

**JUDICIAL COUNCIL MEETING
Minutes**

December 18, 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
Margaret Plane, esq.

Presenters:

Nathanael Player
Karl Sweeney
Jordan Murray
Meredith Mannebach
Katsi Pena
Nini Rich

AOC Staff:

Ron Gordon
Shane Bahr
Jim Peters
Guy with Jim Peters
Nick Stiles
Sonia Sweeney
Hilary Wood
Michael Drechsel

Excused:

Neira Siaperas
Keisa Williams

Guests:

Josh Peters

Tucker Samuelson
Brody Arishita
Alisha Johnson
Stacy Haacke
Daniel Meza Rincon

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

Chief Justice Matthew Durrant welcomed everyone to the meeting.

Motion: Judge Paul Farr made a motion to approve the November 20, 2023 meeting minutes. Judge Brian Brower seconded the motion, and the motion passed unanimously.

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

Chief Justice Durrant and Mr. Gordon attended the last JPEC meeting, and Chief Justice Durrant felt it was a productive meeting. JPEC asked if there are things they could do to better serve the Judicial Council, or better ways they could present information to make their product relevant and valuable to the Council. They also asked if they could assist with encouraging more staff to give input on the judges they work with.

3. STATE COURT ADMINISTRATOR: (Ron Gordon)

Ron Gordon presented the Governor’s budget recommendations which include all but one of the Judiciary’s requests, although some recommended funding amounts are different. The Governor’s budget also includes a request for a new judge to preside over the “Home Court” as part of the efforts to address homelessness. Mr. Gordon asked Shane Bahr to head up a workgroup to work on some recommendations on where this Home Court judge could be located.

4. COMMITTEE REPORTS:

Management Committee Report:

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

Budget & Fiscal Management Committee Report:

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

Liaison Committee Report:

This committee will resume their meetings in January 2024, taking place every Friday.

Policy, Planning, and Technology Committee Report:

The Committee met and is working on a rule for reporting rulings 60 days under advisement, and have made some adjustments to that rule.

Bar Commission Report:

The “And Justice for All” program director has been selected to succeed Ann Milne. Pam Beets will be the new executive director and Megan Connolly will move into Ms. Beets’ role. Spring Convention will be March 14-16, 2024 in St. George. NCVE has created a new national Bar exam that focuses on more practical skills and less on rote memorization. Wyoming is leading out in early 2025 and the rest of the states hope to learn from them. Family Law questions will no longer be on the exam since those are state specific. The Utah Bar and Court leadership are discussing whether to approve that new exam.

5. BUDGETS AND GRANTS: (Karl Sweeney, Alisha Johnson,)

Karl Sweeney and Alisha Johnson gave the budgets and grants presentation.

FY 2024 One-Time Turnover Savings

			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
Total Potential One Time Savings			2,817,053.09
Prior Report Totals (as of PPE 10/13/2023)			\$ 2,754,085.13

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 11/10/2023 (including anticipated ARPA reimbursement)	Turnover Savings	1,035,053
**	Turnover savings Estimate for the rest of the year (\$1,350 x 1,320 pay hours)	Turnover Savings	1,782,000
(a)	Total Potential One Time Turnover Savings		2,817,053
	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)		3,620,050
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)			2,090,550
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			826,600
Less: Contingent Supplemental Funding			(970,500)
Remaining Forecasted Funds Available for FY 2024 YE Spending Requests if no Supplemental Funding is Received			(143,900)

Updated 11/28/2023

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	468,604	468,604
1	Ongoing Turnover Savings FY 2024 (forecast \$50,000 / month x 7 months remaining)	Internal Savings	-	350,000
	TOTAL SAVINGS		413,783	763,783
2	2024 Hot Spot Raises Authorized - renews annually until revoked		(38,502)	(200,000)
	TOTAL USES		(38,502)	(200,000)
3	Total Actual/Forecasted Turnover Savings for FY 2024 as of 10/27/2023		\$ 375,281	\$ 563,783
Prior Report Totals (as of 10/26/2023, with the contingent amount removed)			\$ 244,337	\$ 482,839

ARPA funds remaining are **\$3,545,535.14**.

Grants

Jordan Murray gave an update on existing grants and a few new grants.

6. MARCH 2024 JUDICIAL COUNCIL MEETING: (Ron Gordon, Hilary Wood)

Hilary Wood provided information on the March 2024 Judicial Council meeting that will be held in St. George in conjunction with the Spring Bar Conference. The Judicial Council meeting will be on Thursday, March 14th, beginning at Noon. Ms. Wood will send out an email with the details of the meeting, asking for an RSVP with dates for the room reservations.

7. RULES FOR FINAL APPROVAL: (Stacy Haacke, Michael Drechsel)

There were some small changes made to rules CJA 3-108 and CJA 4-208 to include Juvenile Courts with the expungement process. The previous rules only included Justice and District Courts, but the Juvenile Court also has an automated expungement for non-judicial adjustments. Stacy Haacke stated the revised rules would be effective on 1/1/2024.

Ms. Haacke also presented information on some changes to rules CJA 4-202-02 and CJA 4-202-03, which address classification and access to court records. Juvenile Court will start having a similar MyCase process for patrons to access court records, and the legal team would like to make those rules clearer for court staff and patrons, with a requested effective date of January 1, 2024.

Michael Drechsel discussed a second component to the proposed changes to rule CJA 4-208. In 2019 the legislature passed a bill that stated that a court shall automatically expunge without petition certain types of court records; acquittals, dismissals with prejudice, and convictions that are of the clean slate variety, which is defined in statute. This process would be too arduous to be completed manually, so over the several years the Judicial Council, Policy & Planning Committee, and the Supreme Court with rule 42 of the rules of criminal procedure, all collaborated on creating an automated process to accomplish this work. In the formation of the rule that governs the automated process, it neglected to state that an automated or automatic expungement order couldn't be issued manually. As a result, there have been attorneys around the state who have asked judges to manually issue an expungement order outside of the process. This proposed change to rule 4-208 would say that no automatic expungement orders under the

automatic expungements section of the Utah code shall be issued outside of the automatic processes that the Council approves.

Motion: Judge Elizabeth Lindsley made the motion to approve the rules for final approval as presented, with expedited effective date of Jan 1, 2024. Judge James Gardner seconded the motion, and the motion passed unanimously.

Mr. Gordon added that many hours went into building the automatic expungement system and so the more than 400,000 automatic expungements represent an extraordinary investment of time from the IT department, from Mr. Drechsel, and from our District Court team to make this a great program.

8. VIRTUAL HEARINGS: (Michael Drechsel)

Mr. Drechsel summarized some of the comments he has received by a handful of legislators who, as practicing attorneys, reported experiencing inconsistent methods of court attendance modes within the same courthouse. There was a discussion about what is best for the public, and what is most efficient for the court process. There were several ideas proposed by the Council members, including reconstituting the Green Phase Committee, in order to obtain feedback on all sides of the issue. Mr. Drechsel discussed the level of difficulty in creating a space that efficiently accommodates non-conforming methods of practice in the court setting.

Mr. Gordon summarized the next steps, to include reconstituting the Green Phase Committee, gathering feedback from stakeholders, and exploring possible IT solutions. Justice Paige Petersen requested that someone from And Justice For All be included in the stakeholders, and Chief Justice Durrant added the importance of having someone who prefers “in-person” attendance so that that viewpoint is heard.

9. COURT DATA UPDATE: (Ron Gordon)

Tucker Samuelson gave a presentation on some of the projects his team has been working on to make data more easily accessible to the court staff through Power BI.

10. COMMUNITY VOICE IN THE JUDICIARY: (Nathanael Player, Katsi Pena)

Nathanael Player and Katsi Pena presented information on possible ways to improve the community voice in judicial administration, focusing on the Self-Help Center and the Office of Fairness and Accountability. Mr. Player explained that self-represented litigants are the majority of court users, for whom navigating the legal system can be very difficult. Most of the judicial committees include attorney members, and Mr. Player and Ms. Pena proposed the appointment of either self-represented litigants or their “helpers”, who interact with self-represented litigants, to represent the community voice. Ms. Pena has worked with many community groups who would like to be a part of improving court policies and processes.

There was a discussion on ideas for moving forward. Judge Jon Carpenter asked if there are ways to gather more information to more accurately identify who the “helpers” are representing those who need help and what the actual needs are. Mr. Player explained further that his team has added a feedback channel asking if the information given was helpful or not. Ms. Pena added that she and Mr. Player are working with their community partners to understand what data they are collecting, and if there is room for collaboration.

11. OLD BUSINESS/NEW BUSINESS: (All)

There was no old or new business.

12. SENIOR JUDGE APPLICATION: (Hilary Wood)

Motion: Judge Thomas Low made a motion to move to executive session. Margaret Plane seconded the motion, and the motion passed unanimously.

13. EXECUTIVE SESSION

There was an executive session.

Motion: Judge Carpenter motioned to approve Judge George Harmond’s senior judge application as discussed in executive session. Judge Farr seconded, and the motion passed unanimously.

15. ADJOURN

The meeting adjourned.

CONSENT CALENDAR ITEMS

- 1) Grand Jury Panel of Judges Appointment
- 2) CJA 3-104. Presiding judges
- 3) Model Utah Civil Jury Instructions – New Committee Members
- 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

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- 5) Memo Regarding Form Layouts in MyCase Guided Interviews (requests in memo approved by council)
 - 6) Memo Regarding Form Updates Resulting from URCP 5 Changes Concerning Service (requests in memo approved by council)