

JUDICIAL COUNCIL MEETING
Minutes

March 11, 2022
Meeting conducted through Webex

12:00 p.m. – 3:13 p.m.

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. 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. Brook Sessions

Excused:

Hon. Keith Barnes
Hon. Derek Pullan
Ron Gordon

Guests:

Emily Ashcraft, Deseret News
Hon. Michele Christiansen Forster, Court of Appeals
Travis Erickson, TCE Seventh District Court
Russ Pearson, TCE Eighth District Court
Glen Proctor, TCE Second District Court

AOC Staff:

Cathy Dupont
Michael Drechsel
Brody Arishita
Shane Bahr
Alisha Johnson
Meredith Mannebach
Tania Mashburn
Jordan Murray
Bart Olsen
Jim Peters
Jon Puente
Keri Sargent
Neira Siaperas
Nick Stiles
Karl Sweeney
Melissa Taitano
Chris Talbot
Keisa Williams
Jeni Wood

Guests Cont.:

Nancy Sylvester, Utah State Bar
Heather Thuet, Utah State Bar
Katie Woods, Utah State Bar
Elizabeth Wright, Utah State Bar

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 28, 2022 Judicial Council meeting minutes, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

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

Chief Justice Durrant was grateful for Ron Gordon, Cathy Dupont, Michael Drechsel, the Liaison Committee, and other court personnel for their work on this year’s legislative session.

3. STATE COURT ADMINISTRATOR’S REPORT: (Cathy Dupont)

Ms. Dupont explained that additional discussions will be held later in the meeting regarding the results of the legislative session. Mr. Drechsel will hold an in-person Legislative Update on April 15th. Mr. Gordon sent an email on March 3rd informing supervisors of the IT Department’s work on consolidating devices, which will be conducted in coordination with moving computers from Windows 7 to Windows 10. With the Governor’s approval, Juneteenth will be recognized as a state holiday. The holiday will fall on the Monday closest to the 19th, this year it will be held on June 20th.

The court-level administrators (Nick Stiles, Shane Bahr, Neira Siaperas, and Jim Peters) and the TCEs are talking with their benches to identify how they believe the courts could operate as the pandemic eases. Once Ms. Dupont gathers the information, she will address proposed changes to the Pandemic Administrative Order and Risk Phase Response Plan with the Management Committee. Ms. Dupont will recommend the Plan allow for judges to require all participants to wear masks should someone in attendance be at high risk.

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 thought the session was well-run and appreciated everyone’s assistance, noting that she believes the courts have a strong working relationship with Legislators. Judge Pettit thanked everyone on the Liaison Committee and everyone administratively for all of the work that goes into giving constructive input.

Policy and Planning Committee Report:

Judge Derek Pullan was unable to attend. Judge Connors reported that the committee discussed proposed changes to rules relating to Human Resource procedures for investigating judicial officers in certain circumstances.

Bar Commission Report:

Margaret Plane yielded her time to the Utah Bar Report.

5. UTAH STATE BAR REPORT: (Heather Thuet, Katie Woods, and Elizabeth Wright)

Chief Justice Durrant welcomed Heather Thuet, Bar President, Katie Woods, President-Elect, and Elizabeth Wright, Executive Director. There are 18 fully licensed paralegal practitioners and 9 more people that are in the process. Five paralegals are focused on debt collection and four are focused on landlord/tenant cases.

The Bar conducted a live Bar exam of 80 participants, with COVID precautions. The Bar passage rate last year was at 70%. There were 51 attorneys admitted by motion and 34 attorneys who transferred to Utah. In 2021, there were only 29 attorneys admitted by motion. The Bar held their CLEs through virtual means during the pandemic. They are holding their summer convention live in San Diego. The conventions, when held virtual, are more profitable and have increased attendance, however, many attorneys prefer in-person events.

The Bar will hold a talent show at the end of June and invited the Council to participate if they'd like. Ms. Thuet explained the Bar appears to have excess reserves. Judge Kara Pettit recommended the Bar consider using any additional funds towards pro bono support. The Bar Commission elections are being conducted. Erik Christiansen has been selected as the Bar president-elect.

Chief Justice Durrant thanked Ms. Thuet, Ms. Woods, and Ms. Wright.

6. TCE REPORT: (Russ Pearson and Travis Erickson)

Chief Justice Durrant welcomed Russ Pearson and Travis Erickson. Mr. Erickson expressed an immense amount of gratitude for the Council's support, recognizing the tremendous work that has increased safety measures and allowed for flexibility during the pandemic. Mr. Erickson thanked Mr. Gordon and Ms. Dupont for including them in discussions in redrafting the Risk Phase Response Plan. Having court personnel work from home when they were quarantining made a huge financial benefit to staff and hot spot increases have proven invaluable.

Mr. Erickson noted staff morale and productivity has improved because of the support of the Council. The TCEs appreciated the IT Department's work and were pleased to learn of Brody Arishita's advancement as the Chief Information Officer and looked forward to working with him. Mr. Pearson stated that statewide between June, 2021 – February, 2022, there were 2,423 jury trials scheduled, of which 174 were held, 1,068 were settled, and about 1,000 postponed. The districts appreciate seeing cases moving forward. Although, as the courts add more hybrid trials, they are concerned about bandwidth in the courthouses as more people log into the court's system.

Chief Justice Durrant thanked Mr. Pearson and Mr. Erickson for their encouraging report.

7. DAGGETT COUNTY STAFFING: (Russ Pearson)

Chief Justice Durrant welcomed Russ Pearson. Utah Code § 78A-5-111(4)(a) states, "At the request of the Judicial Council, the county or municipality shall provide staff for the district court in county seats or municipalities under contract with the administrative office of the

courts.” The state courts currently lease the courtroom space from the county; reimburse the county for office supplies and other materials used in the work of running the court; reimburse the county for clerical services at a rate of .25 FTE for a judicial assistant (JA). For many years, this arrangement has worked extremely well. Recently, changes at the County Clerk's Office have resulted in the court work not being a priority. Mr. Pearson presented a revised contract with Daggett County that would:

- Allow JAs from the Vernal Courthouse to provide clerical service to Daggett County patrons through technology and being the in-person staff to judges;
- Allow the Daggett County Treasurer to collect filing fees and other revenues on behalf of the court; and
- Request that Daggett County maintain a kiosk and cloud scanner for use by court patrons.

During the pandemic, the Vernal Courthouse has handled the workload and hearings have been held through Webex. As the courts move more towards in-person hearings, county staff has indicated that they cannot maintain the court’s work and that the courts are not a priority for them. Mr. Pearson noted there would be some minor costs for equipment but this contract would create about a \$20,000 annual savings. The courts can opt out of the contract at any time.

Chief Justice Durrant thanked Mr. Pearson.

Motion: Judge Pettit moved to approve the proposed changes to the contract (allow having Vernal Courthouse JAs to assist with Daggett County court work; that a request be made that the Daggett County Treasurer to accept court payments; that a request be made that Daggett County staff help maintain a kiosk and cloud scanner and that a kiosk and cloud scanner be prioritized for Daggett County), as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

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

Chief Justice Durrant welcomed Judge Michele Christiansen Forster and Nick Stiles. Judge Christiansen Forster said there have been two meetings over the last four months. Oversight for the appellate mediation office has been transferred from the Supreme Court to the Court of Appeals. They have been working on technology updates to both the Supreme Court and Court of Appeals courtrooms that will allow hybrid hearings. The appellate courts are transitioning to Microsoft 365 and working with the IT Department to consolidate their devices.

The courts are leading a workgroup in collaboration with the district and juvenile courts, to address record and transcript issues. They recently met with human resources and the general counsel’s office to address what roles judicial officers have in receiving and reporting HR complaints. They continue to work on their appellate mediation roster. The Court of Appeals will resume in-person oral arguments in July and the Supreme Court will resume in-person oral arguments in August or September.

Judge David Mortensen reported that the Legislature approved additional ARPA funding and the Council prioritized the use of some of those funds for appellate e-filing. The IT

Department will begin the process on April 4. They anticipate having a better idea of when e-filing will actually begin over the next 3-4 months. Judge Christiansen Forster said the appellate courts really appreciate the work of Mr. Stiles. Chief Justice Durrant agreed, stating Mr. Stiles is extraordinary.

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

9. POLICY RECOMMENDATIONS ON WORKFORCE CLIMATE: (Jon Puente)

Chief Justice Durrant welcomed Jon Puente. The Office of Fairness and Accountability (OFA) submitted the following policy recommendations to address workplace and judicial climate.

- Work with the Supreme Court to adopt ABA Model Rule 8.4(g) which states: It is professional misconduct for a lawyer to engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these rules.
- Work with the Supreme Court and the State Bar for the creation of a CLE rule dealing with elimination of bias in the legal profession.
- Restructure CJA Rule 3-403(3)(A) to require that all active judges and senior judges complete 30 hours of preapproved education annually, with a minimum of one hour of ethics, harassment, diversity (including power differentials), and elimination of bias training.
- Training on the elimination of bias and diversity, equity and inclusion at new judge and new employee orientation.
- Harassment and abusive conduct training at new judge orientation. Designate mandatory training for court employees, supervisors, directors, and judicial officers, including the role of a bystander, implicit bias, and power differential trainings. The requirement could be similar to current training for workplace harassment, defensive driving, ethics, court security, and abusive conduct.
- Require AOC directors and middle management to report on completion of mandatory trainings during quarterly interviews with leadership.
- Eliminate stigma and fear of reporting harassment by having multiple pathways for reporting abusive conduct or other forms of harassment or bias, increase awareness of the ways to report through educational programs and posting of information in the courthouses.
- Support newly formed Employee Resource Groups.

Mr. Puente contacted the Wharton Law Group about other states that have adopted Rule 8.4. Mr. Puente requested the Council consider the concept of the rule, noting that 10 states have adopted the rule. Mr. Puente explained his goal is cultural change and appreciated the Council's time for considering these changes. The Council discussed the role of the Council versus the Supreme Court regarding the adoption of Rule 8.4 of the Rules of Professional Conduct and

requiring CLE hours. Judge Shaughnessy explained that the decision for adopting Rule 8.4 is outside of the Council's jurisdiction, as Mr. Puente has acknowledged, and that the Supreme Court has been working on this issue for some time. Judge Shaughnessy wasn't sure what Mr. Puente was asking of the Council regarding the rule. Mr. Puente confirmed he was seeking support for either a complete adoption of the rule or a variation of the rule, with the understanding that the Council has no authority to adopt the rule. Chief Justice Durrant provided that currently, the Supreme Court is addressing the rule but didn't anticipate anything happening until the two new justices are in place.

Judge Connors recommended changes to the memo before it is presented to the Supreme Court as follows: Items 1 and 2 change to "support the Supreme Court's consideration of" Rule 8.4. He also suggested some edits for the memo before sending it to the Supreme Court. Judge Pettit said there were a number of items presented by Mr. Puente for which the Council doesn't have enough details to approve, but thought the Council could support as general policies.

Motion: Judge Pettit moved to support the policies set forth in the memo without identifying whether the Council recommend a particular rule or CLE hours, etc., but that the policies behind it and the ways to go about it, set forth via the mechanisms in play that are beyond the Council. Discussion continued. The motion was not seconded.

Ms. Plane acknowledged that Mr. Puente made recommendations that will require work with the relevant groups and committees to draft policies that could then be considered by the Council or the Supreme Court. Ms. Plane thought Mr. Puente was in a double-bind with Rule 8.4 because this is within the Supreme Court's jurisdiction, but the Council may not want to dilute the message of the OFA to the Supreme Court by sending a general message. Judge Connors didn't believe the Council is in a position to recommend or not recommend the rule since there has not been a full debate of the rule by the Council.

Judge Pettit clarified the Council has no authority on the first two items. Mr. Puente said that while the rule falls within the Supreme Court, addressing the disparities falls within the OFA, which is governed by the Council. Judge Connors wondered what sort of action Mr. Puente wanted from the Council. Mr. Puente asked that the Council recommend to the Supreme Court that they should adopt the rule or a variation of the rule. Judge Pettit believed she needed more information before making that recommendation. Judge Shaughnessy also didn't feel comfortable with recommending this without more information because this is a complex issue. Judge Shaughnessy said the Supreme Court is the body that should be addressing this and believed the OFA can seek approval of the rule through the Supreme Court. Chief Justice Durrant said the Council can ask the Supreme Court to consider the rule and CLE requirement.

Chief Justice Durrant suggested that the request could provide that the Council recommend that the Supreme Court consider items 1 and 2. Judge Pettit agreed with Chief Justice Durrant's suggestion that the Council request the Supreme Court consider the rule but not that the Council recommends the Supreme Court adopt the rule.

Motion: Judge Connors moved to support sending the memo to the Supreme Court with the changes identified. Judge Pettit seconded the motion, and it passed unanimously.

Mr. Stiles wondered if the OFA could speak with the Rules of Professional Conduct Committee, who has looked at Rule 8.4 extensively since 2016. The Council asked Mr. Stiles to help set up this meeting. Judge Pettit didn't believe the Council needed to make a motion to authorize the OFA to do things like meeting with Supreme Court committees or participating in the rules discussions. Keisa Williams stated the rules do not require the Council to approve Mr. Puente attending and speaking with other committees.

Chief Justice Durrant thanked Mr. Puente.

10. LEGISLATIVE UPDATES: (Michael Drechsel, Cathy Dupont, and Karl Sweeney)

Chief Justice Durrant welcomed Michael Drechsel, Cathy Dupont, and Karl Sweeney. Mr. Drechsel mentioned the funding (appropriations) bill passed. The number of bills the courts tracked was 255, with varying degrees of significance. In addition, there were 249 substitute bills, bringing the total to 504. This means that the courts submitted 504 fiscal responses. The Liaison Committee addressed more than 120 of those bills. About 173 bills passed that the courts were tracking. Mr. Drechsel is creating a legislative synopsis of 86 bills. Mr. Drechsel thanked Neira Siaperas and the juvenile court team for their incredible work. The Legislative Update will be held in a hybrid scenario on April 15th. The Legislative Workshop will be held on March 25th to address the practical implementation of the bills.

Mr. Drechsel explained that there are three fiscal processes we follow each session. The first is the base budget bill, the second is the Council's budget priorities, and the third is appropriations that are made in connection with the pieces of legislation that impact the courts.

Judiciary Building Block Requests

- Judicial Assistant Compensation: fully funded at \$3.9 million ongoing.
- Information Technology Development and Security: partially funded at \$750,000 ongoing. This amount does not include the ransomware insurance. That essentially means the Legislature is choosing to self-fund the costs of rebuilding our information systems in the event of a cyber-attack.
- Public Outreach Coordinator: not funded. The courts will ask the Council to approve \$120,000 ongoing from internal resources to maintain this critical position.
- Juvenile Court Judge in the Sixth District Court: fully funded at \$449,100 ongoing.
- Court Visitor Program Coordinator: fully funded at \$92,100 ongoing.
- Statewide Treatment Court Coordinator: fully funded at \$97,700 ongoing.

Fiscal Impacts

HB0107 Small Claims Amendments changes small claims limits from \$11,000 to \$15,000 which will move a number of small claims from the district courts to the justice courts. This bill resulted in a fiscal impact of \$77,900 ongoing and \$16,300 one-time funds.

HB0139S02 Traffic Violation Amendments creates an automatic plea and abeyance under certain citations where the citation will be dismissed after one year. This bill resulted in a fiscal impact loss of \$465,400 ongoing and \$160,000 in one-time funds (transfer of money from an existing restricted account (Justice Court Technology, Security, and Training Account)). This bill has a delayed effective date of October 1. The Council must set a fee with this program, not

as a revenue generator, but a fee that offsets the costs of IT development and workload. This amount may need to be adjusted.

HB0143 DUI Penalty Amendments provides that second DUI offenses within 10 years are considered class A misdemeanors, which would move them from the justice courts to the district courts. This bill has a fiscal impact to the district courts of \$629,000 in ongoing funds and \$104,800 in one-time funds.

Mr. Sweeney made it clear that the JCTST fund has many uses and is not anticipated to be used for these funds. The courts anticipate using the funds for upfront work, such as programming, then reimbursing the JCTST fund. Eventually, the fee is expected to offset the costs. Mr. Drechsel said if there is a workload need, such as judicial assistant services, the funds could be used for offsetting those costs.

Judge Shaughnessy asked if the courts predicted fiscal impacts had ever compared to the weighted caseload data. Mr. Drechsel explained they are connected but the trend over multiple years provides more accurate data. Weighted caseloads are broken down by an anticipated amount of time for each offense type. Judge Shaughnessy thought comparing the workloads of judges today from 15 years ago wouldn't match up because today's judges may not have more cases but are doing more work with each case. He was concerned that the weighted caseloads didn't take into consideration the amount of time that judges have to spend on each case. Mr. Drechsel volunteered to assist with the weighted caseload studies.

HB0196S03 Transfer of Domestic Violence Cases will hopefully alleviate the need to have victims testify in justice courts and then again in the district courts if a de novo appeal is filed. Each year, there are about 6,600 domestic violence cases in justice courts. Approximately 1,200 are set for trial, this is the estimated amount that would be transferred to the district courts. There will be an offset of funding because those cases transferred to the district courts won't be subject to a de novo appeal. This bill is intended to run for 2 years, sunseting in 2024. The Legislature omitted funding the \$723,000 one-time fiscal impact funds for this bill. There is about \$85,000 in IT budget needs. Mr. Drechsel will begin the conversations to coordinate a solution for the financial needs.

Judge Samuel Chiara recommended the courts review the fiscal impacts with the number of FTE judges that would be needed. Judge Chiara disposes about 500 felony cases per year. He guessed that 1,400 cases being transferred may equal about 1 FTE judge, statewide. Judge Chiara recommended adding an FTE. Mr. Drechsel identified that it would be difficult to split one FTE across the state. The Legislature recognized that adding funds to the system may not solve the issue but it helps with things like increasing IT and staff support. Mr. Drechsel noted the many bills with smaller fiscal impacts over time accumulate and may require the Council to eventually request additional judicial officers. Ms. Dupont suggested using senior judge services to assist the judges workloads resulting from the transfer of domestic violence cases. Mr. Drechsel's research has shown the courts' process for creating fiscal impacts is the standard method and the most effective process as reported by the National Center for State Courts. Justice Petersen thought this method was structurally insufficient with the growth in the state. Mr. Drechsel said the Council looks to the weighted caseload studies when deciding on requesting a new judge. A

decade ago, there were 39,000 criminal filings in the district courts; in 2019, there were 41,600. In 2000, there were 60,000 criminal filings in the district courts, this is due to how cases were being assigned between the district and justice courts. Mr. Drechsel will work with Mr. Gordon to create a summary of historical caseload data, including filings, population, and amount of judges for the Council.

Mr. Drechsel felt the Legislature expressed confidence in the district courts by moving more cases to the district courts (DUI and racing citations, for example,) and expressed confidence in the justice courts by increasing the amount in controversy for small claims. A Justice Reinvestment Investment (JRI) effort requires counties to create criminal justice coordinating councils, that include judges as members. Some counties have formally created a criminal justice council.

Chief Justice Durrant thanked Mr. Drechsel, Ms. Dupont, and Mr. Sweeney.

11. BUDGET AND GRANTS: (Judge Mark May, Karl Sweeney, Jim Peters, Alisha Johnson, Nick Stiles, Chris Talbot, and Jordan Murray)

Chief Justice Durrant welcomed Judge Mark May, Karl Sweeney, Jim Peters, Alisha Johnson, Nick Stiles, Chris Talbot, and Jordan Murray.

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
(a)	Total Potential One Time Turnover Savings		4,448,229
(b)	Operational Savings From TCE / AOC Budgets	Internal Operating Savings	646,060
(c)	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 = (a) + (b) + (c) less Maximum Carryforward			\$ 2,309,118
Less: Judicial Council Requests Previously Approved			\$ (1,751,604)
Less: Judicial Council Current Month Spending Requests			\$ (228,193)
Remaining Forecasted Funds Available for FY 2022 YE Spending Requests			\$ 329,321

#	One-time Spending Plan Requests	Current Requests Amount	Judicial Council Prev. 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	Taylorville State Office Building AV Build-out Part 1		47,806
11	Utah Criminal Justice Center Funding		5,000
12	Performance Bonus Payments Q3/Q4 (pending 2/28 approval)		365,000
13	Law Library - Delayed Subscription Payments (pending 2/28 approval)		39,150
14	Jury Assembly Room - Ogden (pending 2/28 approval)		25,300
15	SJI Grant Match for NCSC Concept Paper on Rule 26	23,050	
16	Matheson Carpeting Project	200,000	
17	2nd District Courthouse Doors	5,143	
Current Month One-time Spending Requests		228,193	
Previously Approved 1x FY 2022 YE Spending Request			1,751,604

State Justice Institute (SJI) Grant Match (with NCSC) for NCSC Concept Paper – 10-year Retrospective on URCP Rule 26.

\$23,050 (up to, of cash and in-kind services)

One-time funds

The SJI indicated they would be willing to fund 50% of the cost of a 10-year retrospective study on URCP Rule 26, which went into effect in 2011. The National Center for State Courts will perform the study at an estimated total cost of \$92,100. SJI requires a 50% cash or in-kind services match and NCSC has agreed to split the 50% cash or in-kind services match.

Motion: Judge Connors moved to approve the SJI Grant Match (with NCSC) for NCSC Concept Paper – 10-year Retrospective on URCP Rule 26 for up to \$23,050 in one-time funds, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

Matheson Carpeting

\$200,000

One-time funds

The original 22-year-old carpet in Matheson is long past the industry standard replacement cycle. Excessive wear and carpet seams coming unglued whenever the carpet is cleaned are creating safety issues. This request is to order carpet and have it on stock.

Motion: Judge Connors moved to approve the Matheson Carpeting request for \$200,000 in one-time funds, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

Replace Ogden Courtroom Doors

\$5,143

One-time funds

This item was resolved, therefore, not addressed.

Judicial Operations Budget

TCEs, the Board of District Court Judges, the Board of Juvenile Court Judges, and the Board of Appellate Court Judges have approved the changes to the Judicial Operations Budget (Budget) as defined below. If approved, the recommendations would be incorporated into the Accounting Manual update scheduled for May, 2022.

Proposed changes

1. In addition to law related books, any work-related technology which would include software programs and any technological devices used for work, such as laptops, iPad and similar tablets, and cellphones not already provided by the court.
2. In addition to Utah State Bar meetings and in-state workshops and conferences, costs associated with out of state travel not covered elsewhere.
3. Other obvious costs of operation for a judge not included elsewhere, including for example robes and gavels.
4. Any other item that has been approved by the TCE as a legitimate work-related expense.

The Budget has been a part of the Accounting Manual for almost 30 years.

Historically, the Budget has been funded through ongoing base budget of \$500 per judge, sr. judge, commissioner in district, juvenile and appellate courts and through carryforward funding (\$400 per judge). In FY 2021 and FY 2022, the carryforward funding was not granted by the Council. This allocation has not been fully utilized. In the past five years the greatest use year was FY 2018 where only 59.31% of the base portion was utilized. As a portion of total allocation (base \$500 plus carryforward \$400), for the past five years, utilization rates range from 19.79% in FY 2020 to a high of 32.95% in FY 2018.

Mr. Sweeney proposed the following changes to the Accounting Manual.

1. Eliminate the limitations on judges spending as currently found in Accounting Manual Section 13-02.00.
2. Track spending on all judges purchases by use of the new JDOP activity. The expenditures can be kept in a separate unit or not at the discretion of the TCE.
3. Give discretion to the TCEs to approve spending for judges to make purchases in any budget category (e.g., training/education) subject only to budget availability; the requirements of other sections of the Accounting Manual; and review/approval rights of groups that could be impacted by the purchase.
4. Institute an appeal process for judges if they have requests that are denied by the TCEs.

Judge Shaughnessy wanted to confirm that the Budget funds would be added to the normal discretionary funds that are allowed in the districts. Ms. Johnson explained that right now, the Budgets funds resides within the district but is in a separate unit. Moving forward, Budget funds will be placed in the main TCE unit.

Judge Connors asked for confirmation that ABA Judicial Division dues, Inns of Court dues, and similar items, would continue to be funded. It was noted that this restructuring of the former judicial operations budget is intended to expand the uses of those funds rather than limit those uses. Therefore, the uses mentioned by Judge Connors, and similar uses, would continue to be funded.

Motion: Judge Mortensen moved to approve changes to the Accounting Manual to 1) Eliminate the limitations on judges spending as currently found in Accounting Manual Section 13-02.00; 2) Track spending on all judges purchases by use of the new JDOP activity. The expenditures can be kept in a separate unit or not at the discretion of the TCE; 3) Give discretion to the TCEs to approve spending for judges to make purchases in any budget category (e.g., training/education) subject only to budget availability; the requirements of other sections of the Accounting Manual; and review/approval of rights of groups that could be impacted by the purchase; and 4) Institute an appeal process for judges if they have requests that are denied by the TCEs, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Judge May, Mr. Sweeney, Mr. Peters, Ms. Johnson, Mr. Stiles, Mr. Talbot, and Mr. Murray.

12. CJA RULES 1-205, 3-421, AND 6-104 FOR PUBLIC COMMENT AND CJA RULES 1-205, 2-103, 3-420, 4-302, AND 3-407 FOR FINAL APPROVAL: (Keisa Williams)

Chief Justice Durrant welcomed Keisa Williams. Following a 45-day comment period, Policy & Planning recommended the following rules be approved.

CJA Rule 3-407. Accounting. This amendment incorporates the Budget & Fiscal Management Committee into the rule, documents the roles of Clerks of Court, and eliminates a position on the Accounting Manual Review Committee.

Motion: Judge Shaughnessy moved to approve changes to CJA Rule 3-407, as presented, with an effective date of March 11, 2022, to include a 45-day public comment period. Judge Connors seconded the motion, and it passed unanimously.

CJA Rule 3-420. Committee on Fairness and Accountability. This new rule establishes the Committee on Fairness and Accountability.

Motion: Judge Mortensen moved to approve changes to CJA Rule 3-420, as presented, with an effective date of March 12, 2022. Judge Connors seconded the motion, and it passed unanimously.

Policy and Planning recommended CJA Rules 1-205, 3-421, and 6-104 be approved to be sent for a 45-day public comment period.

Motion: Judge Connors moved to approve CJA Rules 1-205, 3-421, and 6-104 be sent for a 45-day public comment period. Judge Mortensen seconded the motion, and it passed unanimously.

CJA Rule 1-205. Standing and Ad Hoc Committees. This amendment creates a Standing Committee on Fairness and Accountability, removes a position on the MUJI-Criminal Committee, and adds a position on the Court Forms Committee.

Motion: Judge Connors moved to approve changes to CJA Rule 2-105, as presented, with an effective date May 1, 2022. Judge Shaughnessy seconded the motion, and it passed unanimously.

CJA Rule 2-103. Open and Closed Meetings. This amendment 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 because the public posting is sufficient. Ms. Williams confirmed the version posted for public comment did not track the open meetings act, did not receive any comments. The Council preferred to keep with current practices and the recommended amendments that were sent for public comment. Ms. Williams will address this rule with Policy & Planning. Ms. Williams explained that the Council could approve the amendment in section (2)(a) and (4)(c) and then table the amendment to section (4)(g) and (5)(b).

Motion: Ms. Plane moved to approve changes to section (2)(a) and (4)(c) in CJA Rule 2-103, as amended, with an effective date May 1, 2022. Judge Connors seconded the motion, and it passed unanimously.

CJA Rule 4-302. Recommended Uniform Fine Schedule. This amendment changes the name of the committee to the Uniform Fine Committee.

Motion: Judge Connors moved to approve changes to CJA Rule 4-302, as presented, with an effective date May 1, 2022. Judge Shaughnessy seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Ms. Williams.

13. OLD BUSINESS/NEW BUSINESS

No additional business was discussed at this time.

14. RECOGNITION OF OUTGOING JUDICIAL COUNCIL MEMBER – JUDGE MARK MAY: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant said Judge May has been a strong member of the Council with his substantive contributions and has been a delight to work with. Judge May was truly humbled to work with the Council.

15. EXECUTIVE SESSION

An executive session was not held.

16. CONSENT CALENDAR ITEMS

a) Forms Committee Forms. Family Law Header update per Rule 10 change; Probate Header update; List of forms requiring update under URCP 10 rule change; Acceptance of Service; Motion to Delay (Stay) Enforcement of Judgment; Order on Motion to Delay (Stay) Enforcement of Judgment; Department of Corrections Certification Regarding Sex and Kidnap Offender and Child Abuse Offender Registries – Adult; Petition for Name Change; Order on Petition for Name Change; Notice of Hearing on Petition for Name Change; Department of Corrections Certification Regarding Sex and Kidnap Offender and Child Abuse Offender Registries (Sex Change); Petition for Sex Change; Notice of Hearing on Petition for Sex Change; Order on Petition for Sex Change; Petition to Recognize a Relationship as a Marriage; Findings of Fact and Conclusions of Law on Petition to Recognize a Relationship as a Marriage; Order on Petition to Recognize a Relationship as a Marriage. Approved without comment.

17. ADJOURN

The meeting adjourned.