

## JUDICIAL COUNCIL MEETING

### AGENDA

**December 16, 2019**

**Council Room**

**Matheson Courthouse**

**450 South State Street**

**Salt Lake City, Utah 84111**

*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  
(Information)
3. 9:10 a.m. Administrator's Report ..... Judge Mary T. Noonan  
(Information)
4. 9:20 a.m. Reports: Management Committee ..... Chief Justice Matthew B. Durrant  
Budget & Finance Committee ..... Judge Mark May  
Liaison Committee ..... Judge Kara Pettit  
Policy & Planning Committee ..... Judge Derek Pullan  
Bar Commission ..... Rob Rice, esq.  
(Tab 2 - Information)
5. 9:40 a.m. Second District Family Recovery Court Certification... Judge Sharon Sipes  
(Tab 3 - Action) Krista Airam  
Judge Dennis Fuchs
6. 9:50 a.m. Seventh District Mental Health Court Certification. Judge Douglas Thomas  
(Tab 4 - Action) Travis Erickson  
Judge Dennis Fuchs
7. 10:00 a.m. Problem-Solving Court Recertifications ..... Judge Dennis Fuchs  
(Tab 5- Action)
- 10:30 a.m. Break
8. 10:40 a.m. Forms Committee Report ..... Randy Dryer  
(Information) Brent Johnson
9. 10:50 a.m. Board of District Court Judges Report ..... Judge Christine Johnson  
(Information) Shane Bahr

10. 11:00 a.m. Appellate E-Filing Grant Approval ..... Judge David Mortensen  
(Tab 6 - Action) Larissa Lee
11. 11:10 a.m. Appointment of Co-Chairs to the Justice Court Reform Task Force.....  
(Action) Justice Deno Himonas
12. 11:20 a.m. Judicial Conduct Commission Report ..... Alex Petersen  
(Tab 7 - Information)
13. 11:35 a.m. Fourth District Commissioner Assignment ..... Judge F. Richards Smith  
(Tab 8 - Action) Judge James Brady
14. 11:50 a.m. CJA Rules 1-303, and 1-501 for Final Action ..... Cathy Dupont  
(Tab 9 - Action)
15. 12:00 p.m. Senior Judge Certification..... Cathy Dupont  
(Tab 10 - Action)
- 12:05 p.m. Break (Lunch)
16. 12:15 p.m. Judicial Council Presentation Guidelines and Council Norms .....  
(Tab 11 - Action) Cathy Dupont
17. 12:25 p.m. NCSC System Review Phase 2 Contract & Timeline .....  
(Tab 12 - Action) Judge Mary T. Noonan  
Cathy Dupont
18. 12:35 p.m. Model Utah Criminal Jury Instructions Committee Report.....  
(Tab 13 - Information) Judge James Blanch  
Michael Drechsel
19. 12:45 p.m. Approval of Membership to the Pretrial Reform Subcommittee.....  
(Action) Keisa Williams
20. 12:55 p.m. CJA Rules 4-403 and 4-503 for Final Action .....Keisa Williams  
(Tab 14 - Action)
21. 1:05 p.m. Self-Help Center Funding Increase..... Nathanael Player  
(Tab 15 - Action)
22. 1:15 p.m. 2020 Proposed Audit Schedule..... Karl Sweeney  
(Tab 16 - Information)

- 23. 1:20 p.m. Self-Assessment of Audit Services with External Validation.Karl Sweeney  
(Tab 17 - Information)
- 24. 1:30 p.m. Old Business/New Business ..... All  
(Discussion)
- 25. 1:50 p.m. Executive Session
- 26. 2:00 p.m. Adjourn

### **Consent Calendar**

The consent calendar items in this section are approved without discussion if no objection has been raised with the Administrative Office of the Courts or with a Judicial Council member by the scheduled Judicial Council meeting or with the Chair of the Judicial Council during the scheduled Judicial Council meeting.

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|---|---|
| <ul style="list-style-type: none"> <li>1. Committee Appointments<br/>(Tab 18)</li> </ul>                  | <ul style="list-style-type: none"> <li>GAL Oversight Committee – Stacey Snyder</li> <li>Uniform Fine &amp; Bail Committee – Shane Bahr</li> <li>Education Committee – Tom Langhorne</li> <li>MUJI Civil Committee – Nancy Sylvester</li> <li>Technology Committee – Heidi Anderson</li> </ul> |
| <ul style="list-style-type: none"> <li>2. Probation Policies 2.13, 4.2, 4.16, 5.6<br/>(Tab 19)</li> </ul> | <ul style="list-style-type: none"> <li>Neira Siaperas</li> </ul>  |
| <ul style="list-style-type: none"> <li>3. Forms Committee Forms<br/>(Tab 20)</li> </ul>                   | <ul style="list-style-type: none"> <li>Brent Johnson</li> </ul>   |





# Tab 1



## Agenda

**JUDICIAL COUNCIL MEETING****Minutes****November 25, 2019****Matheson Courthouse****Council Room****450 S. State St.****Salt Lake City, Utah 84111****9:00 a.m. – 3:00 p.m.*****Chief Justice Matthew B. Durrant, Presiding*****Members:**

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

**Excused:**

Neira Siaperas

**AOC Staff:**

Hon. Mary T. Noonan  
 Cathy Dupont  
 Michael Drechsel  
 Heidi Anderson  
 Shane Bahr  
 Kim Free  
 Brent Johnson  
 Larissa Lee  
 Meredith Mannebach  
 Bart Olsen  
 Jim Peters  
 Tiffany Pew  
 Karl Sweeney  
 Keisa Williams  
 Jeni Wood

**Guests:**

Sr. Judge Dennis Fuchs  
 Judge George Harmond, Seventh District Court  
 Justice John Pearce, Supreme Court  
 Judge Rick Romney, Provo Justice Court – by phone  
 Joseph Wade, Office of Legislative Research

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

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

**Motion:** Judge Kate Appleby moved to approve the Judicial Council minutes from the October 28, 2019 meeting, as amended to state: 1) in section 12 add Judge May opposed to the motion, and 2) in section 13 change “two seats” to “one seat” for 8 judges. Judge Augustus Chin seconded the motion, and it passed unanimously.

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

Chief Justice Durrant noted court personnel are meeting with Governor Herbert, legislative leadership, and JPEC to prepare for the 2020 legislative session. Cathy Dupont noted the courts are working towards holding quarterly meetings with legislative leadership to maintain a consistent relationship.

**3. ADMINISTRATOR'S REPORT: (Judge Mary T. Noonan)**

The Third District Juvenile Mental Health Court (Judge Elizabeth Knight) will receive the Utah Substance Use and Mental Health Advisory Committee Annual Governor's Award next month at the Capitol.

Judge Mary T. Noonan noted Council members will be invited to the April 21-22, 2020 Courts & Community's Response to Those Suffering with Mental Illness Task Force (sequential intercept model) conference.

**4. COMMITTEE REPORTS:**

**Management Committee Report:**

The work of this committee is reflected in the minutes.

**Ad Hoc Budget & Finance Committee Report:**

The committee will present their decision on the AOC market comparability survey funding and the clerical reallocation to the Council today.

**Liaison Committee Report:**

The Liaison Committee met in October and will meet again in December. Judge Kara Pettit reviewed some of the bills discussed at the meeting.

**Policy and Planning Committee Report:**

Judge Derek Pullan noted they are working on the new courthouse closure rule, which allows a uniform process for courthouse closures in emergency situations. Judge Pullan reviewed the rules that are on the Council's consent calendar.

The Board of District Court Judges discussed a proposed rule amendment to allow leniency of attire for litigants in courtrooms. The Board was divided as to the proposed rule changes. The current rule states individuals cannot be removed from a courtroom unless the attire will affect the proceedings, such as gang-related clothing. Policy & Planning will continue their efforts on this topic.

**Bar Commission Report:**

Rob Rice said the Bar approved funding for additional administrative support for the LPP program, which continues to grow.

**5. TECHNOLOGY COMMITTEE REPORT & RECOMMENDATIONS: (Justice John Pearce and Heidi Anderson)**

Chief Justice Durrant welcomed Justice John Pearce and Heidi Anderson. Ms. Anderson sought approval from the Council to create a process to prioritize the various IT projects

requested by different groups in the judiciary. If approved, the Technology Standing Committee will review the list of pending projects and new IT requests, prioritize the requests, and bring their recommendations for prioritization to the Judicial Council for approval, along with the status of current projects. The committee currently meets quarterly, however, if approved, may meet more often. The IT Department currently is working on 28 projects, not including normal business duties. The Council recommended reviewing the 10-year projects' backlog to determine if any requests cannot be met, and if so, notify the requestor. The MyCase system has been completed and is now with Court Services to determine the roll-out phase.

The Technology Committee will review the committee membership to ensure the committee is comprised of individuals who possess the qualifications to review requests. If the committee composition needs to be amended, Ms. Anderson will address this with Policy & Planning.

Proposed workflow overview:

**Project Intake:** A form would be completed with the request.

**Project Triage:** Decision as to whether to move forward to hold for prioritization.

**Project Initiation:** Set up project for tracking.

**Project Prioritization:** Determine the order in which resources are assigned to projects.

**Project Planning:** Review work plan for feasibility and accuracy. Determine the true cost and opportunity cost of the effort.

**Project Approval:** Final decision is made after the projected scope/duration/effort is determined.

**Project Execution:** Allow teams to work with as little distraction or reprioritization as possible.

**Project Release:** Releases should be regular and consistent.

Possibilities discussed:

- Have all requests first seek approval through their respective Boards.
- Allow IT the authority to return a request to a Board for approval or additional information.
- Identify the stakeholders included on the intake form and ensure upfront work has been done before IT receives the request.
- Have the Council prepare a memo once a determination has been made as to how this process should work.

The Council requested feedback from IT on Council approved projects. Chief Justice Durrant requested the Technology Committee determine how projects be funneled, the committee composition, and how often a report should be sent to the Council. The committee will return to the Council with a list of priorities, a memo outlining the process, and any proposed changes to the committee composition.

Chief Justice Durrant thanked Justice Pearce and Ms. Anderson.

**6. CREATION OF JOINT TASK FORCE ON PROCEDURAL REFORMS FOR JUSTICE COURTS: (Judge Kate Appleby and Michael Drechsel)**

Chief Justice Durrant welcomed Judge Kate Appleby and Michael Drechsel. They discussed the advisory committee's report on Justice Court Reform and focused on the appeals process for justice court, which is a trial de novo in the district court.

The advisory committee developed two feasible models for reform, one limited to small claims cases, and the other for all justice court cases. The committee concluded that the data does not support making procedural reforms in small claims cases only, and that although there are significant good reasons for eliminating re-trials in all types of justice court cases, this would be controversial and costly.

The committee recommended the Council establish a joint broad-based task force with the Supreme Court to consider a larger-scale reform of the justice court system which might include the elimination of trial de novo as the appeals process.

Chief Justice Durrant thanked Judge Appleby and Mr. Drechsel.

**Motion:** Judge Derek Pullan moved 1) to create a Justice Court Reform Joint Task Force of the Judicial Council and the Supreme Court to address issues related to Justice Court Reform, with co-chairs Judge Paul Farr as the justice court judge representative and Judge Ryan Harris as the appellate representative; 2) to ask the co-chairs to select the task force membership including rural and urban; 3) to create a tiered plan of issues to address; and 4) to seek assistance and approval from the Management Committee as to the membership and tiered plan of issues. Justice Deno Himonas seconded the motion, and it passed with Judge Appleby and Judge May abstaining.

**7. PROPOSED AMENDMENT TO UTAH CODE § 78A-7-206 COMPENSATION TO JUSTICE COURT JUDGES: (Judge Rick Romney and Jim Peters)**

Chief Justice Durrant welcomed Judge Rick Romney and Jim Peters. Judge Romney presented proposed changes to Utah Code § 78A-7-206:

- Effective July 1, 2021, a governing body of a municipality or county may not set a full-time justice court judge's salary at less than 70% nor more than 90% of a district court judge's salary; and
- Effective July 1, 2022, a governing body of a municipality or county may not set a full-time justice court judge's salary at less than 80% nor more than 90% of a district court judge's salary.

The Board of Justice Court Judges set a goal to review judicial compensation, including amending the statute and creating a joint task force, among other changes. The Management Committee decided to postpone requesting a statute amendment from the legislature until all requests can be identified by the Board. Ms. Dupont noted the task force will consider fundamental changes in the structure of justice courts, including compensation.

Chief Justice Durrant thanked Judge Romney and Mr. Peters.

**Motion:** Judge Pettit moved to defer the request for compensation and send it to the Justice Court Reform Joint Task Force, and address this next year. Judge Shaughnessy seconded the motion, and it passed unanimously.

**8. BUDGET & FINANCE COMMITTEE: MARKET SURVEY AND CLERICAL REALLOCATION RECOMMENDATION: (Judge Mark May, Bart Olsen, and Karl Sweeney)**

Chief Justice Durrant welcomed Judge Mark May, Bart Olsen, and Karl Sweeney. The Budget & Finance Committee voted to prioritize a full review and analysis of the process the judiciary uses to conduct market comparability studies. The committee developed four principles to evaluate which employees would receive market comparability raises.

- 1. Market analysis** to determine level(s) of alignment and/or misalignment of current AOC employees in comparison to the job market.
- 2. Critical function** analysis to differentiate the direct impact of a given job/function on the Courts' ability to provide justice services to the people.
  - a. The justice system is inaccessible to at least some group of citizens without this role.
  - b. The justice system is severely impacted without this role.
  - c. The justice system is somewhat impacted without this role.
- 3. Turnover rate** analysis on AOC jobs, averaged over the past three years using total number of jobs in a function and total number of employees leaving that job each year.
- 4. Disparity of court rule** analysis to consider how the current policy of placing a maximum percentage increase (11%) on promotion creates inequity between internally promoted staff and externally hired staff for the same job.

The principles were based on percentage below market rates, critical function for the judiciary, turnover for the position, and employees who were impacted by the application of human resource rules that capped internal hire pay increases to 11%. The committee recommended to the Judicial Council that market comparability raises be awarded to:

- Identified personnel with salaries below the market level at or above 19% would receive a 10% increase, personnel with salaries below the market level between 11% - 18% would receive a 5% increase, personnel with salaries below the market level between 5% - 10% would receive an increase of 5%, and personnel with salaries below the market level between 2% - 5% would receive a 2% increase, for a total of \$133,640;
- Staff interpreters, at the rate of 10%, to be funded from the Juror, Witness, Interpreter Line Item, and
- Hot spot salary increases for employees for the remaining \$3,360 in ongoing funds, as determined by the State Court Administrator.

The approved salary increases would exceed the allowed \$137,000 by \$600. Judge May thanked Mr. Olsen for his hard work in creating the scenarios.

The Budget and Finance Committee also addressed clerical weighted caseloads, which suggests that there is a surplus of five clerical positions in the state. The Judicial Council asked the committee to consider using the extra clerical positions to fund three budget requests: Public Outreach Coordinator, Self-Help Center funding increase, and two drug court clerks. Mr. Sweeney stated that each JA I position, including benefits, yields approximately \$67K per person in potential annual savings that could be used to fund the budget requests. The committee recommended that the judiciary not use the clerical positions to fund the budget requests and instead, wait to see if the trends for clerical weighted caseload continue, in the same manner that the judiciary is waiting to see if the judicial weighted caseload trends continue.

Chief Justice Durrant thanked Judge May, Mr. Olsen, and Mr. Sweeney.

**Motion:** Judge Shaughnessy moved to 1) approve salary increases as recommended: identified personnel with salaries below the market level at or above 19% to receive a 10% increase, personnel with salaries below the market level between 11% - 18% to receive a 5% increase, personnel with salaries below the market level between 5% - 10% to receive an increase of 5%, and personnel with salaries below the market level between 2% - 5% to receive a 2% increase, for a total of \$133,640; 2) approve staff interpreters, at an increase of 10% to be funded from the Juror, Witness, Interpreter Line Item; 3) approve hot spot salary increases for employees with the remaining \$3,360 in ongoing funds, as determined by the State Court Administrator; and 4) accept the recommendation of the committee and not internally fund the Public Outreach Coordinator, the Self-Help Center ongoing funding for full time status of employees, and two drug court clerks. Judge Appleby seconded the motion, and it passed unanimously.

**9. JUDICIAL COUNCIL ANNUAL REPORT UTAH CODE § 78A-2-104: (Judge Mary T. Noonan and Cathy Dupont)**

Chief Justice Durrant welcomed Judge Mary T. Noonan and Cathy Dupont. Judge Noonan reviewed prior Annual Reports and Utah Code § 78A-2-104. The Management Committee preferred the Annual Reports be provided electronically, when possible. Judge Noonan will seek approval of a draft Annual Report from the Management Committee in December. Last year 2,000 copies were printed, which includes hard copies for the public in all court locations.

Chief Justice Durrant thanked Judge Noonan and Ms. Dupont.

**Motion:** Judge Appleby moved to create the Annual Report in compliance with Utah Code § 78A-2-104, as presented. Judge Brook Sessions seconded the motion, and it passed unanimously.

**10. PRETRIAL RELEASE AND SUPERVISION REPORT: (Judge George Harmond and Keisa Williams)**

Chief Justice Durrant welcomed Judge George Harmond and Keisa Williams. Judge Harmond reviewed the committee composition. The committee is working with each county to determine what authority or entity defendants will “check-in” with when released on bail. Ms. Williams will soon present to the Budget & Finance Committee requests for on-going funds.



Chief Justice Durrant thanked Judge Harmond and Ms. Williams.

**11. PROCEDURAL DUE PROCESS IN THE PRETRIAL CONTEXT: CASELAW RE: ABILITY TO PAY ANALYSIS: (Keisa Williams)**

Chief Justice Durrant welcomed Keisa Williams. Over the last several years, in both state and federal cases, courts consistently hold that it is an unconstitutional deprivation of due process and equal protection rights under the 14th Amendment to set monetary conditions of pretrial release without first considering, among other things, an arrestee's ability to pay the amount set. Ms. Williams provided a brief overview of state and federal cases in an effort to open discussion, development, and implement procedures surrounding the ability to pay analyses in the pretrial context.

Representative Hutchings requested the judiciary draft legislation to address this nationwide trend. Ms. Williams is speaking to judges through their respective district bench meetings and believes funding could be provided through a grant. Judge Farr recommended including this issue with the justice court reform.

Chief Justice Durrant thanked Ms. Williams.

**Motion:** Justice Himonas moved to create a Pretrial Reform Joint Task Force with the Supreme Court, meet with the Management Committee to address the composition of the task force, create a tiered planned of issues, include a Supreme Court representative to attend a Management Committee meeting, as amended. Judge Appleby seconded the motion, and it passed unanimously.

**12. CJA RULE 6-506 FOR FINAL ACTION: (Keisa Williams)**

Chief Justice Durrant welcomed Keisa Williams. Code of Judicial Administration Rule 6-506 is a new rule that outlines procedures for contested probate matters, including mandatory mediation of contested matters. CJA 6-506 references a new Utah Rule of Civil Procedure (URCP 26.4 "Provisions governing disclosure and discovery in contested proceedings under Title 75 of the Utah Code"). The Supreme Court will review URCP 26.4 for final publication.

Both rules published for comment this summer and received some discussion. The Policy and Planning and the Rules of Civil Procedure Committees considered the comments and made several changes to their respective rules based on the feedback. Policy and Planning recommended that the Judicial Council authorize CJA 6-506 to be published at the same time as URCP 26.4 (when such publication is authorized by the Supreme Court) to allow the rules to be published as a cohesive whole.

Chief Justice Durrant thanked Ms. Williams.

**Motion:** Judge Appleby moved to approve Code of Judicial Administration Rule 6-506, as presented, with an effective date to match URCP Rule 26.4. Justice Himonas seconded the motion, and it passed unanimously.

**13. HR 440 EDUCATION ASSISTANCE, HR 550 DISCRIMINATION AND HARASSMENT, AND PROBLEM-SOLVING COURT CHECKLIST FOR FINAL ACTION: (Keisa Williams)**

Chief Justice Durrant welcomed Keisa Williams.

**HR 440 – Education Assistance:** The proposed amendments eliminate the provision allowing the Deputy State Court Administrator to approve education assistance requests over the presumed maximum. The Human Resources Department and the Deputy State Court Administrator expressed a need for a hard cap because granting exceptions reduces the amount available to others. The amendment was reviewed by Brent Johnson. Policy and Planning now recommends this rule to the Judicial Council for final approval.

**HR 550 – Discrimination and Harassment:** The Judicial Council asked the Human Resources Review Committee to update the Courts’ discrimination and harassment policy, and to seek feedback from the Policy and Planning Committee before advancing a proposal to the Council. The Human Resources Review Committee, with support from Rob Rice and Brent Johnson, engaged in several revisions of this policy.

The Council asked the Review Committee to pay particular attention to the creation of a mechanism whereby employees would clearly understand to whom and how they are permitted to report allegations about judges, justices, and high-level directors or administrators. The language in subsection (1) definitively states that the policy applies to everyone, including judges, justices, and high-level administrators, and subsection (5) provides detailed reporting procedures.

**Problem-Solving Court Certification Checklist:** At the August 23, 2019 Judicial Council meeting, Judge Fuchs requested a change to the problem-solving court certification checklist. Currently criteria # 2 under Presumed Certification Criteria states: “The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.” The monitoring requirement relates to NADCP best practices standards, but Judge Fuchs indicated that unless the AOC Information Technology Department is able to create an automated process to track that information and store it in an accessible database, problem-solving courts will be unable to comply.

The Council asked Policy and Planning to consider the impact of changing the criteria to a Non-Certification-Related Best Practice Standard, and whether problem-solving courts around the state would be able to comply with the requirement if it remained unchanged. Policy and Planning concurred with Judge Fuchs’ recommendation and determined that problem-solving courts are not currently equipped to accurately and consistently capture the data necessary to comply with this requirement. Moving the criteria to Best Practice Standards will preserve the issue until such time as a technological solution can be implemented.

Policy and Planning recommended all of these for final approval.

Chief Justice Durrant thanked Ms. Williams.

**Motion:** Judge Shaughnessy moved to approve HR 440 Education Assistance for final action, as presented, with an effective date of May 1, 2020. Judge Appleby seconded the motion, and it passed unanimously.

**Motion:** Judge Appleby moved to have Policy & Planning address HR 550 Discrimination and Harassment issues as addressed in this meeting. Judge Shaughnessy seconded the motion, and it passed unanimously.

**Motion:** Justice Himonas moved to approve the problem-solving court checklist for final action, as presented. Judge Appleby seconded the motion, and it passed unanimously.

#### **14. PROBLEM-SOLVING COURT (PSC) INVENTORY AND RECOMMENDATIONS: (Shane Bahr and Judge Mark May)**

Chief Justice Durrant welcomed Shane Bahr and Judge Mark May. In March, 2019 the Council requested a small workgroup be created to conduct an inventory of PSC coordination and certification and provide recommendations.

As of November 1, 2019 there were 67 certified problem-solving courts in the state with 3 new court applications pending approval. The first adult drug court in Utah was established in 1996 and for many years statewide coordination of drug court and other problem-solving courts rested with Rick Schwermer and Sr. Judge Dennis Fuchs. Judge Fuchs has worked as a part-time contract court employee whose primary task has been to coordinate the certification and recertification process of problem-solving courts.

In 2004, the Council adopted minimum guidelines for drug courts. In 2007, the Council adopted a rule to provide increased consistency and quality control over the State's drug courts. Mr. Schwermer and Judge Fuchs were involved with a nationwide committee to write the National Best Practice Standards and in 2012 these best practices became the basis for the formal certification process in place today. Certification and recertification visits are to ensure best practice standards are being met. Judge Fuchs is the only resource to monitor compliance and to offer technical assistance throughout the state.

The structure recommended by the work group consists of:

- 1) Hiring a full-time statewide problem solving coordinator and support staff to assist with evaluation, training and certification;
- 2) Creating a statewide problem solving court coordinating committee; and
- 3) Obtaining additional court FTEs to serve as local problem solving court coordinators.

It is recommended that the full-time coordinator position be created as soon as possible and convene the statewide Standing PSC Committee with a charge to evaluate the actual number of local PSC coordinators needed throughout the state. Based on information received from other states it is anticipated there is a minimum need of 8 - 10 FTEs to coordinate local courts. Local PSC Coordinator positions may be full-time or part-time based on the need of the region or judicial district.

A standing committee consisting of judges, local coordinators from various districts and court types, along with representation from local and state stakeholders, would report to the Council. This committee will focus on the primary goals of statewide coordination, which includes:

- Quality Assurance
- Training
- Funding
- Research and Evaluation
- Technology
- Advocacy

The Council may consider delegating a portion or all certification approval duties to this committee to assist in managing, training, and monitoring drug courts. Funding through a grant may be possible. Judge Pullan thanked Mr. Bahr for his work on the proposal.

Chief Justice Durrant thanked Mr. Bahr and Judge May.

**Motion:** Judge Appleby moved to approve creating an ad hoc committee and approve a fulltime problem-solving statewide coordinator, authorize the committee to explore grant options to fund the position, and have the Management Committee assist with the committee composition, as amended. Justice Himonas seconded the motion with an amendment to including seeking funds for research, and it passed unanimously.

**Motion:** Judge May moved to approve the committee review possibilities for grant writing for the study and funding alternatives for the FTE. Judge Pettit seconded the motion, and it passed unanimously.

#### **15. NCSC SYSTEM REVIEW PHASE TWO: (Cathy Dupont)**

Ms. Dupont is working on a contract with the National Center for State Courts (NCSC) for the second phase of the system review. J.D. Gingerich will participate along with Patti Tobias from the NCSC. The committee scheduled its next meeting for December 10. Phase two of the system review is expected to begin early 2020.

#### **16. SENIOR JUDGE CERTIFICATION: (Cathy Dupont)**

Chief Justice Durrant welcomed Cathy Dupont. Ms. Dupont requested an executive session to discuss this certification.

Chief Justice Durrant thanked Ms. Dupont.

**Motion:** Judge Pettit moved to defer Judge Carolyn Howard as a senior judge. Judge Appleby seconded the motion, and it passed with Judge Sessions recusing and Justice Himonas abstaining.

#### **17. AN ACTION PLAN FOR COMPILING JUDICIAL COUNCIL HISTORY: (Geoff Fattah)**

This item was rescheduled to the December Council meeting.

## 18. OLD BUSINESS / NEW BUSINESS

Justice Himonas recommended the possibility of the courts creating a Development Director position who would be dedicated to grant writing. Judge May noted the Court Improvement Project writes grant requests. Justice Himonas will conduct research for this topic.

## 19. EXECUTIVE SESSION

**Motion:** Judge Appleby moved to go into an executive session to discuss a personnel matter. Judge Shaughnessy seconded the motion, and it passed unanimously.

Chief Justice Durrant noted that during the executive session the Council discussed the character, competence or mental health of an individual. The conversation evolved into broader policy questions and issues that should be on the record. The executive session was terminated to allow the conversation to continue on the record. Ms. Dupont summarized that she sought clarification from Council on a study of rules related to senior judges, clarifying the role of the Supreme Court and the Judicial Council relating to senior judges. Ms. Dupont will compile for the Council a list of senior judges, which senior judges have benefits through the courts, the cost of the benefits, and a history of active senior judges' work over the past two years.

## 20. CONSENT CALENDAR ITEMS

**a) Forms Committee Forms.** Petition for Authorization to Marry and Order on Petition (juvenile court); Default judgment: Default certificate; Military Service Declaration, Military Service Order Motion for Default Judgment; Child support Worksheets: Child Support Obligation Worksheet (joint physical custody), Child Support Obligation Worksheet (sole custody and paternity), Child Support Obligation Worksheet (split custody), Worksheet to Determine Father's Obligation in his Present Home, Worksheet to Determine Mother's Obligation in her Present Home; Bilingual Summons for Publication (translation is for illustration purposes only); Motion for Summary Judgment to Declare Non-Parentage and Order on Motion; and Parentage Language Provisions. Approved without comment.

**b) CJA Rules** 1-204, 1-205, 3-111, 3-406, 4-905 and Appendix F, and Utah Code § 10-1-202 for Public Comment. Approved without comment.

**c) Committee Appointments.** Ethics Advisory Committee – Reappointment of Judge Laura Scott and appointment of Judge Paul Dame. Forms Committee – Appointment of Amber Alleman. MUJI – Criminal Committee – Appointment of Debra Nelson. Outreach Committee – Appointment of Judge Tupakk Renteria, Judge Bryan Memmott, and Krista Airam. Approved without comment.

## 21. ADJOURN

The meeting adjourned.



# Tab 2





**JUDICIAL COUNCIL MANAGEMENT COMMITTEE**

**Minutes  
December 10, 2019  
Council Room  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah 84111  
12:00 p.m. – 4:00 p.m.**

***Chief Justice Matthew B. Durrant, Presiding***

**Committee Members:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Kate Appleby, Vice Chair  
Hon. Paul Farr  
Hon. Mark May  
Hon. Todd Shaughnessy

**Excused:**

**AOC Staff:**

Hon. Mary T. Noonan  
Cathy Dupont  
Michael Drechsel  
Heidi Anderson  
Shane Bahr  
Tom Langhorne  
Larissa Lee  
Jim Peters  
Tiffany Pew  
Nathanael Player  
Neira Siaperas  
Stacey Snyder  
Karl Sweeney  
Keisa Williams  
Jeni Wood

**Guests:**

Judge James Brady, Fourth District Court – by phone  
Van Christensen, State Auditor  
Justice Deno Himonas, Supreme Court  
Judge David Mortensen, Court of Appeals  
Judge Richards Smith, Fourth Dist. Juv. Court – by phone  
Mark Urry, Fourth District TCE

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

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

**Motion:** Judge Kate Appleby moved to approve the November 12, 2019 Management Committee meeting minutes, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

**2. ADMINISTRATORS REPORT: (Judge Mary T. Noonan)**

Court personnel, including Chief Justice Durrant, Judge Noonan, Judge Appleby, and Cathy Dupont will meet with Governor Gary Herbert today.

The IT Audit is nearly complete and the auditor has been complimentary to the courts.

The HR Department will review court employment statistics due to a recent report that noted Utah ranks .70 cents on the dollar for gender gap in pay scales. Judge Paul Farr recommended a review of justice court judges' salaries as well.

**3. FOURTH DISTRICT COMMISSIONER ASSIGNMENT: (Judge F. Richards Smith and Judge James Brady)**

Judge Smith and Judge Brady requested on behalf of the Fourth District and Juvenile Court Benches approval of a change in allocation of Commissioner Sean Petersen's workload from the current allocation of .8 to the district court and .2 to the juvenile court to 100% of his time allocated to the district court, effective January 1, 2020. The Juvenile Bench created a plan to distribute Commissioner Petersen's workload.

**Motion:** Judge Shaughnessy moved to approve the reassignment of Commissioner Petersen only to the district court, and put this item on the Judicial Council agenda, as presented. Judge Appleby seconded the motion, and it passed unanimously.

**4. FORMATION OF JUSTICE COURT TASK FORCE AND PRETRIAL REFORM TASK FORCE: (Justice Deno Himonas and Judge Todd Shaughnessy)**

Justice Deno Himonas was nominated by the Supreme Court to be the liaison for the Supreme Court for discussing with the Judicial Council where to assign the Justice Court Task Force and the Pretrial Reform Task Force. Justice Himonas and the Management Committee considered the breadth of issues the Justice Court Task Force will deal with and chairmanship of the task forces.

The committee agreed that the Council should take the responsibility of appointing co-chairs to both task forces.

Judge Farr volunteered as co-chair for the Justice Court Task Force and the committee agreed that a member from the Court of Appeals should be the other co-chair. The committee would like to see gender-balance on the task force. The task force should include Cathy Dupont and Michael Drechsel.

Keisa Williams presented a proposed member list to the Pretrial Reform Task Force. The committee changed the Pretrial Reform Joint Task Force to a Pretrial Reform subcommittee of the Pretrial Release Standing Committee. The subcommittee shall report only to the Standing Committee.

**Motion:** Judge Paul Farr moved to send the Justice Court Reform Task Force to the Council for appointment of co-chairs and to send the Pretrial Reform Task Force consisting of Keisa Williams, Judge Todd Shaughnessy, Heidi Anderson, Doug Thompson, and a prosecutor to the

Council for approval of the subcommittee membership. Judge Appleby seconded the motion, and it passed with Judge Shaughnessy abstaining.

**5. COMMITTEE APPOINTMENTS: (Stacey Snyder, Shane Bahr, Cathy Dupont, and Heidi Anderson)  
GAL Oversight Committee**

Stacey Snyder addressed a vacancy due to Dr. Douglas Goldsmith's term expiration. The committee recommended Brittany Randall.

**Motion:** Judge May moved to approve the appointment of Brittany Randall to the GAL Oversight Committee, and to place this item on the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

**Uniform Fine & Bail Committee**

Shane Bahr addressed two vacancy positions due to Judge James Blanch and Judge Paul Parkers' term expirations. The committee recommended Judge Jennifer Valencia and Judge Patrick Corum.

**Motion:** Judge Shaughnessy moved to approve the appointment of Judge Jennifer Valencia and Judge Patrick Corum to the Uniform Fine & Bail Committee, and to place this item on the Judicial Council consent calendar. Judge May seconded the motion, and it passed unanimously.

**Education Committee**

Tom Langhorne addressed a vacancy position due to Judge Anna Anderson's departure. The committee recommended Judge Y.C. Ynchausti and Bart Olsen as HR Director, by rule.

**Motion:** Judge Appleby moved to approve the appointment of Judge Y.C. Ynchausti and Bart Olsen to the Education Committee, and to place this item on the Judicial Council consent calendar. Judge May seconded the motion, and it passed unanimously.

**MUJI - Civil Committee**

Cathy Dupont addressed three vacancy positions due to term expirations of Peter Summerill, Tracy Fowler, and Paul Simmons. The committee recommended Randy Andrus, Ricky Shelton, and Samantha Slark.

**Motion:** Judge Shaughnessy moved to approve the appointment of Randy Andrus, Ricky Shelton, and Samantha Slark to the MUJI – Civil Committee, and to place this item on the Judicial Council consent calendar. Judge Mark May seconded the motion, and it passed unanimously.

**Technology Committee**

Heidi Anderson addressed the reappointments of Mikelle Ostler to her second term and three vacancy positions due to the term expirations of Judge Westfall and Judge Fannesbeck. The committee recommended Judge Debra Jensen, Judge Don Torgerson, and Erin Boyington.

**Motion:** Judge Appleby moved to approve the reappointment of Mikelle Ostler and the appointment of Judge Debra Jensen, Judge Don Torgerson, and Erin Boyington to the Technology Committee, and to place this item on the Judicial Council consent calendar. Judge May seconded the motion, and it passed unanimously.

**6. APPELLATE E-FILING GRANT APPROVAL: (Judge David Mortensen and Larissa Lee)**

Grant funds would allow the appellate courts to begin studying what will be required to implement a full appellate e-filing system. Without the grant, appellate e-filing will be delayed because the appellate courts cannot secure funding through the Judicial Council or legislature in a timely manner. This grant would allow the appellate courts to hire a consultant to determine the appropriate software for appellate e-filing.

This grant requires the courts to match 50%, but only 10% would be required. The remaining funds would represent the hourly rate of an employee's worktime spent on the project, including the time of the appellate court administrator and appellate/district/juvenile employees involved in appeals.

**Motion:** Judge Shaughnessy moved to accept the Grant in the amount of \$50,000 and add this item to the Council agenda, as presented. Judge Appleby seconded the motion, and it passed unanimously.

**7. NCSC SYSTEM REVIEW PHASE 2 CONTRACT & TIMELINE: (Judge Mary T. Noonan and Cathy Dupont)**

Judge Noonan noted the System Review Committee will meet directly following the Management Committee meeting. This item will be added to the Council agenda.

**8. JUDICIAL COUNCIL PRESENTATION GUIDELINES AND COUNCIL NORMS: (Cathy Dupont)**

Judge Shaughnessy, Judge Appleby, and Ms. Dupont created guidelines and Council norms to provide guidance to groups presenting to the Council. Entities with subjects being discussed at the Council and/or Council executive committee meetings should be invited to participate. Ms. Dupont will create a redline version, number the bullet points, and delete the bullet point that prohibits voting on a matter while the presenter is at the table.

**Motion:** Judge May moved to send this item to the Council for review, as amended. Judge Farr seconded the motion, and it passed unanimously.

**9. SELF-HELP CENTER FUNDING INCREASE: (Nathanael Player)**

At the August budget meeting before the Judicial Council the Self-Help Center (SHC) requested 1) \$98,155 in ongoing funds to provide permanent funding to make the five existing SHC staff attorneys full-time; and 2) \$96,909 in ongoing funding for one additional full-time staff attorney. The first request was sent to the ad hoc Budget & Finance Committee to see if they could find internal funding, and the second request was prioritized by the Judicial Council as a budget request for the legislature.

Currently, the temporary funding for the five part-time attorney positions for full-time work will expire on June 30, 2020. The Ad Hoc Budget & Finance Committee decided not to use projected savings based on clerical weighted caseload numbers to fund this request.

Possible solutions:

1. Instead of requesting ongoing funding for an additional staff attorney from the legislature, ask the legislature for ongoing funding to keep existing staff attorneys full-time; or
2. Do not send any request for funding to the legislature during the 2020 session, and resubmit the request for the Council's consideration next year.

Substituting the funding request to the legislature would mean asking for \$109,315, instead of \$96,909. This is \$12,406 more. The Council approved market comparability adjustments for four staff attorneys, so the cost for funding request number one went up. If this change is too difficult to accomplish then Mr. Player requested that the courts not send any request to the legislature this session.

**Motion:** Judge Appleby moved to add this item to the Council agenda for review, as presented. Judge Shaughnessy seconded the motion, and it passed unanimously.

**10. WESTLAW EDGE SUBSCRIPTION: (Justice Deno Himonas)**

Justice Himonas would like to subscribe to Westlaw Edge. Due to the procurement code, the courts require RFP bids through Westlaw and Lexis. Westlaw quoted an increase from \$9,000 to approximately \$12,000 per month with Edge. Justice Himonas requested this item be removed from the Council agenda to allow the normal process of bids.

**11. 2020 PROPOSED AUDIT SCHEDULE: (Karl Sweeney and Mark Urry)**

Mr. Sweeney presented a proposed 2020 audit schedule.

**Motion:** Judge Appleby moved to approve the 2020 Internal Audit schedule and add this item to the Council agenda as an informational item, as presented. Judge Farr seconded the motion, and it passed unanimously.

**12. TRANSITION TO GROUP AUDIT APPROVAL: (Karl Sweeney)**

Mr. Sweeney introduced State Auditor, Van Christensen. The Department of Workforce Services ("DWS") Director of Internal Audit conducted an independent validation of the self-assessment performed by Internal Audit Department. The primary objective was to verify the assertions and conclusions. The validation, concluded on December 3, 2019, consisted of a review and a test of the procedures and results, and included interviews with the Chair of the Management Committee and senior managers.

Mark Urry stated as a TCE he finds reviews an integral part of success. In reviewing this proposal with his support services coordinator, they both agree the proposal for training and support would add value to the courts.

**Motion:** Judge Appleby moved to approve the audit recommendations and add this item to the Council agenda as an informational item, as presented. Judge May seconded the motion, and it passed unanimously.

**13. PROBATION POLICIES 2.13, 4.2, 4.16, AND 5.6 FOR FINAL APPROVAL: (Neira Siaperas)**

Neira Siaperas presented proposed amendments to probation policies.

Section 2.13 Certification Investigation Report was last updated in 2001. Updates to the policy include a provision for referencing previously e-filed documents in the report; removal of procedural language regarding the certification process that are not specific to the duties of the probation department; removal of the requirement for the probation officer to consider the ten factors when preparing the certification report.

Section 4.2 Formal and Intake Probation was last updated May 21, 2018. Updates are necessary to align the policy with statutory changes including allowing the extension of probation on the basis of non-payment of restitution; restricting the extension of probation to an Intake status for cases in which the only outstanding obligations are services hours, fines and/or restitution; limiting the extension of probation to no longer than 90 days if service hours are the only outstanding obligation.

Section 4.16 Confiscated Property was last updated on April 30, 2007. Updates to this policy include the removal of references to the now obsolete Probation Order and Agreement; the addition of references to local building security plans and an evidence chain of custody form; the addition of a provision allowing confiscation of property that is restricted by a court sponsored program; updates to procedures for handling, storing and destroying confiscated property.

Section 5.6 Critical Incident Reporting was last updated November 1, 2001. The recommendation is for this policy to be deleted. This policy is no longer necessary since the procedures therein do not apply specifically to probation staff and are currently included in all Local Security Plans and/or Rule 3-414 Court Security.

**Motion:** Judge Shaughnessy moved approve the amendments of sections 2.13, 4.2, 4.16, and the deletion of section 5.6, as presented, and to put on the Council consent calendar. Judge Appleby seconded the motion, and it passed unanimously.

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

Chief Justice Durrant addressed the proposed agenda for the December 16, 2019 Judicial Council meeting. Changes to the agenda were discussed.

**Motion:** Judge Appleby moved to approve the Judicial Council agenda, as amended. Judge May seconded the motion, and it passed unanimously.

**15. OLD BUSINESS/NEW BUSINESS: (All)**

There was no additional business discussed.

16. **EXECUTIVE SESSION.**  
An executive session was not held.
17. **ADJOURN**  
The meeting adjourned.

## Agenda

**JUDICIAL COUNCIL'S  
AD HOC BUDGET & FINANCE COMMITTEE**

**Minutes  
November 5, 2019  
Council Room  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah 84111  
11:00 a.m. – 2:00 p.m.**

**Members Present:**

Hon. Augustus Chin  
Hon. Mark May  
Hon. Kara Pettit

**Excused:****AOC Staff Present:**

Hon. Mary T. Noonan  
Cathy Dupont  
Michael Drechsel  
Shane Bahr  
Geoff Fattah  
Alisha Johnson  
Brent Johnson  
Larissa Lee  
Bart Olsen  
Sarah Osmond  
Jim Peters  
Nathanael Player  
Clayson Quigley  
Neira Siaperas  
Peyton Smith  
Karl Sweeney  
Jessica Van Buren  
Jeni Wood

**Guests:**

Jim Bauer, TCE Third District  
Daniel Meza Rincon, COC, Third Juvenile  
Russ Pearson, TCE Eighth District  
Wendell Roberts, TCE Sixth District  
Larry Webster, TCE Second District  
Shelly Waite, JTCE Fourth Juvenile

**1. WELCOME & APPROVAL OF MINUTES: (Judge Mark May)**

Judge Mark May welcomed everyone to the meeting. Attendees introduced themselves. Judge May addressed the minutes from the previous meeting.



**Motion:** Judge Augustus Chin moved to approve the September 17, 2019 minutes, as presented. Judge May seconded the motion, and it passed unanimously.

## 2. MARKET COMPARABILITY ANALYSIS: (Bart Olsen)

The 2019 market comparability analysis (MCA) showed the following positions more than 10% below market:

Admin Assistant II	16%	Library Asst I/II	21% - 34%
Attorney/Law Clerk	12% - 17%	Mgmt Analyst II	18% - 24%
Cap Lit Research Atty	16%	Mediator	18% - 35%
Caseload Coord I	14% - 15%	OTP (Training) Spec	14%
Court Pgm Coord I	20% - 25%	Receptionist I	13%
Dist Admin Asst I	22%	Self-Help Ctr Atty	21% - 24%
HR Support/Rep	19% - 20%	Support Svcs Coord	11% - 18%
Juv Justice Mediator	18%	Supreme Ct Admin	19%

Bart Olsen presented possible options, based on **market only**, for applying the \$137,000 MCA increases, as approved by the Judicial Council.

- 10% increases for staff rates at 23% or more below market
- 5% increases for staff rates between 16% - 22% below market
- Less than 15% below market = 0 increase (funds exhausted)

Possible options, based on **market and critical function**, for applying the \$137,000 MCA increases, as approved by the Judicial Council.

- All incumbents at more than 10% below market are considered
- Critical function defined:
  - A = Justice Services are inaccessible to at least some group of citizens without this role
  - B = Justice Services are severely impacted without this role
  - C = Justice Services are somewhat impacted without this role
- A & B at 19% or more below market = 10% increase
- A & B between 11% and 18% below market = 5% increase
- C = 0 increase (funding exhausted)

Possible options, based on **market, critical function, and turnover**, for applying the \$137,000 MCA increases, as approved by the Judicial Council.

- All incumbents at more than 10% below market are considered
- Critical function defined:

- A = Justice Services are inaccessible to at least some group of citizens without this role
- B = Justice Services are severely impacted without this role
- C = Justice Services are somewhat impacted without this role
- A & B at 19% or more below market = 10% increase
- A & B between 11% and 18% below market = 5% increase
- C = 0 increase (funding exhausted)
- Turnover rate less than 8% per year = 0 increase

Possible options, based on **market, critical function, turnover, and disparate rule**, for applying the \$137,000 MCA increases, as approved by the Judicial Council.

- All incumbents at more than 10% below market are considered
- Critical function defined:
  - A = Justice Services are inaccessible to at least some group of citizens without this role
  - B = Justice Services are severely impacted without this role
  - C = Justice Services are somewhat impacted without this role
- A & B at 19% or more below market = 10% increase
- A & B between 11% and 18% below market = 5% increase
- C = 0 increase (funding exhausted)
- Turnover rate less than 8% per year = 0 increase
- Disparate Court Rule defined:
  - Current policy placing maximum percentage increase on promotion creates significant inequity between internally promoted staff and externally hired staff for same job
- 5% increase if more than 5% below market, 3% increase if more than 2% below market

The committee agreed that accepting the market, critical function, turnover, and disparate rule option would be best to include most employees. Mr. Olsen noted interpreters are not included in this list because they can be funded through the Juror, Witness, and Interpreter Line Item. .

**Motion:** Judge Chin moved to approve:

- Raises for the employees identified in Bart Olsen's analysis using the principles of below market, critical function, turnover, and disparate rule. Identified personnel with salaries below the market level at or above 19% would receive a 10% increase, personnel with salaries below the market level between 11% - 18% would receive a 5% increase, personnel with salaries below the market level between 5% - 10% would receive an increase of 5%, and personnel with salaries below the market level between 2% - 5% would receive a 2% increase, for a total of \$133,640 ; and
- Providing the market comparability raises of 10% for interpreters to be funded from the Juror, Witness, Interpreter Line Item

Judge Kara Pettit seconded the motion, and it passed unanimously.

The committee discussed how to use the remaining 3,360 in ongoing money for market comparability raises. The committee discussed whether to try to provide raises for people in the C category under critical function, or to address the employee's whose salaries are lower due to the impact of Court rule (hot spot raises). Mr. Olsen recalculated costs if raises were provided to the C category for critical function analysis. The committee determined that the cost of providing as low as a 2.5% raise for the C category of critical function decreased the raises for the A and B category to an unacceptable level, and was not the best option. The committee focused on the need for hot spot raises. Ms. Dupont explained internal candidates who are promoted to a new position cannot receive a raise higher than 11%, which often results in lower salaries for internal candidates in comparison to external candidates.

**Motion:** Judge Chin moved to approve using the remaining \$3,360 in ongoing market comparability funds for hot spot raises, as determined by the State Court Administrator. Judge Pettit seconded the motion, and it passed unanimously.

### **3. CLERICAL WEIGHTED CASELOAD:**

The following describes the major components of the weighted caseload and notable changes in this time period.

**Case Type Weights:** Revised case processing times (weights) for case types and events in both district and juvenile courts were adopted in 2017. The revised weights were derived from surveys administered by committee members. No changes were made to the case type weights for this time period.

No changes were made to the Case and Event Counts, Time Available Calculations, and Minimum Staffing Adjustment.

**Staff Available (FTE) count:** The staff available/FTE count is determined by counting DPRs provided by AOC Human Resources. Team managers, case managers and judicial assistants are included in the count. The interpreter coordinator in third district is counted because it was converted from a clerical position. Clerks of court are not counted. Of note, third district received 2 new judge allocations from the 2019 legislative session and 4 additional clerical staff will be added during FY 2020 that are not accounted for in this study.

**Aspirational in nature:** The Utah clerical weighted caseload model, like those used in other courts, is an aspirational model. It assumes a fully staffed, adequately trained court staff each working at 100% efficiency. It does not account for vacancies and the efficiency challenges of inexperienced staff. This aspirational model reflects workload requirements in smaller courts with limited turnover well. Courts with regular turnover may perceive the weighted caseload as not fully reflecting their workload. The committee has set a goal for the coming year to look at ways to account for turnover. The model is most effectively used as a tool to compare staffing among courts.

**10% Deviation:** The model allows a court to be understaffed by 10% before the court is flagged as needing additional staff resources. Conversely, a court can be overstaffed by 10% before staff

resources are identified as surplus. The deviation is intended to provide a workload range before action is required recognizing that case filings fluctuate.

**Changes in Clerical Need:** Overall, the changes in clerical need were related to decreased referral filings in the juvenile court. The committee noted a substantial shift between the FY19 preliminary and final reports and recognizes referrals counted in the preliminary are still actively being worked on and not reflected in the final report.

Fiscal Year 2019

(Filings 7/1/18 thru 6/30/19)

Clerical Weighted Caseload Summary Results							
Judicial District	Updated 4/29/19 Existing FTE	FTE Need	Min. Staff Adj. rounded nearest .5	Total FTE Need	FTE Difference	10% Deviation (Total FTE Need)	FTE Outside of Deviation
District 1	22.50	22.41	0.00	22.41	0.09	2.24	
District 2	66.00	64.14	1.50	65.64	0.36	6.56	
District 2 Juvenile	21.50	19.90	0.00	19.90	1.60	1.99	
District 3	142.50	149.05	0.00	149.05	-6.55	14.90	
District 3 Juvenile	41.00	33.01	1.50	34.51	6.49	3.45	3.04
District 4	57.50	62.80	0.50	63.30	-5.80	6.33	
District 4 Juvenile	24.00	17.23	2.00	19.23	4.77	1.92	2.85
District 5	34.00	31.95	0.50	32.45	1.55	3.25	
District 6	10.00	11.92	0.50	12.42	-2.42	1.24	-1.18
District 7	14.00	10.91	1.00	11.91	2.09	1.19	0.90
District 8	15.50	12.50	0.00	12.50	3.00	1.25	1.75
	448.50	435.82	7.50	443.32	5.18		7.37

Third district was allocated 4 new clerical staff to begin in FY2020 not accounted for in this study.

### 3A. PROJECTED AVAILABLE SAVINGS: (Karl Sweeney and Bart Olsen)

Karl Sweeney provided the committee a baseline potential annual savings for each JA position that was not filled, assuming a beginning salary for a JA I with maximum benefits as \$67,000.

### 3B. FOURTH DISTRICT JUVENILE, TCE RESPONSE, AND CLERK OF COURT RESPONSE, AND TCE RESPONSE: (Shelly Waite and Daniel Meza Rincon)

The Fourth Judicial District encompasses Wasatch, Utah, Juab and Millard counties, which geographically covers an area of 12,584 miles, making this district both urban and rural. There are six juvenile courthouse locations, more than any other Juvenile District across the state. Unique challenges often occur when coverage is needed in one of our rural courthouse locations. Of the 21 JAs, 7 of them have 2 years or less experience.

The Fourth District Juvenile Court recognized that they may be trending toward a reduced clerical staffing need, but asked for additional time to assess whether or not this latest report is an outlier or not and that the Clerical Weighted Caseload Committee provide information on how Case Managers and Team Managers are being counted.

The Fourth District Juvenile Court proposed minimizing clerical staffing as follows include consideration of turnover and the impact of coverage to rural courthouses.

1. Ensure that the 0.5 position eliminated April 2019 is reflected in future reports along with not counting the time-limited 0.5 position.

2. Hold the next clerical vacancy for an evaluation of the position.

If the trends continue to show an excess in clerical needs move to the following proposal.

2A. Reduce the position to part time.

3. With a subsequent clerical vacancy, reduce the position to part time.

3A. The juvenile court has a part-time JA position that is funded out of the district court. That position could be funded in one of the vacant positions listed above with juvenile funds.

Daniel Meza Rincon attended the meeting in representation of the Clerks of Court. The Clerks of Court requested the following:

1. A more significant timeframe to determine whether the caseload reports are representative of an actual trend.

2. Time and resources to make the necessary adjustments to the clerical weighted caseload in order to accurately reflect the needs of a functional courthouse on a more individual basis.

The Trial Court Executives recommended not reallocating current clerical resources until there is a consistent trend through historical data of clerical weighted caseloads.

Judge May noted statistically juvenile case filings are declining. Mr. Quigley will prepare a historical clerical weighted caseload report by district for the past five years. Currently, the Third District has nine JA positions open. Third District Juvenile Court has three positions open. Overall, both district and juvenile courts requested the length of time for training JAs be incorporated in clerical weighted caseload reports. There has been a 25% JA turnover statewide in both district and juvenile courts.

### **3C. COURT SERVICES RESPONSE: (Clayson Quigley)**

The weights used in weighted caseload study's should not be utilized to compare to any single case, just as the survey responses only make sense as a whole. There is such variety in personalities and workplace cultures and practices that any single instance will be unrepresentative of the group as a whole. However, through the aggregate responses which are validated by a group of clerical representatives, the courts should be confident that the responses and eventual weights used in the study accurately represent the average work experience.

Currently, Court Services is engaged in reviewing and updating the Juvenile Judicial Weighted Caseload Study and the creation of a Probation Officer Weighted Caseload Study. The Juvenile Judicial weighted caseload is anticipated to be completed in the late spring/early summer, 2020. The Probation Officer Weighted Caseload Study is occurring concurrently however the results of that study will not be released until approximately September 2020. The Clerical Weighted Caseload was last revised in 2016.

### **3D. FY20 BUDGET REQUESTS**

#### **3D(i). PUBLIC OUTREACH/EDUCATION COORDINATOR: (Geoff Fattah)**

Based on past recommendation by the courts' Commission on Racial and Ethnic Fairness study to invest more time and resources toward actively reaching out to marginalized communities, the Standing Committee on Judicial Outreach recommends the creation of a Public Outreach and Education Coordinator position under the Public Information Office.

Alternatively, one potential funding source is partial funding from the Utah Bar Foundation; however, this may violate policy in funding staff positions using grants. The request for the Council was Public Outreach/Education coordinator is \$94,060 in ongoing money (1 FTE). The Council deferred this request to the Budget & Finance Committee to seek internal funding.

#### **3D(ii). SELF-HELP CENTER FUNDING INCREASE: (Nathanael Player)**

Permanent full-time funding with the existing five staff attorneys (who are only permanently funded for 30 hours per week) would cost \$98,155. On May 20, 2019, the Judicial Council approved one-time funds to allow the Self-Help Center to pilot full time status, but this money will run out on June 30, 2020.

The Judicial Council approved funding for an additional staff attorney in the amount of \$96,909 and deferred this request to the Budget & Finance Committee to seek internal funding.

#### **3D(iii). TWO PROBLEM-SOLVING COURT CLERKS: (Peyton Smith)**

The Third District has five drug courts in Salt Lake County. On average, the time required to accomplish the needed drug court duties by a clerk takes eight hours each week. Each clerk is expected to complete these duties and to complete all of their other daily duties. The most recent clerical weighted caseload study showed that Third District is short 6.55 clerks.

Having dedicated drug court clerks will allow Third District to offer better customer service and will allow all agencies to have the same point person to help address issues. These clerks can help ensure that each drug court is following the same guidelines and that each is consistent in their practices. The request for the two problem-solving court (drug court) clerks is \$153,636 in ongoing money.

Judge Pettit recommended postponing a decision on these requests until after the 2020 legislative session to allow for a determination by the legislature regarding moving a Third District Juvenile judge position to the Fifth District and until additional analysis can be acquired. Judge Chin would like to have the courts examine the reason for high turnover rates.

**Motion:** Judge Pettit moved to take no action to reallocate current resources. Judge Chin seconded the motion, and it passed unanimously.

Judge Noonan noted, if resubmitted, these requests will be addressed by the Council in the spring. Brent Johnson noted the Council felt these items should be given priority, however, ultimately decided not to fund these requests through legislation and possibly seek funding internally. Mr. Johnson asked whether it would be appropriate for the Council to reconsider these funding requests for this year in light of the Budget Committee's recommendations.

**4. FUTURE AGENDA ITEMS: REVIEW AND PRIORITIZE: (Judge Mary T. Noonan and Cathy Dupont)**

Xchange: Review Rule (how are Xchange funds used)

Quarterly Reports: One-Time Human Resource Savings and Ongoing Human Resource Savings (when someone leaves the courts and the position is unfilled, this is one-time savings, when someone leaves the court and the new hiree is paid less the remaining amount is ongoing savings)

Review Future Market Comparability Process (move from a lottery system to a more equitable environment)

Preparation for May, June, and August Budget Portion of Judicial Council Meeting (including those who will have budget requests present to this committee prior to the Council meeting)

PSA Manual Calculation of National Criminal History (the collection of data from the NCSC that has budget implications)

**Motion:** Judge Pettit moved to have Karl Sweeney, staff to this committee, create a budget request timeline calendar. Judge Chin seconded the motion, and it passed unanimously.

Judge May noted the committee will prioritize the evaluation of the process used for the market comparability process.

**5. SELECTION OF DATES FOR FUTURE MEETINGS: (Judge Mark May)**

After brief discussion, the committee scheduled the next meeting for December 5 from 12:00 p.m. – 1:30 p.m.

**6. OLD BUSINESS/NEW BUSINESS: (All)**

Judge May would like to add the judicial operations budget issue to the next meeting (as a discussion item) with data on how much funds is not used each year and how much can be moved over to the following fiscal year. The committee will address Xchange funds next month.

Judge May also requested the committee be provided with regular court financial statements to better understand results for the year and what might be available for carryover into 2021.

**7. ADJOURN**

The meeting adjourned at 1:26 p.m.

**UTAH JUDICIAL COUNCIL  
POLICY AND PLANNING COMMITTEE  
MEETING MINUTES**

Education Room (N31), Matheson Courthouse  
450 South State Street, Salt Lake City, Utah 84114  
December 2, 2019 – 2:00 p.m. to 4:00 p.m.

**DRAFT**

**MEMBERS:****PRESENT****EXCUSED**

Judge Derek Pullan, <i>Chair</i>	•	
Judge Brian Cannell	•	
Judge Augustus Chin	•	
Judge Ryan Evershed	•	
Judge John Walton		•
Mr. Rob Rice	•	

**GUESTS:**

Shane Bahr  
Paul Barron  
Brent Johnson  
Chris Palmer  
Judge Christine Johnson

**STAFF:**

Keisa Williams  
Minhvan Brimhall (recording secretary)

**(1) WELCOME AND APPROVAL OF MINUTES:**

Judge Pullan welcomed members and guests to the meeting. The committee considered the minutes from the November 1, 2019 meeting. With no changes, Rob Rice moved to approve the draft minutes. Judge Chin seconded the motion. The committee voted and the motion passed unanimously.

**(2) EVIDENCE AUDIT UPDATE:**

Chris Palmer met with a few clerks of court and judicial assistants to review proposed amendments to rule 4-206. That working group is halfway through the review and is scheduled to meet again soon. So far, the working group has made minor language changes and will be adding federal guidelines. Mr. Palmer hopes to have the revised draft ready for review by Policy and Planning in February 2020. Mr. Palmer noted that the working group did not have legislative feedback to share at this time. Mr. Palmer stated that the standards for evidence and facility storage should meet federal guidelines.

Mr. Palmer will present the working group's proposed amendments at a future meeting.

**(3) 1-205. STANDING AND AD HOC COMMITTEES:**

Judge Evershed met with the Board of Juvenile Court Judges. The Board discussed removing the juvenile court judge member from the Uniform Fine Schedule Committee because juvenile courts do not follow the fine and bail schedule. The committee asked whether the juvenile judge position should remain now that some juvenile judges have begun handling district court matters. Judge Evershed stated that the Board did not think it was necessary given juvenile judges' limited district court duties and the fact that district court judges on the committee have sufficient experience and expertise to address the issues.

Judge Evershed motioned to accept the Board's recommendations as proposed and to recommend that the Judicial Council adopt the rule for public comment. Judge Chin seconded the motion. The motion carried unanimously.



**(4) 4-403. ELECTRONIC SIGNATURE AND SIGNATURE STAMP:**

The proposed amendments to CJA 4-403 address an issue created by the implementation of a new Utah Rule of Civil Procedure (URCP), Rule 109, which becomes effective January 1, 2020. Rule 109 provides that a standard injunction shall be issued by the court immediately upon the filing of certain domestic relations cases. The Judicial Council has already approved a standard injunction form that must be used statewide.

Rule 4-403 was recently amended to include domestic relations injunctions as one of the types of documents on which a clerk can use a judge's signature stamp, with approval from the judge. The Board of District Court Judges and Clerks of Court expressed concern about workload implications for clerks if they are required to use a signature stamp on every injunction. The Board is recommending that presiding judges have the option of issuing standing orders authorizing the IT Department to act as a clerk and automatically affix a judge's signature to the injunctions. Brent Johnson noted that the standing order goes too far because the Judicial Council has already made a decision about the use of signature stamps in rule 4-403. Mr. Johnson recommends amending rule 4-403 and having the Judicial Council expressly allow the practice contemplated by the order.

If a petition is filed by an attorney, the system would automatically kick the signed injunction back to the attorney immediately upon filing. If the petitioner is a pro se litigant, the petition would be filed by a court clerk, auto-signed, and handed immediately to the litigant. The auto-signature would include a date/time stamp. Paul Barron noted that the programming is complete and it is scheduled to go live on January 1, 2020. Go-live can be delayed, but if the committee and/or the Judicial Council do not approve the process statewide, additional programming will be required.

Judge Cannell objected to URCP 109 because he feels it is judicial overreach. Requiring the issuance of automatic injunctions is a policy decision which should be accomplished via statute. Mr. Johnson noted that judges are statutorily authorized to issue these types of injunctions and do so routinely. This change is procedural and within the judicial branch's purview. The Supreme Court made the decision to implement URCP 109. The committee discussed their discomfort with the lack of judicial discretion about whether or not judges' signatures may be automatically affixed without their having seen the petition. Mr. Johnson noted that the injunction order is standard. It cannot be changed and it was approved by the Judicial Council, so every injunction will be the same. Judge Pullan noted that currently, judges may not address an injunction for several weeks after filing, at which point a party may have already improperly disposed of property. Once the petition gets before the court, these types of temporary injunctions are almost always issued. If URCP 109 is going into effect, there may not be a good reason to require clerks to affix signature stamps.

After further discussion, Mr. Rice moved to approve the amendments as proposed, including a recommendation for expedited approval by the Judicial Council with public comment to follow. Judge Chin seconded the motion. Judge Cannell opposed. The motion carried.

**(5) 4-503. MANDATORY ELECTRONIC FILING:**

Mr. Johnson discussed proposed amendments to rule 4-503 that would require Licensed Paralegal Practitioners to file documents electronically. The first group of LPPs has been licensed and may obtain access to the e-filing system. The committee had no concerns with the request.

With no further discussion, Mr. Rice moved to approve the amendments as proposed, including a recommendation for expedited approval by the Judicial Council with public comment to follow. Judge Chin seconded the motion. The motion carried unanimously.

**(6) HR 550 – DISCRIMINATION AND HARASSMENT:**

Ms. Williams noted that the proposed edits to HR 550 were made based on comments received at the last Judicial Council meeting. Ms. Williams added a new section starting at line 61 to address the Judicial Council's observation that judges' and court staffs' work-related duties may require them to possess or discuss offensive materials related to a case. Mr. Rice cautioned that employees may use offensive, work-related materials to harass another person and noted that HR has the discretion to investigate if those concerns arise. Mr. Rice felt subsection 4.2 was narrow enough to give HR the latitude to address those situations.

After further discussion, Mr. Rice moved to accept the amendments as proposed. Judge Chin seconded the motion. The motion passed unanimously.

**(7) 4-411. COURTHOUSE ATTIRE (NEW):**

At its October meeting, Policy and Planning voted to present the rule draft to each of the Boards of Judges and the Supreme Court because all courts would be affected by the rule. Judge Pullan received feedback from the Board of District Court Judges (BDCJ) and spoke with Board Chair, Judge Christine Johnson, regarding the Board's concerns with the rule. The BDCJ disagrees with striking subsection (4)(a)(i) because it eliminates judicial discretion. The Board felt section (2) should be removed entirely because the standard is way too low and subsection (1)(a) adequately addresses the problem with the addition of the word "solely." Judge Pullan noted that subsection (4)(b) should be deleted because decorum orders apply to more than just attire. Shane Bahr stated that the Board was looking for a distinction between the courthouse and courtroom. No one should be restricted from the courthouses other than for security reasons. Judges should determine what is appropriate in the courtroom.

Judge Chin asked why subsection (2)(b) was necessary because most women are covered when they breastfeed. Mr. Rice stated that breastfeeding is protected by statute. Ms. Williams noted that a nipple may be exposed during breastfeeding. The rule is meant to clarify for everyone that women who are breastfeeding may not be removed from the courthouse or courtroom even though they may be in violation of the standard outlined in (2)(a).

Judge Evershed presented the rule to the Board of Juvenile Court Judges (BJuvCJ). The general view from the BJuvCJ was that the issue is primarily limited to the Third District Court, and each district should have the discretion to set their own local standards.

Ms. Williams presented the rule to the Board of Justice Court Judges (BJCJ). The BJCJ initially expressed a desire for a section on public health issues, but Policy and Planning's reason for removing the public health section from the initial draft sufficiently addressed their concerns. Some members desired more judicial discretion related to attire in the courtroom.

Judge Pullan presented the rule to the Appellate Court Judges. The Appellate Court focused primarily on security-related issues and were satisfied that the discretion given to security personnel to assess threats and act accordingly was sufficient.

Mr. Rice and Ms. Williams presented the rule to the Supreme Court. Mr. Rice stated that the Court's primary concern was that section (4) provides judicial officers with too much discretion, effectively allowing judges to circumvent the standard in (2) entirely. The Court made several observations/recommendations: broaden the intent language, define "integrity," remove subsection (4)(a)(i), "disrupting" and "detracting" are too subjective, "adequately attired" is too broad, and "above or similar circumstances" is too broad.

Judge Pullan asked whether the committee would object to eliminating (2) entirely. Judge Chin agreed with that recommendation. Judge Cannell felt strongly that (2) should be removed and (4)(a)(i) should remain in the rule. The committee discussed removing “detracting” because “disrupting” was sufficient. Mr. Rice pointed to the Self-Represented Parties Committee’s expressed need for the low standard outlined in (2). Judge Cannell stated that the low standard isn’t necessary. Judges aren’t turning people away from the court for the inability to afford nice clothes. Access to justice is being upheld and respected. Section (2) would allow someone to come to court in a bikini and invites individuals or groups to use that standard for attention. Courtrooms are a place of respect. Ms. Williams noted that judges around the state have stated definitively that they do not allow individuals in the courtroom if they are wearing sleeveless shirts, shorts, flip flops, or similar attire. Unfortunately, people are being routinely denied equal access to the court when they are wearing reasonable attire.

Judge Pullan stated that while this may not be a widespread problem, rules are written for bad actors and to create normative standards and procedures. After further discussion, the committee decided to give the rule further thought and consideration. Judge Cannell will research standards in other states and will provide that research, and any proposed edits to the rule, to Ms. Williams for the committee’s review at the next meeting.

No motion was made. The rule was tabled for further review.

#### **(8) JUNE RETREAT ASSIGNMENT RULES:**

Policy and Planning received two assignments at the Judicial Council’s June retreat:

- 1) Create a rule establishing the Management Performance Review Committee, and outlining the process by which the Supreme Court and the Judicial Council will evaluate the performance of the State Court Administrator (SCA). The rule should also establish a process by which the SCA evaluates the performance of high level managers in the Administrative Office of the Courts.
- 2) Create a rule setting forth the authority of judges, courts, the Supreme Court, and the Judicial Council to administer the functions of the judicial branch. The rule should provide a process by which the Supreme Court and Judicial Council may assess and determine exclusive and predominate authority, and how those two bodies will communicate with each other when issues arise.

Judge Pullan expressed appreciation to Judges Walton and Cannell for their willingness to participate on the subcommittee to draft the attached rules. Judge Pullan reviewed each rule draft.

#### Management Performance Review

Mr. Rice recommended that the SCA’s duty under subsection (5)(a), to conduct ½ of the performance reviews each calendar year should be aspirational rather than required. In his experience, employees may use those types of requirements to object to discipline or termination for poor performance. The committee discussed whether the rule should be amended to allow the SCA to delegate that duty to the HR Director or Deputy Court Administrator. Ms. Williams suggested that it be the Deputy Court Administrator because it wouldn’t be appropriate for the HR Director (as a subordinate) to conduct an evaluation of the Deputy Court Administrator. Mr. Bahr noted that some high level managers currently report directly to the Deputy Court Administrator. The committee discussed adding “or designee” to subsection (5)(a) to allow the SCA to exercise discretion and manage workload.

Judge Pullan stated that the process contemplated by the rule would be more formal than the quarterly meetings conducted currently. Performance reviews would be written and included in the manager’s HR file. The committee discussed changing subsection (5)(a) to “should” versus “shall.”

Administration of the Judiciary

The rule first identifies the issues over which individual judges, courts, court levels, the Supreme Court, and the Judicial Council have exclusive authority, and an issue over which the Court and Council have concurrent authority. Judge Pullan explained the process when a matter falls within the Supreme Court's or Judicial Council's exclusive authority, when an issue falls predominately within one body's exclusive authority, and when an issue implicates both bodies' authority.

After further discussion of both rules, no motion was made. The rules were tabled for a more comprehensive review at the next meeting.

**(9) OLD BUSINESS/NEW BUSINESS:**

Due to holiday scheduling conflicts in January, the January meeting was canceled. To account for the Legislative Liaison Committee meeting, the February 7<sup>th</sup> meeting was moved to 10:00 a.m..

With no further items for discussion, Judge Chin moved to adjourn the meeting. The meeting adjourned at 4:15 pm. The next meeting will be held on February 7, 2020 from 10:00 a.m. - 12:00 p.m.

# Tab 3



## **APPLICATION FOR INITIAL PROJECT PLANNING APPROVAL FOR PROPOSED PROBLEM SOLVING COURT PROJECT**

Name/Working Title of Proposed Project: Davis County Family Recovery Court

Court Location: Second District Juvenile Court, 800 West State Street, Farmington Utah

Application Submitted by: Judge Sharon S. Sipes

### **I. Target Population**

**Describe the types of cases or the description of the population that will be served by this project. Please be specific.**

Family Recovery Court (FRC), applying successful evidence based practices already tested in dependency drug courts, will serve children and families to prevent foster care placements under circumstances in which drug endangered children (DEC) are at risk for removal from the custody of their parents whose illegal drug use may render parents unable to safely care for their children in the home. Utah defines DEC to include children whose parents use illegal drugs around their children and children at risk of neglect and child endangerment due to their parents use of illegal drugs and leaving dangerous items within reach of a child.

### **II. Purpose/Goal of Project**

**Please explain why you believe this project is necessary or desirable. How will a problem solving approach benefit your target population?**

The goal of FRC is to help to stabilize home life by reducing the number of children removed from their homes for neglect by parents who use illegal controlled substances. Consistent with the goals of federal Family First Prevention Services Act, FRC and its partners will provide enhanced services for substance abuse treatment to parents and their children identified at risk of neglect. Davis Behavioral Health (DBH) can provide several approved programs for DEC while delivering substance abuse treatment to parents. Parents will receive evidence based substance abuse treatment while their children impacted by exposure to substance abuse will receive DEC interventions.

### **III. What is the size of the proposed project?**

**Approximately how large is your target population and how many participants would likely be served by the proposed project?**

According to a recent report from Utah Division of Child and Family Services (DCFS) neglect was the primary reason for foster care in 68.1% of the cases in its Northern region. The highest risk/needs parents (foster care cases) are now served by dependency drug courts in Davis and Weber counties. The cap in dependency drug courts is set at 20 participants. The cap reflects court and stakeholders ability to meet the treatment and supervision needs of the participants.

DCFS anticipates that FRC participants will easily reach the current 20 participant cap. DCFS is currently experiencing a high caseworker turnover rate. In light of their current staffing issue, the initial project will cap at 6 families with the number of participants increasing (to 20) as staffing allows.

IV. What is the anticipated impact on court staff, clerks and judges, and how will that need be met?

Attachment 1.

V. Funding considerations/stakeholders

Identify the stakeholders and what they will need to contribute to the project. If you have identified a funding source to support the project, please specify.

Attachment 1.

**Trial Court Executive Comment:** I am supportive of the initiative and have been involved in the planning meetings.

Date: 10-25-19

Signature: 

Trial Court Executive

**Presiding Judge Comment:** Judge Sipes has done a great deal of planning and preparation for this Drug Court. All of the agencies affected are on board and the entire bench of the second district is in favor of moving forward.

Date: 10-16-19

Signature: 

Presiding Judge

Date: 10-17-19

Signature: 

Applicant



**APPLICATION FOR INITIAL PROJECT PLANNING APPROVAL FOR PROPOSED PROBLEM SOLVING COURT PROJECT  
Attachment 1.**

**IV. Anticipated Impact on court staff, JA's and judges and how those needs will be met.**

Front desk staff may initially be asked by participants for directions to the appropriate court room, however, once participants are familiar with the process that need for general questions should cease.

A JA will be needed for in court record maintenance and dissemination of reports. The in court time is anticipated to be one-half day every two weeks. Hearing preparation, minutes and orders is anticipated to be another one-half day. The FRC will occur on alternate weeks with the current dependency drug court. It is anticipated that the JA now performing the JA functions in the dependency drug court will assume the same responsibilities in the FRC. No additional training will be needed.

The judge will conduct drug court in accordance with best practices. In-court time is anticipated to be one-half afternoon every other week. Drug Court staffing in the dependency drug court now takes approximately 90 minutes immediately prior to court. With the addition of reviewing progress in the services that will be provided to the family (versus services focusing only on parents) it is anticipated that staffing may take additional time.

**V. Funding Considerations/Stakeholders**

The Title IV-E Family First Prevention Services Act of 2018 (the Act) will provide states the option to use IV-E funding for prevention services that would allow "candidates for foster care" to stay with their parents or relatives. States will be reimbursed for prevention services for up to 12 months. Nat'l Conference of Legislatures, [www.NCSL.org](http://www.NCSL.org). Utah, through the Department of Human Services, Division of Child and Family Services (DCFS), is investing in the prevention and family support purposes of the Act.

Several meetings have been held with the necessary stakeholders and the following commitments are made:

Davis Behavioral Health (DBH): staff for drug court and therapists to implement evidence based services to the DEC and parents, as well as substance abuse assessments, evaluations and treatment.

DCFS: assess families that come to the attention of DCFS and, if a parent is in need of substance abuse treatment and children are considered at risk for removal, DCFS will make recommendations to the court for participation in the FRC. DCFS will provide staff for drug court and contribute its resources for assessments and evaluations.

DBH and DCFS are working together to provide drug testing.

Vocational Rehabilitation (VR): staff for drug court and will participate in assisting families to obtain training for employment or training purposes as well as evaluations and assessments.

Workforce Services (WS): contribute staff for drug court and participate to assist families to access available resources in the community such as employment, housing, child care.

The Davis County Public Defenders (PD) will contribute defense counsel for legal assistance to drug court participants.

The Utah Attorney General (UAG) will contribute a prosecutor to participate in the drug court.

The Office of the Guardian ad litem (GAL) will contribute an attorney GAL to participate in drug court.



# Tab 4



# APPLICATION FOR INITIAL PROJECT PLANNING APPROVAL FOR PROPOSED PROBLEM SOLVING COURT PROJECT

Name / Working Title of Proposed Project: Carbon and Emery County Mental Health Court

Court Location: Seventh District Courthouse in Carbon County

Application Submitted by: Seventh District Court

**I. Target Population:** Describe the types of cases or the description of the population that will be served by this project. Please be specific.

The Carbon and Emery County Mental Health Court (MHC) will serve those individuals who have demonstrated a pattern of violations of the law that result from poor adherence to, or insufficient self-management of mental health treatment for conditions that impact stable behavior, rational decision making and sustainable independent self-care.

**II. Purpose / Goal of Project:** Please explain why you believe this project is necessary or desirable. How will a problem solving approach benefit your target population?

Support within Carbon and Emery County MHC will provide supervision to participants in order to facilitate adherence to therapeutic and medication treatment regimens to reduce critical incidents, case management will provide more frequent check-in's and better access to resources – both prior to and during crisis situations. This will result in reduced frequency of jail stays, with shorter periods of incarceration. The long-term goal of these enhancements to supervision and maintenance care is a better understanding and response to individual and emergent needs resulting in a decrease in the likelihood of participant recidivism.

**III. What is the size of the proposed project?** Approximately how large is your target population how many participants would likely be served?

The target population in need of the benefits available via Carbon and Emery County MHC exceeds the current capacity of locally available resources. As such, Carbon and Emery County MHC proposes to begin services to approximately 10 participants. This will allow the team to remain responsive to early outcomes in order to fine tune processes and engage appropriately with participants and community partners. It is anticipated that over time, as the team's capacity grows, so too will the program, up to approximately 25 to 30 participants. Early participants will likely be drawn primarily from the Carbon County area with opportunities for Emery County participants as processes become more defined and capacities increase.

**IIII. What is the anticipated impact on court staff, clerks and judges, and how will that need be met?**

Carbon and Emery County MHC staffings and hearings will be calendared twice monthly. This will require time and preparation on behalf of the assigned District Court Judge and Judicial Assistant. The Judge presiding over MHC will dedicate time to the study, program design, and organization of community resources which are necessary to support the participants.

**V. Funding Considerations / Stakeholders:** Identify the stakeholders and what they will need to contribute to the project. If you have identified a funding source to support the project, please specify.

Stakeholder	Contribution
Four Corners Behavioral Health	Services to Clients: <ol style="list-style-type: none"> <li>1. Case Management</li> <li>2. Therapeutic Services</li> <li>3. Medication Management Services</li> </ol>
Adult Probation and Parole	Community Tracking for qualified participants
Carbon & Emery County Prosecutor's Office	Represent State's and Community's interests in MHC process development and all case activities.
Carbon & Emery County Public Defenders	MHC Participant Representation for process development and all case activities.
Seventh District Court	Judicial and Clerical staff to facilitate and coordinate the efforts of the MHC partner-stakeholders.

\*There is currently no external funding for the services and functions of the Carbon and Emery MHC.



# Tab 5





JUDICIAL COUNCIL MEMO, DECEMBER 2019

IT IS RECOMMENDED THAT ALL OF THE FOLLOWING COURTS BE CERTIFIED. THE (P) AND (B) BEST PRACTICES THEY ARE NOT IN COMPLIANCE WITH ARE LISTED UNDER EACH COURT. THE REASON THE COURT GIVES FOR NOT BEING IN COMPLIANCE FOLLOWS EACH BEST PRACTICE.

ADULT DRUG COURTS:

Wasatch County, Heber, Judge Brown

- (P) Monitors historically disadvantaged groups (Waiting for IT program).
- (B) Contact with participants within first 90 days of completion (They do not).
- (B) Provide medical and dental treatment (They do not).
- (P) More than 15 but less than 125 participants (not consistent in numbers).
- (P) Monitor new arrests in the first 3 years (only follow local arrests).

Grand County, Moab, Judge Manley

- (P) Monitors historically disadvantaged groups (waiting for IT program).
- (P) Each member of team attends up-to-date training on cultural bias (Court does not require but each agency takes care of the training).
- (P) Drug tests available within 48 hours (Most are but some take 72 hours especially over the weekends).
- (B) Court provides a continuum of care (Not available in the area).
- (B) Treatment groups no more than 12 with 2 facilitators. (Staffing issues).
- (P) Training on trauma informed services (Each agency responsible not the court).
- (B) Immediate medical and dental treatment (Not available in locality).
- (P) New arrests monitored for 3 years (Only local arrests).

VETERAN COURTS:

Salt Lake County, Salt Lake City, Judge Hansen

- (R) Current or prior offenses disqualify (Bad wording, they do not).
- (R) Clients placed within 50 days of arrest (Sometimes takes longer to determine VA eligible).
- (R) Treatment fees based on sliding scale (There are no treatment fees).
- (P) New arrest monitored for 3 years. (Do not have the personnel).

Utah County, Provo, Judge Powell

DUI COURTS:

Weber County, Ogden, Judge Di Reda

- (P) Placed within 50 days (Does not occur all of the time).
- (P) New arrests monitored for 3 years (Only follow local arrests).
- (B) Contact made within first 90 days after completion (Not done).

ADULT MENTAL HEALTH COURTS:

Box Elder County, Brigham City, Judge Cannell

Salt Lake County, Salt Lake City, Judge Trease

- (B) Contact after completion in the first 90 days (Do not do).

Salt Lake County, Salt Lake City, Judge Brereton

- (P) Clients placed within the first 90 days (Takes longer to get mental health records).

FAMILY DEPENDENCY COURTS:

Weber County, Ogden, Judge Dillon

- (P) Regularly monitors historically disadvantaged groups ( Waiting for IT program).
- (P) Clients placed within 50 days (A lot but not all).

Weber County, Ogden, Heward

(P) Regularly monitors historically disadvantaged groups (Waiting for IT program).

(B) Formal training before implementation (State and federal training).

Utah County, Provo, Judge Bazzell

(B) Length of program is a minimum of 12 months (Based on unification, some graduate earlier).

(B) Formal training before implementation (State and federal training).

(P) More than 15 less than 125 participants (Not always).

Utah County, Spanish Folk, Judge Smith

Grand County, Moab, Judge Manley

(P) Regularly monitors historically disadvantaged groups (Waiting or IT program).

(P) Drug tests available within 48 hours (Not always especially tests on weekends).

(B) Offers continuum of care (Not available in locality).

(B) Treatment groups have no more than 12 and 2 facilitators (Do not have personnel).

(B) Immediate dental and medical treatment (Not available in locality).

(P) Clients placed within 50 days (Not all of them).

(B) More than 15 but less than 125 participants (fluctuates, sometimes more than the 15).

Court: Wasatch County, Heber

Judge: Brown

Date: September, 2019

## Utah Adult Drug Court Certification Checklist 2018

*Standards followed by an **R** are required features of a drug court, and adherence to these standards is required for certification. Standards followed by a **P** indicate a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

*Many of these standards are direct restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, National Association of Drug Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.*

**YES    NO**



1. Eligibility and exclusion criteria are defined and applied objectively.      **R**  
BPS I A



2. Eligibility and exclusion criteria are specified in writing.      **R BPS I A**



3. Eligibility and exclusion criteria are communicated to potential referral sources.  
**P BPS I A**



4. The program admits only participants who are high risk high need as measured by the RANT or some other approved and validated assessment tool.      **R BPS\* I B**

- ☒ ☐ 5. Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population. **R BPS I C**
- ☒ ☐ 6. Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction. **R BPS I C**
- ☒ ☐ 7. Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. **R BPS I C**
- ☒ ☐ 8. Current or prior offenses may not disqualify candidates from participation in the Drug Court if unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court. **R BPS I D**
- ☒ ☐ 9. Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court. **R BPS I D**
- ☒ ☐ 10. If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication. **R BPS I D**
- ☒ ☐ 11. The program has a written policy addressing medically assisted treatment. **R**
- ☐ ☒ 12. The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. **R P BPS II B, BPS X E**
- ☒ ☐ 13. The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. **R P BPS II D**
- ☒ ☐ 14. Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**

YES NO

- ☒ ☐ 15. The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental

health treatment, behavior modification, and community supervision. **P BPS III A**

- ☒ ☐ 16. The judge presides over the Drug Court for no less than two consecutive years.  
**P BPS III B**
- ☒ ☐ 17. Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court. **R BPS III C**
- ☒ ☐ 18. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team. **R BPS III D**
- ☒ ☐ 19. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 20. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 21. The Judge spends an average of at least three minutes with each participant.  
**R- P BPS\* III F**
- ☒ ☐ 22. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 23. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**
- ☒ ☐ 24. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☒ ☐ 25. The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☒ ☐ 26. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**

**YES NO**

- ☒ ☐ 27. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members. **R BPS IV A**
- ☒ ☐ 28. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**
- ☒ ☐ 29. The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**
- ☒ ☐ 30. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**
- ☒ ☐ 31. Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. **R BPS IV F**
- ☒ ☐ 32. The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. **P BPS IV F**
- ☒ ☐ 33. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. **P BPS IV I**
- ☒ ☐ 34. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. **P BPS IV I**
- ☒ ☐ 35. Drug testing is performed at least twice per week. **R BPS VII A\***
- ☒ ☐ 36. Drug testing is random, and is available on weekends and holidays. **R BPS VII B\***
- ☒ ☐ 37. Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. **P BPS VII B**

YES NO

- ☒ ☐ 38. Drug test results are available within 48 hours. **P BPS VII H**
- ☒ ☐ 39. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. **R P BPS VII B**
- ☒ ☐ 40. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population. **P BPS VII D\***
- ☒ ☐ 41. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. **R BPS VII E\*, F\***
- ☒ ☐ 42. ~~The Drug Court~~ Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. **R BPS VII G**
- ☒ ☐ 43. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**
- ☒ ☐ 44. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***
- ☒ ☐ 45. Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 46. The program requires at least 90 days clean to graduate. **R**
- ☒ ☐ 47. The minimum length of the program is twelve months. **R**
- ☒ ☐ 48. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 49. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 50. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**



YES NO

- ☒ ☐ 51. Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☒ ☐ 52. If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program. **R BPS IV K**
- ☒ ☐ 53. The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services. **B BPS V A**
- ☒ ☐ 54. Standardized patient placement criteria govern the level of care that is provided. **P BPS V A**
- ☒ ☐ 55. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure. **P BPS V A**
- ☒ ☐ 56. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. **R BPS V B**
- ☒ ☐ 57. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. **P BPS V D**
- ☒ ☐ 58. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. **P BPS V E**
- ☒ ☐ 59. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. **P BPS V E**
- ☒ ☐ 60. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. **B BPS V E**
- ☒ ☐ 61. Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. **P BPS V F, BPS VI G**

YES NO

- ☒ ☐ 62. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models. **P BPS V F**
- ☒ ☐ 63. Treatment providers are licensed or certified to deliver substance abuse treatment. **R BPS V H**
- ☒ ☐ 64. Treatment providers have substantial experience working with criminal justice populations. **B BPS V H**
- ☒ ☐ 65. Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices. **P BPS V H**
- ☒ ☐ 66. Participants regularly attend self-help or peer support groups in addition to professional counseling. **R BPS V I**
- ☒ ☐ 67. The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models. **R BPS V I**
- ☒ ☐ 68. There is a secular alternative to 12-step peer support groups. **R**
- ☒ ☐ 69. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. **P BPS V I**
- ☒ ☐ 70. Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care. **R BPS V J**
- ☒ ☐ 71. Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court. **P BPS V J**
- ☐ ☒ 72. For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 73. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program. **P BPS VI D**
- ☒ ☐ 74. Participants are not excluded from participation in Drug Court because they lack a stable place of residence. **R BPS VI D**

YES NO

- ☒ ☐ 75. Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. **B** BPS VI E
- ☒ ☐ 76. Participants ~~suffering from~~ diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program. **R** BPS VI E
- ☒ ☐ 77. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). **P** BPS VI F
- ☒ ☐ 78. Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety. **B** BPS VI F
- ☒ ☐ 79. Female participants receive trauma-related services in gender-specific groups. **B** BPS VI F
- ☒ ☐ 80. All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. **P** BPS VI F
- ☒ ☐ 81. Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court. **R** BPS VI I\*
- ☒ ☐ 82. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court. **P** BPS VI I
- ☒ ☐ 83. Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court. **B** BPS VI I
- ☐ ☒ 84. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. **B** BPS VI J
- ☒ ☐ 85. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. **P** BPS VI L

YES NO

- ☒ ☐ 86. Clients are placed in the program within 50 days of arrest. **R P**
- ☒ ☐ 87. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each staffing meeting. **R BPS VIII B\***
- ☒ ☐ 88. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each Drug Court session. **R BPS VIII A\***
- ☒ ☐ 89. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. **R BPS VIII B**
- ☒ ☐ 90. Team members are assigned to Drug Court for no less than two years. **P**
- ☒ ☐ 91. All team members use electronic communication to contemporaneously communicate about Drug Court issues. **P**
- ☒ ☐ 92. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. **R BPS VIII C**
- ☒ ☐ 93. Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. **B BPS VIII F**
- ☒ ☐ 94. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts. **P BPS VIII F**
- ☒ ☐ 95. New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
- ☒ ☐ 96. Court fees are reasonable and based on each participant's ability to pay. **R CJA 4-409(5)(G)**
- ☒ ☐ 97. Treatment fees are based on a sliding fee schedule. **R**
- ☐ ☒ 98. The Drug Court has more than 15 but less than 125 active participants. **P BPS IX A\***

YES NO

- ☒ ☐ 99. Supervision caseloads do not exceed fifty active participants per supervision officer. **B BPS IX B**
- ☒ ☐ 100. Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. **B BPS IX C**
- ☒ ☐ 101. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 102. The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B BPS X B\***
- ☐ ☒ 103. New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court. **P BPS X C**
- ☒ ☐ 104. A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years. **R P BPS X D**
- ☒ ☐ 105. The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R BPS X D**
- ☒ ☐ 106. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes. **B BPS X F**
- ☒ ☐ 107. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P BPS X G**
- ☒ ☐ 108. Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**
- ☒ ☐ 109. The program conducts an exit interview for self-improvement. **P**

Court: Seventh District, Moab

Judge: Manley

Date: ~~august~~ 2019  
November

## Utah Adult Drug Court Certification Checklist 2018

*Standards followed by an **R** are required features of a drug court, and adherence to these standards is required for certification. Standards followed by a **P** indicate a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

*Many of these standards are direct restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, National Association of Drug Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.*

YES NO



1. Eligibility and exclusion criteria are defined and applied objectively. **R**  
BPS I A



2. Eligibility and exclusion criteria are specified in writing. **R** BPS I A



3. Eligibility and exclusion criteria are communicated to potential referral sources.  
**P** BPS I A



4. The program admits only participants who are high risk high need as measured by the RANT or some other approved and validated assessment tool. **R** BPS\* I B

- ☒ ☐ 5. Candidates for the Drug Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population. **R BPS I C**
- ☒ ☐ 6. Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction. **R BPS I C**
- ☒ ☐ 7. Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. **R BPS I C**
- ☒ ☐ 8. Current or prior offenses may not disqualify candidates from participation in the Drug Court if unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court. **R BPS I D**
- ☒ ☐ 9. Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court. **R BPS I D**
- ☒ ☐ 10. If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication. **R BPS I D**
- ☒ ☐ 11. The program has a written policy addressing medically assisted treatment. **R**
- ☐ ☒ 12. The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. **R P BPS II B, BPS X E**
- ☒ ☐ 13. The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. **R P BPS II D**
- ☐ ☒ 14. Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**

**YES NO**

- ☒ ☐ 15. The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental

health treatment, behavior modification, and community supervision. **P BPS III A**

- ☒ ☐ 16. The judge presides over the Drug Court for no less than two consecutive years.  
**P BPS III B**
- ☒ ☐ 17. Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court. **R BPS III C**
- ☒ ☐ 18. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team. **R BPS III D**
- ☒ ☐ 19. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 20. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 21. The Judge spends an average of at least three minutes with each participant.  
**~~R~~ P BPS\* III F**
- ☒ ☐ 22. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 23. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**
- ☒ ☐ 24. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☒ ☐ 25. The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☒ ☐ 26. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**

**YES NO**



- ☒ ☐ 27. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members. **R BPS IV A**
- ☒ ☐ 28. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**
- ☒ ☐ 29. The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**
- ☒ ☐ 30. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**
- ☒ ☐ 31. Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. **R BPS IV F**
- ☒ ☐ 32. The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. **P BPS IV F**
- ☒ ☐ 33. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. **P BPS IV I**
- ☒ ☐ 34. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. **P BPS IV I**
- ☒ ☐ 35. Drug testing is performed at least twice per week. **R BPS VII A\***
- ☒ ☐ 36. Drug testing is random, and is available on weekends and holidays. **R BPS VII B\***
- ☒ ☐ 37. Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. **P BPS VII B**

YES NO

- ☐ ☒ 38. Drug test results are available within 48 hours. 72 P BPS VII H
- ☒ ☐ 39. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. R P BPS VII B
- ☒ ☐ 40. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population. P BPS VII D\*
- ☒ ☐ 41. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. R BPS VII E\*, F\*
- ☒ ☐ 42. ~~The Drug Court~~ Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. R BPS VII G
- ☒ ☐ 43. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). P BPS VII G
- ☒ ☐ 44. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. R BPS VII G\*
- ☒ ☐ 45. Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. R BPS VII I
- ☒ ☐ 46. The program requires at least 90 days clean to graduate. R
- ☒ ☐ 47. The minimum length of the program is twelve months. R
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- ☒ ☐ 49. Jail sanctions are definite in duration and typically last no more than three to five days. R BPS IV J
- ☒ ☐ 50. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. R BPS IV J

YES NO

- ☒ ☐ 51. Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☒ ☐ 52. If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program. **R BPS IV K**
- ☐ ☒ 53. The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services. **B BPS V A**
- ☒ ☐ 54. Standardized patient placement criteria govern the level of care that is provided. **P BPS V A**
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- ☒ ☐ 57. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. **P BPS V D**
- ☒ ☐ 58. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. **P BPS V E**
- ☒ ☐ 59. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. **P BPS V E**
- ☐ ☒ 60. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. **B BPS V E**
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YES NO

- ☒ ☐ 62. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models. **P BPS V F**
- ☒ ☐ 63. Treatment providers are licensed or certified to deliver substance abuse treatment. **R BPS V H**
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- ☒ ☐ 69. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. **P BPS V I**
- ☒ ☐ 70. Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care. **R BPS V J**
- ☒ ☐ 71. Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court. **P BPS V J**
- ☒ ☐ 72. For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 73. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program. **P BPS VI D**
- ☒ ☐ 74. Participants are not excluded from participation in Drug Court because they lack a stable place of residence. **R BPS VI D**

YES NO

- ☒ ☐ 75. Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. **B** BPS VI E
- ☒ ☐ 76. Participants ~~suffering from~~ diagnosed with mental illness receive appropriate mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program. **R** BPS VI E
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- ☒ ☐ 79. Female participants receive trauma-related services in gender-specific groups. **B** BPS VI F
- ☐ ☒ 80. All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. Not all **P** BPS VI F
- ☒ ☐ 81. Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court. **R** BPS VI I\*
- ☒ ☐ 82. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court. **P** BPS VI I
- ☒ ☐ 83. Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court. **B** BPS VI I
- ☐ ☒ 84. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. **B** BPS VI J
- ☒ ☐ 85. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. **P** BPS VI L

**YES NO**

- ☒ ☐ 86. Clients are placed in the program within 50 days of arrest. **R P**
- ☒ ☐ 87. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each staffing meeting. **R BPS VIII B\***
- ☒ ☐ 88. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each Drug Court session. **R BPS VIII A\***
- ☒ ☐ 89. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. **R BPS VIII B**
- ☒ ☐ 90. Team members are assigned to Drug Court for no less than two years. **P**
- ☒ ☐ 91. All team members use electronic communication to contemporaneously communicate about Drug Court issues. **P**
- ☒ ☐ 92. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. **R BPS VIII C**
- ☒ ☐ 93. Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. **B BPS VIII F**
- ☒ ☐ 94. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts. **P BPS VIII F**
- ☒ ☐ 95. New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
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- ☒ ☐ 97. Treatment fees are based on a sliding fee schedule. **R**
- ☒ ☐ 98. The Drug Court has more than 15 but less than 125 active participants. **P BPS IX A\***

YES NO

- ☒ ☐ 99. Supervision caseloads do not exceed fifty active participants per supervision officer. **B BPS IX B**
- ☒ ☐ 100. Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. **B BPS IX C**
- ☒ ☐ 101. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 102. The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B BPS X B\***
- ☐ ☒ 103. New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Drug Court. **P BPS X C**
- ☒ ☐ 104. A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years. **R P BPS X D**
- ☒ ☐ 105. The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R BPS X D**
- ☒ ☐ 106. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes. **B BPS X F**
- ☒ ☐ 107. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P BPS X G**
- ☒ ☐ 108. Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**
- ☒ ☐ 109. The program conducts an exit interview for self-improvement. **P**

Court: Third District, Salt Lake City

Judge: Hansen

Date: August 2019

## Utah Veteran Veterans Court Certification Checklist

September, 2016

*Standards followed by an **R** are required features of a Veteran Court, and adherence to these standards is required for certification. Standards followed by a **P** indicates a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

*Many of these standards are direct restatements of the Adult Veteran Court Best Practice Standards, Volume I, and II, as adopted in 2015 by the National Association of Veteran Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.*

**YES NO**

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 1. Eligibility and exclusion criteria are defined objectively. <b>R BPS I A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 2. Eligibility and exclusion criteria are specified in writing. <b>R BPS I A</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 3. Eligibility and exclusion criteria are communicated to potential referral sources.<br><b>P BPS I A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 4. The Veteran Court team does not apply subjective criteria or personal impressions to determine participants' suitability for the program. <b>R BPS I A</b> |



YES NO

- ☒ ☐ 5. The program admits only participants who are high risk high need as measured by the LSCMI. **R BPS\* I B**
- ☒ ☐ 6. Candidates for the Veteran Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population. **R BPS I C**
- ☒ ☐ 7. Candidates for the Veteran Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction. **R BPS I C**
- ☒ ☐ 8. Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. **R BPS I C**
- ☐ ☒ 9. Current or prior offenses may disqualify candidates from participation in the Veteran Court if empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Veteran Court. **R BPS I D**
- ☒ ☐ 10. Offenders charged with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Veteran Court. **R BPS I D**
- ☒ ☐ 11. If adequate treatment is available, candidates are not disqualified from participation in the Veteran Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication. **R BPS I D**
- ☒ ☐ 12. The program has a written policy addressing medically assisted treatment. **R**
- ☒ ☐ 13. The Veteran Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. **R BPS II B, BPS X E**
- ☒ ☐ 14. The Veteran Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. **R BPS II D**
- ☒ ☐ 15. Each member of the Veteran Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**

YES NO

- ☒ ☐ 16. The Veteran Court judge attends current training events on legal and constitutional issues in Veteran Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
- ☒ ☐ 17. The judge presides over the Veteran Court for no less than two consecutive years. **P BPS III B**
- ☒ ☐ 18. Participants ordinarily appear before the same judge throughout their enrollment in the Veteran Court. **R BPS III C**
- ☒ ☐ 19. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Veteran Court team. **R BPS III D**
- ☒ ☐ 20. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 21. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 22. The Judge spends an average of at least three minutes with each participant. **R BPS\* III F**
- ☒ ☐ 23. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 24. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**
- ☒ ☐ 25. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☒ ☐ 26. The judge makes these decisions after taking into consideration the input of other Veteran Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☒ ☐ 27. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**

YES NO

- ☒ ☐ 28. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Veteran Court participants and team members. **R BPS IV A**
- ☒ ☐ 29. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**
- ☒ ☐ 30. The Veteran Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**
- ☒ ☐ 31. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**
- ☒ ☐ 32. Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. **R BPS IV F**
- ☒ ☐ 33. The Veteran Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. **P BPS IV F**
- ☒ ☐ 34. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. **P BPS IV I**
- ☒ ☐ 35. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. **P BPS IV I**
- ☒ ☐ 36. Drug testing is performed at least twice per week. **R BPS VII A\***
- ☒ ☐ 37. Drug testing is random, and is available on weekends and holidays. **R BPS VII B\***
- ☒ ☐ 38. Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. **P BPS VII B**

YES NO

- ☒ ☐ 39. Drug test results are available within 48 hours. **P BPS VII H**
- ☒ ☐ 40. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. **R BPS VII B**
- ☒ ☐ 41. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Veteran Court population. **P BPS VII D\***
- ☒ ☐ 42. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. **R BPS VII E\*, F\***
- ☒ ☐ 43. The Veteran Court utilizes scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. **R BPS VII G**
- ☒ ☐ 44. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**
- ☒ ☐ 45. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***
- ☒ ☐ 46. Upon entering the Veteran Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 47. The program requires at least 90 days clean to graduate. **R**
- ☒ ☐ 48. The minimum length of the program is twelve months. **R**
- ☒ ☐ 49. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 50. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 51. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**

YES NO

- ☒ ☐ 52. Participants are not terminated from the Veteran Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☒ ☐ 53. If a participant is terminated from the Veteran Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program. **R BPS IV K**
- ☒ ☐ 54. The Veteran Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services. **B BPS V A**
- ☒ ☐ 55. Standardized patient placement criteria govern the level of care that is provided. **P BPS V A**
- ☒ ☐ 56. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Veteran Court's programmatic phase structure. **P BPS V A**
- ☒ ☐ 57. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. **R BPS V B**
- ☒ ☐ 58. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. **P BPS V D**
- ☒ ☐ 59. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. **P BPS V E**
- ☒ ☐ 60. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. **P BPS V E**
- ☒ ☐ 61. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. **B BPS V E**
- ☒ ☐ 62. Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. **P BPS V F, BPS VI G**

YES NO

- ☒ ☐ 63. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models. **P BPS V F**
- ☒ ☐ 64. Treatment providers are licensed or certified to deliver substance abuse treatment. **R BPS V H**
- ☒ ☐ 65. Treatment providers have substantial experience working with criminal justice populations. **B BPS V H**
- ☒ ☐ 66. Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices. **P BPS V H**
- ☒ ☐ 67. Participants regularly attend self-help or peer support groups in addition to professional counseling. **R BPS V I**
- ☒ ☐ 68. The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models. **R BPS V I**
- ☒ ☐ 69. There is a secular alternative to 12-step peer support groups. **R**
- ☒ ☐ 70. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. **P BPS V I**
- ☒ ☐ 71. Participants complete a final phase of the Veteran Court focusing on relapse prevention and continuing care. **R BPS V J**
- ☒ ☐ 72. Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Veteran Court. **P BPS V J**
- ☒ ☐ 73. For at least the first ninety days after discharge from the Veteran Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 74. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Veteran Court and continuing as necessary throughout their enrollment in the program. **P BPS VI D**
- ☒ ☐ 75. Participants are not excluded from participation in Veteran Court because they lack a stable place of residence. **R BPS VI D**

YES NO

- ☒ ☐ 76. Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Veteran Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. **B BPS VI E**
- ☒ ☐ 77. Participants suffering from mental illness receive mental health services beginning in the first phase of Veteran Court and continuing as needed throughout their enrollment in the program. **R BPS VI E**
- ☒ ☐ 78. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). **P BPS VI F**
- ☒ ☐ 79. Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety. **B BPS VI F**
- ☒ ☐ 80. Female participants receive trauma-related services in gender-specific groups. **B BPS VI F**
- ☒ ☐ 81. All Veteran Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. **P BPS VI F**
- ☒ ☐ 82. Participants are not required to participate in job seeking or vocational skills development in the early phases of Veteran Court. **R BPS VI I\***
- ☒ ☐ 83. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Veteran Court. **P BPS VI I**
- ☒ ☐ 84. Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Veteran Court. **B BPS VI I**
- ☒ ☐ 85. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. **B BPS VI J**
- ☒ ☐ 86. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. **P BPS VI L**

YES NO

- ☐ ☒ 87. Clients are placed in the program within 50 days of arrest. **R** takes longer to determine that most are VA eligible.
- ☒ ☐ 88. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each staffing meeting. **R** BPS VIII B\*
- ☒ ☐ 89. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each Veteran Court session. **R** BPS VIII A\*
- ☒ ☐ 90. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. **R** BPS VIII B
- ☒ ☐ 91. Team members are assigned to Veteran Court for no less than two years. **P**
- ☒ ☐ 92. All team members use electronic communication to contemporaneously communicate about Veteran Court issues. **P**
- ☒ ☐ 93. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. **R** BPS VIII C
- ☒ ☐ 94. Before starting a Veteran Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Veteran Courts and develop fair and effective policies and procedures for the program. **B** BPS VIII F
- ☒ ☐ 95. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Veteran Courts. **P** BPS VIII F
- ☒ ☐ 96. New staff hires receive a formal orientation training on the Veteran Court model and best practices in Veteran Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P** BPS VIII F
- ☒ ☐ 97. Court fees are reasonable and based on each participant's ability to pay. **R** CJA 4-409(5)(G)
- ☐ ☒ 98. Treatment fees are based on a sliding fee schedule. **R** None



- ☒ ☐ 99. The Veteran Court has more than 15 but less than 125 active participants. **P BPS IX A\***

**YES NO**

- ☒ ☐ 100. Supervision caseloads do not exceed fifty active participants per supervision officer. **B BPS IX B**
- ☒ ☐ 101. Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. **B BPS IX C**
- ☒ ☐ 102. The Veteran Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
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- ☒ ☐ 109. Outcomes are examined for all eligible participants who entered the Veteran Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**



110. The program conducts an exit interview for self- improvement. **P**

Court: Fourth District, Provo

Judge: Powell

Date: November 2019

## Utah Veteran Veterans Court Certification Checklist

September, 2016

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YES NO

- ☒ ☐ 5. The program admits only participants who are high risk high need as measured by the RANT. R BPS\* I B
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YES NO

- ☒ ☐ 16. The Veteran Court judge attends current training events on legal and constitutional issues in Veteran Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
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- ☒ ☐ 44. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**
- ☒ ☐ 45. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***
- ☒ ☐ 46. Upon entering the Veteran Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 47. The program requires at least 90 days clean to graduate. **R**
- ☒ ☐ 48. The minimum length of the program is twelve months. **R**
- ☒ ☐ 49. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 50. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 51. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**

YES NO

- ☒ ☐ 52. Participants are not terminated from the Veteran Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☒ ☐ 53. If a participant is terminated from the Veteran Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program. **R BPS IV K**
- ☒ ☐ 54. The Veteran Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services. **B BPS V A**
- ☒ ☐ 55. Standardized patient placement criteria govern the level of care that is provided. **P BPS V A**
- ☒ ☐ 56. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Veteran Court's programmatic phase structure. **P BPS V A**
- ☒ ☐ 57. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. **R BPS V B**
- ☒ ☐ 58. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. **P BPS V D**
- ☒ ☐ 59. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. **P BPS V E**
- ☒ ☐ 60. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. **P BPS V E**
- ☒ ☐ 61. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. **B BPS V E**
- ☒ ☐ 62. Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. **P BPS V F, BPS VI G**



YES NO

- ☒ ☐ 63. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models. **P BPS V F**
- ☒ ☐ 64. Treatment providers are licensed or certified to deliver substance abuse treatment. **R BPS V H**
- ☒ ☐ 65. Treatment providers have substantial experience working with criminal justice populations. **B BPS V H**
- ☒ ☐ 66. Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices. **P BPS V H**
- ☒ ☐ 67. Participants regularly attend self-help or peer support groups in addition to professional counseling. **R BPS V I**
- ☒ ☐ 68. The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models. **R BPS V I**
- ☒ ☐ 69. There is a secular alternative to 12-step peer support groups. **R**
- ☒ ☐ 70. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. **P BPS V I**
- ☒ ☐ 71. Participants complete a final phase of the Veteran Court focusing on relapse prevention and continuing care. **R BPS V J**
- ☒ ☐ 72. Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Veteran Court. **P BPS V J**
- ☒ ☐ 73. For at least the first ninety days after discharge from the Veteran Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 74. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Veteran Court and continuing as necessary throughout their enrollment in the program. **P BPS VI D**
- ☒ ☐ 75. Participants are not excluded from participation in Veteran Court because they lack a stable place of residence. **R BPS VI D**

YES NO

- ☒ ☐ 76. Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Veteran Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. **B BPS VI E**
- ☒ ☐ 77. Participants suffering from mental illness receive mental health services beginning in the first phase of Veteran Court and continuing as needed throughout their enrollment in the program. **R BPS VI E**
- ☒ ☐ 78. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). **P BPS VI F**
- ☒ ☐ 79. Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety. **B BPS VI F**
- ☒ ☐ 80. Female participants receive trauma-related services in gender-specific groups. **B BPS VI F**
- ☒ ☐ 81. All Veteran Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. **P BPS VI F**
- ☒ ☐ 82. Participants are not required to participate in job seeking or vocational skills development in the early phases of Veteran Court. **R BPS VI I\***
- ☒ ☐ 83. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Veteran Court. **P BPS VI I**
- ☒ ☐ 84. Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Veteran Court. **B BPS VI I**
- ☒ ☐ 85. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. **B BPS VI J**
- ☒ ☐ 86. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. **P BPS VI L**

YES NO

- ☒ ☐ 87. Clients are placed in the program within 50 days of arrest. **R**
- ☒ ☐ 88. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each staffing meeting. **R BPS VIII B\***
- ☒ ☐ 89. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each Veteran Court session. **R BPS VIII A\***
- ☒ ☐ 90. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. **R BPS VIII B**
- ☒ ☐ 91. Team members are assigned to Veteran Court for no less than two years. **P**
- ☒ ☐ 92. All team members use electronic communication to contemporaneously communicate about Veteran Court issues. **P**
- ☒ ☐ 93. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. **R BPS VIII C**
- ☒ ☐ 94. Before starting a Veteran Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Veteran Courts and develop fair and effective policies and procedures for the program. **B BPS VIII F**
- ☒ ☐ 95. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Veteran Courts. **P BPS VIII F**
- ☒ ☐ 96. New staff hires receive a formal orientation training on the Veteran Court model and best practices in Veteran Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
- ☒ ☐ 97. Court fees are reasonable and based on each participant's ability to pay. **R CJA 4-409(5)(G)**
- ☒ ☐ 98. Treatment fees are based on a sliding fee schedule. **R**

☒ ☐ 99. The Veteran Court has more than 15 but less than 125 active participants. **P BPS IX A\***

**YES NO**

☒ ☐ 100. Supervision caseloads do not exceed fifty active participants per supervision officer. **B BPS IX B**

☒ ☐ 101. Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. **B BPS IX C**

☒ ☐ 102. The Veteran Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**

☒ ☐ 103. The Veteran Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B BPS X B\***

☒ ☐ 104. New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Veteran Court. **P BPS X C**

☒ ☐ 105. A skilled and independent evaluator examines the Veteran Court's adherence to best practices and participant outcomes no less frequently than every five years. **R BPS X D**

☒ ☐ 106. The Veteran Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R BPS X D**

☒ ☐ 107. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Veteran Court's adherence to best practices and in-program outcomes. **B BPS X F**

☒ ☐ 108. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P BPS X G**

☒ ☐ 109. Outcomes are examined for all eligible participants who entered the Veteran Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**



☐ 110. The program conducts an exit interview for self- improvement. **P**

Court: Weber County, Ogden

Judge: DiReda
















Date: August, 2019

**UTAH JUDICIAL COUNCIL**  
**ADULT DUI COURT CERTIFICATION CHECKLIST**

REVISED AND ADOPTED JANUARY 28, 2019

Many of the criteria enumerated in this certification checklist are restatements of the Adult DUI Court Best Practice Standards, Volume I and Volume II, published by the National Association of DUI Court Professionals (NADCP). Those are indicated by a citation in the **BPS** column following the standard. An asterisk indicates a modification of the NADCP standard.

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
	£	1	Eligibility and exclusion criteria are defined and applied objectively.	I.A.
	£	2	Eligibility and exclusion criteria are specified in writing.	I.A.
	£	3	The program admits only participants who are high-risk high-need as measured by the RANT or some other approved and validated assessment tool.	I.B.*
	£	4	Candidates for the DUI Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population.	I.C.
	£	5	Candidates for the DUI Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.	I.C.
	£	6	Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.	I.C.
	£	7	Current or prior offenses may not disqualify candidates from participation in the DUI Court unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a DUI Court.	I.D.
	£	8	Offenders charged with non-DUI charges, DUI dealing or those with violence histories are not excluded automatically from participation in the DUI Court.	I.D.
	£	9	If adequate treatment is available, candidates are not disqualified from participation in the DUI Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.	I.E.
	£	10	The program has a written policy addressing medically assisted treatment.	
	£	11	Participants ordinarily appear before the same judge throughout their enrollment in the DUI Court.	III.C.
	£	12	The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the DUI Court team.	III.D.
	£	13	Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.
	£	14	Status hearings are scheduled no less frequently than every four weeks until participants graduate. In rural areas, some allowance may be made for other appearances or administrative reviews when the judge is unavailable.	III.E.*

YES	NO	#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
	£	15	The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.	III.G.
	£	16	If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations.	IV.B.
	£	17	The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty.	III.H. VIII.D.
	£	18	The judge makes these decisions after taking into consideration the input of other DUI Court team members and discussing the matter in court with the participant or the participant's legal representative.	III.H. VIII.D.
	£	19	The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.	III.H.
	£	20	Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to DUI Court participants and team members.	IV.A.
	£	21	The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination.	IV.A.
	£	22	The DUI Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program.	IV.E.
	£	23	For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions.	IV.E.
	£	24	Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance.	IV.F.
	£	25	DUI testing is performed at least twice per week.	VII.A.*
	£	26	DUI testing is random, and is available on weekends and holidays.	VII.B.*
	£	27	Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration.	VII.E* VII.F.*
	£	28	DUI testing utilized by the DUI Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen.	VII.G.
	£	29	Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field.	VII.G.*



YES NO

#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
30	Upon entering the DUI Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to DUI and alcohol testing.	VII.I.
31	The program requires a period of at least 90 consecutive days DUI-free to graduate.	
32	The minimum length of the program is twelve months.	
33	Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions.	IV.J.
34	Jail sanctions are definite in duration and typically last no more than three to five days.	IV.J.
35	Participants are given access to counsel and a fair hearing if a jail sanction might be imposed.	IV.J.
36	Participants are not terminated from the DUI Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community.	IV.K.
37	If a participant is terminated from the DUI Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.	IV.K.
38	Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters.	V.B.
39	Treatment providers are licensed or certified to deliver substance abuse treatment, as required by the Department of Human Services or other relevant licensure or certification entity.	V.H.*
40	Participants regularly attend self-help or peer support groups in addition to professional counseling.	V.I.
41	The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models.	V.I.
42	There is a secular alternative to 12-step peer support groups.	
43	Participants complete a final phase of the DUI Court focusing on relapse prevention and continuing care.	V.J.
44	Participants are not excluded from participation in DUI Court because they lack a stable place of residence.	VI.D.
45	Participants diagnosed with mental illness receive appropriate mental health services beginning in the first phase of DUI Court and continuing as needed throughout their enrollment in the program.	VI.E.*
46	Participants are not required to participate in job seeking or vocational skills development in the early phases of DUI court.	VI.I.*
47	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each staffing meeting.	VIII.B.*





















YES NO

#	REQUIRED CERTIFICATION CRITERIA <i>Adherence to these standards is required for certification.</i>	BPS
48	At a minimum, the prosecutor / assistant attorney general, defense counsel, treatment representative, law enforcement, a guardian ad litem (in dependency courts), and the judge attend each DUI Court session.	VIII.A.*
49	Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case.	VIII.B.
50	Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements.	VIII.C.
51	Court fees are disclosed to each participant, are reasonable, and are based on each participant's ability to pay. Any fees assessed by the DUI Court must be reasonably related to the costs of testing or other services.	
52	Treatment fees are based on a sliding fee schedule and are disclosed to each participant.	
53	The DUI Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices.	X.D.*
54	The DUI Court has written policies and procedures that ensure confidentiality and security of participant information, which conform to all applicable state and federal laws, including, but not limited to, Utah's Governmental Records Access and Management Act (GRAMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and 42 C.F.R. 2 (Confidentiality of Substance Abuse Disorder Patient Records).	VIII.C.*

YES NO

#	PRESUMED CERTIFICATION CRITERIA <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
1	Eligibility and exclusion criteria are communicated to potential referral sources.	I.A.
2	The DUI Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants.	II.B. X.E.
3	The DUI Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants.	II.D.
4	Each member of the DUI Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups.	II.F.
5	The DUI Court judge attends current training events on legal and constitutional issues in DUI Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision.	III.A.
6	The judge presides over the DUI Court for no less than two consecutive years.	III.B.
7	The Judge spends an average of at least three minutes with each participant.	III.F.*
8	The DUI Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.	IV.F.

YES NO

		<b>PRESUMED CERTIFICATION CRITERIA</b>		<b>BPS</b>
		<b>#</b>	<i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	
	£	9	Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining DUI-abstinent for a specified period of time.	IV.I.
	£	10	Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use.	IV.I.
	£	11	Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day.	VII.B.*
	£	12	DUI test results are available within 48 hours.	VII.H.
	£	13	Participants are required to deliver a test specimen within 8 hours of being notified that a DUI or alcohol test has been scheduled.	VII.B.
	£	14	Randomly selected specimens are tested periodically for a broader range of substances to detect any new DUIs of abuse that might be emerging in the DUI Court population.	VII.D.
	£	15	If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS).	VII.G.
	£	16	Standardized patient placement criteria govern the level of care that is provided.	V.A.
	£	17	Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the DUI Court's programmatic phase structure.	V.A.
	£	18	Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction.	V.D.
	£	19	Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program.	V.E.
	£	20	Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms.	V.E.
	£	21	Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.	V.F. VI.G
	£	22	Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models.	V.F.
	£	23	Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices.	V.H.
	£	24	Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy.	V.I.
	£	25	Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the DUI Court.	V.J.
	£	26	Where indicated, participants receive assistance finding safe, stable, and DUI-free housing beginning in the first phase of DUI Court and continuing as necessary throughout their enrollment in the program.	VI.D.

YES	NO	#	<b>PRESUMED CERTIFICATION CRITERIA</b> <i>There is a presumption that these standards must be met. If your program can show sufficient compensating measures, compliance with the standard may be waived.</i>	BPS
	£	27	Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD).	VI.F.
	£	28	All DUI Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services.	VI.F.
	£	29	Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of DUI Court.	VI.I.
	£	30	Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse DUI overdose.	VI.L.
<input type="checkbox"/>		31	Clients are placed in the program within 50 days of arrest. <i>Some</i>	
	£	32	Team members are assigned to DUI Court for no less than two years.	
	£	33	All team members use electronic communication to contemporaneously communicate about DUI Court issues.	
	£	34	Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, DUI and alcohol testing, team decision making, and constitutional and legal issues in DUI Courts.	VIII.F.
	£	35	New staff hires receive a formal orientation training on the DUI Court model and best practices in DUI Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter.	VIII.F.
	£	36	The DUI Court has more than 15 but less than 125 active participants.	IX.A.*
	£	37	The DUI Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions.	X.A.
<input type="checkbox"/>		38	New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the DUI Court.	X.C.
	£	39	A skilled and independent evaluator examines the DUI Court's adherence to best practices and participant outcomes no less frequently than every five years.	X.D.
	£	40	Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events.	X.G.
	£	41	The program conducts an exit interview for self-improvement.	

YES	NO	#	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b> <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>	BPS
	£	1	The DUI Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.	V.A.



YES NO

#	<b>NON-CERTIFICATION-RELATED BEST PRACTICE STANDARDS</b> <i>These are best practice standards that research has shown will produce better outcomes. Failure to meet these standards will not result in decertification.</i>		BPS
2	£	Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators.	V.E.
3	£	Treatment providers have substantial experience working with criminal justice populations.	V.H.
4	£	For at least the first ninety days after discharge from the DUI Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated.	V.J.
5	£	Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in DUI Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders.	VI.E.
6	£	Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.	VI.F.
7	£	Female participants receive trauma-related services in gender-specific groups.	VI.F.
8	£	Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from DUI Court.	VI.I.
9	£	Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.	VI.J.
10	£	Before starting a DUI Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in DUI Courts and develop fair and effective policies and procedures for the program.	VIII.F.
11	£	Supervision caseloads do not exceed fifty active participants per supervision officer.	IX.B.
12	£	Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services.	IX.C.
13	£	The DUI Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, DUI and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals.	X.B.*
14	£	Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the DUI Court's adherence to best practices and in-program outcomes.	X.F.
15	£	Outcomes are examined for all eligible participants who entered the DUI Court regardless of whether they graduated, withdrew, or were terminated from the program.	X.H.

Court: Box Elder, Brigham City

Judge: Cannell

Date: October, 2019

## Utah Mental Health Court Certification Checklist 2018

*Standards followed by an **R** are required features of a mental health court, and adherence to these standards is required for certification. Standards followed by a **P** indicates a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

*Many of these standards are direct restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, National Association of Drug Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.*

YES NO


☐

1. Eligibility and exclusion criteria are defined and applied objectively. **R**  
BPS I A


☐

2. Eligibility and exclusion criteria are specified in writing. **R** BPS I A


☐

3. Eligibility and exclusion criteria are communicated to potential referral sources.  
**P** BPS I A

YES NO

- ☒ ☐ 4. Candidates for the Mental Health Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population. **R BPS I C**
- ☒ ☐ 5. Candidates for the Mental Health Court are assessed for eligibility using a validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction and a validated clinical assessment tool that produces a mental health diagnosis. **R BPS\* I C**
- ☒ ☐ 6. Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. **R BPS I C**
- ☒ ☐ 7. Current or prior offenses may disqualify candidates from participation in the Mental Health Court if empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Mental Health Court. **R BPS I D**
- ☒ ☐ 8. The Mental Health Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. **P BPS II B, BPS X E**
- ☒ ☐ 9. The Mental Health Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. **P BPS II D**
- ☒ ☐ 10. Each member of the Mental Health Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**
- ☒ ☐ 11. The Mental Health Court judge attends current training events on legal and constitutional issues in Mental Health Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
- ☒ ☐ 12. The judge presides over the Mental Health Court for no less than two consecutive years. **P BPS III B**
- ☒ ☐ 13. Participants ordinarily appear before the same judge throughout their enrollment in the Mental Health Court. **R BPS III C**

**YES NO**

- ☒ ☐ 14. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Mental Health Court team. **R BPS III D**
- ☒ ☐ 15. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 16. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 17. The Judge spends an average of at least three minutes with each participant. **P BPS\* III F**
- ☒ ☐ 18. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 19. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**
- ☒ ☐ 20. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☒ ☐ 21. The judge makes these decisions after taking into consideration the input of other Mental Health Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☒ ☐ 22. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**
- ☒ ☐ 23. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Mental Health Court participants and team members. **R BPS IV A**
- ☒ ☐ 24. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**

YES NO

☒ ☐

25. The Mental Health Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**

☒ ☐

26. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**

☒ ☐

27. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives. **P BPS IV I**

☒ ☐

28. Drug testing is random, and is available on weekends and holidays. **R BPS VII B\***

☒ ☐

29. Drug test results are available within 48 hours. **P BPS VII H**

☒ ☐

30. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. **P BPS VII B**

☒ ☐

31. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Mental Health Court population. **P BPS VII D\***

☒ ☐

32. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. **R BPS VII E\*, F\***

☒ ☐

33. Drug testing utilized by the Mental Health Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. **R BPS VII G**

☒ ☐

34. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**

☒ ☐

35. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***

**YES NO**



- ☒ ☐ 36. Upon entering the Mental Health Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 37. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 38. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 39. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**
- ☒ ☐ 40. If a participant is terminated from the Mental Health Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program. **R BPS IV K**
- ☒ ☐ 41. The Mental Health Court offers a continuum of care for mental health treatment, and substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services. **B BPS V A**
- ☒ ☐ 42. Standardized patient placement criteria govern the level of care that is provided. **P BPS V A**
- ☒ ☐ 43. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Mental Health Court's programmatic phase structure. **P BPS V A**
- ☒ ☐ 44. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to mental health services, detoxification services or sober living quarters. **R BPS V B\***
- ☒ ☐ 45. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. **B BPS V E**
- ☒ ☐ 46. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and psychiatric symptoms. **P BPS V E\***
- ☒ ☐ 47. Participants with co-occurring substance abuse issues regularly attend self-help or peer support groups in addition to professional counseling. **R BPS V I**

**YES NO**

- ☒ ☐ 48. For at least the first ninety days after discharge from the Mental Health Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 49. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Mental Health Court and continuing as necessary throughout their enrollment in the program. **P BPS VI D**
- ☒ ☐ 50. Participants are not excluded from participation in Mental Health Court because they lack a stable place of residence. **R BPS VI D**
- ☒ ☐ 51. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). **P BPS VI F**
- ☒ ☐ 52. Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety. **B BPS VI F**
- ☒ ☐ 53. Female participants receive trauma-related services in gender-specific groups. **B BPS VI F**
- ☒ ☐ 54. All Mental Health Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. **P BPS VI F**
- ☒ ☐ 55. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. **B BPS VI J**
- ☒ ☐ 56. Clients are placed in the program within 50 days of arrest. **P**
- ☒ ☐ 57. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each staffing meeting. **R BPS VIII B\***
- ☒ ☐ 58. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each Mental Health Court session. **R BPS VIII A\***
- ☒ ☐ 59. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. **R BPS VIII B**

YES NO

- ☒ ☐ 60. Team members are assigned to Mental Health Court for no less than two years. **P**
- ☒ ☐ 61. All team members use electronic communication to contemporaneously communicate about Mental Health Court issues. **P**
- ☒ ☐ 62. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. **R BPS VIII C**
- ☒ ☐ 63. Before starting a Mental Health Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. **B BPS VIII F**
- ☒ ☐ 64. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Mental Health Courts. **P BPS VIII F**
- ☒ ☐ 65. New staff hires receive a formal orientation training on the Mental Health Court model and best practices in Mental Health Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
- ☒ ☐ 66. Court fees are reasonable and based on each participant's ability to pay. **R**
- ☒ ☐ 67. Treatment fees are based on a sliding fee schedule. **R**
- ☒ ☐ 68. The Mental Health Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 69. The Mental Health Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B BPS X B\***

**YES NO**

- ☒ ☐ 70. New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Mental Health Court. **P**  
BPS X C
- ☒ ☐ 71. A skilled and independent evaluator examines the Mental Health Court's adherence to best practices and participant outcomes no less frequently than every five years. **P** BPS X D
- ☒ ☐ 72. The Mental Health Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R** BPS X D
- ☒ ☐ 73. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Mental Health Court's adherence to best practices and in-program outcomes. **B** BPS X F
- ☒ ☐ 74. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P** BPS X G
- ☒ ☐ 75. Outcomes are examined for all eligible participants who entered the Mental Health Court regardless of whether they graduated, withdrew, or were terminated from the program. **B** BPS X H
- ☒ ☐ 76. The program conducts an exit interview for self improvement. **P**

Court: Salt Lake Salt Lake City

Judge: Trease

Date: November, 2019

## Utah Mental Health Court Certification Checklist 2018

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YES NO


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BPS I A

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2. Eligibility and exclusion criteria are specified in writing.

**R BPS I A**


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3. Eligibility and exclusion criteria are communicated to potential referral sources.  
P BPS I A

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- ☒ ☐ 4. Candidates for the Mental Health Court are assessed for eligibility using validated risk-assessment tool that has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population. **R BPS I C**
- ☒ ☐ 5. Candidates for the Mental Health Court are assessed for eligibility using a validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction and a validated clinical assessment tool that produces a mental health diagnosis. **R BPS\* I C**
- ☒ ☐ 6. Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. **R BPS I C**
- ☒ ☐ 7. Current or prior offenses may disqualify candidates from participation in the Mental Health Court if empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Mental Health Court. **R BPS I D**
- ☒ ☐ 8. The Mental Health Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. **P BPS II B, BPS X E**
- ☒ ☐ 9. The Mental Health Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. **P BPS II D**
- ☒ ☐ 10. Each member of the Mental Health Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**
- ☒ ☐ 11. The Mental Health Court judge attends current training events on legal and constitutional issues in Mental Health Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
- ☒ ☐ 12. The judge presides over the Mental Health Court for no less than two consecutive years. **P BPS III B**
- ☒ ☐ 13. Participants ordinarily appear before the same judge throughout their enrollment in the Mental Health Court. **R BPS III C**

**YES NO**

- ☒ ☐ 14. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Mental Health Court team. **R BPS III D**
- ☒ ☐ 15. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
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- ☒ ☐ 18. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 19. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**
- ☒ ☐ 20. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☒ ☐ 21. The judge makes these decisions after taking into consideration the input of other Mental Health Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☒ ☐ 22. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**
- ☒ ☐ 23. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Mental Health Court participants and team members. **R BPS IV A**
- ☒ ☐ 24. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**

**YES NO**

- ☒ ☐ 25. The Mental Health Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**
- ☒ ☐ 26. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**
- ☒ ☐ 27. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives. **P BPS IV I**
- ☒ ☐ 28. Drug testing is random, and is available on weekends and holidays. **R BPS VII B\***
- ☒ ☐ 29. Drug test results are available within 48 hours. **P BPS VII H**
- ☒ ☐ 30. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. **P BPS VII B**
- ☒ ☐ 31. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Mental Health Court population. **P BPS VII D\***
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- ☒ ☐ 34. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**
- ☒ ☐ 35. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***

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- ☒ ☐ 36. Upon entering the Mental Health Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
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- ☒ ☐ 38. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
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- ☒ ☐ 41. The Mental Health Court offers a continuum of care for mental health treatment, and substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services. **B BPS V A**
- ☒ ☐ 42. Standardized patient placement criteria govern the level of care that is provided. **P BPS V A**
- ☒ ☐ 43. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Mental Health Court's programmatic phase structure. **P BPS V A**
- ☒ ☐ 44. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to mental health services, detoxification services or sober living quarters. **R BPS V B\***
- ☒ ☐ 45. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. **B BPS V E**
- ☒ ☐ 46. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and psychiatric symptoms. **P BPS V E\***
- ☒ ☐ 47. Participants with co-occurring substance abuse issues regularly attend self-help or peer support groups in addition to professional counseling. **R BPS V I**

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- ☐ ☒ 48. For at least the first ninety days after discharge from the Mental Health Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
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- ☒ ☐ 55. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. **B BPS VI J**
- ☒ ☐ 56. Clients are placed in the program within 50 days of arrest. **P**
- ☒ ☐ 57. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each staffing meeting. **R BPS VIII B\***
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- ☒ ☐ 60. Team members are assigned to Mental Health Court for no less than two years. **P**
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- ☒ ☐ 62. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. **R BPS VIII C**
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- ☒ ☐ 65. New staff hires receive a formal orientation training on the Mental Health Court model and best practices in Mental Health Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
- ☒ ☐ 66. Court fees are reasonable and based on each participant's ability to pay. **R**
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- ☒ ☐ 70. New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Mental Health Court. **P** BPS X C
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- ☒ ☐ 73. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Mental Health Court's adherence to best practices and in-program outcomes. **B** BPS X F
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- ☒ ☐ 76. The program conducts an exit interview for self improvement. **P**

Court: Salt Lake, Salt Lake City

Judge: Brereton

Date: August, 2019

## Utah Mental Health Court Certification Checklist 2018

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**P** BPS I A

YES NO

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 5. Candidates for the Mental Health Court are assessed for eligibility using a validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction and a validated clinical assessment tool that produces a mental health diagnosis. <b>R BPS* I C</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 6. Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. <b>R BPS I C</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 7. Current or prior offenses may disqualify candidates from participation in the Mental Health Court if empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Mental Health Court. <b>R BPS I D</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 8. The Mental Health Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. <b>P BPS II B, BPS X E</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 9. The Mental Health Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. <b>P BPS II D</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 10. Each member of the Mental Health Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. <b>P BPS II F</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 11. The Mental Health Court judge attends current training events on legal and constitutional issues in Mental Health Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. <b>P BPS III A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 12. The judge presides over the Mental Health Court for no less than two consecutive years. <b>P BPS III B</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 13. Participants ordinarily appear before the same judge throughout their enrollment in the Mental Health Court. <b>R BPS III C</b>   |

**YES NO**

- ☒ ☐ 14. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Mental Health Court team. **R BPS III D**
- ☒ ☐ 15. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 16. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 17. The Judge spends an average of at least three minutes with each participant. **P BPS\* III F**
- ☒ ☐ 18. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 19. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**
- ☒ ☐ 20. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☒ ☐ 21. The judge makes these decisions after taking into consideration the input of other Mental Health Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☒ ☐ 22. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**
- ☒ ☐ 23. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Mental Health Court participants and team members. **R BPS IV A**
- ☒ ☐ 24. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**

YES NO

☒ ☐

25. The Mental Health Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**

☒ ☐

26. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**

☒ ☐

27. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives. **P BPS IV I**

☒ ☐

28. Drug testing is random, and is available on weekends and holidays. **R BPS VII B\***

☒ ☐

29. Drug test results are available within 48 hours. **P BPS VII H**

☒ ☐

30. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. **P BPS VII B**

☒ ☐

31. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Mental Health Court population. **P BPS VII D\***

☒ ☐

32. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. **R BPS VII E\*, F\***

☒ ☐

33. Drug testing utilized by the Mental Health Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. **R BPS VII G**

☒ ☐

34. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**

☒ ☐

35. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***

**YES NO**



- ☒ ☐ 36. Upon entering the Mental Health Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 37. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 38. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 39. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**
- ☒ ☐ 40. If a participant is terminated from the Mental Health Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program. **R BPS IV K**
- ☒ ☐ 41. The Mental Health Court offers a continuum of care for mental health treatment, and substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services. **B BPS V A**
- ☒ ☐ 42. Standardized patient placement criteria govern the level of care that is provided. **P BPS V A**
- ☒ ☐ 43. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Mental Health Court's programmatic phase structure. **P BPS V A**
- ☒ ☐ 44. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to mental health services, detoxification services or sober living quarters. **R BPS V B\***
- ☒ ☐ 45. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. **B BPS V E**
- ☒ ☐ 46. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and psychiatric symptoms. **P BPS V E\***
- ☒ ☐ 47. Participants with co-occurring substance abuse issues regularly attend self-help or peer support groups in addition to professional counseling. **R BPS V I**

**YES NO**

- ☒ ☐ 48. For at least the first ninety days after discharge from the Mental Health Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 49. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Mental Health Court and continuing as necessary throughout their enrollment in the program. **P BPS VI D**
- ☒ ☐ 50. Participants are not excluded from participation in Mental Health Court because they lack a stable place of residence. **R BPS VI D**
- ☒ ☐ 51. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). **P BPS VI F**
- ☒ ☐ 52. Participants with PTSD or severe trauma-related symptoms are evaluated for their suitability for group interventions and are treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety. **B BPS VI F**
- ☒ ☐ 53. Female participants receive trauma-related services in gender-specific groups. **B BPS VI F**
- ☒ ☐ 54. All Mental Health Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. **P BPS VI F**
- ☒ ☐ 55. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. **B BPS VI J**
- ☐ ☒ 56. Clients are placed in the program within 50 days of arrest. **P**
- ☒ ☐ 57. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each staffing meeting. **R BPS VIII B\***
- ☒ ☐ 58. At a minimum, the prosecutor, defense counsel, treatment representative, law enforcement and the judge attend each Mental Health Court session. **R BPS VIII A\***
- ☒ ☐ 59. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. **R BPS VIII B**

YES NO

- ☒ ☐ 60. Team members are assigned to Mental Health Court for no less than two years. **P**
- ☒ ☐ 61. All team members use electronic communication to contemporaneously communicate about Mental Health Court issues. **P**
- ☒ ☐ 62. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. **R BPS VIII C**
- ☒ ☐ 63. Before starting a Mental Health Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. **B BPS VIII F**
- ☒ ☐ 64. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Mental Health Courts. **P BPS VIII F**
- ☒ ☐ 65. New staff hires receive a formal orientation training on the Mental Health Court model and best practices in Mental Health Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
- ☒ ☐ 66. Court fees are reasonable and based on each participant's ability to pay. **R**
- ☒ ☐ 67. Treatment fees are based on a sliding fee schedule. **R**
- ☒ ☐ 68. The Mental Health Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 69. The Mental Health Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B BPS X B\***

**YES NO**

- ☒ ☐ 70. New arrests, new convictions, and new incarcerations are monitored for at least three years following each participant's entry into the Mental Health Court. **P BPS X C**
- ☒ ☐ 71. A skilled and independent evaluator examines the Mental Health Court's adherence to best practices and participant outcomes no less frequently than every five years. **P BPS X D**
- ☒ ☐ 72. The Mental Health Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R BPS X D**
- ☒ ☐ 73. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Mental Health Court's adherence to best practices and in-program outcomes. **B BPS X F**
- ☒ ☐ 74. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P BPS X G**
- ☒ ☐ 75. Outcomes are examined for all eligible participants who entered the Mental Health Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**
- ☒ ☐ 76. The program conducts an exit interview for self improvement. **P**

**Court: Second District, Ogden**

**Judge: Dillon**

Date: August, 2019

# Utah Dependency Drug Court Certification Checklist

## 2018

*Standards followed by an **R** are required features of a drug court, and adherence to these standards is required for certification. Standards followed by a **P** indicates a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

*Many of these standards are direct restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, National Association of Drug Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.*

**YES    NO**



1. Eligibility and exclusion criteria are defined and applied respectively.

☐

2. Eligibility and exclusion criteria are specified in writing.

☐

3. Eligibility and exclusion criteria are communicated to potential referral sources. **P BPS IA**

**YES NO**

- |                                     |                                     |     |  |
|-------------------------------------|-------------------------------------|-----|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 5.  | The program admits only participants who are high risk high need as measured by the RANT or some other approved and validated assessment tool, or participants who are at high risk for re-abusing the children and they are addicted to or dependent on a substance.<br><b>R BPS* I B</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 6.  | Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.<br><b>R BPS I C</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 7.  | Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. <b>R BPS I C</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 8.  | Current or prior offenses may not disqualify candidates from participation in the Drug Court if-unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court. <b>R BPS I D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 9.  | Offenders with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court. <b>R BPS I D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 10  | If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.<br><b>R BPS I D</b>                |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 11. | The program has a written policy addressing medically assisted treatment. <b>R</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 12. | The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. <b>R P BPS II B, BPS X</b>  |
|                                     |                                     |     | <b>E</b>   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 13. | The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. <b>R- P BPS II D</b>  |

YES NO

- ☒ ☐ 14. Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**
- ☒ ☐ 15. The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
- ☒ ☐ 16. The judge presides over the Drug Court for no less than two consecutive years. **P BPS III B**
- ☒ ☐ 17. Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court. **R BPS III C**
- ☒ ☐ 18. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team. **R BPS III D**
- ☒ ☐ 19. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 20. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 21. The Judge spends an average of at least three minutes with each participant. **R P BPS\* III F**
- ☒ ☐ 22. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 23. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**

**YES NO**

- ☒ ☐ 24. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☒ ☐ 25. The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☒ ☐ 26. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**
- ☒ ☐ 27. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members. **R BPS IV A**
- ☒ ☐ 28. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**
- ☒ ☐ 29. The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**
- ☒ ☐ 30. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**
- ☒ ☐ 31. Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. **R BPS IV F**



YES NO

- ☒ ☐ 32. The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. P BPS IV F
- ☒ ☐ 33. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. P BPS IV I
- ☒ ☐ 34. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. P BPS IV I
- ☒ ☐ 35. Drug testing is performed at least twice per week. R BPS VII A\*
- ☒ ☐ 36. Drug testing is random, and is available on weekends and holidays. R BPS VII B\*
- ☒ ☐ 37. Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. P BPS VII B
- ☒ ☐ 38. Drug test results are available within 48 hours. P BPS VII H
- ☒ ☐ 39. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. R P BPS VII B
- ☒ ☐ 40. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population. P BPS VII D\*
- ☒ ☐ 41. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. R BPS VII E\*, F\*
- ☒ ☐ 42. ~~The Drug Court~~ - Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. R BPS VII G

YES NO

- ☒ ☐ 43. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**
- ☒ ☐ 44. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***
- ☒ ☐ 45. Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 46. The program requires at least 90 days clean to graduate. **B**
- ☒ ☐ 47. The minimum length of the program is twelve months. **B**
- ☒ ☐ 48. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 49. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 50. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**
- ☒ ☐ 51. Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☒ ☐ 52. If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented disposition for failing to complete the program. **P BPS IV K\***

- | YES                                 | NO                       |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 53. The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.<br><b>B BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 54. Standardized patient placement criteria govern the level of care that is provided. <b>P BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 55. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure. <b>P BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 56. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. <b>R BPS V B</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 57. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. <b>P BPS V D</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 58. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. <b>P BPS V E</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 59. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. <b>P BPS V E</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 60. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. <b>B BPS V E</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 61. Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. <b>B BPS V F, BPS VI G</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 62. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models. <b>P BPS V F</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 63. Treatment providers are licensed or certified to deliver substance abuse treatment. <b>R BPS V H</b>  |

YES NO

- ☒ ☐ 64. Treatment providers have substantial experience working with criminal justice populations. **B BPS V H**
- ☒ ☐ 65. Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices. **P BPS V H**
- ☒ ☐ 66. Participants regularly attend self-help or peer support groups in addition to professional counseling. **P BPS V I**
- ☒ ☐ 67. The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models. **R BPS V I**
- ☒ ☐ 68. There is a secular alternative to 12-step peer support groups. **R**
- ☒ ☐ 69. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. **P BPS V I**
- ☒ ☐ 70. Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care. **R BPS V J**
- ☒ ☐ 71. Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court. **P BPS V J**
- ☒ ☐ 72. For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 73. Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. **B BPS IX C**

- | YES                                 | NO                       |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 74. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program. <b>P BPS VI D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 75. Participants are not excluded from participation in Drug Court because they lack a stable place of residence. <b>R BPS VI D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 76. Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. <b>B BPS VI E</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 77. Participants <del>suffering from</del> diagnosed with mental illness receive mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program. <b>R BPS VI E</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 78. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). <b>P BPS VI F</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 79. Female participants receive trauma-related services in gender-specific groups. <b>B BPS VI F</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 80. All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. <b>P BPS VI F</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 81. Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court. <b>R BPS VI I*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 82. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court. <b>P BPS VI I</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 83. Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court. <b>B BPS VI I</b>   |

- | YES                                 | NO                                  |   |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 84. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. <b>B BPS VI J</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 85. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. <b>P BPS VI</b>   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 86. Clients are placed in the program within 50 days of shelter hearing. <del><b>R-P</b></del>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 87. At a minimum, the attorney general, defense counsel, treatment representative, DCFS case worker, GAL and the judge attend each staffing meeting. <b>R BPS VIII B*</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 88. At a minimum, the attorney general, defense counsel, treatment representative, DCFS caseworker, GAL and the judge attend each Drug Court session. <b>R BPS VIII A*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 89. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. <b>R BPS VIII B</b>                                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 90. Team members are assigned to Drug Court for no less than two years. <b>P</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 91. All team members use electronic communication to contemporaneously communicate about Drug Court issues. <b>P</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 92. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. <b>R BPS VIII C</b>                          |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 93. Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. <b>B BPS VIII F</b> |

YES NO

- ☒ ☐ 94. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts. **P BPS VIII F**
- ☒ ☐ 95. New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
- ☒ ☐ 96. Court fees are reasonable and based on each participant's ability to pay. **R**
- ☒ ☐ 97. Treatment fees are based on a sliding fee schedule. **R**
- ☒ ☐ 98. The Drug Court has more than 15 but less than 125 active participants. **P BPS IX A\***
- ☒ ☐ 99. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 100. The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B BPS X B\***
- ☒ ☐ 101. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 102. A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years. **R P BPS X D**

- ☒ ☐ 103. The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R BPS X D**

**YES NO**

- ☒ ☐ 104. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes. **B BPS X F**

- ☒ ☐ 105. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P BPS X G**

- ☒ ☐ 106. Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**

- ☒ ☐ 107. The program conducts an exit interview for self improvement.  
**P**



Court: Weber, Ogden

Judge: Heward

Date: December, 2019

## Utah Dependency Drug Court Certification Checklist 2018

*Standards followed by an **R** are required features of a drug court, and adherence to these standards is required for certification. Standards followed by a **P** indicates a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

*Many of these standards are direct restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, National Association of Drug Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.*

**YES   NO**

☒
☐

1. Eligibility and exclusion criteria are defined and applied objectively. **R BPS I A**

☒
☐

2. Eligibility and exclusion criteria are specified in writing. **R BPS I A**

☒
☐

3. Eligibility and exclusion criteria are communicated to potential referral sources. **P BPS I A**

**YES   NO**

- |  |     |  |
|--|-----|--|
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 5.  | The program admits only participants who are high risk high need as measured by the RANT or some other approved and validated assessment tool, or participants who are at high risk for re-abusing the children and they are addicted to or dependent on a substance.<br><b>R BPS* I B</b> |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 6.  | Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.<br><b>R BPS I C</b>  |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 7.  | Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. <b>R BPS I C</b>  |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 8.  | Current or prior offenses may not disqualify candidates from participation in the Drug Court if-unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court. <b>R BPS I D</b>   |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 9.  | Offenders with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court. <b>R BPS I D</b>   |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 10  | If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.<br><b>R BPS I D</b>                |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 11. | The program has a written policy addressing medically assisted treatment. <b>R</b>   |
| <input type="checkbox"/> <input checked="" type="checkbox"/> | 12. | The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. <b>R P BPS II B, BPS X</b>  |
| E  |     |  |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | 13. | The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. <b>R- P BPS II D</b>  |

YES NO

- ☒ ☐ 14. Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**
- ☒ ☐ 15. The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
- ☒ ☐ 16. The judge presides over the Drug Court for no less than two consecutive years. **P BPS III B**
- ☒ ☐ 17. Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court. **R BPS III C**
- ☒ ☐ 18. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team. **R BPS III D**
- ☒ ☐ 19. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 20. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 21. The Judge spends an average of at least three minutes with each participant. **R P BPS\* III F**
- ☒ ☐ 22. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 23. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**

**YES NO**

- ☒ ☐ 24. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R** BPS III H, BPS VIII D
- ☒ ☐ 25. The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative. **R** BPS III H, BPS VIII D
- ☒ ☐ 26. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R** BPS III H
- ☒ ☐ 27. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members. **R** BPS IV A
- ☒ ☐ 28. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R** BPS IV A
- ☒ ☐ 29. The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R** BPS IV A
- ☒ ☐ 30. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R** BPS IV A
- ☒ ☐ 31. Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. **R** BPS IV F

YES NO

- ☒ ☐ 32. The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. P BPS IV F
- ☒ ☐ 33. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. P BPS IV I
- ☒ ☐ 34. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. P BPS IV I
- ☒ ☐ 35. Drug testing is performed at least twice per week. R BPS VII A\*
- ☒ ☐ 36. Drug testing is random, and is available on weekends and holidays. R BPS VII B\*
- ☒ ☐ 37. Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. P BPS VII B
- ☒ ☐ 38. Drug test results are available within 48 hours. P BPS VII H
- ☒ ☐ 39. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. R P BPS VII B
- ☒ ☐ 40. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population. P BPS VII D\*
- ☒ ☐ 41. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. R BPS VII E\*, F\*
- ☒ ☐ 42. ~~The Drug Court~~ - Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. R BPS VII G

YES NO

- ☒ ☐ 43. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**
- ☒ ☐ 44. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***
- ☒ ☐ 45. Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 46. The program requires at least 90 days clean to graduate. **B**
- ☒ ☐ 47. The minimum length of the program is twelve months. **B**
- ☒ ☐ 48. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 49. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 50. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**
- ☒ ☐ 51. Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☒ ☐ 52. If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented disposition for failing to complete the program. **P BPS IV K\***

- | YES                                 | NO                       |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 53. The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.<br><b>B BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 54. Standardized patient placement criteria govern the level of care that is provided. <b>P BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 55. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure. <b>P BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 56. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. <b>R BPS V B</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 57. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. <b>P BPS V D</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 58. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. <b>P BPS V E</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 59. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. <b>P BPS V E</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 60. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. <b>B BPS V E</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 61. Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. <b>B BPS V F, BPS VI G</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 62. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models. <b>P BPS V F</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 63. Treatment providers are licensed or certified to deliver substance abuse treatment. <b>R BPS V H</b>  |

YES NO

- ☒ ☐ 64. Treatment providers have substantial experience working with criminal justice populations. **B BPS V H**
- ☒ ☐ 65. Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices. **P BPS V H**
- ☒ ☐ 66. Participants regularly attend self-help or peer support groups in addition to professional counseling. **P BPS V I**
- ☒ ☐ 67. The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models. **R BPS V I**
- ☒ ☐ 68. There is a secular alternative to 12-step peer support groups. **R**
- ☒ ☐ 69. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. **P BPS V I**
- ☒ ☐ 70. Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care. **R BPS V J**
- ☒ ☐ 71. Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court. **P BPS V J**
- ☒ ☐ 72. For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 73. Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. **B BPS IX C**



- | YES                                 | NO                       |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 74. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program. <b>P BPS VI D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 75. Participants are not excluded from participation in Drug Court because they lack a stable place of residence. <b>R BPS VI D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 76. Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. <b>B BPS VI E</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 77. Participants <del>suffering from</del> diagnosed with mental illness receive mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program. <b>R BPS VI E</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 78. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). <b>P BPS VI F</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 79. Female participants receive trauma-related services in gender-specific groups. <b>B BPS VI F</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 80. All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. <b>P BPS VI F</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 81. Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court. <b>R BPS VI I*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 82. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court. <b>P BPS VI I</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 83. Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court. <b>B BPS VI I</b>   |

- | YES                                 | NO                                  |   |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 84. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. <b>B BPS VI J</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 85. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. <b>P BPS VI</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 86. Clients are placed in the program within 50 days of shelter hearing. <del><b>R-P</b></del>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 87. At a minimum, the attorney general, defense counsel, treatment representative, DCFS case worker, GAL and the judge attend each staffing meeting. <b>R BPS VIII B*</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 88. At a minimum, the attorney general, defense counsel, treatment representative, DCFS caseworker, GAL and the judge attend each Drug Court session. <b>R BPS VIII A*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 89. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. <b>R BPS VIII B</b>                                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 90. Team members are assigned to Drug Court for no less than two years. <b>P</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 91. All team members use electronic communication to contemporaneously communicate about Drug Court issues. <b>P</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 92. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. <b>R BPS VIII C</b>                          |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 93. Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. <b>B BPS VIII F</b> |

YES NO

- ☒ ☐ 94. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts. **P BPS VIII F**
- ☒ ☐ 95. New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
- ☒ ☐ 96. Court fees are reasonable and based on each participant's ability to pay. **R**
- ☒ ☐ 97. Treatment fees are based on a sliding fee schedule. **R**
- ☒ ☐ 98. The Drug Court has more than 15 but less than 125 active participants. **P BPS IX A\***
- ☒ ☐ 99. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 100. The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B BPS X B\***
- ☒ ☐ 101. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 102. A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years. **R P BPS X D**

- ☒ ☐ 103. The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R BPS X D**

**YES NO**

- ☒ ☐ 104. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes. **B BPS X F**
- ☒ ☐ 105. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P BPS X G**
- ☒ ☐ 106. Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**
- ☒ ☐ 107. The program conducts an exit interview for self improvement.  
**P**

Court: Utah County, Provo

Judge: Bazzell

Date: November, 2019

## Utah Dependency Drug Court Certification Checklist 2018

*Standards followed by an **R** are required features of a drug court, and adherence to these standards is required for certification. Standards followed by a **P** indicates a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

*Many of these standards are direct restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, National Association of Drug Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.*

**YES   NO**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> <input type="checkbox"/> | <p>1.      Eligibility and exclusion criteria are defined and applied objectively.      <b>R   BPS I A</b></p>            |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | <p>2.      Eligibility and exclusion criteria are specified in writing.      <b>R   BPS I A</b></p>                       |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | <p>3.      Eligibility and exclusion criteria are communicated to potential referral sources.      <b>P   BPS I A</b></p> |

**YES   NO**

- |  |     |   |
|--|-----|---|
| <div style="display: flex; align-items: center;"> <div style="width: 20px; height: 20px; background-color: black; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; margin-right: 5px;"></div> </div> | 5.  | <div style="text-align: right; margin-bottom: 5px;"><div style="border: 1px solid black; width: 20px; height: 20px;"></div></div> <p>The program admits only participants who are high risk high need as measured by the RANT or some other approved and validated assessment tool, or participants who are at high risk for re-abusing the children and they are addicted to or dependent on a substance.</p> <p style="text-align: center;"><b>R BPS* I B</b></p> |
| <div style="display: flex; align-items: center;"> <div style="width: 20px; height: 20px; background-color: black; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; margin-right: 5px;"></div> </div> | 6.  | <p>Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.</p> <p><b>R BPS I C</b></p>  |
| <div style="display: flex; align-items: center;"> <div style="width: 20px; height: 20px; background-color: black; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; margin-right: 5px;"></div> </div> | 7.  | <p>Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. <b>R BPS I C</b></p>  |
| <div style="display: flex; align-items: center;"> <div style="width: 20px; height: 20px; background-color: black; margin-right: 5px;"></div> <div style="border: 1px solid black; width: 20px; height: 20px; margin-right: 5px;"></div> </div> | 8.  | <p>Current or prior offenses may not disqualify candidates from participation in the Drug Court if-unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court. <b>R BPS I D</b></p>   |
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**YES NO**

- ☒ ☐ 14. Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**
- ☒ ☐ 15. The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
- ☒ ☐ 16. The judge presides over the Drug Court for no less than two consecutive years. **P BPS III B**
- ☒ ☐ 17. Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court. **R BPS III C**
- ☒ ☐ 18. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team. **R BPS III D**
- ☒ ☐ 19. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 20. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 21. The Judge spends an average of at least three minutes with each participant. **R P BPS\* III F**
- ☒ ☐ 22. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 23. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**

**YES NO**

- ☒ ☐ 24. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R** BPS III H, BPS VIII D
- ☒ ☐ 25. The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative. **R** BPS III H, BPS VIII D
- ☒ ☐ 26. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R** BPS III H
- ☒ ☐ 27. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members. **R** BPS IV A
- ☒ ☐ 28. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R** BPS IV A
- ☒ ☐ 29. The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R** BPS IV A
- ☒ ☐ 30. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R** BPS IV A
- ☒ ☐ 31. Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. **R** BPS IV F



YES NO

- ☒ ☐ 32. The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. **P BPS IV F**
- ☒ ☐ 33. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. **P BPS IV I**
- ☒ ☐ 34. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. **P BPS IV I**
- ☒ ☐ 35. Drug testing is performed at least twice per week. **R BPS VII A\***
- ☒ ☐ 36. Drug testing is random, and is available on weekends and holidays. **R BPS VII B\***
- ☒ ☐ 37. Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. **P BPS VII B**
- ☒ ☐ 38. Drug test results are available within 48 hours. **P BPS VII H**
- ☒ ☐ 39. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. **R P BPS VII B**
- ☒ ☐ 40. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population. **P BPS VII D\***
- ☒ ☐ 41. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. **R BPS VII E\*, F\***
- ☒ ☐ 42. ~~The Drug Court~~ - Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. **R BPS VII G**

YES NO

- ☒ ☐ 43. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**
- ☒ ☐ 44. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***
- ☒ ☐ 45. Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 46. The program requires at least 90 days clean to graduate. **B**
- ☐ ☒ 47. The minimum length of the program is twelve months. **B**
- ☒ ☐ 48. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 49. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 50. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**
- ☒ ☐ 51. Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☒ ☐ 52. If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented disposition for failing to complete the program. **P BPS IV K\***

- | YES                                 | NO                       |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 53. The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.<br><b>B BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 54. Standardized patient placement criteria govern the level of care that is provided. <b>P BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 55. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure. <b>P BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 56. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. <b>R BPS V B</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 57. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. <b>P BPS V D</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 58. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. <b>P BPS V E</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 59. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. <b>P BPS V E</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 60. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. <b>B BPS V E</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 61. Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. <b>B BPS V F, BPS VI G</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 62. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models. <b>P BPS V F</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 63. Treatment providers are licensed or certified to deliver substance abuse treatment. <b>R BPS V H</b>  |

YES NO

- ☒ ☐ 64. Treatment providers have substantial experience working with criminal justice populations. **B BPS V H**
- ☒ ☐ 65. Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices. **P BPS V H**
- ☒ ☐ 66. Participants regularly attend self-help or peer support groups in addition to professional counseling. **P BPS V I**
- ☒ ☐ 67. The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models. **R BPS V I**
- ☒ ☐ 68. There is a secular alternative to 12-step peer support groups. **R**
- ☒ ☐ 69. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. **P BPS V I**
- ☒ ☐ 70. Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care. **R BPS V J**
- ☒ ☐ 71. Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court. **P BPS V J**
- ☒ ☐ 72. For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 73. Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. **B BPS IX C**

YES NO

- ☒ ☐ 74. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program. **P BPS VI D**
- ☒ ☐ 75. Participants are not excluded from participation in Drug Court because they lack a stable place of residence. **R BPS VI D**
- ☒ ☐ 76. Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. **B BPS VI E**
- ☒ ☐ 77. Participants ~~suffering from~~ diagnosed with mental illness receive mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program. **R BPS VI E**
- ☒ ☐ 78. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). **P BPS VI F**
- ☒ ☐ 79. Female participants receive trauma-related services in gender-specific groups. **B BPS VI F**
- ☒ ☐ 80. All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. **P BPS VI F**
- ☒ ☐ 81. Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court. **R BPS VI I\***
- ☒ ☐ 82. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court. **P BPS VI I**
- ☒ ☐ 83. Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court. **B BPS VI I**

- | YES                                 | NO                                  |   |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 84. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. <b>B BPS VI J</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 85. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. <b>P BPS VI</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 86. Clients are placed in the program within 50 days of shelter hearing. <del><b>R-P</b></del>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 87. At a minimum, the attorney general, defense counsel, treatment representative, DCFS case worker, GAL and the judge attend each staffing meeting. <b>R BPS VIII B*</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 88. At a minimum, the attorney general, defense counsel, treatment representative, DCFS caseworker, GAL and the judge attend each Drug Court session. <b>R BPS VIII A*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 89. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. <b>R BPS VIII B</b>                                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 90. Team members are assigned to Drug Court for no less than two years. <b>P</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 91. All team members use electronic communication to contemporaneously communicate about Drug Court issues. <b>P</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 92. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. <b>R BPS VIII C</b>                          |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 93. Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. <b>B BPS VIII F</b> |

YES NO

- ☒ ☐ 94. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts. **P BPS VIII F**
- ☒ ☐ 95. New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**
- ☒ ☐ 96. Court fees are reasonable and based on each participant's ability to pay. **R**
- ☒ ☐ 97. Treatment fees are based on a sliding fee schedule. **R**
- ☐ ☒ 98. The Drug Court has more than 15 but less than 125 active participants. **P BPS IX A\***
- ☒ ☐ 99. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 100. The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B BPS X B\***
- ☒ ☐ 101. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**
- ☒ ☐ 102. A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years. **R P BPS X D**

- ☒ ☐ 103. The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R BPS X D**
- YES NO**
- ☒ ☐ 104. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes. **B BPS X F**
- ☒ ☐ 105. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P BPS X G**
- ☒ ☐ 106. Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**
- ☒ ☐ 107. The program conducts an exit interview for self improvement.  
**P**



Court: Utah county, Spanish folk

Judge: Smith

Date: November 2019

## Utah Dependency Drug Court Certification Checklist 2018

*Standards followed by an **R** are required features of a drug court, and adherence to these standards is required for certification. Standards followed by a **P** indicates a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

*Many of these standards are direct restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, National Association of Drug Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.*

**YES    NO**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> <input type="checkbox"/> | <p>1.      Eligibility and exclusion criteria are defined and applied objectively.      <b>R   BPS I A</b></p>            |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | <p>2.      Eligibility and exclusion criteria are specified in writing.      <b>R   BPS I A</b></p>                       |
| <input checked="" type="checkbox"/> <input type="checkbox"/> | <p>3.      Eligibility and exclusion criteria are communicated to potential referral sources.      <b>P   BPS I A</b></p> |

**YES    NO**

- |  |     |  |
|--|-----|--|
| <div style="display: flex; align-items: center;"> <div style="width: 20px; height: 20px; background-color: black; margin-right: 5px;"></div> <div style="width: 20px; height: 20px; border: 1px solid black; margin-right: 5px;"></div> </div> | 5.  | <div style="display: flex; align-items: center; justify-content: flex-end;"> <div style="width: 20px; height: 20px; border: 1px solid black; margin-right: 5px;"></div> </div> <p>The program admits only participants who are high risk high need as measured by the RANT or some other approved and validated assessment tool, or participants who are at high risk for re-abusing the children and they are addicted to or dependent on a substance.</p> <p style="text-align: center;"><b>R BPS* I B</b></p> |
| <div style="display: flex; align-items: center;"> <div style="width: 20px; height: 20px; background-color: black; margin-right: 5px;"></div> <div style="width: 20px; height: 20px; border: 1px solid black; margin-right: 5px;"></div> </div> | 6.  | <p>Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.</p> <p><b>R BPS I C</b></p>   |
| <div style="display: flex; align-items: center;"> <div style="width: 20px; height: 20px; background-color: black; margin-right: 5px;"></div> <div style="width: 20px; height: 20px; border: 1px solid black; margin-right: 5px;"></div> </div> | 7.  | <p>Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. <b>R BPS I C</b></p>   |
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| <div style="display: flex; align-items: center;"> <div style="width: 20px; height: 20px; background-color: black; margin-right: 5px;"></div> <div style="width: 20px; height: 20px; border: 1px solid black; margin-right: 5px;"></div> </div> | 9.  | <p>Offenders with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court. <b>R BPS I D</b></p>  |
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| E  |     |  |
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**YES NO**

- ☒ ☐ 14. Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**
- ☒ ☐ 15. The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
- ☒ ☐ 16. The judge presides over the Drug Court for no less than two consecutive years. **P BPS III B**
- ☒ ☐ 17. Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court. **R BPS III C**
- ☒ ☐ 18. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team. **R BPS III D**
- ☒ ☐ 19. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 20. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 21. The Judge spends an average of at least three minutes with each participant. **R P BPS\* III F**
- ☒ ☐ 22. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 23. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**

**YES NO**

- ☒ ☐ 24. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☒ ☐ 25. The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☒ ☐ 26. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**
- ☒ ☐ 27. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members. **R BPS IV A**
- ☒ ☐ 28. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**
- ☒ ☐ 29. The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**
- ☒ ☐ 30. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**
- ☒ ☐ 31. Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. **R BPS IV F**

YES NO

- ☒ ☐ 32. The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. P BPS IV F
- ☒ ☐ 33. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. P BPS IV I
- ☒ ☐ 34. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. P BPS IV I
- ☒ ☐ 35. Drug testing is performed at least twice per week. R BPS VII A\*
- ☒ ☐ 36. Drug testing is random, and is available on weekends and holidays. R BPS VII B\*
- ☒ ☐ 37. Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. P BPS VII B
- ☒ ☐ 38. Drug test results are available within 48 hours. P BPS VII H
- ☒ ☐ 39. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. R P BPS VII B
- ☒ ☐ 40. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population. P BPS VII D\*
- ☒ ☐ 41. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. R BPS VII E\*, F\*
- ☒ ☐ 42. ~~The Drug Court~~ - Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. R BPS VII G

YES NO

- ☒ ☐ 43. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**
- ☒ ☐ 44. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***
- ☒ ☐ 45. Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 46. The program requires at least 90 days clean to graduate. **B**
- ☒ ☐ 47. The minimum length of the program is twelve months. **B**
- ☒ ☐ 48. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 49. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 50. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**
- ☒ ☐ 51. Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☒ ☐ 52. If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented disposition for failing to complete the program. **P BPS IV K\***

- | YES                                 | NO                       |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 53. The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.<br><b>B BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 54. Standardized patient placement criteria govern the level of care that is provided. <b>P BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 55. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure. <b>P BPS V A</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 56. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. <b>R BPS V B</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 57. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. <b>P BPS V D</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 58. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. <b>P BPS V E</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 59. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. <b>P BPS V E</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 60. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. <b>B BPS V E</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 61. Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. <b>B BPS V F, BPS VI G</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 62. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models. <b>P BPS V F</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 63. Treatment providers are licensed or certified to deliver substance abuse treatment. <b>R BPS V H</b>  |

YES NO

- ☒ ☐ 64. Treatment providers have substantial experience working with criminal justice populations. **B BPS V H**
- ☒ ☐ 65. Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices. **P BPS V H**
- ☒ ☐ 66. Participants regularly attend self-help or peer support groups in addition to professional counseling. **P BPS V I**
- ☒ ☐ 67. The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models. **R BPS V I**
- ☒ ☐ 68. There is a secular alternative to 12-step peer support groups. **R**
- ☒ ☐ 69. Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. **P BPS V I**
- ☒ ☐ 70. Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care. **R BPS V J**
- ☒ ☐ 71. Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court. **P BPS V J**
- ☒ ☐ 72. For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. **B BPS V J**
- ☒ ☐ 73. Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. **B BPS IX C**



**YES**      **NO**

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 74.      Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program. <b>P BPS VI D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 75.      Participants are not excluded from participation in Drug Court because they lack a stable place of residence. <b>R BPS VI D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 76.      Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. <b>B BPS VI E</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 77.      Participants <del>suffering from</del> diagnosed with mental illness receive mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program. <b>R BPS VI E</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 78.      Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). <b>P BPS VI F</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 79.      Female participants receive trauma-related services in gender-specific groups. <b>B BPS VI F</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 80.      All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. <b>P BPS VI F</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 81.      Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court. <b>R BPS VI I*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 82.      Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court. <b>P BPS VI I</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 83.      Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable pro-social activity as a condition of graduating from Drug Court. <b>B BPS VI I</b>   |

- | YES                                 | NO                       |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 84. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment. <b>B BPS VI J</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 85. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. <b>P BPS VI</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 86. Clients are placed in the program within 50 days of shelter hearing. <del><b>R-P</b></del>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 87. At a minimum, the attorney general, defense counsel, treatment representative, DCFS case worker, GAL and the judge attend each staffing meeting. <b>R BPS VIII B*</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 88. At a minimum, the attorney general, defense counsel, treatment representative, DCFS caseworker, GAL and the judge attend each Drug Court session. <b>R BPS VIII A*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 89. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case. <b>R BPS VIII B</b>                                 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 90. Team members are assigned to Drug Court for no less than two years. <b>P</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 91. All team members use electronic communication to contemporaneously communicate about Drug Court issues. <b>P</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 92. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. <b>R BPS VIII C</b>                          |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 93. Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best practices in Drug Courts and develop fair and effective policies and procedures for the program. <b>B BPS VIII F</b> |

YES NO



94. Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts. **P BPS VIII F**



95. New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. **P BPS VIII F**



96. Court fees are reasonable and based on each participant's ability to pay. **R**



97. Treatment fees are based on a sliding fee schedule. **R**



98. The Drug Court has more than 15 but less than 125 active participants. **P BPS IX A\***



99. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**



100. The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. **B BPS X B\***



101. The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. **P BPS X A**



102. A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years. **R P BPS X D**

- ☒ ☐ 103. The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R BPS X D**
- YES NO**
- ☒ ☐ 104. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes. **B BPS X F**
- ☒ ☐ 105. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P BPS X G**
- ☒ ☐ 106. Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**
- ☒ ☐ 107. The program conducts an exit interview for self improvement. **P**

Court: Seventh District, Moab

Judge: Manley

Date: ~~August~~, 2019  
**November**

## Utah Dependency Drug Court Certification Checklist 2018

*Standards followed by an **R** are required features of a drug court, and adherence to these standards is required for certification. Standards followed by a **P** indicates a standard where there is a presumption that it must be met, but if the program can show sufficient compensating measures or a structural inability to meet the standard, it may be waived. Standards followed by a **B** are best practice standards that represent practices that research has shown to produce better outcomes, but failure to meet these standards will not result in decertification.*

*Many of these standards are direct restatements of the Adult Drug Court Best Practice Standards, Volume I, and Volume II, National Association of Drug Court Professionals. Those are indicated by a BPS following the standard, and the citation to the section of the document in which the standard is found. An asterisk indicates a modification of the NADCP standard.*

**YES    NO**

☒
☐

1. Eligibility and exclusion criteria are defined and applied objectively. **R BPS I A**

☒
☐

2. Eligibility and exclusion criteria are specified in writing. **R BPS I A**

☒
☐

3. Eligibility and exclusion criteria are communicated to potential referral sources. **P BPS I A**

YES NO

☒ ☐ 5. The program admits only participants who are high risk high need as measured by the RANT or some other approved and validated assessment tool, or participants who are at high risk for re-abusing the children and they are addicted to or dependent on a substance. ☐  
R BPS\* I B

☒ ☐ 6. Candidates for the Drug Court are assessed for eligibility using validated clinical-assessment tool that evaluates the formal diagnostic symptoms of substance dependence or addiction.  
R BPS I C

☒ ☐ 7. Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results. R BPS I C

☒ ☐ 8. Current or prior offenses may not disqualify candidates from participation in the Drug Court if-unless empirical evidence demonstrates offenders with such records cannot be managed safely or effectively in a Drug Court. R BPS I D

☒ ☐ 9. Offenders with non-drug charges, drug dealing or those with violence histories are not excluded automatically from participation in the Drug Court. R BPS I D

☒ ☐ 10. If adequate treatment is available, candidates are not disqualified from participation in the Drug Court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.  
R BPS I D

☒ ☐ 11. The program has a written policy addressing medically assisted treatment. R

☐ ☒ 12. The Drug Court regularly monitors whether members of historically disadvantaged groups complete the program at equivalent rates to other participants. R P BPS II B, BPS X

E

☒ ☐ 13. The Drug Court regularly monitors the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. ~~R~~ P BPS II D

YES NO

- ☒ ☐ 14. Each member of the Drug Court team attends up-to-date training events on recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups. **P BPS II F**
- ☒ ☐ 15. The Drug Court judge attends current training events on legal and constitutional issues in Drug Courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. **P BPS III A**
- ☒ ☐ 16. The judge presides over the Drug Court for no less than two consecutive years. **P BPS III B**
- ☒ ☐ 17. Participants ordinarily appear before the same judge throughout their enrollment in the Drug Court. **R BPS III C**
- ☒ ☐ 18. The judge regularly attends pre-court staff meetings during which each participant's progress is reviewed and potential consequences for performance are discussed by the Drug Court team. **R BPS III D**
- ☒ ☐ 19. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. **R BPS III E**
- ☒ ☐ 20. Status hearings are scheduled no less frequently than every four weeks until participants graduate. **R BPS\* III E**
- ☒ ☐ 21. The Judge spends an average of at least three minutes with each participant. **R P BPS\* III F**
- ☒ ☐ 22. The judge allows participants a reasonable opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments. **R BPS III G**
- ☒ ☐ 23. If a participant has difficulty expressing him or herself because of such factors as a language barrier, nervousness, or cognitive limitation, the judge permits the participant's attorney or legal representative to assist in providing such explanations. **R BPS IV B**

**YES NO**

- ☒ ☐ 24. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. **R BPS III H, BPS VIII D**
- ☒ ☐ 25. The judge makes these decisions after taking into consideration the input of other Drug Court team members and discussing the matter in court with the participant or the participant's legal representative. **R BPS III H, BPS VIII D**
- ☒ ☐ 26. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions. **R BPS III H**
- ☒ ☐ 27. Policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments are specified in writing and communicated in advance to Drug Court participants and team members. **R BPS IV A**
- ☒ ☐ 28. The policies and procedures provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase advancement, graduation, and termination from the program; and the legal and collateral consequences that may ensue from graduation and termination. **R BPS IV A**
- ☒ ☐ 29. The Drug Court has a range of sanctions of varying magnitudes that may be administered in response to infractions in the program. **R BPS IV A**
- ☒ ☐ 30. For goals that are difficult for participants to accomplish, such as abstaining from substance use or obtaining employment, the sanctions increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish, such as being truthful or attending counseling sessions, higher magnitude sanctions may be administered after only a few infractions. **R BPS IV A**
- ☒ ☐ 31. Consequences are imposed for the non-medically indicated use of intoxicating or addictive substances, including but not limited alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. **R BPS IV F**



YES NO

- ☒ ☐ 32. The Drug Court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. **P BPS IV F**
- ☒ ☐ 33. Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. **P BPS IV I**
- ☒ ☐ 34. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. **P BPS IV I**
- ☒ ☐ 35. Drug testing is performed at least twice per week. **R BPS VII A\***
- ☒ ☐ 36. Drug testing is random, and is available on weekends and holidays. **R BPS VII B\***
- ☒ ☐ 37. Testing regimens are not scheduled in seven-day or weekly blocks. The chances of being tested should be at least two in seven every day. **P BPS VII B**
- ☐ ☒ 38. Drug test results are available within 48 hours. 72 **P BPS VII H**
- ☒ ☐ 39. Participants are required to deliver a test specimen within 8 hours of being notified that a drug or alcohol test has been scheduled. **R P BPS VII B**
- ☒ ☐ 40. Randomly selected specimens are tested periodically for a broader range of substances to detect any new drugs of abuse that might be emerging in the Drug Court population. **P BPS VII D\***
- ☒ ☐ 41. Collection of test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering and adulteration. **R BPS VII E\*, F\***
- ☒ ☐ 42. ~~The Drug Court~~ - Drug testing utilized by the Drug Court uses scientifically valid and reliable testing procedures and establishes a chain of custody for each specimen. **R BPS VII G**

YES NO

- ☒ ☐ 43. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC-MS). **P BPS VII G**
- ☒ ☐ 44. Metabolite levels falling below industry- or manufacturer-recommended cutoff scores are not interpreted as evidence of new substance use or changes in substance use patterns, unless such conclusions are reached by an expert trained in toxicology, pharmacology or a related field. **R BPS VII G\***
- ☒ ☐ 45. Upon entering the Drug Court, participants receive a clear and comprehensive explanation of their rights and responsibilities relating to drug and alcohol testing. **R BPS VII I**
- ☒ ☐ 46. The program requires at least 90 days clean to graduate. **B**
- ☒ ☐ 47. The minimum length of the program is twelve months. **B**
- ☒ ☐ 48. Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **R BPS IV J**
- ☒ ☐ 49. Jail sanctions are definite in duration and typically last no more than three to five days. **R BPS IV J**
- ☒ ☐ 50. Participants are given access to counsel and a fair hearing if a jail sanction might be imposed. **R BPS IV J**
- ☒ ☐ 51. Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are non-amenable to the treatments that are reasonably available in their community. **R BPS IV K**
- ☒ ☐ 52. If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented disposition for failing to complete the program. **P BPS IV K\***

YES NO

- ☐ ☒ 53. The Drug Court offers a continuum of care for substance abuse treatment including detoxification, residential, sober living, day treatment, intensive outpatient and outpatient services.  
**B BPS V A**
- ☒ ☐ 54. Standardized patient placement criteria govern the level of care that is provided. **P BPS V A**
- ☒ ☐ 55. Adjustments to the level of care are predicated on each participant's response to treatment and are not tied to the Drug Court's programmatic phase structure. **P BPS V A**
- ☒ ☐ 56. Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters. **R BPS V B**
- ☒ ☐ 57. Participants receive a sufficient dosage and duration of substance abuse treatment to achieve long-term sobriety and recovery from addiction. **P BPS V D**
- ☒ ☐ 58. Participants meet with a treatment provider or clinical case manager for at least one individual session per week during the first phase of the program. **P BPS V E**
- ☒ ☐ 59. Participants are screened for their suitability for group interventions, and group membership is guided by evidence-based selection criteria including participants' gender, trauma histories and co-occurring psychiatric symptoms. **P BPS V E**
- ☐ ☒ 60. Treatment groups ordinarily have no more than twelve participants and at least two leaders or facilitators. **B BPS V E**
- ☒ ☐ 61. Treatment providers administer behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system. **B BPS V F, BPS VI G**
- ☒ ☐ 62. Treatment providers are proficient at delivering the interventions and are supervised regularly to ensure continuous fidelity to the treatment models. **P BPS V F**

- |                                     |                          |     |  |
|-------------------------------------|--------------------------|-----|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 63. | Treatment providers are licensed or certified to deliver substance abuse treatment. <b>R BPS V H</b>   |
| <b>YES NO</b>                       |                          |     |  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 64. | Treatment providers have substantial experience working with criminal justice populations. <b>B BPS V H</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 65. | Treatment providers are supervised regularly to ensure continuous fidelity to evidence-based practices. <b>P BPS V H</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 66. | Participants regularly attend self-help or peer support groups in addition to professional counseling. <b>P BPS V I</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 67. | The peer support groups follow a structured model or curriculum such as the 12-step or Smart Recovery models. <b>R BPS V I</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 68. | There is a secular alternative to 12-step peer support groups. <b>R</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 69. | Before participants enter the peer support groups, treatment providers use an evidence-based preparatory intervention, such as 12-step facilitation therapy. <b>P BPS V I</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 70. | Participants complete a final phase of the Drug Court focusing on relapse prevention and continuing care. <b>R BPS V J</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 71. | Participants prepare a continuing-care plan together with their counselor to ensure they continue to engage in pro-social activities and remain connected with a peer support group after their discharge from the Drug Court. <b>P BPS V J</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 72. | For at least the first ninety days after discharge from the Drug Court, treatment providers or clinical case managers attempt to contact previous participants periodically by telephone, mail, e-mail, or similar means to check on their progress, offer brief advice and encouragement, and provide referrals for additional treatment when indicated. <b>B BPS V J</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 73. | Caseloads for clinicians must permit sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance abuse treatment and indicated complementary services. <b>B BPS IX C</b>  |

- | YES                                 | NO                       |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 74. Where indicated, participants receive assistance finding safe, stable, and drug-free housing beginning in the first phase of Drug Court and continuing as necessary throughout their enrollment in the program. <b>P BPS VI D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 75. Participants are not excluded from participation in Drug Court because they lack a stable place of residence. <b>R BPS VI D</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 76. Participants are assessed using a validated instrument for major mental health disorders that co-occur frequently in Drug Courts, including major depression, bipolar disorder (manic depression), posttraumatic stress disorder (PTSD), and other major anxiety disorders. <b>B BPS VI E</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 77. Participants <del>suffering from</del> diagnosed with mental illness receive mental health services beginning in the first phase of Drug Court and continuing as needed throughout their enrollment in the program. <b>R BPS VI E</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 78. Participants are assessed using a validated instrument for trauma history, trauma-related symptoms, and posttraumatic stress disorder (PTSD). <b>P BPS VI F</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 79. Female participants receive trauma-related services in gender-specific groups. <b>B BPS VI F</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 80. All Drug Court team members, including court personnel and other criminal justice professionals, receive formal training on delivering trauma-informed services. <b>P BPS VI F</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 81. Participants are not required to participate in job seeking or vocational skills development in the early phases of drug court. <b>R BPS VI I*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 82. Participants with deficient employment or academic histories receive vocational or educational services beginning in a late phase of Drug Court. <b>P BPS VI I</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 83. Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in comparable   |

pro-social activity as a condition of graduating from Drug Court.  
**B BPS VI I**

**YES NO**

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 84. Participants receive immediate medical or dental treatment for conditions that are life-threatening, cause serious pain or discomfort, or may lead to long-term disability or impairment.<br><b>B BPS VI J</b>             |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 85. Participants complete a brief evidence-based educational curriculum describing concrete measures they can take to prevent or reverse drug overdose. <b>P BPS VI</b>  |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 86. Clients are placed in the program within 50 days of sheltehearing.<br>Up To DCFS R- <b>P</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 87. At a minimum, the attorney general, defense counsel, treatment representative, DCFS case worker, GAL and the judge attend each staffing meeting. <b>R BPS VIII B*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 88. At a minimum, the attorney general, defense counsel, treatment representative, DCFS caseworker, GAL and the judge attend each Drug Court session. <b>R BPS VIII A*</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 89. Pre-court staff meetings are presumptively closed to participants and the public unless the court has a good reason for a participant to attend discussions related to that participant's case.<br><b>R BPS VIII B</b>     |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 90. Team members are assigned to Drug Court for no less than two years. <b>P</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 91. All team members use electronic communication to contemporaneously communicate about Drug Court issues. <b>P</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 92. Participants provide voluntary and informed consent permitting team members to share specified data elements relating to participants' progress in treatment and compliance with program requirements. <b>R BPS VIII C</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 93. Before starting a Drug Court, team members attend a formal pre-implementation training to learn from expert faculty about best   |

practices in Drug Courts and develop fair and effective policies and procedures for the program. **B BPS VIII F**

**YES NO**

- |                                     |                                     |      |  |
|-------------------------------------|-------------------------------------|------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 94.  | Subsequently, team members attend continuing education workshops on at least an annual basis to gain up-to-date knowledge about best practices on topics including substance abuse and mental health treatment, complementary treatment and social services, behavior modification, community supervision, drug and alcohol testing, team decision making, and constitutional and legal issues in Drug Courts. <b>P BPS VIII F</b> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 95.  | New staff hires receive a formal orientation training on the Drug Court model and best practices in Drug Courts as soon as practicable after assuming their position and attend annual continuing education workshops thereafter. <b>P BPS VIII F</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 96.  | Court fees are reasonable and based on each participant's ability to pay. <b>R</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 97.  | Treatment fees are based on a sliding fee schedule. <b>R</b>   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 98.  | The Drug Court has more than 15 but less than 125 active participants. <b>P BPS IX A*</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 99.  | The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. <b>P BPS X A</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 100. | The Drug Court continually monitors participant outcomes during enrollment in the program, including attendance at scheduled appointments, drug and alcohol test results, graduation rates, lengths of stay, and in-program technical violations and new arrests or referrals. <b>B BPS X B*</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 101. | The Drug Court monitors its adherence to best practice standards on at least an annual basis, develops a remedial action plan and timetable to rectify deficiencies, and examines the success of the remedial actions. <b>P BPS X A</b>  |

☒ ☐ 102. A skilled and independent evaluator examines the Drug Court's adherence to best practices and participant outcomes no less frequently than every five years. **R P BPS X D**

☒ ☐ 103. The Drug Court develops a remedial action plan and timetable to implement recommendations from the evaluator to improve the program's adherence to best practices. **R BPS X D**

**YES NO**

☒ ☐ 104. Information relating to the services provided and participants' in-program performance is entered into an electronic database. Statistical summaries from the database provide staff with real-time information concerning the Drug Court's adherence to best practices and in-program outcomes. **B BPS X F**

☒ ☐ 105. Staff members are required to record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. **P BPS X G**

☒ ☐ 106. Outcomes are examined for all eligible participants who entered the Drug Court regardless of whether they graduated, withdrew, or were terminated from the program. **B BPS X H**

☒ ☐ 107. The program conducts an exit interview for self improvement.  
**P**



# Tab 6



## Judicial Council Grant Application Proposal Code of Judicial Administration 3-411

### NON-FEDERAL GRANTS

Contact Person/Phone: Larissa Lee, 801-578-3834 Date: November 1, 2019

Judicial District or Location: Utah Supreme Court

Grant Title: Preliminary Needs Analysis of Appellate E-Filing in Utah Grantor: SJI

Grant type (check one); ☒ New ☐ Renewal ☐ Revision

Grant Level (check one): ☒ Low ☐ Med. ☐ High.  
\$10,000 to \$50,001 \$50,000 to \$1,000,000 Over \$1,000,000

Issues to be addressed by the Project: This project encompasses hiring a consultant to determine the best software to use for appellate e-filing and the full costs associated with getting appellate e-filing up and running, including interviewing employees involved with appeals.

Explanation of how the grant funds will contribute toward resolving the issues identified: Grant funds would allow the appellate courts to begin studying what will be required to implement a full appellate e-filing system. Without the grant, appellate e-filing will be set back at least six months because the appellate courts cannot secure funding through the judicial council or legislature until later next year. This helps get the ball rolling and on the road to eventually implementing appellate e-filing in Utah.

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)					
			MATCHING STATE DOLLARS					
CASH MATCH		Other Matching Funds from Non-State Entities	General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	
State Fiscal Year	Grant Amount							Total Funds
FY 2020	50,000		5,000					\$5,000
FY								\$0
FY								\$0

			(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
IN-KIND MATCH			Other Matching Funds from Non-State Entities	MATCHING STATE DOLLARS				
				General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort
State Fiscal Year	Grant Amount							Total Funds
FY 2020	50,000					20,000		\$20,000
FY								\$0
FY								\$0

Comments: We are required to match 50% of the grant (\$25,000), but only 10% needs to be in cash (\$5,000). The \$20,000 will represent the hourly rate of employee work time spent on the project, including the time of the appellate court administrator and appellate/district/juvenile employees involved in appeals.

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: \_\_\_\_\_

Will the funds to continue this program come from within your exiting 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 district(s).  
The Grant Coordinator and the Budget Manager at the Administrative Office of the Courts.  
The affected Board(s) of Judges.

Approved by the Judicial Council \_\_\_\_\_ by \_\_\_\_\_  
Date Court Administrator

Copy forwarded to Legislative Fiscal Analyst \_\_\_\_\_  
date



Larissa Lee  
Appellate Court Administrator

Nicole J. Gray  
Clerk of Court

## Supreme Court of Utah

450 South State Street  
P.O. Box 140210  
Salt Lake City, Utah 84114-0210

Appellate Clerks' Office  
Telephone 801-578-3900  
Email: [supremecourt@utcourts.gov](mailto:supremecourt@utcourts.gov)

000192

Matthew B. Durrant	Chief Justice
Thomas R. Lee	Associate Chief Justice
Deno G. Himonas	Justice
John A. Pearce	Justice
Paige Petersen	Justice

State Justice Institute  
Attn: Jonathan D. Mattiello  
11951 Freedom Dr., Suite 1029  
Reston, VA 20190

November 1, 2019

*Re: Technical Assistance Grant for Preliminary Needs Analysis of Appellate E-Filing in Utah*

Dear Mr. Mattiello,

Enclosed is a proposal requesting a technical assistant grant that will be used to conduct a preliminary needs analysis of appellate e-filing in Utah. Please feel free to contact me if you have any questions or need any additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larissa Lee", with a long, sweeping horizontal stroke extending to the right.

Larissa Lee  
Utah Appellate Court Administrator

Enclosures

# **Grant Proposal: Preliminary Needs Analysis of Appellate E-filing in Utah**

## **Project Abstract**

Utah is now the last state in the nation to implement appellate e-filing. This proposal requests grant funding to address this critical need in Utah appellate courts and complete the necessary first step to adopting an appellate e-filing system. As described in detail below, this project encompasses hiring an outside IT consultant to conduct a national review of current offerings, cost estimation of implementation, and full technical specification. With this critical step completed, Utah appellate courts will review the consultant's recommendations to determine a holistic and cost-effective solution for appellate e-filing, and we will use the consultant's report to support our request for legislative funding.

## **Program Narrative**

### **Project Description**

Utah courts are continually striving to increase access to justice for Utah's population. E-filing increases access to justice by saving everyone—the parties and the courts—time and money in filing court documents. Storage costs and paper use both decrease, and parties can access and view the documents from anywhere almost instantaneously. The time savings also result in speedier resolution of cases, which helps ensure Utah appellate courts meet their mandate to serve the public and increases public satisfaction with the courts.

Our need for hiring an outside consultant is twofold. First, before we can develop or purchase an appellate e-filing system, we need to conduct a wholesale review of the current processes used by the appellate, district, juvenile, and justice court employees in processing appeals. This will entail the consultant shadowing and interviewing employees involved in appeals and leading focus groups on what is needed from appellate e-filing. The purpose is to facilitate a more efficient process for handling all relevant case information on appeal and to align with national best practices.

Second, the consultant will be responsible for conducting a national review of available e-filing software offerings to determine the cost effectiveness of building an appellate e-filing system on top of currently deployed appellate software (AIS) and what that would look like versus purchasing a separate e-filing software through a third party. Cost and efficiency are of primary concern.

We anticipate this project will take a total of six months.

### **Contract Consultant**

A contract consultant will be hired with experience in business process design and shadowing, interviewing, and conducting focus groups. The consultant will be familiar with common software work-breakdown practices and detailed software specification design. The individual will have demonstrated experience and a proven skill set in this type of analysis. This technical



ability is not uncommon and hiring and onboarding will take approximately 4 weeks, with the overall project lasting approximately six months. The going market rate for this skill set is approximately \$100/hour and a consultant can be acquired through existing purchasing contracts that are currently in place.

### **Court Staff Involvement and Reporting**

The Appellate Court Administrator, Larissa Lee, will be the project manager and will be responsible for overseeing and coordinating project tasks. Ms. Lee will report progress on this project to the Chief Justice of the Utah Supreme Court and Presiding Judge of the Utah Court of Appeals. In addition, Ms. Lee will create the Quarterly Progress Reports required by SJI. Ms. Lee will ensure the Quarterly Progress Reports include a narrative description of project activities during the calendar quarter and the relationship between those activities and the proposed schedule. Ms. Lee will disclose if any significant problems have developed and how they will be resolved. Ms. Lee will also complete the Technical Assistance Evaluation Form, and will submit to SJI a copy of the consultant's written report with an explanation of how Utah appellate courts intend to act on the consultant's recommendations.

The Grant Coordinator from the Administrative Office of the Courts, Milton Margaritis, has current and past experience with SJI grants and creating and maintaining the Financial Status Reports required by SJI and Utah law. Ms. Lee will work with Mr. Margaritis in reviewing these reports and ensuring accuracy. Ms. Lee will ultimately be responsible for ensuring both the Quarterly Progress Reports and Financial Status Reports are submitted to SJI and in a timely manner.

We will use existing project management software to track the hours that court staff contribute to this project. The consultant will be shadowing, interviewing, and conducting focus groups with many court employees in every district in the state, which will require a substantial number of hours from staff.

### **Need for Funding**

Currently, there is no funding available to the Utah appellate courts for conducting a preliminary needs analysis into appellate e-filing. Without this grant, Utah appellate courts will need to wait to begin this critical first building block until we have secured legislative funding. We cannot make a request to the legislature until October 2020, and funds would not be available until 2021. This technical assistance grant will allow Utah appellate courts to seriously begin these first steps beginning in January 2020, and with potential further grants secured later in 2020, we will be able to speed up the timeline for final implementation by at least six months.

### **Deliverables and Schedule for Completion**

After completing the project, the consultant will prepare a report and recommendation for implementing appellate e-filing. This report will include a survey of current e-filing software options and a recommendation for either building on existing court software or purchasing new software from a third party. The consultant will also include in the report a detailed analysis of the current practices among the various courts in handling appeals and what the court employees need from an appellate e-filing system, and will use information gleaned from these interviews to inform the recommendation of the ultimate software and process of implementing appellate e-

filing. Each high level requirement will include cost & effort estimations. We will expect frequent communications between the Appellate Court Administrator and consultant, and at least monthly interim written or oral reports. At the end of the project and with report in hand, we will have all of the information necessary to be able to request full funding from the legislature for appellate e-filing and, once funded, will be able to immediately begin building or adopting an appellate e-filing system. We will provide SJI with two copies of the consultant's final report.

### **Implementing Consultant's Recommendations**

When we receive the consultant's report and recommendations, we will distribute it to all interested parties, including the judges, justices, and staff of the Utah Supreme Court and Utah Court of Appeals, the Judicial Council, the Technology Committee, and the Utah Courts' IT department managers. We will discuss the report at conferences of the Supreme Court and Court of Appeals as well as all together at the appellate court board ("Board"). The Board is committed to taking the consultant's recommendations seriously. After receiving feedback from all parties involved, the Board will then vote on which of the recommendations to adopt. We will then take the Board's decision and the report to the legislature when requesting the required funding to implement the adopted recommendations. The funding request will undoubtedly be better received with the critical work contributed by the consultant and various court staff to back it up.

## **Budget Narrative**

### **Consultant Time**

#### **1. Consultation, Education, & Observation**

To understand our workflows and business processes, the consultant will spend time interviewing users, observing users, and analyzing current system functionality and design.

**Effort:** 200 Hours

**Duration:** 6.5 Weeks

**Cost:** \$20,000

#### **2. Detailed Documentation**

The business requirements identified through direct analysis will be decomposed into detailed software specifications outlining changes and additions to the software. This documentation will include all relevant diagrams and wireframes to make sure the end users of the system can sign off on the design.

**Effort:** 300 Hours

**Duration:** 10 Weeks

**Cost:** \$30,000

#### **3. Estimation & Validation of Requirements**

When the requirements are completed, the consultant will lead the effort to have these requirements estimated by our internal resources and achieve buy in and sign off from the key stakeholders.

**Effort:** 50

**Duration:** 1.5 Weeks

**Cost:** \$5,000

**Internal Resourcing Estimates**

**Resourcing:** Multiple internal resources within the District, Juvenile Appellate (Supreme and Appellate), Court Services and Information Technology at an average ~\$100/hour loaded rate

**Product:** All efforts that are delivered by the IT Consultant will require support from all levels of the court to better understand today's processes so a new electronic filing system can be designed and documented

**Total Effort:** 200 Hours

**Total Duration:** entire duration of the project

**Total Cost:** \$20,000

**Bottom Line Estimation:**

**Resourcing:** 1 Contract Consultant at \$100/hour + multiple internal resourcing at ~\$100/hour loaded cost

**Product:** Report and Recommendations with cost/effort estimations

**Total Effort:** 750 Hours

**Total Duration:** 22 Weeks (with 4 weeks to hire and onboard)

**Total Cost:** \$75,000

**Note:**

This estimate does not include the auxiliary costs such as space and computer equipment. It is assumed that the Administrative Office of the Courts and the Appellate Courts will cover this separate funding.



# STATE JUSTICE INSTITUTE APPLICATION

<b>1. APPLICANT</b> a. Organization Name <u>Utah Supreme Court</u> b. Street/P.O. Box <u>450 S. State St.</u> c. City <u>Salt Lake City</u> d. State <u>UT</u> e. Zip Code <u>84111</u> f. Phone Number <u>801-578-3900</u> g. Fax Number _____ h. Web Site Address <u>https://www.utcourts.gov/courts/sup/</u> i. Name & Phone Number of Contact Person <u>Larissa Lee, 801-578-3834</u> j. Title <u>Appellate Court Administrator</u> k. E-Mail Address <u>larissal@utcourts.gov</u>	<b>2. TYPE OF APPLICANT</b> (Check appropriate box) <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input checked="" type="checkbox"/> State Court  <input type="checkbox"/> National organization operating in conjunction with State court  <input type="checkbox"/> National State court support organization  <input type="checkbox"/> College or university             </div> <div style="width: 45%;"> <input type="checkbox"/> Other non-profit organization or agency  <input type="checkbox"/> Individual  <input type="checkbox"/> Corporation or partnership  <input type="checkbox"/> Other unit of government  <input type="checkbox"/> Other _____                  (Specify) _____             </div> </div>
<b>3. PROPOSED START DATE</b> <u>January 15, 2020</u>	
<b>4. PROJECT DURATION</b> (months) <u>6 months</u>	
<b>5. APPLICANT FINANCIAL CONTACT</b> a. Organization Name <u>Utah State Courts--Administrative Office of the Courts</u> b. Street/P.O. Box <u>450 S. State St.</u> c. City <u>Salt Lake City</u> d. State <u>UT</u> e. Zip Code <u>84111</u> f. Phone Number _____ g. Fax Number _____ h. Web Site Address _____ i. Name & Phone Number of Contact Person <u>Milton Margaritis, 801-578-3863</u> j. Title <u>Grant Coordinator</u> k. E-Mail Address <u>miltonm@utcourts.gov</u> l. Organization EIN <u>876000545</u>	<b>6. IF THIS APPLICATION HAS BEEN SUBMITTED TO OTHER FUNDING SOURCES, PLEASE PROVIDE THE FOLLOWING INFORMATION:</b> Source <u>N/A</u> Date Submitted _____ Amount Requested _____ Disposition (if any) or Current Status _____ _____ <b>7. a. AMOUNT REQUESTED FROM SJI \$</b> <u>50,000</u> <b>b. AMOUNT OF MATCH</b> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%;">                 Cash Match <u>\$ 5,000</u>                  In-kind Match <u>\$ 20,000</u> </div> <div style="width: 35%; text-align: right;"> <b>c. TOTAL MATCH</b> <u>\$ 25,000</u>  <b>d. OTHER CASH</b> <u>\$</u> _____  <b>e. TOTAL PROJECT COST</b> <u>\$ 75,000</u> </div> </div>
<b>8. TITLE OF PROPOSED PROJECT</b> <u>Preliminary Needs Analysis of Appellate E-Filing in Utah</u>	
<b>9. CONGRESSIONAL DISTRICT OF:</b> <u>Ben McAdams; 4th Congressional District</u> <u>Same</u> <div style="display: flex; justify-content: space-between; font-size: small;"> <span>Name of Representative; District Number</span> <span>Project location (if different from applicant location): Name of Representative; District Number</span> </div>	
<b>10. CERTIFICATION</b> On behalf of the applicant, I hereby certify that to the best of my knowledge the information in this application is true and complete. I have read the attached assurances (Form D) and understand that if this application is approved for funding, the award will be subject to those assurances. I certify that the applicant will comply with the assurances if the application is approved, and that I am lawfully authorized to make these representations on the behalf of the applicant. <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 35%;">               SIGNATURE OF RESPONSIBLE OFFICIAL              (For applications from State and local courts, Form B - Certificate of State Approval, must be attached)         </div> <div style="width: 30%; text-align: center;"> <u>Appellate Court Administrator</u>              TITLE         </div> <div style="width: 25%; text-align: center;"> <u>November 1, 2019</u>              DATE         </div> </div>	

## STATE JUSTICE INSTITUTE

Certificate of State ApprovalThe Utah Supreme Court

Name of State Supreme Court or Designated Agency or Council

has reviewed the application entitled Preliminary Needs Analysis of Appellate E-Filing in Utahprepared by Larissa Lee, Appellate Court Administrator

Name of Applicant

approves its submission to the State Justice Institute, and

☒

agrees to receive and administer and be accountable for all funds awarded by SJI pursuant to the application;

☐herby requests consideration of a reduction in cash match as requested by the applicant (**NOTE: only applicable to Project Grant applications**);☐

designates \_\_\_\_\_

Name of Trial or Appellate Court or Agency

as the entity to receive, administer, and be accountable for all funds awarded by SJI pursuant to the application.



Signature

November 1, 2019

Date

Matthew B. Durrant

Name

Chief Justice, Utah Supreme Court

Title

# STATE JUSTICE INSTITUTE

## PROJECT BUDGET

(TABULAR FORMAT)

**Applicant:** Utah Supreme Court

**Project Title:** Preliminary Needs Analysis of Appellate E-Filing in Utah

**For Project Activity from** 01/15/2020 **to** 07/15/2020

**Total Amount Requested for Project from SJI \$** 50,000.00

ITEM	SJI FUNDS	STATE FUNDS	FEDERAL FUNDS	APPLICANT FUNDS	OTHER FUNDS	IN-KIND SUPPORT	TOTAL
Personnel						20,000.00	20,000.00
Fringe Benefits							0.00
Consultant / Contractual	55,000.00						55,000.00
Travel							0.00
Equipment							0.00
Supplies							0.00
Telephone							0.00
Postage							0.00
Printing / Photocopying							0.00
Audit							0.00
Other (specify)							0.00
<b>Subtotal, Direct Costs</b>	<b>55,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>20,000.00</b>	<b>75,000.00</b>
<b>Indirect Costs</b>							0.00
<b>Grand Total</b>	<b>55,000.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>20,000.00</b>	<b>75,000.00</b>

**Remarks:**



# Tab 7





Alex G. Peterson  
Executive Director

# State of Utah

## JUDICIAL CONDUCT COMMISSION

1385 S. State St., Suite #143  
Salt Lake City, Utah 84115  
Telephone: (801) 468-0021

**TO** Judicial Council

**FROM** Alex G. Peterson, Executive Director

**DATE** December 6th, 2019

**RE** Biannual JCC Update

**MESSAGE**

1. JCC Membership Update
  - a. New Members: None.
  - b. Missing Members: None.
  - c. Current Members (11): Mr. Jim Jardine, Chair; Ms. Cheylynn Hayman, Judge Mortensen, Judge Shaughnessy, Rep. Craig Hall, Rep. Elizabeth Weight, Senator Lyle Hillyard, Senator Jani Iwamoto, Mr. Neal Cox, Mr. Mark Raymond, Ms. Georgia Thompson.
  - d. Next SCt appointment will be early 2020 (Mr. Jardine)
2. JCC Caseload Update
  - a. 64 cases in FY19 compared to 58 cases in FY18. We are currently at 24 cases in FY20.
  - b. To date in FY20, we have had 1 public disposition (Judge Dow) and 1 DWW disposition for 1) Indecorous treatment of subordinates and 2) Abuse of prestige of judicial office.
  - c. No JCC cases are pending before Utah Supreme Court.
3. Misc. Activities of JCC (over the last six months)
  - a. Requests for information based on our archival records (AOC = 3, JPEC = 4, CCJJ = 7, AJDC/CJE = 12).
  - b. Supported three **State Dep't sponsored visits** (UCCD) regarding judicial discipline.
  - c. Prepared FY19 JCC Annual Report (attached).
  - d. Provided biennial presentation to JPEC.
  - e. Attendance at two Judicial Conduct Conferences.
  - f. Conducting 5 year review of JCC Admin Rules (R595).
  - g. Preparing request to SCt for changes to CJC Rule 4.1



# UTAH JUDICIAL CONDUCT COMMISSION ANNUAL REPORT FY 2019

1385 S. State St., Suite 143  
Salt Lake City, Utah 84115  
Telephone: (801) 468-0021  
[www.jcc.utah.gov](http://www.jcc.utah.gov)

## Creation and Authority of the Judicial Conduct Commission

Although it existed previously as a legislatively created body, Utah's Judicial Conduct Commission (JCC) was constitutionally established in 1984. Constitution of Utah, Article VIII, Section 13. The constitution authorizes the Legislature to statutorily establish the composition and procedures of the JCC. Those provisions are found in Utah Code Ann., Title 78A, Chapter 11.

The JCC is empowered to investigate and conduct confidential hearings regarding complaints against state, county and municipal judges throughout the state. The JCC may recommend the reprimand, censure, suspension, removal, or involuntary retirement of a judge for any of the following reasons:

- action which constitutes willful misconduct in office;
- final conviction of a crime punishable as a felony under state or federal law;
- willful and persistent failure to perform judicial duties;
- disability that seriously interferes with the performance of judicial duties; or
- conduct prejudicial to the administration of justice which brings a judicial office into disrepute.

Prior to the implementation of any such JCC recommendation, the Utah Supreme Court reviews the JCC's proceedings as to both law and fact. The Supreme Court then issues an order implementing, rejecting, or modifying the JCC's recommendation.

## Number of Complaints Received in FY 2019

Of the 64 complaints received in FY 2019, 47 have been resolved and 17 are pending.

Complaints Received in FY 2019			
Judge Type	Number of Judges	Number of Complaints Received	Number of Judges Named in Complaints*
Supreme Court	5	0	0
Court of Appeals	7	0	0
District	72	42	31
Juvenile	31	8	6
Justice Court	98	13	10
Pro Tempore	67	1	1
Active Senior	38	0	0
<b>Total</b>	<b>318</b>	<b>64</b>	<b>48</b>

(\*Starting in FY19 and going forward, the JCC counts each judge once even though they may have been named in multiple complaints)

## Confidentiality of JCC Records and Proceedings

Except in certain limited circumstances specified by statute, all complaints, papers and testimony received or maintained by the JCC, and the record of any confidential hearings conducted by the JCC, are confidential, and cannot be disclosed.



## Sanctions and Other Resolutions

### Sanctions Implemented by the Utah Supreme Court

On December 28, 2018, the Utah Supreme Court reprimanded Sixth District Juvenile Court Judge Brody Keisel. While overseeing a case, Judge Keisel had numerous out of court conversations regarding substantive matters in the case with the appointed case worker which were not disclosed to the other parties or made part of the record. Judge Keisel recognizes that these communications were ex parte in nature and should have been disclosed to all the parties in the case. Judge Keisel negligently (but not intentionally, willfully or with bad faith) engaged in conduct prejudicial to the administration of justice which brings a judicial office into disrepute. Judge Keisel has accepted responsibility for his actions and has expressed sincere remorse for any harm his actions may have caused. **The judge's actions violated Code of Judicial Conduct Rule 2.9.**

On May 22, 2019, the Utah Supreme Court suspended Taylorsville Justice Court Judge Michael Kwan. Judge Kwan made politically charged comments to a defendant in his courtroom. He also lost his temper with a **member of the court's staff and improperly used his judicial authority to seek that individual's removal from the premises.** Moreover, he made online posts critical of then-presidential candidate Donald Trump. These actions constituted conduct prejudicial to the administration of justice which brings a judicial office into disrepute. **The judge's actions violated Code of Judicial Conduct Rules 1.2, 1.3, 2.8, 3.1 and 4.1(A)(3).**

### Dismissals with Warnings Issued by the Judicial Conduct Commission

On July 17, 2018, the Judicial Conduct Commission dismissed a complaint with warning against a District Court Judge as to the Rule 2.8(b) violation of impatient and discourteous behavior. The Judge was impatient and not courteous to a litigant attorney and made comments that did not reflect an appropriate judicial temperament. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

On September 18, 2018, the Judicial Conduct Commission dismissed a complaint with warning to a Justice Court Judge as to violations of Rules 1.1, 1.2, 2.5(A), and UCA §78A-11-108. Court personnel observed the judge not making decisions, falling asleep on the bench, behaving groggily, failing to maintain a government provided email, discussing cases with a retired judge and overusing prescribed medication. The Judge agreed to a mentorship and oversight program. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted upon successful program completion.

### Dismissals with Warnings Issued by the Judicial Conduct Commission

On September 18, 2018, the Judicial Conduct Commission determined to dismiss a complaint with warning to Justice Court Judge as to the violations of Rules 1.2 and 1.3. The Judge, identifying themselves as a judge, contacted a court clerk on behalf of a friend to get information on a case. Subsequently, the Judge, again in a personal capacity, attended a court hearing on this case and identified as a judge to the prosecutor. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

On September 18, 2018, the Judicial Conduct Commission dismissed a complaint with warning to a Juvenile Court Judge as to a Rule 1.2 violation of not promoting confidence in the Judiciary. The Judge engaged in personal communications with a party on sexual topics and intimate matters that were highly inappropriate and when made public did not promote, and in fact, undermined public confidence in the judiciary. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

On September 18, 2018 the Judicial Conduct Commission dismissed a complaint with warning to a District Judge as to the Rule 2.9(A)(1)(3)(C) violations of ex parte communications by the Judge. The Judge was informed of possible jury improprieties, had conversations regarding it with a non-party and never disclosed or made a record of those conversations. Subsequently, the case was settled. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

On May 21, 2019, the Judicial Conduct Commission dismissed a complaint with a warning to a Justice Court Judge as to violations of Rules 2.3(A) (Bias) and 2.8(B) (Demeanor). From the bench the **Judge made the statement "there are certain people who I don't trust at all that are members of the bar, and uh, they generally tend to try to work around other attorneys and judges and going through clerks and other people . . ."** The JCC found and the Judge agreed that these comments evidenced bias and were demeaning to the attorney present. However, the JCC also found that the misconduct was troubling but relatively minor misbehavior for which no public sanction was warranted.

## Administrative Affairs

### Meetings

The JCC meets as needed on the third Tuesday of each month at the offices of the JCC. The JCC met ten (10) times during FY 2019.

### Administrative Rules

The JCC's administrative rules are available on-line at [www.rules.utah.gov](http://www.rules.utah.gov).

### FY19 JCC Commissioners

Neal Cox, Public Member  
Mark Raymond, Public Member  
Georgia Beth Thompson, Public Member  
Terry Welch, Attorney Member (term exp.)  
Cheylynn Hayman, Attorney Member (new)  
James Jardine, Chair, Attorney Member  
Rep. Elizabeth Weight  
Rep. Craig Hall  
Sen. Jani Iwamoto  
Sen. Lyle Hillyard  
Hon. David Mortensen  
Hon. Todd Shaughnessy

### Website

The JCC's website, [www.jcc.utah.gov](http://www.jcc.utah.gov), contains in-depth information, links to related sites, annual reports, copies of public discipline documents, and downloadable complaint forms.

### JCC Statutes

The statutes governing the JCC are located in Utah Code Ann., Title 78A, Chapter 11.

### Budget

Most of the JCC's budget is appropriated annually by the Legislature. For FY 2019, the legislative appropriation was \$279,200. The JCC had non-lapsing savings from FY 2018 in the amount of \$29,617. The JCC had total available funds of \$308,817. JCC expenses for FY 2019 were \$247,735, leaving a balance of \$61,082 to be included in non-lapsing savings for FY 2020.

### JCC Staff

Alex G. Peterson, Executive Director  
Aimee Thoman, Investigative Counsel

## UTAH JUDICIAL CONDUCT COMMISSION – COMPLAINT RESOLUTION PROCESS

INITIAL SCREENING	PRELIMINARY INVESTIGATION	FULL INVESTIGATION	FORMAL PROCEEDINGS	SUPREME COURT
<p>Executive Director reviews <b>each “complaint”</b> to determine whether it is a <b>complaint within the JCC’s</b> jurisdiction.</p> <p>Staff returns non-JCC complaints (i.e., complaints against bar members or court employees) to complainant with appropriate instructions.</p> <p>For JCC complaints, staff prepares electronic and hard-copy files, sends acknowledgment letter to complainant, and returns hard-copy file to Executive Director.</p> <p>Executive Director assigns investigator.</p> <p><i><b>Note: Anonymous complaints are submitted directly to JCC members, who review and discuss the complaint and vote to either take no action or to have staff conduct a preliminary investigation.</b></i></p>	<p>Investigator conducts preliminary investigation, writes preliminary investigation report, and recommends whether to dismiss or to proceed to full investigation as to some or all allegations.</p> <p>Executive Director reviews preliminary investigation report and recommendation, and may revise either.</p> <p>Staff distributes preliminary investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and discusses preliminary investigation report and recommendation, and votes to dismiss, to have staff conduct additional preliminary investigation, or to proceed to full investigation as to some or all allegations.</p>	<p>Staff provides judge with copy of complaint and other pertinent materials and asks judge to respond in writing to identified allegations.</p> <p>Investigator conducts additional investigation, if necessary, as to issues <b>raised in judge’s response</b>. Investigator may write supplemental investigation report and may make recommendation whether to dismiss or to proceed to formal proceedings.</p> <p><b>Staff distributes judge’s</b> response and any supplemental investigation report and recommendation, along with pertinent materials, to JCC members.</p> <p>JCC meets, reviews and <b>discusses judge’s response</b> and any supplemental investigation report and recommendation, and votes to dismiss, to have staff conduct additional investigation, or to proceed to formal proceedings as to some or all allegations.</p>	<p>Staff prepares formal complaint and serves same upon judge via certified mail.</p> <p>Judge may file written response.</p> <p>Matter may be resolved by dismissal, stipulated resolution or confidential hearing.</p> <p>A stipulated resolution may recommend:  Reprimand  Censure  Suspension  Removal from Office  Involuntary Retirement</p> <p>After a confidential hearing, the JCC may dismiss the matter or may recommend:  Reprimand  Censure  Suspension  Removal from Office  Involuntary Retirement</p>	<p><b>Staff files JCC’s</b> findings of fact, recommendation and other statutorily required materials with Supreme Court.</p> <p><b>JCC’s recommendation</b> becomes public upon filing. All other materials become public only upon Supreme Court order.</p> <p>Supreme Court reviews <b>JCC’s proceedings as to both</b> law and fact, and implements, modifies or <b>rejects JCC’s</b> recommendation.</p> <p><i><b>Note: JCC dismissals are not reviewed by the Supreme Court.</b></i></p>



# Tab 8



**MEMORANDUM**

**To:** Utah Judicial Council  
**Re:** Fourth District Commissioner  
**From:** F. Richards Smith  
Presiding Judge, Fourth District Juvenile Court  
**Date:** November 25, 2019

**It is the request of the Fourth District Juvenile Court bench, with the full agreement and support of the Fourth District Court bench, that the Judicial Council consider a change in allocation of Commissioner Sean Petersen's workload.**

At present, Commissioner Petersen's time is allocated 0.8 to district court and 0.2 to juvenile court. As the Council is aware, recent judicial weighted caseload figures in the Fourth District show a difference in authorized and needed judicial officers:

Juvenile	0.8
District	-0.9

While acknowledging that the figures may not be entirely accurate, a reasonable way to address the apparent inequity in allocation of judicial resources in Fourth District is to relieve Commissioner Petersen of his juvenile court workload and assign his time 100% to district court. We propose this reallocation be effective January 1, 2020.

The juvenile court bench has devised a plan to distribute the commissioner's workload among the judges. This involves adjustment of judicial calendars and the creation of a rotation schedule for the judges to begin hearing the three-times weekly detention hearings, and all child protective order hearings. The Commissioner will cover detention hearings through the end of December, 2019. Judges will discontinue referring ex-parte child protective orders to the commissioner for hearing as of the close of business on December 13, 2019, and schedule all future hearings on the judicial calendars. The commissioner will hear any protective orders through to their conclusion, which may involve a few hearings in 2020. With those exceptions, the commissioner would be assigned 100% to district court as of January 1, 2020.

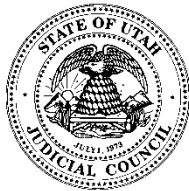
Thank you for your consideration of this request.





# Tab 9





## Administrative Office of the Courts

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

### MEMORANDUM

Hon. Mary T. Noonan  
Interim State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

**To:** Judicial Council  
**From:** Cathy Dupont  
**Date:** November 27, 2019  
**Re:** Final Approval of CJA Rule 1-303 and Rule 5-101

---

CJA Rules 1-303 and 5-101 were published for public comment. The comment period closed on January 31, 2019. No comments were submitted. The Board of Appellate Court Judges requests that the Council place CJA Rules 1-303 and 5-101 on the consent calendar.

**Rule 1-303. Internal procedures and organization.**

Intent:

To provide the minimum standards and requirements for the operation of the Boards.

To establish the minimum requirements for liaison with the Council.

Applicability:

This rule shall apply to all Boards of Judges, except the Board of Senior Judges.

Statement of the Rule:

(1) The meetings of the Boards shall be closed unless opened by the chair of the Board.

(2) Each Board shall keep minutes of its meetings. The minutes shall not be open to public inspection.

(3) Each Board shall meet as necessary to accomplish its work, but the Board of District Court Judges, Board of Juvenile Court Judges, and Board of Justice Court Judges shall meet a minimum of once every three months. Each Board shall report to the Council as necessary, but the Board of District Court Judges, Board of Juvenile Court Judges, and the Board of Justice Court Judges shall report to the Council a minimum of once every three months.

1     Article 1. General.

2     Rule 5-101. The Board of Appellate Court Judges.

3     Intent:

4     To establish the Board of Appellate Court Judges.

5     To establish the procedure of the Board in the conduct of Board meetings.

6     Applicability:

7     This rule shall apply to the Board of Appellate Court Judges.

8     Statement of the Rule:

9     (1) There is established a Board of Appellate Court Judges.

10    (2) Members of the Board shall be the members of the Court of Appeals and the  
11    members of the Supreme Court.

12    (5) The Chief Justice of the Supreme Court and the Presiding Judge of the Court of  
13    Appeals shall alternate as the Chair and Vice Chair of the Board and shall alternate  
14    presiding over the meetings of the Board.

15    (10) The Board shall meet a minimum of three times a year to transact any business  
16    that is within its jurisdiction.

17    (11) The Board shall act by majority vote. All members of the Board have the right to  
18    vote. A quorum from both the Supreme Court and the Court of Appeals is required for a  
19    Board Meeting. A quorum for the Supreme Court is at least three members and a  
20    quorum for the Court of Appeals is at least four members.

21    (12) Board meetings shall be conducted in accordance with Robert's Rules of Order  
22    and are not open and public meetings.



# Tab 10







## Administrative Office of the Courts

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

### MEMORANDUM

---

Hon. Mary T. Noonan  
Interim State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

**To:** Judicial Council  
**From:** Cathy Dupont  
**Date:** November 18, 2019  
**Re:** Certification of Senior Judges

---

Judge Kimberly K. Hornak has applied for Active Senior Judge Status. I have attached her application form, which shows compliance with the minimum qualifications for office and with judicial performance standards. The judge does not have complaints pending before the Judicial Conduct Commission or the Utah Supreme Court. Judge Hornak's retirement date is March 1, 2020. She is requesting senior judge status after her retirement. It appears appropriate to approve Judge Hornak.

The Council's certification decision will be forwarded to the Utah Supreme Court for its consideration in the appointment process.



## Senior Judge Application Active Status

### Qualifications for Office

I, Kimberly K Hornak, hereby apply for the office of Active Senior Judge and declare as follows:

- 1) I was retained in the last election in which I stood for election.
- 2) I voluntarily resigned from judicial office, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, have recovered from or have accommodated that disability.
- 3) I am physically and mentally able to perform the duties of judicial office.
- 4) I demonstrate appropriate ability and character.
- 5) I am admitted to the practice of law in Utah, but I do not practice law.
- 6) I am eligible to receive compensation under the Judges' Retirement Act, subject only to attaining the appropriate age.
- 7) I am familiar with current statutes, rules and case law, the use of the electronic record, and judicial workspace.
- 8) I am a current resident of Utah and available to take cases.
- 9) I will satisfy the education requirements of an active judge.
- 10) I will accept assignments at least two days per calendar year, subject to being called.
- 11) I will conform to the Code of Judicial Conduct, the Code of Judicial Administration, and rules of the Supreme Court.
- 12) I obtained results on the most recent judicial performance evaluation prior to termination of service sufficient to have been certified for retention regardless of whether the evaluation was conducted for self-improvement or certification;
- 13) I continue to meet the requirements for certification for judicial performance evaluation as those requirements are established for active senior judges.
- 14) I was not removed from office or involuntarily retired on grounds other than disability.

- 15) I was not suspended during my final term of office or final six years in office, whichever is greater.
- 16) I did not resign as a result of negotiations with the Judicial Conduct Commission or while a complaint against me was pending before the Supreme Court or pending before the Judicial Conduct Commission after a finding of reasonable cause.
- 17) I will submit relevant information as requested by the Judicial Council.
- 18) My date of birth is **PRIVATE** and my retirement date is 8/1/20.
- 19) I have not been subject to any order of discipline for conduct as a senior judge.
- 20) There ☐ is ☒ is not a complaint against me pending before the Supreme Court or before the Judicial Conduct Commission after a finding of reasonable cause.
- 21) During my current term there have been 0 orders of discipline against me entered by the Supreme Court, and I have attached a copy of each, if applicable.
- 22) The address at which I can be contacted after retirement is:

**PRIVATE** **PRIVATE**

**PRIVATE**

My email address and phone number are: **PRIVATE** **PRIVATE** **PRIVATE**

### Judicial Performance Evaluation Information

I further declare as follows:

- 23) I have held no more than three cases per calendar year under advisement more than 60 days after submission.
- 24) I have held no cases under advisement more than 180 days after submission.
- 25) I am in substantial compliance with the Code of Judicial Conduct.
- 26) I am physically and mentally fit for office.
- 27) I have obtained the following judicial education hours for the years indicated.

2017	2018	2019
42.75	37	30.5

If you have fewer than 30 hours for the current year, list any course you plan to complete before the end of the year and the estimated number of hours associated with the course.

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- 28) I understand that I must contact the Administrative Office of the Courts and request transfer to inactive status prior to any planned leaves of absence that could interfere with my ability to fully comply with annual education requirements.

I waive my claim of confidentiality and request that a copy of any complaints submitted to the Judicial Conduct Commission be sent to the person shown below, if requested.

Date 11-4-19 KC Hornak  
Kimberly K. Hornak

Please complete and return by \_\_\_\_\_ to:

Catherine J. Dupont  
P.O. Box 140241  
Salt Lake City, Utah 84114-0241  
Fax: 801-578-3843  
Email: [cathyd@utcourts.gov](mailto:cathyd@utcourts.gov)



Alex G. Peterson  
Executive Director

# State of Utah

## JUDICIAL CONDUCT COMMISSION

1385 S. State St., Suite 147  
Salt Lake City, Utah 84115  
Telephone: (801) 468-0021

November 18, 2019

Catherine J. Dupont  
Deputy State Court Administrator  
Administrative Office of the Courts  
450 South State Street  
P.O. Box 140241  
Salt Lake City, UT 84114-0241

re: Honorable Kimberly Hornak

Dear Ms. Dupont:

You have requested whether there is any information regarding 1) resignation from office as a result of negotiations or while a complaint was pending before the Judicial Conduct Commission or before the Supreme Court after a finding of reasonable cause or 2) whether there is any complaint currently pending before the Judicial Conduct Commission or the Supreme Court after a finding of reasonable cause in the case of the Judge Kimberly Hornak:

In the case of Judge Hornak, there is neither any resignation as a result of negotiations or while a complaint was pending, nor is there any complaint currently pending. If you have any questions or concerns, please don't hesitate to contact me.

Sincerely,

*A. G. Peterson*

Alex G. Peterson  
Executive Director



## **Administrative Office of the Courts**

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

**Hon. Mary T. Noonan**  
State Court Administrator  
**Catherine J. Dupont**  
Deputy Court Administrator

### **Certification of Judge Kimberly K. Hornak as an active Senior Judge**

The Utah Judicial Council certifies that Judge Kimberly K. Hornak meets the standards of judicial performance for appointment as an active Senior Judge.

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Date

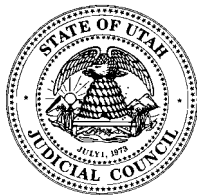
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**Matthew B. Durrant**  
Presiding Officer  
Utah Judicial Council

# Tab 11







## Administrative Office of the Courts

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

December 11, 2019

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

### MEMORANDUM

**TO: Judicial Council**

**FROM: Judge Todd Shaughnessy and Cathy Dupont**

**RE: Annual Reporting to the Judicial Council**

The Judicial Council was interested in developing guidelines for groups that present to the Council. The materials attached to this memo include proposed guidelines and proposed amendments to the Council Norms. The following is a list of groups or bodies that make presentations to the Council and the frequency with which they appear before the Council:

External Groups/Bodies:

Judicial Conduct Commission (2x per year)  
Indigent Defense Commission (1x per year)  
JPEC (4x per year)

Internal Groups/Bodies:

Boards (Appellate, District, Juvenile, Justice Courts) (2x per year per board)  
Districts (when the Council visits that district)  
TCEs (1x per year)

Council Standing Committees

Children and Family Law (1x per year)  
Model Civil Jury Instructions (1x per year)  
Model Criminal Jury Instructions (1x per year)  
Judicial Branch Education (1x per year)  
Ethics Advisory (1x per year)  
Court Facility Planning (1x per year)  
Court Forms (1x per year)  
GAL Oversight (1x per year)  
Language Access (1x per year)  
Judicial Outreach (1x per year)  
Pretrial Release and Supervision (1x per year)  
Resources for Self-Represented Parties (1x per year)  
Technology Committee (1x per year)  
Uniform Fine & Bail (1x per year)

Other Committees/Commissions

ADR Committee (1x per year)  
Appellate Mediation (1x per year)  
Court Commissioner Conduct Commission (1x per year)  
WINGS (1x per year)

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

Dec 10, 2019 draft

## **Council Norms**

1. Council members are administrators.
2. Council members represent the judicial system as a whole, rather than a particular court, and therefore do not advance parochial interests.
3. Council members act collectively and have no independent authority.
4. Council members cannot sit on a Council standing committee, but can serve on a Council task force, ad hoc committee, or an Executive Committee.
5. A Council member should avoid bringing a proposal to the Council, as an action item, unless the proposal is presented on behalf of a Council Executive Committee or at the request of the Supreme Court.
6. Problems or suggestions should be taken to the appropriate Board, Council task force, Executive Committee, standing committee, ad hoc committee, or other similar entity (hereinafter collectively called "Council Entity"). The Council Entity should invite the representative involved with the problem or suggestion to present to the Council Entity. The Council Entity should develop a recommendation and present that recommendation to the Council. The Council should invite a representative from the Council Entity and the representative involved with the problem or suggestion to attend the Council meeting in which the problem or suggestion will be discussed.
7. The Council should work with the appropriate Board when establishing policy affecting that Board's court and should invite a representative of each Board to attend Council meetings.
8. The Council should seek Board feedback on appointments to standing committees.
9. A Council member should attend the Council member's local bench meetings and Board meetings, and should explain the actions of the Council that may impact the Board or local bench.
10. If a presenter expresses a preference, regarding when to answer questions, a Council member should be respectful of the presenter's stated preference.
11. Action items are not added to the Council agenda without Management Committee approval. A Council member may request discussion items be added to the agenda under Old Business/New Business.
12. All grant requests are to be considered by the Council.

13. Consent calendar items are not taken up on the Council agenda unless a Council member requests it.
14. If a Council member is unable to attend a meeting, a substitute may attend but cannot vote.
15. Council members should read all materials provided in advance of the meeting.

Dec 10, 2019 draft

## Council Norms

1. ~~Administrative role v. judicial role.~~Council members are administrators.
2. ~~Represent System not court level.~~Council members represent the judicial system as a whole, rather than a particular court, and therefore do not advance parochial interests.
3. Council members act collectively and have no independent authority.
4. Council members cannot sit on a Council standing committee, but can serve on a Council task force, ad hoc committee, or an Executive Committee.
5. ~~Council members do not make presentations.~~ A Council member should avoid bringing a proposal to the Council, as an action item, unless the proposal is presented on behalf of a Council Executive Committee or at the request of the Supreme Court.
6. ~~Council should work with appropriate Board when establishing policy affecting that court level.~~ Problems or suggestions should be taken to the appropriate Board, Council task force, Executive Committee, standing committee, ad hoc committee, or other similar entity (hereinafter collectively called “Council Entity”). The Council Entity should invite the representative involved with the problem or suggestion to present to the Council Entity. The Council Entity should develop a recommendation and present that recommendation to the Council. The Council should invite a representative from the Council Entity and the representative involved with the problem or suggestion to attend the Council meeting in which the problem or suggestion will be discussed.
7. The Council should work with the appropriate Board when establishing policy affecting that Board’s court and should invite a representative of each Board to attend Council meetings.
8. The Council should seek Board feedback on appointments to standing committees.
9. A Council member should attend the Council member’s local bench meetings and Board meetings, and should report on Council meetings explain the actions of the Council that may impact the Board or local bench.
10. ~~Allow presentations to be completed, rather than interrupting mid-stream (this should be left for questions.~~ If a presenter expresses a preference, regarding when to answer questions, a Council member should be respectful of the presenter’s stated preference.
11. Action items are not added to the Council agenda without Management Committee approval. A Council member may request discussion items be added to the agenda under Old Business/New Business.
12. All grant requests are to be considered by the Council.

13. Consent calendar items are not taken up on the Council agenda ~~until~~unless a Council member requests it.
14. If a Council member is unable to attend a meeting, a substitute may attend but cannot vote.
15. Council members should read all materials provided in advance of the meeting.

~~Frederick's Rule—Council does not vote while presenter at the table.~~



# Tab 12





Mary Campbell McQueen  
President

**Daniel J. Hall**  
Vice President  
Court Consulting Services  
Denver Office

November 25, 2019

The Hon. Mary T. Noonan  
Interim State Court Administrator  
Utah Administrative Office of the Courts  
450 South State Street  
PO Box 140241  
Salt Lake City, Utah 84114-0241

Catherine J Dupont  
Deputy Court Administrator  
450 South State Street  
PO Box 140230  
Salt Lake City, Utah 84114

**Re: Utah State Court System Review – Stage 2 Proposal**

Dear Judge Noonan and Ms. Dupont:

The National Center for State Courts (NCSC) is pleased to submit this proposal to assist you and the Utah Judicial Council (Council) System Review Steering Committee (Steering Committee) to continue its work to understand the perspective of all court employees and judicial officers about the general broad areas that had been explored during Stage 1 of the System Review.

The NCSC is an independent, non-profit corporation with the mission to improve the administration of justice through leadership and service to state courts and other organizations. The NCSC's headquarters office is located in Williamsburg, Virginia, and its Court Consulting Services division is based in Denver, Colorado. The Court Consulting Services division will be responsible for the services that will be provided to the Court.

Early in 2019, the Utah Courts requested the NCSC to provide advice and assistance to a special Steering Committee of the Utah Judicial Council in a project to assess the perceptions and needs of the judges and employees of the Utah State Courts. The NCSC project team, Ms. Tobias and Mr. Gingrich, conducted three days of 30-minute interviews with approximately 50 participants selected by the Steering Committee, representing a broad spectrum of the branch. On March 6, 2019 the NCSC project team submitted their Interim Report to the Steering Committee, presenting common perceptions and concerns on eight broad areas:

Headquarters  
300 Newport Avenue  
Williamsburg, VA 23185-4147  
(800) 616-6164

Court Consulting  
707 Seventeenth Street, Suite 2900  
Denver, CO 80202-3429  
(800) 466-3063

Washington Office  
2425 Wilson Boulevard, Suite 350  
Arlington, VA 22201-3326  
(800) 532-0204

1. Governance
2. Communications
3. Culture
4. Onboarding and Training
5. Recommendations/Advice for the New State Court Administrator
6. Harassment Policies and Procedures
7. Policies and Practices of the AOC Human Resources Department.
8. Other Insights and Comments

The Steering Committee, after reading the Interim Report, and after meeting with Ms. Tobias and the Judicial Council to discuss the next steps for Stage 2 of the system review, has identified the tasks it would like the NCSC to perform in Stage 2.

### **The Stage 2 Proposal**

The NCSC understands that the Judicial Council is interested in understanding the perspective of all court employees and judicial officers about the general areas explored during stage one of the system review. The NCSC understands that the Council wants to know in particular if the themes developed from a survey of all court employees and judicial officers would differ from the Stage 1 themes developed from the smaller sample of the Courts. The NCSC understands that the Council hopes to learn what is working, what is not working, whether the Council is on the right track, and what the Council could do to improve. The NCSC understands that the Steering Committee wants the NCSC to develop and compile a survey of all court employees and all judicial officers, to facilitate group discussions in response to the survey results with employees from the eight judicial districts, to submit an interim report to the Steering Committee on the themes of the survey results and to submit a final report to the Steering Committee with its in-depth analysis and potential solutions and strategies to move forward.

The NCSC proposes to begin this Stage 2 project in mid-January 2020, to develop and distribute surveys to all court employees and all judicial officers in February 2020, to compile and report on the themes of the survey results by March, 2020, to facilitate structured group discussions with employees from the eight judicial districts in response to the survey results in April, 2020, and to submit a final report to the Steering Committee in May, 2020.

The project team that conducted the initial assessment, Ms. Patti Tobias, Principal Court Management Consultant with the National Center for State Courts and Mr. James D. Gingerich, Director of the State Courts Partnership will serve as the project team for Stage 2 and will complete the tasks outlined in this proposal.

### **Work Plan**

### **Task 1A: Project Initiation - Kickoff Teleconference –week of January 13, 2020**

Upon execution of the contract, the NCSC project team will set up a teleconference with Interim State Court Administrator Mary T. Noonan and Deputy State Court Administrator Catherine J Dupont (project liaisons) to develop a final schedule of tasks that align with this proposal. At that time, the parties will discuss and clarify specific goals and objectives for the Stage 2 Court Review.

### **Task 1.B. Project Initiation - Kickoff Teleconference with the Steering Committee – January 2020**

The NCSC project team will coordinate a teleconference with the project liaisons, the Judicial Council System Review Steering Committee and other persons designated by the project liaisons to address all logistical and scheduling details, and responsibilities for developing, distributing and compiling the two surveys, for conducting the structured group discussions, and for completing all other tasks.

The teleconferences will be used by the participants to:

- Review, clarify and confirm the scope of work and the objectives and timelines for the surveys and structured discussions and consider any needed revisions to this work plan;
- Review and confirm the nature, form and scope of the products that the NCSC will deliver, as well as the intended recipients of those products;
- Identify communication channels, reporting relationships, and confirm the identity of a person who will be responsible for scheduling, obtaining required information, and performing other administrative tasks necessary to facilitate the project;
- Identify data and background material that the project liaison or Steering Committee members can provide to the NCSC project team;
- Identify the individuals who will participate in the structured group discussions with the NCSC project team (or a process for identifying those individuals).

### **Task 2. Develop Employee and Judicial Officer Surveys - Draft Surveys and Distribution of Surveys - February 5, 2020**

After reviewing the provided background material, the NCSC project team will work with the Steering Committee to develop two surveys, one for all court employees and one for all judicial officers, focusing on the following broad areas:

- Governance
- Communication
- Culture
- Onboarding and Training
- Experiences with the AOC, such as Court Finance, Court Facilities, Court Security, Court Human Resources, Court Education, and Court IT,
- Harassment Policies and Procedures

- Other Insights and Comments

Survey development will include multiple telephone and e-mail communications between the NCSC project team and persons designated by the Steering Committee, as needed to clarify the survey objectives, identify the demographics requested, and approve the survey questions and format of the survey responses.

### **Task 3. Compile Survey Results and Report to the Steering Committee – March 2020**

The NCSC project team will compile the survey results and submit a report to the Steering Committee on the themes identified in the survey responses.

### **Task 4. Structured Group Discussions – April 2020**

The NCSC project team will travel to Utah to facilitate four days of on-site structured group discussions in response to the survey results. These focus groups will include conversations with employees from the eight judicial districts, or TCEs, Clerks of Court, Probation Officers, AOC employees, and court level boards of judges. The project team will use these discussions to:

- gain a more in-depth analysis of the broad themes that need to be addressed
- prompt any further suggestions
- encourage the group to prioritize the broad themes, and
- facilitate problem solving to identify solutions and strategies to address identified concerns.

### **Task 5. Submit Final Report to the Steering Committee – May 2020**

The NCSC project team will submit a final report to the Steering Committee that:

- includes the project team's more in-depth analysis of the broad themes that should be addressed
- identifies which group prioritized which themes, and
- recommend potential solutions and strategies to move forward.

### **Task 6. Discuss the Final Report – June 2020**

The NCSC project team will participate in conference calls or live videos to discuss the final report with the Steering Committee.

### **Optional Tasks:**

### **Task 5A: Prepare and Discuss a Draft Report July 2020**

The NCSC project team will prepare a draft report and meet by phone or travel to Utah to meet in person with the Steering Committee to review, discuss and comment on the draft report.

### **Task 6A. On-site Presentation of Final Report, Discussion on Rollout Steps and Training Session – August 2020**

The NCSC project team will travel to Utah to meet with the Steering Committee to present the final report and to discuss strategies to implement recommended solutions and strategies to move forward.

#### **Budget:**

The total estimated cost of the project will be a firm fixed price of \$50,000. The project cost includes all professional and administrative time, travel, and indirect costs. An example of some of the costs included in NCSC's indirect cost rates are equipment, supplies, telephone, printing/photocopying, postage, and audits. The indirect costs are based on approved labor category rate chart used for all contracts.

<b>Task</b>	<b>Estimated Hours</b>	<b>Estimated Cost</b>	<b>Estimated Travel</b>
Task 1A: Project Initiation - Kickoff	4	\$664	
Task 1.B. Kickoff Teleconference with the Steering Committee	4	\$664	
Task 2. Develop Employee and Judicial Officer Surveys	32	\$5,312	
Task 3. Compile Survey Results and Report to the Steering Committee	36	\$4,688	
Task 4. Structured Group Discussions	113	\$23,101	
Task 5. Submit Final Report to the Steering Committee	16	\$2,656	2 consultants/4 days
Task 6. Discuss the Final Report	8	\$1,328	
<b>Task 1-6 Cost</b>	<b>213</b>	<b>\$38,413</b>	<b>2 consultants/4 days</b>
<b>Optional Tasks</b>			
Task 5A: Prepare and Discuss a Draft Report (Teleconference)	8	\$1,328	
Task 5A: Prepare and Discuss a Draft Report (In person)	16	\$2,593	1 consultant / 1 day
Task 6A. On-site Presentation	32	\$7,666	2 consultants/2 days

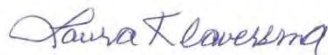
<b>Total Cost</b>	<b>269</b>	<b>\$50,000</b>	<b>2 consultants/12 days</b>
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I will be the key contact in respect to this proposal and can be contacted for clarifications or additional information regarding the NCSC's proposal. I have received authorization to sign proposals and/or agreements from NCSC President, Mary C. McQueen:

Laura Klaversma, Court Services Director  
National Center for State Courts  
Court Consulting Services  
707 Seventeenth Street, Suite 2900  
Denver, Colorado 80202-3429  
Phone: (303) 293-3063  
Fax: (303) 308-4326  
Email: lklaversma@ncsc.org

If you have any questions regarding the NCSC's proposal, please do not hesitate to contact me.

Sincerely,



Laura Klaversma  
Court Services Director

# Tab 13





**STANDING COMMITTEE ON  
MODEL UTAH CRIMINAL JURY INSTRUCTIONS  
2019 REPORT TO UTAH JUDICIAL COUNCIL**

Hon. James Blanch, *District Court Judge [Chair]*  
Hon. Linda Jones, *District Court Judge [Emeritus]*  
Hon. Brendan McCullagh, *Justice Court Judge*  
Hon. Michael Westfall, *District Court Judge*  
Jennifer Andrus, *Linguist / Communications*  
Melinda Bowen, *Criminal Law Professor*  
Mark Field, *Prosecutor*  
Sandi Johnson, *Prosecutor*  
Karen Klucznik, *Prosecutor*  
Elise Lockwood, *Defense Attorney*  
Debra Nelson, *Defense Attorney*  
Stephen Nelson, *Prosecutor*  
Nathan Phelps, *Defense Attorney*  
Scott Young, *Defense Attorney*

Remington "Jiro" Johnson, *Minutes*  
Michael C. Drechsel, *Staff*

***New Instructions***

During 2019, the committee met nine times. The committee completed work on the following new instructions:

- CR1301 Definitions for Assault and Related Offenses.
- CR1302 Misdemeanor Assaults.
- CR1303 Assault Against School Employees.
- CR1304 Assault Against a Peace Officer
- CR1305 Assault Against a Military Servicemember in Uniform.
- CR1306 Assault by a Prisoner.
- CR1320 Aggravated Assault.
- CR1321 Aggravated Assault by a Prisoner.
- CR1322 Aggravated Assault – Targeting Law Enforcement Officer.
- CR1330 Domestic Violence – Special Verdict Definitions.
- CR1331 Domestic Violence – Special Verdict Instructions.
- CR1411 Murder.
- CR1450 Practitioner’s Note: Explanation Concerning Imperfect Self-Defense.

- CR1451 Explanation of Perfect and Imperfect Self-Defense as Defenses.
- CR1452 Special Verdict Form – Imperfect Self-Defense.
- SVF1301 Assault Offenses.
- SVF1331 DV – Cohabitant.
- SVF1450 Imperfect Self-Defense.

### ***Revised Instructions***

In addition to those new instructions, the committee also revised or added committee notes to assist practitioners in the following existing instructions:

- CR411 404(b) Instruction. *(revised in light of State v. Lane, 2019 UT App 86)*
- CR1404 Aggravated Murder Elements When Extreme Emotional Distress is at Issue. *(substituted “[VICTIM’S NAME]” for “the victim”)*
- CR1601 Definitions [of Sexual Offenses]. *(added new committee note)*
- CR1613 Aggravated Sexual Abuse of a Child. *(added new committee note)*
- CR1615 Consent. *(substituted “[VICTIM’S NAME][MINOR’S INITIALS]” for “the victim” in two instances)*
- SVF1613 Aggravated Sexual Abuse of a Child. *(added new committee note)*

### ***Current Projects***

The committee is currently mid-stream on Driving Under the Influence and Related Traffic instructions. Once completed, this body of instructions will fill a critical need for a large number of cases filed in both justice and district courts. The committee is also currently considering an instruction regarding the definition of “sexual intercourse” and a possible entrapment instruction.

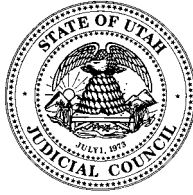
### ***Upcoming Projects***

Once the current projects are finalized, the committee plans to proceed with crafting instructions for the following areas of law:

- Burglary & Robbery Offenses
- Homicide Offenses
- Use of Force & Prisoner Offenses
- Wildlife Offenses

# Tab 14





## Administrative Office of the Courts

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

Hon. Mary T. Noonan  
Interim State Court Administrator

Catherine J. Dupont  
Deputy Court Administrator

### MEMORANDUM

TO: **Judicial Council**  
FROM: **Keisa Williams, Associate General Counsel – AOC**  
DATE: **December 16, 2019**  
RE: **CJA 4-403. Electronic Signature and Signature Stamp Use – Expedited Approval**  
**CJA 4-503. Mandatory Electronic Filing – Expedited Approval**

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#### **CJA 4-403. Electronic Signature and Signature Stamp Use**

The proposed amendments to CJA 4-403 (lines 27, and 32-36) address an issue created by the implementation of a new Utah Rule of Civil Procedure, Rule 109, which becomes effective January 1, 2020. Rule 109 provides that a standard injunction *shall* be issued by the court immediately upon the filing of certain domestic relations cases. The Board of District Court Judges and Clerks of Court expressed a concern about workload if clerks are required to use a signature stamp on every injunction. The proposed amendment authorizes the IT Department to act as a clerk and automatically affix a judge's signature to the injunctions.

The Judicial Council has already approved a standard injunction form that must be used statewide to ensure every injunction is the same and complies with the requirements in URCP 109. Programming has been completed and is scheduled to go live on January 1, 2020 when URCP 109 becomes effective.

Policy and Planning recommends that the Judicial Council approve the amendments to CJA 4-403 on an expedited basis with a January 1, 2020 effective date, pursuant to its authority under CJA 2-205.

#### **CJA 4-503. Mandatory Electronic Filing**

The proposed amendments to rule 4-503 require Licensed Paralegal Practitioners to file documents electronically. The first group of LPPs has been licensed and may obtain access to the e-filing system.

Policy and Planning recommends that the Judicial Council approve the amendments to CJA 4-503 on an expedited basis with a January 1, 2020 effective date, pursuant to its authority under CJA 2-205.

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

**Rule 4-403. Electronic signature and signature stamp use.****Intent:**

To establish a uniform procedure for the use of judges' and commissioners' electronic signatures and signature stamps.

**Applicability:**

This rule shall apply to all trial courts of record and not of record.

**Statement of the Rule:**

(1) A clerk may, with the prior approval of the judge or commissioner, use an electronic signature or signature stamp in lieu of obtaining the judge's or commissioner's signature on the following:

(1)(A) bail bonds from approved bondsmen;

(1)(B) bench warrants;

(1)(C) civil orders for dismissal when submitted by the plaintiff in uncontested cases or when stipulated by both parties in contested cases;

(1)(D) civil orders for dismissal pursuant to Rule 4-103, URCP 3 and URCP 4(b);

(1)(E) orders to show cause;

(1)(F) orders to take into custody;

(1)(G) summons;

(1)(H) supplemental procedure orders;

(1)(I) orders setting dates for hearing and for notice;

(1)(J) orders on motions requesting the Department of Workforce Services (DWS) to release information concerning a debtor, where neither DWS nor the debtor opposes the motion;

(1)(K) orders for transportation of a person in custody to a court hearing, including writs of habeas corpus ad prosequendum and testificandum; and

(1)(L) orders appointing a court visitor; and

~~(1)(M) domestic relations injunctions under URCP 109.~~

(2) When a clerk is authorized to use a judge's or commissioner's electronic signature or signature stamp as provided in paragraph (1), the clerk shall sign his or her name on the document directly beneath the electronic signature or stamped imprint of the judge's or commissioner's signature.

(3) In a case where a domestic relations injunction must be issued under URCP 109, the electronic signature of the judge assigned to the case may be automatically attached to the domestic relations injunction form approved by the Judicial Council, without the need for specific direction from the assigned judge and without the need for a clerk's signature accompanying the judge's signature.

37 (3 ~~4~~) All other documents requiring the judge's or commissioner's signature shall be  
38 personally signed by the judge or commissioner, unless the judge or commissioner, on a  
39 document by document basis, authorizes the clerk to use the judge's or commissioner's  
40 electronic signature or signature stamp in lieu of the judge's or commissioner's signature.  
41 On such documents, the clerk shall indicate in writing that the electronic signature or  
42 signature stamp was used at the direction of the judge or commissioner and shall sign his  
43 or her name directly beneath the electronic signature or stamped imprint of the judge's or  
44 commissioner's signature.

45 *Effective January 1, 2020*

1       **Rule 109. Injunction in certain domestic relations cases.**

2       **(a) Actions in which a domestic injunction enters.** Unless the court orders otherwise, in an action  
3 for divorce, annulment, temporary separation, custody, parent time, support, or paternity, the court will  
4 enter an injunction when the initial petition is filed. Only the injunction's applicable provisions will govern  
5 the parties to the action.

6       **(b) General provisions.**

7           (b)(1) If the action concerns the division of property then neither party may transfer, encumber,  
8 conceal, or dispose of any property of either party without the written consent of the other party or an  
9 order of the court, except in the usual course of business or to provide for the necessities of life.

10          (b)(2) Neither party may, through electronic or other means, disturb the peace of, harass, or  
11 intimidate the other party.

12          (b)(3) Neither party may commit domestic violence or abuse against the other party or a child.

13          (b)(4) Neither party may use the other party's name, likeness, image, or identification to obtain  
14 credit, open an account for service, or obtain a service.

15          (b)(5) Neither party may cancel or interfere with telephone, utility, or other services used by the  
16 other party.

17          (b)(6) Neither party may cancel, modify, terminate, change the beneficiary, or allow to lapse for  
18 voluntary nonpayment of premiums, any policy of health insurance, homeowner's or renter's  
19 insurance, automobile insurance, or life insurance without the written consent of the other party or  
20 pursuant to further order of the court.

21       **(c) Provisions regarding a minor child.** The following provisions apply when a minor child is a  
22 subject of the petition.

23          (c)(1) Neither party may engage in non-routine travel with the child without the written consent of  
24 the other party or an order of the court unless the following information has been provided to the other  
25 party:

26           (c)(1)(A) an itinerary of travel dates and destinations;

27           (c)(1)(B) how to contact the child or traveling party; and

28           (c)(1)(C) the name and telephone number of an available third person who will know the  
29 child's location.

30          (c)(2) Neither party may do the following in the presence or hearing of the child:

31           (c)(2)(A) demean or disparage the other party;

32           (c)(2)(B) attempt to influence a child's preference regarding custody or parent time; or

33           (c)(2)(C) say or do anything that would tend to diminish the love and affection of the child for  
34 the other party, or involve the child in the issues of the petition.

35          (c)(3) Neither party may make parent time arrangements through the child.



(c)(4) When the child is under the party's care, the party has a duty to use best efforts to prevent third parties from doing what the parties are prohibited from doing under this order or the party must remove the child from those third parties.

(d) **When the injunction is binding.** The injunction is binding

(d)(1) on the petitioner upon filing the initial petition; and

(d)(2) on the respondent after filing of the initial petition and upon receipt of a copy of the injunction as entered by the court.

(e) **When the injunction terminates.** The injunction remains in effect until the final decree is entered, the petition is dismissed, the parties otherwise agree in a writing signed by all parties, or further order of the court.

(f) **Modifying or dissolving the injunction.** A party may move to modify or dissolve the injunction.

(f)(1) Prior to a responsive pleading being filed, the court shall determine a motion to modify or dissolve the injunction as expeditiously as possible. The moving party must serve the nonmoving party at least 48 hours before a hearing.

(f)(2) After a responsive pleading is filed, a motion to modify or to dissolve the injunction is governed by Rule 7 or Rule 101, as applicable.

(g) **Separate conflicting order.** Any separate order governing the parties or their minor children will control over conflicting provisions of this injunction.

(h) **Applicability.** This rule applies to all parties other than the Office of Recovery Services.

**Rule 4-503. Mandatory electronic filing.**

**Intent:**

To require that documents in district court civil cases be filed electronically.

To provide for exceptions.

**Applicability:**

This rule applies in the district court.

**Statement of the Rule:**

(1) Except as provided in Paragraph (2), pleadings and other papers filed in civil cases in the district court on or after April 1, 2013 ~~shall~~ must be electronically filed using the electronic filer's interface.

(2)(A) A self-represented party who is not a lawyer or licensed paralegal practitioner may file pleadings and other papers using any means of delivery permitted by the court.

(2)(B) A lawyer or licensed paralegal practitioner whose request for a hardship exemption from this rule has been approved by the Judicial Council may file pleadings and other papers using any means of delivery permitted by the court. To request an exemption, the lawyer or licensed paralegal practitioner ~~shall~~ must submit a written request to the District Court Administrator outlining why the exemption is necessary ~~to the District Court Administrator~~.

(2)(C) Pleadings and other papers in probate cases may be filed using any means of delivery permitted by the court until July 1, 2013, at which time they ~~shall~~ must be electronically filed using the electronic filer's interface.

(3) The electronic filer ~~shall~~ must be an attorney or licensed paralegal practitioner of record and ~~shall~~ must use a unique and personal identifier that is provided by the filer's service provider.

Effective date: January 1, 2020

# Tab 15





## Administrative Office of the Courts

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

December 2, 2019

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

### MEMORANDUM

**TO: Management Committee**

**FROM: Nathanael Player, Director, Self-Help Center**

**RE: Self-Help Center Funding Requests**

At the August budget meeting before the Judicial Council the Self-Help Center (SHC) requested:

1. \$98,155 in ongoing funds to provide permanent funding to make the five existing SHC staff attorneys full-time; and
2. \$96,909 in ongoing funding for one additional full-time staff attorney.

The Council decided to split these requests: the Council's Ad Hoc Budget & Finance Committee would look for internal funding for the first request, and the second request would be sent to the legislature. If the question had come up at the time, I would have prioritized the first request over the second, regardless of how it was funded.

Currently, the five part-time SHC attorney positions are temporarily funded for full-time work, pursuant to a Council decision this May. This funding expires on June 30, 2020.

At its November 5 meeting the Ad Hoc Budget & Finance Committee decided not to use projected savings based on clerical weighted caseload numbers to fund any requests. This appears to mean the only option for the first request is one-time funding for FY 2021.

This turn of events has created a problematic situation. There appear to be four possible outcomes regarding the SHC funding requests:

1. Both requests are funded, but request one is only funded by the Council for one year.
2. Neither request is funded. The five SHC attorneys return to part-time status and the SHC is closed on Fridays.
3. Request one is funded by the Council for one year, request two is not funded by the legislature.
4. Request one is not funded, request two is funded by the legislature. The five SHC attorneys return to part-time status and the SHC is closed on Fridays.

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

The first outcome is the best possible scenario regarding funding, but is suboptimal. It would mean the most senior, experienced and efficient SHC staff attorneys are only guaranteed full-time employment for one year, while the newest staff attorney would be guaranteed ongoing full-time employment. Our valued employees, three of whom have been with us for seven years or longer, would have less job stability than the new employee.

Outcome four is the worst possible scenario, worse than if neither request were funded. Although this would mean funding for an additional SHC staff attorney, the existing staff attorneys would return to 32 hours per week. This would harm morale. Additionally, it would not be possible to offer services on Friday. The problems related to outcome one would be exacerbated here, where experienced staff attorneys would be given fewer hours and have less job stability than a new employee.

Paradoxically, the best possible outcome for SHC in terms of management and pragmatics may be outcome three, in which we receive funding to make existing staff full-time for one year, but do not receive funding from the legislature for an additional position.

I can think of two possible ways to remedy this situation:

1. Instead of requesting ongoing funding for an additional staff attorney from the legislature, ask the legislature for ongoing funding to keep existing SHC staff attorneys full-time; or
2. Do not send any request for SHC funding to the legislature during the 2020 session, and resubmit the request for the Council's consideration next year.

Substituting the funding request to the legislature would mean asking for \$109,315, instead of \$96,909. This is \$12,406 more. The Council approved market comparability adjustments for four SHC staff attorneys, so the cost for funding request number one went up.<sup>1</sup> I recommend moving forward with the substitution. I acknowledge this could create challenges – if this change is too difficult to accomplish then I ask that we not send any request to the legislature this session to avoid an inequitable and demoralizing outcome for my hardworking and dedicated staff.

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<sup>1</sup> These figures are based on calculations from Human Resources, which relied on FY 2020 numbers and assume a cost of living allowance in addition to the market adjustment.

# Tab 16





# UTAH STATE COURTS

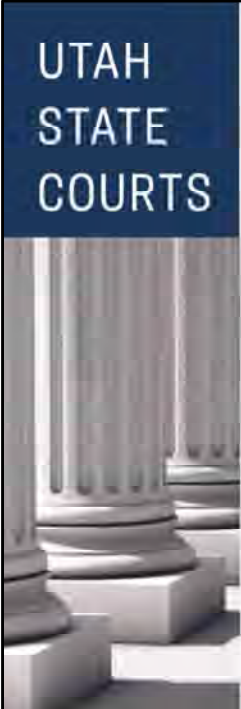


## Report on CY 2019 Audit Plan Results and Proposed Courts Audit Plan for CY 2020 – A New Path

December 10, 2019

Per IIA Standards, the Internal Audit Director should provide the Audit Committee a progress report on the current year's audit plan (Standards 2060) and the audit plan for the upcoming 2020 calendar year (Standard 2020).

Let's start off with the calendar year 2019 audit results.



Completed	Significant/Total Observations	In-Progress	Not Started
7 Contract Courts	No Observations	Nephi District Court Full Audit (10% complete)	Salt Lake County – Juvenile – Full Audit
3 <sup>rd</sup> District Limited Trust Audit	3 of 6	AOC Finance Limited Audit (50% complete)	
2 <sup>nd</sup> District Limited Trust Audit	No Observations		
1 <sup>st</sup> District Logan District and Juvenile - Full Audit	5 of 18		
NEW (not in original audit plan) – Self Assessment of Audit Services w/ Independent Validation	Generally Conforms to Audit Standards		

For the District, Juvenile, and Appellate Courts, we’ve completed all of the planned audits except Nephi District Court. The Nephi District Court has been delayed as a knock-on effect of additional time required of the audit team to complete the Limited Trust Audits. The audit plan estimated the training of a junior auditor assigned to one of the Limited Trust audits would progress faster than actual results. The 2019 audit plan was also impacted by the unplanned departure of the AOC Director of Finance and the State Court Administrator’s request of a Limited Audit of the AOC Finance area.

The audit results for the DJA limited and full audits reflected strong internal controls. The significant observations compared to the total observations are noted above. Five or fewer significant observations in an audit are considered strong controls. Most of the significant observations were the results of one-off type issues (e.g., new person in a role being not trained on a duty) rather than systemic issues.

UTAH STATE COURTS	CY 2019 Audit Plan Status – Justice Courts			Justice
	Completed	Significant/Total Observations	In-Progress	Not Started
	East Carbon City Justice Court - Full Audit	23 of 38	Smithfield Justice Court - Full Audit (50% complete)	Tooele County - Full Audit
			Draper Justice Court - Limited Audit (50% complete)	Alta Justice Court - Full Audit
				Saratoga Springs - Full Audit
	10 Internal Control Self-Assessments (ICSAs)*	N/A	10 ICSAs	0 ICSAs

ICSAs completed in 2018 – 10  
 \*ICSAs planned for 2019 – 20  
 Total over 15 months – 30

For Justice Courts, we completed one full audit in East Carbon City Justice Court. This court was selected for audit based on known issues. The new court clerk has entirely transformed the court controls. We are 50% complete on Smithfield Justice Court, also a court with known control issues. Similarly, the new court clerk has been cleaning up the court records and although the audit will show numerous significant observations based on the portion of the audit period that covered the prior clerk's time, the latter part of the audit period will show very few significant findings. We have not started the Alta Justice Court full audit, though we will complete an ICSA on this court this year.

Based on the one full audit performed and the high number of significant weaknesses noted, we rate the control environment for this court as weak. Over 19 significant findings indicates a weak control environment. Bear in mind that this court was not randomly selected and was a court with known issues. It is not possible to express an opinion on the overall Justice Courts system based on this single court result.

Other than full audits, Justice Courts have been randomly selected for ICSAs. In Q4 of 2018, we successfully completed a test performing Internal Control Self-Assessments (not Internal Self-Control Assessments, as they sometimes get called) for 10 randomly selected Justice Courts. The ICSAs held the potential for discovering 80% of the issues to be found in a Full Audit in 10% of the time required to perform a Full Audit.

Doing ICSAs gave Internal Audit the potential to review 30 Justice Courts annually – well above the +/- 2 Justice Courts full audits per year Internal Audit historically performed in a year. We planned for 20 ICSAs for 2019 – giving us a total of 30 over the 15 months ending 12.31.2019.

UTAH STATE COURTS	CY 2019 ICSA w/ Consulting Status – 20 Courts <span>Justice</span>		
	<u>Completed</u>	<u>In Progress (75% - 99%)</u>	<u>In Progress (&lt;75%)</u>
	West Valley City	Daggett/Manila	Alta
	Aurora	Summit Co.	Murray
	Salt Lake City	Draper	
	Ogden City	Gunnison	
	South Weber	North SL	
	Garland	Santaquin	
	Rich Co.	Payson	
	Manti		
	SL County		
	Milford		
	Pleasant View		


Here's the list of what courts were in our 2019 audit plan (randomly selected) and where they are in the process. We are now complete or in the later stages on all but 2 of the 20 planned ICSAs – and we'll reach our goal of 20 by the end of December.

We had hoped to be further along by now, but we've found that "first time through" ICSAs can result in one "needy" court "domino-ing" the timetable. We anticipate as courts are cleaned up, this phenomenon will decrease over time. As we get to our third year, we are convinced that we will find the benefits of the ICSA's process will spread to almost all Justice Courts who anticipate an ICSA and seek to get ahead of their issues. Result? There will be fewer and fewer "problem" Justice courts.

One court that has had issues discovered in the ICSA process is Draper Justice Court (a model 2 court). With approval of the State Court Administrator, we have expanded the ICSA for Draper Justice Court into a limited audit. There were just too many things that the court and city personnel conflicted on how the control processes worked. Plus, we found the court clerk actively resisted implementing accounting policies for Justice Courts that were taught at the Spring 2019 Justice Court Clerk conference. It was reported to us that the court clerk said to the assistant court clerks, "I know what they taught but I'll change things when they make me." The court clerk refused to run restitution payments, or defendant payments for public defender costs through the trust account. In essence, these funds are never entered into CORIS except as a note; they become an "off-book" transaction that has a much higher risk of loss or misuse of the payment than having the restitution or public defender reimbursements paid to the Court who disburses to the victim/city office that paid the public defender. There are numerous other issues such as court mail not being opened by 2 people.

So let's compare what we learned from our first 30 ICSAs versus the 2 full audits that were completed or are in process during the same time period.

## UTAH STATE COURTS



### CY 2019 ICSA w/ Consulting Status – 30 Courts Justice

#### What Have We Learned?

1. **Small Court size** does not necessarily mean weaker controls (Ex. Pleasant View)
2. **Large Court size** does generally mean stronger controls (Ex. Ogden, SL Co., SLC all scored very high), see item #5.
3. **In mid to small courts, long tenure/experience of the court clerk** does not mean stronger controls.
4. **Court “models” make a difference.** **Model 2 Courts** are the most difficult to work with and most resistant to needed change.
5. **Court clerk training that results in learning is the defining difference.** In larger courts, since promotion of assistants is on merit, strong controls are the norm. In mid to small courts, the technical strength of the court clerk is variable.

By doing ICSAs on so many courts in so short of a time period, we have seen patterns/trends we would not have been able to discern by doing a couple of audits over the same span of time. We gratefully acknowledge the Management Committee’s support in approving the 20 ICSAs this year so that we could have these “breakthrough” observations.

We’ve seen good controls in small courts, and good controls in mid-sized courts. And we’ve seen bad controls in small and mid-sized courts. In all of the large courts we’ve done ICSAs (Ex. Ogden City, Salt Lake Justice and SL County Justice), we’ve seen the best controls. Our conclusion, except for large courts, internal control strength is not dependent on court size. That surprised us.

Surprisingly, it is also not dependent on the tenure of the court clerk. We have seen court clerks with 5 - 10+ years of experience have courts with poor controls.

So if it’s not court size for mid-to-small courts, or clerk tenure for all sizes of courts, what is the difference in getting good ICSA results?

The defining difference is the **quality of the LEARNING** of the court clerk/administrator.

At any court where the court clerk/administrator has been **well-trained and was diligent in applying the training**, the court controls were in good shape. Even Court Clerks in mid-to-small locations where the court clerk mostly learned on the job but who wanted to learn and were quick to apply the trainings they received (ex. Aurora City), a part-time court clerk, had acceptable court controls

Court Clerks – even those with 5 - 10+ years of experience – who approach training as a chance to socialize or play but do not apply what they are taught have weak controls. And, despite their lack of knowledge, these court clerks are usually not open to recommendations – and have even been argumentative to ICSA recommendations. In our view, they have been doing things wrong for so long, they actually think what they


are doing is as good as what we're recommending. And in a position of power in their court, they are not used to being corrected. When this is combined with a model 2 court setting, our chances for getting changes into effect are blunted.

Note that we have found that the large courts have uniformly had strong controls and well-qualified court clerks/administrators. Through merit-based promotions, the lead court clerk/administrator ends up being one that is very capable and technically well qualified. For smaller courts with less competition, the results are much more variable.

We have confidence in our ICSA findings because our court selections were random and the sample size is large enough that we have a statistically-based 80% confidence that the findings are representative of the larger population.



# UTAH STATE COURTS



## CY 2019 ICSA w/ Consulting Status – 30 Courts

### What Have We Recommended?

Suggested ways to improve Justice Court Clerk Training/  
Learning


1. **Establish a court clerk training curriculum.**
2. **Start testing court clerks on the training they receive. Standardized tests. Track the results.**
3. **For clerks who get scores above a defined % of correct answers, establish a court clerk “certification.” Recognize it and reward it.**
4. **Ensure certified clerks train new head clerks until the new head clerks pass the certification.**

Let’s pause for a minute to let you review what we’ve recommended to the Board of Justice Court Justices to address these findings.

1. We recommend training curriculum be established.
2. We recommend testing of court clerks on the training they receive via a standardized exam. This could lead to certifications that are required to be renewed every 3 – 5 years.
3. We recommend “certified” clerks receive some sort of pay recognition (probably a one-time payment) and a certificate.
4. We recommend a certified clerk be a “trainer” and train new head clerks until the new head clerk passes the certification.

We’ve discussed these findings and the following 4 recommendations with the Board of Justice Court Judges. We know they are contemplating some sort of change to training. We wanted to let them know exactly what we’ve seen as the issues that drive better court controls and the 4 steps to improve court clerk training/learning. Without the ICSAs we simply would not have been able to spot the trends and make these specific recommendations.

# UTAH STATE COURTS



## CY 2019 ICSA w/ Consulting Status – 30 Courts Justice

### What Have We Learned?

6. **ICSAs surface potential problems** that have been in existence for years and allow them to be addressed (Ex. The training issue, Sanpete County deputizing city personnel to be asst. court clerks, Ogden City parking fine monies)
  - ICSAs are “efficient” ways to use time (vs. single audits) and
  - ICSAs have a multiplier effect since trends can be detected and acted upon (vs. single audits)
7. **Most common recommendations in ICSAs –**
  - Start using a dual-control key box
  - Use two people to open and log mail
  - Count and verify funds when they change hands


At the risk of being repetitive, let me re-state that both the observations and recommendations we’ve been able to make are due to the broader view that comes from doing 30 ICSAs.

The 30 ICSAs give us a wide field-of-vision. And because we have randomly selected courts, we can rely on the observations that come from this sample size as being 80% likely to represent the entire group of Justice Courts.

We have only begun to scratch the surface of the power of ICSAs. More on that in a minute.

Note the most common recommendations from ICSAs (see item #7).





CY 2019 ICSA w/ Consulting Status – 30 Courts Justice

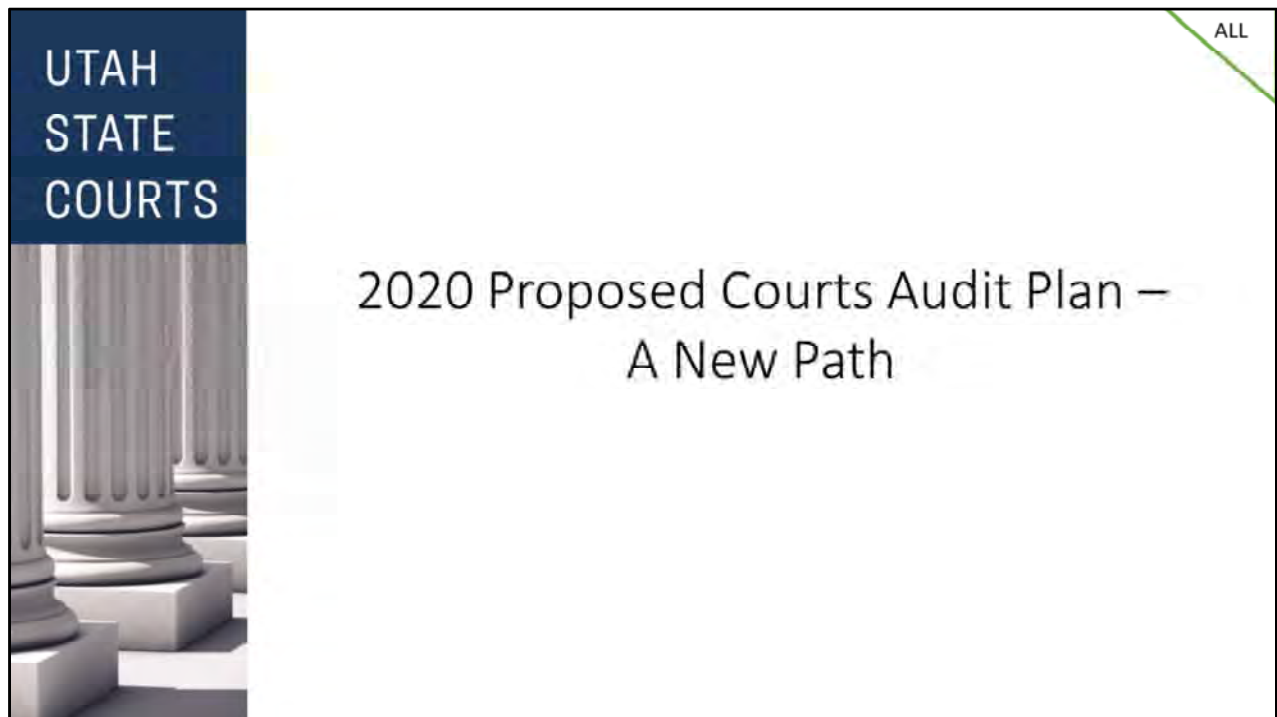
What Have We Learned?

2019 Overall Rating for Justice Courts:

**Adequate controls** at most courts; exceptions are centered at courts with poorly trained clerks or clerks who did not take training application seriously

Our overall ratings for Justice Courts is adequate (as opposed to weak or strong) controls at most courts. Exceptions are centered in courts with poorly trained clerks, or courts where court clerks did not take training application seriously.

That covers the 2019 audit results.



For the past 30 years, we’ve done audits at the Courts using a system grounded in testing single courts. One court at a time. Just a few courts per year. Rule 3-415 is based in this methodology. But internal audit has evolved. Instead of court-by-court audits as the norm, the concept of “unacceptable risk” (a risk too high for the organization to tolerate) has moved most internal audit groups to embrace a concept called an “overall opinion.”

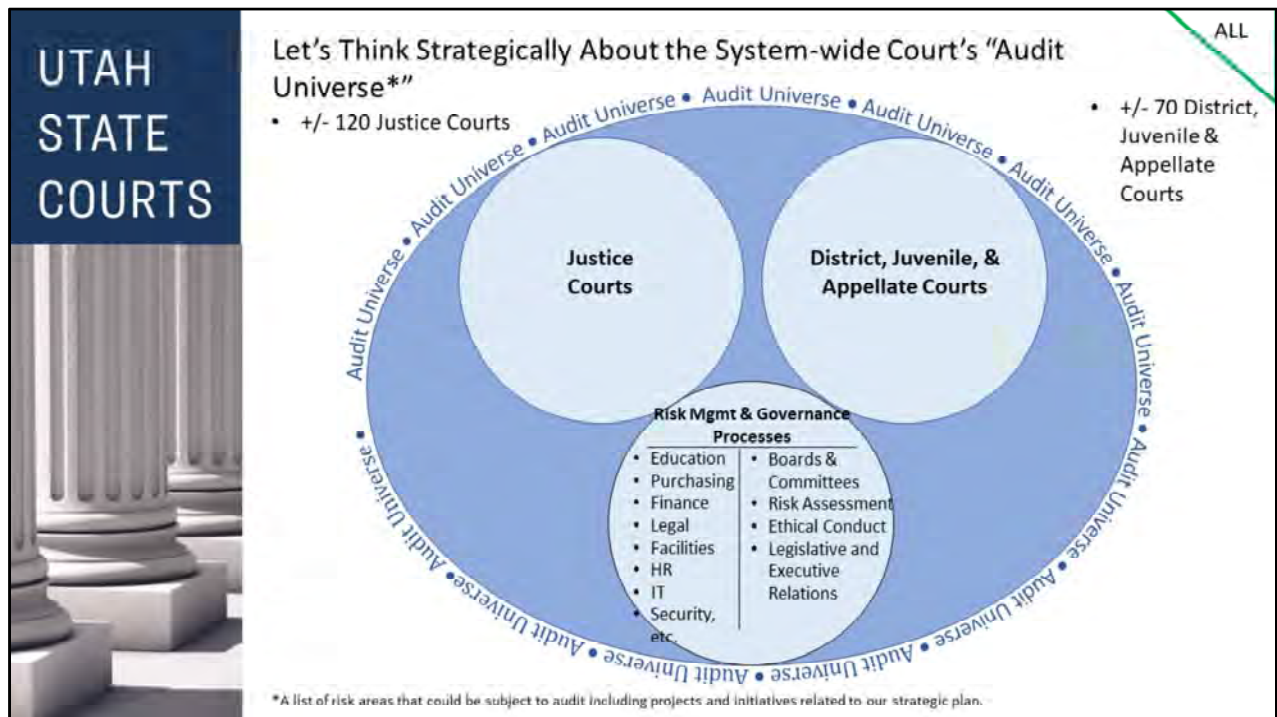
An overall opinion is defined by the IIA as “the rating, conclusion, and/or description of results provided by the chief audit executive addressing, at a broad level, governance, risk management, and/or control processes of the organization. An overall opinion is the professional judgment of the chief audit executive based on the results of **a number of individual engagements and other activities for a specific period of time.**” (IIA Standards Definitions) “Overall opinions differ from conclusions in that a conclusion is drawn from one engagement, and an overall opinion is drawn from multiple engagements. Also, a conclusion is part of an engagement communication, while an overall opinion is communicated separately from engagement communications.” (Implementation Guidance for Standard 2450) The overall opinion is an “assurance” if it involves the “examination of evidence for the purpose of providing an independent assessment on governance, risk management and control processes for the organization.” (Standards Definitions)

**An overall opinion must be supported by sufficient, reliable, relevant and useful**

**information.** (Implementation Guidance for Standard 2450)

Generally, that means doing enough audit work to reach a statistically-supported conclusion.

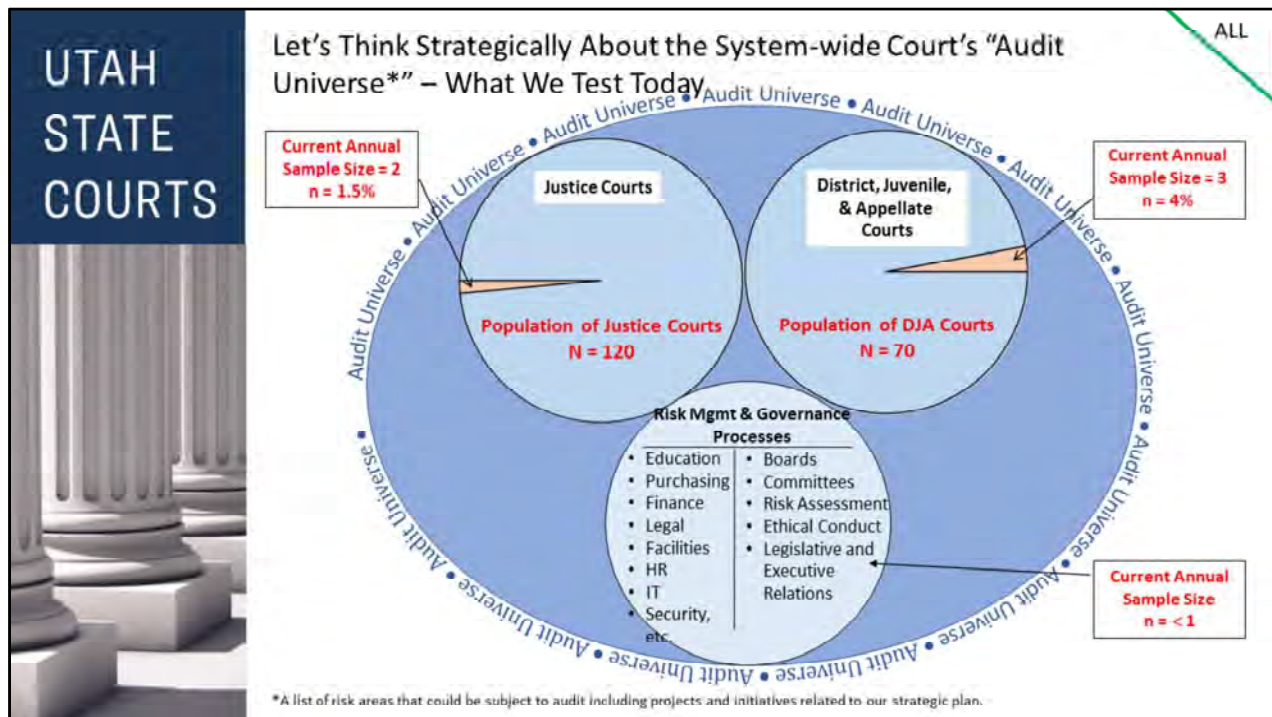
It's time for the Courts to take a new path.



With that preamble, let's talk about the "audit universe." Yes, it's a word we use in internal audit. It means all the areas of risk that could be subject to audit. Big picture wise, we have 3 areas of risk: (1) the Justice courts, (2) the District, Juvenile, and Appellate Courts, and (3) the AOC departments and the governance/risk management processes by which we address problems, decide on initiatives and set the strategy on how to become the type of courts that our public expects.

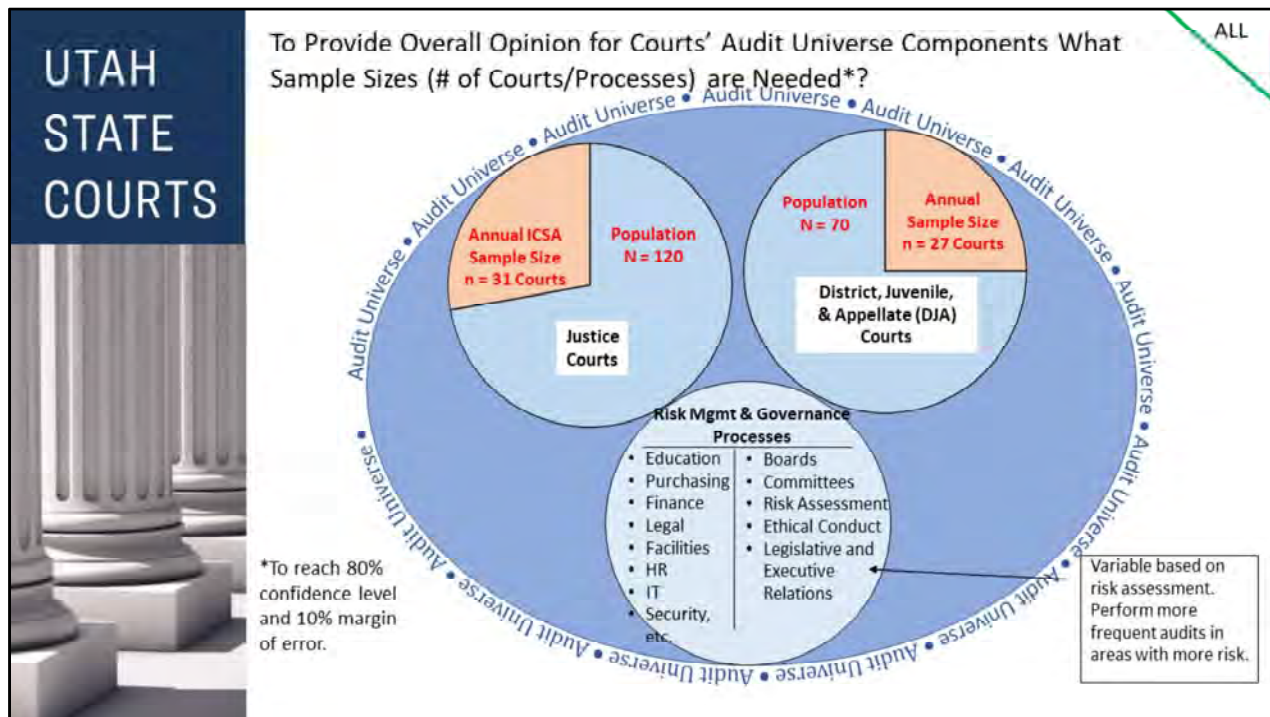
That's the audit universe.

Ideally, we should strive to reach an **annual** overall assurance opinion for (1) Justice Courts, (2) DJA Courts and (3) any risk management and governance areas that our risk assessment says we need to address.



This is the same chart as the last one with some overlays. The thin orange slices are the % of total Courts we audit each year today. Roughly 2 Justice Courts and 3 District and Juvenile Courts. We do less than 1 of the Risk Management (AOC) and Governance risk areas each year. **We strive to do good work. Yet despite this work I cannot give an overall opinion to you as members of the Audit Committee – an assurance – on the effectiveness of internal controls, or governance or risk management in any given year for Justice Courts, DJA Courts or our Governance and Risk Management processes.** Internal Audit can express conclusions to the Audit Committee about the specific courts audited, **but because our sample size is too small, we cannot make overall system-wide assurance statements on any of our “audit universe” areas.** As stated a couple of pages earlier, **an overall opinion must be supported by sufficient, reliable, and relevant information and 5 courts does not meet those standards.**

It there a better way?



Yes, there is.

I knew large audit firms expressed opinions about the financial statements of large organizations with surprisingly small sample sizes. So I began to experiment and played with various levels of confidence and margins of error – 2 statistics terms that I'll refresh your memory of in a minute – to see if I could find results that were sufficiently high to feel good about the overall level of assurance, but not so high that we could not afford to hire the number of people to deliver it.

I arrived at an 80% confidence level and 10% margin of error as being the right balance. In situations where the cost to gain higher levels of confidence is almost free (like presidential candidate phone surveys), they often try to get to 95% confidence levels and 5% MOEs. Confidence levels are simply the degree of confidence that the results of the sample represent the results of the overall population. The larger the sample size, the higher the confidence level will be. But also the higher the costs will be. For the Courts, I believe an 80% confidence level is a good baseline. It says that 80 out of 100 times our sample results are representative of the overall population.

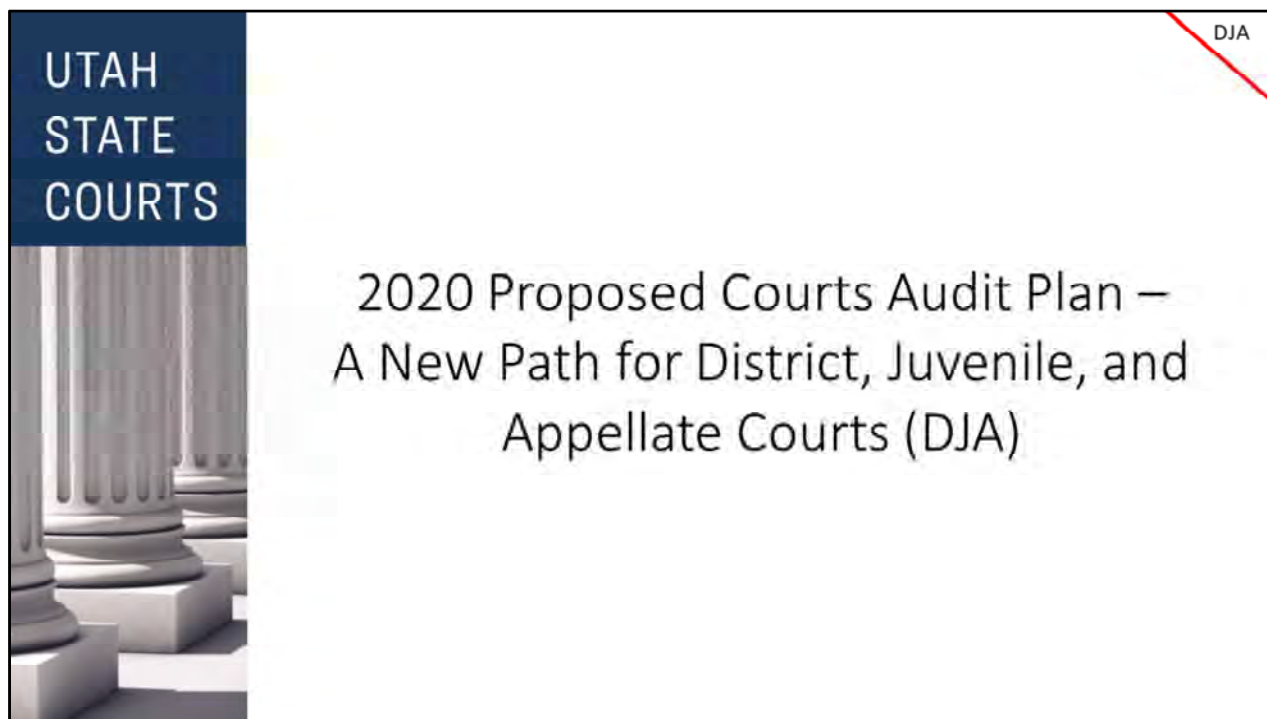
The margin of error is also dependent on sample size. It is the margin of error inherent in our 80% confidence level based on our sample size. In our case, if in our samples we find that 2 out of every 40 samples represent items that have control errors (ex., didn't get properly reviewed, deposit was made after the 3<sup>rd</sup> day, etc) – our presumed error rate is 5%. Our margin of error tells us that the true error rate could be as high as 15% (actual error rate of 5% + margin of error 10%).

As a compensating control, if we find a higher level of errors (e.g., 2 or more), we can increase our sample sizes focusing on the courts where the errors occurred and that will bring down our margin of error.

Using readily available on-line models that solve for the sample sizes given a certain population size, to get an 80% confidence level and 10% margin of error, we need to audit 27 District/Juvenile/Appellate courts and 31 Justice Courts (total 58). We do +/-5 audits per year.

Seems impossible to do, but we have one more breakthrough to apply.






How do we do it with existing resources?

Let me address the District/Juvenile/Appellate (DJA) Courts first, then the Justice Courts next.

## UTAH STATE COURTS



DJA

### How Do We Audit +/- 27 DJA Courts?

#### The Law of Diminishing Growth of Random Sample Size\*

<ul style="list-style-type: none"> <li>• Population = 100</li> <li>• Sample size needed = 30</li> </ul>	<ul style="list-style-type: none"> <li>Population = 1,000</li> <li>Sample size needed = 40</li> </ul>
<ul style="list-style-type: none"> <li>• Population = 2,000</li> <li>• Sample size needed = 41</li> </ul>	<ul style="list-style-type: none"> <li>Population = 10,000</li> <li>Sample size needed = 41</li> </ul>

Example of items we sample during an audit – Trust checks, mail logs, cash bail, daily deposits, credits, adjustments, dismissals, transaction reversals, juror and witness payments, etc.

\*To provide 80% confidence level that audit results are representative of all District and Juvenile Courts with a 10% margin of error. If a sample selection at a court contains an error, additional samples may need to be tested.

We have something that is working in our favor. Big time. It's the magic of sample size. For single courts, the populations we are testing – be it deposits, trust checks issued, etc – are often small. But for small populations, your sample size must be around 30% to be 80% accurate. As the total population grows, the sample size grows – **but at a much slower rate.**


For a population of 100 we need 30 samples to reach our 80/10 level of confidence/MOE. But for a population of 1000 (of anything – ex., juror and witness payments), we only need 41 samples to reach that same level of confidence. How many if we have a sample size of 2000? (41). And 10,000? (41). For a population of 1,000,000 the sample size is 42.

This concept means the work required to test 27 District and Juvenile Courts is not 27 times the effort we use today to do 1 court (which is 300 hours)! We just haven't applied this rule to our situation to date!

We need to switch our thinking from auditing a single court to one where we take 27 courts and view them as a single entity for sampling purposes and use the benefit of diminishing sample size for larger populations to be able to reach an overall assurance on controls with only a 25% increase in sample size.



## UTAH STATE COURTS



DJA

### How Do We Audit +/- 27 DJA Courts?

Some Things We Don't Get to Test Samples = No Scale

- **Internal Control Questionnaire – 1 per court**
- **Separation of Duties – 1 per court**
- **AR Collection efforts – 1 per court**
- **Review of CORIS Access Rights – 1 per court**
- **Monthly Transmittals to State Treasurer – 12 per court**
- **3 Year Historical Trust/Revenue Analysis – 1 per court**
- **Count Change Funds and Observe Deposit Prep – 1 per court**

Of course some things need to be done for every court included in the sample. That includes the Internal Control Questionnaire (ICQ), Separation of duties, etc. This slide lists some other examples. But just because we can't leverage sample size on these items does not mean that we can't find ways to accomplish them more efficiently. Support Services Coordinators (SSC) are field-based "auditor" positions that are already in each district. They maintain separation of duties forms, perform tests of court transactions and generally serve as the TCE's internal control teacher and monitor. Their only contact with Internal Audit is when they are hired. We train them for a day.

It seemed to me that SSCs were an under-utilized resource that Internal Audit could partner with to perform work on the 27 selected courts including testing the 41 samples. Spread out over 10 SSCs, this was only 4 transactions per SSC. And we could also provide the SSCs with our ICQ questions and ask them to go over every one of the questions with the 27 courts that are selected for testing. Ditto for the other items listed on this page that needed court by court responses.

Even with the work that cannot be sampled, by our calculation (next page), we believe that spreading the audit work for the 27 courts over the 10 SSCs – supervised by Internal Audit who would review their work product - means we can do the work required for each of the 27 courts not in 300 hours but in something like +/- 100 hours per court.

That's a 2/3rds time savings.

And because the SSCs are already spending significant time testing controls, there would be no incremental time required from the SSCs. We'd simply replace time they spend doing their own tests of the courts in their District with tests of the samples we provide them.

# UTAH STATE COURTS

DJA

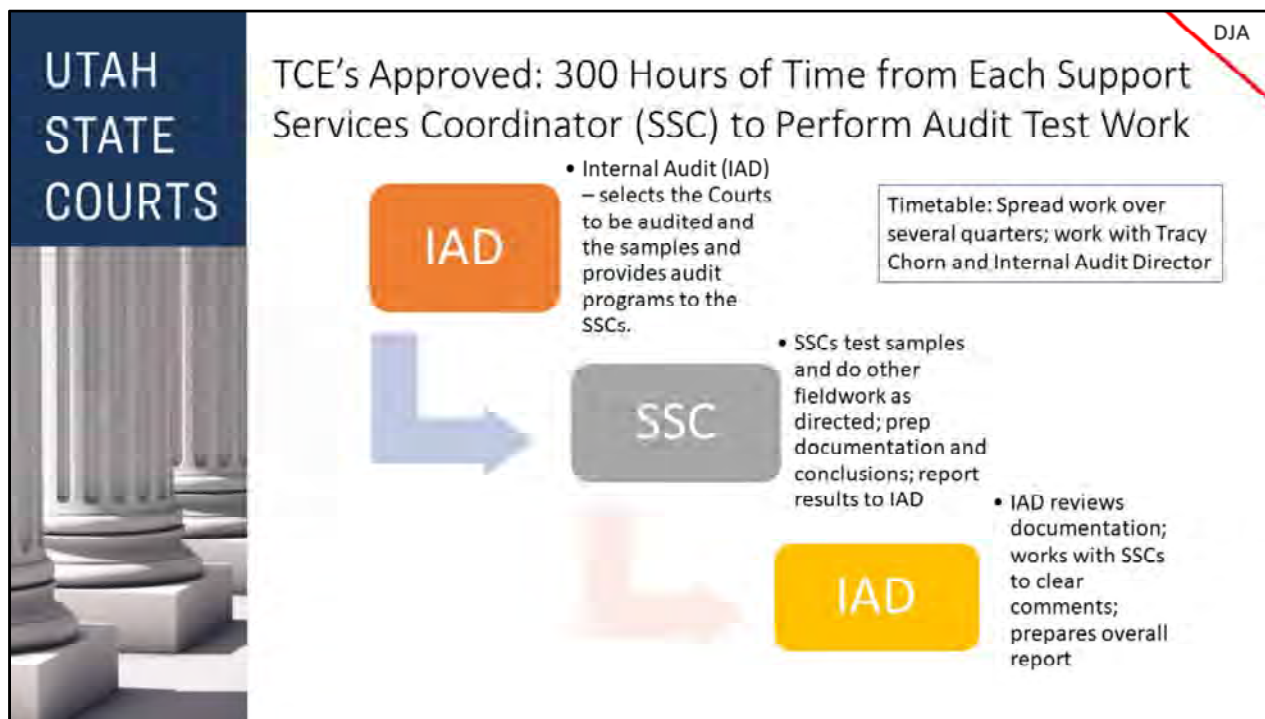
## Time Budget for 27 DJA Court Audits

Estimated Time Budget 2020 District and Juvenile Audits	
	Hours
Time required for each D&J court today	300
Number of courts to test	27
Total hours w/o efficiencies	8,100 (A)
Less: efficiencies from reduced samples/court	
Assumes 60% of total time is testing samples:	
$8100 * (.60\%) = (4,860)$ fewer hours + $8100 * .05\% = 405$	(4,860)
	405
Plus: Hedge for First time through	600
Less: Internal Audit Hours to Project	(1,245)
Estimated Total Hours	3,000 (B)
Divided by 10 Support Services Coordinators	300.00

**41 samples/27 courts = 1.5/court vs 30/court = 95% reduction of 60% of time spent (4,860 hours) doing testing = add back 5% x 8,100 hours = 405 total testing time hours**


This chart show what our audit hours budget would hypothetically be for doing audits of 27 DJA courts without sample efficiencies (A), and the hours saved through the sampling efficiencies – adding back a first-time through time hedge and deducting out time internal audit will be devoting to the project (B).

The total per court is 100 hours – and since each of the 10 SSCs will hypothetically do 2.7 courts, approx. time required is 300 hours per SSC, which represents 15% of their annual time of 2080 hours. Again, this is doing things they already do, just allowing Internal Audit to pick which Courts and samples to do.



Here's the workflow. Internal Audit selects the courts and the samples. SSCs do the fieldwork and report their results to IAD. IAD reviews the SSC-prepared workpapers and directs any further work that needs to occur at the courts. Once the results are all in , Internal Audit writes the overall audit report for the Management Committee, Board of District and Juvenile Court judges and TCEs.

# UTAH STATE COURTS



## What are Benefits of this Change?

Old Way	New Way
1. <b>Limited</b> assurance scope (1 – 3 courts only); no overall assurance can be given	1. <b>Overall</b> assurance scope and conclusion for District, Juvenile, and Appellate Courts provided to Management Committee (meets Institute of Internal Auditors Standard 2450 for overall opinion)
2. No leverage of Support Service Coordinators(SSC) and Internal Audit	2. Leverage between IAD and SSCs yields <u>27 Courts audited w/ no increase of total headcount</u>
3. Limited training by IAD to SSCs	3. IAD trains SSCs in latest accounting/ internal audit policies and standards as well as provides potential career paths
4. Limited impact on court controls	4. Twenty-seven courts receive feedback on controls; Courts receive audit work approx. every 3 <sup>rd</sup> year. Cycle time between audits reduced by 80%. Promotes focus on fixing problems.

So, what do the Courts get as benefits?

- For the first time ever, the TCEs and Internal Audit can give the Management Committee assurances that sufficient courts have been tested to provide an overall basis for the state of controls in the DJA Courts.
- Internal Audit builds core competencies of the SSCs to train others as they use our up-to-date tools and work programs to perform their work. They get to work directly with Internal Audit and learn first-hand various solutions to control issues. We train them to do the “right” amount of work. For example, high error rates (like 50%) on samples mean that not all samples need to be tested before concluding there is a control issue. And it is the root cause of the control issue that needs to be addressed.
- SSCs and Internal Audit build potential career paths between our organizations.
- The impact on DJA courts’ staff will be one of confidence in their internal controls as they don’t wait 10+ years between audits. Side-stream impacts on the courts not tested this year will be dramatic as they up their game in preparation for a future year when they are in the sample.

Better controls. Better trained SSCs. No additional costs. One SSC who heard about this proposal indicated that the linkage to IAD’s programs and learning was the best training she could have wished for – and she was enthusiastically supportive.

The TCEs have reviewed this plan and unanimously approved it for presentation to the Management Committee. Mark Urry, TCE in 4<sup>th</sup> District has agreed to join us for a couple of minutes to discuss what he and his District’s SSC think about this proposal and answer any Management Committee questions.


## UTAH STATE COURTS



How do the TCEs Feel About This Initiative? How do Support Services Coordinators Feel About This Change?

DJA

- Let's hear from Mark Urry – 4<sup>th</sup> Judicial District



UTAH  
STATE  
COURTS

DJA

## CY 2020 Proposed Audit Plan for DJA Courts

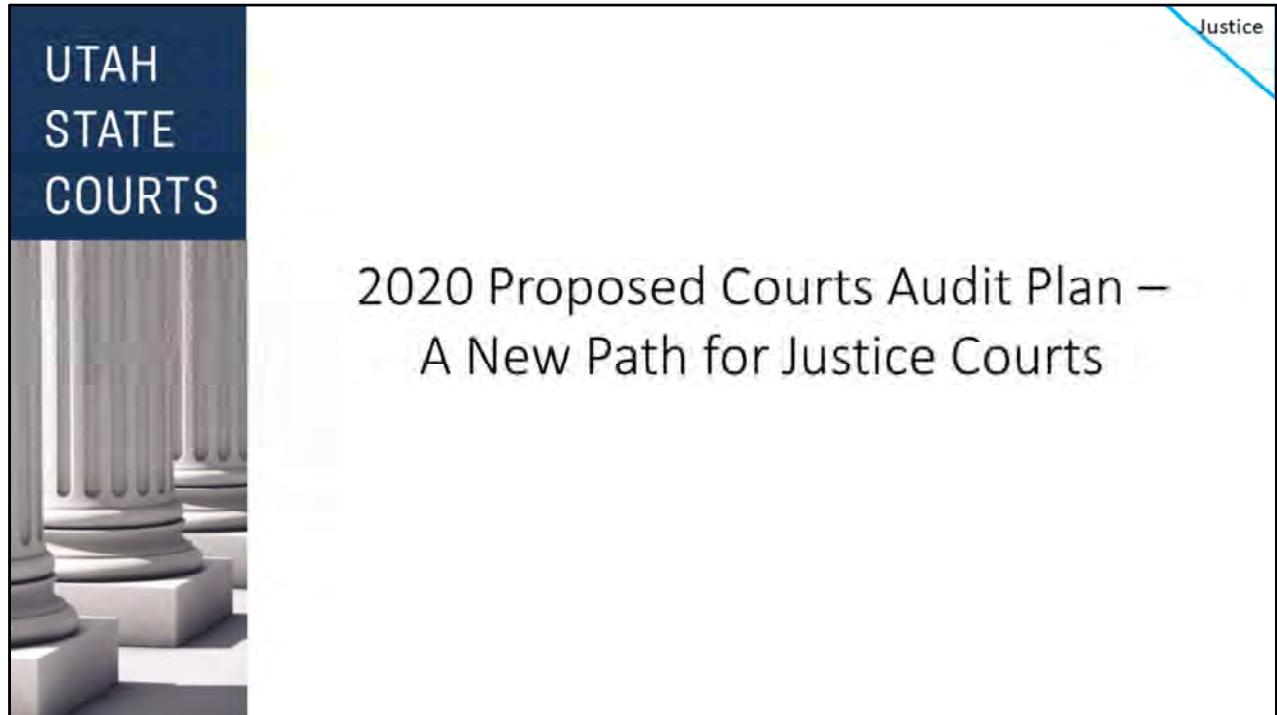
CY 2020 –

- 27 District/Juvenile Courts to reach overall opinion w/Assistance of SSCs/Train SSCs
- Limited audits where Court Clerks change (none expected for 2020)
- Expenditures of 7 Contract District Courts

Single Court Full Audits:

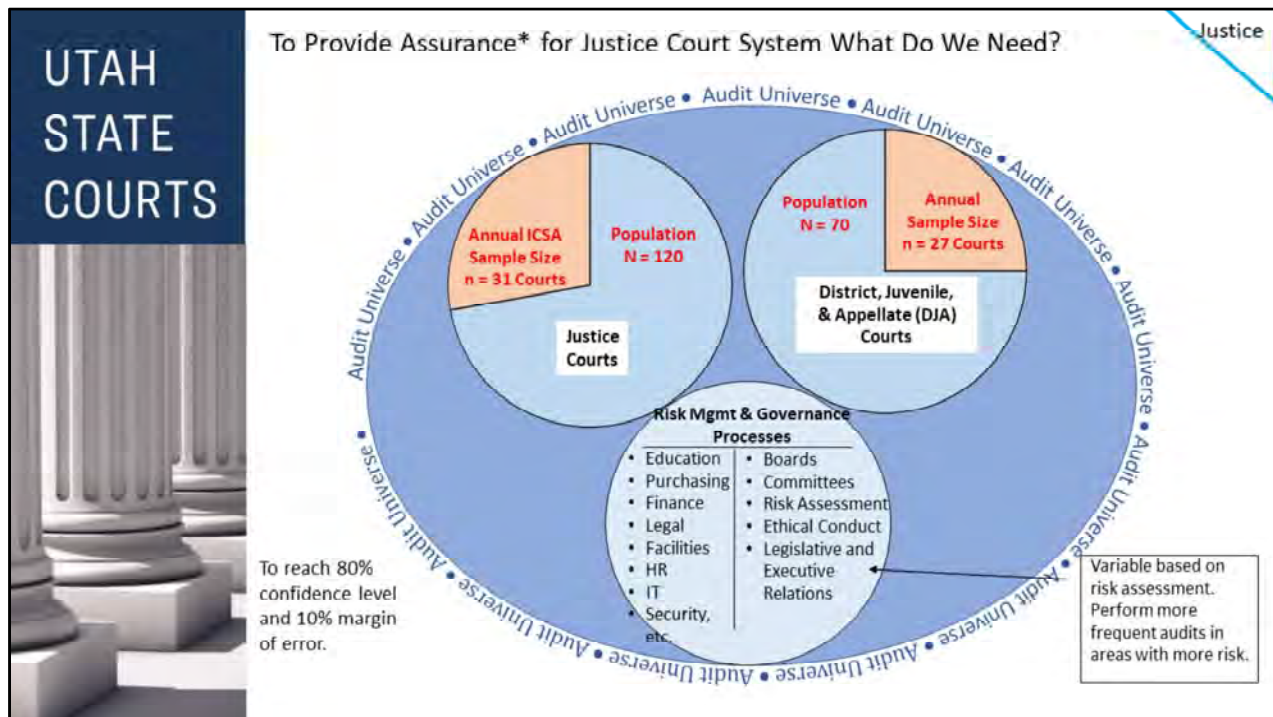
- Complete Nephi District Court

Here is the proposed audit plan for DJA courts for 2020. Perform “full audit” type procedures on 27 randomly selected District and Juvenile Courts with sample sizes growing from 30 to 41. Issue an overall opinion on DJA courts to the Management Committee in Q4 2020. Complete the Nephi District Court audit in progress.



Now, with the DJA solution in mind, let's go to the Justice Courts and tee up what we are seeking to change to be able to provide an overall audit opinion





The DJA solution won't work for the Justice Court system. We don't have Support Service Coordinators.

But, we are already doing internal control evaluations on 30 randomly selected courts through the ICSA process. That's the basis we need to build from.

To reach the requirements for an audit, we need to add to the ICSAs some substantive work – a 2<sup>nd</sup> step that involves testing the verbal answers we've received on the ICSAs. But without the Support Services Coordinators to perform the tests, we need to move to the next level of analysis. Computer-aided audit techniques or CAAT (See IIA Standard 2320). As described in the IIA Implementation Guidelines for Standard 2320 (Analysis and Evaluation), "the use of CAATs may enable the analysis of an entire population of information rather than just a sample."

Think of this as what you experienced with your last physical.



# UTAH STATE COURTS

To Provide Assurance\* for Justice Court System Besides ICSAs What Else is Needed?

**Medical Test Results:**

	<u>Reference Range</u>	<u>Out-of-Range</u>
• A1C	X	
• Potassium	X	
• Cholesterol	X	
• Hemoglobin		X

Focus on the Out-of-Range Results

Justice

When a doctor requests labs, the focus is on the results that are “out of range.”

Right now, we don’t have too many defined ranges of normal results for Justice Courts. However, we do have one for “Court Costs.” In 2019 we noted that some Justice courts had \$100K+ of Court Costs. But the largest Justice Court only had <\$1000 = 1/10 of 1% of total revenue shown as a court cost. We began to investigate and were able to find that the court costs above that amount represented errors made by clerks. This is an example of an out-of-range result based on a Justice-court wide norm. Any court with an out-of-range is subject to review.

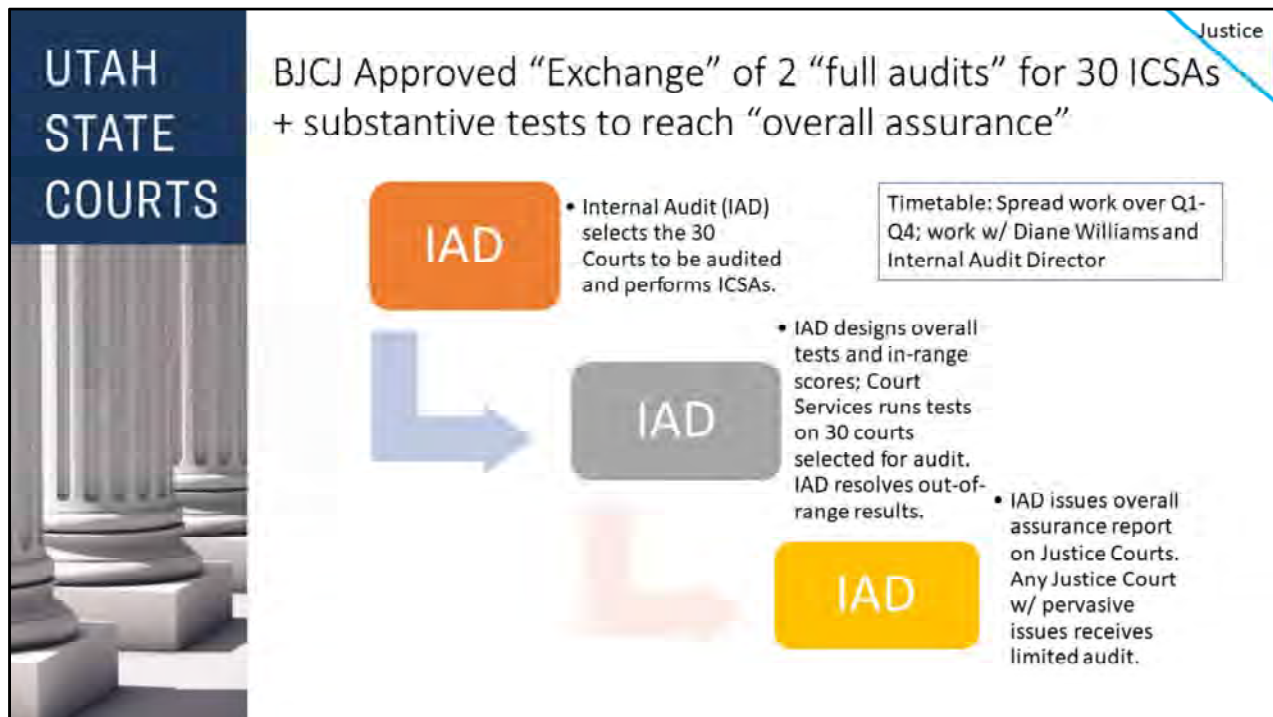
We propose to develop CAAT substantive tests for other Justice Court categories, such as:

- What is the normal spread of revenue categories? Test those courts that are out of range.
- What is the normal surcharge to the state as a % of fines collected? Test those courts that are out of range.
- What is the normal number and amount of credits and adjustments per \$1000 of fines? Test those courts that are out of range.
- What is the normal number of reversals and dismissals per \$1000 of fines? Test those courts that are out of range.
- How many of the reversals and dismissals are approved by the same person that originated the entry? Test those courts that are out of range.
- What is the normal number of persons with local court CORIS access depending on the revenue range? Test those courts that are out of range.

We will design queries in conjunction with Court Services that look across all Justice Courts to get normalized results – then focus on those courts that are selected for ICSAs and look at any results that are out-of-range.

If the ICSA produces indications of poor controls, we also have the option of doing a limited audit on those areas of weakness.


If the Board of Justice Court Judges hears of a court that needs looking into, we will do an ICSA and a limited audit of the areas that come up. Full audits can also be done if that is necessary.



Here’s the Justice Court workflow. Internal Audit Department (IAD) randomly selects the courts to receive ICSAs (after excluding the 30 courts we’ve done this first year). IAD performs the ICSAs on the 30 courts selected and may do limited audits of any courts that show poor internal controls. IAD designs the overall tests and in-range scores. Then runs the CAAT tests on the 30 courts selected for audit, resolving any out-of-range results and writing audit recommendations. IAD compiles the overall assurance report for the Management Committee and Board of Justice Court Judges.

As you see, we would exchange the 2 full audits for the overall assurance provided by 30 ICSAs with substantive tests. We expect this trade will not require incremental hours to perform.

# UTAH STATE COURTS



## What are Benefits of this Change for Justice Courts?


Old Way	New Way
1. <b>Limited</b> assurance scope (1 – 2 courts only); no overall assurance can be given	1. <b>Overall</b> assurance scope and conclusion for Justice Courts provided to Management Committee (meets Institute of Internal Auditors Standard 2450 for overall opinion)
2. No leverage of Justice Court personnel and Internal Audit	2. Potential leverage between IAD and Justice Court “trainers” on the 30 Courts audited.
3. Limited training by IAD to court clerks at conferences	3. Potential new training standards and certifications for court clerks. IAD will assist in developing training.
4. 30 ICSAs are standalone results	4. 30 ICSAs team with new “out-of-range” testing to give true audit results. Maintains focus on getting all Justice courts to “certified standards.”

So, what do the Courts, local Justice Courts and the Board of Justice Court Judges get as benefits?

- For the first time ever, the BJCJ and Internal Audit can give the Management Committee assurances that sufficient courts have been fully tested to provide an overall opinion for the internal controls, governance and risk management processes in the Justice Courts.
- We continue to build core competencies of the clerks that are audited – and if the BJCJ moves forward with the “trainers”, we will consider using them to assist IAD if we have out of range results that need on-site work to resolve. Of course IAD will provide the trainers tools and work programs to perform their work.
- The impact on the Justice courts’ staff will be one of confidence in their internal controls as they don’t wait 10+ years between audits. Side-stream impacts on the courts not tested this year will be dramatic as they up their game in preparation for the future.

Better controls. Better trained clerks. No additional costs.

## UTAH STATE COURTS



### CY 2020 Proposed Audit Plan for Justice Courts

CY 2020 –

- 30 ICSAs on randomly selected courts (exclude 2019/18 selections)
- Substantive tests (CAAT) on “out-of-range” results of any of the 30 ICSA selected courts to reach overall opinion
- Limited audits where needed

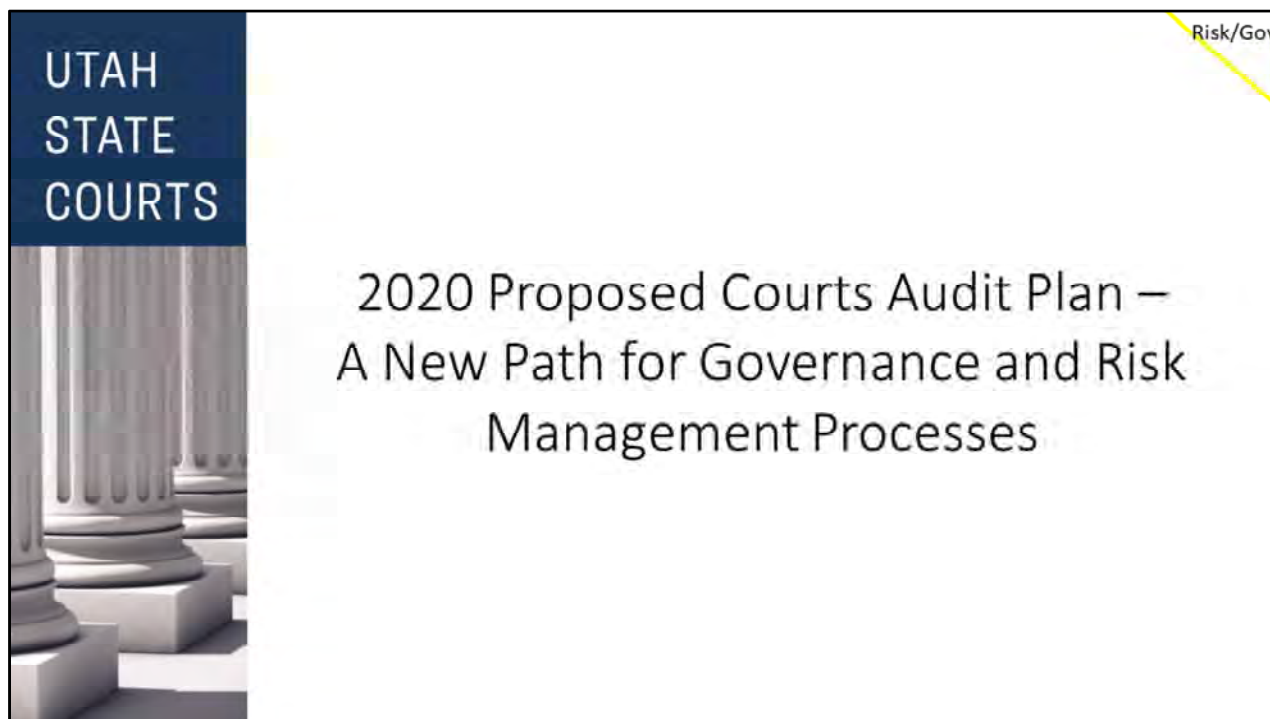
Single Court Full Audits:

- None

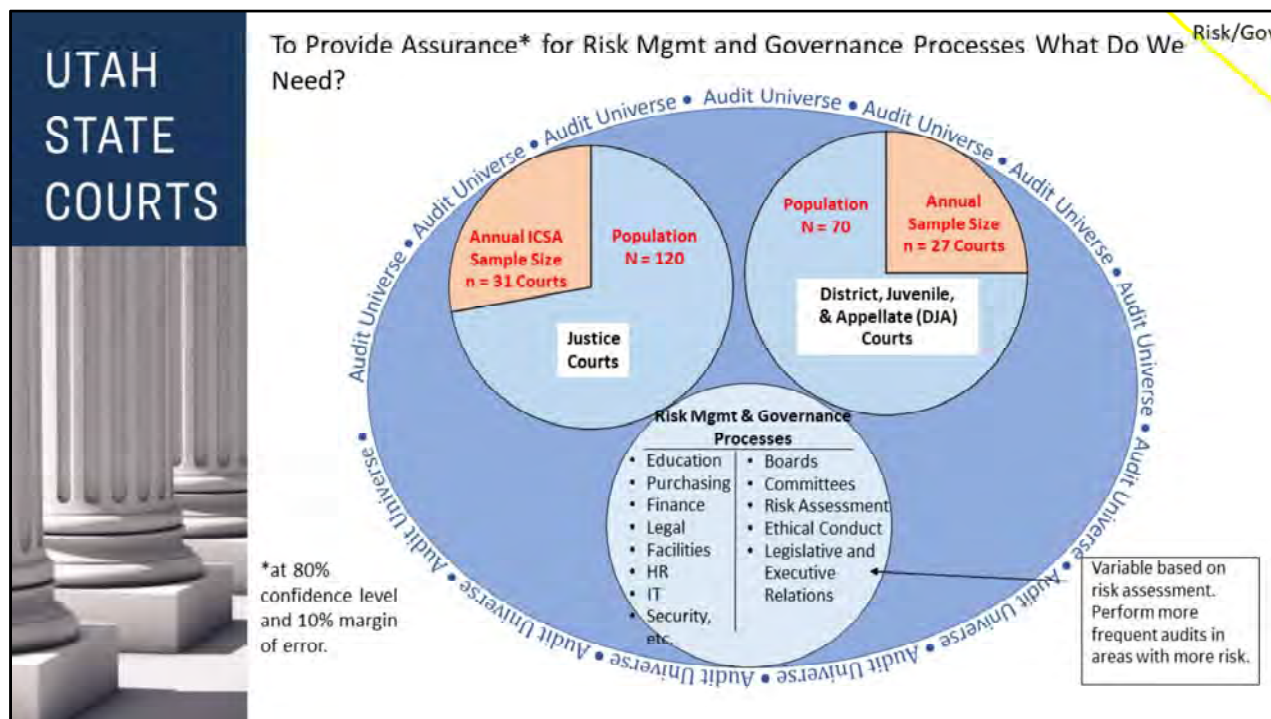
Our audit plan for 2020 Justice Courts is both aligned with 2019 and extended so that we can reach an “audit” level of assurance to the Management Committee and the BJCI, something that is not possible with ICSAs only.

We will design the areas to test for out of range conditions (and any ideas you have would be welcome). If we find conditions in performing our ICSAs or the out of range tests, we can opt to do a limited audit to find out the extent of the issue. It will enable us to determine if the out of range condition is caused by errors or fraud.

We will not plan a full audit of a single court. But the results of the ICSAs and out of range tests will give us the ability to opine on the overall Justice Courts control environment at an 80% confidence level and a 10% margin of error.



The last area of the audit universe are the governance and risk management processes including all of the AOC departments and various boards and committees.




All of the groups on the left-hand side of the “T” chart are (in their broadest context) risk management processes from an internal audit perspective. These activities exist to provide training, process payments and receipts, provide legal advice, consult with the Districts over court security, provide IT services, etc all with specific expertise that reduces the Court’s risk profile.

The right-hand side items are governance processes.

Neither list is intended to be all-inclusive.

Internal Audit opined in the *2019 Report on Self-Assessment of Internal Audit Services of the Utah Courts* that the various components that make up the Risk Management and Governance processes should be assessed using interviews of senior management, review of minutes of boards and committees, interviews of managers throughout the Courts, findings of prior audits or risk assessments, etc. and then each area analyzed through a risk-factor based approach utilizing impact and likelihood as the weighting elements to risk-rank the Risk Management and Governance processes. Should any of the weighted scores cross the threshold for an audit, this would be added to the 2020 audit plan previously approved. For the future, the risk assessment of the risk management and governance processes would be completed before the audit plan is submitted. (See *2019 Report on Self-Assessment of Internal Audit Services of the Utah Courts* “Gap” recommendation #5, Standard 2010 - Planning)





## UTAH STATE COURTS

### CY 2020 Proposed Audit Plan for Risk Management and Governance Processes

CY 2020 –

- Overall risk assessment of risk management and governance processes Q1 2020
- Based on risk assessment results, audits TBD based on risk-ranking
- Bring results of the risk assessment and any recommendations for Risk Management and Governance processes to be included in the 2020 audit plan to Management Committee in Q1 2020

We anticipate completing the risk-ranking assessment for risk management and governance processes to the Management Committee in Q1, 2020. Findings of prior audits by the State Auditor's office, Division of Administrative Services, Court's Internal Audit, etc. and the implementation of prior audit findings will be included in the risk assessment.

We will be back to the Management Committee with any additions to the audit plan as a result of the risk assessment of the Risk Management and Governance processes as early in Q1 2020 as possible.



UTAH  
STATE  
COURTS



Any Questions?



We seek approval of the proposed 2020 audit plans for 30 Justice and 27 DJA Courts and the issuance of overall opinions. Review 7 Contract District Court Expenditures. We further ask for approval to conduct a risk assessment of the Risk Management and Governance processes in Q1 2020 and add to the 2020 audit plan any areas in the Risk Management and Governance processes that risk-rank at a level indicating a current year audit of the area is required.

Thanks for your time and consideration today.

# Tab 17





**INDEPENDENT VALIDATION by  
UTAH DEPARTMENT of WORKFORCE SERVICES**

**REPORT ON SELF-ASSESSMENT of  
INTERNAL AUDIT SERVICES of the UTAH COURTS**

***FINAL REPORT***



**ADMINISTRATIVE OFFICE OF THE COURTS**

**December 3, 2019**

**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.**



State of Utah

GARY R. HERBERT  
Governor

SPENCER J. COX  
Lieutenant Governor

## Department of Workforce Services

JON S. PIERPONT  
Executive Director

CASEY R. CAMERON  
Deputy Director

GREG PARAS  
Deputy Director

December 3, 2019

### INDEPENDENT VALIDATION STATEMENT

The Department of Workforce Services ("DWS") Director of Internal Audit assisted by staff auditors from DWS and the Utah State Board of Education were engaged to conduct an independent validation of the self-assessment performed by Internal Audit Services of the Utah Courts ("IA").

The primary objective of the validation was to verify the assertions and conclusions made in the attached self-assessment report concerning adequate fulfillment of the organization's basic expectations of IA, its conformity to the Institute of Internal Auditor's International Standards for the Professional Practice of Internal Auditing, and successful internal audit practices and opportunities for continuous improvement noted. Other matters that might have been covered in a full external assessment, such as in-depth analysis of successful practices based on benchmark data, governance activities, consulting services, and use of advanced technology, were excluded from the scope of this independent validation by agreement with the Director of Internal Audit of the Utah Courts.

In acting as the qualified, independent external assessor from outside the organization, the DWS Internal Audit Director and all staff assigned to the validation are fully independent of the Internal Audit Services of the Utah Courts and have the necessary skills to undertake this engagement. The validation, concluded on December 3, 2019 consisted primarily of a review and a test of the procedures and results of IA's self-assessment. In addition, interviews were conducted with the Chair of the Management Committee of the Judicial Council and other members of senior management.

The DWS Internal Audit Director and staff concur with the IA's conclusion and observations documented in the self-assessment report attached. Implementation of the recommendations contained in the self-assessment report will improve the effectiveness, enhance the value, and support IA's conformity with the Standards and the Code of Ethics.

Van Christensen, Validation Team Lead

Samuel Allan, Validation Team Member

Chris Boyadjian, Validation Team Member

Megan Heath, Validation Team Member



DEPARTMENT OF  
**WORKFORCE  
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# Independent Validation by Utah Department of Workforce Services



## Report on Self-Assessment of Internal Audit Services of the Utah Courts December 3, 2019



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# EXECUTIVE SUMMARY

To: Judicial Council Management Committee (“MC”):

The Institute of Internal Auditors’ (“IIA”) *International Standards for the Professional Practice of Internal Auditing (Standards)* requires (1) continuous internal monitoring of Internal Audit’s (“IA”) processes and (2) that an external quality assessment (“QA”) of an internal audit activity be conducted at least once every five years by a qualified, independent reviewer. The qualified assessor or assessment team must have competence in both the professional practice of internal auditing and the QA process. The QA can be accomplished through a full external assessment or a self-assessment with independent validation. The Director of Internal Audit of the Utah Courts (“Courts”) elected to fulfill this requirement by performing a self-assessment with independent validation – which is one of the approaches approved by the IIA. The self-assessment with independent validation method is a more cost-effective approach and included the engagement of the internal audit activity team members.

The Courts’ Director of IA discussed the form and frequency of the QA, as well as the independence and qualifications of the qualified, independent reviewers from outside the organization, including any potential conflicts of interest, with the MC. Upon consultation and agreement by the MC, The Director of IA conducted a self-assessment of its internal audit activity and selected the Director of Internal Audit from the Utah Department of Workforce Services (“DWS”) with assistance by staff auditors from DWS and the Utah State Board of Education as the qualified, independent external assessment team to conduct a validation of the self-assessment of IA of the Utah Courts.

## Opinion as to Conformance with the *Standards* and the Code of Ethics

It is our (DWS and IA) overall opinion that IA generally conforms to the IIA’s *Standards and the Code of Ethics*. A detailed list of conformance with individual standards and the Code of Ethics is shown in Attachment A.

The IIA’s *Quality Assessment Manual for the Internal Audit Activity* suggests a scale of three rankings when opining on the internal audit activity: “**Generally Conforms**,” “**Partially Conforms**,” and “**Does Not Conform**.”



- **“Generally Conforms” means** that an internal audit activity has a charter, policies, and processes that are judged to be in conformance with the *Standards* and the Code of Ethics.
- **“Partially Conforms” means** that deficiencies in practice are noted that are judged to deviate from the *Standards* and the Code of Ethics; however, these deficiencies did not preclude the internal audit activity from performing its responsibilities in an acceptable manner.
- **“Does Not Conform” means** that deficiencies in practice are judged to deviate from the *Standards* and the Code of Ethics, and are significant enough to seriously impair or preclude the internal audit activity from performing adequately in all or in significant areas of its responsibilities.

## Objectives, Scope, and Methodology

### Objectives

- The principle objective of the QA was to assess IA’s conformance with the IIA’s *Standards* and the Code of Ethics.
- IA also:
  - evaluated its effectiveness in carrying out its mission (as set forth in Code of Judicial Administration Rule 3-415 – Auditing (which serves as the current “Audit Charter”) and expressed in the expectations of the Court’s management);
  - identified successful internal audit practices demonstrated by IA; and
  - identified opportunities for continuous improvement to enhance the efficiency and effectiveness of the infrastructure, processes, and the value to their stakeholders.
- DWS validated the results of IA’s self-assessment. The main focus was to validate the conclusion of IA related to conformance with the *Standards* and the Code of Ethics. They also reviewed IA observations related to successful internal audit practices and opportunities for continuous improvement.

They offered additional observations as they deemed appropriate.

## Scope

- The scope of the QA included IA, as set forth in Rule 3-415 and approved by the MC, which defines the purpose, authority, and responsibility of IA.
- The QA was concluded on December 3, 2019, and provides senior management and the MC with information about IA as of that date.
- The *Standards* and the Code of Ethics in place and effective as of December 3, 2019, were the basis for the QA.

## Methodology

- IA compiled and prepared information consistent with the methodology established in the *Quality Assessment Manual for the Internal Audit Activity*. This information included completed and detailed planning guides, together with all supporting documentation; an evaluation summary, documenting all conclusions and observations; and the self-assessment report by IA.
- IA identified key stakeholders (IA staff, senior management, the management committee, and auditees of the IA activity) and sent surveys to each individual identified. The results were tabulated by DWS, and DWS is to maintain confidentiality in responses. Survey results were shared with IA during their self-assessment process.
- Prior to commencement of the on-site validation portion of the IA self-assessment, DWS held a preliminary meeting with IA to discuss the status of preparation of the self-assessment, identification of key stakeholders to be interviewed during the on-site validation, and finalization of logistics related to the QA.
- To accomplish the objectives, DWS reviewed information prepared by IA and the conclusions reached in the QA report. DWS also:
  - conducted interviews with selected key stakeholders, including the Management Committee chair, senior executives of the Courts, and IA management and staff;

- reviewed a sample of IA audit projects and associated workpapers and reports;
  - reviewed survey data received from Court’s stakeholders and IA management and staff; and
  - prepared diagnostic tools consistent with the methodology established for a QA in the *Quality Assessment Manual for the Internal Audit Activity*.
- **The validators prepared an “Independent Validation Statement” to document conclusions related to the validation of IA’s self-assessment. This statement is included in the front of this report.**

## SUMMARY OF OBSERVATIONS –

Observations are divided into three categories:

- **Successful Internal Audit Practices** – Areas where IA is operating in a particularly effective or efficient manner when compared to the practice of internal auditing demonstrated in other internal audit activities. Successful internal audit practices identified are detailed on pages 6-7.
- **Gaps to Conformance** – Areas identified where IA is operating in a manner that falls short of achieving one or more major objectives, and attains an opinion of “partially conforms” or “does not conform” to the *Standards* or the Code of Ethics. These items will include recommendations for actions needed to be “generally in conformance,” and will usually include an IA response and an action plan to address the gap. Gaps to conformance with the *Standards* or Code of Ethics identified are detailed on pages 7 – 14.
- **Opportunities for Continuous Improvement** – Observations of opportunities to enhance the efficiency or effectiveness of IA’s infrastructure of processes. **These items do not indicate a lack of conformance with the *Standards* or the Code of Ethics, but rather offer suggestions on how to better align with criteria defined in the *Standards* or Code of Ethics.** They may also be operational ideas based on the experiences obtained while working with

other internal audit activities. A management response and an action plan to address each opportunity noted are normally included. Opportunities for continuous improvement identified are detailed on page 14.

## DETAIL – SUCCESSFUL INTERNAL AUDIT PRACTICES

1. Standard 1311 – Internal Assessments - IA has developed a strong imbedded internal QA process by using audit programs that incorporate the *Standards* and Code of Ethics. Internal assessment tools such as feedback mechanism are also incorporated into the normal audit program. The internal assessments meet the requirements in Standard 1311: “**Ongoing monitoring** is achieved primarily through continuous activities such as engagement planning and supervision, standardized work practices, workpaper procedures and signoffs, report reviews, as well as identification of any weaknesses or areas of improvement and action plans to address them.”
2. Standard 2030 – Resource Management – IA staff are well-trained, cross-trained and are able to focus on the areas of risk in an engagement.
3. Standard 2040 – Policies and Procedures – IA department manual and other training documentation are up-to-date and useful for training court personnel.
4. Standards 2201/2210/2220/2240/ – Engagement Planning, Engagement Objectives, Engagement Scope, Engagement Work Programs – IA has well-documented work programs that track the risks, statutes, and rules that audit staff use to test controls, processes and procedures at the court level.
5. Standards 2300/2310/2320/2330/2340 – Performing the Engagement, Identifying Information, Analysis and Evaluation, Documenting Information, Engagement Supervision – At the individual court level, IA has excellent tools, processes and procedures to (1) conduct the entrance and exit conferences, (2) communicate with court personnel on the findings as the audit progresses, (3) clearly document the audit findings and (4) ensure each work

product is reviewed, thus maintaining excellent quality.

## DETAIL – GAPS TO CONFORMANCE WITH THE *STANDARDS* OR THE CODE OF ETHICS

IA believes the environment in which we operate is well structured and progressive, where the *Standards* are understood, the Code of Ethics is being applied, and management endeavors to provide useful audit tools and implement appropriate practices. Consequently, our comments and recommendations are intended to build on this foundation.

1. Standards 1000/1010 – Purpose, Authority, and Responsibility – Expand the scope of internal audit services in Rule 3-415 (**Attachment C**) to be broader such that they include areas beyond “evaluating the effectiveness and proper application of programs” by performing “fiscal and program audits” (current Rule 3-415). Standard 1010 **requires the scope of internal audit services to include (1) consulting and (2) annually assessing the Courts three major processes that enable assurance services: risk management, control, and governance.** (See *Definition of Internal Auditing*, IIA International Professional Practices Framework (IPPF)).

**IA Response and Action Plan:** We concur with this gap to conformance with the *Standards*.

- **If authorized by the MC, IA will work with the Policy and Planning Committee to amend Rule 3-415 to broaden the scope of Internal Audit services to include changes necessary to better enable Internal Audit to advise the Management Committee.**

The IIA’s *Definition of Internal Audit* provides a possible template for these changes. It states:

“Internal Auditing is an independent and objective assurance and **consulting** activity that is guided by a philosophy of adding value to improve the operations of all courts and the administrative office. It assists in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the

effectiveness of the organization’s **governance, risk management** and internal control **processes**.”

2. Standards 1000/1010 (and others as noted below) – Purpose, Authority, and Responsibility – Amend Rule 3-415 (**Attachment C**) to authorize the creation of an Internal Audit Charter (“**Charter**”) as a separate document that governs the rules and processes by which the internal audit activity will be performed at the Courts. Similar to the Accounting Manual, the Charter will be referenced in a Rule but will be maintained and approved separately. This allows the Director of IA to efficiently recommend changes to the Charter including the choice of a generally accepted auditing standard to follow.<sup>1</sup> A Charter based on the Model IIA Charter is shown in **Attachment B**.

The Charter (and to the extent advisable Rule 3-415) includes the following Standards which require **new** governance steps (beyond those already in Rule 3-415):

- The MC selects a Generally Accepted Auditing Standard (GAAS choices are IIA or GAGAS)
- If using the IIA GAAS, IA will create a Charter and follow the IIA’s *Standards*, Code of Ethics, Definition of Internal Auditing and Core Principles for the Professional Practice of Internal Auditing (Standards 1000 and 1010). The Director of IA will update the MC annually on any changes in IIA GAAS and ensure they have access to the *Standards*.
- The MC will annually review and approve Rule 3-415 and the Internal Audit Charter (Standard 1010)
- The MC will approve IA’s annual budget and resource plan (Standard 1110 – Organizational Independence)
- The MC will approve provisions regarding the appointment and removal of

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<sup>1</sup> The IIA and the Government Accountability Office (GAO) are both recognized nationally and internationally as leaders in promoting high-quality audit work. Respectively, these organizations have promulgated the IPPF and Generally Accepted Government Auditing Standards (“GAGAS”), the two most commonly used sets of standards for public sector auditing in the United States. We have chosen IPPF since it (1) has an auditor Ethics Code, (2) has specific provisions for consulting, and (3) focuses on assessing risks to guide choices for audits and less on fraud.

the Director of IA (Standard 1110 – Organizational Independence)

- The MC will approve decisions regarding the remuneration of the Director of Internal Audit (Standard 1110 – Organizational Independence)
- The MC will make appropriate inquiries of the Director of IA and management regarding any IA scope, resource limitations or other pressure or hindrances on IA. The Director of IA will have the ability to directly interact with the Management Committee Chair or members in an executive session (without senior management present) to discuss sensitive matters or issues facing IA or the Courts. (Standards 1110 and 1111 – Organizational Independence and Direct Interaction with the MC)
- The Director of IA will confirm to the MC, at least annually, the organizational independence of the internal audit activity (Standards 1110 and 2060 – Organizational Independence and Reporting to Senior Management and the MC)

**IA Response and Action Plan:** We concur with this gap to conformance with the *Standards*. **If the MC approves creation of an IIA-based Charter, IA has used an IIA model Charter that addresses these “gap” items. (See Attachment B). IA will work with the MC and/or their designee to create a Charter for MC approval.**

3. Standard 1112 – Director of Internal Audit Roles Beyond Internal Auditing – The Charter (and to the extent advisable Rule 3-415) will include rules the Director of IA must follow to mitigate the impact on the independence of the IA activity or the individual objectivity of the Director of Internal Audit, either in fact or appearance, to address situations where the Director of Internal Audit has or is expected to have roles and/or responsibilities outside of internal auditing. These steps will provide alternative processes to obtain assurance related to the areas of additional responsibility.

**IA Response and Action Plan:** We concur with this gap to conformance with the *Standards*. **If the MC approves creation of an IIA-based Charter, IA has used an IIA model Charter that addresses this “gap” item. (See Attachment**

**B). IA will work with the MC and/or their designee to create a Charter for MC approval.**

4. Standard 1130 – Impairment to Independence or Objectivity – The Charter (and to the extent advisable Rule 3-415) will include rules the internal audit activity must follow to maintain independence and objectivity by:
  - Refraining from assigning assurance or consulting duties for specific operations for which an auditor was previously responsible within the past year
  - Assigning assurance engagements for functions over which the Director of IA has responsibility to a party outside of the internal audit activity
  - Ensuring assurance services are performed for areas where consulting services were previously performed only if the nature of the consulting services did not impair objectivity either for the internal audit activity or the individual assigned

**IA Response and Action Plan:** We concur with this gap to conformance with the *Standards*. **IA has followed Standard 1130 but it is not in Rule 3-415. If the MC approves creation of an IIA-based Charter, IA has used an IIA model Charter that addresses these “gap” items. (See Attachment B). IA will work with the MC and/or their designee to create a Charter for MC approval.**

5. Standard 2010 – Planning (and others as noted below) – Expand the scope in Rule 3-415 (and to the extent advisable the Charter) for preparation of the annual audit plan to include an assessment of all areas of the “audit universe” including the risk management and governance processes. Rule 3-415 contains the following instruction regarding the preparation of the annual audit plan:

“Not less than annually, the audit manager shall prepare a plan of scheduled fiscal and program audits for submission to and approval by the Council Management Committee. The Board of Justice Court Judges shall provide the audit manager a recommendation of the courts not of record to be included in the annual audit schedule submitted to



the Council Management Committee.” **IA has followed this audit planning protocol for all years prior to 2020.**

**Standard 2010 is much more comprehensive in its approach** and directs the internal audit activity to start preparing the internal audit plan by:

“...consulting with management and the board to understand the organization’s strategies, business objectives, risks and risk management processes” and “involves reviewing the results of any risk assessments that management may have performed” and then expands those steps to include “tools such as interviews, surveys, meetings, and workshops to gather additional input about the risks from management at various levels throughout the organization.”

The Director of IA then organizes/updates the “**audit universe** – which consists of all risk areas that could be subject to audit, resulting in a list of possible audit engagements that could be performed.” Using a risk-factor approach (the two factors are impact and likelihood), the Director of IA evaluates the risks of each element in the audit universe (including the governance and risk management processes as described in Standards 2110 and 2120) and then again consults with senior management and the MC (who may both make special requests) to finalize the recommendations for the internal audit plan. **IA has not performed the steps of Standard 2010 including separately considering governance and risk management as elements of the audit universe.**

**IA Response and Action Plan:** We concur with this gap to conformance with the *Standards*. **If the MC approves creation of an IIA-based Charter, IA will work with the MC and/or their designee to revise Rule 3-415 and/or the Charter to address this “gap” item. IA will work with the MC and/or their designee to create a revised Rule 3-415 and Charter for MC approval. IA will perform steps to accomplish the planning steps of Standard 2010 (inclusive of the governance and risk management processes) by Q1 2020 and will return to the MC with the results and any adjustments to the 2020 audit plan.**

6. Standard 1210 – Proficiency – Since the Courts IA activity does not have sufficient knowledge of key IT risks and controls (which are a part of the “audit

universe”) and available technology-based audit techniques to perform IT audits, to supplement the audits performed by the State Auditor’s office, the Director of IA will contract with an independent, competent 3<sup>rd</sup> party to provide expertise while also developing expertise in IT audit within the IA activity.

**IA Response and Action Plan:** We concur with this gap to conformance with the *Standards*. The State Auditor’s office performed substantial IT audit work in 2019. **For 2020 and forward, as IA performs audit planning, IA will include IT as part of the audit universe and schedule IT audit work based on its ranking in the audit universe risk assessment. If IT is recommended for audit, IA will engage an appropriate independent entity to perform the work.**

7. Standards 1311, 1312, 1320 and 1322 – Internal Assessments, External Assessments, Reporting on the Quality Assurance and Improvement Program (“QAIP”) and Disclosure of Nonperformance – A Quality Assurance and Improvement Program (“QAIP”) periodic internal assessment (designed to enable an evaluation of the internal audit activity’s conformance with the Standards and Code of Ethics) must be performed periodically by Internal Audit personnel using ongoing monitoring processes and the results of the periodic QAIP should be communicated annually to the Management Committee. If the QAIP supports the finding, per Standard 1320, the Director of IA also annually reports to the MC that the IA activity has conformed to the *Standards* and the Code of Ethics. (Standards 1311 and 1320) **“Ongoing monitoring” is defined in the Successful IA Practice section above (see #1 p. 6 above) and is imbedded into the IA process; however, the communication of the QAIP ongoing monitoring results to the Management Committee annually has not happened.**

A QAIP self-assessment with independent external validation must be performed every 5 years (either as a self-assessment by IA internal resources and verified by qualified, independent external Internal Audit personnel or entirely by an external group) and the results must be communicated to the MC. (Standards 1312 and 1320)

If the QAIP self-assessment with independent external validation is not performed every 5 years, Standard 1321 prohibits the IA activity from using the

phrase “audits are conducted in conformance with the International Standards for the Professional Practice of Internal Auditing.” The Courts IA activity stopped using the phrase in 2011 due to never having performed a QAIP self-assessment with independent external validation, but starting in 2012 substituted a similar phrase that was so close to the now-prohibited phrase that it was a difference without distinction. Further, the MC was not apprised of the nonconformance with Standard 1312 as required by Standard 1322. **The performance of a self-assessment with independent external validation has not happened before 2019. The “5 year” requirement has been in existence since at least 2009. The QAIP self-assessment with independent external validation has now been completed with a “Generally Conforms” opinion. IA will begin using the permitted phrase on audits for 2020 so long as the ongoing monitoring processes indicate compliance with the Standards and Code of Ethics.**

**IA Response and Action Plan:** We concur with this gap to conformance with the *Standards*. **If the MC approves creation of an IIA-based Charter, IA has used an IIA model Charter that addresses these “gap” items. (See Attachment B). IA will work with the MC and/or their designee to create a Charter for MC approval. IA will ensure the results of its ongoing QAIP and conformance with the *Standards* and Code of Ethics are reported to the MC annually.**

8. Standard 2600 – Communicating the Acceptance of Risks – Standard 2600 requires the Director of IA to inform senior management and the MC if the Director of IA believes that the organization has accepted a level of risk that the organization would consider unacceptable.

Pursuant to this standard, the Director of IA has notified senior management that the current audit processes for (1) Justice Courts and (2) District/Juvenile/Appellate Courts introduces an unacceptably high level of risk that will be addressed in the 2020 audit plan. Because these two Court operations make up a large segment of the audit universe, the lack of a statistically-supported assessment of the internal controls, governance and risk management processes is an unacceptable level of risk.

**IA Response and Action Plan:** We concur with this gap to conformance with the *Standards*. **IA will bring a proposed resolution to the MC in connection**

**with the 2020 proposed audit plan that enables IA to provide “overall assurance” opinions by auditing a sufficient number of (1) Justice courts and (2) DJA courts to reach a statistically-supported conclusion as to the strength of Justice and District/Juvenile/Appellate controls, governance and risk management.**

## **DETAIL – OPPORTUNITIES FOR CONTINUOUS IMPROVEMENT**

1. Standard 2110 – Governance – Consider adopting a periodic, anonymous ethical conduct survey as a component of baselining the Court’s ethical norms. Use the feedback to inform ethical conduct training and potential changes to the Ethics Policy. Repeat the survey every 3 – 5 years to track trends.

**IA Response and Action Plan:** We concur with this opportunity for continuous improvement. While communications do take place regarding ethics policy, the amount of ethics violations reported by court personnel is low. This is either due to (1) little to no ethical conduct violations or (2) fear to report. Performing a survey would address this open question.

2. Standard 2450 – Overall Opinions – Consider changing Rule 3-415 and/or the Charter to allow “overall assurance” opinions instead of only single court audit opinions. IPPF standards allow overall opinions which accommodate the changes recommended in #8 Standard 2600 above.

**IA Response and Action Plan:** We concur with this opportunity for continuous improvement. **If the MC approves creation of an IIA-based Charter, IA has used an IIA model Charter that addresses this “gap” item. (See Attachment B). IA will work with the MC and/or their designee to create a Charter for MC approval.**

## Recap of “GAP” Recommended Actions to Take

Gap #	Include in Audit Charter	Amend Rule 3-415	Other Action
Gap # 1 – Add consulting, Governance and Risk Management to the scope of IA		X	
Gap # 2 – add Audit Charter – Strengthen IA independence	X	X	
Gap # 3 – Define steps IA must take should Director of IA have other duties	X		
Gap # 4 – Define steps IA must take to ensure IA staff maintain independence and objectivity	X		
Gap # 5 – Planning to include “audit universe” + governance + risk mgmt	X	X	
Gap # 6 – IA gets IT proficiency from parties external to IA as needed	X		
Gap # 7 – IA to communicate QAIP ongoing results to MC	X		
Gap # 8 – IA to communicate acceptance of unacceptable risk to MC; see 2020 audit plan	X		X
<b>Opportunities for Continuous Improvement</b>			
Oppty # 1 – ethical conduct survey			X
Oppty # 2 – overall assurance		X	

## ATTACHMENT A –

### RATING DEFINITIONS (SEE EVALUATION SUMMARY

#### HEADINGS IN TABLE BELOW)

**GC – “Generally Conforms”** means the assessor or the assessment team has concluded that the relevant structures, policies, and procedures of the activity, as well as the processes by which they are applied, **comply with the requirements** of the individual standard or elements of the Code of Ethics **in all material respects**. For the individual sections and major categories (see darker gray items in the table below), this means that there is general conformity to a majority of the individual standard or element of the Code of Ethics and at least partial conformity to the others within the section/category. There may be significant opportunities for improvement, but these should not represent situations where the activity has not implemented the *Standards* or the Code of Ethics and has not applied them effectively or has not achieved their stated objectives. **As indicated above, general conformance does not require complete or perfect conformance**, the ideal situation, or successful practice, etc.

**PC – “Partially Conforms”** means the assessor or assessment team has concluded that the activity is **making good-faith efforts to comply** with the requirements of the individual standard or elements of the Code of Ethics **but falls short of achieving some major objectives**. These will usually represent significant opportunities for improvement in effectively applying the *Standards* or the Code of Ethics and/or achieving their objectives. Some deficiencies may be beyond the control of the internal audit activity and may result in recommendations to senior management or the board of the organization.

**DNC – “Does Not Conform”** means the assessor or assessment team has concluded that the internal audit activity **is not aware of, is not making good-faith efforts to comply with, or is failing to achieve many or all of the objectives** of the individual standard or element of the Code of Ethics. These deficiencies will usually have a significantly negative impact on the internal audit activity’s effectiveness and its potential to add value to the organization. These may also represent significant opportunities for improvement, including actions by senior management or the board.

## EVALUATION SUMMARY

Rating (see definitions on p. 16)	GC	PC	DNC
<b>Overall Evaluation</b>	X		

<b>Attribute Standards (1000 through 1300)</b>		GC	PC	DNC
1000	Purpose, Authority, and Responsibility	X		
1010	Recognizing Mandatory Guidance in the Internal Audit Charter		X	
1100	Independence and Objectivity	X		
1110	Organizational Independence	X		
1111	Direct Interaction with the Board ( <b>“Board = Management Committee”</b> )	X		
1112	Chief Audit Executive ( <b>CAE = Director of Internal Audit</b> ) Roles Beyond Internal Auditing	X		
1120	Individual Objectivity	X		
1130	Impairment to Independence or Objectivity	X		
1200	Proficiency and Due Professional Care	X		
1210	Proficiency	X		
1220	Due Professional Care	X		
1230	Continuing Professional Development	X		
1300	Quality Assurance and Improvement Program		X	

1310	Requirements of the Quality Assurance and Improvement Program		X	
1311	Internal Assessments		X	
1312	External Assessments			X
1320	Reporting on the Quality Assurance and Improvement Program			X
1321	Use of “Conforms with the <i>International Standards for the Professional Practice of Internal Auditing</i> ”		X	
1322	Disclosure of Nonconformance			X

Performance Standards (2000 through 2600)		GC	PC	DNC
2000	Managing the Internal Audit Activity		X	
2010	Planning	X		
2020	Communication and Approval	X		
2030	Resource Management	X		
2040	Policies and Procedures	X		
2050	Coordination and Reliance	N/A	N/A	N/A
2060	Reporting to Senior Management and the Board		X	
2070	External Service Provider and Organizational Responsibility for Internal Auditing		X	
2100	Nature of Work		X	
2110	Governance		X	



## Report on Self-Assessment of Internal Audit Services of the Utah Courts – December 3, 2019

2120	Risk Management	X		
2130	Control	X		
2200	Engagement Planning	X		
2201	Planning Considerations	X		
2210	Engagement Objectives	X		
2220	Engagement Scope	X		
2230	Engagement Resource Allocation	X		
2240	Engagement Work Program	X		
2300	Performing the Engagement	X		
2310	Identifying Information	X		
2320	Analysis and Evaluation	X		
2330	Documenting Information	X		
2340	Engagement Supervision	X		
2400	Communicating Results	X		
2410	Criteria for Communicating	X		
2420	Quality of Communications	X		
2421	Errors and Omissions	X		
2430	Use of “Conducted in Conformance with the <i>International Standards for the Professional Practice of Internal Auditing</i> ”	N/A	N/A	N/A

2431	Engagement Disclosure of Nonconformance			X
2440	Disseminating Results	X		
2450	Overall Opinions	N/A	N/A	N/A
2500	Monitoring Progress	X		
2600	Communicating the Acceptance of Risks		X	

Code of Ethics		GC	PC	DNC
	Code of Ethics	X		

## ATTACHMENT B – SAMPLE INTERNAL AUDIT ACTIVITY CHARTER



### INTRODUCTION:

Internal Auditing is an independent and objective assurance and consulting activity that is guided by a philosophy of adding value to improve the operations of the Utah Courts (“Courts”). It assists the Courts in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of the organization's governance, risk management, and internal control processes. The Courts Internal Auditing governing body, the Judicial Council Management Committee (“MC”), has chosen to follow the Institute of Internal Auditors’ Standards and Code of Ethics as the generally accepted auditing standards for the Courts internal audit activity (see Professionalism below).

### ROLE:

The internal audit activity is established by the MC. The internal audit activity’s responsibilities

are defined by the MC as part of their oversight role.

### **PROFESSIONALISM:**

Per The Utah Internal Audit Act UCA 63i-5-102 (9)(c), the internal audit activity will govern itself by adherence to The Institute of Internal Auditors' mandatory guidance including the Definition of Internal Auditing, the Code of Ethics, and the *International Standards for the Professional Practice of Internal Auditing (Standards)*. This mandatory guidance constitutes principles of the fundamental requirements for the professional practice of internal auditing and for evaluating the effectiveness of the internal audit activity's performance.

The Institute of Internal Auditors' Practice Advisories, Practice Guides, and Position Papers will also be adhered to as applicable to guide operations. In addition, the internal audit activity will adhere to the Courts relevant Rules, policies and procedures, and the internal audit activity's departmental operating procedures manual.

### **AUTHORITY:**

The internal audit activity, with strict accountability for confidentiality and safeguarding records and information, is authorized full, free, and unrestricted access to any and all of the Courts' records, physical properties, and personnel pertinent to carrying out any engagement. All employees are to assist the internal audit activity in fulfilling its roles and responsibilities. The internal audit activity will also have free and unrestricted access to the MC.

### **ORGANIZATION:**

The Director of Internal Audit will report functionally to the MC and administratively (i.e., day to day operations) to the State Court Administrator.

The MC will:

- Annually approve the internal audit charter and Code of Judicial Administration Rule 3-415 - Auditing.
- Annually approve the risk based internal audit plan.
- Annually approve the internal audit budget and resource plan.
- Regularly receive communications from the Director of Internal Audit on the internal audit activity's performance relative to its plan and other matters.
- Approve decisions regarding the appointment and removal of the Director of Internal Audit.
- Approve decisions regarding the remuneration of the Director of Internal Audit.
- Make appropriate inquiries of management and the Director of Internal Audit to determine whether there is inappropriate scope or resource limitations.

The Director of Internal Audit will communicate and interact directly with the MC, including in executive sessions and between MC meetings, as appropriate.

### **INDEPENDENCE AND OBJECTIVITY:**

The internal audit activity will remain free from interference by any element in the organization, including matters of audit selection, scope, procedures, frequency, timing, or report content to permit maintenance of a necessary independent and objective mental attitude.

Internal auditors will have no direct operational responsibility or authority over any of the activities audited. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair internal auditor's judgment. Internal auditors will not be assigned assurance or consulting duties for specific operations for which an auditor was previously responsible within the past year.

Internal auditors will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined. Internal auditors will make a balanced assessment of all the relevant circumstances and not be unduly influenced by their own interests or by others in forming judgments.

Should the Director of Internal Audit be required by the MC or the State Court Administrator to accept duties outside of internal audit activity, the Director of Internal Audit will inform the requesting party of the IIA standards on independence and objectivity and reach a mutually acceptable resolution such that any impairment to the IA Director's independence or objectivity, either in fact or appearance, is mitigated. Such mitigation can take the form of increased oversight by the MC, a transition plan, or assignment to a party outside of the internal audit activity (either internal or external to the Courts) to oversee assurance engagements for functions over which the IA Director has responsibility.

The Director of Internal Audit will confirm to the MC, at least annually, the organizational independence of the internal audit activity.

**RESPONSIBILITY:**

The scope of internal auditing encompasses, but is not limited to, the examination and evaluation of the adequacy and effectiveness of the organization's governance, risk management, and internal controls as well as the quality of performance in carrying out assigned responsibilities to achieve the organization's stated goals and objectives. This includes:

- Evaluating risk exposure relating to achievement of the organization's strategic objectives.
- Evaluating the reliability and integrity of information and the means used to identify, measure, classify, and report such information.
- Evaluating the systems established to ensure compliance with those policies, plans, procedures, laws, and regulations which could have a significant impact on the organization.
- Evaluating the means of safeguarding assets and, as appropriate, verifying the existence of such assets.
- Evaluating the effectiveness and efficiency with which resources are employed.
- Evaluating operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned.
- Monitoring and evaluating governance processes.
- Monitoring and evaluating the effectiveness of the organization's risk management processes.
- Evaluating the quality of performance of external auditors and the degree of coordination with internal audit.

- Performing consulting and advisory services related to governance, risk management and control as appropriate for the organization.
- Reporting periodically on the internal audit activity's purpose, authority, responsibility, and performance relative to its plan.
- Reporting significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by the MC.
- Evaluating specific operations at the request of the MC or State Court Administrator, as appropriate.

**INTERNAL AUDIT PLAN:**

In addition to the requirements in Code of Judicial Administration Rule 3-415 ("Rule 3-415"), at least annually, the Director of Internal Audit will submit to senior management and the MC an internal audit plan for review and approval. The internal audit plan will consist of a work schedule as well as budget and resource requirements for the next fiscal/calendar year. The Director of Internal Audit will communicate the impact of resource limitations and significant interim changes to senior management and the MC. The audit plan may contain overall assurance opinions where applicable.

The internal audit plan will be developed based on a prioritization of the audit universe (including the governance and risk management processes) using a risk-based methodology, including input of senior management and the MC. The Director of Internal Audit will review and adjust the plan, as necessary, in response to changes in the organization's business, risks, operations, programs, systems, and controls. Any significant deviation from the approved internal audit plan will be communicated to senior management and the MC through periodic activity reports.

**REPORTING AND MONITORING:**

A written report will be prepared and issued by the Director of Internal Audit following the conclusion of each internal audit engagement and will be distributed as directed in Rule 3-415 or as otherwise appropriate. Internal audit results will also be communicated to the MC.

Except for consulting services, the internal audit report will include management's response and corrective action taken or to be taken in regard to the specific findings and recommendations. Management's response with corrective actions will be provided by management of the audited area and will include a timetable for anticipated completion of action to be taken and an explanation for any corrective action that will not be implemented.

The internal audit activity will be responsible for appropriate follow-up within 12 months on engagement findings and recommendations. All significant findings will remain in an open issues file until cleared.

The Director of Internal Audit will periodically report to senior management and the MC on the internal audit activity's purpose, authority, and responsibility, as well as performance relative to its plan. Reporting will also include significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by senior management and the MC.

**QUALITY ASSURANCE AND IMPROVEMENT PROGRAM:**

The internal audit activity will maintain a quality assurance and improvement program that covers all aspects of the internal audit activity. The program will include an evaluation of the internal audit activity's conformance with the Definition of Internal Auditing and the *Standards* and an evaluation of whether internal auditors apply the Code of Ethics. The program also assesses the efficiency and effectiveness of the internal audit activity and identifies opportunities for improvement.

The Director of Internal Audit will communicate to senior management and the MC on the internal audit activity's quality assurance and improvement program, including (1) annual results of ongoing internal assessments and (2) external assessments conducted at least every five years.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Director of Internal Audit

\_\_\_\_\_  
Management Committee Chair

\_\_\_\_\_  
State Court Administrator

## **ATTACHMENT C – RULE 3-415. AUDITING.**

### **Rule 3-415. Auditing.**

Intent:

To establish an internal fiscal audit program for the judiciary within the administrative office.

To examine and evaluate court operations by measuring and evaluating the effectiveness and proper application of programs. Applicability:

This rule shall apply to all Courts and the administrative office. Statement of the Rule:

(1) Schedule of audits.

(A) Periodic. Not less than annually, the audit manager shall prepare a plan of scheduled fiscal and program audits for submission to and approval by the Council Management Committee. The Board of Justice Court Judges shall provide the audit manager a recommendation of the courts not of record to be included in the annual audit schedule submitted to the Council Management Committee.

(B) Amendment to schedule. Any modification or change to the approved plan of scheduled audits shall require prior approval by the Council Management Committee.

(C) Special audits. Requests for special audits not included in the plan shall be submitted in writing to the Council Management Committee and identify the circumstances and need for a special unscheduled audit.

(D) Limited audits. In the event of a reported theft, burglary or other alleged criminal act or suspected loss of monies or property at a court location, or if a change occurs in the personnel responsible for fiduciary duties, the state court administrator may authorize a limited audit.

(2) Authority. The audit manager shall be independent of the activities audited. The audit manager shall have access to all records, documents, personnel and physical properties determined relevant to the performance of an audit. The audit manager shall have the full cooperation and assistance of court personnel in the performance of an audit. The audit manager shall follow generally accepted accounting and performance audit principles for conducting internal audits.

(3) Fiscal audits. Fiscal audits may consist of one or more of the following objectives:

(A) to verify the accuracy and reliability of financial records;

(B) to assess compliance with management policies, plans, procedures, and regulations;

(C) to assess compliance with applicable laws and rules;

(D) to evaluate the efficient and effective use of judicial resources;

(E) to verify the appropriate protection of judicial assets.

(4) Short audits. When a short audit is required or approved, the audit will be conducted without prior notice. The audit shall consist of a one-time reconciliation of current cash and receipts and an observation of fiscal management procedures unless otherwise directed by the State Court Administrator or Management Committee. A written report shall be prepared and exit conference conducted.

(5) Full audits. When a full audit is required or approved, the audit shall be conducted with prior notice. An entrance conference shall be conducted between:

Courts of record: the auditors, court executive, presiding judge, clerk of court and state level administrator.

Courts not of record: the auditors, justice court judge, a local government representative, and state level administrator. The audit shall be conducted at the convenience of the court.

(6) Performance audits. During the course of conducting a short or full fiscal audit, the audit manager shall observe and review compliance with programs and procedures established by state law and this Code and make written findings and recommenda-

tions to be incorporated in the final report. The performance audit shall include an evaluation of the adequacy, effectiveness and efficiency of court operations and management. Objectivity shall be employed by the auditors at all times. Proper recognition shall be given to commendable court operations when appropriate.

(7) Audit reports.

(A) The audit manager shall prepare a written report containing findings and recommendations as a result of the audit. A draft copy of the report shall be provided in advance and presented to:

Court of record: the court executive, presiding judge and state level administrator at the exit conference. An opportunity for written response or comment will be afforded the court executive and presiding judge which will be incorporated into and become part of the final report.

Court not of record: the justice court judge and state level administrator at the exit conference. An opportunity for written response or comment will be afforded the justice court judge which will be incorporated into and become part of the final report.

(B) Copies of the final report shall be provided to:

Courts of record: the Council Management Committee, appropriate Board of Judges, state court administrator, presiding judge, court executive and state level administrator.

Courts not of record: the Council Management Committee, state court administrator, justice court judge, a local government representative, state level administrator and the Board of Justice Court Judges.

(8) Follow-up review.

Courts of record: Within 12 months of a short or full audit, the audit manager shall provide a Follow-up Review form, including only non-compliance audit findings, to the court executive and copy the court level administrator. The court executive will complete the Follow-up Review form reporting on progress made toward compliance and return the form within 30 days to the audit manager and copy the court level administrator.

Courts not of record: Within 12 months of a short or full audit, the audit manager shall provide a Follow-up Review form, including only non-compliance audit findings, to the justice court judge and a copy to the state level administrator. The justice court judge will complete the Follow-up Review form reporting on progress made toward compliance and return a copy of the completed form within 30 days to the audit manager, the state level administrator, and the Board of Justice Court Judges.



# Tab 18





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## New Justice Court representative to the Standing Education Committee: December 10 Judicial Council agenda item

1 message

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**Tom Langhorne** <tomnl@utcourts.gov>  
To: Jeni Wood <jeniw@utcourts.gov>

Wed, Nov 20, 2019 at 3:34 PM

Rule 1-205 (1)(A)(v) states that the Standing Education Committee's Justice Court representative shall be "...the education liaison of the Board of Justice Court Judges...". Justice Court Judge Anna Anderson recently vacated that Standing Education Committee position because she left the bench to join the Salt Lake City's district attorney's office. The Justice Court Board has since appointed J.C. Yhchausti, Davis County Justice Court Judge, to replace Judge Anderson on this standing committee.

Thank you for your attention to this committee membership change.

Tom

--

Thomas N. Langhorne, Esq.  
Judicial Institute Director  
[TomNL@UTCourts.Gov](mailto:TomNL@UTCourts.Gov)  
801.578.3837 (direct)  
804.306.3822 ( cell )



## Administrative Office of the Courts

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

November 12, 2019

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

### MEMORANDUM

**TO: Judicial Council**

**FROM: Stacey M. Snyder, Director**  
**on behalf of GAL Oversight Committee**

**RE: Guardian ad Litem Oversight Committee Member Recommendation**

---

Currently, due to the expiration of Dr. Douglas Goldsmith's term, there is one vacancy on the GAL Oversight Committee. Request for potential candidates were sent out and one applicant submitted a resume for consideration. The Committee voted and agree that Ms. Brittany Randall is a good fit for the vacancy.

Current membership is as follows:

Hon. Robert Yeates, Chair  
Kenyon Dove  
Mollie McDonald  
Jason Richards  
Jeannine Timothy  
Ron Gordon

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



# Administrative Office of the Courts

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

December 1, 2019

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

## MEMORANDUM

**TO:** Management Committee and Judicial Council

**FROM:** Nancy Sylvester

**RE:** Model Utah Civil Jury Instructions Committee: Appointment of Two Plaintiff Attorneys and One Defense Attorney

**Name of Committee:** The Standing Committee on the Model Utah Civil Jury Instructions (MUJI-Civil)

**Reason for Vacancies:** Three long-time members have reached the end of their terms: Peter Summerill, Tracy Fowler, and Paul Simmons..

**Eligibility requirements:** Two positions are for attorneys who primarily represents civil plaintiffs and the third is for an attorney who primarily represents defendants.

### Current committee member list:

Last	First	Title	Appointed	Current Term Start	Term End	Role
Sylvester	Nancy	Staff	6/23/2014	6/23/2014	-	Staff
Stone	Andrew	Judge	9/1/2012	9/11/2017	9/11/2020	Chair, Judge
Di Paolo	Marianna		2/26/2003	11/19/2018	11/19/2021	Linguist
Ferre	Joel		7/1/2015	8/17/2018	8/17/2018	Defendant
Fowler	Tracy		2/26/2003	10/27/2014	7/1/2019	Defendant
Kelly	Keith	Judge	11/20/2017	11/20/2017	11/20/2020	Judge
McCallister	Alyson		11/19/2018	11/19/2018	11/19/2021	Plaintiff
Mortensen	Doug		4/16/2018	4/16/2018	4/16/2021	Plaintiff
Shapiro	Ruth		2/27/2017	2/27/2017	2/27/2020	Defendant
Shurman	Lauren		11/20/2017	11/20/2017	11/20/2020	Defendant

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

Simmons	Paul		2/26/2003	10/27/2014	7/1/2019	Plaintiff
Summerill	Peter		11/19/2007	10/27/2014	7/1/2019	Plaintiff

**Description of recruitment process:**

I circulated an email to the Utah State Bar listserv and received six applicants for the plaintiff positions and four applicants for the defense position.

**List of names for consideration:**

**Plaintiff:**

Andrus, Randy (applied last year)  
 Fuller, Robert (applied last year)  
 Greene, Jason  
 Olson, Eric (recommended by Peter Summerill)  
 Petty, Ralph  
 Shelton, Ricky (served on Economic Interference Subcommittee)

**Defendant:**

Harmon, Stewart B. (served on Insurance subcommittee)  
 Lusty, Benjamin  
 Shakespear, Paul  
 Slark, Samantha

**Statement of interest:**

The applicants' letters or emails are attached.

**List of other current and past court committee assignments:**

The applicants have noted their committee assignments in their materials and I have noted two above who have served on MUJI subcommittees.

**Recommendation:**

Judge Stone recommends that the Judicial Council appoint Randy Andrus, Ricky Shelton, and Samantha Slark to the two plaintiff positions and one defense position, respectively.



299 SOUTH MAIN STREET, SUITE 1300  
SALT LAKE CITY, UTAH 84111-2241

000331  
RANDY M. ANDRUS  
TRIAL LAWYER  
OFFICE: 801.535.4645  
RANDY@ANDRUSFIRM.COM  
WWW.ANDRUSFIRM.COM

October 11, 2018

Nancy Sylvester  
Associate General Counsel  
Administrative Office of the Court  
**UTAH JUDICIAL COUNCIL**

**VIA ELECTRONIC MAIL**  
nancyjs@utcourts.gov

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

Dear Ms. Sylvester:

I raise my hand with this application to serve on the Standing Committee on Model Civil Jury Instructions. I represent civil plaintiffs, which I have done for over 33 years. I have not served on any Court Committee, although I have served and have experience in serving on other committees as well as service as a judge, arbitrator, and mediator.

Enclosed is my brief Resume, as well as a summary of Results & Testimonials for your reference.

Thank you for your consideration.

Warmest regards,

**ANDRUS LAW FIRM, LLC**

*Randy M. Andrus*

**RANDY M. ANDRUS**  
Attorney at Law

Enclosures

**RANDY M. ANDRUS**  
**ANDRUS LAW FIRM, LLC**

299 S. Main Street, Suite 1300  
 Salt Lake City, Utah 84111  
 (801) 400-9860  
 randy@andrusfirm.com

**EDUCATION & LICENSING**

**Active Member**, State Bar of Utah, Bar No.: 10392  
 State Bar of California, Bar No.: 116745

**Master of Laws**, University of the Pacific, McGeorge School of Law, Sacramento, California, 1987

- Business and Taxation – Transnational Practice
- Courses taken at University of Salzburg, Austria
- Assisted with International Bar Association, Convention, Vienna, Austria

**Juris Doctor**, Southwestern University School of Law, Los Angeles, California, 1984

- Dean's List
- President, Howard W. Hunter Law Society

**Bachelor of Arts**, Brigham Young University, Provo, Utah, 1981

- College of Humanities, French, literature
- Scholarships: Presidential Scholar and Alvina S. Barrett Scholar
- GPA 3.56/4.0

**Associates in Arts and Sciences**, Ricks College, Rexburg, Idaho, 1978

- Academics Council Committee Chairman
- GPA 3.86/4.0

**EXPERIENCE**

**Trial Lawyer**

Andrus Law Firm, 2013 to present, Salt Lake City, Utah

Andrus Attorneys, 2003 to 2011, California and Utah

- Represented full range of civil litigation clients, intake to conclusion
- Numerous jury trials, arbitrations, mediations in state, federal, appellate, and other forums
- Managed staff of attorneys, paralegals, legal and office assistants in team case work up

**Of Counsel**

Pia, Anderson, Dorius, Reynard & Moss, 2011-2012, Salt Lake City, Utah

- Represented full range of civil litigation clients, intake to conclusion

**Associate Attorney**

Guy G. Gibson & Associates, Folsom, California (1996-2002)

Allen Law Corporation, Sacramento, California (1984-1995)

- Represented full range of civil litigation clients, intake to conclusion
- Numerous jury trials, arbitrations, mediations in state, federal, appellate, and other forums

**Internship**, Patry Junet Simon et LeFort, Geneva, Switzerland, 1984

- Legal research and case development in international commercial and Swiss banking cases

**Law Clerk**, Munns Kofford Hoffman Hunt & Throckmorton, Pasadena, California, 1983

- Researched legal issues, drafted internal memoranda and summaries, trial preparation

**SKILLS & INTERESTS**

**Judge Pro Tem**, appointed service in Municipal/Superior Courts, Sacramento County, California

**Alternative Dispute Resolution Judge Pro Tem**, El Dorado County, California

**Personal**, family, networking, sports, traveling

**Other languages**, French



## RESULTS & TESTIMONIALS

### Labor/Employment

- Represented one of many former employees of fortune 500 companies in a wrongful termination action, whose injuries were totally and permanently disabling resulting in a structured settlement for life.
- Represented key executives, including both the Founder/Chief Executive Officer and the President and members of the Board of Directors, of insurance company, in the equity merger negotiations, and drafting of buy-sell documents, including employment compensation and bonus agreements, stock option and purchase agreements.
- Represented client in legal malpractice action involving employment issues resulting in judgment in favor of the employee in excess of \$1 million.
- Represented terminated insurance representative in wrongful termination action resulting in jury verdict in excess of \$700,000.
- Represented and negotiated player contract terms for professional athletes, including the National Football League.
- Represented employees in discrimination, sexual harassment, civil rights, termination, and retaliation claims, including against a prominent professional sports organization.
- Represented key executive of national health insurance company, involving breach of contract, religious discrimination, and severance claims.

“I also recognize your contributions, hard work and dedication; that I could not have done this alone, but relied on you to navigate us through the legal process – which you did with much style, tact, and aplomb . . . I heeded your advice at every turn and we worked together to conquer the giant.”

### Civil Litigation

- Represented oil company against claims of underground petroleum environmental contamination.
- Represented elderly couple against mortgage lender for age discrimination in lending action.
- Represented basketball league and executive against competitor, obtaining injunctive relief and monetary recovery for damages due to unfair competition and violation of trade secrets.
- Represented family members in wills, trusts, and other estate disputes.
- Represented property owner losses to land and structures in arson fire involving 700 acres.
- Represented elderly widow against moving company which added weight to an interstate move involving PUC regulation violations, with full jury verdict.
- Represented business owner against City for breach of contract with full arbitration award.
- Represented real property owners in the United States against claims involving the Courts and claims in Pakistan.

“This comes with sincere gratitude . . . thank you for all the hard work you did on our lawsuit. You took our case when no one else would, and we really appreciate all the time and effort.”

## Real Estate

- Represented owners of residential home for construction defect and fraudulent non-disclosure with a jury verdict for full recovery.
- Represented buyers in action for real estate non-disclosure against sellers. Binding arbitration resulted in full recovery in favor of buyers, including attorney fees. Sometime later, the opposing party wanted to become a client and hired me on multiple other legal matters.
- Represented commercial real estate tenant against property owner for substantial damages due to breaches of lease resulting from multiple construction code violations.
- Represented landowners of ranch and other properties regarding property boundary disputes.
- Represented joint tenant in partition actions involving historical and other properties.
- Represented property owner against City for inadequate municipal drainage system which caused flooding and damage to rental complex.

“Attorney Andrus was completely understanding . . .

He was very positive but let me know what I was up against at the same time.

He worked very hard for me and I was quite impressed with his ability to stand firm on negotiations.”

## Personal Injury

- Represented parents in wrongful death matter of daughter against a major health care provider.
- Represented parents against insurance company to recover death benefits for deceased son, resulting in the recovery of policy limits, and additional sums for bad faith insurance practices.
- Represented husband and wife in a products liability matter against a national manufacturer following an explosion from a water heater resulting in serious burn injuries and permanent scarring, also involving recovery for the wife’s loss of consortium claim.
- Represented mother and daughter, critically injured victims of a highway crash caused by the negligence of a drunk driver with recovery of policy limits from multiple insurance companies.
- Represented in federal court a cruise ship passenger who suffered injuries from spewing fire which erupted on deck from the engine of the foreign-registered cruise ship while sailing in international waters, causing severe emotional and psychological injury.
- Represented estate of deceased visiting professor from foreign country who died after being denied medical benefits under an ERISA health benefit plan, *Embassy of the Arab Republic of Egypt v. Lasheen*, 603 F.3d 1166 (9th Cir. 2010); 485 Fed. Appx. 203 (9th Cir. 2012); 13-17143 (9th Cir. 2015); *cert. denied*, 578 U.S. \_\_\_\_ (2016).

“In the end, he helped me more than I ever thought anyone could.

I will be forever grateful to Attorney Andrus for everything he has done for me.

I would certainly recommend him to anyone suffering a situation that is or seems to be out of their control.”

## **FULLER LAW OFFICE, LC**

PROFESSIONAL LIMITED LIABILITY COMPANY

1090 NORTH 5900 EAST

POST BOX 835

ROBERT J. FULLER, JD, MBA

EDEN, UTAH 84310

TELEPHONE: (801) 791-7736

ATTORNEY AT LAW

ROB@FULLERATTORNEY.COM

### **Resume**

Robert J. Fuller, JD, MBA

1175 N. 5900 E.

Eden, Utah 84310

D.O.B. 12/29/1965

### **Employment**

Attorney, Fuller Law Office, LC, Eden, Utah, civil litigation and trial practice

Evergreen Ranch, LC, Eden, Utah, a Utah Century family farm, livestock and hay production

Associate, Robert B. Sykes & Associates, Salt Lake City, Utah, civil litigation and trial practice

Upper Valley Utilities, Inc., Salt Lake City, Utah, project manager underground construction

Arrow Barricade, Inc., Salt Lake City, Utah, co-owner barricade and traffic control contractor

### **Education**

University of Utah, S.J. Quinney College of Law, graduated, Juris Doctor, 2003

Oklahoma City University, College of Law, Oklahoma City, attended 1L law school, 2001

Utah State University, Master of Business Administration, 1991

Utah State University, Bachelor of Science in Marketing, Minor in Economics, 1989

### **Member & Admissions**

Utah State Bar

Admitted to practice before the Supreme Court of Utah, 2004

Admitted to practice before the United States District Court, 2004

Admitted to practice before the United States Court of Appeals, 10<sup>th</sup> Circuit, 2007

Utah Association of Justice

Weber County Bar Association

### **Family**

Married to Nicole L. Fuller, with three children: Mattie, Bridger, Annica

Family Activities: farmwork, traveling, showing animals, 4H, scouting

Interests: outdoor adventures, hunting, fishing, camping, cruising to warm climates

Hobbies: developing a herd of Belted Galloway "oreo" cattle, backcountry horse packing

### **Community**

Boy Scout Leader in Eden, Utah

Pro Bono Projects: Counsel for cemetery district, irrigation company, domestic disputes

*See Gardiner v. Taufer*, 2014 UT 56, pro bono appeal to the Utah Supreme Court

Plaintiff in *Toone v. Weber Cty.*, 2002 UT 103, ¶ 17 ("voiding. . . sale of the Wolf Creek Park")

Utah Open Lands Committee, Projects Subcommittee, Appointed by Gov. Leavitt, 1996-98



Nancy Sylvester &lt;nancyjs@utcourts.gov&gt;

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## Robert J. Fuller Application ~ Standing Committee on Model Utah Civil Jury Instructions

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Robert J. Fuller &lt;rob@fullerattorney.com&gt;

Wed, Nov 20, 2019 at 3:09 PM

To: Nancy Sylvester &lt;nancyjs@utcourts.gov&gt;, Rob Fuller &lt;rob@fullerattorney.com&gt;

Ms. Nancy Sylvester  
nancyjs@utcourts.gov  
Utah Judicial Council

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

Dear Ms. Sylvester:

I noticed your October 11, 2019, email posting regarding the open positions on the MUJI committee. I would like to submit my resume, again, for work on that committee.

**1. Position Applying For.** Plaintiff

**2. Statement of Interest.** I would appreciate the opportunity to work on the civil jury instruction committee. My schedule could be adjusted to accommodate the time that I anticipate would be necessary to fully participate in the important discussions. I am a solo practitioner with an office in Eden, Utah. I started my trial practice career with a friend and excellent mentor, Robert B. Sykes, Esq. My trial work is now primarily representing plaintiffs in the area of personal injury, civil rights, and contract disputes. I do very little defense work. I am constantly referring to the Model Utah Jury Instructions as the starting point in developing most of my cases. I believe it is extremely important to develop accurate, understandable, and uniform instructions to help administer justice. My trial experience includes multiple jury trials in both the state and federal court systems. I have briefed and argued appeals before the Utah Supreme Court, the Utah Court of Appeals, and one case before the United States Court of Appeals, 10th Circuit.

**3. Committee Assignments.** I have not yet served on any court committee assignments.

**4. Resume.** Please find my resume attached in PDF format. More details about me and my legal practice are listed on my web page at [fullerattorney.com](http://fullerattorney.com).

I appreciate your time and consideration of this application.

Kindest regards,

[Quoted text hidden]

[Quoted text hidden]

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[Quoted text hidden]

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191120 Resume Robert J Fuller MUJI App.pdf  
213K



**ANDERSON &  
KARRENBERG**

November 22, 2019

*Via Electronic Mail*

Broadway Media Building  
50 West Broadway, Suite 700  
Salt Lake City, Utah 84101

*T* 801.534.1700  
*F* 801.639.0961  
*F* 801.364.7697

jgreene@aklawfirm.com  
*aklawfirm.com*

Nancy Sylvester  
Associate General Counsel  
Administrative Office of the Courts  
Matheson Courthouse  
450 South State Street  
Salt Lake City, Utah 84114  
[nancyjs@utcourts.gov](mailto:nancyjs@utcourts.gov)

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

Dear Ms. Sylvester:

I am writing to express my interest in filling one of the open positions on the Standing Committee on Model Utah Civil Jury Instructions for an attorney who primarily represents civil plaintiffs. I believe my experience, skills, and qualifications would make me a good fit for the position.

As an active litigator at Anderson & Karrenberg for the past seven years, I have relied on the Model Utah Civil Jury Instructions several times to assist with trial preparation and to get a clear statement of Utah law for use in pre-trial motions practice. Prior to joining Anderson & Karrenberg, I was a judicial law clerk for The Honorable Clark Waddoups, where I also found the MUJI instructions to be an invaluable resource. Based on these experiences, I understand that the MUJI instructions are a great asset to Utah practitioners and I would be honored to be a member of the committee responsible for expanding them and ensuring that the existing instruction are consistent with current precedent.

One example of the importance of the Standing Committee on Model Utah Civil Jury Instructions sticks out in my mind. Several years ago, when I was a relatively inexperienced practitioner, I was involved in a construction defect case where a dispute arose regarding the proper measure of damages. Opposing counsel relied on a MUJI instruction that appeared to be

**JASON E. GREENE**  
*Attorney*



Nancy Sylvester  
Administrative Office of the Courts  
November 22, 2019  
Page | 2

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inconsistent with recent precedent. The senior partner on the case contacted a member of the MUJI Committee at the time to alert him to what we considered to be an error and learned that the committee was already aware of the issue and would be publishing an updated instruction shortly. While we were pleased that the revised instruction ended up supporting our client's position, I also came away from that experience impressed that the members of the committee were diligent enough to identify the issue and take prompt corrective action. If selected to be a member of the committee, I would do my best to carry on the excellent work that the committee has done in the past.

I am also interested in being a member of the MUJI Committee because I think I have skills and qualifications that will help me contribute to the committee's work in a meaningful way. Throughout my career, my colleagues at Anderson & Karrenberg have relied on me to carry the laboring oar when it comes to researching difficult legal issues and drafting important motions and other legal briefs that require explaining the law in a simple, straight-forward way. And, for the most part, my efforts have resulted in success for our clients. I believe these skills will help me contribute to the committee's work right away and that by applying them, I can help the MUJI instructions become an even more valuable asset for all Utah practitioners.

I also recently completed participating in the 2019 class of the Utah State Bar's Leadership Academy. As a member of the Leadership Academy, I attended monthly seminars, with about 15 other members of the Utah Bar, which often included presentations by some of the most respected attorneys in Utah. Through those seminars, I learned valuable leadership skills that I believe will also help me contribute to the MUJI Committee. My participation as a member of the Litigation Section's Executive Committee for more than two years has also helped me develop skills that I believe will be valuable to the MUJI Committee's work.

I would love the opportunity to be a member of the Standing Committee on Model Utah Civil Jury Instructions and believe I can contribute in a meaningful way. If selected, I would be committed to attending committee meetings and doing whatever other work is necessary to accomplish the committee's goals. Attached to this letter is a copy of my resume. I do not have any current or past court committee assignments.

If you have any questions regarding my application, or would like to discuss my qualifications further, please feel free to get in touch at any time.

Sincerely,



Jason E. Greene



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50 West Broadway, Suite 700, Salt Lake City, UT 84101 • (801) 639-0961 • jgreene@aklawfirm.com

## EXPERIENCE

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### **ANDERSON & KARREBERG, P.C.**, Salt Lake City, Utah

*Attorney/Shareholder*, September 2012–Present

- Key member of litigation team that pursued consumer fraud class action against one of the nation's largest trucking companies resulting in multi-million-dollar settlement
- Obtained dismissal of two cases against client alleged to have violated the Racketeer Influenced and Corrupt Organizations (RICO) Act
- Reached favorable settlement on behalf of software company client pursuing secondary copyright infringement claims
- Successfully defended multiple clients in several multi-tiered construction defect actions
- Obtained summary judgment and award of attorneys' fees in favor of clients seeking quiet title against large national mortgage servicer attempting to foreclose on clients' home.
- Argued multiple significant motions in state and federal court
- Participated in nearly all stages of litigation including pleading, initial disclosures, written discovery, taking depositions, document review, motion practice, pre-trial disclosures, trial preparation, and appeal

### **THE HONORABLE CLARK WADDOUPS**, United States District Court, District of Utah

*Judicial Law Clerk*, May 2012–August 2012; *Fellowship Law Clerk*, September 2011–May 2012

- Observed courtroom proceedings including a jury trial, evidentiary hearings, and several motions hearings
- Conferred with federal district judge regarding decisions in both civil and criminal actions
- Drafted legal opinions, bench memoranda, and jury instructions
- Engaged in extensive legal research and analysis

### **OFFICE OF GENERAL COUNSEL**, University of Virginia

*Legal Intern/Research Assistant*, June 2010–March 2011

- Helped revise and update policy on research misconduct
- Researched and drafted memoranda regarding various issues relating to higher education law, including copyright law, the independence of non-profit support foundations, and civil rights

### **PROFESSOR GEORGE COHEN**, University of Virginia School of Law

*Research Assistant*, May 2009–October 2009

- Researched legal scholarship in areas of contract interpretation, law & economics, and legal ethics
- Helped update Professor Cohen's textbook, *The Law & Ethics of Lawyering* (2010)

## EDUCATION

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### **UNIVERSITY OF VIRGINIA SCHOOL OF LAW**, Charlottesville, Virginia

*J.D.*, May 2011

- *Journal of Law & Politics*, Production Editor
- William Lile Minor Moot Court Competition, Participant
- J. Reuben Clark Law Society, Student Chapters Board, Chair of Membership/Technology
- Rex. E. Lee. Law Society, Vice President
- Action for a Better Living Environment (ABLE), Director of Tutoring

### **BRIGHAM YOUNG UNIVERSITY**, Provo, Utah

*B.A.*, Economics and Political Science, *magna cum laude*, December 2007

- Dean's List (4.0 GPA for one or more semesters)

## PROFESSIONAL AFFILIATIONS

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- Utah State Bar Litigation Section, *Executive Committee Member* (June 2017–Present)
- Utah State Bar Leadership Academy, *Participant* (2019)
- The Aldon J. Anderson American Inn of Court, *Barrister*



Nancy Sylvester &lt;nancyjs@utcourts.gov&gt;

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## MUJI Committee Application

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Eric Olson &lt;eolson@eckolaw.com&gt;

Tue, Oct 15, 2019 at 2:08 PM

To: "nancyjs@utcourts.gov" &lt;nancyjs@utcourts.gov&gt;

Nancy,

Please consider this email my application for the committee position for civil plaintiffs.

I am interested in the position for multiple reasons. I think MUJI 2d is overall a good product that is very helpful in civil Utah trials. I appreciate those who have spent their time developing it. Peter Summerill reached out to me and recommended that I apply. I understand his term is up. I believe it is important to have good lawyers from both the defense and plaintiff side on the committee. I feel an obligation to contribute.

I have not served on a past court committee assignment.

I have not updated my resume in over a decade. As a result, I am going to summarize my qualifications in this email.

I graduated from the University of Utah Law School in December, 2007. I took the bar exam in February, 2008 and became a member of the Utah State Bar in May, 2008.

I started working in personal injury as a law clerk during the summer after my first year of law school. I continued clerking in personal injury throughout the rest of law school.

I was hired by my current firm (formerly named "Eisenberg & Gilchrist") as an Associate, starting in January, 2008. I continued working as an associate until I was made an equity partner at the firm in 2013. At that time, the firm was named "Eisenberg Gilchrist & Cutt." Thereafter, Bob Gilchrist retired. My name and the name of another partner were added to the firm name, making it "Eisenberg Cutt Kendell & Olson."

Throughout my time at the firm, we have had approximately 4-6 partners, 2-3 associates, 1-2 law clerks, an *of counsel* attorney and staff. Our sole practice area has been plaintiff civil litigation. I estimate that 98% of those cases have been plaintiff personal injury cases. Our firm has a good reputation for doing quality personal injury work. About 95% of our cases are referred by other lawyers.

I estimate that 85% of my cases are litigated. I have tried eight cases to jury. The average length of each trial has been 5-6 trial days. In addition, I have had many cases get close to trial before settling. I have taken numerous depositions and argued many motions.

Thanks for the consideration,



10/21/2019

Utah State Courts Mail - MUJI Committee Application

000341



Eric S. Olson

*Partner*

Salt Lake City, UT

p. 801.366.9100

e. [eolson@eckolaw.com](mailto:eolson@eckolaw.com)

w. [www.eckolaw.com](http://www.eckolaw.com)

## RESUME

RALPH C. PETTY

Attorney at Law

4110 South Highland Dr., Suite 350

Salt Lake City, Utah 84124

Telephone: (801)220-0900

### CURRENT RECOGNITION:

Advisory Board, Utah Trial Lawyers Association

Utah Legal Elite 2017 - Personal Injury

Board of Directors, Odyssey Dance Theater

### VOLUNTEER POSITIONS:

Board of Governors, Utah Trial Lawyers Association - 1995 - 2013.

Board of Directors, Utah Bar Foundation - 2005-2011

President of the Utah Bar Foundation - 2010-2011

### LEGAL EDUCATION:

Seattle University School of Law: J.D. May 1981

Associate Editor: University of Puget Sound Law Review

Member: Conduct Review Board

Member: International Law Society

Member: Environmental Law Society

### UNDERGRADUATE EDUCATION:

University of Utah: Class of 1978; B.A. (English and Psychology)

Class Standing: Magna Cum Laude

Activities: Charity Fund Raising, Ski Team, Fraternity

### WORK EXPERIENCE:

2005 - Present: Attorney in sole practice, concentrating on litigation, personal injury, business, real estate, and insurance work.

2002-2005: Of Counsel with the firm of Berrett & Associates, L.L.C.

1997-2002: Formed Weiss, Berrett, Petty L.C. with Lorin Weiss and Barbara Berrett. This is primarily a litigation firm.

1982-1997: Legal practice has focused on insurance, personal injury, litigation, appeals, business, contracts, real estate.

1981-1982: Clerk for Justice I. Daniel Stewart, Utah Supreme Court.

1980: Clerk for Tacoma Hearings Examiner, the Administrative Judge for the City of Tacoma.

1979-1980 and 1980-1981: University of Puget Sound Dean of Students Staff for residential life. Head Resident of Todd Hall and the Chalet living units.

1978: Home Construction, Carpentry, Concrete, Masonry.

1975-1977: Two year LDS Mission to Austria, speaking German and administrating missionary efforts.

1968-1975: During High School and College I was a member of the U.S. Ski Team and held such positions as ski racing coach, construction laborer and account executive.

Practice focuses on all aspects of personal injury, litigation, appeals, real estate.

# Ricky Eric Shelton

(801) 494-9167

*ricky.shelton@hotmail.com*

## **EDUCATION:**

### **University of Virginia School of Law, Charlottesville, VA**

J.D., May 2013

- Senior Editorial Board Member of the Virginia Journal of Law and Technology

### **University of Utah, Salt Lake City, UT**

B.A. Psychology, B.S. Economics, *magna cum laude*, December 2008

- Recipient of Honors at Entrance Full-Tuition Scholarship
- Ranked in the top 2.5% of graduating class

## **EXPERIENCE:**

### **Dewsnup, King & Olsen, Salt Lake City, UT**

*Associate*, February 2016–Present

- Handled a variety of catastrophic-injury/wrongful-death cases
- First and second chaired 5 jury trials, winning verdicts of \$2,700,000 and \$650,000

### **Snell & Wilmer L.L.P., Salt Lake City, UT**

*Associate*, September 2013–February 2016,

*Summer Associate*, May 2012–August 2012

- Handled, as first chair, two trials
- Defended clients in numerous areas of litigation, including medical malpractice, personal injury, products liability, and commercial litigation
- Led the firm's Community Involvement Committee

### **The United States Attorney's Office, Western District of Virginia**

*Certified Student Prosecutor*, September 2012–May 2013

- Prosecuted, as first chair, two misdemeanor trials
- Handled briefing and oral argument on court-ordered supplemental proceeding on constitutional issue of merger and double jeopardy
- Assisted in 5-day trial for bath-salt drug crime

### **The Honorable Clark Waddoups, Federal District Court, District of Utah, Salt Lake City, UT**

*Judicial Extern*, May 2011–August 2011

- Composed bench memoranda on multiple areas of law
- Drafted court orders and opinion

### **State of Utah-Juvenile Justice System-Early Intervention Program, Salt Lake City, UT**

*Youth Counselor*, April 2009–July 2010; *Volunteer*, January 2007–April 2009

- Advocated for at-risk youth in juvenile court proceedings
- Taught life skills classes; held weekly family mediations with youth and parents

- Wrote reports and recommendations for juvenile court judges
- Served on the Curriculum Revision Board

**Kesler & Rust**, Salt Lake City, UT

*Legal Assistant*, January 2007–March 2009

- Prepared court documents and correspondence

**American Civil Liberties Union of Utah**, Salt Lake City, UT

*Research Assistant*, May 2008–February 2009

- Conducted a comparative analysis of indigent defendant laws for all 50 states
- Reviewed and recorded complaint letters from jail and prison inmates

**The Supreme Court of the United States of America**, Washington, D.C.

*Full-Time Intern*, July 2006–December 2006

- Researched and composed educational exhibits for public
- Performed administrative duties for Offices of the Clerk and Curator

**ADT Home Security**, Chicago, IL and Cleveland, OH

*Independent Sales Contractor*, January 2005–July 2006

- Achieved sales in top 15 of 700 representatives

November 18, 2019

To whom it may concern:

I write to express my interest in joining the Model Jury Instruction Committee. My interest stems from two sources.

First, I have previously served as a member of the subcommittee for model jury instructions on economic interference under chairman Ryan Frazier. I really enjoyed that experience. Taking an area of law, with all its nuances and complexities, and boiling it down to its essence in lay-person terms was very intellectually engaging and fulfilling. It was also a delight working as a team to craft the best language for the instruction. As the son of an English professor, I have long loved to write, and it was a joy to be involved in a collaborative process with other lawyers who were great writers.

Second, I have personally seen the immense benefit model instructions provide to lawyers. I have handled 7 jury trials. In all of those trials, the court and lawyers relied heavily on the model instructions. Having personally benefitted from the work other lawyers put into creating those instructions, I would like to contribute my own time and effort in order to pay it forward.

In addition to having great interest, I believe my unique background will allow me to make a meaningful contribution to the committee. I graduated from the University of Virginia School of Law, a top-ten law school. I have extensive experience representing both plaintiffs and defendants. At the beginning of my career, I worked for three years at the national law firm Snell & Wilmer. While there, I defended clients in a variety of areas, including products liability, personal injury, and commercial litigation. In 2016, I switched to the plaintiff's side, joining the law firm of Dewsnup, King & Olsen. In addition to my experience at well-respected law firms, I have worked for Utah Federal Judge Clark Waddoups and for the United States Attorney's Office. This diverse professional and educational background gives me a well-rounded perspective on the law that will benefit the committee.

Thank you for your consideration,

Ricky Shelton

# Stewart B. Harman

136 East South Temple, Suite 1700, Salt Lake City, Utah 84111  
T. 801-363-7611 E. [sharman@pckutah.com](mailto:sharman@pckutah.com)

## **EDUCATION**

**Juris Doctorate - Appalachian School of Law**, Grundy, Virginia 2006

Graduating Rank: Summa Cum Laude (1<sup>st</sup> 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, Utah 2001. B.S. in Organizational Communication and B.S. in Political Science

## **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 10<sup>th</sup> 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

Member - Subcommittee on Insurance to Standing Committee on Model Utah Civil Jury Instructions

## **WORK EXPERIENCE**

**Plant, Christensen & Kanell**, Salt Lake City, Utah, 2006 – Present

*Shareholder.* Manage litigation 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, ski industry, 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/or argued before the Utah Court of Appeals, Utah Supreme Court and the United States Court of Appeals for the Tenth Circuit.

**Utah Army National Guard**, 1998 – 2006

*Counterintelligence Special Agent.* Highest Rank - Staff Sergeant at time of honorable discharge. Tactical HUMINT Team leader in the 142<sup>nd</sup> 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*, 2014 UT 53, 342 P.3d 243;

*Galindo v. City of Flagstaff, Arizona, et al*, 2019 UT 67, -- P.3d --; and

*Fire Insurance Exchange v. Oltmanns*, 2018 UT 10, 416 P.3d 1148.

**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. Athletic accomplishments: 2012/18 Boston Marathons, 2012 Wasatch 100 Mile Ultra-marathon and 2015 Ironman Arizona.

STEWART B. HARMAN  
[SHARMAN@PCKUTAH.COM](mailto:SHARMAN@PCKUTAH.COM)  
ALSO ADMITTED IN IDAHO

November 6, 2019

Nancy Sylvester  
Utah judicial Council  
Via email to [nancyjs@utcourts.gov](mailto:nancyjs@utcourts.gov)

Dear Ms. Sylvester,

I am writing to express my interest in one of the positions on the Standing Committee on Model Utah Civil Jury Instructions. As illustrated in my resume, I am an attorney who primarily represents civil defendants. 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 as defense counsel representing civil defendants at the firm of Plant, Christensen and Kanell for more than 13 years. In my practice I handle primarily insurance defense cases ranging from personal injury, construction defect, municipal claims, to HOA, landlord-tenant, products liability and complex civil litigation cases. In addition, I currently serve on the subcommittee on Insurance to the Standing Committee on Model Utah Civil Jury Instructions.

Thank you for your consideration. I would appreciate the opportunity to discuss my qualifications for a committee. I look forward to hearing from you.

Kind Regards,

**PLANT, CHRISTENSEN & KANELL**



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STEWART B. HARMAN

Enclosure



- Seasoned attorney managing a full docket of cases with specialized focus on defending tort claims, medical malpractice claims and complex commercial claims, with additional responsibilities in appellate litigation, insurance law, and business transactions and disputes
- Active and successful jury trial practice
- Active and growing appellate practice
- Active and growing insurance coverage and insurance law practice

2011-present **Rencher & Anjewierden** Salt Lake City, Utah  
(formerly Stucki & Rencher)

- Manage all aspects of high value and high exposure medical malpractice, personal injury, and professional litigation
- Supervise staff and junior attorneys
- Collaborate with expert witnesses and other external consulting professionals
- Attend and conduct depositions, motions hearings, trials, and appellate oral arguments, mediations, and arbitrations
- Draft insurance coverage opinions, advise insurance companies on claims management and legal obligations, and manage insurance coverage litigation
- Negotiate and implement commercial contracts
- Assist in resolution of contract disputes

- Represent clients in civil litigation, appellate litigation, and family law matters
- Participate in legal research, case investigation, and preparation of legal and appellate briefs

**Education**

2017 **Imperial College London Business School, London, United Kingdom**  
*Master of Business Administration, with Merit*

2008 **William and Mary School of Law, Williamsburg, Virginia**  
*Juris Doctor*

- GPA 3.63/4.0
- Class Rank: 20/211 (Top 10%)
- Order of the Coif
- Trial Team and Moot Court Team (both competitive entry)
- Teaching Assistant for Corporate Law and Business Associations

2005 **University of Utah, Salt Lake City, Utah**  
*Honors Bachelor of Arts, Magna cum Laude, History*

- GPA 3.98/4.0
- Class Rank: Top 2%
- Phi Beta Kappa
- Phi Kappa Phi
- Honors at Entrance Scholarship

**Additional Skills, Achievements, and Interests**

- **Aldon J. Anderson Chapter of the American Inns of Court**
- **Member of Utah State Bar**
- **Member of 10<sup>th</sup> Circuit Court of Appeals Bar**
- **Verified Certificate in Human Physiology through Duke University**

TO: [nancyjs@utcourts.gov](mailto:nancyjs@utcourts.gov)

From: Benjamin Lusty

Re: Application for Judicial Council's Standing Committee on Model Utah Civil Jury Instructions

1) Position applying for:

Attorney who primarily represents civil defendants.

2) Statement of Interest

Our system of civil justice cannot function without clear, understandable, and legally accurate jury instructions. Jury instructions are the tissue that connects the rational body of law under the care of the courts and bar to the public oversight and participation in the execution of justice that democratic self-government requires. Ensuring their ongoing maintenance is a task of fundamental import to the community, and within the particular care of the bench and the legal profession.

Throughout my career I have made frequent recourse to the Model Utah Jury Instructions. Almost exclusively, I represent defendants in civil actions, primarily in medical malpractice actions, but also in general tort and contract litigation. On the whole, the instructions are excellent. The committee notes and references are particularly useful. I have found, however, that some jurors (in post-trial surveys) have expressed some confusion as to the meaning of some of the instructions and some of the legal terms used in the instructions. My clients have, moreover, sometimes questioned the meaning of a particular instruction.

Serving on the committee would be of particular interest to me in that I would like to make particular effort in clarifying the instructions for use by lay jury members. Although some concepts of law are inherently difficult to explain (even to lawyers who do not specialize in a particular field), I would be continually mindful of the intended audience and users of these instructions, and continually challenging myself to ensure that the language used in the instructions is the clearest it can be.

From a personal standpoint, moreover, I take great pleasure in legal research, and would relish the opportunity to conduct extensive and exhaustive analysis of case law and statutes, particularly when the fruit of such effort could potentially be of longstanding value (in the form of accurate and well crafted jury instructions) to the people of Utah, and the members of its legal community. Moreover, with 11 years of active litigation practice, including many jury trials, I have the legal knowledge and practical experience necessary to make a significant contribution to the committee's work.

3) List of current and past court committee assignments

I have not yet had the honor to serve on any court committees.

4) Resume

Separately attached

## PAUL W. SHAKESPEAR

920 West 2075 South • Syracuse, Utah 84075

702-334-7607 • p.shakespear@gmail.com

### PROFESSIONAL EXPERIENCE

**Snell & Wilmer, L.L.P.** – Salt Lake City, Utah and Las Vegas, Nevada September 2007 – Present

*Partner - Product Liability and Commercial Litigation*

- Represented domestic and foreign manufacturers of pharmaceutical products and medical devices in mass tort and catastrophic injury actions
- Defended domestic and foreign automotive manufacturers, all-terrain vehicle manufacturers and motorcycle manufacturers in stability, occupant protection, fire, asbestos, Magnuson-Moss Warranty Act and lemon law cases
- Defended clients named in medical malpractice, premise liability, automobile and commercial vehicle tort actions
- Represented various clients in drug pricing, financial services, patent infringement, business organization, real property, mechanics lien enforcement, debt collection and employment and labor matters
- Consulted with clients regarding trade practices and marketing, applicability of liability waivers and motor vehicle lessor licensing requirements
- Admitted to practice in Utah and Nevada

*Notable Experience*

- Second chaired a two week automotive product liability jury trial resulting in unanimous defense verdict
- Prevailed on motion for new trial due to failure to properly instruct jury on plaintiff's burden of proof
- Drafted appellate briefs in cases pending before Utah's Supreme Court and Court of Appeals, the Ninth Circuit Court of Appeals and Nevada Supreme Court
- Managed all aspects of cases including written discovery and third-party subpoenas, depositions, settlement negotiations and alternative dispute resolution, pre-trial conferences, trial and appeals
- Drafted and argued dispositive, discovery, evidentiary and post-trial motions
- Repeatedly Recognized as Utah Legal Elite in civil litigation and Mountain States Rising Star

**Department of Interior, Office of the Solicitor** – Salt Lake City, Utah

Fall 2005

*Legal Extern*

- Conducted research and drafted memoranda the Federal Tort Claims Act, the Quiet Title Act and the Equal Access to Justice Act

### EDUCATION

**J. Reuben Clark Law School** – Provo, Utah

April 2007

*Juris Doctor*

- Served as Managing Editor of Education Law Journal
- Voted Vice President - Natural Resources Law Society and International Human Rights Law Society
- Research Assistant for (former) Dean James Rasband and Professor John Fee
- Capstone project: *Lucas, Background Principles and the Federal Review of State Property Law*

**Southern Utah University** – Cedar City, Utah

May 2004

*Bachelor of Art in Political Science*

- Graduated *Summa Cum Laude*
- Named R. Kenneth Benson Outstanding Student and Outstanding Graduate in Social Sciences
- Voted Academic Vice President, Southern Utah University Student Association
- Appointed Student Director of the Michael O. Leavitt Center for Politics and Public Service

### COMMUNITY INVOLVMENT AND INTERESTS

- Hiking, Camping, Fly Fishing, Wildlife and Outdoor Photography, Basketball, Traveling and Reading

- Fluent in Spanish



Nancy Sylvester &lt;nancyjs@utcourts.gov&gt;

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## Notice of Open Positions on the Judicial Council's Standing Committee on Model Utah Civil Jury Instructions

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**Shakespeare, Paul** <pshakespeare@swlaw.com>  
To: "nancyjs@utcourts.gov" <nancyjs@utcourts.gov>

Fri, Nov 22, 2019 at 3:06 PM

Nancy,

I am writing to express my interest in serving on the Standing Committee on Model Utah Civil Jury Instructions in the role of an attorney that primarily represents civil defendants. I primarily represent defendants in a variety of civil matters. Due, in part, to my experience in several jury trials, I appreciate the importance of the Standing Committee's work and would like to contribute to its efforts in developing and maintaining jury instructions that accurately reflect Utah law and improve jury trials.

I am happy to answer any questions the Committee may have after reviewing my resume (attached). As you will see, I am not currently on any court committees, nor have I been assigned to any in the past. I am excited at the prospect of serving on the Standing Committee.

Thank you,

Paul

Paul W. Shakespeare

Snell & Wilmer L.L.P.  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101-1531  
Direct: 801.257.1972

Office: 801.257.1900

[pshakespeare@swlaw.com](mailto:pshakespeare@swlaw.com) [www.swlaw.com](http://www.swlaw.com)

**Snell & Wilmer**

This electronic mail message and any attached files are confidential and contain information intended for the exclusive use of the individual or entity to whom it is addressed. If you are not the intended recipient, please immediately reply to the sender indicating your receipt of the message and then immediately delete the message.

**From:** UtahStateBarNews <utahstatebarnews-bounces@usblists.utahbar.org> **On Behalf Of** Utah Court Notices 000355

**Sent:** Friday, October 11, 2019 3:59 PM

**To:** utahstatebarnews@usblists.utahbar.org

**Subject:** [UtahStateBarNews] Notice of Open Positions on the Judicial Council's Standing Committee on Model Utah Civil Jury Instructions

[EXTERNAL]

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[Quoted text hidden]

[Quoted text hidden]



**P. Shakespear Resume.pdf**

19K

**Samantha Slark**  
1059 East South Temple, Salt Lake City, UT 84102

Nancy Sylvester  
Third District Court, Matheson Courthouse  
P.O. Box 1860  
450 South State Street  
Salt Lake City, UT 84114-1860

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

Dear Ms. Sylvester,

I am writing to express my interest in the opening on the Standing Committee on Model Utah Civil Jury Instructions for an attorney that primarily represents defendants. I am a native of England and moved to Utah in 2002 to attend law school. I wanted to qualify to practice law in the United States, rather than England, as practice in the United States provides broader opportunities to appear and practice in court.

I graduated from the University of Utah S.J. Quinney College of Law in 2005 and have been practicing as an attorney in Salt Lake City for almost fifteen years. Like many civil attorneys practicing today, I have not had the opportunity to take cases to jury trial as often as I would like, but the times that I have are some of the highlights of my career. Those experiences also brought home just how important it is to have a set of model jury instructions that are not only clear, accurate, and current, but are also easily understood by those with no legal training that are charged with the important task of serving on our juries. I would be honored if I were selected to sit on this committee and could play a role in ensuring the ongoing maintenance of model jury instructions that meet these goals.

I believe the breadth of my experience, which includes practicing in both the private and public sectors, and my recent extensive experience as an attorney assigned to defending claims against Salt Lake City, puts me in a position to bring a valuable contribution to this committee. Specifically, as one of the litigation attorneys with the Salt Lake City Attorney's Office, I have handled the defense of the City against claims ranging from simple negligence claims arising from a trip and fall or an employee getting into a car accident, to complex contract claims, State and Federal constitutional claims, land use and property rights claims, and claims arising from discipline of an employee. Prior to joining the City, I spent nearly eight years in private practice with the litigation boutique firms of Berman & Savage and Anderson & Karrenberg, where I handled matters ranging from contract disputes, legal malpractice claims, construction disputes, intellectual property claims, and products liability claims, to name but a few.

I have not had the opportunity to date to serve on a judicial committee, although I did apply for an opening on this committee when a similar position became available in late 2017. I remain extremely interested in the position and appreciate your consideration of my application.

Sincerely

*Samantha J. Slark*



# SAMANTHA J. SLARK

1059 East South Temple, Salt Lake City, UT 84102  
801.673.1734 samantha.slark@slcgov.com

## Education

### University of Utah, S. J. Quinney College of Law, Salt Lake City, UT

May 2005

- National Moot Court Regional Quarter Finalist Aug 2004-May 2005
- Traynor Moot Court Competition Finalist Apr 2004
- O'Leary Outstanding Achievement Awards May 2004 & May 2005
- Legal Writing Teaching Assistant Aug 2004-May 2005
- Journal of Law and Family Studies: Junior Staff Member Aug 2003-May 2004
  - Published Spring 2004

### University of Sussex, Falmer, East Sussex, UK

- BA Honors, Law with North American Studies June 1998
- Exchange Year: UNC College of Law, Chapel Hill, NC Aug 1996-May 1997

## Legal Experience

### Salt Lake City Attorney's Office ~ Senior City Attorney

July 2013-Present

Represents the City in all aspects of civil litigation through trial, including civil rights claims, negligence claims, land use appeals, employment claims and condemnation actions.

### Anderson & Karrenberg, Salt Lake City, UT ~ Shareholder

Dec 2007-June 2013

Represented private clients in all aspects of civil litigation through trial, including business disputes, intellectual property, legal malpractice, and contract claims.

### Berman & Savage, Salt Lake City, UT ~ Law Clerk & Associate

Aug 2004-Nov 2007

Represented private clients in aspects of civil litigation, including business disputes, intellectual property, contract, and product liability claims.

### Salt Lake Legal Defenders, Salt Lake City, UT ~ Internship

Aug 2004-May 2005

Represented indigent clients in criminal cases, including three jury trials and numerous pre-trial conferences.

### Prince, Yeates & Geldzahler, Salt Lake City, UT ~ Summer Clerk

May 2004-Aug 2004

Conducted aspects of civil litigation, including drafting motions and research memoranda.

### Utah Legal Clinic, Salt Lake City, UT ~ Law Clerk

May 2003-Apr 2004

Conducted research and drafted motions on various civil rights, contract and family law matters.

### Freshfields Bruckhaus Deringer, London & Amsterdam ~ Paralegal

Feb 2001-Aug 2002

Conducted due diligence and research and prepared closing documents.

### Crown Prosecution Service, Eastbourne, UK ~ Legal Support Staff

Apr 2000-June 2000

Updated records to reflect recent court proceedings and answered general inquiries from other departments.

### Cook County Public Defender, Chicago, IL ~ Law Clerk

Oct 1999-Mar 2000

Took initial client interviews, accompanied attorneys on jail visits and attended court.

### Barristers' Chambers, England, UK ~ Mini Pupilage

Oct 1999-Mar 2000

Attended court, accompanied Barrister to client meetings, reviewed files and conducted legal research.

## Volunteer Experience

### Tuesday Night Bar, Salt Lake City, Utah ~ Volunteer

2016-Present

Provide legal assistance or referrals to low-income clients with basic legal problems.

### Tower Hamlets Law Clinic, London, UK ~ Volunteer

2001-2002

Volunteered at a walk-in legal clinic. Assisted low-income clients with basic legal problems.

### Kibbutz Baram, Israel ~ Volunteer

1998-1999

Volunteered on a Kibbutz. Worked in orchards, chicken farm and factory.

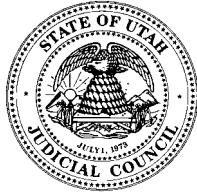
### Manos Amigos, Santa Cruz, Bolivia ~ Orphanage Volunteer

1996-1997

Volunteered in orphanage. Constructed recreational facilities and helped day-to-day running of orphanage.

## Hobbies and Interests

Mountain biking, skiing, and traveling.



## Administrative Office of the Courts

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

November 12, 2019

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

### MEMORANDUM

**TO: Judicial Council Management Committee**

**FROM: Standing Committee on Courts Technology**

**RE: Renewal of Appointment: Mikelle Ostler**  
**New Appointment: Judge Debra Jensen, Erin Boyington, Judge Don Torgerson**

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The Standing Committee on Courts Technology is requesting the reappointment of Mikelle Ostler to serve a second term on the Committee. Ms. Ostler has expressed interest in continuing to serve on the Committee.

We are requesting the Judicial Council Management Committee consider appointing the following to the Committee:

Juvenile Judge: Debra Jensen

District Judge: Don Torgerson

Public/Industry: Erin Boyington (resume attached)

Thank you

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



## Administrative Office of the Courts

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

November 19, 2019

Judge Mary T. Noonan  
State Court Administrator  
Cathy Dupont  
Deputy Court Administrator

### MEMORANDUM

**TO:** Judicial Council Management Committee

**FROM:** Shane Bahr, District Court Administrator

**RE:** Membership Recommendation – Uniform Fine and Bail Committee

**Reason for Vacancy(s):** Judge James Blanch and Judge Paul Parker have served their two-term limit on the Uniform Fine and Bail Committee.

**Eligibility requirements:** Rule 1-205 states the Uniform Fine and Bail Schedule Committee shall consist of one district court judge with felony docket experience, three district court judges with misdemeanor docket experience, one juvenile court judge and three justice court judges.

**Current committee member list:**

Judge David Hamilton, Chair – Second District Court  
Judge Linda Jones – Third District Court  
Judge Keith Eddington – Eighth District Juvenile Court  
Judge Michael Junk – Ogden City Justice Court  
Judge Jon Carpenter – Seventh District at Wellington City and Carbon County  
Judge Brian Brower - Second District at the Clearfield City, Sunset City and Morgan County  
Vacant - District Court  
Vacant - District Court

**Description of recruitment process:** An email was sent to the District Court Bench asking for names of judges willing to be considered to serve on this committee. Judge Dianna Gibson, Third Judicial District; Judge Jennifer Valencia, Second Judicial District; and Judge Patrick Corum, Third Judicial District have expressed interest in serving on the Uniform Fine and Bail Committee and would like to be considered for appointment.

**Board Recommendation:** The Board of District Court Judges recommends Judge Jennifer Valencia and Judge Patrick Corum be appointed to the Uniform Fine and Bail Committee.

Thank you for your consideration,

Shane Bahr  
District Court Administrator

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efficient, and independent system for the advancement of justice under the law.

# Tab 19





## Administrative Office of the Courts

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

July 23, 2019

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

### MEMORANDUM

**TO:** Members of the Judicial Council Management Committee

**FROM:** Neira Siaperas  
Utah Juvenile Court Administrator

**DATE:** November 26, 2019

**RE:** Proposed Probation Policies for Review and Approval

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The Board of Juvenile Court Judges has proposed revisions of the following policies which are now advanced to the Management Committee for review and consideration. Additionally, I seek placement on the Judicial Council's consent agenda for December 10, 2019.

***Section 2.13 Certification Investigation Report***

*This policy was last updated on March 1, 2001. The purpose of this policy is to provide direction to probation staff when completing an investigation report for certification hearings. Updates to this policy are necessary to align with revisions that have been made to the Certification Report format used by the probation department. Updates to the policy include a provision for referencing previously eFiled documents in the report; removal of procedural language regarding the certification process that are not specific to the duties of the probation department; removal of the requirement for the probation officer to consider the ten factors when preparing the certification report.*

***Section 4.2 Formal and Intake Probation***

*This policy was last updated May 21, 2018. The purpose of the policy is to provide direction to probation officers regarding Intake and Formal Probation. Updates are necessary to align the policy with statutory changes including allowing the extension of probation on the basis of non-payment of restitution; restricting the extension of probation to an Intake status for cases in which the only outstanding obligations are services hours, fines and/or restitution; limiting the extension of probation to no longer than 90 days if service hours are the only outstanding obligation.*

***Section 4.16 Confiscated Property***

*This policy was last updated on April 30, 2007. This policy provides direction to probation staff for addressing illegal or restricted items. Updates to this policy include the removal of references to the now*

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efficient, and independent system for the advancement of justice under the law.**

*obsolete Probation Order and Agreement; the addition of references to local building security plans and an evidence chain of custody form; the addition of a provision allowing confiscation of property that is restricted by a court sponsored program; updates to procedures for handling, storing and destroying confiscated property.*

***Section 5.6 Critical Incident Reporting***

*This policy was last updated November 1, 2001. The recommendation is for this policy to be deleted.*

*This policy is no longer necessary since the procedures therein do not apply specifically to probation staff and are currently included in all Local Security Plans and/or Rule 3-414 Court Security.*

I will be available to respond to questions during your meeting on December 10, 2019.

Thank you.

## 2.13 Certification Investigation Report

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**Policy:**

This policy gives direction to the probation officer when completing an investigative report for certification hearings.

**Scope:**

This policy applies to all probation staff of the Utah State Juvenile Court.

**Authority:**

- [UCA 78A-6-703](#)
- [UCA 78A-6-705](#)
- Utah Rules of Juvenile Procedure
  - [Rule 22](#)
  - [Rule 23](#)

**Procedure:**

1. The probation officer shall complete a full investigation of a minor's social history and background and prepare a report of the investigation for use by the Court during a certification hearing.
2. The probation officer shall include and/or make reference by filing date to documents in CARE the following in the investigative report:
  - 2.1. The minor's delinquent history;
  - 2.2. The minor's response to rehabilitative and correctional efforts;
  - 2.3. The minor's educational history and status;
  - 2.4. The minor's social history;
  - 2.5. A psychological evaluation and any other evaluation or assessment; and
  - 2.6. Any other matter ordered by the court.
3. The probation officer shall be available to appear and be subject to both direct and cross-examination when requested by the minor, the minor's parent, guardian and/or custodian or another party.
4. The probation officer shall electronically file in CARE and make available to the parties or to counsel, if represented, and to the minor's parent, guardian or custodian the investigation report no less than 48 hours prior to the certification hearing, unless otherwise ordered by the court.

**Addendum 2.13.1 Certification Investigation Report**

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**History:**

Effective March 1, 2001

Revised and Approved May 21, 2018

Updated by Policy Workgroup May 22, 2019

Legal Review June 6, 2019

Approved for Comment BJCJ July 12, 2019

Updated by PO Policy Committee August 29, 2019

Approved by Chiefs September 12, 2019

Approved by JTCE group October 3, 2019

Approved by Board of Juvenile Court Judges November 8, 2019

DRAFT FOR APPROVAL

## 2.13 Certification Investigation Report

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### Policy:

This policy gives direction to the probation officer when completing an investigative report for certification hearings.

### Scope:

This policy applies to all probation staff of the Utah State Juvenile Court.

### Authority:

- ~~UCA 76-3-203.1~~
- ~~UCA 76-8-418~~
- ~~UCA 76-9-802~~
- ~~UCA 76-10-505.5~~
- ~~UCA 78A-6-103~~
- UCA 78A-6-703
- UCA 78A-6-705
- Utah Rules of Juvenile Procedure — Rule 21,
  - Rule 22
  - Rule 23

### Procedure:

1. The probation officer shall complete a full investigation of a minor's social history and background and prepare a report of the investigation for use by the Court during a certification hearing.
2. ~~The investigation by~~ The probation officer ~~may include but shall not be limited to~~ **shall include and/or make reference by filing date to documents in CARE the following in the investigative report:**
  - 2.1. The minor's delinquent history;
  - 2.2. The minor's response to rehabilitative and correctional efforts;
  - 2.3. The minor's educational history and status;
  - 2.4. The minor's social history;
  - 2.5. A psychological evaluation and any other evaluation or assessment; and
  - 2.6. Any other matter ordered by the court.
3. ~~The probation officer shall consider the following in preparation for the certification report:~~

- 3.1. ~~The seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by the juvenile facilities;~~
  - 3.2. ~~Whether the alleged offense was committed by the minor under circumstances which would subject the minor to enhanced penalties under Section 76-3-203.1 UCA, if he/she was an adult and the offense was committed:~~
    - 3.2.1. ~~In concert with two or more persons; or~~
    - 3.2.2. ~~For the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802 UCA; or~~
    - 3.2.3. ~~To gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802 UCA.~~
  - 3.3. ~~Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;~~
  - 3.4. ~~Whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, except as provided in Section 76-8-418 UCA;~~
  - 3.5. ~~The maturity of the minor as determined by considerations of his home, environment, emotional attitude, and pattern of living;~~
  - 3.6. ~~The record and previous history of the minor;~~
  - 3.7. ~~The likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;~~
  - 3.8. ~~The desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime in the district court;~~
  - 3.9. ~~Whether the minor used a firearm in the commission of an offense; and~~
  - 3.10. ~~Whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5 UCA.~~
4. The court shall require The probation officer **shall** ~~preparing~~ **be** the report **available** to appear and be subject to both direct and cross-examination ~~if~~ **when** requested by the minor, the minor's parent, guardian **and/or custodian** or another party.
  5. The probation officer shall electronically file **in CARE and make available to the parties or to counsel, if represented, and to the minor's parent, guardian or custodian** the investigation report and ~~provide a copy to the minor's parent(s), guardian(s) or custodian(s), as directed by the Court, as early as feasible but at least~~ **no less than** forty-eight 48 hours prior to the certification hearing, **unless otherwise ordered by the court.**
  6. ~~Written reports and other materials relating to the minor's mental, physical, educational and social history and other relevant information are governed by the Rules of Evidence.~~

- ~~7. If certification is ordered, the jurisdiction of the Juvenile Court and the Division of Juvenile Justice Services shall terminate upon the filing of the criminal information in the District Court and any felony or misdemeanor committed after the offense over which the District Court takes jurisdiction shall be tried against the minor as an adult in the District Court.~~
  - ~~8. The Juvenile Court will regain jurisdiction and any authority previously exercised over the minor if there is an acquittal, a finding of not guilty, or a dismissal of the qualifying charge(s) in the District Court.~~
- 

**History:**

Effective March 1, 2001

Revised and Approved May 21, 2018

**Updated by Policy Workgroup May 22, 2019**

**Legal Review June 6, 2019**

**Approved for Comment BJCJ July 12, 2019**

**Approved by Chief group September 12, 2019**

**Approved by JTCE group October 3, 2019**

**Approved by Board of Juvenile Court Judges November 8, 2019**

## **Proposed Policy Update Comments for 2.13 Certification Report**

### **1. Comment/Theme:**

- ❖ Is there going to be a part that addresses any victim information?
  - **Policy Committee Response:** There is a place for general victim information in the newly approved Certification Investigation Report.
  - **Policy Committee Decision:** Added the Certification report as an addendum to the policy.

## 4.2 Intake and Formal Probation

---

### Policy:

The probation department shall supervise minors placed on Intake Probation and Formal Probation by the Court.

### Scope:

This policy applies to all probation staff of the Utah State Juvenile Court.

### Authority:

- Utah Code of Judicial Administration
  - [Rule 7-301](#)
  - [Rule 7-304](#)
- [UCA 78A-6-105](#)
- [UCA 78A-6-117](#)

### Procedure:

1. The probation officer shall recommend either Intake Probation or Formal Probation at a minor's final dispositional hearing when the minor will be supervised by the probation department:
  - 1.1. Intake Probation is defined in statute as a period of court monitoring that does not include field supervision, but the minor is supervised by a probation officer (78A-6-105).
    - 1.1.1. Intake probation shall not extend beyond the three month presumptive time frame unless at least one of the following exist:
      - 1.1.1.1. A request by a treatment provider or intervention facilitator to complete a court ordered treatment or intervention;
      - 1.1.1.2. The minor commits a new misdemeanor or felony offense;
      - 1.1.1.3. Service hours have not been completed;
      - 1.1.1.4. There is an outstanding fine; OR
      - 1.1.1.5. There is a failure to pay restitution in full.
  - 1.2. Formal Probation is defined in statute as a period of court monitoring that includes field supervision and the minor is supervised by a probation officer (78A-6-105).
    - 1.2.1. Formal probation shall not extend beyond the four to six month presumptive time frame unless at least one of the following exist:
      - 1.2.1.1. A request by a treatment provider or intervention facilitator to complete a court ordered treatment or intervention;
      - 1.2.1.2. The minor commits a new misdemeanor or felony offense; OR
      - 1.2.1.3. There are outstanding service hours, fines and/or restitution.

- 1.2.1.3.1. The probation officer shall recommend Formal Probation be terminated and the minor be placed on Intake Probation if the only remaining obligation is service hours and/or unpaid fines or restitution.
    - 1.3. The probation officer shall inform the court of the recommended length of time needed to address the specific circumstances when requesting that Intake or Formal Probation continue past the presumptive time frame.
      - 1.3.1. If the extension is only for service hours, the probation officer shall not recommend an extension for longer than 90 days.
    - 1.4. The presumptive time frames do not apply to minors adjudicated for the offenses outlined under the Serious Youth Offender statute (78A-6-702).
2. The probation officer shall consider the individualized needs of the minor and the following standard field supervision conditions when determining whether or not to recommend Formal Probation.
  - 2.1. The need for the minor to be contacted at their home, school, place of employment, or elsewhere as deemed appropriate.
  - 2.2. The need for the minor to be subject to a search of their person or anything under the minor's ownership, possession, or control.
  - 2.3. The need for the minor to notify the probation department prior to leaving the state of Utah or remaining away from their place of residence overnight.
  - 2.4. The need for additional supervision based upon the risk the minor poses to the community.
3. The probation officer shall meet with the minor and the minor's parents or guardian within five working days of the minor's placement on formal probation and review the conditions of the court order.
4. The probation officer shall complete a case plan on all moderate and high risk youth as outlined in Policy 4.3.
5. The probation officer shall supervise minors placed on either Intake Probation or Formal Probation according to risk, need, responsivity, evidence-based principles and Quality Assurance Plans.

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**History:**

Approved by the Judicial Council May 21, 2018

Effective Date July 1, 2018

Legal Review May 8, 2019

Approved for Comment by BJCJ June 14, 2019

Updated by Policy Committee July 30, 2019  
Approved by Chiefs August 8, 2019  
Approved by JTCE's September 5, 2019  
Approved by BJCJ October 11, 2019

DRAFT FOR APPROVAL



## Section 4.2 Intake and Formal Probation

### Policy:

The probation department shall supervise minors placed on Intake Probation and Formal Probation by the Court.

### Scope:

This policy applies to all probation staff of the Utah State Juvenile Court.

### Authority:

- Utah Rules Code of Judicial Administration **Rule 7-304**
- ~~Juvenile Court Operations Rule 7-304~~
- **Rule 7-301**
- UCA 78A-6-105
- UCA 78A-6-117

### Procedure:

1. The probation officer shall recommend either Intake Probation or Formal Probation at a minor's final dispositional hearing when the minor will be supervised by the probation department:
  - 1.1. Intake Probation is defined in statute as a period of court monitoring that does not include field supervision, but the minor is supervised by a probation officer (78A-6-105).
    - 1.1.1. Intake probation shall not extend beyond the three month presumptive time frame unless at least one of the following exist:
      - 1.1.1.1. A request by a treatment provider or intervention facilitator to complete a court ordered treatment or intervention;
      - 1.1.1.2. The minor commits a new misdemeanor or felony offense;
      - 1.1.1.3. Service hours have not been completed; ~~OR~~
      - 1.1.1.4. There is an outstanding fine; **OR**
      - 1.1.1.5. **There is a failure to pay restitution in full.**
  - 1.2. Formal Probation is defined in statute as a period of court monitoring that includes field supervision and the minor is supervised by a probation officer (78A-6-105).
    - 1.2.1. Formal probation shall not extend beyond the four to six month presumptive time frame unless at least one of the following exist:
      - 1.2.1.1. A request by a treatment provider or intervention facilitator to complete a court ordered treatment or intervention;
      - 1.2.1.2. The minor commits a new misdemeanor or felony offense; OR
      - 1.1.1.1. ~~There is an outstanding fine.~~
      - 1.2.1.3. **There are outstanding service hours, fines and/or restitution.**

- 1.2.1.3.1. The probation officer shall recommend Formal Probation be terminated and the minor be placed on Intake Probation if the only remaining obligation is service hours **and/or unpaid fines or restitution.**
  - 1.3. The probation officer shall inform the court of the recommended length of time needed to address the specific circumstances when requesting that Intake or Formal Probation continue past the presumptive time frame.
    - 1.3.1. **If the extension is only for service hours, the probation officer shall not recommend an extension for longer than 90 days.**
  - 1.4. The presumptive time frames do not apply to minors adjudicated for the offenses outlined under the Serious Youth Offender statute (78A-6-702).
2. The probation officer shall consider the individualized needs of the minor and the following standard field supervision conditions when determining whether or not to recommend Formal Probation.
    - 2.1. The need for the minor to be contacted at their home, school, place of employment, or elsewhere as deemed appropriate.
    - 2.2. The need for the minor to be subject to a search of their person or anything under the minor's ownership, possession, or control.
    - 2.3. The need for the minor to notify the probation department prior to leaving the state of Utah or remaining away from their place of residence overnight.
    - 2.4. The need for additional supervision based upon the risk the minor poses to the community.
  3. The probation officer shall meet with the minor and the minor's parents or guardian within five working days of the minor's placement on formal probation and review the conditions of the court order.
  4. The probation officer shall complete a case plan on all moderate and high risk youth ~~within 14 days of disposition~~ as outlined in Policy 4.3.
  5. The probation officer shall supervise minors placed on either Intake Probation or Formal Probation according to risk, need, responsivity, evidence-based principles and Quality Assurance Plans.

**History:**

Approved by Judicial Council May 21, 2018

Effective Date July 1, 2018

**Legal Review May 8, 2019**

**Approved for Comment by BJ CJ June 14, 2019**

**Updated by Policy Committee July 30, 2019**

Approved by Chiefs August 8, 2019

Approved by JTCEs September 5, 2019

Approved by BJCJ October 11, 2019

OLD-WITH EDITS

## **Proposed Policy Update for 4.2 Formal and Informal Probation**

### **Comment Themes:**

- Remove the wording of SHALL recommend intake or formal on every case. There are multiple instances where youth don't need either one. I.e. youth who decline NJ's or don't show for a PI for allegations that qualify for a nonjudicial.
- Under Authority the policy should cite Juvenile Court Operations Rule 7-301(Intake).
- At Procedure #3, consider changing "shall" to "should" meet within five days. Neither statute nor rule requires a set time between the referral and the first meeting. Meeting with a youth within five days is a good practice, but it is not always possible.
- Clerical often sees numerous requests to close cases when there is still an open PIA. It should be specified in policy as something to be checked in addition to fines/fees/restitution/hours, etc, and also checking that everything on the Order Fulfillment screen (such as fingerprints and photographs) is closed properly before recommending closure of the case.

### **Response to questions:**

- This question was posed to Brent Johnson who indicated that the policy is correct and an "accurate statement of the law" as written in that probation officers shall recommend intake or formal probation...when the minor will be supervised by the probation department. For cases in which the youth will not be under the supervision of the probation department, this recommendation is not necessary. This provision would apply to allegations that qualify for a nonjudicial but are subsequently petitioned and adjudicated. If the youth will be supervised or monitored by the probation department (i.e. the case is not closed immediately) then the PO shall recommend intake or formal probation for the youth.
- Each district has implemented quality assurance procedures when a probation officer closes a case (i.e. case closure form, review by a supervisor, etc.), which should include a review of the mentioned items prior to case closure. If clerical is noticing that cases are being closed without these items being resolved, they should discuss their concerns with their district's probation administration. There are also items being address by the CORE and CARE teams to rectify the known

photograph/fingerprint/DNA issue when the Order Fulfillment item remains open after collection has occurred.

**Policy Committee Decisions:**

- Added the suggested Rule reference under the Authority section.
- It was agreed that there may be instances when the probation officer cannot meet with the youth within five working days, but the policy committee declined to change the wording. If the probation officer is unable to meet with the youth/family within five days of placement on probation, the probation officer should document those reasons in CARE and notify their supervisor.

## 4.16 Confiscated Property

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### Policy:

This policy provides direction to probation staff when addressing any illegal or restricted items. Property confiscated during a search shall be handled in a manner that maintains a proper chain of custody.

### Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

### Authority:

- [Utah Code of Judicial Administration Rule 3-414 - Court Security](#)
- Legal Counsel Opinion- Chain of Custody Policy
- [Probation Policy 5.1- Probation Searches](#)

### Procedure:

1. Probation officers shall conduct searches as outlined in Probation Policy 5.1- Probation Searches.
2. Probation officers shall only confiscate property that:
  - 2.1. is illegal for the minor to have in their possession;
  - 2.2. is restricted by court order;
  - 2.3. is restricted by a court sponsored program (i.e., work crew, alternative to detention programs); or
  - 2.4. is restricted by the local building security plan.
3. The probation officer shall handle and package any confiscated property in a safe manner to ensure it is preserved in its original condition and the chain of custody is maintained.
  - 3.1. Confiscated property shall be clearly identified on the Evidence Chain of Custody Tracking Form (Addendum 4.16.1)
    - 3.1.1. The original form shall be attached to the confiscated items.
    - 3.1.2. A copy of the form shall be given to the minor/parent/custodian.
    - 3.1.3. A copy of the form shall be eFiled under Probation Record.

- 3.2. The probation officer shall maintain possession of the confiscated property, or secure it in a designated area until it can be turned over to a parent/guardian/custodian or law enforcement.
- 3.3. The probation officer shall dispose of the confiscated property by releasing the item to the parent/guardian/custodian or law enforcement or destroying the property in consultation with district management when the parent/guardian/custodian or law enforcement refuses to take possession.
  - 3.3.1. The probation officer shall release to law enforcement or destroy any confiscated property that is illegal for any person to possess.
  - 3.3.2. The probation officer shall document the release or destruction of confiscated property on the Evidence Chain of Custody Form and eFile a copy.
4. The probation officer shall immediately notify local law enforcement to take possession of illegal property.
  - 4.1. Illegal property may include but is not limited to: drugs, tobacco, alcohol, firearms, or other items prohibited by state statute.
  - 4.2. The probation officer shall secure the illegal property, if it is safe to do so, as per policy and district guidelines when law enforcement does not respond in a reasonable amount of time.
  - 4.3. The probation officer shall release to law enforcement or destroy any confiscated property that is illegal for any person to possess.
5. The probation officer shall confiscate restricted property specified in a court order or court sponsored program rules. Restricted property is property that promotes illegal, gang or drug activity or could be deemed harmful to a minor.
  - 5.1. The probation officer shall maintain possession of the restricted property until it can be turned over to a parent/guardian/custodian, or secured in a designated area.
  - 5.2. The probation officer shall dispose of the restricted property at the direction of probation management if the parent/guardian/custodian refuses to take possession.
6. Probation officers shall not possess any confiscated material for personal use.

**Addendum 4.16.1 Legal Counsel Opinion- Chain of Custody Policy**  
**Addendum 4.16.2 Evidence Chain of Custody Tracking Form**

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**History:**

Effective April 30, 2007

Drafted by Policy Workgroup April 17, 2019

Legal Review May 9, 2019

Approved for Comment by BJCJ June 14, 2019

Drafted Updated by Policy Workgroup July 30, 2019

Approved by Chiefs September 12, 2019

Approved by JTCEs October 3, 2019

Approved by Board of Juvenile Court Judges November 8, 2019

DRAFT FOR APPROVAL





## Administrative Office of the Courts

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

May 8, 2019

Hon. Mary T. Noonan  
Interim State Court Administrator  
Ray Wahl  
Deputy Court Administrator

### MEMORANDUM

**TO:** Probation  
**FROM:** Brent Johnson  
**RE:** Chain of Custody Policy

#### Chain of Custody Policy

A probation officer conducting a lawful search is authorized to seize anything that is generally illegal for anyone to possess. For example probation officers may seize controlled substances. Probation officers may also seize anything that is illegal to possess by court order. For example, if an order expressly prohibits possession of gang clothing, a probation officer may seize such clothing. It is important to document seizure and custody of an item from the time it is seized to the time it is needed in court, destroyed, or returned to the owner.

The reason for documenting the chain of custody is to ensure the integrity of any item that is seized. A well-documented chain of custody will reduce or eliminate challenges to the admissibility of evidence, by showing that others did not have an opportunity to tamper with the evidence.

A chain of custody log should be used. A chain of custody log will account for the location of evidence from the time it is seized to the time it is needed. The steps that should be logged are as follows:

1. Upon seizing an item, the officer should enter a description of the item along with the date and time it was seized. The log should include the name

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

of the minor who was the subject of the search, and the log should include the name of the person who seized the evidence.

2. The integrity of the item should be protected by, if possible, putting the item in a bag or similar container that can be sealed to prevent tampering. A unique number or other identifier should be marked on the bag or the item. The number or other identifier should be listed on the chain of custody form.
3. The person who transports the item to the storage location at the court or probation office should log the time of transport, the destination, and the time received at the destination.
4. Courts or probation offices should have a secure area where seized items are kept. The secured area should be accessible to only one or two people to ensure that others do not have an opportunity to impact the integrity of the item. The log should include the name of the person who takes custody of and stores the item. The log should include the date and time the item was delivered.
5. If an item is removed from the secure area, the movement must be logged. The chain of custody form must include information such as the date and time of the removal, the person who removed the item, the place where the item was delivered, and any person to whom the item was delivered.
6. The court must also document disposal of items. Items that are illegal for any person to possess such as controlled substances, should be destroyed. If law enforcement is willing to destroy the item on the court's behalf that is the preferred method. Otherwise the court should destroy the item. If the item is legal to possess, such as clothing, the item should be returned to the owner or the owner's parent or guardian.
7. The chain of custody processes apply to evidence such as drug tests. The integrity of the test must be preserved by securing the sample that is tested and documenting locations of the sample and test results at all times.

## EVIDENCE CHAIN OF CUSTODY TRACKING FORM

Case Number: \_\_\_\_\_ Offense: \_\_\_\_\_

Submitting Probation Officer: \_\_\_\_\_

Juvenile: \_\_\_\_\_

Date/Time Seized: \_\_\_\_\_ Location of Seizure: \_\_\_\_\_

Description of Evidence		
Item #	Quantity	Description of Item

Chain of Custody				
Item #	Date/Time	Released by (Signature)	Received by (Signature)	Comments/Location

Final Disposal
<p style="text-align: center;"><b>Authorization for Disposal</b></p> <p>Item(s) #: _____</p> <p>is(are) no longer needed as evidence and is/are authorized for disposal by (check appropriate disposal method)</p> <p><input type="checkbox"/> Return to Owner</p> <p>Name of Authorizing Person: _____ Signature: _____ Date: _____</p>
<p style="text-align: center;"><b>Witness to Destruction of Evidence</b></p> <p>Item(s) #: _____ on this document were destroyed by Evidence Custodian _____</p> <p>in my presence on (date) _____.</p> <p>Name of Witness to destruction: _____ Signature: _____ Date: _____</p>
<p style="text-align: center;"><b>Release to Lawful Owner</b></p> <p>Item(s) #: _____ on this document was/were released by Evidence Custodian to _____ ID#: _____ to _____</p> <p>Name: _____</p> <p>Address: _____ City: _____ State: _____ Zip Code: _____</p> <p>Telephone Number: (____) _____</p> <p>Under penalty of law, I certify that I am the lawful owner of the above item(s).</p> <p>Signature: _____ Date: _____</p>

## 000384

PO Name:	Minor Name:
PO Phone:	Case #:
Witness Name:	Minor Phone:
Witness Phone:	Minor Address:
Property Confiscated by:	City/State/Zip:
Address of Occurrence:	Confiscation: Date                      Time                      am/pm
City/State/Zip:	

[illegible][illegible]

## Policy 4.16 Confiscated Property

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### Policy:

This policy provides direction to probation staff when addressing any illegal or restricted items. Property confiscated during a search shall be handled in a manner that maintains a proper chain of custody. Any illegal or restricted property confiscated during a search shall be handled in accordance with the commonly accepted law enforcement practice that maintains a proper chain of evidence. Any property confiscated shall result in a technical violation or in the filing of an order to show cause/contempt.

### Scope:

This policy applies to all probation **department** staff of the Utah State Juvenile Court.

### Authority:

United States Constitution 4th Amendment

UCA 76-10-1201

Utah State Juvenile Probation Order

[Utah Code of Judicial Administration Rule 3-414- Court Security](#)

### Legal Counsel Opinion- Chain of Custody

Policy 5.1 Probation Searches

### Procedure:

1. Probation officers shall **conduct searches as outlined in Probation Policy 5.1- Probation Searches.** ~~attend the Probation Officer Safety course prior to conducting any searches.~~
2. Probation officers ~~engaged in searches~~ shall only confiscate property that:
  - 2.1. is illegal for the minor to have in their possession; ~~or~~

- 2.2. is restricted by ~~the probation order or other court order;~~
  - 2.3. **is restricted by a court sponsored program (i.e., work crew, alternative to detention programs); or**
  - 2.4. **is restricted by the local building security plan.**
3. **The probation officer shall handle and package any** confiscated property shall be handled and packaged in a safe manner to ensure it is preserved in its original condition and the chain of custody is maintained.
- 3.1. Confiscated property shall be clearly identified on the **Evidence Chain of Custody Tracking Form (Addendum 4.16.1)** ~~completed Confiscated Property Form.~~
  - 3.2. ~~The probation officer shall use caution when handling property. Confiscated property shall be placed in a container or plastic bag as designated by district guidelines.~~
    - 3.2.1. ~~The original is~~ **form shall be** attached to the **confiscated items container.**
    - 3.2.2. A copy **of the form shall be** ~~is given to the~~ minor/parent/**custodian.**
    - 3.2.3. A copy is placed in the social file **of the form shall be eFiled under Probation Record.**
  - 3.3. **The probation officer shall maintain possession of the confiscated property, or secure it in a designated area, until it can be turned over to a parent/guardian/custodian or law enforcement.** ~~Confiscated property shall remain in the probation officer's immediate possession until it can be turned over to a parent, law enforcement or locked in a designated evidence room.~~
    - 3.3.1. ~~After business hours, any confiscated item shall be placed temporarily in a designated restricted location to preserve the chain of evidence as designated by district guidelines.~~
  - 3.4. **The probation officer shall dispose of the confiscated property by releasing the item to the parent/guardian/custodian or law enforcement or destroying the property in consultation with district management when the parent/guardian/custodian or law enforcement refuses to take possession.** ~~Any property confiscated shall be released to a parent or law enforcement and shall be documented by completing the Confiscated Property Form.~~
    - 3.4.1. ~~If the parent refuses to take possession of the property, the probation officer shall dispose of the property.~~

- 3.4.2. ~~Property shall be disposed of by the probation officer in the presence of at least one witness after adjudication, or when deemed appropriate if an Order to Show Cause is not filed, and documented in the social file.~~
  - 3.4.3. **The probation officer shall release to law enforcement or destroy any confiscated property that is illegal for any person to possess.**
  - 3.4.4. **The probation officer shall document the release or destruction of confiscated property on the Evidence Chain of Custody Form and eFile a copy.**
4. **The probation officer shall immediately notify local law enforcement to take possession of illegal property.**
- 4.1. Confiscated-Illegal property may includes, but is not limited to: drugs, tobacco, alcohol, firearms, or other items prohibited by state statute.
  - 4.2. ~~Probation officers shall immediately notify local law enforcement to take possession of such property.~~
  - 4.3. **The probation officer shall secure the illegal property, if it is safe to do so, as per policy and district guidelines when law enforcement does not respond in a reasonable amount of time.** ~~If law enforcement cannot or does not respond in a reasonable amount of time, property shall be secured per district guidelines.~~
  - 4.4. **The probation officer shall release to law enforcement or destroy any confiscated property that is illegal for any person to possess.**
5. **The probation officer shall confiscate restricted property specified in a court order or court sponsored program rules. Restricted property is property that promotes illegal, gang or drug activity or could be deemed harmful to a minor.** ~~Restricted property specified in the Probation Order, or other court order, is property that promotes illegal, gang, or drug activity or is deemed harmful to a minor as defined in 76-10-1201. These may include but are not limited to belt buckles, belts, bandanas, shirts, jewelry, or sexually explicit material.~~
- 5.1. **The probation officer shall maintain possession of the restricted property until it can be turned over to a parent/guardian/custodian, or secured in a designated area.**

- 5.2. **The probation officer shall dispose of the restricted property at the direction of probation management if the parent/guardian/custodian refuses to take possession.**
- ~~5.3. If property is confiscated by probation, it shall be secured per district guidelines.~~
- ~~5.4. If the probation officer cannot articulate the reason the property is restricted, the property shall not be confiscated.~~
- ~~5.5. This opportunity should be used by the probation department to facilitate discussion with the parent or guardian as to why the property is restricted.~~
- ~~6. Property of concern to probation includes property which may encourage illegal behavior or violations of probation.~~
- ~~6.1. 6.1 Property will not be confiscated but used as an opportunity to facilitate discussion between probation and the parent and minor.~~
7. Probation officers shall not under any circumstances use or possess any confiscated material for personal use.

#### **Addendum 4.16.1 Legal Counsel Opinion- Chain of Custody**

Addendum 4.16.12 Confiscated Property **Evidence Chain of Custody Tracking** Form

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#### **History:**

Effective 04/30/07

**Drafted by Policy Workgroup April 17, 2019**

**Legal Review May 9, 2019**

**Approved for Comment by BJCJ June 14, 2019**

**Approved by Chiefs September 12, 2019**

**Approved by JTCEs October 3, 2019**

**Approved by Board of Juvenile Court Judges November 8, 2019**



## **Proposed Policy Update Comments for 4.16 Confiscated Property**

### **1. Comment/Theme:**

- ❖ Add more specifications on what a probation officer should do when confiscating illegal items (such as drugs) while waiting for law enforcement to respond or leave it to contact law enforcement without necessarily confiscating the property at that time. Probation officers have expressed discomfort and liability concerns when taking possession of drug(s)/drug paraphernalia.
- ❖ Where should the form mentioned in 3.1.3 be eFiled, under what doc type/sub type and what should the document be titled?
  - **Policy Committee Response to Questions:** The form needs to be eFiled under Probation Record. Added additional wording to 3.1.3 about where to eFile the document. Anytime a document is eFiled it is best practice to title it as the actual title of the document.
  - **Policy Committee Decision:** The policy committee discussed this comment suggestion at length and feel that there are too many possible scenarios to allow for a standardized policy direction that addresses every circumstance. It is suggested that the probation officer contact their supervisor/chief to seek direction if law enforcement is unable to respond in a timely manner or if the probation officer has concerns regarding the confiscation of items. Probation officers and probation management should take into consideration the tone of the interaction with the youth/family, any concerns with safety and any direction that has been given by police dispatch/law enforcement when determining where and how confiscated items will be secured.

In addition, clarification was sought from Brent about a probation officer's liability when confiscating property... this was his response:

"There is no legal obligation to confiscate illegal proper. If probation officers contact law enforcement officers and they refuse to respond generally there would not be liability simply because the probation officer failed to confiscate something, because there is no general duty to confiscate. The only caveat might be if it was foreseeable leaving the property would result in damages. For example, if a probation officer failed to confiscate a weapon when it was foreseeable the weapon would be used then there might be liability. However, even then liability is not certain because there is no absolute duty to confiscate property. Liability would come from a duty to protect someone and that would be based on the probation officer's relationship with the individual and how the

probation became aware that the item existed. It can get a bit complicated but I hope this provides at least an initial answer. In short, because there isn't a duty to confiscate generally there will be no liability from not confiscating property."

## 5.6 Critical Incident Reporting

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**Policy:**

This policy provides direction to probation officers for documenting and reporting critical incidents.

**Scope:**

This policy applies to all probation department staff of the Utah State Juvenile Court.

**Authority:**

- Code of Judicial Administration Rule 3-414. Court Security

**Procedure:**

1. Court personnel shall report verbally and by written court security incident report to their supervisor:
  - 1.1. Any serious incident which may have potential for:
    - 1.1.1. News media coverage.
    - 1.1.2. Life or safety endangerment of individuals or the community.
    - 1.1.3. Personal injury on the job. Or
    - 1.1.4. Adverse impact on the department.
  - 1.2. The district supervisor shall report to the Chief Probation Officer and the Trial Court Executive.
  - 1.3. Communication with the news media shall be referred to the Trial Court Executive or designee.
2. In the case of damage to a motor pool vehicle, refer to the vehicle guide entitled State Motor Pool User Guide and If You are Involved in an Accident located in each vehicle.
  - 2.1. When damage is done to a vehicle a report shall be made to the State Motor Pool.
  - 2.2. Any further instructions given by State Motor Pool should be followed.
  - 2.3. The district supervisor, chief probation officer and trial court executive shall be notified of any damage to a motor pool vehicle.
3. Any threat received by probation staff shall be reported immediately to the supervisor of the unit or chief probation officer.
  - 3.1. The bailiff shall be notified for court security.
  - 3.2. The probation staff shall complete a State of Utah Incident Report as outlined below.
4. The staff member(s) involved shall make a verbal report of the incident to their immediate supervisor or designee as soon as possible.

5. The State of Utah Court Security Incident Report form shall be completed by the staff member(s) and filed with the supervisor for review before the end of the work day.
  - 5.1. After review and sign-off by the supervisor, the original Court Security Incident Report Form shall be filed in the social file of the involved youth and a copy sent to the Chief Probation Officer and the Trial Court Executive.
  - 5.2. In the event that the incident does not involve a youth under the supervision of the probation department, the signed Court Security Incident Report Form shall be filed in a designated file for such reports and retained for one year.

#### Critical Incident Report

This form is able to be filled out online and then printed.

- Court Security Incident Report Form -  PDF

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#### History:

Effective November 1, 2001

Policy Workgroup recommendation for deletion July 30, 2019

Approved for deletion by Chief group August 8, 2019

Approved for deletion by JTCE group September 5, 2019

Approved for deletion by BJCJ October 11, 2019

# Tab 20



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 Name

---

 Address

---

 City, State, Zip

---

 Phone

**Check your email.** You will receive information and documents at this email address.

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 Email

I am ☐ Petitioner ☐ Respondent  
☐ Petitioner's Attorney ☐ Respondent's Attorney (Utah Bar #: \_\_\_\_\_)  
☐ Petitioner's Licensed Paralegal Practitioner  
☐ Respondent's Licensed Paralegal Practitioner (Utah Bar #: \_\_\_\_\_)

In the District Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address \_\_\_\_\_

---

 Petitioner

v.

---

 Respondent

**Petition to Modify Child Custody,  
Parent-time and Child Support**  
 (Utah Rule of Civil Procedure 106)

**☐ and Stipulation**

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 Case Number

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 Judge

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 Commissioner

I ask the court to modify the child custody, parent-time and child support orders as follows.

**1. Controlling order**

The order controlling child custody, parent-time and child support is:

Title of order:	
-----------------	--

Name of Court:		State	
Address of Clerk of Court:		Phone Number of Clerk of Court:	
Case Number:		Case Name	
Date Signed:		Signed by Judge:	

2. **Controlling custody order**

(Required.)

☐ I have attached a copy of the current order.

3. **Jurisdiction (Authority to Modify Order)**

(Note: an order could be registered in another state, but that does not always mean the other state has jurisdiction to modify or change the order.)

The children reside:

Child's name	Where child resides (state or country)	Lived there more than 6 months?
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No

The petitioner resides in: \_\_\_\_\_ (state or country).

The respondent resides in: \_\_\_\_\_ (state or country).

The controlling order was issued by (Choose one.):

☐ a Utah court, and  
(Choose all that apply.)

☐ jurisdiction **has never** been transferred to another state.

That court has always maintained the case

No other court has ever expressed a willingness to change the order

Jurisdiction has always remained with this court.



☐ jurisdiction **has** been transferred to another state.

Name of court: \_\_\_\_\_ Date transferred: \_\_\_\_\_

☐ other (Describe what has happened with the order):  
\_\_\_\_\_

**OR**

☐ a non-Utah court, and  
(Choose all that apply.)

☐ jurisdiction **has never** been transferred to Utah.

☐ jurisdiction **has** been transferred to Utah. Date: \_\_\_\_\_.

☐ the order **has** been registered in Utah for enforcement purposes only.

☐ there is substantial evidence in Utah about the children's care, protection, training, and personal relationships.

☐ other courts have made a decision about jurisdiction and a copy of that order is attached to this petition.

☐ other (Describe what has happened with the order):  
\_\_\_\_\_

**4. Relationship to children**

I am the (Choose all that apply.):

☐ person who pays child support.

☐ person who receives child support.

I am

☐ the mother of

☐ the father of

☐ the legal guardian or legal custodian of

☐ a person who has been acting as a parent (Utah Code 30-5a-103) to the children listed below.

**5. Minor children**

There are \_\_\_\_\_ (number) minor children included in the controlling order.

Child's name (first, middle and last)	Child's gender	Month and year of birth
--	-------------------	-------------------------

Child's name (first, middle and last)	Child's gender	Month and year of birth

**6. Current living arrangement**

The children are currently living (Choose one.):

☐ as stated in the controlling order.

☐ as described below:

Child's name	Address (street, city, state, ZIP)	Name(s) of person(s) who live with child at this address	Relation- ship(s) to child

**7. Minor children's residence** (Utah Code 78B-13-209)

The minor children have lived at the following addresses with the persons listed for the past five years:

(Add additional pages if needed.)

Child's name	Address (street, city, state, ZIP)	Dates child lived at this address	Name(s) of person(s) who lived with child at this address	Relation- ship(s) to child

Child's name	Address (street, city, state, ZIP)	Dates child lived at this address	Name(s) of person(s) who lived with child at this address	Relationship(s) to child

8. **People claiming custody or parent-time** (Utah Code 78B-13-209)

The following people other than petitioner and respondent claim a right to custody or parent-time with the children:

Name of Person	Current Address	Claims
		<input type="checkbox"/> Custody <input type="checkbox"/> Parent-time
		<input type="checkbox"/> Custody <input type="checkbox"/> Parent-time
		<input type="checkbox"/> Custody <input type="checkbox"/> Parent-time

9. **Other cases** (Utah Rule of Civil Procedure 100)

☐ There are no other cases that involve(d) the children or this case.

☐ The following cases involve(d) the children or this case:

(Include pending or closed, civil or criminal, in this court or in any other court, in this state or in any other state. Each party has a continuing duty to notify the court of any case (past, current, or future) that could affect this case.)

Court (Name, address, and phone number)			
Case number			
Type of case (Choose all that apply.)	<input type="checkbox"/> adoption <input type="checkbox"/> custody <input type="checkbox"/> delinquency <input type="checkbox"/> divorce <input type="checkbox"/> enforcement of an order	<input type="checkbox"/> grandparent visitation <input type="checkbox"/> guardianship <input type="checkbox"/> modification of an order <input type="checkbox"/> parentage	<input type="checkbox"/> protective order <input type="checkbox"/> support <input type="checkbox"/> termination of parental rights <input type="checkbox"/> other: _____

Court (Name, address, and phone number)			
Case number			
Type of case (Choose all that apply.)	<input type="checkbox"/> adoption <input type="checkbox"/> custody <input type="checkbox"/> delinquency <input type="checkbox"/> divorce	<input type="checkbox"/> grandparent visitation <input type="checkbox"/> guardianship <input type="checkbox"/> modification of an	<input type="checkbox"/> protective order <input type="checkbox"/> support <input type="checkbox"/> termination of parental rights

	<input type="checkbox"/> enforcement of an order <input type="checkbox"/> parentage	<input type="checkbox"/> other: _____
--	--	---------------------------------------

Court (Name, address, and phone number)			
Case number			
Type of case (Choose all that apply.)	<input type="checkbox"/> adoption <input type="checkbox"/> custody <input type="checkbox"/> delinquency <input type="checkbox"/> divorce <input type="checkbox"/> enforcement of an order	<input type="checkbox"/> grandparent visitation <input type="checkbox"/> guardianship <input type="checkbox"/> modification of an order <input type="checkbox"/> parentage	<input type="checkbox"/> protective order <input type="checkbox"/> support <input type="checkbox"/> termination of parental rights <input type="checkbox"/> other: _____

10. **Pre-filing dispute resolution** (Utah Code 30-3-10.4(1)(c))  
(Choose one.)

- ☐ The other party agrees with the petition.
- ☐ Dispute resolution was not required because this petition seeks to modify a court order that does not provide for joint legal custody or joint physical custody.
- ☐ Both parents have complied in good faith with the dispute resolution process but we did not reach an agreement.
- ☐ The parties have not yet used a dispute resolution process.

11. **Controlling parent-time order**

The parent-time schedule in the controlling order is (Choose one.):

- ☐ according to the attached statutory parent-time schedule.
- ☐ described in the attached controlling Parenting Plan.
- ☐ described as follows in the controlling order (Quote the order exactly.):

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## Child Custody

12. **Change in circumstances** (Utah Code 30-3-10.4)

The following material and substantial change in circumstances occurred since the controlling order was entered:

(Describe in detail the material and substantial changes (important and major changes). Attach additional pages if needed.)

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### 13. **Proposed custody order**

A joint physical or legal custody arrangement requires a separate Parenting Plan.

A joint physical custody arrangement may result in denial of cash assistance.  
(Employment Support Act, Utah Code 35A-3-101 et seq.)

I ask for the following change in the custody order:

Child's Name	Month and Year of Birth	Order physical custody to	Order legal custody to
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal

☐ Other Custody Arrangement (Describe in detail.):

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### **Parent-time**

14. **Parent-time schedule**

I ask the court to order parent-time as below (Choose one.):

☐ Statutory parent-time schedule:

(Choose all that apply. You can find the Utah Code at [le.utah.gov/xcode/code.html](http://le.utah.gov/xcode/code.html). Print and attach a copy of the statute(s) for the option(s) you choose.)

☐ Children under 5 (Utah Code 30-3-35.5)

☐ Children 5-18 (Utah Code 30-3-35)

☐ Children 5-18 (expanded schedule) (Utah Code 30-3-35.1)

☐ Parent-time described in the filed or attached Parenting Plan.

☐ Other parent-time schedule (Describe in detail.):

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15. **Parent-time transfers**

I ask the court to order transfer (pick-up and drop-off) of the children for parent-time as below (Choose one.):

☐ Order transfer of the children for parent-time described in the filed or attached Parenting Plan.

☐ Order transfer at **beginning** of parent-time with

☐ petitioner

☐ respondent

☐ other adult (Name) \_\_\_\_\_

transferring the children at this address:

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and transfer at **end** of parent-time with

☐ petitioner

☐ respondent

☐ other adult (Name) \_\_\_\_\_

transferring the children at this address:

☐ Order curbside transfers (The parent/person picking up or dropping off the children does not leave the vehicle and the other parent/person does not leave the residence).

☐ Other transfer arrangements (Describe in detail.):

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5. ☐ **Communication between parties**

I ask the court to order communication between the parties as described below  
(Choose as many options as you want.):

☐ In person

☐ Phone

Petitioner's # \_\_\_\_\_ Respondent's # \_\_\_\_\_

☐ Text

Petitioner's # \_\_\_\_\_ Respondent's # \_\_\_\_\_

☐ Email

Petitioner's email address \_\_\_\_\_

Respondent's email address \_\_\_\_\_

☐ Through a third party

Name \_\_\_\_\_ Phone # \_\_\_\_\_

☐ Other method of communication: (Describe in detail.)

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☐ Communications between the parties must be civil and respectful and limited to parent-time issues only.

☐ The parties must not make negative or harmful remarks about each other in the presence of the minor children, must not allow other people to do so and must remove the minor children if anyone makes negative remarks about the other party.

- ☐ The parties must not discuss this case in the presence of the minor children, must not allow other people to do so and must remove the minor children if anyone discusses the case in the presence of the minor children.
- ☐ The parties must not harm or threaten to harm the other parent or the minor children and must not allow other people to do so and must remove the minor children if anyone harms or threatens harm to the other parent or minor children.

16. ☐ **Travel costs.**

(Check this box and complete this section only if you are asking for a change in travel costs.)

I ask the court to order travel cost payments for parent-time transfers as follows

(Choose one.):

- ☐ as we agree in the attached Parenting Plan.
- ☐ as proposed in my attached Parenting Plan.
- ☐ each party is responsible for their own travel costs.
- ☐ \_\_\_\_\_% by the Petitioner and \_\_\_\_\_% by the Respondent.  
The parent who initially pays for reimbursable travel expenses will provide receipts to the other parent within 30 days. The parent who receives travel receipts will pay the other parent within 30 days.
- ☐ Other:

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17. ☐ **Relocation of a parent**

(Check this box and complete this section only if you are asking for a change in relocation terms.)

I ask the court to order:

- ☐ If either parent moves more than 149 miles from the other parent, Utah Code 30-3-37 will apply.
- ☐ Neither parent may relocate with the minor children more than \_\_\_\_\_ miles from their current residence without a written agreement signed by the parties or further court order.
- ☐ Other terms about relocating:

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18. **Best interest** (Utah Code 30-3-10 and 30-3-10.4)

It is in the best interest of the children to change custody and parent-time because (Explain in detail.):

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### **Child Support**

19. **Child support – reasons to modify**

I ask that child support be modified because (Choose all that apply.):

- ☐ The order has not been modified within the last three years, and
- there is a difference of 10% or more between the support amount as ordered and the support amount as required under the guidelines; and
  - the difference is not temporary.

- ☐ There are one or more material changes that affect the child support calculation. I used the child support worksheet and there is a difference of 15% or more from the current support order. The difference is not temporary. There is a change (Choose all that apply.):

☐ in custody.

☐ in the relative wealth or assets of the parties.

☐ of 30% or more in the income of a parent.

☐ in the employment potential and ability of a parent to earn.

☐ in the medical needs of the child.

☐ in the legal responsibilities of a parent for the support of others.

(Utah Code 78B-12-210(9))

- ☐ \_\_\_\_\_ (child's name) is emancipated.

☐ there has been a change:

(At least one must apply, but choose all that do apply.)

☐ in the availability, coverage, or reasonableness of cost of health care insurance of the ☐ payor ☐ payee;

☐ in work-related or education-related child care expenses of the ☐ payor ☐ payee.

20. **Current child support order**

The controlling order directs ☐ petitioner ☐ respondent to pay \$\_\_\_\_\_ each month for child support.

21. **Proposed child support**

I ask the court to modify child support based on the parties' incomes or estimated income based on ability or work history.

a. **Petitioner's Income**

Petitioner's total countable gross monthly income for child support purposes is \$\_\_\_\_\_ (Utah Code 78B-12-203).

This income is from these sources:

\_\_\_\_\_.

☐ The court should consider petitioner's income to be \$\_\_\_\_\_ based on (Choose one.):

☐ minimum wage.

☐ historical earnings.

☐ Petitioner does receive or has received public assistance.

b. **Respondent's income**

Respondent's total countable gross monthly income for child support purposes is \$\_\_\_\_\_ (Utah Code 78B-12-203).

This income is from these sources:

\_\_\_\_\_.

☐ The court should consider respondent's income to be \$\_\_\_\_\_ based on (Choose one.):

☐ minimum wage.

☐ historical earnings.

☐ Respondent does receive or has received public assistance.

**c. Child support worksheets**

Order ☐ petitioner ☐ respondent to pay \$\_\_\_\_\_ per month for child support. The following child support worksheet is filed or attached (Choose one.):

☐ sole physical custody worksheet

☐ joint physical custody worksheet

☐ split custody worksheet

**d. Statement of compliance with child support guidelines**

(Choose one.)

☐ This amount is based on the Uniform Child Support Guidelines (Utah Code 78B-12-2).

☐ This amount is **not** based on the Uniform Child Support Guidelines and I am asking for a different amount because (Choose one.):

☐ the guidelines are unjust.

☐ the guidelines are inappropriate.

☐ the guidelines amount is not in the best interest of the child/ren.

(Utah Code 78B-12-202 and 210.)

Explain your choice:

\_\_\_\_\_  
\_\_\_\_\_.

**e. Effective Date**

Child support should be effective (Choose one.):

☐ the first day of the month following entry of the Order on Petition to Modify.

☐ as of: \_\_\_\_\_ (date).

**f. Method of payment**

Child support should be paid as follows (Choose one.):

☐ Mandatory income withholding by the Office of Recovery Services (ORS). Unless ORS gives notice that payments should be sent elsewhere, all child support payments should be made to:

Office of Recovery Services  
PO Box 45011

Salt Lake City, UT 84145

☐ Direct payments to the parent receiving child support by (Choose one.):

☐ Check

☐ Deposit in bank account

☐ Cashier's check or money order

☐ Other: \_\_\_\_\_

I ask for direct payment because (Utah Code 62A-11-404):

\_\_\_\_\_  
\_\_\_\_\_

**g. Payment schedule**

Child support payments must be paid by the following due date (Choose one.):

☐ One half by the 5th day of each month, and the other half by the 20th day of each month.

☐ Other:

\_\_\_\_\_  
\_\_\_\_\_

**h. Delinquent payments**

Child support not paid by the due date is delinquent the next day.

**i. Past-due child support**

The issue of past-due child support may be decided by further judicial or administrative process.

If support is past due, the State of Utah may take federal or state tax refunds or rebates and apply the amounts to the child support owed.

**22. ☐ Child care expenses** (Utah Code 78B-12-214)

(Check this box and complete this section only if you are asking to change payment of child care costs.)

I ask the court to order:

- Both parties share equally all reasonable child care expenses related to the custodial parent's work or occupational training.

- The parent who pays child care expenses must **immediately** provide to the other parent written verification of the cost of the child care expenses and the identity of the child care provider when hired, within 30 calendar days after a change in the provider or the expense, and anytime upon the request of the other parent.
- If the parent who pays child care expenses does not provide written verification of child care, that parent may be denied the right to recover or receive credit for the other parent's one-half share of the child care expense.
- The other parent must begin paying one-half the child care amount on a monthly basis **immediately** after receiving proof from the parent that pays the child care expense.

[ ] Other request for child care payment:

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## Other Support

### 23. [ ] **Health insurance, medical and dental expenses** (Utah Code 78B-12-212)

(Check this box and complete this section only if you are asking for a change in health insurance coverage.)

Our minor children currently have health insurance coverage through:

[ ] Petitioner's insurance

[ ] Respondent's insurance

[ ] Medicaid

[ ] CHIP

[ ] Other: \_\_\_\_\_

[ ] Not covered by insurance

[ ] I ask the court to order [ ] petitioner [ ] respondent to maintain health insurance for our minor children. Both parties must share equally:

- the cost of the premium paid by a parent for the children's portion of the insurance. The children's portion of the premium should be calculated by dividing the premium amount by the number of people covered by the policy and multiplying the result by the number of minor children of the parties; and

- all reasonable and necessary uninsured medical and dental expenses incurred for the children and paid by a parent, including deductibles and co-payments.

The parent ordered to maintain insurance must provide written verification of coverage to the other parent or the Office of Recovery Services when the children are first enrolled, on or before January 2nd of each calendar year and upon any change of insurance carrier, premium, or benefits within 30 calendar days after the date that parent knew or should have known of the change.

If the parent ordered to maintain insurance fails to provide written verification of coverage to the other parent or to the Office of Recovery Services, or if the parent incurring medical expenses fails to provide written verification of the cost and payment of the expenses to the other parent **within 30 days of payment**, that parent may be denied the right to receive credit for the expenses or to recover the other parent's share of the expenses.

The parent receiving written verification will reimburse the parent who incurred the medical or dental expenses one-half of the amount **within 30 days after receiving the written verification**.

☐ I ask for this order because (Choose all that apply.):

☐ the insurance is available to ☐ petitioner ☐ respondent;

☐ the cost of the insurance is reasonable

☐ the custodial parent prefers this arrangement.

☐ Other reasons:

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☐ I ask for these additional orders regarding health insurance and medical and dental expenses:

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24. ☐ **Claiming children as dependents/exemptions for tax purposes** (Utah Code 78B-12-217)

(Choose one.)

☐ \_\_\_\_\_ (name)  
will claim the children as dependents/exemptions for tax purposes.

☐ \_\_\_\_\_ (name)  
will claim the children as dependents/exemptions for tax purposes in **even years**, and  
\_\_\_\_\_ (name) will  
claim the children as dependents/exemptions for tax purposes in **odd years**.

☐ claiming children as dependents/exemptions for tax purposes will be divided as follows:

Child's name	Month and year of birth	Parent who will claim child as dependent / exemption
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent

☐ Other:

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25. ☐ **Attorney fees and costs**

I ask the court to order the other party pay my attorney fees and costs.

26. ☐ **Other**

I ask the court for these additional orders:

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I ask for these additional orders because:

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**27. Remainder of order unchanged**

The remainder of the order should remain unchanged.

**28. Declaration about child support services** (Utah Code 78B-12-113(2)(b))  
(Child support services include establishing, modifying or enforcing child support, or establishing paternity.)

The Office of Recovery Services (Choose one.):

☐ has never provided child support services for any child listed in paragraph 5.

☐ has or is providing child support services for any child listed in paragraph 5.  
I will serve on the Attorney General:

- a copy of this petition, and
- the Stipulation to the petition, if any, and
- Request to Join to Child Support Division of the Office of the Attorney General

**29. Documents**

I am filing the following documents along with this Petition to Modify Child Custody, Parent-time and Child Support:

(Check all that apply. Forms can be found at [www.utcourts.gov](http://www.utcourts.gov).)

☐ Cover Sheet

☐ Summons

☐ Non-public Information – Parent Information and Location

☐ Non-public Information – Minors

☐ Non-public Information – Safeguarded Address (if applicable)



- ☐ Affidavit about Child Support Services
- ☐ Request to Join to Child Support Division of the Office of the Attorney General (if applicable; also serve on the Attorney General)
- ☐ Child Support Obligation Worksheet
- ☐ Parenting plan (Required if joint custody is requested.)

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

_____	Signature ►	_____
Date	Printed Name	_____

**Stipulation (optional)**

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I am the [ ] petitioner [ ] respondent and the party responding to this Petition to Modify Child Custody, Parent-time and Child Support.

1. I have received and read the petition and its supporting documents.
2. I understand what the petition requests.
3. I understand I have the right to contest the petition by filing an answer, and have the court decide the issues.
4. I waive service of the Summons.
5. I agree this court has the authority to decide this matter and I enter my appearance for that purpose.
6. I agree to the requests in the petition.
7. I agree the court may enter an order of modification consistent with the petition at any time and without further notice.

**Petitioner or Respondent**

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at \_\_\_\_\_ (city, and state or country).

\_\_\_\_\_  
Date

Signature ► \_\_\_\_\_  
Printed Name \_\_\_\_\_

**Attorney or Licensed Paralegal Practitioner of record (if applicable)**

\_\_\_\_\_  
Date

Signature ► \_\_\_\_\_  
Printed Name \_\_\_\_\_

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 Name

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 Address

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 City, State, Zip

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 Phone

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 Email

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 In the District Court of Utah

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 Judicial District \_\_\_\_\_ County

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 Court Address \_\_\_\_\_

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 Petitioner

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 v.

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 Respondent

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**Findings of Fact and Conclusions of  
Law on Petition to Modify Child  
Custody, Parent-time and Child  
Support**

(Utah Rule of Civil Procedure 106)

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 Case Number

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 Judge

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 Commissioner (domestic cases)

The matter before the court is a Petition to Modify Child Custody, Parent-time and Child Support. This matter is being resolved by: (Choose all that apply.)

- ☐ The default of ☐ petitioner ☐ respondent.  
☐ The stipulation of the parties.  
☐ The pleadings and other papers of the parties.  
☐ A hearing held on \_\_\_\_\_ (date), notice of which was served on all parties.

Petitioner

☐ was ☐ was not present

☐ was represented by \_\_\_\_\_

☐ was not represented.

Respondent

☐ was ☐ was not present

☐ was represented by \_\_\_\_\_

☐ was not represented.

### The court finds:

1. The order controlling child custody, parent-time and child support is:

Title of order:			
Name of Court:		State	
Address of Clerk of Court:		Phone Number of Clerk of Court:	
Case Number:		Case Name	
Date Signed:		Signed by Judge:	

2. There are \_\_\_\_\_ (number) minor children included in the controlling order.

Child's name (first, middle and last)	Child's gender	Month and year of birth

3. Utah ☐ does ☐ does not have jurisdiction in this case.

4. A material and substantial change in circumstances ☐ has ☐ has not occurred since the controlling order was entered. The court considered the following factors:

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### Child custody findings

5. Changing custody and parent-time ☐ is ☐ is not in the best interest of the children. The court considered the following factors:

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6. The parties ☐ have ☐ have not complied with the pre-filing dispute resolution requirements. (Utah Code 30-3-10.4(1)(c))

### Child support findings

7. ☐ The order has not been modified within the last three years, and
- there is a difference of 10% or more between the support amount as ordered and the support amount as required under the guidelines; and
  - the difference is not temporary.

- ☐ There are one or more material changes that affect the child support calculation. There is a difference of 15% or more from the current support order. The difference is not temporary. There is a change (Choose all that apply.):

☐ in custody.

☐ in the relative wealth or assets of the parties.

☐ of 30% or more in the income of a parent.

☐ in the employment potential and ability of a parent to earn.

☐ in the medical needs of the child.

☐ in the legal responsibilities of a parent for the support of others.

(Utah Code 78B-12-210(9))

☐ \_\_\_\_\_ (child's name) is emancipated.

☐ there has been a change:

(At least one must apply, but choose all that do apply.)

☐ in the availability, coverage, or reasonableness of cost of health care insurance of the ☐ payor ☐ payee;

☐ in work-related or education-related child care expenses of the ☐ payor ☐ payee.

- a. Petitioner's total countable gross monthly income for child support purposes is \$\_\_\_\_\_ (Utah Code 78B-12-203).

☐ Petitioner's income is imputed based on:

☐ minimum wage.

☐ historical earnings.

☐ Petitioner does receive or has received public assistance.

- b. Respondent's total countable gross monthly income for child support purposes is \$\_\_\_\_\_ (Utah Code 78B-12-203).

☐ Respondent's income is imputed based on:

☐ minimum wage.

☐ historical earnings.

☐ Respondent does receive or has received public assistance.

**The court concludes:**

8. The court ☐ does ☐ does not have jurisdiction.

9. There ☐ are ☐ are not grounds to modify the controlling order.

10. ☐ Other:

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Commissioner's or judge's signature may instead appear at the top of the first page of this document.

\_\_\_\_\_  
Date

Signature ► \_\_\_\_\_  
Commissioner \_\_\_\_\_

\_\_\_\_\_  
Date

Signature ► \_\_\_\_\_  
Judge \_\_\_\_\_

Approved as to form.

\_\_\_\_\_  
Date

Signature ► \_\_\_\_\_  
Plaintiff/Petitioner, Attorney or Licensed  
Paralegal Practitioner \_\_\_\_\_

\_\_\_\_\_  
Date

Signature ► \_\_\_\_\_  
Defendant/Respondent, Attorney or Licensed  
Paralegal Practitioner \_\_\_\_\_

### Certificate of Service

I certify that I filed with the court and am serving a copy of this Findings of Fact and Conclusions of Law on Petition to Modify Custody, Parent-time and Child Support on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature ►

\_\_\_\_\_  
 Printed Name



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 Name

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 Address

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 City, State, Zip

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 Phone

---

 Email

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 In the District Court of Utah

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 Judicial District \_\_\_\_\_ County

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 Court Address \_\_\_\_\_

<hr/> Petitioner  v.  <hr/> Respondent	<p><b>Order on Petition to Modify Child Custody, Parent-time and Child Support</b>          (Utah Rule of Civil Procedure 106)</p> <hr/> Case Number  <hr/> Judge  <hr/> Commissioner (domestic cases)
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The matter before the court is a Petition to Modify Child Custody, Parent-time and Child Support. This matter is being resolved by: (Choose all that apply.)

- ☐ The default of ☐ petitioner ☐ respondent.  
☐ The stipulation of the parties.  
☐ The pleadings and other papers of the parties.  
☐ A hearing held on \_\_\_\_\_ (date), notice of which was served on all parties.

Petitioner

☐ was ☐ was not present

☐ was represented by \_\_\_\_\_

☐ was not represented.

Respondent

☐ was ☐ was not present

☐ was represented by \_\_\_\_\_

☐ was not represented.

### The court orders:

1. The petition is:

☐ denied.

☐ granted. The controlling order dated \_\_\_\_\_ (date) is modified as follows.

2. ☐ **Child custody**

☐ Custody arrangement:

Child's name	Month and year of birth	Physical custody to	Legal custody to
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint physical	<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Joint legal

☐ Other custody arrangement (Describe in detail.):

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3. ☐ **Parent-time** (Choose one.):

☐ Statutory parent-time schedule:

☐ Children 5-18 (Utah Code 30-3-35)

☐ Children under 5 (Utah Code 30-3-35.5)

☐ Children 5-18 (expanded schedule) (Utah Code 30-3-35.1)

☐ Parent-time described in the filed or attached Parenting Plan.

☐ Other parent-time schedule: (Describe in detail.)

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4. ☐ **Parent-time transfers** (Choose one.):

☐ Transfer of the children for parent-time described in the filed or attached Parenting Plan.

☐ Transfer at **beginning** of parent-time with

☐ petitioner

☐ respondent

☐ other adult (Name) \_\_\_\_\_

transferring the children at this address:

\_\_\_\_\_ and transfer at **end** of parent-time with

☐ petitioner

☐ respondent

☐ other adult (Name) \_\_\_\_\_

transferring the children at this address:

☐ Curbside transfers (The parent/person picking up or dropping off the children does not leave the vehicle and the other parent/person does not leave the residence).

☐ Other transfer arrangements (Describe in detail.):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

5. ☐ **Communication between parties** (Choose all that apply.):

☐ In person

☐ Phone

Petitioner's # \_\_\_\_\_ Respondent's # \_\_\_\_\_

☐ Text

Petitioner's # \_\_\_\_\_ Respondent's # \_\_\_\_\_

☐ Email

Petitioner's email address \_\_\_\_\_

Respondent's email address \_\_\_\_\_

☐ Through a third party

Name \_\_\_\_\_ Phone # \_\_\_\_\_

☐ Other method of communication: (Describe in detail.)

\_\_\_\_\_

☐ Communications between the parties must be civil and respectful and limited to parent-time issues only.

☐ The parties must not make negative or harmful remarks about each other in the presence of the minor children, must not allow other people to do so and must remove the minor children if anyone makes negative remarks about the other party.

☐ The parties must not discuss this case in the presence of the minor children, must not allow other people to do so and must remove the minor children if anyone discusses the case in the presence of the minor children.

- ☐ The parties must not harm or threaten to harm the other parent or the minor children and must not allow other people to do so and must remove the minor children if anyone harms or threatens harm to the other parent or minor children.

6. ☐ **Child support**

- a. Petitioner's total countable gross monthly income for child support purposes is \$\_\_\_\_\_ (Utah Code 78B-12-203).

☐ Petitioner's income is imputed based on:

☐ minimum wage.

☐ historical earnings.

☐ Petitioner does receive or has received public assistance.

- b. Respondent's total countable gross monthly income for child support purposes is \$\_\_\_\_\_ (Utah Code 78B-12-203).

☐ Respondent's income is imputed based on:

☐ minimum wage.

☐ historical earnings.

☐ Respondent does receive or has received public assistance.

- c. ☐ Petitioner ☐ Respondent must pay \$\_\_\_\_\_ per month for child support. The following child support worksheet is attached (Choose one.):

☐ sole physical custody worksheet

☐ joint physical custody worksheet

☐ split custody worksheet

(Choose one.)

☐ This amount is based on the Uniform Child Support Guidelines (Utah Code 78B-12-2).

☐ This amount deviates from the Uniform Child Support Guidelines. The court finds that a deviated child support amount is in the best interests of the minor children based on:

☐ the standard of living and situation of the parties.

☐ the relative wealth and income of the parties.

- ☐ the obligor's (person who pays support) ability to earn.
- ☐ the ability of the obligee (person who receives support) to earn.
- ☐ the ability of an incapacitated adult child to earn, or other benefits received by the adult child or on the adult child's behalf including Supplemental Security Income.
- ☐ the needs of the obligee, the obligor, and the child.
- ☐ the ages of the parties.
- ☐ the responsibilities of the obligor and the obligee for the support of others.
- ☐ other. (Describe.):  
\_\_\_\_\_

The reason for the deviated child support amount is:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

d. Effective date (Choose one.):

- ☐ The child support will be effective upon entry of this order.

**OR**

- ☐ The child support will be effective as of this date: \_\_\_\_\_.

e. Child support must be paid as follows (Choose one.):

- ☐ Mandatory income withholding by the Office of Recovery Services.  
Unless the Office of Recovery Services gives notice that payments should be sent elsewhere, all child support payments must be made to: Office of Recovery Services, PO Box 45011, Salt Lake City, UT 84145

**OR**

- ☐ Direct payments to the parent receiving child support by:

☐ Check

☐ Deposit in bank account

☐ Cashier's check or money order

☐ Other: \_\_\_\_\_

f. Child support payments must be made (Choose one.):

☐ One-half on or before the 5th day of each month, and one-half on or before the 20th day of each month.

**OR**

☐ Other payment arrangement:

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- g. Child support not paid on or before the due date is past due on the day after the due date.
- h. Past-due child support will be determined by further judicial or administrative process. Any federal or state tax refund or rebate due to the non-custodial parent will be intercepted by the state of Utah and applied to child support arrearages.

7. ☐ **Child care expenses**

- Both parties share equally all reasonable child care expenses related to the custodial parent's work or occupational training.
- The parent who pays child care expenses must **immediately** provide to the other parent written verification of the cost of the child care expenses and the identity of the child care provider when hired, within 30 calendar days after a change in the provider or the expense, and anytime upon the request of the other parent.
- If the parent who pays child care expenses does not provide written verification of child care, that parent may be denied the right to recover or receive credit for the other parent's one-half share of the child care expense.
- The other parent must begin paying one-half the child care amount on a monthly basis **immediately** after receiving proof from the parent that pays the child care expense.

☐ Other order for child care payment:

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8. ☐ **Health insurance, medical and dental expenses**

The minor children currently have health insurance coverage through:

☐ Petitioner's insurance

☐ Respondent's insurance

☐ Medicaid

☐ CHIP

☐ Other: \_\_\_\_\_

☐ Not covered by insurance

☐ ☐ Petitioner ☐ Respondent must maintain health insurance for the minor children if it is available to that parent at a reasonable cost. Both parties must share equally:

- a. the cost of the premium paid by a parent for the children's portion of the insurance. The children's portion of the premium will be calculated by dividing the premium amount by the number of people covered by the policy and multiplying the result by the number of minor children of the parties; and
- b. all reasonable and necessary uninsured medical and dental expenses incurred for the children and paid by a parent, including deductibles and co-payments.

The parent ordered to maintain insurance must provide written verification of coverage to the other parent or the Office of Recovery Services when the children are first enrolled, on or before January 2nd of each calendar year and upon any change of insurance carrier, premium, or benefits within 30 calendar days after the date that parent knew or should have known of the change.

If the parent ordered to maintain insurance fails to provide written verification of coverage to the other parent or to the Office of Recovery Services, or if the parent incurring medical expenses fails to provide written verification of the cost and payment of the expenses to the other parent **within 30 days of payment**, that parent may be denied the right to receive credit for the expenses or to recover the other parent's share of the expenses.

The parent receiving written verification must reimburse the parent who incurred the medical or dental expenses one-half of the amount **within 30 days after receiving the written verification**.

☐ Other order for health insurance, medical and dental expenses:



9. ☐ **Claiming children as dependents/exemptions for tax purposes** (Utah Code 78B-12-217)

(Choose one.)

☐ \_\_\_\_\_ (name)  
will claim the children as dependents/exemptions for tax purposes.

☐ \_\_\_\_\_ (name)  
will claim the children as dependents/exemptions for tax purposes in **even years**, and  
\_\_\_\_\_ (name) will  
claim the children as dependents/exemptions for tax purposes in **odd years**.

☐ claiming children as dependents/exemptions for tax purposes will be divided as follows:

Child's name	Month and year of birth	Parent who will claim child as dependent / exemption
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent
		<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent

☐ Other:

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10. ☐ **Attorney fees and costs**

☐ Petitioner ☐ Respondent must pay \$\_\_\_\_\_ in attorney fees  
and \$\_\_\_\_\_ in costs.

11. ☐ **Other orders**


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12. **Remainder of order unchanged**

The provisions of any previous order not modified by this order remain in effect.

Commissioner's or judge's signature may instead appear at the top of the first page of this document.

_____	Signature ►	_____
Date	Commissioner	_____
_____	Signature ►	_____
Date	Judge	_____

Approved as to form.

_____	Signature ►	_____
Date	Petitioner, Attorney or Licensed Paralegal Practitioner	_____
_____	Signature ►	_____
Date	Respondent, Attorney or Licensed Paralegal Practitioner	_____

### Certificate of Service

I certify that I filed with the court and am serving a copy of this Order on Petition to Modify Custody, Parent-time and Child Support on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

Signature ►

Date

Printed Name