEES:**

Local government is responsible for payment of statutory juror and witness fees.

- **EDUCATION:**

Local government is responsible for costs of attendance at Judicial Council mandated training (at least 30 hours each year for judges and 10 hours per year for clerks).

- **REPORTING:**

All reports and audits shall be made and timely filed as provided by law or by rule of Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically, via the internet.

JUSTICE COURT STANDARDS
FOR THE TERRITORIAL EXPANSION OF
ESTABLISHED JUSTICE COURTS

INSTRUCTIONS TO APPLICANT

To expand the territorial jurisdiction of an established justice court, the entity with an established court (the "Applicant") must do the following:

1. Create a written agreement with one or more other municipalities, or the county in which the municipality exists, pursuant to the Interlocal Cooperation Act (Utah Code 11-13-101 et seq.) to operate a justice court in its (or their) behalf, subject to the terms and conditions set forth in the agreement.
2. Submit a resolution with this application in which the Applicant's governing body (a) approves the form of interlocal agreement attached thereto, (b) affirms that the Applicant is willing to meet all requirements for certification (except when the application is conditioned upon receiving a waiver) for the classification of the proposed (expanded) Court, and (c) authorizes the Applicant to submit this application to request that the proposed (expanded) Court be approved.
3. Demonstrate that the Applicant will be in compliance with all requirements for the operation of a Justice Court with the classification of the proposed (expanded) court by completing this application and submitting it, together with a cover letter requesting the Judicial Council's approval to expand its Justice Court, to James M. Peters, Justice Court Administrator, at P. O. Box 140241, Salt Lake City, Utah 84114-0241 or jamesp@utcourts.gov. Once the application is deemed complete, it will be forwarded to the Judicial Council for its consideration.
4. Appear, at its option, before the Judicial Council to present the application and any additional information which is relevant to the proposed expansion. In the event that additional information is deemed necessary, the Judicial Council may request such additional information from the Applicant.

Approval of this application by the Judicial Council will certify the court to process all cases which come within the expanded jurisdiction of the court including criminal, civil and small claims cases.

STATUTORY REQUIREMENTS

Statutes of the State of Utah require compliance with certain standards in the operation of a Justice Court. These statutory requirements include:

1. All official court business shall be conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice (78A-7-213).
2. Each court shall be open and judicial business shall be transacted every day as provided by law (78A-7-213), although the judge is not required to be present during all hours that the court is open.
3. The hours that the court will be open shall be posted conspicuously at the court and in local public buildings (78A-7-213).
4. The judge and the clerk of the court shall attend the court at regularly scheduled times (78A-7-213).
5. The entity expanding the Justice Court shall provide and compensate a judge and clerical personnel to conduct the business of the court (78A-7-206 and 78A-7-207).
6. The entity expanding the Justice Court shall assume the expenses of travel, meals, and lodging for the judge of that court to attend required judicial education and training (78A-7-103).
7. The entity expanding the Justice Court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (78A-7-103).
8. The entity expanding the Justice Court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (78A-7-103).
9. The entity expanding the Justice Court shall provide adequate funding for attorneys where persons are indigent as provided by law (78A-7-103).
10. The entity expanding the Justice Court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (78A-7-103).
11. Witnesses and jury fees as required by law shall be paid by the entity which expands the court (10-7-76 and 17-50-319).
12. Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (78A-7-120 and 78A-7-121).
13. Every entity expanding a court shall pay the judge of that court a fixed compensation, within the range provided by statute (78A-7-206).
14. Court shall be held within the jurisdiction of the court, except as provided by law (78A-7-212).

15. The entity expanding the court shall provide and keep current for the court a copy of the Motor Vehicle Laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances, and other necessary legal reference material (78A-7-103).

16. All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78A-7-215.

17. An audio recording system shall maintain the verbatim record of all court proceedings (78A-7-103).

For Class I and Class II justice courts, the system must:

- a. be a stand-alone unit that records and audibly plays back the recording;
- b. index, back-up and archive the recording and enable the record to be retrieved;
- c. have at least four recording channels;
- d. have a one step "on" and "off" recording function;
- e. have conference monitoring of recorded audio;
- f. have external record archiving from the unit with local access;
- g. be capable of being integrated with the courts public address system; and

For Class III and Class IV justice courts, the system must, at a minimum:

- a. be a stand-alone unit that records and audibly plays back the recording;
- b. index, back-up and archive the recording and enable the record to be retrieved; and
- c. have at least two recording channels.

The Board of Justice Court Judges may create a list of products that meet these criteria.

ADDITIONAL REQUIREMENTS

In addition to those requirements which are directly imposed by statute, section 78A-7-103 directs the Judicial Council to promulgate additional requirements for the ongoing certification of Justice Courts. As such, the Judicial Council has adopted the following additional requirements:

1. That the Court be open for at least one hour each day that the court is required to be open as provided by law.
2. That the judge be available to attend court and conduct court business as needed.
3. That the minimum furnishings for a courtroom include: a desk and chair for the judge (on a six inch riser), a desk and chair for the court clerk, chairs for witnesses, separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public. (A suggested courtroom configuration is included below).
4. A judicial robe, a gavel, current bail schedules, a copy of the Code of Judicial Administration, and necessary forms and supplies.
5. Office space for the judge and clerk (under certain circumstances this space may be shared, but if shared, the judge and clerk must have priority to use the space whenever needed). The office space shall include a desk for the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box, a typewriter or word processor, and access to a copy machine.
6. A clerk must be present during the time the court is open each day and during court sessions, as required by the judge.
7. The entity must have at least one peace officer (which may be contracted).
8. A court security plan must be submitted consistent with C.J.A. Rule 3-414.
9. Each court must have at least one computer with access to the internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety.
10. Each court shall report required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically, as described in number 9 above.

In establishing minimum requirements, the Judicial Council has determined that Justice Courts with higher case filings require greater support services. To accommodate the great differences in judicial activity among Justice Courts throughout the state, the Council has divided courts into four classes based upon the average monthly cases filed in that court. In the case of an expanded court, the classification is based upon anticipated case filings. Minimum standards have been set for each classification. Courts which have an average of fewer than 61 cases filed each month are classified as Class IV Courts. The minimum requirements for a Class IV Court are set forth above. (These requirements are also attached as Class IV minimum requirements). These requirements include both the statutory requirements and requirements promulgated by the Judicial Council, and are sometimes hereinafter referred to as “base requirements.”

Courts which have an average of more than 60 but fewer than 201 cases filed each month are classified as Class III Courts. In addition to the base requirements, a Class III Court must be open more hours each week (see attached Class III minimum requirements), and court must be scheduled at least every other week. Courts which have an average of more than 200 but fewer than 501 cases filed each month are classified as Class II Courts. In addition to the base requirements, Class II Courts are required to be open additional hours (see attached Class II minimum requirements), the courtroom configuration is required to be permanent (although the courtroom may be used by another entity when the court is not in session), court must be scheduled at least weekly, the judge must be provided an appropriate office (chambers) for his or her own use, clerical space may not be shared, at least one full-time clerk must be provided (see attached Class II minimum requirements), and the courtroom, judge’s chambers and clerk’s office must be in the same building. Courts which have an average monthly filing of more than 500 cases are classified as Class I Courts. Class I Courts are considered to be full-time courts. In addition to the base requirements, a Class I Court must have a full-time judge, at least three clerks, it must be open during regular business hours, it must have a courtroom which is dedicated for the exclusive use as a court and meets the master plan guideline adopted by the Judicial Council, and the judge’s chambers and clerk’s office cannot be shared by another entity.

The State Legislature has provided that any entity that meets the requirements for its class may create a Justice Court. Likewise, any entity that meets the requirements for its class may expand its Justice Court. Once created or expanded, any Justice Court which continues to meet the minimum requirements for its class is entitled to be recertified. However, the Judicial Council also has authority to waive any minimum requirement which has not been specifically imposed by the Legislature (i.e. requirements 1-10 above, which have been adopted by the Judicial Council pursuant to Section 78A-7-103). Waiver is at the discretion of the Judicial Council and will be based upon a demonstrated need for a court to conduct judicial business and upon public convenience. Any waiver will generally be for the entire term of the certification. A waiver must be obtained through the Judicial Council each time a court is recertified, and the fact that a waiver has been previously granted will not be determinative on the issue of waiver for any successive application.

There is a great diversity in the needs of the Justice Courts. The needs of a particular Court are affected by the type of cases filed (some courts have a high percentage of traffic matters, while others handle significant numbers of criminal and small claims matters), the location of the Court, the number of law enforcement agencies served, the policies and procedures followed by each judge with respect to the operation of the Court, and many other factors. Clerical resources and judicial time are particularly sensitive to local conditions. In order to adequately function, it is anticipated that some courts will exceed minimum requirements for clerical resources and judicial time.

Similarly, the particular circumstances of a court may allow it to operate efficiently with less than the minimum requirements in the above areas; in such circumstances a waiver may be requested.

The statute also provides that the Judicial Council may grant an extension of time for any requirement which is not specifically required by statute. An extension may be granted at the discretion of the Judicial Council where individual circumstances temporarily prevent the Applicant from meeting a minimum requirement. An extension will be for a specific period of time and the certification of the court will terminate at the end of the extension period. In order for the court to continue to operate beyond the extension period, the court must be certified as meeting all requirements, obtain an additional extension, or obtain a waiver as provided above.

Applications for existing courts for recertification shall be accompanied by an affidavit of the judge, on a form approved by the Judicial Council, certifying that the operational standards for the court have been met. Any exceptions to compliance with the minimum requirements or operational standards shall be noted on the above form. In addition, individual Justice Court Judges must meet with the governing body of the entity which created the court at least once a year to review the budget of the court, review compliance with the requirements and operational standards of the court, and discuss other items of common concern and shall certify that this meeting has been held, and that the operational standards for the court have been met during the prior year.

Upon receipt of an application, the Justice Court Administrator will review the information received and notify the Applicant of his initial recommendation, whether in favor or against expansion. If the Justice Court Administrator intends to recommend against expansion, he shall specify the minimum requirements that have not been met. The Applicant may then present additional information to the Justice Court Administrator, request an extension, or request a waiver. After reviewing any additional information or request made by the Applicant, the Justice Court Administrator will then submit his recommendations to the Judicial Council. The recommendations shall specify whether or not a waiver or extension should be granted, if either has been requested. Whatever the recommendation, be it for or against recertification, for or against waiver, or for or against extension, the Applicant will be invited to present its application to the Judicial Council.

If you have any questions concerning this application, please contact James M. Peters, Justice Court Administrator, at (801) 578-3824 or at jamesp@utcourts.gov.

MINIMUM STANDARDS FOR THE COURTROOM AND OFFICE

Utah Justice Courts handle a very high volume of cases. With this magnitude of cases, it is likely that any contact an average citizen will have with the Utah Judicial System will be through the Justice Courts. In many instances, this contact will be a citizen's only impression of our system of justice and, even in minor cases, is likely to be lasting and profound. Regardless of the gravity of a matter before the court, citizens take their appearances as a defendant, witness or juror very seriously and form judgments on the entire judicial system on the basis of their personal experience. As such, it is essential that Justice Courts convey a sense of justice, dignity and concern for the citizens who interact with it. The facilities which house the courts play an instrumental role in forming these opinions and it is incumbent upon the judicial system to provide appropriately appointed forums in both the largest urban courts and the smallest rural communities.

The following space standards recommend courtroom designs that promote these goals. The courtroom sizes and support staff space are intended to allow for the expeditious administration of justice. They also allow for growth in judicial workloads and unforeseen changes in practice and procedure. In general terms, there are great similarities between the higher courts and Justice Courts in courtroom configuration and space dynamics. For example, the principles of bench elevation sight lines, witness-jury-judge proximity, and spectator-well orientation are all consistent between courts. Therefore, most of the design recommendations suggested for District Courts apply to Justice Courts. The following discussion emphasizes these similarities and notes exceptions due to statutory and procedural differences as well as resource limitations.

- GENERAL COURTROOM DESIGN:

As stated above, Justice Court courtrooms should convey the same impressions of dignity, justice, and authority as those serving the court of higher jurisdiction. The appearance of the courtroom should reflect the fact that they are forums for justice, rather than only governmental office space. In applying design principles of the higher court to Justice Courts, the absence of court reporters and full-time bailiffs should be noted. Therefore, the following guidelines are presented in areas that are materially affected by the unique nature of the Justice Courts.

1. It is recommended that courtrooms be 1300 NSF in Class I cities, 1100 NSF in Class II cities and 800 NSF in Class III and Class IV cities. Walls and ceilings should have appropriate finishes and the well should be illuminated to prevent reading eye strain. The room should be sound insulated from outside noise. All courtrooms should be fully carpeted and adequate ventilation and temperature controls should be installed.
2. The judge's bench should be elevated at least one riser. As in the District Court, judges' benches should be elevated above the eye level of persons who approach the bench, usually three risers. It is recognized however, those low ceiling heights in some Justice Courts do not allow for three-riser elevation. Benches elevated 18 inches or more in smaller courts can bring the judge too close to the ceiling when standing and puts the bench out of proportion to the room size. One riser should be the minimum standard and additional elevation is desirable as the dimensions of the room permit.

3. Sufficient space should be provided on the bench for legal texts and files. Urban or other high volume courts should be cable-ready to accommodate a computer terminal.
4. The witness box should be placed adjacent to the judge's bench. All courtroom participants must have a clear line of sight to the witness box. A chalkboard or magnetic display board should be built into the wall between the jury box and the witness stand.
5. The jury box should be placed near the witness box and also have a clear line of sight to all participants. The size of the jury box is recommended to be five seats (four jurors with an option for an alternate juror and space for a disabled juror). The jury box should consist of a single row of stationary swivel seats.
6. A "modesty rail" should be placed in front of the jurors with enough depth to rest documents and files.
7. A court reporter's station is not required for these courtrooms as they are not courts of record; however, a clerk's station should be provided by the judge's bench opposite from the witness stand. This will accommodate different in-courtroom practices and procedures. It should also have shelving for files and forms.
8. Tables for the defense and prosecution should be provided to comfortably seat three persons each and should be at least four feet apart for sound separation. A rail should separate spectator seating so that the closest spectator is no nearer than 6 feet to persons seated at the attorney's tables.
9. Judges chambers should be approximately 120-160 NSF with direct access to the judge's bench and to the clerk's area. Chambers should be equipped with adequate shelving for law texts, a desk and chair for the judge and visitor seating for small meetings or conferences.
10. It is recommended that a small jury room be integrated into each Justice Court. This space can serve as a conference room for attorneys and clients or as flexible space when not in use by a jury. A table and chairs should be provided and a telephone outlet should be installed for conference use. The minimum recommended size is 150 NSF.
11. The Clerk's area should include a reception area for visitors and a counter to receive people with business before the court. It is recommended that the reception area be no less than 150 NSF and the counter space comprise 60 NSF (e.g. a seven-foot counter with a depth of three feet and approximately three feet of open area on each side).
12. A restroom for the public and a separate restroom for the judge, staff and jurors should be provided.
13. Clerical staff should be afforded 75 NSF per person to accommodate a desk, chair, terminal (if applicable), and perimeter space. Staff space should be open landscape type. A small storage or copier area should also be provided.

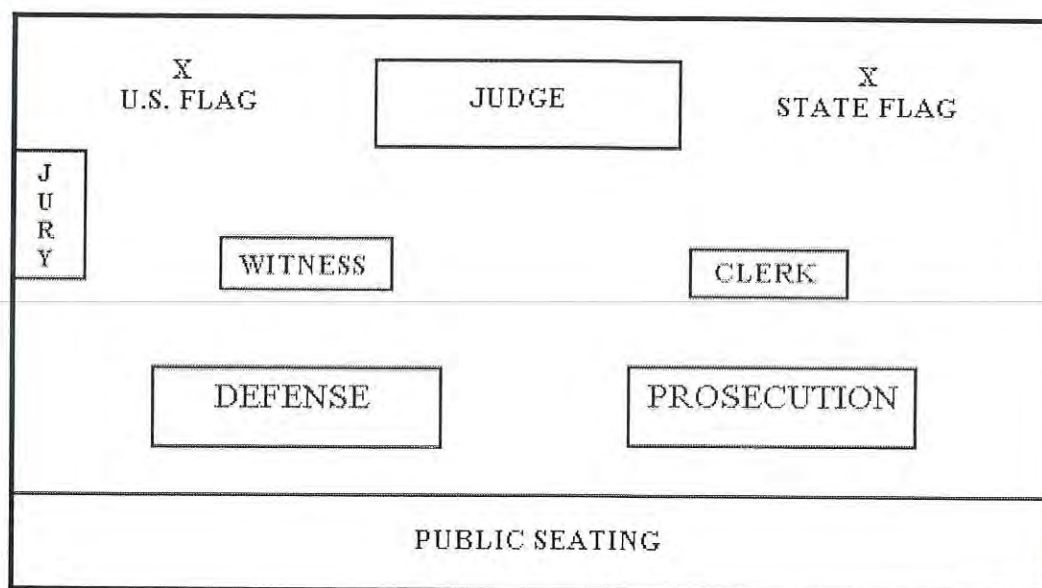
14. Generally, medium to high caseload courts requires ten to fifteen five drawer file cabinets or equivalent open files.
15. The needs of less active courts vary. Lateral filing, open shelf, sliding shelf, or rotary shelf systems are almost always more space efficient than file drawers. Whenever possible, they should be used in lieu of file cabinets. It is recommended that each jurisdiction utilize county storage space and statewide document retention schedules to the fullest.

- CLERICAL/SUPPORT SPACE:

The clerical and support space listed in the general court standards can also be applied to the Justice Courts. Actual Justice Court staff will vary widely depending on location, workload and county support.

- MODEL COURTROOM DESIGN:

Under certain circumstances, courtrooms may be in shared facilities and the judicial configuration set up when needed for trial or arraignments. Following is a suggested model. Location variations may be allowed.



APPLICATION FOR JUSTICE COURT EXPANSION

This Application is divided into three sections. Section I ask for background information. Section II contains those requirements that are statutory and are not waivable. Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived pursuant to the procedure set forth in the instructions to applicant included with the application for certification.

SECTION I

Name of Applicant: Vernal City Justice Court

Existing Court Location: Vernal City

Judge: Ray R. Richards

Anticipated Level of Expanded Court (Circle one): I II III IV

Case Filings per Month:

Existing Court: 200-250

In Territory to be Added by Existing Court: 200-250

Total Anticipated Upon Expansion: 400-500

Daily Court Hours: Monday-Friday 8am-5pm

Number of Full time Clerks: 3

Hours Worked per Week per Clerk: 40

Number of Part Time Clerks: 1

Hours Worked per Week per Clerk: 20

Please Attach a Map which shows the Boundaries of the existing Court's Jurisdiction and the proposed (expanded) Court's jurisdiction.

State the Population within the Jurisdiction of the proposed (expanded) Court according to the most recent figures: 35,734

List all law enforcement agencies which will be regularly involved in law enforcement within the jurisdiction of the proposed (expanded) Court: Vernal City, Uintah County Sheriff's, Utah Highway Patrol, Naples City Police Department, Division of Wildlife Resources.

SECTION II

The following items are statutory and cannot be waived. Approval of the proposed (expanded) Court will not be granted unless each requirement is met.

Please indicate Yes or No to each of the following:

1. Arrangements have been made so that all official court business will be conducted in a public facility. YES
2. Court is open daily. YES
3. The hours of court operation will be posted conspicuously. YES
4. The judge and the clerk will be required to attend court at regularly scheduled times based on the level of the court. YES
5. The judge will be compensated at a fixed rate, within the statutory range. YES
6. The responsible governmental entity will provide and compensate sufficient clerical personnel necessary to conduct the business of the court. YES
7. The responsible governmental entity will assume the expenses of the travel of the judge for purposes of required judicial education. YES
8. The responsible governmental entity will assume the expenses of the travel of each clerk for the purposes of attending training sessions conducted by the Judicial Council. YES
9. The responsible governmental entity will provide the Court with:
 - a. Sufficient prosecutorial support YES
 - b. Funding for attorneys for indigent defendants, as appropriate YES
 - c. Sufficient local law enforcement officers to attend court as provided by statute YES
 - d. Security for the court as provided by statute YES
 - e. Witness and juror fees YES
 - f. Copies of the motor vehicle laws of the State of Utah, appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances and other necessary legal reference materials YES
10. Procedures have been adopted to insure that fines, surcharges and assessments which are payable to the state will be forwarded as required by law. YES

11. Court will be held within the jurisdiction of the court, except as provided by law (78A-7-212). YES
12. All required reports and audits will be filed as required by law or Rule of the Judicial Council. YES
13. A verbatim record of all court proceedings will be maintained by an appropriate audio recording system. YES

SECTION III

Section III contains minimum requirements established by the Judicial Council, and those requirements may be waived or an extension granted pursuant to the procedure set forth in the instructions to applicant included with this application for certification.

Please indicate **YES or NO** to each of the following:

1. Arrangements have been made so that court will be open each day as appropriate for the classification of the court. YES
2. Arrangements have been made so that the judge will be available to attend court and to conduct court business as needed. YES
3. Minimum furnishings in the courtroom have been provided, including:
 - a. Desk and chair for the judge YES
 - b. A six inch riser YES
 - c. Desk and chair for the court clerk YES
 - d. Chairs for witnesses YES
 - e. Separate tables and appropriate chairs for plaintiffs and defendants YES
 - f. A Utah State flag YES
 - g. A United States flag YES
 - h. A separate area and chairs for at least four jurors YES
 - i. A separate area with appropriate seating for the public YES
 - j. An appropriate room for jury deliberations YES
 - k. An appropriate area or room for victims and witnesses which is separate from the public YES
 - l. A judicial robe YES
 - m. A gavel YES
 - n. Current bail schedules YES
 - o. A copy of the Code of Judicial Administration YES

- p. Necessary forms and supplies YES
- q. Office space for the judge YES
- r. Office space for the court clerk YES
- s. Secure filing cabinets YES
- t. Appropriate office supplies YES
- u. A cash register or secured cash box YES
- v. At least one computer with internet access YES
- w. Access to a copy machine YES
4. The appropriate number of clerks will be provided as required by the classification of the court, and will be present during the time court is open each day and as needed during court sessions. YES
5. Does the applicant have a law enforcement department? YES
6. If the applicant does not have a law enforcement department, identify the law enforcement agency which will provide law enforcement services for the applicant: _____

7. A security plan will be submitted consistent with C.J.A. Rule 3-414. YES
8. The court has the ability to electronically report to the Driver License Division, the Bureau of Criminal Identification and the Administrative Office of the Courts as required. YES
9. I am familiar with the minimum operational standards for this court, and except as noted below, those standards are currently in place and available to the court. YES

REQUEST FOR WAIVER OR EXTENSION

If waiver or extension of any requirement is requested, please specify each requirement and indicate factors which demonstrate a need for the waiver or extension. For any requested extension, please include the time requested. For each requested waiver, please indicate whether or not this application is conditioned upon receiving a waiver. Remember, those items which are statutory are **not** **waivable**.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

SIGNATURE PAGE

By signing below, I certify that the information contained in this Application for Justice Court Expansion is true and correct to the best of my knowledge.

DATED this 28th day of April, 2021.

Douglas B Hammond
Signature

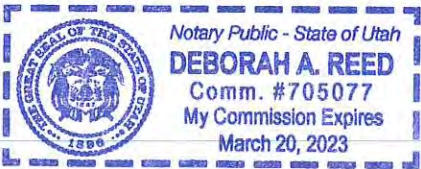
Vernal City
Applicant

Mayor
Signatory's Title

SUBSCRIBED AND SWORN to before me this 28th day of April, 2021.

Deborah A. Reed
NOTARY PUBLIC

Residing at: Vernal UT



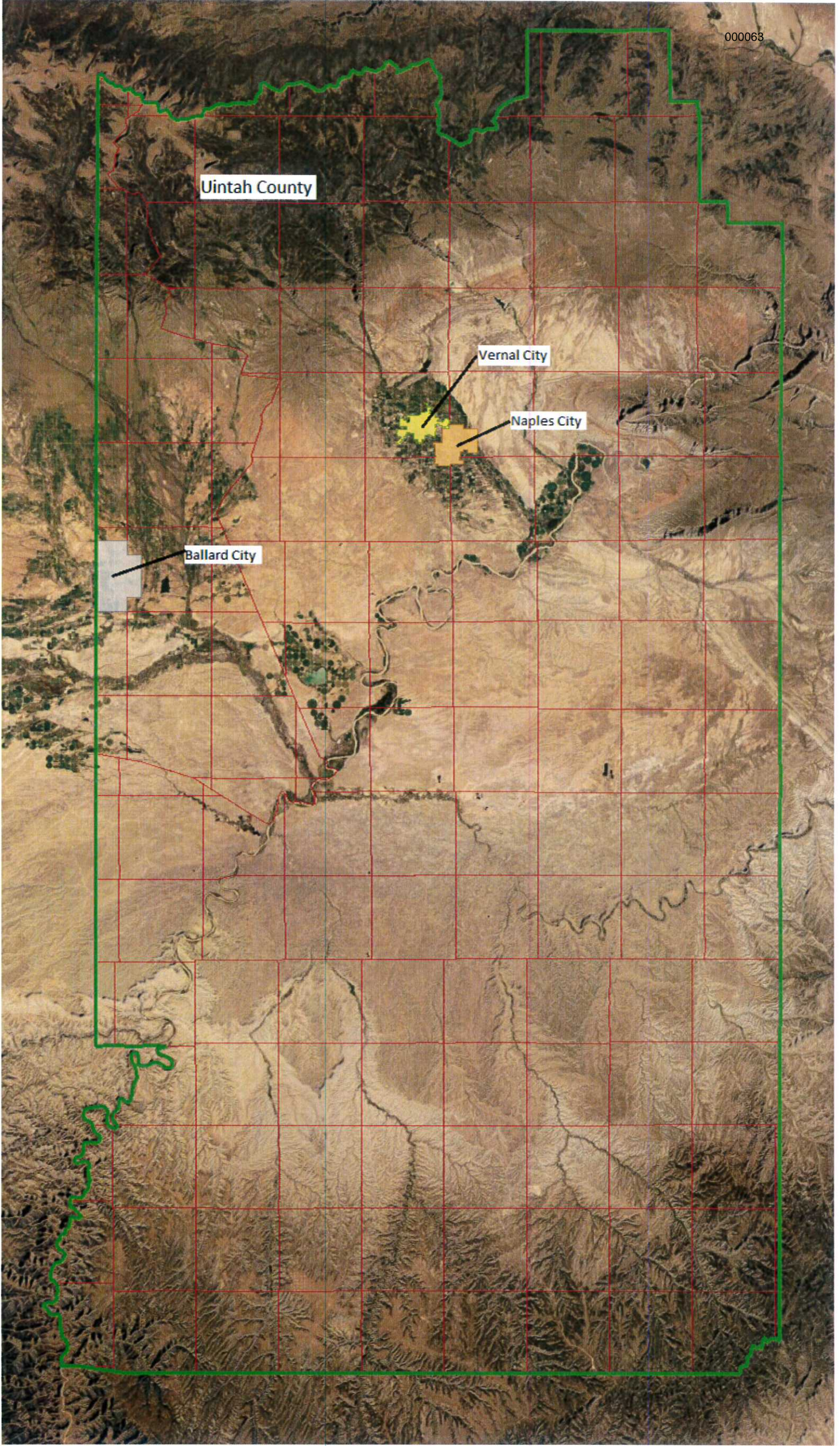
My Commission Expires:
3/20/23

Uintah County

Vernal City

Naples City

Ballard City



RESOLUTION NO. 03-22-2021 R1

A RESOLUTION AMENDING THE INTERLOCAL AGREEMENT FOR JUSTICE COURT SERVICES BETWEEN UINTAH COUNTY AND VERNAL CITY AND CLARIFYING THAT THE UINTAH COUNTY JUSTICE COURT IS SUSPENDED AS OF THE EFFECTIVE DATE OF THE INTERLOCAL AGREEMENT

WHEREAS, Uintah County has determined that it is in the best interest of the residents of Uintah County to consolidate court services with Vernal City and to accomplish this by dissolution of the Uintah County Justice Court; and

WHEREAS, it is anticipated that Vernal City will expand its jurisdiction under U.C.A. §78A-7-102(4), and

WHEREAS, U.C.A. §78A-7-123(2) does not provide a notice period for the dissolution of a county justice court if the caseload the county justice court would fall to a municipal court; and

WHEREAS, the Uintah County Attorney's Office files approximately 350 cases per year (2015-2020) in the Uintah County Justice Court, although it must be noted that this does not account for the entire caseload of said court; and

WHEREAS, because of this lack of direction from the Utah Legislature, Uintah County finds it is appropriate to provide notice to Vernal City through action in a public meeting, passage of a resolution formalizing such action, and requesting the Vernal City Council to approve the receipt of the caseload of matters originating within the unincorporated area of Uintah County as allowed by U.C.A. §78A-7-102(4)(a); and

WHEREAS, paragraph 1 of the attached interlocal agreement sets forth its effective date; and

WHEREAS, the Administrative Office of the Courts has raised a procedural question as to when formal notice of dissolution of the Uintah County Justice Court should be provided.

NOW, THEREFORE, BE IT RESOLVED the Interlocal Agreement for Justice Court Services previously adopted by Uintah County and Vernal City and dated December 21, 2020 is hereby amended to delete and remove from that agreement Section 9(D), and that such amendment shall be made by striking by interlineation the language in Section 9(D).

BE IT FURTHER RESOLVED that the Uintah County Justice Court is suspended and inoperable as of the effective date of the Interlocal Agreement amended and approved herein.

BE IT FURTHER RESOLVED that it is the full intention of Uintah County to not operate the Uintah County Justice Court should Vernal City pull out of the Amended Interlocal Agreement and that State Statute, as interpreted by the Administrative Office of the Courts, seems to only allow notice of formal dissolution at the conclusion of an interlocal agreement; thus, such notice to formally dissolve the Uintah County Justice Court will be provided if and when Vernal City decided to end the Amended Interlocal Agreement.

BE IT FURTHER RESOLVED that Uintah County encourages Vernal City to request from the Judicial Council a shortening of the 180 days to expand its territorial jurisdiction.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its adoption, but shall not alter the other effective dates discussed herein.

DATED this ~~21st~~ day of ~~December, 2020.~~
22nd March, 2021

ATTEST:

Michael W. Wilkins
 Michael W. Wilkins
 County Clerk-Auditor



UINTAH COUNTY:

Brad G. Horrocks
 Brad G. Horrocks
 Chair,

William C. Stringer
 William C. Stringer
 Member

RECUSED
 Bart N. Haslem
 Member

RESOLUTION NO 2021-06**A RESOLUTION OF THE VERNAL CITY COUNCIL AMENDING AN INTERLOCAL AGREEMENT BETWEEN UINTAH COUNTY AND VERNAL CITY FOR JUSTICE COURT SERVICES.**

WHEREAS, the parties are authorized by the Utah Interlocal Cooperation Act, as set forth in Title 11, Chapter 13, Utah Code Ann. To enter into agreements with other public agencies on the basis of mutual advantage and to more efficiently provide government facilities, services and improvements to the general public; and

WHEREAS, pursuant to Utah law and prior to the effective date of this Agreement, Uintah County created and operates the Uintah County Justice Court; and

WHEREAS, pursuant to Utah law and prior to the effective date of this Agreement, Vernal City created and operates the Vernal City Justice Court; and

WHEREAS, pursuant to Utah Code Ann. Section 78A-7-102 (4) (a) a municipality that has a Justice Court may expand the territorial jurisdiction of the Justice Court by entering into an Agreement with other agencies to provide justice court services; and

WHEREAS, Vernal City and Uintah County entered into an Interlocal Agreement whereby Vernal City shall provide Justice Court services for the following territorial jurisdictions: (1) the City of Vernal; (2) the unincorporated area of Uintah County; and (3) Naples City which is included within the current territorial jurisdiction of the Uintah County Justice Court; and

WHEREAS, to resolve an objection by the Management Committee of the Judicial Council the language in Section 9 (D) of the Interlocal Agreement for Justice Court services executed December 21, 2020 shall be stricken and deleted and the Interlocal Agreement thereby amended by interlineation.

WHEREAS, except as amended as set forth above the Interlocal Agreement shall remain in full force and effect as of the date of its prior execution.

NOW THEREFORE, be it resolved by the legislative body of Vernal City, the Vernal City Council, as follows:

SECTION 1. Interlocal Agreement Amended. The Interlocal Agreement for Justice Court Services previously adopted by Uintah County and Vernal City and dated December 21, 2020 is hereby amended to delete and remove from that agreement Section 9 (D).

SECTION 2. Amendment by Interlineation. The Amendment to the Interlocal Agreement dated December 21, 2020 shall be amended by striking by interlineation the language in Section 9 (D) of the Interlocal Agreement.

SECTION 3. Agreement Ratified. The Interlocal Agreement for Justice Court services between Vernal City in Uintah County dated December 21, 2020 is ratified, reaffirmed and restated with the deletion of the language in Section 9 (D) of that agreement.

SECTION 4. A copy of the Interlocal Agreement showing the Amendment authorized and approved, hereby, shall be recorded in and maintained in the records of the Vernal City Recorder with a copy of this resolution attached.


SECTION 5. Effective date. This Resolution and Amendment shall become effective immediately upon adoption by the Vernal City Council and execution by the Vernal City Mayor and the attest by the Vernal City Recorder. The Amendment of the Interlocal Agreement shall not change the effective date of the Agreement. The Amendment shall be effective upon adoption of a comparable Resolution by Uintah County.

SECTION 6. Severability. The provisions of this Resolution shall be severable and if any provision thereof or the application of such provision under any circumstance is held invalid, it shall not affect any other provision of this resolution or the application in a different circumstance.

PASSED, AND ADOPTED this 17th day of March, 2021.


Mayor Doug Hammond

ATTEST:


City Recorder



INTERLOCAL AGREEMENT FOR JUSTICE COURT SERVICES

This Interlocal Agreement for Justice Court Services (this "Agreement:") is made and entered by and between Vernal City (the "City"), a municipal corporation of the State of Utah, and Uintah County (the "County"), a political subdivision of the State of Utah. The City and County may be collectively referred to as the "parties" in this Agreement.

RECITALS

This Agreement is made and entered into by and between the parties based upon the following recitals, which are incorporated and are integral to this Agreement:

WHEREAS, pursuant to Utah law and prior to the effective date of this Agreement, Uintah County created and operates the Uintah County Justice Court;

WHEREAS, pursuant to Utah law and prior to the effective date of this Agreement, Vernal City created and operates the Vernal City Justice Court;

WHEREAS, pursuant to Utah law, Uintah County Justice Court currently adjudicates cases that arise from the Naples City municipal boundaries pursuant to an Interlocal Agreement between Naples City and Uintah County; Naples City has dissolved its Justice Court;

WHEREAS, the parties are authorized by the Utah Interlocal Cooperation Act, as set forth in Title 11, Chapter 13, Utah Code Ann., to enter into this Agreement for the provision of Justice Court services.

WHEREAS, the parties desire to enter into this Agreement for the provision of Justice Court services under the terms and provisions of this Agreement.

WHEREAS, the Vernal City Justice Court and the Uintah County Justice Court operate as Class II Justice Courts.

WHEREAS, the Vernal City Justice Court and the Uintah County Justice Court are both in compliance with all of the requirements of the operating standards as established by statute and the Judicial Council for the operation of Justice Courts at the time of this Agreement.

WHEREAS, pursuant to Utah Code Ann. Section 78A-7-102 (4) (a) a municipality that has a Justice Court may expand the territorial jurisdiction of the Justice Court by entering into an Agreement under Title 11, Chapter 13, Interlocal Cooperation Act with one or more other municipalities, or the county in which the municipality exists.

WHEREAS, pursuant to Utah law a Justice Court that is enlarged under the foregoing section may not be considered as creating a new Justice Court.

WHEREAS, pursuant to Utah law Vernal City and Uintah County desire to expand the territorial jurisdiction of the Vernal City Justice Court by entering into this Agreement whereby Vernal City shall provide Justice Court services for the following territorial jurisdictions beginning with the effective date of this Agreement: (1) the City of Vernal; (2) the unincorporated area of Uintah County; and (3) Naples City which is included within the current territorial jurisdiction of the Uintah County Justice Court.

WHEREAS, pursuant to Utah law, the expansion of the Vernal City Justice Court, as contemplated by this Agreement, is not considered the establishment of a new Justice Court;

WHEREAS, the Naples City division of the Uintah County Justice Court shall continue to be operated and Justice Court services shall be provided as set forth herein and pursuant to that certain Interlocal Agreement between Naples City and Uintah County dated December 31, 2015 which is incorporated herein.

WHEREAS, pursuant to Utah law, a municipality or county that has a Justice Court at the time of executing an Interlocal Agreement to become part of an expanded Court shall resume operation of the Justice Court upon termination of the Interlocal Agreement in accordance with Utah Code Annotated Section 78A-7-102 (4)(e)(i) or may dissolve its Justice Court pursuant to the provisions of Utah law.

WHEREAS, pursuant to Utah law a municipality or county seeking to expand the territorial jurisdiction of a Justice Court shall notify the Judicial Council no later than 180 days before the expanded Court seeks to begin operation, however upon request of the municipality or county the Judicial Council may shorten the time required between the municipality or county's written declaration and the effective date of the election.

WHEREAS, the parties hereto, shall give notice to the Judicial Council as required by law and shall cause the effective date of this Agreement to be no earlier than the date when the Judicial Council certifies the expansion of the Justice Court.

WHEREAS, Vernal City is willing to enter into this Agreement and thereby assume responsibility for the operation of the expanded Justice Court and other related services covered by this Agreement.

NOW THEREFORE, for and in consideration of the mutual promises, obligations, and/or covenants contained herein, and for other good and valuable consideration, the receipt, fairness, and sufficiency of which are hereby acknowledged, the parties intending to be legally bound do hereby mutually agree as follows:

1. Effective Date of This Agreement. The effective date of this Agreement shall be the earliest date after all of the following are completed (the "Effective Date"):

- A. This Agreement is approved by the legislative body of Uintah County through a resolution;

- B. This Agreement is approved by the legislative body of Vernal City through a resolution;
- C. 180 days after notice to the Judicial Council or earlier if requested by Vernal City and approved by Judicial Council.
- D. This Agreement is approved as to proper form and compliance with applicable law by an attorney authorized to represent Uintah County;
- E. This Agreement is approved as to proper form and compliance with applicable law by the Vernal City Attorney;
- F. This Agreement is filed with the keeper of records for Uintah County; and
- G. This Agreement is filed with the keeper of records for Vernal City.

2. Notice to Judicial Council of Expansion of Vernal City Justice Court. Pursuant to Utah law, Vernal City agrees and warrants, that within five (5) business days of the approval and execution of this Agreement by County and City and legal counsel, Vernal City will notify the Judicial Council that commencing on the effective date, it will expand the territorial jurisdiction of the Vernal City Justice Court in accordance with the terms of this Agreement and shall operate said Court. The expanded Justice Court shall demonstrate that it will be in compliance with all of the requirements of the operating standards as established by Statute and the Judicial Council before the Court expands. Pursuant to Section 78A - 7 - 102 (4) (d) shall certify the expansion of the Justice Court if it determines that the expanded Justice Court is in compliance with the operating standards established by Statute and the Judicial Council.

3. Scope of Service to be Provided. The City commencing on the effective date of this Agreement and continuing for the duration of this Agreement, agrees to provide Justice Court services, including, but not limited to, those services set forth below, for all of the territorial jurisdictions identified in this Agreement;

- A. A court operation with trained judge(s), necessary interpreter services, and staff approved and certified under the Utah Judicial Council standards and policies;
- B. Daily Court Operations,
- C. Fiscal management with separate accounting for all cases arising from within the territorial jurisdiction of Vernal City, Uintah County, and Naples City as maintained by CORIS case management system;
- D. Records management, segregated by jurisdiction and maintained in a

manner which will allow, easily and without material cost or delay, separation of all files, information and data concerning the County's the Naples City and Vernal City cases from other jurisdictions and dissemination to the County and Cities of all such information and data;

- E. CORIS case management system;
- F. Statistics and data, as required by state agencies, to be filed with applicable state agencies including all required information and reports.

4. Territorial Jurisdiction. The parties acknowledge, understand and agree that, commencing on the "Effective Date" and continuing for the duration of this Agreement, the territorial jurisdictions that the expanded Vernal City Justice Court shall serve shall be:

- A. The municipal boundaries of the City of Vernal;
- B. The municipal boundaries of the City of Naples;
- C. The unincorporated area of the County.

5. Jurisdiction Subject Matter. The expanded Justice Court shall have the jurisdiction granted to it by the applicable laws and rules of the State of Utah and, in particular, that jurisdiction granted by Utah Code Ann. 78A-7-106. The Vernal City Justice Court shall have the authority to enforce the County's Ordinances and Naples City Ordinances.

6. Judge's Authority. The parties acknowledge, understand, and agree that the Vernal City Justice Court Judge shall have the authority granted to him or her by applicable law, rule, regulation, or otherwise, including, but not limited to, the applicable parts of Title 78A, Chapter 7 of the Utah Code (as amended) as well as the applicable parts of Title 78A, Chapter 8 of the Utah Code (as amended).

7. Location of Court. The Justice Court shall be operated and located, and the services set forth herein shall be provided at the Vernal City Justice Court facilities when in Court hearing resume services shall be provided in the Uintah County Justice Center court facilities located at Vernal City, Uintah County Utah. Uintah County shall provide without charge the existing Court facilities including but not limited to: Courtroom and furnishings, clerk office and furnishings, jury room, judge's chambers, attorney meeting rooms, holding cells, victim advocate rooms, lobby and restrooms and other facilities currently utilized or dedicated to the Justice Court operation.

Cleaning, maintenance, janitorial services for the Court facilities shall be provided by Uintah County.

8. Certification. The Vernal City Justice Court shall, at all times, meet the minimum requirements for the certification of a justice court as provided in Utah Code Ann. 78A-7-103 or as

otherwise required under applicable law, rule, and/or regulation.

9. Justice Court Judge. The Uintah County Justice Court and the Vernal City Justice Court each currently employ a judge whose term of office extends to 2023.

- A. Vernal City Justice Court Judge, Ray Richards, shall preside over and be the Judge for the expanded Vernal City Justice Court.
- B. In accordance with Utah Code Ann. 78A-7-203, the Judge(s) shall be subject to a retention election in which all registered voters within the territorial jurisdiction of the Court may vote.
- C. In accordance with Utah Code Ann. §78A-7-203(4) the City/County may initiate a reduction in force or eliminate a Judges position at the end of a Judges term.
- D. ~~Uintah County acknowledges Judge Petry shall be paid for the duration of her current term even though the Court is dissolved.~~
- E. Pursuant to Utah Code Ann. § 78A-7-207, the salary of a Justice Court Judge shall not be diminished until the end of the current term.
- F. The Justice Court Judge must meet the requirements specified in Utah Code Ann 78A-7-201 for the Justice Court Judge eligibility and be certified by the Utah Judicial Council to hold office.
- G. The Justice Court Judge shall be paid in accordance with Utah Code Ann. 78A-7-207 during the current term.
- H. The Vernal City Justice Court Judge shall comply with all state requirements for continuing education and attend all orientation and training sessions required by law and the Utah Judicial Council.
- I. Any subsequent vacancy shall be addressed pursuant to Utah Code Ann. 78-A-7-202.

10. Temporary Justice Court Judge. The parties acknowledge, understand and agree that Vernal City when necessary due to illness or unforeseen circumstance, in accordance with applicable law, rule, regulation or otherwise may appoint any senior Justice Court Judge, or a Justice Court Judge currently holding office within the 8th Judicial District, to serve as a temporary Justice Court Judge.

11. Court Hours and Facilities.

- A. All official court business shall be conducted in the Vernal City courtroom

or Uintah County Justice Center or at another location which is conducive and appropriate to the administration of justice.

- B. The hours of the expanded Vernal City Justice Court shall be posted conspicuously at the Uintah County Justice Center and at such public buildings located with the City and County as may be deemed appropriate by the City.
- C. The Justice Court shall have regularly scheduled hours at which the Judge of the Court shall be present and the hours that the Vernal City Justice Court shall be open shall be in compliance with any requirements imposed by State law or the Utah Judicial Council.

12. Copies of Ordinance and Materials. The City shall provide the Justice Court with current copies of *Motor Vehicles Laws of the State of Utah, Utah Code Annotated*, and the *Justice Court Manual* published by the Court Administrators Office, and any other State laws affecting local government. Each participating political subdivision and municipal entity shall be responsible to supply the Justice Court with current copies of its ordinances.

13. Staff. The parties acknowledge, understand, and agree that Uintah County and Vernal City currently have employees who assist in operating and administering the Justice courts, including clerks and a bailiff. Vernal City shall determine the staffing needs for the expanded Justice Court and to the extent reasonably possible and within Vernal City personnel policies and guidelines and as otherwise permitted by law, rule, or regulation, Vernal City agrees to give current Justice Court staff employees significant consideration for staff positions. If less than all current employees are needed the current employer shall affect a reduction in force.

14. Employment Status and Expenses and Performance Standards.

- A. Replacement or Addition of Key Personnel. To the extent reasonably possible under then applicable law, the County shall be invited to attend the interviewing process if the City (a) replaces the sitting judge due to disability, resignation, failure to be retained in an election, or otherwise, or

(b) if the City appoints another judge for the Vernal City Justice Court, provided however, that the City need not obtain the County's approval concerning such appointment(s).
- B. Except as set forth herein for shared expenses, the County shall have no liability for the payment of salaries, wages or other compensation to the Vernal City judge(s), and the Justice Court personnel that are retained.
- C. The expanded Vernal City Justice Court Judge and the Justice Court personnel shall be City employees and have no right to County pension.

civil service, or any other County employment benefits for services provided under this Agreement (this shall not apply to Judge Petry who shall be paid by the County if not retired).

- D. Adequate, competent and appropriate staff shall be provided to the Justice Court to conduct the business of the Justice Court.
- E. The Justice Court clerical personnel shall be employees of the City and therefore, subject to selection, supervision, discipline and personnel policies and procedures of the City as set forth in the *Vernal City Personnel Policies and Procedures*.
- F. The cost and expenses for travel and training of clerical personnel and training sessions conducted by the Judicial Council shall be included in the allocation of Court operating expenses.
- G. Except as set forth herein and subject to cost sharing as set forth herein (Section 23) the City shall assume responsibility for all expenses of the Vernal City Justice Court. In no event shall court space costs, either capital or operational, be considered as an expense in computing the percentage of gross revenues to be allocated to the City and the County pursuant to paragraph 24 of this Agreement.

15. Prosecution. The parties acknowledge, agree, and understand that the prosecution of all cases that are adjudicated by the expanded Justice Court pursuant to this Agreement and that are attributable to cases, matters, issues or otherwise associated with the municipal boundaries of Vernal City shall be prosecuted at the sole cost and expense of Vernal City. All cases that are adjudicated by the expanded Justice Court pursuant to this Agreement that are attributable to cases, matters, issues or otherwise associated with the unincorporated area of the County shall be prosecuted at the sole cost and expense of County. All cases that are adjudicated by the expanded Justice Court pursuant to this Agreement that are attributable to cases, matters, issues or otherwise associated with the municipal boundaries of Naples City shall be prosecuted at the sole cost and expense of Naples City.

16. Indigent Defense. Uintah County, Vernal City, and Naples City shall each be responsible for the costs and expenses, of providing for indigent defense services as required by law for cases arising within each entities' territorial jurisdiction. The entities separately or jointly may apply for or receive assistance in providing for required indigent defense services from the Utah Indigent Defense Fund or other sources that may be or become available.

To the extent that costs and expenses of indigent defense are not covered by other sources of revenue the court-appointed indigent defense service providers shall bill each entity directly for indigent defense services provided, and each entity shall contract with an indigent defense service provider for those services. Pursuant to law the Justice court judge shall appoint those indigent defense service providers which have been contracted by each entity

When individuals convicted of criminal offenses that have received indigent defense services are ordered by the court to make payment or restitution for those indigent defense services 100% of the amounts so paid and collected shall be allocated and disbursed to the entity that paid for those indigent defense services

17. Bailiff Services. City shall provide adequate court security and bailiff services as needed and required for the safe and secure operation of the Justice Court. All bailiff costs and expenses shall be included in the operation and maintenance costs for the court and paid by the City with the costs allocated proportionately as set forth in Section 23.

County through the Uintah County Sheriff's Office shall at the request of City provide the necessary Bailiff services the costs of which shall be paid as a Court expense to the County. City at its option may hire or contract with other qualified personnel to provide all or a portion of the necessary court bailiff services.

18. Security Surcharge; Application; Deposit in Restricted Accounts. The parties acknowledge, understand and agree that the expanded Vernal City Justice Court shall assess, collect, remit, allocate, or otherwise handle surcharges in accordance with applicable law, rule, regulation, or otherwise. Funds received will be applied to pay the costs of Court security and bailiff services.

19. Funds Collected; Deposits and Reports; Special Account; Accounting. The parties acknowledge, understand and agree that the expanded Vernal City Justice Court shall collect funds, make deposits and prepare or issue reports, create a special account, and provide an accounting and make disbursements in accordance with applicable law, rule, regulation, or otherwise.

20. Court Fund. City shall establish a separate Court fund in accordance with State and city financial policies and procedures into which all revenue derived from the court operations as well as payments from City and County shall be deposited and from which all expenditures related to the Justice Court shall be made

21. Budget. The City shall review, determine and approve the budget for the expanded Vernal City Justice Court as part of its annual budgeting process.

- A. Budget approval for the Justice Court shall be in accordance with the provisions of the Uniform Fiscal Procedures for Utah Cities as set forth in Title 10 Chapter 6 Utah Code Ann.
- B. The fiscal year for the Justice Court shall be from July 1 to June 30 of each year.

22. Allocation and Payment of Operating Costs and Expenses. All costs and expenses

of the operation and maintenance of the expanded Justice Court including personnel, training, etc. shall be allocated between and paid by the parties in proportion to the number of cases filed arising within the territorial jurisdiction of each party. For purposes of cost allocation Naples City cases shall be included in the count of County cases.

Case counts shall be on a calendar year basis. City shall maintain records of the number of cases filed from each jurisdiction for purposes of allocating expenses and shall provide those numbers to County on or about January 30 of each year. All costs of operation and maintenance of the Court for the next fiscal year shall be allocated in proportion to that case count.

For the first year of operation the applicable case count shall be the preceding 12 months.

Payment of the County share of the Court expenses shall be made to Vernal City on a monthly basis.

Vernal City shall give notice to County of the proportionate share of Justice Court expenses to be paid by County on or before March 30 of each year. The new allocation shall become effective on July 1 of each year.

Any capital expenses in excess of \$10,000 shall be approved by City and County except that any capital expenses mandated by law or required in order to maintain certification of the Court does not require prior County approval.

23. Distribution of Gross Revenues. The parties have reviewed and considered the various economic benefits and consequences to both parties and other factors of the County and the City in order to determine the full and unique circumstances of the parties, what is the appropriate and reasonable allocation of the Vernal City Justice Court revenues. Based upon this review and consideration, as well as the negotiations involved, and existing agreement with County and Naples, the parties have determined that the allocation of the expanded Justice Court gross revenues is as follows:

- A. The allocation and distribution of the gross revenues received by the expanded Vernal City Justice Court shall be determined and made monthly on the following basis:
 - i. Unless otherwise set forth to the contrary herein, one hundred percent (100%) of the gross revenues attributable to cases, matters, issues, or otherwise associated with the territorial jurisdiction of Vernal City, shall be allocated and distributed to the City;
 - ii. Unless otherwise set forth to the contrary herein, fifty percent (50%) of gross revenues of cases, matters, issues or otherwise associated with the municipal boundaries of the City of Naples shall be allocated and distributed to the County, and fifty percent (50%) to Naples City.

- iii. Unless otherwise set forth to the contrary herein, one hundred percent (100%) of the gross revenues attributable to cases, matters, issues, or otherwise associated with the unincorporated area of the County shall be allocated and distributed to County.
 - B. An accounting of all revenues and expenses of the expanded Justice Court, as well as the distribution of the revenues to the parties shall be made at least quarterly to the parties.
 - C. For in those cases which are opened in the Uintah County Justice Court prior to the effective date of this agreement and which are transferred as open cases to the expanded Vernal City Justice Court, if a fine has been imposed as part of a sentence, and funds continue to be collected on that case, the allocation of the revenues actually collected shall be fifty percent (50%) to the City and fifty percent (50%) to the County. Allocation of revenues for such Naples City cases shall be fifty percent (50%) to County and fifty percent (50%) to Naples City.
 - D. "Gross revenues" means, for the purposes of this Agreement, the total of all fines, plea in abeyance fees, forfeitures, and filing fees actually received by the expanded Vernal City Justice Court, but does not include any court or other costs assessed against a party, bail (except bail forfeitures), restitution, program fees or costs or any surcharges received pursuant to Utah Code Ann. 51-9-4 *et seq.*
 - E. The City shall not be obligated to pay nor is the County entitled to receive, any interest on the share of the gross revenues allocated and distributed to the City.
24. Reports.
- A. In accordance with Section 78A-7-215, Utah Code Ann., the Presiding Justice Court Judge shall file monthly reports with the Office of the Utah State Court Administrator as well as copies to the County and City and Naples City. The reports shall include, at the least, the number of cases, the dispositions entered and other information as specified in forms provided by the State Court Administrator's Office.
 - B. Annually, the Presiding Justice Court Judge shall appear before the Board of County Commissioners and City Councils, if requested to do so, for the purpose of making a report of the Court and its activities as they pertain to the County and the Cities and to respond to any inquiries.
25. Effective Date. This Agreement shall become effective as set forth in Section 1, 2,

and 3. The transition of cases and records shall comply with the transition process set forth in Section 26 and as approved by the Utah Judicial Council and the Administrative Office of the Courts. The City represents and warrants to the County that it will work, in good faith, with the Office of the Utah State Court Administrator and/or the Judicial Council to expand the Justice Court within 180 days.

26. Transition.

- A. The parties desire to commence the transition of cases from the Uintah County Justice Court to the Vernal City Justice Court as efficiently and timely as possible. Subject to final approval by the Utah Judicial Council and the Administrative Office of the Courts, the parties desire to start transitioning new cases from the Uintah County Justice Court no later than 180 days from the effective date. The parties further desire to complete the transition of all cases from the Uintah County Justice Court to the expanded Justice Court as soon as possible.
- B. Subject to the terms and conditions of Subsection A above, all new citations issued on or after the effective date, which would be cited into the Uintah County Justice Court, shall be cited and forwarded to the expanded Vernal City Justice Court.
- C. Subject to the terms and conditions of Subsection A above, all cases that are open and existing within the Uintah County Justice Court as of the effective date shall be transferred to the Vernal City Justice Court as soon as is feasible by the Administrative Office of the Courts.
- D. On the effective date Uintah County shall cease to operate the Uintah County Justice Court and the expanded Vernal City Justice Court operated by Vernal City shall operate and provide the services set forth herein.
- E. The County shall notify all agencies which currently cite cases into the Uintah County Justice Court of the transfer of cases to the expanded Justice Court and the requirement that all citations issued on or after the effective date, be cited into the expanded Vernal City Justice.

27. Initial Term & Termination.

- A. This Agreement shall continue in effect for fifty (50) years or until terminated by :
 - i. The mutual consent of the parties or by either party giving notice in writing at least eighteen months prior to the anniversary of the effective date;

- ii. Notwithstanding anything herein, by either party after:
 - (a) Any material breach of this Agreement; and
 - (b) After the nonbreaching party provides the breaching party with a written notice to cure the material breach within thirty (30) business days after receiving the written notice to cure the material breach and the breaching party fails to timely cure the material breach;
 - (c) The termination shall take effect at the end of the City's fiscal year.

28. Resolutions of Approval. This Agreement is conditioned upon approval and adoption by Resolution of the legislative body of each party in accordance with Utah Code Ann. 11-13-202.5.

29. Attorney Opinions. This Agreement is conditioned upon the signed approval of the authorized attorney of each party approving this Agreement as to its form and compatibility with state law in accordance with Utah Code Ann. 11-13-209.

30. Filing of Agreement. This Agreement is conditioned upon the Agreement being filed with the keeper of records for both the City and the County in accordance with 11-13-202.5.

31. Authorization. The individuals executing this Agreement on behalf of the parties confirm that they are the duly authorized representatives of the parties and are lawfully authorized to execute this Agreement on behalf of the parties.

32. Notice. Any notice required or permitted to be given under this Agreement shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within two days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below:

Vernal: Vernal City
 Attn: City Manager
 374 East Main
 Vernal, Utah 84078

With a copy to: Dennis L. Judd, P.C.
 Vernal City Attorney
 479 South Vernal Ave.
 Vernal, Utah 84078

Uintah County: Uintah County
 Attn: Chair, Uintah County Board of County Commissioners
 2nd Floor West Wing
 152 East 100 North
 Vernal, Utah 84078

With a Copy to: Jon Stearmer
 Uintah County Attorney's Office
 Attn: Civil Division
 641 East 300 South
 Vernal, Utah 84078

Names and addresses above may be substituted by either party at any time by written notice to the other party.

33. No Separate Legal Entity. No separate legal entity is created by this Agreement.

34. Benefits. The parties acknowledge, understand, and agree that the parties and their respective representatives, agents contractors, officers, officials, members, employees, volunteers, and/or any person or persons under the supervision, direction, or control of the parties are not in any manner or degree employees of the other party and shall have no right to and shall not be provided with any benefits from the other party.

35. Waivers or Modification. No waiver or failure to enforce one or more parts or provisions of this Agreement shall be construed as a continuing waiver of any part or provision of this Agreement, which shall preclude the parties from receiving the full bargained for benefit under the terms and provisions of this Agreement. A waiver or modification of any of the provisions of this Agreement or of any breach thereof shall not constitute a waiver or modification of any other provision or breach, whether or not similar, and any such waiver or modification shall not constitute a continuing waiver. The rights of and available to each of the parties under this Agreement cannot be waived or released verbally, and may be waived or released only by an instrument in writing, signed by the party whose rights will be diminished or adversely affected by the waiver.

36. Relationship of the Parties. The relationship between the parties is an arms-length contractual relationship, and is not fiduciary in nature. Nothing contained in this Agreement will be deemed to create an association, partnership, or joint venture between the Parties, give rise to fiduciary duties, or cause any of the parties to be liable or responsible in any way for the actions, liabilities, debts or obligations of the other party. The parties shall not have any rights, power, or authority to make any representation or to assume or create any obligation, whether express or implied, on behalf of the other party(ies), or to bind the other party(ies) in any manner.

37. Binding Effect; Entire Agreement. Amendment. This Agreement is binding upon and shall inure to the benefit of the parties and their respective heirs, successors, assigns, officers, directors, employees, agents, representatives, subrogees and to all persons or entities claiming by,

through or under them. This Agreement, including all attachments, if any, constitutes and/or represents the entire Agreement and understanding between the parties with respect to the subject matter herein. There are no other written or oral agreements, understandings, or promises between the parties that are not set forth herein. Unless otherwise set forth herein, this Agreement supersedes and cancels all prior agreements, negotiations, and understandings between the parties, whether written or oral which are void, nullified and of no legal effect if they are not recited or addressed in this Agreement. Neither this Agreement nor any provisions hereof may be supplemented, amended, modified, changed, discharged, or terminated orally. Rather, this Agreement and all provisions hereof may only be supplemented, amended, modified, changed, discharged, or terminated by an instrument in writing, signed by the parties.

38. Enforcement of Agreement. The parties hereto shall be responsible for their respective attorneys' fees, expenses, and costs incurred by them through the date of this Agreement. In the event that any party breaches this Agreement, however, such defaulting party shall pay, in addition to any other liability, all costs and expenses incurred by or on behalf of the non-breaching party or its successor-in-interest in enforcing, or in exercising any remedies under, this Agreement, including, but not limited to, reasonable attorneys' fees and costs, whether or not any action or proceeding is brought to enforce the provisions hereof (including, without limitation, all such costs and expenses incurred in connection with any bankruptcy, receivership, or other court proceedings (whether at the trial or the appellate level)).

39. Choice of Law; Jurisdiction; Venue. This Agreement and all matters, disputes, and/or claims arising out of, in connection with, or relating to this Agreement or its subject matter, formation or validity (including non-contractual matters, disputes and/or claims) shall be governed by, construed, and interpreted in accordance with the laws of the State of Utah. The parties irrevocably agree that the courts located in Uintah County, State of Utah (or Salt Lake City, State of Utah, for claims that may only be litigated or resolved in the federal courts) shall have exclusive jurisdiction and be the exclusive venue with respect to any suit, action, proceeding, matter, dispute, and/or claim arising out of, in connection with, or relating to this Agreement, or its formation or validity.

40. Severability. If any part or provision of this Agreement is found to be prohibited or unenforceable in any jurisdiction, such part or provision of this Agreement shall, as to such jurisdiction only, be inoperative, null and void to the extent of such prohibition or unenforceability without invalidating the remaining parts or provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render inoperative, null or void such part or provision in any other jurisdiction. Those parts or provisions of this Agreement, which are not prohibited or unenforceable, shall remain in full force and effect.

41. Rights and Remedies Cumulative. The rights and remedies of the parties under this Agreement shall be construed cumulatively, and none of the rights and/or remedies under this Agreement shall be exclusive of, or in lieu or limitation of, any other right, remedy or priority allowed by law, unless specifically set forth herein.

42. No Third-Party Beneficiaries. This Agreement is entered into by the parties for

the exclusive benefit of the parties and their respective successors, assigns and affiliated persons referred to herein. Except and only to the extent provided by applicable statute, no creditor or other third party shall have any rights under this Agreement.

43. Time of Essence. Time is of the essence in respect to all parts or provisions of this Agreement, which specify a time performance or otherwise, and the parties agree to comply with all such times.

44. Execution of Additional Documents. Each of the parties agrees to execute and deliver any and all additional papers, documents, instruments, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the parties.

45. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 21 day of December, 2020.

UINTAH COUNTY

By: [Signature]
 Uintah Commission Chair

Attest:

By: [Signature]
 Uintah County Clerk/Auditor



Attest:

By: [Signature]
 Vernal City Recorder

VERNAL CITY

By: [Signature]
 Vernal City Mayor



Approved as to form and conformance in the law:

A handwritten signature in blue ink, appearing to be 'D. Smith', written over a horizontal line.

Vernal City Attorney

A handwritten signature in blue ink, appearing to be 'J. Thomas', written over a horizontal line.
chief Deputy

Uintah County Attorney

chief Deputy

Tab 5



Administrative Office of the Courts

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

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee

FROM: Jim Peters, Justice Court Administrator

DATE: February 8, 2021

RE: Frequency of Board Reports to the Judicial Council

Rule 1-303(3) of the Code of Judicial Administration requires that the Board of District Court Judges, the Board of Juvenile Court Judges and the Board of Justice Court Judges report to the Judicial Council a minimum of once every three months. These boards are chaired by Judge Lawrence, Judge Leavitt and Judge Romney, respectively. Each of them supports the idea of reporting to the Judicial Council on a less frequent basis. Until recently, the practice was to report every six months. On their behalf, I would request that this item be included on the agenda for the Council meeting set for February 22, 2021. In the meantime, I have attached the current rule, as well as the changes made to that rule in 2019, for your reference.

Rule 1-303. Internal procedures and organization.**Intent:**

To provide the minimum standards and requirements for the operation of the Boards.

To establish the minimum requirements for liaison with the Council.

Applicability:

This rule shall apply to all Boards of Judges, except the Board of Senior Judges.

Statement of the Rule:

(1) The meetings of the Boards shall be closed unless opened by the chair of the Board.

(2) Each Board shall keep minutes of its meetings. The minutes shall not be open to public inspection.

(3) Each Board shall meet as necessary to accomplish its work, but the Board of District Court Judges, Board of Juvenile Court Judges, and Board of Justice Court Judges shall meet a minimum of once every three months. Each Board shall report to the Council as necessary, but the Board of District Court Judges, Board of Juvenile Court Judges, and the Board of Justice Court Judges shall report to the Council a minimum of once every three months.

Effective December 16, 2019

Rule 1-303. Internal procedures and organization.

Intent:

To provide the minimum standards and requirements for the operation of the Boards.

To establish the minimum requirements for liaison with the Council.

Applicability:

This rule shall apply to all Boards of Judges, except the Board of Senior Judges.

Statement of the Rule:

(1) The meetings of the Boards shall be closed unless opened by the chair of the Board.

(2) Each Board shall keep minutes of its meetings. The minutes shall not be open to public inspection.

(3) Each Board shall meet as necessary to accomplish its work, but the Board of District Court Judges, Board of Juvenile Court Judges, and Board of Justice Court Judges shall meet a minimum of once every three months. Each Board shall report to the Council as necessary, but the Board of District Court Judges, Board of Juvenile Court Judges, and the Board of Justice Court Judges shall report to the Council a minimum of once every three months.

Tab 6

Judicial Council Grant Application Proposal Code of Judicial Administration 3-411

NON-FEDERAL GRANTS

Contact Person/Phone: Jordan Murray (801) 578-3847 Date: 5/11/2021

Judicial District or Location: Third Judicial District / Appellate Courts

Grant Title Utah's Office of Legal Services Innovation Grantor: William & Flora Hewlett Foundation

Grant type (check one): ☒ New ☐ Renewal ☐ Revision

Grant Level (check one): ☐ Low ☒ Med. ☐ High.
\$10,000 to \$50,001 \$50,000 to \$1,000,000 Over \$1,000,000

Issues to be addressed by the Project: Funding for staff at Utah's Office of Legal Services Innovation

Explanation of how the grant funds will contribute toward resolving the issues identified: Provides staff compensation for Utah's Office of Legal Services Innovation ("Innovation Office") over a two-year period for the Executive Director, Data Analyst, and Project Manager. These funds also support the hiring of a Website/Marketing Contractor as well as an IT Consultant, in addition to fees for Auditor Contractors.

Fill in the chart(s) for estimated state fiscal year expenditures for up to three years:

Total Funding Sources

NO CASH/IN-KIND MATCH REQUIRED	
State Fiscal Year	Grant Amount
FY 2022	\$ 140,000
FY 2023	\$ 110,000
Total Award	\$ 250,000

			(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
			MATCHING STATE DOLLARS					
State Fiscal Year	Grant Amount	Other Matching Funds from Non-State Entities	General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
FY 2022	\$140,000	\$0	\$0	\$0	\$0	\$0	\$0	\$140,000
FY 2023	\$110,000	\$0	\$0	\$0	\$0	\$0	\$0	\$110,000
FY								\$0

			(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
			MATCHING STATE DOLLARS					
State Fiscal Year	Grant Amount	Other Matching Funds from Non-State Entities	General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
FY 2022	\$140,000	\$0	\$0	\$0	\$0	\$0	\$0	\$140,000
FY 2023	\$110,000	\$0	\$0	\$0	\$0	\$0	\$0	\$110,000
FY								\$0

Comments: No cash or in-kind matching from the Courts are contributed to this grant award.

Will additional state funding be required to maintain or continue this program or its infrastructure when this grant expires or is reduced? Yes ☐ No ☒ If yes, explain: _____

Will the funds to continue this program come from within your existing budget: Yes ☐ No ☒ N/A ☐

How many additional permanent FTEs are required for the grant? 0 Temp FTEs? .48 (time-limited)

This proposal has been reviewed and approved by the following: (Y/N)

N/A* The court executives and judges in the affected district(s).

Y The Grant Coordinator and the Budget Manager at the Administrative Office of the Courts.

N/A* The affected Board(s) of Judges.

*Per Brent Johnson, no courts or Boards of Judges are affected by this award; reviewed 5/5/2021

Approved by the Judicial Council _____ by _____
Date Court Administrator

Copy forwarded to Legislative Fiscal Analyst _____
date

Unit 2938 - Hewlett Foundation Award – Regulatory Reform (Sandbox)

In April 2020, the Judicial Council approved the acceptance of a \$200,000 grant from the State Justice Institute (SJI) to fund a “regulatory sandbox” for legal services. The sandbox is an innovative policy tool that allows new entities in the legal market to test cutting-edge products and services in a safe and controlled environment, with the ultimate goal of leveraging new technologies and business models to increase access to justice. To oversee the sandbox, the Utah Office of Legal Services Innovation (“Innovation Office”) was created. The Hewlett Foundation has awarded the Innovation Office \$250,000 in grant funds to support the compensation of staff and the hiring of contractors/consultants to help carry out the mission of the sandbox project over two years. ***This request is to accept a \$250,000 grant from the Hewlett Foundation in support of Utah’s Office of Legal Services Innovation. The award agreement must be executed and delivered to grantor by June 12, 2021.***

Date: May 11, 2021

Grantee: Utah Supreme Court
Grantor: The Hewlett Foundation
Total amount: \$250,000
Courts matching: None
Employees funded: .48 FTE (time-limited)
Grant reporting: None, waived by grantor
Grant term: 4/1/21 – 3/31/23
Moratorium exemption category: Time-sensitive funds for a priority project as stipulated by the Judicial Council
Incremental Impacts: See AOC Resource Impact Assessment

Re: Request to accept a Hewlett Foundation award (\$250,000) in support of Utah’s Innovation Office. **Requested by:** Jordan Murray & Lucy Ricca

- I. **Background:** The Court seeks to accept this \$250,000 grant from The Hewlett Foundation to support its work reforming the regulation of the practice of law and the legal profession. This effort is being accomplished through the ongoing development of a new regulatory entity – the Utah Office of Legal Services Innovation (“Innovation Office”) overseeing a regulatory sandbox through which nontraditional providers of legal services (including nonlawyer owned and corporate providers as well as nonlawyer practitioners) can operate. In a country in which approximately 80% of people do not get help for their legal problems, the objective of this reform project is to drive growth, innovation, and diversification in the legal services market to increase Utah’s ability to access legal help. The Court’s regulatory reform project

Unit 2938 - Hewlett Foundation Award – Regulatory Reform (Sandbox)

is the first significant change to the regulation of the practice of law in over 100 years and is the first of its kind not only in the United States, but throughout the world in that it uses an empirically-driven, risk-based approach to regulation. This approach has the potential to be responsive to a wide range of innovative models and services, including those offered through technology, because it focuses not on pre-established, prescriptive rules but rather on outcomes shown through regularly reported data. The Court's reforms are being closely watched by multiple other states and countries and the hope is that this approach offers a workable, "out-of-the-box" regulatory model which other jurisdictions can put to use to increase innovation and access to justice.

- II. **Proposed utilization of grant funds:** The funds provided by the Hewlett Foundation will support the compensation for Innovation Office staff, including the Executive Director, the Data Analyst, and the Project Manager. The Innovation Office is presently funded with a State Justice Institute (SJI) award which prohibits use of grant funds to compensate Court employees, including new positions created specifically for the grant project (42 U.S.C. 10706(d)(1)). In the agreement approved by SJI in April 2020, the project manager was included in the grant budget and funds subsequently had to be reallocated just prior to hiring after it was determined the position had to be that of an employee. As a stopgap measure to temporarily support this position, the Supreme Court allocated \$10,000 from its expense budget until private foundation grant funds were available. The Hewlett award represents this very funding. This grant award also supports the hiring of a website/marketing contractor as well as an IT consultant. The work performed by these positions includes the continued development and administration of the Innovation Office, processing and assessing applicants, monitoring and oversight of the authorized entities, and conducting enforcement activities as necessary. The funds will also go to compensate attorney auditors retained by the Innovation Office to audit higher risk services offered in the sandbox.
- III. **If this grant is not funded at this time, what are the consequences or is there an alternative strategy?** If these grant funds are not accepted, the Innovation Office would need to seek other sources of funding to provide the necessary compensation for staffing of critical positions. Without these investments in personnel, the operating capacity at the Innovation Office would be diminished thus inhibiting progress towards future project phases including the generation of revenue from fee-paying entities. Lastly, the Hewlett Foundation funds are less restrictive than alternative funding sources, which provides the Office with greater budget flexibility through FY 2023.

Unit 2938 - Hewlett Foundation Award – Regulatory Reform (Sandbox)

AOC RESOURCE IMPACT ASSESSMENT

Grantor: The William & Flora Hewlett Foundation

Supporting: Regulatory Sandbox: Utah Office of Legal Services Innovation

Recommendation: This award provides funding for additional resources and increases capacity without generating new, unfunded costs for the Courts. No incremental impacts to the Courts are expected to result from the Hewlett Foundation award (*see impact chart below*). The addition of these funds formulates a braided funding structure, complementing an active grant award (\$200,000) from the State Justice Institute (SJI) that is supporting equipment purchases and personnel costs at the Office of Legal Services Innovation (“Innovation Office”). ***This assessment concludes that current Court resources are adequate to support implementation of this award and resource impacts (noted below) are sufficiently addressed.***

	IMPACT TYPE	GRANT COORDINATOR ASSESSMENT
1	Incremental Costs <i>Defined as new costs (other than costs covered by this grant) incurred by the Courts as a result of accepting this grant that would not otherwise be incurred if the grant were not to be accepted. Incremental costs include costs covered by this grant that will persist after grant resources are expended.</i>	No incremental costs are expected to result if this funding is accepted. Funding from the Hewlett Foundation will increase the capacity of the Innovation Office to function independently without generating additional costs to the Courts during the term of this grant. Before the end of this award period in 2023, additional grants and one-time funds will be sought to support the Innovation Office. This may include any costs associated with ongoing contractor and/or consultant services newly funded by this grant (\$85,000, <i>Exhibit A, rows 4-6</i>) and ongoing support for existing staff positions partially funded by this grant (\$165,000, <i>Exhibit A, rows 1-3</i>).
2	Incremental Resources <i>Defined as the additional resources to be provided by the grant.</i>	
3	Incremental Capacity <i>Defined as suitability of current staffing levels to support additional work or output generated by the grant.</i>	As the Innovation Office continues to ramp-up operations and incorporate more entities into the regulatory sandbox, this funding supports the additional capacity necessary to meet demand. Prior to full expenditure of the award, additional grants and one-time funds will be sought to maintain staffing capacity supported by this award. See below for capacity assessment (<i>items a-e</i>).

Unit 2938 - Hewlett Foundation Award – Regulatory Reform (Sandbox)

	<ul style="list-style-type: none"> a. IT work for this project is being accomplished with an external vendor and outside the Courts environment (i.e., not the utcourts.gov domain). Accordingly, and per AOC Chief Information Officer (Heidi Anderson), no incremental impacts on IT capacity are anticipated at this time. While not expected, if project needs change the Grants Coordinator will conduct an additional review to ascertain any impacts. b. The Grants Coordinator (Jordan Murray) and Appellate Court Administrator (Nick Stiles) have adequate capacity to continue supporting administrative tasks associated with the award. c. General Counsel (Brent Johnson) suspects their resources may be called upon slightly more often as the Innovation Office grows, but are adequately staffed to provide any incremental support. d. Human Resources (Bart Olsen) reports that HR would not be subjected to incremental capacity impacts as grant funds would not be used for the hiring of employees. e. Contracting (Dustin Treanor) confirms that any resulting contractor and consultant solicitations/requests for proposal associated with this grant would not produce incremental capacity concerns.
4	Cash Match Required? No
5	In-Kind Match Required? No
6	Judiciary employees directly supporting project activities? Yes - the Project Manager position is staffed by a time-limited Court employee to be funded with this award (.48 FTE)
7	Consultants & Contractors (non-employees) directly supporting project activities? Yes - <i>See Exhibit A</i>

Unit 2938 - Hewlett Foundation Award – Regulatory Reform (Sandbox)

EXHIBIT A

Future Hours to be Funded from this Grant

Note: Positions listed below are contractors & consultants (non-employees) excluding the project manager (row 3) which is currently supported with one-time funds from the Supreme Court's expense budget.¹ *Hours funded by this grant are not full-time status.*

	Position Title	Hours Funded During Term of Grant (24 months)	Amount
1	Executive Director	2,598 hrs.	\$55,000
2	Data Analyst	2,097 hrs.	\$50,000
3	Project Manager	2,000 hrs.	\$60,000
4	Website/Marketing Contractor	1,000 hrs.	\$20,000
5	Technology Consultant	500 hrs.	\$15,000
6	Auditor Contractors	\$50/audit	\$50,000
TOTAL			\$250,000

Key

- Current personnel
- To be hired

1. State Justice Institute (SJI) awards prohibit use of grant funds to compensate employees, including new positions created specifically for the grant project. In the agreement approved by SJI in April 2020, the project manager position was included in the grant budget. This position ultimately needed to be that of an employee, and subsequently funds were reallocated just prior to hiring. As a stopgap measure to temporarily support this position, the Supreme Court allocated \$10,000 from its expense budget until private foundation grant funds were available. The Hewlett award represents this private funding.

Attachment A

THE WILLIAM AND FLORA HEWLETT FOUNDATION

Office of the President

April 13, 2021

Ms. Lucy Ricca
Executive Director, Office of Legal Services Innovation, Utah Supreme Court
State of Utah Supreme Court
450 South State, 5th Floor,
P. O. Box 140210
Salt Lake City, UT 84114-0210

Reference: Grant #2021-2810

Dear Ms. Ricca:

I am pleased to inform you that The William and Flora Hewlett Foundation (the “Foundation”) has authorized a grant of \$250,000 over two years to State of Utah Supreme Court (“Grantee”) for Utah's Office of Legal Services Innovation and Regulatory Sandbox. The grant will be paid in one installment. This grant is for Utah's Office of Legal Services Innovation and Regulatory Sandbox.

In order for the Foundation to make payment, Grantee must accept the terms of the grant as set forth in the following paragraphs. The terms of this award letter constitute the entire agreement between the Foundation and the Grantee and supersede any prior oral or written understandings or communications between them. Please note that the Foundation reserves the right to cancel this grant if a signed copy of this Agreement is not received by the Foundation within 60 days of the date first written above.

Tax Status. Grantee confirms that it is a governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code, or a Federal, state, local, or foreign government body, agency, or instrumentality that is treated as an organization described in Code Sections 501(c)(3) and 509(a)(1).

Use of Grant Funds. Grantee agrees that the grant funds will be used exclusively for charitable purposes as described in Section 501(c)(3) or Section 170(c)(1) of the Internal Revenue Code, and only in support of the activities described in Grantee's proposal of March 12, 2021 and the budget attached thereto. Funds not used during the term of the grant (April 19, 2021 to April 19, 2023) must be returned to the Foundation unless an extension is approved at Grantee's request and in the Foundation's discretion.

Grantee agrees to repay to the Foundation any portion of the grant funds expended in violation of this Agreement.

State of Utah Supreme Court
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Prohibited Use of Funds. Grantee agrees to not use any portion of the grant funds to any extent for any of the following:

- a. To participate in any political campaign on behalf of or in opposition to any candidate for public office or to otherwise influence the outcome of any specific public election as described in Section 4945(d)(2) of the Internal Revenue Code; or
- b. For any non-charitable purposes.

Limitations on Lobbying Activity. Grantee attests that the lobbying amount shown on the project budget is a good faith estimate of the lobbying expenses expected to be incurred in connection with the activities described in its proposal. Grantee represents that the amount of this grant, together with the amount of any other grants that Grantee has received from the Foundation for the same project for the same year does not exceed the amount of Grantee's budget for project activities that are not attempts to influence legislation.

Grantee acknowledges that the Foundation has not designated or earmarked any part of the grant funds for the carrying on of propaganda or attempting to influence legislation within the meaning of Internal Revenue Code Sections 501(h), 4945(d)(1) and 4945(e) and related regulations (these provisions include local, state, federal, and foreign legislation), and neither Grantee nor the Foundation has entered into any agreement, oral or written, to the contrary.

Please note that in the event Grantee uses any of the grant funds to influence governmental action in ways permissible under the Internal Revenue Code and the terms of this Agreement, Grantee may have lobby reporting or other disclosure requirements under the laws of a particular state or other jurisdiction; note further, that state law may include influencing state administrative agencies within the definition of lobbying. Grantee acknowledges that Grantee is solely responsible for complying with any and all applicable lobby reporting or other disclosures.

Special Limitations for Ballot Questions. The Foundation intends that the grant funds shall not be used to influence the qualification or passage of any ballot question or similar legislative decision put to voters. As an essential condition for receiving the grant funds, Grantee shall not use any portion of the grant funds in any manner that would cause the Foundation to be identified as funding reportable lobbying, or require the Foundation to register under any applicable state or local disclosure law, except as may otherwise be provided in this Agreement.

Human Subject Research. Safeguarding the rights and welfare of human subjects involved in research is principally the responsibility of the Grantee. However, while the Foundation does not micromanage or seek to interfere in the implementation of grants, Grantees conducting human subject research must have appropriate standards to ensure compliance with generally accepted research ethics. If grant funds will be used in whole or in part for

State of Utah Supreme Court
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research involving human subjects, Grantee represents that it has such rules and review processes in place and that these rules and processes will be followed. (Such processes may include: obtaining and maintaining institutional review board (or a research ethics review committee) approval, and informed consent of participating research subjects.) Grantee agrees that any subgrant or subcontract awarded by Grantee in its performance of the activities under this grant shall include similar rules and processes in regards to human subject research.

Grantee Control of Funds. Grantee acknowledges that there is no agreement, oral or written, whereby the Foundation has designated or earmarked any part of the grant funds for any specific named organization or individual. Furthermore, Grantee retains full authority and control over the selection process of any re-grants contemplated under the proposal. Specifically, any re-grants will be approved by the Grantee's Board of Directors or its designee. The Foundation may not select re-grantees.

Grant Payment. The Foundation's disbursement of payments is contingent upon the Foundation's determination, in its sole discretion, that satisfactory performance of the grant purpose has occurred and is likely to continue to occur. Funding may be modified or discontinued, and any unspent grant funds must be repaid, if at any time the Foundation determines that the conditions of this Agreement are not being met or that satisfactory performance has not occurred.

Payment will be made as follows, subject to the contingencies provided in this grant agreement letter:

Projected date	Amount	Contingency
Within 30 days of receipt of signed letter agreement	\$250,000	Receipt of signed grant agreement letter

Grant payments will be made by wire transfer into the Grantee's bank account in accordance with the instructions on the signed wire transfer form, which is incorporated herein by reference.

Grant Conditions (Financial Accounting Treatment Only). While grant funds are restricted and intended for use for the purposes described in this Agreement, for financial accounting treatment, the grant funds shall not be deemed to be conditioned upon the accomplishment of any particular, measurable goal or metric, unless that condition is specifically identified in the space below:

Projected date of payment	Amount	Financial accounting condition
Not Applicable	Not Applicable	Not Applicable

Compliance with Laws; Government Officials. Grantee represents to the Foundation that Grantee is legally authorized to enter into this Agreement and that Grantee has complied with and will continue to comply with all applicable local, state, federal and international laws or requirements, including laws governing contacts with government officials (e.g., anti-bribery laws such as the Foreign Corrupt Practices Act) and anti-terrorism laws and sanctions, in connection with the performance of the activities under this grant.

Grantee further represents, except as otherwise set forth in this Agreement, that there is no agreement, written or oral, between the Foundation and the Grantee whereby the Foundation may direct the activities of the Grantee, including, if applicable, causing the selection of any government official to attend or participate in any event or activity of the Grantee. The Grantee exercises control over that selection process and makes the selection completely independent of the Foundation. Grantee acknowledges that the Foundation is relying upon the representations made by the Grantee in this section in determining that there is no legal impediment to the Foundation's making a grant to the Grantee.

Anti-Terrorism. You will not use funds provided under this Grant Agreement, directly or indirectly, in support of activities (a) prohibited by U.S. laws related to combatting terrorism; (b) with or related to parties on the List of Specially Designated Nationals (www.treasury.gov/sdn); or (c) with or related to countries against which the U.S. maintains a comprehensive embargo (currently, Cuba, Iran, (North) Sudan, Syria, North Korea, and the Crimea Region of Ukraine), unless such activities are fully authorized by the U.S. government under applicable law and specifically approved by the Foundation in its sole discretion. Further, you represent that Grantee is not the target of economic or trade sanctions, and Grantee will immediately inform the Foundation if Grantee becomes the target of economic or trade sanctions, including any ownership or control of Grantee by one or more persons on the List of Specially Designated Nationals.

Intellectual Property. Grantee will retain all rights, including intellectual property rights, in and to final works resulting from projects supported by Foundation grant funds (the "Work Product"), and nothing in this Agreement will be deemed or interpreted to transfer ownership of any such rights to the Foundation. Nevertheless, to ensure that Foundation's grants have as broad an impact as possible, the Foundation requires grantees to license Work Product through an open license. Accordingly, Grantee agrees to make Work Product available to the public in a readily accessible format (e.g., on Grantee's public website) under the most recent version of the Creative Commons Attribution license (CC BY). In addition, the Foundation

acknowledges that Grantee retains the right to also make the Work Product available under separate license terms, in its discretion.

Full legal text of the above referenced license is available at the following URL and Grantee should take the time to read and understand the license terms and conditions:

- <http://creativecommons.org/licenses/by/4.0/legalcode> (a summary may be found at <http://creativecommons.org/licenses/by/4.0/>)

The Foundation respects the intellectual property rights of others. Accordingly, the Foundation requires, and Grantee represents to the Foundation, that the Work Product produced hereunder are the original work of Grantee, or that Grantee has obtained sufficient rights, licenses, and permissions to distribute and license Work Product under CC BY, except and solely with respect to any particular item in the Work Product that is expressly identified in writing as owned by a third party not licensed under CC BY.

Notification. Grantee agrees to notify the Foundation promptly of any organizational changes during the term of the grant, including, but not limited to, changes in key personnel and changes in tax status, and changes in the project timing or goals. Any such notification shall be provided in writing, which may be by electronic mail to the Program Officer or other Foundation representative responsible for overseeing this grant.

Evaluation. The Foundation may choose to conduct an evaluation of the effectiveness of this grant (the “Evaluation”) either individually or as part of a broader Foundation strategy. Grantee agrees to cooperate in the Evaluation and provide such information to the Foundation or its representatives as is reasonably requested.

Grantee further agrees that the Foundation can disseminate to the public the results of the Evaluation, including any data created in connection with the Evaluation. In such cases, the Foundation agrees to first share the results of the Evaluation with the Grantee and provide an opportunity for the Grantee to comment.

Grant Disclosure and Acknowledgement. The Foundation supports transparency and will disclose its grants as required by law and through its own digital content, principally its website (www.hewlett.org) and automated feeds to other data sources in the foundation sector. This data generally includes grantee name, grant amount, duration, award date and purpose. No additional permission from the Foundation is required for a grantee to share this information. The Foundation encourages, but does not require, grantees to include the Foundation in lists of funders and annual reports as a matter of transparency and accountability. Similarly, the Foundation encourages, but does not require, that Grantees that use our funds specifically for nonpartisan research and analysis should disclose us as a funder, as a matter of sound research practice. When it serves an organization’s charitable

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goals and strategies, grantees are also welcome to acknowledge the Foundation's support in other ways. To ensure that the Foundation's grantmaking programs are portrayed accurately, any other use of the Foundation's brand, such as its name, logo or names of its staffers, in cases including but not limited to titles of programs, research reports, paid advertisements, press releases, in meeting materials and digital content, must be reviewed and preapproved by the Foundation. Grantees receiving project support should acknowledge Foundation support only in relation to the relevant project being funded. All requests for approval should be directed to the appropriate [Communications Officer](http://www.hewlett.org/communicating-about-your-grant/). (<http://www.hewlett.org/communicating-about-your-grant/>) The Communications Department endeavors to review and respond to requests within five business days.

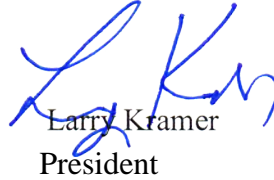
Upon the expiration of this Agreement (including any Foundation-approved extensions) or the termination of this Agreement, or at the request of the Foundation at any time, Grantee shall promptly discontinue the use of the Foundation's name and logo in electronic materials and shall discontinue use within a reasonable period of time for printed materials. All uses beyond this period must be pre-approved in writing by the Foundation, which may be granted or withheld in the sole and absolute discretion of the Foundation.

Signature. Please have a corporate officer authorized to sign on behalf of the Grantee **sign and return** a copy of this grant agreement letter in its entirety to the Foundation to indicate the Grantee's acceptance of the terms of the grant. Grantee will return a signed copy of the entire grant agreement letter to the Foundation electronically by emailing a scanned copy to grantagreements@hewlett.org, which will ensure faster processing of your grant payment. Delivery of an executed signature page of this grant agreement by electronic mail in portable document format (PDF) will be effective as delivery of a manually-executed signature page of the grant agreement. Alternatively, Grantee may return an original signed copy of the grant agreement letter by mail to the Foundation's offices at 2121 Sand Hill Road, Menlo Park, CA 94025, Attention: Grants Management. For grant agreement letters submitted by email, the Grantee agrees to provide the original signed copy to the Foundation at the Foundation's request. This grant agreement may be executed by Grantee and the Foundation in one or more counterparts, each of which will be deemed an original and all of which will constitute one and the same agreement.

Foundation Contact. Should you have any questions related to this grant, please contact Lindsay Louie, Program Officer for Special Projects. We are pleased to be able to assist you.

State of Utah Supreme Court
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Sincerely,


Larry Kramer
President

LK

Enclosures

cc: Jordan Murray, Grants Coordinator, Administrative Office of the Courts
Julie Farnes, Finance Officer

ACCEPTANCE: On behalf of State of Utah Supreme Court, I hereby accept and agree to be legally bound by the terms of the grant as set forth herein.

Date: _____ *By:* _____ *Title:* _____

Judicial Council Grant Application Proposal Code of Judicial Administration 3-411

NON-FEDERAL GRANTS

Contact Person/Phone: Alicia Green / (801) 514-1241 Date: 5/4/2021

Judicial District or Location: Third Judicial District Juvenile Court / West Valley City

Grant Title Userve Utah Community Engagement Grant Grantor: Utah Commission on Service & Volunteerism

Grant type (check one); ☐ New ☒ Renewal ☐ Revision

Grant Level (check one): ☒ Low ☐ Med. ☐ High.
\$10,000 to \$50,001 \$50,000 to \$1,000,000 Over \$1,000,000

Issues to be addressed by the Project: The Village Project is the only youth mentor program in Utah with the goal of assisting at-risk court involved youth. The Village Project Mentor Program was developed in 1994 to provide youth with mentors who teach community values and assist youth and their families to access public resources and facilitate linkage to allied agencies. Since the program's inception, more than 665 volunteers have been matched one-on-one with at-risk youth.

Explanation of how the grant funds will contribute toward resolving the issues identified: These grant funds would ensure the Village Project can continue providing reimbursement for approved personal expenses volunteer mentors incur during their individual mentoring activities. This incentive promotes more robust volunteer participation, and by financially supporting volunteers the project is more likely to retain dedicated, trained volunteers. With this financial support from Userve Utah, the project expects to serve 70 at-risk youth during FY22.

Fill in the chart(s) for estimated state fiscal year expenditures for up to three years:

Total Funding Sources

			(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
			MATCHING STATE DOLLARS					
			General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
CASH MATCH		Other Matching Funds from Non-State Entities						
State Fiscal Year	Grant Amount							
FY 2022	\$5,071	\$2,000	\$53,901	\$0	\$0	\$0	\$0	\$60,972
FY	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
FY	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

			(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
			MATCHING STATE DOLLARS					
			General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
IN-KIND MATCH		Other Matching Funds from Non-State Entities						
State Fiscal Year	Grant Amount							
FY 2022	\$5,071	\$0	\$0	\$0	\$0	\$19,555	\$0	\$24,626
FY	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
FY	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Comments: The SLC Rotary Club has committed \$2,000 (other/non-state cash match) to provide career exploration programing for youth. Third District Juvenile provides \$53,901 to fund the Program Coordinator (Alicia Green) and related costs such as office supplies. The \$53,901 is included in 3rd District Juvenile's FY22 budget. Volunteers contribute approximately \$19,555 in-kind, calculated using 2019 volunteer hours (769 x \$25.43 hourly rate). This grant requires a 100% match combination of cash and/or in-kind contributions, which the Courts currently exceed as this is a dedicated Court program.

Will additional state funding be required to maintain or continue this program or its infrastructure when this grant expires or is reduced? Yes ☐ No ☒ If yes, explain: _____

Will the funds to continue this program come from within your existing budget: Yes ☒ No ☐ N/A ☐

How many additional permanent FTEs are required for the grant? 0 Temp FTEs? 0

This proposal has been reviewed and approved by the following: (Y/N)

The court executives (Y) and judges in the affected districts (pending).

The Grant Coordinator (Y) and the Budget Manager (Y) at the Administrative Office of the Courts.

The affected Board(s) of Judges (pending).

Approved by the Judicial Council _____ by _____
Date _____ Court Administrator _____

Copy forwarded to Legislative Fiscal Analyst _____
date _____

In FY 2021, the Third District Juvenile Court's Village Project Mentoring Program was the recipient of a Utah Commission on Service & Volunteerism ("UServe Utah") Community Engagement Grant. These funds incentivize volunteer mentor participation with reimbursement for approved personal expenses incurred during mentoring activities. This grant term will conclude on June 30, 2021. ***This is a request to reapply to UServe Utah for a Community Engagement Grant (\$5,071) which, if awarded, would fund volunteer reimbursement through FY 2022.***

Date: May 13, 2021

Grantee: The Village Project
Grantor: Utah Commission on Service & Volunteerism ("UServe Utah")
Amount of request: \$5,071
Court matching 100%
Employees to be hired: None
Grant term: 7/1/21 – 6/15/22
Moratorium exemption category:
Time-sensitive funds – reapplication to grantor for ongoing Court program
Incremental Impacts: See AOC Resource Impact Assessment

Re: Request to reapply for grant funding (\$5,071) from the Utah Commission on Service and Volunteerism ("UServe Utah") for the Village Project Mentoring Program sponsored by the Third District Juvenile Court. **Requested by:** Alicia Green, Program Coordinator & Jordan Murray

- I. **Background:** In 2020, there were a total of 16,011 episodes in which a young person in Salt Lake County was referred to the Juvenile Court. The target population served by the Village Project are disadvantaged youth between the ages of 12-17 who reside in Salt Lake County. Many of the youth come from families where poverty, substance abuse, incarceration and other family dysfunction are daily obstacles. Youth that have a mentor-a positive adult role model-have a reduction in risk and an increase in protective factors, which in turn decrease their risk of becoming further entrenched in the judicial system. According to mentoring.org an at-risk youth with a mentor are 52% less likely than their peers to skip a day of school, 37% less likely to skip a class, and 55% more likely to graduate and enroll in college. Youth who have a mentor are also 46% less likely than their peers to start using illegal drugs and 27% less likely to start drinking.
- II. **Proposed utilization of grant funds:** Funds will allow Village Project Mentors to be reimbursed for personal expenses associated with individual mentoring activities. Further, it will allow for the expansion of opportunities in which the youth are able to explore their community. Transportation has been identified as a barrier for many of the youth in this target group. Volunteer Mentors are able to eliminate this particular barrier by providing transportation for the youth to and from mentoring activities. By financially supporting our volunteers, we will be able to retain dedicated, trained volunteers without imposing a personal cost associated with volunteering. With support, we are estimating that we can serve a total of 70 youth during the 2021-2022 fiscal year. Thirty-four youth will be matched with individual mentors and a minimum

of thirty-six additional youth will be served through a group mentoring program with a focus on career exploration.

- III. If this grant is not funded at this time, what are the consequences or is there an alternative strategy?** Without continued funding current and future volunteers may choose not to donate their time due to personal cost associated with their volunteer work. The Village Project was established in 1994 by now retired Judge Andrew Valdez. At the time of the program's inception a large donation was made by a local church which was able to sustain the program's costs for more than 20 years. Unfortunately, the funds have now been reduced to less than \$300.00. The UServe grant initially awarded in 2020 has been able to provide reimbursement for personal costs. We are requesting permission to accept a renewal of the UServe grant if awarded.

AOC RESOURCE IMPACT ASSESSMENT

Grantor: Utah Commission on Service & Volunteerism (“UServe Utah”)

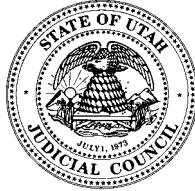
Supporting: The Village Project Mentor Program – Third District Juvenile Court

RECOMMENDATION: This award would provide funds through FY 2022 supporting volunteer reimbursement for personal expenses incurred during individual mentoring activities with the Third District Court’s Village Project Mentor Program. The amount requested for FY 2022 is comparable to the UServe Utah grant awarded in FY 2021 and incentivizes quality mentoring for at-risk, court-involved youth. ***This assessment concludes that if awarded, the UServe Utah Community Engagement Grant (\$5,071) would produce no incremental impacts to the Courts (see below).***

	IMPACT TYPE	GRANT COORDINATOR ASSESSMENT
1	Incremental Costs <i>Defined as new costs (other than costs covered by this grant) incurred by the Courts as a result of accepting this grant that would not otherwise be incurred if the grant were not to be accepted. Incremental costs include costs covered by this grant that will persist after grant resources are expended.</i>	None. The Courts will not incur any incremental costs if these funds are awarded. The requested award amount does not exceed the FY21 award and the intended use of funds has not changed. Additional grant funds may be sought to continue providing reimbursement to volunteers beyond FY22.
2	Incremental Resources <i>Defined as the additional resources to be provided by the grant.</i>	Resources provided by the grant include funds to be issued as reimbursement to volunteer mentors for approved personal expenses incurred during their mentoring activities. This incentive motivates volunteer participation, who collectively serve as a critical resource for the program.
3	Incremental Capacity <i>Defined as suitability of current staffing levels to support additional work or output generated by the grant.</i>	Current staffing levels are adequate to support the review and processing of financial reimbursements for volunteers with grant funds in FY 2022.
4	Cash Match Required?	This grant requires 100% match from combined cash and/or in-kind support. Cash-match is provided by the Program Coordinator’s salary and associated office supplies (\$53,901) already included in 3 rd District Juvenile’s FY 2022 budget. There is also \$2,000 provided as cash-match from the SLC Rotary Club donation.
5	In-Kind Match Required?	This grant requires 100% match from combined cash and/or in-kind support. Volunteer mentors donated 769 hours in 2019 providing an in-kind match of \$19,555 (hourly rate of

		\$25.43). Comparable in-kind donations are expected for FY 2022.
6	Judiciary employees directly supporting project activities?	Yes. Alicia Green serves as the Program Coordinator for the Village Project with 3 rd District Juvenile Court.
7	Consultants & Contractors (non-employees) directly supporting project activities?	No

Tab 7



Administrative Office of the Courts

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

May 7, 2021

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council
FROM: Keisa Williams
RE: Rules for Final Approval / Rule for Expedited Approval

Following a 45-day comment period, Policy and Planning recommends that rules 1-204 and 2-103 be **approved as final** with a **November 1, 2021 effective date**. No comments were received on either rule.

CJA 1-204. Executive committees (AMEND)

The proposed amendments in lines 49-52 allow the Policy and Planning Committee, Liaison Committee, and Budget and Fiscal Management Committee to each determine their own schedule for electing chairs. The experience or expertise required of a chair may differ among committees, necessitating a longer or shorter term. The proposed amendment in line 58 isn't substantive. The proposed language matches that found in other rules.

CJA 2-103. Open and closed meetings (AMEND)

The proposed amendment in line 77 adds the category of "safeguarded" to the list of reasons that a Council meeting may be closed. The amendment corrects an oversight. The rule wasn't updated when "safeguarded court records" were added as a classification in CJA rule 4-202.02.

Policy and Planning recommends that rule 4-403 be **approved on an expedited basis** with an **effective date of May 24, 2021**, to be followed by a 45-day comment period.

CJA 4-403. Electronic signature and signature stamp use (AMEND)

New Utah Rules of Civil Procedure [7A and 7B](#), effective May 1, 2021, have eliminated the order to show cause process. Instead, there is now a process under a "motion to enforce." Similar to the OSC process, a moving party files an ex parte motion and the court issues an order. Under new URCP 7A(c)(4) and new URCP 7B(c)(4), the resulting order is an order to "appear personally or through counsel" instead of an "order to show cause." The Forms Committee has approved plain language forms consistent with this process, titling the model order "Order to Attend Hearing." The Clerks of Court have expressed concern that they do not have authority to sign an order to attend hearing on behalf of a judge because CJA 4-403(1) mentions orders to show cause, but does not list orders to attend hearing. The proposed changes will allow clerks and judicial

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

assistants to process motions to enforce process and still remain within the scope of their delegated authority. Without this rule change, clerks of court will either be acting beyond the scope of CJA 4-403 or will need to seek a judge or commissioner's signature on each order to attend hearing.

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

Rule 1-204. Executive committees.**Intent:**

- To establish executive committees of the Council.
- To identify the responsibility and authority of the executive committees.
- To identify the membership and composition of the executive committees.
- To establish procedures for executive committee meetings.

Applicability:

This rule shall apply to the judiciary.

Statement of the Rule:

- (1) **Executive Committees.** The following executive committees of the Council are hereby established:
 - (1)(a) the Management Committee;
 - (1)(b) the Policy and Planning Committee;
 - (1)(c) the Liaison Committee; and
 - (1)(d) the Budget and Fiscal Management Committee.
- (2) **Management Committee.** The Management Committee shall be comprised of at least four Council members, one of whom shall be the Presiding Officer of the Council. Three Committee members constitute a quorum. The Presiding Officer of the Council or Presiding Officer's designee shall serve as the Chair. When at least three members concur, the Management Committee is authorized to act on behalf of the entire Council when the Council is not in session and to act on any matter specifically delegated to the Management Committee by the Council. The Management Committee is responsible for managing the agenda of the Council consistently with Rule 2-102 of this Code. The Management Committee is responsible for deciding procurement protest appeals.
- (3) **Policy and Planning Committee.** The Policy and Planning Committee shall recommend to the Council new and amended rules for the Code of Judicial Administration. The committee shall recommend to the Council new and amended policies, or repeals, for the Human Resource Policies and Procedures Manual, pursuant to Rule 3-402. The committee shall recommend to the Council periodic and long term planning efforts as necessary for the efficient administration of justice. The committee shall research and make recommendations regarding any matter referred by the Council.
- (4) **Liaison Committee.** The Liaison Committee shall recommend to the Council legislation to be sponsored by the Council. The committee shall review legislation affecting the

authority, jurisdiction, organization or administration of the judiciary. When the exigencies of the legislative process preclude full discussion of the issues by the Council, the Committee may endorse or oppose the legislation, take no position or offer amendments on behalf of the Council.

(5) **Budget and Fiscal Management Committee.** The Budget and Fiscal Management Committee shall review court budget proposals, recommend fiscal priorities and the allocation of funds, and make recommendations to the Council regarding budget management and budget development in accordance with Rule 3-406.

(6) **Members.** Members of the executive committees must be members of the Council. Each executive committee shall consist of at least three members appointed by the Council to serve at its pleasure. The members of the Policy and Planning Committee, the Budget and Fiscal Management Committee, and the Liaison Committee shall elect their respective chairs ~~annually and select a new chair on a schedule deemed appropriate by each Committee. at least once every two years. Chairs must be members of the Council.~~

(7) **Meetings and Judicial Council Reports.** Each committee shall meet as often as necessary to perform its responsibilities, but a minimum of four times per year. Each committee shall report to the Council as necessary.

(8) **Staff.** The Administrative Office shall ~~serve as provide the secretariat~~ staff support to the executive committees.

Effective ~~May~~ November 1, 2021

Rule 2-103. Open and closed meetings.**Intent:**

To establish the Council's responsibility for providing public notice of its meetings and to ensure the opportunity for public attendance at Council meetings.

To establish procedures consistent with the philosophy of the Utah Open and Public Meetings Act.

To provide the Council with sufficient flexibility to close meetings when discussing matters of a sensitive nature.

Applicability:

This rule shall apply to all meetings of the Council.

Statement of the Rule:

(1) **Definitions.** As used in this rule "meeting" means the gathering of a quorum of the Council, whether in person or by means of electronic communication, for the purpose of discussing or acting upon any matter over which the Council has jurisdiction, but does not include a chance or social meeting of Council members.

(2) Public notice of meetings.

(2)(A) After the Council has set its annual meeting schedule, the administrative office of the courts shall publish on the court's website and on the Utah Public Notice Website the date, time and place of the meetings. At least 24 hours before each meeting, the administrative office of the courts shall post on the websites the meeting agenda and notify at least one newspaper of general circulation within the state of the postings. The administrative office of the courts shall notify a media agency of the postings by email upon request for routine notice. The Council may address a matter not on the meeting agenda but will take no final action on the matter.

(2)(B) When, due to unforeseen circumstances, it is necessary for the Council to consider matters of an urgent nature, the requirement of public notice may be suspended and the best notice practicable given. No such meeting of the Council shall be held unless:

(2)(B)(i) an attempt has been made to notify all members;

(2)(B)(ii) at least a quorum is present; and

(2)(B)(iii) a majority of those present vote to hold the meeting.

(3) **Open meetings.** Meetings of the Council are open to the public unless closed as provided in this rule.

(4) **Reasons for closed meetings.** A closed meeting of the Council may be held for discussions regarding any of the following:

(4)(A) the character, professional competence, or physical or mental health of an individual;

(4)(B) collective bargaining or litigation;

(4)(C) the purchase, exchange or lease of real property if public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(4)(D) the sale of real property if:

(4)(D)(i) public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(4)(D)(ii) the Council has previously given public notice that the property would be offered for sale; and

(4)(D)(iii) the terms of the sale are publicly disclosed before the Council approves the sale;

(4)(E) deployment of security personnel or devices;

(4)(F) allegations of criminal misconduct; or

(4)(G) consideration of a private, protected, sealed, juvenile court social, ~~or~~ juvenile court legal, or safeguarded record as defined in Rule 4-202.02.

(5) **Procedure for closing a meeting.**

(5)(A) A closed meeting may be held only upon the affirmative vote of two-thirds of the members present at an open meeting for which public notice is given, provided a quorum is present.

(5)(B) The recording and minutes otherwise required by Rule 2-104 shall not be made if a meeting is closed to discuss the character, competence, or physical or mental health of an individual or to discuss the deployment of security personnel or devices. The

88 presiding officer shall sign a sworn statement, which is a public record, affirming that the
89 sole purpose for closing the meeting is to discuss the character, competence, or physical
90 or mental health of an individual or the deployment of security personnel, devices, or
91 systems.
92

93 (6) **Limit on actions at a closed meeting.** No contract, appointment, rule or resolution may
94 be approved at a closed meeting. A contract, appointment, rule or resolution approved at an
95 open meeting may be based upon discussions had at a closed meeting.
96

97 (7) **Limit on discussions outside of closed meeting.** No one who attends a closed
98 meeting may disclose information discussed or materials distributed outside of the closed
99 meeting except with
100

101 (7)(A) others who participated in the closed meeting, and
102

103 (7)(B) a member of the Judicial Council.
104

105 (8) **Right of removal.** All or any part of an open meeting may be recorded by any person in
106 attendance, provided the recording does not interfere with the conduct of the meeting. The
107 Council may order the removal of any person who disrupts a meeting.
108

109 (9) **Training.** The administrative office of the courts shall annually train the members of the
110 Council on the requirements of this rule and of Rule 2-104.
111

112 *Effective November 1, 2021*

Rule 4-403. Electronic signature and signature stamp use**Intent:**

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

Applicability:

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

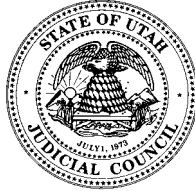
Statement of the Rule:

- (1) A clerk may, with the prior approval of the judge or commissioner, use an electronic signature or signature stamp in lieu of obtaining the judge's or commissioner's signature on the following:
 - (1)(A) bail bonds from approved bondsmen;
 - (1)(B) bench warrants;
 - (1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or when stipulated by both parties in contested cases;
 - (1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);
 - (1)(E) orders to show cause and orders to appear/attend under URCP 7A(c)(4) and URCP 7B(c)(4);
 - (1)(F) orders to take into custody;
 - (1)(G) summons;
 - (1)(H) supplemental procedure orders;
 - (1)(I) orders setting dates for hearing and for notice;
 - (1)(J) orders on motions requesting the Department of Workforce Services (DWS) to release information concerning a debtor, where neither DWS nor the debtor opposes the motion;
 - (1)(K) orders for transportation of a person in custody to a court hearing, including writs of habeas corpus ad prosequendum and testificandum; and
 - (1)(L) orders appointing a court visitor.
- (2) When a clerk is authorized to use a judge's or commissioner's electronic signature or signature stamp as provided in paragraph (1), the clerk shall sign his or her name on the document directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.
- (3) In a case where a domestic relations injunction must be issued under URCP 109, the electronic signature of the judge assigned to the case may be automatically attached to the domestic relations injunction form approved by the Judicial Council, without the need for specific direction from the assigned judge and without the need for a clerk's signature accompanying the judge's signature.

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

46 *Effective May 24, 2021*

Tab 8



Administrative Office of the Courts

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

May 14, 2021

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

MEMORANDUM

TO: Management Committee / Judicial Council

FROM: Keisa Williams

RE: Standing Committee on Pretrial Release and Supervision
New Member Appointments

Name of Committee: Standing Committee on Pretrial Release and Supervision

Reason for Vacancies:

- Utah State Representative – Representative Hutchings no longer House rep
- Utah State Senator – Senator Hillyard resigned

Eligibility requirements: Each of these vacancies are required pursuant to CJA 1205(1)(B)(xiii)

Current committee member list:

LAST NAME	FIRST NAME	ROLE
Carlos	Wayne	Commercial Surety Agent
Eddington	Hon. Keith	Juvenile Court Judge
Graves	Josh	Prosecutor
Harmond	Hon. George	District Court Judge (Chair)
Jacobsen	Andrea	Representative of County Pretrial Services Agency
Johnson	Brent	Court's General Counsel
Kamalu	Comm. Lorene	Representative of Utah Association of Counties
Kendall	Hon. William	District Court Judge
Kiddle	Lt. Corey	Representative of County Sheriff
Mauro	Rich	Representative of Indigent Defense Commission
McCullagh	Hon. Brendan	Justice Court Judge
Robison	Hon. Jeanne	Justice Court Judge

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

Ross	Tom	Commission on Criminal and Juvenile Justice
Tangaro	Cara	Defense Attorney
Vacant		State Senator
Vacant		State Representative
Vacant		Utah Insurance Department

Description of recruitment process: The Speaker of the Utah House of Representatives nominated Representative Karianne Lisonbee as the House representative, and the President of the Utah Senate nominated Senator Michael McKell as the Senate representative. Representative Lisonbee has agreed to serve, but Senator McKell declined. We are awaiting another Senator nomination from the President.

We are requesting approval of Representative Lisonbee's appointment and approval of the appointment of a Senator nominated by the President of the Senate at a future date.

List of names for consideration:

- Utah House of Representatives
 - Representative Karianne Lisonbee
- Utah State Senate
 - To be named by the President of the Senate

Brief bio

Representative

KARIANNE LISONBEE

Republican – District 14

Legislative Service Since: January 1, 2017

Mailing Address: P.O. Box 160152, Clearfield, UT 84016



Committees

- [Public Education Appropriations Subcommittee](#)
- [House Judiciary Committee](#)
- [House Revenue and Taxation Committee](#)
- [Business and Labor Interim Committee](#)
- [Judiciary Interim Committee](#)

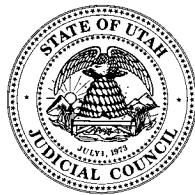
Personal and Career Information

Education: Brigham Young University

Profession: Homemaker

Tab 9

Agenda



Administrative Office of the Courts

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

April 29, 2021

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council's Management Committee

FROM: Bridget M. Koza, Court Improvement Program Director

RE: Court Improvement Program Grant Application for Fiscal Years 2022-2026

This memorandum provides background information regarding the Court Improvement Program (CIP) in preparation of the submission FY 2022 5-year grant renewal application due June 30, 2021. *See Attachment A.*

Utah State Courts receives CIP funds from the U.S. Department of Health and Human Services' the Administration for Children and Families through three formula grants: basic grant, data grant, and training grant. All three grants are used to: (1) promote the continuous quality improvement of court proceedings in child welfare proceedings and (2) enhance and expand collaboration between the judicial branch, the title IV-E/IV-B agency (Division of Child and Family Services in Utah), and tribes to improve child-welfare outcomes. *See Attachment B.* Beginning September 1, 2021, all three grants will be merged into one grant and we will be required to use at least 30% funds for collaboration and data sharing. *See Attachment C.*

Utah's CIP has been in existence since 1993. The Honorable Jeffrey Noland, a juvenile court judge from the Second District Juvenile Court, currently chairs CIP Committee, which is

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

Utah's multi-disciplinary task force per programmatic requirements. Utah's CIP is directed and fiscally managed by Bridget Koza. Our mission is to provide timely, tangible, and measurable improved outcomes for child and families in the child-welfare system relating to safety, permanency, and well-being.

We currently are required to plan for and implement a minimum of three projects: (1) a project to continuously improve the quality of child welfare court hearings and reviews; (2) a project to continuously improve the quality of legal representation for parents, children and youth or the child welfare agency; and (3) a joint project with the Division of Child and Family Services to improve a specific safety, permanency, or well-being outcome. For all of our CIP projects, we use a change and implementation process to drive systemic change. This process includes empirically supported concrete steps to move through five phases of identifying a need, developing a theory of change to explain the root cause of the need and how the selected intervention will address the need, planning, preparing, and implementing the selected intervention, and then evaluating the intervention.

For our hearing quality project, we are currently implementing benchcard to improve engagement of parents and youth at courts hearings and improve appropriate and timely permanency for children and families. *See Attachment D.* For our quality legal representation project, we are evaluating the multi-disciplinary parent representation models in Salt Lake & Utah Counties. For our joint data project, we are having cross-training opportunities to support implementation of Utah's core principles and guiding practices for a fully integrated child-welfare system so that we can reduce the time children and youth spend in foster care and improve outcomes for children and families, including increasing the rate of reunification and placement with family. *See Attachment E.*

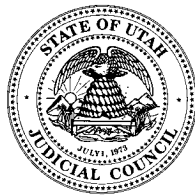
Bridget Koza staffs and actively participates in the following committees that support the CIP projects:

- CIP Committee – statewide multi-disciplinary task force per the federal CIP grant requirements. The committee guides our CIP activities and projects in our 5-year strategic plan.
- CIP Steering Committee – has the primary responsibility for developing our strategic plan as well as guiding implementation of Utah’s core principles and guiding practices for a fully integrated child-welfare system.
- CIP Training Steering Committee – guides and develops annual cross-training opportunities as well as continues to help coordinate and support other training opportunities to increase child-welfare expertise.
- Interface Workgroup – this workgroup discusses and resolves issues related to the sharing of data between the management information systems of the Juvenile Court (CARE), DCFS (SAFE) and the Office of Guardian ad litem (VOICE).
- We also have ad hoc sub-committees that are responsible for the development and implementation of each CIP projects included in our 5-year strategic plan.

CIP grants fund the following temporary employees:

- Partially fund CIP Director (0.80 FTE) with AOC Juvenile Court
- Partially fund 4 IT staff who work on CARE related projects (0.20/0.30/0.20/0.35 FTEs) with Division of Juvenile Justice Services and AOC Juvenile Court
- Partially fund Juvenile Court Data Analyst (0.275 FTE) with AOC Juvenile Court
- Partially fund State Education Liaison (0.17 FTE) with Department of Human Services and Utah State Board of Education.

Attachment A



Administrative Office of the Courts

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

April 29, 2021

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council's Management Committee

FROM: Jordan K. Murray, Grants Coordinator

RE: Support for Renewal of CIP Formula Grant – Fiscal Years 2022-2026

This accompanying memorandum certifies that I have reviewed the grant application request for the FY 2022-2026 State Court Improvement Program (CIP) in conjunction with Ms. Bridget Koza, CIP Director. The request under review represents a time-sensitive ongoing federal formula grant and is thus exempt from the Judicial Council's grant moratorium.

Overall this funding supports continued efforts to assess and improve child welfare outcomes in Utah by advancing established projects funded in the previous 5-year cycle. There are negligible changes to the latest program instructions and funding amounts are comparable to prior awards. Should any amendments be enacted that would affect federal CIP funding or requirements for FYs 2022 and beyond, the Children's Bureau will issue additional guidance to be assessed by Utah's CIP and the Grants Coordinator.

Noting the above factors, I strongly support this request and find it suitable for consideration by the Judicial Council's Management Committee. I would like to thank Ms. Koza for her continued outstanding efforts directing this important program.

A handwritten signature in orange ink that reads "Jem".

Jordan K. Murray
Grants Coordinator

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

Attachment B

ACF Administration For Children And Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children and Families	
	1. Log No: ACYF-CB-PI-20-12	2. Issuance Date: December, 17, 2020
	3. Originating Office: Children's Bureau	
	4. Key Words: State Court Improvement Program Basic, Training and Data Grants	

PROGRAM INSTRUCTION

TO: Highest State Courts of Appeal

SUBJECT: Instructions for State Courts on Submitting New Five-Year Strategic Plan for FY 2022 – 2026 and Applying for Court Improvement Program (CIP) Funds for Fiscal Year (FY) 2022.

REFERENCES: Section 438 of the Social Security Act

PURPOSE: The purpose of this Program Instruction is to set forth the eligibility requirements and grant application procedures for the basic, data and training CIP grants for FY 2022, including the development of a new five-year strategic plan, and to provide guidance on the requirements for state courts to continuously assess and improve the handling of court proceedings related to child welfare and enhance collaboration with title IV-B/IV-E agencies and tribes.

BACKGROUND: Section 438 of the Social Security Act¹ (the Act) authorizes CIP funding through three grants that the highest state court of each state may apply for: a basic grant, data grant, and training grant.

- **Basic Grant.** The basic grant enables state courts to conduct assessments of the role, responsibilities and effectiveness of state courts in carrying out state laws guiding child welfare proceedings. It allows state courts to make improvements to provide for the safety, well-being, and permanence of children in foster care and engagement of families in child welfare cases. It also allows the courts to improve collaboration including in the implementation of Program Improvement Plans (PIPs) as a result of the Child and Family Services and title IV-E Foster Care Eligibility Reviews.

¹ 42 U.S.C. 629h

- Data Grant. The data grant supports data collection and analysis and promotes data sharing between state courts, child welfare agencies and tribes.
- Training Grant. The training grant is intended to increase child welfare expertise within the legal community and facilitate cross-training opportunities among agencies, tribes, courts and other key stakeholders.

Previous Program Instructions were issued every five years, but beginning this year, CB is issuing annual PIs to ensure CIPs have current and accurate information on requirements for annual funding and to better align CIP processes with related child welfare program planning requirements.

The CIP was most recently amended and reauthorized through FY 2021 by the Family First Prevention Services Act, enacted February 9, 2018. Should further amendments be enacted that would affect funding or requirements for FYs 2022 and beyond, CB will issue additional guidance.

INFORMATION: Organization of the Program Instruction:

Section I. Program Eligibility and Funding
 Section II. Program Requirements
 Section III. Self-Assessment Process Requirements
 Section IV. Strategic Plan Requirements
 Section V. Application Requirements
 Section VI. Fiscal Reporting Requirements
 Attachments

I. PROGRAM ELIGIBILITY AND FUNDING

This PI describes the purpose of the CIP, application procedures and reporting requirements for the three CIP grants and explains how state courts must plan, implement, amend, update and report on the programs and activities they support using grant funds. State courts must comply with the requirements delineated in this Program Instruction as a prerequisite to receiving CIP funds.

Eligibility

The highest state court of each state that participates in the programs funded under title IV-E of the Act is eligible to apply for CIP funds. The term “highest state court” means the judicial tribunal that is the ultimate court of appeals in the state and responsible for the implementation of the CIP grants. Although the highest state court is the designated applicant for the grant, the application must reflect meaningful and ongoing collaboration among state and local courts, state and local child welfare agencies and, where applicable, federally recognized Indian tribes.

A state court may apply for one, two or all three CIP grants. It is not necessary for a state to receive the basic grant to be eligible to receive either the data or training grant.

Funding

- Allotments: For each grant, state courts with an approved application will be allotted \$85,000 and, after the sum of all states' base amounts is subtracted from the total appropriation, a percentage of the remainder based on the state's proportionate share of children under age 21.² For reference, FY 2020 allotment tables for each of the three grants are included as Attachment F of this PI.
- Project Period: Each state court must obligate its federal funds by the end of the following fiscal year, with an additional 90 days to liquidate any outstanding obligations. ACF does not have the authority to grant an extension of a program obligation period. Any funds remaining unobligated or unliquidated by the respective deadlines will be recouped by ACF and returned to the U.S. Treasury through the issuance of a negative grant award.
- Cost Sharing Requirement: A non-federal share is required for each CIP grant at the rate of 25 percent of the total budget (1/3 of the Federal share). For example, a project totaling \$100,000 would require a state court contribution of \$25,000 to receive federal funds totaling \$75,000. Funds eligible to be used as non-federal share must meet the regulatory provisions of 45 CFR 75.306, which establishes the rules for cost sharing.

In accordance with these provisions, funds eligible to be used as non-Federal share, among other things:

- Must not be federal grant funds, unless specifically allowed by Federal statute;
 - Must not be used to match any other Federal grant;
 - Must be used for costs that are otherwise allowable (i.e. the non-Federal share, like the Federal share must also be used for the purposes described in Section 438 of the Act and this program instruction);
 - May originate with a third party, public or non-public; and
 - May be in-kind contributions of services, equipment, or property.
- Indirect Costs: If a state court wishes to receive reimbursement for indirect costs within its allotment as a part of a CIP grant, it must have an approved indirect cost rate with the cognizant Federal agency. The cognizant Federal agency is that Federal agency that provides the most funds to the state court. If a state court has not been assigned a cognizant agency, it should work with the Federal agency from which it receives the largest amount of funds to negotiate and receive approval of indirect cost proposals.

² 42 U.S.C. 629h(c).

II. PROGRAM REQUIREMENTS

The purpose of the CIP is to promote the continuous quality improvement of: (1) child welfare court hearings and reviews; (2) legal representation for parents, children, youth and the state child welfare agency responsible for administering titles IV-B and IV-E of the Act; and (3) collaboration between the judicial branch of state government, the title IV-B/IV-E agency and tribes to improve child welfare outcomes.

a. Meaningful and Ongoing Collaboration

State courts are required to demonstrate “meaningful and ongoing collaboration” among the courts in the state, the title IV-B/IV-E agency, and where applicable, federally recognized Indian Tribes in their CIP applications in order to receive funding.³

“Meaningful, ongoing collaboration” means that: state courts, title IV-B/IV-E agencies, and tribes will identify and work toward shared goals and activities to increase the safety, permanency, and well-being of children in the child welfare system.

To satisfy this requirement, state courts must: (1) establish and operate a statewide multi-disciplinary task force to guide and contribute to CIP activities; and (2) create and describe a process by which they will work with the title IV-B/IV-E agency, and tribal partners, to jointly review and discuss child welfare outcome data and meaningfully participate in child welfare program planning and improvement efforts on an ongoing basis.

Many child welfare programs are coordinated by the submission of the Child and Family Services Plan (CFSP) and annual update to that plan, the Annual Progress and Services Report (APSR). Annual updates are due June 30 each year. We urge CIPs to align collaboration efforts with those conducted by the state title IV-B/IV-E agency.

i. CIP Leadership

The CIP grant is intended to engage the highest court of appeals in states and territories in the continuous improvement of child welfare court hearings and reviews, legal representation and the functioning of the child welfare system overall. CB expects that CIP directors will have the authority to represent the highest court of appeals in this important work.

From the perspective of CB, CIP directors and state child welfare directors maintain equivalent levels of responsibility as systems partners. CB expects that CIP directors will work closely with state and territorial child welfare directors and other key, high-level government leaders.

³ 42 U.S.C. 629h(b)(1)(C).

ii. Statewide Multidisciplinary Task Force

State courts must maintain a statewide multidisciplinary task force that includes, state and local judges, preferably including a justice of the highest court of appeals; top child welfare agency leadership; attorneys for parents, children and the child welfare agency; and, where applicable, Indian tribes or tribal consortia.

The CB expects that representatives from the state IV-B/IV-E agency will be individuals who are involved in child welfare program planning and improvement efforts, and are equipped to participate in discussion of how CIPs can become meaningfully involved in these processes and ensure action.

State courts are strongly encouraged to include the following representatives on the task force:

- the IV-B/IV-E agency administrator,
- the IV-B-IV-E agency quality assurance/continuous quality improvement lead,
- the Child and Family Service Plan (CFSP)/Annual Progress Services Report (APSR) lead,
- IV-B/IV-E agency official responsible for Child and Family Services Review (CFSR)/Program Improvement Plan (PIP) processes,
- the IV-B/IV-E agency permanency division director,
- the IV-B/IV-E agency training lead,
- Court Appointed Special Advocate leads,
- other related Children's Bureau grantees in the state, such as the Community-Based Child Abuse Prevention (CBCAP) lead,
- key service providers,
- state department of education representatives,
- an Indian Child Welfare Act specialist, and
- parents and youth with lived expertise in the child welfare system.⁴

State courts must provide an especially strong rationale in their grant application for not including the above identified agency representatives as task force members.

State courts are strongly encouraged to convene the task force at least quarterly. Task force meetings should include joint review and discussion of child welfare data, data that may be available from court or attorney data systems (including toolkit measures⁵) and discussion of what those data may mean with this

⁴ CIPs should consider compensating and supporting parents and youth for their time and expenses. For additional information see, ACYF-CB-IM-19-03 <https://www.acf.hhs.gov/sites/default/files/cb/im1903.pdf>

⁵ *Court Performance Measures in Child Abuse and Neglect Cases* (commonly known as the "Toolkit"). The Toolkit is a set of resources developed by the Office of Juvenile Justice and Delinquency Prevention, the National Center on State Courts, the National Council of Juvenile and Family Court Judges and the American Bar Association's Center on Children and the Law in 2008. See <http://www.ojjdp.gov/publications/courttoolkit.html>

multidisciplinary group. Meetings shall be used as an opportunity to monitor and review goals, identify opportunities for interventions and plan CIP involvement in program planning and improvement efforts with the title IV-E/IV-B agency.

State courts must provide an especially strong rationale in their application for holding meetings less than quarterly.

iii. Collaboration with Title IV-B/IV-E Agency and Tribes

State courts must demonstrate collaboration in applications for CIP funding by describing how the title IV-B/IV-E agency and tribes, where applicable, will be involved in CIP planning, including:

- identifying needs;
- developing theories of change;
- selecting or developing solutions;
- planning, preparing and implementing change; and
- evaluating and applying findings.

State courts must also commit to participating in all stages of child welfare program planning and improvement efforts, including the CFSP/APSR, CFSR and title IV-E Foster Care Eligibility Review processes within required timeframes.⁶

CB also encourages state courts to collaborate with the IV-B/IV-E agency in planning for training judges and attorneys on the congregate care provisions of the Family First Prevention Services Act.⁷

Collaboration should result in institutional and infrastructural changes that lead to measurably improved outcomes for the children and families that the State is serving. The state court and the title IV-B/IV-E agency should meet regularly to examine agency and court data in order to establish activities for both the court and agency to target improvement. Important areas to examine include reducing maltreatment, reducing unnecessary removals⁸, improving family time/visitation,⁹

⁶ It is also important to note that there is a corresponding State agency requirement to demonstrate collaboration with State courts. Specifically, State child welfare agencies must demonstrate substantial, ongoing and meaningful collaboration with State courts in the development and implementation of their State plans under titles IV-B and IV-E and any PIPs developed as a result of the Child and Family Services and IV-E Foster Care Eligibility Reviews. See 42 U.S.C. 622(b)(13).

⁷ 42 U.S.C. 629h(b)(1) (2018)

⁸ For related information on prevention, see ACYF-CB-IM-18-05

<https://www.acf.hhs.gov/sites/default/files/cb/im1805.pdf>

⁹ For related information see, ACYF-CB-IM-20-02 <https://www.acf.hhs.gov/sites/default/files/cb/im2002.pdf>

improving placement stability, education stability,¹⁰ or increasing quality, quantity, or timeliness of reunifications, adoptions or guardianships.

Examples of collaborating with tribes include establishing and regularly convening a state and tribal court workgroup to examine ICWA practice and state and tribal court collaboration on Indian child welfare matters. The group may conduct or oversee an ICWA assessment, work to implement the Bureau of Indian Affairs ICWA Regulations¹¹, or develop and implement plans to continuously improve legal, case management, or service delivery practices.

CB strongly encourages grantees to work with the title IV-B/IV-E agency to collect and share critical data important to understanding ICWA practice¹², including, but not limited to those related to:

- inquiry
- notice
- right to counsel
- qualified expert witnesses
- burdens of proof
- applicability determinations and findings
- tribal involvement in cases
- active efforts
- tribal court jurisdiction
- placement preferences
- voluntary and involuntary terminations
- safety outcomes
- permanency outcomes
- well-being outcomes such as through tribal connections and placement stability

b. CIP Projects and Activities

State courts applying for CIP grants must plan for and implement a minimum of three projects: a project to continuously improve the quality of child welfare court hearings and reviews; a project to continuously improve the quality of legal representation for parents, children and youth or the child welfare agency; and a joint project with the title IV-B/IV-E agency to improve specific safety,

¹⁰ Joint guidance from the U.S. Departments of Education and Health and Human Services about implementation of the foster care provisions of the Every Student Succeeds Act (ESSA) is available at <http://www2.ed.gov/policy/elsec/leg/essa/index.html>

¹¹ The final regulations can be found at <http://www.indianaffairs.gov/WhoWeAre/BIA/OIS/HumanServices/IndianChildWelfareAct/index.htm>

¹² While this list of elements does not cover every possible area of ICWA practice, it represents the major areas seen in CIP work in this area. Assistance in developing programs around this is available from the Children's Bureau's Capacity Building Center for Courts.

permanency, or well-being outcomes as identified through the CFSR or other CQI process.

(1) A project to continuously improve the quality of child welfare court, shelter care/emergency hearings, permanency hearings or permanency reviews. Given the importance of initial appearances (e.g. shelter care and emergency hearings) as demonstrated through the research¹³, CB strongly encourages projects to include a special emphasis on the quality of those hearings.

CB further strongly encourages all grantees to ensure hearing quality projects include an enhanced focus on the quality of reasonable efforts determinations required under the law, specifically, reasonable efforts to prevent removal and reasonable efforts to finalize the permanency goal. This emphasis centers on the factual basis on which reasonable efforts determinations are made as opposed to simply measuring whether the determinations are made. Rather than a simple yes or no question and response, the determination contains a strong qualitative component, requiring appropriate breadth and depth in proceedings regarding what the IV-B/IV-E agency has done to make reasonable efforts.

State courts are required to share the results of efforts under this project in an ongoing fashion with the title IV-B/IV-E agency to help assess and improve legal and judicial roles around the CFSR, PIPs, title-IV foster care eligibility reviews, and ongoing joint CQI work. A list of potential indicators of quality hearings and reviews is included as Attachment D.

State courts are encouraged to consider all of the below data sources and methodologies in designing plans:

- Data from statewide and local court databases, where available;
- Data from the state title IV-B/IV-E agency including data available through state child welfare information systems, Adoption and Foster Care Analysis and Reporting System (AFCARS), CFSR Data, National Child Abuse and Neglect Data System, and National Youth in Transition Database (NYTD)¹⁴;
- Manual data collection activities:
 - Periodic court observation using a standardized protocol;
 - Periodic court file review using a standardized protocol;
 - Surveys, focus groups, and interviews of judges, attorneys, agency stakeholders, parents or youth, or others.

¹³ Summers, A., Gatowski, S., & Gueller, M. (2017). *Examining hearing quality in child abuse and neglect cases: The relationship between breadth of discussion and case outcomes*. Children and Youth Services Review, 82, 490-498.

¹⁴ See <https://www.acf.hhs.gov/cb/research-data-technology/reporting-systems/nytd>

(2) A project to continuously improve the quality¹⁵ of legal representation for parents, children and youth, or the title IV-B/IV-E agency at all stages of child welfare proceedings.

In undertaking a legal representation project, CB strongly encourages grantees to consider statewide models of or approaches to legal representation for parents, children and youth that require specialization in child welfare law through ongoing training and/or certification and incorporate multi-disciplinary teaming approaches such as the pairing of a well-trained child welfare attorney with a social worker. Evidence of the value of multi-disciplinary models of legal representation and its association with expedited permanency and other positive outcomes continues to grow.¹⁶

CB further encourages grantees to work with the title IV-B/IV-E agency to maximize access to title IV-E funding¹⁷ to support high quality legal representation for parents, children and youth and to promote robust, ongoing training for judges, attorneys for parents, children and youth, and the title IV-B/IV-E agency attorneys as professional partner training under title IV-E training plans.

(3) A joint project with the title IV-B/IV-E agency to improve a specific safety, permanency, or well-being outcome or outcomes. State courts are required to plan and implement a joint project with the title IV-B/IV-E agency that will focus on improving a specific safety, permanency, or well-being outcome. The plan must identify the specific outcome(s) that will be addressed and the specific measures that will be used to track progress and ensure continuous quality improvement. The plan must also identify the data that were used to identify the selected outcome as a priority such as CFSR findings.

Joint projects on safety could include projects on primary or secondary prevention.¹⁸ In one state example, the CIP, judges, the agency, and service providers are collaborating to build the capacity of communities to connect children and families to the supports and services they need to be safe, stable, and self-sufficient, before maltreatment occurs. Joint projects may also focus on preventing the need for removal when families have made contact with the

¹⁵ See [ACF-ACYF-CB-IM-17-02](#) for more information.

¹⁶ See "Effects of an Interdisciplinary Approach to Parental Representation in Child Welfare," by Lucas A. Gerber, Yuk C. Pang, Timothy Ross, Martin Guggenheim, Peter J. Pecora, and Joel Miller (*Children and Youth Services Review*, 102), is available at <https://www.sciencedirect.com/science/article/pii/S019074091930088X>.

¹⁷ In December of 2018, CB revised policy to allow the title IV-E agency to claim title IV-E administrative costs of independent legal representation by an attorney for a child who is a candidate for title IV-E foster care or in foster care, and his/her parents to prepare for and participate in court proceedings. This change in policy will help ensure that, among other things, reasonable efforts are made to prevent removal and finalize the permanency plan, parents and youth are engaged in and understand their case plan, and compliance with case plans progress is appropriately reported. See question 30 +

https://www.acf.hhs.gov/cwpm/public_html/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=36

An additional Technical Bulletin was released in 2020 to provide additional clarification

<https://www.acf.hhs.gov/cb/resource/technical-bulletin-faqs-legal-representation>

¹⁸ See, Information Memorandum [ACYF-CB-IM-18-05](#).

system. Examples may include efforts to build state capacity to fund collateral civil legal issues such as housing, benefits, child custody, immigration and other issues that may leave families vulnerable to child welfare involvement.¹⁹

c. Continuous Quality Improvement and Change Management

The 2012 program instruction for the CIP²⁰ introduced continuous quality improvement (CQI) as the common approach for CIP work. CQI is a cyclical process used to identify, inform, monitor and improve progress toward outcomes in an ongoing fashion. The CQI framework provides an opportunity to meaningfully examine projects and activities to ensure resources are used in an efficient and effective manner and that interventions have their desired effect. CQI is a change management process that includes multiple steps or phases. To advance individual work and collective learning, state courts are required to use the following steps to guide court centered and collaborative work:

- ***Identify and assess needs.*** Before diving into a project or activity it is important to take time to intentionally identify and assess the problem or need. To ensure a well-rounded perspective, teams of relevant stakeholders should be formed to discuss the need and guide the work. These teams may be composed of CIP task-force members, but may also require additional expertise.

It is important to explore existing data and gather additional data to help understand the problem in more depth, to better identify who or what is most affected by the problem, and discern what information is already available to think about the need. The state child welfare agency collects and reports on a host of measures for each state annually through the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the NCANDS. CFSR Round 3 Statewide Data Indicators and resources are provided by CB.²¹ NYTD²² is another data source with important data on outcomes for older youth remaining in or exiting care.

Many measures calculable from these systems can help state courts dig deeper and better understand the safety and permanency of children and youth in foster care and begin discerning how court and attorney action may impact both.

- ***Develop a theory of change.*** Following the data gathering phase, it is important to develop a theory of change. The theory of change identifies theoretical root causes of a problem and how they can be resolved with an intervention. A theory of change links outcomes to proposed activities and explains both how and why a desired change is expected to occur.

¹⁹ For an example, see <https://artscimedia.case.edu/wp-content/uploads/sites/35/2014/02/14194055/CFARreport.pdf>

²⁰ See <https://www.acf.hhs.gov/sites/default/files/cb/pi1202.pdf>

²¹ See <https://www.cfsrportal.acf.hhs.gov/resources>

²² See <https://www.acf.hhs.gov/cb/research-data-technology/reporting-systems/nytd>

- ***Select and adapt or develop a solution.*** Once a problem or need has been clearly identified and defined, it is time to explore solutions. It is important to take the time to research and consider interventions that already exist, including what has worked in other jurisdictions. Research should inform decisions, particularly if interventions or similar practices have been implemented elsewhere and have evidence to support their effectiveness. Selecting the appropriate intervention depends on needs, resources, and feasibility. Any intervention selected should be adapted to meet the unique needs of the state/jurisdiction. If no available interventions exist, consider designing and testing one to best meet the needs of the program.
- ***Plan, prepare and implement an intervention or change.*** Implementation is most successful when done following a strong and specific implementation plan and where a site is ready to change. An honest assessment of readiness with a site should always be conducted prior to determining if it is appropriate to implement the effort. Capacity should be built within the site to ensure resources and supports are available to sustain the intervention. Then, the intervention (e.g., program or practice) should be piloted or tested.
- ***Evaluate and apply findings.*** Changes in practice or implementation of new interventions should be monitored and evaluated to understand if they are achieving their intended effect. Data should be collected on implementation or fidelity of the new practice to ensure it is being implemented as expected. Evaluation efforts should measure both the quality of the intervention (how it is being implemented) and the effects of the intervention, both immediate (how it changes practice) and long-term (how it affects outcomes for families or youth). Data from monitoring and evaluation should drive decision-making about modification, continuation, or expansion of the intervention. Attachment C includes a list of questions to consider for each of the above steps.

III. SELF-ASSESSMENT PROCESS REQUIREMENTS

CIPs are required to conduct an annual self-assessment to identify progress, challenges and areas in need of assistance. The purpose of the self-assessment process is to create an opportunity for CIPs to reflect on what they are doing, why they are doing it and to assess if efforts are achieving intended results. The self-assessment process is designed to help shape and inform ongoing strategic planning and should include meaningful discussion with the multi-disciplinary task force and candid reflection of key CIP staff. A self-assessment template has been developed to assist with the process and is required to be submitted to the CB annually. The template and process are intended as important elements of CQI.

To promote joint planning with the title IV-B/IV-E agency and support integration of CIPs into child welfare planning and improvement efforts, annual self-assessments and strategic plan updates are due at the same time as state CFSP/APSR submissions. The strategic plan template is included as Attachment E.

CB will host individual calls with each CIP to review progress in meeting grant requirements, identified outcomes and to provide guidance and support at least annually.

IV. STRATEGIC PLAN REQUIREMENTS

To ensure thoughtful program and project management, state courts are required to create and submit a five-year strategic plan that identifies outcomes a state court will address and the projects and activities that they will undertake to achieve them over the next five years. Strategic plans are intended to be a tool that guides CIP work. Strategic plans must clearly articulate what the state court intends to achieve and how. Strategic plans are living documents that should be updated as needed to reflect self-assessment results and CQI efforts but minimally, an updated strategic plan must be submitted to CB annually for review, discussion, and approval.

The strategic plan should include:

- For the basic grant, a plan
 - to continuously monitor and improve the quality of child welfare court proceedings, including court hearings and reviews;
 - for a joint, data-driven project with the child welfare agency;
 - to continuously monitor and improve the quality of legal representation.
- For the data grant, a description of how courts and child welfare agencies on the local and state levels will collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child welfare cases will produce safe and timely permanency decisions.
- For the training grant, a description of how a portion of the grant will be used for cross-training with the title IV-E/IV-B agency.

The strategic plan template is included as Attachment E.

V. APPLICATION REQUIREMENTS

To receive funds for FY 2022, State courts must complete and submit an application including all of the requirements detailed below by June 30, 2021. The application must identify which of the three CIP grants the state court is requesting. Annual awards are subject to the availability of funds and to the CIP demonstrating program progress.

Applications for FY 2022 CIP Grants

Fiscal Year 2022 begins a new five-year cycle for CIP. Accordingly, to receive funding for FY 2022, state courts must submit a complete application containing the below components by **June 30, 2021**.

1. An application cover sheet, providing organizational information and a checklist for the application packet (see Attachment A).
2. A letter from the highest state court requesting funding for each of the CIP grants desired for FYs 2022, including assurances that:
 - a. the court has in effect a rule requiring state courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the state are notified of any proceeding held with respect to the child and are afforded the right to be heard;
 - b. the court will share all relevant data stemming from CIP projects and data collection efforts with the title IV-B/IV-E agency for purposes of joint child welfare program planning;
 - c. at least one representative per each CIP grant received will participate in the annual CIP Grantee Meeting each year funding is received;
 - d. the court will ensure training was/is to be provided on the congregate care provisions of the Family First Prevention Services Act;²³
 - e. the court will pursue cross-training opportunities with the title IV-B/IV-E agency, tribes, and other important stakeholders including working to utilize professional partner training for judges, attorneys and court personnel; and
 - f. the court will work with the title IV-B/IV-E agency to consider options for accessing title IV-E reimbursement to ensure high quality legal representation for parents, children and youth in child welfare proceedings.
3. A letter of support from the state agency administering the title IV-B and IV-E programs that assures:
 - a. ongoing, high-level agency participation on the CIP Multidisciplinary Statewide Taskforce, including task force meetings, planning and improvement efforts, and attendance of the annual CIP grantee meeting;
 - b. full and ongoing inclusion of the state court/CIP in child welfare program planning and improvement efforts, including the APSR/CFSP, CQI/QA, CFSR, and title IV-E Foster Care Eligibility Review and program improvement processes;
 - c. timely and ongoing data sharing with the state court/CIP of all relevant child welfare data for purposes of program planning and continuously quality improvement of the child welfare system;
 - d. the agency will pursue cross-training opportunities with the state court/CIP including working to utilize professional partner training for judges, attorneys and court personnel; and

²³ 42 U.S.C. 629h(b)(1) (2018)

- e. the agency will work with the administrative office of the courts to consider options for accessing title IV-E reimbursement to ensure high quality legal representation for parents, children and youth in child welfare proceedings.
4. A list of the members of the statewide multidisciplinary taskforce including the:
 - a. name of the member; and
 - b. professional affiliation and title and/or role or area of expertise.
 5. In a case where the recommended state agency participants are not included on the statewide multi-disciplinary team, the state court must provide narrative explanation and rationale for not including the identified members.
 6. A budget narrative.
 7. An updated Self-Assessment (see Section III and Attachment B).
 8. A proposed five-year Strategic Plan that reflects how grant funds will be used to identify and implement approaches to ensure continuous quality improvement (see Section IV and Attachment E).

Submitting an Application

State courts must submit applications in MS Word and PDF, via e-mail to the appropriate CB Regional Program Manager (See Attachment G) and Scott Trowbridge, Federal Project Officer, at scott.trowbridge@acf.hhs.gov. CB will approve applications that satisfy the requirements and purposes described at Section 438 of the Act and the requirements described in this Program Instruction.

VI. FISCAL REPORTING REQUIREMENTS

The CIP grants have a two-year project/obligation period starting the first day of the federal fiscal Year, October 1, for which funds were awarded and ending September 30, the last day of the following federal fiscal. An interim financial report, covering the first fiscal year (year of award), must be submitted no later than 90 days following the end of the fiscal year. In addition, and in accordance with Federal regulations at 45 CFR 75.309(b), the final financial report, covering the entire two-year obligation and liquidation periods, must be submitted no later than the last day of the liquidation period. Expenditures under the basic grants, data collection and analysis grants and the training grants must each be reported on an SF-425 Financial Status Report. A separate report is required for each grant received. **State courts are required to file these reports electronically through the HHS Payment Management System.**

Resources for State Court Improvement Programs

The Children's Bureau's Child Welfare Capacity Building Center for Courts (CBCC) is designed to provide capacity building support to all CIPs. The CBCC has liaisons assigned to each state and the tribal CIPs, as well as research staff that are paired with each liaison. They work directly with CIP Directors, Coordinators and key staff to help CIPs incorporate CQI approaches into their work, assist with strategic planning and serve as thought partners as needed. In addition to direct work with individual CIPs, the CBCC also hosts a number of constituency groups composed of groups of CIPs that are interested in similar types of work and facilitates opportunities for group learning and peer-to-peer sharing through regularly scheduled online meetings, working sessions and discussions. The CBCC also develops non-jurisdictional 'Universal' products that support CIP work. These and contact information can be found here <https://capacity.childwelfare.gov/courts/>.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (P.L. 104-13), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) Control Number. The OMB control number for this collection is 0970-0307 and it expires 11/30/2022. The estimated time to complete the CIP application process is 92 hours.

INQUIRIES TO: CB Regional Program Managers

/s/

Elizabeth Darling
Commissioner
Administration on Children,
Youth and Families

Attachments:

- A: Application Cover Sheet
- B: Self-Assessment Template
- C: Change Management Questions
- D: Quality Hearing Indicators
- E: Strategic Plan Template
- F: FY 2020 Allocations for the Court Improvement Program Grants
- G: CB Regional Office Program Manager Directory

Attachment C

ACF Administration For Children And Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children and Families	
	1. Log No: ACYF-CB-PI-21-02	2. Issuance Date: February 12, 2021
	3. Originating Office: Children's Bureau	
	4. Key Words: State Court Improvement Program Grant	

PROGRAM INSTRUCTION

TO: Highest State Courts of Appeal

SUBJECT: Changes to Court Improvement Program (CIP) and Updated Instructions for State Courts on Submitting New Five-Year Strategic Plan for FY 2022 – 2026 and Applying for CIP Funds for Fiscal Year (FY) 2022

REFERENCES: Section 438 of the Social Security Act, as amended by Public Law (P.L.) 116-260, Section 305 of title III of Division CC of the Consolidated Appropriations Act, 2021.

PURPOSE: The purpose of this Program Instruction (PI) is to provide information on changes to the CIP that become effective in FY 2022 and to provide updated and supplemental guidance on actions need to apply for FY 2022 state CIP funding.

BACKGROUND: On December 17, 2020, the Children's Bureau issued [ACYF-CB-PI-20-12](#)¹ providing guidance on how to apply for FY 2022 CIP funding. Just after the issuance of that PI, on December 27, 2020, P.L. 116-260, the Consolidated Appropriations Act, 2021 was enacted into law. This law included provisions amending the CIP, effective October 1, 2021, the first day of FY 2022.²

The primary change to the CIP made by the new law is to consolidate the former three CIP grants (basic, data and training) into a single grant that can be used for all of the program purposes. Under the new single CIP grant structure, each state CIP grantee will be required to use at least 30 percent of funds for collaboration and data sharing. The funding formula for the program is updated to reflect the change in the structure of the program from three grants to one grant, ensuring that grantees will receive approximately the same amount of funding that they would have received if they participated in all three CIP grants. The law also extended the authorization of mandatory appropriations for the program through FY 2022.

¹ See, <https://www.acf.hhs.gov/cb/policy-guidance/pi-20-12>

² Section 305(c) of title III of Division CC of the Consolidated Appropriations Act, 2021.

In light of the changes in the law, CB is providing updated guidance on actions needed to apply for FY 2022 state CIP funding. For ease of comparison, this PI is organized in the same manner as the recently issued ACYF-CB-PI-20-12³, but omits sections where there were no changes. To receive FY 2022 CIP funding, State courts must comply with all of the requirements delineated in ACYF-CB-PI-20-12, unless superseded by the instructions provided in this PI.

INFORMATION: Organization of the Program Instruction:

Section I. Program Eligibility and Funding
 Section II. Program Requirements
 Section III. Self-Assessment Process Requirements
 Section IV. Strategic Plan Requirements
 Section V. Application Requirements
 Section VI. Fiscal Reporting Requirements
 Attachments

I. PROGRAM ELIGIBILITY AND FUNDING

Funding

- Allotments: State courts with an approved application will be allotted \$255,000 and, after the sum of all states' base amounts and the \$1 million set aside for grants to tribes are subtracted from the total appropriation, a percentage of the remainder based on the state's proportionate share of children under age 21.⁴ For reference, FY 2020 allotment tables were included with ACYF-CB-PI-20-12. The sum of the three CIP grants received in FY 2020 may be used as an estimate of funding that will be available under the single CIP grant for FY 2022.

II. PROGRAM REQUIREMENTS

The Consolidated Appropriations Act, 2021 merged the former basic, training, and data grants. However, the section formerly authorizing the 'data grant,' now provides that of the new single grant total the CIP "will use not less than 30 percent of grant funds to collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions."⁵

³ See, <https://www.acf.hhs.gov/cb/policy-guidance/pi-20-12>

⁴ 42 U.S.C. 629h(c).

⁵ 42 U.S.C. 629h(b)(1).

III. SELF-ASSESSMENT PROCESS REQUIREMENTS

The Consolidated Appropriations Act, 2021 does not change the requirements for the 2021 Self-Assessment, due June 30, 2021.

IV. STRATEGIC PLAN REQUIREMENTS

The Strategic Plan submission due June 30, 2021 is unchanged except that for efforts beyond October 1, 2021:

- grantees need not identify which grant is supporting each project in the plan.
- the plan should demonstrate that not less than 30% of grant funds are used for the data purposes described in Part II above.

V. APPLICATION REQUIREMENTS

To receive funds for FY 2022, State courts must complete and submit an application including all of the requirements detailed below by June 30, 2021. Items that have been added or revised since issuance of ACYF-CB-PI-20-12 are highlighted in bold. All other items remain the same as previously presented in ACYF-CB-PI-20-12 but are repeated here to ensure that State courts have clear and complete information on all application requirements. Annual awards are subject to the availability of funds and to the CIP demonstrating program progress.

Applications for FY 2022 CIP Grants

Fiscal Year 2022 begins a new five-year cycle for CIP. Accordingly, to receive funding for FY 2022, state courts must submit a complete application containing the below components by June 30, 2021.

1. An application cover sheet, providing organizational information and a checklist for the application packet (see Attachment A **in ACYF-CB-PI-20-12**).
2. A letter from the highest state court requesting FY 2022 funding for the **single CIP grant**, including assurances that:
 - a. the court has in effect a rule requiring state courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the state are notified of any proceeding held with respect to the child and are afforded the right to be heard;
 - b. the court will share all relevant data stemming from CIP projects and data collection efforts with the title IV-B/IV-E agency for purposes of joint child welfare program planning;
 - c. at least one representative per each CIP grant received will participate in the annual CIP Grantee Meeting each year funding is received;

- d. the court will ensure training was/is to be provided on the congregate care provisions of the Family First Prevention Services Act;⁶
 - e. the court will pursue cross-training opportunities with the title IV-B/IV-E agency, tribes, and other important stakeholders including working to utilize professional partner training for judges, attorneys and court personnel; and
 - f. the court will work with the title IV-B/IV-E agency to consider options for accessing title IV-E reimbursement to ensure high quality legal representation for parents, children and youth in child welfare proceedings; and
 - g. the court will use not less than 30 percent of grant funds to collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions.**
3. A letter of support from the state agency administering the title IV-B and IV-E programs that assures:
- a. ongoing, high-level agency participation on the CIP Multidisciplinary Statewide Taskforce, including task force meetings, planning and improvement efforts, and attendance of the annual CIP grantee meeting;
 - b. full and ongoing inclusion of the state court/CIP in child welfare program planning and improvement efforts, including the APSR/CFSP, CQI/QA, CFSR, and title IV-E Foster Care Eligibility Review and program improvement processes;
 - c. timely and ongoing data sharing with the state court/CIP of all relevant child welfare data for purposes of program planning and continuously quality improvement of the child welfare system;
 - d. the agency will pursue cross-training opportunities with the state court/CIP including working to utilize professional partner training for judges, attorneys and court personnel; and
 - e. the agency will work with the administrative office of the courts to consider options for accessing title IV-E reimbursement to ensure high quality legal representation for parents, children and youth in child welfare proceedings.
4. A list of the members of the statewide multidisciplinary taskforce including the:
- a. name of the member; and
 - b. professional affiliation and title and/or role or area of expertise.
5. In a case where the recommended state agency participants are not included on the statewide multi-disciplinary team, the state court must provide narrative explanation and rationale for not including the identified members.
6. A budget narrative **which includes details about how not less than 30% of the funds be used for the data purposes noted above.**
7. An updated Self-Assessment (see Section III and Attachment B of **ACYF-CB-PI-20-12**).

⁶ 42 U.S.C. 629h(b)(1) (2018)

8. A proposed five-year Strategic Plan that reflects how grant funds will be used to identify and implement approaches to ensure continuous quality improvement (see Section IV and Attachment E of **ACYF-CB-PI-20-12**).

VI. FISCAL REPORTING REQUIREMENTS

The CIP grants have a two-year project/obligation period starting the first day of the federal fiscal Year, October 1, for which funds were awarded and ending September 30, the last day of the following federal fiscal. An interim financial report, covering the first fiscal year (year of award), must be submitted no later than 90 days following the end of the fiscal year. In addition, and in accordance with Federal regulations at 45 CFR 75.309(b), the final financial report, covering the entire two-year obligation and liquidation periods, must be submitted no later than the last day of the liquidation period. Expenditures under the CIP grant must be reported on an SF-425 Financial Status Report. For fiscal year 2021 and earlier years, a separate report is required for each grant (basic, data and training) received. Beginning with the FY 2022 award, only one SF-425 Report will be required each year. **State courts are required to file SF-425 report electronically through the HHS Payment Management System.**

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (P.L. 104-13), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) Control Number. The OMB control number for this collection is 0970-0307 and it expires 11/30/2022. The estimated time to complete the CIP application process is 92 hours.

INQUIRIES TO: [CB Regional Program Managers](#)

/s/
Amanda Barlow
Acting Commissioner
Administration on Children,
Youth and Families

Attachment D

GUIDING QUESTIONS ON PERMANENCY



UTAH COURT IMPROVEMENT PROGRAM

The Court Improvement Program's Hearing Quality Checklist and Guide Workgroup developed the Guiding Questions on Permanency. This workgroup included representatives from the Juvenile Court, Division of Child and Family Services, Parental Defense Alliance, Utah Attorney General's Office Child Protection Division, and the Office of Guardian ad Litem and CASA.

Introduction	3
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Kinship Placement & Connection	11
Child Well-Being	12
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The Utah Court Improvement Program (CIP) and the Division of Child and Family Services (DCFS), and in participation with judges, attorneys, and DCFS staff, seek to improve permanency outcomes for children and family by supporting high quality hearings. These Guiding Questions on Permanency, including a judicial checklist for hearings, are issued as part of that effort.

The CIP and DCFS began examining the quality of hearings in Utah in January 2019 after findings from the August 2018 Federal Child and Family Services Review (CFSR) revealed concerns regarding appropriate and timely permanency. The CFSR results showed that appropriate permanency goals were not always established in a timely manner and there were not always concerted efforts made towards the permanency and concurrent goals. Together CIP and DCFS along with representatives from the Juvenile Court, Parental Defense Alliance, Utah Attorney General's Office Child Protection Division, and the Office of Guardian ad Litem and CASA reviewed various data to identify why there are delays in achieving permanency and identifying the appropriate permanency and concurrent goals. Despite holding timely hearings, data showed that permanency goals are not reviewed at every hearing and a meaningful conversation about the reasons for the concurrent goal does not occur at every hearing.

Also, the research that indicates linkages between hearing quality and permanency outcomes:

- Engagement of parents in the hearing process has been linked to higher likelihoods of relative placements instead of stranger foster care.[1]
- Courts that were more respectful of parents also had better timeliness outcomes.[2]
- High performing courts (with better and more timely permanency outcomes) also had more youth present in court, more discussion in hearings, and more specific discussion of how to achieve permanency.[3]
- There is a link between the breadth of discussion topics and a host of outcomes, including relative placements, reunification, and timely permanency.[4]

Other states that have focused on improving hearing quality have used bench cards or judicial checklists to improve practice. Here, the Guiding Questions on Permanency, including judicial checklist, are designed to give greater consistency to the permanency process so all practitioners and families are prepared to discuss permanency and other relevant issues along with being active participants so there is substantive discussion of the issues and ensure that relevant topics are discussed with the families present and included in the discussion. The Guiding Questions on Permanency are not only for use in the courtroom but are also meant to support practitioners and families in having consistent conversations at all stages of a child welfare case about permanency in child and family team meetings, mediations, and other meetings.

Specifically, the Guiding Questions on Permanency are developed to ensure that:

- All participants are engaged in respectful hearings in a way that fosters hope and continued participation.
 - Each hearing will sufficiently cover pertinent safety, permanency, and well-being factors with depth and breadth resulting in more meaningful hearings.
 - All parties clearly understand the family's current circumstances at each hearing.
 - Appropriate permanency and concurrent goals are established on a timely basis and evaluated on an ongoing basis.
 - All parties clearly understand the path to permanency and what is needed to achieve permanency including next immediate steps.
 - Each hearing contributes meaningfully in a clear progression towards permanency.
 - Children and families achieve timely and appropriate permanency.
-

The Guiding Questions on Permanency are organized in a format that includes sections applicable to all hearings and sections that relate to specific permanency goals. Overall, the format includes:

- **Opening Statement/Engagement of Parties Section** - frames the hearing by explaining its purpose, explores that everyone required for the hearing is available, and tips on engaging parents and children during the hearing.
- **Specific Goal & Common Issue Topics** - explore topics relevant to specific permanency and concurrent goals and other topics including safety, child well-being, appropriateness of placement, and family time.
- **Next Steps & Setting Expectation Section** - summarizes the proceeding so that all participants (including parents, caretakers, and children) understand what happened during the hearing, what the next steps are, and who is responsible for taking those steps.

It is noted that the Guiding Questions on Permanency can be modified, reworded, or may not be relevant to the unique facts and circumstances of each abuse and neglect case. The overall purpose of these questions is to ensure that the appropriate permanency and concurrent goals are established in a timely manner and reviewed frequently so that all children and families experience timely permanency.

HEARING CHECKLIST

OPENING STATEMENT

- Explain type and purpose of the hearing, including any relevant permanency time frames
- Ask parents/caregivers and children: What is something that has gone well since the last hearing
- Are the right people present? Who is missing, and if so, why? Are all parties identified, located, and notified?

ENGAGEMENT OF PARTIES

- Address parents by name
- Provide parents and children with an opportunity to be heard (not only through attorney)
- Use understandable language

SAFETY & CONDITIONS TO RETURN HOME (ONLY REUNIFICATION)

- What are the specific safety issues preventing the child(ren) from returning home today?
- What is being done to address the safety issues? What progress has been made? Any barriers?

FAMILY TIME

- How is family visitation going?
- Can there be unsupervised visits with the parents? If not, what is the plan to move to unsupervised visits?
- Are the siblings placed together? If not, why not and are they spending time together?

PERMANENCY GOAL

- What has been accomplished towards the permanency goal since the last hearing? Any barriers?

CONCURRENT GOAL

- Is the concurrent goal still appropriate?
- What efforts have been made towards the concurrent goal since the last hearing?

KINSHIP

- Is the child placed with appropriate relatives? If not, what efforts have been made to identify and place the child with appropriate relatives since the last hearing?
- What efforts have been made to maintain relative connections?

CHILD WELL-BEING

- Does the child have any unmet needs (i.e. physical, social, educational, mental health)? If so, what is being done or needs to be done?
- *Maintain child's significant connections (i.e. cultural and community connections, social/emotional connections, school, sports, extracurricular activities) and refer to Education Court Report*

NEXT STEPS

- What must be accomplished before the next hearing? Who is responsible for what?

The National Council of Juvenile and Family Court Judges recommends that the court should do all it can to encourage and support the meaningful engagement of children, youth, and families in the child welfare process and in hearings.[5] When the voices of parents and children are heard during hearings, there are clear benefits including a more complete understanding of family strengths, needs, and resources; increased levels of engagement by parents, children and youth; and greater depth and breadth of useful information on which a judge may base his or her decision.[6]

The research demonstrates that positive parental, child, and family engagement is linked to timelier case processing and positive permanency outcomes in cases (e.g., timely permanency and increased reunification rates). For example, judicial engagement was found to be linked to better placements (e.g., less stranger foster care)[7] and reduced time to permanency.[8] Judicial engagement of the mother at hearings predicted mother's attendance at subsequent hearings, and these findings were also true for the engagement of fathers.[9] Other research has found that judicial engagement of parents at the shelter hearing was found to be associated with the likelihood of placement with parents at the review hearing.[10] A study of one state's court practice found that engagement of parents was significantly related to higher levels of reunification, decreased time to permanency, decreased time to adoption, and a lower percentage of youth still in care at 24 months.[11] Finally, another study found judicial engagement, specifically addressing the mother by name, was related to decreased time to permanency.[12]

Opening Statement

Explain the type and purpose of the hearing, including any relevant permanency time frames

Ask parents/caregivers and children: What is something that has gone well since the last hearing

Are the right people present? Who is missing, and if so, why? Are all parties identified, located, and notified?

Engagement of Parties

Address parents by name

Provide parents and children with an opportunity to be heard (not only through attorney)

Use understandable language

Other tips on engaging parents and children:

- Encouraging parents and children's presence and participation at hearing
- If parents have missed any hearings, talking with them about barriers to attend hearings
- Speaking directly to the party
- Asking parents and children if they have any questions or concerns that have not been addressed.
- Ensuring the professionals treat each other with respect
- Giving parents and youth choices, which could be as simple as asking parents what time of day they would prefer to come to court or asking them which qualified service provider they would prefer.
- Allowing parents and youth to speak first at hearings, before the professionals report on the family's progress.

If a child is placed outside a parent's home, the court should determine the continuing necessity of placement at each hearing.[13] Safety planning is a shared responsibility, but ultimately the court must make critical safety decisions, such as when to remove a child and when to return a child home, throughout the life of the case.[14]

The American Bar Association's *Child Safety Guide for Judges and Attorneys* provides clear standards for judicial decision-making regarding child safety. To determine whether the child is safe, there are three elements to consider: threats of danger (or safety), child's vulnerability, and protective capacities (or factors). A child is considered unsafe when: 1) threats of danger (or safety) exist in the family; 2) child(ren) are vulnerable to those threats; and 3) parents have insufficient protective capacities (or factors) to manage or control threats. [15]

When threats of danger are present with a vulnerable child and the parents possess insufficient protective capacities, the court decides what will temporarily substitute for the parents' inability to control the threats. [16] These substitute actions and tasks that focus on controlling threats of danger are called a safety plan.[17] Safety plans may be 100% in-home plans or 100% out-of-home plans — or some combination of both.[18] An out-of-home safety plan or foster care becomes necessary whenever an in-home safety plan is not sufficient, feasible, or sustainable.[19] An out-of-home safety plan poses two issues the court must decide:

- What kind and amount of contact or visitation will there be? [*this will be discussed in the next section below*]; and
- What are the minimum expectations or conditions for the child to return home?[20]

Conditions for return are the benchmarks for reunification and they should guide service provision, provide clarity for caregivers, and help all parties focus on whether safety can be achieved in the home, which is the focus on deciding when to return a child.[21] Judges and attorneys should focus on critical safety issues, which can help deter parties from overemphasizing attending services and can avoid confusing child well-being, such as appropriateness of the child's education while in care, with child safety.[22] Finally, safety should not be confused with risk. "For a child to be unsafe, the consequences must be severe and imminent. A conclusion about safety means considering: [1] how soon something may occur; [2] how severe the consequences will be to a child; and [3] how out-of-control conditions are. A conclusion about risk assesses the likelihood of maltreatment and has an open-ended timeframe and consequences may be mild or serious." [23]

Questions

What are the specific safety issues preventing the child(ren) from returning home today?

What is being done to address the safety issues? What progress has been made? Any barriers?

The court specifically asking about what are the specific safety issues preventing the child(ren) from returning home today does not imply that the child(ren) is actually going home after the hearing but is used to identify the specific safety issues that prevent the child(ren) from going home under a trial home placement. It is meant for the judge and practitioners to be clear on the specific safety threats as well as provide this information to the parent(s).

Information and follow up questions to assist with having a substantive discussion:

- What services can be arranged to allow the child to safely return home today?
 - What type of in-home safety plan could be developed and implemented in order for the child to return home today?
 - What is the status of the safety threats? Are the safety threats diminishing?
 - What is the status of the parent's protective factors? Have they improved?
 - Asking parents and families if there are any additional services that have not been provided?
-

Family time is critical to maintaining the parent-child relationship when a child is in out-of-home care as well as reducing the potentially damaging effects of separation.[24] It should be liberal and presumed unsupervised unless there is a demonstrated safety risk to the child.[25] "Research shows that children who have regular, frequent contact with their family while in foster care experience:

- A greater likelihood of reunification;
- Shorter stays in out-of-home care;
- Increased chances that the reunification will be lasting;
- Overall improved emotional well-being and positive adjustment to placement." [26]

The current frequency, duration, and type of family time should be reviewed at each court hearing in order to determine if any changes are required in the frequency and supervision of visits as well as discuss parental participation and engagement and address any barriers to participation.[27]

The research shows the importance of sibling relationships to everyone, but they are particularly vital to children from disorganized or dysfunctional families.[28] Under the Fostering Connections to Success and Increasing Adoptions Act of 2008, DCFS must make reasonable efforts:

- To place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to safety or well-being of any of the siblings; and
- In the case of siblings, who are not placed together, to provide frequent visitation or other ongoing interaction between the siblings, unless there it is documented that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.[29]

Questions

How is family visitation going?

Can there be unsupervised visits with the parents? If not, what is the plan to move to unsupervised visits?

Are the siblings placed together? If not, why not and are they spending time together?

Information and follow up questions to assist with having a substantive discussion:

- *Current parent-child visits* – consider the nature, quality, and length of visits between child and parent
 - Does the visiting plan include a planned progression so that the parent or caretaker can see how visits will increase and be less restrictive over time assuming visits go well?
 - Is continuing supervised visits necessary based upon the safety of children?
 - Are there any logistical challenges for the family or child in meeting the plan?
 - If visits are not regularly attended, what remedies have been attempted?
 - How does the visiting plan support the permanency goal?
- *Sibling visits*
 - Are these visits included in family visits?
 - Are there separate sibling visits? What is the frequency, duration, restrictions (including out of state placements) and quality of contact (in community, interaction between sibs, supported by existing caregivers)?
 - For older siblings, are they allowed to contact each other on their own without permission? If so, has that been communicated to the siblings?

Every child and youth deserves a permanent family relationship and for those in out-of-home placements, planning for permanence should begin at their entry into foster care.[30] Permanency planning involves achieving permanent placements for children and youth within relatively short periods of time, either through their safe return home, or their placement in a new, safe, legally secure permanent home.[31] Concurrent planning is used alongside permanency planning to shorten a child or youth's stay in foster care by promoting more than one permanent family solution at a time. It is not sufficient to have a concurrent plan in name only; it needs to be actively pursued with the same urgency as the primary permanency goal.[32] It is important to have discussions in hearings about specific barriers to permanency planning, including the concurrent goal, and concrete steps to achieving permanency in order to help the parents (or pre-adoptive home) better understand what they need to do in order to achieve permanency and allows them to play a role in the discussion and problem solve any barriers. Also, the August 2018 CFSR found that we need to improve our efforts in continually assessing whether the concurrent goal is appropriate for that child because it may be appropriate at one time but later on in the case it is no longer appropriate.

Permanency Goal Question

What has been accomplished towards the permanency goal since the last hearing? Any barriers?

Concurrent Goal Questions

Is the concurrent goal still appropriate?

What efforts have been made towards the concurrent goal since the last hearing?

Information and follow up questions to assist with having a substantive discussion:

- What steps are still required to finalize the permanency plan?
- Does a permanency hearing need to be scheduled to discuss if the concurrent goal needs to be changed?

Kinship placements can be the best possible opportunity for maintaining familial, cultural, and community ties and reducing the overall trauma of removal and placement.[33] Research shows that family connections are critical to healthy child development and a sense of belonging.[34] In accordance, it's DCFS' policy that "when a child cannot safely remain in their home, the best possible place for that child is with someone familiar to them who can keep them connected to their family, their community, and their culture. Foster care with a stranger is a last resort and should only be used when ongoing efforts have failed to locate, engage, and support safe relative placements." [35] "Any preferential consideration that a relative or friend is initially granted . . . expires 120 days from the date of the shelter hearing. After that time period . . . , a relative or friend who has not obtained custody or asserted an interest in a child, may not be granted preferential consideration by the division or the court." [36]

Questions

Is the child placed with appropriate relatives? If not, what efforts have been made to identify and place the child with appropriate relatives since the last hearing?

What efforts have been made to maintain relative connections?

Information and follow up questions to assist with having a substantive discussion:

- Continuing work to identify and work with kinship resources, including paternal family members as well as non-kin resources who have a relationship with the child (e.g., teacher, coach, neighbor) for both placement resources or supportive resources to assist with reunification and maintain connections with.
- If the child is in a non-kinship care placement, does that remain the best placement? Is there support for the child's connection to family and community? Is there support for the child's cultural and linguistic identity?

Every hearing affords the opportunity to discuss a child's physical, emotional, and mental health and educational needs and to identify any gaps in services and ensure the child's voice is heard.[37] Also, all children and youth in out of home placements should have the ability to engage in healthy and developmental activities, such as social, extracurricular, enrichment, or cultural activities, that promote normalcy and well-being. A child's well-being should be focused on with the same urgency as safety and permanency. It highlights for parents, caseworkers, and attorneys the importance of the child's healthy development to case review and permanency planning.[38]

Q u e s t i o n

Does the child have any unmet needs (i.e. physical, social, educational, mental health)? If so, what is being done or needs to be done?

Maintain child's significant connections (i.e. social/emotional connections, school, sports, extracurricular activities) and refer to Education Court Report

I n f o r m a t i o n a n d f o l l o w u p q u e s t i o n s t o a s s i s t w i t h h a v i n g a s u b s t a n t i v e d i s c u s s i o n :

- Does the current placement meet all the physical, emotional, and educational needs of the child?
 - If not, what is being done including working with the current caregiver to recognize and attend to the child's physical, emotional, and educational needs and facilitate the child's involvement in services?
 - Are there any services needed to support the current caregiver?
 - Does the child have the opportunity to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities?
-

The end of the hearing provides another opportunity for the judge to directly engage parents, children, and family members.[39] Discussing next steps helps ensure that all parties understand what took place in the hearing along with setting the stage for subsequent hearings by summarizing expectations for those hearings.[40]

Question**What must be accomplished before the next hearing? Who is responsible for what?**

Follow up questions to assist with ensuring that all participants understand what took place in the hearing and what the next steps are:

- What needs to happen to meet any of the needs we discussed in the hearing?
 - Asking parents, children, and caregivers what they need and how can we address it?
 - Setting the next hearing and asking if the next hearing date/time works for the parents.
 - Asking parents/youth if they understand, what happened today and the next steps?
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- [1] Stephanie Macgill & Alicia Summers, *Assessing the relationship between the quality of juvenile dependency hearings and foster care placements*, 52 Family Court Review, 678 (2014).
- [2] Alberta J. Ellett & Sue D. Steib, *Child welfare and the courts; A statewide study with implications for professional development, practice, and change*, 15(5) Research on Social Work Practice 339 (2005).
- [3] Alicia Summers & Adam Darnell, *What does court observation tell us about judicial practice and the courts in child welfare?*, 9 Journal of Public Child Welfare 341 (2015).
- [4] Alicia Summers, Sophie I. Gatowski & Melissa Gueller, *Examining hearing quality in child abuse and neglect cases: The relationship between breadth of discussion and case outcomes*, 82 Children and Youth Services Review 490 (2017).
- [5] Sophie I. Gatowski, Nancy B. Miller, Stephen M. Rubin, Patricia Escher & Candice Maze, *Enhanced resource guidelines: Improving court practice in child abuse and neglect cases* 68, National Council of Juvenile and Family Court Judges (2016) (hereinafter Enhanced Resource Guidelines).
- [6] Jerry Milner & David Kelly, *How Attorneys and Judges Help Strengthen Families*, 40 NACC: The Guardian 1 (2018).
- [7] Macgill, *supra* note 1.
- [8] *Id.*
- [9] Carlene Gonzalez & Alicia Summers, *Assessing the long-term effects of courts catalyzing change preliminary protective hearing benchcard*, *Assessing the long-term effects of courts catalyzing change preliminary protective hearing benchcard*, National Council of Juvenile and Family Court Judges (2014); Alicia Summers & Sophie Gatowski, *Nevada Hearing Quality Study: Examining the Quality of Child Welfare Court Hearing Practice in Nevada*, Nevada Court Improvement Program (2018).
- [10] Theresa Bohannon, Kelesha Nevers & Alicia Summers, *Hawaii courts catalyzing change case file review and court observation pre and post benchcard*, National Council of Juvenile and Family Court Judges (2015).
- [11] Macgill, *supra* note 1.
- [12] Gatowski, *supra* note 9
- [13] Enhanced Resource Guidelines, 265.
- [14] Therese Roe Lund & Jennifer Renne, *Child Safety: A Guide for Judges and Attorney*, American Bar Association, 2, (2009).
- [15] *Id.* at 2.
- [16] *Id.* at 21.
- [17] *Id.*
- [18] *Id.* at 53.
- [19] *Id.* at 33.
- [20] *Id.*
- [21] *Id.* at 33-36, 77.
- [22] *Id.* at 43.
- [23] *Id.* at 2.
- [24] Wendy Haight, Sarah C. Mangelsdorf, James Black, Margaret Szewcyk, Sarah Schoppe, Grace Ann Giorgio, Lakshmi Tata, *Enhancing parent-child interaction during foster care visits: Experimental assessment of an intervention*, 84 Child Welfare 459 (2005); Enhanced Resource Guidelines, 85.
- [25] Enhanced Resource Guidelines, 16.
- [26] Partners For Out Children, *Family Visitation in Child Welfare: Helping Children Cope with Separation while in Foster Care*, 11 (2011), available at https://partnersforourchildren.org/sites/default/files/2011_family_visitation.....helping_children_cope_brief.pdf (last accessed on March 11, 2020).
- [27] Enhanced Resource Guidelines, 87.
- [28] *Id.* at 85.
- [29] 42 U.S.C. § 671(a)(31) (2020).
- [30] Enhanced Resource Guidelines, 295.
- [31] *Id.* at 36.
- [32] *Id.* at 93.
- [33] Enhanced Resource Guidelines, 137; Heidi Redlich Epstein, *Kinship Care is Better for Children and Families*, 36 American Bar Association Child Law Practice Today 1 (2017).
- [34] Epstein, *supra* note 34.
- [35] Diane Moore, *DCFS Kinship Memo*, May/June 2019.
- [36] Utah Code § 78A-6-307(18)(a) (2020).
- [37] Enhanced Resource Guidelines, 75.
- [38] *Id.* at 75-76.
- [39] *Id.* at 70.
- [40] *Id.* at 42.
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Attachment E

Utah's Core Principles and Guiding Practices for a Fully Integrated Child-Welfare System



A Fully Integrated Child-Welfare System

As Utah's child-welfare and legal communities work toward a fully integrated child-welfare system that is focused on best practices, we are united in our commitment to protecting children and strengthening families. As such, we have come together to develop the following core principles that reflect our overarching goals of child safety, well-being, and permanency.

WE RECOGNIZE THAT IT IS OUR RESPONSIBILITY TO ENSURE THE FOLLOWING:

Core principles:

- 1 Our interventions preserve and create safe family and community connections in ways that minimize loss, harm, and disruption.
- 2 Children and families receive early, intensive family engagement, advocacy, and access to services and supports.
- 3 All participants are empowered and valued within a trauma-informed environment that amplifies family voice.
- 4 Children and families are served by highly-skilled professionals, including the judiciary, attorneys, child-welfare staff, foster parents, and other community partners.
- 5 All participants experience hearings and judicial orders that are consistent, of high quality, embody best practices, and afford all participants due process of law.
- 6 All participants are committed to providing families with an experience that is safety-driven, compassionate, transparent, and forward-moving.
- 7 Our interventions in the lives of children and families will be effective and individualized regardless of race, ethnicity, religion, cultural heritage, country of origin, gender, sexual orientation, or socioeconomic status.

These core principles embody a collaborative, cross-system, statewide child-welfare transformation, supported by the following Utah child-welfare professionals:

- | | |
|--|--|
| ▶ Board of Juvenile Court Judges | ▶ Utah Attorney General's Office,
Child Protection Division |
| ▶ Juvenile Court Improvement Program | ▶ Parental Defense Alliance of Utah |
| ▶ Office of Guardian ad Litem and Court
Appointed Special Advocates | ▶ Division of Child and Family Services |
| ▶ Department of Human Services | ▶ Lokken & Associates, P.C. |

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Introduction

These guiding practices represent how to implement the established core principles for Utah's child-welfare system. As we developed the core principles, it became apparent that in order for these principles to transform and be reflected in our child-welfare system, they require practical, action-based steps and implementation strategies to ensure that our daily child-welfare practices promote and reflect these principles.

They should guide the overall operation of our child-welfare system and be reflected in the delivery of all services and interventions to children and families. They are centered on the belief that child safety, well-being, and timely permanency are shared responsibilities of those within our child-welfare system. The goal is to strengthen families and increase child safety and well-being while reducing the number of children in foster care and the length of time any family has contact with the child-welfare system.

It is intended that these guiding practices will be updated to ensure their content reflects current best practices and supports our work towards a fully integrated child-welfare system. The Court Improvement Program (CIP) Steering Committee comprised of representatives from the Juvenile Court, Division of Child and Family Services, Parental Defense Alliance of Utah, Utah Attorney General's Office Child Protection Division, and Office of Guardian ad Litem and CASA will have a process for reviewing and updating these guiding practices at least once a year. If you have any comments or feedback to these guiding practices, please email Bridget M. Koza, CIP Coordinator, at cip@utcourts.gov, so that the CIP Steering Committee can consider it during their review process.



Equity and Cultural Humility

The clients and professionals within our child-welfare system are a diverse group of people, each with their own set of values and expectations.¹ It is well-documented that certain racial and ethnic minorities are overrepresented in the child-welfare system, including Black and Native American families, and that racial disparities occur at various decision points throughout the child-welfare process.²

Regardless of your role in the child-welfare system, whether attorney, judge, social worker, or other professional it is important to address your own and others' biases to ensure they do not drive decisions in child-welfare cases.³ The first step to reducing or preventing implicit bias in our decision-making process is to acknowledge and explore it.⁴ When we learn about our own biases, we can develop strategies, skills, and tools for dealing with them when they emerge.⁵

The practice of cultural humility can help address biases because it is a process of self-reflection and discovery that challenges individuals to not only learn about other people's culture, but to critically examine our own beliefs and cultural identities.⁶ It is important to avoid imposing our own personal values upon families, and take into account how racial, cultural, social, economic, or any other differences may affect our relationships with children and families.⁷

The Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care Initiative was a partnership between the National Council of Juvenile and Family Court Judges and Casey Family Programs to reduce racial disproportionality and disparities in the child-welfare court system. A bench card was created for judges to use at shelter hearings. The bench card includes reflection questions that encourage the judge to pause and think about his or her own decision-making process.⁸ Here are the reflection questions — though they are written for judges to consider, everyone in the child-welfare system can use them to reflect upon any conclusions about or decisions made with regards to a family:

- ◆ What assumptions have I made about the cultural identity, genders, and background of this family?
- ◆ What is my understanding of this family's unique culture and circumstances?
- ◆ How is my decision specific to this child and this family?
- ◆ How has the court's past contact and involvement with this family influenced (or how might it influence) my decision-making process and findings?
- ◆ What evidence has supported every conclusion I have drawn, and how have I challenged unsupported assumptions?
- ◆ Am I convinced that reasonable efforts (or active efforts in Indian Child Welfare Act (ICWA) cases) have been made in an individualized way to match the needs of the family?
- ◆ Am I considering relatives as preferred placement options as long as they can protect the child and support the permanency plan?
- ◆ Have I placed the child in foster care as a last resort?
- ◆ How have I integrated the parents, children, and family members into the hearing process in a way that ensures they have had the opportunity to be heard, respected, and valued? Have I offered the family and children the chance to respond to each of the questions from their perspective?
- ◆ Is this family receiving the same level and tailoring of services as other families?
- ◆ Is the parents' uncooperative or negative behavior rationally related to the involvement of the Agency and/or the Court?

Trauma-Informed Services

Even before involvement with the child-welfare system, many parents and children have experienced toxic stress (or trauma).⁹ Addressing trauma while avoiding the infliction of further trauma must be the primary focus of our efforts to help the families we serve.¹⁰

Experiencing maltreatment and being removed from their homes are traumatic experiences for children.¹¹ These experiences can cause children to develop feelings of worry and confusion as well as a loss of identity, self-esteem, and a sense of belonging.¹² This can also lead to body dysregulation, difficulty managing emotions, cognitive impairment, and multiple long-term health consequences.¹³ These experiences do not have to dictate a child's future. When negative early experiences occur concurrently with protective factors, there is an opportunity to promote resilience.¹⁴ The following are protective factors:

- ◆ Support from family, friends, people at school, and members of the community;
- ◆ A sense of safety at home, at school, and in the community;
- ◆ High self-esteem and positive sense of self-worth;
- ◆ Self-efficacy;
- ◆ Spiritual or cultural beliefs, goals, or dreams for the future that provide a sense of meaning to a child's life;
- ◆ A talent or skill in a particular area (e.g., excelling in school or in a sport); and
- ◆ Coping skills that can be applied to varying situations.¹⁵

Also, the children who end up doing well are most often those who have at least one stable and responsive relationship with a parent, caregiver, or other adult.¹⁶ These relationships provide the support and protection to children's lives that both buffer them from developmental disruptions and help build key skills.¹⁷ These include the ability to plan, regulate behavior, and adapt to changing circumstances.¹⁸ This enables children to respond to adversity and thrive.¹⁹

Also, a parent's own trauma history — either past or present experiences — can affect not only their ability to care for their children but also their ability to work effectively with their caseworker and respond to the requirements of the court.²⁰ We need to be aware of potential trauma 'icebergs' that may be hidden beneath the surface of parents' behavior.²¹ Knowing how trauma can manifest in difficult behaviors can help us strategize about how best to engage parents in case planning and meeting case goals.²² See *Attachment A* for a chart on how trauma can affect a parent's thinking and behavior.

Trauma-Informed Services *Continued*

It is also important to be aware of historical trauma, a form of intergenerational trauma experienced by a specific cultural, racial, or ethnic group.²³ It is related to major events that oppressed a particular group of people, e.g., the violent colonization of Native Americans, slavery, genocide, and forced migration.²⁴ Descendants, who have not directly experienced a traumatic event, can still exhibit the signs and symptoms of trauma, such as depression, low self-esteem, anger, and self-destructive behavior.²⁵

As attorneys, it's important to understand how trauma may affect a client's behavior so you can modify your approach with them, prepare them for court hearings in ways that reduces the likelihood of a traumatic response, and advocate for them in ways that empowers them and helps build a sense of safety and resiliency.²⁶

For judges, courtrooms should be safe spaces that are used to promote healing for children and families through positive interactions. Specific ways to engage parents and children in their hearings to reduce stress and help them feel safe include:

- ◆ Speaking directly to the party;
- ◆ Addressing the party by name;
- ◆ Treating everyone in the courtroom with respect;
- ◆ Giving parties an opportunity to be heard; and
- ◆ Allowing parties to make choices, which could be as simple as asking children and parents what time of day they would prefer to come to court.²⁷

Also, there are two critical judicial determinations that can be tools to prevent further trauma to children and families: reasonable efforts to prevent removal and reasonable efforts to finalize the permanency plan.²⁸



Family Engagement

When a family becomes involved in our child-welfare system, it can be difficult for a parent to fully trust the caseworker, a problem further compounded depending on the parent's understanding of how the child-welfare system works.²⁹ A lack of trust and familiarity can create significant barriers to engagement and impede elements of case planning, including the identification of a family's strengths, needs, and resources.³⁰

We must ensure the decision-making and planning process is family-driven with children and families as an integral part. Effective family engagement is at the heart of child welfare.³¹ The voices of parents, children, and other caregivers will be centered and elevated at each stage of the child-welfare process and proceedings. We will actively engage families early and with a sense of urgency so they are supported and empowered to meet their children's safety and well-being needs, and their own, through empathetic listening, compassion, and respect.³²

Positive parental, child, and family engagement are critical to successful outcomes.³³ When families are included in the decision-making and planning process, we enhance the fit between needs and services, and increase the likelihood of family participation in services and case plan completion.³⁴ We succeed when we encourage and empower families to be their own champions, and work towards family-driven case goals based on their specific strengths, resources, and needs.³⁵

One strategy to promote family engagement is to provide parents with the ability to choose from a defined set of options rather than imposing a single option.³⁶ We also need to provide timelines to help them understand what is likely to happen and what they need to do.³⁷ These both help to engage families by conveying respect.³⁸ Another strategy is to ensure that case-planning meetings are arranged around the family's availability and are utilized to engage the family in case-planning discussions.³⁹

Supports & Services

We will take a family-centered approach when providing services and support. Each family is both unique and diverse. We must tailor services to their strengths and needs by respecting their economic circumstances, beliefs, culture, values, practices, and traditions. This sends a clear message about the family's value by reassuring them that they know their own challenges and needs best. Providing tailored services improves our child-welfare system's ability to respond to the actual conditions that contributed to the family coming to the system's attention.

Service receipt can affect reunification (if it is the permanency goal), so it is important that we all ensure that families' needs are correctly identified and addressed.⁴⁰ In one study, more than one-third of parents seeking to reunify were ordered to receive services for problems they were not identified as having.⁴¹ This can overburden parents already dealing with complex issues and diminish their ability to improve family functioning, which could lead to extended time in care for children.⁴²

We also seek to enhance the family's support network so there are enough resources in place to deal with the underlying causes of the maltreatment that brought the family to the attention of the child-welfare system.⁴³ We can do this by seeking and strengthening informal and formal community supports and resources so that we build community around vulnerable families and increase their safety capacity.

Front-Loading Service Delivery

Because the law does not give parents a long time to complete services required for reunification, parents need to get involved in services as soon as possible.⁴⁴ The longer children remain in out-of-home care, the less likely it is that they will be reunified with one or both parents.⁴⁵ Early and intensive permanency and service planning and implementation are critical to promoting expeditious reunification.⁴⁶ This “front-loading” approach is also aimed at generating early momentum in a case.⁴⁷ When we focus on the first 60 days post-removal, it creates an appropriate sense of urgency, capitalizes on parties’ optimism at the beginning of the case, and sets the direction towards reunification from the outset.⁴⁸

The use of early family engagement and assessments is associated with many positive family outcomes, including higher levels of reunification, reduced re-abuse, increased kinship placements, and increased placement stability.⁴⁹ Also, parents’ early cooperation and involvement in the development of a service plan is predictive of better outcomes because it emphasizes developing a positive relationship with the parent, it focuses on strengths and needs that are most relevant to the case, and it involves the parents in selecting the targets for service plans.⁵⁰

“Front-loading” for the courts includes establishing a process that encourages cooperation and problem-solving from the outset of the court proceeding.⁵¹ Research shows that front-loading procedures help to increase the quality of safety and case planning, reduce the length of time children remain in temporary placements, and ensure hearings themselves are more substantive and meaningful.⁵²

For attorneys, using the Cornerstone Advocacy model (in conjunction with preparing for trial) during the first 60 days of a case can help promote reunification.⁵³ Cornerstone Advocacy is a practice approach, created by Center for Family Representation (CFR) in 2004, that devotes intense advocacy, when children are in foster care, around:

- ◆ Placement – options that support a child’s connection to family and community;
- ◆ Family time – arrangements where families spend as much time as possible with as little supervision as is necessary, out of the agency whenever possible, and doing activities that mimic family life;
- ◆ Service planning – creating plans that are not duplicative or burdensome and that truly build on a family’s strengths; and
- ◆ Teaming – working together at Child and Family Team Meetings (CFTM) to keep the case progressing.⁵⁴

The CFR wrote an article detailing the small adjustments an attorney can make, even with a busy caseload, to incorporate the Cornerstone Advocacy model into his or her practice along with specific advocacy strategies and timeframes for pursuing them.⁵⁵ Families whose attorneys used the Cornerstone Advocacy model reunited more frequently and had fewer instances of re-entry than attorneys who did not.⁵⁶

Sequenced Service Delivery

One way to help parents and children is to change how we develop case plans so that we focus on incremental steps and sequenced service delivery.⁵⁷ The capacity to make plans, follow them, evaluate progress, and make necessary modifications requires self-regulation and executive function.⁵⁸ Parents and children involved in the child-welfare system may need help developing and practicing these skills due to experienced adversity and trauma.⁵⁹ We need to ensure that service plans are broken down into steps and supported by reminders and feedback, especially positive feedback to reinforce progress. This can both encourage short-term success and help to develop skills over the long term.⁶⁰

We should also limit the number of services and activities families are expected to participate in at one time.⁶¹ A family's needs may require a sequence of services over time, rather than participation in numerous programs simultaneously.⁶² When we simplify and streamline processes, we reduce the demands on a parent and child's limited and easily-depleted attention resources.⁶³ During the planning process it is also important to reduce any environmental stressors (such as dangerous housing conditions, urgent unpaid bills, or insufficient food) by addressing those basic needs.⁶⁴ When we reduce the immediate burden of stress upon parents it allows them to focus on long-term priorities, such as building the skills needed to care effectively for their children.⁶⁵

Harm of Removal

While we recognize that removal may be necessary in some cases, it carries significant risks to the child and family in *all* cases.⁶⁶ Removing children from the custody of their parents harms them emotionally, developmentally, and socially.⁶⁷ Even when removed from dangerous environments, children suffer from loss and ambiguity.⁶⁸ It is a life-altering event for all those involved.⁶⁹ Studies have found better outcomes for similarly situated children living at home than those entering foster care.⁷⁰ It is the child-welfare system's responsibility to keep children in the home whenever safely possible, and remove only when absolutely necessary.⁷¹

Reasonable efforts require first focusing on preserving and strengthening families and on preventing the need to place children outside of their homes.⁷² To that end, when we assess safety, we need to avoid confusing it with risk.⁷³ This involves asking whether the danger can be removed, rather than the child.⁷⁴ Because determining whether a child is safe and whether they should be removed from the situation are two separate questions.⁷⁵ An out-of-home safety plan — i.e. a placement with a relative, foster home, or other court-ordered placement — becomes necessary when an in-home safety plan is not sufficient, feasible, or sustainable.⁷⁶ Judges often are in the best position to provide immediate feedback on removal decisions on a case-by-case basis through careful vetting of removal petitions.⁷⁷

Safety-Driven Decision-Making

Once a family becomes involved in our child-welfare system, safety should drive our decision-making. The most important question in many child-welfare cases is not whether a parent “neglected” his or her child, it is whether and when the child can safely live at home with his parents.⁷⁸ Because at the end of the day, parents do not need to be perfect, but they must be safe.⁷⁹

Safety planning is a shared responsibility, but ultimately the court must make critical safety decisions, such as when to remove a child and when to return a child home.⁸⁰ The American Bar Association's Child Safety Guide for Judges and Attorneys provides clear standards for judicial decision-making regarding child safety.⁸¹

Safety is fundamentally a function of identifying threats, determining the child's vulnerability to those threats, and then balancing the threats to which the child is vulnerable against the available protective measures.⁸² Good decisions about safety require extensive information about the family, including: the extent of maltreatment; circumstances contributing to the maltreatment; the child's vulnerabilities and strengths; the attitudes, behavior, and condition of parents; and how parents care for and discipline the child.⁸³

Safety-driven decision-making demands that, at every stage of the child-welfare process, we are continually asking and answering the following questions:

- ◆ If the child is maintained in their own home – “What would it take for the family to be safely independent of formal child-welfare services?”
- ◆ If the child is out of the home and the permanency plan is reunification – “What would it take to safely return the child home today?”
 - ◇ Also, ask “would you remove the child today?” If you wouldn't, then it is likely that the child can return home with services.
 - ◇ We ask these questions because children should not remain in foster care until the case plan is completed.⁸⁴ Once it is safe, they should return home.⁸⁵
 - ◇ Also, assessing child safety is relevant not only at the point of initial removal, but also when developing and approving an effective case plan and when determining whether a child can be reunified with parents or should achieve a different form of permanency (e.g. adoption or guardianship).⁸⁶
- ◆ If a child has a permanency plan other than reunification – “What would it take to safely place this child in a stable and permanent home?”

Answering these questions requires us regularly to assess the safety of the family and home where the child would return, and have frequent, quality family time between parents and children to gather information to inform safety assessments.⁸⁷ We also need to utilize appropriate safety plans and safety-related services that allow for timely reunification.⁸⁸

Reunification-focused

If a child has been removed from the care of his or her parents, reunification with the parents is the preferred initial permanency goal, except in cases where aggravated circumstances exist.⁸⁹ Most parents want to be good parents and have the strength and capacity, when adequately supported by family or other social supports, to care for their children and to keep them safe.⁹⁰ When children cannot be reunified with their parents, permanency with extended family rather than strangers should be prioritized.⁹¹

Foster Care is a Support for the Entire Family

We want to change the foster-care experience for children and parents so it strengthens families, supports healing, and promotes timely reunification where appropriate.⁹² Our child-welfare system is a family-support system where foster care is a champion for the entire family; it is not a substitute for parents or an expedited conduit for adoption.⁹³ It is a tool to improve parent engagement, enhance parental capacity to meet their children's needs, and achieve safe, timely reunification.⁹⁴

Achieving the best feasible partnership between parents and resource families promotes the stable and consistent caregiving needed to help children manage short-term transitions, such as family time with parents, as well as changes in caregiving brought about by reunification or adoption.⁹⁵ Assistant Attorneys General (AAGs), Guardians ad Litem (GALs), and parental defense attorneys all play an important role in supporting and strengthening a collaborative, mentoring relationship between parents and resource families.⁹⁶

We can create a reunification-focused relationship between parents and resource families by creating opportunities for them to meet around the time of placement based on the families' circumstances and ensuring safety for all.⁹⁷ We can also work with them to develop a co-parenting relationship where they define roles, safety boundaries, communication with each other, and shared parenting activities specifically for the child.⁹⁸ It is also important we support kin resource families in navigating their relationship with parents due to foster-care placement. We know that kin placement can provide an opportunity for more parent-child involvement, but it may also present challenges, depending on family dynamics.⁹⁹



Kinship Placement and Maintaining Family Connections

We believe in a kin-first culture that prioritizes placement with relatives or close family friends, and supports an ongoing and diligent search for relatives.¹⁰⁰ Placement with non-kin is a last resort when ongoing efforts have failed to locate, engage, and support safe relative placements. We define “family” broadly to include parents, relatives, and those who are not related by blood but who have a close and meaningful relationship with the child. By placing children with relatives or someone familiar to them, we can reduce the overall trauma of removal and placement by keeping them connected to their family, their community, and their culture.¹⁰¹

Decades of research confirms that children who cannot remain with their parents thrive when raised by relatives and close family friends.¹⁰² Children placed with kin have better outcomes in terms of: greater placement stability; fewer emotional and behavioral problems during placement; and more connections to their biological family, culture, and communities.¹⁰³

The early identification of relatives is important. When courts and agencies have not conducted thorough relative searches and reunification is ruled out, they can be faced with the difficult choice of deciding between permanency with the resource parent and a relative who is appropriate but did not previously know of the child’s need for a permanent home.¹⁰⁴ See *Attachment B* for a list of actions that can be used to build a kin-first courtroom.

The search for relatives should include:

- ◆ Engaging the legal mother and father and the child (if the child is of the maturity and age to verbalize their wishes) regarding available kin, preferences, etc.;
- ◆ A full genogram of paternal and maternal family members;
- ◆ A check of SAFE system, ORS, Vital Records, E-share, Facebook, and CLEAR; and
- ◆ Ongoing CFTM involvement of parents and extended family that allows the family to influence all placement decisions to the greatest extent allowable.¹⁰⁵

This process should also be ongoing, as appropriate.

Relatives and other friends can also be utilized as a support for the family throughout the entirety of the case. It is important we work to build, support, and strengthen these existing relationships.¹⁰⁶ This type of support is essential for adults who need to make substantial changes in their own lives, as is typical in many child-welfare cases.¹⁰⁷

Given the importance of sibling relationships and the positive outcomes¹⁰⁸ they can generate, it is crucial for siblings to be placed together or, if that is not possible, seek ways for them to remain connected while they are in foster care, post-permanency, or after they have aged out of care.¹⁰⁹

Maintaining Social and Cultural Connections

When children are removed from their home, it separates them from their parents, siblings, extended family, friends, community, and school. Thus, it is important for children to have some sense of normalcy and be connected with familiar things. Our child-welfare system prioritizes maintaining as many social, communal, and cultural connections as possible, when they do not compromise a child's safety and well-being.¹¹⁰ These relationships allow a child to develop resiliency and to work through and overcome the trauma they have experienced.¹¹¹

The default is that children will remain in their school, when removed from their home or change placements, unless it is not in their best interest.¹¹² If a school change is in a child's best interest, then the child should be immediately enrolled in a new school even if they do not have the required school records to enroll.¹¹³ It is the responsibility of the new school to obtain the child's school records from their previous school.¹¹⁴ We should also make every effort to maintain any social connections the child had through their old school, as appropriate.¹¹⁵ This may include, but is not limited to: sports, clubs, dance, art, drama, music, and volunteer work.

Family Time (or Visitation)

Research on parent-child contact consistently shows that family time is fundamental to timely reunification¹¹⁶ and permanency. Family time is essential for a child's well-being and helps mitigate the trauma of an out-of-home placement.¹¹⁷

Family time should be liberal and presumed unsupervised unless there is a demonstrated safety risk to the child.¹¹⁸ To promote meaningful family time, it should be conducted in the least-restrictive environment available that supports the child's safety, with the level of supervision a family requires determined on a case-by-case basis.¹¹⁹ Family time should be conducted in child-friendly places conducive to parent-child interaction and engagement, organized around activities that reflect the routine activities of the family, and progress through reduced supervision and increased frequency.¹²⁰

Child and Family Teams should use creative problem-solving to increase family time so that one hour, once a week is not the default. We should consider individuals outside of DCFS staff, including kin or other community members, who may be available and appropriate, to facilitate more frequent family time. While in-person family time is preferred, additional forms of family time should be utilized to maintain and enhance on-going connection with parents and children. For example, parents should be encouraged to participate in the child's normal day-to-day activities.¹²¹ The parent should be told about all doctor and school appointments as well as extracurricular activities so that they can go even if the parent and child do not get to interact at these events.¹²²

Recruiting, Training, & Retaining High-Quality Professionals

When families come into contact with the child-welfare system, nothing has the power to impact them more than the professionals who serve and work with them every day.¹²³ A competent, stable, and high-quality workforce is important to providing children and families with the supports they need to stabilize, reunify, and thrive.¹²⁴ We are committed to recruiting, training, and retaining high-quality professionals and using multi-disciplinary trainings as an effective tool in sharing best practices and child-welfare expertise.

DCFS is committed to providing qualified, trained, and skilled staff, supported by an effectively structured organization that helps ensure positive outcomes for children and families. We understand that children and families need a relationship with an accepting, concerned, and empathetic worker who can confront difficult issues and effectively assist them in their process toward positive change. DCFS' practice model creates this environment. It is based on the seven principles of protection, partnership, permanency, cultural responsiveness, organizational and professional competence, and development.¹²⁵ The practice model training emphasizes the importance of maintaining the parent-child relationship whenever possible, the preference for providing in-home services over taking a child into protective custody, and the importance and priority of kinship placement in the event a child must be taken into protective custody.¹²⁶

High-quality legal representation for parents, children, and child-welfare agencies is one of the most important systemic safeguards to avoid unnecessary removals, overly long stays in foster care, and trauma to parents and children.¹²⁷ AAGs, GALs, and parental defense attorneys need to be well-trained because the child-welfare court system works best when all parties are represented by high-quality, well-trained lawyers. For local practice standards, Utah Code specifies the duties and responsibilities of GALs¹²⁸ and the Indigent Defense Commission adopted Core Principles for Appointed Attorneys Representing Indigent Parents in Child Welfare Proceedings.¹²⁹ Further, the American Bar Association has published practice standards for agency representation, child representation, and parent representation that promote uniformity, increase the quality of representation, and discuss the requisite training content that attorneys should receive.¹³⁰ The Family Justice Initiative also has published the attributes for high-quality legal representation of children and parents in child-welfare proceedings.¹³¹

For judges, the National Council for Juvenile and Family Court Judges' Enhanced Resource Guidelines sets forth principles and best practices that should guide juvenile court judges and provides tools to achieve key principles of permanency planning for all children and families. The American Bar Association also published Judicial Excellence in Child Abuse and Neglect Proceedings¹³² which provides principles and standards to promote judicial excellence in child-welfare proceedings.

Quality Hearings

Court decisions in child-welfare proceedings are serious and life changing.¹³³ Essential to the court's decision-making is having quality hearings where there is:

- ◆ Judicial engagement of parents and children;
- ◆ A hearing process that is experienced as fair;
- ◆ The presence of parents, age-appropriate children/youth, and other participants;
- ◆ Active legal representation;
- ◆ Appropriate and clear verbal judicial orders and findings; and
- ◆ A sufficiently thorough on the record discussion of a variety of topics related to children's safety, permanency, and well-being as well as parents' needs and progress.¹³⁴

Pro forma hearings fall short of the judicial oversight required and may contribute to child safety concerns; prolonged foster care stays; delays in reunification, adoption, and other permanency outcomes; poor child and youth well-being outcomes; and unnecessary financial costs to the government.¹³⁵

Procedural Justice & Engagement

The courtroom should be a place where all who appear are treated with respect, patience, dignity, courtesy, and as part of the problem-solving process.¹³⁶ When a party experiences a sense of fairness, they will be more likely to comply with court orders, return for further hearings, and trust the system.¹³⁷ In assessing what procedures are "fair," there are four key factors:

- 1 Voice – having one's viewpoint heard,
- 2 Neutrality – unbiased decision-makers and transparency of the process,
- 3 Respectful treatment – individuals are treated with dignity, and
- 4 Trustworthy decision-makers – the view that the decision-maker is compassionate and invested in helping.¹³⁸

See *Attachment C* for a list of actions that can be used to build a court process that embodies these four key factors of procedural justice.

Children and parents must have the opportunity to be present in court and meaningfully participate in the court process.¹³⁹ This requires that courtrooms be culturally responsive.¹⁴⁰ Judges and all professionals must ensure that families are appropriately engaged in and understand the judicial process, the timelines that apply to cases, and the court's orders and expectations.¹⁴¹ Judicial engagement of parents in hearings is associated with positive case processing and child-welfare case outcomes, such as better placements (e.g., less stranger foster care),¹⁴² predicted attendance at subsequent hearings,¹⁴³ likelihood of placement with parents at the review hearing if there was judicial engagement at shelter hearings,¹⁴⁴ higher levels of reunification,¹⁴⁵ decreased time to adoption,¹⁴⁶ and overall, decreased time to permanency.¹⁴⁷

Reasonable Efforts to Prevent Removal, Reunify Families, & Achieve Timely Permanency

It is the responsibility of all parties and judges to ensure that required reasonable efforts and active efforts in ICWA cases are made by DCFS to prevent removal, reunify families, and achieve permanency for children. The judicial determination that reasonable efforts were made to prevent removals provides an incredibly powerful tool to keep families together and prevent trauma to children.¹⁴⁸ Where out-of-home placement is necessary, the reasonable efforts determination to finalize the permanency plan is the second critical tool for expediting reunification or other safe permanency options and minimizing trauma to parents and children.¹⁴⁹ These tools provide all participants with the opportunity to change the outcomes for the families and children that experience our child-welfare system.

The reasonable efforts to prevent removal finding is the judge's opportunity to fully assess the efforts that have been made to engage the family in services and supports that would have either eliminated the safety threat prior to foster-care placement or allowed the child to return home immediately.¹⁵⁰ These findings powerfully communicate whether the court is satisfied that foster care is used only as a last resort and not simply as the most expeditious intervention and provides guidance about the court's expectations for immediate service delivery, whenever possible.¹⁵¹ A judicial finding that it was reasonable to make no efforts to prevent the placement should only be made if there are no other reasonable means to protect the child from an imminent safety threat.¹⁵²

Attorneys and judges should use the reasonable (or active) efforts mandate to ensure the parents have a fair opportunity to reunite with their children (if reunification is the permanency goal) and that children reach permanency in a timely fashion.¹⁵³ Reasonable (or active) efforts should be discussed at every hearing.¹⁵⁴ Reasonable (or active) efforts does not mean cookie-cutter case plans with the same referrals for the same services being provided to every parent regardless of their individual needs.¹⁵⁵ Attorneys and judges need to raise the reasonable (or active) efforts issue when either services are unavailable or have long waiting lines.¹⁵⁶ Attorneys should let judges know that the service must be provided in a timely fashion and that failure to do so is a violation of the reasonable (or active) efforts to reunify mandate.¹⁵⁷

ATTACHMENT A

How Trauma Can Affect Parents' Thinking and Behavior¹⁵⁸

What behaviors do you see?

Puts themselves or their child in risky situation; misses visits, court dates, and appointments; and has difficulty completing the case plan

Misses visits, court dates, case conferences, appointments with the child

Appears disinterested in reunification efforts, seems "checked out," is uncooperative, relapses

Appears "on guard" and on edge, agitated, or impulsive; overreacts, displays angry outbursts, confronts others

Has difficulty in relationships with attorney, service providers, foster parent; is uncooperative; pushes helpers away

Displays resistant behavior, emotionally disengages, takes a helpless stance, appears overwhelmed and paralyzed

How is it related to trauma?

Difficulty with Decision-Making and Judgment: Trauma negatively affects the parts of the brain involved with planning, evaluating situations, thoughtful decision-making, and problem-solving.

Re-Experiencing Trauma – Avoidance: People with trauma histories may re-experience past traumas when "triggered" by memories. They may avoid places and people who remind them of traumatic experiences and places that feel unsafe.

Re-Experiencing Trauma – Disconnecting: Trauma can cause people to disconnect from strong negative emotions and to disengage from triggering experiences.

Hyperarousal: Trauma can impair the body's stress system so it is on constant high alert. This causes people to overreact to even ordinary stress and to be overly focused on threats in the present.

Negative Self-Concept and Difficulty with Trust: People who experienced abuse and neglect in childhood commonly internalize the way they have been treated by others, experiencing strong feelings of shame and viewing themselves as "damaged goods."

Feelings of Powerlessness: Childhood experiences of victimization cause profound feelings of helplessness and hopelessness. The court setting, hearings, legal process, interacting with authority figures, case conferences – these can all trigger profound feelings of lack of control.

ATTACHMENT B

Building a Kin-First Courtroom

Judges can ask the following questions to create an expectation for a kin-first culture:¹⁵⁹

- ◆ What is preventing a kinship placement now?
- ◆ What reasonable efforts were made to place siblings together?
- ◆ Ask the agency at each and every hearing: What efforts has the agency made to identify and locate kin? What efforts have been made to engage kin beyond a notice letter so that they may be part of a child's life?
- ◆ Ask the parents and child(ren) at first and all subsequent hearings to give the court information about their important family connections.
- ◆ Has the agency explained all possible placement options to kin (i.e., guardianship, adoption, foster care, etc.)?
- ◆ Order a family time plan not only for parents, but for siblings and relatives so children can maintain family connections.
- ◆ Ask whether ICWA applies and ensure the agency makes efforts to identify appropriate placements.

ATTACHMENT C

Parental Engagement Strategies for the Courtroom

A list of actions that is used to build a court process that seeks to connect with parents by giving them a voice, ensuring their understanding of decisions, reaffirming their confidence in the process and preserving their dignity.¹⁶⁰

- ◆ Allow litigants to bring phones into the courthouse or provide free storage areas.
- ◆ Create a welcoming courthouse/courtroom environment (e.g., family-friendly waiting room).
- ◆ Clearly state the court's rules in a respectful and transparent manner.
- ◆ Display artwork to make courtroom more family-friendly.
- ◆ Start court hearings on time. Provide an estimate of wait times.
- ◆ Apologize for lengthy delays.
- ◆ Introduce yourself by name.
- ◆ Address parents by name (not "mom," "mother," or "respondent").
- ◆ Personalize interactions – make eye contact.
- ◆ Use open-ended questions and listen to answers.
- ◆ Ask parents and youth to repeat back their understanding of key decisions.
- ◆ Write information, such as the requirements of a treatment plan, on visible dry erase boards in addition to stating them out loud.
- ◆ Provide an opportunity for parents and youth to address the court directly.
- ◆ Consider allowing parents and youth to speak first at hearings, before the professionals report on the family's progress.
- ◆ Explain how and why decisions are made (e.g., why can't a child return home).
- ◆ Avoid the appearance of favoritism.
- ◆ Acknowledge unfairness.
- ◆ Situate the judge's bench at eye level.
- ◆ Create courtrooms where the parties, judge, and professionals are seated in a circle.
- ◆ Seek regular feedback from families about the court processes.
- ◆ Schedule court hearings at times convenient for families.
- ◆ Provide parents with a written copy of the court order after each hearing. Ensure orders are written in a manner that conveys the key pieces of information to the parent, including the requirements of the treatment plan.
- ◆ Minimize ex parte removal orders.
- ◆ Conduct robust removal hearings before a child's removal.
- ◆ Forge relationships between foster and birth parents.
- ◆ Involve birth parents when children are in foster care.
- ◆ Preserve positive relationships between children and their parents whenever possible and terminate parental rights only when absolutely necessary.

Endnotes

- ¹Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases (Am. Bar Ass'n 2006).
- ²See, e.g., John Fluke et al., *Research Synthesis on Child Welfare Disproportionality and Disparities*, Center for the Study of Social Policy, (2010); see also, U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Racial Disproportionality and Disparity in Child Welfare* (2016), accessible at https://www.childwelfare.gov/pubpdfs/racial_disproportionality.pdf (last accessed 5/8/2020); Krista Ellis, *Race and Poverty Bias in the Child Welfare System: Strategies for Child Welfare Practitioners*, ABA Child Law Practice (2019).
- ³Ellis, *supra* note 2.
- ⁴Ellis, *supra* note 2.
- ⁵Children's Bureau's Capacity Building Center for States, *Coaching to Improve Family Engagement*, 21(2) Children's Bureau Express (2020).
- ⁶Family Justice Initiative, *Attributes of High-Quality Legal Representation for Children and Parents in Child Welfare Proceedings - Attribute 3: Diversity and Inclusion/Cultural Humility* (2019), accessible at <https://15ucklg5c821brpl4dycpk15-wpengine.netdna-ssl.com/wp-content/uploads/sites/48/2020/03/fji-implementation-guide-attribute3-1.pdf> (last accessed 5/11/2020).
- ⁷Family Justice Initiative, *supra* note 6.
- ⁸National Council of Juvenile and Family Court Judges, *Right from the Start: The CCC Preliminary Protective Hearing Benchcard*, 10 (2011).
- ⁹"Traumatic stress" is another widely used term; when used to describe a set of physiological responses that may be precipitated by a wide range of adverse experiences, including neglect, we understand it to be similar in meaning to "toxic stress." Center on the Developing Child, Harvard University, *Applying the Science of Child Development in Child Welfare Systems* 6, 9 (2016), accessible at <http://www.developingchild.harvard.edu> (last accessed 5/8/2020).
- ¹⁰Robert Wyman Jr. & Kelly Warner-King, *Building a Resilience-Oriented Child Welfare Court System*, 68 *Juvenile and Family Court Journal* 97, 99 (2017).
- ¹¹U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Sibling issues in foster care and adoption* 2 (2019), accessible at <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf> (last accessed 5/11/2020).
- ¹²U.S. Department of Health and Human Services, *supra* note 11, at 2 (citing Armeda Stevenson Wojciak, Lenore M. McWey, Jeffery Waid, *Sibling relationships of youth in foster care: A predictor of resilience*, 84 *Children and Youth Services Review* 247 (2018)).
- ¹³National Child Traumatic Stress Network, *Complex Trauma: Effects*, accessible at <https://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma> (last accessed 5/11/2020).
- ¹⁴American Academy of Pediatrics, *Adverse Childhood Experiences and the Lifelong Consequences of Trauma* (2014), accessible at https://www.aap.org/en-us/Documents/ttb_aces_consequences.pdf (last accessed 5/11/2020).
- ¹⁵The National Child Traumatic Stress Network, *Resilience and child traumatic stress*, accessible at https://www.nctsn.org/sites/default/files/resources/resilience_and_child_traumatic_stress.pdf (last accessed 5/11/2020).
- ¹⁶Jack P. Shonkoff, *Capitalizing on Advances in Science to Reduce the Health Consequences of Early Childhood Adversity*, 170 *JAMA Pediatrics* 1003 (2016).
- ¹⁷Center on the Developing Child, *supra* note 9, at 7.
- ¹⁸Center on the Developing Child, *supra* note 9, at 7.
- ¹⁹Center on the Developing Child, *supra* note 9, at 7.
- ²⁰National Childhood Traumatic Stress Network, *Birth parents with trauma histories and the child welfare system: A guide for child welfare staff* 1 (2011), accessible at http://nctsn.org/sites/default/files/assets/pdfs/birth_parents_trauma_history_fact_sheet_final.pdf (last accessed 5/11/2020).
- ²¹National Childhood Traumatic Stress Network, *supra* note 20.
- ²²National Childhood Traumatic Stress Network, *supra* note 20.
- ²³U.S. Department of Health and Human Services, Administration for Children and Families, *Trauma Toolkit*, accessible at <https://www.acf.hhs.gov/trauma-toolkit/trauma-concept> (last accessed 5/11/2020).
- ²⁴U.S. Department of Health and Human Services, *supra* note 23.
- ²⁵U.S. Department of Health and Human Services, *supra* note 23.
- ²⁶National Child Traumatic Stress Network, *supra* note 20; National Child Traumatic Stress Network, Justice Consortium Attorney Workgroup Subcommittee, *The Impact of Trauma on the Attorney-Client Relationship*, Am. Bar Ass'n Child Law Practice Today (2017).

Endnotes

- ²⁷National Council of Juvenile and Family Court Judges, *Assessing Trauma for Juvenile and Family Court Judges: From Development to Implementation* 2013-2017, 15 (2019).
- ²⁸Jerry Milner, David Kelly, *Reasonable Efforts as Prevention*, Am. Bar Ass'n Child Law Practice Today (2018).
- ²⁹U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, ACYF-CB-IM-17-02, Information Memorandum: High Quality Legal Representation for All Parties in Child Welfare Proceedings 5 (2017).
- ³⁰U.S. Department of Health and Human Services, *supra* note 29.
- ³¹Children's Bureau's Capacity Building Center for States, *supra* note 5.
- ³²Motivational interviewing can be used to help professionals harness the client's commitment toward their goal and motivation to change, while maintaining a level of acceptance and understanding, rather than being directive or punitive. Payal Dalal, Rick Barinbaum, and Carolyn Walther, *Motivational Interviewing: Counseling Clients in Challenging Contexts*, Am. Bar Ass'n Child Law Practice Today (2017).
- ³³Sophie Gatowski & Melissa Gueller, *Engaging Parents in Child Abuse and Neglect Hearings: Lessons Learned from Judicial Leaders*, National Council of Juvenile and Family Court Judges (2019).
- ³⁴U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, Family engagement: Partnering with families to improve child welfare outcomes 2 (2016), accessed at https://www.childwelfare.gov/pubPDFs/f_fam_engagement.pdf (last accessed 5/8/2020) (citing Gerald Mallon & Peg McCartt Hess (eds.), *Child welfare for the 21st century: A handbook of practices, policies, and programs* 70-85 (2014)).
- ³⁵U.S. Department of Health and Human Services, *supra* note 29.
- ³⁶Center on the Developing Child, *supra* note 9, at 11.
- ³⁷Center on the Developing Child, *supra* note 9.
- ³⁸Center on the Developing Child, *supra* note 9.
- ³⁹U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, ACYF-CB-IM-20-06, Information Memorandum: Foster Care as a Support to Families 7 (2020).
- ⁴⁰U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, Supporting successful reunifications 6 (2017), accessible at https://www.childwelfare.gov/pubPDFs/supporting_reunification.pdf (last accessed 5/8/2020).
- ⁴¹Amy C. D'Andrade & Ruth M. Chambers, *Parental problems, case plan requirements, and service targeting in child welfare reunification*, 34 Children and Youth Services Review 2131 (2012).
- ⁴²U.S. Department of Health and Human Services, *supra* note 40.
- ⁴³Rose Marie Wentz & Kelly Lynn Beck, *Unlocking "Reasonable Efforts": Kinship Is Key*, 46 Clearinghouse Review: Journal of Poverty Law and Policy 99 (2012), accessible at <http://www.wentztraining.com/wp/wp-content/uploads/2013/01/JPLP-Journal-Article.pdf> (last accessed 5/8/2020).
- ⁴⁴Judge Leonard Edwards, *Reasonable Efforts: Let's Raise the Bar*, 42 NACC: The Guardian 22 (2020).
- ⁴⁵Fred H. Wulczyn, Lijun Chen & Kristen B. Hislop, *Foster care dynamics 2000-2005: A report from the Multistate Foster Care Data* (2007), accessible at <https://fcda.chapinhall.org/wp-content/uploads/2013/10/Foster-Care-Dynamics-2000-2005.pdf> (last accessed 5/8/2020).
- ⁴⁶National Council of Juvenile and Family Court Judges, *Right from the Start: The CCC Preliminary Protective Hearing Benchcard*, 44 (2011).
- ⁴⁷National Council of Juvenile and Family Court Judges, *The Portland Model Court Expanded Second Shelter Hearing Process: Evaluating Best Practice Components of Front-Loading*, 17 (2002).
- ⁴⁸NY Child Welfare Court Improvement Project, *Cornerstone Advocacy in the First 60 Days: Achieving Safe and Lasting Reunification for Families*, 3 Best Practices Bulletin 1 (2018), accessible at http://ww2.nycourts.gov/sites/default/files/document/files/2018-10/CIPBBulletin6_11.pdf (last accessed 5/11/2020).
- ⁴⁹Cheryl Smithgall, Jan DeCoursey, Duck-Hye Yang, & Lisa Haseltine, *Parents' Pasts and Families' Futures: Using Family Assessments to Inform Perspectives on Reasonable Efforts*, Chapin Hall at the University of Chicago (2012) (citing Child Welfare League of America, *Family Reunification – Research Roundup* (2002); Lisa Merkel-Holguin, Paul Nixon & Gale Burford, *Learning with families: A synopsis of FGDM research and evaluation in child welfare*, 18 Protecting Children 2 (2003); Allison Titcomb & Craig LeCroy, *Evaluation of Arizona's family group decision making program*, 18 Protecting Children 58 (2003); Charles E. Wheeler & Sabrina Johnson, *Evaluating Family Group Decision Making: The Santa Clara Example*, 18 Protecting Children 65 (2003)).
- ⁵⁰Lucy Berliner, Monica M. Fitzgerald, Shannon Dorsey, Mark Chaffin, Steven J. Ondersma & Charles Wilson, *Report of the APSAC Task Force on Evidence-Based Service Planning Guidelines for Child Welfare*, Vol 20(1) Child Maltreatment 6 (2015).

Endnotes

- ⁵¹Sophie I. Gatowski, Nancy B. Miller, Stephen M. Rubin, Patricia Escher & Candice Maze, Enhanced resource guidelines: Improving court practice in child abuse and neglect cases 40, National Council of Juvenile and Family Court Judges (2016) (hereinafter Enhanced Resource Guidelines).
- ⁵²NCJFCJ Enhanced Resource Guidelines, 40.
- ⁵³Jillian Cohen & Michele Cortese, Cornerstone Advocacy in the First 60 Days, 28 Am. Bar Ass'n Child Law Practice Today (2009).
- ⁵⁴Cohen & Cortese, *supra* note 53.
- ⁵⁵Cohen & Cortese, *supra* note 53.
- ⁵⁶Elizabeth Thornton & Betsy Gwin, *High-quality legal representation for parents in child welfare cases results in improved outcomes for families and potential cost savings*, 46 Family Law Quarterly 139 (2012).
- ⁵⁷Center on the Developing Child, *supra* note 9, at 14.
- ⁵⁸There is a set of foundational skills that adults need both to parent effectively and to earn a living, and that children need to develop as they move toward adulthood. These skills are described as "self-regulation" – the ability to draw upon the right skills at the right time, manage our responses to the world, and resist inappropriate responses. Self-regulation requires "executive function," which consists of three primary components: inhibitory control (the ability to resist impulsive behavior); working memory (the capacity to hold and manipulate information in our heads over short periods of time); and mental flexibility (adjusting to changed demands, priorities, rules, or perspectives). These skills can be under-developed if someone experiences trauma in childhood or is unable to use them effectively if bombarded with stressors. Center on the Developing Child, *supra* note 9, at 14.
- ⁵⁹Center on the Developing Child, *supra* note 9, at 14.
- ⁶⁰Center on the Developing Child, *supra* note 9, at 11.
- ⁶¹Center on the Developing Child, *supra* note 9, at 11.
- ⁶²Center on the Developing Child, *supra* note 9, at 11.
- ⁶³Center on the Developing Child, *supra* note 9, at 11.
- ⁶⁴Center on the Developing Child, *supra* note 9, at 11.
- ⁶⁵Center on the Developing Child, *supra* note 9, at 11.
- ⁶⁶Christopher Church, Monique Mitchell & Vivek Sankaran, *Timely Permanency or Unnecessary Removal? Tips for Advocates for Children Who Spend Less Than 30 Days in Foster Care*, Am. Bar Ass'n Child Law Practice Today (2017).
- ⁶⁷Vivek Sankaran & Christopher Church, *Easy Come, Easy Go: The Plight of Children who Spend Less Than Thirty Days in Foster Care*, 19 University of Pennsylvania Journal of Law and Social Change 207, 210-213 (2016).
- ⁶⁸Church, Mitchell & Sankaran, *supra* note 66 (citing Monique Mitchell, *The Neglected Transition: Building a Relational Home for Children Entering Foster Care* (2016) (finding that research shows the removal process itself threatens the well-being of children by creating painful and unresolved ambiguity in many aspects of their lives, including where they will live, when they will see their families, and what the future holds for them)).
- ⁶⁹NCJFCJ Enhanced Resource Guidelines, 107.
- ⁷⁰Vivek Sankaran, *My Name Is Not "Respondent Mother"*, Am. Bar Ass'n Child Law Practice Today (2018) (citing "One study found language development of children in foster care was delayed compared to that of children who remained with their mothers." Melanie Fridl Ross, *To Have and To Hold: University of Florida Shows Cocaine-Exposed Infants Fare Better With Their Biological Mothers*, Science Daily (1998); "Another study found children in foster care developed more significant behavioral problems than similarly maltreated children who remained at home." Catherine Lawrence, et al, *The Impact of Foster Care on Development*, 18 Development and Psychopathology 57 (2006); "A comprehensive study by an MIT economist – looking at outcome data for 15,000 kids – concluded children taken from their families and placed in foster care fared worse in life than similarly maltreated children who were simply left with their families." Joseph Doyle, *Child Protection and Child Outcomes: Measuring the Effect of Foster Care*, 97 American Economic Review 1583 (2007)).
- ⁷¹Sankaran & Church, *supra* note 67, at 210-213.
- ⁷²U.S. Department of Health and Human Services, Administration for Children and Families, Child and Family Services Reviews Information Portal, E-Training Platform: Section 2 - Understanding the Child Welfare System - Achieving Permanency, accessible at <https://training.cfsrportal.acf.hhs.gov/section-2-understanding-child-welfare-system/3030> (last accessed 5/11/2020).
- ⁷³National Quality Improvement Center on the Representation of Children in Child Welfare, Six Core Skills of QIC Best Practice Model, accessible at <http://www.improvechildrep.org/QICModelSixCoreSkills/SixCoreSkills.aspx> (last accessed 5/11/2020).

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Finally, safety should not be confused with risk. For a child to be unsafe, the consequences must be severe and imminent. A conclusion about safety means considering:

- ◆ How soon something may occur;
- ◆ How severe the consequences will be to a child; and
- ◆ How out-of-control conditions are.

A conclusion about risk assesses the likelihood of maltreatment and has an open-ended timeframe and consequences may be mild or serious. Risk may be managed through in-home and/or community based services. Therese Roe Lund & Jennifer Renne, *Child Safety: A Guide for Judges and Attorney*, American Bar Association, 2 (2009) (hereinafter ABA Child Safety Guide).

⁷⁴National Quality Improvement Center on the Representation of Children in Child Welfare, *supra* note 73. ABA Child Safety Guide, 22.

⁷⁵National Quality Improvement Center on the Representation of Children in Child Welfare, Training Materials on the Six Core Skills - Child Safety Decision-making: Presenter's Notes, accessible at <http://www.improvechildrep.org/Training.aspx> (last accessed 5/11/2020).

⁷⁶ABA Child Safety Guide, 33.

⁷⁷Sankaran & Church, *supra* note 67, at 213.

⁷⁸Center for Family Representation, *Changing the Child Welfare Landscape: Tips for Parent Attorneys on Building Relationships with Social Services Staff*, Am. Bar Ass'n Child Law Practice Today (2016).

⁷⁹Tara Grigg Garlinghouse & Scott Trowbridge, *Child Well-Being in Context*, 18 University of Penn. J. of Law and Social Change 105, 107 (2015).

⁸⁰ABA Child Safety Guide, 2.

⁸¹An online version of the Child Safety Guide can be accessed here - https://www.americanbar.org/content/dam/aba/administrative/child_law/child-safety-guide.pdf (last accessed 5/11/2020).

⁸²ABA Child Safety Guide, 19.

⁸³ABA Child Safety Guide, 53.

⁸⁴ABA Child Safety Guide, 35-36, 39, and 47.

⁸⁵ABA Child Safety Guide, 35-36, 39, and 47.

⁸⁶ABA Child Safety Guide, 1.

⁸⁷U.S. Department of Health and Human Services, *supra* note 39, at 6.

⁸⁸U.S. Department of Health and Human Services, *supra* note 39, at 6.

⁸⁹42 U.S.C. § 671(a)(15) (2019).

⁹⁰Capacity Building Center for State, Child Protective Services: A Guide for Caseworkers, 16 (2018), accessible at <https://www.childwelfare.gov/pubPDFs/cps2018.pdf> (last accessed 5/11/2020).

⁹¹One study found that youth who obtained legal permanency and did not spend time placed with family while in out-of-home care were significantly more likely to be adopted, whereas reunification and guardianship were significantly more likely if the youth had spent any time placed with family. Yvonne Humenay Roberts, Stephen Shimshock, Kirk O'Brien, Matt Claps, Jorge Cabrera, and Toni Rozanski, *From Data to Practice: The Impact of Placement with Family on Safety, Permanency, and Well-Being*, Casey Family Programs (2018), accessible at <https://caseyfamilypro-wpengine.netdna-ssl.com/media/1896-CS-From-Data-to-Practice-2018.pdf> (last accessed 5/11/2020).

⁹²U.S. Department of Health and Human Services, *supra* note 39, at 6.

⁹³David Kelly & Jerry Milner, *High-Quality Legal Representation is Critical to Creating a Better Child Welfare System*, Am. Bar Ass'n Child Law Practice Today 1 (2019).

⁹⁴U.S. Department of Health and Human Services, *supra* note 39, at 5.

⁹⁵Center on the Developing Child, *supra* note 9, at 13.

⁹⁶Jenifer Goldman Fraser & Eva J. Klain, *Advocacy for Infants and Toddlers: The Urgency of a Trauma- and Developmentally-Informed Approach*, 42(1) NACC: The Guardian 7 (2020).

⁹⁷U.S. Department of Health and Human Services, *supra* note 39, at 10.

⁹⁸U.S. Department of Health and Human Services, *supra* note 39, at 10.

⁹⁹U.S. Department of Health and Human Services, *supra* note 39, at 12-13.

¹⁰⁰Diane Moore, DCFS Kinship Memo, May/June 2019. In order for DCFS to receive federal payments for foster care and

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adoption assistance, federal law requires that they “consider giving preference to an adult relative over a nonrelated caregiver when determining a placement for a child, provided that the relative caregiver meets all relevant state child protection standards.” 42 U.S.C. § 671(a)(19) (2019).

¹⁰¹Safe and healthy relationships communicate to children that they are valued and loved, that they can trust others, and that they are not alone, which in turn serves to mitigate the potential harmful effects of trauma. James Henry, Mark A. Sloan & Frank E. Vandervort, *Building Resilience in Foster Children: The Role of the Child's Advocate*, 32 Child. Legal Rts. J. 2 (2012).

¹⁰²Generations United, *Children Thrive in Grandfamilies* (2016), accessible at <http://grandfamilies.org/Portals/0/16-Children-Thrive-in-Grandfamilies.pdf> (last accessed 5/11/2020).

¹⁰³Eric Sugrue, *Evidence Base for Avoiding Family Separation in Child Welfare Practice: An analysis of current research* 16, Alia Innovations (2019), accessible at <https://www.aliainnovations.org/resources> (last accessed 5/11/2020).

¹⁰⁴NCJFCJ Enhanced Resource Guidelines, 83.

¹⁰⁵Diane Moore, DCFS Kinship Memo, May/June 2019.

¹⁰⁶Center on the Developing Child, *supra* note 9, at 12.

¹⁰⁷Center on the Developing Child, *supra* note 9, at 12.

¹⁰⁸Studies have found that placing siblings in the same foster home is associated with higher rates of reunification, adoption, and guardianship. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Sibling issues in foster care and adoption 2* (2019), accessible at <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf> (last accessed 5/8/2020) (citing Becci A. Akin, *Predictors of foster care exits to permanency: A competing risks analysis of reunification, guardianship, and adoption*, 33 Children and Youth Services Review 999 (2011); Christine Jones, *Sibling relationships in adoptive and fostering families: A review of the international research literature*, 30 Children & Society 324 (2016)).

Also, placing siblings together can serve as a protective factor for mental health and may improve a child's school performance. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, *Sibling issues in foster care and adoption 2* (2019), accessible at <https://www.childwelfare.gov/pubPDFs/siblingissues.pdf> (last accessed 5/8/2020) (citing Christine Jones, *Sibling relationships in adoptive and fostering families: A review of the international research literature*, 30 Children & Society 324 (2016); Bowen McBeath, Brianne H. Kothari, Jennifer Blakeslee, Emilie Lamson-Siu, Lew Bank, L. Oriana Linares, Jeffrey Waid, Paul Sorenson, Jessica Jimenez, Eva Pearson, Aron Shlonsky, *Intervening to improve outcomes for siblings in foster care: Conceptual, substantive, and methodological dimensions of a prevention science framework*, 39 Children and Youth Services Review 1 (2014); Rebecca L. Hegar & James A. Rosenthal, *Foster children placed with or separated from siblings: Outcomes based on a national sample*, 33(7) Children and Youth Services Review 1245 (2011)).

¹⁰⁹U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, ACYF-CB-IM-20-02, *Family time and visitation for children and youth in out-of-home care; Trauma; Well-Being; Best Practices 4* (2020).

¹¹⁰“In fact, a child can remain emotionally attached to a dysfunctional family and may be further traumatized by complete loss of contact with relatives. Family members can offer the best source of long-term support for a traumatized child. It is essential that a child stay connected with siblings, relatives and extended family (as defined by the client), and friends. In cases in which ongoing family contact is not feasible or is contraindicated for safety reasons, you can look for ways to involve other people trusted by your client, such as a family friend, coach, teacher, or pastor.” National Child Traumatic Stress Network, Justice Consortium Attorney Workgroup Subcommittee, *The Impact of Trauma on the Attorney-Client Relationship*, Am. Bar Ass'n Child Law Practice Today (2017).

¹¹¹Rose Marie Wentz & Kelly Lynn Beck, *Maintaining Family Relationships for Children in the Child Welfare System*, 31 Am. Bar Ass'n Child Law Practice Today (2012); Bruce D. Perry & Maia Szalavitz, *The Boy Who Was Raised as a Dog and Other Stories from a Child Psychiatrist's Notebook: What Traumatized Children Can Teach Us About Loss, Love, and Healing* 80 (2006). In addition to maintaining relationships, the traumatized child's ability to connect and socially communicate with adults and peers, generally, is important. Henry, Sloan & Vandervort, *supra* note 101, at 11.

¹¹²20 U.S.C. § 6311(g)(1)(E) (2019). Joint Federal Guidance suggests considering the following factors in a best interest determination: child's preference; views of the parents or the person with educational decision-making rights; child's attachment to school and staff; placement of the child's siblings; availability and quality of services in the current and potential schools to meet the child's educational and social/emotional needs; school climate/safety;

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impact of a school transfer, including the commute; and child's special needs. U.S. Department of Education & U.S. Department of Health & Human Services, Nonregulatory Guidance: Ensuring Educational Stability for Children in Foster Care (2016). See also Utah State Board of Education, Ensuring Educational Stability for Children in Foster Care, available at <https://www.schools.utah.gov/File/ca689ec2-4161-4dc4-a196-ee1b0d0f22ec> (last accessed 5/12/2020)/

¹¹³20 U.S.C. § 6311(g)(1)(E).

¹¹⁴20 U.S.C. § 6311(g)(1)(E).

¹¹⁵Viewing child and family contacts during foster care less as "visits" and more as "family time" suggests the critical importance of the length and quality of time that children spend with their parents, separated siblings, and other important family members. U.S. Department of Health and Human Services, *supra* note 109, at 4.

¹¹⁶"Consistent, high quality visitation is one of the best predictors of successful reunification between a parent and child." Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases 33 (Am. Bar Ass'n 2006).

¹¹⁷Dr. Susan Cohen Esquilin & Jey Rajaraman, *Family Time Is a Critical Well-Being Intervention*, 20 Children's Bureau Express (2019).

¹¹⁸U.S. Department of Health and Human Services, *supra* note 109, at 7.

¹¹⁹Am. Bar Ass'n, Family Integrity Policy, 13 (2019), accessible at <https://www.americanbar.org/content/dam/aba/directories/policy/annual-2019/118-annual-2019.pdf> (last accessed 5/8/2020).

¹²⁰Family Justice Initiative, Attributes of High-Quality Legal Representation for Children and Parents in Child Welfare Proceedings 3 (2018), accessible at https://www.americanbar.org/content/dam/aba/administrative/child_law/fji-attributes-2018.pdf (last accessed 5/11/2020).

¹²¹U.S. Department of Health and Human Services, *supra* note 109, at 7.

¹²²Mimi Laver, *Family Time/Visitation: Road to Safe Reunification*, Am. Bar Ass'n Child Law Practice Today (2017).

¹²³Casey Family Programs, Workforce (2020), accessible at <https://www.casey.org/workforce-topical-page/> (last accessed 5/11/2020).

¹²⁴Casey Family Programs, *supra* note 123.

¹²⁵Utah Child and Family Services Administrative Guidelines, Training 62 (2019), accessible at <https://www.powerdms.com/public/UTAHDHS/documents/274907> (last accessed 5/11/2020).

¹²⁶Utah Code § 62A-4a-107(5) (2020).

¹²⁷Jerry Milner & David Kelly, *Reasonable Efforts as Prevention*, Am. Bar Ass'n Child Law Practice Today (2018).

¹²⁸Utah Code § 78A-6-902 (2020).

¹²⁹Utah Indigent Defense Commission, Core Principles for Appointed Attorneys Representing Indigent Parents in Child Welfare Proceedings, accessible at https://idc.utah.gov/wp-content/uploads/2018/06/Copy-of-parentaldefense_practiceprinciples.FINAL_-1.pdf (last accessed 5/11/2020).

¹³⁰Accessible at https://www.americanbar.org/groups/public_interest/child_law/resources/practice-standards/

¹³¹Family Justice Initiative, *supra* note 120.

¹³²Accessible at [https://www.americanbar.org/content/dam/aba/administrative/child_law/Judicial%20Excellence%20Standards%20Abuse-Neglect%20ABA%20Approved%20\(3\).authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/child_law/Judicial%20Excellence%20Standards%20Abuse-Neglect%20ABA%20Approved%20(3).authcheckdam.pdf)

¹³³U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, ACYF-CB-IM-17-02, Information Memorandum: High Quality Legal Representation for All Parties in Child Welfare Proceedings 2 (2017).

¹³⁴Alicia Summers & Sophia Gatowski, *Research Summary: Hearing Quality in Child Abuse and Neglect Cases*, Capacity Building Center for Courts (2020).

¹³⁵U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, ACYF-CB-PI-16-05, Program Instructions for State Courts Applying for Court Improvement Program (CIP) Funds for Fiscal Years (FYs) 2017-2021, Attachment A - Quality Hearing Indicators (2016).

¹³⁶NCJFCJ Enhanced Resource Guidelines, 15.

¹³⁷U.S. Department of Health and Human Services, *supra* note 133, at 5 (citing Kevin Burke & Steve Leben, *Procedural Fairness: A Key Ingredient in Public Satisfaction*, 44 Court Review 4 (2007); Nourit Zimerman & Tom R. Tyler, *Between Access to Counsel and Access to Justice: A Psychological Perspective*, 37 Fordham Urban Law Journal 473 (2010); Tom R. Tyler, *Why People Obey the Law: Procedural Justice, Legitimacy, and Compliance* (1990)).

¹³⁸U.S. Department of Health and Human Services, *supra* note 133, at 5 (citing Nourit Zimerman & Tom R. Tyler, *Between Access to Counsel and Access to Justice: A Psychological Perspective*, 37 Fordham Urban Law Journal 473 (2010)); Sankaran, *supra* note 70.

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- ¹³⁹ NCJFCJ Enhanced Resource Guidelines, 15.
- ¹⁴⁰ NCJFCJ Enhanced Resource Guidelines, 25.
- ¹⁴¹ NCJFCJ Enhanced Resource Guidelines, 25.
- ¹⁴² Stephanie Macgill & Alicia Summers, *Assessing the relationship between the quality of juvenile dependency hearings and foster care placements*, 52 Family Court Review, 678 (2014).
- ¹⁴³ Carlene Gonzalez & Alicia Summers, *Assessing the long-term effects of courts catalyzing change preliminary protective hearing benchcard*, National Council of Juvenile and Family Court Judges (2014); Summers, A. & Gatowski, S. (2018); Alicia Summers & Sophie Gatowski, *Nevada Hearing Quality Study: Examining the Quality of Child Welfare Court Hearing Practice in Nevada*, Nevada Court Improvement Program (2018).
- ¹⁴⁴ Theresa Bohannon, Kelesha Nevers & Alicia Summers, *Hawaii courts catalyzing change case file review and court observation pre and post benchcard*, National Council of Juvenile and Family Court Judges (2015).
- ¹⁴⁵ Stephanie Macgill & Alicia Summers, *Assessing the relationship between the quality of juvenile dependency hearings and foster care placements*, 52 Family Court Review, 678 (2014).
- ¹⁴⁶ Stephanie Macgill & Alicia Summers, *Assessing the relationship between the quality of juvenile dependency hearings and foster care placements*, 52 Family Court Review, 678 (2014).
- ¹⁴⁷ Stephanie Macgill & Alicia Summers, *Assessing the relationship between the quality of juvenile dependency hearings and foster care placements*, 52 Family Court Review, 678 (2014); Alicia Summers & Sophie Gatowski, *Nevada Hearing Quality Study: Examining the Quality of Child Welfare Court Hearing Practice in Nevada*, Nevada Court Improvement Program (2018).
- ¹⁴⁸ David Kelly, *It's Time To Follow The Law And Take Reasonable Efforts Seriously* (Oct. 22, 2018), accessible at <http://rethinkingfostercare.blogspot.com/2018/10/its-time-to-follow-law-and-take.html> (last accessed 5/8/2020).
- ¹⁴⁹ David Kelly, *supra* note 148.
- ¹⁵⁰ NCJFCJ Enhanced Resource Guidelines, 131.
- ¹⁵¹ NCJFCJ Enhanced Resource Guidelines, 131.
- ¹⁵² NCJFCJ Enhanced Resource Guidelines, 131.
- ¹⁵³ Judge Leonard Edwards, *supra* note 44, at 24.
- ¹⁵⁴ NCJFCJ Enhanced Resource Guidelines, 231.
- ¹⁵⁵ Terrence P. Haas, *Advocating for Parents in Rural America: A Best Practices Approach*, Am. Bar Ass'n Child Law Practice Today (2017).
- ¹⁵⁶ Judge Leonard Edwards, *supra* note 44, at 23.
- ¹⁵⁷ Judge Leonard Edwards, *supra* note 44, at 23.
- ¹⁵⁸ Quality Improvement Center for Research-Based Infant-Toddler Court Teams, *Putting the Science of Early Childhood to Work in the Courtroom: An Online Series for Judges and Attorneys*, ZERO TO THREE (2019), accessible at <https://www.zerotothree.org/resources/2742-putting-the-science-of-early-childhood-to-work-in-the-courtroom> (last accessed 5/11/2020).
- ¹⁵⁹ Jennifer Miller, *Creating a Kin-First Culture*, Am. Bar Ass'n Child Law Practice Today (2017).
- ¹⁶⁰ Sankaran, *supra* note 70.

Judicial Council Grant Application Proposal **Code of Judicial Administration 3-411**

FEDERAL GRANTS

Contact Person/Phone: Bridget Koza / (801) 578-3939 Date: 4/29/2021

Judicial District or Location: Administrative Office of the Courts

Grant Title: Court Improvement Program (CIP) Grant Grantor: Children's Bureau (U.S. Dep't of Health and Human Services)

Grant type (check one); ☐ New ☒ Renewal ☐ Revision

Grant Level (check one): ☒ Low ☐ Med. ☐ High.
 Under \$1,000,000 \$1,000,000 to \$10,000,000 Over \$10,000,000

Issues to be addressed by the Project: Improvements in child welfare proceedings to provide for the safety, well-being and permanency of children and families; increasing child-welfare expertise through cross-training of juvenile judges, attorneys, and child welfare professionals; and improvements to systems that collect, share, and report child welfare data that improve data sharing and collaboration between the court, child welfare agency, and tribes.

Explanation of how the grant funds will contribute toward resolving the issues identified: Funding programs, training, assessments and research, computer programming and data collection and analysis

Fill in the chart(s) for estimated state fiscal year expenditures for up to three years:

Total Funding Sources

		(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
		MATCHING STATE DOLLARS					
		General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
CASH MATCH							
State Fiscal Year	Grant Amount						
FY							\$0
FY							\$0
FY							\$0

		(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
		MATCHING STATE DOLLARS					
		General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
IN-KIND MATCH							
State Fiscal Year	Grant Amount						
FY 2022-2023	\$449,425.00	\$149,808.33					\$599,233.33
FY							\$0
FY							\$0

Comments: The Children's Bureau has combined the 3 CIP grant awards (basic, training, and data) into one grant award. In-kind match is provided by general funds for salaries and benefits of child welfare mediators within the AOC, provided by other child welfare programming work performed by the Court's IT department, and a portion of the contracted fee that is paid to the Parental Defense Alliance of Utah, which provides training support to parents representing parents in child welfare proceedings in juvenile court.

Will additional state funding be required to maintain or continue this program or its infrastructure when this grant expires or is reduced? Yes ☐ No ☒ If yes, explain: _____

Will the funds to continue this program come from within your exiting budget: Yes ☐ No ☐ N/A ☒

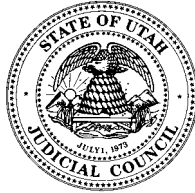
How many additional permanent FTEs are required for the grant? _____ Temp FTEs? 2.30 FTE

This proposal has been reviewed and approved by the following:
 The court executives and judges in the affected district(s).
 The Grant Coordinator and the Budget Manager at the Administrative Office of the Courts.
 The affected Board(s) of Judges.

Approved by the Judicial Council _____ by _____
 Date Court Administrator

Copy forwarded to Legislative Fiscal Analyst _____
 date

Tab 10



Administrative Office of the Courts

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

April 29, 2021

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee
FROM: Nini Rich, ADR Director
RE: ADR Committee Apointee Request

Name of Committee: Alternative Dispute Resolution Committee

Staff: Nini Rich

Reason for Vacancy: This vacancy is the result of the resignation of Judge Michelle Heward, Second District Juvenile Court, who has been appointed to the Judicial Council.

Eligibility Requirements: This vacancy is for a Juvenile Court Judge.

Description of recruitment process: An email was sent to members of the Juvenile Court Bench and the Board of Juvenile Court Judges. Judge Troy Little, Fifth District Juvenile Court, expressed interest to the Board of Juvenile Court Judges and the Board recommended Judge Little for appointment to the Committee.

Nominees for consideration: The ADR Committee, Chaired by Judge Royal I. Hansen, has recommended Judge Troy Little for appointment to the ADR Committee.

Current ADR Committee Members: Attached

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

Utah Judicial Council's ad hoc Committee on Alternative Dispute Resolution

Committee Membership as of April 27, 2021

Judge Royal I. Hansen, Chair, Third District Court

Judge Ryan M. Harris, Utah Court of Appeals

Commissioner Michelle C. Tack, Third District Court

Michele Mattsson, Chief Appellate Mediator, Utah Court of Appeals

Professor James Holbrook, S.J. Quinney College of Law, University of Utah

Professor Carolynn Clark, University of Utah, Conflict Resolution Program

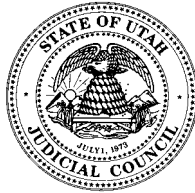
Professor Benjamin Cook, J. Reuben Clark College of Law, Brigham Young
University

Michelle M. Oldroyd, Utah State Bar, Director of Professional Education

Marcella L. Keck, Attorney/Mediator

Kent B. Scott, Attorney/Mediator

Nini Rich, staff, ADR Director, Administrative Office of the Courts



Administrative Office of the Courts

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

May 3, 2021

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

MEMORANDUM

TO: Management Committee / Judicial Council

FROM: Keisa Williams

RE: Standing Committee on Pretrial Release and Supervision
New Member Appointments

Name of Committee: Standing Committee on Pretrial Release and Supervision

Reason for Vacancies:

- Utah State Representative – Representative Hutchings no longer House rep
- Utah State Senator – Senator Hillyard resigned

Eligibility requirements: Each of these vacancies are required pursuant to CJA 1205(1)(B)(xiii)

Current committee member list:

LAST NAME	FIRST NAME	ROLE
Carlos	Wayne	Commercial Surety Agent
Eddington	Hon. Keith	Juvenile Court Judge
Graves	Josh	Prosecutor
Harmond	Hon. George	District Court Judge (Chair)
Jacobsen	Andrea	Representative of County Pretrial Services Agency
Johnson	Brent	Court's General Counsel
Kamalu	Comm. Lorene	Representative of Utah Association of Counties
Kendall	Hon. William	District Court Judge
Kiddle	Lt. Corey	Representative of County Sheriff
Mauro	Rich	Representative of Indigent Defense Commission
McCullagh	Hon. Brendan	Justice Court Judge
Robison	Hon. Jeanne	Justice Court Judge

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

Ross	Tom	Commission on Criminal and Juvenile Justice
Tangaro	Cara	Defense Attorney
Vacant		State Senator
Vacant		State Representative
Vacant		Utah Insurance Department

Description of recruitment process: The Speaker of the Utah House of Representatives nominated Representative Karianne Lisonbee as the House representative, and the President of the Utah Senate nominated Senator Michael McKell as the Senate representative. Representative Lisonbee has agreed to serve. We are still waiting on confirmation from Senator McKell. We are requesting approval of his appointment if he agrees to serve or for the appointment of any other Senator nominated by the President of the Senate.

List of names for consideration:

- Utah House of Representatives
 - Representative Karianne Lisonbee
- Utah State Senate
 - Senator Michael McKell

Brief bios attached

Representative

KARIANNE LISONBEE

Republican – District 14

Legislative Service Since: January 1, 2017

Mailing Address: P.O. Box 160152, Clearfield, UT 84016



Committees

- [Public Education Appropriations Subcommittee](#)
- [House Judiciary Committee](#)
- [House Revenue and Taxation Committee](#)
- [Business and Labor Interim Committee](#)
- [Judiciary Interim Committee](#)

Personal and Career Information

Education: Brigham Young University

Profession: Homemaker

Michael K. McKell

Utah State Senate

Republican - District 7 | **County(ies):** Utah | **Began legislative service:** January 1, 2013

Address: SPANISH FORK, UT, 84660



Personal and Career Information

Profession: Attorney; Title Officer

Professional Affiliations: Adjunct Professor, Utah Valley University; Spanish Fork Chamber of Commerce, board member; Spanish Fork Kiwanis, board member; Utah Association for Justice; Central Utah Bar Association; A. Sherman Christensen Inn of Court

Education: B.A., Southern Utah University; J.D., University of Idaho

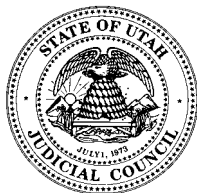
Committees

- [Business, Economic Development, and Labor Appropriations Subcommittee](#)
- [Higher Education Appropriations Subcommittee](#)
- [Economic Development and Workforce Services Interim Committee](#)
- [Political Subdivisions Interim Committee](#)
- [Senate Economic Development and Workforce Services Confirmation Committee](#)
- [Senate Education Committee](#)
- [Senate Economic Development and Workforce Services Committee](#)
- [Senate Ethics Committee](#)

Recognitions and Honors

Utah's Legal Elite, Top Lawyers of 2011, 2012; Super Lawyers, Rising Stars 2012

Tab 11



Administrative Office of the Courts

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

May 14, 2021

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Keisa Williams

RE: Rules for Public Comment

The Policy and Planning Committee recommends the following rules to the Judicial Council for public comment.

CJA 1-205. Standing and ad hoc committees (AMEND)

The chair of the Standing Committee on Pretrial Release and Supervision recommends the following changes to committee membership:

- At the request of the deputy insurance commissioner (see attached resignation letter), remove the rep from the insurance department.
- Add a chief of police. They are a key stakeholder in the pretrial process and their insight and issues often differ from the sheriffs.
- Add a rep from the Utah Victims' Council. A rep has been attending the meetings for the last year and her insight has been invaluable.
- Add a rep from a local community organization active in the pretrial arena. They are also a critical missing voice, especially for citizens with lived experience. Jon Puente supports this addition and has made recommendations regarding an organization/representative that would be interested and a great fit.

Current membership:

LAST NAME	FIRST NAME	ROLE
Carlos	Wayne	Commercial Surety Agent
Eddington	Hon. Keith	Juvenile Court Judge
Graves	Josh	Prosecutor
Harmond	Hon. George	District Court Judge (Chair)
Jacobsen	Andrea	Representative of County Pretrial Services Agency
Johnson	Brent	Court's General Counsel
Kamalu	Comm. Lorene	Representative of Utah Association of Counties
Kendall	Hon. William	District Court Judge

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

Kiddle	Lt. Corey	Representative of County Sheriff
Mauro	Rich	Representative of Indigent Defense Commission
McCullagh	Hon. Brendan	Justice Court Judge
Robison	Hon. Jeanne	Justice Court Judge
Ross	Tom	Commission on Criminal and Juvenile Justice
Tangaro	Cara	Defense Attorney
Vacant		State Senator
Vacant		State Representative (Rep. Karianne Lisonbee)
Vacant		Utah Insurance Department

CJA 3-419. Office of Fairness and Accountability (NEW)

This is a new rule establishing the Office of Fairness and Accountability, and identifying the duties of the Director and objectives of the Office.

CJA 4-202.02. Records classification (AMEND)

This proposal arose when members of the media were reviewing dockets and questioned whether the names of minor victims should be public in certain circumstances. There was some confusion among clerks on this issue. The use of “minor party” in line 163 already indicates that minors’ names are only public in criminal cases if the minor is a party, making the amendment in lines 167-168 duplicative. However, I recommend moving forward with the proposed amendment because it adds much-needed clarity.

CJA 4-206. Exhibits (AMEND)

On August 27, 2019, the State Auditor released Performance Audit 19-03 “An Audit of Evidence Storage and Management Among Selected Utah District and Juvenile Courts.” The audit identified multiple issues requiring immediate attention by the Court. The focus of the audit centered around compliance with Code of Judicial Administration rule 4-206, addressing proper procedure and management in securing of exhibits and evidence. Specifically, the audit addressed property evidence, including drugs, weapons, paraphernalia, large-sized items, dangerous pieces of evidence typically the subject of chain of custody protocol.

In response to the significant increase in remote hearings, procedures surrounding digital exhibits have been added. The exhibit audit task force received feedback from all boards of judges and clerks of court and amendments were made to address their concerns.

CJA 4-401.02 Possession and use of portable electronic devices (AMEND)

JPEC began a pilot project last year to evaluate the performance of justice court judges using recordings of court proceedings. JPEC requested that the rule be amended to allow their continued use of recordings to evaluate the performance of justice court judges subject to a basic evaluation.

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

Rule 1-205. Standing and Ad Hoc Committees.**Intent:**

To establish standing and ad hoc committees to assist the Council and provide recommendations on topical issues.

To establish uniform terms and a uniform method for appointing committee members.

To provide for a periodic review of existing committees to assure that their activities are appropriately related to the administration of the judiciary.

Applicability:

This rule shall apply to the internal operation of the Council.

Statement of the Rule:**(1) Standing Committees.**

(1)(A) **Establishment.** The following standing committees of the Council are hereby established:

- (1)(A)(i) Technology Committee;
- (1)(A)(ii) Uniform Fine Schedule Committee;
- (1)(A)(iii) Ethics Advisory Committee;
- (1)(A)(iv) Judicial Branch Education Committee;
- (1)(A)(v) Court Facility Planning Committee;
- (1)(A)(vi) Committee on Children and Family Law;
- (1)(A)(vii) Committee on Judicial Outreach;
- (1)(A)(viii) Committee on Resources for Self-represented Parties;
- (1)(A)(ix) Language Access Committee;
- (1)(A)(x) Guardian ad Litem Oversight Committee;
- (1)(A)(xi) Committee on Model Utah Civil Jury Instructions;
- (1)(A)(xii) Committee on Model Utah Criminal Jury Instructions;
- (1)(A)(xiii) Committee on Pretrial Release and Supervision; and
- (1)(A)(xiv) Committee on Court Forms.

(1)(B) Composition.

(1)(B)(i) The **Technology Committee** shall consist of:

- (1)(B)(i)(a) one judge from each court of record;
- (1)(B)(i)(b) one justice court judge;

- (1)(B)(i)(c) one lawyer recommended by the Board of Bar Commissioners;
- (1)(B)(i)(d) two court executives;
- (1)(B)(i)(e) two court clerks; and
- (1)(B)(i)(f) two staff members from the Administrative Office.
- (1)(B)(ii) The **Uniform Fine Schedule Committee** shall consist of:
- (1)(B)(ii)(a) one district court judge who has experience with a felony docket;
- (1)(B)(ii)(b) three district court judges who have experience with a misdemeanor docket; and
- (1)(B)(ii)(c) four justice court judges.
- (1)(B)(iii) The **Ethics Advisory Committee** shall consist of:
- (1)(B)(iii)(a) one judge from the Court of Appeals;
- (1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iii)(d) one juvenile court judge;
- (1)(B)(iii)(e) one justice court judge; and
- (1)(B)(iii)(f) an attorney from either the Bar or a college of law.
- (1)(B)(iv) The **Judicial Branch Education Committee** shall consist of:
- (1)(B)(iv)(a) one judge from an appellate court;
- (1)(B)(iv)(b) one district court judge from Judicial Districts 2, 3, or 4;
- (1)(B)(iv)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- (1)(B)(iv)(d) one juvenile court judge;
- (1)(B)(iv)(e) the education liaison of the Board of Justice Court Judges;
- (1)(B)(iv)(f) one state level administrator;
- (1)(B)(iv)(g) the Human Resource Management Director;
- (1)(B)(iv)(h) one court executive;
- (1)(B)(iv)(i) one juvenile court probation representative;
- (1)(B)(iv)(j) two court clerks from different levels of court and different judicial districts;
- (1)(B)(iv)(k) one data processing manager; and
- (1)(B)(iv)(l) one adult educator from higher education.
- (1)(B)(iv)(m) The Human Resource Management Director and the adult educator shall serve as non-voting members. The state level administrator and the Human Resource Management Director shall serve as permanent Committee members.

(1)(B)(v) The **Court Facility Planning Committee** shall consist of:

- (1)(B)(v)(a) one judge from each level of trial court;
- (1)(B)(v)(b) one appellate court judge;
- (1)(B)(v)(c) the state court administrator;
- (1)(B)(v)(d) a trial court executive;
- (1)(B)(v)(e) two business people with experience in the construction or financing of facilities; and
- (1)(B)(v)(f) the court security director.

(1)(B)(vi) The **Committee on Children and Family Law** shall consist of:

- (1)(B)(vi)(a) one Senator appointed by the President of the Senate;
- (1)(B)(vi)(b) the Director of the Department of Human Services or designee;
- (1)(B)(vi)(c) one attorney of the Executive Committee of the Family Law Section of the Utah State Bar;
- (1)(B)(vi)(d) one attorney with experience in abuse, neglect and dependency cases;
- (1)(B)(vi)(e) one attorney with experience representing parents in abuse, neglect and dependency cases;
- (1)(B)(vi)(f) one representative of a child advocacy organization;
- (1)(B)(vi)(g) the ADR Program Director or designee;
- (1)(B)(vi)(h) one professional in the area of child development;
- (1)(B)(vi)(i) one mental health professional;
- (1)(B)(vi)(j) one representative of the community;
- (1)(B)(vi)(k) the Director of the Office of Guardian ad Litem or designee;
- (1)(B)(vi)(l) one court commissioner;
- (1)(B)(vi)(m) two district court judges; and
- (1)(B)(vi)(n) two juvenile court judges.
- (1)(B)(vi)(o) One of the district court judges and one of the juvenile court judges shall serve as co-chairs to the committee. In its discretion the committee may appoint non-members to serve on its subcommittees.

(1)(B)(vii) The **Committee on Judicial Outreach** shall consist of:

- (1)(B)(vii)(a) one appellate court judge;
- (1)(B)(vii)(b) one district court judge;
- (1)(B)(vii)(c) one juvenile court judge;

(1)(B)(vii)(d) one justice court judge; one state level administrator;
(1)(B)(vii)(e) a state level judicial education representative;
(1)(B)(vii)(f) one court executive;
(1)(B)(vii)(g) one Utah State Bar representative;
(1)(B)(vii)(h) one communication representative;
(1)(B)(vii)(i) one law library representative;
(1)(B)(vii)(j) one civic community representative; and
(1)(B)(vii)(k) one state education representative.
(1)(B)(vii)(l) Chairs of the Judicial Outreach Committee's subcommittees
shall also serve as members of the committee.

(1)(B)(viii) The **Committee on Resources for Self-represented Parties** shall
consist of:

(1)(B)(viii)(a) two district court judges;
(1)(B)(viii)(b) one juvenile court judge;
(1)(B)(viii)(c) two justice court judges;
(1)(B)(viii)(d) three clerks of court – one from an appellate court, one from an
urban district and one from a rural district;
(1)(B)(viii)(e) one representative from the Self-Help Center;
(1)(B)(viii)(f) one representative from the Utah State Bar;
(1)(B)(viii)(g) two representatives from legal service organizations that serve
low-income clients;
(1)(B)(viii)(h) one private attorney experienced in providing services to self-
represented parties;
(1)(B)(viii)(i) two law school representatives;
(1)(B)(viii)(j) the state law librarian; and
(1)(B)(viii)(k) two community representatives.

(1)(B)(ix) The **Language Access Committee** shall consist of:

(1)(B)(ix)(a) one district court judge;
(1)(B)(ix)(b) one juvenile court judge;
(1)(B)(ix)(c) one justice court judge;
(1)(B)(ix)(d) one trial court executive;
(1)(B)(ix)(e) one court clerk;
(1)(B)(ix)(f) one interpreter coordinator;
(1)(B)(ix)(g) one probation officer;

- (1)(B)(ix)(h) one prosecuting attorney;
- (1)(B)(ix)(i) one defense attorney;
- (1)(B)(ix)(j) two certified interpreters;
- (1)(B)(ix)(k) one approved interpreter;
- (1)(B)(ix)(l) one expert in the field of linguistics; and
- (1)(B)(ix)(m) one American Sign Language representative.

(1)(B)(x) The **Guardian ad Litem Oversight Committee** shall consist of:

- (1)(B)(x)(a) seven members with experience in the administration of law and public services selected from public, private and non-profit organizations.

(1)(B)(xi) The **Committee on Model Utah Civil Jury Instructions** shall consist of:

- (1)(B)(xi)(a) two district court judges;
- (1)(B)(xi)(b) four lawyers who primarily represent plaintiffs;
- (1)(B)(xi)(c) four lawyers who primarily represent defendants; and
- (1)(B)(xi)(d) one person skilled in linguistics or communication.

(1)(B)(xii) The **Committee on Model Utah Criminal Jury Instructions** shall consist of:

- (1)(B)(xii)(a) two district court judges;
- (1)(B)(xii)(b) one justice court judge;
- (1)(B)(xii)(c) four prosecutors;
- (1)(B)(xii)(d) four defense counsel;
- (1)(B)(xii)(e) one professor of criminal law; and
- (1)(B)(xii)(f) one person skilled in linguistics or communication.

(1)(B)(xiii) The **Committee on Pretrial Release and Supervision** shall consist of:

- (1)(B)(xiii)(a) two district court judges;
- (1)(B)(xiii)(b) one juvenile court judge;
- (1)(B)(xiii)(c) two justice court judges;
- (1)(B)(xiii)(d) one prosecutor;
- (1)(B)(xiii)(e) one defense attorney;
- (1)(B)(xiii)(f) one county sheriff;
- (1)(B)(xiii)(g) one representative of counties;
- (1)(B)(xiii)(h) one representative of a county pretrial services agency;
- ~~(1)(B)(xiii)(i) one representative of the Utah Insurance Department;~~

~~(1)(B)(xiii)(j)~~ (1)(B)(xiii)(i) one representative of the Utah Commission on
Criminal and Juvenile Justice;

~~(1)(B)(xiii)(k)~~ (1)(B)(xiii)(j) one commercial surety agent;

~~(1)(B)(xiii)(l)~~ (1)(B)(xiii)(k) one state senator;

~~(1)(B)(xiii)(m)~~ (1)(B)(xiii)(l) one state representative;

~~(1)(B)(xiii)(n)~~ (1)(B)(xiii)(m) the Director of the Indigent Defense
Commission or designee;

(1)(B)(xiii)(n) one representative of the Utah Victims' Council;

(1)(B)(xiii)(o) one representative of a community organization actively
engaged in pretrial justice issues;

~~(1)(B)(xiii)(p)~~ (1)(B)(xiii)(p) one chief of police; and

~~(1)(B)(xiii)(q)~~ (1)(B)(xiii)(q) the court's general counsel or designee.

(1)(B)(xiv) The **Committee on Court Forms** shall consist of:

(1)(B)(xiv)(a) one district court judge;

(1)(B)(xiv)(b) one court commissioner;

(1)(B)(xiv)(c) one juvenile court judge;

(1)(B)(xiv)(d) one justice court judge;

(1)(B)(xiv)(e) one court clerk;

(1)(B)(xiv)(f) one appellate court staff attorney;

(1)(B)(xiv)(g) one representative from the Self-Help Center;

(1)(B)(xiv)(h) the State Law Librarian;

(1)(B)(xiv)(i) the Court Services Director;

(1)(B)(xiv)(j) one representative from a legal service organization that
serves low-income clients;

(1)(B)(xiv)(k) one paralegal;

(1)(B)(xiv)(l) one educator from a paralegal program or law school;

(1)(B)(xiv)(m) one person skilled in linguistics or communication; and

(1)(B)(xiv)(n) one representative from the Utah State Bar.

(1)(C) **Standing committee chairs.** The Judicial Council shall designate the chair of each standing committee. Standing committees shall meet as necessary to accomplish their work. Standing committees shall report to the Council as necessary but a minimum of once every year. Council members may not serve, participate or vote on standing committees. Standing committees may invite participation by others as they deem advisable, but only members designated by this rule may make motions

and vote. All members designated by this rule may make motions and vote unless otherwise specified. Standing committees may form subcommittees as they deem advisable.

(1)(D) **Committee performance review.** At least once every six years, the Management Committee shall review the performance of each committee. If the Management Committee determines that committee continues to serve its purpose, the Management Committee shall recommend to the Judicial Council that the committee continue. If the Management Committee determines that modification of a committee is warranted, it may so recommend to the Judicial Council.

(1)(D)(i) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight Committee, recognized by Section 78A-6-901, shall not terminate.

(2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider topical issues outside the scope of the standing committees and to recommend rules or resolutions concerning such issues. The Council may set and extend a date for the termination of any ad hoc committee. The Council may invite non-Council members to participate and vote on ad hoc committees. Ad hoc committees shall keep the Council informed of their activities. Ad hoc committees may form sub-committees as they deem advisable. Ad hoc committees shall disband upon issuing a final report or recommendations to the Council, upon expiration of the time set for termination, or upon the order of the Council.

(3) **General provisions.**

(3)(A) **Appointment process.**

(3)(A)(i) **Administrator's responsibilities.** The state court administrator shall select a member of the administrative staff to serve as the administrator for committee appointments. Except as otherwise provided in this rule, the administrator shall:

(3)(A)(i)(a) announce expected vacancies on standing committees two months in advance and announce vacancies on ad hoc committees in a timely manner;

(3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve from each prospective appointee and information regarding the prospective appointee's present and past committee service;

(3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve from the prospective reappointee, the length of the prospective

reappointee's service on the committee, the attendance record of the prospective reappointee, the prospective reappointee's contributions to the committee, and the prospective reappointee's other present and past committee assignments; and

(3)(A)(i)(d) present a list of prospective appointees and reappointees to the Council and report on recommendations received regarding the appointment of members and chairs.

(3)(A)(ii) **Council's responsibilities.** The Council shall appoint the chair of each committee. Whenever practical, appointments shall reflect geographical, gender, cultural and ethnic diversity.

(3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members shall serve staggered three year terms. Standing committee members shall not serve more than two consecutive terms on a committee unless the Council determines that exceptional circumstances exist which justify service of more than two consecutive terms.

(3)(C) **Expenses.** Members of standing and ad hoc committees may receive reimbursement for actual and necessary expenses incurred in the execution of their duties as committee members.

(3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's committees.

Effective May/November 1, 20__20



Keisa Williams <keisaw@utcourts.gov>

Fwd: Membership on Pretrial Release and Supervision Committee

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

From: **Reed Stringham** <rmstringham@utah.gov>
Date: Thu, Mar 4, 2021 at 4:11 PM
Subject: Membership on Pretrial Release and Supervision Committee
To: Judge George Harmond <gmharmond@utcourts.gov>
Cc: Jon Pike <jpike@utah.gov>

Dear Judge Harmond -

I write to request that the Insurance Department be relieved of its membership on the Judicial Council's Pretrial Release and Supervision Committee.

Although I can see the theory behind including the Department on the Committee, its continued participation now appears unnecessary. Since I became involved as the Department's representative in March, 2018, the Committee's business and discussions have entirely focused on court and jail operations, funding and managing those operations, and the roles that prosecutors and defense counsel play in them. Never has there been a question about the Department's expertise, regulation of the bail bond industry. Although I am able to very generally follow the Committee discussions, that is only because I have legal training. Most matters require a keen knowledge of criminal law that I don't have. If others from the Department were to participate in my place, they would likely be confused about the matters being discussed.

I am not one to shirk responsibilities, and my sense of duty and responsibility grinds on me as I write this. However, based on the nature of the Committee's business, the Department has not been able to add anything of value for the last three years. And I don't see that it will be able to do so in the future. Of course, if that were to change, the Department would be happy to contribute as needed.

If this request should be directed elsewhere, or if I can provide more information, will you please let me know? Thank you.

Reed

--

Reed Stringham
Deputy Insurance Commissioner
State Office Bldg. Rm 3110
Salt Lake City, Utah 84114
801-538-3870

Rule 3-419. Office of Fairness and Accountability**Intent:**

To establish the Office of Fairness and Accountability within the Administrative Office of the Courts.

To identify the objectives of the Office of Fairness and Accountability.

To identify the duties of the Director of the Office of Fairness and Accountability.

Applicability:

This rule shall apply to the judiciary.

Statement of the Rule:

(1) **Establishment of the Office.** The Office of Fairness and Accountability is established within the Administrative Office of the Courts to organize and lead the judiciary in examining and addressing processes and outcomes within the judicial system that contribute to or cause the unequal treatment of individuals based on factors such as race, gender, ethnicity, age, disability, socioeconomic status, religion, sexual orientation, marital status, veteran status, and any other status protected by law~~race, ethnicity, sexual orientation, or gender.~~

(2) Objectives.

(2)(A) The Office shall support the judiciary in its efforts to ensure that Utah courts are achieving the judiciary's mission to provide an open, fair, efficient, and independent system to advance access to justice under the law.

(2)(B) The Office shall work collaboratively with other offices, departments, judges, commissioners, court employees, boards of judges, and Judicial Council standing committees.

(2)(C) The Office shall advance efforts to eliminate bias from court operations, promote equal access to the court, support efforts to diversify the bar and bench, and inspire a high level of trust and public confidence in the Judiciary.

(3) Director Duties. The Director of the Office of Fairness and Accountability shall:

(3)(A) Create and operationalize a strategic plan that includes the following areas of focus:

(3)(A)(i) Identifying and addressing racism and other forms of bias within the judicial system by:

(3)(A)(i)(a) Engaging in community outreach and serving as a liaison between the courts and other agencies and organizations;

(3)(A)(i)(b) Networking with community partners such as the Utah Commission on Criminal and Juvenile Justice, the Utah Center for Legal Inclusion, Diversity Offices, universities, and community organizations;
and

(3)(A)(i)(c) Partnering on access to justice initiatives and projects; ~~and~~

~~(3)(A)(i)(d) Developing a speakers' bureau to reach K-12 schools statewide.~~

(3)(A)(ii) Conducting data collection and research through:

(3)(A)(ii)(a) Collaboration with national experts and thought leaders to identify, gather and analyze relevant data; and

(3)(A)(ii)(b) Coordination with Court Data Services and Information Technology Services to capture and report relevant data.

(3)(A)(ii)(c) ~~A special area of focus shall be collecting and analyzing~~ Collection and analysis of jury information, including juror selection, service, and pools.

(3)(A)(iii) Coordinating with ~~the Utah the~~ Judicial ~~Education Department~~ Institute to develop education curriculum and training for judicial officers and employees on issues including but not limited to:

(3)(A)(iii)(a) cultural competency;

(3)(A)(iii)(b) racial bias, implicit bias, institutional bias, and individual biases; and

(3)(A)(iii)(c) any other relevant issues.

(3)(A)(iv) Monitoring Human Resources implementation of best practices for recruitment and retention, and collaborating with Human Resources on:

(3)(A)(iv)(a) the recruitment and selection of court commissioners and employees; and

(3)(A)(iv)(b) obtaining and analyzing data.

(3)(A)(v) Collaborating with organizations such as the Utah State Bar, Utah Center for Legal Inclusion, and schools to encourage individuals from marginalized communities to apply for judicial openings.

(3)(B) Serve as a resource persons in historically marginalized communities~~for minorities~~ within the court system and work to increase cultural awareness, foster greater appreciation of racial and cultural diversity, and engender mutual respect in persons who deliver court services and represent our justice system

(3)(C) Make recommendations for improvement in court processes, procedures, and policies as they relate to race, gender, ethnicity, age, disability, socioeconomic status, religion, sexual orientation, marital status, veteran status, and any other status protected by law.

(3)(D) Oversee the interpreter and language access programs, and the communication and public information programs, and the judicial outreach programs.

(3)(E) Review and report on the efficient allocation and fair application of available resources to addressing issues of disparity in the judiciary

(3)(F) Implement standards, policies, and rules as directed by the State Court Administrator and Judicial Council.

(3)(G) Report to the Judicial Council at least annually.

(4) The Director shall provide support to any committee or task force created by the Judicial Council for the purpose of developing a strategic plan for the Office.

Effective May/November 1, 20__

Rule 4-202.02. Records Classification.**Intent:**

To classify court records as public or non-public.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) **Presumption of Public Court Records.** Court records are public unless otherwise classified by this rule.

(2) **Public Court Records.** Public court records include but are not limited to:

- (2)(A) abstract of a citation that redacts all non-public information;
- (2)(B) aggregate records without non-public information and without personal identifying information;
- (2)(C) appellate filings, including briefs;
- (2)(D) arrest warrants, but a court may restrict access before service;
- (2)(E) audit reports;
- (2)(F) case files;
- (2)(G) committee reports after release by the Judicial Council or the court that requested the study;
- (2)(H) contracts entered into by the judicial branch and records of compliance with the terms of a contract;
- (2)(I) drafts that were never finalized but were relied upon in carrying out an action or policy;
- (2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;
- (2)(K) financial records;
- (2)(L) indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:
 - (2)(L)(i) amount in controversy;
 - (2)(L)(ii) attorney name;
 - (2)(L)(iii) licensed paralegal practitioner name;
 - (2)(L)(iv) case number;
 - (2)(L)(v) case status;
 - (2)(L)(vi) civil case type or criminal violation;
 - (2)(L)(vii) civil judgment or criminal disposition;
 - (2)(L)(viii) daily calendar;

- 37 (2)(L)(ix) file date;
- 38 (2)(L)(x) party name;
- 39 (2)(M) name, business address, business telephone number, and business email
40 address of an adult person or business entity other than a party or a victim
41 or witness of a crime;
- 42 (2)(N) name, address, telephone number, email address, date of birth, and last
43 four digits of the following: driver's license number; social security number;
44 or account number of a party;
- 45 (2)(O) name, business address, business telephone number, and business email
46 address of a lawyer or licensed paralegal practitioner appearing in a case;
- 47 (2)(P) name, business address, business telephone number, and business email
48 address of court personnel other than judges;
- 49 (2)(Q) name, business address, and business telephone number of judges;
- 50 (2)(R) name, gender, gross salary and benefits, job title and description, number
51 of hours worked per pay period, dates of employment, and relevant
52 qualifications of a current or former court personnel;
- 53 (2)(S) unless classified by the judge as private or safeguarded to protect the
54 personal safety of the juror or the juror's family, the name of a juror
55 empaneled to try a case, but only 10 days after the jury is discharged;
- 56 (2)(T) opinions, including concurring and dissenting opinions, and orders entered
57 in open hearings;
- 58 (2)(U) order or decision classifying a record as not public;
- 59 (2)(V) private record if the subject of the record has given written permission to
60 make the record public;
- 61 (2)(W) probation progress/violation reports;
- 62 (2)(X) publications of the administrative office of the courts;
- 63 (2)(Y) record in which the judicial branch determines or states an opinion on the
64 rights of the state, a political subdivision, the public, or a person;
- 65 (2)(Z) record of the receipt or expenditure of public funds;
- 66 (2)(AA) record or minutes of an open meeting or hearing and the transcript of them;
- 67 (2)(BB) record of formal discipline of current or former court personnel or of a
68 person regulated by the judicial branch if the disciplinary action has been
69 completed, and all time periods for administrative appeal have expired, and
70 the disciplinary action was sustained;
- 71 (2)(CC) record of a request for a record;
- 72 (2)(DD) reports used by the judiciary if all of the data in the report is public or the
73 Judicial Council designates the report as a public record;
- 74 (2)(EE) rules of the Supreme Court and Judicial Council;

- (2)(FF) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40;
- (2)(GG) statistical data derived from public and non-public records but that disclose only public data; and
- (2)(HH) notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the delinquency history summary of the person are public records. The delinquency history summary shall contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses.

(3) Sealed Court Records. The following court records are sealed:

- (3)(A) records in the following actions:
- (3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months after the conclusion of proceedings, which are private until sealed;
 - (3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six months after the conclusion of proceedings, which are private until sealed;
 - (3)(A)(iii) Section 76-7-304.5 – Consent required for abortions performed on minors; and
 - (3)(A)(iv) Section 78B-8-402 – Actions for disease testing;
- (3)(B) expunged records;
- (3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section 77-23a-15;
- (3)(D) records showing the identity of a confidential informant;
- (3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code Section 7-2-6;
- (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
- (3)(G) records designated as sealed by rule of the Supreme Court;
- (3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings; and
- (3)(I) other records as ordered by the court under Rule 4-202.04.

(4) Private Court Records. The following court records are private:

- (4)(A) records in the following actions:
- (4)(A)(i) Section 62A-15-631, Involuntary commitment under court order;

- (4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System database;
- (4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed;
- (4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed; and
- (4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court restitution judgment.
- (4)(B) records in the following actions, except that the case history, judgments, orders, decrees, letters of appointment, and the record of public hearings are public records:
- (4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations orders, except that an action for consortium due to personal injury under Section 30-2-11 is public;
- (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;
- (4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;
- (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;
- (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;
- (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;
- (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support Act;
- (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and
- (4)(B)(ix) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);
- (4)(C) records related to determinations of indigency;
- (4)(D) an affidavit supporting a motion to waive fees;
- (4)(E) aggregate records other than public aggregate records under subsection (2);
- (4)(F) alternative dispute resolution records;
- (4)(G) applications for accommodation under the Americans with Disabilities Act;
- (4)(H) jail booking sheets;
- (4)(I) citation, but an abstract of a citation that redacts all non-public information is public;
- (4)(J) judgment information statement;
- (4)(K) judicial review of final agency action under Utah Code Section 62A-4a-1009;
- (4)(L) the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, maiden name and mother's maiden name, and similar personal identifying information;
- (4)(M) the following personal identifying information about a person other than a party or a victim or witness of a crime: residential address, personal email address, personal telephone number; date of birth, driver's license number, social security number, account description and number, password,

- 160 identification number, maiden name, mother's maiden name, and similar
161 personal identifying information;
162 (4)(N) medical, psychiatric, or psychological records;
163 (4)(O) name of a minor, except that the name of a minor party is public in the
164 following district and justice court proceedings:
165 (4)(O)(i) name change of a minor;
166 (4)(O)(ii) guardianship or conservatorship for a minor;
167 (4)(O)(iii) felony, misdemeanor, or infraction when the minor is a
168 party;
169 (4)(O)(iv) protective orders and stalking injunctions; and
170 (4)(O)(v) custody orders and decrees;
171 (4)(P) nonresident violator notice of noncompliance;
172 (4)(Q) personnel file of a current or former court personnel or applicant for
173 employment;
174 (4)(R) photograph, film, or video of a crime victim;
175 (4)(S) record of a court hearing closed to the public or of a child's testimony taken
176 under URCrP 15.5:
177 (4)(S)(i) permanently if the hearing is not traditionally open to the
178 public and public access does not play a significant positive
179 role in the process; or
180 (4)(S)(ii) if the hearing is traditionally open to the public, until the
181 judge determines it is possible to release the record without
182 prejudice to the interests that justified the closure;
183 (4)(T) record submitted by a senior judge or court commissioner regarding
184 performance evaluation and certification;
185 (4)(U) record submitted for in camera review until its public availability is determined;
186 (4)(V) reports of investigations by Child Protective Services;
187 (4)(W) victim impact statements;
188 (4)(X) name of a prospective juror summoned to attend court, unless classified by
189 the judge as safeguarded to protect the personal safety of the prospective
190 juror or the prospective juror's family;
191 (4)(Y) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate
192 Procedure, except briefs filed pursuant to court order;
193 (4)(Z) records in a proceeding under Rule 60 of the Utah Rules of Appellate
194 Procedure; and
195 (4)(AA) other records as ordered by the court under Rule 4-202.04.
196

197 **(5) Protected Court Records.** The following court records are protected:

- 198 (5)(A) attorney's work product, including the mental impressions or legal theories of
199 an attorney or other representative of the courts concerning litigation,
200 privileged communication between the courts and an attorney representing,
201 retained, or employed by the courts, and records prepared solely in
202 anticipation of litigation or a judicial, quasi-judicial, or administrative
203 proceeding;
204 (5)(B) records that are subject to the attorney client privilege;

- (5)(C) bids or proposals until the deadline for submitting them has closed;
 - (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;
 - (5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;
 - (5)(F) court security plans;
 - (5)(G) investigation and analysis of loss covered by the risk management fund;
 - (5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;
 - (5)(I) confidential business records under Utah Code Section 63G-2-309;
 - (5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:
 - (5)(J)(i) interfere with an investigation;
 - (5)(J)(ii) interfere with a fair hearing or trial;
 - (5)(J)(iii) disclose the identity of a confidential source; or
 - (5)(J)(iv) concern the security of a court facility;
 - (5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;
 - (5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;
 - (5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;
 - (5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation, or parole;
 - (5)(O) record the disclosure of which would jeopardize life, safety, or property;
 - (5)(P) strategy about collective bargaining or pending litigation;
 - (5)(Q) test questions and answers;
 - (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
 - (5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;
 - (5)(T) presentence investigation report;
 - (5)(U) except for those filed with the court, records maintained and prepared by juvenile probation; and
 - (5)(V) other records as ordered by the court under Rule 4-202.04.
- (6) Juvenile Court Social Records.** The following are juvenile court social records:
- (6)(A) correspondence relating to juvenile social records;
 - (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;
 - (6)(C) medical, psychological, psychiatric evaluations;
 - (6)(D) pre-disposition and social summary reports;
 - (6)(E) probation agency and institutional reports or evaluations;

- (6)(F) referral reports;
- (6)(G) report of preliminary inquiries; and
- (6)(H) treatment or service plans.
- (7) Juvenile Court Legal Records.** The following are juvenile court legal records:
- (7)(A) accounting records;
- (7)(B) discovery filed with the court;
- (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;
- (7)(D) name of a party or minor;
- (7)(E) record of a court hearing;
- (7)(F) referral and offense histories
- (7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.
- (8) Safeguarded Court Records.** The following court records are safeguarded:
- (8)(A) upon request, location information, contact information, and identity information other than name of a petitioner and other persons to be protected in an action filed under Title 77, Chapter 3a, Stalking Injunctions or Title 78B, Chapter 7, Protective Orders;
- (8)(B) upon request, location information, contact information and identity information other than name of a party or the party's child after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;
- (8)(C) location information, contact information, and identity information of prospective jurors on the master jury list or the qualified jury list;
- (8)(D) location information, contact information, and identity information other than name of a prospective juror summoned to attend court;
- (8)(E) the following information about a victim or witness of a crime:
- (8)(E)(i) business and personal address, email address, telephone number, and similar information from which the person can be located or contacted;
- (8)(E)(ii) date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information.

Effective December 5, 2021

Rule 4-206. Exhibits.**Intent:**

To establish a uniform procedure for the receipt, maintenance and release of exhibits.

Applicability:

This rule shall apply to all trials ~~and court proceedings~~ in courts of record and not of record, except small claims court. In the discretion of the court, this rule may apply to any proceeding in which exhibits are introduced.

Statement of the Rule:**(1) Marking exhibits**

(1)(A) **Marking Exhibits.** Prior to trial, or at a time specified by the judge, each party must mark all exhibits it intends to introduce by utilizing exhibit labels in the format prescribed by the clerk of court. Labels or tags must include, at a minimum, a case number, exhibit number/letter, and an appropriate party designation. With approval of the court, a photograph may be offered by the submitting party as a representation of the original exhibit. All exhibits offered as evidence shall be marked with a label or tag, which shall contain, at a minimum, the exhibit number or alpha identification, the case number, the date received, and the initials of the clerk who received the exhibit.

(1)(B) **Digital Exhibits.** Digital exhibits must be marked as provided in paragraph (1)(A) and submitted to the court as prescribed by the clerk of court. Exhibits should not be eFiled. The clerk shall designate the source of the exhibit by the letter "P" if it is received from plaintiff and "D" if it is received from defendant. In cases with multiple parties, the label shall further identify the parties, e.g. 1st D is the first named defendant in the pleadings, 3rd D is the third party defendant.

~~(1)(C) The clerk shall secure the label on the item and shall affix more than one identical label when necessary.~~

~~(1)(D) The court may order exhibits to be marked in advance of the date and time of trial or other hearing.~~

(1)(C) **Courts not of record.** Courts not of record may exempt parties from the requirements outlined in paragraphs (1)(A) and (1)(B) and prescribe an alternative process for marking exhibits.

(2) Exhibit custody during trial and tracking.

(2)(A) **Custody of the Parties.** During the trial, bulky and sensitive exhibits, and exhibits that require law enforcement chain of custody, will remain in the custody of the party offering the exhibit. Such exhibits include, but are not limited to: biohazards, controlled substances, paraphernalia, firearms, ammunition, explosive devices, pornographic materials, jewelry, poisonous or dangerous chemicals, intoxicating liquors, money or articles of high monetary value, counterfeit money, original digital storage media such as a hard drive or computer, and documents or physical exhibits of unusual bulk or weight. The clerk of court or designee must list these exhibits in the exhibit list and note that the original exhibit is in the custody of the party. The exhibit custody tracking record means the CORIS computer system or a form approved by the Administrative Office of the Courts. If an approved form is used as the exhibit custody tracking record, it shall be placed in the case file.

(2)(B) **Custody of the Court.** Physical exhibits received during trial, other than those in paragraph (2)(A), must be placed in the custody of the clerk of court or designee. Digital exhibits received as evidence by the court during the trial shall be stored

electronically or on digital media such as a thumb drive and stored in accordance with paragraph (2)(C). The clerk of court or designee must list all exhibits in the exhibit list, and the list shall be made a part of the court record. An exhibit list may be the court's designated case management system or a form approved by the Judicial Council. Each person with custody of an exhibit shall identify herself or himself in the exhibit custody tracking record and record changes in the status of the exhibit contemporaneous with the event.

(2)(C) Secured Storage. ~~Prior to daily adjournment, the clerk, under the direction of the court, shall compare the exhibit custody tracking record with the exhibits in the custody of the clerk. The clerk shall keep the exhibits received at trial in a container. The container shall be numbered and shall identify the case name and number.~~

(2)(C)(i) Upon daily adjournment, the clerk of court or designee must compare the exhibit list with the exhibits received that day. Digital exhibits received under paragraph (2)(B) shall be stored electronically in a manner meeting the requirements outlined in paragraph (3)(A)(ii). Physical exhibits received under paragraph (2)(B) must be stored in an envelope or container, marked with the case number, and stored in a secured storage location that meets the requirements outlined in paragraph (3)(A)(ii).

(2)(C)(ii) Exhibits may be stored in a temporary secured location for no more than 72 hours, provided the temporary location is sufficient to prevent access by unauthorized persons, and the location is secured with a key lock, combination lock, or electronic lock. Access to the temporary storage location shall be limited to the clerk of court, judge, or a designee.

~~(2)(D) Each court location shall provide a locked facility for storing exhibits. The Clerk of the Court shall appoint an exhibit manager with responsibility for the security, maintenance and disposition of exhibits. Access to the exhibit storage area by anyone other than the exhibit manager and the clerk is prohibited without a court order.~~

~~(2)(E) Unless otherwise ordered by the court, at the conclusion of the trial or proceeding, the clerk shall release to the party offering them all exhibits not suitable for filing and transmission to the appellate court as part of a record on appeal. Such exhibits include, but are not be limited to: narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit money, and exhibits of unusual bulk or weight. The clerk shall transfer the remaining exhibits to the exhibit manager. The exhibit manager shall record receipt and location of the exhibits.~~

~~(2)(F) The exhibit manager shall record the date of release of exhibits and to whom released, if applicable.~~

(3) Exhibit custody prior to disposition ~~Withdrawal of exhibits.~~

(3)(A) Pending Disposition. Exhibits in the court's custody pursuant to paragraph (2)(B) may not be taken from the custody of the clerk of court or designee until final disposition of the case, except upon order of the court and execution of a receipt that identifies the material, the party to whom the exhibit is released, and the date and time of the release. The receipt shall be made a part of the court record. ~~If the time for filing an appeal or requesting a rehearing or new trial has not expired, exhibits may be withdrawn only upon written order of the court.~~

(3)(A)(i) Exhibit Manager. The clerk of court shall appoint an exhibit manager with responsibility for the security, maintenance, documentation of the chain of custody, and disposition of exhibits. The clerk of court may also appoint a person to act as exhibit manager during periods when the primary exhibit manager is absent. Unaccompanied or unauthorized access to secured storage locations by anyone other than the exhibit manager, acting exhibit manager, or

the clerk of court is prohibited without a court order.

(3)(A)(ii) **Secured Storage Location.** Each court must provide physical and electronic secured storage locations within their facility for storing exhibits retained by the court under subsection (2)(B), and shall maintain a current inventory list of all exhibits in the court's custody. The physical secured storage location must be sufficient to prevent access from unauthorized persons, secured with a key lock, combination lock, or electronic lock, and protected from theft or damage. The electronic secured storage location should be sufficient to prevent access from unauthorized persons. Prior to use, physical and electronic secured storage locations must be certified by the Court Security Director. Requests for certification must be made in writing and shall fully describe the secured storage location, local access procedures, and security controls. Any changes to the location, access procedures, or security controls require recertification by the Court Security Director.

(3)(B) **Exhibit custody post disposition.** In courts of record, upon final disposition of the case, exhibits in the court's custody shall be disposed of or returned to the offering parties pursuant to paragraph (5)(A). The clerk of court, exhibit manager, or designee shall execute a receipt identifying the material taken, the party to whom the exhibit is released, and the date and time of the release. The receipt shall be made a part of the court record. In courts not of record, upon final disposition of the case, all exhibits shall be returned to the parties.~~If the time for filing appeals or requesting a rehearing or new trial has expired, exhibits may be withdrawn by filing a Notice of Intent to Withdraw Exhibits.~~

(3)(C) **Exhibits in the custody of the parties.** Unless otherwise ordered by the court, exhibits identified in paragraph (2)(A) shall remain in the custody of the parties until they are eligible for disposal pursuant to paragraph (5). Parties are responsible for preserving exhibits in the same condition as when they were first admitted into evidence.~~The clerk or exhibit manager shall record withdrawal of the exhibits.~~

(3)(D) **Access to exhibits by parties.** Parties may file a motion requesting access to an exhibit in the custody of the court or another party. Upon order of the court, the clerk of court, exhibit manager or designee, or party with custody of the exhibits shall promptly make available for examination exhibits, or original or true copies of the exhibits.

(4) **Appeals.** Exhibits and exhibit lists shall be provided upon appeal in accordance with the Utah Rules of Appellate Procedure.~~Disposal of exhibits. After three months have expired from final disposition of the case and no appeals have been filed or requests for new trials or rehearing have been made, the clerk shall dispose of the exhibits as follows:~~

~~(4)(A) Property having value shall be returned to its owner or, if unclaimed, shall be given to the sheriff of the county or other law enforcement agency to be sold in accordance with Utah Code Section 24-3-103. The agency receiving the property shall furnish the court with a receipt that may be maintained with the exhibit custody tracking record or noted in the computer record.~~

~~(4)(B) Property having no value shall be destroyed by the clerk of the court who shall furnish the court with a certificate of destruction that may be maintained with the exhibit custody tracking record or noted in the computer record.~~

~~(4)(C) The exhibit manager shall record disposition of the exhibits.~~

(5) **Disposal of exhibits.** Parties may dispose of, and exhibit managers, clerks of court, or designees shall dispose of any exhibits in their custody 90 days after the time for appeal has expired, or the statute of limitations for post-conviction relief, including the time for appeal from post-conviction relief has expired, whichever is later.

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(5)(A) Exhibits in the court's custody shall be disposed of as follows:

(5)(A)(i) Property having no monetary value shall be destroyed by the exhibit manager, clerk of court, or designee. The exhibit manager shall create a certificate of destruction including a description of the exhibit, the case and exhibit numbers, and the date and time of the destruction. The certificate of destruction shall be made a part of the court record.

(5)(A)(ii) Property having monetary value shall be returned to its owner or, if unclaimed, shall be given to the prosecuting agency, sheriff of the county, or other law enforcement agency to be sold in accordance with Utah Code, Title 24, Chapter 3. The receiving agency shall furnish the court with a receipt identifying the receiving agency, the exhibit received, and the date and time the exhibit was received. The receipt shall be made a part of the court record.

Effective May/November 1, 20__

Rule 4-401.02. Possession and use of portable electronic devices.**Intent:**

To permit the use of portable electronic devices in courthouses and courtrooms, subject to local restrictions.

Applicability:

This rule applies to the courts of record and not of record.

Statement of the Rule:**(1) Definitions.**

- (1)(A) "Judge" as used in this rule means the judge, justice, or court commissioner who is presiding over the proceeding.
- (1)(B) "Portable electronic device" as used in this rule means any device that can record or transmit data, images or sounds, or access the internet, including a pager, laptop/notebook/personal computer, handheld PC, PDA, audio or video recorder, wireless device, cellular telephone, or electronic calendar.
- (1)(C) "Court proceeding" means any trial, hearing or other matter, including proceedings conducted by remote transmission.

(2) Possession and use of portable electronic devices in a courthouse.

- (2)(A) A person may possess and use a portable electronic device anywhere in a courthouse, except as limited by this rule or directive of the judge.
- (2)(B) All portable electronic devices are subject to screening or inspection at the time of entry to the courthouse and at any time within the courthouse in accordance with Rule 3-414.
- (2)(C) All portable electronic devices are subject to confiscation if there is reason to believe that a device is or will be used in violation of this rule. Violation of this rule or directive of the judge may be treated as contempt of court.
- (2)(D) ~~For the limited purpose of conducting a pilot project to evaluate the performance of justice court judges using courtroom observation, t~~The Judicial Performance Evaluation Commission may record and transmit video and sound of court proceedings to evaluate the performance of justice court judges subject to a basic evaluation. These recordings and transmissions are not public, pursuant to Utah Code sections 63G-2-201(3) and 78A-12-206.

(3) Restrictions.

- (3)(A) **Use of portable electronic devices in common areas.** The presiding judges may restrict the time, place, and manner of using a portable electronic device to maintain safety, decorum, and order of common areas of the courthouse, such as lobbies and corridors.
- (3)(B) **Use of portable electronic devices in courtrooms.**
 - (3)(B)(i) A person may silently use a portable electronic device inside a courtroom.

- 45 (3)(B)(ii) A person may not use a portable electronic device to record or
46 transmit images or sound of court proceedings, except in accordance
47 with Rule 4-401.01 or subsection (2)(D) above.
- 48 (3)(B)(iii) A judge may further restrict use of portable electronic devices in his or
49 her courtroom. Judges are encouraged not to impose further
50 restrictions unless use of a portable electronic device might interfere
51 with the administration of justice, disrupt the proceedings, pose any
52 threat to safety or security, compromise the integrity of the
53 proceedings, or threaten the interests of a minor.
- 54 (3)(B)(iv) During trial and juror selection, prospective, seated, and alternate
55 jurors are prohibited from researching and discussing the case they
56 are or will be trying. Once selected, jurors shall not use a portable
57 electronic device while in the courtroom and shall not possess an
58 electronic device while deliberating.
- 59 (3)(C) **Use of portable electronic devices while viewing court proceedings**
60 **conducted by remote transmission.**
- 61 (3)(C)(i) A person may not use a portable electronic device to record,
62 photograph, or transmit images or sound of court proceedings, except
63 in accordance with rule 4-401.01 or subsection (2)(D) above. Access
64 to court proceedings will be contingent on the person agreeing to
65 comply with the provisions in this rule and any administrative or
66 standing orders that supplement this rule.
- 67 (3)(C)(ii) A violation of an administrative or standing order may be treated as
68 contempt of court.
- 69
- 70 (4) **Use of portable electronic devices in court chambers.** A person may not use a
71 portable electronic device in chambers without prior approval from the judge.
72
- 73 (5) **Instruction to witnesses.** It should be anticipated that observers in the courtroom will
74 use portable electronic devices to transmit news accounts and commentary during the
75 proceedings. Judges should instruct counsel to instruct witnesses who have been
76 excluded from the courtroom not to view accounts of other witnesses' testimony before
77 giving their own testimony.
78

79 Effective May/November 1, 20__20