

**JUDICIAL COUNCIL MEETING
Minutes**

February 27, 2023

**Meeting held through Webex
and in person
Matheson Courthouse
Council Room
450 S. State St.
Salt Lake City, Utah 84111**

9:00 a.m. – 2:00 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. David Mortensen, Vice Chair
Hon. Keith Barnes
Hon. Suchada Bazzelle
Hon. Brian Brower
Hon. Samuel Chiara
Hon. Augustus Chin
Hon. David Connors
Hon. Ryan Evershed
Hon. Paul Farr
Hon. James Gardner
Hon. Elizabeth Lindsley
Hon. Thomas Low
Justice Paige Petersen
Hon. Kara Pettit
Margaret Plane, esq.

Excused:

Guests:

Hon. Michael DiReda, Second District Court
FOX 13 News
Hon. Dennis Fuchs, Senior Judge
Justice Diana Hagen, Supreme Court
Hon. Ryan Harris, Court of Appeals
Hon. Keith Kelly, Third District Court
Hon. Adam Mow, Third District Court
Glen Proctor, TCE Second District Court

AOC Staff:

Ron Gordon
Neira Siaperas
Michael Drechsel
Lauren Andersen
Brody Arishita
Shane Bahr
Katy Burke
Alisha Johnson
Jessica Leavitt
Meredith Mannebach
Blake Murdoch
Jordan Murray
Bart Olsen
Jim Peters
Jon Puente
Nini Rich
Keri Sargent
Nick Stiles
Karl Sweeney
Sonia Sweeney
Chris Talbot
Shonna Thomas
Keisa Williams
Jeni Wood

Guests Cont.:

Carlos Sabuco, Chief Probation Officer, Third
District Juvenile Court
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.

Motion: Judge Paul Farr moved to approve the January 17, 2023 Judicial Council meeting minutes, as presented. Judge Keith Barnes seconded the motion. Judge Connors amended the minutes to remove the word “and” from section five. The motion passed unanimously.

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

Chief Justice Durrant, Ron Gordon, and Michael Drechsel spoke with Stuart Adams, President of the Senate and Brad Wilson, Speaker of the House about various bills. Speaker Wilson expressed his appreciation for the courts and judges. Chief Justice Durrant was thankful for the relationship the Courts have with the Legislature.

Chief Justice Durrant announced that Judge Regnal W. Garff, Jr. passed away. Judge Garff was the first judge to begin working in the Utah juvenile court in 1959. He served for a combined 34 years as a juvenile court judge in what is now the Third District Juvenile Court, and as a founding member of the Utah Court of Appeals, until his retirement in 1993.

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

Mr. Gordon reviewed the Executive Appropriations Committee (EAC) prioritization results from their last meeting, noting that nothing has been finalized at this point.

- 1st – Legal expertise \$5,090,000
 - For judges \$3,475,000/\$1,737,500
 - For court-employee attorneys \$1,615,000 (not including a COLA)
- 2nd – Fourth District Juvenile Court Judge \$475,000
- 3rd – Self-Help Center Attorney \$127,000
- 4th – Wasatch County Courtroom \$163,300
- 5th – Domestic Violence Manager \$110,000
- 6th – Essential Court Operations Software \$987,000
- 7th – District Court Judicial Law Clerks \$1,020,700
- 8th – Tribal Outreach Program Coordinator \$64,900
- 9th – Third District Jury Selection Assistants \$233,100
- 10th – Online Dispute Resolution Admin. \$120,000

Based on the EAC’s prioritized funding list, the Courts should get the funding for the Fourth District Juvenile Court Judge, Self-Help Center Attorney, Wasatch County Courtroom, Domestic Violence Manager, one-time funds for the Essential Court Operations Software, Tribal Outreach Program Coordinator, and the Online Dispute Resolution Administrator. There are also indicators that District Court Judicial Law Clerks (9 FTEs) and the Third District Jury Selection Assistants may be funded. If the Law Clerks request is funded, the district court judges would then have one law clerk for every two judges.

Targeted compensation funds in the amount of \$4,097,700 are being considered for the Courts. A portion of these funds may be used to fund the salary increases for court positions requiring a J.D. degree. The remaining funds would be used for other court employees.

The Legislature is considering a 10% judicial increase, which includes a 5% COLA. Mr. Gordon said the Courts do not have the authority to give judges any monetary amounts over what the Legislature provides, such as through discretionary funds. Chief Justice Durrant felt the Legislature was receptive to judicial and attorney increases.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Budget & Fiscal Management Committee Report:

The work of the committee will be discussed later in the meeting.

Liaison Committee Report:

Justice Paige Petersen said the committee is addressing their position with legislators in regards to SB0129 Judiciary Amendments. She noted that the redistricting of the Courts and the geographical requirement have been removed. Chief Justice Durrant thanked Justice Petersen for her leadership on this committee.

Policy, Planning, and Technology Committee Report:

The work of the committee will be addressed later in the meeting.

Bar Commission Report:

Margaret Plane said the Bar has been working on various bills. The Bar is pleased with their wellbeing initiative, finding success with the new free app. The Supreme Court and Bar have had a wellbeing partnership for about five years. There is an IP Summit with more than 300 attorneys that participated. The Bar's Spring Convention is scheduled for next month. The Summer Convention will be held virtually recognizing that costs have been increasing and attendance has been decreasing.

5. PROBLEM SOLVING COURTS RECERTIFICATIONS: (Judge Dennis Fuchs)

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs presented several problem solving courts for recertification consideration.

Second District Court, Davis County, Farmington, Judge Robert Neill, Family Dependency Court - This court meets all the required best practices and all of the presumed best practices except for #35 which states the court should have between 15-125 participants. The Court has now moved back to in-person hearings and has a number of new participants going through orientation.

Second District Court, Weber County, Ogden, Judge Camille Neider, Adult Drug Court – This court meets all the required best practices and all of the presumed best practices.

Second District Court, Weber County, Ogden, Judge Tasha Williams, Family Dependency Court – this court meets all required best practices and all presumed best practices except #35 which states the court should have between 15-125 participants. The Court believes that the numbers will increase now that they have gone back to in-person sessions.

Third District Juvenile Court, Salt Lake County, Salt Lake City, Judge Elizabeth Knight, Juvenile Mental Health Court (“Care Court”) - The court meets all required best practices except for #31, #32, #41, and #42. Most of the participants do not have a substance abuse issue. In addition, the juvenile court statutes do not allow for a significant amount of time to reunify a family or have sufficient time to maintain jurisdiction over a juvenile. So, the requirement of 90 days clean and the program being a minimum of 12 months do not apply. And, the juvenile court does not require juveniles to attend a 12-step program which in the case of mental health clients is not warranted.

This court meets all presumed best practices except the following: #20, #23, #25, #28, #35, and #37. Number 20 requires manualized treatment. When a juvenile has a substance abuse issue the treatment is manualized and documented. However, this treatment is not provided in all cases because most of the participants do not have a substance abuse issue. Number 23 requires participants to go through a preparatory intervention before referral to a 12-step program. Most mental health participants do not get referred to a 12-step program in the juvenile court. Numbers 25 and 28 require referrals from the court for safe housing and job preparation. These participants are juveniles and most still live at home and are not old enough to seek employment. Number 35 requires more than 15 and less than 125 participants. In the juvenile court they are capping most of these programs at 12 participants. Number 37 requires tracking of new arrests and convictions. These are not tracked in the juvenile mental health court. It should be noted that both the team and the judge were fully engaged with the participants and in most cases one of the parents of the participants. The judge showed a tremendous amount of understanding and patience with the participants. The judge spent a considerable amount of time with the participants and the parents.

The Council recognized that there needed to be a checklist specific to the mental health court and requested Judge Fuchs create one for their approval.

Fourth District Court, Wasatch County, Heber, Judge Jennifer Brown, Adult Drug Court – The court meets all required best practices. The Court meets all presumed best practices except for #35 which states the court should have between 15-125 participants. Judge Brown reported this is because of the pandemic and that the team is hoping now that the court is back to in-person sessions that the number of participants will increase.

Fifth District Court, Family Court, Judge Michael Leavitt

Judge Leavitt, Fifth District Court, informed Judge Fuchs that the last participant of their Family Court has graduated. The Fifth District Court requested the Council suspend the Family Court until they reacquire participants.

Second District Court, Family Court, Judge Sharon Sipes

Judge Sipes received permission from the Judicial Council approximately a year ago to start a new Family Court in Davis County. Those plans were put on hold during the pandemic. The judge had a planning meeting with treatment, prosecution, defense, and family services to discuss the startup of the court.

Third District Court, Adult Drug Court, Judge Todd Shaughnessy

Judge Fuchs informed the Council that Judge Shaughnessy's Third District Adult Drug Court was observed in 2022. There were no problems detected during the observation. It is a well-functioning Adult Drug Court.

Motion: Judge Kara Pettit moved to approve recertifying Judge Neill's Second District Family Dependency Court; Judge Neider's Second District Adult Drug Court; Judge Williams' Second District Family Dependency Court; Judge Brown's Fourth District Adult Drug Court; defer certification for 60 days until Council can create a checklist for Judge Knight's Third District Juvenile Mental Health Court; suspend Judge Leavitt's Fifth District Family Court until such time where they have reacquired participants; remove the hold from Judge Sipes Second District Family Court; and approve Judge Shaughnessy's Third District Adult Drug Court. Judge Connors seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Judge Fuchs.

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

Chief Justice Durrant welcomed Judge Adam Mow and Nini Rich. Beginning in May 2022, the ADR programs offered both online and in-person mediation services. Private ADR providers on the Utah Court Roster report conducting 75% of their mediations online in FY 2022. Ms. Rich explained that they have been taking advantage of new technology platforms, resulting in the reduction of paper.

Ms. Rich said when it comes to deciding whether to hold a mediation in person or virtual juvenile court judges make orders as to mediations, however, private providers conduct divorce mediations. If it is not identified in a judicial order, the default mediation style is virtual. Ms. Rich informed the Council that there are no rules on virtual mediations but stated that she is the decision-maker when parties disagree on how they prefer to hold mediations.

ADR Programs

- Child Welfare Mediation Statewide (juvenile court cases involving abuse or neglect)
- Co-Parenting Mediation Third District (Utah Code § 30-3-38)
- Divorce Mediation Statewide (Utah Code § 30-3-39)
- General Civil Referrals Statewide (Mediation or Arbitration) (UCJA Rule 4-510.05)
- Restorative Justice Statewide (Juvenile Victim/Offender and Truancy Mediation)
- Probate Mediation Statewide (UCJA Rule 6-506)
- Small Claims Mediation Various Justice Courts
- Small Claims Appeals Second and Third District Courts

ADR Programs Structure and Rationale

The Utah Court ADR Programs are structured in various ways. In general, if the program is mandatory, there is more interest in quality assurance and require more training, oversight, and evaluation.

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

FY 2022 Statistics

- 2,065 cases were referred to ADR Programs that are directly administered by the ADR Office. In addition, more than 5,600 cases were mediated by private mediators and arbitrators, selected by parties.
- 6 ADR staff mediators (5 FTE) were assigned 1,650 Child Welfare mediations statewide. Of those cases mediated, 87% were resolved. (Since 1998, the Child Welfare Mediation Program has conducted over 21,500 mediations for the Utah State Juvenile Courts.)
- 3 Juvenile Justice Mediators (2.5 FTE) were assigned 69 Victim/Offender mediations and 20 Truancy mediations statewide.
- ADR staff arranged 133 pro bono Divorce and Co-parenting mediations.
- More than 650 *pro bono* mediations were provided through ADR Program collaborations with nonprofit community mediation organizations and educational institutions.
- The Utah Court Roster lists 188 ADR Providers who reported mediating 5,574 cases and arbitrating 48 cases in FY22. A total of 814 *pro bono* mediations and 44 *pro bono* arbitrations were provided by members of the Court Roster. Thirty-eight new applications and 185 roster re-qualifications were processed by the ADR Office.
- The ADR Committee provides ethics outreach and education through the Utah Mediation Best Practice Guide created by the Committee in 2016. The Committee reviews and updates the Best Practice Guide based on input from outreach efforts, developments in the field of ADR and changes in communications technologies. The Committee has recently drafted a new section of the Guide which covers Best Practice for Online Mediation.

- The ADR Committee continues to review court roster requirements in light of the increase in online mediation and online mediation training.
- In January 2023, the ADR Committee provided Judicial Settlement Conference Training to 18 District Court Judges. The live training was provided in person and via Webex. A second training is scheduled for June 2023.
- ADR Training and information are provided to court personnel through New Judge Orientation and other specialized training sessions arranged for judges, court staff and supervisors.
- ADR Office public outreach and education efforts are ongoing and provided through annual reports, seminar and conference presentations and the ADR Program website.

Chief Justice Durrant thanked Judge Mow and Ms. Rich, noting that he appreciated their work on this program.

7. **LEGISLATIVE UPDATES: (Michael Drechsel)**

Chief Justice Durrant welcomed Michael Drechsel. Mr. Drechsel said the feedback from the Courts on SB0129 has been carefully considered.

Mr. Drechsel recognized that legislators are trying to solve problems with bill proposals, even when the Courts can't see the problem directly. He noted that their work is sincere in their efforts to make the State a better place.

- The Fourth District Juvenile Court Judge bill is in committee this afternoon and may be in a good position to be funded.
- The credit card transaction fees bill is also in committee this afternoon and may be in a good position to pass.
- The justice court changes bill will narrow justice court judges' pay range to fall more in line with district court judges; recognize that justice courts are part of the Judiciary; will require a law degree under most circumstances; and create a legislative taskforce. A substitute bill is expected to better identify the members of the legislative taskforce that will consider justice court reform.
- Part II of the Criminal Code Recodification includes property crimes and pyramid scheme crimes.

Mr. Drechsel briefly reviewed the child welfare bills. SB0163 would require the court to make specific findings about parent time. There are three bills addressing school safety and weapons in schools. A state ICWA bill was introduced in line with federal ICWA laws, however, amendments to the state bill now shows substantive changes from the federal ICWA laws.

The business chancery court bill includes a large fiscal note and is set with one judge. If it passes, the bill's effective date will be October 2024 because the sponsor understood the need for the Courts to transition and revise rules as needed. The new court is expected to be housed in Salt Lake County.

Mr. Drechsel will be providing legislative updates to judges and court personnel this spring. Chief Justice Durrant thanked Mr. Drechsel and noted that he has been in many meetings with Mr. Drechsel and felt he is extraordinarily skilled when advocating for the Courts.

8. OFFICE OF INNOVATION: (Justice Diana Hagen)

Chief Justice Durrant welcomed Justice Diana Hagen. Justice Hagen discussed the matters of the Office's budget, long-term housing of the Office, and a possible fee structure for participants. The Office has met with many entities including the Bar to solicit ideas that will help create an Office that everyone can support.

They are hoping to move the Office into the Bar by July 1. If that happens, the Bar would hire one fulltime Program Director, who would also staff the Innovative Court Committee. Data has been automated so the Office does not need an employee for that service. The backup plan would be to keep the Office in the Supreme Court (Court) who would dedicate one existing law clerk attorney position to fill the Director position. If the Office was housed in the Court, they may need to eventually seek funding from the Council.

The Office's budget has decreased dramatically with the completion of the initial work, such as the creation of a database and they are now using volunteer attorneys. The Office expects to have approximately \$130,000 left over by July 1. Previously allocated but unspent ARPA funds could be transferred to the Bar, if the Office was moved there.

They are looking at narrowing the categories of entities that can enter the sandbox. One model would carve out the entities that are not helping consumers. Another option would be to have the entity propose a business plan that identifies more legal services to underserved communities. They may require non-lawyer managers to follow the same Code of Conduct that attorneys abide by. The Office would like to ensure their attorneys are consumer-facing and considering lowering the amount of committee members. The Office will add the full applications with confidential information redacted to their website. They will also post agendas and minutes from their committee meetings on their website.

There is a new fee structure where for-profit entities would pay 1/2% of gross revenue. At some point they may consider adding a licensing fee. The entities would also pay for periodic audits or, alternatively, the Bar would seek volunteer attorneys to conduct the audit.

Currently, the Court is focusing on harms through consumer complaints. They are sending exit surveys to consumers to gather data.

The Innovative Court Committee will include members of the public, attorneys, and a member from the AOC.

Chief Justice Durrant thought the Utah Courts do a phenomenal job with access to justice. He noted that the work of the sandbox is largely done outside of a courtroom. He said the Courts need to identify a balance to ensure protection of consumers while still allowing the legal market to operate as it has. The Office more closely regulates entities in the sandbox than the Court regulates Utah attorneys. Chief Justice Durrant thanked Justice Hagen for her fresh perspective to the Office.

9. 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; improve the handling of guardianship cases; engage in outreach/education; and enhance the quality of care and quality of life of vulnerable adults.

WINGS Projects

- WINGS and the Probate subcommittee are working to finalize revisions to UCJA Rule 6-501 and Rule 6-507.
- WINGS developed a new form “Order on Review of Guardianship and Conservatorship reports” which is now being used.
- WINGS has partnered with the Forms Committee to create a subgroup tasked with updating guardianship and conservatorship forms.
- WINGS reviewed and revised several guardianship forms, in conjunction with the adoption of Utah Code § 75-5-301.5 following the 2022 legislative session.
- WINGS continued its work on improving the language of Utah Code § 75-5-303. Revisions included updating the medical criteria, clarifying language on the requirement for an attorney to represent a respondent, and adding language to emphasize when a Court Visitor is required.

The Committee will follow the guidelines set in UCJA Rule 1-205 as to their membership. Judge Gardner thought they could stagger terms without amending the rule since they are a new committee. However, if they want to change the committee composition, they would need Council approval.

Chief Justice Durrant thanked Judge Kelly and Ms. Thomas.

10. JUVENILE PROBATION PRESENTATION: (Sonia Sweeney, Blake Murdoch, and Carlos Sabuco)

Chief Justice Durrant welcomed Sonia Sweeney, Blake Murdoch, and Carlos Sabuco. Mr. Gordon explained that juvenile probation is not well-understood so he asked for this presentation. Since the establishment of juvenile probation officers shortly after the turn of the 20th century, probation work has experienced substantial changes. The most notable, recent change was the Legislature’s juvenile justice reform effort arising from its 2017 enactment of HB0239, which established standards by which youth may be placed in secure care and for pre-court diversions, capped fines and fees, limited school-based court referrals, and set limits on the amount of time youth can spend in detention centers or under court ordered probation supervision.

Mr. Sabuco noted that juvenile probation has 200 employees, including 13 Probation Chiefs, 29 supervisors, and 146 probation and deputy probation officers. In FY 2022, juvenile probation worked with 9,115 youth and their families, some of whom were referred on multiple occasions. There were 3,651 delinquency petitions filed, and 1,354 youth placed on formal or intake probation.

Many juvenile offenses can be resolved without the youth seeing a judge through a process called a non-judicial agreement. Juvenile probation officers manage these agreements. In FY 2022, non-judicial agreements were offered to resolve 7,832 delinquency referrals, 92% of which were completed successfully by referred youth.

Probation officers participated in 21,472 delinquency hearings, and worked with youth to complete 17,821 community service hours. Adjudicated youth paid nearly \$450,000 in restitution to the victims they had harmed. The delinquency offenses that probation handled included:

- 1,792 acts that would be felonies if committed by an adult;
- 9,890 acts that would be misdemeanors if committed by an adult;
- 457 infractions; and
- 560 status offenses.

Probation officers made nearly 100 referrals to an intensive in-home family intervention program through which critical family support was offered. Additionally, hundreds of referrals were made to other intervention services, most of which were for youth determined to be moderate or high risk. Probation officers use evidence-based practices to prioritize public safety and reduce the risk of recidivism.

The Commission on Criminal and Juvenile Justice’ Utah Pathways Study, conducted by the Sorenson Impact Center published in November of 2022, studied the number of juvenile justice-involved youth who reach the adult criminal justice system. According to the Utah Pathways Study, an overwhelming number of the youth with whom probation officers come into contact do not become involved in the criminal justice system.

Judge Barnes asked if the juvenile justice reform has been a success. Mr. Sabuco said it has been a success in regards to non-judicial youth. Judge Elizabeth Lindsley said opinions differ about the success of the reform because judges have more limitations but there are several positive results from the reform. She said judges appreciate the hard work of probation officers.

Chief Justice Durrant thanked Ms. Sweeney, Mr. Murdoch, and Mr. Sabuco and recognized the critical long-term work and impact of probation officers.

11. BUDGET AND GRANTS: (Karl Sweeney, Alisha Johnson, and Jordan Murray)
 Chief Justice Durrant welcomed Karl Sweeney, Alisha Johnson, and Jordan Murray.

FY 2023 Ongoing Turnover Savings

#	Funding Type	Actual		Forecasted	
		Amount YTD	Amount @ YE	Amount YTD	Amount @ YE
1	Carried over Ongoing Savings (from FY 2022, includes unallocated ongoing appropriation)	Internal Savings	250,392	250,392	250,392
2	Ongoing Turnover Savings FY 2023	Internal Savings	496,135	746,135	746,135
3	TOTAL SAVINGS		746,527	996,527	996,527
	2023 Hot Spot Raises		(154,583)	(200,000)	(200,000)
	2023 Authorized Ongoing for Performance Based Raises (will be used at the end of the FY)		-	(450,000)	(450,000)
4	TOTAL USES before YE Requests		(154,583)	(650,000)	(650,000)
Actual Turnover Savings for FY 2023 as of 02/03/2023			\$ 591,944	\$ 346,527	\$ 346,527

FY 2023 One-Time Turnover Savings

		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 01/20/2023)	Internal Savings	2,400,746.96
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 01/20/2023)	Reimbursements	508,567.96
3	Est. One Time Savings for 920 remaining pay hours (\$2,000 / pay hour)	Internal Savings (Est.)	1,840,000.00
Total Potential One Time Savings			4,749,314.92

ARPA Expenses

	A	B	C	D	A - D
	Judicial Council Approved Amount	Actual FY 2022 Expended Amount	Actual FY 2023 Expended Amount	Total Expended (B + C) Amount	Balance Available
IT Access to Justice - Part I + II	12,373,400	3,042,467.67	2,535,697.97	5,578,165.64	6,795,234.36
Courts Case Backlog - Part I + II	2,000,000	707,963.11	507,266.46	1,215,229.57	784,770.43
COVID-19 Supplies	302,100	-	-	-	302,100.00
Legal Sandbox Response to COVID	324,500	-	37,918.80	37,918.80	286,581.20
TOTAL	15,000,000	3,750,430.78	3,080,883.23	6,831,314.01	8,168,685.99

FY 2023 Year End Forecasted Available One-time Funds

Forecasted Available One-time Funds		Current Requests Amount	Judicial Council Approved Amount
Sources of YE 2023 Funds	Funding Type		
* Turnover Savings as of PPE 1/20/2023 (including anticipated ARPA reimbursement)	Turnover Savings		\$ 450,000
** Turnover savings Estimate for the rest of the year (\$2,000 x 920 pay hours)	Turnover Savings		\$ 141,000
(a) Total Potential One Time Turnover Savings			\$ 260,000
(b) <i>Operational Savings From TCE / AOC Budgets</i>	Internal Operating Savings		\$ 5,872
(c) <i>Reserve Balance (balance from FY 2022 Carryforward)</i>	Judicial Council Reserve		\$ 40,000
<i>Anticipated Reserve Uses - including previously approved and pending requests</i>	Judicial Council Reserve Uses		\$ 40,000
			\$ 900
Uses of YE 2023 Funds			\$ 450,000
<i>Carryforward into FY 2024 (Request has been made for up to \$3,200,000)</i>	Historical Carryforward		\$ 3,400
Total Potential One Time Savings = (a) + (b) + (c) less Carryforward			\$ 27,200
Less: Judicial Council Requests Previously Approved			\$ 150,000
Less: Judicial Council Current Month Spending Requests			\$ 156,050
Remaining Forecasted Funds Available for FY 2023 YE Spending Requests			\$ 100,000
			\$ 2,300
			\$ 10,000
			\$ 1,391,172.00
			\$ (445,550.00)
			\$ 465,838.92

		Current Requests Amount	Judicial Council Approved Amount
1	Q1 / Q2 Performance Bonus Payments		\$ 450,000
2	St. George Courtroom Audio		\$ 141,000
3	Adobe E-Signatures		\$ 260,000
4	IT Equipment for new JA Clerks		\$ 5,872
5	Build-out of Replacement for Courts' Access Revenue System		\$ 40,000
6	Online Water Law Curriculum for Judges		\$ 40,000
7	Transcription Training Production		\$ 900
8	Q3 / Q4 Performance Bonus Payments		\$ 450,000
9	Out of State Employee Set Up Fees		\$ 3,400
10	Supplemental - Secondary Language Skills	27,200	
11	Summit Jury Deliberation Room Improvements	150,000	
12	American Fork Courthouse Lease Increases	156,050	
13	Matheson Carpet Replacement - Phase 3	100,000	
14	Mobile AED Kit	2,300	
15	Education Room A/V Upgrade to Hybrid Use	10,000	
Current Month One-time Spending Requests		445,550	
Previously Approved 1x FY 2023 YE Spending Request			1,391,172

Supplemental Secondary Language Stipends

\$27,200 one-time funds

Jessica Leavitt explained that each district has a certain number of second language stipends available; a total of 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 patrons outside of proceedings. This is a very cost effective use of 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 of \$50 per pay period has been tested against the market. The OFA recommended an increase to \$100 per pay period, effective March 1, 2023. Judge Pettit understood that the stipend amount is the same for everyone that receives it, regardless of whether they use their second language or not. Ms. Leavitt is gathering data to determine how often employees are using their second language. Judge Lindsley stated that she often uses an employee who has a second language stipend for brief and non-substantive court matters such as rescheduling a hearing.

Motion: Judge Connors moved to approve the Supplemental Secondary Language Stipends one-time budget request of \$27,200, as presented. Judge Augustus Chin seconded the motion, and it passed unanimously.

Summit Courthouse Jury Deliberation Room Improvements
\$150,000 one-time funds

The two courtroom facility in Summit County is leased and has only one jury deliberation room. The existing jury assembly room is no longer needed due to the virtual jury selection process so they sought to convert the assembly room into a second deliberation room. This is a preliminary estimate that will be adjusted, if necessary, as the project bids come back. The total anticipated bid is approximately \$300,000 for which \$150,000 of the funds will be expended in FY 2023. The second half of the expenditure will come from FY 2024 carryforward funds.

Motion: Judge David Mortensen moved to approve the Summit Courthouse Jury Deliberation Room Improvements one-time budget request of \$150,000, as presented. Judge Lindsley seconded the motion, and it passed unanimously.

American Fork Courthouse Rent Increase
\$156,050 one-time funds

The original 20-year lease expired in September 2022 and rent increases were required by the City of American Fork as part of the new lease. This request will cover the rent increases for the remaining 6 months of FY23 (January – June). The monthly rent for year 1 of the new lease increased by \$26,000 amounting to an increase of \$312,000 annually. There are additional rent increases of approximately 8% annually over the next several years.

Motion: Judge Barnes moved to approve the American Fork Courthouse Rent Increase one-time budget request of \$156,050, as presented. Judge Farr seconded the motion, and it passed unanimously.

Matheson Carpet Replacement – Phase 3
\$100,000 one-time funds

Matheson still has many areas of 23-year-old carpet that must be replaced. In the past, they decided to do the replacement in phases to eliminate any safety issues and also spread out the cost. This request is to fund the next phase of installation that will cover some courtrooms, chambers, conference rooms and offices. Mr. Talbot has replaced over 101,000 square feet of carpet so far, which is about 40% of the building.

Motion: Judge Connors moved to approve the Matheson Carpet Replacement – Phase 3 one-time budget request of \$100,000, as presented. Judge Chin seconded the motion, and it passed unanimously.

Mobile Automated External Defibrillator (AED) and Trauma Kit
\$2,300 one-time funds

This AED and trauma kit would be present at all court conferences to mitigate gaps in response time especially at rural sites. Advanced AED/trauma kits are recommended as a best practice when there is a threat of active killers, a population susceptible to industrial accidents or a group with high medical risk for cardiac events. This request also includes an AED trainer to ensure familiarity with the actual AED for onsite staff.

Motion: Judge Pettit moved to approve the Mobile Automated External Defibrillator (AED) and trauma kit one-time budget request of \$2,300, as presented. Judge Gardner seconded the motion, and it passed unanimously.

Matheson Education Room A/V Upgrade

\$10,000 one-time funds

In line with current and future in-person and hybrid meeting needs, following the same standard set in recent conference room installations, including Matheson's Conference Room A and the Judicial Council Room, the Education Department is requesting \$10,000 to supplement the \$23,398.40 that IT has committed to upgrade Matheson's Education Room so that it may serve as a hybrid meeting and training space.

Motion: Judge Lindsley moved to approve the Matheson Education Room A/V Upgrade one-time budget request of \$10,000, as presented. Judge Chin seconded the motion, and it passed unanimously.

Mr. Murray presented an update of grants. As of December 31, 2022, the AOC holds nine active grants comprised of three federally awarded and six non-federally awarded grants. The Stand Together Foundation grant requesting \$975,000 in support of the Office of Innovation remains pending grantor response.

The FY 2022 Internal Control Self-Assessment (ICSA) for court grants provided guidance and recommendations about grant-related internal controls with the mission of strengthening internal controls and ensuring compliance with all policies, procedures, rules, and statutes. There were three ICSA recommendations for the program.

Chief Justice Durrant thanked Mr. Sweeney, Ms. Johnson, and Mr. Murray.

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

Chief Justice Durrant welcomed Judge Ryan Harris and Keisa Williams. Judge Harris reviewed a 3-year summary of complaints. Judge Pettit asked about commissioners requiring in-person attendance at hearings. Judge Harris and Ms. Williams did not recall any complaints about in-person hearing versus virtual hearing requirements.

Year	Total Complaints	Number of Commissioners Receiving Complaints	Complaints Resolved by Chair Dismissal	Complaints Resolved by Committee Dismissal	Hearings Held	Sanctions Entered
2020	8	5	6	1	1	1
2021	5	4	4	0	1	1
2022	12	5	12	0	0	0
3-year total	25	8	22	1	2	2

Chief Justice Durrant thanked Judge Harris and Ms. Williams.

13. RULES FOR FINAL APPROVAL: (Keisa Williams and Jon Puente)

Chief Justice Durrant welcomed Keisa Williams and Jon Puente. The Policy, Planning, and Technology Committee recommended that the following rules be approved with a May 1, 2023 effective date, followed by a 45-day public comment period.

UCJA Rule 1-205. Standing and Ad Hoc Committees - The Committee on Fairness and Accountability requests the addition of 5 new committee member positions, including 2 sitting judges, 1 current or former judicial officer, 1 representative of the community, and the Director of Data and Research.

Judge Pettit sought clarification on the difference between a sitting judge and a current judge and suggested the rule be clear. Mr. Puente explained that they are the same. Justice Petersen also thought the rule should be consistent when using the words “judge” and “judicial officer.” Judge Lindsley asked if the rule should differentiate court levels for the seven judges being requested as committee members. The Council agreed the rule should be clear as to which court levels they are seeking judges from. Judge Chiara recommended that the committee follow the established process for seeking volunteer members as found in rule 1-205.

Mr. Puente preferred to have a Supreme Court justice Chair the committee. Justice Jill Pohlman agreed to Chair the committee. The Council agreed that the committee can have volunteers who are not voting members work on projects.

Policy, Planning, and Technology Committee will revise the rule before it goes for public comment. Without motion, the Council agreed to return UCJA Rule 1-205 to Policy, Planning and Technology Committee to address the proposed changes as discussed.

Chief Justice Durrant thanked Ms. Williams and Mr. Puente.

14. REQUEST FOR WAIVER OF JUSTICE COURT OPERATING STANDARDS: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Justice courts are classified according to the average number of cases filed each month per Utah Code § 78A-7-101(2) Creation of justice court -- Not of record -- Classes of Justice, which provides that a Class I Court averages 501 or more case filings per month; a Class II Court averages 201-500 case filings per month; a Class III Court averages 61-200 case filings per month; and a Class IV Court averages 60 or fewer case filings per month. The frequency with which court must be held varies depending on the average

number of cases filed in a given court each month. Garfield County Justice Court is a Class III justice court because they received an average of 171 cases per month last year. As such, the operating standards require them to hold court at least every other week. As this requirement is not statutory, the Judicial Council has authority to waive it.

There were 2,052 cases filed in the Garfield County Justice Court in 2022. Nearly 92% (1,886) of the cases adjudicated by that court last year were traffic cases and of those, less than 9% (160) were contested in court. Criminal cases accounted for another 8% (162) of total filings. These cases, together with the 4 small claims cases filed last year, indicate that less than 16% (326) of the cases filed in the Garfield County Justice Court require a court appearance. That equates to about 27 cases per month.

The Data and Research Department researched cases filed pursuant to Chapter 36 of Title 77 (Cohabitant Abuse Procedures Act). It found that only 2 of the court's 130 misdemeanors last year were explicitly tagged as Domestic Violence (DV) cases. The court indicated that it handles special circumstances, like DV and other urgent matters, by working around the courtroom calendars (shared by three judges) and by scheduling hearings outside their regularly scheduled day as soon as possible. That was only necessary twice in 2022, but the court is willing to do it as often as may be necessary. The Board of Justice Court Judges continued to support a waiver for the Garfield County Justice Court.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Chin moved to approve the Garfield County Justice Court's waiver of the requirement that court be held at least every other week, as presented. Judge Pettit seconded the motion, and it passed unanimously.

15. OLD BUSINESS/NEW BUSINESS: (All)

Chief Justice Durrant said that some countries are using artificial intelligence to produce recommendations for cases such as divorces. Their data has shown 98% accuracy with the AI recommendations as compared with judicial orders.

Judge Pettit said the retirement form for judges should be clearer. Judge Connors thought there was a clear problem with the annual self-certification that states judges will get up to seven years of insurance, because the coverage is based on someone's age and dental is not covered for those retiring after the age of 65. Judge Connors has spoken to Human Resources about the process and form. Neira Siaperas confirmed that the form is accurate for those judges who retire under the age of 65. Ms. Siaperas will work with the HR department on revising the form and gathering data on potential costs of insurance coverage for judges retiring after the age of 65.

16. SENIOR JUDGE CERTIFICATION: (Neira Siaperas)

Chief Justice Durrant welcomed Neira Siaperas. Ms. Siaperas requested the Council go into an executive session.

After the executive session was held, the Council made the following motion.

Motion: Judge Connors moved to approve recommending to the Supreme Court that Judge Lee (L.A.) Dever be appointed as an Inactive Senior Judge, as presented. Judge Gardner seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Ms. Siaperas.

17. EXECUTIVE SESSION

Motion: Judge Mortensen moved to go into an executive session for the purpose of discussing the character, competence, or physical or mental health of an individual. Judge Chin seconded the motion, and it passed unanimously.

18. RECOGNITION OF JUDGE DAVID CONNORS: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant thanked Judge Connors for his service on the Council.

19. CONSENT CALENDAR ITEMS

- a) Grants renewals for the VAWA Grant and SAFG Grant. Approved without comment.
- b) Committee appointment of Judge Teresa Welch as Chair of the Model Utah Criminal Jury Instructions Committee. Approved without comment.
- c) Forms Committee Order of Eviction and Notice That You Must Move (Order of Restitution) and Notice of Disclosure Requirements. Approved without comment.
- b) Rules for Public Comment. UCJA Rule 6-507 Court Visitors and UCJA Rule 3-414 Court Security. Approved without comment.

20. ADJOURN

The meeting adjourned.