

JUDICIAL COUNCIL MEETING
Minutes

July 22, 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.

Chief Justice Matthew B. Durrant, Chair, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. David Mortensen, Vice Chair
Hon. Keith Barnes
Hon. Suchada Bazzelle
Hon. Brian Brower
Hon. Jon Carpenter
Hon. Samuel Chiara
Hon. Paul Farr
Hon. James Gardner
Hon. Elizabeth Lindsley
Justice Paige Petersen
Margaret Plane, esq.

Presenters:

Judge Kate Appleby
Matthew Barazza
Todd Eaton
Alisha Johnson
Bryson King
Judge Morgan Cummings
Jon Puente
Nini Rich
Karl Sweeney
Jace Willard

AOC Staff:

Ron Gordon
Neira Siaperas
Brody Arishita
Shane Bahr
Jim Peters
Nick Stiles
Sonia Sweeney
Hilary Wood

Excused:

Hon. Michael DiReda
Hon. Ryan Evershed
Hon. Thomas Low
Hon. Amber Mettler

Guests:

Desi Crane
Emily Ashcraft
Isaac Higham
Ryan Loose
Stacy Martin
Lilibeth Iba
Charity Brienzen

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

Chief Justice Matthew B. Durrant 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 Paul Farr made a motion to approve the June 24, 2024 Judicial Council minutes. Judge Brian Brower seconded the motion, and the motion passed unanimously.

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

Chief Justice Durrant announced that this Judicial Council meeting will be Judge Elizabeth Lindsley's last before she retires on July 31, 2024. He expressed appreciation for her being a model Council member, for being thoughtful and insightful, and for being willing to speak up and to share her views. Judge Lindsley thanked Chief Justice Durrant, and added that Judge Eisenman was appointed by the Board of Juvenile Judges to take Judge Lindsley's seat on the Council until the election by the juvenile bench in September 2024.

Chief Justice Durrant reported that the Supreme Court and Court of Appeals met recently to discuss a new JPEC program, still in pilot form, where the District Court and Juvenile Court judges will assess the opinions of the appellate courts. He encouraged the judges on the Council to participate, if possible.

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

Mr. Gordon gave a brief update of the budget process. He explained that the Budget and Fiscal Management Committee (BFMC) has heard all of the building block requests, and those presentations are now being delivered to the Boards of Judges who are now working on developing their priority lists. Mr. Gordon added that BFMC will meet again on August 8th for a final review and prioritization of the requests in preparation for the August Judicial Council meeting, where Council members will hear all of the requests and make the final priority list.

Mr. Gordon discussed the increasing turnover rate for Judicial Assistants (JA) and the three-part approach the Administrative Office will take to work on reducing the workload and addressing the compensation and the complex nature of the job. He shared that this issue has been discussed over the past few years, and the nature of the JA position has changed over time becoming a complex professional level job. The first part of the approach, he explained, will be to create some JA focus groups, facilitated by the judiciary's ADR Team, where they have the opportunity to give feedback on what makes their job unnecessarily hard, and what can be done to improve their jobs. Mr. Gordon added that these focus groups will all meet over the next three to four months, after which he can report back to the Council with some solutions.

Mr. Gordon shared an update on Phase II of the System Review, sharing that the National Center for State Courts has completed their five focus group discussions and they are now working on a final draft of the survey. He added that the System Review Steering Committee will meet on July

29, 2024 to review and finalize the survey, which will then be sent to all Judicial Officers and employees.

4. COMMITTEE REPORTS:

Management Committee Report:

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

Budget & Fiscal Management Committee Report:

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

Liaison Committee Report:

Nothing to report.

Policy, Planning, and Technology Committee Report:

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

Bar Commission Report:

Margaret Plane announced that the new Bar officers, Cara Tangaro and Kim Cordova, were sworn in at the July 12, 2024 annual meeting, and they are working to meet one-on-one with the legislators in preparation for the next legislative session. Ms. Plane reported that the Utah Bar is testing a record 358 examinees in a few weeks, in contrast to the average number of 275, and that the Bar plans to send out a survey in an attempt to understand the reason behind this increase. She added that Katie Woods, who will replace Ms. Plane on the Judicial Council, will start in October 2024.

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 Amount YTD	Forecasted 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)	1,278,854.14	1,278,854.14
1	Ongoing Turnover Savings FY 2024 (forecast for year end benefit selections / actions)	-	50,000.00
	TOTAL SAVINGS	1,224,033.62	1,274,033.62
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	1,024,033.62	1,074,033.62
		Prior Report Totals (as of 05/29/2024, with the contingent amount removed)	946,674.83 1,046,674.83

FY 2024 One-Time Turnover Savings

#	Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 06/21/2024)	2,263,709.02
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 06/21/2024)	583,335.99
3	Est. One Time Savings for 40 remaining pay hours (@ \$1,000 / pay hour)	40,000.00
Total Potential One Time Savings		2,887,045.01

Prior Report Totals (as of PPE 5/10/2024) \$ 3,101,107.61

FY 24 Forecasted Available One-time Funds

Forecasted Available One-time Funds

	Description	Funding Type	Amount
	Sources of YE 2024 Funds		
*	1x TOS as of PPE 06/21/2024 (2,040 hrs) (w/ anticipated ARPA reimbursements)	Turnover Savings	2,847,045
**	Turnover savings Estimate for the rest of the year (\$800 x 40 pay hours)	Turnover Savings	40,000
	Total Potential One Time Turnover Savings		2,887,045
	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		2,037,045
	Operational Savings From TCE / AOC Budgets - Forecasted	Internal Operating Savings	1,020,244
	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		1,223,241
(c)	Total of Turnover Savings & Operational Savings = (a) + (b)		3,260,286
	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
	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)		3,061,836

Updated 07/03/2024

Water Law

Judge Kate Appleby presented a request for \$20,000 to continue development on the Water Law Training for judges. She stated that the next module, an overview of Water Law, is already in development and will be paid for with existing funding. She explained that the funding requested today would go towards the subsequent module on the topic of managing complex litigation and others that follow. She added that other neighboring states including Washington, New Mexico and Nevada have also contributed funding.

Mr. Gordon shared that we are very fortunate to have Judge Appleby partnering with the judiciary on this project because she is an expert on Water Law not only in the state of Utah, but nationwide.

Motion: Judge Samuel Chiara made a motion to approve the requested funding for the next phase of the Water Law Education. Justice Paige Petersen seconded the motion, and the motion passed unanimously.

6. OFFICE OF FAIRNESS & ACCOUNTABILITY ANNUAL REPORT: (Jon Puente)

Jon Puente gave a report on the work and progress of the Office of Fairness and Accountability (OFA) over the past year. He shared the number of interpreter assignments broken down by district and juvenile hearings, as well as the breakdown by languages. Mr. Puente then shared

some operational updates, addressing the court language needs, interpreter shortages, market competition, and the changes made through the funded legislative requests.

7. LEGAL DESERTS CONFERENCE: (Nick Stiles)

Nick Stiles presented information from the National Center for State Courts (NCSC) Legal Deserts Conference that he attended in May 2024. He shared some data from NCSC's research, which showed barriers to accessing legal services in rural areas of Utah and discussed potential solutions to these challenges.

8. OPEN AND PUBLIC MEETINGS ACT TRAINING: (Bryson King)

Bryson King gave a presentation on the history of the Open and Public Meetings Act (OPMA). He shared some of the key principles of the Code of Judicial Administration (CJA) Rule 2-103, which are that the Judicial Council meetings must be open unless they are closed appropriately and according to the Rule, that public notice of Council meetings must be given so anyone can attend, and that the meetings must be recorded, minutes must be kept, and anyone may obtain a copy of meeting minutes.

Mr. King explained that the appropriate reasons for closing a meeting include:

- To discuss the character, competence, or physical or mental health of an individual;
- Collective bargaining or litigation;
- The purchase, exchange, or lease of real property;
- The sale of real property;
- Deployment of security personnel or devices;
- Allegations of criminal misconduct; or
- A private, protected, sealed, juvenile court legal, or juvenile court social record.

He also shared that the Council may close a meeting if the following criteria have been met:

- The public receive notice of the open meeting;
- A quorum has to be established; and
- At least 2/3rds of the Council votes to close the meeting.

9. INDIGENT DEFENSE COMMISSION REPORT: (Matthew Barazza)

Matthew Barazza, the Executive Director of the Indigent Defense Commission, shared some information on a workload study comparison that came out earlier this year. He explained that the prior study done in 1973 was soon criticized for a lack of methodology and did not differentiate between case types, and added that the 2024 American Bar Association Public Defense Study used a Delphi method, which accounts for different case types and private and public defense counsel. He then discussed the findings and recommendations, which showed that the National Advisory Council (NAC) standards were unacceptable, that nationwide, the public defenders have excessive caseloads, and that in order to meet the new standards, a substantial increase in public defender positions is required.

Mr. Barazza also shared some information from the Gault Center report, which showed that the youth defenders in Salt Lake County were well resourced, well managed, and well trained to

represent their clients, but outside of Salt Lake County, there was a range of quality in representation amongst the youth defenders. He summarized the recommendations, which were to replicate some of the structures that were key in providing the best representation that exist in Salt Lake County across the state.

10. NOTICE OF INTENT TO DISSOLVE SOUTH JORDAN JUSTICE COURT: (Jim Peters)

Jim Peters introduced Ryan Loose, the attorney for the City of South Jordan, and Judge Shauna Graves-Robertson, a Justice Court judge with Salt Lake County, to discuss the city's intent to dissolve the South Jordan Justice Court. With this closure, South Jordan's cases would have to be transferred to the Salt Lake County Justice Court, which has also submitted an intent to dissolve. Mr. Loose asked the Council to allow the dissolution of the South Jordan Justice Court to align with the closure of Salt Lake County Justice Court so that there wouldn't be undue pressure placed on a court that is also closing.

When asked to share the reasons behind South Jordan Justice Court's desire to dissolve, Mr. Loose shared that the Justice Court does not serve the residents of South Jordan, as most of the offenses that come to the court are committed by people just traveling through the city. He added that the Justice Court runs at a deficit that the South Jordan residents are having to subsidize, and the number of cases have been steadily decreasing.

Judge Farr asked if there is a plan in place for if and when any judges and staff members leave before the Justice Court closes. Judge Graves-Robertson commented that the Salt Lake County Justice Court would be able to take cases fairly quickly if needed, once a part time judge could be hired.

Judge Brower commented that it would make the most sense for everyone involved to wait on approving a dissolution date until all of the unknown variables discussed are known.

Motion: Judge David Mortensen made a motion to table a vote on the South Jordan Justice Court dissolution date until more concrete information is known. Judge James Gardner seconded the motion, and the motion passed unanimously.

11. JUDICIAL PERFORMANCE EVALUATION COMMISSION REPORT: (Mary-Margaret Pingree)

Mary-Margaret Pingree announced new members to the Judicial Performance Evaluation Commission (JPEC), and presented some information on the new Appellate Pilot Data Review. JPEC surveyed District and Juvenile Court judges about the performance of the Appellate Court judges and got a 32% response rate, which was enough to be able to analyze the data and decide how to move forward. Ms. Pingree discussed some of the challenges JPEC experienced through taking the survey, and presented the initial data that was received. She added that the goal of the pilot was to increase the respondent pool for Appellate Court judges, and that the next steps are to have more in depth discussions with the District and Juvenile Court judges who completed the survey to try to understand what some of the challenges were.

12. JUSTICE COURT REFORM: (Judge Morgan Cummings, Michael Drechsel)

Judge Morgan Cummings and Michael Drechsel presented information on Justice Court reform. They met with the Management Committee earlier this month where it was recommended that they discuss the matter with the full Council.

Mr. Drechsel presented and summarized a draft of bullet points for proposed legislation for the Council to consider.

After some discussion, Mr. Drechsel requested authorization from the Council to be able to craft some proposed legislation based on the bullet points presented today, which could be presented to the Liaison Committee for approval.

Motion: Judge Farr made a motion to support the draft of legislation consistent with the bullet points as presented, to authorize Mr. Drechsel and Mr. Peters to pursue the bullet points with the Legislative Task Force, and to involve the Liaison Committee as well as the Board of Justice Court Judges. Judge Chiara seconded the motion, and the motion passed unanimously.

13. OLD BUSINESS/NEW BUSINESS: (All)

There was no old or new business.

14. COURT COMMISSIONER RECERTIFICATION: (Shane Bahr)

Shane Bahr presented the Council with the request to recertify the judiciary's commissioners.

Motion: Judge Jon Carpenter made a motion to move into executive session. Judge Farr seconded, and the motion passed unanimously.

11. EXECUTIVE SESSION

An executive session was held.

Motion: Judge Chiara made a motion to find the three current commissioners qualified and should be recommended for recertification at the next meeting in August 2024. Judge Gardner seconded the motion, and the motion passed unanimously.

12. ADJOURN

The meeting adjourned.

CONSENT CALENDAR ITEMS

1. Forms Committee Member Appointment
2. Standing Committee on Children and Family Law Member Appointment
3. Probation Policy Updates