

**JUDICIAL COUNCIL  
AGENDA**

August 22, 1997

Homestead  
700 North Homestead Drive  
Midway, Utah  
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*Chief Justice Michael D. Zimmerman, Presiding*

<b><u>Item:</u></b>	<b><u>Time:</u></b>	<b><u>Subject:</u></b>	<b><u>Presenter:</u></b>
1.	8:30 a.m.	Continental Breakfast .....	
2.	9:00 a.m.	Welcome/Approval of . . . . Minutes July 2, 1997 - July 4, 1997 (Tab 1)	Chief Justice Michael D. Zimmerman
<b><u>Continuing Business</u></b>			
3.	9:10 a.m.	Report from Chair .....	Chief Justice Michael D. Zimmerman
4.	9:30 a.m.	Court Administrator's Report .....	Daniel J. Becker
5.	9:50 a.m.	Judicial Council Sub-Committee . . . . Reports (Tab 2)	Hon. Pamela T. Greenwood Management Committee Hon. Michael K. Burton Policy and Planning Committee Hon. Rodney Page Liaison Committee
6.	10:20 a.m.	Justice Court Study Committee .....	Hon. Anthony Schofield
		Update on Committee's Progress (Tab 3)	
7.	10:45 a.m.	Break .....	
8.	11:00 a.m.	Court Security Task Force Report .....	Myron K. March
		(Tab 4)	

9. 11:30 a.m. Lunch/Execution Session . . . . . Chief Justice Zimmerman

**Information**

- (Tab 5) News Articles

**Consent Calendar**

- (Tab 6)

The consent items in this section are approved without discussion if no objection has been raised with the Administrative Office (578-3806) or with a Council member by the scheduled Council meeting or raised with the chair of the Council during the scheduled Council meeting.

1. Appointment of Hon. Arthur Christean as an Active Senior Judge . . . . . Holly M. Bullen
2. Uniform Fine and Bail Schedule . . . . . D. Mark Jones
3. Rules for Final Adoption . . . . . Peggy Gentles

**October Agenda Item**

1. Drug Court Update . . . . . Hon. Dennis Fuchs

**JUDICIAL COUNCIL  
MINUTES**

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July 2, 1997

Sun Valley, Idaho

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**Members Present:**

Chief Justice Michael D. Zimmerman  
Hon. Pamela T. Greenwood  
Hon. Robert Braithwaite  
Hon. Glen Dawson for Hon. Rodney Page  
James C. Jenkins, Esq.  
Hon. John Sandberg  
Hon. Kent Nielsen  
Hon. Anthony Schofield  
Hon. Anne M. Stirba  
Hon. Leonard H. Russon  
Hon. Joseph Jackson  
Hon. Michael K. Burton

**Members Excused:**

Hon. Jerald Jensen  
Hon. Stephen Van Dyke  
Hon. Rodney Page

**Staff Present:**

Daniel J. Becker  
Myron K. March  
Richard H. Schwermer  
Timothy Shea  
Marilyn Branch  
Cindy Williamson

**Guests:**

Hon. Brent West  
Hon. James Davis  
Commissioner Lisa Jones  
Hon. Lynn W. Davis

**Welcome:**

Chief Justice Zimmerman welcomed members, guests and staff to the meeting. Hon. Glen R. Dawson appeared on behalf of Judge Rodney Page. Mr. James C. Jenkins was recognized for his recent appointment as President Elect of the Utah State Bar.

year 2000 problem.

A grant has been received by the courts for a capital law clerk who will assist judges statewide with capital cases. The law clerk, with assistance from members of the District Court Board, will also be responsible for the development of a capital case benchbook. Other grants received by the court include Bryne funding for the Drug Court in the Third District and a National CASA grant in the amount of \$60,000 to assist in the areas of administration and training.

Chief Justice Zimmerman expressed his appreciation to Dan Becker and other staff members for their efforts in obtaining numerous grants for the courts.

The jury video *Selected to Serve* was nominated by the University of Utah's Media Department to receive a regional award. The video won the regional award and was therefore nominated for an international award for best audio/visual presentation. The video won and has received the "International Silver Cindy Award."

**Judicial Council Sub-Committee Reports:**

**Management Committee Report:**

As follow up to the Judicial Council's and Boards' meeting in November, a resource document prepared by Holly Bullen was distributed to members of the Management Committee. This document should be utilized when committee appointments are made in the future. The document will also be provided to the Appellate, District and Juvenile Court Boards for use when appointments are made.

Rule 3-111(C)(I) of the Code of Judicial Administration provides that justices of the Supreme Court demonstrate satisfactory performance by circulating not more than six principal opinions more than 180 days after submission.

Justices have relied upon a 6-month rather than 180-day standard. If a 180-day standard rather than a 6-month standard is applied, rulings may be classified as late-circulating under Rule 3-111.

Upon motion, the Management Committee referred a proposal for the 6-month standard to the Judicial Council for consideration and approval. A suggestion was also made that efforts be pursued which would examine the reporting standard of cases under advisement for district court judges. This matter was referred to the Board of District Court judges.

Rolen Yoshinaga provided an update on CORIS to members of the Management Committee and indicated that efforts are being undertaken to improve response time. There are three broad-based variables which affect the speed and response time of CORIS. The variables



## Report from the Ad Hoc Committee on Collections & Warrants:

Hon. Brent West, Chair of the Ad Hoc Committee on Collections and Warrants, was present and presented the findings and recommendations of the committee to Council members for their consideration.

In 1997, the Legislature passed the following intent language:

It is the intent of the Legislature that Courts implement the recommendation noted in the Annual Accounts Receivable Report and approved by the Advisory Board to the Office of State Debt Collection. Courts will work with the Office of State Debt Collection to develop a plan of action whereby delinquent accounts can be transferred to the Office of State Debt Collection or its designee when an account is 60 to 90 days delinquent. The Office of State Debt Collection will be responsible to provide information as to the status of the transferred accounts so that judicial action can take place as required.

In January 1997, the Ad Hoc Committee made an interim report to the Judicial Council. The Council reviewed the report and directed the committee to work with the Office of State Debt Collection to develop policies and procedures.

The committee found that there is a need for a statewide system of collections in the courts. The committee further found that the collection programs in the court should perform the following functions: a) obtain "up-front" information about the financial status of defendants who are requesting time payment of their court-ordered debts; b) follow-up on defendants who miss a payment; c) facilitate the conversion of criminal judgments to civil judgments; d) facilitate the transfer of information about cases to the Office of State Debt Collection and e) that the Administrative Office of the Court and the Office of State Debt Collection review the policies and procedures after two years to determine their effectiveness to recommend whether they shall be continued or different policies and procedures be adopted.

Council members expressed their appreciation to Judge West and his committee members for outstanding progress in this area.

### Discussion:

Judge Anthony Schofield expressed concern about the priorities of various entities, i.e., child support vs. restitution. Judge West explained that the State Office of Debt Collection may revise their priorities, which is established by statute. The courts' list priorities are established by the Judicial Council. The courts have recommended that the Office of Debt Collection reexamine their priorities and consider advancing victim restitution as a top priority.

Questions were raised regarding conversion of criminal fines to civil judgments. There is an expectation that collecting a criminal fine may be easier to accomplish than collecting a civil

permits. The draft permits all statutorily defined classifications of law enforcement officers to carry a weapon if properly certified, and finally, the draft includes changes from the Security Task Force.

**Discussion:**

James Jenkins stated that the court room should be as weapon free as possible. Mr. Jenkins advocated that the Council rule include a restriction that judges are not allowed to carry a weapon in the court room. This issue was further discussed between members of the Council and comments included that court rooms be weapon free while other rules be exercised in different areas of the court house. A question was raised regarding whether or not the rule should be uniform statewide.

**Motion:**

A motion was made by Judge Schofield to adopt Rule 3-414 as drafted, with the provision that each judge be able to exempt their courtrooms from the rule and that the rule be re-drafted to reflect the change. The motion was seconded by Justice Russon and carried unanimously.

**Motion:**

A motion was made by James Jenkins that each facility within each district be allowed to be more restrictive than the statewide rule and that the rule be re-drafted to reflect this modification. The motion was seconded by Judge Schofield and carried unanimously.

Next, Mr. Shea raised the issue of appropriate signage within court houses that should designate secure areas and the limitation of weapons in those areas. Chief Justice Zimmerman suggested that Mr. Shea research this issue, discuss it with administration and ensure compliance or a change in statute.

**Justice Court Study Committee Progress Report:**

Judge Anthony Schofield, Chair of the Justice Court Study Committee, reported on the committee's behalf. The committee has met three times with another meeting scheduled the week of July 7, 1997. The committee's process was to invite input from interested parties who have a stake in the Justice Court Study Committee, i.e., League of Cities and Towns, Utah Association of Counties, Statewide Association of Prosecutors and others.

The committee deliberately decided to have detailed minutes which are to provide members of the committee and other interested parties a clear, detailed description of the meetings.

after submission.

Justices have relied upon a 6 month rather than 180 day standard. If a 180 day standard rather than a 6-month standard is applied, rulings may be classified as late-circulating under Rule 3-111.

**Motion:**

A motion was made by Judge Burton that the Rule 3-111(C)(I) be modified and stated in terms of months rather than days. The motion was seconded by Judge Stirba and carried unanimously.

**Release of Salary Information from the Director of Finance:**

The Director of State Finance has recently released the salary information of state employees based upon W-2 information and not upon statutory information. This information should not have been released.

**Motion:**

A motion was made by Judge Braithwaite that the Judicial Council authorize Chief Justice Zimmerman to write a letter to the Director of State Finance requesting that office personnel stop releasing inappropriate salary information. The motion was seconded by Judge Greenwood and carried unanimously.

**Informing Legislators:**

Richard Schwermer provided a brief overview of what has been done in the past to inform legislators about the court system and what efforts will be taken in the future. In the past there have been general education efforts undertaken regarding the courts as a whole, as well as educational efforts about specific agenda items before the Legislature. There have been meetings with all legislators throughout the state in different forums, i.e., dinners, breakfasts during the sessions, and at one time there was an educational session for legislators held in conjunction with a program given by the governor. During these meetings there have been presentations made regarding general statistics, trends, videos have been shown and other background information provided.

Currently, efforts are underway to fully discuss matters with legislators and to invite them to join various judges in their court rooms to see court in process. Specific attention is also being given to individual legislators about their immediate concerns. Judge Stirba requested that ideas be developed using judges as resources when attempting to inform legislators.

This matter will be placed on a future Council agenda after legislative visits are held

### **Report on District Board Workshop:**

Judge Lynn W. Davis commented on a recent District Board Workshop. Board members spent a day and a half discussing a vast number of topics which included the following: a) prominent displays of the mission statement; b) communication and management; c) Board priorities; d) judicial independence; e) presiding judge training; f) specific membership of the Judicial Conduct Commission; and e) the judicial selection process.

Next, Judge Davis reported that the Board is planning on having an annual training and workshop for the Board. Judge Davis commended Diane Hamilton for her facilitation efforts before the Board.

### **Presentation by Bar Section - Litigation Section:**

David Jordan, member of the Utah State Bar and Chair of the Litigation Section, reported on activities of the Litigation Section. Mr. Jordan stated that the Litigation Section of the bar is the largest section of the bar with approximately 800-900 members. This section of the bar is financially sound.

The Litigation Section has focused a lot of activity into advocacy training. Recently, the section sponsored the Utah Trial Academy which consisted of six two and one-half hour sessions put together by a volunteer faculty of attorneys and judges. In addition, the section will develop and host lunch seminars. The focus of the seminars will be based primarily on discovery issues. The section also participates in new lawyer training. The section comments on all rules developed by the Judicial Council, reviews model jury instructions and hosts part of the Mid-Year and Annual Bar Conferences.

Members of the Judicial Council expressed their appreciation to Mr. Jordon for his presentation.

### **Other Business:**

Judge Burton raised the issue of a recent CASA training and the possibility of conflict during a trial if the trial were to involve an abused child. He went on to question policy regarding the witness/juror fee of \$17.00.

### **Adjourn:**

There being no further business, Chief Justice Zimmerman adjourned the meeting.

**MANAGEMENT COMMITTEE  
MINUTES**

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August 11, 1997

Administrative Office of the Courts  
230 South 500 East, Suite 300  
Salt Lake City, Utah

**MEMBERS PRESENT:**

Chief Justice Michael D. Zimmerman  
Hon. Pamela T. Greenwood  
Hon. Anne M. Stirba  
Hon. Joseph Jackson  
Hon. John Sandberg

**STAFF PRESENT:**

Daniel J. Becker  
Myron K. March  
Holly Bullen  
Mark Jones  
Tim Shea  
Rick Schwermer  
Heather Mackenzie-Campbell  
Elaine Lindsey

**WELCOME**

Judge Greenwood welcomed members and staff to the Management Committee meeting.

**ANNUAL BUDGET PLANNING AGENDA - AUGUST 20 & 21, 1997**

The Annual Budget Planning Agenda was reviewed. No changes were made and the packet will be prepared and mailed Wednesday, August 13, 1997, to Council members.

**JUDICIAL COUNCIL AGENDA - AUGUST 22, 1997**

Management Committee members reviewed the Council agenda and after discussion, approved the agenda.

**STATE COURT ADMINISTRATOR'S REPORT**

Dan Becker stated that Judge Roger Bean has announced his retirement and will retire on December 31, 1997. Myron March has initiated the process for selection

courts were backing away from collecting accounts receivables. The juvenile court has a history of high collection rates. Next, Judge Jackson questioned whether or not the committee studying collections considered what actions taken by the juvenile court lead to such high collection rates. Judge Greenwood said that the committee studying court collections recognized that juvenile courts do a good job collecting amounts ordered and are going to allow that process to remain status quo.

### STATUS OF 1997 AUDIT PLAN

Ms. Mackenzie-Campbell informed committee members of the audit work completed as of August 11, 1997. In addition to audits planned, the department has spent time on unscheduled audits and training. The department assisted Richard Schwermer and the Board of Justice Court Judges in adopting uniform suggested accounting procedures. Judge Sandberg commented that he had found the accounting procedures to be helpful. Chief Justice Zimmerman commented that providing these accounting procedures to local governments may assist them in preventing fraud. In addition, these procedures, provided by the AOC, will establish uniform accounting practices in the justice courts.

Next, Ms. Mackenzie-Campbell stated that some of the audits on this year's plan will be carried over into 1998. This is due in part to Mary O'Day, Internal Auditor, leaving court employment to move to Washington State.

### COURT INTERPRETER ADVISORY PANEL

Holly Bullen stated that there is a court interpreter advisory panel and general guidelines for membership are set by the rule. Last January, the Management committee specifically approved the each position on the committee. The vacancies were announced before this committee as to who was eligible to fill those positions. The Council actually selected the people to serve and the committee has met with them once and visited with several groups. A suggestion was made to add a juvenile court probation officer to the Court Interpreter Advisory Panel.

**MOTION:** A motion was made by Judge Jackson that the committee be expanded to include a juvenile probation officer. The motion was seconded by Judge Sandberg and carried unanimously.

### APPOINTMENT OF ARTHUR CHRISTEAN AS ACTIVE SENIOR JUDGE

Holly Bullen asked that Arthur Christean be appointed as an Active Senior Judge.

**MOTION:** A motion was made by Judge Jackson to appoint Arthur Christean as an

**Summary Minutes**  
**Policy and Planning Committee of the Judicial Council**

August 1, 1997

**Members Participating**

Judge Michael K. Burton, Chair  
Judge Stephen A. Van Dyke

**Members Excused**

Judge Robert T. Braithwaite  
James C. Jenkins  
Judge Kent Nielson

**Staff Participating**

Peggy Gentles  
Tim Shea

Meeting conducted by telephone conference

**1. Rules to be recommended for final adoption.**

The bulk of the amendments to Rules 3-201 and 3-201.02 were designed to clarify the processes of the Court Commissioner Conduct Committee. However, the rules as published for comment included a change to Rule 3-201(7) that said that the Council would look to "non-judicial officers" rather than "judges" when setting commissioner salaries. Additionally, the commissioners would get the same "sick leave benefits" as "non-judicial officers" rather than "judges." Under the existing rule, court commissioners receive the same retirement benefits as non-judicial officers. This proposed change raised some issues around how commissioner benefits would be affected and was objected to by four of the commissioners. On staff's recommendation, the Committee withdrew the proposed change to Rule 3-201(7).

The Committee had requested that staff investigate adding no insurance and driving on a suspended licence to the list of citations that can be dismissed by a clerk upon proof of compliance at the time of the citation. While these offenses are listed as mandatory appearance on the Fine/Bail Schedule, the Committee felt that dismissal by the clerk was appropriate if the defendant was in compliance at the time of the citation. The Committee recommended that the Council adopt these rules with an effective date of November 1, 1997.



## Fourth District Court

Judge Anthony W. Schofield

### MEMORANDUM

**To:** Utah Judicial Council  
**From:** Anthony W. Schofield,  
Chair, Justice Court Study Committee  
**Subject:** Justice Court Study Committee  
**Date:** August 8, 1997

*AWS/lneg*

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Let me report concerning the Justice Court Study Committee.

As the Council is aware, the Justice Court Study Committee is composed of 16 members from a diverse background: two legislators, one representative from the Governor's office, two mayors, two county commissioners, one city and one county attorney, one defense lawyer, two district judges, one judge from the Court of Appeals, two justice court judges and Rick Schwermer from the Administrative Office of the Courts. The committee is excellently served by Peggy Gentles and Lyn Peterson as staff. I am particularly pleased to report that each of the members of the committee appear fully committed to the process and to their individual participation in the work of the committee. Each member of the committee has attended most of the meetings and has actively participated in the discussions.

Since its organization in May, the Justice Court Study Committee has been meeting regularly. We held an organizational meeting on May 23 and we held four meetings during June and July, each lasting about four hours. Given the time commitment and the existing responsibilities of the members, I have been gratified that we have been able to meet as frequently and with the level of participation which we have experienced.

Following our organizational meeting, the committee spent two meetings hearing presentations from the various stakeholders having an interest in the role and operation of the justice courts. Each was asked to respond to the issues identified by the legislative intent language which authorized creation of the committee. While this process was time consuming, it has been invaluable to the committee's work. First, the presentations exposed all of the committee members from their diverse backgrounds to the issues and concerns of all stakeholders. Perhaps more importantly, the presentations also allowed positions to be expressed without requiring members to closely identify with their own, parochial interests at the beginning of the committee's work.



The committee has ranked the issues for study in the following order of priority:

1. Exclusive/concurrent jurisdiction over which type of cases;
2. Formation of justice courts and oversight by Judicial Council;
3. Recordkeeping, information sharing, and technology;
4. Revenue share/surcharges;
5. Appointment/retention;
6. Appeals/trial de novo and "court not of record";
7. Judicial Conduct Commission discipline.

Following this ranking we considered item one, jurisdiction, and developed a recommendation that the status quo be preserved while eliminating the possibility of forum shopping. The committee has considered draft legislation which would implement this recommendation. I have included a copy of that draft in the materials for the Council meeting.

There was a sense, although not necessarily a consensus, that the committee should recommend a long-term view that all Class B and C misdemeanors and infractions be transferred from the district courts to the justice courts. Obviously there are problems with this view. In some areas, unincorporated Cache County for example, there is no justice court having territorial jurisdiction. Further, the caseload shifting which would result from this proposal is not insignificant. I expect that in the context of formation of justice courts, we will discuss further this long-term view.

At its last meeting the committee began discussion of the second issue, formation of justice courts. This issue goes right to the heart of the areas where there seems to be the greatest divergence of opinion. I feel certain that this issue likely will be the most contentious and yet, probably the most important which we discuss.

While I realize that the Council may have hoped for greater progress and a more definitive response by this meeting, I feel that the committee has made real progress in its task and thankfully, we still have all of the parties fully engaged in the process. Given our continuing meeting schedule, I anticipate that the committee likely will have additional recommendations early enough in the fall to be prepared for the next legislative session.

1 78-3-4. Jurisdiction -- Appeals.

2  
3 (1) The district court has original jurisdiction in all matters civil and criminal, not  
4 excepted in the Utah Constitution and not prohibited by law.

5 (2) The district court judges may issue all extraordinary writs and other writs necessary to  
6 carry into effect their orders, judgments, and decrees.

7 (3) The district court has jurisdiction over matters of lawyer discipline consistent with the  
8 rules of the Supreme Court.

9 (4) The district court has jurisdiction over all matters properly filed in the circuit court  
10 prior to July 1, 1996.

11 (5) The district court has appellate jurisdiction to adjudicate trials de novo of the  
12 judgments of the justice court and of the small claims department of the district court.

13 (6) Appeals from the final orders, judgments, and decrees of the district court are under  
14 Sections 78-2-2 and 78-2a-3.

15 (7) The district court has jurisdiction to review agency adjudicative proceedings as set  
16 forth in Title 63, Chapter 46b, Administrative Procedures Act, and shall comply with the  
17 requirements of that chapter, in its review of agency adjudicative proceedings.

18 (8) Notwithstanding Subsection (1), [~~between July 1, 1997, and July 1, 1998,~~]the district  
19 court has subject matter jurisdiction in class B misdemeanors, class C misdemeanors,  
20 infractions, and violations of ordinances only if:

21 (a) there is no justice court with territorial jurisdiction;

22 (b) the matter was properly filed in the circuit court prior to July 1, 1996;

23 (c) the offense occurred within the boundaries of the municipality in which the district  
24 courthouse is located and that municipality has not formed a justice court or assumed local  
25 responsibility for the jurisdiction of the justice court under 10-3-923; or

26 (d) they are included in an indictment or information covering a single criminal episode  
27 alleging the commission of a felony or a class A misdemeanor.

1 78-5-103. Territorial jurisdiction -- Voting.

2  
3 (1) ~~[Except as provided in Section 10-3-923, the]~~ The territorial jurisdiction of county  
4 justice courts extends to the limits of the precinct for which the justice court is created and  
5 includes all ~~[cities or towns]~~ municipalities within the precinct, except

6 (a) ~~[cities]~~ municipalities where a municipal justice court exists[-] or

7 (b) municipalities which have assumed local responsibility for the jurisdiction of the  
8 justice court under Section 10-3-923(7)(a)(ii).

9 (2) The territorial jurisdiction of municipal justice courts extends to the corporate limits  
10 of the municipality in which the justice court is created.

11 (3) The territorial jurisdiction of county and municipal justice courts functioning as  
12 magistrates extends beyond the boundaries in Subsections (1) and (2):

13 (a) as set forth in Section 78-7-17.5; and

14 (b) to the extent necessary to carry out magisterial functions under Subsection 77-7-23  
(2) regarding jailed persons.

16 (4) For election of county justice court judges, all registered voters in the county justice  
17 court precinct may vote at the judge's retention election.

18  
19 78-5-104. Jurisdiction.

20  
21 (1) Justice courts have jurisdiction over class B and C misdemeanors, violation of  
22 ordinances, and infractions committed within their territorial jurisdiction, except

23 (a) ~~[those]~~ offenses over which the juvenile court has exclusive jurisdiction[-]; and

24 (b) offenses occurring within the boundaries of the municipality

25 (i) in which a district courthouse is located and

26 (ii) that municipality has not formed a justice court or assumed local responsibility for  
27 the jurisdiction of the justice court under 10-3-923.

1           (2) Justice courts have jurisdiction of small claims cases under Title 78, Chapter 6, Small  
2 Claims Courts, if the defendant resides in or the debt arose within the territorial jurisdiction of  
3 the justice court.  
4

**JUSTICE COURT STUDY COMMITTEE MINUTES**

**June 24, 1997, 1:00 p.m.**

**Administrative Office of the Courts  
230 South 500 East, Suite 300  
Salt Lake City, UT**

**Members Present**

Mayor Allen Adams  
Representative Greg Curtis  
Commissioner Gary Herbert  
Senator Joseph Hull  
Judge William Keetch  
Judge Gregory Orme  
Judge Anthony Schofield, Chair  
Kevin Sundwall  
Melvin Wilson

**Members Excused**

Camille Anthony  
Judge Parley Baldwin  
Judge Jerald Jensen  
Commissioner Royal Norman  
Paul Morris  
Mayor LaVelle Prince  
Richard Schwermer

**Guests**

Paul Boyden  
Ben Hamilton  
Judge John Sandberg

**Staff**

Peggy Gentles  
Lyn Peterson

**I. WELCOME**

Judge Schofield welcomed everyone to the meeting. Peggy Gentles distributed an updated Committee member list and draft minutes from the June 13 meeting. Judge Schofield informed the Committee that the presenters at the last meeting had had a chance to review their portion of the minutes and request any changes. The June 13 minutes will be approved, along with the June 24 minutes, at the July 11 meeting.

Judge Schofield informed the Committee that the July 11 meeting will be held in Room 403 in the State Capitol Building at 1:00 p.m.

Judge Schofield stated that some of the organizations who were given the opportunity to appear would be responding in writing. Some concern was expressed that the Utah Association of Counties had not appeared. Peggy Gentles stated that her understanding was that, for scheduling reasons, UAC had been unable to appear on either the 13th or the 24th.

Judge Schofield introduced Kevin Sundwall who would be serving on the Committee as a representative of the defense bar.

## **II. PRESENTATION BY THE BOARD OF JUSTICE COURT JUDGES.**

Judge Schofield introduced Judge John Sandberg who serves in four Justice Courts and as a member of the Judicial Council. Judge Sandberg presented the mission statement of the justice court: "The Justice Courts will provide a fair, impartial and efficient forum for local adjudication of issues in an approachable and proficient manner." Judge Sandberg gave some background information on the number of justice courts and jurisdiction of the courts. Judge Sandberg emphasized that the small claims jurisdiction allowed justice courts to only make orders about money. For instance, a justice court judge can not order a piece of property be returned; however the judge can enter a money judgment for the amount.

To have a justice court, there are basic standards for court facilities, staffing and judicial education. Court must be held in a public building and must be open each business day. The number of hours per day that the court must be open varies by class of court. Necessary support materials (copies of the Utah Code and local ordinances) must be provided. Other requirements for the items that must be present in the courtroom are also imposed. Sufficient clerical staff and a bailiff must be provided. To be a judge, 30 hours of training are required. In Judge Sandberg's 18 year tenure on the court, this education requirement has resulted in great improvement. In 1990, a core curriculum for justice court judges was created. The details of the core curriculum are provided in the materials that Judge Sandberg provided. Judges also have to certify that they are in good health, are subject to the Judicial Conduct Commission, and are subject to performance evaluation.

Justice courts have had a role in Utah since statehood. The justice court has its roots in the Justice of the Peace system that was brought over from England. Justices of the peace were include in the Constitution. The Judicial Article was rewritten recently and as part of that change the provision for a justice court was retained. Other states are seeing an increased need for local courts. In Manhattan, local justice courts have been added. This is because the courts can be closer to the people and have a greater understanding of the issues in the locality. Connecticut has increased its justice courts by about 50%. There are a few states that have gotten rid of justice courts. In response to a question by Judge Orme, Judge Sandberg stated that two states have courts like justice courts that are integrated into the state court system.

In response to a question from Senator Hull, Judge Sandberg stated that new justice court judges have a two and a half day orientation. However, Judge Sandberg stated that one of the Board's goals is to expand the orientation to two weeks. Senator Hull asked about the performance evaluation process. Judge Sandberg stated that the Council certifies each judge standing for retention/reappointment every four years. The performance evaluation happens every two years so a judge can get some feedback. Commissioner Herbert asked Judge Sandberg if he feels pressure from the municipalities for whom he sits. Judge Sandberg replied that he does not but he is aware of other judges who do. Judge Sandberg related an experience he had relatively soon after becoming a judge. He was approached by a city manager who told him he could not have

trial on a speeding ticket because it costs too much. Judge Sandberg proceeded with the jury trial. In response to a question from Mr. Wilson, Judge Sandberg stated that he thinks retention elections for municipal judges would probably be a better option than reappointment. The mayor and city council need to have input about who is the judge through the initial appointment. Once the appointment has taken place, judges have felt additional pressure. The Board's position is that there should be retention elections for municipal justice court judges because it thinks it will increase judicial independence. Judge Orme asked why there were retention elections for county justice court judges but not municipal judges. Judge Sandberg replied that the politics of the time when the legislation was changed dictated that retention elections for municipal judges not be pursued. Judge Orme stated that it seemed that at the city level the citizenry would have the best information about the judge.

Representative Curtis asked whether most of the people appearing in front of Judge Sandberg were citizens of the city sponsoring the court. Judge Sandberg stated that it depended upon the city. Representative Curtis stated that his experience in municipal courts in Salt Lake County is that at least fifty percent of the defendants were not residents. Juries are pulled from the entire county rather than just the municipality. Judge Sandberg stated that in one of the cities in which he sits, Riverdale, one half the citations are off the interstate. In the Clinton court, at least sixty percent of the defendants are from the city or an immediately adjacent city. In response to a question from Judge Orme, Judge Sandberg stated that a justice court judge is required to live in the county or an adjacent county. There is some talk of changing that to the judicial district but it is not a big push.

Judge Sandberg reviewed some data about justice courts. In the last year reported, justice courts heard about 366,000 cases, the majority of which were traffic cases (about 316,000). Other misdemeanors were about 47,000; small claims about 3,000. In the fifth, sixth, seventh, and eighth districts, where consolidation of district and circuit courts took place several years ago, most B and C misdemeanor cases are heard in the justice court. It has worked out well. The Board's preference is that those cases be put exclusively in the justice courts. The reason for this is the nature of the court. The most serious matters that are handled by the justice courts are DUIs, domestic violence assault cases, controlled substances (generally marijuana possession), and theft. It is important to understand that because those are the most important cases they get special attention. One of Judge Sandberg's standard questions when someone comes in on a controlled substance, theft, or under 21 with alcohol is to ask if the person has a high school degree or GED. If not, a condition of probation will be to get a degree or GED. Other courts that have more serious matters to deal with can not take the time with those kind of cases. Justice courts can pay more attention to cases at adjudication and sentencing and follow up.

The Board developed a strategic plan about five years ago. The plan developed eight goals, five of which Judge Sandberg discussed with the Committee. The Board thinks justice courts should have exclusive jurisdiction over Bs, Cs and infractions. Mr. Wilson asked what the Board's position was on territorial jurisdiction of justice courts. Judge Sandberg stated that he was not sure if the Board had taken a position on that issue. Personally, Judge Sandberg thinks that there should be exclusive territorial jurisdiction between city and county justice courts. Senator Hull asked if that would facilitate forum shopping. Judge Orme pointed out that some incidents may

take place in more than one jurisdiction (i.e. speeding) in which case an officer would get to pick where to cite the person. Judge Sandberg stated that clerks by statute are required, if the court does not have jurisdiction, to send to a proper jurisdiction.

Mr. Wilson asked about the proliferation of justice courts in small cities. A while ago county justice court jurisdiction was limited to the areas not in a municipality with a justice court or circuit court. Subsequently, the county justice courts got concurrent jurisdiction in the municipalities with circuit court locations. Judge Sandberg stated that Taylorsville and Leeds have both sought to have a justice court recently. Currently, one criteria for forming a new municipal justice court is that a new court can not be established within twenty-five miles of an existing court. Not many municipalities fit that criteria. If jurisdiction over Bs, Cs and infractions was exclusive in the justice court, combining the approximately 53,700 cases in district court with the 360,000 in the justice courts would result in about 16% increase. That may require five full time judges. However, many of those will go where it will not require a new judge.

In response to a question from Senator Hull, Judge Sandberg stated for cities without justice courts can elect to have a city prosecutor which would entitle the city to fifty percent of the fine revenue. Also, a city can enter into an interlocal agreement to have its cases heard in another court. Part of the interlocal agreement would be revenue sharing. Farmington City is now taking its cases to Davis County precinct court and there is a revenue sharing agreement. In response to a question from Mayor Adams, Judge Sandberg stated that in most cases if a jurisdiction provides both the court and the prosecutor, it keeps 100% of the fine revenue. In comparison, if Salt Lake County prosecutor is in Third District Court all fine revenue goes to the state.

Representative Curtis asked about how exclusive jurisdiction would work in counties like Salt Lake where some municipalities are serviced by district court. Judge Sandberg said that if there was not a city justice court the Bs, Cs and infractions would go to the county justice court. Representative Curtis asked if it is fair from a policy standpoint to tell a municipality that did not have a circuit court location that it can not have a justice court because the neighboring city has one. Judge Sandberg stated that the Board's position on controls on formation of justice courts is that there should be local controls of local decisions. Judge Sandberg pointed out that there are implications for the state court system. If an entity is willing to maintain the standards about judicial support, physical facilities, and staff support, it ought to be able to have a court. But it still has be balanced out because of the way it affects the state courts. In response to a question from Senator Hull, Judge Sandberg stated that if a city was a primary site of the circuit court the twenty five mile does not apply.

Judge Orme asked if municipal court could form any time a need and demonstrated willingness to satisfy standards about clerical help, etc., would there be circumstances where every court formed would be that much less money going into state coffers or is it mostly a question between counties and cities. Judge Sandberg replied that there would be a one time effect on state coffers if there was a shift to exclusive jurisdiction. After that, then the question would be between counties and cities.



The Board's position is that there are intentionally three branches of government which need to be treated separately. Although they have to work with each other, there are some things that need to be done to strengthen the judiciary. Mayor Adams asked about Judge Sandberg's view of the relationship between the judge and the city attorney, especially if the judge is not law trained. Judge Sandberg replied that it is a difficult situation. The prosecutor is part of the executive branch. The judicial has to be separate. This does not mean that they do not coordinate some of their activities. However the judge ought not be taking advise from the city attorney. Judge's role is to first adjudicate the case while the prosecutor presents one side. If a judge needs advise, the judge should contact another judge or one of the attorneys at the Administrative Office. Mayor Adams asked if there was any liability on the city for not reappointing. Judge Sandberg said that there is none and no reason needs be given.

In response to a question, Judge Sandberg confirmed that the only locations in Utah without a justice court with territorial jurisdiction are unincorporated Cache County and Cache County municipalities that do not have justice court.

Mr. Wilson asked about non law-trained judges handling small claims cases. Some fairly complex situations arise in civil cases for under \$5000. Judge Sandberg replied that quite a bit of time in recent years has been spent educating judges on small claims cases. Tooele County Justice Court has a law trained judge pro tem that hears small claims. Judge Schofield stated that similarly in most Wasatch Front counties, judges pro tem hear small claims in district courts and trials de novo can be requested by either side in the district court. Representative Curtis stated that the increase in the jurisdictional amount to \$5000 for small claims matters had changed the nature of cases filed.

In response to a question from Judge Schofield, Judge Sandberg stated that the Board's position is in favor of exclusive subject matter and territorial jurisdiction in justice courts. Also, the Board favors increased judicial independence. While the Board may be receptive to other ideas, the Board has not come up with anything other than retention election for municipal judges. Judge Orme inquired into what the Board's opinion was about a presumption of reappointment - reappointed unless good cause is shown. Senator Hull expressed the opinion that a retention election is a better process because it gives the public a voice. Judge Schofield stated that it may be more difficult to be retained as a justice court in a community with a small voting base. Representative Curtis stated that, if that is the case, a judge may feel subject to public pressure on high profile cases that may in fact decrease judicial independence over a reappointment process. In addition, organized opposition in a retention election may subject a judge to a one sided campaign. Senator Hull stated that a judge would be better known in smaller community. Judge Schofield stated that the reality is that probably every so often someone will get voted out that should not. Judge Sandberg stated that two of the communities in which he serves are fairly small and he would not hesitate to sit for retention election. In response to a question from Commissioner Herbert, Judge Sandberg stated that a judge could respond in a limited manner if there is active opposition to the judge's retention election.

Judge Sandberg stated that there are five principles that the Board would like the Committee to consider. First, concurrent jurisdiction be eliminated. Second, judicial independence be

strengthened. Third, support for continued improvement in education, facilities. Fourth, stability for all courts should be sought. Until the concurrent jurisdiction issue is ironed out, planning for all courts will be difficult. Fifth, revenue allocation be stable and equitable.

Judge Schofield thanked Judge Sandberg for his presentation.

### **III. PRESENTATION BY THE STATEWIDE ASSOCIATION OF PUBLIC ATTORNEYS.**

Judge Schofield introduced Paul Boyden, Criminal Co-Director of SWAPA and Deputy Salt Lake District Attorney. Mr. Boyden informed the Committee that his organization has not met since the invitation to present to the Committee was extended. He stated that he is concerned that SWAPA has not been able to give adequate study to these issues. However, he called around and discussed the questions with prosecutors who work in justice courts.

Mr. Boyden stated that justice courts are the most cost effective of all the courts. This is crucial in the current budget environment. The number of cases that are tried compared to plead out is getting lower as case pressures increase. Justice courts are able to try certain types of cases much more efficiently than other courts. Justice courts are also a little less formal which provides an advantage. Most of the justice courts handle cases in a dignified manner in a dignified setting. Another advantage is that the court is in the neighborhood. One of the down sides is that it is more difficult to try legal issues (such as suppression) in justice courts since law degrees are not required. That is not to say that some of the justice court judges do not do a better job than some of the district court judges. A number of prosecutors from a number of areas of the state complain bitterly about having to try particularly exclusionary rule issues and evidentiary issues in justice courts. In response to a question from Judge Schofield, Mr. Boyden stated that the problem can certainly be mitigated a great deal by education. In fact, the training has already greatly improved the court. Judge Orme stated that he had heard concerns more from defense attorneys over the years because it is usually the defense attorneys who get ruled against. Mr. Boyden stated that a common complaint is that a well known defense attorney appears in justice court and bullies the judge. Mr. Boyden stated that it especially is a concern in preliminary hearings. Mr. Boyden stated that most of the complaints SWAPA receives about justice courts surround preliminary hearings. Judge Schofield stated that possibly the Committee should consider whether justice courts should hold preliminary hearings at all. Mr. Boyden stated that there would be a lot of support from prosecutors, although he could not give a position on it, that holding preliminary hearings in justice courts is not necessarily the best idea. Certainly it is one area that needs to be examined. Mr. Boyden reiterated that he did not have the benefit of a specific discussion among SWAPA's prosecutors on the issues before the Committee. In response to a question from Mayor Adams, Judge Schofield stated that a preliminary hearing is the hearing where the judge determines whether there is probable cause for charge. If there is it is bound over to the district court and any plea negotiations take place at that time. Mr. Boyden related a call he had received. A defense attorney made a motion saying that he had not received notice of the use of an exception to the hearsay rule to admit some of evidence. The prosecutor replied that there was no notice requirement. The justice court judge refused to admit because no notice had been given which is a clearly erroneous decision. While Mr. Boyden recognized that

anecdotes may have their limitations, similar things happen on a fairly regular basis. In response to a question, Mr. Boyden stated that similar mistakes cut both ways. In his experience a number of years ago he would stop the judge and point out if the case had not been made.

Almost everyone Mr. Boyden speaks with agrees that Class Cs and infractions should be within the exclusive jurisdiction of the justice courts with the caveat that there may be some Class Cs that should be in a different category. In response to a question from Judge Orme, Mr. Boyden stated that concurrent jurisdiction on certain Class Bs is not such a bad thing. For example, a typical domestic violence case is a much more complicated case than another type of assault case. In domestic violence cases, getting the alleged victim to testify not once but twice if there is a trial de novo is difficult. If there is going to be exclusive jurisdiction on Class Bs, the Committee should be circumspect. They all should not go to district court either. Instead, each Class B should be looked at to determine where it should go. Domestic violence is problematic because some cases are well suited for justice court if the defendant agrees to get counseling, etc. However, if it is going to go to trial with the chance for a trial de novo district court is the better option. One way to handle it would be to let the prosecutor forum shop and determine which is the better place to handle each specific domestic violence case. If jurisdiction is going to be exclusive, careful thought should be given. Mr. Wilson stated that he had heard discussed a process by which a justice court would oversee a domestic violence case through pre-trial and then it would go to trial in district court. While the context in which Mr. Wilson has heard it discussed is domestic violence cases, other cases (such as DUIs) may similarly benefit. He has heard of defense counsel who will try a case in justice court and get a second chance in district court. With the time constraints and case loads, defense counsel is often going to get a reduction in the charge at the district court level rather than retry. Representative Curtis related an experience he had as a new prosecutor. Following a conviction by a jury, a defense counsel tried to use the possibility of a trial de novo to get a plea bargain for a lower charge. In a case where the prosecutor knows there will be an appeal, prosecutors may like concurrent jurisdiction to charge in district court originally. Two jury trials does not seem like an efficient use of resources. Mr. Boyden said that the worst part is that if a prosecutor wins in justice court and it is appealed, the district court judges do not like to try misdemeanor cases. One of the biggest advantages of justice courts is that they are excited to try the kinds of cases that they have.

Judge Orme observed that it sounded like the abusive part of the process is not concurrent jurisdiction but the possibility for "two trial bites at the apple." He asked if any thought had been given to the possibility of changing the appeal process by taping the justice court proceeding and an appeal to the court of appeals. Mr. Boyden stated that it would solve some of the problems. Reviewing the records of justice court cases may be problematic. The virtue of the justice court is not in legal elegance; it is in efficiency and a basic sense of fairness. As soon as you make non law trained judges make a record, the judges may be embarrassed. Judge Orme questioned if a record requirement was coupled with moving the line for exclusive jurisdiction down between the Bs & Cs rather than As & Bs to ensure that cases justice courts hear are of low enough stakes to avoid having an incentive for bringing in high powered defense counsel etc. Judge Schofield stated that there is a great deal at stake in the requirements of the appeal. Up to this point, the justice court has always been a court not of record so there is no record on which to base an appeal unlike the verbatim transcripts kept in district court. One question for the Committee is

whether justice courts should be a court of record for certain cases to avoid the trial de novo problem. Mr. Boyden said he would be concerned that justice court judges would see that as a first step to making law training a requirement. Representative Curtis pointed out an additional problem. According to the *Ohms* decision, judges of courts of record need to be appointed by the governor. Mr. Boyden stated that a number of years ago there was a statute that said that either party could make a demand to be heard by a law trained judge.

Judge Orme stated that when he had been on the Judicial Council a number of years ago any time elimination of concurrent jurisdiction was mentioned there was a discussion of a reclassification of offenses. The system should be two classes: one with exclusive jurisdiction in justice court the other with exclusive jurisdiction in the district court. Mr. Boyden pointed out that you would not have to change the penalty just the court that had jurisdiction over the case.

On the judicial independence issue, SWAPA is divided. One opinion is that the appointment process is not that bad and is concerned about establishing a tenure for people who may not be that devoted to the legal profession. A retention election process would leave the possibility that a judge would be sitting who was not devoted to the job. Mr. Boyden stated that there is a fairly general consensus that an independent selection committee is a good idea. A county council appointing a selection committee is possibly open to abuse. Commissioner Herbert asked if the justice court selection committee is established by statute. Judge Orme stated that he did not think the statute was as detailed as for the courts of record nominating commissions.

Mr. Boyden has not heard any complaints about the current revenue split formula. Of course the problem with the revenue split is that it becomes the driving force behind the formation and dissolution of courts.

In Mr. Boyden's opinion, the primary reasons a county forms a justice court are revenue or local control. Local control includes designing institutions for the community and providing services locally. They are not formed solely for revenue purposes. For example, Salt Lake County's justice court is about revenue neutral. In some counties, a court can make a lot of money especially if most of the cases are traffic cases.

Mr. Boyden received some strong opinions on the role of the Judicial Council in regulating justice courts. As far as providing/requiring training and discipline by the Judicial Conduct Commission, it should be same in justice courts as in other courts. As far as selection of judges and any more hand in the retention/reappointment of justice court judges, fairly strong feeling that should be locally controlled.

Having a justice court available provides for better case processing. The courts are more accessible and can handle the volume of cases.

In response to a question about the possibility of doing away with jury trials in justice courts, Mr. Boyden said that the prosecutors are about evenly split on that issue. In the past, SWAPA has taken votes on eliminating jury trials in Bs and Cs. In his opinion, jury trials in justice courts are used to abuse the system by creating scheduling problems. SWAPA is especially divided on

Class Bs because of the relatively serious nature. Mr. Boyden stated that he had a question about whether the Utah Constitution would allow doing away with jury trials in any case. Judge Orme pointed out that the U.S. Constitution would permit doing away with jury trials in cases where possible imprisonment is less than 6 months. Mr. Boyden stated that in his opinion there is merit to no jury trial in a Class C. However, some Class Bs have such consequence, particularly DUIs, that doing away with jury trial would be problematic. Representative Curtis pointed out that some assault cases have collateral ramifications such as a conviction for domestic assault removing the right to carry a weapon affecting a law enforcement officer's career. Judge Schofield stated that a case that could lose the defendant the right to carry a firearm and therefore pursue a profession is a very serious case and maybe should be reclassified (along with DUIs). Representative Curtis sees a problem with the graduation of offenses which allows different charges based on criteria such as "serious bodily injury." Prosecutorial economy may drive whether a decision is charged as a Class A in district court or a Class B in justice court. As city attorneys' prosecutorial authority has expanded justice court authority has been limited by the escalation of offenses to Class A.

Judge Schofield thanked Mr. Boyden for his time.

#### **IV. PRESENTATION BY MEMBER OF DEFENSE BAR.**

Judge Schofield introduced Ben Hamilton, an attorney practicing in Salt Lake City. Mr. Hamilton stated that he was not appearing to present the positions of any group. Instead, he was relating opinions based on his experience and discussions with other defense attorneys. He stated that he would be focusing on perceived problems because the number of things that justice courts are good at do not need to be changed.

Mr. Hamilton stated that he perceives the appellate process to be a problem. There are problems for both prosecutors and defense counsel. Under the Utah Criminal Rules, the prosecution can only appeal from a judgment and therefore is precluded from appealing. The appellate rights of a defendant are also seriously curtailed. The de novo review in the district court is the only appeal unless the constitutionality of a statute or ordinance is challenged. Judge Orme pointed out that also the constitutional issue has to be preserved in the justice court when there is no record. He added that for example the constitutionality of a traffic stop, as opposed to the statute upon which the stop was based, is not an issue for appeal beyond the district court. In response to a question from Commissioner Herbert, Judge Orme stated that one appeal of right is all that is required. The tradeoff in the justice court scenario is that in district court there is only one trial followed by one appeal while in the justice court you get two trials and no appeal. Mr. Hamilton said in cases that are factually based as opposed to legally based a defendant is better off trying a case twice. However, on legal issues, two trials does not adequately address the problems. The court of appeals sits in panels of three judges. In the justice court system, the district court judge knows that with limited exceptions there will be no further review. Because a typical reaction is against crime, the district court judge may err on the side of the prosecution because it is safer and more comfortable, although may not be the right thing to do. Without allowing a real review of the justice court proceedings, a defendant does not have adequate opportunity to address the legal merits of his case.

Mr. Hamilton stated that any concurrent jurisdiction allows a prosecutor to forum shop. A prosecutor may be able to avoid having a legal question answered by charging in justice court where there will never be review by the court of appeals or supreme court which are the only courts that can make decisions binding in other cases. Judge Orme pointed out that there are no interlocutory appeals from justice courts. Representative Curtis pointed out that prosecutors are similarly hampered. For instance, if the prosecution loses on a motion to suppress and the defendant is acquitted, the case is over.

Mr. Hamilton stated that through any pretrial hearings and the justice court trial witnesses learn what the issues are because they have heard the questions. This allows witnesses to possibly modify testimony at the trial de novo. Because justice courts are not courts of record these changes can not be challenged based on the justice court record. In response to a question, Mr. Hamilton stated that he favored having a record kept in justice courts. Mr. Hamilton said that his view of the constitutional provision concerning a court not of record is that a court not of record is not required. Instead, the constitution only requires that if there is going to be a court not of record it must be created by statute. Judge Orme inquired into the possibility of having a justice court be a court of record for some purposes and a court not of record for other purposes. Mr. Hamilton pointed out that some justice courts do preliminary hearings and records are kept of those. In response to a question, Judge Keetch stated that he keeps detailed notes on his docket. Representative Curtis stated that in the trial de novo the district court usually has the docket in the case file. Sometimes the notes in the case file may contradict the testimony at the de novo review. Representative Curtis stated that the detail in the docket varies from judge to judge. Judge Orme said that he thinks the keeping of a record in the preliminary hearings is based on the fact that the justice court judge is sitting as a magistrate rather than a court not of record. Judge Keetch stated that the only thing that he enters that is not a public record is a minute entry.

Mr. Hamilton stated that frequently people do not understand their rights to appeal. When people are unrepresented, they are not told how to appeal. A standardized form should be developed that only requires the name of the defendant, a case number and a signature. Every time there is a judgment, the individual defendant should be informed of the process. In response to a question, Mr. Hamilton stated that there is no filing fee for filing the notice of appeal. Representative Curtis stated that the process outlined by Mr. Hamilton elevates the defendant's rights above those the defendant would receive in district court. If an individual is convicted in district court the judge will go through a litany of rights before conviction. However, the defendant is not informed of the procedure to be followed to appeal. Mr. Hamilton pointed out that because of the nature of the district court case load more attorneys practice there. Because the justice court is supposed to be more people-friendly, more direction should be given. In response to a question, Mr. Hamilton stated that the judge should not say anything that would discourage a defendant from appealing even if everyone would agree that it would be a waste of the defendant's time, and possibly money. To say more would chill the defendant's constitutional right to an appeal. Mr. Hamilton pointed out that frequently there are legal issues that the person wants to appeal. If the person does not have an attorney and does not get an attorney within 30 days, the defendant is out of luck. Mr. Hamilton said that he thinks the reason that appeals are so low is that defendants do not know what to do. While this may result in cost savings, it is not beneficial to the defendants. Mr. Wilson stated that the experience in the Davis

County Justice Court is that only about five percent of cases go to trial. Mr. Hamilton stated that sometimes he does not take his cases to trial in the justice court to avoid giving the witnesses a chance to prepare. Procedurally, sometimes he talks to the prosecutor and says that there are legal issues that he would rather have a law trained judge decide. The prosecutor will proffer all evidence and Mr. Hamilton will not cross examine and get the judgment so the case can be appealed to district court. In response to a question, Mr. Hamilton agreed that the process was a functional waste of time. Representative Curtis stated that he felt that such a process was problematic for prosecutors who appear in front of the same judge day after day. Mr. Hamilton agreed that such a process needed to be used selectively. If it is a fact-based case, he wants the case heard by the justice court. If it is a legal issue-based case, he wants it heard in front of a law trained judge. Mr. Hamilton stated that while there are many good legal analysts who sit on the justice court he usually prefers the district court for legal issues.

Mr. Hamilton stated that in 1989 the law was changed to require the equivalent of a high school diploma for justice court judges. While law enforcement officers are required to have a two-year college degree, the requirement for a justice court judge should not be only a high school degree. In response to a question from Representative Curtis, Mr. Hamilton stated that justice courts are well suited to fact-based cases but not legal issue cases. Mr. Hamilton stated that justice court judges should have to have shown some dedication to the pursuit of knowledge by acquiring at least a bachelors degree. Mayor Adams stated that some of the administrative requirements are difficult for some judges and addition education might help. Mr. Hamilton illustrated his point by describing a case where the justice court judge clearly did not understand the statutory requirements for an offense. Commissioner Herbert stated that his experience has been that possessing a degree does not always correlate with performance. While Commissioner Herbert agreed that there may be some cases that either require additional training or are too technical for non law trained judges, separating those cases is difficult. Mr. Hamilton pointed out that the 1989 change requiring a diploma/GED grandfathered in sitting justice court judges. Judge Orme stated that the justice court has an amazing range of backgrounds. There are justice court judges with no high school diploma while many have law degrees and other degrees. Judge Orme stated that separating out which of those degrees versus experience predicts success is difficult. Judge Orme stated that many communities might find it difficult to fill a position for a justice court judge with a law trained judge. Mr. Hamilton stated that there are so many law trained individuals especially on the Wasatch Front maybe law training could be required.

Judge Schofield thanked Mr. Hamilton for his presentation.

## **V. OTHER BUSINESS**

Judge Schofield told the Committee that Colonel Greenwood of the Utah Highway Patrol had been unable to stay so he will come at the very beginning of the meeting on the 11th. Also, Utah Association of Counties will be contacted again. Judge Orme stated that he would be very interested in what UAC's opinions were even if they came in writing. Judge Schofield stated that one of the real questions for counties is the effect of the formation or dissolution of city justice courts on county planning. The problem for the counties is that certain facilities are committed to. Representative Curtis asked whether there is a serious threat of proliferation of

courts. Of 230 cities, 96 have municipal justice courts. The issue is probably the formation in larger cities. Representative Curtis stated that he struggles with telling a city that it can not have a justice court because it did not incorporate until 1996. Commissioner Herbert requested more information on revenue. He does not think that Utah County looks at its court in terms of raising revenue. Judge Schofield stated that he thinks most towns form to raise revenue and find that it is not the revenue source they expected. Judge Orme said that there may be a difference between the municipalities' reasoning and the counties' reasoning for forming. Representative Curtis said that the only real local control is in the appointment/reappointment process. Mr. Wilson stated that when the Davis County court merged with the Farmington City court they looked at the revenue numbers carefully. Under an agreement Farmington is paid back after all operating expenses (including the costs of prosecuting) are paid. There are some economies of scale by merging courts. Commissioner Herbert stated that Provo City had thought about combining with the Utah County Justice Court but after analyzing it decided to stay with the state system. Mr. Wilson pointed out that in Davis County the old circuit court locations hear a number of Class Bs.

There being no other business, the meeting adjourned.



JUSTICE COURT STUDY COMMITTEE MINUTES

July 11, 1997, 1:00 p.m.

Room 403, Utah State Capitol  
Salt Lake City, UT

**Members Present**

Mayor Allen Adams  
Camille Anthony  
Judge Parley Baldwin  
Senator Joseph Hull  
Judge Jerald Jensen  
Judge William Keetch  
Paul Morris  
Commissioner Royal Norman  
Judge Gregory Orme  
Mayor LaVelle Prince  
Judge Anthony Schofield, Chair  
Richard Schwermer  
Kevin Sundwall

**Members Excused**

Representative Greg Curtis  
Commissioner Gary Herbert  
Melvin Wilson

**Guests**

Colonel Richard Greenwood

**Staff**

Peggy Gentles  
Lyn Peterson

**I. WELCOME AND APPROVAL OF JUNE 13 AND JUNE 24 MINUTES**

Judge Schofield welcomed everyone to the meeting. Upon motion of Judge Keetch and second by Mayor Adams, the minutes of the June 13 and June 24 meetings were approved.

**II. PRESENTATION BY THE UTAH HIGHWAY PATROL**

Judge Schofield introduced Colonel Richard Greenwood, Superintendent of the Utah Highway Patrol. Colonel Greenwood began his presentation by stating that his perception is law enforcement and the justice courts in Utah have come a long way in the last twenty years. The correspondence from Judge Schofield asked Colonel Greenwood to address a few issues. Colonel Greenwood noted that some of the issues were outside his area of expertise/opinion.

Most law enforcement people in Utah view justice courts as being greatly improved and the justice court judges deserve and have earned law enforcement's respect. One of the roles of the justice court is to get the people closer to the judicial system and vice versa. Under the existing rules, the justice courts have jurisdiction over Bs, Cs, and infractions as well as civil cases up to \$5000. Colonel Greenwood would like to see that jurisdiction continue and be made exclusive. The main reason would be to free up the district courts to address their calendars and put the courts on the community level which is not as easy to do with the district court. Having justice

courts with exclusive jurisdiction over Bs, Cs and infractions would help the troopers and county law enforcement.

Colonel Greenwood thinks that the mayor should appoint the municipal justice court judge initially followed by an election. This would hopefully give a closer tie with the community and de-politicize the relationship between the mayor and the justice court judge. The people would be able to vote out a judge if the people did not like the way the judge was running the court.

Colonel Greenwood stated that he is proud of the fact that no money collected by the courts goes back to the UHP. The public perceives that the trooper has a financial incentive to write tickets which is incorrect. Colonel Greenwood stated it would not be appropriate for the Superintendent of the Highway Patrol and a representative of the Department of Public Safety to take a position on the way revenue is split between courts and the state.

Colonel Greenwood stated that after talking to a few members of the law enforcement community he thinks his positions are shared widely. In conclusion, Colonel Greenwood said that he thinks the justice courts have an important role in Utah. While he was unfamiliar with any discussion about doing away with the justice court, he would oppose such a move. It would be detrimental to the people. Law enforcement would benefit from Bs, Cs and infractions going exclusively to justice courts.

Judge Orme asked if Colonel Greenwood is comfortable with the classification of B and A misdemeanors when saying that justice courts should have exclusive jurisdiction or would part of the effort be to look at the Bs and see if some of them needed to be moved to the A classification. Colonel Greenwood responded that the statutes are dynamic. Periodically, the classifications should be reviewed to see if any need to be moved up or down. That review should be undertaken regardless of the jurisdiction of the various courts.

Judge Schofield thanked Colonel Greenwood for his presentation.

### **III. PRESENTATION BY THE UTAH ASSOCIATION OF COUNTIES**

Judge Schofield noted that the Committee members had received at the meeting an outline of the UAC presentation. Brent Gardner, who had been scheduled to attend, had a family emergency arise and had to cancel at the last minute. Judge Schofield reviewed the outline of UAC's position with the Committee. Judge Orme questioned UAC's statement about the types of cases over which the justice courts should have jurisdiction. UAC stated that justice courts should have exclusive jurisdiction "up to class B misdemeanors" and concurrent jurisdiction in cases "up to class A misdemeanors." The Committee discussed the fact that UAC had referred to rural counties in its presentation outline.

Mayor Adams questioned the UAC statement that if the county is required to share revenues with the state, the counties should share in revenues from municipal justice courts for prosecution and other support services. Paul Morris stated that possibly the statement would be construed as requesting that the split that currently exists paying the entity who prosecutes to stay in place.

#### IV. COMMITTEE DISCUSSION OF PRESENTATIONS

Judge Schofield entertained discussion of how the Committee should proceed in light of the legislative charge. He asked for identification of issues to be addressed and then proposed that the issues be put in an order for Committee discussion. The Committee discussed the issues. Upon motion by Judge Baldwin and second by Mayor Prince, the Committee unanimously decided to consider the following issues in order of discussion:

1. Exclusive/concurrent jurisdiction over which cases;
2. Recordkeeping, information sharing, and technology;
3. Revenue share/surcharges;
4. Appointment/retention;
5. Formation of justice courts and oversight by Judicial Council;
6. Appeals/trial de novo and "court not of record";
7. Judicial Conduct Commission suspension ability.

Judge Baldwin's motion did not preclude changing or adding to the list at a later time. Judge Schofield requested that staff investigate an issue that arose around the standard for appealing from a trial de novo.

Judge Schofield began the discussion of jurisdiction by stating that his intent was to come up with recommended concepts that could be put into draft language by the next meeting. Judge Orme noted that there was almost consensus among the presenters that there should be exclusive jurisdiction over certain misdemeanors and infractions, exclusive jurisdiction over more serious misdemeanors in district court, and no concurrent jurisdiction. He stated that he thinks that such a division should be part of the Committee's recommendation. Judge Orme also stated that the misdemeanors should be examined to ensure that the offenses in each category makes sense. Camille Anthony noted that the Anomalies Subcommittee of the Sentencing Commission would be a possible forum for such a study. Judge Orme stated that consideration by the Committee may work to raise the comfort level of some groups who may be opposed to an exclusive jurisdiction scheme.

Paul Morris asked whether an exclusive jurisdiction scheme would preclude cities without justice courts from going to district court. Rick Schwermer stated that the Committee needs to resolve two issues. To address Judge Orme's concern, if there is no justice court with territorial jurisdiction, district court would have to be given jurisdiction. To address Mr. Morris' concern, the Committee may want to address municipalities without justice courts which have district courts. Mr. Morris stated that he thinks there will be a lot of resistance if municipalities in

proximity to a district court without a justice court are forced to travel to file cases. Judge Schofield noted that a number of district court judges spend most of their time doing Bs, Cs and infraction cases. Judge Baldwin referred to Chief Justice Zimmerman's presentation concerning the problems that the potentiality of large shifts in case load cause in court planning. Judge Schofield stated that there were two issues: exclusive jurisdiction and forum shopping. He asked if any Committee members were opposed to removing the ability of charging authorities to forum shop. None of the Committee members responded.

The Committee discussed Judge Baldwin's comment about the problems with local governments shifting cases by forming and dissolving justice courts. Judge Orme stated that he thought that should be avoided. Rick Schwermer stated that House Bill 436 in 1991 requires cities on the list of current now-district court sites that elect to assume local control by forming justice court or contracting with another government must seek legislative approval to dissolve the assumption of local control. Rick Schwermer noted that the revenue impact of taking cases from state system for which the state receives 50% of the fine revenue. Judge Orme suggested discussing many of the concerns express when the Committee considered the formation of justice courts issue.

Judge Schofield reiterated that the Committee's desired starting point is Bs, Cs and infractions in the justice courts; As and felonies in the district court. Camille Anthony inquired into whether the Committee wanted to look at reclassifying some misdemeanors. Rick Schwermer stated that the Committee's decision is implicitly based on the current understanding of B and A misdemeanors. Judge Orme stated that he would hate to see the Committee's suggested jurisdiction legislation fail because some groups would be upset about the fact that specific offenses are exclusively in the justice courts. The Committee discussed legislative options including a one year delay of implementation with reclassification occurring in the interim year.

Rick Schwermer stated that the Committee's proposal on jurisdiction would not result in much of a shift in where cases are filed. Camille Anthony inquired whether that information could be determined. Paul Morris stated that a few years ago a committee looked at reclassifying misdemeanors. One of the problems encountered was that cities can only prosecute Class B and down misdemeanors. If a lot of offenses are moved to A classification, the shift in prosecutorial burden may be significant.

Senator Hull stated that the Committee can not anticipate positions by various groups. That should happen in the legislative process. His opinion was that the Committee should draw the line now and allow the process to determine which specific offenses belong where.

Rick Schwermer stated that the legislation adopted in the 1997 session used language similar to the Committee's proposal. Judge Baldwin express concern that the Committee's proposal did not constitute a change that would offer long term solutions to the problems before the Committee. Camille Anthony stated that she thought the long term solution would be effectuated in the discussion of the formation issue.

On motion by Judge Baldwin and second by Judge Keetch, staff was directed to bring draft

statutory language to the next Committee meeting for consideration.

Senator Hull moved that the Committee move formation of justice courts to be the next issue considered so that the priority of issues to be considered by the Committee is as follows:

1. Exclusive/concurrent jurisdiction over which cases;
2. Formation of justice courts and oversight by Judicial Council;
3. Recordkeeping, information sharing, and technology;
4. Revenue share/surcharges;
5. Appointment/retention;
6. Appeals/trial de novo and "court not of record";
7. Judicial Conduct Commission suspension ability.

The motion was seconded by Rick Schwermer. The motion pass unanimously.

#### **V. OTHER BUSINESS AND ADJOURN**

The Committee set its next two meetings for July 29 and August 8. The meetings will be from 12:30 p.m. to 4:00 p.m at the Administrative Office of the Courts.

Upon motion by Camille Anthony and second by Judge Keetch, the Committee adjourned.

**JUSTICE COURT STUDY COMMITTEE MINUTES**

**July 29, 1997, 12:30 p.m.**

**Administrative Office of the Courts  
230 South 500 East, Suite 300  
Salt Lake City, UT**

**Members Present**

Mayor Allen Adams  
Camille Anthony  
Judge Parley Baldwin  
Representative Greg Curtis  
Commissioner Gary Herbert  
Senator Joseph Hull  
Judge Jerald Jensen  
Judge William Keetch  
Commissioner Royal Norman  
Judge Gregory Orme  
Mayor LaVelle Prince  
Judge Anthony Schofield, Chair  
Richard Schwermer  
Melvin Wilson

**Members Excused**

Paul Morris

**Guest**

Jennifer Hemenway, Director  
Research and Data,  
Commission on Criminal & Juvenile Justice

**Staff**

Peggy Gentles  
Lyn Peterson

**I. WELCOME AND APPROVAL OF MINUTES**

Judge Schofield was detained in court and could not get to the meeting on time. Judge Gregory Orme acted as chair until Judge Schofield arrived. He asked for a motion on the minutes of the July 11, 1997 meeting.

**Motion:** A motion was made by Judge Keetch to approve the July 11, 1997 minutes as prepared. The motion was seconded by Richard Schwermer. The motion carried unanimously.

**II. FOLLOW-UP ON QUESTIONS FROM LAST MEETING**

Ms. Gentles reported that she contracted Brent Gardner at the Utah Association of Counties for a clarification of its position on jurisdiction. UAC's position is that the justice courts should have exclusive jurisdiction over Class B and C misdemeanors and concurrent jurisdiction over Class A misdemeanors.

Ms. Gentles also referred the Committee to Utah Code Section 78-5-120 as amended to the 1997

Session discussing the standard for appeal from the trial de novo in a district court. Any person not satisfied with a judgment rendered in a justice court, whether rendered by default or after trial, is entitled to a trial de novo in the district court of the county as provided by law. The judgment after trial de novo may not be appealed unless the court rules on the constitutionality of a statute or ordinance.

Judge Keetch distributed an article from the Sun Advocate, the daily Price, Utah, newspaper. The article stated that Gene Strate, Carbon County Attorney, appreciates the work the justice courts are doing because they alleviate case handling concerns and are a real asset to the county.

### **III. DISCUSSION OF JUSTICE COURT JURISDICTION IN CIVIL MATTERS**

Judge Orme suggested the Committee discuss jurisdiction over civil matters at this time. The present situation is that the district courts and the justice courts have concurrent jurisdiction over small claims matters up to \$5,000. A presiding judge of a judicial district may shift all the small claims matters to the justice courts. This shift has been made in the Sixth and Seventh Judicial Districts. Of the approximately 45,000 small claims cases that are filed each year, about 29,000 are heard by judges pro tem in the district court, i.e. lawyers who volunteer to come in in the evening to hear these cases. The remaining cases are heard in justice courts. Small claims cases can be appealed to the district court for a trial de novo.

The Committee discussed the pros and cons of whether the justice court should have exclusive jurisdiction over small claims cases. Judges Jensen stated that he has done many small claims cases and he feels that the present system of using pro tem judges works well because it is accessible and convenient to the public. Judge Keetch stated that he too has done many small claims cases. He stated that justice court judges receive many hours of training to prepare them to hear small claims cases. Pro tem judges receive 5 hours training and must be certified and appointed by the Supreme Court. The Board of Justice Court Judges have taken the position that they are in favor of justice courts having exclusive jurisdiction over small claims cases.

Judge Orme stated that he sees three basic options with respect to civil jurisdiction:

1. If the defendant resides in a locality that is served by a justice court, the small claims affidavit has to be filed there. However, if a defendant resides a locality without a justice court then it must be filed in district court; or
2. Since civil is different than criminal a plaintiff can choose to file where the cause of action arose or where the defendant is located. \$5,000 is a lot of money and if someone wants to take the case to district court, that ought to be their option.
3. Leave as is and require a more rigid pro tem program; if there is no pro tem program then it should go to justice court on a county by county basis.

Judge Orme stated that perhaps the Committee should make a recommendation to the Judicial Council stating that the Committee was not convinced that the same forum shopping concerns that exist on the criminal side necessarily apply on the civil side. Therefore, the Committee is not persuaded that a change necessarily has to be made in the existing scheme. However, if the Judicial Council or the Legislature or others are of a different view and think that there is a lot of forum shopping then the Committee's recommendation would be that district court judges hear only appeals from either the district court pro tem program or, in rural areas, a justice court.

The Committee was uncomfortable making a decision on this before they have heard from several experts on the subject in an effort to gather more information on small claims. The Committee asked staff to provide options to the presenters. However, the Committee felt that further consideration should come only after discussion of the other issues before the Committee.

#### **IV. DISCUSSION OF DRAFT LEGISLATION ON JURISDICTION**

Ms. Gentles presented draft legislative language to address the Committee's recommendation on jurisdiction in criminal matters at the July 11 meeting. She pointed out the changes made in the draft legislation.

**78-3-5.** Regarding line 18, the Committee requested that she leave in the words "Notwithstanding Subsection (l)."

**78-5-103.** The Committee did not make any changes to the draft language.

**78-5-104.** The Committee did not make any changes to the draft language.

Judge Baldwin stated that he did not think the Committee's proposal was forward-looking enough. If the justice court should hear all Bs & Cs, the Committee should make that recommendation rather than a proposal that keeps the status quo. Planning remains difficult. Judge Schofield wondered whether the discussion of the Judge Baldwin's issue implicates the formation of courts issues. Judge Keetch agreed with Judge Baldwin because he felt that it complies with the Committee's charge, especially as discussed by Chief Justice Zimmerman. Mayor Prince responded that the debate should not be driven by the district court facilities needs. In fact, contrary to the move to centralization of court facilities, Mayor Prince stated that the courts should be moving out into the communities to be more accessible to the people. Rick Schwermer responded that the state court system is not trying to protect caseload to justify overhead; the Judicial Council wants to be able to plan its resource allocation. Camille Anthony stated that some attorneys have expressed a concern to her that the justice court will evolve into another circuit court.

Judge Orme responded to Judge Baldwin's concern by saying that he thought that the state is so diverse that the ability to allow different arrangements in different areas should be retained. If the people of Ogden choose to have the B & C misdemeanors heard in district court while Iron



County chooses to have those heard in the county justice court and both groups are happy, both arrangements should be possible. Judge Orme would be opposed to a system that resulted in the creation of justice courts when needs are currently being met. Judge Baldwin responded that he thinks more of a bright line needs to be developed. Commissioner Herbert pointed out that the counties face the same planning problems encountered by the state.

Judge Schofield asked for any further discussion of the specific language drafted by Ms. Gentles. Hearing none, he asked that the Committee move on to the difficult issue of formation of courts. He stated that the planning issues that the Committee has begun to discuss fits more clearly in the formation discussion.

## **V. DISCUSSION OF FORMATION OF JUSTICE COURTS**

Camille Anthony stated that granting a great deal of autonomy to various levels of government undermines other levels' ability to plan. Judge Schofield stated that to remedy that problem a statutory scheme could be designed with windows of, for example, once every five years in which local governments can opt in or out of the justice court system. Mayor Prince stated that he is in favor of strong transitions allowing the flexibility for local governments to choose.

Judge Schofield stated that he sees a number of issues. First, which cities should be allowed to have a justice court. Second, if cities are going to elect to form a court, how much advance notice is required. Third, how does a local government dissolve its justice court. Mayor Prince stated that he had discussed at a Legislative committee hearing having the ability to form a court limited by population size. Larger cities have different needs than the smaller cities, which can be serviced in the court structure. In Mayor Prince's opinion, the potential case load drives the decision to form a court which is in turn driven by population.

Judge Baldwin suggested moving to a county-wide justice court system which had judges that traveled to the communities. The municipalities would be involved in the selection of the county judges. That would give independence to the judges while giving local service. Mayor Prince responded that while that would probably have appeal to his municipality, the reality of turf protection would prevent it from happening. Rick Schwermer stated that Salt Lake County has recently moved away from five precinct courts to one consolidated court for efficiency. Because cases and populations shifted among the precincts, keeping caseloads equal was difficult. However, the convenience and local administration of justice are lost to some extent.

Mayor Adams stated that he thinks any municipality that is willing to meet the standards set by the Judicial Council should be able to form a justice court. Camille Anthony stated that she has an interest in creating additional standards on information sharing. Mel Wilson raised the issue of why municipalities formed justice courts. Mayor Adams stated that, regardless of the reasons, if the locally elected officials decide to have a court they should not be denied. Ms. Anthony pointed out that every dollar generated at the justice court level is a dollar taken away from the state. Senator Hull stated that the general perception is that all courts are designed to make

money. In his opinion, that justice courts should be on a county basis with appropriate revenue share. Representative Curtis disagreed stating that many cities are bigger than many of the state's counties. Rick Schwermer pointed out that while some of the justice courts may be formed for revenue generation and may in fact make money, the large majority of courts are class III and IV courts which probably do lose money. Mr. Schwermer stated that if the Committee thinks that one of the reasons courts are formed and the Committee wants to inhibit the formation of the courts the Committee could suggest new revenue sharing.

Mayor Prince stated that Taylorsville's experience was that the Judicial Council, the League, and the municipalities all had different views of the appropriate standard. He thinks it should be clarified.

In response to a question from Representative Curtis, Rick Schwermer stated that cities like Salt Lake City that have district court locations decided not to form justice courts because of revenue projections and leverage with local district court administration for service. Camille Anthony stated that it did not sound like interests in fairness and justice were driving decisions. Commissioner Herbert suggested that a possible criteria for forming would be population.

Mel Wilson suggested that the Committee could look at the revenue split. For instance, the entity who supports the law enforcement that issued the citation would get a portion of the revenue. By looking at the revenue split, possibly a more fair system could be developed. Camille Anthony pointed out that that may create a problem of encouraging quotas of citations. Mayor Adams stated that smaller communities can not afford the police for traffic enforcement. Senator Hull stated that the revenue impetus could be neutralized. In addition, if the lead times for the creation of courts could be extended, the stability issue could be addressed. However, he would remove the proximity part of the statute. Mel Wilson related the experience of merging with Farmington City Court. Out of the revenues they took all the operating costs of the court (including prosecution). Farmington got 50% of fine revenue from Farmington citations. This left the county with about 15% of the revenue from Farmington citations for court services. The merger brought some stability to the jurisdiction of the court.

Judge Jensen asked the question of whether the Committee thought that district court judges hearing misdemeanors was very economical. Judge Jensen stated that his opinion was that the misdemeanor caseload should be moved into a court not of record. Judge Orme pointed out that if you did it at a gradual pace you would not have resources wasted at the state level. Rick Schwermer stated that a state funded justice courts solved the problems that the Committee was directed to address. However, such a solution may be politically infeasible. Camille Anthony stated that she felt that an exclusive jurisdiction system would force inflation of the classification of offenses.

Representative Curtis questioned whether the Committee could recommend that "eventually" all Bs and Cs go to justice court without saying how it should occur. Representative Curtis said that the Committee should expressly address revenue, appointment, and local control.

The Committee requested that staff investigate the experience of a mid-western state that recently went from a system of locally controlled justice courts to a statewide system of magistrates.

At the conclusion of their discussion, the Committee asked Ms. Gentles to draft some proposals from today's discussion for creation of new justice courts, i.e. time frame (2-5 years), who, when, etc. The Committee requested a number of options presented.

Judge Schofield adjourned the meeting.



## Third District Juvenile Court

Judge Frederic M. Oddone

April 7, 1997

Hon. Michael D. Zimmerman  
Chair Utah Judicial Council  
332 State Capitol  
Salt Lake City, Utah 84114

Re: The Committee On Court Security  
In The State OF Utah

Dear Chief Justice Zimmerman,

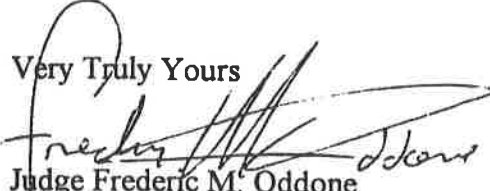
The Judicial Council appointed the ad hoc committee on court security to study in-court bailiff services and perimeter security assistance for the courts. I am pleased to report that the committee has completed its assignment. I have enclosed a copy of the final report with recommendations for the council's review.

The committee conducted a state wide survey of judges and sheriffs to determine the measure of service and found that generally judges and sheriffs had similar security interests and there was a relatively high level of satisfaction with the service providers, but a weighty concern over the likelihood of serious danger to court employees and consumers if basic needs are not addressed immediately.

The committee reviewed alternatives to providing security to the courts and determined that while the present system should remain, it was clear that it was inadequately funded for the sheriff's to fulfill their mandate. This is especially true in terms of (1) providing bailiff's to judges of the circuit court who were merged with district court and (2) providing security services to juvenile courts. The committee also examined issues regarding the selection, management, and training of bailiffs, as well as suggested variations on the nature of the services provided.

Having completed our assignment the committee stands adjourned. Please notify me if I can provide you with further assistance.

Very Truly Yours

  
Judge Frederic M. Oddone  
Chairperson Ad Hoc Committee  
On Court Security

# Court Security

Final Report  
of the Ad Hoc Committee  
on Court Security

Appointed by the  
Utah Judicial Council

Administrative Office of the Courts  
230 South 500 East, Suite 300  
Salt Lake City, Utah 84102  
Voice: 801-578-3800  
Fax: 801-578-3843

March 10, 1997

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## **Task Force Members**

**Hon. Frederic M. Oddone, Chair**  
**Third District Juvenile Court**

**Hon. Lyle Anderson**  
**Seventh District Court**

**Sheriff Dave Bateman**  
**Utah County**

**Capt. Scott Duncan**  
**Utah Highway Patrol**

**Ron Gibson**  
**Appellate Court Administrator (Ret.)**

**Sheriff Leon Jensen**  
**Box Elder County**

**Hon. William Pitt**  
**Tooele County Justice Court**

**Hon. Louis G. Tervort**  
**Sixth District Juvenile Court**

**Roy Whitehouse**  
**Third District Juvenile Court Executive**

**Chief Tom Austin**  
**League of Cities and Towns**

**Hon. Pat Brian**  
**Third District Court**

**Hon Wayne Dimick**  
**Helper Justice Court**

**Hon. Ray Harding**  
**Fourth District Court**

**Myron March**  
**Deputy State Court Administrator**

**Tim Simmons**  
**Seventh District Court Executive**

**Mark Walsh, Associate Director**  
**Utah Association of Counties**

**Hon. Michael J. Wilkins**  
**Utah Court of Appeals**

**Trooper Jeff Rose, Utah Highway Patrol**  
**Court Security Coordinator**  
**Staff support**

## **Section 1. Report Summary**

Security for those who occupy our courts is a matter of increasing concern. Physical security of court rooms and surrounding areas falls into two general categories: in-court bailiff services, and perimeter security of buildings housing court rooms. Generally, courts of record have adequate in-court bailiff service, but inadequate perimeter security. Courts not of record, the justice courts, generally have little access to bailiff or perimeter security, which presents problems in some circumstances. Absence of adequate security most often is the result of a real inadequacy of funding for security personnel, training and equipment. The problem of adequate funding is felt state wide, in courts of record and not of record.

The committee recommends retaining the current basic arrangement of security provided by the county sheriff in courts of record. However, the committee also believes urgent problems must be addressed to provide for adequate funding for current and enhanced security services. Minor changes in the process used for selecting in-court bailiffs, and the minimum qualifications, training and duties of in-court bailiffs are also recommended. Finally, the committee recommends including an approved security plan as part of the establishment or recertification of justice courts.

## **Section 2. Introduction and Committee Charge**

As our population increases, violence in our communities seems to be on a steady increase. Those who attend, and work in, our courts are not immune from this general increase. Incidents of threats against judges have steadily increased. There continues to be a steady increase in the number of judges, and the number of cases handled by each judge. More significantly, there is an ever increasing number of violent offenders being required to attend sessions of court. As a direct result, the risks of violence erupting in or around court facilities, and in court rooms, is constantly increasing. The safety of court patrons, including parties, witnesses, attorneys, jurors, the press and the public, and of those who regularly work in the courts, is essential for the administration of justice in a society dedicated to the rule of law.

Because of this growth in the number of court locations, judges, and patrons attending sessions of court, the physical security of patrons, court staff, and judges has come under increasing pressure. Pursuant to state statute, and rules of the Judicial Council, the responsibility for providing security in courts of record throughout the state is vested in the Sheriff of each county. Courts not of record rely on local law enforcement agencies to provide security, and the state appellate courts are protected by the Department of Public Safety when sitting in Salt Lake County, and the various county sheriffs when elsewhere in the state.

To provide a timely review of the current status of court security measures, and make recommendations to the Judicial Council for needed improvement, the Ad Hoc Committee on Court



The Committee conducted a careful review of the current system by receiving presentations from committee members and others with expertise and background in the current and other systems of providing court security. In addition, the committee surveyed in writing all judges in trial courts, and all county sheriffs, regarding their experiences with in-court and out of court security matters. The committee heard testimony and presentations from the following groups and individuals:

- a. Utah Sheriff's Association
- b. District Court judges
- c. Juvenile Court judges
- d. Justice Court judges
- e. Trial court executives
- f. Court Security Advisor
- g. Utah Association of Counties
- h. POST
- I. League of Cities and Towns

#### **Section 4. Review of current process and procedures.**

The charge to the committee from the Judicial Council was to conduct a comprehensive review of the current process and procedures for providing in-court bailiff and perimeter security for courts of record and not of record. In an effort to do so, the committee reviewed the statutory provisions regarding court security, rules enacted by the judicial council on the subject, and heard reports from various parties regarding how bailiffs are selected, trained, supervised, and assigned, as well as how court facilities and court rooms are protected at the present time. This review also highlighted certain areas of the current process and procedures that are less than optimal.

##### **A. Statutes.**

Statutes directly relating to the providing of in-court bailiff service, and perimeter security of court facilities, are primarily contained in the sections on sheriffs in Title 17 of the Utah Code, cities and towns in Title 10, the state Department of Public Safety in Title 53, and the judicial code in Title 78.

By way of summary, the statutory sections applicable to the security issues considered by the committee are:

1. 17-22-2, Sheriff--General Duties Subsection (1)(c) of this section describes the duty of each county sheriff to "attend in person or by deputy" the Supreme Court or the Court of Appeals when held within the sheriff's county, or when required by the court to do so. The sheriff is also to attend "all courts of record, and court commissioner and referee sessions" held within the sheriff's county. It also imposes upon the sheriff the obligation to "comply with the court security rule, Rule

6. 77-1a-4. Special function officers. This section describes the more limited authority, and training, of special function officers. Of particular note is the limitation to the time and place of employment for the exercise of peace officer authority. However, no county, city or town geographical limitation is mentioned in the statute.

7. 78-5-111. Justice court staff to be provided. The judicial code deals generally with justice courts. This particular section, at subsection (1)(c) requires the county, city, or town creating and maintaining a justice court to provide "sufficient local law enforcement officers to attend the justice court when required and provide security for the court."

8. 78-5-139. Requirements by Judicial Council for creating and certifying justice courts. This section directs the Judicial Council to set minimum standards for the certification of justice courts, either new or at four year renewal anniversaries.

#### B. Judicial Council Rules.

Rule 3-414 of the Rules of Judicial Administration is the only Judicial Council rule directly addressing court security. Generally, the rule allocates administrative responsibility for court security matters between the Judicial Council, the Administrative Office, the court executives, and law enforcement agencies. It sets forth procedures for the appointment of court bailiffs, "subject to the concurrence of the presiding judge" where full time bailiffs are assigned to individual judges and court commissioners, and "in consultation with the presiding judge" in all other circumstances. The rule requires bailiffs to be "peace officers" as defined by law, but allows law enforcement administrators to use "special function officers" as defined by law, "with the consent of the judge, judges or commissioners of a particular court."

Rule 3-414 also specifies minimum training and other qualifications to serve as a bailiff, and specifically describes the minimum duties of bailiffs relating to court security matters. The rule addresses security devices and procedures, including weapons, and the handling of persons in custody.

#### C. Current process and procedures.

In both courts of record, and courts not of record, the current process and procedures used for the selection, training, supervision, and deployment of in-court bailiffs and perimeter security, where perimeter security exists, generally follow the statutory and administrative rule directions. However, there are some variations, depending on location, resources, and local history between the court and law enforcement administrators. Most of these variations, while departures from the statutory mandates in the strict sense, are not considered major difficulties by the judges and law enforcement people involved. On the other hand, some of the areas where the apparent statutory mandate is not being strictly observed present more serious questions. It is perhaps particularly

the judge, as provided by statute. When needed, and requested, the judges report a high level of satisfaction with the service provided. However, in the less populated areas of the state, the ability of the responsible law enforcement agency to assign a well trained and qualified bailiff on the "as requested" basis presents significant difficulty. In some instances, insufficient training and experience is the more serious problem. In others, the mere lack of numbers of peace officers is the difficulty. Often, justice courts are not in close proximity to law enforcement officers. This increases the vulnerability of those who work and visit these sights. The isolation, distance, and response time are significant factors.

b. Perimeter security.

The justice courts are located in a wide variety of facilities throughout the state. In some instances they are collocated with local law enforcement or with courts of record. In others, they are not. No perimeter security is provided in any location. However, those coincidentally located next to the local law enforcement office benefit from that proximity with the visible deterrent and rapid response available.

3. Law clerk bailiff

Special note needs to be made of the current law clerk bailiff program. Two district court locations along the Wasatch Front, in the Fourth and Third Districts, have made arrangements with the sheriff to hire and assign law school graduates as combination law clerks and bailiffs for some judges. In each instance, the availability of qualified applicants is somewhat limited. In each instance, the law clerk bailiff is hired after careful consultation with the affected judges. In each instance, the law clerk bailiff is a special function officer, not a peace officer. In each instance, the law clerk bailiff is hired under contract by the sheriff for a period of not more than two years.

Those judges currently using law clerk bailiffs strongly favor the continuation of this program. It meets two needs for those courts: Firstly, it provides the necessary bailiff service in the court room to facilitate the court's business, and provides minimum security services. Secondly, it provides the judge with a law trained research clerk. Admittedly, the primary motivation for the creation and continuation of the law clerk bailiff program is to address the need for law trained research help for judges. However, doing so also diminishes the security role of the bailiff. No law clerk bailiff to date has qualified as a peace officer, nor is there any attempt to so qualify them. They are seen by the participating sheriffs as a special class of employees, provided as an accommodation to the local judges. Most, if not all, do not consider the law clerk bailiff position as a career position.

4. Deficiencies and problems in the current system.

a. Funding.

Those who addressed the committee, and the judges and sheriffs who responded to the

would probably make significant inroads into correcting this difficulty. Clear application of existing statutory and rule requirements for the consent and concurrence of judges in the assignment process would also alleviate much of the current stress.

c. Scope of duties.

Rule 3-414 describes minimum duties for in-court bailiffs. Those included are related entirely to security in the court room. Not included are a variety of duties that arise from the physical facilities, case load, or traditional way of doing business of individual courts. In many juvenile court locations, for example, in-court bailiffs serve the additional function of escorting patrons to and from the waiting area. The closed nature of many juvenile proceedings makes this task necessary. In other locations, bailiffs are asked to handle documents, make copies, and other more clerical tasks. In some isolated instances, bailiffs are reportedly asked to perform personal tasks for judges, such as washing cars, picking up laundry and the like.

Obviously, bailiffs are thought by the sheriff, and by themselves, to be law enforcement professionals, making personal errands highly inappropriate. To a slightly lesser degree, certain clerical functions may be inappropriate. When not engaged in their primary duties as bailiffs, the sheriffs retain the right to reassign those deputies to other duties. Doing so helps the sheriff spread the cost of equipping, training and supervising those particular deputies across a broader range of services to the public. Here again, a significant exception is the law clerk bailiff program. Law clerk bailiffs, when not required in court, are engaged in legal research projects for the judges, and therefore not available for other law enforcement duties.

d. Training.

Some deputies assigned as bailiffs are mature, healthy, energetic peace officers who find the work satisfying, and take pride in professional improvement. Others are not equally motivated, qualified or trained. The law requires in-court bailiffs assigned on a full time basis to be peace officers, with all the training and qualification that title entails under the current statutory framework. Only with the concurrence of the judges affected may a special function officer be assigned. Even special function officers must attend the POST basic course of not less than 40 hours of instruction.

Generally, the committee found that the judges, the law enforcement agencies, and the public would all be well served by the creation of a special bailiff training program addressing issues and skills unique to court security. Making such training mandatory for those serving as in-court bailiffs would significantly enhance the minimum skills possessed by bailiffs state wide. It would also allow an area of professional advancement and development for motivated deputies and others who wish to consider court security as a career path.

e. Perimeter security of court facilities.

Perimeter security is most often simply absent in court facilities state wide. Where it does

adequate coverage to meet court needs may be more difficult in the more rural areas, and during times of high demand for law enforcement officers (bad weather, emergencies, riot, etc.). However, as an additional source of qualified security personnel, this possible use of off duty officers may merit review. Questions of liability for actions of an off duty officer, and attendant questions of to whom the officer must look for supervision and training, are likely resolved in favor of any such officer falling under the continuing supervision, and legal responsibility of, his or her law enforcement agency head. As such, a contract including the agency would be required.

#### C. City police.

In areas where the courts both of record and not of record are within easier access of city police agencies than of the county sheriff, use of city police for security presents a realistic alternative. Police officers are generally well trained, although not necessarily in the narrow specialty of in-court bailiff duties. They are supervised, trained, and equipped by the police agency. Their availability may present some difficulty, especially in the smaller agencies, but with consistency and planning, can be made to present a minimum of concern. Contract with city police in those circumstances most convenient, with the concurrence of the county sheriff, presents a viable and useful alternative.

#### D. Utah Highway Patrol.

The possible use of the Utah Highway Patrol, or another subunit of the state Department of Public Safety presents a number of significant advantages. For example, UHP troopers already enjoy state wide jurisdiction, allowing their service in any court location. This would facilitate a bailiff serving with a judge in any of a variety of locations to which the judge is assigned, particularly in the more rural areas. In addition, fully trained court security personnel would be available for temporary assignment to cover for absent troopers, or to assist with events requiring a greater show of security force, such as a high profile trial.

In addition, as currently constituted, the UHP is able to employ officers for slightly less cost than the county sheriffs. Troopers are well trained, and as demonstrated with the bailiff service currently supplied to the appellate courts, very capable.

However, expanding the mission of the UHP or generally the Department of Public Safety, to assume the responsibility of courtroom and perimeter security for only courts of record state wide would result in more than doubling the current size of the UHP. More than 100 troopers, plus equipment, training, supervision, and transportation resources would be required. Such a significant change in mission would produce a major revamping of the UHP, and create significant political and policy issues requiring the agreement and cooperation of not only the state legislature, the Department of Public Safety and the UHP, but also the Sheriffs and county governments generally. This difficulty should not be underestimated.

#### E. Court marshal service.

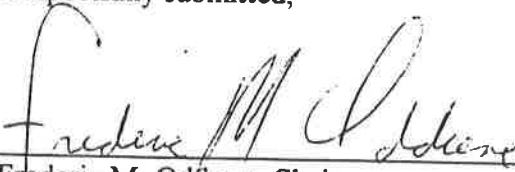
D. **Clarify and enhance minimum qualifications and training requirements.** Uniform specialized training for court security personnel should be made a matter of law. A program of training for bailiffs and other court security personnel should be adopted, by coordination with POST, requiring minimum understanding of the role of court security, a clear definition of tasks expected to be performed, and suitable testing for minimum skills. Absent the statutorily mandated circumstances, all court security personnel should be peace officers, as a minimum.

E. **Clarify supervision and duties of bailiffs.** Both judges and law enforcement personnel should be trained regarding the proper line of supervision of court security personnel. In-court bailiffs are employees of law enforcement, and as such are expected to respond to the directives and requirements of their employers. On the other hand, an in-court bailiff may be properly expected to respond to the directions of the judge to whom assigned with respect to court related, security related functions. Incidental duties directly related to the efficient functioning of the court may be included, when they do not detract from the security functions for which court security personnel are present, but duties wholly unrelated to official duties, including personal errands for judges, are totally inappropriate. The law clerk bailiff program should be phased out as quickly as law trained clerks can be made available to the trial judges needing them.

F. **Establish guidelines for perimeter security.** An appropriate and thorough examination of current and needed perimeter security for all courts should be promptly undertaken, with recommendations for minimum security requirements, and provision for specific responsibility to provide perimeter security. Due consideration for the specific location of each court facility, including proximity to law enforcement agencies, should be given.

G. **Clarify minimum security requirements for the establishment and recertification of Justice Courts.** The committee recommends that the Judicial Council modify its procedure for approving the establishment and recertification of justice courts to include the requirement of a minimum plan for providing both perimeter and in-court security services for justice courts. As a minimum, this plan should clearly specify both the responsible law enforcement agency, and the minimum attendance or response time for security services when requested by the judge.

Respectfully submitted,

  
\_\_\_\_\_  
Frederic M. Oddone, Chair



MEMORANDUM

To: Court Security Committee

From: Ron Gibson

Re: Opinion Survey Results

Date: December 16, 1996

Attached is a copy of the detail tabulation of the survey results for your review. The number of questionnaires returned by each entity surveyed is extraordinarily high by standards of responses in other opinion surveys and presumably reflects the level of interest in court security by judges and Sheriffs in spite of busy schedules. In summary, the completed questionnaires show the following:

COUNTY SHERIFFS

RESPONSE RATE

19 of the 29 Sheriffs returned completed questionnaires. 2 Sheriffs returned blank questionnaires.

NUMBER OF BAILIFFS

After reporting the number of in court bailiffs assigned to each court, 11 Sheriffs indicated that the number was sufficient to provide the necessary service while 8 Sheriffs responded that the number was inadequate to meet the need, 3 of whom attributed the inadequacy to insufficient staff and 4 to insufficient compensation although only 9 of the 19 responding Sheriffs report that they are being fully reimbursed.

QUALIFICATIONS

15 Sheriffs assign Category 1 peace officers as in court bailiffs while 11 assign special function officers, 5 of which are in addition to Deputy County Sheriffs. Only Salt Lake and Utah Counties have law clerk/bailiffs and 10 counties have bailiffs with special training in security and courtroom

Unanimously Sheriffs identified inadequate funding for their services as the most important problem in the system. Many listed the non existence of compensation for services to the Juvenile Court as a major concern. They also related compensation to the level of quantity as well as quality of services they can provide. Examples of pertinent comments on this issue were:

"...funding (must be) made available to our agencies to attract and keep qualified bailiffs."

"Increase the legislative appropriation to pay the cost of providing court security and utilize full time deputy sheriffs in the positions. This will provide better trained, better qualified personnel."

"Because of the minimal wage paid by the state the bailiffs are usually older retired officers. A substantial increase in the pay schedule would allow the hiring of younger, career oriented individuals."

"Sheriffs are sympathetic and cognizant of needs but unable to meet them because of funding."

One Sheriff summed it up by saying:

"If we truly want the court secure, we need funding..."

#### DISTRICT COURT JUDGES

##### RESPONSE RATE

53 questionnaires were returned by 40 District Court Judges of the 68 Judges. Some Judges responded by submitting multiple questionnaires evaluating more than one court site at which they serve.

##### ATTENDANCE OF BAILIFFS

42 responses reported that in court bailiffs are in attendance upon the court at all times when court is in session. 7 judges responded that in court bailiffs are in attendance only upon call. These 7 are former Circuit Court Judges who are now District Court Judges upon consolidation of the courts and full time bailiffs are not being provided to these judges, which is attributed to limited Sheriff staff by the judges.



"I believe in order to provide the best security and services, we must be able to control the assignment of bailiffs. Even if we will not be able to have bailiffs available on all occasions we should make the decisions about that as opposed to letting the Sheriff decided when we need a bailiff and which one we may have"

"I need a bailiff"

"I asked for when I took the bench here, and was denied, a law clerk/bailiff. This is what I would like as an option. I am uncomfortable asking my bailiff to run personal errands, which is what makes them attractive to some judges, and receive only mediocre services on a day to day basis. My bailiff seems unwilling or unable to make xerox copies (pleadings and other court related documents), sleeps in court often, wanders in and out of the court on occasion, and has been known to leave before all parties have left the court room. The failings are not common, but the overall standard is not high. There is much down time and so little alternative usefulness in having a bailiff, I think the entire system should be revamped."

A number of District Judges expressed concern regarding the design of the court building which presents security risks and the need for perimeter security by means of magnetometers and x-ray machines with personnel to operate them.

#### JUVENILE COURT JUDGES

##### RESPONSE RATE

10 questionnaires were returned by 9 of the 22 Juvenile Court Judges.

##### ATTENDANCE

All responding Judges report that in court bailiffs are in attendance at all times that Juvenile Court is in session.

##### QUALIFICATIONS

The majority of in court bailiffs in the Juvenile Court are POST certified and only 1 Judge is of the opinion that the bailiff has inadequate experience.

## ATTENDANCE

7 Judges indicated that bailiffs are present at all times court is in session while 7 also report that bailiffs are available only on call. Only Civil trials are reported as not having bailiffs in attendance of those courts not having full time bailiffs assigned to the court. 3 courts indicate that bailiff services are not provided because a bailiff is not requested.

## PROXIMITY TO LAW ENFORCEMENT

14 Judges report that the nearest law enforcement agency is the County Sheriff, 7 of which are located in the same building, 2 across the street and 2 within 2 blocks of the court. Only 2 courts are more than 5 miles from the nearest law enforcement office. Some courts which are located in the same building as the law enforcement agency are beneficiaries of the court being collocated with courts of record and, therefor, also have building perimeter security services available. Response time to a request for assistance in the event of an emergency ranges from seconds for courts in close proximity to 30 minutes for those located a considerable distance from help.

## SELECTION

The same extent of judicial involvement in the selection and appointment of in court bailiffs is reported by County Justice Court Judges as for courts of record. The majority are not consulted, allowed to concur, nor otherwise involved in the process.

## SATISFACTION

In spite of the isolation of some courts, lack of participation in the selection of bailiffs process, and sporadic attendance of in court bailiffs, County Justice Court Judges overwhelmingly indicated their satisfaction with the security services being provided their courts. Only 2 judges indicated their opinion that the system needs improvement.

## COMMENTS

Few comments were made by the judges. Of those made, they were positive and included no recommendations for improvement:

"adequate for our needs"  
"I have excellent security"

"I feel confident in my ability to handle almost any contingency...."

"I think my caseload is non volatile"

"I feel a bailiff should be on duty at all times while court is in session, not just for civil matters and trials. When someone walks in the front door we are trapped. Justice Court Judges are at risk and some kind of a solution must be found."

"With increase in court activity I feel that the time has come to have bailiffs at all court sessions."

17-22-27. Sheriff--Assignment of court bailiffs--Contract and costs.

(1) The sheriff shall assign peace officers or special function officers, as defined under Sections 77-1a-1 and 77-1a-4, to serve as court bailiffs and security officers in the courts of record and county justice courts as required by the rules of the Judicial Council. The assignment of in-court bailiffs in courts of record shall be with the concurrence of the presiding judge.

(2) (a) The state court administrator shall enter into a contract with the county sheriff for ~~[bailiffs and]~~ building security officers for the ~~[district]~~ courts of record in locations designated by judicial council rule within the county and may contract with the county sheriff for in-court bailiffs in courts of record within the county. The contract shall not exceed amounts appropriated by the legislature for that purpose. The county shall assume costs related to security administration, supervision, travel, equipment, and training of bailiffs and security officers.

(b) The contract shall specify the agreed services, costs of services, and terms of payment.

(c) ~~[If the court is located in the same facility as a state or local law enforcement agency and the county sheriff's office is not in close proximity to the court,]~~ ~~[t]~~ The State Court Administrator [in consultation with the sheriff] may enter into a contract with [the] a state or local law enforcement agency other than the county sheriff or an individual peace officer with the concurrence of the employing agency for in-court bailiff [and security] services subject to meeting all other requirements of this section. If the services are provided by another agency, the county sheriff shall have no responsibility for the in-court bailiff services under this section.

(3) (a) At the request of the court in courts of record locations with building security provided by the sheriff, the sheriff may appoint as a law clerk bailiff graduates of a law school accredited by the American Bar Association to provide ~~[security]~~ in-court bailiff and legal research assistance. Any law clerk who is also a bailiff shall meet the requirements of Subsection (1) of this section.

(b) The sheriff may appoint a law clerk bailiff by contract for a period not to exceed two years, who shall be exempt from the deputy sheriff merit service commission.

(vii) Separate restrooms for the exclusive use of transportation officers and jail personnel, the judge or court commissioner, the jury, and the public.

(viii) Restricted public access in areas such as judges' or court commissioners' chambers, holding cells, jury rooms, restrictive hallways and entrances, etc.

(ix) Holding cells adjacent to courtrooms.

(x) Courtroom windows which are draped and securely fastened.

(xi) Physical barriers between the public seating area of the courtroom and the participants' area.

(xii) A prohibition against the possession of miscellaneous items in the courtroom which can be used as weapons.

(xiii) An emergency power system for lighting and electrically operated doors.

(xiv) Judicial chambers with more than one exit.

(xv) Separate waiting areas for defense witnesses, plaintiff or prosecution witnesses, and jurors.

(xvi) Gun lockers in restricted areas for use by law enforcement agencies.

(xvii) A requirement that the bailiff shall be situated in a strategic location within the courtroom which provides clear line of sight and observation of all participants and that the bailiff and transportation officer place themselves physically between individuals who are in custody and courtroom exits.

(C) The council shall require as a condition for the creation of new justice courts and the certification of existing justice courts pursuant to 78-5-139 the filing of an acceptable local security plan which shall provide for the presence of a law enforcement officer in court during court sessions or reasonable response time by the local law enforcement agency upon call of the court.

(D) The council shall designate courts of record locations where the county sheriff shall provide building security officers pursuant to 17-22-27.

(3) Responsibilities of the Administrative Office..

(A) The Administrative Office shall appoint a statewide security coordinator who shall:

(i) review, approve and keep on file copies of all local security plans; and

(ii) periodically visit the various court jurisdictions to offer assistance in the development or implementation of local security plans.

(B) The Administrative Office shall appoint a court executive in each geographical area to serve as a local security coordinator.

(C) The Administrative Office shall maintain as part of each official personnel file necessary biographical information on each employee of the judiciary and his or her family to ensure that adequate information is available to law enforcement agencies to respond in the event of an emergency.

(4) Responsibilities of the court executive.

(A) The court executive who has been designated as the local security

the week and times of day for court appearances of persons in custody in order to permit law enforcement agencies and corrections officials reasonable preparation and planning time. Where individuals appear in court in custody, the court shall give priority to such cases in order to prevent increased security risks resulting from lengthy waiting periods.

(5) Responsibilities of law enforcement agencies.

(A) The law enforcement agency with designated responsibility for security of the courthouse shall:

(i) Have exclusive authority to coordinate all law enforcement activities within the courthouse necessary for implementation of the security plan and for response to emergencies. Such activities shall be conducted in a manner consistent with the requirements of this Code.

(ii) Through the administrator of the designated law enforcement agency or the administrator's designee, cooperate with the court executive in the development of a local security plan consistent with the requirements of this Code and the implementation of the local plan.

(iii) Ensure that local law enforcement personnel receive adequate training on the local security plan.

(iv) Appoint court bailiffs. The county sheriff shall appoint court bailiffs to serve in the district and juvenile courts [~~and in circuit courts~~] where the sheriff has assumed bailiff responsibilities pursuant to contract with the state court administrator. [~~In all other circuit courts, the local law enforcement agency designated to provide security services shall appoint court bailiffs for that court.~~] In courts of record and commission hearings, [~~where full-time bailiffs are assigned to individual judges and court commissioners,~~] appointments shall be subject to the concurrence of the presiding judge of the jurisdiction. [~~In all other cases, the appointment shall be made in consultation with the presiding judge of the jurisdiction.~~]

(v) Provide building and perimeter security for all courts of record.

(B) The designated responsible law enforcement agency for court security shall be as follows:

(i) The Department of Public Safety shall provide bailiff services for the Supreme Court and the Court of Appeals when they are in session in Salt Lake County. When convening outside of Salt Lake County, security shall be provided by the county sheriff. [~~law enforcement agency with designated responsibility for the court facility where the appellate court is convening.~~] The Department of Public Safety may call upon the Salt Lake County Sheriff for additional assistance as necessary when the appellate courts are convening in Salt Lake County.

(ii) The county sheriff shall be responsible for the provision of building security services at all district court sites and all juvenile court sites within that jurisdiction

(E) Responsibilities. Court bailiff responsibilities shall include but not be limited to:

(i) The bailiff shall assure that criminal defendants, who are in custody, are prevented from having physical contact with family, friends, or spectators in order to prevent the passing of weapons or contraband. Visitation shall be in accordance with jail and prison policies and be restricted to those facilities.

(ii) The bailiff shall observe all persons entering the courtroom, their movement and their activities. The bailiff shall limit access to the bench and other restricted areas.

(iii) The bailiff shall search the interior of the courtroom, judicial chambers, commissioners' chambers, jury room, restrooms, and other restricted areas each morning prior to the arrival of any other court participants. Similar searches shall be conducted following recesses to assure that the room is clear of weapons, explosives, or contraband.

(iv) Bailiffs shall at all times while on duty wear the official uniform of the law enforcement agency by whom they are employed.

(v) Bailiffs shall perform such responsibilities as defined in the local court security plan.

(7) Security devices and procedures.

(A) Weapons. Bailiffs shall be armed in the courtroom if required by the appointing authority and provided for in the local court security plan. The judge or court commissioner, in consultation with the appropriate law enforcement agency, may order otherwise on a case by case basis. Officers having the custody of persons incarcerated in the county jail or Utah State Prison, charged with the responsibility of transporting and escorting such persons to a court, may be armed with a weapon in the courtroom if required by policy of the appropriate law enforcement agency unless otherwise ordered by the judge. Other "peace officers" and "federal officers" as defined in Utah Code Ann. Section 77-1a-1 may carry a sidearm into the courtroom if permitted in the local court security plan and if permitted by the policy of the officers' appointing agency. No other individuals may be armed in the courtroom.

(B) Metal detectors. The use of metal detectors or other screening devices should be at the discretion of the law enforcement agency responsible for security/bailiff services. Such devices shall be operated only by law enforcement agencies.

(C) Physical search. Searches of persons in or about the courthouse or courtroom shall be conducted at the discretion of the law enforcement agency responsible for security when the local law enforcement agency has reason to believe that the person to be searched is carrying a weapon or contraband into or out of the courthouse or when the court so orders. No other person is authorized

(i) Probationers and parolees who are under arrest shall be delivered to the custody of the county sheriff or the local law enforcement agency responsible for court security for transportation to and from court and for supervision during the court process.

(ii) Probation and parole agents of the Department of Corrections may be called upon by the local law enforcement agency responsible for court security to provide additional backup assistance.

(iii) Probation and parole agents of the Department of Corrections are responsible for notifying in advance the local law enforcement agency responsible for court security, the court bailiff and the judge of the court of any suspected security problems or high risk situations and the necessity for any special precautionary measures.

(C) Individuals in county jails.

(i) The county sheriff responsible for the local jail and jurisdiction of the court shall, in person or by deputy, transport and escort all persons in the custody of the county sheriff to and from the courtroom of all courts within the jurisdiction of the sheriff.

(ii) The county sheriff, at his discretion, may transfer the custody of jail prisoners to another law enforcement agency for the purposes of transportation and supervision while in court.

(iii) The transportation officer shall remain present at all times during such court appearances, shall be responsible for the custody of such persons and will support the court bailiff in the preservation of peace in the courthouse and courtroom. Advance notice shall be provided to the judge and the bailiff of any unique security requirements necessary for individual cases.



# Administrative Office of the Courts

Chief Justice Michael D. Zimmerman  
Chair Utah Judicial Council

Daniel J. Becker  
State Court Administrator  
Myron K. March  
Deputy Court Administrator

## MEMORANDUM

**TO:** Judicial Council

**FROM:** Judge Alfred Van Wagonen

**DATE:** August 11, 1997

**RE:** 1997-98 Uniform Fine and Bail Schedule

---

The Judicial Council's Standing Committee on the Uniform Fine and Bail Schedule recommended a number of changes after the 1997 Legislature adjourned. The Committee only recommends fine and bail forfeiture amounts for misdemeanors. The purpose of the schedule is to promote uniformity of fines and bail forfeiture amounts and to give judges some general guidelines as they assess fines and bail amounts. This information also assists prosecutors, law enforcement and attorneys in carrying out their respective responsibilities. Besides updating the written schedule, the Information Services Department at the Court Administrator's Office keeps the computer fine and bail forfeiture schedule current with different updates throughout the year.

A general disposition felony matrix chart is provided in the bail schedule to assist judges in ascertaining the appropriate fine amount in felony cases. Here are the changes recommended by the Uniform Fine and Bail Forfeiture Schedule Committee and approved by the Judicial Council, for the written Uniform Fine and Bail Forfeiture Schedule. All fine and bail forfeiture amounts include the surcharge where applicable. These changes reflect legislation passed in the 1997 Legislature:

- Amended: Child Restraints bail amount from \$20 to \$75 (HB 50)
- Repealed: Theft of livestock 4-24-27 and release of fur bearing animals 4-26-4.1 (HB 57)

- Added: 76-5-109.1 Domestic Violence in the presence of a child, \$1850, a Class A Misdemeanor (HB 92)
- Added: 38-9-5(1) Filing a wrongful lien, \$555, a Class B Misdemeanor (HB 96)
- Added: 73-18c-302 Watercraft-Liability Insurance--Operate watercraft w/o owner/operator security is a Class B Misdemeanor. Also added: 73-18c-304 No evidence of owner/operator security, a Class B Misdemeanor. Added: 73-18c-308 provide false evidence of owner security, Class B Misdemeanor. Recommended fine is \$300. (HB 52)
- Amended 41-1a-1314- Add Joy Riding to the title-- Joy Riding with intent to temporarily deprive owner of possession of vehicle is a Class A Misdemeanor, \$1850 (SB 143)
- Motor Vehicle compliance with insurance and registration etc. Added: 41-1a-1303(3). Until September 30, 1997 driving without registration or without certificate of title for out of state vehicles the fine is a minimum of \$200 but may be reduce to \$50 if at the hearing the violator shows a current registration. Beginning October 1, 1997 it becomes a Class B Misdemeanor with a fine of \$1000 but can be reduced if proper evidence of a current registration is provided and the violation has not existed for more than a year. (SB 161)
- The Committee also made several changes in the Wildlife Section of the schedule in order for it to be consistent with various wildlife proclamations and regulations. All recommended Fine and Bail Forfeiture amounts include the appropriate surcharge.
- Added: 23-19-1 Fishing without a valid license citation may be suspended upon proof of a valid license at the time of violation.
- Added: Unlawful Taking/Possession of Protected Wildlife- without valid posted hunting unit permit. Recommended fines: Small Game, waterfowl etc. \$185/Big Game \$555. Before there was no differentiation in the Fine and Bail Schedule between big and small game.
- Added: Recommended fine of \$1850 for the Unlawful taking/Possession of Protected Wildlife- Out of season. (Brine Shrimp)
- Added: Wanton Destruction of Protected Wildlife Illegally Taken --Out of Season-- Class B Misdemeanor with recommended fine of \$1850 and a Class A Misdemeanor with a recommended fine of \$4625. (Brine Shrimp)

- Added: Unlawful Methods of Trapping-- Recommended fine is \$135.
- Added: Operating a Commercial Hunting Area without a Valid Certificate of Registration-- Recommended fine is \$555.
- Added: Unlawful purchase of more than one permit-- Recommended fine is \$135.

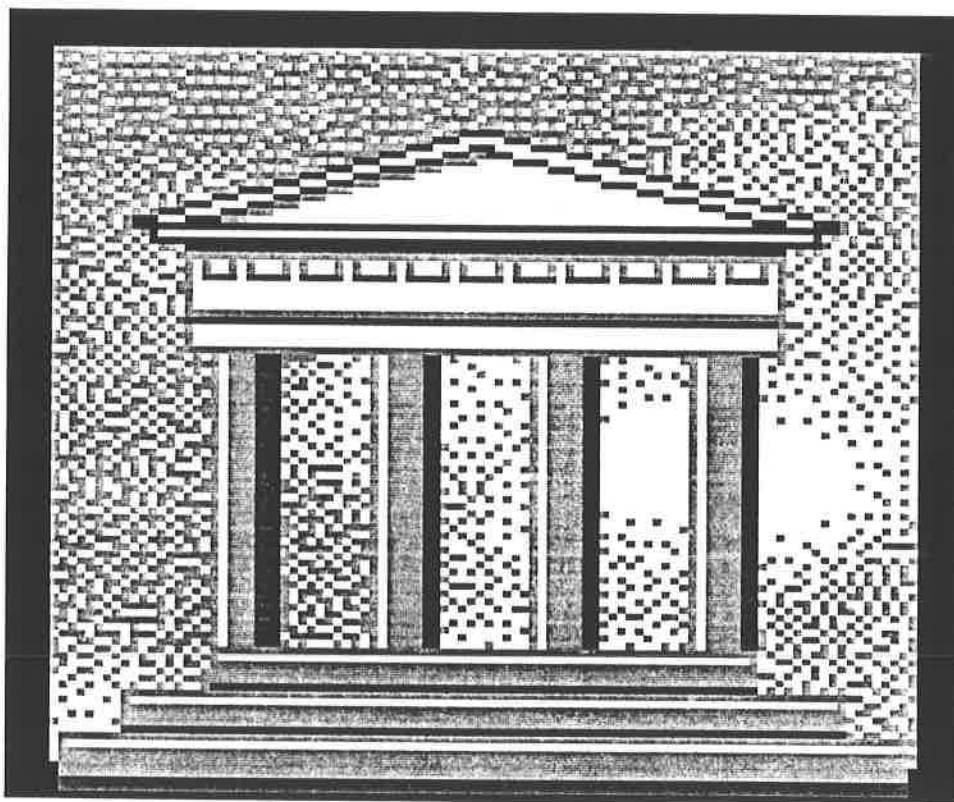
Motor Vehicle Enforcement made several recommendations of changing fine and bail forfeiture amounts:

- Amended: Failure to deliver title by an on-dealer from \$150 to \$250 as the recommended amount. (41-1a-1310(1)). Acting as a dealer without a license from \$250 to \$1850 since it is a Class A Misdemeanor. (41-3-201).
- Added: Dealer failure to deliver title: Recommended fine \$1850. It is also a Class A Misdemeanor.

Several violations that were found in both the traffic section and the commercial vehicle section have been combined in the traffic section. If the bail amount is different, the commercial vehicle is noted. The commercial vehicle now includes only those violations specifically for commercial vehicles.

Miscellaneous items included in this years "clean up" were removing or correcting inadvertent errors in the schedule and organizing and consolidating certain violations to make the schedule more accurate and more user friendly. Most of the "clean up" was in titles 41 and 53. Also repealed statutes inadvertently in the schedule were deleted and citation errors were corrected during the Committee's two meetings. Also "enhancements" have been added to the schedule to designate offenses that can be enhanced. Hopefully, this year's Uniform Fine and Bail Forfeiture Schedule will continue to be an aid to the Criminal Justice System.

State of Utah  
Uniform Fine/Bail Forfeiture  
Schedule



August, 1997

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## UNIFORM FINE/BAIL SCHEDULE

### PURPOSE

It is the intent of the Uniform Fine/Bail Schedule to provide assistance to the sentencing judge in determining the appropriate fine or bail to be assessed in a particular case and to minimize disparity of fines/bails imposed by different courts for similar offenses. This schedule is not intended to deprive nor minimize the authority of the court to impose a sentence deemed just in the discretion of the judge.

### ASSUMPTIONS

The penalty for all public offenses should include a financial sanction as a minimum base from which the judge may determine the total sentence, dependent upon aggravating and/or mitigating circumstances of an individual case.

The cumulative effect of appropriate penalties such as probation, community service, surcharges, restitution, victim reparation, rehabilitation treatment programs, home confinement, court costs and periods of incarceration, should constitute the total sentence.

The enhancement or reduction to the basic fine should reflect the severity of the offense, the extent of victim injury or property damage loss, the risk which the offender poses to society, the offender's criminal and person history, and related factors. (Specific aggravating and mitigating circumstances are set forth on pages C and D.)

### APPLICATION

#### Bail Column

The bail column is used to set bail to ensure the defendant's appearance. This amount is also used when the defendant is not required to appear in court and will voluntarily forfeit the bail to dispose of the case. The applicable surcharge has been added to all bail amounts where a surcharge is to be assessed.

Note: A \$7.00 fee in addition to the bail amounts shown should be added in courts of record to offenses under Title 41. This fee is for the courts complex account.

#### Surcharge

63-63a-1, U.C.A. provides that "A surcharge shall be paid on all criminal fines, penalties and forfeitures imposed by the courts. The surcharge shall be 85% upon conviction of a felony, class A misdemeanor, violation of Article 5, Chapter 6, Title 41, Driving While Intoxicated and Reckless Driving, or any class B misdemeanor not classified within Title 41, including violation of comparable county or municipal ordinances. The surcharge shall be 35% upon conviction of any offense, including violation of county or municipal ordinances not subject to the 85% surcharge, except:

- (a) non-moving traffic violations; and
- (b) when the court orders the offender to perform community service work in lieu of paying a fine.

No surcharge should be imposed in non-moving traffic offenses. If an offense is considered "non-moving," this is indicated in the "comments" column. The Uniform Fine/Bail Committee has the responsibility to define which offenses are moving and which are non-moving. They have established definitions as follows: Moving violations involve an act or omission dealing with the actual driving of the motor vehicle, e.g.: failure to yield, speeding. Non-moving violations encompass status or conditions of the vehicle or driver license violations, e.g.: not registered, not licensed, broken equipment.

See charts starting on page H to assist in figuring the surcharge.

### FTA/FTC Column

The FTA/FTC column in the Uniform Bail Schedule pertains to several different laws.

FTA Failure to appear - Driver has not made contact with the court for a citation issued to them. As soon as contact is made with the court a clearance should be sent to Driver License Division.

FTC - Failure to Comply - Driver has not followed through with what was ordered by the court. Clearance should not be sent to DLD until the driver has complied with every thing. Drivers License Division will only suspend once for the FTC.

### Utah - Licensed Driver

If a Utah-licensed driver fails to initially appear or pay a fine on a violation with a "Y" in the FTA/FTC column then a request can be made to the Utah Drivers License Division to suspend the violator's license. This request must be made within three years from the date of the citation for the Division to act on that request.

A license suspended because of either failure to appear or failure to comply in Utah will remain suspended for 10 years.

### Nonresident Violator Compact

At the present time the following states are not members of the Nonresident Violator Compact (NRVC) and will not act on a request to suspend the drivers license of a person issued a traffic citation in the State of Utah who fails to appear or contact the court on the citation: Alaska, California, Michigan, Montana, Oregon and Wisconsin.

The rest of the states, including the District of Columbia, are members of this compact and, with the exception of the following traffic offenses, will act on a request to suspend a drivers license if this request reaches the home state within six months of the date of the violation:

1. Those offenses requiring a mandatory appearance under section 41-6-166, U.C.A., such as driving under the influence, failure to stop in event of an accident causing death, personal injuries, or damage to property, and those offenses that the directors of the compact have determined to require a mandatory appearance such as driving on suspension, driving on revocation, etc.
2. Parking or standing violations.
3. Highway weight limit violations.
4. Violations of the law governing the transportation of hazardous materials.

Since a request under the NRVC must reach the home state within six months it must be received by the Utah Drivers License Division no later than 5 months after the issuance of the citation, but sooner would be preferable in case there are problems.

There is no FTC in the NRVC, only FTA's. If partial payment is accepted by the court, that constitutes an appearance and the court cannot issue an FTC against an out-of-state driver like they can against a Utah driver.

### Report to Drivers License Column

All of the states and the Canadian Provinces are members of the compact that shares information regarding convictions for traffic violations. If the convicted violator has a Utah, an out-of-state or a Canadian drivers license then a record of a conviction for an offense with a "Y" in the Report to Driver License Column should be sent to the Utah Division of Driver License Division within 10 days of the conviction or bail forfeiture. [See section 41-6-173, U.C.A., and section 53-3-218, U.C.A.]

A report of a plea held in abeyance for a Utah-licensed driver should also be reported. However, do not send a report when the citation is dismissed because of the violator's compliance with the plea in abeyance agreement. A report of a plea in abeyance never gets on the record other than the court record of a Utah-licensed driver for this information is not available to the person's insurance company and a dismissal will not be recorded.

If a plea is held in abeyance for other than a Utah-license driver, do not report it to the Utah Drivers License Division. Utah does not make a record of a plea in abeyance for an out-of-state or a Canadian driver and some of the other states and Canadian Provinces do not have a plea in abeyance provision and will record the report as a conviction. Therefore do not send in report for pleas held in abeyance for drivers not licensed in Utah.

### Sentencing

The felony matrix and misdemeanor matrix are guidelines for setting FINE after adjudication of a case requiring a mandatory appearance. The matrices include a broad range of fines from the statutory maximum to a base minimum within each category of offense. They are to be used in conjunction with the criminal history assessment criteria, which are listed below. From the base financial sanction in each category, the schedules provide an escalation of the fine in correlation with the points accumulated in the criminal history criteria. The matrices also specify where incarceration is likely to be appropriate in addition to the fine. Presentence investigation reports prepared by Adult Probation and Parole Division will include the criminal history data necessary to place the defendant's case on the matrix.

Note: The fine guidelines used in the matrix do not include surcharge. The surcharge must be assessed in addition to this amount.

### Application to Adults/Juveniles

Effective July 1, 1994 the Judicial Council approved a separate Bail Schedule for the Juvenile Court. This Bail Schedule then only applies to adults, although the two Bail Schedules are the same with respect to the minors charged with minor traffic violations. Copies of the separate Juvenile Bail Schedule can be obtained from the Administrative Office of the Courts.



Justice Courts - Payment of Fine

When fine payments are made over time, the last payment may need to be adjusted so that the correct amounts are paid to the fine and surcharge.

For example, the fine including surcharge for a Theft Class B Misdemeanor charge is \$555. The breakout would be fine - \$300.00 and surcharge (85%) - \$255.00. The defendant pays \$100 over the next five months and \$55 the last month. The court splits each payment according to the payment percentages. \$54 is kept by local government and \$46 is sent to the state for surcharge. The \$55 is broken out \$29.73 to fine and 25.27 to surcharge. The payments total - fine \$299.73 and surcharge \$255.27. In order for the amounts paid to equal the amount due, the last payment should be adjusted with \$30 being kept and \$25 sent to the state. This now matches the original receivable.

	<u>Not adjusted</u>		<u>Adjusted</u>	
	Fine	Surcharge	Fine	Surcharge
1 <sup>st</sup> Payment	54.00	46.00	54.00	46.00
2 <sup>nd</sup> Payment	54.00	46.00	54.00	46.00
3 <sup>rd</sup> Payment	54.00	46.00	54.00	46.00
4 <sup>th</sup> Payment	54.00	46.00	54.00	46.00
5 <sup>th</sup> Payment	54.00	46.00	54.00	46.00
6 <sup>th</sup> Payment	<u>29.73</u>	<u>25.27</u>	<u>30.00</u>	<u>25.00</u>
	299.73	255.27	300.00	255.00

## AGGRAVATING AND MITIGATING CIRCUMSTANCES

### Aggravating Circumstances

Consider aggravating circumstances only if they are not an element of the offense.

1. Established instances of repetitive criminal conduct.
2. Offender presents a serious threat of violent behavior.
3. Victim was particularly vulnerable.
4. Injury to person or property was unusually extensive.
5. Offense was characterized by extreme cruelty or depravity.
6. There were multiple charges or victims.
7. Offender's attitude is not conducive to supervision in a less restrictive setting.
8. Offender continued criminal activity subsequent to arrest.
9. Other (specify) \_\_\_\_\_

### Mitigating Circumstances

1. Offender's criminal conduct neither caused nor threatened serious harm.
2. Offender acted under strong provocation.
3. There were substantial grounds to excuse or justify criminal behavior, though failing to establish a defense.
4. Offender is young.
5. Offender assisted law enforcement in the resolution of other crimes.
6. Restitution would be severely compromised by incarceration.
7. Offender's attitude suggests amenability to supervision.
8. Crime victim does not want defendant to be incarcerated.
9. Offender has exceptionally good employment and/or family relationships.
10. Imprisonment or amount of fine would entail excessive hardship on offender or dependents.
11. Other (specify) \_\_\_\_\_

## CRIMINAL HISTORY ASSESSMENT

The attached criminal disposition matrix classifies a person's criminal history in 5 categories from excellent (0-3 points), good (4-7 points), moderate (8-11 points), fair (12-15 points) and poor (16-28 points). The appropriate classification is determined by scores obtained by summing points assessed in each of the six criteria as follows:

1. Prior Felony Conviction(s); up to 8 points if a person has more than 3 felony convictions.
2. Prior Misdemeanor Conviction(s); up to 4 points if a person has more than 7 misdemeanor convictions.
3. Prior Juvenile Referrals; up to 4 points if the person was committed to a secure facility or 3 points if the collection of felonies and misdemeanors exceeded 4 counting felonies as 1 and misdemeanors as 1/3.
4. Supervision History; up to 4 points depending on the prior level of supervision in either the juvenile or adult system and revocation history.
5. Supervision Risk; up to 4 points based on previous reporting, absconding or escape history.
6. Weapons Enhancement; up to 4 points based on the use of weapons.

Total possible points are 28, least possible 0. Aggravating and mitigating circumstances are also a part of the sentence and release guidelines.

## GENERAL DISPOSITION MATRIX FELONIES

### CRIME SEVERITY

CRIME SEVERITY	CRIME SEVERITY									
	CAPITAL	1ST DEGREE		PERSON CRIMES			OTHER CRIMES		CRIMES AGAINST CHILD	
		MUR 11	OTHER	HOMICIDE 2ND SEX	2ND DEG 3RD SEX	3RD DEG	2ND DEG	3RD DEG	2ND DEG	3RD DEG
Poor		\$10,000	\$10,000	\$10,000	\$5,000	\$5,000	\$10,000 \$5,000	\$5,000 \$2,500	\$10,000	\$5,000
Fair							\$5,000 \$2,500	\$2,500 \$1,500		
Moderate			\$5,000	\$5,000	\$2,500	\$2,500	\$2,500	\$1,500	\$5,000	\$2,500
Good		\$5,000	\$5,000	\$5,000 \$2,500	\$2,500 \$1,500	\$2,500 \$1,500			\$5,000 \$2,500	\$2,500 \$1,500
Excellent		\$5,000 \$2,500	\$2,500 \$1,500	\$2,500 \$1,500	\$1500 \$600	\$1500 \$600	\$1,500	\$600	\$2,500 \$1,500	\$1500 \$600

DRUG DISTRIBUTION OF OR INTENT TO DISTRIBUTE OVER \$500 &  
RESIDENTIAL BURGLARY SHOULD BE "PERSON" CRIMES

	PRISON
	PROBATION

AMOUNTS DO NOT INCLUDE SURCHARGE

Misd

CRIMINAL HISTORY	Class A Misdemeanors			Class B Misdemeanors		
	Persons or Drugs	Property	Other	Persons + Drugs	Property	Other
POOR	\$2,500 \$2,000	\$2,500 \$2,000	\$2,500 \$2,000	\$1,000 \$800	\$1,000 \$800	\$1,000 \$800
FAIR	\$2,000 \$1,500	\$2,000 \$1,500	JAIL \$2,000 \$1,500	\$800 \$600	\$800 \$600	\$800 \$600
MODERATE	\$1,500 \$1,000	\$1,500 \$1,000	\$1,500 \$1,000	\$600 \$400	\$600 \$400	\$600 \$400
GOOD	\$1,000 \$500	\$1,000 \$500	\$1,000 \$500	\$400 \$200	\$400 \$200	\$400 \$200
EXCELLENT	\$500 \$200	\$500 \$200	\$500 \$200	\$200 \$50	\$200 \$50	\$200 \$50

AMOUNTS DO NOT INCLUDE SURHCARGE ON THIS MATRIX

Class C Misdemenaors - \$750 to \$50

Consider Jail on 2nd Offense

Infractions - \$500 to \$0

Credit allowed towards fine for tim served in jail: \$25.00 day

Credit allowed towards fine for community service: No more than \$5/hr

Prior Record	DUI <sup>1</sup> UCA 41-6-44	Revocation UCA 53-3-227	Alcohol Related Reckless UCA 41-6-44.6(2)	Hit & Run
3 or More Offenses	3d Deg. Felony: Mand. Min. \$2775.00  Class A: Mand. Min. \$3700.00	Not Applicable	\$1850 \$1387.50	\$1850.00 \$925.00
2nd Offense	Mand. Min. \$1480.00	Not Applicable	\$1387.50 \$925.00	\$925.00 \$647.50
1st Offense	Mand. Min. \$1295.00	Class B: \$1387.50 Mand. Min.  Class C: \$1012.50 Mand. Min.	\$925.00 \$277.50	\$647.50 \$185.00

**Amounts include surcharge.**

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<sup>1</sup> For purposes of DUI law, prior offense means conviction within the six years.

**SURCHARGE CHART**

Base Fine	35% Surcharge	Total
\$20.00	\$7.00	\$27.00
\$25.00	\$8.75	\$33.75
\$30.00	\$10.50	\$40.50
\$35.00	\$12.25	\$47.25
\$40.00	\$14.00	\$54.00
\$45.00	\$15.75	\$60.75
\$50.00	\$17.50	\$67.50
\$55.00	\$19.25	\$74.25
\$60.00	\$21.00	\$81.00
\$65.00	\$22.75	\$87.75
\$70.00	\$24.50	\$94.50
\$75.00	\$26.25	\$101.25
\$80.00	\$28.00	\$108.00
\$85.00	\$29.75	\$114.75
\$90.00	\$31.50	\$121.50
\$95.00	\$33.25	\$128.25
\$100.00	\$35.00	\$135.00
\$125.00	\$43.75	\$168.75
\$150.00	\$52.50	\$202.50
\$175.00	\$61.25	\$236.25
\$200.00	\$70.00	\$270.00
\$225.00	\$78.75	\$303.75
\$250.00	\$87.50	\$337.50
\$275.00	\$96.25	\$371.25
\$300.00	\$105.00	\$405.00
\$325.00	\$113.75	\$438.75
\$350.00	\$122.50	\$472.50
\$375.00	\$131.25	\$506.25
\$400.00	\$140.00	\$540.00
\$425.00	\$148.75	\$573.75
\$450.00	\$157.50	\$607.50
\$475.00	\$166.25	\$641.25
\$500.00	\$175.00	\$675.00
\$525.00	\$183.75	\$708.75
\$550.00	\$192.50	\$742.50
\$575.00	\$201.25	\$776.25
\$600.00	\$210.00	\$810.00
\$625.00	\$218.75	\$843.75
\$650.00	\$227.50	\$877.50
\$675.00	\$236.25	\$911.25
\$700.00	\$245.00	\$945.00
\$725.00	\$253.75	\$978.75
\$750.00	\$262.50	\$1,012.50
\$775.00	\$271.25	\$1,046.25
\$800.00	\$280.00	\$1,080.00
\$825.00	\$288.75	\$1,113.75
\$850.00	\$297.50	\$1,147.50
\$875.00	\$306.25	\$1,181.25
\$900.00	\$315.00	\$1,215.00
\$925.00	\$323.75	\$1,248.75
\$950.00	\$332.50	\$1,282.50
\$975.00	\$341.25	\$1,316.25
\$1,000.00	\$350.00	\$1,350.00

Base Fine	85% Surcharge	Total
\$50.00	\$42.50	\$92.50
\$55.00	\$46.75	\$101.75
\$60.00	\$51.00	\$111.00
\$65.00	\$55.25	\$120.25
\$70.00	\$59.50	\$129.50
\$75.00	\$63.75	\$138.75
\$80.00	\$68.00	\$148.00
\$85.00	\$72.25	\$157.25
\$90.00	\$76.50	\$166.50
\$95.00	\$80.75	\$175.75
\$100.00	\$85.00	\$185.00
\$150.00	\$127.50	\$277.50
\$200.00	\$170.00	\$370.00
\$250.00	\$212.50	\$462.50
\$300.00	\$255.00	\$555.00
\$350.00	\$297.50	\$647.50
\$400.00	\$340.00	\$740.00
\$450.00	\$382.50	\$832.50
\$500.00	\$425.00	\$925.00
\$550.00	\$467.50	\$1,017.50
\$600.00	\$510.00	\$1,110.00
\$650.00	\$552.50	\$1,202.50
\$700.00	\$595.00	\$1,295.00
\$750.00	\$637.50	\$1,387.50
\$800.00	\$680.00	\$1,480.00
\$850.00	\$722.50	\$1,572.50
\$900.00	\$765.00	\$1,665.00
\$950.00	\$807.50	\$1,757.50
\$1,000.00	\$850.00	\$1,850.00
\$1,200.00	\$1,020.00	\$2,220.00
\$1,400.00	\$1,190.00	\$2,590.00
\$1,600.00	\$1,360.00	\$2,960.00
\$1,800.00	\$1,530.00	\$3,330.00
\$2,000.00	\$1,700.00	\$3,700.00
\$2,200.00	\$1,870.00	\$4,070.00
\$2,400.00	\$2,040.00	\$4,440.00
\$2,600.00	\$2,210.00	\$4,810.00
\$2,800.00	\$2,380.00	\$5,180.00
\$3,000.00	\$2,550.00	\$5,550.00
\$3,200.00	\$2,720.00	\$5,920.00
\$3,400.00	\$2,890.00	\$6,290.00
\$3,600.00	\$3,060.00	\$6,660.00
\$3,800.00	\$3,230.00	\$7,030.00
\$4,000.00	\$3,400.00	\$7,400.00
\$4,200.00	\$3,570.00	\$7,770.00
\$4,400.00	\$3,740.00	\$8,140.00
\$4,600.00	\$3,910.00	\$8,510.00
\$4,800.00	\$4,080.00	\$8,880.00
\$5,000.00	\$4,250.00	\$9,250.00
\$6,000.00	\$5,100.00	\$11,100.00
\$7,000.00	\$5,950.00	\$12,950.00
\$8,000.00	\$6,800.00	\$14,800.00
\$9,000.00	\$7,650.00	\$16,650.00
\$10,000.00	\$8,500.00	\$18,500.00

**SURCHARGE CHART**

Base Fine	35% Surcharge	Total
\$14.81	\$5.19	\$20.00
\$18.52	\$6.48	\$25.00
\$22.22	\$7.78	\$30.00
\$25.93	\$9.07	\$35.00
\$29.63	\$10.37	\$40.00
\$33.33	\$11.67	\$45.00
\$37.04	\$12.96	\$50.00
\$40.74	\$14.26	\$55.00
\$44.44	\$15.56	\$60.00
\$48.15	\$16.85	\$65.00
\$51.85	\$18.15	\$70.00
\$55.56	\$19.44	\$75.00
\$59.26	\$20.74	\$80.00
\$62.96	\$22.04	\$85.00
\$66.67	\$23.33	\$90.00
\$70.37	\$24.63	\$95.00
\$74.07	\$25.93	\$100.00
\$92.59	\$32.41	\$125.00
\$111.11	\$38.89	\$150.00
\$129.63	\$45.37	\$175.00
\$148.15	\$51.85	\$200.00
\$166.67	\$58.33	\$225.00
\$185.19	\$64.81	\$250.00
\$203.70	\$71.30	\$275.00
\$222.22	\$77.78	\$300.00
\$240.74	\$84.26	\$325.00
\$259.26	\$90.74	\$350.00
\$277.78	\$97.22	\$375.00
\$296.30	\$103.70	\$400.00
\$314.81	\$110.19	\$425.00
\$333.33	\$116.67	\$450.00
\$351.85	\$123.15	\$475.00
\$370.37	\$129.63	\$500.00
\$388.89	\$136.11	\$525.00
\$407.41	\$142.59	\$550.00
\$425.93	\$149.07	\$575.00
\$444.44	\$155.56	\$600.00
\$462.96	\$162.04	\$625.00
\$481.48	\$168.52	\$650.00
\$500.00	\$175.00	\$675.00
\$518.52	\$181.48	\$700.00
\$537.04	\$187.96	\$725.00
\$555.56	\$194.44	\$750.00
\$574.07	\$200.93	\$775.00
\$592.59	\$207.41	\$800.00
\$611.11	\$213.89	\$825.00
\$629.63	\$220.37	\$850.00
\$648.15	\$226.85	\$875.00
\$666.67	\$233.33	\$900.00
\$685.19	\$239.81	\$925.00
\$703.70	\$246.30	\$950.00
\$722.22	\$252.78	\$975.00
\$740.74	\$259.26	\$1,000.00

Base Fine	85% Surcharge	Total
\$27.03	\$22.97	\$50.00
\$29.73	\$25.27	\$55.00
\$32.43	\$27.57	\$60.00
\$35.14	\$29.86	\$65.00
\$37.84	\$32.16	\$70.00
\$40.54	\$34.46	\$75.00
\$43.24	\$36.76	\$80.00
\$45.95	\$39.05	\$85.00
\$48.65	\$41.35	\$90.00
\$51.35	\$43.65	\$95.00
\$54.05	\$45.95	\$100.00
\$81.08	\$68.92	\$150.00
\$108.11	\$91.89	\$200.00
\$135.14	\$114.86	\$250.00
\$162.16	\$137.84	\$300.00
\$189.19	\$160.81	\$350.00
\$216.22	\$183.78	\$400.00
\$243.24	\$206.76	\$450.00
\$270.27	\$229.73	\$500.00
\$297.30	\$252.70	\$550.00
\$324.32	\$275.68	\$600.00
\$351.35	\$298.65	\$650.00
\$378.38	\$321.62	\$700.00
\$405.41	\$344.59	\$750.00
\$432.43	\$367.57	\$800.00
\$459.46	\$390.54	\$850.00
\$486.49	\$413.51	\$900.00
\$513.51	\$436.49	\$950.00
\$540.54	\$459.46	\$1,000.00
\$648.65	\$551.35	\$1,200.00
\$756.76	\$643.24	\$1,400.00
\$864.86	\$735.14	\$1,600.00
\$972.97	\$827.03	\$1,800.00
\$1,081.08	\$918.92	\$2,000.00
\$1,189.19	\$1,010.81	\$2,200.00
\$1,297.30	\$1,102.70	\$2,400.00
\$1,405.41	\$1,194.59	\$2,600.00
\$1,513.51	\$1,286.49	\$2,800.00
\$1,621.62	\$1,378.38	\$3,000.00
\$1,729.73	\$1,470.27	\$3,200.00
\$1,837.84	\$1,562.16	\$3,400.00
\$1,945.95	\$1,654.05	\$3,600.00
\$2,054.05	\$1,745.95	\$3,800.00
\$2,162.16	\$1,837.84	\$4,000.00
\$2,270.27	\$1,929.73	\$4,200.00
\$2,378.38	\$2,021.62	\$4,400.00
\$2,486.49	\$2,113.51	\$4,600.00
\$2,594.59	\$2,205.41	\$4,800.00
\$2,702.70	\$2,297.30	\$5,000.00
\$3,243.24	\$2,756.76	\$6,000.00
\$3,783.78	\$3,216.22	\$7,000.00
\$4,324.32	\$3,675.68	\$8,000.00
\$4,864.86	\$4,135.14	\$9,000.00
\$5,405.41	\$4,594.59	\$10,000.00



## 1997 UNIFORM FINE/BAIL SCHEDULE

ANY OFFENSE NOT SPECIFICALLY NAMED ON THE BAIL SCHEDULE, AND NOT CONTAINED IN A SPECIFIC FINE/BAIL SCHEDULE ESTABLISHED BY A BOARD OF JUDGES, SHALL BE AS FOLLOWS:

	<u>BAIL</u>	<u>COMMENTS</u>
Felonies:		
1st degree with minimum mandatory sentence	25,000.00	Mandatory Court Appearance
Other 1st degree	20,000.00	Mandatory Court Appearance
2nd degree	10,000.00*	Mandatory Court Appearance
3rd degree	5,000.00	*Mandatory Court Appearance
Misdemeanors other than local ordinances:		
	<u>BAIL</u> ***	
Class A	1,850.00	*Mandatory Court Appearance
Class B	555.00	*Mandatory Court Appearance
Class C	270.00	
Infractions	**100.00	
Local ordinances		
Class B	100.00	*Mandatory Court Appearance
Class C	50.00	50.00
Infraction	25.00	25.00

\* Unless otherwise authorized by Rule 7-301.

\*\* On an infraction, defendant cannot be held in jail in lieu of posting bail. This bail only for purpose of disposing of charge at clerk's office.

\*\*\*NOTE: ALL BAIL AMOUNTS NOW INCLUDE SURCHARGE EXCEPT WHERE "NO SURCHARGE" IS INDICATED.

CHAPTER I  
TRAFFIC VIOLATIONS

<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DL</u>	<u>FTA/FTC</u>	<u>ACD CODE</u>
All traffic offenses involving personal injury or death require a MANDATORY APPEARANCE.								
<u>ACCIDENTS</u>								
41-6-29	Failure to remain at scene of accident/personal injury or death (Class A)	1,850.00	Mandatory Court Appearance	A	85%	Y	Y	B03
41-6-30	Failure to remain at scene of accident	405.00	Mandatory Court Appearance	C	35%	Y	Y	B04
41-6-31	Failure to give name and assistance	405.00	Mandatory Court Appearance	C	35%	Y	Y	B04
41-6-32	Failure to report accident with unattended vehicle	200.00	Mandatory Court Appearance	C	35%	Y	Y	B04
41-6-35	Failure to make a written report of all accidents more than \$400 or personal injury	100.00	Non-Moving Violation	C	No Surcharge	N	N	
*	Accident	30.00						
<u>ALCOHOL AND DRUGS</u>								
41-6-44	Driving under the influence of alcohol and/or drugs (Class B) (Class A)	1,500.00 2,000.00	Mandatory Court Appearance See DUI matrix for sentencing Enhanceable Offense	B	85%	Y	Y	A08
41-6-44(3)	Driving under the influence of alcohol and/or drugs with personal injury (Class A)	2,000.00	Mandatory Court Appearance See DUI matrix for sentencing	A	85%	Y	Y	A08
41-6-44.6	Driving with measurable controlled substance	750.00	Mandatory Court Appearance Enhanceable Offense	B	85%	Y	Y	A27
	Driving Under the Influence Commercial License	1850.00	Mandatory Court Appearance	B	85%	Y	Y	A08

In either adult or juvenile court, if an accident has occurred, it may be considered by the court as an aggravating circumstance, and the bail for the cited offense (which caused the accident) may be increased by the indicated amount.

\*\*\*NOTE: ALL BAIL AMOUNTS NOW INCLUDE SURCHARGE EXCEPT WHERE "NO SURCHARGE" IS INDICATED.  
ADD ADDITIONAL \$7.00 TO BAIL AMOUNT ON ALL TRAFFIC VIOLATIONS.

<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DL</u>	<u>FTA/FTC</u>	<u>ACD CODE</u>
<u>DRIVER LICENSE AND RELATED PROVISIONS</u>								
53-3-202	No valid license (Includes motorcycle operator's license) (expired license)	40.00	Non-Moving Violation 10.00 suspended upon proof of valid license	C	No Surcharge	Y	Y	B51
53-3-202	Never obtained license	75.00	Non-Moving Violation	C	No Surcharge	Y	Y	B51
53-3-203	Allow unlicensed person to drive	75.00	Non-Moving Violation	C	No Surcharge	Y	Y	B51
53-3-208	Violating terms of license restrictions (not wearing glasses) Commercial Vehicle	40.00 100.00	Non-Moving Violation	C	No Surcharge	Y	Y	D27
53-3-210	Violation of learner's permit	40.00	Non-Moving Violation	C	No Surcharge	Y	Y	D27
53-3-213	Improper Class of Commercial License	75.00	Non-Moving Violation 10.00 suspended upon proof of valid license	C	No Surcharge	Y	Y	B91
53-3-217	No valid license in possession	40.00	Non-Moving Violation Suspended or dismissed upon proof of valid license	C	No Surcharge	Y	Y	B51
53-3-227(2)	Denied License	50.00	Non-Moving Violation	C	No Surcharge	Y	Y	B23
53-3-227(2)	Suspension or Revocation (Class C)	300.00	Mandatory Court Appearance Non-Moving violation	C	No Surcharge	Y	Y	B20
53-3-227(3)	Revocation (Class B)	750.00	Mandatory Court Appearance Non-Moving violation	B	No Surcharge	Y	Y	B25
53-3-229	Loaning or defacing license	135.00	Mandatory Court Appearance	C	35%	Y	Y	B92 Loaning B41 Altering B24
53-3-404	Never obtained commercial license	100.00	Non-Moving Violation	C	No surcharge	Y	Y	B24

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ADD ADDITIONAL \$7.00 TO BAIL AMOUNT ON ALL TRAFFIC VIOLATIONS.

<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DL</u>	<u>FTA/FTC</u>	<u>ACD CODE</u>
<u>FAILURE TO YIELD, RIGHT-OF-WAY VIOLATIONS</u>								
Except	All right of way violations	50.00		C	35%	Y	Y	N01
41-6-76	Failure to yield to emergency vehicle	75.00		C	35%	Y	Y	N04
41-6-80.1	Failure to yield to a blind person	75.00		C	35%	Y	Y	N08
<u>MECHANICAL CONDITION, FAULTY EQUIPMENT AND RELATED ITEMS</u>								
	Faulty equipment offenses (involving lights, brakes, mirrors, etc.) or lack of required equipment	40.00	Non-Moving Violation 10.00 suspended upon compliance		No Surcharge	N	Y	E30
41-6-98	Operating illegal tractor, etc., on highway	40.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-6-105	Failure to secure parked vehicle	40.00	Non-Moving Violation	I	No Surcharge	N	N	--
41-6-128	Load projecting to the rear Commercial Vehicle	40.00 60.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-6-147	Mufflers (1) No working muffler (2) Excessive fumes or smoke (3) Disabling an air pollution control device	40.00 40.00 100.00	Non-Moving Violation Non-Moving Violation Non-Moving Violation	C C B	No Surcharge No Surcharge No Surcharge	N N N	Y Y Y	E35
41-6-148	Improper mirrors (POE)	40.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-6-148.40	No safety chain to secure towed vehicle	40.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-6-149	Sale or installation of tinted windshield	50.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-6-150.10	No mud flaps (POE)	40.00	Non-Moving Violation	C	No Surcharge	N	N	--

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<u>NON-MOVING VIOLATIONS</u>								
41-1a-214	No registration in vehicle	40.00	Non-Moving Violation Dismissed upon proof of valid registration	C	No Surcharge	N	Y	B51
41-1a-227	No camper registration	40.00	Non-Moving Violation 10.00 suspended upon compliance	C	No Surcharge	N	N	--
41-1a-229	Failure to display gross weights	40.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-1a-229(3)	Improper gross weight displayed	100.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-1a-404	Failure to display license plate	40.00	Non-Moving Violation 10.00 suspended upon compliance	C	No Surcharge	N	Y	B43
41-1a-414	Handicapped Parking	100.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-1a-1303	Failure to register towed vehicle	40.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-1a-1303(1)	Failure to register or expired	40.00	Non-Moving Violation \$10 suspended upon compliance	C	No Surcharge	N	Y	B51
41-1a-1303(2)	New resident failure to register Effective Until 9/30/97 10/1/97 or after	200.00 1,000.00	Non-Moving Violation \$150 Suspended upon compliance \$800 Suspended upon compliance	C	No Surcharge	N	Y	B51
41-1a-1304	Operate in excess of gross weight registration	75.00	Non-Moving Violation	C	No Surcharge	N	Y	B54
41-1a-1305	Using plates registered to another vehicle Commercial Vehicle	100.00 750.00	Non-Moving Violation	C	No Surcharge	N	N	--

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ADD ADDITIONAL \$7.00 TO BAIL AMOUNT ON ALL TRAFFIC VIOLATIONS.

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41-1a-1310	(1) Failure to deliver title by non-dealer	250.00	Non-Moving Violation	B	No Surcharge	N	N	--
	(2) No odometer disclosure statement	40.00	Non-Moving Violation Non-mandatory appearance	B	No Surcharge	N	N	--
	(3) Disconnected odometer	40.00	Non-Moving Violation Non-mandatory appearance	B	No Surcharge	N	N	--
	(4) Altered odometer	100.00	Non-Moving Violation Mandatory appearance	B	No Surcharge	N	N	--
	(5) Failure to adjust odometer or affix notice	100.00	Non-Moving Violation Mandatory appearance	B	No Surcharge	N	N	--
	(6) Remove or alter notice of adjustment	100.00	Non-Moving Violation Mandatory appearance	B	No Surcharge	N	N	--
	(7) Failure to record odometer reading on title	40.00	Non-Moving Violation Non-mandatory appearance	B	No Surcharge	N	N	--
	(8) Accept or give incomplete odometer statement	40.00	Non-Moving Violation Non-mandatory appearance	B	No Surcharge	N	N	--
41-3-201	Acting as dealer, etc., without license	1,850.00	Mandatory Court Appearance	A	85%	N	N	--
41-3-210	Various dealer violations	150.00	Non-mandatory Appearance	B	No Surcharge	N	N	--
41-3-301	Dealer failure to deliver title	1850.00	Mandatory Court Appearance	A	85%	N	N	--
41-3-303	Dealer issuing temporary tag improperly	100.00	Non-mandatory Appearance	B	No Surcharge	N	N	--
41-3-501	Misuse of special plate by dealer Commerical Vehicle	100.00 250.00	Non-mandatory Appearance	B	No Surcharge	N	N	--
41-3-504	Improper special plate display	50.00	Non-Moving Violation	B	No Surcharge	N	N	--

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53-8-205	No safety inspection Commerical Vehicle	40.00 100.00	Non-Moving Violation 10.00 suspended upon compliance 20.00 suspended upon compliance	C	No Surcharg e	N	Y	B55
53-8-208	Fraudulent inspection Commercial Vehicle	200.00 250.00	Mandatory Court Appearance	C	35%	N	Y	B55
41-12a-302	No insurance	300.00	Mandatory Court Appearance Non Moving Violation	B	No Surcharg	Y	Y	D36
41-12a-303.2	No proof of insurance	300.00	Non-Moving Violation Dismissed upon proof of valid insurance at the time. If no proof, it becomes Mandatory Court Appearance	B	No Surcharge	Y	Y	B74

PASSING VIOLATIONS, WRONG SIDE AND WRONG WAY

41-6-	All passing violations	50.00		C	35%	Y	Y	M70
41-6-53, 58	Driving on wrong side of roadway (left of center)	50.00		C	35%	Y	Y	N70
41-6-53.5	Left Lane Restriction	60.00		C	35%	Y	Y	M49
41-6-63.10	Divided Highway crossing Divided position	50.00		C	35%	Y	Y	M51

RECKLESS DRIVING, EXHIBITION DRIVING & OTHER DANGEROUS VIOLATIONS

41-6-13	Failure to comply with order of police	75.00	Non-Moving Violation	C	No Surcharge	Y	Y	M08
41-6-45	Reckless driving	555.00	*Mandatory Court Appearance Enhanceable Offense	B	85%	Y	Y	M84
41-6-51(1)	Exhibition driving	75.00		C	35%	Y	Y	S95
41-6-51	Racing	200.00	Mandatory Court Appearance	C	35%	Y	Y	S95

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<b><u>SPEEDING VIOLATIONS</u></b>								
41-6-46	Speeding							
	MPH Over Speed Limit:							
	0-10 MPH	40.00		C	35%	Y	Y	S51
	11-15 MPH	50.00		C	35%	Y	Y	S61
	16-20 MPH	60.00		C	35%	Y	Y	S61
	21-25 MPH	80.00		C	35%	Y	Y	S71
	26-30 MPH	100.00		C	35%	Y	Y	S71
	31-35 MPH	120.00		C	35%	Y	Y	S81
	36-40 MPH	140.00		C	35%	Y	Y	S81
	41+ MPH	550.00	Mandatory Court Appearance	B	85%	Y	Y	S91
41-6-46	Speed too fast for existing conditions (no accident)	50.00	Non-mandatory Appearance	C	35%	Y	Y	S94
41-6-48.5	Speeding in a School Zone		Minimum Mandatory Fines	C	35%	Y	Y	S99
	<i>First Offense</i>		Enhanceable Offense					
	MPH Over Speed Limit:							
	0-9 MPH	67.50						
	10-19 MPH	168.75						
	20+ MPH	371.25						
	<i>Second or Subsequent Offense</i>							
	MPH Over Speed Limit							
	0-9 MPH	67.50						
	10-19 MPH	303.75						
	20+ MPH	708.75						
41-6-49	Driving too slow	50.00		C	35%	Y	Y	S96

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<u>STOPPING VIOLATIONS</u>								
Article 13	All Stopping Violations	50.00		C	35%	Y	Y	M14
41-6-97	<u>Except:</u> Failure of buses and trucks to stop at railroad crossings	75.00		C	35%	N	N	--
41-6-100.10	Failure to stop for school bus	135.00	Enhanceable Offense	C	35%	Y	Y	M14
<u>TURNING, LANE CHANGE, BACKING AND SIGNALING VIOLATIONS</u>								
41-6-61 Through 41-6-69 except 41-6-62, 41-6-63 and 41-6-64	All improper turns, lane travel, signaling and backing	50.00		C	35%	Y	Y	M40, N40 N50, N82
<u>VARIOUS VIOLATIONS NOT COVERED ELSEWHERE</u>								
41-6-23	Disobeying traffic control device	50.00		C	35%	Y	Y	M14
41-6-24	Traffic Control Signal	50.00		C	35%	Y	Y	M14
41-6-44.20(2)	Open container in vehicle	100.00	Non-Moving Violation	C	No Surcharge	N	Y	A32
41-6-62	Following too close	50.00		C	35%	Y	Y	M34
41-6-64	Limited access roadway	50.00		C	35%	Y	Y	M01
41-6-82	Soliciting rides	40.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-6-103.5(4)	School Bus Parking Zone Viol	50.00		I	No Surcharge	N	N	
41-6-107.8	Failure to wear protective headgear	40.00	Non-Moving Violation	I	No Surcharge	N	N	--

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41-6-109(2)	Passenger on unauthorized portion of vehicle	40.00	Non-Moving Violation	I	No Surcharge	N	N	--
41-6-138	Slow moving vehicle emblem	40.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-6-148.20	Child Restraint	75.00	Non-Moving Violation Dismissed upon proof of purchase or acquisition of device	I	No Surcharge	N	Y	F04
41-6-168	Failure to appear	*70.00	Non-Moving Violation	C	No Surcharge	N	N	--
41-6-182	Failure to wear seat belt	10.00	Non-Moving Violation	I	No Surcharge	N	Y	F04

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\* When defendant fails to appear, the bail will be increased by \$20 when a delinquent notice is sent and increased an additional \$50 when a warrant is issued.

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ADD ADDITIONAL \$7.00 TO BAIL AMOUNT ON ALL TRAFFIC VIOLATIONS.

CHAPTER II  
CRIMINAL VIOLATIONS

<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL ***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DL</u>	<u>FTA/FTC</u>	<u>ACD CODE</u>
27-12-143(1b)	Removing Road Signs and Barriers (Class B)	555.00	Mandatory Court Appearance	B	85%			
27-12-143(2)	Removing Road Sign with injury	1,850.00	Mandatory Court Appearance	A	85%			
27-12-146	Uncovered garbage truck	92.50	Mandatory Court Appearance	B	85%			
32A-12-203	Unlawful sale or supply of alcohol to minors	460.00	Mandatory Court Appearance	A	85%			
32A-12-206	Selling more than 2 liters of alcohol	370.00	Mandatory Court Appearance	B	85%			
32A-12-209(1)	Unlawful purchase, possession or consumption by minors	460.00	Mandatory Court Appearance	B	85%			
32A-12-209(3)	Unlawful possession or consumption by minor on limo or bus	370.00	Mandatory Court Appearance	B	85%			
32A-12-217	Unlawful permitting possession or consumption by minor on limo or bus	280.00	Mandatory Court Appearance	I	35%			
38-9-5(1)	Filing of a wrongful lien	555.00	Mandatory Court Appearance	B	85%			
41-1a-1311	Depriving owner of vehicle (joyriding)	1,850.00	*Mandatory Court Appearance	A	85%			
41-1a-1314	Joyriding	1,850.00	Mandatory Court Appearance	A	85%			
41-6-103	Parking, stop or stand on sidewalk or within crosswalk	25.00	Non-Moving Violation	C	No Surcharge			
41-6-104	Parking on the roadway	25.00	Non-Moving Violation	C	No Surcharge			
**41-6-114	Littering	100.00	Non-Moving Violation	C	No Surcharge	N	Y	D67

Unless otherwise authorized by Rule 7-301.

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58-37-8(2aiii)	Knowingly being present where controlled subst is being used	555.00	Mandatory Court Appearance	B	85%	Y	Y	A33
58-37-8(2aiv)	Possession of an altered or forged prescription	555.00	Mandatory Court Appearance	B	85%	N	N	--
58-37-8(2biii)	Possession of marijuana less than 16 ounces	1,850.00	Mandatory Court Appearance	A	85%	Y	Y	A33
58-37-8(2e)	Possession of a controlled substance 1oz. or less	555.00	Mandatory Court Appearance	B	85%	Y	Y	A33
58-37a-5	Possession of drug paraphernalia	370.00	Mandatory Court Appearance	B	85%	Y	Y	
76-5-102	Assault (Class B)	925.00	*Mandatory Court Appearance	B	85%	N	N	--
76-5-102(3)	Assault with substantial bodily injury	1,850.00	*Mandatory Court Appearance	A	85%	N	N	--
76-5-102.4	Assault against peace officer on duty (Class A)	1,850.00	*Mandatory Court Appearance	A	85%	N	N	--
76-5-106.5	Stalking, Class A if one prior	1,850.00	Mandatory Court Appearance	A	85%	N	N	--
76-5-106.5(2)	Stalking	555.00	Mandatory Court Appearance	B	85%			
76-5-107	Terroristic threats against life or property	555.00	Mandatory Court Appearance	B	85%			
76-5-107.5(3)	Hazing (Class B) if not aggravated (Class A) motor vehicle	555.00 1,850.00	Mandatory Court Appearance Mandatory Court Appearance	B A	85% 85%			
76-5-109.1	Domestic Violence in presence of a child	1,850.00	Mandatory Court Appearance	A	85%			
76-5-108	Violation of protective order	1,850.00	Mandatory Court Appearance	A	85%			
76-6-106(c)	Criminal mischief Less than 300 300 - 1,000	555.00 1,850.00	*Mandatory Court Appearance *Mandatory Court Appearance	B A	85% 85%			

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\*\* Four hours of community service (clean-up littered area).

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76-6-106(c)	Graffiti violations Damage less than 300 300 - 1,000	555.00 1,850.00	*Mandatory Court Appearance *Mandatory Court Appearance	B A	85% 85%			
76-6-206(2b)	Criminal trespass (Infraction) notice or knowledge of	**50.00		I	35%			
76-6-206(2a)	Criminal trespass (Class C) with intent to annoy or injure	135.00		C	35%			
76-6-206(2a)	Criminal Trespass within Dwelling	555.00	Mandatory Court Appearance	B	85%			
76-6-412	Theft (Class A) Property value between \$300 and \$1000	1,850.00	*Mandatory Court Appearance Enhanceable Offense	A	85%			
76-6-412	Theft (Class B) Less than \$300	555.00	Mandatory Court Appearance	B	85%			
76-6-505	Issuing a bad check less than \$300 (Class B) \$300 to \$1,000 (Class A)	650.00 1,850.00	*Mandatory Court Appearance *Mandatory Court Appearance	B A	85% 85%			
76-8-305	Interference with arresting officer	555.00	*Mandatory Court Appearance	B	85%			
76-8-306	Obstructing justice (Class B)	555.00	*Mandatory Court Appearance	B	85%			
76-8-309	Escape from custody	555.00	*Mandatory Court Appearance	B	85%			
76-8-410	Failure to obtain a business license	185.00		B	85%			
76-8-506	Giving false information to police (Class B)	370.00	*Mandatory Court Appearance	B	85%			
76-8-507	Giving false personal identity to police (Class C)	100.00		C	35%			
76-9-101	Rioting	555.00	*Mandatory Court Appearance	B	85%			

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\*\* Does not include any assessments.

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76-9-102	Disorderly conduct (Class C) continues after request to stop Disorderly conduct (Infraction)	280.00 **100.00	*Mandatory Court Appearance	C I	35% 35%			
76-9-105	False fire alarm	370.00	*Mandatory Court Appearance	B	85%			
76-9-201	Telephone harassment	555.00	*Mandatory Court Appearance	B	85%			
76-9-701	Public intoxication (Class C)	50.00		C	35%			
76-9-702	Gross Lewdness (Class A)	1,850.00	*Mandatory Court Appearance	A	85%			
76-9-702(1)	Lewdness (Class B)	555.00	Mandatory Court Appearance	B	85%			
76-9-702.5	Lewdness Involving a Child 14 or under (Class A)	1,850.00	*Mandatory Court Appearance	A	85%			
76-10-105	Possession of Tobacco	20.00		C	35%			
76-10-104	Adult selling tobacco to adolescent							
	1st offense	280.00		C	35%			
	2nd offense	370.00	Mandatory Court Appearance	B	85%			
	3rd offense	1,850.00	Mandatory Court Appearance	A	85%			
76-10-107	Glue sniffing	370.00	Mandatory Court Appearance	B	85%			
76-10-112	Free cigarette distribution							
	1st offense (Class C)	200.00		C	35%			
	2nd or subsequent (Class B)	555.00	Mandatory Court Appearance	B	85%			
76-10-504	Carrying a concealed weapon	555.00	*Mandatory Court Appearance	B	85%			
	2nd Offense	1,850.00	*Mandatory Court Appearance	A	85%			
76-10-505	Loaded firearm	185.00		B	85%			
76-10-508	Discharging of firearms	185.00	Mandatory Court Appearance	B	85%	Y	Y	U09
76-10-804	Maintaining a nuisance	185.00	Mandatory Court Appearance	B	85%			
76-10-1102	Gambling							
	1st offense	555.00	*Mandatory Court Appearance	B	85%			
	2nd conviction	1,850.00	*Mandatory Court Appearance	A	85%			

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\*\* On an infraction, defendant cannot be held in jail in lieu of posting bail. This bail only for purpose of disposing of charge at clerk's office.

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<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL ***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DL</u>	<u>FTA/FTC</u>	<u>ACD CODE</u>
76-10-1302	Prostitution 1st Offense - Class B 2nd Offense - Class A	555.00 1,850.00	*Mandatory Court Appearance	B A	85% 85%			
76-10-1303	Patronizing a Prostitute	555.00	*Mandatory Court Appearance	B	85%			
76-10-1304	Aiding prostitution 1st Offense - Class B 2nd Offense - Class A	925.00 1,850.00	Mandatory Court Appearance Mandatory Court Appearance	B A	85% 85%			
76-10-1313	Sexual solicitation 1st Offense - Class B 2nd Offense - Class A	555.00 1,850.00	Mandatory Court Appearance Mandatory Court Appearance	B A	85% 85%			
76-10-2002	Security of research facilities	1,850.00	Mandatory Court Appearance	A	85%			
76-10-1906	Money laundering (knowingly) Class C Class A	405.00 1,850.00	Mandatory Court Appearance	C A	35% 85%			
77-7-22	Failure to appear	*92.50	Note this is not a mandatory court appearance	B	85%			
77-36-3(2b)	Violation of protective order in spouse abuse case	1,850.00	Mandatory Court Appearance	A	85%			
77-36-3.1	Violation of no contact order (city may prosecute)	1,850.00	Mandatory Court Appearance	A	85%			
78-3a-19	Contributing to the delinquency of a minor	925.00	**Mandatory Court Appearance	B	85%			
78-12a-4(1)	Falsifying a return of service to the court	1,850.00	Mandatory Court Appearance	A	85%			
78-12a-4(2)	Billing falsely for process service	270.00	Mandatory Court Appearance	C	35%			

\* Unless otherwise authorized by Rule 7-301.

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CHAPTER III

WILDLIFE RESOURCES VIOLATIONS

<u>W.L Code</u>	<u>DESCRIPTION</u>	<u>BAIL***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>STATUTE</u>
<u>LICENSE VIOLATIONS:</u>						
1	Fishing without a license	111.00	Dismissed upon proof of a valid license	B	85%	23-19-1
5	Harvesting brine shrimp without a valid COR	1850.00		B	85%	23-19-1
2	Hunting without a Valid License/permit/tag	185.00	\$40 Suspended upon proof of a valid license	B	85%	23-19-1
15	Hunting big Game without a valid license/ permit / tag (RESIDENT)	555.00		B	85%	23-19-1
45	Hunting Big Game Without a Valid License / permit / tag (non-resident)	1400.00		B	85%	23-19-1
54	Hunting on a posted hunting unit without a permit Big Game, Cougar, Bear, Threatened or Endangered	185.00		B	85%	23-23-10
49	Migratory birds, Upland Game, Nongame birds	74.00		B	85%	23-23-10
52	Hunting / fishing without a valid stamp	81.00		C	35%	R657
51	Hunting / fishing with an unsigned stamp	54.00		C	35%	R657
41	Pursuing cougar / bear without a valid pursuit permit	185.00		B	85%	23-19-1
172	Operating a commercial hunting area without a valid COR	555.00		B	85%	23-17-6
6	Unlawful purchase/application of a license/permit/tag/cor	185.00		B	85%	23-19-5
3	Trapping Furbearers without a valid license/permit/tag	555.00		B	85%	23-19-1

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9	Unlawful purchase/selling of a license without hunter safety certificate	111.00		B	85%	23-19-11
13	Unlawful purchase of a license without furharvester education certificate	111.00		B	85%	23-19-11.5
10	Willful unlawful sale of a license (misdating, proof of residency, incomplete, proof of hunter education)	185.00		B	85%	23-19-15
7	Imitation or counterfeiting of a COR/license/permit/tag	925.00	Mandatory Court Appearance	A	85%	23-19-6
8	Unlawful purchase of a license/ while on revocation	555.00	Mandatory Court Appearance	B	85%	23-19-9
173	Unlawful purchase of more than one permit	135.00		C	85%	R657
12	Hunting / fishing/ trapping with another persons license / permit/ tag in possession	135.00		C	35%	R657
116	Dealing in furs without a valid Certificate of Registration	555.00		B	85%	23-18-5
Use / transfer / lending of a license /permit / tag / COR						
63	All Species except for those listed in #4	185.00		B	85%	23-19-1
4	Desert Bighorn, Rocky Mtn Bighorn, Buffalo ,Cougar, Bear, Goat and Moose	555.00		B	85%	23-19-1
160	Unlawful purchase / application of a license / permit / tag - waiting period violation	135.00		C	35%	R657
161	Unlawful purchase of a license / permit / tag/ COR - after failing to comply with wildlife citation	555.00		B	85%	23-19-19.5
11	Unlawful alteration of a license/ permit/tag/COR	555.00		B	85%	23-20-27

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<u>W.L. CODE</u>	<u>DESCRIPTION</u>	<u>BAIL***COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>STATUTE</u>
<u>UNLAWFUL TAKING / POSSESSION / TRANSPORTATION / SELLING OF PROTECTED WILDLIFE</u>					
76	Unlawful possession / destruction / taking of / protected birds (nest, egg, etc.)	185.00	B	85%	23-20-3
118	Unlawful possession of antlers / horns	185.00	B	85%	23-20-3
136	Unlawful purchase, sale, barter of protected wildlife or parts	555.00	B	85%	23-20-3
148	Harassing protected wildlife	555.00	B	85%	23-20-3
64	Unlawful Methods of Hunting Migratory Birds - Over bait	465.00	B	85%	23-20-3
65	Unlawful Methods of Hunting Migratory Birds - Use of (electron calls, sink box, boat under power, unlawful weapon, doves off power / phone lines, toxic shot)	138.00	B	85%	23-20-3
66	Unlawful Methods of Hunting Migratory Birds - unplugged shotgun	55.00	B	85%	23-20-3
83	Unlawful Methods of Fishing (firearms, chemicals, explosives)	465.00	B	85%	23-20-3
82	Unlawful Methods of Fishing (more than pole, hands, unattended pole, chumming, live minnows, corn in possession, set lines spearing, rafts, etc)	74.00	B	85%	23-20-3
91	Unlawful taking / possession of Protected Wildlife - Fish over / under legal size limit	74.00	B	85%	23-20-3
81	Unlawful Methods of Fishing (unlawful bait, use of lures/ bait in fly only area, etc)	74.00	B	85%	23-20-3
Unlawful taking / possession of Protected Wildlife - Unlawful methods					
61	Upland Game, Furbearers, Nongame Birds	93.00	B	85%	23-20-3
23	Big Game, Cougar, Bear Threatened or Endangered	555.00	B	85%	23-20-3

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Unlawful Taking / possession of protected Wildlife - Before / after legal hours						
22	Big Game, Cougar, Bear, Furbearers Threatened or Endangered	555.00		B	85%	23-20-3
53	Migratory Birds	185.00+ \$1 / minute		B	85%	23-20-3
80	Upland Game, Fish, Nongame Birds, Nongame Fish	93.00		B	85%	23-20-3
166	Brine Shrimp	1850.00		B	85%	23-20-3
Unlawful Taking / possession of protected wildlife - Without a valid license, permit, tag, COR, bill of sale or invoice						
27	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered	555.00		B	85%	23-20-3
56	Migratory Birds, Upland Game, Fish, Nongame Birds, Nongame fish	185.00		B	85%	23-20-3
165	Brine Shrimp	1850.00		B	85%	23-20-3
79 Unlawful Taking / Possession of a protected wildlife without a valid hunting unit permit						
	Small Game, Waterfowl	185.00		B	85%	23-20-3
	Big Game	555.00		B	85%	23-20-3
Unlawful Taking / possession of Protected Wildlife - Overlimit						
44	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered	555.00		B	85%	23-20-3
57	Migratory Birds, Upland Game, Nongame birds	93.00		B	85%	23-20-3
92	Fish	74.00		B	85%	23-20-3
Unlawful Taking / possession of protected wildlife - Out of season						
26	Big Game, Cougar, Bear, Furbearers , Threatened or Endangered,	555.00		B	85%	23-20-3
58	Migratory birds, upland Game, Fish, Nongame birds/fish	93.00		B	85%	23-20-3
168	Brine Shrimp	1850.00		B	85%	23-20-3
Unlawful Taking/ Possession of protected wildlife - In a closed / wrong area						
20	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered	555.00		B	85%	23-20-3
60	Migratory birds, upland Game, Fish, Nongame birds/fish	93.00		B	85%	23-20-3
138	Brine Shrimp	1850.00		B	85%	23-20-3

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Unlawful Taking / Possession of protected Wildlife - Wrong sex / species / age						
21	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered	555.00		B	85%	23-20-3
59	Migratory birds, Upland Game, Fish, Nongame birds/fish	93.00		B	85%	23-20-3
88	Fish	93.00		B	85%	23-20-3
24	Unlawful taking / possession of protected wildlife Antler point restriction	555.00		B	85%	23-20-3
Unlawful transportation / shipping of protected wildlife						
117	Migratory Birds, Upland Game, Fish, Nongame birds/fish	185.00		B	85%	23-20-3
143	Big Game, Cougar, Bear, Threatened or Endangered	555.00		B	85%	23-20-3
<u>WANTON DESTRUCTION OF PROTECTED WILDLIFE</u>						
68	Wanton Destruction of Protected wildlife illegally taken - Unlawful methods of fishing (more than 1 pole, chumming, live minnows, com, set lines, spearing, etc. Class B Class A	185.00 925.00	Mandatory Court Appearance	B A	85% 85%	23-20-4
69	Wanton Destruction of Protected wildlife illegally taken - Unlawful methods of fishing (unlawful bait, use of lure in fly only area etc.) Class B Class A	185.00 925.00	Mandatory Court Appearance	B A	85% 85%	23-20-4
70	Wanton Destruction of Protected wildlife illegally taken - Unlawful methods of fishing (firearms, chemicals, explosives.) Class B Class A	925.00 1850.00	Mandatory Court Appearance Mandatory Court Appearance	B A	85% 85%	23-20-4
Wanton Destruction of Protected Wildlife illegally taken - Unlawful methods (spotlighting, illegal weapons, bait, canned hunts, will call hunts, trapping, aircraft, dogs, unmarked traps, etc.						
30	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered Class B Class A	555.00 1850.00	Mandatory Court Appearance	B A	85% 85%	23-20-4
129	Migratory birds, Upland Game, Nongame Birds Class B Class A	185.00 925.00	Mandatory Court Appearance	B A	85% 85%	23-20-4

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Wanton Destruction of Protected wildlife illegally taken - Before or after legal hours					
43	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered				
	Class B	555.00	B	85%	23-20-4
	Class A	1850.00	A	85%	
47	Migratory birds, Upland Game, Nongame birds				
	Class B	185.00	B	85%	23-20-4
	Class A	925.00	A	85%	
48	Fish				
	Class B	185.00	B	85%	23-20-4
	Class A	925.00	A	85%	
163	Brine Shrimp				
	Class B	1850.00	B	85%	23-20-4
	Class A	4625.00	A	85%	
Wanton Destruction of Protected Wildlife illegally taken - Without a valid license, permit, tag, COR, bill of sale or invoice					
28	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered				
	Class B	555.00	B	85%	23-20-4
	Class A	1850.00	A	85%	
86	Migratory birds, Upland Game, Nongame birds				
	Class B	185.00	B	85%	23-20-4
	Class A	925.00	A	85%	
164	Brine Shrimp				
	Class B	1850.00	B	85%	23-20-4
	Class A	4625.00	A	85%	
62	Wanton Destruction of Protected wildlife - without a valid posted hunting unit permit				
	Class B	555.00	B	85%	23-20-4
	Class A	1850.00	A	85%	
Wanton Destruction of Protected wildlife illegally taken - overlimit					
33	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered				
	Class B	555.00	B	85%	23-20-4
	Class A	1850.00	A	85%	
71	Migratory birds, Upland Game, Nongame birds				
	Class B	185.00	B	85%	23-20-4
	Class A	925.00	A	85%	
89	Fish				
	Class B	74.00	B	85%	23-20-4
	Class B	185.00	B	85%	23-20-4
	Class A	925.00	A	85%	

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Wanton Destruction of Protected wildlife illegally taken - out of season						
32	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered					
	Class B	555.00		B	85%	23-20-4
	Class A	1850.00	Mandatory Court Appearance	A	85%	
119	Migratory birds, Upland Game, Nongame birds					
	Class B	185.00	+ \$25 per animal	B	85%	23-20-4
	Class A	925.00	Mandatory Court Appearance	A	85%	
169	Brine Shrimp					
	Class B	1850.00		B	85%	23-20-4
	Class A	4625.00		A	85%	23-20-4
Wanton Destruction of Protected wildlife illegally taken - closed area						
31	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered					
	Class B	555.00		B	85%	23-20-4
	Class A	1850.00	Mandatory Court Appearance	A	85%	
87	Migratory birds, Upland Game, Nongame birds					
	Class B	185.00		B	85%	23-20-4
	Class A	925.00	Mandatory Court Appearance	A	85%	
162	Brine Shrimp					
	Class B	1850.00		B	85%	23-20-4
	Class A	4625.00	Mandatory Court Appearance	A	85%	
Wanton destruction of Protected wildlife illegally taken - Wrong Sex						
14	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered					
	Class B	555.00		B	85%	23-20-4
	Class A	1850.00	Mandatory Court Appearance	A	85%	
84	Migratory birds, Upland Game, Nongame birds					
	Class B	185.00		B	85%	23-20-4
	Class A	925.00	Mandatory Court Appearance	A	85%	
29	Wanton Destruction of Protected Wildlife illegally taken - Antler point restriction	1850.00	Mandatory Court Appearance	A	85%	23-20-4
16	Wanton Destruction of Protected Wildlife illegally taken - fish under legal size limit	74.00	+ 10.00 per fish	B	85%	23-20-4
	Class A	925.00	Mandatory Court Appearance	A	85%	23-20-4

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<u>MISCELLANEOUS HUNTING AND TRAPPING VIOLATIONS</u>						
Failure to properly Tag						
19	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered	185.00		B	85%	23-20-30
78	Migratory Birds, Upland Game	74.00		B	85%	23-20-30
Failure to Tag						
18	Big Game, Cougar, Bear, Furbearers, Threatened or Endangered	555.00		B	85%	23-20-30
85	Migratory Birds, Upland Game	185.00		B	85%	23-20-30
145	Hunting without proper adult supervision	111.00		B	85%	23-20-20
67	Unlawful possession of toxic shot	81.00		C	35%	R657
17	Hunting with a used or detached tag	135.00		C	35%	R657
55	Failure to retrieve migratory waterfowl	54.00		C	35%	R657
77	Unlawful discharge of a firearm on a waterfowl management area	54.00		C	35%	R657
46	Unlawful baiting or methods of baiting bear, (without COR, unauthorized bait material, failure to remove bait, failure to post station)	135.00		C	35%	R657
171	Unlawful methods of trapping (exposed /illegal bait, improperly spaced jaws, unmarked traps, spotlighting, failure to check traps	135.00		C	35%	R657
40	Failure to have wildlife checked / sealed in specified amount of time	135.00		C	35%	R657
157	Spotlighting without a valid permit	185.00		B	85%	23-13-17
158	Unlawful methods of spotlighting	185.00		B	85%	23-13-17
159	Spotlighting	135.00		C	35%	R657
38	Failure to leave evidence of a sex / species attached	81.00		C	35%	R657

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39	Possession of unquivered arrows in a vehicle	54.00		C	35%	R657
128	Shooting in a restricted or closed area	135.00		C	35%	R657
120	Destroying, removing, possessing another's traps	135.00		C	35%	R657
37	Failure to wear specified amount of hunter orange	111.00		B	85%	23-20-31
<u>MISCELLANEOUS WILDLIFE VIOLATIONS</u>						
121	Allowing protected wildlife to waste or spoil	555.00		B	85%	23-20-8
42	Unlawful donation of protected wildlife	185.00		B	85%	23-20-9
137	Unlawful utilization of wildlife for financial gain of commercial venture	555.00		B	85%	23-13-13
135	Unlawful receiving of protected wildlife by butcher / locker plant / storage plant	185.00		B	85%	23-20-10
132	Destruction of private property	370.00		B	85%	23-20-15
149	Failure to appear on citation	111.00		B	85%	23-20-17
123	Interfering with an officer	555.00		B	85%	23-20-18
147	Aiding / assisting (will be cited with another violation)Will be the same severity as violation					23-20-23
125	Failure to stop vehicle or fleeing from officer	555.00		B	85%	23-20-24
146	Failure to produce license, devices, and wildlife upon demand of an officer	111.00		B	85%	23-20-25
124	Assaulting an Officer	1850.00	Mandatory Court Appearance	A	85%	23-20-26
154	Unlawful interference with legal hunters / hunting activity	555.00		B	85%	23-20-29
140	Unlawful release of protected wildlife - Aquatic Species	1110.00	Mandatory Court Appearance	A	85%	23-13-14

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141	Unlawful release of protected wildlife - other protected wildlife	555.00		A	85%	23-13-14
139	Unlawful holding of protected wildlife in captivity	555.00		B	85%	23-13-4
144	Unlawful importation of protected wildlife	555.00		B	85%	23-13-5
131	Destroying DWR signs / property	370.00		B	85%	23-20-13
133	Trespassing	148.00		B	85%	23-20-14
130	Criminal Trespass	135.00		C	35%	
156	Posting public land	555.00		B	85%	23-20-14
122	Failure to stop at a roadblock	555.00	Mandatory Court Appearance	B	85%	77-23-104
<u>MISCELLANEOUS AQUATIC VIOLATIONS</u>						
167	Unlawful possession of corn / bait while fishing	54.00		C	35%	R657
153	Unlawful diversion / drainage of public waters	555.00	Mandatory Court Appearance	B	85%	23-15-3
152	Pollution of public waters	555.00 185.00	per day / municipality per day / individual Mandatory Court Appearance	B B	85% 85%	23-15-6
95	Unlawful seining of protected wildlife	185.00		B	85%	23-15-8
142	Unlawful possession / transportation of live protected aquatic wildlife	185.00	Mandatory Court Appearance	B	85%	23-15-9
<u>BRINE SHRIMP VIOLATIONS</u>						
97	Failure to have seiner or alternate seiner at harvest location	675.00		C	35%	R657
102	Failure to have correct size letters or numbers	675.00		C	35%	R657

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98	Failure to have helper card on person	675.00		C	35%	R657
104	Interfering with another harvester - Harvesting within 300 yards	675.00		C	35%	R657
107	Unlawful return of brine shrimp eggs to Great Salt Lake	675.00		C	35%	R657
99	Failure to display orange flag on boat with COR	675.00		C	35%	R657
113	Failure to provide accurate harvest records	675.00		C	35%	R657
114	Failure to submit annual report	675.00		C	35%	R657
96	Failure to have COR at harvest location	675.00		C	35%	R657
105	Interfering with another harvester - Disturbing a streak	675.00		C	35%	R657
106	Interfering with another harvester - Removing eggs without permission	675.00		C	35%	R657
100	Failure to have ID letters or numbers on boat / vehicle / camper / house trailer / motorhome / boom	675.00		C	35%	R657
103	Unattended Boom	675.00		C	35%	R657
<u>FIREARM VIOLATIONS</u>						
34	Unlawful possession of a firearm	81.00		C	35%	R657
35	Unlawful possession of a firearm - By an archer / muzzle loader	81.00		C	35%	R657
36	Unlawful possession of a firearm - by pursuit permittee	81.00		C	35%	R657
126	Carry loaded firearm in/on vehicle	185.00		B	85%	76-10-505
127	Shooting from vehicle from across highway	185.00		B	85%	76-10-508
75	Discharge a firearm within 600 ft of a building	111.00		B	85%	76-10-508

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134	Carrying Dangerous weapon under the influence of drugs/alcohol	1500.00	Mandatory Court Appearance	B	85%	76-10-528
<u>OTHER VIOLATIONS</u>						
150	Motorized vehicle in restricted area	108.00		C	35%	41-22-13
151	Littering	185.00		B	85%	41-6-14
155	Unlawful possession of wood products	135.00		C	35%	78-38-417

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CHAPTER IV

BOATING/PARKS AND RECREATION VIOLATIONS

<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DRIV LIC</u>
41-1a-803(4)	Altered hull identification number or outboard motor serial number	810.00	Mandatory Court Appearance	C	35%	
73-18-4(1)	Failure to obey a waterway marker	111.00		B	85%	
73-18-4(3)	Failure to comply with zoned water	111.00		B	85%	
73-18-6(1)	Failure to number or display numbers properly	74.00	5.00 suspended upon compliance	B	85%	
73-18-7(1)	Failure to register, expired, or improper registration	74.00	10.00 suspended upon compliance	B	85%	
73-18-7(3)	No registration card in vessel	74.00	Dismissed upon proof of a valid registration card	B	85%	
73-18-8	Insufficient approved, proper size, or serviceable personal flotation devices on board	74.00	+ 10.00 for each additional deficiency	B	85%	
73-18-8(1e)	Failure to have Type IV PFD on board	74.00		B	85%	
73-18-8(2)	Failure to display navigation lights between sunset and sunrise	74.00		B	85%	
73-18-8(3)	Improper ventilation	74.00		B	85%	
73-18-8(4)	Non-approved or inadequate number of fire extinguishers on board	74.00	+ 10.00 for each additional deficiency	B	85%	
73-18-8(5)	Non-approved or inadequate backfire flame control device	74.00		B	85%	

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73-18-8.1(1)	No capacity/certification label	111.00		B	85%	
73-18-8.1(2)	Operated/gave permission to operate an overloaded/over-powered vessel	138.75		B	85%	
73-18-8.1(3)	Altered/defaced/removed capacity/certification label	280.00	Mandatory Court Appearance	B	85%	
73-18-8.1(3)	Operated/gave permission to operate a vessel with the capacity certification label altered/defaced/removed	280.00	Mandatory Court Appearance	B	85%	
73-18-10(1)	Failure to keep records by a boat livery	111.00		B	85%	
73-18-10(2)	Failure to equip a vessel with the required safety equipment by a boat livery	138.75		B	85%	
73-18-12	Reckless operation of a vessel	555.00	Mandatory Court Appearance	B	85%	
73-18-12.2(1)	Operated a vessel under the influence of alcohol and/or drugs	1,500.00	Mandatory Court Appearance	B	85%	
73-18-12.2(2)	Operated a vessel under the influence of alcohol and/or drugs with bodily injury (Class A)	2,000.00	Mandatory Court Appearance	A	85%	
73-18-13(1)	Failure to give name and assistance at an accident	555.00	Mandatory Court Appearance	B	85%	
73-18-13(4)	Gave false information regarding an accident in an oral or written report	1,850.00	Mandatory Court Appearance	A	85%	

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73-18-15.2	Person under 16 operated a motorboat or sailboat without an adult on board, or a single-person capacity MB or SB without direct supervsn of adult	111.00		B	85%	
73-18-16	Held a marine event without proper authorization	280.00	Mandatory Court Appearance	B	85%	
73-18-20(2)	Failure to comply with the order of a law enforcement officer	138.75		B	85%	
73-18-20(3)	Failure to stop at command of a law enforcement officer (Class A)	1,850.00	Mandatory Court Appearance	A	85%	
73-18a-2	Littered or deposited waste etc. into the waters of this state or lands adjacent to the waters	230.00	Mandatory Court Appearance	B	85%	
73-18a-3(1)	Allowed a marine toilet to discharge inadequately treated body waste the waters	925.00	Mandatory Court Appearance	B	85%	
73-18c-302	Operate Watercraft w/o Owner/operator security	300.00	Mandatory Court Appearance	B	85%	
73-18c-304	No evidence of Owner / operator security	300.00	Dismissed upon proof of valid insurance at the time. If no proof, it becomes Mandatory Court Appearance	B	85%	
R651-203-5	Approached within 150 feet of a diver's flag	111.00		B	85%	
R651-204-1	Placed a waterway marker without authorization	280.00	Mandatory Court Appearance	B	85%	
R651-204-2	Placed a permanent or anchored object without authorization	280.00	Mandatory Court Appearance	B	85%	

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R651-204-3	Removed, destroyed, or damaged an authorized waterway marker	370.00	Mandatory Court Appearance	B	85%	
R651-206-1 (2)	Carried passengers for hire on a lake or reservoir without an operator permit	280.00	Mandatory Court Appearance	B	85%	
R651-206-1 (9)	Carried passengers for hire in an unfamiliar vessel on a lake or reservoir	138.75		B	85%	
R651-206-2 (2)	Carried passengers for hire on a river without a river guide permit	280.00	Mandatory Court Appearance	B	85%	
R651-206-2 (12)	Carried passengers for hire on an unfamiliar river	138.75		B	85%	
R651-206-2 (13)	Carried passengers for hire on a whitewater river without one of the guides possessing an advanced first aid card	138.75		B	85%	
R651-212	Failure to display or to properly display the registration	74.00	Dismissed upon compliance	B	85%	
R651-213(4)	Improper use or display of a dealer number and registration	111.00		B	85%	
R651-215-5	Type IV PFD not immediately available or other types of PFD not readily accessible	74.00		B	85%	
R651-215-6	Carried a Type V PFD which was not approved for the actively engaged in	74.00	+ 10.00 for each additional deficiency	B	85%	
R651-215-7	On a whitewater river without the proper PFD type	74.00	+ 10.00 for each additional deficiency	B	85%	

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R651-215-8	Carried passengers for hire, on a river, without the proper PFD type and/or a Type IV ring buoy type PFD on vessels over 26 feet	111.00	+ 20.00 for each additional deficiency	B	85%	
R651-215-10	Carried passengers for hire without the proper PFD type and/or a Type IV ring buoy type PFD on vessels over 26 feet	111.00	+ 20.00 for each additional deficiency	B	85%	
R651-215-11 (2)	Failure to wear a PFD while on board a waterjet or a sailboat	74.00	+ 10.00 for each additional deficiency	B	85%	
R651-215-11 (3)	Failure to have a passenger under 12 wear a PFD while on board	74.00	+ 10.00 for each additional deficiency	B	85%	
R651-215-11 (4)	Failure to wear a PFD on a vessel while on a river	74.00	+ 10.00 for each additional deficiency	B	85%	
R651-219-1	Failure to have a sound producing device on board	74.00		B	85%	
R651-219-2	Failure to have a bailing device on board	74.00		B	85%	
R651-219-3	Failure to have a spare paddle on board	74.00		B	85%	
R651-219-4	Failure to have a visual distress signal on board an airboat	74.00		B	85%	
R651-219-5	Required safety equipment was not in good or serviceable condition	74.00		B	85%	
R651-219-6	Displayed red or blue flashing lights or sounded a siren	280.00	Mandatory Court Appearance	B	85%	

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R651-221	No lease or rental agreement on board a livery boat	74.00		B	85%	
R651-222	Inadequate muffling of exhaust	111.00	20.00 suspended upon compliance	B	85%	
R651-223-1	Failure to notify a law enforcement officer within 48 hrs of a accident	280.00	Mandatory Court Appearance	B	85%	
R651-223-3	Failure to submit a written report within 10 days of a reportable accident	111.00		B	85%	
R651-224-1	No observer on board while towing a water skier or other device	74.00		B	85%	
R651-224-2	Towed a water skier or other device between sunset and sunrise	74.00		B	85%	
R651-224-3	Failure to display or display properly a water ski flag	74.00		B	85%	
R651-224-4	Failure to wear a PFD or water ski belt by a person being towed	74.00	+ 10.00 for each additional deficiency	B	85%	
R651-225-1	Failure to obey rules of the road	111.00		B	85%	
R651-225-2	Failure to obey speed and proximity	111.00		B	85%	
R651-225-4	Operator or passenger on unauthorized portion of vessel	74.00		B	85%	
R651-801-1	Engaged in swimming in a prohibited area	74.00		B	85%	
R651-802-1 (1)	Failure to display a scuba diver's flag while scuba diving	74.00		B	85%	

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R651-802-1 (2)	Leaving a scuba diver's flag displayed when diving is not taking place	74.00		B	85%	
R651-802-1 (3)	Failure to light a scuba diver's flag while scuba diving after sunset or before sunrise	74.00		B	85%	
R651-802-1 (5)	Placed a scuba diver's flag in a congested area	74.00		B	85%	
R651-802-1 (6)	Engaged in scuba diving without a valid certificate or accompanied by an instructor	138.75		B	85%	
<u>OFF-HIGHWAY VEHICLES</u>						
41-22-3(1a)	Operated or transported; or gave permission to operate or transport an OHV on public land, street, or highway without current registration	40.00	Non-Moving Violation	B	No Surcharge	
41-22-3(1b)	Dealer sold an OHV which could be used or transported on public land, street, or highway without current registration	60.00	Non-Moving Violation	B	No Surcharge	
41-22-3(4)	No registration card on OHV	40.00	Non-Moving Violation Dismissed upon proof of a valid registration card	B	No Surcharge	
41-22-4(1)	Fraudulent application for OHV registration	925.00	Mandatory Court Appearance	B	85%	
41-22-4(2)	Altered manufacturer's serial number on an OHV	925.00	Mandatory Court Appearance	B	85%	
41-22-4(3)	Fraudulent use or display of OHV registration	300.00	Mandatory Court Appearance	B	85%	

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41-22-5.5 (1a)	Fraudulent application for OHV implement of husbandry registration	925.00	Mandatory Court Appearance	B	85%	
41-22-5.5 (3)	Operated an OHV implement of husbandry adjacent to a roadway without the required registration	40.00	Non-Moving Violation	B	No Surcharge	
41-22-5.5(4)	Improper use of a registered OHV implement of husbandry	40.00		B	85%	
41-22-10.1(1)	Operated an OHV on public land, street, or highway not designated as open by the controlling agency	100.00		B	85%	
41-22-10.7(a)	Operated an OHV without adequate brakes	40.00	Non-Moving Violation 10.00 suspended upon compliance	B	No Surcharge	
41-22-10.7(b)	Operated an OHV without headlights or taillights between sunset and sunrise	40.00	Non-Moving Violation 10.00 suspended upon compliance	B	No Surcharge	
41-22-10.7(c)	Operated an OHV without a muffler or noise control device	40.00	Non-Moving Violation 10.00 suspended upon compliance	B	No Surcharge	
41-22-10.7(d)	Operated an OHV without a safety flag when operating	40.00	Non-Moving Violation 10.00 suspended	B	No Surcharge	
41-22-10.8(1)	on sand dunes In a competitive event or under 18 and operated an OHV without a helmet (infraction max \$50)	40.00	upon compliance Non-Moving Violation	I	No Surcharge	
41-22-10.9	8 to 15 years of age and operated an OHV on public land without OHV education certificate (infraction)	40.00	Non-Moving Violation 10.00 suspended upon compliance	I	No Surcharge	
41-22-11	Placed an OHV regulatory sign without authorization	185.00	Mandatory Court Appearance	B	85%	

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41-22-12.1	Operated a wheeled vehicle in excess of 700 pounds on a maintained snowmobile trail	75.00		B	85%	
41-22-12.5 (1a)	Operated an OHV on private land without permission from the owner	100.00		B	85%	
41-22-12.5 (1c)	Obstructed access to private land without owner's permission	40.00	Non-Moving Violation	B	No Surcharge	
41-22-12.5(2)	Removed, destroyed, or damaged: an OHV regulatory sign, fence, or gate	185.00	Mandatory Court Appearance	B	85%	
41-22-13	Operated an OHV in connection with acts of vandalism, harassment of wildlife etc.	280.00	Mandatory Court Appearance	B	85%	
41-22-14	Operated an OHV under the influence of alcohol and/or drugs (also see Section 41-6-44)	1,500.00	Mandatory Court Appearance	B	85%	
41-22-15	Held an organized OHV event without proper authorization	280.00	Mandatory Court Appearance	B	85%	
41-22-29(1)	Under 8 years of age and operated an OHV on public land (infraction)	40.00	Non-Moving Violation	I	No Surcharge	
R651-401-2	Failure to display or to properly display the base decal	40.00	Non-Moving Violation Dismissed upon compliance	B	No Surcharge	
R651-401-3	Failure to display or to properly display registration validation stickers	40.00	Non-Moving Violation Dismissed upon compliance	B	No Surcharge	
R651-403-1 (4)	Improper use or display of a dealer registration	60.00	Non-Moving Violation	B	No Surcharge	

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R 651-405-2	Failure to display or to properly display the OHV implement of husbandry sticker	40.00	Non-Moving Violation Dismissed upon compliance	B	No Surcharge	
<u>PARKS AND RECREATION VIOLATIONS</u>						
R651-602-1	Landing or taking off of aircraft within a state park	280.00	Mandatory Court Appearance	B	85%	
R651-602-2	Air delivery or pickup of person or thing within a state park	280.00	Mandatory Court Appearance	B	85%	
R651-602-3	Launching or landing of gliders or other devices within a state park	280.00	Mandatory Court Appearance	B	85%	
R651-603-1	Pet not on leash or confined	74.00		B	85%	
R651-603-2	Animals prohibited from public buildings, etc.	74.00		B	85%	
R651-603-3	Leaving animal unattended	74.00		B	85%	
R651-603-4	Vicious, dangerous, or noisy animal	185.00		B	85%	
R651-603-5	Hunting wildlife within a park closed to hunting	555.00	Mandatory Court Appearance	B	85%	
R651-603-6	Hunting within one mile of park facilities	555.00	Mandatory Court Appearance	B	85%	
R651-603-7	Trapping without a permit	555.00	Mandatory Court Appearance	B	85%	
R651-603-9	Harassing wildlife	280.00	Mandatory Court Appearance	B	85%	
R651-603-10	Livestock grazing without permit	280.00	Mandatory Court Appearance	B	85%	
R651-603-11	Tying an animal that caused damage or blocked access	74.00		B	85%	

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R651-603-12	Horses on developed trails closed to horses	111.00		B	85%	
R651-603-13	Livestock in a developed area	111.00		B	85%	
R651-604-1	Audio-producing device too noisy	138.75		B	85%	
R651-604-2	Use of a public address system without permission	138.75		B	85%	
R651-605-1	Begging prohibited	74.00		B	85%	
R651-605-2	Soliciting prohibited	74.00		B	85%	
R651-606-1	Camping in undeveloped areas	74.00		B	85%	
R651-606-2	Occupying a reserved campsite	74.00		B	85%	
R651-606-3	Campsites having more than two vehicles and eight persons	74.00		B	85%	
R651-606-4	Failure to pay camping fees	74.00		B	85%	
R651-606-5	Exceeded length of stay in campground	74.00		B	85%	
R651-606-6	Unauthorized use of showers	74.00		B	85%	
R651-606-7	Parking or camping in closed area	74.00		B	85%	
R651-606-8	Exceeded the 2:00 p.m. checkout time	74.00		B	85%	
R651-606-9	Littering in campsite	280.00	Mandatory Court Appearance	B	85%	
R651-606-10	Quiet Hours violation	138.75		B	85%	
R651-608-1	Illegal public assembly	280.00	Mandatory Court Appearance	B	85%	
R651-608-2	Illegal event	280.00	Mandatory Court Appearance	B	85%	

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R651-609	Possession of fireworks	74.00		B	85%	
R651-611-1	Failure to pay park fee	74.00		B	85%	
R651-611-3	Transferring fee receipts	74.00		B	85%	
R651-612	Possession or use of firearms	185.00	Mandatory Court Appearance	B	85%	
R651-613-1	Lighting or maintaining a fire in prohibited area	111.00		B	85%	
R651-613-2	Unattended fire	111.00		B	85%	
R651-613-3	Throwing/dropping burning material	111.00		B	85%	
R651-613-4	Smoking or lighting fires during a restricted period	280.00	Mandatory Court Appearance	B	85%	
R651-614-1	Fishing from or within 100 feet of public floats or docks	74.00		B	85%	
R651-614-2	Ice fishing when prohibited	111.00		B	85%	
R651-615-1	Blocking traffic prohibited	74.00		B	85%	
R651-615-2	Parking in undesignated area	74.00		B	85%	
R651-615-4	Vehicle operation in closed area	185.00		B	85%	
R651-615-5	Off-highway operation in an undesignated area	185.00		B	85%	
R651-616	Organized sports in an undesignated area	74.00		B	85%	
R651-618-1	Picnicking in an undesignated area	74.00		B	85%	
R651-619-2	Possession of alcohol in excess of one gallon	111.00		B	85%	
R651-619-3	Possession of alcohol in an undesignated area	74.00		B	85%	

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R651-620-1	Vandalism	370.00	Mandatory Court Appearance	B	85%	
R651-620-2	Vandalism of public building	370.00	Mandatory Court Appearance	B	85%	
R651-620-3	Plant and soil removal	74.00		B	85%	
R651-620-4	Rolling of rocks into valleys	111.00		B	85%	
R651-620-5	Cutting of firewood	74.00		B	85%	
R651-622	Technical rock climbing prohibited	111.00		B	85%	
R651-623	Posting of printing matter prohibited	74.00		B	85%	
R651-624-1	Illegal disposing of garbage	280.00	Mandatory Court Appearance	B	85%	
R651-624-2	Draining refuse improperly	280.00	Mandatory Court Appearance	B	85%	
R651-624-3	Cleaning food or washing at a campground hydrant	111.00		B	85%	
R651-624-4	Illegal depositing of body waste	280.00	Mandatory Court Appearance	B	85%	
R651-624-5	Fish cleaning at hydrants	111.00		B	85%	
R651-624-6	Urinating or defecating prohibited unless in toilet facility	138.75		B	85%	
R651-626	Roller skating or skateboarding in an undesignated area	74.00		B	85%	
R651-627	Swimming in an undesignated area	111.00		B	85%	
R651-628-1	Riding bicycles or other vehicles in an undesignated area	111.00		B	85%	

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R651-628-2	Blocking normal use of a trail is prohibited	111.00		B	85%	
R651-630	Unsupervised children under 12	74.00		B	85%	
R651-631	Winter sports in an undesignated area	111.00		B	85%	

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CHAPTER V

DIVISION OF STATE LANDS AND FORESTRY

<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL ***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DRIV LIC</u>
65a-3-1(1ai)	Without written authorization: removes, extracts, uses, consumes or destroys any mineral resource, gravel, sand, soil, vegetation, cultural resource or improvement on State lands	460.00	Mandatory Court Appearance	B	85%	
65A-3-1(1aii)	Without written authorization: grazes livestock on State land	460.00	Mandatory Court Appearance	B	85%	
65A-3-1(1aiii)	Without written authorization: uses, occupies, or constructs improvements or structures on State lands	460.00	Mandatory Court Appearance	B	85%	
65A-3-1(1aiv)	Uses or occupies State lands for more than 30 days after the cancellation or expiration of written authorization	460.00	Mandatory Court Appearance	B	85%	
65A-3-1(1av)	Without written authorization: knowingly and willfully uses state lands for commercial gain	925.00	Mandatory Court Appearance	B	85%	
65A-3-2(1a)	Throws or places a glowing or flaming substance which may cause a fire on a highway or wildland	925.00	Mandatory Court Appearance	B	85%	
65A-3-2(1b)	Obstructs the state forester or any of his deputies, in performance of controlling	925.00	Mandatory Court Appearance	B	85%	
65A-3-2(1c)	Refuses to assist in the controlling of a fire, without good and sufficient reason	925.00	Mandatory Court Appearance	B	85%	
65A-3-2(1c)	Fires any tracer or incendiary ammunition except within military reservations	925.00	Mandatory Court Appearance	B	85%	

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65A-8-9(2)	Burning without a permit during closed fire season (June 1 - October 31)	925.00	Mandatory Court Appearance	B	85%	
65A-8-10	Violation of fire closure or hazardous area closure order or proclamation	460.00	Mandatory Court Appearance	B	85%	
R632-110	Operating off highway vehicles in areas not designated as open on State lands	150.00				
R632-70-21	Operating motor vehicles on Sovereign lands	150.00				
	Camped in undesignated area on Sovereign lands	150.00				

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\*\*\*NOTE: ALL BAIL AMOUNTS NOW INCLUDE SURCHARGE EXCEPT WHERE "NO SURCHARGE" IS INDICATED.

CHAPTER VI

COMMON MOTOR CARRIER VIOLATIONS  
REGULATIONS PURSUANT TO 54-6-18 AND 63-49-8(5) (c) U.C.A.

<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DRIV LIC</u>	<u>FTA/FTC</u>	<u>ACD CODE</u>
4-24-17	Transporting livestock without proof of ownership	50.00	Non-Moving Violation	B	No Surcharge	N	N	
27-12-145	Restrictions on use because of climatic conditions	150.00	If weight is specified, use bail for UCA 41-1a-1304	B	85%	N	N	
27-12-146	Loads on vehicles - confining, securing and fastening load							
	Non-commercial vehicles	40.00		B	85%	N	N	
	Commercial vehicle	250.00		B	85%	N	N	
27-12-149	Failure to obtain oversize permit or violation thereof	100.00	Non-Moving Violation	B	No Surcharge	N	N	
27-12-150	Towing requirements and limitations of vehicles	185.00	If weight is specified, use overload schedule.	B	85%	N	N	
27-12-151	Gross registered weight	(See chart)	Non-Moving Violation	B	No Surcharge	N	N	
27-12-153	Refusal to stop and/or submit to measurement or weighing and/or refusal to comply with officers directive	555.00	Mandatory Ct Appearance	B	85%	N	N	
27-12-154	Violation of oversize and/or overweight permits	300.00	Non-Moving Violation	B	No Surcharge	N	N	
27-17-502	Failure to Stop at POE	250.00	Non-Moving Violation Enhanceable Offense	B	No Surcharge	N	N	
59-13-320	No fuel permits	100.00	Non-Moving Violation 20.00 suspended with proof of valid permit	B	No Surcharge	N	N	
78-38-4.5	No proof of ownership of forest products	100.00	Non-Moving Violation	B	No Surcharge	N	N	

\*\*\*NOTE: ALL BAIL AMOUNTS NOW INCLUDE SURCHARGE EXCEPT WHERE "NO SURCHARGE" IS INDICATED.

<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DRIV LIC</u>	<u>FTA/FTC</u>	<u>ACD CODE</u>
Regulation # D.O.T. 172.200	No shipping papers	200.00	Non-Moving Violation		No Surcharge	N	N	
Regulation # D.O.T. 172.500	Hazardous materials without proper placards	500.00	Non-Moving Violation		No Surcharge	N	N	
Regulation # D.O.T. 173.24	Leaking hazardous materials	1,850.00	Mandatory Court Appearance					
Regulation # D.O.T. 177.824	Hazardous materials without proper test dates	500.00	Non-Moving Violation		No Surcharge	N	N	
Regulation # D.O.T. 383.21	Operating commercial vehicle with more than one license	500.00	Non-Moving Violation		No Surcharge			
Regulation # D.O.T. 390.21	No company name/USDOT number displayed	100.00	Non-Moving Violation		No Surcharge	N	N	
Regulation # D.O.T. 391.11	Unqualified driver	100.00	Non-Moving Violation		No Surcharge	Y	Y	B24
Regulation # D.O.T. 391.21	Driver not 21 Improper class	100.00	Non-Moving Violation		No Surcharge	Y	Y	B91
Regulation # D.O.T. 391.41(A)	No medical card or expired card if required	100.00	Non-Moving Violation 20.00 suspended upon compliance/proof of valid card		No Surcharge	N	N	--
Regulation # D.O.T. 392.4	Drugs	600.00	Mandatory Court Appearance			Y	Y	A33
Regulation # D.O.T. 392.5	Intoxicating beverage	600.00	Mandatory Court Appearance			N	N	--

\*\*\*NOTE: ALL BAIL AMOUNTS NOW INCLUDE SURCHARGE EXCEPT WHERE "NO SURCHARGE" IS INDICATED.

<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DRIV LIC</u>	<u>FTA/FTC</u>	<u>ACD CODE</u>
Regulation # D.O.T. 392.7(a)	Operating a CMV with radar detector	100.00	Non-Moving Violation		No Surcharge	N	N	--
Regulation # D.O.T. 392.7(b)	Requiring or permitting driver to use radar detector	100.00	Non-Moving Violation		No Surcharge	N	N	--
Regulation # D.O.T. 392.11	Failure to stop at railroad crossing	200.00	Mandatory Court Appearance		No Surcharge	N	N	--
Regulation # D.O.T. 392.60	Carrying unauthorized person	60.00	Non-Moving Violation		No Surcharge	N	N	--
Regulation # D.O.T. 392.61	Unauthorized driver	100.00	Non-Moving Violation		No Surcharge	Y	Y	B51
Regulation # D.O.T. 393.102	Load not properly secured	250.00	Non-Moving Violation Use UCA 27-12-146		No Surcharge	N	N	
Regulation # D.O.T. 393.106	No headache rack	100.00	Non-Moving Violation		No Surcharge	N	N	
Regulation # D.O.T. 395.8(K-3)	Previous 7 days not in drivers possession (log book)	200.00	Non-Moving Violation Shut Down 8 Hours		No Surcharge	N	N	
Regulation # D.O.T. 395.8 (A)	Falsification of log book	500.00	Non-Moving Violation Shut Down 8 Hours		No Surcharge	N	N	
Regulation # D.O.T. 395.8 (B)	Log book entries not current less than 70 hours	100.00	Non-Moving Violation Shut Down 8 Hours		No Surcharge	N	N	
	Log book entries not current More than 70 hours	200.00	Non-Moving Violation Shut Down 8 Hours		No Surcharge	N	N	
Regulation # D.O.T. 395.13 (B-2)	No log book in driver's possession when required	300.00	Non-Moving Violation Shut Down 8 Hours		No Surcharge	N	N	

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<u>STATUTE</u>	<u>DESCRIPTION</u>	<u>BAIL ***</u>	<u>COMMENTS</u>	<u>CLASS</u>	<u>SURCHARGE</u>	<u>RPT TO DRIV LIC</u>	<u>FTA/FTC</u>
Regulation # D.O.T. 396.3(A)	Faulty equipment	100.00	Non-Moving Violation use UCA 54-6-46		No Surcharge	N	N
Regulation # D.O.T. 397.9(B)	No written route plan	150.00	Non-Moving Violation For Class A/B Explosives		No Surcharge	N	N
Regulation # D.O.T. 397.19	No written route plans (Class A & B explosives)	150.00	Non-Moving Violation		No Surcharge	N	N
Regulation # D.O.T. 400.2A6	Trailer positioning	60.00	Non-Moving Violation		No Surcharge	N	N
Users Manual 500.4(5) 600.10	No/improper escort vehicle	100.00	Non-Moving Violation Use 500.4(5) for all violations except mobile/ modular homes use 600.10		No Surcharge	N	N
<u>PSC RULES</u>							
R746-350	No lease papers or placards on leased vehicles	100.00	Non-Moving Violation		No Surcharge	N	N
R746-350-5	No form D stamp	100.00	Non-Moving Violation 20.00 suspended upon proof of valid stamp		No Surcharge	N	N

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Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross
2000	50.00	50.00	2700	158.00	185.00	3400	186.00	220.00	4100	214.00	255.00
2020	131.00	151.00	2720	159.00	186.00	3420	187.00	221.00	4120	215.00	256.00
2040	132.00	152.00	2740	160.00	187.00	3440	188.00	222.00	4140	216.00	257.00
2060	132.00	153.00	2760	160.00	188.00	3460	188.00	223.00	4160	216.00	258.00
2080	133.00	154.00	2780	161.00	189.00	3480	189.00	224.00	4180	217.00	259.00
2100	134.00	155.00	2800	162.00	190.00	3500	190.00	225.00	4200	218.00	260.00
2120	135.00	156.00	2820	163.00	191.00	3520	191.00	226.00	4220	219.00	261.00
2140	136.00	157.00	2840	164.00	192.00	3540	192.00	227.00	4240	220.00	262.00
2160	136.00	158.00	2860	164.00	193.00	3560	192.00	228.00	4260	220.00	263.00
2180	137.00	159.00	2880	165.00	194.00	3580	193.00	229.00	4280	221.00	264.00
2200	138.00	160.00	2900	166.00	195.00	3600	194.00	230.00	4300	222.00	265.00
2220	139.00	161.00	2920	167.00	196.00	3620	195.00	231.00	4320	223.00	266.00
2240	140.00	162.00	2940	168.00	197.00	3640	196.00	232.00	4340	224.00	267.00
2260	140.00	163.00	2960	168.00	198.00	3660	196.00	233.00	4360	224.00	268.00
2280	141.00	164.00	2980	169.00	199.00	3680	197.00	234.00	4380	225.00	269.00
2300	142.00	165.00	3000	170.00	200.00	3700	198.00	235.00	4400	226.00	270.00
2320	143.00	166.00	3020	171.00	201.00	3720	199.00	236.00	4420	227.00	271.00
2340	144.00	167.00	3040	172.00	202.00	3740	200.00	237.00	4440	228.00	272.00
2360	144.00	168.00	3060	172.00	203.00	3760	200.00	238.00	4460	228.00	273.00
2380	145.00	169.00	3080	173.00	204.00	3780	201.00	239.00	4480	229.00	274.00
2400	146.00	170.00	3100	174.00	205.00	3800	202.00	240.00	4500	230.00	275.00
2420	147.00	171.00	3120	175.00	206.00	3820	203.00	241.00	4520	231.00	276.00
2440	148.00	172.00	3140	176.00	207.00	3840	204.00	242.00	4540	232.00	277.00
2460	148.00	173.00	3160	176.00	208.00	3860	204.00	243.00	4560	232.00	278.00
2480	149.00	174.00	3180	177.00	209.00	3880	205.00	244.00	4580	233.00	279.00
2500	150.00	175.00	3200	178.00	210.00	3900	206.00	245.00	4600	234.00	280.00
2520	151.00	176.00	3220	179.00	211.00	3920	207.00	246.00	4620	235.00	281.00
2540	152.00	177.00	3240	180.00	212.00	3940	208.00	247.00	4640	236.00	282.00
2560	152.00	178.00	3260	180.00	213.00	3960	208.00	248.00	4660	236.00	283.00
2580	153.00	179.00	3280	181.00	214.00	3980	209.00	249.00	4680	237.00	284.00
2600	154.00	180.00	3300	182.00	215.00	4000	210.00	250.00	4700	238.00	285.00
2620	155.00	181.00	3320	183.00	216.00	4020	211.00	251.00	4720	239.00	286.00
2640	156.00	182.00	3340	184.00	217.00	4040	212.00	252.00	4740	240.00	287.00
2660	156.00	183.00	3360	184.00	218.00	4060	212.00	253.00	4760	240.00	288.00
2680	157.00	184.00	3380	185.00	219.00	4080	213.00	254.00	4780	241.00	289.00



Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross
4800	242.00	290.00	5500	325.00	325.00	6200	360.00	360.00	6900	395.00	395.00
4820	243.00	291.00	5520	326.00	326.00	6220	361.00	361.00	6920	396.00	396.00
4840	244.00	292.00	5540	327.00	327.00	6240	362.00	362.00	6940	397.00	397.00
4860	244.00	293.00	5560	328.00	328.00	6260	363.00	363.00	6960	398.00	398.00
4880	245.00	294.00	5580	329.00	329.00	6280	364.00	364.00	6980	399.00	399.00
4900	246.00	295.00	5600	330.00	330.00	6300	365.00	365.00	7000	400.00	400.00
4920	247.00	296.00	5620	331.00	331.00	6320	366.00	366.00	7020	401.00	401.00
4940	248.00	297.00	5640	332.00	332.00	6340	367.00	367.00	7040	402.00	402.00
4960	248.00	298.00	5660	333.00	333.00	6360	368.00	368.00	7060	403.00	403.00
4980	249.00	299.00	5680	334.00	334.00	6380	369.00	369.00	7080	404.00	404.00
5000	250.00	300.00	5700	335.00	335.00	6400	370.00	370.00	7100	405.00	405.00
5020	301.00	301.00	5720	336.00	336.00	6420	371.00	371.00	7120	406.00	406.00
5040	302.00	302.00	5740	337.00	337.00	6440	372.00	372.00	7140	407.00	407.00
5060	303.00	303.00	5760	338.00	338.00	6460	373.00	373.00	7160	408.00	408.00
5080	304.00	304.00	5780	339.00	339.00	6480	374.00	374.00	7180	409.00	409.00
5100	305.00	305.00	5800	340.00	340.00	6500	375.00	375.00	7200	410.00	410.00
5120	306.00	306.00	5820	341.00	341.00	6520	376.00	376.00	7220	411.00	411.00
5140	307.00	307.00	5840	342.00	342.00	6540	377.00	377.00	7240	412.00	412.00
5160	308.00	308.00	5860	343.00	343.00	6560	378.00	378.00	7260	413.00	413.00
5180	309.00	309.00	5880	344.00	344.00	6580	379.00	379.00	7280	414.00	414.00
5200	310.00	310.00	5900	345.00	345.00	6600	380.00	380.00	7300	415.00	415.00
5220	311.00	311.00	5920	346.00	346.00	6620	381.00	381.00	7320	416.00	416.00
5240	312.00	312.00	5940	347.00	347.00	6640	382.00	382.00	7340	417.00	417.00
5260	313.00	313.00	5960	348.00	348.00	6660	383.00	383.00	7360	418.00	418.00
5280	314.00	314.00	5980	349.00	349.00	6680	384.00	384.00	7380	419.00	419.00
5300	315.00	315.00	6000	350.00	350.00	6700	385.00	385.00	7400	420.00	420.00
5320	316.00	316.00	6020	351.00	351.00	6720	386.00	386.00	7420	421.00	421.00
5340	317.00	317.00	6040	352.00	352.00	6740	387.00	387.00	7440	422.00	422.00
5360	318.00	318.00	6060	353.00	353.00	6760	388.00	388.00	7460	423.00	423.00
5380	319.00	319.00	6080	354.00	354.00	6780	389.00	389.00	7480	424.00	424.00
5400	320.00	320.00	6100	355.00	355.00	6800	390.00	390.00	7500	425.00	425.00
5420	321.00	321.00	6120	356.00	356.00	6820	391.00	391.00	7520	426.00	426.00
5440	322.00	322.00	6140	357.00	357.00	6840	392.00	392.00	7540	427.00	427.00
5460	323.00	323.00	6160	358.00	358.00	6860	393.00	393.00	7560	428.00	428.00
5480	324.00	324.00	6180	359.00	359.00	6880	394.00	394.00	7580	429.00	429.00

Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross
7600	430.00	430.00	8300	548.00	465.00	9000	590.00	500.00	9700	632.00	535.00
7620	431.00	431.00	8320	549.00	466.00	9020	591.00	501.00	9720	633.00	536.00
7640	432.00	432.00	8340	550.00	467.00	9040	592.00	502.00	9740	634.00	537.00
7660	433.00	433.00	8360	552.00	468.00	9060	594.00	503.00	9760	636.00	538.00
7680	434.00	434.00	8380	553.00	469.00	9080	595.00	504.00	9780	637.00	539.00
7700	435.00	435.00	8400	554.00	470.00	9100	596.00	505.00	9800	638.00	540.00
7720	436.00	436.00	8420	555.00	471.00	9120	597.00	506.00	9820	639.00	541.00
7740	437.00	437.00	8440	556.00	472.00	9140	598.00	507.00	9840	640.00	542.00
7760	438.00	438.00	8460	558.00	473.00	9160	600.00	508.00	9860	642.00	543.00
7780	439.00	439.00	8480	559.00	474.00	9180	601.00	509.00	9880	643.00	544.00
7800	440.00	440.00	8500	560.00	475.00	9200	602.00	510.00	9900	644.00	545.00
7820	441.00	441.00	8520	561.00	476.00	9220	603.00	511.00	9920	645.00	546.00
7840	442.00	442.00	8540	562.00	477.00	9240	604.00	512.00	9940	646.00	547.00
7860	443.00	443.00	8560	564.00	478.00	9260	606.00	513.00	9960	648.00	548.00
7880	444.00	444.00	8580	565.00	479.00	9280	607.00	514.00	9980	649.00	549.00
7900	445.00	445.00	8600	566.00	480.00	9300	608.00	515.00	10000	650.00	550.00
7920	446.00	446.00	8620	567.00	481.00	9320	609.00	516.00	10020	651.00	551.00
7940	447.00	447.00	8640	568.00	482.00	9340	610.00	517.00	10040	652.00	552.00
7960	448.00	448.00	8660	570.00	483.00	9360	612.00	518.00	10060	654.00	553.00
7980	449.00	449.00	8680	571.00	484.00	9380	613.00	519.00	10080	655.00	554.00
8000	450.00	450.00	8700	572.00	485.00	9400	614.00	520.00	10100	656.00	555.00
8020	531.00	451.00	8720	573.00	486.00	9420	615.00	521.00	10120	657.00	556.00
8040	532.00	452.00	8740	574.00	487.00	9440	616.00	522.00	10140	658.00	557.00
8060	534.00	453.00	8760	576.00	488.00	9460	618.00	523.00	10160	660.00	558.00
8080	535.00	454.00	8780	577.00	489.00	9480	619.00	524.00	10180	661.00	559.00
8100	536.00	455.00	8800	578.00	490.00	9500	620.00	525.00	10200	662.00	560.00
8120	537.00	456.00	8820	579.00	491.00	9520	621.00	526.00	10220	663.00	561.00
8140	538.00	457.00	8840	580.00	492.00	9540	622.00	527.00	10240	664.00	562.00
8160	540.00	458.00	8860	582.00	493.00	9560	624.00	528.00	10260	666.00	563.00
8180	541.00	459.00	8880	583.00	494.00	9580	625.00	529.00	10280	667.00	564.00
8200	542.00	460.00	8900	584.00	495.00	9600	626.00	530.00	10300	668.00	565.00
8220	543.00	461.00	8920	585.00	496.00	9620	627.00	531.00	10320	669.00	566.00
8240	544.00	462.00	8940	586.00	497.00	9640	628.00	532.00	10340	670.00	567.00
8260	546.00	463.00	8960	588.00	498.00	9660	630.00	533.00	10360	672.00	568.00
8280	547.00	464.00	8980	589.00	499.00	9680	631.00	534.00	10380	673.00	569.00

Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross
10400	674.00	570.00	11100	716.00	605.00	11800	758.00	640.00	12500	925.00	675.00
10420	675.00	571.00	11120	717.00	606.00	11820	759.00	641.00	12520	926.00	676.00
10440	676.00	572.00	11140	718.00	607.00	11840	760.00	642.00	12540	928.00	677.00
10460	678.00	573.00	11160	720.00	608.00	11860	762.00	643.00	12560	929.00	678.00
10480	679.00	574.00	11180	721.00	609.00	11880	763.00	644.00	12580	931.00	679.00
10500	680.00	575.00	11200	722.00	610.00	11900	764.00	645.00	12600	932.00	680.00
10520	681.00	576.00	11220	723.00	611.00	11920	765.00	646.00	12620	933.00	681.00
10540	682.00	577.00	11240	724.00	612.00	11940	766.00	647.00	12640	935.00	682.00
10560	684.00	578.00	11260	726.00	613.00	11960	768.00	648.00	12660	936.00	683.00
10580	685.00	579.00	11280	727.00	614.00	11980	769.00	649.00	12680	938.00	684.00
10600	686.00	580.00	11300	728.00	615.00	12000	770.00	650.00	12700	939.00	685.00
10620	687.00	581.00	11320	729.00	616.00	12020	891.00	651.00	12720	940.00	686.00
10640	688.00	582.00	11340	730.00	617.00	12040	893.00	652.00	12740	942.00	687.00
10660	690.00	583.00	11360	732.00	618.00	12060	894.00	653.00	12760	943.00	688.00
10680	691.00	584.00	11380	733.00	619.00	12080	896.00	654.00	12780	945.00	689.00
10700	692.00	585.00	11400	734.00	620.00	12100	897.00	655.00	12800	946.00	690.00
10720	693.00	586.00	11420	735.00	621.00	12120	898.00	656.00	12820	947.00	691.00
10740	694.00	587.00	11440	736.00	622.00	12140	900.00	657.00	12840	949.00	692.00
10760	696.00	588.00	11460	738.00	623.00	12160	901.00	658.00	12860	950.00	693.00
10780	697.00	589.00	11480	739.00	624.00	12180	903.00	659.00	12880	952.00	694.00
10800	698.00	590.00	11500	740.00	625.00	12200	904.00	660.00	12900	953.00	695.00
10820	699.00	591.00	11520	741.00	626.00	12220	905.00	661.00	12920	954.00	696.00
10840	700.00	592.00	11540	742.00	627.00	12240	907.00	662.00	12940	956.00	697.00
10860	702.00	593.00	11560	744.00	628.00	12260	908.00	663.00	12960	957.00	698.00
10880	703.00	594.00	11580	745.00	629.00	12280	910.00	664.00	12980	959.00	699.00
10900	704.00	595.00	11600	746.00	630.00	12300	911.00	665.00	13000	960.00	700.00
10920	705.00	596.00	11620	747.00	631.00	12320	912.00	666.00	13020	961.00	701.00
10940	706.00	597.00	11640	748.00	632.00	12340	914.00	667.00	13040	963.00	702.00
10960	708.00	598.00	11660	750.00	633.00	12360	915.00	668.00	13060	964.00	703.00
10980	709.00	599.00	11680	751.00	634.00	12380	917.00	669.00	13080	966.00	704.00
11000	710.00	600.00	11700	752.00	635.00	12400	918.00	670.00	13100	967.00	705.00
11020	711.00	601.00	11720	753.00	636.00	12420	919.00	671.00	13120	968.00	706.00
11040	712.00	602.00	11740	754.00	637.00	12440	921.00	672.00	13140	970.00	707.00
11060	714.00	603.00	11760	756.00	638.00	12460	922.00	673.00	13160	971.00	708.00
11080	715.00	604.00	11780	757.00	639.00	12480	924.00	674.00	13180	973.00	709.00

Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross
13200	974.00	710.00	13900	1023.00	745.00	14600	1072.00	780.00	15300	1121.00	815.00
13220	975.00	711.00	13920	1024.00	746.00	14620	1073.00	781.00	15320	1122.00	816.00
13240	977.00	712.00	13940	1026.00	747.00	14640	1075.00	782.00	15340	1124.00	817.00
13260	978.00	713.00	13960	1027.00	748.00	14660	1076.00	783.00	15360	1125.00	818.00
13280	980.00	714.00	13980	1029.00	749.00	14680	1078.00	784.00	15380	1127.00	819.00
13300	981.00	715.00	14000	1030.00	750.00	14700	1079.00	785.00	15400	1128.00	820.00
13320	982.00	716.00	14020	1031.00	751.00	14720	1080.00	786.00	15420	1129.00	821.00
13340	984.00	717.00	14040	1033.00	752.00	14740	1082.00	787.00	15440	1131.00	822.00
13360	985.00	718.00	14060	1034.00	753.00	14760	1083.00	788.00	15460	1132.00	823.00
13380	987.00	719.00	14080	1036.00	754.00	14780	1085.00	789.00	15480	1134.00	824.00
13400	988.00	720.00	14100	1037.00	755.00	14800	1086.00	790.00	15500	1135.00	825.00
13420	989.00	721.00	14120	1038.00	756.00	14820	1087.00	791.00	15520	1136.00	826.00
13440	991.00	722.00	14140	1040.00	757.00	14840	1089.00	792.00	15540	1138.00	827.00
13460	992.00	723.00	14160	1041.00	758.00	14860	1090.00	793.00	15560	1139.00	828.00
13480	994.00	724.00	14180	1043.00	759.00	14880	1092.00	794.00	15580	1141.00	829.00
13500	995.00	725.00	14200	1044.00	760.00	14900	1093.00	795.00	15600	1142.00	830.00
13520	996.00	726.00	14220	1045.00	761.00	14920	1094.00	796.00	15620	1143.00	831.00
13540	998.00	727.00	14240	1047.00	762.00	14940	1096.00	797.00	15640	1145.00	832.00
13560	999.00	728.00	14260	1048.00	763.00	14960	1097.00	798.00	15660	1146.00	833.00
13580	1001.00	729.00	14280	1050.00	764.00	14980	1099.00	799.00	15680	1148.00	834.00
13600	1002.00	730.00	14300	1051.00	765.00	15000	1100.00	800.00	15700	1149.00	835.00
13620	1003.00	731.00	14320	1052.00	766.00	15020	1101.00	801.00	15720	1150.00	836.00
13640	1005.00	732.00	14340	1054.00	767.00	15040	1103.00	802.00	15740	1152.00	837.00
13660	1006.00	733.00	14360	1055.00	768.00	15060	1104.00	803.00	15760	1153.00	838.00
13680	1008.00	734.00	14380	1057.00	769.00	15080	1106.00	804.00	15780	1155.00	839.00
13700	1009.00	735.00	14400	1058.00	770.00	15100	1107.00	805.00	15800	1156.00	840.00
13720	1010.00	736.00	14420	1059.00	771.00	15120	1108.00	806.00	15820	1157.00	841.00
13740	1012.00	737.00	14440	1061.00	772.00	15140	1110.00	807.00	15840	1159.00	842.00
13760	1013.00	738.00	14460	1062.00	773.00	15160	1111.00	808.00	15860	1160.00	843.00
13780	1015.00	739.00	14480	1064.00	774.00	15180	1113.00	809.00	15880	1162.00	844.00
13800	1016.00	740.00	14500	1065.00	775.00	15200	1114.00	810.00	15900	1163.00	845.00
13820	1017.00	741.00	14520	1066.00	776.00	15220	1115.00	811.00	15920	1164.00	846.00
13840	1019.00	742.00	14540	1068.00	777.00	15240	1117.00	812.00	15940	1166.00	847.00
13860	1020.00	743.00	14560	1069.00	778.00	15260	1118.00	813.00	15960	1167.00	848.00
13880	1022.00	744.00	14580	1071.00	779.00	15280	1120.00	814.00	15980	1169.00	849.00

Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross
16000	1170.00	850.00	16700	1553.00	885.00	17400	1616.00	920.00	18100	1679.00	955.00
16020	1492.00	851.00	16720	1555.00	886.00	17420	1618.00	921.00	18120	1681.00	956.00
16040	1494.00	852.00	16740	1557.00	887.00	17440	1620.00	922.00	18140	1683.00	957.00
16060	1495.00	853.00	16760	1558.00	888.00	17460	1621.00	923.00	18160	1684.00	958.00
16080	1497.00	854.00	16780	1560.00	889.00	17480	1623.00	924.00	18180	1686.00	959.00
16100	1499.00	855.00	16800	1562.00	890.00	17500	1625.00	925.00	18200	1688.00	960.00
16120	1501.00	856.00	16820	1564.00	891.00	17520	1627.00	926.00	18220	1690.00	961.00
16140	1503.00	857.00	16840	1566.00	892.00	17540	1629.00	927.00	18240	1692.00	962.00
16160	1504.00	858.00	16860	1567.00	893.00	17560	1630.00	928.00	18260	1693.00	963.00
16180	1506.00	859.00	16880	1569.00	894.00	17580	1632.00	929.00	18280	1695.00	964.00
16200	1508.00	860.00	16900	1571.00	895.00	17600	1634.00	930.00	18300	1697.00	965.00
16220	1510.00	861.00	16920	1573.00	896.00	17620	1636.00	931.00	18320	1699.00	966.00
16240	1512.00	862.00	16940	1575.00	897.00	17640	1638.00	932.00	18340	1701.00	967.00
16260	1513.00	863.00	16960	1576.00	898.00	17660	1639.00	933.00	18360	1702.00	968.00
16280	1515.00	864.00	16980	1578.00	899.00	17680	1641.00	934.00	18380	1704.00	969.00
16300	1517.00	865.00	17000	1580.00	900.00	17700	1643.00	935.00	18400	1706.00	970.00
16320	1519.00	866.00	17020	1582.00	901.00	17720	1645.00	936.00	18420	1708.00	971.00
16340	1521.00	867.00	17040	1584.00	902.00	17740	1647.00	937.00	18440	1710.00	972.00
16360	1522.00	868.00	17060	1585.00	903.00	17760	1648.00	938.00	18460	1711.00	973.00
16380	1524.00	869.00	17080	1587.00	904.00	17780	1650.00	939.00	18480	1713.00	974.00
16400	1526.00	870.00	17100	1589.00	905.00	17800	1652.00	940.00	18500	1715.00	975.00
16420	1528.00	871.00	17120	1591.00	906.00	17820	1654.00	941.00	18520	1717.00	976.00
16440	1530.00	872.00	17140	1593.00	907.00	17840	1656.00	942.00	18540	1719.00	977.00
16460	1531.00	873.00	17160	1594.00	908.00	17860	1657.00	943.00	18560	1720.00	978.00
16480	1533.00	874.00	17180	1596.00	909.00	17880	1659.00	944.00	18580	1722.00	979.00
16500	1535.00	875.00	17200	1598.00	910.00	17900	1661.00	945.00	18600	1724.00	980.00
16520	1537.00	876.00	17220	1600.00	911.00	17920	1663.00	946.00	18620	1726.00	981.00
16540	1539.00	877.00	17240	1602.00	912.00	17940	1665.00	947.00	18640	1728.00	982.00
16560	1540.00	878.00	17260	1603.00	913.00	17960	1666.00	948.00	18660	1729.00	983.00
16580	1542.00	879.00	17280	1605.00	914.00	17980	1668.00	949.00	18680	1731.00	984.00
16600	1544.00	880.00	17300	1607.00	915.00	18000	1670.00	950.00	18700	1733.00	985.00
16620	1546.00	881.00	17320	1609.00	916.00	18020	1672.00	951.00	18720	1735.00	986.00
16640	1548.00	882.00	17340	1611.00	917.00	18040	1674.00	952.00	18740	1737.00	987.00
16660	1549.00	883.00	17360	1612.00	918.00	18060	1675.00	953.00	18760	1738.00	988.00
16680	1551.00	884.00	17380	1614.00	919.00	18080	1677.00	954.00	18780	1740.00	989.00

Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross
18800	1742.00	990.00	19500	1805.00	1025.00	20200	2272.00	1060.00	20900	2349.00	1095.00
18820	1744.00	991.00	19520	1807.00	1026.00	20220	2274.00	1061.00	20920	2351.00	1096.00
18840	1746.00	992.00	19540	1809.00	1027.00	20240	2276.00	1062.00	20940	2353.00	1097.00
18860	1747.00	993.00	19560	1810.00	1028.00	20260	2279.00	1063.00	20960	2356.00	1098.00
18880	1749.00	994.00	19580	1812.00	1029.00	20280	2281.00	1064.00	20980	2358.00	1099.00
18900	1751.00	995.00	19600	1814.00	1030.00	20300	2283.00	1065.00	21000	2360.00	1100.00
18920	1753.00	996.00	19620	1816.00	1031.00	20320	2285.00	1066.00	21020	2362.00	1101.00
18940	1755.00	997.00	19640	1818.00	1032.00	20340	2287.00	1067.00	21040	2364.00	1102.00
18960	1756.00	998.00	19660	1819.00	1033.00	20360	2290.00	1068.00	21060	2367.00	1103.00
18980	1758.00	999.00	19680	1821.00	1034.00	20380	2292.00	1069.00	21080	2369.00	1104.00
19000	1760.00	1000.00	19700	1823.00	1035.00	20400	2294.00	1070.00	21100	2371.00	1105.00
19020	1762.00	1001.00	19720	1825.00	1036.00	20420	2296.00	1071.00	21120	2373.00	1106.00
19040	1764.00	1002.00	19740	1827.00	1037.00	20440	2298.00	1072.00	21140	2375.00	1107.00
19060	1765.00	1003.00	19760	1828.00	1038.00	20460	2301.00	1073.00	21160	2378.00	1108.00
19080	1767.00	1004.00	19780	1830.00	1039.00	20480	2303.00	1074.00	21180	2380.00	1109.00
19100	1769.00	1005.00	19800	1832.00	1040.00	20500	2305.00	1075.00	21200	2382.00	1110.00
19120	1771.00	1006.00	19820	1834.00	1041.00	20520	2307.00	1076.00	21220	2384.00	1111.00
19140	1773.00	1007.00	19840	1836.00	1042.00	20540	2309.00	1077.00	21240	2386.00	1112.00
19160	1774.00	1008.00	19860	1837.00	1043.00	20560	2312.00	1078.00	21260	2389.00	1113.00
19180	1776.00	1009.00	19880	1839.00	1044.00	20580	2314.00	1079.00	21280	2391.00	1114.00
19200	1778.00	1010.00	19900	1841.00	1045.00	20600	2316.00	1080.00	21300	2393.00	1115.00
19220	1780.00	1011.00	19920	1843.00	1046.00	20620	2318.00	1081.00	21320	2395.00	1116.00
19240	1782.00	1012.00	19940	1845.00	1047.00	20640	2320.00	1082.00	21340	2397.00	1117.00
19260	1783.00	1013.00	19960	1846.00	1048.00	20660	2323.00	1083.00	21360	2400.00	1118.00
19280	1785.00	1014.00	19980	1848.00	1049.00	20680	2325.00	1084.00	21380	2402.00	1119.00
19300	1787.00	1015.00	20000	1850.00	1050.00	20700	2327.00	1085.00	21400	2404.00	1120.00
19320	1789.00	1016.00	20020	2252.00	1051.00	20720	2329.00	1086.00	21420	2406.00	1121.00
19340	1791.00	1017.00	20040	2254.00	1052.00	20740	2331.00	1087.00	21440	2408.00	1122.00
19360	1792.00	1018.00	20060	2257.00	1053.00	20760	2334.00	1088.00	21460	2411.00	1123.00
19380	1794.00	1019.00	20080	2259.00	1054.00	20780	2336.00	1089.00	21480	2413.00	1124.00
19400	1796.00	1020.00	20100	2261.00	1055.00	20800	2338.00	1090.00	21500	2415.00	1125.00
19420	1798.00	1021.00	20120	2263.00	1056.00	20820	2340.00	1091.00	21520	2417.00	1126.00
19440	1800.00	1022.00	20140	2265.00	1057.00	20840	2342.00	1092.00	21540	2419.00	1127.00
19460	1801.00	1023.00	20160	2268.00	1058.00	20860	2345.00	1093.00	21560	2422.00	1128.00
19480	1803.00	1024.00	20180	2270.00	1059.00	20880	2347.00	1094.00	21580	2424.00	1129.00

Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross
Weight	Axle	Gross									
21600	2426.00	1130.00	22300	2503.00	1165.00	23000	2580.00	1200.00	23700	2657.00	1235.00
21620	2428.00	1131.00	22320	2505.00	1166.00	23020	2582.00	1201.00	23720	2659.00	1236.00
21640	2430.00	1132.00	22340	2507.00	1167.00	23040	2584.00	1202.00	23740	2661.00	1237.00
21660	2433.00	1133.00	22360	2510.00	1168.00	23060	2587.00	1203.00	23760	2664.00	1238.00
21680	2435.00	1134.00	22380	2512.00	1169.00	23080	2589.00	1204.00	23780	2666.00	1239.00
21700	2437.00	1135.00	22400	2514.00	1170.00	23100	2591.00	1205.00	23800	2668.00	1240.00
21720	2439.00	1136.00	22420	2516.00	1171.00	23120	2593.00	1206.00	23820	2670.00	1241.00
21740	2441.00	1137.00	22440	2518.00	1172.00	23140	2595.00	1207.00	23840	2672.00	1242.00
21760	2444.00	1138.00	22460	2521.00	1173.00	23160	2598.00	1208.00	23860	2675.00	1243.00
21780	2446.00	1139.00	22480	2523.00	1174.00	23180	2600.00	1209.00	23880	2677.00	1244.00
21800	2448.00	1140.00	22500	2525.00	1175.00	23200	2602.00	1210.00	23900	2679.00	1245.00
21820	2450.00	1141.00	22520	2527.00	1176.00	23220	2604.00	1211.00	23920	2681.00	1246.00
21840	2452.00	1142.00	22540	2529.00	1177.00	23240	2606.00	1212.00	23940	2683.00	1247.00
21860	2455.00	1143.00	22560	2532.00	1178.00	23260	2609.00	1213.00	23960	2686.00	1248.00
21880	2457.00	1144.00	22580	2534.00	1179.00	23280	2611.00	1214.00	23980	2688.00	1249.00
21900	2459.00	1145.00	22600	2536.00	1180.00	23300	2613.00	1215.00	24000	2690.00	1250.00
21920	2461.00	1146.00	22620	2538.00	1181.00	23320	2615.00	1216.00	24020	2692.00	1251.00
21940	2463.00	1147.00	22640	2540.00	1182.00	23340	2617.00	1217.00	24040	2694.00	1252.00
21960	2466.00	1148.00	22660	2543.00	1183.00	23360	2620.00	1218.00	24060	2697.00	1253.00
21980	2468.00	1149.00	22680	2545.00	1184.00	23380	2622.00	1219.00	24080	2699.00	1254.00
22000	2470.00	1150.00	22700	2547.00	1185.00	23400	2624.00	1220.00	24100	2701.00	1255.00
22020	2472.00	1151.00	22720	2549.00	1186.00	23420	2626.00	1221.00	24120	2703.00	1256.00
22040	2474.00	1152.00	22740	2551.00	1187.00	23440	2628.00	1222.00	24140	2705.00	1257.00
22060	2477.00	1153.00	22760	2554.00	1188.00	23460	2631.00	1223.00	24160	2708.00	1258.00
22080	2479.00	1154.00	22780	2556.00	1189.00	23480	2633.00	1224.00	24180	2710.00	1259.00
22100	2481.00	1155.00	22800	2558.00	1190.00	23500	2635.00	1225.00	24200	2712.00	1260.00
22120	2483.00	1156.00	22820	2560.00	1191.00	23520	2637.00	1226.00	24220	2714.00	1261.00
22140	2485.00	1157.00	22840	2562.00	1192.00	23540	2639.00	1227.00	24240	2716.00	1262.00
22160	2488.00	1158.00	22860	2565.00	1193.00	23560	2642.00	1228.00	24260	2719.00	1263.00
22180	2490.00	1159.00	22880	2567.00	1194.00	23580	2644.00	1229.00	24280	2721.00	1264.00
22200	2492.00	1160.00	22900	2569.00	1195.00	23600	2646.00	1230.00	24300	2723.00	1265.00
22220	2494.00	1161.00	22920	2571.00	1196.00	23620	2648.00	1231.00	24320	2725.00	1266.00
22240	2496.00	1162.00	22940	2573.00	1197.00	23640	2650.00	1232.00	24340	2727.00	1267.00
22260	2499.00	1163.00	22960	2576.00	1198.00	23660	2653.00	1233.00	24360	2730.00	1268.00
22280	2501.00	1164.00	22980	2578.00	1199.00	23680	2655.00	1234.00	24380	2732.00	1269.00

Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross	Weight	Axle	Gross
24400	2734.00	1270.00	25100	3313.00	1305.00	25800	3404.00	1340.00	26500	3495.00	1375.00
24420	2736.00	1271.00	25120	3316.00	1306.00	25820	3407.00	1341.00	26520	3498.00	1376.00
24440	2738.00	1272.00	25140	3318.00	1307.00	25840	3409.00	1342.00	26540	3500.00	1377.00
24460	2741.00	1273.00	25160	3321.00	1308.00	25860	3412.00	1343.00	26560	3503.00	1378.00
24480	2743.00	1274.00	25180	3323.00	1309.00	25880	3414.00	1344.00	26580	3505.00	1379.00
24500	2745.00	1275.00	25200	3326.00	1310.00	25900	3417.00	1345.00	26600	3508.00	1380.00
24520	2747.00	1276.00	25220	3329.00	1311.00	25920	3420.00	1346.00	26620	3511.00	1381.00
24540	2749.00	1277.00	25240	3331.00	1312.00	25940	3422.00	1347.00	26640	3513.00	1382.00
24560	2752.00	1278.00	25260	3334.00	1313.00	25960	3425.00	1348.00	26660	3516.00	1383.00
24580	2754.00	1279.00	25280	3336.00	1314.00	25980	3427.00	1349.00	26680	3518.00	1384.00
24600	2756.00	1280.00	25300	3339.00	1315.00	26000	3430.00	1350.00	26700	3521.00	1385.00
24620	2758.00	1281.00	25320	3342.00	1316.00	26020	3433.00	1351.00	26720	3524.00	1386.00
24640	2760.00	1282.00	25340	3344.00	1317.00	26040	3435.00	1352.00	26740	3526.00	1387.00
24660	2763.00	1283.00	25360	3347.00	1318.00	26060	3438.00	1353.00	26760	3529.00	1388.00
24680	2765.00	1284.00	25380	3349.00	1319.00	26080	3440.00	1354.00	26780	3531.00	1389.00
24700	2767.00	1285.00	25400	3352.00	1320.00	26100	3443.00	1355.00	26800	3534.00	1390.00
24720	2769.00	1286.00	25420	3355.00	1321.00	26120	3446.00	1356.00	26820	3537.00	1391.00
24740	2771.00	1287.00	25440	3357.00	1322.00	26140	3448.00	1357.00	26840	3539.00	1392.00
24760	2774.00	1288.00	25460	3360.00	1323.00	26160	3451.00	1358.00	26860	3542.00	1393.00
24780	2776.00	1289.00	25480	3362.00	1324.00	26180	3453.00	1359.00	26880	3544.00	1394.00
24800	2778.00	1290.00	25500	3365.00	1325.00	26200	3456.00	1360.00	26900	3547.00	1395.00
24820	2780.00	1291.00	25520	3368.00	1326.00	26220	3459.00	1361.00	26920	3550.00	1396.00
24840	2782.00	1292.00	25540	3370.00	1327.00	26240	3461.00	1362.00	26940	3552.00	1397.00
24860	2785.00	1293.00	25560	3373.00	1328.00	26260	3464.00	1363.00	26960	3555.00	1398.00
24880	2787.00	1294.00	25580	3375.00	1329.00	26280	3466.00	1364.00	26980	3557.00	1399.00
24900	2789.00	1295.00	25600	3378.00	1330.00	26300	3469.00	1365.00	27000	3560.00	1400.00
24920	2791.00	1296.00	25620	3381.00	1331.00	26320	3472.00	1366.00	27020	3563.00	1401.00
24940	2793.00	1297.00	25640	3383.00	1332.00	26340	3474.00	1367.00	27040	3565.00	1402.00
24960	2796.00	1298.00	25660	3386.00	1333.00	26360	3477.00	1368.00	27060	3568.00	1403.00
24980	2798.00	1299.00	25680	3388.00	1334.00	26380	3479.00	1369.00	27080	3570.00	1404.00
25000	2800.00	1300.00	25700	3391.00	1335.00	26400	3482.00	1370.00	27100	3573.00	1405.00
25020	3303.00	1301.00	25720	3394.00	1336.00	26420	3485.00	1371.00	27120	3576.00	1406.00
25040	3305.00	1302.00	25740	3396.00	1337.00	26440	3487.00	1372.00	27140	3578.00	1407.00
25060	3308.00	1303.00	25760	3399.00	1338.00	26460	3490.00	1373.00	27160	3581.00	1408.00
25080	3310.00	1304.00	25780	3401.00	1339.00	26480	3492.00	1374.00	27180	3583.00	1409.00



## MEMORANDUM

**To:** Utah Judicial Council  
**From:** Peggy Gentles, Staff Attorney *JK*  
**Subject:** Comments Received on Proposed Rules  
**Date:** August 5, 1997

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Please find attached comments received on the proposed amendments. A summary of the comments received and Policy and Planning Committee's recommendations follow.

### **RULE 3-201. COURT COMMISSIONERS.**

**CHANGE:** Rule 3-201(7) to have the Council look to "non-judicial officers" rather than "judges" when setting commissioners' salaries. Commissioners would receive same "sick leave benefits" as "non-judicial officers" rather than "judges".

**Comment:** The proposed changes related to sick leave benefits and salary setting are precipitous and represent a change in the terms of employment. *Commissioner Michael S. Evans, Commissioner Thomas N. Arnett, Jr., Commissioner T. Patrick Casey, Commissioner Lisa A. Jones, Third District Court.*

**Recommendation:** Upon recommendation from staff, the proposed changes to Rule 3-201(7) discussed above have been removed.

### **RULE 3-201.02. COURT COMMISSIONER CONDUCT COMMITTEE**

**CHANGE:** New rule created from portions of Rule 3-201 dealing with Court Commissioner Conduct Committee.

**Comment:** Rule should be clarified to indicate that the proceedings and records related to them are protected under GRAMA and the Open and Public Meetings Act. *Judge Gregory K. Orme, Utah Court of Appeals.*

**Recommendation:** No change. The rule provides that the Committee's meetings are closed to the public. Any Council meeting discussing a complaint would be governed by the Council's meetings rules. Under the Council's record access scheme, the personnel file of a current employee is a private administrative record.

### **RULE 4-104. REQUEST FOR TRIAL SETTING.**

exit the courtroom. *Judge Gregory K. Orme, Utah Court of Appeals.*

Recommendation: Strike "before the person is dismissed."

CHANGE: New rule allows greater use of still photographs by the media subject only to judicial approval.

Comment: Greater use of still photography should not be allowed. Giving the discretion to the judge unfairly opens the process to political pressure because the judge must stand for retention election and may worry about ridicule in the press. The presence of still photographers in the courtroom is distracting to all the trial participants. Allowing still photographers will make friends and relatives of the defendant less willing to attend proceedings. The proposed rule erodes the rights of prospective litigants to a dignified and fair process. *L. Clark Donaldson, Salt Lake City.*

Recommendation: No change.

#### **RULE 4-506. WITHDRAWAL OF COUNSEL IN CIVIL CASES**

CHANGE: Clarifies circumstances in which court approval is required for the withdrawal of counsel.

Comment: Court order should not be required when counsel is substituted. Requiring court order injects unnecessary delay in the process. The following paragraph should be added to the rule:

**(5) Substitution of counsel.** An attorney may substitute his appearance for that of an attorney currently counsel of record by filing and serving a notice of substitution of counsel. The filing of substitution of counsel enters the appearance of new counsel of record and effectuates the withdrawal of the attorney being replaced. Where there is not request for a delay in proceedings, substitution of counsel does not require the approval of the Court. Where new counsel will request a delay of proceedings, substitution of counsel shall require the approval of the Court as provided for in this rule. *Raymond Scott Berry, Green & Berry, Salt Lake City.*

**L. CLARK DONALDSON**

ATTORNEY AT LAW

321 SOUTH 600 EAST  
SALT LAKE CITY, UTAH 84102  
PHONE (801) 322-5678  
FAX (801) 322-5677

May 16, 1997

Peggy Gentles  
Staff Attorney  
Administrative Office of the Court  
230 South 500 East, Suite 300  
Salt Lake City, UT 84102

Re: Proposed amendment to Rule 4-401 of the Code of Judicial Administration

Dear Ms. Gentles:

I am writing to voice my opposition to Rule 4-401 of the Code of Judicial Administration which would amend the rules regarding media in the courtroom to allow greater use of still photographs by the media subject only to judicial approval.

I have always considered the courtroom to be an enclave where reason and impartiality were brought to bear in deciding important legal and factual issues posed in the particular situation. The courtroom should be a place where cases are decided on the merits free from general public sentiment or politics. In my opinion, the amendment to the proposed rule increases the likelihood that those accused of crimes will be subject to less objective, fair and reasoned treatment. The proposed amendment would put the decision as to whether and how to regulate still photography in the courtroom solely in the hands of the judge. Since the judges in our state stand for retention election, they have some fear, that incurring the disapproval of the press may cause them to lose their jobs or increase the chance that they will be ridiculed by the press. Consequently, solely judicial regulation of media in the courtroom is less of a safe guard than allowing individual parties to object to being photographed. It is has been my observation that in high profile cases even the use of still photographers who are particularly vigorous in taking photographs of the proceedings are distracting to parties, witnesses and jurors. Moreover, the presence of this type of media scrutiny often changes the behavior of lawyers, witnesses and other parties in that they preen and posture for the camera. This equates to a less objective fair process. Lastly, the current proposed change is apt to cause friends and supports of the defendant to be less willing to attend court proceedings because of the prominence of photographers and the possibility that they will have their pictures taken. Although I recognize and support the first amendment rights of my fellow citizens and the public's right to be informed regarding court proceedings, the change that is suggested would do little to expand the exercise of these rights. I appreciate that reporters have a challenging job when handling news stories. However, the



**UTAH STATE LEGISLATURE  
SALT LAKE CITY, UTAH**

May 15, 1997

Chief Justice Michael D. Zimmerman  
Utah Judicial Council  
230 South 500 East #300  
Salt Lake City, UT 84102

Dear Judicial Council Chair and Honorable Members:

The Judicial Rules Review Committee met yesterday to discuss proposed changes to rules in the Code of Judicial Administration. Due to the lack of a quorum, the committee makes only recommendations upon review of these rules. These recommendations were approved by unanimous consent of those present.

**Rule 4-106. Code of Judicial Administration, Electronic Conferencing (p. 30)**

The committee is concerned that this rule is too broad in permitting the judge, at the judge's discretion (and in undefined appropriate cases), to conduct "any hearing" using telephone or video conferencing. Additionally, the language in Subsection (2) is unclear addressing the procedures for presumably "legal" proceedings and requiring that they be conducted as any other hearing. Finally, the committee recommends that the Administrative Office or Judicial Council contact Judge Donald King in San Francisco, California who provided valuable information regarding telephone conferencing to the Legislative Task Force on Divorce, Child Custody, and Visitation. Perhaps he could provide insight into the drafting of your rule based upon his experience.

Thank you for your interest in the committee's comments.

Sincerely,

*Robert F. Montgomery*  
Senator Robert F. Montgomery  
Co-Chair, Judicial Rules Review

*John L. Valentine*  
Representative John L. Valentine  
Co-Chair, Judicial Rules Review

# Third District Court

May 15, 1997

Peggy Gentles  
Staff Attorney  
Administrative Office of the Court  
230 South 500 East, Suite 300  
Salt Lake City, UT 84102

**RE: Comment On Proposed Rule Change, Rule 3-201(7)(A) and (B)**

Dear Ms. Gentles:

Pursuant to your invitation, we are writing to comment on the proposed rule change as identified above.

We are adamantly opposed to the proposed change in Rule 3-201(7)(B) that purports to allow Court Commissioners the same sick leave benefits as "non-judicial officers", as opposed to the same sick leave benefits as judges of the courts of record. We are opposed to this proposed change for the following reasons:

1. Said change represents a dramatic change in the terms of employment under which all presently sitting Commissioners agreed to accept his or her initial appointment and have agreed to accept subsequent appointments. We have deemed the terms of the rules as adopted by the Judicial Council to represent an employment contract and have felt comfortable that the council would not precipitously change the terms of that contract, particularly in such a substantive way;

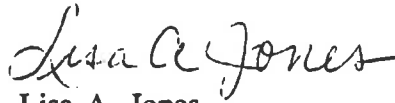
2. The proposed rule change leaves many questions unanswered, such as the status of accrued sick leave benefits, if any, for the seven presently sitting Commissioners, whose years of service range from two to thirty-two. Specifically, no provision has been made for converted sick leave, cash pay out of sick leave upon retirement, or paid-up health and life insurance at retirement;

3. No reason has been stated for the proposed rule change and any perceived fiscal advantage is speculative at best;

4. The proposed rule change makes the position much less attractive for presently sitting Commissioners and those who may consider applying for position of Commissioner;



T. Patrick Casey,  
District Court Commissioner



Lisa A. Jones,  
District Court Commissioner

cc: Judge Leslie Lewis, Presiding Judge, Third District Court  
Daniel Becker, State Court Administrator

# GREEN & BERRY

ATTORNEYS AT LAW  
622 NEWHOUSE BUILDING  
10 EXCHANGE PLACE  
SALT LAKE CITY, UTAH 84111  
TELEPHONE: (801) 363-5650  
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FREDERICK N. GREEN  
RAYMOND SCOTT BERRY

April 28, 1997

Peggy Gentles, Esq.  
Staff Attorney  
Administrative Office of the Courts  
230 South 500 East, Suite 300  
Salt Lake City, UT 84102

Re: Comment on Proposed Rules  
Rule 4-506 Withdrawal of Counsel in civil cases

Dear Ms. Gentles:

Thank you for the opportunity to review the proposed rules.

In my practice, a question has come up several times concerning the requirement of Court approval for withdrawal in the situation where one attorney substitutes his appearance for another, where new counsel is not requesting any delay in the proceedings. Commonly the attorney coming into the case enters an appearance or files a pleading called Notice of Substitution of Counsel simultaneously with the withdrawal of the counsel leaving the case. In this situation, there is no gap in representation, and no delay in court proceedings.

While this may seem like a minor issue, there are serious ramifications. The Rules of Professional Conduct allow the client to terminate the lawyer at the discretion of the client. Typically, the lawyer whose representation is being terminated is replaced with new counsel. The proposed Rule will limit the right of the client to choose who will represent him in Court, unless substitution of counsel is allowed without Court approval. Where there is no request to delay proceedings for the convenience of new counsel, there is no legitimate reason for the Court to prohibit the litigant from being represented by the attorney of his choice.

The current rule suffers from the same confusion concerning substitution of counsel. The confusion creates an opportunity for litigants to take unfair advantage of an opponent, by refusing to serve time-critical pleadings on new counsel, while continuing to serve those pleadings on the attorney being replaced, who now has no direct interest in the proceedings, and who cannot, consistent with the Rules of Professional Conduct, continue to represent a client who has terminated him.

UTAH LEGAL CLINIC  
214 East Fifth South Street  
Salt Lake City, Utah 84111-3204  
Phone: (801) 328-9531

From the Desk of Brian M. Barnard, Esq.

---

MEMO

TO: PEGGY GENTLES  
STAFF ATTORNEY  
ADMINISTRATIVE OFFICE OF THE COURTS  
230 SOUTH 5TH EAST STREET # 300  
SALT LAKE CITY, UTAH 84102  
FROM: Brian M. Barnard  
RE: COMMENTS ON PROPOSED RULES AMENDMENTS  
DATE: April 6, 1997

COMMENTS ON PROPOSED AMENDMENTS TO RULES, ETC.  
COMMENT PERIOD ENDS 05/16/97

p. 6; ll. 50-51

Rule 58A: It seems unnecessary and duplicative to serve a copy of a signed judgment upon a party if shortly before that an unsigned copy was served upon the party as per Rule 5, p. 3; l. 41. Requiring a Notice of Entry in such a case makes more sense and saves trees!

p. 11; ll. 11-35

Rule 27: Please don't reduce the number of pages in an appellate briefs. There is insufficient space allowed already.

Don't create this strange system of word count and type style to control the length of briefs. Policing that is going to be difficult. Complying with that will be a pain. Revert to a simple straight forward rule. Every modern word processor and printer can print in pica at 10 characters per inch. Make that the rule! That with a page limit and margin of one inch (1") should do the trick.

p. 42; l. 16

The word *both* in the sentence makes it confusing. Does *both* refer to attorneys for all parties or to one counsel and her client?

bmb



\* \* \*



Proposed Amendments  
to the  
Code of Judicial Administration  
Manual of Procedures for Judicial  
Nominating Commissions.

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These rules are recommended by the Policy and Planning Committee  
for adoption by the Judicial Council with an effective date of November 1, 1997.

August 6, 1997

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**CODE OF JUDICIAL ADMINISTRATION**

2  
3 **Rule 1-101 was approved by the Judicial Council as an emergency rule effective January 27, 1997.**  
4

5 **Rule 1-101. General definitions - Rules of construction.**

6 **Intent:**

7 To establish clear and uniform definitions of words used in this Code.

8 **Applicability:**

9 These definitions shall apply to all rules adopted by the Judicial Council.

10 **Statement of the Rule:**

11 (1) Unless the context indicates otherwise, as used in this Code:

12 (A) "Administrative Office" means Office of the State Court Administrator.

13 (B) "Administrative Staff" means employees of the judiciary who are authorized to perform and responsible for  
14 performing administrative functions.

15 (C) "Board" means one or more of the Boards of Judges established by this Code.

16 (D) "Chair" means the presiding officer of a board of judges.

17 (E) "Code" means the Code of Judicial Administration and may be cited as CJA.

18 (F) "Council" means the Utah Judicial Council as established by Article VIII, Section 12 of the Utah Constitution.

19 (G) "Court" means an entire jurisdictional system and not any geographic division thereof.

20 (H) "Court Executives" means the chief administrative officer of the local courts and the clerks of the appellate  
21 courts.

22 (I) "Courts of Record" means those courts in which the judges have the qualifications required by Article VIII,  
23 Section 7 of the Utah Constitution, are selected in the manner prescribed by Article VIII, Section 8 of the Utah Constitution,  
24 and are retained in the manner prescribed by Article VIII, Section 9 of the Utah Constitution. The following are courts of  
25 record: the Supreme Court, the Court of Appeals, the district courts, and the juvenile courts.

26 (J) "Courts not of Record" means those courts in which the judges have the qualifications established by the  
27 Legislature and are selected in a manner prescribed by the Legislature under the authority of Article VIII, Section 11 of the  
28 Utah Constitution. Justice courts are courts not of record.

29 (K) "Final action" means the vote of the council adopting, amending, or repealing a rule or resolution.

30 (L) "Judge" includes justices and judges of courts of record and courts not of record.

31 (M) "Judicial Officer" means an officer of the court who is a judge or justice and has the authority to decide causes  
32 or issues between parties and render decisions in a judicial capacity.

33 (N) "Judiciary" means the entire judicial branch of government including justices, judges, court commissioners,  
34 referees, hearing officers, court reporters, clerical and administrative staff and central, local, and line staff.

35 (O) "Local Supplemental Rules" means those rules governing the administration of the judiciary which have been  
36 adopted by the local courts in accordance with the provisions of this Code.

37 (P) "Policy" means the general principles for the government of the Judiciary.

38 (Q) "Presiding Officer" means the chief justice of the Supreme Court as the presiding officer of the council.

39 (R) "Quasi-judicial Officer" means court commissioners and court referees.

40 (S) "Quorum" means a majority of the members of the Judicial Council, Board, committee or other body.

41 ~~(R)~~ (T) "Resolution" means a formal statement of the opinion of the council.

42 ~~(S)~~ (U) "Rule" means a standard, guideline, or directive issued by the council concerning a matter of policy.

43 ~~(T)~~ ~~"Quasi-judicial Officer" means court commissioners and court referees.]~~

44 ~~(U)~~ (V) "Secretariat" means the clerical and administrative staff to the Council, the Boards and the Council's  
45 executive, ad hoc and standing committees.

46 (2) Unless the context indicates otherwise, as used in this Code the singular includes the plural, and the plural the  
47 singular; the masculine includes the feminine, and the feminine the masculine.

48 (3) Any rule of the council, insofar as the rule is identical to an existing policy of the council, shall be construed as a  
49 continuation of such policy and not as a new enactment.

50 **Rule 2-101 was approved by the Judicial Council as an emergency rule effective January 27, 1997.**

~~(H)~~ (A) the character, competence, or physical or mental health of an individual;

~~(H)~~ (B) collective bargaining~~;~~ or litigation~~;~~ ~~legislation, or~~;

(C) the purchase or lease of real property when public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(D) the sale of real property when:

(i) public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(ii) the Council has previously given public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the Council approves the sale;

~~(H)~~ (E) deployment of security personnel or devices; or

~~(H)~~ (F) allegations of criminal ~~or professional~~ misconduct~~;~~ or

~~(H)~~ (G) allegations of activity prejudicial to the administration of the Judiciary or which brings the Judiciary into disrepute].

(5) Procedure for closing a meeting.

(A) A closed meeting may be held only upon the affirmative vote of two-thirds of the members present at an open meeting for which public notice is given, provided a quorum is present.

(B) If a meeting is closed to discuss the character, competence, or physical or mental health of an individual or to discuss the deployment of security personnel or devices, the presiding officer shall sign a sworn statement affirming that the sole purpose for closing the meeting was to discuss the character, competence, or physical or mental health of an individual or the deployment of security personnel, devices, or systems.

~~(H)~~ (6) Limit on actions at a closed meeting. No contract, appointment, rule or resolution may be approved at a closed meeting~~;~~ ~~however, a~~. A contract, appointment, rule or resolution approved at an open meeting may be based upon discussions had at a closed meeting.

~~(H)~~ (7) Right of removal. All or any part of an open meeting may be recorded by any person in attendance, provided the recording does not interfere with the conduct of the meeting. This rule shall not prohibit the removal of any person who disrupts a meeting of the Council.

Rule 2-104 was approved by the Judicial Council as an emergency rule effective January 27, 1997.

## Rule 2-104. Minutes of Council meetings.

### Intent:

To provide a formal method for memorializing Council meetings.

To assure public access to such records.

### Applicability:

This rule shall apply to all minutes of the Council.

### Statement of the Rule:

(1) Written minutes shall be kept of all open meetings of the Council. Minutes shall include:

(A) the date, time, and place of the meeting;

(B) the names of members present and absent and the names of staff and guests present;

(C) the substance of all matters proposed, discussed, or decided;

(D) the substance of the testimony of guests and the reports of staff or a summary reference to such testimony or report if a copy thereof is filed with the minutes;

(E) a record of the vote taken on any question, and, if the vote is a roll call vote, a record of the vote of individual members; and

(F) any other information that any member requests be entered in the minutes.

(2) A copy of the minutes shall be distributed to all presiding judges and the chairs of the Boards.

(3) The minutes of open Council meetings are public records and shall be made available for inspection and copying within a reasonable time after Council approval.

(4) Written summary minutes of closed Council meetings ~~need not~~ shall be kept. Summary minutes are public records and shall be made available for inspection and copying within a reasonable time after Council approval. Summary minutes shall include:

**Applicability:**

This rule shall apply to all trial courts of record.

**Statement of the Rule:**

(1) Definition. Court commissioners are quasi-judicial officers established by § 78-3-31.

(2) Qualifications.

(A) Court commissioners must be at least 25 years of age, United States citizens, Utah residents for three years preceding appointment and residents of Utah while serving as commissioners. A court commissioner shall reside in a judicial district the commissioner serves.

(B) Court commissioners must be admitted to practice law in Utah and exhibit good character. ~~[and] Court commissioners must possess ability and experience in the areas of law in which the court commissioner serves, [and evidence of good character.]~~

(C) Court commissioners shall serve full time and shall comply with § 78-7-2.

(3) Appointment - Oath of office.

(A) Selection of court commissioners shall be based solely upon consideration of fitness for office.

(B) When a vacancy occurs or is about to occur in the office of a court commissioner, the Council shall determine whether to fill the vacancy. The Council may determine that the court commissioner will serve more than one judicial district.

(C) A committee for the purpose of nominating candidates for the position of court commissioner shall consist of one judge from each ~~[level of trial] court [of record]~~ that the commissioner will serve, three lawyers, and two members of the public. Committee members shall be appointed by the presiding judge of the district court of each judicial district. The committee members shall serve three year terms, staggered so that not more than one term of a member of the bench, bar, or public expires during the same calendar year. The presiding judge shall designate a chair of the committee. All members of the committee shall reside in the judicial district. All members of the committee shall be voting members. A quorum of one-half the committee members is necessary for the committee to act. The committee shall act by the concurrence of a majority of the members voting. When voting upon the qualifications of a candidate, the committee shall follow the voting procedures of the judicial nominating commissions.

(D) If the commissioner will serve more than one judicial district, the presiding judges of the districts involved shall select representatives from each district's nominating committee to form a joint nominating committee with a size and composition equivalent to that of a district committee.

(E) No member of the committee may vote upon the qualifications of any candidate who is the spouse of that committee member or is related to that committee member within the third degree of relationship. No member of the committee may vote upon the qualifications of a candidate who is associated with that committee member in the practice of law. The committee member shall declare to the committee any other potential conflict of interest between that member and any candidate as soon as the member becomes aware of the potential conflict of interest. The committee shall determine whether the potential conflict of interest will preclude the member from voting upon the qualifications of any candidate. The committee shall record all declarations of potential conflicts of interest and the decision of the committee upon the issue.

(F) The administrative office of the courts shall advertise for qualified applicants and shall remove from consideration those applicants who do not meet minimum qualifications of age, citizenship, residency, and admission to the practice of law. The administrative office of the courts shall develop uniform guidelines for the application process for court commissioners.

(G) The nominating committee shall review the applications of qualified applicants and may investigate the qualifications of applicants to its satisfaction. The committee shall interview selected applicants and select the three best qualified candidates. The committee may indicate its order of preference. The chair of the committee shall present the names, applications, and the results of background investigations of the nominees to the judges of the courts the court commissioner will serve.

(H) The judges of the courts the court commissioner will serve shall select one of the nominees by a concurrence of a majority of judges voting. The concurrence of each court ~~[level]~~ independent of the others is necessary for selection.

(I) The presiding judge of the district court of the district the court commissioner will primarily serve shall present the name of the selected candidate to the Council. The selection shall be final upon the concurrence of two-thirds of the members of the Council. The Council shall vote upon the selection within 45 days of the selection or the concurrence of the Council shall be deemed granted.

(J) If the Council does not concur in the selection, the judges of the district may select another of the nominees or a new nominating process will be commenced.

~~(F) If the committee finds the complaint to have merit, the committee shall recommend to the Council that the court commissioner be removed or recommend a sanction to be imposed under paragraph (6). The committee shall dismiss any complaint found to be without merit.~~

~~(G) The Council shall review the matter to determine the correct application of procedures. The Council shall determine the penalty to be imposed.~~

~~(7) Salaries and benefits.~~

(A) 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.

(B) Court commissioners ~~[hired after October 1, 1988]~~ shall receive annual leave of 20 days per calendar year and the same sick leave benefits as judges of the courts of record. Annual leave not used at the end of the calendar year shall not accrue to the following year. A commissioner hired part way through the year shall receive annual leave on a pro rated basis. Court commissioners shall receive the same retirement benefits as non-judicial officers employed in the judicial branch. ~~[Court commissioners hired before October 1, 1988 may elect to receive the same leave benefits as either judicial or non-judicial court employees. This election must be made in writing by July 1, 1988 and is not revocable.]~~

~~(8) Support services.~~

(A) Court commissioners shall be provided with support personnel, equipment, and supplies necessary to carry out the duties of the office as determined by the presiding judge.

(B) Court commissioners are responsible for requesting necessary support services from the presiding judge.

### **Rule 3-201.02. Court Commissioner Conduct Committee.**

#### **Intent:**

To establish a procedure for the review of complaints filed against court commissioners.

#### **Applicability:**

This rule shall apply to all trial courts of record.

#### **Statement of the Rule:**

##### **(1) Court Commissioner Conduct Committee.**

(A) The Council shall appoint a committee of three judges and two lawyers to investigate formal complaints against court commissioners. The Council shall designate one member as chair. The judges shall reside in different judicial districts from each other. The lawyers shall reside in different judicial districts from each other.

(B) Committee members shall not be Council members. Committee members shall serve three year terms of office. The terms of office shall be staggered so that no more than two expire in one year.

(C) Circumstances which require recusal of a judge shall require recusal of a Committee member from participation in Committee action. If the chair is recused, a majority of the remaining members shall select a chair pro tempore. The chair shall replace a recused member with a judge or lawyer of the same judicial district as the recused member. The composition of the Committee shall remain as provided in paragraph (1)(A).

(2) Informal Complaint. An informal complaint against a court commissioner may be filed with the presiding judge of the court the court commissioner serves. The presiding judge shall conduct such investigation and take such corrective action as warranted by the complaint.

##### **(3) Formal Complaint.**

(A) A formal complaint against a court commissioner shall be in writing and filed with the presiding officer of the Council. The presiding officer shall refer the complaint to the committee and provide a copy of the complaint to the court commissioner and to the presiding judge of the court the commissioner serves.

(B) All proceedings and materials related to a formal complaint shall be kept confidential.

(C) The chair or the committee shall dismiss a frivolous complaint. The chair or the committee shall dismiss a complaint found to raise only issues of law or fact for which a remedy is the review of the case by the trial court judge or by an appellate court. The chair of the committee shall provide notice of and basis for the dismissal to the complainant, the presiding judge and the commissioner.

(D) The committee may investigate a complaint that is not dismissed under paragraph (3)(C). This investigation shall be conducted to determine whether dismissal or a hearing is appropriate.

(E) The committee may request that the state court administrator appoint a staff person within the administrative

bound by the decision or action, or who is foreclosed from pursuing his or her rights by the decision or action which may be taken in the proceeding.

(H) "Witness" means anyone who testifies in any legal proceeding.

(2) **Advisory panel.** Policies concerning court interpreters shall be developed by a court interpreter advisory panel, appointed by the council, comprised of judges, court administrators, lawyers, court interpreters, and experts in the field of linguistics.

(3) **Minimum performance standards.** All certified and qualified interpreters serving in the court shall comply with the Code of Professional Responsibility.

(4) **Certification.**

(A) Subject to the availability of funding, and in consultation with the advisory panel, the administrative office shall establish programs to certify court interpreters in the non-English languages most frequently needed in the courts. The administrative office shall:

(i) designate languages for certification;

(ii) establish procedures for training and testing to certify and recertify interpreters; and

(iii) establish, maintain, and issue to all courts in the state a current directory of certified interpreters.

(B) To become certified an interpreter shall:

(i) prior to participation in the training program, pay a fee of \$100.00 to the administrative office to offset the costs of training and testing;

~~(ii)~~ (ii) complete training as required by the administrative office;

~~(iii)~~ (iii) obtain a passing score on the court interpreter's test(s) as required by the administrative office; and

~~(iv)~~ (iv) comply with the Code of Professional Responsibility.

(C) An interpreter may be certified upon submission of satisfactory proof to the advisory panel that the interpreter is certified in good standing by the federal courts or by a state having a certification program that is equivalent to the program established under this section.

(5) **Recertification.**

(A) Subject to the availability of funding, the administrative office shall establish continuing educational requirements for maintenance of certified status.

(B) To maintain certified status, a certified interpreter shall:

(i) comply with continuing educational requirements as established by the administrative office; and

(ii) comply with the Code of Professional Responsibility.

(6) **Appointment.**

(A) Certified interpreters. When an interpreter is requested or when the appointing authority determines that a principal party in interest or witness has a limited ability to understand and communicate in English, a certified interpreter shall be appointed except under those circumstances specified in subsection (6)(B) or (C).

(B) Qualified Interpreters.

(i) Standards for appointment. A qualified interpreter may be appointed only under the following circumstances:

(a) if there is no certification program established under subparagraph (4) for interpreters in the language for which an interpreter is needed, ~~or~~

(b) if there is a certification program established under subsection (4), but no certified interpreter is reasonably available~~[-], or~~

(c) for juvenile probation conferences, if the probation officer does not speak a language understood by the juvenile.

(ii) Procedure for appointment. Before appointing a qualified interpreter, the appointing authority or delegate shall:

(a) evaluate the totality of the circumstances including the gravity of the judicial proceeding and the potential penalty or consequence to the accused person involved,

(b) qualify the prospective interpreter by asking questions as to the following matters in an effort to determine whether the interpreter has a minimum level of qualification:

(1) whether the prospective interpreter appears to have adequate language skills, knowledge of interpreting techniques and familiarity with interpreting in a court or administrative hearing setting; and

(2) whether the prospective interpreter has read, understands, and agrees to comply with the code of professional responsibility for court interpreters set forth in appendix H.

(iii) The procedure to qualify a non-certified interpreter need not recur every time the interpreter is used. Within each judicial district the names of non-certified interpreters who have been qualified by the appointing authority pursuant to

(v) Procedure for payment. The administrative office shall pay fees and expenses of the interpreter upon receipt of a certification of appearance signed by the clerk of the court. The certification shall include the name, address and social security number of the interpreter, the case number, the dates of appearance, the language interpreted, and an itemized statement of the amounts to be paid.

(B) Courts not of record.

(i) In courts not of record, the local government that funds the court not of record shall pay interpreter fees and expenses in criminal cases in which the defendant is determined to be indigent.

(ii) In small claims cases, the party engaging the services of the interpreter shall pay the interpreter fees and expenses.

(iii) Fees. The local government that funds the court not of record shall establish the amount of the interpreter fees.

(iv) Expenses. The local government that funds the court not of record shall establish interpreter expenses, if any, that will be paid.

(v) Procedure for payment. The local government that funds the court shall pay the interpreter upon receipt of a certification of appearance signed by the clerk of the court. The certification shall include the name, address and social security number of the interpreter, the case number, the dates of appearance, the language interpreted, and an itemized statement of the amounts to be paid.

ADVISORY COMMITTEE NOTE: Within two years the Council shall evaluate the rate paid to qualified interpreters to determine whether that rate should be modified.

### Rule 3-407. Accounting.

**Intent:**

To establish uniform procedures for the processing, tracking, and reporting of accounts receivable and trust accounts.

**Applicability:**

This rule applies to the judiciary.

**Statement of the Rule:**

(1) Manual of Procedures.

(A) The administrative office shall develop a manual of procedures to govern accounts receivable, accounts payable, trust accounts, the audit thereof, and the audit of administrative procedures generally. The procedures shall be in conformity with generally accepted principles of budgeting and accounting and shall, at a minimum, conform to the requirements of this Code and state law. Unless otherwise directed by the Judicial Council, the manual of procedures and amendments to it shall be approved by the majority vote of the state court administrator, the court administrators for each court of record, and the director of finance.

(B) There is established an accounting manual review committee responsible for making and reviewing proposals for repealing accounting policies and procedures and proposals for promulgating new and amended accounting policies and procedures. The committee shall consist of the following:

(i) the director of finance or designee, who shall serve as chair and shall vote only in the event of a tie;

(ii) ~~[a support services coordinator from judicial districts 2, 3, and 4]~~ four support services coordinators;

(iii) two accountants or clerks with accounting responsibilities from each of the trial courts of record;

(iv) a clerk with accounting responsibilities from an appellate court;

(v) one court services field specialist;

~~[(vi)]~~ (vi) the audit manager or designee, who shall not vote; and

~~[(vii)]~~ (vii) the director of the state division of finance or designee, who shall not vote.

(C) Unless designated by office, members of the committee shall be appointed in a manner consistent with CJA Rule 1-205. The department of finance shall provide necessary support to the committee.

(D) New and amended policies and procedures recommended by the committee shall be reviewed by the court executives prior to being submitted to the Judicial Council or to the vote of the administrators and the director of finance. The Court Executives may endorse or amend the draft policies and procedures or return the draft policies and procedures to the committee for further consideration.

(2) Revenue Accounts.

(A) Deposits; Transfers; Withdrawals. All courts shall deposit with a depository determined qualified by the administrative office or make deposits directly with the Utah State Treasurer or the treasurer of the appropriate local



1 (i) the issues to be addressed by the project,  
2 (ii) an explanation of how the grant funds will contribute toward resolving the issues identified, and  
3 (iii) an identification of possible funding sources for the continuing costs of the project when grant funds are no  
4 longer available.

5 (B) Submission of the proposal.

6 (i) The proposal shall be reviewed by the court executives or their designees and the judges in the districts which  
7 will be affected by the project.

8 (ii) If the court executives or their designees and the presiding judges in the districts which will be affected by the  
9 project approve the proposal, the proposal shall be forwarded to the grant coordinator at the ~~[Administrative Office]~~  
10 administrative office.

11 (iii) If the court executives or their designees and the presiding judges in the districts that the project will affect  
12 approve the proposal, but sufficient time to comply with paragraph (1)(C) prior to submission of the proposal to the funding  
13 source is not available, the proposal may be submitted simultaneously to the funding source and the grant coordinator at the  
14 ~~[Administrative Office]~~ administrative office.

15 (C) Review of the proposal. The grant coordinator shall review the proposal with the Finance Manager and the  
16 court level administrator. This review must be complete prior to submission to the Board(s) of Judges under paragraph  
17 (1)(D).

18 (D) Recommendation by the Board of Judges. The Board of Judges for affected courts must recommend to the  
19 Council that the grant proposal be pursued.

20 (E) Approval by the Council. Any proposal to apply for grant funds must be approved by the Council.

21 (F) If the Council approves the proposal, the grant coordinator shall work with the requestor and the affected courts  
22 in seeking the grant funds. The ~~[Administrative Office]~~ administrative office shall constitute the designated agency for  
23 approving grant applications if such approval is required by the grant application.

24 (G) If the Council or a Board of Judges does not approve the proposal, the proposal shall not be submitted to the  
25 funding source or, if already submitted to the funding source, the proposal shall be withdrawn.

26 (H) No funds shall be accepted from a funding source until the proposal is approved under paragraph (1)(E).

27 (2) Administration of grant funds and projects.

28 (A) The ~~[Administrative Office]~~ administrative office shall receive, administer and be accountable for all grant  
29 funds awarded to the courts and provide detailed budget reports to the Council upon request.

30 (B) The ~~[Administrative Office]~~ administrative office shall name the project director for each grant. The project  
31 director may delegate the supervision of non-judicial daily operations and other non-judicial duties required by the grant. The  
32 presiding judges of the districts affected by the project shall supervise any judicial or quasi-judicial duties required by the  
33 grant.

34 (3) Grant applications by non-judicial branch applicants.

35 (A) Endorsement of a grant application prepared a non-judicial branch applicant may only be made by the Judicial  
36 Council.

37 (B) Any grant application by a non-judicial branch applicant which contemplates participation of the courts or  
38 expenditures of court resources should be referred to the Judicial Council for review and endorsement. Judicial branch  
39 employees shall not participate in the preparation of a grant application by a non-judicial branch applicant without Judicial  
40 Council approval.

## 42 Rule 3-415. Auditing.

### 43 Intent:

44 To establish an internal fiscal audit program for the judiciary within the ~~[Administrative Office]~~ administrative  
45 office.

46 To examine and evaluate court operations by measuring and evaluating the effectiveness and proper application of  
47 programs.

### 48 Applicability:

49 This rule shall apply to all courts of record and the ~~[Administrative Office]~~ administrative office.

### 50 Statement of the Rule:

51 (1) Schedule of audits.

52 (A) Periodic. Not less than annually, the ~~[court auditor]~~ audit manager shall prepare a plan of scheduled fiscal and

3 administrator, presiding judge, court executive and state level administrator. ~~[Further distribution of copies of the final~~  
4 ~~report shall be subject to approval of the Council Management Committee. Audit reports and related working papers shall be~~  
5 ~~classified as "private records" in accordance with Rule 4-202 of this Code.]~~

6 (B) Limited and Special Audits. Distribution of results of limited and special audits shall be at the discretion of the  
7 state court administrator.

8 **Rule 4-106. ~~[Conference calls]~~ Electronic Conferencing.**

9 **Intent:**

10 To authorize the use of ~~[conference calls]~~ electronic conferencing in lieu of personal appearances ~~[by counsel]~~ in  
11 appropriate cases.

12 **Applicability:**

13 This rule shall apply to all courts of record and not of record.

14 **Statement of the Rule:**

15 ~~[Judges of courts of record and not of record are authorized to use conference calls in lieu of personal appearance by~~  
16 ~~counsel in appropriate cases.]~~

17 (1) In the judge's discretion, any hearing may be conducted using telephone or video conferencing.

18 (2) Any proceeding in which a person appears by telephone or video conferencing shall proceed as required in any  
19 other hearing including keeping a verbatim record.

20 **Rule 4-107. Consolidation of cases.**

21 **Intent:**

22 To provide a procedure for hearing motions to consolidate cases and for the consolidation of cases.

23 **Applicability:**

24 This rule shall apply to civil and criminal proceedings in all courts of record.

25 **Statement of the Rule:**

26 (1) Motions to consolidate cases shall be heard by the judge assigned to either the lowest numbered or the first filed  
27 case.

28 (2) Notice of a motion to consolidate shall be given to all parties in each action involved, and a copy shall be filed in  
29 each case involved. The order denying or granting the motion shall also be filed in each file involved.

30 (3) In the event a motion to consolidate is granted, the order shall specify the case number under which all future  
31 papers shall be filed, which shall be the lowest of the case numbers involved. Thereafter, that number shall be used  
32 exclusively for all papers filed, and such papers shall be filed only in the designated case file.

33 (4) If a motion to consolidate is granted, the case shall be heard by the judge who was assigned to the lowest  
34 numbered of the cases involved, except that for good cause shown the presiding judge may assign the case to another judge.

35  
36 **Amendments to Rule 4-201 were approved by the Judicial Council as an emergency rule effective April 1, 1997.**

37  
38 **Rule 4-201. Record of proceedings.**

39 **Intent:**

40 To establish the means of maintaining the official record of court proceedings in all courts of record.

41 To establish the manner of selection and operation of electronic devices.

42 To establish the procedure for requesting a transcript for a purpose other than for an appeal.

43 **Applicability:**

44 This rule shall apply to the courts of record.

45 **Statement of the Rule:**

46 (1) **Guidelines for court reporting methods.** The official verbatim record of court proceedings shall be maintained  
47 in accordance with the following guidelines:

48 (A) Except as provided in this rule, a video recording system shall maintain the official verbatim record of all  
49 District Court proceedings.

50 (B) An official court reporter or approved substitute court reporter shall maintain the official verbatim record of  
51 District Court proceedings using real time reporting methods in computer integrated courtrooms (CIC) in the following

transcript in the same manner as Utah R.App.P. 12.

3 Amendments to Rule 4-202.02 were approved by the Judicial Council as an emergency rule effective April 1, 1997.

4  
5 **Rule 4-202.02. Records classification.**

6 **Intent:**

7 To classify records created or maintained by the judicial branch.

8 **Applicability:**

9 This rule applies to all courts of record and not of record and to the Administrative Office of the Courts.

10 **Statement of the Rule:**

11 (1) Public administrative records. The following administrative records are public, except to the extent they are  
12 classified otherwise or contain information classified otherwise by this or other Council rule, or by conflicting state or federal  
13 statute, regulation or rule:

14 (A) court rules, rules of judicial administration, and administrative orders;

15 (B) the following publications from the administrative office: annual reports, fine/bail schedule, records retention  
16 schedules, benchbooks, justice court manuals, staff manuals, instructions to staff, statements of policy, personnel policies and  
17 procedures, special reports, judicial nominating commission procedures, and final reports of special task forces, committees  
18 or commissions after the same have been released by the Council or the court that requested the study;

19 (C) names, gender, gross compensation (reported as gross salary and benefits), job titles, job descriptions, business  
20 addresses, business telephone numbers, number of hours worked per pay period, dates of employment, and relevant  
21 education, previous employment, and similar job qualifications of former and present employees and officers;

22 (D) final opinions, including concurring and dissenting opinions, and orders that are made in administrative or  
23 adjudicative proceedings, except that if the proceedings were properly closed to the public, the opinion and order may be  
24 withheld to the extent that they contain information that is private, controlled, or protected;

25 (E) final interpretations of statutes or rules, unless they are prepared in anticipation of litigation and are not subject  
to discovery, are attorney work product, or contain privileged communications between the judicial branch and an attorney;

26 (F) information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting of a  
28 governmental entity as provided by Utah Code Title 52, Chapter 4, including the record of all votes;

29 (G) data on individuals that would otherwise be private if the individual who is the subject of the record has given  
30 written permission to make the records available to the public;

31 (H) documentation of the compensation that is paid to a contractor or private provider;

32 (I) summary data;

33 (J) records documenting a contractor's or private provider's compliance with the terms of a contract;

34 (K) records documenting the services provided by a contractor or a private provider to the extent the records would  
35 be public if prepared by the judicial branch;

36 (L) contracts entered into by the judicial branch;

37 (M) any account, voucher, or contract that deals with the receipt or expenditure of funds;

38 (N) correspondence by and with the judicial branch in which the judicial branch determines or states an opinion  
39 upon the rights of the state, a political subdivision, the public, or any person;

40 (O) empirical data contained in drafts if the empirical data is not reasonably available to the requester elsewhere in  
41 similar form and if the judicial branch is given a reasonable opportunity to correct any errors or make nonsubstantive  
42 changes before release;

43 (P) drafts that are circulated to anyone other than a governmental entity, a political subdivision, a federal agency if  
44 the judicial branch and the federal agency are jointly responsible for implementation of a program or project that has been  
45 legislatively approved, a government-managed corporation, or a contractor or private provider;

46 (Q) drafts that have never been finalized but were relied upon in carrying out action or policy;

47 (R) original data in a computer program if the judicial branch chooses not to disclose the program;

48 (S) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants  
49 prior to service;

50 (T) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted  
51 access to search warrants prior to trial;

(U) records that would disclose information relating to formal charges or disciplinary actions against a past or

health or to the safety of an individual if released;

~~(E)~~ (F) any record which the judicial branch reasonably believes would constitute a violation of normal professional practice or medical ethics if released.

(7) Protected administrative records. The following administrative records are protected:

(A) trade secrets as defined in Utah Code § 13-24-2 if the person submitting the trade secret has provided the judicial branch with the information specified in Utah Code § 63-2-308;

(B) commercial information or nonindividual financial information obtained from a person if disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future, the person submitting the information has a greater interest in prohibiting access than the public in obtaining access, and the person submitting the information has provided the judicial branch with the information specified in Utah Code § 63-2-308;

(C) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(D) records the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with the judicial branch, except that this subparagraph does not restrict the right of a person to see bids submitted to or by the judicial branch after bidding has closed;

(E) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless: public interest in obtaining access to the information outweighs the judicial branch's need to acquire the property on the best terms possible; the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity; in the case of records that would identify property, potential sellers of the described property have already learned of the judicial branch's plans to acquire the property; or, in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the judicial branch's estimated value of the property;

(F) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, before the transaction is completed, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless: the public interest in access outweighs the interests in restricting access, including the judicial branch's interest in maximizing the financial benefit of the transaction; or when prepared by or on behalf of the judicial branch, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the judicial branch.

(G) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(i) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(ii) reasonably could be expected to interfere with audits, or disciplinary or enforcement proceedings;

(iii) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(iv) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(v) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(H) records the disclosure of which would jeopardize the life or safety of an individual;

(I) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental record-keeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(J) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(K) records relating to an ongoing or planned audit until the final audit is released;

(L) records prepared by or on behalf of the judicial branch solely in anticipation of litigation that are not available under the rules of discovery;

(M) records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the judicial branch concerning litigation;

(N) records of communications between the judicial branch and an attorney representing, retained, or employed by

**[Rule 4-202.10. Dissemination of videotapes.]**

**[Intent:**

~~\_\_\_\_\_ To limit the dissemination of videotapes created in video courtroom pilot projects and video arraignment pilot projects.~~

**Applicability:**

~~\_\_\_\_\_ This rule applies to those courts involved in video courtroom pilot projects and video arraignment pilot projects.~~

**Statement of the Rule:**

~~\_\_\_\_\_ (1) Videotapes created by the courts in video courtroom pilot projects and video arraignment pilot projects are the copyrighted property of the courts, and shall only be disseminated as provided in this rule.~~

~~\_\_\_\_\_ (2) The court may disseminate copies of videotapes to counsel and parties, upon request and payment of the appropriate fee. All copies shall be made on videotapes supplied by the courts. Videotapes disseminated pursuant to this rule may not be disseminated further without court order.~~

~~\_\_\_\_\_ (3) Any person may request and obtain a written transcript of a videotaped proceeding by ordering the transcript from a certified court transcriber.~~

~~\_\_\_\_\_ (4) When video and non-video records are made of a proceeding, the non-video record shall be the official record of the proceeding, and no copy of the videotape shall be disseminated.~~

~~\_\_\_\_\_ (5) For the purpose of this rule, all courtrooms equipped with video recording equipment for the preservation of the proceedings conducted therein are video courtroom pilot sites.]~~

Amendments to Rule 4-401 were approved by the Judicial Council as an emergency rule effective April 1, 1997.

**Rule 4-401. Media in the courtroom.**

**Intent:**

To establish uniform standards and procedures for conduct and the use of [still] photographic equipment [by the news media] in the courts of the state.

To permit access to the courtroom by the news media while preserving the participants' rights to privacy and a fair trial.

**Applicability:**

This rule ~~[shall govern the procedure for the use of still photographic equipment in all courts of record and not of record, except as otherwise provided by law]~~ applies to the courts of record and not of record.

This rule governs photography and conduct during sessions of court and recesses between sessions.

This rule shall not diminish the authority, conferred by statute, rule or common law, of the judge to control the conduct of proceedings in the courtroom.

As used in this rule, the term "courtroom" includes the courtroom and areas immediately adjacent to the courtroom.

**Statement of the Rule:**

**[(1) Authority:**

~~\_\_\_\_\_ (A) The authority of a court conferred by statute, rule or common law to control the conduct of proceedings before it shall not be diminished.~~

~~\_\_\_\_\_ (B) The same rules of law applicable to inclusion or exclusion of the press or public at particular proceedings or during the testimony of particular witnesses shall apply to still photographers.~~

~~\_\_\_\_\_ (C) This authority may be withdrawn, terminated or modified by order of the Utah Supreme Court after proper notice and hearing.~~

~~\_\_\_\_\_ (D) Still photographic equipment may be permitted in the courtroom at the discretion of the judge presiding over the proceedings.~~

~~\_\_\_\_\_ (E) The court reserves the right to deny the use of still photographic equipment in a judicial proceeding when the denial is necessitated by a substantial likelihood that such coverage would jeopardize a fair hearing or trial in the matter at issue.~~

~~\_\_\_\_\_ (F) A judge may supplement, waive or modify these rules in order to accommodate extraordinary or unusual circumstances in a particular event or proceeding; however, any such modification shall not be inconsistent with this Code, Canons 3A(7) and (8) of the Code of Judicial Conduct or state or federal law.~~

**(2) Consent:**

~~\_\_\_\_\_ (A) In all proceedings written consent from the witnesses and parties shall be obtained by the news media and filed~~

(3) No one may photograph a juror or prospective juror before the person is dismissed.

(4) Still photography in a courtroom is prohibited, but it may be permitted in the discretion of the judge presiding at the hearing. A request to photograph in a courtroom shall be filed with the judge presiding at the hearing at least 24 hours prior to the hearing. A judge may permit photography with less than 24 hours notice upon a showing of good cause. In determining whether to permit still photography and, if so, how to regulate it, the judge presiding at the hearing should consider whether:

(A) photography can be accommodated without distracting the participants;

(B) there is a substantial likelihood photography would jeopardize the right to a fair hearing or trial; or

(C) the privacy interests of the victim of a crime, a party in a civil case or a witness outweigh the interest of the public in access to a photograph of the person.

(5) Conduct in the courtroom.

(A) The judge presiding at the hearing may position reporters and equipment in the courtroom to permit reasonable news coverage. The judge may require reporters to share a single photographer.

(B) Photographers shall not use flash or strobe lights. Media representatives shall use normally available courtroom equipment unless the presiding judge and the judge presiding at the hearing approve modifications, which shall be installed and maintained without public expense.

(C) Proceedings in the courtroom shall not be disrupted. Members of the public in the courtroom shall:

(i) avoid calling attention to themselves;

(ii) not place equipment in or remove equipment from the courtroom while court is in session;

(iii) not make comments in the courtroom during the court proceedings;

(iv) not comment to or within the hearing of the jury or any member thereof at any time before the jury is dismissed;

(v) present a neat appearance in keeping with the dignity of the proceedings;

(vi) not conduct interviews in the courtroom until the hearing is concluded and the court is recessed;

(vii) not, if the hearing is a trial, conduct interviews in the courtroom until the trial is concluded;

(viii) not use a camera or tape recorder to conduct interviews in the courtroom; and

(ix) comply with the orders and directives of the court.

(6) The court may remove anyone violating these rules from the courtroom and revoke the privileges contained in this rule.

Amendments to Rule 4-408.01 were approved by the Judicial Council as an emergency rule effective January 27, 1997.

### **Rule 4-408.01. Responsibility for administration of trial courts.**

**Intent:**

To designate the court locations administered directly through the administrative office of the courts and those administered through contract with local government pursuant to § 78-3-21.

**Applicability:**

This rule shall apply to the trial courts of record and to the administrative office of the courts.

**Statement of the Rule:**

(1) All locations of the juvenile court shall be administered directly through the administrative office of the courts.

(2) All locations of the district ~~and circuit courts~~ court shall be administered directly through the administrative office of the courts, except the following, which shall be administered through contract with county or municipal government pursuant to § 78-3-21: Beaver, ~~Castle Dale,~~ Coalville, Fillmore, Junction, Kanab, Loa, Manila, Manti, Morgan, Panguitch, Park City, Randolph, and Salem.

### **Rule 4-504. Written orders, judgments and decrees.**

**Intent:**

To establish a uniform procedure for submitting written orders, judgments, and decrees to the court. This rule is not intended to change existing law with respect to the enforceability of unwritten agreements.

**Applicability:**

This rule shall apply to all civil proceedings in courts of record except small claims.

**Statement of the Rule:**



filing-]

(4) If an attorney withdraws, dies, is suspended from the practice of law, is disbarred, or is removed from the case by the court, opposing counsel shall serve a Notice to Appear or Appoint Counsel on the unrepresented client. The Notice to Appear or Appoint Counsel must inform the unrepresented client of the responsibility to appear in court or appoint counsel. A copy of the Notice to Appear or Appoint must be filed with the court. No further proceedings shall be held in the case until 20 days have elapsed from filing of the Notice to Appear or Appoint Counsel unless the client of the withdrawing attorney waives the time requirement or unless otherwise ordered by the court.

(5) Substitution of counsel. An attorney may replace the current counsel of record by filing and serving a notice of substitution of counsel. Filing a substitution of counsel enters the appearance of new counsel of record and effectuates the withdrawal of the attorney being replaced. Where a request for a delay of proceedings is not made, substitution of counsel does not require the approval of the court. Where new counsel requests a delay of proceedings, substitution of counsel requires the approval of the court as provided in this rule.

Amendments to Rule 4-510 were approved by the Judicial Council as an emergency rule effective January 1, 1997.

## **Rule 4-510. Alternative dispute resolution.**

### **Intent:**

To establish a program of court-annexed alternative dispute resolution for civil cases in the District Courts.

### **Applicability:**

These rules shall apply to cases filed in the District Court in the Third and Fifth Judicial Districts. The rules do not apply to: actions brought by or through the Office of Recovery Services under Title 26, Chapter 19, Medical Benefits Recovery Act, Title 62A, Chapter 11, Recovery Services, Title 78, Chapter 45, Uniform Civil Liability for Support Act, and Title 78, Chapter 45a, Uniform Act on Paternity, or to; actions brought under Chapters 3a, 6 and 36 of Title 78, Chapter 6 of Title 30, Chapter 12 of Title 62A, Chapter 20a of Title 77, Rules 64 and 65 of the Utah Rules of Civil Procedure, temporary orders requested under Title 30, or to; uncontested matters brought under Chapter 1 of Title 42, Title 75, and Chapters 22a, 30 and 41 of Title 78; or actions where the claim is for a sum less than \$20,000.

### **Statement of the Rule:**

#### (1) Definitions.

(A) "ADR" means alternative dispute resolution and includes arbitration, mediation, and other means of dispute resolution, other than court trial, authorized by this rule and URCADR;

(B) "ADR program" means the alternative dispute resolution program described in [by] Chapter 31b, Title 78;

(C) "Binding arbitration" means an ADR proceeding in which the award is final and enforceable as any other judgment in a civil action unless vacated or modified by a court pursuant to statute, and in which the award is not subject to a demand for a trial de novo;

(D) "Director" means the Director of Dispute Resolution Programs;

(E) "Nonbinding arbitration" means an ADR proceeding in which the award is subject to a trial de novo as provided in Utah Code Ann. § 78-31b-6(2);

(F) "Roster" means the list of those persons qualified to provide services under the ADR program, and includes the information supplied by such persons pursuant to paragraph (3)(A)(i) of this rule;

(G) "URCADR" or "Utah Rules of Court-Annexed Alternative Dispute Resolution" means the rules adopted by the Utah Supreme Court which govern the ADR program.

#### (2) Responsibilities of the Director. The Director shall:

(A) have general responsibility for the administration of the ADR program;

(B) annually prepare and submit the report required by Utah Code Ann. § 78-31b-4(5);

(C) establish and maintain the roster, and provide copies of the roster upon request;

(D) prepare model forms for use by the courts, counsel and parties under these rules, and provide copies of the forms upon request; and

(E) establish procedures for the review and evaluation of the ADR program and the performance of ADR providers.

#### (3) Qualification of providers.

(A) To be eligible for the roster, an applicant must:

(i) submit a written application to the Director setting forth:

(a) a description of how the applicant meets, or will meet within a reasonable time, the requirements specified in

1 ~~(i) aH~~ (ii) All parties file with the clerk a written agreement signed by counsel and the parties to submit the case to  
2 nonbinding arbitration pursuant to URCADR Rule 102[;].

3 ~~(ii) one or more parties file with the clerk a statement opting out of the ADR program. The statement shall be~~  
4 ~~signed by both counsel and the party and shall state that counsel and the party have reviewed the videotape and have~~  
5 ~~discussed proceeding under the ADR program, but have determined that no good faith basis exists to believe that~~  
6 ~~participation in the ADR program at this time will lead to a more just, speedy or inexpensive resolution of the disputes than~~  
7 ~~proceeding to trial. Thereupon, the case shall be referred to the court's calendar for further proceedings pursuant to the Utah~~  
8 ~~Rules of Civil Procedure; or-]~~

9 (iii) ~~aH~~ All the parties ~~[opt out of the ADR program and]~~ file with the clerk a written agreement signed by counsel  
10 and the parties to submit the case to binding arbitration pursuant to Chapter 31a of Title 78 or the Federal Arbitration Act, 9  
11 USC § 1 et seq., or as otherwise provided by law.

12 (B) At the time a complaint is filed, the clerk shall provide to the party filing the complaint a notice stating the  
13 requirements and options set forth in the preceding subparagraphs. The notice shall include directions for obtaining a copy of  
14 the videotape. The party shall serve a copy of the notice on the other parties.

15 (C) If no response has been filed under (6)(A)(i), (ii) or (iii) within 30 days after the responsive pleading is filed, the  
16 action shall be stayed pending compliance with the URCADR rules applicable to mediation.

17 (D) If the parties have timely filed an agreement to submit the case to nonbinding arbitration under URCADR Rule  
18 102, the court shall issue an order staying the action and all discovery under the Utah Rules of Civil Procedure, except that  
19 discovery may continue under URCADR Rule 102(e). All subsequent proceedings shall be conducted in accordance with  
20 URCADR Rule 102 and such timetable as the court may establish to ensure the arbitration is instituted and completed  
21 without undue delay or expense. All timelines shall be tolled during the pendency of the ADR proceedings, and the timelines  
22 shall resume upon notification to the court of the final conclusion of ADR proceedings.

23 (7) At any time:

24 ~~[(A) all the parties may, by agreement, opt out of the ADR program or request the court that the case or any issues~~  
25 ~~therein be referred to the ADR program;~~

26 ~~— (B) a party may opt out of mediation upon filing the statement described in paragraph (6)(A)(ii) of this rule;]~~

27 ~~[(C) (A) the court, on its own motion, may refer the action or any issues therein to the ADR program, although the~~  
28 ~~parties may opt out of the ADR program pursuant to subparagraphs (A) or (B); or~~

29 ~~[(D) (B) upon its own motion, or for good cause shown upon motion by a party, the court may order that an action~~  
30 ~~that has been referred to the ADR program be withdrawn from the ADR program and restored to the trial calendar.~~

31 ~~[(C) a party, believing that continuing in mediation is no longer productive, may terminate participation and shall~~  
32 ~~notify the other party and mediator.~~

33 (8) If a party unilaterally terminates a nonbinding arbitration procedure after the hearing has begun, that party shall  
34 be responsible for all of the ADR provider's fee, and any other party may move that the court also award reasonable attorney  
35 fees against the terminating party unless the terminating party shows good cause for the termination.

36 (9) The judge to whom an action is assigned shall retain full authority to supervise the action consistent with the  
37 Utah Rules of Civil Procedure and these rules.

38 (10) Notice requirements.

39 (A) Any time an ADR provider is selected to arbitrate or mediate a case pursuant to the ADR program, the ADR  
40 provider shall so notify the Director and the court clerk on a form provided by the Director.

41 (B) Upon any final conclusion of an ADR process, the ADR provider shall notify the Director and the court.

42 (11) Selection of ADR provider(s).

43 (A) Upon referral of a case or any issues therein to the ADR program, the Director shall provide the parties with a  
44 copy of the roster, and the parties shall choose the ADR provider(s) for the case. If mediation is the selected ADR process,  
45 one mediator shall be selected. If arbitration is the selected ADR process, one arbitrator shall be selected, unless the parties  
46 stipulate to or the court orders the use of a panel of three arbitrators. If a panel is used, the Director shall, from the panel  
47 selected, designate a chair who shall preside at all arbitration proceedings.

48 (B) The parties, by stipulation filed with the court, may select:

49 (i) An ADR provider from the roster; or

50 (ii) An ADR provider pro tempore having specialized skill, training, or experience in relevant subject matter. Pro  
51 tempore providers must agree in writing to comply with this rule and the URCADR.

52 (C) If the parties are unable to select a provider within 15 days of referral of the case to the ADR program, the  
parties shall return the list to the Director with the names of up to half of the members of the roster stricken. If there are more



(2) Unless otherwise ordered by the judge, the clerk of the court is authorized to dismiss citations for ~~[no driver's license on person]~~ violation of Section 53-3-217 if the defendant presents proof that the defendant possessed a valid driver's license at the time the citation was issued.

(3) Unless otherwise ordered by the judge, the clerk of the court is authorized to dismiss citations for violation of Section 41-1a-214 if the defendant presents proof that the defendant possessed a valid registration at the time the citation was issued.

(4) Unless otherwise ordered by the judge, the clerk of the court is authorized to dismiss citations for violation of Section 41-12a-303.2 if the defendant presents proof that valid insurance was in effect for the vehicle at the time the citation was issued.

(4) Unless otherwise ordered by the judge, the clerk of the court is authorized to dismiss citations for violation of Section 41-12a-302 if the defendant presents proof that valid insurance was in effect for the vehicle at the time the citation was issued.

(4) Unless otherwise ordered by the judge, the clerk of the court is authorized to dismiss citations for violation of Section 53-3-227 if the defendant presents proof that valid insurance was in effect for the vehicle at the time the citation was issued.

## APPENDIX A. MANUAL OF PROCEDURES FOR JUDICIAL NOMINATING COMMISSIONS.

These changes to the Judicial Nominating Commission Manual were approved by the Judicial Council with an effective date of December 13, 1996.

### Submitting Nominees

The Appellate Court Nominating Commission submits five nominees, and in the event of a tie, as described above, the Commission may submit up to two additional nominees. The Commissions for judicial districts other than the Third Judicial District submit three nominees, and in the even of a tie, as described above, the Commissions may submit up to two additional nominees.

Except as provided herein, the Commission for the Third Judicial District submits five nominees. If the Commission determines that fewer than five applicants meet the qualifications for office, the Commission may submit four or three nominees. If the Commission is considering applicants for multiple vacancies, the Commission submits five nominees for one vacancy and three nominees for each additional vacancy. As provided below for multiple vacancies, the nominees are not ranked nor linked to a particular vacancy.

Nominees are submitted to the Governor, the President of the Senate and the Office of Legislative Research and General Counsel, by letter from the chair of the commission. A copy of the letter is sent to each commission member. The letter should encourage the Governor to conduct further review of the nominees and to encourage public comments which could provide valuable insight to ensure that the best candidate is appointed. The successful candidates are notified individually. The list of nominees is made public by the commission. The public release of the names of the nominees should include a statement that individuals having comments to make regarding the nominees should contact the Governor's office. The application packages, including investigation reports, reference letters, and public comments, of each nominee are forwarded to the Governor.

Nominees are listed in alphabetical order without any indication of rank or preference and without any indication of the vote of the commission. Because the authority of the nominating commission ends with the nomination of candidates, it is important that there be no effort to influence or persuade the Governor in the appointment. Minority reports and expressions of personal feelings regarding nominees are inappropriate. The appointment authority belongs to the Governor, not to the commission. The Governor has the means to conduct an independent investigation of the nominees, and will select the nominee best qualified for the position. While commission members should not contact the Governor, they should feel free to respond to inquiries initiated by the Governor's office regarding the nominees.

If there are multiple vacancies, the names of nominees are not matched to any particular vacancy. Nominees for

**UTAH JUVENILE  
COURT**

**1997**

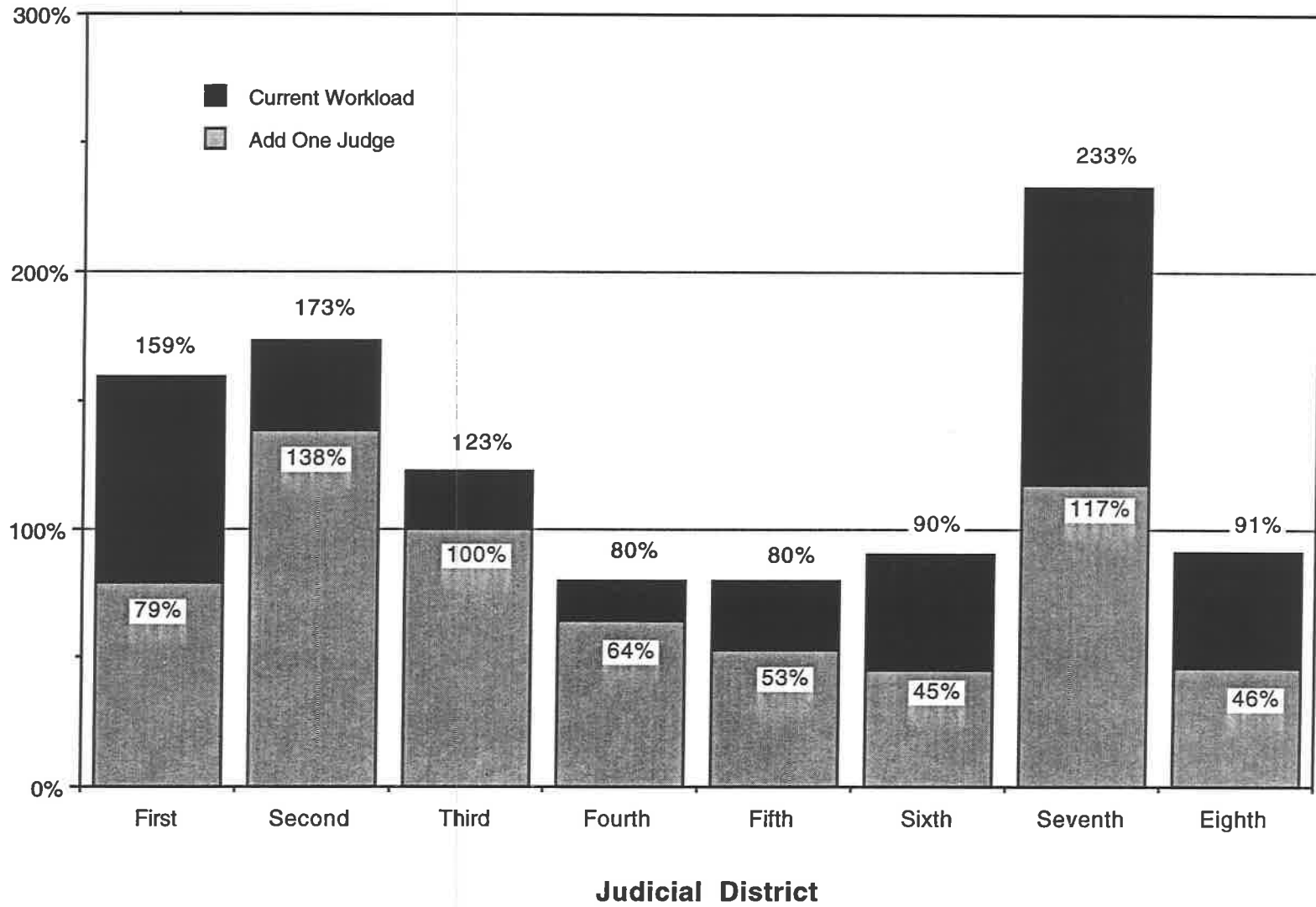
**JUDICIAL WORKLOAD REPORT**

**WEIGHTED CASELOAD  
STANDARD**

Prepared by the  
Administrative Office of the Courts  
August 1997

# UTAH JUVENILE COURT

## August 1997 Judicial Workload Levels & the Impact of Adding One Judge



**UTAH JUVENILE COURT  
Referrals Projected for Calendar 1997**

District County	Felonies	Misd. & Infractions	Status Offenses	Dep., Neglect, and Abuse	Shelter No witness	Shelter Witness	Probable Cause	Decision to Transfer	Perm. Term.	Traffic	Adult Cont.	Totals
1st District	288	2,605	1,190	117	82	35	11	11	12	114	6	4,471
2nd District	1,068	8,361	3,229	913	639	274	25	25	58	325	16	14,933
3rd District	1,934	18,220	4,858	877	614	263	7	7	293	419	5	27,497
4th District	803	7,359	1,784	179	125	54	6	6	45	247	9	10,617
5th District	304	2,874	1,001	132	92	40	4	4	29	92	14	4,586
6th District	190	1,302	436	68	48	20	1	1	4	104	2	2,176
7th District	168	1,462	292	284	199	85	1	1	12	64	16	2,584
8th District	121	1,269	459	104	73	31	0	0	10	69	0	2,136
<b>State Totals</b>	<b>4,876</b>	<b>43,452</b>	<b>13,249</b>	<b>2,674</b>	<b>1,872</b>	<b>802</b>	<b>55</b>	<b>55</b>	<b>463</b>	<b>1,434</b>	<b>68</b>	<b>69,000</b>

**Utah Juvenile Court**  
 Weighted Caseload Projection of Time Required to Hear all Cases in Calendar 1997

DISTRICT	Comparison of Hearing Time(in minutes) Required Against Time Available as Projected for 1997											Total Min. Per Judge	% of Standard	% of St. one more Judge
	Felonies	Misd. & Infractions	Status	D.N.A.	Shelter No Witness	Shelter Witness	Probable Decision Cause	Perm. to Transfer Term.	Traffic	Adult				
First	16,025	38,825	7,583	30,642	3,428	3,428	297	594	3,862	767	392	105,841	159%	79%
Second	14,856	31,153	5,144	59,779	6,687	6,687	169	338	4,667	546	261	130,286	173%	138%
Third	13,451	30,858	3,518	26,101	3,211	3,211	24	47	11,787	320	37	92,566	123%	100%
Fourth	11,170	27,420	2,842	11,720	1,311	1,311	41	81	3,621	415	147	60,078	80%	64%
Fifth	8,458	21,417	3,189	17,285	1,933	1,933	54	108	4,667	309	457	59,811	80%	53%
Sixth	10,572	19,405	2,778	17,809	1,992	1,992	27	54	1,287	699	131	56,747	90%	45%
Seventh	9,348	21,790	1,861	74,380	8,320	8,320	27	54	3,862	430	1,045	129,436	233%	117%
Eighth	6,733	18,913	2,925	27,238	3,047	3,047	0	0	3,218	464	0	65,584	91%	46%

**UTAH JUVENILE COURT**  
**Weighted Judicial Workload Formula**  
 August 1997

Type of Case	Filing Ratio	Percent of Cases Admitted	Average Minutes of Hearing Time	Percent of Cases Denied	Average Minutes of Hearing Time	Average Minutes Per Case	Relative Ratio Felony=1
Felonies	86.0%	70.0%	17	30.0%	176	64.7	1.00
Misd. & Infractions	54.0%	90.0%	14	10.0%	150	27.6	0.43
Status	36.0%	90.0%	13	10.0%	60	17.7	0.27
Dep. Neg. & Abuse	90.0%	50.0%	88	50.0%	494	291	4.50
Shelter no Witness	90%	50%	35	50%	58	17.5	0.27
Shelter Witnesses	90%	50%	94	50%	123	108.5	1.68
Probable Cause	90%	100%	30			30	0.46
Adult Transfer	90%	100%	60			60	0.93
Permanent Termination	90%	60%	20	40%	864	357.6	5.53
Traffic	41.0%	90.0%	12	10.0%	56	16.4	0.25
Adult	100.0%	70.0%	17	30.0%	178	65.3	1.01

Formula elements are based on a double feedback survey taken of all Juvenile Court Judges during the Summer of 1995. The 1995 survey updated the previous weighted workload formula used since 1985. The caseload formula was updated because of the changes in the time needed to handle Dependency, Neglect and Abuse cases as well as Serious Youth Offender cases being considered for transfer to District Court for criminal proceedings.

### Judicial Time Availability by District

District 1

AVAILABLE HEARING TIME	
Days in the Year	365
Weekends	104
Holidays	12
Vacation Days	20
Avg. Sick Days	4
Conf./Training Days	15
Total Avl. Days	210
Bench Hrs per day	6
Bench Hrs per year	1260
Travel Factor (Hrs)	150
Bench Min per year	66600

District 2

AVAILABLE HEARING TIME	
Days in the Year	365
Weekends	104
Holidays	12
Vacation Days	20
Avg. Sick Days	4
Conf./Training Days	15
Total Avl. Days	210
Bench Hrs per day	6
Bench Hrs per year	1260
Travel Factor (Hrs)	18
Bench Min per year	75330

District 3

AVAILABLE HEARING TIME	
Days in the Year	365
Weekends	104
Holidays	12
Vacation Days	20
Avg. Sick Days	4
Conf./Training Days	15
Total Avl. Days	210
Bench Hrs per day	6
Bench Hrs per year	1260
Travel Factor (Hrs)	7
Bench Min per year	75552

District 4

AVAILABLE HEARING TIME	
Days in the Year	365
Weekends	104
Holidays	12
Vacation Days	20
Avg. Sick Days	4
Conf./Training Days	15
Total Avl. Days	210
Bench Hrs per day	6
Bench Hrs per year	1260
Travel Factor (Hrs)	55.8
Bench Min per year	74763

District 5

AVAILABLE HEARING TIME	
Days in the Year	365
Weekends	104
Holidays	12
Vacation Days	20
Avg. Sick Days	4
Conf./Training Days	15
Total Avl. Days	210
Bench Hrs per day	6
Bench Hrs per year	1260
Travel Factor (Hrs)	29
Bench Min per year	74730

District 6

AVAILABLE HEARING TIME	
Days in the Year	365
Weekends	104
Holidays	12
Vacation Days	20
Avg. Sick Days	4
Conf./Training	15
Total Avl. Days	210
Bench Hrs per day	6
Bench Hrs per year	1260
Travel Factor (Hrs)	211
Bench Min per year	62940

District 7

AVAILABLE HEARING TIME	
Days in the Year	365
Weekends	104
Holidays	12
Vacation Days	20
Avg. Sick Days	4
Conf./Training	15
Total Avl. Days	210
Bench Hrs per day	6
Bench Hrs per year	1260
Travel Factor (Hrs)	336
Bench Min per year	55440

District 8

AVAILABLE HEARING TIME	
Days in the Year	365
Weekends	104
Holidays	12
Vacation Days	20
Avg. Sick Days	4
Conf./Training	15
Total Avl. Days	210
Bench Hrs per day	6
Bench Hrs per year	1260
Travel Factor (Hrs)	60
Bench Min per year	72000

## 1999 PLANNING SESSION WORKSHEET

<i>Program</i>	<i>Requested</i>	<i>Ct Admin Rec</i>	NOTES
Base Budget	438,500	300,000	
Appellate Courts			
Law Library	67,200	-	
District Court			
3rd Dist Judge	239,050	239,050	
3rd Dist Judge	239,050	-	
Law Clerks	356,250	296,875	
Juvenile Court			
Drug Court	99,000	-	
2nd Juv Judge	216,050	216,050	
7th Juv Judge	216,050	-	
Justice Courts	58,100		
Legal Institute	33,900	-	
Data Processing			
Computer Network	400,000	245,450	
Security			
District bailiff & Sec.	725,000	303,000	
Education			
Operating funds	84,425	33,275	
Leases			
Building O&M (GF)	3,442,900	3,442,900	
Building O&M (DC)	3,096,000	3,096,000	
Guardian ad Litem			
Operations	330,500	108,100	
Administration			
Court Services Staff	46,200	-	
Other			
Judicial Performance			
Reporter Technology (GFR)	150,000	150,000	
Clerical Reserve		100,000	
Sr. Judge Benefits	88,200	n/a	
Grand Jury	6,000	n/a	



**FY99 LEASE BUDGET OVERVIEW  
SOURCES OF INCREASE OVER FY98**

<b>A. PROJECT</b>	<b>B. EXISTING GENERAL FUND</b>	<b>C. EXISTING COURT FEES</b>	<b>D. NEW GENERAL FUND</b>	<b>E. NEW COURT FEES</b>	<b>F. NEW FEES PARKING/ LEASE</b>	<b>TOTALS</b>
1. Matheson Lease	\$740,800	\$344,000	\$1,800,000	\$2,906,000	\$150,000	<b>\$5,940,800</b>
2. Matheson O/M	1,593,900	0	216,300	0	0	
3. Matheson Security			180,000			
4. Davis Lease			674,700			
5. Davis O/M			134,600			
6. Davis Security			115,000			
7. Washington Lease			150,000			
8. Washington O/M			86,800			
9. Leases Miscellaneous			90,000			
10. Bountiful Lease			124,500			
11. Ogden O/M			96,700	0	50,000	
12. Ogden Security			23,600			
13. Box Elder Security			14,000			
<b>14. SUB-TOTAL</b>	<b>2,334,700</b>	<b>344,000</b>	<b>3,706,200</b>	<b>2,906,000</b>	<b>200,000</b>	
15. Savings from Other Budget Items	-----	-----	-263,300			
<b>16. Net Increase to Budget</b>	<b>NA</b>	<b>NA</b>	<b>\$3,442,900</b>	<b>\$2,906,000</b>	<b>\$200,000</b>	<b>\$6,548,900</b>

**FORM B**

**BUILDING BLOCK NARRATIVE REQUEST FORM  
FOR FISCAL YEAR 1998-99**

**LOW ORG: 2410**

**PROGRAM NAME: Judicial Health Benefits**

**AMOUNT: \$88,200, FY99 from the General Fund\***

**BACKGROUND:** In November, 1995, the Board of Senior Judges made a request to the Policy and Planning Committee for an improvement to the health and life insurance benefits of retired judges. The concern was that of the 45 judges retired as of December, 1995, 22 were not covered nor benefitting from the retiree health benefit provisions of Rule 3-501 (Judicial Insurance Benefits Upon Retirement). Also, of the 26 surviving spouses, only 3 were eligible to receive benefits under the plan. During 1996, Policy and Planning discussed the issue on several occasions and decided that additional review was needed before a recommendation or finding could be made to the Judicial Council. Thus, it was decided that the matter would be presented to the Council at the 1997 Planning Meeting.

**NEED:** The Board of Senior Judges has been concerned over the apparent inequity that occurred when Rule 3-501 was implemented in 1990, leaving already retired judges and spouses ineligible for health and Medicare supplemental premium benefits through conversion of unused sick leave. Currently, these judges must sustain the high cost of insurance premiums and Medicare supplement coverage, which in 1996 amounted to annual premiums of \$5,054 for retirees under age 65, and \$3,408 for those over 65 respectively. Their request is that the Council pick up the cost of retirees premiums who are not presently covered under the Rule, and extend the eligibility from 7 years to a maximum of 10 years for all judges.

**ANALYSIS:** Subsequent to preliminary cost estimates provided by staff, Policy and Planning decided to authorize an actuarial study that would establish a definitive cost impact for the following benefit improvement options:

1. Extend supplemental health benefit premium coverage to all senior judges and spouses who are not currently eligible to benefit from Rule 3-501-First Year Cost \$88,200\*.
2. Extend the 7 year maximum limit under the Rule to 10 years for all judges and spouses including current retirees. Years of eligibility would be based upon unused sick leave (defined as each year for full-time employment that a justice or judge uses less than four days of sick leave in a calendar year, the justice or judge is eligible for 8 months of paid health insurance premiums to a maximum of 10 years) - First year impact is Fiscal 00, with an initial cost of \$58,900, and subsequent costs through Fiscal 07 of \$330,800.

**Note that the total costs for options 1 and 2 are:**

**Option 1, \$265,500 over a three year period. The actuarial assumption is that retired judges and spouses who did not benefit from the medical supplement payment under Rule 3-501 would all get three years of paid benefits (the court administrator does not have leave records on judges who retired before the rule was implemented - hence the proposal is that all such judges and/or their surviving spouses receive a three year benefit)**

**Option 2, \$389,700 through Fiscal 07 to extend 3 years to eligible retired judges who currently benefit from Rule 3-501, plus an undetermined cost to extend an additional 3 year eligibility to active judges who have earned or will earn another three years on top of the seven years currently provided under the Rule.**

# COSTS

NO

	CURRENT BENEFITS	CURRENT BENEFITS	TOTAL
FISCAL 98	\$81,577		\$81,577
FISCAL 99	\$88,156		\$88,156
FISCAL 00	\$95,777	\$58,864	\$154,641
FISCAL 01		\$90,851	\$90,851
FISCAL 02		\$109,212	\$109,212
FISCAL 03		\$51,524	\$51,524
FISCAL 04		\$35,243	\$35,243
FISCAL 05		\$24,112	\$24,112
FISCAL 06		\$15,113	\$15,113
FISCAL 07		\$4,804	\$4,804
TOTAL	\$265,510	\$389,723	\$655,233

**March 7, 1997**  
**ACTUAL AND ESTIMATED COSTS**  
**EXTENSION OF HEALTH/LIFE BENEFITS**

	<i>Total Judges Retired 12/31/95</i>	<i>Judges Not Covered Rule 3-501 Medicare Supplement</i>	<i>Judges Covered</i>	<i>Annual Cost for those Covered</i>	<i>Additional Cost Not Covered</i>
	45	22	23	\$112,100	\$112,100
	<i>Spouses</i>	<i>Not Covered</i>	<i>Covered</i>	<i>Cost</i>	<i>Additional</i>
	26	23	3	\$10,100	\$67,600
<b>TOTALS</b>	<b>71</b>	<b>45</b>	<b>26</b>	<b>\$122,200</b>	<b>*\$179,700</b>

**NOTES**

\*Additional cost to pick up Judges and surviving spouses. Assumes Judges and spouses not covered by insurance elect same type coverage as Judges/Spouses that are covered.

<i>STATE GROUP PREMIUMS</i>	<i>COST</i>
Medical Supplement - Single	\$1,659.00 Year
Medical Supplement - Double	\$3,317.00 Year
Traditional Medical - Double	\$5,335.00 Year
Traditional Medical - Single	\$2,869.00 Year
Traditional Medical - Family	\$7,898.00 Year
Traditional Dental - Single	\$403.00 Year
Traditional Dental - Double	\$463.00 Year
Traditional Dental - Family	\$746.00 Year
\$18,000 LIFE INSURANCE	\$36.48 Year

1           **12-1-8. Designating and limiting activities as to assignments.**

2           Any collector having complied with the provisions of this act, may receive accounts, bills  
3 or other indebtedness, take assignments thereof for the purpose of collections, and at the  
4 direction of the assignor bring suit thereon as assignee, provided however, that such accounts  
5 shall be within the statute of limitations as provided by law, and that in case of suit all legal  
6 processes and pleadings and court representations shall be prepared and conducted by a duly  
7 licensed attorney[, and a copy of summons and complaint, in all cases, shall be served on  
8 defendants, by a duly qualified process server of the court in which such suit is filed].

9

1           **77-27-13. Board of Pardons and Parole - Duties of the judiciary, the**  
2                   **Department of Corrections, and law enforcement - Removal of**  
3                   **material from files.**

4           (1) The chief executive officer and employees of each penal or correctional institution shall  
5 cooperate fully with the board, permit board members free access to offenders, and furnish the  
6 board with pertinent information regarding an offender's physical, mental, and social history  
7 and his institutional record of behavior, discipline, work, efforts of self-improvement, and  
8 attitude toward society.

9           (2) The Department of Corrections shall furnish pertinent information it has and shall  
10 provide a copy of the pre-sentence report and any other investigative reports to the board. In  
11 all cases where a pre-sentence report has not been completed, the department shall make a  
12 post-sentence report and shall provide a copy of it to the board as soon as possible. The  
13 department shall provide the board, upon request, any additional investigations or information  
14 needed by the board to reach a decision or conduct a hearing.

15           (3) The department shall make its facilities available to the board to carry out its functions.

16           (4) Law enforcement officials responsible for the offender's arrest, conviction, and  
17 sentence shall furnish all pertinent data requested by the board.

18           (5)(a) In all cases where an indeterminate sentence is imposed, the judge imposing the  
19 sentence [~~shall~~] may within 30 days from the date of the sentence, mail to the chief executive  
20 of the board a statement in writing setting out the term for which, in his opinion, the offender  
21 sentenced should be imprisoned, and any information he may have regarding the character of  
22 the offender or any mitigating or aggravating circumstances connected with the offense for  
23 which the offender has been convicted. In addition, the prosecutor shall in all cases, within 30  
24 days from the date of sentence, forward in writing to the chief executive of the board a full  
25 and complete description of the crime, a written record of any plea bargain entered into, a  
26 statement of the mitigating or aggravating circumstances or both, all investigative reports, a  
27 victim impact statement referring to physical, mental, or economic loss suffered, and any other  
28 information the prosecutor believes will be relevant to the board. These statements shall be  
29 preserved in the files of the board.

## SUMMARY OF BUILDING BLOCK REQUESTS

(General Fund Only)

<i>Program</i>	<i>Requested</i>	<i>Cumulative</i>	<i>Totals for Programs</i>
Base Budget	438,500	438,500	438,500
Appellate Courts			
Law Library	67,200	505,700	67,200
District Court			
District Judges	478,100	983,800	
Law Clerks	356,250	1,340,050	834,350
Juvenile Court			
Drug Court	99,000	1,439,050	
Juvenile Judges	432,100	1,871,150	531,100
Justice Courts			
Legal Institute	33,900	1,905,050	33,900
Data Processing			
Technology Projects	176,000	2,081,050	
Network Upgrade	110,000	2,191,050	
Windows 95 upgrade	114,000	2,305,050	400,000
Security			
Standing Committee Request	725,000	3,030,050	725,000
Education			
Operations	84,425	3,114,475	84,425
Leases			
Building O&M	3,442,900	6,557,375	3,442,900
Guardian ad Litem			
Operations	330,500	6,887,875	330,500
Administration			
Court Services-Staff	46,200	6,934,075	
Sr. Judge Benefits	88,200	7,022,275	134,400
Grand Jury			
Operations	6,000	7,028,275	6,000
	7,028,275		7,028,275

2.0% = \$1,538,800

**OBJECTIVE:** Obtain One additional Juvenile Court Judge and related staff.

**SOURCE:** Board of Juvenile Court Judges

**PRIORITY:** 1 (2nd District) and 2 (7th District)

**LEGISLATION:** Yes **BUDGET:** \$432,100

**HISTORY OF REQUEST:** An additional Juvenile Judge was requested for the Eighth District for FY 1997. The Legislature approved the request. Three Juvenile Judges were requested by the Board of Juvenile Court Judges for FY 1998--for second, third, and seventh district juvenile courts as their fourth, fifth and sixth priorities--all above the five percent increment set by the Council. The Council did not submit a request to the legislature.

**BACKGROUND:** Accommodating the substantial growth in the Juvenile Court's workload has been the single, reoccurring theme for the past ten years or more. While the Juvenile Court has received excellent support across all aspects of the Courts operation, one factor in particular continues to generate demands on judicial activities that have grown to "crisis" levels. The passage of the Child Welfare Reform Act of 1994 has imposed requirements on judicial time beyond any predictions or expectation considered at the time of passage. The best projections on the impact of the Act were substantially less than current realities. While workload pressures exist in almost all districts, two districts have been identified as needing immediate consideration. Second District and Seventh District currently have the top priority.

Two additional Juvenile Court Judges have been requested by the Juvenile Board of Judges for FY 1999. Table One notes the overall statistical data for juvenile court referrals for Fiscal 1995, 1996, and 1997. The data corresponds with the statistical information provided by Information Services that referrals would peak in the 1995-1996 time frame and then start a modest decline. Dependency/Neglect/Abuse referrals were basically flat from FY 1996 to FY 1997, and all other referrals, except Adult Offenses, declined. Table Two, provides the same data, but by district.

TABLE ONE

Case Type	JUVENILE COURT				
	1995	1996	% Increase	1997	% Increase
Adult Offenses	64	68	6.25%	94	38.24%
Dependency/Neglect/Abuse	2,388	2,634	10.30%	2,664	1.14%
Felony	6,163	5,008	-18.74%	4,960	-0.96%
Infraction	2,312	2,490	7.70%	2,377	-4.54%
Misdemeanor	35,575	39,142	10.03%	37,819	-3.38%
Status Offenses	10,900	12,229	12.19%	11,792	-3.57%
Traffic	1,274	1,242	-2.51%	1,419	14.25%
TOTALS	58,676	62,813	7.05%	61,125	-2.69%



## MEMORANDUM

**To:** Utah Judicial Council  
**From:** Peggy Gentles, Staff Attorney *WLG*  
**Subject:** Comments Received on Proposed Rules  
**Date:** August 5, 1997

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Please find attached comments received on the proposed amendments. A summary of the comments received and Policy and Planning Committee's recommendations follow.

### **RULE 3-201. COURT COMMISSIONERS.**

**CHANGE:** Rule 3-201(7) to have the Council look to "non-judicial officers" rather than "judges" when setting commissioners' salaries. Commissioners would receive same "sick leave benefits" as "non-judicial officers" rather than "judges".

**Comment:** The proposed changes related to sick leave benefits and salary setting are precipitous and represent a change in the terms of employment. *Commissioner Michael S. Evans, Commissioner Thomas N. Arnett, Jr., Commissioner T. Patrick Casey, Commissioner Lisa A. Jones, Third District Court.*

**Recommendation:** Upon recommendation from staff, the proposed changes to Rule 3-201(7) discussed above have been removed.

### **RULE 3-201.02. COURT COMMISSIONER CONDUCT COMMITTEE**

**CHANGE:** New rule created from portions of Rule 3-201 dealing with Court Commissioner Conduct Committee.

**Comment:** Rule should be clarified to indicate that the proceedings and records related to them are protected under GRAMA and the Open and Public Meetings Act. *Judge Gregory K. Orme, Utah Court of Appeals.*

**Recommendation:** No change. The rule provides that the Committee's meetings are closed to the public. Any Council meeting discussing a complaint would be governed by the Council's meetings rules. Under the Council's record access scheme, the personnel file of a current employee is a private administrative record.

### **RULE 4-104. REQUEST FOR TRIAL SETTING.**

exit the courtroom. *Judge Gregory K. Orme, Utah Court of Appeals.*

Recommendation: Strike "before the person is dismissed."

CHANGE: New rule allows greater use of still photographs by the media subject only to judicial approval.

Comment: Greater use of still photography should not be allowed. Giving the discretion to the judge unfairly opens the process to political pressure because the judge must stand for retention election and may worry about ridicule in the press. The presence of still photographers in the courtroom is distracting to all the trial participants. Allowing still photographers will make friends and relatives of the defendant less willing to attend proceedings. The proposed rule erodes the rights of prospective litigants to a dignified and fair process. *L. Clark Donaldson, Salt Lake City.*

Recommendation: No change.

#### **RULE 4-506. WITHDRAWAL OF COUNSEL IN CIVIL CASES**

CHANGE: Clarifies circumstances in which court approval is required for the withdrawal of counsel.

Comment: Court order should not be required when counsel is substituted. Requiring court order injects unnecessary delay in the process. The following paragraph should be added to the rule:

**(5) Substitution of counsel.** An attorney may substitute his appearance for that of an attorney currently counsel of record by filing and serving a notice of substitution of counsel. The filing of substitution of counsel enters the appearance of new counsel of record and effectuates the withdrawal of the attorney being replaced. Where there is not request for a delay in proceedings, substitution of counsel does not require the approval of the Court. Where new counsel will request a delay of proceedings, substitution of counsel shall require the approval of the Court as provided for in this rule. *Raymond Scott Berry, Green & Berry, Salt Lake City.*

**L. CLARK DONALDSON**

ATTORNEY AT LAW

321 SOUTH 600 EAST  
SALT LAKE CITY, UTAH 84102  
PHONE (801) 322-5678  
FAX (801) 322-5677

May 16, 1997

Peggy Gentles  
Staff Attorney  
Administrative Office of the Court  
230 South 500 East, Suite 300  
Salt Lake City, UT 84102

Re: Proposed amendment to Rule 4-401 of the Code of Judicial Administration

Dear Ms. Gentles:

I am writing to voice my opposition to Rule 4-401 of the Code of Judicial Administration which would amend the rules regarding media in the courtroom to allow greater use of still photographs by the media subject only to judicial approval.

I have always considered the courtroom to be an enclave where reason and impartiality were brought to bear in deciding important legal and factual issues posed in the particular situation. The courtroom should be a place where cases are decided on the merits free from general public sentiment or politics. In my opinion, the amendment to the proposed rule increases the likelihood that those accused of crimes will be subject to less objective, fair and reasoned treatment. The proposed amendment would put the decision as to whether and how to regulate still photography in the courtroom solely in the hands of the judge. Since the judges in our state stand for retention election, they have some fear, that incurring the disapproval of the press may cause them to lose their jobs or increase the chance that they will be ridiculed by the press. Consequently, solely judicial regulation of media in the courtroom is less of a safe guard than allowing individual parties to object to being photographed. It is has been my observation that in high profile cases even the use of still photographers who are particularly vigorous in taking photographs of the proceedings are distracting to parties, witnesses and jurors. Moreover, the presence of this type of media scrutiny often changes the behavior of lawyers, witnesses and other parties in that they preen and posture for the camera. This equates to a less objective fair process. Lastly, the current proposed change is apt to cause friends and supports of the defendant to be less willing to attend court proceedings because of the prominence of photographers and the possibility that they will have their pictures taken. Although I recognize and support the first amendment rights of my fellow citizens and the public's right to be informed regarding court proceedings, the change that is suggested would do little to expand the exercise of these rights. I appreciate that reporters have a challenging job when handling news stories. However, the



**UTAH STATE LEGISLATURE  
SALT LAKE CITY, UTAH**

May 15, 1997

Chief Justice Michael D. Zimmerman  
Utah Judicial Council  
230 South 500 East #300  
Salt Lake City, UT 84102

Dear Judicial Council Chair and Honorable Members:

The Judicial Rules Review Committee met yesterday to discuss proposed changes to rules in the Code of Judicial Administration. Due to the lack of a quorum, the committee makes only recommendations upon review of these rules. These recommendations were approved by unanimous consent of those present.

**Rule 4-106. Code of Judicial Administration, Electronic Conferencing (p. 30)**

The committee is concerned that this rule is too broad in permitting the judge, at the judge's discretion (and in undefined appropriate cases), to conduct "any hearing" using telephone or video conferencing. Additionally, the language in Subsection (2) is unclear addressing the procedures for presumably "legal" proceedings and requiring that they be conducted as any other hearing. Finally, the committee recommends that the Administrative Office or Judicial Council contact Judge Donald King in San Francisco, California who provided valuable information regarding telephone conferencing to the Legislative Task Force on Divorce, Child Custody, and Visitation. Perhaps he could provide insight into the drafting of your rule based upon his experience.

Thank you for your interest in the committee's comments.

Sincerely,

*Robert J. Montgomery /jws*  
Senator Robert F. Montgomery  
Co-Chair, Judicial Rules Review

*John L. Valentine /cws*  
Representative John L. Valentine  
Co-Chair, Judicial Rules Review

# Third District Court

May 15, 1997

Peggy Gentles  
Staff Attorney  
Administrative Office of the Court  
230 South 500 East, Suite 300  
Salt Lake City, UT 84102

**RE: Comment On Proposed Rule Change, Rule 3-201(7)(A) and (B)**

Dear Ms. Gentles:

Pursuant to your invitation, we are writing to comment on the proposed rule change as identified above.

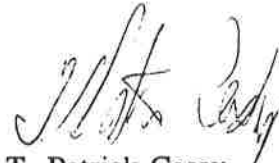
We are adamantly opposed to the proposed change in Rule 3-201(7)(B) that purports to allow Court Commissioners the same sick leave benefits as "non-judicial officers", as opposed to the same sick leave benefits as judges of the courts of record. We are opposed to this proposed change for the following reasons:

1. Said change represents a dramatic change in the terms of employment under which all presently sitting Commissioners agreed to accept his or her initial appointment and have agreed to accept subsequent appointments. We have deemed the terms of the rules as adopted by the Judicial Council to represent an employment contract and have felt comfortable that the council would not precipitously change the terms of that contract, particularly in such a substantive way;

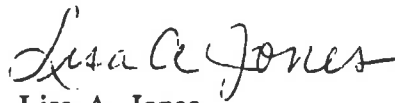
2. The proposed rule change leaves many questions unanswered, such as the status of accrued sick leave benefits, if any, for the seven presently sitting Commissioners, whose years of service range from two to thirty-two. Specifically, no provision has been made for converted sick leave, cash pay out of sick leave upon retirement, or paid-up health and life insurance at retirement;

3. No reason has been stated for the proposed rule change and any perceived fiscal advantage is speculative at best;

4. The proposed rule change makes the position much less attractive for presently sitting Commissioners and those who may consider applying for position of Commissioner;



T. Patrick Casey,  
District Court Commissioner



Lisa A. Jones,  
District Court Commissioner

cc: Judge Leslie Lewis, Presiding Judge, Third District Court  
Daniel Becker, State Court Administrator

# GREEN & BERRY

ATTORNEYS AT LAW  
622 NEWHOUSE BUILDING  
10 EXCHANGE PLACE  
SALT LAKE CITY, UTAH 84111  
TELEPHONE: (801) 363-5650  
FAX: (801) 363-5658

FREDERICK N. GREEN  
RAYMOND SCOTT BERRY

April 28, 1997

Peggy Gentles, Esq.  
Staff Attorney  
Administrative Office of the Courts  
230 South 500 East, Suite 300  
Salt Lake City, UT 84102

Re: Comment on Proposed Rules  
Rule 4-506 Withdrawal of Counsel in civil cases

Dear Ms. Gentles:

Thank you for the opportunity to review the proposed rules.

In my practice, a question has come up several times concerning the requirement of Court approval for withdrawal in the situation where one attorney substitutes his appearance for another, where new counsel is not requesting any delay in the proceedings. Commonly the attorney coming into the case enters an appearance or files a pleading called Notice of Substitution of Counsel simultaneously with the withdrawal of the counsel leaving the case. In this situation, there is no gap in representation, and no delay in court proceedings.

While this may seem like a minor issue, there are serious ramifications. The Rules of Professional Conduct allow the client to terminate the lawyer at the discretion of the client. Typically, the lawyer whose representation is being terminated is replaced with new counsel. The proposed Rule will limit the right of the client to choose who will represent him in Court, unless substitution of counsel is allowed without Court approval. Where there is no request to delay proceedings for the convenience of new counsel, there is no legitimate reason for the Court to prohibit the litigant from being represented by the attorney of his choice.

The current rule suffers from the same confusion concerning substitution of counsel. The confusion creates an opportunity for litigants to take unfair advantage of an opponent, by refusing to serve time-critical pleadings on new counsel, while continuing to serve those pleadings on the attorney being replaced, who now has no direct interest in the proceedings, and who cannot, consistent with the Rules of Professional Conduct, continue to represent a client who has terminated him.

UTAH LEGAL CLINIC  
214 East Fifth South Street  
Salt Lake City, Utah 84111-3204  
Phone: (801) 328-9531

From the Desk of Brian M. Barnard, Esq.

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MEMO

TO: PEGGY GENTLES  
STAFF ATTORNEY  
ADMINISTRATIVE OFFICE OF THE COURTS  
230 SOUTH 5TH EAST STREET # 300  
SALT LAKE CITY, UTAH 84102  
FROM: Brian M. Barnard  
RE: COMMENTS ON PROPOSED RULES AMENDMENTS  
DATE: April 6, 1997

COMMENTS ON PROPOSED AMENDMENTS TO RULES, ETC.  
COMMENT PERIOD ENDS 05/16/97

p. 6; 11. 50-51

Rule 58A: It seems unnecessary and duplicative to serve a copy of a signed judgment upon a party if shortly before that an unsigned copy was served upon the party as per Rule 5, p. 3; l. 41. Requiring a Notice of Entry in such a case makes more sense and saves trees!

p. 11; 11. 11-35

Rule 27: Please don't reduce the number of pages in an appellate briefs. There is insufficient space allowed already.

Don't create this strange system of word count and type style to control the length of briefs. Policing that is going to be difficult. Complying with that will be a pain. Revert to a simple straight forward rule. Every modern word processor and printer can print in pica at 10 characters per inch. Make that the rule! That with a page limit and margin of one inch (1") should do the trick.

p. 42; 1. 16

The word *both* in the sentence makes it confusing. Does *both* refer to attorneys for all parties or to one counsel and her client?

bmb.  


\* \* \*



# COLLECTION OF ACCOUNTS RECEIVABLE

1998 GENERAL SESSION

STATE OF UTAH

AN ACT RELATING TO THE JUDICIARY; ESTABLISHING THE PROCESS FOR THE COLLECTION OF ACCOUNTS RECEIVABLE AS A RESULT OF CRIMINAL PROSECUTION.

This act affects sections of the Utah Code Annotated 1953 as follows:

**AMENDS:**

63A-8-101

63A-8-201

63A-8-301

63A-8-302

76-3-201.1

**REPEALS AND REENACTS:**

77-18-6

*Be it enacted by the Legislature of the state of Utah:*

**63A-8-101. Definitions.**

As used in this chapter:

(1)(a) "Accounts receivable" or "receivables" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, restitution to a victim, costs, claims, and damages.

~~(2) "Administrative offset" means [:~~

~~(a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to the state; and~~

~~(b)] a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to the state.~~

(3) "Board" means the advisory board created by this chapter.

(4) "Entity" means an individual or a corporation, partnership, or other organization that pays taxes to or does business with the state.

(5) "Office" means the Office of State Debt Collection established by this chapter.

(6) "Past due" means any accounts receivable that the state has not received by the payment due date.

(7)(a) "State agency" includes any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of Utah state government, including

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting its receivables;

(d) contract with private agencies or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63-2-206;

(g) by following the procedures and requirements of Section 63-38-3.2 establish:

(i) a fee to cover the administrative costs of collection;

(ii) a ~~[late]~~ past due penalty fee that may not be more than 10% of the account receivable;

(iii) an interest charge that is not more than ~~[2% above]~~ the ~~[prime]~~ post judgment interest rate as established by Section 15-1-4;

(iv) fees to collect accounts receivable for higher education; and

(h) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards.

~~(5)(a) The office [may institute collection efforts on criminal fines, restitution, and other court ordered debts] is responsible for collecting an account receivable ordered by the district court as a result of prosecution for a criminal offense which has been transferred to the office under Subsection 76-3-201.1(4) or Subsection 76-3-201.1(7).~~

~~(b) The Department of Corrections is responsible for collecting an account receivable ordered by the district court as a result of prosecution for a criminal offense for the term established under Subsection 78-18-1(9).~~

~~(c) If the Department of Corrections does not have responsibility under Section 77-18-1 for collecting an account receivable or if the term during which the Department of Corrections is responsible for collection has expired, the district court is responsible for collecting the account receivable.~~

~~(d) In the juvenile court, monies collected by the court from past due accounts receivable may be used to offset system, administrative, legal and other costs of collection. The balance of money collected above the costs of collection shall be allocated on a prorated basis to the~~

agency.

(5)(a) The fund may collect interest.

(b) All interest earned from the fund shall be deposited in the General Fund.

**63A-8-302. Allocation of funds.**

(1) Except as provided in Subsection (2), the ~~[balance of]~~ monies collected by the office less the office's fees shall be allocated on a prorated basis to the various revenue types that generated the accounts receivable.

(2) Notwithstanding the requirements of Subsection (1),

(a) federal cost allocation requirements for specific accounts receivable related to programs that are supported by federal funds take precedence over other cost allocation methods provided in this section and

(b) interest and fees collected on past due accounts receivable shall be used as provided in Subsection 63A-8-301(4).

**76-3-201.1. Nonpayment of fine or restitution as contempt - Imprisonment - Relief where default not contempt - Collection of default.**

(1)(a) An account receivable, as defined in Section 63A-8-101, ordered by the court as a result of prosecution for a criminal offense may be collected by any means authorized by law for the collection of a civil judgment.

(b) The court may permit a defendant to pay an account receivable in installments. In the district court, if the account receivable is paid in installments, the total amount due shall include the interest and fees established by the Office of State Debt Collection under Section 63A-8-201(4).

(c) Upon default in the payment of an account receivable or upon default in the payment of any installment thereof, the account receivable may be collected as provided by this Section, Subsection 77-18-1(9), Subsection 77-18-1(12) and by any means authorized by law for the collection of a civil judgment.

~~[1] (2) When a defendant [sentenced to pay a fine or to make restitution] defaults in the payment of an account receivable or any installment thereof, the court on motion of the prosecution, victim, or upon its own motion may [require him] order the defendant to appear and show cause why [his] the default should not be treated as contempt of court[, and may issue a show cause citation or a warrant of arrest for his appearance]. If the court determines an order to appear and show cause will not secure the appearance of the defendant, the court may issue a warrant of arrest.~~

~~[(2)] (3) Unless the defendant shows that [his] the default was not attributable to an intentional refusal to obey the order of the court or to a failure [on his part] to make a good faith effort to make the payment, the court may find that [his] the default constitutes contempt~~

~~for payment, reducing the amount of the payment or of each installment, or revoking the fine or order of restitution or the unpaid portion in whole or in part.]~~

~~[(6)(a) A default in the payment of a fine or costs or failure to make restitution or any installment may be collected by any means authorized by law for the enforcement of a judgment.~~

~~[(b)] (9) The prosecuting attorney may collect restitution in behalf of a victim.~~

~~(e) The levy of execution for the collection of a fine or restitution does not discharge a defendant committed to imprisonment for contempt until the amount of the fine or restitution has actually been collected.]~~

### **77-18-6. Judgment to pay fine or restitution constitutes a lien. (Repeal & Reenact)**

(1) A judgment of conviction of a crime which orders the payment of a fine, forfeiture, surcharge, cost permitted by statute or fee shall be recorded by the clerk of the court in the registry of civil judgments immediately prior to transferring the responsibility to collect the past due account receivable to the Office of State Debt Collection. The Office of State Debt Collection shall be the judgment creditor for money owed to the state of Utah and its agencies or political subdivisions. The Office of State Debt Collection shall allocate monies collected in accordance with Section 63-63a-2, Section 63A-8-302 and Section 78-3-14.5. The Office of State Debt Collection is responsible for timely renewal of the judgment under Section 78-22-1.

(2) A judgment of conviction of a crime which orders the payment of restitution to a victim under Section 76-3-201 shall be recorded promptly by the clerk of the court in the registry of civil judgments. The victim or the estate of the victim shall be the judgment creditor for money owed on the judgment of restitution. The Department of Corrections shall collect the judgment on behalf of the victim as provided in Subsection 77-18-1(9). The court and the Office of State Debt Collection shall collect the judgment on behalf of the victim as provided in Subsection 63A-8-201(5). The victim may collect the judgment. The victim is responsible for timely renewal of the judgment under Section 78-22-1.

(3) When a fine, forfeiture, surcharge, cost, fee or restitution is recorded in the registry of civil judgments, the judgment:

(a) constitutes a lien;

(b) has the same effect and is subject to the same rules as a judgment for money in a civil action; and

(c) may be collected by any means authorized by law for the collection of a civil judgment.