

JUDICIAL COUNCIL MEETING

AGENDA

Monday, February 27, 2017

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

1. 9:00 a.m. Welcome & Approval of Minutes Chief Justice Matthew B. Durrant
(Tab 1 - Action)
2. 9:05 a.m. Chair's Report. Chief Justice Matthew B. Durrant
3. 9:10 a.m. Administrator's Report. Daniel J. Becker
4. 9:20 a.m. Reports: Management Committee. . . . Chief Justice Matthew B. Durrant
Liaison Committee. . . . Justice Thomas Lee
Policy and Planning Judge Derek Pullan
Bar Commission. . . . John Lund, esq.
(Tab 2 - Information)
5. 9:30 a.m. Rule for Comment. Judge Derek Pullan
(Tab 3 – Action) Nancy Sylvester
6. 9:40 a.m. Language Access Committee Update and Judge Rick Romney
Committee Reauthorization Keisa Williams
(Action)
7. 10:00 a.m. Approval of the District Court Judicial Weighted
Caseload. Debra Moore
(Action)
8. 10:10 a.m. Ethics Advisory Committee Update. Judge Michele Christiansen
(Information) Brent Johnson
- 10:30 a.m. Break
9. 10:40 a.m. Judicial Outreach Committee Update. Geoff Fattah
(Information)
10. 11:00 a.m. Interlocal Agreement between Helper City and
Carbon County. Jim Peters
(Tab 4 – Action)

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|-----|------------|---|------------------------------------|
| 11. | 11:10 a.m. | Legislative Update and Appropriations Highlights. | Daniel J. Becker
Rick Schwermer |
| 12. | 11:40 a.m. | Audit of Monetary Bail. | Rick Schwermer |
| | 12:10 p.m. | Lunch | |
| 13. | 12:30 p.m. | Executive Session | |
| 14. | 1:00 p.m. | Adjourn | |

Consent Calendar

The consent items in this section are approved without discussion if no objection has been raised with the Admin. Office (578-3806) or with a Council member by the scheduled Council meeting or with the Chair of the Council during the scheduled Council meeting.

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|--|---|
| 1. Committee Appointments
(Tab 6) | Brent Johnson
Clayson Quigley
Nancy Sylvester |
| 2. New Forms Committee – Membership
(Tab 7) | Brent Johnson |
| 3. Grant Approval
(Tab 8) | Dawn Marie Rubio |

TAB 1

JUDICIAL COUNCIL MEETING

Minutes

Monday, January 23, 2017

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Justice Thomas Lee
Hon. Marvin Bagley
Hon. Ann Boyden
Hon. Mark DeCaria
Hon. Thomas Higbee
Hon. David Marx
Hon. Mary Noonan
Hon. Reed Parkin
Hon. Derek Pullan
Hon. Todd Shaughnessy
Hon. Kate Toomey
John Lund, esq.

EXCUSED:

Hon. Paul Farr

STAFF PRESENT:

Daniel J. Becker
Jody Gonzales
James Ishida
Debra Moore
Jim Peters
Dawn Marie Rubio
Rick Schwermer
Ron Bowmaster
Kim Allard
Karolina Abuzyarova
Tucker Samuelsen
Keisa Williams
Nancy Sylvester

GUESTS:

Hon. James Taylor
Jennifer Yim, JPEC
Shannon Sebahar, JPEC
Justice Deno Himonas
Justice John Pearce
Hon. David Connors

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

Motion: Judge Toomey moved to approve the minutes from the December 19, 2016 Judicial Council meeting. The motion was seconded, and it passed unanimously.

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

Chief Justice Durrant reported that the last of the local legislative meetings scheduled in each judicial district have been held.

3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

Arnold Foundation – Pre-Trial Release Assessment Tool Update. The contract has been signed. Preliminary work with the consultant should begin shortly. Implementation of the pre-

trial release assessment tool is expected within the next six months. Mr. Becker expressed his appreciation to Judge Todd Shaughnessy and Judge Paige Petersen for all their work on the Pre-Trial Release & Supervision Committee.

Legislative Audit. The Legislative Audit Subcommittee will meet on Thursday, January 26. The audit report on cash bail will be presented to the audit committee at this time.

Judicial Retirements. The following judges have announced their upcoming retirements: 1) Judge Samuel McVey, effective July 16, 2017; 2) Judge Dane Nolen, effective July 15, 2017; and 3) Judge Scott Hadley, effective August 1, 2017.

2017 Legislative Session. The appropriation subcommittees will begin their work on Wednesday, January 25. Each state agency has been asked by their respective legislative fiscal analyst to look at where budgets could be reduced by two percent.

Executive Session. An executive session will be held at the end of the meeting.

State of the Judiciary Address. Chief Justice Durrant will deliver the State of the Judiciary address this afternoon. Transportation to the Capitol will be provided for Council members able to attend.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durrant reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

Justice Lee reported on the following items: 1) meetings are being held weekly, 2) HB 239 – Juvenile Justice Amendments, 2) HB 19 – Civil Asset Forfeiture Reform Amendments, 3) SJR 4 – Joint Resolution Amending Rules of Evidence – Victim Selection, and 4) Mr. Schwermer will address bills pertinent to the courts with his legislative update later in the meeting.

Policy and Planning Meeting:

Judge Parkin reported on the following items: 1) discussion took place at the last meeting, with various stakeholders, on proposed amendments to CJA 6-103 – District Court Tax Judges, and 2) Judge Pullan was appointed as the chair of the Policy and Planning Committee with Judge Parkin's term expiring.

Bar Commission Report:

Mr. Lund reported on the following items: 1) Judge Michele Christiansen has been selected to receive the Dorothy Merrill Brothers Award (for the advancement of women in the legal profession), 2) Judge Vernice Trease has been selected to receive the Raymond S. Uno Award, and 3) Mr. H. Dickson Burton has been nominated as the president elect for the Utah State Bar.

5. LEGISLATIVE UPDATE AND INTERIM HIGHLIGHTS: (Rick Schwermer)

Mr. Schwermer highlighted the following in his legislative update: 1) tax commission – classification of records matter, 2) copy of draft rules to legislative research prior to upcoming Council meetings, 3) judiciary amendments, 4) HB 77 – Fifth District Court Judge, 5) protected draft of the juvenile justice recommendations, 6) SB 134 – Indigent Defense Commission Amendments, 7) SB 71 – Criminal Accounts Receivable Amendments, 8) HB 72 – Child Welfare Proceedings Amendments, 9) Judicial Performance Evaluation Commission

amendments, 10) SJR 4 – Joint Resolution Amending Rules of Evidence – Victim Selection, and 11) several DUI bills.

6. SMALL CLAIMS JURY COMMITTEE REPORT: (Judge Kate Toomey and Keisa Williams)

Judge Toomey provided background information relative to creation of the Small Claims Jury Committee. She highlighted the following regarding creation of the committee and provided an update on behalf of the committee:

- On June 1, 2016, in *Simler v. Chielel*, 2016 UT 23; the Utah Supreme Court concluded that “the right to a jury trial...exists in small claims cases at the trial de novo stage,; and “(t)herefore, Utah Code § 78B-1-104(4) is an unconstitutional deprivation of article I, section 10’s guarantee of the right to jury trial in appeals from small claims judgment to district court.” *Id.* ¶¶ 13, 17.
- The court also suspended rule 81(c) of the Utah Rules of Civil Procedure “insofar as it precludes incorporation of the jury-related rules of civil procedure to trials de novo on appeals from the small claims court, pending further action to align the Utah Rules of Small Claims Procedure with this opinion.: *Id.*, n5.
- In June 2016, the Utah Supreme Court and the Judicial Council created the Small Claims Jury Committee to address issues relating to the Supreme Court’s action regarding this matter.
- Members of the committee were noted
- In July 2016, the committee developed temporary amendments to avoid violations of the constitutional right to a jury while a more extensive review could be conducted. The Supreme Court approved the temporary amendments, which are currently in place.
- The committee charge included: 1) develop of options for the Court’s consideration, and 2) to obtain feedback from the affected boards of judges, as well as, affected practitioners.

The current practice as outlined in the rule in small claims cases includes:

- Petitioner has the choice to file in justice or district court and demand a jury
- Defendants have a removal right to remove a case from justice court to district court and demand a jury
- Once in district court, the case is converted to a civil case and is subject to the Rules of Civil Procedure and Evidence
- Appeal rights are the same as any district court case – as if the case was filed initially in district court

Three draft rule amendments were reviewed:

Option 1:

- ❖ Bench trial in justice court
- ❖ Jury trial in district court on initial filing by plaintiff or removal by defendant with Tier 0.5 procedures
- ❖ Appeal from bench trial to district court (de novo)
- ❖ Appeal from jury trial to Court of Appeals expedited rules

Option 2:

- ❖ Bench trial in justice court (no removal right)
- ❖ Jury trial on appeal to district court only – pursuant to small claims rules

Option 3:

- ❖ Same as Option 1, except: Appeals are record reviews only and heard by a three-judge panel in the district court

Questions were asked and concerns were expressed relative to the options presented.

Discussion took place.

Judge Toomey and Ms. Williams mentioned that feedback is still being gathered. They requested that anyone interested in providing further feedback on the recommended options be submitted to Ms. Williams.

**7. JUDICIAL PERFORMANCE EVALUATION COMMISSION UPDATE:
(Jennifer Yim and Shannon Sebahar)**

Chief Justice Durrant welcomed Ms. Yim and Ms. Sebahar to the meeting.

Ms. Yim welcomed and introduced Ms. Sebahar to members of the Council.

Ms. Sebahar provided her background information and work experience.

Ms. Yim and Ms. Sebahar highlighted the following in their update to the Council: 1) retention election and JPECs involvement during the pre-election time frame, 2) attorney exclusions when they are referred to the Office of Professional Conduct, 3) the Commission participated in training on implicit bias in November – the same training provided to the judiciary, 4) determine how implicit bias affects survey respondents, 5) increasing the quality of training and the training relative to implicit bias as it relates to court room observers, 6) look at the deliberative process as commissioners, to determine what can be done to minimize the role implicit bias plays in the decision making process regarding the votes for recommendations for retention of judges, 7) hiring a survey research contractor to address survey questions and make changes that will reduce the level of implicit bias, 8) a deliberative process change – regarding use of a blind review of judges, and 9) research has been completed on attorney response rates.

Questions were asked of Ms. Yim. Responses were provided to questions asked of her. Chief Justice thanked Ms. Yim and Ms. Sebahar for their update.

**8. PRESENTATION ON NEW METHODOLOGY FOR THE DISTRICT COURT
JUDICIAL WEIGHTED CASELOAD: (Judge James Taylor, Tucker Samuelsen,
and Kim Allard)**

Chief Justice Durrant welcomed Judge Taylor, Mr. Samuelsen, and Ms. Allard to the meeting.

Judge Taylor provided background information on the current methodology used in calculating judicial weighted caseload in district court. He highlighted the following as he referred to the current process being used to include:

- The Board of District Court Judges had determined that it had been some time since the current formula used to calculate judicial weighted caseload had been reviewed
- Significant changes had taken place in district court that could impact the judicial weighted caseload, i.e., conversion to e-filing, implementation of JRI, etc.

- Current methodology used in calculating judicial weights was driven by the best assumptions regarding the amount of time it took to do a particular type of case, which cannot always be accurate
- The Board of District Court Judges determined that modification to the methodology used in calculating judicial weighted caseload needed to take place
- New methodology to focus not on an estimate on a time per case, but on a time per behavior/conduct was considered

Mr. Samuelson highlighted the following in his presentation regarding the proposed new methodology for the district court weighted caseload to include:

- Review of the current methodology used in calculating judicial weighted
- Focus areas for current methodology
 - ❖ Underestimates for cases that occasionally have extremely high workload
 - ❖ Does not account for changes in workload within cases without resurveying
 - ❖ Overestimates time for cases without hearings
- Amended the survey mechanics to include:
 - ❖ Hearing type
 - ❖ Prep time
 - ❖ Hearing time
 - ❖ Time to Memorialize
 - ❖ Notes
- Revised survey weights
- Revision made to calculate for complex civil weights
- Examples were provided in calculating weights for the following case types
 - ❖ Condemnation
 - ❖ Malpractice
 - ❖ Eviction
 - ❖ Felony
- Review of the recommended weights in criminal, civil, domestic and probate case types
- Review of the change in workload with the new weights

Mr. Samuelson provided clarification regarding questions asked of him.

It was recommended to approve the recommended weights as calculated using the new methodology. Action will be taken at the February Judicial Council meeting.

9. ONLINE DISPUTE RESOLUTION (ODR) STATUS REPORT: (Justice Deno Himonas and Melisse Stiglich)

Chief Justice Durrant welcomed Justice Himonas and Melisse Stiglich to the meeting.

Justice Himonas reported that a copy of the information regarding Utah Small Claims Online Dispute Resolution is included in the Council material.

He mentioned that he participated as a panelist in a plenary session regarding *Online Dispute Resolution* at the COSCA Midyear meeting held in December, and Mr. Ron Bowmaster presented the same information at the e-Courts 2016 Conference in Las Vegas held in December.

Justice Himonas introduced Ms. Melisse Stiglich, ODR coordinator. She provided her background regarding her involvement.

Justice Himonas and Ms. Stiglich highlighted the following in their report on the status of online dispute resolution:

- Dedicated coder will be available in February
- For use with small claims court online dispute resolution
- ODR design included:
 - ❖ Educate and evaluate
 - ❖ Communication between parties
 - ❖ Information gathering
 - ❖ Adjudication
 - ❖ Post Judgment

Justice Himonas reported that input was received from both filers at the last meeting, where positive input was received.

Justice Himonas and Ms. Stiglich responded to questions asked of them.

Chief Justice Durrant thanked Justice Himonas and Ms. Stiglich for their update.

10. JUVENILE INDIGENT REPRESENTATION COMMITTEE

RECOMMENDATIONS: (Justice John Pearce and Keisa Williams)

Chief Justice Durrant welcomed Justice Pearce and Ms. Williams to the meeting.

Justice Pearce and Ms. Williams provided an update, from what was presented to the Council at their November meeting, on the Juvenile Indigent Representation Committee recommendations which included:

- Primary Charge
- Committee Findings
- Data Collection Recommendations – CARE should track (by attorney, county and case type):
 - ❖ Number of cases in which a contracted attorney has been appointed
 - ❖ Number of clients each attorney has been appointed to represent and who they are representing (minor/parent)
 - ❖ Number of additional private cases assigned to contracted attorneys
 - ❖ Appearance rate of attorneys in contracted cases
 - ❖ The stage of the proceeding in which attorneys are appointed
 - ❖ Per contracted attorney, number of missed appearances on contracted cases
 - ❖ Number of times an appointed attorney made no appearance in a felony delinquency case
- A bill file has been opened, by Senator Todd Weiler, to address the statutory amendments with the Indigent Defense Commission
- The proposed recommendations included:
 - ❖ The Judicial Council should support the proposed Indigent Defense Commission (IDC) statutory amendments
 - ❖ If the legislation passes, the Judicial Council should provide the Indigent Defense Commission (IDC) with the committee's best practice recommendations and model contracts for consideration
 - ❖ If the legislation does not pass, the Judicial Council should publish a final report with detailed recommendations and model contracts for country implementation
 - ❖ The Judicial Council should require the CARE IT team to implement the committee's data collection recommendations in future programming updates

- Data Collection Clarification
 - ❖ It is the intention of the Committee that private data collection will take place between the County and the attorney who is hired, provided for in the language of the draft model contracts
 - ❖ Draft model contracts were developed to address juvenile parental defense and juvenile delinquency

Questions were asked of Justice Pearce and Ms. Williams, and clarification was provided.

Motion: Mr. Lund moved to adopt the proposed recommendations relative to juvenile indigent representation as prepared by the Juvenile Indigent Representation Study Committee. Judge Toomey seconded the motion, and it passed unanimously.

Chief Justice Durrant thanked Justice Pearce and Ms. Williams for their update.

11. WINGS COMMITTEE REPORT: (Judge David Connors and Karolina Abuzyarova)

Chief Justice Durrant welcomed Judge Connors and Ms. Abuzyarova to the meeting. Judge Connors and Ms. Abuzyarova highlighted the following in their update:

- Focus of the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) includes:
 - ❖ Oversee guardianship practice
 - ❖ Address key policy issues
 - ❖ Improve the current system of guardianship and less restrictive alternatives
 - ❖ Engage in outreach and education
 - ❖ Enhance the quality of care and quality of life of vulnerable adults
- Development and refinement of self-help procedures, to have available the appropriate forms for family members involved in the guardianship process
- Secured grant funding in the amount of \$30,000 from the Utah State University Center for Persons with Disabilities to allow for funding of classes on advance life planning and guardianship in FY17
- 97 professionals and caregivers in Vernal, Logan, Ogden, Provo, and Salt Lake City were trained in the first and second quarters of FY17
- Referenced the 2017 Advance Life Planning/Guardianship class schedule
- The online training program on advance life planning and guardianship has been completed and is available for use. Translation into Spanish of the online training program is in progress.
- Creation of an online training program on the standards of practice for family guardians is in progress.
- Permanent funding of the Court Visitor Program has been requested for consideration during the 2017 Legislative Session, with a presentation scheduled on February 8
- Creation of a subcommittee to address matters regarding as Judicial Response Protocol in cases of identified abuse and neglect is in progress
- Grant funding has been requested through application for the Elder Justice Innovation Grant of the U.S. Administration for Community Living to enhance court oversight in adult guardianship
- Evaluation of the impact of the Court Visitor Volunteer Program is in progress

Judge Connors and Ms. Abuzyarova were thanked for their update on behalf of the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS).

12. JUSTICE COURT JUDGE CERTIFICATION: (Jim Peters)

Mr. Peters recommended certification for the following new justice court judges: 1) Judge Anna Rossi Anderson, South Salt Lake Justice Court; 2) Judge Clay Stucki, Ogden City Justice Court; 3) Judge George Voiduc, Midvale City Justice Court; 4) Judge Kelly N. Schaeffer-Bullock, Alpine/Highland Justice Court; 5) Judge Michael Boehm, South Jordan Justice Court; 6) Judge Michael Junk, Ogden City Justice Court; 7) Judge Morgan Cummings, Lehi City Justice Court; 8) Judge Thad Seegmiller, Washington City Justice Court; and 9) Judge Trent Nelson, Roy City Justice Court.

Motion: Judge Marx moved to certify the justice court judges being recommended for certification. Judge Parkin seconded the motion, and it passed unanimously.

Motion: Judge Toomey moved to enter into an executive session to discuss the character, competence, or physical or mental health of an individual. Judge DeCaria seconded the motion, and it passed unanimously.

13. EXECUTIVE SESSION:

An executive session was held at this time.

Motion: Judge Pullan moved to refer the matter regarding the judge discussed in an executive session to the Judicial Conduct Commission. Justice Lee seconded the motion, and it passed unanimously.

14. ADJOURN

The meeting was adjourned.

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

Sworn Statement under Rule 2-103(4)(B) of the Utah Code of Judicial Administration Regarding Judicial Council Meeting Closure

Judge Kate Toomey

I, ~~Justice Matthew B. Durrant~~, state as follows:

1. On 01-23-17 (date), the Judicial Council closed its meeting. The meeting was closed only to discuss:

- ☒ the character, competence, or physical or mental health of an individual;
- ☐ litigation;
- ☐ the deployment of security personnel, devices, or systems;
- ☐ allegations of criminal misconduct;
- ☐ consideration of a private, protected, sealed, juvenile court social, juvenile court legal, or safeguarded record;
- ☐ the purchase, or exchange or lease of real property because public discussion would prevent the Council from completing the transaction on the best possible terms; or
- ☐ the sale of real property because public discussion would prevent the Council from completing the transaction on the best possible terms.

2. For the reason(s) noted above, a recording and minutes were not kept during the closed portion of the meeting.

I declare under penalty of perjury that the statements made in this document are true and correct.

23 Jan 2017

Date

Kate A Toomey

~~Justice Matthew B. Durrant~~

Vice Chair, Utah Judicial Council

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

TAB 2

Management Committee Minutes

**JUDICIAL COUNCIL MANAGEMENT COMMITTEE
MINUTES**

**Monday, February 14, 2017
Matheson Courthouse
450 South State Street
Salt Lake City, Utah 84111**

MEMBERS PRESENT:

Chief Justice Matthew B. Durrant
Hon. Kate Toomey, vice chair
Hon. Thomas Higbee (by phone)
Hon. David Marx
Hon. Todd Shaughnessy

EXCUSED:

GUESTS:

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
James Ishida
Debra Moore
Jim Peters
Dawn Marie Rubio
Rick Schwermer
Brent Johnson
Heather Mackenzie-Campbell (by phone)
Rob Parkes
Clayson Quigley
Nancy Sylvester

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant welcomed everyone to the meeting. After reviewing the minutes, the following motion was made:

Motion: Judge Toomey moved to approve the January 9, 2017 Management Committee meeting minutes. Judge Marx seconded the motion, and it passed unanimously.

2. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker provided the following update:

2017 Legislative Session. The Appropriation Subcommittees will hold their final meetings this afternoon and vote on their budget priorities. Executive Appropriations is scheduled to meet on Thursday. Revenue projects are expected to be released sometime this week.

Legislative Audit. The legislative audit report on cash bail was presented to the Legislative Audit Committee on January 26. The matter has been referred to the Judiciary Interim Committee.

Judicial Performance Evaluation Commission. Ms. Yim contacted Mr. Becker regarding a proposal that would provide attorney CLE credit if an attorney completed a judicial retention related training module in conjunction with completing an attorney survey. This would be presented as an option. This proposal is going to be presented at the next Commission meeting.

3. COMMITTEE APPOINTMENTS: (Brent Johnson, Clayson Quigley, and Nancy Sylvester)

The Ethics Advisory Committee recommended the reappointment of Judge Michele Christiansen as a member and the chair of the committee.

Motion: Judge Shaughnessy moved to reappoint Judge Michele Christiansen as a member and committee chair of the Ethics Advisory Committee and place it on the February Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

The Uniform Fine and Bail Schedule Committee recommended the appointment of Judge Brook Sessions to serve as the justice court judge representative with Judge John Baxter's term expiring.

Motion: Judge Toomey moved to approve the appointment of Judge Brook Sessions to serve as the justice court judge representative on the Uniform Fine and Bail Schedule Committee and place it on the February Judicial Council consent calendar. Judge Marx seconded the motion, and it passed unanimously.

The Committee on Resources for Self-Represented Parties recommended the appointment of Mr. Jacob Kent to serve as the Online Court Assistance Program (OCAP) representative due to a vacancy left with Mr. Eric Mittlestadt resigning.

The Committee on Resources for Self Represented Parties recommended the following reappointments: 1) Ms. Susan Griffith, community member representative; 2) Mr. Chris Martinez, legal service representative; and 3) Ms. Virginia Sudbury, private attorney experienced in providing services to self-represented parties, and an exception is being requested to allow her to serve a third term.

Motion: Judge Marx moved to approve the appointment of Mr. Jacob Kent to serve as the Online Court Assistance Program (OCAP) on the Committee on Resources for Self-Represented Parties and to approve the following reappointments: 1) Ms. Susan Griffith, community member representative; 2) Mr. Chris Martinez, legal service representative; and 3) Ms. Virginia Sudbury, private attorney experienced in providing services to self-represented parties, and granting an exception to the term limit for Ms. Sudbury and place it on the February Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

The Model Civil Jury Instructions Committee has a vacancy for a practitioner who primarily represents defendants with Mr. Gary Johnson announcing his retirement. The following attorneys have expressed interest: 1) Mr. Adam Buck, 2) Mr. Adam Strachan, 3) Ms. Anna Nelson, 4) Mr. Brian Miller, 5) Ms. Chelsey Phippen, 6) Mr. Eric Maxfield, 7) Mr. Kevin Simon, 8) Mr. Mark Dunn, 9) Mr. Michael Miller, 10) Mr. Perrin Love, 11) Ms. Ruth Shapiro, 12) Mr. Ryan Marsh, 13) Mr. Steve Combe, and 14) Mr. Stewart Hartman.

The Model Civil Jury Instructions Committee recommended the appointment of Ms. Ruth Shapiro to serve as a practitioner representative, who primarily represents defendants.

Motion: Judge Shaughnessy moved to approve the appointment of Ms. Ruth Shapiro to serve as a practitioner representative, who primarily represents defendants, on the Model Civil Jury

Instructions Committee and place it on the February Judicial Council Consent Calendar. Judge Marx seconded the motion, and it passed unanimously.

4. NEW FORMS COMMITTEE – MEMBERSHIP: (Brent Johnson)

The following are being recommended for appointment as members of the new Committee on Court Forms:

- Judge James Taylor, Fourth District Court Judge
- Judge Elizabeth Lindsley, Third District Court Juvenile Court Judge
- Judge John Carl Ynchausti, Farmington City Justice Court Judge
- Guy Galli, team manager
- Mary Westby, Appellate Court Staff Attorney
- Mary Jane Ciccarello, Self-Help Center
- Commissioner T. Patrick Casey, Online Court Assistance Committee
- Stewart Ralphs, Legal Service Representative (serves low-income clients)
- Randy Dryer, Utah State Bar Representative

Motion: Judge Shaughnessy moved to approve the recommended names for appointments as members of the new Committee on Court Forms and place it on the February Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

Motion: Judge Shaughnessy moved to appoint Mr. Randy Dryer as the chair of the Committee on Court Forms and place it on the February Judicial Council consent calendar. Judge Toomey seconded the motion, and it passed unanimously.

5. THIRD DISTRICT – TOOELE COUNTY – JUVENILE COURT FINAL AUDIT REPORT: (Heather Mackenzie-Campbell)

Chief Justice welcomed Ms. Mackenzie-Campbell to the meeting.

Ms. Mackenzie-Campbell reviewed the results from the final audit report for the Third Judicial District – Tooele County Juvenile Court. She highlighted the following in her report: 1) the court is staffed with three full-time and one part-time judicial support employees, 2) the court reported 743 cases were filed in FY 2016, 3) collected revenue for the audit period was \$38,898, 4) total trust ending balance as of August 31, 2016 was \$28,265, 5) identified 10 commendable procedures, 6) identified two observations as significant areas for improvement, and 7) held an entrance and exit conference.

FIRST DISTRICT – CACHE COUNTY – HYRUM CITY JUSTICE COURT FOLLOW-UP REVIEW: (Heather Mackenzie-Campbell)

Ms. Mackenzie-Campbell reminded members of the Management Committee that the original audit report was completed in April 2016 and presented to them at their May meeting. At that time, the Management Committee requested a follow-up review be completed in six months. The follow-up review was recently completed. Ms. Mackenzie-Campbell highlighted the following relative to the follow-up review: 1) 63% of the action plan has been implemented, 2) 19% of the action plan has been partially implemented, 3) 4% of the action plan has not been implemented, and 4) 14% of the action plan – no transactions are available to verify implementation.

Discussion took place.

Motion: Judge Toomey moved to accept the Third District – Tooele County – Juvenile Court Final Audit Report and First Judicial District – Cache County – Hyrum City Justice Court Follow-Up Review as prepared, with a request to be made to the judge of the Hyrum City Justice Court to respond within six months as to what action has been taken on the partially implemented items and the items not yet implemented. If action has not been taken on these items, a response from the judge as to why action has not been taken. Judge Higbee seconded the motion, and it passed unanimously.

6. GRANT APPROVAL: (Dawn Marie Rubio)

Grant funding provided by a Juvenile Accountability Block Grant for PO/DPO Safety Training and Evidence-Based Practices Training was requested in the amount of \$80,044 with a general-fund match of \$8,894, totaling \$88,938. Ms. Rubio mentioned that the Board of Juvenile Court Judges approved this grant request.

Motion: Judge Shaughnessy moved to approve the Juvenile Accountability Block Grant for PO/DPO Safety Training and Evidence-Based Practices Training in the amount of \$88,938 and place it on the February Judicial Council consent calendar. Judge Higbee seconded the motion, and it passed unanimously.

7. E-FILING EXEMPTION – JUVENILE COURT: (Dawn Marie Rubio)

Mr. David Drake requested a permanent e-filing exemption for Utah Juvenile Courts be granted.

Discussion took place.

Motion: Judge Shaughnessy moved to not grant the e-filing exemption as requested by Mr. David Drake, but to request the juvenile court staff to offer Mr. Drake assistance and provide the necessary e-filing training. Judge Toomey seconded the motion, and it passed unanimously.

8. JUDICIAL ASSISTANT QUALIFICATIONS: (Rob Parkes)

Chief Justice Durrant welcomed Mr. Parkes to the meeting.

Mr. Parkes provided background information on the clerical restructuring that took place in 2008. He highlighted the following: 1) two levels of clerical staff were designated in the clerical restructuring recommendations, 2) judicial service representative classification, 3) judicial assistant classification, 4) elimination of the juvenile service representative position in 2015 and the reasoning behind its elimination, 5) focus on the specific skill set acquired by receipt of a bachelor's degree rather than the degree aspect was noted, and 6) degree and turnover rate statistics.

The proposal recommended by the Board of District Court Judges for external candidates would allow them to have five years of experience working in the legal field with a law firm, legal agency or court OR a BA degree.

It was mentioned that a market comparability study is slated for the upcoming fiscal year.

Discussion took place.

The Management Committee requested that human resource staff determine alternative equivalencies relative to the college degree qualification for the judicial assistant position and have it ready for discussion at the April Management Committee meeting.

9. INTERLOCAL AGREEMENT BETWEEN HELPER CITY AND CARBON COUNTY: (Jim Peters)

Mr. Peters provided background information relative to the request for an interlocal agreement between Helper City and Carbon County.

It was recommended to approve the interlocal agreement being requested.

Motion: Judge Toomey moved to refer the interlocal agreement between Helper City and Carbon County, with a February 1, 2017 effective date, to the Judicial Council for action at their February meeting. Judge Shaughnessy seconded the motion, and it passed unanimously.

10. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reviewed the proposed Judicial Council agenda for the February 27 Council meeting.

Motion: Judge Marx moved to approve the agenda for the February 27 Judicial Council meeting as amended. Judge Toomey seconded the motion, and it passed unanimously.

11. ADJOURN

The meeting was adjourned.

Liaison Committee Minutes

JUDICIAL COUNCIL LIAISON COMMITTEE MEETING

Minutes
Friday, January 27
Matheson Courthouse
Council Room

Justice Thomas Lee, Presiding

ATTENDEES:

Justice Thomas Lee
Hon. Mary Noonan
Hon. Mark DeCaria

STAFF PRESENT:

Daniel J. Becker
Rick Schwermer
Nancy Merrill
Debra Moore
Keisa Williams
Dawn Marie Rubio
Jim Peters
Nancy Sylvester

EXCUSED:

Judge Paul Farr

GUESTS:

Hon. Brendan McCullagh

1. WELCOME: (Justice Lee)

Justice Lee welcomed everyone to the meeting.

Nancy Sylvester made the following correction to the Liaison Committee meeting minutes on January 20, 2017.

- Nancy Sylvester was not present at the meeting.

***Motion:** Judge Mary Noonan moved to approve the amended minutes from the Liaison Committee Meeting on January 20, 2017. The motion was seconded. The motion carried unanimously.*

2. H.B. 162 Driving Under the Influence Classification And Sentencing Revisions (Chief Sponsor: Steve Eliason)

This bill modifies provisions related to classification of crimes and sentencing of individuals convicted of driving under the influence.

The Committee discussed several concerns with the bill, and raised policy suggestions regarding the home confinement time frame.

***Liaison Committee's position:** No position but if asked address the home confinement policy suggestions.*

3. **H.B. 170 Small Claims Amendments**
(Chief Sponsor: Karen Kwan) (Judge Paul Farr)

This bill modifies provisions regarding a small claims court.

Liaison Committee's position: No position

4. **H.B. 173 Parental Kidnapping Amendments**
(Chief Sponsor: Val K. Potter) (Judge Mary Noonan)

This bill creates the new offense of parental kidnapping.

Judge Noonan noted that lines 31-46 in the bill allow for kidnapping in some cases to be a class A offense. The Committee discussed cross reference definition concerns with lines 52-55. The Committee also discussed definition concerns with lines 36 and 37.

Liaison Committee's position: No position but address cross reference definitions and clarify the definition of "civil remedies" on line 36.

5. **H.B. 191 Judicial Performance Evaluation Commission Amendments**
(Chief Sponsor: V. Lowry Snow) (Justice Thomas Lee)

This bill modifies provisions related to the Judicial Performance Evaluation Commission.

Liaison Committee's position: No position

6. **H.B. 197 Custody And Adoption Amendments**
(Chief Sponsor: Timothy D. Hawkes) (Judge Mark DeCaria)

This bill addresses the grant of custody or adoption to adults who commit certain offenses.

The Committee has concerns about who is responsible for the background check, and the effective date.

Liaison Committee's position: No position but clarify who is responsible for the background check and raise concern over the effective date of the bill.

7. **H.B. 208 Jail Release Orders Amendments**
(Chief Sponsor: Ken Ivory) (Judge Paul Farr)

This bill modifies provisions related to jail release agreements and jail release court orders.

The Committee discussed the following concerns with the bill:

- Line 105
- Using the language "defendant" throughout the bill before the person is charged with the crime.

Liaison Committee's position: No position but raise concern on line 105 and raise the language concern with "defendant".

**8. S.B. 54 1st Sub (Green) Adoption Revisions
(Chief Sponsor: Todd Weiler) (Justice Thomas Lee)**

This bill amends the Utah Adoption Act.

The Committee raised concern with line 234, court hearings closed - interferes with the administration of justice.

Liaison Committee's position: No position but find out the intention of the bill.

**9. S.B. 71 1st Sub (Green) Criminal Accounts Receivable Amendments
(Chief Sponsor: Daniel W. Thatcher) (Judge Paul Farr)**

This bill makes changes in the monitoring and collection of criminal judgment accounts receivable.

The Committee discussed several drafting questions and concerns but the bill is policy.

Liaison Committee's position: No position

**10. S.B. 90 Vehicle Inspection and Registration Amendments
(Chief Sponsor: Jacob L. Anderegg) (Judge Paul Farr)**

This bill provides exemptions for certain infractions related to vehicle registration, safety inspection, and emissions inspection requirements.

Liaison Committee's position: No position

**11. S.B. 111 Unmanned Aircraft Amendments
(Chief Sponsor: Wayne A. Harper) (Judge Mark DeCaria)**

This bill modifies and establishes provisions related to unmanned aircraft.

Liaison Committee's position: No position

**12. S.B. 115 Compulsory Education Revisions
(Chief Sponsor: Jacob L. Anderegg) (Judge Mary Noonan)**

This bill amends provisions related to compulsory education.

Liaison Committee's position: No position

**13. Juvenile Justice Reform (Protected Version)
(Chief Sponsor:) (Judge Mary Noonan)**

This bill modifies provisions related to juvenile justice.

Mr. Schwermer began the discussion with a procedural update on the bill to the Committee. He highlighted several existing concerns in the bill. The concerns include separation of power issues, constitution interference, interferences with the administration of justice. The Committee discussed possibilities to productively communicate the concerns of the Court.

Liaison Committee's position: Mr. Schwermer and Judge Noonan will meet with Lowry Snow, PEW, and Ron Gordon. They will voice the court's concerns about the bill.

NEXT MEETING: **February 3, 2017**
 12:00 p.m.
 Council Room

JUDICIAL COUNCIL LIAISON COMMITTEE MEETING

Minutes
Friday, February 3, 2017
Matheson Courthouse
Council Room

ATTENDEES:

Hon. Paul Farr
Hon Mark DeCaria
Hon. Mary Noonan

STAFF PRESENT:

Daniel J. Becker
Brent Johnson
Nancy Merrill
Debra Moore
Keisa Williams
Dawn Marie Rubio
Rick Schwermer
Nancy Sylvester
Ray Wahl
Jim Peters

EXCUSED:

Justice Thomas Lee

GUESTS:

Hon. Brendan McCullagh

1. **WELCOME: (Judge Mary Noonan)**

Judge Noonan enthusiastically welcomed everyone to the meeting.

***Motion:** Judge Paul Farr moved to approve the minutes from the Liaison Committee Meeting on January 27, 2017. Judge Mark DeCaria seconded the motion. The motion carried unanimously.*

2. **H.B. 214 Probate Code Amendments (Chief Sponsor: Kelly B. Miles) (Judge Mark DeCaria)**

This bill amends probate related provisions.

Judge DeCaria reviewed the intent of the bill with the Committee.

***Liaison Committee's position:** No position*

3. **H.B. 234 Post-Exposure Blood Testing Amendments (Chief Sponsor: Edward H. Redd) (Judge Mark DeCaria)**

This bill modifies provision regarding disease testing after a significant exposure to blood or contaminated body fluids.

The Committee discussed concerns with lines 85-87.

Liaison Committee's position: No position but address lines 85-87, clarify who is allowed to request an e warrant.

**4. H.B. 235 Automated Traffic Enforcement Safety Devices
(Chief Sponsor: Mike K. McKell) (Judge Paul Farr)**

This bill enacts provisions authorizing the use of an automated traffic enforcement safety device on a school bus.

The Committee discussed several implementation concerns on line 81 and lines 134 and 135.

Liaison Committee's position: No position but address concerns that relate to the Rules of Evidence.

**5. H.B. 239 Juvenile Justice Amendments
(Chief Sponsor: V. Lowry Snow) (Judge Mary Noonan)**

This bill modifies provisions related to juvenile justice.

Judge Noonan and Mr. Schwermer reported that they had a meeting about the bill to discuss the court's substantive, inherent authority of the court, implementation, drafting, constitutional, and conceptual concerns. Mr. Schwermer noted the fiscal impact. The Committee had further discussion about the intent of the bill.

Liaison Committee's position: The Committee agreed to wait for the next draft of the bill to come out next week.

**6. H.B. 248 Domestic Violence Related Amendments
(Chief Sponsor: LaVar Christensen) (Judge Paul Farr)**

This bill modifies provisions related to domestic violence.

The bill creates a new type of protective order. The Committee discussed the following concerns:

- line 239, 240 point out that the concept is in the wrong place
- line 415- 419 clarify the meaning of incarceration and burdens of proof
- line 420-423
- line 448- 451 provides a new process

Liaison Committee's position: No position but address the concerns that the Committee discussed

**7. H.B. 250 Driving Under The Influence Program Amendments
(Chief Sponsor: Justin L. Fawson) (Judge Paul Farr)**

This bill modifies provisions relating to driving under the influence.

The Committee discussed due process concerns in the bill on lines 454, 483-487.

Liaison Committee's position: No position but the due process concerns need to be fixed and address the implementation problems.

**8. H.B. 254 Bail Forfeiture Amendments
(Chief Sponsor: Walt Brooks) (Judge Mark DeCaria)**

This bill allows a prosecuting agency to receive a portion of forfeited bail.

Liaison Committee's position: No position but support the concept.

**9. H.B. 259 Duty To Retreat Amendments
(Chief Sponsor: A. Cory Maloy) (Judge Mark DeCaria)**

This bill provides that a person is not required to retreat from an aggressor under certain circumstances.

The Committee discussed procedural concerns on lines 56-59.

Liaison Committee's position: No position but address the procedural concerns

**10. S.B. 12 1st Sub. (Green) Expungement Amendments
(Chief Sponsor: Daniel W. Thatcher) (Judge Paul Farr)**

This bill makes changes to provisions regarding expungements and pardons.

The Committee addressed poor drafting concerns on lines 131 and 197.

Liaison Committee's position: No position

**11. S.B. 54 2nd Sub. (Salmon) Adoption Revisions
(Chief Sponsor: Todd Weiler) (Justice Thomas Lee)**

This bill amends the Utah Adoption Act.

Mr. Schwermer informed the Committee that the drafting attorney agreed to address the conflicting language on lines 239-250.

Liaison Committee's position: No position

**12. S.B. 101 1st Sub. (Green) Sales And Use Tax Modifications
(Chief Sponsor: Wayne A. Harper) (Justice Thomas Lee)**

This bill amends provisions related to sales and use taxes.

Liaison Committee's position: No position but address the constitutional issue and confer with Justice Lee.

**13. S.B. 110 1st. Sub (Green) Sales Tax Collection Amendments
(Chief Sponsor: Curtis S. Bramble) (Justice Thomas Lee)**

This bill amends provisions related to sales and use tax.

The Committee discussed procedural concerns with the bill.

Liaison Committee's position: The Committee agreed to discuss the bill with Justice Lee.

**14. S.B. 134 Indigent Defense Commission Amendments
(Chief Sponsor: Todd Weiler) (Judge Mary Noonan)**

This bill modifies the Indigent Defense Act.

The Committee discussed the bill.

Liaison Committee's position: Support

**15. S.J.R. 7 1st Sub. (Green) Joint Resolution Amending Rules Of Criminal Procedure
(Chief Sponsor: Todd Weiler) (Justice Thomas Lee)**

This joint resolution amends the Utah Rules of Criminal Procedure.

Mr. Schwermer discussed the bill with the Committee.

Liaison Committee's position: No position

**NEXT MEETING: February 10, 2017
 12:00 p.m.
 Council Room**

JUDICIAL COUNCIL LIAISON COMMITTEE MEETING

Minutes
Friday, February 10, 2017
Matheson Courthouse
Council Room

Justice Thomas Lee, Presiding

ATTENDEES:

Hon. Paul Farr
Justice Thomas Lee
Hon. Mark DeCaria
Hon. Mary Noonan

STAFF PRESENT:

Daniel J. Becker
Rick Schwermer
Ray Wahl
James Ishita
Keisa Williams
Jim Peters

EXCUSED:

GUESTS:

Hon. Brendan McCullagh

1. WELCOME: (Justice Lee)

***Motion:** Judge Paul Farr moved to approve the minutes from the Liaison Committee Meeting on February 3, 2017. Judge Mark DeCaria seconded the motion. The motion carried unanimously.*

2. H.B. 321 Parenting Plan Amendments (Chief Sponsor: V. Lowry Snow) (Judge Mark DeCaria)

This bill modifies provisions related to parenting plans.

Judge DeCaria noted the intent of the bill and agreed that the bill is policy.

Liaison Committee's position: No Position

3. H.B. 235 1st Sub. (Buff) Automated Traffic Enforcement Safety Devices (Chief Sponsor: Mike K. McKell) (Judge Paul Farr)

This bill enacts provisions authorizing the use of an automated traffic enforcement safety device on a school bus.

There will be a fiscal note on this bill to address several implementation issues and the rest of the bill is policy.

Liaison Committee's position: No position

4. **H.B. 259 1st Sub. (Buff) Duty To Retreat Amendments**
(Chief Sponsor: A. Cory Maloy) (Justice Thomas Lee)

This bill clarifies that a person is not required to retreat from an aggressor.

The Committee discussed redrafting lines 51-57; they suggest omitting the word evidence.

Liaison Committee's position: No position but address language concerns on lines 51-57.

5. **H.B. 274 Human Trafficking Modifications**
(Chief Sponsor: Angela Romero) (Judge Mark DeCaria)

This bill modifies provisions regarding human trafficking.

The Committee noted a procedural concern on line 76.

Liaison Committee's position: No position but remove the language relating to procedure on line 76.

6. **H.B. 284 Student Right To Active Counsel**
(Chief Sponsor: Kim F. Coleman) (Justice Thomas Lee)

This bill enacts language related to disciplinary proceedings in an institution of higher education.

The Committee discussed the bill. They discussed clarification concerns with the definition of proceeding and legal representation in the bill.

Liaison Committee's position: No position

7. **H.B. 286 Essential Treatment And Intervention Act**
(Chief Sponsor: LaVar Christensen) (Judge Mark DeCaria)

This bill establishes a process for an individual suffering from a substance use disorder to receive court-ordered essential treatment and intervention.

The Committee discussed the following concerns in the bill:

- the definition of substance
- reference to the requirement of a written order
- due process concern on lines 233, 234

Liaison Committee's position: No position but address the written order language and due process concern on lines 233 and 234.

**8. H.B. 289 Grandparent Visitation Amendments
(Chief Sponsor: LaVar Christensen) (Judge Mary Noonan)**

This bill amends provisions concerning the visitation rights of a grandparent.

The Committee agreed the bill is policy.

Liaison Committee's position: No position

**9. S.B. 90 1st Sub. (Green) Vehicle Inspection And Registration Amendments
(Chief Sponsor: Jacob L. Anderegg) (Judge Paul Farr)**

This bill provides exemptions for certain infractions related to vehicle registration, safety inspection, and emissions inspection requirements.

The Committee agreed the bill is policy.

Liaison Committee's position: No position

**10. S.B. 167 Bail Amendments
(Chief Sponsor: J. Stuart Adams) (Judge Mark DeCaria)**

This bill modifies the Code of Criminal Procedure regarding bail.

The Committee had concerns with the intent of the language in the bill.

Liaison Committee's position: Address the low cash bail or the Committee will oppose it.

**11. S.B. 169 Judiciary Amendments
(Chief Sponsor: Lyle W. Hillyard) (Judge Paul Farr)**

This bill amends provisions regarding the judiciary and judges.

This bill is the housekeeping bill. Mr. Schwermer addressed a drafting error on line 218 that is corrected.

Liaison Committee's position: Support

**12. S.B. 193 Judicial Performance Evaluation Commission Modifications
(Chief Sponsor: Todd Weiler) (Justice Thomas Lee)**

This bill modifies provisions related to judicial performance.

- lines 290-303
- line 462 and the process that follows

Liaison Committee's position: Oppose the bill it is unconstitutional

13. Other Business:

Mr. Schwermer reported an update on the Juvenile Justice Bill. The Committee discussed the Liaison Committee's position. The Committee agreed that they support the concept but ultimately if there is insufficient funding to implement the bill at that point the Liaison Committee will oppose it.

**NEXT MEETING: February 17, 2017
12:00 p.m.
Council Room**

Policy and Planning Committee Minutes

Policy and Planning Committee

Executive Dining Room
Matheson Courthouse
450 S. State St.
Salt Lake City, Utah 84111

February 3, 2017
Draft

Members Present

Hon. Derek Pullan, Chair
Hon. Ann Boyden
Hon. Mary Noonan

Members Excused

Hon. Marvin Bagley
John Lund
Hon. Reed S. Parkin

Staff

Nancy J. Sylvester
Keisa L. Williams
Jeni Wood - recording secretary

Guests

Kim Allard
Rick Schwermer

(1) Approval of minutes.

Judge Derek Pullan welcomed the members to the meeting. There being no quorum, Judge Pullan delayed action on the January minutes.

(2) CJA 4-202.09. Miscellaneous and CJA 6-103(6). District Court Tax Judges

Judge Pullan handed the time over to Nancy Sylvester to discuss the genesis of the proposal from the tax attorneys. Ms. Sylvester said there was a proposal last year to statutorily address the issue of tax records being public in district court proceedings, but Rick Schwermer encouraged the tax attorneys to pursue a fix by court rule instead. What follows is a timeline of the court's involvement based on email exchanges:

1. On September 29, 2016, Mark Buchi contacted Rick Schwermer about amending Rule 4-202.02(5) regarding records of tax cases appealed to the district court pursuant to section 59-1-601 and amending Rule 6-103(6) regarding taxpayers being able to redact tax case opinions.
2. On September 30, Mr. Schwermer contacted Keisa Williams who she said she would put the item on the November agenda since the October agenda was full and the meeting was a mere days away. A short time later, Ms. Sylvester contacted Rick and said she could squeeze the item on the October meeting agenda for purposes of preliminary discussions.
3. The Policy and Planning Committee discussed the preliminary proposal at its October 4 meeting, including commentary from several tax judges based on an email circulated by Debra Moore. The committee voted to invite the tax attorneys to attend the next meeting.

4. On October 7, Ray Wahl again circulated the proposal to those who had attended a Tax Judge meeting on October 6 and requested their feedback.
5. Mr. Schwermer contacted the tax attorneys on October 24 and asked if they could attend the November 4 meeting. They said they could not and inquired about the date of the next meeting. They also said they would contact the government attorneys about their proposal.
6. Ms. Sylvester contacted both the private and government attorneys on October 25 about attending Policy and Planning on December 2 or January 6. The tax attorneys agreed on December 2.
7. On November 23, the tax attorneys requested more time because they were in the middle of discussions on a joint proposal. Ms. Sylvester moved the item to January 6.
8. On December 28, the tax attorneys emailed Ms. Sylvester their proposal.
9. On January 5, Ms. Sylvester spoke with attorney Steve Young about the proposal and requested clarification on several points. She brought up some concerns that the Policy and Planning Committee might raise at the January 6 meeting. Mr. Young emailed those concerns to the tax attorney group so that they could be prepared to discuss them.
10. On January 6, the tax attorneys presented their proposal to and engaged in discussions with the Policy and Planning Committee for over an hour. The Policy and Planning Committee asked that the tax attorneys revisit their proposal based on the discussions and return it within two weeks to Ms. Sylvester.
11. Ms. Sylvester received the new proposal on January 19 and on January 20 requested clarification on several amendments. The tax attorneys provided some explanation.
12. On January 23, Judge Pullan met with Brent Johnson, Ms. Williams, and Ms. Sylvester to go over the new proposal in preparation for the February 3 Policy and Planning meeting.

Ms. Sylvester noted that the reason the Policy and Planning Committee was going over the timeline was because a suggestion had been made that the judiciary was not acting on the tax attorneys' proposal.

Judge Pullan next reviewed the proposal to rule 4-202.09. Judge Pullan proposed that the committee pick a record classification for these cases, rather than having the court "deny public access," which was concerning language in light of the open courts provision of the constitution. Nonetheless, he expressed concern about everything filed being protected when the case involved commercial information. Judge Pullan read the statutory definition of "commercial information," noting that the court records themselves may not even contain the commercial information. The committee discussed the pros and cons of protecting the records up front.

Judge Pullan then noted his concerns about the rule addressing a situation when a member of the public sought case information from either a party or the court. He thought the rule should only address information requested from the court. The other members agreed. Judge Pullan then discussed the 30 day requirement for producing requested records. Judge Ann Boyden said in other settings, the parties typically have 10 days to respond. Judge Pullan suggested changing the 30 days to 14 days. Judge Boyden said the reason for the 30 days may be because the cases are so complex, but she agreed that 14 days seemed appropriate.

Judge Pullan said he was originally concerned that those wanting access to the records would have to wait for a final non-appealable order to see them. But, he noted, the tax attorneys' proposal includes a process for the public's requesting the records prior to the final order. Judge Boyden said the rule proposal turns the presumption of public court records on its head. Typically one starts from the presumption of public with the ability to classify as other than that. But this rule would start from the presumption of protected when commercial information is present.

Judge Pullan said although he is concerned about the rule generally, he said he can see the argument about the chilling effect on appeals to district court since tax cases are all private at the tax commission level. Judge Noonan and Judge Boyden agreed. Judge Boyden noted that she thought subsection (d), which discussed that no specific record shall be classified as sealed, private, protected, or safeguarded unless the court ordered it did not fit well within the rule because the presumption was that the records were protected unless requested by the public. She recommended that the paragraph be removed since (c)(i) already addressed the classification of records when a public request for them was made. There was brief discussion on this section. The committee then discussed the differences between protected and safeguarded. Ms. Sylvester reviewed rule 4-202.03 with the committee, which discusses who has access to each type of classification.

Judge Pullan then discussed the issue the tax attorneys raised about how much money it can cost to litigate over which documents had to be protected. He said he was not persuaded by that argument but was somewhat persuaded that a taxpayer's appeal right from the tax commission was chilled by the records classification issue. Judge Boyden noted that in some sections of the proposal, a party would be asking to classify a record as sealed, private, protected, or safeguarded, but having "protected" in that list didn't make sense if the initial presumption in these cases was "protected." After some discussion the committee agreed to keep the phrase "protected" in those sections because the need to classify a document that way would arise when the presumption switched to public access at the end of the case or when the public requested a document or documents in the middle of a case.

The committee reviewed what case types are currently listed as protected. The committee then discussed who should have the burden in the classification of these cases: the plaintiff in being required to ask the court to designate their case as protected, or the court with a rule that states all of the tax cases are automatically protected.

Ms. Williams noted that bringing in Kim Allard to see discuss how the courts would handle this new private case type if the rule passes would be really helpful. Rick Schwermer invited Kim Allard into the meeting. Ms. Allard said she had already discussed the rule with her staff and they thought the change would be relatively simple since cases like divorces are automatically marked as private but their orders are public. Ms. Allard said Xchange would not show the documents but they would list the title and be identified as private. Judge Boyden asked Ms. Allard if she has ever used "safeguarded." Ms. Allard said she had not. Ms. Allard said there are two types of private, one is divorce and the other is for all other case types. In divorce cases, the orders are public while everything else is private. Judge Pullan noted that since IT treats private and protected the same, perhaps the term didn't matter. But Ms. Allard noted one difference: protected cases are available to governmental agencies. So the difference between protected and private is who is allowed access. The committee noted that because these tax cases originated from the Tax Commission, the "protected" designation seemed to make sense.

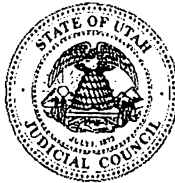
The committee members then discussed their discomfort with the tax attorneys' proposal to amend Rule 6-103(6) regarding tax opinions and struck it from the proposal.

Judge Boyden moved to recommend rule 4-202.09 as amended to the Judicial Council for public comment. Judge Boyden seconded the motion. Judge Pullan asked Ms. Sylvester to distribute the rule by email for final approval by the other members.

(5) Other Business.

The next meeting is March 3 in the executive dining room at 10:00 am. There being no other business and the meeting adjourned at 11:40 am.

TAB 3



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester *Nancy Sylvester*
Date: February 16, 2017
Re: Rule for Consideration: CJA Rule 4-202.09 (Taxpayer Confidentiality)

At the January Policy and Planning meeting, a group of tax attorneys representing a cross-section of interests presented a proposal to amend Code of Judicial Administration Rules 4-202.09 and 6-103. The discussion is found in Policy and Planning's January minutes, but the crux of their request was to create a process for protecting taxpayer records in district court cases, which are now presumptively public. They also requested the ability to redact tax case opinions of commercial information.

The committee expressed four concerns: 1) that the proposal paints with too broad a brush: the cases would now be closed as to all information, not just commercial information; 2) the claimed expense to litigate which record documents include commercial information and should therefore be protected would not be eliminated by the rule; the document by document review would just occur later in the case; 3) the rule is tied to non-appealable final orders, which means these cases could be closed for years; and 4) striking commercial information from a published opinion could render those opinions unintelligible.

The tax attorneys submitted a new proposal for the February Policy and Planning meeting. The new proposal failed to address many of the concerns expressed by the Committee. In weighing whether the committee could recommend a rule for public comment to the Judicial Council, the committee looked at several factors.

First, the Utah Tax Commission relies heavily on taxpayer self-reporting. Keeping tax records private before the Tax Commission and in the district court promotes self-reporting. Second, a taxpayer is less likely to appeal a tax decision to the district court if she knows that commercial information will be made public once the appeal is filed. These two factors weighed in favor of providing some means of protecting commercial information in the district court.

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

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Third, the proposed rule represented the cooperative effort of attorneys for both taxing entities and taxpayers. In their January presentation to the committee, the tax attorneys claimed that their clients incur substantial costs in negotiating the terms of a protective order. They noted that federal courts have a standard protective order in tax cases. In the tax attorneys' view, the proposed rule struck a balance between our presumptively open courts and protection for taxpayers.

Other factors weighed against the proposed rule. First, how the power to tax is exercised is a matter of public concern, especially in centrally-assessed cases. Second, the proposed rule creates a middle-ground between a public record and a protected record. This middle-ground does not exist for any other case type. The proposed rule applies to any document filed in the district court case, whether the document contains commercial information or not. And third, as a policy matter, the courts do not generally carve out rule exceptions for specific case types or groups. There is a floodgates argument against amending the rule for a special interest group.

The committee made amendments to the proposed rule and eliminated the provision in Rule 6-103 that gave attorneys the ability to redact tax opinions.

The Committee has some reservations about the rule. However, because the proposed rule raises important policy considerations relating to self-reporting, the right of appeal, and public access, the Committee is recommending circulation of the amended proposed rule for public comment:

CJA 4-202.09. Miscellaneous. Amend. Provides that records in property and use tax cases involving commercial information as that term is defined in Utah Code § 59-1-404 are protected. If a request is made to access a record or records, the records will be released within 14 days, except for specific records ordered by the court as sealed, private, protected, or safeguarded. 30 days after the court issues a non-appealable, final order, all records will be public, except as otherwise classified.

Attached to this memorandum is proposed Rule 4-202.09 and the tax attorneys' proposal from last year to amend the Utah Code.

Rule 4-202.09. Miscellaneous.**Intent:**

To set forth miscellaneous provisions for these rules.

Applicability:

This rule applies to the judicial branch.

Statement of the Rule:

(1) The judicial branch shall provide a person with a certified copy of a record if the requester has a right to inspect it, the requester identifies the record with reasonable specificity, and the requester pays the fees.

(2)(A) The judicial branch is not required to create a record in response to a request.

(2)(B) Upon request, the judicial branch shall provide a record in a particular format if:

(2)(B)(i) it is able to do so without unreasonably interfering with its duties and responsibilities; and

(2)(B)(ii) the requester agrees to pay the additional costs, if any, actually incurred in providing the record in the requested format.

(2)(C) The judicial branch need not fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

(3) If a person requests copies of more than 50 pages of records, and if the records are contained in files that do not contain records that are exempt from disclosure, the judicial branch may provide the requester with the facilities for copying the requested records and require that the requester make the copies, or allow the requester to provide his own copying facilities and personnel to make the copies at the judicial branch's offices and waive the fees for copying the records.

(4) The judicial branch may not use the form in which a record is stored to deny or unreasonably hinder the rights of persons to inspect and receive copies of a record.

(5) Subpoenas and other methods of discovery under state or federal statutes or rules of procedure are not records requests under these rules. Compliance with discovery shall be governed by the applicable statutes and rules of procedure.

(6) If the judicial branch receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect, it shall allow access to the information in the record that the requester is entitled to inspect, and shall deny access to the information in the record the requester is not entitled to inspect.

(7) The Administrative Office shall create and adopt a schedule governing the retention and destruction of all court records.

(8) The courts will use their best efforts to ensure that access to court records is properly regulated, but assume no responsibility for accuracy or completeness or for use outside the court.

(9)(A) Non-public information in a public record. The person filing a public record shall omit or redact non-public information. The person filing the record shall certify that, upon information and belief, all non-public information has been omitted or redacted from the public record. The person filing a private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social record shall identify the classification of the record at the top of the first page of a classified document or in a statement accompanying the record.

(9)(B) A party may move or a non-party interested in a record may petition to classify a record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social or to redact non-public information from a public record.

(9)(C) If the following non-public information is required in a public record, only the designated information shall be included:

(9)(C)(i) social security number: last four digits;

(9)(C)(ii) financial or other account number: last four digits;

(9)(C)(iii) driver's license number: state of issuance and last four digits;

(9)(C)(iv) address of a non-party: city, state and zip code;

(9)(C)(v) email address or phone number of a non-party: omit; and

(9)(C)(vi) minor's name: initials.

(9)(D) If it is necessary to provide the court with private personal identifying information, it must be provided on a cover sheet or other severable document, which is classified as private.

(10)(A) Notwithstanding Rule 4-202.02, except as otherwise ordered by the court and except as provided in subsections (b) and (c), if a case involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, all records shall be classified as public records under Rule 4-202.02.

(10)(B) Except as provided in subsection (c), all records in a case that involves a tax on property or its use under Title 59, Chapter 2, Property Tax Act, Chapter 3, Tax Equivalent Property Act, or Chapter 4, Privilege Tax, shall be protected if the case also involves commercial information as that term is defined by Utah Code § 59-1-404.

(10)(C) For a case described in subsection (b):

(10)(C)(i) if a request for a specific record, or access to all records in a case, is made to the court and notice is given to the taxpayer, such record or records shall be released within 14 days after notice is given to the taxpayer, except for specific records ordered by the court to be classified as sealed, private, protected, or safeguarded pursuant to a motion made under Rule 4-202.04(3);

(10)(C)(ii) thirty days after the issuance of a non-appealable final order by the court, all records shall be public unless the court orders specific records to be classified as sealed, private, protected, or safeguarded pursuant to a motion made under Rule 4-202.04(3).

(10)(C)(iii) The public shall have access to the case history, notwithstanding the limitations in this rule applicable to the underlying records.

simply add a new section 59-1-406 stating as follows to address the district court issue and also to close the loophole that exists during Tax Commission appeals:

New section 59-1-406

(a) If any information that is not otherwise publicly available is produced by a taxpayer to an individual listed in section 59-1-403(1)(a) in connection with a tax case appealed to the Tax Commission pursuant to this title, the individual listed in section 59-1-403(1)(a) may not disclose such information to anyone that is not a party or witness in the case unless otherwise ordered by the Tax Commission.

(b) If any information that is not otherwise publicly available is produced by a taxpayer to an individual listed in section 59-1-403(1)(a) or to a court in connection with a tax case appealed to district court pursuant to section 59-1-601, the individual listed in section 59-1-403(1)(a) or the court may not disclose such information to anyone that is not a party or witness in the case unless otherwise ordered by the court.

-

Please let me know your thoughts. I have also copied Rep. Peterson, Rick, Leif and Billy from the Taxpayer's Association as they have been involved in prior discussions on this issue.

Thanks.

Steve Young

Holland & Hart LLP
222 S. Main, Suite 2200
Salt Lake City, UT 84101
Direct Phone (801) 799-5886
Mobile (801) 450-6264
E-mail: spyoung@hollandhart.com

<image002.png>

CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you.

Brent Johnson <brentj@utcourts.gov>
To: Rick Schwermer <ricks@utcourts.gov>
Cc: Justice Thomas Lee <trlee@email.utcourts.gov>

Thu, Feb 4, 2016 at 8:37 PM

TAB 4

**INTERLOCAL AGREEMENT
BETWEEN HELPER CITY AND CARBON COUNTY**

THIS AGREEMENT is made by and between CARBON COUNTY, a political subdivision of the State of Utah, having an address at 751 East 100 North, Price, Utah 84501, hereinafter referred to as "County", and HELPER CITY, a municipal corporation, having an address at 73 South Main Street, P.O. Box 221, Helper, Utah 84526, hereinafter referred to as "City".

RECITALS

A. County operates and maintains the Carbon County Justice Court at the Carbon County Administration Building, 751 East 100 North, Suite 1600, Price, Utah.

B. In accordance with Section 78A-7-106, Utah Code Annotated, 1953 as amended (U.C.A.), the Carbon County Justice Court has jurisdiction over Class B and C misdemeanors, violations of city ordinances, and infractions committed within the boundaries of Carbon County, by persons 16 years of age or older, as well as having jurisdiction of small claims cases.

C. City operates and maintains its own justice court in Helper but is now desirous of contracting with County to provide justice court services for the benefit of its citizens.

D. County is willing to provide justice court services, by and through its Carbon County Justice Court, for the benefit of City, including adjudication of all matters which fall within the jurisdiction of justice courts per Utah law.

E. To facilitate the adjudication of those certain matters falling within the jurisdiction of the Carbon County Justice Court, City and County are required to establish an agreement in accordance with the Interlocal Cooperation Act, Section 11-13-101, et seq., U.C.A.

With the foregoing as a backdrop, the parties hereto agree as follows:

AGREEMENT

1. County and City hereby execute this Agreement which will enable them to cooperate with each other on the basis of mutual advantage and to thereby provide services and facilities in a manner that will accord best with geographic, economic, population and other factors influencing the needs and development of County and City and to provide the benefit of economy of scale and utilization of resources for the overall promotion of the general welfare of the State of Utah.

2. The term of this Agreement shall be four (4) years commencing as of February 1, 2017. The term of the Agreement shall be automatically renewed at the end of this initial four (4) year term unless either party has given prior notice to the other party within thirty (30) days of the expiration of the original or any subsequent term.

3. The specific purpose of this Agreement shall be to facilitate the timely and efficient prosecution of Class B and Class C misdemeanors and infractions identified as criminal offenses and as set forth by the Utah Criminal Code and/or violations of the City's Municipal Code, Land Development Code, Building Code and any other codes promulgated or enforced by City and to facilitate handling of small claims actions, as well as any and all matters that come within the jurisdiction of a justice court, as identified by Section 78A-7-106, U.C.A.

4. All fines and forfeitures collected by the Carbon County Justice Court with respect to all Helper City cases shall be remitted in accordance with Section 78A-7-120, U.C.A., a copy of which is attached hereto as Exhibit "A", and by this reference is made a part hereof. The parties hereto reserve the right to adjust the distribution formula provided herein in accordance with any changes mandated hereafter by Utah law.

The parties hereto expressly acknowledge and agree that, in accordance with Section 78A-7-120(1), the treasurer of the local government responsible for the court shall mean the Treasurer of Carbon County and the treasurer of the local government which prosecutes or which would prosecute the violation shall mean the Treasurer of Helper City.

5. This Agreement may be terminated by either party by giving thirty (30) days written notice to the other party.

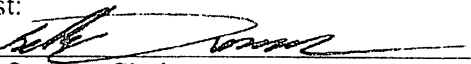
6. This Agreement shall be enforced in accordance with the Interlocal Cooperation Act, as referenced above, and in accordance with Section 78A-7-101, et seq., U.C.A., which specifically sets forth the laws regulating the operation and functions of the Justice Court system.

CARBON COUNTY, a political subdivision of
the State of Utah

By:

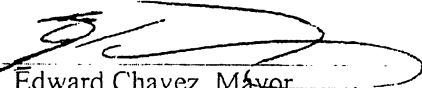

Jake Mellor, Commission Chairman

Attest:


Seth Oveson, Clerk

HELPER CITY, a municipal corporation

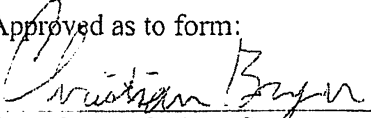
By:


Edward Chavez, Mayor

Attest:


Jona Skeel, Clerk

Approved as to form:


Gene Strate, Carbon County Attorney

Approved as to form:



Nick Sampinos, Attorney, for Helper City
Jeremiah Humes

EXHIBIT "A"

78A-7-120. Disposition of fines.

(1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes or which would prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.

(2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and 15% to the general fund of the city or county government responsible for the justice court.

(3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and distributed to the class B and C road account.

(5) Revenue deposited in the class B and C road account pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and C road funds.

(6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(8)(b) shall be remitted:

(i) 60% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 40% in accordance with Subsection (1).

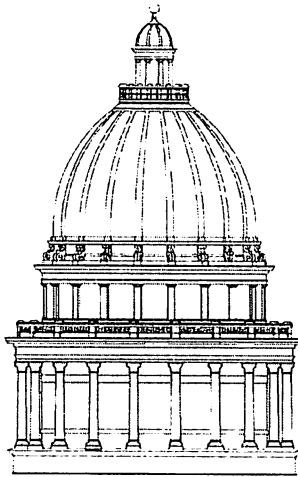
(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(8)(c) shall be remitted:

(i) 50% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 50% in accordance with Subsection (1).

TAB 5

REPORT TO THE
UTAH LEGISLATURE
Number 2017-01



**A Performance Audit of
Utah's Monetary Bail System**

January 2017

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah



STATE OF UTAH

Office of the Legislative Auditor General

315 HOUSE BUILDING • PO BOX 145315 • SALT LAKE CITY, UT 84114-5315
(801) 538-1033 • FAX (801) 538-1063

Audit Subcommittee of the Legislative Management Committee

President Wayne L. Niederhauser, Co-Chair • Speaker Gregory H. Hughes, Co-Chair
Senator Gene Davis • Senator Ralph Okerlund • Representative Brian S. King • Representative Brad R. Wilson

JOHN M. SCHAFF, CIA
AUDITOR GENERAL

January 26, 2017

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Performance Audit of Utah's Monetary Bail System** (Report #2017-01). A digest is found on the blue pages located at the front of the report. The objectives and scope of the audit are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

John M. Schaff, CIA
Auditor General

JMS/lm

Digest of A Performance Audit of Utah's Monetary Bail System

This audit reviews the effectiveness of the two types of monetary bail¹ commonly offered in Utah's district courts: cash bail and surety bond. Cash bail involves a payment to the courts that is refunded to the defendant if not convicted, or if convicted, could be forfeited and applied to court-related fees. Surety bond involves a non-refundable premium, typically 10 percent of the full bail amount, paid to a commercial surety (a.k.a. bail bond agency). Since the primary objectives of bail are to assure court appearance and community safety, this audit compares the effectiveness of the two monetary bail types in assuring court appearances. Court appearance data also led us to review evidence-based pretrial release practices that enhance community safety as well as the surety bond forfeiture process.

Chapter II While Limited in Use, Cash Bail Resulted in Higher Appearance Rates than Surety Bond

Cash Bail Is Used On a Limited Basis. Cash bail is used in a limited number of locations by a limited set of judges. In fact, based on a year of district court data provided by the Administrative Office of the Courts (AOC), cash bail was only used in 15 percent of all monetary bail cases in 2015. By reviewing existing court data, conducting a judicial survey, and interviewing judges, we found that cash bail is used mostly in the Fourth Judicial District. While used infrequently, judges who use cash bail report benefits.

Limited Data Shows Cash Bail Resulted in Higher Court Appearance Rates Than Sureties. A primary objective of bail is to ensure the appearance of the defendant in court. Commercial sureties reported to taxpayers and the Legislature that the use of cash bail results in fewer court appearances. Failure to appear (FTA) data does not support this claim. Based on statewide appearance data from fiscal year 2015, 17 percent of cash bail cases had at least one FTA while 26 percent of surety bond cases had at least one FTA. These results are better understood in the context of risk because factors associated with an individual defendant's risk can affect appearance rates. However, the only measurement of effectiveness that we could use in performing our review was the FTA rates. While this is a valid metric, a lack of data on defendant risk limited our analysis. Given that individual risk is a significant indicator of who will appear in court or pose a public safety concern, we wanted to statistically control for risk. Unfortunately, the criminal justice system does not

¹ To clarify terms used in this report, refer to the glossary in Appendix A.

collect and share critical data needed to evaluate risk. This concern will be addressed in Chapter III.

Chapter III

Pretrial Release Decisions Need to Be Evidence-Based and Account for Risk

Pretrial Release Decisions Are Made Without Adequate Information. Our survey of all district and justice court judges revealed that judges lack basic information when making pretrial release decisions. Surveyed judges largely reported that they base their initial pretrial decisions on probable cause statements, which are the arresting officers' accounts of what occurred at the time of arrest. Little reliable information about a defendant's risk of flight or danger to the community is provided to judges outside of Salt Lake County. Salt Lake County has been using a validated risk assessment since 2013 on 76 percent of the county's inmates. For example, criminal histories, prior failure to appears, and ties to the community are not known when judges make their initial release decisions, despite studies that demonstrate such factors are highly predictive of a defendant's risk of flight or threat to public safety.

Pretrial Decisions Impact Public Safety, Taxpayer Resources, and Defendant Outcomes. Basing pretrial decisions on inadequate information negatively impacts public safety, taxpayer resources, and defendant outcomes. When judges have inadequate information about a defendant's risk, it is difficult to identify and detain defendants who pose a public safety concern. Likewise, over-incarceration can result when those who can be safely released are not, because of a lack of risk data. Maximizing the number of defendants who can be safely released saves taxpayer resources by freeing up jail space and reducing the costs associated with incarceration. Finally, even short amounts of time in jail for low-risk defendants are correlated with poor pretrial outcomes such as lowered court attendance and new criminal activity. Basing pretrial release decisions on risk mitigates these undesirable consequences while simultaneously promoting better outcomes and public safety.

Evidence-Based Risk Assessment Tools Promote Better Outcomes at Reduced Costs. Research demonstrates that risk assessment, added to professional judgment, results in better outcomes than professional judgment alone. Evidence-based risk assessment tools are empirically validated tools that predict the likelihood that a defendant will fail to appear in court or endanger the community pending trial. The tool assigns a defendant a risk score (low, medium, or high) that judicial officers can use in determining whether a defendant should be released or detained pretrial and the appropriate conditions, when necessary, to secure the safety of the public should the defendant be released. Risk assessments are designed to complement, not replace, judicial discretion.

Positive Outcomes Are Driving Support for Evidence-Based Risk Assessments.

Nearly all the surrounding western states, including Utah, have either recently adopted or are adopting an evidence-based risk assessment instrument to improve pretrial decisions. A common challenge for these states is to identify a risk instrument and validate the instrument using data from their own populations. A variety of assessment instruments are available, with some proprietary and others available at no cost. Among the most well-studied and widely used of these instruments is the Public Safety Assessment-Court (PSA-Court) developed by the Laura and John Arnold Foundation.

Utah's Criminal Justice System Needs to Improve Data Collection for Successful Risk Assessment. The cornerstone of any risk assessment instrument is accurate and reliable data. Unfortunately, the data needed to accurately predict individual defendant risk is hampered by the fact that such information resides in a number of different criminal justice databases which are not linked to the courts information system. Additionally, key pretrial outcome and performance metrics, such as the number of inmates that remain in custody while awaiting trial, are not tracked. Basic information about pretrial release practices, such as the number of defendants released on recognizance, is also not tracked, resulting in inconsistencies in pretrial release practices across the state. The criminal justice system should coordinate and improve its data collection efforts to enable risk assessment and to prepare for the evaluation of pretrial service program performance.

Chapter IV Improvements Are Needed to the Surety Bond Forfeiture Process

Utah's Forfeiture Grace Period Is Unnecessarily Long. Utah's forfeiture grace period is among the longest in the nation. Statute grants commercial sureties six months plus the possibility of a 60-day extension to bring bonded defendants to court or face a forfeiture of the bond. This long grace period appears unnecessary given the fact that the majority of defendants (71 percent) who fail to appear in court, return to court or custody within a month. Therefore, we recommend that the Legislature consider shortening Utah's grace period from six months to between one and three months to better align with other states and with Administrative Office of the Court's (AOC) data.

The Forfeiture Process Needs to More Effectively Promote Court Appearances. The surety bond forfeiture process is the only mechanism available to hold commercial sureties liable for bonded defendants' court appearances. Statute requires commercial sureties to bring bonded defendants to court for all court appearances. The current surety bond forfeiture process needs to be more effective in promoting court appearances as reflected in the statewide 26 percent failure to appear (FTA) rate for all cases involving a commercial surety. While the forfeiture process purports to promote court attendance

through the threat of bond forfeitures, surety bonds are rarely forfeited. Based on one year of data, only 1.7 percent of all surety bond cases involving an FTA resulted in a forfeiture. Forfeitures are rare because of the opportunities for automatic bond exonerations permitted in statute coupled with long forfeiture grace periods, which increase the likelihood that a bond will be exonerated. Rare forfeitures, however, create a weak economic incentive for commercial sureties to ensure that defendants, for whom they are responsible, attend court. Therefore, we recommend that the Legislature work with the AOC to improve court attendance and reduce the number of automatic bond exonerations.

Judges, Clerks, and Prosecutors Need to Process Forfeitures More Efficiently.

Forfeitures are only successful when judges, clerks, and prosecutors efficiently perform their roles in processing forfeitures. Based on our judicial survey and AOC's forfeiture data, we found that judicial and prosecuting personnel were not always processing forfeitures in a timely and consistent manner. For example, some judges were not consistently ordering forfeitures or entering judgments in a timely manner. Also, clerks who are responsible for processing forfeitures identified administrative barriers to performing their duties. Finally, as evidenced by the low number of motions filed, prosecuting attorneys are not motioning to forfeit despite statute stating that they may do so. In fact, two county attorney's offices stated that forfeitures are not prioritized. Bond exonerations can result when these key players do not perform their roles in the forfeiture process efficiently. While judges, clerks, and prosecutors contribute to the successful completion of forfeitures, court reminder systems have been proven to efficiently reduce the number of missed court dates and should therefore be considered by the AOC.

REPORT TO THE UTAH LEGISLATURE

Report No. 2017-01

A Performance Audit of Utah's Monetary Bail System

January 2017

Audit Performed By:

Audit Manager	Darin Underwood
Audit Supervisor	Anndrea Parrish
Audit Staff	Matthew Taylor

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Chapter I

Introduction

This audit reviews the effectiveness of the two types of monetary bail² commonly offered in Utah's district courts: *cash bail* and *surety bond*. Cash bail involves a payment to the courts that is refunded to the defendant if they make all court appearances and are not convicted, or if convicted, could be forfeited and applied to court-related fees. Surety bond involves a non-refundable premium, typically 10 percent of the full bail amount, paid to a *commercial surety* (a.k.a. bail bond agency). Since the primary objectives of bail are to assure court appearance and community safety, this audit compares the effectiveness of the two monetary bail types in assuring court appearances. Court appearance data also led us to review evidence-based *pretrial* release practices that enhance community safety as well as the surety bond forfeiture process.

A Limited Review of Cash Bail Proceeded This Audit

This audit is the second of two audits focusing on monetary bail. The first audit's review of cash bail concluded that, though used infrequently, cash bail was being used appropriately.³ Statute allows judicial discretion in determining the amount and form of payment required for a defendant's release. Statute also permits bail monies, paid to the court, to be applied towards court-related obligations such as victim restitution. Because the first audit was limited in scope, it did not address which bail type is more effective. Chapter II of this second audit addresses this question by reviewing data on court attendance rates.

While there is value in comparing court attendance rates, we believe Utah's pretrial system faces larger concerns. Notably, we found that pretrial release decisions are made in the absence of reliable information about defendant risk, as discussed in Chapter III. Having

Statute allows judicial discretion in determining the amount and form of payment required for a defendant's release.

² To clarify terms used in this report, refer to the glossary in Appendix A.

³ See: *A Limited Review of the Use of Cash Bail in the Utah District Courts*, Office of the Legislative Auditor General, February 2016.

valid risk information is critical to help identify high-risk defendants who are likely to commit additional crimes or skip court and may therefore need to be detained. It can also identify those defendants who are low risk and unlikely to require and, in fact, may be harmed by jail time. In addition, court attendance data led to our review the surety bond forfeiture process in Chapter IV. We found several improvements are needed including reduced statutory timeframes, more effective promotion of court appearances, and ensuring court personnel process forfeitures in a timely and consistent manner.

Utah's Current Release Practices Largely Rely on Monetary Bail

When a person is arrested, the judicial officer must decide whether to release the person and, if so, under what conditions. The legal considerations that underlie such a decision are complex. A judicial officer must ensure public safety and court appearances while balancing these risks against the accused's legal and constitutional rights, which include the presumption of innocence, the right to release, and the right to equal protection.

Bail safeguards these constitutional rights by allowing the accused to be released from jail while awaiting trial. All criminal defendants, except those charged with the most serious crimes for which substantial evidence exists to support the charge, have the right to bail.⁴ *Utah Code* 77-20-1(2) states that, "[a] person charged with or arrested for a criminal offense shall be admitted to bail as a matter of right..." Judicial officers are given statutory discretion in determining how and under what conditions a person will be released pretrial:

Any person who may be admitted to bail may be released either on the person's own recognizance or upon posting bail, on condition that the person appear in court for future court proceedings in the case, and on any other conditions imposed in the discretion of the magistrate or court...

When a person is *released on recognizance* no payment is required, although certain release conditions may be imposed. For example,

⁴ For exceptions see: Utah Constitution art. I, § 8(1).

A judicial officer must ensure public safety and court appearances while balancing these risks against the accused's legal and constitutional rights.

Typically, a judicial officer establishes probable cause and then sets monetary bail per the level of the offense charged.

staying away from the victim or entering drug rehabilitation may be ordered to safely release the accused without financial conditions. Typically, payment (posting bail) is required for release. This practice involves a judicial officer establishing probable cause and then setting monetary bail per the level of the offense charged according to the bail schedule.⁵ Once bail is set, payment can be made to the courts using cash bail, or to a *commercial surety* (a.k.a. bail bondsman). Judicial officers can exercise their discretion in determining the bail amount as well as the form of payment. For example, a judicial officer may require the arrestee to pay cash bail to the courts and set the bail amount well above or below the amount expected for the charge. The primary difference between the two payment types is that cash bail is paid in full upfront and may be refunded at the conclusion of the case if the defendant attends all court hearings.

Utah's Pretrial Landscape Is Changing

An important trend in pretrial policy over the last several years has been a shift away from charge-based release decisions towards risk-based release decisions that use evidence-based risk assessment. Basing release decisions on risk reduces decision-maker bias by using data to identify those defendants most likely to miss a court date or pose a danger to society.

Many jurisdictions across the United States—including Salt Lake County—use risk assessment to manage their jail populations more effectively by focusing limited correctional resources on the riskiest defendants. Recent research from the Laura and John Arnold Foundation shows that, in jurisdictions where risk assessment is used, the number of people awaiting trial in jails is reduced while community safety is enhanced.

Effectively managing Utah's jail populations is both timely and important in light of Utah's Justice Reinvestment Initiative (JRI). Utah's JRI was developed collaboratively by the state's Commission on Criminal and Juvenile Justice (CCJJ) and the Pew Charitable Trusts. By collecting and analyzing system-wide criminal justice data, drivers of Utah's growing correctional populations and associated costs were identified. In response, Utah's Legislature passed and

Pretrial policy has recently shifted away from charge-based release decisions towards risk-based release decisions that use evidence-based risk assessment.

In 2015, Utah's Legislature passed and implemented a set of reforms aimed at reducing incarceration rates.

⁵ See: Utah Uniform Fine and Bail Schedule in Appendix B

implemented a set of reforms in 2015 aimed at reducing incarceration rates.

While specific estimates for Utah's pretrial population are not available, for reasons discussed in Chapter III, national estimates suggest that the majority of those housed in jails have not been convicted and are awaiting trial. Pretrial risk assessment, which is an evidence based tool, can reduce Utah's incarcerated population by pinpointing those individuals who can safely be released. CCJJ has JRI funds available for the Administrative Office of the Courts to use on a pretrial risk assessment tool.

Audit Scope and Objectives

Members of the Legislative Audit Subcommittee approved this performance audit of Utah's monetary bail system following the limited review released last year. They asked that we compare the effectiveness of two types of monetary bail, cash bail and surety bond. In addition, court data led us to an examination of pretrial release practices as well as the surety bond forfeiture process. This introductory chapter provided background information regarding Utah's current pretrial practices as well as changing trends in pretrial decision-making. The remaining chapters will address the following areas and offer corresponding recommendations:

- Chapter II – While Limited in Use, Cash Bail Resulted in Higher Appearance Rates than Surety Bonds.
- Chapter III – Pretrial Release Decisions Need to Be Evidence Based and Account for Risk.
- Chapter IV – Improvements Are Needed to the Surety Bond Forfeiture Process.

Members of the Legislative Audit Subcommittee asked that we compare the effectiveness of two types of monetary bail, cash bail and surety bond.

Chapter II

While Limited in Use, Cash Bail Resulted in Higher Appearance Rates than Surety Bond

We were asked to review and compare the effectiveness and costs of *cash bail* and *surety bonds*.⁶ This review responds to concerns raised by Utah's *commercial surety* industry that the court's use of cash bail is a growing problem, resulting in poor court appearance rates. They also report that cash bail is unconstitutional and unfair to their industry. In contrast to these concerns, we found that cash bail is used infrequently and, when used, appears to result in better defendant court appearance rates than surety bonds do. Specifically, data from fiscal year 2015 showed that cash bail resulted in higher court appearance rates by nine percentage points. We did not find any evidence that cash bail is unconstitutional and, according to statute, the practice is within the bounds of judicial discretion. One limitation of our review of court appearances was the absence of data on defendant risk, which is a significant driver of court appearance rates.

Cash Bail Is Used On a Limited Basis

Cash bail is used in a limited number of locations by a limited set of judges. In fact, based on a year of district court data provided by the Administrative Office of the Courts (AOC), cash bail was only used in 15 percent of all monetary bail cases in 2015. By reviewing existing court data, conducting a judicial survey, and interviewing judges, we found that cash bail is used mostly in the Fourth Judicial District. While used infrequently, judges who use cash bail report benefits.

**Only 15 percent of all
monetary bail cases used
cash bail in 2015.**

Cash Bail Is Rarely Used

During the last two sessions, legislation addressing changes to the cash bail practice was proposed. Specifically, the proposed legislation would have required that the courts set the same monetary bail amount whether bail was paid as cash bail or as a surety bond. For

⁶ To clarify terms used in this report, refer to the glossary in Appendix A.

example, if a judge sets *bail* at \$5,000, the defendant would be required to pay \$5,000 if they used cash bail or secure a \$5,000 surety bond by paying a non-refundable premium of \$500 (typically 10 percent of bond amount) to a commercial surety. This proposal deviates from the current practice whereby a judge has the discretion to set the cash bail amount above or below the surety bond amount. While neither bill passed, effort expended by both supporters and critics of the bills suggested a sizable cash bail concern.

We found, however, that cash bail is not often used. We received data from the AOC that included all 9,652 district court cases involving monetary bail that were disposed in fiscal year 2015. Of these cases, 85 percent used only surety bond, 13 percent used only cash bail, and 2 percent used both surety bond and cash bail as shown in Figure 2.1.

Figure 2.1 District Court Cases Involving Monetary Bail in Fiscal Year 2015 by Judicial District. While the majority (85 percent) of district court cases use surety bonds, cash bail is occasionally used and most commonly found in the Fourth District Court.

1	401	5%	46	4%	5	3%
2	1709	21%	213	16%	43	24%
3	2596	32%	137	11%	15	8%
4	1312	16%	560	43%	50	28%
5	1095	13%	65	5%	13	7%
6	291	4%	22	2%	6	3%
7	213	3%	48	4%	18	10%
8	555	7%	208	16%	31	17%
Total	8172	100%	1299	100%	181	100%
Grand Total	8172 (surety bond) + 1299 (cash bail) + 181 (mixed) = 9652					

Source: Auditor analysis of Utah Administrative Office of the Courts data.
Note: Individual percentages do not add to 100% because of rounding.

While the majority of district court cases involved surety bonds, cash bail is used to some extent in every district. It is most prevalent in the Fourth Judicial District, where 43 percent of the state's total cash bail cases were found. Cash bail, however, was used in only 30 percent of all monetary bail cases processed in the fourth district.

surety bonds are the most common form of monetary bail in every district.

There Are Two Forms of Cash Bail. We define *low cash bail* as cash bail that is set below the bail schedule, whereas *high cash bail* is cash bail set at or above the bail schedule. Low cash bail is the form of cash bail commercial sureties are concerned about because it enables defendants to be released for an amount of money comparable to the amount required if they were released on surety bond. Judicial officers use high cash bail to detain high-risk defendants. The higher the perceived flight risk or risk to public safety, the higher the cash bail amount.

In over half of the cash bail cases, 763 of 1,299, the initial bail amount was set below the bail schedule. To place this data in the larger context, in only 8 percent of the 9,652 monetary bail cases disposed in 2015 was cash bail set below the bail schedule. Therefore, it is reasonable to conclude that low cash bail is used on a limited basis. The following section discusses why judges may be reluctant to use low cash bail.

While Permitted in Statute, Judges Use Low Cash Bail Infrequently

Statute allows judges to exercise their discretion in determining how a defendant is released as well as the condition of their release. This determination includes the option of using cash bail and setting the bail amount below the bail schedule. Despite this discretion, there are a couple of reasons why low cash bail is used infrequently.

First, our judicial survey revealed that a number of judges are unaware that low cash bail is an option. For example, when asked, “when and why do you use cash bail (below the bail schedule)?” most judges responded “never used or not available.” Some judges who responded “never” said they were unaware that setting cash bail below the bail schedule was an option, while others reported that they use the bail schedule. The following excerpts illustrate the range of judicial responses we received regarding the use of low cash bail.

Never Heard of Low Cash Bail

I have never heard of such an option. If the bail is “bondable” they can purchase a bail bond, which usually costs about 10% of the bond and is paid to the bonding company. If I order cash bond the only option is to pay that amount into the court to guarantee their continued appearance.

Low cash bail, one of the commercial surety industry’s primary concerns, is used on a limited basis.

Many judges are unaware that setting cash bail below the bail schedule is an option.

Adheres to Bail Schedule

I try to follow the bail schedule and deviate from the schedule when justified by the facts of the case.

Uses Low Cash Bail

When the defendant has limited finances, it is a nonviolent crime, and the defendant has no prior incidents of failing to appear.

As illustrated by the first excerpt, some judges are unaware that cash bail set below the bail schedule is an option. This may be explained by conflicting guidance in statute and rule. *Utah Code* 77-20-1 makes clear that judges have the discretion to release a person:

On the person's own recognizance or upon posting bail, on condition that the person appear in court for future court proceedings in the case, and on any other conditions imposed in the *discretion* of the magistrate or court....
[emphasis added]

In contrast to the judicial discretion emphasized in statute, Rules of Criminal Procedure require judges to adhere to the bail schedule:

The bail determination *shall* coincide with the recommended bail amount in the Uniform Fine/Bail Schedule unless the magistrate finds substantial cause to deviate from the Schedule.⁷

This inconsistent direction given to judges between statute and the Rules of Criminal Procedure creates inconsistencies in judicial practice since some judges may feel it necessary to follow the bail schedule.

Finally, defendants as well as their attorneys routinely request that bail be made bondable because the up-front costs of using a surety bond are lower, which is appealing to defendants with limited resources. For example, if a judge follows the bail schedule and the

Surety bonds have lower up-front costs for defendants than cash bail.

⁷ Additionally, the Rules of Judicial Administration 4-302(9) further adds to the confusion by stating, "When imposing fines and setting bail, courts *should* conform to the uniform fine/bail schedule *except* in cases where aggravating or mitigating circumstances warrant a deviation from the schedule" (emphasis added).

charge is a third-degree felony, then the bail amount is \$5,000. Cash-strapped defendants may find it more difficult to come up with \$5,000 cash than \$500 for a surety bond (typically 10 percent of the bail amount) if paying a commercial surety. Additionally, in some jurisdictions, judges do not set bail; rather, bail commissioners (jail officials) set bail according to the bail schedule. Despite cash bail's infrequent use, judges who use it report benefits.

Judges Who Use Low Cash Bail Report Benefits

While the use of surety bonds is by far the most common monetary form of *pretrial* defendant release, we wanted to understand why judges occasionally deviate from the norm. To learn more about their pretrial decision-making practices, we sent a judicial survey to all judges in the district and justice courts. While only a handful of judges reported using low cash bail, none of these judges, as well as those we interviewed, reported drawbacks and many reported benefits.

The primary benefit judges reported was that cash bail money is returned in full to those defendants who make all court appearances and are not convicted. They report that this practice incentivizes court appearances. Even in the case that a defendant makes all court appearances but is convicted, the judge has discretion to apply all, some, or none of this money to fines and restitution costs. In contrast, money deposited with a commercial surety (typically 10 percent of the bail amount) is not returned to the defendant, even if the defendant makes all court appearances and is not convicted, and the money cannot be applied to a defendant's court-related fees. The following section will document that, when cash bail is used, it does not appear to have negative consequences for court appearance rates when compared with surety bonds.

Limited Data Shows Cash Bail Resulted in Higher Court Appearance Rates Than Surety Bonds

A primary objective of bail is to ensure the appearance of the defendant in court. Commercial sureties reported to taxpayers and the Legislature that the use of cash bail results in fewer court appearances. *Failure to appear* (FTA) data does not support this claim. Based on statewide appearance data from fiscal year 2015, 17 percent of cash

Judges who use cash bail reported benefits.

Cash bail money is returned in full to those defendants who make all court appearances and are not convicted.

One quarter of all defendants released on monetary bail missed at least one of their court appearances.

bail cases had at least one FTA while 26 percent of surety bond cases had at least one FTA.

These results are better understood in the context of risk because factors associated with an individual defendant's risk can affect appearance rates. However, the only measurement of effectiveness that we could use in performing our review was the *FTA rates*. While this is a valid metric, a lack of data on defendant risk limited our analysis. Given that individual risk is a significant indicator of who will appear in court or pose a public safety concern, we wanted to statistically control for risk. Unfortunately, the criminal justice system does not collect and share critical data needed to evaluate risk. This concern will be addressed in Chapter III.

Failure to Appear Rates Indicate Cash Bail Had Better Court Attendance Than Surety Bonds in Fiscal Year 2015

Defendants who fail to show up to court is a significant problem for Utah's courts. According to fiscal year 2015 data provided by the AOC, one quarter of all cases involving a defendant released on monetary bail missed at least one of their court appearances.

Using this same data set, we compared FTA rates by the two types of monetary bail and found that cash bail has a lower FTA rate (that is, better court attendance) than surety bonds, as shown in the Figure 2.2.⁸

Figure 2.2 Failure to Appear Rates for District Cases by Bail Type in Fiscal Year 2015. Cash bail cases have better court attendance or lower FTA rates than surety bonds.

Surety Bond	8172	2124	26%
Cash Bail	1299	222	17%
Total	9471	2346	25%

Source: Auditor analysis of Utah Administrative Office of the Courts data.

⁸ Our sample includes all district court cases where bail was posted with the courts in the form of cash bail or surety bond with charges disposed in FY2015. FTAs were counted only if they occurred between the posting of bail and forfeiture or exoneration. Each cash bail transaction was validated and all cases with accounting errors were eliminated.

Based on appearance data provided by the AOC, 26 percent of surety bond cases had at least one FTA while only 17 percent of cash bail cases had at least one FTA. In fact, by analyzing the data in a variety of ways, we found using cash bail consistently resulted in better court appearance rates as demonstrated in the following test results.

By Bail Transaction. Appearance rates per bail transaction (every bail posting, including those in the mixed cases) were nearly identical to the rates shown in Figure 2.2.

By Comparison to Low Cash Bail. Low cash bail, as opposed to all cash bail, had higher appearance rates than surety bonds.

By District. Cash bail had higher appearance rates than surety bonds in all eight judicial districts.

By Charge Type. Cash bail resulted in better court attendance for misdemeanor A and above. Surety bonds had higher appearance rates for misdemeanor B and C as shown in Figure 2.3.

Figure 2.3 Failure to Appear Rates for Felony and Misdemeanor District Cases in Fiscal Year 2015. Cash bail resulted in higher appearance rates than surety bond in most charge types except for class B and C misdemeanors.

	Cash Bail		Surety Bonds	
	FTA Rate	Non-FTA Rate	Count	Total
First Degree	8%	24%	52	277
Second Degree	20%	29%	219	1404
Third Degree	19%	29%	364	3271
Misdemeanor A	13%	23%	329	2430
Misdemeanor B	19%	17%	255	718
Misdemeanor C	19%	13%	80	72
Grand Total	17%	26%	1299	8172

Source: Auditor analysis of Utah Administrative Office of the Courts data.

According to our analysis, cash bail had significantly lower FTA rates for felony cases. The reason for the differences in performance between cash bail and surety bonds is not known. We can speculate,

By analyzing the data in a variety of ways, we found using cash bail consistently resulted in better court appearance rates.

Surety bonds have higher appearance rates for misdemeanors B and C when compared to cash bail by charge type.

FTA rates vary depending on jurisdiction and offense type, ranging from less than 10 percent to as high as 25 to 30 percent.

however, that defendant risk may be partially driving the result of our test, as discussed later in this report.

Commercial Sureties Report Benefits But Documentation Is Lacking

Given the role that surety bonds play in ensuring court appearances, a 26 percent FTA rate is high and inconsistent with what is reported by commercial sureties. While national FTA rate standards do not exist, states are always striving to reduce their FTA rates to reduce costs and enhance courtroom efficiencies. FTA rates vary depending on jurisdiction and offense type, ranging from less than 10 percent to as high as 25 to 30 percent. For example, Kentucky (which tracks FTA rates) reported that 84 percent of pretrial defendants who were released in 2015 attended all their court appearances. Clearly, Utah has room to improve. A representative of the commercial surety industry reported that they provide the following benefits:

- Accountability, very high appearance rates; assurance a defendant will appear and insurance that the surety bond will be paid in the event the defendant fails to appear
- No cost to the general taxpayer
- Supervision, monitoring court schedule, keeping defendant on track; safety factor for private citizen
- Lower recidivism; involvement of loved ones or individuals who have an interest in helping defendants restructure their lives (contractual agreement)

We were unable to validate the accuracy of these reported benefits because the commercial surety representative provided no documentation. When asked to provide documentation supporting this statement, the representative indicated being unaware of any specific tracking or research on Utah's commercial surety industry operations. In fact, the FTA data, jail data (discussed in Chapter IV), and interviews we conducted appear to invalidate some of these claims. One large commercial surety, however, provided FTA data, reporting an FTA rate of 33 percent between February 2015 thru September 2016. While this only represents one commercial surety,

their data appears to support our conclusion that surety bond cases have higher FTA rates than cash bail cases.

Audit Conclusions Limited by Lack of Data on Defendant Risk

As mentioned, we were asked to review the effectiveness of two types of monetary bail. Based on FTA data, the only data available to evaluate this request, it appears cash bail outperforms surety bonds. We cannot, however, conclude that cash bail should be used more frequently. Two main factors limit such a conclusion.

First, each bail type is dependent on a defendant's risk level and existing court data does not track the factors needed for assessing risk. According to studies on pretrial risk, risk is a significant predictor of court attendance. Riskier defendants are less likely to appear in court and more likely to reoffend. Trends in the AOC's data, such as a defendant's flight risk, may contribute to the results of our analysis. For instance, in districts where cash bail is used more (fourth and eighth districts), there is a smaller difference in the appearance rate performance of the two types of monetary bail. Therefore, we are unable to confidently recommend that cash bail be used more frequently. What is clear in the data is that the use of cash bail does not result in lower appearance rates when compared with surety bonds, which was a concern raised by the commercial surety industry.

Second, FTA data does not solely predict public safety risk. "Ensuring the safety of the public" is one of statutory factors that a judge weighs in making a pretrial release decision. Therefore, any release type should be carefully evaluated for its ability to promote public safety. To do this, appropriate defendant information needs to be collected and compiled in a validated risk instrument. This information (such as criminal records, employment status, and housing status) can then be used as a tool for judges to objectively evaluate the risk each defendant poses of endangering public safety.

While the primary objective of this audit was to review the effectiveness of two types of monetary bail, it is important to acknowledge, especially in the context of Utah's Justice Reinvestment Initiative, that the existing monetary bail system (which includes both cash bail and surety bond) has received criticism. There is growing interest, both locally and nationally, in using evidence-based practices that account for an individual's risk level, rather than their ability to

**Cash bail is not
recommended over surety
bonds due to a lack of
defendant data on risk.**

pay, to improve pretrial release decisions. Therefore, the following chapter will discuss why Utah needs to adopt evidence-based pretrial release practices that account for risk.

Recommendation

1. We recommend that the Administrative Office of the Courts review and resolve inconsistent judicial direction in statute, the Rules of Criminal Procedure, and the Rules of Judicial Administration regarding pretrial release decisions.

Chapter III

Pretrial Release Decisions Need to Be Evidence-Based and Account for Risk

Our judicial survey of all Utah district and justice court judges revealed that judges lack basic information when making *pretrial* release decisions.⁹ Basing pretrial release decisions on inadequate information negatively impacts public safety, taxpayer resources, and defendant outcomes. This is because the existing *bail* system allows individuals who present little risk of flight or threat to public safety to be detained at considerable cost to the taxpayer, while dangerous people with sufficient means can be released into the community. Evidence-based risk assessment tools help ensure that the right people remain behind bars while awaiting trial by predicting the likelihood that a defendant will fail to appear in court or endanger the community. Improved outcomes such as higher release rates, higher court appearance rates, greater public safety, and reduced costs are motivating states to adopt and national organizations to support evidence-based risk assessment. While the Administrative Office of the Courts (AOC) supports risk assessment, they do not collect the data needed for successful risk assessment.

Pretrial Release Decisions Are Made Without Adequate Information

Our survey of all district and justice court judges revealed that judges lack basic information when making pretrial release decisions. Surveyed judges largely reported that they base their initial pretrial decisions on probable cause statements, which are the arresting officers' accounts of what occurred at the time of arrest. Little reliable information about a defendant's risk of flight or danger to the community is provided to judges outside of Salt Lake County. Salt Lake County has been using a validated risk assessment since 2013 on 76 percent of the county's inmates. For example, criminal histories, prior *failure to appear*, and ties to the community are not known when judges make their initial release decisions, despite studies that

Basing pretrial release decisions on inadequate information negatively impacts public safety, taxpayer resources, and defendant outcomes.

Utah judges lack basic information when making pretrial release decisions.

⁹ To clarify terms used in this report, refer to the glossary in Appendix A.

Sixty percent of surveyed judges reported not having sufficient information to make fair pretrial decisions.

demonstrate such factors are highly predictive of a defendant's risk of flight or threat to public safety.

Surveyed judges reported not having enough information pretrial. When asked whether they had sufficient information to make fair pretrial decisions, 60 percent of judicial respondents reported "no", 27 percent reported "yes", and 13 percent reported "sometimes".

For example, a judge from Davis County stated, "I usually only have the probable cause statement and some of those are very brief." A judge from Salt Lake County also indicated that more information is needed pretrial:

We need better information to allow us to decide up front if a person is likely to appear. If they are, *recognizance* is appropriate. While Salt Lake County uses such a tool, it is not administered until after probable cause is determined and bail is set, which is not logical.

Salt Lake County is the only county that provides judges with validated information about defendants to help inform their pretrial release decisions. When this information is available, judges report it is useful.

Inadequate information hinders the quality of judicial decisions and, by extension, negatively impacts public safety, taxpayer resources, and defendant outcomes.

Additionally, the 2015 Utah Judicial Council study on pretrial release practices also found that, "...judges are not given the information they need when making a pretrial release or monetary bail decision." Inadequate information is problematic because it hinders the quality of the decisions judicial officers make and, by extension, negatively impacts public safety, taxpayer resources, and defendant outcomes.

Pretrial Decisions Impact Public Safety, Taxpayer Resources, and Defendant Outcomes

Basing pretrial decisions on inadequate information negatively impacts public safety, taxpayer resources, and defendant outcomes. When judges have inadequate information about a defendant's risk, it is difficult to identify and detain defendants who pose a public safety concern. Likewise, over-incarceration can result when those who can be safely released are not, because of a lack of risk data. Maximizing the number of defendants who can be safely released saves taxpayer

Maximizing the number of defendants who can be released safely saves taxpayer resources.

resources by freeing up jail space and reducing the costs associated with incarceration. Finally, even short amounts of time in jail for low-risk defendants are correlated with poor pretrial outcomes such as lowered court attendance and new criminal activity. Basing pretrial release decisions on risk mitigates these undesirable consequences while simultaneously promoting better outcomes and public safety.

Public Safety Cannot Be Promoted Without Data on Risk

When releasing defendants, public safety should be the top priority. The importance of public safety is clear in *Utah Code* 77-20-1 (3), which states that the purposes of the bail decision are to:

1. Ensure the appearance of the accused
2. Ensure the integrity of the court process
3. Prevent direct or indirect contact with witnesses or victims
4. Ensure the **safety** of the public (emphasis added)

Unfortunately, as previously documented, Utah judges have little information on a defendant's public safety risk. Consequently, judges have limited options for detaining defendants who present a public safety concern. As mentioned in Chapter II, the typical practice is for judges to set high bail amounts with the goal of detaining risky defendants. The problem with this practice is that it opens the door for dangerous defendants to finance their freedom.

A recent example involves a risky defendant who, while documented as indigent, paid over \$275,000 to post bail. The defendant was accused of stealing over \$100,000 in fur coats in Summit County. He was required to wear an ankle monitor and pay \$25,000 to secure his release. Meanwhile, he had a pending case in Salt Lake County where he posted the \$250,007 bail and was released despite charges of aggravated assault, discharge of a firearm, and gun possession as a "restricted person". Following his pretrial release, the defendant engaged in a police chase that ended in additional charges. This example highlights the problem of releasing risky defendants. Had the judges been made aware of the defendant's risk score through a validated risk instrument, perhaps there would have been enough information to rightfully detain this dangerous defendant.

Validated risk instruments can help to identify the level of risk a defendant poses and recommend the appropriate release conditions

Judges have limited options for detaining defendants who present a public safety concern.

Validated risk instruments can help to identify the level of risk a defendant poses.

The present offense, prior convictions, and prior failures to appear are all important predictors of pretrial rearrests.

Defendants who are released and supervised cost \$7.17 per day, which is 90 percent lower than detention at \$74.61 per day.

needed to minimize public safety risk. One study that reviewed national data for over 100,000 defendants over a 15-year period found clear trends in identifying which defendants are more likely to commit crimes while free on bail.¹⁰ This study found that the present offense, prior convictions, and prior failures to appear are all important predictors of pretrial rearrests. For example, older defendants with clean records accused of nonviolent crimes are less likely to commit crimes while out on bail, while younger defendants with extensive criminal history records are more likely to break the law while awaiting trial. This research is important because it supports the effectiveness of a validated risk instrument in helping identify those defendants who can be released safely, freeing taxpayer resources for other uses.

Taxpayers Pay to Detain Defendants Who, when Properly Screened for Risk, Could Be Released

The prompt release of pretrial detainees who do not pose a public safety risk is associated with reduced recidivism and the wise utilization of limited jail resources. Release is less costly than detention. Defendants who are released and supervised cost \$7.17 per day, which is 90 percent lower than detention at \$74.61 per day, according to a 2016 report released by Harvard's Kennedy School of Government.¹¹ Additionally, screening for low-risk defendants and keeping them out of jail allows them to contribute to the tax base rather than be housed at taxpayer expense.

Experts report that roughly 25 percent of the currently detained pretrial population could be released without compromising public safety.¹⁰ Assuming that this estimate holds true for Utah, taxpayers could be saving significant resources in detention costs. However, a portion of these savings would need to be reinvested on pretrial supervision services, which are significantly less costly than incarceration.

¹⁰ Baughman, Shima B. and Frank McIntyre. "Predicting Violence." *Texas Law Review*, vol. 90, 2012, p. 497.

¹¹ Wiseman, Jane and Stephen Goldsmith. "Fairness is Fiscally Responsible." June 27, 2016. Available at: <http://datasmart.ash.harvard.edu/news/article/fairness-is-fiscally-responsible-861>

Utah judges are reluctant to release defendants on their own recognizance despite statutory authority to do so. This reluctance may be caused by a lack of pretrial risk assessment and services. Providing risk assessment and services may give judges the necessary information and resources to release defendants on their own recognizance, saving taxpayer resources.

Basing Pretrial Decisions on Inadequate Information Results in Undesirable Consequences for Defendants

A growing body of research suggests that when pretrial decisions result in detention, there are negative consequences for defendants. Low-risk defendants who spend just three days in jail are less likely to appear in court and more likely to commit new crimes because of the loss of jobs, housing, and family connections, according to an Arnold Foundation study of defendants in Kentucky jails.¹² Defendants who are detained before trial are also more likely to be convicted if they go to trial, receive prison or jail sentences, and have longer sentences than similar defendants released at some point pending trial.¹³ Comparable results were found in a separate study using federal system data.¹⁴

Utah defendants spend a significant amount of time behind bars before they have been convicted. Jail data provided by Utah County shows that the average length of stay for pretrial detainees is 35 days (including those who are released on bail). Those not released on bail typically spend "...a minimum of 60 days, under perfect timeline conditions, even with an almost immediate plea resolution," according to a Utah County public defender.

In Davis County, those with misdemeanor charges spend, on average, between 22 and 27 days in jail and those with felony charges spend between 50 and 77 days in jail. While these counties do not use data to evaluate defendant risk, a portion of these pretrial defendants

Low-risk defendants who spend just three days in jail are less likely to appear in court and more likely to commit new crimes.

Utah defendants spend a significant amount of time behind bars before they have been convicted.

¹² Christopher T. Lowenkamp et al. "Hidden Costs of Pretrial Detention." Laura & John Arnold Foundation, 10-11, 2013.

¹³ Christopher T. Lowenkamp et al. "Investigating the Impact of Pretrial Detention on Sentencing Outcomes." Laura & John Arnold Foundation, 10-11, 2013.

¹⁴ J.C. Oleson et al. "The Effect of Pretrial Detention on Sentencing in Two Federal Districts." *Justice Quarterly*, 2014. DOI:10.1080/07418825.2014.959035

are likely low risk. The National Association of Counties 2015 report on jail populations and pretrial release states that two-thirds of defendants confined in county jails are pretrial and the majority are low risk.

Given the poor outcomes associated with detention, Utah courts need to support jails in limiting detention to those who are evaluated through risk assessment as likely to commit a new crime pretrial or fail to appear in court.

Evidence-Based Risk Assessment Tools Promote Better Outcomes at Reduced Costs

Research demonstrates that risk assessment, added to professional judgment, results in better outcomes than professional judgment alone.¹⁵ Evidence-based risk assessment tools are empirically validated tools that predict the likelihood that a defendant will fail to appear in court or endanger the community pending trial. The tool assigns a defendant a risk score (low, medium, or high) that judicial officers can use in determining whether a defendant should be released or detained pretrial and the appropriate conditions, when necessary, to secure the safety of the public should the defendant be released. Risk assessments are designed to complement, not replace, judicial discretion.

Pretrial Decisions Are Not Driven by Data that Ensures Successful Outcomes. While most of those who are arrested have the option to post monetary bail and remain free until they are arraigned, a segment of the jail population does not have adequate resources to secure release. This lack of financial resources is a common concern; as described by a state public defender, “people routinely spend weeks or months in custody for bails of \$5,000 bondable, which is the bail schedule [amount] for third-degree felonies.” This means many defendants cannot afford the \$500 premium (10 percent of the bond amount) needed to use a *commercial surety*. One recent example involves a Utah County case in which a person was arrested for minor retail theft with prior convictions. Her bail was set at \$5,000 cash or *surety bond*. While her case was resolved at the second hearing before

Evidence-based risk assessment tools are empirically validated tools that predict the likelihood that a defendant will fail to appear in court or endanger the community pending trial.

There is a segment of the jail population that does not have adequate resources to secure their release.

¹⁵ Andrews, D.A., J. Bonta, and J.S. Wormith. “The Recent Past and Near Future of Risk and/or Need Assessment.” *Crime and Delinquency*, Vol. 52 No.1, 2006 7–27.

the court, she was unable to afford her bail and will remain in custody until her sentencing date, ultimately serving 58 days in custody. This case illustrates why data on risk is needed to drive decision-making, by ensuring that those defendants who are kept in jail are there because they present a risk and not simply because they are too poor to afford bail.

Maximizing the number of defendant releases without negatively affecting court appearances or public safety is a win for taxpayers as well as defendants, but can only be done when information about a defendant's risk is collected and appropriately used. Other states are demonstrating positive outcomes following the adoption of a risk assessment tool.

Positive Outcomes Are Driving Support For Evidence-Based Risk Assessments

Nearly all the surrounding western states, including Utah, have either recently adopted or are adopting an evidence-based risk assessment instrument to improve pretrial decisions. A common challenge for these states is to identify a risk instrument and validate the instrument using data from their own populations. A variety of assessment instruments are available, with some proprietary and others available at no cost. Among the most well-studied and widely used of these instruments is the Public Safety Assessment-Court (PSA-Court) developed by the Laura and John Arnold Foundation.¹⁶

Kentucky is among the earliest adopters of the PSA-Court, utilizing the risk instrument in all 120 counties beginning in July 2013. Since its adoption, Kentucky has released more defendants pretrial while at the same time reducing crime for these defendants by nearly 15 percent. Other states have demonstrated similar positive outcomes using pretrial risk assessment. Such results have received the attention of many national organizations, including the American Bar

Kentucky has released more defendants pretrial and reduced crime for these defendants by nearly 15 percent since adopting pretrial risk assessment.

¹⁶ The PSA was created using a database of over 1.5 million cases drawn from more than 300 U.S. jurisdictions to identify which factors best predict whether a defendant will commit a new crime, commit a new violent crime, or fail to return to court. The PSA-Court is being piloted in a number of states and jurisdictions and is expected to be made available nationally in the near future.

Most of the surrounding western states are using or are in the process of adopting an evidence-based risk instrument to drive their pretrial decisions.

Association, National Institute of Corrections, and National Center for State Courts that support the use of risk assessment.

Surrounding States Are Using or Adopting Risk Assessment to Inform Pretrial Decisions

We contacted all the surrounding western states and found that all, except Wyoming, are using or in the process of adopting an evidence-based risk instrument to drive their pretrial decisions. The following examples demonstrate some of the recent activities by these states.

- Colorado's governor signed into law in 2013 House Bill 13-1236 that significantly overhauled their pretrial practices. Among other recommendations made by the Colorado Commission on Criminal and Juvenile Justice, the law, titled Evidence-based Decision-Making Practices and Standardized Bail Release Decision-Making Guidelines included the use of empirically developed risk assessment instruments.
- New Mexico's Legislature in 2016 passed Senate Joint Resolution 1 (which voters approved in November) amending their state constitution. The constitution now allows the detention of dangerous defendants and ensures the release of non-dangerous defendants through a validated risk instrument.
- Arizona adopted the Arnold Foundation's pretrial risk-assessment tool in June 2015. The state is among the 21 jurisdictions, including major cities and entire states, that have adopted the PSA-Court. Arizona's Judicial Council approved the use of the tool based on the success of the five sites that originally piloted the tool.
- Idaho now has 18 of its 44 counties offering pretrial justice services. Idaho's Pretrial Justice Planning Committee is working toward adopting a standardized risk assessment tool statewide. The state supreme court recently identified pretrial justice as a priority and is in the process of implementing a pretrial module into a new case management system to improve data collection efforts and standardize pretrial practices and risk assessment across jurisdictions.
- Nevada's chief justice initiated a committee to study evidence-based pretrial release. A custom pretrial risk instrument was

developed and approved by the committee for validation in February 2016. Nevada plans to use the instrument in four jurisdictions to release more defendants on their own recognizance.

Utah Too Is Working to Improve Its Pretrial Practices.

Specifically, the courts are taking steps to adopt a validated risk assessment instrument statewide. The following activities demonstrate the courts' commitment to pretrial risk assessment.

- In their 2015 report to the Judicial Council on Pretrial Release and Supervision Practices, the courts recommended that, "each person booked into jail should receive a pretrial risk assessment, using a validated instrument, and current assessment results should be available at each stage where a pretrial release and supervision decision is made."
- The AOC supports the use of a validated risk assessment tool and has convened a pretrial release and supervision committee to adopt the above recommendation, among others.
- In the 2016 Utah State of the Judiciary address to the Legislature, pretrial release practices were given top priority. Specifically, the chief justice encouraged the Legislature to consider "instituting a validated pretrial risk assessment process for use in every district."

Additionally, our survey of judges indicated a clear preference for more pretrial information, specifically, a validated risk assessment. The majority, 77 percent, of the judges who responded to our survey reported being "very interested" in pretrial risk assessment, 23 percent were "somewhat interested" and none reported being uninterested. Given the support of Utah's courts as well as the level of interest in pretrial risk assessment from its judges, we believe Utah needs to adopt a risk assessment statewide.

The considerable effort western states are placing on the pretrial phase of the criminal justice system reflects a commitment to leverage data, technology, and research to improve outcomes. It will take time to demonstrate the success of these efforts. There are jurisdictions, however, that have been using evidence-based risk assessments long enough to demonstrate positive outcomes. The following section will describe some of these positive outcomes.

In the 2016 Utah State of the Judiciary address to the Legislature, pretrial release practices were given top priority.

Jurisdictions that use pretrial risk assessment demonstrate enhanced court attendance and public safety.

Jurisdictions with Evidence-Based Risk Assessments Are Showing Positive Outcomes

An increasing number of jurisdictions are using risk-based decision-making instruments to enhance pretrial decision success. Studies from four jurisdictions using pretrial risk assessments, along with other pretrial programs, show enhanced court attendance and public safety while releasing more defendants and saving money.

- Washington DC
 - Savings – \$182 a day per defendant released pretrial rather than incarcerated
 - Release Rate – 88 percent of pretrial defendants released
 - Public Safety – 91 percent of defendants remain arrest-free pretrial
 - Court Appearance – 90 percent of defendants made all scheduled court appearances
- Kentucky
 - Savings – Up to \$25 million per year
 - Release Rate – 73 percent of pretrial defendants released
 - Public Safety – 89 percent did not commit crimes while released
 - Court Appearance – 84 percent appearance rate
- Mesa County, CO
 - Savings – \$2 million per year
 - Release Rate – Pretrial jail population dropped by 27 percent
 - Public Safety – Uncompromised despite an increase in the number of defendants released
 - Court Appearance – 93 percent of lower-risk defendants and 87 percent of high-risk defendants made all court appearances before trial
- Lucas County, OH
 - Savings – not available
 - Release Rate – Doubled from 14 to 28 percent
 - Public Safety – Defendants arrested reduced by half from 20 percent to 10 percent.
 - Court Appearance – Increased by 12 percent from 59 percent to 71 percent.

These examples demonstrate how jurisdictions have leveraged evidence-based decision-making tools to reduce jail populations, crime rates, and taxpayer expense while also improving court appearance rates. Therefore, a growing number of national organizations support the adoption of risk-based decision-making.

National Organizations Support Risk-Based Decision-Making

Numerous national organizations have endorsed (or issued policy statements in support of) risk-based pretrial release decision-making as well as the necessary pretrial services needed to mitigate defendant risk. Notably, the Conference of State Court Administrators (COSCA) adopted a white paper advocating, among other pretrial reform efforts, "...that court leaders promote, collaborate, and accomplish the adoption of evidence-based assessment of risk in setting pretrial release conditions."

The Conference of Chief Justices endorsed COSCA's policy position in 2012 and subsequently, many state and local courts are accelerating their efforts to advance legal and evidence-based pretrial practices. Figure 3.1 identifies the many national organizations that support improved pretrial practices.

National organizations have endorsed or have issued policy statements supporting risk-based decision-making pretrial.

National organizations that support pretrial reform include the American Bar Association, the National Institute of Corrections, and the National Center for State Courts.

Figure 3.1 National Organizations That Support Pretrial Reform. A growing number of national organizations back pretrial reform efforts and risk assessment, including the American Bar Association, the National Institute of Corrections, and the National Center for State Courts.



Source: Pretrial Justice Institute

For Utah, adopting risk-based decision-making is possible but data collection barriers will need to be addressed first. The following section discusses these barriers and recommends solutions for improving data collection.

Utah's Criminal Justice System Needs to Improve Data Collection for Successful Risk Assessment

The cornerstone of any risk assessment instrument is accurate and reliable data. Unfortunately, the data needed to accurately predict individual defendant risk is hampered by the fact that such information resides in a number of different criminal justice databases which are not linked to the courts information system. Additionally, key pretrial outcome and performance metrics, such as the number of inmates that remain in custody while awaiting trial, are not tracked. Basic information about pretrial release practices, such as the number of defendants released on recognizance, is also not tracked, resulting in

Utah's Criminal Justice System does not track key pretrial outcome and performance metrics, such as the number of inmates that remain in custody while awaiting trial.

inconsistencies in pretrial release practices across the state. The criminal justice system should coordinate and improve its data collection efforts to enable risk assessment and to prepare for the evaluation of pretrial service program performance.

Reliable Defendant Information Is Not Tracked

The AOC recommends that, “each person booked into jail should receive a pretrial risk assessment....” To reach this ambitious goal, the AOC will need to develop a way to collect information that can reliably and accurately predict a defendant’s risk of flight or re-offending. This information includes criminal histories, prior failure to appear occurrences, as well as other locally validated risk factors. For example, Salt Lake County gathers information from the following systems in collecting pretrial risk assessment data: Jail Offender Management System, Utah Bureau of Criminal Identification, Utah Courts System, and Salt Lake County Criminal Justice Services’ System. Also, unique identifiers are not used, which makes offender tracking between systems difficult.

When we began the audit, the only information that the AOC tracked was FTA data and this information was indirectly tracked through warrants. Other information needed to assess risk resided in different correctional databases not directly linked to the courts information system. Recently, the AOC has upgraded their information system, which has improved FTA tracking. They also report that they are in the process of receiving defendant data from state criminal history information systems in an effort to get all the data needed to assess risk. In addition to tracking individual defendant information, the AOC also needs to collect data to evaluate pretrial program performance.

Defendant information, needed for risk assessment, resides in many disparate data systems.

The number of inmates that remain in custody while awaiting trial, the percentage of the jail population that is pretrial, and the average length of stay for this population is not currently tracked.

Pretrial data is kept at the local jails and not shared with the AOC.

Key Pretrial Outcome and Performance Metrics Are Not Collected and Tracked

A number of meaningful pretrial performance metrics are not collected or tracked. For example, the number of inmates that remain in custody while awaiting trial, the percentage of the jail population that is pretrial, and the average length of stay for this population are not currently tracked. Basic data about pretrial release practices across the state are also not collected. For instance, we were unable to identify how often defendants are released on their own recognizance. Therefore, it is difficult to determine the effectiveness, or lack thereof, of different release types.

Unfortunately, pretrial data is kept at the locally run jails and not shared with the AOC. Therefore, the AOC is unable to evaluate pretrial practices statewide. AOC administrators report that they do not have the ability to ensure local jails collect and share key pretrial data using a standard set of definitions.

A failure to track basic information results in inconsistent pretrial release practices. This concern was reported in the Utah Board of District Court Judges May 2015 report to the Chief Justice as well as Utah Courts February 2015 Report to the Judicial Council on Pretrial Release and Supervision Practices. Both reports document significant discrepancies in pretrial release practices across the state.

Tracking pretrial information is important because it can help the AOC gauge how effectively it is delivering on its pretrial justice system goals. To this end, the National Institute of Corrections' (NIC) Pretrial Executive Network developed a 2011 report that recommends key outcome and performance metrics that pretrial programs should be tracking. Specifically, Figure 3.2 highlights key outcome measures that Utah's courts should be tracking.

Figure 3.2 Pretrial Outcome Measures. Utah's courts should be tracking the National Institution of Corrections' key outcome measures to improve its pretrial operations.

Appearance Rate	The percentage of supervised defendants who make all scheduled court appearances
Safety Rate	The percentage of supervised defendants who are not charged with a new offense during the pretrial stage
Concurrence Rate	The ratio of defendants whose supervision level or detention status corresponds with their assessed risk of pretrial misconduct
Success Rate	The percentage of released defendants who (1) are not revoked for technical violations of the conditions of their release, (2) appear for all scheduled court appearances, and (3) are not charged with a new offense during pretrial supervision
Pretrial Detainee Length of Stay	The average length of stay in jail for pretrial detainees who are eligible by statute for pretrial release

Source: National Institute of Corrections, Measuring What Matters: Outcome and Performance Measures for the Pretrial Services Field (Aug. 2011)

In addition to the above outcome measures, performance measures, mission critical data, and guidance on setting SMART (specific, measurable, achievable, realistic, and time-bound) targets were also recommended in the report. While we fully support the AOC's adoption of all the report's recommendations, we specifically recommend that the AOC begin with the sizeable task of collecting outcome measures.

Collecting quality pretrial data will require a concerted effort to improve how different data systems interact as well as ensure that consistent and accurate data is collected from these systems. The AOC, however, is dedicated to such improvements as evidenced by their standing committee on pretrial release and supervision practices' following statement: "All stakeholders should collect and share consistent data on pretrial release and supervision to facilitate a regular and objective appraisal of the effectiveness of various pretrial release and supervision practices."

Collecting quality pretrial data will require a concerted effort to improve how different data systems interact.

We applaud the AOC's willingness to improve data collection efforts as a critical step toward implementing a successful pretrial risk assessment tool.

We applaud the AOC's willingness to improve data collection efforts as a critical step toward implementing a successful pretrial risk assessment tool as well as evaluating the effectiveness of various pretrial initiatives. We also acknowledge that receiving accurate and reliable data from the jails will not be easy. One possible solution is to require jails to supply key outcome metrics to the Utah Department of Corrections (UDC) in order to obtain reimbursement funds. Pretrial data could then be shared between UDC and the AOC. This solution, however, may require a Legislative mandate.

Recommendations

1. We recommend that the Administrative Office of the Courts initiate a process for adopting a validated risk assessment instrument and provide this information to all judicial officers in the state.
2. We recommend that the Administrative Office of the Courts develop a case management system that incorporates a pretrial service module to track mission-critical pretrial data.
3. We recommend that the Administrative Office of the Courts collect and report key outcome metrics that may include but are not limited to:
 - a. Appearance Rate
 - b. Safety Rate
 - c. Concurrence Rate
 - d. Success Rate
 - e. Pretrial Detainee Length of Stay

Chapter IV

Improvements Are Needed to the Surety Bond Forfeiture Process

We reviewed the *surety bond* forfeiture process and found several opportunities for improvement. First, Utah's forfeiture timeframes are unnecessarily long. Compared with other states, Utah's forfeiture grace period is among the longest in the nation. Such a long grace period is unnecessary given the fact that most defendants—71 percent—who fail to appear in court return to court or to custody within a month. Second, the forfeiture process needs to be more effective in its core mission of promoting court appearances. Of the 2,124 surety bond cases in fiscal year 2015 in which the defendant failed to appear in court, only 38 (1.7 percent) resulted in a bond forfeiture. Forfeitures are uncommon, in part because of the long grace period that allows automatic bond exonerations; thus, there is insufficient economic incentive for *commercial sureties* to ensure court appearances. Finally, we found that judges, clerks, and prosecutors do not always process forfeitures in a timely and consistent manner. These key players could benefit from clarification of requirements and increased training to help ensure a successful forfeiture process.

Utah's Forfeiture Grace Period Is Unnecessarily Long

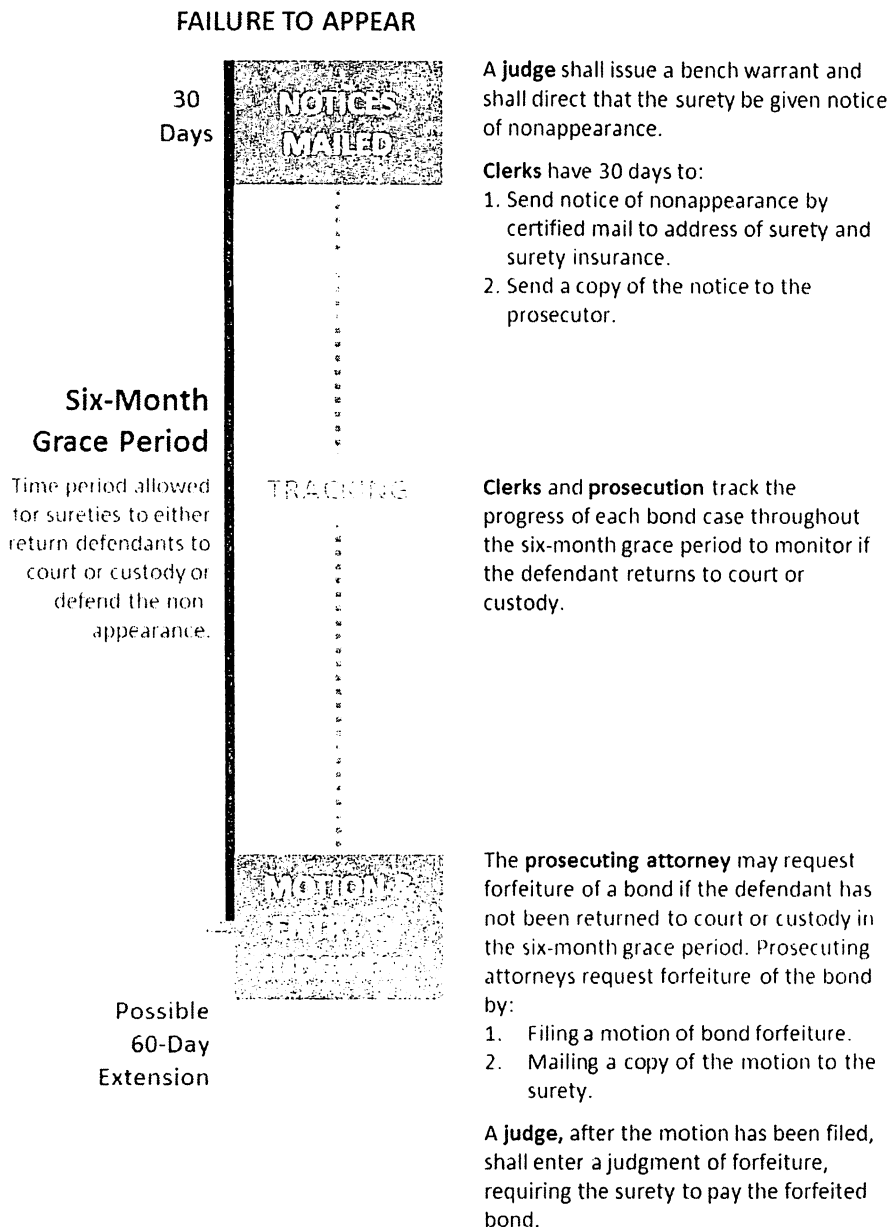
Utah's forfeiture grace period is among the longest in the nation. Statute grants commercial sureties six months plus the possibility of a 60-day extension to bring bonded defendants to court or face a forfeiture of the bond. This long grace period appears unnecessary given the fact that the majority of defendants (71 percent) who fail to appear in court, return to court or custody within a month. Therefore, we recommend that the Legislature consider shortening Utah's grace period from six months to between one and three months to better align with other states and with Administrative Office of the Court's (AOC) data.

Utah's forfeiture time frames are among the longest in the nation.

Utah's Six-Month Forfeiture Grace Period Is Among the Longest in the Nation

In most surety bond cases, 74 percent, the defendant makes all court appearances. The remaining 26 percent of cases have at least one *failure to appear* (FTA) which initiates the bond forfeiture process. Following an FTA, notification is sent to the commercial surety, which has six months with the possibility of a 60-day extension to bring a defendant (for whom they are responsible) into custody. If the commercial surety is unable to bring the defendant into custody within the statutory timeframe, then the bond may be forfeited. Figure 4.1 illustrates the courts' current forfeiture process.

Figure 4.1 Utah's Surety Bond Forfeiture Process. When a defendant is released through a surety bond and fails to appear in court within six months, the courts can require the commercial surety to forfeit the bond amount to the courts.

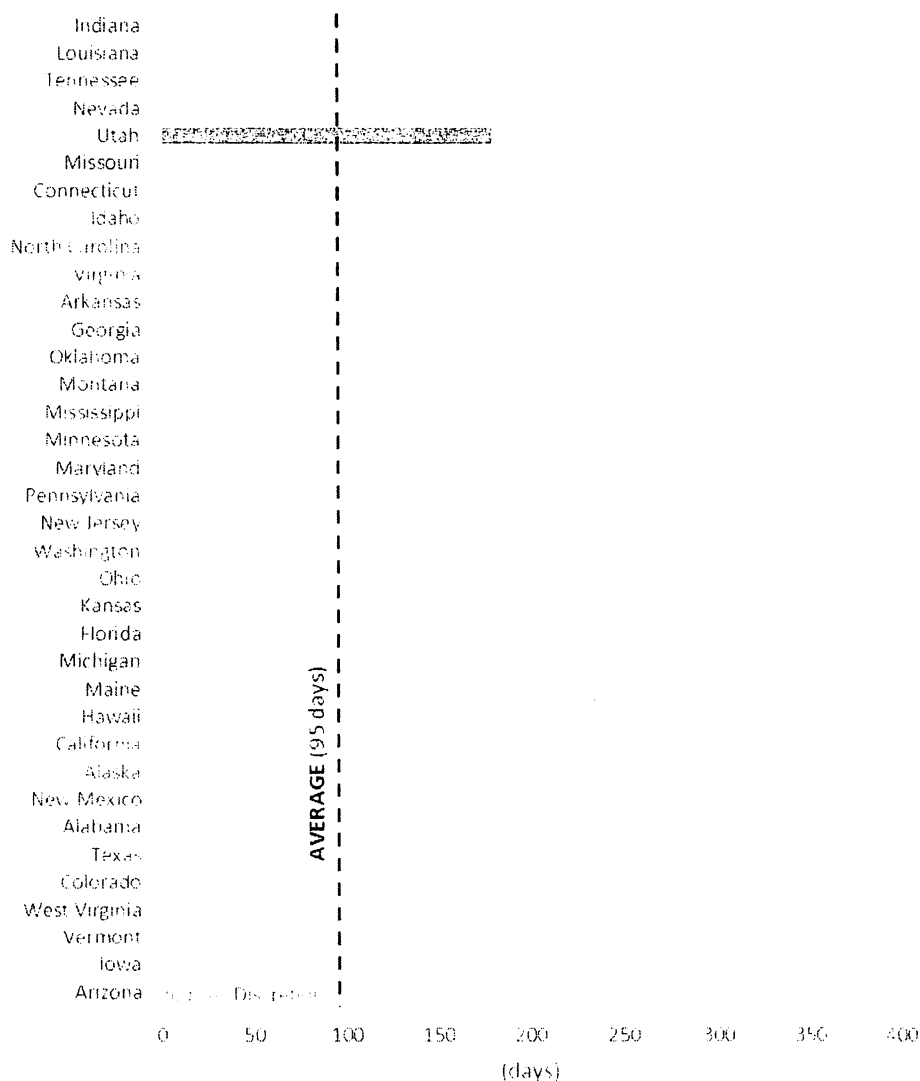


Source: Office of the Legislative Auditor General

Utah's six-month forfeiture grace period is relatively long. Many states process forfeitures in far less time than Utah, as shown in Figure 4.2.

The surety bond forfeiture process requires the efforts of judges, clerks, and prosecuting attorneys.

Figure 4.2 Surety Bond Forfeiture Grace Periods by State.
Compared to 35 documented states, Utah has one of the longest surety bond forfeiture grace periods*.



Source: National Conference of State Legislatures (NCSL) 2013. Updated and validated by Office of the Legislative Auditor General.

*15 states are missing from the graphic because some states do not allow commercial sureties and because others do not specify grace periods in statute and leave the forfeiture proceedings to the discretion of the judge.

The forfeiture grace period is measured as the period between notification of failure to appear and payment required from the commercial surety. Most states have a shorter grace period for commercial sureties than Utah's six months. In fact, the average grace period for all documented states is 95 days, about three months, and 29 percent of these states have grace periods that are one month or

less. Only one state, Indiana, exceeds the six-month grace period found in Utah, Louisiana, Idaho, Nevada, Missouri, Connecticut, and Tennessee. Notably, there are a number of states that do not have a grace period. Instead, most of these states require forfeiture payment upon motion of the prosecution. These states are not reflected in the 97-day grace period average reported in Figure 4.2.

In reviewing the grace periods of other states, we found differences in each state's forfeiture processes. States with shorter or nonexistent grace periods appear to have more judicial discretion to flexibly respond to the individual circumstances of a case. Arizona, for example, has a surety bond forfeiture process in which forfeiture hearings are scheduled immediately following an FTA. At this hearing, commercial sureties are required to provide evidence showing why the bond should not be forfeited. In response, the judge will determine whether to forfeit the bond wholly or partially, to reinstate the bond, or to grant the commercial surety an extension.

Additionally, while forfeiture payment is required typically around 3 months for states with predetermined grace periods, a number of states allow an extended period for the surety to bring the defendant into custody and have their forfeiture money returned. For instance, Iowa requires forfeiture payment after a 10-day grace period but allows an additional 90 days for commercial sureties to return the defendant into custody for a refund of forfeiture monies. In contrast, Utah allows a 60-day extension in addition to the 6-month grace period (when warranted) to allow time for a commercial surety to return the defendant to custody or pay the forfeited bond amount. AOC data, however, indicates that a six-month grace period is unnecessarily long for sureties to return defendants into custody.

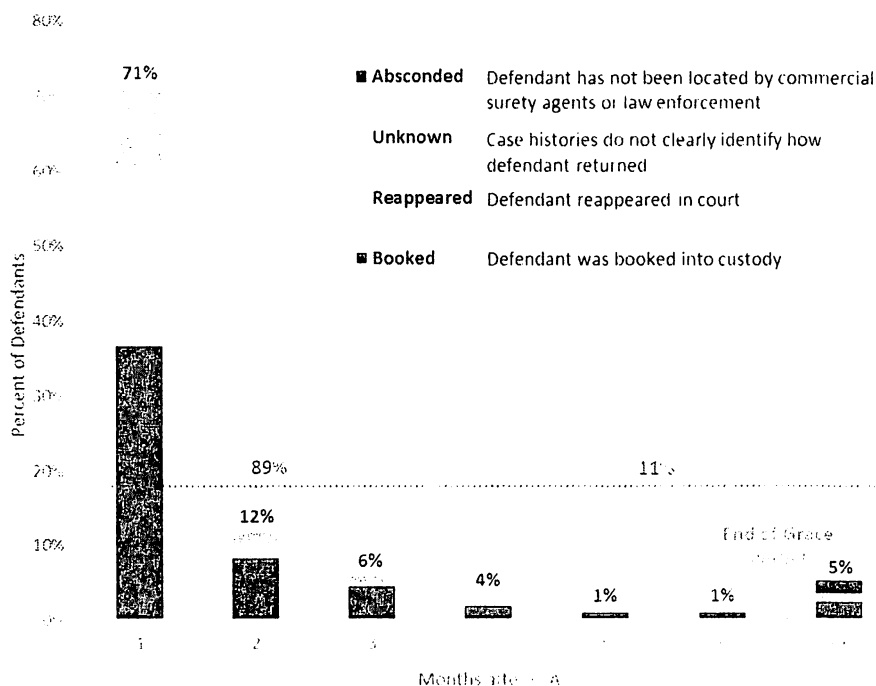
Long Forfeiture Grace Periods Are Not Needed to Return Defendants into Custody

We randomly sampled AOC data from 2015 and found that 71 percent of defendants, who missed one or more of their court dates, reappeared or were apprehended within one month. In fact, 89 percent reappeared or were apprehended within three months (the average grace period of other states) and the remaining 11 percent returned beyond three months, as shown in Figure 4.3.

71 percent of bonded defendants return within the first month after their FTA.

89 percent of bonded defendants return within three months of their FTA.

Figure 4.3 Percent of Bonded Defendants Returned to Court or Custody Following an FTA by Length of Time. Random sampling of 325 cases shows that 71 percent of defendants return to court or custody within the first month.



Source: Auditor analysis based on AOC Data and XChange Database.
Note: There can be more than one FTA per case.

Given that the majority of defendants return to custody within three months, a shortened grace period will likely encourage quicker defendant apprehension and shorten the amount of time judicial staff and prosecution track cases. Additionally, the data shows that 56 percent of defendants are brought into custody through law enforcement or *commercial surety* agent efforts (as shown in dark blue) and 27 percent of defendants reappeared in court (as shown in light blue) either voluntarily or through commercial surety efforts.

The commercial surety industry commonly claims that they return bonded defendants to custody if they fail to appear in court at no taxpayer cost. For example, documentation provided by one commercial surety states, "The right to arrest and revoke at no cost to the taxpayer is a huge value to the judicial system." While commercial sureties have the authority to return defendants to custody, data

provided by Salt Lake County indicates that they are not always exercising this authority.

Salt Lake County provided us with 2015 jail records data that shows who brought in bonded defendants following an FTA. Commercial sureties apprehended 13 percent (119) of the 928 defendants who were released on surety bond and then absconded. The remaining 87 percent (809) of defendants were brought in by law enforcement agencies. While we do not discount commercial sureties' role in bringing defendants back into custody, and acknowledge that they may play a significant role in other parts of the state, this data highlights that the cost of returning defendants to custody is often borne by law enforcement and, by extension, taxpayers.

Additionally, we randomly sampled *cash bail* cases from 2015 to see how quickly cash bail defendants returned to court or custody follow an FTA. We found that defendants returned to court or custody at nearly identical rates in both cash bail and surety bond cases. Defendants released on cash bail, however, were slightly more likely to be missing after six months than those released on surety bond. While most defendants return to custody relatively quickly following an FTA violation, the bond forfeiture process needs to be more effective at promoting court appearances.

Forfeiture Process Needs to More Effectively Promote Court Appearances

The surety bond forfeiture process is the only mechanism available to hold commercial sureties liable for bonded defendants' court appearances. Statute requires commercial sureties to bring bonded defendants to court for all court appearances. The current surety bond forfeiture process needs to be more effective in promoting court appearances as reflected in the statewide 26 percent failure to appear (FTA) rate for all cases involving a commercial surety. While the forfeiture process purports to promote court attendance through the threat of bond forfeitures, surety bonds are rarely forfeited. Based on one year of data, only 1.7 percent of all surety bond cases involving an FTA resulted in a forfeiture. Forfeitures are rare because of the opportunities for automatic bond exonerations permitted in statute coupled with long forfeiture grace periods, which increase the likelihood that a bond will be exonerated. Rare forfeitures, however,

Salt Lake County data shows that law enforcement is usually involved in returning bonded defendants who have absconded.

Cash bail defendants return to court at nearly identical rates as bonded defendants.

The surety bond forfeiture process is the only mechanism available to hold commercial sureties accountable.

Commercial sureties are liable for all court appearances required of their clients.

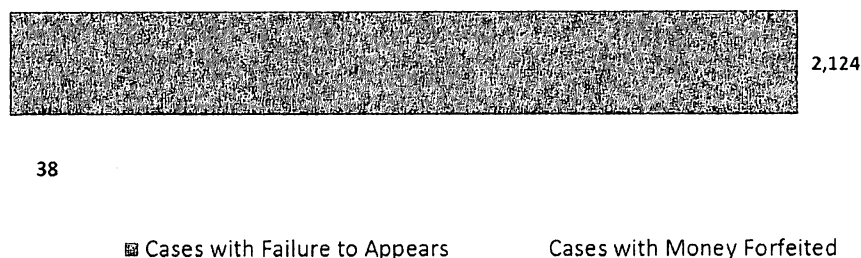
create a weak economic incentive for commercial sureties to ensure that defendants, for whom they are responsible, attend court. Therefore, we recommend that the Legislature work with the AOC to improve court attendance and reduce the number of automatic bond exonerations.

While Missed Court Dates Are Common, Forfeitures Are Rare

Utah Code 77-20-7 states that commercial sureties are liable "...for all court appearances required of the defendant up to and including the surrender of the defendant for sentencing" or up to serving a sentence. A commercial surety's failure to perform this duty is a "breach of the conditions" and allows for the bond to be forfeited and collected by the state.

Purportedly, the forfeiture process incentivizes commercial surety accountability for court appearances by allowing the state to recover the full bond amount from a commercial surety should the bonded defendant fail to appear. In practice, however, the forfeiture process does not effectively promote court appearances. Despite over 2,100 cases in which a bonded defendant missed one or more court dates, only 38 (1.7 percent) cases resulted in bond forfeiture, as shown in Figure 4.4.

Figure 4.4 District Surety Bond Cases in 2015 that Resulted in a Bond Forfeiture. Of the 2,124 surety bond cases involving an FTA, only 38 cases were ultimately forfeited.



Source: Auditor analysis of 2015 Administrative Office of the Courts data.

We do not expect every failure to appear to result in a forfeiture. In fact, most FTAs will not result in forfeiture for a number of reasons. First, many defendants return to court or custody within the statutory grace period, as previously discussed. Second, many statutory opportunities for bond exonerations occur, as discussed in the

Of the 2,124 surety bond cases with an FTA, only 1.7 percent resulted in a forfeiture.

following section. We are concerned, however, that infrequent forfeitures do not incentivize court attendance, resulting in significant taxpayer costs.

Taxpayers pay when defendants fail to appear in court. FTA costs include lost court time, the use of law enforcement to bring defendants into custody, and defendant incarceration. Based on data from a comprehensive study, which is the best cost estimate data available, we estimate that when a defendant fails to appear and commercial sureties return defendants to custody (instead of law enforcement), taxpayers pay on average \$1,414 per event.¹⁷ If commercial sureties returned 100 percent of defendants in 2015, the cost to Utah taxpayers would have been nearly \$3.3 million because of bonded defendants' missed court dates. This estimate is understated because it discounts the costs associated with law enforcement who bring into custody a number of bonded defendants. This expense was not offset by the \$305,000 in surety bond forfeitures collected in fiscal year 2015, indicating a losing proposition for taxpayers.

Failure to Appear Rates Measure Commercial Surety Performance Better than Forfeiture Rates Do. Commercial sureties report that low forfeiture rates reflect successful performance. Forfeiture rates, however, are a problematic performance metric because surety bonds can be exonerated following an FTA even when a commercial surety does not return a bonded defendant to court or custody. Hence, forfeiture rates are not an accurate measure of commercial surety performance. FTA rates are a more meaningful metric of commercial surety performance because they are an honest indicator of whether a commercial surety has performed its statutory duty. Therefore, we suggest that FTA rates for each commercial surety be tracked by the courts. This data could then be provided to the Department of Insurance, which regulates the commercial surety industry, to enhance commercial surety oversight.

FTAs are costly to taxpayers because of lost court time, law enforcement efforts, and defendant incarceration.

FTA rates are a more meaningful metric of commercial surety performance than forfeiture rates.

¹⁷Auditor Analysis: This amount takes into accounts for lost court time as well as additional court hearings, arrests, bookings, jail housing, and issued warrants caused by the FTA.

Exoneration means that the commercial surety is released from having to pay the bond.

Statute Provides Many Opportunities For Surety Bond Exonerations

Statute appears to limit commercial surety liability by providing opportunities for bond exonerations. Exoneration means that the commercial surety is released from paying the bond and is no longer responsible for the defendant's court appearance. The following examples highlight some of the more common statutory provisions that result in automatic bond exonerations. By reviewing a sample of 2015 AOC forfeiture data, we also documented how frequently these statutory provisions might apply.

- According to *Utah Code* 77-20b-101 (4)(c), if a defendant fails to appear and then is booked (either by law enforcement or commercial surety agents) on the FTA warrant, the commercial surety's bond is exonerated. This is a likely outcome, given that 56 percent of all bonded defendants were booked within the six-month grace period following an FTA in 2015.
- According to *Utah Code* 77-20b-101 (4)(a), if a defendant fails to appear and reappears in court more than one week later, the bond is exonerated unless the commercial surety gives consent to reinstate the bond. Reappearance is also a likely outcome, given that 13 percent of all bonded defendants reappeared in court more than one week following their FTA in 2015.
- According to *Utah Code* 77-20b-101 (4)(d), when a defendant is arrested on a new warrant or charge and released on their own recognizance pursuant to pretrial release or jail overcrowding, the bond is exonerated. While we are unable to track how often this occurs, we know that it is common for Salt Lake County defendants to be released because of overcrowding, causing exoneration of any previous bond. A 2010 Salt Lake County study found that 40 percent of Salt Lake County defendants were released because of overcrowding.

Under some circumstances, surety bonds are exonerated even when a defendant is not brought into court or custody.

- According to *Utah Code* 77-20b-101 (1) and (3), if a clerk does not send a notice of nonappearance by certified mail to the commercial surety and surety insurer within 30 days, the

bond is exonerated. While the frequency of this occurrence is unknown, we found many cases in 2015 that had no record of notices sent out.

Certified mail can be costly. The estimated cost of certified mail postage for 2015 alone (district cases only) was \$26,000. This does not include the cost of labor associated with processing these notifications. One clerk reported that she processes 10 to 20 forfeiture cases a day and each case requires time to fill out forms, print notices, have them signed, copy or scan them for records, and mail them. To enhance efficiencies and reduce the costs associated with certified mail, the Legislature should consider allowing the courts to send out notification via certified electronic mail. There are certified email services specifically designed for court documents that verify the date and time that the email was transmitted and proof of opening.

While not exhaustive, these examples demonstrate that statute provides opportunities for commercial sureties to exonerate their bonds, even when the commercial surety is not actively involved with returning defendants to court or custody. In the rare event that a bond is forfeited, the commercial surety can collect the bond payment and related expenses from the defendant (or the defendant's co-signers). Hence, commercial sureties experience little incentive to promote court appearances.

We Are Concerned that Statute Is Inconsistent in Holding Commercial Sureties Liable for Court Attendance. As previously mentioned, *Utah Code* 77-20-7 specifically requires that commercial sureties be accountable "...for all court appearances required of the defendant." As we have demonstrated, the statute limits this liability by providing several opportunities for bond exonerations. While there are legitimate reasons for bond exonerations, statute appears to work at cross purposes and is therefore not effectively promoting court attendance. The AOC's legal counsel agrees that statute is inconsistent, stating, "We agree completely that the statutes are inconsistent and need to be fixed." Therefore, we recommend that the Legislature consider working with the AOC to design a forfeiture process that improves court appearances and reduces the number of automatic bond exonerations.

***Utah Code* limits commercial surety liability by providing many opportunities for bond exonerations.**

Judges, Clerks, and Prosecutors Need to Process Forfeitures More Efficiently

Forfeitures are only successful when judges, clerks, and prosecutors efficiently perform their roles in processing forfeitures. Based on our judicial survey and AOC's forfeiture data, we found that judicial and prosecuting personnel were not always processing forfeitures in a timely and consistent manner. For example, some judges were not consistently ordering forfeitures or entering judgments in a timely manner. Also, clerks who are responsible for processing forfeitures identified administrative barriers to performing their duties. Finally, as evidenced by the low number of motions filed, prosecuting attorneys are not motioning to forfeit despite statute stating that they may do so. In fact, two county attorney's offices stated that forfeitures are not prioritized. Bond exonerations can result when these key players do not perform their roles in the forfeiture process efficiently. While judges, clerks, and prosecutors contribute to the successful completion of forfeitures, court reminder systems have been proven to efficiently reduce the number of missed court dates and should therefore be considered by the AOC.

Judges Are Inconsistent in Their Forfeiture Practices

Our survey of judges revealed that judges do not always initiate forfeitures as required. This is despite statute requiring that the court "...shall within 30 days of the failure to appear issue a bench warrant ..." and "...shall also direct that the surety be given notice of the nonappearance." Our survey found that only half (50 percent) of the responding judges indicated they always ordered the forfeiture of a surety bond after an FTA. From the survey, 18 judges said they sometimes ordered a forfeiture following a failure to appear, 11 said rarely, and one said never. One judge we interviewed, who responded "sometimes" to the survey stated that it is "not worth it" for clerks to do the work associated with the forfeiture process when "everyone eventually gets picked up before six months." According to this judge, law enforcement routinely brings defendants into custody within the six-month forfeiture timeframe, resulting in exoneration of the bond.

Although judges are not always initiating forfeitures, clerical staff can also initiate the process. According to a statement from the AOC's legal counsel, the forfeiture process can proceed without a judge's

According to AOC data, judges are not always initiating forfeitures.

order. For this to occur, in-court clerks must notice and correctly document that the bond terms have been breached. However, clerks who process forfeitures may not detect the need to begin the forfeiture process if judges do not initiate forfeitures or in-court clerks fail to document any breach in the bond terms. Therefore, the courts should clarify judicial and clerical roles in the forfeiture initiation process.

Finally, judges can delay forfeiture completion. Following the prosecutors motion to forfeit the bond, the final step necessary for a successful forfeiture is for the judge to enter judgment. Based on discussions with court personnel, we found that some judges are not entering judgments against forfeited bonds in a timely manner, despite having the statutory direction to do so. According to Utah Code 77-20b-104 (2), “a court shall enter judgment of bail forfeiture without further notice” when the following conditions are met.

1. The defendant failed to appear.
2. The surety was given notice of nonappearance.
3. The surety failed to bring the defendant to the court within the six-month period (or eight months if given an extension).
4. The prosecutor complied with the notice requirements.

Judges occasionally delay the entry of judgment even when all these elements have been met. For example, in one case, a defendant was charged with rape of a child, paid \$250,000 bail, and absconded. The forfeiture, which was processed correctly by the clerks and prosecution, has now been extended for over 10 months because the judge granted additional time for the commercial surety to bring the defendant to court.

One reason judges may be delaying judgment is to allow time for the surety to return the defendant to court. While we do not know the extent of this practice, this example demonstrates that judges do not always enter timely judgments. When judges do not follow the statutory timeframes, coupled with a weak forfeiture process, the incentives for commercial sureties to ensure defendants appear in court are reduced.

Clerks Reported Barriers in Processing Forfeitures

Clerks reported barriers that can undermine efforts to carry out their forfeiture duties. Clerks have 30 days following an FTA to send

Judges occasionally delay the entry of judgment even when all requirements of forfeitures are met.

Judicial clerks may lack adequate training regarding their role in the forfeiture process.

certified mail notification of nonappearance to the commercial surety, the commercial surety's insurance, and to mail a notification to the prosecutor. Clerks are also responsible for tracking the surety bond throughout the six-month period to make sure it has not been exonerated or extended.

Interviews with two clerks who handle all forfeitures for two metropolitan regions revealed that these responsibilities are made difficult for several reasons. First, the clerks indicated that the courts have not supplied adequate training to clerks that handle forfeitures. The two clerks said they felt that little training on processing forfeitures was provided to them or to in-court clerks. Second, the forfeiture process is difficult to track. For example, these clerks reported having ongoing difficulties tracking forfeitures cases through the entire process because of poor programming controls that allowed case tracking to be stopped on some cases. Third, bond forfeiture records can be lost when transferring cases to different courthouses, which they also attributed to control weaknesses. These concerns highlight the need for training on clerks' responsibilities in the forfeiture process.

Prosecuting Attorneys Do Not Always Prioritize Forfeitures

Two county attorney's offices reported not prioritizing bond forfeitures because of the likelihood of bond exoneration.

While prosecuting attorneys have responsibility to request forfeiture of the surety bond at the end of the six-month timeframe, AOC data shows they do not always complete this task. Failure to do so prevents forfeiture completion. Prosecuting attorneys are required to file a motion for bail forfeiture and mail a copy of the motion to the surety. In practice, however, prosecuting attorneys may not be taking the necessary steps to process forfeitures.

We interviewed a deputy county attorney who stated that, while their county prioritizes forfeitures, they are one of the few counties to do so. Staff in two Wasatch Front county attorney's offices stated they do not prioritize bond forfeitures because "the defendant will return to court within a few weeks anyway." Again, this prevents the forfeiture process from proceeding. For example, one county attorney stated that the time and effort put into the process made the "...cost to carry out forfeitures greater than the reward." Prosecuting attorneys who fail to take the necessary steps to process forfeitures undermine the efforts of other key players in ensuring forfeiture completion. While improving the efficiencies of judges, clerks, and prosecutors will be an important

step towards processing forfeitures, court reminder systems offer an opportunity to prevent the need for forfeitures in the first place.

Court Date Reminders Show Evidence For Improving Court Appearance Rates

Given Utah's relatively high FTA rate of 25 percent, the courts should implement court date reminders. Studies from other states, including Colorado, Arizona, Oregon, Illinois, and Nebraska, have shown that reminding defendants of their court dates is very effective. For example, Jefferson County in Colorado studied the effect of telephone calls to provide reminders of upcoming court dates in addressing their rising FTA rates. Staff found a significant 43 percent reduction in FTA rates, reducing court staff time and providing an estimated \$200,000 in annual savings in jail bed costs. With the success of the study, the pilot was expanded to become the court date notification program. Similarly, Coconino County, Arizona, reduced their FTA rates from 25 percent to less than 13 percent by calling defendants in advance and reminding them of their hearing dates.

Despite strong evidence that court-automated notification systems are effective in improving court appearances and reducing costs, Utah's courts do not use such a notification system. Utah court's 2015 report on pretrial release and supervision practices recognized this deficit and recommended implementing a notification system. In light of successes elsewhere, we recommend that the courts adopt a court date reminder system.

While we found opportunities to improve the efficiency of court personnel in the forfeiture process and improve court attendance through a court reminder system, the need to redesign the forfeiture process to incentivize court appearance cannot be overstated. When people fail to appear in court, valuable staff time and court resources are wasted. Therefore, we recommend that the courts work with the Legislature to streamline the forfeiture process and implement the following recommendations aimed at improving court attendance and reducing costs.

Recommendations

1. We recommend that the Legislature consider reducing the statutory timeframes for processing forfeitures from six months

Studies from Colorado, Arizona, Oregon, Illinois, and Nebraska have shown that reminding defendants of their court dates is very effective.

to between one and three months to better align with other states and Administrative Office of the Courts data.

2. We recommend that the Legislature consider requiring all forfeiture notifications to be processed via certified electronic mail.
3. We recommend that the Legislature consider working with the Administrative Office of the Courts to design a forfeiture process that improves court appearances and reduces the number of automatic bond exonerations.
4. We recommend that the Administrative Office of the Courts provide ongoing training to judges, clerks, and coordinate with prosecuting attorneys to receive training regarding statutory requirements for completing the forfeiture process.
5. We recommend the Administrative Office of the Courts adopt a court date reminder notification system.

Appendices

Appendix A

Glossary of Terms

Bail – Bail refers to a deposit or pledge to the court of money or property in order to obtain the release from jail of a person accused of a crime. It is understood that when the person returns to court for adjudication of the case, the bail will be returned in exchange. If the person fails to appear, the deposit or pledge is forfeited.

Bond – A term that is used synonymously with the term “bail” and “bail bond.” (See above). This term is used in our report as shorthand for surety bond.

Cash Bail – Money deposited with the court that is refunded to the defendant if not convicted or if convicted can be forfeited and applied to court related fees. The bond can be paid by anyone, including the defendant. For specific types, see below.

Cash Bail (low) – A bond deposited with the court, the amount of which is below the Uniform Fine/Bail Forfeiture Schedule for the charge.

Cash Bail (high) – A bond deposited with the court, the amount of which is at or above the Uniform Fine/Bail Forfeiture Schedule for the charge.

Commercial Surety/Bail Bondsmen – A third party business who acts as a surety on behalf of a person accused of a crime by pledging money or property to guarantee the appearance of the accused in court when required.

Conditional Release – A form of nonfinancial pretrial release in which the defendant agrees to comply with specific kinds of supervision (e.g., drug testing, regular in-person reporting) in exchange for release from jail).

Failure to Appear (FTA) – When a defendant misses a scheduled court appearance.

Failure to Appear Rate – The percentage of cases that had one or more missed court appearances. One of the most basic outcome measures for pretrial service programs.

Pretrial – The term “pretrial” is used throughout this paper to refer to a period of time in the life of a criminal case before it is disposed. The term is a longstanding convention in the justice field, even though the vast majority of criminal cases are ultimately disposed through plea agreement and not trial.

Release on Recognizance – A form of nonfinancial pretrial release in which the defendant signs a written agreement to appear in court when required and is released from jail.

Surety – A person who is liable for paying another’s debt or obligation.

Surety Bond – A bond that requires the defendant to pay a fee (usually 10% of the bail amount) plus collateral if required, to a commercial surety, who assumes responsibility for the full bail amount should the defendant fail to appear. If the defendant does appear, the fee is retained by the commercial surety.

Source adapted from: *2012-2013 Policy Paper Evidence-Based Pretrial Release*, Conference of State Court Administrators; *Utah Code 31A -35-102 and 77-20b-100*.

Appendix B

2016 UNIFORM FINE BAIL SCHEDULE

ANY OFFENSE NOT SPECIFICALLY NAMED ON THE BAIL SCHEDULE, AND NOT CONTAINED IN A SPECIFIC FINE/BAIL SCHEDULE SHALL BE AS FOLLOWS:		
<u>FELONIES</u>	<u>BAIL</u>	<u>COMMENTS</u>
• 1st degree with minimum mandatory sentence	\$25,000.0	Mandatory Court Appearance
• Other 1st degree	\$20,000.0	Mandatory Court Appearance
• 2nd degree	\$10,000.0	*Mandatory Court Appearance
• 3rd degree	\$5,000.00	*Mandatory Court Appearance
<u>MISDEMEANORS OTHER THAN LOCAL</u>		
• Class A	\$1,950.00	*Mandatory Court Appearance
• Class B	\$680.00	*Mandatory Court Appearance
• Class C	\$340.00	
• Infractions	**\$100.00	
<u>LOCAL ORDINANCES</u>		
• Class B	\$150.00	*Mandatory Court Appearance
• Class C	\$80.00	*Mandatory Court Appearance
• Infractions	\$25.00	

* Unless otherwise authorized by Utah Code of Judicial Administration 7-301.

* * On an infraction, defendant cannot be held in jail in lieu of posting bail.

* * * Local ordinances are subject to security surcharge.

Agency Response

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chief Justice Judicial Council

December 19, 2016

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

John Schaff, Auditor General
Office of Legislative Auditor General
W315 State Capitol Complex
Salt Lake City, Utah 84114

Dear Mr. Schaff:

Thank you for the opportunity to respond to the recently completed audit entitled *A Performance Audit of Utah's Monetary Bail System*. We concur in the audit findings and recommendations. I should note that the audit findings and recommendations are consistent with actions the Utah courts are already in the process of implementing.

I would like to acknowledge the professional manner in which your staff conducted this audit.

Sincerely,



Daniel J. Becker
State Court Administrator

cc: Chief Justice Matthew B. Durrant

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

450 South State Street / P.O. Box 140241 / Salt Lake City, UT 84114-0241 / 301-578-3800 / FAX: 801-578-2845

TAB 6


Ethics Advisory Committee

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Management Committee
From:  Brent Johnson, General Counsel
Re: Ethics Advisory Committee
Date: January 31, 2017

Judge Michele Christiansen is currently a member and the chair of the Ethics Advisory Committee. Judge Christiansen's term expires on January 31, 2017. It is recommended that Judge Christiansen be appointed to another term. Judge Christiansen has been an extremely valuable member of the Ethics Advisory Committee and she has been a very effective chair. Keeping Judge Christiansen as a member and as the chair will be helpful, as the terms of several committee members will be expiring in the next year and it will be helpful to have Judge Christiansen's leadership and institutional knowledge as we go through the transition period. The Ethics Advisory Committee requests that Judge Christiansen be reappointed.

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

**Uniform Fine and Bail
Committee**



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

February 6, 2017

Daniel J. Becker
State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Management Committee

FROM: Clayson Quigley

RE: Uniform Fine and Bail Schedule Committee Vacancy

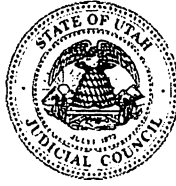
It has been proposed by the Board of Justice Court Judges that Judge Brook Sessions be appointed to the Judicial Council's Uniform Fine and Bail Committee. Judge Sessions would be replacing Judge Baxter, a Justice Court judge in Salt Lake City, whose term expired December 31, 2016. Judge Sessions is a Justice Court judge in Wasatch County. He is currently serving on the Board of Justice Court judges.

If approved, the effective date of Judge Sessions' term would be January 1, 2017 and would be expected to serve a full term of three years which would expire December 31, 2019.

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

450 South State Street P.O. Box 140241 Salt Lake City, Utah 84114-0241 801-578-3800 Fax: 801-578-3843

**Model Utah Civil Jury
Instruction Committee**



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester
Date: February 14, 2017
Re: Applications for the Model Civil Jury Instructions Committee

Following six years of dedicated service to the Model Utah Civil Jury Instructions Committee, Gary Johnson announced his retirement at the January meeting. He leaves a vacancy for a practitioner who primarily represents defendants. An email announcing the vacancy was sent out through the Bar's listserv on January 11 and fourteen attorneys applied:

- Adam Buck
- Adam Strachan
- Anna Nelson
- Brian Miller
- Chelsey Phippen
- Eric Maxfield
- Kevin Simon
- Mark Dunn
- Michael Miller
- Perrin Love
- Ruth Shapiro
- Ryan Marsh
- Steve Combe
- Stewart Hartman

We were fortunate to have an impressive number of qualified applicants in the group, and the following attorneys rose to the top: Brian Miller, Adam Strachan, Kevin Simon, Ruth Shapiro, Perrin Love, and Eric Maxfield.

While any one of the attorneys listed would do a great job, the committee recommends that **Ruth Shapiro** be selected. She is a true defense attorney, has a terrific reputation in the legal community, and would add some needed gender diversity to the committee (there are only three women to the eight men on the committee).

The Management Committee recommends that the Judicial Council appoint Ruth Shapiro to the committee. Attached for your review are the applicants' materials.

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

450 South State Street / P.O. Box 140241 · Salt Lake City, Utah 84114-0241 · Tel: 801-578-3808 · Fax: 801-578-3843 email: nancyjs@utacourts.gov

Snell & Wilmer
L.L.P.
LAW OFFICES

Gateway Tower West
15 West South Temple
Suite 1200
Salt Lake City, Utah 84101-1547
801.257.1900
801.257.1600 (Fax)
www.swlaw.com

Adam C. Buck
(801) 257-1550
abuck@swlaw.com

February 1, 2017

VIA E-MAIL

Nancy Sylvester
nancyjs@utcourts.gov

Dear Ms. Sylvester:

I am writing today to express my interest in joining the Standing Committee on Model Utah Civil Jury Instructions. I am an attorney at Snell & Wilmer, where the majority of my practice is devoted to representing defendants. I estimate the percentage to be 90%. In fact, over the last few years I have been selected as a Mountain States Rising Star in the area of Civil Litigation: Defense.

Although I am still an associate at Snell & Wilmer, my experience qualifies me to serve on the committee. I previously clerked for the Honorable Dee V. Benson of the United States District Court for the District of Utah, providing me with unique insight into jury trials and the necessity for clear, concise, model jury instructions. Furthermore, not only does my employment provide me with access to several of Utah's best trial lawyers as resources, but within my first few years of practice I tried more cases to juries than many more senior lawyers in private practice. I am keenly interested in the work of the Model Utah Civil Jury Instructions committee, and I look forward to serving the courts, the members of the Utah Bar, and the public.

With this letter of interest, I have included a copy of my resume. I look forward to speaking with you or members of the committee further.

Very truly yours,

Snell & Wilmer



Adam C. Buck

ACB:acb

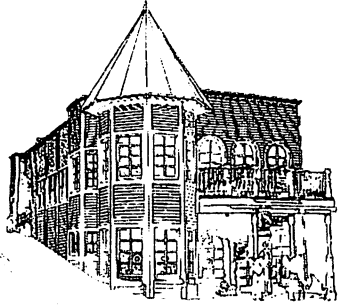
Attachment

SEATTLE
PORTLAND
SAN FRANCISCO
LOS ANGELES
DALLAS
DENVER
SALT LAKE CITY
TUCSON

Adam Cristian Buck

758 W 2250 N, West Bountiful, UT 84087
(801) 860-3872 • buckies67@gmail.com

JUDICIAL CLERKSHIP:	Honorable Dee V. Benson, United States District Court Salt Lake City, UT Judicial Clerk September 2008 – October 2009 <ul style="list-style-type: none">• Collaborated with judge and judicial team regarding opinions, decisions, and cases• Assisted judge in other judicial responsibilities, including drafting bench briefs, drafting opinions and managing 1/3 of judge's caseload
EXPERIENCE:	Snell & Wilmer L.L.P. Salt Lake City, UT Associate (Litigation) October 2009 – Present <ul style="list-style-type: none">• Represent clients in all phases of complex litigation, including cases involving bad faith insurance claims, medical malpractice, business disputes, and business torts• Develop litigation strategies and assess risks• Own and manage multiple cases and delegate to junior associates, paralegals and staff• Coordinate, collaborate, and communicate directly with clients and corporate counsel• Collaborate with team regarding possible litigation and business strategies• Act as trial counsel (first-chair in an arbitration and second-chair in two jury trials)• Take and defend fact and expert depositions• Draft appellate briefs, motions, and argue in court• Draft settlement documents and associated agreements• Analyze contracts, statutes, and case law Salt Lake County District Attorney Salt Lake City, UT Deputy District Attorney October 2009 – April 2010 <ul style="list-style-type: none">• Contracted to prosecute criminal matters for Salt Lake County and the State of Utah• First-chaired multiple jury trials and more than a dozen bench trials T-Mobile Taylorsville, UT Senior Retail Sales Representative May 2002 – August 2005 <ul style="list-style-type: none">• Steered sales team in competitive industry to attain team and personal success• Enrolled 1200+ customers (12-month average: 138% of sales quota)• Trained incoming store employees
VOLUNTEER EXPERIENCE:	Legacy Preparatory Academy North Salt Lake City, UT Governing Board Member 2015 – Present <ul style="list-style-type: none">• Provide oversight of K-9 charter school with 1000+ students• Oversee fulfillment of legal responsibilities, school funds, and policy creation
RECOGNITIONS:	Mountain States Super Lawyers, Rising Stars Edition 2015 & 2016 Business Litigation
EDUCATION:	University of Utah, S.J. Quinney College of Law Salt Lake City, UT Juris Doctor, High Honors May 2008 <ul style="list-style-type: none">• GPA: 3.670 (Estimated Top 10-15%)• Note and Comment Editor, <i>Utah Law Review</i>• <i>CALI Award's</i> (Highest Course Grades)—Civil Procedure and Evidence• <i>Outstanding Achievement Award</i>—Contracts Utah Valley University Orem, UT Bachelor of Science in Accounting, Summa cum laude August 2005 <ul style="list-style-type: none">• GPA: 3.92
PERSONAL:	Muscle car enthusiast, former drag racer, table tennis player, cyclist, and martial artist



STRACHAN STRACHAN & SIMON

Attorneys at Law

401 Main Street

P.O. Box 1800

Park City, Utah 84060

Tel: (435) 649-4111

Email: astrachan@strachanlaw.com

Via Email

January 11, 2017

Nancy Sylvester
Administrative Office of the Courts
nancyjs@utcourts.gov

Re: Committee on Model Utah Jury Instructions

Dear Ms. Sylvester:

I write to apply to become a member of the Standing Committee on Model Utah Jury Instructions. My law practice is based in Park City and consists of defending most of Utah's ski resorts in State and Federal Court. I do about 1-2 trials per year, and am very familiar with the MUJI instructions. I have attached my resume' for your consideration. Additional information regarding my practice and background can be found on my firm's website, www.strachanlaw.com. Should you require references, Third District Court Judge Ryan Harris and the City Attorney for Salt Lake, Margaret Plane, may be contacted at your convenience.

Please feel free to contact me if you have any questions.

Sincerely:

Adam Strachan

Adam Strachan

Adam Strachan
STRACHAN STRACHAN & SIMON, PC
401 Main Street, Upstairs, PO Box 1800, Park City, Utah
435-649-4111
astrachan@strachanlaw.com

Admitted

State Bar of Utah (Bar No. 11468)
State Bar of California (Bar No. 226100)

Education

University of Southern California: B.A. 1998
University of Utah: J.D. 2002; Executive Editor, Journal of Land, Resources & Environmental Law

Work Experience

Partner:	Strachan Strachan & Simon, PC	2006 - present
Associate:	Duane Morris, LLP, San Francisco, CA	2003-2006
Judicial Clerkship:	Hon. Lawrence J. Block United States Court of Federal Claims, Washington, DC	2002-2003
Judicial Clerkship:	Judges Lee A. Dever and Roger Livingston 3rd District Court of Utah	2000
Intern:	United States Senate Judiciary Committee	1997

Civic Activities & Memberships

Chairman: Park City Planning Commission
President: Association of Ski Defense Attorneys
Board Member: Mountain Trails Association
Member: Utah Bar Association, Park City Bar Association, California Bar Association
(Inactive) San Francisco Bar Association, (Inactive), Association of Ski Defense Attorneys

Presentations and Articles

- Lead Panelist, National Ski Areas Association conference, inbounds avalanche litigation. 2014
- Speaker, 2016 Utah Bar Convention. *Defending Ski Areas in Personal Injury Litigation*
- Regular panelist and speaker at Intermountain Ski Areas Association conferences
- Regular panelist at National Ski Area Association conferences
- Co-author, *When does a skier become a trespasser?* Utah Bar Journal, 2007
- Co-author, *Special Events: Shift the Risk to Promoters & Participants*, Ski Area Management Magazine (May, 2006)
- Law Review Article: *Concurrency Laws: Water as a Land Use Regulation*, 21 J. Land Resources and Envtl. L. 435 (2001)
- Law Review Article: *The Ripeness Doctrine in Regulatory Takings Litigation*, 22 J. Land Resources & Envtl. L. 19 (2002), Co-author

THE LAW OFFICES OF
MORGAN, MINNOCK, RICE & MINER, L.C.

KEARNS BUILDING, EIGHTH FLOOR - 136 SOUTH MAIN STREET - SALT LAKE CITY, UTAH 84101
TELEPHONE: (801) 531-7888 - TOLL FREE: (800) 967-8385 - FACSIMILE: (801) 531-9732
WEBSITE: WWW.MMRJ.COM

MITCHEL T. RICE	BRIAN H. HESS
JOSEPH E. MINNOCK	ANDREA M. KEYSAR
JEFFREY C. MINER	ANNA NELSON
JONATHAN L. HAWKINS	MARIANNE SCHUMANN
TODD C. HILBIG	AMANDA D. MOLINE
STEPHEN F. EDWARDS	

STEPHEN G. MORGAN (1940-2007)

January 23, 2017

VIA E-MAIL ONLY

Nancy Sylvester

Re: Standing Committee on Model Utah Civil Jury Instructions

Dear Nancy,

My name is Anna Nelson. I am applying for a position on the Utah Judicial Council Standing Committee on Model Utah Civil Jury Instructions. As required, I am an attorney who primarily represents defendants. Specifically, I am primarily a civil insurance defense lawyer for a litigation firm in downtown Salt Lake City, Utah. In my seven-year career, I have been the solo defending attorney in two jury trials, and I obtained favorable verdicts for my clients in both situations.

I am interested in working on modifying jury instructions and think that I would make a valuable contribution as a member of the committee.

Sincerely,

MORGAN, MINNOCK, RICE & MINER, L.C.

/s/ Anna Nelson

Anna Nelson

AN/tt

ANNA NELSON

923 WEST 75 NORTH
CLEARFIELD, UTAH 84015

PHONE: 435.881.7774
EMAIL: ANNANELSON.UT@GMAIL.COM

Attorney with solid record of managing cases effectively and creatively. Demonstrated ability to assess and launch fresh strategies for complex litigation. Drafter and filer of settlement agreements and written motions at all levels of litigation. Experienced attorney who is detail-oriented, organized and reliable.

PROFESSIONAL WORK EXPERIENCE

MORGAN, MINNOCK, RICE & MINER, L.C. – SALT LAKE CITY, UTAH, 2009 –present. Partner.

- Practice areas include litigation, commercial law, product defect, insurance defense, personal injury construction law, and contract law.
- Drafted and negotiated the terms of hundreds of settlement agreements.
- Review insurance policies to determine whether coverage exists pursuant to policy terms.
- Analyze construction agreements, including assessing indemnification provisions.
- Maintain a system of tracking all templates and signed agreements.
- Regularly collaborate with multiple parties to ensure favorable agreements are reached for clients.
- Solo jury trial experience wherein the plaintiff alleged traumatic brain injury. Five expert witnesses and several fact witnesses testified. Plaintiff asked the jury for \$1 million dollars, wherein \$3,400 was awarded, including only \$100 in general damages.
- Independently managed 60 civil lawsuits at one time, ranging from multi-million-dollar party construction defect cases, contract cases to vehicular accidents.
- Taken, defended and attended over 600 depositions, including Plaintiffs, expert witnesses and treating physicians.
- Drafted and filed pleadings in Utah state and federal courts. Conducted discovery, including defending and taking depositions, and appeared in court for clients. Developed strategies for cases and played a leadership role by directing paralegals and associates in handling the firm's cases.
- Arbitrated and mediated over 50 cases

RECOGNITIONS AND PRESENTATIONS

- Recognized as "Up and Coming" in *Utah Business Magazine's* 2017 and 2015 Utah Legal Elite
- Awarded the "Horizon Award" by the Utah Defense Lawyers Association (2015)
- Presenter of the Utah Defense Lawyers Association Five Year Plan, DRI Mid-Region Meeting (2014)
- Awarded the Young Attorney of the Year award at the Construction Defect & Dispute Conference (2016)

EDUCATION

J.D., UNIVERSITY OF UTAH S.J. QUINNEY COLLEGE OF LAW (2009)

- Graduated with High Honors

UTAH STATE UNIVERSITY – Logan, Utah

B.S. Psychology, 2005

- Graduated Magna Cum Laude Utah State University Debate Team

RELATED PROFESSIONAL EXPERIENCE

Legal Intern, Judge Glen R. Dawson and Judge Randall N. Skanchy, Utah District Court Judges, Summer 2007

- Prepared legal opinions and drafted legal memoranda necessary to facilitate judges in court's decisions.
- Researched relevant case law and participated in legal hearings.

ADMISSIONS AND MEMBERSHIP

- Member of the Utah Defense Lawyers Association, President of the Utah Defense Lawyers Association (2014-2015)
- Utah State Bar
- United States District Court, District of Utah, United States Courts of Appeals, Tenth Circuit



Nancy Sylvester <nancyjs@utcourts.gov>

Civil MUJI Committee - Notice of interest

Brian Miller <bpm@scmlaw.com>

Mon, Jan 30, 2017 at 4:53 PM

To: "nancyjs@utcourts.gov" <nancyjs@utcourts.gov>

To Whom It May Concern:

Please consider this my letter of interest in becoming a member of the Utah Judicial Council Standing Committee on Model Utah Civil Jury Instructions.

As a practicing civil litigator and trial attorney, I have over twenty years of experience with the jury system and trials. I have been involved, first hand, with the jury instruction process and am very cognizant of the impact jury instructions have on the outcomes and fairness of jury trials. I believe that a primary role of MUJI is to provide the trial courts with well-stated, vetted and accurate statements of the law based on applicable statutes, rules, and appellate court decisions without biasing the jury one way or the other. While I primarily practice on the defense side of litigation, I have represented plaintiffs in civil lawsuits and believe I would bring a fair and impartial view to the committee while, at the same time, understanding the position and concerns of the defense bar.

I have attached a short CV for your review. If you have any questions or would like to talk to me further, please do not hesitate to contact me.

Thank you for your consideration.

SNOW
CHRISTENSON
MARTINEAU

Brian Miller | Lawyer
10 Exchange Place, 11th Floor | Salt Lake City, Utah 84111
Direct: 801.322.9149 | Main: 801.521.9000 | www.scmlaw.com

The information contained in this e-mail and any attachments are confidential and solely for the use of the intended recipient. If the intended recipient is our client, then this information is also privileged attorney-client communication. Unauthorized use or disclosure of this information is prohibited. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by e-mail or calling (801) 521-9000, so that our address record can be corrected. Thank you.

**Brian's Resume for MUJI application - 1-25-17 4830-0739-2576 v.1.pdf**

38K

Brian P. Miller

Snow Christensen & Martineau
10 Exchange Place – 11th Floor
Salt Lake City, Utah 84111
(801) 322-9149 (direct)
bpm@scmlaw.com

Education

J.D., Brigham Young University
J. Reuben Clark Law School
Cum laude
1994

- Law Review
- Chairman, Trial Advocacy Board of Directors
- Honored Student Award

B.S., Brigham Young University
Business Management/Finance
1991

Employment

Partner, Snow, Christensen & Martineau
Employed continuously since 1994

Areas of Practice


Civil Litigation
Medical Malpractice Defense
Healthcare
Trials

Bar & Court Admissions

Utah State Bar
U.S. District Court, District of Utah

Introduction


Brian Miller is a shareholder who leads the firm's Health Care & Medical Malpractice Defense Group. For 20 years, Brian has defended health care providers against the full range of medical malpractice claims – including many childbirth injury claims, which



are considered the most difficult and potentially the most expensive of such claims. Brian makes a close study of emerging defenses to high-damage claims involving catastrophic injuries and life care plans.

Brian helped establish and defend laws that protect the interests of health care providers in Utah, including the landmark Utah Supreme Court decision upholding the statutory cap on general damages awardable against health care providers. Much of his work is referred to him by other lawyers and current and former clients. Brian is interested in medical malpractice prevention as well as defense. He often conducts in-service programs for his clients, as well as grand rounds programs for hospital physicians.

Brian devotes a good portion of his practice to defense of a major healthcare group which owns and operates five hospitals in Utah. He assists this client with a range of medical malpractice matters and issues relating to quality improvement and risk management.



In addition, Brian represents medical doctors who are insured by medical malpractice insurance providers. His clients in this area include Preferred Physicians Medical (anesthesiologists), Podiatry Insurance Company of America and Mutual Insurance Company of Arizona – among others.


As a variation in his practice, Brian represents Utah's largest amusement park. Brian was mentored by some of the most highly regarded and respected litigation and trial attorneys in Utah. In turn, he seeks to pass on what he knows to younger partners and associates. He frequently participates as a judge in mock trials and advocacy events for local law schools. He is involved as a Master of the Bench in the American Inns of Court program, and regularly lectures to pre-law and law students on legal careers.

Within the firm, Brian Chairs the firm's Nomination and Business Organization Committee.

Presentations and Publications

Author, Statutory Post Judgment Interest: The Effect of Legislative Changes after Judgment and Suggestions for Construction

Speaker, Ground Rounds (CME events – participates in these hospital events)



Brian is a frequent speaker to pre-law student groups on life as a lawyer and is actively involved in the BYU Law School

Professional and Civic Involvement

Utah Bar Association
A Sherman Christensen American Inns of Court I
Defense Research Institute, Health Care
Utah Defense Lawyers Association
Salt Lake Bar Association

Honors/Awards/Unique Recognition

Listed in Best Lawyers in America® for Medical Malpractice Law – Defendants
Recognized as Utah Super Lawyer by Super Lawyers Magazine
Recognized as Utah Legal Elite by Utah Business Magazine
Law School: Brigham Young University, J. Reuben Clark School of Law, 1994
Law Review
Chairman, Trial Advocacy Board of Directors
Honored Student Award

Representative Appellate Matters

Seale v. Gowans, P.2d 1361 (Utah 1996)
Harnicher v. University of Utah Medical Center, 962 P.2d 67 (Utah 1998)
Baczuk v. Salt Lake Regional Medical Center, 8 P.3d 1037 (Utah Ct. App. 2000)
Kittredge v. Shaddy, 20 P.3d 285 (Utah Ct. App. 2001)
Nunez v. Albo, 53 P.3d 2 (Utah Ct. App. 2002)
Newman v. Sonnenberg, 81 P.3d 808 (Utah Ct. App. 2003)
Judd v. Drezga, 103 P.3d 135 (Utah 2004)
Baker v. Stevens, 114 P.3d 580 (Utah 2005)
Cannon v. Salt Lake Reg'l Med. Ctr., (Utah 2005) App 352, 121 P.3d 74
Powell v. Cannon, 2008 UT 19, 179 P.3d 799
Bybee v. Abdulla, 2008 UT 35, 189 P.3d 40
Allred v. Saunders, 2014 UT 43, 342 P.3d 204



10 EXCHANGE PLACE · FOURTH FLOOR · SALT LAKE CITY · UTAH 84111 801-521-3773 FAX 801-359-9004

Chelsey E. Phippen

ATTORNEYS AT LAW ESTABLISHED 1950
WWW.KIPPANDCHRISTIAN.COM

cphippen@kippandchristian.com

January 31, 2017

Utah Judicial Council
Scott M. Matheson Courthouse
450 South State Street
Salt Lake City, UT 84111

Re: *Application for Standing Committee on Model Utah Civil Jury Instructions*

Dear Utah Judicial Council:

This application is submitted for the purpose of joining the Standing Committee on Model Utah Civil Jury Instructions. I have been licensed for seven years and my primary practice area is general civil defense, including professional liability defense, personal injury, trucking defense and construction defect liability.

As a committee member, I will provide invaluable perspective for the construction of the model instructions. The committee currently consists of prestigious attorneys with extensive experience and knowledge. Although there is clear irreplaceable value in such experience, there is similar value in "fresh eyes" and input from young attorneys who are the "boots on the ground" when it comes to jury instructions. I have found that as the junior attorney one of my primary duties during trial prep is to prepare jury instructions. I am the attorney who decides on, discusses, stipulates to and argues disputed instructions before the court. Further, in regularly working with MUJI, I appreciate the value that they add to the judicial process. As is generally known, any judge prefers stipulated instructions. MUJI is the absolute key in allowing parties to agree to instructions while preserving judicial resources for other trial tasks. For these reasons, I would be an excellent addition the committee and I respectfully request that I be considered for the open position.

I appreciate the opportunity to participate in and ensure the success of the model instructions. My resume is enclosed. Please do not hesitate to contact me if any questions or concerns arise. Thank you for time.

Very truly yours,

KIPP AND CHRISTIAN, P.C.

Chelsey E. Phippen

CEP:np

CHELSEY E. PHIPPEN

cphippen@kippanandchristian.com · (801) 521.3773

PROFESSIONAL ASSOCIATIONS

Utah State Bar; Bar No. 13333

- Litigation, YLD and Tax Sections
- Fall Forum Planning Committee Member

Defense Research Institute

- Leadership and Promotion Committee Member

Utah Defense Lawyers Association; Member

EXPERIENCE

Kipp and Christian, P.C.; Salt Lake City, Utah; Associate Attorney

2015-Present

- Acted as first chair jury trial to verdict.
- Appear for motion hearings and participate in oral argument.
- Conduct all facets of discovery and pleading phases of civil litigation.
- Participate in ADR and settlement negotiations.
- Acquisition of federal rehabilitation tax credits for historic buildings.

Huntsman Lofgran, PLLC; Salt Lake City, Utah; Associate Attorney

2012-2015

- Acted as second chair in two full trials to verdict and evidentiary hearings.
- Awarded policy limits on MVA 3rd party and UIM policies.
- Participated in several mediations and settlement negotiations.
- Settled over \$3 million in taxes and administrative penalties.
- Acquisition of federal rehabilitation tax credits for historic buildings.

Bradley R. Helsten, P.C.; Salt Lake City, Utah; Associate Attorney

2010-2012

- Entity formation and business contract drafting.
- Drafted purchase and sale agreements for commercial real estate transactions.
- Completed real estate contract due diligence including: survey, zoning and title policy acquisition.
- Created comprehensive estate plans.

Maersk Line, Limited; Norfolk, Virginia; Law Clerk

2008

- Legal research and briefing for maritime and personal injury suits.

IRS, Enterprise Computing Center; Martinsburg, West Virginia; Intern

2006

- Conducted monthly coordination and campus meetings.
- Facilitated emergency evacuation training.

United States Senate; Orrin G. Hatch; Washington D.C.; Intern

2005

- Special assistant to the Judiciary Committee and Subcommittee on Intellectual Property.
- Attended and assisted in Senate confirmation hearings for Chief Justice John Roberts and Justice Samuel Alito.

EDUCATION

Regent University School of Law; Virginia Beach, Virginia

2010

Juris Doctorate

- Student Ambassador
- Honor Council Member

Utah State University; Logan, Utah

2007

Bachelor of Science: Law and Constitutional Studies

Minor: History

- Alumni Association Scholarship Recipient
- Student Alumni Association Executive Board
- Phi Alpha Theta History Honor Society and Pi Sigma Alpha Political Science Honor Society

REFERENCES AVAILABLE UPON REQUEST

HOLLAND & HART



Eric G. Maxfield

Partner

Phone (801) 799-5882

Fax (801) 618-3832

egmaxfield@hollandhart.com

SENT VIA EMAIL

nancyjs@utcourts.gov

February 1, 2017

Utah Judicial Council
Attn: Nancy Sylvester
Administrative Office of the Courts
P.O. Box 140241
Salt Lake City, UT 84114-0241

Re: Utah Judicial Council Standing Committee on Model Utah Civil Jury Instructions

Dear Ms. Sylvester:

I am applying to participate as a committee member on the Utah Judicial Council Standing Committee on Model Utah Jury Instructions. Enclosed is my resume for your review.

I understand that the Committee is looking for a new member who primarily represents defendants. I can tell you that in my practice at Holland & Hart, I do, in fact, primarily represent defendants, and my practice crosses many disciplines, including matters involving torts, contracts, professional liability, fraud, and thorny damage questions of all sorts. My practice generally involves applying Utah law to the legal matters I handle. Additionally, I have been involved in drafting, revising and objecting to proposed substantive jury instructions in a variety of cases over the years. I also very much enjoy writing and I feel like I am a productive member of committees. Finally, after having served on the Bar's recent Futures Commission, I am looking for another way to serve our Bar, the court system, and our community through service such as this Committee.

I hope you will give serious attention to my application. I would very much like to serve with the rest of the Committee if given the chance. Thank you.

Very truly yours,

Eric G. Maxfield
Partner

enc.

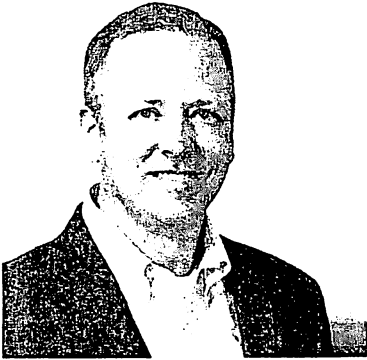
Holland & Hart LLP

300 North 200 West, Suite 200 Salt Lake City, UT 84103-1000

www.hollandhart.com

Utah State Bar Association, Salt Lake City, UT 84103-1000

Utah State Bar Association, Salt Lake City, UT 84103-1000



EDUCATION

Georgetown University, J.D., 1997
cum laude

University of Utah, B.A., 1994
magna cum laude

BAR ADMISSIONS

Utah – Admitted in 2000

Arizona – Admitted in 1997
(License inactive)

PRACTICES

Commercial Litigation
Alternative Dispute Resolution
Construction
Cybersecurity
Insurance Coverage and Risk
Management
IP Litigation
Legal Professional Liability
Products Liability
Securities Enforcement and Shareholder
Litigation

Eric Maxfield

Partner

222 South Main Street, Suite 2200, Salt Lake City, UT 84101

P 801.799.5882

EGMaxfield@hollandhart.com

EMPLOYMENT:

Holland & Hart LLP – March, 2011 to Present

Trial lawyer; civil and commercial litigator; managing partner of Holland & Hart's Salt Lake City office. Experience includes jury trials, bench trials, and arbitrations. Matters include professional liability and malpractice, breach of contract, breach of fiduciary duty, personal injury and products liability, shareholder and ownership disputes, trade secrets and non-compete litigation, health care matters, and intellectual property disputes. Honored by Chambers USA, Best Lawyers, Mountain States Super Lawyers, and Utah Business Legal Elite.

Holme Roberts & Owen – 2000 – 2011 (Partner)

Lewis Roca Rothgerber Christie – 1997 – 2000 (Associate)

United States Senate Committee on the Judiciary – 1995 (Law Clerk)

PUBLICATIONS:

"Hold Me Close: Lawyers Beware, the Closely Held Company," *Utah Bar Journal*, Jan / Feb 2017

"Alternative Fees Require Early Assessment," *Utah Business 2014 Legal Resource Guide*, 3/17/2014

PROFESSIONAL & CIVIC AFFILIATIONS & OTHER SERVICE

Leadership Utah, Salt Lake Chamber, Class of 2011 Utah Bar Futures Commission, 2015

University of Utah Board of Advisors for Undergraduate Advancement, present

Sherman A. Christensen Inn of Court, Master of the Bench, present

Editor, ABA Survey of Class Action Law, Utah Class Action Law, 2009 – present

Contributor, Business and Commercial Litigation in Federal Courts, 3rd ed., on Energy Litigation

STRACHAN STRACHAN & SIMON, P.C.

200 West 100 South
Salt Lake City, Utah 84101
Phone: (801) 521-1100
Fax: (801) 521-1101
www.strachanlaw.com

January 31, 2017

VIA EMAIL

Utah Judicial Council
c/o Chief Justice Matthew B. Durrant, Council Chair
nancyjs@utcourts.gov

Re: Standing Committee on Model Utah Civil Jury Instructions

Dear Justice Durrant:

This letter expresses my strong interest to serve on the Model Utah Civil Jury Instructions Standing Committee as an attorney with primarily a civil practice defense background. Over the past twenty (20) years, I have represented defendants in a variety of different substantive areas of law and through all phases of the litigation process, including through verdict on many occasions. Specifically, I have significant experience in construction defect litigation, general premises liability litigation, ski resort litigation, employment litigation, business tort litigation and complex commercial litigation. This wide-ranging litigation background will allow me to contribute meaningfully to this Committee's discussions and the sometimes nuanced considerations that are necessary in arriving at an objective and substantively correct jury instruction.

Although I come primarily from a civil practice defense background, I am a fair, objective individual who considers other points of view and works well with others. It would be an honor to serve on and learn from this Committee and hope that I have the opportunity to do so.

Sincerely yours,



Kevin J. Simon

KJS/
Enclosure (CV)

KEVIN J. SIMON, ESQ.

Curriculum Vitae

Summary of Experience

Mr. Simon obtained his Bachelor's degree in History in 1994 from the University of California at Los Angeles (UCLA), graduating *magna cum laude* with membership in two honors societies - *Phi Alpha Theta* and *Pi Gamma Mu*. Upon obtaining his undergraduate degree, Mr. Simon scored a 173 (99.4%) on the National Law School Admissions Test (LSAT) and gained admission to the University of California at Berkeley, Boalt Hall School of Law. Mr. Simon graduated from Boalt Hall in 1997 with *honors* in Contracts, Real Property and Antitrust Law and received the prestigious General S.K. Yee Boalt Hall Scholarship from 1994 through 1997.

In nearly twenty (20) years of legal practice, Mr. Simon's professional experience has been extensive, advising on a wide variety of different substantive areas of law such as the Sherman Antitrust Act, Clayton Act, Lanham Act, Worker Adjustment & Retraining Notification Act (WARN), Fair Labor Standards Act (FLSA), the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA), Federal Wiretap Act, Federal RICO Act, and §1983 civil rights actions. Mr. Simon is involved routinely as lead defense counsel in high profile, multi-million dollar litigation in areas including catastrophic personal injury claims, real estate development disputes and complex business litigation - at the trial court level and on appeal. His appellate cases, in some instances, have been the subject of law review articles and cited in various federal practice treatises. *See e.g. Christy Sports LLC v. Deer Valley Resort Co.*, 555 F.3d 1188 (10th Cir. 2009).

He has defended numerous cases to jury verdict as first and/or second chair successfully and, in some instances, as the *only* attorney for his client. Some of his trial victories have even been profiled at trial lawyer annual conventions due to the magnitude of the case at issue. Through the course of trying cases, Mr. Simon has drafted, opposed and/or argued hundreds of motions in limine addressing a wide array of evidentiary issues such as subsequent remedial measures, collateral impeachment, admissibility of prior criminal convictions and prior litigation, various Rule 403 issues, spoliation of evidence, admissibility of habit and character evidence, collateral source/health insurance contractual write-off issues, Daubert expert qualification and opinion issues, Rule 701 lay opinion issues, Erie Doctrine issues, and virtually every conceivable hearsay related issue.

Aside from trial work, Mr. Simon has also obtained summary judgment and the Rule 12(b)(6) dismissal of cases on numerous occasions for various clients, implicating many different substantive areas of law such as: federal antitrust issues, constructive fraud, enforcement of restrictive covenants, intentional interference with economic relations, breach of contract, various equitable claims, scope of employment/vicarious liability, negligent training, hiring, retention and supervision, gross negligence, negligence *per se*, product liability claims, punitive damages, pre-injury release/exculpatory agreement issues, no duty issues, retained control doctrine issues, economic loss doctrine issues, temporary unsafe condition issues, landowner duties relating to adjacent property, and abnormally dangerous activity/common law strict liability claims. He has also obtained the Rule 12(b)(1) and (b)(2) dismissal of several cases based on lack of federal subject matter jurisdiction and personal jurisdiction respectively.

Mr. Simon is also "panel counsel" for several large insurance carriers, including AIG, EMC, Willis, and Lexington Insurance, while also representing personal injury plaintiffs in select instances. These cases often involve matters serious enough to implicate multiple layers of excess coverage and sometimes even involve damage allegations that exceed the last layer of excess coverage. He represents commercial general contractors, architects, engineers, manufacturers in various different industries, including the recreation industry, and has taken a primary role in the defense of nearly every serious injury case involving Utah's ski resort industry for many years.

Mr. Simon, from time to time, also provides legal representation to several prominent business and sporting figures on a variety of different legal issues and has helped form various 501(c)(3) and (c)(6) not-for-profit corporations in Utah. When time permits, he also teaches as an Adjunct Professor at the University of Utah's S.J. Quinney College of Law and serves as a volunteer attorney at the Utah Crime Victims Legal Clinic, representing crime victims in criminal court proceedings in a variety of different situations and capacities.

Education

University of California, Los Angeles (UCLA), B.A. History 1994, *magna cum laude*
University of California, Berkeley, Boalt Hall School of Law, J.D. 1997, *with honors*.

Admissions/Awards/Memberships

Admitted: Utah State Bar; Wyoming State Bar; Federal District Court, District of Utah; Tenth Circuit Court of Appeals.

Voted by peers as one of Utah's Legal Elite™ (several years) as published in *Utah Business Magazine*
Named Mountain States SuperLawyer™, Rising Star, 2009 (*only 2.5% of lawyers per jurisdiction (Utah) are named to the Rising Star list*)

Appointed to AM Best's National List of Recommended Insurance Attorneys for Utah and Wyoming (*insurance client nominated process*), 2012-present

Fellow, Litigation Counsel of America (invitation-only national trial lawyer honorary society peer nominated process - less than 1/2 of 1% of American lawyers are members), 2015-present

Member, American Mensa

Member, Federal Bar Association, Utah Chapter, Litigation Section

Master of the Bench, Aldon J. Anderson Inn of Court

Appointed, American Heart Association Heart Ball Committee, (2013)

Appointed Judicial Committee Chairperson, United States Bobsled and Skeleton Federation, National Governing Body for the Olympic sports of bobsled and skeleton, 2008-2013

Appointed by Utah Supreme Court Chief Justice Christine Durham (and approved by the Utah Supreme Court's Committee on Professionalism) as an NTLA Supervising Mentor to new Utah attorneys under Utah's revised mandatory Continuing Legal Education reporting guidelines, 2010.

Appointed to the Model Utah Jury Instruction (MUJI) Sub-Committee on the Inherent Risk of Skiing Act, 2012

Elected Board Member/Appointed Executive Committee Member, Park City Chamber of Commerce/Visitors Bureau, 2009-2014 (Board Chair, 2012-2013)

Elected Board Member, Ski Utah, 2009-present

Employment

Strachan Strachan & Simon, P.C., Named Partner, 2006-present

Strachan & Strachan, P.C., Associate Attorney, 2001-2006

Various International and local Utah law firms, 1997-2001

Mark Dalton Dunn
Tajha L. Ferrara
Trystan Smith
Todd A. Turnblom
Michael J. Walk

TRYSTAN SMITH & ASSOCIATES
ATTORNEYS AT LAW
Employees of The Law Department
State Farm Mutual Automobile Insurance Company

136 South Main, Suite 520
Salt Lake City, UT 84101
Telephone: (801) 257-7200
Facsimile: (855) 396-3028

February 1, 2017

Nancy Sylvester
nancyjs@utcourts.gov

Re: Jury Instructions Committee

Dear Mrs. Sylvester:

Enclosed herein is a copy of my resume'. Please consider this my letter of interest in serving on the Utah Judicial Council Standing Committee on Model Utah Civil Jury Instructions. Please advise whether any additional information is needed from me.

Best personal regards,



Mark Dalton Dunn

MARK DALTON DUNN
136 South Main Street, Suite 520
Salt Lake City, Utah 84101
(H) (801) 601-8850
(C) (801) 891--2210
(W) (801) 257-7200

EMPLOYMENT:

TRYSTAN SMITH & ASSOCIATES: In-House Counsel for State Farm Insurance

2000 - Present

Practice centered on insurance issues, including personal injuries, automobile accidents, tort claims, coverage questions, products liability, professional malpractice, commercial liability, workplace discrimination, toxic waste, workers compensation and appellate practice. I have tried over thirty-five jury trials in the state and federal courts of Utah and arbitrated over two hundred uninsured/underinsured matters for both plaintiffs and defendants.

DeBRY & ASSOCIATES: ATTORNEY

1997 - 2000

DUNN AND DUNN: ATTORNEY

Founding Member of Law Firm

1988 - 1997

HANSON, DUNN, EPPERSON AND SMITH:

ATTORNEY

1986 - 1988

FEDERAL DISTRICT COURT SOUTHERN DISTRICT OF TEXAS

CORPUS CHRISTI DIVISION, Judge Hayden W. Head:

LAW CLERK

1985 - 1986

BYUSTUDY ABROAD: Vienna, Austria

INSTRUCTOR: European History, Religion and Physical Education

1981

COURT OF CUSTOMS AND PATENT APPEALS

Washington, D.C., Judge Howard T. Markey

JUDICIAL INTERN

1981

EDUCATION:

Brigham Young University Law School

1985 Cum Laude

Brigham Young University

B.A. Major: European Studies

Minor: German
1982 Magna Cum Laude

OTHER:

Model Utah Jury Instructions—Emotional Distress Subcommittee Chairman
2015-2017

Frequent Presenter regarding legislative changes to uninsured/underinsured motor vehicle insurance
2010-2015, including,

State Farm Insurance Claim Manager Training—May 20, 2016

UDLA Seminar—March 20, 2015

State Farm Insurance Claim Specialist Training—March 26, 2015

UDLA Annual Meeting—May 8, 2015

Involved in drafting and lobbying legislative changes to uninsured/underinsured motor vehicle insurance
2010-2015

Speaker: Seminars regarding Tort Practice in Utah
2000-2010, including,

Utah Bar Spring Convention—2006

Utah State Bar Fall Forum--2007

Utah Association for Justice: Member
1997-2000

Association of Defense Trial Attorneys: Utah State Chairman
1990 - 1997

Utah Defense Lawyers Association: Secretary/Treasurer
1996 - 1997

Utah State Bar Committee Chairman: New Lawyers Continuing Legal Education
1996 - 1998

Author: "Civility in the Practice of Law": Published by the American Trial Lawyers Association

Moderator: Seminars regarding Brain Injury Claims



STRONG & HANNI LAW FIRM

A PREMIER BUSINESS & LITIGATION LAW FIRM

SALT LAKE CITY OFFICE
102 SOUTH 200 EAST, SUITE 800
SALT LAKE CITY, UT 84111

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WWW.STRONGANDHANNI.COM

HENRY E. HEATH
PHILIP R. FISHLER
ROGER H. BULLOCK
PAUL M. BELNAP
STUART H. SCHULTZ
BRIAN C. JOHNSON²
PAUL W. HESS
STEPHEN J. TRAYNER
STANFORD P. FITTS¹²
BRADLEY W. BOWEN
PETER H. CHRISTENSEN^{8,12}
ROBERT L. JANICKI⁵
H. BURT RINGWOOD
ZACHARY T. SHIELDS
CATHERINE M. LARSON
KRISTIN A. VANORMAN
KENT M. BROWN⁵
PETER H. BARLOW⁵
MICHAEL L. FORD^{4,5,9,12}
GRADEN P. JACKSON³
H. SCOTT JACOBSON

MICHAEL J. MILLER¹¹
ANDREW D. WRIGHT
BYRON G. MARTIN¹¹
BENJAMIN P. THOMAS
LANCE H. LOCKE
MICHAEL D. STANGER⁶
A. JOSEPH SANO
JAMES C. THOMPSON
KARMEN C. SCHMID
LORI A. JACKSON
WILLIAM B. INGRAM
RYAN P. ATKINSON¹²
JENNIFER R. CARRIZAL
JEREMY G. KNIGHT⁵
JOHN M. ZIDOW
ANDREW B. MCDANIEL
SADÉ A. TURNER⁵
CASEY W. JONES
RYAN C. BULLOCK
MICHAEL A. STAHLER^{7,10}
KATHLEEN J. ABKE

BENJAMIN P. HARMON
MARSHALL J. HENDRICKSON
CHET W. NEILSON²
S. SPENCER BROWN
KATHRYN T. SMITH¹²
RON W. HAYCOCK, JR.
JOSEPH SHAPIRO²
ANDREW D. DAY
NICHOLAS E. DUDOICH
ALAN R. HOUSION
ALLISON S. MILES
NATHAN R. WHITE
JASON L. DEFOREST
JESSICA J. JOHNSTON
JOHN C. SARAGER¹
FREDRICK J. PENA
ASHLEY F. LEONARD
AXEL TRUMBO
SCARLET R. SMITH
KYLE J. HOYT

¹ ALSO MEMBER ARIZONA BAR
² ALSO MEMBER CALIFORNIA BAR
³ ALSO MEMBER COLORADO BAR
⁴ ALSO MEMBER DISTRICT OF COLUMBIA BAR
⁵ ALSO MEMBER IDAHO BAR
⁶ ALSO MEMBER NEVADA BAR
⁷ ALSO MEMBER NEW YORK BAR
⁸ ALSO MEMBER OREGON BAR
⁹ ALSO MEMBER VIRGINIA BAR
¹⁰ ALSO MEMBER VERMONT BAR
¹¹ ALSO MEMBER WASHINGTON BAR
¹² ALSO MEMBER WYOMING BAR

OF COUNSEL

ROGER G. SEGAL
VERNON L. HOPKINSON
MARK H. HOWARD

GORDON R. STRONG
(1909-1969)
GLENN C. HANNI
(1923-2015)

ESTABLISHED 1888

January 31, 2017

VIA E-MAIL ONLY

Nancy Sylvester
Administrative Office of the Courts
nancyjs@utcourts.gov

RE: *Application for Standing Committee on Model Utah Civil Jury Instructions*

Dear Ms. Sylvester:


I am writing to apply for the open position on the Standing Committee on Model Utah Civil Jury Instructions. A copy of my resume is enclosed.

My practice is nearly entirely related to representing defendants. I have been an attorney since 1999 when I began my career in Spokane, Washington. I became licensed in Utah in 2001 and moved to Utah in 2002. For the past 15 years, I have been working at the law firm of Strong & Hanni. My practice is focused on representing defendants in medical malpractice cases, defendants in drug and medical device litigation, and defendants in other product liability cases.

My experience defending clients includes several high-stakes jury trials. In the past six years, I have first chaired seven jury trials to verdict. The shortest duration of those trials was five days. I am scheduled to begin an 8-day jury trial next week in Salt Lake and an 11-day jury trial in March in Duchesne. I was also a second chair attorney on numerous other jury trials in my earlier legal career. I believe my jury trial experience in dealing with complex issues has prepared me to serve as a valuable member of the Committee.



SALT LAKE OFFICE — 102 SOUTH 200 EAST, SUITE 800, SALT LAKE CITY, UTAH 84111
SANDY OFFICE — 9350 SOUTH 150 EAST, SUITE 820, SANDY, UTAH 84070



Nancy Sylvester
January 31, 2017
Page 2

Please contact me if you have questions. I look forward to hearing from you.



Very truly yours,

STRONG & HANNI



Michael J. Miller

MJM/sls
Enclosure



MICHAEL J. MILLER
STRONG & HANNI
102 South 200 East, Suite 800
Salt Lake City, UT 84111
801-323-2115
mmiller@strongandhanni.com

EDUCATION

Gonzaga University School of Law
Juris Doctorate, *Cum Laude* 1999
Articles Editor Gonzaga Law Review

Brigham Young University
Bachelor of Arts, Political Science 1994

PROFESSIONAL EXPERIENCE

STRONG & HANNI
Salt Lake City, Utah
Shareholder 2006 – present
Associate Attorney 2002 – 2005

RICHTER-WIMBERLEY
Spokane, Washington
Associate Attorney 1999 – 2002

PRESENTATIONS AND PUBLICATIONS

Presenter, "*Introduction to Drug & Medical Device Litigation*," DRI WEBCAST (November 2015)

Presenter, "*General Legal Matters and Dealing with Demanding Lawyers*," UMIA INSURANCE, INC. (November 2014)

Presenter, "*Update of the Consumer Product Safety Act's Information Database*," Five-Minute Drill, USLAW Spring Meeting (March 2009)

Whistleblowers and State Attorneys General: Warnings from the Consumer Product Safety Improvement Act of 2008, RX FOR THE DEFENSE (Fall 2008)

Presenter, "*Probing Indemnification in Clinical Trials*," ASSOCIATION OF CLINICAL RESEARCH PROFESSIONALS (Salt Lake Chapter), Fall Meeting (October 2008)

Presenter, "*Avoiding Claims of Physician - Patient Abandonment*" (June 2008)

Presenter, "*Challenges Facing Clinical Trials*," DRI ANNUAL MEETING DRUG AND MEDICAL DEVICE COMMITTEE SESSION (October 2007)

Severe Sanctions for Repeated Violations of Protective Orders of Confidentiality, RX FOR THE DEFENSE (Winter 2007)

Increased Scrutiny: Clinical Trial Contracts - Probing Indemnification, FOR THE DEFENSE
(April 2006)

Presenter, "*Confidentiality of Medical Records in Utah - Subpoenas*" (July 2003)

MEMBERSHIPS AND COMMITTEES

Utah State Bar

Washington State Bar

Defense Research Institute

Member, DRI Drug and Medical Device Steering Committee

Chair, DRI Drug and Medical Device Committee Webcasts

Member, Utah Defense Lawyers Association

ClydeSnow

ATTORNEYS AT LAW

CLYDE SNOW & SESSIONS

A PROFESSIONAL CORPORATION

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201 SOUTH MAIN STREET
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PERRIN R. LOVE
801.433.2406 (p. 1000)
PR - clydesnow.com

January 12, 2017

Via Email: nancyjs@utcourts.gov

Nancy Sylvester
Utah Courts

Re: Applications Sought for Utah Judicial Council Standing Committee on Model
Utah Civil Jury Instructions

Dear Nancy:

Please accept this application for a position on the Standing Committee Model Jury Instructions. I primarily represent defendants.

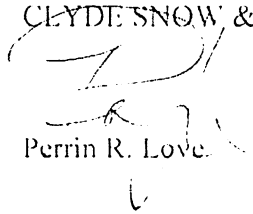
I chaired the Eminent Domain subcommittee, and was a member of the Fraud and Negligent Representation subcommittee, and enjoyed helping draft the model instructions very much. The issues surrounding the instructions were stimulating to me, and would enjoy continuing to participate very much.

A copy of my CV is enclosed.

Thank you for your attention to this.

Very truly yours,

CLYDE SNOW & SESSIONS


Perrin R. Love

Perrin R. Love

Director and Shareholder

PHONE 801.322.2516 FAX 801.521.6280 EMAIL prl@clydesnow.com

ClydeSnow



PRACTICES

- Antitrust Litigation
- Appellate Practice
- Business Litigation
- Civil Litigation
- Commercial and Contract Litigation
- Condemnation and Eminent Domain
- Environmental Litigation
- Intellectual Property and Trade Secrets Litigation
- Professional Malpractice Litigation
- Real Estate Litigation
- Shareholder Disputes

BAR ADMISSIONS

Utah (1989)
District of Columbia (1982)

WEB PROFILES



Super Lawyers
Best Lawyers
America's Top 100 Attorneys
Litigation Counsel of America

Mr. Love's business litigation experience includes antitrust claims brought under the Sherman Act and the Robinson-Patman Act (unfair competition, price fixing, price discrimination, concerted refusal to deal, horizontal and vertical restraints, and predatory conduct); intellectual property claims (trademark, trade dress, trade secret, unfair competition, and breaches of non-competition and non-disclosure agreements); and corporate, commercial, and securities litigation (insider self-dealing, minority shareholder disputes and valuation of minority shares, shareholder derivative claims, minority share valuation claims, securities fraud, RICO, and other business torts).

Mr. Love has represented both property owners and various condemning authorities (including an interstate natural gas utility, a water district, state agencies, and municipalities) in state and federal eminent domain proceedings. Mr. Love has litigated real estate claims involving title insurance, easements and rights of way, surveys, and boundary disputes.

Mr. Love has represented attorneys, appraisers, and other professionals in defense of professional liability and malpractice claims.

Mr. Love has served as Special Assistant Attorney General on behalf of the Utah Department of Transportation in a complex eminent domain action. He also served as Special Counsel to the Utah State Bar at trial in disbarment proceedings. He began his career as an associate at Covington & Burling in Washington, D.C., following a clerkship with the Honorable Francis D. Murnaghan, Jr., of the United States Court of Appeals for the Fourth Circuit in Baltimore, Maryland.

Education

- Juris Doctor, University of Virginia School of Law (1980); Note & Comment Editor, *University of Virginia Law Review*
- Bachelor of Arts, Yale College (1975), *magna cum laude* with departmental honors in English Literature

Awards and Honors

- Lifetime Achievement Membership among *America's Top 100 Attorneys*[®]
- Fellow, Litigation Counsel of America
- *Best Lawyers in America*: 2016 Lawyer of the Year, Eminent Domain and Condemnation Law
- *Best Lawyers in America*: Commercial Litigation, Intellectual Property Litigation, Eminent Domain and Condemnation Law (2008 - 2017)
- *Super Lawyers* National Business Edition, Litigation
- *Mountain States Super Lawyers*, Business Litigation, Intellectual Property Litigation, Eminent Domain
- *Utah Business Magazine* Legal Elite, Business Litigation, Civil Litigation
- AV Rating, Martindale-Hubbell

Professional Affiliations

- Member, Judicial Nominating Commission for Third District Court (2007 – 2010)
- Chair, Supreme Court Subcommittee on Model Jury Instructions, Eminent Domain
- Member, Supreme Court Subcommittee on Model Jury Instructions, Fraud & Deceit
- Master of the Bench, Inns of Court (1991 – present)
- Co-Chair, Utah State Bar Annual Convention (2002)
- Member, Utah Supreme Court Advisory Committee, Rules of Civil Procedure (1991 – 2001)
- Member, Executive Committee of the Salt Lake County Bar (1996 – 2001)

Representative Cases

- *Metropolitan Water District v. Questar Gas Co.*, 2015 UT App, 265 (argued) (affirming judgment that local water district had no statutory authority to regulate public utility)
- *UDOT v. FPA West Point, LLC, et. al.*, 2012 UT 79 (co-argued) (holding the owners of interests in condemned property have right to independent and separate valuations of their respective interests)
- *Hentsch Henchoz & Cie v. Gubhay*, 2004 UT 64, 97 P.3d 1282 (argued) (staying and dismissing appeal of claims brought by a Swiss bank against financial services corporation for fraud, civil conspiracy, breach of contract and conversion in connection with \$25 million investment)

- *Eggett v. Wasatch Energy Corp.*, 94 P.3d 193 (Utah 2004) (argued) (affirming jury verdict on claims brought by shareholder and former chief executive officer against energy company for breach of employment agreement, breach of shareholder agreement, and breach of the covenant of good faith and fair dealing)
- *Bell v. Fur Breeders Agricultural Cooperative*, 348 F.3d 1224 (10th Cir. 2003) (argued) (affirming summary judgment dismissing claims against an agricultural cooperative for violations of Sections 1 and 2 of the Sherman Act and the Robinson Antitrust Act)

Pro Bono Activities

- Member, Board of Trustees, University of Utah College of Law
- Member, And Justice for All Leadership Committee
- Member, Board of Trustees, Salt Lake City Library (2004 - 2010)
- Member, Salt Lake City Arts Council Executive Committee (1989 – 97)
- Member and Chairman of Tree Utah, Board of Trustees (1991 – 99)



Nancy Sylvester <nancyjs@utcourts.gov>

standing committee on MUJI

1 message

Ruth Shapiro <ruth.shapiro@chrisjen.com>

Wed, Jan 18, 2017 at 1:57 PM

To: "nancyjs@utcourts.gov" <nancyjs@utcourts.gov>

Nancy,

This e-mail serves as notice of my interest in serving on the standing committee on MUJI.

I do not have a resume, per se, as I have been with Christensen & Jensen for 15+ years but I feel my website bio gives a good overview of my experience. The link: <http://www.chrisjen.com/Attorney-Ruth-A-Shapiro>

Thanks in advance for your consideration and please let me know if you need any further information.

Ruth A. Shapiro
Attorney



Office 801.323.5000
Fax 801.355.3472
ruth.shapiro@chrisjen.com

257 East 200 South, Suite 1100
Salt Lake City, Utah 84111
www.chrisjen.com

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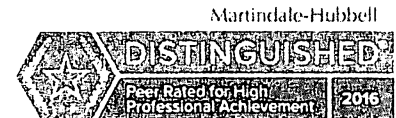
Attorney



Ruth A. Shapiro

ruth.shapiro@chrisjen.com

257 East 200 South, Suite 1100
Salt Lake City, UT 84111



Ruth, a Shareholder with Christensen & Jensen, is one of the most active and successful trial attorneys in Utah and the Intermountain region. In her 23+ years of practice, Ruth has averaged two trials per year, defending catastrophic injury, wrongful death, employment, product liability, and premises liability cases. In the past four years alone, Ruth has obtained defense jury verdicts in matters involving a double fatality from a truck accident (with a \$22 million demand), employment discrimination, premises liability, snow tubing, skier-collision, and \$2.8 million catastrophic injury case. Ruth is Chair of Christensen & Jensen's Employment Defense practice group and Co-Chair of the firm's Personal Injury Defense group.

Prior to joining Christensen & Jensen in 2001, Ruth practiced with lawfirms in Wisconsin, Massachusetts, New Hampshire, and Washington, D.C. She also served as in-house counsel for a large liability insurance carrier's third-party administrator. Prior to enrolling in law school, Ruth played professional tennis, traveling throughout North America to compete. Ruth currently participates in local, regional, and national road cycling events with a regional cycling team. Ruth was recently appointed to USA Cycling's Safety Advisory Committee.

AREAS OF PRACTICE

Catastrophic Personal Injury Defense: Defends corporations and individuals in claims and lawsuits involving significant personal injury. Recent representative matters includes:

Employment Defense: Defends corporations in employment related litigation and administrative claims in Federal District Court, the Equal Employment Opportunity Commission, the Utah Anti-discrimination and Labor Division, Department of Labor, National Labor Relations Board, Division of Occupational and Professional Licensing, and other administrative agencies; Proactive counseling regarding corporate manuals, handbooks, and human resource practices. Recent representative matters include:

- Defense jury verdict in a Federal employment discrimination matter
- Successful defense of a racial discrimination class action brought by the EEOC
- Successful defense of a non-compete agreement dispute
- Successful defense and no-cause findings involving discrimination claims of gender, race, disability, national origin, and retaliation
- Successful defense of numerous claims of wrongful termination (actual and constructive), failure to promote, failure to hire, and wage violations
- Successful defense of numerous matters involving claims of sexual harassment
- Successful defense of numerous matters involving medical and pharmaceutical malpractice before the Division of Occupational and Professional Licensing

Risk & Crisis Management: Advises businesses in risk prevention, conducts internal and post-incident investigations, and assists with handling and managing sensitive and high exposure matters. Representative areas of assistance include:

- Mitigation of risk through corporate policies and procedures
- High profile and sensitive on-site investigations
- Preservation of evidence
- Addressing publicity and social media needs and dissemination of information

EDUCATION

Marquette University Law School, J.D., magna cum laude, 1992

Lafayette College, B.A., History, 1986



Utah Defense Lawyers Association
American Bar Association
Ski Utah, Board of Directors member 2002-2008

Christensen, Inc.

Christensen, Inc.
Christensen, Inc.

Christensen, Inc.
Christensen, Inc.



January 31, 2017

Ryan D. Marsh
2175 W 520 N
Lehi, UT 84043
ryan.marsh@gmail.com

Ms. Nancy Sylvester
Via email: nancyjs@utcourts.gov

Dear Ms. Sylvester,

I am writing to apply for the open position on the Standing Committee on Model Utah Civil Jury Instructions (the "Standing Committee"). I understand that you are seeking an attorney who primarily represents defendants. I certainly meet this qualification.

I have been practicing law for more than eleven years, both in private practice at national law firms and, more recently, as an in-house litigation attorney at prominent ecommerce and technology companies, eBay Inc. and PayPal, Inc., in Draper, Utah. I currently lead the Litigation team at PayPal and I and my team manage consumer and shareholder litigation facing PayPal and its affiliates. In the vast majority of cases, we are in the position of defending the company in litigation, rather than representing the company as a plaintiff. I have, however, had experience representing plaintiffs *and* defendants prior to joining eBay and PayPal, so I have experience on both sides of a lawsuit.

I would welcome the opportunity to serve as a member of the Standing Committee and am willing to do what it takes to be an active, contributing member who adds value and furthers the Committee's mission. I believe my experience has prepared me well to serve in this capacity. I am eager to serve the legal community, court system, and public here in Utah and to get to know and build relationships with others who serve on the Committee.

I am enclosing my resume that outlines my experience for your review. If there is any additional information you need from me, please do not hesitate to let me know. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "RD Marsh", with a long horizontal line extending to the right.

Ryan D. Marsh

RYAN D. MARSH

2175 W 520 N • Lehi, UT 84043

Phone: (801) 472-6905 • E-mail: ryan.marsh@gmail.com

SUMMARY

Successful litigation attorney with over eleven years of experience at Am Law 100 and 200 law firms and as an in-house litigator for some of the world's leading ecommerce and technology companies. A proven leader who has effectively managed teams of other legal professionals, a multi-million dollar litigation budget, and high-stakes lawsuits and government investigations. A trusted counselor and problem solver who partners with business and legal professionals to manage and mitigate litigation and regulatory risk.

LEGAL EXPERIENCE

PayPal, Inc., Draper, UT

Senior Director, Litigation (June 2015 – Present)

- Head the litigation team at a Fortune 500 technology company that enables digital and mobile payments on behalf of consumers and merchants worldwide through innovative products like PayPal, PayPal Credit, Venmo, Braintree, and Xoom.
- Lead team of 11 U.S. and Europe based attorneys, paralegals, and eDiscovery professionals responsible for managing litigation in North America, Europe, and the Middle East and manage a multi-million dollar budget.
- Retain and manage external counsel, develop strategy, review and edit work product, and partner with risk management, corporate communications, and other personnel to ensure the best, most efficient representation of PayPal in litigation and pre-litigation disputes.
- **Highlights:**
 - Successfully managed consolidated shareholder putative class action challenging PayPal's acquisition of Xoom Corp. to a resolution that resulted in no payout to plaintiffs and no disruption to closing the deal, defeating a motion to expedite discovery along the way.
 - Handled investigations by the FCC, FTC, New York Attorney General and other regulators into a PayPal User Agreement provision regarding communications with customers; investigations were concluded with no action taken against the company.
 - Advised in connection with successful effort to reach settlement to resolve Israel-based consumer class action regarding currency conversion fees charged by PayPal.

eBay Inc., Draper, UT

Senior Director, North America Litigation (April 2014 – June 2015), Director of Litigation (April 2012 – April 2014), Litigation Counsel (May 2010 – April 2012)

- Prior to eBay's spin-off of PayPal in July 2015, managed litigation for eBay, one of the world's leading online marketplaces, and its affiliates, including PayPal, StubHub, and Bill Me Later.
- Directly managed Utah and Arizona based attorneys and other legal professionals.
- **Highlights:**
 - Represented eBay in a high-profile trade secret case against Craigslist.
 - Obtained early summary judgment in putative Telephone Consumer Protection Act class action (affirmed by Ninth Circuit); decision frequently cited (*Roberts v. PayPal, Inc.*).
 - Drafted successful motion to transfer venue in a disability discrimination putative class action filed by a deaf eBay user and ultimately obtained full dismissal of case on grounds that eBay.com is not a place of public accommodation under the Americans with Disabilities Act (affirmed by Ninth Circuit).
 - Obtained full dismissal of putative class action in federal court in Utah alleging violations of California usury and consumer protection laws on federal preemption grounds.
 - Responsible for amending the PayPal and eBay User Agreements to include arbitration provisions with class action waivers following the U.S. Supreme Court's *AT&T Mobility v. Concepcion* ruling.

Hogan & Hartson LLP, Palo Alto, CA

Associate (October 2008 – April 2010)

- Represented plaintiffs and defendants in all aspects of class action litigation, including in briefing and arguing motions and applications, written discovery, depositions, and mediation.
- Represented a group of tenants pro bono in a class action lawsuit against their landlord and obtained preliminary injunction on their behalf, preventing their landlord from enforcing rent hikes against them under a local rent control ordinance.

Heller Ehrman LLP, Menlo Park, CA

Associate (April 2007 – October 2008)

- Represented Fortune 500 software company in consumer class actions and investigation by the New York Attorney General. Represented former director of public company in federal securities fraud class action and shareholder derivative actions.
- Interviewed client personnel and prepared them for depositions, briefed motions and ex parte applications, prepared supporting declarations and evidence.

Quinn Emanuel Urquhart Oliver & Hedges LLP, Los Angeles, CA

Associate (September 2005 – February 2007)

- Represented Italian company in federal securities case against Bank of America. Drafted subpoenas, discovery, and meet and confer letters. Prepared deposition outlines and exhibits.
- Assisted with fact investigation in antitrust and patent infringement litigation.

Hon. Sidney A. Fitzwater, U.S. District Court, Northern District of Texas, Dallas, TX

Judicial Law Clerk (August 2004 – August 2005)

- Prepared draft memorandum opinions and orders. Performed legal research and analysis.

OTHER EXPERIENCE

Arthur Andersen LLP, Atlanta, GA

Associate – Strategy, Finance and Economics – Litigation (Value Solutions) (September 1999 – July 2001)

- Provided consulting services to companies involved in legal proceedings or investigations.

The Church of Jesus Christ of Latter-day Saints

Missionary (May 1994 – May 1996)

- Presided over a congregation of the Church in Hungary; frequently delivered speeches in Hungarian at church meetings and counseled with members. Provided community service.

EDUCATION

Stanford Law School, Stanford, CA

J.D., June 2004

- *Stanford Journal of International Law*—Business/Development Executive Chair; editing award recipient.

University of Georgia, Athens, GA

B.B.A. in International Business (emphasis in finance), magna cum laude with honors, May 1999

- Six-time Presidential Scholar, 4.0 GPA in major, and Beta Gamma Sigma honor society inductee.
- Activities: University Student Judiciary – Student Justice; Peer Tutor

ADMISSIONS

Utah, California, U.S. District Courts for Northern and Central Districts of California and Northern District of Texas

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

SPENCER E. AUSTIN
Chief Criminal Deputy

PARKER DOUGLAS
Chief of Staff & Federal Solicitor

TYLER R. GREEN
Solicitor General

BRIDGET K. ROMANO
Chief Civil Deputy

February 1, 2017


Nancy Sylvester
Administrative Office of the Courts
450 S. State Street
Salt Lake City, UT 84111

Re: Standing Committee on Model Utah Civil Jury Instructions

Dear Nancy:

Attached is my resume in application for the open position on the Standing Committee on Model Utah Civil Jury Instructions. I recently served on the Model Utah Civil Jury Instruction subcommittee responsible for drafting instructions for emotional distress. I primarily represent civil defendants.

Sincerely,



STEVEN A. COMBE
Assistant Utah Attorney General

sac
enc

STEVEN A. COMBE

4631 West 4450 South, West Haven, UT • Tele: Home (801)391-4135, Office (801)366-0100

EDUCATION

Brigham Young University, Juris Doctorate, 1989, *Cum Laude*

Weber State College, Bachelor of Science, 1986, Political Science & English

PROFESSIONAL EXPERIENCE

- 1997-Present Utah Attorney General's Office, Litigation Division, 160 East 300 South, Salt Lake City, UT 84114
- Torts Section Director 2004 – 2008, 2017 – present
 - Assistant Utah Attorney General assigned to the Torts Section, representing all state agencies and institutions of higher education, school districts, and their employees against civil lawsuits for money damages covered by the Risk Management Fund.
 - Assistant Utah Attorney General Grade V, awarded to attorneys who have consistently demonstrated professionalism, integrity, truthfulness, obedience to the law, moral courage, civility, and fairness to co-workers, clients, judges and opposing counsel; a high knowledge of legal principles and procedures; excellent ability to interpret and apply the law; diligence and efficiency; and ability to handle complex legal matters without supervision.
- 1989-1997 Utah Attorney General's Office, Child and Family Support Division, 2540 Washington Blvd., Ogden, UT 84401
- Assistant Utah Attorney General assigned to the Ogden Section, representing the Office of Recovery Services in establishing paternity, enforcing and modifying child support orders, and recovering improperly received public benefits.
- 1988-1989 Utah Attorney General's Office, Governmental Affairs Division, Criminal Appeals Section, 350 N. State Street, Salt Lake City, UT 84114
- 1/88-10/88 Ivie & Young, 48 North University Ave., Provo, UT 84603

COMMUNITY INVOLVEMENT

Volunteer, Tuesday Night Bar, Utah State Bar; Volunteer, Utah Law Related Education Project; Volunteer, Boy Scouts of America; Volunteer, Character and Fitness Committee, Utah State Bar (1994-2009)

REFERENCES

Joni Jones
Litigation Division Director
Utah Attorney General's Office
160 East 300 South, 6th Floor
Salt Lake City, UT 84114-0856
801-366-0384
jjones@utah.gov

Joel Ferre
Litigation Division Deputy Director
Utah Attorney General's Office
160 East 300 South, 6th Floor
Salt Lake City, UT 84114-0856
(801)366-0534
jferre@utah.gov

Kent Holmberg
Litigation Division
Utah Attorney General's Office
160 East 300 South, 6th Floor
Salt Lake City, UT 84114-0856
801-366-0515
khholmberg@utah.gov

Sandra Steinvoot
Assistant United States Attorney
United States Attorney's Office
185 South State Street, #300
Salt Lake City, UT 84111
801-524-5682
sandra.steinvoot@usdoj

STEWART B. HARMAN
SHARMAN@PCKUTAH.COM
ALSO ADMITTED IN IDAHO

January 13, 2017

Nancy Sylvester
Utah Judicial Council
Sent Via email to nancyjs@utcourts.gov

Re: Standing Committee on Utah Civil Jury Instructions

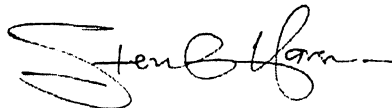
Dear Ms. Sylvester:

This letter is to express my interest in the open position on the Standing Committee on Utah Civil Jury Instructions. As a litigator and trial lawyer, I believe I would make a good fit for this committee. Please find attached herewith a copy of my resume. As reflected therein, I have served a defense counsel at the firm of Plant, Christensen and Kanell for more than 10 years handling primarily insurance defense cases ranging from personal injury, construction defect, municipal, to HOA, landlord-tenant, products liability and complex civil litigation cases.

Thank you for your consideration and please let me know if there is anything else that you need from me.

Very truly yours,

PLANT, CHRISTENSEN & KANELL



STEWART B. HARMAN

Stewart B. Harman

136 East South Temple, Suite 1700, Salt Lake City, Utah 84111
T. 801-363-7611 E. sharman@pckutah.com

EDUCATION

Juris Doctorate - Appalachian School of Law, Grundy, Virginia 2006

Graduating Rank: 1st out of 115

Editor-in-Chief of the Appalachian Journal of Law for the 2005-2006 edition (Volume 5)

Undergraduate - University of Utah, Salt Lake City, B.S. in Organizational Communication and Political Science Utah 2001

LICENSES & CERTIFICATIONS

Utah State Bar – Admitted 2006 (State and Federal Court)

Idaho State Bar – Admitted 2014 (State Court)

United States Court of Appeal for the 10th Circuit – Admitted 2016

PROFESSIONAL AFFILIATIONS

Utah State Bar Association, Litigation Section & Salt Lake County Bar and Idaho State Bar

Utah Defense Lawyers Association and Utah Municipal Attorneys Association

EXPERIENCE

Plant, Christensen & Kanell, Salt Lake City, Utah, 2006 – Present

Shareholder. Manage litigation defense and trial of civil files for numerous clients covering a variety of cases ranging from personal injury, intentional torts, municipality claims, complex civil litigation, products liability, insurance, construction defect, HOA, property, water rights, Title VII and employment law cases. Continually manage a case load between fifty and sixty cases. Have resolved hundreds of cases through mediation, arbitration, dispositive motions and trial. Have served as first chair during bench and jury trials and have briefed and argued before the Utah Court of Appeals, Utah Supreme Court and the Tenth Circuit.

City of North Salt Lake, City Councilman, North Salt Lake, Utah, 2010 – 2014

Utah Army National Guard, 1998 – 2006

Counterintelligence Agent. Staff Sergeant in the 142nd Military Intelligence Battalion. Operation Joint Forge in Bosnia-Herzegovina from July 2002 to March 2003.

United States District Court for the Western District of Virginia, *Intern for U.S. Magistrate Judge Pamela Sargent*, Abingdon, Virginia, summer 2004

PUBLICATIONS & REPORTED CASES

Reported Cases: *Cope v. UVSC*, 2012 UT App 319, 290 P.3d 314 (November 8, 2012), *aff'd*, 2014 UT 53, 774 Utah Adv. Rep. 14.

Fire Insurance Exchange v. Oltmanns, 2016 UT App 54 (March 24, 2016) (*cert pending*).

Published: *Restoration of Competency Through Involuntary Medication: Applying The Sell Factors*, 4 Appalachian J.L. 127 (2005).

SKILLS AND ACHIEVEMENTS

Fluent in Danish and Norwegian Languages. Served LDS Mission in Copenhagen, Denmark. Eagle Scout. Interests include running, cycling, skiing, golf and backpacking. Completed the Boston Marathon and Wasatch 100 Mile Ultra-marathon in 2012 and 2015 Ironman Arizona.

**Committee on Resources for
Self-Represented Parties**



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester
Date: February 14, 2017
Re: Reappointments to the Committee on Resources for Self-represented Parties

There are three members of the Committee on Resources for Self-represented Parties whose terms expire this month: Susan Griffith, Chris Martinez, and Virginia Sudbury. Each has requested to stay on the committee for another term and the committee recommends that they all be reappointed.

Susan Griffith occupies one of two community member positions on the committee and is completing her first term. Ms. Griffiths is the director of the Timpanogos Legal Clinic and is also an adjunct professor at the J. Reuben Clark School of Law at BYU. She has been a great contributor to the committee's work.

Chris Martinez occupies one of two representatives from legal service organizations that serve low-income clients and is also completing his first term. Mr. Martinez is an attorney with Legal Aid Society of Salt Lake and like Ms. Griffiths has been a great contributor.

Virginia Sudbury occupies the position of private attorney experienced in providing services to self-represented parties and she is completing her second term. In Ms. Sudbury's case, the committee requests an exception to the general rule that a committee member serve only two terms. Ms. Sudbury has been a critical factor in the movement toward attorneys' provision of unbundled services for self-represented parties. In many ways, she is helping to keep attorneys relevant in the court system as the number of pro se litigants continues to increase. Because this effort is ongoing and is one of the committee's strategic plan priorities, the committee requests that the Judicial Council consider this an "exceptional circumstance[.]...which justif[ies] service of more than two consecutive terms" under Utah Code of Judicial Administration Rule 1-205(3)(B).

There is also a position on the committee that needs to be filled.

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

Eric Mittlestadt, who has been the Online Court Assistance Program (OCAP) representative on the committee and who also hails from Utah Legal Services (ULS), has resigned from his committee membership due to his no longer staffing the OCAP committee. Mr. Mittlestadt's first term with the committee was set to expire in March. Because our chair, Judge Lawrence, and I thought it was important to maintain continuity of representation from both OCAP and ULS, we asked Mr. Mittlestadt to help us fill his position. He recommended **Jacob Kent**, who will be filling the same role on OCAP that Mr. Mittlestadt filled. I have worked with Mr. Kent in various capacities before and think he would do a great job filling the role that Mr. Mittlestadt filled. Both Judge Lawrence and I request that he be appointed to replace Mr. Mittlestadt. Mr. Kent's resume is attached to this memo.

The Management Committee recommends that the Judicial Council appoint of all four individuals to the committee.

JACOB P. KENT

1455 W Pebblecreek Dr. • Layton, UT 84041 • 801.505.9099 • jacobpkent@gmail.com

EXPERIENCE

UTAH LEGAL SERVICES, INC.

Staff Attorney; Salt Lake City, Utah

12/14 – Current

- Educate clients on the law and their legal remedies under Utah and Federal law
- Represent clients with consumer and landlord-tenant issues in mediations, negotiations, and court hearings
- Draft complex legal documents to further a client's legal claim

JACOB KENT LAW PLLC

Attorney/Owner; Bountiful, Utah

08/13 – 12/14

- Actively litigate protective orders for victims of domestic violence
- Drafted correspondence and court pleadings to further clients' interests in domestic cases
- Researched debt collection and contract issues for clients

UTAH LEGAL SERVICES, INC.

Staff Attorney; Ogden, Utah

06/12 – 08/13

- Educated clinic attendees on the law and their legal remedies under Utah and Federal law
- Represented clients with domestic and landlord-tenant issues in mediations, negotiations, and court hearings
- Instructed victim advocates and law enforcement agencies on the protections provided to victims under Utah's Cohabitant Abuse Act

JACOB KENT LAW PLLC

Attorney/Owner; Ogden, Utah

10/11 – 06/12

- Litigated and assisted petitioners with civil protective orders
- Researched domestic law issues and drafted memoranda on the research
- Advised clinic attendees on their legal remedies and court procedure

LEGAL CONTRACTOR

Contract Researcher & Intern; Bountiful, Utah

09/11 – 10/11

- Analyzed facts from client's medical file and drafted pre-hearing memorandum
- Assisted attorney with case management
- Prepared court documents and research memoranda to assist attorneys with case load

UNIVERSITY OF IDAHO LEGAL AID CLINIC

Limited License Intern; Moscow, Idaho

08/10 – 05/11

- Negotiated contracts and settlements for clients
- Worked directly with clients to resolve their legal issues
- Drafted pleadings and correspondence on behalf of clients

EDUCATION

UNIVERSITY OF IDAHO COLLEGE OF LAW; Moscow, Idaho

J.D.

May 2011

GPA: 3.12 RANK: 27 out of 84

Pro Bono Service with Distinction Recognition

Recipient of Langroise Scholarship

Recipient of Public Interest Law Fellowship

Completed 40 hours of Basic Family Mediation training

Served as Vice President of Law Students for Appropriate Dispute Resolution

Member J. Reuben Clark Society

Dean's List, three of six semesters

UNIVERSITY OF UTAH; Salt Lake City, Utah

B.S., Political Science

December 2006

GPA: 3.70

Golden Key Honor Society

VOLUNTEER

Community Clinic in Ogden

2015-Current

Utah Legal Services Intern

2011

Idaho Legal Aid Services, Inc. Intern

2010

Boy Scouts of America troop leader

2007

Utah Special Olympics volunteer

2002

TAB 7

Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Daniel J. Becker
State Court Administrator
Raymond H. Wahl
Deputy Court Administrator

MEMORANDUM

To: Management Committee
From: ~~Brent Johnson~~, General Counsel
Re: Forms Committee
Date: February 7, 2017

The new committee on court forms is ready to present names for potential membership. I am attaching a copy of the portion of the rule that shows the committee composition. The following have been nominated by their boards or committees:

Judge James Taylor, Fourth District Court Judge
Judge Beth Lindsley, Third District Juvenile Court Judge
Guy Galli, Court Clerk
Mary Westby, Appellate Court Staff Attorney
Mary Jane Ciccarello, Self-help Center

Commissioner T. Patrick Casey, Online Court Assistance Committee
Judge John Carol, Ynchausti, Farmington City Justice Court Judge

I contacted Stewart Ralphs to be the representative from a legal service organization that serves low-income clients. Mr. Ralphs is willing to serve. Mr. Ralphs is active in various community efforts and I think he will be a great committee member.

I have not yet reached out to the entire Utah State Bar, but instead wanted to first present the name of a potential member. When notice of the new forms committee rule was distributed to Bar members, I was immediately contacted by Randy Dryer. Mr. Dryer would like to be the Utah State Bar representative and he also offered his services as chair. Mr. Dryer is no longer in private practice. He is a professor at the University of Utah Law School and said he has a lot of time to devote to the committee. Mr. Dryer stated that he believes there is a great need for court

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

forms not only for pro se litigants and licensed legal paralegals, but also for new attorneys. If the Management Committee would like a greater pool of attorneys from which to select I can send an announcement to all Bar members.

As of the date of this memorandum, I am still waiting for a justice court judge and a paralegal. I have been told that names are coming soon and I might have those names by the committee meeting. Considering the intense and extensive task the committee faces, a strong chair will be important. Judge Taylor has asked that he not be considered as chair at this time. All the other committee members may be considered.

74 (1)(B)(ix) The Language Access Committee shall consist of one district court judge, one juvenile court
75 judge, one justice court judge, one trial court executive, one court clerk, one interpreter coordinator, one
76 probation officer, one prosecuting attorney, one defense attorney, two certified interpreters, one approved
77 interpreter, one expert in the field of linguistics, and one American Sign Language representative.

78 (1)(B)(x) The Guardian ad Litem Oversight Committee shall consist of seven members with
79 experience in the administration of law and public services selected from public, private and non-profit
80 organizations.

81 (1)(B)(xi) The Committee on Model Utah Civil Jury Instructions shall consist of two district court
82 judges, four lawyers who primarily represent plaintiffs, four lawyers who primarily represent defendants,
83 and one person skilled in linguistics or communication.

84 (1)(B)(xii) The Committee on Model Utah Criminal Jury Instructions shall consist of two district court
85 judges, one justice court judge, four prosecutors, four defense counsel, one professor of criminal law, and
86 one person skilled in linguistics or communication.

87 (1)(B)(xiii) The Committee on Pretrial Release and Supervision shall consist of two district court
88 judges, one juvenile court judge, two justice court judges, one prosecutor, one defense attorney, one
89 county sheriff, one representative of counties, one representative of a county pretrial services agency,
90 one representative of the Utah Insurance Department, one representative of the Utah Commission on
91 Criminal and Juvenile Justice, one commercial surety agent, one state senator, one state representative,
92 and the court's general counsel or designee.

93 (1)(B)(xiv) The Committee on Court Forms shall consist of one district court judge, one juvenile court
94 judge, one justice court judge, one court clerk, one appellate court staff attorney, one representative from
95 the Self-Help Center, the State Law Librarian, the Court Services Director, one member selected by the
96 Online Court Assistance Committee, one representative from a legal service organization that serves low-
97 income clients, one paralegal, and one representative from the Utah State Bar.

98 (1)(C) The Judicial Council shall designate the chair of each standing committee. Standing
99 committees shall meet as necessary to accomplish their work. Standing committees shall report to the
100 Council as necessary but a minimum of once every year. Council members may not serve, participate or
101 vote on standing committees. Standing committees may invite participation by others as they deem
102 advisable, but only members designated by this rule may make motions and vote. All members
103 designated by this rule may make motions and vote unless otherwise specified. Standing committees
104 may form subcommittees as they deem advisable.

105 (1)(D) At least once every six years, the Management Committee shall review the performance of
106 each committee. If the Management Committee determines that committee continues to serve its
107 purpose, the Management Committee shall recommend to the Judicial Council that the committee
108 continue. If the Management Committee determines that modification of a committee is warranted, it may
109 so recommend to the Judicial Council.

TAB 8

Judicial Council Grant Application Proposal
Code of Judicial Administration 3-411

FEDERAL GRANTS

Contact Person/Phone: Krista L. Agram Date 2/3/2017

Judicial District or Location: Administrative Office of the Courts

Grant Title: PO/DPO Safety Training and EBP Training Grantor: CCJJ/OJJDP

Grant type (check one): ☐ New ☒ Renewal ☐ Revision

Grant Level (check one): ☒ Low ☐ Med ☐ High
Under \$1 000 000 \$1 000 000 to \$10 000 000 Over \$10 000 000

Issues to be addressed by the Project: This grant funds probation officer and deputy probation officer safety training, evidence-based practice training, and continued implementation of the program evaluation

Explanation of how the grant funds will contribute toward resolving the issues identified: The grant provides for training of over 150 new and existing probation officers and deputy probation officers on implementation of policy, safety issues, and de-escalation techniques in probation officer safety. Additionally, it helps to support the implementation of evidence-based practices through assisting with funding for trainings such as the Carey Guides and Brief Intervention Tools (BITS). It also helps support efforts to create consistency with statewide probation management in the implementation and oversight of evidence-based programming.

Fill in the chart(s) for estimated state fiscal year expenditures for up to three years

Total Funding Sources

(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)

		Other Matching Funds from Non-State Entities	MATCHING STATE DOLLARS					Total Funds
CASH MATCH	Grant Amount		General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	
State Fiscal Year								
FY2016 (FED FY12)	\$80,044		\$8,894					\$88,938
FY								\$0
FY								\$0

(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)

		Other Matching Funds from Non-State Entities	MATCHING STATE DOLLARS					Total Funds
IN-KIND MATCH	Grant Amount		General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	
State Fiscal Year								
FY								\$0
FY								\$0
FY								\$0

Comments: _____

Will additional state funding be required to maintain or continue this program or its infrastructure when this grant expires or is reduced? Yes ☒ No ☐ If yes, explain: Funds will be needed to continue probation officer safety training. Additionally funds will be needed to continue to provide training on evidence-based programs

Will the funds to continue this program come from within your existing budget. Yes ☐ No ☒ N/A ☐

How many additional permanent FTEs are required for the grant? 0 Temp FTEs? 0

This proposal has been reviewed and approved by the following:

The court executives and judges in the affected districts:

☒ The Grant Coordinator and the Budget Director at the Administrative Office of the Courts

☒ The affected Boards of Judges

Approved by the Judicial Council: _____ by _____

Date

Court Administrator

Copy forwarded to Legislative Fiscal Analyst: _____

date

SECTION 1: COVER SHEET

Juvenile Accountability Block Grant Application


State of Utah
Commission on Criminal and
Juvenile Justice

 Utah State Capitol Complex
 Senate Building Suite 330
 PO Box 142330
 Salt Lake City, Utah 84114-2330
 Ph: (801) 538-1031
 Fax: (801) 538-1024
For CCJJ use ONLY:
 1. Implementing Agency Name & Address
 (Include full 9 digit zip code)

 Administrative Office of the Courts - Juvenile Court
 450 South State
 P.O. Box 140241
 Salt Lake City, Utah 84114-0241

2. Director's phone number: 801-578-3811

Director's cellular number:

Dir E-mail Address: kristaa@utcourts.gov

3. Authorized Official's phone #: 801- 578-3806

Authorized Officials cellular #:

E-mail Address: danb@utcourts.gov

4. Will this award (check one):

☒ Enhance an Existing Program☐ Initiate a New Program

5. Beginning & Ending Dates of Program:

March 1, 2017 to March 1, 2018

Previous grant # (if applicable): 12L08

6. DUNS Number:

096311365

7. CCR Number:

8. CCR Expiration Date:

9. Congressional District(s) Served:

1st, 2nd, 3rd, 4th

10. Federal Tax Identification Number:

87-876000545

11. Title which *describes* the program to be funded

PO/DPO Safety Training and EBP Training

12. Budget Summary

Total Project Costs

Federal Grant Funds

Cash Match

Personnel

\$0

\$0

\$0

Consultant/Contract

\$38,500

\$38,500

\$0

Equipment / Supplies &
Operating (ESO)

\$24,403

\$24,403

\$0

Travel/Training

\$26,035

\$17,141

\$8,894

Indirect Costs

\$0

\$0

\$0

Column Totals

\$88,938

\$80,044

\$8,894

13. *Print Name & Title of Official Authorized to Sign

Dan Becker

14. Signature of Official Authorized to Sign

Date:

15. **Print Name of Program Director

Krista Airam

16. Signature of Program Director

Date:

For CCJJ Use Only

Ronald B. Gordon, Jr.
Executive Director of CCJJ

Date:

* (e.g. Mayor, County Commissioner, State Agency CEO) NOTE: Chiefs and Sheriffs are not authorized to approve contracts for their local government. ** This is the individual responsible for the day-to-day management of the grant program

Section 2: PROGRAM AREA CHECKLIST

The Office of Juvenile Justice and Delinquency Prevention requires all projects to identify the purpose for which these funds will be used on the table below. You must account for 100% of the requested funds in one purpose area.

Program Area		
01	Graduated Sanctions	\$
06	Training for Law Enforcement & Court Personnel	\$88,938
15	Court/Probation Programming	\$

Section 3: PROJECT SUMMARY (Sections will expand. Limit to one page.)

Problem Statement (problem being addressed)

The lack of training for line staff can create safety issues, lack of understanding of policy, potential liability for the state, and problems implementing new initiatives. In addition, changes in technology and implementation of evidence-based practices requires additional training for staff, managers, and community partners to ensure the quality of evidence intervention delivery. This also helps to ensure fidelity and the effective implementation of the Case Planning model which Utah has adopted. The lack of training for management and no exposure to national best practices and approaches can result in the inability to adapt to the changing environment. Exposure to such practices also helps to ensure appropriate responsivity approaches in responding to and helping youth within the juvenile justice system.

Project Description (include numbers served)

This project is designed to continue to support training efforts for court probation staff and managers in evidence-based programming in working with juvenile offenders and supports effective strategies for PO Safety. This grant will serve to support several training initiatives including Carey Guide trainings, Probation Officer Safety trainings, probation manager training, and creation video on navigating the juvenile justice system. In addition it will help support the ongoing efforts to continue the program evaluation process (CPC) for court contracted programs.

It is anticipated over 150 probation officers and deputy probation officers will be trained on probation officer safety, with approximately 30 trained or re-certified as facilitators of the curriculum. The PO Safety curriculum supports the implementation of policy, incorporating best practices regarding safety, and de-escalation techniques. This grant will serve to support these training efforts including certification of new facilitators and re-certification for those already certified. Additionally, it is anticipated the Court Security Director will be trained as a facilitator of OC Spray in order to train probation and deputy probation officers across the state.

This grant serves to continue efforts to implement and maintain fidelity of evidence-based programs. The continued implementation of Carey Guides and Brief Intervention Tools will continue to allow probation officers to serve as change agents by working with youth on criminogenic risk factors and targeting specific action steps to deter further penetration into the Juvenile Justice System. The Carey Guides/BITS training will serve approximately 90 probation officer and managers. In addition, the Supervisors training will serve approximately 35 court probation managers and serves to support a statewide initiative of the Best Practice Committee to bring supervisors together for an annual workshop to continue to work on implementing ongoing statewide quality assurance and consistency. As work continues on implementing the new Case Planning series it is anticipated this grant will help continue this effort with consultation services for the advanced series. The Case Planning training is required curriculum for all probation officers in the court. Additionally exposure to national best practices for court leadership increases the knowledge and understanding of supervisory and education staff and provides opportunities for networking across the nation.

The grant will help support efforts to continue to implement the Correctional Program Checklist (CPC) program evaluation process across the state. Several staff have been trained as evaluators and have a plan to evaluate several programs during this next year

Lastly, this grant will help support efforts to create a video on navigating the juvenile justice system. A similar video was created for the child welfare system and was well received. It is anticipated a committee will be put together to help support the development of the video and will include multiple court partners. As in years past, the grant will help to publish the Report Card to the Community which is the Utah Juvenile Court's review of referral trends during the last several years.

Goals and Objectives

- (a) Conduct a new facilitator training for PO/DPO Safety Training.
- (b) Conduct refresher training for the certified trainers (facilitators) of PO/DPO Safety.
- (c) Conduct new and refresher trainings on the use of Carey Guides and Brief Intervention Tools (BITS).
- (d) Conduct an annual supervisor training/workshop to increase statewide consistency and quality assurance.
- (e) Consultation services for developing and updating the Advanced Case Planning Curriculum.
- (f) Create a juvenile justice video on delinquency to educate the public on the delinquency process.
- (g) Produce and print the Juvenile Court Report Card to the Community in 2017
- (h) Continue to implement CPC evaluations across the state.
- (i) Purchase evidence-based programming supplies.
- (j) Attend National Conferences to continue to help support evidence-based practice initiatives in the State of Utah.

Programmatic Activities

- 1. PO Safety Trainings across the judicial districts.
- 2. Training on Carey Guides and Brief Intervention Tools (BITS).
- 3. Increase supervisor capacity for modeling, coaching and consistency by hosting an annual supervisor workshop and attendance to National Conference
- 4. Continue implementation of the CPC evaluation tool.
- 5. Complete video on navigating the Juvenile Justice system.

Participating Agencies

Each judicial district within the Utah State Juvenile Court, Juvenile Justice Services, and other allied partners and agencies.

Plans for Supplemental and Future Funding of the Project

Given the budget situation, it is unlikely the Judicial Council or Legislature will be able to fund the above trainings and activities in the future. However, the Juvenile Court is committed to ensuring staff are training on appropriate safety measures, evidence-based practice principles, and management trainings for staff therefore this grant helps to continue to create sustainability of these programs. With the new direction of PO Safety, the courts have tried to increase sustainability of the program by certifying court staff as facilitators of the training which will help to increase internal capacity. The Restorative Justice Conference has previously been primarily funded through grant funds, however it is anticipated that this year's conference will be partially funded by juvenile court funds. Additionally, other steps are being made to hold trainings locally in order to minimize costs to the grants and reduce travel of participants.

Section 4a: Performance Measurement Data Collection Plan

The Office of Juvenile Justice and Delinquency Prevention requires projects identify and report on select performance measures from OJJDP's performance measurement system and develop a data collection plan that specifies the collection method and measurement. Projects are required to report: 1) All applicable Core measures and two optional output measures, and 2) two Non-Mandatory output and outcome measures (total of 4 non-mandatory measures). Use the JABG Performance Measures found at: https://www.ojjdp-dcstat.org/help/program_logic_model.cfm?grantID=17

Program Name: PO/DPO Safety Training and EBP Training

Program Area: 6. Training Law Enforcement/Court Personnel

MEASURE & ITS #	DEFINITION	REPORTING FORMAT	FREQUENCY OF COLLECTION	RESPONSIBLE FOR COLLECTION	DATA SOURCE (UNIT AND/OR AGENCY)	HOW PROCESSED OR RETRIEVED
1. Number and percent of programs/initiatives employing evidence-based programs or practices	Report the number and percent of programs/initiatives employing evidence-based programs or practices. These include programs and practices that have been shown, through rigorous evaluation and replication, to be effective at preventing or reducing juvenile delinquency or related risk factors, such as substance abuse. Model programs can come from many valid sources (e.g. Blueprints, OJJDP's Model Programs Guide, SAMHSA's Model Programs, state model program resources, etc.).	<p>A. Number of program/initiatives employing evidence-based programs or practices</p> <p>B. Total number of programs/initiatives</p> <p>C. Percent (A/B)</p>	Annually	Grant Director	Administrative Office of the Courts	CPC Program Assessment Records
2. Number and percent of youth with whom an evidence-based program or practice was used	The number and percent of youth served with whom an evidence-based program or practice was used. These include programs and practices that have been shown, through rigorous evaluation and replication, to be effective at preventing or reducing juvenile delinquency or related risk factors, such as substance abuse. Model programs can come from many valid sources (e.g. Blueprints for Violence Prevention, OJJDP's Model Programs Guide, SAMHSA's Model Programs, etc.).	<p>A. The number of youth served using an evidence-based program or practice</p> <p>B. Total number of youth served during the reporting period</p> <p>C. Percent (A/B)</p>				Not applicable (Not a direct services program)
3. Number of program youth and/or families served during the reporting period	An unduplicated count of the number of youth (or youth and families) served by the program during the reporting period. Program records are the preferred data source.	<p>A. Number of program youth/families carried over from the previous reporting period</p> <p>B. New admissions during the reporting period</p> <p>C. Total youth/families served during the reporting period (A+B)</p>				Not applicable (Not a direct services program)

4. Number and percent of program youth completing program requirements

The number and percent of program youth who have successfully fulfilled all program obligations and requirements. This does not include youth who are still participating in ongoing programs. Program obligations will vary by program, but should be a predefined list of requirements or obligations that clients must meet before program completion. The total number of youth (the "B" value) includes those youth who have exited successfully and unsuccessfully. Program records are the preferred data source.

- A. Number of program youth who exited the program having completed program requirements
- B. Total number of youth who exited the program during the reporting period either successfully or unsuccessfully
- C. Percent: A/B

Not applicable
(Not a direct services program)

5. Number and percent of program youth who OFFEND (short term)

Updated 04/01/2012

The number and percent of participating program youth who were arrested or seen at a juvenile court for a delinquent offense during the reporting period. Appropriate for any youth-serving program. Official records (police, juvenile court) are the preferred data source.

- A. Total number of program youth served
- B. Number of program youth tracked during the reporting period
- C. Of B, the number of program youth who had an arrest or delinquent offense during the reporting period
- D. Number of program youth who were committed to a juvenile facility during the reporting period
- E. Number of program youth who were sentenced to adult prison during the reporting period
- F. Number of youth who received another sentence during the reporting period
- G. Percent OFFENDING (C/B)

Not applicable
(Not a direct services program)

Certain jurisdictions refer to adjudications as 'sentences'. Other sentences may be community based sanctions, such as community service, probation etc.

Example: If I am tracking 50 program youth then, 'B' would be 50. Of these 50 program youth that I am tracking, if 25 of them were arrested or had a delinquent offense during the reporting period, then 'C' would be 25. This logic should follow for 'D' and 'E' and 'F' values. The percent of youth offending measured short-term will be auto calculated in 'G'.

The number and percent of participating program youth who were arrested or seen at a juvenile court for a delinquent offense during the reporting period. Appropriate for any youth-serving program. Official records (police, juvenile court) are the preferred data source.

The number of youth tracked should reflect the number of program youth that are followed or monitored for arrests or offenses 6-12 months after exiting the program.

A youth may be 'committed' to a juvenile facility anytime that he/she is held overnight.

Certain jurisdictions refer to adjudications as 'sentences'

Other sentences may be community based sanctions, such as community service, probation etc.

Example: A grantee may have several youth who exited the program 6-12 months ago, however, they are tracking only 100 of them, therefore, the 'A' value will be 100. Of these 100 program youth that exited the program 6-12 months ago, 65 had an arrest or delinquent offense during the reporting period, therefore the 'B' value should be recorded as 65. This logic should follow for 'C' and 'D' and 'E' values. The percent of youth offending measured long-term will be auto calculated in 'F'.

The number and percent of participating program youth who were arrested or seen at a juvenile court for a new delinquent offense during the reporting period. Appropriate for any youth-serving program. Official records (police, juvenile court) are the preferred data source.

The number of youth tracked should reflect the number of program youth that are followed or monitored for new arrests or offenses. Ideally this number should be all

6. Number and percent of program youth who OFFEND (long term)

Updated 04/01/2012

- A Total number of program youth who exited the program 6-12 months ago that you are tracking
- B Of A, the number of program youth who had an arrest or delinquent offense during the reporting period
- C Number of program youth who were committed to a juvenile facility during the reporting period
- D Number of program youth who were sentenced to adult prison during the reporting period
- E Number of youth who received another sentence during the reporting period
- F Percent OFFENDING (B/A)

Not applicable
(Not a direct services program)

7. Number and percent of program youth who RE-OFFEND (short term)

Updated 04/01/2012

- A Total number of program youth served
- B Number of program youth tracked during the reporting period
- C Of B, number of program youth who had a new arrest or new delinquent offense during the reporting period
- D Number of program youth who were

Not applicable
(Not a direct services program)

8. Number and percent of program youth who RE-OFFEND (long term) (Updated 03/01/2012)

youth served by the program during the reporting period.

Certain jurisdictions refer to adjudications as sentences

Other sentences may be community based sanctions, such as community service, probation etc.

Example: If I am tracking 50 program youth then the 'B' value would be 50. Of these 50 program youth that I am tracking, if 25 of them had a new arrest or had a new delinquent offense during the reporting period, then 'C' would be 25. This logic should follow for 'D', 'E', and 'F' values. The percent of youth re-offending measured short-term will be auto calculated in 'G'.

The number and percent of participating program youth who were arrested or seen at a juvenile court for a new delinquent offense during the reporting period.

Appropriate for any youth-serving program Official records (police, juvenile court) are the preferred data source.

The number of youth tracked should reflect the number of program youth that are followed or monitored for new arrests or offenses 6-12 months after exiting the program.

Certain jurisdictions refer to adjudications as sentences

Other sentences may be community based sanctions, such as community service, probation etc.

Example: A grantee may have several youth who exited the program 6-12 months ago, however, they are tracking only 100 of them for re-offenses, therefore, and the 'A' value will be 100. Of these 100 program youth that exited the program 6-12 months ago 65 had a new arrest or new delinquent offense during the reporting period therefore the 'B' value should be recorded

recommitted to a juvenile facility during the reporting period

E Number of program youth who were sentenced to adult prison during the reporting period

F Number of youth who received another sentence during the reporting period

G Percent RECIDIVISM (C/B)

A Number of program youth who exited the program 6-12 months ago that you are tracking

B Of A, the number of program youth who had a new arrest or new delinquent offense during the reporting period

C Number of program youth who were recommitted to a juvenile facility during the reporting period

D Number of program youth who were sentenced to adult prison during the reporting period

E Number of youth who received another sentence during the reporting period

F Percent RECIDIVISM (B/A)

Not applicable
(Not a direct services program)

as 65. This logic should follow for 'C', 'D', and 'E' values. The percent of youth offending measured long-term will be auto calculated in 'F'.

The measure determines the number of program youth who are harmed or adversely affected by someone else's criminal actions. Victimization can be physical or psychological; it also includes harm or adverse effects to youth's property. The number of youth tracked should reflect the number of program youth that are followed or monitored for victimization. Ideally this number should be all youth served by the program during the reporting period.

Example: If I am tracking 50 program youth, then, the 'B' value would be 50. Of these 50 program youth that I am tracking, if 25 of them were victimized during the reporting period, then 'C' would be 25. The percent of youth who are victimized measured short-term will be auto calculated in 'D' based on 'B' and 'C' values.

9. Number and percent of program youth who are VICTIMIZED (short term)

Updated 06/06/2012

The measure determines the number of program youth who are harmed or adversely affected by someone else's criminal actions. Victimization can be physical or psychological; it also includes harm or adverse effects to youth's property.

The number of youth tracked should reflect the number of program youth that are followed or monitored for victimization 6-12 months after exiting the program

Example: A grantee may have several youth who exited the program 6-12 months ago, however, they are tracking only 100 of them, therefore, and the 'A' value will be 100. Of these 100 program youth that exited the program 6-12 months ago 65 had been victimized during the reporting period. therefore the 'B' value should be recorded as 65. The percent of youth who are victimized measured long-term will be auto calculated in 'C' based on 'A' and 'B' values.

10. Number and percent of program youth who are VICTIMIZED (long term)

Updated 06/06/2012

11. Number and percent of program youth who

- A. Total number of program youth served
- B. Number of program youth tracked during the reporting period for victimization
- C. Of B, the number of program youth who were victimized
- D. Percent VICTIMIZED (C/B)

Not applicable
(Not a direct services program)

- A. Number of program youth who exited the program 6-12 months ago that you are tracking for victimization
- B. Of A, the number of program youth who were victimized during the reporting period
- C. Percent VICTIMIZED (B/A)

Not applicable
(Not a direct services program)

- A. Total number of program youth served

Not applicable
(Not a direct services program)

are RE-VICTIMIZED
(short term)

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subsequent victimization. Victimization can be physical or psychological; it also includes harm or adverse effects to youth's property.

The number of youth tracked should reflect the number of program youth that are followed or monitored for re-victimization. Ideally this number should be all youth served by the program during the reporting period.

Example: If I am tracking 50 program youth, then the 'B' value would be 50. Of these 50 program youth that I am tracking, if 25 of them were re-victimized during the reporting period, then 'C' would be 25. The percent of youth who are re-victimized measured short-term will be auto calculated in 'D' based on 'B' and 'C' values.

The re-victimization measure counts the number of youth who experienced subsequent victimization. Victimization can be physical or psychological; it also includes harm or adverse effects to youth's property.

12. Number and percent
of program youth who
are RE-VICTIMIZED
(long term)

11/1/2016 10:00:00 AM

The number of youth tracked should reflect the number of program youth that are followed or monitored for re-victimization 6-12 months after exiting the program.

Example: If I am tracking 50 program youth, then the 'A' value would be 50. Of these 50 program youth that I am tracking, if 25 of them were re-victimized during the reporting period, then 'B' would be 25. The percent of youth who are re-victimized measured long-term will be auto calculated in 'C' based on 'A' and 'B' values.

13A. Substance use
(short term)

Not applicable
(Not a direct services
program)

The number and percent of program youth who have exhibited a decrease in substance use during the reporting period. Self-report, staff rating, or urinalysis are most likely data sources

- B. Number of program youth tracked during the reporting period for re-victimization
- C. Of B, the number of program youth who were re-victimized
- D. Percent RE-VICTIMIZED (C/B)

- A. Number of program youth who exited the program 6-12 months ago that you are tracking for re-victimization
- B. Of A, the number of program youth who were re-victimized during the reporting period
- C. Percent RE-VICTIMIZED (B/A)

the reporting period
C. Percent (A/B)

MEASURE AND ITS #	DEFINITION	REPORTING FORMAT	FREQUENCY OF COLLECTION	RESPONSIBLE FOR COLLECTION	DATA SOURCE	HOW PROCESSED OR RETRIEVED
1. Number and percent of programs/initiatives employing evidence-based programs or practices	Report the number and percent of programs/initiatives employing evidence-based programs or practices. These include programs and practices that have been shown, through rigorous evaluation and replication, to be effective at preventing or reducing juvenile delinquency or related risk factors, such as substance abuse. Model programs can come from many valid sources (e.g., Blueprints, OJJDP's Model Program Guide, SAMHSA's Model programs, state model program resources, etc.).	A Number of program initiatives employing evidence-based programs or practices B Total number of program initiatives Percent (A/B)	Quarterly	Grant Director	Training records or email response	Manually
3. Number and percent of court personnel trained in preventing or controlling juvenile crime	Measure of infrastructure. Appropriate for programs providing or facilitating training for court personnel or programs, such as court, that utilize court personnel. Report the raw number of court personnel to receive any formal training about preventing or controlling crime during the reporting period (include both training that offers general information about the topics and practical training). Include training from any source and using any medium as long as the training receipt can be verified. Include staff that started training during the reporting period even if the training did not conclude before the end of the reporting period. Percent is the raw number divided by the total number of court personnel in the pool from which those trained were selected. For example, if 10 law clerks from the district court were trained, the total pool would be the total personnel serving the district court.	A Number of court personnel trained B Number of court personnel Percent (A/B)	Quarterly	Educator Department Chief Probation Officers	Education Department Chief Probation Officers	Training Records
5. Number of hours of training offered to court	Measure of system accountability based on the idea that properly trained staff can	A. Number of hours of training offered to court	Quarterly	Educator Department	Education Department	Training Records



personnel

provide better service. Appropriate for programs providing or facilitating training for court personnel or programs, such as courts, that use court personnel. Report the raw number of hours of training offered to staff during the reporting period. Include in-house and external training and any training medium as long as it can be verified that the target staff were aware of the training opportunity and were able to avail themselves of it (e.g., the training was not cost prohibitive or offered at a time that conflicted with other necessary duties). Include training that started during the reporting period even if it did not conclude before the end of the reporting period.

Measure of program operations. Based on the idea that well-trained staff will receive fewer complaints. Appropriate for programs such as police departments or courts, whose staff or personnel have received at least some training in crime prevention and control. Report the number of complaints recorded during the reporting period. Include only formal complaints filed or for which the filing process was started.

23. Number of complaints about staff filed by youth

personnel

A. Number of complaints about staff filed by youth

Quarterly

Trial Court Executives

Court Personnel Files

Administrative Records

Chief Probation Officers

Chief Probation Officers

Section 4b: Performance Measures Targets

Instructions: Transfer only the applicable measures (those you can realistically collect and are applicable to the project) from the previous section to the chart below. Please add or remove rows as needed. (The annual target will not always match the sum of the four quarters. For example, the number of youth served each quarter will most likely not equal the total number of youth served during the grant year as youth carry over from one quarter to the next.) Use the columns to indicate the target or goal you plan to reach each quarter, aggregating the targets/goals for an annual total in the final column. Use raw numbers and the reporting format identified in the QJJD Performance Measurement Data Collection Tool.

Program Name: PO/DPO Safety Training and EBP Training

Program Area: 6- Training Law Enforcement/Court Personnel

#	MEASURE	1 ST	2 ND	3 RD	4 TH	5 TH	ANNUAL TARGET OR GOAL TOTAL
		QUARTER TARGET	QUARTER TARGET	QUARTER TARGET	QUARTER TARGET	QUARTER TARGET	
1	Number and percent of programs/initiatives employing evidence-based programs or practices	3	3	3	3	3	3*
3	Number and percent of court personnel trained in preventing or controlling juvenile crime	0	90	40	65	0	195
5	Number of hours of training offered to court personnel	0	32	24	56	0	112
23	Number of complaints about staff filed by youth.	0	0	0	0	0	0

- * Maintain 3 evidence-based programs throughout the grant year. **Quarterly and Annual Target Goals are estimated and may need to be adjusted at 1st Quarter reporting based upon scheduling of trainings.

Section 5: TARGET POPULATION

A. TARGET POPULATION DESCRIPTION:

Provide a description of the overall target population.

This is not a direct services program.

Check all that apply to the project's service population

Justice Related Criteria: ☐ At-Risk Population (no priors) ☐ First Time Offenders ☐ Repeat Offenders
☐ Sex Offenders ☐ Status Offenders ☐ Violent Offenders
☒ Youth population not served directly

Age: ☐ 0-10 ☐ 11-17 ☐ 18 and over
☒ Youth population not served directly

Geographic: ☐ Rural ☐ Suburban ☐ Tribal ☐ Urban ☐ Not Applicable

Populations Served: ☐ Mental Health ☐ Substance Abuse ☐ Truant/Dropout
☒ Youth population not served directly

B. ESTIMATED NUMBERS TO BE SERVED BY PROJECT (use raw numbers, not percentages):

Gender	Ages
Males _____	_____ To _____
Females _____	_____ To _____

OJJDP requires each state to examine the disproportionate confinement of minorities in the juvenile justice system and to develop a plan to address the problem. The following data assists the state in identifying any programs that serve this population.

C. ESTIMATED NUMBER OF YOUTH TO BE SERVED (use raw numbers, not percentages):

Race/Ethnicity	Totals	Male	Female	Age Ranges
American Indian & Alaska Native				
Asian				
Black/African American				
Hispanic Origin (of any race)				
Native Hawaiian & other Pacific Islander				
Two or More Races				
White				
GRAND TOTALS				

D. DESCRIBE SERVICES PROVIDED SPECIFICALLY FOR MINORITIES:

1. Will the project provide targeted services for any of the racial/ethnic groups noted above? If so, which?
2. Demonstrate extensive knowledge of the barriers that clients face. Show how they are appropriately addressed and removed. How will the cultural competency of the staff be ensured? Demonstrates extensive knowledge of specific cultural characteristics of the target population.

The mission of the Utah Court requires fair and equal justice for all patrons of the system. The Courts are addressing disproportionate minority representation in the system in several ways. First, all employees and judges are required to attend cultural competency training. The Court's Education Department also offers several classes that focus on better serving diverse populations with more in-depth understanding of cultural practices and traditions of populations.

Secondly, the courts have been successful in hiring employees that reflect the racial makeup of clients served. The employment of a diverse workforce provides an added benefit of employees being able to communicate to parents and youth in their native language. Financial incentives are provided for employees who use their language skills for their job. For employees who are not bi-lingual, the courts maintain a list of approved interpreters covering a list of approved interpreters covering 24 different languages. Approved interpreters complete a one-day course, pass an ethics exams and meet other requirements in order to be listed. Certified interpreters complete a two-day course and must pass a rigorous exam in the simultaneous, consecutive, and sight modes of interpretation. Court rule requires the use of a certified interpreter unless one is not available. Probation officers can access the interpreter pool for preliminary inquiry meetings and other court-related meetings. If the probation officer is fluent in the language, the officer may conduct the meeting in the family's native language. The probation order and other court related documents have also been translated into different languages, with Spanish being the primary language. By conducting meetings in the youth and family's native language and by providing translated materials, the court is increasing equal access to the justice system.

Thirdly, the Juvenile Court has taken steps to improve the collection of racial data on the patrons it serves and continuously monitors the collection of data in districts. Changes to the C.A.R.E. information system have provided information that is more specific when race is not able to be collected. These distinctions allow court employees to identify if the lack of data is due to the youth or family declining to provide the information or if the information was not readily available at the time the record was created. With this additional information, employees are in a better position to know when additional efforts are needed to collect that information. This information is used to identify areas of disparity and then to adopt approaches to help address this disparity. The Utah Juvenile Court continues to work on areas identified as a concern by RRI in collaboration with the Utah Commission on Criminal and Juvenile Justice and the Utah Criminal Justice Center.

Additionally, the Juvenile Court continues their efforts to reduce disproportionate minority contact (DMC) by working with CCJJ to reduce overrepresentation at multiple points in the system. Currently, the Juvenile Court is working with CCJJ to reduce the disparity by working with local collaborative DMC groups in Weber, Salt Lake, and Utah counties. These three working groups are currently chaired by the local chief probation officer in the area and efforts are currently underway to implement best practices in relation to school resource officers and school administrators in working with youth. Subsequently, juvenile court probation managers and staff will be involved in presenting information regarding the Juvenile Court process to various stakeholders during this process.

Finally, as part of the safety training, the instructor is required to address cultural differences and how they might influence a particular situation, and focusing on appropriate responses to those situations. Scenarios created in all trainings reflect cultural awareness and class participants are to consider how their understanding of cultures may influence their responses to situations. In addition,

evidence-based practices training cover the issue of responsivity, where probation officers are trained to assess and respond to individual and family factors that would influence the likelihood of an intervention or approach being effective. Responsivity factors include cultural, social, educational, and economic factors. Probation officers are trained to assess and respond appropriately to these factors to ensure that all youth have a greater likelihood of being successful and maintaining law abiding behavior. Additionally, probation officers are trained to match their style to the learning style of the youth and refer to appropriate programs that support evidence-based programming that consider responsivity factors.

Section 6: PROBLEM STATEMENT

Describe the problem this project will address. Provide statistics documenting identified risk and protective factors. Include data from the UBJJ Risk & Protective Factors Tool and the SMART system provided by OJJDP. Data from other official sources (e.g. school district, units of local government, state government, federal government or institution of higher learning) may also be included. Limit of three pages.

The requirements of probation staff and managers have changed over the years with shifting focus on best practices and evidence-based programming. The Utah Juvenile Court has implemented a variety of evidence-based programming initiatives in order to enhance probation services and to reduce the likelihood of youth penetrating the Juvenile Justice System. The use of evidence-based approaches by programs is an essential aspect of reducing recidivism and improving outcomes for youth involved with the Juvenile Court. Research shows that when programs incorporate evidence-based practices reductions in recidivism can be realized (Latessa & Gordon 1994, Lipsey & Wilson 1998, Joplin et. al 2004). As a result of continuing to implement best practices and evidence-based programming several areas of specialty training are needed.

The first specialty area is safety training. Probation staff spend a great deal of time in the community supervising juveniles with identified risk and protective factors. Additionally, deputy probation officers spend the majority of their time supervising youth on work crew sites. According to a national survey conducted by the American Probation and Parole Association, staff safety was regarded as the most important issue in community corrections. Research has indicated that at least half of all probation officers will be physically assaulted at least once in their career. These findings indicate that officers need regular and frequent training on officer safety and that those skills should emphasize prevention, planning and safety as mechanisms that will reduce the need to employ physical skills. Safety training techniques also need to be consistent with policy and uniform across the organization. Such an approach reduces the likelihood officers will be harmed and lowers agency liability. As part of previous JABG grant, several probation officers were trained as facilitators of Natural Response Control Tactics (NRCT) and this training has been implemented statewide.

The second specialty area focuses training probation staff on evidence-based practices, such as Carey Guides and Brief Intervention Tools (BITTS). It is essential that probation officers receive ongoing training in evidence-based practices. Research shows that it is not merely the amount of time spent on probation duties that relates to better outcomes, but the quality and focus of the time spent (Bonita et al. 2008). Bonta et al. (2008) found offenders who receive services and interventions based on evidence-based practices tend to show lower recidivism rates than offenders who do not receive interventions and services based on evidence-based practices (Andrews & Bonta 2006). When probation staff follow principles of effective intervention and target criminogenic needs, it can lead to reductions in recidivism (Bonta et al. 2008).

The third area of specialty is the training of probation management staff on continuing to improve quality assurance efforts statewide by incorporating consistent practices consistent with evidence-based practice principles. The National Implementation Research Network (NIRN) suggests when implementing evidence-based practices within an organization one area management should consider is the leadership drivers and whether or not these drivers are adaptive or technical challenges. NIRN suggests agencies should be prepared to address both types of challenges in implementing evidence-

based practices. As such one of Utah's challenges, both technical and adaptive, involves ensuring quality implementation of evidence-based practices. The statewide chief probation officers have assigned a working committee *Best Practices Work Group*, to identify areas of action. In previous grant cycles this committee has worked on ensuring quality case reviews across the state by conducting a statewide training of supervisors and chiefs on effective case review. Since that time two subsequent annual trainings have occurred in which other evidence-based programming initiatives have been discussed with the most recent agenda including discussions about measuring recidivism, conducting effective case plans on moderate to high risk youth at the intake level, and focus on continuing to develop consistent practices across the state.

Lastly, in order to ensure evidence based practices are utilized throughout the Juvenile Court process it is essential for Juvenile Court managers to acquire a broad knowledge of current research and expertise in the field. The need to maintain expertise in current evidence-based programming and best practices in working with delinquent youth is crucial in maintaining fidelity in programming. Participation and training at national conferences allows the Juvenile Court managers the ability to ensure proper implementation of best practices in the Juvenile Court. Attendance at these conferences not only exposes staff to state of the art training in evidence-based practices, but allows staff to share and incorporate this knowledge in Utah's Juvenile Court system. In the past, this funding has resulted in staff being elected to national leadership positions, awards for programs the Juvenile Court operates, provided opportunities for several staff to present at National Conferences regarding Utah's Case Planning Model, attend juvenile justice reform initiatives, and opportunities for staff to develop additional leadership skills.

Sources:

Andrews, D. A., and Bonta, J. 2006. *The Psychology of Criminal Conduct* (4th ed.). Newark, NJ: LexisNexis.

Bonta, J. Rugge, T., Scott, T., Bourgon, G., and Yessine, A. 2008. Exploring the Black Box of Community Supervision. *Journal of Offender Rehabilitation* 47(3): 248-270.

Lipsey, M.W. and D.B. Wilson. (1998). Effective Intervention for Serious Juvenile Offenders: A Synthesis of Research. In R. Loeber and D. P. Farrington (Eds.), *Serious and Violent Juvenile Offenders: Risk Factors and Successful Interventions*, Thousand Oaks, CA: Sage. *Criminology*, 28(3), 369-404.

Latessa, E.J. & J. Gordon. (1994). Examining the Factors Related to Success or Failure with Felony Probationers: A Study of Intensive Supervision. In C. B. Fields (Ed.), *Community-Based Corrections: Innovative Trends and Specialized Strategies*. Garland Press.

NIRN - The National Implementation Research Network. (n.d.). *NIRN*. Retrieved May 26, 2014, from <http://nirn.fpg.unc.edu/>

Section 7: PROJECT DESIGN AND MANAGEMENT

Explain how your program will work. Cite relevant research to show that the program strategy is effective. Explain each step or phase of the project in the following areas: project activities, client flow, staffing, and collaboration. Include a timeline identifying program activities for the entire grant year

Is the project an evidence based program? ☒ YES ☐ NO

Name of the evidence-based model: _____

Correctional Program Checklist and the principles of evidence-based practices

If yes, select one source from which the program model was cited:

- | | |
|---|---|
| <input type="checkbox"/> Blueprints for Violence Prevention | <input type="checkbox"/> Hamilton Fish Institute |
| <input type="checkbox"/> CASEL (Collaborative for Academic, Social, & Emotional learning) | <input type="checkbox"/> Institute for Medicine |
| <input type="checkbox"/> Centers for Disease Control and Prevention | <input type="checkbox"/> NIDA Preventing Drug Abuse |
| <input type="checkbox"/> Community Guide to Helping America's Youth | <input type="checkbox"/> National Institute of Justice What Works Report |
| <input type="checkbox"/> Department of Education Safe, Disciplined, & Drug-free Schools | <input type="checkbox"/> OJJDP Model Programs Guide |
| <input type="checkbox"/> Drug Strategies, Inc. | <input type="checkbox"/> Promising Practices Network |
| <input type="checkbox"/> Making the Grade | <input type="checkbox"/> SAMSHA Model Programs |
| | <input type="checkbox"/> Surgeon General's Youth Violence Report |
| | <input checked="" type="checkbox"/> Other (e.g., State model program resources) |

If other, please specify:

Please indicate the name of the evidence-based program implemented:

The Juvenile Court will be using the Risk, Need, Responsivity Model, which is the core of evidence based practices in probation as seen by the research of Andrews & Bonta, Latessa, Lipsey, and other leaders in the field. This research will be used in the PO Safety Training, Carey Guides/BITS, Supervisor's Workshop, Case Planning revisions and updates, and ongoing evidence-based practices training. When the Risk, Need, Responsivity model is applied, it has shown to decrease recidivism by 26 percent (Andrews, Bonta & Hogue, 1990; Andrews & Bonta, 2006). In addition, when probation staff use evidence-based practices with juveniles on probation, it has shown to increase effectiveness by up to 46 percent (Bonta, Rugge, Scott, Bourgon, & Yessine 2008). With the implementation of these programs probation officers will continue to be equipped with information and tools they need to help reduce criminogenic risk factors and to help support behavioral changes with the youth on their case loads.

Name of the evidence-based model:

The Utah Juvenile Court will be applying the Risk, Needs, Responsivity Model, which is a well-researched, effective approach to probation as seen by the following publications:

Andrews, D. A. (1989). Recidivism is Predictable and Can Be Influenced: Using Risk Assessments to Reduce Recidivism. *Forum on Correctional Research*, 1(2), 11-17.

Andrews, D.A. (1994). *An Overview of Treatment Effectiveness: Research and Clinical Principles*. Ottawa, Canada: Department of Psychology, Carleton University.

Andrews, D., I. Zinger, R. Hoge, J. Bonta, P. Gendreau, and F. Cullen. (1990). Does Correctional Treatment Work? A Clinically Relevant and Psychologically Informed Meta-Analysis.

Joplin, Lore et al, Using an Integrated Model to Implement Evidence-based Practices in Corrections, 2004; and Implementing Evidence-Based Practices in Community Corrections: The Principles of Effective Intervention, Crime and Justice Institute, 2004.

Latessa, E.J. (1998). A Summary of ICCA's "What Works with Substance Abusers" Research Conference. *The ICCA Journal*. (March), 6-8.

Latessa, E. J. (1999). *What Works in Correctional Intervention*. Southern Illinois University Law

Review, 23:415-426.

Latessa, E. J. (1999). *What Works Strategic Solutions: International Community Corrections Association Examines Substance Abusers: Substance Abuse*. Lanham, MD: American Correctional Association.

Latessa, E.J. & J. Gordon. (1994). *Examining the Factors Related to Success or Failure with Felony Probationers: A Study of Intensive Supervision*. In C. B. Fields (Ed.), *Community-Based Corrections: Innovative Trends and Specialized Strategies*. Garland Press.

Latessa, E.J. and A. Holsinger. (1998). *The Importance of Evaluating Correctional Programs: Assessing Outcome and Quality*. *Corrections Management Quarterly*, 2(4), 22-29.

Latessa, E. and M. Moon. *A Practitioners Guide to Evaluation Research*. Cincinnati, OH: University of Cincinnati.

Lipsey, M. (1990). *Juvenile Delinquency Treatment: A Meta-analytic Inquiry into the Variability of Effects*. Paper prepared for the Research Synthesis Committee of the Russell Sage Foundation.

Lipsey, M.W. and D.B. Wilson. (1998). *Effective Intervention for Serious Juvenile Offenders: A Synthesis of Research*. In R. Loeber and D. P. Farrington (Eds.), *Serious and Violent Juvenile Offenders: Risk Factors and Successful Interventions*, Thousand Oaks, CA: Sage. *Criminology*, 28(3), 369-404.

PROJECT DESIGN:

Probation safety training will be delivered in three levels: the first training focuses on basic safety rules, policy and verbal de-escalation, the second training focuses on skill development, stress training, night safety, and office visits, and the third training focuses on defensive tactics. Both PO Safety I and II are taught by members of the PO Safety Committee, whereas PO Safety III must be taught by a certified facilitator. All new probation officers are required to attend all three courses during their first year of employment. All existing probation officers are required to attend a refresher course annually. The trainings will be held at various locations throughout the state to reduce the need for staff to travel. To enhance officers' ability to practice the defensive tactics learned, each local judicial district is working to incorporate safety discussions into weekly and/or monthly staff meetings. In addition each local district prioritizes specific training needs to incorporate specific defensive techniques that need to be practiced all year long. Additionally this will include certifying the Court Security Director in OC Spray training in order to create consistency in training practices across the state.

The second area of specialty relates to ongoing training for probation officers and managers on the effective implementation of evidence-based practices in case planning and risk assessment. The Juvenile Court will work with the Carey Group to provide refreshers in the use of the Carey Guides and Brief Intervention Tools (BITS). In order to continue to ensure fidelity in programming probation officers must be trained regularly in order to practice skills in role playing and other various techniques and concepts. This helps probation officers address responsivity principles by matching youth with appropriate and effective programs, and quality assurance of evidence-based practices implementation. This will also include a yearly supervisor training to focus on consistent supervisory practices across the state to continue to implement juvenile justice reform initiative. In addition, exposing probation management to national conferences will help inform decisions of managers regarding juvenile justice reform and in implementing changes in Utah's probation practices. The information learned at these trainings will be used to help develop the conference agendas for the training identified in this proposal and to continue to implement evidence-based programming within the system. Lastly, continuing to consult with national experts on the implementation of evidence-based programming to continue to update the case planning model will continue to help facilitate implementation of effective and quality

training.

The third area is to evaluate court contracted programs to ensure adherence to evidence-based principles. The courts have convened a Correctional Program Checklist (CPC) committee and have certified several staff to conduct CPC evaluations. These staff will be conducting evaluations of several court contracted programs across the state. It is imperative to ensure programs for which the courts contract adhere to evidence-based principles to ensure fidelity in the programs that youth are referred to by the probation department.

The final focus area of this grant is to increase community awareness of the Juvenile Justice system in Utah. This will be completed by creating a video clip regarding navigating the Juvenile Justice system which will involve collaboration with court partners such as prosecutors, defense attorneys, Juvenile Justice Services, and others as deemed appropriate. Additionally, this will include conducting analysis of trends in referrals by completing the annual Report Card to the Community.

Section 8: WORK PLAN AND TIMETABLE

Provide a detailed WORK PLAN, using the chart below, giving a month by month description of activity for the time period covered by this application. You must include the following (table will expand to fit):

- Activities necessary to achieve objectives
- Timetable for completion of each activity
- Staff position or consultants to be assigned to each activity
- Location where the activity will occur

Calendar Months	Activities	Assigned Position	Location
03/01/2017 to 02/02/2018	Juvenile Justice Delinquency Video <ul style="list-style-type: none">• Finalize Scope of Work• Develop Committee to work on content of video	AOC Staff & Chief Probation Officers	Salt Lake City
03/01/2017 to 12/30/2017	Carey Guides/BITS Trainings <ul style="list-style-type: none">• Finalize Scope of Work and Contract• Identify location of training and attendees	Krista Airam & Chief Probation Officers	Salt Lake City
03/01/2017 to 12/31/2017	PO/DPO Safety Training <ul style="list-style-type: none">• Continue refresher trainings across the judicial districts• Certify new facilitators in the PO Safety Curriculum and provide refresher training for existing facilitators.• Work with PO Safety Committee and Education Department to schedule appropriate trainings• Conduct evaluations of the trainings	PO Safety Committee John Bowers, Education Liaison Chief Probation Officers	Statewide
03/01/2017 to 12/31/2017	Supervisor Training <ul style="list-style-type: none">• Work with Best Practices Committee• Develop Agenda and Training Items• Conduct Evaluation of Training	Best Practices Committee	Salt Lake

9/1/2017 to 11/1/2017	Report Card Creation and Printing <ul style="list-style-type: none"> Analyze data for report card and submit for printing 	Research Analyst	Salt Lake City
03/01/2017 to 3/01/2018	Correctional Program Checklist Evaluations <ul style="list-style-type: none"> Finalize schedule for CPC evaluations. Conduct evaluations of programs across the state. 	CPC Committee	Varies locations across the state
8/2017	National Conference Attendance <ul style="list-style-type: none"> Determine conference attendees 	Grant Director and Juvenile Court Administrator	New York

Section 9: PROJECT GOALS AND OBJECTIVES

Goals and objectives should be directly related to the Problem Statement. **Goals** should describe what you expect your project to achieve when it is completed. Goals need to be both realistic and achievable. **Objectives** identify what your agency will do to reach the project goals. They are the short-term results produced by the project that together will lead to the accomplishment of the goals. **Activities** are the specific actions that will help reach your goals and objectives.

Goal: To ensure that probation officers and deputy probation officers have the necessary training in order to comply with policy, effectively implement evidence-based practices, and perform duties in a manner that maintains the safety and the effectiveness of the officers working with the youth, the public, and community partners.

Project Objective

- (a) Train all new probation/deputy probation on officer safety.
- (b) Train existing probation/deputy probation officers on officer safety on an annual basis.
- (c) Certify Court Security Director as an OC Spray Trainer.

Activities

- PO Safety Committee Oversight
- Conduct PO I, II, and III trainings
- Conduct OC Spray training across the state

Goal: To ensure juvenile court probation staff and managers have the necessary training to effectively and successfully implement evidence-based programming which incorporate case planning principles. In addition to ensure quality assurance of Utah's Case Planning Model

Project Objective

- (a) Provide new and refresher training on implementation of evidence-based practices
- (b) Participate in and attend National Conferences on evidence-based practices and effective leadership
- (c) Conduct a yearly Supervisor's training
- (d) Finalize toolkit for probation officers for working with youth with compliant and non-compliant behaviors.

Activities

- Chief Probation Officer Oversight
- Conduct training on Carey Guides and Brief Intervention Tools
- Participate in and attend National Conferences on evidence-based practices and effective leadership
- Best Practices Committee Oversight and development of agenda, location, and site location
- Toolkit Committee review and oversight

Goal: Evaluate court programs to ensure adherence to evidence-based principles.

Project Objective

- (a) Conduct CPC evaluations of court contracted programming.
- (b) Consult with experts in EBP programming on continued Case Planning development

Activities

- CPC Committee oversight
- Case Planning Curriculum Committee oversight

Goal: Increase community awareness of Juvenile Justice System

Project Objective

- (a) Produce Juvenile Court Report Card to the Community
- (b) Produce a video on navigating the Juvenile Justice system.

Activities

- Research Analyst to pull data and conduct analysis.
- Committee to develop video content

Section 10: BUDGET MATRIX AND NARRATIVE

<i>Category</i>	<i>Cash Match</i>	<i>Grant Funds</i>	<i>Total</i>
Personnel	\$0	\$0	\$0
Consultant/Contract	\$0	\$38,500	\$38,500
Equipment / Supplies/ Operating	\$0	\$24,403	\$24,403
Travel & Training	\$8,894	\$17,141	\$26,035
Indirect Costs	\$0	\$0	\$0
Total	\$8,894	\$80,044	\$88,938

FISCAL OFFICER (IMPLEMENTING AGENCY)

(Name, title, mailing address and zip code, area code and phone, fax, e-mail)

Milton Margaritas
Budget Officer
450 S. State, P.O. Box 140241
SLC, Ut. 84114-0241
801-578-3863 office phone
801-578-3854 Fax
miltonm@utcourts.gov

PERSONNEL SALARIES AND FRINGE BENEFITS

This section is for full or part-time salaried employees. Employees who are not on the payroll are classified as consultants. If known, list name of individual. If a person has not been hired, type "vacant" and give the title of the position. "Number of Hours" refers to total hours spent on the grant implementation. **Do not request grant funding for an employee who is already on the payroll unless the original position held by that person will be filled by a new employee.** *Salaries may not exceed those normally paid for comparable positions in the community or the unit of government associated with the project.* The hourly rate for personnel salaries can be determined on the basis of 8 hours per day, 40 hours per week, 173.33 hours per month, or 2,080 hours per year. Paid vacation and sick leave are allowable expenditures, but *must not exceed the time that is normally allowed by the agency or unit of government* associated with the project. All leave earned must be used or paid during the period of the grant. See Guidelines for additional information regarding overtime restrictions.

Name	Title	# Hours	Hourly Rate	Total Salary
Salary Subtotal				

EMPLOYER'S SHARE OF FRINGE BENEFITS

Fringe benefits are to be based on the employer's share only. Enter the percentage of monthly rate for each fringe benefit, the total wage amount, the number of months, if applicable, and the total amount of the employer's share of benefits. Fringe benefit base wage amounts for part-time employees must be prorated according to the percentage of total time spent with each employer. "FICA", "Pension", "Health Insurance", "Workers Compensation" and "Unemployment Compensation" are matters that should be reviewed by the applicant's fiscal or personnel officer before completing this part of the application.

Fringe Benefits	% or Monthly Rate	Eligible Wage Amount or Number of Months	Total Employer's Share of Fringe Benefits
FICA			
Pension/Medicare			
Health Insurance			
Worker's Comp			
Unemployment Comp			
Other (explain)			
Other (explain)			
Fringe Subtotal			\$

Grant Funds Requested	Match Provided (if applicable)	Personnel Total
\$0	\$0	\$0

BUDGET NARRATIVE/PERSONNEL

Provide a brief description of the duties of personnel charged to this project, including educational background and prior work experience. If administrative personnel not engaged in the day-to-day activities of the project are included in this budget, explain why they are essential to the project's operation.

PERSONNEL	NARRATIVE

CONSULTANTS/CONTRACTS

Persons with specialized skills who are not on the payroll are considered consultants. When a consultant is known, a resume listing the consultant's qualifications and contract must accompany the application. However, if the position is vacant and the project receives funding, this information must be forwarded to UBJJ/CCJJ when a contract with the consultant is signed. All procurement transactions whether negotiated or competitively bid without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. Describe the procedure to be used in acquiring the consultant (i.e., small purchase procedures, competitively sealed bids, non-competitive negotiation, etc.) Consultant fees for individuals may not exceed \$56.25 per hour or \$450 per day, for an 8-hour day, plus expenses, without prior approval from UBJJ/CCJJ. Fee justification must be provided in the budget narrative.

Consultant Name	Services to be Provided	# Hours	Hourly Rate	Total Cost
The Carey Group	Carey Guide & BITS Training			\$10,500
Community Correction Institute, LLC	DPO/PO Safety Facilitator Training and Certification			\$13,000
The Carey Group	Consultation for Advanced Case Planning Series Development			\$5,000
Storyline Films	Juvenile Justice Video			\$10,000

Consultant Expenses

(May include travel, training, food, lodging, and other allowable incidental travel costs.)

Carey Guides/BITS Training:

New Carey Guide/BITS Training (2 Day Training)

Refresher Training on Carey Guides/BITS (Two 1 day trainings)

\$10,500 including consultant fees and travel costs (See explanation below)

DPO/PO Safety Certification Training:

Consultant Fees approximately \$10,000

Travel and Training for two instructors- Airfare, Car Rental, 5 days of Per Diem and Lodging for Trainers- approximately \$3000.00

Storyline Films

Approximate video production fees \$10,000 to \$15,000

Consultation for Advanced Case Planning Series Development:

Consultant Fees approximately \$5,000*

*The total cost for the consultation will be approximately \$10,000, however it is anticipated that Juvenile Justice Services will pay one half of the consultation services.

Consultant Fee Justification

(Include the basis of selection and method of procurement. Any sole source consultant requires prior approval from CCJJ.)

Carey Guides/BITS Training: It is anticipated the courts will request The Carey Group to conduct an initial (new) Carey Guide/BITS training and two new refresher trainings to continue to implement and enhance probation officers knowledge of evidence-based practices. It is anticipated that these trainings will occur during the same week in order to reduce the amount of travel costs associated thus reducing the overall cost of the training. It is anticipated the consultant cost of this training which includes all travel costs will be approximately \$10,500 which would include one consultant for all four training days. The final details, costs, and logistics have not been worked out and final approval by CCJJ will be requested prior to finalization of any sole source request/contract outlining specific consultant fees.

DPO/PO Safety Certification Training: It is anticipated the courts will contract with Community Corrections Institute to conduct the required refresher training for the current trained facilitators. It is anticipated additional trainers will be certified at the same time. It is anticipated the consultant cost of this training will be approximately \$10,000 for the 5 day training. Additional funds are requested to cover the consultants travel costs. The final details, costs, and logistics have not been worked out and final approval by CCJJ will be requested prior to finalization of any sole source request/contract outlining specific consultant fees.

Consultation for Advanced Case Planning Curriculum Development: It is anticipated the courts will continue consultation with Mark Carey to help develop the Advanced Case Planning Series. The approximate cost for this consultation will be \$10,000 and it is anticipated JJS will share the costs and pay approximately \$5,000 of the consultation fees. Thus the cost to the grant would be approximately \$5,000. The final details, costs, and logistics have not been worked out and final approval by CCJJ will be requested prior to finalization of any sole source request/contract outlining specific consultant fees.

Video on Navigating the Juvenile Justice System: It is anticipated the courts will utilize Storyline productions due to recent work conducted on a child welfare video. It is anticipated the costs to produce the video will be approximately \$10,000 to \$15,000 and these costs will be offset by the use of court funds. The final details, costs, and logistics have not been worked out and final approval by CCJJ will be requested prior to finalization of any sole source request/contract outlining specific consultant fees.

Grant Funds Requested	Match Provided (if applicable)	Consultants Total
\$38,500	\$0	\$38,500

EQUIPMENT / SUPPLIES / OPERATING

Equipment: items to be purchased that are over \$5,000. Supplies: office supplies, cleaning, maintenance, AND OPERATING supplies, training materials, books and subscriptions, research forms, postage stamps, food, and other materials that are expendable with the life of the project. All equipment and supply purchases covered by this grant must be necessary for the project to achieve its goals and objectives. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide a maximum open and free competition. Purchases between \$1,000 and \$5,000: Quotes should be obtained (by phone, fax or letter) from at least two vendors. Awards must be made to vendor submitting the lowest quote meeting the minimum specifications and required delivery date. Purchases exceeding \$5,000: A competitive sealed bid process must be conducted. Sole source contracts must be approved by CCJJ prior to being awarded.

Item	Cost	Time Period	Total
Rent-Facilities	Approximately \$500 per day per room	10 total rental days (cost per day depends upon total # of rooms)*	\$5,000
Telephone			
Non-consultant Contract Help			
a. Bookkeeping/Audit			
b. Maintenance			
c. Other (Specify)			
Auto Lease/Short-Term Rental			
Equipment Lease/Short-Term Rental	Approximately \$500 per day per room	10 days (cost per day depends upon total # of rooms)*	\$5,000
Photocopying			
Printing: Annual Report Card to Community printing costs	\$600		\$600
Grant Management Costs (In-Kind)			
Other (Specify): Carey Guides/BITS, NCTI, and Carey Guide BriefCase and other EBP materials	\$10,503		\$10,503
Other (Specify): Survey Monkey	\$300		\$300
Other (Specify): Toolkit Printing	\$1,000		\$1,000
Other (Specify): PO Safety Supplies	\$2,000		\$2,000

Procurement Method to be Used (cell will expand)

For all of the above purchases all appropriate purchasing guidelines and policies will be followed.

63Equipment / Supplies / Operating Justification and Narrative: Justify the purpose and use of each item noted above.

Rent Facilities – Rental fees are projected at an estimate of \$500.00 per day per conference room utilized and depending on the type of room and number of participants in the conference. Rental room fees are anticipated for the Carey Guide training and Supervisor EBP training.

Equipment Lease- Equipment fees are projected at an estimate of \$500 per day depending upon the type of equipment utilized such as AV equipment, equipment hook-ups, Internet connections, etc. for conference rooms during the Carey Guide training and Supervisor EBP training.

EBP Materials- This includes costs of additional EBP materials such as additional Carey Guides/BITS, the Carey BriefCase skillset cards, Real Colors books, and other materials as needed. In order to continue to support chiefs and supervisors in the implementation of evidence-based practices it is essential to continue to provide resources and materials to this group to support this effort. In addition, it is anticipated that the final draft of the toolkit for responding to compliant and non-compliant behavior be printed to assist probation officers with responding to youth's behavior. Survey Monkey is needed to help conduct evaluations of the training.

PO Safety Supplies - **This** includes purchase of PO Safety supplies such as OC Spray or other materials as needed necessary for training purposes.

Grant Funds Requested	Match Provided (if applicable)	"Other" Total
\$24,403	\$0	\$24,403

TRAVEL & TRAINING

Grant related travel charges must not exceed the rates allowed by the State of Utah. Organizations whose written travel policies are less restrictive than the State of Utah, or that do not have their own written travel policy, must adhere to the State of Utah travel policy. "Per Diem" includes food and lodging. Meals provided gratis must be deducted from the per diem rate allowed. The "Other" category includes parking, telephone, or other allowable incidental travel costs. (This applies to grant funded employees only, not consultants.) The mileage rate may not exceed \$.50/mile

Vehicle	# Miles	Mileage Rate	Total
Mileage	880	.38	\$335
Air, Bus, etc.	Destination	Fare	Total
APPA –National Conference	New York	Approximately \$700 x 5 (Including airfare, taxi, parking, and baggage fees)	\$3,500(cash match)
Lodging	# Days	Rate	Total
CPC Evaluators	15 days	\$100	\$1 500
PO Safety Facilitator Travel for Training- (New and Re- certification training, OC Training, and training in districts)	50 days (5 day certification training for participants, PO Safety Facilitator & OC trainer travel days for across the state)	Approximately \$100.00 per night based upon location. (This cost will vary per participant based upon State Travel Policy)	\$5,000
Carey Guide Training	4 days	Approximately 18 rooms \$100.00 per night based upon location. This cost will vary per participant based upon State Travel Policy. Not all attendees will need lodging.	\$1,800
Supervisor Annual Workshop	2 days	Approximately 16 rooms are needed and are estimated at \$100.00 per night based upon location. This cost will vary per participant based upon State Travel Policy. Not all attendees will need lodging.	\$1 600
Per Diem	# Days	Per Diem Rate	Total
CPC Evaluation	20	\$41 per day – this cost will vary based upon location of evaluations	\$820
PO Safety Facilitator Travel for Training-per diem (OC spray training, certification training, district training)	50 days	\$41 per day – this cost will vary per participant based upon State Travel Policy	\$2,050
Carey Guide Training per diem	4 days	Approximately 32 attendees would qualify for per diem. Per diem rates will vary per day and will be based upon based upon State Travel Policy	\$1 476
Supervisor Annual Workshop	2 days	Approximately 12 attendees would qualify for per diem @ \$41 per day. Costs will vary per participant based upon State Travel Policy	\$984

Conference Registration	# People	Rate	Total
APPA Conference Registration	5	\$340	\$1,700(cash match)
APPA Conference Lodging	5	Approximately \$175 x 4 nights x 5 people	\$3,500(cash match)
APPA Conference Per diem	5	Approximately \$46 x 4 days x 5 people	\$920 (partial cash match)
Other			Total
APPA Membership			\$750
OC Spray Certification			\$100

Travel and Training Justification and Narrative

*All travel and training costs for Carey Guide Training (approx. 90 attendees), PO Safety Facilitator Travel, CPC evaluations, and Supervisor Annual Workshop (approx. 35 attendees) are estimated totals based upon the State Travel policy and per diem guidelines. Based upon the location of the training will determine appropriate lodging and per diem rates for those that qualify according to state per diem and lodging policy, it should be noted that not all attendees will qualify or need lodging. Additionally, other training events per diem and lodging costs will be offset by court funds as necessary depending upon funding.

It is anticipated that five individuals will attend the APPA conference in August which will be hosted in New York. It is anticipated Utah will request to send a team of individuals to the 3rd Juvenile Justice Reform Academy which will be held during the conference. These conference expenditures are based upon the estimated cost of attendance and these costs will be primarily covered by the courts cash match required by the grant. Attendance to this conference will help to support leadership potential within the organization and to identify potential speakers for local statewide and district conferences. In addition, attendance will allow participants to bring back best practice approaches in both evidence-based programming and in leadership practices.

Grant Funds Requested	Match Provided (if applicable)	Travel & Training Total
\$17,141	\$8,894	\$26,035

SECTION 12: LETTERS OF PARTICIPATION

Applicants must submit a Letter of Participation from each local agency or organization that is involved with the project, contributing resources, or making referrals (e.g., courts, treatment programs, shelters). Applicants should refer to the appropriate category in the Guidelines to ensure that appropriate letters are included. Failure to submit the appropriate Letters of Participation may remove the application from further funding consideration. List below the agencies providing letters of participation and the number of referrals.

Participating Agency Name and Role	Projected # of Referrals (if applicable)

Attach copies of each letter to all copies of the application.