

**UTAH JUDICIAL COUNCIL  
TASK FORCE ON JUSTICE COURT REFORM**

**Via Webex**

**November 20, 2020  
12:00 p.m. – 2:00 p.m.**

**MEMBERS PARTICIPATING**

Judge Paul Farr, Chair  
Ms. Anna Rossi Anderson  
Mr. Paul Burke  
Ms. Kim Cordova  
Senator Kirk Cullimore  
Judge Brent Dunlap  
Mr. Ron Gordon  
Judge Roger Griffin  
Representative Craig Hall  
Judge Ryan Harris  
Ms. Joanna Landau  
Mr. Ryan Robinson  
Mr. George Sutton  
Mr. Roger Tew

**MEMBERS EXCUSED**

Judge Brian Brower  
Ms. Ann Marie Taliaferro  
Commissioner Jerry Taylor

**STAFF PARTICIPATING**

Mr. Michael Drechsel  
Ms. Cathy Dupont  
Ms. Amy Hernandez  
Ms. Nancy Merrill  
Mr. Jim Peters  
Ms. Kim Zimmerman

**GUESTS PARTICIPATING**

Ms. Elizabeth Klc  
Mr. Patrick Fleming  
Dr. Kim Free  
Mr. Adam Trupp  
Ms. Keisa Williams

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**MINUTES**

**1. Welcome and Approval of Minutes:**

Judge Farr welcomed everyone to the meeting. He asked for approval of the minutes from the meeting held on October 23, 2020.

***Motion: Ms. Joanna Landau made a motion to approve the minutes from the meeting held on October 23, 2020. Mr. Paul Burke seconded the motion. The motion passed unanimously.***

## **2. Improving Behavioral Health in the Justice Courts:**

Kim Cordova, Executive Director of the Commission on Criminal and Juvenile Justice (CCJJ), Elizabeth Klc, Director of Utah Substance Abuse Advisory Council, Patrick Fleming, Chair of the Utah Substance Abuse Advisory Council, and Adam Trupp, Assistant Director of the Utah Indigent Defense Commission, presented to the Task Force on Behavioral Health in the Justice Court System. When asked to make recommendations for reforms that the Task Force might consider, they wanted to present on something that had yet to be addressed. Both Ms. Cordova and Ms. Klc noted that, because so many who struggle with mental health have involvement with the justice courts at some point, this is certainly something that should be considered in connection with justice court reform.

Ms. Klc began by explaining that substance abuse and mental health disorders are chronic illnesses. Those who struggle with them may experience periodic acute episodes, which can result in their having to appear in a justice court. But by understanding the illness and responding with the best possible treatment, they can be held accountable for their actions. And it is the best way to help these vulnerable populations get on to a better path.

To explain the court's role in behavior health treatment, Ms. Klc and others discussed the importance of understanding behavior health disorders, the treatment available for them, and how the court can best use its authority to get people connected with services. She explained where the courts fit into the Sequential Intercept Model, reviewed the principles behind the Justice Reinvestment Initiative and described how they inform the future in behavioral health treatment and the criminal justice system.

Mr. Trupp emphasized the importance of collaboration in this effort. It's one of the most crucial parts for making JRI a success and it is key to improving behavioral health in the justice courts. The Task Force had further discussion with the presenters about working to improve the system through collaboration. Judge Farr asked the presenters what specific recommendations they would make as the Task Force considers changes (structural or otherwise) to the justice courts. Suggestions included the following:

- Create local approaches to addressing behavioral health
- Create local criminal justice committees to bring different parts of the system together
- Address barriers to treatment in the rural areas

As a final thought, Mr. Trupp reiterated the importance of understanding that substance abuse disorders and mental health disorders are chronic illnesses with periodic acute episodes. Deal with the acute episode, understand the illness and identify the best treatment for each person. Judge Farr thanked Ms. Cordova, Ms. Klc, Mr. Trupp and Mr. Fleming for their time and presentation.

### **3. Pretrial Release:**

Judge Farr explained that pretrial release is a practice that has been evolving recently, and it may be that justice court reform can be designed to accommodate some of the changes that still lie ahead. As it works right now, a probable cause affidavit has to be filed by law enforcement within 24 hours when someone is arrested without a warrant. A judge then reviews the information provided by the arresting officer and decides whether the arrest was justified. If it wasn't, the arrestee is immediately released. If it was, the judge has to then determine whether the person needs to remain in custody until trial or whether he or she can be released on their own recognizance or whether it is appropriate to impose monetary bail or other conditions. If the decision is not made by the judge within 24 hours of the booking, the defendant gets released. If a judge orders that the arrestee be held, the prosecution has to file charges by the fourth calendar day or the defendant will be released. Historically, judges have relied heavily on bail, but recent reforms have discouraged that practice because a person's ability to post bail has nothing to do with their risk to reoffend.

Ms. Keisa Williams joined the meeting to discuss some of the changes taking place with regard to pretrial release. She is an attorney with the Administrative Office of the Courts and staffs the Judicial Council's Standing Committee on Pretrial Release and Supervision. This committee is chaired by Judge Harmon, and includes representatives from CCJJ, judges from the district and justice courts, and stakeholders from law enforcement and the legislature. Ms. Williams has been working to standardize the process for reviewing probable cause statements across the state, provide a pretrial risk assessment for judges that review them, and provide assistance to those counties trying to implement a pretrial supervision program. Lately the focus has been on implementing HB 206, which took effect October 1. The committee has been hearing feedback from those concerned about the impact that pretrial reform may have on public safety. As more suspects are released from jail, the more it becomes an issue. Two ideas for ameliorating the public safety concern, which should be considered in connection with justice court reform, include the following:

- Shortening the time frame. Initial appearances should be held within 48 hours of a person's arrest (including weekends and holidays) and defendants should be represented by counsel. Prosecutors who need more time can file a motion to that effect.
- Use Special Magistrates. Some could be used for initial appearances, while others could be utilized on a regional basis for other hearings.

As more than half of the justice court judges are part time, Judge Farr wondered whether the justice courts could handle the pretrial release changes without hiring special magistrates. He indicated that the Task Force will be looking at different models for how the justice court could be restructured, some of which include magistrates. He is hoping to discuss the different models at next month's meeting. Judge Farr would like to continue working with Ms. Williams to coordinate the reforms that the Task Force proposes with the pretrial release efforts that Ms. Williams is working on.

#### **4. Review Operating Expenses of Utah's Justice Courts:**

Mr. Peters was asked to present on Justice Court finances. He had previously explained how fines and surcharges collected by justice courts are divided among the entity operating the court, the entity prosecuting the charge, and the State Treasurer (which, in turn, is allocated among several entities). Today he presented what he's been able to learn about the cost of operating the justice courts. Although expenditures will be compared against the revenue those courts collect, the intent is not to conclude whether a court or courts are "profitable." He emphasized that the purpose for having and running a justice court is not to make money--even though it may be viewed that way at the local level. Like other government agencies, the purpose of having a justice court is to provide a service that benefits the residents of a particular community. For that reason, the Board of Justice Court Judges made recommendations back in July that relate to the financial aspects of operating a justice court. These include the following:

- The budget of any justice courts that remain in local control should be standardized by basing them on weighted caseload
- Courts should be funded by general government funds
- Funds used to supply advocates, like indigent defense services and prosecutorial services, should be excluded from court budgets
- Court activities should be decoupled as much as possible from revenue generation

Mr. Peters described the methodology he employed to gather and analyze the financial information for 120 justice courts. Fiscal years are defined differently for cities and counties, so for the cities he asked for expenditures for the years ended June 30, 2020, June 30, 2019 and June 30, 2018. For the counties, he asked for expenditures for the calendar years 2019, 2018 and 2017. For a variety of reasons, it made sense to disregard everything but the data relating to fiscal year 2018. For expenditures, he obtained data from both the state auditor and, for 68% of the courts, directly from local government. Where he had numbers from both sources and they weren't identical, he used the higher of the two amounts. For revenue, he used data obtained from a report available in CORIS, the application that justice courts use to receipt payments. The figure for "revenue retained" derived from these reports includes "Fines and Forfeitures Retained," "Fees/Costs/Contempt Fines Retained" and the portion of the Security Surcharge (20% of \$32) that local government retains. Using this approach, Mr. Peters calculated revenue for all courts in the state to be \$44,666,055 in fiscal year 2018. He tallied expenses of \$42,617,590 for the same period. When viewed on a statewide basis, he concluded that justice courts are running at about break even.

Mr. Peters also compared revenues and expenses at the district and county levels, as well as by workload. Mr. Peters then addressed questions and Judge Farr thanked him for all his work.

## **5. Other Business:**

Judge Farr encouraged the Task force to observe a justice court calendar before the next meeting. Most hearings should be available remotely. Webex links can be found for specific hearings at specific sites by bringing up the docket at [www.utcourts.gov/cal](http://www.utcourts.gov/cal). Judge Farr also indicated that presentations for the Task Force are now complete. Starting next month, the Task Force will need to start formulating recommendations for the Judicial Council.

## **6. Adjourn:**

There being no other business, the meeting adjourned at 2:00 p.m.

## **NEXT MEETING:**

**December 18, 2020  
Via Webex  
12:00 p.m. – 2:00 p.m.**