

JUDICIAL COUNCIL MEETING

AGENDA

December 20, 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. State Court Administrator's Report.....Ron Gordon
(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.....Margaret Plane, esq.
(Tab 2 - Information)
5. 9:45 a.m. Judicial Conduct Commission Report Alex Peterson
(Tab 3 - Information)
6. 10:00 a.m. Regulatory Reform Innovation Office ReportSue Crismon
(Information)
7. 10:10 a.m. Model Utah Criminal Jury Instructions Committee Report.....
(Tab 4 - Information) Judge James Blanch
Michael Drechsel
8. 10:20 a.m. Problem-Solving Courts Certification & Revised Checklist
(Tab 5 - Action) Judge Dennis Fuchs
Judge Brody Keisel
Keisa Williams
- 10:30 a.m. Break
9. 10:40 a.m. CJA Rules 1-303, 2-101, 3-303, 3-401, 4-202.02, 4-208, 5-101, 6-101, 6-
303, 7-101, and 9-101 for Final Action.....Keisa Williams
(Tab 6 - Action)

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|-----|------------|--|----------------|
| 10. | 10:50 a.m. | Committee on Judicial Fairness | Jon Puente |
| | | (Tab 7 - Action) | |
| 11. | 11:05 a.m. | Senior Judge Certification..... | Cathy Dupont |
| | | (Tab 8 - Action) | |
| 12. | 11:10 a.m. | Creating a Record and Transcripts..... | Nick Stiles |
| | | (Tab 9 - Action) | |
| 13. | 11:25 a.m. | Budget and Grants..... | Judge Mark May |
| | | (Tab 10 - Action) | Karl Sweeney |
| | | | Jordan Murray |
| 14. | 11:45 a.m. | Old Business/New Business | All |
| | | (Discussion) | |
| 15. | 12:05 p.m. | Executive Session - there will be an executive session | |
| 16. | 12:20 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.

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|----|---|---|
| 1. | Committee Appointments | Ethics Advisory Committee – Keisa Williams |
| | (Tab 11) | Resources for Self-Represented Parties Committee – Shane Bahr |
| | | Uniform Fine Committee – Meredith Mannebach |
| 2. | CJA Rules 1-205, 2-103, 3-420, and 4-903 for Public Comment | |
| | (Tab 12) | Keisa Williams |
| 3. | Forms Committee Forms | Kaden Taylor |
| | (Tab 13) | |

Tab 1

JUDICIAL COUNCIL MEETING

Minutes
November 22, 2021

Meeting conducted through Webex

9:00 a.m. – 1:12 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Todd Shaughnessy, Vice Chair
Hon. Keith Barnes
Hon. Samuel Chiara
Hon. Augustus Chin
Hon. David Connors
Hon. Ryan Evershed
Hon. Paul Farr
Hon. Michelle Heward
Hon. Mark May
Hon. David Mortensen
Justice Paige Petersen
Hon. Kara Pettit
Margaret Plane, esq.
Hon. Derek Pullan
Hon. Brook Sessions

Excused:

Neira Siaperas

Guests:

Pamela Beatse, Access to Justice Director
Hon. Danalee O'Donnal, Moab Justice Court
Justice Christine Durham (former)
Hon. Dennis Fuchs, Senior Judge
Hon. Clint Gilmore, West Valley Justice Court
Hon. Ryan Harris, Court of Appeals

AOC Staff:

Ron Gordon
Cathy Dupont
Michael Drechsel
Lauren Andersen
Shane Bahr
Paul Barron
Suzette Deans
Stacy Haacke
Alisha Johnson
Tania Mashburn
Meredith Mannebach
Jordan Murray
Bart Olsen
Jim Peters
Nathanael Player
Jon Puente
Nick Stiles
Karl Sweeney
Melissa Taitano
Keisa Williams
Jeni Wood

Guests Cont.:

Ruth Shapiro, Attorney
Amy Sorenson, Attorney
Nancy Sylvester, Utah State Bar
Hon. Don Torgerson, Seventh District Court

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. The Council held their meeting through Webex.

Motion: Judge David Connors moved to approve the October 25, 2021 Judicial Council meeting minutes, as amended to correct item 4 to Judge Connors thanked the group that made a presentation to the ABA Judges, item 9 from \$17,000 to \$11,000, and add “administrative” to item 10 law judges. Judge Brook Sessions seconded the motion, and it passed unanimously.

2. OATH OF OFFICE AND SELECTION OF EXECUTIVE COMMITTEE FOR JUSTICE PAIGE PETERSEN AND JUDGE KEITH BARNES: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant administered the Oath of Office to Justice Paige Petersen and Judge Keith Barnes. The Management Committee approved the executive committee memberships as shown in the table below.

Management	Policy & Planning	Liaison	Budget & Fiscal Management
Chief Justice Durrant, Chair	Judge Pullan, Chair	Judge Pettit, Chair	Judge May, Chair
Judge Shaughnessy, Vice Chair	Judge Chiara	Judge Evershed	Judge Barnes (new)
Judge Farr	Judge Chin (new)	Justice Petersen (new)	Justice Petersen (new)
Judge May	Judge Connors	Judge Sessions	Judge Pettit
Judge Mortensen	Judge Heward		Margaret Plane (new)

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

Chief Justice Durrant mentioned his gratitude for the extraordinary job Ron Gordon is doing as the State Court Administrator in the short amount of time he has been on the job.

4. STATE COURT ADMINISTRATOR’S REPORT: (Ron Gordon)

Mr. Gordon continues to serve on the JRI Listening Tour. There have been 9 public forums addressing both criminal justice policy and juvenile justice policy across the state that Mr. Gordon or Cathy Dupont attended.

- The most commonly cited concern was that JRI was not appropriately funded.
- There were concerns that JRI had some initial investment but that investment did not keep pace with the demand. This made implementation in the adult system difficult.
- Some believe the law prohibits some individuals from being held accountable.
- There was concern that the law does not allow intervention early enough.
- Most of the concerns with juvenile justice reform dealt with the interaction of schools, youth, and the courts.

Mr. Gordon explained that the Listening Tour participants do not respond to the feedback received. The next step is for a workgroup to evaluate and discuss policy amendments.

Mr. Gordon visited the Second District Juvenile Court and was impressed by the high caliber of staff within the Judiciary and thought the courts were fortunate.

Occupational Safety and Health Administration (OSHA) issued an emergency order that employers with 100 or more employees require a COVID vaccine or weekly COVID testing. This resulted in numerous law suits. The Utah legislature passed a law stating that if an employer implements a vaccine mandate, they have to allow exemptions for medical, religious, and/or deeply held personal belief. An employer cannot require an employee to pay for weekly testing.

5. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Budget & Fiscal Management Committee Report:

The committee met last week, additional information will be discussed later in the meeting.

Liaison Committee Report:

Judge Kara Pettit stated the committee met recently with new member, Justice Petersen, attending. Michael Drechsel continues his work on proposed bills and with legislators. HB2003. Pretrial Amendments recently passed in the Legislative 2nd Special Session and is effective immediately. The biggest change is that bail commissioners are now able to impose bail, per statute, at the jail level. There are some justice court bills, specifically capping justice court revenue at 25%, that may be presented at the next session. A reminder will be sent to judges and employees closer to the session about the courts “one voice” approach.

Policy and Planning Committee Report:

Judge Derek Pullan noted the committee completed their review on the Office of Fairness and Accountability Committee, reviewed CJA Rules 6-501 and 6-507, and are working on the rule on uniform custody evaluations.

Bar Commission Report:

Margaret Plane said the Bar received a clean audit with no findings. The Bar appreciated Justice Petersen’s presentation on the Wellbeing Committee.

6. COURT COMMISSIONER CONDUCT COMMITTEE REPORT: (Judge Ryan Harris and Keisa Williams)

Chief Justice Durrant welcomed Judge Ryan Harris and Keisa Williams. Over the past two years, the committee had 10 complaints that were dismissed by the Chair; 1 complaint that was dismissed by the committee; one complaint that had a hearing; and one complaint that had a hearing and findings.

Judge Harris thought the website did not adequately identify who to file a complaint with. Complaints are filed from the following: referral from JPEC; referral from JCC; or complainants must go to CJA Rule 3-201.02 to find the committee composition, then go to the Boards and Committees website to identify the contact person. Some complaints are received through Ms.

Williams. The committee hasn't identified a common issue in the various complaints that could be addressed through training. Judge Harris noted the Judiciary has high-quality commissioners.

Chief Justice Durrant thanked Judge Harris and Ms. Williams.

7. FORMS COMMITTEE REPORT: (Professor Randy Dryer and Nathanael Player)

Chief Justice Durrant welcomed Nathanael Player. The committee continues to meet virtually. They are working with Amy Hernandez on the translation of protective order forms to Spanish and creating a list of what forms need to be translated. The committee is working to expand access to justice through forms. Some of the member positions have changed on the committee.

Chief Justice Durrant thanked Mr. Player.

8. ACKNOWLEDGEMENT OF FIREARM RESTRICTION: (Nathanael Player)

Chief Justice Durrant welcomed Nathanael Player. The Forms Committee prepared an Acknowledgement of Firearm Restriction form in response to HB101 Prohibited Persons Amendments, which became effective May 5, 2021. The Council approved the form for statewide use and it was distributed to all affected courts. After feedback from a number of judges, the committee revised the form and attempted to balance legal specificity with plain language. There were concerns from some members of the bench that the form is not sufficiently specific and that the form should be drafted assuming that lawyers will review this form with criminal defendants in each case.

Judge Pullan explained there is a need for greater clarity about the impact of a plea on a person's ability to possess a firearm. Mr. Player will contact Judge Jennifer Brown for further discussion. Justice Petersen thought the section addressing additional criminal charges and penalties was confusing. Judge Connors said the form did not identify whether someone was a category one or category two restricted person. The Third District Court does not use a stand-alone form and instead, lawyers developed language in the plea form, which provides a better percentage of everyone completing a form. Determining the consequences for when someone is a restricted person can be a subtle distinction and depends on the nature of the offense, among other things. Lawyers must inform defendants what the consequences will be. Judge Shaughnessy did not approve of a separate form. Judge Pettit believed the form contemplates an attorney is assisting with reviewing the form. The committee will confer with the judges who raised issues about the stand-alone form and will report back to the Council.

Chief Justice Durrant thanked Mr. Player.

9. MODEL UTAH CIVIL JURY INSTRUCTIONS COMMITTEE REPORT: (Stacy Haacke)

Chief Justice Durrant welcomed Stacy Haacke. The committee is comprised of district judges, civil practitioners from both sides of the aisle, and a linguist. Some of the positions are currently in transition or renewing, including the chairmanship. CJA Rule 3-418 provides the

committee's charge. In the last year or so, the committee has completed two sets of instructions: 1) trespass and nuisance and 2) updates to the general instructions. The trespass and nuisance instructions are new and the general instructions have been streamlined and amended to more closely resemble the general criminal jury instructions. The committee has also spent time discussing the instructions for implicit bias, products liability, and boundaries and easements. The discussions this year on products liability have been robust to be sure there are cohesive and understandable instructions. These instructions are not only extensive, but include language the committee has spent much time deliberating.

Due to the pandemic, the committee is still meeting through Webex, and there was a break for a few months due to scheduling issues. Because of the deliberative nature of the committee's work, there have been advantages and disadvantages to the virtual platform. The committee is looking ahead and will continue to address jury instructions with its various working groups in the new year, including assault/false arrest, insurance, and unjust enrichment.

Chief Justice Durrant thanked Ms. Shapiro and Ms. Haacke.

10. **BUDGET & GRANTS: (Judge Mark May, Karl Sweeney, Alisha Johnson, Heidi Anderson, and Nathanael Player)**

Chief Justice Durrant welcomed Judge Mark May, Karl Sweeney, Alisha Johnson, and Nathanael Player. Mr. Sweeney presented the 2022 year-end forecasted available one-time funds.

Forecasted Available One-time Funds			
	Description	Funding Type	Amount
Sources of YE 2022 Funds			
*	Turnover Savings as of pay period ending 10/15/2021 (including anticipated ARPA reimbursement)	Turnover Savings	1,281,045
**	Turnover savings Estimate for the rest of the year (\$2k x 1,472 pay hours)	Turnover Savings	2,944,000
***	From TCE / AOC Budgets	Internal Operating Savings	-
	Reserve Balance (from August Judicial Council meeting and changes)	Judicial Council Reserve	466,829
	Total Available Forecasted Funds for FY 2022		4,691,874
Uses of YE 2022 Funds			
	Maximum Carryforward into FY 2023	Desired Carryforward	(2,500,000)
Total Forecasted Available YE 2022 One-time Funds			\$ 2,191,874
Less: Judicial Council Requests Previously Approved			\$ (947,148)
Subtotal Remaining Available for YE 2021 Requests			\$ 1,244,726
#	One-time Spending Plan Requests (blue); previously approved (orange) Previously Approved One-time Budget Requests/Current Requests in Bold	Current Requests Amount	Judicial Council Prev. Approved Amount
1	Judicial Council Room Upgrades		39,481
2	Statewide Router Upgrades		160,000
3	WiFi Access Points Upgrades		120,000
4	FY 2022 Career Ladder Payments		243,000
5	FY 2022 Incentive Bonus Payments		365,000
6	Software for Clean Slate Legislation		19,667
7	My Case Account Creation Enhancements	130,000	
Current Month One-time Spending Requests		130,000	947,148

The Council considered a request for spending the one-time funds presented by Nathanael Player.

MyCase Account Enhancements

\$130,000

One-time funds

Develop enhancements to MyCase so that when users create a new account they are prompted to:

- opt-in to survey requests for JPEC (Judicial Performance Evaluation Commission);
- provide race, ethnicity, gender, and sexual orientation demographic information.

Asking court users to provide this information will help JPEC improve judicial performance evaluation and will help the Office of Fairness and Accountability to gather information that can be used to understand whether there are disparities in outcomes based on the above-listed demographics. Judge Shaughnessy asked if this would delay MyCase. Mr. Player said this was an enhancement to what is already in place and would not cause a delay.

Motion: Judge May moved to approve the MyCase Account Enhancements one-time funds request of \$130,000, as presented. Judge Session seconded the motion, and it passed unanimously.

Grant Moratorium and CJA Rule 3-411

The Council established a grant moratorium in September 2020 pending the hiring and successful retention of a grant coordinator for the Utah Courts and the provision and acceptance of enhanced grant governance policies (guardrails) as ratified in CJA Rule 3-411. Mr. Murray has capably served as the Grant Coordinator for the courts over the past year.

Motion: Judge May moved to approve lifting the grant moratorium, as presented. Judge Sessions seconded the motion, and it passed unanimously.

CJA Rule 3-411 received no public comments. Mr. Murray sought final approval of CJA Rule 3-411.

Motion: Judge David Mortensen moved to approve CJA Rule 3-411 for final action with an effective date of November 22, 2021 as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

Mr. Sweeney readdressed charging credit card transaction fees. The Finance Department has responsibility for monitoring the difference between the interest the courts earn on trust accounts and earned surpluses retained inside the trust account and the credit card and other fees the courts pay from the interest received. Historically, the courts either generated a cash surplus, or in years where there were general funds that were going to lapse to the legislature, they moved general funds into the trust account to have on hand to cover future years expenses. Except for cash, each type of payment the court takes in has a cost associated with it. Payments by check and ACH have a nominal fee. Payments by credit card are the highest as there is both a per transaction fee of .15 cents and a fixed percentage charged on the payment amount. The total transaction fee is 2.95%. The courts had a total of 256,542 district, juvenile and appellate payment transactions in FY21, of which, 92% were made by credit card. The total funds collected through district, juvenile and appellate courts in FY21 was \$46,972,161, of which 66%

were credit card payments. Civil cases totaled approximately 73% of credit card receipts and criminal cases totaled approximately 27%. As society transitions to a cashless system, Finance anticipates an increase in credit card fees due to both increases in the rate charged by credit card companies and the volume as more court patrons shun cash in favor of credit cards.

Through the National Center for State Courts (NCSC) combined with additional outreach made by Finance, state courts throughout the country were surveyed to identify if they charge a transaction fee for the use of credit cards and if they did what was the methodology. The Utah courts provider, Heartland, charges a transaction fee of 2.95% for the use of credit cards. The survey results showed from the 40 courts that responded, 29 courts charge a transaction fee for the majority or all of their credit card payments.

Effective July 1, 2021, the Council has the authority to add transaction fees to criminal cases, per H.B. 260 – incorporated into Utah Code § 77-32b-103 (2)(c) Establishment of a criminal accounts receivable -- Responsibility -- Payment schedule -- Delinquency or default:

For a criminal accounts receivable that a court retains responsibility for receiving, processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may establish rules to require a defendant to pay the cost, or a portion of the cost, that is charged by a financial institution for the use of a credit or debit card by the defendant to make payments towards the criminal accounts receivable.

There is no current statute that authorizes the charging of transaction fees to civil cases. This is an important gap to address as civil cases credit card charges make up approximately 70% of total credit card transaction fees. Before a transaction fee would be implemented, IT would be able to add an ACH payment option to Epay/Online. Adding ACH to Epay/Online would provide a “no transaction fee” option to users of Epay/Online who previously could only pay with a credit card. “At the Counter” patrons who desired to make an ACH payment (in addition to cash and check options they have today) would also be directed to the online payment app to make an ACH payment.

Judge Connors opposed adding a transaction fee, especially since most payments to the courts are involuntary, noting that this would also essentially add to the filing fees. Judge Shaughnessy didn’t feel the courts are imposing the fee because users have alternative options. Judge Pettit questioned if the proposal was to start collecting fees prior to the implementation of ACH. Mr. Sweeney said they would be implemented simultaneously and clarified that ACH requires a user to have a bank account. Judge Pullan asked how this process was done in the executive branch, such as with the DMV. Judge Pullan was concerned that people would not have another option, but since they do have other options, he agreed with Judge Shaughnessy. Mr. Sweeney isn’t aware if people are charged credit card fees in the executive branch.

Alisha Johnson said users are required to pay a transaction fee for the Utah Tax Commission, according to the Utah Tax Commission website. Judge Sessions stated justice courts use a variety of credit card companies and include a transaction fee. Judge Shaughnessy

said the difference between the courts and businesses is that businesses keep the money they collect whereas funds received in the courts are sent to the legislature.

\$284,000	\$284,000	ACH (CORIS/e-filing/online + cont.)
\$200,000		Option A
	\$70,000	Option B
\$484,000	\$354,000	Total cost to implement

Chief Justice Durrant thanked Judge May, Mr. Sweeney, Ms. Johnson, Ms. Anderson, and Mr. Player. For clarification, option A, includes legislative approval for civil cases because the Council already has authority to charge these on criminal cases, and is run through the courts so the user will only see one transaction on the credit card, understanding this includes a higher cost.

Motion: Judge Shaughnessy moved to approve option A, up to \$484,000, as presented. Judge Augustus Chin seconded the motion, and it passed with Judge Connors voting no.

11. PROBLEM-SOLVING COURTS RECERTIFICATIONS: (Judge Dennis Fuchs and Judge Clint Gilmore)

Chief Justice Durrant welcomed Judge Dennis Fuchs and Judge Clint Gilmore.

The Council at a prior meeting earlier this year, voted to table Judge Gilmore's Adult Mental Health Court in West Valley Justice Court (AMHC3SaltLake) because it did not meet several criteria.

- Required # 3: High Risk Participants (Class B misdemeanor)
- Required # 10: Medically Assisted Treatment (Class B misdemeanor)
- Required # 44: Excluded if no Residence
- Presumed # 2: Monitor Incentives and Sanctions
- Presumed # 11: Test Results Available Within 48 Hours
- Presumed # 12: Deliver Test Specimen Within 8 Hours
- Presumed # 29: Measures to Prevent an Overdose (most are not drug users)
- Presumed # 35: More than 15 Participants
- Presumed # 37: New Arrests and Convictions Followed

Judge Fuchs stated the mental health court meets most of the criteria, with the exception of drug testing and number of participants – both of which are pandemic-related. Judge Gilmore said there are transient people who participate in the program. Participants are required to reside in Salt Lake County. Judge Gilmore allows for high and moderate risk cases but does not accept low risk individuals.

Judge Fuchs explained mental health and drug courts follow the guidelines to not over treat participants. Judge Fuchs said not everyone in mental health courts are at risk for an overdose. Judge Pullan wanted to ensure that all mental health participants are being informed about overdosing. Judge Fuchs said Judge Gilmore has the only justice court mental health court in the state and complimented his efforts.

Judge Pullan said the current rule that is in place does not allow the Council to waive requirements such as only allowing for admission of high-risk individuals. He reminded the Council there are three required criteria that are not met and approving this court for recertification would make a significant departure from the rules. Judge Chin sided with approving the recertification. Judge Fuchs said as long as the high risk and moderate risk individuals are separated, the recertification should be approved. Justice Petersen asked if the Council made an exception for another court that didn't meet the required criteria. Judge Fuchs said that court has continually been certified because the need exists, as recently as within the past one to two years. The exception was given because of the need and nature of the court. Judge Pettit mentioned if the Council waives the criteria, then they need to revise the rule to permit the Council to waive requirements.

The criteria was based on the National Association of Drug Court Professionals (NADCP). If the NADCP allows for high risk and moderate participants to participate as long as they are separated then the Council could consider this court. Judge Fuchs said he has attended multiple NADCP conferences and they fully believe in including high and moderate participants, while maintaining separation.

Chief Justice Durrant thanked Judge Fuchs and Judge Gilmore, stating that the work Judge Gilmore does is very important. Judge Gilmore understood that the decision was deferred so the court may maintain operations.

Motion: Judge Chin moved to recertify Judge Gilmore's problem-solving court, as presented. Justice Petersen seconded the motion.

Motion: Judge Pettit moved to vacate the previous vote, defer and reserve the recertification ruling, and refer the issue to Policy & Planning for the purpose of revising the requirements. Judge Pullan seconded the motion, and it passed unanimously.

12. GREEN PHASE/ACCESS TO JUSTICE: (Judge Don Torgerson, Meredith Mannebach, Justice Christine Durham, Amy Sorenson, Pamela Beatse, and Nancy Sylvester)

Chief Justice Durrant welcomed Judge Don Torgerson, Meredith Mannebach, Justice Christine Durham, Amy Sorenson, Pamela Beatse, and Nancy Sylvester.

Green Phase Proposal

Judge Torgerson reported on the recommendations of the workgroup that has been evaluating which parts of the remote proceedings adopted by district courts during the pandemic should continue after the pandemic. As the pandemic abates, district court judges should be permitted to continue to have the option to use both virtual and in-person court proceedings to effectively accomplish the mission of the courts. In aid of that, the courts should make significant technology investments to accommodate better virtual hearings, facilitate hybrid hearings, and improve the evidence-presentation process for in-person hearings.

Maintaining judicial discretion is paramount. Given the unique characteristics of each court, court location, and case, district court judges should be given individual discretion to

determine which type of hearing will best promote the open, fair, and efficient administration of justice in each proceeding.

Each type of proceeding offers benefits and efficiencies – though not to the same extent in each hearing – so judges will need discretion, considering all appropriate factors, including the following (in no particular order):

- Does an existing rule or principle of law require an in-person hearing? Can it be waived?
- Do all parties have sufficient access to technology for virtual hearings?
- What is the substantive or procedural importance of the hearing?
- Which type of hearing best promotes access to justice for the parties?
- Are the parties more comfortable with a virtual hearing? (e.g., high-conflict domestic cases, protective order and civil stalking injunction hearings);
- Does a virtual hearing allow the parties to have access to counsel of their choice?
- Are the parties or their counsel traveling long distances for an in-person hearing?
- Is there a significant cost to a party for an in-person hearing? (i.e. money, time, lost work, child care, etc.);
- Do the parties have a stated preference?
- Is the judge able to manage a remote courtroom effectively?
- Does the hearing make efficient use of judicial resources, facilities, and court personnel?
- Will a party experience an identifiable prejudice by a virtual or in-person hearing?
- Will the hearing unreasonably delay the progress of the case, increase expense, or complicate resolution of any issue?
- Will the hearing unreasonably limit the court's ability to assess credibility, voluntariness, or comprehension?
- Is there a fairness concern because one party has easier access to the courthouse, or greater facility with technology, and is seeking a strategic advantage?

Judge Pullan said the Council should carefully consider the confrontation clause and sentencing of serious felony offenses. Judge Pullan observed that the policy decision can't allow everyone to do what they want because there are multiple stakeholders. He felt the Council would have to come to a decision, maybe after conducting a survey of the Bar and communicating with stakeholders. Judge Samuel Chiara wanted to know financial information before making a decision, noting that the prison might have saved a considerable amount of money in not transporting inmates, they may want to continue the savings. Judge Chiara wanted to know how much the prison/jails have saved by not transporting inmates to the courts. Judge Michelle Heward spoke with Weber County Jail, in an attempt to get parents to shelter hearings. The jail informed her that due to bandwidth and technology issues, it was easier for them to transport a person to the courthouse than to hold a virtual hearing.

Judge Torgerson said San Juan County is the largest geographic county in the state but only has one judge, leaving people to travel a considerable distance. If they were required to hold all hearings in person, this would eliminate the benefit of counsel from outside the county. Judge Pullan thought the Council has traditionally selected a study item and suggested that this issue be the Council's study item for 2022 with a high priority. He understood this may take a year and recommended a subcommittee to work on this. Chief Justice Durrant thought this was a really good suggestion. Judge Chiara spoke with some of the judges who were hesitant to continue with

Webex, in-part due to the lack of human interactions, in-part due to seeing people do and say things on social media that they may not do in person. The judges have observed people smoking and some individuals not dressed appropriately.

Access to Justice Proposal

Justice Durham requested the Council permit a National Center for State Courts (NCSC) survey to be distributed to district courts statewide. The NCSC conducted a survey of judges to understand the effectiveness of remote hearings. There were 80 responses from Utah patrons and attorneys. To conduct a statewide survey, the Access to Justice Commission will initially provide the Utah specific survey link to all district court judges and commissioners throughout the state.

Participation in the survey would be voluntary. For one month, the judicial officer's team would send an email to each party after their hearing asking them to participate in the survey. The email would include a link and QR code to the survey. The judicial officer's team would also post the invitation and link in the Webex "chat" during virtual hearings. The Commission would use this data to prepare a report evaluating the use of virtual hearings for court patrons.

Next, the Commission will ask the Utah State Bar to send a separate practitioner survey to each Bar licensee. This practitioner-specific survey would ask whether they have appeared in court during the past month, and if so, would ask about their experiences, particularly with virtual hearings. It would also ask them to compare how they have experienced in-person appearances versus virtual. Finally, the Commission will ask each of the participating judicial officers to share their experiences and observations through a judicial officer-specific survey. Judicial officers would have the opportunity to provide information on how virtual hearings have impacted their ability to hear motions, trials, and other actions. Justice Durham requested the Council approve allowing Access to Justice to work with court personnel. In Utah, about 85% of people do not have access to basic legal services.

Judge Pettit was concerned about the impact on judicial assistants and the IT Department. Judge Pettit supported an automated format rather than task court personnel who are already overworked. Judge Pettit wanted to collect the right information and supported the request with understanding the costs on the staff. Justice Durham is having someone research these issues. She recommended a small workgroup to gather additional information. Ms. Beatse said the NCSC is conducting a different survey for lawyers. Judge Shaughnessy thought that this was an important step. The NCSC will evaluate the courts data once received.

Ms. Sorenson said one possibility would be to send a survey to those appearing by computer, accessing a link in the chat. The survey may be skewed if it is only applied to those who are already accessing the court. Judge Pullan thought the courts have yet to see a Webex record on appeal. Justice Durham requested the Council create a workgroup with individuals from the district and juvenile court and IT Department to get the survey produced

Chief Justice Durrant thanked Judge Torgerson, Ms. Mannebach, Justice Durham, Ms. Sorenson, Ms. Beatse, and Ms. Sylvester.

Motion: Judge Pettit moved to move forward for a collaboration with the committee as to how the survey would be created to identify the resources that will be needed and review a final survey. Judge Pullan seconded the motion, and it passed unanimously.

Chief Justice Durrant thought this was a big issue for the Council and needed to be a priority, and recommended having Mr. Gordon and Ms. Dupont create a proposal of a workgroup including members and a time-table. Judge Shaughnessy proposed making this a short study item because decisions will need to be made sooner. Judge David Mortensen wondered if the study item could include ongoing decisions from the Council.

13. OLD BUSINESS/NEW BUSINESS

Justice Petersen said the Wellbeing Committee has been a joint project of the Supreme Court and the Bar. The committee has been approached by the Hazleton Betty Ford Foundation to do a joint project that they would fund through their fundraising arm. Their project would develop curriculum for Utah to test how effective promoting wellbeing, especially targeted at new lawyers and law students.

14. EXECUTIVE SESSION

Motion: Judge Shaughnessy moved to go into an executive session to discuss the character, competence, or physical or mental health of an individual and legal advice. Judge Pullan seconded the motion, and it passed unanimously.

Motion: Judge Shaughnessy moved to revise his original motion to go into an executive session to discuss issues related to prospective litigation, and advice of legal counsel. Judge Pullan seconded the motion, and it passed unanimously.

15. CONSENT CALENDAR ITEMS

a) Committee Appointments. Appointment of Stacy Haacke and the reappointment of Judge Jill Pohlman to the Outreach Committee. Reappointment of Judge Randy Birch and Commissioner Russell Minas to the Forms Committee. Reappointment of Judge Trent Nelson to the Ethics Advisory Committee. Approved without comment.

b) Forms Committee Forms.

16. ADJOURN

The meeting adjourned.

JUDICIAL COUNCIL MEETING**Minutes****December 1, 2021****12:00 p.m. – 12:41 p.m.****Meeting conducted through Webex*****Chief Justice Matthew B. Durrant, Presiding*****Members:**

Chief Justice Matthew B. Durrant, Chair
 Hon. Todd Shaughnessy, Vice Chair
 Hon. Samuel Chiara
 Hon. Augustus Chin
 Hon. Paul Farr
 Hon. Michelle Heward
 Hon. Mark May
 Hon. David Mortensen
 Justice Paige Petersen
 Margaret Plane, Esq.
 Hon. Derek Pullan
 Hon. Brook Sessions

Excused:

Hon. Keith Barnes
 Hon. David Connors

AOC Staff:

Ron Gordon
 Nick Stiles
 Jeni Wood

Guests:

Hon. Jennifer Brown, Fourth District Court
 Mark Urry, TCE, Fourth District Court

Excused:

Hon. Ryan Evershed
 Hon. Kara Pettit
 Cathy Dupont
 Michael Drechsel
 Shane Bahr
 Jim Peters
 Neira Siaperas

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. The Council held their meeting through Webex.

2. FOURTH DISTRICT COURT COMMISSIONER REQUEST: (Judge Jennifer Brown and Mark Urry)

Chief Justice Durrant welcomed Judge Jennifer Brown and Mark Urry. Fourth District Court Commissioner Sean Petersen was confirmed by the Senate on August 18, 2021 as a district court judge. The commissioner position has been vacant since this time. The Council approved the request to fill the vacant commissioner position. A total of 30 candidates applied for the commissioner position. The Fourth District Court Commissioner Nominating Commission reviewed all candidates and selected 8 semi-finalists to be interviewed on November 8, 2021. The Commission chose three finalists, including Marla Snow. After a public comment period, the Nominating Commission reviewed the comments and confirmed the three candidates to be recommended to the bench for consideration. The judges of the Fourth District Court interviewed

all three finalists on November 23, 2021, and Ms. Snow was the unanimous selection by the bench.

Ms. Snow graduated from the Chapman University School of Law in 2003. She has 18 years' experience in family law, including the last 10 years as senior partner in MacArthur, Heder, Metler, PLLC. In addition to her experience as a family law attorney, Ms. Snow has served as a Special Master in high conflict domestic cases and a private Guardian Ad Litem. Her extensive family law experience will be a perfect fit on the bench. The Fourth District Court bench is confident that she will serve the attorneys and public in a fair, compassionate, and professional manner.

Motion: Judge Brook Sessions moved to approve Marla Snow to fill the Fourth District Court commissioner vacancy. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Judge Brown and Mr. Urry.

3. UTAH ATTORNEY GENERAL'S OFFICE PERSONAL SERVICES AGREEMENT: (Ron Gordon)

Ron Gordon requested this issue be addressed in an executive session.

After the executive session,

Motion: Judge Derek Pullan moved to allow Mr. Gordon to negotiate the terms of the agreement with the Attorney General's Office to represent the Judiciary consistent with what was discussed in the executive session, and that Mr. Gordon is authorized to sign the agreement. Judge Shaughnessy seconded the amended motion, and it passed unanimously.

4. EXECUTIVE SESSION

Motion: Judge Shaughnessy moved to go into an executive session to discuss pending litigation and the professional competency of an individual. Judge Pullan seconded the motion, and it passed unanimously.

5. ADJOURN

The meeting adjourned.

Tab 2

JUDICIAL COUNCIL'S MANAGEMENT COMMITTEE

Minutes
November 9, 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:

Pamela Beatse, Access to Justice Director
Justice Christine Durham, (former)
Travis Erickson, TCE Seventh District Court
Hon. Richard Mrazik, Third District Court
Amy Sorenson, Attorney
Nancy Sylvester, Utah Bar
Hon. Don Torgerson, Seventh District Court

AOC Staff:

Ron Gordon
Cathy Dupont
Michael Drechsel
Heidi Anderson
Shane Bahr
Tracy Chorn
Valeria Jimenez
Wayne Kidd
Meredith Mannebach
Tania Mashburn
Bart Olsen
Jim Peters
Nathanael Player
Keri Sargent
Neira Siaperas
Nick Stiles
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.

Motion: Judge Paul Farr moved to approve the October 12, 2021 Management Committee minutes, as presented. Judge Mark May seconded the motion, and it passed unanimously.

2. STATE COURT ADMINISTRATOR'S REPORT: (Ron Gordon)

The Judicial Council will hold a special meeting to review and possibly approve a new Fourth District Court commissioner. The date for this meeting has yet to be set.

Ron Gordon and other members of the AOC are working on the Annual Judicial Report. The general theme is access to justice – not only by maintaining access to justice but in some ways increasing access to justice through these particularly difficult times. The Report will

include information on how the courts have responded during the pandemic; new data points on various measures in the Judiciary, such as the length of time for pending cases and how the courts are addressing the backlog of cases. The Report will be distributed only electronically this year. The committee agreed to distribute the Report electronically.

3. JUDICIAL COUNCIL COMMITTEE ASSIGNMENTS: (Ron Gordon)

Mr. Gordon proposed the following committee assignments.

Management	Policy & Planning	Liaison	Budget & Fiscal Management
Chief Justice Durrant, Chair	Judge Pullan, Chair	Judge Pettit, Chair	Judge May, Chair
Judge Shaughnessy, Vice Chair	Judge Chiara	Judge Evershed	Judge Barnes (new)
Judge Farr	Judge Chin (new)	Justice Petersen (new)	Justice Petersen (new)
Judge May	Judge Connors	Judge Sessions	Judge Pettit
Judge Mortensen	Judge Heward		Margaret Plane (new)

Motion: Judge Farr moved to approve the Judicial Council executive committee assignments, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

4. COMMITTEE APPOINTMENTS: (Valeria Jimenez, Nathanael Player, and Keisa Williams)

Outreach Committee

Judge Jill Pohlman completed her first term and has committed to serve a second term. The committee recommended her reappointment. Stacy Haacke was recommended to fill Brent Johnson's position.

Motion: Judge May moved to approve the appointment of Stacy Haacke and the reappointment of Judge Jill Pohlman to the Outreach Committee, as presented, and place this on the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

Forms Committee

The Forms Committee recommended Judge Randy Birch and Commissioner Russell Minas be reappointed to a second term.

Motion: Judge Farr moved to approve the reappointments of Judge Randy Birch and Commissioner Russell Minas to the Forms Committee, as presented, and place this on the Judicial Council consent calendar. Judge May seconded the motion, and it passed unanimously.

Ethics Advisory Committee

Judge Trent Nelson's term expired on February 26, 2021. The committee recommended the reappointment of Judge Nelson to a second term backdating to February 26, 2021.

Motion: Judge Farr moved to approve the reappointment of Judge Trent Nelson to the Ethics Advisory Committee, as presented, and place this on the Judicial Council consent calendar. Judge May seconded the motion, and it passed unanimously.

5. **RISK PHASE RESPONSE PLAN: (Cathy Dupont)**

Cathy Dupont requested a revision to the language in the Risk Phase Response Plan (Plan) regarding entry into the courthouse after a positive COVID test, and travel during the yellow phase of operations.

Entry into the courthouse after a positive COVID test

Currently the Plan prohibits a person who has symptoms of COVID from entering the courthouse. This language is more restrictive than current CDC guidance which recognizes that certain symptoms such as loss of taste and smell and lingering coughs can last for extended periods of time when a person is no longer contagious. The courts more restrictive language is impacting the return of some employees to work. The recommended change is found on page 6:

- c. A person who has had a positive COVID-19 test, may enter the courthouse after:
 - i. 10 days have passed since the on-set of symptoms;
 - ii. 24 hours with no fever without the use of fever reducing medication; and
 - iii. other symptoms of COVID-19 are improving (loss of taste and smell may persist for weeks or months after recovery and need not delay the end of isolation.)

Court signs and screening questions

The courts' signage for the public and our screening questions do not reflect this more nuanced approach to the screening questions. The signs instruct a person who has symptoms of COVID to not enter the building. The more nuanced approach complicates the screening process. If a person is denied entrance, they will be given information to contact the court and the court can ask the more nuanced questions and determine if the person should enter the building.

Travel

The second issue is the language about travel. It does not reflect current CDC guidance. The new CDC travel language says:

Not Vaccinated:

After you travel:

- *Get tested with a viral test 3-5 days after travel **AND** stay home and self-quarantine for a full 7 days after travel.*
 - ☐ *Even if you test negative, stay home and self-quarantine for the full 7 days.*
 - ☐ *If your test is positive, isolate yourself to protect others from getting infected.*
- *If you don't get tested, stay home and self-quarantine for 10 days after travel.*
- *Avoid being around people who are at increased risk for severe illness for 14 days, whether you get tested or not.*
- *Self-monitor for COVID-19 symptoms; isolate and get tested if you develop symptoms.*
- *Follow all state and local recommendations or requirements.*
- *Visit your state, territorial, tribal or local external icon health department's website to look for the latest information on where to get tested*

Vaccinated:

After Travel

- *Self-monitor for COVID-19 symptoms; isolate and get tested if you develop*

symptoms.

- *Follow all **state and local** recommendations or requirements.*

You do NOT need to get tested or self-quarantine if you are fully vaccinated or have recovered from COVID-19 in the past 3 months. You should still follow all other travel recommendations.

The policy question for the Management Committee was whether to impose the recommended quarantine period for unvaccinated employees who travel. With the holidays approaching there is concern about having unvaccinated employees out of work for 7 days after their return while they wait for a PCR test, or for 14 days after travel with no PCR test. Ms. Dupont recommended the following language, which, for personal travel, is not as strict as the CDC travel recommendations:

7. Travel

- a. All business travel is restricted to that which is necessary. Travel to an area where the CDC, or the Utah Department of Health designates as a risk level four country (other than the United States), or for which the CDC recommends self-quarantine upon return is prohibited.
- b. If a person travels out of state for personal or business reasons, the person should monitor for symptoms each day for 14 days following their return from travel, and should not enter the courthouse if they have any symptoms of COVID-19. If symptoms of COVID-19 develop, the person should obtain a PCR Covid-19 test no sooner than 5 days after the return from travel.

The language in Paragraph (a) would prohibit business travel if a person is not vaccinated because the CDC recommends quarantine after travel for a person who is not vaccinated.

Ms. Dupont requested a change in language on page 6 to track the new CDC language for when people can return to work. She also asked if it would be acceptable to leave the signage and screening questions for the bailiffs as they currently exist. The changes to page 6 were reviewed and approved by the TCEs.

The committee discussed whether to remove all travel language or to clarify the travel language. Judge David Mortensen preferred to leave in “or business” in the travel section. Judge May recommended revising or clarifying the section about traveling out of the country. Ms. Dupont explained the CDC states unvaccinated people traveling must self-quarantine. Mr. Gordon reminded the Committee that the U.S. has been declared a level 4 country, noting that there are internal inconsistencies since other countries have lower COVID levels. Ms. Dupont recommended careful monitoring when someone travels or is around large groups. Judge Shaughnessy recommended that the Plan should state that business travel should be restricted to that which is necessary but also preferred that each judge must make their own determination on whether their business-related travel is necessary. Judge May approved Judge Shaughnessy’s recommendation. Mr. Gordon thought this was a particularly good approach with the upcoming special Management meeting discussions on mandatory vaccinations.

The Committee agreed with not making changes to the signs or questionnaires. Ms. Dupont clarified the Committee approved amending the section on entry into courthouses after a positive COVID test; leaving the signs and questionnaires as they are; and amending section 7 to state business travel is restricted to that which is necessary and if an employee travels for business or personal reasons, they must carefully monitor symptoms when they return and do not come into a courthouse if symptoms are present.

Motion: Judge Shaughnessy moved to approve changes to the Risk Phase Response Plan, as amended to approve the first request of editing entry into courthouses after a positive COVID test, approve the second request to leave the signs and questionnaires as is, and to revise section 7 as discussed above. Judge Farr seconded the motion, and it passed unanimously.

6. 2021 LIMITED AUDITS OF SELECTED JUVENILE COURTS: (Wayne Kidd and Tracy Chorn)

Wayne Kidd presented the 2021 limited audits of selected juvenile courts. These audits were 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 limited juvenile court audits, as presented. Judge Farr seconded the motion, and it passed unanimously.

7. 2021 LIMITED AUDITS OF SELECTED DISTRICT COURTS: (Wayne Kidd and Tracy Chorn)

Wayne Kidd presented the 2021 limited audits of selected district courts. These audits were 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 Farr moved to approve the limited district court audits, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

8. GREEN PHASE PROPOSAL: (Judge Don Torgerson and Meredith Mannebach)

Judge Don Torgerson and Meredith Mannebach reported on the recommendations of the workgroup that has been evaluating which parts of the remote proceedings adopted by district courts during the pandemic should continue after the pandemic. As the pandemic abates, district court judges should be permitted to continue to have the option to use both virtual and in-person court proceedings to effectively accomplish the mission of the courts. In aid of that, the courts should make significant technology investments to accommodate better virtual hearings, facilitate hybrid hearings, and improve the evidence-presentation process for in-person hearings.

Maintaining judicial discretion is paramount. Given the unique characteristics of each court, court location, and case, district court judges should be given individual discretion to determine which type of hearing will best to promote the open, fair, and efficient administration of justice in each proceeding.

Each type of proceeding offers benefits and efficiencies – though not to the same extent in each hearing – so judges will need discretion, considering all appropriate factors, including the following (in no particular order):

- Does an existing rule or principle of law require an in-person hearing? Can it be waived?
- Do all parties have sufficient access to technology for virtual hearings?
- What is the substantive or procedural importance of the hearing?
- Which type of hearing best promotes access to justice for the parties?
- Are the parties more comfortable with a virtual hearing? (e.g., high-conflict domestic cases, protective order and civil stalking injunction hearings);
- Does a virtual hearing allow the parties to have access to counsel of their choice?
- Are the parties or their counsel traveling long distances for an in-person hearing?
- Is there a significant cost to a party for an in-person hearing? (i.e. money, time, lost work, child care, etc.);
- Do the parties have a stated preference?
- Is the judge able to manage a remote courtroom effectively?
- Does the hearing make efficient use of judicial resources, facilities, and court personnel?
- Will a party experience an identifiable prejudice by a virtual or in-person hearing?
- Will the hearing unreasonably delay the progress of the case, increase expense, or complicate resolution of any issue?
- Will the hearing unreasonably limit the court's ability to assess credibility, voluntariness, or comprehension?
- Is there a fairness concern because one party has easier access to the courthouse, or greater facility with technology, and is seeking a strategic advantage?

Some areas in San Juan County take quite a bit of travel time, upwards of several hours, for potential jurors. Judge May understood why there needed to be discretion but wondered how litigants would feel about whether they get assigned a judge that conducts remote hearings or a judge that prefers in-person hearings. Judge Shaughnessy said jails and prisons need to be willing to transport inmates to hold in person hearings and felt the courts cannot expect to have the jails/prisons sometimes transport inmates and sometimes conduct virtual hearings. Judge May wondered if this would or should be determined by the Judicial Council. Judge Farr thought that requiring in-person contested traffic citations in rural areas might result in fewer contested tickets. The Committee did not want to leave the language in that remote hearings were subject to a judge's discretion. Judge Shaughnessy thought the Committee needed to make a firm decision on remote and in-person hearings.

Chief Justice Durrant agreed that at some point, the Policy & Planning Committee may need to address this. Judge Shaughnessy thought maybe a group needed to be created to create a plan, including Judge Torgerson. The Committee agreed to add this item to the Council November agenda.

9. ACCESS TO JUSTICE: (Justice Christine Durham, Amy Sorenson, Pamela Beatse, and Nancy Sylvester)

Justice Christine Durham, Amy Sorenson, Pamela Beatse, and Nancy Sylvester requested the Management Committee permit a NCSC survey to be distributed to district courts statewide.

The National Center for State Courts (NCSC) conducted a survey of judges to understand the effectiveness of remote hearings. There were 80 responses from Utah patrons and attorneys.

To conduct a statewide survey, the Access to Justice Commission will initially provide the Utah specific survey link to all district court judges and commissioners throughout the state. Participation in the survey would be voluntary. For one month, the judicial officer's team would send an email to each party after their hearing asking them to participate in the survey. The email would include a link and QR code to the survey. The judicial officer's team would also post the invitation and link in the Webex "chat" during virtual hearings. The Commission would use this data to prepare a report evaluating the use of virtual hearings for court patrons.

Next, the Commission will ask the Utah State Bar to send a separate practitioner survey to each Bar licensee. This practitioner-specific survey would ask whether they have appeared in court during the past month, and if so, would ask about their experiences, particularly with virtual hearings. It would also ask them to compare how they have experienced in-person appearances versus virtual.

Finally, the Commission will ask each of the participating judicial officers to share their experiences and observations through a judicial officer-specific survey. Judicial officers would have the opportunity to provide information on how virtual hearings have impacted their ability to hear motions, trials, and other actions.

Judge Richard Mrazik chairs the Resources for Self-Represented Parties. He stated that the committee sought to be better informed of what the public prefers as to remote hearings. Judge Mrazik believed that some judge's do not have the bandwidth to conduct remote hearings. Justice Durham explained that the project would initially start in the district courts and may move to the justice courts, but it was the teams perception that this is a pivotal time for the district courts. Judge Farr thought this would benefit justice courts. Judge Shaughnessy thought this information could be helpful with district court judges developing processes.

Judge May approved the idea but was concerned that the Council would have to make a decision for all court levels with information from only one court level. Justice Durham believed the next step would be to address this with the Council; if approved, the appropriate judges and staff should be identified to assist in creating the survey. Judge Mrazik would like to determine which judges/teams have the bandwidth to conduct remote hearings. Judge Mortensen recommended combining this with the Green Phase agenda item on the Council agenda.

Chief Justice Durrant appreciated this conversation in opening the dialogue on this subject.

Motion: Judge Shaughnessy moved to combine the Access to Justice topic with the Green Phase agenda item on the Council agenda. Judge May seconded the motion, and it passed unanimously.

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

Chief Justice Durrant addressed the Judicial Council agenda.

Motion: Judge Shaughnessy moved to approve the Judicial Council agenda, as amended to add the Green Phase report/Access to Justice item and approved holding a special Council meeting to address the Fourth District Commissioner. Judge Farr seconded the motion, and it passed unanimously.

11. OLD BUSINESS/NEW BUSINESS: (All)

Ms. Dupont explained that the TCEs had questioned why most commissioners did not have a biography or photo on the courts public website, whereas, judges have a biography and photo. At this time, one of the five commissioners in the Third District Court has a biography posted and the only commissioner in the Fourth District Court does not have a biography or photo posted. No other districts or juvenile courts have commissioners. The Committee agreed to add commissioners biographies and photos to the public website.

12. EXECUTIVE SESSION: (All)

An executive session was held.

13. ADJOURN

The meeting adjourned.

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

**Minutes
November 12, 2021
Meeting held through Webex
12:30 p.m. – 1:30 p.m.**

Members Present:

Hon. Mark May, Chair
Justice Paige Petersen
Hon. Kara Pettit
Hon. Keith Barnes

Excused:

Margaret Plane, Bar Foundation
Joyce Pace, TCE, Fifth District Court
Nick Stiles
Michael Drechsel
Melissa Taitano
Alisha Johnson

Guests:

Mark Urry, TCE, Fourth District Court

AOC Staff Present:

Ron Gordon
Cathy Dupont
Jordan Murray
Jim Peters
Jon Puente
Neira Siaperas
Karl Sweeney
Shane Bahr
Nathanael Player
Suzette Deans

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

Judge Mark May welcomed everyone to the meeting.

Motion: Judge Mark May moved to approve the October 14, 2021 minutes, as presented. Judge Kara Pettit seconded the motion, and it passed unanimously.

2. TURNOVER SAVINGS UPDATE: (Karl Sweeney)

Karl Sweeney reviewed ongoing turnover savings, actual amount year to date is \$342,813 and forecasted end of FY22 is \$153,037, both net of expenditures. Potential onetime turnover savings totaled \$4,225,045. Amounts used are conservative and the forecasted amounts are on target for what is expected at the end of FY2022.

**FY 2022 Ongoing Turnover Savings - Update as of 11/01/2021**

#		Funding Type	Actual Amount YTD	Forecasted Amount @ YE
1	Carried over Ongoing Savings (from FY 2021, includes unallocated ongoing appropriation)	Internal Savings	200,154	200,154
2	Ongoing Turnover Savings FY 2022 (forecast includes \$50k x 8 remaining months)	Internal Savings	302,833	702,833
3	TOTAL SAVINGS		502,987	902,987
4	2021 Hot Spot used (balance available at beginning of FY was \$99,950)	Savings Usage	(99,950)	(99,950)
5	2022 Hot Spot used (\$110k initially available raised to \$200k in October Judicial Council)	Savings Usage	(60,224)	(200,000)
6	2022 Authorized Ongoing for Performance Based Raises	Savings Usage	-	(450,000)
	TOTAL USES		(160,174)	(749,950)
Actual Turnover Savings for FY 2022 as of 11/1/2021 and Forecast at YE 6/30/2022⁷			\$ 342,813	\$ 153,037



FY 2022 One Time Turnover Savings

Updated as of Pay Period Ending 10/15/2021 (616 out of 2088 hours)

#		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 10/15/2021)	Internal Savings	1,166,708
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding	Reimbursements	114,337
3	Est. One Time Savings for 1,472 remaining pay hours (\$2k / pay hour)	Internal Savings (Est.)	2,944,000
	TOTAL POTENTIAL SAVINGS		4,225,045
	Total Potential One Time Savings		\$ 4,225,045

3. YEAR END 2022 SPENDING REQUESTS (Karl Sweeney)

Mr. Sweeney reviewed the FY 2022 One-time Spending Plan. The subtotal remaining available for year end 2022 requests is forecasted at \$1,244,726. Items 1-6 on the right side chart have been approved by the Judicial Council. Amounts already approved by the Judicial Council total \$947,148. Current request for MyCase creation enhancements of one time spending is \$130,000.

One-time Spending Plan						
Forecasted Available One-time Funds				# One-time Spending Plan Requests (blue); previously approved (orange) Previously Approved One-time Budget Requests/Current Requests in Bold	Current Requests Amount	Judicial Council Prev. Approved Amount
Description		Funding Type	Amount			
Sources of YE 2022 Funds						
**	Turnover Savings as of pay period ending 10/15/2021 (including anticipated ARPA reimbursement)	Turnover Savings	1,281,045	1	Judicial Council Room Upgrades	39,481
**	Turnover savings Estimate for the rest of the year (\$2k x 1,472 pay hours)	Turnover Savings	2,944,000	2	Statewide Router Upgrades	160,000
***	From TCE / AOC Budgets	Internal Operating Savings	-	3	WiFi Access Points Upgrades	120,000
	Reserve Balance (from August Judicial Council meeting and changes)	Judicial Council Reserve	466,829	4	FY 2022 Career Ladder Payments	243,000
	Total Available Forecasted Funds for FY 2022		4,691,874	5	FY 2022 Incentive Bonus Payments	365,000
Uses of YE 2022 Funds						
	Maximum Carryforward into FY 2023	Desired Carryforward	(2,500,000)	6	Software for Clean Slate Legislation	19,667
				7	My Case Account Creation Enhancements	130,000
Total Forecasted Available YE 2022 One-time Funds			\$ 2,191,874	Current Month One-time Spending Requests		130,000
Less: Judicial Council Requests Previously Approved			\$ (947,148)			
Subtotal Remaining Available for YE 2021 Requests			\$ 1,244,726			
Updated 11/05/2021						

Updated 11/05/2021

#7. FY 2022 ONE TIME MY CASE ACCOUNT CREATION ENHANCEMENTS

(Nathanael Player and Jonathan Puente – “Presenters”)

Presenters requested one time money to develop enhancements to MyCase so that when users create a new account they are prompted to op-in to a survey request for JPEC and to provide demographic information. The funds would be used to pay for the costs associated with changing the initial login process for MyCase. Mr. Sweeney noted that ARPA money was requested for MyCase by IT but this MyCase request was not COVID19 related so it cannot be funded by ARPA. Jon Puente showed NCSC report about why courts should gather the race and ethnicity data. Gathering the data will help the courts assess any disparity in outcomes by race/ethnicity. Currently, ethnicity information comes from law enforcement agencies and prosecutors and is often assumed based on appearance and is therefore not deemed reliable. The data gathered would provide the courts critical information so that disparities can be addressed.

Motion: Judge Kara Pettit moved to approve. Judge Keith Barnes seconded the motion, and it passed unanimously. Move on to Judicial Council.

4. REQUEST TO END GRANT MORATORIUM (Revised) (Jordan Murray)

Jordan Murray presented Request to lift grant moratorium concurrent with final action on proposed amendments to CJA Rule 3-411. Jordan stated that as of November 12, 2021 there have been no comments to Rule 3-411.

Motion: Judge May moved to approve. Judge Keith Barnes seconded the motion. Move to present to the Judicial Council.

5. REQUEST TO ENABLE CHARGING TRANSACTION FEE (Revised)(Karl Sweeney)

Karl Sweeney reviewed the changes made to the request which included updates on the total of 256,542 district, juvenile and appellate payment transactions in FY 2021 and of those transactions, 234,988 (92%) were made by credit card. The total funds collected through credit card payments for FY 2021 was \$31,398,486 (average \$130 per transaction). Approximately 73% of credit card payments were made for civil cases.

We received input from 40 courts and, of those, 29 (~73%) charge a transaction fee for the majority or all of their credit card payments; only 11 courts do not. Even if the entire remaining 10 courts do not charge a transaction fee, those courts who do charge a transaction fee would constitute nearly a 60% majority.

At present, we offer the following types of payment options (shown with amounts receipted in FY 2021):

Present Payment Options & Fee Revenue in FY 2021									
	At Counter						Epay/Online		Subtotal (by filing)
	Cash	Fees	Check	Fees	Credit Card	Fees	Credit Card	Fees	
District Courts									
Civil	✓	\$320,081	✓	\$11,513,250	✓	\$2,164,592	✓	\$20,756,708	\$34,754,631
Criminal	✓	\$618,714	✓	\$2,890,176	✓	\$1,540,330	✓	\$5,927,207	\$10,976,427
<i>Subtotal (by tender)</i>		\$938,795		\$14,403,426		\$3,704,922		\$26,683,915	\$45,731,058
Juvenile Courts									
Civil	✓	***	✓	***	✓	***	✓	***	***
Criminal	✓	***	✓	***	✓	***	✓	***	***
<i>Subtotal (by tender)</i>		\$79,397		\$113,884		\$27,517		\$931,931	\$1,152,728
Appellate Court									
	✓	\$0	✓	\$28,184	✓	\$50,201	✓	\$0	\$78,385
<i>Subtotal (by tender)</i>		\$0		\$28,184		\$50,201		\$0	\$78,385
Grand Total									\$46,962,171

Before a Transaction Fee would be implemented, IT would be able to add an ACH payment option to Epay/Online.

Payment Options After Potential Transaction Fee Implementation					
	At Counter			Epay/Online	
	Cash	Check	Credit Card	Credit Card	ACH
Civil	✓	✓	✓	✓	✓
Criminal	✓	✓	✓	✓	✓

Adding ACH as a payment type for Epay will give filers who pay at the counter or on-line an option to pay without incurring a Transaction Fee. Because this is a new 'tender type' that will require changes to multiple CORIS and CARE reports, the estimated costs to implement this change will track each of the applications impacted as follows:

CORIS & eFiling	\$ 239,000
CARE	\$ 177,000
Xchange	\$ 45,000
AIS (appellate)	\$ 82,500
online/web payments	\$ 15,000
Contingency	\$ 30,000
Total 1x costs	<u>\$ 588,500</u>

These costs are higher than the costs to implement credit card processing because of the need to modify existing code in each of the applications. Implementation of ACH can be completed a la carte and independently for each of the above apps. In the estimate above, it is assumed that CORIS & eFiling would be done first and components built for those apps would be reused for other applications. Court's IT estimates the above coding could be completed by end of Calendar Year 2023.

The total costs to implement the ACH and Transaction Fee range as follows:

ACH	\$588,500	\$588,500
Transaction Fee – Option A	\$200,000	
Transaction Fee – Option B		<u>\$70,000</u>
Total	<u>\$788,500</u>	<u>\$658,500</u>
Trust funds Available 10.1.2021		\$2,000,000
Costs to Implement (assume higher option)		(\$788,500)
Estimated Use to Cover CC Fees 10.1.2021		
12.31.2023 (27 months) @ \$60K/mo		<u>(\$1,620,000)</u>
Estimated 1x funding needed in FY 2023		<u>(\$408,500)</u>

If not implemented until 12/23/23, we would need to supplement our Trust funds by an estimated \$400,000 of 1x funds. If parts of the ACH implementation can be accelerated before this date, sufficient trust funds may be available to avoid using 1x funding.

Justice Petersen asked if there were ways reduce ACH implementation expenditures in areas where a cost/benefit analysis shows a long period of time necessary to recover our ACH

implementation costs through Transaction Fees. The Appellate Court's AIS system is one Mr. Sweeney felt could undergo this analysis and AOC Finance agreed to provide this analysis before submitting to Judicial Council. Karl Sweeney will follow up with Paul Barron as to the timeline to have programming for ACH completed for CORIS and efilng (which has the greatest benefit) if ACH work in other areas can be delayed or is not cost beneficial to do.

Motion: Justice Paige Petersen moved to approve the motion. Judge Kara Pettit seconded the motion. Move on to the Judicial Council. Everyone in favor of implementing ACH and sending to the legislature to get approval to charge a fee to civil side in the future, if deemed necessary.

6. WORK LOCATION FEES IF RESIDENCE IS OUT OF STATE (Karl Sweeney)

Karl Sweeney reviewed an email sent from State Finance. State Finance has implemented a new charge for any personnel who work for the State of Utah but who work outside the state of Utah. This would apply to either new hires or existing employees who relocate and work outside of the state of Utah moving forward. Currently, the Courts only have one employee (in GAL office) that works out of state.

New paragraphs will be added to section 13-01.00 of the Accounting Manual to update the process for notifying the appropriate departments on any employees who work outside of state and to inform managers on the incremental costs that will be charged. HR will document the approval process for hiring someone who works outside the state of Utah in the HR policy manual.

For each out-of-state employee, State payroll must determine the proper amount of state and local taxes to withhold from the employee's pay. These rates then must be remitted and reported to the appropriate governmental entities. In addition, the rates need to be monitored and maintained, as they can and do change.

1. Out-of-State Employee initial Set Up Fee - \$2,200.00 (per employee)
2. Out-of-State Employee Maintenance Fee - \$1,200.00 (per employee, annually)
3. Tax Review Fee for Out-of-State Payroll - Actual Cost (only applicable if the services of a specialist are required)
4. Any costs at the established rate the Division of Risk Management, or other state entity for costs incurred to research and establish tax withholdings, workers' compensation, travel, and liability policies, or any other requirements to cover the employee while working outside the state.

7. GRANT COORDINATOR REPORT (Jordan Murray)

Nothing to report.

8. Old Business/New Business

None.

9. ADJOURN

The meeting adjourned at 1:30 pm.

Tab 3



Alex G. Peterson
Executive Director

State of Utah

JUDICIAL CONDUCT COMMISSION

1385 S. State St., Suite #143
Salt Lake City, Utah 84115
Telephone: (801) 468-0021

TO Judicial Council
FROM Alex G. Peterson, Executive Director
DATE December 13, 2021

RE Biannual JCC Update

MESSAGE

1. JCC Membership Update
 - a. New Members: Rep. Steve Waldrip (R).
 - b. Missing Members: None.
 - c. Current Members (11): Ms. Cheylynn Hayman, Chair, Ms. Michelle Ballantyne, Judge David Mortensen, Judge Todd Shaughnessy, Rep. Elizabeth Weight, Rep. Steve Waldrip, Senator Mike McKell, Senator Jani Iwamoto, Mr. Stephen Studdert, Mr. Mark Raymond, Ms. Georgia Thompson.
 - d. SCt renewed Ms. Hayman appointment in April for four more years. Next scheduled SCt appointments are in 2024.
2. JCC Caseload update and analysis
 - a. Currently, we are at 32 cases in FY22 (80 in FY21, 51 in FY 20, 64 in FY19, 58 in FY18).
 - b. To date in FY22, we have had 0 public dispositions, 1 DWW disposition (attached) and 2 reconsideration requests. No JCC cases are pending before Utah Supreme Court.
3. Misc. Activities of JCC (over the last six months)
 - a. FY21 Annual Report was published and is attached.
 - b. JCC continues to meet in person at anchor location.
 - c. JCC is updating website to include a webpage for published DWW dispositions and an electronic complaint form submission feature.

On September 21, 2021, the Judicial Conduct Commission dismissed two separate complaints with warnings against a District Court judge as to the following Rule violation: Rule 2.5 violation for failing to expeditiously determine matters under submission and failing to resolve issues without unnecessary cost or delay. The matters were under advisement for many months in excess of the periods allowed under the administrative rules. The Judge acknowledged the negative impact of not expeditiously determining these cases and the avoidable delay and unnecessary costs caused by the judge's lack of action. Although the Judicial Council had suspended these certain administrative rules during the period of time at issue due to the pandemic, the Judge understands that ethical obligations of diligence under the Code of Judicial Conduct were not suspended. In mitigation, the Commission recognized the impact of the pandemic, the loss of a judicial clerk and staff turnover, the significant personal issues facing the Judge during this time, as well as that the Judge has taken full responsibility for the lack of action, did not intend to violate the Code of Judicial Conduct, was apologetic, and worked with the Commission to resolve these matters. The Commission found that the behavior and misconduct were troubling, but relatively minor for which no public sanction was warranted.



UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2021

1385 S. State St., Suite 143
Salt Lake City, Utah 84115
Telephone: (801) 468-0021
www.jcc.utah.gov

Creation and Authority of the Judicial Conduct Commission

Although it existed previously as a legislatively created body, Utah's Judicial Conduct Commission (JCC) was constitutionally established in 1984. Constitution of Utah, Article VIII, Section 13. The constitution authorizes the Legislature to statutorily establish the composition and procedures of the JCC. Those provisions are found in Utah Code Ann., Title 78A, Chapter 11.

The JCC is empowered to investigate and conduct confidential hearings regarding complaints against state, county and municipal judges throughout the state. The JCC may recommend the reprimand, censure, suspension, removal, or involuntary retirement of a judge for any of the following reasons:

- action which constitutes willful misconduct in office;
- final conviction of a crime punishable as a felony under state or federal law;
- willful and persistent failure to perform judicial duties;
- disability that seriously interferes with the performance of judicial duties; or
- conduct prejudicial to the administration of justice which brings a judicial office into disrepute.

Prior to the implementation of any such JCC recommendation, the Utah Supreme Court reviews the JCC's proceedings as to both law and fact. The Supreme Court then issues an order implementing, rejecting, or modifying the JCC's recommendation.

Number of Complaints Received in FY 2021

Of the 80 complaints received in FY 2021, 52 have been resolved and 28 are pending.

Complaints Received in FY 2021			
Judge Type	Number of Judges	Number of Complaints Received	Number of Judges Named in Complaints*
Appellate Courts	12	4	8
District	72	60	43
Juvenile	31	4	4
Justice Court	98	10	10
Pro Tempore	67	0	0
Active Senior	38	2	2
Total	318	80	67

(*Starting in FY19 and going forward, the JCC counts each judge once even though they may have been named in multiple complaints)

Confidentiality of JCC Records and Proceedings

Except in certain limited circumstances specified by statute, all complaints, papers and testimony received or maintained by the JCC, and the record of any confidential hearings conducted by the JCC, are confidential, and cannot be disclosed.

Sanctions and Other Resolutions

Sanctions Implemented by the Utah Supreme Court

None.

Dismissals with Warnings Issued by the Judicial Conduct Commission

None.

Administrative Affairs

Meetings

The JCC meets as needed on the third Tuesday of each month at the offices of the JCC. The JCC met ten (10) times during FY 2021.

Administrative Rules

The JCC's administrative rules are available on-line at www.rules.utah.gov.

FY21 JCC Commissioners

Neal Cox, Public Member (term exp.)
 Mark Raymond, Public Member
 Georgia Beth Thompson, Public Member
 Stephen Studdert, Public Member (new)
 Cheylynn Hayman, Attorney Member
 Michelle Ballantyne, Attorney Member
 Rep. Elizabeth Weight
 Rep. Craig Hall, Chair
 Sen. Jani Iwamoto
 Sen. Lyle Hillyard (term exp.)
 Sen. Mike McKell (new)
 Hon. David Mortensen
 Hon. Todd Shaughnessy

Website

The JCC's website, www.jcc.utah.gov, contains in-depth information, links to related sites, annual reports, copies of public discipline documents, and downloadable complaint forms.

JCC Statutes

The statutes governing the JCC are located in Utah Code Ann., Title 78A, Chapter 11.

Budget

Most of the JCC's budget is appropriated annually by the Legislature. For FY 2021, the legislative appropriation was \$283,419. The JCC had non-lapsing savings from FY 2020 in the amount of \$23,681. The JCC had total available funds of \$307,100. JCC expenses for FY 2021 were \$254,518, leaving a balance of \$52,582.

JCC Staff

Alex G. Peterson, Executive Director
 Aimee Thoman, Investigative Counsel

UTAH JUDICIAL CONDUCT COMMISSION – COMPLAINT RESOLUTION PROCESS

INITIAL SCREENING	PRELIMINARY INVESTIGATION	FULL INVESTIGATION	FORMAL PROCEEDINGS	SUPREME COURT
<p>Executive Director reviews each "complaint" to determine whether it is a complaint within the JCC's jurisdiction.</p> <p>Staff returns non-JCC complaints (i.e., complaints against bar members or court employees) to complainant with appropriate instructions.</p> <p>For JCC complaints, staff prepares electronic and hard-copy files, sends acknowledgment letter to complainant, and returns hard-copy file to Executive Director.</p> <p>Executive Director assigns investigator.</p> <p><i>Note: Anonymous complaints are submitted directly to JCC members, who review and discuss the complaint and vote to either take no action or to have staff conduct a preliminary investigation.</i></p>	<p>Investigator conducts preliminary investigation, writes preliminary investigation report, and recommends whether to dismiss or to proceed to full investigation as to some or all allegations.</p> <p>Executive Director reviews preliminary investigation report and recommendation, and may revise either.</p> <p>Staff distributes preliminary investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses preliminary investigation report and recommendation, and votes to dismiss, to have staff conduct additional preliminary investigation, or to proceed to full investigation as to some or all allegations.</p>	<p>Staff provides judge with copy of complaint and other pertinent materials and asks judge to respond in writing to identified allegations.</p> <p>Investigator conducts additional investigation, if necessary, as to issues raised in judge's response. Investigator may write supplemental investigation report and may make recommendation whether to dismiss or to proceed to formal proceedings.</p> <p>Staff distributes judge's response and any supplemental investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses judge's response and any supplemental investigation report and recommendation, and votes to dismiss, to have staff conduct additional investigation, or to proceed to formal proceedings as to some or all allegations.</p>	<p>Staff prepares formal complaint and serves same upon judge via certified mail.</p> <p>Judge may file written response.</p> <p>Matter may be resolved by dismissal, stipulated resolution or confidential hearing.</p> <p>A stipulated resolution may recommend: Reprimand Censure Suspension Removal from Office Involuntary Retirement</p> <p>After a confidential hearing, the JCC may dismiss the matter or may recommend: Reprimand Censure Suspension Removal from Office Involuntary Retirement</p>	<p>Staff files JCC's findings of fact, recommendation and other statutorily required materials with Supreme Court.</p> <p>JCC's recommendation becomes public upon filing. All other materials become public only upon Supreme Court order.</p> <p>Supreme Court reviews JCC's proceedings as to both law and fact, and implements, modifies or rejects JCC's recommendation.</p> <p><i>Note: JCC dismissals are not reviewed by the Supreme Court.</i></p>

Tab 4

**STANDING COMMITTEE ON
MODEL UTAH CRIMINAL JURY INSTRUCTIONS
2021 REPORT TO UTAH JUDICIAL COUNCIL**

Hon. James Blanch, *District Court Judge [Chair]*
Jennifer Andrus, *Linguist / Communications*
Sharla Dunroe, *Defense Attorney*
Sandi Johnson, *Prosecutor*
Janet Lawrence, *Defense Attorney*
Elise Lockwood, *Defense Attorney*
Jeffrey Mann, *Prosecutor*
Hon. Brendan McCullagh, *Justice Court Judge*
Debra Nelson, *Defense Attorney*
Stephen Nelson, *Prosecutor*
Richard Pehrson, *Prosecutor*
Hon. Teresa Welch, *District Court Judge*
Hon. Linda Jones, *District Court Judge [Emeritus]*
Michael C. Drechsel, *Staff*

During 2021, the Committee on Model Utah Criminal Jury Instructions met eight times. The committee experienced several individuals moving off the committee after significant contribution of time and effort: Judge Michael Westfall, Ms. Karen Klucznik, Mr. Mark Field, Mr. Scott Young, Mr. Nathan Phelps, and Ms. Melinda Bowen. The committee appreciated their individual and collective commitment to the work. These individuals have been replaced with an eager group of new members who are each already making valuable contributions to the work.

During 2021, the committee spent most of its time on formulating instructions regarding mitigation defenses, including imperfect self-defense mitigation, battered person mitigation, mental illness mitigation, and extreme emotional distress mitigation. Instructions on these issues have been the subject of numerous appeals over the years. The committee is committed to providing model instructions that are useful to practitioners and that assist courts to instruct juries appropriately when these defenses are at issue. The primary inquiry has been how to best structure the instructions. One approach is to address the defense(s) in the elements instruction. This approach has proven to be problematic in numerous appeals. Another approach is to rely upon special verdict forms to address the findings necessary to support the jury's verdict. The committee prefers the latter approach and anticipates publishing a set of mitigation defense instructions in the first part of 2022. Minutes regarding these efforts can be reviewed on the committee's website:

<https://www.utcourts.gov/utc/muji-criminal/>

In 2021, the committee also grappled with jury unanimity instructions that appropriately distinguish between elements of the offense and the method / manner / means in which underlying acts establish the elements, considering the following cases:

- *State v. Saunders*, 1999 UT 59
- *State v. Hummel*, 2017 UT 19
- *State v. Alires*, 2019 UT App 206
- *State v. Case*, 2020 UT App 81
- *State v. Whytock*, 2020 UT App 107

- *State v. Covington*, 2020 UT App 110
- *State v. Mendoza*, 2021 UT App 79
- *State v. Paule*, 2021 UT App 120

The committee will continue its work on jury unanimity instructions in January 2022.

New Instructions and Special Verdict Forms

In addition to the foregoing, the committee also completed work on the following new instructions and special verdict forms:

- | | |
|-------|---|
| CR416 | Adverse inference for law enforcement failure to comply with activation or use of bodyworn camera |
|-------|---|

Revised Instructions and Special Verdict Forms

In addition to those new instructions and special verdict forms, the committee also revised, or added committee notes to assist practitioners in, the following existing instructions and special verdict forms:

- | | |
|--------|--|
| CR1602 | Sexual abuse of a minor |
| CR1604 | Unlawful sexual conduct with a 16 or 17 year old |
| CR1611 | Forcible sexual abuse |

Current Projects

Once the mitigation defense and jury unanimity instructions are completed, the committee will continue and finalize its partially completed work on the Driving Under the Influence and Related Traffic instructions.

Upcoming Projects

Once the current projects are finalized in 2022, the committee plans to proceed with crafting instructions for the following areas of law:

- Burglary and Robbery Offenses
- Use of Force and Prisoner Offenses
- Wildlife Offenses

Tab 5

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

Name/ Working Title of Proposed Project: Sixth District Juvenile Drug Court

Location: Sanpete, Sevier, Piute, Wayne, Garfield and Kane counties

Application Submitted by: Judge Brody Keisel – Stakeholders include Johanna Williams, David Angerhofer both with the IDC; Bud Powell, AAG; Michael Mathie, Guardian Ad Litem and Central Utah Mental Health.

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

The target population for this project are parents and children who are before the juvenile court for abuse, neglect or dependency associated with controlled substance abuse. The population would initially include parents in this universe residing in Sanpete and Sevier counties, initially, with hope to expand the target population to all counties within the Sixth District. Not only does the population include adult parents, but perhaps more importantly, at-risk children. The proposed team feels that individuals working through criminal drug courts sometimes receive more testing, treatment and support to battle their addictions, compared to addicted individuals before child welfare courts within the juvenile court. Approval of this program would not insure successful outcomes, but it would give families additional tools in their quest to remain together in a safe and healthy home environment.

II. Purpose/Goal of the Project: Please explain why you believe this project is necessary or desirable. How will a problem-solving approach benefit your target population?

Based on our collective experience and compared to persons in criminal drug courts, sometimes families with controlled substance addictions that resulted in abuse, neglect or dependency do not receive the same high-focus, specifically directed treatment for their addiction. Often, the Court sees cases where parents only tested a few times since the last time before the Court. Frankly, this does not seem sufficient to address addiction. There does not seem to be adequate resources to treat and test addiction-related matters. It is heartbreaking to see parents not be able to overcome their addiction, attain little compliance with their child and family plan and ultimately risk or lose their parental rights either via litigation or voluntary relinquishment. While the adult, criminal drug courts do not result in 100% success – in fact, the reality seems to be that real, sustained sobriety even after drug court graduation remains quite low – many participants are able to see growth, avoid incarceration and become more productive members of society. The stakeholders feel that having a family drug court functioning in the Sixth District would provide another tool to help families battling addiction succeed and remain united families.

III. What is the size of the proposed project? Approximately how large is your target population how many participants would likely be served?

The target population includes children, parents (families) who come before the juvenile court for child welfare cases where substance abuse is the primary, or at least a significant, contributor that caused the issues to come before the court. Concerning target population, between the two initial counties we anticipate that between ten to fifteen qualifying families, perhaps more, would participate.

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

According to the Clerk of Court, the Assistant Attorney General, the GAL and parental defenders, everyone feels that approval of the program would not add any significant impact on their respective roles. The local mental health authority (Central Utah Mental Health) will also be primary to this effort. It feels they can meaningfully contribute to this program without any disparate impact – in fact, the consensus is that mental health already works with the majority of target population for this target group. Certainly, we will need to work towards future expansion of the program to include incentives for participants, such as gift certificates, etc.; however, even without these physical incentives initially, the program can function effectively.

Keisa, here are the two documents I need included in the material to the Policy and Planning meeting. The first is the language taken from the Best Practices dealing with High-Risk and High Need Participants.

The second is the proposed change to the Best Practice Standard that the Judicial Council adopted.

If you have any questions for me let me let me know. In addition if you think any changes are needed let me know .

Thanks, Dennis

I. TARGET POPULATION

Eligibility and exclusion criteria for the Drug Court are predicated on empirical evidence indicating which types of offenders can be treated safely and effectively in Drug Courts. Candidates are evaluated for admission to the Drug Court using evidence-based assessment tools and procedures.

A. Objective Eligibility & Exclusion Criteria

B. High-Risk and High-Need Participants

C. Validated Eligibility Assessments

D. Criminal History Disqualifications

E. Clinical Disqualifications

A. Objective Eligibility and Exclusion Criteria

Eligibility and exclusion criteria are defined objectively, specified in writing, and communicated to potential referral sources including judges, law enforcement, defense attorneys, prosecutors, treatment professionals, and community supervision officers. The Drug Court team does not apply subjective criteria or personal impressions to determine participants' suitability for the program.

B. High-Risk and High-Need Participants

The Drug Court targets offenders for admission who are addicted¹ to illicit drugs² or alcohol and are at substantial risk for reoffending or failing to complete a less intensive disposition, such as standard probation or pretrial supervision. These individuals are commonly referred to as high-risk and high-need offenders. If a Drug Court is unable to target only high-risk and high-need offenders, the program develops alternative tracks with services that are modified to meet the risk and need levels of its participants. If a Drug Court develops alternative tracks, it does not mix participants with different risk or need levels in the same counseling groups, residential treatment milieu, or housing unit.

C. Validated Eligibility Assessments

Candidates for the Drug Court are assessed for eligibility using validated risk-assessment and clinical-assessment tools. The risk-assessment tool has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently

¹ Diagnostic terminology is in flux in light of recent changes to the 5th edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5). The terms *addiction* and *severe substance use disorder* are defined herein in accordance with the American Society of Addiction Medicine (ASAM), which focuses on a compulsion to use or inability to abstain from alcohol or other drugs: "Addiction is characterized by inability to consistently abstain, impairment in behavioral control, craving, diminished recognition of significant problems with one's behaviors and interpersonal relationships, and a dysfunctional emotional response." Available at <http://www.asam.org/for-the-public/definition-of-addiction>.

² Illicit drugs include addictive or intoxicating prescription medications that are taken for a nonprescribed or nonmedical purpose.

POLICY AND PLANNING

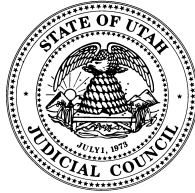
OLD

Required Best Practice #3 : The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool. 1B

PROPOSED

The program admits only participants who are high-risk high-need, however if a program is unable to target high-risk and high-need offenders as measured by the RANT or some other approved and validated assessment tool , the program develops alternative tracks with services that are modified to meet risk and need levels of its participants. 1B

Tab 6



Administrative Office of the Courts

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

December 13, 2021

Ronald Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council
FROM: Keisa Williams
RE: Rule for Final Approval

Following a 45-day comment period, Policy and Planning recommends that the following rules be approved as final. Policy and Planning recommends an *expedited effective date of January 1, 2022 for rules 3-303 and 6-303*. The recommended effective date of all other rules is May 1, 2022.

CJA 3-303. Justice court clerks (AMEND) – expedited effective date (January 1, 2022)

In conjunction with the Judicial Institute, the Board of Justice Court Judges recommends adding an annual certification requirement for justice court clerks. The proposed amendment (lines 34-35) would require justice court clerks to demonstrate proficiency with training established by the Board.

CJA 6-303. Collection of fines and restitution (AMEND) – expedited effective date (January 1, 2022)

This rule has not yet gone out for a 45-day comment period, but the proposed amendments are necessary to conform to the changes made in HB0260 during the 2021 legislative session. The Department of Corrections is no longer responsible for collecting any criminal accounts receivable for sentences imposed on or after July 1, 2021. They continue to be responsible for accounts receivable on cases sentenced before July 1, 2021. The rule will be sent out for comment.

CJA 1-303. Internal procedures and organization (AMEND)

The proposed amendment (line 23) allows for reports from the Boards of District, Juvenile, and Justice Court Judges to be provided twice each year rather than quarterly.

CJA 2-101. Rules for the conduct of Council meetings (AMEND)

CJA 5-101. The Board of Appellate Court Judges (AMEND)

CJA 6-101. The Board of District Court Judges (AMEND)

CJA 7-101. Juvenile Court Board, Executive Committee and Council Representatives (AMEND)

CJA 9-101. Board of Justice Court Judges (AMEND)

The proposed amendments remove the requirement to follow Robert's Rules, bringing the boards and Judicial Council in line with current practice. This appears to be a self-imposed requirement that isn't followed and isn't required under the Open and Public Meetings Act. Policy and Planning believes the

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

use of general principles for conducting meetings in an orderly and professional manner should be sufficient.

CJA 3-401. Office of General Counsel (AMEND)

The proposed amendment makes the rule consistent with [CJA 1-205\(3\)\(D\)](#) (“the Administrative Office shall serve as secretariat to the Council's committees”) and [CJA 1-204\(8\)](#) (“the Administrative Office shall serve as the secretariat to the executive committees”), providing the State Court Administrator with the flexibility to assign AOC resources where appropriate.

CJA 4-208. Automatic expungement of cases (NEW)

New rule 4-208 governs the Administrative Office of the Court’s development and implementation of an automated expungement process. The rule requires approval by the Judicial Council of all automated processes and approval of the form and content of automated orders. Processes must also meet any requirements under the Rules of Criminal Procedure.

CJA 4-202.02. Records classification (AMEND)

Two amendments are back from public comment, one is a new amendment, but it is a non-substantive change that does not require a public comment period.

- *(line 170 – July public comment period)* Clarifies that a minor’s name is only public in criminal cases if the minor is a party.
- *(line 190 – September public comment period)* A new form on petitions to determine competency will have two parts (1) the petition without confidential information and (2) a statement in support that includes confidential information. The proposed amendment would ensure the statements in support are classified as private.
- *(lines 273-274)* This is a non-substantive change that does not require a public comment period. Currently, the rule points to Utah Code Title 77, Chapter 3a to reference stalking injunctions, but stalking injunctions are now codified with protective orders in Utah Code Title 78B, Chapter 7. Not removing the reference would create uncertainty as to whether the stalking injunctions under Title 78B are meant to be included under the provisions of the rule.

Rule 3-303. Justice court clerks.**Intent:**

To provide for clerical services in justice courts and to establish uniform responsibilities for justice court clerks.

Applicability:

This rule shall apply to all justice courts.

Statement of the Rule:

(1) Clerks shall be provided to each justice court to assist the judge in managing the operation of the courts. The clerk shall have primary responsibility for performing clerical duties including:

(1)(A) recordkeeping;

(1)(B) filing reports;

(1)(C) scheduling hearings and trials;

(1)(D) mailing notices;

(1)(E) maintaining case files;

(1)(F) collecting fines;

(1)(G) docketing cases;

(1)(H) taking and certifying acknowledgments and administering oaths; and

(1)(I) other court related duties as assigned.

(2) The judge shall concur in the appointment of the clerk assigned to serve the court and shall participate in the personnel evaluation process for that clerk.

(3) If the clerk is serving the court in a part time capacity, the clerk shall not be assigned to other duties which present a conflict of interest or promote an appearance of impropriety regarding court responsibilities.

(4) Counties and municipalities are responsible for bearing the expense of providing clerical services to the justice courts located within their jurisdictions.

(5) Each clerk shall be certified on an annual basis by demonstrating proficiency with the training required by the Board of Justice Court Judges.

Effective ~~May/November~~ January 1, 2022—

Rule 6-303. Collection of fines and restitution.**Intent:**

To provide consistency in the collection of all fines and restitution ordered by the District Court.

Applicability:

This rule shall apply to all District Courts, the Department of Corrections and the Office of State Debt Collection.

Statement of the Rule:

~~(1) Upon order of the court, the Department of Corrections shall be responsible for the collection and distribution of fines and restitution during the probation period in cases where the court orders supervised probation by the Department.~~

(1) For criminal accounts receivable established after July 1, 2021, the sentencing court shall maintain responsibility for receiving, processing, and distributing payments for the criminal accounts receivable until the account is satisfied or the account is transferred to OSDC pursuant to statute. For criminal accounts receivable established before July 1, 2021, any prior order of the sentencing court remains in effect.

(2) If a defendant fails to pay the amount of fines and restitution ordered by the court pursuant to the payment schedule established by the ~~Department~~court, the Department ~~shall~~may file a progress/violation report with the court. The report shall contain any explanation concerning the defendant's failure to pay and a recommendation as to whether the defendant's probation should be modified, continued, terminated or revoked or whether the defendant should be placed on bench probation for the limited purpose of enforcing the payment of fines or restitution.

(3) If the court orders the defendant placed on bench probation for the purpose of enforcing the payment of fines and restitution, the court shall notify the defendant of such order.

(4) The court shall transfer an account to the Office State Debt Collection for collection as required by statute.

Effective ~~May/November 1, 20~~January 1, 2022

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~~six months.

Effective ~~December 16, 2019~~May 1, 2022

CJA 2-101

Rule 2-101. Rules for the conduct of Council meetings.**Intent:**

To provide for the formal and orderly consideration of issues by the Council.

Applicability:

This rule shall apply to all meetings of the Council.

Statement of the Rule:

(1) A quorum of the Council is necessary for the Council to take any action. Council members may be present either physically or by means of electronic communication.

(2) The affirmative vote of a majority of the Council members present is required to take final action on any rule or resolution.

(3) The presiding officer votes only in the event of a tie. All other members of the Council have one vote.

(4) Meetings of the Council shall be conducted in ~~accordance with Robert's Rules of Order. The Council may suspend the rules of order upon the affirmative vote of a majority of the Council members present. When the rules of order are suspended, the Council meeting shall be conducted in~~ an orderly and professional manner.

Effective May 1, 2022

Article 1. General.

Rule 5-101. The Board of Appellate Court Judges.

Intent:

To establish the Board of Appellate Court Judges.

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

Applicability:

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

Statement of the Rule:

(1) **Establishment.** There is established a Board of Appellate Court Judges.

(2) **Membership.** Members of the Board shall be the members of the Court of Appeals and the members of the Supreme Court

(3) **Chair and vice chair.** The Chief Justice of the Supreme Court and the Presiding Judge of the Court of Appeals shall alternate as the Chair and Vice Chair of the Board and shall alternate presiding over the meetings of the Board.

(4) **Meetings.**

(4)(A) The Board shall meet a minimum of three times a year to transact any business that is within its jurisdiction.

(4)(B) The Board shall act by majority vote. All members of the Board have the right to vote.

(4)(C) A quorum from both the Supreme Court and the Court of Appeals is required for a Board meeting. A quorum for the Supreme Court is at least three members and a quorum for the Court of Appeals is at least four members.

(4)(D) Board meetings shall be conducted in ~~accordance with Robert's Rules of Order~~ an orderly and professional manner and are not open and public meetings.

Effective ~~December 16, 2019~~ May 1, 2022

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

Intent:

To establish the Board of District Court Judges.

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

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

Applicability:

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

Statement of the Rule:

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

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

(3) **Membership.** The Board shall consist of the following eleven positions:

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

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

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

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

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

(3)(F) two from the Sixth, Seventh, or Eighth Judicial Districts.

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

(5) **Chair and vice chair.**

(5)(A) Establishment. There shall be a Chair and Vice Chair of the Board selected from among the Board.

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

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

(6) Vacancies.

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

(68)(B) Vacancy in the office of the chair. Should the Chair of the Board resign or leave the Board for any reason, the Vice Chair shall become Chair, serving both the unexpired term of the Chair and full term as Chair.

(69)(C) Vacancy in the office of the vice chair. In the event that the Vice Chair of the Board resigns or leaves the Board for any reason, a new Vice Chair shall be selected by the Board from among its members to serve the unexpired term of the Vice Chair.

(740) Meetings.

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

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

(7)(C) The meetings shall be conducted in an orderly and professional manner and in accordance with this Code.

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

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

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

Effective ~~May 1, 2019 pursuant to CJA Rule 2-205~~ May 1, 2022

Rule 7-101. Juvenile Court Board, Executive Committee and Council Representatives.**Intent:**

To establish a Board of Juvenile Court Judges.

To establish an Executive Committee of the Board.

To establish the authority and duties of the Board and the Executive Committee.

To establish the election procedure for Board members, Chair elect of the Board and the Judicial Council representatives.

Applicability:

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

Statement of the Rule:**(1) Juvenile court board.**

(1)(A) **Establishment.** There is hereby established a Board of Juvenile Court Judges.

(1)(B) **Membership.** The Board shall be composed of seven juvenile court judges elected at the Annual Judicial Conference Juvenile Court business meeting by sitting Juvenile Court Judges.

(1)(C) **Representation.** Representation from each judicial district shall be as follows:

(1)(C)(i) Five Board members from the Second, Third and Fourth Judicial Districts with at least one representative from each District; and

(1)(C)(ii) Two Board members from the First, Fifth, Sixth, Seventh or Eighth Districts.

(1)(D) **Election.** The juvenile court judges present at the annual business meeting shall constitute a quorum. Nominations for board positions may be made by sitting Juvenile Court Judges only. Nominations must come from the Judicial District or Districts in which the vacancy exists. All sitting judges shall be entitled to vote for all members of the Board.

(1)(E) **Terms.** The terms of the initial Board members shall be determined by lot, with four members selected to serve three year terms and three members selected to serve two year terms. Successors shall be elected for three year terms.

(1)(F) **Vacancies.** If a vacancy occurs for any reason on the Board between Annual Judicial Conferences, the Board shall elect a replacement for the unexpired term of the vacancy. In filling the vacancy, the Board shall adhere to and perpetuate the District representation in effect at the time of the vacancy.

(2) Chair and vice chair.

(2)(A) **Establishment.** There shall be a Chair and Vice Chair of the Board.

(2)(B) **Chair's term.** The Chair shall serve a one year term beginning immediately after the Annual Judicial Conference in the year following election as Vice Chair.

(2)(C) **Responsibilities.** The Chair shall preside over all meetings of the Board and the Juvenile Court Judges Meeting at the Annual Judicial Conference, and perform other duties as set forth in the Juvenile Court Act, this Code and as directed by the Board.

(2)(D) **Vacancy in office of chair.** In the event that the Chair resigns or leaves the Board for any reason, the Vice Chair shall become Chair, serving both the unexpired term of the Chair and the full term as Chair.

(2)(E) **Election.** The Vice Chair shall be elected by the Board members at the commencement of the first or second year of the Vice Chair's three year term on the Board. The Vice Chair shall serve as Chair in the absence of the Chair or at the request of the Chair.

(2)(F) **Vice chair's term.** The Vice Chair shall become Chair of the Board for a one year term immediately following the Annual Judicial Conference next succeeding his election as Vice Chair.

(2)(G) **Vacancy in office of vice chair.** In the event that the Vice Chair resigns or leaves the Board for any reason, a new Vice Chair shall be elected by the Board from among its members to serve the unexpired term of the Vice Chair and to succeed as Chair as otherwise provided in this rule.

(3) **Meetings of the board.**

(3)(A) The Board shall meet a minimum of once every two months to transact any and all business that is within its jurisdiction. This meeting shall be presided over by the Chair of the Board or the Vice Chair in the absence of the Chair or at the request of the Chair.

(3)(B) The Board shall rule by majority vote. All Board members have the right to vote. Four members of the Board constitute a quorum.

(3)(C) The Board meetings shall be conducted in an orderly and professional manner and in accordance with ~~Roberts' Rules of Order and~~ this Code.

(3)(D) When a Board member is unable to attend a Board meeting, that member may designate a juvenile court judge to attend the meeting on behalf of the absent member. The substitute and the absent member must be from the same district group identified by paragraph (1)(C) above. The substitute judge shall be provided with a copy of the agenda and other meeting materials, may attend the open and closed sessions of the meeting, and may participate in the discussion of agenda items. The substitute judge may make motions and vote.

(4) **Executive committee.**

(4)(A) **Membership.** There is hereby established an Executive Committee of the Board. The committee shall be comprised of three members: the Chair of the Board, the Vice Chair and one member of the Board selected by the Board members to serve at large.

(4)(B) **Duties and responsibilities of the executive committee.** The duties and responsibilities of the Executive Committee are as follows:

(4)(B)(i) Assist the Board in establishing a planning capability in assessing and projecting needs, resources, and policies.

(4)(B)(ii) Act as liaison with other agencies and parties who seek contact with the Board.

(4)(B)(iii) Screen and reduce the number of matters presented to the full Board for its consideration to ensure that all matters referred to it require full Board consideration.

(4)(B)(iv) Review initiatives, proposals and questions that will be submitted to the full Board to ensure that information is complete and in proper form to facilitate expeditious handling by the Board.

(4)(B)(v) Assist the Administrative Office in staff work as assigned by the Board where judicial guidance may be required in carrying out Board policy.

(4)(B)(vi) Consult with the Administrative Office on matters requiring immediate attention or on matters needing judicial consideration but not requiring full Board consideration.

(4)(B)(vii) Accomplish all other assignments as may be directed by the Board.

(5) Procedures of the board.

(5)(A) The Chair of the Board shall serve as Chair of the Executive Committee. When the Chair of the Board is not available, the Chair elect shall act in the Chair's behalf.

(5)(B) All action taken by the Executive Committee shall be reported to the full Board in the form of minutes and reports and may be subject to ratification by the full Board.

(5)(C) A time and date certain shall be established for Executive Committee meetings. The juvenile court administrator or designee shall serve as secretariat to the Committee.

(6) Judicial council representatives.

(6)(A) The Juvenile Court shall have three representatives on the Council, with no two representatives serving from the same judicial district:

(6)(A)(i) one from the Second, Third, or Fourth Judicial District;

(6)(A)(ii) one from the First, Fifth, Sixth, Seventh, or Eighth Judicial District; and

(6)(A)(iii) one serving at-large.

151
152 (6)(B) Timing of elections, and the process for filling vacancies, shall be
153 conducted pursuant to Rule 1-201. Nominations can be made by any sitting judge for
154 any Council representative. Voting shall be by all Juvenile Court judges present at the
155 annual business meeting. Those present at the business meeting will constitute a
156 quorum.

157
158 (6)(C) Council representatives shall serve staggered three-year terms, with one Juvenile
159 Court judge elected to the Council each year.

160
161 | *Effective ~~June 22, 2020~~May 1, 2022*
162

Rule 9-101. Board of Justice Court Judges.**Intent:**

To prescribe the membership, method of selection, term of office and basic procedures of the Board.

Applicability:

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

Statement of the Rule:

(1) **Establishment – Membership.** There is hereby established a Board of Justice Court Judges comprised of the chair, six at-large members, and the three Council representatives.

(2) **Election.** Members of the Board shall be elected by the justice court judges in connection with the justice court business meeting at the annual judicial conference. For all elections contemplated by this rule, judges may vote in person or remotely.

(3) **Term.** The chair and the at-large members shall serve staggered two year terms. The Council representatives shall serve during the length of their term as Council representatives.

(4) **Chair and Vice Chair.**

(4)(A) The chair shall preside over all meetings of the Board and over the Justice Court judges' training conferences. The chair may not simultaneously serve as a Council representative.

(4)(B) Members of the Board shall elect a vice-chair and an education liaison. The vice-chair shall serve as chair in the absence of the chair or upon request of the chair. Neither the vice-chair nor the education liaison may simultaneously serve as a Council representative.

(5) **Executive Committee.** There shall be an Executive Committee comprised of the chair, vice-chair and one of the Council representatives designated by the chair. The Executive Committee may take necessary action on behalf of the Board between Board meetings.

(6) **Vacancies.** If vacancies occur for any reason on the Board between elections, the Board shall elect a replacement for the unexpired term of the vacancy.

(6)(A) **Vacancy in the office of chair.** Should the chair resign or leave the Board for any reason, the vice-chair shall become chair for the remainder of the term.

(6)(B) **Vacancy in the office of vice chair.** Should the vice-chair of the Board resign or leave the Board for any reason, a new vice-chair shall be elected by the Board from among its members to serve the unexpired term of the vice-chair.

45
46 | (~~640~~)(B) **Vacancy – Council representative.** If a vacancy occurs for any reason among
47 the representatives to the Council, the Board shall designate an interim representative to
48 serve until the next annual training conference, at which time a representative shall be
49 elected to fill the unexpired term.
50
51 | (~~744~~) **Meetings of the Board.** The Board shall meet at least quarterly to transact any and all
52 business that is within its jurisdiction. The Board shall rule by majority vote. All members, except
53 the three Council representatives, are voting members. Four voting members of the Board
54 constitute a quorum. Board meetings shall be conducted ~~generally in accordance with Robert's~~
55 ~~Rules of Order~~ **in an orderly and professional manner.**
56 -
57 | (~~12~~) ~~All business conducted by the Board shall be conducted~~ **and** in accordance with this Code.
58
59 | (~~843~~) **Certifications.** The Board shall be responsible for certifying new justice courts and
60 recertifying existing justice courts to the Judicial Council as outlined in Rule 9-108.
61
62 | Effective ~~August 21, 2020~~ **May 1, 2022**

Rule 3-401. Office of General Counsel.**Intent:**

To establish the office of General Counsel within the Administrative Office.

To identify the office of General Counsel as the primary authority for coordinating the provision of legal services to the judiciary.

To establish uniform procedures governing the provision of legal services to the judiciary.

To define the relationship between the office of General Counsel and the Office of the Attorney General.

Applicability:

This rule shall apply to the judiciary.

Statement of the Rule:

- (1) ~~Establishment of office of general counsel.~~ The office of General Counsel is established within the Administrative Office to provide legal services to the judiciary.
- (2) **Responsibility.** The office of General Counsel shall have primary responsibility for providing the following legal services:
 - (2)(A) informal advice and counsel;
 - (2)(B) written opinions;
 - (2)(C) legislative drafting;
 - (2)(D) legal representation in administrative and judicial proceedings where the claimant is seeking declaratory, injunctive, or extraordinary relief or where risk management coverage is not provided;
 - (2)(E) negotiation, drafting, and review of contracts and leases;
 - (2)(F) consultation, drafting, and review of judicial policies and procedures;
 - (2)(G) staff support to committees established by the Council and the Supreme Court as directed; and
 - (2)(H) coordination of, and arrangement for, legal representation by the Attorney General's Office or outside counsel in appropriate cases.
- (3) **Protocol for requesting legal assistance.**

(3)(A) **Courts of record.**

(3)(A)(i) **Non-judicial officers and employees of the state.**

(3)(A)(i)(a) All requests for legal assistance, other than requests for informal advice or counsel, shall be in writing and directed to the appropriate state level administrator, who shall refer appropriate requests to the office of General Counsel.

(3)(A)(i)(b) All requests for legal representation and indemnification shall be made in writing by the employee or officer who is named as a defendant. The request shall be made within ten days of service and directed to the office of General Counsel. A copy of the request shall be sent by the individual officer or employee to the Office of the Attorney General at that time. General Counsel shall be responsible for coordinating the legal representation of non-judicial officers and employees with the Attorney General's Office.

(3)(A)(ii) **Judicial officers.**

(3)(A)(ii)(a) All requests for legal assistance from judicial officers, other than requests for informal advice or counsel, shall be in writing and directed to General Counsel.

(3)(A)(ii)(b) All requests for legal representation and indemnification shall be made by the judicial officer who is named as a defendant. The request shall be made within ten days of service and directed to General Counsel. General Counsel shall be responsible for coordinating the legal representation of judicial officers with the Attorney General's Office.

(3)(B) **Courts not of record.**

(3)(B)(i) All requests for legal assistance, representation and indemnification shall be made in writing by the officer or employee seeking assistance and directed to the appropriate governmental entity.

(3)(C) **Judicial council, boards of judges, committees and task forces.**

(3)(C)(i) All requests for legal assistance from the Council, the Boards, committees or task forces established by the Council or the Supreme Court shall be in writing and directed to General Counsel from the presiding officer of the Council, Board, committee or task force.

86

87 (4) **Relationship to attorney general's office.** The provision of legal services to the judiciary
88 by the Office of General Counsel and the Office of the Attorney General shall be governed
89 by this rule and Utah Code section 63G-7-901.

90

91 | *Effective ~~November~~May 1, ~~2018~~2022*

92

Rule 4-208 (NEW)

Rule 4-208. Automatic expungement of cases**Intent:**

The intent of this rule is to govern the Administrative Office of the Court's development and implementation of an automated expungement process.

Applicability:

This rule applies to cases in district and justice courts.

Statement of the Rule:**(1) Definitions**

(1)(A) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety.

(1)(B) "Clean slate eligible case" means the same as defined in Utah Code §77-40-102.

(1)(C) "Conviction" means a judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(1)(D) "Expunge" means to seal or otherwise restrict access to the individual's record when the record includes a criminal investigation, detention, arrest, or conviction.

(2) Automated expungement process

(2)(A) The Administrative Office of the Courts shall develop an automated process for expunging eligible court records.

(2)(B) Automated processes must comply with the requirements outlined in the Utah Rules of Criminal Procedure and the Utah Expungement Act.

(2)(C) All automated expungement processes developed by the Administrative Office of the Courts shall be approved by the Utah Judicial Council.

(3) Standing orders and orders of expungement

(3)(A) The presiding officer of the Judicial Council may appoint a district court presiding judge as a signing judge for automatic expungements in all district courts within the presiding judge's district in accordance with Rule 3-108.

(3)(B) A justice court presiding judge may act as a signing judge for automatic expungements in all justice courts within the presiding judge's district. The length of the assignment must coincide with the judge's term as a presiding judge.

(3)(C) If the district or justice court presiding judge determines that the requirements under the Utah Rules of Criminal Procedure and this rule have been met, the presiding judge shall issue a standing order authorizing the Administrative Office of the Courts to prepare and automatically affix the presiding judge's judicial

37 signature to orders of expungements issued in relation to cases from that judicial
38 district.

39 (3)(D) The form and content of automated orders of expungement must be approved by
40 the Utah Judicial Council.

41 **(4) Notice of action taken**

42 (4)(A) The Administrative Office the Courts shall send notice that an order of
43 expungement has been issued in accordance with the Utah Rules of Criminal
44 Procedure.

45

46 | Effective May 1, 2022

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;

- 38 (2)(L)(ix) file date;
- 39 (2)(L)(x) party name;
- 40 (2)(M) name, business address, business telephone number, and business email
- 41 address of an adult person or business entity other than a party or a victim
- 42 or witness of a crime;
- 43 (2)(N) name, address, telephone number, email address, date of birth, and last
- 44 four digits of the following: driver's license number; social security number;
- 45 or account number of a party;
- 46 (2)(O) name, business address, business telephone number, and business email
- 47 address of a lawyer or licensed paralegal practitioner appearing in a case;
- 48 (2)(P) name, business address, business telephone number, and business email
- 49 address of court personnel other than judges;
- 50 (2)(Q) name, business address, and business telephone number of judges;
- 51 (2)(R) name, gender, gross salary and benefits, job title and description, number
- 52 of hours worked per pay period, dates of employment, and relevant
- 53 qualifications of a current or former court personnel;
- 54 (2)(S) unless classified by the judge as private or safeguarded to protect the
- 55 personal safety of the juror or the juror's family, the name of a juror
- 56 empaneled to try a case, but only 10 days after the jury is discharged;
- 57 (2)(T) opinions, including concurring and dissenting opinions, and orders entered
- 58 in open hearings;
- 59 (2)(U) order or decision classifying a record as not public;
- 60 (2)(V) private record if the subject of the record has given written permission to
- 61 make the record public;
- 62 (2)(W) probation progress/violation reports;
- 63 (2)(X) publications of the administrative office of the courts;
- 64 (2)(Y) record in which the judicial branch determines or states an opinion on the
- 65 rights of the state, a political subdivision, the public, or a person;
- 66 (2)(Z) record of the receipt or expenditure of public funds;
- 67 (2)(AA) record or minutes of an open meeting or hearing and the transcript of them;
- 68 (2)(BB) record of formal discipline of current or former court personnel or of a
- 69 person regulated by the judicial branch if the disciplinary action has been
- 70 completed, and all time periods for administrative appeal have expired, and
- 71 the disciplinary action was sustained;
- 72 (2)(CC) record of a request for a record;
- 73 (2)(DD) reports used by the judiciary if all of the data in the report is public or the
- 74 Judicial Council designates the report as a public record;
- 75 (2)(EE) rules of the Supreme Court and Judicial Council;

76 (2)(FF) search warrants, the application and all affidavits or other recorded
77 testimony on which a warrant is based are public after they are unsealed
78 under Utah Rule of Criminal Procedure 40;
79 (2)(GG) statistical data derived from public and non-public records but that disclose
80 only public data; and
81 (2)(HH) notwithstanding subsections (6) and (7), if a petition, indictment, or
82 information is filed charging a person 14 years of age or older with a felony
83 or an offense that would be a felony if committed by an adult, the petition,
84 indictment or information, the adjudication order, the disposition order, and
85 the delinquency history summary of the person are public records. The
86 delinquency history summary shall contain the name of the person, a listing
87 of the offenses for which the person was adjudged to be within the
88 jurisdiction of the juvenile court, and the disposition of the court in each of
89 those offenses.

90 **(3) Sealed Court Records.** The following court records are sealed:

- 91 (3)(A) records in the following actions:
- 92 (3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months
93 after the conclusion of proceedings, which are private until
94 sealed;
 - 95 (3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six
96 months after the conclusion of proceedings, which are
97 private until sealed;
 - 98 (3)(A)(iii) Section 76-7-304.5 – Consent required for abortions
99 performed on minors; and
 - 100 (3)(A)(iv) Section 78B-8-402 – Actions for disease testing;
- 101 (3)(B) expunged records;
- 102 (3)(C) orders authorizing installation of pen register or trap and trace device under
103 Utah Code Section 77-23a-15;
- 104 (3)(D) records showing the identity of a confidential informant;
- 105 (3)(E) records relating to the possession of a financial institution by the
106 commissioner of financial institutions under Utah Code Section 7-2-6;
- 107 (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;
- 108 (3)(G) records designated as sealed by rule of the Supreme Court;
- 109 (3)(H) record of a Children's Justice Center investigative interview after the
110 conclusion of any legal proceedings; and
- 111 (3)(I) other records as ordered by the court under Rule 4-202.04.
- 112

113 **(4) Private Court Records.** The following court records are private:

- 114 (4)(A) records in the following actions:

DRAFT: Line 169 (July public comment)
Line 189 (September public comment)
Lines 272-273 (Non-substantive fix)

- 115 (4)(A)(i) Section 62A-15-631, Involuntary commitment under court
116 order;
117 (4)(A)(ii) Section 76-10-532, Removal from the National Instant Check
118 System database;
119 (4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the
120 records are sealed;
121 (4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until
122 the records are sealed; and
123 (4)(A)(v) cases initiated in the district court by filing an abstract of a
124 juvenile court restitution judgment.
125 (4)(B) records in the following actions, except that the case history, judgments,
126 orders, decrees, letters of appointment, and the record of public hearings
127 are public records:
128 (4)(B)(i) Title 30, Husband and Wife, including qualified domestic
129 relations orders, except that an action for consortium due
130 to personal injury under Section 30-2-11 is public;
131 (4)(B)(ii) Title 77, Chapter 3a, Stalking Injunctions;
132 (4)(B)(iii) Title 75, Chapter 5, Protection of Persons Under Disability
133 and their Property;
134 (4)(B)(iv) Title 78B, Chapter 7, Protective Orders;
135 (4)(B)(v) Title 78B, Chapter 12, Utah Child Support Act;
136 (4)(B)(vi) Title 78B, Chapter 13, Utah Uniform Child Custody
137 Jurisdiction and Enforcement Act;
138 (4)(B)(vii) Title 78B, Chapter 14, Uniform Interstate Family Support
139 Act;
140 (4)(B)(viii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and
141 (4)(B)(ix) an action to modify or enforce a judgment in any of the
142 actions in this subparagraph (B);
143 (4)(C) records related to determinations of indigency;
144 (4)(D) an affidavit supporting a motion to waive fees;
145 (4)(E) aggregate records other than public aggregate records under subsection
146 (2);
147 (4)(F) alternative dispute resolution records;
148 (4)(G) applications for accommodation under the Americans with Disabilities Act;
149 (4)(H) jail booking sheets;
150 (4)(I) citation, but an abstract of a citation that redacts all non-public information
151 is public;
152 (4)(J) judgment information statement;
153 (4)(K) judicial review of final agency action under Utah Code Section 62A-4a-
154 1009;
155 (4)(L) the following personal identifying information about a party: driver's license
156 number, social security number, account description and number,
157 password, identification number, maiden name and mother's maiden name,
158 and similar personal identifying information;

- 159 (4)(M) the following personal identifying information about a person other than a
 160 party or a victim or witness of a crime: residential address, personal email
 161 address, personal telephone number; date of birth, driver's license number,
 162 social security number, account description and number, password,
 163 identification number, maiden name, mother's maiden name, and similar
 164 personal identifying information;
- 165 (4)(N) medical, psychiatric, or psychological records;
- 166 (4)(O) name of a minor, except that the name of a minor party is public in the
 167 following district and justice court proceedings:
- 168 (4)(O)(i) name change of a minor;
- 169 (4)(O)(ii) guardianship or conservatorship for a minor;
- 170 (4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party;
- 171 (4)(O)(iv) protective orders and stalking injunctions; and
- 172 (4)(O)(v) custody orders and decrees;
- 173 (4)(P) nonresident violator notice of noncompliance;
- 174 (4)(Q) personnel file of a current or former court personnel or applicant for
 175 employment;
- 176 (4)(R) photograph, film, or video of a crime victim;
- 177 (4)(S) record of a court hearing closed to the public or of a child's testimony taken
 178 under URCrP 15.5:
- 179 (4)(S)(i) permanently if the hearing is not traditionally open to the
 180 public and public access does not play a significant positive
 181 role in the process; or
- 182 (4)(S)(ii) if the hearing is traditionally open to the public, until the
 183 judge determines it is possible to release the record without
 184 prejudice to the interests that justified the closure;
- 185 (4)(T) record submitted by a senior judge or court commissioner regarding
 186 performance evaluation and certification;
- 187 (4)(U) record submitted for in camera review until its public availability is
 188 determined;
- 189 (4)(V) reports of investigations by Child Protective Services;
- 190 (4)(W) statement in support of petition to determine competency;
- 191 (4)(~~XW~~) victim impact statements;
- 192 (4)(~~YX~~) name of a prospective juror summoned to attend court, unless classified
 193 by the judge as safeguarded to protect the personal safety of the
 194 prospective juror or the prospective juror's family;
- 195 (4)(~~ZY~~) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate
 196 Procedure, except briefs filed pursuant to court order;
- 197 (4)(~~AAZ~~) records in a proceeding under Rule 60 of the Utah Rules of Appellate
 198 Procedure; and
- 199 (4)(~~BBA~~) other records as ordered by the court under Rule 4-202.04.

201 **(5) Protected Court Records.** The following court records are protected:

- 202 (5)(A) attorney's work product, including the mental impressions or legal theories
 203 of an attorney or other representative of the courts concerning litigation,

- 204 privileged communication between the courts and an attorney representing,
 205 retained, or employed by the courts, and records prepared solely in
 206 anticipation of litigation or a judicial, quasi-judicial, or administrative
 207 proceeding;
- 208 (5)(B) records that are subject to the attorney client privilege;
- 209 (5)(C) bids or proposals until the deadline for submitting them has closed;
- 210 (5)(D) budget analyses, revenue estimates, and fiscal notes of proposed
 211 legislation before issuance of the final recommendations in these areas;
- 212 (5)(E) budget recommendations, legislative proposals, and policy statements, that
 213 if disclosed would reveal the court's contemplated policies or contemplated
 214 courses of action;
- 215 (5)(F) court security plans;
- 216 (5)(G) investigation and analysis of loss covered by the risk management fund;
- 217 (5)(H) memorandum prepared by staff for a member of any body charged by law
 218 with performing a judicial function and used in the decision-making process;
- 219 (5)(I) confidential business records under Utah Code Section 63G-2-309;
- 220 (5)(J) record created or maintained for civil, criminal, or administrative
 221 enforcement purposes, audit or discipline purposes, or licensing,
 222 certification or registration purposes, if the record reasonably could be
 223 expected to:
- 224 (5)(J)(i) interfere with an investigation;
- 225 (5)(J)(ii) interfere with a fair hearing or trial;
- 226 (5)(J)(iii) disclose the identity of a confidential source; or
- 227 (5)(J)(iv) concern the security of a court facility;
- 228 (5)(K) record identifying property under consideration for sale or acquisition by the
 229 court or its appraised or estimated value unless the information has been
 230 disclosed to someone not under a duty of confidentiality to the courts;
- 231 (5)(L) record that would reveal the contents of settlement negotiations other than
 232 the final settlement agreement;
- 233 (5)(M) record the disclosure of which would impair governmental procurement or
 234 give an unfair advantage to any person;
- 235 (5)(N) record the disclosure of which would interfere with supervision of an
 236 offender's incarceration, probation, or parole;
- 237 (5)(O) record the disclosure of which would jeopardize life, safety, or property;
- 238 (5)(P) strategy about collective bargaining or pending litigation;
- 239 (5)(Q) test questions and answers;
- 240 (5)(R) trade secrets as defined in Utah Code Section 13-24-2;
- 241 (5)(S) record of a Children's Justice Center investigative interview before the
 242 conclusion of any legal proceedings;
- 243 (5)(T) presentence investigation report;
- 244 (5)(U) except for those filed with the court, records maintained and prepared by
 245 juvenile probation; and
- 246 (5)(V) other records as ordered by the court under Rule 4-202.04.

247

248 **(6) Juvenile Court Social Records.** The following are juvenile court social records:

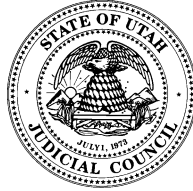
- 249 (6)(A) correspondence relating to juvenile social records;
 250 (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations,
 251 substance abuse evaluations, domestic violence evaluations;
 252 (6)(C) medical, psychological, psychiatric evaluations;
 253 (6)(D) pre-disposition and social summary reports;
 254 (6)(E) probation agency and institutional reports or evaluations;
 255 (6)(F) referral reports;
 256 (6)(G) report of preliminary inquiries; and
 257 (6)(H) treatment or service plans.
 258
- 259 **(7) Juvenile Court Legal Records.** The following are juvenile court legal records:
 260 (7)(A) accounting records;
 261 (7)(B) discovery filed with the court;
 262 (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes,
 263 findings, orders, decrees;
 264 (7)(D) name of a party or minor;
 265 (7)(E) record of a court hearing;
 266 (7)(F) referral and offense histories
 267 (7)(G) and any other juvenile court record regarding a minor that is not designated
 268 as a social record.
 269
- 270 **(8) Safeguarded Court Records.** The following court records are safeguarded:
 271 (8)(A) upon request, location information, contact information, and identity
 272 information other than name of a petitioner and other persons to be
 273 protected in an action filed under ~~Title 77, Chapter 3a, Stalking Injunctions~~
 274 ~~or~~ Title 78B, Chapter 7, Protective Orders;
 275 (8)(B) upon request, location information, contact information and identity
 276 information other than name of a party or the party's child after showing by
 277 affidavit that the health, safety, or liberty of the party or child would be
 278 jeopardized by disclosure in a proceeding under Title 78B, Chapter 13,
 279 Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B,
 280 Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15,
 281 Utah Uniform Parentage Act;
 282 (8)(C) location information, contact information, and identity information of
 283 prospective jurors on the master jury list or the qualified jury list;
 284 (8)(D) location information, contact information, and identity information other than
 285 name of a prospective juror summoned to attend court;
 286 (8)(E) the following information about a victim or witness of a crime:
 287 (8)(E)(i) business and personal address, email address, telephone
 288 number, and similar information from which the person can
 289 be located or contacted;
 290 (8)(E)(ii) date of birth, driver's license number, social security
 291 number, account description and number, password,
 292 identification number, maiden name, mother's maiden
 293 name, and similar personal identifying information.

DRAFT: Line 169 (July public comment)
Line 189 (September public comment)
Lines 272-273 (Non-substantive fix)

294

295 | Effective ~~December 5~~May 1, 2022

Tab 7



Administrative Office of the Courts

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

November 17, 2021

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee/Judicial Council

FROM: Jonathan Puente, Director of OFA

RE: Committee on Judicial Fairness and Accountability

This past summer the Judicial Council asked the Director of the OFA to begin the process of establishing a committee to provide support and guidance to the Office and Fairness and Accountability and to provide expertise and guidance to the Judicial Council regarding how to best support the work of the Office of Fairness and Accountability. After considering diverse governing models for this type of committee the attached draft rule, Rule 3-420, was submitted to the Policy and Planning Committee for consideration to establish the Committee on Fairness and Accountability. Attached is the rule with edits made by Policy and Planning. A draft copy of ammended Rule 1-205, which includes the proposed committee is also included.

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

CJA 1-205

DRAFT: November 5, 2021

1 Rule 1-205. Standing and Ad Hoc Committees.**2 Intent:**

3 To establish standing and ad hoc committees to assist the Council and provide recommendations
4 on topical issues.

5 To establish uniform terms and a uniform method for appointing committee members.

6 To provide for a periodic review of existing committees to assure that their activities are
7 appropriately related to the administration of the judiciary.

8 Applicability:

9 This rule shall apply to the internal operation of the Council.

10 Statement of the Rule:**11 (1) Standing Committees.**

12 (1)(A) **Establishment.** The following standing committees of the Council are hereby
13 established:

14 (1)(A)(i) Technology Committee;

15 (1)(A)(ii) Uniform Fine Schedule Committee;

16 (1)(A)(iii) Ethics Advisory Committee;

17 (1)(A)(iv) Judicial Branch Education Committee;

18 (1)(A)(v) Court Facility Planning Committee;

19 (1)(A)(vi) Committee on Children and Family Law;

20 (1)(A)(vii) Committee on Judicial Outreach;

21 (1)(A)(viii) Committee on Resources for Self-represented Parties;

22 (1)(A)(ix) Language Access Committee;

23 (1)(A)(x) Guardian ad Litem Oversight Committee;

24 (1)(A)(xi) Committee on Model Utah Civil Jury Instructions;

25 (1)(A)(xii) Committee on Model Utah Criminal Jury Instructions;

26 (1)(A)(xiii) Committee on Pretrial Release and Supervision; and

27 (1)(A)(xiv) Committee on Court Forms; and

28 ~~(1)(A)(xiv)~~ (1)(A)(xv) Committee on Judicial Fairness and Accountability.-

29 (1)(B) Composition.

30 (1)(B)(i) The **Technology Committee** shall consist of:

31 (1)(B)(i)(a) one judge from each court of record;

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- 32 (1)(B)(i)(b) one justice court judge;
- 33 (1)(B)(i)(c) one lawyer recommended by the Board of Bar Commissioners;
- 34 (1)(B)(i)(d) two court executives;
- 35 (1)(B)(i)(e) two court clerks; and
- 36 (1)(B)(i)(f) two staff members from the Administrative Office.
- 37 (1)(B)(ii) The **Uniform Fine Schedule Committee** performs the duties described
- 38 in rule 4-302 and shall consist of:
- 39 (1)(B)(ii)(a) one district court judge who has experience with a felony docket;
- 40 (1)(B)(ii)(b) three district court judges who have experience with a
- 41 misdemeanor docket; and
- 42 (1)(B)(ii)(c) four justice court judges.
- 43 (1)(B)(iii) The **Ethics Advisory Committee** performs the duties described in rule
- 44 3-109 and shall consist of:
- 45 (1)(B)(iii)(a) one judge from the Court of Appeals;
- 46 (1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;
- 47 (1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- 48 (1)(B)(iii)(d) one juvenile court judge;
- 49 (1)(B)(iii)(e) one justice court judge; and
- 50 (1)(B)(iii)(f) an attorney from either the Bar or a college of law.
- 51 (1)(B)(iv) The **Judicial Branch Education Committee** performs the duties
- 52 described in rule 3-403 shall consist of:
- 53 (1)(B)(iv)(a) one judge from an appellate court;
- 54 (1)(B)(iv)(b) one district court judge from Judicial Districts 2, 3, or 4;
- 55 (1)(B)(iv)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
- 56 (1)(B)(iv)(d) one juvenile court judge;
- 57 (1)(B)(iv)(e) the education liaison of the Board of Justice Court Judges;
- 58 (1)(B)(iv)(f) one state level administrator;
- 59 (1)(B)(iv)(g) the Human Resource Management Director;
- 60 (1)(B)(iv)(h) one court executive;
- 61 (1)(B)(iv)(i) one juvenile court probation representative;
- 62 (1)(B)(iv)(j) two court clerks from different levels of court and different
- 63 judicial districts;
- 64 (1)(B)(iv)(k) one data processing manager; and
- 65 (1)(B)(iv)(l) one adult educator from higher education.

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(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** performs the duties described in rule 3-409 and 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** performs the duties described in rule 4-908 and 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

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the committee may appoint non-members to serve on its subcommittees.

(1)(B)(vii) The **Committee on Judicial Outreach** performs the duties described in rule 3-114 and 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** performs the duties described in rule 3-115 and 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~~ a social services organization providing direct services to underserved communities;
- (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

Commented [KW1]: New proposal - Nathanael Player

CJA 1-205

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(1)(B)(viii)(k) two community representatives.

(1)(B)(ix) The **Language Access Committee** performs the duties described in rule 3-306.02 and 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** performs the duties described in rule 4-906 and 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** performs the duties described in rule 3-418 and 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** performs the duties described in rule 3-418 and 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; and
- ~~(1)(B)(xii)(e) one professor of criminal law; and~~

Commented [KW2]: New proposal – Mike Drechsel

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~~(1)(B)(xiii)(f)~~(1)(B)(xii)(e) one person skilled in linguistics or
communication.

(1)(B)(xiii) The **Committee on Pretrial Release and Supervision** performs the
duties described in rule 3-116 and shall consist of:

- (1)(B)(xiii)(a) two district court judges;
- (1)(B)(xiii)(b) two justice court judges;
- (1)(B)(xiii)(c) one prosecutor;
- (1)(B)(xiii)(d) one defense attorney;
- (1)(B)(xiii)(e) one county sheriff;
- (1)(B)(xiii)(f) one representative of counties;
- (1)(B)(xiii)(g) one representative of a county pretrial services agency;
- (1)(B)(xiii)(h) one representative of the Utah Commission on Criminal and
Juvenile Justice;
- (1)(B)(xiii)(i) one commercial surety agent;
- (1)(B)(xiii)(j) one state senator;
- (1)(B)(xiii)(k) one state representative;
- (1)(B)(xiii)(l) the Director of the Indigent Defense Commission or designee;
- (1)(B)(xiii)(m) one representative of the Utah Victims' Council;
- (1)(B)(xiii)(n) one representative of a community organization actively
engaged in pretrial justice issues;
- (1)(B)(xiii)(o) one chief of police; and
- (1)(B)(xiii)(p) the court's general counsel or designee.

(1)(B)(xiv) The **Committee on Court Forms** performs the duties described in rule
3-117 and shall consist of:

- (1)(B)(xiv)(a) ~~one two~~ district court judges;
- (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~~ district court administrator or
designee;

Commented [KW3]: New proposal – Nathanael Player

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- 202 (1)(B)(xiv)(j) one representative from a legal service organization that
 203 serves low-income clients;
 204 (1)(B)(xiv)(k) one paralegal;
 205 (1)(B)(xiv)(l) one educator from a paralegal program or law school;
 206 (1)(B)(xiv)(m) one person skilled in linguistics or communication; ~~and~~
 207 (1)(B)(xiv)(n) one representative from the Utah State Bar; and
 208 (1)(B)(xiv)(o) the LPP administrator.-
 209 (1)(B)(xv) The Committee on Fairness and Accountability performs the duties
 210 described in rule 3-420. The committee shall include members who have
 211 a demonstrated interest in, or who have experience with, issues of
 212 diversity, equity, and inclusion and shall consist of:
 213 (1)(B)(xv)(a) one sitting judge;
 214 (1)(B)(xv)(b) three current or former judicial officers;
 215 (1)(B)(xv)(c) the General Counsel or designee; and
 216 ~~(1)(B)(xiv)(n)~~ (1)(B)(xv)(d) the Director of the Office of Fairness and
 217 Accountability.
 218 (1)(C) **Standing committee chairs.** The Judicial Council shall designate the chair of each
 219 standing committee. Standing committees shall meet as necessary to accomplish
 220 their work. Standing committees shall report to the Council as necessary but a
 221 minimum of once every year. Except for the Committee on Judicial Fairness and
 222 Accountability, cCouncil members may not serve, participate or vote on standing
 223 committees. Standing committees may invite participation by others as they deem
 224 advisable, but only members designated by this rule may make motions and vote.
 225 All members designated by this rule may make motions and vote unless otherwise
 226 specified. Standing committees may form subcommittees as they deem advisable.
 227 (1)(D) **Committee performance review.** At least once every six years, the Management
 228 Committee shall review the performance of each committee. If the Management
 229 Committee determines that committee continues to serve its purpose, the
 230 Management Committee shall recommend to the Judicial Council that the
 231 committee continue. If the Management Committee determines that modification of
 232 a committee is warranted, it may so recommend to the Judicial Council.
 233 (1)(D)(i) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight
 234 Committee, recognized by Section 78A-6-901, shall not terminate.

Commented [KW4]: New proposal – Jon Puente

Commented [KW5]: Alternative rule number: 3-118

CJA 1-205

DRAFT: November 5, 2021

- 235 (2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider
 236 topical issues outside the scope of the standing committees and to recommend rules or
 237 resolutions concerning such issues. The Council may set and extend a date for the
 238 termination of any ad hoc committee. The Council may invite non-Council members to
 239 participate and vote on ad hoc committees. Ad hoc committees shall keep the Council
 240 informed of their activities. Ad hoc committees may form sub-committees as they deem
 241 advisable. Ad hoc committees shall disband upon issuing a final report or recommendations
 242 to the Council, upon expiration of the time set for termination, or upon the order of the
 243 Council.
- 244 (3) **General provisions.**
- 245 (3)(A) **Appointment process.**
- 246 (3)(A)(i) **Administrator's responsibilities.** The state court administrator shall
 247 select a member of the administrative staff to serve as the administrator
 248 for committee appointments. Except as otherwise provided in this rule,
 249 the administrator shall:
- 250 (3)(A)(i)(a) announce expected vacancies on standing committees two
 251 months in advance and announce vacancies on ad hoc
 252 committees in a timely manner;
- 253 (3)(A)(i)(b) for new appointments, obtain an indication of willingness to serve
 254 from each prospective appointee and information regarding the
 255 prospective appointee's present and past committee service;
- 256 (3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve
 257 from the prospective reappointee, the length of the prospective
 258 reappointee's service on the committee, the attendance record of
 259 the prospective reappointee, the prospective reappointee's
 260 contributions to the committee, and the prospective reappointee's
 261 other present and past committee assignments; and
- 262 (3)(A)(i)(d) present a list of prospective appointees and reappointees to the
 263 Council and report on recommendations received regarding the
 264 appointment of members and chairs.
- 265 (3)(A)(ii) **Council's responsibilities.** The Council shall appoint the chair of each
 266 committee. Whenever practical, appointments shall reflect geographical,
 267 gender, cultural and ethnic diversity.

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- 268 (3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members
269 shall serve staggered three year terms. Standing committee members shall not
270 serve more than two consecutive terms on a committee unless the Council
271 determines that exceptional circumstances exist which justify service of more than
272 two consecutive terms.
- 273 (3)(C) **Expenses.** Members of standing and ad hoc committees may receive
274 reimbursement for actual and necessary expenses incurred in the execution of their
275 duties as committee members.
- 276 (3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's
277 committees.

278 Effective ~~May~~ November 1, 20__~~21~~

Rule 3-420. Committee on Fairness and Accountability

Intent

This rule establishes the Committee on Fairness and Accountability to serve as a core leadership team for the Office of Fairness and Accountability. One purpose of the committee is to provide support and guidance to the Office of Fairness and Accountability, and to provide expertise and guidance to the Judicial Council regarding how to best support the work of the Office of Fairness and Accountability.

Applicability

This rule applies to the judiciary.

Statement of the Rule

The Committee on Fairness and Accountability shall:

(1) Advise the Director of the Office of Fairness and Accountability (Director) regarding the development of baseline metrics of demographic data for individuals who interact with the judiciary.

(2) Develop a strategic plan with the Director for the Office of Fairness and Accountability and submit the strategic plan to the Judicial Council for approval. The committee may form subcommittees to develop the strategic plan. The strategic plan shall include the Judiciary's goals and policy directives for meeting the court's mission for the open, fair and efficient administration of justice under the law while also being responsive to the state's cultural, ethnic, socioeconomic, linguistic, physical, gender, and age diversities. Branch efforts in this regard must include ensuring that the courts are free from both bias and the appearance of bias, meeting the needs of increasing numbers of self-represented litigants, remaining receptive to the needs of all branch constituents, ensuring that court procedures are fair and understandable, and providing culturally responsive programs and services.

(3) Once the initial strategic plan is approved by the Judicial Council, assist the Director with:

(3)(A) Determining which stakeholder groups should be involved in determining how to implement the strategic plan;

(3)(B) Appointing a functional team or teams; and

(3)(C) Facilitating the work of the functional team(s) to develop implementation plans and provide feedback about the strategic plan to the Committee on Fairness and Accountability;

(4) Receive input from the functional team(s) and determine if changes to the strategic plan should be recommended to the Judicial Council.

47

48 (5) Assist the Director with communicating the strategic plan to the judiciary.

49

50 (6) Assist the Director with monitoring Court progress in implementing the strategic plan,
51 including metrics developed to measure progress.

52

53 (7) Provide expertise and support to the Director when the Director interacts with the Judicial
54 Council, the benches, and the districts.

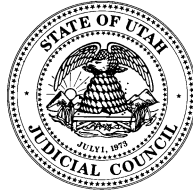
55

56 (8) Assist the Director in cooperating with the executive and legislative branches to implement
57 the strategic plan.

58

59 Effective May/November 1, 20

Tab 8



Administrative Office of the Courts

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

December 6, 2021

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Cathy Dupont, Deputy State Court Administrator

RE: Senior Judge Certification

I have one new inactive senior judge certification for your consideration. Justice Michael Wilkins is seeking initial certification. CJA Rule 11-201 includes the requirements for inactive senior judge status. Justice Wilkins has been retired since 2010 and appears to meet all of the criteria in the rule. Justice Wilkins does not have any outstanding complaints after a finding of reasonable cause with the Judicial Conduct Commission or the Utah Supreme Court. Justice Wilkins application is attached for your reference.

CJA Rule 11-201 describes the terms. Justice Wilkins term would begin the date that the Supreme Court approves his certification and would expire on "December 31st of the second year following appointment." "A subsequent term of office of an inactive senior judge is for three years."

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

Appellate, District, Juvenile Court INACTIVE Senior Judge Application

Inactive senior judge status allows you to perform weddings and oaths.

The declarations on the form reflect the qualifications established by rule 11-201 of the Utah Code of Judicial Administration. Please review them to confirm that they all apply and fill in any information requested.

Your application will be considered first by the Judicial Council and then by the Supreme Court. You will receive an oath of office form if the Court approves your appointment.

NAME: Please provide your name below.

Michael J Wilkins

RETIREMENT DATE: Please provide your retirement date below.

MM DD YYYY

05 / 15 / 2010

AGE 75: Please provide the year you will, or did, turn 75. Please do NOT provide your actual birth date.

2024

QUALIFICATIONS FOR OFFICE: I hereby apply for the office of INACTIVE Senior Judge and declare as follows (check ALL that apply): *

- ☒ 1) I was retained in the last election in which I stood for election.
- ☒ 2) I voluntarily resigned from judicial office, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, have recovered from or have accommodated that disability.
- ☒ 3) I am physically and mentally able to perform the duties of judicial office.
- ☒ 4) I demonstrate appropriate ability and character.
- ☒ 5) I am admitted to the practice of law in Utah, but I do not practice law.
- ☒ 6) I am eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.
- ☒ 7) There is NOT a complaint against me pending before the Supreme Court or before the Judicial Conduct Commission after a finding of reasonable cause.
- ☒ 8) During my current term there have been NO orders of discipline against me entered by the Supreme Court.

IF APPLICABLE, please explain why you DID NOT check any of QUALIFICATIONS the boxes above. In other words, please explain why any of the qualifications/declarations above do not apply to you. Please include the qualification/declaration number.

N/A

ELECTRONIC SIGNATURE: Please sign below in the following format: /s/ NAME

/s/ Michael J Wilkins

This form was created inside of Utah State Courts.

Google Forms

Tab 9

UTAH SUPREME COURT

Matthew B. Durrant
Chief Justice

Thomas R. Lee
Associate Chief Justice

Deno Himonas
Justice

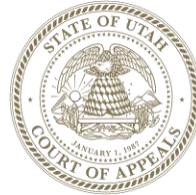
John Pearce
Justice

Paige Petersen
Justice

Utah Appellate Courts

Nicholas Stiles
Appellate Courts Administrator

450 South State Street
Salt Lake City, Utah 84114-0230
Telephone: (801) 578-3834
Email: larissal@utcourts.gov



Nicole I. Gray
Clerk of Court

UTAH COURT OF APPEALS

Michele M. Christiansen Forster
Presiding Judge

Jill M. Pohlman
Associate Presiding Judge

Gregory K. Orme
Judge

David N. Mortensen
Judge

Ryan M. Harris
Judge

Diana Hagen
Judge

Ryan D. Tenney
Judge

Lisa A. Collins
Clerk of Court

Date: December 2, 2021
To: Utah Judicial Council, Management Committee
From: Board of Appellate Court Judges, Nick Stiles
Re: Hearing Recordings and Transcripts

Management Committee –

During the COVID-19 pandemic the practices surrounding recording hearings have varied. This memo will address the present issues, current authority, and offer recommendations on solutions. While this memo has been presented to the District and Juvenile Court Administrators, Clerk of Court Liaisons, IT, and our General Counsel's Office, this is the perspective of the Appellate Courts and our Statewide Transcript Office — other viewpoints will certainly be helpful in navigating these issues. There are three common recording scenarios.

Recording Scenario	Description of Process
1. When all parties are present in the courtroom, staff record hearings on FTR ¹ .	FTR recording. This is the process the courts have used since 2010, and is the best process for creating a recording. The process rarely results in problems with the recording and subsequent transcript.
2. When hearings are held entirely remotely, most staff record hearings over WebEx and convert the recording to FTR. ²	WebEx and FTR. This scenario provides the biggest opportunity for technological improvements.
3. Hybrid hearings where some parties appear physically in the courtroom, and some appear remotely create the most issues.	Recording practices vary. There are no clear policies or practices on how staff should record the hearings in these situations. This scenario provides the biggest opportunity for staff training centered improvements.

¹ [For the Record](#) is the recording software.

² Recorded video is removed during this process. There are a few jurisdictions that are playing the WebEx audio over laptop speakers and recording it directly into FTR in the courtroom. There is a pending budget request to switch to cloud-based storage for FTR which eliminates the need to have staff convert WebEx recordings to FTR.

Authority and Historical Review of Policy

Authority for the recording process is found in [CJA Rule 4-201](#). The Code of Judicial Administration instructs in relevant part, “A video or audio recording system shall maintain the verbatim record of all court proceedings”³ There is no clear authority on which recording process is the official record for purposes of Rule 4-201.⁴ Additionally, while the rule seemingly contemplates video being a permitted record of a hearing, there is no indication the courts have ever provided video records.⁵

Because of this ambiguity, court staff are hesitant to deviate from the pre-COVID-19 practice of the FTR recording being the official recording.

The complicating factor here is represented in recording scenarios #2 and #3. In these scenarios there is, or should be, a WebEx and an FTR recording — both of which could be valuable in the transcription process. Absent official policy on which recording is official, court staff are left to discern for themselves what the appropriate practices are concerning duplicate recordings. Conventional knowledge instructs that if an FTR recording exists, there is no need for a WebEx recording. This however is inaccurate as it only considers the historical quality of FTR recordings, and not the present quality. WebEx recordings have proven to be a valuable supplement in the transcription process where the FTR recording is lower quality.

Potential Solutions

There are three solutions to the above issues:

- (1) **Technology.** Over the last 21 months WebEx has made significant improvements. However, the software still doesn’t record multiple user inputs on separate channels. Because of this, transcribers are not able to isolate a speaker’s audio input as if the recording took place in a courtroom over FTR. The result is poorer recordings and transcripts with a significant amount of inaudibles.⁶ It would be beneficial to work with Cisco in pushing for this upgrade.
- (2) **Formal Policy.** It would be prudent to establish formal policies surrounding recordings. At the outset, it is important to note that the Transcription Office should have full access to recordings of hearings, including any video recording. Court staff should be instructed

³ It should be noted that [URAP Rule 11](#) refers to “record” differently. In the Appellate Rules, a record on appeal is a group of items including a certified transcript of the recording.

⁴ I spoke with multiple staff who indicated that former General Counsel Brent Johnson said that FTR is the official recording. I have received a forwarded email from May 12, 2020 where two Clerks of Court indicate Brent told them this. I have not been able to substantiate this with an official opinion or memo. I also consulted with Chris Palmer of the COVID Response Task Force, who wasn’t aware of any official COVID related order. Finally, I reviewed the Judicial Council meeting minutes from March, 2020 to present, and found no guidance on this issue.

⁵ I was provided an email from Brent Johnson to former Public Information Officer, Geoff Fatah, where Mr. Johnson refers to “audio” as the record, stating providing “video” was “extremely difficult.”

⁶ There is some indication WebEx is working to provide a separate channel for each participant in the meeting.

to record over both FTR and WebEx when possible. There also is not currently a formal policy that instructs whether the public should have access to FTR or WebEx, and whether that access should include video or not.

- (3) **Training.** Staff continue to do an incredible job as they navigate their responsibilities under these unique circumstances. It would be very beneficial for the Transcription Office in coordination with the Clerks of Court Liaison, to prepare a training session for court staff and Judges that would provide insights into ensuring trial courts are creating a record that can be transcribed and understood by the public. The Transcription Office has been in contact with the staff of our Judicial Institute, who are able to help prepare the training and offer it in the LMS system.

The Appellate Courts and the Transcription Office recognize the dynamic nature of our present situation. The use of WebEx provides a great opportunity to increase access to justice for many Utahns and we remain supportive of that.

Thank you.

Respectfully,

Nick Stiles
Appellate Court Administrator

Tab 10

**Budget and Grants Agenda
for December 21, 2021 Judicial Council Meeting**

1. YE 2022 Spending Requests..... Judge Mark May and Karl Sweeney
(Action)

8. For the Record Upgrade..... Shane Bahr
Neira Siaperas
Heidi Anderson
9. Supplemental Secondary Language Stipend..... Kara Mann

2. UDVC - AOC Sub-recipient Agreement Jordan Murray
(Action) Amy Hernandez

3. Grant Coordinator Report Jordan Murray
(Information)

Reserve Request Presented for Approval to Forward to Judicial Council

1. Executive Session FY 2022 Reserve Expenditure Request..... Ron Gordon
Cathy Dupont
Melissa Taitano



FY 2022 Year End Forecasted Available One-time Funds

One-time Spending Plan						
Forecasted Available One-time Funds				# One-time Spending FY 2022 YE Spending Requests	Current Requests	Judicial Council Prev. Approved
Description	Funding Type	Amount		Previously Approved One-time Budget Requests/Current Requests in Bold	Amount	Amount
Sources of YE 2022 Funds						
* Turnover Savings as of pay period ending 11/12/2021 (including anticipated ARPA reimbursement)	Turnover Savings	1,567,646		1 Judicial Council Room Upgrades		39,481
** Turnover savings Estimate for the rest of the year (\$2k x 1,312 pay hours)	Turnover Savings	2,624,000		2 Statewide Router Upgrades		160,000
(a) Total Potential One Time Savings		4,191,646		3 WiFi Access Points Upgrades		120,000
*** From TCE / AOC Budgets	Internal Operating Savings	-		4 FY 2022 Career Ladder Payments		243,000
Reserve Balance (from August Judicial Council meeting and changes)	Judicial Council Reserve	466,829		5 FY 2022 Performance Bonus Payments Q1/Q2		365,000
1 Proposed Reserve Spend to be discussed in Executive Session		(52,000)		6 Software for Clean Slate Legislation		19,667
(b) Reserve Balance if Reserve Spending Approved		414,829		7 My Case Account Creation Enhancements		130,000
Total Available Forecasted Funds for FY 2022 = (a) + (b)		4,606,475		8 For The Record Upgrade	187,000	
Uses of YE 2022 Funds				9 Supplemental Secondary Language Stipend	5,200	
(c) Maximum Carryforward into FY 2023	Desired Carryforward	(2,500,000)				
Total Potential One Time Savings + Reserve Balance (a) + (b) + (c) for use in FY 2022 YE Spending		\$ 2,106,475		Current Month One-time Spending Requests	192,200	
				Previously Approved 1x FY 2022 YE Spending Requests		1,077,148
Less: Judicial Council Requests Previously Approved		\$ (1,077,148)				
Less: Judicial Council Current Month Spending Requests		(192,200)				
Remaining Available for YE 2021 Requests		\$ 837,127				

Updated 12/03/2021

- * Actual turnover savings as calculated on a pay period basis through 10/15/2021. Data can be found in the Budget Summary Excel workbook on the Personnel tab.
- ** Actual per hour turnover savings for the last 4 pay periods (oldest to newest) are \$1,924.36, \$1,764.39, \$1,800.32, and \$1,910.38. The average per hour turnover savings YTD is \$2,020.16. We are estimating an amount of \$2,000 per hour. As we get additional data, we will refine our estimates. These numbers do include expected ARPA reimbursements.
- *** Based on updated forecasts from budget managers (TCEs, AOC Directors, etc) to be received in January 2022.

8. FY 2022 YE Spending Request – IT– For The Record (FTR) Software Upgrade

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2022 are to be spent between July 1, 2021 and June 30, 2022; however current spending forecasts indicate the Courts will not fully expend our appropriations by June 30, 2022. This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these anticipated unspent funds for **one-time projects that could be delivered prior to June 30, 2022.**

Date: 12/1/2021

Department or District: Information Technology/District and Juvenile Courts

Requested by: Heidi Anderson, Shane Bahr, Neira Siaperas, Nick Stiles

Request title: Upgrade of FTR Software

Amount requested: \$ 187,000

One-time funds

Purpose of funding request:

All 167 District and Juvenile Courts use “For the Record” software as the official record of the court. This software is currently hosted on PCs in each courtroom. In its present “fat client” configuration, FTR does not interface with WebEx and as such all hearings must be downloaded from WebEx onto FTR which is a labor-intensive process. Further, the server costs to store the data (with redundancy) with our fat client configuration are substantial. If we choose not to switch to cloud-based storage and we will need to purchase \$123,000 of additional FTR server space within the next few months, and replace the servers every 5 years or so at an approximate cost of \$500,000. We would much rather re-purpose those dollars towards an FTR upgrade.

This request is to upgrade our FTR software to the cloud. Doing so accomplishes multiple objectives including:

- Court recordings go automatically from WebEx to the FTR cloud saving considerable JA time
- We can transfer all prior FTR recordings into the cloud, freeing up current server space and eliminating the need to purchase more server space for FTR in the future.
- Customers seeking court audio recordings can access the court recording they want by payment of a fee to the Courts and establishing an FTR account through which they will access the audio recordings on the FTR system that they have purchased. Those recordings stay accessible for the future. This eliminates the need for sending audio recordings via a thumb drive and reduces out of pocket postage and material costs.

Although this will be an on-going expense, to avoid the \$123,000 of 1x costs to purchase additional FTR server space later in FY 2022, we are seeking 1x funding for the balance of FY 2022 and the first ½ of FY 2023. We will make a further 1x request (approximately \$50,000) for the balance of FY 2023 in the next fiscal year. We will include the full ongoing funding of \$250,000 as part of the IT Judicial Priority request for FY 2024 and anticipate ongoing funding from the legislature effective 7.1.2023.

8. FY 2022 YE Spending Request – IT– For The Record (FTR) Software Upgrade

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

Heidi Anderson has negotiated down the FTR pricing and other offsets to costs have further reduced the incremental costs to the Courts for the current fiscal year, as follows:

Rack rate cost per month per courtroom		\$299 per month
Discount due to government contract		(\$50)
Discount due to multi-year contract		<u>(\$100)</u>
Ending Monthly cost per courtroom		\$149
Number of Courtrooms	x	167
Months in a year	x	<u>12</u>
Annualized cost per year		\$299,000 per year
Apply current FTR contract \$		(100,000)
Glacier contract reduction		(1,400)
Reduction in postage and supplies		<u>(10,000)</u>
Request to BFMC		<u>\$187,000</u> (effective date of new service Q3, 2022)

Further, the FTR cloud encompasses a system back up as part of the delivered functionality. This will alleviate the Court's need to purchase server space and/or new servers for storing courtroom audio.

Although this contract will be a 3-year contract, we will include the Court's standard clause in multi-year contracts allowing termination of the agreement upon 30 days written notice if funding becomes unavailable.

Alternative funding sources, if any:

None. This request is not ARPA eligible due to its overall ongoing nature.

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

If this is not funded at this time, we would need to keep using scarce Judicial Assistant time to continue the current processes and the Courts would still need to make a YE 2022 request for \$123,000 to purchase more server space to store FTR recordings.

9. FY 2022 YE Spending Request – Supplemental – Secondary Language Stipends

The Judicial Branch receives budget funds through the Legislative appropriations process. Funds appropriated for FY 2022 are to be spent between July 1, 2021 and June 30, 2022; however current spending forecasts indicate the Courts will not fully expend our appropriations by June 30, 2022. This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these anticipated unspent funds for **one-time projects that could be delivered prior to June 30, 2022.**

Date: 12/1/2021

Department or District: OFA - Interpreters

Requested by: Kara Mann

Request title: Supplemental – Secondary Language Stipends

Amount requested: \$5,200 _____

One-time funds

Purpose of funding request:

OFA has 64 slots for court employees who act as interpreters in non-court situations, such as assisting at the front counter or for conversations with court staff outside of proceedings. This is a very cost-effective use of our current court employees who use their language skills in the service of court patrons in situations for which a certified, registered or approved interpreter is not required. The Court's pay \$50 per pay period to our court interpreters or \$1,300 per year.

Because of a lack of second language capable candidates in our courts, historically, all 64 slots have not been filled. OFA typically spends only about 80% of the potential budget (\$1,300 x 64 = \$83,200 is the potential budget); we used the actual average expenditures of \$68,900 as this year's carryforward budget request (will fund approx. 53 interpreters).

In FY 2022 YTD, we are running at our historical averages and have several qualified court employees who want to serve as interpreters and needs in those districts that these additional personnel could meet. OFA requests that 1x FY 2022 funds be used to fund 4 additional court interpreter positions through the balance of FY 2022. This would take our positions available to be filled to 57 of the 64 total. The cost of the 4 additional positions would be 4 x \$1,300 = \$5,200.

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

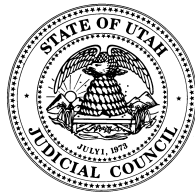
See above.

Alternative funding sources, if any:

None

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

If this request is not funded, interpretation services to court patrons could decline as fewer qualified interpreters are available.



Administrative Office of the Courts

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

December 10, 2021

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Budget & Fiscal Management Committee

FROM: Amy Hernandez

RE: UDVC's OVW Fiscal Year 2021 Rural Domestic Violence, Dating Violence, Sexual Assault and Stalking Program Solicitation (\$233, 350 subrecipient award)

Earlier this year the Utah Domestic Violence Coalition (UDVC) approached the Domestic Violence Program (DVP) with an opportunity to collaborate on a grant application which the Judicial Council approved entering into a Memorandum of Understanding in March 2021 (Exhibit B). That grant application was funded effective October 1, 2021. In the grant application, UDVC and the DVP outlined a three-year plan to resolve two issues that compromise safety and access to justice within the courts. The first issue highlights the courts' rate of compliance with the National Crime Information Center's (NCIC) protective order data requirements. Currently, I receive a report from the Department of Public Safety detailing how many protective orders fail to submit to NCIC each month and why those submissions failed. Approximately 12% of protective orders issued each month have data errors (around 540 of 4500 protective orders) and fail to successfully transmit to NCIC.

As a result, individuals who should be prohibited from purchasing firearms according to federal law, are able to purchase firearms. This issue presents a significant safety risk to the community and the courts could be held liable for failing to comply with NCIC requirements. Recently, U.S. District Judge Xavier Rodriguez ruled that the U.S. Air Force was 60% responsible for the 2017 First Baptist Church mass shooting in Texas (Frazier, 2021). Due to a previous domestic violence conviction, Devin Kelley (shooter) should have been a restricted individual and unable to purchase firearms. Unfortunately, the U.S. Air Force failed to transmit the required data about Kelley to NCIC and Kelley was able to purchase a firearm to commit the mass shooting. Judge Rodriguez wrote that "... the evidence shows that—had the Government done its job and properly reported Kelley's information into the background check system—it is more likely than not that Kelley would have been deterred from carrying out the Church shooting."

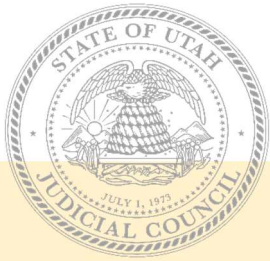
**The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.**

Currently, the DVP does not have enough staff to address these needs. Dr. Daniel Levin (previous Protective Order Program Coordinator) was working on protective order issues, but he left the court's employment earlier this year. I have taken on this issue, but I don't have the capacity to address this issue alone successfully.

The second issue outlined in the grant proposal examines the lack of access to justice for Native American court patrons experiencing domestic violence. It is estimated that 39% of Native American women have experienced intimate partner violence during their lifetimes, significantly higher than domestic violence rates for women from different ethnicities and racial backgrounds (Futures without Violence, 2012). The National Institute of Justice estimates that approximately 90% of domestic violence incidents experienced by Native Americans were perpetrated by non-native partners (Rosay, 2016). As a result, the Utah Courts typically oversee domestic violence cases with non-native defendants and Native American victims. Despite the Utah Courts adjudicating over these cases, Native American court patrons report that they do not feel able to seek justice with the Utah Courts. Access to justice barriers may prevent Native American victims from seeking a protective order and other services from the state courts, increasing the risk of further domestic violence and possibly homicide.

To address these two issues, I am seeking the Budget and Fiscal Management Committee's (BFMC) and the Judicial Council's approval to accept the grant funding. If grant funding is approved, the DVP plans to hire a Tribal Outreach Program Coordinator (TOPC; time-limited, full-time employee) using these grant funds in concert with VAWA and CIP grant funds (VAWA/CIP to contribute a combined 25% with 75% funded by UDVC). The TOPC will be able to assist me with NCIC compliance and build relationships with the Native American Nations to assess access to justice barriers. By the end of the grant, the courts should be able to maintain NCIC compliance and the TOPC will have laid the foundation to improve access to justice for Native American court patrons. Due to the increased risk for Native Americans who cannot access justice (e.g. missing and murdered indigenous women), the DVP will seek to continue funding the TOPC position when this grant concludes by 1) requesting ongoing legislative funding, or 2) using VAWA and Court Improvement Program grant funds.

This grant will provide critical funding needed to address these two issues within the courts. I am grateful for the BFMC's consideration of my proposal to accept the grant funding. Please let me know if you have any questions or concerns; thank you.



Judicial Council
Grant Application Proposal (GAP)
for
FEDERAL FUNDS

<input type="checkbox"/> Primary Applicant <input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Urgent	
Date: 12/1/2021	
Contact Person:	Amy Hernandez
Phone:	(801) 578-3809
Judicial District or Location:	Administrative Office of the Courts
Project Title:	Office on Violence Against Women (OVW) Year 2021 Rural Domestic Violence, Dating Violence, Sexual Assault, and Stalking Program Solicitation
Grantor:	Utah Domestic Violence Coalition (UDVC)
Funding Amount:	\$233,350
Application Deadline:	N/A
Grant Type:	<input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment
Grant Tier: ¹	<input checked="" type="checkbox"/> 1-Low <input type="checkbox"/> 2-Medium <input type="checkbox"/> 3-High

CJA 3-411 (4)(E)

1. Explain (a) the issues to be addressed by this project and describe how the grant funds will contribute to their resolution; also describe (b) how the grant will assist the Utah Courts to solve problems and promote innovations that cannot be accomplished with existing resources:

This project addresses two issues in the courts: (1) compliance with NCIC protective order data requirements in rural courts (i.e. justice courts, district courts, and juvenile courts) and (2) access to justice in protective order cases for court patrons in rural areas and Native American court patrons. To address these issues, the Domestic Violence Program (DVP) plans to hire a Tribal Outreach Program Coordinator (TOPC; time-limited, full-time employee) to assist Amy Hernandez (Domestic Violence Program Coordinator).

If this grant funding is approved, the DVP will be able to audit protective order submissions from rural courts for compliance with the National Crime Information Center (NCIC). During these audits, the DVP will be able to assess compliance with NCIC data requirements and develop tailored trainings for each court to address areas of noncompliance. The DVP will also recommend policy and procedure changes to improve compliance with NCIC requirements based upon the audit data and court staff feedback.

To improve access to justice in protective order cases for pro se court patrons in rural areas and Native American court patrons, the DVP will administer a community needs assessments and analyze the data. Once the data illustrates what barriers prevent Native American court patrons and rural court patrons from accessing the courts, the DVP will work with court staff and community stakeholders to recommend policy changes that improve access to justice and case outcomes in protective order cases (e.g. increased procedural fairness, improved compliance rates, etc.).

1. Tier 1: Up to \$1M per year; and no new permanent full or part time employees; and no new state monies for match. **Tier 2:** Greater than \$1M but less than \$10M per year; or adds up to 11 permanent full or part time employees; or requires state to expend up to \$1M per year in new state monies as match. **Tier 3:** Greater than \$10M per year; or adds more than 11 permanent full or part time employees; or requires state to expend greater than \$1M per year in new state monies for match (*Accounting Manual §11-07.00 Exhibit A (I)(a-c) & UCA 63J-5-203, 63J-5-204(a-b)*)

CJA 3-411 (4)(E)

2. Describe (a) how this grant will support the mission of the Utah Courts to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law, and (b) how this grant provides measurable benefits to marginalized, minority, pro se, or similar underserved individuals or communities:

a). This grant project will support the mission of the Utah Courts by improving the protective order network's efficiency. Approximately 12% of protective orders issued each month have data errors (approximately 540 of 4500 protective orders) and fail to successfully transmit to NCIC. There are also reports that some courts are failing to submit orders on the Statewide Protective Order Network entirely and are out of compliance. If the grant funds are approved, the DVP will be able to work with rural courts and address what barriers prevent court staff from successfully submitting protective orders to NCIC. Compliance with NCIC data requirements ensures community safety by preventing restricted respondents or defendants in protective orders from purchasing firearms from licensed firearm vendors. Improved compliance will ensure the advancement of justice under the law.

b). This project also plans to address the needs of pro se court patrons in rural areas and Native American court patrons. With this funding, the DVP can develop and administer a community needs assessment to identify these patrons' access to justice needs, particularly for protective order cases. The assessment data will guide the DVP to develop policies and procedures that improve access to justice outcomes for these populations.

The assessment data is particularly critical for Native American court patrons. Research demonstrates that the majority of domestic violence cases on or near the Native American reservations is perpetrated by non-native offenders against Native American victims. Access to justice barriers may prevent a Native American victim from seeking a protective order from the state courts, increasing the risk of further domestic violence and possibly homicide. To provide culturally-informed interactions for this sensitive topic, the funding would pay for a portion of the TOPC position. The TOPC would develop and strengthen relationships with Utah's Native American Nations and seek their feedback on how to provide culturally-informed state court services. The TOPC would also assess future methods to share data with the Nations. If possible, the Utah Courts may be able to share data with the Nations to ensure the protective orders do not conflict when issued in both a state court and a tribal court. Data may also be shared to ensure offender treatment and compliance. Ultimately, this funding would lay the foundation to address the needs of Native American court patrons and enrich the Utah Courts' relationship with the Nations.

CJA 3-411 (4)(E)

3. Describe the court resources required to carry out the project in the post-award phase and subsequent to grant closeout once funds are expended:

Please refer to the resource impact assessment included in the attached materials.

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[UCA 637J-7-202](#)

4. Complete the following tables as applicable with estimated expenditures for up to three state fiscal years. If no matching contributions required complete only Table (C).

(A) Cash Match								
State Fiscal Year		Funds Disbursed	Matching State Dollars (Cash)					Totals
			General Fund	Dedicated Credits	Restricted Funds	Other (describe)	Maintenance of Effort	
FY	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FY	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FY	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
								\$ -

Provide details for each match:

N/A

(B) In-Kind Match								
State Fiscal Year		Funds Disbursed	Matching State Dollars (In-Kind)					Totals
			General Fund	Dedicated Credits	Restricted Funds	Other (describe)	Maintenance of Effort	
FY	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FY	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FY	N/A	N/A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
								\$ -

Provide details for each match:

N/A

(C) No Match								
State Fiscal Year		Funds Disbursed	Matching State Dollars (None)					Totals
			General Fund	Dedicated Credits	Restricted Funds	Other (describe)	Maintenance of Effort	
FY	2022	\$ 76,287.12						\$ 76,287.12
FY	2022	\$ 77,798.76						\$ 77,798.76
FY	2022	\$ 79,264.12						\$ 79,264.12
								\$ 233,350.00

Explain any special circumstances concerning the no matching requirement:

This funding is for the TOPC's personnel costs over the three years of the grant. This MOU agreement with UDVC does not require the state to provide any matching. In the previous MOU, the total budget was \$253,000. During the time between the application and the drafting of the final agreement, UDVC had some staff changes and asked if the DVP could complete the grant project with \$233,350. The DVP agreed and the funding for the travel budget was removed from the proposed budget. The VAWA grant will pay for travel costs for the TOPC's work.

CJA Rule 3-411 (4)(E)(vi)

5. Will additional state funding be required to maintain or continue this program or its infrastructure when the grant concludes?

☐ Yes ☒ No

Explain:

The VAWA grant and the Court Improvement Program grant (contributing a combined 25% to the TOPC position each year for the duration of the UDVC grant) will help support the cost of this position during the UDVC grant life, and after this grant concludes (assuming salary rates remain consistent and grant funding levels increase with inflation costs) the DVP will seek to continue supporting the position with VAWA/CIP grant funds, or ideally, through ongoing legislative funding to support the Utah Courts' relationship with the Native American Nations and facilitate communication with these groups. This position is needed to ensure fair and open access to justice for Native Americans interacting with the Utah Courts, particularly in cases involving domestic violence, sexual violence, and human-trafficking.

Will funds required to continue this program come from within your existing budget?

☒ Yes ☐ No

UCA 63J-7-203

6. How many additional **permanent** full or part-time FTEs are required for the grant project at peak levels of grant-funded employment? If none write "N/A."

Full-Time FTEs	NA
Part-Time FTEs	NA

7. How many additional **temporary** full or part-time FTEs are required for the grant project at peak levels of grant-funded employment? If none write "N/A."

Full-Time FTEs	1
Part-Time FTEs	NA

Accounting Manual 11-07.00 (2)(C)(iii-v)

Applicant Checklist & Acknowledgment

1. General Counsel has reviewed and approved the terms and conditions of the application.

☒ Yes
☐ N/A

If N/A, explain:

2. Court IT has approved all technology, software, and services included in the budget.

☒ Yes
☐ N/A

If N/A, explain:

3. Court Purchasing has approved all vendors included in the budget.

☐ Yes
☒ N/A

If N/A, explain: No vendors are included in the budget

Applicant Initials

AH

Date

12/1/2021

This Section Completed by AOC Grant Coordinator

This proposal has been reviewed and approved by the following (check as applicable):

- [CJA Rule 3-411 \(4\)\(A\)](#)
- | | |
|---|--|
| <input type="checkbox"/> Trial Court Executives | <input checked="" type="checkbox"/> Grant Coordinator |
| <input checked="" type="checkbox"/> Court-level Administrator | <input checked="" type="checkbox"/> Director of Finance |
| <input checked="" type="checkbox"/> Board of Judges in affected
Districts (list): Justice,
Juvenile, & District | <input checked="" type="checkbox"/> Budget & Fiscal Management Committee |
| <input type="checkbox"/> Court committees (list): | |

OR

- [CJA Rule 3-105](#)
- ☐ Utah Supreme Court

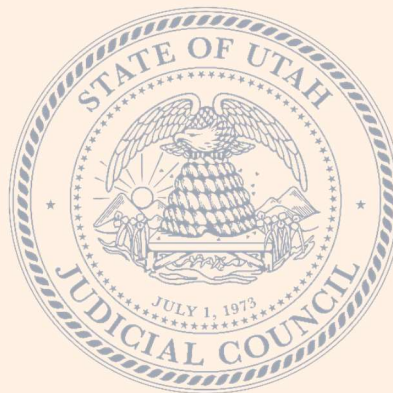
Approved by the Judicial Council:

Date

Certified by

State Court Administrator

Signature



AOC COLLABORATIVE IMPACT ASSESSMENT

Grantor: Utah Domestic Violence Coalition (UDVC)
Supporting: Courts Domestic Violence Program (DVP)

Recommendation. Consistent with findings of the preliminary assessment completed in March 2021, no incremental costs or resource needs are identified by implicated court unit personnel nor by the grant coordinator.

Summary

A preliminary collaborative impact assessment was completed in March 2021 for this project. The assessment conducted by affected parties in March 2021 concluded that current staffing levels were adequate to support the project and no need for additional resources nor incremental costs were anticipated.

Following the formal award issued to UDVC and subsequent subrecipient agreement (MOU – Exhibit A) delivered to AOC in November 2021, the previously completed resource impact assessment and formal MOU were reassessed by affected parties. The Judicial Institute will continue to provide support with scheduling classes, advertising training opportunities, hosting webinars, and conference support. The IT Help Desk will respond to questions for the Protective Order Network (PON) through the standard Help Desk ticket process; General Counsel will provide ongoing legal review of program materials and documents, as well as administer trainings. Court Services, now subsumed under IT, will assist with facilitating the Protective Order network, continue to complete quarterly data reports, and will reasonably accommodate ad-hoc reports as requested by the Protective Order Program.

IMPACT	FINDINGS
<p>1 Incremental Costs</p> <p>i Defined as new costs 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. Encompasses whether incremental costs persist after grant resources are expended.</p>	<p>No incremental costs or resource needs were identified by affected parties nor grant coordinator consistent with the conclusion reached following the preliminary resource impact assessment completed March 2021.</p>
<p>2 Incremental Capacity</p> <p>i Defined as suitability of current staffing levels to support additional work or output generated by grant.</p>	<p>Current staffing levels are sufficient to support the project, consistent with conclusion reached in March 2021.</p>
<p>3 Cash Match</p>	<p>No cash match required.</p>
<p>4 In-Kind Match</p>	<p>No in-kind match required.</p>

5 Court Unit & Scope of Anticipated Project Contribution	<p>a. The Judicial Institute (Lauren Andersen) (1) Schedules classes and advertises trainings; (2) conference support; (3) hosting webinars. Reconfirmed 12/3/21</p> <p>b. Information Technology (Heidi Anderson/Brody Arishita) (1) Any questions to the PON that require attention will be submitted as a ticket to the IT help desk; (2) except for changes that impact the Juvenile Courts, new features or changes to the PON application that did not receive legislative funding will need to be agreed upon by the other agencies that share the PON and prioritized before work starts; (3) funding for the work will need to be arranged through a grant or other one-time funding sources; (4) for Juvenile Court changes, the Juvenile Courts will prioritize and pay for the work through CIP funds; (5) IT owns the data and requests for data are directed to Paul Barron; (6) other than as noted above IT does not assign personnel to the priorities funded by PON Program grants. Reconfirmed 12/2/21</p> <p>c. Information Technology-Data (Clayson Quigley/Paul Barron) (1) Provide quarterly data reports; and (2) ad-hoc data reports; (3) facilitate Protective Order network duties. Reconfirmed 12/2/21</p> <p>d. General Counsel (Brent Johnson/Keisa Williams) (1) Counsel attends and presents at trainings; (2) reviews legal aspects of program materials and documents; (3) provides ongoing general legal counsel for the program. Reconfirmed 12/3/21</p>
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Utah Domestic Violence Coalition

Advocate • Collaborate • Educate

124 S 400 E, Suite 430 • Salt Lake City, Utah 84111 • (801) 521-5544

CFDA# 16.589: OVW Fiscal Year 2021 Rural Domestic Violence, Dating Violence, Sexual Assault and Stalking Program Solicitation

Award Name: Safety, Empowerment, and Opportunity for Survivors: Building safety through access to resources and legal pathways; strengthening well-being through empowerment and opportunity.

AwardNumber: 15JOVW-21-GG-0082-RURA

Award Start Date: 10/01/2021 Award End Date: 09/30/2024

Agreement Between Utah Domestic Violence Coalition (UDVC) & The Administrative Office of the Utah Courts (AOC)

This Agreement is entered into by and between the Utah Domestic Violence Coalition, 124 South 400 East, Suite 430, Salt Lake City, UT 84111, hereinafter referred to as UDVC and The Administrative Office of the Utah Courts, herein referred to as the Grantee, Contractor, or AOC.

I. Purpose

a. The purpose of this agreement is to:

- i. Establish a sustainable framework for the transmission of protective orders from rural areas to the National Crime Information Center (NCIC); and
- ii. Expand access to protective orders for victims of domestic violence, dating violence, sexual assault, and stalking.
- iii. Services will include those outlined in Attachment A, Scope of Work.

II. Period of Performance

- a. This agreement shall be effective 10/01/2021 through 09/30/2024. Work under this agreement may be performed any time on or after 10/01/2021. This agreement shall remain in effect unless terminated sooner in accordance with the terms and conditions herein.

III. Contract Costs

- a. AOC shall be paid for services rendered (up to \$233,350) as indicated in Attachment B (Project Budget).
- b. All expenditures and activities must be in accordance with federal guidelines and with all attachments herein and must occur within the grant period. Contract costs will be fulfilled on a reimbursement basis. Monthly invoices must be submitted, along with adequate backup documentation, by 15 days following the end of the billing month. Grantee will submit invoices to:

Utah Domestic Violence Coalition
Attn: Kathy Park
124 S 400 E, Suite 430
SLC, UT 84111

Or by email to Kathy Park at kpark@udvc.org.

- c. AOC enters into this agreement as, and shall continue to be, an independent contractor. All services shall be performed only by Grantee and its employees. Under no circumstances shall AOC, or any of its employees, look to UDVC as his/her employer, or as a partner, agent or principal.
- d. Funds will be paid to Grantee when the funds are paid by the Office on Violence Against Women (OVW) to UDVC. If funds are not promptly paid to UDVC by OVW, UDVC cannot pay AOC and this Agreement will not be interpreted to create any obligation on the part of UDVC to reimburse AOC for any expenses incurred for which OVW refuses to pay.

IV. Termination

- a. Termination for cause: This agreement may be terminated, with cause by either party, in advance of the specified termination date upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the agreement may be terminated for cause.
- b. Immediate termination: If AOC creates or is likely to create a risk of harm to the clients served under this agreement, UDVC may terminate this agreement immediately by notifying AOC in writing. UDVC may also terminate this agreement immediately for fraud, misrepresentation, misappropriation, and/or mismanagement as determined by UDVC.
- c. No-cause termination: This agreement may be terminated without cause, in advance of the specified date, by either party, upon thirty (30) days prior written notice being given to the other party.

V. Terms of Agreement and Indemnification

- a. This agreement is contingent upon the fulfillment of both parties' responsibilities. Failure to uphold any part of the agreement will result in the requirement of AOC to return the funds disbursed in full to UDVC immediately.
- b. AOC hereby indemnifies and holds UDVC harmless from, any claims, losses, costs, fees, liabilities, damages or injuries and demands whatsoever arising out of AOC's failure with respect to its obligations.

VI. Miscellaneous

- a. AOC agrees to comply with all applicable laws and regulations related to this award and the execution of this agreement.
- b. By signing below, the following officials acknowledge that they understand and agree to all of the terms and responsibilities set forth herein and cause this agreement to be executed.


 Christopher Davies
 Director of Finance & Operations
 Utah Domestic Violence Coalition

Date: October 1, 2021

 Ronald B. Gordon, Jr
 Utah State Court Administrator
 Administrative Office of the Utah Courts

Date: October 1, 2021

Attachment A

**SCOPE OF WORK for Agreement Between Utah Domestic Violence Coalition (UDVC)
& The Administrative Office of the Utah Courts (AOC)**

Program Name: Safety, Empowerment, and Opportunity for Survivors: Building safety through access to resources and legal pathways; strengthening well-being through empowerment and opportunity.

Funding Source: Office on Violence Against Women (OVW), **Award Number:** 15JOVW-21-GG-0082-RURA

Project Period: October 1, 2021 – September 30, 2024.

Project Summary: The Utah Domestic Violence Coalition (UDVC) and The Administrative Office of the Utah Courts (AOC) will collaborate to

- (1) develop a community assessment for Utah's Native American Nations to determine the barriers that may exist for the Nations to submit Protective Orders (POs) to the National Crime Information Center (NCIC) and/or register POs with the Utah Domestic Violence Network (statewide database system);
- (2) develop a plan of action to address these barriers;
- (3) develop and administer trainings about criminal and civil protective order information requirements to prosecutors and victim advocates in rural counties;
- (4) train court staff and judicial officers in rural districts about domestic violence, sexual violence, dating violence, stalking, and protective orders;
- (5) encourage the use of informed practices regarding criminal protective orders among prosecutors;
- (6) train prosecutors to utilize the criminal protective order templates in the prosecutors' case management software to ensure proper data collection for NCIC;
- (7) complete an initial assessment of the protective order submission error rate in the targeted rural counties (i.e. incorrect or incomplete data submitted to NCIC causing the protective order to be sent back to the courts for more information) and share the initial error rate data with UDVC;
- (8) recommend policy and rule changes for the Utah Courts to support the correct collection of information from protective orders for NCIC.

The project is based in Salt Lake City, Utah but will target rural areas throughout the entire state of Utah that include these counties: Carbon, Daggett, Duchesne, Emery, Grand, Millard, Piute, San Juan, Sevier, Uintah, and Washington.

Under this project (Safety, Empowerment, and Opportunity for Survivors: Building safety through access to resources and legal pathways; strengthening well-being through empowerment and opportunity), UDVC and AOC agree as follows:

UDVC will complete the following roles and responsibilities:

- (1) in collaboration with the AOC, develop a community needs assessment for Utah's Native American Nations to determine what barriers exist for the Nations to submit protective orders to NCIC and/or register protective orders with the Utah Domestic Violence Network (statewide system);
- (2) use their contacts with Utah's Native American Nations to administer the community needs assessment (with help from the AOC if the Nations permit);
- (3) in collaboration with the AOC, compile and analyze the data from the community needs assessment;
- (4) in collaboration with the AOC, develop a plan of action to address these barriers within the Native American Nations;
- (5) in collaboration with the AOC, develop and administer trainings about criminal and civil protective order information requirements to prosecutors and victim advocates in rural counties;
- (6) participate in training events hosted by the AOC which train court staff and judicial officers in rural districts about domestic violence, sexual violence, dating violence, stalking, and protective orders;
- (7) encourage the use of informed practices regarding criminal protective orders among prosecutors;

- (8) in collaboration with the AOC, train prosecutors to utilize the criminal protective order templates in the prosecutors' case management software to ensure proper data collection for NCIC; and
- (9) provide resources and safety-planning resources to rural victims of domestic violence, sexual violence, dating violence, and stalking through UDVC's LINKline.

The Domestic Violence Program in the AOC will complete the following roles and responsibilities:

- (1) in collaboration with UDVC, develop a community needs assessment for Utah's Native American Nations to determine what barriers exist for the Nations to submit protective orders to NCIC and/or register protective orders with the Utah Domestic Violence Network (statewide system);
- (2) in collaboration with UDVC, compile and analyze the data from the community needs assessment;
- (3) in collaboration with UDVC, develop a plan of action to address these barriers within the Native American Nations;
- (4) provide information about protective orders and NCIC data requirements to UDVC;
- (5) in collaboration with UDVC, develop and administer trainings about criminal and civil protective order information requirements to prosecutors and victim advocates in rural counties;
- (6) in collaboration with UDVC, train prosecutors to utilize the criminal protective order templates in case management software to ensure proper data collection for NCIC;
- (7) complete an initial assessment of the protective order submission error rate in the targeted rural counties (i.e. incorrect or incomplete data submitted to NCIC causing the protective order to be sent back to the courts for more information) and share the initial error rate data with UDVC;
- (8) conduct monthly protective order data audits to identify problems and improvements in rural locations;
- (9) provide monthly updates to UDVC about the protective order data audits and what problems and improvements were identified;
- (10) complete a final assessment of the protective order submission error rate in the targeted rural counties at the end of the project and share the results with UDVC;
- (11) train court staff and judicial officers in the targeted rural counties about protective order requirements and best practices;
- (12) train court staff and judicial officers in the targeted rural counties about domestic violence, sexual violence, dating violence, and stalking; and
- (13) recommend policy and rule changes for the Utah Courts to support the correct collection of information from protective orders for NCIC.
- (14) Adhere to the approved budget set forth in Attachment B

UDVC will contribute the following resources to the project:

- (1) general staff-time and support from their Education Team and supervisory staff; and
- (2) office space, a phone, laptop, and office supplies for grant-funded staff.

The AOC will contribute the following resources to the project:

- (1) general staff-time and support from the Judicial Institute Team, the General Counsel Team, the Court Data Services Team, and Information Technologies Team; and
- (2) office space, a phone, laptop, and office supplies for the Tribal Liaison position.

Selina Gorst (UDVC) and Amy Hernandez (AOC) are the representatives of the planning and development team who will be responsible for planning, developing, and implementing project activities. The representatives will have quarterly meetings to review project outcomes together and share data. During these quarterly meetings, they will also complete the grant responsibilities which require collaboration.

This project should fix many of the issues in rural locations regarding transmitting protective order information to the NCIC. This grant funding will set up the framework for fixing protective order issues. Once the framework is completed, it will require very little work on the part of both agencies to sustain this project. The AOC and UDVC are deeply committed to achieving the project goals and sustaining the correct transmission of protective order information to

NCIC. Once formal training materials are completed from this project, the Domestic Violence Program will recommend policy and rule changes to sustain a low error rate for protective order information. The Domestic Violence Program will also continue to work with UDVC to assist Utah's Native American Nations with their protective order work. The Utah Domestic Violence Coalition will provide improved access to protective orders and will increase education for community-based victim services on protective orders to victims of domestic violence, dating violence, sexual assault, and stalking by:

- (1) participating in training events hosted by the AOC which train court staff and judicial officers in rural districts about domestic violence, sexual violence, dating violence, stalking, and protective orders;
- (2) encouraging the use of informed practices regarding criminal protective orders among prosecutors; and
- (3) providing resources and safety-planning resources to rural victims of domestic violence, sexual violence, dating violence, and stalking through UDVC's LINKline.

The Administrative Office of the Courts will provide improved access to protective orders for victims of domestic violence, dating violence, sexual assault, and stalking by:

- (1) providing information about protective orders and NCIC data requirements to UDVC;
- (2) completing an initial assessment of the protective order submission error rate in the targeted rural counties (i.e. incorrect or incomplete data submitted to NCIC causing the protective order to be sent back to the courts for more information) and sharing the initial error rate data with UDVC;
- (3) conducting monthly protective order data audits to identify problems and improvements in rural locations;
- (4) providing monthly updates to UDVC about the protective order data audits and what problems and improvements were identified;
- (5) completing a final assessment of the protective order submission error rate in the targeted rural counties at the end of the project and sharing the results with UDVC;
- (6) training court staff and judicial officers in the targeted rural counties about protective order requirements and best practices;
- (7) training court staff and judicial officers in the targeted rural counties about domestic violence, sexual violence, dating violence, and stalking; and
- (8) recommending policy and rule changes for the Utah Courts to support the correct collection of information from protective orders for NCIC.

The Utah Domestic Violence Coalition and the Administrative Office of the Courts will collaborate in the following manner by:

- (1) developing a community needs assessment for Utah's Native American Nations to determine what barriers exist for the Nations to submit protective orders to NCIC and/or register protective orders with the Utah Domestic Violence Network (statewide system);
- (2) compiling and analyzing the data from the community needs assessment;
- (3) developing a plan of action to address these barriers within the Native American Nations;
- (4) developing and administering trainings about criminal and civil protective order information requirements to prosecutors, victim advocates, court staff and judicial officers in rural counties; and
- (5) training prosecutors to utilize the criminal protective order templates in case management software to ensure proper data collection for NCIC.

Timeline:

Responsibilities under this Scope of Work would coincide with the grant period, anticipated to be 10/01/2021 through 09/30/2024.

Commitment to Partnership:

- (1) The collaboration service area includes Uintah County, Duchesne County, Daggett County, Emery County, Carbon County, Grand County, San Juan County, Washington County, Sevier County, Wayne County, and Piute County in the state of Utah.

- (2) The partners agree to collaborate and provide improved access to protective orders to victims of domestic violence, dating violence, sexual violence, and stalking pursuant to the program narrative of the grant application attached to this agreement.
- (3) Check in with UDVC project team via call or meeting a minimum of one (1) time per quarter for the duration of the grant to ensure the project is on target for all grant deliverables.
- (4) Compile and deliver quarterly reports to UDVC for the following periods:
 - a. October 1, 2021 - December 31, 2021, report due to UDVC by January 15, 2022
 - b. January 1, 2022 - March 31, 2022, report due to UDVC by April 15, 2022
 - c. April 1, 2022 - June 30, 2022, report due to UDVC by July 15, 2022
 - d. July 1, 2022 - September 30, 2022, report due to UDVC October 15, 2022

 - e. October 1, 2022 - December 31, 2022, report due to UDVC by January 15, 2023
 - f. January 1, 2023 - March 31, 2023, report due to UDVC by April 15, 2023
 - g. April 1, 2023 - June 30, 2023, report due to UDVC by July 15, 2023
 - h. July 1, 2023 - September 30, 2023, report due to UDVC October 15, 2023

 - i. October 1, 2023 - December 31, 2023, report due to UDVC by January 15, 2024
 - j. January 1, 2024 - March 31, 2024, report due to UDVC by April 15, 2024
 - k. April 1, 2024 - June 30, 2024, report due to UDVC by July 15, 2024
 - l. July 1, 2024 - September 30, 2024, report due to UDVC October 15, 2024

Attachment B

**PROJECT BUDGET for Agreement Between Utah Domestic Violence Coalition (UDVC)
& The Administrative Office of the Utah Courts (AOC)**

Description	% of Budget	Unit Cost	# Units	Notes	Total Cost
Subaward: Administrative Office of the Courts (AOC)					
AOC Tribal Liaison Year 1	0.75	\$48.90	2080	1560 hrs @ \$48.90/hr x 1 year)	\$76,287.12
AOC Tribal Liaison Year 2	0.75	\$49.87	2080	1560 hrs @ \$49.87/hr x 1 year)	\$77,798.76
AOC Tribal Liaison Year 3	0.75	\$50.81	2080	1560 hrs @ \$50.81/hr x 1 year)	\$79,264.12
1 Virtual Training x 3 Years	1.00	\$0.00	3	1 Virtual Training / Yr x 3 Years	\$0.00
2 Nts Lodging x 3 Years (covered by AOC)	1.00	\$100.00	0	Lodging to support 3 Trainings	\$0.00
2.5 Days Per Diem x 3 Years (covered by AOC)	1.00	\$55.00	0	PerDiem to support 3 Trainings	\$0.00
Mileage SLC - St George Year 1 (covered by AOC)	1.00	\$0.56	0	Mileage to support St George Training	\$0.00
Mileage SLC - Blanding Year 2 (covered by AOC)	1.00	\$0.56	0	Mileage to support Blanding Training	\$0.00
Mileage SLC - St George Year 3 (covered by AOC)	1.00	\$0.56	0	Mileage to support St George Training	\$0.00
TOTAL AOC COST YEARS 1-3 (10/1/21-9/30/24)					\$233,350.00

FY 2021- Request to Enter MOU with Utah Domestic Violence Coalition – Future Potential Subrecipient

The Utah Domestic Violence Coalition (“UDVC”) is seeking to partner with the Administrative Office of the Courts’ Domestic Violence Program on a project involving protective orders in rural districts. UDVC is planning to apply for a grant to facilitate this project and would like to include a formal non-binding Memorandum of Understanding (“MOU”)¹ detailing the project and our potential partnership with UDVC who will submit the grant application (see attached draft MOU). The final grant application which will include the completed MOU is due Friday March 12th at 11:59 pm) to the federal Office of Violence Against Women (“OVW”). The MOU provides for future funding of the Protective Order Program Coordinator contract position (Dr. Daniel Levin) in the Domestic Violence Program.

Requested by: Amy Hernandez (Domestic Violence Program Coordinator)

Date: March 10, 2021

Grantee: Administrative Office of the Courts’ Domestic Violence Program

Grantor: The Utah Domestic Violence Coalition (UDVC)

MOU Potential Award Amount: \$253,000

Total Amount of Grant Issued to UDVC: \$750,000

Courts matching: None

Employees to be Hired: None

Grant reporting: Handled by Court’s Domestic Violence Program Coordinator and Grants Coordinator

Grant dates: 10/1/2021 – 9/30/2024

Moratorium Exemption Category: Existing Grant Program – New Funding Source

Impact to AOC Groups: See separate analysis

Request title: MOU with the Utah Domestic Violence Coalition—Seeking approval to enter into an MOU with UDVC which includes a budget for the Court’s Domestic Violence Program of \$253,000 for three years (see below). The source of UDVC’s funding is the Office of Violence Against Women (“OVW”) Rural Domestic Violence, Dating Violence, Sexual Assault, and Stalking Program grant (due March 12 at 11:59 pm).

Background: The Court’s Domestic Violence Program is an ongoing grant-funded project. The current grant provider is the Utah Office for Victims of Crime (“UOVC”) and this grantor has funded this initiative, which included the salary and benefits of Dr. Daniel Levin, in the amount of \$51,895 from 06/01/2020 to 12/31/2020. The grantor has continued to fund the Domestic Violence Program, but did not have enough funding for both the Domestic Violence Program Coordinator Amy Hernandez and Dr. Levin.

To support the Domestic Violence Program in the interim between grants, the Judicial Council approved in September 2020 the use of \$50,000 in carryforward funding for Dr. Levin’s work from 1/1/2021 to 6/30/2021. This money is also used as a source of cash-match for the Domestic Violence Program (UOVC

¹ The MOU is not considered a binding document. The funding from UDVC is contingent upon their receipt of grant funds from OVW. If approved by OVW, UDVC will submit a sub-recipient award agreement to the Courts. The sub-recipient award agreement (“SRA”) would then be the binding agreement between UDVC and the Courts. The SRA will be reviewed by Courts Legal and then circulated to the Judicial Council for final approval before accepting award funds.

FY 2021- Request to Enter MOU with Utah Domestic Violence Coalition – Future Potential Subrecipient

grant). If the MOU is approved to support the Domestic Violence Program and the grant is funded, UDVC will fund Dr. Levin's position from 10/1/2021 to 9/31/2024 (total: \$253,000).

Nancy Sylvester has reviewed the MOU to ensure it does not contain any requirements inconsistent with the above. We will send the final draft of the MOU to BFMC for approval and then to Judicial Council for final approval before turning the MOU over to the State Court Administrator and UDVC for signing and grant application submission.

Proposed Utilization of Grant Funds:

1. Salary and benefit costs for the Protective Order Program Coordinator position for 36 months: \$249,000

Purpose: This request is to fund the Protective Order Program Coordinator position (Dr. Daniel Levin) for up to three years (\$211,000 for salary costs and \$38,000 for benefit costs). Under the MOU, Dr. Levin would have responsibilities that include:

- working with prosecutors and victim advocates to alert them to criminal protective order data requirements determined by state and federal statute,
- working with community partners to address policy gaps regarding protective orders in the justice system,
- developing and conducting protective order trainings for court staff and judicial officers in rural districts about policies and rules surrounding protective orders,
- developing training materials (e.g. protective order training manual) in cooperation with the Judicial Institute Team which:
 - details court policies and rules for protective order case management,
 - clarifies protective order case processes (with Clerks of Court), and
 - researches and shares best practices for court staff interacting with court patrons filing protective order case filings, and
- working with Utah's Native American Nations to register foreign protective orders and to correctly submit data to the National Crime Information Center.

2. Travel costs for training conducted by the Protective Order Program Coordinator for 36 months: \$4,000

Purpose: This request will fund protective order training travel costs to courts in the 5th, 6th, 7th, and 8th judicial districts. The Protective Order Program Coordinator will be training court staff and judicial officers in the juvenile, district, and justice courts across rural areas. To facilitate these trainings, the travel costs will include mileage costs.

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

Dr. Levin has been instrumental in fixing policy gaps surrounding protective orders. He has conducted time-intensive and critical research inside the courts and with community partners to inform policy decisions about protective orders, firearm restrictions, expungement requirements, and more. As a result of this research, Dr. Levin has been tasked by the Forms Committee to develop criminal protective order forms in the justice, district, and juvenile courts. Dr. Levin has also completed frequent audits on the protective order network to ascertain where data entry problems were occurring. He then has

FY 2021- Request to Enter MOU with Utah Domestic Violence Coalition – Future Potential Subrecipient

worked with these locations to train staff to fix procedures that ended in a protective order data entry error. Finally, he has been working on the reforms to the Courts' Protective Order Network as tasked by the Judicial Council in the carry-forward funding request. Through his work, Dr. Levin has fixed thousands of protective order data entry issues that UCJIS had kicked back to the courts to fix. By fixing these errors, Dr. Levin improved the efficiency of the justice system and increased safety for Utah's residents.

If this grant is not funded at this time, the Domestic Violence Program will continue to work on these issues. However, the workload required to complete the protective order forms, audit the protective order data entries, and Dr. Levin's other duties will be onerous in addition to my other duties as the Domestic Violence Program Coordinator. I am only funded for twenty hours a week for the Domestic Violence Program. Dr. Levin's duties could only be completed in a piecemeal fashion which would reduce the efficiency of the system and how quickly the AOC responds to court concerns and community partner concerns about protective orders. This slower response could impact trust and confidence in the Courts as a whole.

FY 2021- Request to Enter MOU with Utah Domestic Violence Coalition – Future Potential

AOC RESOURCE IMPACT ASSESSMENT

Re: Memorandum of Understanding (MOU) with the Utah Domestic Violence Coalition (UDVC)

Date: 3/11/2021

Participating Parties

Heidi Anderson (Chief Information Officer)
 Lauren Andersen (Judicial Institute Director)
 Amy Hernandez (Domestic Violence Program Coordinator)
 Brent Johnson (General Counsel)
 Jordan Murray (Grants Coordinator)
 Clayson Quigley (Court Services Director)
 Karl Sweeney (Finance Director)

RECOMMENDATION: With input from key AOC stakeholders, this assessment anticipates and concludes there will be **ordinary course-of-business impacts** to AOC resources should this funding be awarded. We believe AOC resources are adequate to approve this request.

SUMMARY: All parties listed in this AOC Resource Impact Assessment have reviewed the anticipated scope of work for their respective departments. The Judicial Institute will continue to provide support with scheduling classes, advertising training opportunities, hosting webinars, and conference support. The Information Technology (IT) Help Desk will respond to questions for the Protective Order System (POS) through the standard Help Desk ticket process; additional conditions for IT involvement are described in Section 1b below. General Counsel will provide ongoing legal review of program materials and documents, as well as administer trainings. Court Services will assist with facilitating the Protective Order network, continue to complete quarterly data reports, and will reasonably accommodate ad-hoc reports as requested by the Protective Order Program.

The work to be completed by the Protective Order Program Coordinator does not represent a significant departure from efforts that are already underway. Continuing these efforts with additional funding should not introduce resource constraints to affected departments.

Under the MOU, Dr. Levin's responsibilities would include:

- working with prosecutors and victim advocates to alert them to criminal protective order data requirements determined by state and federal statute,
- working with community partners to address protective order policy gaps in the justice system,
- developing and conducting protective order trainings for court staff and judicial officers in rural districts about policies and rules surrounding protective orders,
- developing training materials (e.g. protective order training manual) in cooperation with the Judicial Institute Team which:
 - details court policies and rules for protective order case management,
 - clarifies protective order case processes (with Clerks of Court), and
 - researches and shares best practices for court staff interacting with court patrons filing protective order case filings, and
- working with Utah's Native American Nations to register foreign protective orders and to correctly submit data to the National Crime Information Center.

FY 2021- Request to Enter MOU with Utah Domestic Violence Coalition – Future Potential**1. AFFECTED DEPARTMENTS & ANTICIPATED SCOPE OF WORK*****a. Judicial Institute***

- i. Schedules classes and advertises trainings
- ii. Conference support
- iii. Hosting webinars

b. Information Technology

- i. Any questions to the Protective Order System that require attention will be submitted as a ticket to the IT help desk
- ii. Except for changes that impact the Juvenile Courts, new features or changes to the POS application that did not receive legislative funding will need to be agreed upon by the other agencies that share the POS and prioritized before work starts. Further, funding for the work will need to be arranged through a grant or other 1x funding sources
- iii. For Juvenile Court changes, Neira and her core team will prioritize and pay for the work through CIP funds
- iv. Court Services owns the data, requests for data are directed to Court Services (see Section d below)
- v. Other than as noted above, IT does not assign personnel to the priorities funded by the Court Protective Services grant

c. General Counsel

- i. Counsel attends and presents at trainings
- ii. Reviews legal aspects of program materials and documents
- iii. Provides ongoing general legal counsel for the program

d. Court Services

- i. Quarterly data reports
- ii. Ad-hoc data reports (see Section 1b-iv above)
- iii. Facilitate Protective Order network duties

Memorandum of Understanding

WHEREAS, the Utah Domestic Violence Coalition and the Administrative Office of the Courts have come together to collaborate and to make an application for the OVW Rural Domestic Violence, Dating Violence, Sexual Assault, and Stalking Program grant; and

WHEREAS, the partners listed below have agreed to enter into a collaborative agreement in which the Utah Domestic Violence Coalition will be the lead agency and named applicant and the other agency will be a partner in this application; and

WHEREAS, the partners herein desire to enter into a Memorandum of Understanding setting forth the services to be provided by the collaborative; and

WHEREAS, the application prepared and approved by the collaborative through its partners is to be submitted to the Office on Violence Against Women on or before March 16, 2021;

I. Description of Partner Agencies

The Utah Domestic Violence Coalition (UDVC): UDVC was founded in 1978 by the Utah Division of Child and Family Services (DCFS). It was initially formed as a community forum to start the necessary dialogue about domestic violence in the state of Utah. UDVC incorporated in 1993 and, in 1994, UDVC became independent of DCFS. UDVC was designated as a 501(c)3 not-for-profit organization in 1998. In 2013, UDVC adopted a new set of bylaws and transitioned from a council to a coalition. UDVC is recognized nationally as the State domestic violence coalition in Utah.

The Administrative Office of the Utah Courts (AOC): For the past ten years, the AOC has implemented a Domestic Violence Program which oversees training, policy, and the Courts' coordinated community response to domestic violence, sexual violence, dating violence, and stalking. The Domestic Violence Program works on a state and national level to improve court services for individuals experiencing domestic violence, sexual violence, dating violence, or stalking.

II. History of Relationship

The collaborative relationship between UDVC and the AOC began in 2011 with the creation of the Domestic Violence Program within the AOC. UDVC provided training and expertise to assist the Domestic Violence Program in building training, policy, and domestic violence response models for the Utah State Courts. Once the Domestic Violence Program in the AOC was firmly established, the AOC and UDVC began to partner on developing trauma-informed court services, education about court processes for victim advocates, evidence-based offender treatment considerations for judicial officers, and best practices for child custody cases/divorce proceedings involving domestic violence. The AOC and UDVC met on a quarterly basis to discuss and implement these ideas over the past ten years.

Within the past ten years, additional partners have been added to collaborative projects. Many collaborative projects have featured the Utah Department of Public Safety (UDPS; law enforcement), the Utah Prosecution Council (UPC; trains law enforcement and prosecutors about the best practices in domestic violence and sexual violence), the Utah Coalition Against Sexual Assault (UCASA; provides sexual violence training to victim advocates and court personnel), and the Utah Association for Domestic Violence Treatment (UADVT; establishes evidence-based offender treatment models and trains treatment providers).

The critical and long-range goals of the collaboration between UDVC and the AOC are as follows:

- A. Increase access to justice for victims of domestic violence, sexual violence, dating violence, and stalking.
- B. Increase trauma-informed court and victim advocate services for victims of domestic violence, sexual violence, dating violence, and stalking.
- C. Increase offender accountability through the use of evidence-based treatment models.

III. Development of Application

UDVC and the AOC formed a long-term collaboration to address issues related to protective orders. In 2018, UDVC and the AOC learned that information in some criminal protective orders was not being transmitted to the National Crime Information Center (NCIC). With assistance from UDVC and other partners, the AOC has begun to fix this error and transmit data successfully to NCIC. The Domestic Violence Program in the AOC gathered data which demonstrated that rural justice system locations (i.e. courts, prosecutors, and victim advocates) needed more training to correctly submit protective orders as required by NCIC. As the Domestic Violence Program continued to gather and share data, UDVC highlighted some concerns about protective orders for Utah's Native American Nations. This recent collaboration regarding rural and Native American needs aided in the development of this application.

UDVC is the applicant for the grant and is undertaking the work of submitting the grant to OVW. They have developed the bulk of the narrative, goals, and budget while working to integrate the goals, narrative, and budget developed by the AOC into the overall grant application. The Domestic Violence Program in the AOC gathered and shared data regarding criminal and civil protective orders in rural areas and Utah's Native American Nations. From that data, the AOC developed a narrative, goals, and budget to specifically address protective orders. The AOC also solicited information from other collaborative partners to strengthen the grant application.

IV. Roles and Responsibilities

NOW, THEREFORE, it is hereby agreed by and between the partners as follows:

- A. UDVC will complete the following roles and responsibilities:
 - 1. In collaboration with the AOC, develop a community needs assessment for Utah's Native American Nations to determine what barriers exist for the Nations to submit protective orders to NCIC and/or register protective orders with the Utah Domestic Violence Network (statewide system).
 - 2. Use their contacts with Utah's Native American Nations to administer the community needs assessment (with help from the AOC if the Nations permit).
 - 3. In collaboration with the AOC, compile and analyze the data from the community needs assessment.

4. In collaboration with the AOC, develop a plan of action to address these barriers within the Native American Nations.
 5. In collaboration with the AOC, develop and administer trainings about criminal and civil protective order information requirements to prosecutors and victim advocates in rural counties.
 6. Participate in training events hosted by the AOC which train court staff and judicial officers in rural districts about domestic violence, sexual violence, dating violence, stalking, and protective orders.
 7. Encourage the use of informed practices regarding criminal protective orders among prosecutors.
 8. In collaboration with the AOC, train prosecutors to utilize the criminal protective order templates in the prosecutors' case management software to ensure proper data collection for NCIC.
 9. Provide resources and safety-planning resources to rural victims of domestic violence, sexual violence, dating violence, and stalking through UDVC's LINKline.
- B. The Domestic Violence Program in the AOC will complete the following roles and responsibilities:
1. In collaboration with UDVC, develop a community needs assessment for Utah's Native American Nations to determine what barriers exist for the Nations to submit protective orders to NCIC and/or register protective orders with the Utah Domestic Violence Network (statewide system).
 2. In collaboration with UDVC, compile and analyze the data from the community needs assessment.
 3. In collaboration with UDVC, develop a plan of action to address these barriers within the Native American Nations.
 4. Provide information about protective orders and NCIC data requirements to UDVC.
 5. In collaboration with UDVC, develop and administer trainings about criminal and civil protective order information requirements to prosecutors and victim advocates in rural counties.
 6. In collaboration with UDVC, train prosecutors to utilize the criminal protective order templates in case management software to ensure proper data collection for NCIC.
 7. Complete an initial assessment of the protective order submission error rate in the targeted rural counties (i.e. incorrect or incomplete data submitted to NCIC causing the protective order to be sent back to the courts for more information) and share the initial error rate data with UDVC.
 8. Conduct monthly protective order data audits to identify problems and improvements in rural locations.
 9. Provide monthly updates to UDVC about the protective order data audits and what problems and improvements were identified.
 10. Complete a final assessment of the protective order submission error rate in the targeted rural counties at the end of the project and share the results with UDVC.
 11. Train court staff and judicial officers in the targeted rural counties about protective order requirements and best practices.
 12. Train court staff and judicial officers in the targeted rural counties about domestic violence, sexual violence, dating violence, and stalking.
 13. Recommend policy and rule changes for the Utah Courts to support the correct collection of information from protective orders for NCIC.

- C. UDVC will contribute the following resources to the project:
 - 1. General staff-time and support from their Education Team and supervisory staff.
 - 2. Office space, a phone, laptop, and office supplies for grant-funded staff.

- D. The AOC will contribute the following resources to the project:
 - 1. General staff-time and support from the Judicial Institute Team, the General Counsel Team, the Court Data Services Team, and Information Technologies Team.
 - 2. Office space, a phone, laptop, and office supplies for the Protective Order Program Coordinator position.

- E. Selina Gorst (UDVC), Amy Hernandez (AOC), and Daniel Levin (AOC) are the representatives of the Planning & Development Team who will be responsible for planning, developing, and implementing project activities. The representatives will have quarterly meetings to review project outcomes together and share data. During these quarterly meetings, they will also complete the grant responsibilities which require collaboration.

- F. This project should fix many of the issues in rural locations regarding transmitting protective order information to the NCIC. This grant funding will set up the framework for fixing protective order issues. Once the framework is completed, it will require very little work on the part of both agencies to sustain this project. The AOC and UDVC are deeply committed to achieving the project goals and sustaining the correct transmission of protective order information to NCIC. Once formal training materials are completed from this project, the Domestic Violence Program will recommend policy and rule changes to sustain a low error rate for protective order information. The Domestic Violence Program will also continue to work with UDVC to assist Utah's Native American Nations with their protective order work.

- G. The Utah Domestic Violence Coalition will provide improved access to protective orders and will increase education for community-based victim services on protective orders to victims of domestic violence, dating violence, sexual assault, and stalking by:
 - 1. Participating in training events hosted by the AOC which train court staff and judicial officers in rural districts about domestic violence, sexual violence, dating violence, stalking, and protective orders.
 - 2. Encouraging the use of informed practices regarding criminal protective orders among prosecutors.
 - 3. Providing resources and safety-planning resources to rural victims of domestic violence, sexual violence, dating violence, and stalking through UDVC's LINKline.

- H. The Administrative Office of the Courts will provide improved access to protective orders for victims of domestic violence, dating violence, sexual assault, and stalking by:
 - 1. Providing information about protective orders and NCIC data requirements to UDVC.
 - 2. Completing an initial assessment of the protective order submission error rate in the targeted rural counties (i.e. incorrect or incomplete data submitted to NCIC causing the protective order to be sent back to the courts for more information) and sharing the initial error rate data with UDVC.
 - 3. Conducting monthly protective order data audits to identify problems and improvements in rural locations.
 - 4. Providing monthly updates to UDVC about the protective order data audits and what problems and improvements were identified.

5. Completing a final assessment of the protective order submission error rate in the targeted rural counties at the end of the project and sharing the results with UDVC.
 6. Training court staff and judicial officers in the targeted rural counties about protective order requirements and best practices.
 7. Training court staff and judicial officers in the targeted rural counties about domestic violence, sexual violence, dating violence, and stalking.
 8. Recommending policy and rule changes for the Utah Courts to support the correct collection of information from protective orders for NCIC.
- I. The Utah Domestic Violence Coalition and the Administrative Office of the Courts will collaborate in the following manner by:
1. Developing a community needs assessment for Utah's Native American Nations to determine what barriers exist for the Nations to submit protective orders to NCIC and/or register protective orders with the Utah Domestic Violence Network (statewide system).
 2. Compiling and analyzing the data from the community needs assessment.
 3. Developing a plan of action to address these barriers within the Native American Nations.
 4. Developing and administering trainings about criminal and civil protective order information requirements to prosecutors, victim advocates, court staff and judicial officers in rural counties.
 5. Training prosecutors to utilize the criminal protective order templates in case management software to ensure proper data collection for NCIC.

V. Timeline

The roles and responsibilities described above are contingent on the Utah Domestic Violence Coalition receiving funds requested for the project described in the OVW grant application. Responsibilities under this Memorandum of Understanding would coincide with the grant period, anticipated to be 10/01/2021 through 09/30/2024.

VI. Commitment to Partnership

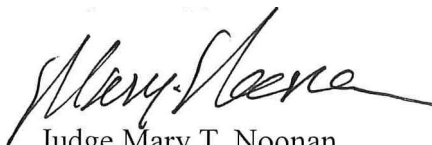
- A. The collaboration service area includes Millard County, Uintah County, Duchesne County, Daggett County, Emery County, Carbon County, Grand County, San Juan County, Washington County, Sevier County, Wayne County, and Piute County in the state of Utah.
- B. The partners agree to collaborate and provide improved access to protective orders to victims of domestic violence, dating violence, sexual violence, and stalking pursuant to the program narrative of the grant application attached to this agreement.
- C. Compensation for [non-lead] partners' contribution to this project will be provided as outlined in the attached OVW budget detail worksheet. Each project partner has reviewed the budget, is aware of the total amount being requested, and is being fully compensated for their work under the grant.
- D. This MOU is not considered a binding document. The funding from UDVC is contingent upon their receipt of grant funds from OVW. If approved by OVW, UDVC will submit a sub-recipient award agreement to the AOC. The sub-recipient award agreement would then be the binding agreement between UDVC and the AOC and it will be circulated to the Judicial Council for final approval before accepting award funds.

We, the undersigned have read and agree with this Memorandum of Understanding (MOU). Further, we have reviewed the proposed project and approve it.



Selina Gorst
Co-Director
Utah Domestic Violence Coalition

Date: March 11, 2021



Judge Mary T. Noonan
Utah State Court Administrator
Administrative Office of the Utah Courts

Date: March 12, 2021

Tab 11



Administrative Office of the Courts

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

December 3, 2021

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council
FROM: Judge Laura Scott
RE: Ethics Advisory Committee (new member appointment)

Name of Committee: Ethics Advisory Committee

Reason for Vacancies:

- Ryan Tenney was appointed to the Court of Appeals
- Judge Lee's term expires on December 17, 2021

Eligibility requirement: The vacant member positions are required pursuant to [CJA 1-205\(1\)\(B\)\(iii\)\(f\)](#).

Current committee member list:

LAST NAME	FIRST NAME	ROLE
Scott	Laura	Third District Court, Chair
Dame	Paul	Fifth District Juvenile Court
Harris	Ryan	Utah Court of Appeals
Lee	Wallace	District Court Judge: 1 st , 5 th , 6 th , 7 th , or 8 th district
Nelson	Trent	Roy Justice Court
Tenney	Ryan	Attorney from the Bar or a college of law
Williams	Keisa	General Counsel, AOC

Description of recruitment process: The District Court Administrator will be seeking recommendation from the Board of District Court Judges to fill the district judge vacancy at their December 17, 2021 meeting. The Ethics Advisory Committee solicited applications from interested parties for the attorney member position via an electronic posting through the State Bar listserv.

Names for consideration:

- District Court Judge from districts 5, 6, 7, or 8
 - TBD

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

- Attorney from the Bar or a college of Law
 - Lara A. Swensen, James Dodge Russell & Stephens, P.C.
 - *Alternatively:* Michael Skolnick, Kipp & Christian, P.C.

Brief bios attached



Minhvan Brimhall <minhvanb@utcourts.gov>

Vacancy on Ethics Advisory Committee

1 message

Lara Swensen <lswensen@jdrslaw.com>

Fri, Oct 29, 2021 at 4:44 PM

To: "minhvanb@utcourts.gov" <minhvanb@utcourts.gov>

Dear. Ms. Brimhall,

Attached is my statement of interest in applying for the vacancy on the Judicial Council's Ethics Advisory Committee, as well as my resume. As referenced in my statement, I am currently serving on the Supreme Court's Ethics & Disciplinary Committee; I have served on that committee since 2018, and will be chairperson of my panel starting in January 2022. I do not have any other committee assignments at this time.

Please let me know if you have any questions, or need any further information.

Sincerely,

Lara Swensen

Lara A. Swensen | Shareholder

James Dodge Russell & Stephens, P.C.

10 W. Broadway, Ste 400, Salt Lake City, [Utah 84101](#)

Phone: 801-363-6363 | Direct: 801-924-4069

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2 attachments



Swensen CV 2021.pdf

90K



20211029165022394.pdf

836K

Lara A. Swensen
lswensen@jdrslaw.com
801.918.0397 (cell)

October 29, 2021

Administrative Office of the Courts
c/o Minhvan Brimhall
Salt Lake City, UT

To whom it may concern:

I am interested in applying for the vacancy on the Ethics Advisory Committee for several reasons. Initially, I find the application of law to facts is an inherently intellectually satisfying exercise – in this context, perhaps more so than in my litigation practice, because the costs and delay of discovery disputes seem to be largely avoided. A pure question of interpreting the Code of Judicial Conduct with respect to a specific factual situation intrigues me. Moreover, I have served as a member of the Supreme Court's Ethics & Disciplinary Committee for a number of years. That experience has increased my awareness of the "grey areas" that can occur in the ethical context, and the value of having a neutral third-party weigh in on the legal and ethical implications of certain conduct. I have not, however, had much experience with that type of analysis in the context of judicial conduct, and would look forward to expanding my understanding of ethical questions in that area. Finally, writing and editing are some of my favorite parts of practicing law. The opportunity to do so in a quasi-judicial setting such as preparing informal opinions for the Ethics Advisory Committee would be both challenging and rewarding.

I would welcome the opportunity to expand my knowledge and experience in this area of law. Please contact me if you need any further information, or would like to discuss this further.

Sincerely,



Lara A. Swensen

Lara A. Swensen

Education UNIVERSITY OF CHICAGO LAW SCHOOL, Chicago, IL
 J.D., *with honors*, June 1999

 DARTMOUTH COLLEGE, Hanover, NH
 B.A., *cum laude*, June 1996

Employment:

JAMES DODGE RUSSELL & STEPHENS, attorney (partner) Salt Lake City, UT	Jan. 2018-present
PARSONS BEHLE & LATIMER, attorney (of counsel) Salt Lake City, UT	Jan. 2014-Dec. 2017
WASATCH ECONOMICS, manager and consultant Park City, UT	Aug. 2008-Jan. 2014
FLITTON & SWENSEN, attorney (partner) Park City, UT 84098	Aug. 2008-Dec. 2013
NORTH HARVARD GROUP, legal consultant Salt Lake City, UT	Jan. 2007- July 2008
PARSONS BEHLE & LATIMER, attorney (associate) Salt Lake City, UT	June 1999- Dec. 2005
BAJA SIERRA ADVENTURES, assistant guide & chef El Chorro, Baja California Sur, Mexico	Aug-Dec. 2006

Professional Licenses: Utah State Bar; U.S. District Court, District of Utah; U.S. Supreme Court.

Publications and Presentations:

- *Publication forthcoming (2022)* – Utah Chapter for ABA’s State Antitrust Practice and Statutes Treatise (6th ed.)
- “Towards a More Reasoned Application of the Robinson-Patman Act: A Holistic View Incorporating Principles of Law & Economics in Light of Congressional Intent,” Vol. 60 The Antitrust Bulletin 279 (December 2015) (co-author)
- “Experts in Antitrust Cases”, *Litigators on Expert Witnesses*, with C. Sinclair, published by American Bar Association, August 2010
- *Intellectual Property Damages: Guidelines and Analysis*, with M. Glick and R. Hoffman, published by John Wiley & Sons, November 2002
- “Discovery Issues in IP Cases,” IP Bootcamp 2020
- “Protecting Your Water Rights,” Utah Water Users Workshop 2010
- “Disaggregation of Patent Damages,” Dunes CLE seminar 2008
- “The Role of Experts in Antitrust & Intellectual Property Damages,” NACVA seminar 2004
- “Relevant Case Law Regarding Intellectual Property,” NACVA seminar 2003

- “Electronic Discovery and Document Storage: Management and Litigation Issues in Utah,” Lorman seminar 2002
- “Expert’s Role in Intellectual Property & Patent Damages,” NACVA seminar 2001
- “Damage Concepts: Trademark, Copyright & Trade Secrets,” NACVA seminar 2001

Professional & Community Activities:

- Utah Supreme Court’s Ethics & Disciplinary Committee (2018-present)
- President, Antitrust Section of the Utah Bar (2020-present)
- Volunteer, Tuesday Night Bar (2003-2012)
- Volunteer, Utah Food Bank (2003-2005)
- Executive Board, Women Lawyers of Utah (2002-2003)

Professional Recognitions: recognized in *Utah’s Legal Elite* (Civil Litigation), *Super Lawyers*, *Best Lawyers*, and *Mountain States Rising Stars* selection.



Minhvan Brimhall <minhvanb@utcourts.gov>

Ethics Advisory Committee

1 message

Mike Skolnick <mfskolnick@kipbandchristian.com>
To: "minhvanb@utcourts.gov" <minhvanb@utcourts.gov>
Cc: Mike Skolnick <mfskolnick@kipbandchristian.com>

Mon, Oct 18, 2021 at 12:05 PM

Dear Ms. Brimhall: I write to express my interest in serving on the Judicial Council's Ethics Advisory Committee. I have long held an interest in attorney ethics and related legal malpractice issues. My practice has focused heavily in that area since shortly after I was admitted to the Utah State Bar. I see judicial ethics as closely related, but even more important in terms of preserving the integrity of our legal system. I have attached a brief resume and would be happy to provide any additional information which may be helpful to the selection process. My most recent committee assignment was with respect to the Utah Supreme Court's committee to review the ABA's recommendations regarding the Utah State Bar's Office of Professional Conduct.

Best regards,



MICHAEL F. SKOLNICK
ATTORNEY AT LAW

E: mfskolnick@kipbandchristian.com
P: 801.521.3773 | F: 801.359.9004

10 EXCHANGE PLACE
FOURTH FLOOR
SALT LAKE CITY, UT 84111

 **MFS CV.pdf**
60K

C.V. FOR MICHAEL F. SKOLNICK

■ EDUCATION

University of Texas School of Law, Juris Doctor, 1985
University of Texas at Austin, Bachelor of Arts, 1982

■ ADMISSIONS & AFFILIATIONS

Admitted to the bar: All Utah state courts, United States District Court for the District of Utah, 10th Circuit Court of Appeals, Supreme Court of the United States, United States District Courts for the Districts of Wyoming, Idaho and Massachusetts, (pro hac vice).

Affiliations: Best Lawyers, Litigation Counsel of America, American Bar Foundation and Super Lawyers

■ PRACTICE AREAS

Professional Malpractice Defense
Commercial Litigation
Personal Injury Law
General Civil Litigation

■ BIOGRAPHY

Michael F. Skolnick joined Kipp and Christian, P.C. in 1988 and became a shareholder in 1992. His practice includes defending attorneys, insurance professionals, engineers, architects, and real estate agents and brokers in professional liability administrative and court proceedings. Mr. Skolnick also represents both plaintiffs and defendants in personal injury, wrongful death, drug and medical device litigation, as well as in contractual disputes and other commercial litigation matters. Mr. Skolnick has long held an AV Preeminent peer review rating through Martindale-Hubbell, and for many years has been selected for inclusion in The Best Lawyers in America and Super Lawyers.

After graduating from law school, Mr. Skolnick joined the Office of the Utah Attorney General, where he spent three years as an Assistant Attorney General before joining Kipp and Christian, P.C. Mr. Skolnick has had articles published in the Utah Bar Journal, related to legal malpractice defense and malpractice insurance issues. He is a member of several legal organizations, including the American and Salt Lake County Bar Associations, Litigation Counsel of America, the American Bar Foundation and the Diversity Law Institute. He frequently delivers presentations to professional groups on topics related to his practice areas.

■ LANGUAGES

English, Italian



Administrative Office of the Courts

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

December 2, 2021

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee of the Judicial Council

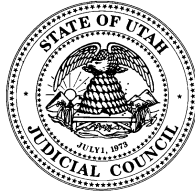
FROM: Board of District Court Judges

RE: Committee for Resources for Self-Represented Parties - Vacancy

The Committee for Resources for Self-Represented Parties is in need of a rural district court judge to fill a vacancy on the committee that was created by the retirement of Judge Douglas Thomas. The Judicial Council's Standing Committee on Resources for Self-Represented Parties is charged under CJA 3-115 with studying and making policy recommendations to the Judicial Council concerning the needs of self-represented parties.

An email on behalf of the Board of District Court Judges was sent to all district court judges, seeking names of judges who are interested in serving on this committee. The District Board has reviewed the list of judges who expressed interest in serving on this committee and recommends that **Judge Ann Marie MCiff Allen**, 5th District, be appointed to serve on the Committee for Resources for Self-Represented Parties.

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



Administrative Office of the Courts

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

December 6, 2021

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee of the Judicial Council

FROM: Board of District Court Judges

RE: Uniform Fine Committee – Vacancies

The Uniform Fine Committee is seeking to fill two committee vacancies. Judge David Hamilton (2nd District) has served two consecutive three-year terms and Judge Linda Jones' (3rd District) has served one three-year term that will expire at the end of December, 2021.

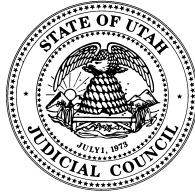
Eligibility requirements: [Rule 1-205](#) states the Uniform Fine Schedule Committee shall consist of one district court judge with felony docket experience, three district court judges with misdemeanor docket experience. In addition, four justice court judges serve on this committee.

An email was sent to the all district court judges to solicit names of judges who are interested in serving on the Uniform Fine Committee. The Board of District Court Judges reviewed the list of judges who are willing to serve and recommends that Judge Angela Fonnesebeck ([Bio.](#)) and Judge Denise Porter ([Bio.](#)) be appointed to serve on the Uniform Fine Committee.

We have a justice court vacancy that recommendation will come from the justice court board. Thank you for your time.

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

Tab 12



Administrative Office of the Courts

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

December 13, 2021

Ronald Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council
FROM: Keisa Williams
RE: Rules for Public Comment

The Policy and Planning Committee recommends that the following rules be approved for a 45-day public comment period:

CJA 1-205. Standing and Ad Hoc Committees (AMEND)

Proposed amendments:

- Creates a Standing Committee on Fairness and Accountability. (line 28)
- Replaces the Self-Help Center representative on the Committee on Resources for Self-represented Parties with a representative from a social services organization, now that the Director of the Self-Help Center is staffing the committee. (lines 124-126)
- Removes the professor of criminal law position on the Committee on Model Utah Criminal Jury Instructions. That position has historically been very difficult to fill and the chair believes the position is unnecessary given the knowledge and experience of the other members. (lines 166-167)
- For the Committee on Court Forms: adds a second district court judge (one from a rural area), replaces the Court Services Director with a district court administrator or designee, and adds the LLP administrator. (lines 192-208)
- Establishes the membership of the new Standing Committee on Fairness and Accountability (lines 209-217). Allows Judicial Council members to serve, participate, and vote on the Committee on Judicial Fairness and Accountability (lines 221-222).

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

Removes the requirement that the AOC notify a newspaper of general circulation that the Judicial Council meeting agendas have been posted on the Utah Public Notice Website (line 29) because the public posting is sufficient. Clarifies that a Judicial Council meeting may be closed for discussions regarding legal advice of counsel (line 56). Streamlines the procedural language in paragraph (5)(B) without making substantive changes (lines 89-94).

CJA 3-420. Committee on Fairness and Accountability (NEW)

Outlines the roles and responsibilities of the new Committee on Fairness and Accountability.

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

CJA 4-903. Uniform custody evaluations (AMEND)

The proposed amendments to CJA 4-903 limit the circumstances under which a custody evaluation can be ordered and outlines the training requirements of those who conduct custody evaluations. The proposed amendments are in response to a legislative audit published in August 2019, as well as recommendations made by the Standing Committee on Children and Family Law.

**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; and

~~(1)(A)(xiv)~~(1)(A)(xv) Committee on Judicial Fairness and Accountability.-

(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** [performs the duties described in rule 4-302 and](#) 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** [performs the duties described in rule 3-109 and](#) 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** [performs the duties described in rule 3-403](#) 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** [performs the duties described in rule 3-409 and](#) 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** [performs the duties described in rule 4-908 and](#) 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** performs the duties described in rule 3-114 and 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** performs the duties described in rule 3-115 and 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~~ a social services organization providing direct services to underserved communities;
- (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** performs the duties described in rule 3-306.02 and 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** performs the duties described in rule 4-906 and 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** performs the duties described in rule 3-418 and 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** performs the duties described in rule 3-418 and 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; and

~~(1)(B)(xii)(e) one professor of criminal law; and~~

~~(1)(B)(xii)(f)~~ (1)(B)(xii)(e) one person skilled in linguistics or
communication.

(1)(B)(xiii) The **Committee on Pretrial Release and Supervision** performs the
duties described in rule 3-116 and shall consist of:

- (1)(B)(xiii)(a) two district court judges;
- (1)(B)(xiii)(b) two justice court judges;
- (1)(B)(xiii)(c) one prosecutor;
- (1)(B)(xiii)(d) one defense attorney;
- (1)(B)(xiii)(e) one county sheriff;
- (1)(B)(xiii)(f) one representative of counties;
- (1)(B)(xiii)(g) one representative of a county pretrial services agency;
- (1)(B)(xiii)(h) one representative of the Utah Commission on Criminal and
Juvenile Justice;
- (1)(B)(xiii)(i) one commercial surety agent;
- (1)(B)(xiii)(j) one state senator;
- (1)(B)(xiii)(k) one state representative;
- (1)(B)(xiii)(l) the Director of the Indigent Defense Commission or designee;
- (1)(B)(xiii)(m) one representative of the Utah Victims' Council;
- (1)(B)(xiii)(n) one representative of a community organization actively
engaged in pretrial justice issues;
- (1)(B)(xiii)(o) one chief of police; and
- (1)(B)(xiii)(p) the court's general counsel or designee.

(1)(B)(xiv) The **Committee on Court Forms** performs the duties described in rule
3-117 and -shall consist of:

- (1)(B)(xiv)(a) ~~one~~ two district court judges;
- (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~~ district court administrator or
designee;

(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; and

(1)(B)(xiv)(o) the LPP administrator.-

(1)(B)(xv) The **Committee on Fairness and Accountability** performs the duties described in rule 3-420. The committee shall include members who have a demonstrated interest in, or who have experience with, issues of diversity, equity, and inclusion and shall consist of:

(1)(B)(xv)(a) one sitting judge;

(1)(B)(xv)(b) three current or former judicial officers;

(1)(B)(xv)(c) the General Counsel or designee; and

~~(1)(B)(xiv)(n)~~ (1)(B)(xv)(d) the Director of the Office of Fairness and Accountability.

(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. Except for the Committee on Judicial Fairness and Accountability, c~~C~~ouncil 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.

- 268 (3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members
269 shall serve staggered three year terms. Standing committee members shall not
270 serve more than two consecutive terms on a committee unless the Council
271 determines that exceptional circumstances exist which justify service of more than
272 two consecutive terms.
- 273 (3)(C) **Expenses.** Members of standing and ad hoc committees may receive
274 reimbursement for actual and necessary expenses incurred in the execution of their
275 duties as committee members.
- 276 (3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's
277 committees.

278 Effective May November 1, 20__24

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) legal advice of counsel;

(4)(~~DC~~) 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)(~~DE~~) the sale of real property if:

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

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

(4)(~~EE~~) deployment of security personnel or devices;

(4)(~~GF~~) allegations of ~~criminal~~ misconduct; or

(4)(~~HG~~) consideration of a private, protected, sealed, juvenile court social, 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 presiding officer shall sign a sworn statement, which is a public record, affirming that the sole purpose for closing the meeting is to discuss the character, competence, or physical or mental health of an individual or the deployment of security personnel, devices, or systems one of the issues outlined in paragraph (4).

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

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

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

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

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

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

Effective ~~November~~ May 1, 2022~~1~~

Rule 3-420. Committee on Fairness and Accountability

Intent

This rule establishes the Committee on Fairness and Accountability to serve as a core leadership team for the Office of Fairness and Accountability. One purpose of the committee is to provide support and guidance to the Office of Fairness and Accountability, and to provide expertise and guidance to the Judicial Council regarding how to best support the work of the Office of Fairness and Accountability.

Applicability

This rule applies to the judiciary.

Statement of the Rule

The Committee on Fairness and Accountability shall:

(1) Advise the Director of the Office of Fairness and Accountability (Director) regarding the development of baseline metrics of demographic data for individuals who interact with the judiciary.

(2) Develop a strategic plan with the Director for the Office of Fairness and Accountability and submit the strategic plan to the Judicial Council for approval. The committee may form subcommittees to develop the strategic plan. The strategic plan shall include the Judiciary's goals and policy directives for meeting the court's mission for the open, fair and efficient administration of justice under the law while also being responsive to the state's cultural, ethnic, socioeconomic, linguistic, physical, gender, and age diversities. Branch efforts in this regard must include ensuring that the courts are free from both bias and the appearance of bias, meeting the needs of increasing numbers of self-represented litigants, remaining receptive to the needs of all branch constituents, ensuring that court procedures are fair and understandable, and providing culturally responsive programs and services.

(3) Once the initial strategic plan is approved by the Judicial Council, assist the Director with:

(3)(A) Determining which stakeholder groups should be involved in determining how to implement the strategic plan;

(3)(B) Appointing a functional team or teams; and

(3)(C) Facilitating the work of the functional team(s) to develop implementation plans and provide feedback about the strategic plan to the Committee on Fairness and Accountability;

(4) Receive input from the functional team(s) and determine if changes to the strategic plan should be recommended to the Judicial Council.

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48 (5) Assist the Director with communicating the strategic plan to the judiciary.

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50 (6) Assist the Director with monitoring Court progress in implementing the strategic plan,
51 including metrics developed to measure progress.

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53 (7) Provide expertise and support to the Director when the Director interacts with the Judicial
54 Council, the benches, and the districts.

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56 (8) Assist the Director in cooperating with the executive and legislative branches to implement
57 the strategic plan.

58

59 Effective May/November 1, 20

Rule 4-903. Uniform custody evaluations.**Intent:**

To establish uniform guidelines for the performance of custody evaluations.

Applicability:

This rule shall apply to the district and juvenile courts.

Statement of the Rule:

~~(1) Custody evaluations shall be performed by professionals who have specific training in child development, and who are licensed by the Utah Department of Occupational and Professional Licensing as either a:~~

~~(1)(A) Licensed Clinical Social Worker;~~

~~(1)(B) Licensed Psychologist;~~

~~(1)(C) Licensed Physician who is board certified in psychiatry;~~

~~(1)(D) Licensed Marriage and Family Therapist; or~~

~~(1)(E) Licensed Clinical Mental Health Counselor.~~

(14) The purpose of the custody evaluation will be to provide the court with information it can use to make decisions regarding custody and parenting time arrangements that are in the child's best interest. Unless otherwise specified in the order, evaluators must consider and respond to the custody factors set forth in Utah Code sections 30-3-10 and 30-3-10.2.

(2) Custody evaluations shall be ordered only when a party requests it or when the court makes specific findings that extraordinary circumstances exist that warrant an evaluation. In either case, before appointing a custody evaluator, the court must find that the parties have a present ability to pay for the evaluation.

(32) Every motion or stipulation for the performance of a custody evaluation shall include:

(32)(A) the name, address, and telephone number of each evaluator nominated, or the evaluator agreed upon;

(32)(B) the anticipated dates of commencement and completion of the evaluation and the estimated cost of the evaluation;

(32)(C) specific factors, if any, to be addressed in the evaluation: and-

(3)(D) a copy of each proposed evaluator's recent curriculum vitae attached as exhibits
The curriculum vitae must demonstrate compliance with the training
requirements in paragraph (7).

(43) Every order requiring the performance of a custody evaluation shall:

(43)(A) require the parties to cooperate as requested by the evaluator;

(43)(B) restrict disclosure of the evaluation's findings or recommendations and privileged information obtained except in the context of the subject litigation or other proceedings as deemed necessary by the court;

(43)(C) assign responsibility for payment from the beginning of the evaluation through the custody evaluation conference, as well as the costs of the written report if requested subject to reallocation at the time of trial;

(43)(D) specify dates for commencement and completion of the evaluation;

(43)(E) specify any additional factors to be addressed in the evaluation;

(43)(F) require the evaluator to provide written notice to the court, counsel and parties within five business days of completion (of information-gathering) or termination of the evaluation and, if terminated, the reason;

(43)(G) require counsel and parties to complete a custody evaluation conference with the court and the evaluator within 45 days of notice of completion (of information gathering) or termination unless otherwise directed by the court so that evaluator may issue a verbal report; and

(43)(H) require that any party wanting a written custody evaluation report give written notice to the evaluator within 45 days after the custody evaluation conference.
The party requesting the written report shall pay for the costs of the same,
subject to reallocation at the time of trial.

~~(4) The purpose of the custody evaluation will be to provide the court with information it can use to make decisions regarding custody and parenting time arrangements that are in the child's best interest. Unless otherwise specified in the order, evaluators must consider and respond to the custody factors set forth in Utah Code sections 30-3-10 and 30-3-10.2.~~

(54) Custody evaluations shall be performed by mental health professionals who have specific training in child development, and who are licensed by the Utah Department of Occupational and Professional Licensing as either a:

(54)(A) Licensed Clinical Social Worker;

(54)(B) Licensed Psychologist;

(54)(C) Licensed Physician who is board certified in psychiatry;

(54)(D) Licensed Marriage and Family Therapist; or

(54)(E) Licensed Clinical Mental Health Counselor.

(6) Child custody evaluators shall gain and maintain specialized knowledge and training in a wide range of topics specifically related to child custody work. Evaluators shall gain broad knowledge of family dynamics. Since research and laws pertaining to the field of divorce or separation and child custody are continually changing and advancing, child custody evaluators shall secure ongoing specialized training and education.

(7) Before accepting appointment, a child custody evaluator shall have completed 18 hours of education and training within the past two years, coinciding with the professional's licensure reporting deadlines, which must include all the following topics:

(7)(A) The psychological and developmental needs of children, especially as those needs relate to decisions about child custody and parent-time;

(7)(B) Family dynamics, including, but not limited to, parent-child relationships, blended families, and extended family relationships; and

(7)(C) The effects of separation, divorce, domestic violence, child sexual abuse, child physical or emotional abuse or neglect, substance abuse, and interparental conflict on the psychological and developmental needs of children and adults.

(85) In cases in which specific areas of concern exist such as domestic violence, sexual abuse, substance abuse, mental illness, and the evaluator does not possess specialized training or experience in the area(s) of concern, the evaluator shall consult with those having specialized training or experience. The assessment shall take into consideration the potential danger posed to the child's custodian and the child(ren).

(9) Evaluators having conducted fewer than three (3) evaluations shall consult with another professional who meets the education, experience, and training requirements of this rule, sufficient to review, instruct, and comment on the entire evaluation process.

(106) In cases in which psychological testing is employed as a component of the evaluation, it shall be conducted by a licensed psychologist who is trained in the use of the tests administered, and adheres to the ethical standards for the use and interpretation of psychological tests in the jurisdiction in which he or she is licensed to practice. ~~If psychological testing is conducted with adults and/or children, it shall be done with knowledge of the limits of the testing and should be viewed within the context of information gained from clinical interviews and other available data. Conclusions drawn from psychological testing should take into account the inherent stresses associated with divorce and custody disputes.~~ The evaluator shall consider the psychological testing results with the understanding that they are hypotheses that need to be supported by and integrated with all other data gathered.

Effective May/November 1, 20__~~19~~

Tab 13

 Name

 Address

 City, State, Zip

 Phone

Check your email. You will receive information and documents at this email address.

 Email

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

<hr/> Plaintiff/Petitioner v. <hr/> Defendant/Respondent	<p>Notice of Pronouns</p> <p><input type="checkbox"/> She / her / Ms.</p> <p><input type="checkbox"/> She / her / Mrs.</p> <p><input type="checkbox"/> He / him / Mr.</p> <p><input type="checkbox"/> They / them / Mx.</p> <p><input type="checkbox"/> _____</p> <hr/> Case Number <hr/> Judge <hr/> Commissioner (domestic cases)
--	--

Bring a copy of this to each court hearing.

I ask the court to use the following pronouns for me during court hearings:

☐ She / her / Ms. ☐ She / her / Mrs. ☐ He / him / Mr.
☐ They / them / Mx. (pronounced "mix") ☐ _____
 additional pronoun

This is not binding. This has no legal effect and does not change my sex or gender marker on government documents.

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and am serving a copy of this Notice of Pronouns on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Date

Signature ► _____

Printed Name _____

Name

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am ☐ Plaintiff ☐ Defendant
☐ Plaintiff's Attorney ☐ Defendant's Attorney (Utah Bar #: _____)
☐ Plaintiff's Licensed Paralegal Practitioner
☐ Defendant's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

COVID Eviction Declaration

(P.L. 116-13, 2020; FHFA Multifamily Tenant Protections)

Case Number

Judge

Commissioner (domestic cases)

1. I am the plaintiff or the owner of the real property at _____ (address).

Coronavirus Aid, Relief, and Economic Security (CARES) Act Declarations

2. ☐ I have not received a forbearance on the property identified above under Section 4023 of the CARES Act (CARES Act, P.L. 116-136 (2020)).

☐ I have received a forbearance on the property identified above under Section 4023 of the CARES Act, but my forbearance ended on _____ (date).

3. I know that properties participating in one or more of the following programs, or with one of the following types of mortgages are “covered properties” under section 4024 of the CARES Act.

Housing programs eligible for federal protection through the CARES Act

- Public Housing (42 U.S.C. § 1437d)
- Section 8 Housing Choice Vouchers (42 U.S.C. § 1437f)
- Section 8 Project-Based Rental Assistance (42 U.S.C. § 1437f)
- Section 202 Supportive Housing for the Elderly (12 U.S.C. § 1701q)
- Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. § 8013)
- Low Income Housing Tax Credit (LIHTC) (26 U.S.C. § 42)
- Housing Opportunities for Persons With AIDS (HOPWA) (42 U.S.C. § 12901, et seq.)
- McKinney-Vento Homeless Assistance grants (42 U.S.C. § 11360, et seq.)
- Section 236 Preservation program (12 U.S.C. § 1715z–1)
- HOME investment partnerships (42 U.S.C. § 12741 et seq.)
- Section 514 and 516 Farm Labor Housing Grants (42 U.S.C. §§ 1484, 1486)
- Section 542 Rural Development Vouchers (42 U.S.C. 1490r)
- Section 521 Rural Rental Assistance
- Section 533 Housing Preservation grants (42 U.S.C. § 1490m)
- Mortgages purchased or securitized by Fannie Mae (check <https://www.knowyouroptions.com/loanlookup>)
- Mortgages purchased or securitized by Freddie Mac (check <https://www3.freddie.mac.com/loanlookup/>)
- Mortgages insured by the Federal Housing Administration (FHA)
- Mortgages guaranteed, directly provided by, or insured by the Department of Veterans Affairs (VA)
- Mortgages guaranteed, directly provided by, or insured by the Department of Agriculture (USDA)
- Mortgages guaranteed under HUD's Native American or Native Hawaiian Home Loan Guarantee programs

4. I reviewed my files and contacted my mortgage company and:

☐ I have evidence that the property at issue is a “covered property” under Section 4024 of the CARES Act.

☐ I do not have evidence that the property at issue is a “covered property” under Section 4024 of the CARES Act.

5. After performing a good faith investigation, the property:

☐ is subject to the CARES Act.

☐ is not subject to the CARES Act.

FHFA Declarations

6. I reviewed my files and contacted my mortgage company and:

☐ I have evidence that the property at issue is financed by a mortgaged backed by either Fannie Mae or Freddie Mac.

☐ I do not have evidence that the property at issue is financed by a mortgaged backed by either Fannie Mae or Freddie Mac.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and am serving a copy of this COVID Eviction Declaration on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

 Date

 Signature ►

 Printed Name

1. OCAP Child Support Language Changes

The current provisions in the OCAP documents are:

1. **Jane Doe's** gross monthly income for child support purposes is **\$3,826.00**. Her base support amount using the joint custody child support calculation is **\$160.00** per month. She receives the following gross monthly income:

2. **John Doe's** gross monthly income for child support purposes is **\$2,427.00**. His base support amount using the joint custody child support calculation is **\$0.00** per month. He receives the following gross monthly income:

The new, proposed language will read:

1. **Jane Doe's** gross monthly income for child support purposes is **\$3,826.00**. Using the joint custody child support calculation and worksheet, the base child support award which **Jane Doe** must pay to **John** all 12 months of the year, is **\$160.00** per month. She receives the following gross monthly income:

2. **John Doe's** gross monthly income for child support purposes is **\$2,427.00**. The joint custody child support calculation and worksheet do not calculate the base child support award for the non-obligor parent. **John Doe** therefore does not have a base child support award amount. He receives the following gross monthly income:

2. The change below will also affect OCAP. This change adds language about receipt of all kinds of public assistance to the part of divorce/custody cases that deals with public assistance. Judges have requested the inclusion of this language to know whether or not ORS should have been given notice of the case.

2. Jane Doe has received or is receiving public benefits from a housing subsidy program, the Job Training Partnership Act, Supplemental Security Income, Social Security Disability Insurance, Medicaid, SNAP, General Assistance, or other similar means-tested welfare benefits. This income does not count for child support purposes. (Utah Code 78B-12-203(3))

The following request was submitted to the Forms Committee and approved October 18, 2021.

1. The parent-time section of the approved Parenting Plan references statute and directs the user to attach the appropriate statute. OCAP has been coded to add the relevant **guidelines into** the parenting plan. **The Petition, Stipulation, Findings, and Decree in OCAP use the content and formatting from the Parenting Plan.** The problem arises when referencing the first part of the **parent-time section from the** Parenting Plan in the Findings of Fact and the Decree. Utah Code 30-3-35(3) states "An election required to be made in accordance with this section by either parent concerning parent-time shall be made part of the decree and made part of the parent-time order." Utah Code 30-3-35.1 states "An election required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order."

We don't think the Forms Committee anticipated including the attached statutes in the Findings and Decree. We propose that instead of attaching the statute(s) in their entirety, the **Petition, Stipulation, Parenting Plan, Findings of Fact and Decree in OCAP include the following language to meet the requirements of 30-3-35 and 35.1**, as well as a plain English version of **the 30-3-35.5 guidelines**. This language will be reviewed annually as part of the OCAP legislative update review to make any statutory changes. This solution addresses a second concern with the current Parenting Plan. We have received several emails from paralegals and attorneys regarding missing parent-time end times and alternate weekend language. Utah Code 30-3-35.1(6) requires the Parenting plan to incorporate the provisions set out in subsections (a) through (c) of the statute. It specifically requires that **end times and** alternate weekend language be included.

We therefore propose that OCAP be allowed to add the 30-3-35.5 plain English schedule into the documents and adjust the parent-time schedule from the approved Parenting Plan as the provisions indicate below. Only the 30-3-35.5 schedule for the youngest child and up will appear in the documents. If there are no children under 5, the documents will look much like they do now, except with end times and the word "alternate" before the word weekend.

We will also add a feature so parents who have joint and split custody can each have all of the children together for parent time. There is already a similar feature for parents with children younger and older than five to opt to have all of the children at the same time for holiday parent-time pursuant to Utah Code (30-3-35 and 35.1).

For children 5-18: Weekday parent-time will be Monday **until 8:30 p.m. (30-3-35)**

For children 5-18: Weekday parent-time will be Monday **until «pet_name» delivers the children to school Tuesday morning, or, until 8:00 a.m. if there is no school. (30-3-35.1)**

On school days: Parent-time starts at the standard time (5:30 p.m. on weekdays; 6:00 p.m. on **alternate** weekends). **(Utah Code 30-3-35)**

On school days: Parent-time starts at the standard time (6:30 p.m. on weekdays; 6:00 p.m. on **alternate** weekends). **(Utah Code 30-3-35.1)**

On school days: Parent-time starts when school is out. **(Utah Code 30-3-35)**

On school days: Parent-time starts when school is out. (Utah Code 30-3-35.1)

On days when school is not in session: Parent-time starts at the standard time (5:30 p.m. on weekdays; 6:00 p.m. on **alternate** weekends) **and ends at the standard time (8:30 p.m. weekdays, 7:00 p.m. Sunday on alternate weekends)** (Utah Code 30-3-35)

On days when school is not in session: Parent-time starts at the standard time (5:30 p.m. on weekdays; 6:00 p.m. on **alternate** weekends) **and ends the following weekday at the standard time (8:00 a.m.)**. (Utah Code 30-3-35.1)

On days when school is not in session: Parent-time starts at the morning time listed in the statute, **9:00 a.m. and ends at the evening time listed in the statute 8:30 p.m.** (depending on «**res_name_possessive**» schedule) if «**pet_name**» is able to be with the child. (Utah Code 30-3-35)

On days when school is not in session: Parent-time starts at the morning time listed in the statute, **8:00 a.m., and ends the following weekday at the time listed in the statute (8:00 a.m.)**. (depending on «**res_name_possessive**» schedule) if «**pet_name**» is able to be with the child. (Utah Code 30-3-35.1)

(Utah Code 30-3-35.5)

FOR CHILDREN UNDER 5 MONTHS OF AGE:

Weekly: Six hours of parent-time each week, specified by the parent exercising the parent-time, divided into three parent-time periods and to take place in the custodial home, established child care setting, or other place familiar to the child.

Holidays: Two hours on the holidays indicated below in the Special Occasion table below, to take place preferably in the custodial home, established child care setting or other place familiar to the child.

FOR CHILDREN 5 MONTHS TO UNDER 9 MONTHS OF AGE:

Weekly: Nine hours of parent-time each week, specified by the parent exercising the parent-time, divided into three parent-time periods and to take place in the custodial home, established child care setting or other place familiar to the child.

Holidays: Two hours on the holidays indicated below in the Special Occasion table below, to take place preferably in the custodial home, established child care setting or other place familiar to the child.

FOR CHILDREN 9 MONTHS TO UNDER 12 MONTHS OF AGE:

Weekly: One 8 hour visit each week to be specified by the parent exercising the parent-time; and one 3 hour visit each week to be specified by the parent exercising the parent-time.

Holidays: Eight hours on the holidays indicated below in the Special Occasion table.

Electronic Communication: Brief telephone and other virtual parent-time with the parent exercising the parent-time at least two times each week.

FOR CHILDREN 12 MONTHS TO UNDER 18 MONTHS OF AGE:

Alternate One 8 hour visit on alternating weekends to be specified by the parent exercising the parent-time.

Weekends: From 6 p.m. on Friday until noon on Saturday on the opposite alternating weekends.

Weekly: One 3 hour visit each week to be specified by the parent exercising the parent-time.

Holidays: Eight hours on the holidays indicated below in the Special Occasion table.

Electronic Communication: Brief telephone and other virtual parent-time with the noncustodial parent at least two times each week.

FOR CHILDREN 18 MONTHS TO UNDER 3 YEARS OF AGE:

Midweek: One weekday evening from 5:30 to 8:30 p.m. to be specified by the parent exercising the parent-time. However, if the child is being cared for during the day outside the child's regular place of residence, the parent exercising the parent-time may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return the child to the custodial parent by 8:30 p.m.

Alternate Weekends: Alternate weekends beginning on the first weekend after the entry of the decree from 6:00 p.m. Friday until 7:00 p.m. Sunday continuing each year.

Holiday Parent-time: Holidays as specified below in the Special Occasion table.

Extended Parent-time: Two one-week periods, separated by at least four weeks, at the option of the parent exercising the parent-time;

- a. one week shall be uninterrupted time for the parent exercising the parent-time;
 - b. the remaining week shall be subject to parent-time for the custodial parent consistent with these guidelines; and
 - c. the custodial parent shall have an identical one-week period of uninterrupted time for vacation.
- Notification of extended parent-time or vacation weeks with the child shall be provided at least 30 days in advance to the other parent.

Electronic Communication: Brief telephone and other virtual parent-time with the noncustodial parent at least two times each week.

FOR CHILDREN 3 YEARS TO UNDER 5 YEARS OF AGE:

Midweek: One weekday evening from 5:30 - 8:30 p.m. to be specified by the parent exercising the parent-time or court. However, if the child is being cared for during the day outside the child's regular place of residence, the parent exercising the parent-time may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return the child to the custodial parent by 8:30 p.m.

Alternate Weekends: Alternate weekends beginning on the first weekend after the entry of the decree from 6:00 p.m. on Friday until 7:00 p.m. on Sunday continuing each year.

Holiday Parent-time: Holidays as specified below in the Special Occasion table below.

Extended Parent-time: Two two-week periods, separated by at least four weeks, at the option of the parent exercising the parent-time;

- a. one two-week period shall be uninterrupted time for the parent exercising the parent-time;
 - b. the remaining two-week period shall be subject to parent-time for the custodial parent consistent to these guidelines; and
 - c. the custodial parent shall have an identical two-week period of uninterrupted time for vacation.
- A parent shall notify the other parent at least 30 days in advance of extended parent-time or vacation weeks.

Electing to have all kids at once for parent-time.

If there is more than one child and the children's parent-time schedules vary, at the option of the parent exercising the parent-time, the children may all be together for the longer parent time schedule. (Utah Code 30-3-35, 35.1)

Electing to have all kids at once for holiday parent-time.

If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are let out for the holiday and ending the evening before any child returns to school. (Utah Code 30-3-35, 35.1)

We believe this approach reflects the statutory and plain language intent of the current Parenting Plan, complies with statute and serves OCAP users well.

Attached are samples of a download of the changes as we anticipate they will appear in the parent-time section. These changes would be an alternative to attaching 9 pages of statutes.

[Sample with one child 3 and one child 6.]

2. Parent-time

The parents will follow the parent-time schedule in the statute(s).

- Children under 5 (Utah Code 30-3-35.5)
- Children under 5 (Utah Code 30-3-35)
- Children 5-18 (expanded schedule) (Utah Code 30-3-35.1)

The children will live with **Elvis Presley 220** overnights each year and will have parent-time with **Lisa Marie Presley 145** overnights each year according to the statutory parent-time schedule. **Elvis Presley** will be the “custodial” parent:

FOR CHILDREN 3 YEARS TO UNDER 5 YEARS OF AGE:

Midweek: One weekday evening from 5:30 - 8:30 p.m. to be specified by the parent exercising the parent-time or court. However, if the child is being cared for during the day outside the child’s regular place of residence, the parent exercising the parent-time may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return the child to the custodial parent by 8:30 p.m.

Alternate Weekends: Alternate weekends beginning on the first weekend after the entry of the decree from 6:00 p.m. on Friday until 7:00 p.m. on Sunday continuing each year.

Holiday Parent-time: Holidays as specified below in the Special Occasion table below.

Extended Parent-time: Two two-week periods, separated by at least four weeks, at the option of the parent exercising the parent-time;

- a. one two-week period shall be uninterrupted time for the parent exercising the parent-time;
- b. the remaining two-week period shall be subject to parent-time for the custodial parent consistent to these guidelines; and
- c. the custodial parent shall have an identical two-week period of uninterrupted time for vacation.

A parent shall notify the other parent at least 30 days in advance of extended parent-time or vacation weeks.

For children 5-18: **Weekday parent-time** will be Wednesday until **Lisa Marie Presley** delivers the children to school Thursday morning, or until 8:00 a.m. if there is no school. (30-3-35.1)

On school days: Parent-time starts at the standard time (6:30 p.m. on weekdays; 6:00 p.m. on weekends). (Utah Code 30-3-35.1)

On days when school is not in session: Parent-time starts at the standard time (5:30 p.m. on weekdays; 6:00 p.m. on weekends) and ends the following weekday at the standard time (8:00 a.m.). (Utah Code 30-3-35.1)

If there is more than one child and the children's parent-time schedules vary, at the option of the parent exercising the parent-time, the children may all be together for the longer parent time schedule. (Utah Code 30-3-35, 35.1)

[Sample with a newborn child, and one child 10]

2. Parent-time

The parents will follow the parent-time schedule in the statute(s).

- Children under 5 (Utah Code 30-3-35.5)
- Children under 5 (Utah Code 30-3-35)
- Children 5-18 (expanded schedule) (Utah Code 30-3-35.1)

The children will live with **Elvis Presley 220** overnights each year and will have parent-time with **Lisa Marie Presley 145** overnights each year according to the statutory parent-time schedule. **Elvis Presley** will be the “custodial” parent:

FOR CHILDREN UNDER 5 MONTHS OF AGE:

Weekly: Six hours of parent-time each week, specified by the parent exercising the parent-time, divided into three parent-time periods and to take place in the custodial home, established child care setting or other place familiar to the child.

Holidays: Two hours on the holidays indicated below in the Special Occasion table below, to take place preferably in the custodial home, established child care setting or other place familiar to the child.

FOR CHILDREN 5 MONTHS TO UNDER 9 MONTHS OF AGE:

Weekly: Nine hours of parent-time each week, specified by the parent exercising the parent-time, divided into three parent-time periods and to take place in the custodial home, established child care setting or other place familiar to the child.

Holidays: Two hours on the holidays indicated below in the Special Occasion table below, to take place preferably in the custodial home, established child care setting or other place familiar to the child.

FOR CHILDREN 9 MONTHS TO UNDER 12 MONTHS OF AGE:

Weekly: One 8 hour visit each week to be specified by the parent exercising the parent-time; and one 3 hour visit each week to be specified by the parent exercising the parent-time.

Holidays: Eight hours on the holidays indicated below in the Special Occasion table.

Electronic Communication: Brief telephone and other virtual parent-time with the noncustodial parent at least two times each week.

FOR CHILDREN 12 MONTHS TO UNDER 18 MONTHS OF AGE:

Alternate One 8 hour visit on alternating weekends to be specified by the parent exercising the parent-time

Weekends: From 6 p.m. Friday until noon Saturday on the opposite alternating weekends.

Weekly: One 3 hour visit each week to be specified by the parent exercising the parent-time.

Holidays: Eight hours on the holidays indicated below in the Special Occasion table.

Electronic Communication: Brief telephone and other virtual parent-time with the noncustodial parent at least two times each week.

FOR CHILDREN 18 MONTHS TO UNDER 3 YEARS OF AGE:

Midweek: One weekday evening from 5:30 to 8:30 p.m. to be specified by the parent exercising the parent-time. However, if the child is being cared for during the day outside the child’s regular place of residence, the parent exercising the parent-time may, with advance notice to the custodial parent, pick up the child from the caregiver at an

earlier time and return the child to the custodial parent by 8:30 p.m.

Alternate Weekends: Alternate weekends beginning on the first weekend after the entry of the decree from 6:00 p.m. Friday until 7:00 p.m. Sunday continuing each year.

Holiday Parent-time: Holidays as specified below in the Special Occasion table.

Extended Parent-time: Two one-week periods, separated by at least four weeks, at the option of the parent exercising the parent-time;

- a. one week shall be uninterrupted time for the parent exercising the parent-time;
- b. the remaining week shall be subject to parent-time for the custodial parent consistent with these guidelines; and
- c. the custodial parent shall have an identical one-week period of uninterrupted time for vacation.

Notification of extended parent-time or vacation weeks with the child shall be provided at least 30 days in advance to the other parent.

Electronic Communication: Brief telephone and other virtual parent-time with the noncustodial parent at least two times each week.

FOR CHILDREN 3 YEARS TO UNDER 5 YEARS OF AGE:

Midweek: One weekday evening from 5:30 to 8:30 p.m. to be specified by the parent exercising the parent-time or court. However, if the child is being cared for during the day outside the child's regular place of residence, the parent exercising the parent-time may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return the child to the custodial parent by 8:30 p.m.

Alternate Weekends: Alternate weekends beginning on the first weekend after the entry of the decree from 6:00 p.m. on Friday until 7:00 p.m. on Sunday continuing each year.

Holiday Parent-time: Holidays as specified below in the Special Occasion table below.

Extended Parent-time: Two two-week periods, separated by at least four weeks, at the option of the parent exercising the parent-time;

- a. one two-week period shall be uninterrupted time for the parent exercising the parent-time;
- b. the remaining two-week period shall be subject to parent-time for the custodial parent consistent to these guidelines; and
- c. the custodial parent shall have an identical two-week period of uninterrupted time for vacation.

A parent shall notify the other parent at least 30 days in advance of extended parent-time or vacation weeks.

For children 5-18: **Weekday parent-time** will be Wednesday until **Lisa Marie Presley** delivers the children to school Thursday morning, or until 8:00 a.m. if there is no school. (30-3-35.1)

On school days: Parent-time starts at the standard time (6:30 p.m. on weekdays; 6:00 p.m. on weekends). (Utah Code 30-3-35.1)

On days when school is not in session: Parent-time starts at the standard time (5:30 p.m. on weekdays; 6:00 p.m. on weekends) and ends the following weekday at the standard time (8:00 a.m.). (Utah Code 30-3-35.1)

Name

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am ☐ Petitioner ☐ Respondent
☐ Petitioner's Attorney ☐ Respondent's Attorney (Utah Bar #: _____)
☐ Petitioner's Licensed Paralegal Practitioner
☐ Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Petitioner</p> <p>v.</p> <p>_____ Respondent</p>	<p>Notice of Disclosure Requirements in Domestic Relations Cases (Utah Rule of Civil Procedure 26.1)</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner</p>
---	---

To: _____
(Respondent Name or Name of Joined Party)

1. Because you are involved in one of these cases:

- divorce
- temporary separation
- separate maintenance
- parentage
- child custody
- child support
- domestic order modification

You must give to the petitioner ("disclose") the following documents:

- **Initial Disclosures.** (The court-approved Initial Disclosures form is available at www.utcourts.gov.)
 - **Financial Declaration and required attachments.** (The court-approved Financial Declaration form is available at www.utcourts.gov.)
 - Documents verifying the amounts for every item listed in the Financial Declaration (excluding monthly expenses).
 - Federal and state income **tax returns** for the **past two tax years** before the petition in this case was filed. If you don't have these, contact the IRS or the State Tax Commission.
 - **Pay stubs** and other evidence of income for the **past 12 months**.
 - All loan applications and financial statements from the 12 months before the petition was filed.
 - Documents verifying the value of all real estate in which you have an interest. This includes the most recent appraisal, tax valuation, and refinance documents.
 - All statements for the 3 months before the petition was filed for all financial accounts. This includes checking, savings, money market funds, certificates of deposit, brokerage, investment, and retirement.
 - If you do not have some of the above documents, you may estimate the amounts. You must explain on the Financial Declaration how you chose the estimated amount and why the documents are not available.
2. You must send the completed Initial Disclosures form, the Financial Declaration, and all required attachments to the petitioner within:
- 42 days after filing of the first answer, or
 - 28 days after your appearance in this case, whichever is later.
- The petitioner must send their completed Initial Disclosures form, the Financial Declaration, and all required attachments to you within 14 days after service of your first answer to the petition.
3. If you do not disclose all assets and income in the Financial Declaration and attachments, you may be subject to sanctions. (Utah Rule of Civil Procedure 37). Sanctions may include awarding assets to the other party, requiring you to pay the other party's attorney's fees, or other sanctions decided by the court.
4. If you and the petitioner agree to settle all the terms of your case, you may not have to send the Initial Disclosures form and the Financial Declaration.

Certificate of Service

I certify that I filed with the court and am serving a copy of this Notice of Disclosure Requirements in Domestic Relations Cases on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

_____ Signature ► _____
 Date _____
 Printed Name _____

 Name

 Address

 City, State, Zip

 Phone

Check your email. You will receive information and documents at this email address.

 Email

I am ☐ Petitioner ☐ Respondent
☐ Petitioner's Attorney ☐ Respondent's Attorney (Utah Bar #: _____)
☐ Petitioner's Licensed Paralegal Practitioner
☐ Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<hr/> Petitioner v. <hr/> Respondent	<p>Financial Declaration (Utah Rule of Civil Procedure 26.1)</p> <hr/> Case Number <hr/> Judge <hr/> Commissioner
--	---

You must fully and accurately disclose all assets and income in this document and provide attachments. If you fail to disclose all assets and income, you could be subject to sanctions under Utah Rule of Civil Procedure 37. Sanctions can include an award of non-disclosed assets to the other party, attorney's fees or other sanctions.

1. I am providing this form to the other party and (Choose one.):

☐ **I am not filing the Financial Declaration with the court** because a hearing about child support, spousal support, property, debts, attorney fees and court costs is not scheduled, or because the court has not ordered me to file it.

I am filing the separate Certificate of Service of Financial Declaration.

- ☐ I am filing the **Financial Declaration with the court** because a hearing about child support, spousal support, property, debts, attorney fees and court costs is scheduled, or the court has ordered me to file it.

I am also filing the separate Certificate of Service of Financial Declaration.

2. I am attaching the following documents, if available:

Tax returns. For the two years before the petition was filed : <ul style="list-style-type: none"> • federal and state income tax returns – personal and for any entities in which I have a majority or controlling interest • all documents used to prepare the tax returns 	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply
Pay stubs or other proof of income. For the 12 months before the petition was filed: <ul style="list-style-type: none"> • pay stubs • other proof of all earned and un-earned income 	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply
Loan applications. For the 12 months before the petition was filed: <ul style="list-style-type: none"> • all loan applications • financial statements used to apply for the loans 	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply
Real estate documents. Documents verifying the value of all real estate in which I have an interest. This includes the most recent appraisal, tax valuation, and refinance documents.	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply
Financial statements. For the 3 months before the petition was filed all financial statements for all financial accounts. This includes checking, savings, money market funds, certificates of deposit, brokerage, investment, and retirement.	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached <input type="checkbox"/> Doesn't apply

- ☐ I marked some documents above as “not attached” because:

Document	Reason

Document	Reason

3. **Employment** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount.)

☐ I am employed as (Choose all that apply):

☐ an hourly employee (Form W-2)

☐ a salaried employee (Form W-2)

☐ self-employed (Form 1099, Form K-1, Schedule C, etc.)

☐ other (Explain): _____

Name of employer	Employer's address and phone number	Job title	Hourly rate or annual salary	Hours per week (If hourly)
			\$	
			\$	
			\$	

☐ I am unemployed because:

☐ I have estimated the amounts in paragraph 3.

Item estimated	Basis for estimation

4. **Gross Monthly Income** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount.)

☐ I have the following monthly income before tax deductions:
(Print your pre-tax income in the boxes below. For income that changes from month to month, calculate the annual total and divide by 12 months to list a monthly average.)

Source of income	Monthly amount
Work (Including self employment, wages, salaries, commissions, bonuses, tips and overtime)	\$
Rental income	\$
Business income	\$
Interest	\$
Dividends	\$
Retirement income (Including pensions, 401(k), IRA, etc.)	\$
Worker's compensation	\$
Private disability insurance	\$
Social Security Disability Income (SSDI)	\$
Supplemental Security Income (SSI)	\$
Social Security (Other than SSDI or SSI)	\$
Unemployment benefits	\$
Education benefits (Including grants, loans, cash scholarships, etc.)	\$
Veteran's benefits	\$
Alimony	\$
Child support	\$
Payments from civil litigation	\$
Victim restitution	\$
Public assistance (Including AFDC, FEP, TANF, welfare, etc.)	\$
Financial support from household members	\$
Financial support from non-household members	\$
Trust income	\$
Annuity income	\$
Other (Describe)	\$
Other (Describe)	\$
Total gross monthly income	\$

☐ I have estimated the amounts in paragraph 4.

Item estimated	Basis for estimation

☐ I have no income because:

5. **Monthly Tax Deductions** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount.)

☐ I have no monthly tax deductions because I have no income.

☐ I have the following monthly tax deductions.

Type of tax deduction	Amount
Federal income tax	\$
State income tax	\$
Municipal income tax	\$
FICA	\$
Medicare	\$
Total monthly tax deductions	\$

☐ I have estimated the amounts in paragraph 5.

Item estimated	Basis for estimation

6. **After Tax Income**

☐ My monthly income is:

\$ _____ Gross monthly income from section 4
 - \$ _____ Minus monthly tax deductions from section 5

_____ = \$ _____ Equals after-tax monthly income

☐ I have no income.

7. **Monthly Expenses** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Include amounts you pay for yourself and any spouse, children or other dependents in your household.)

- ☐ No party has requested alimony so I am only completing the "Current Amount" column, which represents the amount I pay now.
- ☐ One of the parties has requested alimony so I am completing both the "Current Amount" and the "Marital Expenses" column, which represents the amount paid during the marriage prior to separation.

Monthly expense	Current Amount	Marital Expenses
Rent or mortgage	\$	\$
Real estate taxes (if not included in mortgage)	\$	\$
Real estate insurance (if not included in mortgage)	\$	\$
Real estate maintenance	\$	\$
Food and household supplies	\$	\$
Clothing	\$	\$
Automobile payments	\$	\$
Automobile insurance	\$	\$
Automobile fuel	\$	\$
Automobile maintenance	\$	\$
Other transportation costs (public transportation, parking, etc.)	\$	\$
Utilities (such as electricity, gas, water, sewer, garbage)	\$	\$
Telephone	\$	\$
Paid television, cable, satellite	\$	\$
Internet	\$	\$
Credit card payments	\$	\$
Loans and other debt payments	\$	\$
Alimony	\$	\$
Child support	\$	\$
Child care	\$	\$

Monthly expense	Current Amount	Marital Expenses
Extracurricular activities for children	\$	\$
Education (children)	\$	\$
Education (self)	\$	\$
Health care insurance	\$	\$
Health care expenses (excluding insurance listed above)	\$	\$
Other insurance (describe)	\$	\$
Entertainment	\$	\$
Laundry and dry cleaning	\$	\$
Donations	\$	\$
Gifts	\$	\$
Union and other dues	\$	\$
Garnishment or income withholding order	\$	\$
Retirement deposits (including pensions, 401(k), IRA, etc.)	\$	\$
Other (describe)	\$	\$
Other (describe)	\$	\$
Total monthly expenses	\$	\$

☐ I have estimated the amounts in paragraph 7.

Item estimated	Basis for estimation

8. **Business Interests** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I have no business interests.

☐ I have the following business interests.

Business name	
Address & phone	

Nature of business		
Current value of the business \$	Date of formation:	Percent owned by _____ % Petitioner _____ % Respondent

Business name		
Address & phone		
Nature of business		
Current value of the business \$	Date of formation:	Percent owned by _____ % Petitioner _____ % Respondent

☐ I have estimated the amounts in paragraph 8.

Item estimated	Basis for estimation

9. **Financial Assets** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I have no financial assets.

☐ I have the following financial assets.

Asset	Name & address of institution	Names on account	Current balance
Bank or credit union Account number: _____ Date opened: _____ Type: <input type="checkbox"/> checking <input type="checkbox"/> savings <input type="checkbox"/> other _____			\$

Asset	Name & address of institution	Names on account	Current balance
Bank or credit union Account number: _____ Date opened: _____ Type: [] checking [] savings [] other _____			\$
Stocks, bonds, securities, money market account Account number: _____ Date opened: _____			\$
Retirement account Account number: _____ Date opened: _____ Plan name: _____ Plan representative: _____			\$
Profit sharing plan Account number: _____ Date opened: _____ Plan name: _____ Plan representative: _____			\$
Annuity Account number: _____ Date opened: _____ Plan name: _____ Plan representative: _____			\$

Asset	Name & address of institution	Names on account	Current balance
Life insurance Account number: _____ Date opened: _____ Plan name: _____ Plan representative: _____			Term life benefit amount: \$ _____ Whole life benefit amount: \$ _____ Cash value: \$ _____
Money owed to me Date of loan: _____			\$ _____
Cash			\$ _____
Other (describe)			\$ _____
Other (describe)			\$ _____

☐ I have estimated the amounts in paragraph 9.

Item estimated	Basis for estimation

10. **Real Estate** (You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I have no real estate.

☐ I have the following real estate.

Home

Address			
Date acquired	Name(s) on title	\$ Original cost	\$ Current value
First mortgage or lien holder (name & address)		\$ Amount owed	\$ Monthly payments
Second mortgage or lien holder (name & address)		\$ Amount owed	\$ Monthly payments

Other real estate

Address			
Date acquired	Name(s) on title	\$ Original cost	\$ Current value
First mortgage or lien holder (name & address)		\$ Amount owed	\$ Monthly payments
Second mortgage or lien holder (name & address)		\$ Amount owed	\$ Monthly payments

☐ I have estimated the amounts in paragraph 10.

Item estimated	Basis for estimation

11. **Personal Property** (Such as vehicles, boats, trailers, major equipment, furniture, jewelry, and collectibles. You must attach proof of amounts listed. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I have no personal property.

☐ I have the following personal property.

Property description (if automobile, include year, make, and model)	Debt owed to (name and address)	Names on title (if applicable)	Current value	Amount owed	Minimum monthly payments
Vehicle			\$	\$	\$
Vehicle			\$	\$	\$
			\$	\$	\$

Property description (if automobile, include year, make, and model)	Debt owed to (name and address)	Names on title (if applicable)	Current value	Amount owed	Minimum monthly payments
			\$	\$	\$
			\$	\$	\$

☐ I have estimated the amounts in paragraph 11.

Item estimated	Basis for estimation

12. **Debts Owed** (Do not include amounts you owe on property reported in the Real Estate or Personal Property sections. You must attach proof of amounts listed. You must also attach 3 months of credit/debit account statements. If the proof is not available, estimate the amount and explain how you reached that amount. Add additional sheets if needed.)

☐ I do not owe any debts.

☐ I owe the following debts.

Type of debt (such as credit card, cash loan, or installment payment and account number, if any)	Debt owed to (name and address and phone number)	Names on debt	Amount owed	Minimum monthly payments
Type of debt: Account number:			\$	\$
Type of debt: Account number:			\$	\$
Type of debt: Account number:			\$	\$

Type of debt (such as credit card, cash loan, or installment payment and account number, if any)	Debt owed to (name and address and phone number)	Names on debt	Amount owed	Minimum monthly payments
Type of debt: Account number:			\$	\$
Type of debt: Account number:			\$	\$
Type of debt: Account number:			\$	\$

[] I have estimated the amounts in paragraph 12.

Item estimated	Basis for estimation

Warning

If you do not fully disclose all assets and income in this document and provide attachments you could be subject to sanctions under Utah Rule of Civil Procedure 37.

Sanctions can include an award of non-disclosed assets to the other party, attorney's fees or other sanctions.

Petitioner or Respondent

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____
Printed Name _____

Attorney or Licensed Paralegal Practitioner of record (if applicable)

Date

Signature ► _____
Printed Name _____

This is a safeguarded record.

**Non-public Information –
Safeguarded Contact Information**

Case Number _____

Utah Code of Judicial Administration Rule 4-202.02

Instructions:

If your case is one of the types listed below and you want to safeguard your contact information (or that of your child) from the other party, write the information on this form and omit the information from the other documents you file in the case. File this form with the court, but **do not** serve this form on the other party.

Keep the following contact information private. Do not provide the contact information to the other party because (Choose all that apply.):

- ☐ I have a court order or agency order authorizing me to safeguard my contact information.
- ☐ this proceeding is about:
- a protective order (Utah Code 78B-7-109).
 - a stalking injunction (Utah Code 78B-7-701).
 - a parentage order (Utah Code 62A-11-304.4).
 - a custody order (UCCJEA, Utah Code 78B-13-209).
 - a support order (UIFSA, Utah Code 78B-14-312).

Name			
Residential Address			
City, State, ZIP			
Phone		Email address	
Reason for safeguarding contact information	<input type="checkbox"/> court or agency order <input type="checkbox"/> protective order <input type="checkbox"/> stalking injunction	<input type="checkbox"/> parentage order <input type="checkbox"/> custody order (UCCJEA) <input type="checkbox"/> support order (UIFSA)	

Name			
Residential Address			
City, State, ZIP			
Phone		Email address	
Reason for safeguarding contact information	<input type="checkbox"/> court or agency order <input type="checkbox"/> protective order <input type="checkbox"/> stalking injunction	<input type="checkbox"/> parentage order <input type="checkbox"/> custody order (UCCJEA) <input type="checkbox"/> support order (UIFSA)	

Name			
Residential Address			
City, State, ZIP			
Phone		Email address	
Reason for safeguarding contact information	<input type="checkbox"/> court or agency order <input type="checkbox"/> parentage order <input type="checkbox"/> protective order <input type="checkbox"/> custody order (UCCJEA) <input type="checkbox"/> stalking injunction <input type="checkbox"/> support order (UIFSA)		

Name			
Residential Address			
City, State, ZIP			
Phone		Email address	
Reason for safeguarding contact information	<input type="checkbox"/> court or agency order <input type="checkbox"/> parentage order <input type="checkbox"/> protective order <input type="checkbox"/> custody order (UCCJEA) <input type="checkbox"/> stalking injunction <input type="checkbox"/> support order (UIFSA)		

Plaintiff/Petitioner or Defendant/Respondent

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date Signature ► _____
Printed Name _____

Attorney or Licensed Paralegal Practitioner of record (if applicable)

Date Signature ► _____
Printed Name _____



Administrative Office of the Courts

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

December 9, 2021

Ron Gordon
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council

FROM: Kaden Taylor

RE: Form updates due to URCP 7, 101, and 8 rule changes

Effective May 1, 2021, URCP 7, 8, and 101 require specific warnings to be included on certain forms. The forms committee approved adding this warning language to all affected forms. The added warnings are in the top right corner of the forms. Some of the updated forms were LPP approved forms. Attached are examples of how these warnings look on these forms.

- Attachment A shows the changes for URCP 7;
- Attachment B shows the changes for URCP 101;
- Attachment C shows the changes for URCP 8.

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 A

Name _____

Address _____

City, State, Zip _____

Phone _____

Email _____

This motion requires you to respond. Please see the Notice to Responding Party.

Check your email. You will receive information and documents at this email address.

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

Motion for Default Judgment
 (Utah Rule of Civil Procedure 55)

Plaintiff/Petitioner _____

v. _____

Defendant/Respondent _____

Case Number _____

Judge _____

Commissioner (domestic cases) _____

1. The following documents were served:
 - ☐ Summons and Complaint/Petition
 - ☐ Counterclaim
 on _____ (date). Proof of service or an acceptance of service has been filed or is attached.
2. The time in which to file an Answer has passed, and the
 - ☐ plaintiff/petitioner
 - ☐ defendant/respondent

ATTACHMENT B

Name

Address

City, State, Zip

Phone

Email

This motion will be decided by the court commissioner at an upcoming hearing. If you do not appear at the hearing, the Court might make a decision against you without your input. In addition, you may file a written response at least 14 days before the hearing.

Check your email. You will receive information and documents at this email address.

I am ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Plaintiff/Petitioner's Attorney ☐ Defendant/Respondent's Attorney (Utah Bar #: _____)
☐ Plaintiff/Petitioner's Licensed Paralegal Practitioner
☐ Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the ☐ District ☐ Justice Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

Motion to

(name of motion)

☐ **Hearing Requested**

Case Number

Judge

Commissioner (domestic cases)

1. I ask the court to enter an order as follows:
 (Write **what** you want the court to order.)

ATTACHMENT C

Name

Address

City, State, Zip

Phone

Email

If you do not respond to this document within applicable time limits, judgment could be entered against you as requested.

Check your email. You will receive information and documents at this email address.

I am ☐ Petitioner ☐ Respondent
☐ Petitioner's Attorney ☐ Respondent's Attorney (Utah Bar #: _____)
☐ Petitioner's Licensed Paralegal Practitioner
☐ Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

**Petition to Modify Child Custody,
Parent-time and Child Support**
(Utah Rule of Civil Procedure 106)

[] and Stipulation

Petitioner

v.

Respondent

Case Number

Judge

Commissioner

I ask the court to modify the child custody, parent-time and child support orders as follows.