

# FOURTH CIVIL JUSTICE REFORM SUMMIT

## CREATING THE JUST, SPEEDY, AND INEXPENSIVE COURTS OF TOMORROW

FEBRUARY 25-26, 2016 | DENVER, COLORADO

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- Daniel J. Becker, *Reengineering: Utah's Experience in Centralized Transcript Management*, FUTURE TRENDS (2012)



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- 3. No Guarantee.** Following a form does not guarantee that any pleading is legally or factually correct or sufficient.
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- 6. No Guidance on Timing or Parties.** The forms do not give any guidance on when certain kinds of pleadings or claims or defenses have to be raised, or who has to be sued. Some pleadings, claims, or defenses have to be raised at a certain point in the case or within a certain period of time. And there are limits on who can be named as a party in a case and when they have to be added. Lawyers and people representing themselves must know the Federal Rules of Civil Procedure and the caselaw setting out these and other requirements. The current Federal Rules of Civil Procedure are available, for free, at [www.uscourts.gov](http://www.uscourts.gov).
- 7. Privacy Requirements.** Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns over public access to electronic court files. Under this rule, papers filed with the court should not contain anyone's full social-security number or full birth date; the name of a person known to be a minor; or a complete financial-account number. A filing may include only the last four digits of a social-security number and taxpayer identification number; the year of someone's birth; a minor's initials; and the last four digits of a financial-account number.

Pro Se 2 - Complaint and Request for Injunction

IN THE UNITED STATES DISTRICT COURT  
FOR THE \_\_\_\_\_ DISTRICT OF \_\_\_\_\_  
\_\_\_\_\_ DIVISION

*(Write the District and Division, if any, of  
the court in which the complaint is filed.)*

<hr/> <hr/> <hr/> <p><i>(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write “see attached” in the space and attach an additional page with the full list of names.)</i></p> <p><b>-against-</b></p> <hr/> <hr/> <hr/> <p><i>(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write “see attached” in the space and attach an additional page with the full list of names.)</i></p>
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**Complaint and Request For  
Injunction**

Case No. \_\_\_\_\_  
*(to be filled in by the Clerk's Office)*

**I. The Parties to This Complaint**

**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	_____
Street Address	_____
City and County	_____
State and Zip Code	_____
Telephone Number	_____
E-mail Address	_____

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	_____
Job or Title (if known)	_____
Street Address	_____
City and County	_____
State and Zip Code	_____
Telephone Number	_____
E-mail Address (if known)	_____

Defendant No. 2

Name	_____
Job or Title (if known)	_____
Street Address	_____
City and County	_____

State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
(if known)

Defendant No. 3

Name \_\_\_\_\_  
Job or Title \_\_\_\_\_  
(if known)  
Street Address \_\_\_\_\_  
City and County \_\_\_\_\_  
State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
(if known)

Defendant No. 4

Name \_\_\_\_\_  
Job or Title \_\_\_\_\_  
(if known)  
Street Address \_\_\_\_\_  
City and County \_\_\_\_\_  
State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
(if known)

## **II. Basis for Jurisdiction**

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? (*check all that apply*)

☐ Federal question

☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

**A. If the Basis for Jurisdiction Is a Federal Question**

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

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**B. If the Basis for Jurisdiction Is Diversity of Citizenship**

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, (*name*) \_\_\_\_\_, is a citizen of the State of (*name*) \_\_\_\_\_.

b. If the plaintiff is a corporation

The plaintiff, (*name*) \_\_\_\_\_, is incorporated under the laws of the State of (*name*) \_\_\_\_\_, and has its principal place of business in the State of (*name*) \_\_\_\_\_.

*(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)*

2. The Defendant(s)

a. If the defendant is an individual

The defendant, (*name*) \_\_\_\_\_, is a citizen of the State of (*name*) \_\_\_\_\_. Or is a citizen of (*foreign nation*) \_\_\_\_\_.



b. If the defendant is a corporation

The defendant, *(name)* \_\_\_\_\_, is incorporated under the laws of the State of *(name)* \_\_\_\_\_, and has its principal place of business in the State of *(name)* \_\_\_\_\_. Or is incorporated under the laws of *(foreign nation)* \_\_\_\_\_, and has its principal place of business in *(name)* \_\_\_\_\_.

*(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)*

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

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### III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

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B. What date and approximate time did the events giving rise to your claim(s) occur?

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C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

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#### **IV. Irreparable Injury**

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

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#### **V. Relief**

State briefly and precisely what relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

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**VI. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: \_\_\_\_\_, 20\_\_.

Signature of Plaintiff \_\_\_\_\_

Printed Name of Plaintiff \_\_\_\_\_

**B. For Attorneys**

Date of signing: \_\_\_\_\_, 20\_\_.

Signature of Attorney \_\_\_\_\_

Printed Name of Attorney \_\_\_\_\_

Bar Number \_\_\_\_\_

Name of Law Firm \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_



**A CASE STUDY:  
REENGINEERING UTAH'S COURTS THROUGH  
THE LENS OF THE PRINCIPLES FOR JUDICIAL  
ADMINISTRATION**

**February 27, 2012  
Final Report**

**Lee Suskin, Of Counsel**



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- In particular, the author wishes to thank Assistant Court Administrator Richard Schwermer, Senior Staff Attorney Timothy Shea, Directors Kim Allard, Ron Bowmaster, and Nini Rich, Juvenile Court Administrator Lisa Michele Church and her Assistant Juvenile Court Administrators Katie Gregory and Niera Siaperas, Jessica Van Buren and Mary Jane Ciccarello, State Law Library, Alyn Lunceford, Facilities Director, District Court Administrator Debra Moore, Human Resources Director Rob Parkes, and Research Analyst Raechel Lizon and Software Support Specialist Brody Arishita.

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## **Executive Summary**

In the 30-plus years following the adoption of a new judicial article for the State Constitution, Utah's courts adopted an effective governance model establishing the Judicial Council as the policy-making body for the judiciary and the authority for the administration of the judiciary. The Utah Judicial Council speaks for the court system as a single, strong voice. Its presiding officer, the Chief Justice of the Utah Supreme Court, is the sole authority for establishing and representing the official position of the judiciary on issues concerning the judicial branch. The Judicial Council has created a culture that promotes meaningful participation and cooperation which puts decision making at the most appropriate level. The Council operates and makes decisions based on the best interests of the system as a whole.

The governance model of the Utah courts embraces the Governance Principles for Judicial Administration:

- The justice and judges of the appellate and trial court who serve on the judicial council and on Utah's boards of judges are selected based on competency, elected by the judges of their court level.
- The Judicial Council and the boards of judges focus on policy level issues while clearly delegating administrative duties to the state court administrator and the administrators of the appellate and trial courts.
- The Judicial Council exercises management control over all state court resources.
- The Utah court system structure is simple and straightforward: it has a supreme court, an intermediate court of appeals, a single general jurisdiction trial court, a single specialized juvenile court, and a single limited jurisdiction court.
- Utah's court system makes extensive use of weighted caseload formulas for judges and staff to ensure a balanced allocation of workload and resources throughout the state.
- The Utah courts demonstrate a commitment to a competent and well-trained workforce.

It is this effective governance model that has enabled the Utah courts over the past 30 years to engage in strategic planning, consolidate and improve its court structure, move to an electronic environment, provide timely resolution of disputes, measure workload and performance, develop alternative methods of dispute resolution, provide procedural fairness, and enhance access to justice for self-represented litigants and all persons who enter their courthouse doors seeking justice.

During the past four years in particular, Utah's governance model has enabled the courts to make substantial changes to their business practices, in part, in response to the economic recession's impact on state revenue and budgets. These changes have been made not only to ensure that access to the courts and services were not reduced as a result of budget reductions, but also to adopt a business plan that would allow the court system to emerge from the budget reductions with improved access, better services, improved use of resources, less delay, and better performance.

This reengineering effort has four principal components:

1. Comprehensive reorganization of the clerk of court operation in preparation for work in an electronic environment and to facilitate an enhanced focus on case management.
2. State-wide conversion to a comprehensive electronic record system.
3. Reform of civil case discovery through major amendments to the rules of civil procedure.
4. Reform of justice courts to provide enhanced judicial independence and consolidated case management for all district and justice courts.

These activities, which complement each other, have been aimed, in large measure, at improving the management of court work.

This case study provides a road map for state court systems throughout the country illustrating how judicial leaders can take steps to establish an effective governance model that enables the delivery of justice in accordance with the Principles for Judicial Administration.



## **I. INTRODUCTION**

### **A. Reengineering the States' Courts**

Business process reengineering is an approach for redesigning the way work is done to better support the organization's mission and reduce costs. It starts with a high-level assessment of the organization's mission, strategic goals and customer needs. Its focus is on improvements that elevate efficiency and effectiveness of the business processes and dramatically improve customer service and cut operational costs. A key stimulus for reengineering has been the continuing development and deployment of sophisticated information systems. Reengineering serves as an inspiration to "achieve dramatic improvements in critical contemporary measures of performance, such as cost, quality, service and speed."<sup>1</sup>

Many court systems are working with business processes based on assumptions developed years ago about technology, people, geography and structure. To address how best to achieve the courts' goals in today's environment, many states are analyzing, redesigning and reorganizing their court processes. These states have boldly taken a comprehensive "enterprise" perspective with the main goal of decreasing costs and increasing quality – this is the very definition of reengineering. Information technology is a key catalyst of this radical change.

Presumably, most court leaders want a court that is flexible enough to respond to changing demands, lean enough to be as efficient as possible, innovative enough to keep its judicial services technologically fresh, with a staff dedicated to improving judicial services. But, most court systems work within organizational structures designed over a century ago, with constitutional and statutory constraints written to address a different era. Many of the provisions lock courts into managing an organizational structure that is geographically disparate with decentralized administrative controls that prevent the most efficient use of resources. Moreover, jurisdictional overlap or inconsistencies may confuse the public as they attempt to access the courts.

State courts that have undertaken reengineering efforts have found it important to have principles of governance and administration in place to evaluate the various options and to identify and analyze potential solutions. The principles are not goals but are operational and organizational values.

Successful reengineering strategies developed by state court systems include staffing efficiencies, electronic solutions, jurisdiction and venue changes, legislative and policy changes, and governance and structural changes.<sup>2</sup>

### **B. Principles for Judicial Administration**

Court leadership and the legal profession have expressed a strong need for a set of principles to guide them as they seek to restructure court services and secure adequate funding. These principles relate to courts' governance structures, administrative operations, and funding.

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<sup>1</sup> Michael Hammer and James Champy, *Reengineering the Corporation*, 2003.

<sup>2</sup> Daniel Hall and Lee Suskin, *Reengineering Lessons from the Field*.

The Conference of Chief Justices and the Conference of State Court Administrators, with the assistance of the National Center for State Courts, have developed a set of practical operational principles that are intended to assist chief justices and state court administrators—as well as presiding judges and trial court administrators in locally funded jurisdictions—as they address long-term budget shortfalls and the inevitable restructuring of court services. The principles are designed for use by the judicial branch leadership of each state as a basis for establishing principles for judicial administration in their states. They are also intended to help members of legislative bodies and their staff understand the difficult structural and fiscal decisions required to enable courts to enhance the quality of justice while facing increased caseloads with fewer resources.

The first two sets of principles address governance and also decision-making and case administration. These principles are foundations that courts need to have in place to manage their resources effectively and efficiently and serve as pre-conditions for the funding principles.

While the Principles for Judicial Administration are at this point a work in progress and have not yet been adopted by the Conferences, the current version is used for purposes of this Case Study.

This Case Study describes recent activities implemented by the Utah judiciary to dramatically redesign its structure and business processes. It then describes how the Utah judiciary is governed and how cases are administered and resolved in its courts in conformance with the Principles for Judicial Administration.

## **II. THE UTAH JUDICIARY**

### **A. Mission Statement**

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

### **B. Structure of the Utah Courts**

The Utah court system is composed of two appellate courts - the Supreme Court and Court of Appeals – and the trial courts, including the District, Juvenile, and Justice Courts. District, Juvenile and Justice Courts are located in each of the state's eight judicial districts. See Appendix B, Court Structure.

All courts of record are part of a single, unified system that shares the same district boundaries, and uses the same rules, procedures and forms.

**The Supreme Court** is the "court of last resort" in Utah. The court consists of five justices who serve ten-year renewable terms. The justices elect a chief justice by majority vote to serve for four years, and an associate chief justice to serve for two years.<sup>3</sup> In FY11, 619 appeals were filed in the Supreme Court.

The Supreme Court adopts rules of civil, criminal, juvenile, and appellate procedure, rules of evidence for use in the trial courts, and manages the appellate process.<sup>4</sup> The Court also governs the practice of law, including admission to practice law and the conduct and discipline of lawyers.

**The Utah Court of Appeals**, created in 1987, consists of seven judges who serve six-year renewable terms. A presiding judge is elected by majority vote to serve for two years. The jurisdiction of the Court of Appeals is complementary to that of the Supreme Court. The Court of Appeals hears appeals of cases from the juvenile and district courts and also of administrative proceedings by state agencies. In FY11, 922 cases were filed in the Court of Appeals.

**The District Court** is the state trial court of general jurisdiction. There are 71 full-time district judges and 9.5 commissioners serving in the state's eight judicial districts. The district court has original jurisdiction to try civil cases, criminal felonies and some misdemeanors, domestic relations cases and probate cases. In FY11, 305,974 cases were filed in the district courts.

**The Juvenile Court** is a court of special jurisdiction. It is a court of record, and is of equal status with the district courts of the state.<sup>5</sup> It includes 28 full-time judges and 1.5 commissioners.

The juvenile court has exclusive original jurisdiction over youths under 18 years of age who are accused of committing delinquent acts and of children who are the victims of abuse and neglect. The court may permanently terminate parental rights, and may authorize or require treatment for mentally ill or developmentally disabled children. The court may also place children under the

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<sup>3</sup> Constitution of the State of Utah. Article VIII. Judicial Department. Section 2; Utah Statutes, Section §78A-3-101.

<sup>4</sup> Constitution of the State of Utah. Article VIII. Judicial Department. Section 4.

<sup>5</sup> Utah Statutes, § 78A-6-102.

supervision of the court's probation department. In FY11, 41,033 referrals were filed in the juvenile courts

**The Justice Courts** are created by the Constitution as courts not of record.<sup>6</sup> They are established by counties and municipalities and have the authority to hear and resolve class B and C misdemeanors, violations of ordinances, small claims, and infractions committed within their territorial jurisdiction. Justice court jurisdiction is determined by the boundaries of local government entities such as cities or counties.

There are two types of justice court judges: county judges who serve at the county level and municipal judges who serve at the city level. Some judges hear cases daily; others have limited court hours each week. Justice court judges need not be attorneys, although they receive extensive and continuing legal training. All justice court judges must attend 30 hours of continuing judicial education each year to remain certified, the same education requirement that applies to all state court judges. One hundred eight justice court judges serve in 134 county and municipal courts.<sup>7</sup> In FY11, 575,510 cases were filed in the justice courts; 452,352 of the filings were traffic cases, 74,016 were misdemeanors, and 31,175 were small claims cases.

The Judicial Council establishes minimum requirements both for the creation of new courts and the certification of existing courts. Justice courts are subject to recertification every four years.<sup>8</sup>

### **C. Selection and Retention of Judges**

#### **Selection of Judges**

All Utah justices and judges are selected through a merit selection system. For state judges the process is:

- The Governor appoints nominating commissions, composed of residents from the district served by the judge.
- The nominating commission advances five names to the Governor who must then select a nominee from the list of five names.
- Appointees are subject to Senate confirmation.

Once the Governor has selected a candidate, the Senate has 60 days to confirm the nominee. If the Senate does not approve the appointment, the process begins again.

The process for selection of justice court judges is:

- A nominating commission is convened, composed of county and municipal officials and a representative of the bar association.
- The nominating commission submits at least two names to the local government executive who selects a candidate based on compliance with the requirements for office and competence to serve as a judge.

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<sup>6</sup> Constitution of the State of Utah. Article VIII, Section 1.

<sup>7</sup> <http://www.utcourts.gov/courts/just/overview.htm>

<sup>8</sup> Utah Statutes, Section §78A-7-103. Council Rules of Judicial Administration, Rule 3-112

- Once selected, the Judicial Council certifies the judge as qualified to hold office upon successful completion of a new judge training program.

**Retention of Judges**

Within three years of being appointed, judges stand for an uncontested retention election. Following this first retention period, Supreme Court justices stand for uncontested retention elections every tenth year; all other judges stand for uncontested retention elections every six years. An independent Judicial Performance Evaluation Commission consisting of 13 members appointed by all three branches of government conducts a performance evaluation for every justice and judge and recommends whether or not they should be retained by the voters.

**D. Administration**

The administration of the Utah court system is under the authority of the Utah Judicial Council, a constitutionally established governing body for the judicial branch of government. A statutorily established Administrative Office of the Courts implements the policies established by the Judicial Council and carries out the day to day administration of the courts. The rules of judicial administration provide for the establishment of boards of judges for the appellate, district, juvenile, and justice courts which advance recommendations to the Judicial Council and assist in the implementation of Judicial Council decisions.<sup>9</sup>

The state court administrator appoints administrators for each court level and trial court executives for each judicial district. Trial court executives, in turn, appoint clerks of court and, for the juvenile court, chief probation officers within their judicial district. There are no elected clerk positions in Utah.

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<sup>9</sup> Judicial Council Rules of Judicial Administration, Chapter 1, Article 3.

### **III. Reengineering the Utah Courts**

For nearly 30 years, following the adoption of a new judicial article for the State Constitution, Utah's courts have been engaged in strategic planning, establishing effective governance and administrative structures, consolidating and improving its court structure, moving to an electronic environment, measuring workload and performance, developing alternative methods of dispute resolution, and enhancing access to justice for self-represented litigants and all persons who enter their courthouse doors seeking justice.

Over the past four years, Utah's courts have made substantial changes to their business practices, in part, in response to the economic recession's impact on state revenue and budgets. Rather than respond to budget reductions with short-term spending cuts, the Judicial Council elected to change the way the courts do business and to organize its operation around the optimal use of available funding. Their stated objective was to set a course which would result in not only ensuring that access to the courts and services were not reduced as a result of budget reductions, but to adopt a business plan that would allow the court system to emerge from the budget reductions with improved access, better services, improved use of resources, less delay, and better performance.

The reengineering effort had four principal components:

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3. Reform of civil case discovery through major amendments to the rules of civil procedure.
4. Reform of justice courts to provide enhanced judicial independence and consolidated case management for all district and justice courts.

These activities, which complement each other, are aimed, in large measure, at improving the management of court work. Each is and has been a multi-year effort involving significant planning, redirection of resources, and cultural change. For example, the clerical reorganization was undertaken in anticipation of the electronic record. Utah's courts are poised to adopt a rule requiring all civil actions to be e-filed state-wide by a date certain. When that rule becomes effective, the counter operation and front office work of clerks offices will in large measure be eliminated for this case type. That will provide the Judicial Council with the ability to decide the highest and best use of the significant resources which will be freed up. One such use will be providing increased attention to case management. By more effectively deploying a smaller, better trained, more focused, and professional workforce, the Judicial Council aims to improve overall system performance.

## **A. Reinventing Clerical Operations and Functions**

To ensure the competence of the clerical workforce, in May of 2007, after conferring with the Judicial Council and others, the court administrator appointed the Comprehensive Clerical Study Committee. This sixteen member statewide committee convened with representation from every level of the existing clerical structure with individuals chosen to reflect a diversity of professional experience, tenure with the courts, and generational differences. The Committee's charge was to create a clerical structure prepared to serve the future operations of the court while attracting and retaining a more professional workforce. In December of 2008, a new structure was implemented statewide built on three core principles: a structure to support future court operations in an electronic environment, a team oriented approach to clerical operations, and a competency based professional development advancement protocol.

The Committee initially identified that the move toward electronic filing and payments would fundamentally change the manner in which clerical staff interacted with court patrons, and as a result, require a more educated and highly trained clerical staff to efficiently conduct the business of the court. In order to attract and retain this new workforce a clerical structure which recognized the increasing professionalism of the position and its role in fulfilling the mission of the courts became the primary area of focus for the committee. The challenge the Committee faced was shifting perspective from how the courts currently do business to how the courts would be doing business five to ten years into the future. This meant pushing Committee members out of their comfort zone and asking them to avoid examining the constraints of the current structure and, instead, envision the ideal structure. To better inform the process the Center for Public Policy Administration at the University of Utah conducted focus group throughout the state and discovered, among other factors, that turnover and the burden of training newer staff created inefficiencies, that specialization and compartmentalization were common, and that staff felt they were not provided sufficient training for their job duties.

The resulting structure has a foundation in a team oriented approach to clerical operations with the goal of eliminating specialization and replacing it with a workforce composed of cross trained generalists. The perspective shift which preceded the structural design was to examine operations from where a case would be assigned, as opposed to how a case entered the system. This resulted in a move from a front counter focused operation to a case centered operation distributed among identified judicial teams. In addition, the Committee identified the importance of creating professional development opportunities within the clerical structure – a feature largely absent in the prior vertical structure – which would encourage employees to have an increased role in their advancement.

In the new structure, clerical operations are reorganized into judicial service teams, judicial support teams, and specialty court operation teams. These teams are then supervised by either a team manager or clerk of court.

- Judicial service teams comprised of judicial service representatives are assigned all pre-case duties and handle front counter interactions under the supervision of judicial service managers.

- Judicial support teams comprised of judicial assistants are assigned to individual judges and are responsible for coordinating case-related matters through the conclusion of the case under the supervision of judicial case managers, who monitor, report, and follow up on case progression with their teams.
- Specialty court operation teams may be comprised of either judicial assistants or judicial service representatives and provide caseflow management services not tied to a specific judge under the supervision of judicial case managers.

The members of each team are cross trained in all aspects of the work of the team, creating an environment which allows support within the team and the ability to better absorb the short term impacts of turnover within the system. The structure also creates more robust opportunities for professional advancement both within a position (judicial service representatives and judicial assistant) and by promotion to management level positions (judicial service manager, judicial case manager, judicial team manager, and clerk of court).

When the new structure was implemented in late 2008, there was a large shift from entry level clerical positions to more advanced level clerical positions, illustrated by examining the numbers:

Before:

- 88% of staff were in entry level positions
- 10% were in supervisory or senior management positions

After:

- 21% of staff in entry level positions (judicial service representatives)
- 54% are in advanced clerical positions (judicial assistants)
- 24% are in supervisory or senior management positions (case manager, service manager, or team manager)

The final aspect of the reengineering of clerical operations, and the bond which holds the structure together, is a competency based professional development advancement protocol. The development of the advancement protocol addressed a flaw in the prior system (the lack of job specific training) and took the system into new territory in both the development and delivery of training. In a structure predicated on the ongoing gain of knowledge, skills and abilities by clerical staff it is critical to identify the competencies associated with each position within the system. The advancement protocol does this by focusing on the progression of staff from entry level to working level to senior level within the court's two largest clerical classifications – judicial service representatives and judicial assistants. Each classification has three levels of advancement and identified competencies which an employee must demonstrate successful performance of prior to advancement.

To best facilitate the advancement protocol, the Court embarked on the in-house development of an Online Training Program (OTP). To create the OTP, the Court relied upon existing experts within the clerical operations and, under the direction of the OTP program manager, clerical staff from throughout the state created scripts, recorded modules, and created the job specific training required to be a competent clerk. When the OTP went live in July of 2010 it consisted of over



120 individual training modules covering both the district and juvenile court work delivered via the court's intranet. Each module focuses on a job specific competency associated with an advancement level and takes 15 to 20 minutes to complete including the quiz at the conclusion of the module. The modules contain a combination of instructional video and highly interactive, hands-on navigating within the Court's case management systems and are designed to shift the training burden from existing staff to a self paced, individualized format.

In order to advance, an employee must successfully complete the multiple modules required at each level, demonstrate on the job mastery of the skills learned in training, and be an overall successful employee. This process typically takes an employee nine to twelve months to complete, meaning it will take the average employee, who begins as an entry level judicial service representative or judicial assistant, three years to reach the senior level of the respective classification.

The reengineering of clerical operations has resulted in a structure which has already proven effective in meeting the changing demands of the electronic court environment. The system is doing a better job of attracting and retaining a better educated workforce. There is an increased number of employees joining clerical teams with Bachelor's Degrees and, when turnover does occur, the impact on the team is greatly reduced and the training of a new employee is made more efficient because of the Online Training Program.

## **B. 1. Moving to the Electronic Record**

In February, 2007, the Judicial Council asked the Technology Committee to describe the current state of technology services and to recommend a strategic plan to achieve what the committee envisioned as the future state of technology in the Utah courts.

The Committee observed that the citizens of Utah had become accustomed to conducting business using the Internet and had an expectation of being able to use any device, from cell phones to personal computers, to access court records. The committee felt that individuals should be able to conduct routine court business without having to travel to a courthouse. They should be able to make online payments, and litigants should be able to electronically file their court documents. The court should provide web-based help desk support on the use of electronic services.

The Committee believed that the Utah courts were too dependent on paper exchanges for both filings and for notices to litigants and other agencies. They saw that the juvenile and district court automated systems were really two very different systems that were designed from the court's internal point of view. The courts needed to be better integrated with each other and with systems to be developed for the justice and appellate courts. Computing system that were designed for court staff needed to be exposed to the court's partners to facilitate electronic exchanges rather than data entry. As clerks are cross trained to support both district and juvenile systems, the technology needed to become more user friendly and intuitive. The court needed to provide a statewide search capability that covers all court cases, regardless of the court of original jurisdiction.

The Technology Committee concluded that the creation of a “paperless” but electronic court record would both create new opportunities for court reform and was necessary to directly support the reforms that had been envisioned for the future of Utah’s court system. The Committee determined that information technology should:

- 1) Enhance the quality of the litigation process.
- 2) Promote the equal treatment of all litigants.
- 3) Promote the public’s confidence in the court as an institution.
- 4) Promote the timely disposition of cases.
- 5) Capture the information once, and make that information available to those who need it.
- 6) Reduce the cost of litigation.

The committee identified two major initiatives for automation reform:

- 1) Apply technology to the business processes of the courts.
- 2) Adopt the necessary court rules to allow the court to conduct its business in an electronic environment.

To achieve these objectives, the Committee also identified a number of tactical objectives that established a set of core computing services necessary to support an electronic court system. These services could be applied across the entirety of the courts; computing systems and were identified as:<sup>10</sup>

- e-Record                      A paperless form of record keeping to replace case files
- e-Documents                A digitally certified court record created electronically through e-filing of scanning paper documents into an electronic form that is made publically available
- e-Filing (civil)              An electronic case filing with documents delivered to a court by electronic means using the public internet
- e-Filing (criminal)        Allows electronic filing of criminal cases - criminal e-Filing was developed in conjunction with the Utah Prosecution Council’s case management system
- e-Citations                  Allows law enforcement to electronically file a citation in any district, juvenile, or justice court
- e-Payments                  Allows justice, district, and juvenile court users to pay fines, fees, and other related cost through the Internet
- e-Access                      An on-line inquiry system that allows the public to access information about all district and justice courts and to access public documents filed in a case

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<sup>10</sup>Justice Council Technology Committee, Utah Court Strategic Plan, April 25, 2007

- **My Case** A secure on-line inquiry system that allows juveniles, parents, or Guardians to access information about their juvenile court case and to make electronic payments on that case
- **e-Warrants** Allows law enforcement to electronically request and receive a blood draw or search warrant from judges, thereby promoting stronger enforcement of DUI and other laws through an on-line application
- **e-Warrants (juvenile)** Allows the Attorney General and the Division of Child and Family Services workers to electronically request and receive child removal orders
- **e-Transcripts** An Internet service that allows an attorney to identify a court hearing and request that a verbatim transcript be made from the courts digital recording
- **e-Notice** Notifies attorneys that are participating on a case electronically that an event has occurred on a case to which they are a party
- **e-Service** Except for primary service, where documents are served in person, the system supports secondary service that notifies all parties on a case of additional documents that are submitted on a case
- **e-Juror** A system that allows individuals summoned for jury duty to qualify on-line; the system also provides instructional videos that are posted on You Tube
- **e-Training** A compilation of video training modules used by court employees as instructional tools or to qualify for promotion. e-Training is also used to deliver video training on new features developed in the court case management systems

The Technology Committee also recommended that the system better integrate court documents and court web forms with electronic filing; promote information exchanges in the criminal justice system in order to eliminate duplicate data entry; and generate an index of cases across juvenile, civil, criminal, and appellate courts in order to allow access to the complete court record.

The Committee sponsored several changes to the rules of civil procedure to ensure the authenticity of the court record in an electronic environment. These rules address electronic signature, electronic notary, digital certification of the electronic document system, digitized service and notice, and the recognition of electronic case files as the official record.

In the fall of 2007, the Judicial Council adopted the strategic, tactical, and rule changes recommended by the Technology Committee. In September of 2008, the Judicial Council

authorized the Administrative Office of the Courts to expand its existing electronic filing system to include all general civil filings. The AOC is determined to continue to develop information technology in-house, while buying services only if and as appropriate.

The Information Technology Division adopted a Systems Network Architecture (SNA) approach to deliver improved court services. Today, the systems of the district, juvenile, justice and appellate courts share a single integrated database. The records management, document management and payment management systems are fully integrated. The courts collect approximately one million dollars each month, or about 33% of all collections, through the electronic payment system. Utah has redesigned its computing infrastructure using a “cloud computing” approach to facilitate the storage, retrieval, and consumption of court computing services.

Litigants can electronically file and serve process in their case through a web-based interface provided for attorneys by either one of two certified third party vendors. These vendors have built their systems in compliance with the court’s e-Filing certification standards. At this time, 15% of all civil filings are electronic. Documents not e-filed are scanned when they arrive in the clerk’s office. On any given day, approximately 7,500 documents become part of the court’s electronic case record system. In April of 2012, the Judicial Council will consider making e-filing mandatory and, assuming it does, set a date by which all civil filings in the state must be e-filed with the court.

Law enforcement is able to generate electronic affidavits and warrants for blood draws, search warrants from a patrol car, and child removal orders remotely in juvenile cases. Judges are approving or denying these warrants using their smart device technology, eliminating the need for the judge to be at a specific telephone number. The officer no longer has to physically appear before a judge. Issuance of the warrant, including all original documents, is then automatically recorded in the case management system while simultaneously making the warrant available to law enforcement.

Self-represented litigants can use an online forms generator to assist them to file their documents. Litigants in some cases are automatically receiving electronic courtesy notices when a judge signs an order in their case, with no clerk involvement.

Technology supports the delivery of court services, including the use of on-call and online interpreters, the integration of audio and video verbatim records, and the recoding of documents in the case management system. Each of these actions becomes a part of the court’s digitized case record. On appeal, the record is automatically generated and transcripts are produced through a central management system described in Section B. 2, below.

Jurors are using online juror qualification questionnaires and learning about jury duty through YouTube juror education. Court staff are receiving competency training using video instruction.

Utah set out to create a state-wide virtual courthouse, including a virtual case record, a payment system, support for remote conferencing, and a verbatim digital recording of courtroom and in-chambers hearings. The electronic system was expanded to include better integration and

information sharing among the courts partners. With the adoption of SNA technology, the court system and the systems of public safety, motor vehicles, driver records, and child welfare seamlessly exchange the information that is required of each partner.

## **2. Making the Record Electronically and Managing Transcript Production**

In November, 2008, the Judicial Council amended their rules to require that hearings be recorded by audio or video digital recording equipment, even if a court reporter reports the proceedings. The rule makes clear that a transcript of a video or audio recording of a court proceeding prepared and filed by an official court transcriber is an official transcript.<sup>11</sup>

Soon after, the court established best practices for creating a record. Judges, court staff and attorneys were trained statewide. Best practices included:

- For attorneys:
  - Avoid moving microphones
  - Avoid shuffling papers
  - Use mute button when consulting with your client
- For in-court staff:
  - Test the recording quality regularly, by speaking into each microphone and listening to the recorded result
  - Monitor recording using headphones
  - Enter the start and end time of each hearing in the CMS
- For judges:
  - Identify each case on the record
  - Request parties to state appearance and request witnesses' names be spelled
  - Discourage speakers wandering around the courtroom unless wireless microphones are used
  - Hold on-the-record bench conference conversations at the bench conference microphone

Beginning July, 2009, court reporters were no longer employed by the Utah courts to make verbatim records of court proceedings. Instead all court proceedings were recorded electronically, with all audio and video files stored on the courts' computer network.

Transcript preparation is now performed by private transcribers who are certified and licensed by the state. A transcript coordinator maintains a transcriber roster, which includes a number of former court reporters. Payment is made directly to the transcriber, eliminating billing and accounts receivable work previously performed by court staff.

What was initiated as a cost-saving measure has not only saved more than \$1,350,000 per year, but has resulted in a more efficient way to deliver transcripts. These efficiencies are a result of moving to an automated tracking system. All steps in the transcript process from start to finish are being done online via a web-based transcript and management system built by the Utah Courts' Information Technology Department in cooperation with the Utah Appellate Clerks'

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<sup>11</sup> Judicial Council Rules of Judicial Administration, Rule 4-201. Record of proceedings.

Office. The audio from the hearings is available to the transcribers online. In addition, the new process has freed trial court clerks from having to handle transcript requests. Prior to the new process, more than 50 trial court clerks devoted some portion of their time to this work; it is now done by 1½ employees in the appellate clerks' office.

The new process has eliminated the number one cause of delay for the Court of Appeals.

An evaluation and comparison of the process prior to July, 2009 and today:

<b><u>Prior to July, 2009</u></b>	<b><u>Today</u></b>
- 18 court reporters employed	- 1½ employees manage transcripts
- 50 court clerks involved in the transcript process	- Court reporter positions discontinued
- 138 days to complete a transcript for cases on appeal	- 22 days from request to filing of transcript for cases on appeal; 12 days for cases not on appeal
	- Attorney pays for transcript directly to the court reporter or transcriber

### **C. Civil Justice Discovery Reform**

The Utah courts have examined the civil justice system and made a determination that it takes too long and costs too much. They determined that the cost of discovery is the primary problem. The courts decided to take greater control over the discovery process. A multi-year effort was undertaken by the Supreme Court's Advisory Committee on Civil Procedure to craft revisions to the rule of civil procedure.

Effective November 2011, the Utah courts adopted new rules to reduce discovery costs.<sup>12</sup> The rules require front-loading information. The parties must initially disclose with a discovery request:

- The name, address, and telephone number of each fact witness the party may call in its case in chief and a summary of expected testimony.
- The name, address, and telephone number of each person likely to have discoverable information supporting its claims or defenses.
- A copy of all documents and things in the possession or control of a party that the party may offer in its case in chief.
- A computation of any damages claimed and a copy of all discoverable documents on which the computation is based.
- A copy of all documents to which a party refers in the pleadings.

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<sup>12</sup> URCP. Rule 26. General provisions governing disclosure and discovery

- A copy of any insurance or indemnification agreement.

In addition, special practice areas are developing lists of documents and information that must be produced without a discovery request. At the time of publication, there are rules for initial disclosure in family law cases and in personal injury cases.

The rules narrow the scope of what can be discovered. Formerly, parties could discover “any matter, not privileged, which is relevant to the subject matter involved in an action...” Even information inadmissible at trial could be discovered “if the information sought appear[ed] reasonably calculated to lead to the discovery of admissible evidence.” Under the new rules, to be discoverable, the information must be “relevant to the claim or defense of any party [and satisfy] the standards of proportionality...”

The rules require discovery to be proportional. Discovery is considered to be proportional if:

- The discovery is reasonable considering the needs of the case, the amount in controversy, the complexity of the case, the parties’ resources, the importance of the issues, and the importance of discovery in resolving these issues;
- The likely benefits of the discovery outweigh the burden or expense;
- The discovery is consistent with the overall case management plan;
- The discovery is not cumulative or duplicative;
- The information cannot be obtained from another source that is more convenient, less burdensome, or less expensive; and
- There is an opportunity to obtain the information, taking into account the parties’ relative access to it.

The rules place the burden of proof on the party seeking discovery to show proportionality and relevance, even in a motion for a protective order. The court is expressly authorized to allocate the costs of discovery, including attorney fees, to achieve proportionality.

The rules establish three tiers of standard discovery based on the aggregate amount of damages claimed.

- Tier 1 Discovery (\$50,000 or less)
  - Fact depositions are limited to three hours
  - No interrogatories
  - No more than five requests for production
  - No more than five requests for admission
  - The parties have 120 days to complete fact discovery
- Tier 2 Discovery (\$50,000 - \$300,000 and non-monetary relief)
  - Fact depositions are limited to 15 hours
  - No more than ten interrogatories
  - No more than ten requests for production
  - No more than ten requests for admission
  - The parties have 180 days to complete fact discovery
- Tier 3 Discovery (\$300,000 or more)
  - Fact depositions are limited to 30 hours

- No more than 20 interrogatories are permitted
- No more than 20 requests for production are permitted
- No more than ten requests for admission are permitted
- The parties have 210 days to complete fact discovery

The rules permit extraordinary discovery beyond the standard limits by stipulation or by motion, provided the discovery is proportional and the party (client) has approved the discovery budget.

The Utah courts have also taken steps to curb expert discovery costs. The rules require the party with the burden of proof on an issue to disclose without a discovery request:

- The expert's name and qualifications.
- A list of all publications authored within the preceding ten years.
- A list of any other cases in which the expert has testified as an expert within the preceding four years.
- A summary of the opinions to which the witness is expected to testify.
- All data and other information that will be relied upon by the witness in forming those opinions.
- The compensation to be paid for the witness's study and testimony.

The party without the burden of proof then selects whether to depose the expert witness or require the expert to submit a written report, but not both. After the deposition or report, the party without the burden of proof discloses its retained experts and the process repeats. An expert's testimony is limited to what is "fairly disclosed" in the report. The party selecting to depose the expert pays for the deposition. The party whose expert prepared the report pays for the report.

Ultimate and interim deadlines can be calculated from the date of the first defendant's first answer. Court personnel plan to monitor progress toward those deadlines.

These new discovery rules went into effect November 1, 2011. Workshops in each judicial district have been held for judges, clerks of court, and case managers on the rules, new automated tools to assist in their implementation, and best case management practices for handling cases under the rules.

The National Center for State Courts will conduct a study and evaluation of this discovery reform.

## **D. 1. Reforming the Justice Courts**

In 2007, the Judicial Council established a Justice Court Study Committee to address concerns about the independence of justice court judges. Some critics argued that the justice courts had become revenue generating entities for local government. The Council wanted to examine whether the reality or perception that justice court judges lacked independence in their decision making was hurting public trust and confidence in the entire court system, and to advance recommendations which would strengthen the justice courts, generally.



The Study Committee reported back to the Judicial Council an ambitious set of recommendations, which after debate and revision were ultimately advanced in the form of legislation before the 2008 Legislative Session. The legislature enacted justice court reform that included the following provisions:

- Justice court judges' terms were lengthened from four to six years.
- Justice court judges will face the voters in unopposed retention elections.
- Justice court judges' salaries were fixed within a percentage range of the district judges' salaries, based on a weighted workload calculation.
- Justice court judges would be selected by local officials from a list of names provided by county-based nominating commissions.
- The justice courts were required to convert to a single case management system known as the Court Records Information System (CORIS).<sup>13</sup>

## **2. Adopting a Single Case Management System for all Justice Courts**

As part of the 2008 justice court reform legislation, the legislature mandated that all justice courts use a common case management system and disposition reporting system as specified by the Judicial Council. The Judicial Council selected CORIS as the common case management system.

The justice courts had been using six different case management systems. The Board of Justice Court Judges examined those systems and observed that:

- They had unaddressed and unresolved audit exceptions and audit controls.
- Reports to the Bureau of Criminal Identification were inaccurate.
- There was a desire to access court records of individuals among all courts.
- There was a need to operate a computing system that better supports the requirements of the justice courts.
- There was a need for better and more responsive support for the judges and staff of the justice courts.

A 2009 legislative audit confirmed that there would be benefits as the justice courts moved to a single case management system. The audit listed some of the benefits to be derived from the conversion:

- Automatic calculation of bail amounts, including enhancements
- Separation of duties with passwords
- Ability to calculate appropriate interest when applicable
- Common and uniform disposition reporting codes in all jurisdictions
- Better and more responsive support of the information needs of justice court staff
- Improved data sharing within the judiciary and to the public through Exchange
- Incorporation of a single state-wide site for on-line payments
- Implementation of electronic civil filing in all court jurisdictions

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<sup>13</sup> Utah Statutes, § 78A-7-206

Over the past three years, the Administrative Office of the Courts converted the case data of a total of 102 justice courts from six different local computing systems and consolidated eight CORIS stand-alone courts into a single CORIS system. While converting two courts to CORIS every month, the AOC also trained and supported approximately 600 new CORIS users. The Judicial Council provided CORIS, along with the necessary training at no charge to the local officials.

This conversion process was completed on July 11, 2011, resulting in the conversion of 4.6 million cases. As a result, CORIS has provided the necessary uniformity among justice courts, enhanced case management, and improved the timeliness of reporting to state data repositories. The conversion means that a single record check will also display all justice court records in the state.

The conversion project prompted the creation of several CORIS enhancements. Additional functionality was added to the system as a result of needs identified during the conversion process. These enhancements included electronic filing of citations in justice courts, the posting of court calendars to the Utah courts web site, and the ability to take electronic payments on criminal and traffic offenses.

This conversion not only provided for uniformity and greater access, but also brought the justice courts under the Judicial Council's goal of operating with an electronic record at all court levels. The Judicial Council has required by rule that all citation cases state-wide must be filed electronically by July 1, 2012. A planned electronic record enhancement will provide for e-filing of small claims cases in the justice courts.

## IV. THE PRINCIPLES FOR JUDICIAL ADMINISTRATION APPLIED TO THE UTAH STATE COURTS

### A. Governance Principles

**Principle 1: Effective court governance requires a well-defined governance structure for policy formulation and administration for the entire court system.**

*A well-defined governance structure enables the development of statewide policies that ensure uniformity of customer experience throughout the state and also enables reasonably uniform administrative practices for the entire court system that provide the greatest access and quality at the least cost.*

*A well-defined governance structure enables the court system to present a unified message to the public as well as to the legislative and executive branches.*

#### **Application of Principle 1:**

**The Utah court system governance model is established in the Utah Constitution, and defined by both statute and rule.**

#### **The Utah Judicial Council**

The Judicial Council is the policy-making body for the judiciary and is the authority for the administration of the judiciary. It has the constitutional authority to adopt uniform rules for the administration of all the courts in the state. Through that rule making power, the Judicial Council governs the judicial branch of government. The Council is committed to developing uniform policies to achieve the following objectives:

- 1) Provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.
- 2) Attract and retain qualified judges.
- 3) Improve the opportunity for and the quality of continuing education for judges and staff.
- 4) Identify and solve on a continuing basis the priority problems facing the judiciary.
- 5) Assure that the judiciary keeps pace with legal, social, political, demographic, and technical developments.<sup>14</sup>

The Council sets a variety of standards, such as justice court certification, court facilities, continuing education requirements, support services, and judicial and non-judicial staff levels.

The Judicial Council consists of 14 members who serve for three-year terms. Members can be elected for one additional three year term. The Chief Justice of the Supreme Court chairs the Council. The other members include: a justice elected by the justices of the Supreme Court; a

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<sup>14</sup> Constitution of the State of Utah. Article VIII. Judicial Department, Section 12. Judicial Council Rules of Judicial Administration, Rule 1-102.

judge elected by the judges of the Court of Appeals; five judges elected by the judges of the district courts; two judges elected by the judges of the juvenile courts; three judges elected by the judges of the justice courts; a state bar representative; and the state court administrator, who serves as secretariat to the Council.

The Utah Judicial Council speaks for the court system as a single, strong voice when communicating the system's priorities and concerns to those within and outside the judicial branch. Its presiding officer, the Chief Justice of the Utah Supreme Court, is the sole authority for establishing and representing the official position of the judiciary on issues concerning the judicial branch.<sup>15</sup>

The Judicial Council has created a culture that promotes meaningful participation and cooperation and that puts decision making at the most appropriate level. The Council's members focus their attention on the general good of the court system as a whole, and not on the particular good of the court levels that elected them. Court level advocacy is left to the boards of judges and other groups, and Council members are not permitted to advocate or present proposals to the Council. The Council operates and makes decisions based on the best interests of the system as a whole.<sup>16</sup>

The Chief Justice of the Supreme Court serves as the presiding officer of the Judicial Council. The Chief Justice supervises the courts to ensure uniform adherence to law and to the rules and forms adopted by the council and to promote the proper and efficient functioning of the courts. The Chief Justice serves as the spokesperson for the judiciary and supervises the state court administrator and the administration of the judiciary. The Chief Justice may issue orders as necessary to assure compliance with uniform administrative practices.<sup>17</sup>

The Judicial Council meets monthly, using Robert's Rules of Order. Its meetings are open to the public and normally are covered by the media. Meetings can be closed only for specified purposes, i.e., to discuss personnel, litigation, or security matters, and closing meetings requires an affirmative vote of two-thirds of the members present.<sup>18</sup>

Council members are assigned to one of three different executive committees:

- The Management Committee, which always includes the Chief Justice, serves as an executive committee, determining the Council agenda and dealing with issues that arise between regular Council meetings.
- The Policy Planning Committee deals with long term court system planning, including proposals for significant innovations and any amendments to the rules of judicial administration or the human resource policies and procedures.
- The Liaison Committee coordinates relations with the other branches of government and in particular recommends to the Council legislation to be sponsored by the Council, and

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<sup>15</sup> A History of the Utah Judicial Council, 1973-1997, Page 1. Judicial Council Rules of Judicial Administration, Rule 1-102.

<sup>16</sup> A History of the Utah Judicial Council, 1973-1997, Page 27.

<sup>17</sup> Utah Statutes, § 78A-2-106; Judicial Council Rules of Judicial Administration, Rule 1-203.

<sup>18</sup> Judicial Council Rules of Judicial Administration, Rule 2-103.

reviews and takes positions on behalf of the entire judiciary on legislation affecting the authority, jurisdiction, organization or administration of the judiciary.<sup>19</sup>

## **Court System Planning**

The Council's standing committees review activities and proposals of continuing interest. Standing committee members include judges, bar members, experts in relevant fields, and court system staff. Council members are not permitted to serve as members of the standing committees of the Council.<sup>20</sup>

Court system planning is done primarily through the Council's standing committees. Each committee, where the subject matter is appropriate, is charged with developing a strategic plan, which is subject to Judicial Council approval. Committees make scheduled reports on the progress in implementing the plan and advance amendments to the plan to the Council.

Current standing committees include:

- Technology
- Judicial Branch Education
- Court Facility Planning
- Court Commissioner Conduct
- Ethics Advisory
- Uniform Fine and Bail Schedule
- Justice Court Standards
- Children and Family Law
- Judicial Outreach Resources for Self-Represented Parties
- Court Interpreter
- Guardian Ad Litem Oversight

Each year the Judicial Council chooses a system wide issue for focused study. Examples include: adoption of CourTools performance measures, justice court reform, guardianship and conservatorship reform, post conviction representation, interpretation for civil cases, and technology being brought into courtrooms and cameras in the courtroom. The Council also creates ad hoc committees, as needed.

The Judicial Council encourages broad participation in the governance of the judiciary. Approximately 70% of the judges serve on the standing and ad hoc committees, the boards of judges, or the Council.

## **Boards of Judges**

To increase the level of participation of the courts and local judges in the development of policy for the judiciary, to increase the level of communication between the Council and the local judges, and to provide a mechanism for supervising the implementation of Council policy, the

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<sup>19</sup> Judicial Council Rules of Judicial Administration, Rule 1-204.

<sup>20</sup> Judicial Council Rules of Judicial Administration, Rule 1-201, 205.

Judicial Council has established by rule boards of judges for each level of court. Boards of judges adopt administrative rules in accordance with the guidelines of the Council, advise the Council, supervise the implementation of Council policies and serve as liaisons between judges and the Council. The boards act as conduits for communicating concerns of their court level to the Council, and for helping to implement Council decisions on their particular court level. Council members do not serve as voting members of the boards of judges.<sup>21</sup> There are no judicial associations in Utah.

### **Presiding Judges**

Each of the appellate courts has a presiding judge and each of the eight districts has a presiding judge of the district court and of the juvenile court. The presiding judge has responsibility for the effective operation of the court and has the authority and responsibility for implementing statutes, rules, policies and directives of the Judicial Council as they pertain to the administration of the courts and for performing administrative duties as authorized by the judicial council. The administrative duties of the presiding judges include managing the docket, coordinating judicial schedules, equitably distributing workload and ensuring the prompt disposition of cases. Over the last five years, considerably more attention has been given to enhancing the role of presiding judges, including a new presiding judge rule granting more authority, orientation and training programs, regular meetings with the chief justice and state court administrator, and improved management data for assessing district performance.<sup>22</sup>

### **Justice Court Governance**

Justice Courts are subject to certification by the Judicial Council and must operate in accordance with standards established by the legislature and rules established by the Judicial Council.<sup>23</sup>

### **Principle 2: Judicial leaders should be selected based on competency, not seniority or rotation.**

*The complexity of modern court administration demands a set of skills not part of traditional judicial selection and training.*

*The development of selection criteria may help to steer courts away from the rotation, seniority or volunteer selection methods which often fail to account for a judge's general interest in the position or ability to perform the duties successfully.*

*The minimum effective term length for a chief justice or presiding judge is no less than two years. A successful chief justice or presiding judge should be considered to serve renewable or successive terms.*

### **Application of Principle 2:**

**The rules of judicial administration set out the manner by which all judicial leaders are selected.**

<sup>21</sup> Judicial Council Rules of Judicial Administration, Rule 1-201 and Chapter 1, Article 3.

<sup>22</sup> Utah Statutes, §78A-5-106., Judicial Council Rules of Judicial Administration, Rule 3-104.

<sup>23</sup> Judicial Council Rules of Judicial Administration, Appendix B. Justice Court Standards.

The justices and judges of the appellate and trial courts who serve on the Judicial Council and boards of judges are elected by the judges of their court level.

The chief justice is elected by a majority of the members of the Supreme Court for a four year term and may be elected to serve additional terms. All other presiding judges are elected by the judges of the court or district that they preside over. Their term of office is at least two years and they may succeed themselves.

No leadership positions are selected based on seniority or rotation.,

**Principle 3: Judicial leaders should focus attention on policy level issues while clearly delegating administrative duties to court administrative staff.**

*Decisions about policy belong with the structural “head” of a judicial system, but implementation and day-to-day operations belong to administrative staff.*

*Clear authority for implementation in the managers is important for the credibility and effectiveness of court governance.*

**Application of Principle 3:**

**Clear lines of policy authority for the Judicial Council and administrative authority for the Administrative Office of the Courts are established both in statute and rule. The Rules of Judicial Administration also clearly define the authority of the presiding judge and the court executive at the court level.**

**The Administrative Office of the Courts**

The state court administrator is appointed by the Chief Justice of the Supreme Court upon majority vote of the Supreme Court and serves at the pleasure of the Council and/or the Supreme Court. The administrator may be removed from office upon majority vote of the Council concurred by majority vote of the Supreme Court. The administrator receives a salary equal to that of a district court judge.<sup>24</sup>

The state court administrator operates under the general supervision of the Chief Justice, the presiding officer of the Judicial Council, and within the policies established by the Council. The state court administrator's duties are established by both statute and rule. The state court administrator implements the standards, policies and rules established by the Council. The state court administrator also directs the day to day administration of the court system.

The state court administrator:

- Administers all of the non-judicial activities of the courts.
- Serves a secretariat to the Judicial Council.
- Assigns, supervises, and directs the work of the non-judicial officers of the courts.
- Formulates and administers the personnel administration system.

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<sup>24</sup> Judicial Council Rules of Judicial Administration, Rule 3-301.

- Prepares and administers the state judicial budget, fiscal, accounting, and procurement activities for the courts of record, and assists the Justice Courts' courts in their budgetary, fiscal, and accounting procedures.
- Develops uniform procedures for the management of court business, including the management of court calendars.
- Organizes and administers a program of continuing education for judges and support staff, including training for justice court judges.
- Conducts studies of the business of the courts.
- Develops uniform procedures for the management of court business.
- Maintains liaison with governmental and other public and private groups having a interest in the administration of the courts.
- Establishes and manages a court information system.
- Establishes and manages a court facility program.
- Approves and executes all leases, contracts, or other documents on behalf of the judiciary.
- Develops policies regarding maintenance, retention, and disposition of court records.
- Serves as public information officer for the courts.
- Performs other duties as assigned by the presiding officer of the Council.<sup>25</sup>

The state court administrator is assisted by a deputy administrator, court level administrative officers, trial court executives, and directors of human resources, purchasing, information technology, finance/budget, court services, public information, security, facilities, alternative dispute resolution, education and training, and internal audit. The state court administrator also has the assistance of legal counsel.

The Administrative Office of the Courts serves as staff to the Judicial Council, Supreme Court rules committees, boards of judges, standing committees and ad hoc committees, and also provides support to the clerks of court, chief probation officers, and the trial court executives throughout the state.<sup>26</sup>

### **Appellate, District, Juvenile and Justice Court Administrative Officers**

The state court administrator appoints an appellate court administrator, a district court administrator, a juvenile court administrator, and a justice court administrator with the concurrence of the respective boards of judges.<sup>27</sup>

### **Trial Court Executives**

The eight districts are administered by trial court executives (some administer both the district and juvenile courts; in the larger districts). The trial court executive is appointed by the state court administrator with the concurrence of the presiding judge. The trial court executive is responsible for all administrative matters in the district: personnel, budget, security, facilities, information technology, probation and the interface with stakeholders. The trial court executive specifically works with the presiding judge on budget submissions for the district. The trial court

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<sup>25</sup> Judicial Council Rules of Judicial Administration, Rule 3-301

<sup>26</sup> Utah Statutes, §§78A-2-105, 107 and 108.

<sup>27</sup> Utah Statutes, §78A-2-108; Judicial Council Rules of Judicial Administration, Rule 3-301.



executives are supervised by the court level administrator and serve at the pleasure of the state court administrator.<sup>28</sup>

### **Clerks of Court**

The clerks of court are responsible for the official court record. They are appointed by and report to the trial court executives. The clerks of court handle personnel matters and the assignment of staff. Clerks of court are members of the management teams of the districts.

### **Chief Probation Officers**

The chief probation officers are appointed by and report to the trial court executives and are responsible for directing local probation and juvenile work crew programs of the juvenile court.

**Principle 4: Court leaders, whether state or local, should exercise management control over all resources including staff and funding that support judicial services within their jurisdiction.**

*Fundamental to effective management is control of resources. Authority to manage available resources should not be exercised by anyone outside the court system.*

### **Application of Principle 4:**

**The Utah Judicial Council has the ability to govern and manage all operations of the state courts, and to a large extent, local justice courts, as well. They have a single line item for all personnel and operating expenses, meaning they are able to move funding between court levels and programs to address the areas of greatest need. The courts are also provided with authority to carry forward funding from one year to the next, allowing savings to be accumulated and redirected. Court facilities and security are within the Council's budget and control.**

Prior to 1988, much of District Court staff and facilities were provided by the 29 individual counties. Levels and quality of service varied greatly from county to county. The Council could do little to ensure high, uniform levels of service for their courts of general jurisdiction when they had so little control over funding. A Council study commission developed a plan for state assumption of financial responsibility for the District Courts and made a convincing argument that state funding would give counties better court services and would prove financially advantageous. A bill providing for state assumption of District Court funding passed the Legislature and went into effect in 1988.<sup>29</sup>

The Judicial Council exercises management control over all state court resources. The state funds all expenses of the appellate courts, the district courts, the juvenile courts and the administrative office of the courts, including facilities, security, and juvenile probation services. It funds information technology for all courts, including justice courts.

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<sup>28</sup> Judicial Council Rules of Judicial Administration, Rule 3-301.

<sup>29</sup> A History of the Utah Judicial Council, 1973-1997, Page 29.

The judiciary's budget has only four line items: (1) personal services and operating, (2) facility contracts and leases, (3) jury, witnesses and interpreters, and 4) guardian ad litem.

Faced with the need to dramatically reduce spending in the years 2008-2011, the Council adopted the following principles to guide its exercise of management control over the resources:

- Protect access to courts by minimizing reductions which would adversely impact access or result in unreasonable delay.
- Targeted, value-based reductions, rather than across the board reductions.
- Emphasize changes which will allow the completion of work with fewer resources.
- Prioritize efforts aimed at providing future operational efficiencies, strengthening staff support, and improving case management: (a) electronic record, (b) clerical reorganization.
- Hold Information Technology harmless in order to keep the transition to an electronic record moving forward.
- Initial and deepest reductions should be taken in administration.
- Rely on weighted caseload for identifying specific clerical and probation reductions.

### **The Budget Process**

In May of each year, the districts, committees, and offices turn in budget requests to the court level administrator and state court administrator. In June, each board of judges reviews workload and performance measures relevant to its court level. Each board, committee, and office then makes prioritized budget requests to the Council, along with their justification for their requests.

Every August the Judicial Council holds a public two day budget planning session during which it receives filing, workload, and performance reports and budget requests. The Council then determines what request will be advanced as part of a legislative agenda for the coming legislative session. The governor's budget analyst and the legislature's fiscal analyst are in attendance and make presentations on the state's overall fiscal condition, allowing the Council to take fiscal realities into account as they prepare their budget submission. The final budget submission and legislative agenda are voted on in open session.

In April of each year, following the legislative session and the approval of the courts budget for the coming fiscal year, the state court administrator, with input from the trial court executives and senior administrative staff, recommends a spending plan for the coming fiscal year to the Judicial Council. The spending plan includes appropriated funds, funds projected to be carried forward from the prior fiscal year, and projected turnover saving for the coming fiscal year. By planning for all available funds, the Judicial Council is able to budget for the use of available one time funding, thereby, creating more flexibility to prioritize spending for new fiscal year. This process allows for planned expenditure of all available funds throughout the fiscal year, as opposed to waiting until the last quarter of the year and making hurried decisions of how to spend down remaining balances.

The ability to carry forward unspent funds from the prior fiscal year, the ability to accurately project anticipated turnover savings, and the ability to move funding between court levels and

programs create considerable flexibility to prioritize spending and effectively direct funds to where they are most needed.

Over the past three fiscal years, the Utah judiciary experienced major budget reductions. The budget was reduced by about \$13 million, or approximately 9% of the budget. At the same time, case filings were rising (a 16% increase in 2009 and 2010). The Council determined that they would respond by making permanent reductions and change the courts' business model; they did not reduce hours or furlough any judges or staff. 104 Full Time Equivalent positions were eliminated, a 10% reduction in staff.

**Principle 5: The court system should be organized to minimize the complexities and redundancies in court structures and personnel.**

*Every effort should be made to avoid overlapping or duplicative jurisdiction among courts within a given state.*

*The organization of a court system should promote access and the prompt, cost-effective and just discharge of the primary duty of dispute resolution. Clear and simplified structuring facilitates ease of use and engenders public understanding and ultimately support.*

**Application of Principle 5:**

Utah's court system is structured to provide for appellate review by both an intermediate court of appeals and a supreme court, a general jurisdiction trial court, a specialized juvenile court, and a limited jurisdiction court. All operate under the uniform rules of judicial administration promulgated by the Judicial Council and rules of procedure adopted by the Supreme Court. Concurrent jurisdiction is minimized. The principle of proportionality has been formally adopted into the rules of civil procedure as an element of discovery reform.

**Consolidation of the Circuit Courts into the District Courts**

From 1978 to 1996, a 12-court circuit court system existed to handle misdemeanors, criminal cases through the preliminary hearings, and civil small claims cases. The circuit court system had no jurisdiction over such matters as divorce cases, probate cases, or land title cases. Beginning in 1996 and completed in 1997, the circuit courts were consolidated into the district courts, resulting in a single general jurisdiction court.<sup>30</sup>

**State-wide Juvenile Court**

In 1999, the Judicial Council concluded a multi-year study of the pros and cons of a family court system. The Council elected not to support the creation of a family court, opting instead to create a new standing committee focused exclusively on family law issues. The principle reason for rejecting the family court model was the strength of Utah's current juvenile court. The study concluded that the uniform juvenile court already addressed many of the ills which prompted the adoption of family courts in other states. For example, Utah's juvenile court is a stand-alone

<sup>30</sup> <http://archives.utah.gov/research/guides/courts-system.htm#circuit>

court with judges appointed specifically to that court, as opposed to being given a juvenile assignment from a general jurisdiction court; juvenile court judges receive specialized training and have salary parity with district court judges; and, the juvenile court operates in a one judge-one family model providing focused attention on the family. It was determined that combining domestic cases with the exiting juvenile court would have a detrimental effect of moving the court to a domestic dispute focus at the expense of the best interest of the child focus.

### **Consolidation of Small Claims Jurisdiction**

Jurisdiction over small claims cases, which previously had been in both the district courts and the justice courts, has been placed exclusively with the justice courts.

### **Consolidation of District and Juvenile Court Counter Operations**

As part of budget reduction measures, counter operations have been combined into a single operation in a number of judicial districts. This consolidation means that clerical staff persons are cross-trained in order to help all patrons who come to a counter, whether the matter involves the district court or the juvenile court. This type of consolidation is now being implemented in additional districts, necessitated partly by the staff reductions, as well as the reduced need for counter staff which will result from mandatory e-filing.

### **Principle 6: Court leadership should allocate resources throughout the state or local court system to provide an efficient balance of workload among judicial officers and court staff.**

*Resource allocation to cases, categories of cases, and jurisdictions is at the heart of court management.*

*Assignment of judges and allocation of other resources must be responsive to established case processing goals and priorities.*

*Objective workload models should be used to identify how many judicial officers and court staff are needed and to assist in allocating staff on an equitable basis.*

### **Application of Principle 6:**

**Utah's court system makes extensive use of weighted caseload formulas for judges and staff, applies them at the state and local levels, and relies on them for adding resources, as well as assigning and reducing resources.**

### **Weighted Caseload Analyses**

The Utah courts do weighted caseload analyses for the judges of the district, juvenile and justice courts and also for the staff of the district and juvenile courts. The analyses are used for:

- A general understanding of the status of the system
- Permanent and temporary judicial assignments and staffing decisions
  - Determining need (for judicial and quasi-judicial officers)
  - Requesting resources from the legislature
  - Adding time-limited resources
  - Salary determinations (for justice court judges)
  - Reducing resources

Weighted caseload studies are used by the Judicial Council in determining the need for resource additions or subtractions, as well as the assignment of available resources among districts. Such studies are also used at the district level for allocating court time between counties and case types, and for allocating clerical staff between district and juvenile court and clerical and probation staff among court locations within a district.

Most analyses are prepared twice annually, in May of each year for board budget planning purposes, and at the end of the fiscal year, for Judicial Council purposes. The boards of judges are charged with working with AOC staff to prepare weighted caseload criteria and weights, which are subject to approval by the Judicial Council.

### **Clerical Workload**

A clerical weighted caseload committee appointed by the state court administrator and consisting of personnel representing district and juvenile courts in urban and rural counties meets to analyze clerical time required to process cases. Using the criteria and case weights, the committee recommends an effective range of clerical staffing levels for each judicial district. The state court administrator presents the committee's recommendations to the Judicial Council.

The committee meets annually to keep weights current. Weights are determined through the use of Delphi studies and also through the use of digital recording records which provide for the actual start/stop time of hearings.

### **Probation Officer Workload**

The probation officer workload study utilizes a time-motion approach. Probation officers track the amount of time they spend on each duty during a month long period. Time is recorded on tracking sheets, which also present the option for listing any duties not included on the tracking sheets.

Weights by case type were calculated based on time required per case from the time in motion study. Times were verified using the Delphi method through a survey of all probation officers. The results are used each year to match resources to needs more efficiently.

### **Principle 7: Court leadership should ensure that the court system has a competent and well-trained work force.**

*To earn the public's trust and confidence and to provide quality judicial services, courts need judges with the highest ethical standards, extensive legal knowledge, and complex and unique skills in leadership, decision-making, and administration. Courts similarly need highly ethical and competent staff.*

*All judicial officers and court staff should have clear expectations of effective performance along with transparent systems to evaluate that performance.*

*Court leadership should develop education and training programs that provide judicial officers and court staff the knowledge and skills required to perform their*

*responsibilities fairly, correctly and efficiently while adhering to the highest standards of personal and official conduct.*

### **Application of Principle 7:**

**The commitment to education, accountability, and performance measurement is reflected in both rule and practice in Utah's courts.**

The Utah judiciary has taken a number of steps to ensure the competency of its judges and clerical staff. They include:

- A system for evaluating the performance of judges.
- A system for evaluating the performance of management, as well as clerical and probation staff.
- A comprehensive review and reorganization of its clerical workforce.
- A comprehensive education and training program for judges and court staff with mandatory annual hours of education requirements.
- Rules and policies on employee ethics and conduct.<sup>31</sup>

### **Judicial Performance Evaluation**

A statutorily established independent commission called the Judicial Performance Evaluation Commission, with 13 members appointed by the three branches of government, prepares a performance evaluation for each supreme court justice and judge of the district, juvenile, and justice courts during their terms of office. The evaluation considers:

- The results of attorney, staff, and juror surveys on judicial performance.
- Information concerning the judge's compliance with minimum performance standards as established by statute and rule.
- Courtroom observation.
- The judge's disciplinary record.
- Public comment solicited by the commission.
- Information from earlier judicial performance evaluations.
- Any other factors that the commission deems relevant.

Evaluations are performed twice during the judge's six-year term: first for self improvement and second for the retention election. The full retention evaluation report is posted on the commission's webpage in both raw and summary form.

### **Performance Evaluation of Court Staff**

The Judicial Council has established by rule a performance plan and system for the evaluation of court employees. Its purpose is to provide management and employees a tool to ensure quality of work, set organizational goals, determine training needs, make appraisals for promotions, transfer or reassign employees for better use of skills and abilities, and to identify incompetent employees.

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<sup>31</sup> Supreme Court Rules of Professional Practice, Chapter 12. Code of Judicial Conduct

A written performance plan stating expected standards, duties, behaviors, and objectives is developed for each employee. It states performance criteria which are specific, obtainable, measurable, understandable, and consistent with the job description. It also states time frames within which objectives are to be achieved and what assistance management will provide. The supervisor and employee meet at least annually to discuss achievements, review performance, and identify goals. The process culminates in a written performance evaluation. When an employee's performance does not meet expected standards, management takes and documents corrective action to improve performance.

### **Reinventing Clerical Operations**

Over the past five years, the Utah Courts have totally reorganized clerical operations and judicial office support functions, creating a system of cross-trained, generalist positions. See Section III. A. of this case study for more information.

### **Judicial Branch Education**

The Judicial Council has created a Standing Committee for Judicial Branch Education to propose policies, standards, guidelines, and procedures applicable to all judicial branch education activities. It has charged the committee with evaluating and monitoring the quality of educational programs and with making changes where appropriate within the approved guidelines for funding, attendance, and accreditation. It has directed committee members to propose policies and procedures for developing, implementing, and evaluating orientation, continuing skill development, and career enhancement education opportunities for all judicial branch employees; formulate an annual education plan and calendar consistent with the judicial branch education budget; and serve as advocates for judicial branch education, including educating the judiciary about the purpose and functions of the committee.<sup>32</sup>

### **Judicial Education**

All justices, judges and court commissioners must participate in a designated orientation program during their first year. All judges, court commissioners, active senior judges, and active senior justice court judges must complete 30 hours of pre-approved education annually, to be implemented on a schedule coordinated by the committee. Judges of courts of record and court commissioners may attend a combination of approved local, state, or national programs. Annual completion of 30 mandatory education hours is a retention factor considered by the Judicial Performance Evaluation Commission.

### **Clerical Training Resources: "By Clerks for Clerks"**

The Utah courts have developed a competency based advancement program which relies on training modules delivered across the internet. Each of the 120 training modules has been developed by a team of clerks and AOC staff. Each module delivers a 15 to 20 minute training unit which includes a test. A system is in place which monitors completion of units required for advancement. The employee must demonstrate proficiency in each unit before being eligible for advancement. The competency based training is supplemented by in-person training delivered by the education staff and by other resources, such as "quick reference documents" that are posted on the judiciary's intranet site.

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<sup>32</sup> Judicial Council Rules of Judicial Administration, Rule 3-403.

All managers and court staff are required to complete 20 hours of approved coursework annually.

## **B. Decision-Making and Case Administration Principles**

**Principle 8: Courts should accept and resolve disputes in all cases that are constitutionally or statutorily mandated.**

*Courts must accept cases that require the adjudication of legal status.*

*Court leaders have an obligation to structure their operational systems in a manner that promotes access to the courts.*

### **Application of Principle 8:**

**Utah has an open courts provision in the State Constitution.<sup>33</sup> The Judicial Council takes that responsibility very seriously, as reflected in the first principle for weighing budget reductions - protect access to the courts. That commitment is witnessed through two examples: assistance to self-represented parties and court interpretation for persons with limited proficiency in the English language.**

#### **Assistance to Self-Represented Parties**

To promote access to the courts, the Judicial Council has established a Committee on Resources for Self-Represented Parties.<sup>34</sup> The committee is charged with identifying the needs of self-represented parties and with proposing policy recommendations concerning those needs to the Judicial Council, the State Bar and other appropriate institutions for improving how the legal system serves self-represented parties.

The Utah courts website contains comprehensive information to assist self-represented individuals. The court provides information and forms free of charge to any member of the public. The Utah Online Court Assistance Program (OCAP) provides assistance in preparing a variety of court documents. OCAP filings account for 40% of all uncontested divorce filings state-wide.

In 2007, the Utah courts began to pilot a centralized self-help center. Housed in the State Law Library, it exists as a virtual site, staffed by one full-time and two part-time persons. It is publicized through the clerks' offices by the counter staff who do not have the time to navigate people through the system. It is also publicized on strategically placed posters and at the public libraries. Self-help center staff communicate with persons by telephone, via an online chat, and by e-mail. They provide needed assistance by guiding self-represented parties through the forms and instructions on the Utah court's self-help resources web site, and by explaining court process and procedures. The Center now serves six of the eight judicial districts, or approximately 40%

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<sup>33</sup> Constitution of the State of Utah, Article 1, Section 11.

<sup>34</sup> Judicial Council Rules of Judicial Administration, Rule 3-115.



of the population. The Center assisted more than 8000 persons in 2011. A funding request to expand the program state-wide has been made to the 2012 legislature.

The Utah courts have worked with the public libraries, particularly in rural areas, to educate librarians on how to help people access the web site and the courts on the library's computers. AOC staff and local volunteer attorneys conduct classes for self-represented litigants; classes are recorded and posted on YouTube.

### **Provision of Court Interpreter Services**

Also to ensure effective access to Utah's courts, the Judicial Council has established a comprehensive court interpreter program. Interpreters are provided in over 55 languages, primarily Spanish, Vietnamese and Russian. Certification testing is provided in both Spanish and Vietnamese. Spanish language litigants and witnesses are present in approximately 13% of court cases; they are assisted by certified Spanish interpreters ~~are~~ almost 100% of the time. Judges and court staff receive education on how to best use interpreters in the courtroom.

In May of 2011, the Judicial Council adopted a rule extending court interpretation services to all persons requiring such services in all types of court actions.<sup>35</sup> Interpreters are now routinely provided in civil cases. In addition, the courts have had a long standing program which provides a salary stipend to any employee who utilizes a second language in the work place to assist persons outside of a courtroom setting.

Four courts are using remote interpretation as part of a pilot project. The project is examining whether litigants and witnesses can receive quality interpretation services while saving on the time and cost of providing those services (interpreters are reimbursed 50 cents per mile). The interpreter only needs access to a telephone; all other necessary hardware and software is in the courtroom. Two systems are being tested: one system uses a stand-alone cart; the other system is wired into the courtroom speakers. The early results are promising.

### **Principle 9: Court leadership should make available, within the court system or by referral, alternative dispositional approaches. These approaches include:**

- a. The adversarial process.*
- b. A problem-solving, treatment approach.*
- c. Mediation, arbitration or similar resolution alternative that allows the disputants to maintain greater control over the process.*
- d. Referral to an appropriate administrative body for determination.*

*The adversarial process need not be the exclusive means or even the best means for resolving some types of disputes. Alternative means of dispute resolution could be more timely, more resource efficient, and produce more satisfactory results.*

*The development of court mediation programs, the evolution of problem-solving courts, the use of court diversion options, and the growth of restorative justice principles all*

<sup>35</sup> Judicial Council Rules of Judicial Administration, Rule 3-306.

*evidence a growing recognition by courts that a menu of options must be provided to litigants.*

### **Application of Principle 9:**

**Utah's courts have a mature ADR program that serves the appellate courts, district courts, juvenile courts, and justice courts. Problem solving courts have been utilized in Utah since 1995 and are now located in every judicial district in both district and juvenile court, as well as a number of justice courts.**

### **Alternative Dispute Resolution (ADR)**

In its 1994 session, Utah's legislature enacted the Utah Alternative Dispute Resolution Act which called on the Judicial Council to implement a program utilizing Alternative Dispute Resolution in the state court. The program was implemented by the Judicial Council and Supreme Court rules on January 1, 1995.<sup>36</sup>

Today, ADR programs operate statewide in juvenile court for child welfare cases; mediation must be ordered by the judge. In restorative justice matters, the mediation program allows the offender and victim to discuss the harm caused by the offending behavior and to identify ways to repair the harm. A voluntary truancy mediation program is available for some school districts. Mediation in all these juvenile court programs is provided by trained mediators at no cost to the parties.

In district court, civil mediation and mandatory divorce mediation programs operate statewide using private mediators from a court system approved roster of mediators; a co-parenting mediation program (for alleged violations of existing parent-time court orders) and a probate mediation pilot program are available in the largest district. In addition, landlord-tenant mediation and law and motion mediation operate in several districts at no cost to the parties.

Small claims mediation operates in various justice courts.

The AOC administers a court roster of private mediators for civil and divorce mediation who have met specific education, experience and ethical requirements provided for in the rules of judicial administration.

For co-parenting mediations, which are required to be mediated within 15 days of filing, the courts screen cases, contact parties and assign cases to a roster of private providers with specialized experience and training.

An appellate mediation program has been in place since 1997 and mediates approximately 40 cases each year in the Court of Appeals.

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<sup>36</sup> Judicial Council Rules of Judicial Administration, Rule 4-510.

**Problem Solving Courts**

The Judicial Council has established criteria for the creation and operation of problem solving courts and a process for the ongoing reporting, evaluation, and certification of problem solving courts. The Council defines a problem solving court as a targeted calendar of similar type cases that uses a collaborative approach involving the court, treatment providers, case management, frequent testing or monitoring and ongoing judicial supervision. Examples include drug courts, mental health courts, and domestic violence courts.<sup>37</sup>

Prior to beginning operations, a proposed problem solving court must be approved by the Judicial Council and must agree to comply with its procedures, standards and requirements.

Each problem solving court must annually report statistics on program participation and graduation and also on recidivism and relapse. A former drug court judge monitors the operation of each drug court, provides technical assistance aimed at instituting best practices, and makes a recommendation on recertification on each court every three years to the Judicial Council. Under Council rules, a court must be certified in order to be eligible for state funding.

The Utah courts currently operate 26 adult drug courts, two DWI courts, nine juvenile drug courts, nine family dependency treatment courts, two juvenile mental health courts and five adult mental health courts.

**Principle 10: Court leadership should exercise control over the legal process.**

*Effective management of the court's entire caseload demands that judges, with the assistance of court administrative staff, manage and control the flow of cases through the court.*

*Key elements of effective judicial management include establishing a set of meaningful events, creating expectations that events will occur as scheduled, exercising firm control over the granting of continuances, and using data to monitor compliance with established case processing goals.*

**Application of Principle 10:**

**Timely administration of justice has received increased attention as a result of budget reductions, in that one of the objectives of the new business model is to deliver more timely case resolution.**

**Focused Attention on Case Management**

Presiding judges and court executives have received specialized training in case management and have been provided with improved performance measurement tools for monitoring district court performance.

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<sup>37</sup> Judicial Council Rules of Judicial Administration, Rule 4-510.

One of the primary objectives of the clerical reorganization covered in Section III.A. was the delivery of timely case resolution through a judicial team with a case manager specifically responsible for providing judges with additional resources to better manage their caseload. District court judges have received specialized training in conducting settlement conference so that they can assist in resolving cases for fellow judges as their calendars permit. The amendments to the rules of civil procedure on discovery reform provide for intensive monitoring and management of cases. Workshops on the application of these new rules have been held across the state.

The impact of the above measures has been a dramatic improvement in the age of pending cases for all case types in all districts, despite considerably higher caseloads. See Appendix A. Age of Acting Pending Cases.

The Juvenile Court has an effective case management program, due in large measure to statutory time lines for child welfare proceedings. In addition, the juvenile court has adopted “best practice” timelines for delinquency cases. The juvenile court culture has long embraced case management principles, timelines, and court control of case progression. The juvenile courts consistently operate within the established timelines.

**Principle 11: Court procedures should be simple, clear, streamlined and uniform to facilitate expeditious processing of cases with the least possible costs.**

*Court leaders should adopt court procedures that reflect the practices that provide justice at the least expense to the litigants and taxpayers.*

*Procedures should be proportionate to the nature, scope and magnitude of the case involved.*

**Application of Principle 11:**

**The Utah courts have adopted a number of procedures aimed at streamlining case processing and at providing justice at the least expense to the litigants and taxpayers.**

Streamlined case processing in the Utah courts includes small claims procedures, the early case resolution pilot program for processing felonies, expedited delinquency processing, non-judicial adjudication of minor delinquency cases, domestic case screening, landlord and tenant mediation and law and motion mediation. All of these and other such procedures are aimed at expediting processing and reducing litigant and system costs. The most innovative development is the recent adoption of amendments to the rules of civil procedure to reform the discovery process.

**Civil Justice Discovery Reform**

The Supreme Court's Advisory Committee of the Rules of Civil Procedure has examined the civil justice system and made a determination that takes too long and costs too much. After consultation with the Bar, they determined that the cost of discovery is the primary problem.

The courts decided to take greater control over the discovery process. In November, 2011, the Utah courts adopted new rules to reduce discovery costs. See Section III. C. of this case study for more information.

**Principle 12: Judicial officers should give individual attention to each case that comes before them.**

*Procedural fairness guarantees certain basic rights, including ensuring that all parties receive notice of the proceedings, have the right to be heard and to present evidence.*

*Court procedures must allow parties and attorneys to offer relevant information and to present their respective sides of the case, proportionate to the nature, scope and magnitude of the case, while taking into account the aggregate nature of the court's entire caseload.*

**Application of Principle 12:**

**The Utah courts have emphasized procedural fairness as an important component in the education, training and evaluation of judges.**

The Judicial Performance Evaluation Commission has determined that procedural fairness will be one of the three areas that judges will be evaluated on for retention purposes, the other two being, knowledge of the law and administration of their court. Accordingly, the elements of procedural fairness have become a focus of judicial education and training.

Judges are provided feedback on their application of procedural fairness through courtroom observations conducted by trained courtroom observers. Specifically, courtroom observers report on a judge's neutrality, respect and voice. For example, for the neutrality standard, the rules direct the observer to report on whether the judge is: (1) displaying fairness and impartiality towards all participants; (2) acting as a fair and principled decision maker who applies rules consistently across court participants and cases; (3) explaining transparently and openly how rules are applied and how decisions are reached; and, (4) listening carefully and impartially.

**Principle 13: The attention judicial officers give to each case should be appropriate to the needs of that case.**

*Procedures should be proportionate to the nature, scope and magnitude of the case.*

*Through the use of Differentiated Case Management, courts maintain equality and due process in the treatment of cases while recognizing the pressures of the overall court workload and the resources available.*

### **Application of Principle 13:**

**The Utah courts have demonstrated a commitment to ensuring that court procedures are proportionate to the nature, scope and magnitude of the case.**

Section III. C. of this case study describes in detail the rules of civil procedure recently adopted to reduce the costs of discovery. The amended rules adopt the principle of proportionality in determining the amount of permissible discovery. They establish three separate tiers based on the aggregate amount of damages claimed. The maximum length of fact depositions, the number of permitted interrogatories, the number of requests for production and requests for admission, and the number of days for completion of discovery are all based on the magnitude of the case. The rules place the burden of proof on the party seeking discovery to show proportionality and relevance. The objective of Utah's discovery reform is to provide less costly and more timely case resolution appropriate to the needs of an individual case.

### **Principle 14: Decisions of the court should demonstrate procedural justice**

*Courts should provide due process and equal protection of the law to all who have business before them.*

*Perceptions that procedures are fair and just influence a host of outcome variables, including satisfaction with the process, respect for the court and willingness to comply with court rulings and orders.*

### **Application of Principle 14:**

**The Utah Courts have emphasized procedural fairness as an important component in the education, training and evaluation of judges.**

See the commentary to Principle 12, above, for a description of the Utah courts' commitment to procedural justice

### **Principle 15: The court system should be transparent and accountable through the use of performance measures and evaluation at all levels of the organization.**

*Courts must continually monitor performance and be able to know exactly how productive they are, how well they are serving public needs and what parts of the system and services need attention and improvement.*

*Courts must continually evaluate the effectiveness of their policies, practices and new initiatives.*

*CourTools and other similar measures provide a means for self-improvement and improved accountability to the funding entities and the public.*

**Application of Principle 15:**

**Utah's courts have a well developed system for surveying court users, assessing performance, and providing management information. The courts have also made a commitment to transparency, making performance measure information available publically on the internet at the state, district, and individual courthouse level.**

**CourTools**

The NCSC developed CourTools by integrating the major performance areas defined by the Trial Court Performance Standards with relevant concepts from other successful public- and private-sector performance measurement systems. This balanced set of court performance measures provides the judiciary with the tools to demonstrate effective stewardship of public resources. Being responsive and accountable is critical to maintaining the independence courts need to deliver fair and equal justice to the public. Each of the ten CourTools measures includes a clear definition and statement of purpose, a measurement plan with instruments and data collection methods, and strategies for reporting results.

In 2004, the Utah Judicial Council began implementing CourTools to identify and monitor performance and to make improvements to better serve the needs of the public. The CourTools reports are updated quarterly or annually as appropriate. The CourTools measures are used by the Judicial Council and the Administrative Office of the Courts in assessing system performance, evaluating policies, practices, and programs, assessing resource use and allocation, focusing training needs and case management efforts, and making decisions on the use of visiting and senior judges to address backlogs before they become a serious issue. Examples of how these measures are used at the local level include: making judicial allocation decisions to deal with shifts in workload by case type and troublesome dockets; assessing and responding to user input; and, assessing and taking action regarding communication, supervision, and morale issues identified through the employee satisfaction survey.

These measures are reviewed by the Judicial Council quarterly, and are made available publically. The state court administrator frequently uses these measures in legislative appropriations hearings and reports. They are very well received by legislators and held out as an example for the rest of state government. Individual measures, such as the results of the access and fairness survey, have been reported in the media. Performance measures are reported for the appellate, district, and juvenile courts.

The measures currently monitored and reported on their website include:

<b>Access and Fairness in the Courts</b>	Results of surveys of court users in Utah courthouses
<b>Effective Use of Jurors</b>	Counts of citizens qualified, summonsed and called for jury service
<b>Clearance Rate</b>	The number of court cases being completed or disposed of as a percentage of court cases being filed
<b>Time to Disposition</b>	The time taken to complete or dispose of types of court cases
<b>Age of Active Pending Cases</b>	Counts of pending court cases and length of time they have been pending
<b>Capacity Index</b>	Measure of a court's capacity to dispose of cases in a given time period
<b>Restitution, Fines and Fees</b>	The amounts of restitution, fines and fees being collected by courts and sent for collection
<b>Court Employee Satisfaction</b>	Summaries of court employee surveys
<b>Related Performance Information</b>	Additional Performance Information related to the courts

### **Juvenile Court Timeline Reports**

The Board of Juvenile Court Judges has established specific timelines for the progress and disposition of cases filed in the juvenile court. Timelines include, for delinquency cases:

- 45 days from petition filing to first hearing
- 45 days from first hearing to adjudication
- 60 days from first hearing to disposition
- 90 days from petition filing to adjudication
- Three or fewer hearings to adjudication

Timelines have also been similarly established for the various child welfare cases filed in juvenile court.

The Administrative Office of the Courts produces reports that show the percentage of cases that comply with the timelines and discusses the reports with the juvenile judges of the district. The judges then examine the out of compliance reports to determine the main reason for the issue and work to identify steps to address any problems.



**Juvenile Court Report Card to the Community**

National organizations have recommended that all juvenile courts provide an annual report card to the community. The Utah courts believe that citizens expect the justice system to further community safety, to hold offenders accountable, and protect constitutional rights of juveniles, while at the same time providing justice to victims. They also expect juvenile offenders to stop criminal behavior and become responsible and productive citizens.

The report card uses six benchmarks/measures to inform the community on its progress in furthering safety, restoring justice for victims, and reducing the risk of re-offending:

- Percentage of delinquency referrals by type
- Per capita rate of juvenile offending
- Measure of re-offense
- Percentage of positive drug tests
- Restitution owed and paid
- Community service hours ordered and performed

The purpose of the report card is to provide taxpayers with an update on how Utah's juvenile justice system is performing. The report card is designed to hold the juvenile court accountable for its performance on these measures over time, to highlight areas of success, to identify areas that require additional improvement and to increase access to information and provide feedback to the community. The report card is made available to the community online, via brochures at every courthouse location, and has been published as an insert in the largest newspapers in the state.

**Juvenile Court Assessments and Evidence-Based Programs**

The Utah Juvenile Court has developed and uses evidence-based practices in its attempts to issue orders that are effective in reducing recidivism while improving outcomes for youth in court.

The court operates in accordance with these four principles:

- Risk Principle – assign cases to interventions based on risk levels and establish supervision levels according to risk levels. Focus supervision and interventions on higher risk youth.
- Need Principle – identify dynamic risk factors and criminogenic needs that drive the presenting offenses. Develop case plans specific to the presenting offenses.
- Treatment Principle/Responsibility – use behavioral approaches and motivational strategies in working with youth. Match youth with appropriate interventions.
- Program Integrity – use cognitive behavioral, evidence-based interventions. Conduct ongoing evaluation of programs and analyze program outcomes such as recidivism and reductions in risk.

Youth are identified by risk level in order to provide the appropriate level of services and also to avoid mixing high and low risk youth in programs.

Risk level enables the court to focus treatment on risk factors that are likely to bring the youth back to court unless addressed and also to match the level of intervention to the level of risk.

All probation officers are trained on evidence-based principles, the case planning model, and on using risk assessments. Probation officers have to demonstrate case planning knowledge every year as they progress through the career track by submitting a video of an assessment interview, which is scored by a committee.

The Utah Juvenile Court uses the Correctional Program Checklist (CPC) to assess contracted programs and interventions. The CPC is a program evaluation tool developed from research on evidence based practices. The CPC provides information on effective parts of the program, needed changes, and recommended steps for improvement. A trained assessment team conducts a site visit and through structured interviews, case file reviews, observations, review of documentation and an evaluation of fidelity to the model, the team scores on the program on a set of indicators related to recidivism. Programs are reassessed at least annually.

The juvenile court has identified what works to reduce recidivism:

- One judge per family
- Using evidence-based practices
- Providing effective case planning
- Matching programs to risk factors
- Requiring community service and restitution

### **Internal Reporting**

The Administrative Office of the Courts prepares and distributes numerous additional reports, including:

- Monthly aging reports, at the district and the judge level, provided to the management teams. The report counts for each court in each district the number of pending cases and the average age of pending cases by case type. It also reports on the statewide average number of days pending for each case type, statewide.

An “At a Glance Dashboard” containing for each court the number of filings and dispositions, the clearance rate, the number of pending cases and their average days pending.

Quarterly meetings are held with presiding judges and court executives and performance measures and other case data is reviewed and discussed for the purpose of identifying best practices that can be taken back and applied within individual districts.

The Judicial Council has established a pilot program for testing and assessing the new Model Time Standards approved by the Conference of Chief Justices and the Conference of State Court Administrators. The results of the pilot program will be reported back to the Council in June, at which time the Council will make a decision on their formal adoption.

**(New) Technology Principle:**

*The Judicial Branch should develop and use technologies to enable the courts to deliver quality services at lower cost to the taxpayers.*

**Application of Technology Principle:**

**Utah's courts have a comprehensive electronic agenda that is being implemented state-wide on a very aggressive timetable.**

**Moving to the Electronic Record**

Utah is now using technology to enable litigants to electronically file and serve process in their case through a web-based interface between the courts and the litigants provided by one of three certified third-party vendors. The case management system for all four of the Utah courts – district, juvenile, justice and appellate – share a single integrated data base that incorporates all of the courts' documents into a paperless case file. See Section III. B.1 for more information.

**Making the Record and Managing Transcript Production**

In November, 2008, the Judicial Council amended their rules to require that hearings be recorded by audio or video digital recording equipment, even if a court reporter reports the proceedings. The rule makes clear that a transcript of a video or audio recording of a court proceeding prepared and filed by an official court transcriber is an official transcript.<sup>38</sup> The Utah courts have since established best practices for creating the record and for transcribing the record. See Section III.B.2 for more information.

**Justice Court Conversion to a Single Case Management System**

In 2008, the Utah Legislature mandated that all justice courts use a common case management system and disposition reporting system as specified by the Judicial Council. The Judicial Council selected CORIS as the common case management system. Over the past three years, the Administrative Office of the Courts converted the case data of a total of 102 justice courts from six different local computing systems and consolidated eight CORIS stand-alone courts into a single CORIS system. See Section III.D.2 for more information.

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<sup>38</sup> Judicial Council Rules of Judicial Administration, Rule 4-201. Record of Proceedings

## **APPENDIX A**

### **Age of Active Pending Cases**



## Age of Active Pending Cases

### What It Is

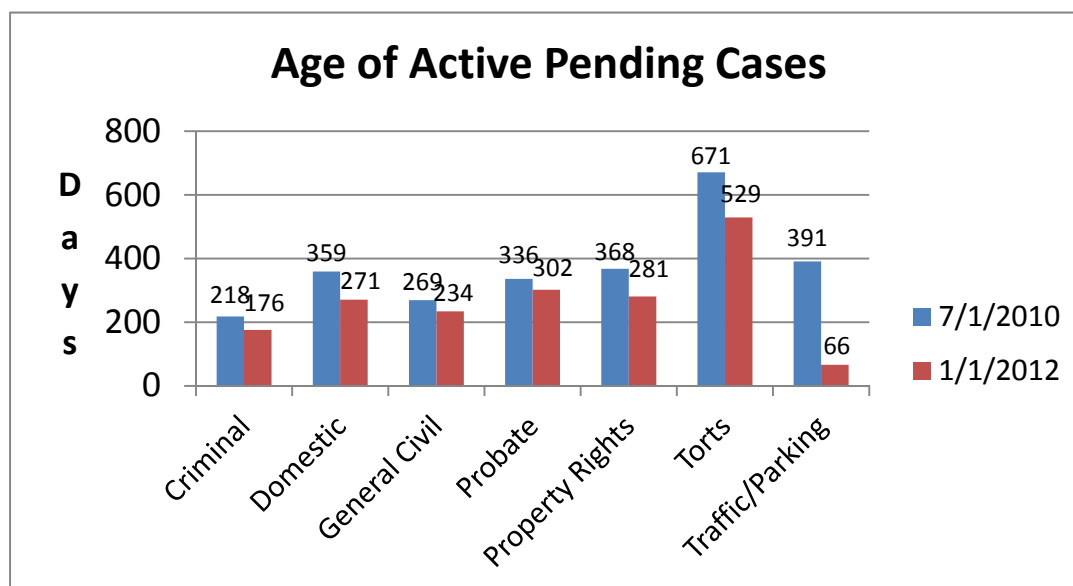
Active pending cases are those in which the court case can proceed.\* The age of active pending cases is measured in days from the case filing date to the reporting date and is shown as an average number of days by case category or case type.

### Why It's Important

Age of Active Pending Cases is used to identify areas in which backlog exists and case management processes should be reviewed. Attention to the age of active pending cases results in cases being resolved in a timely manner.

### What It Shows

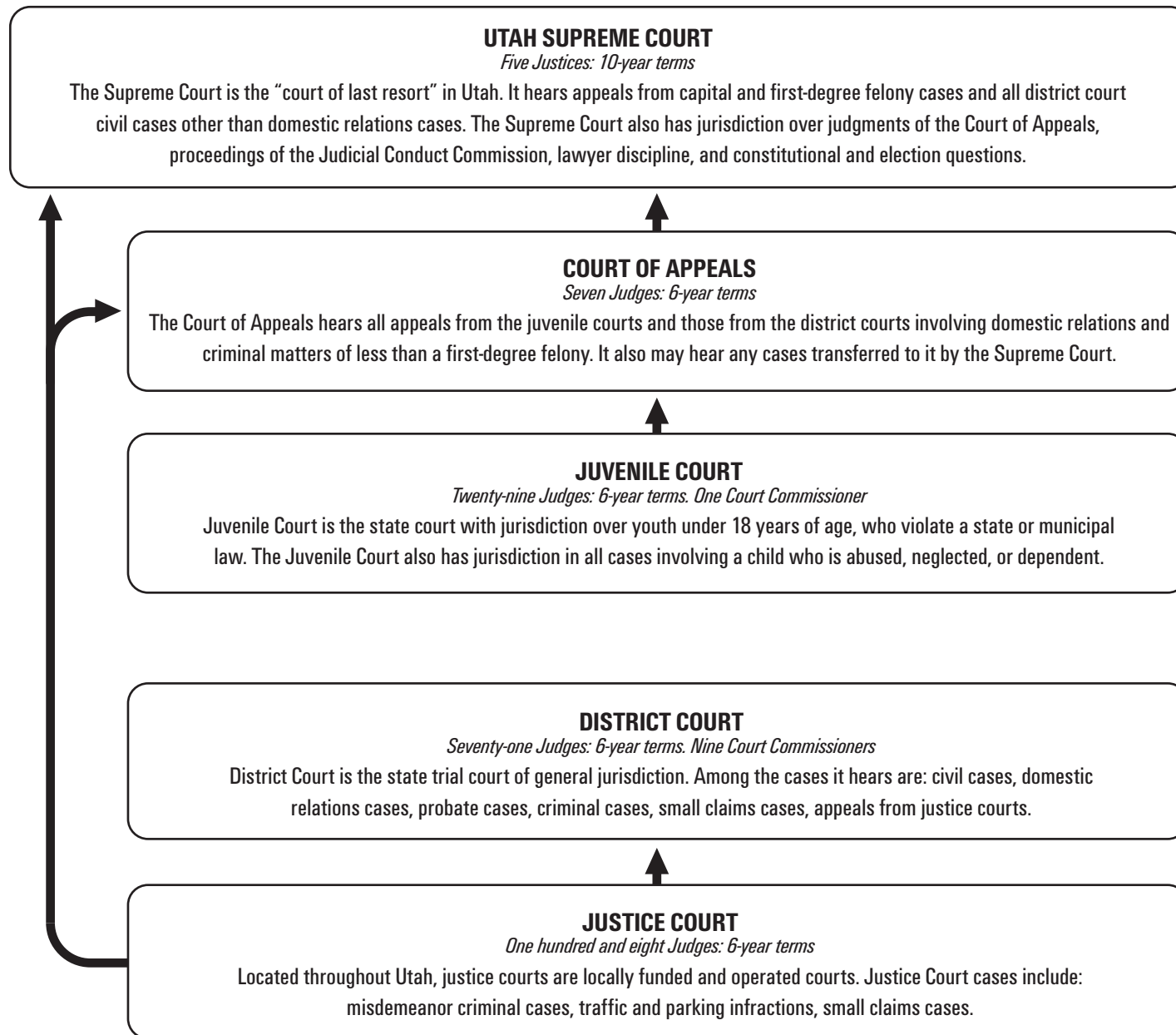
The chart below shows the average age of active pending cases in district courts. The blue bars show the average age of active pending cases in July 2010 before new case management protocols were initiated by district court staff and judges. The red bars show the average age of active pending cases as of January 1, 2012.



\*Cases in which a stay of proceedings is in effect are inactive cases and not included in this measure.

## **APPENDIX B**

### **Court Organization**

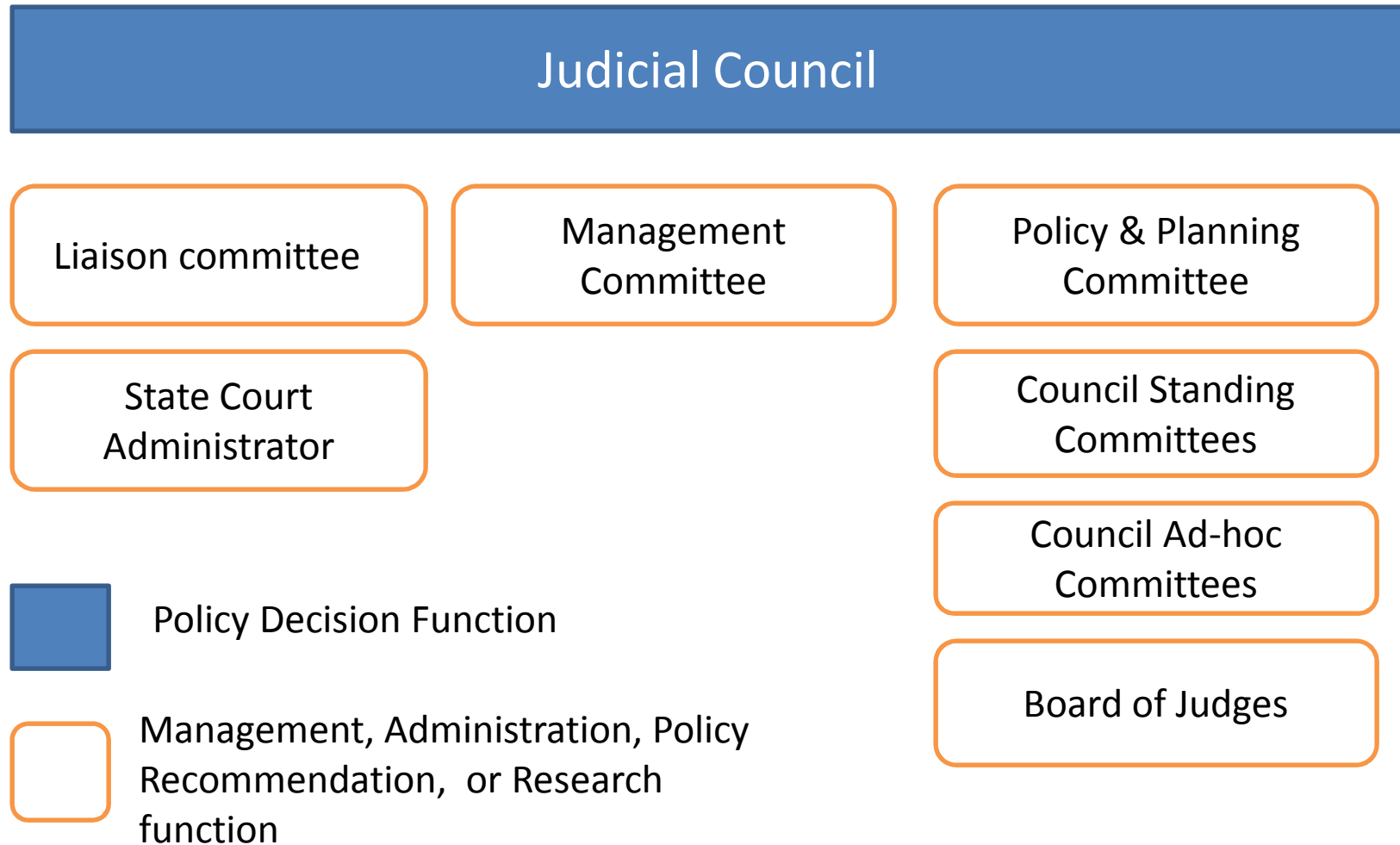


## **APPENDIX C**

### **Administrative Structure of the Utah State Courts**



# Administrative Structure of the Utah State Courts



# FUTURE TRENDS IN STATE COURTS 2012

*Reengineering: Utah's  
Experience in Centralizing  
Transcript Management  
by Daniel J. Becker*



A nonprofit organization improving justice through leadership and service to courts



## REENGINEERING: UTAH'S EXPERIENCE IN CENTRALIZING TRANSCRIPT MANAGEMENT

### Daniel J. Becker

Utah State Court Administrator

*There has been much serious discussion about reengineering court processes to improve efficiency. Utah's centralization of the management of court transcripts is a successful example of a court-reengineering project.*

Over the last several years, there has been a good deal of discussion regarding reengineering the business of the courts. Defining what that term means for the courts has been somewhat elusive. In some instances, it has meant restructuring the organization of courts; in others, changing jurisdiction to move cases to a different court or even out of the courts altogether; and in still others, altering the work of the court as a result of the introduction of the electronic record. Suffice it to say, a wide array of projects and initiatives fall under the rubric of reengineering.

Many court processes would benefit from creative centralization and automation. For example, in Minnesota accounts payable have been centralized, and New Hampshire has established a centralized call center (see separate discussion at the end of this article). In Utah, we have centralized the management of court transcripts.

Of the reengineering efforts undertaken by the courts in Utah, none have produced a more dramatic, tangible, and immediate improvement in service and savings than the centralized and automated transcript management system. This system has reduced the time from transcript request to transcript delivery from an average of 138 days to 12 days for cases not on appeal and 22 days for cases on appeal. It has allowed the consolidation of the work that previously involved 50 clerks statewide down to a central staff of 1.5 employees. It has produced savings of approximately \$1,350,000. And it has eliminated a top cause of delay for our court of appeals.

### Background

The impetus for this change was, as so many of the recent reengineering efforts have been, a result of budget reductions. In recent years, our court system has installed up-to-date digital audio and video recording systems in every courtroom in the state. The work done by court reporters had been increasingly limited to serious criminal cases and complex civil cases. With our trial courts already relying on digital recordings for most proceedings, the elimination of the remaining 18 court-reporting positions was one of the first in a series of budget-reduction measures taken by our Judicial Council, the governing body for Utah's courts.

The loss of court reporters for preparing transcripts prompted a comprehensive examination of how transcripts were ordered, prepared, and delivered. What we found was a process that varied from courthouse to courthouse, characterized by delay, confusion, and inefficiency. Fifty clerks statewide had, as part of their duties, performed the activities necessary for determining how a proceeding was reported; locating and making copies of recordings or determining which court reporter had taken the proceeding; assigning transcription responsibilities; monitoring delivery, docketing, and filing of transcripts; and processing payments. Seldom was it one clerk who handled all these procedures, creating many opportunities for error and delay.

### Transcript Management System

The goals for an alternate system were: 1) it should be easy to use, 2) it should provide an effective workflow, 3) it should automate notification and processing, 4) it should be integrated with multiple case management systems, and 5) it should reduce work. It had to meet the needs of multiple users, including attorneys, self-represented parties, judges, official court transcribers, transcript coordinators, court clerks, and the appellate courts. What was envisioned was not merely a file-transfer application, but also a uniform system, which would provide enhanced business processes, improved workflow, automatic notification, propagation of transcript requests, and case management integration. Nothing on the market approached these design needs so it was decided that the Administrative Office of the

*Many court processes would benefit from creative centralization and automation.*

Courts Information Technology Department would design and develop an in-house application.

The resulting system took two months of design work, and three programmers four months of programming work to complete. It went online July 1, 2009. The system has the following features:

- provides online transcript ordering for attorneys and self-represented parties
- provides a Web-based application for the transcriber and the transcript coordinator
- creates an e-mail notification and work-queue items for the transcript coordinator at the time a transcript is ordered
- provides the transcript coordinator with the ability to research and gather case management data from adult and juvenile case management systems
- allows the transcript coordinator to attach researched data and documents to the order for use by the transcriber, including calendar, case history, parties and relationships, and documents
- provides the ability to review and attach the audio/video to the order for use by the transcriber
- creates an e-mail notification and work-queue items for the transcriber upon transcript assignment
- creates an e-mail notification for the requestor of the transcriber assignment, including contact and payment information
- provides for automated tracking and overdue reporting
- provides for notes and other interaction between the transcriber and the transcript coordinator on transcript progress, problems, etc., via the system
- allows the transcriber to e-file the transcript and related documents, which are then automatically posted to the case management system
- provides for tracking updates to the appellate case management system
- allows judges to access e-filed transcripts through the case management system

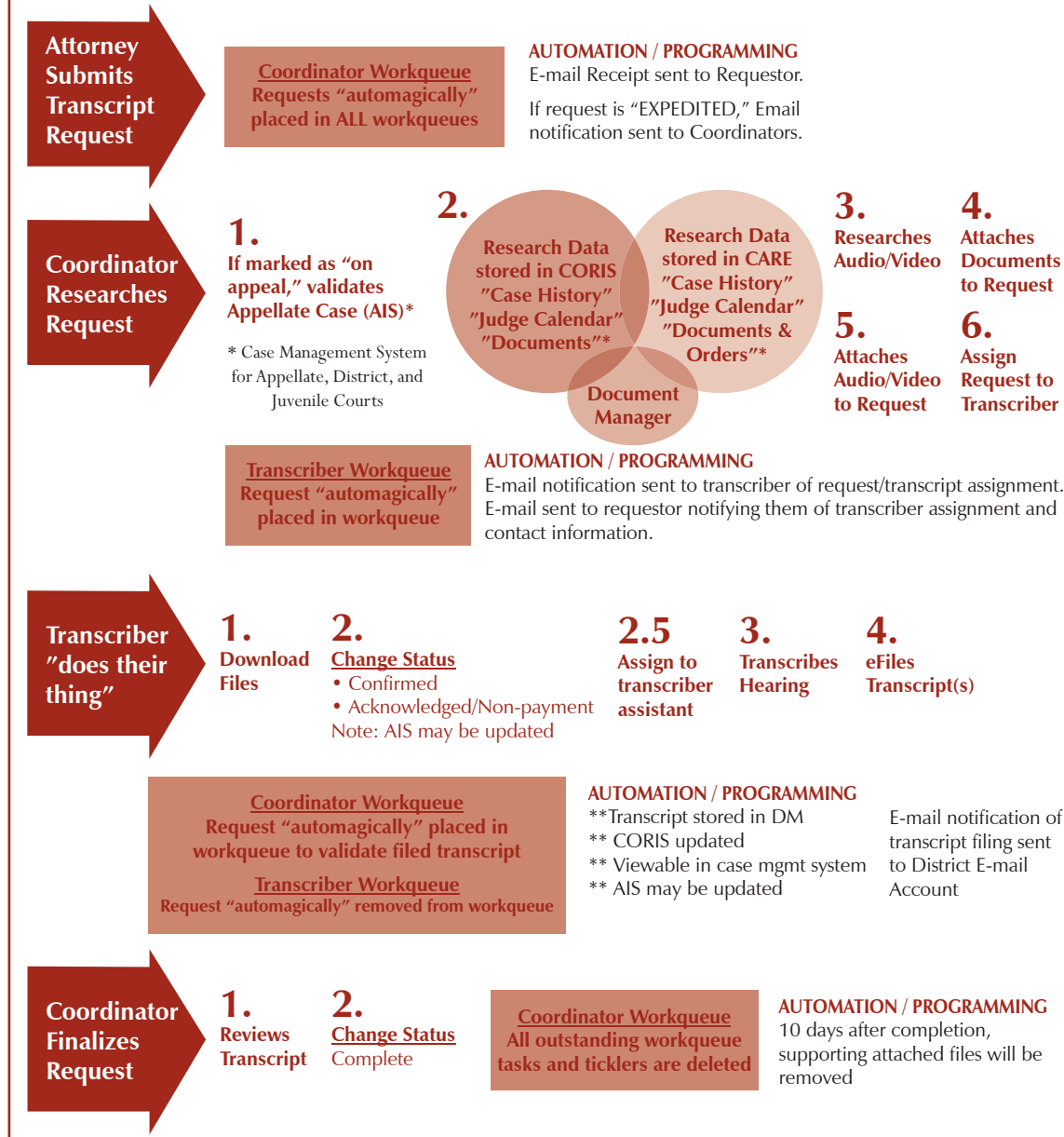
*We believe this transcript management system is a good illustration of what's possible if you are willing to honestly assess the shortcomings of an existing process, think creatively about centralizing a process, and apply technology with originality.*

All management of transcript ordering, recording and document retrieval, coordination and monitoring of transcript production, delivery, and filing is performed by one-and-a-half positions housed in the clerk's office for our court of appeals. This includes the processing of overnight transcript requests and expedited transcript requests. The coordinator has at her disposal transcript management reports, which include a transcriber summary (information on individual transcribers or all transcribers statewide, which reports on all active assignments during a specific time frame) and a status-tracking report (the number of requests received, number completed, number of cases on appeal, number of transcripts filed, average number of days for cases on appeal and cases not on appeal). The trial court clerks' offices have been freed up from all transcript-related work. Rule 4-201 of the Rules of Judicial Administration and Rule 12 of the Appellate Rules of Procedure set out procedures for taking the record, ordering transcripts, and delivering transcripts.

All transcript preparation is now performed by private transcribers, who are certified and licensed by the state and are on an official transcriber roster maintained by the transcript coordinator. The transcript coordinator remotely retrieves from the system the audio/video recording and all data required for transcription, attaches it to the request, and transmits the electronic package to the assigned transcriber. Requests are processed and sent to transcribers the same day they are received. Nightly processing identifies overdue transcripts; sends an e-mail to the requestor, transcriber, and coordinator; and creates work-queue items for the coordinator. Payment is made directly by the requestor to the transcriber, eliminating billing and accounts-receivable work previously performed by court staff (see chart on the next page).



## Transcript Management Application Process Flow



## Lessons Learned

Our ability to realize the above improvements required that a number of pieces come together, such as making a policy decision to rely exclusively on the digital record, having the right equipment and training in place in every courtroom, performing planning and coordination, and using innovative technology solutions. Ours is a statewide application covering all courts, but such a system could be replicated for an individual trial court. The lessons that we would pass on are:

- It is possible to rely exclusively on a digital record and, at the same time, improve system performance (see Conference of State Court Administrators, 2009). When this system went into place, the Rules of Judicial Administration carved out an exception that allowed trial judges to use a court reporter for capital cases, and a fund was set aside to pay for such reporters. The fact that there have been almost no expenditures from this fund reflects the confidence both the trial and appellate bench have in the digital record.
- A statewide system requires that equipment and system application planning take place in concert. All of our courtrooms have digital or video systems that are compatible, allowing the transcript coordinator to have immediate access to all audio or video records at any location in the state.
- The up-front programming necessary for integrating the transcript management system with existing case management systems was well worth the time. Being able to access the record and all related documents off a single system is key to the rapid turnaround time.
- Because of the ability to assemble the electronic record so quickly, transcripts can be delivered

routinely on an expedited basis. As a consequence, 45 percent of all requests are for expedited transcripts, which, in turn, increases the compensation for transcribers. It should be noted that a number of former court reporters are now providing transcription services.

- The success of the project was due to good planning, coordination, and execution. The project team, with representatives from appellate courts, Administrative Office of the Courts, and the AOC Information Technology Department, was made up of forward-thinking business and technology people.
- Attorneys and others making requests are pleased with the ease of ordering, the fact that the transcript coordinator serves as single point of contact, and the speed of transcript delivery.
- Trial judges appreciate the ease of accessing individual transcripts off the case management system, and court clerks do not miss the transcript work they previously performed.

We believe this transcript management system is a good illustration of what's possible if you are willing to honestly assess the shortcomings of an existing process, think creatively about centralizing a process, and apply technology with originality. In this instance, reengineering through centralization has been an unqualified success.

## **"INSOURCING" FOR BETTER SERVICE: THE NEW HAMPSHIRE COURTS' "LIVE" CALL CENTER**

### **Laura Kiernan**

Communications Director, State of New Hampshire, Judicial Branch

"The phones. The people at the counter. The questions. The courtroom support. The new filings coming in. The orders going out so people can move forward with their lives. Yet, if we had to design it all over again, it probably would not look the way it does" (Laconia District Court, Off-Hours Productivity Project).

The New Hampshire court system was dramatically restructured in July 2011, merging its three busiest jurisdictions—the district and probate courts and the family division—into a single circuit court that now handles more than 80 percent of the court system's entire caseload. Part of a leaner, more efficient framework for circuit court operations is a new centralized "call center," which, when up to full speed, will field an estimated 2,600 calls per day from 66 circuit court locations around the state. For court staff, the reprieve from responding to general telephone inquiries means more uninterrupted time to focus on case processing and on citizens who come to the clerk's office seeking assistance.

New Hampshire is rolling out its "live" call center slowly—expectations are that all 66 locations will be tied in by July 2012. But the early enthusiasm among the staff for this ambitious and unique project is clear. New call center employees were greeted with a standing ovation when they paid a visit to the 6th Circuit Court in Concord, one of the first sites linked to the call center.

"It was just an incredible difference," said clerk Diane Lane, whose busy staff is used to the distraction of constantly ringing telephones. "It's quiet."



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Justice Eileen C. Moore was charged with finding artwork for the new 4th District Court of Appeal building in Santa Ana, California with no budget. She contacted the school superintendent and then the probation department got involved. Students read court cases and depicted them in murals. This year's Trends cover was created by a 17 year old at Juvenile Hall. The case involved gang violations and disfiguring a public place and the young artist had also been charged with graffiti crimes. The resulting mural hangs in the courthouse, along with more than a dozen other paintings depicting Orange County, California cases.



