

JUDICIAL COUNCIL MEETING

AGENDA

June 24, 2024

**Meeting held through Webex
and in person**

**Matheson Courthouse
Council Room
450 S. State Street
Salt Lake City, UT 84111**

Chief Justice Matthew B. Durrant, Presiding

1. 9:00 a.m. Welcome & Approval of Minutes.....Chief Justice Matthew B. Durrant
(TAB 1 - Action)

2. 9:05 a. m. Chair’s Report.....Chief Justice Matthew B. Durrant
(Information)

3. 9:10 a.m. State Court Administrator’s Report.....Ron Gordon
(Information)

4. 9:20 a.m. Reports: Management Committee.....Chief Justice Matthew B. Durrant
Budget and Fiscal Management Committee.....Judge Elizabeth Lindsley
Liaison Committee.....Justice Paige Petersen
Policy, Planning, and Technology Committee.....Judge Samuel Chiara
Bar Commission.....Margaret Plane, esq.
(TAB 2 - Information)

5. 9:30 a.m. Budget and Grants.....Karl Sweeney
(TAB 3 - Action) Alisha Johnson
Kelly Moreira
Jordan Murray
Jim Peters

- 10:20 a.m. Break**

6. 10:30 a.m. Youth Defense Counsel in Utah (The Gault Center).....Amy Borrer
(TAB 4 – Information) Sonia Sweeney

7. 11:00 a.m. Committee on Judicial Outreach Report.....Judge Amy Oliver
(TAB 5 - Information) Katsi Peña
8. 11:15 a.m. Judicial Conduct Commission Report.....Alex Peterson
(TAB 6 - Information)
9. 11:30 a.m. Notice of Intent to Dissolve the Hyde Park City & North.....Jim Peters
Logan City Justice Courts (TAB 7 – Action)
10. 11:35 a.m. Rules for Final Approval.....Keisa Williams
(TAB 8 – Action)
12. 11:45 a.m. Old Business / New Business.....All
(Discussion)
14. 11:55 a.m. Executive Session.....Chief Justice Matthew B. Durrant
15. 12:25 p.m. Adjourn.....Chief Justice Matthew B. Durrant

Consent Calendar

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

1. Rules for Public Comment
(TAB 9)
2. FSC Committee Member Appointment
(TAB 10)
3. Committee on Fairness & Accountability Member Appointment
(TAB 11)
4. Committee on Statewide Treatment Court Steering Committee Members
(TAB 12)

Tab 1

**JUDICIAL COUNCIL MEETING
Minutes**

May 20, 2024

**Meeting held through Webex
and in person**

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

9:00 a.m. – 12:30 p.m.

Judge David Mortensen, Vice Chair, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. David Mortensen, Vice Chair
Hon. Keith Barnes
Hon. Suchada Bazzelle
Hon. Jon Carpenter
Hon. Samuel Chiara
Hon. Michael DiReda
Hon. Ryan Evershed
Hon. James Gardner
Hon. Elizabeth Lindsley
Judge Amber Mettler
Justice Paige Petersen
Margaret Plane, esq.

Presenters:

Lauren Andersen
Suzette Deans
Judge Bartholomew
Alisha Johnson
Kelly Moreira
Jordan Murray
Nathanael Player
Nini Rich
Karl Sweeney
Chris Talbot
Kaden Taylor
Mark Urry

AOC Staff:

Ron Gordon
Neira Siaperas
Brody Arishita
Shane Bahr
Michael Drechsel
Todd Eaton
Jim Peters
Nick Stiles
Sonia Sweeney
Keisa Williams
Hilary Wood

Excused:

Hon. Paul Farr
Hon. Brian Brower
Hon. Thomas Low

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

Judge David Mortensen welcomed everyone to the meeting and asked if there were any questions or comments on the previous month's minutes. There were none.

Motion: Judge Keith Barnes made a motion to approve the April 22, 2024 Judicial Council minutes. Judge Samuel Chiara seconded the motion, and the motion passed unanimously.

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

The judiciary has enlisted the help of the Kem C. Gardner Institute to assist with the Justice Court reform. They are helping to identify some potential funding ideas, sources, models, and formulas. Mr. Gordon added that he will keep the Council informed as more information is received.

The judiciary continues to move forward in hiring staff interpreters according to the appropriation by the legislature, and Mr. Gordon thanked the Judicial Council for their support with these efforts. There will be a few more hired after July 1, 2024 when additional funding is received, which will give the judiciary a total of nine staff interpreters. Any of the staff interpreters, regardless of where they are housed, can be assigned to go anywhere in the state. Mr. Gordon also reported on pending discussions with the leadership of the medical interpretation certification program at Utah State University to explore possibilities about establishing a similar program for court interpretation. He is also exploring an alternative path to licensure that would be more inclusive to those that have the skills necessary to interpret for the judiciary.

Spring Conference season has ended, and Mr. Gordon expressed gratitude to the Education team for doing a phenomenal job putting all of the conferences together.

Mr. Gordon talked about the preparation being made across the state for the pay for performance salary increases funded by the legislature. He discussed the tiers model that the Human Resources team created to help evaluate employees' performance.

3. COMMITTEE REPORTS:

Management Committee Report:

The Management Committee approved two policies - one was an emergency plan for cybersecurity proposed by the IT department, as well as a device standard for laptops and any other court-issued devices.

Budget & Fiscal Management Committee Report:

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

Liaison Committee Report:

Nothing to report.

Policy, Planning, and Technology Committee Report:

Rule 3-306.04. Interpreter appointment, payment and fees, was approved on an expedited basis and then sent out for public comment. Under this rule, the Committee voted that a court employee that can speak the language of a court patron, can assist in the moment to relay general information, when there is not a staff or contracted interpreter available.

Bar Commission Report:

Margaret Plane stated that Billy Walker has retired after serving the OPC for many years. The new Chief of OPC will be Christine Greenwood, who started today. Ms. Greenwood will vacate her position as Chair of the Ethics and Discipline Screening Committee, and that position has been advertised.

Judge Campbell granted the Bar’s motion for summary judgment in the litigation by the Goldwater Institute challenging the constitutionality of a unified Bar.

4. BOARD OF JUVENILE COURT JUDGES REPORT: (Judge Brent Bartholomew, Sonia Sweeney)

Sonia Sweeney gave a brief summary of the Juvenile Court, which consists of 32 judges and is in equal standing with the District Court.

Judge Brent Bartholomew shared some goals decided on by the Board of Juvenile Court Judges for 2024. The first is an initiative to increase the quality and quantity of parent and family time in child welfare cases. This goal is important as it is a significant factor in successfully reuniting families. The second goal is to review child attendance at hearings, as children need to have an opportunity to have their voice heard in court. There are times when the child does not want to appear, but they need to have the option. Judge Bartholomew explained how the Board plans to track hearing attendance and the reasons why the child is not appearing.

5. BUDGETS AND GRANTS: (Alisha Johnson, Kelly Moreira, Jordan Murray)

Alisha Johnson presented the financial reports, as well as the budgets and grants information.

FY 2024 Ongoing Turnover Savings

#	Funding Type	Actual	Forecasted	
		Amount YTD	Amount @ YE	
	Net Carried over Ongoing Savings (from FY 2023)	Internal Savings	(54,820.52)	(54,820.52)
	Ongoing Turnover Savings FY 2024 (actual year-to-date)	Internal Savings	1,129,874.19	1,129,874.19
1	Ongoing Turnover Savings FY 2024 (forecast \$100,000 / month x 2 months remaining)	Internal Savings	-	200,000.00
	TOTAL SAVINGS		1,075,053.67	1,275,053.67
2	2024 Hot Spot Raises Authorized - renews annually until revoked		(193,927.00)	(200,000.00)
	TOTAL USES		(193,927.00)	(200,000.00)
3	Total Actual/Forecasted Turnover Savings for FY 2024		881,126.67	1,075,053.67

Prior Report Totals (as of 03/25/2024, with the contingent amount removed)

682,149.15

824,717.38

FY 2024 One-Time Turnover Savings

#	Funding Type	Actual	Forecasted
		Amount YTD	Amount @ YE
	Internal Savings	(54,820.52)	(54,820.52)
	Internal Savings	1,129,874.19	1,129,874.19
1	Internal Savings	-	200,000.00
		1,075,053.67	1,275,053.67
2		(193,927.00)	(200,000.00)
		(193,927.00)	(200,000.00)
3		881,126.67	1,075,053.67

Prior Report Totals (as of 03/25/2024, with the contingent amount removed) 682,149.15 824,717.38

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 04/30/2024 (including anticipated ARPA reimbursement)	Turnover Savings	1,671,691
**	Turnover savings Estimate for the rest of the year (\$1,000 x 440 pay hours)	Turnover Savings	440,000
	Total Potential One Time Turnover Savings		2,111,691
	Less: Legislative Cut to Budget Savings		(600,000)
(a)	Total Potential One Time Turnover Savings Less LFA Recommendations		1,511,691
	Operational Savings From TCE / AOC Budgets - Forecasted	Internal Operating Savings	620,244
	Unused Carryforward Request - Webex Virtual Hearing Improvement	Unused Carryforward	150,000
	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		823,241
(c)	Total of Turnover Savings & Operational Savings = (a) + (b)		2,334,932
Legislative Supplemental Funding:			
	American Fork Lease Increases (originally a carryforward request for FY 2024)	Legislative Contingent	389,000
(d)	Subtotal - Legislative Supplemental Funding		389,000
	Potential Use of Credit Card Charge Fund (CCCF)		TBD
Uses of YE 2024 Funds			
(e)	Less: Judicial Council Requests Previously Approved		(587,450)
	Total Potential Carryforward = (c) + (d) less (e) (Legislature approved up to \$3.2M)		2,136,482

Updated 04/30/2024

Budget Requests

Lauren Andersen presented a request for ongoing educational funds. This request, if funded, balances Education's operating budget and eliminates its reliance on one-time turnover savings to pay for training programs for court employees and judicial officers.

Brody Arishita presented a request for funding for critical IT software licenses, such as MS Windows, Google applications and Adobe. This year, the legislature funded the judiciary's IT request for \$1.366M with one-time funds only. Because these licenses are vital to the judiciary, it

was proposed that the judiciary utilize ongoing funds to pay for these software licenses going forward.

Wayne Kidd presented a request to fund ongoing professional development opportunities for the audit staff to keep up to date with changes in the field of auditing, relevant issues, and skill development. The Audit Department is required to conform to the Institute of Internal Auditor's Internal Standards for the Professional Practice of Internal Auditing, which includes ongoing professional development, and the department's operating budget is insufficient to cover the costs.

Mark Urry presented a request for ongoing funds to help Fourth District cover operating costs and projects. The Fourth District is one of the larger districts in the Courts in terms of personnel. It is not funded entirely with General Funds, but receives Federal Title IV-D funding in the budgeted amount of \$140,400 per year. The Title IV-D funding reimburses courts for the costs associated with assisting litigants with child support and paternity matters, but the actual collections/receipts have not reached the budgeted levels. Mr. Urry requested ongoing General Funds to replace the shortfall of approximately \$22,000.

Ms. Sweeney presented a request for mandatory Interstate Compact for Juveniles (ICJ) annual dues and other expenses related to the administration of the ICJ office, including extradition funds to return runaway/absconded youth to their home state, including Utah.

Jeremy Marsh presented a request for funding for Human Resources' travel budget. The purpose of the request is to address the critical need for ongoing, in-person training opportunities for HR employees, which are essential for keeping staff up to date with required and necessary ad-hoc training.

Shane Bahr presented a request for an FY25 contract site judicial assistant salary increase, which would close the gap between what is currently budgeted for FY25 and the contracted amount for judicial assistant services in six rural contract sites.

Kaden Taylor presented a funding request for one Utah State Law Library Assistant. This assistant would allow law library staff to keep up with the increase in responsibilities to this position, which now includes supporting the MyCase and ODR programs, and better serving the public who come in person to or contact the library.

Travis Erickson presented a request to fund a Training Coordinator position. Seventh District is one of two districts that do not have a Training Coordinator; a position which has been found throughout the state to be invaluable for increasing productivity, data quality and efficiencies.

Nick Stiles presented a request for a new Deputy Clerk of Court position for the Court of Appeals, similar to the Team Manager position utilized by the trial courts, to assist in the increased workload of the current Clerk of Court.

Ms. Sweeney presented a request for an additional Juvenile Law Clerk Attorney, as the Juvenile Court Bench has 32 judges with only two attorney law clerks to assist them.

Motion: Judge Barnes made a motion to approve all requests as presented. Judge Suchada Bazzelle seconded the motion, and the motion passed unanimously.

Karl Sweeney presented a proposal on how the judiciary should use its Case Processing Funds, including some discretionary items the Council can decide whether or not to include.

Mr. Sweeney presented the proposed Court Commissioner salary for FY25, which must be approved by the Council annually. The request seeks to increase the salary for all 11 court commissioners for FY25 by 5%, from \$183,326 to \$192,502, to maintain the approximate 90% ratio with the increased salary of district and juvenile judges. Court Commissioners on Tier 2 retirement plans will receive a slight increase (funded by the legislature) to offset additional costs of the retirement plans.

Motion: Ms. Plane made a motion to approve the Court Commissioner salary increase, including the two different rates as outlined in the documentation. Judge James Gardner seconded the motion, and the motion passed unanimously.

Grants

Jordan Murray presented the quarterly grants report. He shared that as of March 31, 2024, the judiciary has six active grants, four of which are federal, and two non-federal. No new grants were awarded during this quarter. However, one grant application proposal was approved for submission for funds from the Utah Board of Juvenile Justice Grant Program, which are federal funds that are a pass-through from the Commission on Criminal and Juvenile Justice (CCJJ).

Mr. Gordon added that Mr. Murray has also been working with the AOC to identify potential needs for a relatively new grant through the CCJJ. It's in the preliminary stages, and the AOC is conducting a needs assessment to come up with a proposal to take back to the CCJJ.

7. COURT FACILITY PLANNING COMMITTEE: (Judge Michele Christiansen Forster, Chris Talbot)

Chris Talbot and Judge Michele Christiansen Forster presented the FY25 5-year capital development plan, which reflected the addition of a sixth project.

Project #1: Davis County Courthouse - Proposed new courthouse with 15 courtrooms to consolidate the existing Farmington, Layton and Bountiful courthouses into one facility.
Estimated cost: \$139M

Project #2: Iron County, Cedar City Courthouse - Proposed new courthouse with 5 courtrooms.
Estimated cost: \$56M

Project #3: Utah County, American Fork / Lehi Courthouse - Proposed new courthouse with 4 courtrooms to replace the city owned leased facility.
Estimated cost: \$56M

Project #4: Grand County, Moab Courthouse - Proposed new courthouse with 2 courtrooms to replace the city owned leased facility.
Estimated cost: \$30M

Project #5: Sevier County, Richfield Courthouse - Proposed new courthouse with 3 courtrooms.
Estimated cost: \$42M

Project #6: (added): Salt Lake County, West Jordan Courthouse - Proposed expansion of 6 courtrooms.
Estimated cost: \$23M

Motion: Judge Elizabeth Lindsley made a motion to approve the 5-year plan as presented, with the addition of #6 on the list. Judge Amber Mettler seconded the motion, and the motion passed unanimously.

Mr. Talbot gave an update on the current capital development projects, including the new Manti courthouse, the Wasatch Justice Center expansion, and the Davis County courthouse project, as well as the capital improvement projects approved for FY25.

8. STANDING COMMITTEE ON RESOURCES FOR SELF-REPRESENTED PARTIES ANNUAL REPORT: (Judge Richard Mrazik, Nathanael Player)

Judge Richard Mrazik and Nathanael Player presented an annual report on the Standing Committee on Resources for Self-Represented Parties. Judge Mrazik discussed providing a more justice-friendly system to those who are self-represented, beginning up-stream from the courthouse, using social workers and others trained in this area. The goal is to provide procedural fairness and, in many cases, improve the outcome.

9. CCJJ & SENTENCING COMMISSION APPOINTMENTS: (Ron Gordon)

Mr. Gordon shared updated information regarding the membership of CCJJ and the Sentencing Commission. Going forward, there will be one voting member, which is the State Court Administrator or designee, and one Juvenile Court judge and one District Court judge on each of those commissions serving as non-voting members. The Board of Juvenile Court Judges has recommended that Judge Eisenman continue to serve on CCJJ and Judge Kiesel on the Sentencing Commission as non-voting members. The Board of District Court Judges has recommended that Judge Neider continue to serve on the CCJJ and Judge Trease on the Sentencing Commission as non-voting members.

Motion: Judge Gardner made a motion to approve those non-voting committee members as presented by Mr. Gordon. Judge Mettler seconded the motion, and the motion passed unanimously.

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

Judge William Kendall and Mr. Bahr presented an annual report from the Board of District Court Judges. The Board met most recently in Bryce Canyon, and heard from some wonderful speakers. There was also a Law Clerk Conference in Provo within the past few months that received a lot of positive feedback. Judge Kendall then summarized some of the projects the Board has been working on.

11. SENIOR JUDGE BUDGET AND COURT RULES: (Neira Siaperas)

Neira Siaperas discussed pending changes to the Senior Judge Program and court rules. She stated that the judiciary is on track to implement the nine amended CJA rules, two of which are Supreme Court rules. She will present these proposed rules to the Supreme Court on May 29, 2024.

Over the past three fiscal years, the judiciary has used about \$2M in ARPA funding in an effort to reduce the case backlog. During the last legislative session, the judiciary received \$1.6M for case backlog reduction. In July 2025, the budget will decrease back to \$168k for senior judges, which will be a big adjustment from how senior judges have been utilized over the past few years. This coming year will be an important transition to determine if the previous budget of \$168k is sufficient for our current needs and moving forward.

12. RULES FOR FINAL APPROVAL: (Keisa Williams)

Keisa Williams informed the Council that the proposed changes to the senior judge rules went out for public comment for 45 days, and no comments were received. Policy, Planning & Technology recommended that the amended rules be adopted as final with the same proposed effective date as the Supreme Court rules, which is likely to be May 30, 2024 contingent on the Supreme Court's decision.

Motion: Judge Chiara made a motion to approve the proposed changes to CJA Rules 1-305 Board of senior judges; 3-104 Presiding judges; 3-108 Judicial assistance; 3-111 Performance evaluations; 3-113 Senior judges; 3-403 Judicial branch education; and 3-501 Insurance benefits upon retirement with a proposed corresponding effective date as the two Supreme Court rules. Judge Mettler seconded the motion, and the motion passed unanimously.

13. COURTROOM NEEDS: (Ron Gordon)

Mr. Gordon shared a list of the judiciary's current and future courtroom needs. He asked for feedback on whether multiple facilities projects should be presented to the legislature together or one at a time, adding that there is a possibility that some higher cost projects from the list will get skipped if multiple projects are presented. Presenting one project at a time, as has been done in the past, pushes all building timelines farther out when needs exist right now. Judge Mettler pointed out that judicial needs and building needs are connected. For example, it is a problem if the judiciary gets funding for judicial officers but there is no space for them. Mr. Gordon will continue to bring this topic back to the group for further discussion.

14. 2025 JUDICIAL COUNCIL & MANAGEMENT COMMITTEE MEETINGS: (Hilary Wood)

Hilary Wood presented the proposed 2025 Judicial Council and Management Committee meeting dates, and asked for any suggestions or conflicts with the proposed meeting dates. There were none.

Motion: Judge Gardner made a motion to approve the 2025 Judicial Council and Management Committee meeting schedules, adjusting the December Judicial Council meeting to December 15. Ms. Plane seconded the motion, and the motion passed unanimously.

15. OLD BUSINESS/NEW BUSINESS: (All)

There was no old or new business.

16. EXECUTIVE SESSION

An executive session was held.

17. ADJOURN

The meeting adjourned.

CONSENT CALENDAR ITEMS

1. ADR Committee Appointee Request
2. Probation Notification Letters Policy Updates

Tab 2

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

Minutes

May 6, 2024

Meeting held virtually through WebEx

12:00 p.m. – 1:15 p.m.

Members Present:

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

Excused:

Wayne Kidd
Margaret Plane, Esq.

Guests:

Brett Folkman
Mark Urry, TCE, Fourth District Court
Erin Rhead
Daniel Meza Rincon
Kaden Taylor
Travis Erickson
Glen Proctor
Megan Haney

AOC Staff Present:

Ron Gordan
Neira Siaperas
Shane Bahr
Sonia Sweeney
Bart Olsen
Tina Sweet
Nick Stiles
Todd Eaton
Lauren Andersen
Nick Stiles
Jeremy Marsh
Nathanael Player
Jordan Murray
Karl Sweeney
Alisha Johnson
Kelly Moreira
Suzette Deans, Recording Secretary

1. WELCOME / APPROVAL OF MINUTES (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 April 8, 2024, minutes, as presented. Justice Paige Petersen seconded the motion, and it passed unanimously.

2. FY 2024 Financials / Turnover Savings / ARPA Update (Kelly Moreira – “Presenter”)

Ongoing Turnover Savings (“OTS”)/FY 2025 Carryforward and Ongoing Requests – Kelly Moreira reviewed the period 9 financials and gave an update on OTS. OTS for FY24 actual YTD is \$881,127. Forecasted FY24 OTS is \$100,000 (\$50,000 per month x 2 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 \$1,175,054.

As of 4/30/2024, 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 \$975,054 in OTS available for discretionary use. The FY 2025 Carryforward and Ongoing Requests schedule adds case processing legislative funds to the OTS and shows an incremental \$402,800 in unobligated ongoing funds bringing the total ongoing funds available for discretionary use to \$1,401,653 from which funding the \$366,900 Judiciary Amendments (SB-70) short fall has been approved by the Judicial Council leaving \$1,034,754 of ongoing funds for discretionary uses.



FY 2024 Ongoing Turnover Savings as of 04/30/2024

#	Funding Type	Actual	Forecasted
		Amount YTD	Amount @ YE
	Net Carried over Ongoing Savings (from FY 2023)	(54,820.52)	(54,820.52)
	Ongoing Turnover Savings FY 2024 (actual year-to-date)	1,129,874.19	1,129,874.19
1	Ongoing Turnover Savings FY 2024 (forecast \$50,000 / month x 2 months remaining)	-	100,000.00
	TOTAL SAVINGS	1,075,053.67	1,175,053.67
2	2024 Hot Spot Raises Authorized - renews annually until revoked	(193,927.00)	(200,000.00)
	TOTAL USES	(193,927.00)	(200,000.00)
3	Total Actual/Forecasted Turnover Savings for FY 2024	881,126.67	975,053.67

Prior Report Totals (as of 03/25/2024, with the contingent amount removed)

682,149.15

824,717.38

- * Ongoing turnover savings only happens when a vacant position is filled at a lower rate and / or with lower benefits.
- * There are currently 28 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, 29.7 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.



FY 2025 Carryforward and Ongoing Requests - as of FY 2024 Period 10

5/1/2024

Funding Sources

	One Time	Ongoing
OTS carried over from FY 2023		\$ (54,820.52)
Forecasted YE OTS from FY 2024*		\$ 1,229,874.19
Subtotal		\$ 1,175,053.67
New Salary Funding		\$ 8,044,000.00
Set Aside for 3% COLA - Non Judicial and all Medical and Payroll related benefits for the COLA)		\$ (4,388,300.00)
Set Aside for 2% Performance Raises - Non Judicial and Payroll related benefits for the 2% PFP		\$ (1,646,200.00)
Set Aside for 5% Judicial Officer Increase		\$ (2,011,500.00)
Unobligated Fiscal Note Funds - District Court (net)	\$ (8,600)	\$ 402,800.00
Unobligated Fiscal Note Funds - Juvenile Court		\$ 26,000.00
Unobligated Fiscal Note Funds - Admin		\$ (2,200,000)
Expected Carryforward Amount from Fiscal Year 2024	\$ 2,200,000	\$ -
Total Available Funding	\$ 2,191,400	\$ 1,601,653.67
Less: Judicial Council Delegated to State Court Administrator for Discretionary User	\$ (250,000.00)	\$ (200,000.00)
Net Ongoing TOS Available for Use	\$ 1,941,400.00	\$ 1,401,653.67

Ongoing Requests - Directly from Unobligated Fiscal Note Funds

	Presented		Judicial Council Approved	
	One Time	Ongoing	One Time	Ongoing
Subtotal	\$ -	\$ -	\$ -	\$ -

Ongoing Requests

	Presented		Judicial Council Approved	
	One Time	Ongoing	One Time	Ongoing
1 Performance Raises		\$ 450,000		\$ 450,000
Withdraw Request #1		\$ (450,000)		\$ (450,000)
2 Judiciary Amendments (SB 70) - Shortfall Funding - Ron Gordon		\$ 366,900		\$ 366,900
3 Education Budget Deficit - Lauren Andersen		\$ 241,400		
4 4th District Insufficient Operating Budget - Mark Urry / Karl Sweeney		\$ 46,000		
5^ Partially Fund IT Software Not Funded by Legislature - Brody Arishita / Karl Sweeney		\$ 350,000		
6 Internal Audit Insufficient Operating Budget - Wayne Kidd		\$ 10,000		
7 ICJ Annual Request - per Statute - Sonia Sweeney		\$ 29,950		
8 HR Travel / Training Insufficient Operating Budget - Jeremy Marsh		\$ 7,500		
9 Contract Court JA Reimbursement Shortfall - Shane Bahr		\$ 21,700		
10^ Law Library Assistant Not Funded by Legislature - Kaden Taylor	\$ 1,500	\$ 85,000		
11^ Seventh District Training Coordinator Position Not Funded by Legislature - Travis Erickson		\$ 98,500		
12 Deputy Clerk of Court - Appellate Court - Nick Stiles	\$ 2,000	\$ 116,200		
13 Juvenile Law Clerk Attorney Position - Sonia Sweeney		\$ 139,000		
Subtotal	\$ 3,500	\$ 1,512,150	\$ -	\$ 366,900
Balance Remaining After Judicial Council Approvals			\$ 1,941,400	\$ 1,034,754
Balance Remaining Inclusive of "Presented"	\$ 2,187,900	\$ (110,496)		

One Time Requests

	Presented		Judicial Council Approved	
	One Time	Ongoing	One Time	Ongoing
1 2nd District - Conversion/Upgrade for Judicial Settlement Conference Rms - Glen Proctor	\$ 22,600			
2* Employee Wellness Resources - Ron Gordon and Karl Sweeney	\$ 112,950			
3* Courts EcoPass Program - Suzette Deans / Karl Sweeney	\$ 60,000			
4* Education Assistance Program Funding - Alisha Johnson	\$ 85,000			
5* HR Applicant Tracking - Bart Olsen and Jeremy Marsh	\$ 20,900			
6* IT Stipend for Technology Subject Matter Experts - Todd Eaton / Jace Kinder	\$ 78,000			
7* IT Replacement Inventory - Todd Eaton	\$ 364,000			
8* Network / System Maintenance - Staff Augmentation - Todd Eaton / Chris Talbot	\$ 50,000			
9* Employee Incentive Awards - Bart Olsen, Erin Rhead, Alisha Johnson	\$ 280,000			
Subtotal	\$ 1,073,450	\$ -	\$ -	\$ -
Balance Remaining After Judicial Council Approvals			\$ 1,941,400	\$ 1,234,754
+ Balance Remaining Inclusive of "Presented"	\$ 1,114,450	\$ (110,496)		

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.
- - Request to Legislature was Not Funded.
- 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.

One-Time Turnover Savings/ FY 2024 YE Requests - 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 \$2.11M. This is a substantially lower forecast when compared to FY 2023 actual of \$4.4M in one-time TOS

primarily because there are between 40% and 50% fewer unfilled positions today than the average for FY 2023 plus the impact of the Leave and Term Pool overcharging which was discussed later in the agenda. The FY 2024 YE Requests schedule includes forecasted operational savings of \$823,241 which are added to the forecasted one-time TOS. Last year (FY 2023) we generated over \$1M of one-time operational savings.



FY 2024 One Time Turnover Savings

Updated as of Pay Period Ending 04/12/2024 (1,640 out of 2,080 hours)

#	Description	Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 04/12/2024)	Internal Savings	1,088,355.43
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 04/12/2024)	Reimbursements	583,335.99
3	Est. One Time Savings for 440 remaining pay hours (\$1,000 / pay hour)	Internal Savings (Est.)	440,000.00
Total Potential One Time Savings			2,111,691.42

Prior Report Totals (as of PPE 3/15/2024) \$ 2,167,549.01

- Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$9.97, \$804.94, \$469.17, and \$827.58. The average per hour turnover savings YTD was \$1,019.32. These numbers do include ARPA reimbursements.
- Forecast was reduced to \$1,000 per pay hour based upon prior periods and average.



FY 2024 Year End Requests and Forecasted Available One-time Funds - Period 10

Forecasted Available One-time Funds			# One-time Spending Plan Requests		Adjusted Requests Amount	Judicial Council Approved Amount
	Description	Funding Type	Amount			
Sources of YE 2024 Funds						
*	Turnover Savings as of PPE 04/30/2024 (including anticipated ARPA reimbursement)	Turnover Savings	1,671,691	1		107,450
**	Turnover savings Estimate for the rest of the year (\$1,000 x 440 pay hours)	Turnover Savings	440,000	2		\$ -
	Total Potential One Time Turnover Savings		2,111,691	3		\$ -
	Less: Legislative Cut to Budget Savings		(600,000)	4		\$ -
(a)	Total Potential One Time Turnover Savings Less LFA Recommendations		1,511,691	5		30,000
	Operational Savings From TCE / AOC Budgets - Forecasted	Internal Operating Savings	620,244	6		\$ -
	Unused Carryforward Request - Webex Virtual Hearing Improvement	Unused Carryforward	150,000	7		\$ -
	Reserve Balance (balance from FY 2023 Carryforward)	Judicial Council Reserve	52,997	8		450,000
	Anticipated Reserve Uses - including previously approved and pending requests	Jud. Council Reserve Uses	-	9		\$ -
(b)	Total Operational Savings and Reserve		823,241	Previously Approved 1x FY 2024 YE Spending Request		
(c)	Total of Turnover Savings & Operational Savings = (a) + (b)		2,334,932			587,450
Legislative Supplemental Funding:						
	American Fork Lease Increases (originally a carryforward request for FY 2024)	Legislative Contingent	389,000			
(d)	Subtotal - Legislative Supplemental Funding		389,000			
	Potential Use of Credit Card Charge Fund (CCCF)		TBD			
Uses of YE 2024 Funds						
(e)	Carryforward into FY 2025 (Legislature approved up to \$3,200,000)	Pre-Covid Carryforward	(2,500,000)			
	Total Potential One Time Savings = (c) + (d) less Carryforward (e)		223,932			
	Less: Judicial Council Requests Previously Approved		(587,450)			
	Remaining Forecasted Funds Available for FY 2024 YE Spending Requests		(363,518)			

- Actual turnover savings as calculated on a pay period basis through 03/15/2024.
- Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$9.97, \$804.94, \$469.17, and \$827.58. The average per hour turnover savings YTD was \$1,019.32. These numbers do include ARPA reimbursements.
- We originally estimated \$750,000 Operational Savings from TCE / AOC Budgets is a conservative estimate. The number has been updated for actual savings YTD but we expect to further update the savings in periods 11/12.

ARPA Expenditures – We have expended \$12.7M of ARPA funds as of April 30, 2024. This leaves an available balance of \$2.3 of the \$15 million that was awarded to the courts.



ARPA Expenses as of 4/30/2024 (period 10 not yet closed)

	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	2,485,683.47	10,141,405.89	2,231,994.11
Courts Case Backlog - Part I + II	2,302,100	707,963.11	1,007,135.35	587,001.54	2,302,100.00	-
Legal Sandbox Response to COVID	324,500	-	171,636.48	111,493.27	283,129.75	41,370.25
TOTAL	15,000,000	3,750,430.78	5,792,026.58	3,184,178.28	12,726,635.64	2,273,364.36

Expenditures added since last report: \$ 165,124.83

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

Historical Trends (period 10 not yet closed)

IT Access to Justice Use - Last 3 Periods

Period 8	Period 9	Period 10
\$ (85,681.71)	\$ 149,845.78	\$ 150,929.50

BKLG - Last 3 Periods

Period 8	Period 9	Period 10
\$ 78,533.53	\$ 11,098.29	\$ -

Legal Sandbox - Last 3 Periods

Period 8	Period 9	Period 10
\$ 14,867.11	\$ 15,018.43	\$ 13,173.96

Correction for report error for Legal Sandbox, period 9: \$ 15,018.43

New Period 10 Expenses: \$ 150,106.40

TOTAL INCREASE FROM PRIOR TOTAL EXPENDED AMOUNT: \$ 165,124.83

(The period 9 Legal Sandbox amount was not included in the Total Expended Amount in last month's report)

* Period 8 included corrections for charges that were not ARPA eligible in ITCV.

3. Leave and Termination Pool Funding (Alisha Johnson – “Presenter”)

Alisha Johnson presented a memorandum regarding Leave and Termination Pool. Every year, the Legislature provides funding within the compensation bill to pay for the Vacation / Sick Leave Termination Pool & Postemployment Benefits Pool (the Pool) via a combined rate that it set with the assistance of State Finance and Boards of Trustees overseeing these accounts. For budgeting purposes, State Finance makes the rate known to State agency finance personnel so they can accurately project their personnel expenditures for the fiscal year. In FY 2024, that process did not work as intended. The combined rate that was set was 1.75%. The Legislature funded that amount. State Finance accurately passed along the information about that rate to State agencies. Courts budgeted personnel with the 1.75% assumption included. State Payroll failed to update the table in the payroll system. Because of this failure, State agencies have been overcharged with the rate in the payroll system being 2.89% (which was last year’s rate). As of pay period ending 4/19/2024, State Payroll has now updated their tables so State agencies are now being billed the correct rate of 1.75%. State Finance has not yet provided us with information regarding if/how they will correct the overcharging that has occurred YTD in fiscal year 2024. Alisha will continue to keep the BFMC updated with any additional developments.

Prior Ongoing Funding Requests

3. FY Requests for Funding

3. Education Budget Deficit (Lauren Andersen – “Presenter”)

Lauren Andersen is requesting \$241,400 in ongoing funding. This request would balance Education’s operating budget and eliminates its reliance on one-time turnover savings to pay for its training programs for court employees and judicial officers. In FY25 Education is projecting a shortfall of \$241,400 (best case scenario) to \$339,449 (worst case scenario) if it continues to maintain all the programs that it is offering in FY24. Carryforward requests have supported Education since FY22.

Ongoing funding will allow Education to continue to support:

- Judicial officer in-person conferences, retreats and courses,
- New Judge Orientation at least twice a year,
- Year-round courses for judicial assistants, juvenile probation officers, administrative staff, supervisors and managers,
- Employee Leadership Academy,
- Formal employee mentoring program,
- Out-of-state training opportunities for judicial officers and
- Technology associated with online, on-demand learning.

Motion: Judge Brian Brower made a motion to forward this ongoing request on to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

4. 4th District Insufficient Operating Budget (Mark Urry and Karl Sweeney – “Presenters”)

Mark Urry is requesting \$46,000 ongoing turnover savings to supplement operating funds to cover district court operating costs, needs, and projects. Unique among district funding sources, the 4th District is not funded entirely with General Funds for its operating funds. The 4th District seeks the restoration of an incremental \$24,000 of former budget cuts in 2021 and the Federal Title IV-D shortfall (\$22,000) combined to total the \$46,000 requested.

Motion: Judge Brian Brower made a motion to forward this ongoing request on to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

5. Partially Fund IT Software Not Legislatively Funded (Brody Arishita – “Presenter”)

Brody Arishita is requesting \$350,000 ongoing turnover savings to partially fund IT software licenses. The legislature funded our FY24 request with 1x time funds. Our goal would be to bring

back 1 or 2 requests per year for incremental IT ongoing TOS funding until the entire \$1.366M funded with 1x funds by the Legislature is funded with ongoing funds. We will continue to request 1x funding from the Legislature for future years as a backstop. For FY 2025, the ongoing funding of \$350,000 will free up an equivalent amount of 1x funding to be used for other priorities.

Motion: Judge Brian Brower made a motion to forward this ongoing request on to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

6. Internal Audit Insufficient Operating Budget (Wayne Kidd – “Presenter”)

Wayne Kidd is requesting \$10,000 in ongoing funding to provide needed ongoing professional development opportunities for the audit staff to keep up to date with changes in the field of auditing, relevant issues, and skill development. The Audit Department is required to conform to Institute of Internal Auditor’s (IIA) International Standards for the Professional Practice of Internal Auditing, which includes ongoing professional development. The department is required to conform to standards relating to objectivity and due professional care and the Code of Ethics. The standards require that the internal audit activity provide opportunities to develop the skills and knowledge necessary to perform all the needed audit engagements.

Motion: Judge Brian Brower made a motion to forward this ongoing request on to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

7. ICJ Annual Request (per Statute) (Sonia Sweeney – “Presenter”)

Sonia Sweeney is requesting \$29,950 in ongoing ICJ operation funding. Funding is for mandatory Interstate Compact for Juveniles (ICJ) annual dues and other expenses related to administration of the ICJ office.

Motion: Judge Brian Brower made a motion to forward this ongoing request on to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

8. HR Travel / Training Insufficient Operating Budget (Jeremy Marsh – “Presenter”)

Jeremy Marsh is requesting \$7,500 of ongoing funding. This funding request aims to address the critical need for ongoing, in-person HR training opportunities for court employees. These HR training sessions are essential for keeping staff up to date with required and necessary ad-hoc training, including Abusive Conduct and Workplace Harassment, Fair Labor Standards Act (FLSA) compliance, payroll time entry procedures, effective performance management, FMLA and ADA management, recruitment, and onboarding, managing the discipline process, updates to HR Policy, and a variety of other essential training. By investing in these training opportunities, the court ensures that its workforce remains highly skilled, knowledgeable, and compliant with legal and ethical standards.

Motion: Judge Brian Brower made a motion to forward this ongoing request on to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

9. Contract Court Site Judicial Assistant Reimbursement Shortfall (Shane Bahr – “Presenter”)

Shane Bahr is requesting \$127,624 in ongoing funding for FY25 contract site judicial assistant contract increase. Due to some events just prior to the BFMC meeting, Shane realized that the process to request incremental funds for contract courts was governed by statute (see link below). Shane amended his request to only seek \$21,654, which is the difference between what is currently budgeted, and the contracted amounts for judicial assistant services in the six rural contract sites.

We currently budget \$141,600 for judicial assistant services in the six contract sites. The budgeted dollar amount has not increased since FY18, even though the overall contract amount increased incrementally over the years to \$163,254 in FY2024. A difference of \$21,654. The contracted amount increased in some years based on the COLA given but it was funded by charging the respective District budget to pay for these increases as no incremental general funds were requested to pay for the increased contracted amounts. This has the effect of squeezing the respective District operating budgets as funds are diverted from other uses to pay for personnel at the contract sites.

<https://le.utah.gov/xcode/Title78A/Chapter5/78A-5-S111.html>

Motion: Judge Brian Brower made a motion to forward this ongoing request on to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

Ongoing New Requests

10. Utah State Law Library Assistant (Kaden Taylor – “Presenter”)

Kaden Taylor is requesting \$85,000 in ongoing funds and \$1,500 in one-time funds for a new Law Library Assistant for the Utah State Law Library to allow the Courts to support the increase in responsibilities for this position, which now include supporting the MyCase and ODR programs, and better serving the public who come in person to or contact the library. This was a request to the Legislature in the 2024 session that did not get funded.

Motion: Judge Brian Brower made a motion to forward this ongoing request to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

11. 7th District Training Coordinator (Travis Erickson – “Presenter”)

Travis Erickson is requesting \$98,500 in ongoing funds for a 7th district training coordinator. This position will be invaluable for increasing productivity, data quality and efficiencies for Judicial Assistant staff at all phases of the career path. The Training Coordinator position is a highly skilled position that provides a breadth of training opportunities as well as a depth of training content to address statewide, local, and even individual clerical needs in a way that existing training modules provided by the Education Department cannot. This was a request to the Legislature in the 2024 session that did not get funded.

Motion: Judge Brian Brower made a motion to forward this ongoing request to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

12. Deputy Clerk of Court (Appellate) (Nick Stiles – “Presenter”)

Nick Stiles is requesting \$2,000 in one-time funds and \$116,200 in ongoing funds for a Deputy Clerk of Court. The Court of Appeals handled 958 appeals in 2023. The Clerk of the Court is responsible for reviewing all case management decisions that require some form of administrative authority. Between 2018 and 2023 there has been a 105% increase in the number of extensions parties are requesting. When an extension is granted, the Clerk of Court must provide an order granting the extension that lists every previous extension. In 2023, the Clerk of the Court received 1433 requests for extensions, equaling 5.5 extension orders every workday. Recent efforts have been made to decrease the number of extensions parties are requesting, however, staffing shortages within government agencies have prevented any considerable movement. Current projections indicate that there will be 1685 extensions request in 2024. Motions to supplement or correct the record are also largely handled by the Clerk of Court, and from 2019 to 2023, have nearly doubled. Processing these requests is even more involved than extension requests. The Clerk of Court is required to research the record to ensure the accuracy of a moving party’s claim, locate the missing record, issue a temporary remand, receive the corrected record, and finally, issue an order reestablishing the briefing schedule. With the current number of motions to supplement or correct the record the Clerk of Court must complete all of this once every other day.

Motion: Judge Brian Brower made a motion to forward this ongoing request to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

13. Juvenile Law Clerk Attorney (Sonia Sweeney – “Presenter”)

Sonia Sweeney is requesting \$139,000 in ongoing funding for an additional Juvenile attorney law clerk position. The Juvenile Court Bench has 32 judges, but only two attorney law clerks to aid them. These attorney law clerk positions also aid the Juvenile Court’s Juvenile Probation Policy Committee, Clerks of Court Policy Committee, the Board of Juvenile Court Judges, the Advisory Committee on the Rules of Juvenile Procedure Committee, and the Administrative Office of the Courts. The purpose of this request is to secure funding to hire a third attorney law clerk to aid the Juvenile Bench in a benefitted, full-time position at a rate of \$41.20/hr., which results in an annual cost of \$139,000.

Motion: Judge Keith Barnes made a motion to forward this ongoing request to the Judicial Council with a recommendation to approve. Justice Paige Petersen seconded the motion, and it passed unanimously.

One-time Funding Requests

1. 2nd District Conversion & Upgrades for Judicial Settlement Conference Rooms (Glen Proctor – “Presenter”)

Glen Proctor is requesting \$22,600 in one-time funding for conversion and upgrades for judicial settlement conference rooms.

The Second District’s short-term plan is to update select Ogden Courthouse space and facilities as follows:

- Revamping two second floor public areas into two (2) secure designated Judicial Settlement Conference (JSC) rooms. Supplemental upgrades will include revisions to the current public space areas adjoining the two secure JSC rooms.
- Creating similar spaces on the 3 and 4th floors.
- Furniture to be purchased for these projects include:
 - o five (5) conference tables,
 - o forty (40) conference table chairs (i.e., eight chairs per conference table),
 - o twelve (12) guest waiting chairs and
 - o three (3) guest waiting area tables

The additional rooms are utilized as public waiting areas on the Third and Fourth Floors. The designated private conference room space on the Second Floor will be utilized for conducting JSC’s by current sitting Judges and Senior Judges.

Motion: Deferred until a future meeting when all the 1x requests can be evaluated.

2. Employee Wellness Resources (Ron Gordon – “Presenter”)

Ron Gordon is requesting \$115,370 in one-time funds to continue the Employee Wellness Program. In 2023, the AOC established a Statewide Wellness Steering Committee (the “Committee”) to make recommendations regarding employee wellness. The Committee recommended that state court employees have access to the same wellness resources (Tava Health and Unmind Wellbeing) recently offered by the Utah State Bar to all members of the Bar (meaning that judicial officers and all court employees who are members of the Utah State Bar already have access to these resources). These resources included six free online therapy sessions per year (with some in-person session availability) and an app that provides access to daily wellness tracking and evaluation, recommendations, and wellness education. This proposal recognizes that the demanding nature of the work of the courts can create or add to

mental health difficulties for our employees. It also recognizes that our work exposes employees to potentially traumatic situations. Providing these resources is a way for the state courts to be proactive in helping our employees manage their wellbeing.

Motion: Deferred until a future meeting when all the 1x requests can be evaluated.

3. Public Transit Reimbursement Program (Suzette Deans and Karl Sweeney – “Presenters”)

Karl Sweeney is requesting \$60,000 in one-time carryforward funds to continue a public transit program that is (1) open to all employees but targeted to benefit those who use public transportation most, (2) state-wide (not just UTA), and (3) has a manageable administrative cost. The old Eco-Pass program was eliminated in the budget cuts of 2020.

Effective August 2021 in connection with an improved UTA Eco-Pass plan, the Courts instituted a reimbursement program which paid 50% of the monthly cost of commuting on public transportation throughout the state. At the beginning of this program, there was an average of 30 riders per month. As we increased the reimbursement percentage to 90% over time, the average monthly ridership also increased to approximately 80.

Motion: Deferred until a future meeting when all the 1x requests can be evaluated.

4. Education Assistance Program (Alisha Johnson – “Presenter”)

Alisha Johnson is requesting \$85,000 one-time carryforward funds. The Utah Courts encourage employees to seek further education in order to perform their jobs more effectively and to enhance their professional development. These requests are tracked by AOC Finance which evaluates all requests and thereby assists employees in the pursuit of educational goals by granting reimbursement of educational expenses to Court employees under specified circumstances. This request will subsidize education assistance for court employees for FY 2025.

Motion: Deferred until a future meeting when all the 1x requests can be evaluated.

5. HR Applicant Tracking (Bart Olsen and Jeremy Marsh – “Presenters”)

Bart Olsen is requesting \$20,900 of one-time carryforward funds to allow one more year of funding for ApplicantPRO - a more secure and independent Onboarding and Recruitment software application and process. For the past two years, the Judicial Council has approved carryforward funding for Applicant PRO, a proven onboarding and recruitment software. This software has dramatically reduced the time HR staff spend on recruitment and onboarding. Additionally, this software empowers Court management with more control and agility in recruitment and onboarding practices and provides new hires with a smooth, efficient, and secure onboarding experience. The benefits of using these software programs are unprecedented to the Courts.

Motion: Deferred until a future meeting when all the 1x requests can be evaluated.

6. IT Stipend for Tech Subject Matter Expert (“TSME”) (Todd Eaton and Jace Kinder “Presenters”)

Todd Eaton and Jace Kinder are requesting \$65,000 in onetime carryforward funds for IT Stipend Tech support. IT department was given approval in May 2023 to designate up to 30 court employees as TSMEs who can assist throughout the state in District and Juvenile courts with a specific set of IT skills/functions. With the first year nearly completed, we are adjusting our request to fund only 25 court employees as TSMEs, which enables us to have personnel at all critical locations.

Motion: Deferred until a future meeting when all the 1x requests can be evaluated.

7. IT – PCs, Printers, Peripherals Replacement Inventory (Todd Eaton “Presenter”)

Todd Eaton is requesting \$364,000 for equipment replacement inventory. IT has established an annual laptop replacement schedule that provides for each unit to be replaced once every 5 years. IT previously requested \$250,000 per year for the program. For FY23 this was increased to the \$364,000 amount for the first time due to the large increase in laptops made during COVID. With this increased funding we project having the 5-year replacement schedule completely established by FY26.

Motion: Deferred until a future meeting when all the 1x requests can be evaluated.

8. IT Staff Augmentation (Todd Eaton and Chris Talbot “Presenters”)

Todd Eaton and Chris Talbot are requesting \$50,000 one-time carryforward funds for IT Staff Augmentation. With IT staff continuing ARPA-focused work, this request establishes a fund for maintenance/repairs and other non-technical work throughout the state that optimizes the use of IT employees by providing funds for this work to be done by vendors on state contract. These funds will cover labor costs, travel and any hardware required for this work. This outsourcing greatly reduced the strain on internal staff and increased the efficiency of our current IT support staff allowing them to better utilize time and efforts focusing on the more technical aspects of both ARPA and non-ARPA projects while maintaining the ability to keep up with regular responsibilities.

Motion: Deferred until a future meeting when all the 1x requests can be evaluated.

9. Employee Incentive Awards (Bart Olsen, Erin Rhead, and Alisha Johnson “Presenters”)

Bart Olsen is requesting \$280,000 for Employee Incentive Awards. The Courts have established a program to provide on-the-spot recognition for outstanding service as well as a formal nomination process to reward employees for their service in the following ways:

- An innovative idea or suggestion, implemented by the courts, which improves operations or results in cost savings
- The exercise of leadership beyond that normally expected in the employee’s assignment
- An action which brings favorable public or professional attention to the courts

- Successful completion of an approved special individual or team project
- Continually outstanding performance of normal responsibilities.

The incentive can be issued in cash or a gift card. If deserved, a single employee can receive multiple incentive awards in a given year.

Motion: Deferred until a future meeting when all the 1x requests can be evaluated.

10. Annual Setting of Court Commissioners’ Salary Awards (Ron Gordon, Shane Bahr, and Bart Olsen “Presenters”)

Ron Gordan proposed new annual pay of \$192,504. Per the Code of Judicial Administration rule 3-201 (9) (A), “The Council shall annually establish the salary of court commissioners. In determining the salary of the court commissioners, the Council shall consider the effect of any salary increase for judges authorized by the Legislature and other relevant factors. Except as provided in paragraph (6), the salary of a commissioner shall not be reduced during the commissioner's tenure.” Per the 2024 Legislative session SB 8, district and juvenile judge salaries are scheduled to increase from \$203,700 to \$213,900 effective July 1, 2024 which is a 5% increase. We are seeking to set the salary for all 10 court commissioners for FY 2025 to also increase 5% from \$183,326 to \$192,504 to maintain the approximate 90% ratio. For commissioners who have type 2 retirement, a .7% increase in their pay was granted by the legislature and will be given to those commissioners and immediately paid to fund their retirement payment. This request will be entirely funded through legislative appropriations for FY 2025; no use of Court internally-generated ongoing turnover savings (TOS) is needed.

Motion: Justice Paige Petersen made a motion to forward on to the Judicial Council for the May meeting. Judge Keith Barnes seconded the motion, and it passed unanimously.

6. Court’s Grant Report (Jordan Murray “Presenter”)

As of March 31, 2024, the Courts hold six awards comprised of four federal grants and two nonfederal grants. Of these, two are directly awarded and four by pass-through agencies. No new grants were awarded between January and March 2024

4. New Business/Old Business

None.

Adjourned at 1:15 p.m.

Next meeting June 10, 2024

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

Webex video conferencing
April 5, 2024 – 12 p.m.

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Samuel Chiara, <i>Chair</i>		•	Nick Stiles Tucker Samuelson Keri Sargent
Judge Suchada Bazzelle	•		STAFF: Keisa Williams Brody Arishita Minhvan Thach
Judge Jon Carpenter	•		
Judge Michael DiReda	•		
Judge James Gardner	•		

(1) Welcome and approval of minutes:

Judge Gardner welcomed committee members to the meeting. The committee considered the minutes from the March 1, 2024, meeting. With no changes, Judge Carpenter moved to approve the minutes as presented. Judge Bazzelle seconded the motion. The motion passed unanimously.

(2) Rules back from public comment:

- **CJA 3-201. Court commissioners.**
- **CJA 1-201. Judicial Council membership – election.**

The proposed amendments to CJA 3-201 and 1-201 are back from a 45-day public comment period. No comments were received.

Judge Gardner moved to recommend to the Judicial Council that the amendments to CJA rules 3-201 and 1-201 be adopted as final with a May 1, 2024, effective date. Judge Bazzelle seconded the motion. The motion passed unanimously.

(3) CJA 4-202.08. Fees for records, information, and services.

Clerks may deny repeated requests for duplicative records under CJA 4-202.09(2)(C). Requesters may appeal a denial of records “associated with a case” by filing a motion under CJA 4-202.04(2)(A). Denials for “administrative records” may be appealed in accordance with CJA 4-202.07. The proposed amendments to CJA 4-202.08 would permit court clerks to waive the one free copy limit for records associated with a case.

The committee amended (10)(B), lines 103-104, to read: “Clerks of Court or the clerk’s designee in courts of record and justice court designees in courts not of record . . .”.

Following further discussion, Judge Carpenter moved to send CJA 4-202.08 to the Judicial Council with a recommendation that it be published for a 45-day public comment period. Judge Gardner seconded the motion. The motion passed unanimously.

(4) CJA 4-907. Divorce education and divorce orientation course.

Under H.B. 337, effective May 1, 2024, the Judicial Council is now required to provide a separate mandatory parenting course “for unmarried parties in a parentage action determining issues of child custody and parent-time” (lines 323-329) and must adopt rules to implement and administer that course. Prior to H.B. 337, judges could require unmarried parents to attend the “mandatory course for divorcing parents,” but a special course for unmarried parents was not required.

The Judicial Institute is working to develop the new unmarried parties’ course, but it will not be ready by May 1st. In the meantime, under (2)(D), unmarried parties would be required to attend the married parents’ course. The remaining amendments are not intended to be substantive. Most courses are now held remotely or offered online. It is difficult to find instructors who will teach courses in person.

Following discussion, Judge Carpenter moved to recommend to the Judicial Council that CJA 4-907 be approved as final on an expedited basis with a May 1, 2024 effective date, followed by a 45-day public comment period. Judge DiReda seconded the motion. The motion passed unanimously.

(5) CJA 1-205. Standing and ad hoc committees.

The proposed amendments to CJA 1-205 eliminate the General Counsel member position on both the Pretrial Release and WINGS Committees, as membership is not necessary. Staff and committee members may reach out to the General Counsel’s Office with questions at any time.

Judge Carpenter moved to send CJA 1-205 to the Judicial Council with a recommendation that it be published for a 45-day public comment period. Judge Bazzelle seconded the motion. The motion passed unanimously.

(6) CJA 4-601. Selection of indigent aggravated murder and defense fund counsel (REPEAL).

Under S.B. 160, effective May 1, 2024, the Office of Indigent Defense Services will be responsible for administering the Indigent Aggravated Murder Defense Fund and assigning an indigent defense service provider to represent individuals prosecuted for aggravated murder (lines 230-234). Courts are now only required to notify the Office of Indigent Defense Services of a finding of indigency in an aggravated murder case when defense counsel is to be paid from the Indigent Aggravated Murder Defense Fund (lines 140-146). The Office will assign counsel from their list of qualified, contracted attorneys. As such, Rule 4-601 should be repealed.

Judge DiReda moved to recommend to the Judicial Council that CJA 4-601 be repealed with a May 1, 2024, effective date. Judge Carpenter seconded the motion. The motion passed unanimously.

(7) CJA 2-212. Communication with the Office of Legislative Research and General Counsel.

H.B. 344, effective May 1, 2024, combines the legislature’s “Judicial Rules Review Committee” and “Administrative Rules Review and General Oversight Committee” into one committee called the “Rules Review and General Oversight Committee.” The proposed amendments to CJA 2-212 bring the rule in line with new reporting requirements in the bill.

(lines 746-750) “Court rules” includes rules adopted by the Council “for the administration of the courts of the state.” However, the committee may not examine internal policies, procedures, or practices of any judicial branch entity (lines 849-851).

(lines 912-922) Rather than going through the Office of Legislative Research and General Counsel, the Council must now submit each new and proposed court rule, and “any additional information related to the court rule that the...Judicial Council considers relevant,” to the committee and the governor when:

1. the rule is submitted to the Council for consideration or approval for public comment; and
2. the rule is made available to members of the bar and the public for public comment.

(lines 923-926) At the time of submission, the Council must also provide the committee with the name and contact information of a Council employee whom the committee may contact about the submission.

All new and proposed CJA rules under the Council’s purview are included in the Council’s meeting materials, which are posted publicly on the Utah Public Notice website. The site also includes a Webex link to and recordings of Council meetings. Council materials are also available on the Judicial Council page on the court’s website. A link to the materials can be sent to the committee and the governor. Committee members and the governor (or their designated representatives) can also be added to the email distribution list when rules go out for public comment. Emails include employee contact information.

Following discussion, Judge DiReda moved to recommend to the Judicial Council that CJA 2-212 be adopted as final on an expedited basis with a May 1, 2024, effective date, followed by a 45-day public comment period. Judge Bazzelle seconded the motion. The motion passed unanimously.

(8) CJA 4-202.01. Definitions

The proposed amendments to CJA 4-202.01 clarify that calendars are not “records” for purposes of court records requests.

Judge DiReda moved to send CJA 4-202.01 to the Judicial Council with a recommendation that it be published for a 45-day public comment period. Judge Bazzelle seconded the motion. The motion passed unanimously.

(9) CJA 4-206. Exhibits.

The language in the current rule instructs exhibit managers to dispose of exhibits in criminal cases when “...the statute of limitations for post-conviction relief, including the time for appeal from post-conviction relief has expired, whichever is later.” This often requires exhibit managers to make a legal determination or research cases using resources that aren’t readily accessible. As a result, exhibits are being kept past

the time when they could be destroyed, which has led to negative audit reports. The current rule is also silent on how to manage exhibits that have been part of an appeal when the appeal has been resolved. The proposed amendments provide clear guidance on how to manage exhibits in criminal, post-conviction, and appellate actions.

The proposed amendments have been reviewed and approved by the Board of District Court Judges, Board of Juvenile Court Judges, Clerks of Court, and Appellate Court leadership team.

Following a discussion, the committee made the following changes:

- (5)(A)(i), lines 114-115 – modified to read: “For all cases that are not criminal in nature, 90 days after the time for appeal has expired, as long as no appeal has been filed.”
- (5)(A)(ii), lines 122-125 - modified to read:

For all cases that are criminal in nature, 365 days after the time for appeal has expired, as long as:

(5)(A)(ii)(a) no appeal has been filed; and

(5)(A)(ii)(b) there are no pending post-conviction relief actions or pending appeals of post-conviction relief actions.

Following further discussion, Judge Gardner moved to send CJA 4-206 to the Judicial Council with a recommendation that it be published for a 45-day public comment period. Judge Carpenter seconded the motion. The motion passed unanimously.

(10) CJA 4-101. Manner of appearance

At its April meeting, PP&T: amended the enforcement language in CJA 4-101(3); noted that the definitions should be consistent with corresponding definitions in the procedural rules; and asked Ms. Williams to report back on the advisory committees’ progress. All three Supreme Court advisory committees (civil, criminal, and juvenile) are still working on their manner of appearance rules. Those rule drafts will be circulated for another round of feedback prior to being sent to the Supreme Court for review. The next Supreme Court conference is scheduled for April 10, 2024.

The Committee made the following changes to the “Notice” section in (2):

- (2)(B) Modified to read: “for in-person hearings, the physical address of the courthouse and the courtroom number;”
- (2)(C) Modified to read: “for remote or hybrid hearings, a Webex link, and a link to the courts’ website regarding attending a remote or hybrid hearing.”
- Deleted (2)(D) and (2)(E)

Following further discussion, the Committee recommended that the notice language, particularly with respect to IT assistance, in the current version of the procedural rules be removed, as it is administrative and belongs in the CJA.

No action is needed on CJA 4-101 at this time. Judge Gardner will discuss the Committee's latest amendments and recommendations with Judge Mettler and will send a copy of the updated draft to both Judge Mettler and Justice Pohlman.

Technology report/proposals:

- Court Employee Device Standard Policy
- CJA 1-204. Executive committees

The Technology Advisory Subcommittee (TAC) recommends adoption of the Court Employee Device Standard Policy. The policy outlines the standard specifications and configurations for all court-issued laptops to ensure efficient performance, security, and compatibility with job duties. The TAC also recommends a change to the subcommittee's membership in CJA 1-204. Judge Pullan is stepping down. Judge Pullan and Mr. Arishita do not believe the subcommittee needs a current or former PP&T member, but they do feel having a representative from the Office of General Counsel would be helpful. Legal questions almost always come up during its meetings and members of the OGC have been attending regularly at the subcommittee's request.

With no further discussion, Judge Gardner moved to send CJA 1-204 to the Judicial Council with a recommendation that it be published for a 45-day public comment period, and to send the Court Employee Device Standard Policy to the Management Committee for final approval. Judge Carpenter seconded the motion. The motion passed unanimously.

Old Business/New Business: None

Adjourn: With no further items for discussion, the meeting adjourned at 1:50 p.m. The next meeting will be held on May 17, 2024, at noon via Webex video conferencing.

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

Webex video conferencing
May 17, 2024 – 12 p.m.

MEMBERS:	PRESENT	EXCUSED	GUESTS:
Judge Samuel Chiara, <i>Chair</i>	•		Neira Siaperas Nick Stiles Paul Barron Jon Puente Lauren Anderson Jessica Leavitt Keri Sargent
Judge Suchada Bazzelle	•		
Judge Jon Carpenter	•		
Judge Michael DiReda		•	
Judge James Gardner	•		STAFF: Keisa Williams Brody Arishita

(1) Welcome and approval of minutes:

Judge Chiara welcomed committee members to the meeting. The committee considered the minutes from the April 5, 2024, meeting. With no changes, Judge Carpenter moved to approve the minutes as presented. Judge Bazzelle seconded the motion. The motion passed unanimously.

(2) Rules back from public comment:

- Language Access Rules (approved on an expedited basis, 2/27/24 effective date)
 - **CJA 3-306.02. Language Access Committee**
 - **CJA 3-306.03. Interpreter credentialing**
 - **CJA 3-306.04. Interpreter appointment, payment, and fees**
 - **CJA 3-306.05. Interpreter removal, discipline, and formal complaints (REPEAL)**
- Senior Judge Rules
 - **CJA 1-305. Board of senior judges**
 - **CJA 3-104. Presiding judges**
 - **CJA 3-108. Judicial assistance**
 - **CJA 3-111. Performance evaluations**
 - **CJA 3-113. Senior judges**
 - **CJA 3-403. Judicial branch education**
 - **CJA 3-501. Insurance benefits upon retirement**
- **CJA 6-304. Grand jury panel**

No public comments were received for the grand jury or senior judge rules. One comment was received regarding the Language Access rules. The commenter was supportive of the changes overall, but expressed concern about removing the employee benefit language for staff interpreters in 3-

306.04(2)(A). That language was removed because staff interpreters are court employees entitled to benefits and subject to discipline under HR policies. Removing the language does not impact wages or benefits for those employees.

CJA 306.04(2)(C): When the JC approved amendments to the language access rules on an expedited basis back in February, Judge Lindsley asked that PP&T consider adding (2)(C) back into the rule when the rule came back from public comment to ensure judges have the ability to appoint court employees (not hired as interpreters) for limited purposes, such as rescheduling a hearing when an interpreter is not available.

Following a discussion, the committee determined that the language in (2)(C) is unnecessary because judges may appoint an employee for such limited purposes under (1)(C) by making certain findings on the record, to include: 1) the individual has the skills necessary to interpret, 2) the appointment would not present a conflict or appearance of bias, 3) a certified, approved, or registered interpreter is not reasonably available, and 4) the gravity of the legal proceeding and potential consequences are so minor that delays are not justified.

Because the language access rules were approved on an expedited basis, no further action is necessary. Judge Chiara will discuss the committee's decision regarding the language in (2)(C) during his PP&T report at the beginning of the next Council meeting.

Judge Bazzelle moved to recommend to the Judicial Council that the amendments to CJA rule 6-304 be adopted as final with a November 1, 2024 effective date, and the senior judge rules listed above be adopted as final with the same effective date as the two associated Supreme Court rules (11-201 and 11-203). Judge Carpenter seconded the motion. The motion passed unanimously.

(3) CJA 3-419. Office of Fairness and Accountability

CJA 3-420. Committee on Fairness and Accountability Judicial Inclusion Mentorship Program

Jon Puente noted that the Committee on Fairness and Accountability (Committee) does not recommend making amendments to rule 3-419 or 3-420. However, if PP&T or the Council determine that amendments are necessary, the Committee recommended one minor amendment to rule 3-419. Ms. Williams added section headings to rules 3-419 and 3-420 to make the formatting consistent throughout the CJA. In rule 3-419, Mr. Puente proposed updating the title of the Data and Research Department in line 56 and removing the communication and information program in line 99, as that is now a separate department. Ms. Williams proposed a few minor amendments to the Judicial Inclusion Mentorship Program materials to keep the language consistent with the proposed amendments in rule 3-419.

Following discussion, PP&T took no action.

(4) CJA 4-403. Electronic signature and signature stamp use

At its March 1st meeting, PP&T reviewed a draft of rule 4-403 submitted by Meredith Mannebach (changes proposed by the district, juvenile, and justice court boards of judges). Because the proposed amendments would grant judges and commissioners more discretion than what is currently authorized under the rule, PP&T determined that the underlying question of discretion is a policy decision that must be made by the Judicial Council, but before it goes to the Council, PP&T asked Ms. Williams to draft various options with differing levels of discretion and seek feedback from each board. Ms. Williams

presented three options to the boards and asked them to vote on their 1st and 2nd choice. All three options are included in the packet. The boards voted as follows:

Board of district court judges:

- Option 3
- Option 1

Board of justice court judges

- Option 3
- Option 2

Board of juvenile court judges:

- Option 1
- Option 3

PP&T discussed each option and deemed Option 2 unnecessary because it could be incorporated into Option 3. In Option 3, PP&T deleted the unanimous vote provision in (2)(A)(i) and amended paragraph (2)(A) to account for the concern that a Presiding Judge could override an individual judge's preference.

Paragraph (2)(A) in Option 3 now reads as follows:

*(2)(A) **Trial courts of record.** In a court of record, a judge or commissioner may authorize a clerk to use the electronic signature or signature stamp of the judge or commissioner, in lieu of obtaining the judge's or commissioner's signature, on document types listed in paragraph (1) and document types authorized by a standing order issued by the presiding judge of that district.*

*(2)(A)(i) **Standing order.** The presiding judge of a juvenile or district court may, by standing order, authorize clerks to use the electronic signature or signature stamp of a judge or commissioner in the district, in lieu of obtaining the judge's or commissioner's signature, on document types not listed in paragraph (1).*

*(2)(A)(ii) **Retention.** Standing orders and documentation of the authorization shall be maintained in accordance with the Utah State Courts Records Retention Schedule.*

The proposed document types in paragraph (1) of Option 3 were deleted because individual districts could add those document types to their local orders, but because the Council retains discretion in Option 1, the boards' proposed edits to paragraph (1) in Option 1 remain.

PP&T ask Ms. Williams to draft a memo to the Council outlining Options 1 and 3 for the Council's June meeting. The Council could decide to send one or both rules out for public comment, send them back to PP&T for further review, or take no action.

Technology report/proposals:

- Court Employee Device Standard Policy
- Technology Emergency Response Plan

The Management Committee approved the Court Employee Device Standard Policy and the Technology Emergency Response Plan with a May 14th effective date. The Technology Advisory Subcommittee (TAC) meets in July to discuss the strategic plan. Mr. Arishita will report back.

Old Business/New Business:

Due to scheduling conflicts, the June PP&T meeting was moved to June 14th from 12-1:30pm.

Judge Gardner talked with Judge Mettler about the manner of appearance rule. Notice provisions were removed from the procedural rules and should be included in CJA 4-101. Ms. Williams will add CJA 4-101 to PP&T's June agenda.

Adjourn: With no further items for discussion, the meeting adjourned at 1:50 p.m. The next meeting will be held on May 17, 2024, at noon via Webex video conferencing.

Tab 3

**Budget and Grants Agenda
for the June 24, 2024
Judicial Council Meeting**

1. Monthly Financials Alisha Johnson
(Tab 1 - Discussion)
 - Ongoing Turnover Savings
 - FY2025 Carryforward and Ongoing Requests
 - One Time Turnover Savings
 - FY 2024 Year End Requests and Forecasted Available One-time Funds
 - ARPA Update

2. Requests for Funding Karl Sweeney
(Tab 2 – Action)

*These represent all carryforward requests.
Because available funds exceed requests, there is no need to prioritize the requests.*

Carryforward into FY 2025 1x Funding Requests

1. 2nd District Judicial Settlement Conference Rooms Glen Proctor
2. Employee Wellness Resources Ron Gordon and Karl Sweeney
3. EcoPass Program..... Suzette Deans and Karl Sweeney
4. Education Assistance Program Funding Alisha Johnson
5. HR Applicant Tracking Bart Olsen and Jeremy Marsh
6. IT Stipend for Technology Subject Matter Experts Todd Eaton and Jace Kinder
7. IT Replacement Inventory..... Todd Eaton
8. Network / System Maintenance – Staff Augmentation..... Todd Eaton and Chris Talbot
9. Employee Incentive Awards Bart Olsen, Erin Rhead and Alisha Johnson
10. Retention of Contract Developers - IT..... Brody Arishita
11. Subscription to Westlaw AI – Law Keisa Williams
12. FY 2025 Q1/Q2 Performance Bonus Payments - HR Bart Olsen and Karl Sweeney
13. Secondary Language Stipend – OFA..... Jon Puente and Jessica Leavitt
14. Village Mentor / Nest Program Support Funds – 3rd Juv..... Tiffany Power and Shane Kibler
15. New Style Guide for the Courts - Communications Tania Mashburn
16. Contract Court Site Misc Operating Exp – District Court Admin..... Shane Bahr
17. Revised Virtual Hearing Improvement Plan - IT..... Brody Arishita
18. MyCase Critical Functionality - SHC..... Jonathan Mark and Nathanael Player

Credit Card Charge Fund Request

1. Urgent Needs for Courtroom Space in FY 2025 - Facilities..... Ron Gordon and Chris Talbot

3. JCTST Fund Budget FY 2025 Adoption Jim Peters
(Tab 3 – Action)

Sub-tab 1



FY 2024 Ongoing Turnover Savings as of 05/29/2024

			Actual	Forecasted
#		Funding Type	Amount YTD	Amount @ YE
	Net Carried over Ongoing Savings (from FY 2023)	Internal Savings	(54,820.52)	(54,820.52)
	Ongoing Turnover Savings FY 2024 (actual year-to-date)	Internal Savings	1,201,495.35	1,201,495.35
1	Ongoing Turnover Savings FY 2024 (forecast \$100,000 / month x 1 months remaining)	Internal Savings	-	100,000.00
	TOTAL SAVINGS		1,146,674.83	1,246,674.83
2	2024 Hot Spot Raises Authorized - renews annually until revoked		(200,000.00)	(200,000.00)
	TOTAL USES		(200,000.00)	(200,000.00)
3	Total Actual/Forecasted Turnover Savings for FY 2024		946,674.83	1,046,674.83

Prior Report Totals (as of 04/30/2024, with the contingent amount removed)

881,126.67

1,075,053.67

- * Ongoing turnover savings only happens when a vacant position is filled at a lower rate and / or with lower benefits.
- * There are currently 27 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, 30.7 FTE are vacant.
- 1 We are currently estimating \$100,000 of ongoing savings a month for the remainder of the fiscal year. This is in line with actual realized.
- 2 Authority was delegated from the Judicial Council to the State Court Administrator/Deputy in October 2022 to expend up to \$200,000 annually.



FY 2025 Carryforward and Ongoing Requests - as of FY 2024 Period 11

5/29/2024

Funding Sources

	One Time	Ongoing
OTS carried over from FY 2023		\$ (54,820.52)
Forecasted YE OTS from FY 2024*		\$ 1,301,495.59
Subtotal		\$ 1,246,675.07
New Salary Funding		\$ 8,044,000.00
Set Aside for 3% COLA - Non Judicial and all Medical and Payroll related benefits for the COLA)		\$ (4,386,300.00)
Set Aside for 2% Performance Raises - Non Judicial and Payroll related benefits for the 2% PFP		\$ (1,646,200.00)
Set Aside for 5% Judicial Officer Increase		\$ (2,011,500.00)
Unobligated Fiscal Note Funds - District Court (net)	\$ (8,600)	\$ 402,800.00
Unobligated Fiscal Note Funds - Juvenile Court		\$ 26,000.00
Unobligated Fiscal Note Funds - Admin		\$ (2,200.00)
Expected Carryforward Amount from Fiscal Year 2024	\$ 2,950,898	\$ -
Total Available Funding	\$ 2,942,298	\$ 1,673,275.07
Less: Judicial Council Delegated to State Court Administrator for Discretionary Use		\$ (200,000)
Net Ongoing TOS Available for Use	\$ 2,942,298	\$ 1,473,275.07

Ongoing Requests - Directly from Unobligated Fiscal Note Funds

	Presented		Judicial Council Approved	
	One Time	Ongoing	One Time	Ongoing
Subtotal	\$ -	\$ -	\$ -	\$ -

Ongoing Requests

	Presented		Judicial Council Approved	
	One Time	Ongoing	One Time	Ongoing
1 Performance Raises		\$ 450,000		\$ 450,000
Withdraw Request #1		\$ (450,000)		\$ (450,000)
2 Judiciary Amendments (SB 70) - Shortfall Funding - Ron Gordon		\$ 366,900		\$ 366,900
3 Education Budget Deficit - Lauren Andersen		\$ 241,400		\$ 241,400
4 4th District Insufficient Operating Budget - Mark Urry / Karl Sweeney		\$ 46,000		\$ 46,000
5^ Partially Fund IT Software Not Funded by Legislature - Brody Arishita / Karl Sweeney		\$ 350,000		\$ 350,000
6 Internal Audit Insufficient Operating Budget - Wayne Kidd		\$ 10,000		\$ 10,000
7 ICJ Annual Request - per Statute - Sonia Sweeney		\$ 29,950		\$ 29,950
8 HR Travel / Training Insufficient Operating Budget - Jeremy Marsh		\$ 7,500		\$ 7,500
9 Contract Court JA Reimbursement Shortfall - Shane Bahr		\$ 21,700		\$ 21,700
10^ Law Library Assistant Not Funded by Legislature- Kaden Taylor	\$ 1,500	\$ 85,000	\$ 1,500	\$ 85,000
11^ Seventh District Training Coordinator Position Not Funded by Legislature - Travis Erickson		\$ 98,500		\$ 98,500
12 Deputy Clerk of Court - Appellate Court - Nick Stiles	\$ 2,000	\$ 116,200	\$ 2,000	\$ 116,200
13 Juvenile Law Clerk Attorney Position - Sonia Sweeney		\$ 139,000		\$ 139,000
Subtotal	\$ 3,500	\$ 1,512,150	\$ 3,500	\$ 1,512,150
Balance Remaining After Judicial Council Approvals			\$ 2,938,798	\$ (38,875)
Balance Remaining Inclusive of "Presented"	\$ 2,938,798	\$ (38,875)		

One Time Requests

	Presented		Judicial Council Approved	
	One Time	Ongoing	One Time	Ongoing
1 2nd District - Conversion/Upgrade for Judicial Settlement Conference Rms - Glen Proctor	\$ 22,600			
2* Employee Wellness Resources - Ron Gordon and Karl Sweeney	\$ 115,370			
3* Courts EcoPass Program - Suzette Deans / Karl Sweeney	\$ 60,000			
4* Education Assistance Program Funding - Alisha Johnson	\$ 85,000			
5* HR Applicant Tracking - Bart Olsen and Jeremy Marsh	\$ 20,900			
6* IT Stipend for Technology Subject Matter Experts - Todd Eaton / Jace Kinder	\$ 65,000			
7* IT Replacement Inventory - Todd Eaton	\$ 364,000			
8* Network / System Maintenance - Staff Augmentation - Todd Eaton / Chris Talbot	\$ 50,000			
9* Employee Incentive Awards - Bart Olsen, Erin Rhead, Alisha Johnson	\$ 280,000			
10 Retention of Contract Developers - Brody Arishita / Todd Eaton	\$ 682,000			
11 Subscription to Westlaw Precision Preferred with AI-Assisted Research - Keisa Williams	\$ 16,000			
12* FY 2025 Q1/Q2 Bonus Payments - Karl Sweeney / Bart Olsen	\$ 450,000			
13* Secondary Language Stipend - Jon Puento / Jessica Leavitt	\$ 166,400			
14 Third District Juvenile - Village Project Mentor Program - Tiffany Power	\$ 8,500			
15 New Style Guide Resource - Communications - Tania Mashburn	\$ 27,000			
16* Contract Courts Supplemental Funds - Shane Bahr	\$ 10,000			
17 IT Webex Virtual Hearing Improvement Project - Brody Arishita	\$ 150,000			
18 MyCase Critical Functionality - Self Help Center - Jonathan Mark and Nathanael Player	\$ 265,000			
Subtotal	\$ 2,837,770	\$ -	\$ -	\$ -
Balance Remaining After Judicial Council Approvals			\$ 2,938,798	\$ (38,875)
+ Balance Remaining Inclusive of "Presented"	\$ 101,028	\$ (38,875)		

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.

^ - Request to Legislature was Not Funded

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.



FY 2024 One Time Turnover Savings

Updated as of Pay Period Ending 05/10/2024 (1,800 out of 2,080 hours)

#		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 05/10/2024)	Internal Savings	2,181,771.62
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 05/10/2024)	Reimbursements	583,335.99
3	Est. One Time Savings for 280 remaining pay hours (@ \$1,200 / pay hour)	Internal Savings (Est.)	336,000.00
Total Potential One Time Savings			3,101,107.61

Prior Report Totals (as of PPE 4/12/2024) \$ 2,111,691.42

- * Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$1,680.47, \$934.86, \$1,229.32, and \$1,411.70. The average per hour turnover savings YTD was \$1,536.17. These numbers do include ARPA reimbursements.
- * Forecast was changed from \$1,000 to \$1,200 per pay hour based upon average of last 3 pay periods.
- * Dramatic increase is related to the retroactive decrease in the Leave and Termination and OPEB Pool rate from 2.89% to .13% from PPE 12/22/23 to PPE 3/29/24 and to 1.75% after that.



FY 2024 Year End Requests and Forecasted Available One-time Funds - Period 11

Forecasted Available One-time Funds		
Description	Funding Type	Amount
Sources of YE 2024 Funds		
* 1x TOS as of PPE 05/10/2024 (1800 hrs) (w/ anticipated ARPA reimbursements)	Turnover Savings	2,765,108
** Turnover savings Estimate for the rest of the year (\$1,200 x 280 pay hours)	Turnover Savings	336,000
Total Potential One Time Turnover Savings		3,101,108
Less: Judicial Council Delegated to State Court Administrator for Discretionary Use		(250,000)
Less: Legislative Cut to Budget Savings		(600,000)
(a) Total Potential One Time Turnover Savings Less LFA Recommendations		2,251,108
<i>Operational Savings From TCE / AOC Budgets - Forecasted</i>	<i>Internal Operating Savings</i>	<i>695,244</i>
<i>Unused Carryforward Request - Webex Virtual Hearing Improvement</i>	<i>Unused Carryforward</i>	<i>150,000</i>
<i>Reserve Balance (balance from FY 2023 Carryforward)</i>	<i>Judicial Council Reserve</i>	<i>52,997</i>
<i>Anticipated Reserve Uses - including previously approved and pending requests</i>	<i>Jud. Council Reserve Uses</i>	<i>-</i>
(b) Total Operational Savings and Reserve		898,241
(c) Total of Turnover Savings & Operational Savings = (a) + (b)		3,149,348
Legislative Supplemental Funding:		
American Fork Lease Increases (originally a carryforward request for FY 2024)	<i>Legislative Contingent</i>	389,000
(d) Subtotal - Legislative Supplemental Funding		389,000
Potential Use of Credit Card Charge Fund (CCCF)		TBD
Uses of YE 2024 Funds		
(e) Less: Judicial Council Requests Previously Approved		(587,450)
Total Potential Carryforward = (c) + (d) less (e) (Legislature approved up to \$3.2M)		2,950,898

#	One-time Spending Plan Requests	Adjusted Requests Amount	Judicial Council Approved Amount
1	Employee Wellness Resources		107,450
2	JWI Centralized Scheduler Software - <i>Legislatively Funded</i>	\$ -	-
3	JWI Media Outreach Interpreter Recruiting - <i>Legislatively Funded</i>	\$ -	-
4	JWI Interpreter Trainer - <i>Legislatively Funded</i>	\$ -	-
5	OFA Racial and Ethnic Disparity Data Project		30,000
6	JWI Increase to 2 Hour Minimum - <i>Legislatively Funded</i>	\$ -	-
7	JWI Higher Pay for Rural Assignments - <i>Legislatively Funded</i>	\$ -	-
8	Q1/Q2 Performance Bonuses - PAID		450,000
9	Senior Judge and Time Limited JA Funding - <i>Legislatively Funded</i>	\$ -	-
Previously Approved 1x FY 2024 YE Spending Request			587,450

Updated 05/23/2024

- * Actual turnover savings as calculated on a pay period basis through 05/10/2024.
- ** Actual per hour turnover savings for the last 4 2024 pay periods (oldest to newest) are \$1,680.47, \$934.86, \$1,229.32, and \$1,411.70. The average per hour turnover savings YTD was \$1,536.17. These numbers do include ARPA reimbursements.
- (b) We originally estimated \$750,000 Operational Savings from TCE / AOC Budgets is a conservative estimate. The number has been updated for actual savings YTD but we expect to further update the savings in periods 11/12.



ARPA Expenses as of 5/29/2024 (period 11 not yet closed)

	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	2,629,904.92	10,285,627.34	2,087,772.66
Courts Case Backlog - Part I + II	2,302,100	707,963.11	1,007,135.35	587,001.54	2,302,100.00	-
Legal Sandbox Response to COVID	324,500	-	171,636.48	126,532.53	298,169.01	26,330.99
TOTAL	15,000,000	3,750,430.78	5,792,026.58	3,343,438.99	12,885,896.35	2,114,103.65

Expenditures added since last report: \$ 159,260.71

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

Historical Trends (period 10 not yet closed)

IT Access to Justice Use - Last 3 Periods

	Period 9	Period 10	Period 11
\$	149,845.78	\$ 150,929.50	\$ 144,221.45

BKLG - Last 3 Periods

	Period 9	Period 10	Period 11
\$	11,098.29	\$ -	\$ -

Legal Sandbox - Last 3 Periods

	Period 9	Period 10	Period 11
\$	15,018.43	\$ 13,173.96	\$ 15,039.26

New Period 11 Expenses:	\$ 159,260.71
TOTAL INCREASE FROM PRIOR TOTAL EXPENDED AMOUNT:	\$ 159,260.71



FY 2024 Court's Credit Card Charge Fund (CCCF) Balance as of 06/1/2024

#		Funding Type	Actual	Forecasted
			Amount YTD	Amount @ YE
1	Trust Cash Available to Repay Advances	Internal Savings + investment interest	4,295,832	4,295,832
2	Life-to-date (LTD) Advances from Courts to CCCF	Internal Savings	4,183,300	4,183,300
3	Amount Available in CCCF Balance (lesser of 1 or 2)		4,183,300	4,183,300
4	Less: \$60,000 per month x 24 months hold as reserve per policy ratified at 3/5/2024 BFMC Meeting		(1,440,000)	(1,440,000)
5	Amount Available in CCCF Balance that can be drawn down as approved by BFMC/Judicial Council		2,743,300	2,743,300
6	Requests in Facilities Large Projects FY 25 - Exhibit A			(3,384,701)
	Balance to be funded by 1x TOS funds originating in FY 2025 to be requested in Q1 FY 2025			(641,401)

Sub-tab 2

Carryforward Funding Requests for FY 2025

1. FY 2025 Carryforward Spending Request – 2nd District Conversion & Upgrades for Judicial Settlement Conference Rooms

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 03/18/2024

Department or District: Second District Court

Requested by: Glen H. Proctor, Trial Court Executive

Request title: Conversion and Upgrades for Judicial Settlement Conference Rooms

Amount requested: One-time \$ 22,600

Purpose of funding request:

The Second District's short-term plan is to update select Ogden Courthouse space and facilities as follows:

- Revamping two second floor public areas into two (2) secure designated Judicial Settlement Conference (JSC) rooms. Supplemental upgrades will include revisions to the current public space areas adjoining the two secure JSC rooms.
- Creating similar spaces on the 3 and 4th floors.
- Furniture to be purchased for these projects include:
 - five (5) conference tables,
 - forty (40) conference table chairs (i.e., eight chairs per conference table),
 - twelve (12) guest waiting chairs and
 - three (3) guest waiting area tables

(See attached quotation and diagrams)

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

The additional rooms are utilized as public waiting areas on the Third and Fourth Floors. The designated private conference room space on the Second Floor will be utilized for conducting JSC's by current sitting Judges and Senior Judges. There is an increased demand to conduct JSC's to help support the Court's mission of ". . . fair, efficient and independent system for the advancement of justice under the law."

Additionally, these JSC's help expedite the backlog and resolution of cases in the Second District. A secure and designated area for JSC's allows the presiding judge or Senior Judge to have secure and private discussions with the litigants outside of the courtroom setting. The afore-mentioned funding is requested to update court furnishings for the designated space(s). Additionally, these upgrades and revisions will offer supplemental conference room space for use by allied agencies including the County Prosecutors' Offices, local Defense Counsel and County Victim-Witness Coordinators during trial proceedings and for staging victim-witness participants during court proceedings.

1. FY 2025 Carryforward Spending Request – 2nd District Conversion & Upgrades for Judicial Settlement Conference Rooms

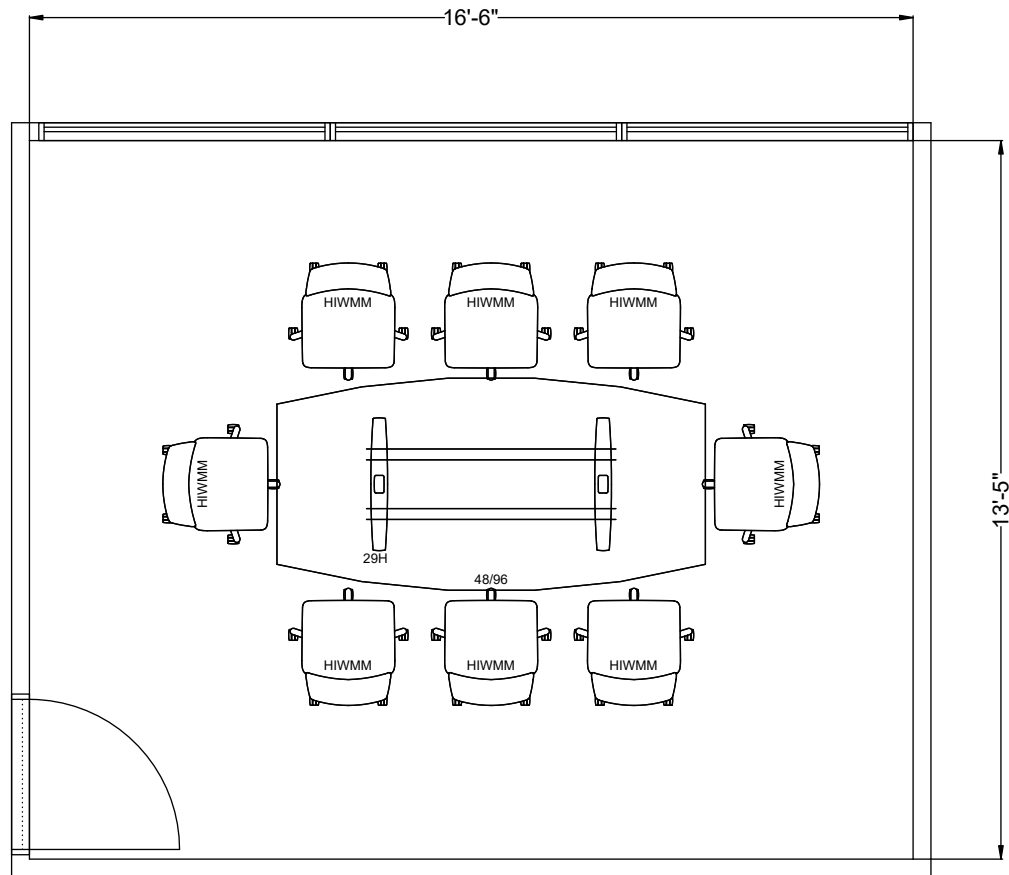
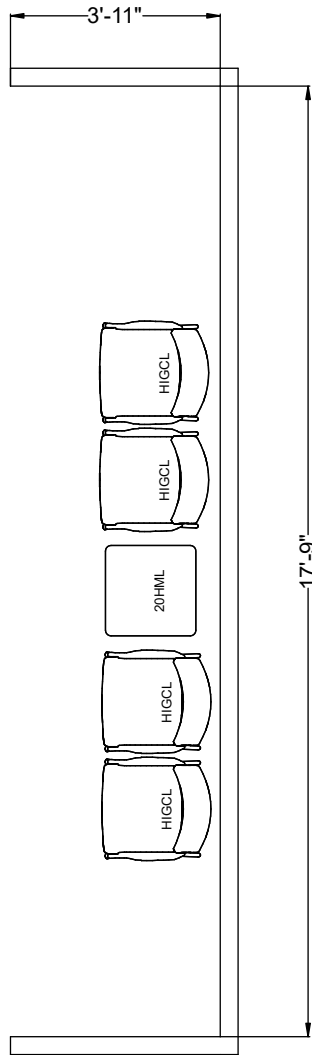
Alternative funding sources, if any:

None at this time.

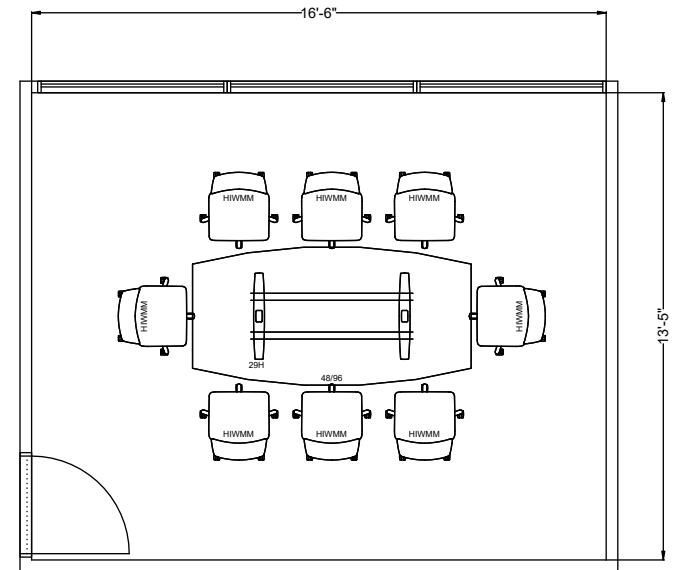
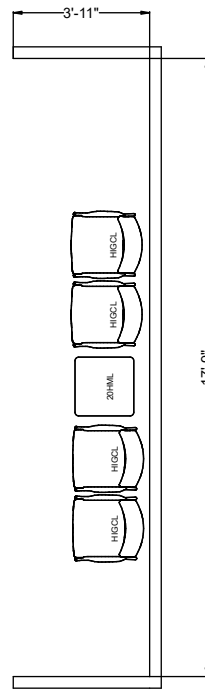
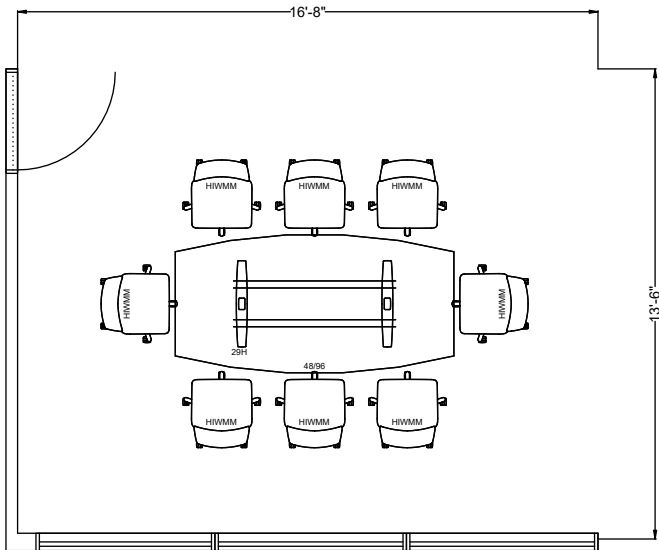
If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Currently, the described areas in the Ogden Courthouse are not utilized and do not have furnishings. If funding is not provided, the space will be left vacated. The revamping and remodeling of this space will proceed with the support of Court Facilities and DCFM agencies. However, the immediate use of the Judicial Settlement Conference rooms cannot be accomplished without adequate furnishings to accommodate the public, Court personnel and judicial officers. The designated space will remain vacant and the District will immediately be spending a large portion of their FY25 budget to furnish the JSC rooms and waiting areas. This may cause a significant long-term fiscal year impact on the District budget for other equipment, furnishings and facilities' needs.

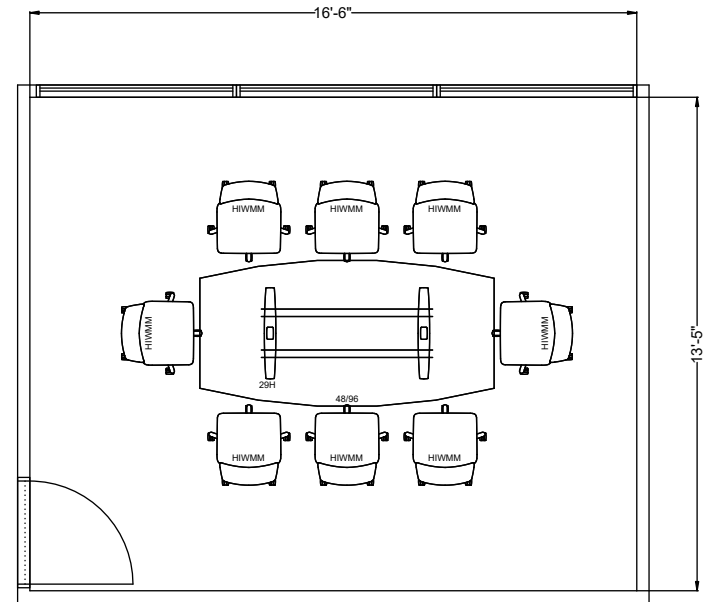
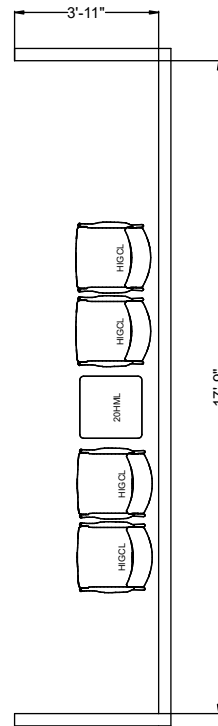
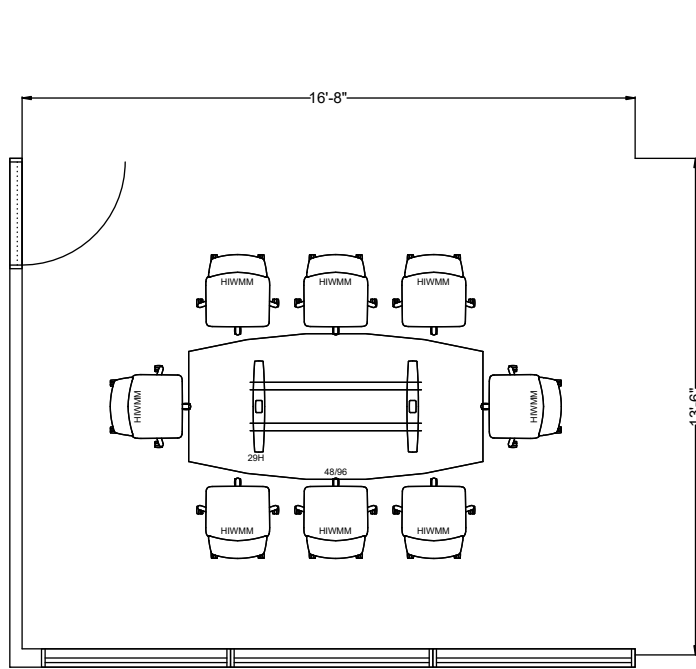
2nd Floor Floor



3rd Floor



4th Floor



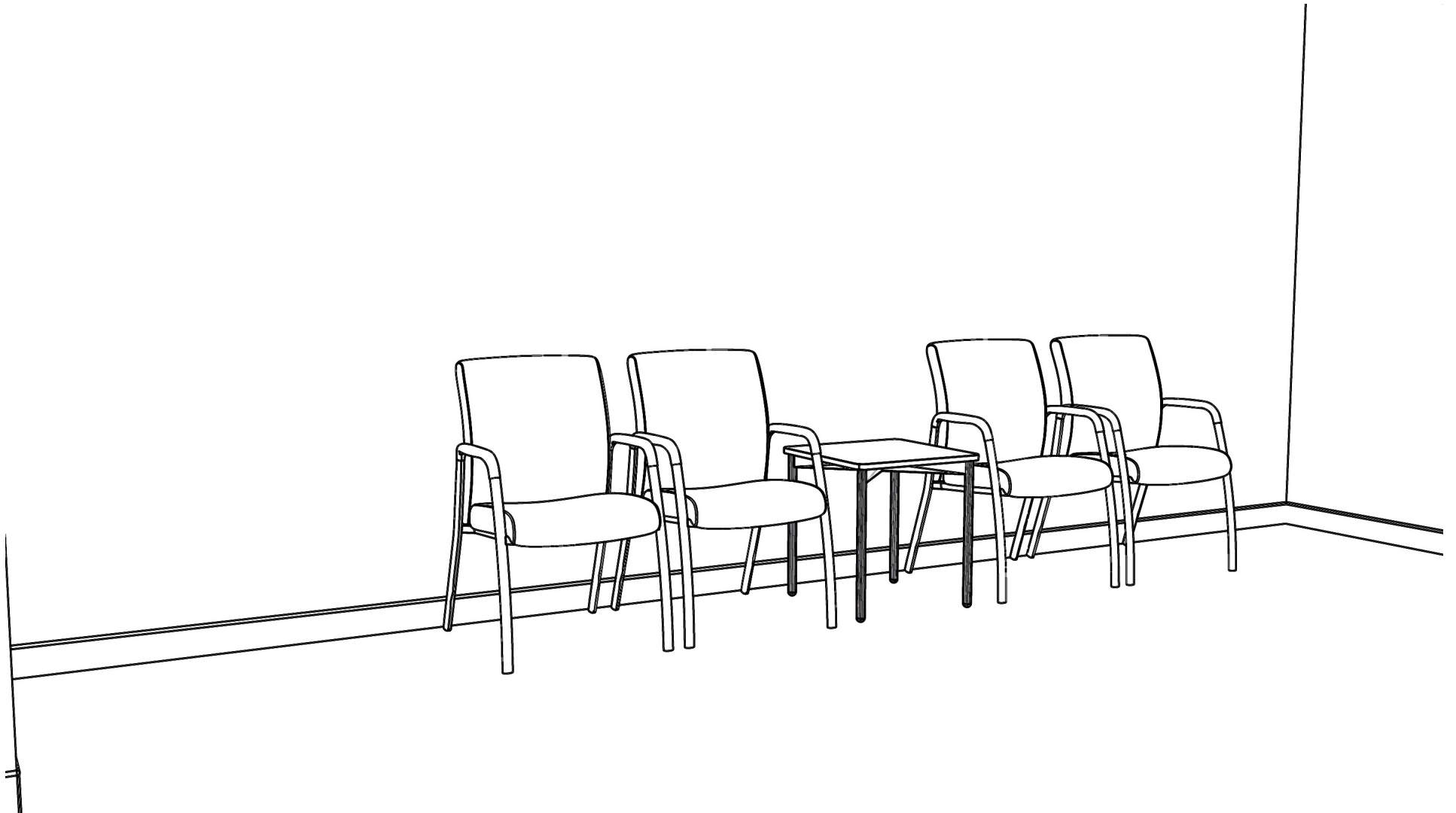


Conference Room





Waiting Room Seating





Waiting Room Seating





Conference Room





QUOTATION

Quote Number: Tables
Date: 3/8/2024
Valid Until: 3/29/2024
Rep: Ken Jacobson
 Desks Inc. of Utah
Contract # MA3970

DESKS INC. OF UTAH
 3578 So. State Street
 Salt Lake City, UT. 84115
 Tel: (801)261-3961
www.desksinc-ut.com

Bill To :

**Jessica Edwards
 Ogden Court House
 Ogden, UT**

Ship To :

**Jessica Edwards
 Ogden Court House
 Ogden, UT**

Line #	Part Number	Alias 1	Qty	List	Sell	Ext Sell
1	HIGCL		12	\$ 614.00	\$265.25	\$3,183.00
	Ignition Guest Chair Four Leg Frame Arms					
	.E	Glide				
	.U	Upholstered				
	\$(1)	Gr 1 UPH				
	.VI	Vibe				
	BE22	Black				
	.T	Black				
2	HIWMM		40	\$ 723.00	\$312.34	\$12,493.60
	Ignition 2 Task Mid-back, ilira back					
	.Y1	Syncho-Tilt W Seat Slider				
	.N	Armless				
	.H	Hard Caster				
	.IM	4-Way Black				
	\$(1)	Gr 1 UPH				
	.VI	Vibe				
	BE22	Black				
	.NL	No Lumbar				
	.SB	Standard Base				
	.T	Black				
3	HTLB4896		5	\$ 1,097.00	\$473.90	\$2,369.50
	Preside 96W x 48D Boat Shaped Laminate Top					
	.G	2MM/Flat				
	KI	Kingswood Walnut				
	.N	No Grommets				

Line #	Part Number	Alias 1	Qty	List	Sell	Ext Sell
4	HTTLEG96	Grd L1 Standard Laminates Kingswood Walnut	5	\$ 1,025.00	\$442.80	\$2,214.00
		Preside Aluminum T leg for 96" Table Tops				
5	HTLSCULQR20HML	P1 Paint Opts Black	3	\$ 721.00	\$311.47	\$934.41
		Sculpt 20.25" Sq. Tbl -High Mtl Legs Lam Top				
6	Install	No Cutout Grd L1 Standard Laminates Kingswood Walnut P1 Paint Opts Black Glide	1	\$ 0.00	\$1,395.00	\$1,395.00
		Install Furniture				

Total: \$22,589.51

Make Purchase Order to: **The Hon Co.**
c/o Desks Inc of Utah
200 Oak Street
Muscataine, IA 52761
****All items on State Contract MA3970**

2. FY 2025 Carryforward Spending Request –Employee Wellness Resources

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however, **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2025 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 04/26/2024

Department or District: State Court Administrator
Requested by: Ron Gordon

Request title: Employee Wellness Resources

Amount requested: one-time \$115,370 (prior year request was \$107,450)

Purpose of funding request:

Employees and judicial officers have continued access to the same employee wellness resources that were contracted for in FY 2024 by requesting the funds to pay for the second year of our Tava/Unmind service contracts. Note: Judicial officers have access to these resources through the Utah State Bar.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

In 2023, the AOC established a Statewide Wellness Steering Committee (the “Committee”) to make recommendations regarding employee wellness. The Committee recommended that state court employees have access to the same wellness resources (Tava Health and Unmind Wellbeing) recently offered by the Utah State Bar to all members of the Bar (meaning that judicial officers and all court employees who are members of the Utah State Bar already have access to these resources). These resources included six free online therapy sessions per year (with some in-person session availability) and an app that provides access to daily wellness tracking and evaluation, recommendations, and wellness education.

Mental health resources are difficult to find and wait times for an appointment with a therapist are often long. These two obstacles mean that many people do not access mental health resources when they need them most. The need for mental health resources is important for everyone and is especially acute for people whose jobs expose them to traumatic events. All court employees may be exposed to traumatic events, some firsthand and some secondhand through the cases we handle.

Tava offers easy-to-use, confidential, online and in-person therapy. Tava matches clients with a therapist based on the client need and helps the client see the therapist within a few days. The contracts provide every state court employee and their dependents with six free counseling sessions per year. After the six free sessions, employees can use PEHP benefits to help pay for the cost of additional sessions (\$105/session is the current cost but subject to a 10% increase in FY 2025).

2. FY 2025 Carryforward Spending Request –Employee Wellness Resources

The online platform allows our employees to access the services without the additional time and expense of traveling to a therapist's office. Tava therapists also offer appointments during non-traditional hours making it easier for employees to find time to access the benefit. The quick turnaround for appointments reduces the risk of employees deciding against mental health care because of the long waiting times. The ease of access results in more employees using the benefit which will subsequently result in a happier, healthier, more productive workforce.

The cost for Tava is \$87,450 for year one (renewal date is October 24th) subject to a 10% increase in each fiscal year at Tava's discretion. If Tava increases the pricing by 10%, based on an estimated 700 prepaid sessions per year and a \$115.50 per session cost ($\$105.00 \times 1.10\%$), the annual cost will increase to \$80,850 for the prepaid sessions + a monthly employee count fee of \$1.10 ($\$1.00 \times 1.10\%$) for each of the 1,100 Court employees = \$14,520 for a total cost of \$95,370. There would be no webinar fees (\$750) in year 2. If our employees use less than the estimated number of therapy sessions, Tava will refund the balance or roll the amount over to the next year. It is too early in the Tava plan year to estimate if any funds will be rolled over.

The cost for Unmind Wellbeing for year 2 stays the same at \$20,000 per year. Unmind Wellbeing is an app that allows users to assess their wellness at any time through a brief, confidential series of questions. Those questions help identify particular areas of focus. The app provides access to educational resources and wellness exercises that can be completed in a few minutes. Users can choose to engage with the app daily or at any other frequency of their choosing. Users can choose to access the resources with or without completing the wellness assessment.

This proposal recognizes that the demanding nature of the work of the courts can create or add to mental health difficulties for our employees. It also recognizes that our work exposes employees to potentially traumatic situations. Providing these resources is a way for the state courts to be proactive in helping our employees manage their wellbeing,

Alternative funding sources, if any:

State court employees do have access to mental health benefits through our health insurance. However, navigating the mental health system is often frustrating enough that people do not use that benefit. State insurance provides access to limited and temporary mental health resources through Blomquist Hale. Many users of that resource report difficulty in obtaining an appointment or dissatisfaction with the service.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

The mental health needs of many employees would continue to go unmet. The state courts would miss the opportunity to improve the wellbeing and productivity of our workforce.

3. FY 2024 Carryforward Spending Request – Public Transit Reimbursement Program

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: April 1, 2024

Department or District: AOC – Facilities & Finance

Requested by: Suzette Deans and Karl Sweeney

Request title: FY 2025 Public Transit Partial Reimbursement Program

Amount requested: One-time \$ 60,000

Purpose of funding request:

To provide up to +/-94 Court employees state-wide with an opportunity to receive 90% reimbursement of the costs paid for utilizing public transit until the carryforward funds are depleted. We currently average 80 participants per month.

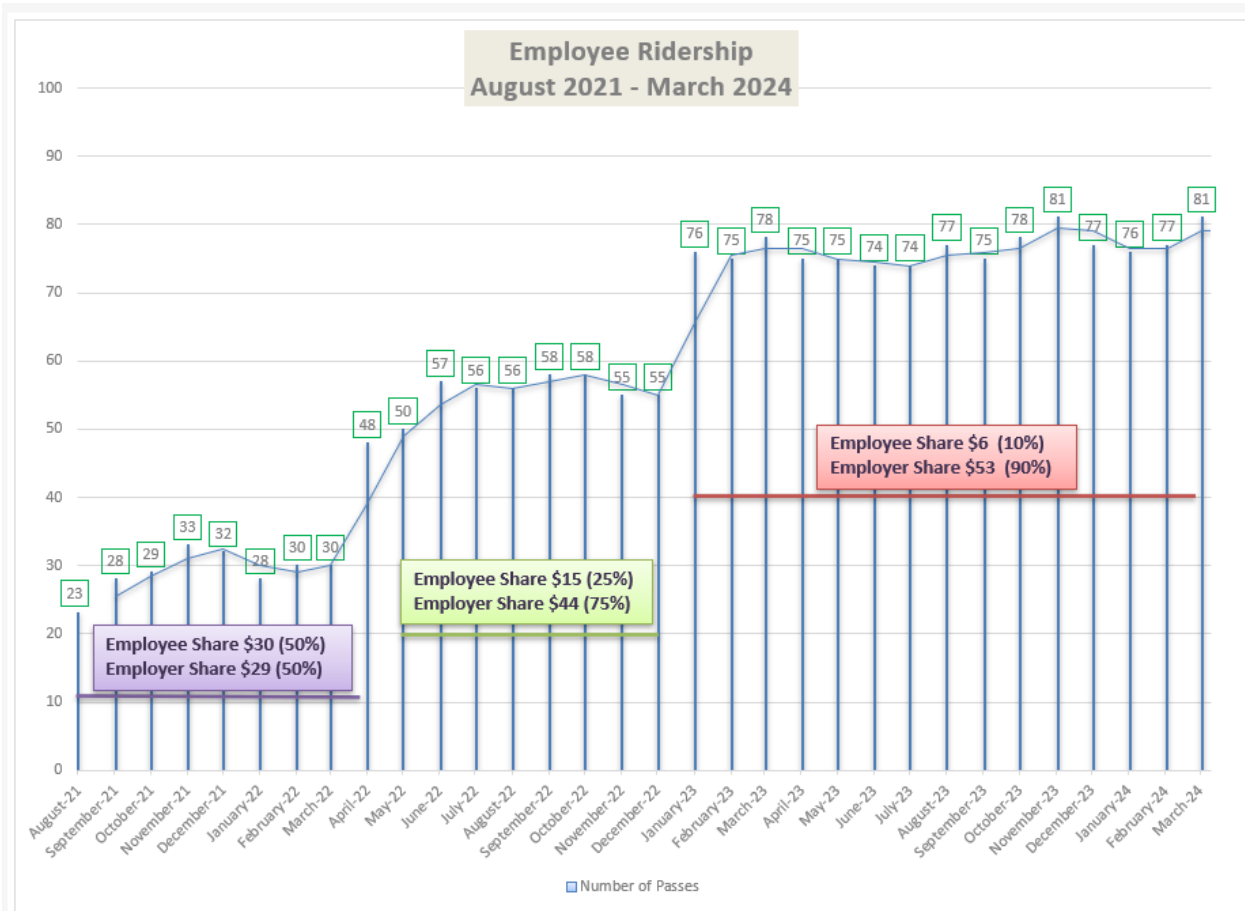
We request \$60,000 in one-time carryforward funds to continue a public transit program that is (1) open to all employees but targeted to benefit those who use public transportation most, (2) state-wide (not just UTA), and (3) has a manageable administrative cost. The old Eco-Pass program was eliminated in the budget cuts of 2020. Because the old Eco-Pass program fully paid for every member of the Courts to receive an Eco-Pass, it was expensive (\$124,000 per year). However, a new Eco-Pass program was offered by UTA which offered a monthly pass at \$59. We have gradually raised the reimbursement to 90% which provides a good balance between affordability (\$6 per month is the employee cost) and cost to the court (which is only \$5,000 per month, less than ½ the cost of the old Eco-Pass). For non-UTA users (there are none at present) they must provide a receipt and request reimbursement through an expense report.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Background

Effective August 2021 in connection with an improved UTA Eco-Pass plan, the Courts instituted a reimbursement program which paid 50% of the monthly cost of commuting on public transportation throughout the state. At the beginning of this program, there was an average of 30 riders per month. As we increased the reimbursement percentage over time, the average ridership also increased to approximately 80 as shown in the following chart.

3. FY 2024 Carryforward Spending Request – Public Transit Reimbursement Program



We are not in a financial position to have every court employee participate due to the different program offered by UTA today (no fixed costs, but higher monthly costs). If all 800 former Eco-Pass holders decided to enroll in today’s UTA plan, the annual cost to reimburse participants would be $800 \times \$59 \times .90 \times 12 \text{ months} = \$509,760$. So, we plan to maintain some minimum co-payment requirement which provides Court employees who regularly commute with a very affordable monthly payment. Going to a zero required co-payment would potentially draw non-work-related users into the Eco-Pass program to the disadvantage of those who have a business-related use.

At 94 Eco-Pass participants, the annual utilization of carryforward funds at a 90% reimbursement rate would be on target with our request for \$60,000:

$$94 \times \$59 \times .90 \times 12 \text{ months} = \$59,897.$$

We expect the requested funding will be adequate, however, should the number of persons increase above the maximum 94 monthly riders, our plan is to either make a supplemental request or increase the copayment to reduce the fund utilization.

Alternative funding sources, if any:

3. FY 2024 Carryforward Spending Request – Public Transit Reimbursement Program

None

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

The Courts' benefits have historically offset somewhat lower wage scales. This is a benefit that supports other benefits (retirement, medical, etc.) in attracting candidates to the Courts. There will be negative consequences to those employees who use public transit as they would continue to assume the costs with no reimbursement.

4. FY 2025 Carryforward Spending Request – Education Assistance Program

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 03/21/2024

Department or District: AOC Finance

Requested by: Alisha Johnson

Request title: Education Assistance Program Funding for FY 2025

Amount requested: One-time \$85,000 (prior year request was \$85,000)

Purpose of funding request:

The Utah Courts encourage employees to seek further education in order to perform their jobs more effectively and to enhance their professional development. These requests are tracked by AOC Finance which evaluates all requests and thereby assists employees in the pursuit of educational goals by granting reimbursement of educational expenses to Court employees under specified circumstances. This request will subsidize education assistance for court employees for FY 2025.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

All benefitted Court employees are eligible to apply for this benefit. HR policy currently in effect specifies the educational pursuit must be an evident benefit to the Courts and have approval of the Court Executive or Director. The employee enters into an Education Assistance Contract prior to the beginning of the course and may be reimbursed for their costs (tuition and fees) at the successful conclusion of the course (successful means a final GPA of 2.0 or better). If the employee leaves the Courts within 12 months of receiving an Educational Assistance reimbursement, HR policy allows the Courts to ask that the departed employee repay any education assistance money received within a 12-month period after departure. The policy also aligns with the code 127 of section 127 IRS limit code which limits reimbursements to any person at \$5,250 per calendar year per employee as a tax-free benefit.

Alternative funding sources, if any:

This funding is not included in our base budget and the courts have traditionally used carry forward funds to provide this benefit.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Employees will not receive reimbursement for their educational pursuits. This will place the Courts at a competitive disadvantage in the pursuit of the best talent.

5. FY 2025 Carryforward Spending Request – HR Applicant Tracking

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however **the Legislature is expected to approve the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 04/10/2024

Department or District: Human Resources

Requested by: Bart Olsen and Jeremy Marsh

Request title: Applicant Tracking (ATS) and Onboarding System Request

Amount requested: One-time \$20,900 (prior year amount requested \$24,000)

Purpose of funding request:

Allow one more year of funding for ApplicantPRO - a more secure and independent Onboarding and Recruitment software application and process.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

For the past two years, the Judicial Council has approved carryforward funding for Applicant PRO, a proven onboarding and recruitment software. This software has dramatically reduced the time HR staff spends on recruitment and onboarding. Additionally, this software empowers Court management with more control and agility in recruitment and onboarding practices and provides new hires with a smooth, efficient, and secure onboarding experience. The benefits of using these software programs are unprecedented to the Courts.

The invoice for the coming fiscal year to maintain ApplicantPRO's Applicant Tracking System (ATS) and Onboarding system is \$20,900. We prefer to keep this as a one-time request for now, because we know the Department of Human Resource Management (DHRM) has received funding for a Human Capital Management (HCM) system that will combine finance, payroll, Human Resource Information Systems, recruitment and onboarding processes. DHRM is launching this HMC in phases, with the first phase being January 2025. As we learn more about what their new system could deliver and what our branch needs in recruitment and onboarding systems, we may want the ability to transition. One-time funding will allow us the ability to jump on DHRM's system or maintain our current system long-term should we decide to do so.

Efficiency

The following recaps efficiencies of Applicant Pro over the previous system that this subscription renewal will allow us to maintain:

5. FY 2025 Carryforward Spending Request – HR Applicant Tracking

- Allows us to process much quicker, reducing our recruitment days from 37.5 to 28 which is 25% faster for standard recruitments,
- Enables HR to handle nearly double the recruitment workload,
- Provides a 100% solution to the security risk we formerly had from having to send sensitive information using Google Sheets, Google Forms, and Gmail,
- Allows direct encrypted connection to the government E-Verify website for I-9 processing,
- Provides needed autonomy to manage the content in job postings and,
- Provides better access for management to view, score, and select the most qualified applicant.

Conclusion

Recruitment and onboarding are crucial components to attracting, retaining, and promoting a diverse and sustainable employee workforce. The potential work efficiencies already gained have exceeded and will continue to exceed the \$20,900 cost of the request.

Alternative funding sources, if any:

Ongoing funds are an alternate source, but not logical or desirable due to the existing agreement parameters of using DHRM systems. DHRM is moving to a different vendor for recruitment and onboarding, with the first phase coming in January 2025. Because they charge a flat rate for using their HR software platforms, we could opt in if, at some point, they adopt systems better suited to our needs. The ability to evaluate the effectiveness of our recruitment and onboarding systems each year and change direction if needed gives us better strategic positioning to address the fluctuating needs of the job market while keeping operations more efficient and cost-effective.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

HR would be forced to return to the antiquated recruitment system provided by DHRM and return to the cumbersome paper process for onboarding. However, the consequences of not moving forward would be a severe loss in productivity, risk of errors in the meticulous E-Verify I-9 process, potential for security breaches, missing out on potentially more diverse applicant pools, not being prepared for strategic growth, and a need for additional HR staff dedicated to onboarding and recruitment.

6. FY 2025 Carryforward Spending Request – IT Stipend for Tech Subject Matter Expert

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however, **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available). This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2025 carryforward funds for one-time projects that will be delivered in FY 2025.**

Date: 04/26/2024

Department or District: Information Technology
Requested by: Todd Eaton and Jace Kinder

Request title: IT Stipend for Tech Subject Matter Expertise (TSME)

Amount requested: one-time \$65,000 (prior year request was \$78,000)

Purpose of funding request:

IT was given approval in May 2023 to designate up to 30 court employees as TSMEs who can assist throughout the state in District and Juvenile courts with a specific set of IT skills/functions. With the first year nearly completed, we are adjusting our request to fund only 25 court employees as TSMEs, which enables us to have personnel at all critical locations.

The stipend was set at \$100 per pay period and based on the program's success in FY 2024, we request \$65,000 for the 26 pay periods in FY 2025. (Total is 26 pay periods x 25 employees x \$100 = \$65,000)

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

IT leadership identified the need for basic technology support at court locations. The need ranges from assisting with login and setup of our newer cloud apps, to making sure the correct cables for peripherals are properly seated in a dock or desktop. It also includes activating a network jack and assisting with mapping a printer. This change enables new hires to be up and running much faster with the help of a TSME who can get a workspace set up properly. Addressing simple issues requiring hands-on support by TSMEs reduces the time required for resolution. Less downtime for court staff will help to keep daily activities in line with the needs of the court's mission.

TSMEs are selected and tracked by senior IT leaders who test prospects for required skills. TSMEs are also given continuing tech education from court staff. Although TSMEs are not required to have the full technological background of IT Service Desk personnel, they have a basic knowledge of how computer hardware and software connect and function.

Requirements to be a TSME are as follows:

- Basic understanding of applications (M365/MS Office, Adobe, WebEx, Google Workspace, etc.)
- Basic understanding of network connections (Ethernet, Wi-Fi, VPN)
- Ability to troubleshoot issues within a Windows environment (Windows devices, file shares, etc.)
- Basic understanding of machine staging (hardware placement, peripherals)
- Drive to advance their own knowledge of current and new technology.

6. FY 2025 Carryforward Spending Request – IT Stipend for Tech Subject Matter Expert

Of the 25 positions we seek to staff, 23 are currently filled and are actively assisting us in supporting American Fork, Ogden Juvenile & District (“J&D”), Brigham City J & D, Logan D, Matheson J & D, Provo J & D, Richfield, TSOB, Tooele, Vernal, West Jordan, Farmington, Spanish Fork, Court of Appeals, Price, and St. George.

There has been a total of 317 Service Desk tickets taken by the TSMEs. The top 3 categories of issues they are assisting with are:

1. Courtroom issues prior to starting court - FTR/Cynap
2. Workstation setups
3. Printer issues

Alternative funding sources, if any:

None.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

IT would continue to utilize the main Service Desk channels for support and hardware drop-off and pick-up.

7. FY 2025 Carryforward Request – IT – PCs, Printers, Peripherals Replacement Inventory

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however, **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2023 funds into FY 2024 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 4/29/2024

Department or District: AOC Information Technology
Requested by: Todd Eaton

Request title: IT Inventory for Computer, Printer, Scanner and other Peripherals Replacements

Amount requested: One-time \$364,000 (prior year request was \$364,000)

Purchasing Process Followed:

IT purchases all of these items through vendors/resellers who are on state contract. Most of these contracts are multiple award contracts with many vendors to choose from. We use multiple state contracts and solicit competing bids for lowest price and fastest speed of delivery.

Purpose of funding request:

The IT Division has established an annual laptop replacement schedule that provides for each unit to be replaced once every 5 years. The Division previously requested \$250,000 per year for the program. For FY23 this was increased to the \$364,000 amount for the first time. With this increased funding we project having the 5-year replacement schedule completely established by FY26.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

The \$364,000 request will be used to fund a mix of replacement equipment including: laptops, scanners, printers, notebooks, and other peripherals that positively impact the productivity of court staff. This is calculated as follows: 1,300 employees X \$1,400 replacement cost = \$1,820,000 Total cost, divided by 5 year life per device = \$364,000 per year spend. Ongoing funding is not available for this project.

Alternative funding sources, if any:

None.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

When laptops, printers or scanners break individuals will have to go without or use an older computer that may still be working.

8. FY 2024 Carryforward Spending Request – IT Staff Augmentation

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2023 are normally to be spent between July 1, 2023 and June 30, 2024; however, **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 04/29/2024

Department or District: IT & Facilities

Requested by: Todd Eaton & Chris Talbot

Request title: Network/System Maintenance - Staff Augmentation

Amount requested: One-time \$ 50,000 (prior year request was \$50,000)

Purpose of funding request:

With IT staff continuing ARPA-Focused work this request establishes a fund for maintenance/repairs and other non-technical work throughout the state that optimizes the use of IT employees by providing funds for this work to be done by vendors on state contract. These funds will cover labor costs, travel and any hardware required for this work.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

We utilized the staff augmentation funding given over the last 3 years to do various tasks throughout the state primarily in support of various non-ARPA projects such as

- Install 200+ Wireless Access points
- Install 34 routers
- Physical memory installs in primary servers in both Matheson and St. George
- Various network jack repairs and relocations around the state
- Purchase and install AV hardware for failing devices in Provo
- Installation labor for AV upgrades in Judicial Council and Cafe Meeting rooms
- Various network cable pulls around the state for office reconfigurations
- Ricoh support to build server for management of leased devices
- AV equipment repairs for out of warranty failed AV equipment - multiple locations

This outsourcing greatly reduced the strain on internal staff and increased the efficiency of our current IT support staff allowing them to better utilize time and efforts focusing on the more technical aspects of both ARPA and non-ARPA projects while maintaining the ability to keep up with regular responsibilities.

The purpose of this request is to continue to have funding to allow us to outsource for less technical maintenance/repairs as needed over the coming fiscal year in conjunction with Court Facilities. This will enable us to continue striving to provide a high level of service to our customers because we would not divert our core IT support staff to these projects.

Examples:

8. FY 2024 Carryforward Spending Request – IT Staff Augmentation

- Network jack repair/relocation
- Wireless access point relocations/additions for better coverage
- Addition of network jacks for office reconfigurations
- Audio/Video repairs - cameras, sound systems, microphones

Alternative funding sources, if any:

None.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

If this request is not approved we will continue utilizing existing IT staff. This could negatively impact the capacity for regular IT responsibilities and will likely further impair our ability to provide timely support services and response across the Service Desk, network and audio/video teams for ARPA and Non-ARPA projects.

9. FY 2025 Carryforward Spending Request – Employee Incentive Awards

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 4/29/2024

Department or District: AOC Incentive Team

Presented by: Bart Olsen, Erin Rhead
and Alisha Johnson

Request title: Employee Incentive Awards

Amount requested: One time: \$280,000 (prior year request was \$280,000)

Purpose of funding request:

The Courts have established a program to provide on-the-spot recognition for outstanding service as well as a formal nomination process to reward employees for their service in the following ways:

- An innovative idea or suggestion, implemented by the courts, which improves operations or results in cost savings
- The exercise of leadership beyond that normally expected in the employee's assignment
- An action which brings favorable public or professional attention to the courts
- Successful completion of an approved special individual or team project
- Continually outstanding performance of normal responsibilities.

The incentive can be issued in cash or a gift card. If deserved, a single employee can receive multiple incentive awards in a given year.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Note: Prior to FY 2019, employees who received these awards were not "grossed up" for the impact of payroll taxes (FICA, Federal and State personal taxes) on the awards. This lessened the value to the recipient. The Executive branch's incentive policy adds 30% to the incentive award to mitigate the impact of personal taxes on the recipient. The Courts matched the Executive Branch's policy starting in FY 2019.

The FY 2025 request is identical to the FY 2024 request and provides:

- \$200,000 for cash or gift card awards +
- \$60,000 for the funds required to cover assumed personal taxes at 30% +
- \$20,000 for the funds required to cover retirement costs and employer FICA (32%) for cash incentive payments. Incentive awards issued as gift cards do not incur the retirement fund contribution. The extra \$20,000 covers up to \$60,000 of incentive awards given out as cash payments.

9. FY 2025 Carryforward Spending Request – Employee Incentive Awards

4Alternative funding sources, if any:

This funding has always been carved out of carry forward funds from the prior fiscal year. If we do not fund this amount, there will be no funds available to fund employee incentive awards.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

This has been a benefit that has been provided for employee awards every year except during years of budget restrictions. It would have a detrimental impact on employee morale to eliminate this program in a year without a budget restriction.

10. FY 2024 Carryforward Request to Judicial Council – IT – Contract Developers

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however, **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 6/1/2024

Department or District: AOC Information Technology

Requested by: Brody Arishita

Request title: Contractor Support for Senior Project Manager/Developer training and Critical IT Projects

Amount requested: One-time \$ 682,000 (prior year request was also for \$682,000)

Purpose of funding request:

This request for retaining our current experienced contract developers is critical for the success of IT, the Courts, Senior Project Managers (SPMs) and our ability to deliver essential development projects for the courts. These long-term contractors possess a diverse range of skills that allow us to adopt an agile approach, deploying the necessary expertise based on each project. Their continued involvement is crucial for ongoing development in key areas like CORIS Rewrite, Judicial Workspace and Xchange. Funding their positions is not only vital for SPMs, but also essential to the Courts' commitment to advancements like e-filing, MyCase, OCAP, and ODR and modernization of existing Court applications (e.g. CORIS, CARE, and Judicial Workspace). These initiatives, launched in recent years to improve access to justice, rely heavily on dedicated contract IT resources. Without continued investment in these contract developers, the increasing efficiencies we seek from these critical functions of the court would be at risk.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Our utilization of long-term contractors over the past few years has proven to be a valuable resource. It allows us to be adaptable and responsive to project needs by bringing in specific skillsets that complement our existing IT staff and address any technological shortcomings.

Alternative funding sources, if any: None

If this request is not funded at this time, what are the consequences or is there an alternative strategy? The designated projects will not get the needed support and will necessarily be slowed.

11. FY 2025 Carryforward Spending Request – Legal – Westlaw w/AI

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; **however the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 6/3/2024

Department or District: Office of General Counsel
Requested by: Keisa Williams

Request title: Subscription to Westlaw Precision Preferred with AI-Assisted Research

Amount requested: One-time \$16,000

Purpose of funding request: Thomson Reuters recently launched an upgraded version of Westlaw, [Westlaw Precision Preferred with AI-Assisted Research](#). The Office of General Counsel (“Office”) participated in a free two-week trial and found the new AI function promising, but two weeks was not enough time to develop a solid understanding of how the functionality works and determine whether it is a significant improvement upon Westlaw Edge, the version currently available to judicial officers and attorneys. It takes time and hands-on experience to learn how to take full advantage of the product’s capabilities (i.e., what questions to ask, how to draft questions and follow-up questions, etc.).

The Office would like to purchase a 12-month subscription to Westlaw Precision with AI-Assisted Research for four attorney users and one non-attorney paralegal user, with two goals in mind. First, the Office hopes that the AI function will reduce research time. Second, after using the product for 12 months, the Office will have a better understanding of how AI-assisted legal research works and could advise court employees and judicial officers on its accuracy and utility.

The Law Library’s contract with Thomson Reuters for Westlaw Edge ends December 31, 2025. The Law Library will be entering into contract negotiations before that date and will need to know whether to include the AI function in those negotiations. After 12 months of use, the Office would have sufficient experience to provide the Law Library with a recommendation about whether the AI function is worth the additional expense. If the AI version were purchased for the entire judiciary, the Office could provide real world training to judicial officers and attorneys.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents. See above.

Alternative funding sources, if any: None

If this request is not funded at this time, what are the consequences or is there an alternative strategy? The Office will continue to have access to Westlaw Edge under the existing contract. However, good or bad, AI is here and it’s not going away. I think it’s important for the Office of General Counsel to stay as up-to-date as possible on legal research related tools to ensure we have the knowledge and skills necessary to advise and be a resource for the judiciary. Further, if there are efficiencies from the AI version, the Office should be able to develop some sense of how significant the research time savings might be.

12. FY 2025 Carryforward Spending Request – FY 2025 Q1/Q2 Performance Bonus Payments

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 6/1/2024

Department or District: AOC Administrators

Requested by: Karl Sweeney and Bart Olsen

Request title: FY 2025 Q1/Q2 Performance Bonus Payments

Amount requested: \$450,000 of 1x Turnover Savings (TOS) (\$340,000 in cash payments + \$110,000 in Retirement/employer taxes)

Purpose of funding request: The conversion of the Court’s incentive plans to a court-wide incentive plan (as approved by the Judicial Council in May 2021) includes a performance based bonus plan. Under this plan all non-judicial Court employees have the opportunity to receive a Performance Bonus using one-time Turnover Savings (1x TOS) similar to the one-time Incentive Bonus payments that were made in Spring FY 2021 and twice in FY 2022 and FY 2023 (see table below).

Due to lower open positions experienced in FY 2024, the payments for FY2024 were limited to \$450,000 for Q1/Q2 2024. No performance bonus funds were paid for Q3/Q4 2024. The totals for all bonus plans for the last 4 years are shown below:

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>Q1/Q2 FY 2024</u>	<u>Q3/Q4 FY 2024</u>
Payment in spring 2021	\$990,300				
Performance Bonus Payments		\$730,000	\$900,000	\$450,000	None
Career Ladder 1x Payments		<u>\$243,000</u>			
Total	\$990,300	\$973,000	\$900,000	\$450,000	

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Because of the importance of regularly recognizing high performing employees, we are requesting \$450,000 be funded for the first two quarters of FY 2025 through carryforward funds. Because these funds are already available, approving this request will ensure that FY 2025 Q1/Q2 performance bonus payments can be made (generally these payments go out in December).

Performance Bonuses are based on completion of milestones in performance expectations. They are generally the largest type of one-time compensation that can be given to non-judicial officer employees. They are authorized by the Judicial Council by request from the State Court and Deputy State Court Administrators and funded from 1x turnover/operational savings. Payment of Performance Bonuses is a critical piece of the Court’s compensation strategy. However, request amounts may vary year to year depending on the (1) amount of 1x Turnover Savings and (2) the competing demands for those funds.

These bonuses are meant to be given as employees complete milestones in performance goals as set with their manager. Not all goals will be accomplished in Q1 or Q2, but to reduce the turnover of Court personnel, we are encouraging managers to continue paying bonuses as eligible employees complete

12. FY 2025 Carryforward Spending Request – FY 2025 Q1/Q2 Performance Bonus Payments

portions of their annual goals. The amount of the Performance Bonus Plan varies with some employees receiving Performance Raises and others Performance Bonus payments. Of course, those who do not complete their performance goals may not receive either of these type of payments.

Bonus payments in Q1/Q2 of FY 2025 not only immediately reinforce the accomplishment of an employee's goals but serve to assure employees that the Performance Bonus plan can continue to be relied upon as part of the total compensation plan for the Courts.

The Courts in FY 2024 generated around \$4.0M in 1x TOS and operational savings (compared to \$5.8M in FY 2023). Open positions for FY 2024 ran between 30 and 35 at any given time vs between 40 and 60 in FY 2023. We expect open positions to be about the same in FY 2025, therefore we expect the amount of 1x TOS to be +/- \$4M FY 2025.

The FY 2025 Q3/Q4 performance bonus request will not be made until April 2025 after we have more certainty over what our 1x TOS will be in FY 2025.

Alternative funding sources, if any:

None.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

It would potentially accelerate turnover in critical positions.

13. FY 2024 Carryforward Spending Request – Secondary Language Stipend

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 10 May 2024

Department or District: Office of Fairness and Accountability
Requested by: Jon Puente and Jessica Leavitt

Request title: Secondary Language Stipend

Amount requested: One-time \$ 166,400

Purpose of funding request:

In the March 2023 Judicial Council meeting, we received approval to increase the pay of those employees who offer interpreting services to court patrons in situations for which a certified, registered or approved interpreter is not required from \$50 per pay period to \$100 per pay period.

There is a great diversity in languages spoken by court patrons. In order to facilitate court proceedings for non-English speaking patrons, the Utah Courts (1) employs contract court interpreters for in-court interpreting or (2) utilizes the foreign language talents of current court employees for court patron interpreting.

This request deals with the second of the groups in the above paragraph. This is a very cost-effective use of our current court employees who use their language skills in the service of court patrons in situations for which a certified, registered or approved interpreter is not required. The current annual bonus pay for court patron interpreters is \$100 x 26 pay periods = \$2,600 per year. There are 64 slots available to receive this bonus. The annualized cost is 64 x \$2,600 = \$166,400 for FY 2025. Currently we have 56 slots filled and 2 additional fills pending.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

Any court employee may apply for a Secondary Language Stipend by demonstrating a required level of proficiency for a non-English language. To qualify for this benefit, employees must complete the following process:

- Complete the Secondary Language Stipend application and Agreement with the appropriate information and approving signatures and submit to the Court Interpreter Program Coordinator; and
- Complete and pass the Oral Proficiency Exam.

Employees are required to recertify their skills no less than once every three years. A bonus recipient is subject to the following guidelines:

13. FY 2024 Carryforward Spending Request – Secondary Language Stipend

- The employee must be reasonably available and use their second language skills on a regular basis.
- The employee shall provide interpreting in a Court proceeding only as outlined in Rule 3-306.04 (2).

Alternative funding sources, if any:

None

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

This funding is not included in our base budget and the courts have traditionally used carryforward funds to provide this bonus. If this request is not funded, each court site would be responsible for finding operating funds to fund this essential service and interpretation services to court patrons would suffer.

14. FY 2025 Carryforward Request – Third District Juvenile – Village Project Mentor Program

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however, **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2023 funds into FY 2024 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 5/21/2024

Department or District: Third District Juvenile Court
Requested by: Tiffany Power, Trial Court Executive and Shane Kibler, Mentor Program Manager

Request title: Village Mentor Program/Nest Program Support Funds

Amount requested: \$8,500 (one-time)

Purpose of funding request:

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

The Village Project Mentor Program is supported by Third District Juvenile Court and serves youth, ages 12-17 years of age, that are under the jurisdiction of the Court. The Third District Juvenile Court employs a full-time Mentor Program Coordinator with three primary responsibilities:

- (1) supporting individual mentor relationships,
- (2) collaborating with community organizations to offer group mentor programs, and
- (3) partnering with Salt Lake Community College (SLCC) to support youth in continuing their education through the NEST program (Next Education Steps to Transformation).

The requested funding would be utilized to recruit and retain volunteer mentors, organize quarterly mentor group activities, and support youth in obtaining their General Education Diploma (GED) which is one of the prerequisites to increase the number of youths who are eligible to participate in the NEST program with SLCC.

Volunteer mentors are responsible for planning weekly activities with their mentee and for providing transportation using their personal vehicles. Although they are encouraged to plan low or no-cost activities, there are often associated costs that mentors cover with personal funds. Many potential mentors are willing and able to volunteer their time but do not have the financial means to contribute personal funds for transportation and activities. This financial barrier may disproportionately discourage low-income individuals from becoming mentors. The funds being requested would be used to reimburse volunteer mentors for approved expenses with the intention of increasing the number of mentors recruited and retained and thereby increasing the number of youth that can receive mentoring services. Additional funding would also be used to organize quarterly group mentor activities, also intended to strengthen recruitment and retention of mentors, and improve mentor services for youth by providing opportunities for mentors and mentees to connect as part of a group/organization, share ideas, and build relationships with each other.

14. FY 2025 Carryforward Request – Third District Juvenile – Village Project Mentor Program

The NEST program is a collaboration with SLCC to provide intensive support for court-involved youth interested in pursuing higher education to enroll in SLCC, apply for financial aid, and address any other barriers to participation in higher education. The NEST program requires participants to have either a GED or High School Diploma to be eligible to receive this support. Currently, this GED/Diploma requirement excludes youth who have the desire to continue their education in a certificate or degree program but do not have the financial resources needed to complete their GED. The requested funds would be used to cover fees associated with a GED preparatory course and fees associated with taking the GED test (currently \$144) for youth who cannot afford these fees and would otherwise be eligible to participate in the NEST program. The goal is to remove this financial barrier to the GED to increase the number of youths who receive NEST services to pursue post-secondary education through SLCC.

Enhancing the Village Mentor and NEST programs of the 3rd District Juvenile Court as described above supports the mission of the Utah Courts in advancing justice under the law by increasing protective factors and decreasing criminogenic risk factors for court-involved youth which results in lower recidivism rates. National studies have demonstrated that just one supportive adult in the life of an at-risk youth is linked to decreased recidivism and criminogenic risk, fewer school absences, improved academic performance, fewer behavioral problems at school, and increased graduation rates. Research also shows that the longer a mentoring relationship lasts, the greater the positive effects and the more lasting the benefits are for the youth.

Alternative funding sources, if any:

No additional funding sources are available.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Additional funds would not be required to maintain or continue the mentoring program or its current infrastructure. Regardless of whether additional funds are allocated, the program will continue to explore options for free and low-cost mentoring activities and work to connect youth with community resources for completing their GED.

15. FY 2025 Carryforward Spending Request –Communications - New Style Guide Resource

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2023 funds into FY 2024 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: May 23, 2024

Department or District: AOC - Communications

Requested by: Tania Mashburn

Request title: AOC Communications – New Style Guide Resource

Amount requested: One-time \$27,000

Purpose of funding request: The Judiciary needs a new, fresh Style Guide to use as a resource for all employees. Our low qualified bidder is BWP Communications who would be contracted to develop the new Style Guide. The Style Guide would include presentation templates (both PowerPoint and Google Slides), a standardized email signature along with a tool that would help each employee build an email signature, colors and typography, a photo gallery, an editorial style guide, and a logo for the Judiciary that could be used instead of the Judicial Seal, if desired. The production of these items could be used in online and printed materials and is an investment that would last approximately 10-15 years.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

The current Style Guide used by the Courts was created 16 years ago. It includes banners and graphics for brochures and PowerPoint templates that look extremely dated and are no longer used by employees. A key element of communicating our message is the look and feel of our Court “brand” which is contained in the Style Guide. Because of the dated look of our current materials, employees are creating their own presentations, flyers, etc. that are not consistent in look and feel. See Exhibit A for samples from the existing style guide and some examples of what updated style guides look like for other major entities.

The AOC management team met on several occasions to discuss a new Style Guide and recommended the following items be included:

- **presentation templates,**
- **colors and typography,**
- **a standardized email signature,**
- **a photo gallery,**
- **an editorial style guide,**
- **and a logo for the Judiciary.**

The Courts recently issued a Request for Quote to five PR/Graphic Design firms. The lowest bid came back from BWP Communications at \$23,250-\$26,750, a full-service creative agency with other

15. FY 2025 Carryforward Spending Request –Communications - New Style Guide Resource

government clients such as the Governor’s Office, Salt Lake City International Airport, and the Utah State Board of Education. A portion of their proposal is attached as Exhibit A. The second-lowest bid came in at \$33,000-\$38,000.

If funding for this project is approved, BWP Communications will be able to start research and design in July. We expect to have an easy-to-use product that all employees will be able to access on the Court’s intranet by the end of the calendar year.

Alternative funding sources, if any: None. The budget for the Communications Department is \$22,300 per fiscal year and is used for essential items such as judicial portraits, graphic design needs, creating the annual report for the legislature, producing videos, etc.

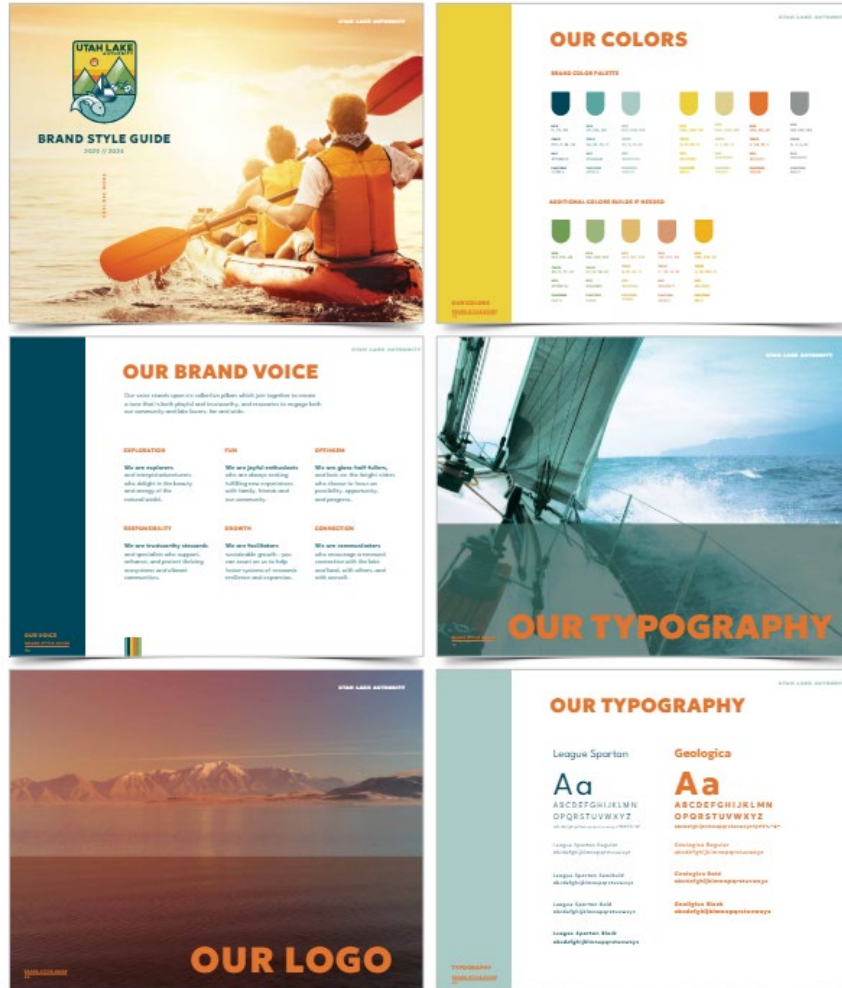
If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Court employees will continue to create their own presentations, email signatures, etc. without the benefit of an up to date/fresh Style Guide.

EXHIBIT A

1. UTAH LAKE AUTHORITY

- a. BWP rebranded the Utah Lake Authority in 2023. This example includes what the agency did for colors/typography and a new logo.



b. This is the old Utah Lake Authority Design



2. UTAH STATE CHARTER SCHOOL BOARD

a. BWP Logo Design, auxiliary graphics, and color palette



b. Previous Logo

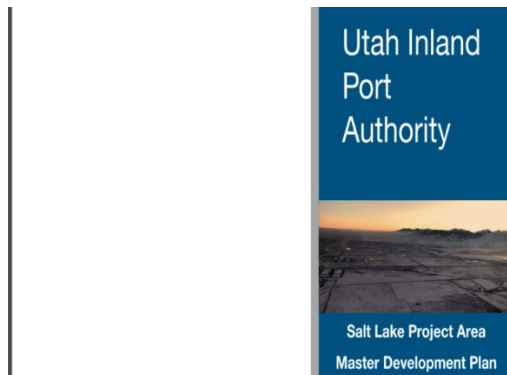


3. UTAH INLAND PORT AUTHORITY

- a. Utah Inland Port Authority didn't have a logo previously. BWP created a primary logo and project area logos.



- b. This is a banner graphic previously used by Utah Inland Port Authority.



4. The Utah State Courts do not currently have a logo. Here are a couple examples of what our current Style Guide offers in the way of a court header and two brochure covers.



16. FY 2025 Carryforward Spending Request – Contract Court Supplemental Funds

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2023 funds into FY 2024 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.

Date: 5/31/2024

Department or District: District Court Administration
Requested by: Shane Bahr

Request title: FY25 Contract Site Supplemental Funds

Amount requested: One-time \$ 10,000 (Prior year request \$10,000)

Ongoing \$ NA

Purpose of funding request:

To provide supplemental funding for six contract court sites (Millard, Piute, Wayne, Daggett, Garfield, and Rich counties)

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

These contract court sites are funded from our district court base budget. However, certain miscellaneous expenses, beyond what is in each contract, can be reimbursed by the AOC as requested by the counties for “travel, books and subscriptions, misc. & equipment”.

This carryforward funding supplements the base budget which funds office expenses and supplies, equipment supplies & maintenance, telephone, postage, copier operating expenses, other miscellaneous expenses, credit card fees, salaries and benefits.

This one time carry forward funding has been in place for over a decade except for two years during the pandemic where other budget priorities displaced this request. The Judicial Council replenished this funding in FY2024 and we are requesting these funds be allocated again in FY2025.

Alternative funding sources, if any: No other funding source is available.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

If this request is not funded at this time, local district court budgets will need to supplement the base budget for these six contract sites. When this matter was discussed in preparation for the FY24 funding request, the TCEs emphasized that it makes most sense to continue pooling these funds in a line item at the AOC. The TCEs agreed that dividing the amount of funds between the sites is not enough to meet the needs of individual courts and the financial need is rarely equal among the contract sites. Pooling the funds in one budget line at the AOC gives the State Court more latitude to respond to the contract sites as needs arise.

17. FY 2024 Carryforward Spending Request - IT - Cisco WebEx Virtual Hearing Improvement

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however, **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available).** This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2024.

Department or District: AOC Information Technology
Requested by: Brody Arishita

Request title: IT WebEx Virtual Hearing Improvement Project

Amount requested: One-time **\$150,000** (last year's request was \$150,000)

Purpose of funding request:

With this request we are going to make a slight change to the initial request which will be a benefit statewide. Below is a history of the prior request on this project.

Currently Clerical staff for District and Justice Courts have to create a case calendar note that a clerk copies from webex by using the link needed to join the meeting/webinar. This link is then manually copied and pasted to show the webex link on the courts' website for hearings. Per the Clerks of Court, this is a "huge" time consumer. This request is for funds to create a more streamlined process for programming the meeting/webinar link by making functionality changes to Judicial Workspace and Coris that allow the clerk to add the link to one or multiple case/hearings. This will greatly simplify the current process. There would also be enhancements to the website to connect to the webex api for meeting/webinar information.

A good example of this is if a Judge has a Law and Motion calendar that has 100 hearings that are webex, in the current software the clerk would be required to create 100 case calendar notes with the embedded url/link for the webex meeting. The new process would be more efficient in that a clerk can link many cases and hearings to one link. This project will also include changes to the website to pull in the information and display for hearings that are virtual.

History

This funding request was approved last year by the Budget & Fiscal Management Committee and the Judicial Council to complete some additional functionality within Cisco WebEx to improve ease of use and ease of attendance at all virtual hearings hosted by Cisco Webex for the public. Cisco has been working on this Webex project for the courts' public portal since FY 2021 but did not complete the work satisfactorily since FY 2021, so we carried forward the budgeted-but-unpaid \$150,000 of project funds into FY 2024. During FY 2024, we realized that the initially proposed Cisco solution wasn't going to work and we've migrated to using internal and external Devs to create a solution within Judicial Workspace and Coris to make everything work as originally intended, within the same scope and with the same budgeted money. Cisco/Webex has agreed to this course correction and will not seek payment under the old contract.

17. FY 2024 Carryforward Spending Request - IT - Cisco WebEx Virtual Hearing Improvement

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

See above.

Alternative funding sources, if any: None.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

The development would have to go through the core team to prioritize requests and to assess where this one falls on the list.

18. FY 2025 Carryforward Spending Request – MyCase Critical Functionality

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2024 are normally to be spent between July 1, 2023 and June 30, 2024; however, **the Legislature has approved the Judicial Branch to carryforward up to \$3.2M in unspent FY 2024 funds into FY 2025 (we will submit the lesser of \$3.2M or the actual amount of carryforward funds available). This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use of some of these FY 2024 carryforward funds for one-time projects that will be delivered in FY 2025.**

Date: 6/3/2024

Department or District: Self-Help Center

Requested by: Jonathan Mark and Nathanael Player

Request title: MyCase Critical Functionality

Amount requested: One-time \$265,000

Purpose of funding request:

Purpose of funding request: This proposal seeks investment in key functionality to the MyCase platform – the courts’ flagship service for self-represented litigants (SRLs), who are the majority of our court users.¹ These improvements are critical to ensuring that we can effectively administer MyCase.

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

MyCase was built as a “minimum viable product” (MVP). The idea behind an MVP is to get a new product launched with only the most basic functionality. We have achieved that, but as litigants become more dependent on MyCase, and as we seek to wring more utility from the program, critical functions are needed to ensure that MyCase can be developed and maintained in a sustainable manner.

Context for the request

The requested functions will add foundational utility to support our self-help technological infrastructure, including:

- MyCase - the courts’ primary user portal and direct interface for SRLs. It allows users to access their case history, view filed documents, update their email address, make payments, see scheduled hearings, receive notices of case activity, and link other cases. MyCase is also the only way a user can confirm that their case has been expunged without contacting the courts.
- MyPaperwork, a component of MyCase, is a guided interview tool, akin to TurboTax, that automates preparation of required documents for starting certain cases. It is poised to replace OCAP, but offers significant improvements, such as more centralized management and administration of content, the ability to access the service on a mobile device, find helpful guidance, and eventually initiate cases online - all of these improvements will yield time savings for both SRLs and court staff.

¹ Court data shows that about 90% of all civil cases in district court and about 50% of non-DUI misdemeanors (the most common case type in justice court) involve at least one SRL.

18. FY 2025 Carryforward Spending Request – MyCase Critical Functionality

- Online Dispute Resolution (ODR), another MyCase component, allows for the negotiation and settlement of small claims online, reducing the need for in-person court visits and significantly streamlining case processing.
- the Forms Engine - a content management system allowing for centralized administration of all court forms. The system dramatically increases efficiency and improves accuracy of court forms in two ways. First, it allows for use of templates (such as a header or footer) to be used in multiple forms but edited in a single location. Second, it creates a “single source of truth” of a court form which can be accessed via the website, via a guided interview in MyPaperwork, or via other systems, such as ODR. These features increase the efficiency, accuracy, and security of court forms.

Explanation of request

The critical updates include: additions to basic functionality to allow for maintenance within MyPaperwork; increases allowing us to take an iterative approach with user feedback regarding interviews and electronic filing; and basic structural support for ODR to allow for better administrative control. Not part of the cost request, but a feature that will be coordinated with IT and added to the functionality will be analytics to provide actionable insights into user behavior, directly informing strategic decisions for future initiatives.

Aside from being critical, adding this functionality to MyCase will significantly elevate SRLs' ability to navigate the legal system independently and enhance the overall efficiency of the judicial process by streamlining case management and document assembly. As such, these additions directly advance our mission to provide an open, fair, and efficient system for the advancement of justice.

Attachment A includes a detailed justification for each critical addition, demonstrating its function, expected impact, and alignment with our mission.

Alternative funding sources, if any: None.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

Failing to secure funding for these critical additions will hinder our ability to serve SRLs effectively, potentially leading to increased case backlogs, longer case processing times, increased risk of error in the administration of MyCase, greater difficulty for SRLs navigating the legal system, and more work for the courts. The alternative strategy would involve a piecemeal approach to improvements slowly over time, which would likely be less efficient and more costly in the long run.

18. FY 2025 Carryforward Spending Request – MyCase Critical Functionality

Attachment A

Attachment A: MyCase Platform Critical Improvement Justifications, Prioritization, and Impact Analysis

1. Functionality: Versioning of MyPaperwork Content \$36,000

- **Strategic Importance:** Preserving content integrity during system updates is critical for maintaining uninterrupted service to SRLs, especially given the high stakes of legal document accuracy.
- **Technical Specifications:** Implement a version control system within MyPaperwork to track changes, allow rollback (“undo”) to previous versions, and facilitate improving different parts of a guided interview at once.
- **Expected Outcomes:** Reduced risk during maintenance, enhanced developer efficiency, and uninterrupted access to accurate legal document assembly for SRLs.
- **Contribution to Court's Mission:** Ensures the MyCase platform remains an open and reliable resource for SRLs, aligning with the court's dedication to openness and efficiency.

2. Functionality: Variable Management Screen + Database \$18,000

- **Strategic Importance:** Ensuring the accuracy of generated document content is paramount in maintaining the integrity and efficiency of legal proceedings.
- **Technical Specifications:** Develop a management interface for the handling of several hundred variables that are used in the dynamic generation of MyPaperwork documents, complete with error checking and relationship mapping.
- **Expected Outcomes:** Minimized manual errors, heightened efficiency in document preparation, shortened development time, and bolstered system integrity.
- **Contribution to Court's Mission:** Precision in document assembly aligns with the court's mission to provide fair and accurate resources for SRLs, and supports efficiency for courts when error-free documents are filed.

3. Functionality: Drag-and-Drop Functionality for Guided Interview Screens in MyPaperwork \$18,000

- **Strategic Importance:** Streamlining the document creation process directly impacts the ability of SRLs to prepare their cases without legal representation, thus promoting self-sufficiency.
- **Technical Specifications:** Add a user-friendly interface allowing for the reordering of interview pages via drag-and-drop without the need for building a new interview from scratch.
- **Expected Outcomes:** Accelerated document development cycles, improved user satisfaction, improved ability to iterate on design, and reduced demand on technical support resources.
- **Contribution to Court's Mission:** This user-centric design supports iteration based on user feedback in MyPaperwork interviews, making the interviews easier to use and the legal process more accessible, thus making the courts more open and fair.

4. Functionality: Separate Attorney Login for ODR: \$16,000

- **Strategic Importance:** Allowing attorneys to log in to the ODR product allows them to be more helpful to the ODR process.
- **Technical Specifications:** Attorneys will need their own registration screen and for their account to be different than filers or facilitators.
- **Expected Outcomes:** Improved user satisfaction.
- **Contribution to Court's Mission:** This will help fairness and efficiency.

5. Functionality: ODR E-file Improved User Interface \$42,000

- **Strategic Importance:** The ODR Workgroup wants to turn on electronic filing within ODR to decrease clerical workload, but not until we can provide clarity for users regarding when they

18. FY 2025 Carryforward Spending Request – MyCase Critical Functionality

are uploading documents to their case and when they are uploading documents to share within the privileged context of ODR. Clarifying the electronic filing process can greatly reduce user errors and court staff time spent on inquiries and corrections.

- **Technical Specifications:** Redesign the ODR E-file user interface to provide clear, intuitive cues and guidance on submitting documents.
- **Expected Outcomes:** Greater transparency in filing status, increased user confidence, and reduced case processing times and clerical and facilitator workload
- **Contribution to Court's Mission:** Supports an efficient judicial process by simplifying and demystifying the e-filing experience for SRLs.

6. Functionality: More Robust and Case Management Tools in ODR \$135,000

- **Strategic Importance:** Empowering program managers with greater administrative control can streamline case oversight, make cases processing more efficient, and allow for more user-centered improvements to ODR for litigants.
- **Technical Specifications:** Extend administrative capabilities within ODR for exporting agreements, overriding filing requirements when appropriate, managing case status reviews, and incorporating ODR forms and guided interviews into the Forms Engine, enabling non-technical updates and changes.
- **Expected Outcomes:** More efficient case management, reduced administrative bottlenecks, an expedited settlement process, and improved user experience; IT is also expected to have increased capacity to focus on more complex issues.
- **Contribution to Court's Mission:** Optimizing administrative functions supports the court's objective to manage cases effectively and fairly; an improved user experience makes the courts more open and fair, a better litigant experience will also reduce confusion, meaning staff will have to answer fewer questions from litigants, which will increase court efficiency.

**Courts Credit Card Charge Fund Advances to be
Used for FY 2025 Courtroom Construction**

1. FY 2025 Credit Card Charge Fund Spending Request – Facilities Urgent Needs

The Judicial Branch periodically converts excess general funds into amounts that are retained in Court trust funds to pay credit card fees (which are not funded by the legislature). These funds are termed “credit card charge funds” or “CCCF” and can be withdrawn for use on approved projects while maintaining a baseline level of \$1.440M in CCCF for periods of low interest rates. **This is a request to the Budget and Fiscal Management Committee/Judicial Council to allocate the use CCCF for FY 2025 one-time projects that will be delivered in FY 2025.**

Date: 01 June 2024

Department or District: Court Facilities

Requested by: Ron Gordon and Chris Talbot

Request title: Facilities Urgent Needs for Courtroom Space

Amount of CCCF requested: One-time \$ 2,743,000

Purpose of funding request:

New courtroom and support space must be created for two new judgeships. After considerable evaluation of the existing spaces in 3rd District courthouses, two locations have been identified for repurposing. The existing Matheson file storage room and the Café conference room on the first floor can be renovated to house the new Business and Chancery Courtroom, chambers, Law Clerk office and staff support space. The Business and Chancery was originally slated for the West Jordan Courthouse. This move would leave a West Jordan 2nd floor courtroom available for a future Juvenile Court judgeship.

The other space identified for courtroom creation is the last West Jordan courtroom shelled space and chambers on the second floor. This space is needed for the new Third District Court judgeship funded by the Legislature in the 2024 session. This request will fund both design and construction of the two spaces, which could be ready to occupy as early as Spring 2025

Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.

The State Courts are unfortunately not able to obtain State funding frequently enough to build new courthouses that would keep pace with the establishment of new judgeships. The AOC has recently completed a thorough evaluation of existing spaces statewide that could be renovated for additional courtrooms. The projects listed above are the top two priorities on the list. Please see the attached Exhibit A for a breakdown of the costs associated with these projects in FY25.

As shown in the FY 2024 Court’s Credit Card Charge Fund Balance chart on page 2, the total CCCF funds available are \$4,183,300 of which \$1,440,000 are not available for draw down since they were set aside by the Judicial Council in March 2024 as a reserve for paying credit card fees in the event of a future low interest rate environment. See Exhibit B. This leaves a net CCCF amount of \$2,743,000 available to fund the work detailed in exhibit A (which includes the courtroom work described above) which totals \$4,514,274 + a 10% contingency of \$451,427 = \$4,965,701. Facilities will use all of their available funds first, followed by the CCCF amounts as follows:

Total Project + Contingency	\$4,965,701
Facilities Internal Funds	(\$1,581,000)
CCCF Funds	<u>(\$2,743,000)</u>
Balance from 1x Funds ¹	\$641,701

¹ The 1x funds will come from either FY 2025 carryforward funds and/or FY 25 1x turnover savings.

1. FY 2025 Credit Card Charge Fund Spending Request – Facilities Urgent Needs

Alternative funding sources, if any:

The Court could request State capital improvement funding for FY26, which would not be available until July of 2025. If approved, this would push the availability of the new courtroom spaces back a year until Spring 2026. The Governor’s LFA office has recently started pushing back on courtroom construction funding (as an example, they pushed all the American Fork courtroom conversion back to the Courts) with the new judgeship requests. Given the urgency of the new courtroom space and the likelihood of it not being approved, we do not recommend this alternate funding option.

If this request is not funded at this time, what are the consequences or is there an alternative strategy?

If this internal funding request is not approved, the 3rd District will be forced into having judges share the existing courtroom and staff support spaces that are available in their courthouses.



FY 2024 Court's Credit Card Charge Fund (CCCF) Balance as of 06/1/2024

#	Funding Type	Actual Amount YTD	Forecasted Amount @ YE
1	Trust Cash Available to Repay Advances	4,295,832	4,295,832
2	Life-to-date (LTD) Advances from Courts to CCCF	4,183,300	4,183,300
3	Amount Available in CCCF Balance (lesser of 1 or 2)	4,183,300	4,183,300
4	Less: \$60,000 per month x 24 months hold as reserve per policy ratified at 3/5/2024 BFMC Meeting	(1,440,000)	(1,440,000)
5	Amount Available in CCCF Balance that can be drawn down as approved by BFMC/Judicial Council	2,743,300	2,743,300
6	Requests in Facilities Large Projects FY 25 - Exhibit A		(3,384,701)
	Balance to be funded by 1x TOS funds originating in FY 2025 to be requested in Q1 FY 2025		(641,401)

Exhibit A

Facilities Spending Plan for Large Projects FY25 - 5/28/24

	Credits in FY25 Only	Sources	Uses	Details
	Richfield Bond	\$ 219,000		To be reallocated to Heber rent in FY26
	Farmington Bond	\$ 399,000		To be reallocated to Heber rent in FY26
	Heber Additional Rent	\$ 163,000		To be reallocated to Heber rent in FY26
	50% Annual Carry Over	\$ -		
	Court Complex Surplus*	\$ 800,000		Approved one-time for AF hearing room
	Facilities Self Funding Total	\$ 1,581,000		
Number	Projects			
1	Provo FF&E		\$ 60,000	Paid \$227K in FY24
2	Heber FF&E **		\$ -	
3	Manti Security Systems ***		\$ -	
4	Manti FF&E Overage		\$ 72,000	
5	Roosevelt Design and TI		\$ 269,274	
6	Provo AV Equipment		\$ 285,000	
7	Provo Security Equipment		\$ 42,000	Paid \$28K in FY24
8	AOC 3rd Floor Furniture		\$ 167,000	
9	AF Hearing Room Const		\$ 500,000	
10	AF Chambers, Office & Support Space Const		\$ 275,000	
11	AF FF&E		\$ 65,000	
12	WJ Juv Shell Buildout		\$ 1,655,000	
13	Math 1st Floor Courtroom Const		\$ 720,000	
14	Math 1st Floor Chambers & Support Spaces Const		\$ 309,000	
15	Math 1st floor courtroom FF&E		\$ 95,000	
	Sub Total		\$ 4,514,274	
	Less Facilities Self Funding Total		\$ (1,581,000)	
	Net Additional Funds Needed		\$ 2,933,274	
	10% Contingency		\$ 451,427	
	Total with 10% Contingency		\$ 3,384,701	
	Funding with CCCF Funds	\$ 2,743,000		REQUESTED
	Funding with FY 2025 YE 1x TOS	\$ 641,701		Will request by September 2024
		\$ 3,384,701		
	* Spend down the CCF surplus to \$500K			
	** \$400K to be paid to Wasatch Co. towards furniture package before 6/30			
	*** Funding provided by security funds			



Administrative Office of the Courts

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

February 28, 2024

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

MEMORANDUM

TO: Budget and Fiscal Management Committee

FROM: Karl Sweeney and Suzette Deans

CC: Alisha Johnson, Ron Gordon, Neira Siaperas

RE: Proposed Accounting Manual Policy for General Fund Payments into Court's Credit Card Charge Fund

This memo will form the basis for an accounting manual policy on the Court's credit card charge fund ("CCCF").

Background

For many years, the Utah Courts have accepted credit cards for various types of payments (e.g., Xchange, fines and fees). The credit card fees associated with these payments have been paid with (1) interest generated by trust account funds¹ invested on behalf of the Judiciary by a fiduciary (presently Zions Bank) and (2) funds deposited into the trust account by the Judiciary in years where there was a surplus of general funds ("CCCF Advances" or "advances to the CCCF"). See Exhibit A for the dates and amounts of advances to the CCCF. There have been no repayments from the CCCF back to the Judiciary. See Exhibit B for the Cash Available from the surplus Trust revenues to repay CCCF Advances.

Note: Trust "interest bearing accounts" (accounting manual 06-10.00) which are invested at the specific request of a depositor are not part of the interest earnings balance as they are paid out to the depositor.

¹ Examples of trust funds are posted bail, restitution payments, garnishments, attorney fees, "FINDERS/Tax Intercept" checks, child support payments, and payments on civil judgments. A restricted account has been established with the State Treasurer and State Finance in accordance with statute. The 1990 Legislature passed legislation which provides that trust funds deposited with the Judicial Branch are to be invested in accordance with the Money Management Act. The amount of funds in the trust account is approximately \$100M currently composed primarily of Other Trust (\$59.7M), Cash Bonds (\$10.3M), and Cash Bail (\$7.8M). "Other Trust" includes civil items such as trustee sale proceeds, divorce/annulment, condemnation cases, contracts and garnishments.

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

Deposits

As shown in Exhibits A and B, the CCCF Advance balance has fluctuated over time. Given that advances to the CCCF fund were specifically designed to provide reserves that could be drawn upon in periods where credit card fees exceed the interest earned on the CCCF balance, the Courts did not consider the CCCF balance to be an amount that would be repaid with any degree of certainty. Therefore, an Account Receivable has not been recorded when the funds were advanced. We propose to continue this policy with deposits to the CCCF fund and repayment from the CCCF fund being recorded as an entry to BAH 2410 6137.

Repayments

AOC Finance proposes following the procedures below for any repayments to the Judiciary of CCCF advances:

1. Only CCCF advances (principal) can be repaid to the Court's operating account (see #2 in Background). Interest earned on funds advanced to the CCCF fund (see #1 in Background) will not be repaid to the Court's operating account, however, interest earned in the overall trust account invested balances will be used to repay CCCF advances (principal).
2. Repayment of CCCF advances to the Court's operating account will be made only on funds that can be withdrawn without incurring a loss of interest due to early termination of a CCCF investment. After discussion with the State Court Administrator, the Director of Finance recommends any repayment amounts to the BFMC and Judicial Council based on forecasts of 1x funding needs by the Courts versus 1x funding availability from other sources to the Courts.
3. Sufficient CCCF advances will be left in the account to provide funds to cover a 24 month downturn in interest rates such that \$60,000 per month could be used to fund the gap between interest receipts and credit card fees (24 months @ \$60,000 per month means the minimum CCCF balance should be no less than \$1,440,000). This allows the Judiciary sufficient time to seek alternative sources of funding including the passage of legislation.

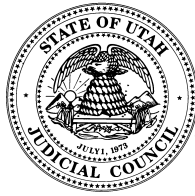
Exhibit A²
Advances/(Repayments) to/from the CCCF

FY	Advance/ (Repayment) \$	Balance	GAX Reference	Trust Cash Available to Repay Advances See Exhibit B
2017	\$250,000	\$250,000	17*2410	
2017	\$468,650	\$718,650	17*2703	
2017	\$250,000	\$968,650	17*2707	
2017	\$624,650.75	\$1,593,300.75	17*2708	FYE 2017 \$1,841,180
2018	\$250,000	\$1,843,300.75	18*45	
2018	\$422,000	\$2,265,300.75	18*2068	
2018	\$567,918.25	\$2,833,219	18*2450	FYE 2018 \$2,836,354
2019	\$150,000	\$2,983,219	19*1672	
2019	\$300,000	\$3,283,219	19*2396	
2019	\$567,213	\$3,850,432	19*2561	FYE 2019 \$3,663,332
				FYE 2020 \$3,529,522
				FYE 2021 \$3,110,560
2022	\$300,000	\$4,150,432	22*1680	FYE 2022 \$2,772,048
2023	\$32,867.81	\$4,183,299.81	23*2070	FYE 2023 \$3,559,636
3.2024		\$4,183,299.81		\$4,295,832
	Reserve @ 24 months x \$60,000	<u>(\$1,440,000)</u>		
	Available Balance	\$2,743,300		

Green = surplus in Trust Account to repay CCCF Advances
Red = deficit in Trust Account to repay CCCF Advances

² Advances have been determined by reviewing data warehouse activity since 2007 which had supporting documentation indicating clearly that these were deposits/repayments related to CCCF activity. There was no activity between 2007 and 2016.

Tab 3



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: Judicial Council

FROM: Jim Peters, Justice Court Administrator

DATE: June 11, 2024

RE: Board Recommendations for FY25 Allocations from the
Justice Court Technology, Security and Training Account

Section 78A-7-301 of the Utah Code and Rule 9-107 of the Code of Judicial Administration (both attached) describe a fund known as the Justice Court Technology, Security and Training Account (Fund). The Fund balance increases with the collection of the security surcharge assessed on moving violations and certain other offenses. The Fund balance decreases as money is allocated to local government and state entities involved in operating or supporting one or more justice courts.

Typically, applications are solicited each year for audit, technology, security, and training needs in justice courts throughout the state. The Board of Justice Court Judges (Board) then reviews the requests and makes recommendations to the Judicial Council. Because the services provided by the Administrative Office of the Courts (AOC) benefit *all* justice courts (as opposed to just a *single* justice court), the AOC receives the majority of each year's allocation.

The Fund has generally been managed so that the total allocation for the coming year (e.g. FY25) is approximately equal to the amount of collections estimated for the current year (e.g. FY24). Collections for FY24 are expected to be about \$843,000, while the requests itemized on the attached chart amount to more than \$914,500. As such, the Board did not invite the justice courts to submit requests for funding. To cover the difference between the attached requests and the revenue anticipated in the current fiscal year, the Board recommends spending into the Fund's balance to the extent necessary. At most, that amount is estimated to decrease the balance by approximately \$14,500.

The Budget and Fiscal Management Committee reviewed the attached recommendations at its most recent meeting, and it voted to support them.

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

Effective 5/3/2023

78A-7-301 Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

- (1) There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.
- (2) The state treasurer shall deposit in the account:
 - (a) money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii); and
 - (b) the administrative fee from a deferred prosecution or traffic school deferred prosecution under Subsection 77-2-4.2(5) or (6).
- (3) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for:
 - (a) audit, technology, security, and training needs in justice courts throughout the state;
 - (b) additional compensation for presiding judges and associate presiding judges for justice courts under Section 78A-7-209.5; and
 - (c) costs to implement, operate, and maintain deferred prosecution and traffic school deferred prosecution pursuant to Subsections 77-2-4.2(5) and (6).

Amended by Chapter 393, 2023 General Session

Utah Courts

UCJA Rule 9-107 (Code of Judicial Administration)

Rule 9-107. Justice court technology, security, and training account.

Rule printed on May 31, 2024 at 6:16 pm. Go to <https://www.utcourts.gov/rules> for current rules.

**Effective:
11/1/2022**

Intent:

To establish the process for allocation of funds from the Justice Court Technology, Security, and Training restricted account.

Applicability:

This rule shall apply to all applications for and allocations from the account.

Statement of the Rule:

- (1) Any governmental entity that operates or has applied to operate a justice court may apply for funds from the account for qualifying projects. Local governmental entities may only use the funds for one-time purposes, and preference will be given to applications that propose to use the funds for new initiatives rather than for supplanting existing efforts.
 - (2) The Board of Justice Court Judges, through the Administrative Office of the Courts, may apply for funds from the account for qualifying projects.
 - (3) The Administrative Office of the Courts may apply for funds from the account for qualifying projects, and may use the funds for ongoing support of those projects.
 - (4) Qualifying projects are those that meet the statutory requirements for the use of the account funds.
 - (5) Funds will be distributed on or about July 1 of each year in which funds are available, and applications for those funds must be made by April 15 of the same year on forms available from the Administrative Office of the Courts. All applications for funds shall be first reviewed and prioritized by the Board of Justice Court Judges. The Board's recommendations shall then be forwarded to the Budget and Fiscal Management Committee of the Judicial Council. The Judicial Council will then make the final awards.
 - (6) An entity receiving funds shall file with the Board of Justice Court Judges an accounting, including proof of acquisition of the goods or services for which the award was granted. The accounting shall be filed no later than July 15 for activity during the previous fiscal year.
-
-

**Justice Court Technology, Security and Training Account
Funding Requests for FY25**

#	Requesting Entity	Description	Requested	Recommended	Notes
1	AOC/Audit	Internal Audit Position Dedicated to the Justice Courts	\$78,700	\$78,700	Cost of one auditor
2	AOC/Information Technology	Programming and Help Desk Support for Justice Courts	\$208,806	\$208,806	Personnel costs attributable to Justice Courts for IT support
3	AOC/Information Technology	Google Accounts for Justice Court Judges and Clerks	\$51,820	\$51,820	Cost of Google accounts for justice court judges and staff
4	AOC/Information Technology	CORIS Infrastructure for Justice Courts	\$164,165	\$164,165	CORIS Infrastructure for Justice Courts
5	AOC/Information Technology	Webex Licenses and Support	\$20,000	\$20,000	Covers the partial cost of Webex licenses used by Justice Courts
6	AOC/Judicial Institute (Education)	Request for Justice Courts' Share of Education's Overhead Costs	\$46,081	\$46,081	Learning Management System, Professional Memberships and Training of Education Personnel
7	AOC/Judicial Institute (Education)	Judicial Decision Making	\$9,000	\$9,000	Funding for an overnight program for 15 judges
8	AOC/Judicial Institute (Education)	Small Claims Training for Judges Pro Tem	\$1,000	\$1,000	Three hours of small claims training provided each year for judges pro tem
9	AOC/Judicial Institute	Education Coordination Fee	\$50,000	\$50,000	Coordination of all Justice Court events with personnel from Education
10	AOC/Judicial Institute	Justice Court Education Coordinator	\$47,126	\$47,126	Funding for half of the Justice Court Education Coordinator
11	AOC/Judicial Institute	New Judge Orientation	\$1,500	\$1,500	Estimated cost of orientation for new justice court judges up to three times per year
12	AOC/Judicial Institute	Justice Court Clerks' Conference	\$18,500	\$18,500	Estimated cost of providing an in-person conference to 250 clerks (with a registration fee of \$150 per clerk)
13	AOC/Judicial Institute	Justice Court Judges' Conference (Spring)	\$26,450	\$26,450	Estimated cost of providing an in-person conference for all judges in spring 2025 (with a registration fee of \$175 per judge)
14	AOC/Judicial Institute	Annual Judicial Conference (Fall)	\$25,625	\$25,625	Estimated cost of having 35 judges attend the Annual Judicial Conference (with no registration fee)

#	Requesting Entity	Description	Requested	Recommended	Notes
15	Board of Justice Court Judges	Deputy Justice Court Administrator	\$74,000	\$74,000	Additional funding required for the Deputy Justice Court Administrator
16	Board of Justice Court Judges	Computer Equipment for Judges	\$10,000	\$10,000	Funding for the cost of computer equipment (for judges only)
17	Board of Justice Court Judges	District Trainings	\$9,000	\$9,000	Funding to provide lunch at district level training for judges and clerks @ \$18 each
18	Board of Justice Court Judges	Financial Assistance for Active Senior Judges to Attend the Spring Conference	\$2,250	\$2,250	Three active senior judges @ \$750 each
19	Board of Justice Court Judges	Out-of-State Training Fund	\$20,000	\$20,000	Funding for out-of-state training and other educational opportunities
20	Board of Justice Court Judges	Stipend for Education Liaison	\$1,500	\$1,500	Education Committee members will receive a \$1000 stipend but the chair would otherwise receive nothing
21	Board of Justice Court Judges	Westlaw Access	\$15,000	\$15,000	Access to Legal Research for Justice Court Judges
22	Board of Justice Court Judges	Access to Language Line for Justice Courts	\$10,000	\$10,000	Provide access to Language Line for Justice Courts to assist patrons who don't speak English
23	Statutory	Compensation for Presiding and Associate Presiding Judges	\$24,000	\$24,000	Section 78A-7-209.5 requires that PJs receive \$2,000 and APJs receive \$1,000

Total Funding Requests for FY25	\$914,523
--	------------------

Total Allocations Recommended for FY25	\$914,523
---	------------------

Recommended Budget for FY25 (based on projected revenue) \$900,000

Difference Between Recommended Allocations and Recommended Budget	\$ (14,523)
--	--------------------

Fund Balance

Beginning Balance 7/1/2023	\$679,480
Forecasted Collections FY24	\$842,748
Forecasted Max Expenditures	<u>-\$967,120</u>
Ending Fund Balance 6/30/2024	\$555,108
Difference between Recommended Allocation and Recommended Budget	<u>(14,523)</u>
Ending Fund Balance 6/30/2025	\$540,585

Tab 4



A TALE OF TWO SYSTEMS:

AN ASSESSMENT OF ACCESS TO
& QUALITY OF YOUTH DEFENSE
COUNSEL IN UTAH



A TALE OF TWO SYSTEMS

AN ASSESSMENT OF ACCESS TO & QUALITY OF YOUTH DEFENSE COUNSEL IN UTAH

A report of the Gault Center

PRIMARY AUTHOR:

Amy Borrer
Sr. Youth Policy Strategist

CONTRIBUTORS & EDITORS:

HyeJi Kim
Sr. Youth Defense Counsel

Alana Meyer
Youth Defense Counsel

Mary Ann Scali
Executive Director

ACKNOWLEDGMENTS

The Gault Center would like to express our sincere appreciation to the many juvenile legal system professionals across Utah who generously took time from their busy schedules to meet with our assessment team and share their expertise and perspective on Utah's youth defense system.

We thank the judges who welcomed us into their courtrooms and offered insight into youth defense practices in their jurisdictions. We also thank the youth defense attorneys, county attorneys, juvenile probation staff, court administrators, facility directors and staff, policymakers, advocates, and others across Utah who shared their experiences and knowledge. Their input was invaluable and made this assessment possible.

We could not have conducted this assessment without the support and guidance of many individuals, most notably: Matthew Barraza and Adam Trupp, Utah Indigent Defense Commission; Neira Siaperas, Utah Administrative Office of the Courts; Pam Vickrey, Utah Juvenile Defender Attorneys; Brett Peterson, Utah Division of Juvenile Justice Services; and Tiffany Pew, Third District Juvenile Court.

We are especially grateful for the thorough and comprehensive work of the assessment team members who generously donated their expertise and time to travel across Utah. The assessment team conducted comprehensive interviews, observed delinquency court proceedings, toured facilities, participated in meetings, completed pre- and post-site visit briefings and, throughout the entire process, provided tremendous insight, guidance, and feedback to ensure an understanding of the youth defense system in Utah.

Assessment team members included:

Amy Borrer
The Gault Center
Columbus, OH

Tiera Brown
The Gault Center
Denver, CO

Aleksandra Chauhan
University of South Carolina School of Law
Columbia, SC

Laura Cohen
Rutgers Law School
Newark, NJ

Stacie Colling
Office of the Alternative Defense Counsel
Denver, CO

Katrina Goodjoint
The Gault Center
Washington, DC

Ebony Howard
The Gault Center
Birmingham, AL

HyeJi Kim
The Gault Center
New York, NY

Rebba Omer
Georgetown Law Juvenile Justice Clinic
& Initiative
Washington, DC

Amanda Powell
Consultant & Trainer
Columbus, OH

Mary Ann Scali
The Gault Center
Baltimore, MD

Joy Suder
Creighton University School of Law
Omaha, NE

Nydia Thomas
Lone Star Justice Alliance
Austin, TX

Additionally, we appreciate the behind-the-scenes support of the Gault Center staff who coordinated site visits and logistics, prepared briefing materials, collected and analyzed data, compiled and synthesized notes, and assisted in the production of this report.

We earnestly hope the Assessment provides the many dedicated juvenile court professionals in Utah with a critical tool for change and leads practitioners to both build upon existing strengths and vigorously address the challenges within the Utah youth defense system.

TABLE OF CONTENTS

Executive Summary	7
Introduction	10
The Role of Counsel in Delinquency Proceedings	11
The Gault Center’s Assessments of Youth Defense Systems.....	13
Methodology.....	14
Utah’s Juvenile Court & Defense Systems.....	15
Key Findings	18
I. Access to Counsel & Quality of Representation.....	18
A. Early Access to Counsel	19
B. Waiver of Counsel	26
C. Client Contact & Communication	27
D. Initial Proceedings.....	30
E. Case Preparation	35
F. Adjudication & Plea Hearings	41
G. Disposition.....	44
H. Post-Disposition	46
I. Appeals.....	49
II. Systemic Barriers to Effective Youth Defense	51
A. Statewide Standards & Oversight	52
B. Specialization & Youth-Specific Training.....	56
C. County-Based Contract System	60
D. Equitable Treatment of Youth.....	67
E. Costs & Fees.....	68
Strengths & Promising Practices	71
Opportunities for Change: A Call to Action	74
Recommendations to Improve Access to Counsel & Quality of Representation	75
Recommendations to Improve Justice & Fairness for Youth	77

EXECUTIVE SUMMARY

“The right to representation by counsel is not a formality. It is not a grudging gesture to a ritualistic requirement. It is the essence of justice.”¹

In 1967, the United States Supreme Court affirmed children’s constitutional right to due process in delinquency court, including the assistance of counsel. In its decision in *In re Gault*, the Court found that children need “the guiding hand of counsel at every step in the proceedings against [them].”²

The Court recognized that, “Departures from established principles of due process have frequently resulted not in enlightened procedure, but in arbitrariness,”³ and outlined the vital role of counsel for children: “to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether [the child] has a defense and to prepare and submit it.”⁴

But, to this day, although every state has some basic structure to provide attorneys for children, few fully satisfy *Gault*’s mandate of access to counsel for young people.⁵

This assessment of access to counsel and quality of representation for Utah youth is part of a nationwide effort to systematically review and provide information about the provision of defense counsel in delinquency proceedings. Since 2000, the Gault Center has evaluated youth defense delivery systems in 28 states.⁶

The purpose of a state assessment is to provide policymakers, legislators, defense leadership, and other legal system practitioners with a thorough understanding of children’s access to counsel in the state, identify structural and systemic barriers that impede effective representation of children, highlight best practices where found, and make recommendations that will serve as a guide for improving youth defender services for children in the state.

¹ *Kent v. U.S.*, 383 U.S. 541, 561 (1966).

² *In re Gault*, 387 U.S. 1, 36 (1967).

³ *Id.* at 18-19.

⁴ *Id.* at 36.

⁵ NAT’L JUV. DEF. CTR., [ACCESS DENIED: A NATIONAL SNAPSHOT OF STATES’ FAILURE TO PROTECT CHILDREN’S RIGHT TO COUNSEL](#) 4 (2017) [hereinafter ACCESS DENIED].

⁶ *State Assessments*, THE GAULT CTR., <https://www.defendyouthrights.org/initiatives/state-assessments/> (last visited February 23, 2024).

Utah's indigent defense and juvenile court systems have undergone significant transformation over the past decade. The Utah Indigent Defense Commission (IDC), established in 2016, has adopted system and practice standards and, through state grants to counties, is offering support to youth defense attorneys and beginning to chip away at deficient practices that flourish in county-based systems lacking state oversight.

Recent legislative reforms also have ensured that children are represented by counsel throughout a delinquency case proceeding, greatly increased the number of cases diverted from formal juvenile court processing, and significantly reduced Utah's use of secure detention and commitment.

Juvenile court practitioners across the state voiced considerable support for the range of reforms the system has undergone and shared how the reforms challenged them to reconsider their own practices. A probation officer interviewed for this assessment described it as, "We have all evolved through the many changes in the system."

Utah's policymakers, juvenile court practitioners, and IDC should be commended for the work they have done to begin to create a system of indigent defense where it had never before existed and to begin to resize and reshape the juvenile court system. However, much work remains to be done.

This assessment of Utah's youth defense delivery system revealed a tale of two systems: the youth defense system in Salt Lake County and a patchwork, individual contract-based system across the rest of the state. In interviews conducted for this assessment, court professionals across the state repeatedly pointed to Salt Lake County's system as providing the quality of representation necessary to meet the state's constitutional and statutory obligations.

This assessment of Utah's youth defense delivery system revealed a tale of two systems.

In Salt Lake County, youth defense is contracted to an organization that provides its attorneys with office space, technology, salary and benefits, and support staff; it employs a management structure and conducts regular reviews of attorney performance; it provides initial and ongoing youth defense-specific training to all of its employees; and its attorneys specialize in youth delinquency defense.

That organizational infrastructure matters. In the rest of the state, attorneys who represent youth in delinquency proceedings do not benefit from these same supports. With few exceptions, they are solo practitioners who must, in addition to representing children in court, rent office space, provide their own technology support, perform their own clerical duties, juggle multiple contracts and private clients in order to earn a living, navigate local political environments to maintain indigent defense contracts, and manage countless details to keep their small-business law firm afloat.

Some of the key findings of the assessment include:

- Utah has recently enacted several legislative reforms that have greatly improved youth access to counsel throughout the juvenile court process.
- Utah's Indigent Defense Commission is beginning to build a foundation for the state's youth defense delivery system by establishing standards, contracting with managing defenders, and supporting appellate practice.
- Despite the state's recent reforms, Utah's county-based contract system for youth defense continues to limit access to justice for young people.
- Outside of Salt Lake County, youth defense contracts are too often influenced by county prosecutors, do not provide adequate compensation, and do not allow for specialization.
- Youth defenders across Utah are in need of training in case investigation, motions practice, expressed-interest advocacy, trial advocacy skills, and post-disposition advocacy, as well as adolescent development and racial disparities.

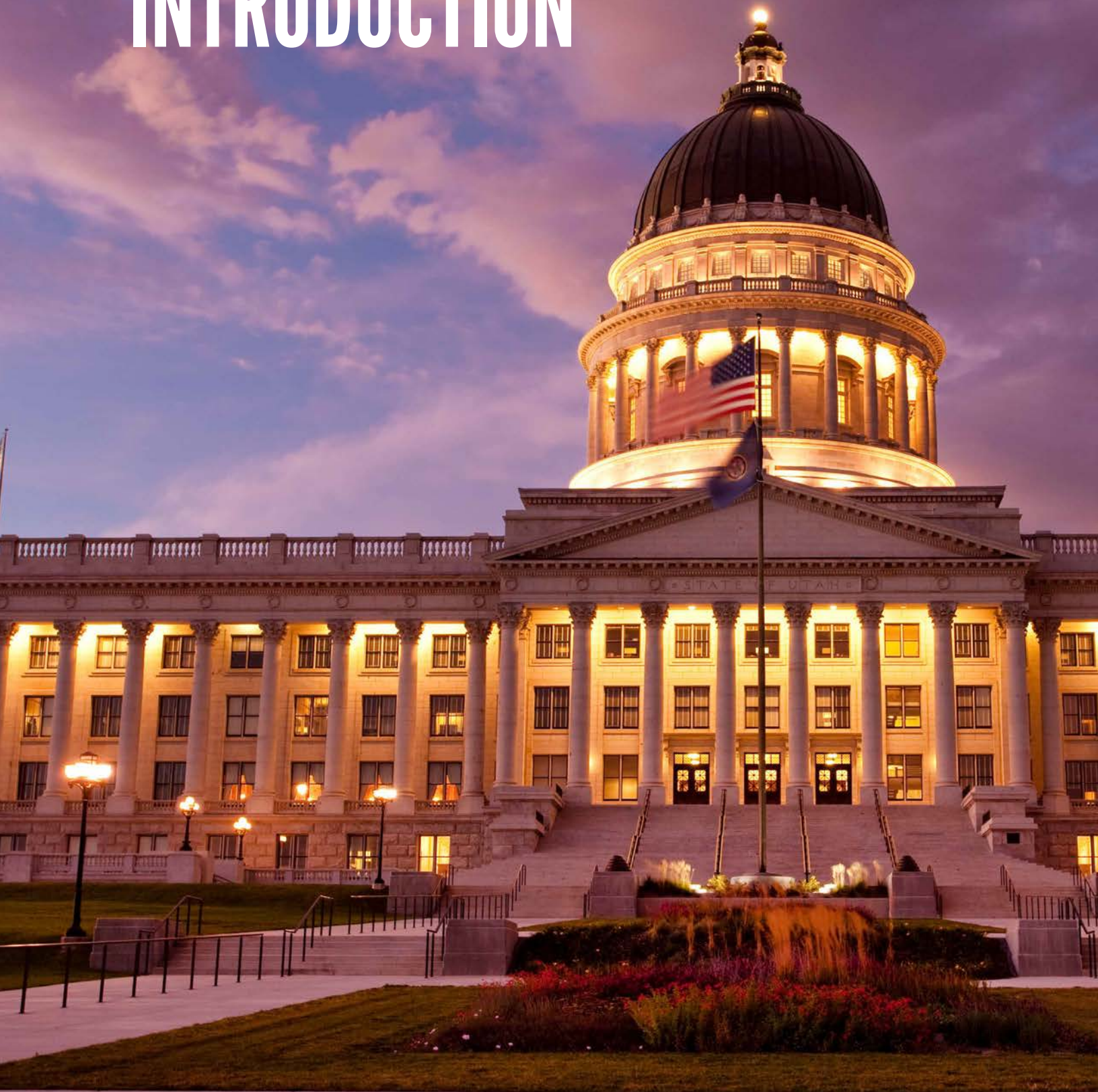
Among other recommendations, this report encourages Utah to:

- Establish a strong statewide system for delivery of youth defense services.
- Ensure the independence of youth defenders.
- Institute pay structures that compensate youth defenders for the time and work needed to provide competent representation.
- Require initial and ongoing training for all youth defenders and managing defenders.
- Establish systems for youth to access counsel at the earliest points of legal system contact.
- Commit to combatting racial disparities.
- Eliminate all fees and costs imposed by the juvenile legal system, particularly costs-of-care charged to families.

Utah's state motto is, simply, "Industry." Merriam-Webster Dictionary defines industry as "systematic labor especially for some useful purpose." For far too long, there has been no system to deliver youth defense in Utah, leaving youth defenders to labor on their own to fulfill the state's obligation to uphold young people's constitutional rights.

Over the past decade, Utah has begun to lay the foundation to provide the systemic supports youth defenders need to fulfill their ethical obligations to their young clients. The state must remain committed to continuing this work. Children in Utah, no matter where they live in the state, have the right to be represented by trained, specialized, zealous expressed-interest attorneys. Utah has both a constitutional obligation and a moral imperative to ensure they receive it.

INTRODUCTION



THE ROLE OF COUNSEL IN DELINQUENCY PROCEEDINGS

“[C]hildren, like adults, are denied their right to counsel not only when an attorney is entirely absent, but also when an attorney is made available in name only.”⁷

On the heels of the United States Supreme Court’s affirmation in 1963 that indigent adults charged with a criminal offense had a right to a publicly funded defense attorney,⁸ the Court decided a series of cases affirming a child’s right to specific due process protections when facing delinquency proceedings.⁹

Seminal among these cases, *In re Gault*, decided in 1967, affirmed that children have a due process right to counsel in delinquency proceedings under the Fourteenth Amendment to the United States Constitution.¹⁰ Justice Abe Fortas, writing for the majority, reasoned:

Under our Constitution, the condition of being a boy does not justify a kangaroo court There is no material difference in this respect between adult and juvenile proceedings of the sort here involved The [child] needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether [the child] has a defense and to prepare and submit it.¹¹

The Court explicitly rejected the claim that others would be capable of protecting the child’s interests and heralded the unique role of counsel: “The probation officer cannot act as counsel for the child Nor can the judge represent the child.”¹² While the judge, the probation officer, and other court personnel are charged with looking out for an accused child’s best interests, children facing “the awesome prospect of incarceration” require counsel to advocate for their stated interests and guide them in proceedings implicating potential loss of liberty.¹³

The right to effective counsel throughout the entirety of a youth’s system involvement is critical.¹⁴ “Of all the rights that an accused person has, the right to be represented by counsel is by far the most pervasive, for it affects his ability to assert any other rights he may have.”¹⁵ It is the youth defender who must insist upon fairness of the proceedings, ensure the child’s voice is heard at every stage of the process, and safeguard the due process and equal protection rights of the child.¹⁶

⁷ U.S. Statement of Interest at 7, *N.P. v. Georgia*, No. 2014-CV-241025 7 (Ga. Super. Ct. Fulton Cnty. 2015).

⁸ *Gideon v. Wainwright*, 372 U.S. 335 (1963).

⁹ *Gault*, 387 U.S. at 1; *Kent v. United States*, 383 U.S. 541 (1966); *In re Winship*, 397 U.S. 358 (1970); *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971).

¹⁰ *Gault*, 387 U.S. at 30-31.

¹¹ *Id.* at 28, 36 (internal citations omitted).

¹² *Id.* at 36.

¹³ *Id.*

¹⁴ See *Strickland v. Washington*, 466 U.S. 668 (1984); *McMann v. Richardson*, 397 U.S. 759, 771, n.14 (1970) (stating that “the right to counsel is the right to the *effective* assistance of counsel” (emphasis added)).

¹⁵ *United States v. Cronin*, 466 U.S. 648, 654 (1984).

¹⁶ See *Gault*, 387 U.S. at 36; see generally *Model Rules of Professional Conduct*, AM. BAR ASS’N, https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/ (last visited January 22, 2024) (outlining the following key ethical duties of counsel: Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer; Rule 1.3: Diligence; Rule 1.4: Communications; Rule 1.8: Conflict of Interest—Current Clients; Rule 1.14: Client with Diminished Capacity).

The youth defender is the only juvenile court system practitioner who is ethically and constitutionally mandated to zealously advocate for the protection of the youth's rights in a manner that is consistent with the youth's expressed interests.¹⁷ This role is distinct from other juvenile court professionals such as the judge, probation officer, guardian *ad litem*, or prosecutor, who consider the perceived "best interests" of the child.¹⁸ If the defense attorney acts in a role akin to an *amicus curiae* (or friend of the court), rather than as a true advocate for the client, the constitutional right to counsel is denied.¹⁹

Effective youth defense not only requires that the attorney must meet all the obligations due to an adult client, but also necessitates expertise in juvenile-specific law and policy, the science of adolescent development and how it impacts a young person's case, skills and techniques for effectively communicating with youth, collateral consequences specific to juvenile court, and various child-specific systems affecting delinquency cases, such as schools and adolescent health services.²⁰

Youth are still developing their cognitive and socio-emotional capacities, which requires defenders to learn about and understand developmental principles.²¹ The youth defender must apply this expertise in representing youth at all stages of the court system, including pretrial detention hearings, advisory hearings, suppression hearings, the adjudicatory phase, disposition hearings, transfer hearings, any competence proceedings, and all points of post-disposition while a youth remains under the jurisdiction of the juvenile court.

Youth defenders must also ensure a client-centered model of advocacy and engage and advise their young clients using developmentally appropriate communication.²² These elements of youth defense advocacy are critical to equipping youth to understand and make informed decisions about their case, including accepting or rejecting a plea offer or going to trial, testifying or remaining silent, developing components of a defense-driven disposition plan, and considering alternatives to juvenile court involvement and programming.²³

Youth defense delivery systems have a responsibility to provide youth defenders with the necessary training, support, and oversight to ensure attorneys have the time needed to build rapport with clients, obtain discovery and conduct investigations, engage in motions practice and appropriately prepare for hearings, monitor the post-disposition needs of clients under the court's jurisdiction, and consult with the client to ensure expressed-interest representation at all stages of court involvement.²⁴

¹⁷ See NAT'L JUV. DEF. CTR., [NATIONAL JUVENILE DEFENSE STANDARDS](#) 18-21 (2012) [hereinafter NATIONAL YOUTH DEFENSE STANDARDS] (detailing the duty of counsel to provide expressed-interest representation, regardless of the lawyer's perception of the best interests of the client, pursuant to Standard 1.1 Ethical Obligations of Youth Defense Counsel and Standard 1.2: Elicit and Represent Client's Stated Interests).

¹⁸ See *id.* at 18-21 (describing counsel's role as an expressed-interest attorney for the child in Standard 1.2: Elicit and Represent Client's Stated Interests).

¹⁹ *Anders v. California*, 386 U.S. 738, 744 (1967).

²⁰ [NATIONAL YOUTH DEFENSE STANDARDS](#), *supra* note 17, at 21-22 (detailing the requirements for specialized youth defense training and representation in Standard 1.3: Specialized Training Requirements for Juvenile Defense).

²¹ See generally NAT'L JUV. DEF. CTR. & NAT'L LEGAL AID & DEF. ASS'N., [TEN CORE PRINCIPLES FOR PROVIDING QUALITY DELINQUENCY REPRESENTATION THROUGH PUBLIC DEFENSE DELIVERY SYSTEMS](#) (2008) [hereinafter NJDC & NLADA TEN CORE PRINCIPLES] (emphasizing the necessity for public defense delivery systems to provide training on "the stages of child and adolescent development").

²² [NATIONAL YOUTH DEFENSE STANDARDS](#), *supra* note 17, at 43-46 (outlining the requirement of effective, developmentally appropriate communication with young clients: Standard 2.6: Overcoming Barriers to Effective Communication with the Client).

²³ See NAT'L JUV. DEF. CTR., [ROLE OF JUVENILE DEFENSE COUNSEL IN DELINQUENCY COURT](#) 9 (2009) (outlining youth defense counsel's unique role in equipping young people with information to be the primary decisionmakers at different points in their cases).

²⁴ See [U.S. Statement of Interest, N.P. v. Georgia](#), *supra* note 7, at 14 ("A juvenile division should have the resources to monitor workloads so that attorneys are available to advocate for clients at intake and during detention and probable cause hearings. Outside of court, they need adequate time to meet with clients, investigate the prosecution's factual allegations, engage in a robust motions practice, devote time to preparing for trial and the disposition process, and to monitor and advocate for the needs of post-disposition clients who are still within the court's jurisdiction.").

States have an obligation to ensure that children are afforded the due process protections enshrined in the Constitution and enumerated in *Gault*, including the vital role of qualified defense counsel. Merely having counsel present for children in delinquency proceedings is inadequate if that counsel does not have sufficient time, resources, and expertise to provide effective advocacy. For this reason, both access to counsel and quality of representation are essential elements of protecting due process rights.

THE GAULT CENTER'S ASSESSMENTS OF YOUTH DEFENSE SYSTEMS

The Gault Center, formerly known as the National Juvenile Defender Center, is dedicated to promoting justice for all children by ensuring excellence in youth defense. For more than 25 years, the Gault Center has worked to better understand how the defense of young people in juvenile court is delivered, state by state, and to support improvement in the delivery of those services.

By conducting statewide assessments of youth defense delivery systems, the Gault Center examines how and when youth access counsel, the quality of representation they receive, and the systemic impediments that prevent youth from receiving high-quality representation. The assessments provide policymakers and leaders with baseline information and data to make informed decisions regarding the structure, funding, and oversight of youth defense and to improve the system of delivering defense services.

The Gault Center has conducted statewide assessments of youth defense systems in 28 states.²⁵ These assessments gather information and data about the structure and funding of defense systems and examine whether youth receive counsel at all critical stages, the timing of appointments, waiver of counsel, youth defense resource allocation, supervision and training, and access to investigators, experts, social workers, and support staff. Reports note promising practices within a state and offer recommendations for improvements.

Several consistent themes have emerged across state assessments, including an array of systemic barriers that prohibit youth from receiving timely access to qualified youth defense counsel, youth defense not being recognized as a specialized legal practice, and youth defense being significantly under-resourced. Since the *Gault* decision, youth defense systems have faltered and failed in many jurisdictions, leaving far too many children defenseless in courts of law across the country.²⁶

States have used assessment report recommendations to implement changes to policies and practices that strengthen youth defense and ensure fair and equitable treatment for youth. Recommendations have been embraced by legislators, courts, defenders, bar associations, law schools, and others to raise the bar with legislative and other policy reforms, through increased funding, enhanced training, and other means. Effective youth defense representation improves the administration of justice and can significantly impact life outcomes for youth facing the juvenile legal system.

²⁵ *State Assessments*, *supra* note 6.

²⁶ See generally [ACCESS DENIED](#), *supra* note 5 (providing a national snapshot of the reality of access to counsel for youth).



METHODOLOGY

The Gault Center began its assessment process in Utah through conversations with local- and state-level juvenile court system practitioners and decisionmakers who were interested in better understanding the system of youth defense in the state. In March 2022, the Utah Indigent Defense Commission invited the Gault Center to conduct a statewide assessment of Utah’s youth defense delivery system.

The Gault Center then began a thorough review of Utah’s juvenile code, caselaw, and statutes related to youth defense; met virtually with state and local court and defense officials; and collected census and court data. After evaluating a wide range of factors, the Gault Center identified counties for site visits considered to be representative of the heterogeneity found in counties across the state along criteria such as population size, geographic location, presence or absence of detention and/or commitment facilities, ethnic/racial diversity, urban/suburban/rural setting, type of youth defense delivery system, and number of delinquency petitions filed annually.

Site visits were originally scheduled in August and September 2022, but were delayed to March–May 2023 because Utah’s juvenile courts were operating almost exclusively remotely due to a surge in the COVID-19 pandemic in the late summer of 2022. During this delay, the Gault Center modified existing court observation protocols and forms to collect data about virtual court hearings. In January and February 2023, Gault Center team members observed 41 virtual juvenile delinquency court hearings across Utah.

In-person site visits were conducted by a 13-member assessment team that included current and former public defenders, private practitioners, academics, and policy advocates. Each assessment team member has several years of experience in the field, and many are considered national experts in the field of youth defense. The assessment team was trained on the Gault Center’s assessment protocols and participated in briefings regarding their respective counties, as well as research, reports, and background information about Utah’s juvenile court and defense systems.

Two assessment team members went to each of the selected counties, where they conducted interviews, court observations, and tours of courthouses and juvenile detention and commitment facilities. Using interview questionnaires developed by the Gault Center and specifically adapted for use in Utah, the assessment teams interviewed defense lawyers, prosecutors, judges, court administrators, probation officers and supervisors, and detention facility staff. Interviews focused on the role and performance of defense counsel, access to counsel at all critical stages, and systemic impediments to effective representation.

Jointly, the assessment team completed 66 confidential interviews and observed approximately 124 court proceedings across the counties. Completed questionnaires, court and facility observation forms, and other documentation were submitted to the Gault Center for incorporation into this assessment report. The interview questionnaires and court and facility observation forms were coded and analyzed using Dedoose, qualitative data analysis software, to identify trends and outlying practices and policies.

The Gault Center's typical practice in state assessment reports is to not identify jurisdictions, in order to maintain the confidentiality ensured to interview participants and so the report is focused on statewide trends in youth defense and not individual county issues. Here, however, we do name Salt Lake County in several places because it was held up by interviewees across the state as demonstrating many elements of effective youth defense practice.

This report and its recommendations are the result of a yearlong assessment of Utah's system of providing counsel to youth in delinquency proceedings. It assesses Utah's youth defense system in the context of what is constitutionally required and uses national standards, research, and best practices as a foundation for review. The report can provide a roadmap to support both positive practices and reforms that can further the integrity of the juvenile legal system by ensuring adequate due process and equal protection of the law through well-trained, effective lawyers for all youth.

UTAH'S JUVENILE COURT & DEFENSE SYSTEMS

Utah has a statewide court system, consisting of the Utah Supreme Court, the intermediate Utah Court of Appeals, and District, Juvenile, and Justice Courts.²⁷ Utah's trial-level courts are organized into eight judicial districts, with each judicial district encompassing three to six counties.²⁸ The court system is governed by the Utah Judicial Council, which is charged with the creation of uniform rules for the administration of courts and standards for court personnel and facilities.²⁹

Utah's juvenile courts have exclusive original jurisdiction over any youth under 18 accused of violating any federal, state, or municipal law and over any traffic offenses involving minors.³⁰ Juvenile courts also have jurisdiction in cases of abuse, neglect, or dependency; termination of parental rights, and matters of child custody, support, and visitation in certain cases; and "ungovernable or runaway [youth]" if efforts by other social service agencies are not successful.³¹

Utah juvenile courts also administer probation departments, which supervise youth, conduct evaluations, and prepare dispositional and progress reports.³² Utah's juvenile courts are of equal status as District Courts, which serve as the state's trial courts of general jurisdiction, and all appeals from juvenile courts are heard in the Utah Court of Appeals.³³ The Board of Juvenile Court Judges adopts administrative rules that govern juvenile courts and oversees juvenile courts' implementation of Judicial Council rules and standards.³⁴

²⁷ UTAH CODE ANN. § 78A-1-101.

²⁸ *Id.* at § 78A-1-102.

²⁹ *Id.* at § 78A-2-104.

³⁰ *Id.* at §§ 78A-6-103-103.5.

³¹ *Id.* at § 78A-6-103.

³² *Id.* at § 78A-6-205.

³³ *Id.* at § 78A-4-103.

³⁴ *Id.* at § 78A-6-203.

In 2015, the Sixth Amendment Center released an assessment report on trial-level indigent defense services in Utah.³⁵ Commissioned by the Utah Judicial Council's Study Committee on the Representation of Indigent Criminal Defendants, the Sixth Amendment Center's study examined the delivery of trial-level defense services in adult criminal courts (not in juvenile courts).³⁶

The Sixth Amendment Center found that, statewide, more than 60 percent of adults charged with misdemeanors were not represented by counsel; in many courts, that number was closer to 75 percent.³⁷ Utah adults charged with felonies were represented by counsel, but "that lawyer may work under financial conflicts of interest, or may be beholden to a prosecutor to secure future work, or may be appointed too late in the process or be juggling too many cases to be effective."³⁸

The assessment concluded that Utah had "no institutional statewide presence, and a limited statewide capacity, to ensure that its constitutional obligations under the Sixth and Fourteenth Amendments are being met at the local level."³⁹

In 2016, in response to the Sixth Amendment Center's findings, the Utah State Legislature adopted the Utah Indigent Defense Act, which created the Utah Indigent Defense Commission (IDC).⁴⁰ The purpose of Utah's IDC is to "assist the state in meeting the state's obligations for the provision of indigent defense services, consistent with the United States Constitution, the Utah Constitution, and the Utah Code."⁴¹

Under the Indigent Defense Act, the IDC is statutorily mandated to develop and adopt core principles for indigent defense systems consistent with the U.S. and Utah Constitutions.⁴² Those principles must ensure that "an indigent individual receives conflict-free indigent defense services"⁴³ and that those who provide defense services are independent, have access to adequate resources, can provide representation at all critical stages of proceedings, have a workload that allows for effective representation, are adequately compensated, are properly trained, and are able to meet their obligations under the Utah Rules of Professional Conduct.⁴⁴

In November 2016, the Utah Juvenile Justice Working Group, created by Utah's governor, chief justice, senate president, and house speaker, released its Final Report.⁴⁵ Among the group's major findings was that "[m]ost youth do not receive legal representation throughout the duration of the court process, even when their liberty is at stake."⁴⁶ Utah law at the time required the appointment of counsel only when

³⁵ See SIXTH AMEND. CTR., [THE RIGHT TO COUNSEL IN UTAH: AN ASSESSMENT OF TRIAL-LEVEL INDIGENT DEFENSE SERVICES](#) (2015) (reporting on the current state of public defense services in Utah following an 18-month study of ten sample counties).

³⁶ *Id.* at 4 n.7 ("Though the federal right to counsel extends to cases of indigent juveniles accused of delinquent acts, delinquency representation is not a focus of this report.").

³⁷ *Id.* at 19 ("More people accused of misdemeanors are processed through Utah's justice courts without a lawyer than are represented by counsel – upwards of 62 percent of defendants statewide . . .").

³⁸ *Id.* at X.

³⁹ *Id.* at 46.

⁴⁰ UTAH CODE ANN. § 78B-22-401; see SIXTH AMEND. CTR., [THE RIGHT TO COUNSEL IN UTAH: AN ASSESSMENT OF TRIAL-LEVEL INDIGENT DEFENSE SERVICES](#), *supra* note 35, at 90-96 (recommending that Utah form a statewide indigent defense commission to set standards for the provision of public defense and monitor compliance against those standards).

⁴¹ UTAH CODE ANN. § 78B-22-401(2)(a).

⁴² *Id.* at § 78B-22-404.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ See generally UTAH JUV. JUST. WORKING GRP., [UTAH JUVENILE JUSTICE WORKING GROUP FINAL REPORT](#) (2016) [hereinafter UTAH JUV. JUST. WORKING GROUP FINAL REPORT].

⁴⁶ *Id.* at 2.

a youth was charged with a felony-level act, but allowed juvenile courts to place youth charged with misdemeanors and contempt in state custody.

The Working Group recommended that Utah law be amended to mandate that counsel be appointed in all juvenile court cases and to remove the requirement for an indigence determination before appointing counsel; that the appointment of counsel continue through all appellate proceedings; and that the recently formed IDC oversee the legal representation of young people in juvenile court.⁴⁷

In August 2017, IDC adopted Core System Principles,⁴⁸ which have evolved into the Core System Principles for Indigent Defense Services [hereinafter System Principles].⁴⁹ In February 2018, IDC adopted Core Principles for Appointed Attorneys Representing Youth in Delinquency Proceedings [hereinafter Youth Defense Principles].⁵⁰ The Youth Defense Principles outline the unique responsibilities of attorneys who represent young people in delinquency proceedings, including their role as expressed-interest advocates,⁵¹ the need for youth-specific training and expertise,⁵² and the scope of their representation,⁵³ including case preparation,⁵⁴ disposition advocacy,⁵⁵ representation in certification cases,⁵⁶ and appeals.⁵⁷

In March 2019, Utah's governor signed into law amendments to the Indigent Defense Act.⁵⁸ Importantly, this legislation enacted a mandate that courts appoint counsel to all youth in delinquency cases and that counsel be present at all stages of the proceedings, including detention, post-dispositional review hearings, and on appeal.⁵⁹ During the Utah legislature's second special session in 2021, House Bill 2003 removed the requirement that children being appointed counsel in juvenile court submit an affidavit of indigency.⁶⁰

Even with the creation of the IDC and its promulgation of standards, the structure for the provision of constitutionally mandated defense services remains the responsibility of Utah's counties, cities, and towns.⁶¹

Utah has proven its commitment to improving its juvenile court system and to establishing state oversight of defense services. It can take the next step in ensuring justice for children by fully supporting the systematic provision of youth defense services in consideration of the findings, recommendations, and discussion of best practices related to youth defense that follow.

⁴⁷ *Id.* at 15.

⁴⁸ *Standards*, UTAH INDIGENT DEF. COMM'N., <https://idc.utah.gov/policies-and-standards> (last visited January 22, 2024).

⁴⁹ See UTAH INDIGENT DEF. COMM'N., *CORE SYSTEM PRINCIPLES FOR INDIGENT DEFENSE SYSTEMS* (2024) [hereinafter UTAH INDIGENT DEF. COMM'N. SYSTEM PRINCIPLES].

⁵⁰ See UTAH INDIGENT DEF. COMM'N., *CORE PRINCIPLES FOR APPOINTED ATTORNEYS REPRESENTING YOUTH IN DELINQUENCY PROCEEDINGS* (2018) [hereinafter UTAH INDIGENT DEF. COMM'N. YOUTH DEFENSE PRINCIPLES].

⁵¹ *Id.* at 3 (describing the role of the youth defense attorney in Principle 1: Role of the Attorney as “. . . independent, conflict-free, individualized, developmentally appropriate, and based on the client's expressed wishes.”).

⁵² *Id.* at 4 (describing the requirements that youth defense attorneys should have specialized knowledge, expertise, and training in Principle 3: Areas of Knowledge and Expertise & Principle 4: Qualifications, Training, and Ongoing Education).

⁵³ *Id.* at 5 (defining the “proper period of representation” and the need to continue representation “until court jurisdiction is terminated” in Principle 5: Scope of Representation).

⁵⁴ *Id.* (outlining the requirement to meaningfully investigate and litigate the delinquency case in Principle 6: Addressing the Allegations).

⁵⁵ *Id.* (describing effective advocacy at the disposition phase in Principle 7: Dispositional Advocacy).

⁵⁶ *Id.* at 6 (outlining the requirements for effective representation for attorneys representing youth in certification cases in Principle 8: Clients Facing Risk of Adult Prosecution).

⁵⁷ *Id.* (outlining the duties of the defense attorney regarding the client's right to appeal in Principle 10: Appellate Representation).

⁵⁸ *S.B. 32*, 2019 Gen. Sess. (Utah 2019).

⁵⁹ UTAH CODE ANN. § 78B-22-203; UTAH CODE ANN. § 78B-22-204.

⁶⁰ *Id.* at § 78B-22-201.5(5).

⁶¹ *Id.* at § 78B-22-102(9).



KEY FINDINGS

I. ACCESS TO COUNSEL & QUALITY OF REPRESENTATION

*“Justice systems must ensure that the right to counsel comprehends traditional markers of client advocacy and adequate structural support to ensure these traditional markers of representation are met”*⁶²

Youth defense counsel must be recognized as an essential component of a developmentally appropriate juvenile court system, as youth need “the guiding hand of counsel at every step in the proceedings against [them].”⁶³ Counsel “is essential to the administration of justice and to the fair and accurate resolution of issues at all stages of those proceedings.”⁶⁴

Access to counsel is essential to due process. Beyond being a matter of justice, the perception of fairness strengthens the legitimacy of the court. “Treating youth fairly and ensuring that they perceive that they have been treated fairly and with dignity contribute to positive outcomes in the normal process of social learning, moral development, and legal socialization during adolescence.” If youth feel they have been treated fairly, recidivism is reduced.⁶⁵

A. Early Access to Counsel

Children need the assistance of counsel, and no one — not a probation officer, judge, or family member — can substitute as counsel for a young person.⁶⁶ Utah law mandates that “an indigent defense service provider has . . . that ability to provide representation . . . at all stages to indigent individuals in juvenile delinquency . . . proceedings.”⁶⁷ Indigent defense systems in Utah “must ensure that as soon as feasible, defense counsel is assigned and notified of appointment, and indigent individuals are notified of the identity of assigned counsel and how to contact counsel.”⁶⁸

1. ACCESS TO COUNSEL AT INTERROGATION

The first time a youth has an explicit right to counsel is during police interrogation. In 1966, the United States Supreme Court ruled that people subject to police interrogation must, at a minimum, be advised of their right to consult a lawyer, to protect their Fifth Amendment right to silence.⁶⁹ The following year, the Court explicitly acknowledged in *Gault* that this protection extends to youth under the Fourteenth Amendment’s Due Process Clause.⁷⁰

⁶² U.S. Statement of Interest, *N.P. v. Georgia*, *supra* note 7, at 11.

⁶³ *In re Gault*, 387 U.S. 1, 36 (1967).

⁶⁴ INST. OF JUD. ADMIN. & AM. BAR ASS’N., *JUVENILE JUSTICE STANDARDS: STANDARDS RELATING TO COUNSEL FOR PRIVATE PARTIES* 11 (1979) [hereinafter *IJA-ABA STANDARDS RELATING TO COUNSEL FOR PRIVATE PARTIES*] (Standard 1.1: Counsel in Juvenile Proceedings, Generally).

⁶⁵ NAT’L COUNCIL OF JUV. AND FAM. CT. JUDGES ET AL., *HONORING GAULT* 1 (quoting NAT’L RSCH. COUNCIL, *REFORMING JUVENILE JUSTICE: A DEVELOPMENTAL APPROACH* 6 (2013)).

⁶⁶ *See Gault*, 387 U.S. at 35-36.

⁶⁷ UTAH CODE ANN. § 78B-22-404 (1)(ii)(C).

⁶⁸ *UTAH INDIGENT DEF. COMM’N. SYSTEM PRINCIPLES*, *supra* note 49, at 3 (Principle 3B: Scope of Representation: Stages of Proceedings).

⁶⁹ *Miranda v. Arizona*, 384 U.S. 436, 437 (1966).

⁷⁰ *Gault*, 387 U.S. at 55.

Police questioning is an especially fraught experience for youth; they face an inherent imbalance of power, which necessitates special care be taken to afford their rights.⁷¹ Youth are particularly susceptible to manipulative strategies commonly used in interrogations, and they often waive their rights or offer confessions in response to unrealistic or short-term incentives.⁷² Interrogation should be recognized as a critical stage of the proceedings at which young people should be represented by publicly funded defense counsel.⁷³

Police questioning is an especially fraught experience for youth.

In recognition of the harms to both youth and the integrity of law enforcement investigations, states are beginning to legislatively mandate that children consult with defense counsel before they may waive their *Miranda* rights and proceed with law enforcement questioning.⁷⁴ These key statutory protections recognize what the U.S. Supreme Court acknowledged more than 70 years ago:

[W]e cannot believe that a lad of tender years is a match for the police in such a contest. He needs counsel and support if he is not to become the victim first of fear, then of panic. He needs someone on whom to lean lest the overpowering presence of the law, as he knows it, may not crush him.⁷⁵

Utah law provides that youth cannot be interrogated unless they have been advised of their constitutional rights and of the statutory right to have a parent, guardian, or friendly adult present.⁷⁶ Under the same law, if the law enforcement agency has been unable to contact a parent or guardian within one hour after the youth has been taken into custody, the right effectively disappears.⁷⁷ Utah law also provides that the interrogator cannot make false statements to the youth or unauthorized statements about leniency.⁷⁸ The Rules of Juvenile Procedure also delineate the state's burden to show by a preponderance of evidence that any waiver of constitutional rights is done so knowingly, voluntarily, and in accordance with state statute.⁷⁹

These statutory protections, however, do not appear to be sufficient to uphold children's constitutional right to counsel at interrogation. No court practitioner interviewed for this assessment was aware of a system in place to ensure defense counsel could be available to consult with a young person facing interrogation. With the exception of youth who are already represented by counsel and those whose families can afford to hire private counsel, it appears that children in Utah very rarely exercise their right to

⁷¹ *Haley v. Ohio*, 332 U.S. 596, 599 (1948) (“[W]hen, as here, a mere child—an easy victim of the law—is before us, special care in scrutinizing the record must be used. Age 15 is a tender and difficult age for a boy of any race. He cannot be judged by the more exacting standards of maturity. That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens. This is the period of great instability which the crisis of adolescence produces.”).

⁷² *See, e.g.*, *Dassey v. Dittmann*, 201 F.Supp. 3d 963, 993-1007 (E.D. Wis. 2016) (finding Brendan Dassey's confession involuntary because of the investigators' use of false promises); *Taylor v. Maddox*, 366 F.3d 992, 1013-1016 (9th Cir. 2004); *see generally*, INT'L ASS'N OF CHIEFS OF POLICE, *REDUCING RISKS: AN EXECUTIVE'S GUIDE TO EFFECTIVE JUVENILE INTERVIEW AND INTERROGATION* (2012) (detailing research and legal developments surrounding police interrogations of youth).

⁷³ *ACCESS DENIED*, *supra* note 5, at 16 (“States should recognize interrogation as a critical stage of juvenile proceedings requiring a publicly funded defense lawyer to protect children from potential abuses of authority.”).

⁷⁴ *See, e.g.*, 705 ILL. COMP. STAT. ANN. § 405/5-170(a); CAL. WELF. & INST. § 625.6; WASH. REV. CODE ANN. § 13.40.740; MD. CODE ANN. § 3-8A-14.2.

⁷⁵ *Haley v. Ohio*, 332 U.S. 596, 599-600 (1948).

⁷⁶ UTAH CODE ANN. § 80-6-206.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ UTAH R. JUV. P. 27A.



counsel during police interrogation. One juvenile court judge acknowledged that “it would be nice to have the resources to have public defenders meet with children before they implicate themselves.”

Utah is to be commended for providing important statutory protections to young people who are questioned by law enforcement. The state should take the next step and join those states at the forefront of recognizing the importance of counsel at this critical stage by mandating that youth be advised by defense counsel before being allowed to waive their rights prior to police interrogation.

2. ACCESS TO COUNSEL AT PRELIMINARY INQUIRY/NONJUDICIAL ADJUSTMENT

When a referral is made to juvenile court about an offense allegedly committed by a young person, a juvenile probation officer makes a preliminary inquiry to determine whether the youth is eligible for a nonjudicial adjustment.⁸⁰ A nonjudicial adjustment, or NJA, is an agreement between the youth, their parent, and the probation officer that can avoid a formal charge in juvenile court.⁸¹ During a preliminary inquiry, the probation officer may conduct a validated risk and needs assessment, consult with the prosecuting attorney, and require the youth to undergo drug and alcohol screening.⁸² The youth must be notified of their right to counsel during the preliminary inquiry process.⁸³

If the youth has been referred for an offense alleged to have occurred before the youth turned 12 or if they have been referred for a misdemeanor, infraction, or status offense; have no more than two prior adjudications; and have no more than two prior unsuccessful nonjudicial adjustment attempts, the juvenile probation officer must offer a nonjudicial adjustment.⁸⁴ For youth 12 and older, juvenile probation officers

⁸⁰ UTAH CODE ANN. § 80-6-303.5(1).

⁸¹ *Nonjudicial Adjustments*, UTAH COMM’N ON CRIM. & JUV. JUST., [HTTPS://JUSTICE.UTAH.GOV/JUVENILE-JUSTICE/JUVENILE-JUSTICE-OVERSIGHT-COMMITTEE/NON-JUDICIAL-ADJUSTMENTS/](https://justice.utah.gov/juvenile-justice/juvenile-justice-oversight-committee/non-judicial-adjustments/) (last visited February 28, 2024).

⁸² UTAH CODE ANN. § 80-6-303.5(3).

⁸³ UTAH R. JUV. P. 15(c).

⁸⁴ UTAH CODE ANN. § 80-6-303.5(4).

are guided by a statutorily defined list of ineligible offenses and may elect to offer the youth a nonjudicial adjustment.⁸⁵ A youth cannot be required to admit guilt as part of the nonjudicial adjustment.⁸⁶

As part of an NJA, a probation officer can require a youth to pay a fine, pay restitution, complete community service, attend counseling and substance abuse treatment, and comply with specified restrictions on their activities or associations, among other conditions.⁸⁷ An NJA can initially last up to 90 days but can be extended by a juvenile court judge.⁸⁸ If a youth does not successfully comply with an NJA, the prosecutor may file a petition against the youth for the alleged conduct.⁸⁹

Court professionals interviewed for this assessment reported that children are represented by counsel during the preliminary inquiry or nonjudicial adjustment stages of the proceedings either “rarely” or “never.” Those who recalled cases in which a youth was represented by counsel at this stage reported that only youth whose families could afford to hire private counsel were represented during the preliminary inquiry or NJA period.

According to interviewees, in some counties, if a youth requests counsel during the preliminary inquiry/ NJA phase, their case must be petitioned into juvenile court – the formal processing the NJA is intended to avoid – so that the youth can be appointed counsel. One person reported that when this happens in their jurisdiction, “non-judicial is taken off the table as an option.”

Without defense attorneys involved in this stage of the process, probation officers reported that they explain children’s rights to them. One explained, “That’s when it gets tricky, because they typically have questions, and we can’t answer them.” Another probation officer said, “We can’t give legal advice, so it makes it difficult to build rapport with a youth when they ask, ‘What do you think I should do?’ and we can’t give them advice.”

“A judge, a clerk, a bailiff, a prosecutor, a probation officer, a defense attorney, all appearing in court. And 95 percent of the time, the kid refused the non-judicial simply because they didn’t understand [the process or their rights]. It is a huge waste of resources for very low-level offenses and kids with low risk levels.”

Interviewees in Salt Lake County described the impacts of this dynamic. According to probation officials and youth defense attorneys, each month about 10 to 15 youth decline an NJA in Salt Lake County. When a youth declines to enter into an NJA, the case is sent to the prosecutor, who reviews and petitions the case. A youth defender described: “A judge, a clerk, a bailiff, a prosecutor, a probation officer, a defense attorney, all appearing in court. And 95 percent of the time, the kid refused the non-judicial simply because they didn’t understand [the process or their rights]. So then the prosecutor says we should send it back [to the NJA process], and off it goes. It is a huge waste of resources for very low-level offenses and kids with low risk levels.”

⁸⁵ *Id.* at § 80-6-303.5(8).

⁸⁶ *Id.* at § 80-6-304(3).

⁸⁷ *Id.* at § 80-6-304(1).

⁸⁸ *Id.* at § 80-6-304(5).

⁸⁹ *Id.* at § 80-6-304.5(5).

This misunderstanding of the NJA process has long-term implications for youth, as well. A youth defender explained that, “A declined NJA that gets petitioned and then sent back for NJA is not eligible for automatic expungement. So youth who decline simply out of confusion also remove themselves from auto-expungement eligibility without understanding that consequence.”

A nonjudicial adjustment can save a young person from formal court involvement but can also result in financial sanctions and conditions that severely curtail the youth’s freedom, and a youth who does not successfully comply with an NJA may face formal court charges. Consultation with defense counsel can help ensure a young person understands the charges against them, their rights and options prior to entering into an NJA, the conditions that will be placed upon them by the NJA, and the possible consequences of successful or unsuccessful completion.

Utah should ensure defense counsel is readily available to consult with youth during the preliminary inquiry phase and to represent youth during the NJA period. This time is a critical juncture in a child’s involvement with the legal system; if they are able to successfully navigate the NJA period, they will have no formal court record, which means fewer barriers to education, jobs, and other opportunities critical to success. Providing counsel can improve the experience youth and families have while in this process, and ultimately lead to better success and long-term public safety.

3. TIMING OF APPOINTMENT OF COUNSEL

Counsel’s immediate action early in a case is vital to ensuring the child’s interests are protected “at every step in the proceedings.”⁹⁰ Early and frequent contacts are also important opportunities for the defender and child to build rapport, trust, and confidence in each other.⁹¹ By some measure, *when* counsel is appointed is as important as *whether* counsel is appointed at all.⁹²

The National Council of Juvenile and Family Court Judges (NCJFCJ) encourages juvenile courts to ensure that defense counsel is appointed far enough in advance of an initial hearing to allow youth to meet with counsel “to fully explore the options and make advised and considered decisions about the best course of action.”⁹³ When a summons is served, it should “provide information regarding options for obtaining counsel for the youth prior to the initial hearing, so that counsel has time to prepare, hearings do not need to be unnecessarily continued, and the process proceeds in as timely a fashion as possible.”⁹⁴ Delayed appointment of counsel “creates unnecessary and inefficient delays” and prevents the youth defender “from being able to prepare for the initial hearing prior to the court date.”⁹⁵

NCJFCJ’s guidelines note that these delays are unique to children who rely on court-appointed attorneys: “Families who can afford private counsel do not have these barriers and rarely appear at a detention or initial juvenile [delinquency] court hearing without prior consultation with counsel.”⁹⁶

⁹⁰ *In re Gault*, 387 U.S. 1, 36 (1967).

⁹¹ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 34-36 (describing the importance of building a foundation of mutual trust and confidence between the attorney and client in Standard 2.1: Role of Youth Defense Counsel at Initial Client Contact Commentary).

⁹² See, e.g., NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 34, 52-53 (stressing the significance of early appointment of counsel in Standard 2.1: Role of Youth Defense Counsel at Initial Client Contact and Standard 3.1: Representation of the Client Prior to Initial Proceedings); INST. FOR JUD. ADMIN. & AM. BAR ASS’N, JUVENILE JUSTICE STANDARDS ANNOTATED: A BALANCED APPROACH 74-75 (1996); NAT’L COUNCIL OF JUV. AND FAM. CT. JUDGES, ENHANCED JUVENILE JUSTICE GUIDELINES, CH. III: INITIATING THE JUVENILE COURT PROCESS 16-17 (2018) [hereinafter NCJFCJ ENHANCED YOUTH JUSTICE GUIDELINES, CH. III].

⁹³ NCJFCJ ENHANCED YOUTH JUSTICE GUIDELINES, CH. III, *supra* note 92, at 25.

⁹⁴ *Id.* at 21.

⁹⁵ *Id.* at 25.

⁹⁶ *Id.*

Utah's Youth Defense Principles state that "[e]ffective representation commences in a timely manner, extends for the proper period of representation, and proceeds with reasonable continuity."⁹⁷ The Principles call for youth defenders to "represent the client from the initial court proceeding through all subsequent delinquency proceedings until court jurisdiction is terminated, including at detention hearings . . ." and to "be present at all court hearings . . ."⁹⁸

In 2019, Utah mandated the automatic appointment of counsel for youth in delinquency proceedings.⁹⁹ In 2021, the state exempted children from the indigency determination process so that financial eligibility guidelines do not apply and cannot prevent children from being appointed counsel.¹⁰⁰

Many court professionals interviewed for this assessment reported that counsel is appointed automatically in their county, either as soon as a youth is detained or within one day of a petition being filed. In those jurisdictions, interviewees reported that counsel is always present at a youth's first court hearing.

However, some interviewees indicated that in their jurisdictions, youth are informed of their right to counsel at their first court hearing, but counsel is not present at that hearing. In these counties, interviewees indicated that youth may not be represented by counsel, even when youth are detained. One defender explained, "I'm never there at the initial court hearing. I would like to be."

A managing defender in one county described how they coordinated with their youth defenders to ensure a defense attorney is present at every initial hearing, including detention hearings, even though the court has not yet appointed them. "We decided that it is better to always have someone there. The purpose is that the kid will never be alone. Counsel is officially appointed later, but there is always an attorney there."

Utah's recent legislative changes to the appointment process were lauded by court professionals of all roles from across the state. Judges, prosecutors, and defenders all noted defense attorney presence at initial hearings as a benefit of the new laws. About mandated automatic appointment, one judge simply said, "That law is a godsend."

About mandated automatic appointment, one judge simply said, "That law is a godsend."

One prosecutor noted that "having an attorney for the child helps the case move faster. There are no more delays in finding an attorney." Another remarked that "this new process where every child has an attorney makes it a smoother process."

One defense attorney described how the recent legislative changes have resulted in earlier appointment of counsel and youth having representation at their first court hearing: "The judge recently started having counsel appointed immediately. It used to be that the youth would come to the first hearing and counsel would be appointed there, but now I usually get about three weeks' notice and can reach out to my client before the first hearing."

⁹⁷ UTAH INDIGENT DEF. COMM'N. YOUTH DEFENSE PRINCIPLES, *supra* note 50, at 5 (Principle 5: Scope of Representation).

⁹⁸ *Id.*

⁹⁹ UTAH CODE ANN. § 78B-22-102(10)(a); UTAH CODE ANN. § 78B-22-203(1).

¹⁰⁰ *Id.* at § 78B-22-201.5(5).

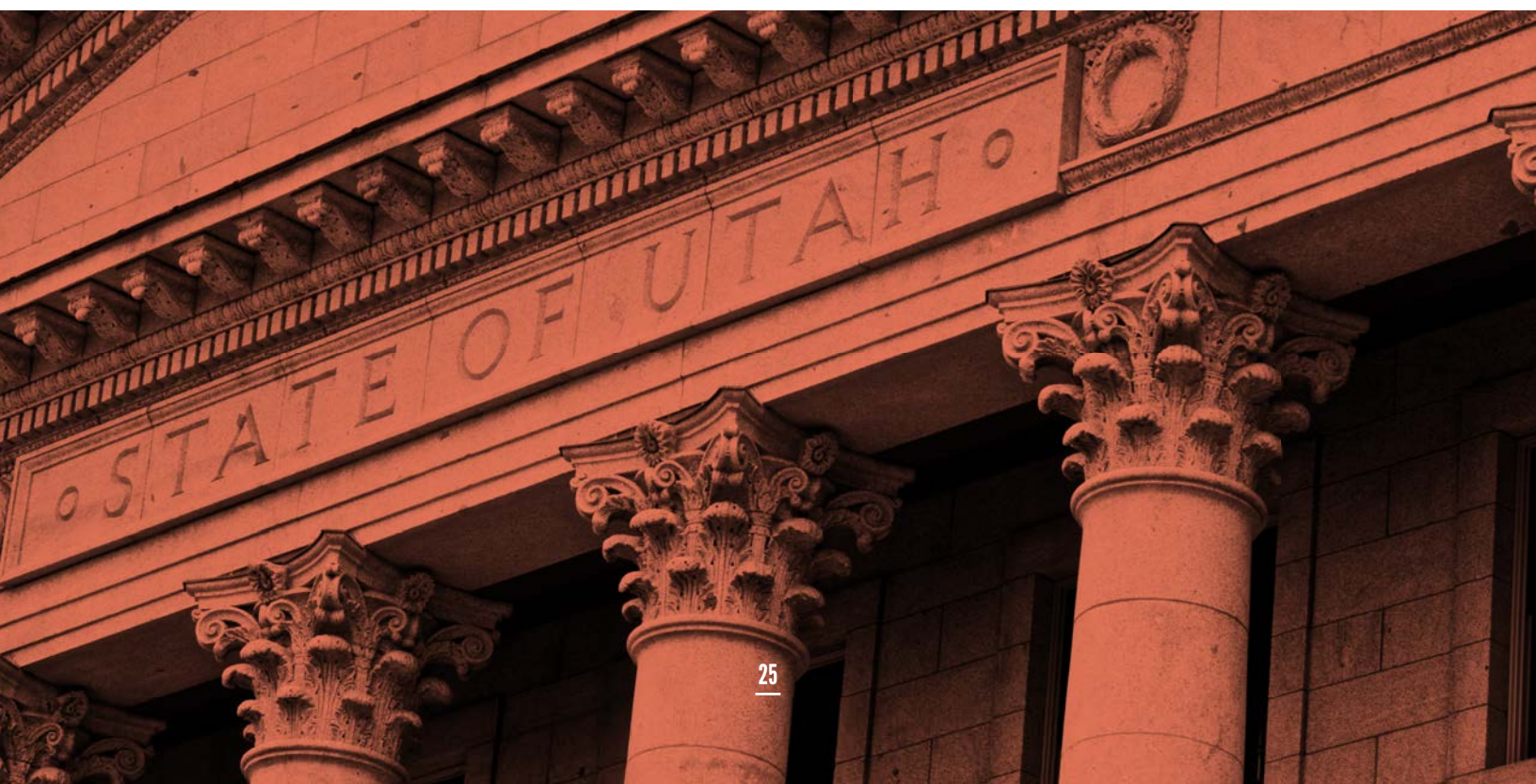
Another defender opined that, “it is much better now with auto-appointment. In the old days, the parents would have to qualify. The kids had no representation at the detention hearings.” Another defense attorney explained that the benefits of the new process “are being able to meet with clients and their families from the start, giving them a lot of comfort. This helps the process and makes life easier for the families.”

A longtime probation officer reflected on how far the state has come during their career. “Every single child is going to have representation now. There is finally some semblance of uniformity in the state, even though it’s all county contracts. Twenty years ago, there was no uniformity or guarantee of representation. It is more equitable now.”

A judge described how automatic appointment has played out in their county: “I really like this system. Before, when we had to first have a hearing for determining indigency, it slowed things down and it meant a lot of kids didn’t get lawyers because their parents didn’t want to pay or apply. Cases run more smoothly now, and kids’ rights are better protected if they have an attorney.”

Another judge explained that initial concerns about the new laws have not panned out: “When the law changed, there was concern parents wouldn’t hire private counsel even if they could and it would be a burden on the taxpayer’s dime. It has turned out not to be so much of a concern. There has been an expansion of public defenders to cover the increased caseload, but some judges were appointing counsel on all cases anyway.”

Utah’s recent legislative reforms have had significant positive impact on the early appointment of counsel in most of the counties visited for this assessment. But the state, counties, and courts must ensure those reforms are being implemented consistently throughout the state and that all youth are represented by counsel at their first court hearing. The state and counties should implement systems to notify managing defenders and contracted youth defenders as soon as a decision is made to detain a youth, to ensure that counsel can then be appointed sufficiently in advance of the initial detention hearing to meet with the young person and prepare.



B. Waiver of Counsel

National best practices call for courts to safeguard the right to counsel by guarding against youth waiver of counsel. The National Council of Juvenile and Family Court Judges states that it is “vitaly important that youth are represented by counsel,” and considers waiver of counsel “a detrimental practice,” as youth “who are not represented by counsel are not likely to effectively exercise their other due process rights.”¹⁰¹ The U.S. Department of Justice has asserted that children cannot knowingly and intelligently waive their right to counsel without first having a meaningful opportunity to consult with a lawyer.¹⁰²

In Utah, youth cannot waive their right to counsel unless they have first consulted with an attorney and the court finds that the waiver is knowing and voluntary and that the youth understands the consequences of waiver.¹⁰³ This law, enacted in 2019 – along with the reforms discussed in the section above, to mandate appointment of counsel and eliminate the financial qualifications – appear to have all but eliminated waiver of counsel, at least in the counties visited for this assessment.

Asked about when youth waive counsel, nearly all court practitioners interviewed for this assessment responded “never.” “Kids are never without counsel.” Of those who did recall some youth waiving counsel, one interviewee estimated that “97 percent of kids have counsel.” Another noted that their county has in place a system to allow a youth to consult virtually with a defense lawyer if the youth is considering waiving counsel.

“Kids are never without counsel.”

A few interviewees recalled cases where it appeared that a youth’s parents pushed the youth to waive their right to counsel. And several others noted that youth do not have counsel for nonjudicial adjustments and sometimes at initial detention or arraignment hearings, as discussed in the section above.

A Utah-based nonprofit organization, Voices for Utah Children, conducted court observations and court practitioner interviews for reports issued in 2019 and 2021.¹⁰⁴ In nearly 30 percent of the court hearings observed in 2018 for the first report, youth were not represented by defense counsel.¹⁰⁵ In court observations just two years later, more than 99 percent of youth were represented by counsel.¹⁰⁶

Utah has recently adopted several legislative reforms that have transformed the appointment of counsel for youth in delinquency court. As a result, nearly all children are represented by defense counsel throughout the delinquency process. The state and counties should continue to support implementing the law changes, ensure that youth are represented by counsel at initial court hearings, and consider changes to the nonjudicial adjustment process to allow youth to consult with counsel. Utah juvenile court judges must ensure that children and parents alike understand that it is the youth’s right to counsel and that only the youth may make a voluntary and informed decision to waive that right.

¹⁰¹ NCJFCJ ENHANCED YOUTH JUSTICE GUIDELINES, CH. III, *supra* note 92, at 24.

¹⁰² U.S. Statement of Interest, *N.P. v. Georgia*, *supra* note 7, at 1.

¹⁰³ UTAH CODE ANN. § 78B-22-204; UTAH R. JUV. P. 26(c).

¹⁰⁴ See VOICES FOR UTAH CHILD. & THE UNIV. OF UTAH S.J. QUINNEY COLL. OF L., ...AND JUSTICE FOR ALL KIDS: A CHILD’S RIGHT TO “THE GUIDING HAND OF COUNSEL” AND THE STATE OF DEFENSE REPRESENTATION FOR CHILDREN IN UTAH’S JUVENILE COURTS (2019) [hereinafter VOICES FOR UTAH CHILD., JUSTICE FOR ALL KIDS]; VOICES FOR UTAH CHILD., WHO’S HELPING KIDS IN COURT?: HOW NEW POLICIES ARE IMPACTING UTAH CHILDREN’S RIGHT TO A DEFENSE ATTORNEY IN JUVENILE DELINQUENCY COURT (2021) [hereinafter VOICES FOR UTAH CHILD., WHO’S HELPING KIDS IN COURT?].

¹⁰⁵ VOICES FOR UTAH CHILD., JUSTICE FOR ALL KIDS, *supra* note 104, at 34.

¹⁰⁶ VOICES FOR UTAH CHILD., WHO’S HELPING KIDS IN COURT?, *supra* note 104, at 6.

C. Client Contact & Communication

The attorney-client relationship is fundamental to effective representation. Early and frequent contacts are important to enable the attorney to build rapport, confidence, and trust with the youth.¹⁰⁷ “Attorneys representing children must . . . build a trust-based attorney-client relationship. Without that relationship, they cannot satisfy their responsibilities as counsel.”¹⁰⁸

Prior to the first court appearance, attorneys must interview clients as soon as possible.¹⁰⁹ In that preliminary conversation, an attorney’s job encompasses a variety of objectives: the attorney should inform the youth of the nature of the allegations and possible consequences; describe their role as an attorney, including an explanation of attorney-client privilege and confidentiality; assess the client’s most urgent requests and questions; provide an overview of the case; explain what to expect in court; describe relevant pre-trial release conditions, if applicable; and provide contact information and schedule the next client meeting.¹¹⁰ Whether the client is detained or released to the community, the initial meeting should be in a confidential setting.¹¹¹

Thereafter, regular contact with child clients is crucial to ensuring youth have an understanding of the proceedings against them.¹¹² Ongoing client communication is also essential to obtaining key information for locating witnesses; preserving evidence; obtaining information necessary for potential motions; ascertaining the client’s mental and physical health, including competence to stand trial or mental state at the time of the alleged offense; obtaining records and delinquency history; and gathering information regarding how the child was treated by investigating agencies, arresting officers, or facility staff.¹¹³ Defense counsel must be aware of the unique characteristics of each client and take the time needed not only to learn about the child’s strengths and vulnerabilities, but also to integrate those into the case strategy at every step in the representation.¹¹⁴

Defense attorneys should thoroughly prepare youth for what to expect in advance of any hearing and review what happened during the hearing with clients afterward, providing them with ample time to ask questions and raise any concerns.¹¹⁵ Communication outside of the courtroom is essential to effectively engaging youth in their defense.¹¹⁶ Youth should have a safe and confidential environment and sufficient time in which to speak with their lawyer and digest the information discussed.¹¹⁷

¹⁰⁷ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 34-36 (outlining the importance of communicating with the client as soon and as often as possible in Standard 2.1: Role of Juvenile Defense Counsel at Initial Client Contact).

¹⁰⁸ U.S. Statement of Interest, *N.P. v. Georgia*, *supra* note 7, at 12.

¹⁰⁹ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 23-25 (addressing the necessity of appointment of counsel at the earliest stage possible in Standard 1.4: Scope of Representation).

¹¹⁰ *Id.* at 34-38 (listing all the issues counsel should review with the client in the initial meeting in Standard 2.1: Role of Juvenile Defense Counsel at Initial Client Contact and Standard 2.2: Explain the Attorney-Client Relationship).

¹¹¹ *Id.* at 34-36 (describing the requirement to meet in a private setting to ensure confidentiality in Standard 2.1: Role of Juvenile Defense Counsel at Initial Client Contact).

¹¹² *Id.* at 40-41 (stressing the importance of meeting regularly with client and responding promptly to client contact in Standard 2.4: Maintain Regular Contact with the Client).

¹¹³ *See id.* at 34-36, 40-41 (Standard 2.1: Role of Juvenile Defense Counsel at Initial Client Contact and Standard 2.4: Maintain Regular Contact with the Client).

¹¹⁴ *Id.* at 34-36 (Standard 2.1: Role of Juvenile Defense Counsel at Initial Client Contact).

¹¹⁵ *See id.* at 40-41 (Standard 2.4: Maintain Regular Contact with the Client).

¹¹⁶ *See id.*

¹¹⁷ *Id.* at 34, 40-41 (Standard 2.1: Role of Juvenile Defense Counsel at Initial Client Contact and Standard 2.4: Maintain Regular Contact with the Client).

Effective communication with youth also requires communicating in a way that is productive and useful for the client. National standards emphasize that attorneys should use developmentally appropriate language to communicate with youth clients throughout the case.¹¹⁸

Counsel must “work to overcome barriers to effective communication by being sensitive to difference, communicating in a developmentally appropriate manner . . . and taking time to ensure the client has fully understood the communication.”¹¹⁹ Youth defenders must be sensitive and competent in communicating with young clients who come from different socioeconomic, racial, and ethnic backgrounds than their own or whose gender or sexual orientation identities are different from their own.

Utah’s Youth Defense Principles explain that a youth defender’s responsibilities include: “regular, developmentally appropriate communication sufficient to enable: the attorney’s understanding of the client’s expressed wishes; the client’s understanding of the allegations, court proceedings, case developments, available evidence, likelihood that the allegations would be found true at trial, and likely dispositional options; and the client’s knowing and voluntary decisions regarding plea offers.”¹²⁰

Utah youth defenders also have “a responsibility to gather, in each individual case, the relevant client background information, which commonly includes education history, mental health history, medical history, immigration status, and family history.”¹²¹

With few exceptions, assessment site visitors found that youth defenders in Utah understand their duties to meet with clients early, communicate with them often, ensure they understand the role of the defender and courtroom processes, and explain the youth’s rights. Most youth defenders interviewed described meeting with clients about one week in advance of the first court hearing when youth are not detained, although a few admitted they sometimes first meet with a client “about ten or 15 minutes before the hearing.”

Defenders interviewed for this assessment evidenced an understanding of the need to communicate differently with youth. One explained, “You really need to explain things more than once. Some kids are really good at repeating back what you’ve said, even though they don’t understand. So I ask them to explain to me what they understand, not to repeat back to me.” Another defender described: “I try to structure my discussion with them based on their age. I simplify when I’m with younger children and speak differently with older clients.”

“I make sure my clients know that ‘I don’t know’ and ‘I don’t understand’ are perfectly fine answers.”

A third defender explained: “I often stop and ask them, ‘Does this make sense?’ And I tell them, ‘It’s ok if you don’t understand, and I need to make sure you understand everything before we go in there.’ I make sure my clients know that ‘I don’t know’ and ‘I don’t understand’ are perfectly fine answers.”

¹¹⁸ *Id.* at 43-46, 53-55, 57-58, 59-60, 82-84, 90, 108-109 (emphasizing the importance of using developmentally appropriate language and explanations in each stage of a case in Standard 2.6: Overcoming Barriers to Effective Communication with the Client; Standard 3.2: Representation of Client in Police Custody; Standard 3.5: Prepare Client and Parent for Probation Intake Interviews Prior to Initial Hearing; Standard 3.6: Role of Counsel at Arraignment; Standard 4.9: Plea Agreements; Standard 5.1: Prepare Client for Adjudicatory Hearing; Standard 6.3: Involve Client in Development of Disposition Plan and Prepare Client for the Hearing).

¹¹⁹ *Id.* at 43 (Standard 2.6: Overcoming Barriers to Effective Communication with the Client).

¹²⁰ UTAH INDIGENT DEF. COMM’N. YOUTH DEFENSE PRINCIPLES, *supra* note 50, at 3 (Principle 2: Duties to Client).

¹²¹ *Id.*

When asked what they discuss with clients at their first meeting, youth defenders described an appropriately wide range of topics, including explaining their role as defender, expressed-interest representation, the difference between the defender and other court actors, the concept of attorney-client privilege, the young person's rights, and what to expect throughout the court process. Defenders also described the importance of the first meeting to building rapport with their clients and learning about family dynamics. Defenders described reviewing the charges and discovery materials, if available, with their client and beginning the conversation with their client about the allegations.

Defenders reported explaining to both youth and their parents that as defense counsel, they represent the youth, not the parents. One defender said, "I make sure my clients know, 'Your parents don't have to hear this.' Especially in cases with sex offenses or where the victim may be the parent themselves." Another defender describes his role to youth clients as, "I advise, and you decide."

Many defenders interviewed for this assessment expressed a preference for conducting initial client meetings in person, but also described communicating with youth in the youth's preferred format. One explained, "The kids that can text, I will text with them directly. If they want to pop on a call, I prefer to do video calls." Another youth defender said, "Sometimes they come to my office, and we'll also meet by phone or texting. Kids love to text, and it gives me easy access to them. Sometimes we'll text just to set up an appointment, and sometimes we'll have a whole conversation over text. Technology has changed so many things."

Defenders consistently described experiencing no difficulties contacting youth who are detained. One explained: "There aren't a lot of detained kids, but the detention staff is so good with setting up video calls and in-person visits. Whatever I need, they'll arrange." Another said, "The detention center lets me call whenever. I've never had problems talking to my detained clients." A third defender reported that their local detention center will readily accommodate even weekend visits.

While most judges and prosecutors interviewed for the assessment felt that defenders generally do a good job communicating with their clients, one prosecutor remarked, "Too often, they just meet with their clients for five minutes in the hallway. Yes, they have access to an attorney but is it really quality time?"

Probation officers, however, were noticeably more critical about defense attorneys' client contact and communication. Several commented that they would like to see defenders have more contact with their clients and that too often, defenders do not meet with clients until just before court hearings. One probation officer expressed concern about a defense attorney who lives approximately two hours from the court: "One public defender is based out of [another city] and does a good job, but I've never seen them here in person even once. I think it would hold more weight if they could get here in person rather than have phone conversations. It would go a long way with the youth as well. I'd feel like someone was more vested in me if I could talk to them in person."

"I think it would hold more weight if they could get here in person rather than have phone conversations."

The youth defenders interviewed for this assessment largely appeared to understand the importance of early and ongoing age-appropriate communication with their clients. Utah's automatic appointment process appears to have considerably improved defenders' notification of appointment and ability to contact clients and families in advance of the initial court hearing. And the state's detention facilities should be commended for their understanding of young people's right to counsel and for facilitating communication between youth defenders and their clients.

It is important to understand the barriers facing youth defenders who are not meeting with their clients in advance of hearings; whether it is distance, caseloads, or other issues, it is critical they have the support needed to fulfill their obligations to their youth clients. Where a contracted defender lives far from the county in which they practice, both the defender and the county should examine whether such an arrangement allows the defender to meet their ethical duties to communicate with their clients and the youths' right to effective counsel. Additionally, to support in-person contact and communication, counties should ensure that defense contracts provide reimbursement for travel expenses for client visits.

D. Initial Proceedings

When a person is arrested by police and detained, courts must make a "prompt" determination of probable cause to justify continued detention of that person.¹²² The U.S. Supreme Court clarified the meaning of "prompt" by establishing a 48-hour rule for probable cause determinations.¹²³ Importantly, the Court did not exclude juvenile proceedings from its holding.¹²⁴

National judicial guidelines say that juvenile courts should "hold detention hearings on Saturday mornings for youth admitted to detention Friday afternoon or evening"¹²⁵ and that the "youth, parent, and counsel for the youth [should] meet prior to the detention or initial hearing to determine the position they will take at the hearing."¹²⁶

Defense lawyers must prepare as best as possible for detention hearings, often with limited time, and must make probable cause arguments relative to a lack of evidence regarding a charged offense or an insufficient nexus between the client and the offense.¹²⁷ Defense counsel have a duty "to explore promptly the least restrictive form of release, the alternatives to detention, and the opportunities for detention review, at every stage of the proceedings where such an inquiry would be relevant."¹²⁸

National standards for youth defender advocacy at the initial hearing point out that "counsel's first obligation is to preserve the client's rights."¹²⁹ Accordingly, "[c]ounsel should enter a plea of not guilty, assert constitutional rights, preserve the right to file motions, demand discovery, and set the next court date" and "preserve all of the client's options until adequate investigation, discovery, and legal research can be completed."¹³⁰

In Utah, if a youth is admitted into a detention facility without a warrant, the court must make a probable cause determination within 24 hours of the arrest, including weekends and holidays.¹³¹ Courts must hold a detention hearing within 48 hours, excluding weekends and holidays, of a youth's admission to

¹²² Gerstein v. Pugh, 420 U.S. 103, 125 (1975).

¹²³ Riverside v. McLaughlin, 500 U.S. 44, 56 (1991).

¹²⁴ *Id.* at 58 (reasoning, "Everyone agrees that the police should make every attempt to minimize the time a presumptively innocent individual spends in jail."); *but see*, Schall v. Martin, 467 U.S. 253, 275 (1984) (finding that a slightly longer delay may be acceptable for youth if other adequate procedural safeguards are in place).

¹²⁵ [NCJFCJ ENHANCED YOUTH JUSTICE GUIDELINES, CH. III](#), *supra* note 92, at 22.

¹²⁶ *Id.* at 23.

¹²⁷ NAT'L JUV. DEF. CTR, [TEN PRINCIPLES FOR PROVIDING EFFECTIVE DEFENSE ADVOCACY AT JUVENILE DETENTION HEARINGS](#) 3 [hereinafter NJDC TEN PRINCIPLES AT DETENTION HEARINGS].

¹²⁸ *Id.* at 1.

¹²⁹ [NATIONAL YOUTH DEFENSE STANDARDS](#), *supra* note 17, at 59-60 (Standard 3.6: Role of Counsel at Arraignment).

¹³⁰ *Id.*

¹³¹ UTAH R. JUV. P. 9(b).

detention.¹³² Probable cause determinations and detention hearings may occur concurrently,¹³³ and arraignment may occur as part of a detention hearing.¹³⁴ An arraignment must be held within 30 days of the filing of a petition or within 10 days if the youth is detained.¹³⁵

As with appointment-of-counsel laws, Utah's detention statutes have undergone recent, significant reforms aimed at reducing the number of youth held in detention before adjudication.¹³⁶ Children under 10 cannot be held in secure detention, and children under 12 cannot be detained unless they have been charged with one of nine enumerated offenses.¹³⁷ Children 12 and older may be detained if they are charged with a felony or an enumerated list of misdemeanor offenses.¹³⁸ No youth may be detained if they are charged only with ungovernable or runaway behavior or as requiring protection due to neglect, abuse, abandonment, or dependency.¹³⁹

Based on the results of a detention risk assessment tool, detention facility staff may admit a youth to detention, admit a youth to home detention, place a youth in an alternative detention program, or release the youth to their parent, guardian, or custodian with a promise to bring the youth to juvenile court.¹⁴⁰

A court may order a detention-eligible youth to be held in secure detention only if it finds that releasing the youth to their parent or guardian "presents an unreasonable risk to public safety" and that less restrictive alternatives have been considered.¹⁴¹ The court must review any order to detain a youth every seven days.¹⁴² If a youth is ordered to home detention or an alternative detention program, the court must review that order every 15 days.¹⁴³

1. PROBABLE CAUSE DETERMINATIONS

Based on interviews conducted for this assessment, it appears that formal court hearings to determine probable cause are exceedingly rare. Most practitioners interviewed described a process wherein a judge receives electronic notification and a statement of probable cause from the arresting law enforcement agency as soon as a youth is admitted into a detention facility. The judge reviews the charge and the probable cause statement and indicates within the electronic notification system whether they have or have not found probable cause. If a judge does not find probable cause, the detention facility releases the youth.

Defense attorneys explained that they can, and occasionally do, challenge probable cause at the initial detention hearing, since there generally is not a hearing to determine probable cause. "If I'm going to challenge probable cause, it's at the detention hearing. I haven't had any cases where we had a separate hearing to address the initial PC finding for arrest and detention."

¹³² *Id.* at 9(c).

¹³³ *Id.* at 9(e).

¹³⁴ *Id.* at 9(g).

¹³⁵ *Id.* at 24(a).

¹³⁶ See THE PEW CHARITABLE TR., [UTAH'S 2017 JUVENILE JUSTICE REFORMS SHOWS EARLY PROMISE 1](#) (2019).

¹³⁷ UTAH ADMIN. CODE r. 547-13-4.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ UTAH CODE ANN. § 80-6-205(1); UTAH ADMIN. CODE r. 547-13-16.

¹⁴¹ UTAH R. JUV. P. 9(f).

¹⁴² *Id.* at 9(n).

¹⁴³ *Id.*

2. DETENTION HEARINGS

When asked how often defenders argue for their client's release at the initial detention hearing, 92 percent of court practitioners interviewed for this assessment answered "always" or "often." However, while some interviewees reported that defenders present alternatives to detention, most (including defenders themselves) reported that defenders largely rely on probation to develop a safety plan for the youth to be released.

"Defenders largely rely on probation to develop a safety plan for the youth to be released."

Assessment site visitors – who observed 15 initial detention or detention review hearings for this assessment – confirmed a strong reliance on probation to develop plans that would allow youth to be released from detention. Court observations revealed detention hearings where judges and probation officers were often the most active participants, with defenders and even prosecutors saying very little. One court observer wrote, "It was unclear at first who the defense attorney was."

Site visitors observed detention hearings in two counties where the youth defender did not appear to fulfill their constitutional and ethical obligations to represent their client's expressed interests. About one hearing, a court observer wrote: "The defender advocated for the youth to stay in detention. The judge wanted the youth to be in a less restrictive environment, and as the judge was making arrangements for a less restrictive setting, the youth defender asked the judge to order randomized drug tests. It felt like the defender was a best-interests attorney."

About another hearing, the court observer noted: "This attorney appears to not understand the duty to advocate for the client's stated interests or their duty to advocate on behalf of their client at all. He asked for his client to be held overnight to teach him a lesson."

A probation officer who had previously worked in Salt Lake County compared the quality of representation they witnessed in their current jurisdiction: "Detention advocacy is terrible, and attorney representation is not like it was in Salt Lake County. I was spoiled, seeing the kind of advocacy by the Salt Lake attorneys for so many years."

While the current safety-plan process does result in most youth spending little to no time in detention, youth defenders have an obligation to actively engage their youth clients in the detention alternatives development process. The safety plan – and the young person's success with it – keeps youth out of detention and can set the course for the resolution of the case. The young person's expressed interests must be considered during the development of a safety plan, if the plan is to truly meet the youth's needs and if the youth is to fully understand and buy into the conditions of the plan. It is the duty of the youth defender to advocate for their client's expressed interests during this process.

It is also the duty of the youth defender to advocate for their client's expressed interests during the detention hearing. While court observers witnessed just two hearings where the youth defender did not advocate for their client's expressed interest, those instances raise a red flag indicating that there are youth defenders in Utah who do not meet the most basic constitutional and ethical duties to their young clients. Counties must ensure their youth defense delivery system is providing counsel that understands their role and responsibilities.

3. YOUTH PRESENCE AT DETENTION HEARINGS

Every person accused of a crime has a constitutional right to be present at their hearings.¹⁴⁴ The use of video or other remote technology, particularly in detention hearings involving youth, can be fraught with challenges that affect youth behavior and comprehension and the attorney-client relationship.¹⁴⁵ A “great deal of information is exchanged by not only the spoken word, but also by personal contact and observations inherent in the personal interaction generated by a personal appearance, qualities missing when an event is perceived only through the limitations of the lens of a camera or television monitor.”¹⁴⁶

Assessment interviews found, and court observations confirmed, that across Utah, a considerable number of juvenile court detention hearings are conducted virtually, often as part of a blanket policy or practice of a court or an individual judge. A few interviewees noted that detention hearings in their jurisdictions were virtual “because the sheriff won’t transport” or “to cut down on transportation costs for the sheriff’s office.”

Some interviewees reported that detention hearings in their jurisdictions have always been virtual. Prior to wide adoption of videoconferencing technology during the COVID-19 pandemic, detention hearings in these localities were reportedly conducted via conference call. One interviewee reported that these conference calls were conducted “with everyone except the kid and defense attorney in the courtroom.”

Others reported that all hearings, including detention hearings, had been in-person prior to the pandemic, but that detention hearings were continuing to be held via videoconference, even as most other hearings had transitioned back to in-person. A probation officer in one of these jurisdictions expressed concerns: “Youth need to participate in their defense, which is harder when you are virtual.”

“Youth need to participate in their defense, which is harder when you are virtual.”

A youth defender in one of these jurisdictions agreed. “The virtual detention hearings are far less effective for the youth. Virtual hearings lead to them being objectified or non-personified; they’re just a face on the screen. They can’t interact on the fly, they can’t clarify or rebut. And if I asked for a breakout every time I needed to talk to my client, the hearing would take an hour. I think more clients are detained in virtual hearings.” This defender expressed a belief that detention hearings in their county are “held virtually for convenience of the court and transport staff.”

A small number of interviewees reported that their jurisdictions had transitioned back to in-person detention hearings. One probation officer explained: “The judge prefers in-person. It’s nice; there’s better communication among the attorneys. When it’s virtual, the hearing is often the first time the kid has seen their attorney.”

¹⁴⁴ *Kentucky v. Stincer*, 482 U.S. 730, 745 (1987) (“Although the Court has emphasized that this privilege of presence is not guaranteed ‘when presence would be useless, or the benefit but a shadow,’ due process clearly requires that a defendant be allowed to be present ‘to the extent that a fair and just hearing would be thwarted by his absence.’ Thus, a defendant is guaranteed the right to be present at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure.”) (internal citations omitted).

¹⁴⁵ See Amend. to Fla. R. Juv. Proc. 8.100(A), 796 So. 2d 470, 473-475 (Fla. 2001) (limiting the use of videoconferencing during juvenile detention hearings).

¹⁴⁶ *Id.* at 474.

One defense attorney weighed the pros and cons of virtual and in-person detention hearings: “Generally, I prefer in-person because it provides an opportunity to talk to all the parties, and some families can be hard to track down. However, virtual detention hearings can be less traumatic for the youth, since they don’t have to be transported in shackles. Usually we aren’t with the youth in detention during a virtual hearing, though.”

Another defender explained that the expanded use of videoconferencing has resulted in not being present with his client: “Before, I would be in-person at the detention center with my client. But now everyone is virtual from their offices or wherever.”

Seven of the detention hearings that assessment site visitors observed for this assessment were conducted virtually. Court observers noted challenges specific to the virtual format. In hearings where the youth appeared virtually from the detention center, court observers noted that the youth was seated far away from the camera, and it was difficult for other participants to see the youth’s face.

One court observer noted an informality and absence of procedure that did not seem appropriate for a detention hearing: “The defender was late to the hearing, the youth was in the detention center, the prosecutor appeared from their car, and a family member was left to advocate for the youth to come home.”

At another virtual detention hearing, “The hearing started late because a youth in another hearing did not have representation. The judge’s clerk told this youth defender they could just ‘pop over’ to the other virtual detention hearing and then return to this one after. Nothing that was said indicated that this attorney knew anything about the other child, their case, or the circumstances of their detention hearing.”

Most juvenile court practitioners interviewed during this assessment noted both benefits and disadvantages to virtual hearings. As Utah grapples with the impact of virtual hearings on youth, it is important to remember that a child has a constitutional right to be present “at any stage of the criminal proceeding that is critical to its outcome if his presence would contribute to the fairness of the procedure.”¹⁴⁷ And as with the waiver of any constitutional right, it must be done knowingly and intelligently by the child.

Blanket policies or practices of holding all detention hearings virtually violate youths’ due process rights.

Blanket policies or practices of holding all detention hearings virtually violate youths’ due process rights. Youth defenders must advise their clients about potential benefits and disadvantages of appearing in-person at detention hearings and participating remotely. Detention hearings should be conducted virtually only after a youth has knowingly and intelligently waived their constitutional right to be present, and Utah juvenile courts should revise blanket policies or practices of holding all detention hearings virtually.

¹⁴⁷ Kentucky v. Stincer, 482 U.S. 730, 745 (1987).



E. Case Preparation

[W]ell-established duties [of youth defense counsel] include advocating for the client at intake and in detention hearings, investigating the prosecution's allegations and any possible defenses, seeking discovery, researching legal issues, developing and executing a negotiation strategy, preparing pre-trial motions and readying for trial, exploring alternative dispositional resources available to the client, uncovering possible client competence concerns, and providing representation following disposition and on appeal.¹⁴⁸

Recognizing that a delinquency proceeding for a child can be “comparable in seriousness to a felony prosecution,” the U.S. Supreme Court explained: “The juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it.”¹⁴⁹

In all delinquency cases, information about evidence, witnesses, and defenses is necessary to aid the client in the decision whether to plead guilty or go to trial. It is the lawyer's duty to conduct prompt investigation and to “[e]xplore all avenues leading to facts concerning responsibility for the acts or conditions alleged. . . .”¹⁵⁰ “The investigation should always include efforts to secure information in the possession of prosecution, law enforcement, education, probation and social welfare authorities,” and the “duty to investigate exists regardless of client's admissions. . . .”¹⁵¹

“A case should not go to trial . . . without a prosecutor and counsel for the youth who are qualified and who have exercised due diligence in preparing for the proceeding.”¹⁵² Prior to trial, counsel must have “investigated all circumstances of the allegations,” “sought discovery,” “requested appointment of an investigator or expert witness . . . [as] necessary to protect the youth's rights,” and “informed the youth of the nature of the proceedings, the youth's rights, and the consequences if the youth is adjudicated.”¹⁵³

¹⁴⁸ U.S. Statement of Interest, *N.P. v. Georgia*, *supra* note 7, at 12.

¹⁴⁹ *In re Gault*, 387 U.S. 1, 36 (1967).

¹⁵⁰ IJA-ABA STANDARDS RELATING TO COUNSEL FOR PRIVATE PARTIES, *supra* note 64, at 103 (Standard 4.3: Investigation and preparation).

¹⁵¹ *Id.*

¹⁵² NAT'L COUNCIL OF JUV. AND FAM. CT. JUDGES, ENHANCED JUVENILE JUSTICE GUIDELINES, CH. VI: TRIAL/ADJUDICATION HEARING 4 (2018).

¹⁵³ *Id.*

Thorough preparation is invaluable. In addition to aiding in the client’s decision to enter an admission, accept a plea deal, or go to trial, information gathered through discovery and investigation can persuade the government to drop the case altogether or dismiss certain charges. Without investigating the case or pursuing all available discovery from the government, defenders are unable to effectively advise clients about plea offers or taking the case to trial.

Thorough preparation is invaluable.

Utah’s Rules of Professional Conduct specify that: “Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation.”¹⁵⁴

Utah’s Youth Defense Principles direct youth defenders to “pursue available evidence through discovery and investigation; examine and review all available evidence; file appropriate motions; . . . [and] use expert and other defense resources, as appropriate”¹⁵⁵

1. DISCOVERY

The government is required to provide the defense with certain information through discovery,¹⁵⁶ and defense attorneys have a corresponding responsibility to request this information and pursue it, through litigation when necessary, when it is not provided in accordance with the law.¹⁵⁷ National and state youth defender performance standards also demand that defenders challenge issues regarding discovery obligations.¹⁵⁸

Young people in Utah have the right to receive a copy of the petition or the criminal information.¹⁵⁹ Discovery in delinquency cases is governed by Rule 16 of the Utah Rules of Criminal Procedure.¹⁶⁰ Under Rule 16, prosecutors have a continuing duty to disclose all statements, reports, results of any tests or examinations, and all evidence favorable to the defendant.¹⁶¹ Upon request, the prosecutor must obtain and disclose any such materials that are in the possession of another governmental agency.¹⁶²

Youth defenders interviewed for this assessment reported varying experiences with the discovery process. Some reported “a very open-file policy” where the prosecutor’s office readily shares discoverable materials. One defender said, “We get initial discovery off the bat. We get police records, etc. They’re good at getting me what I need.” And another explained, “The prosecutor always sends the police reports, case history, and petition automatically. I just email and request anything else.”

¹⁵⁴ UTAH R. PROF. CONDUCT 1.1, cmt. 5.

¹⁵⁵ UTAH INDIGENT DEF. COMM’N. YOUTH DEFENSE PRINCIPLES, *supra* note 50, at 5 (Principle 6: Addressing the Allegations).

¹⁵⁶ Fisher v. Angelozzi, 285 Or. App. 541, 547-548 (2017) (citing Brady v. Maryland, 373 U.S. 83 (1963) and recognizing that prosecutors have a separate duty under the U.S. Constitution “to disclose evidence that is favorable to the defense and material to guilt or sentencing.”); Kyles v. Whitley, 514 U.S. 419, 437 (1995) (noting that an “individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government’s behalf in the case, including the police.”).

¹⁵⁷ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 68-69, 74-76, 77-78 (outlining duties of counsel as it relates to discovery and fact investigation in: Standard 4.1: Investigate Facts of the Case; Standard 4.5: Seek Discovery Generally; Standard 4.6: Seek Discovery from Law Enforcement).

¹⁵⁸ *Id.* at 74-76 (Standard 4.5: Seek Discovery Generally); *see, e.g.*, OR. STATE BAR, SPECIFIC STANDARDS FOR REPRESENTATION IN CRIMINAL AND JUVENILE DELINQUENCY CASES 23-25 (2014) (Standard 5.1: Pretrial Motions and Notice).

¹⁵⁹ UTAH CODE ANN. § 80-6-603(1)(c).

¹⁶⁰ UTAH R. JUV. P. 20(a).

¹⁶¹ UTAH R. CRIM. P. 16(a).

¹⁶² *Id.*

A few defense attorneys described specific difficulties obtaining footage from law enforcement body-worn cameras: “Sometimes it takes weeks to get certain discovery like bodycam footage.” A judge noted that “Law enforcement’s ability to turn over evidence has gotten worse. Now it’s normal to have three pretrials [due to discovery delays].”

Some youth defenders described consistent challenges with the discovery process. One explained: “When we get an appointment order, I ask the prosecutor’s office for discovery. They usually only send the police report, and I have to make repeated requests for supplemental reports.” Another defender described it as “a systemic problem in both adult and juvenile court. And delay in discovery delays the case, too.”

A judge confirmed: “Discovery causes delays.”

“Discovery causes delays.”

Utah prosecutors must fulfill their continuing duty under the U.S. and Utah constitutions and Utah Rules of Criminal Procedure to disclose all evidence favorable to the defense and other enumerated materials. Where prosecutors do not meet their discovery duties, youth defenders should consistently file motions to compel, and juvenile courts should hold the state accountable to ensure compliance with affirmative mandatory disclosures within specific timelines. Where policy and/or practice reform is necessary to allow for timely disclosure of law enforcement body-worn camera evidence, court practitioners should work together to achieve those reforms.

2. INVESTIGATION

While the rules of discovery govern what the state must disclose to the defense, there is much more to understanding the full picture of a case beyond what the police or prosecution may be required to provide. Youth defenders have an obligation to conduct their own independent investigation in every case.¹⁶³

Defense counsel should conduct a prompt investigation of the circumstances of the case and explore all avenues leading to facts relevant to the merits of the case and the penalty in the event of conviction The duty to investigate exists regardless of the accused’s admissions or statements to defense counsel of facts constituting guilt or the accused’s stated desire to plead guilty.¹⁶⁴

Early and comprehensive investigation is necessary to thoroughly test the charges brought against the child client and to provide sound advice.¹⁶⁵ At least one state supreme court has found that failure to conduct investigation in a juvenile case can constitute ineffective assistance of counsel, even when the case is headed to a plea, rather than a trial.¹⁶⁶

Asked how often in the past year they had used an investigator to help them in a delinquency case, half of the youth defenders interviewed for this assessment responded “never.” Just one attorney responded that they “always” use an investigator to help them prepare for trial.

¹⁶³ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 68-74 (describing counsel’s obligation to comprehensively investigate a case in Standard 4.1: Investigate Facts of the Case; Standard 4.3: Interview Defense and State Witnesses; Standard 4.4: Obtain the Client’s Social History).

¹⁶⁴ AM. BAR ASS’N, STANDARDS FOR CRIMINAL JUSTICE: PROSECUTION AND DEFENSE FUNCTION 9 (3rd ed. 1993) (§ 4-4.1 Duty to Investigate).

¹⁶⁵ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 68-69 (Standard 4.1: INVESTIGATE FACTS OF THE CASE).

¹⁶⁶ See *State v. A.N.J.*, 225 P.3d 956 (Wash. 2010).

When asked whether there are any obstacles to hiring an investigator, several defenders identified funding. One defender said that when they use an investigator, they “have to prepay and be reimbursed.” Another explained, “If I wanted one, I’d have to find one and retain them myself. I wish I had someone more available.” A third defender agreed: “We need a better way to go about getting experts and investigators without having to front the money for few months.”

“We need a better way to go about getting experts and investigators without having to front the money for few months.”

A defender who practices in a county where IDC recently contracted with a managing defender, however, reported no difficulties: “I can call [the managing defender] and they’ll get me an investigator easy.”

Based on interviews conducted for this assessment, it appears that youth defenders in Utah are doing very little independent investigation of their delinquency cases. One defender explained, “I don’t let my clients enter a plea until I’ve investigated,” but then described their investigation as “reading the police report and interviewing parents.” Another described the investigation they do as “reviewing the evidence provided in discovery.”

One defender explained, “I don’t ever do investigation in my cases because I always get good plea offers from the prosecutor.” (It is important to note that this defender works in a county where the prosecutor is responsible for contracting with defense counsel, an issue discussed in greater detail later in this report, in section II. C. 1. Independent Representation.)

Youth defenders should receive training to understand and support their duty to independently investigate their cases. Defenders have a responsibility to investigate that goes far beyond simply reviewing the information included in a police report and disclosed by the state through discovery. Without conducting an independent investigation, a defense attorney cannot ethically gauge whether a plea deal offered by the state is actually good for their client. Counties and the state should ensure defenders have access and upfront funding to hire investigators at government expense.

3. MOTIONS PRACTICE

A crucial part of case preparation is filing appropriate motions. This can include a vast range of motions, such as challenges to pretrial detention or conditions of pretrial release, challenges to the sufficiency of the petition, discovery motions, motions to suppress evidence, competency challenges, and numerous others.¹⁶⁷ Motions are integral to zealous advocacy and protecting a client’s rights.

Asked how often they filed pre-trial motions during the prior year, nearly 60 percent of youth defenders interviewed for this assessment responded “sometimes.” The other 40 percent responded “seldom” or “never.”

A judge explained that Utah’s move away from secure facilities impacted how cases are litigated: “In 2018, there was a major shift. Pretrial motions practice died with those changes. Secure care has become so limited; the state rarely asks for it anymore and cases resolve so much more quickly. Unless a kid is going to secure care, cases usually settle really fast.”

¹⁶⁷ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 79-82 (Standard 4.7: Represent the Client through Pre-Trial Motion Practice and Standard 4.8: Advocate at Pre-Trial Motion Hearings).

In many counties, pre-trial issues are reportedly handled informally. One defender said, “A lot of things are resolved via discussion with the prosecutor. I point out the issues and they think about it and get back to me.” One judge confirmed: “Defenders and prosecutors, they have relationships, they talk about issues. There aren’t formal motions, but it works out in the background.”

One defender noted the power of filing motions when necessary: “Every time I do file, the prosecutor dismisses or offers me an amazing deal.”

“Every time I do file, the prosecutor dismisses or offers me an amazing deal.”

One judge said that in their county, defense “attorneys file often because they do not get along with prosecutors.” Another judge opined that “Newer lawyers are making oral motions that should be in writing.”

When asked what types of motions are filed, defenders and judges in counties that reported problems with discovery unsurprisingly reported discovery motions as among the most common. “There are a lot of specific motions for discovery. They want all the evidence before making a decision.”

Across counties, interviewees frequently mentioned motions regarding competency, *Miranda*, and suppression. One judge said that in their courtroom, “99 percent of the motions are about *Miranda* issues.”

In counties where there is considerable motions practice regarding discovery or *Miranda* issues, court practitioners should work toward systemic reforms to address shortcomings identified across individual cases. Defenders who regularly make oral motions in court should consider filing written motions to create a more robust record. And youth defenders across the state should access resources provided by the IDC to improve their motions practice. (For more information about these supportive services, see Section I. Appeals, below.)

4. EXPERTS

Defending young people requires insight into a host of specialized areas of expertise, such as the science of child and adolescent development, special education, language and contextual comprehension, adolescent mental health and emotional status, and youth-related competency, to name just a few. Experts in these areas can be useful in motions practice, in litigating facts or issues at trial, and as mitigation at disposition or to help with developing targeted and appropriate disposition plans.

Zealous and effective youth defense advocacy requires that attorneys consider and seek out experts and other professionals necessary for trial preparation, evaluation of clients, and testing of physical evidence, where appropriate.¹⁶⁸ Experts should be utilized not just for trial testimony, but in cases involving a youth’s competence,¹⁶⁹ to ensure effective communication with a client,¹⁷⁰ for help investigating and

¹⁶⁸ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 21-23 (describing a counsel’s duty to consult with relevant experts, when appropriate in Standard 1.3: Specialized Training Requirements for Juvenile Defense).

¹⁶⁹ *Id.* at 43-46 (describing the obligation to use professional experts to assess a youth’s competency and full understanding of court proceedings in Standard 2.6: Overcoming Barriers to Effective Communication with the Client).

¹⁷⁰ *Id.*

addressing mistreatment in youth facilities,¹⁷¹ and for mitigation and advocacy surrounding particular programming at disposition, among other considerations.¹⁷²

Cases involving youth are often more complex than the individual charge may suggest. Given how developmental science, disability, and competency can affect everything — from detention, to *mens rea*, to mitigation, to identifying the most effective disposition plan — experts are vital to help both defense attorneys and the courts understand the full context of a young person within the case.

Asked how often they had used an expert in a delinquency proceeding during the prior year, 40 percent of youth defenders interviewed responded “never,” 20 percent said “seldom,” and 40 percent said “sometimes.”

Throughout much of the state, defenders noted challenges finding experts when they wanted them. One explained, “I don’t think there are enough experts.” Another said, “It’s a small town and it’s hard to obtain an expert.”

The funding of experts arose as a particular concern. Assessment site visitors learned that in many counties, the defense’s expert budget is controlled by the county prosecutor’s office, a clear and alarming conflict of interest.

In many counties, the defense’s expert budget is controlled by the county prosecutor’s office, a clear and alarming conflict of interest.

As with investigators, counties with managing defenders reported improvements. One defender explained, “Expert expenses are now funded much better. The county hired a fulltime defender manager that we can go to if we need money for experts.”

Utah and its counties must immediately end the practice of housing defense expert budgets in county prosecutor offices. Budgets for experts, investigators, and other defense expenses should be housed with the IDC, its contracted county-based managing defenders, or a neutral office within county government.

There appears to be considerable room for improvement across Utah and across legal system practitioners regarding the case preparation process in delinquency proceedings. Reforms to Utah’s juvenile legal system that have resulted in fewer youth being formally processed through court, detained, or committed to secure facilities do not relieve youth defenders of their responsibility to test the state’s evidence.

¹⁷¹ *Id.* at 48-50 (Standard 2.8: Obligation to Investigate and Address Custodial Mistreatment).

¹⁷² *Id.* at 112-114 (Standard 6.7: Advocate for the Client’s Legal and Procedural Rights at the Disposition Hearing).

F. Adjudication & Plea Hearings

When no motions or appeals are filed, when no independent investigation takes place, when the actions of the police go unexamined, when all but a handful of cases result in a guilty plea to all counts and when [probation]-recommended dispositions are almost always accepted without challenge, the only possible conclusion is that children . . . do not receive adequate or effective representation in delinquency proceedings, in violation of the Constitution.¹⁷³

A youth defender must zealously advocate for the expressed interests of their client.¹⁷⁴ While other actors in the juvenile court system have a responsibility to pursue the “best interests” of the child, the youth defense attorney is the sole actor whose job is to advocate for the child’s perspective. If a child’s attorney does not abide by their obligation to provide expressed-interest advocacy, the youth is deprived of their fundamental right to counsel.¹⁷⁵ This role of the youth defender as an expressed-interest advocate is in line with the constitutional mandate for a child’s right to an attorney as set forth in *In re Gault*,¹⁷⁶ as well as national best practices.¹⁷⁷

Although an attorney’s job is to advise and counsel, the ultimate decision must be the client’s as to whether to accept a plea offer or proceed to trial, and that choice must be respected.¹⁷⁸

1. PLEAS

Youth defenders must work with their clients to understand their goals and expectations prior to engaging in plea discussions¹⁷⁹ and must convey any offers made by the prosecution, just as in an adult case.¹⁸⁰ Utah’s Youth Defense Principles state that defenders should “advise the client on the strengths and weaknesses of the state’s case and on all implications of a plea offer, including direct and collateral consequences of accepting the plea offer.”¹⁸¹

Youth in Utah may enter a denial, admission, or plea of no contest.¹⁸² If a youth enters a denial, the court must set the case for trial or a pre-trial conference.¹⁸³ If a youth enters an admission, the court may opt to delay entry of the admission and impose conditions; if the youth successfully completes the conditions, the court must dismiss the petition.¹⁸⁴ If the youth does not successfully complete the conditions or if the court does not opt to delay entry of the admission, the court orders a disposition.¹⁸⁵

¹⁷³ C.R. DIV., U.S. DEP’T OF JUST., *INVESTIGATION OF THE ST. LOUIS COUNTY FAMILY COURT, ST. LOUIS, MISSOURI* 17 (2015).

¹⁷⁴ *Id.* at 19-21 (Standard 1.2: Elicit and Represent Client’s Stated Interests).

¹⁷⁵ See *U.S. Statement of Interest in N.P.*, *supra* note 7, at 7; see also *Anders v. California*, 386 U.S. 738, 744 (1967).

¹⁷⁶ See *In re Gault*, 387 U.S. 1, 36 (1967).

¹⁷⁷ See generally *Model Rules of Professional Conduct*, *supra* note 16, (outlining the following key ethical duties of counsel: Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer; Rule 1.3: Diligence; Rule 1.4: Communications; Rule 1.8: Conflict of Interest—Current Clients; Rule 1.14: Client with Diminished Capacity).

¹⁷⁸ *NATIONAL YOUTH DEFENSE STANDARDS*, *supra* note 17, at 82-84 (Standard 4.9: Plea Agreements).

¹⁷⁹ *Id.* at 19-21, 82-84 (Standard 1.2: Elicit and Represent the Client’s Stated Interests and Standard 4.9: Plea Agreements).

¹⁸⁰ *Id.* at 82-84 (Standard 4.9: Plea Agreements); see *Missouri v. Frye*, 566 U.S. 134 (2012).

¹⁸¹ *UTAH INDIGENT DEF. COMM’N. YOUTH DEFENSE PRINCIPLES*, *supra* note 50, at 5 (Principle 6: Addressing the Allegations).

¹⁸² *UTAH CODE ANN.* § 80-6-306(1); *UTAH R. JUV. P.* 25(a).

¹⁸³ *UTAH R. JUV. P.* 25(b).

¹⁸⁴ *UTAH CODE ANN.* § 80-6-306(2); *UTAH R. JUV. P.* 25(e).

¹⁸⁵ *UTAH CODE ANN.* § 80-6-306(2)(c).

Before accepting an admission or plea, the court must find that the plea is voluntary, that the youth has knowingly waived any rights not exercised, that the youth has been advised of any possible consequences, and that there is a factual basis for the plea.¹⁸⁶ A youth may enter a plea of no contest, in which the youth neither admits guilt nor challenges the allegations, with the consent of the juvenile court, which then proceeds as though an admission had been entered.¹⁸⁷

The vast majority of juvenile delinquency cases in Utah are resolved with pleas. Asked how often youth entered pleas in the prior year, 96 percent of court practitioners interviewed for this assessment answered “always” or “often.” A judge estimated that in their courtroom, “99 percent of cases that are not dismissed by the prosecutor are resolved by guilty pleas.”

Asked what safeguards are in place to ensure youth understand the plea process and the implications of an adjudication, judges and prosecutors alike stressed the importance of young people being represented by counsel. One prosecutor described the improvements since youth have been guaranteed counsel: “The biggest safeguard is that 100 percent of youth have a lawyer. I am talking to a defender who understands what I’m saying and can explain it to their client. Before, I would talk to unrepresented kids who had no idea what I was talking about. They said they understood, but I wasn’t sure.”

“The biggest safeguard is that 100 percent of youth have a lawyer.”

Defenders interviewed for this assessment consistently expressed an understanding that the choice to plea must be made by their clients, and most reported advising youth not to plea at the initial hearing. One defender explained, “If they have a knee-jerk reaction that they want to plea, I will have a conversation with them about pros and cons. Talk about the evidence and my opinion and let them know it’s their call.”

Another described that “Sometimes clients just want to plea immediately, but I tell them I need to review discovery in order to advise them. I advise against pleading right away and ask for time to go over the info, talk about the case with the prosecutor and probation to see what we can do to resolve it. I talk about collateral consequences and pitfalls of resolving too quickly.”

And a third defender explained: “Pleas can happen any time. I’ve had kids come in at first appearance and want to take the offer because it’s too stressful for them. I always advise them that we need to complete discovery before I can advise them on taking the plea or not.”

One defender, however, reported allowing their clients to plead at the initial hearing. “The day of arraignment is usually when clients plead guilty. I review discovery with them and ask them to tell me what happened in their words. Then I ask the prosecutor for a plea deal immediately.”

Judges interviewed for this assessment reported that, generally, “defense attorneys do a good job prepping for pleas. They make sure pleas meet all the elements there for the plea to be accepted.” However, several judges also expressed concerns about how well defense attorneys communicate with clients before plea hearings. One judge explained that defenders “are clearly prepared on legal end, it’s just whether they’ve been able to communicate with the client.”

¹⁸⁶ UTAH R. JUV. P. 25(c).

¹⁸⁷ UTAH CODE ANN. § 80-6-306(1)(c); UTAH CODE ANN. § 77-13-2(3).

Another said that in their courtroom, it appears that defenders have “not always met with their client prior to hearings. There’s a lot of discussion right before. The kids are having to make too-quick decisions; defense counsel needs to slow the process down for them.”

“The kids are having to make too-quick decisions; defense counsel needs to slow the process down for them.”

A third judge expressed concerns that, even though they and the defender review a child’s rights with them, “Most times, young people don’t actually know what they’re giving up.”

2. TRIALS

If a client chooses to proceed to trial, the attorney must engage in the full range of trial practice, including filing appropriate motions,¹⁸⁸ preparing witness testimony,¹⁸⁹ making appropriate motions and objections during the trial,¹⁹⁰ cross-examining government witnesses, and presenting defense witnesses and other evidence necessary for an adequate defense.¹⁹¹

Utah’s Youth Defense Principles instruct youth defenders to “adjudicate the allegations against the client unless the plea offer is consistent with the client’s expressed wishes and represents a benefit to the client.”¹⁹²

Asked how often there were delinquency trials in the prior year, 86 percent of juvenile court practitioners interviewed for this assessment answered “seldom” or “never.”

When a case does go to trial, judges reported being generally satisfied with youth defenders’ understanding of and ability to argue juvenile-specific law. One judge explained that “They come prepared, they make appropriate objections, they point out holes in the state’s case, they file motions to dismiss at the end of the state’s case.” Another judge said it is “clear they have met with their client and witnesses. Often, the defense is better prepared than the state.”

“Sometimes I can have a hearing and everyone could be a cardboard cutout. No one is giving me anything. I would love to get input, ideas, creative lawyering, context for the child’s circumstances.”

One judge, however, wanted to see more zealous advocacy in their courtroom: “I’d love to see some action. Sometimes I can have a hearing and everyone could be a cardboard cutout. No one is giving me anything. I would love to get input, ideas, creative lawyering, context for the child’s circumstances.”

¹⁸⁸ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 79-80 (Standard 4.7: Represent the Client through Pre-Trial Motion Practice).

¹⁸⁹ *Id.* at 90-92 (Standard 5.2: Prepare Evidence and Witness Examinations Prior to Adjudicatory Hearing).

¹⁹⁰ *Id.* at 92-94, 96-100 (Standard 5.3: Fact-Finding Forum-Judge or Jury; Standard 5.6: Challenging Evidence and Preserving the Record; Standard 5.8: Prepare and Examine Non-Client Defense Witnesses).

¹⁹¹ *Id.* at 95-96, 98-102 (Standard 5.5: Cross-Examination; Standard 5.8: Prepare and Examine Non-Client Defense Witnesses; Standard 5.9: Client’s Testimony).

¹⁹² UTAH INDIGENT DEF. COMM’N. YOUTH DEFENSE PRINCIPLES, *supra* note 50, at 5 (Principle 6: Addressing the Allegations).

Interviewees with experience across counties also distinguished between the level of advocacy in Salt Lake County versus the rest of the state: “Motion practice is more vigorous here [in Salt Lake County], more trials, much more zealous here than in other counties.” Asked how youth defenders could better represent their clients, a judge in another county responded, “They need more education on legislative updates, to make more arguments on restitution, more motion work, they need to challenge probable cause, do more investigation.”

Youth defenders in Utah appear to ensure their clients’ pleas meet necessary statutory elements and are legally sound, but must be equally dedicated to communicating with their young clients before plea hearings. Utah must ensure that youth defender caseloads and pay structure support defenders’ spending considerable time communicating with youth and their families to ensure a thorough understanding of the consequences of pleading, including the rights young people waive. The state must also ensure youth defenders have access to training in trial advocacy skills and that contract pay structures do not provide financial disincentives for taking cases to trial.

G. Disposition

Dispositional advocacy must be based on thorough and effective planning with youth clients and, as much as possible within the contours of the attorney-client relationship, with the client’s family. Although client goals may be quite different from the recommendations of other parties, the “role of counsel at disposition is essentially the same as at earlier stages of the proceedings: to advocate, within the bounds of the law, the best outcome available under the circumstances according to the client’s view of the matter.”¹⁹³

Disposition planning should begin at the first meeting between defender and client. Good disposition planning can result in client-driven outcomes, stronger advocacy, and better-informed plea negotiations. The attorney should also be aware of all of the possible disposition options and identify the least restrictive options to discuss with the child.¹⁹⁴ To do this satisfactorily, the attorney must be familiar with the client’s history, current goals and options, available programs, alternatives to placement, and the collateral consequences of adjudication.¹⁹⁵ Counsel should discuss and explain disposition procedures, as well as any probation or commitment plans proposed by the prosecutor or probation officer to the child.¹⁹⁶

At the disposition hearing, the defense attorney must advocate for the client’s wishes, challenging any recommendations submitted to the court that are adverse to the client’s stated interests.¹⁹⁷ After the hearing, the defender must explain the disposition order to the client, clarifying and emphasizing the court’s instructions under that order, and informing the client of the potential consequences of not following the order.¹⁹⁸ The attorney must also advise the youth of the right to appeal a disposition.¹⁹⁹

¹⁹³ IJA-ABA STANDARDS RELATING TO COUNSEL FOR PRIVATE PARTIES, *supra* note 64, at 179 (Commentary in Standard 9.3(a): Counseling prior to disposition).

¹⁹⁴ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 106-107 (Standard 6.2: Familiarity with the Range of Disposition Alternatives).

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* at 108-109 (Standard 6.3: Involve Client in Development of Disposition Plan and Prepare Client for the Hearing).

¹⁹⁷ *Id.* at 110-111, 112-114 (Standard 6.5: Prepare for, Review, and Challenge the Pre-Disposition Report and Standard 6.7: Advocate for the Client’s Legal and Procedural Rights at the Disposition Hearing).

¹⁹⁸ *Id.* at 114-116 (Standard 6.8: Review Final Disposition Plan and Collateral Consequences of Disposition).

¹⁹⁹ *Id.* at 121-122 (Standard 7.2: Disclose the Right to Appeal).



Utah recognizes dispositional advocacy as “a core aspect of delinquency defense.”²⁰⁰ The Youth Defense Principles require youth defenders to:

- “advocate for treatment and placements that serve the needs of the individual client, leverage pre-existing strengths and supports, and are consistent with the client’s expressed interests;
- actively research all available dispositional options, not limited to only those proposed by the probation department;
- present meaningful dispositional alternatives for the court’s consideration, when available; and
- ensure court-ordered services are delivered in the least restrictive setting possible.”²⁰¹

As with detention hearings, Utah’s probation officers play a significant role in disposition planning and hearings. Interviewees across roles widely reported, and court observations of disposition hearings confirmed, that defenders rely heavily on assessments and planning done by probation, regularly work with probation during the planning process, and will argue against probation recommendations at disposition hearings when these recommendations counter the interests of their client. Whether defenders offer alternatives or simply argue against certain recommendations appears to vary across counties.

One probation officer described, “We don’t blindside the defense. We let them know the recommendations beforehand, so the kids come in prepared. Sometimes they’ve written up their own plan, which we encourage.” Another said that defense attorneys “always work with us to find available resources and alternatives.”

A defense attorney explained that they “try to present alternatives to the probation officer and convince them to change their recommendation in advance. This works much better than challenging it in court.” Another youth defender described, “The probation officer files a report, in conjunction with the prosecutor, with recommendations. So I’ll know those ahead of time and can decide whether we’ll join or object to the recommendations. A lot of time we can get to an agreement. If we can’t, I’ll introduce my own evidence of why I don’t agree.”

Several youth defenders noted fewer challenges at disposition due to recent reforms. “I don’t challenge many of probation’s recommendations because they’re usually reasonable and there are a lot of assessments by psychologists and therapists.”

²⁰⁰ UTAH INDIGENT DEF. COMM’N. YOUTH DEFENSE PRINCIPLES, *supra* note 50, at 5 (Principle 7: Dispositional Advocacy).

²⁰¹ *Id.*

Youth defenders were widely reported to be well prepared for disposition hearings. A probation officer said that at disposition hearings in their county, the youth defenders “have read the assessment reports. During the hearing, they offer info from the assessment and sometimes offer alternatives. Alternatives are limited here, but they know them.” Another said, “Attorneys are good at advocating at this stage, for example, if they think counseling won't be beneficial or will be a hardship on the family.” A third probation officer added that “The defense will definitely talk about things youth is doing well, their strengths, etc.”

When discussing disposition hearings, a judge explained, “If there is going to be courtroom argument, this is when it occurs. Mostly these are fact-based arguments, and they also will argue that the recommended disposition is not the least restrictive alternative.”

Another judge noted a need for additional information about the children in their court: “If I had a wish list, it would be for more social work resources to help raise issues with educational deficits, homelessness, poverty.”

“If I had a wish list, it would be for more social work resources.”

Where secure placement is an option, interviewees generally described strong defender advocacy against commitment. A prosecutor reported that “There will always be a disagreement when the recommendation is release to JJYS custody.” And a judge described youth defenders as “Zealous advocates, especially against out-of-home placement.”

Youth defenders and others described regular advocacy against restitution and fees. One judge said that defenders “try not to create more economic hardship for families. They always ask me to waive the \$150 DNA fee.”

Across the state, disposition hearings were reported to be the hearings at which youth defenders were most likely to zealously advocate. Utah should invest in social workers within its youth defense system to enhance defenders’ disposition advocacy, improve dispositional options and outcomes, and reduce reliance on probation staff and the court.

H. Post-Disposition

“[P]ost-disposition is a critical stage in delinquency proceedings for which counsel should be provided.”²⁰²

The post-disposition phase is often the longest period of court intervention in the lives of youth and families. It is critical that youth retain access to counsel while on probation and especially while they are removed from their homes and sent to facilities away from their family and community. To ensure youth receive adequate due process protections, national standards require that counsel continue representation after a youth is adjudicated and placed on probation or committed to the jurisdiction of the court or a state agency.²⁰³

²⁰² INVESTIGATION OF THE ST. LOUIS COUNTY FAMILY COURT, ST. LOUIS, MISSOURI, *supra* note 173, at 21.

²⁰³ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 23-25, 120, 124-126 (Standard 1.4: Scope of Representation; Standard 7.1: Maintain Regular Contact with Client Following Disposition; Standard 7.5: Represent the Client Post-Disposition).

Comprehensive post-disposition advocacy by youth defense attorneys encompasses a wide range of in- and out-of-court advocacy, including probation/parole review or revocation hearings; motions to terminate probation early or modify conditions of probation; relief from fees and fines stemming from court involvement; conditions of confinement; institutional disciplinary hearings; ensuring probation and parole officers provide opportunities that promote youth success; access to educational, medical, or psychological services while in confinement or on probation; limiting access to and distribution of juvenile court records by moving to seal, expunge, or purge records; deregistration from offender registries; and eliminating legal and other barriers to community reentry plans.²⁰⁴

Attorneys can also offer support, advice, and encouragement to youth and monitor whether court-ordered services are being provided and are appropriate. When youth have been removed from their home and community, their attorney can facilitate a smoother transition back home by assisting in securing desired ongoing services, easing the reentry to school by ensuring educational records and credits are transferred, and working with the youth and their family to address other related issues.

Utah law specifies that once a defender is appointed to a case, they “shall provide indigent defense services for the indigent individual in all court proceedings in the matter for which the indigent defense service provider is appointed.”²⁰⁵ Defense systems must ensure youth “have counsel to represent them at all stages of the juvenile court proceedings.”²⁰⁶

Recent reforms in Utah extended youth defenders’ representation through the post-disposition phase.²⁰⁷ A probation officer explained: “There was a time when defenders would represent a youth through the end of the case. Now, they represent the child through the termination of the court’s jurisdiction, so they are involved in the post-disposition hearings and are present at dispositional reviews and are updated on the youth’s progress and compliance.” And a judge expressed their support: “Because of recent legislation, defense attorneys are always at reviews. I really like the new system. I don’t want kids to feel abandoned after adjudication.”

“I really like the new system. I don’t want kids to feel abandoned after adjudication.”

Juvenile court practitioners interviewed for this assessment largely reported that defense attorneys are almost always present at formal review hearings. Whether youth defenders are involved outside of formal court hearings varied.

Youth defenders described widely varying amounts of involvement in their clients’ cases post-disposition. While all reported attending review hearings, some said they “usually meet with [their clients] five minutes before court for a review hearing,” while others described much greater involvement. “If they’re on probation, we’ll talk about how they’re doing, how things are going. When they’re in custody, I watch if the goals for commitment are being followed. I probably spend 25 percent of my time working on pre-adjudication and 75 percent post-adjudication.”

²⁰⁴ ACCESS DENIED, *supra* note 5, at 32.

²⁰⁵ UTAH CODE ANN. § 78B-22-203(1)(b).

²⁰⁶ UTAH INDIGENT DEF. COMM’N. SYSTEM PRINCIPLES, *supra* note 49, at 3-4 (Principle 3B: Scope of Representation—Stages of the Proceedings).

²⁰⁷ UTAH CODE ANN. § 78B-22-203; UTAH CODE ANN. § 78B-22-204.

A probation officer described it as: "Defense attorneys are super involved in pre-trial negotiations, a little bit involved in the disposition process, and rarely involved in the review/post-disposition process unless there are new charges or we have to extend the review period."

Defenders were reported to largely be effective advocates at post-disposition review hearings. One prosecutor said, "They are always prepared for the reviews. They've read the reports and they're ready to highlight youth's successes and to discuss any negative attributes of reports." A judge reported that "Defenders are big advocates for changing or vacating orders," and another said that defenders in their courtroom regularly "argue for early release from probation or custody."

One judge did express concern that youth defenders in their courtroom could be stronger advocates when youth face violations of probation. "Orders to show cause are pretty frequent. Sometimes it is willful violation, but sometimes it's life circumstances like a transportation issue. I do wonder why defenders don't more vigorously challenge these contempts. You can receive fines, community service, even 72 hours of detention for a contempt."

"I do wonder why defenders don't more vigorously challenge these contempts."

Assessment site visitors observed 39 post-disposition hearings and witnessed widely varying quality of representation. Numerous court observers noted post-disposition hearings that were dominated by the judge and probation officer, with the youth defender and prosecutor sidelined. About the defender in one post-disposition hearing, the court observer wrote, "He is just a passenger on this train."

At another hearing, the court observer noted: "It seemed as though the judge was more concerned about the young person having a juvenile record than the defense attorney." And at a third hearing, "The probation officer said more in advocacy for the child than the defender."

Where youth defenders were observed providing zealous post-disposition representation, though, they provided exceptional quality representation. About one hearing, the court observer wrote: "The defender directed the hearing. They were very attentive to their client through body language and actively listening, ready to jump in and assist client if necessary. The defender was 'zoned in' on client, watching his face, with a positive expression. Defender had positive exchanges and laughter with client. The defender was clear on the law and necessary procedures."

Youth defenders were also observed skillfully navigating difficult situations, including one case where the youth did not want to go home. The court observer noted that with the defender's advocacy, the hearing was able to end with a "good, creative outcome."

Utah has taken a vital step toward ensuring young people's constitutional rights through its recent reforms extending defense representation through the post-disposition period of a delinquency case. Utah should provide training to youth defenders specific to post-dispositional advocacy to ensure all youth across the state receive effective representation throughout the post-disposition phase.

I. Appeals

Appellate practice is an important part of youth defense: “A robust and expeditious juvenile appellate practice is a fundamental component of a fair and effective juvenile delinquency system.”²⁰⁸

The discussion with a child about their right to appeal should occur early in the representation and throughout the case. Attorneys must explain not only potential appellate issues to their clients as the case progresses, but also the factors the client should consider in deciding whether to appeal.²⁰⁹ For a child who wishes to appeal, youth defenders must file appropriate notices of appeal and either represent the client or arrange for other representation on appeal.²¹⁰

In Utah, “any order, decree, or judgment of the juvenile court” can be appealed to the Court of Appeals.²¹¹ Utah defense systems “must provide counsel for any first appeal of right”²¹² And Utah youth defenders “must preserve and protect a client’s right to appeal.”²¹³ Under the Youth Defense Principles, a youth defender should:

- “be familiar with the rules of appellate procedure;
- preserve issues for appeal, including through motions practice and clear objections;
- counsel the client regarding appellate rights and guide the client through the decision making process regarding possible appeal;
- file the Notice of Appeal, if the client chooses to appeal; and
- cooperate with appellate counsel, if applicable.”²¹⁴

In 2020, Utah created the Indigent Appellate Defense Division (IADD) within the Office of Indigent Defense Services.²¹⁵ Among other responsibilities, IADD is tasked with providing appellate representation to youth adjudicated delinquent across much of the state.²¹⁶ In January 2021, IADD contracted with Utah Juvenile Defender Attorneys (UJDA), a Salt Lake City-based youth defense organization, to implement the Juvenile Delinquency Appellate Defense Project.²¹⁷

A UJDA appellate youth defender described their office’s philosophy:

We actually don’t file a ton of appeals. We employ a proactive defense model. We are involved in the case from the beginning — we issue-spot from the beginning of the case, from the time of the police report — which motions should be filed and what should be addressed. We work to ensure that all of the issues are preserved. Probably 80 percent of my work is trial-level. We try to avoid an appeal because they take so long; two years for an appeal is like 10 years to a child. So we prepare on the front end so that we get good outcomes from the beginning of the case.

²⁰⁸ NAT’L JUV. DEF. CTR, [APPEALS: A CRITICAL CHECK ON THE JUVENILE DELINQUENCY SYSTEM 2](#) (2014).

²⁰⁹ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 122-123 (Standard 7.3: Trial Counsel’s Obligations Regarding Appeals).

²¹⁰ *Id.*

²¹¹ UTAH CODE ANN. § 78A-6-359(1); UTAH R. JUV. P. 52(a).

²¹² UTAH INDIGENT DEF. COMM’N. SYSTEM PRINCIPLES, *supra* note 49, at 5 (Principle 6: System Ensures the Right to Appeal).

²¹³ UTAH INDIGENT DEF. COMM’N. YOUTH DEFENSE PRINCIPLES, *supra* note 50, at 6 (Principle 10: Appellate Representation).

²¹⁴ *Id.*

²¹⁵ UTAH CODE ANN. § 78B-22-902.

²¹⁶ See UTAH CODE ANN. § 78B-22-903(1)(a) (authorizing IADD to provide appellate representation to youth in third- through sixth-class counties); see also UTAH CODE ANN. § 17-50-501 (defining what qualifies as a third- through sixth-class county); see also *Utah’s 29 Counties*, UTAH ASS’N OF COUNTIES, <https://www.uacnet.org/utah-s-29-counties> (last visited January 31, 2024) (showing that 24 of Utah’s 29 counties are classified as third- through sixth- class counties).

²¹⁷ UTAH INDIGENT DEF. COMM’N, [INDIGENT APPELLATE DEFENSE DIVISION: JUVENILE DELINQUENCY APPELLATE PROJECT](#) (2021).

Through its contract with IADD, UJDA is working to implement this model across the state. UJDA provides quarterly training to youth defenders in identifying and preserving issues, weekly postings on the state’s youth defender listserv with practice tips and caselaw updates, consultation with trial attorneys and assistance with motions practice, and appellate representation for youth who wish to appeal.²¹⁸

Youth defenders from counties included in the IADD program expressed strong support for it: “Now that we have IADD, it’s been amazing.” They also voiced approval for the methods of the Appellate Defense Project, focusing on improving trial-level work: “There is not a lot of juvenile caselaw in Utah. The more we can appeal, the more caselaw we can get, but it’s hard to get appeals when not many trials happen.”

“The more we can appeal, the more caselaw we can get, but it’s hard to get appeals when not many trials happen.”

Utah has taken recent steps in the right direction by creating an appellate division in the IDC and dedicating resources to improving youth defense representation in the state’s smaller counties. The Juvenile Delinquency Appellate Defense Project’s focus on proactive defense, motions practice, and trials has the potential to improve the quality of representation across the state and positively impact youth long before the appellate process.

²¹⁸ *Id.*



KEY FINDINGS

II. SYSTEMIC BARRIERS TO EFFECTIVE YOUTH DEFENSE

“When faced with severe structural limitations, even good, well-intentioned, lawyers can be forced into a position where they are, in effect, counsel in name only.”²¹⁹

Assigning a lawyer to a child is only the first step: “Frequently, even though counsel is assigned to represent youth, crushing caseloads, lack of time to investigate charges or gather critical information, and inadequate training and experience result in ineffective representation.”²²⁰

Systemic and structural issues significantly impact youth defenders’ ability to provide quality defense for their clients. Both the juvenile court system and the public defense system must value and uphold high standards of practice in juvenile courts. To adequately protect the rights of youth, a robust system of youth defense requires leadership, oversight, specialization, training, and pay and resource parity.

A. Statewide Standards & Oversight

Systems that provide defense representation to young people in delinquency proceedings must “recognize that children and adolescents are different from adults,” “emphasize that youth defense counsel has an obligation to maximize each client’s participation in his or her own case in order to ensure that the client understands the court process and to facilitate informed decision making by the client,” and “pay special attention to providing high quality representation for the most vulnerable and over-represented groups of children in the delinquency system.”²²¹

To meet the constitutional mandates of *Gault*, youth defense delivery systems must uphold young people’s constitutional rights by providing competent and diligent representation, recognize youth defense as a specialized area of law, provide personnel and resource parity, provide attorney oversight and monitor caseloads, systematically review attorneys according to performance guidelines and standards, and require comprehensive, ongoing training for all attorneys and staff.²²²

“[L]ack of training, supervision, and oversight of appointed counsel may engender constitutionally-infirm advocacy”

Public defense delivery systems must recognize that the representation of children is different than that of adults and must support counsel who are trained to understand and incorporate adolescent development and the other unique aspects of defending youth. These are not merely aspirational goals. “[L]ack of training, supervision, and oversight of appointed counsel may engender constitutionally-infirm advocacy”²²³

²¹⁹ U.S. Statement of Interest, *N.P. v. Georgia*, *supra* note 7, at 15.

²²⁰ NCJFCJ ENHANCED YOUTH JUSTICE GUIDELINES, CH. III, *supra* note 92, at 24.

²²¹ NJDC & NLADA TEN CORE PRINCIPLES, *supra* note 21, at 1.

²²² *Id.* at 2.

²²³ INVESTIGATION OF THE ST. LOUIS COUNTY FAMILY COURT, ST. LOUIS, MISSOURI, *supra* note 173, at 20.

1. STANDARDS

Utah law mandates that the Utah Indigent Defense Commission “adopt core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code”²²⁴

In 2017, IDC promulgated its Core System Principles for Indigent Defense Services.²²⁵ These principles govern the systems that provide constitutionally and statutorily mandated indigent defense services in Utah, which are almost exclusively county-based contracts with individual attorneys or firms.

In 2018, IDC adopted Core Principles for Appointed Attorneys Representing Youth in Delinquency Proceedings,²²⁶ which speak to the responsibilities of attorneys who provide youth defense services in delinquency court.

IDC’s Core System Principles closely align with recognized national principles for public defense delivery systems.²²⁷ These Core Principles and recent legislative reforms create a solid foundation for Utah’s indigent defense delivery system.

Similarly, IDC’s Core Principles for Appointed Attorneys Representing Youth in Delinquency Proceedings closely align with national standards²²⁸ and provide Utah’s youth defense attorneys with the basic framework needed to serve as effective, expressed-interested counsel for their young clients.

2. OVERSIGHT

IDC is also mandated to “oversee individuals and entities involved in providing indigent defense services.”²²⁹ Its ability to do so, however, is limited. An IDC employee explained: “We developed guiding principles, but we do not have a way to implement or impose them, because we only provide a small amount of money.”

Since its inception, IDC has funded Managing Defender positions in counties across the state.²³⁰ IDC defines a Managing Defender as:

a specific indigent defense provider with the role of coordinating attorneys, staff, and resources related to providing indigent defense services in a system or across multiple indigent defense systems. This person is the central point of contact for information about the system’s indigent defense services and represents the system in various contexts. This attorney should have administrative experience along with significant experience defending adults, minors, and or parents against charges in court and should be selected by a merit-based process.

²²⁴ UTAH CODE ANN. § 78B-22-404(1)(a).

²²⁵ See generally UTAH INDIGENT DEF. COMM’N. SYSTEM PRINCIPLES, *supra* note 49.

²²⁶ See generally UTAH INDIGENT DEF. COMM’N. YOUTH DEFENSE PRINCIPLES, *supra* note 50.

²²⁷ See, e.g., NJDC & NLADA TEN CORE PRINCIPLES, *supra* note 21; NCJFCJ ENHANCED YOUTH JUSTICE GUIDELINES, CH. III, *supra* note 92.

²²⁸ See, e.g., NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 50; NJDC ROLE OF JUVENILE DEFENSE COUNSEL IN DELINQUENCY COURT, *supra* note 23.

²²⁹ UTAH CODE ANN. § 78B-22-404(1)(e).

²³⁰ UTAH INDIGENT DEF. COMM’N., THE ROLE OF MANAGING DEFENDER IN UTAH’S INDIGENT DEFENSE SYSTEM 3 (2021).

A managing defender oversees a system or systems, where contract attorneys are court-appointed to represent individuals in criminal and juvenile court cases. The goal of instituting a Managing Defender (MD) is to have a person to increase the organization of a system and to advocate for more accountability for the local indigent defense services for long-term and consistent constitutional compliance. With more organization in a system, the managing defender can identify improvements and developments and ensure long-term benefits to systems.²³¹

Assessment site visitors interviewed eight managing defenders across Utah for this assessment and found defenders who are trying — but often struggling — to provide the oversight and leadership needed to support successful youth defense delivery systems.

One managing defender described challenges juggling their role as managing defender with courtroom work and managing their own private firm: “The managing contract pays \$30k, and I also had to have one of the primary court contracts. It’s a lot of work. All the attorneys who take these contracts are also managing law firms.”

Another managing defender agreed: “If all I did was this job [as managing defender], it would be manageable.”

Managing defenders consistently reported an inability to oversee the quality of representation provided by the contract attorneys in their counties. “The weakness of the system is there is no actual oversight. It would be great if I could get another half of a contract to actually supervise and oversee the attorneys, do performance evaluations and court observations, survey for client satisfaction, and review data.”

“The weakness of the system is there is no actual oversight.”

IDC personnel recognize attorney performance oversight as “an area for improvement. We surveyed managing defenders and asked if they are doing performance evaluations, but outside [two] counties, there is nothing formalized.”

One managing defender described the increased difficulties of overseeing juvenile court representation, compared to overseeing attorneys providing defense services to adults: “I’m not able to do checks on the attorneys because of the private nature of the [case management] system. I can’t review attorney files unless the attorney sends me information to review.”

An IDC employee interviewed for this assessment recognized that managing defenders have limited ability to oversee the attorneys in their county: “Through our contracts, we can require managing attorneys to do certain things, but the independent contractors cannot be required.”

Managing defenders also described a lack of ability to effect systemic change to improve youth defense in their counties. “I see it as my job to fight for my defenders, but I don’t have the ability to make change at this level. One of the judges told me that they were shocked at my lack of control.”

Another managing defender described their role as, “I’m the lead, but I’m not really over anybody.”

²³¹ *Id.* at 2-3.

One managing defender explained that they felt the best way to support the contract attorneys in their county would be to provide administrative support and structure: “I do wish we could give more office, administrative, IT support. None of us went to school to run a business, and none of us are particularly good at it. I wish we didn’t have to waste time on any of that stuff. We need a centralized operation. An office where attorneys can work if they want, where they can chat, collaborate, don’t have to pay for office space, have someone to answer phones. We need to give attorneys a choice to cut overhead.”

Another managing defender agreed: “I would love to have a centralized operation.”

“I would love to have a centralized operation.”

Utah has made considerable progress since the founding of IDC just eight years ago. IDC’s Core System Principles and Core Principles for Appointed Attorneys Representing Youth in Delinquency Proceedings closely align with national standards and provide a solid foundation for a high-quality youth defense system. However, even the best of system standards cannot be effective if they are not enforced.

Through its contracts supporting managing defenders, it is clear that IDC recognizes the need for management and oversight of the state’s county-based contract system. The current structure, however, does not appear to be providing managing defenders with the resources and support they need to provide the oversight or support necessary to ensure young people receive the high-quality representation the constitution demands.

Managing, overseeing, supporting, and evaluating contractors can be more complex than supervising employees, but effective management is possible within a contract system. Utah should look to states that effectively manage contracted youth defense counsel, including Colorado and Massachusetts,²³² which have balanced the nature of independent contractors with the need for a state’s indigent defense system to have oversight authority over the quality of representation provided by those attorneys.

Under its current managing defender scheme, IDC should require initial and ongoing training in management and supervision skills for any attorney given a managing defender contract, in recognition that management requires markedly different skills than courtroom advocacy, and should ensure that attorneys who receive managing defender contracts to oversee youth defenders have experience providing representation in delinquency cases and expertise in the unique demands of representing children. IDC should also consider making managing defenders fulltime contractors or IDC employees, moving toward a regional model to support managing defenders and contract attorneys in less populated areas, and providing enhanced administrative supports to managing defenders and contract attorneys.

²³² See, e.g., *The Office of the Alternate Defense Counsel Overview*, COLO. OFF. OF THE ALT. DEF. COUNS., <https://www.coloradoadc.org/about-us> (last visited March 6, 2024); *Private Counsel Division*, MASS. COMM. FOR PUB. COUNS. SERVICES, <https://www.publiccounsel.net/pc/> (last visited March 6, 2024) (these are two examples of public defense delivery systems that contract with, oversee, and manage attorneys who provide youth defense services across their states).

B. Specialization & Youth-Specific Training

Youth defense specialization is essential to providing adequate delinquency defense to youth.²³³ Delinquency cases involve a unique body of law, and outcomes have significant, lifelong implications for youth and their families. In rural communities, where caseloads are not large enough to allow for a dedicated practice in youth defense, it is nonetheless critical that anyone who takes on representation of youth develop an expertise in the practice.

Delinquency defense is a specialized practice,²³⁴ and public defense delivery systems must provide specialized training²³⁵ to ensure attorneys who defend young people are knowledgeable about not only the law, but also youth development, social and cultural differences, education, mental health, trauma, communicating with and effectively interviewing youth, and alternative disposition resources.²³⁶

Specialization requires training and oversight to ensure that attorneys have the resources and support necessary for competent representation, including initial and on-going training on adolescent brain development and its implications for building an attorney-client relationship, protecting [youth] clients' constitutional rights, the child's relative culpability, the law of pretrial juvenile detention, dispositional resources, special education law, the collateral consequences of delinquency findings, and the ethical issues that arise in delinquency representation.²³⁷

The Utah IDC recognizes that: "Indigent defense encompasses distinct areas of practice: criminal defense, delinquency defense, parental defense, and appellate advocacy. Each is its own area of specialization, requiring skills and knowledge distinct from what is required to practice in any other area."²³⁸

IDC's System Principles mandate that "Indigent defense systems must ensure defense counsel's ability, training, and experience match the complexity of the case. Systems must require counsel to receive continuing legal education in the areas indigent defense representation in which they practice."²³⁹

In 2019, Utah received a grant from the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) to support specialization and provide youth defense-specific training to attorneys appointed to represent youth across the state.²⁴⁰ Work under the grant was ongoing during the time of site visits for this assessment but concluded in September 2023.

An IDC employee described the work done under the OJJDP grant: "We have a CLE on youth defense at least every other month and two full-day trainings per year. We provided a mentoring project, where we worked with new attorneys for three months. We have produced handbooks and practice guides."

²³³ NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 21-23 (Standard 1.3: Specialized Training Requirements for Juvenile Defense).

²³⁴ *Id.* at 21-23, 145 (Standard 1.3: Specialized Training Requirements for Juvenile Defense and Standard 9.2: Supervisor's Obligation to Ensure Access to Specialized Training).

²³⁵ NJDC & NLADA TEN CORE PRINCIPLES, *supra* note 21, at 1-2.

²³⁶ NCJFCJ ENHANCED YOUTH JUSTICE GUIDELINES, CH. III, *supra* note 92, at 23-24; NATIONAL YOUTH DEFENSE STANDARDS, *supra* note 17, at 21-23 (Standard 1.3: Specialized Training Requirements for Juvenile Defense).

²³⁷ U.S. Statement of Interest, *N.P. v. Georgia*, *supra* note 7, at 13-14.

²³⁸ UTAH INDIGENT DEF. COMM'N. SYSTEM PRINCIPLES, *supra* note 49, at 4 (Principle 5: System Recognizes Distinct Areas of Specialization Within Indigent Defense).

²³⁹ *Id.* at 5-6 (Principle 8A: Qualifications and Training).

²⁴⁰ See *Utah Statewide Delinquency Defense Legal Training and Sustainable Capacity Project*, OFFICE OF JUV. JUST. AND DELINQ. PREVENTION, <https://ojjdp.ojp.gov/funding/awards/2019-ze-bx-0003> (last visited February 5, 2024).

Juvenile legal system practitioners interviewed for this assessment widely reported that, outside of Salt Lake County, contract attorneys in Utah are rarely able to specialize in youth defense and that, except for the trainings offered under the state's OJJDP grant, most contract attorneys do not have access to youth defense-specific training. Interviewees also widely reported a need to elevate the status of practicing in juvenile court and to create a pipeline of new attorneys dedicated to youth defense as a career.

1. SPECIALIZATION

An IDC official interviewed for this assessment described the need for specialization: "We need to find ways to create specialized attorneys instead of just allowing attorneys to take whatever is in the county contract. We have been able to separate the contract for youth and adult defense, and there are requirements for CLE for anyone whose contract we fund. But that does not make you a specialist. We need more money for youth defense specialization."

"We need more money for youth defense specialization."

Voices for Utah Children, the nonprofit organization that conducted the waiver-of-counsel studies discussed in Section I. B. above, noted a lack of specialization throughout the state at the time they conducted their court observations: "Defenders outside of Salt Lake County did not see themselves as specialists. There wasn't a cohort for mentoring and teaching others." Voices staff did, however, note efforts to improve: "IDC has done a great job cultivating youth defense specialization, to make sure defenders know this is a separate part of the law, and is working to connect defenders to resources."

A juvenile court judge explained that, "Too often, attorneys who defend adults go defend kids, but they just don't understand the nuances." Another judge explained the impact that specialized youth defenders have on their clients: "Salt Lake County has defenders who love what they do, and youth come away feeling they had effective advocates."

Another judge expressed support for youth defense specialization and tied it to the importance of training: "There are so many benefits of having a firm dedicated to youth defense like they have in Salt Lake. A firm like that makes sure its attorneys are up to date on the law. I had a transfer hearing where I was the one who advised the parties the law had changed."

"There are so many benefits of having a firm dedicated to youth defense."

A youth defender who provides support through IDC's appellate program has seen the impact that a lack of specialization and access to youth-specific training has on the quality of representation young people receive. "People who have contracts in other counties do a little of everything, and we've seen obvious and important issues that just are not being raised. There are attorneys doing youth defense who know nothing about adolescent development, who have never even heard of *J.D.B.* [*v. North Carolina*,²⁴¹ a seminal U.S. Supreme Court ruling on the importance of age and mental status]."

²⁴¹ See *J.D.B. v. North Carolina*, 564 U.S. 261, 277 (2011) (holding that a child's age properly informs the *Miranda* custody analysis).

2. YOUTH DEFENSE-SPECIFIC TRAINING

When asked about what kind of training they received before taking on youth defense work, defense attorneys interviewed for this assessment almost universally reported that they had received no youth defense-specific training. Several described their only training as “on-the-job training” once they took on a youth defense contract. One said they had “been educated through self-study.”

Several youth defenders noted that the trainings offered by IDC under the OJJDP grant were the first time in their careers they had been able to access youth-specific training, and they were enthusiastic about the training opportunities the grant provided. One defender explained, “IDC’s Department of Justice program is amazing. We get free trainings all the time through this program, including some all-day CLE programs.”

Another youth defender described, “I’ve done several programs with the Indigent Defense Commission that have been great. I did the new lawyer training program, through which I was assigned a mentor who is a very experienced lawyer. I was able to work with them for two or three months. They observed me in court, gave me new tools and angles, and completely changed my level of job satisfaction.”

At the time of site visits for this assessment, IDC was unsure whether it would be able to continue to offer training and mentorship opportunities once the federal grant ended: “I think the project is going really well, but I’m not sure what will happen after it ends. We need to develop a plan for how to move forward.”

A state-level official with Utah’s Division of Juvenile Justice and Youth Services recognized enhanced youth defense training as key to their mission, as well: “The more we can elevate the skill and ability of the defense bar, the better. We want to get to a place where we can keep kids in their home and communities, and the defense bar plays a critical role in that. Defenders need to be grounded in the research on the adolescent brain, the harms of detention, the harms of out-of-home placement.”

“The more we can elevate the skill and ability of the defense bar, the better. We want to get to a place where we can keep kids in their home and communities, and the defense bar plays a critical role in that.”

Supporting attorneys to become youth defense specialists and creating a robust training program take time. A trial court executive explained: “At a systemic level, we are new getting into this. We’re still learning. This translates to the fact that most attorneys just haven’t had practice in juvenile court. They need more resources. They need training.”

A juvenile court judge compared the quality of advocacy they see from well-trained defenders versus others: “There’s a well-trained cohort in Salt Lake County who are strong. I just do not see a lot of advocacy, trials, or reasonable plea negotiations outside of Salt Lake County.”

3. STATUS OF YOUTH PRACTICE & YOUTH DEFENDER PIPELINE

Juvenile court practitioners interviewed for this assessment reported that in many places across the state, work in juvenile court is devalued, which contributes to difficulties recruiting attorneys to dedicate their careers to the practice of youth defense and retaining existing attorneys long enough for them to become specialists in youth defense.

One youth defender explained, “There is a perception that juvenile court is ‘baby court,’ that it’s easy and low quality.” A juvenile court judge described a “mentality about juvenile court as lesser-than.” And some interviewees reported that some county prosecutor offices use assignment to juvenile court as discipline: “We’ve heard that juvenile prosecution is the garbage job for people not good at adult prosecution.”

An IDC official explained that this perception about the status of juvenile court practice impacts their ability to find attorneys willing to take IDC contracts: “If we increased salaries substantially, we would get more and better people. But in some counties, we cannot get people to do public defense work even if there were more money.”

Practitioners recognized the need to elevate the status of work in juvenile court as a necessary component of recruiting new defenders. One youth defender explained, “We’ve been trying to do more outreach to universities. One of my colleagues just went to the University of Utah’s law school to talk to students, and BYU has a juvenile law program now. But there just aren’t a whole lot of people who are interested.”

An IDC employee confirmed: “We don’t have a good statewide recruitment effort. We need a concerted effort to educate people about what the work is and the positive aspects of youth defense work. We need to be going to law schools and educating about youth defense. We need to strengthen the youth defense community so new lawyers know they’ll have a community that is well-respected.”

“We need to strengthen the youth defense community so new lawyers know they’ll have a community that is well-respected.”

Specialization, training, the status of juvenile court practice, and attorney recruitment and retention are integral pieces of building a strong youth defense system that provides high-quality representation and meets Utah’s constitutional mandates. The state should invest the resources necessary to maintain the youth defense-specific training and mentorship program built under the federal grant. IDC should provide and require initial and ongoing training for all attorneys who take youth defense contracts. Courts and counties must ensure that juvenile court is recognized as an important, specialized practice. And the state should support the establishment of youth defense clinics in Utah law schools to create a pipeline of new attorneys dedicated to youth defense as a career.

C. County-Based Contract System

Before Utah created its IDC in 2016, it was “one of just two states requiring local governments to fund and administer all indigent defense services.”²⁴² Despite the state’s efforts, through the IDC, to begin to provide funding and other support, youth defense services in Utah are still provided almost exclusively by private attorneys who contract with one of the state’s 29 counties.²⁴³ This county-based contract system was identified repeatedly and by practitioners throughout the state and across roles as the root of many of the deficiencies with youth defense in Utah.²⁴⁴

When the Utah legislature created the IDC, it seemed to recognize a need to move away from this county-based defense delivery system. In its governing statute, the IDC is mandated to “encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals.”²⁴⁵

A state-level official noted the discrepancy between how the state handles youth defense versus other aspects of the juvenile legal system: “Utah is a unified system. The juvenile court is a statewide court system. JJYS is a statewide system, not county-based. There’s a reason why we see significant differences in the level of representation across the state.”

A juvenile court judge explained that, “Counties being in charge is problematic and always will be. There’s a different status of public defenders based on the county they’re in. In a statewide system, there’s better education, better management.”

Another judge noted that, “With the contracts, the work is very individual. Some attorneys are so impressive and work hard and others do the least amount possible. Contract attorneys miss out on the camaraderie of an office that encourages creative lawyering and accountability and disrupts the rut.”

“Contract attorneys miss out on the camaraderie of an office that encourages creative lawyering and accountability.”

1. INDEPENDENT REPRESENTATION

National standards recognize the utmost importance of professional independence for defense counsel. An indigent defense system “should be designed to guarantee the integrity of the relationship between lawyer and client,” and defense counsel “should be free from political influence”²⁴⁶ “An effective means of securing professional independence for defender organizations is to place responsibility for governance in a board of trustees. Assigned-counsel and contract-for-service components of defender systems should be governed by such a board Boards of trustees should not include prosecutors or judges.”²⁴⁷

²⁴² SIXTH AMEND. CTR., [THE RIGHT TO COUNSEL IN UTAH: AN ASSESSMENT OF TRIAL-LEVEL INDIGENT DEFENSE SERVICES](#), *supra* note 35, at 46.

²⁴³ See UTAH CODE ANN. § 78B-22-102(9).

²⁴⁴ See NAT’L JUV. DEF. CTR., [BROKEN CONTRACTS: REIMAGINING HIGH-QUALITY REPRESENTATION OF YOUTH IN CONTRACT AND APPOINTED COUNSEL SYSTEMS 7](#) (2019) (detailing the challenges of youth defense contract systems).

²⁴⁵ UTAH CODE ANN. § 78B-22-404(1)(b).

²⁴⁶ AM. BAR ASS’N, [ABA STANDARDS FOR CRIMINAL JUSTICE PROVIDING DEFENSE SERVICES](#) 13 (1992) (Standard 5-1.3. Professional independence).

²⁴⁷ *Id.*

Utah law mandates that IDC shall adopt core principles that ensure “an indigent individual receives conflict-free indigent defense services,”²⁴⁸ and defense systems must ensure defenders can “exercise independent judgment without fear of retaliation.”²⁴⁹

Indigent defense counsel’s primary and most fundamental responsibility is to promote and protect the interests of the client. A system must ensure defense counsel is free to defend clients zealously, based on counsel’s own judgement, and without fear of termination, reduction in compensation, reduction in staff, or reduction in defense resources. The selection, funding, and payment of defense counsel should be independent of the judiciary and the prosecution.²⁵⁰

Despite these clear mandates, assessment site visitors found that in numerous counties across the state, county prosecutor offices are in charge of, involved in, and/or hold undue influence over the selection of defense counsel, contracts defense attorneys have with counties, and budgets for defense experts and other resources.

In numerous counties across the state, county prosecutor offices are in charge of, involved in, and/or hold undue influence over the selection of defense counsel, contracts defense attorneys have with counties, and budgets for defense experts and other resources.

A state-level official told site visitors that “in some counties, the prosecutors are appointing the defenders.” An IDC employee confirmed that “In some places they are doing a better job of separating the defense attorney and the county prosecutor. In other places, they are not.”

A managing defender explained that they have “mostly gotten prosecutors out of what defenders do,” but went on to say that prosecutors are still on the county’s interviewing panel for selecting defense attorneys.

One judge who worked as a defense attorney before joining the bench described their experience: “When I was a defender, my bills went to the county attorney, and they would regularly return bills for more detail. It was a constant debate.”

Another judge with prior defense experience told of a similar experience: “I would file motions with the court for experts and assessments, but everything was controlled by the county attorney. They controlled the pot of money.”

Wresting control from county prosecutor offices appears to depend on the political environment in each county. One judge explained, “The county attorney here is still in charge of the defense budget. The prior county executive wasn’t willing to change that, but we got a new county executive in the last election, and they’re willing to pull it from the county attorney.”

IDC recognizes the need to remove prosecutors from these roles: “Counties have money set aside for defense experts, but some defenders do have to go through county attorney office to get support. We are trying to get rid of that. Managing defenders are supposed to take over that process.”

²⁴⁸ UTAH CODE ANN. § 78B-22-404(1)(a)(i)(A).

²⁴⁹ *Id.* at § 78B-22-404(1)(a)(ii)(A).

²⁵⁰ UTAH INDIGENT DEF. COMM’N. SYSTEM PRINCIPLES, *supra* note 49, at 4 (Principle 4: System Provide Representation that is Independent and Free from Interference).

A managing defender described the transition in their county: “There’s a county budget to fund defense services. I’m kind of in charge of it, but I don’t actually manage any money. The budget person in the DA’s office still manages the funds.”

Prosecutorial control of defense budgets has contributed to a culture of defense attorneys not utilizing appropriate resources to fully represent their clients. An IDC employee explained, “For a long time, defenders simply would not ask for these resources because of these processes. Counties are doing a better job dedicating resources and changing the processes for requesting resources, but this needs to continue to improve to ensure defense attorneys are able to access those resources.”

Prosecutorial control of defense budgets has contributed to a culture of defense attorneys not utilizing appropriate resources to fully represent their clients.

A managing defender confirmed, “Experts and investigators are still kind of new to us. We’re figuring out how to use them.”

Defense attorneys across the state are well aware that their courtroom opponents, who wield considerably more local political power, are in control of their contracts and resources. One youth defender explained the impact this has on courtroom advocacy: “It should be a more adversarial process. Cases are far less litigated here than in other jurisdictions. We used to have an attorney who was a fighter, and then he lost his contract.”

“Cases are far less litigated here than in other jurisdictions. We used to have an attorney who was a fighter, and then he lost his contract.”

Current and former female youth defenders interviewed for this assessment also described this county-based power structure as presenting obstacles to newer, younger, and female attorneys who are interested in pursuing careers in youth defense. “It was hard to break into the old boys’ club when I wanted to do juvenile cases.”

2. FLAT-FEE CONTRACTS & PAY PARITY

“Assigned counsel should receive prompt compensation at a reasonable hourly rate and should be reimbursed for their reasonable out-of-pocket expenses. Assigned counsel should be compensated for all hours necessary to provide quality legal representation.”²⁵¹

“Contract counsel compensation should be proportional to the workload required for zealous representation of youth. . . . Pay-by-the-hour or similar billing systems often encourage more zealous representation since counsel are being paid for the full extent of their work.”²⁵²

²⁵¹ ABA STANDARDS FOR CRIMINAL JUSTICE PROVIDING DEFENSE SERVICES, *supra* note 246, at 39 (Standard 5-2.4 Compensation and expenses).

²⁵² NJDC BROKEN CONTRACTS: REIMAGINING HIGH-QUALITY REPRESENTATION OF YOUTH IN CONTRACT AND APPOINTED COUNSEL SYSTEMS, *supra* note 244, at 18.

Courts have found low pay rates for assigned counsel that lead to understaffing and excessive caseloads as unconstitutional denial of counsel.²⁵³

According to IDC staff, youth defense contracts in Utah are “almost always flat-fee contracts.” They explained that, “It’s good for the county, because it knows what the cost will be every year. But it’s not good if you look at how much time attorneys are spending on each case.”

Under a flat-fee contract, defense attorneys are generally contracted to provide representation in a percentage of defined cases, such as juvenile delinquency cases. Because flat-fee contracts do not compensate the contractor based on the time they spend providing the services, such contracts financially incentivize contractors to complete work under the contract as quickly as possible. This is not compatible with youth defense attorneys’ ethical duties to provide zealous representation.

An IDC official recognized the benefits of paying contract attorneys for their time: “The more hours you put in, the more you get paid, then the more attention you give to things. And if you are assured more money, then you would engage in more practice.”

Interviewees noted that youth defense simply is not a budget priority for counties. One judge explained, “Counties are forced to pay for defense. They don’t see it as a great need for their county. They see it as, ‘Who we can give cheapest contract to.’ They put out defense services for bid, and the lowest bid gets the contract. Is that how we want to hire public defenders?”

“They put out defense services for bid, and the lowest bid gets the contract. Is that how we want to hire public defenders?”

An IDC employee explained, “There are just not enough funds. In order to get people who can do youth defense and do it well, they need to be paid well enough and know they will be paid well ongoing. You need to pay people enough to keep them on youth defense.”

A state-level official opined that: “The state ought to be sharing the cost with the counties at least 50/50. Because left to their own, the counties will never fund defense enough.”

Interviewees also noted pay parity as a problem across most of the state. One judge described that when it comes to pay and resources, “Defenders are simply not on the same playing field as the prosecutor.” Another judge explained, “Pay disparity is a limitation. The DA has comparatively unlimited resources for experts and investigators. This is a systemic problem; resources should be the same for both sides.”

An IDC official identified pay parity as “critical” for supporting youth defense specialization and ensuring youth are represented by competent attorneys. “Finding people who want to take the contracts and finding competent attorneys are big problems. There are people across the state who want to specialize, but we need enough money to support them. How do I get someone to do fulltime delinquency work if they aren’t paid enough?”

²⁵³ See, e.g., *New York Cnty. Lawyers' Ass'n v. New York*, 196 Misc.2d 761 (holding that the statutory compensation rates for assigned counsel was unconstitutional for youth and adults in New York City); *Wilbur v. City of Mount Vernon*, 989 F.Supp.2d 1122, 1124 (W.D. Wash. 2013) (“[M]unicipal policymakers have made deliberate choices regarding the funding, contracting, and monitoring of the public defense system that directly and predictably caused the deprivation [of the right to counsel].”); see also [U.S. Statement of Interest at 11](#), [Hurrell-Harring v. New York](#), 930 N.E.2d 217 (N.Y. 2010) (No. 8866-07) (summarizing cases that have found structural inadequacies amounting to a constitutional violation of the right to counsel).

A managing defender concurred that current pay rates make finding competent attorneys a challenge: “With the pay we offer, we usually don’t get any experienced applicants.”

Other managing defenders noted how the low pay rate is exacerbated by the lack of supportive structure in a contract system. One said, “People don’t go to law school to make 50 or 60 grand plus have to pay for their office space.” And another explained: “There’s a lack of administrative help, things like buying office space, computers, IT. We just got Westlaw. If the state has a resource, we should have it. Financially, it’s hard for our attorneys. And there are no benefits.”

One youth defender noted that, in addition to discrepancies in pay between defenders and prosecutors, “Youth defense has always been paid less than adult defenders.”

Juvenile court judges expressed concern about the impact pay and resource disparities have on the quality of representation young people receive: “Since the day I started practicing law, I’ve been troubled by the disparity between the prosecution and the defense system. We talk about access to justice and we make small strides, but we never keep it our focus. We need to start at the beginning doing it right.”

“Since the day I started practicing law, I’ve been troubled by the disparity between the prosecution and the defense system.”

Another judge explained, “Defenders are left with so much work. They have no support system, no staff, no resources. We’re dealing with people’s lives. Everything we do in juvenile court with kids, we’re putting kids on a path. Either let them know the system failed them and they’re not worth any more than that. Or we can totally change the trajectory of this kid’s life. Let them know the system is there to protect them and make sure they have access to the resources they need.”

3. LACK OF QUALIFIED COUNSEL IN RURAL & REMOTE AREAS

Insufficient pay and support have contributed to a severe shortage of qualified counsel across much of the central and eastern parts of Utah. Juvenile court practitioners outside Utah’s more densely populated Wasatch Front frequently described difficulties attracting and retaining qualified counsel. A judge in a rural county told site visitors, “If you know anyone looking for work, send them here.”

“There isn’t enough money in some of the smaller regions to keep defense attorneys in rural areas.”

A longtime juvenile court practitioner explained, “Counties often contract with the local attorney because that’s who everyone knows. They’re giving contracts to less-qualified or uninvested attorneys because they know them, they’re buddies. Especially in smaller counties where fewer attorneys live, the choices are limited. The long and short is, there isn’t enough money in some of the smaller regions to keep defense attorneys in rural areas.”

This lack of qualified local counsel and courts' increased use of technology to conduct virtual hearings has led to some counties contracting with youth defense counsel who live hours away from the courts they practice in. Asked to identify the biggest limitation with their county's youth defense system, numerous interviewees noted contract defenders who live too far away to regularly appear in court or meet with their clients in-person.

One judge explained, "Some defenders live all over the state. For example, one of the defenders lives in [a county approximately 80 miles away]. He appears in person sometimes but primarily is remote." A probation officer described: "There is an attorney who is not local, and we only see them virtually. There is a disconnect because of the distance. They do a good job, but there isn't the face-to-face."

Prosecutors in rural counties described difficulties with defenders based far outside their counties. "One of our biggest limitations now is that defense attorneys are based [far from the county], so some families complain that they don't have access to meet with their attorney prior to court. Often defense counsel is asking for a few minutes to speak with their client at the beginning of a hearing, which delays court. Prior to COVID, defense attorneys were either in the area or making the commute a couple days a week. That's not happening now. Since COVID, a lot more attorneys are electing to only appear virtually."

Several judges expressed similar concerns about the impact of long-distance defense attorneys and remote hearings on attorney-client contact and quality of representation. One judge explained, "The biggest limitation is that our defender is from [outside the county], so they end up speaking to their client the day of the hearing." Another judge said that "It would be nice to have lawyers next to the youth in the courtroom. But generally, defenders in my courtroom appear virtually."

***"It would be nice to have lawyers next to the youth in the courtroom.
But generally, defenders in my courtroom appear virtually."***

A third judge explained, "Because we do remote so often, a lot of kids don't make contact with their attorney. I set some mandatory in-person dates, so that I know the attorney and client will have a chance to speak." Another judge described similar experiences: "Virtual hearings make defense attorneys lazy. They haven't talked to their clients, and cases get dragged on. I've found that if I set an in-person hearing, the case gets resolved."

A youth defense attorney described the connection between smaller, more rural counties' lack of resources and attorneys' taking long-distance contracts: "It's frustrating, because counties are contracting with less-qualified attorneys for the sake of local control, but those same attorneys spend the majority of the time on the road to other, more lucrative counties, and the local client gets representation by phone."

4. WIDE SUPPORT FOR REGIONAL, STATE, AND/OR PUBLIC DEFENSE OFFICE MODEL

When discussing the difficulties and shortcomings of Utah's county-based contract system for youth defense, interviewees expressed wide support for moving toward a regional- or state-level delivery system and for the creation of a system of public defense offices where youth defenders would be government employees, rather than independent contractors.

Several judges expressed support for creating regional defense services, modeled after Utah's judicial districts. One judge suggested, "Defenders should be on a district system, especially in rural areas. Just like judges sit in court in other counties in the district, defenders should cover cases, as well." Another judge opined, "I think we're heading toward the state running defense through districts. It should go that way."

"Defenders should be on a district system, especially in rural areas."

A third judge explained how county prosecutors' continued undue influence over the defense system had thwarted attempts to regionalize defense in their area: "We had discussions about district-wide defense for juvenile court. Two of the counties were fully on board. But the [third] county attorney opposed the idea, and we haven't been able to make any progress."

IDC explained that they "are working on regionalization, facilitating counties working together to create regional contracts so that the counties share an attorney." An IDC official expressed their belief that regionalization could help support youth defense specialization: "I would love to have a corps of attorneys who just do youth defense. But where a single contract isn't enough for fulltime work, attorneys should have youth defense contracts across multiple counties, rather than across different types of practice."

Several interviewees expressed support for moving away from contracts and toward public defender offices. One judge said, "The state should move toward true public defender offices. I have a team of four that works with me. They provide admin support, secretarial, scheduling. Every part of the court system needs that same type of support. And defenders need paralegals, investigators, social workers."

A judge in Salt Lake County described the "strength of having one law firm that is dedicated to youth defense and nothing else. We are fortunate to have incredibly strong youth defense in this county. Defenders always show up, they present novel legal theories, rarely have I heard a youth say they do not know who their attorney is." A judge in another county said, "Oftentimes I wish we had a firm like the one in Salt Lake County."

A state-level official described wanting "to help every county see the need for an independent office. We need to get Utah to move toward independent public defense. We need to get rural counties to see youth defense specialization as critical, to partner with more robust jurisdictions that could provide training and support."

"We need to get Utah to move toward independent public defense. We need to get rural counties to see youth defense specialization as critical."

Utah's county-based contract system for youth defense limits access to justice for young people. The state and all counties must immediately remove county prosecutor offices from any form of control or oversight of youth defense contracts, funding, or other resources. Counties should stop using flat-fee contracts for defense services and institute hourly pay-rate structures that properly compensate youth defenders for the time needed to provide competent representation in every case. Counties should ensure pay and resource parity between youth defenders and prosecutors. IDC should incentivize each of these reforms through its grant-making. Utah, the IDC, and counties should move toward regionalization of defense services and oversight and explore the creation of public defense offices.

D. Equitable Treatment of Youth

“Research shows that when young people sense inequity in the juvenile justice system, they are less likely to be successful in turning away from misconduct and toward more positive community engagement.”²⁵⁴

Advocacy for equitable treatment is an essential part of the role of youth defenders.²⁵⁵ Defenders have a duty to educate themselves about the unique experiences and perspectives of the populations they serve, and to confront their own biases and those inherent in the legal system.²⁵⁶ Defenders must recognize their own vulnerability “to the negative effects of implicit bias as they practice in a paternalistic system that is easily manipulated by perceptions of race and class,” and provide “loyal, client directed legal advocacy” to safeguard against the harms caused by the effects of racial injustice in the juvenile legal system.²⁵⁷

Racial and ethnic disparities permeate Utah’s juvenile legal system. Collectively, nonwhite youth account for about 27 percent of the state’s general youth population, but 40 percent of court referrals, 51 percent of youth in locked detention, 59 percent of youth in community placement, and 53 percent of youth in secure facilities.²⁵⁸ Black youth face the highest rates of disparity at arrest, court referral, locked detention, community placement, and secure commitment.²⁵⁹ Only at secure commitment do Native Hawaiian/Pacific Islander and Latino/Hispanic youth begin to approach the level of disparity Black youth face.²⁶⁰

According to 2021 data, Utah’s overall commitment and detention rates were below national rates, but its disproportionate incarceration of Black, Latino/a, and Native/Indigenous youth was nearly double the national rate.²⁶¹

“When you look at detention, secure care, and community custody length of stay, there’s still a lot of work to be done.”

JJYS personnel expressed recognition of racial disparities and how system practices exacerbate them: “Disparity is something we need to talk about. Our disparity rate has improved, and we need to highlight how the policy changes have made improvements. But when you look at detention, secure care, and community custody length of stay, there’s still a lot of work to be done. We need to examine our risk tools and we need to see how they are contributing to the disparity. We are using standard risk tools and opportunities for diversion. Our early intervention services, they were built for white kids.”

²⁵⁴ VOICES FOR UTAH CHILD., *STRIVING FOR EQUITY IN UTAH’S JUVENILE JUSTICE SYSTEM* 4 (2020).

²⁵⁵ See generally *Racial Justice for Youth- A Toolkit for Defenders: Case Advocacy*, GEO. LAW JUV. JUST. INITIATIVE & THE GAULT CTR., <https://defendracialjustice.org/case-advocacy/> (last visited February 19, 2024).

²⁵⁶ See Kristin Henning, *EMPIRICAL STUDIES: IMPLICIT RACIAL BIAS IN THE CRIMINAL/JUVENILE LEGAL SYSTEM* 1 (2023) (imploiring youth defenders to confront their own implicit biases to better serve youth in the juvenile legal system).

²⁵⁷ Kristin Henning, *Race, Paternalism, and the Right to Counsel*, 54 AM. CRIM. L. REV. 649, 694 (2017); see also *Racial Justice for Youth: A Toolkit for Defenders, Case Advocacy*, GEO. LAW JUV. JUST. INITIATIVE & THE GAULT CTR., <https://defendracialjustice.org/case-advocacy/> (last visited February 19, 2024); *Racial Justice for Youth: A Toolkit for Defenders, Confronting Bias*, GEO. LAW JUV. JUST. INITIATIVE & THE GAULT CTR., <https://defendracialjustice.org/confronting-bias/> (last visited February 19, 2024).

²⁵⁸ *Make-up of Utah’s Youth Population at Different Points of Contact*, UTAH COMM’N ON CRIM. & JUV. JUST., https://justice.utah.gov/wp-content/uploads/JJ_Presentation_StateOnly_2020.html (last visited February 20, 2024).

²⁵⁹ *Id.* (select “Arrest,” “Court Referral,” “Locked Detention,” “Community Placement,” “Secure Care” on the top banner to compare racial and ethnic breakdowns of youth at various points of contact).

²⁶⁰ *Id.* (select “Secure Care” on the top banner to view racial and ethnic breakdowns of youth facing secure commitment).

²⁶¹ See *Juvenile Justice State Profiles*, OFF. OF JUV. JUST. & DELINQ. PREVENTION, https://www.ojdp.gov/ojstatbb/special_topics/stateprofile.asp (last visited February 20, 2024) (select “Utah” as the state to view the following 2021 data: Utah’s commitment rate was 23 per 100,000 compared to the national rate of 39; Utah’s detention rate was 14 per 100,000 compared to the national rate of 33; and Utah’s ratio of minority youth to white youth in residential placement was 9.2 versus the national rate of 4.7).

Despite the state’s troublingly high rates of disparity, most youth defenders interviewed for this assessment reported few concerns with how the juvenile court system treats youth of different races or ethnicities. Several defenders did express concerns about disparate policing of Black, Latino/a, and Native/Indigenous youth; however, most defenders said they had never raised race-related arguments in court.

Salt Lake County’s contracted firm dedicated to youth defense appeared to stand alone in its recognition of racial disparities in the juvenile legal system and its work to challenge them. One of its youth defenders described: “Youth are pulled over all the time for being Black or brown. We’re raising these issues in court, trying to get everyone in tune to the challenges faced by individual ethnic groups. We have specific concerns with Native American youth. We work with our social workers to pull data on disproportionality, and our attorneys will include that in a dispositional memorandum to the court.”

Racial and ethnic disparities exist at every step of the juvenile legal system, from in- and out-of-school suspensions to arrest to the juvenile court system. Utah must commit to reducing these disparities by conducting regular analyses of system involvement, interventions, and outcomes; and by requiring that all juvenile legal system professionals be trained on the historical context of overrepresentation and debias techniques. Youth defenders have a unique role and specific responsibilities to advance justice and champion a collective commitment from those working in the system to ensure the fairness of the juvenile court process and experience.

E. Costs & Fees

Across the country, juvenile courts routinely impose financial obligations on youth and families in delinquency matters, “including appointment of counsel fees, bail, diversion and treatment program fees, community supervision and placement fees, court costs, and restitution, frequently without consideration for each individual youth’s ability to pay.”²⁶² The imposition of these financial obligations, especially on youth and families unable to pay, “can result in serious and long-term consequences . . . including further penetration into the juvenile justice system, increased recidivism, difficulty engaging in education and employment opportunities, [and] civil judgements.”²⁶³ “Families burdened by these obligations may face a difficult choice, either paying juvenile justice debts or paying for food, clothing, shelter, or other necessities.”²⁶⁴

Fees imposed by the juvenile court system can also result in the “exacerbation of existing racial and ethnic disparities and increased financial burdens for impoverished families.”²⁶⁵ And, when fees are ordered and collected with the goal of raising revenue, “they can cast doubt on the impartiality of the tribunal and erode trust between local governments and their constituents.”²⁶⁶ All this, “for reasons unrelated to public safety and counterproductive to the rehabilitative aims of the juvenile court.”²⁶⁷

The National Council of Juvenile and Family Court Judges (NCJFCJ) encourages juvenile courts “to work towards reducing and eliminating fines, fees, and costs by considering a youth and their family’s ability to pay prior to imposing such financial obligations” and to “presume youth indigent when making decisions

²⁶² NAT’L COUNCIL OF JUV. AND FAM. CT. JUDGES, [RESOLUTION ADDRESSING FINES, FEES, AND COSTS IN JUVENILE COURTS 1](#) (2018) [hereinafter NCJFCJ [RESOLUTION ADDRESSING FINES, FEES, AND COSTS](#)].

²⁶³ *Id.*

²⁶⁴ C.R. DIV., U.S. DEP’T OF JUST., [ADVISORY FOR RECIPIENTS OF FINANCIAL ASSISTANCE FROM THE U.S. DEPARTMENT OF JUSTICE ON LEVYING FINES AND FEES ON JUVENILES 1](#) (2017).

²⁶⁵ [NCJFCJ RESOLUTION ADDRESSING FINES, FEES, AND COSTS](#), *supra* note 262, at 1.

²⁶⁶ C.R. DIV., U.S. DEP’T OF JUST., [DEAR COLLEAGUE LETTER: LAW ENFORCEMENT FEES AND FINES 2](#) (2016).

²⁶⁷ [NCJFCJ RESOLUTION ADDRESSING FINES, FEES, AND COSTS](#), *supra* note 262, at 1.

regarding the imposition of fines, fees, and costs if the youth was previously determined indigent for the purpose of securing attorney representation.²⁶⁸ NCJFCJ “believes that the core functions necessary for our nation’s juvenile courts to meet their rehabilitative goals should be fully funded by governmental revenue and not by revenue generated by fines, fees, and costs.”²⁶⁹

Nationally, juvenile courts that track the income levels of youths’ families have found that 60 percent had incomes of less than \$20,000.²⁷⁰ This, combined with juvenile courts’ “emphasis on families’ needs when adjudicating delinquency,”²⁷¹ means that court systems that charge youth and families are levying financial punishments on those with the most significant barriers to accessing services, but who are least able to pay.

In Utah, when a youth is adjudicated, the court can order them to pay a fine, fee, or cost, pay restitution, or complete community service hours.²⁷² If a juvenile court orders a youth to pay a fine, fee, cost, or restitution, the court must ensure its order “is reasonable; prioritizes restitution; and . . . takes into account the minor’s ability to pay . . . if the minor is ordered to secure care.”²⁷³

The cumulative cost of any fine, fee, or cost may be up to \$190 if the youth is under 16 years of age and up to \$280 if the youth is 16 or older.²⁷⁴ These limits are “per criminal episode”²⁷⁵ and do not include restitution.²⁷⁶

With two exceptions,²⁷⁷ all fines, fees, penalties, and forfeitures collected by a juvenile court are paid into the state’s general fund.²⁷⁸ Youth can complete a work program to satisfy all or part of a restitution order.²⁷⁹

Youth who are offered a nonjudicial adjustment (NJA) can be fined up to \$250.²⁸⁰ Youth cannot be denied a nonjudicial adjustment for inability to pay.²⁸¹ Any fee, fine, or restitution must be based on the family’s ability to pay.²⁸² All NJA funds are deposited in the state’s Nonjudicial Adjustment Account, a restricted account.²⁸³ Funds in this account must be used “to pay the expenses of juvenile compensatory service, victim restitution, and diversion programs.”²⁸⁴

Juvenile courts may charge a filing fee for a petition for expungement.²⁸⁵ Expungement cannot be granted if a youth has not satisfied restitution from juvenile court²⁸⁶ or from an NJA.²⁸⁷

²⁶⁸ *Id.* at 2.

²⁶⁹ *Id.*

²⁷⁰ Tamar R. Birkhead, *Delinquent by Reason of Poverty*, 38 WASH. U. J. L. & POL’Y 53, 58-59 (2012).

²⁷¹ *Id.* at 54.

²⁷² UTAH CODE ANN. § 80-6-709(1)(a).

²⁷³ *Id.* at § 80-6-709(2).

²⁷⁴ *Id.* at § 80-6-709(3)(a).

²⁷⁵ *Id.* at § 80-6-709(3).

²⁷⁶ *Id.* at § 80-6-709(3)(b).

²⁷⁷ See *id.* at § 78A-6-210(3)(b) and § 78A-6-210(4) (laying out exceptions regarding state rehabilitative employment programs and enumerated traffic offenses).

²⁷⁸ *Id.* at § 78A-6-210(3).

²⁷⁹ *Id.* at § 80-6-709(1)(b)(i).

²⁸⁰ *Id.* at § 80-6-304(1)(a).

²⁸¹ *Id.* at § 80-6-304(4).

²⁸² *Id.* at § 80-6-304(4)(b).

²⁸³ *Id.* at § 78A-6-210(1).

²⁸⁴ *Id.* at § 78A-6-210(2)(c).

²⁸⁵ *Id.* at § 80-6-1007(1).

²⁸⁶ *Id.* at § 80-6-1004.1(6)(c).

²⁸⁷ *Id.* at § 80-6-1004.1(6)(d).

While Utah has limited the amount of fines and fees its juvenile courts impose on youth, it allows for considerable costs to be charged to a young person's parents. Courts can order a youth's parent or legal guardian to reimburse the cost of the youth's defense services.²⁸⁸ A parent or guardian can be held liable for property damages up to \$2,000 or \$5,000 when a youth is adjudicated for certain offenses.²⁸⁹

If a detention center releases a child and the child's parent, guardian, or custodian does not retrieve the child within 24 hours, "the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the detention facility."²⁹⁰ When a juvenile court places a youth in state custody, it must order the youth's "parent, guardian, or other obligated individual to pay child support for each month the child is in state custody"²⁹¹

A JJYS official described how the state's charging for cost-of-care and child support undermines the agency's work: "It is a terrible practice. These charges should not exist. Our staff approaches their work as coaches, they are there to advocate for the kid, they want to mentor and support them. And then we ask them to go to the family and ask about financial information and that destroys their ability to work toward rehabilitative ends."

"It is a terrible practice. These charges should not exist."

The U.S. Department of Justice also recognizes that financial sanctions have unintended consequences, including "the potential to push young people further into the criminal justice system, drive children and their parents into debt, and put considerable strain on familial relationships. In many cases, unaffordable fines and fees only undermine public safety by impeding successful reentry, increasing recidivism, and weakening community trust in government."²⁹²

"The detrimental effects of unjust fines and fees fall disproportionately on low-income communities and people of color, who are overrepresented in the criminal [legal] system and already may face economic obstacles arising from discrimination, bias, or systemic inequities."²⁹³

Given the vast racial disparities in Utah's juvenile legal system, particularly in its detention and secure facilities, the state should view eliminating its cost-of-care and child support policies as an important step toward equity. "Eliminating the unjust imposition of fines and fees is one of the most effective ways for jurisdictions to support the success of youth and low-income individuals, honor constitutional and statutory obligations, and reduce racial disparities in the administration of justice."²⁹⁴

Utah has made progress limiting the financial burden of court involvement and should continue to address the impacts of juvenile legal system fees and costs imposed on young people and families. The state should abolish all fines, fees, and costs associated with juvenile court involvement, and should prioritize eliminating costs-of-care charged to families while their children are incarcerated.

²⁸⁸ *Id.* at § 78B-22-304.

²⁸⁹ *Id.* at § 80-6-610(1), (2).

²⁹⁰ *Id.* at § 80-6-207.

²⁹¹ *Id.* at § 78A-6-356.

²⁹² OFF. FOR ACCESS TO JUST., U.S. DEP'T OF JUST., [ACCESS TO JUSTICE SPOTLIGHT: FINES & FEES](#) (2023) [HEREINAFTER ATJ SPOTLIGHT ON FINES & FEES].

²⁹³ [Dear Colleague Letter](#) from the Off. of the Assoc. Att'y Gen, U.S. Dep't of Just. on Fines and Fees (Apr. 20, 2023).

²⁹⁴ [ATJ SPOTLIGHT ON FINES & FEES](#), *supra* note 292.

STRENGTHS & PROMISING PRACTICES



Over the past several years, Utah has made remarkable progress reforming its juvenile legal system and beginning to create a system of indigent defense. The dedication shown by juvenile legal system practitioners to enacting these reforms indicates a genuine commitment to ensuring young people’s constitutional rights, wellbeing, and future success.

Ensuring every youth is represented by counsel from initial appearance through post-disposition

Access to counsel is essential for access to justice for all youth in the legal system. Without counsel, youth are left to navigate a complex web of legal processes and procedures that determine their freedom and their future. Through several legislative reform efforts in recent years, Utah has mandated the automatic appointment of counsel for youth in delinquency proceedings, exempted children from the indigency determination process so that financial eligibility guidelines do not apply and cannot prevent children from being appointed counsel, ensured that youth cannot waive their right to counsel unless they have first consulted with an attorney, and extended defense representation through the post-disposition period of a delinquency case. Juvenile court practitioners across the state voiced considerable support for these reforms, emphasizing how the reforms have improved both the protection of young people’s constitutional rights and how the juvenile court system operates.

Increasing diversion through nonjudicial adjustments

Diversion from the legal system leads to far better outcomes for young people and communities. Decades of research confirms that youth afforded diversion opportunities have lower levels of future system involvement, especially when made available to young people who face higher risks for system intervention.²⁹⁵ Utah’s nonjudicial adjustment process enables young people to avoid formal juvenile court processing. In FY23, almost 64 percent of youth were diverted from formal processing, 94 percent of whom successfully completed the nonjudicial process and did not require further intervention by the court.²⁹⁶

Improving youth outcomes by reducing detention

Detention causes lasting harm to young people and their communities. Time in detention creates barriers to educational success, weakens long-term mental and physical health outcomes, increases victimization of youth, and does not decrease the likelihood of future involvement in the legal system.²⁹⁷ The state’s detention laws have undergone recent, significant reforms aimed at reducing the number of youth held in detention before adjudication. Through these reforms, the state has taken important steps to prevent Utah children from being ensnared by or pushed deeper into the juvenile legal system, both of which have negative consequences on a youth’s future success.

²⁹⁵ Holly A. Wilson & Robert D. Hoge, *The Effect of Youth Diversion Programs on Recidivism: A Meta-Analytic Review*, 40(5) CRIM. JUST. AND BEHAVIOR, 497-518 (2013) (finding that “diversion programs for youth are significantly more successful than traditional juvenile justice systems in reducing recidivism . . .”).

²⁹⁶ *Nonjudicial Adjustments*, UTAH COMM’N ON CRIM. & JUV. JUST., https://justice.utah.gov/wp-content/uploads/FY_2023.html#nonjudicial-adjustments (last visited March 7, 2024).

²⁹⁷ RICHARD MENDEL, THE SENT’G PROJECT, *WHY YOUTH INCARCERATION FAILS: AN UPDATED REVIEW OF THE EVIDENCE* 12-19 (2022).



Establishing specialized youth defense standards

Standards provide a clear set of expectations and a framework of accountability for youth defense systems and practices.²⁹⁸ Utah's Indigent Defense Commission has adopted Core System Principles and Core Principles for Appointed Attorneys Representing Youth in Delinquency Proceedings, both of which closely align with national standards. The standards establish a solid foundation on which the state can build a youth defense delivery system that meets its constitutional and statutory obligations and upholds the rights and interests of Utah youth.

Supporting appellate practice through the creation of an appellate division

Appellate practice is an important part of youth defense. Since 2020, Utah's Indigent Appellate Defense Division (IADD) has been available to provide appellate representation to youth adjudicated delinquent across much of the state. IADD has also established the Juvenile Delinquency Appellate Defense Project, which provides both essential appellate services and trial-level support that is sorely needed by defenders struggling to practice in the state's decentralized contract system. The rights of young people across Utah are strengthened through the work of the appellate division and project.

Delivering specialized youth defense training through a federal grant

Utah recently completed a multi-year federal grant, under which it provided youth defense-specific training, created resources for youth defenders, and provided mentoring to attorneys new to youth defense. Youth defenders across the state expressed enthusiastic support for the services offered under the grant, especially the training, which was the first youth defense-specific training many of them had attended.

²⁹⁸ See generally *The Impact of National Standards on Juvenile Defense Practice*, AM. BAR ASS'N., https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol_32/june-2013/the-impact-of-national-standards-on-juvenile-defense-practice/ (last visited March 7, 2024).

OPPORTUNITIES FOR CHANGE: A CALL TO ACTION

RECOMMENDATIONS

RECOMMENDATIONS TO IMPROVE ACCESS TO COUNSEL & QUALITY OF REPRESENTATION

Establish a strong statewide system for delivery of youth defense services

Utah's county-based contract system for youth defense limits access to justice for young people. The state should commit to building the organizational infrastructure necessary to ensure that every child, no matter where they are in the state, is represented by a well-trained, specialized youth defender who has access to the resources necessary to provide a zealous, constitutionally sound defense.

To begin to create this infrastructure across the state and to address existing access-to-counsel issues in rural and remote parts of the state, Utah, the IDC, and counties should move toward regionalization of defense services, support structure, and oversight. IDC should consider making managing defenders fulltime contractors or IDC employees, responsible for providing support and oversight for contract attorneys across counties, particularly in less-populated areas of the state. IDC should look to states that provide substantive oversight of contract attorneys, such as Colorado and Massachusetts, for ways to enhance managing defenders' ability to oversee contract youth defenders in Utah.

Through a regionalized model, Utah should provide enhanced administrative support to managing defenders and contract attorneys, including shared office space, IT services, legal research tools, and administrative support staff. The state should invest in social workers within its youth defense system to support and enhance defenders' detention and disposition advocacy and to improve dispositional options and outcomes.

Ensure independence of youth defenders

Utah and each of its counties must act swiftly to remove county prosecutor offices from any form of control or oversight of youth defense contracts, funding, expert budgets, or other resources. County prosecutors' involvement in defense contracts and resources presents a clear conflict of interest and denies youth their right to independent representation. Prosecutorial involvement was reported to influence defenders' zealotness in advocacy and to thwart attempts to improve youth defense delivery systems across counties. Prosecutors should not be involved in selecting attorneys for youth defense contracts. Budgets for experts, investigators, and other defense expenses should be housed with the IDC, its contracted managing defenders, or a neutral office within county government.

Institute pay structures that compensate youth defenders for the time and work needed to provide competent representation

Flat-fee contracts provide a financial disincentive for attorneys to spend the requisite time and resources on a case. Counties should stop using flat-fee contracts for defense services and institute hourly pay-rate structures that properly compensate youth defenders for the time needed to provide competent representation in every case. Counties and the state should ensure defenders have access and upfront funding to hire investigators at government expense. Additionally, all contracts must ensure pay and resource parity between youth defenders and prosecutors.

Require initial and ongoing training for all youth defenders and managing defenders

IDC should require initial and ongoing training for all attorneys who take youth defense contracts, and the state should invest the resources necessary to maintain the youth defense-specific training and mentorship program built under its recent federal grant. Youth defenders across Utah are in need of training in case investigation, motions practice, expressed-interest advocacy, trial advocacy skills, and post-disposition advocacy, as well as adolescent development and racial justice.

IDC should also require initial and ongoing training in management and supervision skills for any attorney given a managing defender contract, in recognition that management requires markedly different skills than courtroom advocacy. Managing attorneys who oversee youth defenders should be required to participate in youth defense training and develop expertise in youth defense.

Establish systems for youth to access counsel at the earliest points of legal system contact

Recent legislative reforms have ensured that youth are represented by counsel throughout the juvenile court process, but young people in Utah rarely have access to counsel at early, critical points of legal system contact, including during interrogation, the nonjudicial adjustment (NJA) process, and even initial appearances in court. Utah should legislatively mandate that youth be advised by defense counsel before being allowed to waive their rights prior to police interrogation. The state should establish systems to ensure that youth are represented by counsel during the preliminary inquiry phase and NJA process prior to formal court involvement. And courts and counties must ensure systems are in place to notify defense counsel when youth are detained and to ensure every young person is represented by counsel at their initial court hearing.

Support specialization & create a pipeline for future youth defenders

Utah and its counties must ensure that juvenile court is recognized as an important, specialized practice for all practitioners, including youth defenders, prosecutors, judges, and probation officers. In rural and remote areas of the state, where the youth defense contract in a single county is not sufficient for a fulltime contract, IDC and counties should encourage the regionalization of youth defense. An attorney who can provide youth defense services across counties can dedicate themselves to specializing in youth defense.

The state should support the establishment of youth defense clinics in Utah law schools to create a pipeline of new attorneys dedicated to youth defense as a career. Students in youth defense clinics can provide representation, under the supervision of attorney instructors, in certain types of delinquency cases, providing caseload relief for the state's current system of youth defense.

RECOMMENDATIONS TO IMPROVE JUSTICE & FAIRNESS FOR YOUTH

Eliminate blanket policies or practices of virtual hearings

Blanket policies or practices of holding all detention hearings virtually violate youths' due process rights. Youth defenders must advise their clients about potential benefits and disadvantages of appearing in-person at detention hearings and participating remotely. Detention hearings should be conducted virtually only after a youth has knowingly and intelligently waived their constitutional right to be present, and Utah juvenile courts should revise blanket policies or practices of holding all detention hearings virtually.

Collaborate to address recurring problematic practices

Where the juvenile court process or youth access to justice is delayed or thwarted by recurring problematic practices, juvenile court practitioners should collaborate to implement system reforms. In some counties, problems with police interrogation practices or police or prosecutor discovery disclosure were widely reported by numerous juvenile legal system practitioners and acknowledged as causing delays and disruptions in the juvenile court process. Rather than placing the burden on youth defenders to challenge each individual instance and allowing the court process to be delayed, court practitioners should work together toward systemic reforms to address shortcomings identified across individual cases.

Commit to combatting racial disparities

Racial and ethnic disparities exist at every step of the juvenile legal system, from in- and out-of-school suspensions to arrest to the juvenile court system. Utah must commit to reducing these disparities by conducting regular analyses of system involvement, interventions, and outcomes; and by requiring that all juvenile legal system professionals be trained on the historical context of overrepresentation and debias techniques. Youth defenders have a unique role and specific responsibilities to advance justice and champion a collective commitment from those working in the system to ensure the fairness of the juvenile court process and experience.

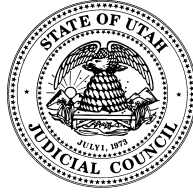
Eliminate all fees and costs, particularly costs-of-care charged to families

Utah has made progress limiting the financial burden of court involvement and should continue to address the impacts of juvenile legal system fees and costs imposed on young people and families. The state should abolish all fines, fees, and costs associated with juvenile court involvement, and should prioritize eliminating costs-of-care charged to families while their children are incarcerated.



@gaultcenter | DefendYouthRights.org

Tab 5



Administrative Office of the Courts

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

Jun 24, 2024

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Utah Judicial Council

FROM: Katsí Peña, Public Outreach Coordinator and Standing Committee on Judicial Outreach Staff Liaison

RE: 2023 Judicial Outreach Committee Annual Report

The Judicial Outreach Committee is a standing committee that is tasked with fostering a greater role for judges in service to the community, providing leadership and resources for outreach, and improving public trust and confidence in the judiciary. For more information, please see UCJA Rule 3-114.

A sampling of the work the committee has completed within the last year includes:

- Conducted over 50 judicial outreach events
- Spoke to over 4,800 community members
- 161 court staff participated in outreach events
- 36 judges participated in outreach events
- 410 hours of court staff participation in hours
- Outreach in 5 out of the 8 Judicial Districts

The mission of the Utah State Courts is to provide an open, fair, efficient, and independent system for the advancement of justice under the law. The Judicial Outreach Committee helps the Courts' fulfill its mission by increasing information and access to resources, engaging with historically marginalized communities, educating youth on the role of the judiciary, and leveraging relationships with community-based organizations and the media.

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

Judicial Outreach Committee Report to Utah Judicial Council

Jun 24, 2024

Judicial Outreach Committee Members

- Judge Amy Oliver, Utah Court of Appeals, Chair, and Bench-Media Subcommittee Chair representative
- Judge Laura Scott, Divorce Education for Children Program Subcommittee Chair
- *Vacant, Community Relations Subcommittee Chair*
- Judge Stephen Nelson, District Court representative
- Judge Tupakk Renteria, Juvenile Court representative
- Judge Bryan Memmott, Justice Court representative
- Jace Willard, State level administrator
- Lauren Anderson, State level judicial education representative
- Mark Urry, Trial Court Executive representative
- Michelle Oldroyd, Utah State Bar representative
- Michael Anderson (Parr Brown's Entertainment Law group), Communication representative
- Nathanael Player, Law Library representative
- Melinda Bowen (President and previous Executive Director of the Utah Center for Legal Inclusion), Civic community representative
- Benjamin Carrier (Utah State Board of Education), State education representative
- Cheri Fifield, Divorce Education for Children Program Coordinator, Ex officio member
- Tania Mashburn, Communications Director, Ex officio member
- Jonathan Puente, OFA Director, Ex officio member
- Katsí Peña, Standing Committee on Judicial Outreach Staff Liaison

In the past year, the committee has filled vacancies for the following positions:

- Judge Stephen Nelson, District Court Representative (previously held by Judge Elizabeth Hruby, Third District Court)
- Mark Urry, Trial Court Executive representative (previously held by Krista Airam, 2nd Juvenile Court)
- Judge Amy Oliver, Utah Court of Appeals, Chair (previously held by Judge Elizabeth Hruby, Third District Court)

The Judicial Outreach Committee currently has three subcommittees:

1. Bench-Media Subcommittee
2. Community Relations Subcommittee
3. Divorce Education for Children Subcommittee

Below is a summary of each one of the subcommittee's scope of work.

Bench-Media Subcommittee

In 2023, the Bench Media Subcommittee had two meetings. The meetings included judges, a media attorney, and representatives from KSL TV, KSL Radio, KSL.com, KUTV, KTVX, FOX13, the Associated Press, the Salt Lake Tribune, and the Deseret News. Here are some of the items accomplished through working with the media:

1. Law School for Journalists: held in May 2023. About 50 journalists/students were in attendance (virtually) for a crash course on how to use Xchange.
2. Installed power strips on the back benches of every courtroom of the Matheson Courthouse to help reporters.
3. Put court media request form (for pool photography) online through Adobe Sign, making it much more convenient for journalists and judges to fill out.

They also had a busy year with high-profile cases, including the Gwyneth Paltrow trial, the Kouri Richins murder case, and the Ruby Franke/Jodi Hildebrandt child abuse case. There are an average of 30-40 pool requests to film court proceedings every month. The Chair of this subcommittee is Judge Oliver.

Community Relations Subcommittee

Now that Judge Oliver has been selected as the Committee Chair, we are working to appoint a new Community Relations Subcommittee Chair. The Community Relations Subcommittee is a subcommittee of the Judicial Outreach Committee. The purpose of this subcommittee is to engage with and earn the trust of the Utah public. Judge Shauba Graves-Robertson (Salt Lake County Justice Court) was serving as the subcommittee chair until her term expired at the end of 2023. Last year, this subcommittee worked on the National Consortium conference, Court's strategic plan, Law and Constitution Day events, and various outreach events across the state.

Divorce Education for Children Subcommittee

The Divorce Education for Children Subcommittee, chaired by Judge Laura Scott, has been actively working to recruit additional judge volunteers. Cheri Fifield, the program coordinator, presented at this year's juvenile and district judges conference to further this goal. Additionally, they are working on efforts to expand the Divorce Education for Children Program by increasing the program coordinator's hours, adding more classes and instructors, and increasing community outreach and marketing efforts.

Overall Completed Projects:

- Organized community speaking opportunities for judges, including:
 - Hinckley Institute Huntsman Seminar
 - The Salt Lake Chamber Leadership Utah Government Day
 - 17th Annual Governor's Native American Summit
 - Attorney's General Office
- Tabling across the State
 - Mexican Consulate
 - Utah Pride Festival
 - World Refugee Day
 - Ogden Juneteenth
 - Park City Mobile Food Pantry
 - Logan Latino Heritage Festival
 - Cache County School District Resource Fair
 - Afro Fest
 - St. George Pride
- Judicial Inclusion Mentorship Program
 - 13 mentor/mentee matches
- Community Court
 - Since the move to the Kearns Library in July of 2023, we have averaged attendance of over 40 community members per event. This number is massive compared to other events where legal help is offered, and speaks to the need for more access to legal resources for historically marginalized communities.

Ongoing Projects

- Organizing Judicial visits
- Carrying out court tours
- Implementing state-wide outreach and tabling
- Promoting community court
- Running the judicial mentorship program
- Replacing Chair for Community Relations subcommittee
- Implementing Community voices on judicial committees project

2024 Preview

- As of June 2024, we have already engaged with over 4,000 community members
- We have doubled the Judicial Inclusion Mentorship Program participation from 13 matches to 26 matches

Future Projects

- Continuing to provide opportunities for all court employees to get involved
- Adding Community Voices to judicial committees
- Engaging community partners in the Courts' strategic planning process
- Exploring a pilot mentorship program with underserved high school students to promote careers in the courts

UTAH STATE COURTS



Standing Committee on Judicial Outreach 2023 Highlights

2023 Review

- Conducted over **50** judicial outreach events
- Spoke to over **4,800** community members
- **161** court staff participated in outreach events
- **36** judges participated in outreach events
- **410** hours of court staff participation in hours



Completed Projects

- Organized community speaking opportunities for judges, including:
 - Hinckley Institute Huntsman Seminar
 - The Salt Lake Chamber Leadership Utah Government Day
 - 17th Annual Governor's Native American Summit
 - Attorney's General Office



Completed Projects

- **Tabling across the State**
 - Mexican Consulate
 - Utah Pride Festival
 - World Refugee Day
 - Ogden Juneteenth
 - Park City Mobile Food Pantry
 - Logan Latino Heritage Festival
 - Cache County School District Resource Fair
 - Afro Fest
 - St. George Pride



Other Projects

Judicial School Visits

Court Tours



Other Projects

- **Judicial Inclusion Mentorship Program**
 - 13 mentor/mentee matches
- **Community Court**
 - Since the move to the Kearns Library in July of 2023, we have **averaged attendance of over 40 community members per event**. This number is massive compared to other events where legal help is offered, and speaks to the need for more access to legal resources for historically marginalized communities.



2024 Preview

- As of June 2024, we have already engaged with over **4,000 community members**
 - **34 events**
 - **54 Judges and Commissioners**
 - **78 Court employees**
- We have **doubled the Judicial Inclusion Mentorship Program participation** from 13 matches to 26 matches

Future Projects

- Continuing to provide opportunities for all court employees to get involved
- Adding Community Voices to judicial committees
- Engaging community partners in the Courts' strategic planning process
- Exploring a pilot mentorship program with underserved high school students to promote careers in the courts



Tab 6



Alex G. Peterson
Executive Director

State of Utah

JUDICIAL CONDUCT COMMISSION

1385 S. State St., Suite #143
Salt Lake City, Utah 84115
Telephone: (801) 468-0021

TO Judicial Council

FROM Alex G. Peterson, Executive Director

DATE June 12th, 2024

RE Biannual JCC Update

MESSAGE

1. JCC Membership Update
 - a. New Members: Judge Michael Edwards.
 - b. Missing Members: None.
 - c. Current Members (11): Ms. Cheylynn Hayman, Chair, Ms. Michelle Ballantyne, Judge David Mortensen, Judge Michael Edwards, Rep. Brady Brammer, Rep. Doug Owens, Sen. Mike McKell, Sen. Jen Plumb, Mr. Stephen Studdert, Mr. Mark Raymond, Ms. Georgia Thompson.
 - d. Next scheduled Supreme Court appointments are in 2025 (for judge and attorney member).
2. JCC Caseload update and analysis
 - a. Currently, we are at 175 cases in FY24 (156, in FY23, 85 in FY22, 80 in FY21, 51 in FY 20, 64 in FY19, 58 in FY18).
 - b. To date in FY24, we have had 3 public dispositions and 4 Dismissals With Warning (in FY23, we had 0 public dispositions and 0 DWW, in FY22, we had 0 public dispositions and 1 DWW).
3. Misc. Activities of JCC (over the last six months)
 - a. JCC continues to meet in person at anchor location.
 - b. The Commission received appropriation for a staffing increase. New structure is 1 FTE Ex. Dir., 1 FTE Judicial Investigator, 1 PTE Judicial Investigator, and 1 PTE Admin. Ass't. I expect we will hire the PTE Judicial Investigator this fall.

Tab 7

LYNDSAY PETERSON
MAYOR



ALAN J. LUCE
CITY ADMINISTRATOR

2076 NORTH 1200 EAST
NORTH LOGAN, UTAH 84341
(435) 752-1310

April 15, 2024

Administrative Office of the Courts
C/O Jim Peters
Justice Court Administrator
PO Box 140241
Salt Lake City, UT 84114-0241

RE: Notice of Intent to Dissolve the Hyde Park City and North Logan City Justice Courts

Pursuant to Utah Code Annotated 78A7-123(1), this letter provides notice to the Utah Judicial Council that Hyde Park City and North Logan City intends to seek legislative approval in the next legislative session to dissolve the Hyde Park / North Logan Justice Court. Enclosed with this letter are Resolutions 2024 – 07, adopted by the Hyde Park City Council on April 10, 2024, and Resolution 2024 - __ Adopted by North Logan City on April 10, 2024.

If you require further information; we can be reached by phone or email at
Bryan Cox - bryan.c@hydeparkcity.org – 435-512-9316
Lindsay Peterson - lyndsay@northlogancity.org - 435-752-1310

Sincerely,

A handwritten signature in cursive script that reads "Bryan Cox".

Bryan Cox
Hyde Park City Mayor

A handwritten signature in cursive script that reads "Lyndsay Peterson".

Lyndsay Peterson
North Logan City Mayor

CITY COUNCIL: BUZZY MULLAHKHEL, JONI KARTCHNER, EMILY SCHMIDT, KENNETH REESE, MARK HANCEY

113 East Center / P.O. Box 489
Hyde Park, Utah 84318



Phone: 435-563-6507
Fax: 435-563-9029

April 15, 2024

Administrative Office of the Courts
C/O Jim Peters
Justice Court Administrator
PO Box 140241
Salt Lake City, UT 84114-0241

RE: Notice of Intent to Dissolve the Hyde Park City and North Logan City Justice Courts

Pursuant to Utah Code Annotated 78A7-123(1), this letter provides notice to the Utah Judicial Council that Hyde Park City and North Logan City intends to seek legislative approval in the next legislative session to dissolve the Hyde Park / North Logan Justice Court. Enclosed with this letter are Resolutions 2024 – 07, adopted by the Hyde Park City Council on April 10, 2024, and Resolution 2024 - __ Adopted by North Logan City on April 10, 2024.

If you require further information; we can be reached by phone or email at
Bryan Cox - bryan.c@hydeparkcity.org – 435-512-9316
Lyndsay Peterson - lyndsay@northlogancity.org - 435-752-1310

Sincerely,

Bryan Cox
Hyde Park City Mayor

Lyndsay Peterson
North Logan City Mayor

RESOLUTION NO. 24- 11

**A RESOLUTION AUTHORIZING THE DISSOLUTION OF
THE NORTH LOGAN CITY JUSTICE COURT**

WHEREAS, North Logan City ("City") currently has the North Logan City Justice Court ("Court") to serve the City's justice court needs; and

WHEREAS, the City Council has determined the Court no longer justifies its cost to the City, and

WHEREAS, the City Council has determined that it would be in the best interests of the residents of the City that the Court be dissolved and that the cases be handled by the First Judicial District Court of Utah for the County of Cache which serves any areas of Cache County that do not fall within the jurisdiction of a municipal justice court; and

WHEREAS, Utah Code Annotated § 78A-7-123 sets forth the process and requirements for dissolving a municipal justice court which include, among other things, the approval of the State Legislature; and

WHEREAS, the City wishes to now dissolve the Court by following the foregoing process set forth in the Utah Code;

NOW THEREFORE, be it resolved by the City Council of North Logan, Utah as follows:

1. The City shall take those steps required to meet all the statutory conditions necessary to dissolve the North Logan City Justice Court pursuant to the process provided by Utah Code Annotated § 78A-7-123 and the Mayor and City Recorder are authorized and directed to prepare, sign and file with the appropriate agencies all documents necessary to dissolve the City's Justice Court; and
1. Upon the completion of all the requirements of Utah Code Annotated § 78A-7-123, including the approval of the State Legislature, the North Logan City Justice Court shall be dissolved April 1, 2025.
2. The Resolution shall become effective immediately upon adoption.

ADOPTED AND PASSED by the City Council of the City of North Logan, Utah, this 10th day of April, 2024.

NORTH LOGAN CITY, A Utah Municipal Corporation

ATTEST:

By 
Buzzy Mullahkhel, Mayor Pro-Tem


Scott Bennett, City Recorder

Ayes: _____ Nays: _____
Buzzy Mullahkhel None
Joni Kartchner
Emily Schmidt
Kenneth Reese
Mark Hancey

RESOLUTION 2024-07

A RESOLUTION AUTHORIZING THE DISSOLUTION OF THE HYDE PARK CITY JUSTICE COURT.

WHEREAS, the City of Hyde Park ("City") currently has the Hyde Park City Justice Court (the "Court") to serve the city's justice court needs; and

WHEREAS, the City Council has determined the Court no longer justifies its cost to the City, and

WHEREAS, the City Council has determined that it would be in the best interests of the residents of the City that the Court be dissolved and that the cases be handled by the First Judicial District Court of Utah for the County of Cache which serves any areas of Cache County that do not fall within the jurisdiction of a municipal justice court; and

WHEREAS, Utah Code Annotated § 78A-7-123 sets forth the process and requirements for dissolving a municipal justice court which include, among other things, the approval of the State Legislature; and

WHEREAS, the City wishes to now dissolve the Court by following the foregoing process set forth in the Utah Code;

NOW THEREFORE, be it resolved by the City Council of Hyde Park, Utah as follows:

1. The City shall take those steps required to meet all the statutory conditions necessary to dissolve the Hyde Park City Justice Court pursuant to the process provided by Utah Code Annotated § 78A-7-123 and the Mayor and City Administrator are authorized and directed to prepare, sign and file with the appropriate agencies all documents necessary to dissolve the City's Justice Court; and
2. Upon the completion of all the requirements of Utah Code Annotated § 78A-7-123, including the approval of the State Legislature, the Hyde Park City Justice Court shall be dissolved on or around April 1, 2025.
3. The Resolution shall become effective immediately upon adoption.

Approved and signed this 10th day of April 2024

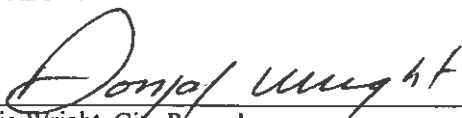
HYDE PARK CITY CORPORATION



Bryan Cox, Mayor

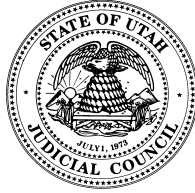


ATTEST:



Donja Wright, City Recorder

Tab 8



Administrative Office of the Courts

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

June 14, 2024

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

MEMORANDUM

TO: Management Committee / Judicial Council
FROM: Keisa Williams
RE: Rule for Final Approval

The Policy, Planning, and Technology Committee recommends that the following rule be approved as final with a **November 1, 2024** effective date. The rule was posted for a 45-day public comment period and no comments were received.

CJA 6-304. Grand jury panel

The proposed amendments change all grand jury panel member terms to 5 years, with no member serving more than two consecutive terms. Retiring members would be allowed to finish out a term as an active senior judge.

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

1 **Rule 6-304. Grand jury panel.**

2

3 **Intent:**

4 To establish a procedure for appointing district court judges to the statutory panel authorized to
5 convene a grand jury.

6

7 To establish the responsibility of the court administrator to provide staff support to the panel.

8

9 To establish a procedure for providing public notice of panel hearings.

10

11 **Applicability:**

12 This rule shall apply to the Council, the Administrative Office, the Board of District Court Judges
13 and the statutory panel.

14

15 **Statement of the Rule:**

16 (1) **Appointment.** The presiding officer of the Council shall appoint a panel of five district court
17 judges in accordance with Utah Code Ann. Section 77-10a-2 to hear information which may
18 justify the calling of a grand jury. The presiding officer shall designate one member of the panel
19 to serve as the supervising judge.

20

21 **(2) Members.** The panel shall consist of:

22

23 (2)(A) one member from the first or second district;

24

25 (2)(B) two members from the third district;

26

27 (2)(C) one member from the fourth district; and

28

29 (2)(D) one member from the fifth, sixth, seventh, or eighth district.

30

31 ~~(32) **Terms.** Panel members will be appointed to serve five-year terms. No member may serve~~
32 ~~more than two consecutive terms. Panel judges who retire during their term may continue to~~
33 ~~serve the remainder of that term as an active senior judge but may not serve a second term.~~
34 ~~One judge shall be appointed from the first or second district for a five year term, one judge~~
35 ~~shall be appointed from the third district for a four year term, one judge shall be appointed from~~
36 ~~the fourth district for a three year term, one judge shall be appointed from the fifth, sixth,~~
37 ~~seventh or eighth district for a two year term, and one judge shall be appointed from the third~~
38 ~~district for a one year term. Following the first term all terms on the panel are for five years.~~

39

40 ~~(43) **Vacancies.** As vacancies occur or terms expire on the panel, the Board shall recommend~~
41 ~~to the presiding officer of the Council a judge to fill the unexpired portion of the term or to serve~~
42 ~~a new term.~~

43

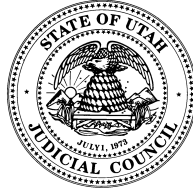
44 (54) **Secretariat.** The Court Administrator shall designate a staff member to serve as secretariat
45 to the panel and to coordinate scheduling, budget and other administrative activities.

46
47 (65) **Schedule.** The Administrative Office, at the direction of the panel, shall annually publish a
48 schedule which provides for a panel hearing in each judicial district every three years.

49
50 (76) **Public notice.** Thirty days prior to the hearing, the panel shall give public notice of the
51 hearing.

52
53 (87) **Procedures.** The panel shall develop necessary procedures for its operation ~~and shall~~
54 ~~publish such procedures as an appendix to this~~ in accordance with Utah Code.

55
56 *Effective: ~~April 15, 1994~~ November 1, 2024*



Administrative Office of the Courts

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

June 14, 2024

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

Memorandum

TO: Judicial Council
FROM: Keisa Williams, General Counsel
RE: CJA Rule 4-403. Electronic signature and signature stamp use

The District, Juvenile, and Justice Court Boards of Judges (Boards) proposed amendments to Code of Judicial Administration Rule 4-403 that would grant judges and commissioners (judicial officers) significantly more discretion than what is currently authorized under the rule. The Policy, Planning, and Technology Committee (PP&T) believes that the underlying question of discretion is a policy decision that should be made by the Council.

PP&T sought feedback from the Boards on variations of the rule with differing levels of discretion (attached). The Board of Juvenile Court Judges voted for Option #1. The Boards of District and Justice Court Judges voted for Option #2. Below is a brief overview of the rule as it is currently written and a summary of each option. PP&T is looking for guidance from the Council regarding the appropriate level of discretion.

[Rule 4-403](#)

Currently, a judicial officer's electronic signature and signature stamp may be used by someone other than the judicial officer in the following three circumstances:

- 1) if authorized by the judicial officer, a clerk may electronically sign or stamp documents that fall under one of the document types listed in paragraph (1), without prior judicial review;
- 2) computer-generated signatures can be automatically affixed to the three document types listed in paragraph (3); and
- 3) clerks may electronically sign or stamp documents that do not fall under one of the document types in paragraph (1), but only on a document-by-document basis and only after a judicial officer has reviewed the document.

The Council, via rule 4-403, has determined which kinds of documents may be signed by a clerk without prior judicial review. Judicial officers do not have the discretion to add to that list. If a document does not fall under one of the types listed in paragraph (1), judicial officers must review each individual document.

Option #1 maintains the status quo with respect to discretion. The Council decides which document types may be signed without judicial review. If judicial officers want to add to the list in paragraph (1), they must propose a rule amendment.

Option #2 would grant each district the authority to allow clerks to electronically sign or stamp additional document types not listed in paragraph (1) via a standing order issued by the Presiding Judge of the district (or for justice courts, a local standing order pre-approved by the presiding justice court judge of the district). Individual judicial officers would maintain the discretion to determine which of their documents a clerk may electronically sign or stamp.

1 **Rule 4-403. Electronic signature and signature stamp use.**

2

3 **Intent:**

4 To establish a uniform procedure for the use of judges' and commissioners' electronic
5 signatures and signature stamps.

6 **Applicability:**

7 This rule shall apply to all trial courts of record and not of record.

8 **Statement of the Rule:**

9 (1) **Approval by document type.** A clerk may, with the prior approval of the judge or
10 commissioner, use an electronic signature or signature stamp in lieu of obtaining the judge's or
11 commissioner's signature on the following document types:

12 (1)(A) bail bonds from approved bondsmen;

13 (1)(B) bench warrants;

14 (1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or
15 when stipulated by both parties in contested cases;

16 (1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);

17 (1)(E) orders to show cause and orders to appear/attend under URCP 7A(c)(4) and
18 URCP 7B(c)(4);

19 (1)(F) orders to take into custody;

20 (1)(G) summons;

21 (1)(H) supplemental procedure orders;

22 (1)(I) orders setting dates for hearing and for notice;

23 (1)(J) orders on motions requesting the Department of Workforce Services (DWS) to
24 release information concerning a debtor, where neither DWS nor the debtor opposes the
25 motion;

26 (1)(K) orders for transportation of a person in custody to a court hearing, including writs
27 of habeas corpus ad prosequendum and testificandum; ~~and~~

28 (1)(L) orders appointing a court visitor;

29 (1)(M) orders to Continue Appearances;

30 (1)(N) orders appointing counsel in juvenile cases;

31 (1)(O) findings and order appointing Guardian Ad Litem (GAL);

32 (1)(P) minutes and orders that are reflective of an order that is made on the record;

33 (1)(Q) orders of intervention by the Office of Recovery Services in Domestic Cases; and

34 (1)(R) orders approving traffic Plea in Abeyance.

35 ~~(2) When a clerk is authorized to use a judge's or commissioner's electronic signature or~~
36 ~~signature stamp as provided in paragraph (1), the clerk shall sign his or her name on the~~

37 ~~document directly beneath the electronic signature or stamped imprint of the judge's or~~
38 ~~commissioner's signature.~~

39 (23) Automatic. The electronic signature of a judge may be automatically affixed to the
40 following documents without the need for specific direction from the assigned judge when
41 issued using a form approved by the Judicial Council;

42 (23)(A) a domestic relations injunction issued under URCP 109;

43 (23)(B) an automatic expungement order issued under Utah Code; and

44 (23)(C) automated orders related to deferred traffic prosecution cases under Utah Code
45 § 77-2-4.2.

46 (34) Approval on a document-by-document basis. All ~~other~~ documents not covered under
47 paragraphs (1) or (2) that require ~~ing at~~ the judge's or commissioner's signature shall be
48 personally signed by the judge or commissioner, unless the judge or commissioner, on a
49 document ~~-by-~~ document basis, authorizes the clerk to use the judge's or commissioner's
50 electronic signature or signature stamp in lieu of the judge's or commissioner's signature. The
51 judge or commissioner shall review the document prior to granting such authorization.

52 (4) Documentation in the case. Authorization granted under paragraph (3) shall be in writing
53 and documented in the case. Authorization granted under paragraph (1) does not need to be
54 documented in the case.

55 (5) Clerk signature. When a clerk is authorized to use a judge's or commissioner's electronic
56 signature or signature stamp under this rule, ~~On such documents,~~ the clerk shall ~~indicate in~~
57 ~~writing that the electronic signature or signature stamp was used at the direction of the judge or~~
58 ~~commissioner and shall~~ sign his or her name directly beneath the electronic signature or
59 stamped imprint of the judge's or commissioner's signature.

60 *Effective: ~~October~~ May 1, 20242*

1 **Rule 4-403. Electronic signature and signature stamp use.**

2

3 **Intent:**

4 To establish a uniform procedure for the use of judges' and commissioners' electronic
5 signatures and signature stamps.

6 **Applicability:**

7 This rule shall apply to all trial courts of record and not of record.

8 **Statement of the Rule:**

9 (1) **Approved document types.** A clerk may, with the prior approval of the judge or
10 commissioner, use an electronic signature or signature stamp in lieu of obtaining the judge's or
11 commissioner's signature on the following document types:

12 (1)(A) bail bonds from approved bondsmen;

13 (1)(B) bench warrants;

14 (1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or
15 when stipulated by both parties in contested cases;

16 (1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);

17 (1)(E) orders to show cause and orders to appear/attend under URCP 7A(c)(4) and
18 URCP 7B(c)(4);

19 (1)(F) orders to take into custody;

20 (1)(G) summons;

21 (1)(H) supplemental procedure orders;

22 (1)(I) orders setting dates for hearing and for notice;

23 (1)(J) orders on motions requesting the Department of Workforce Services (DWS) to
24 release information concerning a debtor, where neither DWS nor the debtor opposes the
25 motion;

26 (1)(K) orders for transportation of a person in custody to a court hearing, including writs
27 of habeas corpus ad prosequendum and testificandum; and

28 (1)(L) orders appointing a court visitor.

29 ~~(2) When a clerk is authorized to use a judge's or commissioner's electronic signature or~~
30 ~~signature stamp as provided in paragraph (1), the clerk shall sign his or her name on the~~
31 ~~document directly beneath the electronic signature or stamped imprint of the judge's or~~
32 ~~commissioner's signature.~~

33 **(2) Approval of additional document types.**

34 (2)(A) Trial courts of record. In a court of record, a judge or commissioner may
35 authorize a clerk to use the electronic signature or signature stamp of the judge or
36 commissioner, in lieu of obtaining the judge's or commissioner's signature, on document
37 types listed in paragraph (1) and document types authorized by a standing order issued
38 by the presiding judge of that district.

39 (2)(A)(i) **Standing order.** The presiding judge of a juvenile or district court may,
40 by standing order, authorize clerks to use the electronic signature or signature
41 stamp of a judge or commissioner in the district, in lieu of obtaining the judge's or
42 commissioner's signature, on document types not listed in paragraph (1).

43 (2)(A)(ii) **Retention.** Standing orders and documentation of the authorization
44 shall be maintained in accordance with the Utah State Courts Records Retention
45 Schedule.

46 (2)(B) **Trial courts not of record.** In courts not of record, a clerk may, with the prior
47 approval of the judge, use an electronic signature or signature stamp in lieu of obtaining
48 the judge's signature on document types not listed in paragraph (1). Judges may grant
49 such approval by standing order, listing each approved document type.

50 (2)(B)(i) **Presiding judge approval.** All document types in the standing order
51 must be pre-approved, in writing, by the presiding judge of the district.

52 (2)(B)(ii) **Retention.** Standing orders and documentation of the presiding judge's
53 approval shall be maintained in accordance with the Utah State Courts Records
54 Retention Schedule.

55 (3) **Automatic.** The electronic signature of a judge may be automatically affixed to the following
56 documents without the need for specific direction from the assigned judge when issued using a
57 form approved by the Judicial Council;

58 (3)(A) a domestic relations injunction issued under URCP 109;

59 (3)(B) an automatic expungement order issued under Utah Code; and

60 (3)(C) automated orders related to deferred traffic prosecution cases under Utah Code §
61 77-2-4.2.

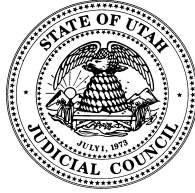
62 (4) **Approval on a document-by-document basis.** ~~All other~~ documents not covered under
63 paragraphs (1), (2), or (3) that require ~~ing at the~~ judge's or commissioner's signature shall be
64 personally signed by the judge or commissioner, unless the judge or commissioner, on a
65 document-by-document basis, authorizes the clerk to use the judge's or commissioner's
66 electronic signature or signature stamp in lieu of the judge's or commissioner's signature. The
67 judge or commissioner shall review the document prior to granting such authorization.

68 (5) **Documentation in the case.** Authorization granted under paragraph (4) shall be in writing
69 and documented in the case. Authorization granted under paragraphs (1), (2), or (3) does not
70 need to be documented in the case.

71 (6) **Clerk signature.** When a clerk is authorized to use a judge's or commissioner's electronic
72 signature or signature stamp under this rule, ~~On such documents,~~ the clerk shall indicate in
73 writing that the electronic signature or signature stamp was used at the direction of the judge or
74 commissioner and shall sign his or her name directly beneath the electronic signature or
75 stamped imprint of the judge's or commissioner's signature.

76 *Effective: ~~October~~ November 1, 20242*

Tab 9



Administrative Office of the Courts

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

June 14, 2024

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

MEMORANDUM

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

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

CJA 1-205. Standing and ad hoc committees

CJA 3-422. Tribal Liaison Committee (NEW)

The proposed amendments create a new Judicial Council standing committee, the Tribal Liaison Committee, to serve as a core leadership team for the Tribal Liaison and to provide subject matter expertise to the Council regarding matters impacting both the judiciary and tribal courts.

CJA 2-102. Council agenda

The proposed amendments formalize the existence of the Council's consent calendar, list the items which may be placed on the calendar, outline the process for removing items from the calendar, and require a Council vote on items placed on the consent calendar.

CJA 3-501. Insurance benefits upon retirement

See attached memo for detailed explanation

CJA 4-101. Manner of appearance (NEW)

The Supreme Court recently published proposed rules of civil, criminal, and juvenile procedure which identify factors judges should consider when setting in-person, remote, and hybrid hearings. The procedural rules also specify how hearing participants may request to appear in a manner opposite of the initial court setting and provide factors judges should consider in approving or denying a participant's request. Rule 4-101 is a companion rule addressing notice and compliance.

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

1 **Rule 1-205. Standing and Ad Hoc Committees.**

2
3 **Intent:**

4 To establish standing and ad hoc committees to assist the Council and provide
5 recommendations on topical issues.

6
7 To establish uniform terms and a uniform method for appointing committee members.

8
9 To provide for a periodic review of existing committees to assure that their activities are
10 appropriately related to the administration of the judiciary.

11
12 **Applicability:**

13 This rule shall apply to the internal operation of the Council.

14
15 **Statement of the Rule:**

16 **(1) Standing Committees.**

17 (1)(A) **Establishment.** The following standing committees of the Council are hereby
18 established:

19 (1)(A)(i) Uniform Fine Committee;

20
21 (1)(A)(ii) Ethics Advisory Committee;

22
23 (1)(A)(iii) Judicial Branch Education Committee;

24
25 (1)(A)(iv) Court Facility Planning Committee;

26
27 (1)(A)(v) Committee on Children and Family Law;

28
29 (1)(A)(vi) Committee on Judicial Outreach;

30
31 (1)(A)(vii) Committee on Resources for Self-represented Parties;

32
33 (1)(A)(viii) Language Access Committee;

34
35 (1)(A)(ix) Guardian ad Litem Oversight Committee;

36
37 (1)(A)(x) Committee on Model Utah Civil Jury Instructions;

38
39 (1)(A)(xi) Committee on Model Utah Criminal Jury Instructions;

40
41 (1)(A)(xii) Committee on Pretrial Release and Supervision; ~~and~~

42

- 43 (1)(A)(xiii) Committee on Court Forms;
44
45 (1)(A)(xiv) Committee on Judicial Fairness and Accountability; ~~and~~
46
47 (1)(A)(xv) Working Interdisciplinary Network of Guardianship Stakeholders
48 (WINGS); and
49
50 (1)(A)(xvi) Tribal Liaison Committee.
51

52 (1)(B) **Composition.**

- 53 (1)(B)(i) The **Uniform Fine Committee** performs the duties described in rule 4-
54 302 and shall consist of:
- 55 (1)(B)(i)(a) one district court judge who has experience with a felony
56 docket;
 - 57
58 (1)(B)(i)(b) three district court judges who have experience with a
59 misdemeanor docket; and
 - 60
61 (1)(B)(i)(c) four justice court judges.
 - 62
- 63 (1)(B)(ii) The **Ethics Advisory Committee** performs the duties described in rule
64 3-109 and shall consist of:
- 65 (1)(B)(ii)(a) one judge from the Court of Appeals;
 - 66
67 (1)(B)(ii)(b) one district court judge from Judicial Districts 2, 3, or 4;
 - 68
69 (1)(B)(ii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
 - 70
71 (1)(B)(ii)(d) one juvenile court judge;
 - 72
73 (1)(B)(ii)(e) one justice court judge; and
 - 74
75 (1)(B)(ii)(f) an attorney from either the Bar or a college of law.
 - 76
- 77 (1)(B)(iii) The **Judicial Branch Education Committee** performs the duties
78 described in rule 3-403 shall consist of:
- 79 (1)(B)(iii)(a) one judge from an appellate court;
 - 80
81 (1)(B)(iii)(b) one district court judge from Judicial Districts 2, 3, or 4;
 - 82
83 (1)(B)(iii)(c) one district court judge from Judicial Districts 1, 5, 6, 7, or 8;
 - 84
85 (1)(B)(iii)(d) one juvenile court judge;

86
87 (1)(B)(iii)(e) the education liaison of the Board of Justice Court Judges;
88
89 (1)(B)(iii)(f) one state level administrator;
90
91 (1)(B)(iii)(g) the Human Resource Management Director;
92
93 (1)(B)(iii)(h) one court executive;
94
95 (1)(B)(iii)(i) one juvenile court probation representative;
96
97 (1)(B)(iii)(j) two court clerks from different levels of court and different
98 judicial districts;
99
100 (1)(B)(iii)(k) one data processing manager; and
101
102 (1)(B)(iii)(l) one adult educator from higher education.
103
104 (1)(B)(iii)(m) The Human Resource Management Director and the adult
105 educator shall serve as non-voting members. The state level
106 administrator and the Human Resource Management Director shall serve
107 as permanent Committee members.
108

109 (1)(B)(iv) The **Court Facility Planning Committee** performs the duties
110 described in rule 3-409 and shall consist of:

111 (1)(B)(iv)(a) one judge from each level of trial court;

112
113 (1)(B)(iv)(b) one appellate court judge;

114
115 (1)(B)(iv)(c) the state court administrator;

116
117 (1)(B)(iv)(d) a trial court executive;

118
119 (1)(B)(iv)(e) two business people with experience in the construction or
120 financing of facilities; and

121
122 (1)(B)(iv)(f) the court security director.
123

124 (1)(B)(v) The **Committee on Children and Family Law** performs the duties
125 described in rule 4-908 and shall consist of:

126 (1)(B)(v)(a) one Senator appointed by the President of the Senate;
127

- 128 (1)(B)(v)(b) the Director of the Department of Human Services or
129 designee;
130
- 131 (1)(B)(v)(c) one attorney of the Executive Committee of the Family Law
132 Section of the Utah State Bar;
133
- 134 (1)(B)(v)(d) one attorney with experience in abuse, neglect and
135 dependency cases;
136
- 137 (1)(B)(v)(e) one attorney with experience representing parents in abuse,
138 neglect and dependency cases;
139
- 140 (1)(B)(v)(f) one representative of a child advocacy organization;
141
- 142 (1)(B)(v)(g) the ADR Program Director or designee;
143
- 144 (1)(B)(v)(h) one professional in the area of child development;
145
- 146 (1)(B)(v)(i) one mental health professional;
147
- 148 (1)(B)(v)(j) one representative of the community;
149
- 150 (1)(B)(v)(k) the Director of the Office of Guardian ad Litem or designee;
151
- 152 (1)(B)(v)(l) one court commissioner;
153
- 154 (1)(B)(v)(m) two district court judges; and
155
- 156 (1)(B)(v)(n) two juvenile court judges.
157
- 158 (1)(B)(v)(o) One of the district court judges and one of the juvenile court
159 judges shall serve as co-chairs to the committee. In its discretion the
160 committee may appoint non-members to serve on its subcommittees.
161
- 162 (1)(B)(vi) The **Committee on Judicial Outreach** performs the duties described
163 in rule 3-114 and shall consist of:
- 164 (1)(B)(vi)(a) one appellate court judge;
165
- 166 (1)(B)(vi)(b) one district court judge;
167
- 168 (1)(B)(vi)(c) one juvenile court judge;
169
- 170 (1)(B)(vi)(d) one justice court judge; one state level administrator;
171

- 172 (1)(B)(vi)(e) a state level judicial education representative;
173
174 (1)(B)(vi)(f) one court executive;
175
176 (1)(B)(vi)(g) one Utah State Bar representative;
177
178 (1)(B)(vi)(h) one communication representative;
179
180 (1)(B)(vi)(i) one law library representative;
181
182 (1)(B)(vi)(j) one civic community representative; and
183
184 (1)(B)(vi)(k) one state education representative.
185
186 (1)(B)(vi)(l) Chairs of the Judicial Outreach Committee's subcommittees
187 shall also serve as members of the committee.
188
- 189 (1)(B)(vii) The **Committee on Resources for Self-represented**
190 **Parties** performs the duties described in rule 3-115 and shall consist of:
- 191 (1)(B)(vii)(a) two district court judges;
192
193 (1)(B)(vii)(b) one juvenile court judge;
194
195 (1)(B)(vii)(c) two justice court judges;
196
197 (1)(B)(vii)(d) three clerks of court – one from an appellate court, one from
198 an urban district and one from a rural district;
199
200 (1)(B)(vii)(e) one representative from a social services organization
201 providing direct services to underserved communities;
202
203 (1)(B)(vii)(f) one representative from the Utah State Bar;
204
205 (1)(B)(vii)(g) two representatives from legal service organizations that
206 serve low-income clients;
207
208 (1)(B)(vii)(h) one private attorney experienced in providing services to
209 self-represented parties;
210
211 (1)(B)(vii)(i) two law school representatives;
212
213 (1)(B)(vii)(j) the state law librarian; and
214
215 (1)(B)(vii)(k) two community representatives.

216
217 (1)(B)(viii) The **Language Access Committee** performs the duties described in
218 rule 3-306.02 and shall consist of:

- 219 (1)(B)(viii)(a) one district court judge;
220
221 (1)(B)(viii)(b) one juvenile court judge;
222
223 (1)(B)(viii)(c) one justice court judge;
224
225 (1)(B)(viii)(d) one trial court executive;
226
227 (1)(B)(viii)(e) one court clerk;
228
229 (1)(B)(viii)(f) one interpreter coordinator;
230
231 (1)(B)(viii)(g) one probation officer;
232
233 (1)(B)(viii)(h) one prosecuting attorney;
234
235 (1)(B)(viii)(i) one defense attorney;
236
237 (1)(B)(viii)(j) two certified interpreters;
238
239 (1)(B)(viii)(k) one approved interpreter;
240
241 (1)(B)(viii)(l) one expert in the field of linguistics; and
242
243 (1)(B)(viii)(m) one American Sign Language representative.

244
245 (1)(B)(ix) The **Guardian ad Litem Oversight Committee** performs the duties
246 described in rule 4-906 and shall consist of:

- 247 (1)(B)(ix)(a) seven members with experience in the administration of law
248 and public services selected from public, private and non-profit
249 organizations.

250
251 (1)(B)(x) The **Committee on Model Utah Civil Jury Instructions** performs the
252 duties described in rule 3-418 and shall consist of:

- 253
254 (1)(B)(x)(a) two district court judges;
255
256 (1)(B)(x)(b) four lawyers who primarily represent plaintiffs;
257
258 (1)(B)(x)(c) four lawyers who primarily represent defendants; and

- 259
260 (1)(B)(x)(d) one person skilled in linguistics or communication.
261
- 262 (1)(B)(xi) The **Committee on Model Utah Criminal Jury Instructions** performs
263 the duties described in rule 3-418 and shall consist of:
- 264 (1)(B)(xi)(a) two district court judges;
265
266 (1)(B)(xi)(b) one justice court judge;
267
268 (1)(B)(xi)(c) four prosecutors;
269
270 (1)(B)(xi)(d) four defense counsel; and
271
272 (1)(B)(xi)(e) one person skilled in linguistics or communication.
273
- 274 (1)(B)(xii) The **Committee on Pretrial Release and Supervision** performs the
275 duties described in rule 3-116 and shall consist of:
- 276 (1)(B)(xii)(a) two district court judges;
277
278 (1)(B)(xii)(b) two justice court judges;
279
280 (1)(B)(xii)(c) one prosecutor;
281
282 (1)(B)(xii)(d) one defense attorney;
283
284 (1)(B)(xii)(e) one county sheriff;
285
286 (1)(B)(xii)(f) one representative of counties;
287
288 (1)(B)(xii)(g) one representative of a county pretrial services agency;
289
290 (1)(B)(xii)(h) one representative of the Utah Commission on Criminal and
291 Juvenile Justice;
292
293 (1)(B)(xii)(i) one commercial surety agent;
294
295 (1)(B)(xii)(j) one state senator;
296
297 (1)(B)(xii)(k) one state representative;
298
299 (1)(B)(xii)(l) the Director of the Indigent Defense Commission or designee;
300
301 (1)(B)(xii)(m) one representative of the Utah Victims' Council;

302
303 (1)(B)(xii)(n) one representative of a community organization actively
304 engaged in pretrial justice issues; and

305
306 (1)(B)(xii)(o) one chief of police; ~~and~~

307
308 ~~(1)(B)(xii)(p) the court's general counsel or designee.~~

309
310 (1)(B)(xiii) The **Committee on Court Forms** performs the duties described in
311 rule 3-117 and shall consist of:

312 (1)(B)(xiii)(a) two district court judges;

313
314 (1)(B)(xiii)(b) one court commissioner;

315
316 (1)(B)(xiii)(c) one juvenile court judge;

317
318 (1)(B)(xiii)(d) one justice court judge;

319
320 (1)(B)(xiii)(e) one court clerk;

321
322 (1)(B)(xiii)(f) one appellate court staff attorney;

323
324 (1)(B)(xiii)(g) one representative from the Self-Help Center;

325
326 (1)(B)(xiii)(h) the State Law Librarian;

327
328 (1)(B)(xiii)(i) the district court administrator or designee;

329
330 (1)(B)(xiii)(j) one representative from a legal service organization that
331 serves low-income clients;

332
333 (1)(B)(xiii)(k) one paralegal;

334
335 (1)(B)(xiii)(l) one educator from a paralegal program or law school;

336
337 (1)(B)(xiii)(m) one person skilled in linguistics or communication;

338
339 (1)(B)(xiii)(n) one representative from the Utah State Bar; and

340
341 (1)(B)(xiii)(o) the LPP administrator.

342
343 (1)(B)(xiv) The **Committee on Fairness and Accountability** performs the duties
344 described in rule 3-420. The committee shall include members who demonstrate

345 an interest in or who have experience with issues of diversity, equity, and
346 inclusion and shall consist of:

347 (1)(B)(xiv)(a) one district court judge;

348

349 (1)(B)(xiv)(b) one juvenile court judge;

350

351 (1)(B)(xiv)(c) one justice court judge;

352

353 (1)(B)(xiv)(d) one appellate court judge;

354

355 (1)(B)(xiv)(e) two former judges from any court level;

356

357 (1)(B)(xiv)(f) the General Counsel or designee;

358

359 (1)(B)(xiv)(g) one representative of the community;

360

361 (1)(B)(xiv)(h) the Director of the Office of Fairness and Accountability;

362

363 (1)(B)(xiv)(i) the Director of Data and Research or designee; and

364

365 (1)(B)(xiv)(j) up to two additional qualified individuals.

366

367 (1)(B)(xv) The **Working Interdisciplinary Network of Guardianship**
368 **Stakeholders (WINGS)** performs the duties described in rule 3-421, and shall
369 consist of:

370 (1)(B)(xv)(a) **Judiciary** representatives:

371

372 (1)(B)(xv)(a)(i) two or more district court judges;

373

374 (1)(B)(xv)(a)(ii) two or more district court judicial support staff with
375 experience in guardianship matters;

376

377 (1)(B)(xv)(a)(iii) one representative from the Guardianship
378 Reporting and Monitoring Program (GRAMP); and

379

380 (1)(B)(xv)(a)(iv) one representative from the Court Visitor
381 Program; ~~and~~

382

383 ~~(1)(B)(xv)(a)(v) the General Counsel or designee.~~

384

385 (1)(B)(xv)(b) **Community stakeholder** representatives:

386 (1)(B)(xv)(b)(i) one representative from Adult Protective Services;

387

- 388 (1)(B)(xv)(b)(ii) one representative from Disability Law Center;
389
390 (1)(B)(xv)(b)(iii) one representative from Adult and Aging Services;
391
392 (1)(B)(xv)(b)(iv) one representative from Office of Public Guardian;
393
394 (1)(B)(xv)(b)(v) one representative from the Utah State Bar;
395
396 (1)(B)(xv)(b)(vi) one representative from Office of the Attorney
397 General;
398
399 (1)(B)(xv)(b)(vii) one representative from the Utah legislature;
400
401 (1)(B)(xv)(b)(viii) one representative from the Utah Commission on
402 Aging;
403
404 (1)(B)(xv)(b)(ix) one representative from Utah Legal Services; and
405
406 (1)(B)(xv)(b)(x) the Long-Term Care Ombudsman or designee.
407
408 (1)(B)(xv)(c) **Individual community** representatives. Three or more
409 community stakeholders representing:
410 (1)(B)(xv)(c)(i) mental health community;
411
412 (1)(B)(xv)(c)(ii) medical community;
413
414 (1)(B)(xv)(c)(iii) private legal community that specializes in
415 guardianship matters;
416
417 (1)(B)(xv)(c)(iv) aging-adult services community;
418
419 (1)(B)(xv)(c)(v) educator from a legal program or law school;
420
421 (1)(B)(xv)(c)(vi) organization serving low-income, minorities, or
422 marginalized communities;
423
424 (1)(B)(xv)(c)(vii) citizens under or involved in guardianship; and
425
426 (1)(B)(xv)(c)(viii) other organizations with a focus including, but not
427 limited to guardianship, aging, legal services, or disability.
428

429 (1)(B)(xvi) The Tribal Liaison Committee performs the duties described in rule
430 3-422 and shall consist of:
431

- 432 (1)(B)(xvi)(a) one district court judge;
433
434 (1)(B)(xvi)(b) one juvenile court judge;
435
436 (1)(B)(xvi)(c) one justice court judge;
437
438 (1)(B)(xvi)(d) one appellate court judge;
439
440 (1)(B)(xvi)(e) one federal district court judge or magistrate;
441
442 (1)(B)(xvi)(f) one tribal court judge;
443
444 (1)(B)(xvi)(g) two representatives of Utah's Indian Tribes or affiliated
445 community groups;
446
447 (1)(B)(xvi)(h) the Tribal Liaison;
448
449 (1)(B)(xvi)(i) one trial court executive;
450
451 (1)(B)(xvi)(j) one clerk of court or designee;
452
453 (1)(B)(xvi)(k) one representative from the Utah State Bar Indian Law
454 Section;
455
456 (1)(B)(xvi)(l) one representative from the United States Attorney's Office;
457
458 (1)(B)(xvi)(m) one representative from the Indigent Defense Commission;
459 and
460
461 (1)(B)(xvi)(n) one representative from the Guardian ad Litem's Office.

462
463 (1)(C) **Standing committee chairs.** The Judicial Council shall designate the chair of
464 each standing committee. Standing committees shall meet as necessary to accomplish
465 their work. Standing committees shall report to the Council as necessary but a minimum
466 of once every year. Except for the Committee on Judicial Fairness and Accountability,
467 council members may not serve, participate or vote on standing committees. Standing
468 committees may invite participation by others as they deem advisable, but only members
469 designated by this rule may make motions and vote. All members designated by this rule
470 may make motions and vote unless otherwise specified. Standing committees may form
471 subcommittees as they deem advisable.

472
473 (1)(D) **Committee performance review.** At least once every six years, the Management
474 Committee shall review the performance of each committee. If the Management
475 Committee determines that committee continues to serve its purpose, the Management

476 Committee shall recommend to the Judicial Council that the committee continue. If the
477 Management Committee determines that modification of a committee is warranted, it
478 may so recommend to the Judicial Council.

479

480 (1)(D)(i) Notwithstanding subsection (1)(D), the Guardian ad Litem Oversight
481 Committee, recognized by Section 78A-6-901, shall not terminate.

482

483 (2) **Ad hoc committees.** The Council may form ad hoc committees or task forces to consider
484 topical issues outside the scope of the standing committees and to recommend rules or
485 resolutions concerning such issues. The Council may set and extend a date for the termination
486 of any ad hoc committee. The Council may invite non-Council members to participate and vote
487 on ad hoc committees. Ad hoc committees shall keep the Council informed of their activities. Ad
488 hoc committees may form sub-committees as they deem advisable. Ad hoc committees shall
489 disband upon issuing a final report or recommendations to the Council, upon expiration of the
490 time set for termination, or upon the order of the Council.

491

492 (3) **General provisions.**

493 (3)(A) **Appointment process.**

494 (3)(A)(i) **Administrator's responsibilities.** The state court administrator shall
495 select a member of the administrative staff to serve as the administrator for
496 committee appointments. Except as otherwise provided in this rule, the
497 administrator shall:

498

499 (3)(A)(i)(a) announce expected vacancies on standing committees two
500 months in advance and announce vacancies on ad hoc committees in a
501 timely manner;

502

503 (3)(A)(i)(b) for new appointments, obtain an indication of willingness to
504 serve from each prospective appointee and information regarding the
505 prospective appointee's present and past committee service;

506

507 (3)(A)(i)(c) for reappointments, obtain an indication of willingness to serve
508 from the prospective reappointee, the length of the prospective
509 reappointee's service on the committee, the attendance record of the
510 prospective reappointee, the prospective reappointee's contributions to
511 the committee, and the prospective reappointee's other present and past
512 committee assignments; and

513

514 (3)(A)(i)(d) present a list of prospective appointees and reappointees to
515 the Council and report on recommendations received regarding the
516 appointment of members and chairs.

517

518 (3)(A)(ii) **Council's responsibilities.** The Council shall appoint the chair of each
519 committee. Whenever practical, appointments shall reflect geographical, gender,
520 cultural and ethnic diversity.

521
522 (3)(B) **Terms.** Except as otherwise provided in this rule, standing committee members
523 shall serve staggered three year terms. Standing committee members shall not serve
524 more than two consecutive terms on a committee unless the Council determines that
525 exceptional circumstances exist which justify service of more than two consecutive
526 terms.

527
528 (3)(C) **Expenses.** Members of standing and ad hoc committees may receive
529 reimbursement for actual and necessary expenses incurred in the execution of their
530 duties as committee members.

531
532 (3)(D) **Secretariat.** The Administrative Office shall serve as secretariat to the Council's
533 committees.

534
535 *Effective: ~~November~~ June 1, 2024~~3~~*

1 **Rule 3-422. Tribal Liaison Committee**

2
3 **Intent:**

4
5 To establish the Tribal Liaison Committee to serve as a core leadership team for the Tribal
6 Liaison and to provide subject matter expertise to the Council regarding matters impacting both
7 the judiciary and tribal courts.

8
9 **Applicability:**

10
11 This rule applies to the judiciary.

12
13 **Statement of the Rule:**

14
15 (1) The Tribal Liaison Committee shall study government-to-government matters which impact
16 both the judiciary and tribal courts and propose policy recommendations concerning such
17 matters to the Council.

18
19 **(2) Duties of the committee.** The committee shall:

20
21 (2)(A) provide support and guidance to the Tribal Liaison;

22
23 (2)(B) review collaborative tribal and court activities and government-to-government
24 matters which impact the judiciary and tribal courts;

25
26 (2)(C) research, develop, and recommend policies and procedures regarding such
27 government-to-government matters and collaborative activities;

28
29 (2)(D) identify matters which should be presented to the Council for consideration and
30 recommend individuals with special expertise who could act as a resource for the
31 Council; and

32
33 (2)(E) research, develop, and recommend policies and procedures for establishing and
34 maintaining compliance with consultation agreements with Utah's Indian Tribes.

35
36
37 Effective: November 1, 2024

1 **Rule 2-102. Council agenda.**

2
3 **Intent:**

4 To identify the Management Committee's responsibility for establishing the annual schedule of
5 Council meetings and the agenda for each Council meeting.

6
7 To establish a procedure for placing items on the Council agenda for consideration.

8
9 **Applicability:**

10 This rule shall apply to all meetings of the Council.

11
12 **Statement of the Rule:**

13 (1) **Management Committee.** The Management Committee is responsible for establishing the
14 agenda for each Council meeting and for establishing an annual schedule of Council meetings.

15
16 (2) **Annual schedule.** The annual schedule shall include the date and time of Council meetings
17 and shall provide adequate time to review planning, legislation, ~~and~~ budget issues, Council
18 rules, and other matters identified by the Committee. The schedule shall be published by the
19 Committee on an annual basis.

20
21 (3) **Requests.** The ~~agenda for each Council meeting shall be established by the~~ Management
22 Committee, ~~which~~ is responsible for receiving requests for agenda items from the Boards, the
23 Council's standing committees, court staff, and other interested agencies, organizations and
24 individuals.

25
26 (3)(A) Boards – Executive Committees – Council members. Any items recommended
27 for placement on the Council agenda by the Boards, an executive committee of the
28 Council, the Council as a whole, or individual Council members shall be placed on the
29 agenda by the Management Committee.

30
31 (3)(B) All other requests. The Management Committee shall review all other requests,
32 ~~received, approve appropriate matters for Council consideration and, with the assistance~~
33 ~~of the Administrative Office, collect the necessary background information for~~
34 ~~presentation to the Council.~~ Matters ~~which are~~ approved for Council consideration will
35 be placed on the Council agenda as soon as ~~the requisite~~ the necessary background
36 information is available and subject to the scheduling limitations of the Council.

37
38 (4) Agenda. Council agendas shall be divided into two parts: the main agenda and the consent
39 calendar. Unless otherwise directed by the Council, the Management Committee shall place
40 approved items on the Council agenda consistent with the following:

41
42 (4)(A) Main agenda. The following matters shall be placed on the Council's main
43 agenda, unless otherwise directed by the Council:

44
45 (4)(A)(i) standing committee reports;

46
47 (4)(A)(ii) standing or ad hoc committee sunset or reauthorization requests;

48
49 (4)(A)(iii) requests to certify, recertify, or dissolve justice courts;

50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87

(4)(A)(iv) senior judge resource requests and certifications;

(4)(A)(v) judicial retention election certifications;

(4)(A)(vi) court commissioner vacancies, appointments, and retention certifications;

(4)(A)(vii) rules recommended for final approval;

(4)(A)(viii) budget requests;

(4)(A)(ix) grant approvals; and

(4)(A)(x) any other matter deemed appropriate by the Council or the Management Committee.

(4)(B) **Consent calendar.** If approved by the Management Committee, the following matters shall be placed on the Council's consent calendar:

(4)(B)(i) rules recommended for public comment;

(4)(B)(ii) committee member appointments;

(4)(B)(iii) court forms; and

(4)(B)(iv) any other matter deemed appropriate by the Council or the Management Committee.

(5) **Consent calendar procedure.** Upon the request of a Council member, a matter may be moved from the consent calendar to the Council's main agenda for action or discussion. The Council may approve all items on the consent calendar without discussion by majority vote.

~~(4) Any items recommended for placement on Council agenda by the Boards, an executive committee, the Council as a whole or individual Council members shall be placed on the agenda by the Management Committee.~~

~~Effective: April November 1, 20241997~~



Administrative Office of the Courts

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

May 31, 2024

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

MEMORANDUM

TO: Members of the Policy, Planning & Technology Committee/Judicial Council

FROM: Bart Olsen, Director of Human Resources, Administrative Office
Sarah Osmund, Human Resources Specialist, Administrative Office

RE: Revised UCJA Rule 3-501 (Code of Judicial Administration) for Approval

The purpose of this memorandum is to provide important context on the accompanying proposed revisions to [UCJA Rule 3-501](#) for review and approval. The proposed revisions are so numerous that the final product may be difficult to read. Therefore, a red-line version and a proposed clean version are attached for clarity.

Background

The current language in Rule 3-501 lacks clear and concise information regarding insurance benefits upon retirement for judges, justices, and court commissioners. Too often, judicial officers nearing retirement express frustration and confusion when attempting to apply the rule to their own circumstances. Problems with the rule as it stands today include:

1. The provisions in the rule addressing its intent and applicability fail to clarify the longstanding practice: that these benefits only apply to court commissioners and judges of courts of record. Nor does it clarify that Rule 3-501 also includes information about the incentive benefit for active senior judges of courts of record.
2. The frequent repetition of the list of eligible judicial officers (“the justice, judge, or court commissioner”) throughout the rule interferes with the rule’s clarity. The list repeats a total of 15 times in provisions 1-4.
3. 3-501(1) describes a benefit that is “earned” of eight months paid insurance for each year the judicial officer uses less than four days of sick leave. In confusing contrast, 3-501(2) describes an “automatic” benefit of paid insurance for a “maximum of five years,”

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

implying that the judicial officer must do nothing else to receive that benefit other than retire.

- a. The description of automatic benefits in provision (2) might make sense if the automatic benefit provided a minimum benefits duration of five years to the judicial officer upon retirement; however, it reads that the recipient “shall receive a maximum of five years ...” (emphasis added).
 - b. Absent an established minimum duration of the automatic benefits, the reader is left to understand the automatic benefit is either ALWAYS five years, or calculated the same way the earned benefit is calculated. No other manner of calculation is provided anywhere in the rule.
 - i. If the automatic benefit is ALWAYS five years, the rule should clarify that a judicial officer can earn more than the automatic five years up to a total of seven years of paid insurance, but it does not - so this interpretation is problematic.
 - ii. If calculated the same way the earned benefit is calculated, there would be no difference between the automatic benefit and the earned benefit - so this interpretation is illogical.
 - iii. We are unaware of any point in history that the judiciary has simply awarded an automatic benefit of five years paid insurance to any judicial officer simply because they retired and were eligible for retirement benefits.
4. The specific type of life insurance benefits provided (employer-funded basic life) is not clarified in provision (1)(A).
 5. The process described in provision (1)(A) for a judicial officer to submit an annual application for the earned benefit, showing that there is not another medical insurance policy that provides comparable coverage, does not describe to whom the judicial officer submits such an application. Possibly due in part to that ambiguity, the earned benefit has been provided to otherwise eligible retired judicial officers for many years without requiring this annual application.
 6. The specific types of insurance coverage provided is inadequately described in (1)(C), omitting a large amount of clarifying information.
 7. The duration of benefits described in provision (3) is unclear at best, leaving most readers baffled at exactly how long a judicial officer might plan to receive the benefits. The formula for calculating benefit duration is relatively clear and simple, but is not provided with transparency in the rule.
 8. The description in provision 5(C) is unclear on what party bears responsibility to coordinate with Utah Retirement Systems (URS) about receiving the incentive benefit and with the Public Employee Health Program (PEHP) about their portion of insurance premium deductions.

The proposed amendments were developed by the Human Resources Department to resolve all of the aforementioned issues. We believe it would facilitate consistency and clarity on the administration of these benefits moving forward.

1 **Rule 3-501. Insurance Benefits Upon Retirement.**
2

3 **Intent:**

4 To establish uniform policies regarding sick leave for all judicial officers of courts of record
5 (justices, judges, ~~active senior judges of courts of record,~~ and court commissioners), and
6 conversion of sick leave to paid-up medical, dental, prescription drug, and employer-funded
7 basic life insurance benefits at the time of retirement; and to establish uniform policies for
8 incentive benefits for active senior judges of courts of record.

9 **Applicability:**

10 ~~This rule shall apply to all justices, judges, active senior judges of courts of record, and court~~
11 ~~commissioners of courts of record. Provisions (1) through (4) of this rule apply to all judicial~~
12 ~~officers, not including active senior judges. Provision (5) and (6) of this rule apply only to active~~
13 ~~senior judges of courts of record.~~

14 **Statement of the Rule:**

15 **(1) Earned benefits.**

16 (1)(A) For each year of full-time employment that a ~~justice, judge, or court~~
17 ~~commissioner~~ judicial officer uses less than four days of sick leave in a calendar year, the
18 ~~judge, justice, or court commissioner~~ judicial officer ~~will be eligible for and~~
19 ~~accumulate~~ accrues eligibility for eight months of paid-up medical ~~insurance,~~ dental
20 ~~insurance,~~ prescription drug, ~~insurance~~ and employer-funded basic life insurance
21 benefits at the time of retirement. Dental and employer-funded basic life insurance
22 coverage is dependent upon the judicial officer's age at retirement. Upon retirement, the
23 judicial officer shall declare to the Human Resources Department if they are otherwise
24 covered by a comparable medical insurance policy. If not, the judicial officer shall
25 receive the accrued insurance benefits. ~~submission of an annual application and a~~
26 ~~showing that the judge, justice, or court commissioner is not otherwise covered by a~~
27 ~~comparable medical insurance policy, the judge, justice, or court commissioner shall be~~
28 ~~eligible for and receive the insurance benefits which have accrued.~~

29 (1)(B) Maternity leave and parental leave is considered sick leave for determining
30 benefits under this rule.

31 (1)(C) Medical, ~~and~~ dental, and prescription drug insurance coverage provided will be
32 the same as that carried by the ~~justice, judge, or court commissioner~~ judicial officer at
33 retirement, ~~i.e., family, two party, single if the judicial officer is under age 65 at~~
34 retirement. The judicial officer shall continue to pay their portion of the shared premiums
35 and the judiciary shall continue to pay its portion of the shared premiums.

36 (1)(D) Medical and prescription drug insurance coverage provided will convert to the
37 PEHP Medicare Supplement and Enhanced Pharmacy insurance benefits if the judicial
38 officer is age 65 or older on the effective date of retirement. Dental and employer-
39 funded basic life insurance benefits shall terminate when the judicial officer is eligible for
40 Medicare. The judiciary covers 100% of the cost of premiums for the PEHP Medicare
41 Supplement and Enhanced Pharmacy plans for the judicial officer and spouse.

42 (1)(D)(i) If the judicial officer is enrolled in a high deductible plan, it is their
43 responsibility to stop all contributions (employee and employer) six months prior
44 to applying for Medicare benefits to avoid a Social Security (Medicare) penalty

45 tax. The judicial officer is responsible for contacting the PEHP Flex Department
 46 to stop all contributions.

47 (1)(D)(ii) If the spouse of the judicial officer is not Medicare eligible when the
 48 judicial officer retires, the spouse's coverage will remain the same as that carried
 49 by the judicial officer at retirement until the spouse is eligible for Medicare or until
 50 earned benefits are exhausted, whichever is earlier.

51
 52 ~~(2) **Automatic benefits.** Notwithstanding the provisions of paragraph (1), a justice, judge, or~~
 53 ~~court commissioner who retires and who is eligible for retirement benefits at the time of~~
 54 ~~retirement shall receive a maximum of five years medical insurance, dental insurance,~~
 55 ~~prescription drug insurance and life insurance.~~

56
 57 **(23) Duration of benefits.**

58 ~~(23)(A) The duration of earned benefits shall be calculated based on the judicial officer's~~
 59 ~~last work day. Active employee insurance coverage ends on the last day of the month in~~
 60 ~~which the judicial officer worked. Retiree insurance coverage or the PEHP Medicare~~
 61 ~~Supplement and Enhanced Pharmacy coverage begins on the first of the month~~
 62 ~~following the judicial officer's last work day. from the effective date of the justice's,~~
 63 ~~judge's or court commissioner's retirement.~~ Earned benefits shall not exceed seven
 64 years. ~~Automatic benefits shall not exceed five years. Earned benefits and automatic~~
 65 ~~benefits shall not exceed seven years.~~

<u>YEARS in which judicial officer used fewer than 4 days of sick leave in the calendar year</u>	<u>TOTAL NUMBER OF MONTHS PAID INSURANCE (1 year --> 8 months)</u>	<u>YEARS OF PAID INSURANCE</u>
<u>1 year</u>	<u>8 months</u>	
<u>2 years</u>	<u>16 months</u>	<u>1 year, 4 months</u>
<u>3 years</u>	<u>24 months</u>	<u>2 years</u>
<u>4 years</u>	<u>32 months</u>	<u>2 years, 8 months</u>
<u>5 years</u>	<u>40 months</u>	<u>3 years, 4 months</u>
<u>6 years</u>	<u>48 months</u>	<u>4 years</u>
<u>7 years</u>	<u>56 months</u>	<u>4 years, 8 months</u>
<u>8 years</u>	<u>64 months</u>	<u>5 years, 4 months</u>
<u>9 years</u>	<u>72 months</u>	<u>6 years</u>
<u>10 years</u>	<u>80 months</u>	<u>6 years, 8 months</u>
<u>11 years</u>	<u>88 months</u>	<u>7 years</u>

66
 67 ~~(23)(B) If the judicial officer is under age 65 at retirement, when the judicial officer~~
 68 ~~reaches age 65, retiree insurance coverage shall convert to the PEHP Medicare~~
 69 ~~Supplement and Enhanced Pharmacy insurance coverage, and coverage Earned~~
 70 ~~benefits and automatic benefits shall terminate when the justice, judge, or commissioner~~

~~is eligible for Medicare, except that prescription drug insurance and supplemental Medicare insurance shall continue for the remaining duration/balance of the term of earned or automatic benefits. Dental and employer-funded basic life insurance benefits shall terminate when the judicial officer reaches age 65.~~

~~(23)(C) If the judicial officer is under age 65 at retirement but the spouse is 65 or older, the spouse's coverage will remain the same as that carried by the judicial officer at retirement until the judicial officer becomes eligible for Medicare. The spouse's retiree insurance coverage shall convert to the PEHP Medicare Supplement and Enhanced Pharmacy insurance coverage, and shall continue for the remaining duration of the term of earned benefits. If the spouse of the justice, judge, or court commissioner qualifies for medical insurance, prescription drug insurance or dental insurance under subsection (1)(C), such insurance shall continue for the period of earned or automatic benefits or until the spouse becomes eligible for Medicare, whichever is earlier, except that prescription drug insurance and supplemental Medicare insurance for the spouse shall continue for the balance of the term of earned or automatic benefits.~~

~~(23)(D) Earned or automatic benefits for dependents, other than a spouse, of the justice, judge, or court commissioner/judicial officer terminate when the justice, judge, or court commissioner/judicial officer reaches age 65 or until the dependent reaches age 26, whichever is earlier.~~

~~(2)(E) Additional life insurance coverage shall terminate for the judicial officer's spouse and dependent(s) when employment ends.~~

~~(34) Recording s Sick leave. As authorized by Utah Code Section 78A-2-107, the state court administrator or designee will develop methods for recording sick leave used each year by judicial officers/justices, judges, and court commissioners and for recording sick leave conversion to paid-up medical, dental and life insurance benefits.~~

~~(45) Active senior judge incentive benefit.~~

~~(45)(A) The judiciary will pay 50% of the cost of medical and dental insurance premiums for a qualifying active senior judge and spouse until the qualifying active senior judge is reaches age 65. The judiciary will pay 50% of the cost of supplemental/the PEHP Medicare Supplemental and Enhanced Pharmacy insurance coverage and prescription drugs for a qualifying active senior judge and spouse if the active senior judge and spouse are/is age 65 or older.~~

~~(45)(B) To qualify for the incentive benefit the active senior judge must:~~

~~(45)(B)(i) qualify as an active senior judge pursuant to rule 11-201;~~

~~(45)(B)(ii) have exhausted the earned and automatic benefits provided for by this rule;~~

~~(45)(B)(iii) submit to the state court administrator or their designee a letter expressing an intent to participate in the incentive benefit program;~~

~~(45)(B)(iv) comply with qualifications for reappointment as outlined in rule 11-201 during the active senior judge's term of appointment; and~~

~~(45)(B)(v) show good cause to the Council why the active senior judge should not be disqualified for the incentive benefit if the active senior judge has not performed case work for two or more fiscal years.~~

116 (45)(C) The ~~State Retirement Office shall deduct from the~~ active senior judge is
117 responsible for their portion of insurance premium deductions and shall coordinate with
118 URS and/or PEHP as applicable's retirement benefit the portion of the cost payable by
119 the active senior judge.

120
121 (56) **Inactive status.** If an active senior judge who receives the incentive benefit changes to
122 inactive status, the senior judge shall notify the state court administrator or designee and the
123 Human Resources Department in writing that the active senior judge has converted to inactive
124 status and is receiving the incentive benefit. ~~The state court administrator or designee shall~~
125 ~~notify Human Resources and URS shall notify PEHP~~ of the change in status.

126 (67) **Availability of funds.** ~~This policy will be i~~Implementation of this rule ised subject to
127 availability of funds.

128 *Effective: August 1, 2024/~~5/30/2024~~*

1 **Rule 4-101. Manner of appearance.**

2 **Intent:**

3 The intent of this rule is to establish notice and compliance requirements related to the manner
4 of appearance in court proceedings.

5 **Applicability:**

6 This rule applies to civil and criminal matters in district, juvenile, and justice courts.

7 **Statement of the Rule:**

8 (1) **Definitions.**

9 (1)(A) “Hybrid hearing” means a hearing at which some participants appear in person
10 and others appear remotely.

11 (1)(B) “In-person” means a participant will be physically present in the courtroom.

12 (1)(C) “In-person hearing” means a hearing where all participants appear in person.

13 (1)(D) “Participant” means the same as that term is defined in the applicable rule of
14 procedure: Rule 87 of the Utah Rules of Civil Procedure, Rule 17.5 of the Utah
15 Rules of Criminal Procedure, or Rule 61 of the Utah Rules of Juvenile Procedure.

16 (1)(E) “Remote” or “Remotely” means a participant will appear by video conference or
17 other electronic means approved by the court.

18 (1)(F) “Remote hearing” means no participants will be physically present in the
19 courtroom and all participants will appear remotely.

20 (2) **Notice.** When calendaring a hearing, the court must provide the participants with notice
21 as to whether the court intends the hearing to be an in-person hearing, a remote hearing,
22 or a hybrid hearing. Notice may be provided in open court. Notice that is not provided in
23 open court should include:

24 (2)(A) the date and time of the hearing;

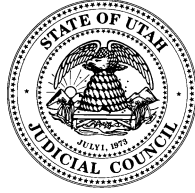
25 (2)(B) for in-person hearings, the physical address of the courthouse and the courtroom
26 number;

27 (2)(C) for remote hearings, a Webex link, and a link to the courts’ website which
28 includes information regarding attending a remote or hybrid hearing; and

- 29 (2)(D) for hybrid hearings, the information required in paragraphs (2)(B) and (2)(C).
- 30 (3) **Granted requests.** If a court grants a request to appear in a manner that is different from
31 the manner noticed at calendaring, the court should include in its communication all
32 information in paragraph (2) relevant to the new manner of appearance.
- 33 (4) **Effect on other participants.** The preference of one participant, and the court's
34 accommodation of that preference, does not:
- 35 (4)(A) change the format of the hearing for any other participant unless otherwise
36 ordered by the court; or
- 37 (4)(B) affect any other participant's opportunity to make a timely request to appear by a
38 different format or the court's consideration of that request.
- 39 (5) **Court compliance and accountability.** Rule 87 of the Utah Rules of Civil Procedure,
40 Rule 17.5 of the Utah Rules of Criminal Procedure, and Rule 61 of the Utah Rules of
41 Juvenile Procedure impact the effective operation of the court, including docket
42 management. As such, implementation and enforcement of those rules is the
43 responsibility of each presiding judge pursuant to rules 3-104 and 9-109.

44 *Effective November 1, 2024*

Tab 10



Administrative Office of the Courts

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

May 7, 2024

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

MEMORANDUM

TO: Judicial Council and Management Committee

FROM: Chris Talbot, Standing Committee for Facilities Planning

RE: New committee member nomination

The Committee needs to replace our district court judge representative with the recent appointment of Judge McIff – Allen to the federal bench. The District Court bench has nominated Judge Ronald Russell from the 2nd District to fill this committee vacancy.

The Facilities Standing Committee has unanimously agreed to forward this recommendation to the Management Committee and Judicial Council for appointment.

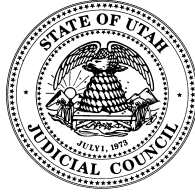
Current members:

Judge Michele Christiansen Forster (Court of Appeals) - Chair
Vacant - (District Court)
Judge Troy Little (5th District Juvenile Court Cedar City)
Judge Lee Edwards (Logan City Justice Court)
Ron Gordon (State Court Administrator)
Brian Bales (Public - Retired Industry Professional)
Christopher Morgan (TCE 6th District)
Chris Palmer (AOC Security Director)

Thank you for your consideration.

**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.**

Tab 11



Administrative Office of the Courts

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

June 18, 2024

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

MEMORANDUM

TO: Judicial Council

FROM: Jon Puente, Director OFA

RE: Committee on Fairness and Accountability

Currently, there is a vacancy on the Committee on Fairness and Accountability which was filled by a former Judge in accordance with Rule 1-205(1)(B)(xiv)(e). Judge Tyrone Medley was serving on the committee in this capacity, however he had to step down. The Committee on Fairness and Accountability reached out to former judges who would be interested in being part on the committee and supporting the work fo the OFA. Several former judges responded to this request. During their meeting on 6/11, the Management Committee voted on Judge Renee Jimenez to fill the current vacancy. This is to go on the Judicial Council's consent agenda for final approval.

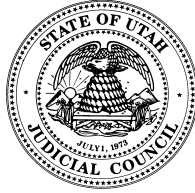
At this time the Committee on Fairness and Accountability is comprised of the following members:

- Justice Jill Pohlman, Chair, Utah Supreme Court
- Judge Todd Shaughnassy, Third District Court
- Judge Monica Diaz, Third District Juvenile Court
- Judge Danalee Welch-O'Donnal, Grand County Justice Court
- Justice Michael Zimmerman,
- Judge Mary Noonan
- Shawn Newell, Community Representative
- Tucker Samuelsen, Director of Data and Research
- Bryson King, General Counsel Designee

The purpose of the Committee on Fairness and Accountability is to serve as a core leadership team for the OFA. The Committee is to provide support to the OFA and provide expertise and guidance to the Judicial Council regarding how to best support the work of the OFA.

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

Tab 12



Administrative Office of the Courts

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

June 3, 2024

Ronald B. Gordon, Jr.
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council
FROM: Katy Collins, Statewide Treatment Court Coordinator
RE: Statewide Treatment Court Steering Committee (new member appointment)

Name of Committee: Statewide Treatment Court Ad hoc Steering Committee

Eligibility requirement: The vacant member positions are required pursuant to [CJA 1-205\(1\)\(B\)\(iii\)\(f\)](#).

Names for Consideration:

LAST NAME	FIRST NAME	ROLE
Keisel	Brody	Judge
Fonnesbeck	Angela	Judge
Memcott	Bryan	Judge – Justice Court
Williams	David	Judge
Mitchell	Jennifer	Prosecutor
Fureigh	David	AAG
		Legal Defense Attorney
Quezada	Jesus	Clerk/Judicial Assistant/Case Manager/Coordinator
Nacarato	Tiffany	Peer Support Specialist - USARA
Marshall	Heather	Office of Data and Research
Watson	Holly	Office of Substance Use and Mental Health
Morgan	Chris	Trial Court Executive
		Administration
Collins	Katy	Staff – Statewide Treatment Court Coordinator
Karren	Cris	Staff – Statewide Treatment Court Certification Coordinator

Description of recruitment process: The District Court Administrator sought recommendation from the Board of District Court Judges to fill the district, juvenile and justice court judge vacancies at their meeting. The Statewide Treatment Court Coordinator solicited applications from interested parties for the remaining membership via email. Recruitment for the remaining

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

open membership roles is ongoing. The committee also requests to add members from law enforcement and adult/juvenile supervision.

Brief bios, letters of interest or resumes are attached.