

JUDICIAL COUNCIL MEETING
Minutes

January 16, 2024

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

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

9:00 a.m. – 11:55 a.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

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

AOC Staff:

Ron Gordon
Shane Bahr
Jim Peters
Sonia Sweeney
Hilary Wood
Neira Siaperas
Keisa Williams

Excused:

Hon. Elizabeth Lindsley
Michael Drechsel
Nick Stiles

Presenters:

Brody Arishita
Nicole Gray
Jordan Murray
Paul Baron
Janet Ellege
Tucker Samuelsen
Todd Eaton

Alisha Johnson
Karl Sweeney
Bart Olsen
Nini Rich
Megan Haney
Tiffany Power
Stacy Haacke
Clayson Quigley

1. WELCOME AND APPROVAL OF MINUTES: (Justice Paige Petersen)

Justice Paige Petersen welcomed everyone to the meeting.

Motion: Judge Brian Brower made a motion to approve the December 18, 2023 meeting minutes. Judge Keith Barnes seconded the motion, and the motion passed unanimously.

2. STATE COURT ADMINISTRATOR: (Ron Gordon)

Ron Gordon reported that he will present the judiciary budget request to the Executive Offices and Criminal Justice Appropriations Subcommittee (EOCJ) on January 30, 2024. Mr. Gordon and Neira Siaperas presented a high-level overview of the budget priorities to the EOCJ co-chairs last week, and it seemed to go well. The co-chairs were very clear that there will not be very much money this year as compared to last year. Mr. Gordon spent a great deal of time talking about the need for interpreters, and they understand the need to invest in these resources. Mr. Gordon also spent some time talking about why the Judicial Council is asking for multiple Judicial Officers instead of just the one that is usually requested, as well as compensation for both judges and employees. The final EOCJ votes are scheduled to take place on February 5, 2024.

Last month, the Judicial Council approved the System Review - Phase II. Mr. Gordon has been working with the National Center for State Courts (NCSC) on the scope of work for this second phase and is now just waiting for them to send over a quote.

The AOC will continue to meet and refine the plans for this project.

Mr. Gordon reminded the Council that staff and members of the Judicial Council are invited to the Capitol to hear Chief Matthew Durrant deliver the State of the Judiciary address this afternoon.

3. 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:

Justice Petersen sent an email this morning reminding judges about the One Voice policy, and recommended the Council members familiarize themselves with the policy in the event they receive any related questions.

Justice Petersen talked about the introduction of The Utah Constitutional Sovereignty Act, which states that state officials can disregard a federal directive if it undermines the principles of state sovereignty. The Liaison Committee is trying to get clarification to determine if that applies to the judiciary.

Justice Petersen discussed another bill that would allow one party, without the consent of the other, to get a judge disqualified for no cause. This was opposed when brought up a few years ago, but this time the bill is sponsored by a different legislator. The disqualification of a judge on a case is currently allowable if both parties agree, but the Committee agreed that this bill as presented would go against the judiciary's core values.

Justice Petersen talked about a few divorce amendments that the Committee is trying to get more information on with some requirements for alimony calculations and computing income, which seems like it would be hard for judges to actually do. She will continue to keep the Council apprised.

Policy, Planning, and Technology Committee Report:

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

Bar Commission Report:

The Bar has a weekly standing meeting with their Governmental Relations Committee to review legislation and collaborate on anything the Bar can help with.

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

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

FY 2024 One-Time Turnover Savings

#		Funding Type	Actual Amount
1	One Time Turnover Savings (from actual payroll data versus budget as of PPE 12/08/2023)	Internal Savings	756,197.76
2	YTD Amount Anticipated to be Reimbursed through ARPA Funding (as of PPE 12/08/2023)	Reimbursements	424,868.95
3	Est. One Time Savings for 1,160 remaining pay hours (\$1,250 / pay hour)	Internal Savings (Est.)	1,450,000.00
Total Potential One Time Savings			2,631,066.71
<i>Prior Report Totals (as of PPE 11/10/2023)</i>			\$ 2,817,053.09

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 12/08/2023 (including anticipated ARPA reimbursement)	Turnover Savings	1,181,067	
** Turnover savings Estimate for the rest of the year (\$1,250 x 1,160 pay hours)	Turnover Savings	1,450,000	
(a) Total Potential One Time Turnover Savings			2,631,067
<i>Operational Savings From TCE / AOC Budgets - Forecasted</i>			
Reserve Balance (balance from FY 2023 Carryforward)	Internal Operating Savings	750,000	
Anticipated Reserve Uses - including previously approved and pending requests	Judicial Council Reserve	52,997	
(b) Total Operational Savings and Reserve	Jud. Council Reserve Uses	-	
(c) Total of Turnover Savings & Operational Savings = (a) + (b)			3,434,063
Contingent Legislative Supplemental Funding:			
American Fork Lease Increases	Legislative Contingent	389,000	
JWI Increase to 2 Hour Minimum	Legislative Contingent	275,000	
JWI Higher Pay for Rural Assignments	Legislative Contingent	146,500	
Senior Judge and Time Limited JA Funding Jan/Feb 2024	Legislative Contingent	160,000	
(d) Subtotal - Contingent Legislative Supplemental Funding			970,500
Uses of YE 2024 Funds			
(e) Carryforward into FY 2025 (Anticipate request to Legislature for \$3,200,000)	Pre-Covid Carryforward	(2,500,000)	
Total Potential One Time Savings = (c) + (d) less Carryforward (e)			1,904,563
Less: Judicial Council Requests Previously Approved			(1,263,950)
Less: Judicial Council Current Month Spending Requests			-
Remaining Forecasted Funds Available for FY 2024 YE Spending Requests			640,613
Less: Contingent Supplemental Funding			(970,500)
Remaining Forecasted Funds Available for FY 2024 YE Spending Requests if no Supplemental Funding is Received			(329,887)

Updated 12/28/2023

FY 2024 Ongoing Turnover Savings

#			Actual	Forecasted
#		Funding Type	Amount YTD	Amount @ YE
	Net Carried over Ongoing Savings (from FY 2023)	Internal Savings	(54,821)	(54,821)
	Ongoing Turnover Savings FY 2024 (actual year-to-date)	Internal Savings	534,927	534,927
1	Ongoing Turnover Savings FY 2024 (forecast \$50,000 / month x 6 months remaining)	Internal Savings	-	300,000
	TOTAL SAVINGS		480,107	780,107
2	2024 Hot Spot Raises Authorized - renews annually until revoked		(38,502)	(200,000)
	TOTAL USES		(38,502)	(200,000)
3	Total Actual/Forecasted Turnover Savings for FY 2024 as of 12/21/2023		\$ 441,605	\$ 580,107

Prior Report Totals (as of 11/27/2023, with the contingent amount removed) \$ 375,281 \$ 563,783

ARPA funds remaining are **\$3,141,249.70**

Wasatch Justice Center

Chris Talbot presented some information on the Wasatch Justice Center project. Originally, he had asked for an additional \$163,000 annually to pay \$3.5 million over 15 years to fund the additional square footage in the building. Unfortunately, a few years have passed with structure costs escalating by at least 30%, and the courts have increased our space by 33%. The overall cost of the project increased from \$8.3 million to \$21.7 million. With the overall project increasing, the county came to Mr. Talbot concerning the \$3.5 million that the courts were

originally promising to contribute, requesting to increase that to 50% of the overall construction costs, totaling \$10.86 million. The courts will occupy 60% of the building. The County has also offered some concessions, making the deal still favorable for the Court. This necessary expansion has been on the court's radar for quite some time, and there are no less expensive options available.

Mr. Talbot's recommended funding solution was to reallocate the \$399,000 Farmington Bond, since the new Davis County Courthouse is not high on this year's budget priority, towards the Wasatch project. Mr. Gordon agreed that we are still getting a favorable financial deal in this project.

Motion: Judge Brower made a motion to reallocate the \$399,000 Farmington Bond to the Wasatch Justice Center project as presented. Judge Amber Mettler seconded the motion, and the motion passed unanimously.

HB 531

Mr. Sweeney presented some recommendations related to the HB 531 report:

Recommendation #1 is to have the District, Juvenile and Appellate Court Administrators and the Director of the Judicial Data and Research Department work with the AOC IT Department to ensure the Judiciary can accurately provide the number of waivers for each Judicial fee when using CORIS, CARE, AIS and Xchange.

Recommendation #2 is to have IT further review fee changes to ensure the AIS calculations are correct, as well as to have the Appellate Clerks of Court check their published fee schedule whenever there is a fee change to ensure all amounts on the fee schedule are current.

Recommendation #3 is to have IT work with the Appellate Clerks of Court to separate postage for mailing the Certificate of Good Standing from the Certificate of Good Standing itself so they can be separately tracked as distinct fees. Currently, AIS shows the two items combined as a single amount within "Certificate of Good Standing."

Recommendation #4 is that the bulk data billings be moved off of QuickBooks and onto an integrated system like Xchange or a standalone system with multi-user access like QuickBooks online, which permits the Courts to track billings and payments, which would allow the Courts to cut off services and send unpaid amounts to OSDC for collection, should a customer not pay.

Recommendation #5 is that the State Court Administrator or designee (1) review a fee that lacks a statute or other authorizing document and if it is needed, propose the fee with supporting methodology that includes how to publish the fee, or (2) for fees authorized in rule but for which no fee amount has been documented, propose the fee with supporting methodology that includes how to publish the fee.

Recommendation #6 is that Courts seek to either (1) change the statute that governs the per page copy fees for Certified and Exemplified items or (2) keep the statute as-is and seek \$113,000 in ongoing general funds for unrestricted use by the Courts. These changes would be prospective only. A similar issue exists for Justice Courts that should be referred to the Board of Justice Court Judges.

Recommendation #6.1 is that the Appellate courts work with AOC IT to modify AIS to capture the \$4 and \$6 Certified and Exemplified fees separate from the per page fees. As currently configured, these two amounts are combined in AIS. The CARE data team was initially unable to separate the per page fees from the \$4 and \$6 document fees but was able to resolve this issue. However, AOC IT should prepare a CARE report that permits this query to be run by CARE users.

Recommendation #7 is that the Courts work with the legislature's drafting attorneys to make a technical correction to Utah Code 78A-2-301 that includes the Court Complex allocation by court fee just as the statute already does for the 4 other allocation amounts in the statute and simplifies the verbiage.

Recommendation #8 is that the Courts work with the Legislature to modify UCA 78A-2-501 to remove the \$20 fee that is currently allowed when using OCAP to file "answers" or "responses" and add two new categories which are not explicitly in the current statute, "counterpetitions" and "counterclaims." The recommendation also included adding the ability to prepare a request for a protective order using OCAP as a new "no fee" service and increasing the OCAP fee for divorce petitions.

Motion: Judge Brower made a motion to approve the report as presented. Judge Barnes seconded the motion, and the motion passed unanimously.

Grants

Jordan Murray discussed the three grants on the agenda, the Internal Control Self Assessment for FY23, the Eviction Diversion Initiative Grant, and a Federal Grant application to the Commission on Criminal Juvenile Justice.

Motion: Judge James Gardner made a motion to approve the submission of the Federal Grant Application to the Commission on Criminal Juvenile Justice. Judge Suchada Bazzelle seconded the motion, and the motion passed unanimously.

5. AUTOMATIC EXPUNGEMENTS IN JUVENILE COURTS: (Stacy Haacke)

Stacy Haacke explained that her memo is (1) seeking appointment of Juvenile Court Presiding Judges as signing judges for the automatic expungement of successful non-judicial adjustments, and (2) seeking approval of two draft orders pursuant to CJA Rule 4-208. One is a draft standing order for Presiding Judges to sign in their respective judicial districts. The other order will be auto-generated by the courts' system upon identification of a case that qualifies for automatic expungement. Under CJA 4-403, the electronic signature of a judge may be automatically affixed to automatic expungement orders without the need for specific direction

from the assigned judge when issued using a form approved by the Judicial Council.

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

6. RECERTIFICATION OF MUNICIPAL JUSTICE COURTS: (Jim Peters)

Pursuant to Rule 9-108(1)(B) of the Code of Judicial Administration, the Board of Justice Court Judges has discussed the applications received for recertification of the state's municipal justice courts. For each court, such applications should include (i) the judge's affidavit attesting that the court is in compliance with the operating standards required both by statute and by the Judicial Council, (ii) a legal opinion from the municipality's legal counsel (a) informing the governing body as to those operating standards and (b) advising it as to the feasibility of maintaining a justice court, and (iii) a resolution from the governing body committing to abide by those standards and requesting that the court be recertified. Subject to the Judicial Council's approval of the extensions and waivers described below, the Board recommended that the municipal justice courts set forth on Attachment A be recertified for a four-year term beginning February 1, 2024. This list includes all municipal justice courts currently operating in the state.

Suspension and Extension Requests Applicable to All Justice Courts

Appendix B to the Code of Judicial Administration lists all the standards applicable to justice courts. Section 2(Q)(i) and 2(Q)(ii) of that appendix are incompatible with a courts using Webex as its audio recording system, so the Board recommended that the Judicial Council suspend its technical specifications for the audio recording equipment of all Justice Courts (but not the statutory requirement that proceedings be recorded).

In addition, the Board recommended blanket extensions for two new requirements that have yet to be implemented by multiple courts. These include the requirement that a court have access to U CJIS and the requirement that court staff be current with the training required by the Board (through the clerk certification program). The expectation for recertification was that all staff complete the training from January 2022 or the month after they started employment (whichever is later) through September 2023. The Board's recommendation was that this be complete for all courts by March 1, 2024. The Board further recommended that staff who remain out of compliance as of March 15, 2024 have their CORIS access suspended until they have completed the training.

The Board recommended more time for all courts to have access to U CJIS as well. This will allow certain courts to explore alternatives with BCI that may not require that each of them have their own TAC. For this reason, the Board recommended that the deadline for all Justice Courts to have access to U CJIS be extended to July 1, 2024.

Judge Michael DiReda asked what trickle-down effect suspended access to CORIS would have on the clerks. Mr. Peters explained that they'll have plenty of notice to correct the issue before their access is terminated.

Motion: Judge Gardner made a motion to suspend the Judicial Council's requirement for all Justice Courts for four years for recording equipment specification, and to extend the deadline for clerk certification to March 1, 2024. Clerks who are not in compliance by March 15, 2024 will have their access to CORIS suspended. Judge Barnes seconded the motion, and the motion passed unanimously.

Motion: Judge Brower made a motion to extend the deadline for all Justice Courts to have access to UCJIS to July 1, 2024. Judge Mettler seconded the motion, and the motion passed unanimously.

Motion: Judge Gardner made a motion to recertify all Municipal Courts, subject to the waiver requests that are set forth in the memo. Judge Mettler seconded the motion, and the motion passed unanimously. Judge Paul Farr abstained from voting on the Alta and Sandy certification, Judge Brower abstained from voting on the Clearfield and Sunset recertifications, and Judge Carpenter abstained from voting on the Carbon County and Wellington City recertifications.

7. CERTIFICATION OF NEW JUSTICE COURT JUDGES: (Jim Peters)

Justice Court judges are confirmed by the Senate but come to the Council for certification if it's their first time being certified. Four new positions have been filled. One of those is a sitting judge, Judge Birch, who took a position in Draper.

The three who have not yet been certified are Judge Jamie Topham, Judge Steve Schreiner, and Judge Janet Elledge. They have all been through judge orientation and passed the exam this past week, and Mr. Peters requested that they be certified by the Council.

Motion: Judge Farr made the motion to certify the three judges presented by Mr. Peters. Judge Brower seconded the motion, and the motion passed unanimously.

8. ARPA IT UPDATE: (Brody Arishita)

Brody Arishita, Todd Eaton and Clayson Quigley gave a summary of current ARPA projects.

Kiosks (Complete)

60 Kiosks have been set up across the state in courthouses and community centers extending greater access to the courts.

Public Portal (Target completion date: December 2024)

The goal is to provide a portal to allow the public to join a live stream of hybrid or remote hearings. More to come on this project.

Development Projects

Expand court eFiling - The goal is to create an application for attorneys to create new cases and electronically file documents to existing cases in the Court of Appeals and the Supreme Court.

Website

The goal is to modernize the court's webpage and create a web portal for anyone accessing the website to easily and quickly find information or services needed.

ChatBot (Target completion date: April 2024)

The goal is to create a chatbot service to pull information from court resources to help users navigate the information for services needed.

Xchange (Target completion date: April 2024)

The goal is to improve the user interface and make the application more accessible and to introduce additional payment options for users.

New MyCase Features

The goal is to expand an individual's access to their case information, update and centralize court forms, and give users the ability to file electronically from MyCase.

Traffic ODR (Target completion date: December 2024)

The goal is to create a platform where defendants and prosecutors can seek a resolution virtually and then present the resolution to the court via an electronic filing.

Improve ePayments in MyCase

The goal is to update technology and improve user interface to make the portal easier to navigate.

Juvenile MyCase

The goal is to update the look and feel, allow users to access case documents and information, add features to improve user experience and centralize information for the user.

9. RULES FOR FINAL APPROVAL: (Keisa William)

Keisa Williams presented information on rule CJA Rule 3-101, which is up for final approval. Following a 45-day public comment period, the Policy, Planning and Technology Committee recommended that the rule be approved as final with a May 1, 2024 effective date. No public comments were received.

Motion: Judge Farr made a motion to approve the proposed changes to rule CJA Rule 3-101 as presented with a May 1, 2024 effective date. Judge Barnes seconded the motion, and the motion passed unanimously.

Bryson King summarized some proposed amendments to subsection D and appendix F of the Code of Judicial Administration. The default retention period for the following positions would be seven years. For all others, the default retention period would be one year.

- Supreme Court Justices
- Judges
- Commissioners

- State Court Administrator
 - Deputy State Court Administrator
 - Assistant State Court Administrator
- Appellate Court Administrator
 - Appellate Clerk of Court
- District Court Administrator
 - Assistant District Court Administrator
 - District Court Program Administrator
 - Statewide Treatment Court Program Coordinator
- Justice Court Administrator
 - Assistant Justice Court Administrator
 - Domestic Violence Program Manager
- Juvenile Court Administrator
 - Assistant Juvenile Court Administrators
 - Juvenile Court Improvement Program Director
- AOC Directors and Deputy Directors (where applicable)
- Tribal Outreach Coordinator
- General Counsel and Associate General Counsels
- Trial Court Executives
- Chief Probation Officers
- Clerks of Court (including justice courts)

Motion: Judge Barnes made a motion to approve the proposed changes as presented. Judge Jon Carpenter seconded the motion, and the motion passed unanimously.

10. OLD BUSINESS/NEW BUSINESS: (All)

There was no old or new business.

11. EXECUTIVE SESSION

Motion: Judge Brower made a motion to move to executive session. Judge Mettler seconded, and the motion passed unanimously.

There was an executive session.

Motion: Judge DiReda made a motion to suspend the fees for the language neutral 2-day orientation, the written English language exam, and the oral proficiency interview on a temporary basis until further notice. Judge Bazzelle seconded the motion, and the motion passed unanimously.

12. ADJOURN

The meeting adjourned.

CONSENT CALENDAR ITEMS

- 1) Rules for public comment: CJA 3-201, CJA 1-201, CJA Appendix F