

**JUDICIAL COUNCIL MEETING
Minutes**

April 24, 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. – 12:13 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. David Mortensen, Vice Chair
Hon. Suchada Bazzelle
Hon. Brian Brower
Hon. Samuel Chiara
Hon. Michael DiReda
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:

Hon. Keith Barnes
Hon. Augustus Chin

Guests:

Jonathan Adams, OLRGC
Hon. Dennis Fuchs, Senior Judge
Jason Johnson, Probation Supervisor, Fourth District
Juvenile Court
Judge Keith Kelly, Third District Court
Commissioner Gil A. Miller, JPEC
Hon. Denise Porter, Fourth District Court
Hon. Rick Romney, Provo Justice Court

AOC Staff:

Ron Gordon
Neira Siaperas
Michael Drechsel
Brody Arishita
Shane Bahr
Katy Burke
Stacy Haacke
Alisha Johnson
Jessica Leavitt
Meredith Mannebach
Jordan Murray
Bart Olsen
Jim Peters
Nathanael Player
Jon Puente
Keri Sargent
Nick Stiles
Karl Sweeney
Sonia Sweeney
Melissa Taitano
Chris Talbot
Keisa Williams
Jeni Wood

Guests Cont.:

Cade Stubbs, TCE, Fifth District Court
Dr. Jennifer Yim, JPEC

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

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

Motion: Judge Suchada Bazzelle moved to approve the March 16, 2023, Judicial Council meeting minutes, as presented. Judge Brian Brower seconded the motion, and it passed unanimously.

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

Chief Justice Durrant recently presented at the Federal District Court Judges Conference in Springdale where the judges expressed gratitude for Utah’s high-quality state court judges. Chief Justice Durrant attended Board meetings for the National Center for State Courts in Florida. There was concern expressed about the country’s debt limit, which may affect ARPA funds.

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

Ron Gordon and other court personnel are preparing for conversations that may arise as to the current and future usage of ARPA funds. Many of the ARPA funds are being used for current projects for the Courts through the AOC.

Judge Michael DiReda felt the senior judges have been underutilized. Some of the Second District Court judges schedule all of their preliminary hearings on Fridays and have been using senior judges to cover these. Mr. Gordon recommended holding a more in-depth conversation about senior judges’ usage.

Mr. Gordon and Neira Siaperas thought the Justice Court Judges Annual Conference went very well. He appreciated the hard work of the Education Department.

The Liaison Committee will develop a strategy in terms of educating the public, policymakers, and others about the significance of having an independent judiciary. Court leadership will be involved in these efforts as well. Judge Samuel Chiara wondered if having human interaction with other entities, such as legislators, would help them see the courts in a more personal way. Justice Paige Petersen reminded the Council that in the past some legislators attended court hearings to better understand how the courts operate and wondered if judges and legislators could job shadow each other to gain a better understanding of their respective operations. Margaret Plane said the Utah State Bar has been discussing whether a meeting between the Liaison Committee and the Bar’s Governmental Relations Committee would be beneficial.

Chief Justice Durrant appreciated the Courts philosophy of speaking with one voice. He had heard of national trends where legislatures are seeking to gain more control over state courts, possibly by overturning [*Marbury v. Madison*, 5 U.S. 137](#), a landmark U.S. Supreme Court case that established the principle of judicial review in the United States.

**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:

The committee has not met recently.

Policy, Planning, and Technology Committee Report:

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

Bar Commission Report:

The Bar’s Annual Meeting will be held on June 29, which will include annual reports, awards, and swearing in. The Bar appreciated the collaboration with the Supreme Court on the Office of Innovation. The Bar approved a new debt collection data gathering program, this will ultimately be a decision from the Courts as to whether to expand the pro bono program statewide. Chief Justice Durrant thanked the Bar for their work on the Office of Innovation and the support of the Bar during the last legislative session. The State Auditor attempted to move Bar regulation to the Division of Professional Licensing. An agreement was made for the AOC to audit the Bar and enlist the services of the State Auditor.

5. PROBLEM-SOLVING COURT FORM AND RECERTIFICATIONS: (Judge Dennis Fuchs)

Chief Justice Durrant welcomed Judge Dennis Fuchs. Judge Fuchs requested the Council adopt the revised Juvenile Mental Health Court Certification Checklist, as amended per the Council’s instructions. Judge Elizabeth Lindsley confirmed that this checklist would be the same for all juvenile mental health courts.

Motion: Judge Lindsley moved to approve the adoption of the Juvenile Mental Health Court Certification Checklist, as presented. Judge DiReda seconded the motion, and it passed unanimously.

The following courts meet all Required and Presumed Best Practices:

Adult Drug Courts

- Second District Court, Weber County, Ogden, Judge Bean
- Fifth District Court, Iron County, Cedar City, Judge McIff-Allen
- Second District Court, Weber County, Ogden, Judge Valencia

Adult DUI Court

- Second District Adult DUI Court, Weber County, Ogden, Judge Neider

Adult Mental Health Court

- Fifth District, Washington County, St George, Judge Westfall
- Second District Court, Davis County, Bountiful, Judge Williams

Juvenile Mental Health Court

- Third District Juvenile Mental Health Court, Salt Lake County, Salt Lake City, Judge Elizabeth Knight, meets all Required and Presumed Best Practices contained in the modified checklist.

Courts that do not meet all Best Practices

- Fifth District Adult Drug Court, Washington County, St George, Judge Walton, meets all Required Best Practices. Court meets all Presumed Best Practices except for the following: #30 Clients are placed in the program within 50 days of arrest. A number of participants come into the program from probation. #37 New arrests and convictions are monitored for a minimum of three years. The program to track this information is still being formulated by the IT Department.
- Second District Adult Drug Court, Davis County, Farmington, Judge Edwards, meets all Required Best Practices. Court meets all Presumed Best Practices except for the following: #30 clients placed in the program within 50 days of arrest. Some clients take longer for discovery and some come in as a condition of probation. #37 New arrests and convictions are monitored for a minimum of three years. The program to track this information is still being formulated by the IT Department.
- Second District Adult Drug Court, Davis County, Farmington, Judge Edwards, meets all Required Best Practices. Court meets all Presumed Best Practices except for the following: #30 Clients are placed in the program within 50 days of arrest. A number of participants come in from probation. #37 New arrests and convictions are monitored for a minimum of three years. The program to track this information is still being formulated by the IT Department.
- Third District Adult Drug Court, Salt Lake County, Salt Lake City, Judge Shaughnessy, meets all Required Best Practices when the documentation supplied by the court is considered. This Court meets all Presumed Best Practices when the documentation supplied by the court is considered.
- Fifth District Adult Mental Health Court, Iron County, Cedar City, Judge Bell, meets all Required Best Practices. Court meets all Presumed Best Practices except for the following: #37 New arrests and convictions are monitored for a minimum of three years. The program to track this information is still being formulated by the IT Department.

Judge Fuchs explained that the best practices requirement of matriculating within 50 days of arrest does not include other scenarios, such as, individuals that enter into the drug court as a violation of probation. At the request of the Council, Judge Fuchs will request an amendment that encompasses other scenarios through the Policy, Planning, and Technology Committee.

Judge DiReda informed the Council that Judge Jennifer Valencia was moving to Farmington Courthouse, therefore, there will be a new judge assigned to her Ogden Adult Drug Court.

Chief Justice Durrant thanked Judge Fuchs.

Motion: Judge Gardner moved to recertify the Adult Drug Courts: Second District Court, Weber County, Ogden, Judge Bean; Fifth District Court, Iron County, Cedar City, Judge McIff-Allen;

and the Second District Court, Weber County, Ogden, Judge Valencia; the Adult DUI Court: Second District Adult DUI Court, Weber County, Ogden, Judge Neider; the Adult Mental Health Court: Fifth District, Washington County, St George, Judge Westfall the Second District Court, Davis County, Bountiful, Judge Williams; the Third District Juvenile Mental Health Court, Salt Lake County, Salt Lake City, Judge Elizabeth Knight; the Fifth District Adult Drug Court, Washington County, St George, Judge Walton; the Second District Adult Drug Court, Davis County, Farmington, Judge Edwards; the Second District Adult Drug Court, Davis County, Farmington, Judge Edwards; the Third District Adult Drug Court, Salt Lake County, Salt Lake City, Judge Shaughnessy; and the Fifth District Adult Mental Health Court, Iron County, Cedar City, Judge Bell. Judge Chiara seconded the motion, and it passed unanimously.

6. PROBLEM-SOLVING COURT CERTIFICATION: (Katy Burke and Judge Dennis Fuchs)

Chief Justice Durrant welcomed Katy Burke and Judge Dennis Fuchs. The Fourth District Juvenile Court located in Provo submitted an application to reorganize the juvenile drug court into two separate courts, one serving juveniles with a primary substance use disorder diagnosis and the second court serving juveniles with a primary mental health diagnosis. Judge F. Richards Smith presides over the juvenile drug court and separated the docket based on the clinical needs of the juveniles. The juvenile mental health court serves youth who have high criminogenic risk and high mental health needs.

The behavioral health court formed during the pandemic has been operational since June 2021, serving 20 youth: 8 of which were successful completions, 3 of which were unsuccessful completions and currently has 9 participants. Judge Lindsley reviewed this plan with Judge Elizabeth Knight, who indicated that she collaborated with Judge Smith on this court.

Chief Justice Durrant thanked Ms. Burke and Judge Fuchs.

Motion: Judge Lindsley moved to approve the creation of the Fourth District Juvenile Behavioral Health Court, as presented. Judge Bazzelle seconded the motion, and it passed unanimously.

7. LANGUAGE ACCESS COMMITTEE REPORT: (Cade Stubbs and Jessica Leavitt)

Chief Justice Durrant welcomed Cade Stubbs and Jessica Leavitt. Mr. Stubbs believed that the interpreter rate increase that the Council approved last fall helped the Utah Courts be more competitive. However, with the cultural shift to remote work, local interpreters are finding that they can make more money with virtual hearings in other states. After meeting with other court interpreter coordinators and the National Center for State Courts, Ms. Leavitt learned that this is a nationwide issue. Interpreters across the country are seeking higher wages. Some of the ongoing discussions include neighboring states being more uniform with pay.

Mr. Gordon thanked Ms. Leavitt and her team for being proactive. He wasn't sure if continuing to increase the rate to compete with other states was sustainable and thought it was important to review situations such as when trials that get cancelled at the last minute; leaving the interpreters with little compensation and no work to turn to because they blocked their

calendars for the trial. Shane Bahr offered the Board of District Court Judges' assistance, if the Council would like.

Ms. Leavitt recognized that some languages have fewer interpreters available; therefore, creating a problem for hearings and trials. She continues her discussions about assistance with these situations. Judge Chiara would like to continue these discussions to determine more consistency, such as, what amount of pay interpreters should receive if a trial gets cancelled. Mr. Gordon said the Language Access Committee is reviewing current processes and pay.

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

8. UNIFORM FINE COMMITTEE REPORT AND UNIFORM FINE SCHEDULE: (Judge Jennifer Valencia and Meredith Mannebach)

Chief Justice Durrant welcomed Judge Denise Porter and Meredith Mannebach. Judge Porter attended on behalf of Judge Valencia. Judge Porter informed the Council that the Uniform Fine Committee (UFC) reviewed and incorporated the proposed changes into the Fine Schedule. The 2023 legislative session resulted in passage of 3 large statutory recodification projects: (1) [HB0046 Criminal Code Recodification and Cross](#) (579 changes); [SB0038 Health and Human Services Recodification - Administration, Licensing, and Recovery Services](#), [SB0039 Health and Human Services Recodification - Health Care Assistance and Data](#), [SB0040 Health and Human Services Recodification - Health Care Delivery and Repeals](#); (2) [SB0041 Health and Human Services Recodification - Prevention, Supports, Substance Use and Mental Health](#) (70 changes); and [HB0030 Wildlife Resources Code Recodification](#) (96 changes). In addition to these recodification projects, another 28 bills (82 changes) also modified entries on the Schedule. Over the last month, AOC staff carefully reviewed each of the relevant bills and generated a detailed list of 412 proposed fine schedule changes.

One proposed substantive change will need further legislative attention before the Schedule can be finalized. During the 2023 session, [HB0046 Criminal Code Recodification and Cross References](#) and [HB0208 Criminal Trespass Amendments](#) each inadvertently made completely unrelated changes to the same newly-created [Utah Code § 76-6-206.5 Criminal trespass on private property for recreational purposes related to use of public waters](#). The Office of Legislative Research and General Counsel (OLRGC) will clarify this on May 3, 2023. The UFC sought authority from the Council to make changes to the Schedule to reflect OLRGC's May 3, 2023, decision.

In addition to the substantive changes to offense entries, the UFC also made some minor substantive revisions to the introduction section of the Schedule, including simplifying language where possible.

HB0030 does not go into effect until July 1, 2023. Those changes were not included in the materials presented to the Council. The UFC will work with the Division of Wildlife Resources prior to finalizing proposed changes based on that recodification, then bring those proposed changes to the Council for approval prior to HB0030's July 1, 2023, effective date.

The Utah Substance Use Advisory Council (USAAV) has traditionally maintained the DUI sentencing matrix schedule. Judges face difficulty in maintaining updated information

because the USAAV schedule is not available until the fall. Judge Valencia was hopeful that a DUI bench card would be available with the most up-to-date information.

Judge Porter explained that the general disposition matrix was distributed by CCJJ. She had not seen any changes as a practical matter, based on criminal history scores. She thought if anything was decided on a sliding scale, it would be an analysis of the ability to pay. The UFC will discuss this further.

Chief Justice Durrant thanked Judge Porter and Ms. Mannebach.

Motion: Judge Brower moved to approve the Uniform Fine Schedule and to allow the UFC to edit the schedule based on the OLRGC's May 3 decision, as presented. Judge Lindsley seconded the motion, and it passed unanimously.

9. VETERAN'S JUSTICE COMMISSION: (Meredith Mannebach)

Chief Justice Durrant welcomed Meredith Mannebach. The Council on Criminal Justice created the Veteran's Justice Commission to assess the extent and nature of Veterans' involvement in the criminal justice system and develop recommendations for policy changes. The Commission is chaired by the former U.S. Defense Secretary and includes U.S. Senator Chuck Hagel and White House Chief of Staff Leon Panetta.

Studies have shown.

- Deployment-related trauma exposure, combined with increased incidents of mental health and substance use disorders elevate Veterans' risk of contact with the justice system.
- 1 in 3 of the 19 million Veterans reported that they had been arrested.
- More than 181,000 are behind bars (8% of the prison population).

The committee created three councils: a front-end advisory council; an intake to sentencing council; and a prison sentences and re-entry council.

Committee Recommendations

- Improve definition and identify Veteran's in the criminal justice system, such as asking if a person is a Veteran at booking. A Veteran is defined as someone who swore an oath and entered any branch of the Armed Forces, including the National Guard or Reserves.
- Create a continuum of alternatives to prosecution and incarceration.
- Establish a national center to conduct further research.

Judge Lindsley asked if there had been any discussions regarding child welfare issues with Veterans. Ms. Mannebach informed the Council that this has not been addressed but she will bring it up to the committee.

Chief Justice Durrant thanked Ms. Mannebach.

10. RULES FOR FINAL ACTION: (Keisa Williams)

Chief Justice Durrant welcomed Keisa Williams. The Policy, Planning, and Technology Committee recommended that UCJA Rule 4-202.02. Records Classification be approved on an

expedited basis with an April 25, 2023, effective date, followed by a 45-day public comment period. The proposed amendments update statutory references and make three substantive changes: 1) classify Court Commissioner Conduct Complaints as private; 2) allow petitioners to submit (8)(C) requests using the same method as (8)(A)&(B) requests; and 3) classify sex designation records as private.

Chief Justice Durrant thanked Ms. Williams.

Motion: Judge Low moved to approve UCJA Rule 4-202.02 Records Classification with an effective date of April 25, 2023, followed by a 45-day public comment period, as presented. Judge David Mortensen seconded the motion, and it passed unanimously.

11. BUDGET AND GRANTS: (Karl Sweeney, Alisha Johnson, Melissa Taitano, Chris Talbot, Nick Stiles, and Jordan Murray)

Chief Justice Durrant welcomed Karl Sweeney, Alisha Johnson, Melissa Taitano, Chris Talbot, Nick Stiles, and Jordan Murray.

FY 2023 One-time Turnover Savings

#	Funding Type	Actual	
		Amount	
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 03/17/2023)	Internal Savings	2,745,855.59
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 03/17/2023)	Reimbursements	695,780.93
3	Est. One Time Savings for 600 remaining pay hours (\$2,000 / pay hour)	Internal Savings (Est.)	1,200,000.00
Total Potential One Time Savings			4,641,636.52

FY 2023 Ongoing Turnover Savings

#	Funding Type	Actual	Forecasted
		Amount YTD	Amount @ YE
1	Carried over Ongoing Savings (from FY 2022, includes unallocated ongoing appropriation)	Internal Savings	250,392
2	Ongoing Turnover Savings FY 2023	Internal Savings	619,736
3	TOTAL SAVINGS		870,128
	2023 Hot Spot Raises		(181,498)
	2023 Authorized Ongoing for Performance Based Raises (will be used at the end of the FY)		(450,000)
4	TOTAL USES before YE Requests		(181,498)
Actual Turnover Savings for FY 2023 as of 03/30/2023		\$ 688,631	\$ 370,128

ARPA Expenses

	A	B	C	D	E
	Judicial Council Approved Amount	Actual FY 2022 Expended Amount	Actual FY 2023 Expended Amount	Total Expended Amount (B + C)	Balance Available (A - D)
Last Period Total					7,614,581.13
IT Access to Justice - Part I + II	12,373,400	3,042,467.67	3,289,677.90	6,332,145.57	(a) 6,041,254.43
Courts Case Backlog - Part I + II	2,000,000	707,963.11	720,364.46	1,428,327.57	571,672.43
COVID-19 Supplies	302,100	-	-	-	302,100.00
Legal Sandbox Response to COVID	324,500	-	100,218.88	100,218.88	224,281.12
TOTAL	15,000,000	3,750,430.78	4,110,261.24	7,860,692.02	7,139,307.98

**Matheson Public Electronic Directories
\$43,101 one-time funds**

The Matheson Courthouse needs the outdated directory signs replaced on each floor with an electronic system that will include improved graphics for wayfinding throughout the courthouse and will provide additional public information to court patrons.

Motion: Judge Low moved to approve the Matheson Public Electronic Directories \$43,101 one-time funding request, as presented. Justice Petersen seconded the motion, and it passed unanimously.

**Proposed Court Commissioner FY 2024 Salary
\$183,326 (funded from 5% COLA and 5% JD required funding)**

Per [UCJA Rule 3-201\(9\)\(A\) Court Commissioners](#), “The Council shall annually establish the salary of court commissioners. In determining the salary of the court commissioners, the Council shall consider the effect of any salary increase for judges authorized by the Legislature and other relevant factors. Except as provided in paragraph (6), the salary of a commissioner shall not be reduced during the commissioner's tenure.” The Legislature approved a salary increase for district and juvenile court judges to \$203,700 effective July 1, 2023 (a 10% increase). This request will be entirely funded through legislative appropriations for FY 2024; no use of Court internally generated ongoing turnover savings is needed.

Motion: Judge Gardner moved to approve setting the Court Commissioner FY 2024 Salary at \$183,326 funded from 5% COLA and 5% JD required funding, as presented. Judge DiReda seconded the motion, and it passed unanimously.

Mr. Murray reported that the grant funds have been secured from NCSC to support eviction procedures.

Office of Innovation

Mr. Stiles stated that the Supreme Court will begin the process of transitioning the Office of Legal Services Innovation (Office) to the Utah State Bar, along with any remaining ARPA funds approved by the Council. [UCJA Rule 3-411 Grant Management](#) provides guidance where the courts are the “pass-through recipient,” but not when the courts are the pass-through agency. Additionally, ARPA funding has not traditionally been considered grant funding. In consultation with the Finance Department and with the lack of guidance in court rule, the Supreme Court wanted to provide the Council with notice of their intent to pass through the funding. Mr. Stiles said the Bar agreed to fund the Program Director position. Chief Justice Durrant said the Council has had many discussions on where to house the Office, such as housing it through the AOC, however, it made more sense to house the Office in the Bar because the regulation of practice of law lies with the Bar.

Motion: Judge Chiara made a motion to approve the transfer of the remaining ARPA funds to the Bar once the agreement has been signed. Ms. Plane seconded the motion, and it passed unanimously.

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

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

Chief Justice Durrant welcomed Judge Rick Romney and Jim Peters. Judge Romney appreciated Mr. Peters dedication to the justice courts. Judge Romney mentioned that there are 107 justice courts with 68 judges (53 males and 15 females). Fifty-one of the justice court judges have law degrees. Mr. Peters reminded the Council that those without law degrees have been grandfathered in. With the passage of [HB0210 Justice Court Changes](#), all new justice court judges will be required to have law degrees. There are 24 full time judges, 21 ¾ time judges, 18 part time judges, and 5 less than part time judges.

HB0210 clarified that a justice court is part of the state judiciary; addressed the independence of a justice court from other branches of government for a municipality or county; amended the eligibility requirements for a justice court judge so that, going forward, applicants can apply from anywhere in the state and will be required to have a law degree; amended provisions regarding the salary of a justice court judge so that full-time justice court judges must be paid at least 70% of a district court judge's salary (which, as of July 1, 2023, will be \$203,700); and created a legislative task force to develop additional recommendations for Justice Court Reform.

The Justice Court Clerks' Conference was held in Provo this year. JoDe Neer was recognized as Justice Court Employee of the Year; the Logan Justice Court was recognized as Justice Court of the Year; and 181 clerks have completed the clerk certification training.

The Justice Court Judges Conference was a success. Judge Romney thanked Mr. Gordon and Ms. Siaperas for attending. Roger Tew received the Friend of the Court award; Judge Paul Farr received a Service Award; and Judge Mark McIff received the Justice Court Judge of the Year award.

Board goals

- Strengthen data integrity
 - Classify justice courts differently
 - Review the judicial workload formula
 - Finish the clerical workload study
 - Develop some policies to be more consistent with data entry, particularly as it pertains to case dispositions.
- Collect salary data for justice court clerks
- Develop a plan to eliminate Accounting Model II

Chief Justice Durrant thanked Judge Romney and Mr. Peters.

13. EXPANSION OF HOLLADAY JUSTICE COURT: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Mr. Peters stated that the Holladay Justice Court was requesting an expansion to a Level I justice court due to the adopted resolution that

would include the city of Millcreek. Holladay currently has 450 case filings per month and anticipated an additional 250 with the added territory of Millcreek. The population with the expanded area consists of 128,393 residents. The court has four full-time clerks and expected that they will need one additional clerk. Millcreek cases are currently being handled through the Salt Lake County Justice Court. Mr. Peters explained that the Council does not typically get involved in the funding aspect, rather, this is addressed in the interlocal agreement.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Gardner moved to approve the expansion request of the Holladay Justice Court, as presented. Judge Low seconded the motion, and it passed unanimously.

14. NEW JUSTICE COURT JUDGE CERTIFICATION: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Mr. Peters explained that Kelly Laws successfully passed New Judge Orientation and was hired to be a judge in the Blanding Justice Court. Judge Romney mentioned that the number of justice court judges has declined approximately 20% recently. Some are due to court closures and some have been due to currently sitting judges taking on additional courts when a judge leaves.

Chief Justice Durrant thanked Mr. Peters.

Motion: Judge Farr moved to approve Kelly Laws as a judge in the Blanding Justice Court, as presented. Judge Brower seconded the motion, and it passed unanimously.

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

Chief Justice Durrant welcomed Dr. Jennifer Yim, Commissioner Gil A. Miller (JPEC Chair), and Judge Keith Kelly.

2022 Retention Judge Feedback Survey

JPEC conducted an anonymous survey of judges retained in the 2022 election to solicit feedback about several aspects of JPEC's evaluation process. Of the 58 judges who received surveys, 48 responded. Overall, including the quality, accuracy, and helpfulness of the evaluations, most surveyed judges expressed satisfaction with their performance evaluation experience with JPEC. Compared to 2020 survey results, judge feedback showed an increase in negative feedback, especially involving the "evaluation results" category. A few examples: in 2022 87% of judges found their reports to look professionally produced compared to 100% in 2020; in 2022 72% found the report easy to understand compared to 98% in 2020; and in 2022 83% said the numeric data was helpful to receive compared to 90% in 2020. But overall satisfaction with the JPEC evaluation process remained similar, 85% in 2022 and 89% in 2020.

The 2022 survey identified concerns about the amount of negative feedback the evaluation reports contained, especially from survey respondents. While no major changes have been made to JPEC's evaluation report process, the class of 2022 retention judges had a much broader range of evaluation scores compared to the class of 2020. Newer judges who experienced JPEC's evaluation process for the first time tended to express stronger agreement

about many aspects of their evaluation, whereas more long-standing judges tended to “agree” rather than “strongly agree”.

Survey results

Introduction

- According to JPEC’s data, the 2022 general election was the first retention election for 35% of the 63 judges.

Communication

- 94% of judges reported that they understood the overall JPEC process, and 64% said they would not find it helpful to receive additional information about it.
- 14 comments resulted in 2 main themes.
 - Judges requested to receive updates, such as reminders on the evaluation timeline or immediate feedback on a concerning aspect of their evaluation.
 - Some judges indicated they would like to better understand specific aspects of JPEC’s evaluations including their narratives, surveys, and justice court evaluations.

Evaluation Results

- 87% of judges agreed that JPEC’s report looked professionally produced.
- 72% percent of judges felt the report was easy to understand.
- 83% said the numeric data in the report was helpful.
- 44% of judges reported finding written comments more helpful than numeric data.
- In terms of courtroom observation:
 - 71% of judges found the courtroom observation summary helpful and
 - 87% found the individual courtroom observation reports helpful.
- In terms of the accuracy of the assessment provided by JPEC:
 - 75% of judges surveyed agreed the assessment was accurate.
 - Of the 10 comments, many indicated concern about negative comments, including the role they played in their overall evaluation and the number of them present.
- 86% of judges found that the performance evaluation process provided them with useful feedback they can use to improve their performance. Significantly, of the remaining 14%, only 2% disagreed with the statement.

Commission Process

- 35% of judges were aware that JPEC used a modified blind review process during its deliberations.
- 31% thought the use of blind review improved the evaluation process, while 67% were unsure whether it improved evaluations, and 2% disagreed.
- Most judges who commented found blind review to be a positive addition to deliberations. Two were concerned about bias from survey respondents.
- 90% rated the quality of work on their Voter Information Pamphlet page to be of high quality.

JPEC Website

- 96% of judges found their evaluation results easy on JPEC’s website.

- 91% of judges found the website's summary information to be accurate.

Improvements

- 10% of all evaluated judges agreed that JPEC should consider other sources of information in its review.
- 5 judges provided substantial comments. Most suggestions related to wanting additional emphasis on juror feedback.

Overall Evaluation

- 85% of all evaluated judges expressed satisfaction with their retention evaluation experience with JPEC. 11% of judges expressed neither satisfaction nor dissatisfaction, and 5% were unsatisfied.

Equitable Scoring Evaluation

JPEC conducted an evaluation addressing scoring discrepancies between judges with and without juries. They found that judges who have few or no jury trials have a scoring disadvantage. It was clear that juries are effectively scoring judges using a different scale than all other survey respondents. JPEC created a criteria for a solution with this issue that includes: easy to understand for both judges and voters; use standard statistical techniques; all respondent groups score on a standardized scale; juries have a proportional impact on scoring; avoid distortion or overemphasis of some scores over others; and create an evaluation system with more equity across judges.

Dr. Yim explained that in order to calibrate juror scores, JPEC will use a mathematical solution called “normalization”, which takes a subset of data and calibrates it to match the same scale as the rest of the data. The next step would then be to cap juror surveys at 30% of a judge’s overall scores. She noted that using this process will not result in any judge falling below the standards. For example, if a jury peer average is 4.9 and an attorney/staff average is 4.5, the difference would be -.4. With an original score of 5.0 as the base, the new individual jury score would be calculated to 4.6. JPEC estimated that 69% of all judges with juries would not be impacted, 17% would have a .1 impact, 14% would have had more if JPEC didn’t cap it at 30%.

This will address disparities between district and justice courts. However, Dr. Yim noted, there are still inequities between other court levels. Juvenile courts may survey all groups, including parents and youth. Appellate courts may potentially add a survey of district and juvenile court judges. JPEC will report the results and future plans to the Council at a later date. These changes may be done by the 2024 retention elections but more likely will be done for the 2026 retention elections.

Judges thought if remote hearings were problematic for JPEC observers then they could attend an in-person hearing. Judges didn’t feel they should be rated poorly because of Webex issues. JPEC observers are happy to attend in-person hearings throughout the state. Dr. Yim said some of the observer volunteers have been with JPEC for 10 years and have a significant amount of experience with observations.

Dr. Yim announced that after 7 years with JPEC, she will be leaving next month. She said it has been an honor to work with the Council and Utah judges. Judge Lindsley appreciated Dr. Yim's transparency. Chief Justice Durrant mentioned that JPEC had a difficult start, but the relationship has improved significantly with Dr. Yim's work on procedural fairness. He said her contribution has been enormous and she will be missed. Chief Justice Durrant thanked Dr. Yim, Commissioner Miller, and Judge Kelly.

16. OLD BUSINESS/NEW BUSINESS: (All)

No additional business was discussed.

17. EXECUTIVE SESSION

Motion: Judge Mortensen moved to go into an executive session for the purpose of discussing pending litigation. Judge Chiara seconded the motion, and it passed unanimously.

18. CONSENT CALENDAR ITEMS

a) Committee Appointments: Reappointment of Guy Galli to a third term on the Forms Committee; Reappointment of Ricky Shelton and appointment of John Macfarlane and Michael Litchfield to the MUJI Civil Committee; Appointment of Judge Amy Oliver to the Judicial Outreach Committee; Appointment of Judge Keith Kelly as Chair and the appointment of Judge Brian Cannell to the WINGS Committee; and the Appointment of Judge Matthew Bates to the MUJI Criminal Committee. Approved without comment.

b) Probation Policy: Intake and Formal Probation Policy. Approved without comment.

c) UCJA Rules 4-202.03, 4-202.05, 4-404, and 6-501 for Public Comment. Approved without comment.

d) Forms Committee Forms: Motion for Temporary Order – With Children; Order on Motion for Temporary Order - With Children; Petition for Name or Sex Change Order on Petition for Name Change or Sex Change; Petition for Minor's Name or Sex Change (and appointment of Private Guardian Ad Litem); Order Changing Minor's Name or Sex; and Order to Appoint Private Guardian Ad Litem. Approved without comment.

19. ADJOURN

The meeting adjourned.