

**JUDICIAL COUNCIL MEETING  
Minutes**

**July 17, 2023**

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

**9:00 a.m. – 1:11 p.m.**

***Chief Justice Matthew B. Durrant, Presiding***

**Members:**

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

**Excused:**

Hon. Keith Barnes  
Hon. Samuel Chiara  
Michael Drechsel  
Sonia Sweeney

**Guests:**

Scott Allen, Law Clerk Supreme Court  
Jonathan Adams, ORLGC  
Matthew Barraza, Indigent Defense Commission  
Cameron Carter, JPEC

**AOC Staff:**

Ron Gordon  
Neira Siaperas  
Shane Bahr  
Brody Arishita  
Alisha Johnson  
Bryson King  
Jessica Leavitt  
Jordan Murray  
Bart Olsen  
Jim Peters  
Jon Puente  
Nick Stiles  
Karl Sweeney  
Melissa Taitano  
Keisa Williams  
Jeni Wood

**Guests Cont.:**

Commissioner Christine Durham, JPEC  
Will Isenberg, Criminal Justice Institute  
Shanna Jagers, JPEC  
Maura McNamara, Criminal Justice Institute  
Mary-Margaret Pingree, JPEC  
Glen Proctor TCE Second District Court  
Maja Valjnic, Criminal Justice Institute

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

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

**Motion:** Judge Paul Farr moved to approve the June 26, 2023, Judicial Council meeting minutes, as presented. Judge Augustus Chin seconded the motion, and it passed unanimously.

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

Chief Justice Durrant and Ron Gordon will meet with Governor Spencer Cox soon.

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

The official groundbreaking ceremony for the Manti Courthouse will be held on August 21. The new Davis County Courthouse feasibility study continues as they evaluate the possibility of combining three courthouses: one owned by the Courts; one that is leased; and one that will be leased to Davis County and partially torn down to make room for the new courthouse.

Some court personnel introduced JPEC’s new Executive Director, Mary-Margaret Pingree to the Courts.

The Courts are trying to find a middle ground to help individuals with the financial burden associated with expungements now that legislation waiving the fees has expired. Mr. Gordon said they are hoping to see additional legislation on this to help people.

The Legislature created the Justice Court Task Force where Jim Peters is a member. Judge Farr will provide information to the Task Force of the Courts work.

The Annual CCJ/COSCA meeting will be held later this month. Shane Bahr will lead a team from the Courts to attend the “Effective Criminal Case Management in a Post-pandemic World: A Leadership Summit for Courts and their Communities CCJ/COSCA Western Region Conference”.

**4. COMMITTEE REPORTS:**

**Management Committee Report:**

The work of the committee is reflected in the minutes.

**Budget & Fiscal Management Committee Report:**

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

**Liaison Committee Report:**

The committee has not met recently.

**Policy, Planning, and Technology Committee Report:**

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

**Bar Commission Report:**

Margaret Plane said eliminating paper checks with Bar renewal licensing has resulted in saving staff a considerable amount of time. There are 279 people scheduled to take the Bar exam,

which now has a lower passing score. Andrea Donahue started with the Innovation Office. The Commission has authorized some updates to the Law and Justice System. Chief Justice Durrant said a commission is reviewing Bar exams.

**5. JUDICIAL PERFORMANCE EVALUATION COMMISSION (JPEC) REPORT:  
(Mary-Margaret Pingree, Commissioner Christine Durham, Shanna Jagers,  
Cameron Carter, and Angela McGuire)**

Chief Justice Durrant welcomed Mary-Margaret Pingree as the new JPEC Executive Director, Commissioner Christine Durham, Shanna Jagers, Cameron Carter, and Angela McGuire. Commissioner Durham introduced Ms. Pingree as someone with excellent credentials in the public and private sectors.

In April JPEC presented evaluation inequities to the Council as addressed by their Jury Survey Subcommittee comprised of JPEC commissioners and judges. This is currently JPECs largest project. A proposal was made to normalize juror scores for district and justice court judges. While most judges received this proposal without concern, there was a small number of judges who expressed concern about JPECs intent with this proposal. The subcommittee is awaiting formal input from the Board of District Court Judges and waiting for a meeting with justice court judges.

Ms. Pingree stated that JPEC worked with University of Utah students to assess judicial evaluations associated with improved judicial quality. The data provided to the students was blind data to ensure no judges were identified and the students signed a non-disclosure agreement. Ms. Jagers reviewed the results of the study.

**Strategic Objectives**

- To collect and disseminate valid information about each judge’s performance so that voters may make informed decisions about whether to retain that judge in office;
- To provide judges with useful feedback about their performance so that they may become better judges and to thereby improve the quality of the judiciary as a whole; and
- To promote public accountability of the judiciary while ensuring that the judiciary continues to operate as an independent branch of government.

**JPECs Evaluation Process for Midterm (third year) and retention (fifth year) evaluations**

- Anonymous survey of attorneys, court staff, and jurors;
- Assessment of requirements met;
- Commission votes to approve or overcome result; and
- Evaluation results shared privately with judge

**JPECs Evaluation Process for Retention (fifth year) evaluations only**

- Judge decides whether to run for retention election and
- JPEC posts evaluation results on public website.

The study found a positive association between JPEC’s evaluation results and improved judicial performance in the aggregate, over time, and across more than one evaluation cycle; on

average judges score between 4.25 – 4.75 (highest score possible is 5); judges improve their performance after receiving their midterm evaluation; average evaluation results have improved over time; prolonged participation in JPEC’s evaluation process associated with improved performance across cycles; and while both sets of judges have higher average scores, judges appointed before 2008 began with and continue to have lower scores. They also found a positive association between low evaluation results and judges stepping down at the end of the term. Receipt of a flagged evaluation is also associated with stepping down.

### **Conclusions**

- Performance – JPECs evaluations are positively associated with improved performance.
  - Overall – Judges’ performance improves between midterm and retention evaluations.
  - Over time – Between 2012 and 2022, evaluation results have improved.
- Stepping Down – Evaluation results are positively associated when standing for retention.

The study recommended the following steps moving forward.

- a) Collect additional information about why judges with high evaluation results choose to step down.
- b) Collect data on judges’ perception of the utility of JPEC's processes, as well as what other professional development tools they use.
- c) Develop and administer self-evaluation surveys for individual judges.
- d) Consider including an additional, objective variable to enhance the validity of the “Legal ability” measurement or overall “Procedural Fairness” determination.
- e) Continue collecting data and providing feedback. The association between JPEC's work and improved judicial quality is encouraging!

Judge James Gardner asked what will be done with JPEC’s study. JPEC will discuss how best to distribute this information. Commissioner Durham said one outcome could be to provide the Council with this information to distribute as they see fit.

Judge Thomas Low asked if the jury scoring inequity could be contributing to good judges who do not have jury trials possibly perceiving deficiencies that are not there and stepping down. Commissioner Durham stated jurors typically rate judges very high, therefore judges who do not hold jury trials tend to have lower scores. This isn’t an easy fix, but the subcommittee is working on this issue. JPEC is working on mathematical adjustments to ensure all judges are scored fairly and accommodations are made for those judges who do not have jury trials. Judge Michael DiReda said there was an initiative to remove juror category at one point, but this was abandoned because judges expressed concerns with removing the juror scores that are typically favorable to judges. He further noted that judges who have been working on settlement conferences may not be receiving credit for that work and wondered if JPEC would consider a category for those. Commissioner Durham was thankful for Judge DiReda bringing this to JPECs attention. She would like more information on this and what might be the value systems for assessing those skills.

Dr. Jennifer Yim asked Judge DiReda and Judge Reuben Renstrom to participate in a test phase adding pro se litigants in JPECs evaluation process. Commissioner Durham will research whether this is ongoing. She said some calendars can be as much as 90% pro se, which is a huge

part of a judge’s work. Ms. Pingree believed this project is still active, but it may take a couple of years to come to fruition.

Chief Justice Durrant was impressed with the work of the students and thanked them for their interest. He thanked Ms. Pingree, Commissioner Durham, Ms. Jagers, Mr. Carter, and Ms. McGuire.

**6. OPEN AND PUBLIC MEETINGS ACT TRAINING: (Bryson King)**

Chief Justice Durrant welcomed Bryson King. [UCJA Rule 2-103 Open and closed meetings](#) states “meetings of the Council are open to the public unless closed as provided in this rule.” Mr. King stated that closed meetings are allowed for discussion of “character, competence, or physical or mental health of an individual or to discuss the deployment of security personnel or devices” among other reasons found in the rule. Mr. King reviewed the requirements of the AOC found in [UCJA Rule 2-104 Recording meetings](#).

Chief Justice Durrant thanked Mr. King.

**7. BUDGET AND GRANTS: (Karl Sweeney and Alisha Johnson)**

Chief Justice Durrant welcomed Karl Sweeney and Alisha Johnson.

**FY 2024 One-Time Turnover Savings**

#		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE --)	Internal Savings	-
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE --)	Reimbursements	-
3	Est. One Time Savings for 2080 remaining pay hours (\$1,800 / pay hour)	Internal Savings (Est.)	3,744,000.00
<b>Total Potential One Time Savings</b>			<b>3,744,000.00</b>

**FY 2024 Ongoing Turnover Savings**

#		Funding Type	Actual Amount YTD	Forecasted Amount @ YE
	Carried over Ongoing Savings - reported at 6-26-2023 Judicial Council Meeting	Internal Savings	(300,419)	
	Add back: "Assistant Justice Court Administrator" request to be funded by JCTST funds	Internal Savings	74,000	
	Add back: "7th District Administrative Assistant" request withdrawn		53,200	
	Carried over Ongoing Savings (from FY 2023, includes unallocated ongoing appropriation)	Internal Savings	(173,219)	(173,219)
1	Ongoing Turnover Savings FY 2024	Internal Savings	-	600,000
2	TOTAL SAVINGS		(173,219)	426,781
3	2024 Hot Spot Raises Authorized - renews annually until revoked		-	(200,000)
	2024 Authorized Ongoing for Performance Based Raises (will be used at the end of the FY)		-	-
	TOTAL USES		-	(200,000)
<b>Actual Turnover Savings for FY 2024 as of 07/06/2023</b>			<b>\$ (173,219)</b>	<b>\$ 226,781</b>

**Employee Wellness Resources  
\$107,450 one-time funds**

The Statewide Wellness Steering Committee recommended that state court employees have access to the same wellness resources (Tava Health and Unmind Wellbeing) recently offered by the Utah State Bar to all members of the Bar (meaning that judges and all court employees who are members of the Bar already have access to these resources). This may become an ongoing request later if it appears to be successful. Mr. Gordon noted that the utilization rate among Bar members is at least or higher than what was anticipated.

**Motion:** Judge Gardner moved to approve the Employee Wellness Resources request for \$107,450 one-time funds, as presented. Judge Farr seconded the motion, and it passed unanimously.

### **Jury and Witness Fees Line Item (JWI)**

The JWI in the Court's budget is authorized under [Utah Code § 78B-1-117 Jurors and Witnesses -- State Payment for Jurors and Subpoenaed Persons -- Appropriations and Costs -- Expenses in Justice Court](#). As stated in the Utah Legislature's Compendium of Budget Information (COBI) for the JWI Background, section, between 2014 and 2018 the JWI received annual ongoing general fund appropriations of \$1.6 million but ran an annual deficit of between \$814,000 and \$920,000 (which was funded by a special one-time appropriation by the Legislature in each fiscal year). To address the deficit, in FY 2018 the Legislature authorized an increase in the ongoing general fund of \$1.0 million to approximately \$2.6 million and funded \$2 million of non-lapsing one-time funds. This increased funding was more than adequate for FY 2019 through FY 2021.

In FY 2022, the Courts began to address the jury trials backlog due to COVID by increasing the number of remote hearings and even remote trials. Contract interpreters living in Utah began working in other states' court systems at higher pay. Due to the combination of increased contract interpreter hourly rates, increased contract interpreter hours, and filling 2 vacant positions, the JWI fund is now using more than \$400,000 of its non-lapsing balance every year with FY 2024 being the year supplemental one-time or ongoing funds must be requested for FY 2025.

Ms. Johnson was uncertain as to what the juror fee payments currently are but thought the amount is approved through legislation. She believed the Liaison Committee should address this as a legislative request. Judge Low wondered if the Courts should request a higher payment for jurors. Michael Drechsel will work on a recommendation to the Legislature though not as a building block. Judge Low recommended adding this to the August budget meeting. Mr. Gordon will review this with the Liaison Committee before the August meeting. The Leagues of Cities and Counties may want to address this as this would affect justice courts financially.

### **Centralized Scheduler \$20,000 one-time funds**

Historically, interpreter coordinators in every district help schedule interpreters. Except for the Third District Court, all interpreter coordinators are generally administrative staff with multiple roles within their position. The monthly average for encounters involving patrons with limited English proficiency throughout the state is approximately 1,880. Coordination of interpreters takes up a significant amount of time. To ease the burden of coordination and to make the process more efficient, the Language Access Committee sought to centralize scheduling. Judges' clerks will know which interpreters are scheduled for each hearing. Judge Kara Pettit asked if this is an ongoing request. Mr. Puente said the initial request is for a trial one-year period to determine if the success of the process. Judge Farr asked if this includes justice courts. Mr. Puente said he will speak with Mr. Peters about this.

**Motion:** Judge Farr moved to approve the Centralized Scheduler request for \$20,000 one-time funds, as presented. Judge Chin seconded the motion, and it passed unanimously.

**Media Outreach Interpreter Recruiting  
\$10,000 one-time funds**

Due to constraints in the JWI fund in FY 2024, the Language Access Committee requested funds to accomplish some needed support of the court interpreter program. Although they believe that there will be sufficient funds in the JWI fund to cover this request, to avoid the issues surrounding deficit spending in the JWI account, they sought funds which they expect to reimburse in the fourth quarter of 2024. These funds will only address the Spanish interpreter shortage. Mr. Puente stated that Utah's interpreter pay rate is comparable to the surrounding states. His opinion was that the lack of interpreters was mainly due to the pandemic leading to virtual hearings and not the pay. Some states offer 2 hours or more minimum pay for interpreters. Judge Chin felt payment for a minimum amount of time seemed unreasonable because some interpreters may only be present for 5 minutes during a hearing. Mr. Puente stated that this request may eventually become an ongoing request.

**Interpreter Trainer/Interpreter Certification Specialist  
\$65,000 one-time funds**

The purpose of this request is to fund a contractor who will assist potential contract interpreters obtain a certification, which normally takes about one year assuming they pass every step the first time. This proposal may diminish the amount of time for certification if someone helps the applicant move through the process. This request may eventually become an ongoing request. Ms. Leavitt said there is a list on the [National Center for State Courts of 17 languages](#) that have certifications available. Mr. Sweeney commented that each request has a legislative request counterpart for ongoing funds.

**Motion:** Judge Low moved to approve the Media Outreach Interpreter Recruiting request for \$10,000 one-time funds and the Interpreter Trainer/Interpreter Certification Specialist request for \$65,000 one-time funds, as presented. Judge Chin seconded the motion, and it passed unanimously.

**Racial and Ethnic Disparity Data Project  
\$30,000 one-time funds**

The OFA is partnering with Georgetown's Massive Data Institute. The Massive Data Institute (MDI) will analyze the Court's data for any racial and ethnic disparity. This request will cover the cost of services performed by the MDI. Judge Pettit clarified that the funds would be to pay the MDI to go through recordings to identify demographic and other information. Judge Chin asked what anticipated future costs could come from this. Mr. Puente responded that they are focusing on how to move forward and use internal resources gathered from this data. He said he wanted to make it clear that this study does not include the juvenile courts because they "really do have good racial and ethnic" data. He said the focus will be on pretrial, sentencing, and probation hearings. Mr. Puente will confirm that they would not have access to protected information such as presentence reports.

**Motion:** Judge Chin moved to approve the Racial and Ethnic Disparity Data Project request for \$30,000 one-time funds, as presented. Judge DiReda seconded the motion, and it passed unanimously.

### **ARPA Funds for Case Backlog \$300,000 transfer**

The Courts have \$5,758,092.06 remaining ARPA funds: IT Access to Justice (\$4,928,880.02); Case Backlog (\$368,648.52); COVID Supplies (\$302,100); and Office of Innovation/Legal Sandbox (\$158,463.52). AOC Finance recommended the remaining \$300,000 in ARPA funds which have not been spent on COVID supplies be transferred to the case backlog ARPA fund in January 2023. The goal is to seek funding needed to lower the district court case backlog to its pre-COVID level – or another target as determined by court leadership. The Council approved \$2,000,000 in ARPA funding for senior judge and time-limited judicial assistants to help reduce the case backlog. As of May 1, 2023, \$1,528,941.38 in ARPA funds has been expended, leaving \$471,058.62 ARPA funds to help reduce the case backlog. Finance will add \$90,000 of FY 2023 senior judge funding that has not been spent boosting the available ARPA funds for case backlog to \$561,058. On average the court expends \$45,000 per pay period and at this rate all ARPA funds currently approved to address the case backlog will be spent by the end of September 2023.

### Case Backlog Analysis

The overall case backlog peaked for the state in FY 2021 Q3 at 12,874 cases. Progress at reducing the backlog has been slow, with the number only dropping to 12,677 in FY 2023 Q2 (almost 2 full years later). However, backlog reduction accelerated in FY 2023 Q3. Near the end of the FY 2023 Q3, case reduction continues, and the backlog number has dropped to 11,845. If the trend shown over the past quarter continues the backlog will reach its FY 2020 Q3 level in 18-24 months.

In addition to requesting one-time funding for Senior Judges to help reduce the backlog, the BDCJ intends to request new judges and/or commissioner positions based on the need indicated in the FY 2023 weighted caseload study. Senior judges will help reduce the case backlog in the near-term. New judges and/or commissioners will be needed as part of the long-term solution to the backlog and ongoing case management.

**Motion:** Judge Mortensen moved to approve transferring \$300,000 in ARPA funds from COVID supplies to case backlog, as presented. Judge Pettit seconded the motion, and it passed unanimously.

### **Utah Bar Foundation Grant**

The Utah Bar Foundation awarded a \$10,000 grant to the Appellate Courts' Pilot Pro Bono Program to provide initial funding for the program. The aim of the program during the initial first year pilot is to develop a roster of pro bono counsel, conduct training sessions through free CLE's, and serve 20 pro se parties on appeal. There are currently over 200 pro se parties with cases on appeal. This accounts for roughly 20% of the appellate courts' caseload. The purpose of this initial trial period is to test whether providing pro bono attorneys to pro se parties increases access to justice while decreasing the administrative burden on staff and judges in



dealing with unrepresented parties. Providing counsel to unrepresented parties is expected to increase court efficiency. Additionally, this program will directly impact pro se parties on appeal as they could potentially receive a pro bono attorney. During the grant period much of the work will be handled by the Appellate Court Administrator. After the grant period, the appellate courts will evaluate the impact of the program, and if favorable, look to hiring a Pro Bono Coordinator or Pro Se Law Clerk to help with the administration. If that is not possible at the time, the program may still be able to operate but will be limited in capacity.

**Motion:** Judge Gardner moved to approve accepting the Utah Bar Foundation Grant, as presented. Judge Chin seconded the motion, and it passed unanimously.

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

## 8. **CRIME AND JUSTICE INSTITUTE PRESENTATION: (Will Isenberg and Maja Vljajnic)**

Chief Justice Durrant welcomed Will Isenberg and Maja Vljajnic. The [Crime and Justice Institute](#) (CJI) works with local, state, and national criminal justice organizations to assist them in developing data-driven solutions to criminal justice policy problems. They provide non-partisan analysis, research, technical assistance, program evaluation, and training to jurisdictions throughout the country. Prison admissions increased by 30% since JRI; however, the prison population decreased by 16% during the same period due to a drop in releases.

### **Trends in prison admissions**

- Admissions are predominantly and increasingly male.
- Admissions are comprised mostly of white individuals but admissions for BIPOC are increasing at a faster rate than white individuals.
- Admissions are dropping for people under 35 years of age but growing for people over 35 years old.
- Class III felonies comprise most admissions, but Class I and II felony admissions are growing. Property offenses are a driver of prison admissions.
- Growing admissions for individuals assessed as intensive risk.
- There has been an increased prevalence of mental health needs in admissions from 857 in 2013 to 2,024 in 2021.

### **Research Question #1: Is Recidivism Increasing?**

- Over half of all admissions have consistently recidivated.
- Parole technical violations drive admissions for recidivist populations.

#### *Findings*

- Recidivism is largely driven by individuals with unmet behavioral health needs and gaps in community services.
- The property crimes driving admissions are often intertwined with and driven by addiction.
- Reentry barriers such as housing, treatment, and transportation also significantly contribute to recidivism.

## **Research Question #2: What is the Impact of Possession Becoming a Misdemeanor?**

- Changes to drug laws resulting from JRI.
  - Possession of a Schedule I or II drugs is downgraded from a felony to a misdemeanor for the first two convictions.
  - Possession of fewer than 100 lbs. of marijuana is downgraded from a Class A misdemeanor to a Class B misdemeanor for the first two convictions.
  - Reduction of the radius size in “drug-free zones” from 1,000 feet to 100 feet.
- Jail populations for drug offenses have declined post JRI.
- Prison admissions for drug possession are down 51% since JRI.

### *Findings*

- There was no post-JRI subsequent surge to jail population.
- Interviews noted the JRI changes limited accountability for drug use and resulted in more re-arrests.
- The reclassification has led to concerns about jail resources and reduced state funding because individuals are now serving misdemeanor time without any state reimbursement.
- There is limited misdemeanor supervision and support.

## **Research Question #3: What is Driving Community Supervision Revocations?**

- Most parole violations are for violations and not for new offenses.
- Revocations from parole, especially for technical violations, increasingly drive prison admissions as new commitments and probation revocations decrease.

### *Findings*

- Unmet treatment needs drive community supervision revocations.
- AP&P has evidence-based practices in policy but lacks quality control measures and fidelity monitoring.
- Response & Incentive Matrix (RIM) lacks guidance on steps agents can take to modify behaviors other than providing responses to misconduct.
- Lack of transitional housing is a major barrier to supervision success.

## **Research Question #4: What are the Behavioral Health Gaps?**

- Increased prevalence of mental health needs in admissions.

### *Findings*

- There is a need for more targeted reinvestment of JRI savings into community treatment.
- Severe workforce shortages across the state are creating barriers to accessing care.
- There is a need for a range of services in each community, including detox facilities, outpatient, inpatient, and wraparound care. Some areas of the state have sufficient options in one of these types.
- Interviews noted that treatment options need to address specific cultural barriers.

## **Contact with Law Enforcement and Emergency Services Findings**

- There are limited partnerships between law enforcement and behavioral health specialists across the state, as well as a lack of training opportunities and resources to respond to individuals with a behavioral health need.
- Mobile Crisis Outreach Teams (MCOTS) are currently underutilized and not always accessible in rural areas of the state.
- Receiving Centers have proven to be a successful resource for stabilizing individuals in crisis; however they are only available for 24 hours and not accessible across the state.

#### **Post Arrest Diversion Options Findings**

- Other than Specialty Courts, there are limited alternatives to incarceration following an arrest for individuals with a behavioral health need across the state.
- There is no required training for the judiciary on interacting with individuals with behavioral health needs.
- While helpful to ensure a standard of care, some interviews noted that the existence of the JRI Provider List can create barriers to access to some providers.

#### **Treatment in Jails and Prisons Findings**

- Prisons and jails need more programming that targets all ranges of behavioral health needs, not just those with serious mental illnesses.
- Limited communication between supervision agents, the Prison Reentry Team, and case managers creates gaps for successful reentry.
- Lack of housing is a critical barrier for individuals with behavioral health needs, and significantly can prevent an approved release. Interviews noted a need to expand the bed capacity and locations of Community Correctional Centers to address this.

#### **Support Once Released and on Supervision Findings**

- Community supervision agents have limited training on understanding and interacting with individuals who have behavioral health needs.
- Utah's Adult Probation and Parole (AP&P) agents inconsistently apply their role as case managers and their duty to address individuals' behavioral health needs.
- While helpful to avoid returns to prison for violations, Community Correctional Centers have limited bed space and are not located across the state.

#### **Overall Summary & Key Takeaways**

- Research Question #1: Returns to prison have not increased following JRI but have increased since the pandemic. Returns to prison are predominantly parole technical violators and individuals convicted of property offenses.
- Research Question #2: Utah's jail populations have not experienced a significant population shift post-JRI.
- Research Question #3: Most returns to prison for parole violations are not for new offenses. Of those technical violations, the majority stem from substance-use related conduct.
- Research Question #4: Significant gaps exist across the state to intervene, divert, and support individuals with a behavioral health need.

Ms. Vlajnic believed that many of the mental health needs were not unique to Utah and that Utah has made great strides in addressing these issues. She said focusing on new crimes, recidivism rates compared to the pre-JRI world, individuals returning to prison for new offenses has decreased considerably. Judge Low wondered if jail overcrowding or quality of life in Utah was considered. Mr. Isenberg did not see any downsides to JRI, as measured by drug reclassifications resulting in a reduction of prison admissions. Judge Low asked if the length of stay increases were due to the seriousness of the cases. Ms. Vlajnic believed the level of offense played a role in the length of stay.

Judge Low noted that companies are being more diligent to seek prosecution for credit card fraud, which is currently a 3<sup>rd</sup> degree felony to possess but usually a misdemeanor to use it. He wondered if it was a good time to examine whether possession of a credit card should be a 3<sup>rd</sup> degree felony when it's use is almost always a Class B misdemeanor. Mr. Gordon will discuss this with the CCJJ.

CJI has presented this in close cooperation with CCJJ. Mr. Isenberg offered to present this to the Board of District Court Judges. Chief Justice Durrant thanked Mr. Isenberg and Ms. Vlajnic and found the data fascinating and extremely important.

#### **9. RULES FOR FINAL APPROVAL: (Keisa Williams)**

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

- UCJA Rule 4-202.03. Records access.
- UCJA Rule 4-202.05. Request to access an administrative record; research; request to classify an administrative record; request to create an index. The proposed amendments align the rules with Utah Code § [77-40a-403\(2\)\(b\) Retention and release of expunged records – Agencies](#) and Utah Code § [77-40a-404 Confirmation of expungement -- Access to expunged records by individuals](#), identifying individuals and entities who may access expunged records. Other amendments are non-substantive and intended to streamline the rules.
- UCJA Rule 4-404. Jury selection and service. The proposed amendments add the option to email juror qualification forms and summonses to prospective jurors. If a qualification form is returned by the email provider as “undeliverable,” the form would then be mailed.

**Motion:** Judge Mortensen moved to approve UCJA Rules 4-202.03, 4-202.05, and 4-404, as presented with an effective date of November 1, 2023. Judge Chin seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Ms. Williams.

#### **10. INDIGENT DEFENSE COMMISSION (IDC): (Matthew Barraza)**

Chief Justice Durrant welcomed Matthew Barraza. The [IDC](#) was awarded \$7,400,000 in grant funding, which accounts for over 45% of rural indigent defense spending. The IDC has helped fund more than 100 attorney positions statewide. Mr. Barraza explained that they assist

parents in complying with reunification plans through the work of eight IDC-funded social workers throughout the state.

The Indigent Appellate Defense Division helps with criminal appeals from rural counties, child welfare appeals, and post-conviction relief. The Division includes a Chief Appellate Officer, five appellate attorneys, three child welfare appellate attorneys, law clerks, and a post-conviction attorney.

#### **How IDC Obtains Data from Managing Defenders**

Semi-annual reporting through System-Needs-Evaluation (SNE)

- What are the caseloads per attorney?
- Are the cases evenly distributed among attorneys?
- Is there a screening process for conflicts of interest?
- Is there a process for client complaints?
- Are attorneys meeting with clients before their court date?
- Are attorneys informing clients of their right to appeal?
- How often are defense resources used?

Mr. Barraza said there are resources to cover the cost of experts' testimonies.

Chief Justice Durrant thanked Mr. Barraza.

#### **11. JUDICIAL COUNCIL FUNDING SUMMARY: (Ron Gordon and Neira Siaperas)**

Chief Justice Durrant welcomed Ron Gordon and Neira Siaperas. During the August 2021 Annual Budget Meeting, the Council requested the AOC provide them with an annual spending summary of projects they funded. The summary will include ongoing turnover savings or carry forward funds, including what the Council allocated and how those funds were spent. Below is the report of how approved requests for FY 2022 ongoing turnover savings were used. Requests funded with FY 2023 fiscal note funds are also included. A report on the use of FY 2022 carry forward funds will be provided to the Council in August.

##### **Targeted Market Pay Adjustments - \$100,000**

This provided salary increases to 14 employees whose salaries were considerably under market and who were at risk of leaving the judiciary. These funds helped us retain valuable talent.

##### **Clerk of Court Salary Increase - \$59,000**

With these funds, the Courts provided an additional 6% salary increase to Clerks of Court for FY 2023 (in addition to the COLA for a total increase of 9.7%).

##### **Public Outreach Coordinator - \$120,000**

This position has made significant contributions to the work of the Judiciary. By funding this position, the Council signaled to community partners that the Courts are committed to advancing the mission of the Courts as well as continuing genuine engagement and developing mutual trust.

**Partial Restoration of FY 2021 Budget Cuts - \$112,500**

This funding provided a partial restoration to some the most critical portions of those cuts including training, office supplies, maintenance of motor pool vehicles, and professional and technical services of the \$653,000 budget cuts made to the Judiciary’s FY 2021 budget by the Legislature.

**District Court Law Clerk Attorney - \$95,850**

The Fifth District Court used these funds to hire a much-needed additional law clerk attorney. With the addition of this position, the law clerk attorney position previously shared by the Fourth District and Fifth District Courts was divided so each district could have their own.

**Associate General Counsel - \$150,000**

The General Counsel’s Office supports approximately 1,000 court employees and 239 judges. The 4 attorneys’ staff 9 committees and are members of an additional 3. Not only has the reduction in workload improved retention and work-life balance, but the Office is now able to engage in projects that would not otherwise have been possible.

**4 Judicial Assistants to Implement HB0143 - \$320,000**

The 4 new JA positions from 2022 [HB0143 DUI Penalty Amendments](#) were combined with 3 JA positions from 2021 [HB0260 Criminal Justice Modifications](#) that became available on July 1, 2022. The 7 FTE positions were distributed to assist with collections, the increase in DUI cases, and [URCP Rule 100A Case Management of Domestic Relations Actions](#).

**Pre-fund Portion of FY 2023 Annual Performance Raises - \$150,000**

This helped fund the annual performance raises that are part of the new performance pay system in the Judiciary.

**Pre-fund Portion of FY 2023 Hotspot Funds - \$82,000**

This helped fund hotspot raises during FY 2023.

**HR Compensation and Classification Manager - \$120,000**

This position helped address ongoing employee compensation and job classification functions and enable the Department to better support the mission of the Courts in other areas of need.

Judge Low and Judge Pettit appreciated Mr. Gordon’s work and were impressed with the work of the Council. Mr. Gordon noted that this annual review helps the AOC recognize how the funds were spent and the accountability in using the money. Chief Justice Durrant thanked Mr. Gordon and Ms. Siaperas.

**12. DOMESTIC COMMISSIONER ANNUAL EVALUATION AND RETENTION:  
(Shane Bahr)**

Chief Justice Durrant welcomed Shane Bahr. The court commissioner evaluation and retention processes are governed by UCJA Rules [3-111 Performance evaluation of active senior judges and court commissioners](#) and [3-201 court commissioners](#). The Council is responsible for

recertifying court commissioners whose terms expire December 31. The following district court commissioners sought retention.

<b>Name</b>	<b>Court</b>	<b>Term Start</b>	<b>Term End</b>
Commissioner Catherine Conklin	Second District Court	01/01/20	12/31/23
Commissioner Joanna Sagers	Third District Court	01/01/20	12/31/23
Commissioner Christina Wilson	First and Second District Court	01/01/20	12/31/23

According to the information from the self-declaration form, surveys, and annual performance evaluations, all three commissioners meet the standard performance standards in the following areas: survey scores; judicial education records; self-declaration; no formal or informal sanctions; and performance evaluations. The commissioners seeking recertification do not have complaints pending before the Commissioner Conduct Commission.

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

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

**Motion:** Judge Low moved to recertify Commissioner Catherine Conklin, Commissioner Joanna Sagers, and Commissioner Christina Wilson. Judge DiReda seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Mr. Bahr.

### **13. SENIOR JUDGE REAPPOINTMENTS: (Neira Siaperas)**

Chief Justice Durrant welcomed Neira Siaperas. UCJA Rules [11-201 Senior Judges](#) and [11-203 Senior Justice Court Judges](#) establish the qualifications, terms, authority, appointment, and assignment for senior judges. [UCJA Rule 3-111 Performance Evaluation of Active Senior Judges and Court Commissioners](#) establishes the criteria and standards for performance evaluations. There are currently 32 active and 23 inactive senior judges.

#### **Active Senior Judges seeking reappointment (Courts of Record)**

Judge Michael Allphin; Judge Lynn Davis; Judge Glen Dawson; Judge Dennis Fuchs; Judge Michelle Heward; Judge Renee Jimenez; Judge Ernest Jones; Judge Thomas Kay; Judge Gordon Low; Judge Michael Lyon; Judge Edwin Peterson; Judge Sandra Peuler; Judge Sterling Sainsbury; Judge Gary Stott; Judge James Taylor; and Judge Thomas Willmore

#### **Inactive Senior Judges seeking reappointment (Courts of Record)**

Judge Arthur Christean

#### **Active Senior Judges seeking reappointment (Justice Court)**

Judge Scott Cullimore and Judge Ronald Powell

**Inactive Senior Judges seeking reappointment (Justice Court)**

Judge Lee Bunnell; Judge Evan Hall; and Judge Jack Stevens

**Change of Status**

Judge Frederic Oddone applied to change his status from an active senior judge to an inactive senior judge.

**Active Senior Judges not seeking reappointment.**

Judge Kent Bachman and Judge Royal Hansen have not applied for reappointment; therefore, their terms will expire on December 31, 2023.

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

**Motion:** Judge Pettit that the Council make a preliminary finding under UCJA Rule 3-111 that the active senior judges have met the performance requirements and presumptively be certified conditioned on meeting the requirement of serving, if asked, of at least 2 calendar days during this calendar year. She moved to approve recommending to the Supreme Court that the following senior judges be reappointed: Judge Michael Allphin subject to accepting assignments in accordance with the rule by December 31, 2023; Judge Lynn Davis; Judge Glen Dawson; Judge Dennis Fuchs; Judge Michelle Heward; Judge Renee Jimenez; Judge Ernest Jones; Judge Thomas Kay; Judge Gordon Low; Judge Michael Lyon; Judge Frederic Oddone; Judge Edwin Peterson; Judge Sandra Peuler; Judge Sterling Sainsbury; Judge Gary Stott; Judge James Taylor; Judge Thomas Willmore; Judge Arthur Christean; Judge Scott Cullimore subject to accepting assignments in accordance with the rule by December 31, 2023; Judge Ronald Powell; Judge Lee Bunnell; Judge Evan Hall; and Judge Jack Stevens. Judge Farr seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Ms. Siaperas.

**14. OLD BUSINESS/NEW BUSINESS: (All)**

No additional business was discussed.

**15. EXECUTIVE SESSION**

An executive session was held during agenda items #12 and #13.

**16. CONSENT CALENDAR ITEMS**

a) Committee Appointments: Appointment of Justice Jill Pohlman; Judge Todd Shaughnessy; Judge Monica Diaz; Judge Danalee Welch-O'Donnal; Tucker Samuelson; Justice Michael Zimmerman; and Shawn Newall to the Office of Fairness and Accountability Committee. Appointment of Katsi Pena to the Committee on Judicial Outreach. Approved without comment.

**17. ADJOURN**

The meeting adjourned.