

# **JUDICIAL COUNCIL MEETING**

## **AGENDA**

**December 18, 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. | Introduction of New Judges<br>(Information)   | Ron Gordon  |
| 3. | 9:15 a.m. | Chair's Report<br>(Information)   | Chief Justice Matthew B. Durrant  |
| 4. | 9:20 a.m. | State Court Administrator's Report<br>(Information)   | Ron Gordon  |
| 5. | 9:30 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. |
| 6. | 9:40 a.m. | Budget and Grants<br>(Tab 3 - Action)   | Karl Sweeney<br>Alisha Johnson<br>Melissa Taitano   |

- |     |            |  |                                  |
|-----|------------|--|----------------------------------|
| 7.  | 9:50 a.m.  | March 2024 Judicial Council Meeting<br>(Information)     | Ron Gordon                       |
| 8.  | 9:55 a.m.  | Rules for Final Approval<br>(Tab 4 – Action)             | Stacy Haacke<br>Michael Drechsel |
| 9.  | 10:10 a.m. | Virtual Hearings<br>(Discussion)                         | Michael Drechsel                 |
|     | 10:30 a.m. | Break  |                                  |
| 10. | 10:40 a.m. | Court Data Update<br>(Discussion)                        | Ron Gordon<br>Tucker Samuelson   |
| 11. | 11:00 a.m. | Community Voice in the Judiciary<br>(Tab 5 – Discussion) | Nathanael Player<br>Katsí Peña   |
| 12. | 11:15 a.m. | Old Business / New Business                              | All                              |
| 13. | 11:25 a.m. | Senior Judge Application                                 | Hilary Wood                      |
| 14. | 11:30 a.m. | Executive Session  |                                  |
| 15. | 11:45 a.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) Grand Jury Panel of Judges Appointment  
(Tab 6)
- 2) CJA 3-104. Presiding judges  
(Tab 7)

- 3) Model Utah Civil Jury Instructions – New Committee Members  
(Tab 8)
- 4) Bilingual Notices - Juvenile Court (These forms will become mandatory due to the rules of the Juvenile Court, so we wanted to make the Council aware of them)  
Bilingual Notice to Responding Party for In-State Summons for Abuse, Neglect, and/or Dependency Petition
  - Bilingual Notice to Responding Party for Out-of-State Summons for Abuse, Neglect, and/or Dependency Petition
  - Bilingual Notice to Responding Party for In-State Summons for Petition for Termination of Parental Rights
  - Bilingual Notice to Responding Party for In-State Summons for Petition for Termination of Parental Rights
- Memo Regarding Form Layouts in MyCase Guided Interviews (requests in memo approved by council)
- Memo Regarding Form Updates Resulting from URCP 5 Changes Concerning Service (requests in memo approved by council)  
(Tab 9)

Tab 1

**JUDICIAL COUNCIL MEETING  
Minutes**

**November 20, 2023**

**Meeting held through Webex  
and in person  
Matheson Courthouse**

**450 S State Street  
Salt Lake City, UT 84111**

**9:00 a.m. – 2:00 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. Keith Barnes  
Hon. Samuel Chiara  
Hon. Thomas Low  
Justice Paige Petersen  
Judge Amber Mettler  
Judge Jon Carpenter

**AOC Staff:**

Ron Gordon  
Neira Siaperas  
Shane Bahr  
Jim Peters  
Nick Stiles  
Keisa Williams  
Hilary Wood

**Excused:**

Margaret Plane, esq.  
Michael Drechsel  
Sonia Sweeney

**Presenters:**

Mary-Margaret Pingree  
Elizabeth Wright  
Commissioner Bridget Romano  
Judge William Kendall  
Nathanael Player  
Wayne Kidd  
Karl Sweeney  
Melissa Taitano  
Katy Burke  
Alyson McAllister  
Jace Willard  
Lauren Shurman

Tucker Samuelson  
Judge Danalee Welch-O'Donnal  
Justice Michael Zimmerman  
Nini Rich  
Jordan Murray  
Bart Olsen  
Brody Arishita  
Alisha Johnson  
Kelly Moreira

**1. WELCOME AND APPROVAL OF MINUTES: (Judge David Mortensen)**

Judge David Mortensen welcomed everyone to the meeting.

**Motion:** Judge Paul Farr motioned to approve the October 23, 2023 Judicial Council meeting minutes. Judge Samuel Chiara seconded the motion, and the motion passed unanimously.

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

Chief Justice Matthew Durrant reported that he and the court administrators completed legislative visits to seven of the eight Utah districts this year. He felt that these visits were the most positive, productive and constructive visits in years.

**3. STATE COURT ADMINISTRATOR: (Ron Gordon)**

The State of the Judiciary will take place on January 16, 2024 at 2:15pm at the State Capitol. Ron Gordon will arrange to have some vehicles available to take Council members to the capitol, for those who are interested in attending.

The March 2024 Judicial Council meeting will be in St. George, so those Council members who attend the Bar Conference can stay for those meetings also taking place in St. George.

**Supreme Court Painting**

Mr. Gordon shared a statement issued by the Supreme Court to Fox News regarding the painting in the Supreme Court courtroom, stating that the painting in the Supreme Court will no longer be covered up by a curtain.

**4. COMMITTEE REPORTS:**

**Management Committee Report:**

Judge Mortensen shared his thoughts on some ambiguities in rule CJA 3-104 regarding the Presiding Judges. His question centered around judges reporting cases under advisement as well as the timeline. Judge DiReda mentioned the struggle to get some judges to submit their cases under advisement report, making them out of compliance.

**Budget & Fiscal Management Committee Report:**

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

**Liaison Committee Report:**

Justice Paige Petersen and Michael Drechsel attended the Bar Breakfast and had an opportunity to talk to some lawyers and legislators.

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

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

**Bar Commission Report:** Elizabeth Wright, executive director of the Utah State Bar, reported on behalf of Margaret Plane, who was absent. The Bar hosted their annual Fall Forum recently in addition to the Bar Breakfast, which was a sold-out event. The Spring

Convention will be March 14-16, 2024 in St. George. The Bar just finished the annual financial audit, which resulted in a clean report. The Bar will be hosting Governor Cox at the January 5, 2024 meeting, where he will present on his “Disagree Better” initiative.

## 5. JUDICIAL PERFORMANCE EVALUATION COMMISSION: (Mary-Margaret Pingree, Commissioner Blair Hodson)

Mary-Margaret Pingree reported that the Court Staff Survey was completed about a month ago with a 51% response rate. This was a little lower response rate than achieved with the last cycle. While the research firm was reviewing the results, they found that due to an error in the coding, one question was missed for both retention judges and mid-term judges. This missed question for retention judges was “Would you recommend this judge be retained?”, and by the time the error was found, about 80 court staff had completed the survey. Because it was a critical question, the research firm made contact via email with each of the respondents and they were able to capture all of those responses. The missing question for mid-term judges was optional, and asked respondents for any suggestions to help the judge improve. This question was asked in other places in the survey, so the research firm did not send anything additional out for that question.

The Attorney Survey opened in October 2023 and closed last night with a 40% response rate. There were no problems with the attorney survey. Now that these surveys have been completed, the Judicial Performance Evaluation Commission (JPEC) will spend the next few weeks evaluating the data.

Ms. Pingree summarized three pilot projects JPEC is currently working on.

- Juror Score Survey Normalization - All of the judges, both mid-term and retention, will receive a normalized score and a non-normalized score at the end of the cycle. The non-normalized score is the score judges have always received, and the normalized score is a test and will not be publicly available. More than half of the judges won’t see any difference between the two scores, and Ms. Pingree doesn’t expect to see normalization change whether or not a judge meets or exceeds performance standards.
- Appellate Survey - JPEC is working to expand the pool of respondents for appellate court judges and hope to have the results in the spring of 2024.
- Pro Se Litigants - With the increase of self-represented litigants in courts, JPEC is looking at finding a way to include them in the evaluation process. This project will pilot in the summer or fall of 2024.

## 6. 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 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 Ongoing Turnover Savings

#	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
	TOTAL SAVINGS	282,839	682,839
2	2024 Hot Spot Raises Authorized - renews annually until revoked	(38,502)	(200,000)
	TOTAL USES	(38,502)	(200,000)
	Subtotal Available without Contingent Supplemental Funding	244,337	482,839
3	Contingent Legislative Supplemental Funding for 1 Court Commissioner Position	-	262,550
	Actual Turnover Savings for FY 2024 as of 10/26/2023	\$ 244,337	\$ 745,389

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

## FY 24 Forecasted Available One-time Funds

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)

ARPA funds remaining are \$4,215,513.

### 7. HB 531 REPORT: (Wayne Kidd, Karl Sweeney)

A workgroup of various finance, administrative, and clerical personnel under the direction of the state court administrator 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. The report includes the information outlined below:

- 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; and
- The history of court fees.

This report showed 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 the calendar year 2022.

**Motion:** Judge James Gardner motioned to submit the HB 531 report to the legislature as presented in the meeting. Judge Amber Mettler seconded, and the motion passed unanimously.

Mr. Gordon expressed appreciation for all of the hard work from those who contributed to the report.

#### **8. BOARD OF DISTRICT COURT JUDGES REPORT: (Judge William Kendall, Shane Bahr)**

Judge William Kendall is the new Board of District Court Judges chair and gave an update on the Board. They have continued to revise bench cards, which have been very helpful for both the judges and attorneys. The Judicial Weighted Caseload has been completed and the Board approved the study. As a result of the study, the Board of District Court Judges brought a request to the Judicial Council for eight judicial officers, four judges and four commissioners. The Council asked the Board to rank the needs in the event the legislature does not approve the full request. The Board put together a new set of recommendations for the Council's review.

The Board continues to plan and host monthly virtual brown bag training sessions for the district court judges and juvenile court judges, and those have been well-attended. They also established work groups to look at ways to enhance the attorney law clerk position.

#### **9. COMMITTEE ON COURT FORMS REPORT: (Nathanael Player)**

Nathanael Player asked the Judicial Council to review the work of the Forms Committee, as well as renew approval for the committee to continue writing forms under CJA Rule 3-117. In the past year, the Forms Committee has worked on 97 forms, and now has a forms attorney. The Forms Committee will start to meet monthly at the beginning of the year if they are granted reauthorization. Mr. Player reported that the committee is partnering with the Domestic Violence program coordinator Amy Hernandez, who will help standardize and improve protective orders. The Forms Committee is also partnering with the Self Help Center from Georgetown Law to help to improve the User Center design. The long-term goal is to make the family forms more concise.

**Motion:** Judge Elizabeth Lindsley motioned to reauthorize the Forms Committee as a Standing Committee. Judge Suchada Bazelle seconded the motion, and the motion passed unanimously.

#### **10. FY25 LEGISLATIVE BUDGET REQUESTS: (Ron Gordon, Karl Sweeney)**

Mr. Gordon explained that he has 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.

#### **Judicial Officer Compensation**

- 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 Officials 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.

- 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 end of the current fiscal year, Mr. Gordon recommended adding 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 for \$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.

#### **Pay for Performance**

- Original amount: \$2,000,000
- Revised amount: \$2,144,000
- Reason for change: Complete additional calculations have been made with more recent data.

#### **At-will Conversion**

- Original amount: \$2,000,000
- Revised amount: \$1,315,000
- 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. The exact number of career service employees has been calculated at 556.

#### **Prioritization of Judicial Officers Request**

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 Council agreed on the prioritization order as follows:

1. 4th District Juvenile
2. 4th and 6th Districts Commissioner
3. 3rd District Judge A
4. 3rd District Judge B
5. 3rd District Juvenile Judge
6. 5th District Judge
7. 3rd District Commissioner C
8. 1st and 2nd Districts Commissioner
9. 4th District Judge
10. 3rd District Commissioner D

**1st Motion:** Judge Chiara motioned to approve the total judicial compensation request amount of \$4,023,000 as presented. Judge Thomas Low seconded the motion, and the motion passed unanimously.

**2nd Motion:** Judge Lindsley motioned to approve the performance pay request amount of \$2,144,000. Judge Farr seconded the motion, and the motion passed unanimously.

**3rd motion:** Judge Lindsley motioned to approve the At-Will Conversion budget request of \$1,315,000. Judge Farr seconded the motion, and the motion passed unanimously.

**4th motion:** Judge Lindsley motioned to approve the prioritized order of judicial officer request as noted above. Judge Bazelle seconded the motion, and the motion passed unanimously.

#### **11. MODEL UTAH CIVIL JURY INSTRUCTIONS: (Alyson McAllister, Lauren Shurman, Jace Willard)**

The Judicial Council's Standing Committee on the Model Utah Civil Jury Instructions (MUJI-Civil) comprises 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.

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. Over the last year, the Committee has discussed several sets of jury instructions including:

- Avoiding Bias
- Minimum Injury Requirements
- Remote Testimony
- Present Cash Value
- Easement by Necessity
- Easement by Implication
- Prescriptive Easement

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 revisions 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.

## **12. STATE TREATMENT COURTS UPDATE: (Katy Burke)**

In the past year, Katy Burke 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, was elected to the board of Council for Statewide Treatment Court Coordinators, and attended the Rise23 Conference in Houston, TX with 26 judges and court employees. The 2023 Treatment Court Conference was in October 2023, with over 350 people in attendance and nine national presenters.

### **2019 Problem Solving Court Report**

Ms. Burke shared a report of the top three priorities identified by the 2019 Problem Solving Court Report.

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.

### **Goals for 2024**

- Develop the Statewide Problem Solving Court Committee
- Hire a part-time treatment court certification specialist
- Review and enhance the recertification process
- Create an interactive map of treatment courts for the courts website
- 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

Judge Mortensen thanked Ms. Burke for the information she presented to the Judicial Council.

## **13. JUSTICE COURT REFORM UPDATE: (Jim Peters)**

Jim Peters gave a brief follow-up report to the report he made last month to the Judicial Council. The Legislative Task Force met for a fourth time on November 7, 2023. The Task Force voted to support a Joint Resolution supporting justice court reform. Mr. Peters distributed and then reviewed the Joint Resolution with the Council.

**14. STANDING COMMITTEE ON CHILDREN AND FAMILY LAW: (Jim Peters)**

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 comprising 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.

**Motion:** Judge Gardner motioned to reauthorize the Standing Committee on Children and Family Law. Justice Petersen seconded the motion, and the motion passed unanimously.

**15. JUDICIAL DATA PROJECT UPDATE: (Justice Pohlman, Jon Puente)**

Justice Pohlman explained the data project the Office of Fairness and Accountability (OFA) has been engaged in over the recent months. 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 made 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."

Justice Pohlman stated that the Workgroup believes this is the right approach for the first project, so they are able to learn from the process, and make sure they have properly controlled and accounted for the data points in the project.

Some Council members expressed concerns about prematurely making design decisions regarding future data projects prior to completing and seeing the results of the initial project. Other concerns raised included the potential of misinterpreting data points, controlling for external factors, and the impact of disparities in other parts of the justice system on decisions by judicial officers. Council members also recommended implementing training following the completion of the initial project

**Motion:** Judge Chiara motioned to decline the proposal by the CFA. Judge Low seconded the motion, and the motion passed with a majority vote. Chief Justice Durrant voted against the motion.

Judge Mortensen encouraged the CFA committee to bring this topic back to the Judicial Council so the recommendation can be further discussed.

**16. JUDICIAL COUNCIL STUDY ITEM: (Ron Gordon)**

Mr. Gordon elected to discuss the Judicial Council study item in combination with the next item on the agenda.

**17. SYSTEM REVIEW: (Ron Gordon, Neira Siaperas)**

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. NSCS 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.

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. Mr. Gordon and Neira Siaperas recommend the Judicial Council adopt some form of Phase II of the system review as their 2024 study item.

Judge Lindsley commented that the Board of Juvenile Court Judges is supportive of Phase II, with the stipulation that the survey not address what has occurred in the past. She also felt that having the NCSC-complete Phase II would probably be better, as employees are likely to be more comfortable and candid with a neutral party. Mr. Gordon and Ms. Siaperas will explore options and cost to contract with the NCSC or other consultants for Phase II.

**Motion:** Judge Lindsley motioned to approve the implementation of Phase II as a study item. Judge Low seconded, subject to budgetary accommodations, and the motion passed with a majority vote. Chief Justice Matthew Durrant abstained from voting.

**18. RULES FOR FINAL APPROVAL: (Keisa Williams)**

Following a 45-day public comment period, the Policy, Planning and Technology Committee (PP&T) recommended that the following rules be approved as final with a January 1, 2024 effective date.

CJA 6-301. Authority of court commissioner as magistrate.  
CJA 4-202.08. Fees for records, information, and services.  
CJA 4-202.02. Records classification.  
CJA 4-202.03. Records access.

**Motion:** Judge Farr motioned to approve the rules as presented. Judge Brower seconded the motion, and the motion passed unanimously.

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

Judge Chiara asked for a future discussion on the Judicial Performance Standards Rule. Keisa Williams stated that she will add this item to the next Policy and Planning agenda.

**20. EXECUTIVE SESSION**

There was an executive session.

**21. ADJOURN**

The meeting adjourned.

**CONSENT CALENDAR ITEMS**

- 1) CJA 3-101. Judicial performance standards
- CJA 3-104. Presiding judges
- 2) Model Utah Criminal Jury Instructions - New committee members

Tab 2



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

**Minutes  
November 6, 2023  
Meeting held virtually through WebEx  
12:00 p.m. – 12:40 p.m.**

**Members Present:**

Hon. Elizabeth Lindsley  
Hon. Keith Barnes  
Hon Brian Brower  
Justice Paige Petersen

**Excused:**

Margaret Plane, Esq.

**Guests:**

Mark Urry, TCE, Fourth District Court  
Brett Folkman  
Erin Rhead

**AOC Staff Present:**

Ron Gordon  
Neira Siaperas  
Shane Bahr  
Wayne Kidd  
Bart Olsen  
Brody Arishita  
Nick Stiles  
Tina Sweet  
Kelly Moreira  
Jordan Murray  
Karl Sweeney  
Alisha Johnson  
Sheri Knighton  
Suzette Deans, Recording Secretary

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

Judge Elizabeth Lindsley welcomed everyone to the meeting and asked for a motion to approve the minutes from the last meeting.

**Motion:** Judge Keith Barnes moved to approve the October 10, 2023 minutes, as presented. Judge Elizabeth Lindsley seconded the motion, and it passed unanimously.

Judge Elizabeth Lindsley stated that Judge Brian Brower has joined the committee. As acting chair Judge Lindsley called for a motion to vote for a new committee chair for the Budget and Fiscal Management Committee (BFMC).

**Motion:** Judge Keith Barnes made a motion to elect Judge Elizabeth Lindsley as the new chair of the BFMC. 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 \$2.7M. This is a conservative forecast when compared to FY 2023 actual. Because there are 25% - 40% fewer unfilled positions today than the average for FY 2023, being conservative at this point in the year is prudent. However, as shown on the FY 2024 YE Spending Plan, FY 2024 one-time TOS forecast does not include any forecasted operational savings - which ended up providing over \$750K of one-time savings for FY 2023. We have estimated \$750K of operational savings will be provided for FY 2024 as shown in the FY 2024 YE Spending Plan. We will have a more accurate forecast of operational savings in January/February 2024 when the forecast is updated for FY 2024.



### FY 2024 One Time Turnover Savings

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

#		Funding Type	Actual 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



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

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 10/13/2023 (including anticipated ARPA reimbursement)	Turnover Savings	756,085	2	JWI Centralized Scheduler Software		20,000
** Turnover savings Estimate for the rest of the year (\$1,350 x 1,480 pay hours)	Turnover Savings	1,998,000	3	JWI Media Outreach Interpreter Recruiting		10,000
(a) <b>Total Potential One Time Turnover Savings</b>		<b>2,754,085</b>	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>		<b>802,997</b>	8	Q1/Q2 Performance Bonuses		450,000
(c) <b>Total of Turnover Savings &amp; Operational Savings = (a) + (b)</b>		<b>3,557,082</b>	9	Senior Judge and Time Limited JA Funding Jan/Feb 2024		160,000
<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>		<b>970,500</b>				
<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>		<b>2,027,582</b>				
<b>Less: Judicial Council Requests Previously Approved</b>				<b>Current Month One-time Spending Requests</b>	-	
Less: Judicial Council Current Month Spending Requests		-		<b>Previously Approved 1x FY 2024 YE Spending Request</b>		1,263,950
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)				

Updated 10/27/2023

Ongoing Turnover Savings (“OTS”) – Alisha Johnson reviewed the period 4 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 \$337,660. Forecasted FY24 OTS is \$400,000 (\$50,000 per month x 8 remaining months in FY 2024) and when combined with the negative \$54,821 carried over from FY23, the forecasted YE 2024 OTS is conservatively estimated to be \$682,839.

As of 10/26/2023, 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 \$745,389 in OTS available for discretionary use if the contingent legislative supplemental funding is received and \$482,839 if it is not.



#### 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
	TOTAL SAVINGS	282,839	682,839
2	2024 Hot Spot Raises Authorized - renews annually until revoked		
		(38,502)	(200,000)
	TOTAL USES	(38,502)	(200,000)
	Subtotal Available without Contingent Supplemental Funding	244,337	482,839
3	Contingent Legislative Supplemental Funding for 1 Court Commissioner Position		
		-	262,550
	Actual Turnover Savings for FY 2024 as of 10/26/2023	\$ 244,337	\$ 745,389
Prior Report Totals (as of 10/11/2023) \$ 122,742 \$ 673,795			

ARPA Expenditures – We have expended \$10.7M of ARPA funds as of October 27, 2023. This leaves an available balance of \$4.2M of the \$15 million that was awarded to the courts.



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

	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)
Last Period Total		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	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: \$	-
\$	276,218.84

#### 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	
TOTAL INCREASE FROM PRIOR:		\$ 422,111.31	

### 3. Updated Legislative Priorities (Karl Sweeney – “Presenter”)

Karl Sweeney reviewed two changes to the Judicial Council Legislative Priorities.

- Courts Pay for Performance - the original amount of the request was \$2.0M. The new request is for 2.144M. The original analysis was estimated on payroll amounts before the comp prep was completed. New calculations showed that the original amount was too low.
- Courts At-will Conversion – The original amount of the request was \$2.0M. The new amount is for \$1.315M. The original analysis estimated the number of at-will eligible employees high as this factor was not part of the Court’s HR personnel files. The number of eligible employees has now dropped from 900 to 556.

These changes will be provided to GOPB and the Legislative Fiscal Analyst.

#### **4. Draft HB 531 Report (Karl Sweeney & Wayne Kidd – “Presenter”)**

Wayne Kidd gave an overview of HB 531 that passed in the 2023 General Session. HB 531 requires the Judicial Council to provide information on Court fees to the Legislature on an annual basis. The purpose of HB 531 is to determine whether Court fees are higher than the direct and indirect costs to provide the services for which the fee is charged.

#### **5. Accounting Manual Group Gathering Change (Sheri Knighton – “Presenter”)**

Three changes were made to the Group Gathering Section 07-03.00.

- A link was added “Sample of Public Notice Waiver for Utah Annual Judicial Conference Hotel/Conference Facility Bids”
- A link was added “Utah Administrative Code R33-8-101e(s)(a)”
- Group Gatherings Procurement Process was changed to read “For group gatherings above \$50,000 (except for judicial conferences covered under an active waiver signed by the State Court Administrator) Special Procurement public notice rules apply. Court Purchasing will lead the procurement process and use the Utah Public Procurement Place website, which ensures the contract is the result of a competitive bidding process.”

**Motion:** Judge Keith Barnes made a motion to approve the accounting manual changes. Justice Paige Petersen seconded the motion, the motion passed unanimously.

#### **Old Business/New Business**

None

Adjourned at 12:35 p.m.

Next meeting December 4, 2023

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

Webex video conferencing  
November 3, 2023 – 9 a.m. – 5 p.m.

**MEMBERS:**

**PRESENT**

**EXCUSED**

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

**GUESTS:**

Keri Sargent  
Paul Barron

**STAFF:**

Keisa Williams  
Brody Arishita  
Minhvan Thach

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

Judge Gardner welcomed committee members to the meeting. The committee considered the minutes from the October 6, 2023 meeting. Judge Gardner noted that his name was misspelled in several places. With those corrections, Judge Gardner moved to approve the minutes as presented. Judge Bazzelle seconded and the motion passed. Judge Carpenter abstained.

The committee welcomed Judge Carpenter as the new member of the Policy, Planning, and Technology Committee.

Under rule 1-204(6), the Policy, Planning, & Technology Committee may elect its chair on a schedule deemed appropriate by the committee. Judge Chiara has been the committee's chair for the past year. Judge Carpenter moved to recommend Judge Chiara remain as the chair for an additional year. Judge Bazzelle seconded the motion. The motion passed unanimously.

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

- **CJA 6-301. Authority of court commissioner as magistrate**
- **CJA 4-202.08. Fees for records, information, and services**
- **CJA 4-202.02. Records classification**
- **CJA 4-202.03. Records access**

**CJA 6-301:**

One comment was received for CJA 6-301. The commenter appeared primarily concerned with potential inefficiencies, delays, and more work for public defenders, referring specifically to subsections (4), (5)(C), and (5)(D). Ms. Williams advised that she does not believe commissioners have the authority to perform

most of the tasks the commenter suggested. Following a discussion, the committee made the following amendments:

- Deleted “and subject to de novo review by the district court” from subsection (4) because it is already stated in (6)(A)
- Deleted subsection (5)(D) entirely because the issue is addressed in subsection (3)(G)

CJA 4-202.08:

An internal comment was submitted to Ms. Williams regarding subsections (3)(C) and (7)(B). The court does not charge a fee for electronic copies of a court reporter’s stenographic text and non-subscription access to public online services is now available. Following a discussion, the committee made the following amendments:

- Deleted subsection (3)(C)
- Deleted “When non-subscription access becomes available” from subsection (7)(B)

CJA 4-202.02 and 4-202.03:

One comment was received for rules 4-202.02 and 4-202.03. The commenter believes sealing video records will impede public scrutiny of court proceedings and strongly objects. Ms. Williams raised the same concerns discussed at an earlier meeting regarding the court’s inability to blur or redact Webex videos and the potential for sensitive or non-public information included in those videos to be released (i.e., video of a victim). Following a discussion, the committee made no additional amendments to the rule.

Ms. Williams recommend that the rules be approved on an expedited basis. The court will need time to hire court commissioners and requests for video recordings are received on a regular basis. Ms. Williams recommends a January 1, 2024 effective date for all four rules.

***With no further discussion, Judge Gardner moved to recommend to the Council that CJA rules 6-301, 4-202.08, 4-202.02 and 4-202.03 be approved as final with a January 1, 2024, effective date. Judge Bazzelle seconded the motion. The motion passed unanimously.***

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

Ms. Williams met with the Management Committee in October to discuss CJA rules 3-101 and 3-104 as requested. The Management Committee agreed with the PP&T committee that the proposed amendments provide much-needed clarity and asked that the committee conduct one final review and continue pursuing amendments through the usual rulemaking process.

The PP&T committee asked court staff to notify the boards of judges when the proposed amendments go out for public comment to give the boards an opportunity to provide additional feedback.

***With no further discussion, Judge Carpenter moved to recommend to the Council that CJA rules 3-101 and 3-104 be published for a 45-day public comment period. Judge Bazzelle seconded the motion. The motion passed unanimously.***

**Technology report/proposals:**

The Technology Advisory Committee will be reviewing the IT emergency response plan and email retention policy on November 16th. Mr. Arishita will provide a report to the PP&T committee at the December meeting.

**Old Business/New Business:**

Judge Gardner asked Ms. Williams how requests for rule amendments make it onto the PP&T committee's agenda. Requests for rule amendments can come from the Management Committee, Judicial Council, boards of judges, or AOC leadership. Those are generally communicated to the PP&T committee through meetings, Ms. Williams, or a PP&T committee member. Most requests for rule amendments are brought by court staff. Employees must vet their proposal through all relevant bodies within the court system and submit a rule amendment request online before it will be added to the PP&T committee's queue. Ms. Williams works with staff on those requests to determine whether the rules are ready to be placed on the committee's agenda. Individual judges can request rule amendments by contacting Ms. Williams directly. She will guide them through the process.

Ms. Williams will provide the committee with a link to the online request form following the meeting.

The committee discussed whether all-day meetings in May and November are necessary or if a half day would be sufficient. The issue will be discussed further at the December meeting.

**Adjourn:** With no further items for discussion, the meeting adjourned at 9:50 a.m. The next meeting will be held on December 1, 2023, at noon via Webex video conferencing.



Tab 3

**Budget and Grants Agenda  
for the December 18, 2023  
Judicial Council Meeting**

1. FY 2024 Financials ..... Karl Sweeney, Alisha Johnson  
(Tab 1 - Discussion)
  - One Time Turnover Savings
  - FY 2024 Year End Requests and Forecasted Available One-time Funds
  - Ongoing Turnover Savings
  - FY 2025 Carryforward and Ongoing Requests
  - ARPA Update
2. Q1 FY 2024 Grant Report .....Jordan Murray  
(Tab 2 – Information)

Tab 1



## FY 2024 One Time Turnover Savings

Updated as of Pay Period Ending 11/10/2023 (760 out of 2,080 hours)

			Actual
#		Funding Type	Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 11/10/2023)	Internal Savings	685,492.95
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 11/10/2023)	Reimbursements	349,560.14
3	Est. One Time Savings for 1,320 remaining pay hours (\$1,350 / pay hour)	Internal Savings (Est.)	1,782,000.00
<b>Total Potential One Time Savings</b>			<b>2,817,053.09</b>

Prior Report Totals (as of PPE 10/13/2023) \$ 2,754,085.13

- \* Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$1,179.33, \$1,036.80, \$1,581.43, and \$1,940.33. The average per hour turnover savings YTD was \$1,361.91. These numbers do include ARPA reimbursements.
- \* 1x Turnover Savings increased in PPE 11/10/2023 due to a transfer of expenses from the main line item personnel expense line to the JWI personnel expense line. Going forward, the expenses for this employee will be automatically charged to JWI.



\* 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 \$1,179.33, \$1,036.80, \$1,581.43, and \$1,940.33. The average per hour turnover savings YTD was \$1,361.91. These numbers do include ARPA reimbursements. 1x Turnover Savings increased in PPE 11/10/2023 due to a transfer of expenses from the main line item personnel expense line to the JWI personnel expense line. Going forward, the expenses for this employee will be automatically charged to JWI.

(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 11/27/2023

#		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	468,604	468,604
1	Ongoing Turnover Savings FY 2024 (forecast \$50,000 / month x 7 months remaining)	Internal Savings	-	350,000
	<b>TOTAL SAVINGS</b>		<b>413,783</b>	<b>763,783</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>3</b>	<b>Total Actual/Forecasted Turnover Savings for FY 2024 as of 10/27/2023</b>		<b>\$ 375,281</b>	<b>\$ 563,783</b>

*Prior Report Totals (as of 10/26/2023, with the contingent amount removed)*    \$ 244,337    \$ 482,839

- \* 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, 30.85 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 The Judicial Council funded one Commissioner position in 3rd Dist. effective 7/1/2023. A Legislative Request for ongoing funding for that position will also be presented during the upcoming Legislative Session. If approved, that will increase our available amount by \$262,550. That amount was shown on previous forecasts but has now been removed as the probability of receiving these funds is slim.



## FY 2025 Carryforward and Ongoing Requests - as of FY 2024 Period 5

11/27/2023

### Funding Sources

	One Time	Ongoing
OTS carried over from FY 2023		\$ (54,821)
Forecasted YE OTS from FY 2024*		\$ 818,604
Subtotal		\$ 763,783
Less: Judicial Council Delegated to State Court Admin for discretionary use		\$ (200,000)
Expected Carryforward Amount from Fiscal Year 2024	\$ 2,500,000	\$ -
Total Available Funding	\$ 2,500,000	\$ 563,783

### Ongoing Requests

		Presented		Judicial Council Approved	
		One Time	Ongoing	One Time	Ongoing
1	Perfromance Raises		\$ 450,000		\$ 450,000
	Subtotal	\$ -	\$ 450,000	\$ -	\$ 450,000
	Balance Remaining Inclusive of Presented	\$ 2,500,000	\$ 113,783		
	Balance Remaining After Judicial Council Approvals			\$ 2,500,000	\$ 113,783
+	Balance Remaining Inclusive of "Presented"	\$ 2,500,000	\$ 113,783		

#### LEGEND

Highlighted items are currently being presented to the Budget and Fiscal Management Committee.

Highlighted items have been approved by the BFMC and are on track for being presented to the Judicial Council.

Highlighted items have been previously approved by the Judicial Council.

Highlighted items that are Fiscal Note Funds

\* - items have been presented and approved in prior years.

+ - One-time balance remaining is available to go into Judicial Council reserve. Ongoing balance remaining will be included in the beginning balance for ongoing turnover savings.

\* - The Judicial Council funded one Commisioner position in 3rd Dist. effective 7/1/2023. A Legislative Request for ongoing funding for that position will also be presented during upcoming Legislative Session. If approved, that will increase our available amount by \$262,550. That amount was shown on previous forecasts but has now been removed as the probability of receiving these funds is slim.

BFMC approval to submit request to Judicial Council does not imply Judicial Council must approve the recommendation.

If more funds are available than the total of requests received, prioritization is optional.



## ARPA Expenses as of 11/27/2023 (prior to the close of period 5)

	A	B	C	D	E	F
	Judicial Council Approved	Actual FY 2022 Expended	Actual FY 2023 Expended	Actual FY 2024 Expended	Total Expended Amount	Balance Available
IT Access to Justice - Part I + II	12,373,400	3,042,467.67	4,613,254.75	1,523,805.37	9,179,527.79	3,193,872.21
Courts Case Backlog - Part I + II	2,302,100	707,963.11	1,007,135.35	351,829.66	2,066,928.12	235,171.88
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>1,912,007.50</b>	<b>11,454,464.86</b>	<b>3,545,535.14</b>

Expenditures added since last report: \$ 669,977.43

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

### BKLG FY 2024 Details

#### FY 2024 Expenses as of PPE 11/10/2023

Personnel Expenses:	\$ 349,560.14
Mileage Expenses:	\$ 1,344.16
Sr. Judge Travel Expenses:	\$ 925.36
	\$ 351,829.66
COVID Testing Kit purchase:	\$ -
<b>\$</b>	<b>351,829.66</b>

### BKLG Run Rate Calculation

#### Usage for Last 3 Pay Periods

10/13/2023	10/27/2023	11/10/2023
\$29,584.54	\$31,598.46	\$42,946.68

Average last 3 Pay Periods:	\$34,709.89
Balance Available (from table above):	\$ 235,171.88
Remaining Pay Periods at Last 3 Average:	7
Anticipated Last Pay Period End Date:	2/16/2024

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

### Historical Trends (period 5 not yet closed)

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

Period 3	Period 4	Period 5
\$ 303,758.06	\$ 775,519.04	\$ 108,579.19

#### BKLG - Last 3 Periods

Period 3	Period 4	Period 5
\$ 104,603.06	\$ 72,410.99	\$ 74,597.22

#### Legal Sandbox - Last 3 Periods

Period 3	Period 4	Period 5
\$ -	\$ 19,572.47	\$ 9,484.92

New Expenses for Period 5:	\$ 192,661.33
True Up for Period 4:	\$ 477,316.10
<b>TOTAL INCREASE FROM PRIOR:</b>	<b>\$ 669,977.43</b>



Tab 2



# UTAH STATE COURTS

## COURT GRANTS REPORT July - September 2023

Administrative Office of the Courts  
Finance Department

*December 2023*

# Grants Portfolio Summary

## Active Grants

As of September 30, 2023 the Administrative Office of the Courts maintains six (6) active grants comprised of two (2) federally awarded grants and four (4) non-federally awarded grants.

## New Grants

Two grants were awarded between July and September, 2023:

1. The Eviction Diversion Initiative (EDI) – National Center for State Courts (\$105,191)
2. Appellate Court's Pilot Pro Bono Program – Utah Bar Foundation (\$10,000)

## Grants Submitted

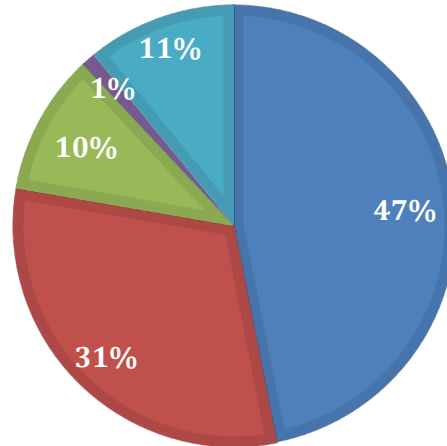
One grant renewal was approved for submission between July and September, 2023:

1. State Asset Forfeiture Grant – Commission on Criminal & Juvenile Justice (\$25,000)

## Active Grants Detail

**Award Total Distribution by Grant Administering Unit**

- Juvenile Court Administration
- Domestic Violence Program
- Alternative Dispute Resolution
- Appellate Court
- Law Library



Unit	Grant Title	F	NF	Grant Administering Unit
2957	State Court Improvement Program	■		Juvenile Court Administration
2962	State Access & Visitation Program	■		Alternative Dispute Resolution
TBD	Pilot Pro Bono Program		■	Appellate Court
2936	Stop Violence Against Women Act (VAWA)		■	Domestic Violence Program
2999	Tribal Outreach Coordinator		■	Domestic Violence Program
2980	Eviction Diversion Initiative (EDI)		■	Law Library

**Active Grants Total** 2 4

Federal Award (F)  
Non Federal Award (NF)

## Alternative Dispute Resolution

**Grant:** Access & Visitation Program **Grantor:** Federal Administration for Children & Families **Unit:** 2962

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*Between 07/01/2023 and 09/30/2023 The Co-Parenting Mediation Program received 67 referrals.*

## Domestic Violence Program

**Grants:** STOP Violence Against Women Act (VAWA) & subaward from the Domestic Violence Coalition (UDVC) **Grantors:** Utah Office for Victims of Crime and Utah Domestic Violence Coalition **Units:** 2936, 2999

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*This quarter, under the VAWA grant, the Domestic Violence Program (DVP) began the process of revising the civil protective order forms (e.g., soliciting feedback from our community partners, building the workgroup, and the preparation of draft documents). The DVP worked with court staff to fix rejected protective orders from the NCIC (National Crime Information Center) protective order report. Our program also proposed enhancements to the eFiling CORE Team that would improve the protective order submission process, and worked with the Safe at Home Program and other stakeholders to develop resources for court patrons seeking to keep their address confidential for safety purposes. The DVP is working with the Safe at Home Program to ensure proper implementation within the courts according to the statutory requirements. The DVP is additionally developing policies and procedures for the Domestic Violence Criminal Compliance Docket Pilot Program. Program Staff trained 305 professionals about domestic violence, trauma, protective orders, and related subject matter.*

*Concerning the Domestic Violence Coalition grant, DVP staff trained court staff and*

*other stakeholders in training events held in the 6th, 7th, and 8th districts. DVP staff met with Native American Nation leadership to discuss protective order needs. Finally, DVP staff collaborated with the Utah Domestic Violence Coalition to address domestic violence and protective order issues in rural areas of Utah.*

## Juvenile Court Administration

**Grant:** Court Improvement Program (CIP) **Grantor:** Federal Administration for Children & Families **Unit:** 2957

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*This quarter, the CIP began a new webinar series in partnership with Casey Family Programs that so far has focused on kinship and children and families with immigration needs. We have received and been working on disseminating preliminary research data related to our hearing quality benchcard project. The CIP was involved in the hiring and onboarding of the court's new tribal liaison, Tilda Willie who began her work with the court on September 18th.*

## Law Library & People's Legal Aid (PLA)

**Grant:** Eviction Diversion Initiative **Grantor:** National Center for State Courts **Unit:** 2980

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*This quarter an agreement was drafted and reviewed by AOC counsel for the pass-through recipient of these funds, People's Legal Aid (PLA). PLA drafted a position description and posted a job announcement for the eviction diversion facilitator.*

## Appellate Court

**Grant:** Pilot Pro Bono Program **Grantor:** Utah Bar Foundation **Unit:** TBD

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*The program is still under development and no funds have yet been expended.*

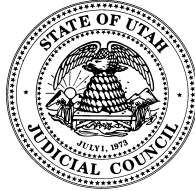
# Grants Financial Summary

## State Fiscal Year 2024, Q1

Data as of September 30, 2023

Data as of September 30, 2023			Actual		Budget	
Unit	Grant Administering Unit	Grant Title	Expenditures (Fiscal Quarter)	Expenditures (LTD)	Award (Grant Total)	Balance
Federally Awarded						
2957	Juvenile Courts	Court Improvement Program (CIP) CIP Data & Collaboration (min. 30%)	\$ 120,944 \$ 39,363	\$ 120,944 \$ 39,363	\$ 452,931	\$ 292,624
2962	Alternative Dispute Resolution	State Access & Visitation Program	\$ 31,435	\$ 31,435	\$ 100,000	
Subtotals Federal			\$ 191,742	\$ 191,742	\$ 552,931	\$ 361,189
Non-Federally Awarded						
2936	Domestic Violence Program	Violence Against Women Act (VAWA)	\$ -	\$ -	\$ 64,444	\$ 64,444
2980	Law Library	Eviction Diversion Initiative (EDI)	\$ -	\$ -	\$ 105,191	\$ 105,191
TBD	Appellate Court	Pilot Pro Bono Program	\$ -	\$ -	\$ 10,000	\$ 10,000
2999	Domestic Violence Program	Tribal Outreach Coordinator	\$ 7,105	\$ 102,841	\$ 233,350	\$ 130,509
Subtotals Non-Federal			\$ 7,105	\$ 102,841	\$ 412,985	\$ 310,144
TOTAL			\$ 198,847	\$ 294,583	\$ 965,916	\$ 671,333

Tab 4



# Administrative Office of the Courts

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

December 8, 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 Expedited Approval and Public Comment Period**

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The Policy, Planning, and Technology Committee (PP&T) recommends that the following rules be approved on an expedited basis with a January 1, 2024 effective date, followed by a 45-day public comment period.

### **CJA 3-108. Judicial assistance.**

The juvenile court is preparing to implement an automated process to expunge successful nonjudicial adjustment records, consistent with the automated expungement processes for district and justice court records. The proposed amendments authorize the presiding officer of the Council to appoint a juvenile court presiding judge as the signing judge for automatic expungements in juvenile court cases within the district.

### **CJA 4-202.02. Records classification**

#### **CJA 4-202.03. Records access**

The amendments to (2)(AA), (2)(BB), and (3)(JJ) in rule 4-202.02 and (2)(C) in rule 4-202.03 were approved as final by the Council at its November meeting with a November 1, 2023 effective date. The remaining amendments are new. Juvenile court staff are working on updates to record classifications in CARE in preparation for the launch of a juvenile court version of "MyCase." Most of the proposed amendments are intended to clarify the classification of and access to juvenile court records for both court staff and patrons.

#### **4-202.02:**

(2)(II) Added language allowing the juvenile court to reclassify records as non-public upon a finding of good cause as provided in [78A-6-209\(4\)\(b\)](#).

(6)(D) Added dispositional reports to the list of juvenile court social records consistent with language in [URJP 45](#).

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

(6)(I) Added nonjudicial adjustment records to the list of juvenile court social records because there is no court adjudication when a youth enters into a nonjudicial adjustment agreement with probation, and therefore, no legal records.

(6)(J) Added records filed with the court that were received under the Utah Interstate Compact for Juveniles (ICJ) to the list of juvenile court social records because the records are received from another state and are more akin to a report or evaluation, rather than a pleading or legal document.

(7)(C) Added probable cause statements to the list of legal records because they are similar to other legal documents listed in (7)(C) and it provides clarity for probation and clerks of court when those documents are filed in a case.

**4-202.03:**

(2)(A) Expanded access to adoption records to align with [78B-6-141\(3\)](#) and allow an attorney representing an individual authorized access under the rule to obtain copies of adoption records, provided the attorney presents a signed and notarized release from the individual.

(2)(B) Removed the in-person identification requirement and allow an attorney representing an individual authorized access under the rule to obtain copies of expunged records, provided the attorney presents a signed and notarized release from the individual.

(5)(B) Added language authorizing the attorney of a parent or guardian of the subject of the record to obtain access to juvenile court social records.

(5)(N) Added language regarding dispositional reports to align with [URJP 45\(a\)\(4\)](#).

(5)(O) & (5)(P) Removed the ability of the subject of the record to access juvenile court medical and mental health records.

Under GRAMA, medical and mental health records are classified as both “private” ([63G-2-302\(1\)\(b\) & \(3\)](#)) and “controlled” ([63G-2-304](#)). Medical records are private, unless releasing the records to the subject of the record would be detrimental to the subject of the record’s mental health or the safety of another, or release would violate professional practice or medical ethics, in which case the records are controlled.

Sensitive medical and mental health records are filed in nearly every juvenile court case. When a clerk of court receives a records request from the subject of the record or someone with a power of attorney, they have no way to determine whether releasing those records would be detrimental to the subject’s mental health or the safety of another, or whether it would constitute a violation of normal professional practice and medical ethics. As such, the proposed amendments limit access to attorneys involved in the case, government entities with custody, guardianship, etc., court personnel, and anyone with a court order.

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



(8) Added language prohibiting the inspection of juvenile court probation records not filed in a case except by order of the court in accordance with [78A-6-209\(5\)](#). These files may include sensitive information such as ICJ records from other states, shared education or DCFS records, mental health questionnaires, unredacted victim information, police reports, documents shared by other entities, etc.

**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 3-108. Judicial assistance.****Intent:**

To establish the authority, procedure and criteria for judicial assistance.

**Applicability:**

This rule shall apply to judicial assistance provided by active senior judges and judges of courts of record.

**Statement of the Rule:**

(1) **Criteria for requesting assistance.** Judicial assistance shall be provided only for the following reasons:

(1)(A) when assistance is needed because of a judicial vacancy or an absence due to an illness, accident, or disability;

(1)(B) to prevent the occurrence of or to reduce a critical accumulated backlog;

(1)(C) to handle a particular case involving complex issues and extensive time which would have a substantial impact on the court's calendar;

(1)(D) to replace a sitting judge who is absent because of assignment as a tax judge, illness or to replace the judges in that location because of disqualification in a particular case;

(1)(E) to mentor a newly appointed judge;

(1)(F) to handle cases during vacation periods or during attendance at education programs by the sitting judge, following every effort by that judge to adjust the calendar to minimize the need for assistance and only to handle those matters which cannot be accommodated by the other judges of the court during the absence;

(1)(G) to provide education and training opportunities to judges of one court level in the disposition of cases in another court level;

(1)(H) in district court, to handle cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration;

(1)(I) to handle automatic expungement cases; and

(1)(J) to serve on a grand jury panel.

(2) **Assigning a senior judge for judicial assistance.**

(2)(A) Unless exigent circumstances occur, a presiding judge shall seek assistance under the priorities listed in paragraph (3) before assigning a senior judge.

(2)(B) If the assignment of a senior judge shall be for more than 14 judicial days, the presiding judge shall seek approval from the Management Committee, and present to the Management Committee a plan for meeting the needs of the court and a budget to implement the plan. The plan should describe the calendars to be covered by judges of the district, judges of other districts, and senior judges. The budget should estimate the funds needed for travel by the judges and senior judges.

**(3) Criteria for transferring or assigning judges.** The transfer or assignment of judges for judicial assistance under this rule, shall, in general, be based upon the following priorities:

(3)(A) experience and familiarity with the subject matter, including, in district court cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration, knowledge of the theory and practice of ad valorem, excise, income, sales and use, and corporate taxation;

(3)(B) active judges before active senior judges with consideration of the following:

(3)(B)(i) active judges from a court of equal jurisdiction in a different geographical division than the court in need, and who are in close proximity to that court;

(3)(B)(ii) active senior judges from a court of equal jurisdiction to the court in need and who are in close proximity to that court;

(3)(B)(iii) active judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is most closely related to that court and who are in close proximity to that court;

(3)(B)(iv) active judges from a court of equal jurisdiction in a different geographical division than the court in need who are far removed from that court;

(3)(B)(v) active or active senior judges from a court of different jurisdiction than the court in need whose subject matter jurisdiction is similar to that court and who are not in close proximity to that court;

(3)(C) availability;

(3)(D) expenses and budget.

**(4) Assignment of active judges.**

(4)(A) Any active judge of a court of record may serve temporarily as the judge of a court with equal jurisdiction in a different judicial district upon assignment by the presiding

judge of the district in which the judge to be assigned normally sits or, in district court cases involving taxation, as defined in Rule 6-103(4) of the Utah Code of Judicial Administration, assignment by the supervising tax judge with the approval of the presiding officer of the Council.

(4)(B) Any active judge of a court of record may serve temporarily as the judge of a court with different jurisdiction in the same or a different judicial district upon assignment by the presiding officer of the Council or assignment by the state court administrator or designee with the approval of the presiding officer of the Council.

(4)(C) The presiding officer of the Council may appoint a district or juvenile court presiding judge as the signing judge for automatic expungements and deferred traffic prosecution orders in all district or juvenile courts within the presiding judge's district with jurisdiction over eligible cases. The length of the assignment may coincide with the judge's term as presiding judge.

(4)(D) The assignment shall be made only after consideration of the judge's calendar. The assignment may be for a special or general assignment in a specific court or generally within that level of court and shall be for a specific period of time, or for the duration of a specific case. Full time assignments in excess of 30 days in a calendar year shall require the concurrence of the assigned judge. The state court administrator or designee shall report all assignments to the Council on an annual basis.

(4)(E) Requests for the assignment of a judge shall be conveyed, through the presiding judge, to the person with authority to make the assignment under paragraphs (A) and (B). A judge who is assigned temporarily to another court shall have the same powers as a judge of that court.

**(5) Notice of assignments.** Notice of assignments made under this rule shall be made in writing, a copy of which shall be sent to the state court administrator or designee.

**(6) Schedule of trials or court sessions.** The state court administrator or designee, under the supervision of the presiding officer of the Council, may schedule trials or court sessions and designate a judge to preside, assign judges within courts and throughout the state, reassign cases to judges, and change the county for trial of any case if no party to the litigation files timely objections to the change.

*Effective: ~~October 1, 2022~~ January 1, 2024*

**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, ~~or minutes, or transcript~~ of an open meeting; ~~or hearing and the transcript of them;~~

(2)(BB) official audio record, minutes, or transcript of an open hearing;

(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)(~~IIHH~~) 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. Upon a finding of good cause on the record, the juvenile court may reclassify these records as non-public.

**(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; ~~and~~

(3)(J) video record of a court proceeding, other than security video; and

(3)(~~K~~~~J~~) 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, dispositional, 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;

(6)(I) nonjudicial adjustment records; and

(6)(J) documents filed with the court that were received pursuant to the Utah Interstate Compact for Juveniles.

**(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, probable cause statements;

(7)(D) name of a party or minor;

(7)(E) record of a court hearing;

(7)(F) referral and offense histories; and

(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:

453 (8)(F)(i) business and personal address, email address, telephone number, and  
454 similar information from which the person can be located or contacted;

455  
456 (8)(F)(ii) date of birth, driver's license number, social security number, account  
457 description and number, password, identification number, maiden name,  
458 mother's maiden name, and similar personal identifying information.

459  
460 *Effective: January 1, 2024*

**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 decreerecords.** An adoptive parent or adult adoptee may obtain a certified copy of the adoption decree upon request and presentation of positive identification. Upon request and presentation of positive identification, an adoption petition, and any other documents filed in connection with the adoption, may be open to inspection and copying:~~

~~(2)(A)(i) by a party to the adoption proceeding while the proceeding is pending or within six months after the day on which the adoption decree is entered;~~

~~(2)(A)(ii) when the adoption document becomes public on the one hundredth anniversary of the date of the final decree of adoption was entered;~~

~~(2)(A)(iii) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;~~

~~(2)(A)(iv) by an attorney who is not the attorney of record with a release from an individual authorized access under this rule that is signed and notarized not more than 90 days before the date of the request for the records;~~

~~(2)(A)(v) by an individual who was 18 years of age or older at the time of adoption or their adoptive parent, without a court order, unless the final decree of adoption was entered by the juvenile court; and~~

~~(2)(A)(vi) by an individual who was a minor at the time of adoption, if the individual is 18 years of age or older and was born in the state of Utah, but only to the extent the birth parent consented to access under the Utah Adoption Act or if the birth parents listed on the original birth certificate are deceased.~~

(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; ~~and-~~

(2)(B)(i)(d) an attorney who is not the attorney of record with a release from an individual authorized access under this rule that is signed and notarized not more than 90 days before the date of the request.

(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.



92  
93 **(4) Protected Court Records.** The following may access a protected court record:

94 (4)(A) the person or governmental entity whose interests are protected by closure;

95 (4)(B) the parent or guardian of the person whose interests are protected by closure if  
96 the person is an unemancipated minor or under a legal incapacity;

97 (4)(C) the person who submitted the record;

98 (4)(D) the attorney or licensed paralegal practitioner for the person who submitted the  
99 record or for the person or governmental entity whose interests are protected by closure  
100 or for the parent or guardian of the person if the person is an unemancipated minor or  
101 under a legal incapacity or an individual who has a power of attorney from such person  
102 or governmental entity;

103 (4)(E) an individual with a release from the person who submitted the record or from the  
104 person or governmental entity whose interests are protected by closure or from the  
105 parent or guardian of the person if the person is an unemancipated minor or under a  
106 legal incapacity signed and notarized no more than 90 days before the date the request  
107 is made;

108 (4)(F) a party, attorney for a party, or licensed paralegal practitioner for a party to  
109 litigation in which the record is filed;

110 (4)(G) anyone by court order;

111 (4)(H) court personnel, but only to achieve the purpose for which the record was  
112 submitted;

113 (4)(I) a person provided the record under Rule 4-202.04 or Rule 4-202.05; and

114 (4)(J) a governmental entity with which the record is shared under Rule 4-202.10.  
115

116 **(5) Juvenile Court Social Records.** The following may access a juvenile court social record:

117 (5)(A) the subject of the record, if 18 years of age or over;

118 (5)(B) a parent or guardian of the subject of the record, or their attorney, if the subject is  
119 an unemancipated minor;

120 (5)(C) an attorney or person with power of attorney for the subject of the record;

121 (5)(D) a person with a notarized release from the subject of the record or the subject's  
122 legal representative dated no more than 90 days before the date the request is made;

123 (5)(E) the subject of the record's therapists and evaluators;

124 (5)(F) a self-represented litigant, a prosecuting attorney, a defense attorney, a Guardian  
125 ad Litem, and an Attorney General involved in the litigation in which the record is filed;

126 (5)(G) a governmental entity charged with custody, guardianship, protective supervision,  
127 probation or parole of the subject of the record including juvenile probation, Division of  
128 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) Dispositional reports on delinquency cases may be accessed by the minor's counsel, the prosecuting attorney, the guardian ad litem, and the counsel for the parent, guardian, or custodian of a child. When a minor or minor's parent, guardian, or custodian is not represented by counsel the court may limit inspection of reports by the minor or the minor's parent, guardian, or custodian if the court determines it is in the best interest of the minor.

(5)(~~ON~~) 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)(~~ON~~)(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)(~~ON~~)(~~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)(~~ON~~)(~~iv~~) court personnel, but only to achieve the purpose for which the record was submitted; and

(5)(~~ON~~)(vi) anyone by court order.

(5)(P) When releasing records under (5)(P)(iv), the court should consider whether releasing the records to the subject of the record would be detrimental to the subject's mental health or the safety of any individual, or would constitute a violation of normal professional practice and medical ethics.

(5)(~~QQ~~) 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) Records prepared and maintained by juvenile court probation that are not filed in a juvenile court case are not open for inspection except by order of the court.

~~(98)~~ 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.

~~(109)~~ 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: January 1, 2024*



## 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:** Management Committee / Judicial Council  
**From:** Michael C. Drechsel, Assistant State Court Administrator  
**Date:** Tuesday, December 5, 2023  
**Re:** CJA Rule 4-208 — Automated case processing procedures.

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The Policy, Planning, and Technology Committee ("PP&T") has recommended that the Judicial Council adopt changes to Code of Judicial Administration Rule 4-208 "Automated case processing procedures." There are two primary changes contemplated by the recommended amendments:

- 1) The application of the rule would extend to automated expungement in juvenile courts. In 2023, the legislature passed HB0060,<sup>1</sup> which enacted Utah Code section 80-6-1004.5 "Automatic expungement of successful nonjudicial adjustment." To implement this section of code, the Judicial Council instructed the Administrative Office of the Courts to automate the processes under this new section of code consistent with other previously automated expungement processes authorized under Rule 4-208.
- 2) The amended rule would clearly prohibit automatic expungement orders from being manually issued by a judge outside of the automated processes approved by the Judicial Council in Rule 4-208 (see lines 17-19 of the attached draft). There have been several instances where a court has manually issued an automatic expungement order outside of the Judicial Council's authorized automated processes, which has created confusion with our government partners at the Bureau of Criminal Identification as they work to effectuate these court orders. The authorized automated processes that we collectively implemented were not designed to handle manually issued orders. For an individual who is interested in obtaining an expungement more quickly than the automated processes might allow, the individual can always proceed by petition.

Due to the nature of these proposed amendments and the need to begin processing automatic expungements in juvenile court matters as quickly as possible, PP&T has recommended expedited adoption of these proposed changes pursuant to CJA Rule 2-205.

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<sup>1</sup> <https://le.utah.gov/~2023/bills/static/HB0060.html>

**Rule 4-208. Automated case processing procedures.****Intent:**

The intent of this rule is to govern the Administrative Office of the Court's development and implementation of automated expungement and deferred traffic prosecution processes.

This rule applies to cases in district, juvenile, and justice courts.

**Statement of the Rule:**

(1) **Definitions.** "Expunge" means to seal or otherwise restrict access to the individual's court record.

(2) **Automated expungement and deferred traffic prosecution processes**

(2)(A) The Administrative Office of the Courts shall develop and implement automated expungement and deferred traffic prosecution processes.

(2)(B) Automated processes must comply with the requirements outlined in the Utah Rules of Procedure and the Utah Code.

(2)(C) All automated processes developed by the Administrative Office of the Courts shall be approved by the Utah Judicial Council.

(2)(D) No automatic expungement orders under Utah Code Title 77, Chapter 40a, Part 2 shall issue outside of the automated processes approved by the Utah Judicial Council.

(3) **Standing and automated orders**

(3)(A) The presiding officer of the Judicial Council may appoint a district or juvenile court presiding judge as a signing judge for automatic expungements in all district or juvenile courts within the presiding judge's district in accordance with Rule 3-108.

(3)(B) The presiding officer of the Judicial Council may appoint a district court presiding judge as a signing judge for automated deferred traffic prosecution orders in all district courts within the presiding judge's district with jurisdiction over eligible cases in accordance with Rule 3-108.

(3)(C) A justice court presiding judge may act as a signing judge for automatic expungements and automated deferred traffic prosecution orders in all justice courts within the presiding judge's district. The length of the assignment must coincide with the judge's term as a presiding judge.

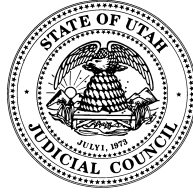
(3)(D) If the district, juvenile, or justice court presiding judge determines that the requirements under the Utah Code, Utah Rules of Procedure, and this rule have been met, the presiding judge shall issue a standing order authorizing the Administrative Office of the Courts to prepare and automatically affix the presiding judge's judicial signature to orders of expungement and deferred traffic prosecution issued in relation to cases from that judicial district.

(3)(E) The form and content of automated orders must be approved by the Utah Judicial Council.

(4) **Notice of action taken.** The Administrative Office the Courts shall send notice that an order of deferred traffic prosecution has been issued in accordance with the Utah Rules of Procedure. Notifications and orders may be sent electronically.

Effective ~~May/November 1, 20~~ January 1, 2024

Tab 5



# Administrative Office of the Courts

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

December 4, 2023

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

## MEMORANDUM

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

**FROM: Katsí Peña and Nathanael Player, on behalf of the Self-Help Center (SHC)**

**RE: Community Voice in Administration of the Courts**

The Judicial Council has demonstrated commendable leadership as it confronts the access to justice crisis. Decisions to establish a Committee on Resources for Self-Represented Parties, fund the Self-Help Center, formalize and fund forms creation, prioritize outreach, and develop MyCase are all laudable. These efforts really do make our courts more open, fair, and efficient. It is no wonder that Utah's judiciary is, deservedly, described by access to justice scholars as the most forward-looking in the nation. Our courts have come very far. At the same time, the chasm between the assumption that people coming to court have lawyers and the reality that the majority of litigants do not, still leaves us far from addressing the challenges faced by our courts and court users. We suggest that meaningfully addressing these challenges – borne most profoundly by the overwhelming number of self-represented litigants (SRLs)<sup>1</sup> – means working in partnership with the communities who serve these SRLs and adding their voices to court administration. Specifically, adding their voices to relevant Council committees.

This memo discusses this issue by first articulating how our courts are built on the assumption that parties have representation. Next we explain that most parties are SRLs, who SRLs are, and their impact on the courts. Then we consider how community voice can help courts address these impacts and propose a path forward.

### **Courts are Built on the Assumption that Parties Have Lawyers.**

Hopefully the assertion that courts assume litigants have counsel is not controversial. It's not novel. Lawyers have historically been involved in almost all court cases. Lawyer

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<sup>1</sup> This memo eschews the term "unrepresented." Given that there are so many people in the courts who are representing themselves, it makes no sense to describe these people in the negative. "Unrepresented" suggests that something is missing or lacking, while "self-represented" is merely descriptive. The Council has already chosen "self-represented," as our official term. *See* CJA 3-115 (naming the standing committee on these issues the "Committee on Resources for Self-Represented Parties").

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



perspectives are heard and centered in court administration. This makes sense and is important to administration as lawyers can help us with system reform.

Quantifiable court data does not appear to be accessible earlier than about 50 years ago but we know that in the 1970s, SRLs “were an anomaly....”<sup>2</sup> The National Center for State Courts reported in 1992 that in state courts of general jurisdiction, both plaintiffs and defendants were represented in 95% of cases.<sup>3</sup> Utah’s judiciary underwent a restructuring between the 1970s and early 1990s<sup>4</sup> when these numbers were still at play.

Heavy lawyer involvement has meant that the voices of lawyers have been heard at the highest – and nearly all – levels of court administration. The Judicial Council has included a member of the Bar since at least 1973.<sup>5</sup> In addition to all Supreme Court Committees, lawyers have important roles in Council Committees.<sup>6</sup> This includes committees discussing almost every aspect of court administration: alternative dispute resolution, facility planning, family law and children, forms, guardians ad litem, judicial education, judicial fairness and accountability, judicial outreach, language access, resources for self-represented parties, and guardianship.<sup>7</sup>

Asking for lawyers to help with decisions regarding court administration makes sense because they help with system reform. Professor Zachary Clopton surveyed all 50 state advisory committees on civil rules and notes that lawyers are a “natural check on judicial rulemakers’ interest in aggrandizing judges’ authority to the detriment of parties’ interests or other values.”<sup>8</sup> He posits that greater diversity of perspectives in state court advisory committees (as contrasted with the federal rules advisory committee) leads to a better ability to solve complex problems.<sup>9</sup> This makes sense for any aspect of court administration. Lawyers are regular and consistent players in the legal system and bring a different perspective than judges. Over time, they see where and how extant rules and processes fall short, providing helpful suggestions as to how those shortcomings may be addressed. Scholars describe this non-client-specific advocacy as an important aspect of how the law evolves.<sup>10</sup> This kind of help can only come from outsiders – clerical staff, court administrators, and judges only know what they see and experience; they do not engage with the legal system as a user everyday. Our legal system needs this user-based perspective to function effectively.

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<sup>2</sup> Jessica K. Steinberg, Demand Side Reform in the Poor People’s Court, 47 Conn. L. Rev. 741, 751 (2016). Available at: [https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2383&context=faculty\\_publications](https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2383&context=faculty_publications) (hereafter Demand Side Reform).

<sup>3</sup> Paula Hannaford-Agor, Scott Graves & Shelley Spacek Miller, Nat’l Ctr for State Cts, The Landscape of Civil Litigation in State Courts (2015), p. 31. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2700745](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2700745).

<sup>4</sup> The current judicial article of Utah’s constitution was ratified in 1984. *For a more complete history and discussion see* Cheryll L. May, Utah Judicial Council History: 1973 – 1997, p. 2 (March 1998). Available at: [https://www.utcourts.gov/content/dam/knowncts/adm/docs/Judicial\\_Council\\_History-1973-1997.pdf](https://www.utcourts.gov/content/dam/knowncts/adm/docs/Judicial_Council_History-1973-1997.pdf).

<sup>5</sup> *Id.* at 51.

<sup>6</sup> See Utah State Courts, Governing Boards and Committees, <https://www.utcourts.gov/en/about/administration/committees.html> (last visited Dec. 3, 2023).

<sup>7</sup> *Id.*

<sup>8</sup> Zachary D. Clopton, Making State Civil Procedure, 104 Cornell L. Rev. 1, 20-21, and 38 (2019). Available at: <https://scholarship.law.cornell.edu/clr/vol104/iss1/3>.

<sup>9</sup> *Id.* at 40.

<sup>10</sup> See Colleen F. Shanahan, Anna E. Carpenter & Alyx Mark, Can a Little Representation Be a Dangerous Thing, 67 Hastings L. J. 1367, 1373-1374 (2016) (detailing how lawyers engage in various forms of system reform including appellate advocacy and pushing for rule changes). Available at: [https://scholarship.law.columbia.edu/faculty\\_scholarship/2340](https://scholarship.law.columbia.edu/faculty_scholarship/2340) (hereafter A Dangerous Thing).

## Most Parties Do Not Have Lawyers – SRLs Are the Majority.

While our system has been built on the assumption that parties have lawyers, and this has traditionally been the case, it is no longer true. The overwhelming majority of cases in district court involve at least one SRL. In fact, SRLs are the majority in district and justice courts, and in a number of case types in juvenile court. SRLs are mostly low-income individuals and come from historically marginalized groups. They struggle to navigate our legal system. At the same time, our system struggles to adapt because SRLs are not engaged in system reform.

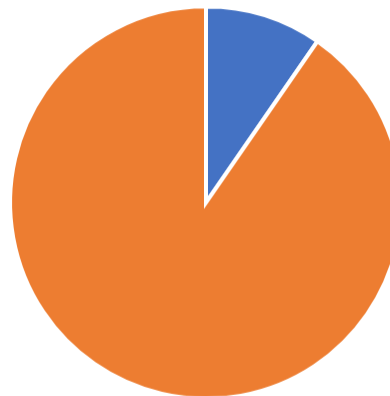
In district court, about 90% of civil cases involve at least one SRL.<sup>11</sup> In justice courts, 58% of cases involve at least one SRL, this number excludes traffic and parking citations.<sup>12</sup> While it may be tempting to disregard the justice court data because it includes small claims, when focusing on “other misdemeanor” cases – the most common type in justice courts outside of traffic and parking matters – 49.5% of defendants are SRLs. Even in juvenile court, many common case types involve high numbers of SRLs: child protective orders (80%), emancipation (90%), and expungement (94%).

*SRLs are mostly low-income.*

The SHC receives over 20,000 inquiries per year.<sup>13</sup> Last month, 40% of our inquiries were via telephone, 32% were via email, 29% were via text, and the rest were through miscellaneous channels. Most people contacting the SHC are SRLs. About 50% of all SHC inquiries are related to family law or protective orders/stalking injunctions. The rest cover a broad range of issues.<sup>14</sup> Of the inquiries that we track where a patron is from, about 26% are from the Third Judicial District, 11% are from the Fourth Judicial District, 7% are from the Second Judicial District, and the rest are from the other districts. Ninety-six percent of our inquiries were in English.

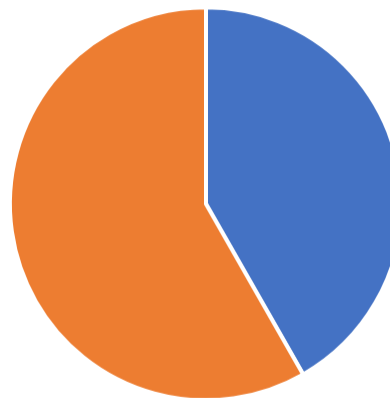
The SHC does not ask for detailed demographic data from our patrons. What we know based on national data is that most SRLs

**Civil District Court, FY 2023**



■ No parties self-represented  
■ At least one party self-represented

**Justice Court, CY 2022**



■ No parties self-represented  
■ At least one party self-represented

<sup>11</sup> District court data is based on fiscal year 2023 numbers. This number excludes judgments and traffic/parking cases.

<sup>12</sup> Justice court data is based on calendar year 2022.

<sup>13</sup> The SHC tracks data for each inquiry we receive. Data is on file with the SHC.

<sup>14</sup> While debt collection, eviction, and family law receive the most focus regarding SRLs, court data shows that there are large numbers in cases involving contracts, guardianship, name changes, and probate matters.

are “low-income and, in many cases... members of historically marginalized groups.”<sup>15</sup> Problems related to generational poverty and issues tied to “underlying social problems, including substance use, domestic violence, and mental illness” are also factors driving SRLs to the courts.<sup>16</sup> Generational poverty is different from situational poverty; generational poverty raises “different issues and problems that the justice system must embrace and address... this can include the inability to follow directions and extreme disorganization.”<sup>17</sup>

*SRLs struggle to navigate our legal system.*

SRLs struggle to navigate our legal system. They “face challenges at every step” finding things such as motion practice “nearly impossible.”<sup>18</sup> In 2019, the National Association for Court Management published a “Plain Language Guide, How to Incorporate Plain Language into Court Forms, Websites and Other Materials.”<sup>19</sup> They recommend reducing the reading level, noting that over 40% of Americans read at a “basic” or “below basic” proficiency level, and “that stress can reduce a person’s ability to understand, process, and act on written information.”<sup>20</sup> Court rules, processes, and notices are often not written at a basic level. While the SHC works diligently to deliver materials in accessible formats, we consistently observe that people are overwhelmed and confused by the court process. And although the Supreme Court has expressed a preference for matters to be resolved on the merits, and not technicalities,<sup>21</sup> court data shows that many cases are resolved by default, as this chart of select case types shows.

### **Defaults & Dismissals of Select Disposed Cases**

Dispositions between Jan 1, 2022, and Dec 31, 2022

	<b>Disposed Cases</b>	<b>Default Certificate</b>	<b>% Default</b>
Adoption	<b>931</b>	1	0%
Civil Stalking	<b>1,099</b>	0	0%
Conservatorship	<b>138</b>	0	0%
Contracts	<b>2,473</b>	893	36%
Custody and Support	<b>1,264</b>	42	3%
Debt Collection	<b>48,809</b>	34,224	70%
Divorce/Annulment	<b>12,287</b>	1,025	8%
Estate Personal Rep	<b>3,204</b>	0	0%

<sup>15</sup> Demand Side Reform 754.

<sup>16</sup> Dina E. Fein, Access to Justice: A Call for Progress, 39 W. New Eng. L. Rev. 211, 212 (2017).

<sup>17</sup> Hon. Richard R. Buery, Jr., The Challenge of Economic Inequality, Impact: Collected Essays on the Threat of Economic Inequality, 13 - 14 (2015). Available at: [https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1004&context=racial\\_justice\\_project](https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1004&context=racial_justice_project) (last visited Dec. 3, 2023).

<sup>18</sup> Demand Side Reform 744. See also Russell Engler, And Justice for All—Including the Unrepresented Poor: Revisiting the Roles of the Judges, Mediators, and Clerks, 67 Fordham L. Rev. 1987, 1988 (1999) (detailing the numerous hurdles SRLs must overcome in litigation). Available at: <https://ir.lawnet.fordham.edu/flr/vol67/iss5/14>

<sup>19</sup> Available at: <https://nacmnet.org/resources/publications/guides/plain-language-guide/> (last visited Dec. 3, 2023).

<sup>20</sup> NACM Plain Language Guide, 2019, page 17.

<sup>21</sup> See e.g., *Gillman v. Gillman*, 2021 UT 33 (2021).

Eviction	5,474	1,322	24%
Paternity	659	12	2%
Protective Orders	4,764	0	0%

Struggles for SRLs are not unique to our court system. Scholars looking at legal processes from the SRL perspective describe the system as “complex and often counterintuitive.”<sup>22</sup> SRLs do not file motions or briefs but talk “to the clerk and then the judge about their problems.”<sup>23</sup> SRLs are “not equipped to shape their lives into the form of the law and structure their problems as a counter-argument to the opposing party.”<sup>24</sup>

*We struggle to adapt because the majority of our court users are not engaged in system reform.*

In the context of large numbers of SRLs, state courts are described as being “overwhelmed.”<sup>25</sup> Litigation involving SRLs can lead to a breakdown in adversary procedure.<sup>26</sup> That cases can continue in an adversary process is “fiction.”<sup>27</sup> Although we need help, unlike 30 years ago when lawyers were involved in almost every case, there is not the same kind of system reform happening now. Observations from the SHC support this theory. We observe SRLs struggling with basics like choosing the right forms, filing, service and getting stuck after mediation; unfortunately few in the court system appear to fully understand the nature of these difficulties. These problems lead to more inquiries than the SHC can respond to, frustrated clerical staff, and judges being asked to explain complex concepts, take time to do so, balance neutrality, and get through busy dockets.<sup>28</sup> This is not just bad for courts and bad for SRLs, it is bad for broader concepts like basic fairness. In “Can a Little Representation Be a Dangerous Thing?” professors Carpenter, Marx, and Shanahan explain how law reform efforts do not happen when most people do not receive full legal representation.<sup>29</sup> They explain that, in a world where only the affluent can afford counsel, only the affluent and the well-resourced benefit from system reform.<sup>30</sup> They assert that “it plainly contradicts the principles of equality and fairness that underlie our justice system if the law evolves in response to some individuals’ experiences and not others...” and that “the absence of system-focused challenges means that less-resourced clients do not have the benefit of focused law reform.”<sup>31</sup> This dynamic arguably plays out in Utah where most civil cases involve SRLs, yet their perspective is not represented when changes are considered with regard to almost any aspect of how courts operate.<sup>32</sup> This phenomenon arguably exacerbates problems in cases where there is a great deal of asymmetrical representation, such as

<sup>22</sup> Demand Side Reform, 754.

<sup>23</sup> Colleen F. Shanahan, Alyx Mark, Jessica K. Steinberg & Anna E. Carpenter, COVID, Crisis, and Courts, 99 Tex. L. Rev. Online 10, 13 (2020). Available at: [https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3678&context=faculty\\_scholarship](https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3678&context=faculty_scholarship).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 12.

<sup>26</sup> Jessica K. Steinberg, Adversary Breakdown and Judicial Role Confusion in “Small Case” Civil Justice, 2016 BYU L. Rev. 899 (2016). Available at: <https://digitalcommons.law.byu.edu/lawreview/vol2016/iss3/6>.

<sup>27</sup> *Id.* at 926.

<sup>28</sup> The difficulties facing judges are discussed in detail in Judges in Lawyerless Courts, 110 Geo. L. J. 509 (2022) by Anna E. Carpenter, Colleen F. Shanahan, Jessica K. Steinberg & Alyx Mark. Available at: [https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3746&context=faculty\\_scholarship](https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3746&context=faculty_scholarship).

<sup>29</sup> A Dangerous Thing.

<sup>30</sup> A Dangerous Thing, 1376-1376.

<sup>31</sup> *Id.* at 1376.

<sup>32</sup> The Supreme Court added two non-lawyer seats on the Advisory Committee on the Rules of Civil Procedure last year.

debt collection and eviction cases, because system reform will keep happening to the benefit of those with counsel and to the detriment of those without, making court processes increasingly more difficult and confusing.<sup>33</sup>

### **Adding Community Voice in Court Administration Can Improve Our Response to the Access to Justice Crisis.**

We offer that helpers, with their everyday insight into the challenges SRLs face, can provide a meaningful supplement to the role lawyers played 30 years ago. To paraphrase Albert Einstein, we cannot solve our problems with the same way of thinking that created them. Fortunately, there is a new way of thinking about these problems - human-centered design, which provides a framework for designing solutions to problems in partnership with communities.<sup>34</sup> The approach “begins with the premise that the people who confront problems are the one who hold the key to answering them.”<sup>35</sup> In almost all aspects of court administration, we have not centered the perspectives of SRLs and those who support them - helpers. Helpers often operate behind the scenes, providing help, guidance, legal information, and occasionally advice to many SRLs. They include community-based organizations, social services agencies (such as libraries, homeless shelters/resource centers, community action agencies, senior centers, and independent non-profits), and legal clinics (like Timpanogos Legal Center, Utah Legal Services, the Legal Aid Society of Salt Lake City, the Utah Bar’s Access to Justice office, S. J. Quinney College of Law’s Pro Bono Initiative, and J. Reuben Clark Law School’s Community Legal Clinic). Helpers can bring powerful perspectives to reform efforts. They regularly see SRLs coming to them for help when they are confused or defeated by legal processes. They can help identify problematic rules and suggest revisions that would make the courts more open, fair, and efficient. This role is largely the same as the role lawyers played 30 years ago. The perspectives of helpers are vital to understanding the access to justice crisis and implementing reforms that help both SRLs and the courts.

This makes sense recalling the role lawyers have traditionally played. Indeed, if diversity is helpful in making better decisions, then inviting SRLs and helpers to participate in discussions regarding court administration should lead to better decisions. For example, we know that almost all plaintiffs in debt collection cases have counsel, but almost all defendants do not. Different perspectives in this context could help to more meaningfully understand issues in this context and achieve better outcomes. Similar to the practitioner check on judges, SRL and helper participation could “check” lawyers and their proclivity for complication. The more complicated court processes are, the more challenging they become to anyone who does not have legal

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<sup>33</sup> Consider the evolution of the 10-day summons. Based on a review of the Civil Rules Advisory Committee minutes, the document has grown more confusing over time. A proposal to disallow its use in 1994 failed. Instead, the rule was modified to require that it list an exhortation to call the court at least 14 days after service. This means that this bewildering document, which used to include two different days – 10 and 21 – was considered confusing and disallowing its use was seriously discussed. Instead, a third number of days was added to the language required on the document. The 10-day summons is used extensively in debt collection cases and is perhaps part of the reason the rate of default is so high in these cases. While it might be tempting to suggest that this is a problem for the Supreme Court, the collection bar has a number of reasons for wanting to use this document, which implicate fee collection and thus court administration, requiring help from the Council if there is to be reform.

<sup>34</sup> Quintanilla, Victor D., *Human-Centered Civil Justice Design*, 121 Penn. St. L. Rev 745, 756 (2017).

<sup>35</sup> *Id.*

training.<sup>36</sup> Complication disincentivizes self-representation, but more than that, complexity can lead to SRLs becoming lost in procedural subtleties or losing on technicalities. Bringing these voices to the table can help to ensure that court administration evolves in ways that serve everyone, not just those who can afford to hire counsel. To be clear, the recommendation is not to remove lawyers' voices from committees, but to balance their perspective with that of others who can bring important perspectives that lawyers do not see.

We propose adding community members to all Council committees where the needs of SRLs are likely to be important, but perhaps not considered. Community partners have expressed interest in this kind of partnership. At the same time, this form of engagement is new and many community agencies are already overburdened. We propose slowly adding a few members to committees at a time to help build and sustain trust-based relationships and effective outcomes.

## **Conclusion**

The fundamental assumption that courts are built around is no longer true. We cannot rely on lawyers to help us understand how our system needs to change. Because the ground has shifted so dramatically from underneath us, continuing to work to restructure our legal system to accommodate the reality that SRLs are the majority is becoming increasingly important. Restructuring the system by consistently and regularly engaging with our court users and the people who help them can help us succeed.

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<sup>36</sup> Demand Side Reform, 795, note 305 (noting “complicated pleadings chock full of legal jargon...” have “the effect of overwhelming” an SRL).

Tab 6



**December 18, 2023**

Judge Elizabeth Hruby-Mills  
3rd District Court  
450 South State State  
Salt Lake City UT 84114

Dear Judge Hruby-Mills

In accordance with Utah Code § 77-10a-2 and Rule 6-304 of the Utah Code of Judicial Administration, I am pleased to appoint you as a member of the Grand Jury Panel of Judges, serving as the representative member of the Third Judicial District. This appointment is consistent with the recommendation of the Board of District Court Judges. Your appointment is for a five-year term that commences on January 1, 2024, and expires on January 1, 2029.

Thank you for your willingness to serve in this important capacity.

Sincerely,

Chief Justice Matthew B. Durrant  
Presiding Officer of the Judicial Council

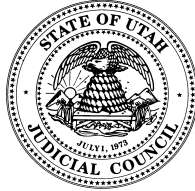
CC: Keri Sargent (Grand Jury Secretariat)

**The mission of the Utah judiciary is to provide 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



Tab 7



# Administrative Office of the Courts

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

December 8, 2023

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

## MEMORANDUM

**TO: Management Committee / Judicial Council**  
**FROM: Keisa Williams**  
**RE: Rule for Public Comment**

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The Policy, Planning, and Technology Committee (PP&T) recommends that the following rule be approved for a 45-day public comment period.

### CJA 3-104. Presiding judges

At its November 2023 meeting, the Judicial Council asked PP&T to review the case under advisement reporting requirements in rule 3-104. Specifically, the Council asked the following questions:

1. Should judges be required to explain how they intend to resolve cases or issues held under advisement more than 60 days?
2. Why should state level administrators wait an additional 30 days to report cases to the Management Committee under (3)(L)(iv)?
3. What happens if a judge does not comply with the monthly reporting requirements?

Judges must already provide a reason why a case or issue continues to be held under advisement. PP&T does not believe further explanation is necessary. State level administrators have the discretion to report concerns to the Management Committee at any time. If a reporting requirement is imposed, it should be based on willfulness rather than a specific timeframe. As such, PP&T recommends eliminating the requirement to report cases under advisement at 90 days and failures to submit monthly reports for two consecutive months. State level administrators would now only be required to report willful failures to submit monthly reports.

**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 3-104. 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)(iv) 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 the state level administrator determines that a judge has willfully failed~~ 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.

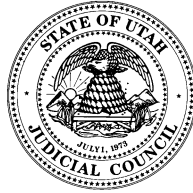
(3)(N) **Supervision and evaluation of court commissioners.** The presiding judge is responsible for the development of a performance plan for the Court Commissioner serving in that court and shall prepare an evaluation of the Commissioner's performance on an annual basis. A copy of the performance plan 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 8



# Administrative Office of the Courts

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

December 4, 2023

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

## MEMORANDUM

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

**FROM:** Standing Committee on Model Utah Civil Jury Instructions  
Jace Willard, Associate General Counsel

**RE:** New Appointment

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### *New Appointment for Defense Counsel:*

Presumably due to the onset of the holiday season, the Committee received just one application to fill the defense counsel seat that will be vacated by Ms. Lauren Shurman when she completes her second term later this month. Fortunately, the applicant for this seat is a strong candidate, Benjamin Lusty. After discussion the Chair and Vice-Chair agreed they would recommend Mr. Lusty to fill this position.

Mr. Lusty is an experienced litigator and trial lawyer primarily representing civil defendants. He currently practices at Rencher & Anjewierden (formerly Stucki & Rencher), and has done so since 2011. He handles mainly medical malpractice defense for physicians and health care providers, as well as personal injury, professional litigation, and insurance coverage cases.

Because Mr. Lusty was the only applicant, the Chair and Vice-Chair do not recommend an alternate. If the recommendation for Mr. Lusty's appointment is not approved, the Chair and Vice-Chair respectfully propose reopening the application process.

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 Committee looks forward to approval and any feedback from the Management Committee and Judicial Council as to the proposed new appointment.

Tab 9

A hearing has been scheduled about the children listed in the Verified Petition. The court will make a decision about your custody rights. You must attend the hearing. The date, time, and location of the hearing are on the summons. The hearing may be held in person or remotely. Read the Summons carefully.

**Read the Verified Petition**

The Verified Petition has been filed with the juvenile court. It explains what the government or other party is claiming and asking the Court to order. Read the Verified Petition carefully.

**How do I tell the court my side of the story?**

- Attend the hearing. Tell the court if you agree or disagree with the Verified Petition, OR
- Attend the hearing and file a written answer before the hearing.

If you do not attend the hearing:

1. The court could make temporary orders regarding custody without you having the chance to tell your side of the story.
2. You must file a written answer within 10 days after the hearing or 30 days after you were served the Verified Petition. Use whichever deadline comes first.

**What happens if I ignore these papers?**

Another party can ask for a default judgment if you do not attend the hearing or file an answer. This means the Court will decide the things in the Verified Petition are true. You will not get the chance to tell your side of the story. The Court might

(Spanish translation will go on this side)

Bilingual Notice to Responding Party for Out-of-State Summons for Abuse, Neglect, and/or Dependency Petition (for compliance with URJP 18)

make orders that affect your custody and visitation rights.

**You can have a lawyer represent you**

You can have a lawyer at this hearing and all other hearings in this case. If you cannot afford a lawyer, you can ask for one. The Court will ask you to fill out paperwork with details about your income. If you qualify, the Court will order a lawyer to represent you for free.

**Learn more**

Watch this video for more information: [QR CODE AND SHORT URL]

[https://youtu.be/7qKrU7Aw0\\_4](https://youtu.be/7qKrU7Aw0_4)

For

Spanish: <https://www.youtube.com/watch?v=LGVZnoqspQ4>



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[utcourts.gov/arabic](http://utcourts.gov/arabic)

**Bilingual Notice to Responding Party for Out-of-State Summons for Abuse, Neglect, and/or Dependency Petition (for compliance with URJP 18)**

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Bilingual Notice to Responding Party for Out-of-State Summons for Petition for Termination of Parental Rights (for compliance with URJP 18)

A hearing has been scheduled about the children listed in the Verified Petition. The court will make a decision about your parental rights. You must attend the hearing. The date, time, and location of the hearing are on the summons. The hearing may be held in person or remotely. Read the Summons carefully.

**Read the Verified Petition**

The Verified Petition has been filed with the juvenile court. It explains what the government or other party is claiming and asking the Court to order. Read the Verified Petition carefully.

**How do I tell the court my side of the story?**

- Attend the hearing. Tell the court if you agree or disagree with the Verified Petition, OR
- Attend the hearing and file a written answer before the hearing.

If you do not attend the hearing:

1. The court could make temporary orders regarding custody without you having the chance to tell your side of the story.
2. You must file a written answer within 10 days after the hearing or 30 days after you were served the Verified Petition. Use whichever deadline comes first.

**What happens if I ignore these papers?**

The Court will schedule a trial if you do not attend the hearing or file an answer. At the trial, the Court could decide the things in the Verified Petition are true. You will not get the chance to tell your side of the story. The Court might make orders that permanently terminate your parental rights.

(Spanish translation will go on this side)



Bilingual Notice to Responding Party for Out-of-State Summons for Petition for Termination of Parental Rights (for compliance with URJP 18)

**You can have a lawyer represent you**

You can have a lawyer at this hearing and all other hearings in this case. If you cannot afford a lawyer, you can ask for one. The Court will ask you to fill out paperwork with details about your income. If you qualify, the Court will order a lawyer to represent you for free.

**Learn more**

Watch this video for more information: [QR CODE AND SHORT URL]

[https://youtu.be/7qKrU7Aw0\\_4](https://youtu.be/7qKrU7Aw0_4)

For

Spanish: <https://www.youtube.com/watch?v=LGVZnoqspQ4>



قم بالمسح الضوئي  
للرمز لزيارة الصفحة

An Arabic version of this document is available on the court's website:

توجد نسخة عربية من هذه الوثيقة على موقع المحكمة على الإنترنت

[utcourts.gov/arabic](http://utcourts.gov/arabic)

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Bilingual Notice to Responding Party for In-State Summons for Abuse, Neglect, and/or Dependency Petition (for compliance with URJP 18)

A hearing has been scheduled about the children listed in the Verified Petition. The court will make a decision about your custody rights. You must attend the hearing. The date, time, and location of the hearing are on the summons. The hearing may be held in person or remotely. Read the Summons carefully.

**Read the Verified Petition**

The Verified Petition has been filed with the juvenile court. It explains what the government or other party is claiming and asking the Court to order. Read the Verified Petition carefully.

**How do I tell the court my side of the story?**

- Attend the hearing. Tell the court if you agree or disagree with the Verified Petition, OR
- Attend the hearing and file a written answer before the hearing.

If you do not attend the hearing:

1. The court could make temporary orders regarding custody without you having the chance to tell your side of the story.
2. You must file a written answer within 10 days after the hearing or 25 days after you were served the Verified Petition. Use whichever deadline comes first.

**What happens if I ignore these papers?**

Another party can ask for a default judgment if you do not attend the hearing or file an answer. This means the Court will decide the things in the Verified Petition are true. You will not get the chance to tell your side of the story. The Court might

(Spanish translation will go on this side)

Bilingual Notice to Responding Party for In-State Summons for Abuse, Neglect, and/or Dependency Petition (for compliance with URJP 18)

make orders that affect your custody and visitation rights.

**You can have a lawyer represent you**

You can have a lawyer at this hearing and all other hearings in this case. If you cannot afford a lawyer, you can ask for one. The Court will ask you to fill out paperwork with details about your income. If you qualify, the Court will order a lawyer to represent you for free.

**Learn more**

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[https://youtu.be/7qKrU7Aw0\\_4](https://youtu.be/7qKrU7Aw0_4)

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utcourts.gov/viet

Bilingual Notice to Responding Party for In-State Summons for Petition for Termination of Parental Rights (for compliance with URJP 18)

A hearing has been scheduled about the children listed in the Verified Petition. The court will make a decision about your parental rights. You must attend the hearing. The date, time, and location of the hearing are on the summons. The hearing may be held in person or remotely. Read the Summons carefully.

**Read the Verified Petition**

The Verified Petition has been filed with the juvenile court. It explains what the government or other party is claiming and asking the Court to order. Read the Verified Petition carefully.

**How do I tell the court my side of the story?**

- Attend the hearing. Tell the court if you agree or disagree with the Verified Petition, OR
- Attend the hearing and file a written answer before the hearing.

If you do not attend the hearing:

1. The court could make temporary orders regarding custody without you having the chance to tell your side of the story.
2. You must file a written answer within 10 days after the hearing or 25 days after you were served the Verified Petition. Use whichever deadline comes first.

**What happens if I ignore these papers?**

The Court will schedule a trial if you do not attend the hearing or file an answer. At the trial, the Court could decide the things in the Verified Petition are true. You will not get the chance to tell your side of the story. The Court might make orders that permanently terminate your parental rights.

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Bilingual Notice to Responding Party for In-State Summons for Petition for Termination of Parental Rights (for compliance with URJP 18)

**You can have a lawyer represent you**

You can have a lawyer at this hearing and all other hearings in this case. If you cannot afford a lawyer, you can ask for one. The Court will ask you to fill out paperwork with details about your income. If you qualify, the Court will order a lawyer to represent you for free.

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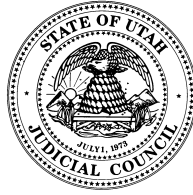


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# Administrative Office of the Courts

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

October 10, 2023

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

## MEMORANDUM

**TO: Forms Committee**

**FROM: Kaden Taylor, on behalf of MyCase**

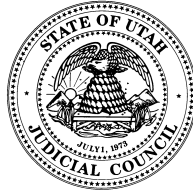
**RE: Form Layouts in MyCase Guided Interviews**

Our MyCase developers have run into issues recreating some aspects of our court forms. Some of our forms use tables for items that could be entered multiple times into a form, such as real estate or business interests. When developing the guided interviews for MyCase, the team discovered that the current engine does not have the tools to have multiple tables appear on a form if the table is formatted in a specific way (an example is below) and someone needs to add multiple entries, such as multiple business interests.

To correct for this error, on forms where this issue arises, the MyCase interview will input the information for these items in a bulleted list format rather than a table format. This will create some discrepancy between paper and digital forms. As new forms are created or forms are edited in the future, the Stylistics Subcommittee will keep this limitation in mind as it reviews forms.

Business name		
Address & phone		
Nature of business		
Current value of the business \$	Date of formation:	Percent owned by _____% Petitioner    ____% Respondent

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.



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October 10, 2023

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State Court Administrator  
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Deputy State Court Administrator

## MEMORANDUM

**TO: Forms Committee**

**FROM: Kaden Taylor, on behalf of MyCase**

**RE: Form updates resulting from URCP 5 changes concerning service**

The court's new MyCase program makes it possible to notify court patrons of activity in their case. As part of this functionality, the court's are working on updating URCP 5 to consider service through MyCase as an authorized form of service. The MyCase development team is asking the Forms Committee to approve or raise concerns with two changes to court forms so that the design team can build out these features. When this rule is implemented court forms will be updated and ready to comply with the rule.

1. We are asking the Forms Committee to approve a change to our Certificate of Service. The proposed change is to list "MyCase" as an option next to "efile," as seen below:

Certificate of Service			
I certify that I filed with the court and am serving a copy of this Motion on the following people.			
Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input checked="" type="checkbox"/> E-filed/MyCase <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

2. Forms that are created and submitted through the MyCase program will contain a notice (language and location to be determined) indicating that the form was created in the MyCase program. This is to notify another party that the filing party has a MyCase account and can be served through the MyCase program.

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.