JUDICIAL COUNCIL MEETING
Minutes

October 23, 2023

Meeting held through Webex
and in person at
Matheson Courthouse
450 S State Street
Salt Lake City, UT 84111

9:00 a.m. p.m. – 12:10 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. Michael DiReda
Hon. Ryan Evershed
Hon. Paul Farr
Hon. James Gardner
Hon. Elizabeth Lindsley
Hon. Samuel Chiara
Hon. Thomas Low
Hon. Paige Petersen
Hon. Amber Mettler
Hon. Jon Carpenter
Margaret Plane, esq.

Excused:
Hon. Keith Barnes

AOC Staff:
Ron Gordon
Neira Siaperas
Michael Drechsel
Sonia Sweeney
Shane Bahr
Jim Peters
Nick Stiles
Keisa Williams
Hilary Wood
Brody Arishita
Karl Sweeney
Alisha Johnson
Melissa Taitano
Jordan Murray
Nini Rich
Katy Burke
Jace Willard
Stacy Haacke

Guests:
Kelly Moreira
Holly Langton
Hon. Rick Romney
Hon. Morgan Commings
Hon. Brent Bartholomew
Hon. Debra Jensen
Krista Airam

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

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

Motion: Judge Brian Brower moved to approve the September 12, 2023, Judicial Council meeting minutes. Judge Paul Farr seconded the motion, and it passed unanimously.

2. OATH OF OFFICE: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant administered the Oath of Office to the new Council members, Judge Jon Carpenter and Judge Amber Mettler, and welcomed them to the Council.

3. SELECTION OF JUDICIAL COUNCIL EXECUTIVE COMMITTEE: (Ron Gordon)

Ron Gordon reviewed current and proposed Judicial Council executive committee members, noting that the Management Committee approved the proposed changes, which are:

- Judge Amber Mettler be assigned to the Management Committee;
- Judge Jon Carpenter be assigned to the Policy, Planning, and Technology Committee;
- Judge Brian Brower be assigned to the Budget and Fiscal Management Committee in addition to the Liaison Committee.

Motion: Judge James Gardner moved to approve the assignments of Judge Mettler to the Management Committee; the assignment of Judge Carpenter to the Policy, Planning, and Technology Committee; and the assignment of Judge Brower to the Budget and Fiscal Management Committee in addition to the Liaison Committee, as presented. Judge Elizabeth Lindsley seconded the motion, and it passed unanimously.

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4. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant mentioned that the meeting with the legislators and judges in the Third District went well and that it was beneficial to hear the questions and input from the legislators.

5. STATE COURT ADMINISTRATOR'S REPORT: (Ron Gordon)

Mr. Gordon informed the Council that the Elected Officials and Judicial Compensation Commission (EJCC) voted unanimously in its last meeting to recommend the 10% increase for state court judges, and they're finalizing their report that will go to the legislature very soon. That will also have an impact on justice court judges throughout the state if that increase is funded, as by statute, justice court judges earn a percentage of what the state trial judges earn. Mr. Gordon stated that he didn't know if the increase would be funded at 10% as requested, but if so, the 10% would include any COLA.

Mr. Gordon will bring to the Council a recommendation as soon as next month asking for approval of some funds dedicated specifically to court safety and security issues, referencing the story in the news recently about a judicial officer who was killed by a disgruntled party. Judge David Mortensen made the suggestion that judicial parking be factored into the security audits that Chris Palmer conducts.

Mr. Gordon gave an update on the Tava and Unmind wellness resources, which launch tomorrow, October 24. 2023. He thanked the Council members again for their support in approving the funding for these resources for employees.

The 2023 Judicial Council photograph will be taken during the November 20th Judicial Council meeting, and Mr. Gordon recommended that all members attend the meeting in person if feasible.

6. COMMITTEE REPORTS:

Management Committee Report: (Chief Justice Matthew B. Durrant)
The work of the committee is reflected in the minutes.

Budget & Fiscal Management Committee Report: (Karl Sweeney)
The work of the committee will be discussed later in the meeting.

Liaison Committee Report: (Justice Paige Petersen)
Justice Paige Petersen had nothing new to report.

Policy, Planning, and Technology Committee Report: (Judge Samuel Chiara)
The work of the committee will be discussed later in the meeting.

Bar Commission Report: (Margaret Plane, esq.)

The lawyer/legislator breakfast is coming up on November 15, 2023, and the Fall Forum will be held downtown on November 17th. There will be many great speakers, a few of whom presented at the September bar retreat on the topic of working together. Also at that retreat, the commission worked on strategic goals, one of which is advancing the critical role a unified bar plays in public protection.

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7. GAL OVERSIGHT REPORT: (Stacey Snyder, Jeannine Timothy)

Stacey Snyder introduced Jeannine Timothy, who is the interim Chair of the Guardian Ad Litem Oversight Committee. Currently the chair position is vacant. Ms. Timothy explained that the department attends an annual conference where the GALs are able to gather from all over the state to discuss their cases, receive training, and learn about important case law updates. Ms. Snyder added that the National Association of Counsel for Children (NACC), presented at the conference, and will hold their own annual conference next year here in Salt Lake City.

The Office of the GAL has submitted three budget requests for the next legislative session; staff performance bonus payments, performance raises, and an attorney salary increase. The last time they received an ongoing appropriation was in 2016, and with this funding they were able to grow their office and retain the dedicated attorneys. In 2019, the federal title 4b funding was opened up to attorneys who represent children and provide parental defense, which helped significantly. However, Ms. Snyder stated that their office is beginning to see more turnover over the past year, as she is not able to match the salaries offered by some other agencies in the public sector.

Chief Justice Durrant thanked Ms. Snyder and Ms. Timothy for the important work they do.

8. BUDGETS AND GRANTS: (Karl Sweeney, Alisha Johnson, Melissa Taitano)

FY 2024 One-Time Turnover Savings

#		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 09/15/2023)	Internal Savings	385,945.76
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 09/15/2023)	Reimbursements	203,198.93
3	Est. One Time Savings for 1,640 remaining pay hours ($1,350 / pay hour)	Internal Savings (Est.)	2,214,000.00
Total Potential One Time Savings			**2,803,144.69**
		Prior Report Totals (as of Beginning of Year)	*$ 3,708,002.93*

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)	(300,419)
	Add back: "Assistant Justice Court Administrator" request to be funded by JCTST funds	Internal Savings	74,000	74,000
	Sub-Total		(226,419)	(226,419)
	Turnover Savings generated from FY 2023 due to 2023 actions selecting benefits		**171,598**	**171,598**
	Carried over Ongoing Savings (from FY 2023)	Internal Savings	(54,821)	(54,821)
	Ongoing Turnover Savings FY 2024 (actual year-to-date)	Internal Savings	216,065	216,065
1	Ongoing Turnover Savings FY 2024 (forecast $50,000 / month x 9 months remaining)	Internal Savings	-	450,000
	TOTAL SAVINGS		161,245	611,245
2	2024 Hot Spot Raises Authorized - renews annually until revoked		(38,502)	(200,000)
	2024 Authorized Ongoing for Performance Based Raises (will be used at the end of the FY)		-	
	TOTAL USES		(38,502)	(200,000)
	Subtotal Available without Contingent Supplemental Funding		122,742	411,245
3	Contingent Legislative Supplemental Funding for 1 Court Commissioner Position		-	262,550
	Actual Turnover Savings for FY 2024 as of 09/21/2023		**$ 122,742**	**$ 673,795**
		Prior Report Totals (as of 8/18/2023)	*$ (133,686)*	*$ 467,366*

FY 2024 Forecasted Available One-time Funds

Forecasted Available One-time Funds			
	Description	Funding Type	Amount
	Sources of YE 2024 Funds		
*	Turnover Savings as of PPE 09/15/2023 (including anticipated ARPA reimbursement)	Turnover Savings	*589,145*
**	Turnover savings Estimate for the rest of the year ($1,350 x 1,640 pay hours)	Turnover Savings	*2,214,000*
(a)	***Total Potential One Time Turnover Savings***		*2,803,145*
	Operational Savings From TCE / AOC Budgets - Forecasted	*Internal Operating Savings*	*750,000*
	Reserve Balance (balance from FY 2023 Carryforward)	*Judicial Council Reserve*	*52,997*
	Anticipated Reserve Uses - including previously approved and pending requests	*Jud. Council Reserve Uses*	-
(b)	***Total Operational Savings and Reserve***		*802,997*
(c)	***Total of Turnover Savings & Operational Savings = (a) + (b)***		*3,606,141*
	Contingent Legislative Supplemental Funding:		
	American Fork Lease Increases	*Legislative Contingent*	389,000
	JWI Increase to 2 Hour Minimum	*Legislative Contingent*	275,000
	JWI Higher Pay for Rural Assignments	*Legislative Contingent*	146,500
	Senior Judge and Time Limited JA Funding Jan/Feb 2024	*Legislative Contingent*	160,000
(d)	***Subtotal - Contingent Legislative Supplemental Funding***		*970,500*
	Uses of YE 2024 Funds		
(e)	Carryforward into FY 2024 (Anticipate request to Legislature for $3,200,000)	Pre-Covid Carryforward	*(2,500,000)*
Total Potential One Time Savings = (c) + (d) less Carryforward (e)			2,076,641
Less: Judicial Council Requests Previously Approved			(653,950)
Less: Judicial Council Current Month Spending Requests			(610,000)
Remaining Forecasted Funds Available for FY 2024 YE Spending Requests			812,691
Less: Contingent Supplemental Funding			(970,500)
			(157,809)

Updated 10/3/2023

#	One-time Spending Plan Requests	Current Requests Amount	Judicial Council Approved Amount
1	Employee Wellness Resources		$ 107,450
2	JWI Centralized Scheduler		$ 20,000
3	JWI Media Outreach Interpreter Recruiting		$ 10,000
4	JWI Interpreter Trainer		$ 65,000
5	OFA Racial and Ethnic Disparity Data Project		$ 30,000
6	JWI Increase to 2 Hour Minimum		$ 275,000
7	JWI Higher Pay for Rural Assignments		$ 146,500
8	**Q1/Q2 Performance Bonuses**	$ 450,000	
9	**Senior Judge and Time Limited JA Funding Jan/Feb 2024**	$ 160,000	
	Current Month One-time Spending Requests	610,000	
	Previously Approved 1x FY 2024 YE Spending Request		653,950

Performance Bonus Payments:

Karl Sweeney asked for approval for $450,000 in one-time funding for performance bonus payments for quarters one and two of this year. This request was presented to and approved by the Budget and Fiscal Management Committee. Judge Lindsley added that in the BFMC meeting, they had a long discussion about spreading the word to employees that there are no guarantees that performance bonuses would be funded in quarters three and four since the funding is contingent on one-time turnover savings.

Motion: Judge Gardner moved to approve the funding for performance bonuses, as presented. Judge Thomas Low seconded the motion, and it passed unanimously.

Post ARPA / Pre-Legislature Senior Judge / Time-Limited JA Funding:

Mr. Sweeney requested senior judge / judicial assistant funding totaling $160,000 to bridge the gap between when ARPA funds end and March 2024, when we will find out whether the legislature approved funding for senior judges.

Motion: Judge Farr moved to approve the Post ARPA / Pre-Legislature Senior Judge / JA Funding, as presented. Judge Gardner seconded the motion, and it passed unanimously.

Performance Raises:

Mr. Sweeney detailed the request of $450,000 for performance raises for the next fiscal year, which is the same amount requested last year.

Motion: Judge Low moved to approve the allocation of funds for performance raise, as presented. Judge Farr seconded the motion, and it passed unanimously.

9. GRANT RENEWAL: (Jordan Murray)

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Jordan Murray briefly presented a grant renewal request originally intended for the consent agenda, as the request was already approved by the Budget and Fiscal Management and Management Committee.

Motion: Judge Mortensen moved to approve the grant renewal, as recommended by the Budget and Fiscal Management and Management Committee. Judge Lindsley seconded the motion, and it passed unanimously.

10. JUSTICE COURT BOARD REPORT: (James Peters, Judge Rick Romney)

Judge Rick Romney introduced himself as a Provo City Justice Court Judge and the chair of the Board of Justice Court Judges for the past four and a half years. Judge Romney will be retiring as of December 15th, 2023. Judge Romney gave an overview of some of the demographics of the Utah Justice Courts. There are 107 Justice Courts, 17 of which have a workload greater than 1.0. The other 90 are part-time courts, 51 of which have workloads of 0.25 or less. There are 67 Justice Court judges, but that will change as upcoming vacancies are filled in Grantsville, Utah County, Provo, Summit County and Murray. The Justice Court bench consists of 53 male judges, 14 female judges, 50 with law degrees, and 17 without a law degree.

Administration Composition Update:

Judge Romney thanked the Council for approving the Deputy Justice Court Administrator position, for which Kim Zimmerman was hired and has already been invaluable. The Justice Court Administration also hired a Justice Court Education Coordinator, Bryce Hansen, a clerk from the Ogden Justice Court. He will start on November 6, 2023.

Clerk Education:

Clerk education has been a top priority for the Justice Court Administration. Jody Thenot with the Orem Justice Court administration has created 46 courses consisting of more than 16,000 modules for clerk certifications in less than two years into the Clerk Certification Program. Recently, district-level trainings have been expanded to include the entire state.

Board Goals:

Last year's goals

- Strengthen data integrity
    - Look at classifying justice courts differently;
    - Review the judicial workload formula;
    - Finish the clerical workload study;
    - Develop policies for consistent data entry; and
    - Collect Salary data for Justice Court Clerks.
- Develop a plan to eliminate Accounting Model II

This Year's Goals

- Stay actively involved in justice court reform;
- Review the use of Pro Tem judges in justice court and make recommendations for improvement; and

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- Continue working towards integrating justice courts into the judiciary.

Judge Romney expressed gratitude to Jim Peters for the exceptional work that he does as the Justice Court Administrator and for the opportunity to serve as the Justice Board chair. He then introduced Judge Morgan Cummings, who will replace Judge Romney as board chair.

Chief Justice Durrant thanked Judge Romney for his service on the bench and wished him a happy retirement.

11. JUSTICE COURT REFORM UPDATE: (James Peters)

In the October 2022 meeting, the Council voted to recommend to the legislature a phased-in approach for justice court reform. Phase one included requests that were specific to judges' salaries. Another successful outcome was that it is no longer necessary to have lived in the jurisdiction of the justice court six months prior to applying for a job within that justice court. People can apply statewide, as long as they are willing to relocate.

Mr. Peters discussed a task force formed by the legislature for the justice courts reform that came out of House Bill 210, picking up where the Judicial Council task force left off. This task force has met 3 times since July 2023 and will meet one more time this year. If there is a consensus at that meeting, a proposal may result detailing the following:

Michael Drechsel explained that the legislature is grappling with how to structure this change of jurisdiction from the justice court level to the state. One model has the new court under the umbrella of the district court with judicial officers with limited jurisdiction, at least initially. The proposal that was discussed at the last task force meeting was to create a new court parallel to the district courts and then to transfer cases back and forth between the two courts, but the task force seems open to input from the Council. To operate two courts parallel and independent of one another could create many administrative inefficiencies. There are a lot of opportunities here, and Mr. Drechsel asked for some informal feedback from the Council that he could take back to the task force.

Judge Gardner felt that trying to put all misdemeanors in one court seems problematic, and having one system makes more sense than having two.

Judge Farr added that the task force he is a part of did a lot of research nationally, and the results suggested that consolidating court levels into a simpler structure is better than having multiple, separate courts. Judge Farr also recommended that sitting justice court judges who are interested in this court level and have dedicated their time and efforts for many years be given some consideration in the initial interview process, if the new court level is created.

Judge Mortensen agreed that having one combined court rather than multiple levels would be better, but stated he would need more information to form an opinion.

Judge DiReda pointed out that current sitting judges, who might be sifted out in this new selection process, have a wealth of experience and institutional knowledge. He supported Mr. Drechsel and Mr. Peters making that part of the discussion with the task force.

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12. JUVENILE COURT BOARD REPORT: (Judge Bartholomew, Sonia Sweeney)

Judge Bartholomew addressed the following topics in his report.

Initiative to Increase Family Time in Digital Welfare Cases:

The Board of Juvenile Court Judges set a goal to improve the quantity and quality of family time with juvenile court child welfare cases. This has proven to be a significant undertaking and will be an ongoing process involving all child welfare agencies and community partners. The Board of Juvenile Court Judges has referred ongoing work to the Court Improvement Program (CIP). Its director has convened a work group comprised of a diverse selection of members with a variety of backgrounds. Judge Bartholomew will continue to meet with the work group monthly to work on increasing family time in the circumstances where supervised visitation has been deemed necessary.

Data Analysis Project:

Phase one of the Data Analysis Project was completed in April of 2021. It indicated that minority youth were generally referred to juvenile court at a disproportionately higher rate than non-minority youth. This concerned the board members, and they want to implement the appropriate changes recommended by the analysis. Phase two of the project will be completed with the assistance of the Courts' Office of Fairness and Accountability and the Georgetown researchers.

Racial Equity and Fairness (REF) Work Group:

The juvenile court has successfully implemented several initiatives this year in decreasing bias and increasing access to justice for court patrons. The Racial Equity and Fairness (REF) work group worked closely with the education department to identify cultural competency, education, opportunity gaps, and to create a new workshop series on cultural competency for court staff. The REF group has also worked to translate the multi-language document, which explains the availability of translation / interpretation services, and which is delivered with the Preliminary Inquiry letter, into Chuukese, Chinese, Samoan, Tagalog and Arabic, in addition to Spanish.

The REF was approved as a formal subcommittee of the Committee on Fairness and Accountability under the Office of Fairness and Accountability at the end of May 2023.

Gault Center Juvenile Justice Defense Evaluation:

The Gault Center has been evaluating representation for youth in delinquency cases, and this evaluation process has included district site visits of the juvenile court, interviews with system role players to gather information, and options on youth defense services within each district. A report with recommendations is anticipated to be finalized in early 2024.

Judge Bartholomew thanked the Judicial Council for allowing him to present, and for the time and sacrifice the Council makes in leading the judiciary.

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13. WEBER COUNTY - NEW TREATMENT COURT: (Judge Jensen, Judge Williams, Katy Burke)

Judge Debra Jensen shared that she and Judge Williams have been working with Katy Burke on developing a family support court in Weber County, which will provide more services for protective supervision child welfare cases. Judge Sipes conducts a similar and successful treatment court in Davis County.

Motion: Judge Lindsley moved to approve the new treatment court in Weber County, as presented. Justice Petersen seconded the motion, and it passed unanimously.

14. RULES FOR FINAL APPROVAL: (Keisa Williams)

CJA Rule 6-501 went out for public comment twice and there was only one public comment. Most of the things the commenter addressed were addressed in the first round of public comment. The Probate Subcommittee did a comprehensive review both times, and neither the Probate Subcommittee nor the Policy, Planning and Technology Committee recommended any additional amendments based on that comment. The recommendation is that this rule be approved as final with an effective date of November 1, 2023..

Motion: Judge Farr moved to approve rule 6-501 with a November 1, 2023 effective date. Judge Carpenter seconded the motion, and it passed unanimously.

15. AI IN THE COURTS: (Keisa Williams)

Employees and judicial officers are currently using generative Artificial Intelligence (AI) tools in the courts, but it is unknown which tools are being used and what they're being used for. Keisa Williams' first recommendation was to put a temporary pause on the use of all AI tools until IT can do more research and send out a survey to all court employees to ascertain the tools that are currently being used. Otherwise, she recommended the immediate implementation of interim rules to address the level of usage as well as to limit use to those programs IT has already cleared. To date, IT has vetted the programs Chat GBT, versions 3 and 4, as well as Claude AI and Bard, the experiment version. There is one more tool that IT is looking into, and that is Case Text Co-Counsel, which is specific to legal research. New AI tools are becoming available regularly and versions of current tools continue to be updated. Ms. Williams and Brody Arishita, Director of IT, are concerned that IT won't be able to keep up with the updates and checking new AI tools.

Ms. Williams explained that, from a legal perspective, a survey asking for disclosure would help her learn what tools have been used so far, and to what extent employees may be subjecting the courts to certain liabilities. A survey would also give the Council a sense of what employees might want to use it for in the future, helping the legal team to form the necessary guidelines.

The Council discussed options for surveying employees, disclosures, and implementing interim rules for the use of AI in the Courts.

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Motion: Judge Mortensen made the motion to implement the interim rules for use of AI, with the revisions presented in this meeting. Judge Low seconded the motion, and the motion passed unanimously.

16. SELECTION OF JUDICIAL COUNCIL STUDY ITEMS: (Ron Gordon)

In the past, the Council would discuss a potential study item in the month of October or November. These study items were put on the back burner once the pandemic started, but Mr. Gordon proposed that the Council consider whether it wants to identify some new study items. Mr. Gordon noted that the Judiciary continues to work on prior study items that are incomplete. One recommendation, which came from the Fourth District, was a suggestion to study the appointment of counsel in some civil cases. Mr. Gordon recommended that the Council not decide right now but let him come back in a month or two with the results of the system review. At that point the Council can discuss the possibility of doing a second phase of the system review and other possible study items.

17. OLD BUSINESS/NEW BUSINESS: (All)

There was no old or new business.

18. ADJOURN

The meeting adjourned.

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CONSENT CALENDAR ITEMS

1) Committee Appointments - New Standing Education Committee Member; Lauren Andersen