

JUDICIAL COUNCIL MEETING

Minutes

July 1, 2020

Meeting conducted through Webex

12:00 p.m. – 12:40 p.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Appleby, Vice Chair
Hon. Augustus Chin
Hon. Ryan Evershed
Hon. Paul Farr
Justice Deno Himonas
Hon. Mark May
Hon. Kara Pettit
Hon. Derek Pullan
Hon. Brook Sessions
Hon. Todd Shaughnessy
Hon. John Walton

AOC Staff:

Hon. Mary T. Noonan
Cathy Dupont
Michael Drechsel
Shane Bahr
Tom Langhorne
Larissa Lee
Jim Peters
Neira Siaperas
Karl Sweeney
Jeni Wood

Guests:

Excused:

Hon. Brian Cannell
Rob Rice, esq.

1. WELCOME: (Chief Justice Matthew B. Durrant)

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Due to the coronavirus pandemic, the Council held their meeting entirely through Webex. This meeting was held to address a time-sensitive topic. Hon. Brian Cannell and Rob Rice were unable to attend.

2. OFFICE OF FAIRNESS & ACCOUNTABILITY: (Judge Mark May, Judge Mary T. Noonan, Cathy Dupont, and Karl Sweeney)

On June 22, 2020 the Judicial Council approved the concept of the creation of the Office of Fairness & Accountability with the understanding that within two weeks the Council would revisit the topic with specific detail as to the Office and a new Director. A workgroup was created of AOC members as well as judges to create the Charter, Role, Job Description, and Funding of the Office and the Director position.

Charter

The work of the courts is to provide an open, fair, efficient and independent system to advance access to justice under the law. Fairness is the basic premise of the court system of justice. The goal is a fair process that produces a just result, a system that treats similarly situated people similarly, and does not discriminate against marginalized communities. The Utah

Judiciary understands the public's trust and confidence in the courts requires us to identify any part of our process or outcomes that contribute to or cause the unequal treatment of individuals based on factors such as race, ethnicity, sexual orientation or gender. The Office of Fairness and Accountability is created to organize and lead the Utah Courts in examining and addressing bias within the judicial system. The Office will work collaboratively, both within the courts and with individuals and entities outside our system. The Office will focus on outreach to marginalized communities; data collection and research; judicial officer and employee education; recruitment and selection of court commissioners and employees; interpreter and language access; and reporting.

Role

The Office of Fairness and Accountability, composed of a Director and additional staff will work collaboratively with other offices and departments in the Judiciary, such as Court Data Services, Judicial Education, Human Resources, the State Law Library and Self-Help Center, and Information Technology Services. The Director will also collaborate with Judicial Council standing committees including the Standing Committee on Judicial Outreach; the Standing Committee for Self-Represented Parties; the Standing Committee on Language Access; and the Standing Committee on Judicial Branch Education. The Director will create and operationalize a strategic plan consistent with the charter.

The strategic plan will include the following areas of focus:

- Community outreach
 - Network with community partners such as CCJJ, UCLI, Diversity Offices, universities, etc.
 - Partner on access to justice initiatives and projects
 - Develop a speakers bureau to reach K-12 schools statewide
- Data collection and research
 - Collaborate with national experts and thought leaders to identify, gather and analyze relevant data
 - Coordinate with Court Data Services and Information Technology Services to capture and report relevant data
 - Jury information including juror selection, service, and pools
- Education for judicial officers and employees
 - Coordinate with the Judicial Education Department
 - Cultural competency
 - Implicit bias, institutional and individual biases
 - Other relevant skill sets
- Recruitment and selection of court commissioners and employees
 - Collaborate with Human Resources to obtain and analyze data
 - Monitor Human Resources implementation of best practices for recruitment and retention
 - Collaborate with organizations such as the Utah State Bar, UCLI, and schools to encourage individuals from marginalized communities to apply for judicial openings
- Interpreter and language access program
- Reporting

Director Qualifications and Skills

The Director of the Office of Fairness and Accountability is established in the Administrative Office of the Courts under the direction of the State Court Administrator. The Director serves as a member of leadership in the Administrative Office of the Courts and works collaboratively with the leadership team to implement the strategic plan and advance the goals of the Office.

Qualifications include:

- At least a Bachelor's degree or equivalent level of education in Criminal or Social Justice, Court Administration, Institutional Change Management, Public Administration, Business Administration or related education. Master's degree preferred.
- Six or more years of professional experience and two or more years in a supervisory or management capacity.
- Experience advancing diversity, equity, and inclusion in a complex organization.
- Knowledge and skill in both qualitative and quantitative data analysis methodologies, tools, and strategies.
- Ability to interface with diverse populations and various criminal/juvenile justice stakeholders.
- Ability to build strong professional relationships.
- Second language skills preferred but not required.

Director Salary

Proposed Salary Range: \$40.82 - \$62.50 (\$137K to \$200K total cost of position) as approved by the Budget & Fiscal Management Committee on June 26, 2020.

Proposed Funding

\$100,000 - Reduction of Judicial Council base budget from the ongoing budget of \$152,500 to \$52,000. The ongoing budget has been spent in the past on meeting costs and occasional conference attendance at an average of \$40K per year. With the virtual nature of Judicial Council meetings anticipated to continue and the change in food policy, the amount of funds needed to fund "ongoing" uses will likely decline to \$20K per year. This unit's budget also contains the onetime "reserve" money set aside by the Judicial Council annually from carryforward funds. For FY 2020 the reserve was \$150,000. Periodically, the one-time reserve portion pays for one-time expenditures (ex, Justice System Partners contract, etc.) which can be funded through carryforward funds instead of ongoing funds. Unspent funds in this unit are used to fund FY End Spending and Carryforward spending.

\$40,000 - Judicial Operations budget is \$87,500 in ongoing funds for judges, commissioners, and senior judges at \$500 per eligible person. A reduction from \$500 to \$100 per person would allow additional funds to be used for the new Office. Approximately, \$45,000 has been used annually. Only \$45K used annually. Amending this to \$100 per person would still provide funding at sufficient for ABA dues and section dues.

\$80,000 - At discretion of Judicial Council, fund in this order (1) surplus FY 2020 ongoing turnover savings, (2) reduce funds for in-person conferences (\$145,000 is current ongoing

budget) and/or judicial out-of-state training (\$50,000 is current ongoing budget). Ongoing turnover savings of \$520,000 have been pledged to achieve the budget savings for FY 2021.

The courts are also seeking \$100,000 one-time funds for the Public Outreach and Education Coordinator role; ongoing funds will be sought through FY22 legislative request.

Justice Deno Himonas was concerned that this presentation did not include racial issues and a press release. Judge Kara Pettit believed a press release should be sent after this item is approved. Chief Justice Durrant and Judge Pettit complimented those involved in this creation. Chief Justice Durrant would like an explicit reference of race to be added and that a task force could be created at some point.

Judge Derek Pullan agreed that the issue of race could be added to the plan and questioned about including poverty or economic status in the unequal treatment of individuals section. Cathy Dupont mentioned when the workgroup created this section one of the judges felt that other issues needed to be addressed but, race and ethnicity should be a priority. The Council determined all issues should be listed, even though the immediate topics should be racial and ethnic issues. Chief Justice Durrant felt this was a fresh start and perhaps should not address past efforts. Judge Augustus Chin recommended adding that the Judiciary “understands we must take steps to address inequities, including racism, and hold ourselves accountable for equal treatment for all.”

Judge Brook Sessions recommended adding that the Judiciary is willing to work with the other branches of government. Judge Kate Appleby agreed the list could be more explicit.

Chief Justice Durrant suggested using the first three sentences in the Charter in a press release and to include a link to the document.

Judge Todd Shaughnessy accepted one-time use of funds from the Judicial Operations Budget but was concerned about ongoing funds being used from the Judicial Operations Budget. Judge Appleby asked how this would affect the Council’s spending of other items, such as with senior judges and questioned if the courts have looked at grant funding. Mr. Sweeney said he could look to grant funding for FY22 and beyond and that the senior judge funding would not be impacted. Mr. Sweeney said funds from the Judicial Council and ongoing turnover savings would be enough for a Director position without using any Judicial Operations Budget.

Judge Pullan thought it may be a good idea to hire a Director then make further determinations on what may be needed before funding a second FTE. The Council agreed not to hire a Public Outreach Coordinator at this time unless funding can be established. Judge Noonan felt the coordinator position is critical but understood they would not be hired until after a Director has been hired.

Motion: Judge Shaughnessy moved to approve the creation of the Office of Fairness and Accountability, an AOC Director to oversee the Office, who would report directly to the Deputy State Court Administrator, and supervise the Director of Communications, Interpreter Program,

and Outreach Program, with one-time funding resources from \$100,000 (Judicial Council) and \$80,000 (ongoing surplus) funds, as amended as addressed above, with the final document and press release to be circulated to the Council members prior to release. Justice Himonas seconded the motion, and it passed unanimously.

3. OLD BUSINESS/NEW BUSINESS

There was no additional business discussed.

Motion: An email was distributed on July 6, 2020 as requested by the Council with the following documents: Proposed press release, Proposed Charter and Roles, Proposed budget, and the Proposed alignment. The Council approved the proposed changes by email.

4. ADJOURN

The meeting adjourned.