

**JUDICIAL COUNCIL MEETING
Minutes**

November 25, 2024

**Meeting held through Webex
and in person**

Matheson Courthouse

9:00 a.m. – 12:00 p.m.

Chief Justice Matthew B. Durrant, Chair, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. David Mortensen, Vice Chair
Hon. Suchada Bazzelle
Hon. Brian Brower
Hon. Jon Carpenter
Hon. Samuel Chiara
Hon. Rita Cornish
Hon. Michael DiReda
Hon. Susan Eisenman
Hon. Ryan Evershed
Hon. Angela Foncesbeck
Hon. James Gardner
Hon. Thomas Low
Hon. Brendan McCullagh
Hon. Amber Mettler
Justice Paige Petersen
Kristin K. Woods

Presenters:

Judge Kate Appleby
Amy Hernandez
Alisha Johnson
Wayne Kidd
Bryson King
Meredith Mannebach
Alyson McAllister
Jordan Murray
Bart Olsen

AOC Staff:

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

Excused:

Erin Rhead
Nini Rich
Jason Richards
Cindy Schut
Stacy Snyder
Judge Clay Stucki
Karl Sweeney
Jace Willard
Judge David Williams

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 Susan Eisenman made a motion to approve the meeting minutes from the October 28, 2024 Judicial Council meeting. Judge Ryan Evershed seconded the motion, and the motion passed unanimously.

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

Chief Justice Durrant administered the Oath of Office to new Council members Judge Rita Cornish and Judge Angela Fannesbeck who were not available to meet in person at the October 2024 meeting.

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

Ron Gordon announced that Chief Justice Durrant will be interviewed by Governor Herbert at Utah Valley University on December 5th, 2024. The interview will be recorded, and the judiciary will be able to use that recording to share the message and story of the judiciary, both internally and externally.

Mr. Gordon congratulated Judge Ryan Evershed for his recent appointment to the Second Judicial District, beginning January 6, 2025.

Mr. Gordon discussed the budget deep dive the Administrative Office of the Courts (AOC) has been conducting in an effort to identify funds that could be redirected to address the Judicial Assistant (JA) and Probation Officer (PO) job turnover. He commented that it is possible there will be enough funds to create three additional Judicial Assistant (JA) positions that could either be assigned to the districts with the highest need, or some JA duties could be assigned to a few centrally located positions. Mr. Gordon stated that he intends to request funding from the Judicial Council to match the amounts identified in the budget and support the addition of more judicial assistants. He plans to present this request to the Budget and Fiscal Management Committee (BFMC).

Mr. Gordon shared that he has completed his district visits for this year and expressed gratitude for the quality of court employees around the state.

Mr. Gordon discussed the wonderful leadership conference he attended in mid-November for Presiding Judges, Trial Court Executives, Clerks of Court, Chief Probation Officers, Directors and other staff from the AOC. Mr. Gordon and Neira Siaperas had the opportunity to present the preliminary results from phase two of the System Review survey at the conference. He added that the System Review Oversight Committee is working with the Nation Center for State Courts (NCSC) to analyze the results. The NCSC is expected to deliver a report with recommendations in early 2025.

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:

Michael Drechsel shared that there are two bill files that Senator Weiler will be sponsoring; one requesting the new judicial officers that the Council proposed at the August 2024 meeting, and one for a proposed increase for the OCAP fee from \$20 to \$60. He addressed another bill that Representative Ballard will run that would make a modification to jury eligibility, allowing an individual with a felony conviction to be eligible for jury duty as long as they are 10 years out from their conviction.

Policy, Planning, and Technology Committee Report:

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

Bar Commission Report:

Kristin Woods shared some announcements from the Bar Commission. Of the 336 people who took the July 2024 Utah State Bar exam, 295 passed. The Bar's 95th anniversary will be in 2026, which they will celebrate by taking the Bar convention back to Sun Valley in the summer of 2026. The Bar's Fall Forum took place last week and several legislators participated in a panel.

5. BUDGET & GRANTS: (Karl Sweeney, Alisha Johnson, Jordan Murray, Amy Hernandez, Bart Olsen, Erin Rhead, Suzette Deans)

Karl Sweeney and Alisha Johnson presented the financial reports.

FY 2025 One Time Turnover Savings

| # | | Funding Type | Actual Amount |
|---|---|-------------------------|------------------|
| 1 | One Time Turnover Savings (from actual payroll data versus budget as of PPE 10/25/2024) | Internal Savings | 1,326,140 |
| 2 | Est. One Time Savings for remaining pay hours (1,408 @ \$1,200 / pay hour) | Internal Savings (Est.) | 1,689,600 |
| Total Potential One Time Savings | | | 3,015,740 |

Prior Report Totals (as of 08/02/2024)

2,661,425

FY 2025 Year End Requests and Forecasted Available One-time Funds

| Forecasted Available One-time Funds | | | |
|--|--|-----------------------------------|------------------|
| | Description | Funding Type | Amount |
| Sources of YE 2025 Funds | | | |
| * | Turnover Savings as of PPE 10/25/2024 | Turnover Savings | 1,326,140 |
| | Turnover savings Estimate for the rest of the year (\$1,200 x 1,408 pay hours) | Turnover Savings | 1,689,600 |
| | Total Potential One Time Turnover Savings | | 3,015,740 |
| | Less: Judicial Council Delegated to State Court Administrator for Discretionary Use | | (250,000) |
| (a) | Total Potential One Time Turnover Savings Less Discretionary Use | | 2,765,740 |
| | <i>Operational Savings From TCE / AOC Budgets - Estimate</i> | <i>Internal Operating Savings</i> | 800,000 |
| | <i>Reserve Balance (balance from FY 2024 Carryforward)</i> | <i>Judicial Council Reserve</i> | 847 |
| | <i>Anticipated Reserve Uses - including previously approved and pending requests</i> | <i>Jud. Council Reserve Uses</i> | - |
| (b) | Total Operational Savings and Reserve | | 800,847 |
| (c) | Total of Turnover Savings & Operational Savings = (a) + (b) | | 3,566,587 |
| Uses of YE 2025 Funds | | | |
| (e) | Carryforward into FY 2026 (Anticipate request to Legislature for \$3,200,000) | FY 2026 Carryforward | (2,500,000) |
| Total Potential One Time Savings = (c) + (d) less Carryforward (e) | | | 1,066,587 |
| Less: Judicial Council Requests Previously Approved | | | (461,427) |
| Less: Judicial Council Current Month Spending Requests | | | (156,000) |
| Remaining Forecasted Funds Available for FY 2025 YE Spending Requests | | | 449,160 |

Updated 11/06/2024

FY 2025 Ongoing Turnover Savings

| # | Funding Type | Actual | Forecasted |
|---|------------------|------------|-------------|
| | | Amount YTD | Amount @ YE |
| | Internal Savings | 140,594 | 140,594 |
| | Internal Savings | 282,124 | 282,124 |
| 1 | Internal Savings | - | 400,000 |
| | Internal Savings | - | - |
| | | 422,718 | 822,718 |
| 2 | | (88,807) | (200,000) |
| | | (88,807) | (200,000) |
| 3 | | 333,911 | 622,718 |

Prior Report Totals as of 08/26/2024

(58,023.92)

322,984.13

Facilities Spending Plan for Large Projects FY25

| Credits in FY25 Only | | | | | | 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 |
| Sub Total | \$ | 1,581,000 | | | | |
| | | (a) | (b) | (b) - (a) | | |
| | | Estimated | Actual | (Under)/Over Budget | Impact on Contingency (Used) | |
| Projects | | | | | | |
| Provo FF&E | \$ | 60,000 | \$ 72,404 | \$ 12,404 | \$ (12,404) | Completed |
| Heber FF&E ** | \$ | - | \$ - | \$ - | | N/A |
| Manti Security Systems *** | \$ | - | \$ - | \$ - | | N/A |
| Manti FF&E Overage | \$ | 72,000 | | | \$ - | |
| Roosevelt Design and TI | \$ | 269,274 | \$ - | \$ (269,274) | \$ 26,927 | Deferred until FY 2026 |
| Provo AV Equipment | \$ | 285,000 | \$ 104,346 | \$ (180,654) | \$ 18,065 | \$224K actual - \$119K paid in FY24 = \$104K actual remaining to calculate difference |
| Provo Security Equipment | \$ | 42,000 | \$ 36,275 | \$ (5,725) | \$ 5,725 | Completed |
| AOC 3rd Floor Furniture | \$ | 167,000 | \$ 174,993 | \$ 7,993 | \$ (7,993) | Completed |
| | | | | | | |
| AF Hearing Room Const | \$ | 500,000 | | | \$ - | Will have estimates around Jan. 1, 2025 |
| AF Chambers, Office & Support Space Const | \$ | 275,000 | | | \$ - | Will have estimates around Jan. 1, 2025 |
| AF FF&E | \$ | 65,000 | | | \$ - | Will have estimates around Jan. 1, 2025 |
| WJ Juv Shell Buildout | \$ | 1,655,000 | | | \$ - | Will have estimates around Jan. 1, 2025 |
| Math 1st Floor Courtroom Const | \$ | 720,000 | | | \$ - | Will have estimates around Jan. 1, 2025 |
| Math 1st Floor Chambers & Support Spaces Const | \$ | 309,000 | | | \$ - | Will have estimates around Jan. 1, 2025 |
| Math 1st floor courtroom FF&E | \$ | 95,000 | | | \$ - | Will have estimates around Jan. 1, 2025 |
| Sub Total | \$ | 4,514,274 | \$ 388,018 | | | |
| | | | | | | |
| | | | | | | |
| Total | \$ | (2,933,274) | | | \$ 30,321 | Contingency Eligible for Release |
| 10% Contingency | \$ | (451,427) | | | \$ (451,427) | |
| Total with 10% Contingency | \$ | (3,384,701) | | | \$ (421,106) | Contingency Available for Remaining Projects |

Red = Placeholder budget number

* 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

Year End Funding FY 2025 One-time Spending Requests

Q1/Q2 2025 Performance Bonus Funding:

Bart Olsen explained that these performance bonuses are an effective tool to create a performance incentive. Mr. Olsen shared that the bonuses aren't only available to seasoned employees, but the model accounts for newer employees that are doing a fantastic job in the time they have been with the courts. He also shared that TCEs have reported back on how impactful these performance bonuses have been with their staff.

Motion: Judge Eisenman made a motion to approve the performance bonus funding totalling \$450,000. Judge Brendan McCullagh seconded the motion, and the motion passed unanimously.

Upgrade Credit Card Swipe Machines (EMV) for PCI Compliance:

Karl Sweeney presented a request to upgrade 114 EMV credit card devices located primarily at the front counter of Utah courthouses that are no longer compliant with Payment Card Industry Standards. He explained that these would be paid for with interest earned on a trust account that holds the accrued credit card fees.

Motion: Judge Brian Brower made a motion to approve the request for \$36,500 to upgrade credit card devices as requested. Judge Thomas Low seconded the motion, and the motion passed unanimously.

Grant Proposals

The Cook County Model

Jordan Murray and Amy Hernandez presented phase two of “The Cook County Model: A Pilot Project to Increase Safe Child-Related Relief in Civil Protection Orders” grant application proposal. Ms. Hernandez shared that the judiciary would receive \$180,000 over a three-year period, which would pay for a part time position to conduct the program and would also pay for the judges and court staff to travel to Cook County to see their model. Ms. Hernandez would request funding for a part time position which, combined with the Skip Grant funding, would be a full time position.

Motion: Judge Cornish made a motion to move forward with phase two of the grant application as presented. Judge Suchada Bazzelle seconded the motion, and the motion passed.

Water Law Education

Mr. Gordon discussed a request for additional funding for the Water Law education curriculum. In March of this year, Judge Kate Appleby and Dr. Don Judges provided an overview of the first training model that was developed, and the Council recently approved an additional \$20,000 of investment funds. The National Judicial College has become the lead partner in this education development and has adopted “Dividing the Waters” as its official program. Mr. Gordon explained that according to the draft Memorandum of Understanding (MOU) with the National Judicial College, the Utah judiciary would continue to have access to everything it has access to currently, but might not have access to everything that was envisioned in the original MOU with Southern Utah University without an annual contribution moving forward. Mr. Gordon explained that the scope of the original MOU was so broad that most of the components of that curriculum would not be built without additional funding. Therefore, the judiciary is likely not losing anything. Mr. Gordon asked if the Council is comfortable with that, in which case he and Judge Appleby will move forward. The Council members agreed to move forward with the arrangement as presented.

6. MUJI CIVIL COMMITTEE REPORT: (Alyson McAllister, Jace Willard)

Alyson McAllister and Jace Willard presented an annual report on the MUJI Civil Committee. Over the past year, the committee has had to replace Ms. McAllister’s co-chair, the linguist member and two judge members. The committee has also updated some of the MUJI instructions to align with current statutes, as well as some of the medical malpractice instructions. They continued work with their sub-committees, focusing on easement instructions, assault and false imprisonment instructions, and on the product liability instructions, as that sub-committee has lost almost all of its members. Ms. McAllister added that a few of the MUJI Civil Committee members are working together on a sub-committee to evaluate the comprehensibility of the jury instructions to non-attorney lay persons to make them more easily understandable for everyone.

7. RULES FOR FINAL APPROVAL: (Keisa Williams)

Keisa Williams presented proposed amendments to CJA rules 4-202.02, 4-202.06, and 6-104, which have returned from a 45-day public comment period. No public comments were received for rule 6-104. She explained that after reviewing public comments received for rules 4-202.02 and 4-202.03, Policy, Planning & Technology (PP&T) determined that the proposed language in

4-202.03(2)(D) granting the Utah Office for Victims of Crime (UOVC) access to sealed nonpublic restitution records was unnecessary because UOVC already has access to those records. Ms. Williams added that all remaining amendments to rule 4-202.03 are clerical, and no additional amendments were made to rule 4-202.02. Ms. Williams requested these rules be final with a May 1, 2025 effective date.

Motion: Judge James Gardner made a motion to approve the proposed amendments to CJA rules 4-202.02, 4-202.03, and 6-104. Judge Brower seconded the motion, and the motion passed unanimously.

8. BOARD OF JUSTICE COURT JUDGES Report: (Judge Clay Stucki, Jim Peters)

Jim Peters introduced Judge Clay Stucki as the new Board of Justice Court Judges chair. Judge Stucki and Mr. Peters gave an annual report from the Board of Justice Court Judges, as well as an update on the status of Justice Court reform. Although Justice Court Reform has come to a halt, the Justice Courts were able to make a lot of progress. The Legislative Task Force on Justice Court Reform will sunset on July 1, 2025, but Mr. Peters added that it's possible another bill could come out of the upcoming legislative session. There was a discussion about how to move forward in a meaningful way. Mr. Peters passed on the recommendation from the Board of Justice Court Judges that the Council rescind its initial direction for he and Michael Drechsel to advocate for the second phase of Justice Court Reform and that the Board also pause in order to regroup and formulate what makes sense going forward.

9. GAL OVERSIGHT COMMITTEE REPORT: (Jason Richards, Stacey Snyder)

Stacey Snyder and Jason Richards gave an annual report on the Guardian ad Litem (GAL) Oversight Committee. Mr. Richards shared that the main mission of the GAL office is to provide exceptional representation to children in the courtroom and outside of the courtroom, and that part of that mission is ongoing training. He added that the National Association of Council for Children held their annual conference in Salt Lake City this past year and there was substantial attendance from all areas in child welfare practice.

Ms. Snyder discussed a request for legislative ongoing funding to keep their attorney salaries competitive and to retain high quality, capable attorneys.

10. MARCH JUDICIAL COUNCIL MEETING: (Ron Gordon)

Mr. Gordon asked the Judicial Council members if they would like to continue holding the March Judicial Council meetings in St. George in connection with the Bar Conference. In the past, there have been Council members who don't have time to travel down and stay for the Bar Conference, so they end up driving or flying down just for the Council meeting and then turning around and going back. Judge Chiara commented that he tries to attend the entire conference and really enjoys it. He added that there are several Council members who have been asked to sit on a panel for the Bar Conference this year, so attendance should not be an issue. The consensus was to continue to hold the March Judicial Council meeting in St. George.

11. BOARD OF DISTRICT COURT JUDGES REPORT: (Judge David Williams, Shane Bahr)

Judge David Williams and Shane Bahr presented the Board of District Court Judges annual report. In October 2024, the Board unanimously elected Judge Don Torgerson as the vice chair and welcomed three new judges to fill the vacancies. Judge Williams shared that the Board remains goal driven, and discussed some of those goals addressed over the past year. He talked specifically about the development of law clerk attorneys who make the judiciary a long term career rather than cycling out of that position. He added that the Board hopes to be more proactive with judicial outreach, and hopes to collaborate with the Office of Fairness and Accountability in their efforts.

12. 2024 COURT FEES REPORT TO THE LEGISLATURE: (Wayne Kidd, Karl Sweeney)

Wayne Kidd explained that HB 531, which was passed in the 2023 general legislative session, requires the Judicial Council to provide a report on court fees to the legislature by November 30th each year. The main purpose of the bill is to determine if the court fees are generating excess revenue. A work group that reviewed 82 court fees for fiscal year 2024 determined that overall the court fees do not generate excess revenue. Revenue exceeded expenses for only one fee category, the Mandatory Parenting/Orientation Courses. Mr. Kidd noted that court fees collected and retained are only 5% of the revenue needed to support court operations. He recommended that the judiciary work with the Legislature to determine if the fee for the Mandatory Parenting/Orientation Courses needs to be adjusted.

Motion: Judge Amber Mettler made a motion to approve the 2024 Court Fees Report and to send it to the Legislature as presented. Judge Cornish seconded the motion, and the motion passed unanimously.

13. CONSENT CALENDAR: (Chief Justice Matthew B. Durrant)

Judge McCullagh expressed some concern with CJA 4-403. Electronic signature and signature stamp use. After a brief discussion, Judge McCullagh stated he is comfortable with the rule moving forward to public comment where he can provide input.

Motion: Judge McCullagh made a motion to approve the items on the consent calendar. Judge Low seconded the motion, and the motion passed unanimously.

15. OLD BUSINESS/NEW BUSINESS: (All)

There was none.

16. SENIOR JUDGE APPLICATION: (Neira Siaperas)

Motion: Judge Mettler made a motion to move into an executive session for the purpose of discussing the character, professional competence, or physical or mental health of an individual, and for legal advice of counsel. Judge McCullagh seconded the motion, and the motion passed unanimously.

17. EXECUTIVE SESSION: (Chief Justice Matthew B. Durrant)

There was an executive session, after which the following motions were made.

Motion: Judge Eisenman made a motion to approve the settlement that was proposed to the Council with the addition of protections for third party beneficiaries of the settlement, and also with the caveat that Mr. Gordon will come back and help the Council understand how the issue occurred and what measures should be taken to ensure it doesn't happen again. Judge McCullagh seconded the motion, and the motion passed unanimously.

Motion: Judge McCullagh made a motion to recommend the approval of the inactive senior judge application to the Supreme Court. Judge Mettler seconded the motion, and the motion passed unanimously.

Motion: Judge Eisenman made a motion to recommend to the Supreme Court that the judge applying for active senior judge status does not meet the qualifications specified in UCJA Rule 11-201(a)(1)(F) and 11-201(a)(2)(D). Judge McCullagh seconded the motion, and the motion passed unanimously.

17. ADJOURN: (Chief Justice Matthew B. Durrant)

The meeting was adjourned.

18. ANNUAL COUNCIL PHOTO: (All)

CONSENT CALENDAR ITEMS

1. Rules for Public Comment
2. MUJI Crim New Member Appointment Requests
3. CCJJ Juvenile Judge Appointment Request
4. Probation Policy Updates
5. ADR Committee Appointment Request

6. Updates to Rule 4-202.07