

**JUDICIAL COUNCIL
AGENDA**

**Tuesday
September 9, 1997**

Cliff Lodge at
Snowbird
The Superior Room

Chief Justice Michael D. Zimmerman, Presiding

<u>Item:</u>	<u>Time:</u>	<u>Subject:</u>	<u>Presenter:</u>
1.	8:30 a.m.	Continental Breakfast	
2.	9:00 a.m.	Welcome/Minutes <i>August 20-22, 1997</i> <i>Minutes will be distributed at meeting</i>	Chief Justice Zimmerman
<u>Continuing Business</u>			
3.	9:10 a.m.	Report from Chair	Chief Justice Zimmerman
4.	9:25 a.m.	Judicial Council Committee Reports . <i>(Tab 1)</i>	Hon. Pamela T. Greenwood Management Committee Hon. Michael K. Burton Policy and Planning Committee Hon. Rodney S. Page Liaison Committee
5.	9:45 a.m.	Court Administrator's Report <i>A) Promotion of Public Confidence</i>	Daniel Becker
6.	10:00 a.m.	Judicial Conduct Commission Update <i>(Information)</i>	Steven Stewart Executive Director
7.	10:15 a.m.	Update -Board of District Court Judges <i>(Information)</i>	Hon. Lynn W. Davis
8.	10:30 a.m.	Update -Board of Juvenile Court Judges ... <i>(Information)</i>	Hon. Kay A. Lindsay

- 9. 10:45 a.m. Adherence to Bail Bond Schedule D. Mark Jones
(Discussion)
- 10. 11:00 a.m. Taylorsville Justice Court Request Richard H. Schwermer
- 11. 11:15 a.m. Executive Session Chief Justice Zimmerman
- 12. 11:30 a.m. Lunch

Information

- 12. News Articles
(Tab 2)

Consent Calendar:

Tab 3

The consent items in this section are approved without discussion if no objection has been raised with the Administrative Off (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. Appointments to Judicial Evaluation Committee Timothy Shea
Dale Kimball, Chair
Charolotte Miller
Hon. Gregory Orme
Thayne Robson
- 2. Application for Certification as Active Senior Judge Holly M. Bullen
Hon. Floyd H. Gowans
- 3. Rules to be Published for Comment Peggy Gentles
- 4. Approval of Rule 5-201 Marilyn Branch
(Subject to approval of the Appellate Court Board)
- 5. Approval of Judicial Branch Education Committee Diane Cowdrey
Hon. James Davis - Court of Appeals Holly M. Bullen
Hon. Kimberly Hornak - Juvenile Court
Paul Cleverley - Juvenile Court Probation Officer
Christine Jeppson - Clerk Position
Kim Adamson - Justice Court Judge
Commissioner Mike Evans - Commissioner
Hon. Judith Anderson, Chair - District Court

6. Vacancy on Information, Automation & Records Holly M. Bullen
Standing Committee
Hon. Kevin Nielson

October's Agenda:

1. Drug Court Update Hon. Dennis Fuchs

Next Meeting:

October 27-28, 1997
Ogden, Utah

Summary Minutes
Policy and Planning Committee of the Judicial Council

August 29, 1997

Members Participating

Judge Robert T. Braithwaite
Judge Michael K. Burton, Chair
James C. Jenkins
Judge Kent Nielson
Judge Stephen A. Van Dyke

Staff Participating

Peggy Gentles

Meeting conducted by telephone conference

1. Rules to be published for comment.

The Committee considered rules to be published for comment. Judge Nielson expressed a concern about Rule 3-414, Court Security. The rule contains many facility design requirements that would apply to all courts. These design requirements may be difficult and expensive to implement in justice courts. Judge Nielson suggested that justice courts be exempted from the design requirements. James Jenkins suggested that another possible solution would be to include target dates for justice court compliance. While the Committee was not entirely comfortable with the rule, it thought it would be better able to evaluate the rule after receiving comments. With respect to Rule 4-201, Record of Proceedings, Judge Burton had a question about why a record of small claims cases are kept. James Jenkins stated that he thought that stipulations should be solicited in small claims cases more often. Judge Nielson expressed concern about Rules 4-608, Trials de novo of Justice Court proceedings in criminal cases and 4-803, Trials de novo in small claims cases. The venue provisions have been proposed to be changed to require the de novo trial to be in the "nearest" district court. Judge Nielson noted that that provision had to be limited to the same county. After discussion, the Committee decided to recommend the rules be published for comment and address the Judge Nielson's point at the end of the comment period. The Committee recommended that the Judicial Council approve the rules to be published for comment on its consent calendar.

2. Other business.

James Jenkins stated that some people have expressed concern about the requirement in Rule 4-608(2)(C) that a certificate of probable cause be issued by the justice court before a

criminal judgment can be stayed pending a trial de novo. Judge Burton asked that the issue be put on the agenda for the October Committee meeting. In response to the Council's request, the Committee will begin consideration of clarifying the rules surrounding court commissioner benefits. To determine what course to take in the discussion of the issues, Judge Burton asked Peggy Gentles to compile a list of issues to be addressed.

The Committee will meet at the Administrative Office of the Courts on October 3.



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: Management Committee
From: Timothy M. Shea *T Shea*
Date: August 26, 1997
Re: Membership on the Judicial Performance Evaluation Committee

The following members of the Judicial Performance Evaluation Committee have terms that expire September 1997. All have agreed to serve a second term.

- Dale Kimball, Chair
- Charlotte Miller
- Hon. Gregory Orme
- Thayne Robson

Harriet Marcus completes 6 years of service on the committee in September and so is not eligible for another term.

Proposed Amendments
to the

Code of Judicial Administration

The Policy and Planning Committee recommends approval of these rules for publication
for comment.

September 2, 1997

1 **Rule 1-205. Standing and ad hoc committees.**

2 **Intent:**

3 To establish standing and ad hoc committees to assist the Council and provide recommendations on topical issues.
4 To establish uniform terms and a uniform method for appointing committee members.
5 To provide for a periodic review of existing committees to assure that their activities are appropriately related to the
6 administration of the judiciary.

7 **Applicability:**

8 This rule shall apply to the internal operation of the Council.

9 **Statement of the Rule:**

10 (1) Standing committees.

11 (A) Establishment. The following standing committees of the Council are hereby established:

- 12 (i) Information, Automation and Records Committee;
- 13 (ii) Uniform Fine/Bail Schedule Committee;
- 14 (iii) Performance Evaluation Committee;
- 15 (iv) Ethics Advisory Committee;
- 16 (v) Justice Court Standards Committee;
- 17 (vi) Judicial Branch Education Committee; and
- 18 (vii) Court Facility Planning Committee.

19 (B) Composition.

20 (i) The Information, Automation and Records Committee shall be comprised of one judge from each court of
21 record, one justice court judge, one lawyer recommended by the Board of Bar Commissioners, two court executives, two
22 court clerks and two staff members from the Administrative Office, all of whom shall be voting members. The Committee
23 may add additional non-voting, ad hoc members as needed.

24 (ii) The Uniform Fine/Bail Schedule Committee shall be comprised of one district court judge who has experience
25 with a felony docket, three district court judges who have experience with a misdemeanor docket, one juvenile court judge
26 and three justice court judges.

27 (iii) The Performance Evaluation Committee shall be comprised of one judge from each court of record, one justice
28 court judge, one court commissioner, one Bar Commissioner recommended by the president of the State Bar, two practicing
29 attorneys who are members of the Bar in good standing, and three lay members. The terms of office of the two practicing
30 attorneys shall be staggered. The Judicial Council shall appoint one of the two practicing attorneys to serve as chair.

31 (iv) The Ethics Advisory Committee shall be comprised of one judge from the Court of Appeals, one district court
32 judge from Judicial Districts 2, 3, or 4, one district court judge from Judicial Districts 1, 5, 6, 7, or 8, one juvenile court
33 judge, one justice court judge, and an attorney from either the Bar or a college of law.

34 (v) The Justice Court Standards Committee shall be comprised of one municipal justice court judge from a rural
35 area, one municipal justice court judge from an urban area, one county justice court judge from a rural area, and one county
36 justice court judge from an urban area, all appointed by the Board of Justice Court Judges; one mayor from either Utah,
37 Davis, Weber or Salt Lake Counties, and one mayor from the remaining counties, both appointed by the Utah League of
38 Cities and Towns; one county commissioner from either Utah, Davis, Weber or Salt Lake Counties, and one county
39 commissioner from the remaining counties, both appointed by the Utah Association of Counties; a member of the Bar from
40 Utah, Davis, Weber or Salt Lake Counties, and a member of the Bar from the remaining counties, both appointed by the Bar
41 Commission; and a judge of a court of record appointed by the Presiding Officer of the Council. All Committee members
42 shall be appointed for two year staggered terms.

43 (vi) The Judicial Branch Education Committee shall be comprised of one judge from an appellate court, one district
44 court judge from Judicial Districts 2, 3, or 4, one district court judge from Judicial Districts 1, 5, 6, 7, or 8, one juvenile court
45 judge, one justice court judge, one state level administrator, the Human Resource Management Director, one court executive,
46 one juvenile court probation representative, two court clerks from different levels of court and different judicial districts, one
47 data processing manager, one adult educator from higher education, and such other members as may be appointed by the
48 Council. The Human Resource Management Director and the adult educator shall serve as non-voting members. The state
49 level administrator and the Human Resource Management Director shall serve as permanent Committee members.

50 (vii) The Court Facility Planning Committee shall be comprised of one judge from each level of trial court, the state
51 court administrator, a trial court executive, and two business people with experience in the construction or financing of
52 facilities.

53 (C) Standing committees shall meet as necessary to accomplish their work but a minimum of once every six months.
54 Standing committees shall report to the Council as necessary but a minimum of once every six months. Council members

1 (i) Multi-judge courts shall have regular court en banc meetings, including all judges of the court and the court
2 executive, to discuss and decide court business. The presiding judge has the discretion to excuse the attendance of the court
3 executive from court en banc meetings called for the purpose of discussing judicial business. In single-judge courts, the
4 judge shall meet with the court executive to discuss and decide court business.

5 (ii) The presiding judge shall call and preside over court meetings. If neither the presiding judge nor associate
6 presiding judge, if any, is present, the presiding judge's designee shall preside.

7 (iii) Each court shall have a minimum of four meetings each year.

8 (iv) An agenda shall be circulated among the judges in advance of the meeting with a known method on how
9 matters may be placed on the agenda.

10 (v) Minutes of each meeting shall be taken and preserved.

11 (vi) Other than judges and court executives, those attending the meeting shall be by court invitation only.

12 (vii) The issues on which judges should vote shall be left to the sound discretion and judgment of each court and the
13 applicable sections of the Utah Constitution, statutes, and this Code.

14 (B) Absence of presiding judge. When the presiding judge and the associate presiding judge, if any, are absent from
15 the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge may be by
16 supplemental court rule or at the discretion of the presiding judge. All parties that must necessarily be informed shall be
17 notified of the judge acting as presiding judge.

18 (3) Administrative responsibilities and authority of presiding judge.

19 (A) Generally. The presiding judge is charged with the responsibility for the effective operation of the court. He or
20 she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they
21 pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the
22 authority to delegate the performance of non-judicial duties to the court executive.

23 (B) Coordination of judicial schedules.

24 (i) The presiding judge shall be aware of the vacation and education schedules of judges and be responsible for an
25 orderly plan of judicial absences from court duties.

26 (ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge.

27 (C) Court committees. The presiding judge shall, where appropriate, make use of court committees composed of
28 other judges and court personnel to investigate problem areas, handle court business and report to the presiding judge and/or
29 the court en banc.

30 (D) Outside agencies and the media.

31 (i) The presiding judge or court executive shall be available to meet with outside agencies, such as the prosecuting
32 attorney, the city attorney, public defender, sheriff, police chief, bar association leaders, probation and parole officers, county
33 governmental officials, civic organizations and other state agencies. The presiding judge shall be the primary representative
34 of the court at ceremonial functions.

35 (ii) Generally, the presiding judge or court executive shall represent the court and make statements to the media on
36 matters pertaining to the total court and provide general information about the court and the law, and about court procedures,
37 practices and rulings where ethics permit.

38 (E) Docket management and case and judge assignments.

39 (i) The presiding judge shall monitor the status of the dockets in the court and implement improved methods and
40 systems of managing dockets.

41 (ii) The presiding judge shall assign cases and judges in accordance with supplemental court rules to provide for an
42 equitable distribution of the workload and the prompt disposition of cases.

43 (iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge
44 shall, through the Administrative Office, request assistance of visiting judges when needed to handle the workload of the
45 court.

46 (iv) The presiding judge shall discuss problems of delay with other judges and offer necessary assistance to expedite
47 the disposition of cases.

48 (F) Local supplemental rules.

49 (i) Prior to submission of a local supplemental rule to the Board, the presiding judge shall submit the rule to a vote
50 of the judges of that jurisdiction. Upon a majority vote, the rule shall be submitted to the Board and the Council for review,
51 adoption and ratification as provided in this Code.

52 (ii) The presiding judge shall ensure that copies of local supplemental rules are available and disseminated to
53 interested persons.

54 (G) Court executives.

1 (M) Board of Judges. The presiding judge shall serve as a liaison between the court and the Board for the respective
2 court level.

3 (N) Supervision and evaluation of Court Commissioners. The presiding judge is responsible for the development of
4 a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's
5 performance on an annual basis. A copy of the performance plan and evaluation shall be maintained in the official personnel
6 file in the Administrative Office.

7
8 **The change to Rule 3-111(3)(A)(vi) was approved by the Judicial Council as an emergency rule effective April 28,**
9 **1997. The change to Rule 3-111(3)(C)(i) was approved by the Judicial Council as an emergency rule effective July 2,**
10 **1997.**

11
12 **Rule 3-111. Performance evaluation for certification of judges and commissioners.**

13 **Intent:**

14 To establish a performance evaluation program to be used for the certification of judges and commissioners
15 pursuant to Utah Code Ann. § 78-3-21(4).

16 To establish the guidelines which shall be used by the Council in certifying judges for retention election or
17 reappointment.

18 To establish guidelines which shall be used by the Council and presiding judges in retaining a court commissioner
19 for continued service.

20 To provide meaningful and relevant information to the public and applicable appointing authority to guide its
21 decision on whether to retain or reappoint judges or commissioners without compromising the self-improvement goal of the
22 Judicial Performance Evaluation Program or the independence of the judiciary.

23 **Applicability:**

24 This rule shall apply to all judges standing for retention election after November 1990, municipal justice court
25 judges seeking reappointment and court commissioners, except that Paragraph (3)(A) shall apply only to the judges and
26 commissioners of the courts of record and Paragraph (3)(B) shall apply only to the judges of the district court who conduct
27 jury trials.

28 Paragraphs with more limited applicability shall apply as specified in the paragraph.

29 **Statement of the Rule:**

30 (1) Objective.

31 (A) Each judge standing for retention election, or other judge or commissioner standing for reappointment or
32 continued service, shall be evaluated for compliance with the standards set forth in this rule for each criterion as defined in
33 this rule.

34 (B) A judge or commissioner is entitled to certification upon compliance with the standards for each criterion set
35 forth in this rule. Any judge or commissioner who fails to satisfy any of the standards for a criterion set forth in this rule is
36 deemed not entitled to certification. Any judge or commissioner deemed not entitled to certification may request a hearing
37 before the Council. The Council may, after hearing if requested, within its sole discretion, grant certification based on written
38 findings that it is in the best interests of the administration of justice.

39 (C) No evaluation shall be based upon a criterion which has not been adopted and in effect for at least two years.
40 However, the methodology for measurement may change from year to year.

41 (2) Criteria of performance. The following criteria shall be used to evaluate a judge or commissioner:

42 (A) Integrity - Factors considered shall include but are not limited to:

43 (i) avoidance of impropriety and appearance of impropriety;

44 (ii) freedom from personal bias;

45 (iii) ability to decide issues based on the law and the facts without regard to the identity of the parties or counsel, the
46 popularity of the decision, and without concern for or fear of criticism;

47 (iv) impartiality of actions; and

48 (v) compliance with the Code of Judicial Conduct.

49 (B) Knowledge and understanding of the law and judicial branch rules - Factors considered shall include but are not
50 limited to:

51 (i) the issuance of legally sound decisions;

52 (ii) understanding of the substantive, procedural, and evidentiary law of the state;

53 (iii) attentiveness to the factual and legal issues before the court; and

54 (iv) the proper application of judicial precedents and other appropriate sources of authority.

1 (vi) Exclusion from survey respondents. By certifying that one or more of the following conditions applies, the
2 judge or commissioner may exclude an attorney from the list of respondents: The judge or commissioner
3 (a) has referred the lawyer to the Utah State Bar for discipline,
4 (b) has found the lawyer in contempt of court,
5 (c) has sanctioned the lawyer pursuant to rules of procedure,
6 (d) has presided in a civil or criminal proceeding to which the lawyer is a party, [or]
7 (e) has been the subject of an affidavit of bias or prejudice under Utah Rule of Civil Procedure 63 or Utah Rule of
8 Criminal Procedure 29 filed by the attorney, or
9 (f) has been the subject of a complaint by the attorney filed with the Judicial Conduct Commission or referred to the
10 Commissioner Conduct Committee.
11 (vii) If a judge holds a law firm jointly responsible under Utah Rule of Civil Procedure 11(c)(1)(A), the judge may
12 exclude all members of the law firm from the list of respondents.
13 (viii) Number of survey respondents. For each justice, judge, or commissioner who is the subject of a survey, the
14 Surveyor shall identify 180 respondents or all attorneys appearing before the judge or commissioner whichever is less.
15 (ix) Factors in selecting respondents; response rate. In selecting respondents from potential respondents, the
16 Surveyor should favor attorneys with a greater number of appearances and attorneys with more recent appearances, and the
17 Surveyor should attempt to limit the number of survey questionnaires to which an attorney is asked to respond to 12. The
18 Surveyor may balance these factors in assigning respondents to particular judges or commissioners. The Surveyor should
19 pursue a response rate of 70% or more for each judge or commissioner. The goals of this subparagraph are advisory only and
20 failure to meet the goals shall not invalidate the survey.
21 (B) Survey of jurors. The Council shall measure satisfactory performance of each judge by a survey of the jurors
22 appearing before the judge during the preceding two years or such shorter period for which the judge is being evaluated. A
23 survey of jurors for all district court judges who preside over jury trials shall be conducted during the four years prior to
24 certification for retention election. However, a survey of jurors for district court judges serving prior to their initial retention
25 election shall be conducted during the two years prior to certification for retention election. The results of surveys
26 administered during the final two years prior to certification shall be used for certification. The results of surveys
27 administered during the third and fourth years prior to certification shall be used for self improvement and not for
28 certification. The results of the jury survey conducted between September 1996 and September 1997 shall be used for
29 certification for judges standing for retention election in 1998.
30 (i) Survey subject matter. Subjects inquired into by the survey shall be drawn from but need not include all of the
31 criteria in paragraph (2) of this rule. The Standing Committee on Judicial Performance Evaluation shall submit a proposed
32 survey and any proposed amendments to the Council for approval. The survey shall include a general question as follows:
33 "Would you be comfortable having your case tried before this judge?" Each question, except the general question, will have
34 four possible responses: Yes, No, No Opinion, and No Opportunity to Observe. The general question shall have two
35 responses: Yes and No. A note card on which the juror can provide anonymous comments to the judge shall be attached to
36 the survey questionnaire.
37 (ii) Survey scoring. The survey shall be scored as follows:
38 (a) A favorable response is Yes.
39 (b) Each question shall be scored by dividing the total number of Yes responses by the total number of Yes plus No
40 responses.
41 (c) The general question shall not be used in the calculation of survey scoring. In the event a judge is not certified
42 and requests a hearing, response to the general question may be used as a mitigating or aggravating factor.
43 (d) A satisfactory score is achieved for each question when the ratio of favorable responses computed in (b) above is
44 70% or greater.
45 (e) A judge's performance is satisfactory if:
46 (1) At least 75% of the questions on the survey, except the general question, have a satisfactory score as stated in (d)
47 above; and
48 (2) The Yes responses to all questions except the general question, when divided by the total number of Yes plus No
49 responses to all questions except the general question, is 70% or greater.
50 (iii) Administration of the survey. All jurors rendering a verdict in a case and all jurors, including alternate jurors,
51 with at least three hours of trial time with the judge shall have the opportunity to be a respondent to the survey questionnaire.
52 (a) For jurors rendering a verdict. As soon as possible after the jury has been discharged, the bailiff or clerk in
53 charge of the jury shall reassemble the jurors and provide them with the evaluation questionnaires and comment note cards
54 and two envelopes. One envelope will be preprinted with the mailing address of the survey consultant; the other will be

1 compliance.

2 (iv) The Council shall notify the judge or commissioner of the Council's decision in writing within 10 days after the
3 hearing.

4 (v) If a judge or commissioner not entitled to certification fails to request such a hearing within the time allowed, the
5 Council shall memorialize at its next regularly scheduled meeting that such judge or commissioner is not certified.

6

7 (E) The Council shall provide the information § 20A-7-702 to the Office of Lieutenant Governor for publication in
8 the voter information pamphlet.

9 (F) For each municipal justice court judge subject to reappointment, the Council shall provide the information
10 described in § 20A-7-702 to the appointing authority by August 1 of the year prior to the expiration of the judge's term of
11 office.

12 (G) The Council shall notify each presiding judge of the certification decision on every commissioner by June 1 of
13 each even numbered year. Upon entry of a final decision not to certify a commissioner, the Council shall remove the
14 commissioner from office. The surveyor shall provide to the presiding judge the report of the survey results for all
15 commissioners of that court.

16 (5) Administration of the judicial performance evaluation program.

17 (A) The Standing Committee on Judicial Performance Evaluation shall:

18 (i) Provide to the Council a proposed schedule of activities and recommended procedures by which to administer
19 the evaluation for certification by May 1 of each odd numbered year.

20 (ii) With the Council's approval, mail a schedule and list of procedures to all judges and commissioners subject to
21 evaluation.

22 (iii) Include in its annual report to the Council recommendations for the improvement of the certification evaluation
23 program.

24 (B)(i) Individual judges and commissioners shall be evaluated under this rule every 2 years. Newly appointed
25 judges and commissioners shall be evaluated as soon as practicable after their first year in office and again prior to their
26 initial retention election or reappointment.

27 (ii) If a judge between March 1 and July 1 of the year prior to the judge's retention election or a commissioner at any
28 time states in writing to the Judicial Council his or her intent not to continue in office beyond the close of the calendar year in
29 which the judge or commissioner is scheduled for retention election or reappointment, the Judicial Council shall not include
30 the judge or commissioner within the list of judges and commissioners who are the subject of the next attorney survey. If the
31 judge or commissioner remains in office contrary to his or her written commitment not to remain in office, the Council shall
32 determine that the judge or commissioner is not entitled to certification for retention election or reappointment.

33 (C) Unless otherwise stated, evaluation and certification of judges and commissioners shall be based upon
34 performance during the current term of office.

35 (D) Provisions for confidentiality shall be established such that performance data on individual judges or
36 commissioners and the source of particular information cannot be identified except as required to comply with this rule.

37 (E) Data submitted to the Council for certification shall be tabulated by survey question or type of information by
38 judge or commissioner, by court level and by geographic region.

39 (i) Data under this section shall be made available to the Council prior to its January meeting of each even
40 numbered year.

41 (ii) Individual judges and commissioners shall receive their individual results a minimum of 20 days prior to
42 submission to the Council. Judges and commissioners must provide comments on the results to the Council at least 5
43 working days prior to Council consideration.

44 (iii) Data collected by survey for certification purposes shall be reported in 5% increments. However, if the sample
45 size for the survey for a particular judge is too small to provide statistically reliable information in 5% increments, the survey
46 results for that judge shall be reported as satisfactory or unsatisfactory performance as defined in this rule with a statement by
47 the surveyor explaining why the survey is statistically unreliable..

48 (iv) The Council and individual judges or commissioners shall be provided with summary data and results without
49 individual identification for each survey question or type of information for each court level and each geographic region.

50 (v) The Council shall make information collected under this section on judges and court commissioners standing for
51 retention election or reappointment available to the public prior to retention election or reappointment in the same form
52 which was used by the Council to make its certification decision. Information on individual judges and commissioners not
53 used for certification by the Council shall not be available to the public. Summary data compiled by court level or geographic
54 region without identification of individual judges or commissioners may be made available to the public upon request.

1 be used as weapons shall be regulated as provided in this rule.
2 ~~[(xiii)]~~ (viii) An emergency power system shall be provided for lighting and electrically operated doors.
3 ~~[(xiv)]~~ Judicial chambers with more than one exit;
4 ~~[(xv)]~~ (ix) Separate waiting areas shall be provided for defense witnesses, plaintiff or prosecution witnesses, and
5 jurors.
6 ~~[(xvi)]~~ Gun lockers in restricted areas for use by law enforcement agencies;] (x) Lockers shall be provided for the
7 storage of weapons legally carried but not permitted in the courthouse.
8 ~~[(xvii)]~~ A requirement that the bailiff shall be situated in a strategic location within the courtroom which provides
9 (xi) The bailiff's station shall provide a clear line of sight [and observation] of all courtroom participants and [that the
10 bailiff and transportation officer place themselves physically] shall be between individuals who are in custody and
11 courtroom exits.
12 (C) As a condition for the certification of a new justice court or the continued certification of an existing justice
13 court pursuant to Section 78-5-139, the justice court shall file an acceptable local security plan which shall provide for the
14 presence of a law enforcement officer in court during court sessions or a reasonable response time by the local law
15 enforcement agency upon call of the court.
16 ~~[(D)]~~ The council shall designate courts of record locations where the county sheriff shall provide building security
17 officers pursuant to Section 17-22-27.]
18 (3) Responsibilities of the Administrative Office.
19 (A) The ~~[Administrative Office]~~ state court administrator shall appoint a statewide security coordinator who shall:
20 (i) review, approve and keep on file copies of all local security plans; and
21 (ii) periodically visit the various court jurisdictions to offer assistance in the development or implementation of
22 local security plans.
23 (B) The ~~[Administrative Office]~~ state court administrator shall appoint a court executive in each judicial district to
24 serve as a local security coordinator.
25 (C) The ~~[Administrative Office]~~ director of human resources shall maintain as part of each official personnel file
26 ~~[necessary biographical]~~ information on each employee of the judiciary and his or her family necessary to ensure that
27 adequate information is available to law enforcement agencies to respond ~~[in the event of]~~ to an emergency.
28 (4) Responsibilities of the court executive.
29 (A) The court executive ~~[who has been]~~ designated as the local security coordinator~~[, is primarily responsible for~~
30 ~~the development, implementation and coordination of]~~ shall, in consultation with the law enforcement administrator
31 responsible for security, develop and implement a local security plan[-. The local security plan shall include a security plan]
32 for each court facility within the district. The court executive shall annually review the local security plan with the
33 presiding judge and the law enforcement administrator to identify deficiencies in the plan and problems with
34 implementation. The court executive shall provide a copy of the local security plan and any amendments to the security
35 coordinator by July 1 of each year.
36 ~~[(B)]~~ The court executive shall initiate a meeting with the law enforcement administrator who has responsibility for
37 court security in that court executive's geographical area of responsibility. The court executive shall ensure that in
38 conjunction with the local law enforcement administrator a local security plan is adopted-]
39 ~~[(C)]~~ (B) The court executive ~~[is responsible for an initial]~~ shall conduct an annual survey [to be conducted] of all
40 court facilities ~~[and periodic ongoing surveys]~~ to identify steps necessary ~~[improvements, modifications or design features~~
41 ~~required]~~ to meet security ~~[standards]~~ guidelines established by the Council.
42 ~~[(D)]~~ The court executive shall file a copy of the local security plan with the Administrative Office by July 1 of
43 each year commencing in July, 1989-]
44 ~~[(E)]~~ The court executive shall review the local security plan with the presiding judge responsible for the court
45 facility and the responsible law enforcement administrator on an annual basis-]
46 ~~[(F)]~~ The court executive shall conduct quarterly reviews to identify deficiencies in the local security plan,
47 problems with implementation of the security plan and recommendations for improvements-]
48 ~~[(G)]~~ The court executive shall provide copies of the written evaluation to the presiding judge and the local law
49 enforcement administrator-]
50 ~~[(H)]~~ (C) The court executive shall ~~[ensure that annual training on]~~ provide a copy of the current the local security
51 plan [is provided] and annual training on the plan to all ~~[judicial and non-judicial]~~ employees, volunteers and security
52 personnel [working in any court facilities].
53 ~~[(I)]~~ (D) The ~~[court executive shall ensure that the]~~ local plan shall clearly ~~[delineates]~~ delineate the
54 responsibilities between court personnel and law enforcement personnel for all areas and activities in and about the

1 of firearms.

2 (C) Physical and mental condition. Court bailiffs shall be of suitable physical and mental condition to ensure that
3 they are capable of providing a high level of security for the court and to ensure the safety and welfare of individuals
4 participating in court proceedings. ~~They~~ Bailiffs shall be capable of responding appropriately to any potential or actual
5 breach of security ~~[, and be trained in emergency medical assistance and the use of firearms. The appointing authority shall~~
6 ~~be responsible for assuring that the court bailiffs possess the required training and physical and mental qualifications].~~

7 (D) Appointment. The appointment of a bailiff is subject to the concurrence of the presiding judge of the court or,
8 if the court has no presiding judge, then subject to the concurrence of the judge or judges of the court.

9 ~~(D)~~ (E) Supervision. The court bailiff shall be supervised by the appointing authority and perform duties in
10 compliance with directives of the appointing authority ~~[, the judge, or the court commissioner pursuant to this Code].~~

11 ~~(E)~~ (F) Responsibilities. Court bailiff responsibilities shall include but are not ~~[be]~~ limited to ~~[:-]~~ the following.

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

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

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

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

23 (v) Bailiffs shall comply with the directives of the judge or commissioner with respect to security related activities
24 and shall perform other duties incidental to the efficient functioning of the court which do not detract from security
25 functions. Activities wholly unrelated to security or function of the court, including personal errands, shall not be requested
26 nor performed.

27 ~~(v)~~ (vi) Bailiffs shall perform ~~[such]~~ responsibilities ~~[as defined]~~ provided for in the local court security plan.

28 (7) Secure areas. Pursuant to Section 78-7-6, the following areas of all courthouses of courts of record and not of
29 record are designated as "secure areas":

30 (a) ~~[judicial]~~ judges' and court commissioners' chambers;

31 (b) courtroom areas inside well;

32 (c) ~~[clerk]~~ employees' and volunteers' offices;

33 ~~[(d) court reporter offices;]~~

34 ~~[(e)]~~ (d) private hallways, stair wells and elevators;

35 ~~[(f)]~~ (e) jury deliberation rooms;

36 ~~[(g)]~~ (f) jury assembly rooms;

37 ~~[(h)]~~ (g) holding cells;

38 ~~[(i)]~~ (h) victim and witness rooms;

39 ~~[(j)]~~ (i) attorney conference rooms;

40 ~~[(k)]~~ (j) reserved parking areas;

41 ~~[(l) central staff attorneys offices;]~~

42 ~~[(m)]~~ (k) breakrooms;

43 ~~[(n)]~~ (l) conference rooms; and

44 ~~[(o)]~~ (m) libraries not open to the public.

45 (8) ~~[Security devices and procedures.]~~ Weapons.

46 (A) Weapons Generally.

47 (i) No person may possess an explosive device in a courthouse or a secure area of a courthouse. Except as
48 permitted by ~~[a local court security plan or by]~~ this rule, no person may possess any firearm, ammunition, or dangerous
49 weapon ~~[, or explosive]~~ in a courthouse ~~[:]~~ or a secure area of a courthouse.

50 (ii) All firearms permitted under this rule shall remain in the physical possession of the person authorized to
51 possess it and shall not be placed in a drawer, briefcase or purse unless the person has physical possession of the briefcase
52 or purse or immediate control of the drawer. All firearms permitted under this rule shall be secured in a holster with at
53 least three points of restraint. Concealment is the equivalent of one point of restraint.

54 (B) Persons authorized to possess a firearm or other weapon.

1 responsible for the transportation, custody, and conduct of all individuals in official custody throughout the court
2 proceedings. Such law enforcement agencies are responsible for the return of such custodial individuals to their proper
3 place of confinement

4 ~~Individuals in custody include prison inmates, 90-day diagnostic offenders, individuals in the custody of a local
5 county jail, or individuals in the custody of a law enforcement agency. Such responsibility shall not be interrupted or
6 delegated while on court premises.~~

7 ~~(ii) Support and assistance to outside law enforcement agencies shall be rendered by the court bailiff and the local
8 law enforcement agency responsible for court security as circumstances dictate. If so directed by the local law enforcement
9 agency responsible for court security, representatives of outside law enforcement agencies may transport individuals in
10 custody to the county jail and deliver custody to the county sheriff for processing in conformance with local jail policy.~~

11 ~~(iii) Upon exit from the jail by the most secure means available adjacent to the scheduled courtroom, custody of
12 the person shall be returned to the responsible law enforcement agency who is thereafter responsible for the conduct and
13 custody of the person with the support and assistance of the court bailiff and the local law enforcement agency responsible
14 for court security.~~

15 ~~(iv) All law enforcement agencies delivering individuals in custody to court shall notify in advance the local law
16 enforcement agency responsible for security, shall coordinate all necessary arrangements and shall advise the local law
17 enforcement agency of any potential problems.~~

18 ~~(B) Probationers and parolees:~~

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

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

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

27 ~~(C) Individuals in county jails:~~

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

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

33 (A) The federal, state, county or municipal agency with physical custody of a person whose appearance in court is
34 required is responsible for transportation of that person to and from the courtroom.

35 ~~[(iii)]~~ (B) The transportation officer shall:

36 (i) remain present at all times during [such] court appearances[~~, shall~~];

37 (ii) be responsible for the custody of such persons [~~and with~~];

38 (iii) support the court bailiff in the preservation of peace in the courthouse and courtroom[-];

39 [~~Advance~~] (iv) provide advance notice [~~shall be provided~~] of the transportation and of any extraordinary security
40 requirements to the law enforcement agency responsible for court security, to the judge, and to the bailiff [of any unique
41 security requirements necessary for individual cases];

42 (v) comply with any regulations of the county sheriff regarding the transportation of persons in custody to court;

43 and

44 (iv) return the person in custody to the proper place of confinement.

45 (C) The law enforcement agency responsible for court security shall provide assistance to the transportation
46 officer as circumstances dictate.

48 **Rule 4-201. Record of proceedings.**

49 **Intent:**

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

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

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

53 **Applicability:**

54 This rule shall apply to the courts of record.

1 reporter's shorthand notes shall be the official court record. The Utah Rules of Appellate Procedure govern the record on
2 appeal.

3 (B) The official court record shall be filed with the clerk of the court.

4 (C) The clerk of the court shall be the custodian of the official court record and may release the official court
5 record only to a judge, the clerk of the appellate court, the trial court executive, or the official court transcriber. The clerk
6 shall enter in the docket the name of the recipient and when the official court record was released and returned. Obtaining
7 a copy of the official court record shall be governed by rules regulating access to court records.

8 (4) Requests for transcripts.

9 (A) A request for transcript for an appeal is governed by Utah R.App.P. 11 and Utah R.App.P. 12.

10 (B) A request for transcript for any purpose other than for an appeal shall be accompanied by the fee established by Section
11 78-56-4 and filed with the court executive. A request for an expedited transcript shall be accompanied by the fee
12 established by Section 78-56-4 and filed with the court executive. The court executive shall assign the preparation of the
13 transcript in the same manner as Utah R.App.P. 12.

14 15 **Rule 4-510. Alternative dispute resolution.**

16 **Intent:**

17 To establish a program of court-annexed alternative dispute resolution for civil cases in the District Courts.

18 **Applicability:**

19 These rules shall apply to cases filed in the District Court in the Second, Third and [Fifth] Fourth Judicial
20 Districts. The rules do not apply to: actions brought by or through the Office of Recovery Services under Title 26, Chapter
21 19, Medical Benefits Recovery Act, Title 62A, Chapter 11, Recovery Services, Title 78, Chapter 45, Uniform Civil
22 Liability for Support Act, and Title 78, Chapter 45a, Uniform Act on Paternity, or to; actions brought under Chapters 3a,
23 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
24 Rules of Civil Procedure, temporary orders requested under Title 30, or to; uncontested matters brought under Chapter 1
25 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.

26 **Statement of the Rule:**

27 (1) Definitions.

28 (A) "ADR" means alternative dispute resolution and includes arbitration, mediation, and other means of dispute
29 resolution, other than court trial, authorized by this rule and URCADR;

30 (B) "ADR program" means the alternative dispute resolution program described in Chapter 31b, Title 78;

31 (C) "Binding arbitration" means an ADR proceeding in which the award is final and enforceable as any other
32 judgment in a civil action unless vacated or modified by a court pursuant to statute, and in which the award is not subject
33 to a demand for a trial de novo;

34 (D) "Director" means the Director of Dispute Resolution Programs;

35 (E) "Nonbinding arbitration" means an ADR proceeding in which the award is subject to a trial de novo as
36 provided in Utah Code Ann. § 78-31b-6(2);

37 (F) "Roster" means the list of those persons qualified to provide services under the ADR program, and includes
38 the information supplied by such persons pursuant to paragraph (3)(A)(i) of this rule;

39 (G) "URCADR" or "Utah Rules of Court-Annexed Alternative Dispute Resolution" means the rules adopted by
40 the Utah Supreme Court which govern the ADR program.

41 (2) Responsibilities of the Director. The Director shall:

42 (A) have general responsibility for the administration of the ADR program;

43 (B) annually prepare and submit the report required by Utah Code Ann. § 78-31b-4(5);

44 (C) establish and maintain the roster, and provide copies of the roster upon request;

45 (D) prepare model forms for use by the courts, counsel and parties under these rules, and provide copies of the
46 forms upon request; and

47 (E) establish procedures for the review and evaluation of the ADR program and the performance of ADR
48 providers.

49 (3) Qualification of providers.

50 (A) To be eligible for the roster, an applicant must:

51 (i) submit a written application to the Director setting forth:

52 (a) a description of how the applicant meets, or will meet within a reasonable time, the requirements specified in
53 paragraph (3)(B)(i), if applicable;

54 (b) the major areas of specialization and experience of the applicant, such as real estate, estates, trusts and

1 (iii) All the parties file with the clerk a written agreement signed by counsel and the parties to submit the case to
2 binding arbitration pursuant to Chapter 31a of Title 78 or the Federal Arbitration Act, 9 USC § 1 et seq., or as otherwise
3 provided by law.

4 (B) At the time a complaint is filed, the clerk shall provide to the party filing the complaint a notice stating the
5 requirements and options set forth in the preceding subparagraphs. The notice shall include directions for obtaining a copy
6 of the videotape. The party shall serve a copy of the notice on the other parties.

7 (C) If no response has been filed under (6)(A)(i), (ii) or (iii) within 30 days after the responsive pleading is filed,
8 the action shall be stayed pending compliance with ~~the~~ URCADR rules applicable to mediation.

9 (D) If the parties have timely filed an agreement to submit the case to nonbinding arbitration under URCADR
10 Rule 102, the court shall issue an order staying the action and all discovery under the Utah Rules of Civil Procedure,
11 except that discovery may continue under URCADR Rule 102(e). All subsequent proceedings shall be conducted in
12 accordance with URCADR Rule 102 and such timetable as the court may establish to ensure the arbitration is instituted and
13 completed without undue delay or expense. All timelines shall be tolled during the pendency of the ADR proceedings, and
14 the timelines shall resume upon notification to the court of the final conclusion of ADR proceedings.

15 (7) At any time:

16 (A) the court, on its own motion, may refer the action or any issues therein to the ADR program~~[- although the~~
17 ~~parties may opt out of the ADR program pursuant to subparagraphs (A) or (B)];~~

18 (B) upon its own motion, or for good cause shown upon motion by a party, the court may order that an action that
19 has been referred to the ADR program be withdrawn from the ADR program and restored to the trial calendar; or

20 (C) a party, believing that continuing in mediation is no longer productive, may terminate participation and shall
21 notify the other party and mediator.

22 (8) If a party unilaterally terminates a nonbinding arbitration procedure after the hearing has begun, that party
23 shall be responsible for all of the ADR provider's fee, and any other party may move that the court also award reasonable
24 attorney fees against the terminating party unless the terminating party shows good cause for the termination.

25 (9) The judge to whom an action is assigned shall retain full authority to supervise the action consistent with the
26 Utah Rules of Civil Procedure and these rules.

27 (10) Notice requirements.

28 (A) ~~[Any time an ADR provider is selected to arbitrate or mediate a case pursuant to the ADR program, the ADR~~
29 ~~provider shall so notify the Director and the court clerk on a form provided by the Director.]~~Any time the parties
30 determine to use mediation or arbitration in the resolution of the case, the plaintiff shall notify the court and specify the
31 expected date for completion of the ADR process.

32 (B) Upon ~~[any final]~~ conclusion of an ADR process,~~[- the ADR provider shall notify the Director and the court]~~
33 the plaintiff shall notify the court of the outcome of the ADR process on a form provided by the court.

34 (11) Selection of ADR provider(s).

35 (A) Upon referral of a case or any issues therein to the ADR program, the Director shall provide the parties with
36 a copy of the roster, and the parties shall choose the ADR provider(s) for the case. If mediation is the selected ADR
37 process, one mediator shall be selected. If arbitration is the selected ADR process, one arbitrator shall be selected, unless
38 the parties stipulate to or the court orders the use of a panel of three arbitrators. If a panel is used, the Director shall, from
39 the panel selected, designate a chair who shall preside at all arbitration proceedings.

40 (B) The parties~~[- by stipulation filed with the court,]~~ may select:

41 (i) An ADR provider from the roster; or

42 (ii) An ADR provider pro tempore having specialized skill, training, or experience in relevant subject matter. Pro
43 tempore providers must agree in writing to comply with this rule and the URCADR.

44 (C) If the parties are unable to select a provider within 15 days of referral of the case to the ADR program, the
45 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
46 more than two parties, each party shall be permitted to strike a proportion of names equal to or less than its proportion of
47 the number of the parties. The Director shall select the provider(s) from among those providers not stricken by any party.
48 If the parties do not return the list within 15 days or express no preference, the Director shall make the selection. The
49 Director shall mail notice of the selection to all parties and the selected ADR provider.

50 (D) If a party, within 10 days of mailing of the notice of selection, files a written request that the selected
51 provider be disqualified under Canon II of URCADR Rule 104, or if the ADR provider requests to withdraw for good
52 reason from participation in a particular case to which that provider was appointed, the Director shall select another
53 available qualified ADR provider to participate in that case, giving deference to the expressed preferences of the parties, if
54 any, as provided in these rules.

1 justice court shall forward them with the record of conviction to the Driver License Division within ten days as provided in
2 Utah Code Ann. Section 41-2-126.

3 4 **Rule 4-803. Trials de novo in small claims cases.**

5 **Intent:**

6 To establish uniform procedures governing trials de novo of small claims actions.

7 **Applicability:**

8 This rule shall apply to the trial de novo of small claims actions.

9 **Statement of the Rule:**

10 (1) General provisions.

11 (A) Right to trial de novo. Any party to a judgment in a small claims action may appeal the judgment in
12 accordance with Section 78-6-10. The appeal shall be by trial de novo of the matter in the district court of the county in
13 which the justice court is located.

14 (B) Venue. ~~[The Board of District Court Judges shall develop procedures for determining the location of trials de~~
15 ~~novo. The procedures shall take into account the proximity of the justice court to the district court, the workload of the~~
16 ~~district court and any statutory provisions governing the venue of trials de novo. The procedures and court locations shall~~
17 ~~be published as an appendix to this Code.] The trial de novo of a justice court adjudication shall be heard in the district
18 court nearest to the justice court from which the appeal is taken. The trial de novo from the small claims department of
19 the district court shall be held at the same district court location. Either party may move for a change of venue under the
20 applicable Rules of Civil Procedure.~~

21 (2) Small claims appeals.

22 (A) Filing notice of appeal. Either party may appeal a small claims judgment by filing a notice of appeal in the
23 justice court within ten days of the notice of entry of the judgment.

24 (B) Contents of notice of appeal. The notice of appeal shall designate the district court location in which the trial
25 de novo will be held, shall specify the parties in their original capacity, shall identify the party obtaining the trial de novo,
26 and shall designate the judgment and the court from which the appeal is taken.

27 (C) Service of notice of appeal. The appellant shall give notice of the filing of the notice of appeal by personally
28 serving or mailing a copy thereof to the counsel of record of each party to the judgment, or, if a party is not represented by
9 counsel, then to the party at his last known address. The appellant shall file proof of service or mailing with the district
10 court.

31 (D) Fees. At the time of filing the notice of appeal, the appellant must deposit into justice court the fees
32 established under Utah Code Ann. Section 21-1-5 and Section 78-6-14. The payment of the filing fee is necessary for
33 conferring jurisdiction upon the district court. Payment of filing fees may be waived upon filing of an affidavit of
34 impecuniosity pursuant to Utah Code Ann. Section 21-7-3.

35 (E) Stay of judgment. A judgment of the justice court is automatically stayed upon the filing of a notice of appeal
36 with the justice court and the posting of a supersedeas bond with the district court. The stay shall continue until the entry of
37 the judgment or final order of the district court.

38 (F) Procedures - Record of justice court. Within ten days of the filing of the notice of appeal, the justice court
39 shall transmit to the district court the notice of appeal, the district court fees, a certified copy of the docket or register of
40 actions, and the original of all pleadings, notices, motions, orders, judgment, and other papers filed in the case.

41 (G) Orders governing trials de novo. Upon the filing of the notice of appeal, the district court shall issue all
42 further orders governing the trial de novo.

43 (H) Disposition. The trial de novo shall be conducted as if the matter were originally filed in the district court and
44 the enforcement, collection or satisfaction of a judgment shall be according to district court procedures. Upon the entry of
45 the judgment or final order of the district court, the clerk of the district court shall transmit to the justice court which
46 rendered the original judgment notice of the manner of disposition of the case. Such notice shall be for informational
47 purposes only and shall not be construed as a remand of the case.

48 49 **Rule 4-906. Guardian ad litem program.**

50 **Intent:**

51 To establish the policy and procedures for the management of the guardian ad litem program.

52 To establish responsibility for management of the program.

53 To establish the policy and procedures for the selection of guardians ad litem.

1 item, all parties of record, the parents, guardians or custodians of the child(ren), the court executive and the Director.

2 (D) A conflict guardian ad litem's compensation shall not exceed \$50 per hour or \$1000 per case in any twelve
3 month period, whichever is less. Under extraordinary circumstances, the Director may extend the payment limit upon
4 request from the conflict guardian ad litem. The request shall include justification showing that the case required work of
5 much greater complexity than, or time far in excess of, that required in most guardian ad litem assignments. Incidental
6 expenses incurred in the case shall be included within the limit. If a case is appealed, the limit shall be extended by an
7 additional \$400.

8 (6) Staff and Volunteers.

9 (A) The Director shall develop a strong volunteer component to the guardian ad litem program and provide
10 support for volunteer solicitation, screening and training. ~~[A volunteer]~~ Staff and volunteers shall have the responsibilities
11 established by §78-3a-912.

12 (B) Training for staff and volunteers shall be conducted under the supervision of the attorney guardian ad litem
13 with administrative support provided by the Director. ~~[Volunteers]~~ Staff and volunteers shall receive training in the areas
14 of child abuse, child psychology, juvenile and district court procedures and local child welfare agency procedures.
15 ~~[Volunteers]~~ Staff and volunteers shall be trained in the guidelines established by the National Court Appointed Special
16 Advocate Association.

17 (7) Complaints regarding guardians ad litem, staff and volunteers.

18 (A) Any person may submit to the Director a complaint regarding a guardian ad litem, staff person or a volunteer.
19 The Director may require that the complaint be submitted in writing. The complaint should state the nature of the
20 complaint and the facts upon which the complaint is based.

21 (B) If the complaint is by the client, the Director may meet separately or together with the complainant and the
22 guardian ad litem, staff person or volunteer in an effort to resolve the complaint.

23 (C) If the complaint is by any other person, the Director shall review the complaint and determine whether to
24 invoke the complaint resolution process of paragraph (B).

25 (D) This subsection (7) shall not apply to conflict guardians ad litem.

26 (8) Dispute between a Guardian ad Litem and volunteer.

27 (A) If a guardian ad litem and a volunteer disagree on the major decisions involved in representation of the client,
28 the Director is to be informed if the dispute cannot be resolved.

29 (B) A committee comprised of the Director, three guardians ad litem selected by the Director, and three
30 volunteers selected by the Director shall review the dispute, conduct such investigation as it determines reasonable, and
31 enter a determination regarding the resolution of the complaint. The determination may include removal of the guardian ad
32 litem or volunteer from the case and appropriate discipline of the guardian ad litem or volunteer, which may include but is
33 not limited to reprimand, suspension, or termination. The determination of the committee is binding on all participants.

34 (C) This subsection (8) shall not apply to conflict guardians ad litem.
35

36 ~~[Rule 4-910. Sanctions for denial of child visitation.~~

37 ~~Intent:~~

38 ~~To implement and administer the Mandatory Sanctions for Substantial Noncompliance with Visitation Orders Pilot~~
39 ~~Program established by Chapter 152, Laws of Utah 1993.~~

40 ~~Applicability:~~

41 ~~This rule shall apply to all proceedings filed between July 1, 1993 and July 1, 1994 in the First Judicial District~~
42 ~~seeking compliance with a visitation order in a decree of divorce or subsequent visitation order.~~

43 ~~Statement of the Rule:~~

44 ~~(1) All "petitions" referred to in Utah Code Ann. § 78-32-12.2 shall be designated, filed, and procedurally dealt~~
45 ~~with as orders to show cause seeking compliance with a visitation order.~~

46 ~~(2) All pleadings filed pursuant to Utah Code Ann. § 78-32-12.2 shall indicate, in the case caption, whether the~~
47 ~~proceeding is a first order to show cause, a second order to show cause, or a third or subsequent order to show cause.~~

48 ~~(3) The filing fee for an order to show cause which only seeks compliance with a visitation order shall be \$5.00.~~
49 ~~The filing fee for an order to show cause which seeks modification of the visitation order or modification of the custody~~
50 ~~order shall be \$30.00.]~~

52 Rule 4-913. Divorce decree upon affidavit.

53 Intent:

1 (6) A complaint for divorce alleging the insanity of the [defendant] respondent shall not be granted under this rule.
2 but shall proceed as provided in § 30-3-1.
3

4 **Rule 9-101. Board of Justice Court Judges.**

5 **Intent:**

6 To prescribe the membership, method of selection, term of office and basic procedures of the Board.

7 **Applicability:**

8 This rule shall apply to the Board of Justice Court Judges.

9 **Statement of the Rule:**

10 (1) There is hereby established a Board of Justice Court Judges comprised of the chair, six at-large members, and
11 the ~~two~~ three Council representatives.

12 (2) The Justice Court judges shall, by majority vote of those in attendance at the annual spring training
13 conference, elect the members of the Board.

14 (3) The chair and the at-large members shall serve staggered two year terms. The Council representatives shall
15 serve during the length of their term as Council representatives.

16 (4) The chair shall preside over all meetings of the Board and over the Justice Court judges' training conferences.
17 The chair may not simultaneously serve as a Council representative.

18 (5) Members of the Board shall elect a vice-chair. The vice-chair shall serve as chair in the absence of the chair or
19 upon request of the chair. The vice-chair may not simultaneously serve as a Council representative.

20 (6) There shall be an Executive Committee comprised of the chair, vice-chair and one of the Council
21 representatives designated by the chair. The Executive Committee may take necessary action on behalf of the Board
22 between Board meetings.

23 (7) If vacancies occur for any reason on the Board between elections, the Board shall elect a replacement for the
24 unexpired term of the vacancy.

25 (8) Should the chair resign or leave the Board for any reason, the vice-chair shall become chair for the remainder
26 of the term.

27 (9) Should the vice-chair of the Board resign or leave the Board for any reason, a new vice-chair shall be elected
28 by the Board from among its members to serve the unexpired term of the vice-chair.

29 (10) If a vacancy occurs for any reason among the representatives to the Council, the Board shall designate an
30 interim representative to serve until the next annual training conference, at which time a representative shall be elected to
31 fill the unexpired term.

32 (11) The Board shall meet at least quarterly to transact any and all business that is within its jurisdiction. The
33 Board shall rule by majority vote. All members, except the two Council representatives, are voting members. Four voting
34 members of the Board constitute a quorum. Board meetings shall be conducted generally in accordance with Robert's Rules
35 of Order.

36 (12) All business conducted by the Board shall be conducted in accordance with this Code.

Rule 5-201. Requests for enlargement of time by court reporters and court transcribers.

Intent:

To establish a process to expedite the preparation of transcripts and promote consistency in granting requests for enlargements of time.

To establish a process which will facilitate the disposition of appeals.

Applicability:

This rule shall apply to the appellate courts.

Statement of the Rule:

(1) To obtain an enlargement of time in which to complete and file a transcript under Rule 12(a) of the [~~Rules of the Utah Supreme Court and the Utah Court of Appeals~~] Rules of Appellate Procedure, the reporter or transcriber shall file with the [~~Clerk of the Court~~] clerk of the appellate court a request for an enlargement of time showing good cause for permitting the extension. The request shall contain the following elements which are similar in form to a motion for an enlargement of time under Rule 22(b) of the [~~Rules of the Utah Supreme Court and the Utah Court of Appeals~~] Rules of Appellate Procedure:

(A) A statement of the reasons for granting the request.

(B) A statement of whether the reporter or transcriber has obtained any previous enlargements of time and, if so, the number and duration of such enlargements.

(C) A statement of the original deadline sought to be extended.

(D) A statement of the date certain on which the reporter or transcriber will file the transcript with the court from which the appeal is taken, and

(E) A certificate of service of the request upon all parties to the appeal or their counsel of record or [~~by~~] a stipulation by them to the extension request.

(2) The request for an enlargement of time shall be filed prior to the expiration of the deadline sought to be extended. A request for an enlargement of time that fails to meet these requirements shall be docketed but denied by the [~~Clerk of the Court~~] clerk of the appellate court.

(3) If a reporter or transcriber fails to file a transcript with the trial court and notify the clerk of the appellate court of such filing within the time permitted by Rule 12(a) or within an enlarged period of time as permitted by the appellate court, the court reporter or transcriber shall be [~~ordered to appear before a panel of the appellate court and show cause why the sanctions provided in Rule 12(a) should not be imposed~~] subject to disciplinary action pursuant to CJA 3-304(5)(C) and may be ordered to appear before a panel of the appellate court and show cause why sanctions should not be imposed.

To: Members of the Judicial Council
From: Dan Becker
Subject: Planning Focus on Improving Public Confidence
Date: September 8, 1997

On July 4, 1997, the Judicial Council held a planning workshop focused on the following goal, which was one of eight goals established by the Council at its May 21, 1996 Planning Meeting:

Public Confidence: Public Confidence in the Judiciary should be strengthened and maintained.

The workshop resulted in the identification of eight objectives which are listed below in priority order:

1. develop feedback mechanisms for judges and staff
2. provide for a customer service orientation on the part of judges and staff
3. minimize delay in handling matters brought to the courts
4. concentrate on ethics education for judges
5. programs for public, school children, and legislators
6. Improved understanding of courts through the media
7. more formalized public outreach
8. enhanced bench and bar participation

The first three objectives were prioritized and I was asked to provide to the Council at its September meeting a list of initiatives built around these top three objectives which would advance the goal of strengthening and enhancing public confidence in the judiciary. The following initiatives are advanced for consideration.

1. Provide the public with an assistance telephone line

On the premise that too many of the public's problems with services provided by the courts needlessly escalate to formal complaints, the Administrative Office should establish a 1 - 800 number to assist the public directly. This line should be staffed by an employee who is knowledgeable about court process and procedure and who will be trained by office legal and administrative staff on when and how to handle calls and when its is necessary to refer calls to office attorneys. The intent is to provide a means by which an individual can explain their problem

and a staff member can take the time to listen, gather information, and follow up with the local court, if appropriate. In many instances, simply explaining the process or limits will be the extent of the help provided. The availability of the 1-800 number should be prominently displayed within courthouses and generally publicized.

A record of the number and nature of the calls received should be maintained and periodically reviewed to determine if there are patterns of problems that need to be addressed or information that is commonly misunderstood. This information should be used to direct training and other activities in ways that will limit concerns or problems experienced by the public.

Staffing of the 1-800 # should be done by re-organizing existing staff so that a half-time position can be directed to this activity, beginning the first of the year. The use of this service should be evaluated after one year.

2. Assess the services we are providing to our "internal customer"

The press of the business often prevents us from asking the question "how are we doing?", and we often look beyond the those who depend on many of the services we provide, those who work within the court community. How we feel about ourselves and the work we do goes a long way to establishing the perception that the public will have of service provided by the courts. I suggest we conduct three internal surveys:

- the Administrative Office of the Courts should survey judges, court executives, clerks and other staff regarding the type and adequacy of the services being provided by the office.
- trial court executives should survey judges, members of the bar, law enforcement, and others interacting directly with the local courts on the services being provided by court staff and the courts generally.
- Court employees at all levels should be surveyed regarding their perception of the performance of the system as related to the services being provided and the manner in which they are delivered.

The results of these surveys should be shared and discussed with the Judicial Council, Boards of Judges, Trial Court Executives, Clerks of Court, and AOC staff. To the extent necessary, the issues identified should be addressed through programmatic changes, changes in procedure, and training. Lessons learned from this effort should be incorporated into on-going efforts to evaluate performance from a customer service perspective.

Training in particular should be stressed with programs developed which present public confidence through customer service in a positive manner. Training programs should provide a structure which encourages employees to think creatively about what can be done to improve service and the work environment.

3. Conduct an public opinion poll to assess public trust and confidence

The last time a public opinion poll of this nature was conducted was in conjunction with the Justice in the 21 Century project. Has public opinion changed, and if so how? There is a national focus on public trust and confidence, with a particular interest on listening to how the public feels courts should change to meet contemporary needs. A number of states are in the process of conducting or planning to conduct public opinion polls, surveys, and focus groups. Utah should be part of this effort and contribute to this body of knowledge.

It is recommended that we examine what is being done in other states and assess the best methods for determining public opinion in Utah, with a timetable that would involve contracting for an independent poll in the Spring of 1998. Grant funding should be sought to cover the cost of such a poll.

4. Stress the importance of timely resolution of disputes

With the approval of the Judicial Council, a grant request has been submitted for a two year delay reduction program. The Judicial Council, Boards of Judges, and Administrative Office should place a high priority on the importance on timely resolution of disputes as a means for instilling confidence in our justice system. The importance of the effort should be underscored in State of the Judiciary address, presentations to the Bar, and at conferences of judges and staff.

The use of management information and data warehouse applications should play an important role in assessing improvements in case processing, but more importantly, this short term emphasis should result in institutionalizing the importance of maintaining and utilizing objective data to assess the health of the docket and improve court operations.

JUDICIAL COUNCIL PRIORITIES

<i>Program</i>	<i>Preliminary</i>	<i>Priority</i>
3rd Dist Judge	239,050	1
Law Clerks	296,875	2
Computer Network	245,450	3
Base Budget (all levels)	300,000	4
2nd Juv Judge	216,050	4
Legal Institute (Justice Courts)	33,900	6
Operating funds (Education)	33,275	7
GAL Operations	55,000	8
Clerical Reserve (all levels)	100,000	9
Computer Network	19,200	10
TOTAL	1,538,800	
2% TARGET	1,538,800	
OVER (UNDER)	-	
Exceptions to Base		
Lease General Fund	3,442,900	
Lease Dedicated Credits	3,096,000	
Bailiff	303,000	
	6,841,900	
Supplementals		
Juror/Witness 1997	61,181.30	
Juror/Witness 1998	300,000.00	
Imaging Upgrade (GFR)	25,000.00	
Lease Ded. Credits	234,000.00	
Ct Reporter Tech (GFR)	75,000.00	

**JUDICIAL CONDUCT COMMISSION
STATISTICAL REPORT**

July 9, 1997

TOTAL NUMBER OF OPEN FILES: 46

FORMAL COMPLAINTS: 7

AWAITING FINAL ORDER FROM SUPREME COURT:

District - 1

AWAITING DISPOSITION BY JCC: 6

Justice - 5 Juvenile - 1

FILES UNDER PRELIMINARY REVIEW: 30

District - 23 Juvenile - 3 Justice - 4 Pro Tem - 0

FILES UNDER PRELIMINARY INVESTIGATION: 9

District - 5 Juvenile - 1 Justice - 2 Pro Tem - 1

FILES CLOSED SINCE JULY 1, 1996: 73

FILES OPENED SINCE JULY 1, 1997: 1

NET INCREASE (DECREASE) IN CASE LOAD SINCE JULY 1, 1996: 0

TOTAL WRITTEN COMPLAINTS FILED IN FY 95: 115

TOTAL WRITTEN COMPLAINTS FILED IN FY 96: 84

TOTAL WRITTEN COMPLAINTS FILED IN FY 97: 72

SANCTIONS IMPOSED IN FY 96 (JULY 1, 1995-JUNE 30, 1996):

SUSPENSION AND CENSURE: 1 (REMANDED BY SUPREME COURT)

CENSURE: 1 (REMANDED BY SUPREME COURT)

PUBLIC REPRIMAND: 1 (PENDING SUPREME COURT REVIEW)

PRIVATE REPRIMAND: 3

DISMISSED WITH ADMONITION: 5

SANCTIONS IMPOSED TO DATE IN FY 97 (JULY 1, 1996-JULY, 1997):

STIPULATED CENSURE: 1

PUBLIC REPRIMAND: 2 (PENDING SUPREME COURT REVIEW)

STIPULATED PUBLIC REPRIMAND: 3

PRIVATE REPRIMAND: 5

DISMISSED WITH ADMONITION: 4

DISMISSED WITH COMMENT: 1