

JUDICIAL COUNCIL MEETING
Minutes

February 28, 2022
Meeting conducted through Webex

9:00 a.m. – 2:25 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. Mark May
Hon. David Mortensen
Justice Paige Petersen
Hon. Kara Pettit
Margaret Plane, esq.

Excused:

Hon. Michelle Heward
Hon. Derek Pullan
Hon. Brook Sessions

Guests:

Hon. Danalee Welch-O'Donnal, Moab Justice Court
Hon. Dennis Fuchs, Senior Judge
Hon. Keith Kelly, Third District Court
Hon. Adam Mow, Third District Court
Joyce Pace, TCE Fifth District Court
Glen Proctor, TCE Second District Court
Cade Stubbs, Clerk of Court, Fifth District Court

AOC Staff:

Ron Gordon
Cathy Dupont
Michael Drechsel
Brody Arishita
Shane Bahr
Todd Eaton
Alisha Johnson
Kara Mann
Meredith Mannebach
Tania Mashburn
Jordan Murray
Bart Olsen
Jim Peters
Nathanael Player
Nini Rich
Keri Sargent
Neira Siaperas
Nick Stiles
Karl Sweeney
Melissa Taitano
Shonna Thomas
Keisa Williams
Jeni Wood

Guests Cont.:

Samantha Taylor, Chairwoman, LGBTQ+
Chamber of Commerce
Mark Urry, TCE Fourth District Court
Chris Wharton, Wharton Law, PLLC

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 February 11, 2022 Judicial Council meeting minutes as presented; the January 31, 2022 Judicial Council meeting minutes as presented; and the January 18, 2022 Judicial Council meeting minutes as amended to change the word “center” to “focus” on page 6. Judge Augustus Chin seconded the motion, and it passed unanimously.

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

Chief Justice Durrant said the University of Utah President spoke about the encouraging efforts of the Office of Innovation. Chief thanked Michael Drechsel, Ron Gordon, Cathy Dupont, Karl Sweeney and all who assisted with this year’s legislative session.

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

Mr. Gordon introduced Glen Proctor as the new Second District Court TCE. Mr. Gordon introduced Brody Arishita as the new Chief Information Officer, who has been with the Utah Judiciary for 22 years. Chief Justice Durrant appreciated Mr. Arishita’s promotion and felt the courts were fortunate to have him in this position. Mr. Gordon announced that Tania Mashburn has been promoted to the Communications Director position.

Mr. Gordon thanked everyone for their participation in the legislative session, and stated that Mr. Drechsel has tremendous respect from Legislators. The data team, court administrators, Neira Siaperas, Shane Bahr, and Finance personnel have all worked tirelessly during the Session. No legislative budget requests have been finalized yet but the courts’ priorities seem to be in a good position.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Budget & Fiscal Management Committee Report:

The committee will address budget items later in the meeting.

Liaison Committee Report:

Judge Kara Pettit noted the committee met for the last time during this session. Judge Pettit thanked Mr. Gordon and Mr. Drechsel for their support.

Policy and Planning Committee Report:

Judge Derek Pullan was unable to attend.

Bar Commission Report:

Margaret Plane said the Bar tested 80 Bar exam applicants in February and has received 278 applications for July. The Bar’s Spring Convention has moved to a virtual setting and is being offered in a series rather than one or two-day sessions. The July 6-9 Summer Convention will be held in California. Scotti Hill will be the new Ethics Counsel and Director of Practice Management.

5. LEGISLATIVE UPDATES: (Michael Drechsel)

Chief Justice Durrant welcomed Michael Drechsel. Mr. Drechsel thanked everyone for their effort with this legislative session, noting Judge Pettit, Justice Paige Petersen, Judge Brook Sessions, and Judge Ryan Evershed worked on the Liaison Committee, which met 10 times between January and February. The Liaison Committee will prepare a summary packet of the changes that affect the courts from this year’s session for the April 15, 2022 Legislative Update. Mr. Drechsel thought Legislators brought proposals based on well-thought out ideas. There seems to be a lot of mutual respect between Legislators and the courts. Mr. Drechsel reviewed the bills that impact the courts.

Chief Justice Durrant thanked Mr. Drechsel and the Liaison Committee for their outstanding work.

6. ADR COMMITTEE REPORT: (Judge Adam Mow and Nini Rich)

Chief Justice Durrant welcomed Judge Adam Mow and Nini Rich. All mediation programs directly administered through the courts ADR Office (Child Welfare, Co-parenting and Restorative Justice) were shifted online in April 2020 and continue to be offered exclusively online as of February 28, 2022 due to the COVID pandemic.

ADR Program Structure

- General civil and probate case referrals has a court roster of private mediators and arbitrators who have met specific education, experience and ethical requirements as outlined in CJA Rule 4-510.03 and who requalify annually. Parties select their own mediator in these cases.
- Mandatory divorce mediation has a sub roster of divorce mediators who have received additional specialized training and mentoring.
- Co-parenting mediation referrals, which are required to be mediated within 15 days of filing, includes screening the cases, contacting the parties and assigning mediations to a closed roster of private providers with specialized experience and training.
- Child welfare mediation cases, which are court-ordered and subject to very tight statutory timelines, are conducted by court staff mediators who are hired and trained specifically for these cases.
- Juvenile court victim/offender and truancy cases are conducted by court staff mediators who are hired and trained specifically for these case types.
- Small Claims Mediation programs utilize trained volunteer mediators and are administered through collaborations with universities and nonprofit community mediation organizations. The ADR Director collaborates with other court departments to support the rollout of Online Dispute Resolution (ODR) in the justice courts.

ADR Program Statistics and Services –FY 2021

- 2,109 cases were referred to ADR Programs that are directly administered by the Utah State Court’s ADR Office. In addition, more than 4,000 cases were mediated by private ADR providers selected by parties.
- Six ADR staff mediators (5 FTE) were assigned 1,643 child welfare mediations statewide. Of those cases mediated, 86% were resolved. Since 1998, the Child Welfare Mediation Program has conducted over 20,000 mediations for the Utah juvenile courts.

- Two juvenile justice mediators were assigned 84 victim/offender mediations and 27 truancy mediations statewide.
- More than 181 *pro bono* divorce and co-parenting mediations were arranged by ADR staff.
- 587 *pro bono* mediations were provided through ADR Program collaborations with nonprofit community mediation organizations and educational institutions.
- The Utah Court Roster lists 172 private ADR providers who mediated 3,785 cases and arbitrated 27 cases in CY 2020. Court Roster members also provided 592 *pro bono* mediations and 2 *pro bono* arbitrations. Roster members reported that they conducted 63% of mediation sessions online in 2020.
- The ADR Committee of the Judicial Council provides ethics outreach and education through the Utah Mediation Best Practice Guide.
- The Council’s ADR Committee created an online ethics examination for new applicants to the Utah Court Mediation Roster which expanded the scope of the exam to cover all court rules and statutes that govern ethical behavior of mediators who are members of the Utah Court Roster.
- Ongoing ADR training and information are provided to court personnel through new judge orientations and specialized training sessions arranged for judges, court staff and supervisors.
- ADR outreach and education are provided to the Judicial Council, Utah State Bar, Utah State Legislature, ADR Providers and court clients through reports, seminar and conference presentations and the ADR Program web site.

Judge Mow mentioned they would like to see virtual mediations continue in some aspect because there is flexibility and convenience, especially for domestic mediations. Virtual mediations lose some personal connections but has overall worked well for schedules. Ms. Rich explained that the co-parenting mediations work very well virtually, however, child-welfare mediations are more successful when held in person. The ODR program volunteer facilitators use the chat online feature. Judge Pettit thought the training on judicial settlement conferences would be very helpful.

Chief Justice Durrant thanked Judge Mow and Ms. Rich.

7. **WINGS COMMITTEE REPORT: (Judge Keith Kelly and Shonna Thomas)**

Chief Justice Durrant welcomed Judge Keith Kelly and Shonna Thomas. The Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) Committee is a problem-solving body that relies on court-community partnerships to oversee guardianship practice in the courts; improves the handling of guardianship cases; engages in outreach/education; and enhances the quality of care and quality of life of vulnerable adults. WINGS is effective through participation of key stakeholders.

WINGS Projects

- CJA Rule 6-501 Reporting Requirements for Guardians and Conservators. WINGS stakeholders identified gaps in this rule where additional language could help clarify.
- Annual Report Review Process. In conjunction with Rule 6-501, WINGS created a new form, “Review of Guardianship or Conservatorship Reports”.

- Guardianship for School Purposes/Limited Guardianship of a Minor. WINGS was approached to look more closely at guardianships of minors.
- CJA Rule 6-507 Court Visitors. This rule, which went into effect in November 2020, codifies and details the Court Visitor Program.
- Utah Code § 75-5-303 Procedure for Court Appointment of a Guardian of an Incapacitated Person. In October 2021, WINGS began reviewing this statute to clarify the language, intent, and training surrounding the statute.
- CJA Rule 1-205 and WINGS Rule. WINGS took on the project of becoming a formal committee under the supervision of the Judicial Council.

Judge Kelly stated they work to ensure judges are trained and aware of the legal requirements because there is always a concern with guardianship cases. Ms. Thomas said there is an attorney shortage with guardianship cases and with other cases. There have been guardianship cases that have garnered public attention but none that were in Utah. Utah was one of the first states to create a WINGS program.

Chief Justice Durrant thanked Judge Kelly and Ms. Thomas.

8. SENIOR JUDGE CERTIFICATION: (Cathy Dupont)

Chief Justice Durrant welcomed Cathy Dupont. Judge Ronald Powell sought initial certification and does not have any outstanding complaints after a finding of reasonable cause with the Judicial Conduct Commission or the Utah Supreme Court. (CJA Rule 11-201(2)) Judge Powell appears to meet the criteria found in CJA Rule 11-203. Senior Justice Court Judges. The National Center for State Courts does not conduct performance evaluations on justice court judges. The Board of Justice Court Judges unanimously supported Judge Powell’s application.

Chief Justice Durrant thanked Ms. Dupont.

Motion: Judge Chin moved to approve Judge Ronald Powell as an Active Senior Judge. Judge Paul Farr seconded the motion, and it passed unanimously.

9. PROBLEM-SOLVING COURTS CERTIFICATION: (Judge Dennis Fuchs)

Chief Justice Durrant welcomed Judge Dennis Fuchs.

PSC Type	PSC Assigned #	Judge Assigned
Adult Drug Court	ADC1CACHE	Judge Cannell
	ADC1BOXELDER	Judge Maynard
	ADC1UTAH	Judge Howell
	ADC2UTAH	Judge Eldridge
	ADC1SEVIER	Judge Bagley
	ADC1KANE	Judge Lee
	ADC1SANJUAN	Judge Torgerson
	ADC1UINTAH	Judge McClellan
Adult Mental Health	AMHC1SEVIER	Judge Bagley
Juvenile Family Dependency	JFDDC1WASHINGTON	Judge Leavitt

Judge Fuchs mentioned almost all PSCs are having a difficult time meeting the minimum participants requirement during the pandemic but expected those numbers to increase as the pandemic winds down.

Chief Justice Durrant thanked Judge Fuchs.

Motion: Judge Chin moved to approve the recertification of all problem-solving courts listed in the table above. Judge Farr seconded the motion, and it passed unanimously.

10. LANGUAGE ACCESS COMMITTEE REPORT: (Cade Stubbs and Kara Mann)

Chief Justice Durrant welcomed Cade Stubbs and Kara Mann.

Interpreter Usage for FY 2021

District Courts	6,520
Juvenile Courts	3,380
Justice Courts	7,462

District Usage of Interpreters

District	District	Juvenile	Justice
First	420	106	421
Second	785	461	919
Third	2,693	1,114	3,928
Fourth	1,884	1,225	1,644
Fifth	522	90	423
Sixth	91	91	50
Seventh	63	4	61
Eighth	62	14	16

FY 2020 vs FY 2021 Growth

Court	FY 2020	FY 2021	Growth Percentage
District	5,039	6,520	29%
Juvenile	3,711	3,380	-9%
Justice	6,173	7,462	21%

Completed Projects

- Reviewed and recommended a contract rate increase for freelance court interpreters
- Reviewed and revised the continuing education policy for certified court interpreters
- Drafted a proposed rule on reciprocity
- Revised the Conditionally Approved Interpreter Appointment Form
- Reviewed the Oral Interview Score Requirement
- Drafted proposed protocols for courts to consider regarding the COVID backlog impact on court interpreter resources
- Regularly reviewed requests by interpreters for reciprocity or special requests

Ongoing Projects

- Creating a mentoring program for approved interpreters

- Drafting a policy on translations
- Drafting a new court rule to address interpreting recorded evidence
- Revising the court interpreter invoice

Future Projects

- Creating a training module for court interpreters on using Cisco’s WebEx SI feature
- Updating the Language Access Plan
- Improving language access services outside of courtrooms

Ms. Mann said the growth rate of cases is requiring more court interpreters. There hasn’t been an issue lately of losing Utah interpreters to neighboring states. There is a shortage of CARE service providers, which are an ADA accommodation for deaf or hard-of-hearing parties who do not know American Sign Language. Judge Shaughnessy has seen an increased need of simultaneous interpretation with fewer people who are proficient to do them. Ms. Mann said Webex now has an interpreting audio channel but it has not been implemented yet. Ms. Mann explained that the Spanish interpreters are aware of the work-arounds for simultaneous interpreting. There are only three staff interpreters and they are located in the Third District Court. All other interpreters are freelance.

Chief Justice Durrant thanked Mr. Stubbs and Ms. Mann.

11. BUDGET AND GRANTS: (Judge Mark May, Karl Sweeney, Bart Olsen, and Jordan Murray)

Chief Justice Durrant welcomed Karl Sweeney, Bart Olsen, and Jordan Murray.

FY 2022 Ongoing Turnover Savings

#	Funding Type	Actual	Forecasted	
		Amount YTD	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 5 remaining months)	Internal Savings	525,683	775,683
3	TOTAL SAVINGS		725,837	975,837
	2021 Hot Spot used (balance available at beginning of FY was \$99,950)	Savings Usage	(99,950)	(99,950)
	2022 Hot Spot used (\$110k initially available raised to \$200k in October Judicial Council)	Savings Usage	(149,507)	(200,000)
	2022 Authorized Ongoing for Performance Based Raises	Savings Usage	-	(450,000)
4	TOTAL USES		(249,457)	(749,950)
5	Actual Turnover Savings for FY 2022 as of 02/01/2022 and Forecast at YE 6/30/2022		\$ 476,380	\$ 225,887

Ongoing turnover savings only happens when a vacant position is filled at a lower rate and/or with lower benefits. There are currently 23 positions that have turned over within the past 90 days that are currently listed as having unknown benefits. As those employees select their benefits, if they select lower benefits, there will be additional savings. Currently, 61.25 FTE are vacant with 19 in process of being filled. If those positions fill, with no other changes, that would leave 42.25 FTE vacant.

FY 2022 Onetime Turnover Savings

#	Description	Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 01/21/2022)	Internal Savings	2,287,202
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 01/21/2022)	Reimbursements	337,027
3	Est. One Time Savings for 912 remaining pay hours (\$2k / pay hour)	Internal Savings (Est.)	1,824,000
	TOTAL POTENTIAL SAVINGS		4,448,229
	Total Potential One Time Savings		\$ 4,448,229

FY 2022 Year-End Forecast

Forecasted Available One-time Funds			
Description	Funding Type	Amount	
Sources of YE 2022 Funds			
* Turnover Savings as of pay period ending 01/21/22 (including anticipated ARPA reimbursement)	Turnover Savings	2,624,229	
** Turnover savings Estimate for the rest of the year (\$2k x 912 pay hours)	Turnover Savings	1,824,000	
Total Potential One Time Turnover Savings		4,448,229	
Operational Savings From TCE / AOC Budgets			
*** Operational Savings From TCE / AOC Budgets	Internal Operating Savings	649,360	
Reserve Balance (from August Judicial Council meeting net of approved reserve uses)	Judicial Council Reserve	414,829	
Uses of YE 2022 Funds			
Maximum Carryforward into FY 2023	Desired Carryforward	(3,200,000)	
Total Potential One Time Savings + Reserve Balance (a) + (b) + (c) for use in FY 2022 YE Spending		\$ 2,312,418	
Less: Judicial Council Requests Previously Approved		\$ (1,322,154)	
Less: Judicial Council Current Month Spending Requests		\$ (429,450)	
Remaining Forecasted Funds Available for FY 2022 YE Spending Requests		\$ 560,814	

#	One-time Spending Plan Requests	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 Performance Bonus Payments Q1/Q2		365,000
6	Software for Clean Slate Legislation		19,667
7	My Case Account Creation Enhancements		130,000
8	For The Record Upgrade		187,000
9	Supplemental Secondary Language Stipend		5,200
10	Taylorsville State Office Building AV Build-out Part 1		47,806
11	Utah Criminal Justice Center Funding		5,000
12	Performance Bonus Payments Q3/Q4	365,000	
13	Law Library - Delayed Subscription Payments	39,150	
14	Jury Assembly Room - Ogden	25,300	
	Current Month One-time Spending Requests	429,450	
	Previously Approved 1x FY 2022 YE Spending Request		1,322,154

FY 2022 Q3/Q4 Performance Bonus Payments

\$365,000 (\$275,000 cash payments and \$90,000 in retirement and taxes)
One-time funds

The conversion of the court's one-time bonus plans from a few judicial assistants and probation officers in career ladder to a court-wide performance bonus plan includes a Judicial Council approved twice a year opportunity for management to recognize performance against goals with one-time bonus payments. Mr. Olsen compared incentive awards between the Utah Judiciary to other state entities. Judge Connors thought if the courts have the capability to be

more generous with bonuses, why are more incentives not distributed. Mr. Sweeney explained the funding distribution methods.

Motion: Judge May moved to approve the FY 2022 Q3/Q4 Performance Bonus Payments one-time funds request of \$365,000, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

Law Library Delayed Subscription Payments

\$39,150

One-time funds

To cover a funding shortfall in the Law Library's budget. Funds to cover library expenses were mistakenly unspent last fiscal year, and \$39,150 was added to the FY 2022 carryforward spending balance in error.

Motion: Judge Shaughnessy moved to approve the Law Library Delayed Subscription Payments one-time funds request of \$39,150, as presented. Judge Connors seconded the motion, and it passed unanimously.

Ogden Jury Assembly Room, Layton Jury Boxes, and Other Furniture Repairs

\$25,300

One-time funds

Provide basic equipment for new jury assembly room in Ogden. Provide chairs for jurors in Layton courtrooms after theater seating is removed.

Motion: Judge Connors moved to approve the Ogden Jury Assembly Room, Layton Jury Boxes, and Other Furniture Repairs one-time funds request of \$25,300, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

Special Request for Ongoing Turnover Savings to Address Certain Court Positions Where Market Has Moved Beyond Current Incumbent Pay Offered

\$100,000

Ongoing funds

Given the \$11.0 million in ARPA projects (almost certain to climb to \$12.3 million after the session with the approval of IT Phase II) the courts risk not being able to fully utilize these funds by the December 31, 2024 expiration date of ARPA legislation unless the courts retain key IT personnel who oversee the 20+ ARPA projects. An investment of up to \$100,000 in forecasted FY 2022 one-time savings yields a stunning 120 times investment payback in fully utilized ARPA funding.

Mr. Gordon said there are a couple of areas where the courts are considerably under market which is different than hot spot increases the Council previously funded. Mr. Gordon mentioned the difficulty the courts have experienced in filling the associate general counsel positions. Judge May mentioned the courts can't seem to compete financially for hiring legal

counsel and felt this is an extraordinary problem. Judge Shaughnessy thought the courts will lose a lot of talent if this isn't addressed.

Motion: Judge Connors moved to approve the \$100,000 for Special Request for Ongoing Turnover Savings to Address Certain Court Positions Where Market Has Moved Beyond Current Incumbent Pay Offered, as presented. Judge May seconded the motion, and it passed unanimously.

Mr. Murray continues his work on grants in the courts.

Chief Justice Durrant thanked Mr. Sweeney, Ms. Dupont, Mr. Olsen, and Mr. Murray.

12. SALT LAKE CITY JUSTICE COURT GRANT REQUEST: (Ron Gordon and Jordan Murray)

Chief Justice Durrant welcomed Ron Gordon and Jordan Murray. On behalf of the Salt Lake City Justice Court, the AOC requested the Council's consideration to authorize a Certificate of State Approval sanctioning the justice court's technical assistance grant in the amount of \$50,000 to the State Justice Institute (SJI). The Certificate designates the justice court as the entity to receive, administer, and be accountable for all funds awarded by SJI.

Partnering with the National Center for State Courts (NCSC), the Salt Lake City Justice Court will be assisted in refining and implementing best practices for limited-jurisdiction courts in case flow and calendar management, organizational structure, coordinating standardized processes, and effective delivery of justice services to a diverse population. This grant request follows a governance and judicial leadership analysis by the NCSC affecting the roles, responsibilities, and decision-making requisites of the judges en banc and the court's presiding judge. As a result, the justice court is well positioned to ensure its management, leadership, and policymaking structure provides a strong underlying framework to support the infusion of effective and innovative practices in streamlining and restructuring its services to the public.

Mr. Gordon noted there is no state court cash match for this grant. Judge Shaughnessy wasn't clear why the Council would be involved with the Salt Lake City Justice Court when SJI requires the governing body to sign these forms, noting that the Council was not the governing body over the justice court. Mr. Gordon explained that SJI specifically requested the Council's review and approval. The justice court has responsibility for receiving and maintaining the funds. The Board of Justice Court Judges has not discussed this grant but Judge Chin didn't believe the Board needed to weigh in on this matter since it's directly related to one justice court.

Chief Justice Durrant thanked Mr. Gordon and Mr. Murray.

Motion: Judge Chin moved to approve having Chief Justice Durrant sign the \$50,000 SJI justice court grant request. Judge Shaughnessy seconded the motion, and it passed unanimously.

13. WINDOWS 7, WEBEX, AND DEVICE TRANSITION: (Todd Eaton and Karl Sweeney)

Chief Justice Durrant welcomed Todd Eaton and Karl Sweeney. The Windows 7 operating system reached its end of life in October of 2020, meaning the operating system is no longer supported and will no longer receive critical patches from Microsoft. These patches are what allows software to continue functioning effectively and securely. Additionally, Webex will no longer function on Windows 7 machines as of April 2022. Due to COVID, laptops were purchased from legislative, COVID relief, Judicial Council and grant funding to enable staff to work remotely and to allow the courts to hold remote hearings.

Since January 2020, the courts have purchased over 1,300 laptops and PCs at a cost of about \$1,400,000. There are currently 1,183 staff/judges/GAL using 4,000 devices. The courts are now at a point where there is no choice but to get rid of the Windows 7 computers because of the security risk to our system. The IT Department does not have the \$750,000 in their budget needed to replace the remaining Windows 7 computers and maintain the current device count nor the staff to support the growing number of devices.

IT plans to meet individually with each TCE to review their inventory and outline the plan of action. Judge Samuel Chiara asked how many devices would be given to judges who work in multiple courthouses. Mr. Eaton explained that docking stations will be installed in their chambers and desktops would be installed for the benches. Mr. Eaton provided that desktops will be installed in the courtrooms for judicial assistants who work in multiple locations as well.

Windows 10 licenses have been purchased by IT. Mr. Eaton explained that IT has standard docking stations, however, docking stations that are unique are currently on backorder. Several districts have standard docking stations on hand for use.

Chief Justice Durrant thanked Mr. Eaton and Mr. Sweeney.

Motion: Judge May moved to approve the consolidation of devices as defined by the IT Department. Judge Connors seconded the motion, and it passed unanimously.

14. JUSTICE COURT REFORM: (Judge Paul Farr, Jim Peters, Karl Sweeney, and Jordan Murray)

Chief Justice Durrant welcomed Judge Paul Farr, Jim Peters, Karl Sweeney, and Jordan Murray. The Justice Court Reform Workgroup, chaired by Judge Farr, presented the two fundamental efforts that must commence to mobilize and advance the initiative forward. These foundational tasks include data collection and analysis and coalition building with an anticipated start date of April 1, 2022 and would continue for a period of 24 months. The project expectations include detailing caseload and financial analysis, reform recommendations based on the analysis, consensus building throughout the state with stakeholder groups, Utah Bar Journal article, Law Review article, and draft rules and legislation. The AOC evaluated costs for two scenarios. Option A is using primarily internal resources and Option B is using primarily outside resources.

Option A

Title	FTE	Costs	Term	Comments
Project manager	. 5 FTE	\$150,000	24 months	
Admin support	1 FTE	\$0	24 months	
Finance and accounting	1.5 FTE	\$230,000	24 months	Using current staff
Audit services	.8 FTE	\$0	24 months	Using current staff
Court Services	1 FTE	\$80,000	24 months	Using current staff
Facilities support	.66 FTE	\$0	8 months	Using current staff
Intern assistance		\$25,000	As needed	
Travel allowance		\$25,000	As needed	
Total Costs		\$510,000		

Option B

Project manager	. 5 FTE	\$150,000	24 months	
Admin support	1 FTE	\$0	24 months	
Finance and accounting and Audit services	2 FTE	\$350,000	24 months	
Court Services	1 FTE	\$80,000	8 months	Using current staff
Facilities support	.66 FTE	\$0	8 months	Using current staff
Intern assistance		\$145,000	As needed	
Travel allowance		\$25,000	As needed	
Total Costs		\$750,000		

Judge Connors wondered if the workgroup was seeking funds to begin the process without knowing if there is legislative buy in for the changes in court structure. Judge Farr clarified that in order to conduct an in-depth analysis determining the cost of implementing the creation of a new court system, this upfront work must be done. Justice courts costs and revenue is about \$42 million per year. Justice courts do not have uniform accounting procedures so there is no central or standard database. As the recommendations are implemented, the cost per locality must be determined. Judge Connors thought the reform was a great idea but was concerned about committing money to a project that may not have a chance for success without knowing the thoughts of local entities and the legislature. Judge Farr said the Task Force sought participation from every entity they could think of that might be impacted by the proposal. Unfortunately, without the proposed analysis being done, the fiscal impact of the changes cannot be determined. Judge Farr reminded the Council that the original Task Force included representatives from the League of Cities and Counties, local attorneys, and other entities, who weighed in on the final Task Force report.

Judge Farr was concerned that incremental changes to the structure or operations of the justice courts may not reflect the direction from the Council. A Court led workgroup may provide more specific guidance. Judge Shaughnessy thought the reform recommended moving class A misdemeanor cases from district courts to justice courts; however, there seems to be a push to move criminal cases from the justice courts to the district courts, which seems counter intuitive. Judge Farr understood that the push was to move domestic violence cases out of the justice courts to eliminate de novo appeals.

Ms. Dupont reminded the Council that their legislative funding priorities were created last August, however, the proposal and fiscal analysis of the workgroup for this project were created after those priorities were established. Judge May believed the Budget and Fiscal Management Committee also felt the Court should get buy in from the Legislature or a legislator before spending significant resources on the project. He recognized that this may delay the implementation.

Judge Farr said this effort is similar in scope and magnitude as the 2004 justice court discussions. Judge Chin recommended the workgroup begin conversations with Legislators. Mr. Gordon thought the Legislature would consider this to be a very significant change, similar to when the courts moved away from circuit courts. Mr. Gordon explained that although Legislators don't necessarily know details, many are aware of this effort and that this should be done in concert with Legislators.

While the courts have drafted changes that do not require constitutional amendments, if the Legislature takes over this project, they could choose to look at constitutional changes. Judge Mortensen knew the courts didn't want to amend Article VIII Judicial Department but wondered if the Legislators would seek an amendment in the article.

Judge May suggested the Courts approach the Legislature to fund the study brought before the Council. Judge Shaughnessy didn't want this request competing other financial requests the courts might advance. Mr. Gordon thought this request would not compete with other judicial requests if a legislative task force was created.

Judge Connors recommended the Council create a subcommittee including himself, Judge Farr, Mr. Gordon, Ms. Dupont, Mr. Drechsel, and Mr. Peters to determine the best strategic approach. Judge Pettit relayed that it might be wise to speak with Legislators at this point but not seek grant funding. The Council agreed to have Mr. Gordon, Ms. Dupont, Judge Farr, and Mr. Peters work to create a plan on how to address this with the Legislators. Chief Justice Durrant thought the courts need to make this the sole topic of conversations with legislative leadership, including Chief Justice Durrant, Mr. Gordon, Ms. Dupont, Judge Farr, and Mr. Peters.

Chief Justice Durrant thanked Judge Farr, Mr. Peters, Mr. Sweeney, and Mr. Murray.

15. GREEN PHASE WORKGROUP: (Ron Gordon)

Chief Justice Durrant welcomed Ron Gordon. The Judicial Council requested a workgroup be created to conduct an in-depth study of the use of virtual technology on a permanent basis. Mr. Gordon recommended the membership of the workgroup consist of: **Internal stakeholders** – judges from all court levels, one or more judicial assistants, one or more Clerks of Court, Self-Help Center, representative from the Standing Committee on Resources for Self-represented Parties, and IT support; and **External stakeholders** (to be invited on an as-needed basis) – Department of Corrections, Sheriff's Association, Utah State Bar Litigation Section, Utah Statewide Association of Prosecutors, Utah Association of Criminal Defense Lawyers, and juvenile court professionals. **Staff** would consist of Meredith Mannebach, Ron Gordon, Cathy Dupont, Neira Siaperas, Shane Bahr, and Jim Peters.

Discussion Issues

- Published or pending reports
 - Harvard Access to Justice - child welfare proceedings in Juvenile Court
 - Other Side Working Group Report to the Minnesota Judicial Council
 - Utah Remote Hearings Study
 - How Courts Embraced Technology, Met the Pandemic Challenge, and Revolutionized Their Operations (Pew Charitable Trusts)
 - Access to Justice survey (Utah State Bar)
- Data
 - Number of hearings it takes to resolve a case
 - Length of hearings
 - Number of days between calendar settings
 - Failure to appear
 - Days cases pending
 - Number of cases pending
- Urban vs. rural issues
- Internet connectivity
- Equipment costs (for the courts and external stakeholders)
- Problem-solving courts
- First appearance calendars

Mr. Gordon also believed a TCE should be added to the group.

Chief Justice Durrant thanked Mr. Gordon.

Motion: Judge Mortensen moved to approve the workgroup with the addition of a TCE. Judge Shaughnessy seconded the motion, and it passed unanimously.

16. LGBTQ+ CHAMBER OF COMMERCE: (Samantha Taylor and Chris Wharton)

Chief Justice Durrant welcomed Samantha Taylor and Chris Wharton. Ms. Taylor, Chairwoman of the Utah LGBTQ+ Chamber of Commerce, brought before the Council issues transgender people in Utah's legal community are faced with. Ms. Taylor recommended the Supreme Court adopt ABA Model Rule 8.4(g); in the interim, the Office of Professional Conduct and judicial officers apply Rule 3.4 and 4.4; create an advisory committee to address the standards of professionalism and civility – specifically addressing the use of pronouns, preferred names, and honorifics; the Office of Fairness and Accountability, along with members of the LGBTQ+ community, be given sufficient power to effect changes; the courts and Utah State Bar develop trainings on diversity; the AOC provide full support for employee resource groups; and that the courts become hospitable.

Mr. Wharton appreciated the opportunity to address the Council and stated that he heard things that have been said or included in pleadings by colleagues and judges that are concerning. Ms. Taylor noted there were a lot of issues with cultural competency and misunderstanding. Ms. Taylor appeared in court, dressed as a female, but the judge referred to her as Mr. Taylor. Ms. Taylor felt the judge's rulings in that case were fair but found it difficult for people to believe rulings in general are fair when people are not treated fairly in court. Ms. Taylor suggested more

training and having a resource for judges who witnesses these issues. Ms. Taylor offered training support through her work.

Judge Shaughnessy thanked Ms. Taylor and Mr. Wharton for bringing this forward and noted Code of Judicial Conduct Rule 2.3(c) states “A judge shall take reasonable measures to require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.” Mr. Wharton explained the problem is when a judge doesn’t believe someone is expressing bias and accepts the behavior. Ms. Taylor thought implicit bias training would help. Chief Justice Durrant thought those were great suggestions and that these are very important issues. Judge Connors thought the Judicial Conduct Commissions should be enforcing the rules.

Chief Justice Durrant thanked Ms. Taylor and Mr. Wharton.

17. OLD BUSINESS/NEW BUSINESS

No additional business was discussed at this time.

18. EXECUTIVE SESSION

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

19. CONSENT CALENDAR ITEMS

a) Committee Appointments. Reappointment of Charles Stormont, Peter Strand, Leslie Francis, Shawn Newell, Nicole Gray, and Janet Thorpe, and the appointment of Judge Jan, Judge Welch-O’Donnal, Shannon Treseder, Marcus Degen, Alison Satterlee, and Brooke Robinson to the Committee on Resources for Self-Represented Parties. Approved without comment.

20. ADJOURN

The meeting adjourned.