

# JUDICIAL COUNCIL MEETING

## AGENDA

November 20, 2023

Meeting held through Webex  
and in person

Matheson Courthouse  
Council Room  
450 S. State St.  
Salt Lake City, Utah 84111

*Chief Justice Matthew B. Durrant, Presiding*

- |    |           |   |   |
|----|-----------|---|---|
| 1. | 9:00 a.m. | Welcome & Approval of Minutes<br>(Tab 1 - Action)   | Chief Justice Matthew B. Durrant  |
| 2. | 9:05 a.m. | Chair's Report<br>(Information)   | Chief Justice Matthew B. Durrant  |
| 3. | 9:10 a.m. | State Court Administrator's Report<br>(Information)   | Ron Gordon  |
| 4. | 9:20 a.m. | Reports: Management Committee<br>Budget and Fiscal Management Committee<br>Liaison Committee<br>Policy, Planning, and Technology Committee<br>Bar Commission<br>(Tab 2 – Information) | Chief Justice Matthew B. Durrant<br>Judge Elizabeth Lindsley<br>Justice Paige Petersen<br>Judge Samuel Chiara<br>Margaret Plane, esq. |
| 5. | 9:30 a.m. | Judicial Performance Evaluation Commission<br>Report (Tab 3 - Information)  | Mary-Margaret Pingree<br>Commissioner Blair Hodson  |
| 6. | 9:45 a.m. | Budget and Grants<br>(Tab 4 - Action)   | Karl Sweeney<br>Alisha Johnson<br>Melissa Taitano<br>Suzette Deans  |

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|-----|------------|--|---|
| 7.  | 9:55 a.m.  | HB 531 Report<br>(Tab 5 - Action)                                  | Wayne Kidd<br>Karl Sweeney                          |
| 8.  | 10:10 a.m. | Board of District Court Judges Report                              | Judge William Kendall<br>Shane Bahr                 |
| 9.  | 10:20 a.m. | Committee on Court Forms Report<br>(Tab 6 – Action)                | Nathanael Player                                    |
|     | 10:25 a.m. | Break – Council Photo  | All   |
| 10. | 10:55 a.m. | FY25 Legislative Budget Requests<br>(Tab 7 – Action)               | Ron Gordon<br>Karl Sweeney                          |
| 11. | 11:15 a.m. | Model Utah Civil Jury Instructions<br>(Tab 8 – Information)        | Alyson McAllister<br>Lauren Shurman<br>Jace Willard |
| 12. | 11:25 a.m. | State Treatment Courts Update<br>(Tab 9 – Information)             | Katy Burke  |
| 13. | 11:35 a.m. | Justice Court Reform Update<br>(Discussion)                        | Jim Peters  |
|     | 11:50 a.m. | Lunch Break  |   |
| 14. | 12:05 p.m. | Standing Committee on Children and Family Law<br>(Tab 10 – Action) | Judge Hruby-Mills<br>Judge Keisel<br>Jim Peters     |
| 15. | 12:15 p.m. | Judicial Data Project Update<br>(Tab 11 – Action)                  | Justice Pohlman<br>Jon Puente<br>Shawn Newell       |
| 16. | 12:30 p.m. | Judicial Council Study Item<br>(Discussion – Action)               | Ron Gordon  |

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|-----|------------|---|----------------------------------|
| 17. | 12:40 p.m. | System Review<br>(Tab 12 – Action)            | Ron Gordon<br>Neira Siaperas     |
| 18. | 1:10 p.m.  | Rules for Final Approval<br>(Tab 13 - Action) | Keisa Williams                   |
| 19. | 1:20 p.m.  | Old Business/New Business<br>(Discussion)     | All                              |
| 20. | 1:30 p.m.  | Executive Session                             |                                  |
| 21. | 2:00 p.m.  | Adjourn                                       | Chief Justice Matthew B. Durrant |

### **Consent Calendar**

The consent calendar items in this section are approved without discussion if no objection has been raised with the Administrative Office of the Courts or with a Judicial Council member by the scheduled Judicial Council meeting or with the Chair of the Judicial Council during the scheduled Judicial Council meeting.

- 1) CJA 3-101. Judicial performance standards  
CJA 3-104. Presiding judges  
(Tab 14)
- 2) Model Utah Criminal Jury Instructions – New Committee Members  
(Tab 15)

Tab 1



**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

**Guests:**

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

**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

**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.

**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 20<sup>th</sup> 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 17<sup>th</sup>. 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.

**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
<b>Total Potential One Time Savings</b>			<b>2,803,144.69</b>

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
	<b>TOTAL SAVINGS</b>		<b>161,245</b>	<b>611,245</b>
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)		-	
	<b>TOTAL USES</b>		<b>(38,502)</b>	<b>(200,000)</b>
	<b>Subtotal Available without Contingent Supplemental Funding</b>		<b>122,742</b>	<b>411,245</b>
3	Contingent Legislative Supplemental Funding for 1 Court Commissioner Position		-	262,550
<b>Actual Turnover Savings for FY 2024 as of 09/21/2023</b>			<b>\$ 122,742</b>	<b>\$ 673,795</b>

Prior Report Totals (as of 8/18/2023) \$ (133,686) \$ 467,366

## FY 2024 Forecasted Available One-time Funds

Forecasted Available One-time Funds			# One-time Spending Plan Requests		Current Requests Amount	Judicial Council Approved Amount
Description	Funding Type	Amount				
<b>Sources of YE 2024 Funds</b>			1	Employee Wellness Resources		\$ 107,450
* Turnover Savings as of PPE 09/15/2023 (including anticipated ARPA reimbursement)	Turnover Savings	589,145	2	JWI Centralized Scheduler		\$ 20,000
** Turnover savings Estimate for the rest of the year (\$1,350 x 1,640 pay hours)	Turnover Savings	2,214,000	3	JWI Media Outreach Interpreter Recruiting		\$ 10,000
(a) <b>Total Potential One Time Turnover Savings</b>		2,803,145	4	JWI Interpreter Trainer		\$ 65,000
Operational Savings From TCE / AOC Budgets - Forecasted	Internal Operating Savings	750,000	5	OFA Racial and Ethnic Disparity Data Project		\$ 30,000
Reserve Balance (balance from FY 2023 Carryforward)	Judicial Council Reserve	52,997	6	JWI Increase to 2 Hour Minimum		\$ 275,000
Anticipated Reserve Uses - including previously approved and pending requests	Jud. Council Reserve Uses	-	7	JWI Higher Pay for Rural Assignments		\$ 146,500
(b) <b>Total Operational Savings and Reserve</b>		802,997	8	Q1/Q2 Performance Bonuses	\$ 450,000	
			9	Senior Judge and Time Limited JA Funding Jan/Feb 2024	\$ 160,000	
(c) <b>Total of Turnover Savings &amp; Operational Savings = (a) + (b)</b>		3,606,141				
<b>Contingent Legislative Supplemental Funding:</b>						
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) <b>Subtotal - Contingent Legislative Supplemental Funding</b>		970,500				
<b>Uses of YE 2024 Funds</b>						
(e) Carryforward into FY 2024 (Anticipate request to Legislature for \$3,200,000)	Pre-Covid Carryforward	(2,500,000)				
<b>Total Potential One Time Savings = (c) + (d) less Carryforward (e)</b>		2,076,641				
<b>Less: Judicial Council Requests Previously Approved</b>						
		(653,950)				
<b>Less: Judicial Council Current Month Spending Requests</b>						
		(610,000)				
<b>Remaining Forecasted Funds Available for FY 2024 YE Spending Requests</b>						
		812,691				
<b>Less: Contingent Supplemental Funding</b>						
		(970,500)				
		(157,809)				
<b>Current Month One-time Spending Requests</b>						
		610,000				
<b>Previously Approved 1x FY 2024 YE Spending Request</b>						
		653,950				

Updated 10/3/2023

### 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)

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 15<sup>th</sup>, 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

- 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.



**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.



**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 GPT, 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.

**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.

**CONSENT CALENDAR ITEMS**

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

Tab 2

**JUDICIAL COUNCIL'S  
BUDGET & FISCAL MANAGEMENT COMMITTEE ("BFMC")**

**Minutes  
October 12, 2023  
Meeting held virtually through WebEx  
12:00 p.m. – 1:50 p.m.**

**Members Present:**

Hon. Elizabeth Lindsley  
Hon. Keith Barnes  
Justice Paige Petersen  
Margaret Plane, Esq.

**Excused:**

**Guests:**

Mark Urry, TCE, Fourth District Court  
Erin Rhead

**AOC Staff Present:**

Neira Siaperas  
Shane Bahr  
Lauren Andersen  
Bart Olsen  
Brody Arishita  
Nick Stiles  
Kelly Moreira  
Jordan Murray  
Karl Sweeney  
Alisha Johnson  
Melissa Taitano  
Suzette Deans, Recording Secretary

**1. WELCOME / APPROVAL OF MINUTES / Election of New BFMC Chair (Judge Elizabeth Lindsley – “Presenter”)**

Judge Lindsley welcomed everyone to the meeting and asked for a motion to approve the minutes from the last meeting. Judge Lindsley stated that Judge Brian Brower was approved to be on the committee, the committee decided to defer until next meeting to vote for a new committee chair.

**Motion:** Judge Keith Barnes moved to approve the August 29, 2023 minutes, as presented. Justice Paige Petersen seconded the motion, and it passed unanimously.

**2. FY 2024 Financials / Turnover Savings / ARPA Update (Alisha Johnson – “Presenter”)**

One-Time Turnover Savings - One-time TOS are generated from position vacancies and reimbursements of payroll expenditures with ARPA funds. Our forecast of one-time TOS for FY 2024 before any uses are deducted is estimated to be \$2.8M. This is a conservative forecast when compared to FY 2023 actual. Because there are 25% fewer unfilled positions today than the average for FY 2023, being conservative at this point in the year is prudent. However, the FY 2024 forecast does not include any forecasted operational savings - which ended up providing

over \$750K of one-time savings for the FY 2023 forecast. Operational savings will be provided in January 2024 when the forecast is updated for FY 2024.



### FY 2024 One Time Turnover Savings

Updated as of Pay Period Ending 09/15/2023 (440 out of 2,080 hours)

#		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
<b>Total Potential One Time Savings</b>			<b>2,803,144.69</b>

Prior Report Totals (as of Beginning of Year) \$ 3,708,002.93

Ongoing Turnover Savings ("OTS") – Alisha Johnson reviewed the period 3 financials and gave an update on OTS. After adding in all of the FY 2023 personnel actions that had health insurance chosen in FY 2024, the ending FY23 balance in OTS improved to only a \$54,821 deficit. OTS for FY24 actual YTD is \$216,065. Forecasted FY24 OTS is \$450,000 (\$50,000 per month) and when combined with the negative \$54,821 carried over from FY23, the forecasted YE 2024 OTS is conservatively estimated to be \$611,245.

As of 10/11/2023, the OTS schedule shows \$200,000 of hot spot raises as uses that have been pre-authorized by delegated authority from the Judicial Council to the State Court Administrator and Deputy and that is expected to be used by the end of FY 2024. AOC Finance is forecasting that we will have \$673,795 in OTS available for discretionary use if the contingent legislative supplemental funding is received and \$411,245 if it is not.



### FY 2024 Ongoing Turnover Savings as of 10/11/2023

#		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
	<b>TOTAL SAVINGS</b>		<b>161,245</b>	<b>611,245</b>
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)		-	-
	<b>TOTAL USES</b>		<b>(38,502)</b>	<b>(200,000)</b>
	<b>Subtotal Available without Contingent Supplemental Funding</b>		<b>122,742</b>	<b>411,245</b>
3	Contingent Legislative Supplemental Funding for 1 Court Commissioner Position		-	262,550
	<b>Actual Turnover Savings for FY 2024 as of 09/21/2023</b>		<b>\$ 122,742</b>	<b>\$ 673,795</b>

Prior Report Totals (as of 8/18/2023) \$ (133,686) \$ 467,366

Karl Sweeney reviewed the "FY 2024 vs FY 2023 1x TOS/OPS Available for Use" schedule pointing out that FY 2024 forecasted and actual 1x turnover savings are significantly lower than

last year due to faster filling of positions and lower positions vacant (average of 60 vacant positions last year and an average of 40 vacant positions this year). Our best-case scenario is that we could receive 1x Legislative funding for \$812,692 which would give us additional 1x funds to expend. In the unlikely event we don't get any of the 1x Legislative requests (\$160,000 for Senior Judge & Time Limited JA funding; \$389,000 for American Fork Rent; and \$421,500 for JWJ) we would have a deficit which we believe can be covered with other budget management adjustments. Mr. Sweeney also reassured the committee members that even if only one of the legislative asks is granted, the deficit would be cleared.

FY 2024 vs FY 2023 1x TOS/OPS Available for Use						
	Revenues	Hours	Per hour	FY 2023	FY 2024	Variance
a	Actual per hour average for FY 2023					
	4,389,505	2080	\$ 2,110	4,389,505		
b	Actual per hour average for FY 2024					
		440	\$ 1,340		\$ 589,145	
		1640	\$ 1,350		\$ 2,214,000	
c	1x TOS Forecasted/Actual Revenues			4,389,505	\$ 2,803,145	\$ (1,586,360)
d	Carryover from FY 2022 - Reserve			\$ 350,000	\$ 52,997	\$ (297,003)
e	Operating Savings			\$ 1,068,000	\$ 750,000	\$ (318,000)
	(A) Total Revenues			\$ 5,807,505	\$ 3,606,142	\$ (2,201,363)
	Expenses					
f	Carryforward			\$ 3,200,000	\$ 2,500,000	\$ (700,000)
g	FY 2023 Actual YE Expenditures			\$ 2,468,000		
h	FY 2024 YTD Expenditures				\$ 653,950	
i	Forecasted Performance Bonus Requests				\$ 450,000	
j	Senior Judge and Time Limited JA Funding Jan/Feb 2024				\$ 160,000	
k	Potential Reimbursement from Legislature for Sr Judge & TL JA Funding				\$ (160,000)	
l	Potential Reimbursement from Legislature for AF Rent				\$ (389,000)	Sum of reimb.
m	Potential Reimbursement from Legislature for JWJ				\$ (421,500)	\$ (970,500)
	(B) Total Expenses			\$ 5,668,000	\$ 2,793,450	
	Rev - Exp (A) - (B)			\$ 139,505	\$ 812,692	best case
	Rev - Exp but excluding potential reimbursements (=\$812,692 - (\$160K + \$389K + \$421.5K))				\$ (157,808)	best if no reimb

ARPA Expenditures – We have expended \$10.3M of ARPA funds as of October 3, 2023. This leaves an available balance of \$4.6M of the \$15 million that was awarded to the courts.



**ARPA Expenses as of 10/03/2023 (prior to the close of period 3)**

	A Judicial Council Approved Amount	B Actual FY 2022 Expended Amount	C Actual FY 2023 Expended Amount	D Actual FY 2024 Expended Amount	E Total Expended Amount (B + C + D)	F Balance Available (A - E)
<b>Last Period Total</b>		3,750,430.78	5,792,026.58	377,857.80	9,920,315.16	5,079,684.84
IT Access to Justice - Part I + II	12,373,400	3,042,467.67	4,613,254.75	599,232.87	8,254,955.29	4,118,444.71
Courts Case Backlog - Part I + II	2,302,100	707,963.11	1,007,133.35	203,885.89	1,918,984.35	383,115.65
Legal Sandbox Response to COVID	324,500	-	171,636.48	16,800.00	188,436.48	136,063.52
<b>TOTAL</b>	<b>15,000,000</b>	<b>3,750,430.78</b>	<b>5,792,026.58</b>	<b>819,918.76</b>	<b>10,362,376.12</b>	<b>4,637,623.88</b>

Expenditures added since last report: \$ 442,060.96

ARPA spending cut off date is 12/31/2024.

**BKLG FY 2024 Details**

FY 2024 Expenses as of PPE 8/4/2023	
Personnel Expenses: \$	203,198.93
Mileage Expenses: \$	686.96
Sr. Judge Travel Expenses: \$	-
	\$ 203,885.89
COVID Testing Kit purchase: \$	-
	\$ 203,885.89

**BKLG Run Rate Calculation**

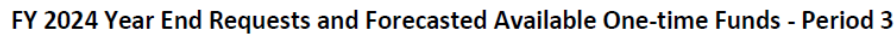
<b>Usage for Last 3 Pay Periods</b>		
8/18/2023	9/1/2023	9/15/2023
\$ 33,367.10	\$ 32,846.67	\$ 38,384.19
Average last 3 Pay Periods: \$ 34,865.99		
Balance Available (from table above): \$ 383,115.65		
Remaining Pay Periods at Last 3 Average: 11		
Anticipated Last Pay Period End Date: 2/16/2024		
Prior report anticipated last pay period: 1/19/2024		

**Historical Trends (period 3 not yet closed)**

<b>IT Access to Justice Use - Last 3 Periods</b>			4,118,445	Balance Available
Period 1	Period 2	Period 3		
\$ 53,695.86	\$ 282,253.22	\$ 263,283.79	\$ 199,744	Average Monthly Expenditure
<b>BKLG - Last 3 Periods</b>				
Period 1	Period 2	Period 3		
\$ 17,840.23	\$ 81,447.70	\$ 104,597.96		
<b>Legal Sandbox - Last 3 Periods</b>				
Period 1	Period 2	Period 3		
\$ 5,600.00	\$ 11,200.00	\$ -		
			\$ 367,881.75	
True Up for Period 2			\$ 74,179.21	
TOTAL INCREASE FROM PRIOR:			\$ 442,060.96	

### 3. Ongoing, Reserve and Year End Spending Requests (Karl Sweeney – “Presenter”)

Alisha Johnson reviewed the FY 2024 Year End Spending Requests and Forecasted Available One-Time Funds. As of period 3, the turnover savings is forecasted to be \$3,606,141 of one-time savings based upon \$1,339 per pay hour. Our carry-forward dollar expectation for 2024 is \$2,500,000. We have a total potential one-time savings available of \$2,076,641. If Judicial Council approves all requests this month (\$610,000) and the Legislature reimburses the Courts for our 4 FY 2024 requests, it will leave a balance of \$812,691 in forecasted funds available for future FY24 spending requests.



**Year End Spending Requests Presented for Approval to Forward to Judicial Council  
FY 2024 YE Requests and Forecasted Available One-time Funds – Period 3**

Performance Bonuses are based on completion of milestones in performance expectations. They are generally the largest type of one-time compensation payments that can be given to non-judicial officer employees. They are authorized by the Judicial Council by request from the State Court and Deputy State Court Administrators and funded from 1x Turnover Savings. Payment of Performance Bonuses is a critical piece of the Court's compensation strategy. However, request amounts may vary year to year depending on the (1) amount of 1x Turnover Savings and (2) the competing demands for those funds. These bonuses are meant to be given as employees complete milestones in performance goals as set with their manager. Not all goals will be accomplished in Q1 or Q2, but to reduce the turnover of Court personnel, we are encouraging managers to continue paying bonuses as eligible employees complete portions of their annual goals. The amount of the Performance Bonus Plan varies with some employees receiving Performance Raises and others Performance Bonus payments.

Bonus payments in Q1/Q2 of FY 2024 not only immediately reinforce the accomplishment of an employee's goals but serve to assure employees that the Performance Bonus plan can continue to be relied upon as part of the total compensation plan for the Courts. The BFMC discussed the risk in paying Q1/Q2 performance bonus amounts given the contingencies in the forecast and decided to proceed with the Q1/Q2 performance bonus payments – given that the TCEs had agreed to emphasize that future performance bonus payments are subject to availability of funds = not guaranteed.



**Motion:** Judge Keith Barnes made a motion to approve, Margaret Plane seconded the motion, and it passed unanimously. Will be forwarded on to the Judicial Council with a favorable recommendation to approve.

### 9. Senior Judge and Time Limited JA Funding Jan/Feb 2024..... (Karl Sweeney – Presenter)

This request is for \$160,000 of FY24 YE funding to support the current practice of retaining Senior Judges and Time-Limited Judicial Assistants to reduce the case. The \$160,000 represents 4 two-week pay periods starting in early January 2024 and ending on the last day of the legislative session, March 1, 2024. This request is designed to “fill the gap” between the \$300,000 in ARPA supplies funding that was converted to use by the Courts to fund judicial officer and time-limited court staffing in FY 2024 and followed the \$2M in ARPA funding for case backlog. This funding needs to last until the Utah Legislature can approve 1x general or ARPA funding for FY 2024. The total 1x funding request from the legislature is \$850,000 for FY 2024 which is designed to cover the Court’s expenditures of \$160,000 and then fund the remainder of the fiscal year from March 1 through June 30, 2024, and includes funds for expanding the senior judge pool of hours to hasten backlog decline.

This request is shown as a “Contingent Legislative Supplemental Funding” in Exhibit A (see below). This means there is a reasonably good chance the Court’s use of these funds will be restored by the Legislature as FY 2024 1x general funds. If that occurs, the amount of available 1x YE 2024 funding will increase for every \$ the legislature approves.

**Motion:** Justice Paige Petersen made a motion to approve, Judge Keith Barnes seconded the motion, and it passed unanimously. Will be forwarded on to the Judicial Council with a favorable recommendation to approve.

### Ongoing Requests Presented for Approval to Forward to Judicial Council FY 2025 Carryforward and Ongoing Requests – Period 3



#### FY 2025 Carryforward and Ongoing Requests - Period 3 - Final

10/11/2023

#### Funding Sources

	One Time	Ongoing
OTS carried over from FY 2023		\$ (54,821)
Forecasted YE OTS from FY 2024		\$ 666,065
Subtotal		\$ 611,245
Contingent Legislative Supplemental Funding for 1 Court Commissioner Position		\$ 262,550
Expected Carryforward Amount from Fiscal Year 2024	\$ 2,500,000	\$ -
Total Available Funding	\$ 2,500,000	\$ 873,795
Less: Judicial Council Delegated to State Court Admin for discretionary use		\$ 200,000
Net Ongoing TOS Available for Use		\$ 673,795

#### Ongoing Requests

	Presented		Judicial Council Approved	
	One Time	Ongoing	One Time	Ongoing
1 Performance Raises		\$ 450,000		
Subtotal	\$ -	\$ 450,000	\$ -	\$ -
Balance Remaining Inclusive of Presented	\$ 2,500,000	\$ 223,795		
Balance Remaining After Judicial Council Approvals			\$ 2,500,000	\$ 673,795
+ Balance Remaining Inclusive of "Presented"	\$ 2,500,000	\$ 223,795		

**1. Performance Raises FY 2024 .....(Bart Olsen, Karl Sweeney – Presenter)**

This request is for \$450,000 of ongoing turnover savings that will be used to fund Performance Raises for all non-judicial officer court personnel for FY 2024. This amount is consistent with the first request for performance raises approved by the Judicial Council for FY 2023 (we added a \$185,000 second request which was approved in May 2023 for a total of \$635,000).

This is the third year of our Performance Raise program. We are anticipating that ongoing turnover savings will be less than in previous years because of increased retention stemming from now higher Judicial Assistant pay rates. Despite the fact that we expect turnover to be lower, our first priority should be to ensure the ability to reward high performing non-judicial Court personnel.

These funds would be fully allocated at the end of the fiscal year to be effective in the first payroll of fiscal year 2025 alongside but separate from any increases approved by the Legislature in the upcoming general session. Approval demonstrates BFMC support of sending this request to the Judicial Council with the recommendation of approving use of these funds.

**Motion:** Margaret Plane made a motion to approve, Justice Paige Petersen seconded the motion, and it passed unanimously. Will be forwarded on to the Judicial Council with a favorable recommendation to approve.

**2024 BFMC Proposed Meeting Schedule ..... (Melissa Taitano – Presenter)**

The proposed date of January 2 will be changed to January 5<sup>th</sup>.

2024 MEETING SCHEDULE						
Budget & Fiscal Management Committee (BFMC)		Management Committee		Judicial Council		Notes
January 2	12:00 p.m.	January 9	12:00 p.m.	January 16	9:00 a.m.	1/15 holiday
February 12	12:00 p.m.	February 13	12:00 p.m.	February 26	9:00 a.m.	2/19 holiday
		February 26	Following Council mtg			
March 5	12:00 p.m.	March 12	12:00 p.m.	March 14	12:00 p.m.	March 1 <sup>st</sup> is last day of General Session.
April 8	12:00 p.m.	April 9	12:00 p.m.	April 22	9:00 a.m.	
May 6	12:00 p.m.	May 14	12:00 p.m.	May 20	9:00 a.m.	5/27 holiday
June 10	12:00 p.m.	June 11	12:00 p.m.	June 24	9:00 a.m.	6/17 holiday
July 8	12:00 p.m.	July 9	12:00 p.m.	July 22	9:00 a.m.	7/24 holiday
August 8	12:00 p.m.	August 9	12:00 p.m.	August 23	8:00 a.m.	Annual Meeting
August 29	12:00 p.m.	September 3	12:00 p.m.	September 10	12:00 p.m.	9/2 holiday
October 7	12:00 p.m.	October 8	12:00 p.m.	October 28	9:00 a.m.	
November 13	12:00 p.m.	November 12	12:00 p.m.	November 25	9:00 a.m.	11/11 holiday 11/28 holiday
December 2	12:00 p.m.	December 10	12:00 p.m.	December 16	9:00 a.m.	

**Motion:** Judge Keith Barnes made a motion to approve, Justice Paige Petersen seconded the motion, and it passed unanimously. Will be scheduled with invites to the attendees.

#### 4. Old Business New Business

Karl Sweeney introduced a new finance team member. Her name is Kelly Moreira and she has been hired as a finance manager. Kelly has a degree in accounting and finance. She come from the Department of Corrections where she was a financial analyst.

#### **FY25 Education budget shortfall estimates..... (Lauren Andersen & Karl Sweeney – Presenter)**

In FY25 Education is projecting a shortfall of \$241,399 (best case scenario) to \$339,449 (worst case scenario) if it continues to maintain all of the programs that it is offering in FY24. The shortfall is many years in the making. General funds to support judicial education operating expenses (non-personnel) have remained flat for many years while Education's operating expenses have increased each year. For example, state per diem rates for lodging and meals have

increased, as have mileage reimbursements for employees attending in-person training events. The size of the judiciary has also grown, which has required larger venues with greater hotel accommodation and larger meeting spaces. Education is providing this information to BFMC to bring attention to its estimated needs and to ask for direction. Education is delivering content relying on \$225K+ in carryforward to balance its budget and seeks direction on what options it should pursue (e.g., cut programs or pursue ongoing funds) should the full carryforward request not be available for FY25.

Committee invited Lauren to come back before June 2024 to potentially request the early use of ongoing funds. Lauren will stay in touch with Karl Sweeney on the ongoing turnover savings balance and make a request when we have a forecast of \$100K or more (excluding contingent funds) of unallocated ongoing funds.

Next Meeting November 6, 2023

**UTAH JUDICIALCOUNCIL  
POLICY, PLANNING and TECHNOLOGY COMMITTEE  
MEETING MINUTES**

Webex video conferencing  
October 6, 2023: 12:00 p.m.

**MEMBERS:**

**PRESENT**

**EXCUSED**

Judge Samuel Chiara, <i>Chair</i>	•	
Judge Suchada Bazzelle	•	
Judge Michael DiReda		•
Judge James Gardner	•	

**GUESTS:**

Keri Sargent  
Paul Barron  
Shonna Thomas  
Nick Stiles  
Stacy Haacke

**STAFF:**

Keisa Williams  
Brody Arishita  
Minhvan Thach

**(1) Welcome and approval of minutes:**

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the September 1, 2023, meeting. With no changes, Judge Gardner moved to approve the minutes as presented. Judge Bazzelle seconded and the motion passed unanimously.

Judge Chin's term on the Council ended. A new PP&T member will be appointed at the Judicial Council's October meeting.

**(2) Rules back from public comment:**

- **CJA 6-501. Reporting requirements for guardians and conservators**

Following a second public comment period, one comment was received. The Probate Subcommittee does not recommend any further amendments. The commenter repeats some of the same concerns addressed by the committee following the first public comment period. Requiring the use of a court form has been discussed at length and, overall, judges prefer the uniformity forms provide. Once practitioners adjust to using the court form, it should not add any additional costs and it should be rather easy for a corporate fiduciary to make the change. The forms were updated and approved in February and are available on the court's website.

Following a discussion, the committee made a minor amendment to subsection (2)(A), changing "Paragraph (4)" to "Paragraph (3)."

***With no further discussion, Judge Gardner moved to recommend to the Council that CJA rule 6-501 be approved as final with a November 1, 2023 effective date. Judge Bazzelle seconded the motion. The motion passed unanimously.***

**(3) CJA 3-101. Judicial performance standards**  
**CJA 3-104. Presiding judges**

The Management Committee asked the Policy, Planning and Technology Committee to review and propose amendments to CJA 3-101 to provide clarity about both the case under advisement standards and the reporting requirements related to retention elections. The proposed rule draft deletes references to “averages” and seeks to clarify reporting terms. The first Monday in January was selected because it aligns with judicial terms in Utah Code § 78A-3-101, 78A-4-102, 78A-5-105 and 78A-6-201. The Board of District Court Judges and Board of Juvenile Court Judges approved the proposed amendments and recommended moving forward, noting that the changes provide much-needed clarity.

The committee recommended the following minor changes:

- Line 90 – replaced “first Monday in January following the general election in which they were last retained” with “the day after they submit the report in (7)(B)”
- Line 92 – changed August 14<sup>th</sup> to August 1<sup>st</sup>
- Line 94 – replaced “The next business day” with “Within 14 calendar days ...”
- Lines 102-103 – removed paragraph (7)(C). The monthly reporting requirement is captured in rule 3-104.

Since the Management Committee’s initial request, Judge Chiara and Judge Gardner received a communication from Judge Mortensen that he no longer wishes to make amendments to CJA rule 3-101. Following a discussion, the committee asked that Ms. Williams seek guidance from the Management Committee about whether they would still like to move forward. PP&T believes the amendments would provide clarity.

**Technology report/proposals:**

The Judicial Council approved IT policies IT-01000 and IT-01150 during their September meeting and the policies are now in effect. The TAC is reviewing the IT emergency response plan and email retention policy. Mr. Arishita plans to have the policies ready for review by the December PP&T meeting.

**Old Business/New Business:** None

**Adjourn:** With no further items for discussion, the meeting adjourned at 12:12 pm. The next meeting will be held on November 3, 2023, at 9 AM via Webex video conferencing. This is scheduled to be an all-day meeting.

Tab 3



# BOARD OF DISTRICT COURT JUDGES

August 30, 2023

**Hon. James Brady**  
Chair, Fourth District  
**Hon. William Kendall**  
Vice Chair, Third District  
**Hon. Brandon Maynard**  
First District  
**Hon. Joseph M. Bean**  
Second District

**Hon. David Williams**  
Second District  
**Hon. Heather Brereton**  
Third District  
**Hon. Kent Holmberg**  
Third District  
**Commissioner Russell Minas**  
Third District

**Hon. Christine Johnson**  
Fourth District  
**Hon. Matthew Bell**  
Fifth District  
**Hon. Don Torgerson**  
Seventh District  
**Hon. Clark McClellan**  
Eighth District

## RESOLUTION OF THE UTAH BOARD OF DISTRICT COURT JUDGES FOR JPEC

The Board of District Court Judges ("Board") recognizes that the Judicial Performance Evaluation Commission ("JPEC") is independent of the judiciary by statute. But since JPEC has solicited input from the judiciary as to its Jury Normalization Proposal ("Normalization"), the Board submits the following proposal for consideration by JPEC.

### BACKGROUND

1. The Board appreciates the efforts of JPEC in making the judge evaluation process more equitable through Normalization.
2. While Normalization creates more equitable comparison among trial court judges, that Normalization process will reduce the scoring for judges who have a significant number of juror survey responses. As we understand, Normalization means that average juror response scoring may be reduced by about 0.3 to 0.4 points on a 5-point scale.
3. The Utah Code sets minimum "certification standards requiring" an average of 3.6 out of 5 score on JPEC survey responses. See Utah Code § 78A-12-205(1)(b).
4. The Utah Code also requires that "[t]he judicial performance survey shall include as respondents a sample of . . . jurors who have served in a case before the judge," among others. Utah Code § 78A-12-204(2)(a).
5. JPEC analysis suggests, based upon historical data, that no judge will fail to meet minimum certification standards based on the Normalization process.
6. But in the future, there is the potential that the Normalization process could lead a district court judge not to meet the 3.6 of 5 certification score due to Normalization (reduction) of juror survey results.

**The mission of the Utah judiciary is to provide an open, fair,  
efficient, and independent system for the advancement of justice under the law.**



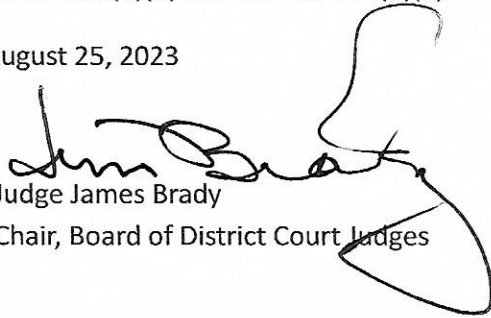
## PROPOSAL

Because of this, the Board requests that JPEC adopt a policy as follows:

If a trial court judge fails to meet the minimum average 3.6 of 5 in survey responses, then JPEC will apply the unadjusted juror survey responses (before Normalization) for the purposes of determining whether that judge has met the average 3.6 out of 5 statutory standard for certification, as required by Utah Code §§ 78A-12-205(1)(b) and 78A-12-204(2)(a).

Dated: August 25, 2023

Signed:

  
Judge James Brady

Chair, Board of District Court Judges

# Literature Review: Self-Represented Litigant Pilot Study

Prepared by LaGratta Consulting and the Yale Justice Collaboratory  
for the Utah Judicial Performance Evaluation Commission

DATE: 11/13/2023

Utah has been a long-time leader in the U.S. concerning judicial performance evaluation. In its ongoing pursuit of excellence in this space, the Self-Represented Litigant Pilot Study aims to better understand the unique concerns and needs of self-represented litigants and how these issues might be considered within judicial performance.

This literature review is the first of several components of the Self-Represented Litigant Pilot Study. The insights herein demonstrate that little is known about the needs and experiences of the growing population of self-represented litigants, particularly from their perspective, and how the judiciary and field generally might better measure and address these gaps. These findings will guide the development of other project activities, including a self-represented litigant survey pilot in 2024.

The literature review is organized as follows:

I. Introduction .....	2
II. Typical Profiles of Self-Represented Litigants .....	4
III. The Self-Represented Litigant Experience .....	5
IV. Promising Practices in Serving Self-Represented Litigants .....	7
V. Promising Practices in Assessing Judicial Performance with Regard to Self-Represented Litigants.....	11
VI. Conclusion .....	12
Citations: .....	13

## I. Introduction

For the purposes of this project, self-represented litigants<sup>1</sup> are individuals who handle their legal matters without professional legal representation for some portion of their case. Given that the U.S. legal system is rooted in an adversarial framework, in which parties are responsible for presenting evidence and making arguments within strict procedural and substantive legal frameworks, self-represented litigants face significant theoretical and practical challenges within their own individual cases and pose additional challenges to the administration of justice more broadly. The U.S. Constitution and related case law establish a right to legal counsel to assist those facing criminal charges, however, many can neither afford a lawyer nor qualify for appointed counsel (*Gideon v. Wainwright*, 1963). Further, this right has not been extended to litigants in civil matters. This leaves a significant proportion of litigants in civil legal proceedings—approximately 28% in recent years—to represent themselves, and in some jurisdictions and case types, this percentage is far greater (Kroeper et al., 2020; Gough & Taylor Poppe, 2020). In Utah, 98% of nearly 60,000 debt collection cases filed in 2018 had at least one self-represented litigant; in eviction cases the same year, 96% of litigants were self-represented (Ciccarello, M. J., 2019).

Without the relevant legal training and experience, self-represented litigants must navigate legal processes that can be complex even for the most seasoned lawyer, including those related to evidentiary submission and presentation (Kindregan & Kindregan, 1997). These challenges can be exacerbated when one party has legal

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<sup>1</sup> This literature review uses the term “self-represented litigants” but there is active debate in the field about whether other terms more appropriately define this group, including “pro se litigants” and “unrepresented litigants.” We use “self-represented litigants” to match the terminology used in this project’s scope of work.

representation and the other does not: biases against self-represented litigants and an asymmetrical grasp of the legal issues at hand yield disparities in case outcomes unrelated to the case's merit (Judicial Council of California, 2019). For example, a randomized study of cases in the Manhattan Housing Court showed that those without legal representation were four times more likely than those with counsel to be evicted, *ceteris paribus* (Seron et al., 2001).

Like all litigants, how self-represented litigants experience legal procedures and decision-makers highly influences their perceptions of fairness and ultimate compliance and cooperation with the law. Procedural justice encompasses the notion that the degrees to which the procedures of a legal system give voice to the parties, are neutral, respectful, and establish trust matter just as much as, if not more than, the outcome of the proceeding itself. Litigants consider these dimensions in their overall evaluation of how fair their interaction with the legal system was, and it has been shown that litigants are then more accepting of the decisions made and are more likely to embrace the rule of law (Zimmerman & Tyler, 2010). Overall, this increases satisfaction and prosociality amongst litigants, which are supportive of other goals of court systems as well. Barriers to experiencing procedural justice are likely much more acute for self-represented litigants than their represented counterparts.

Within this context, this literature review explores the characteristics and experiences of self-represented litigants in a range of legal settings. This exploration includes examining typical self-represented litigant profiles, demographics, socioeconomic and education levels, and rationales for representing oneself in court. Next, this review outlines what is known about the experiences of self-represented litigants and their needs and levels of satisfaction, factors that exacerbate the issues they

face, and how asymmetrical representation status impacts the self-represented litigant. Next, this review explores promising judicial practices with respect to self-represented litigants, including a brief discussion of the perspectives and opinions that judges hold about self-represented litigants, as well as the statutory and policy frameworks states have implemented in response to related issues. Finally, the review outlines survey techniques and designs specifically for self-represented litigants. The insights presented herein are a culmination of extensive research, encompassing internet searches, meticulous examinations of state websites and bar association portals, and reviews of academic papers, journals, and scholarly resources.

## II. Typical Profiles of Self-Represented Litigants

The demographics, case types involved, and reasons a litigant might have for representing themselves vary, but some typical profiles can help inform relevant policies and assistance. Representing oneself has been found to be associated with having a lower income and a more limited educational background (Strickland et al., 2017). This relationship is likely due to the fact that if civil litigants want legal representation, their options largely fall between paying for an attorney out of pocket or being assisted by legal aid clinics, which do not have the resources to fulfill the nation's demand for low- or no-cost civil legal representation. In a criminal context, many low-income individuals do not qualify for a public defender due to local indigency standards or the low severity of the alleged crime, nor can they afford typical lawyer fees. Indeed, a California study showed that most self-represented litigants are out-priced by legal fees (Judicial Council of California, 2019).

The magnitude of this issue is exhibited by the fact that 71% of the approximately 60 million low-income individuals in the U.S. have had at least one civil legal issue, and 25% of this group have had four or more civil legal issues. This is especially notable, considering these legal issues are of utmost importance to people's well-being, with the most common cases being related to family, health, and income maintenance (Legal Services Corporation, 2017).

Concerning the education levels of self-represented litigants, almost half of all self-represented parties in a New York City Family and Housing court report, for example, have a high school education level or less (Strickland et al., 2017; Office of the Deputy Chief Administrative Judge For Justice Initiatives, 2005). Thus, there is a dissonance between the education typically attained by self-represented litigants and the complex procedures of the legal system.

Those typical profiles notwithstanding, there are exceptions to this association between representing oneself and income and education levels. For instance, there is a subgroup of self-represented litigants who are not low-income and can afford legal representation but choose to handle their cases by themselves (Kindregan & Kindregan, 1997). Besides a lack of financial resources, this choice could be influenced by litigants' mistrust of the efficacy of legal representation. Others may believe their case is not complicated enough to warrant hiring a lawyer. While rare, these individuals should be considered among the profiles of self-represented litigants.

### III. The Self-Represented Litigant Experience

As previously noted, the nature of litigants' interactions with the legal system heavily influences their subjective experience and perception of the system, thereby

impacting their perceptions of fairness and acceptance of the case's outcome. Self-represented litigants face many challenges and biases that likely impact this experience profoundly.

Research has shown that judges and other law-trained individuals, such as lawyers and clerks, have negatively skewed biases against self-represented litigants' competence, capability, work ethic, and hireability (Quintanilla, 2017), which may help explain why law-trained individuals, particularly judges, view the decision to undertake their case without legal representation as wittingly unwise and that any unfavorable outcomes that follow are deserved (Landsman, 2012). This has negative practical implications, which have been exhibited empirically: judges, on average, have credited less merit to cases put forth by self-represented litigants than those put forth by litigants with lawyers, even though the cases were identical (Kroeper et al., 2020).

In other ways, judges report concern that they over-intervene in the handling of self-represented litigants' cases to the point of increasing or decreasing the substance of a party's argument (Landsman, 2012). It is unclear whether and to what extent this perception plays out in reality, but anecdotal evidence suggests it does.

Additionally, judges report assumptions about self-represented litigants' likely satisfaction in a trial context versus mediation settings. One study found that judges expect self-represented litigants to have a much less satisfactory experience during a trial than during a mediation hearing, even with identical case merits (Kroeper et al., 2020). There's indirect evidence to support this assumption: the greater the procedural complexity of a given case, the greater dissatisfaction self-represented litigants express, and the more significant outcome disparities exist between represented and self-represented litigants (Sandefur, 2015). Considering the context of a trial – evidence to

be submitted and presented, more legal jargon to understand, more regulations to follow, more documents to file, and information to physically and mentally process, to name a few – self-represented litigants’ experience is significantly hampered (Judicial Council of California, 2019).

Cases with asymmetrical representation pose additional concerns, *i.e.*, one side has a lawyer and the other does not. Judges may exhibit preferential biases towards the party with a lawyer due to a common legal background and vocabulary. Indeed, self-represented litigants are much less willing to represent themselves again when the opposing party has a lawyer than when it does not (Landsman, 2012).

Another factor in asymmetrical representation is the disparity in resources available to self-represented plaintiffs versus defendants. While a self-represented plaintiff who files a protective order may receive assistance from the court, a self-represented defendant most typically does not (Steinberg et al., 2020). This may contribute to an unfair experience of both procedure and outcome, which diminishes the legal system's legitimacy.

## IV. Promising Practices in Serving Self-Represented Litigants

Improving judicial and court practices concerning self-represented litigants requires tailored efforts to address the challenges outlined above. The core principles of procedural justice are in jeopardy if courts do not adapt to the needs of self-represented litigants, especially if one party has a lawyer and the other does not (Henschen, 2018).

The American Bar Association (ABA) offers guidance on applying Rule 2.2 of its Model Code of Judicial Conduct. The rule states, “A judge shall uphold and apply the



law, and shall perform all duties of judicial office fairly and impartially” (2020). An ABA comment elaborates that “It is not a violation of [Rule 2.2] for a judge to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard” (Gray, 2014, p. 6). This rule allows judges broad discretion and flexibility to address litigants’ gaps in knowledge about court processes. Recommended judicial practices for interacting with self-represented litigants include that judges gain specific expertise in handling these types of cases and for judges to review their caseloads in advance in order to pay particular attention to self-represented litigants and their expected needs (Henschen, 2018).

Several states have implemented this tailored approach to better serve self-represented litigants. Utah’s Court Rules, for example, have included the aforementioned comment in their own guidelines, allowing for judges’ discretion in enabling self-represented litigants to seek justice on the merits of their case (CaseText, 2023). In other states, like Iowa’s Supreme Court, for example, it has been ruled that a judge may “(1) provide brief information about the proceeding; (2) provide information about evidentiary and foundational requirements; (3) modify the traditional order of taking evidence; (4) refrain from using legal jargon; (5) explain the basis for ruling; and (6) make referrals to any resources available to assist the litigant in the preparation of the case” (Gray, 2014, p. 7). Additional examples of code implementation are Wisconsin, where a “judge’s exercise of such discretion will not generally raise a reasonable question about the judge’s impartiality;” Maryland, where “judge’s obligation under Rule 2.2 to remain fair and impartial does not preclude the judge from making reasonable accommodations to protect a self-represented litigants right to be heard;” Washington D.C., Louisiana, and Wisconsin, where judges are encouraged to “ask

neutral questions to elicit or clarify information;” Colorado, where judges are encouraged to “liberally construe pleadings;” and Delaware, where judges are encouraged to “exercise their discretion to assume more than a passive role in assuring that during litigation the merits of a case are adequately presented through testimony and other evidence” (Gray, 2014, p. 7).

Some states, like Florida, permit judges to aid self-represented litigants by providing relevant forms, exemplified by a brochure assisting litigants in uncontested marital dissolution cases. Arizona allows court clerks to help the public with form completion, emphasizing avoiding substantive legal advice. New York discourages judges from assisting in preparing pleadings, but non-judicial personnel can provide support. Indiana emphasizes that judges should aid SRLs in non-adversarial settings, mainly when minor or technical issues are at play.

Several states have codified responses to this trend. The Wisconsin Code encourages judges to utilize discretion to ensure fairness for all litigants. Maryland's code acknowledges SRLs' challenges, suggesting judges can accommodate them without compromising fairness. The Iowa Supreme Court provides specific actions for judges, such as giving brief information about proceedings and avoiding legal jargon. Other states, like D.C., Louisiana, Colorado, and Wisconsin, suggest measures like asking neutral questions and liberating pleadings. Delaware's guidelines encourage judges to ensure case merits are adequately presented while maintaining neutrality (Gray, 2013).

Two recommendations emerge from the literature review that self-represented litigants have suggested to increase their satisfaction with the legal process and the system as a whole: (1) improving their voice in the process and (2) providing additional practical information and guidance. The first recommendation – improving voice – is

supported by extensive research on procedural justice, of which voice is a foundational dimension. Litigants desire the opportunity to thoroughly and effectively express themselves and ask questions about their case so that the substance of their case is what is being judged, not the performative and more formal matters of legal proceedings (Lind & Tyler, 1988). Connected to litigants wanting to be heard is their desire to be guided through the essential practices of their legal proceedings, especially in cases with more complex procedures. This practical guidance includes but is not limited to, written materials that explain procedures, courthouse staff who may help further guide litigants unfamiliar with regulations, and user-friendly court documents online for greater accessibility (Office of the Deputy Chief Administrative Judge For Justice Initiatives, 2005).

Many states have initiated programs tailored for assisting self-represented litigants generally via helplines and self-help centers, as well as self-represented litigant committees, mandatory educational programs for those without legal representation, and user-friendly legal resources and workshops (Gray, 2005; Mott & Hannaford-Agor, 2003). Utah has made a number of related investments in serving the unique needs of self-represented litigants. The Utah State Courts website and Self-Help Center have resources offering instructions, forms, and instructional videos, as well as on-call legal information provided by trained lawyers by phone, email, and chat (Ciccarello, 2019). Free legal clinics across Utah provide additional support via consultation with attorneys on civil matters. A 2016 study showed that when self-help resources like Utah's are sufficient, they can help to close the gap between the timely administration of these cases compared to similar cases with lawyers on both sides (Greacen, 2016).

Additionally, Utah's Online Court Assistance Program (OCAP) aids self-represented litigants in generating correct court documents, particularly for cases like divorce or custody, and some courts even feature "navigators" to guide SRLs through proceedings, and mediation is presented as an alternative. Workshops and training sessions further support those choosing to represent themselves. Lastly, Utah's public law libraries offer both resources and guidance for SRLs. Despite Utah's infrastructure to support self-represented litigants more than many states, there are few mechanisms to get input from this group about how well current efforts are meeting the needs and where gaps remain. In the states that have conducted "court user surveys"—whether part of judicial performance measures or not – capture primarily the voices and perspectives of lawyers and court personnel. Indeed, this is not unique to Utah but prevalent across all states.

## V. Promising Practices in Assessing Judicial Performance with Regard to Self-Represented Litigants

As an increasing number of litigants are navigating legal processes without a lawyer, legal scholars, policymakers, and judicial entities are actively discussing the implications, considering impacts on legal outcomes, judicial efficiency, and principles of equal access and fairness. States' responses to this evolving issue have varied in substance and to varying degrees. To explore promising practices at the state level, this review examined whether and how states have institutionalized judicial resources and performance evaluations related to self-represented litigants.

Based on this review of the approximately 28 states with institutionalized judicial performance evaluation mechanisms, only seven states – Arizona, Colorado, Iowa, Kentucky, Rhode Island, Virginia, and Wyoming – have evaluations that may capture unique aspects of the judiciary's interaction with self-represented litigants. Rhode Island is one of the only states that has surveyed its self-represented litigants specifically with the goal of better understanding the unique needs of this population. As of September 2023, data analysis was still underway. Arizona and Colorado send an anonymous judicial performance to various individuals who have contact with their judges, including litigants and “people who represent themselves in court,” but there is no publicly available data about the unique responses from the self-represented litigant group or how it may specifically inform judicial assessment or professional development.

Some other states collect feedback only from lawyers, not litigants. In Iowa, this includes a question of attorneys about judges' fairness and effectiveness in handling self-represented litigants.

The limited efforts that exist to get feedback directly from self-represented litigants and then assess their unique needs are still all too rare. Such feedback-driven initiatives ensure that the legal system remains responsive and evolves based on direct insights from its users.

## VI. Conclusion

This literature review highlights the multifaceted challenges self-represented litigants face within the U.S. legal system, primarily through secondary and other non-

primary research examining the experiences of self-represented litigants. While promising practices are ever-increasing at the state and local level, so are the scope of the challenges, few of which are reviewed and analyzed in conjunction with associated impacts on case outcome and perceptions of fairness. The litigant voice is largely absent, let alone a more focused listening to the unique needs of self-represented litigants. Further, there is little structure or resources to support judges in understanding the impacts of their practices with self-represented litigants. Ensuring that litigants, irrespective of representation, perceive the judicial process as fair, transparent, and just is not merely a matter of legal efficiency but a testament to the principles of justice and equality, core to the purposes of courts. Utah is well-situated to advance related efforts and serve as a model nationally in acknowledging and addressing these litigants' unique needs.

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Tab 4

**Budget and Grants Agenda  
for the November 20, 2023  
Judicial Council Meeting**

1. FY 2024 Financial ..... Alisha Johnson & Karl Sweeney  
(Tab 1 - Discussion)
  - One Time Savings
  - 1x TOS/OPS FY 2023 Actual vs FY 2024 Forecast
  - Ongoing Turnover Savings
  - ARPA Update



## FY 2024 One Time Turnover Savings

Updated as of Pay Period Ending 10/13/2023 (600 out of 2,080 hours)

			Actual
#		Funding Type	Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 10/13/2023)	Internal Savings	482,083.73
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 10/13/2023)	Reimbursements	274,001.40
3	Est. One Time Savings for 1,480 remaining pay hours (\$1,350 / pay hour)	Internal Savings (Est.)	1,998,000.00
<b>Total Potential One Time Savings</b>			<b>2,754,085.13</b>

Prior Report Totals (as of PPE 9/15/2023) \$ 2,803,144.69

- \* Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$844.57, \$1,096.70, \$1,183.55, and \$1,031.37. The average per hour turnover savings YTD was \$1,260.14. These numbers do include ARPA reimbursements.



## FY 2024 Year End Requests and Forecasted Available One-time Funds - Period 4

Forecasted Available One-time Funds			
	Description	Funding Type	Amount
	Sources of YE 2024 Funds		
*	Turnover Savings as of PPE 10/13/2023 (including anticipated ARPA reimbursement)	Turnover Savings	756,085
**	Turnover savings Estimate for the rest of the year (\$1,350 x 1,480 pay hours)	Turnover Savings	1,998,000
( a )	Total Potential One Time Turnover Savings		2,754,085
	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)		3,557,082
	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 )			2,027,582
Less: Judicial Council Requests Previously Approved			(1,263,950)
Less: Judicial Council Current Month Spending Requests			-
Remaining Forecasted Funds Available for FY 2024 YE Spending Requests			763,632
Less: Contingent Supplemental Funding			(970,500)
Remaining Forecasted Funds Available for FY 2024 YE Spending Requests if no Supplemental Funding is Received			(206,868)

#	One-time Spending Plan Requests	Current Requests	Judicial Council Approved
		Amount	Amount
1	Employee Wellness Resources		\$ 107,450
2	JWI Centralized Scheduler Software		\$ 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

Updated 10/27/2023

- \* Actual turnover savings as calculated on a pay period basis through 10/13/2023. Data can be found in the Budget Summary Excel workbook on the Personnel tab.
- \*\* Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$844.57, \$1,096.70, \$1,183.55, and \$1,031.37. The average per hour turnover savings YTD was \$1,260.14. These numbers include ARPA reimbursements.
- (b) \$750,000 Operational Savings from TCE / AOC Budgets is a conservative estimate. The number will be updated with information from the field in January/February 2024.
- (d) Governor's Office of Planning and Budgeting may recommend substituting ARPA funds for the JWI and Senior Judge requests if ARPA funds are available.



## FY 2024 Ongoing Turnover Savings as of 10/26/2023

#		Funding Type	Actual	Forecasted
			Amount YTD	Amount @ YE
	Net Carried over Ongoing Savings (from FY 2023)	Internal Savings	(54,821)	(54,821)
	Ongoing Turnover Savings FY 2024 (actual year-to-date)	Internal Savings	337,660	337,660
1	Ongoing Turnover Savings FY 2024 (forecast \$50,000 / month x 8 months remaining)	Internal Savings	-	400,000
	<b>TOTAL SAVINGS</b>		<b>282,839</b>	<b>682,839</b>
2	2024 Hot Spot Raises Authorized - renews annually until revoked		(38,502)	(200,000)
	<b>TOTAL USES</b>		<b>(38,502)</b>	<b>(200,000)</b>
	<b>Subtotal Available without Contingent Supplemental Funding</b>		<b>244,337</b>	<b>482,839</b>
3	Contingent Legislative Supplemental Funding for 1 Court Commissioner Position		-	262,550
	<b>Actual Turnover Savings for FY 2024 as of 10/26/2023</b>		<b>\$ 244,337</b>	<b>\$ 745,389</b>

*Prior Report Totals (as of 10/11/2023)*    \$        122,742    \$        673,795

- \* Ongoing turnover savings only happens when a vacant position is filled at a lower rate and / or with lower benefits.
- \* There are currently 30 positions that have turned over within the past 90 days that are currently listed as having unknown benefits. As those employees select their benefits, if they select lower benefits, there will be additional savings.
- \* Currently, 35.975 FTE are vacant.
- 1 We are currently estimating \$50,000 of ongoing savings a month for the remainder of the fiscal year.
- 2 Authority was delegated from the Judicial Council to the State Court Administrator/Deputy in October 2022 to expend up to \$200,000 annually.
- 3 See Legislative Request #2 for District Court Judicial Officers. Section 4. The JC funded one Commissioner position in 3rd Dist. effective 7/1/2023. The Judicial Council is requesting FY2024requesting FY 2025 ongoing funds from the Legislature to replenish the Courts' ongoing funds used in FY 2024.



## ARPA Expenses as of 10/27/2023 (prior to the close of period 4)

	A	B	C	D	E	F
	Judicial Council Approved Amount	Actual FY 2022 Expended Amount	Actual FY 2023 Expended Amount	Actual FY 2024 Expended Amount	Total Expended Amount (B + C + D)	Balance Available (A - E)
<b>Last Period Total</b>		<b>3,750,430.78</b>	<b>5,792,026.58</b>	<b>377,857.80</b>	<b>9,920,315.16</b>	<b>5,079,684.84</b>
IT Access to Justice - Part I + II	12,373,400	3,042,467.67	4,613,254.75	929,438.76	8,585,161.18	3,788,238.82
Courts Case Backlog - Part I + II	2,302,100	707,963.11	1,007,135.35	276,218.84	1,991,317.30	310,782.70
Legal Sandbox Response to COVID	324,500	-	171,636.48	36,372.47	208,008.95	116,491.05
<b>TOTAL</b>	<b>15,000,000</b>	<b>3,750,430.78</b>	<b>5,792,026.58</b>	<b>1,242,030.07</b>	<b>10,784,487.43</b>	<b>4,215,512.57</b>

Expenditures added since last report: \$ 422,111.31

ARPA funds expended cut off date is 12/31/2026

### BKLG FY 2024 Details

#### FY 2024 Expenses as of PPE 10/13/2023

Personnel Expenses:	\$ 274,001.40
Mileage Expenses:	\$ 1,292.08
Sr. Judge Travel Expenses:	\$ 925.36
	\$ 276,218.84
COVID Testing Kit purchase:	\$ -
<b>Total</b>	<b>\$ 276,218.84</b>

### BKLG Run Rate Calculation

#### Usage for Last 3 Pay Periods

9/15/2023	9/29/2023	10/13/2023
\$ 32,846.67	\$ 38,384.19	\$ 28,582.84

Average last 3 Pay Periods:	\$ 33,271.23
Balance Available (from table above):	\$ 310,782.70
Remaining Pay Periods at Last 3 Average:	9
Anticipated Last Pay Period End Date:	2/16/2024

Prior report anticipated last pay period: 2/16/2024

### Historical Trends (period 4 not yet closed)

#### IT Access to Justice Use - Last 3 Periods

Period 2	Period 3	Period 4
\$ 282,253.22	\$ 303,758.06	\$ 289,731.62

#### BKLG - Last 3 Periods

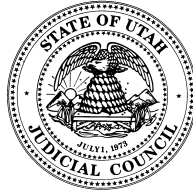
Period 2	Period 3	Period 4
\$ 81,447.70	\$ 104,854.96	\$ 72,075.95

#### Legal Sandbox - Last 3 Periods

Period 2	Period 3	Period 4
\$ 11,200.00	\$ -	\$ 19,572.47

	\$ 381,380.04
True Up for Period 3	\$ 40,731.27
<b>TOTAL INCREASE FROM PRIOR:</b>	<b>\$ 422,111.31</b>

Tab 5



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 6, 2023

Ronald B. Gordon, Jr.  
State Court Administrator  
Neira Siaperas  
Deputy State Court Administrator

## MEMORANDUM

**TO:** Judicial Council

**FROM:** HB 531 Report Team – Paul Barron, JDR Application Services Manager; Debbie Jacobsen, Fourth District Clerk of Court; Wayne Kidd, Internal Audit Director; Daniel Meza-Rincon, Assistant Juvenile Court Administrator; Nick Stiles, Appellate Court Administrator; Karl Sweeney, Director of Finance; and Julie Farnes, Former AOC Revenue Manager (Contractor)

**RE: HB531 Court Fees Report to the Legislature**

A work group of various finance, administrative, and clerk personnel under the direction of the state court administrator has completed a review of court fees as required by House Bill 531 that passed in the 2023 General Session. This draft report will be final after review by the Judicial Council and a final decision on any recommendations to the Legislature. This report provides the information outlined in House Bill 531 as follows:

- The types of court fees charged and the amounts collected.
- The cost related to each fee, including the direct and indirect costs and expenses for providing the good or service for each fee.
- A determination of whether the fees generates excess revenue.
- The count and amount of waived fees.
- The history of court fees.

This report shows that overall, court fees do not generate excess revenue. Court fees help support the goods or services being provided, but most costs exceed the fee amount. Only five fees exceeded the costs in calendar year 2022:

- **Complaint or Petition \$10,000 or more.** The excess revenue collected totaled \$81,776. The filing fee is \$375, which exceeds the average cost (\$359) by \$16 per filing. This district court case filing fee of \$375 is authorized in *Utah Code* 78A-2-301 (see Figure 2.)

**Recommendation:** This is one year of data, and it would be reasonable to see how this amount varies in future years.

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.



- **Motion to Renew Civil Judgment \$10,000 or more.** The excess revenue collected totaled \$21,413. The filing fee is \$188, which exceeds the average cost (\$165) by \$23 per filing. This district court document filing fee of \$188 is authorized in *Utah Code* 78A-2-301 (see Figure 6.)  
**Recommendation:** This is one year of data, and it would be reasonable to see how this amount varies in future years.
- **Certificate of Good Standing.** The excess revenue collected totaled \$345. The \$25 fee was set by the Utah Supreme Court in 2016 (see report Figure 9). The Supreme Court is reviewing the fee.
- **Interest Bearing Account.** The excess revenue collected totaled \$26,335. This amount is high in 2022 due to an unusually large deposit combined with a spike in interest rates. *UCJA Rule* 4-301 gives the courts authority to charge a fee. At this time the fee is (1) \$50 for each deposit or (2) a percent of the principal amount based on an overnight investment rate multiplied by a factor of 45 days - whichever is greater (see Figure 9).  
**Recommendation:** Simplify the revenue calculation by replacing the current calculation with a standard of (1) \$250 for the initial deposit (2) \$50 for subsequent deposits or withdrawals and (3) \$100 to close the account and perform the payout. This would cover the USC personnel time and the \$180 per month investment advisory fee from Zions Bank.
- **Divorce Courses.** The excess revenue collected totaled \$27,296. The fees for the two divorce education courses are set by *UCJA Rule* 4-907. However, *Utah Code* 30-3-11.3 and *Utah Code* 30-3-11.4 state the amount to be deposited to the Children's Legal Defense Fund. The fee for the Divorce Orientation Course is \$30, and the Utah State Courts receive \$8 of the fee for the Children's Legal Defense Fund. The fee for the Divorce Education Course is \$35 and the Utah State Courts receive \$5 of the fee for the Children's Legal Defense Fund. The fee for attending the orientation course is \$15 for those who attend the course within 30 days of filing. The excess revenue in Figure 9 is only the amounts the court receives for deposit to the Children's Legal Defense Fund. Between the Office of Guardian ad Litem and the USC, all of the revenue collected for the Children's Legal Defense Fund for FY 2023 was used to pay for needed expenses.  
**Recommendation:** The Judiciary should work with the Legislature to adjust the fee, so collections are closer to the cost of the divorce courses.

The excess revenue totaled \$157,134 for calendar year 2022 for the five court fees. This is not material when compared with the Court's \$160.8 M general fund budget.

We invite the Judicial Council to review the recommendations to determine whether to take action on those fees under Judicial Council purview and make a recommendation to the Infrastructure and General Government Appropriations Subcommittee for two fees: (1) Complaint or Petition \$10,000 or more and (2) Motion to Renew Civil Judgment \$10,000 or more that are authorized in statute. It is also important to note that the costs exceeded the fee revenue amount for 76 court fees by a total of \$41.6 million in 2022.



# UTAH STATE COURTS

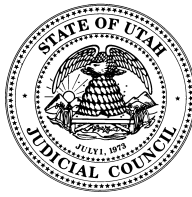
## **COURT FEES REVIEW**

### **2023 HOUSE BILL 531 REPORT**



ADMINISTRATIVE OFFICE OF THE COURTS

November 6, 2023



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 2023

Ronald B. Gordon, Jr.  
State Court Administrator  
Neira Siaperas  
Deputy State Court Administrator

Infrastructure and General Government Appropriations Subcommittee  
350 State Street  
Salt Lake City, UT 84103

Dear Committee Members:

The Administrative Office of the Courts has completed the review of court fees as required by House Bill 531 that passed in the 2023 General Session. This report issued by the Judicial Council provides the information outlined in House Bill 531 as follows:

- The types of court fees charged and the amounts collected.
- The cost related to each fee, including the direct and indirect costs and expenses for providing the good or service for each fee.
- A determination of whether the fees generate excess revenue.
- The count and amount of waived fees.
- The history of court fees.

This report shows that overall, court fees do not generate excess revenue. Court fees help support the goods or services being provided, but most costs exceed the fee amount. Only 6 percent of the court fees collected are retained to help support court operations. The General Fund is the main source of revenue that supports court operations.

We are happy to meet with appropriate committees and individuals to discuss any item contained in the report.

Respectfully,

Ronald B. Gordon, Jr.  
State Court Administrator

cc: Ivan D. Djambov, Finance Manager LFA  
Amanda Kilian, Financial Analyst LFA  
Rachel Nicole Boe, Financial Analyst LFA

**The mission of the Utah judiciary is to provide the people an open, fair,  
efficient, and independent system for the advancement of justice under the law.**

450 South State Street / P.O. Box 140241 / Salt Lake City, Utah 84114-0241 / 801-578-3800/ Fax: 801-578-3843

## Overview

House Bill 531 which was passed in the 2023 General Session requires the Judiciary to join the Executive Branch in providing to the Infrastructure and General Government Appropriations Subcommittee an annual report (due before November 30<sup>th</sup>) that provides the direct and indirect costs and expenses for providing the good or service for which the fee is charged. As required by House Bill 531 this report includes details on the (1) types of fees charged and collected by the Supreme Court, the Court of Appeals, District Courts, and Juvenile Courts, (2) the methods used to determine each fee charged, (3) the estimated cost related to each fee, (4) whether each fee is intended to cover the Judiciary's cost related to the fee, and (5) the number of fee waivers for each type of fee. Based on this scope, fines were excluded from our analysis. In addition, justice courts are part of the Judiciary, but were not included in House Bill 531.

### A Recent State Audit Provided a Limited Review of Court Fees

The Utah Office of the State Auditor issued a *Limited Review of Utah State Courts Fees* in March 2023 that examined three fees charged by the Utah Judiciary. We have followed the same methodology as the State Auditor, but we collected data statewide rather than collecting data from two districts. The following section is an excerpt from the State Auditor's report regarding the history of court fees:

In 1992, the legislature consolidated and made uniform the filing fees for all courts of record in Utah. During the committee and floor debates on the 1992 consolidation bill,<sup>1</sup> bill sponsors Senator Lyle Hillyard and Representative John Valentine did not elaborate on how the court fees in the bill were determined. Thirty years later, those bill sponsors do not recall whether an analysis had been performed on the fees proposed by the USC [Utah State Courts].

In addition, Judicial Council staff who were involved in those discussions have long since retired and their historical knowledge has been lost. Currently, there is no way to discern if an analysis was performed to determine the appropriateness of the amounts of the court fees that were adopted.

The Judicial Council assumes that that Legislature may have set court fees below the actual cost to provide those services, subsidizing the USC's budgets through the State's general funds. The USC has expressed concern that high fees may limit citizens' constitutional right to access the courts<sup>2</sup>. While court fees have been revised since that original bill, we could not identify any methodology used for calculating fee recommendations provided to the Legislature.

The State Auditor's report describes the Utah State Court fees as a fee for service. A fee for service is a "specific charge in return for a specific benefit to the one paying the fee." Overall,

<sup>1</sup> Utah S.B. 197, 1992 General Legislative Session.

<sup>2</sup> Fee waivers and adjustments have been made available to those the legislature determines to meet the requirements for relief.

court fees do not generate excess revenue, meaning the cost to provide the good or service exceeds the fee amount. Only 5 of the 81 fees listed in this report generated excess revenue in 2022.<sup>3</sup>

### Court Fees Help Support Court Operations, but the General Fund Is the Main Source of Revenue

The General Fund is the main source of revenue for court operations. In fiscal year 2023, the courts received \$160.8 million from the General Fund. Only 6 percent of the court fees collected are retained to help support court operations.<sup>4</sup> Total fee collections are about 19 percent of the amount needed to operate the Utah State Courts, excluding Judges Retirement.<sup>5</sup> Figure 1 shows the court fees collected for fiscal year 2023, and for future years we will continue to provide this report on a fiscal year basis.

**Figure 1. 2023 Court Fee Summary.** A majority of the court fees collected, 67 percent, are transferred to the General Fund.

FY 2023 Court Fee Collection Summary	Amount	Percent
Total Fees Transferred to General Fund	\$ 21,776,662	67 %
Total Fees Retained by Statute (Restricted Funds)	6,845,924	21
Total Fees Transferred to URS (Judge's Retirement)	1,456,156	4
Total Other Service Fees Retained by the Courts	2,565,099	8
<b>Total Fees Collected</b>	<b>\$ 32,643,841</b>	

Figure 1 shows that Utah State Courts collected fees totaling \$32.6 million for fiscal year 2023. The courts only retain 29 percent of the fees collected including (1) restricted funds as required by statute for specific purposes and (2) certain service fees.

**Restricted Funds.** The funds are used solely for the purposes as designated in statute. The funding source is related to the use of the fund. For example, court security fees are restrictively used for court security.

**Judge's Retirement.** The funds are forwarded to Utah Retirement Systems (URS) monthly for judicial officers' retirement. A flat rate of \$15 is derived from certain filings fees in *Utah Code* 78A-2-301 and allocated per *Utah Code* Title 49, Chapter 17, Judges' Contributory Retirement Act since 1992.

**Other Service Fees.** The courts also retain a few fees to manage specific services outlined in the Utah Judicial Council Code of Judicial Administration (UCJA); for example, the Xchange program, copy fees, and electronic media fees.

<sup>3</sup> Complaint or Petition \$10,000 or more (Figure 2), Motion to Renew Civil Judgment \$10,000 or more (Figure 6), Certificate of Good Standing (Figure 9), Interest Bearing Account (Figure 9), and Divorce Education (Figure 9).

<sup>4</sup> This percentage includes Total Fees Retained by Statute (\$6,846,924) and Total Other Service Fees Retained by the Courts (\$2,565,099) divided by \$160.8 million.

<sup>5</sup> This percentage includes all fees collected, except Judge's Retirement divided by \$160.8 million.

## **Cost Analysis Was Performed for Each Individual Fee**

To review each court fee to determine whether the fees are generating excess revenue, we determined the cost to provide each specific service. As required by House Bill 531, the cost includes both direct costs and administrative overhead (indirect costs).

Weighted caseload studies for the district and juvenile courts were used to calculate direct costs for this report. The weighted caseload studies include questionnaires of judges and court staff as to how much time it takes to complete routine tasks, such as reviewing and filing certain types of documents and holding certain types of hearings. For the weighted caseload process, the number of documents, hearings, or events of each type are counted and the time is averaged for each type of case. For the purposes of this report, the weighted caseload data is multiplied by compensation of the employees or judges performing the tasks to obtain an average dollar cost, and those totals are used to estimate how much judicial officer and clerical support are needed to perform court business.

The same underlying methodology was used to calculate the average clerical and judicial time it takes for the courts to provide the non-caseload services related to the different fee types being reported under House Bill 531. For fees that required supplemental information not found in the weighted caseload questionnaires, select judges and employees were surveyed to obtain information on the staff and judicial time needed for services related to those fees. The times from the surveys were multiplied by compensation to obtain an average dollar cost for providing the related service for the applicable fee.

In addition, an overhead cost is added to each type of fee to cover administration, building costs, and support personnel. The overhead cost is calculated on a per filing basis. An overhead cost was not calculated for service fees, as it would not apply to all the fees, and would not be a material amount for other service fees such as copies and emails.

For the analysis of all the filing fees for this report, we used calendar year 2022 (this first year) due to the time it took to complete the analysis using the weighted caseload studies. To prepare this report for the required deadline, we could not wait until the end of fiscal year 2023 to begin the review.

The following sections of the report list all the fees required under House Bill 531. The fees are organized in the following order: filing fees, document fees, and service fees. In addition, Appendix A shows the number and amount of waived fees as required in House Bill 531, and Appendix B provides historic notes for specific fees and a summarized history of the fees.

### **Case Filing Fees**

Case filing fees consist of the fee for filing any civil complaint or petition initiating the opening of a court case and invoking the jurisdiction of a court of record. All of the courts of record in Utah (district courts, juvenile courts, and appellate courts) have case filing fees.

**District Court Case Filing Fees.** Utah District Courts are trial courts of original jurisdiction over civil cases, criminal felonies, and certain misdemeanors. The district courts also hear domestic relations cases, such as divorces, child custody and support, adoption, and probate cases. Figure 2 show the total number of filings for each civil fee for calendar year 2022, the cost per filing, the fee amount, and the difference between the cost per filing and fee amount.

**Figure 2. District Court Case Filing Fees.** Each of the district court case filing fees are authorized in *Utah Code* 78A-2-301.

District Court Case Filing Fees	Total Filings	Cost Per Filing	Fee Amount	Over or Under
Abstract or Transcript Judgment	542	\$ 175	\$ 50	\$ (125)
Administrative Agency Review	33	567	375	(192)
Award of Arbitration	16	307	35	(272)
<b>Complaint or Petition:</b>				
\$2,000 or less	37,424	272	90	(182)
\$2,001 to \$9,999	16,194	276	200	(76)
\$10,000 or more*	5,111	359	375	16
Not Governed by Another Subsection <i>Utah Code</i> (78A-2-301(1)(a))**	14,553	491	375	(116)
Divorce Filing (after temp. separation)	25	465	290	(175)
Divorce or Separation Petition	14,346	465	325	(140)
Foreign Probate or Child Custody	27	254	35	(219)
Foreign Transcript of Judgment	63	203	35	(168)
Guardianship	491	485	35	(450)
Judicial Document Approval	765	218	35	(183)
Judgment by Confession	569	230	35	(195)
Municipal Appeal	7	567	80	(487)
Notice of Appeal	361	1,364	240	(1,124)
Petition for Expungement	950	205	150	(55)
Petition to Open Sealed Record	29	326	35	(291)
Sex Offender and Kidnap Offender Registry	5	248	125	(123)
<b>Small Claims:***</b>				
\$0 - \$2,000	3	841	60	(781)
\$2,001 - \$7,499	6	524	100	(424)
\$7,500 or more	9	699	185	(514)
Temporary Separation Order	113	660	35	(625)
Trial De Novo	154	790	240	(550)

\*Complaint or Petition \$10,000 or more excess revenue totaled \$81,776 for CY 2022. This revenue was transferred to the General Fund.

\*\*Includes general civil, domestic, and probate cases.

\*\*\*Most small claims cases are filed in justice courts.

The average cost per filing for all of the district court case filing fees exceed the fee amount except for one fee. The filing fee for Complaint or Petition for \$10,000 or more exceeds the cost to process the filing by \$16 per filing as shown in Figure 2. The revenue for this fee was transferred to the General Fund.

**Juvenile Court Case Filing Fees.** The Utah Juvenile Court has exclusive original jurisdiction over youth, under 18 years of age, who violate any federal, state, or municipal law, and any child who is abused, neglected, or dependent. The court has the power to determine child custody, support, visitation and, in some circumstances, to permanently terminate parental rights.

Figure 3 shows the total number of filings for each fee for calendar year 2022, the cost per filing, the fee amount, and the difference between the cost per filing and fee amount.

**Figure 3. Juvenile Court Case Filing Fees.** Each of the juvenile court case filing fees are authorized in *Utah Code* 78A-2-301.

Juvenile Court Case Filing Fees	Total Filings	Cost Per Filing	Fee Amount	Over or Under
Notice of Appeal	81	\$ 1,402	\$ 240	\$ (1,162)
Petition – Emancipation	45	679	50	(629)
Petition – Expungement	287	1,022	150	(872)
Petition - Minor to Marry	26	1,129	5	(1,124)
Petition - Open Sealed Record	23	596	35	(561)
Petition - Original Complaint*	1,200	883	375	(508)

\*Consists of Adoptions, Child Welfare Proceedings, Termination of Parental Rights, and Voluntary Relinquishment

Figure 3 shows that the average cost of each juvenile court case filing exceeds the fee amount.

**Appellate Courts’ Case Filing Fees.** Utah has two appellate courts, the Court of Appeals and the Supreme Court. The Court of Appeals hears all appeals from the juvenile courts and those from the district courts involving domestic relations and criminal matters of less than a first-degree felony. It also may hear any cases transferred to it by the Supreme Court, including first-degree felony criminal cases.

The Supreme Court is the “court of last resort” in Utah. It hears appeals from capital and first-degree felony cases and all district court civil cases other than domestic relations cases. The Supreme Court also has jurisdiction over judgments of the Court of Appeals, proceedings of the Judicial Conduct Commission, lawyer discipline, and constitutional and election questions.

**Note.** Due to the significant variation in judicial officer costs resulting from a case being disposed of prior to oral argument and a written opinion, or after, Figures 4 and 5 do not include judicial officer costs and the costs incurred by the judicial officers’ law clerks. The cost per filing amounts in Figures 4 and 5 include only the costs associated with the front office staff, clerks of court, appellate mediation staff, and appellate central staff attorneys.



Figure 4 displays the case filing fees for the Court of Appeals, and Figure 5 displays the case filing fees for the Supreme Court. The figures show the total number of filings for each fee for calendar year 2022, the average cost per filing (as set forth in the note above), the fee amount, and the difference between the cost per filing and fee amount. We are providing the average cost per filing due to the variation in cost resulting from the different avenues of disposition for cases on appeal. In the Court of Appeals for example, the total cost to process a case that is disposed of through a Summary Disposition, would be significantly less than the total cost to dispose of a case by an Opinion Order, which in turn would also be significantly less than disposing of a case through oral argument and a full written opinion.

**Figure 4. Court of Appeals Case Filing Fees.** Each of the Court of Appeals case filing fees are authorized in *Utah Code* 78A-2-301.

Court of Appeals Case Filing Fees	Total Filings	Cost Per Filing	Fee Amount	Over or Under
Interlocutory	123	\$ 1,706	\$ 240	\$ (1,466)
Notice of Appeal	756	3,440	240	(3,220)
Other Petition – Extraordinary Writs	32	1,529	375	(1,154)
Other Petition – Review	99	2,860	375	(2,485)

Figure 4 shows the average cost per filing for the Court of Appeals exceeds the fee amount. The Court of Appeals handles about 1,000 cases per year among the seven judicial officers. If a case is not set for oral argument and a written opinion, the Court of Appeals relies heavily on the work and recommendations of the four central staff attorneys regarding which disposition mechanism is proper for the specific case. The Court of Appeals also disposes of cases through appellate mediation.

**Figure 5. Supreme Court Civil Filing Fees.** Each of the Supreme Court case filing fees are authorized in *Utah Code* 78A-2-301.

Supreme Court Case Filing Fees	Total Filings	Cost Per Filing	Fee Amount	Over or Under
Interlocutory	108	\$ 598	\$ 240	\$ (358)
Notice of Appeal	346	430	240	(190)
Other Petition – Extraordinary Writs	23	5,706	375	(5,331)
Other Petition – Review	6	324	375	51
Petition for Certiorari	107	1,029	240	(789)
Petition for Expungement	0	697	150	(547)

Figure 5 shows the average cost per filing for the Supreme Court exceeds the fee amount, except for the Petition for Review. However, the cost per filing does not include judicial officers' time or the judicial officers' law clerks' time.

## Document Filing Fees

Document filing fees consist of the fee for filing any document in a court of record that does not initiate the opening of a court case. Courts of record that have document filing fees include the district court and juvenile court.

**District Court Document Filing Fees.** Figure 6 shows the total number of filings for each fee for calendar year 2022, the cost per filing, the fee amount, and the difference between the cost per filing and fee amount.

**Figure 6. District Court Document Filing Fees.** Each of the district court document filing fees are authorized in *Utah Code* 78A-2-301.

District Court Document Filing Fees	Total Filings	Cost Per Filing	Fee Amount	Over or Under
<b>Accounting - Estate Value:</b>				
\$50,000 or less	788	\$ 241	\$ 15	\$ (226)
\$50,001 - \$75,000	35	241	30	(211)
\$75,001 - \$112,000	33	241	50	(191)
\$112,001 - \$168,000	50	241	90	(151)
\$168,001 or more	247	241	175	(66)
Counter Claim Paternity/Grandparent Visitation	273	752	170	(582)
Counter/Cross Claim Divorce or Separate Maintenance	2,585	1,091	130	(961)
<b>Counter/Cross Claim, Third Party:</b>				
\$2,000 or less	132	800	55	(745)
\$2,001 - \$9,999	45	696	165	(531)
\$10,000 or more	987	1,320	170	(1,150)
Demand for Civil Jury	2,736	302	250	(52)
Foreign Deposition Notice	345	190	35	(155)
Garnishment	72,217	220	50	(170)
<b>Motion to Renew Civil Judgment:</b>				
\$0 - \$2,000	2,406	191	45	(146)
\$2,001 - \$9,999	2,203	165	100	(65)
\$10,000 or more*	931	165	188	23
Motion to Renew Judgment by Confession	15	191	18	(173)
<b>Motion to Renew Small Claims:**</b>				
\$0 - \$2,000	1	191	30	(161)
\$2,001 - \$7,499	2	191	50	(141)
\$7,500 or more	0	191	93	(98)
Petition to Disburse Funds	90	257	50	(207)
Petition to Modify Divorce Decree	3,026	1,014	100	(914)
Petition to Reopen Estate Case	14	295	170	(125)
Vital Statistics Fee	14,136	167	8	(159)
Writ of Replevin, Attachment or Execution	3,549	223	50	(173)

\* Motion to Renew Civil Judgment \$10,000 or more excess revenue totaled \$21,413 for CY 2022. This revenue was transferred to the General Fund.

\*\*Most small claims cases are filed in justice courts.

Figure 6 shows the average cost per filing for the district court document filing fees exceeds the fee amount, except for Motion to Renew Civil Judgment \$10,000 or more. The fee exceeds the cost to process the filing by \$23. This revenue was transferred to the General Fund.

**Juvenile Document and DNA Fee.** Figure 7 shows the juvenile court document filing fee for Vital Statistics and one other fee for DNA collection. The figure shows the total number of filings for each fee for calendar year 2022, the cost per filing, the fee amount, and the difference between the cost per filing and fee amount.

**Figure 7. Juvenile Court Document and DNA Fee.** Both of these juvenile fees are authorized in statute (see descriptions below Figure 7).

Juvenile Court Filing Fees	Total Filings	Cost Per Filing	Fee Amount	Over or Under
DNA Collection Fee	787	\$ 186	\$ 150	\$ (36)
Vital Statistics Fee	435	167	8	(159)

Figure 7 shows the average cost per filing for both of the juvenile court fees exceeds the fee amount. Each fee is briefly described below.

**DNA Collection Fee.** A minor who is 14 years old or older who is adjudicated by the juvenile court due to the commission of a felony or class A misdemeanor is required to submit DNA. *Utah Code* 53-10-404 established that under certain circumstances, individuals required to submit DNA shall reimburse the collecting agency in the amount of \$150.

**Vital Statistics Document Fee.** In accordance with *Utah Code* 26B-8-128 for each adoption ordered or decreed in Utah, the clerk of court shall prepare a certificate or report of adoption on a form furnished by the state of the child's birth. The fee for this certificate is \$8 authorized in *Utah Code* 78A-2-301(1)(y).

## Service Fees

Utah State Courts also collect service fees, which applies to the Supreme Court, the Court of Appeals, District Courts, and Juvenile Courts. Most of the service fees are related to providing records and public case information. The fees in Figure 8 are presented as the average cost per item to provide the service and the average collection per item because the cost increases as the number of copies requested increases. It is not a flat rate for all copies and email. The average cost per item includes the cost to provide services to (1) government entities none of whom are charged the fee and (2) any person whose fee has been waived (see Appendix A). In addition, the average collection per item is higher than the actual service fee for audio/video media because the service fee is for a recording of up to half a day, and sometimes the service provided is for a recording that is longer than a half a day.

**Figure 8. Service Fees.** Fees for records and information include audio, video, and electronic media, paper copies, and emailed copies. These service fees are authorized in *UCJA Rule* 4-202.08.

Service Fees	Total Items	Average Cost per Item	Average Collection per Item	Over or Under
<b>Audio/Video Media:</b>				
Audiotape (\$10)	1,437	\$ 21	\$ 17	\$ (4)
Videotape (\$15)	178	28	20	(8)
Electronic Media (\$15)	8,183	22	17	(5)
<b>Copies:</b>				
Standard (\$0.25 per side)	7,396	9	5	(4)
Certified (\$4 & \$0.50 per side)	18,580	9	8	(1)
Exemplified (\$6 & \$0.50 per side)	1,452	22	11	(11)
<b>Email (\$5 &amp; \$0.50 per page 11+)</b>	<b>887</b>	<b>9</b>	<b>7</b>	<b>(2)</b>

For all the fees listed in Figure 8 the cost to provide the record or information exceeds the amount collected.

Figure 9 shows other types of services fees that provide records and case information to the public as well as other types of miscellaneous services. Each service is described below Figure 9.

**Figure 9. Other Service Fees.** Each of these services are authorized in statute or administrative rule, except for the Certificate of Good Standing (see below Figure 9).

Service Fee	Fee Amount	Total Expenses	Total Collections	Over or Under
Certificate of Good Standing	\$ 25	\$ 5,874	\$ 6,188	\$ 314
Data and Research Services	32	111,305	12,684	(98,621)
Divorce Courses	5/8	92,200	119,496	27,296
Interest-Bearing Account	varies	2,941	29,276*	26,335
Interpreter Credentialing	varies	39,702	3,820	(35,882)
Online Court Assistance Program (OCAP)	20	156,217	115,778	(40,439)
Xchange	several	3,594,007	2,227,958	(1,366,049)

\*The average amount collected over 5-year period was \$3,095. The amount is high in 2022 due to an unusually large deposit and a spike in interest rates.

Overall, the expenses exceed service fees collected except for the Certificate of Good Standing, Divorce Courses, and Interest-Bearing Account. Each of the service fees in Figure 9 are described as follows:

- **Certificate of Good Standing.** A certificate of good standing is a document issued by the Utah Supreme Court that provides verification of a Utah attorney's admission date and licensing status. The \$25 fee was set by the Utah Supreme Court in 2016 in relation to the redesigned admission certificate.
- **Data and Research Services.** This is a specific service for bulk data or research requests for reports on public court data. The fee is \$32 per hour for a programmer/analyst. The fee is set in *UCJA Rule* 4-202.08.
- **Divorce Courses.** The Divorce Education Course is required by *Utah Code* 30-3-11.3, and a Divorce Orientation Course for divorcing parties is required by *Utah Code* 30-3-11.4. The fees for the courses are set by *UCJA Rule* 4-907. The fee for the Divorce Orientation Course is \$30, and the Utah State Courts receive \$8 of the fee for the Children's Legal Defense Fund. The fee for the Divorce Education Course is \$35 and the Utah State Courts receive \$5 of the fee for the Children's Legal Defense Fund. The private vendors collect the fees and remit the Utah State Courts portion monthly. Figure 9 depicts only the amounts the court receives for deposit to the Children's Legal Defense Fund. Expenses include offsetting impecunious waivers and expenses of Utah State Courts employees who oversee the courses. These totals do not include vendor expenses or the amount they collect.
- **Interest-Bearing Account (IBA).** The court may order funds (typically over \$5,000) be deposited in an interest-bearing trust account. The bank account allows interest to be earned for parties while the case is in litigation. *UCJA Rule* 4-301 gives the courts authority to charge a fee. At this time the fee is the greater of (1) \$50 per deposit or (2) a percent of the principal amount based on a variable overnight investment rate multiplied by a factor of 45 days whichever is greater. With the recent spike in interest rates the amount of the fee has dramatically increased from the time when the fee was originally set. These fees are used to offset the costs of managing the IBA funds.
- **Interpreter Credentialing.** *UCJA Rule* 3-306.03 outlines the procedure for credentialing of interpreters for legal proceedings. The Utah State Courts contracts with two third-party vendors to provide interpreter credentialing services. The cost to the courts to provide testing and credentialing of interpreters is \$24,049 and cost of employees to oversee this credentialing is \$15,653. Total Collections represent several fees charged to interpreters which include the skill building workshop (\$150), written exam (\$25), orientation (\$100), oral proficiency interview (\$108), and the oral proficiency exam (\$200). The court collects the fees and pays the vendors for their service.
- **Online Court Assistance Program (OCAP).** The program is provided to assist court users who do not have an attorney to prepare court documents. The program is outlined in *Utah Code* 78A-2-501 and 78A-2-301. The fee to use the program is \$20.
- **Xchange.** Xchange is a program to access the repository of district court and justice court case information. The public can subscribe to Xchange to access public record case

information. Xchange has three subscription options: (1) A one-time user account has an initial fee of \$5, and searches charged at \$0.20 each and documents at \$0.50 each. These charges are credited from the initial \$5 fee. (2) A guest account has the same fees as a one-time user account, but no account will be created. (3) A monthly subscription account requires a \$25 initial set up fee and has a \$40 fee each month. The fee to access public online services without subscribing is a transaction fee of \$5 allowing up to 10 searches during a session. The program and fees are governed by *UCJA Rule* 4-202.08.

## Conclusion

Only five fees exceeded the costs in calendar year 2022:

- **Complaint or Petition \$10,000 or more.** The excess revenue collected totaled \$81,776. The filing fee is \$375, which exceeds the average cost (\$359) by \$16 per filing. This district court case filing fee of \$375 is authorized in *Utah Code* 78A-2-301 (see Figure 2.) **Recommendation:** This is one year of data, and it would be reasonable to see how this amount varies in future years.
- **Motion to Renew Civil Judgment \$10,000 or more.** The excess revenue collected totaled \$21,413. The filing fee is \$188, which exceeds the average cost (\$165) by \$23 per filing. This district court document filing fee of \$188 is authorized in *Utah Code* 78A-2-301 (see Figure 6.) **Recommendation:** This is one year of data, and it would be reasonable to see how this amount varies in future years.
- **Certificate of Good Standing.** The excess revenue collected totaled \$314, which is not significant. The \$25 fee was set by the Utah Supreme Court in 2016. (see Figure 9). This fee is under review by the Supreme Court.
- **Interest Bearing Account.** The excess revenue collected totaled \$26,335. This amount is high in 2022 due to an unusually large deposit combined with a spike in interest rates. *UCJA Rule* 4-301 gives the courts authority to charge a fee. At this time the fee is (1) \$50 for each deposit or (2) a percent of the principal amount based on an overnight investment rate multiplied by a factor of 45 days whichever is greater (see Figure 9). The Judicial Council (insert has reviewed) this fee to simplify the revenue calculation by replacing the current calculation with a standard of (1) \$250 for the initial deposit (2) \$50 for subsequent deposits or withdrawals and (3) \$100 to close the account and perform the payout. This would cover the USC personnel time and the \$180 per month investment advisory fee from Zions Bank. If this fee proposal had been implemented in 2022, the total expenses would have been \$2,941, and the fees collected would have been \$1,650. Under this proposal expenses would have exceeded the fees collected by \$1,291.
- **Divorce Courses.** The excess revenue collected totaled \$27,296. The fees for the two divorce education courses are set by *UCJA Rule* 4-907. However, *Utah Code* 30-3-11.3 and *Utah Code* 30-3-11.4 state the amount to be deposited to the Children's Legal Defense Fund. The fee for the Divorce Orientation Course is \$30, and the Utah State Courts receive \$8 of the fee for the Children's Legal Defense Fund. The fee for the

Divorce Education Course is \$35 and the Utah State Courts receive \$5 of the fee for the Children's Legal Defense Fund. The fee for attending the orientation course is \$15 for those who attend the course within 30 days of filing. The excess revenue in Figure 9 is only the amounts the court receives for deposit to the Children's Legal Defense Fund, a restricted account. Between the Office of Guardian ad Litem and the USC, all of the revenue collected for the Children's Legal Defense Fund for FY 2023 was used to pay for appropriate expenses. **Recommendation:** The Judiciary should work with the Legislature to adjust the fee, so collections are closer to the cost of the divorce courses.

The excess revenue totaled \$157,134 for calendar year 2022 for the five court fees. This is a small amount when compared with the USC's \$160.8 million General Fund budget. The Judicial Council has reviewed the court fees that are authorized in administrative rule and the Certificate of Good Standing and made the determination to. . . (insert action(s) here). It is also important to note that the costs exceeded the fee amount for 76 court fees by a total of \$41.6 million in 2022.



## APPENDIX A Fee Waivers

House Bill 531 from the 2023 General Session requires the Utah State Courts to report the number of fee waivers granted by the judiciary (78A-2-310 (2)(a)(v)). Figure 10 shows the number of waived fees by judges. The figure also shows the number of government filings, and the total dollar amount waived by judges or not charged to government entities. The courts do not charge a fee for government filings (78A-2-301(1)(ff)). If government entities were charged a fee, the collected amount would have been \$742,630.

**Figure 10. Number and Amount of Waived and Government Filings for CY2022.** The total number of filings waived in full or in part or not charged to government entities for the year was 19,163 and the total amount waived or not charged was \$1,950,818.

Type of Fee	Waived Filings	Govt. Filings	Total Filings	Amount
Abstract or Transcript Judgment	0	428	428	\$ 21,400
<b>Accounting - Estate Value:</b>				
\$50,000 or less	8	3	11	185
Administrative Agency Review	8	0	8	3,000
Appeal	22	7	29	6,950
<b>Complaint or Petition:</b>				
\$2,000 or less	11	18	29	2,582
\$2,001 to \$9,999	9	6	15	3,000
\$10,000 or more	19	10	29	10,725
No Amount Specified	660	320	980	364,199
Copies (certified)	23	0	23	857
Copies (standard)	2	0	2	10
<b>Counter/Cross Claim, 3<sup>rd</sup> Party:</b>				
\$2,000 or less	14	34	48	2,640
\$2,001 - \$9,999	17	1	18	2,820
\$10,000 or more	19	27	46	7,820
Counterclaim Paternity/Grandparent Visitation	38	2	40	6,575
Demand for Civil Jury	9	39	48	11,950
Divorce Education	737	0	737	4,798
Divorce Filing (after temp. separation)	1	0	1	290
Divorce or Separate Maintenance – Counter Claim or Cross Claim	109	14	123	15,890
Divorce or Separation Petition	2,289	201	2,490	802,008
Electronic Media	2	361	363	5,445

Type of Fee (continued)	Waived Filings	Govt. Filings	Total Filings	Amount
Foreign Probate or Child Custody	1	0	1	\$ 35
Garnishment	10	8,349	8,359	419,765
Guardianship	14	0	14	490
Interlocutory, Certiorari	246	0	246	59,040
Judgment by Confession	1	0	1	35
Judicial Document Approval	5	50	55	1,890
<b>Motion to Renew Civil Judgment:</b>				
\$0 - \$2,000	0	406	406	18,270
\$2,001 - \$9,999	0	150	150	15,000
\$10,000 or more	0	58	58	10,875
Online Court Assistance Program (OCAP)	1,943	0	1,943	38,850
Petition for Expungement	159	9	168	24,908
Petition for Review	77	0	77	28,875
Petition to Disburse Funds	0	17	17	850
Petition to Modify Divorce Decree	64	302	366	36,570
Petition to Open Sealed Record	4	0	4	140
<b>Small Claims Affidavit:</b>				
\$7,500 or more	4	0	4	740
Temporary Separation Order	14	0	14	490
Trial De Novo	6	0	6	1,440
Vital Statistics	1,663	25	1,688	13,511
Writ of Replevin, Attachment, or Execution	0	118	118	5,900
<b>Government Amount Not Charged</b>				<b>\$ 742,630</b>
<b>Government Percentage of Total</b>				<b>38 %</b>
<b>Total</b>	<b>8,208</b>	<b>10,955</b>	<b>19,163</b>	<b>\$ 1,950,818</b>

It is also important to note that juvenile court management system, Court and Agency Records Exchange (CARE) does not have the ability to track waivers. An enhancement to the CARE system is in process to be able to track waivers in the future. In addition, the appellate courts management system, Appellate Information System (AIS) does not have the ability to track waivers. Figure 10 does not include fee waivers for the juvenile courts or for the appellate courts.

## APPENDIX B Historical Notes

### Fees Set by Statute

The 1992 General Session passed Senate Bill 197 Court Fees effective July 1, 1992: *“An act relating to Court Fees; consolidating the fees for all Courts of Record; making fees uniform in all courts; raising some fees and eliminating miscellaneous fees; and providing an effective Date.”* (**Utah Code** 21-1-5 Civil Fees of the Courts of Record.)

The 2001 General Session passed House Bill 19, which recodified **Utah Code** 21-1-5 to **Utah Code** 78-7-35 Civil Fees of the Courts of Record– Courts Complex Design.

The 2008 amendment, effective February 7, 2008, renumbered this section to UCA 78A-2-301.

### Five restricted accounts receive amounts from filing fees outlined in statute as follows:

- As currently stated in **Utah Code** 78A-2-301(j)(i): *“Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges’ Contributory Retirement Trust Fund and the Judges’ Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 18, Judges’ Noncontributory Retirement Act.”*  
**Note:** This allocation has not increased since 1992.
- Effective March 17, 1994, Senate Bill 275 Court Complex Financing Authorization was passed. *“An Act relating to Judiciary; increasing certain civil filing fees; defining the allocation of the revenues from that increase; creating a restricted account in the Division of Finance; authorizing design of the project and providing an effective date.”*  
**Note:** This allocation has not increased since 1994. (78a-2-301(2)(a)(i)).
- **Utah Code** 78A-2-301(j)(ii): *“\_\_\_ dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children’s Legal Defense Account, as provided in Section 51-9-408.”*  
**Note:** The following two increases have occurred:  

From 1992-2007: \$2.00 was deposited per filing fee  
 From 2008-2023: \$4.00 was deposited per filing fee
- **Utah Code** 78A-2-301(j)(iii): *“\_\_\_ dollars of the fees established under subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.”*  
**Note:** The following 3 increases have occurred:  

From Jan 1, 1995 – April 29, 2007: \$1.00 was deposited per filing fee  
 From April 30, 2007 – May 3, 2020: \$3.00 was deposited per filing fee  
 From May 4, 2020 – Current 2023: \$5.00 was deposited per filing fee

- **Utah Code** 78A-2-301(j)(iv): “\_\_\_\_\_dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.”

**Note:** The following two increases have occurred:

*From May 5, 2003 – June 30, 2020: \$15 was deposited per filing fee*

*From July 1, 2020 – Current 2023: \$30 was deposited per filing fee*

**Utah Code** 78A-2-301(J)(v): “\_\_\_\_\_dollars of the fees established by Subsections (1)(b)(i) and (ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, COURT SECURITY ACCOUNT, as provided in Section 78A-2-602.”

**Note:** The following two increases have occurred:

*From May 5, 2003 – June 30, 2020: \$5 was deposited per filing fee*

*From July 1, 2020 – Current 2023: \$20 was deposited per filing fee*

## **Fees Set by Judicial Council Code of Judicial Administration**

The Court’s Code of Judicial Administration **UCJA Rule** 4-202.08 went into effect April 1, 1996. Judicial Intent: “To establish uniform fees for requesting records, information, and services.” At that time the following fees were established:

(3) *Copies. Copies are made of court records only. The term “Copies” includes the original production. For tapes and floppy disks, an additional \$2.00 shall be charged if the person making the request does not provide the medium. Fees for copies are based on the number of record sources to be copied and are as follows:*

*(A) paper: \$.25 per sheet*

*(B) microfiche: \$1.00 per card*

*C) audio tape: \$5.00 per tape*

*D) video tape: \$15.00 per tape*

*E) floppy disk: \$15.00 per disk*

*F) Compact disk: \$40.00 per disk*

(6)(b) *Personnel time. The fee for time beyond the first 15 minutes is charged in 15-minute increments for any part thereof. The fee for personnel time is charged at the following rates for the least expensive group capable of providing the record, information or service:*

*i) clerical assistant: \$13.00 per hour;*

*ii) technician: \$15.00 per hour;*

*iii) senior clerical: \$21.00 per hour*

*iv) programmer/analyst: \$21.00 per hour;*

*v) manager: \$33.00 per hour;*

**As of 1/1/2023, current fees reflect:**

*A) paper: \$.25 per sheet*

*B) electronic storage medium other than court hearings: \$15.00 per unit;*

*D) electronic copy of audio record or video record of court proceeding: \$15.00 for each one-half day of testimony or part thereof; and*

*audio tape: \$5.00 per tape*

*(5) Fax or e-mail. The fee to fax or e-mail a document is \$5.00 for 10 pages or less. The fee for additional pages is \$.50 per page.*

*(6) Personnel time.*

*(6)(B) The fee for time beyond the first 15 minutes is charged in 15-minute increments for any part thereof. The fee for personnel time is charged at the following rates for the least expensive group capable of providing the record, information or service:*

*i) clerical assistant: \$15.00 per hour;*

*ii) technician: \$22.00 per hour;*

*iii) senior clerical: \$21.00 per hour*

*iv) programmer/analyst: \$32.00 per hour;*

*v) manager: \$37.00 per hour;*

**UCJA Rule 4-202.08** also addresses what is now known as Xchange. Prior to this official title, Public Online Service Costs have always been outlined in **UCJA Rule 4-202.08**. An early draft of this rule in 1996 reflects a cost of \$20 per month and .50 per minute.

In 2010, the official platform entitled “Xchange” was created, becoming accessible online March 1, 2011. At which time public costs reflected a setup fee of \$25 with a monthly cost of \$30.

Document access went from \$2.50 to \$.50 on Oct 7, 2015. Cost per search over 200 in a billing cycle was charged at a rate of \$.10; Non-subscription service up to 10 searches cost \$5; with a document access/purchase charge of \$.50 each.

On November 1, 2020, monthly fee to access records increased to \$40 monthly, plus \$.15 for each search over 500 in a billing cycle.

Rule change effective 1/1/23 “... *the fee to access public online services without subscribing shall be a transaction fee of \$5.00 allowing up to 10 searches during a session. The fee to access a document shall be \$.50 per document.*”

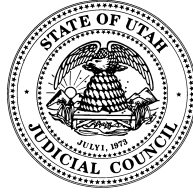
## Table reflects Filing Fees

## Years with Historical Fee Adjustments

Filing Fees (UCA 78A-2-301)	1992	1993	1994	1995	2000	2001	2002	2003	2006	2007	2009	2010	2011	2012	2015	2017	2020	Current Fees as of 2023
<b>Petition or Complaint - Original</b>																		
\$2,000 or less	\$20.00		\$25.00	\$37.00			\$45.00	\$50.00			\$75.00						\$90.00	<b>\$90.00</b>
GT \$2,000 and LT \$10,000	\$40.00		\$60.00	\$80.00			\$90.00	\$95.00			\$185.00						\$200.00	<b>\$200.00</b>
\$10,000 or more	\$80.00		\$100.00	\$120.00			\$140.00	\$155.00			\$360.00						\$375.00	<b>\$375.00</b>
<b>Filing Fee for Civil Complaint or Petition not governed by another section</b>	\$80.00		\$100.00	\$120.00			\$140.00	\$155.00			\$360.00						\$375.00	<b>\$375.00</b>
<b>Motion to Renew Civil Judgment</b>																		
\$0 - \$2,000													\$37.50					<b>\$37.50</b>
GT \$2,000 and LT \$10,000													\$92.50					<b>\$92.50</b>
\$10,000 or more													\$180.00					<b>\$180.00</b>
<b>Divorce or Separate Maintenance Petition</b>	\$40.00		\$60.00	\$80.00		\$80.00		\$95.00	\$155.00		\$310.00						\$325.00	<b>\$325.00</b>
<b>Cohabitant Abuse Act fee - required if Petition of Divorce was not filed. Fee Removed in 1995.</b>	\$25.00																	
<b>Temporary Separation Order</b>										\$25.00	\$35.00							<b>\$35.00</b>
<b>Divorce Filing AFTER Temporary separation</b>						\$60.00	\$70.00	\$85.00			\$275.00						\$290.00	<b>\$290.00</b>
<b>Modify Divorce or Separate Maintenance - Counter Claim or Cross Claim</b>	\$30.00						\$40.00				\$100.00	\$115.00					\$130.00	<b>\$130.00</b>
<b>Counter Claim, Cross Claim, Intervention, 3rd Party Complaint</b>																		
\$2,000 or less	\$15.00		\$35.00	\$45.00							\$55.00						\$55.00	<b>\$55.00</b>
GT \$2,000 and LT \$10,000	\$30.00		\$50.00	\$60.00			\$70.00	\$75.00			\$150.00						\$165.00	<b>\$165.00</b>
\$10,000 or more	\$60.00		\$80.00	\$90.00			\$90.00	\$105.00			\$155.00						\$170.00	<b>\$170.00</b>
<b>Counterclaim</b>																		
<b>Paternity/Grandparent Visitation</b>			\$80.00				\$90.00	\$105.00			\$155.00						\$170.00	<b>\$170.00</b>
<b>Guardian Child (18-22)</b>															\$35.00			<b>\$35.00</b>
<b>Demand for Civil Jury</b>	\$50.00						\$75.00				\$250.00							<b>\$250.00</b>
<b>Trial De Novo (Justice or Small Claims Court)</b>	\$50.00			\$70.00				\$75.00			\$225.00						\$240.00	<b>\$240.00</b>
<b>Municipal Appeal</b>					\$40.00			\$55.00			\$65.00						\$80.00	<b>\$80.00</b>
<b>Appeal</b>	\$160.00		\$180.00	\$190.00				\$205.00			\$225.00						\$240.00	<b>\$240.00</b>
<b>Appellate Interlocutory Order or Writ of Certiorari</b>	\$160.00		\$180.00	\$190.00				\$205.00			\$225.00						\$240.00	<b>\$240.00</b>
<b>Petition for Expungement</b>	\$50.00							\$65.00			\$135.00						\$150.00	<b>\$150.00</b>
<b>Offender Registry Ptn</b>														\$125.00				<b>\$125.00</b>
<b>Foreign Transcript of Judgment (from a court of another state)</b>	\$25.00										\$35.00							<b>\$35.00</b>
<b>Foreign Probate or Child Custody</b>	\$25.00										\$35.00							<b>\$35.00</b>
<b>Abstract or Transcript Judgment of Court or Agency of Utah</b>	\$10.00			\$40.00							\$50.00							<b>\$50.00</b>
<b>Judgment by Confession</b>	\$25.00										\$35.00							<b>\$35.00</b>
<b>Motion to Renew Judgment by Confession</b>															\$17.50			<b>\$17.50</b>
<b>Award of Arbitration</b>	\$25.00										\$35.00							<b>\$35.00</b>
<b>Petition to modify a divorce decree</b>	\$30.00									\$40.00	\$100.00							<b>\$100.00</b>
<b>Accounting - Estate Value</b>	*80.00																	
\$50,000 or Less		\$10.00									\$15.00							<b>\$15.00</b>
GT \$50,000, LT or EQ \$75,000		\$20.00									\$30.00							<b>\$30.00</b>
GT \$75,000, LT or EQ \$112,000		\$40.00									\$50.00							<b>\$50.00</b>
GT \$112,000, LT or EQ \$168,000		\$80.00									\$90.00							<b>\$90.00</b>
Greater Than \$168,000		\$150.00									\$175.00							<b>\$175.00</b>
<b>PETN Reopen Estate Case</b>															\$170.00			<b>\$170.00</b>
<b>PETN to disburse Funds</b>																\$50.00		<b>\$50.00</b>
<b>Demand for Civil Jury</b>	\$50.00						\$75.00				\$250.00							<b>\$250.00</b>
<b>Judicial Document Approval (not part of a case)</b>	\$25.00										\$35.00							<b>\$35.00</b>
<b>Petition to Open Sealed Record</b>	\$25.00										\$35.00							<b>\$35.00</b>
<b>Writ of Replevin, Attachment, or Execution</b>	\$5.00			\$20.00			\$35.00				\$50.00							<b>\$50.00</b>
<b>Garnishment</b>	\$5.00			\$20.00			\$35.00				\$50.00							<b>\$50.00</b>
<b>Vital Statistics Fee</b>	\$2.00										\$8.00							<b>\$8.00</b>
<b>Pet to authorize to marry</b>		\$5.00																<b>\$5.00</b>
<b>Emancipation of a minor</b>									\$50.00									<b>\$50.00</b>
<b>DNA (Juv)</b>							\$75.00						\$150.00					<b>\$150.00</b>
<b>Fees for certificate of Bar Admission</b>	\$50.00																	<b>\$50.00</b>

\*The fee for filing any accounting required by law was a set fee until 1993. At that time fees were incremental based on estate value.

Tab 6



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 6, 2023

Ronald B. Gordon, Jr.  
State Court Administrator  
Neira Siaperas  
Deputy Court Administrator

## MEMORANDUM

**TO: Management Committee of the Judicial Council**

**FROM: Judge Chelsea Koch and Nathanael Player, on behalf of the Committee on Court Forms**

**RE: Forms Committee Annual Report and Request for Reauthorization**

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The Standing Committee on Court Forms (Forms Committee) requests that the Management Committee:

1. review the work of the Forms Committee in the past year, pursuant to CJA 1-205(1)(c), and;
2. determine that the Forms Committee continues to serve its purpose and recommend to the Judicial Council that the Forms Committee continue, pursuant to CJA 1-205(1)(D).

The Judicial Council's Standing Committee on Court Forms is charged, under CJA 3-117, with reviewing the need for court forms and creating forms written in plain language. Court data shows that the overwhelming number of people facing litigation in district courts represent themselves. Without legally accurate and comprehensible forms, these self-represented litigants are largely unable to access the courts.

The Committee receives numerous requests for forms and prioritizes its work as follows:

1. forms that must be amended or created because of changes in the law.
2. forms that contain a mistake.
3. forms that fall within one of the LPP practice areas (Code of Judicial Administration Rule 14-802(c)).
4. forms submitted or requested by one of the boards of judges.
5. other forms, decided on a case-by-case basis. Requests are evaluated on criteria including:
  - access to justice principles,

**The mission of the Utah judiciary is to provide an open, fair,  
efficient, and independent system for the advancement of justice under the law.**



- the mission of the courts,
- the number of people who are or would be impacted by a form, and
- fixing a flaw in a court process.

Since the our last report to the Council in November 2022, the Committee has:

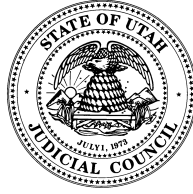
- with the generous and much-appreciated support of the Council, been able to employ a forms attorney, who spends 60% of her time reviewing and developing court forms
- continued to meet remotely every other month;
- maintained current forms consistent with the state of the law;
- worked on 97 forms, which included:
  - revising and improving 58 existing forms; and
  - drafting 39 new forms.

Looking to the future, the Forms Committee, if reauthorized, plans to:

- meet monthly, starting in January (still via Webex);
- partner with our domestic violence program coordinator to standardize and improve all civil protective order forms;
- partner with the WINGS Committee to standardize and improve all guardianship forms;
- partner with the Self-Help Center and their one-year judicial fellow from Georgetown Law to review a number of stylistic choices in our court forms and develop changes to increase comprehensibility of forms; and
- Carefully review family law forms to make them more concise, clearer, and more accessible.

In short, the work of the Forms Committee is far from finished and, for all these reasons, we ask for reauthorization to continue our work.

Tab 7



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 9, 2023

Ronald B. Gordon, Jr.  
State Court Administrator  
Neira Siaperas  
Deputy State Court Administrator

## MEMORANDUM

**TO:** Judicial Council

**FROM:** Ron Gordon, State Court Administrator  
Karl Sweeney, Finance Director

**RE:** FY25 Budget Priorities

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We have recently received additional information regarding some of the Judicial Council's FY25 budget priorities. The additional information requires action by the Judicial Council as outlined below. The following materials are included after this memo.

- Updated FY25 Judicial Council Budget Priorities
- Updated budget request form - Pay for Performance
- Updated budget request form - At-Will Conversion Incentive
- Budget request form - Judicial Compensation
- 2023 Report of the Utah Elected Official and Judicial Compensation Commission

### 1. Judicial officer compensation

a. Judge compensation - \$3,791,000

The Judicial Council previously decided that it would include judicial compensation as the third budget priority for FY25 and that the requested amount for this budget priority would mirror the recommendation of the Elected Official and Judicial Compensation Commission (EJCC). The EJCC recommended a 10% increase for state court judges. With that recommendation in place, the Judicial Council can finalize this budget request. The total cost for a 10% increase for state court judges is \$3,791,000.

b. Commissioner compensation - \$232,000

The Judicial Council has, in recent years, allocated internal funding to keep the salary of domestic relations commissioners at 90% of the salary of state trial court judges. Not knowing how much ongoing turnover savings we will have at

The mission of the Utah judiciary is to provide an open, fair,  
efficient, and independent system for the advancement of justice under the law.

the end of the current fiscal year, it might be wise to add the funding for domestic relations commissioners to the judicial compensation request discussed above. The total cost for a 10% increase for domestic relations commissioners is \$232,000. Adding this to the judicial compensation request would result in a total request of \$4,023,000. (Note that the EJCC recommendation includes a recommendation only for judges and that will not change because their statutory authority does not include commissioners. However, if the Judicial Council approves the inclusion of the funding for commissioners, staff will be able to advocate for that additional funding with the Office of Legislative Fiscal Analyst and legislators.) If the Judicial Council approves this, the budget request form will be amended to reflect the total amount.

**2. Pay for performance**

- a. Original amount: \$2,000,000
- b. Revised amount: \$2,144,000
- c. Reason for change: We have completed additional calculations with more recent data.

**3. At-will conversion:**

- a. Original amount: \$2,000,000
- b. Revised amount: \$1,315,000
- c. Reason for change: The original amount was an estimate as we continued the labor-intensive process of determining the exact number of at-will employees. We have since learned that the exact number of career service employees is 556.

**4. Prioritization of judicial officer requests**

The Judicial Council previously approved a budget request including two new Juvenile Court judges and eight new District Court judicial officers (a combination of judges and commissioners). The Judicial Council needs to prioritize the ten judicial officer requests in the event that the Legislature does not fund all ten.

Between the two Juvenile Court judge requests, the Board of Juvenile Court Judges recommends the Fourth District Juvenile Court judge be the first priority and the Third District Juvenile Court judge be the second priority. The Board of District Court Judges will complete their recommendations for District Court priorities on November 17. We will provide that information during the Judicial Council meeting.

The chart on the following page shows a list of judicial officer requests ranked by weighted caseload.

<b>Ranking</b>	<b>Request</b>	<b>WCL % of Standard</b>	<b>New WCL % of Standard<sup>1</sup></b>	<b>Number of Judges Prior to Request</b>	<b>Additional Need if 1 Judge is Added</b>
1	4th Juvenile	131%	112%	6.0	0.9
2	6th District	127%	85%	2.0	-0.5
3	5th District	118%	103%	7.0	0.3
4	3rd Juvenile	115%	103%	9.0	0.3
5	3rd District A	112%	109%	36.0	3.3
6	3rd District B	109%	106%	37.0	2.3
7	4th District	108%	102%	15.0	0.3
8	2nd District	106%	100%	16.4	0
9	3rd District C	106%	103%	38.0	1.3
10	3rd District D	103%	101%	39.0	0.3



## FY 2025 Judicial Council Budget Priorities

#	Description	Ongoing	One-time	One-time	Additional Description
Request Number		2025 Amount	2025 Amount	2024 Amount	
1	Jury, Witness, Interpreter Fund	\$1,901,000	\$1,000,000	\$800,000	Funding to meet the constitutionally required duty to provide interpreters to limited English proficient litigants.
2	New District Court Judges, Commissioners, & JAs	\$4,097,800	\$1,695,800	\$0	To provide four District Court Judges, four District Court Commissioners, 16 Judicial Assistants, and two Law Clerk Attorneys. One time funding is to finish a shelled courtroom in the Tooele District courthouse. **Requires additional legislative action**
	3rd and 4th District Juvenile Court Judges	\$1,056,500	\$454,000	\$0	Funding for two new Judicial Officers, two Case Managers, two Judicial Assistant, ongoing operating expenses, and one time funding for buildout. **Requires additional legislative action**
	Judicial Compensation @ 10% increase proposed by Elected Official and Judicial Compensation Commission (10 current Commissioners add another \$232,000)	\$3,791,000	\$0	\$0	Funding for 10% increase in salary and salary-related benefits for all Judges **Requires additional legislative action**
4	IT Essential Software Funding	\$1,366,000	\$0	\$0	Ongoing funding for essential software needs.
5	Case Backlog - Senior Judges	\$0	\$2,000,000	\$850,000	One time funding in FY 2024 (\$850,000) and FY 2025 (\$2,000,000) to support the current practice of retaining Senior Judges and Time-Limited Judicial Assistants to reduce the case backlog caused by the COVID-19 Pandemic.
6	Pay for Performance (was \$2.0M)	\$2,144,000	\$0	\$0	Funding to create a Pay for Performance program within the Judicial Branch.
7	At-Will Conversion (was \$2.0M)	\$1,315,000	\$0	\$0	Funding to incentivize conversion of all current career services Judicial Branch employees to at-will employment status.
8	4th District - Virtual Jury Services Personnel	\$215,700	\$0	\$0	Funding for 2.5 new JA positions responsible for virtual jury requests.
9	American Fork Courthouse Rent Increase	\$0	\$447,000	\$389,000	One time funding in FY 24 (\$389,000) and FY 25 (\$447,000) to fund the rent increase required for the American Fork Courthouse
10	Law Library Assistant	\$81,600	\$0	\$0	Ongoing funding to provide one new Law Library Assistant.
11	7th District Training Coordinator	\$94,600	\$0	\$0	To provide a Clerical Training Coordinator in the 7th District to support ongoing training, quality case management, and customer service.
Total Courts Legislative Requests		\$16,063,200	\$5,596,800	\$2,039,000	
Yellow highlighted items represent changes from August 18, 2023 Annual Budget Meeting					



# GOVERNOR'S OFFICE OF Planning & Budget

## FY24 and FY25 Budget Request Form

Agency: Judicial Branch (Courts)  
Division or Program: Pay for Performance  
Request Title: Pay for Performance  
Request Priority: #6

(Please do not prioritize reallocation requests against standard budget requests.)

**Amount Requested:** Summarize other sources besides General Fund (GF), Income Tax Fund (ITF), and Uniform School Fund (USF).

SOURCE	FY24 ONE-TIME	FY25 ONGOING	FY25 ONE-TIME	TOTAL REQUEST
GF, ITF, USF	\$0	\$2,144,000	\$0	\$2,144,000
OTHER	\$0	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$0</b>	<b>\$2,144,000</b>	<b>\$0</b>	<b>\$2,144,000</b>

### A. BACKGROUND & BUDGETARY DETAILS

1. Summarize the request, the specific problem it will solve, and how it will solve the problem.

This request seeks legislative approval for the following:

- To include state employees that work for the judicial branch (excluding court commissioners, judges, and justices) in appropriations intended to compensate state employees for performance-based pay beginning in fiscal year 2025 and each subsequent fiscal year moving forward; and
- To fund approximately \$2.1M for state employees that work for the judicial branch commensurate with the amount appropriated for state employees that work for executive branch agencies during fiscal year 2024 of 2.5% intended to compensate state employees for performance-based pay, to be distributed at the beginning of fiscal year 2025.

In July 2021, several months before [HB104](#) passed in the 2022 General Legislative Session, the Judicial Branch officially moved away from an outdated and ineffective pay structure in favor of a performance-based pay plan. While the language in HB104 exempted the judicial branch, HB104's requirement that state agencies implement a performance-based pay plan was not necessary as the judicial branch had already made the change.

Although the judicial branch had already implemented the structure and processes of a performance pay plan, the 2023 General Legislative Session's appropriations for performance pay appear to have been directed entirely to the executive branch, excluding funding for state employees that work for the judicial branch. This may have resulted from the judicial branch not being included in the prior year's HB104. The Legislature has recognized the need to provide ongoing funding to successfully implement a performance-based pay plan. This request seeks to close what appears to be an unintentional gap that leaves the judicial

branch in a position of not being able to adequately compensate the state employees that work for the judicial branch for their performance.

The annual turnover for the core workforce in courthouses statewide which declined after the judicial assistant pay raise in July 2022 has crept back up to an alarming rate of over 27%. Judges rely on this staff to accurately and effectively support the work of providing access to justice. The performance pay request would greatly boost our ability to adequately compensate those who perform this work. This trend places at great risk our ability to provide a reasonably stable and knowledgeable workforce of support so critical to the success of the entire judicial system.

The principles on which the judicial branch performance-based pay plan is based have produced many encouraging outcomes. However, internal ongoing turnover savings is currently the exclusive funding source of performance-based salary increases. Managers in the judicial branch have found it extremely difficult to reward high performing staff without spreading the funding so thinly that it jeopardizes the meaningful nature of the reward, or simply having to decide that several high performing staff will not receive a reward due to insufficient funds.

The Legislature's approval to match funding for executive branch agency performance-based pay plans would significantly boost the judicial branch's ability to succeed in the long-term implementation of its own performance-based pay plan. It would also eliminate an inequity that currently provides other state agencies the ability to draw from legislative funding sources in their efforts to retain the highest performing employees.

The request for funding will ensure that the Courts have the necessary resources to attract and retain talented individuals, promote employee engagement and motivation, and ultimately enhance the delivery of justice in an open, fair, and efficient manner. It will enable the Courts to align with industry standards and best practices for performance-based compensation, contributing to the overall effectiveness and success of the Judicial Branch and of Utah's State Government as a whole.

**2. *Provide an itemized budget for the new funding, including revenue and expenditure sources, for how the funding will be used.***

\$2,144,000 in ongoing General Funds will be used to fund \$2,144,000 of additional personnel expenses (pay and benefits) associated with a 2.5% pay-for-performance program.

**3. *Summarize the current budget for the project or program. If this is a new project or program, what resources are available for like-objectives within the agency?***

Internal ongoing turnover savings of \$635,000 is the entire funding source of the judicial branch performance-based pay plan. For a state employee population hovering around 1,000 FTEs, the budget is quickly depleted. To further enhance the program's impact and ensure its long-term success, additional resources and funding are necessary. This will allow the Courts to provide meaningful increases, maintain a competitive compensation structure, and effectively recognize and reward the performance and contributions of their employees.



4. *What has been done (or considered) to address this problem with existing resources? If this is a GF/ITF request, what non-GF/ITF resources have been considered? What were the results, including efficiencies or savings identified which could be redirected?*

As mentioned in the summary above, the Courts have historically funded 100% of performance pay increases from internally generated ongoing turnover savings. These funds vary somewhat year-by-year but in a good year we generate approximately \$635,000 in pay-for-performance ongoing turnover savings and in a leaner year we generate approximately \$450,000. With the higher amount, it is sufficient to fund a \$1.00 per hour performance-based increase for ¼ of the eligible personnel - meaning a modest performance raise every 4 years. At this rate, it would take many years to move to the 3rd or 4th quartile in a pay grade.

5. *Is this project or program scalable if the Governor's Budget prioritizes a portion of the funding? Provide a description of the potential impact if a portion of the request is recommended. Consider multiple variations of a reduction in funding (10%, 50%, etc.).*

Yes, the Pay for Performance program is designed to be scalable, allowing for flexibility in funding allocation based on the Governor's Budget priorities. If the Governor's Budget prioritizes a reduced portion of the funding, the potential impact on the Pay for Performance program would vary depending on the level of reduction. Let's consider multiple variations of a reduction in funding:

1. **10% Reduction in Funding:** With a 10% reduction in funding, the Pay for Performance program can still be maintained with relatively minor adjustments. Some performance incentives may be slightly reduced, resulting either in fewer employees being rewarded for their high performance or a smaller reward amount being allocated. Both of those potential ways of reducing would have an impact on the overall ability to move employees through the quartiles of their salary ranges, so the program's effectiveness in retaining high performers may be more at risk. However, the program's overall effectiveness in motivating employees and improving performance may remain largely intact with only a 10% reduction in funding.
2. **50% Reduction in Funding:** A 50% reduction in funding would have a more significant impact on the Pay for Performance program. It may lead to significant and unavoidable adjustments in the number of employees eligible for incentives or the incentive amounts offered. Some performance goals may need to be prioritized or modified. The effectiveness of a program intended to retain high performers might be greatly reduced. Despite the reduction, the program can continue to recognize and reward high-performing employees, but its scope and scale may be constrained compared to full funding.

By maintaining a portion of the requested funding, the Pay for Performance program can continue to drive employee motivation, improve performance, and align with the judiciary's mission and goals and allow the Judicial branch to remain competitive with other branches of state government. While adjustments may be necessary, retaining a portion of the funding ensures that the program's core principles and benefits are sustained to support a skilled and motivated workforce in the Courts.

## B. CREATING VALUE

6. *What value will additional resources create for Utah and how will this value be measured? List the performance measure(s) that will be used to track outcomes for this request.*

The allocation of additional resources in support of the Courts' mission to provide an open, fair, efficient, and

independent system for the advancement of justice under the law will create significant value for Utah. This value will be measured through various performance measures that align with the SMART framework and are well-defined and aligned with the strategic priorities of the Courts.

The performance measures that will be used to track outcomes for this request include:

**Specific Goals:** The allocation of additional resources will enable the establishment of specific goals for employees that are aligned with the mission of the Courts. Performance will be tracked based on the achievement of these specific goals, such as reducing case processing times, improving customer satisfaction, enhancing court efficiency, and increasing access to justice.

**Measurable Outcomes:** The impact of the additional resources will be assessed through measurable outcomes, such as increased case disposition rates, reduced case backlog, improved timeliness in delivering court services, and higher rates of successful case resolution. These quantifiable measures will provide data to evaluate the effectiveness of the resources in improving judicial operations.

**Achievable Targets:** The Courts will set achievable targets for employee performance, taking into consideration available resources and workload. Employee performance will be measured against these targets to ensure that expectations are realistic and that employees can effectively contribute to the Courts' objectives.

**Relevant Objectives:** The additional resources will support the pursuit of relevant objectives that align with the strategic priorities of the Courts. Performance will be assessed based on the progress made towards these objectives, such as enhancing access to justice, promoting fairness and equity in court proceedings, and improving the quality and consistency of judicial decisions.

**Time-bound Expectations:** The allocation of resources will facilitate the establishment of time-bound expectations for employee performance. Performance will be evaluated based on the timely completion of tasks and projects, leading to improved efficiency and productivity within the Courts.

By utilizing the SMART framework and aligning performance measures, the value created by the additional resources will be effectively evaluated and reported. These performance measures provide a structured approach to assess employee performance and judicial outcomes, thereby demonstrating the positive impact of the resources on the overall functioning of the Courts and the advancement of justice in Utah. The performance data collected through these measures will enable the Courts to continuously improve and optimize their operations, better serving the citizens and upholding the principles of justice under the law.

*7. Provide the details, sources, research, and analysis which forms the evidence-basis for this request or the associated program (e.g, cost benefit analysis, program evaluation, results from pilot program, etc).*

The passage of [HB104](#) in the 2022 General Legislative Session and [HB8](#) in the 2023 General Legislative Session mandated the implementation and funding of a performance-based pay system for executive branch agency employees. These pieces of legislation demonstrate the legislature's support of a performance-based pay structure in state government.

## C. COORDINATION, STRATEGIC PLANNING, AND LONG-TERM VISION

*8. How does this request further the Cox-Henderson Administration's priorities?*

A funding source for ongoing pay increases in a performance-based pay plan is both critical to advancing the mission of the Courts and well aligned with the six priorities outlined in Governor Cox's "One Utah Roadmap" in the following ways:

**Economic Advancement:** The performance-based pay plan contributes to economic advancement by promoting a high-performing and motivated workforce within the Courts. By incentivizing employees to excel in their roles and achieve performance targets, the program enhances productivity and efficiency. A skilled and motivated workforce ultimately translates into improved service delivery, benefiting businesses and individuals across the state.

**Talent Attraction and Retention:** Governor Cox's plan emphasizes the importance of attracting and retaining top talent in Utah. The performance-based pay plan plays a vital role in this aspect by offering incentives for exceptional performance. It provides a means to attract skilled individuals to the Courts and incentivizes existing employees to stay and grow within the organization. This supports the Governor's goal of fostering a talented and diverse workforce in the state.

**Effective Governance:** The performance-based pay plan promotes effective governance by establishing clear performance measures and expectations for employees. It encourages accountability and results-driven decision-making, aligning with the Governor's emphasis on effective governance and responsible resource allocation.

**Results-Oriented Approach:** Governor Cox's plan emphasizes a results-oriented approach to policy and governance. The performance-based pay plan aligns with this approach by linking incentives to measurable outcomes and performance targets. By focusing on results and rewarding employees accordingly, the program supports a culture of performance and continuous improvement within the Courts.

**Innovation and Efficiency:** The performance-based pay plan encourages innovation and efficiency by incentivizing employees to find innovative solutions, improve processes, and enhance service delivery. It fosters a culture of continuous improvement, aligning with the Administration's priority of promoting innovation and efficiency across state agencies.

The program directly contributes to economic advancement, talent attraction and retention, effective governance, a results-oriented approach, and fostering innovation and efficiency. It aligns with the Administration's vision of a prosperous, innovative, and well-governed Utah.

*9. Provide the statutory and administrative rule references which allow or require the activity for which funding is requested. If this request requires statute or rule changes, describe required changes. (Agencies must coordinate all legislation through the governor's general counsel and legislative director.)*

The statutory and administrative rule references that allow and require the Pay for Performance activity in the Courts are as follows:

Utah Code [78A-2-107\(4\)](#) - This statute empowers the State Court Administrator to formulate and administer policies and procedures for the efficient operation of the courts. This authority includes the establishment of a compensation system that aligns with the goals and mission of the judiciary.

Utah Code of Judicial Administration (UCJA) [Rule 3-402](#) - Assigns the responsibility to the Court Administrator and the HR department to establish an effective compensation system for court employees. The rule specifically mentions the importance of employee retention based on performance that enhances and advances the mission of the judiciary.

These statutory and administrative rule provisions provide the legal framework and mandate for the establishment of a performance-based pay system in the Courts. No additional statute or rule changes are required to implement the Pay for Performance program.

*10. How does this request help implement your agency's strategic priorities? Include a direct citation of your agency's strategic plan and relevant goals, objectives and strategies and/or work plan.*

This request for funding directly supports our agency's strategic priorities as outlined in our mission statement, which focuses on providing "an open, fair, and efficient system for the advancement of justice under the law." We have identified two key ways in which this funding will help implement our strategic priorities:

**Advancing Justice and Fairness:** The increase in our Pay for Performance structure will significantly enhance the fairness and equity within our workforce. By implementing Pay for Performance, we can recognize and reward employees based on their individual and team achievements, ensuring that performance-based outcomes align with our mission of advancing justice. This approach promotes a sense of fairness and motivates employees to excel in their roles, ultimately contributing to the overall delivery of justice under the law.

**Enhancing Efficiency and Service Delivery:** The requested funding will empower us to strengthen our performance-based compensation system, leading to increased efficiency within our organization. By aligning incentives with performance through Pay for Performance, we can improve productivity and optimize resource allocation. This, in turn, contributes to an efficient and effective judicial system, enabling us to provide timely and high-quality services to the people we serve.

Our funding request is directly in line with our agency's strategic priorities, as it seeks to foster fairness, efficiency, and the advancement of justice under the law. Through the investment in our employee population through Pay for Performance, we are taking proactive measures to fulfill our mission and meet the expectations of the people we serve. This strategic approach will enable us to further our commitment to delivering justice in an open, fair, and efficient manner, while continually striving for improvement and excellence in our operations.

*11. Which other agencies or stakeholders have you coordinated with during development of this request? Please describe why this activity should be executed by the requesting agency and not another agency, local government, non-government entity or third party.*

During the development of our Pay for Performance legislative request, we coordinated with subject matter expert representatives from the Department of Government Operations' Division of Human Resource Management. They provided helpful information regarding their upcoming Pay for Performance structure, scheduled to go into effect on 7/1/2023, to gather insights, best practices, and lessons learned.

The activity of implementing and executing the Pay for Performance program should be carried out by the requesting agency, which in this case is the Courts. Here are the reasons why:

**Agency-specific Needs:** The Courts have a unique workforce and organizational structure, with specific requirements and considerations related to the administration of justice. By executing the Pay for Performance program internally, the Courts can tailor it to their specific needs and align it with their mission of providing an open, fair, efficient, and independent system for the advancement of justice under the law.

**Judicial Independence:** The Courts operate independently to ensure fair and impartial justice. By implementing the Pay for Performance program within the agency, the Courts can maintain control over the performance evaluation criteria and ensure that it remains unbiased and reflective of the judiciary's specific requirements, without any undue influence from external entities.

**Seamless Integration:** As the Courts have their own distinct goals, strategies, and values, executing the Pay for Performance program internally allows for seamless integration with existing organizational objectives. This ensures that performance measures and incentives are directly aligned with the mission and values of the Courts.

**Accountability and Transparency:** By implementing the program within the requesting agency, the Courts can maintain a high level of accountability and transparency. They can establish clear evaluation criteria, ensure fairness in the allocation of performance-based incentives, and provide transparent reporting on the outcomes of the program to stakeholders and the public.

Considering these factors, it is most appropriate for the Courts, as the requesting agency, to execute the Pay for Performance program. While we have sought insights from the Division of Human Resource Management's upcoming Pay for Performance structure, the Courts' unique needs and mission warrant an internal implementation that aligns with their specific requirements and ensures the independence and effectiveness of the judiciary.

*12. Does this request create any future funding obligations (operations and maintenance, multi-year scale up, etc).*

While the ongoing legislative funding for Pay for Performance does not create direct future funding obligations, it is important to note that the sustainability of the program may require continued funding in subsequent budget cycles. As this initiative is designed to reward and incentivize exceptional performance, it is anticipated that ongoing funding will be necessary to maintain the effectiveness and integrity of the program. This funding will ensure that employees continue to be motivated and appropriately rewarded for their achievements.

## D. EXPANDING ACCESS AND OPPORTUNITY

*13. Which populations or geographic areas will benefit most from this request (e.g., new state park users, individuals eligible for enrollment in new or existing programs, rural or urban communities, people from different cultural or racial backgrounds, or all Utahns)?*

The populations and geographic areas that will benefit most from this funding request for increased Pay for Performance include:

**All Utahns:** The primary goal of our funding request is to enhance the overall functioning and efficiency of the judicial system, benefiting all residents of Utah. By implementing increased Pay for Performance funding through legislative support, we aim to improve the quality and timeliness of services provided to the public. As a result, all Utahns, regardless of their background or geographic location, will benefit from a more effective and responsive judicial system.

**Underrepresented or Disadvantaged Groups:** Our initiatives to promote fairness and equity within our workforce indirectly benefit underrepresented or disadvantaged groups. By implementing Pay for Performance, we create opportunities for employees to be rewarded based on their performance, irrespective of their background or status. This fosters a performance-based environment that can contribute to the advancement of individuals from underrepresented or disadvantaged groups within the organization.

**Rural and Urban Communities:** Both rural and urban communities across Utah will benefit from our funding request. By implementing Pay for Performance, we incentivize employees to enhance their skills and improve service delivery, which will have a positive impact on the communities we serve. This includes

improved access to justice, timely case resolution, and increased fairness in court proceedings.

**Judicial System Users:** The funding request indirectly benefits individuals who interact with the judicial system, such as litigants, attorneys, and other stakeholders. By enhancing the efficiency, fairness, and effectiveness of our organization through Pay for Performance, we can provide a better experience and improved outcomes for those seeking justice under the law.

While these populations and geographic areas will benefit most directly from our funding request, the positive impact of our initiatives has the potential to extend to a broader range of stakeholders within the state. The implementation of Pay for Performance will lead to a more accountable, effective, and accessible judicial system, ultimately benefiting the entire Utah community.





# GOVERNOR'S OFFICE OF Planning & Budget

## FY24 and FY25 Budget Request Form

Agency: Judicial Branch (Courts)  
Division or Program: At-Will Conversion Incentive  
Request Title: At-Will Conversion Incentive  
Request Priority: #7

(Please do not prioritize reallocation requests against standard budget requests.)

**Amount Requested:** Summarize other sources besides General Fund (GF), Income Tax Fund (ITF), and Uniform School Fund (USF).

SOURCE	FY24 ONE-TIME	FY25 ONGOING	FY25 ONE-TIME	TOTAL REQUEST
GF, ITF, USF	\$0	\$1,315,000	\$0	\$1,315,000
OTHER	\$0	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$0</b>	<b>\$1,315,000</b>	<b>\$0</b>	<b>\$1,315,000</b>

### A. BACKGROUND & BUDGETARY DETAILS

1. Summarize the request, the specific problem it will solve, and how it will solve the problem.

This is a request for ongoing funds in the amount of \$1.3M to provide an equitable opportunity for judicial branch employees in career service status who desire to increase their earnings in exchange for moving to an at-will employment status, correcting an inadvertent inequity stemming from 2022's HB104. These funds would provide a compensation opportunity similar to executive branch agencies that received funding to incentivize at-will status conversion in the 2023 General Legislative Session.

When executive branch employees were given an option to increase their ongoing salary upon agreeing to move from career service to at-will status, many chose to do so, resulting in a funded ongoing overall personnel budget increase for those agencies. Inadvertently, one result is a competitive edge in salary for executive branch agencies that is not granted to the judicial branch, increasing employee "flight risk" and decreasing retention abilities for judicial branch managers.

For historical context, Utah established a career service employment system applicable to most state, county, and municipal employees in 1965. Although the legislature did not simultaneously require the judicial branch to implement a career service system for its employees, it was not long after that the judicial branch followed this lead in its own employment rules. This included the establishment of an independent grievance review board to sit as a "... quasi-judicial body and review any action taken under the authority of the judiciary's human resource policies ..." [see [UCJA Rule 3-402\(6\)](#)].

In ways very similar to other Utah government entities, the judicial branch did benefit from providing the protections of a career service system for quite some time. In the mid-1960s, many important employment

laws in effect today were either in their infancy (such as the Civil Rights Act of 1964) or did not yet even exist (consider the Age Discrimination in Employment Act of 1967, the Pregnancy Discrimination Act of 1978, Americans with Disabilities Act of 1990 and its Amendments Act of 2008, the Family and Medical Leave Act of 1993, and so on).

However, career service systems have faced increasing scrutiny in recent years for a host of valid reasons. Similar to the executive branch system, the judicial branch's career service system now poses unnecessary limitations and barriers to fostering an agile and adaptable workforce. It restricts our ability to streamline personnel decisions, respond swiftly to changing market conditions, and optimize resource allocation efficiently.

A monetary incentive for current career service employees in the judicial branch to convert to at-will status will minimize or remove the negative impact or retention problem this situation created and better enable judicial branch management to focus personnel decisions on business needs and employee performance while reducing bureaucratic inefficiencies.

*2. Provide an itemized budget for the new funding, including revenue and expenditure sources, for how the funding will be used.*

The judicial branch has approximately 556 employees eligible to convert from career service to at-will status. The incentive would be offered as a 3% salary increase to convert to an at-will status. Eligibility would be limited only to those in career service status at the time an incentive is offered and accepted. The Administrative Office of the Courts would offer eligible employees an opt-in period of no more than 12 months, following the lead of the executive branch in its HB 104 implementation, and grant a salary increase to eligible employees who opt into at-will status conversion.

*3. Summarize the current budget for the project or program. If this is a new project or program, what resources are available for like-objectives within the agency?*

While an at-will conversion incentive has been implemented for employees in the executive branch through 2022's [HB104](#), the judicial branch has not received dedicated funding for a similar initiative. Similar to executive branch agencies, the judicial branch does not generate nearly enough internal ongoing turnover savings to fund an effective at-will conversion effort without legislative funding.

*4. What has been done (or considered) to address this problem with existing resources? If this is a GF/ITF request, what non-GF/ITF resources have been considered? What were the results, including efficiencies or savings identified which could be redirected?*

The judicial branch abandoned the independent review board years ago due to funding strains and difficulties retaining qualified panel members. In its place, an internal grievance review panel in the Administrative Office of the Courts was established with policies in place to provide as impartial a review as possible for career service grievances.

Additionally, the judicial branch formally moved away from creating and filling career service positions effective July 1, 2022. When a career service employee departs for any reason, the vacant position automatically converts to an at-will position.

Notwithstanding these efforts, the majority of the judicial branch workforce remains in this career service system that has ultimately become an antiquated, labor-intensive, and costly system to maintain.



5. *Is this project or program scalable if the Governor's Budget prioritizes a portion of the funding? Provide a description of the potential impact if a portion of the request is recommended. Consider multiple variations of a reduction in funding (10%, 50%, etc.).*

Yes, this project could be scalable. For example, the legislature could grant funding to allow a 2.5% salary increase or a 2% salary increase rather than the requested 3%. Any such option would still be helpful; however, the requested 3% is already lower than the 5% salary increase incentive granted to executive branch agencies. The only reason the judicial branch is not requesting an equal amount of 5% in this request is because of the accompanying salary compression issues this would create for the majority of teams and units where most of the career service employment population currently sits. A 3% salary increase would avoid most, if not all, potential salary compression issues.

## B. CREATING VALUE

6. *What value will additional resources create for Utah and how will this value be measured? List the performance measure(s) that will be used to track outcomes for this request.*

The allocation of additional resources for at-will conversion funding will create significant value for Utah and the Courts. The anticipated benefits include:

**Cost Reduction and Efficiency:** By incentivizing conversion to at-will status, the internal costs associated with labor-intensive processes under the career service system are expected to decrease. The time saved can be reinvested in efforts more closely aligned with the advancement of the Courts' mission, resulting in a more efficient and effective judicial system.

**Leadership Talent Attraction and Retention:** With more employees transitioning to at-will status, the Courts can implement comprehensive strategies to address employee concerns about losing their career service status when pursuing leadership positions. This will foster a pool of qualified and capable individuals from within the organization, improving the Courts' ability to fill critical leadership positions and successfully carry out mission-critical efforts.

**Improved Organizational Performance:** As more employees advance to at-will leadership positions, the Courts will have the opportunity to fill key positions with highly qualified individuals eager to contribute to the organization's success. This is expected to lead to improved organizational performance, increased productivity, and enhanced service delivery to the public.

### **Performance Measures to track outcomes for this request include:**

**Leadership Vacancy Application Rates:** Tracking the number of internal employees applying for at-will leadership positions before and after incentivizing at-will conversion will indicate the effectiveness of the program in attracting qualified candidates for leadership roles.

**Employee Feedback and Satisfaction:** Conducting surveys or feedback mechanisms to measure employee satisfaction, engagement, and perceptions of the at-will conversion program will provide insights into the impact of the additional resources on employee morale and commitment.

By utilizing these performance measures, the Courts can demonstrate the value created by the additional resources allocated for at-will conversion funding. This will ensure transparency and accountability while showcasing the positive impact on employee advancement, talent retention, and overall organizational performance in service of the Courts' mission to provide an open, fair, efficient, and independent system for the advancement of justice under the law in Utah.

7. *Provide the details, sources, research, and analysis which forms the evidence-basis for this request or the associated program (e.g, cost benefit analysis, program evaluation, results from pilot program, etc).*

The evidence-basis for the at-will conversion incentive request in the Courts can be derived from the existing legislative approval and funding provided to incentivize conversion to at-will status for career service employees in the executive branch through 2022's HB104. This legislation serves as a strong foundation for the Courts' funding request, indicating legislative support to move away from antiquated and ineffective career service structures and procedures, while simultaneously recognizing that employees need some sort of incentive to encourage voluntary movement away from a system purported to provide additional employment protection.

### C. COORDINATION, STRATEGIC PLANNING, AND LONG-TERM VISION

8. *How does this request further the Cox-Henderson Administration's priorities?*

The request to fund at-will service conversion advances the mission of the Courts and aligns with the priorities of the Cox-Henderson Administration in several ways:

**Workforce Flexibility and Efficiency:** The Cox-Henderson Administration prioritizes enhancing flexibility and efficiency within government agencies. By transitioning to at-will service, the courts will gain greater flexibility in managing their workforce, allowing for more efficient allocation of resources and improved responsiveness to changing demands. This aligns with the administration's goal of creating a more agile and effective government.

**Talent Attraction and Retention:** The administration emphasizes attracting and retaining talented individuals within the public sector. By offering at-will conversion, the Courts can provide increased earning capacity to existing career service employees, enhancing its ability to retain talented employees that perform well advancing the Courts' mission. This aligns with the administration's objective of building a capable and motivated workforce across all branches of government.

**Streamlined Operations and Service Delivery:** The request for at-will service conversion aims to streamline court operations and enhance service delivery. By optimizing workforce management and aligning personnel with workload demands, the Courts can operate more efficiently and effectively. This is in alignment with the administration's commitment to improving government services and ensuring timely access to justice for all Utahns.

**Innovation and Modernization:** The Cox-Henderson Administration emphasizes the need for innovation and modernization in government operations. Transitioning to at-will service reflects a proactive approach to human resource management within the Courts, enabling them to adapt to changing needs and leverage the skills and expertise of their employees. This aligns with the administration's goal of fostering innovation and efficiency in public service.

By furthering these priorities, the request for at-will service conversion contributes to the overall success of government in the State of Utah in alignment with objectives of the Cox-Henderson Administration in creating a more efficient, responsive, and effective government that serves the needs of Utah's residents.

9. *Provide the statutory and administrative rule references which allow or require the activity for which funding is requested. If this request requires statute or rule changes, describe required changes. (Agencies must coordinate all legislation through the governor's general counsel and legislative director.)*

Utah Code [§78A-2-107\(1\)\(d\)](#) requires the State Court Administrator to "formulate and administer a system of personnel administration ..." The Code of Judicial Administration [Rule 3-402](#) provides more detail about career service and at-will employment, protections that are afforded to all employees regardless of career service status, and the requirement to establish "equitable and adequate compensation based upon current job market data" among other relevant provisions. One very relevant piece of local job market data today is the at-will incentivization provided to executive branch agencies. The absence of funding for similar incentivization in the judicial branch has an impact on the branch's management teams in retaining skilled employees who successfully advance the mission of the Courts.

10. *How does this request help implement your agency's strategic priorities? Include a direct citation of your agency's strategic plan and relevant goals, objectives and strategies and/or work plan.*

This request for funding to support at-will service conversion aligns directly with our agency's strategic priorities and mission to provide an open, fair, efficient, and independent system for the advancement of justice under the law. Our strategic plan emphasizes the importance of creating an equitable and efficient work environment that promotes professionalism, accountability, and excellence in the delivery of judicial services.

Specifically, this funding request helps implement the following strategic priorities:

**Promoting Fairness and Equal Opportunities:** By incentivizing at-will service conversion, we aim to accelerate the progress towards a more consistent employment system that promotes fairness and equal opportunities for career advancement and professional growth. This aligns with our strategic goal of ensuring a fair and equitable work environment for all employees, where they are evaluated based on their performance and merit, fostering a culture of openness and fairness.

**Enhancing Efficiency and Effectiveness:** At-will service provides greater flexibility in workforce management, enabling us to optimize resource allocation and streamline operations. This directly supports our strategic goal of improving efficiency and effectiveness in delivering judicial services in a timely and efficient manner, meeting the needs of the public more effectively.

**Fostering a Culture of Accountability:** By encouraging employees to take ownership of their roles and responsibilities in advancing the mission of the Courts, at-will service fosters a culture of enhanced accountability. This is aligned with our strategic objective of promoting professionalism, integrity, and accountability in our operations, contributing to the independence and impartial administration of justice.

Our strategic plan serves as a roadmap to guide our actions and decisions, and this funding request directly addresses key goals and objectives outlined in the plan. By implementing at-will service conversion, we demonstrate our commitment to achieving our strategic priorities and fulfilling our mission of providing a system of justice that is open, fair, efficient, and accountable to the people of Utah.

*11. Which other agencies or stakeholders have you coordinated with during development of this request? Please describe why this activity should be executed by the requesting agency and not another agency, local government, non-government entity or third party.*

None, at this time.

*12. Does this request create any future funding obligations (operations and maintenance, multi-year scale up, etc).*

The requested singular ongoing legislative funding for the conversion to at-will career status does not create future funding obligations directly related to operations and maintenance. Once the conversion process is completed, the financial implications for maintaining at-will employment would be incorporated into the regular operational budget of the organization.

#### **D. EXPANDING ACCESS AND OPPORTUNITY**

*13. Which populations or geographic areas will benefit most from this request (e.g., new state park users, individuals eligible for enrollment in new or existing programs, rural or urban communities, people from different cultural or racial backgrounds, or all Utahns)?*

We anticipate a transition to at-will service will benefit all employees within the courts, regardless of their specific population or geographic area. The benefits of at-will service apply uniformly to individuals across different demographic groups and geographic locations within Utah. This request aims to create a more equitable and inclusive work environment for all court employees, promoting career advancement, professional growth, and increased job satisfaction.



# GOVERNOR'S OFFICE OF Planning & Budget

## FY24 and FY25 Budget Request Form

Agency: Judicial Branch (Courts)  
Division or Program: Judicial Compensation  
Request Title: Judicial Compensation  
Request Priority: #3

(Please do not prioritize reallocation requests against standard budget requests.)

**Amount Requested:** Summarize other sources besides General Fund (GF), Income Tax Fund (ITF), and Uniform School Fund (USF).

SOURCE	FY24 ONE-TIME	FY25 ONGOING	FY25 ONE-TIME	TOTAL REQUEST
GF, ITF, USF	\$0	\$3,791,000	\$0	\$3,791,000
OTHER	\$0	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$0</b>	<b>\$3,791,000</b>	<b>\$0</b>	<b>\$3,791,000</b>

### A. BACKGROUND & BUDGETARY DETAILS

1. Summarize the request, the specific problem it will solve, and how it will solve the problem.

This request gives the monetary amount recommended by the Utah Elected Official and Judicial Compensation Commission ("EJCC") for the Judiciary in their 2023 Report for a total COLA and market adjustment compensation increase of 10% for Justices and Judges in the Judiciary.

2. Provide an itemized budget for the new funding, including revenue and expenditure sources, for how the funding will be used.

The 10% increase in pay is broken down as follows:

District, Juvenile, Business Judges and State Court Administrator.....	\$3,397,000
Court of Appeals and Supreme Court.....	\$394,000
Total	\$3,791,000*

\*If a COLA is granted to State of Utah employees for FY 2025, that percentage will be deducted from this amount as that part of the 10% would not be incremental.

3. Summarize the current budget for the project or program. If this is a new project or program, what resources are available for like-objectives within the agency?

The current budget for Judicial Officers is \$44.2M

4. *What has been done (or considered) to address this problem with existing resources? If this is a GF/ITF request, what non-GF/ITF resources have been considered? What were the results, including efficiencies or savings identified which could be redirected?*

For further information see attached EJCC 2023 Report.

5. *Is this project or program scalable if the Governor's Budget prioritizes a portion of the funding? Provide a description of the potential impact if a portion of the request is recommended. Consider multiple variations of a reduction in funding (10%, 50%, etc.).*

For further information see attached EJCC 2023 Report.

## **B. CREATING VALUE**

6. *What value will additional resources create for Utah and how will this value be measured? List the performance measure(s) that will be used to track outcomes for this request.*

For further information see attached EJCC 2023 Report.

7. *Provide the details, sources, research, and analysis which forms the evidence-basis for this request or the associated program (e.g, cost benefit analysis, program evaluation, results from pilot program, etc).*

For further information see attached EJCC 2023 Report.

## **C. COORDINATION, STRATEGIC PLANNING, AND LONG-TERM VISION**

8. *How does this request further the Cox-Henderson Administration's priorities?*

For further information see attached EJCC 2023 Report.

9. *Provide the statutory and administrative rule references which allow or require the activity for which funding is requested. If this request requires statute or rule changes, describe required changes. (Agencies must coordinate all legislation through the governor's general counsel and legislative director.)*

For further information see attached EJCC 2023 Report.

*10. How does this request help implement your agency's strategic priorities? Include a direct citation of your agency's strategic plan and relevant goals, objectives and strategies and/or work plan.*

For further information see attached EJCC 2023 Report.

*11. Which other agencies or stakeholders have you coordinated with during development of this request? Please describe why this activity should be executed by the requesting agency and not another agency, local government, non-government entity or third party.*

For further information see attached EJCC 2023 Report.

*12. Does this request create any future funding obligations (operations and maintenance, multi-year scale up, etc).*

For further information see attached EJCC 2023 Report.

#### **D. EXPANDING ACCESS AND OPPORTUNITY**

*13. Which populations or geographic areas will benefit most from this request (e.g., new state park users, individuals eligible for enrollment in new or existing programs, rural or urban communities, people from different cultural or racial backgrounds, or all Utahns)?*

For further information see attached EJCC 2023 Report.



The background of the entire page is a photograph of the Utah State Capitol building. The building is a large, classical-style structure with a prominent central dome and multiple wings featuring columns and balconies. A paved walkway leads towards the building from the bottom left. The image is partially covered by a semi-transparent yellow overlay on the right side and a solid dark grey bar at the bottom.

# 2023 REPORT OF THE UTAH ELECTED OFFICIAL AND JUDICIAL COMPENSATION COMMISSION





### **To the Honorable Governor Spencer J. Cox, the Speaker of the House of Representatives, the President of the Senate, and the Executive Appropriations Committee:**

As required by Utah law (Utah Code Ann. §67-8-5), the Elected Official and Judicial Compensation Commission (EJCC) is pleased to submit its 2023 Report.

The purpose of this report is to inform both the Executive and Legislative branches on the actions of the EJCC during calendar year 2023 and to provide recommendations regarding compensation for both the elected officials and the judiciary for fiscal year 2025.

The report contains the following:

- The Commission's current members and the expiration dates of their terms;
- A brief description of the Commission's purpose and a report on all action taken during calendar year 2023;
- A discussion on the Commission's recommendation for FY25 compensation of elected officials;
- A discussion on the Commission's recommendation for FY25 compensation of the judiciary; and
- Exhibits A, B, C, and D

The Commission's recommendations are summarized as follows:

**Recommendation One: The Commission recommends the Legislature appropriate a cost-of-living adjustment (COLA) to the salaries of the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer equal to that appropriated for all other State of Utah employees within the Executive Branch.**

**Recommendation Two: The Commission recommends the Legislature appropriate a cost-of-living adjustment (COLA) equal to that appropriated for all other State of Utah employees and an additional market adjustment to *total* 10% of the salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record.**

Our conclusions and recommendations are made with a unanimous vote and are, in our view, in the best interests of the State of Utah and its citizens.

Respectfully submitted at Salt Lake City, Utah, Friday, October 27, 2023.

*David Clark*

David Clark, Chair

*Meghan Holbrook*

Meghan Holbrook, Vice Chair

**Elected Official and Judicial Compensation Commission**  
**Current Members**

<b><u>Name</u></b>	<b><u>Term Expires</u></b>
David Clark - R (Chair) <i>Appointed by the Utah House of Representatives</i>	5/31/2027
Meghan Holbrook - D (Vice Chair) <i>Appointed by the EJCC</i>	9/25/2026
Kevin Van Tassell - R <i>Appointed by the Utah Senate</i>	6/1/2027
Jeff Herring - R <i>Appointed by Governor Spencer J. Cox</i>	9/21/2026
Ann Hanniball - Unaffiliated <i>Appointed by the EJCC</i>	6/22/2026
David M. Connors - Unaffiliated <i>Appointed by the Utah State Bar Association</i>	6/28/2025

## Part One – Introduction and Commission Action

### Introduction

The Elected Official and Judicial Compensation Commission (EJCC, or hereafter referred to as the Commission) is required by Utah statute (UCA §67-8-5) to submit an annual report to the Executive Appropriations Committee (EAC), the President of the Senate, the Speaker of the House of Representatives, and the Governor. The Commission is also required to study educational requirements, experience, responsibility, accountability for funds and staff, comparisons of wages paid in other comparable public and private employment within this state, other states similarly situated, and the consumer price index. Additionally, statute requires that the Commission consult with the Department of Human Resource Management and the Judicial Council. The Commission has reviewed all information required by statute and met with each of these entities prior to creating this report.

The Commission's recommendations are made in relation to current salaries (See Table 1 below). The Commission considered fringe benefits as well as salary, but because it makes no recommendations on those benefits, the recommendations for adjustment pertain only to salary. However, this report provides benefit and retirement material for informational purposes (Appendix A).

# Tab 13Tab 14

### Elected Officials FY24

Officer	2024 Salaries	Rules
Governor	\$ 182,900.00	Set in Appropriations Act (S.B. 0003 Item 187 Intent Language)
Lieutenant Governor	\$ 164,610.00	90% of Governor's Salary (UCA §67-22-1)
Attorney General	\$ 173,755.00	95% of Governor's Salary (UCA §67-22-1)
State Auditor	\$ 164,610.00	90% of Governor's Salary (UCA §67-22-1)
State Treasurer	\$ 164,610.00	90% of Governor's Salary (UCA §67-22-1)

### Judicial Salaries FY24

Judges	2024 Salaries	Rules
District Court Judge	\$ 203,700.00	Set in Appropriations Act (S.B. 0003 Item 162 Intent Language)
Juvenile Court Judge	\$ 203,700.00	100% of District Court Judge Salary (UCA §67-8-2)
Court of Appeals Judge	\$ 213,900.00	105% of District Court Judge Salary (UCA §67-8-2)
Justices of the Supreme Court	\$ 224,050.00	110% of District Court Judge Salary (UCA §67-8-2)

Table 1 – FY24 Utah Elected Official and Judicial Salaries

## Commission Action

This year, the Commission held four public meetings, reviewed relevant statute, rules, and considered various sources of quantitative and qualitative data and information described below, all of which informed the Commission's analysis and recommendations herein.

The Commission's first 2023 meeting was held on June 20. David Clark was unanimously re-elected Chair of the Commission, and Meghan Holbrook was unanimously elected Vice Chair. David Connors had been appointed by the Executive Director of the Utah State Bar Association on June 9, 2023 to fill the remainder of former Commissioner Alba's term and attended this meeting as its newest member. The Commissioners reviewed the 2022 recommendations and results, reviewed their statutory responsibilities, and determined the scope of 2023 work to be done.

The Commission's second 2023 meeting was held on August 28. During this meeting, the Commissioners reviewed FY2024 salary information for elected officials and judges. John Barrand, Executive Director of Utah's Department of Human Resources Management (DHRM) presented data comparing the compensation of Utah's elected officials to various other positions. Both Executive Director Barrand and Dan Burton, General Counsel for the Utah Attorney General, answered questions from Commissioners related to wage differences in similar jobs across state, county, and municipality organizations. Finally, the Commission was addressed by Matthew B. Durrant, Chief Justice of the Utah Supreme Court, and Ron Gordon, Utah State Court Administrator. Chief Justice Durrant provided valuable information related to the effects of compensation increases on past, current, and potential future judicial vacancies, on the number of qualified applicants for those vacancies, and on the possibility of using "tiered" judicial salaries as a retention tool. Administrator Gordon and Chief Justice Durrant responded to Commissioner questions.

At the third 2023 meeting held on September 21, the Commission was extraordinarily fortunate to receive an economic forecast presentation from Dr. Andrea Wilko, Legislative Chief Economist. The Commissioners and Dr. Wilko then discussed the information she presented and their potential effects on total compensation for Utah's elected officials and state court judges. Finally, data received from DHRM on the actual cost of current elected official employee benefits was presented.

The Commission's fourth meeting of 2023 was held on October 12. Commissioner Connors shared data regarding the significant decline in not only the number of applicants for judicial vacancies over the last 15 years, but several types of qualitative data indicating an overall decline in the breadth and depth of work experience amongst those applicants. He acknowledged that while the goal of determining Utah State Court judge compensation is not to compete with private sector attorney salaries, we should nonetheless recognize the remarkable quality of Utah's Judiciary and the high regard in which it is held by judges and court administrators in virtually every other U.S. jurisdiction via the deliberate, ongoing consideration of meaningful compensation increases for the judiciary. Finally, he demonstrated that over the past several years, even including the judicial salary adjustment appropriated by the Legislature for FY24, these salaries have not kept pace even with the annual COLA adjustments of the Social Security Administration, resulting in no real compensation increase for our judiciary for many years.

## Part Two – Elected Officials

### The Commission's Recommendation for Elected Official FY25 compensation increase

The Commission considered the current salaries of Utah's five constitutional officer positions as compared to median wage data supplied by DHRM for equivalent jobs in 15 neighboring western states, in other U.S. states with populations similar to Utah's, to those in all U.S. states, and to similar positions in Utah's counties and municipalities and in private companies (Exhibit A). Apart from those amongst private sector organizations and a small number of similar public sector positions, Utah's constitutional officers are each currently compensated at higher rates than these comparables, which the Commission considers appropriate given the exceptionally high quality of work being performed by the people in these jobs.

Additionally, the Commission studied compensation rates for a wider selection of state government officials throughout the U.S. and its territories as supplied by the [Council of State Governments](#) (Appendix B) and Consumer Price Index (CPI) (Appendix D) information published by the Bureau of Labor Statistics while considering its recommendation. While U.S. inflation recently hit extremely high levels and remains above the Federal Reserve's 2% target rate, its rate of increase has stabilized somewhat and is expected to remain steady during the immediate future. Still, interest rates are stubbornly high and housing affordability is challenging for many amid record high prices and constrained supply. In consideration of the totality of these factors, the Commission is satisfied that the compensation for Utah's elected officials is appropriate.

**Recommendation One:** The Commission recommends the Legislature appropriate a cost-of-living adjustment (COLA) to the salaries of the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer equal to that appropriated for all other State of Utah employees within the Executive Branch.

## Part Three – The Judiciary

### The Commission's Recommendation for Utah's Judiciary FY25 compensation increase

The Commission gave careful consideration and engaged in substantial deliberation prior to arriving at its recommendation for the FY25 compensation increase for Utah's judges. It studied the information presented by Chief Justice Durrant and Administrator Gordon previously described, data and information presented by Commissioner David Connors during the Commission's fourth 2023 meeting, and data published by the National Center for State Courts (Appendix C). While the compensation of Utah's judges is amongst the top third of all U.S. states, the Commission will recommend that the Judiciary receive a market salary increase for FY24 in addition to the COLA increase appropriated for all State of Utah employees for several reasons. Utah's judicial branch remains understaffed; the current Weighted Caseload Analysis shows a shortage of at least ten judicial officers at the trial court level. This requires members of our judiciary to each be responsible for a far heavier caseload than is readily manageable, simply to keep that system moving forward. Additionally,

there is very unfortunately a safety risk to which judges expose themselves and their families; this risk was discussed by John G. Roberts, Jr., the Chief Justice of the U.S. Supreme Court in his [2022 Year-End Report on the Federal Judiciary](#). While Congress passed legislation in 2020 to help protect judges and their families, Justice Roberts asks us to support judges by being mindful of this risk they undertake. We must acknowledge the totality of these factors when considering potential adjustments to the compensation of Utah's judiciary.

**Recommendation Two:** The Commission recommends the Legislature appropriate a cost-of-living adjustment (COLA) equal to that appropriated for all other State of Utah employees and an additional market adjustment to *total* 10% of the salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record.

## Conclusion

The Elected Official and Judicial Compensation Commission reports that its statutory obligation to recommend to the Legislature salaries for the governor, the lieutenant governor, the attorney general, the state auditor, the state treasurer, the justices of the Supreme Court, and judges of the constitutional and statutory courts of record is complete. The Commission determined these recommendations after considering the factors outlined in Utah Code 67-8-5, Section 2, and hereby submits this report to the Executive Appropriations Committee.

## Appendix A: Elected Official Compensation & Benefits

<b>Median Wage Comparison</b>					
	<i>Governor</i>	<i>Lieutenant governor</i>	<i>Attorney general</i>	<i>Treasurer</i>	<i>Auditor</i>
Utah	\$182,900	\$164,610	\$173,755	\$164,610	\$164,610
15 Western States ONLY	\$122,837	\$104,719	\$137,806	\$111,956	\$120,490
Population - Within 1 mil.	\$143,694	\$90,767	\$119,898	\$101,083	\$115,204
All States	\$152,513	\$114,908	\$141,825	\$119,164	\$140,584
Local Counties and Cities	\$137,755	\$169,998	\$188,764	\$125,951	\$130,108
Local Private Companies	\$1,021,200	\$598,407	\$470,959	\$550,786	N/A

The Legislature fixes benefits for the constitutional offices as follows:

- (a) governor:
  - (i) a vehicle for official and personal use;
  - (ii) housing;
  - (iii) household and security staff;
  - (iv) household expenses;
  - (v) retirement benefits as provided in [Title 49, Utah State Retirement and Insurance Benefit Act](#);
  - (vi) health insurance;
  - (vii) dental insurance;
  - (viii) basic life insurance;
  - (ix) workers' compensation;
  - (x) required employer contribution to Social Security;
  - (xi) long-term disability income insurance; and
  - (xii) the same additional state paid life insurance available to other noncareer service employees; and
- (b) lieutenant governor, attorney general, state auditor, and state treasurer:
  - (i) a vehicle for official and personal use;
  - (ii) the option of participating in a:
    - (A) state retirement system in accordance with [Title 49, Utah State Retirement and Insurance Benefit Act](#):
      - (I) [Chapter 12, Public Employees' Contributory Retirement Act](#);
      - (II) [Chapter 13, Public Employees' Noncontributory Retirement Act](#); or
      - (III) [Chapter 22, New Public Employees' Tier II Contributory Retirement Act](#); or
    - (B) deferred compensation plan administered by the State Retirement Office, in accordance with the Internal Revenue Code and its accompanying rules and regulations;
  - (iii) health insurance;
  - (iv) dental insurance;
  - (v) basic life insurance;
  - (vi) workers' compensation;
  - (vii) required employer contribution to Social Security;
  - (viii) long-term disability income insurance; and
  - (ix) the same additional state paid life insurance available to other noncareer service employees.

## Appendix B: Selected Executive Branch Salaries – all U.S. States

EXECUTIVE BRANCH										
Selected State Administrative Officials: Annual Salaries										
State or other jurisdiction	Governor	Lieutenant governor	Attorney general	Treasurer	Auditor	Corrections	Economic development	Higher education	Revenue	Transportation
Alabama	124,563	70,030	165,381	88,915	88,405	169,859	(a-12)	264,199	169,664	193,526
Alaska	145,000	114,991	169,708	193,262	197,308	141,160	(a-12)	341,385	141,160	149,392
Arizona	95,000	(a-2)	90,000	70,000	130,000	195,000	(a-12)	147,000	170,000	150,000
Arkansas	158,739	46,705	146,355	95,694	95,694	154,358	159,954	182,822	145,642	243,490
California	218,556	163,910	189,841	174,843	227,179	294,792	N.O.	352,728	222,712	209,100
Colorado	90,000	164,009	107,676	93,360	188,808	180,360	159,650	164,436	175,104	180,360
Connecticut	150,000 (d)	110,000	110,000	110,000	197,050	167,500	(a-12)	235,463	185,000	240,000
Delaware	171,000	83,884	152,891	122,285	118,300	155,130	N.O.	118,252	133,250	146,136
Florida	134,181	128,597	132,841	(a-24)	145,236	175,000	160,000	200,000	155,530	200,000
Georgia	175,000	91,609	139,169	185,000	175,008	163,200	188,700	150,025	175,000	450,000
Hawaii	165,048	162,552	162,552	(a-10)	154,812	154,812	154,812	395,004	154,812	154,812
Idaho	138,302	48,406	134,000	117,557	147,992	169,624	(a-12)	165,630	144,622	225,410
Illinois	184,758	141,600	163,200	141,600	178,800	180,000	(a-12)	214,800	170,400	180,000
Indiana	134,051	105,062	110,325	91,707	91,707	179,834	(d)	220,000	158,639	162,500
Iowa	130,000	103,212	123,669	103,212	103,212	154,300	154,300	N.O.	154,300	154,300
Kansas	110,707	154,313	98,901	86,003	N.O.	140,000	150,000	250,000	123,000	117,875
Kentucky	152,181	129,375	129,375	129,375	129,375	125,000	136,000	360,000	115,000	136,000
Louisiana	130,000	115,003	115,000	115,000	151,736	150,391	237,500	382,200	193,446	194,584
Maine	70,000	(e)	127,566	101,130	103,210	152,693	152,693	N/A	142,938	152,693
Maryland	180,000	149,500	149,500	149,500	N.O.	180,919 (b)	198,101 (b)	180,094 (b)	148,559 (b)	199,366 (b)
Massachusetts	185,000	165,000	185,378	189,560	190,989	169,371	178,159	243,734	177,735	178,159
Michigan	159,300	111,510	112,410	187,569	189,322	187,569	(a-32)	N.O.	145,830	175,134
Minnesota	127,629	82,959	121,248	(a-24)	108,485	150,002	150,002	408,429	154,992	154,992
Mississippi	122,160	60,000	108,960	90,000	90,000	132,000	180,000	300,000	145,000	160,000
Missouri	137,167	88,646	119,348	110,440	110,440	138,973	129,132	195,907	143,565	263,505
Montana	118,397	90,140	145,566	(a-6)	100,545	144,040	N/A	333,054	130,000	130,000
Nebraska	105,000	75,000	95,000	85,000	85,000	260,863	208,693	203,597	174,574	160,000
Nevada	163,474 (d)	69,563	154,198	112,462	N.O.	143,779	N/A	N/A	143,779	143,779
New Hampshire	144,483	(e)	132,820	119,017	N.O.	140,458	(a-12)	94,357	140,058	139,759
New Jersey	175,000	175,000	175,000	175,000	160,415	175,000	225,000	175,000	147,200	175,000
New Mexico	110,000	85,000	95,000	85,000	85,000	158,340	158,340	158,340	158,340	158,340
New York	250,000	220,000	220,000	188,231	(a-14)	203,339	(a-12)	(a-18)	205,000	220,000
North Carolina	165,750	146,421	146,421	146,421	146,421	195,082	134,334	N/A	164,992	234,548
North Dakota	140,830	109,536	165,630	112,241	112,238	168,288	133,320	383,760	121,814	179,361
Ohio	168,106	181,418	124,176	124,176	124,176	170,290	157,477	200,741	163,800	163,800
Oklahoma	147,000	114,713	132,825	114,713	114,713	185,000	N.O.	415,000	190,000	185,000
Oregon	98,600	(a-2)	82,220	77,000	208,212	226,932	(a-13)	223,068	205,788	226,932
Pennsylvania	213,026	178,940	177,237	177,237	177,237	170,419	161,899	161,253	161,899	170,419
Rhode Island	145,755	122,583	130,413	122,740	180,205	155,250	185,000 (j)	190,000	N.A.	155,000
South Carolina	106,078	46,545	92,007	92,007	165,872	250,000	(a-12)	204,111	196,311	298,000
South Dakota	121,578	106,496	121,450	97,185	97,185	131,733	179,200	329,280	134,848	134,848
Tennessee	204,336	72,948 (e)	199,332	222,252	(a-14)	171,744	179,688	208,080	173,760	171,744
Texas	153,750	7,200	153,750	(a-14)	220,000	275,501	201,000	299,813	(a-14)	344,000
Utah	165,600	149,040	157,320	149,040	149,040	160,680	160,680	N.O.	143,478	171,683
Vermont	191,734	81,390	145,579	121,576	121,576	135,200	127,650	N.O.	136,781	154,461
Virginia	175,000	36,321	150,000	190,217	208,087	203,036	N/A	220,056	181,635	185,567
Washington	187,353	117,300	172,259	153,615	132,212	214,104	N.O.	N.O.	188,028	214,104
West Virginia	150,000	20,000 (e)	95,000	95,000	95,000	90,000	(a-13)	291,379	95,000	120,000
Wisconsin	152,756	80,684	148,242	72,551	143,062	152,755	N.A.	499,121	152,755	152,755
Wyoming	105,000	(a-2)	177,000	92,000	92,000	150,628	(a-12)	165,000	130,000	158,000

Source: The Council of State Governments' prepublished 2022 Book of the States data received on October 16, 2023. Full set of data and key available from EJCC staff upon request.



## Appendix C: Judicial Salaries and Rankings, Alphabetically by Jurisdiction Name

The table below lists the salaries and rankings for associate justices of the courts of last resort, associate judges of intermediate appellate courts and judges of general jurisdiction trial courts. Salaries are ranked from highest to lowest, with the highest salary for each position having a rank of “1.” The lowest salary has a rank of 56, except for the intermediate appellate courts, which only exist in 42 jurisdictions. The adjustment factor for general jurisdiction courts is available for 52 of the jurisdictions. Salaries are as of July 1, 2023.

	Court of Last Resort		Intermediate Appellate Court		General Jurisdiction Court		General Jurisdiction Court <i>Adjusted for Cost-of-Living Index</i>		
	Salary	Rank	Salary	Rank	Salary	Rank	Factor	Salary	Rank
Alabama	\$185,640	33	\$184,579	24	\$148,512	50	93.1	\$159,564	33
Alaska	\$215,436	19	\$203,522	16	\$199,193	16	131.9	\$151,003	42
American Samoa	\$140,000	54	Not Applicable		\$66,075	56	Not Available		
Arizona	\$205,000	25	\$190,000	22	\$164,700	34	102.5	\$160,728	31
Arkansas	\$203,625	26	\$197,596	20	\$192,919	21	90.6	\$212,966	4
California	\$282,177	1	\$264,542	1	\$231,174	3	134.9	\$171,356	24
Colorado	\$209,616	23	\$201,312	19	\$193,008	20	111.1	\$173,761	22
Connecticut	\$216,063	18	\$202,957	17	\$195,167	18	126.5	\$154,233	36
Delaware	\$212,315	22	Not Applicable		\$199,612	15	109.9	\$181,641	16
District of Columbia	\$246,600	4	Not Applicable		\$232,600	2	159.5	\$145,814	43
Florida	\$251,414	3	\$212,562	11	\$191,163	23	101.3	\$188,661	11
Georgia	\$186,112	32	\$184,990	23	\$183,892	24	93.4	\$196,987	8
Guam	\$160,454	51	Not Applicable		\$144,110	52	Not Available		
Hawaii	\$237,684	7	\$220,800	6	\$215,100	6	149.6	\$143,793	46
Idaho	\$165,212	48	\$157,212	40	\$151,212	47	99.8	\$151,585	41
Illinois	\$271,379	2	\$255,419	2	\$234,380	1	99.8	\$234,766	1
Indiana	\$214,586	20	\$208,594	14	\$178,168	26	95.5	\$186,505	14
Iowa	\$187,326	30	\$169,765	33	\$158,056	41	97.7	\$161,716	30
Kansas	\$168,598	46	\$163,156	37	\$148,912	48	98.2	\$151,648	40
Kentucky	\$165,097	49	\$158,536	39	\$152,004	46	92.4	\$164,449	28
Louisiana	\$193,227	28	\$180,807	27	\$173,788	29	97.3	\$178,636	17
Maine	\$155,397	52	Not Applicable		\$145,642	51	116.9	\$124,564	51
Maryland	\$216,433	17	\$203,633	15	\$194,433	19	126.6	\$153,529	37
Massachusetts	\$226,187	12	\$213,924	9	\$207,855	10	132.4	\$157,006	35
Michigan	\$181,483	38	\$182,656	25	\$168,759	33	91.2	\$185,134	15
Minnesota	\$206,668	24	\$194,738	21	\$182,805	25	102.4	\$178,464	19
Mississippi	\$173,800	43	\$168,467	34	\$158,000	42	88.5	\$178,576	18
Missouri	\$196,926	27	\$180,018	28	\$169,798	31	90.6	\$187,442	13
Montana	\$162,503	50	Not Applicable		\$148,872	49	103.9	\$143,266	47
Nebraska	\$212,316	21	\$201,701	18	\$196,393	17	100.9	\$194,596	9
Nevada	\$170,000	45	\$165,000	35	\$160,000	38	112.2	\$142,640	48
New Hampshire	\$179,942	39	Not Applicable		\$168,761	32	121.3	\$139,114	49
New Jersey	\$221,855	15	\$211,319	13	\$200,163	14	121.3	\$164,968	27
New Mexico	\$191,683	29	\$182,099	26	\$172,994	30	100.3	\$172,439	23
New York	\$233,400	8	\$222,200	5	\$210,900	9	112.3	\$187,863	12
North Carolina	\$167,807	47	\$160,866	38	\$152,188	45	95.2	\$159,821	32
North Dakota	\$179,312	40	Not Applicable		\$164,532	35	108.0	\$152,348	38
Northern Mariana Islands	\$126,000	55	Not Applicable		\$120,000	54	Not Available		
Ohio	\$184,575	37	\$172,034	32	\$158,206	40	92.4	\$171,204	25
Oklahoma	\$173,469	44	\$164,339	36	\$156,732	43	93.2	\$168,097	26
Oregon	\$176,724	41	\$173,316	31	\$163,476	37	118.9	\$137,514	50
Pennsylvania	\$244,793	5	\$230,974	3	\$212,495	8	102.1	\$208,112	5
Puerto Rico	\$120,000	56	\$105,000	42	\$89,600	55	100.0	\$89,600	52
Rhode Island	\$230,343	10	Not Applicable		\$223,031	4	128.1	\$174,078	21
South Carolina	\$223,987	14	\$218,387	7	\$212,987	7	98.9	\$215,405	3
South Dakota	\$186,770	31	Not Applicable		\$174,448	28	99.7	\$174,930	20
Tennessee	\$219,144	16	\$211,860	12	\$204,552	11	92.3	\$221,720	2
Texas	\$184,800	35	\$178,400	29	\$154,000	44	96.5	\$159,507	34
Utah	\$224,050	13	\$213,900	10	\$203,700	12	103.4	\$197,001	7
Vermont	\$184,771	36	Not Applicable		\$175,654	27	121.2	\$144,945	45
Virgin Islands	\$226,564	11	Not Applicable		\$191,360	22	Not Available		
Virginia	\$232,748	9	\$214,786	8	\$203,540	13	102.5	\$198,657	6
Washington	\$239,868	6	\$228,338	4	\$217,391	5	114.9	\$189,265	10
West Virginia	\$149,600	53	\$142,500	41	\$138,600	53	95.5	\$145,167	44
Wisconsin	\$184,819	34	\$174,366	30	\$164,487	36	100.2	\$164,161	29
Wyoming	\$175,000	42	Not Applicable		\$160,000	38	105.3	\$152,006	39

Source: [National Center for State Courts](#)

## Appendix D: Consumer Price Index (CPI), West Region, September 2023

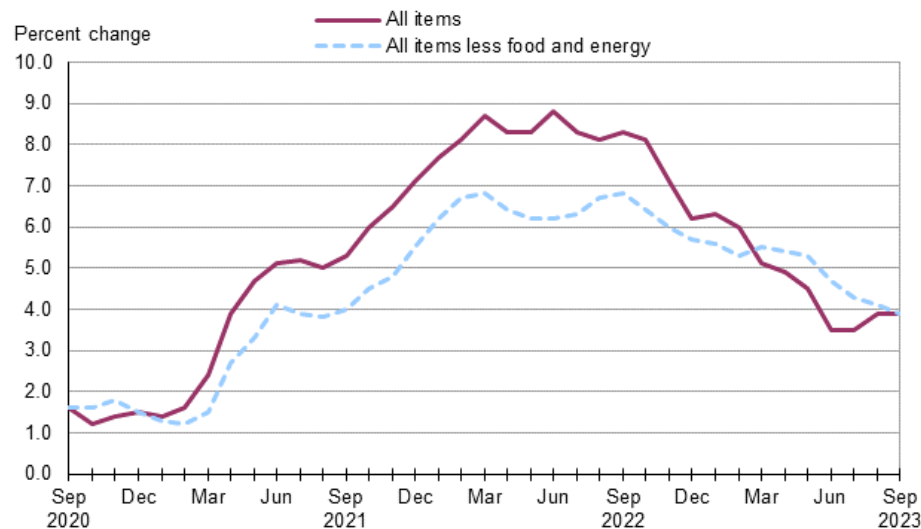
### Consumer Price Index, West Region — September 2023

**Area prices were up 0.4 percent over the past month, up 3.9 percent from a year ago**

Prices in the West Region, as measured by the Consumer Price Index for All Urban Consumers (CPI-U), increased 0.4 percent in September, the U.S. Bureau of Labor Statistics reported today. (See [table A](#).) The September increase was influenced by gasoline and shelter. (Data in this report are not seasonally adjusted. Accordingly, month-to-month changes may reflect seasonal influences.)

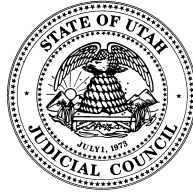
Over the last 12 months, the CPI-U advanced 3.9 percent. (See [chart 1](#) and [table A](#).) Food prices increased 3.8 percent. Energy prices advanced 5.1 percent, largely the result of an increase in the price of electricity. The index for all items less food and energy increased 3.9 percent over the year. (See [table 1](#).)

**Chart 1. Over-the-year percent change in CPI-U, West region, September 2020–September 2023**



Source: U.S. Bureau of Labor Statistics.

Tab 8



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 13, 2023

Ronald B. Gordon, Jr.  
State Court Administrator  
Neira Siaperas  
Deputy State Court Administrator

## MEMORANDUM

**TO:** The Judicial Council

**FROM:** Alyson McAllister, Lauren Shurman, and Jace Willard

**RE:** Annual Report on the Model Utah Civil Jury Instructions Committee

The Judicial Council's Standing Committee on the Model Utah Civil Jury Instructions (MUJI-Civil) is comprised of district judges, attorneys primarily representing plaintiffs, attorneys primarily representing defendants, and a linguist. This year, a few changes were made to the membership of the Committee. The Committee has a new plaintiff's attorney member and two new defense attorney members. The current membership list is as follows:

Last	First	Role
Eggington	William	Linguist
Harman	Stewart	Defendant
Holmberg	Kent	Judge
Kelly	Keith	Judge
Lichfield	Michael	Defendant
Macfarlane	John	Plaintiff
McAllister	Alyson	Plaintiff, <i>Chair</i>
Morris	Mark	Defendant
Mortensen	Douglas	Plaintiff
Shelton	Ricky	Plaintiff
Shurman	Lauren	Defendant, <i>Vice Chair</i>
Wentz	Adam	Recording Secretary
Willard	Jace	Staff

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

Utah Code of Judicial Administration [Rule 1-205](#) provides for the establishment of the MUJI-Civil Committee, and [Rule 3-418](#) sets out the Committee's charge. For reference, the Committee's meeting materials are posted [here](#), and the completed instructions are found [here](#). Over the last year, the Committee has discussed several sets of jury instructions including:

- *Avoiding Bias*: The Committee continued its work from the previous year on an instruction addressing juror bias that was initially suggested by the Judicial Council. Judge Kelly presented the draft instruction to the Board of District Court Judges, which was supportive of the instruction and suggested some revisions. The Committee approved a final version of the instruction incorporating these revisions.
- *Minimum Injury Requirements*: A case law update was presented to the Committee on the previously published Threshold Injury instruction. Amendments to this instruction and four new related instructions were made to reflect updates to the law.
- *Remote Testimony*: The now-commonplace appearance of witnesses by virtual means prompted a draft instruction on this subject. The Committee approved a new instruction providing that witness testimony may not be discounted solely because it was given remotely.
- *Present Cash Value*: A case law update was presented to the Committee on the previously published Present Cash Value instruction. Amendments to the Committee Notes to this instruction were made to reflect the update to the law.
- *Easement by Necessity*: The Committee is fortunate to have the continued assistance of a dedicated subcommittee working on instructions for real property disputes. This year, the subcommittee presented three sets of draft easement instructions. The Committee approved a final draft of the Easement by Necessity instructions.
- *Easement by Implication*: The subcommittee working on instructions for real property disputes also presented draft instructions on Easement by Implication. The Committee has approved a final draft of these instructions.
- *Prescriptive Easement*: That same subcommittee also presented draft Prescriptive Easement instructions. The Committee continues to work on these instructions, which should be finalized by the end of this year or early next year.

Other instructions are pending in subcommittees. One working group has circulated draft Assault/False Arrest instructions. They are scheduled to present these instructions to the Committee early next year. The Committee is also working with subcommittees engaged in drafting instructions on Insurance, Wills and Probate, Directors and Officers Liability, and Product Liability.

Lastly, at the suggestion of Professor William Eggington and some of his professional linguist colleagues, the Committee has recently formed a Linguistics and Law subcommittee to identify instructions in need of plain-language revision and propose more juror-friendly language to potentially problematic instructions. The Committee expects that this subcommittee will be active in the year ahead and help to make Utah's model civil jury instructions more accessible than ever.

The Committee looks forward to continuing its important work in the new year and welcomes any thoughts or guidance from the Council members.

Tab 9

UTAH STATE COURTS



# Utah Treatment Court

2023 and Beyond!



# UTAH STATE COURTS



## A Year in Review

- Facilitated 28 treatment courts site visits and technical assistance/training events
- Observed and Reviewed the Certification Process with Senior Judge Fuchs
- Participated in four national trainings for statewide coordinators
- Elected to the board for the Council for Statewide Treatment Court Coordinators
- Rise23 Conference
  - Funded 26 court staff to attend the conference

# UTAH STATE COURTS



## Status of Treatment Courts

Adult Drug Courts - 26

Adult Mental Health Courts - 12

Family Recovery Court - 15

Family Support Court - 2

Hybrid Drug/DUI - 1

Juvenile Drug Court - 4

Juvenile Mental Health Court - 4

Veteran Treatment Court - 2

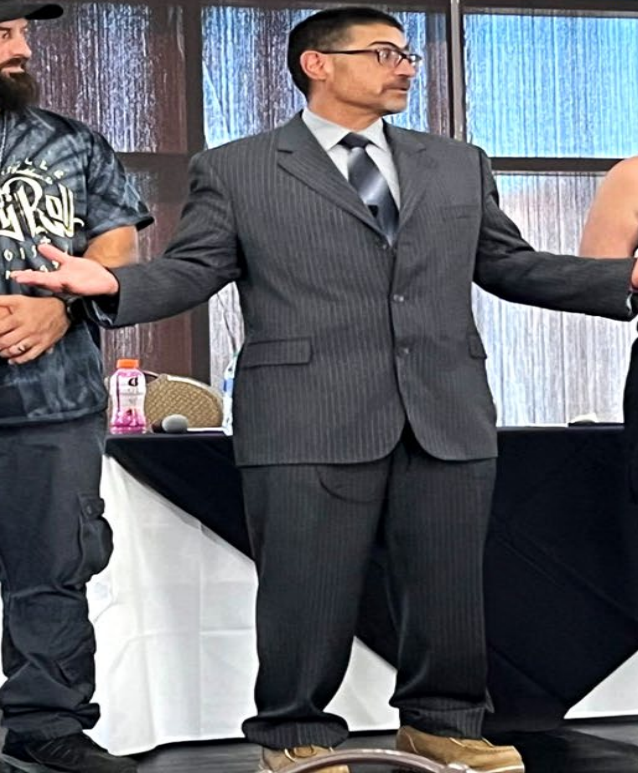
Total: 66 Treatment Courts

# UTAH STATE COURTS



## 2023 Treatment Court Conference

- Funded and Planned by the Office of Substance Use and Mental Health and the Administrative Office of the Courts
- 350 Attendees
- 9 National Presenters
- Breakouts by Court Type
- Plenary sessions included topics on medical cannabis, drug testing, team ethics, best practices, compassion fatigue, alumni groups, implicit bias and a graduate panel



# UTAH STATE COURTS



## 2019 Problem Solving Court Report

### Top Three Priorities

- 1) Hiring a full-time statewide problem solving coordinator as soon as possible and support staff to assist with evaluation, training and certification;
- 2) Creating a statewide problem solving court coordinating committee;
- 3) Obtaining additional court FTEs to serve as local problem solving court coordinators.



# UTAH STATE COURTS

## **Priority #2 Create a Statewide Problem Solving Court Coordinating Committee**

A standing committee consisting of judges, local coordinators from various districts and court types, along with representation from local and state stakeholders, would report to the Council.

Focus on the primary goals of statewide coordination:

- Quality Assurance
- Training
- Funding
- Research and Evaluation
- Technology
- Advocacy



# UTAH STATE COURTS



## Goals for 2024

- Develop the Statewide Problem Solving Court Committee
- Hire a part-time treatment court certification specialist
- Review and enhance the certification process
- Create an interactive map of treatment courts
- Add training resources for treatment courts to the courts website
- Research mentor courts and consider implementation in Utah
- Facilitate and coordinate training for treatment court teams, as requested

# UTAH STATE COURTS



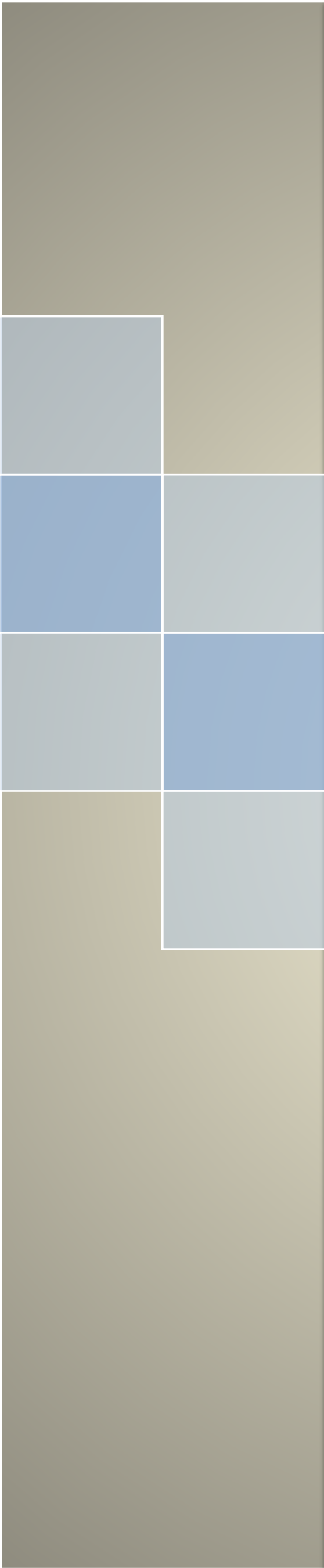
Katy (Burke) Collins

[katyb@utcourts.gov](mailto:katyb@utcourts.gov)

406-591-9713 (cell)

801-578-3893- (work)





# Inventory and Recommendations Concerning Coordination and Certification of Problem Solving Courts in Utah

**A Report to the Judicial Council**

11/25/2019



## **Problem Solving Court Inventory Work Group**

District Court Judge Jeffrey Wilcox (5th District Adult Drug Court)

Juvenile Court Judge Mark May (3rd District Dependency Drug Court)

Kay Allen, Probation Officer and Family Drug Court Coordinator (4th District Juvenile Court)

Melissa Granillo-Sanchez, Specialty Courts Program Coordinator (3rd District Juvenile Court)

Neira Siaperas, Juvenile Court Administrator

Shane Bahr, District Court Administrator

Wendell Roberts, Trial Court Executive (6th Judicial District)

(Sr. Judge Dennis Fuchs served as a consultant to the work group)

## **Purpose of Inventory**

On March 8, 2019 members of the Judicial Council engaged in a discussion concerning coordination and certification of Problem Solving Courts (PSC) in the State of Utah. As a result of their discussion the Council requested a small workgroup be created and given the charge to conduct an inventory of PSC coordination and certification. In addition, the Judicial Council asked the work group to provide recommendations regarding Utah problem solving court coordination and certification.

## **Current Status and Brief History of Utah Problem Solving Courts**

As of November 1, 2019 there were 68 certified problem solving courts in the state and two new court applications pending approval<sup>1</sup>. The first adult drug court in Utah was established in 1996 and for many years statewide coordination of drug court and other problem solving courts rested with Rick Schwermer and Sr. Judge Dennis Fuchs. Prior to Rick's retirement in January, 2019, in addition to many other key responsibilities; he served as the primary contact for problem solving courts in Utah. Sr. Judge Dennis Fuchs has worked as a part-time contract court employee whose primary task has been to coordinate the certification process of problem solving courts around the state.

Coordination at the local level varies<sup>2</sup> from court to court. Some courts spread coordinating duties among various team members while other courts identify a primary coordinator who is responsible for coordinating duties in addition to their other full-time job.

Drug Court is based on evidence based practices and the process of ensuring Utah's Problem Solving Courts meet best practices has been an evolving process. In 2004, the Judicial Council first adopted minimum guidelines for drug courts. In 2007, the Judicial Council adopted a rule to provide increased consistency and quality control over the State's drug courts. Both Rick Schwermer and Sr. Judge Dennis Fuchs were involved with a nationwide committee to write the National Best Practice Standards and in 2012 these best practices became the basis for the formal certification process in place today. The process for certification has also been an evolving process. The first two years of visits were largely educational. Visits now are more compliance oriented with Judge Fuchs ensuring that Courts are in compliance with all required best practice standards in order to be recertified. Efforts to ensure that all Courts are in compliance are limited by current resources. At present, Sr. Judge Fuchs is the only resource to monitor compliance and to offer technical assistance throughout the state.

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<sup>1</sup> Appendix A

<sup>2</sup> Appendix B

## **Inventory**

Information about local PSC coordination, statewide PSC coordination and certification was collected through an online survey of judges who preside over problem solving courts.

According to the information collected through the judge survey, coordination duties are generally shared among multiple team members. Of the thirty-five judges who responded to the survey, 74% report having a single person assigned to coordinate the day to day operations of the court. Depending on the court type and location of the court, coordination duties are completed by various team members. In some courts it appears the treatment representative takes the lead on coordination efforts, while in other courts coordination duties may fall the judge, probation officer, prosecutor, or a judicial assistant who also manages large civil and/or criminal calendars. Only two courts report having dedicated problem solving court coordinators whose primary responsibility it is to manage the drug court coordination in their respective court(s).

A majority of judges report there are certain aspects of coordination in their local courts that work well and indicate there is good collaboration and support among team members. Judges praise the work of the team they work with and recognize their dedication to the court and to the PSC participants.

When asked what is not working well with local court coordination, some the response included delays in getting clients into drug court, a lack of identifying and coordinating resources, ineffective communication about client status, inadequate case management, lack of treatment reports, inability to update and maintain handbooks and policies and procedures, and a lack of data collection and program evaluation.

Turn-over among judges, court staff and other stakeholders who were instrumental in establishing problem solving courts over the years makes it extremely difficult to stay consistent and retain fidelity to the problem solving court model; especially when duties are shared among team members. Some judges suspect only minimum coordinating duties are being completed. There is a sense that a piecemeal approach may meet the minimum standards, but does not afford a problem solving court team the ability to evaluate and make enhancements to the programs when and where needed.

Judges were asked about whether or not statewide coordination was meeting the needs of their local courts. 31.5% agreed that statewide coordination was meeting their needs; 34.3% were neutral, and the remaining 34.2% reported statewide coordination was not meeting the needs of their court. Several judges report the only state coordination received is through the statewide conference which is held every-other year and through the recertification process required every two years. Judges who preside over problem solving courts other than adult drug court voiced concern that coordination and assistance afforded to mental health court, DUI court, juvenile courts, veterans court etc. is lacking.

When asked what improvements could be made to statewide coordination, a few responses were:

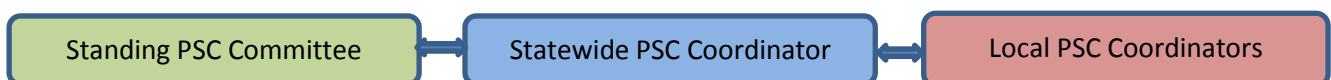
- Better communication and support and resources.
- More communication among problem solving courts, data collection/sharing, etc.
- A statewide coordinator focused on getting information to individual courts.
- Seeking out our (local court) input and needs.
- Include leadership from the juvenile court in the coordination duties. Acknowledge and have an open discussion about the competing interests and best practices of child welfare mandates and problem solving court mandates and how to provide fidelity to each.
- More direction on required policies and procedures and also providing resources for treatment and drug testing.

The workgroup, with assistance with the Center for Court Innovation, surveyed other states about how they structure state coordination, local coordination, and certification<sup>3</sup>. Of the fourteen states who responded with information, thirteen of the states report having at least one dedicated statewide PSC coordinator. All reporting states indicated some level of local coordination of each state. Some states divide the coordination duties among team members. However, the majority have dedicated court employees who serve as local coordinators.

## Recommendations

Through the process of reviewing results of in-state and out-of-state surveys and other written materials specific to problem solving court coordination the PSC work group believes a more structured and robust coordinating approach at the state and local level needs to be implemented. By implementing a more supportive structure problem solving courts will be better equipped to maintain fidelity to the evidence based principles of the problem solving court model. As a result we will deliver more effective services to problem solving court participants and reduce the risk of doing harm to those participating in problem solving courts.

The structure recommended by the work group consists of: 1) hiring a full-time statewide problem solving coordinator and support staff to assist with evaluation, training and certification; 2) creating a statewide problem solving court coordinating committee; 3) obtaining additional court FTEs to serve as local problem solving court coordinators.



It is recommended that the full-time coordinator position be created as soon as possible and convene the statewide Standing PSC Committee with a charge to evaluate the actual number of local PSC coordinators needed throughout the state. Based on information received from other states it is anticipated there is a minimum need of 8 -10 FTE to coordinate local courts. Local

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<sup>3</sup> Appendix C

PSC Coordinator positions may be full-time or part-time based on the need of the region or judicial district.

## **1. Statewide Problem Solving Court Coordinating Committee**

The PSC workgroup recommends the creation of a Statewide Problem Solving Court Coordinating Committee. Ideally, this committee will report to the Judicial Council and membership of this committee would consist of judges, local coordinators from various districts and court types, along with representation from local and state stakeholders. This committee will focus on the primary goals of statewide coordination<sup>4</sup> which include:

- Quality Assurance
- Training
- Funding
- Research and Evaluation
- Technology
- Advocacy

The Judicial Council may consider delegating a portion or all certification approval duties to this committee. The Council may also want to consider establishing the Problem Solving Court Coordinating Committee in the near future; prior to allocation of funds for statewide and local coordinators.

## **2. Statewide Problem Solving Court (PSC) Coordinator**

To achieve the goals of statewide coordination most state courts employ at least one dedicated statewide problem solving court coordinator to work with the statewide coordinating committee and local problem solving court coordinators along with problem solving court teams. For example- Idaho has 71 problem solving courts and employs one full-time statewide coordinator. Colorado has three full-time state-wide coordinators to work with 80 problem solving courts.

The work group recommends that the council seek funding for at least one full-time problem solving court coordinator. Responsibilities of Statewide PSC Coordinators vary from state to state depending on need, court structure and size/number of problem solving courts in the state. Of the states that responded to our request for information, primary duties of the Statewide PSC Coordinator may include:

- Providing technical assistance to local courts by assisting judges and local coordinators find answers to emerging issues about local resources and team dynamics
- Serving as staff to the Standing PSC Committee
- Assisting with solicitation and allocation of state/grant funds
- Providing quality assurance of best practices, including certification
- Enhancing case management, data collection, and statewide evaluation
- Collaborating with other statewide stakeholders on sustainability and enhancement matters

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<sup>4</sup> Appendix D

- Functioning as the subject matter expert re: problem solving courts
- Serves as the liaison with national PSC organizations; collects and disseminates information
- Identifies potential impact on the judiciary from proposed legislation and initiatives
- Provides statewide and local technical assistance and training

The next phase of Medicaid Expansion in Utah is scheduled to go into effect on January 1, 2020. Medicaid expansion will drastically impact those who are eligible to participate in problem solving courts. In order to communicate the changes to process and to maximize the impact that Medicaid Expansion can have on the problem solving court participants, it is essential to enhance PSC coordination in order to relay accurate and timely information from state agencies to the local courts.

### **3. Local Problem Solving Court Coordinators**

Local Problem Solving Court Coordinators serve as the “hub” of the local problem solving court team(s). Information provided by other states indicates that most local coordinators are court employees. While there are states that have local coordinators who are not court employees and report being successful, other states report they have had non-court employees as coordinators in the past, but do not believe it is as effective as having the local PSC coordinator position filled by a dedicated court employee.

The number of local coordinators needed throughout the state will depend upon the size of the court served and geography of the respective judicial district or region. Depending on the circumstances and duties assigned, a PSC coordinator may coordinate multiple courts or may coordinate a single small court in addition to other court duties. As an example, Minnesota has 65 problem solving courts and has 40-45 local coordinators to work with these courts. Idaho has one supervising coordinator in each of their seven districts in addition to other region coordinators who coordinate one or many courts.

Some of the local PSC Coordinator duties may include, but are not limited to:

- Overseeing the day to day operation of the program
- Adhering to certification standards
- Training of interdisciplinary team and local committee members regarding certification standards and other evidence based practices
- Collaborating and promote problem solving courts with community partners
- Data collection and program evaluation
- Writing and maintain policy and procedures, and participant handbooks
- Serving as staff to local problem solving court steering committee and assisting with Alumni groups
- Managing contracts, writes and manages grant and state funds as necessary
- Actively participates in team staff meetings
- Meeting with potential participants for screening and processes applications – Case management

- Serving as the liaison between local courts and state PSC Committee and State Coordinator
- Coordinating drug testing options
- Gathering participant progress reports and disseminates information to team members
- Acting as arbitrator to resolve team disputes and conflicts and they arise
- Consulting with the problem solving court judges on a wide range of organizational and managerial issues

## **Funding and Implementation**

There are not dedicated funds presently allocated to support problem solving court coordination. In order to implement the recommendations in this report there will have to be additional resources allocated for the Statewide PSC Coordinator and Local PSC Coordinator positions. Since the timing of this report does not allow the Council time to prioritize a request for funding from the upcoming legislature, the workgroup recommends applying for federal grant funds as soon as possible. If grant funding is not awarded in the next round of grant funding opportunities, we recommend submitting a Building Block to be prioritized as a request to the 2021 legislature.

## **Certification**

Rule 4-409 - Council Approval of Problem Solving Courts, outlines the requirements to operate a problem solving court. As such, a problem solving court must initially be certified by the Judicial Council prior to beginning operations and then be recertified every two-years. In many ways, Utah is a leader when it comes to problem solving court certification. Of the 13 states that responded to our request for information concerning certification, only four states report having a certification process.

According to the feedback the workgroup received from judges, a fair number reported that the current certification process is effective and meets the goal of increasing fidelity to the problem solving court model. Others reported the current process is based on the honor system and there isn't a true audit of court processes, drug testing, treatment, and other key components. Another observation is that the current process outlines the requirement for fidelity to the model and is effective in that regard. However, reports from judges indicate there isn't a lot of feedback or assistance to problem solving courts. There needs to be more follow up, better consistency and feedback about, and after, the certification process.

Most judges acknowledge that the current certification process has value. The primary concern is that the current process needs to be enhanced and there needs to be additional resources dedicated to this effort. With nearly 70 problem solving courts throughout the state, the PSC workgroup does not believe a single part-time position has enough time to adequately assess and provide feedback to all problem solving courts in the state. As such, the workgroup recommends additional FTEs, to assist a full-time State PSC Coordinator enhance the services afforded to problem solving courts through the certification process.

The PSC Work Group appreciates the opportunity to submit the recommendations to the Judicial Council regarding statewide coordination, local coordination and certification. Based on the



research and information provided by judges and other state PSC coordinators we believes the recommendations made in this report, if implemented, will benefit the court, partnering agencies, communities, and most importantly the families and individuals who participate in problem solving court.

# Appendix

Appendix A.....	Certified Problem Solving Courts
Appendix B.....	Survey of Judges
Appendix C.....	Survey of Other State PSC Coordination and Certification
Appendix D.....	“Statewide Coordination of Problem Solving Courts: A Snapshot of Five States”

# APPENDIX

## A

# CERTIFIED PROBLEM SOLVING COURTS

## 2019

### Adult Drug Courts

County	City	Judge
Weber	Ogden	Bean
Weber	Ogden	DiReda
Davis	Farmington	Morris
Davis	Farmington	Morris
Tooele	Tooele	Gibson
Wasatch	Heber	Brown
Juab	Nephi	Howell
Millard	Fillmore	Howell
Iron	Cedar City	Barnes
Washington	St. George	Wilcox
Grand	Moab	Manely
Cache	Logan	Willmore
Box Elder	Brigham City	Maynard
Weber	Riverdale	(Justice)
Salt Lake	Salt Lake City	Scott
Salt Lake	Salt Lake City	Skanchy
Salt Lake	Salt Lake City	Blanch
Salt Lake	Salt Lake City	Shaughnessy
Salt Lake	West Jordan	Hogan
Summit	Park City	Corum
Utah	Provo	Taylor
Utah	Provo	Eldridge
Sevier	Richfield	Bagley
Sanpete	Manti	Keisel
Kane	Kanab	Lee
Uinta	Vernal	McClellan
Carbon	Price	Hammond
Emery	Castle Dale	Thomas
Grand	Moab	Manley
San Juan	Monticello	Torgerson
Adult Mental Health Court		
Cache	Logan	Fonnesbeck
Box Elder	Brigham City	Cannell
Davis	Farmington	Kay
Salt Lake	Salt Lake City	Brereton
Salt Lake	Salt Lake City	Trease

Salt Lake	West Valley	Gillmore (Justice)
Washington	St. George	Leavitt
Utah	Provo	Brady
Iron	Cedar City	Little
Washington	St. George	Westfall
Box Elder	Brigham City	Cannell
Weber	Ogden	Hyde
Davis	Farmington	Dawson
Sevier	Richfield	Bagley
<b>Veteran Drug Courts</b>		
Salt Lake	Salt Lake City	Hansen
Utah	Provo	Powell
<b>Juvenile Drug Court</b>		
Weber	Ogden	Dillon
Utah	Provo	Smith
Weber	Ogden	Noland
Salt Lake	Salt Lake City	Beck
<b>Dependency Drug Court</b>		
Weber	Ogden	Dillon
Weber	Ogden	Heward
Salt Lake	West Jordan	Renteria
Grand	Moab	Manley
Weber	Ogden	Heward
Davis	Farmington	Neill
Salt Lake	Salt Lake City	May
Salt Lake	Salt Lake City	Hornak
Salt Lake	Salt Lake City	Lund
Salt Lake	West Jordan	Jimenez
Utah	American Fork	Bazzelle
Utah	Provo	Nielsen
Utah	Provo	Bartholomew
Utah	Spanish Fork	Smith
Carbon	Price	Bunnell
<b>Juvenile Mental Health Court</b>		
Cache	Brigham City	Morgan
Box Elder	Brigham City	Morgan
Salt Lake	Salt Lake City	Knight

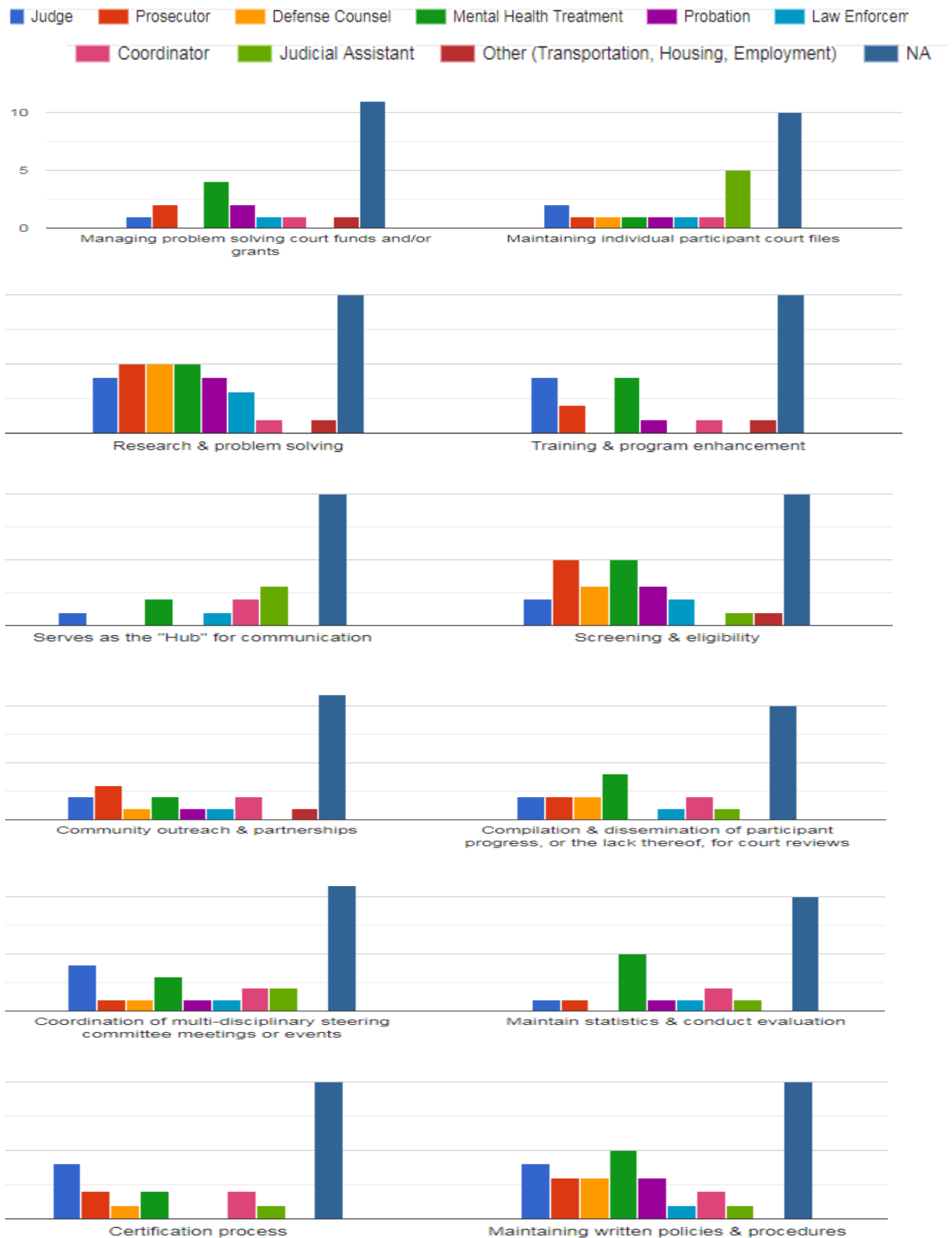
# APPENDIX

## B

## Adult Drug Court Team Member Roles and Responsibilities



# Adult Mental Health Team Members Roles and Responsibilities



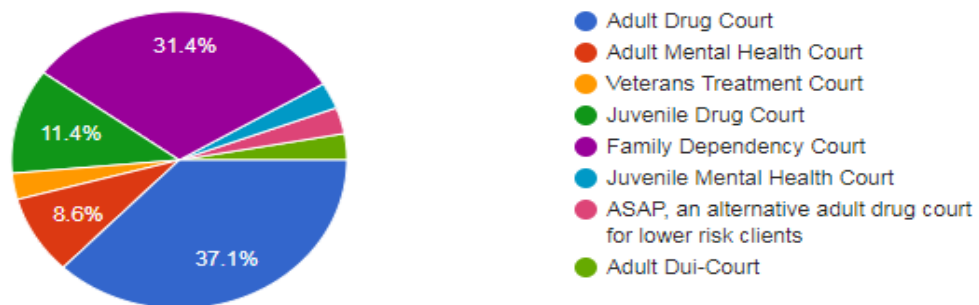


# Juvenile Drug Court Team Members Roles and Responsibilities



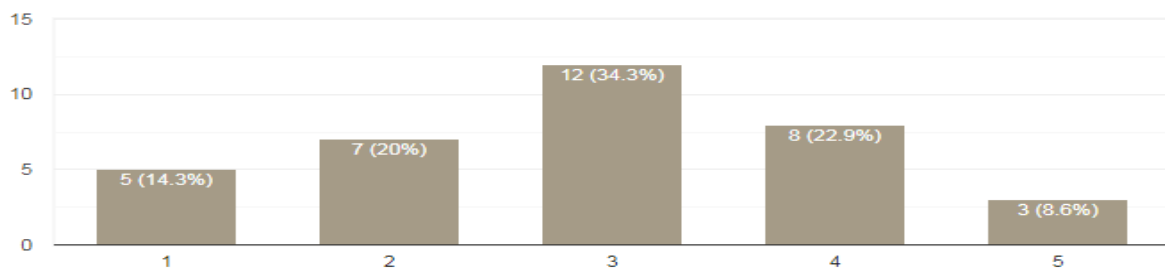
## Please indicate the type of problem solving court.

35 responses



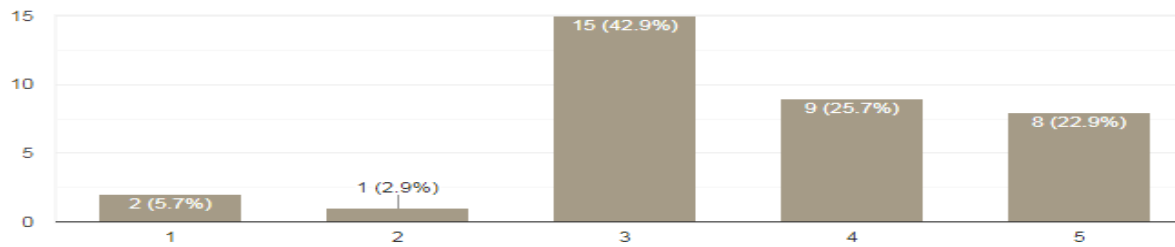
## The current statewide coordination of problem solving courts is meeting the needs of this court?

35 responses



## The certification process is meeting the goal of increasing fidelity to the problem solving court model.

35 responses



# APPENDIX

## C

## Survey of Other State PSC Coordination and Coordination Answers by State (Alphabetical)

### 1. Alabama

**Response By: Denise Shaw**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

I'm not sure what you looking for in the first part of the question, but local coordinators are responsible for notifying the team of participant adherence to rules, working with the local judges, working with the community stakeholders, promoting drug court in their jurisdictions, they may also be responsible for supervising case managers, coordinating with treatment providers and drug testing lab personnel. They are usually the ones responsible for supplying AOC with the monthly drug court reports and turn in expense reports for the grant funds received from the state, and I am sure numerous other duties.

- b. Are local coordinators court employees, or employees of partner/team agencies?

We do not have coordinators employed through the courts. Most are either employed through the Community Corrections Program or the Court Referral Program.

- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?

We have the Alabama Drug Offender Accountability Act that allows for judicial circuits to set up drug courts based on the 10 Key Components, we are a UJS, but drug courts here are not uniform. My role is to keep track of the number of drug courts, the number of participants, perform site visits to ensure best practices are being followed, provide continuing education on drug courts through our annual conference, oversee the appropriation received from the legislature for drug court funding, as well as many other administrative duties.

- d. Has the state adopted a certification process? If so, what is the process/structure?

No

- e. Does the state have a unified court system?

Yes

### 2. Colorado

**Response By: Sarah Keck**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

Here is the list of essential functions straight from the job description:

Plans, implements, and monitors the day to day activities of the assigned problem solving court(s) and ensures the court is implementing key components while serving the appropriate target population(s). In collaboration with other stakeholders, develops and implements a strategic plan that meets the long term goals of the community and ensures program sustainability. Serves as an active member of the problem solving court team. In conjunction with court support staff, directs and maintains an accounting and auditing system with respect to grant funds. May write

and manage grants; plans and prepares budgetary estimates and justifications. Coordinates and approves expenditures for the problem solving court(s).

Organizes and facilitates interdisciplinary training for problem solving court team members. Maintains cooperative relationships with program stakeholders including, but not limited to, treatment agencies, community organizations, Probation Services, the Division of Behavioral Health, Defense Counsel, Prosecution, Judicial Officers, and other court staff. Attends and participates in conferences, meetings and committees as the problem solving court representative. Also attends pre-court staff meetings and court hearings as deemed appropriate. Consults with problem solving court judges on a wide range of organizational and managerial issues including but not limited to problem solving court efficiency, internal and external quality assurance. Facilitates community presentations, assists in docket development, coordinates community service, promotes team integrity, develops community resources, monitors quality assurance, develops agendas, collects data and works closely with the program evaluator. In conjunction with the other team members the coordinator is responsible for problem solving and program fidelity. Acts as the liaison between the problem solving court judge, court personnel, probation staff, treatment providers, attorneys, and other members of the problem solving court team. Compiles participant information and disseminates the information to the respective team members prior to pre-court staff meetings and court reviews. May complete a standardized intake assessment/screening on potential problem solving court candidates

- b. Are local coordinators court employees, or employees of partner/team agencies?

Most of our coordinators are state judicial employees there are a few coordinators that receive a portion of their FTE from grant or the county.

- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?

Colorado has a team of 3 full time employees housed under the Criminal Justice Programs Unit in Court Services that coordinates the 80 Colorado Problem Solving Courts at the state level. The primary duties are to provide technical assistance, training, facilitation, and support to all programs statewide. Provide outreach and assist districts in setting up and maintaining problem solving courts. Provide data assistance for tracking and analysis, coordinate for statewide evaluation, provide data to districts and statewide stakeholders. Staff the Advisory committee and accreditation process, training and education subcommittee, technical assistance subcommittee, and to provide guidance and strategic planning for supporting problem solving courts. Maintain the Problem Solving Court website and resources on the website as well as the internal judicial net website. Provide staff and Peer reviews to courts statewide. Staff and maintain the Professional Problem Solving Court mentoring program. Planning and staffing of the annual CCJC and Convening Conferences.

- d. Has the state adopted a certification process? If so, what is the process/structure?

YES. Colorado started an accreditation process for courts in 2017 where courts will apply and complete application to show that they are meeting Colorado and National standards. This application will be reviewed by State Court Administrator Problem Solving Court Staff and be considered by the Advisory committee. See link for information on process and application: <https://www.courts.state.co.us/Administration/Program.cfm?Program=58>

(The information and links are on the right side menu with the info on the Accreditation Program and all of the forms needed for the application process. )

- e. Does the state have a unified court system?  
Yes

### 3. Delaware

**Response By: Brenda Wise**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

- Oversees the day-to-day operation of the program.
- Ensures that referrals to the program are processed in a timely manner and communicates the eligibility decision to all parties.
- Develops and maintains all program materials including the policy and procedure manual, participant handbook, and participation agreements or contracts.
- Conducts participant exit interviews and performs other quality assurance reviews to obtain feedback on program operations.
- Maintains participant information in an electronic case management system.
- Ensures that new team members are orientated to the program and their roles and responsibilities.
- Schedules regular team meetings that focus on program policy, structure, and team-building activities designed to improve team function.
- Maintains program policies and procedures and ensures that the program operates consistent with program policies and procedures. Updates policies and procedures regularly to reflect program changes.
- Routinely monitors the quality and timeliness of program data entry and addresses performance issues.
- Monitors programmatic data on a semi-annual basis and provides the team with performance updates.
- Reports programmatic data, policy considerations, proposed changes, and other pertinent matters to Statewide Problem-Solving Court Coordinator.
- Plans and facilitates steering committee meetings.
- Acts as a spokesperson for the program to community leaders and organizations.
- Organizes, coordinates and attends regular team trainings.
- Acts as arbitrator to resolve team disputes and conflicts as they arise.
- Is knowledgeable about the problem-solving court model, effective treatment interventions, the national drug court standards, and the Delaware Problem-Solving Courts Best Practice Standards.

- b. Are local coordinators court employees, or employees of partner/team agencies?  
Coordinators are court employees.

- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?

I serve as the Statewide Problem-Solving Court Coordinator. I'm responsible for the creation of policies and procedures, training and implementation of best practices for our

problem-solving courts. I also serve as the liaison between other state agencies. I'm also responsible for the creation of new alternative programs, such as our Community Court.

- d. Has the state adopted a certification process? If so, what is the process/structure?  
We do not have a certification process.

- e. Does the state have a unified court system?  
Yes we have a unified court system.

#### 4. Idaho

**Response by: Scott Ronan**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

We have 71 problem-solving courts, with a coordinator for each court. Many at this point are coordinators as their only job, while in some of our more rural and frontier areas, coordination duties are in addition to another position such as a county misdemeanor probation officer or a deputy clerk of the court. Many of our coordinators also coordinate more than one court. And for each of our seven judicial districts has one problem-solving court (PSC) district managers that are state employees (one is state funded, but remained a county employee) and are supervised by the TCA. They also coordinate at least one court, and in some cases multiple. Attached is a job description sample for coordinators and also one for the PSC district managers. A typical week for a coordinator looks like this:

- I. Appointments with potential participants/ process applications=
- II. Meet with team members (tx, probation, etc.) to talk about individual clients and program processes
- III. Enter data in a statewide case management system both for their internal use and to meet state minimal data requirements
- IV. Enter data in an electronic health record to begin treatment billing for participants
- V. Prepare staffing reports by receiving written or verbal reports for most team members and then compiling and disseminating prior to the hearing
- VI. Contribute during the staffing by sharing best practices with the team and offering information and/or recommendations for sanctions or incentives on each client
- VII. Recording their own notes on hearing outcomes for each participant
- VIII. Meet with participants about sanctions, continual, or additional requirements (communicate service hours, writing an essay, etc.)
- IX. Filling out surveys and providing data to state and local entities
- X. Engaging community members for resources (elf club or preparing budget reports for the TCA and county commissioners)
- XI. Everything else as needed.

- b. Are local coordinators court employees, or employees of partner/team agencies?  
They are all county employees and as coordinators fall under the supervision of the district court. The PSC district managers are state employees but still fall under the supervision of the district court. Anytime we have had a coordinator funded or supervised by a prosecutor's office or a treatment agency, it has not worked out well because they try to follow the judge's guidance and leadership, but ultimately find that they are beholden to

the funder of the position, which creates an unproductive imbalance and sometimes a separation of powers issue.

- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?

The state coordinator reviews and provides input on statute, rules, and policies that govern problem solving courts. the state coordinator is responsible for compiling statewide data on a variety of internal and external requests (media, legislators, the Court, etc.). The state coordinator manages the state funds appropriated by the legislature and approved by the Idaho Supreme Court for coordination, drug testing, and treatment (a little over \$8 million today). I spend the majority of my time on large projects that can be proposals for statewide changes or the development and implementation of statewide initiatives such as the implementation, training, and upgrade of our statewide Case Management System (Odyssey- Supervision Module), our implementation of a statewide comprehensive quality assurance plan for problem solving courts, or trying to identify upcoming Medicaid Expansion impacts. I provide a ton of education either through one on one with coordinators and judges to coordinating and finding funding for assistance with a statewide conference or presenting at various statewide committees or local meetings. I spend some time providing guidance on evaluation efforts with our data and evaluation department and conducting our own surveys or research into trends for utilization and use of funding that is disseminated to judges and coordinators throughout the state. The major responsibility has been and continued to be the staffing of our legislatively required statewide committee (link to statute: <https://legislature.idaho.gov/statutesrules/idstat/Title19/T19CH56/SECT19-5606/>) we meet twice per year and have several workgroups that dedicate time to developing and making recommendations on budget and policy recommendations for the ultimate review and approval by the Supreme Court. In a typical day I spent a lot of time helping coordinators and judges with best practice questions or with emerging issues at the local level about resources or team dynamics. Attached is the job description I was hired on but the job of state coordinator is only part of my current position as I also work with statewide committees for the identification and implementation of evidence based sentencing and supervision practices for magistrate and district judges.

- d. Has the state adopted a certification process? If so, what is the process/structure?

We do have a certification process but it is really in its infancy. We have been utilizing a peer review process throughout Idaho for a few years now to help provide information back to individual adult drug courts, but recently have had a statewide QA plan and Idaho Standards (based on the national standards put out by NADCP) adopted by our Idaho Supreme Court. Here is the link to our webpage with the ISC order and additional relevant content. <http://www.isc.idaho.gov/solve-court/home>

The statewide behavioral health and quality assurance manager, our division director, and application specialist and I, just finished a statewide road show where we presented and met with stakeholders in every judicial district to review the standards and the QA plan. Every adult drug court (we have plans for other court types such as Veterans Treatment Court and DUI Courts, etc.) has been sent an online survey we created as the certification survey that was built on the standards to provide a baseline of data so we know what we have and what we need to ensure adherence to the standards. In future years we could potentially have all PSC court types replicate this process and we would use the information as a resource to find or ask for funding where have gaps, and where do not have gaps but have non-compliance issues, each court can begin the process to work with their local leadership to try to achieve



compliance. The certification survey is an important piece of our overall QA plan, but it is only one piece that will help us to arrive at and maintain high quality courts based on the evidence on what works.

The Center for Court innovation has federal funding to help with the state coordinators meetings and have been very helpful in gathering information on behalf of the group and providing opportunities to meet and collaborate on topics of interest. The contact person right now is Karen Otis [otisk@courtinnovation.org](mailto:otisk@courtinnovation.org) and I bet she would be happy to reach out on your behalf with questions you may have concerning state coordinators. Rick was pretty active with this group and they know him pretty well at CCI. I think Judge Fuchs has been attending these meetings so he may have some additional information as well.

- e. Does the state have a unified court system?  
Not Answered

## 5. Kentucky

**Response By: Melynda Benjamin**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

The specialty courts are entirely managed by the Specialty Court Department of the AOC. Local Program Supervisors oversee the local offices for each program.

The Program Supervisor acts as the administrator of the local drug court and is responsible for overseeing the day-to-day operations. As administrators, they are responsible for supervision of local drug court staff; performing assessments to determine if referred defendants meet eligibility requirements; completing individual program plans for all participants; coordinating with various community agencies to ensure all needed services are accessible to all participants; maintaining and reporting drug court data, attending all drug court staffings and sessions.

- b. Are local coordinators court employees, or employees of partner/team agencies?  
Local staff ( program supervisor, case manager, treatment coordinator) are all employees of the Administrative Office of the Courts.

- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?

State coordinator (Executive Officer) is the appointing authority and manages all employees and operations of the Specialty Courts statewide including the operations division manager, training and support division manager , two regional operations supervisors, and eight regional supervisors. State Coordinator and division managers are responsible for all training including state wide conferences. The office oversees employee hiring/discipline issues with the support of the AOC HR department, manages the budget and applies for and manages grants for the local level courts with the aid of the AOC budget department. The department also centrally collects local data through our management system and processes with the aid of the AOC data and research department.

- d. Has the state adopted a certification process? If so, what is the process/structure?

No. The Chief Justice has recently given permission for the state to begin working on a certification program.

- e. Does the state have a unified court system?

Yes

## 6. Maryland

**Response By: Richard Barton**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

Though the Judiciary has nearly \$8 million in grant funds to support the problem-solving courts in Maryland, the coordination of the programs is generally left up to each jurisdiction. Local coordinators apply for grants, ensure data is uploaded into our statewide PSC database, coordinate services, and in some cases supervise case managers and other employees.

- b. Are local coordinators court employees, or employees of partner/team agencies?

In most cases, they are court employees. In a small few, the court has contracted with an outside entity to provide coordinator services. In these cases, they are from local non-profits and the relationships have been great.

- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?

Me and my office (5 total) oversee all the grants from the Judiciary as well as any federal (BJA) or other state grants. I maintain the contracts for our statewide PSC database, set up regional and statewide trainings, coordinate technical assistance for planning and operational teams, compile an annual report for the Judiciary, staff judicial committees, and conduct site visits to ensure that each program is complying with key components and best practices.

- d. Has the state adopted a certification process? If so, what is the process/structure?

No

- e. Does the state have a unified court system?

Maryland is not a simple yes or no. Our District Courts (municipal cases) are unified while our Circuit Courts (Felony) are not.

## 7. Michigan

**Response By: Andrew Smith**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

Local treatment courts are coordinated on a local level. Each program has a self-designated coordinator, whose responsibilities vary from program to program. Some coordinators strictly do administrative work for the program like grant writing, program oversight, and team coordination, while other coordinators take on additional roles like probation/case

management work. In Michigan, a single jurisdiction could have multiple program types, so we see coordinators who coordinate multiple programs.

- b. Are local coordinators court employees, or employees of partner/team agencies?  
Coordinators are most often court employees, but some programs have contracted coordinators.
- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?  
The MSC State Court Administrative Office plays three major roles for the state's Problem Solving Courts. First, the legislature's yearly PSC appropriation comes through our office, in which we grant out to our courts. Courts submit grant applications yearly that we score and review and make award determinations. Next, we are responsible for certifying our programs (190+ PSCs). We go onsite to about 40 program as year for certification review. Finally, we provide PSC technical assistance and trainings for the courts.
- d. Has the state adopted a certification process? If so, what is the process/structure?  
Yes -  
<https://courts.michigan.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/Specialty/PSCCert.pdf>
- e. Does the state have a unified court system?  
Yes

## 8. Minnesota

**Response By: Abby Kuschel**

**Attachments**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?  
Currently in Minnesota we have 65 treatment courts (drug, DWI, veterans, juvenile drug, tribal healing to wellness, mental health, Family Dependency Treatment Courts, and hybrid courts). We have approximately 40-45 local treatment court coordinators that are supervised by the individual judicial districts. Minnesota has 10 judicial districts. Many of the local coordinators have more than one court that they coordinate. We only have one coordinator that is full-time that only coordinates one court, otherwise, it is usually 2-3 courts per coordinator. Several of the judicial districts have a "Lead Coordinator" or "Coordinator Supervisor" who supervises the coordinators in that district. I as the State Coordinator do not supervise any treatment court coordinators. I am the only state coordinator and do not have additional staff.
- b. Are local coordinators court employees, or employees of partner/team agencies?  
Of the 40-45 coordinators, approximately 13 of them are employed by their counties and the remaining is employed by the Judicial Branch. Some have additional duties such as case management and probation roles in addition to being the coordinator.
- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?  
I've attached a few of our policies that govern treatment courts in the State of Minnesota that maybe helpful to you.
- d. Has the state adopted a certification process? If so, what is the process/structure?  
We currently do not have a certification process, but we do an online self-assessment that courts complete once every two years and evaluate their adherence to our local Minnesota Treatment Court Standards.

- e. Does the state have a unified court system?

No

**9. Nevada**

**Response by: Linda Aguire**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

Each court is set up within their jurisdiction. They are required to obtain services for their courts. Their judges direct the local coordinators of their duties. Some have treatment background and some do not. The local coordinator is responsible for making sure all reporting requirements are completed.

- b. Are local coordinators court employees, or employees of partner/team agencies?

Local coordinators are hired by the jurisdiction and normally a court employee.

- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?

When treatment courts are funded by the State they are required to follow certain requirements within our guidelines, Best Practices and Standards and follow the 10 Key Components. The state coordinator is responsible for obtaining grant applications from the courts within the state, review, and make recommendations to the Funding Committee. The coordinator is also responsible for monitoring all courts and their quarterly reports reviewing their spending. The coordinator provides training to the local coordinators, and team members on using the statewide database program. The coordinator is also required to provide the information to funding committee members for their quarterly funding committee meetings. This position is also required to send input to the statistic group annual report information. There are many other duties as well.

- d. Has the state adopted a certification process? If so, what is the process/structure?

We are in the process of finalizing our Best Practices moving toward peer-review, then to certification.

- e. Does the state have a unified court system?

No

**10. New Hampshire**

**Response By: Alex Casale**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

Each court has its own coordinator who is employed by the treatment agency we contact with or the county that we contract with.

- b. Are local coordinators court employees, or employees of partner/team agencies?

80% of them are treatment employees and 20% are county, 0% are court employees.

- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?

I oversee the database and all the information on what's happening in each program. I visit 2-3 programs a week and oversee their staffing / procedures. Each program must submit an annual budget and have an approved policy book and handbook. They must also follow state policies that are created out of my office. They can all be found on our website. <https://www.courts.state.nh.us/drugcourts/NHofficeDOP.htm>

- d. Has the state adopted a certification process? If so, what is the process/structure?

It's basically that they fill out the annual application, survey, budget, and have all the correct policies in place. I then approve or deny the program.

- e. Does the state have a unified court system?  
Yes

## **11. New Mexico**

### **Response By: Robert Mitchell**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?  
In some jurisdictions, the local coordinator is responsible for program administration, such as managing contracts and invoicing, writing policy and procedure, community mapping, etc. In other jurisdictions, the coordinator serves as a probation officer or a case manager. In a few areas, the coordinator does all the above.
- b. Are local coordinators court employees, or employees of partner/team agencies?  
In most cases, they are court employees; however, in limited cases, the coordinator is a contractor.
- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?  
The coordination at the state level is related to: 1) Supplemental funding distribution to local judicial districts, 2) Managing statewide contracts for screening instruments, information management, etc., 3) Hosting statewide conferences, 4) Collecting, analyzing, and reporting performance data, 5) Providing technical assistance, 6) Developing standards and funding guidelines, and 7) Managing quality engagement initiatives such as peer review and certification.
- d. Has the state adopted a certification process? If so, what is the process/structure?  
Yes. It began as primarily a desktop document review process, but is under further development. As we have been involved in certification, we have identified several areas that could be modified for efficiency. Currently, programs must be certified every three years and may receive a provisional certification with annual review if they meet most requirements but need to address certain aspects needing additional time.
- e. Does the state have a unified court system?  
Yes

## **12. Ohio**

### **Response By: Monica Kagey**

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?  
Ohio is home-rule so every jurisdiction does this differently. A few of the most common models are 1-Hiring a staff person whose sole responsibility it is to coordinate one or more treatment courts in a jurisdiction; 2-Assigning a probation officer as the coordinator and the PO for the treatment court; or 3-Using an employee of a local treatment agency or ADAMH Board as the coordinator. Each treatment court in Ohio creates the local job responsibilities for their jurisdiction. Here is one example: Maintains the daily operations of the specialized docket; Meets with any potential participants upon referral; Gathers progress reports from treatment and service providers to present to the treatment team; Attends treatment team meetings and status review hearings; Participates in any discussions regarding incentives, sanctions, phase advancement, successful completion, and termination; Coordinates

random alcohol and drug screens and monitors compliance with any sanctions; and Meets with a participant regularly to discuss individualized program goals and progress while the participant is in the specialized docket.

- b. Are local coordinators court employees, or employees of partner/team agencies?  
See response above.
- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?  
In Ohio, local jurisdictions plan and implement treatment courts based upon need. At the state level, we assist with any planning needs as well as training and technical assistance along the way. There is state level funding available that requires compliance with Ohio's certification process. We also facilitate round tables for professionals working within Ohio's treatment courts as well as do all certifications. The state coordinator manages the section of the Supreme Court of Ohio that completes the previously mentioned work. I can also forward a position description if this would help.
- d. Has the state adopted a certification process? If so, what is the process/structure?  
Yes. <http://www.supremecourt.ohio.gov/JCS/specDockets/certification/default.asp>
- e. Does the state have a unified court system?  
No

### 13. Vermont

#### Response By: Kim Owens

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?  
Limited Service (grant funded) staff are employed by judiciary to coordinate programs within their region and are referred to as Regional Treatment Court Coordinators. Primary duties are included in the attached job description but are basically to manage the team, referral process and relationships with all team members and treatment/service providers in their region. They meet with me weekly for supervision, conduct systems meetings that I attend and complete fidelity first assessment tools for best practice compliance. They oversee that the program is running smoothly and address barriers to entry and best practice on the local level.
- b. Are local coordinators court employees, or employees of partner/team agencies?  
Court Employees
- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?  
See Attachment
- d. Has the state adopted a certification process? If so, what is the process/structure?  
No, but we monitor with fidelity first for adherence to best practices.
- e. Does the state have a unified court system?  
Yes

### 14. Washington

#### Response By: Tony Walton

- a. How are local treatment courts coordinated, and what are the primary duties of the local coordinators?

Primary duty of the county coordinators is related to training and developing policies and procedures.

- b. Are local coordinators court employees, or employees of partner/team agencies?  
I would say most of the coordinators are employed by the court system but there are a couple counties where the coordinator is from the treatment agency.
- c. How are treatment courts coordinated at the state level and what are the primary duties of the state coordinator?  
Washington does not have a full time State Coordinator. I attempt to assist where I can in developing statewide guidance on best practices. In addition, I provide administrative support for the Criminal Justice appropriations that come out of the WA State legislature.
- d. Has the state adopted a certification process? If so, what is the process/structure?  
Not Yet
- e. Does the state have a unified court system?  
No

# Appendix

## D



This fact sheet describes  
the goals five states  
are pursuing as they  
coordinate their  
problem-solving courts.  
The five states are:  
California, Idaho,  
Indiana, Maryland,  
and New York.

# PROBLEM-SOLVING JUSTICE

## STATEWIDE COORDINATION OF PROBLEM-SOLVING COURTS: A SNAPSHOT OF FIVE STATES

In recent years, states around the country have begun to centralize their administration of problem-solving courts — drug courts, mental health courts, domestic violence courts, community courts, and others. How effective have these coordination efforts been? What challenges have been encountered along the way? What lessons have been learned so far?

Starting with a roundtable discussion in 2008 that brought together court administrators, policymakers, researchers, and representatives of national organizations, the Bureau of Justice Assistance — in partnership with the Center for Court Innovation — has helped statewide problem-solving court coordinators assess their work and find new ways to advance their goals. This document draws upon that roundtable discussion as well as interviews with statewide coordinators in five jurisdictions to identify the most common goals of statewide coordination. The states surveyed are California, Idaho, Indiana, Maryland, and New York.

## GOALS OF STATEWIDE COORDINATION

### □ Quality Assurance

In many states, quality assurance — helping problem-solving courts apply state-of-the-art strategies and maintain appropriate standards to achieve the best possible outcomes — is the core goal of statewide coordination. The challenge, some statewide coordinators say, is to provide effective oversight without stifling local innovation. Some methods employed by statewide coordinators include:

- creating and promulgating guidelines for planning and operation of courts;
- monitoring compliance with guidelines;
- identifying and promoting promising practices; and
- providing technical assistance.

### □ Training

Statewide coordinators identified training as another common goal of statewide coordination. Regular training promotes effective court operations, bringing new staff up to speed on problem-solving principles and practices, refreshing skills of long-term staff, and keeping everyone current about new developments in the field. While annual statewide trainings were the most commonly cited strategy, some jurisdictions discussed how reduced resources have provided them with the opportunity to find innovative ways to meet training needs, including developing Internet-based learning systems.

## □ Funding

All the statewide coordinators acknowledged that they had an important role to play in helping to find resources for problem-solving courts, including:

- tracking grant opportunities;
- educating legislators; and
- developing tools that help jurisdictions quantify the impact of their work.

## □ Research and Evaluation

Statewide coordinators use research and evaluation as tools to achieve many of the other goals identified in this fact sheet. Research and evaluation are central to fundraising, improving court performance, and training. The statewide coordinators recommended a number of ways to promote strong research and evaluation practices, including:

- providing localities with the training and tools to do on-site action research that gives individual courts useful feedback about program operations and performance;
- organizing large-scale evaluations to help courts refine their practice and promote the problem-solving court model; and
- disseminating information learned from research and evaluation.

## □ Technology

Statewide coordination has played an important role in improving information management technology to support court operations, program management, and research. Among other things, statewide coordinators have:

- adapted information systems to accommodate the needs of case management and compliance monitoring (for instance, allowing for tracking of participants' attendance at mandated treatment);
- designed technology to meet research and evaluation needs;
- trained various members of the court team (judge, court clerks, case manager) and relevant government agencies on how to use data systems;
- put in place appropriate confidentiality controls for protection of participants' information; and
- integrated special systems with the general court system's information management tools.

## □ Advocacy

Statewide coordinators work both internally and externally to advance the concept of problem-solving justice. Some strategies they have used include:

- helping to develop new problem-solving court models;
- leading campaigns to educate the public about the advantages of the problem-solving approach; and
- sponsoring research on how to integrate problem-solving principles into conventional courtrooms.

# STATE PROFILES

## California

*The role of coordination is support of local innovation for broad application of collaborative justice court principles and creation of a branchwide collaborative justice court system.*

— Nancy Taylor

Collaborative Justice Program of  
the Administrative Office of the Courts

The Collaborative Justice Program of the Administrative Office of the Courts provides statewide coordination for California's 500 collaborative justice courts. Statewide administrators in California attribute the robust development of problem-solving courts to a combination of statewide coordination and grassroots interest. In California, many problem-solving courts (called "collaborative justice courts") predate the unification of the statewide court system in 1998 and the subsequent development of the California Judicial Council's Collaborative Justice Courts Advisory Committee in 2000, though the momentum of expansion greatly accelerated after 2000. Despite a large statewide apparatus to support problem-solving justice, statewide coordinators say they seek to preserve local commitment to collaborative justice court development.

## □ Quality Assurance

California has developed recommended guidelines for its various collaborative courts. California has also developed the *Collaborative Justice Courts: Resource Workbook* as a guide for planning and implementing effective collaborative justice court programs and *Applying Collaborative Justice Court Principles and*

*Practices*, a curriculum designed for collaborative justice court planners or those interested in incorporating collaborative justice court principles in conventional courtrooms. Quality assurance is also addressed through funding. Courts are required to adhere to 11 components identified by the Collaborative Justice Courts Advisory Committee that address all types of collaborative justice courts. Technical assistance, site visits, trainings and networking meetings help to ensure that courts are faithful to the 11 components.

## ■ Training

California holds regional and statewide conferences and provides funding for a certain number of staff from each jurisdiction to attend. The Administrative Office of the Courts offers technical assistance to local courts, helping assess training needs and finding or providing resources to meet those needs. California also promotes mentorship by fostering connections between new judges and experienced judges and between new staff and experienced staff. More recently California has been looking to increase distance learning opportunities such as a Driving Under the Influence website for peer courts, a tool kit for veterans courts, and a “how-to” manual for Driving Under the Influence courts and Driving Under the Influence prevention programs. California provides networking meetings for collaborative justice court coordinators, listservs for judges, and networking conference calls by court type. The court system also provides educational programs in law schools and schools of social work, as well as placing interns from these schools in local collaborative justice courts.

## ■ Funding

One of the tools used by California to address sustainability and funding is research. Positive research results have supported passage of appropriations bills for drug courts, mental health courts, reentry courts, peer courts, and homeless courts. To supplement state funding, courts are offered training and technical assistance in grant writing and grants administration. Over the years, collaborative justice work by the Administrative Office of the Courts has been funded by multiple funders, including the California Department of Mental Health, the California Department of Alcohol and Drug Programs, the California Emergency Management Agency, the Bureau of Justice Assistance, and several foundations.

Wanting to empower local jurisdictions, California is developing a validated tool to help individual courts produce cost-benefit information about

their own programs. The tool is web-based, and courts can enter data on their program’s procedures and participants and their associated costs (e.g., cost per drug test, average cost of a day of probation, etc.). The tool is able to calculate the costs and benefits of the program based on a comparison with a non-problem solving court using data collected in prior phases of the cost study. The tool will be launched initially only for drug courts, but there are plans to conduct additional cost-benefit studies for other court types. The hope is that jurisdictions will be able to regularly evaluate a court’s cost-effectiveness, without incurring large fees from outside evaluators, and be able to share this information with funders.

## ■ Research and Evaluation

California’s statewide coordinators have tended to sponsor large evaluations of multiple programs rather than smaller evaluations of individual courts in the state. Examples of research include *Domestic Violence: A Descriptive Study* (an investigation of the potential challenges to implementing domestic violence courts) and *California Drug Courts: A Methodology for Determining Costs and Benefits* (a three-part evaluation involving nine courts to determine the cost-effectiveness of drug courts). A performance measures study of dependency drug courts (drug courts that address substance abuse issues that contribute to the removal of children from the care of their parents) is currently underway, as are evaluations of juvenile and adult mental health courts and reentry courts. In an effort to support the broad practice of collaborative justice court principles, the state administration also conducted a study entitled “Collaborative Justice in Conventional Courts.”

## ■ Technology

The California court system is in the process of creating a statewide data management system. State administrators participated in the development of the system to ensure that case processing data for each type of collaborative court was included. The Administrative Office of the Courts, in partnership with Department of Alcohol and Drug Programs and with support from the Bureau of Justice Assistance, began the Statewide Collaborative Court Data Collection Project in December 2009. This multi-phase project focuses on assessing the data collection needs and capacities of collaborative justice courts in California, identifying and defining core data elements that should be collected by all collaborative courts throughout the state and pilot testing the feasibility of collecting such data on a statewide level. Design elements, such as data sharing capabilities,

are being discussed, and this information will eventually be used to create a statewide data collection system.

## □ Advocacy

California's Collaborative Justice Courts Advisory Committee has been investigating how to take collaborative justice principles to scale. In collaboration with the Center for Court Innovation, the committee issued two reports on transferring collaborative justice principles to mainstream courts and created the curriculum described above under 'Quality Assurance.' Members of the committee worked closely with the Judicial Council's Task Force for Criminal Justice Collaboration on Mental Health Issues to produce recommendations that feature many collaborative justice court principles and practices. A partnership with the California Department of Alcohol and Drug Programs and the Department of Social Services led to expanded funding of dependency drug courts and to a statewide inter-branch project to take dependency drug courts to scale. Similarly, statewide coordinators partnered with the Office of Traffic Safety to expand DUI courts, and to develop DUI prevention programs in peer courts and "DUI Court in Schools" programs. State administration worked with the Center for Court Innovation to develop a report on the history of California's collaborative justice courts for use in policy and public education environments.

## Idaho

*The development of problem-solving courts in Idaho has been a three-branch collaborative effort — with support from the executive branch, the legislature, and the supreme court.*

—Norma Jaeger  
Idaho Drug and Mental Health Court  
Coordinating Committee

While local leadership played an important role, leadership from the top has been critical to the expansion of problem-solving justice in Idaho. Opening its first drug court in 1998, Idaho had nine additional drug courts in operation by 2000. Judicial leaders, recognizing the intervention's potential to impact their large docket of drug dependent defendants, made expansion of drug courts their number-one priority for 2000's legislative session. That same year, the governor, in response to requests for increased funding for new prison construction, created a programmatic and budget package aimed at expanding access to substance abuse treatment. This initiative included funding for substance

abuse treatment for drug court participants. In 2001, the legislature passed the Idaho Drug and Mental Health Court Act (later amended to include Mental Health Courts), which set aside funding for problem-solving courts and created the Drug and Mental Health Court Coordinating Committee. By 2002, drug courts operated in all seven of Idaho's judicial districts, and by 2010, there were 57 drug and mental health courts across the state.

## □ Quality Assurance

The Drug and Mental Health Court Coordinating Committee requires that local jurisdictions give them notice before they open — or close — a problem-solving court. Approval by the committee is necessary to open a new problem-solving court. "We want to make sure that the plan for the court is consistent with best practices, that there are adequate resources to operate it, and that those participating have initial training," explains Judge Daniel Eismann, chief justice of the Idaho Supreme Court and chair of the Idaho Drug and Mental Health Court Coordinating Committee.

The coordinating committee has also developed guidelines for the operation of adult drug courts, juvenile drug courts, and mental health courts. The guidelines include information on screening and assessment of program participants, selection of appropriate treatment providers, case management, and evaluation. Idaho has used an annual, self-administered checklist to review compliance with statewide guidelines, and is developing a structured peer-review process, based on these guidelines and on additional research on evidence-based drug court practices. The coordinating committee will be further reviewing the current statewide guidelines with an eye to establishing required standards of operation. Finally, special judicial advisors have been appointed to visit local drug and mental health courts and offer support and assistance in achieving desired outcomes.

## □ Training

Idaho has sought to address the high cost of travel associated with holding its annual statewide training. The Drug and Mental Health Court Coordinating Committee developed two strategies to respond to this concern. The first was to move from having one statewide training to having multiple regional trainings. Idaho found that holding three regional trainings instead of one statewide training saves roughly 50 percent on the cost of travel for practitioners. The second strategy Idaho has pursued is increasing its distance learning offerings. Idaho is developing webinars and holding online meetings with local practitioners.



Idaho continues to supplement its regional trainings with trainings for individual jurisdictions or targeted trainings on particular topics for designated groups, such as a training for new court coordinators. Idaho has also created a handbook for new coordinators that includes information on practical matters such as how to use the data management system.

## □ Funding

Continued funding for drug and mental health courts relies on forging strong partnerships with key stakeholders, including the Department of Health and Welfare, state and county probation agencies, elected county clerks and their deputies, and communities across the state. These partnerships led to a three-branch initiative of the governor, legislature, and the courts to address drug- and alcohol-related needs in the criminal justice system in 2001. In the midst of a prison overcrowding crisis, the legislature set aside money for drug courts and, subsequently, for mental health courts. In 2003, the Legislature established a special fund for drug and mental health courts, with revenues coming from a 2-percent surcharge on sales by the Idaho liquor dispensaries. The fund was later augmented by an increase in court fines. This fund, together with ongoing legislative appropriations for drug and alcohol treatment, has continued to provide a stable foundation for drug and mental health court operations.

## □ Research and Evaluation

The Drug and Mental Health Court Coordinating Committee has sponsored two evaluations of drug court outcomes and one evaluation of DUI court outcomes. A few local Idaho jurisdictions have conducted process evaluations, but the coordinating committee has been reluctant to encourage local jurisdictions to undertake outcome evaluations on their own. According to Norma Jaeger, statewide drug and mental health court coordinator, "Evaluation is best handled by someone with expertise and the ability to determine whether the data available is adequate for a particular type of evaluation. It is more likely that we on the state level would have the resources and the information necessary to accomplish evaluations. Given the limited resources and personnel, we really have not pushed local evaluation."



## Technology

Idaho has a statewide problem-solving information management system — originally developed when the Drug and Mental Health Court Coordinating Committee wanted to conduct an evaluation of its drug courts, and the experts hired from the University of Cincinnati to perform the evaluation found that there was not enough data collected by the courts to be evaluated. The coordinating committee requested that the experts provide them with a mandatory minimum of data elements that a court must collect in order to perform an evaluation. The system has since been augmented to provide for more sophisticated management and analysis. The problem-solving court data system is a module that is part of the larger court system's management information system.

In implementing its system, the coordinating committee confronted the challenge of manpower limitations on data entry. It found that court coordinators did not always have the time to input all of the necessary data. To address the problem, Idaho allowed jurisdictions to use some of their court coordination funding for data entry. Usually this took the form of hiring a part-time assistant to enter data.

## □ Advocacy

Advocacy for problem-solving courts has been a priority of the state's highest court and has been personally led by all of the chief justices, beginning in 2001. Drug courts and mental health courts have been marketed as a means of reducing prison populations. Because rising incarceration costs were a major concern, aligning drug courts with the legislature's agenda helped make the initiative attractive to legislators. To maintain support, the judiciary has delivered annual reports to legislators and invited legislators to participate in graduation ceremonies in their home district.

More recently, the judiciary petitioned the legislature to allow drug courts to issue restrictive driving permits to DUI defendants who have been in good standing for 45 days. The legislation passed unanimously despite the fact that it raised some initial media controversy. National endorsement of DUI courts by Mothers Against Drunk Driving was important to its passage. The support of Mothers Against Drunk Driving was earned by demonstrating that getting people into treatment, when combined with close supervision and strict court-administered accountability, is an effective strategy for reducing drunk driving.

# Indiana

*The Judicial Conference and the Indiana General Assembly provide courts with a framework within which to operate which is not overly prescriptive. Our system permits problem-solving courts a great deal of flexibility and independence.*

— Mary Kay Hudson  
Indiana Judicial Center

Problem-solving courts in Indiana have been shaped by legislation. The first drug court opened in Indiana in 1996. In 2002, lobbying by the Indiana Association of Drug Court Professionals led to the adoption of drug court legislation by the Indiana legislature. As part of the legislation, the Indiana Judicial Center of the Judicial Conference of Indiana was authorized to create a certification process for drug courts. In 2006, the legislature adopted legislation for reentry courts. In 2010, the legislature adopted general problem-solving courts legislation that authorizes the Indiana Judicial Center to certify all types of problem-solving courts.

Despite the active involvement of the legislature and the Indiana Judicial Center, Mary Kay Hudson, problem-solving court administrator for Indiana, believes the development of problem-solving justice in Indiana has been driven by demand from the localities. “Development has been initiated at the local level with support from the supreme court and the legislature. When we have new courts opening it is because a jurisdiction has learned about the model and has taken the initiative to begin planning on their own,” she said. Indiana currently has 31 drug courts, seven reentry courts and one mental health court that are certified by the Indiana Judicial Center. (There are some problem-solving courts that are not certified by the Indiana Judicial Center.)

## □ Quality Assurance

In 2010, the Indiana state legislature authorized the Indiana Judicial Center to offer certification of problem-solving courts. The Judicial Conference Problem-Solving Courts Committee is currently developing protocols for certifying a court as “problem-solving.” Once complete, the voluntary certification process will involve a review of the court’s policies, procedures, and operations to make sure they are in compliance with what is required by legislation, Judicial Conference Rules and case law. Courts that choose to participate in the process must be re-certified at least every three years.

Mary Kay Hudson explains that for a jurisdiction without a unified court system, developing rules for problem-solving courts can be a challenge due to

the variation in practices among local jurisdictions. Certification improves the local courts’ fidelity to the problem-solving court model. However, Indiana does not require problem-solving courts to be certified. Rather, the state encourages certification by making certified courts eligible for certain state grants and training opportunities.

## □ Training

The Indiana Judicial Center sponsors an annual training conference for problem-solving courts. The topics covered vary from year to year but the conference is designed to be broad enough to address the needs of the various types of courts and the differing experience levels of court team members. In 2010, the Indiana Judicial Center sponsored a conference on problem-solving court planning, which it hopes to turn into an annual event. Topics covered at the planning conference included confidentiality, screening and eligibility, principles of effective intervention, and use of incentives and sanctions. All trainings offered by the Indiana Judicial Center are open to problem-solving court team members of an operational court or a court in planning and offered free of charge. However, the Indiana Judicial Center does not cover the cost of lodging or travel for training events.

## □ Funding

Indiana does not have state appropriations for problem-solving courts. However, the Indiana Judicial Center works with local jurisdictions to support problem-solving court expansion (in 2002, there were 14 drug courts; by 2010, there were 31). Mary Kay Hudson attributes this success to local jurisdictions actively pursuing grant funding and finding inventive ways to use available resources. The Indiana Judicial Center supports local jurisdictions by being a resource for information on funding opportunities, assisting in grant writing and preparing letters of support, and fostering relationships with state and national organizations that provide funding or technical assistance.

## □ Research and Evaluation

The Indiana Judicial Center has contracted with an outside agency to conduct evaluations of Indiana’s problem-solving courts. Between 2006 and 2007, NPC Research, a private research and evaluation consulting firm, conducted process, outcome, and cost-study evaluations on five adult drug courts. The center also encourages local jurisdictions to perform their own evaluations. As part of its certification process, the center frequently recommends that juris-

dictions implement a research and evaluation program. In addition, the center uses the latest research on problem-solving justice to inform the recommendations that it makes to local jurisdictions during the certification process.

## ❑ Technology

Indiana is in the process of creating a statewide data management system for its general court system. The community supervision module of the system will be responsive to the needs of problem-solving courts. For example, the new system will allow problem-solving courts to track the following information: drug screens, medications, sanctions, and administrative hearings. The supervision module is currently being piloted.

## ❑ Advocacy

The Indiana Judicial Center has been consulting with Madison County on developing a way to take problem-solving justice to scale. The county received a grant as part of the American Recovery and Reinvestment Act to pursue integrating the administrative structures of its mental health, reentry, and drug courts with the goal of creating an umbrella structure that improves efficiency and resource allocation.

# Maryland

*Coordination has made the difference for us. Being able to promote problem-solving in a systematic way and have quality control over problem-solving courts has been important to the development of the movement.*

— Judge Jamey Hueston  
Maryland Judicial Conference's Committee on  
Problem-Solving Courts

Judicial leaders have been a major force behind problem-solving courts in Maryland. In 2002, the judiciary established the Drug Treatment Courts Commission to promote the development of drug courts through promulgation of promising practices, provision of training and technical assistance, and facilitation of evaluation. Membership in the commission included representatives of the Governor's Office, legislators, circuit and district court judges, and various state agencies.

Wanting to institutionalize the work of the commission and expand its scope to all problem-solving courts, in 2006 the judiciary created the Judicial Conference Committee on Problem-Solving Courts. As a standing committee of the Judicial Conference, the Committee on Problem-Solving Courts is embedded in the judiciary's administrative system.

Although problem-solving courts enjoy support from both executive and legislative branches, Maryland does not have formal legislation that regulates problem-solving courts. By 2010, Maryland had over 40 problem-solving courts.

## ❑ Quality Assurance

All jurisdictions interested in starting a problem-solving court must apply to the Judicial Conference Committee on Problem-Solving Courts. The application process involves a review of the court's policies, procedures, projected caseload, service offerings to court participants, funding sources, and agency/service organization partnerships. Once the applicant's proposal has been vetted by the committee on Problem-Solving Courts, the application is sent to the Maryland Court of Appeals for final approval. As an aid to planning, the committee has also developed guides to assist in implementing drug courts (including juvenile drug treatment, DUI, and dependency drug treatment courts).

In addition to the application process, other strategies in the committee's oversight plan for problem-solving courts include: periodic site visits, regular review of program capacity rates, periodic review of progress and statistical reports and technical assistance to individual jurisdictions to help address challenges.

## ❑ Training

Maryland statewide coordinators sponsor a yearly two-day training symposium. The symposium brings in experts from around the country to cover topics of importance to practitioners, such as treating juveniles, conducting clinical assessments, and drug testing. Since its inception in 2003, the symposium's attendance has steadily increased, and in 2009, the symposium hosted over 250 drug court team members. While originally focused on drug courts, the symposium has expanded to include topics relevant to mental health and truancy courts.

In 2009, in partnership with Goodwill Industries of the Chesapeake, the Office of Problem-Solving Courts also held "roles training" for drug court case managers and representatives from partnering agencies such as Probation and the Department of Juvenile Services. The purpose of the training was to explain the role of the case manager in drug court. Held

over a six-month period, the training topics as motivational interviewing, case notes, clinical tools, ethics, and confidentiality.

The Office of Problem-Solving Courts has created a “Drug Court 101” course as an introduction for new drug court staff. The course provides an overview of how drug courts operate and describes the roles and responsibilities of each member of the drug court team.

While the current economic climate has required the Office of Problem-Solving Courts to stop funding out-of-state travel for training, the Office of Problem-Solving Courts may cover the cost of in-state training and travel for practitioners through funds granted to problem-solving courts by the state legislature.

## ❑ Funding

Maryland employed an educational campaign to secure state funding for its problem-solving courts. Educational efforts aimed at legislators, which also benefitted from the support of the state’s chief judge, Robert Bell, included many in-person meetings. While time consuming, these meetings were critical to the success of the campaign because they provided the opportunity to improve understanding of the benefits of problem-solving courts, identify mutual goals, and develop coordinated strategies.

Maryland’s Office of Problem-Solving Courts currently manages approximately five million dollars received from the state legislature. It distributes these funds directly to local jurisdictions through an application process. It also underwrites treatment of program participants by providing money to the Maryland Drug Abuse Administration. Because of its expertise, the Drug Abuse Administration is viewed as being better able to monitor the use of treatment dollars.

## ❑ Research and Evaluation

Maryland has a detailed strategic evaluation plan that includes process, outcome, and cost-benefit evaluations. Working with NPC Research, Maryland has been able to complete process evaluations of all of its drug courts. It has also been able to conduct outcome and cost-benefit evaluations of drug courts that are sufficiently large to generate adequate data to study. Maryland is now working with the University of Maryland to expand its evaluation program to include other problem-solving courts. “The only way we are going to survive is through evaluations,” says Judge Jamey Hueston, chair of the Committee on Problem-Solving Courts.

consisted of 60 hours of instruction on such

Evaluation has helped court administrators cultivate bipartisan support for problem-solving courts at the local and state levels.

## ❑ Technology

Maryland has a statewide management information system in use by all of its drug courts. The impetus to develop the system came from the need to collect data for evaluation purposes but the system has uses beyond research. One of these is a mechanism for inter-agency data sharing that improves communication, collaboration, and coordination among the courts and partner agencies. A strict electronic client release (consent) procedure helps prevent breaches of client confidentiality.

## ❑ Advocacy

Maryland’s statewide coordination body has worked to build strong support for problem-solving initiatives within the judicial, legislative, and executive branches. Key to its strategy has been the strong leadership of the chief judge.

# New York

*For New York State to effectively build a large network of problem-solving courts, we needed a statewide office with the authority, expertise, and staff to develop and oversee planning and implementation.*

— Judge Judy Harris Kluger  
Chief of Policy and Planning for the New York State  
Unified Court System

The development of problem-solving courts in New York was propelled by judicial leadership. Early support from judicial leaders such as former Chief Judge Judith Kaye and current Chief Judge Jonathan Lippman has been critical to the success of the movement. Having witnessed the impact of drug courts, first opened in New York in the 1990s, former Chief Judge Judith Kaye convened an independent commission to investigate New York State courts’ handling of drug cases. Based on the recommendation of the commission that drug treatment courts be made available in every jurisdiction, the Office of Court Drug Treatment Programs was established to promote the development of drug courts.

Judge Judy Harris Kluger was appointed to oversee the development and operation of problem-solving courts beginning in 2003, and, as other types of courts opened, her statewide



coordination was expanded to include integrated domestic violence courts, domestic violence courts, community courts, sex offense

courts, mental health courts, drug courts, and family treatment courts. Most recently, New York has introduced veterans' tracks

core topics (such as adolescent chemical use, pharmacology of addiction, and incentives and sanctions), a resource library with materials on best practices in

## ❑ Quality Assurance

Before planning a new problem-solving court, the Office of Policy and Planning works with local administrative judges to determine the location for the court and select the presiding judge. Typically, staff from the Office of Policy and Planning and the Center for Court Innovation then work closely with the designated judge and court staff through a several month planning process that includes local stakeholders. That process culminates in the creation of a document that the Office of Policy and Planning and the local administrative judge must approve before the court begins hearing cases. Through this planning process, each court is created according to the statewide model, with flexibility to accommodate some local variation.

To support the problem-solving courts and promote consistency, the Office of Policy and Planning has created numerous guides and operations manuals, including *Integrated Domestic Violence and Domestic Violence Tool Kits*, the *Sex Offense Court Training and Legal Resource Materials* binder, and the *Drug Court Recommended Practices* guide.

The Office of Policy and Planning maintains contact with the nearly 300 problem-solving courts around the state. Through site visits, statistical review and communications with judges and court personnel, New York's statewide coordinators identify problems before they become serious.

## ❑ Training

The Office of Policy and Planning works with the Center for Court Innovation and other national experts to ensure that appropriate training is available for each court type and its judges, staff, and other stakeholders. The office conducts a statewide training program of its own. It also sends judges and court staff in the problem-solving courts to national trainings as well.

Given the current fiscal crisis, New York has been exploring ways to provide training at a reduced cost. For example, the Office of Policy and Planning offers webinars and videotaped training to judges and court staff without the need for travel within the state. Recently, in partnership with the Center for Court Innovation, New York developed an online training website for drug courts. The online learning system includes presentations by national experts on

planning and implementing a drug court, and a virtual site tour of a drug court.

## ❑ Funding

During uncertain fiscal times, statewide coordination has become even more important to the continued vitality of problem-solving courts in New York. “We have worked hard to access grant funding for our courts, which has allowed us to send more people to treatment,” explains Judge Judy Kluger, chief of the Office of Policy and Planning. New York has also used grant funds to develop training programs. The Office of Policy and Planning has been working with local jurisdictions to analyze ways to improve efficiency, particularly looking at how to maximize the use of existing staff across multiple projects.

## ❑ Research and Evaluation

New York relies on the Center for Court Innovation to perform research and evaluation of problem-solving courts. The center has conducted numerous independent evaluations (process, outcome, and cost-benefit analysis) that the statewide coordinators’ office uses to improve court programs. For instance, a center study found that participation in batterer intervention programs did not impact recidivism. The Office of Policy and Planning disseminated that information to all domestic violence courts, and, as a result, domestic violence courts in New York rarely include batter programs to effect behavior change, but use them as a mandate and as means of monitoring defendants. In 2011, the center will spearhead a major evaluation of New York drug courts that will include 87 sites. The study will seek to determine which drug court policies and procedures have positive or negative effects on outcomes.

## ❑ Technology

New York has developed a number of supportive technology applications for problem-solving courts to track cases and record information on case status, activity, and services. The Division of Technology, in collaboration with the Office of Policy and Planning, developed and supports applications for criminal drug courts and family treatment courts, integrated domestic violence courts and domestic violence courts, sex offense courts, and mental health courts. The drug court application, one of the earliest of these systems, includes instruments to screen clients for admission, assess their treatment needs, and track compliance in drug courts. Staff from the Center for Court Innovation work closely with the Office of Policy and Planning and the Division of Technology to prioritize system improvements, assist in designing

new systems, provide user support, develop data reports, and conduct training.

With one of the largest problem-solving court networks in the country, New York leverages technology to allow it to remain nimble in its response to changing conditions. With the reform in 2009 of the Rockefeller-era drug-sentencing laws, New York has seen a rise in defendants being sent to treatment instead of jail. New York is investigating how technology can be used to expand drug court capacity, particularly looking at building an automated-screening system that would screen new arrests for drug court.

## □ Advocacy

The existence of a central coordinator's office enabled not only the propagation of additional problem-solving courts in New York but also the creation of new problem-solving court types. Sex offense courts and mental health courts, for example, gained traction under the leadership of the Office of Policy and Planning.

The Office of Policy and Planning brings into the state new ideas and information on problem-solving courts and on the underlying subject matter of these courts. The Office of Policy and Planning views training as a form of advocacy. For example, training for sex offense court judges and staff includes information on the latest research on sex

offender management and treatment, much of which has changed the way judges think about sex offense cases.

The Office of Policy and Planning promotes coordination and information-sharing between the courts and outside agencies such as the Division of Criminal Justice Services and the Office of Mental Health, which in turn helps to support the work of problem-solving courts.

## FOR MORE INFORMATION

Visit:  
[www.courtinnovation.org](http://www.courtinnovation.org)

Write:

Expert Assistance

Center for Court Innovation  
520 Eighth Avenue

New York, New York 10018

Call: (646) 386-4462

E-mail:  
[expertassistance@courtinnovation.org](mailto:expertassistance@courtinnovation.org)

## FURTHER READING

*'A New Way of Doing Business': A Conversation about the Statewide Coordination of Problem-Solving Courts*

[http://www.courtinnovation.org/sites/default/files/statewide\\_rt\\_2\\_09.pdf](http://www.courtinnovation.org/sites/default/files/statewide_rt_2_09.pdf)

*Applying the Problem-Solving Model Outside of Problem-Solving Courts*

<http://www.courtinnovation.org/sites/default/files/Applying%20Problem-SolvingModel.pdf>

*Breaking with Tradition: Introducing Problem Solving in Conventional Courts*

<http://www.courtinnovation.org/sites/default/files/break%20with%20trad.pdf>

*Going to Scale: A Conversation About the Future of Drug Courts*

<http://www.courtinnovation.org/sites/default/files/goingtoscale1.pdf>

*Principles of Problem-Solving Justice*

<http://www.courtinnovation.org/sites/default/files/Principles.pdf>

*Problem-Solving and the American Bench: A National Survey of Trial Court Judges*

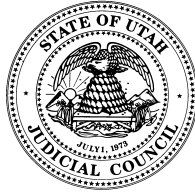
[http://www.courtinnovation.org/sites/default/files/natl\\_judges\\_survey.pdf](http://www.courtinnovation.org/sites/default/files/natl_judges_survey.pdf)

*The Hardest Sell? Problem-Solving Justice and the Challenges of Statewide Implementation*

<http://www.courtinnovation.org/sites/default/files/Hardest%20Sell1.pdf.pdf>



Tab 10



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

Ronald B. Gordon, Jr.  
State Court Administrator  
Neira Siaperas  
Deputy Court Administrator

## MEMORANDUM

**TO:** Utah Judicial Council

**FROM:** Jim Peters, Staff to the Committee

**DATE:** November 13, 2023

**RE:** Request to Extend the Committee on Children and Family Law Indefinitely

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The Judicial Council authorized the creation of the Committee on Children and Family Law in December 1999 when it adopted [Rule 4-908 of the Code of Judicial Administration](#). That rule contemplates a committee comprised of subject matter experts who are to:

- discuss problems in the administration of justice in family law, such as programmatic and geographic voids in services, procedural reforms, and the unmet legal needs of children and families;
- develop and recommend solutions, including rules and statutes, to those problems, excluding structural reorganization of the courts;
- supervise and assist in implementing solutions;
- provide a forum for debate on political and policy issues facing public and private institutions in their effort to deliver services to children and families;
- develop and recommend a model and role for community-based councils on children and family law and a model for their relationship to the standing committee; and
- supervise and assist in establishing community-based councils.

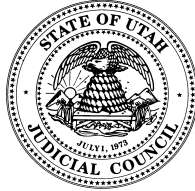
In June 2009, the Management Committee discussed whether this committee was necessary. Following further discussion by the Judicial Council, the committee was reauthorized for one year. In June 2011, the Council reauthorized the committee for six years. And in November 2017, the Council reauthorized the committee for another six years.

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efficient, and independent system for the advancement of justice under the law.

At some point, the Committee on Children and Family Law was added to the list of Standing Committees in [Rule 1-205\(1\) of the Code of Judicial Administration](#). Even so, as the six-year extension approved in November 2017 will expire this month, a request will be made to extend the committee indefinitely at next week's Council meeting. At the same time, the committee will provide an update on the legislative audit it was asked to address and share ideas it has for adding value in the future.



Tab 11



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 7, 2023

Ronald B. Gordon, Jr.  
State Court Administrator  
Neira Siaperas  
Deputy State Court Administrator

## MEMORANDUM

**TO: Management Committee and Judicial Council**

**FROM: Justice Jill Pohlman, Chair CFA**  
**Jon Puente, Director OFA**

**RE: Anonymity in Racial and Ethnic Disparity Data Projects**

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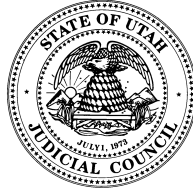
In the September 2022 Judicial Council meeting, the Racial and Ethnic Disparity Workgroup (RED Workgroup), a subcommittee of the Committee on Fairness and Accountability (CFA), presented to the Judicial Council a blueprint of the data project it was developing to examine District Court processes and outcomes that may contribute to or reflect the inequitable treatment of individuals based on race and ethnicity. The Judicial Council approved the project with the understanding that the data would be analyzed and reported anonymously. That is, the data would not be linked to individual judicial officers and the report would analyze the district courts as a whole.

As the project blueprint was presented to judicial officers, some officers asked important questions about the decision to analyze the data anonymously. In an effort to fully address the concerns implicated by those questions, the CFA has spent the past several months exploring the issue of anonymity relative to the data projects for both the juvenile and district courts. As part of that exploration, the CFA has gathered input from stakeholders, including the Boards of Judges and community members. After gathering this input and further discussing the issue, the CFA unanimously makes the following recommendation to the Judicial Council:

"The OFA and CFA recommend to the Judicial Council to conduct anonymously the first data review projects for any court level, including the projects currently underway for the Juvenile and District courts, on the condition that the Council adopt a rule requiring that additional data projects will be conducted non-anonymously and on a regularly scheduled basis. If the Judicial Council is unwilling to commit to ongoing reviews and the adoption of a rule requiring them, the OFA and CFA recommend that all projects, including the projects underway for the Juvenile and District courts, be conducted non-anonymously."

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efficient, and independent system for the advancement of justice under the law.**

Tab 12



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 14, 2023

Ronald B. Gordon, Jr.  
State Court Administrator  
Neira Siaperas  
Deputy State Court Administrator

## MEMORANDUM

**TO:** Judicial Council

**FROM:** Ron Gordon, State Court Administrator and Neira Siaperas, Deputy State Court Administrator

**RE:** System Review

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Nearly five years ago, the Utah Judiciary engaged the services of the National Center for State Courts (NCSC) to assist the Judiciary in assessing the perceptions and needs of the Judiciary, as viewed by our judges and employees. NCSC interviewed approximately 50 people in the Judiciary (judges and employees) in early 2019. During those interviews, NCSC asked questions about the governance of the Judiciary, communication, culture, onboarding and training, and harassment. NCSC also provided an opportunity for general feedback about the operations of the Judiciary. In March 2019, NCSC delivered an interim report outlining nearly 100 concerns and suggestions from the interviews. This was Phase I of the project. A copy of the interim report is included as Addendum A.

Phase II of the project would have involved NCSC visiting with a much larger population of judges and employees about the feedback from the earlier interviews. Work on Phase II was postponed pending the appointment of a permanent state court administrator. (Judge Noonan was serving as the interim state court administrator at the time.) By the end of 2019, Judge Noonan had been appointed as the permanent state court administrator and the Judicial Council had approved work on Phase II to continue in March 2020. Unfortunately, Phase II was not completed because of the COVID-19 pandemic. During the intervening time, the AOC has worked on many points of the feedback in the interim report outside of a formal Phase II.

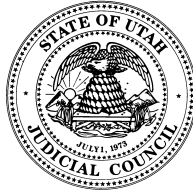
Though much time has passed since the interim report, there is still value in the information and there is likely still value in completing some form of Phase II of the project. Neira and I summarized the nearly 100 points of feedback into 21 broader themes, as noted below. We recommend the Judicial Council adopt some form of Phase II of the system review as their 2024 study item.

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efficient, and independent system for the advancement of justice under the law.

### Broad themes from the System Review Interim Report.

- The AOC controls the governance of the Judiciary. The AOC exercises too much authority that should be exercised by the Judicial Council.
- Judges and employees need better communication about the work of the Judicial Council.
- The AOC has created a culture that discourages people from providing open and candid feedback.
- The AOC tells people what to do, but does not support them.
- The AOC limits flow of information.
- The AOC should visit local courts.
- The Human Resources department needs to be overhauled.
- The Judiciary needs better mentoring programs.
- More supervisory training should be provided to judges and employees.
- The Judiciary needs better training on sexual harassment.
- There are significant employee salary problems.
- The governance structure of the Judiciary is confusing and not well-understood by many judges and employees.
- Decisions are sometimes made without appropriate information sought from the people who will be most impacted by those decisions.
- Judges need better communication about the activities and efforts of the boards of judges.
- Communication about the adoption and implementation of legislative priorities and budget priorities could be strengthened.
- Individual judges sometimes try to control issues that should be controlled by local management or the AOC.
- Some employees are afraid of judges.
- Communication from TCEs needs improvement.
- The decision-making system takes too long. Steps should be taken to strengthen judicial branch governance and decision-making, including a review of where decisions should be made and by whom, who should be consulted before making the decision, and who should be informed after making the decision.
- Male dominance in leadership positions.
- Judges have no input into the hiring, ongoing supervision, and firing of employees.

Tab 13



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 3, 2023

Ronald Gordon, Jr.  
State Court Administrator  
Neira Saiperas  
Deputy State Court Administrator

## MEMORANDUM

**TO: Management Committee / Judicial Council**  
**FROM: Keisa Williams**  
**RE: Rules for Final Approval**

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Following a 45-day public comment period, the Policy, Planning and Technology Committee (PP&T) recommends that the following rules be approved as final with a **January 1, 2024** effective date.

### **CJA 6-301. Authority of court commissioner as magistrate.**

The amendments broaden commissioners' magistrate authority while ensuring commissioners' actions remain within the bounds of Utah Code section 78A-5-107 and constitutional limits on the delegation of judicial authority.

- One public comment was received. PP&T made the following clarifying amendments in response to the comment:
  - In paragraph (4), deleted "and subject to de novo review by the district court" because it is already stated in (6)(A); and
  - Deleted (5)(D) entirely because the issue is addressed in (3)(G).

### **CJA 4-202.08. Fees for records, information, and services.**

The amendments 1) remove individual hourly rates, 2) add a provision regarding fees for bulk data, 3) authorize the State Court Administrator to set rates and fees (will be posted on the court's webpage), 4) clarify personnel time may be charged to copy records, and 5) clarify that court appointed attorneys qualify for a fee waiver if they are requesting records on behalf of an indigent client and the client would qualify for a waiver.

- PP&T made the following amendments in response to court employee comments:
  - Deleted (3)(C). With the exception of capital cases or cases where a party has requested and is paying for a stenographer, the court very rarely has in-person stenographers. When there is one, the parties must agree to rely on the stenographer's text as the record. If there isn't an agreement, the FTR recording controls. If the parties want the stenographer's text to be the record, and they agree as such, the court does not collect a \$25 fee.

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efficient, and independent system for the advancement of justice under the law.**

- In paragraph (7)(B), deleted “When non subscription access becomes available” because such access is available.

**CJA 4-202.02. Records classification.**

**CJA 4-202.03. Records access.**

The amendments classify video records of court proceedings, other than security video, as sealed and limits access to: 1) official court transcribers for the purposes outlined in Rule [5-202](#), 2) court employees if needed to fulfill official court duties, and 3) anyone by court order.

- One public comment was received. No amendments were made in response to the comment and none are recommended. The court does not have the technological capability to “blur” or “splice” Webex recordings to obscure faces (i.e., victim, juror, etc.) or remove non-public information. Individuals denied access may file a motion with the court under CJA Rule [4-202.04](#).

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efficient, and independent system for the advancement of justice under the law.**



# UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

To submit a comment or view the comments of others, click on “Continue Reading.” To submit a comment, scroll down to the “Leave a Reply” section, and type your comment in the “Comment” field. Type your name and email address in the designated fields and click “Post Comment.”

Comments cannot be acknowledged, but all will be considered. Comments are saved to a buffer for review before publication.

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Posted: September 19, 2023

Utah Courts

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## Code of Judicial Administration – Comment Period Closes November 3, 2023

**CJA06-0301. Authority of court commissioner as magistrate. (AMEND).** Within the bounds of Utah Code section 78A-5-107 and constitutional limitations on the delegation of judicial authority, the proposed amendments broaden commissioners’ magistrate authority. The rule identifies the types of cases and matters court commissioners are authorized to hear and the types of relief and orders they may recommend. The rule also establishes timely judicial review of recommendations and orders made by a court commissioner.

**CJA04-0202.08. Fees for records, information, and services. (AMEND).** The proposed amendments 1) clarify that personnel time may be charged to copy records, 2) clarify that court appointed attorneys qualify for a fee waiver if they are requesting records on behalf of an indigent client and the client would qualify for a waiver, and 3) add a provision regarding bulk data. Bulk data fees and individual hourly rates removed from the rule would be posted on the court webpage.

**CJA04.0202.02. Records classification. (AMEND)**

To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

## CATEGORIES

- [-Alternate Dispute Resolution](#)
- [-Code of Judicial Administration](#)
- [-Code of Judicial Conduct](#)
- [-Fourth District Court Local Rules](#)
- [-Licensed Paralegal Practitioners Rules of Professional Conduct](#)
- [-Rules Governing Licensed Paralegal Practitioner](#)
- [-Rules Governing the State Bar](#)

**CJA04-0202.03. Records access. (AMEND).**

The proposed amendments classify video records of court proceedings, other than security video, as sealed and limit access to 1) official court transcribers for the purposes outlined in Rule 5-202, 2) court employees if needed to fulfill official court duties, and 3) anyone by court order. Individuals denied access may file a motion with the court under Rule 4-202.04.

This entry was posted in [-Code of Judicial Administration, CJA04-0202.02, CJA04-0202.03, CJA04-0202.08, CJA06-0301.](#)

« [Rules of Juvenile Procedure – Comment Period Closes November 9, 2023](#)

[Rules of Juvenile Procedure – Comment Period Closed October 13, 2023](#) »

## UTAH COURTS

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2 thoughts on “Code of Judicial Administration – Comment Period Closes November 3, 2023”

**Eric K. Johnson**  
September 23, 2023 at 9:43 am

Re: proposed amendments to CJA04-0202.02 (Records classification) and CJA04-0202.03 (Records access), what is/are the motive(s) behind these proposals:

1) The record of public court proceedings is public record. Knowing this, the question is: who is harmed by public access to a “video record of a court proceeding” to the point that the harm justifies absolutely prohibiting public access to that record?

2) Based upon my years of (documented) personal experience and the policies behind public access to public records, it

- [-Rules of Appellate Procedure](#)
- [-Rules of Civil Procedure](#)
- [-Rules of Criminal Procedure](#)
- [-Rules of Evidence](#)
- [-Rules of Juvenile Procedure](#)
- [-Rules of Professional Conduct](#)
- [-Rules of Professional Practice](#)
- [-Rules of Small Claims Procedure](#)
- [ADR101](#)
- [ADR103](#)
- [Appendix B](#)
- [Appendix F](#)
- [CJA Appendix F](#)
- [CJA01-0201](#)
- [CJA01-0204](#)
- [CJA01-0205](#)
- [CJA01-0205](#)
- [CJA01-0302](#)
- [CJA01-0303](#)
- [CJA01-0304](#)
- [CJA01-0305](#)
- [CJA010-01-0404](#)
- [CJA010-1-020](#)
- [CJA02-0101](#)
- [CJA02-0103](#)
- [CJA02-0104](#)
- [CJA02-0106.01](#)
- [CJA02-0106.02](#)
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- [CJA02-0212](#)
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- [CJA03-0107](#)
- [CJA03-0108](#)
- [CJA03-0109](#)
- [CJA03-0111](#)
- [CJA03-0111.01](#)

appears to me that those who currently administer Utah courts want to contrive and enjoy the public perception that the records of public court proceedings (i.e., the records of the public proceeding itself)–particularly the public proceedings in domestic relations proceedings\*–are available to the public while the courts withhold these records from the public, and (ironically) in a transparently illogical, arbitrary, and capricious manner.

Unless and until someone makes a cogent argument to the contrary, it appears to me that the real and overarching purpose of these proposed amendments is to impede public scrutiny of public court proceedings and of the judges and commissioners presiding over them. Such secrecy breeds only suspicion and distrust.

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\*These proceedings are open to the public and the record of these proceedings is public record, but many judges and commissioners believe or claim to believe otherwise.

[Reply](#)

**David Ferguson**

**October 27, 2023 at 4:09 pm**

With regard to CJA06-0301, this is a concerning choice for several reasons.

Line 70: The proposal indicates that commissioners can dismiss cases at prelim but only without prejudice, and the dismissal is subject to de novo review. I'm not sure if this makes the evidentiary hearing de novo or just the argument phase of the prelim de novo (i.e. can prosecutors get another evidentiary hearing just by appealing, or is this a de novo review of "the record"). If it's the former, then I worry about the gamesmanship that may result from this position. One important way in which criminal cases get dismissed early in the process is because a witness withholds cooperation with the State's case. A prosecutor may request a continuance of the prelim if a key witness no-shows, and judges often allow one or two continuances when a witness fails to appear for apparently innocuous reasons. However, sometimes key witnesses simply do not want to participate with the prosecution for any number of principled reasons. Preliminary hearings serve as useful screening tools to weed out cases that that aren't going to go anywhere, and to do so without holding a case up for months-to-years at the pretrial stage. This proposal essentially adds additional hurdles to getting these sorts of cases screened out. If a magistrate dismisses a case with the awareness that the State has uncooperative witnesses, a prosecutor can appeal that decision, not because it is a decision worth appealing, but because it allows the case to drag on longer, keep a pretrial incarcerated detained longer, at the expense of driving inefficiency in courts that are already gummed up with cases.

- [CJA03-0111.02](#)
- [CJA03-0111.03](#)
- [CJA03-0111.04](#)
- [CJA03-0111.05](#)
- [CJA03-0111.06](#)
- [CJA03-0112](#)
- [CJA03-0113](#)
- [CJA03-0114](#)
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- [CJA03-0201](#)
- [CJA03-0201.02](#)
- [CJA03-0202](#)
- [CJA03-0301](#)
- [CJA03-0301.01](#)
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- [CJA04-0202.05](#)
- [CJA04-0202.06](#)

Line 79: Because commissioners can't accept pleas, it means that any resolution of a case before prelim will have to get rescheduled to a judge's calendar. Since it's very common to resolve cases pre-prelim (in fact, I suspect the majority of cases are resolved pre-prelim), the proposal is going to create an extra calendar date for A LOT of defendants. I imagine this being particularly frustrating for public defenders, where a resolution can be reached on a client's case, but there's a built-in 2-3 week delay to get a plea handled simply because the case is pre-prelim. In other words, this creates an inefficiency in the system that puts a lot of strain on defendants and defense attorneys, particularly public defenders.

Line 82: This indicates that magistrates can't enter "final pretrial status orders" (citing the bail statute). I'm not sure what a "final pretrial status order" is. The term "final" doesn't exist in the bail statute that way. And while an order of detention is appealable as a matter of right, it would not be correct to refer to any pretrial order as a final one. Hazardous a guess at the intent of this term, I'd be worried that this term means that a magistrate can never release someone if they come in at their initial appearance in custody, or at any stage in the preceding until after a preliminary hearing, assuming a magistrate holds onto the case through preliminary hearing. There are sometimes very good reasons for a defendant to be released at the initial appearance, or in any event, before/during a preliminary hearing. And it doesn't make sense to limit magistrates from entertaining such releases. If a magistrate can issue a no-bail warrant, surely she can vacate an order to hold without bail, or make any other order of release. I strongly urge a modification of this rule to the extent that it would either cause unnecessary procedural delays in having a defendant's release be addressed, or would require a rather confusing system of having a magistrate oversee a case through preliminary hearing, but darting on a judge's calendar for release decisions when they come up. Our system is already incredibly inflexible in entertaining a defendant's release. The Third District has never tried to follow the legislature's instruction to allow detention hearings within 10 days of a defendant's arrest (whenever I've asked for a detention hearing at an initial appearance, I have always been given scheduling conference date with the assigned judge more than 10 days after the arrest).

Our courts are overburdened. We all feel it. This proposal shifts some of that burden from judges to commissioners. However, it also shifts that burden onto defendants and defense attorneys (particularly public defenders), and we don't get better justice outcomes when additional burdens are added to the public defender's workload.

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**Rule 6-301. Authority of Court Commissioner as Magistrate****Intent:**

To identify, as required by Utah Code Section 78A-5-107, the types of cases and matters commissioners are authorized to hear, to identify the types of relief and orders commissioners may recommend, and to establish procedures for timely judicial review of recommendations and orders made by court commissioners. To provide for the authority of a court commissioner to act as a magistrate as required by § 77-1-3.

**Applicability:**

This rule shall apply to court commissioners acting as magistrate judges in criminal cases in the district courts.

**Statement of the Rule:**

A court commissioner may exercise the following authority conferred upon magistrates by the Legislature:

(1) issue warrants and summonses in traffic cases; and

(2) set fines in traffic cases.

(1) **Types of cases and matters.** All felony and misdemeanor cases filed in the district court in counties where court commissioners are appointed and serving in accordance with Rule 3-201.

(2) **Duties of court commissioner.** Under the general supervision of the presiding judge, a commissioner has the following duties:

(2)(A) To handle procedural aspects of criminal cases up to and including bind over; and

(2)(B) To conduct initial appearances, preliminary hearings, and other hearings consistent with applicable statutes and rules.

(3) **Authority of court commissioner.** Subject to the limitations outlined in this rule, court commissioners shall have the following authority:

(3)(A) All duties and responsibilities conferred upon magistrates by statute, the Rules of Criminal Procedure, and this rule;

(3)(B) Upon notice, to require the personal appearance of parties and their counsel at hearings before the commissioner or district court;

(3)(C) To conduct initial appearances in accordance with Rule 7 of the Utah Rules of Criminal Procedure;

(3)(D) To require defendants to disclose information necessary to ensure notice, compliance with pretrial release conditions, and appearance at court hearings;

(3)(E) To require defendants to make financial disclosures and complete forms necessary to determine indigency and appoint counsel;

(3)(F) To reassign cases in accordance with written policies of the district court;

(3)(G) To modify the terms of a temporary pretrial status order, subject to de novo review by the district court;

(3)(H) To enter pretrial protective orders, no contact orders, temporary civil protective orders, and stalking injunctions, subject to de novo review by the district court;

(3)(I) To recommend the issuance of arrest warrants based on probable cause or failure to appear;

(3)(J) To recommend the issuance of material witness warrants in accordance with Rule 7C of the Utah Rules of Criminal Procedure;

(3)(K) To conduct preliminary hearings in accordance with Rule 7B of the Utah Rules of Criminal Procedure;

(3)(L) To impose sanctions for contempt of court, subject to de novo review by the district court;

(3)(M) To issue temporary or ex parte orders, subject to de novo review by the district court;

(3)(N) To issue warrants and summonses in traffic cases;

(3)(O) To set fines in traffic cases; and

(3)(P) To make recommendations to the district court regarding any issue, including a recommendation for entry of final judgment.

(4) **Dismissals.** If a court commissioner dismisses a case at a preliminary hearing or other proceeding prior to bindover, the dismissal shall be without prejudice. ~~and subject to de novo review by the district court.~~

(5) **Prohibitions.**

(5)(A) Commissioners shall not make final adjudications or enter final, appealable orders.

(5)(B) Commissioners shall not serve as pro tempore judges in any matter, except as provided by Rule of the Supreme Court.

(5)(C) Commissioners shall not conduct trials, accept guilty pleas, or impose sentences, even with consent of all parties.

~~(5)(D) Commissioners shall not enter final pretrial status orders in accordance with Utah Code Section 77-20-205.~~

(6) **Judicial review.**

(6)(A) All orders made by a commissioner are subject to review by the district court pursuant to this rule, applicable rules of criminal procedure, or local rules. Review by the district court is de novo, neither party is required to show a change in circumstances, and no deference

95 may be given to the commissioner's decision. Countersigning a recommendation by a  
96 commissioner does not constitute de novo review.  
97

98 (6)(B) A recommendation or order of a court commissioner is the order of the court until  
99 modified by the court. A party may make an oral objection or file a written objection to the  
100 recommendation within 14 days after the recommendation is made in open court or, if the  
101 court commissioner takes the matter under advisement, within 14 days after the minute  
102 entry of the recommendation is served. A judge's counter-signature on the commissioner's  
103 recommendation does not affect the review of an objection.  
104

105 (6)(C) The objection must be made in accordance with Rule 12 of the Utah Rules of Criminal  
106 Procedure and must identify succinctly and with particularity the findings of fact, the  
107 conclusions of law, or the part of the recommendation or order to which the objection is  
108 made and state the relief sought.  
109

110  
111 *Effective: May/~~November~~ 12, 202\_0*



**Rule 4-202.08. Fees for records, information, and services.****Intent:**

To establish uniform fees for requests for records, information, and services.

**Applicability:**

This rule applies to all courts of record and not of record and to the Administrative Office of the Courts. This rule does not apply to the Self Help Center.

**Statement of the Rule:**

(1) **Fees payable.** Fees are payable to the court or office that provides the record, information, or service at the time the record, information, or service is provided. The initial and monthly subscription fee for public online services is due in advance. The connect-time fee is due upon receipt of an invoice. If a public online services account is more than 60 days overdue, the subscription may be terminated. If a subscription is terminated for nonpayment, the subscription will be reinstated only upon payment of past due amounts and a reconnect fee equal to the subscription fee.

(2) **Use of fees.** Fees received are credited to the court or office providing the record, information, or service in the account from which expenditures were made. Fees for public online services are credited to the Administrative Office of the Courts to improve data quality control, information services, and information technology.

(3) **Copies.** Copies are made of court records only. The term "copies" includes the original production. Fees for copies are based on the number of record sources to be copied or the means by which copies are delivered and are as follows:

(3)(A) paper except as provided in (E): \$.25 per sheet;

(3)(B) electronic storage medium other than of court hearings: \$15.00 per unit;

~~(3)(C) electronic copy of court reporter stenographic text: \$25.00 for each one-half day of testimony or part thereof;~~

(3)(~~C~~D) electronic copy of audio record or video record of court proceeding: \$15.00 for each one-half day of testimony or part thereof; and

(3)(~~D~~E) pre-printed forms and associated information: an amount for each packet established by the state court administrator.

(4) **Mailing.** The fee for mailing is the actual cost. The fee for mailing shall include necessary transmittal between courts or offices for which a public or private carrier is used.



(5) **Fax or e-mail.** The fee to fax or e-mail a document is \$5.00 for 10 pages or less. The fee for additional pages is \$.50 per page. Records available on Xchange will not be faxed or e-mailed.

(6) **Personnel time.**

(6)(A) ~~Personnel time to copy the record of a court proceeding is included in the copy fee. For other matters, t~~here is no fee for the first 15 minutes of personnel time required to provide the copy, record, information, or service, unless the person who submits the request:

(6)(A)(i) is not a Utah media representative; and

(6)(A)(ii) has submitted a separate records request within the 10-day period immediately prior to the date of the request to which the court or office is responding.

(6)(B) The fee for time beyond the first 15 minutes is charged in 15 minute increments for any part thereof. The fees for personnel time may be set by the State Court Administrator and the rates charged should be ~~is charged at the following rates~~ for the least expensive group capable of providing the record, information, or service.:

~~(6)(B)(i) clerical assistant: \$15.00 per hour; (6)(B)(ii) technician: \$22.00 per hour;~~

~~(6)(B)(iii) senior clerical: \$21.00 per hour~~

~~(6)(B)(iv) programmer/analyst: \$32.00 per hour;~~

~~(6)(B)(v) manager: \$37.00 per hour; and~~

~~(6)(B)(vi) consultant: actual cost as billed by the consultant.~~

(7) **Public online services.**

(7)(A) The fee to subscribe to Xchange shall be as follows:

(7)(A)(i) a set-up fee of \$25.00;

(7)(A)(ii) a subscription fee of \$40.00 per month for any portion of a calendar month; and

(7)(A)(iii) \$.15 for each search over 500 during a billing cycle. A search is counted each time the search button is clicked.

(7)(B) ~~When non-subscription access becomes available, t~~he fee to access public online services without subscribing shall be a transaction fee of \$5.00, which will allow up to 10 searches during a session.

(7)(C) The fee to access a document shall be \$.50 per document.

(8) Bulk Data. If approved, individuals or entities may subscribe to receive indexed court data authorized under rule 4-202.02(2)(L) electronically in bulk. The fee to receive bulk data may be set by the State Court Administrator. Requests for bulk data should be made to the Office of Judicial Data and Research.

(98) **No interference.** Records, information, and services shall be provided at a time and in a manner that does not interfere with the regular business of the courts. The Administrative Office of the Courts may disconnect a user of public online services whose use interferes with computer performance or access by other users.

(109) **Waiver of fees.**

(109)(A) Subject to (109)(B), fees established by this rule, other than fees for public online services, shall be waived for:

(109)(A)(i) any government entity of Utah or its political subdivisions if the fee is minimal;

(109)(A)(ii) any person who is the subject of the record and who is indigent;

(109)(A)(iii) any court appointed attorney acting on behalf of a client, if the client would qualify for a fee waiver under (109)(A)(ii); and

(109)(A)(iv) a student engaged in research for an academic purpose.

(109)(B) Individuals who qualify for a fee waiver under (109)(A)(ii) and (109)(A)(iii) are entitled to one free copy of the record requested. The State Court Administrator may waive the one free copy limit under this rule for good cause.

(109)(C) Fees for public online services shall be waived for:

(109)(C)(i) up to 10,000 searches per year for a news organization that gathers information for the primary purpose of disseminating news to the public and that requests a record to obtain information for a story or report for publication or broadcast to the general public;

(109)(C)(ii) any government entity of Utah or its political subdivisions;

(109)(C)(iii) the Utah State Bar;

130 (109)(C)(iv) public defenders for searches performed in connection with their  
131 duties as public defenders; and  
132

133 (109)(C)(v) any person or organization who the XChange administrator  
134 determines offers significant legal services to a substantial portion of the public at  
135 no charge.  
136

137 *Effective: ~~January-May/November~~ 1, 202\_3*

**Rule 4-202.02. Records Classification.****Intent:**

To classify court records as public or non-public.

**Applicability:**

This rule applies to the judicial branch.

**Statement of the Rule:**

(1) **Presumption of Public Court Records.** Court records are public unless otherwise classified by this rule.

(2) **Public Court Records.** Public court records include but are not limited to:

(2)(A) abstract of a citation that redacts all non-public information;

(2)(B) aggregate records without non-public information and without personal identifying information;

(2)(C) appellate filings, including briefs;

(2)(D) arrest warrants, but a court may restrict access before service;

(2)(E) audit reports;

(2)(F) case files;

(2)(G) committee reports after release by the Judicial Council or the court that requested the study;

(2)(H) contracts entered into by the judicial branch and records of compliance with the terms of a contract;

(2)(I) drafts that were never finalized but were relied upon in carrying out an action or policy;

(2)(J) exhibits, but the judge may regulate or deny access to ensure the integrity of the exhibit, a fair trial or interests favoring closure;

(2)(K) financial records;

(2)(L) indexes approved by the Management Committee of the Judicial Council, including the following, in courts other than the juvenile court; an index may contain any other index information:

(2)(L)(i) amount in controversy;

(2)(L)(ii) attorney name;

(2)(L)(iii) licensed paralegal practitioner name;

(2)(L)(iv) case number;

(2)(L)(v) case status;

(2)(L)(vi) civil case type or criminal violation;

(2)(L)(vii) civil judgment or criminal disposition;

(2)(L)(viii) daily calendar;

(2)(L)(ix) file date;

(2)(L)(x) party name;

(2)(M) name, business address, business telephone number, and business email address of an adult person or business entity other than a party or a victim or witness of a crime;

(2)(N) name, address, telephone number, email address, date of birth, and last four digits of the following: driver's license number; social security number; or account number of a party;

(2)(O) name, business address, business telephone number, and business email address of a lawyer or licensed paralegal practitioner appearing in a case;

(2)(P) name, business address, business telephone number, and business email address of court personnel other than judges;

(2)(Q) name, business address, and business telephone number of judges;

(2)(R) name, gender, gross salary and benefits, job title and description, number of hours worked per pay period, dates of employment, and relevant qualifications of a current or former court personnel;

(2)(S) unless classified by the judge as private or safeguarded to protect the personal safety of the juror or the juror's family, the name of a juror empaneled to try a case, but only 10 days after the jury is discharged;

(2)(T) opinions, including concurring and dissenting opinions, and orders entered in open hearings;

(2)(U) order or decision classifying a record as not public;

(2)(V) private record if the subject of the record has given written permission to make the record public;

(2)(W) probation progress/violation reports;

(2)(X) publications of the administrative office of the courts;

(2)(Y) record in which the judicial branch determines or states an opinion on the rights of the state, a political subdivision, the public, or a person;

(2)(Z) record of the receipt or expenditure of public funds;

(2)(AA) record ~~of~~ minutes or transcript of an open meeting; ~~or~~

(2)(BB) official audio record, minutes, or transcript of an open hearing ~~and the transcript of them~~;

(2)(~~CCBB~~) record of formal discipline of current or former court personnel or of a person regulated by the judicial branch if the disciplinary action has been completed, and all time periods for administrative appeal have expired, and the disciplinary action was sustained;

(2)(~~DDGG~~) record of a request for a record;

(2)(~~EEDD~~) reports used by the judiciary if all of the data in the report is public or the Judicial Council designates the report as a public record;

(2)(~~FFEE~~) rules of the Supreme Court and Judicial Council;

(2)(~~GGFF~~) search warrants, the application and all affidavits or other recorded testimony on which a warrant is based are public after they are unsealed under Utah Rule of Criminal Procedure 40;

(2)(~~HHGG~~) statistical data derived from public and non-public records but that disclose only public data; and

(2)(~~IHHH~~) notwithstanding subsections (6) and (7), if a petition, indictment, or information is filed charging a person 14 years of age or older with a felony or an offense that would be a felony if committed by an adult, the petition, indictment or information, the adjudication order, the disposition order, and the delinquency history summary of the person are public records. The delinquency history summary shall contain the name of the person, a listing of the offenses for which the person was adjudged to be within the jurisdiction of the juvenile court, and the disposition of the court in each of those offenses.

**(3) Sealed Court Records.** The following court records are sealed:

(3)(A) records in the following actions:

(3)(A)(i) Title 78B, Chapter 6, Part 1 – Utah Adoption Act six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(ii) Title 78B, Chapter 15, Part 8 – Gestational Agreement, six months after the conclusion of proceedings, which are private until sealed;

(3)(A)(iii) Section 76-7-304.5 – Consent required for abortions performed on minors; and

(3)(A)(iv) Section 78B-8-402 – Actions for disease testing;

(3)(B) expunged records;

(3)(C) orders authorizing installation of pen register or trap and trace device under Utah Code Section 77-23a-15;

(3)(D) records showing the identity of a confidential informant;

(3)(E) records relating to the possession of a financial institution by the commissioner of financial institutions under Utah Code Section 7-2-6;

(3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;

(3)(G) records designated as sealed by rule of the Supreme Court;

(3)(H) record of a Children's Justice Center investigative interview after the conclusion of any legal proceedings;

(3)(I) on appeal, any record previously designated as sealed by another court;

(3)(J) video record of a court proceeding, other than security video; and

(3)(~~K~~) other records as ordered by the court under Rule 4-202.04.

**(4) Private Court Records.** The following court records are private:

(4)(A) records in the following actions:

(4)(A)(i) Section 26B-5-332, Involuntary commitment under court order;

(4)(A)(ii) Section 76-10-532, Removal from the National Instant Check System database;

(4)(A)(iii) Title 78B, Chapter 6, Part 1, Utah Adoption Act, until the records are sealed;

(4)(A)(iv) Title 78B, Chapter 15, Part 8, Gestational Agreement, until the records are sealed;

(4)(A)(v) cases initiated in the district court by filing an abstract of a juvenile court restitution judgment; and

(4)(A)(vi) Section 26B-8-111, Sex designation changes, and name changes combined with sex designation changes for both minors and adults, except that:

(4)(A)(vi)(a) the case history is public for minors; and

(4)(A)(vi)(b) the case history and record of public hearings are public for adults.

(4)(B) records in the following actions, except that the case history, judgments, orders, decrees, letters of appointment, and the record of public hearings are public records:

(4)(B)(i) Title 30, Husband and Wife, including qualified domestic relations orders, except that an action for consortium due to personal injury under Section 30-2-11 is public;

(4)(B)(ii) Title 75, Chapter 5, Protection of Persons Under Disability and their Property;

(4)(B)(iii) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(4)(B)(iv) Title 78B, Chapter 12, Utah Child Support Act;

(4)(B)(v) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(4)(B)(vi) Title 78B, Chapter 14, Uniform Interstate Family Support Act;

(4)(B)(vii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(4)(B)(viii) an action to modify or enforce a judgment in any of the actions in this subparagraph (B);

(4)(C) records related to determinations of indigency;

(4)(D) an affidavit supporting a motion to waive fees;

(4)(E) aggregate records other than public aggregate records under subsection (2);

(4)(F) alternative dispute resolution records;

(4)(G) applications for accommodation under the Americans with Disabilities Act;

(4)(H) jail booking sheets;

(4)(I) citation, but an abstract of a citation that redacts all non-public information is public;

(4)(J) judgment information statement;

(4)(K) judicial review of final agency action under Utah Code Section 80-2-707;

(4)(L) the following personal identifying information about a party: driver's license number, social security number, account description and number, password, identification number, maiden name and mother's maiden name, and similar personal identifying information;

(4)(M) the following personal identifying information about a person other than a party or a victim or witness of a crime: residential address, personal email address, personal telephone number; date of birth, driver's license number, social security number,



account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information;

(4)(N) medical, psychiatric, or psychological records;

(4)(O) name of a minor, except that the name of a minor party is public in the following district and justice court proceedings:

(4)(O)(i) name change of a minor, unless the name change is combined with a sex designation change;

(4)(O)(ii) guardianship or conservatorship for a minor;

(4)(O)(iii) felony, misdemeanor, or infraction when the minor is a party;

(4)(O)(iv) protective orders and stalking injunctions; and

(4)(O)(v) custody orders and decrees;

(4)(P) nonresident violator notice of noncompliance;

(4)(Q) personnel file of a current or former court personnel or applicant for employment;

(4)(R) photograph, film, or video of a crime victim;

(4)(S) record of a court hearing closed to the public or of a child's testimony taken under URCrP 15.5:

(4)(S)(i) permanently if the hearing is not traditionally open to the public and public access does not play a significant positive role in the process; or

(4)(S)(ii) if the hearing is traditionally open to the public, until the judge determines it is possible to release the record without prejudice to the interests that justified the closure;

(4)(T) record submitted by a senior judge or court commissioner regarding performance evaluation and certification;

(4)(U) record submitted for in camera review until its public availability is determined;

(4)(V) reports of investigations by Child Protective Services;

(4)(W) statement in support of petition to determine competency;

(4)(X) victim impact statements;

(4)(Y) name of a prospective juror summoned to attend court, unless classified by the judge as safeguarded to protect the personal safety of the prospective juror or the prospective juror's family;

(4)(Z) records filed pursuant to Rules 52 - 59 of the Utah Rules of Appellate Procedure, except briefs filed pursuant to court order;

(4)(AA) records in a proceeding under Rule 60 of the Utah Rules of Appellate Procedure;

(4)(BB) records related to Court Commissioner Conduct Committee and Council actions under Rule 3-201.02, other than a public censure by the Council, and

(4)(CC) other records as ordered by the court under Rule 4-202.04.

**(5) Protected Court Records.** The following court records are protected:

(5)(A) attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the courts concerning litigation, privileged communication between the courts and an attorney representing, retained, or employed by the courts, and records prepared solely in anticipation of litigation or a judicial, quasi-judicial, or administrative proceeding;

(5)(B) records that are subject to the attorney client privilege;

(5)(C) bids or proposals until the deadline for submitting them has closed;

(5)(D) budget analyses, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(5)(E) budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the court's contemplated policies or contemplated courses of action;

(5)(F) court security plans;

(5)(G) investigation and analysis of loss covered by the risk management fund;

(5)(H) memorandum prepared by staff for a member of any body charged by law with performing a judicial function and used in the decision-making process;

(5)(I) confidential business records under Utah Code Section 63G-2-309;

(5)(J) record created or maintained for civil, criminal, or administrative enforcement purposes, audit or discipline purposes, or licensing, certification or registration purposes, if the record reasonably could be expected to:

(5)(J)(i) interfere with an investigation;

(5)(J)(ii) interfere with a fair hearing or trial;

(5)(J)(iii) disclose the identity of a confidential source; or

(5)(J)(iv) concern the security of a court facility;

(5)(K) record identifying property under consideration for sale or acquisition by the court or its appraised or estimated value unless the information has been disclosed to someone not under a duty of confidentiality to the courts;

(5)(L) record that would reveal the contents of settlement negotiations other than the final settlement agreement;

(5)(M) record the disclosure of which would impair governmental procurement or give an unfair advantage to any person;

(5)(N) record the disclosure of which would interfere with supervision of an offender's incarceration, probation, or parole;

(5)(O) record the disclosure of which would jeopardize life, safety, or property;

(5)(P) strategy about collective bargaining or pending litigation;

(5)(Q) test questions and answers;

(5)(R) trade secrets as defined in Utah Code Section 13-24-2;

(5)(S) record of a Children's Justice Center investigative interview before the conclusion of any legal proceedings;

(5)(T) presentence investigation report;

(5)(U) except for those filed with the court, records maintained and prepared by juvenile probation; and

(5)(V) other records as ordered by the court under Rule 4-202.04.

**(6) Juvenile Court Social Records.** The following are juvenile court social records:

(6)(A) correspondence relating to juvenile social records;

(6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations, substance abuse evaluations, domestic violence evaluations;

(6)(C) medical, psychological, psychiatric evaluations;

(6)(D) pre-disposition and social summary reports;

(6)(E) probation agency and institutional reports or evaluations;

(6)(F) referral reports;

(6)(G) report of preliminary inquiries; and

(6)(H) treatment or service plans.

**(7) Juvenile Court Legal Records.** The following are juvenile court legal records:

(7)(A) accounting records;

(7)(B) discovery filed with the court;

(7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes, findings, orders, decrees;

(7)(D) name of a party or minor;

(7)(E) record of a court hearing;

(7)(F) referral and offense histories

(7)(G) and any other juvenile court record regarding a minor that is not designated as a social record.

**(8) Safeguarded Court Records.** The following court records are safeguarded:

(8)(A) upon request, location information, contact information, and identity information, other than the name of a petitioner and other persons to be protected, in an action filed under Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(8)(B) upon request, location information, contact information and identity information, other than the name of a party or the party's child, after showing by affidavit that the health, safety, or liberty of the party or child would be jeopardized by disclosure in a proceeding under Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act or Title 78B, Chapter 14, Uniform Interstate Family Support Act or Title 78B, Chapter 15, Utah Uniform Parentage Act;

(8)(C) upon request, if the information has been safeguarded under paragraph (8)(A) or (8)(B), location information, contact information and identity information, other than the name of a party or the party's child, in a proceeding under Title 30, Husband and Wife.

(8)(D) location information, contact information, and identity information of prospective jurors on the master jury list or the qualified jury list;

(8)(E) location information, contact information, and identity information other than name of a prospective juror summoned to attend court;

(8)(F) the following information about a victim or witness of a crime:

(8)(F)(i) business and personal address, email address, telephone number, and similar information from which the person can be located or contacted;

(8)(F)(ii) date of birth, driver's license number, social security number, account description and number, password, identification number, maiden name, mother's maiden name, and similar personal identifying information.

*Effective: ~~November 1~~ April 25, 2023*

**Rule 4-202.03. Records Access.****Intent:**

To identify who may access court records.

**Applicability:**

This rule applies to the judicial branch.

**Statement of the Rule:**

(1) **Public Court Records.** Any person may access a public court record.

(2) **Sealed Court Records.** No one may access a sealed court record except as authorized under (2)(A) and (2)(B) below or by order of the court. A judge may review a sealed record when the circumstances warrant.

(2)(A) **Adoption decree.** An adoptive parent or adult adoptee may obtain a certified copy of the adoption decree upon request and presentation of positive identification.

(2)(B) **Expunged records.**

(2)(B)(i) The following may obtain certified copies of the expungement order and the case history upon request and in-person presentation of positive identification:

(2)(B)(i)(a) the petitioner or an individual who receives an automatic expungement under Utah Code Chapter 40a or Section 77-27-5.1;

(2)(B)(i)(b) a law enforcement officer involved in the case, for use solely in the officer's defense of a civil action arising out of the officer's involvement with the petitioner in that particular case; and

(2)(B)(i)(c) parties to a civil action arising out of the expunged incident, if the information is kept confidential and utilized only in the action.

(2)(B)(ii) Information contained in expunged records may be accessed by qualifying individuals and agencies under Utah Code Section 77-40a-403 upon written request and approval by the state court administrator in accordance with Rule 4-202.05. Requests must include documentation proving that the requester meets the conditions for access and a statement that the requester will comply with all confidentiality requirements in Rule 4-202.05 and Utah Code.

(2)(C) **Video records.** An official court transcriber may obtain a video record of a court proceeding for the purposes outlined in Rule 5-202. A court employee may obtain a video record of a court proceeding if needed to fulfill official court duties.

(3) **Private Court Records.** The following may access a private court record:

(3)(A) the subject of the record;

- (3)(B) the parent or guardian of the subject of the record if the subject is an unemancipated minor or under a legal incapacity;
- (3)(C) a party, attorney for a party, or licensed paralegal practitioner for a party to litigation in which the record is filed;
- (3)(D) an interested person to an action under the Uniform Probate Code;
- (3)(E) the person who submitted the record;
- (3)(F) the attorney or licensed paralegal practitioner for a person who may access the private record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;
- (3)(G) an individual with a release from a person who may access the private record signed and notarized no more than 90 days before the date the request is made;
- (3)(H) anyone by court order;
- (3)(I) court personnel, but only to achieve the purpose for which the record was submitted;
- (3)(J) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and
- (3)(K) a governmental entity with which the record is shared under Rule 4-202.10.

**(4) Protected Court Records.** The following may access a protected court record:

- (4)(A) the person or governmental entity whose interests are protected by closure;
- (4)(B) the parent or guardian of the person whose interests are protected by closure if the person is an unemancipated minor or under a legal incapacity;
- (4)(C) the person who submitted the record;
- (4)(D) the attorney or licensed paralegal practitioner for the person who submitted the record or for the person or governmental entity whose interests are protected by closure or for the parent or guardian of the person if the person is an unemancipated minor or under a legal incapacity or an individual who has a power of attorney from such person or governmental entity;
- (4)(E) an individual with a release from the person who submitted the record or from the person or governmental entity whose interests are protected by closure or from the parent or guardian of the person if the person is an unemancipated minor or under a legal incapacity signed and notarized no more than 90 days before the date the request is made;
- (4)(F) a party, attorney for a party, or licensed paralegal practitioner for a party to litigation in which the record is filed;
- (4)(G) anyone by court order;
- (4)(H) court personnel, but only to achieve the purpose for which the record was submitted;
- (4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

(4)(J) a governmental entity with which the record is shared under Rule 4-202.10.

(5) **Juvenile Court Social Records.** The following may access a juvenile court social record:

(5)(A) the subject of the record, if 18 years of age or over;

(5)(B) a parent or guardian of the subject of the record if the subject is an unemancipated minor;

(5)(C) an attorney or person with power of attorney for the subject of the record;

(5)(D) a person with a notarized release from the subject of the record or the subject's legal representative dated no more than 90 days before the date the request is made;

(5)(E) the subject of the record's therapists and evaluators;

(5)(F) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(G) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(H) the Department of Human Services, school districts and vendors with whom they or the courts contract (who shall not permit further access to the record), but only for court business;

(5)(I) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(J) a governmental entity with which the record is shared under Rule 4-202.10;

(5)(K) the person who submitted the record;

(5)(L) public or private individuals or agencies providing services to the subject of the record or to the subject's family, including services provided pursuant to a nonjudicial adjustment, if a probation officer determines that access is necessary to provide effective services; and

(5)(M) anyone by court order.

(5)(N) Juvenile court competency evaluations, psychological evaluations, psychiatric evaluations, psychosexual evaluations, sex behavior risk assessments, and other sensitive mental health and medical records may be accessed only by:

(5)(N)(i) the subject of the record, if age 18 or over;

(5)(N)(ii) an attorney or person with power of attorney for the subject of the record;

(5)(N)(iii) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian ad Litem, and an Attorney General involved in the litigation in which the record is filed;

(5)(N)(iv) a governmental entity charged with custody, guardianship, protective supervision, probation or parole of the subject of the record including juvenile probation, Division of Child and Family Services and Juvenile Justice Services;

(5)(N)(v) court personnel, but only to achieve the purpose for which the record was submitted;

(5)(N)(vi) anyone by court order.

(5)(O) When records may be accessed only by court order, a juvenile court judge will permit access consistent with Rule 4-202.04 as required by due process of law in a manner that serves the best interest of the child.

**(6) Juvenile Court Legal Records.** The following may access a juvenile court legal record:

(6)(A) all who may access the juvenile court social record;

(6)(B) a law enforcement agency;

(6)(C) a children's justice center;

(6)(D) public or private individuals or agencies providing services to the subject of the record or to the subject's family;

(6)(E) the victim of a delinquent act may access the disposition order entered against the minor; and

(6)(F) the parent or guardian of the victim of a delinquent act may access the disposition order entered against the minor if the victim is an unemancipated minor or under legal incapacity.

**(7) Safeguarded Court Records.** The following may access a safeguarded record:

(7)(A) the subject of the record;

(7)(B) the person who submitted the record;

(7)(C) the attorney or licensed paralegal practitioner for a person who may access the record or an individual who has a written power of attorney from the person or the person's attorney or licensed paralegal practitioner;

(7)(D) an individual with a release from a person who may access the record signed and notarized no more than 90 days before the date the request is made;

(7)(E) anyone by court order;

(7)(F) court personnel, but only to achieve the purpose for which the record was submitted;

(7)(G) a person provided the record under Rule 4-202.04 or Rule 4-202.05;

(7)(H) a governmental entity with which the record is shared under Rule 4-202.10; and

(7)(I) a person given access to the record in order for juvenile probation to fulfill a probation responsibility.

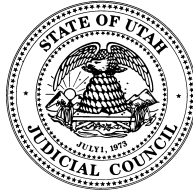
**(8)** Court personnel shall permit access to court records only by authorized persons. The court may order anyone who accesses a non-public record not to permit further access, the violation of which may be contempt of court.



(9) If a court or court employee in an official capacity is a party in a case, the records of the party and the party's attorney are subject to the rules of discovery and evidence to the same extent as any other party.

| *Effective: ~~December~~November 1, 2023*

Tab 14



# Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

November 3, 2023

Ronald B. Gordon, Jr.  
State Court Administrator  
Neira Siaperas  
Deputy State Court Administrator

## MEMORANDUM

**TO: Management Committee / Judicial Council**  
**FROM: Keisa Williams**  
**RE: Rules for Public Comment**

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The Policy, Planning, and Technology Committee recommends that the following rules be approved for a 45-day public comment period.

### **CJA 3-101. Judicial performance standards.**

The proposed amendments are intended to simplify case under advisement standards by removing “average” calculations and clarify reporting requirements.

- (lines 35-39) Adds language from CJA 3-104 to clarify when a case is no longer considered “under advisement.”
- (lines 43-45, 50-52, & 59-61) Removes “average” calculations, simplifying case under advisement standards.
- (lines 87-99) Defines the reporting term for each judge and justice and memorializes existing reporting requirements in rule.

### **CJA 3-104. Presiding judges.**

The proposed amendments (lines 230-253) replace the definition of case under advisement with a reference to the criteria in CJA 3-101.

The mission of the Utah judiciary is to provide an open, fair,  
efficient, and independent system for the advancement of justice under the law.

**Rule 3-101. Judicial performance standards.****Intent**

To establish performance standards upon which the Judicial Council will certify judicial compliance to the Judicial Performance Evaluation Commission ("JPEC").

**Applicability**

This rule applies to all justices and judges of the courts of record and not of record.

**Statement of the Rule**

(1) ~~Certification of p~~**Performance standards.** ~~(1)(A)~~ The Judicial Council will certify to JPEC judicial compliance with the following performance standards: cases under advisement, education, and physical and mental competence.

~~(1)(B) The Judicial Council will transmit its certification to JPEC by the deadline established in the Utah Administrative Code.~~

**(2) Definition of case under advisement.**

~~(2)(A)~~ A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge" or "submission" is the last of the following:

(2)(A)(i) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;

(2)(A)(ii) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or

(2)(A)(iii) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.

~~(2)(B) A case is no longer under advisement when the trial court judge makes a decision on the issue that is under advisement or on the entire case. The final determination occurs when the trial court judge resolves the pending issue by announcing the decision on the record or by issuing a written decision, regardless of whether the parties are required to subsequently submit a final order memorializing the decision for the judge's signature.~~

**(3) Case under advisement performance standards.**

(3)(A) **Supreme Court justice.** A justice of the Supreme Court demonstrates satisfactory performance by circulating not more than ~~an average of~~ three principal opinions per

calendar year more than six months after submission ~~with no more than half of the maximum exceptional cases in any one calendar year.~~

(3)(B) **Court of Appeals judge.** A judge of the Court of Appeals demonstrates satisfactory performance by:

(3)(B)(i) circulating not more than ~~an average of~~ three principal opinions per calendar year more than six months after submission ~~with no more than half of the maximum exceptional cases in any one calendar year;~~ and

(3)(B)(ii) achieving a final average time to circulation of a principal opinion of not more than 120 days after submission.

(3)(C) **Trial court judge.** A trial court judge demonstrates satisfactory performance by holding:

(3)(C)(i) not more than ~~an average of~~ three cases per calendar year under advisement more than two months after submission ~~with no more than half of the maximum exceptional cases in any one calendar year;~~ and

(3)(C)(ii) no case under advisement more than six months after submission.

~~(3)(C)(iii) A case is no longer under advisement when the trial court judge makes a decision on the issue that is under advisement or on the entire case.~~

(4) **Case under advisement performance standards—compliance.** A judge or justice shall decide all matters submitted for decision within the applicable time periods ~~prescribed by this rule in paragraph (3),~~ unless circumstances causing a delayed decision are beyond the judge's or justice's personal control.

(5) **Judicial education performance standard.**

(5)(A) **Education hour standard.** Satisfactory performance is established if the judge or justice annually obtains 30 hours of judicial education subject to the availability of in-state education programs.

(5)(B) **Education hour standard—compliance.** A judge or justice shall obtain the number of education hours prescribed by this rule, unless circumstances preventing the judge from doing so are beyond the judge's or justice's personal control.

(6) **Physical and mental competence performance standard.** Satisfactory performance is established if the response of the judge or justice demonstrates physical and mental competence to serve in office and if the Council finds the responsive information to be complete and correct. The Council may request a statement by an examining physician.

**(7) Reporting requirements.**

**(7)(A) Reporting term.** For purposes of this rule, the reporting term for new justices and judges begins on the date the Utah Senate confirms their appointment. The reporting term for retained justices and judges begins the day after they submit the report in (7)(B). The reporting term for all justices and judges ends on August 1<sup>st</sup> of the year preceding the next general election in which the judge or justice is standing for retention.

**(7)(B) Reporting requirement.** Within 14 calendar days following the end of a reporting term, justices and judges shall report to the Judicial Council their compliance or non-compliance with the performance standards in this rule during that reporting term. Reports shall be submitted in accordance with policies established by the Judicial Council. If non-compliance is due to circumstances beyond the justice's or judge's personal control, the judge or justice must provide an explanation of the circumstances and may submit supporting documentation.

**(8) Judicial Council certification.**

**(8)(A)** As to the performance standards in this Rule, the Judicial Council shall certify to JPEC that each judge or justice standing for retention is:

**(8)(A)(i)** Compliant;

**(8)(A)(ii)** Compliant with explanation, meaning that the Judicial Council has received credible information that non-compliance was due to circumstances beyond the personal control of the judge or justice; or

**(8)(A)(iii)** Non-compliant, which may include a judge or justice who has certified his or her own compliance but the Judicial Council has received credible information inconsistent with that certification.

**(8)(B)** The Judicial Council will transmit its certification to JPEC by the deadline established in the Utah Administrative Code.

**(8)(C)** All material relied upon by the Judicial Council in making a certification decision or explanation shall be forwarded to JPEC and shall be made public to the extent that the information is not confidential personal health information.

*Effective: May/November 1, 202\_1*

**Rule 3-104. Presiding judges****Intent:**

To establish the procedure for election, term of office, role, responsibilities and authority of presiding judges and associate presiding judges.

**Applicability:**

This rule shall apply to presiding judges and associate presiding judges in the District and Juvenile Courts.

**Statement of the Rule:****(1) Election and term of office.**

(1)(A) **Presiding judge.** The presiding judge in multi-judge courts shall be elected by a majority vote of the judges of the court. The presiding judge's term of office shall be at least two years. A district, by majority vote of the judges of the court, may re-elect a judge to serve successive terms of office as presiding judge. In the event that a majority vote cannot be obtained, the presiding judge shall be appointed by the presiding officer of the Council to serve for two years.

**(1)(B) Associate presiding judge.**

(1)(B)(i) In a court having more than two judges, the judges may elect one judge of the court to the office of associate presiding judge. An associate presiding judge shall be elected in the same manner and serve the same term as the presiding judge in paragraph (1)(A).

(1)(B)(ii) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge. The associate presiding judge shall perform other duties assigned by the presiding judge or by the court.

(1)(C) **Removal.** A presiding judge or associate presiding judge may be removed as the presiding judge or associate presiding judge by a two-thirds vote of all judges in the district. A successor presiding judge or associate presiding judge shall then be selected as provided in this rule.

**(2) Court organization.****(2)(A) Court en banc.**

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

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

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

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

(2)(A)(v) In addition to regular court en banc meetings, the presiding judge or a majority of the judges may call additional meetings as necessary.

(2)(A)(vi) Minutes of each meeting shall be taken and preserved.

(2)(A)(vii) Other than judges and court executives, those attending the meeting shall be by court invitation only.

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

(2)(B) **Absence of presiding judge.** When the presiding judge and the associate presiding judge, if any, are absent from the court, an acting presiding judge shall be appointed. The method of designating an acting presiding judge shall be at the discretion of the presiding judge. All parties that must necessarily be informed shall be notified of the judge acting as presiding judge.

### (3) **Administrative responsibilities and authority of presiding judge.**

#### (3)(A) **General—Caseload—Appeals**

(3)(A)(i) **Generally.** The presiding judge is charged with the responsibility for the effective operation of the court. He or she is responsible for the implementation and enforcement of statutes, rules, policies and directives of the Council as they pertain to the administration of the courts, orders of the court en banc and supplementary rules. The presiding judge has the authority to delegate the performance of non-judicial duties to the court executive. When the presiding judge acts within the scope of these responsibilities, the presiding judge is acting within the judge's judicial office.

(3)(A)(ii) **Caseload.** Unless the presiding judge determines it to be impractical, there is a presumption that the judicial caseload of the presiding judge shall be adjusted to provide the presiding judge sufficient time to devote to the management and administrative duties of the office. The extent of the caseload reduction shall be determined by each district.

(3)(A)(iii) **Appeals.** Any judge of the judicial district may ask the Chief Justice or Judicial Council to review any administrative decision made by the presiding judge of that district.

#### (3)(B) **Coordination of judicial schedules.**



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

(3)(B)(ii) Each judge shall give reasonable advance notice of his or her absence to the presiding judge consistent with Rule 3-103(4).

**(3)(C) Authority to appoint senior judges.**

(3)(C)(i) The presiding judge is authorized to assign a senior judge for judicial assistance consistent with Rule 3-108.

(3)(C)(ii) The presiding judge will notify the State Court Administrator or designee when a senior judge assignment has been made.

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

**(3)(E) Outside agencies and the media.**

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

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

**(3)(F) Docket management and case and judge assignments.**

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

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

(3)(F)(iii) Individual judges of the court shall convey needs for assistance to the presiding judge. The presiding judge shall, through the State Court Administrator, request assistance of visiting judges or other appropriate resources when needed to handle the workload of the court.

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

151 (3)(G) **Court executives.**

152  
153 (3)(G)(i) The presiding judge shall review the proposed appointment of the court  
154 executive made by the State Court Administrator and must concur in the  
155 appointment before it will be effective. The presiding judge shall obtain the  
156 approval of a majority of the judges in that jurisdiction prior to concurring in the  
157 appointment of a court executive.

158  
159 (3)(G)(ii) The presiding judge for the respective court level and the state level  
160 administrator shall jointly develop an annual performance plan for the court  
161 executive.

162  
163 (3)(G)(iii) Annually, the state level administrator shall consult with the presiding  
164 judge in the preparation of an evaluation of the court executive's performance for  
165 the previous year, also taking into account input from all judges in the district.

166  
167 (3)(G)(iv) The presiding judge shall be aware of the day-to-day activities of the  
168 court executive, including coordination of annual leave.

169  
170 (3)(G)(v) Pursuant to Council policy and the direction of the state level  
171 administrator, the court executive has the responsibility for the day-to-day  
172 supervision of the non-judicial support staff and the non-judicial administration of  
173 the court. The presiding judge, in consultation with the judges of the jurisdiction,  
174 shall coordinate with the court executive on matters concerning the support staff  
175 and the general administration of the court including budget, facility planning,  
176 long-range planning, administrative projects, intergovernmental relations and  
177 other administrative responsibilities as determined by the presiding judge and the  
178 state level administrator.

179  
180 (3)(H) **Courtrooms and facilities.** The presiding judge shall direct the assignment of  
181 courtrooms and facilities.

182  
183 (3)(I) **Recordkeeping.** Consistently with Council policies, the court executive, in  
184 consultation with the presiding judge, shall:

185  
186 (3)(I)(i) coordinate the compilation of management and statistical information  
187 necessary for the administration of the court;

188  
189 (3)(I)(ii) establish policies and procedures and ensure that court personnel are  
190 advised and aware of these policies;

191  
192 (3)(I)(iii) approve proposals for automation within the court in compliance with  
193 administrative rules.

194  
195 (3)(J) **Budgets.** The court executive, in consultation with the presiding judge, shall  
196 oversee the development of the budget for the court. In contract sites, the court  
197 executive shall supervise the preparation and management of the county budget for the  
198 court on an annual basis and in accordance with the Utah Code.

199  
200 (3)(K) **Judicial officers.** In the event that another judge or commissioner of the court  
201 fails to comply with a reasonable administrative directive of the presiding judge,

interferes with the effective operation of the court, abuses his or her judicial position, exhibits signs of impairment or violates the Code of Judicial Conduct, the presiding judge may:

(3)(K)(i) Meet with and explain to the judge or commissioner the reasons for the directive given or the position taken and consult with the judge or commissioner.

(3)(K)(ii) Discuss the position with other judges and reevaluate the position.

(3)(K)(iii) Present the problem to the court en banc or a committee of judges for input.

(3)(K)(iv) Require the judge or commissioner to participate in appropriate counseling, therapy, education or treatment.

(3)(K)(v) Reassign the judge or commissioner to a different location within the district or to a different case assignment.

(3)(K)(vi) Refer the problem to the Judicial Council or to the Chief Justice.

(3)(K)(vii) In the event that the options listed above in subsections (i) through (vi) do not resolve the problem and where the refusal or conduct is willful, continual, and the presiding judge believes the conduct constitutes a violation of the Code of Judicial Conduct, the presiding judge shall refer the problem to the Council or the Judicial Conduct Commission.

**(3)(L) Cases under advisement.**

(3)(L)(i) A case is considered to be under advisement ~~when the entire case or any issue in the case has been submitted to the judge for final determination. For purposes of this rule, "submitted to the judge" is defined as follows: if it meets the criteria outlined in rule 3-101.~~

~~(3)(L)(i)(a) When a matter requiring attention is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent;~~

~~(3)(L)(i)(b) If a hearing or oral argument is set, at the conclusion of all hearings or oral argument held on the specific motion or matter; or~~

~~(3)(L)(i)(c) If further briefing is required after a hearing or oral argument, when all permitted briefing is completed, a request to submit is filed, if required, and the matter is placed by staff in the judge's personal electronic queue, inbox, personal possession, or equivalent.~~

~~A case is no longer under advisement when the judge makes a decision on the issue that is under advisement or on the entire case.~~

~~The final determination occurs when the judge resolves the pending issue by announcing the decision on the record or by issuing a written decision;~~

~~regardless of whether the parties are required to subsequently submit for the judge's signature a final order memorializing the decision.~~

(3)(L)(ii) Once a month, each judge shall submit a statement on a form to be provided by the State Court Administrator notifying the presiding judge of any cases or issues held under advisement for more than two months and the reason why the case or issue continues to be held under advisement.

(3)(L)(iii) Once a month, the presiding judge shall submit a list of the cases or issues held under advisement for more than two months to the appropriate state level administrator and indicate the reasons why the case or issue continues to be held under advisement.

(3)(L)(iv) If a case or issue is held under advisement for an additional 30 days, the state level administrator shall report that fact to the Management Committee.

(3)(L)(v) If a judge fails to submit a statement required under (3)(L)(ii), the presiding judge shall notify the appropriate state level administrator. If a judge fails to submit a statement for two consecutive months, the state level administrator shall notify the Management Committee.

(3)(M) **Board of judges.** The presiding judge shall serve as a liaison between the court and the Board for the respective court level.

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

(3)(O) **Magistrate availability.** The presiding judge in a district court shall consult with the justice court administrator to develop a rotation of magistrates that ensures regular availability of magistrates within the district. The rotation shall take into account each magistrate's caseload, location, and willingness to serve.

*Effective May/~~November~~ 1, 202\_3*

Tab 15

**UTAH JUDICIAL COUNCIL  
STANDING COMMITTEE ON MODEL UTAH CRIMINAL JURY  
INSTRUCTIONS**

November 6th, 2023  
Judge Teresa Welch – Chair

Dear Council:

The Standing Committee on Model Utah Criminal Jury Instructions has two vacancies, resulting from the retirements of Brian Williams and Sandi Johnson. As such, the Committee sought out two prosecutors to fill these vacancies. After notice was sent to the Utah Bar, six (6) applicants applied for these vacancies. All applications are attached to this memorandum for your review. Following careful contemplation of the Committee's needs, and in conjunction with U.C.J.A. Rule 1-205, I propose the Council appoint McKay Lewis and Nicholas Mills to fill the prosecutor vacancies among the Committee's membership.

Mr. Lewis is deputy county attorney for the Utah County Attorney's Office. Prior to his current position, Mr. Lewis clerked for Judge Ryan Harris on the Utah Court of Appeals. Mr. Lewis received positive recommendations from current Committee member Dustin Parmley (Utah County Public Defender's Office) and Sandi Johnson (former Utah County Attorney's Office).

Mr. Mills is the current city attorney for Kaysville City and has been a prosecutor for more than a decade. He offers a wealth of experience in criminal justice and comes highly recommended by current Committee member Richard Pehrson (Salt Lake District Attorney's Office).

The appointment of Mr. Lewis and Mr. Mills will satisfy the Committee's needs for both geographic and court-level diversity. For example, 4 out of the 6 practitioners on the Committee operate from Salt Lake County, and all 6 practitioners work in either the District Court or Appellate Courts. Both Mr. Lewis and Mr. Mills work outside of Salt Lake County, offering geographic diversity, and Mr. Mills will provide a justice court prosecutor perspective on the Committee.<sup>1</sup>

Thank you for your attention to this matter. Both myself and staff for the Committee, Bryson King, will be available to present these recommendations to the Management Committee and answer any questions. Should the Council have any questions regarding these appointments, we are happy to assist.

Warm regards,  
Judge Teresa Welch – Chair  
Bryson King – Staff

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<sup>1</sup> All other candidates who applied for the vacancies work from Salt Lake County, with the exception of one candidate who works in Cache County but lacked sufficient experience as a prosecutor for appointment to the Committee at this time.

30OCTOBER2023

Judicial Council of the State of Utah  
Matheson Courthouse 450 South State St  
Salt Lake City, UT 84114-0241

RE: Application of Carl Hollan for Judicial Council Standing Committee on Model Utah  
Criminal Jury Instructions

To Whom it May Concern:

I wish to submit myself for nomination as a prosecutor representative in the Judicial Council Standing Committee on Model Utah Criminal Jury Instructions. Not only do I have extensive experience in drafting jury instructions as a prosecutor, having drafted jury instructions for dozens of felony trials, but my other experience uniquely qualifies me for this appointment.

I first came to learn of the importance of meticulous attention to detail in jury instructions during my first year of law school when I served as a judicial extern for Justice Jill Parrish of the Utah State Supreme Court. I observed how many critical issues hung on the interpretation of critical phrases in the jury instructions. This lesson was reinforced many times over during other externship experiences in federal district court while learning from the wisdom of Judges David Sam and Dale Kimball.

Following my graduation from law school I served as a judicial clerk in the Second District Court, where I, at the direction of the judges serving in that district, drafted the majority of jury instructions for jury trials held in that district. During that time, I participated in drafting the jury instructions for the death penalty trial of Douglas Lovell, conducted in 2015.

As a civil attorney in the Utah County Attorney's Office, I learned not only to carefully analyze and scrutinize language but also to deliberate, confer, and collaborate with other parties who often held interpretations different from my own. Through this process I learned significant skills in reaching an agreement of critical language in multi-party negotiations.

As a prosecuting attorney with Utah County and now with the Attorney General's Office and the United States Attorney's Office (as a Special Assistant United States Attorney), I regularly engage in drafting and litigating jury instructions. I have significant trial experience during my time as a prosecutor, having tried dozens of felony jury trials, which gives me insight on the practicability and application of these issues affects litigation. I also was the primary drafter of the jury instructions for the death penalty case of *State of Utah v. Jerrod Baum*.

I also serve as a Judge Advocate in the Utah Army National Guard. Not only does this expose me to a third venue in which I practice law, but I am currently assigned as Trial Defense counsel in the 653<sup>rd</sup> Trial Defense Team, where I represent soldiers accused of misconduct. Thus, unlike other candidates I understand representation on both sides of criminal allegations.

I appreciate your consideration of my application for this position. My experience will allow me to begin meaningful service immediately upon appointment. Please do not hesitate to reach out if you have additional questions or need additional information.

Very respectfully,  
Carl Hollan

# CARL HOLLAN

649 N 2040 E Spanish Fork UT 84660 · (801)616-6722

[carlhollan@gmail.com](mailto:carlhollan@gmail.com)

## EXPERIENCE

### OCTOBER 2021-CURRENT

**ASSISTANT ATTORNEY GENERAL**, UTAH ATTORNEY GENERAL'S OFFICE, INTERNET CRIMES AGAINST CHILDREN TASK FORCE

Prosecution of crimes involving computers, the internet, and children throughout the State of Utah. Screening, filing, prosecution through motion practice, and prosecution through bench or jury trial under the direction of the Utah Attorney General. Participation in legislative efforts to improve legal processes within the State of Utah.

### JULY 2020-CURRENT

**SPECIAL ASSISTANT UNITED STATES ATTORNEY**, U.S. ATTORNEY'S OFFICE

Prosecution of criminal cases involving child exploitation and internet crimes against children in U.S. Federal Court under the supervision of the United States Attorney.

### MAY 2022-CURRENT

**1LT JUDGE ADVOCATE**, UNITED STATES ARMY, UTAH ARMY NATIONAL GUARD

Commissioned Officer in the U.S. Army and Utah Army National Guard in the Judge Advocate General Corps assigned to the 653<sup>RD</sup> TRIAL DEFENSE TEAM. Representation of soldiers accused of violations of US Army policies or Articles of the Uniform Code of Military Justice.

### FEBRUARY 2021-CURRENT

**ADJUNCT FACULTY**, UTAH VALLEY UNIVERSITY

Adjunct Faculty in the Criminal Justice Department. Development of course materials and provision of instruction for FSCI 3880 – Expert Witnesses and Professional Practices.

### OCTOBER 2017 – OCTOBER 2021

**DEPUTY COUNTY ATTORNEY (CRIMINAL)**, UTAH COUNTY ATTORNEY'S OFFICE

Prosecution of criminal cases in Utah County, including misdemeanors and felonies. Screening, filing, prosecution through motion practice, and prosecution through jury or bench trial under the supervision of the County Attorney. Previously assigned to the Special Victim's Unit and Major Crimes Task Force (drug trafficking organizations). Prosecution of four homicide cases, including *State of Utah v. Jerrod Baum*, a double homicide case where the State had sought the death penalty.

### NOTABLE JURY TRIALS

STATE V. BORZIN MOTTAGHIAN – 171101546 – OBJECT RAPE

STATE V. ALBERTO ANDRADE – 191401444 – ATTEMPTED RAPE OF A CHILD

STATE V. MARCOS BARAJAS – 171101501 – AGGRAVATED KIDNAPPING; AGGRAVATED SEX ABUSE OF A CHILD

STATE V. THOMAS McEVER – 171403558 – DOMESTIC VIOLENCE AGGRAVATED ASSAULT

STATE V. PHILIP HATFIELD – 171402662 – ATTEMPTED AGGRAVATED MURDER



**APRIL 2015 – OCTOBER 2017**

**DEPUTY COUNTY ATTORNEY (CIVIL)**, UTAH COUNTY ATTORNEY'S OFFICE

Representation of Utah County and several County Departments. Assist Departments with all legal matters across a wide variety of legal subjects, including employment law, contract law, etc.

**APRIL 2014 – APRIL 2015**

**LAW CLERK**, STATE OF UTAH; SECOND DISTRICT COURT

**AUGUST 2013 – DECEMBER 2013**

**LAW CLERK EXTERN**, UTAH FEDERAL DISTRICT COURT; JUDGE DAVID SAM

**JANUARY 2013 – APRIL 2013**

**LAW CLERK EXTERN**, UTAH STATE SUPREME COURT; JUSTICE JILL PARRISH

## EDUCATION

**APRIL 2014**

**JURIS DOCTOR**, J. REUBEN CLARK SCHOOL OF LAW; BRIGHAM YOUNG UNIVERSITY

*Magna cum laude*

Law Review – Executive Editor

**APRIL 2011**

**ASIAN STUDIES (BA); MANDARIN CHINESE (BA)**, BRIGHAM YOUNG UNIVERSITY

Dual major; Official Memorandum: Advanced Level Mandarin Chinese Language Certificate;

Study Abroad – Nanjing University, Nanjing China

## PUBLICATIONS

**2014**

**A BROKEN SYSTEM: FAILURES OF THE RELIGIOUS REGULATORY SYSTEM IN THE PEOPLE'S REPUBLIC OF CHINA**, BYU LAW REVIEW – 2014, ISSUE 4

This article explores the origins of religious regulation in China, outlines the interests of China in regulating religion, and argues that the current system of religious regulation undermines Chinese interests.

**2015**

**BRILL'S ENCYCLOPEDIA OF RELIGION: CHINA**, BRILL PUBLISHING

This encyclopedia article outlines the historical background, social circumstance, legal sources, and regulation of religious belief and practice in China.

**2013**

**CONSTITUTIONAL, LEGISLATIVE, AND REGULATORY CHANGE REGARDING RELIGION IN CHINA**, ASHGATE PUBLISHING

This article, originally written as a final paper for a school course, was incorporated as a chapter in a book titled *Law, Religion, Constitution: Freedom of religion, equal treatment, and the law*.

## NOTABLE TRAINING

- Advanced Digital Evidence for Prosecutors – US Secret Service – National Computer Forensics Institute (2018, 2023)
- Basic Officer Leadership Course – US Army (2023)
- Crime Scene Response in Child Abduction Cases – National Criminal Justice Training Center (2023)
- Victim Advocate and Leadership Summit – UT Army National Guard (2022)
- National Law Enforcement Training on Child Exploitation – US Department of Justice (2022, 2023)
- Following the Evidence in Child Abuse and Child Exploitation Cases – National Criminal Justice Training Center (2022)
- Child Abduction Response – Federal Bureau of Investigation (2022)
- Data Validation of Digital Forensic Evidence – NW3C (2022)
- Association of Government Attorneys in Capital Litigation Annual Conference – National District Attorney's Association (2021)
- National Cyber Crime Conference (2020, 2021)
- Utah Human Trafficking Symposium – Utah Attorney General's Office (2019, 2021)
- Sexual Assault Nurse Examiner Testimony – International Association of Forensic Nurses (2021)
- Munich Cybercrime Conference (2021)
- Advanced Sexual Assault Training Course – Utah Coalition Against Sexual Assault (2021)
- Utah Children's Justice Symposium – Utah Children's Justice Centers (2019, 2020, 2022, 2023)
- Basic Prosecutor's Training – Utah Prosecution Counsel(2018)
- Overdose Death Investigation and Prosecution – Utah Attorney General's Office (2018)
- National Prosecutor's Conference on Child Abuse and Neglect – Western Regional Children's Advocacy Center (2019)
- Exposure to Child Pornography: Protecting Resiliency – FBI (2023)
- FBI Cyber Investigator – First Responder Course – FBI (2022)
- National Child Protection Task Force – Enforcement and Prosecution (2020, 2021)
- ICAC Undercover Chat Tips and Tricks (2022)
- The Legal and Investigative Implications of Emojis – NW3C (2022)
- AirTags and Tracking Technology: Investigative and Legal Perspectives – NW3C (2022)
- Expert Testimony in Utah and Federal Courts – Utah State Bar (2021)
- Expert Testimony for Child Abuse Medical Professionals and Attorneys – Western Regional Children's Advocacy Center (2020)
- FBI Computer Analyst Response Team Moot Court (2020, 2022, 2023)
- International Conference on Child and Family Maltreatment – Chadwick Center for Children and Families (2020)
- Mexican Drug Cartel Investigations – Northeast Counterdrug Training Center (2020)
- Ethical Issues and Decisions in Law Enforcement – Multijurisdictional Counterdrug Task Force Training (2020)
- Multijurisdictional Counterdrug Task Force Training – Introduction to Money Laundering (2020)
- Federal OEO Wiretap Training – US Office of Enforcement Operations (2019)
- Electronic Crimes & Investigations Training Conference – Northern California HIDTA (2020)
- Cross Examination and Expert Witnesses – Central Utah Bar Association (2020)
- Utah County SWAT Hell Week (2019)

## TEACHING/LECTURES

- Presenter – Child Exploitation Undercover Operations – 2023 National Law Enforcement Training on Child Exploitation
- Presenter – Courtroom Testimony for Forensic Examiners – 2023 International Association for Identification Annual Utah Chapter Conference
- Presenter – 2022 Victim Advocate and Leadership Summit – UT Army National Guard
- Presenter/Panelist – 2022 Utah Valley University Conference on Domestic Violence
- Trainer – Internet Crimes Against Children Academy – Utah Attorney General’s Office
- Trainer - Forensic Interview Training – Utah County Children’s Justice Center
- Presenter - Basic Courtroom Training – Courtwatch
- Presenter - Domestic Violence Investigation (Utah County Sheriff’s Department)
- Presenter – The Devil’s Playground – Investigations of the online exploitation of children – 2023 Ogden Community Crime Conference
- Trainer – 2023 Interdisciplinary Exchange Program (Mexico) – Attorney General’s Alliance
- Presenter – Proactive Internet Investigations – Internet Crimes Against Children Task Force 2022
- Trainer – Officer Involved Shootings and Use of Force – Utah County SWAT Hell Week 2020, 2021, 2022
- Presenter - Felony Domestic Violence Investigation – Utah County Sheriff’s Department
- Guest Lecturer – Intro to Forensic Science – Utah Valley University
- Guest Lecturer – Public Health Law – Utah Valley University

## BOARD MEMBERSHIPS AND HONORARIA

- Utah Statewide Association of Prosecutors Legislative Advisory Committee (2021 – present)
- Salt Lake County Sexual Assault Response Team Advisory Board (2021 – present)
- Utah’s “Legal Elite” (2022)

# CHAD CARTER

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1809 W Torlundy Dr, Riverton, UT • 435-224-2132 • carterchad09@gmail.com

## EDUCATION

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### **Juris Doctor**, April 2021

*J. Reuben Clark Law School, Brigham Young University, Provo, UT*

- GPA: 3.44, Top 50%
- Winner, Woody Deem Trial Advocacy Competition 2019
- Board Member, Military & National Security Club
- Historian, Trial Advocacy Team

### **Bachelor of Science, Criminal Justice**, December 2016

*Weber State University, Ogden, UT*

- GPA: 3.81, *summa cum laude*

## EXPERIENCE

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### **Salt Lake City Prosecutor's Office**, March 2022 – Present

*Assistant City Prosecutor, Salt Lake City, UT*

- Criminal prosecution of misdemeanors and infractions
- Legal research and writing

### **Byington & Goble, PLLC**, August 2021 – March 2022

*Associate Attorney, Logan, UT*

- Civil litigation, family, criminal, and probate law

### **Salt Lake County District Attorney's Office**, February 2019 – June 2020

*Law Clerk, West Jordan, UT*

- Criminal Prosecution
- Legal Research

### **Utah Highway Patrol**, January 2014 – August 2018

*State Trooper, Salt Lake County, UT*

- Life Saving Medal, 2018
- Certified Drug Recognition Expert (DRE)
- Certified Phlebotomist
- Multi-Disciplinary Accident Investigation Team (MAIT)

## SERVICE & INTERESTS

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- Speak, read, and write Spanish fluently
- Utah Legal Services – *pro bono* volunteer
- Music performance
- Utah State Bar Leadership Academy 2022

## McKay Lewis

2452 W 500 South Springville, UT 84663  
mckayalewis@gmail.com | 801-404-2184  
Bar ID: 18045

### EDUCATION

***Penn State Dickinson Law | Carlisle, Pennsylvania | Cum Laude – Top 7%***

**May 2021**

Juris Doctor

- *Dickinson Law Review* – Editor-in-Chief (Vol. 125)
- Certificate: Litigation and Dispute Resolution – Criminal Litigation
- Honors: Woolsack Honor Society; CALI Excellence for the Future Award – Legal Writing; Professional Responsibility; Fundamental Skills for the Bar Exam
- Activities: Vice President – Criminal Law Society; Law Lion Ambassador; Criminal Law Tutor

***Utah State University | Logan, Utah | Summa Cum Laude***

**May 2018**

Bachelor of Science, Law and Constitutional Studies

Bachelor of Arts, Spanish Literature

### RELEVANT EXPERIENCE

**Deputy County Attorney, Utah County Attorney's Office**

*Provo, Utah*

*08/22 – Present*

- Represented the State of Utah in criminal jury trials, bench trials, and other hearings
- Drafted and responded to various pre-trial motions, including motions to suppress, motions to dismiss, and motions in limine

**Law Clerk, Utah Court of Appeals – Hon. Ryan M. Harris**

*Salt Lake City, Utah*

*08/21 – 08/22*

- Drafted and edited both criminal and civil opinions for the Utah Court of Appeals
- Conducted legal research into complex matters of state law and crafted novel legal standards

**Law Clerk, Cache County Attorney's Office**

*Logan, Utah*

*05/19 – 09/19; 05/20 – 08/20*

- Represented the State in multiple bench trials and participated in oral arguments
- Wrote various legal memos, including an eminent domain memo to advise the County Council on how to best comply with state law

**Certified Legal Intern, Penn State Dickinson Law – Children's Advocacy Clinic**

*Carlisle, Pennsylvania*

*01/21 – 05/21*

- Represented dependent youth in court proceedings both as Guardian ad Litem and attorney
- Drafted motions related to the issues faced by my clients, including a motion for dependency

**Judicial Intern, U.S. District Court for the Middle District of Penn. – Hon. Christopher C. Conner**

*Harrisburg, Pennsylvania*

*01/20 – 12/20*

- Conducted intensive research related to a discovery dispute between two litigants
- Drafted an Employment Discrimination opinion

### SERVICE

**Board Member, Domestic Violence Services of Cumberland & Perry Counties**

*Carlisle, Pennsylvania*

### LANGUAGE

- Fluent in Spanish

# Nathaniel Sanders

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334 Hollywood Ave., Salt Lake City, UT 84115  
[nsanders7@msn.com](mailto:nsanders7@msn.com); 801 414-6466

10/29/2023

Re: Letter of Interest regarding an open prosecutor position on the Standing Committee on Model Utah Criminal Jury Instructions

I would like to express my interest in one of the prosecutor positions on the Standing Committee on Model Utah Criminal Jury Instructions. I am looking for ways to be more active in the development of our judiciary system and I believe I would be a good fit for this position. I am in my seventeenth year of active trial practice in the Third District Court as a prosecutor for the Salt Lake County District Attorney's office. Over those years I have developed a good working relationship with my colleagues on the defense bar as well as on the bench and would look forward to continuing to work with them as we review adjustments to our Model Utah Criminal Jury Instructions.

The call for applicants also requests a list of prior judicial committee assignments. This would be my first such committee assignment.

Thank you in advance for your time and consideration.

/s/ Nathaniel Sanders

# NATHANIEL SANDERS

334 E. Hollywood Ave., Salt Lake City, UT 84115  
UT Bar # 11281

mbl: (801) 414-6466; ofc: (385) 468-7678  
[nsanders7@msn.com](mailto:nsanders7@msn.com)

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## **EXPERIENCE**

### **Salt Lake County District Attorney's Office**

**March '07-Present**

#### **Senior Attorney: Jan. 2023 - Present**

Select leadership tasks, projects and mentoring in addition to standard prosecutorial duties.

#### **Deputy District Attorney: March '07 – Dec. '22**

Criminal prosecutions in Utah courts on behalf of the State of Utah in Salt Lake County.

### **Assignments:**

#### **Family Protection Unit, Aug. '22 – Present**

Prosecution of felony and misdemeanor Domestic Violence crimes. Caseload includes homicides and special teams – Serious Crash Team and Training Team.

#### **Family Protection/Special Victim Unit, June 2019 – July 2022**

Prosecution of felony and misdemeanor Special Victim and Domestic Violence crimes. Case load includes general homicides.

#### **Screening/Gang prosecution, Nov. 2017 – May 2019**

General case screening while maintaining an active Homicide and Serious Violent Felony caseload. Oversight of junior attorney work on cases. Office liaison to joint agency repeat offender auto-theft task force (RRAP).

#### **Organized Gang Prosecution, Feb. 2016- Nov. 2017**

Screen and prosecute cases dealing with violent organized criminal gangs. Collaborative screening and interdiction with all major police departments in Salt Lake County.

#### **Major Crimes Unit, Feb. 2014 – Feb. 2016**

Prosecution of major felony crimes: domestic violence focus, also armed robbery, kidnapping, fraud, and homicide.

#### **Violent Felonies, Aug. 2010 – Feb. 2014**

Serious violent felonies, domestic violence focus.

#### **Juvenile, April 2010 – July 2010**

Prosecution of juvenile criminal cases.

#### **Felony Drug Team, Aug. 2008 – March 2010**

Interdiction of drug trafficking and distribution. Oversight of local drug courts. Successfully tried case involving a narcotic smuggling ring in the Utah State Prison.

#### **Misdemeanor Team, Feb. 2007 – Aug. 2008**

Misdemeanor cases in Justice Court and District Court. Numerous jury and bench trials, frequent interaction with pro-se defendants.

**Homicides:** Completed four homicide cases - one as first chair plead to manslaughter, one as second

chair to trial with a conviction, one as third chair to trial resulting in acquittal. As first chair recently convicted at trial the shooter in a five-co-defendant homicide and negotiated pleas from the other four co-defendants. Currently handling a two-co-defendant homicide as first chair.

## **Strindberg & Scholnick, LLC.**

**Oct. '06-May '07**

### Contract Attorney

Potential client consultations, case evaluation, depositions, motion hearing, witness interviews, research.

## **Legal Internships:**

### Park City Attorney's Office.

**Apr. 2005-Jan. '06**

**Law Clerk.** Research and drafting motion on issues of criminal prosecution, land use, municipal governance, and property rights.

### U.S. District Court, Judge Dee Benson

**Jan.-May 2005**

**Judicial Extern:** Research appeals and issues before the court. Draft proposals for judicial decisions.

### American Civil Liberties Union

**Sept.-Dec. 2004**

**Legal Intern:** Research and respond to citizen complaints. Research current constitutional issues.

## **VOLUNTEER**

**Utah for Ukraine:** Founding member. Nonprofit established to raise awareness of the needs of Ukrainians struck by the Russian invasion. Fundraising for relief and medical supplies. Delivery of supplies.

**The Canada Way:** Worked with volunteers to acquire and distribute food and medical supplies to areas inside Ukraine severely effected by the Russian invasion. Fundraising.

**Polish Red Cross:** Worked at Polish refugee center on the border of Ukraine during the Russian invasion of Ukraine – general maintenance, child oversight, transportation of refugees to destination cities.

**Nomad Alliance:** Outreach to Salt Lake City homeless population. Collect donations, distribute donations and food at homeless encampments.

**International Rescue Committee (IRC):** custom design and manufacture of fundraising gifts and displays.

**Choice Humanitarian:** 2016 Expedition to Kenya – built new school buildings in rural village, custom manufacture of display desks.

**Mentoring:** U of U School of Law Student Mentor; Utah Bar New Lawyer Mentor

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## **EDUCATION**

**S. J. Quinney College of Law, University of Utah:** J.D. Class of 2006.

Students for Appropriate Dispute Resolution, Moot Court, Women's Law Caucus, BARBRI Rep.

Outstanding Achievement Award: International Human Rights.

**Indiana University:** BA '94, Political Science/ French; BA '94, Germanic Studies.

Cum Laude, Honors Division, Phi Beta Kappa, Little 500 cyclist.

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## **LANGUAGES**

French, German and Russian: proficient read, write and speak. Ukrainian – beginner.

## **INTERESTS**

Furniture design, sculpture, mountain sports, writing, acting, travel, foreign languages, peace.



## NICHOLAS CLYDE MILLS

253 Chimes View Drive • South Ogden, Utah 84405 • (801) 510-0620 • [NicholasCMills@gmail.com](mailto:NicholasCMills@gmail.com)

### EDUCATION

---

#### **University of Utah S.J. Quinney College of Law,**

*Juris Doctor with honors*, 2011

- William H. Leary Scholar
- *Note & Comment Editor*, Journal of Law and Family Studies
- David T. Lewis Outstanding Clinical Service Award
- *First Place*, National Association of Criminal Defense Lawyers 2009 National Essay Contest

#### **Lamar University,**

*Master of Science*, Criminal Justice, 2021

#### **Weber State University,**

*Bachelor of Science*, Criminal Justice, *magna cum laude*, 2007

- Phi Kappa Phi Honor Society and Scholarship recipient
- *Secretary*, Alpha Phi Sigma National Criminal Justice Honor Society
- High Honors Scholarship

#### **Arizona State University,**

*Graduate Certificate*, Criminal Sentencing and Sentencing Advocacy, 2020

### EMPLOYMENT

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#### **Kaysville City Corporation, City Attorney** (2017 – Present)

- *President*, Utah Misdemeanor Prosecutor's Association
- *Chair*, Criminal Law Section, Utah State Bar
- *Charlotte L. Miller Mentoring Award*, Utah State Bar

#### **Layton City Corporation, Associate City Attorney** (2014 – 2017)

- *Vice President*, Utah Misdemeanor Prosecutor's Association

#### **Salt Lake City Corporation, Associate City Prosecutor** (2012 – 2014)

- *Instructor*, Salt Lake City Police Academy

#### **Nevada Supreme Court, Criminal Division, Staff Attorney** (2011 – 2012)

#### **Utah Office of the Attorney General, Criminal Justice Division, Law Clerk** (2010 – 2011)

#### **Department of Justice, INTERPOL-Washington, Law Clerk** (2010)

- Outstanding Intern Award

#### **Rocky Mountain Innocence Center, Lionel Frankel Fellow** (2009 – 2010)

### PUBLICATIONS

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- *A Review of Alt-Right Gangs: A Hazy Shade of White* by Shannon E. Reid and Matthew Valasik, 7 Int'l J. Rural Criminology 3 (2023).
- *Twenty Million Angry Men*, 35 UTAH BAR J. 2 (2022) (book review).
- *Mindhunter*, 34 UTAH BAR J. 6 (2021) (book review).

- *A Primer on Hearsay*, KAYSVILLE CITY NEWSL. Aug. 2019, 5.
- *A Primer on Miranda*, KAYSVILLE CITY NEWSL. Aug. 2018, 4.
- *Have a Safe Trip*, KAYSVILLE CITY NEWSL. Feb. 2018, 5.
- *Traffic Safety in Construction Zones*, LAYTON CITY NEWSL. May 2017, 1-2.
- UTAH PROSECUTION COUNCIL, STATE OF UTAH LEGISLATIVE SUMMARY 2017 GENERAL SESSION (2017) (contributor).
- UTAH PROSECUTION COUNCIL, STATE OF UTAH LEGISLATIVE SUMMARY 2016 GENERAL SESSION (2016) (contributor).
- *Code Enforcement's Goal*, LAYTON CITY NEWSL. May 2016, 4.
- *Signs on Layton Parkway can Cause Damage*, LAYTON CITY NEWSL. Nov. 2015, 7.
- *Keeping our Police Officers Safe on the Roads*, LAYTON CITY NEWSL. May 2015, 3.
- *Beyond the First Draft*, 27 UTAH BAR J. 20 (2014) (book review).
- *Reading Your Way to Stellar Legal Writing*, 25 UTAH BAR J. 40 (2012) (book review).
- *The Role of Diversity in the Criminal Justice System*, 33 THE CHAMPION 62 (2009).

## **COMMUNITY**

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**Planning Commissioner**, South Ogden City (2022 – Present)

**CASA Volunteer**, Utah CASA (2022 – 2023)

**Club Heights Elementary and Burch Creek Elementary**, *Watch D.O.G.S. volunteer, PTA Member* (2014 – Present)

**Roy City Justice Court**, *Judge Pro Tempore* (2016 – 2022)

**Utah High School Athletics Association**, *Wrestling Referee*, (2015 – 2018)

**Utah State Bar**, *Bar Examiner Committee* (2018 – 2023), *Mentor* (2019 – Present)

**USA Wrestling Utah**, *Ad Hoc Board Member* (2015 – 2017)

**Boys Scouts of America**, *Eagle Scout* (1997), *Assistant Scoutmaster* (2009 – 2011), *Merit Badge Counselor* (2008 – 2019), and *Troop 172's Executive Officer* (2015 – 2019)

# CACHE COUNTY ATTORNEY

Ronnie J. Keller  
Special Victim Unit Chief Prosecutor  
Cache County Attorney's Office  
199 North Main St.  
Logan, UT 84321  
(435) 755-1865



October 31, 2023

Utah Judicial Council,

I first recall receiving an email soliciting interest for a prosecutor to serve on the Standing Committee on Model Utah Criminal Jury Instructions in the Summer of 2022. I noted the vacancy in conjunction with my interest, yet I was in the midst of a busy trial schedule and perhaps somewhat unsure in my own capabilities. I am a young prosecutor in terms of years of experience, yet I have managed to accumulated years' worth of experience since being admitted to the Utah Bar in the Fall of 2021. I recall attending the Utah Prosecution Council's Basic Prosecutor Training in August of 2021, at a time before I had even received my Bar Exam results, where Sandi Johnson presented and mentioned her responsibilities regarding the Model Utah Criminal Jury Instructions. At that time, before I even knew whether or not I was qualified to practice law in the State of Utah, I knew I wanted to share in those responsibilities. Again, an opening for a prosecutor on the Committee became available in June of this year, but I neglected to properly note the application deadline. Now, in September, I receive another email with the subject line "Prosecutors Needed to Serve on Jury Instruction Committee." To say the least, my interest was immediately peaked.

I first began drafting proposed jury instructions for the Special Prosecution Unit of the Utah Attorney General's Office when I was hired as a law clerk in 2019. I quickly became familiar with the Model Utah Jury Instructions, and it didn't take much time to become *very* familiar with them. Drafting jury instructions was a task which the attorneys always seemed eager to delegate. I began interning as a law clerk for the Cache County Attorney's Office in 2020, and I was soon hired as a full-time prosecutor contingent upon passing the Bar. As circumstances had, I was immediately positioned into a felony calendar consisting of sexual assault, domestic violence, child abuse, and stalking. Furthermore, less than two weeks after being licensed, I was tasked with representing Cache County in the first jury trial in the First Judicial District since COVID-19. The case was an aggravated assault committed against a cohabitant. There were alternative theories in arguing the aggravating circumstances, and the state of affairs was fresh off the heels of *Alires*. I confidently drafted the jury instructions in that case, and the defendant was eventually convicted on all counts. My next jury trial was two weeks later, a case consisting of multiple allegations of first-degree felony sex offenses, and so on and so forth. Now, after prosecuting more than a dozen felony jury trials and drafting proposed criminal jury instructions for many more, I am supervising Cache County's Special Victim Unit. I have been named the trial attorney of the year for 2022 by the Cache County Attorney's Office, and I continue to draft and critique proposed criminal jury instructions on nearly a weekly basis.

In sum, I am very interested in serving as a member of the Standing Committee on Model Utah Criminal Jury Instructions. It is a position I have been following even before being a licensed attorney. Although I have never fulfilled any court committee assignments, my knowledge and experience would serve me well if selected to serve at this time. Thank you for your consideration in affording me this opportunity.

Sincerely,

Ronnie J. Keller

# Ronnie Jace Keller

Work: 435.755.1865 · ronnie.keller@cachecounty.gov  
Personal: 208.852.6731 · rjkeller.law@gmail.com

## Education

### **University of Utah – S.J. Quinney College of Law, Salt Lake City, UT**

*Juris Doctor*, May 2021

*Certificate of Specialized Study*, Criminal Law, May 2021

*Certificate of Specialized Study*, Litigation and Dispute Resolution, May 2021

### **Utah State University – College of Humanities and Social Sciences, Logan, UT**

*Bachelor of Science*, Law and Constitutional Studies, May 2018

*Bachelor of Science*, Sociology: Criminal Justice Emphasis, May 2018

*Area Studies Certificate*, Law and Society, May 2018

## Work Experience

### **Cache County, Logan, UT**

*Special Victim Unit Chief Deputy Prosecutor*, January 2023 – Present

*Deputy County Attorney*, June 2021 – December 2022

*Limited Practice Legal Extern*, August 2020 – April 2021

### **City of Weston, Weston, ID**

*City Attorney*, March 2022 – Present

### **Bear Lake County, Paris, ID**

*Special Conflict Prosecutor*, December 2021 – Present

*Limited Practice Legal Intern*, June 2020 – January 2021

### **Utah Attorney General's Office, Murray, UT**

*Special Prosecution Unit Senior Law Clerk*, December 2019 – February 2021

*Special Prosecution Unit Law Clerk*, February 2019 – December 2019

### **McKenzie & McKenzie Law Office, Logan, UT & Preston, ID**

*Limited Practice Legal Intern*, May 2020 – June 2021

*Law Clerk*, May 2019 – August 2019

*Account Manager*, June 2016 – August 2018

### **S.J. Quinney College of Law – University of Utah, Salt Lake City, UT**

*Graduate Assistant*, August 2019 – June 2020

### **First District Juvenile Court of Utah, Logan, UT**

*Juvenile Probation Extern*, May 2017 – August 2017

## Achievements

- 2022 Cache County Trial Attorney of the Year
- 2021 S.J. Quinney College of Law Advanced Legal Research Outstanding Achievement Award
- 2020 National Crime Victims' Rights Writing Competition Top Selection



Bryson King &lt;brysonk@utcourts.gov&gt;

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## MUJI Committee Member

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**Sandi Johnson** <sandij@rainn.org>

Tue, Oct 31, 2023 at 12:15 PM

To: brysonk@utcourts.gov

Bryson,

I learned that McKay Lewis applied for a position on MUJI. While he may be on the more inexperienced side for prosecution, he is a really smart person and can be very objective. And he would be wanting to join for the right reasons.

I think he would be a great addition to the committee.

--

**Sandi Johnson**

(she/her)

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