

# JUDICIAL COUNCIL MEETING

## AGENDA

**March 12, 2021**

**Meeting held through Webex**

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

1. 12:00 p.m. Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant  
(Tab 1 - Action)
2. 12:05 p.m. Chair's Report. .... Chief Justice Matthew B. Durrant  
(Information)
3. 12:10 p.m. Administrator's Report and COVID-19 Update..... Judge Mary T. Noonan  
(Information)
4. 12:20 p.m. Reports: Management Committee ..... Chief Justice Matthew B. Durrant  
Budget & Fiscal Management Committee..... Judge Mark May  
Liaison Committee..... Judge Kara Pettit  
Policy & Planning Committee ..... Judge Derek Pullan  
Bar Commission..... Rob Rice, esq.  
(Tab 2 - Information)
5. 12:45 p.m. Utah State Bar Report .....Heather Farnsworth  
(Information) John Baldwin  
Heather Thuet
6. 1:05 p.m. Board of District Court Judges Report..... Judge Barry Lawrence  
(Information) Shane Bahr
7. 1:15 p.m. Legislative Updates..... Michael Drechsel  
(Information) Jim Bauer
- 2:00 p.m. Break
8. 2:10 p.m. TCE Report ..... Russ Pearson  
(Information) Travis Erickson
9. 2:25 p.m. Proposed One-Time FY21 and FY22 Carryforward Requests .....  
(Tab 3 - Action) Judge Mark May  
Karl Sweeney

- |     |           |   |                                    |
|-----|-----------|---|------------------------------------|
| 10. | 2:45 p.m. | Harvard PSA Update.....                           | Judge Todd Shaughnessy             |
|     |           | (Tab 4 - Information)                             | Keisa Williams                     |
| 11. | 3:00 p.m. | Board of Appellate Court Judges Report .....      |                                    |
|     |           | (Information)                                     | Judge Michele Christiansen Forster |
|     |           |   | Nick Stiles                        |
| 12. | 3:10 p.m. | Senior Judge Certification.....                   | Nancy Sylvester                    |
|     |           | (Tab 5 - Action)                                  |                                    |
| 13. | 3:15 p.m. | Weighted Caseloads NCSC Report .....              | Clayson Quigley                    |
|     |           | (Tab 6 - Action)                                  |                                    |
| 14. | 3:30 p.m. | Office of Fairness and Accountabilty Report ..... | Jon Puente                         |
|     |           | (Information)                                     |                                    |
| 15. | 3:45 p.m. | Old Business/New Business .....                   | All                                |
|     |           | (Tab 7 - Action)                                  |                                    |
| 16. | 4:05 p.m. | Executive Session                                 |                                    |
| 17. | 4:05 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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|---|--|
| 1. Committee Appointments<br>(Tab 8)                | Uniform Fine Committee – Shane Bahr<br>Language Access Committee – Kara Mann<br>Facilities Committee – Chris Talbot<br>Education Committee – Lauren Andersen |
| 2. CJA Rules for Public Comment<br>(Tab 9)          | Keisa Williams   |
| 3. Probation Policies 2.3, 2.9, and 4.8<br>(Tab 10) | Neira Siaperas   |

# Tab 1

**JUDICIAL COUNCIL MEETING****Minutes****February 22, 2021****Meeting conducted through Webex****9:00 a.m. – 3:30 p.m.*****Chief Justice Matthew B. Durrant, Presiding*****Members:**

Chief Justice Matthew B. Durrant, Chair  
Hon. Todd Shaughnessy, Vice Chair  
Hon. Brian Cannell  
Hon. Samuel Chiara  
Hon. Augustus Chin  
Hon. David Connors  
Hon. Ryan Evershed  
Hon. Paul Farr  
Hon. Michelle Heward  
Justice Deno Himonas  
Hon. Mark May  
Hon. David Mortensen  
Hon. Kara Pettit  
Hon. Derek Pullan  
Hon. Brook Sessions  
Rob Rice, esq.

**Excused:****Guests:**

Jim Bauer, TCE, Third Juvenile Court  
Chris Davies, Clerk of Court, Third District Court  
Hon. Michael Leavitt, Fifth District Court  
Hon. Richard Mrazik, Third District Court  
Shawn Newell  
Hon. G.A. Petry, Vernal Justice Court

**AOC Staff:**

Hon. Mary T. Noonan  
Cathy Dupont  
Michael Drechsel  
Lauren Andersen  
Heidi Anderson  
Shane Bahr  
Geoff Fattah  
Alisha Johnson  
Brent Johnson  
Meredith Mannebach  
Jordan Murray  
Bart Olsen  
Jim Peters  
Jon Puente  
Clayson Quigley  
Neira Siaperas  
Nick Stiles  
Karl Sweeney  
Nancy Sylvester  
Keisa Williams  
Jeni Wood

**Guests Cont.:**

Hon. Jill Pohlman, Court of Appeals  
Hon. Laura Scott, Third District Court  
Mark Urry, TCE, Fourth District Court  
Dr. Jennifer Yim, JPEC

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

Chief Justice Matthew B. Durrant welcomed everyone to the meeting. Due to the coronavirus pandemic, the Council held their meeting entirely through Webex.

**Motion:** Judge David Connors moved to approve the January 25, 2020 Judicial Council meeting minutes, as amended to change yeh and neh in section 12 to yea and nay; in section 14 correct

the spelling of media; and reword which proposed bills the committee opposed in the legislative update. Judge Michelle Heward seconded the motion, and it passed unanimously.

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

Chief Justice Durrant did not have any items to address.

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

Judge Mary T. Noonan noted the legislative session is winding down. The Council's highest priority – the \$1.4M request for Data Services is currently in the EOCJ's 9<sup>th</sup> position. The Outreach Coordinator is in the 15<sup>th</sup> position and the out-of-state criminal history request is at number 19. The Council's commissioner salary increase is in the 40<sup>th</sup> position. The legislature continues to support a 3% COLA for all employees and judges. There is legislative intent to set aside funds for state employee merit increases. Judge Noonan thanked Cathy Dupont, Michael Drechsel, and Karl Sweeney for their legislative support.

Judge Noonan said the feedback from the Third and Eighth District Courts criminal jury trial pilot program has been positive with jurors stating that they felt safe during the trials. The Second and Fourth District Courts expect to start jury trials in March. At least one courtroom per district will be reconfigured to hold jury trials during the pandemic.

**4. BOARD OF JUVENILE COURT JUDGES REPORT: (Judge Michael Leavitt and Neira Siaperas)**

Chief Justice Durrant welcomed Judge Michael Leavitt and Neira Siaperas. Judge Leavitt said the juvenile court continues to function well with the leadership of Ms. Siaperas and her staff. The juvenile court is focusing on fairness and accountability. They will work with CCJJ to analyze delinquency case data collected to help judges better understand if they are treating groups differently and if they communicate their decisions effectively.

The Board of Juvenile Court Judges appreciated the communication and support of the Liaison Committee. The juvenile court created a workgroup of about six judges to review each portion of the Juvenile Recodification Act, as it is quite large.

The juvenile judges are working with their clerks to better understand their needs as expressed in the letter from the Clerks of Court. Judge Leavitt thanked the authors of the letter for identifying the needs of the staff.

Chief Justice Durrant thanked Judge Leavitt and Ms. Siaperas.

**5. COMMITTEE REPORTS:**

**Management Committee Report:**

The work of this committee is reflected in the minutes.

**Budget & Fiscal Management Committee Report:**

Judge Mark May said the work of the committee will be addressed later in the meeting.

**Liaison Committee Report:**

Judge Kara Pettit thanked Michael Drechsel and Jim Bauer for their phenomenal job creating relationships with the legislators and sponsors. Several court personnel have been communicating and collaborating with legislators on HB73.

**Policy and Planning Committee Report:**

Judge Derek Pullan said the work of the committee will be addressed later in the meeting.

**Bar Commission Report:**

Rob Rice stated the Bar is collecting resumes for the Executive Director position. Mr. Rice will serve on the hiring committee as a representative of the Council. The Supreme Court may have a separate interest to participate in that search process. Mr. Rice reminded the Council the Spring Convention will be held virtually and informed the Council that the Bar named Judge Kate Appleby as Judge of the Year and Margaret Plane as the recipient of the Professionalism Award.

**6. GRANT RULE AND MORATORIUM: (Judge Derek Pullan, Karl Sweeney and Jordan Murray)**

Chief Justice Durrant welcomed Judge Pullan, Karl Sweeney and Jordan Murray. The Council temporarily lifted the grant moratorium until the February 22 Council meeting. The Policy & Planning Committee carefully considered that the drafted grant rules would need to conform to the rules of the Code of Judicial Administration, specifically with CJA Rule 3-105 and how the Council will be involved in the process.

Judge Pullan proposed a compromise of the grant moratorium to lift the moratorium for areas where the Council and the court have already made well-defined policies, such as, 1) regulatory sandbox and office of innovation; 2) appellate e-filing; 3) Council's public commitment to pretrial release; 4) existing grant portfolio; and 5) CARES Act funds. Judge Pullan recommended all other grant opportunities be suspended pending Council review. Judge Pullan questioned whether the Council should, as a matter of policy, have a notice process that is even more transparent than the statute requires.

The partial lift on the moratorium would include time-sensitive grants being allowed to be brought before the Council for an evaluation. Judge Todd Shaughnessy requested that the rule require an evaluation of the grant's impact on staff resources to make sure the courts have a solid understanding, up front, of what is being asked of staff. Judge Pullan believed this was a great point and asked Mr. Murray to ensure this is included in the policies. Mr. Murray provided a preliminary update to the AOC resources and noted his proposed policies will include mindfulness of the impacts of the AOC, particularly to the IT Department. Mr. Murray was comfortable with the proposals of the Council and believed this may take at least six months to complete the policies.

Judge Pullan questioned

- when and how much the Council would like to be involved in the grant process, including before application to define policy in advance of grant application and to allocate resources to the application process; during the process to assess the conditions of a

grant, alignment with priorities; or approval after grant funds are offered. Judge Pullan requested the Council consider at what level the grant application process will begin, such as, with a clerk's team, a TCE, a Board, the Management Committee or the Council.

- Will the rules identify grants where the courts are administrators and where the courts are a benefited collaborator?

Judge Pullan wished to include reasonable expectations including 1) consulting with the National Center for State Courts, other states, and private organizations; 2) drafting a proposed set of rules; and 3) presenting the proposed rules to stakeholders.

Judge Pullan felt the purpose of the moratorium should be to:

- Assess whether the existing Grant Portfolio was in order before seeking new grants.
- Guardrails in place to define the process by which the Judiciary will seek and accept grant money.
- Within their respective spheres, the Council and Supreme Court should first define policy and then seek grants in furtherance of those policies.

**Motion:** Judge May moved to approve the moratorium except for time sensitive grants to advance the following policy initiatives already established by the Judicial Council and/or the Supreme Court: 1) the Regulatory Sandbox and Office of Innovation; 2) Appellate e-filing; 3) Pre-trial release (to the extent the Council has made commitments to stakeholders and keeping those commitments requires grant money); 4) Grants in the existing grant portfolio that require reapplication or renewal; and 5) CARES Act money awarded to the Judiciary. The moratorium barring all other grant opportunities will remain in place until the Council adopts rules establishing the governing of grant applications. Judge Connors seconded confirming the Council will still have approval of the time sensitive grants, and it passed unanimously.

Judge Pullan expressed gratitude to the Policy & Planning Committee, Judge Shaughnessy, and Judge Noonan for their guidance and leadership.

Chief Justice Durrant thanked Judge Pullan.

## 7. TIME SENSITIVE GRANT OPPORTUNITIES: (Jordan Murray and Karl Sweeney)

Chief Justice Durrant welcomed Jordan Murray and Karl Sweeney. Mr. Sweeney reviewed time sensitive grants.

Project	Funds Source	Amount	Timeline	Federal
Appellate e-filing Implementation	- SJI - Pew - TBD	\$162,000 (vendor one-time) \$440,000 (IT in-house one-time)	TBD	
Piloting Utah's Legal Oversight Office (Regulatory Sandbox)	- Hewlett	\$250,000	Feb/March 2021	

Improving Criminal Justice Responses to Domestic Violence, Dating Violence, Sexual Assault, and Stalking Grant Program	- SJI	TBD	Application Due 3/29/21	X
Criminal Justice Coordinating Council in Davis County: Funding a CJCC Coordinator	- SJI	TBD	TBD	
CARES Act Funding	- Utah Bar Foundation	TBD	Feb/March 2021	X
Various Juvenile Justice Grants	- Office of Juvenile Justice	TBD	March 16-29, 2021	X

Judge Shaughnessy observed that there should be a thorough review of the history of existing grants that get renewed and that Brent Johnson should be involved with the grants. Mr. Murray noted in his investigation he found that some people had not sought approval from the Council for the renewal of certain grants. Judge Shaughnessy expected detailed information on future grant requests of resources that would be needed, rather than the Low, Medium or High rating. Mr. Murray confirmed that each request will include expected resources by department and costs. Judge Pullan felt the renewal of existing grants will become critical when addressing new grants.

Chief Justice Durrant thanked Mr. Murray and Mr. Sweeney.

#### **8. PROPOSED ONE-TIME FY21 AND FY22 CARRYFORWARD REQUESTS: (Judge Mark May and Karl Sweeney)**

Chief Justice Durrant welcomed Judge Mark May and Karl Sweeney. Judge May stated the \$240,000 request for the Jury Selection Support Team budget request would be included in the \$600,000 Council approved one-time money for JA support. Mr. Sweeney confirmed there should be more than \$300,000 left over of the approved funds at the end of the fiscal year, as approved.

#### **Workforce Performance Bonuses**

\$750,000 (payouts) + \$240,300 (state paid tax) = \$990,300 (total)

One-time funds

Alternate funding: None

If the courts have an opportunity to recognize and reward employees that consistently demonstrate both potential and a current high level of performance that clearly moves the courts forward in its ability to effectively accomplish its mission, the courts could potentially slow some of the turnover and churn in mission critical positions, and retain highly valuable employees that might otherwise decide to pursue more lucrative/less demanding opportunities.



**Motion:** Judge May moved to approve the Workforce Performance Bonuses, as amended subject to legislative funding of the \$1.4 M IT priority. Judge Brian Cannell seconded the motion, and it passed unanimously.

**Courtroom Kits for Public Access to Jury Trials**

\$136,000

One-time funds

Alternate funding: None

This request is to buy additional equipment for panoramic cameras and provide network cabling and power to the cameras to ensure the cameras capture the trials. This purchase is eligible for CARES reimbursement should CARES funds at the state level be approved for it. This is a time sensitive purchase request. These kits are important as not all courtrooms are set up the same and noted that once the pandemic ends, the equipment will be repurposed to a conference room for meeting use or reprogrammed to be used permanently in courtrooms. The A/V team continues to improve courtroom needs. Mr. Rice suggested using the kits for attorney's pro bono services when assisting litigants in rural areas.

**Motion:** Judge May moved to approve the Courtroom Kits for Public Access to Jury Trials, as presented. Judge Heward seconded the motion, and it passed unanimously.

**Survey Tool for Juror Qualification during COVID**

\$40,000

One-time funds

Alternate funding: None

For COVID jury selection, it has been proven beneficial to utilize an on-line jury survey tool to qualify prospective jurors. The IT team requested funds to purchase sufficient annual licenses to meet the needs of Districts and or Counties. This purchase is eligible for CARES reimbursement should CARES funds at the state level be approved for it. This is a time sensitive purchase request.

**Motion:** Judge Paul Farr moved to approve the Survey Tool for Juror Qualification during COVID, as presented. Judge Connors seconded the motion, and it passed unanimously.

**Clerk of Court Support – District Court Program Administrator**

\$24,500

One-time funds

Alternate funding: None

The purpose of this request is to utilize \$24,500 in one-time money to fund a new District Court Program Administrator who will provide dedicated support to the Clerks of Court from April 1, 2021 thru June 30, 2021. After the fiscal year funding ends, a request from the 2022 carryforward funds will be addressed until ongoing turnover savings are available (\$98,000) to support this position as part of the FY22 annual budget. Judge May said the Budget & Fiscal Management Committee was not comfortable with granting this request and recommended a review of alternate options. Shane Bahr said this position falls within the requests of the Clerks of Court memo and that they would like this to be a fulltime, permanent position. Ms. Dupont

noted temporarily, these one-time funds would be supported through the Council approved \$600K funds and that the pandemic has caused a greater need to support the Clerks of Court.

Judge May felt there are a lot of requests and this was a needful position but it needed to go through the normal process. Judge Noonan appreciated the opportunity to alert the Council of this need. Judge Pullan and Judge Connors opposed using one-time money to fund FTEs.

The Council did not vote on this item.

#### **Jury Selection Webex Support Team**

\$240,000

One-time funds

Alternate funding: None

The process of jury selection and orientation using Webex and other remote tools is taxing an already over-taxed team of clerks. This expenditure is eligible for CARES reimbursement should CARES funds at the state level be approved for it. This is a time-sensitive purchase request. It is possible these funds can be sourced with JWI funds. The courts have asked the Legislative Fiscal Analyst to include intent language for JWI funds for this year to allow this. Ms. Anderson clarified this request is not ripe at this time but wanted to make the Council aware of what is anticipated.

This request was rescinded.

Chief Justice Durrant thanked Judge May and Mr. Sweeney.

#### **9. LEGISLATIVE UPDATES: (Michael Drechsel and Jim Bauer)**

Chief Justice Durrant welcomed Michael Drechsel and Jim Bauer. Mr. Drechsel expects the final two weeks of the session will be busy. Mr. Drechsel thanked the Liaison Committee members and AOC staff for their quick responses to proposed bills. Mr. Bauer reviewed proposed bills.

Chief Justice Durrant thanked Mr. Drechsel and Mr. Bauer.

#### **10. ETHICS ADVISORY COMMITTEE REPORT: (Judge Laura Scott and Brent Johnson)**

Chief Justice Durrant welcomed Judge Laura Scott and Brent Johnson. Judge Scott reviewed the committee membership. The committee meets when an opinion is requested. After consideration of the request and discussion, Brent Johnson then authors the opinion. In 2020, there were two opinion requests.

Chief Justice Durrant thanked Judge Scott and Mr. Johnson.

#### **11. SELF-REPRESENTED PARTIES COMMITTEE REPORT: (Judge Richard Mrazik and Nancy Sylvester)**

Chief Justice Durrant welcomed Judge Richard Mrazik and Nancy Sylvester. The committee's highest priority is e-filing for self-represented parties. The committee is working to

allow parties to view the electronic docket, and then they will work to allow parties to download documents in their case. The four case types with the most self-represented parties include domestic, debt collection, landlord/tenant, and protective orders and civil stalking injunctions.

The committee continues to work on outreach to marginalized communities and the expansion of pro se calendars. The committee would also like to maintain the option of remote hearings, completion of claim forms for wage theft cases, and a rule change that would allow attorneys to be awarded CLE credits for pro bono services.

Chief Justice Durrant thanked Judge Mrazik and Ms. Sylvester.

## **12. SENIOR JUDGE CERTIFICATIONS: (Nancy Sylvester)**

Chief Justice Durrant welcomed Nancy Sylvester. The senior judge evaluation and appointment processes are addressed in CJA Rule 3-111 that governs senior judge evaluations and CJA Rule 11-201 that governs the appointment of senior judges of courts of record. Judge Lynn Davis does not have any complaints pending before the Utah Supreme Court or the Judicial Conduct Commission. His application is attached and certification appears to be appropriate.

Chief Justice Durrant thanked Ms. Sylvester.

**Motion:** Judge Cannell moved to approve the appointment of Judge Lynn Davis as an active senior judge. Judge Connors seconded the motion, and it passed unanimously.

## **13. OUTREACH COMMITTEE REPORT: (Judge Jill Pohlman, Geoff Fattah, and Jon Puente)**

Chief Justice Durrant welcomed Judge Jill Pohlman, Geoff Fattah, and Jon Puente. The committee expressed its gratitude to the Council for its recent creation of the Office of Fairness & Accountability (OFA), along with the Public Outreach and Education Coordinator. Several members of the committee participated drafting the OFA's charter and advise on the job descriptions for the OFA Director and Outreach Coordinator. During the pandemic, several outreach initiatives were undertaken to educate the public on how to contact the courts for help. The public COVID alerts webpage contains updated status by county, the latest Administrative Order, and guidance on how to attend a Webex hearing. Community resource fliers were also created with the assistance of the Court Access Program and the Self-Help Center, and translated into Spanish, Vietnamese and Arabic.

With the assistance of the Council's appropriation and Utah Bar Foundation funding totaled \$34,000, the committee was able to conduct a public awareness ad campaign in the months of September and October. Ads encouraging the public to contact the courts by email and phone for help ran on KSL Radio, FM100, Arrow 103.5 in English and LaGrand D, Latino 106.3, and Juan 1600 radio stations in Spanish. Ads and a Facebook Live Event also ran on Telemundo TV. Ads also ran on Facebook across the state. An estimated 785,386 people were reached through these efforts.

The Judiciary teamed up with the Utah Division of Multicultural Affairs to hold a series of live virtual town halls to discuss how people can get help issues involving domestic violence, evictions/small claims, and divorce/custody. Each town hall was held in English and in Spanish. The committee appreciated the work of Nathanael Player, Self-Help Center and Amy Hernandez, Domestic Violence Coordinator, for their support with the SL Legal Aid Society, Utah Housing Coalition, Utah Domestic Violence Coalition, Timpanogos Legal Center, and the People's Legal Aid. Each event reached over 1,400 people.

Mr. Puente said the Deseret News reported that the Utah Courts have the least diverse bench in the country.

Chief Justice Durrant thanked Judge Pohlman, Mr. Fattah, and Mr. Puente.

**14. CJA RULES 3-101 and 3-108 FOR FINAL APPROVAL: (Keisa Williams)**

Chief Justice Durrant welcomed Keisa Williams. The Judicial Council approved the CJA Rules 3-101 and 3-108 for public comment. During the 45-day comment period, no comments were received on either rule. Policy and Planning recommended the rules to the Judicial Council for final approval, with a May 1, 2021 effective date. Judge Shaughnessy noted on line 69, to be consistent should be worded "a judge or justice." Ms. Williams agreed with the recommendation.

**CJA 3-101. Judicial Performance Standards**

The proposed amendments to Rule 3-101 establish a definition for "submitted" for purposes of the case under advisement performance standard.

**Rule 3-108. Judicial Assistance**

The proposed amendments to Rule 3-108 authorize the presiding officer of the Judicial Council to appoint a district court presiding judge as the signing judge for automatic expungements in all district courts within the presiding judge's district.

Chief Justice Durrant thanked Ms. Williams.

**Motion:** Judge Farr moved to the proposed changes to CJA Rule 3-101 and 3-108 with an effective date of May 1, 2021, as presented. Judge Cannell seconded the motion, and it passed unanimously.

**15. HR POLICIES MANUAL FOR APPROVAL: (Bart Olsen and Keisa Williams)**

Chief Justice Durrant welcomed Bart Olsen and Keisa Williams. At the Council's request, the Human Resources Policy Review Committee focused on a thorough examination of the HR policies. The committee identified challenges and the best approach in correcting or amending the policies. The policies were finalized by the Policy & Planning Committee and are now seeking full approval from the Council with an effective date of July 1, 2021, in part to comply with recent Utah legislation on Abusive Conduct and Postpartum Recovery Leave that becomes effective in May and July 2021. The committee further requested the Council approve the committee partake in a collaboration effort with the Education Department for expedited training to court personnel.

Judge Shaughnessy thanked Mr. Olsen, the committee, and the Policy & Planning Committee for this important and overdue work. Judge Shaughnessy especially thanked Mr. Rice for his work on this project. Mr. Olsen thanked Brent Johnson for his considerable amount of work.

Chief Justice Durrant thanked Mr. Olsen and Ms. Williams.

**Motion:** Judge Connors moved to adopt all HR policy changes. Justice Himonas seconded the motion, and it passed unanimously.

#### **16. DISSOLUTION OF LEVAN JUSTICE COURT: (Jim Peters)**

Chief Justice Durrant welcomed Jim Peters. The Levan Town intends to dissolve the Levan Justice Court on March 1, 2021 because they do not have a judge at this time or as soon as the Judicial Council allows. The cases would be transferred to the Juab County Justice Court, which is fully prepared to take them as soon as Levan is closed. Jim Peters noted the court is very small seeing only 60 cases (40 were traffic) last year. The IT Department requested the dissolution not occur before April 1 to allow their work to be complete.

Chief Justice Durrant thanked Mr. Peters.

**Motion:** Judge Farr moved to approve the dissolution of the Levan Justice Court effective April 1, 2021. Judge Augustus Chin seconded the motion, and it passed unanimously.

#### **17. EXECUTIVE SESSION**

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

#### **18. WEIGHTED CASELOADS NCSC REPORT: (Clayson Quigley)**

Chief Justice Durrant welcomed Clayson Quigley. Last year the AOC engaged the National Center for State Courts (NCSC) to conduct a review of the methodology of the court's annual weighted caseload analysis. The NCSC reviewed about 20 years' worth of weighted caseload reports and supporting documentation concerning changes and updates to the methodology over the years. The NCSC provided the courts with a report of their findings and suggestions for improvements. The report identified several opportunities for improvement, but found no major critiques that would result in the discontinuation of the court's current methodology.

Mr. Quigley briefly reviewed the NCSC report and recommendations. Mr. Quigley noted that some suggestions would require additional staff, which could be discussed at a later time. Mr. Quigley requested the Council adopt the 3-year average, adopt an evaluation of the judicial year as a study item, and review the recommendations from the NCSC including the need for a new FTE.

Judge Pettit would appreciate the 3-year average be shown per year in the reports. Judge Connors was concerned that a 3-year average might suggest that there was a downturn in filings or other activity due to the pandemic. Mr. Quigley said a graph is completed showing case

filings, which ultimately impacts the weighted caseloads. This may add value and context to the 3-year average.

The NCSC recommended the Council review the judicial year for a judge, because compared to national averages, Utah judges work up to 10 more days a year than judges in other states, when you factor in vacation and sick days. Mr. Quigley said the NCSC suggested supplementing the use of the Delphi method (surveys of judges) for determining time spent for hearings, with actual hearing times recorded in the Case Management System's to the surveys, the NCSC found that the survey instructions were not found or were confusing. Mr. Quigley explained the instructions were often presented in person.

Mr. Quigley confirmed that the validations of hearing times are captured from the case management system. One issue with relying only on the Case Management System is that the case management system alone could be misleading. For example, it might not distinguish between when a case is scheduled or when it was actually held. Another issue could be several hearings moving fast, such through a law and motion calendar. Judge Shaughnessy believed the court record will be more reliable than a survey.

Judge Noonan noted the Board of Juvenile Court Judges and the Board of District Court Judges received the NCSC report. Judge Noonan proposed Mr. Quigley address this with the Council in March to allow for feedback from the Boards and governing bodies.

Chief Justice Durrant thanked Mr. Quigley.

**Motion:** Judge Shaughnessy moved to address this issue at the March Council meeting. Judge Farr seconded the motion, and it passed unanimously.

**19. INTRODUCTION OF NICK STILES, APPELLATE COURT ADMINISTRATOR AND LAUREN ANDERSEN, JUDICIAL INSTITUTE DIRECTOR: (Judge Mary T. Noonan)**

Judge Noonan introduced Nick Stiles, the new Appellate Court Administrator and Lauren Andersen, the new Judicial Institute Director.

**20. OLD BUSINESS/NEW BUSINESS**

Judge Shaughnessy said the Third District Court received approval from the Management Committee to begin out-of-custody and civil jury trials. Judge Pullan and Judge Connors hoped to begin civil trials soon in their districts.

**21. CONSENT CALENDAR ITEMS**

None.

**22. ADJOURN**

The meeting adjourned.

# Tab 2

**JUDICIAL COUNCIL'S  
MANAGEMENT COMMITTEE**

**Minutes  
February 22, 2021  
Meeting held through Webex  
2:20 p.m. – 3:35 p.m.**

*Chief Justice Matthew B. Durrant, Presiding*

**Committee Members:**

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

**Excused:**

Michael Drechsel

**Guests:**

Jim Greiner, Harvard Access to Justice  
Chris Griffin, Harvard Access to Justice  
Ryan Halen, Harvard Access to Justice  
Justice Deno Himonas, Supreme Court  
Matthew Stubenberg, Harvard Access to Justice

**AOC Staff:**

Hon. Mary T. Noonan  
Cathy Dupont  
Lauren Andersen  
Shane Bahr  
Kara Mann  
Meredith Mannebach  
Jim Peters  
Neira Siaperas  
Nick Stiles  
Chris Talbot  
Keisa Williams  
Jeni Wood

**Guests Cont.:**

Mark Urry, TCE, Fourth District Court  
Larry Webster, TCE, Second District Court

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

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

**Motion:** Judge Paul Farr moved to approve the February 16, 2021 Management Committee minutes, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

**2. COMMITTEE APPOINTMENTS: (Shane Bahr, Kara Mann, Chris Talbot and Lauren Andersen)  
Uniform Fine Committee**

Shane Bahr noted Judge Mike Junk's first term ended and was seeking reappointment. The Board of Justice Court Judges recommended that Judge Junk serve a second term on the Uniform Fine Committee. Judge Junk has expressed his willingness to serve another term.



**Motion:** Judge Farr moved to approve the reappointment of Judge Mike Junks to the Uniform Fine Committee, as presented, and place this on the Judicial Council consent calendar. Judge Shaughnessy seconded the motion, and it passed unanimously.

#### **Language Access Committee**

Kara Mann addressed the ASL vacancy on the Facilities Committee. Chip Royce expressed interest in serving on the committee.

**Motion:** Judge Shaughnessy moved to approve the appointment of Chip Royce to the Language Access Committee, as presented, and place this on the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

#### **Facilities Committee**

Chris Talbot addressed the Chair and judicial appellate vacancy on the Facilities Committee. Judge James Brady expressed interest in serving as Chair on the committee and Judge Michele Christiansen Forster expressed interest in serving on the committee.

**Motion:** Judge Shaughnessy moved to approve the appointment of Judge James Brady as Chair and the appointment of Judge Michele Christiansen Forster to the Facilities Committee, as presented, and place this on the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

#### **Education Committee**

Lauren Andersen addressed the Clerk of Court vacancy on the Education Committee. Melissa Kennedy, Third Juvenile Court Clerk of Court, expressed interest in serving on the committee.

**Motion:** Judge Shaughnessy moved to approve the appointment of Melissa Kennedy to the Education Committee, as presented, and place this on the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

### **3. HARVARD PSA UPDATE: (Matthew Stubenberg, Jim Greiner, Chris Griffin, Ryan Halen, Michael Drechsel, and Keisa Williams)**

Jim Greiner reviewed Utah Code § 77-20-1. Right to Bail – Pretrial Status Order – Denial of Bail – Detention Hearing – Motion to Modify, effective October 1, 2020. Some changes included the presumption ROR release in most situations; least restrictive measures if OR is not warranted; lower cash bail amounts; and ability to pay analysis for any bail amounts. Eight interviews were conducted with the Public Defenders, State’s Attorneys, Sheriff’s, and judges and the study counties (Utah, Davis, Weber and Morgan). Data analysis was conducted in the Davis, Utah, and Weber/Morgan jails, along with data received from the AOC of pretrial participants.

#### **PSA Tool**

- The Public Safety Assessment (PSA) was developed by Arnold Ventures after analyzing hundreds of thousands of criminal records.

- The PSA determines category of risk for a defendant of committing a new crime, a new violent crime, or failing to appear.
- The PSA uses nine factors and weighs them to determine the risk category.
- The PSA is paired with a Decision-Making Framework (DMF) which allows localities to determine their risk thresholds.

**PSA Factors – The PSA uses nine factors to assess the likelihood of pretrial success.**

- 1) Age at current arrest
- 2) Current violent offense
- 2a) Current violent offense and 20 years old or younger
- 3) Pending charge at the time of arrest
- 4) Prior misdemeanor conviction
- 5) Prior felony conviction
- 5a) Prior conviction (misdemeanor or felony)
- 6) Prior violent conviction
- 7) Prior failure to appear in the past 2 years
- 8) Prior failure to appear older than 2 years
- 9) Prior sentence or incarceration

**PSA Study**

- When an arrestee receives a Probable Cause review, the judge has a 50% chance to receive a PSA-DMF System Report.
- The study is a Randomized Controlled Trial (RCT) in four Utah counties. (Weber, Morgan, Utah, Davis)
- Study officially started on April 15, 2019.
- Study is scheduled to stop randomization on April 15, 2021.
- Two years of randomization followed by two years of follow up on each study participant.

**COVID Interviews**

- COVID shut down the courts in March, 2020
- Jury trials stopped, hearings moved online
- Jails stopped booking all but the worst offenders
- Crime levels likely stayed same with domestic violence cases increasing
- Heavier reliance on citations
- Judges likely more lenient on bail and FTA warrants
- Technology may have helped or hurt defendants in their criminal case based on technology competency
- No significant change in demographics for those being arrested

Pretrial Utah Code § 77-20-1 interviews were conducted 1.5 months after implementation of the revised statute. Opinions on how many people were being released as a result of the statute were mixed. The opinion of the judge interviewed, who likely had the most direct experience on the matter, suggested there was a significant increase in the release rate. There was similar disagreement and uncertainty about change in conditions ordered by the judge. Interviews were

conducted before the technology to transfer the arrestee's ability to pay was implemented. Most of those interviewed agreed that in the absence of the ability to pay, judges presumed indigency. All interviewees agreed that the new law had no effect on the demographics of the defendants being released OR, remanded, or released with conditions.

The adjusted anticipated number of PSAs across all study counties for the full study was approximately 17,000. The current number of PSAs is approximately 14,500. This number is sufficiently large enough to analyze the impact of the PSA. The study is still on track to end randomization on April 15th 2021. Average NCA/FTA scores caused by COVID are not significant enough to affect the validity.

Mr. Greiner explained that the composition of people charged with felonies seems to be increasing; however, the PSA system only uses their current charge. Keisa Williams said the data has been consistent with Salt Lake County trends with COVID and H.B.206. Mr. Greiner noted it is too early in the process to provide accurate data.

Mr. Greiner produced a report for a county in Wisconsin, which featured one-year observations and one year follow up. The overall message was that the availability of the PSA system had almost no effect on the criminal outcome.

Chief Justice Durrant requested Judge Shaughnessy and Ms. Williams provide an update to the Council at the March meeting. Mr. Greiner thanked Ms. Williams and the stakeholders for their participation. Chief Justice Durrant thanked the Harvard team for their support.

#### **4. FOURTH DISTRICT RED PHASE JURY PLAN: (Mark Urry)**

Mark Urry reviewed the Fourth District Court's Red phase jury plan, noting that the Plan's main parameters remain the same; however, they revised a small portion of it. The Public Defender's and the Prosecutor's Offices provided input on the Plan. They are scheduled to begin trials on March 17<sup>th</sup>. The witness enclosures have been installed. They are focusing on longer duration trials rather than trials with shorter expected times.

Mr. Urry said jurors would be in the same room when eating. Judge Shaughnessy said there was a recommendation to not put the jurors in the same room when eating because they have to remove their masks. Mr. Urry said they could put the jurors in the attorney/client rooms, but the Sheriff's didn't have the support to be near each room. Mr. Urry felt they could be separated by six feet if held in the same room. One recommendation was to have the juror's park their cars in a designated area in the parking garage then allow the jurors to eat in their cars. Mr. Urry anticipated Millard County being in the Low Transmission Index soon and clarified that when a county is in the Low Transmission Index they may operate in the Yellow phase. Judge Shaughnessy said if the court location's Risk Response Checklist has been approved then they would be allowed to operate in the Yellow phase.

**Motion:** Judge David Mortensen moved to approve the Fourth District Court's Red phase jury plan, as amended to include criminal and civil jury trials and that jurors cannot be in the same room with their masks off, such as for meals. Judge Shaughnessy seconded the motion, and it passed unanimously.

**5. SECOND DISTRICT RED PHASE JURY PLAN: (Larry Webster)**

Larry Webster reviewed the Second District Court's Red phase jury plan. Mr. Webster noted they adjusted their plan in only minor ways from the Third District Court's plan. The Ogden and Farmington Courthouses have 12 attorney/client rooms where they can put individual jurors. The State will provide rapid testing every Wednesday morning. They have a CLIA waiver and received training to conduct their own rapid testing. They have a criminal jury trial scheduled for March 4<sup>th</sup>. Jury selection will be conducted on March 2<sup>nd</sup>. Davis County's jury trial has been delayed pending the reconfiguration of the courtroom.

**Motion:** Judge Mortensen moved to approve the Second District Court's Red phase jury plan, as amended to include criminal and civil jury trials. Judge Farr seconded the motion, and it passed unanimously.

**6. PROBATION POLICIES 2.3, 2.9, AND 4.8: (Neira Siaperas)**

Neira Siaperas presented probation policies 2.3, 2.9, and 4.8 revisions to the committee.

**Policy 2.3**

This policy was last updated October 22, 2018. The purpose of this policy is to provide direction for the transfer of referrals and cases for youth who reside outside of the district in which an offense occurred.

**Policy 2.9**

This policy was last updated December 17, 2018. The purpose of this policy is to provide direction to probation staff for youth placed in secure detention or a home detention program.

**Policy 4.8**

This policy was last updated August 17, 2018. The purpose of this policy is to provide direction to the probation department in regards to fingerprinting and photographing minors.

**Motion:** Judge Farr moved to approve the amendment to Probation Policy 2.3, 2.9, and 4.8, as presented, and to place it on the Judicial Council consent calendar. Judge May seconded the motion, and it passed unanimously.

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

Chief Justice Durrant addressed the Judicial Council agenda.

**Motion:** Judge Farr moved to approve the Judicial Council agenda, as amended to add the Weighted Caseloads NCSC Report as an action item and add the Office of Fairness and Accountability Report as an information item. Judge Shaughnessy seconded the motion, and it passed unanimously.

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

Judge Noonan noted the Third District Court will update the Management Committee on civil jury trials at a special lunch Management Committee meeting. The committee confirmed that they do not need approval for a virtual civil jury trial.

Judge Shaughnessy felt the committee need to create a plan for justice court jury trials. He and Judge Farr will address this item. Shane Bahr said there is a justice court jury plan in the Yellow phase they can use as guidance. Jim Peters and Mr. Bahr volunteered to assist if needed.

**9. EXECUTIVE SESSION**

An executive session was not held.

**10. ADJOURN**

The meeting adjourned.

**JUDICIAL COUNCIL'S  
BUDGET & FISCAL MANAGEMENT COMMITTEE**

**Minutes  
March 4, 2021  
Meeting held through Webex  
12:00 p.m. – 1:00 p.m.**

**Members Present:**

Hon. Mark May, Chair  
Hon. Augustus Chin  
Justice Deno Himonas  
Hon. Kara Pettit

**Excused:**

Cathy Dupont  
Michael Drechsel

**Guests:**

Joyce Pace, TCE, Fifth District Court  
Larry Webster, TCE, Second District Court

**AOC Staff Present:**

Hon. Mary T. Noonan  
Shane Bahr  
Heidi Anderson  
Alisha Johnson  
Jordan Murray  
Bart Olsen  
Chris Palmer  
Jim Peters  
Neira Siaperas  
Nick Stiles  
Karl Sweeney  
Jeni Wood

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

Judge Mark May welcomed everyone to the meeting. Judge May addressed the meeting minutes.

**Motion:** Judge Kara Pettit moved to approve the February 18, 2021 minutes, as presented. Judge Augustus Chin seconded the motion, and it passed unanimously.

**2. TURNOVER SAVINGS UPDATE: (Alisha Johnson)**

Alisha Johnson reviewed the turnover savings. Approval is expected by the Governor for the Council's IT request. The courts gained an additional \$88,000 ongoing turnover savings, which should end about \$93,000 in ongoing savings above the pledge.

#		Funding Type	Amount
1	Carried over Ongoing Savings (from FY 2020)	Internal Savings	44,296
2	Current YTD Ongoing Turnover Savings FY 2021	Internal Savings	323,886
	<b>TOTAL SAVINGS</b>		<b>368,183</b>
3	Pro-Rata Ongoing Turnover Savings Pledged to Budget Cuts (retirements)	(\$245,300/12) * 8	(163,533)
4	Pro-Rata Ongoing Turnover Savings Pledged to Budget Cuts (non-retirements)	(\$230,148/12) * 8	(153,432)
<b>Actual Turnover Savings for FY 2021 as of 3/3/2021</b>			<b>\$ 51,217</b>

#	One-time Spending Plan Requests (blue); previously approved (orange) Previously Approved One-time Budget Requests/Current Requests in Bold	Current Requests Amount	Judicial Council Prev. Approved Amount
1	Supplemental Staff for Clerks (temps, ex-court employees, etc)		600,000
2	2021 Workforce Bonus Plan		990,300
3	Courtroom Kits for Public Access to Jury Trials		136,000
4	Subscription for Juror Qualification Survey Tool		40,000
5	<del>Clerk of Court Admin Support - \$24,500 - Fund with excess funds in #1*</del>		-
6	Jury Pool Selection Technical Team - \$240,000 - Fund with excess funds in #1*		-
7	Contractor Support for Critical IT projects		225,000
8	<b>Court Security Partner Recognition Coins</b>	<b>1,833</b>	
	<b>Current Month One-time Spending Requests</b>	<b>1,833</b>	<b>1,991,300</b>

## 2

district and juvenile courts throughout the state” therefore Court Security must petition to use General Funds. This request would fund Court Security recognition efforts for 3+ years.

**Motion:** Judge Chin moved to approve the Court Security Partner Recognition one-time funds request, as presented. Judge Pettit seconded the motion, and it passed unanimously.

**4. GRANT COORDINATOR REPORT: (Jordan Murray)**

Jordan Murray continues to work on the grant review. They are working to structure a rule proposal. Mr. Murray received positive feedback from the Judicial Council regarding AOC resources. Judge Mary T. Noonan recommended Mr. Sweeney and Mr. Murray send notice to court personnel informing them of the grant moratorium.

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

Mr. Sweeney the Judiciary requests from the Utah legislature fared well in the recommendations received on February 26, 2021 from the EOCJ for FY 2022 spending approval. In this year of very limited ongoing funds, the Judiciary received \$870,500 in ongoing spending recommendations for the two largest requests:

- \$650,000 for personnel for IT infrastructure and development
- \$220,500 for the public safety out-of-state criminal history review contract

The Judiciary also received EAC recommendation for all of the remaining IT requests (\$802,000) using one-time funds, as follows:

- \$210,000 for 2 dedicated OCAP technical support staff
- \$450,000 for renewal of the Court's cyber security software
- \$25,000 for increased bandwidth for rural court locations
- \$45,000 to fund WebEx licensing necessary for hearings
- \$72,000 to upgrade MS Office licensing

The Finance Department will work with the requestors for the three requests that were not recommended (Public Outreach coordinator, Court Commissioners and Judicial Administration Certification Program) to determine what alternative steps to take.

**6. ADJOURN**

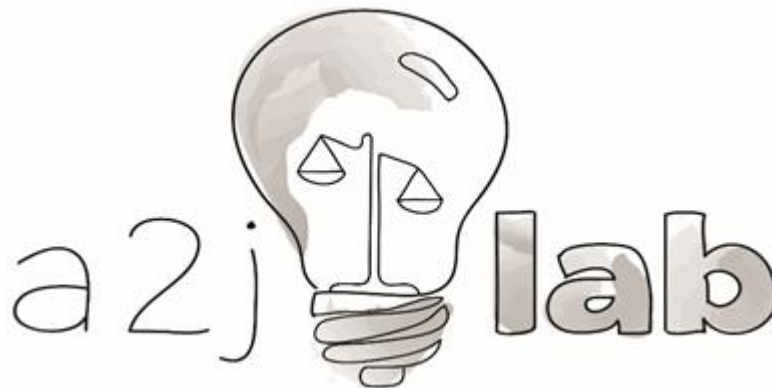
The meeting adjourned.



# Tab 3

# **More Information to Follow**

# Tab 4



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# Effects of Covid-19 and 77-20-1 on the PSA-DMF Study in Utah

The Access to Justice Lab at Harvard Law School

Jim Greiner, Chris Griffin, Matthew Stubenberg, Ryan Halen

# PSA Tool

- The Public Safety Assessment (PSA) was developed by Arnold Ventures after analyzing hundreds of thousands of criminal records.
- The PSA determines category of risk for a defendant of committing a new crime, a new violent crime, or failing to appear.
- The PSA uses nine factors and weighs them to determine the risk category..
- The PSA is paired with a Decision Making Framework (DMF) which allows localities to determine their risk thresholds.

## PSA Factors

000029

The PSA uses nine factors to assess the likelihood of pretrial success.

- 1 Age at current arrest
- 2 Current violent offense
- 2A Current violent offense and 20 years old or younger
- 3 Pending charge at the time of the arrest
- 4 Prior misdemeanor conviction
- 5 Prior felony conviction
- 5A Prior conviction (misdemeanor or felony)
- 6 Prior violent conviction
- 7 Prior failure to appear in the past 2 years
- 8 Prior failure to appear older than 2 years
- 9 Prior sentence to incarceration

# PSA Study

- When an arrestee receives a Probable Cause review, the Judge has a 50% chance to receive a PSA-DMF System Report.
- The study is a Randomized Controlled Trial (RCT) in four Utah counties. (Weber, Morgan, Utah, Davis)
- Study officially started on April 15th 2019.
- Study is scheduled to stop randomization on April 15th 2021.
- Two years of randomization followed by two years of follow up on each study participant.

**Public Safety Assessment Report**  
(Date Created: 09/25/2017 01:45:59)

SID: 123456	Name: John Doe	Gender: M	
PC ID: 001	Arrest Date: 09/25/2017	Birth Date: 01/01/0001	

**New Violent Criminal Activity Flag:** YES

**New Criminal Activity Scale**

1	2	3	4	5	6
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**Failure to Appear Scale**

1	2	3	4	5	6
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**Charge(s):**

76-S-404	THEFT
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**Risk Factors:**

1. Age at Current Arrest	20
2. Current Violent Offense	Yes
a. Current Violent Offense & 20 Years Old or Younger	Yes
3. Pending Charge at the Time of this Offense	Yes
4. Prior Misdemeanor Conviction	Yes
5. Prior Felony Conviction	Yes
a. Prior Conviction	Yes
6. Prior Violent Offense	0
7. Prior Failure to Appear in Past 2 Years	1
8. Prior Failure to Appear Older Than 2 Years	Yes
9. Prior Sentence to Incarceration	No

**Recommendation:** Release with PRL4 Conditions: Maximum conditions where available:  
PRL3 conditions, plus electronic monitoring, home detention, and/or drug testing

# Analysis

## Interviews

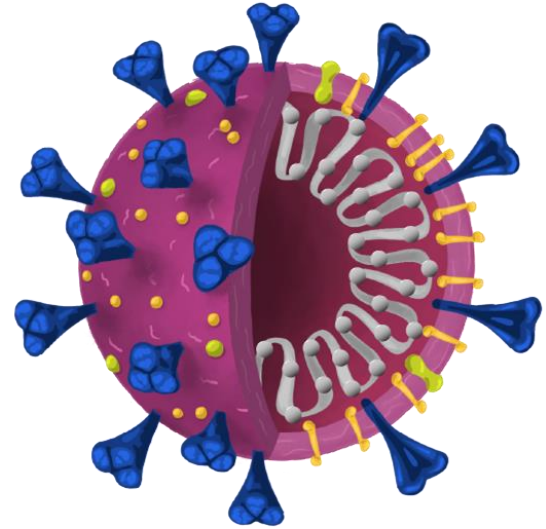
- Eight interviews with Public Defenders, State's Attorneys, Sheriff's, and Judges and the study counties.
- Utah County
  - County Attorney's Office
  - Sheriff's Office
  - Public Defender
- Davis
  - Public Defender
  - Sheriff's Office
  - Judicial Branch
- Weber/Morgan
  - County Attorney's Office
  - Sheriff's Office

## Data Analysis

- Jails
  - Weber/Morgan
  - Utah
  - Davis up until July 2020 due to implementation of a new system.
- AOC
  - Courts records for all participants who received a PSA
  - PSA records

# Covid-19 - Interviews

- Virus shut down the Courts beginning March, 2020
- Jury trials stopped, hearings moved online.
- Jails stopped booking all but the worst offenders
- Crime levels likely stayed same with domestic violence cases increasing
- Heavier reliance on citations
- Judges likely more lenient on bail, FTA warrants.
- Technology may have helped or hurt defendants in their criminal case based on technology competency
- No significant change in demographics for those being arrested





# Pretrial Statute 77-20-1

- Effective date October 1st 2020.
- Presumption ROR release in most situations
- Least restrictive measures if OR is not warranted
- Lower cash bail amounts
- Ability to pay analysis for any bail amounts (corresponding technology went live on December 5, 2020)

Index Utah Code

Title 77 Utah Code of Criminal Procedure

Chapter Bail

20

Section Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing --  
1 Motion to modify. (Effective 10/1/2020)

**Effective 10/1/2020**

**77-20-1. Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing --  
Motion to modify.**

(1) As used in this chapter:

- (a) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.
- (b) "Financial condition" or "monetary bail" means any monetary condition that may be imposed under Section 77-20-4 to secure an individual's pretrial release.
- (c) "Pretrial release" or "bail" means release of an individual charged with or arrested for a criminal offense from law enforcement or judicial custody during the time the individual awaits trial or other resolution of the criminal charges.
- (d) "Pretrial status order" means an order issued by the court exercising jurisdiction over an individual charged with a criminal offense that sets the terms and conditions of the individual's pretrial release or denies pretrial release and orders that the individual be detained pending resolution of the criminal charges.
- (e) "Surety" and "sureties" mean a surety insurer or a bail bond agency.
- (f) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

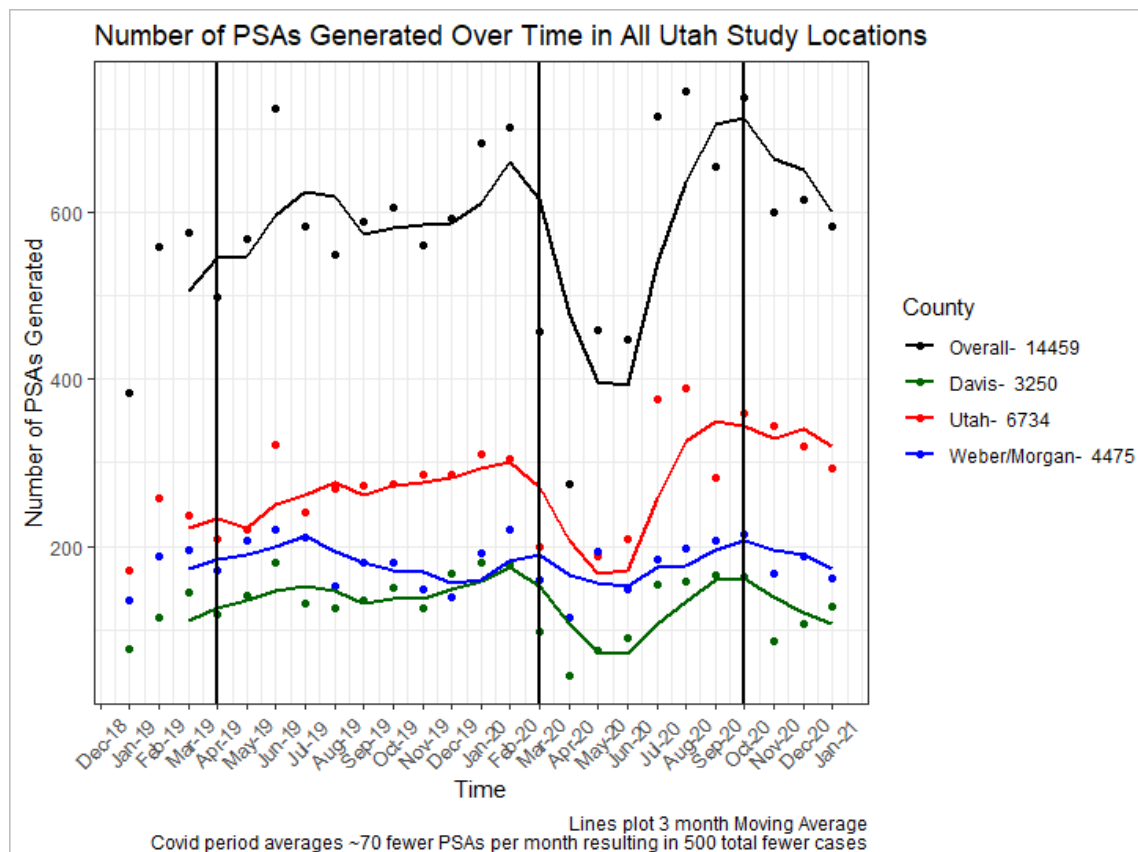
(2) An individual charged with or arrested for a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with a:

- (a) capital felony, when the court finds there is substantial evidence to support the charge;
- (b) felony committed while on probation or parole, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge:

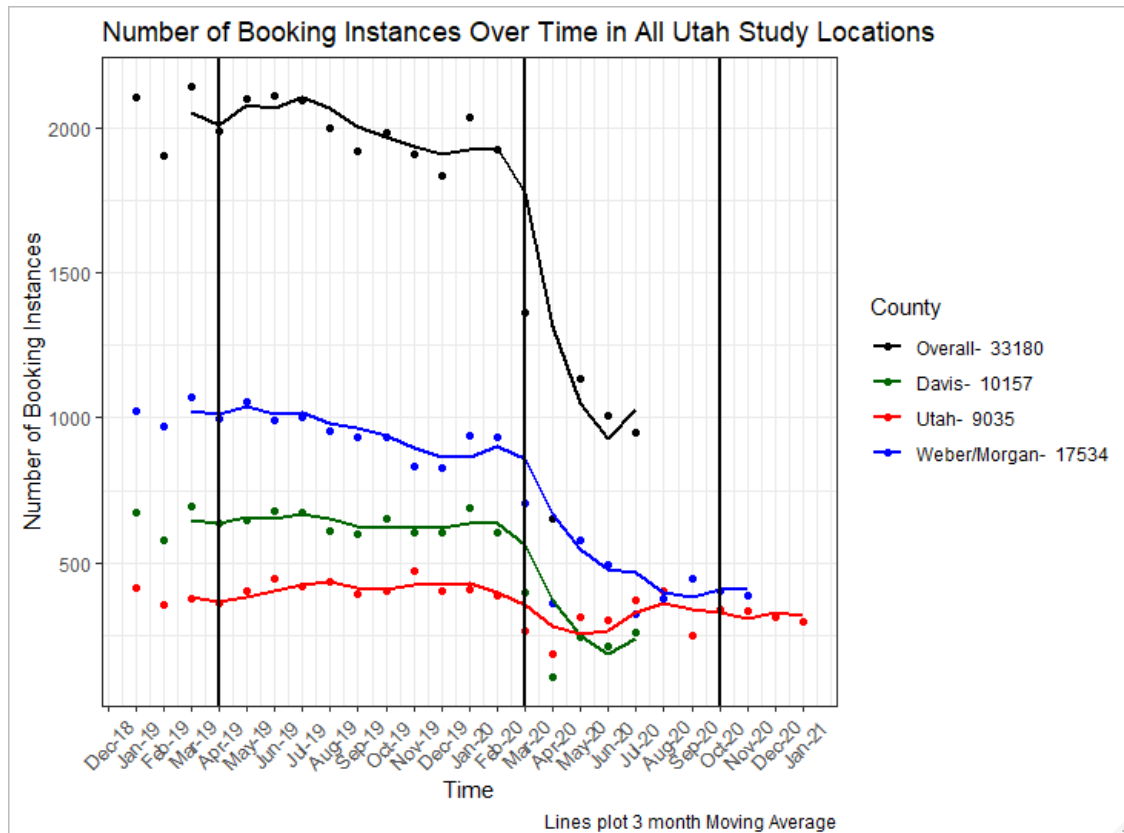
# Pretrial Statute 77-20-1 Interviews

- Interviews were conducted 1.5 months after implementation of the law.
- Opinions on how many people were being released as a result of the statute were mixed. The opinion of the Judge interviewed, who likely had the most direct experience on the matter, suggested there was a significant increase in the release rate.
- There was similar disagreement and uncertainty about change in conditions ordered by the Judge.
- Interviews were conducted before the technology to transfer the arrestee's ability to pay was implemented. Most of those interviewed agreed that in the absence of the ability to pay, judges presumed indigency.
- All interviewees were in agreement that the new law had no effect on the demographics of the defendants being released OR, remanded, or released with conditions.

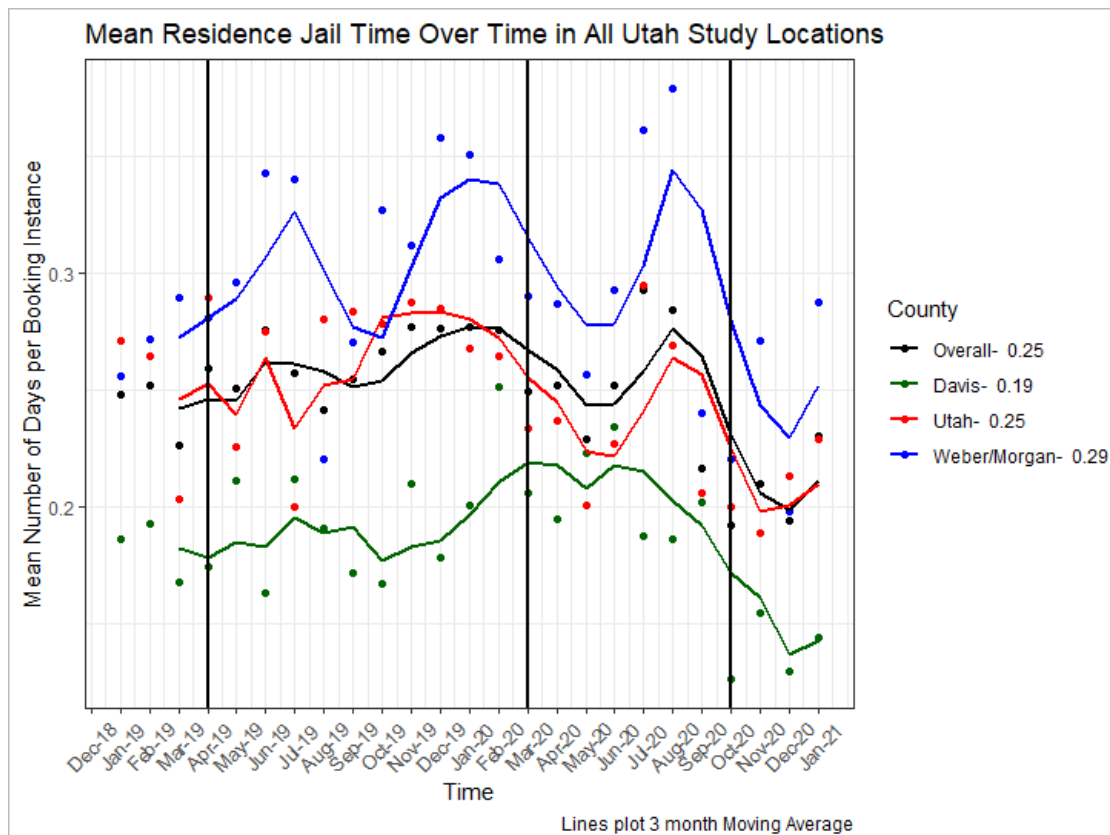
# PSAs By County Over Time



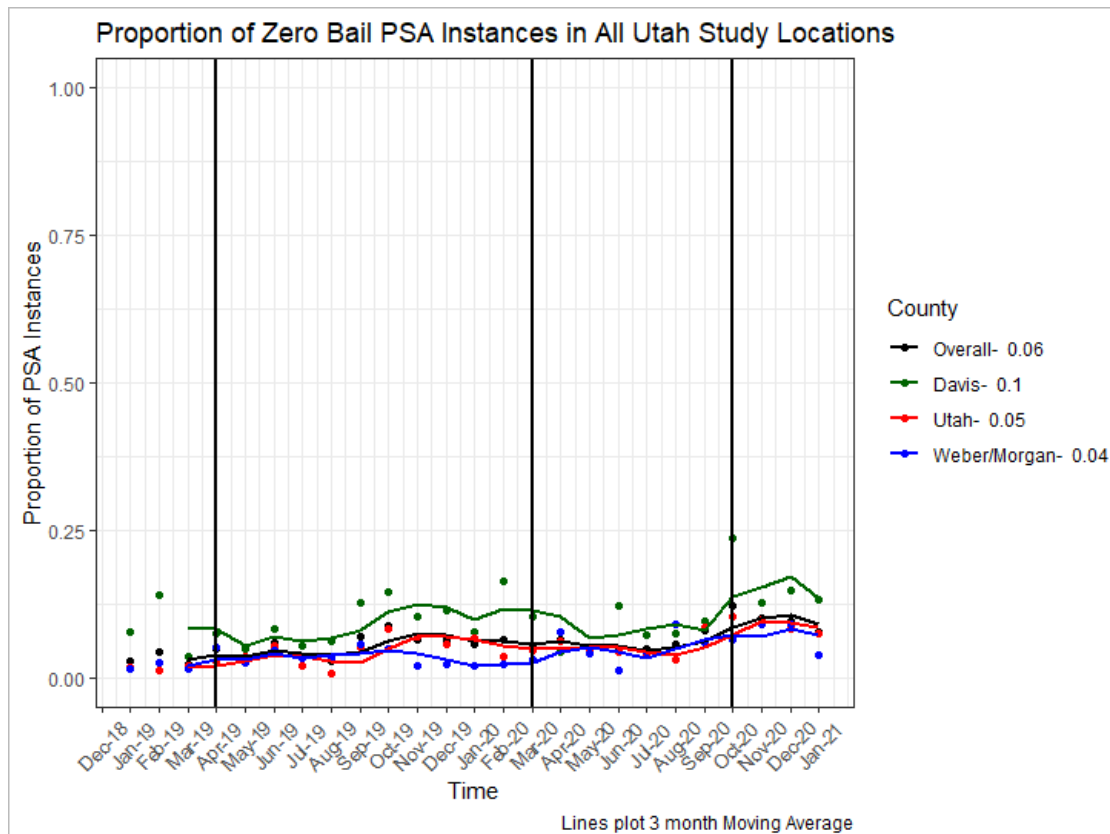
# Booking Instances Over Time



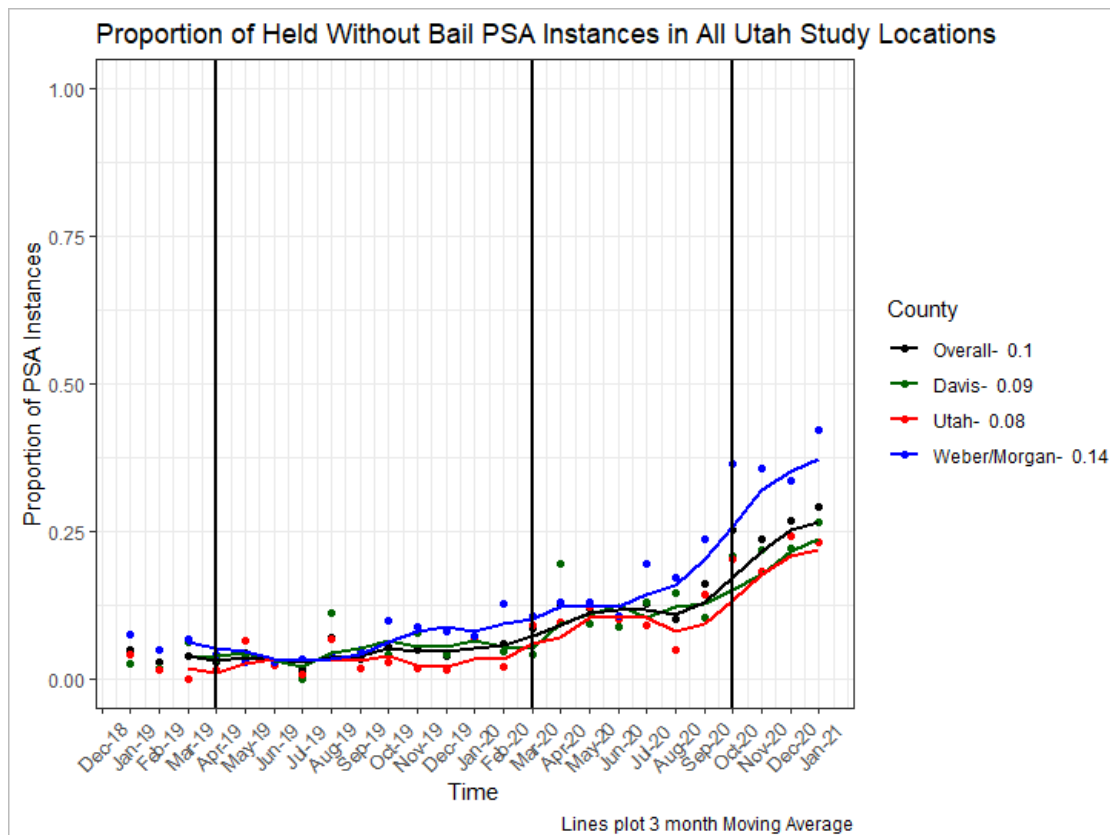
# Residence Time in Jail



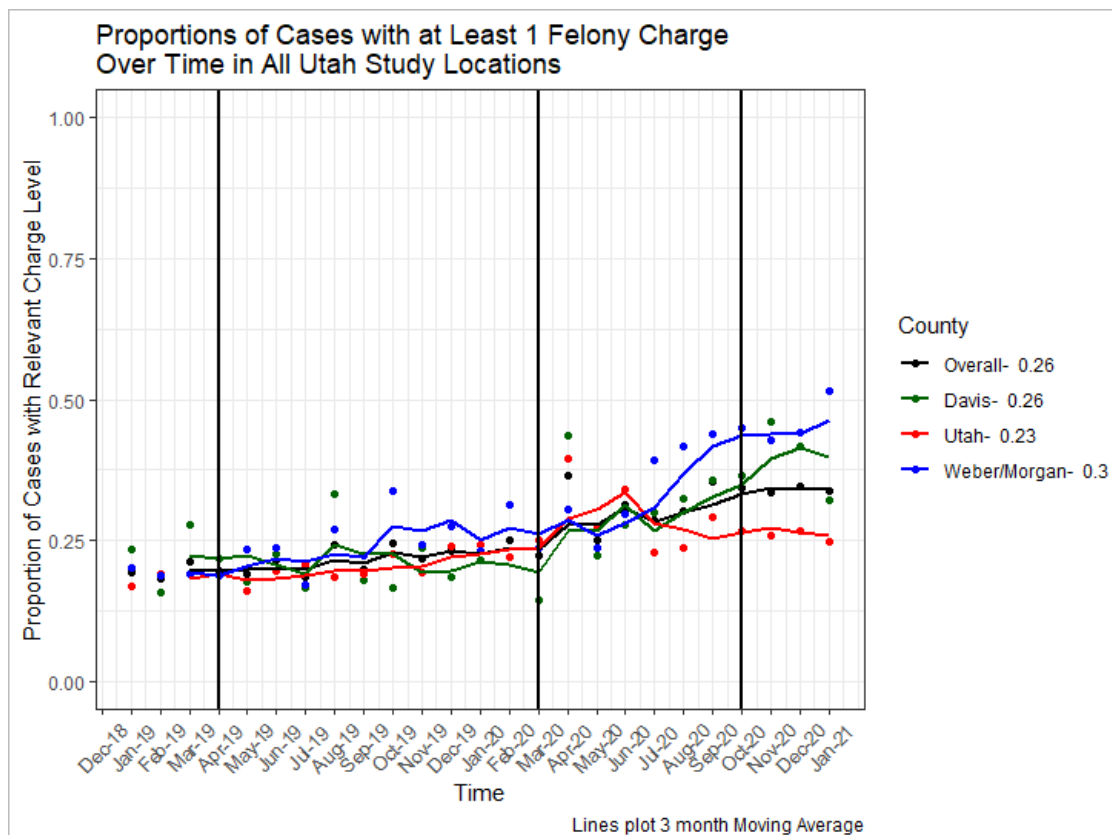
# Zero Bail or ROR Instances



# Held Without Bail Instances

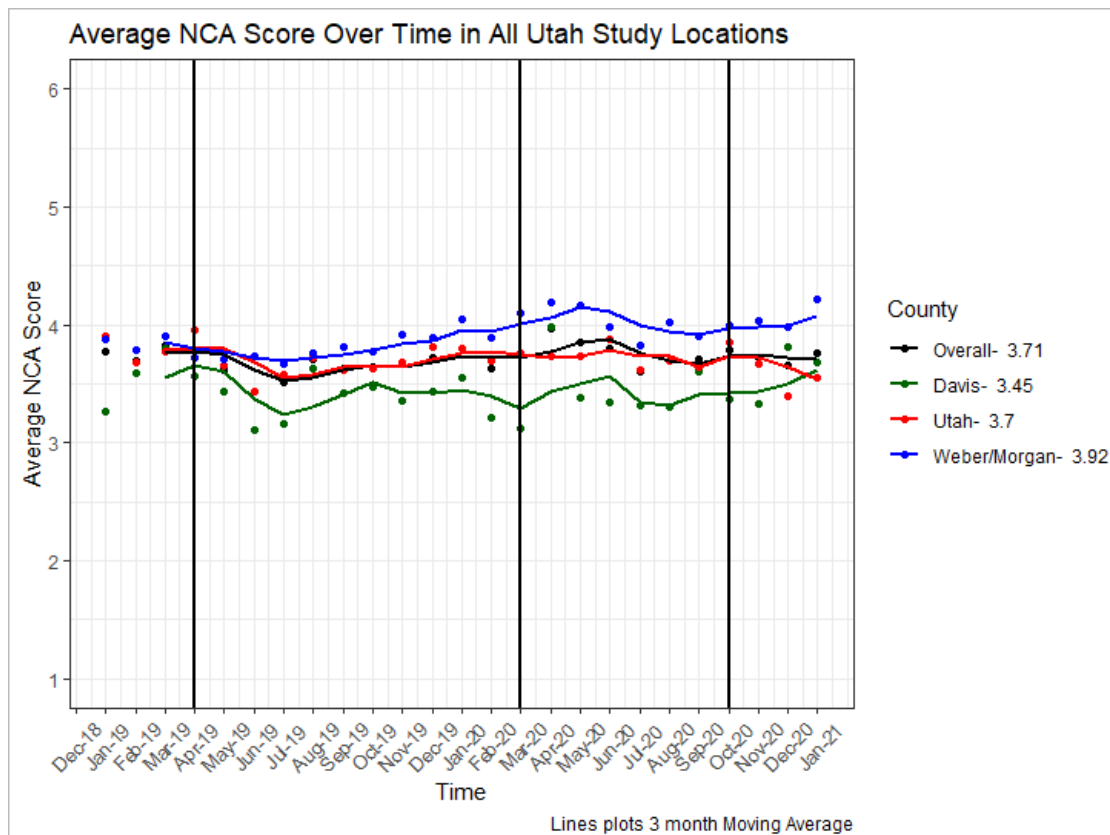


# Felony Charges

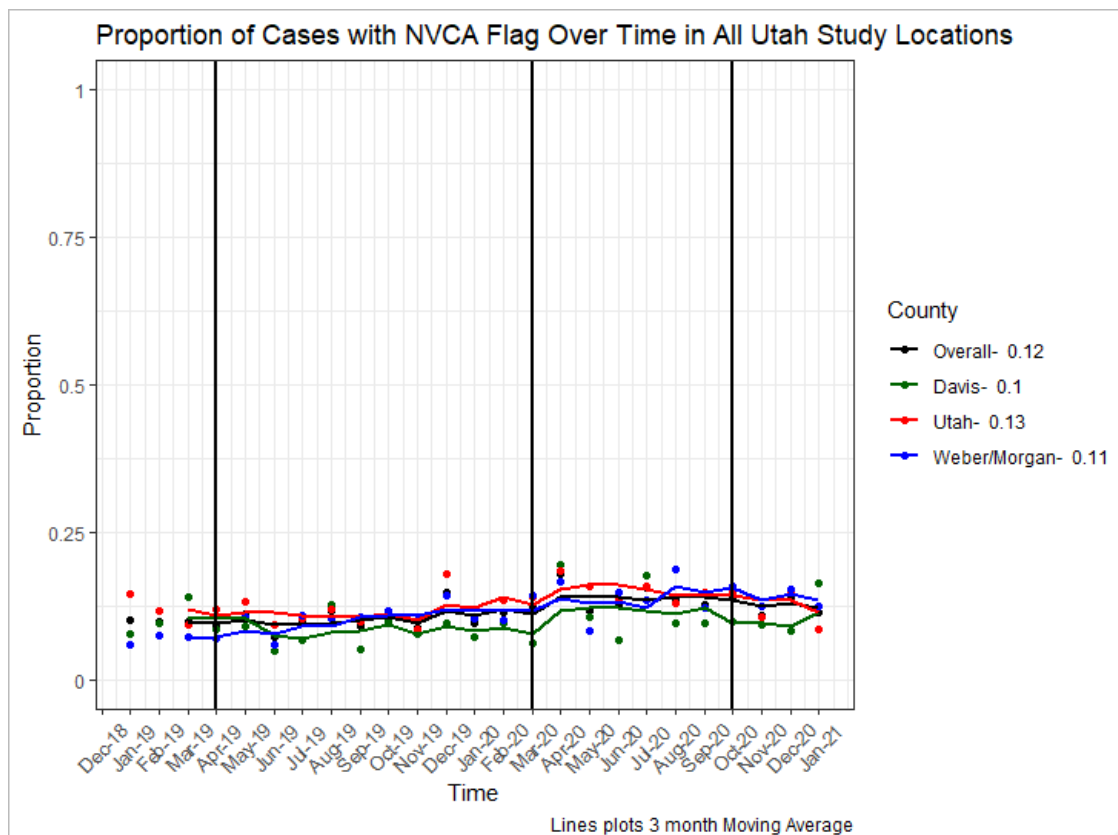




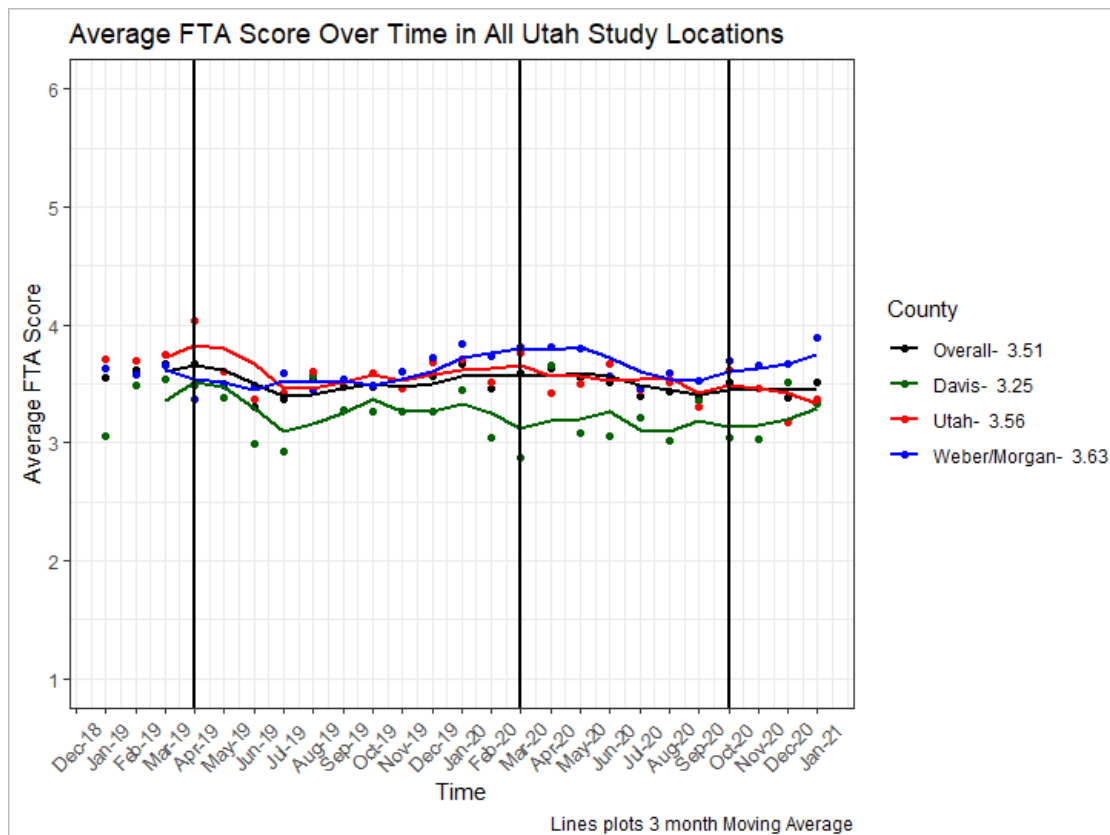
# Average NCA Score



# Average NVCA Score



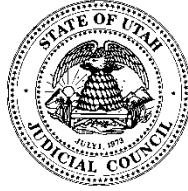
# Average FTA Score



# Viability of the Study

- The adjusted anticipated number of PSAs across all study counties for the full study was approximately 17,000. The current number of PSAs is approximately 14,500. This number is sufficiently large enough to analyze the impact of the PSA.
- The study is still on track to end randomization on April 15th 2021.
- Average NCA/FTA scores caused by Covid is not significant enough to effect validity.

# Tab 5

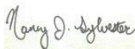


## Administrative Office of the Courts

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

### MEMORANDUM

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

**To:** Judicial Council  
**From:** Nancy Sylvester   
**Date:** February 26, 2021  
**Re:** Certification of New Senior Judge Applicants

Justice court **Judge David C. Dahlquist**, who will retire shortly, has applied for active senior judge status. Juvenile Court **Judge Jim Michie**, who will also retire shortly, has applied for inactive senior judge status.

The senior judge evaluation and appointment processes are governed by the following Utah Code of Judicial Administration rules:

- [Rule 3-111](#): governs senior judge evaluations;
- [Rule 11-201](#): governs the appointment of senior judges of courts of record.
- [Rule 11-203](#): governs the appointment of senior judges of courts not of record.

Neither Judge Dahlquist nor Judge Michie has any complaints pending before the Utah Supreme Court or the Judicial Conduct Commission. The Board of Justice Court Judges has recommended Judge Dahlquist's appointment. Their applications are attached and certification appears to be appropriate.

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.

# NEW APPLICANTS



### Senior Justice Court Judge Application Active Status

I, David C. Dahlquist, apply for the office of active senior judge and declare as follows:

- (1) (30)I was certified by the Judicial Council for retention election or reappointment the last time the Council considered me for certification.
- (2) I voluntarily resigned from judicial office, was laid off pursuant to a reduction in force, retired upon reaching the mandatory retirement age, or, if involuntarily retired due to disability, recovered from or have accommodated that disability.
- (3) I demonstrate appropriate ability and character.
- (4) I was in office for at least five years.
- (5) I comply with the restrictions on secondary employment provided by the Utah Code.
- (6) I am physically and mentally able to perform the duties of judicial office.
- (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.
- (9) I will satisfy the education requirements of an active justice court judge.
- (10) I will accept assignments, subject to being called, at least two days per calendar year.
- (11) *If applying for a subsequent active senior judge term:* During my last term of office, I accepted assignments at least two days per calendar year. If you did not, please explain why in the lines below.  
 \_\_\_\_\_ N/A \_\_\_\_\_ \
- (12) I will conform to the Code of Judicial Conduct, the Code of Judicial Administration and rules of the Supreme Court.
- (13) I obtained results on the most recent judicial performance evaluation prior to termination of service sufficient to have been recommended for retention regardless of whether the evaluation was conducted for self-improvement or certification;
- (14) I will continue to meet the requirements for certification as those requirements are determined by the Judicial Council to apply to active senior justice court judges.
- (15) I was not removed from office or involuntarily retired on grounds other than disability.
- (16) I was not suspended during my final term of office or final four years in office, whichever is greater. and
- (17) I did not resign from office 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.



- (18) I will submit relevant information as requested by the Judicial Council.
- (19) My date of birth is [REDACTED] and my retirement date is 4/15/2021.
- (20) I have not been subject to any order of discipline for conduct as a senior judge.
- (21) There is not a complaint against me pending before the Supreme Court or before the Judicial Conduct Commission after a finding of reasonable cause.
- (22) 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.
- (23) The address at which I can be contacted after retirement is:

[REDACTED]

My email address and phone  
number are:

[REDACTED]

#### JUDICIAL PERFORMANCE EVALUATION INFORMATION

I further declare as follows:

- (24) I have not had more than an average of three cases per calendar year under advisement more than two months after submission with no more than half of the maximum exceptional cases in any one calendar year; and
- (25) I have had no cases under advisement more than six months after submission.
- (26) I am in substantial compliance with the Code of Judicial Conduct.
- (27) I am physically and mentally fit for office.
- (28) I have obtained the following judicial education hours for the years indicated.

2018	2019	2020
43	30	12.5

If you have fewer than 30 hours for the current year, list any course you will complete before the end of the year and the number of hours associated with the course. You may also use these lines to explain the reason(s) for any other gaps in your education hours.

*Having attended the Judicial conference in the fall of 2020 and plans for the required Spring Justice Courts Conference, there should be enough hours for the fiscal 2020-2021 year ending June 30, 2021.*

- (29) I have attended the spring conference in the years indicated.

2018	2019	2020
yes	yes	Cancelled

- (29) 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 understand that the Judicial Council may review my recent judicial performance evaluations in connection with my application. I also 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

16 February 2021

Signature

David C. Wadguit

Please complete and return the application at your earliest convenience. An electronic copy (a scanned copy that is emailed) is preferred, but you may return it using the method most convenient to you. Thank you.

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



## Inactive District or Juvenile Court Senior Judge Application

### Inactive Status



I, James R Michie, apply for the office of senior judge, inactive status, 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) 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.
- 8) 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.
- 9) The mailing address and phone number at which I can be contacted after retirement are:

[Redacted address and phone number]

My email address and  
phone number are:

[Redacted email and phone number]

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.

2.26.21

Date

James R Michie

Signature

Please complete and return the application at your earliest convenience. An electronic copy (a scanned copy that is emailed) is preferred, but you may return it using the method most convenient to you. Thank you.

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

# Tab 6

## Weighted Caseload Review

### *Executive Summary*

**Background:** In the Fall of 2020 the Administrative Office of the Court (AOC) engaged the National Center for State Courts (NCSC) to conduct a review of the methodology of the court's annual weighted caseload analysis. The NCSC reviewed about 20 years worth of weighted caseload reports and supporting documentation concerning changes and updates to the methodology over the years. The NCSC has prepared a report with their findings and suggestions for improvements to the annual weighted caseload report and delivered it to Court Services Director.

**Key Points:** The report identified several opportunities for improvement, but found no major critiques that would result in the discontinuation of the court's current methodology.

**1. *Use a three year average of case filings when determining judicial need.***

The NCSC recommends taking the average filings over the most recent three years worth of data and applying the case weights to that average. This will help smooth the impact of any anomalies that might occur in a single year such as a global pandemic or new legislation. This helps certify that judicial need is based on observed trends rather than outlier data.

**2. *Revisit the standard judicial year.***

The Council sets the value used for a judicial year. The NCSC recommends reviewing this formula and making adjustments to the bench hours allotted per day and the number of days in a judicial year. The report notes that Utah's numbers are higher than the national average, meaning we expect judges to spend more time on the bench each day and work more days than what they have observed in other states.

Additionally the NCSC suggests using the distance and a lower MPH to calculate the travel time allotted for judges when calculating judicial need.

**3. *Validate hearing times captured in the case management system through observation of court recordings.***

The NCSC recommends validating the hearing times captured in our case management system with observation of court recordings. If the times captured in our case management system is consistent with the recordings, this could replace a large portion of our surveys to determine the time spent in hearings.

**4. *Establish expert panels to review weighted caseload changes and reports annually.***

The report recommends that expert panels of judges be created to review the case weights and offer recommendations on a regular basis and not only when the case weights are being studied.

**5. *Update a few case weights each year instead of waiting several years then updating all the case weights.***

Typically, Court Services has updated the case weights every 3 to 5 years. Occasionally, there have been updates when there have been exceptional changes (usually in rule or statute) that greatly impact on the time required by judges and staff. The NCSC recommends that large chunks of the case weights be reviewed annually to prevent lag and subsequent large swings in the data.

**6. *Improve survey instructions.***

The NCSC recommends making improvements to survey instructions so that the purpose and questions are more clear to respondents in order to reduce reporting errors and biases.

**Proposal:** Court Data Services is confident in preparing the weighted caseload analysis using the current case weights. The department will implement the recommendations of the NCSC moving forward with future revisions of the case weights to continually improve the weighted caseload reports. Several near term objectives have been identified by the director and proposed the State Court Administrator for consideration. Below is a summary of the primary objectives and a proposed timeline.

#### Timeline for Implementation of Weighted Caseload Proposals

	FY21 Q3	FY21 Q4	FY22 Q1	FY22 Q2
Objective 1: Begin using a 3 year average to calculate judicial need.				
Objective 2: Study and make necessary changes to Judicial Year				
Objective 3: Re-evaluate analyst resources in Court Data Services				
Objective 4: Establish best practices for documenting changes to the methodology.				
Objective 5: Create expert panels				
Objective 6: Establish a long-term roadmap for updating case weights				
Objective 7: Establish a long-term plan for regular third party reviews				



## Administrative Office of the Courts

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

February 8, 2021

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

### MEMORANDUM

**TO:** Judge Noonan, State Court Administrator  
Cathy Dupont, Deputy State Court Administrator

**FROM:** Clayson Quigley, Court Services Director

**RE:** Response to the NCSC's Weighted Caseload Analysis

---

The NCSC has provided an analysis of the court's weighted caseload report and methodology. The analysis supports our practices and even gives compliment to the consistency by which we conduct the studies. The research supports continued use of the existing formulas with suggestions on improvements that can be implemented as we continually maintain case weights and prepare the annual report.

Having reviewed the recommendations, I am confident in preparing an interim weighted caseload report after the 3<sup>rd</sup> quarter of this fiscal year and a final report to the Judicial Council at the beginning of FY22. There are some recommendations that can be implemented immediately, and others that will take some time to implement and see the result of implementation. Many of the recommendations were consistent with concerns I shared with you in previous discussions.

A quick review of how the weighted caseload is completed will help put the recommendations in context. There are two parts to calculating the weighted caseload. The first is determining what the case weights are going to be, and the second is determining judicial need by applying those case weights to the previous year's filing numbers. This is important to understand because recommendations that apply to the first process, determining case weights, require more time to research and implement than changes to the second part, which is the application of the weights. I propose we move forward with the weighted caseload report using the current case weight values. At the end of this memo, I have prepared a plan for implementing the recommendations that will impact future analysis of the case weights.

There are two recommendations that can be implemented as we apply the case weights to prepare the FY21 weighted caseload report. One recommendation is to apply the case weights to

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

a three year average of case filings rather than a single year. The other recommendation is for the Council to re-evaluate the time allotted for the standard “Judicial Year.”

The purpose of using a three year average is to help diminish anomalies that occur in a single year. This is a departure from previous years, but it comes at an important time. The impacts of COVID-19 may make any meaningful application of FY21’s numbers difficult, if we rely on a year’s worth of data alone.

With regards to the standard Judicial Year, Court Data Services would be able to assist the Council in such a review and apply any changes to the FY21 analysis if those changes are adopted to the Council prior to April 2021.

### **Impacts of the NCSCS Analysis on the 2019/2020 Juvenile Weighted Caseload Analysis.**

The analysis from the National Center for State Courts supports the methodology used to determine the case weights used in the reassessment of the 2019/2020 Juvenile Weighted Caseload analysis. The center recommends applying those weights to a three year average of case filings to determine judicial need for budget and policy decisions. The researchers indicated that using a three year average has become the best practice over the past several years. I propose we move forward using the case weights developed by the Board of Juvenile Judge’s Weighted Caseload Workgroup in 2019/2020. Court services will determine a three year average of filings for FY21, FY20 and FY19 to use for calculating the judicial need. Additionally, using a three year average will help smooth the impacts of COVID-19.

The filing categories in the FY20 preliminary report differed from the FY19 report. This means Court Services will need to reassess the case filing numbers for FY19 to calculate an accurate average. This will not impact previous reports but will be necessary for reporting moving forward.

### **Summary of the NCSC Analysis**

The report breaks down the recommendation into four parts, the standard year value, case and event weights, case and event frequency/distribution of filings, and policy issues and documentation. The following is a summary of the key points from those recommendations and a plan for implementing the recommendations.

#### **Standard Year Value**

The value used by the Utah Courts for the standard judicial year is determined by the Judicial Council. The Juvenile Board raised concerns about the judicial year during the 2019 study. The Council should study revisions to the standard judicial year and consider input from the various court benches as well as the recommendations presented in the analysis. Special consideration should be given to comparison with the national averages for the number of days in a judicial year as well as the number of hours in a judicial day.



The Council may also consider having different standard values for different court levels. This was one of the primary concerns raised during the 2019 Juvenile weighted caseload study. Currently the Standard Year is the same for district and juvenile judges. The Council could consider allowing for more administrative (non-case) time for a different bench if there is a reasonable argument to do so.

The report also recommended that the Council provide direction on how travel time should be calculated for the standard year value and the frequency with which it should be reviewed. Consideration could include whether travel time should be determined by local administrators, self-reported surveys, or distance between court houses. The Council should also set a schedule for updating the calculation of travel time. Following the direction of the Council, the travel time could be calculated each year to account for changes in practice or changes to the make-up of the bench, but the methodology for calculating the travel time would remain the same.

The standard year can be easily updated upon receiving instruction from the Judicial Council. These changes could be implemented immediately and be reflected in the FY21 Weighted Caseload Reports.

### **Case Weights and Events**

These recommendations focus on the analysis of case weights and how we arrive at those values. The case weights and events are at the heart of these studies. The NCSC report provides excellent recommendations to increase the validity of the weights used but most of these recommendations are dependent on time to implement and/or see their impact.

The analysis is slightly critical of the court's use of the Delphi method to determine the case weights. The NCSC relies on Time in Motion style studies where a sample of work is measured rather than relying on survey responses which may be subject to self-reporting biases. While there is no recommendation to abandon the Delphi method, the research suggests action that can be taken to improve the quality of the surveys to promote more accurate responses. Data Services can implement better survey tools moving forward and should consider the various technologies at our disposal to gather and collect accurate information. Including supplying the judges or survey respondents with the tools necessary to assess their work accurately.

The report recommends validating the hearing times captured by our case management system against the actual recordings of those same events. If we find the hearing times in our case management systems are reliable, they can serve as proxy for determining time values for events when assessing a case weight. This will improve the accuracy of our case weights by eliminating self-reporting biases that may be present in data from surveys. This will be a time intensive process that will require us to listen to/measure thousands of hearings and compare those times with the time stamps in our data. This can be accomplished as we review the caseload studies or it could be completed as a large undertaking by Data Services in conjunction with Court Administration staff.

Another recommendation is to employ expert groups to review case weights as they are revised. After conversing with the researcher, I was able to clarify this means to include judicial officers as experts to review the various changes to the case weights. To some degree we have done this in the past by creating a weighted caseload work group. These expert panels could exist on a permanent basis as a standing subcommittee of the various benches. This would help provide consistency and continuity from year to year as opposed to only convening the workgroups every few years to re-evaluate the case weights.

The report recommends updating the weighted caseload in smaller chunks on an annual basis rather than a complete review after longer periods of time. This is an important recommendation that I believe will help resolve many of the issues we have seen these past few years. To accomplish this, I will need to re-evaluate the assignments of the data analysts. This is easily a full time job for an analyst to own the coordination with various boards and workgroups, the analysis, and final reporting of weighted caseload each year. This person may also take ownership of related reports, such as the filings reports, that are used to inform the weighted caseload. This would also give that person an opportunity to provide several touchpoints throughout the year to avoid any big surprises with the weighted caseload reports.

### **Case Event Frequency, Distribution and Filings**

This section only included two recommendations. The first being frequent revisions to the admit/deny ratios used in some of the weighted caseload studies. I clarified with the researcher that admit/deny ratios were eliminated from the formula to determine judicial need in the Juvenile Court's analysis in 2019 and are not used in the District Court's report. The researcher understood and approved the use of different hearing times for contested matters when determining case weights. This method was used for the Juvenile Court's case weights which are based on the hearing data reviewed to calculate the case weights. These will be updated periodically when the case weights are reviewed.

The second recommendation is actually an exciting one that I think could really benefit the court. The researchers recommend using a three year average where possible to help smooth out inconsistencies from year to year. This would have helped absorb the swings we saw in FY19 and FY20. Additionally, this is an important observation given that the FY21 data will not be representative of a "normal" year. This will be a departure from much of the information that has been provided in previous years. A change like this would require buy-in from the Council and a narrative explaining the decision should accompany those reports, especially if provided to external audiences.

After receiving the report, I've had the opportunity to further discuss the three year average with the researcher. She was able to expound on this point and shared that many states have moved to using a three year average. This has been a common trend over the past 10 years or so. While not every state uses a three year average, it is the prevailing method and preferred by the NCSC.

### **Policy Issues and Considerations**

The recommendations from this section of the report deal less with the content of the report and more with the administrative pieces of conducting this type of analysis. An important take away is the importance of meticulously documenting each step so that the process can be recreated by anyone stepping into a role with Data Services. This is paramount to the long term success of Data Services and the historical value of these studies.

Data Services will continue to make strides to improve our documentation. One suggestion is that the weighted caseload be accompanied by the methodology document each year rather than just the transmittal letter. The methodology document then becomes a living history recorded in tandem with the results of the weighted caseload study.

Finally, the report recommends periodic third-party reviews of the weighted caseload. I echo this recommendation and would encourage the Judicial Council to determine a regular schedule for this sort of review so that it does not get forgotten and so that finances can be budgeted to make sure that the review happens.

### **Predicative Analytics**

The report does not mention the use of predicative analytics or the consideration of other factors, in conjunction with case filing data to estimate future filings or judicial need. In conversations with the researcher I've come to understand that to their knowledge, no other state is doing this sort of analysis. This type of work is not uncommon in other areas of government. It may not have an application in year to year assessments considering that case filings typically tend to not have large shifts. However, this type of analysis could be helpful in determining long term plans.

## **Proposal to Incorporate the Recommendations**

- Objective 1:** **Introduce a 3 year average for calculating the weighted caseload.**  
This is a big change and will likely result in a change to the way the information is presented/formatted in the report. This should be done only with the approval and buy in from the Judicial Council.
- Timing: FY21-Q4 and FY22-Q1
- Objective 2:** **The Council should make any necessary changes to the Standard Judicial Year.**  
This needs to be studied by the Council and likely wouldn't be able to be implemented until the FY22 weighted caseload report.
- Timing: FY21-Q4 through FY22-Q2
- Objective 3:** **Re-evaluate analyst resources in Data Services. Temporarily make assignments to support expert panels and regular revisions the weighted caseload. Seek additional personnel that can be dedicated to coordinating review and revision of case weights, staffing expert panels, and preparing related reports.**  
Reassignment of duties can begin immediately and in step with decisions to establish expert panels. Additional staffing can be presented to the appropriate committee(s) for consideration by the council for the upcoming fiscal year.
- Timing: FY20-Q3 & Q4
- Objective 4:** **Determine best practices for documenting the reports and modifications made to our methodology.**  
Court Data Services will work with expert panels to determine best practices for document the process and decisions of the panels to preserve a record of changes made over the years. The goal would be to create a process that is easily replicated by someone with little or no background on the weighted caseloads.
- Timing: FY22-Q1
- Objective 5:** **Create standing workgroups/expert panels to review and approve regular changes to their bench's weighted caseload reports.**  
This process should be determined by the Council. I recommend creating a panel or workgroup that reports to each board concerning that court's weighted caseload.
- Timing: FY22-Q1
- Objective 6:** **Develop a long-term plan for revising the case weights.**  
Data Services will work with the expert panels to establish a plan for revising case weights each year.
- Timing: FY22-Q1

**Objective 7: Ask the Council to adopt a schedule for third-party reviews of our studies.**

Data Services will recommend an schedule for third party review to the Judicial Council for approval.

Timing: FY22-Q2

**Timeline for Implementation of Weighted Caseload Proposals**

	FY21 Q3	FY21 Q4	FY22 Q1	FY22 Q2
Objective 1: Begin using a 3 year average to calculate judicial need.				
Objective 2: Study and make necessary changes to Judicial Year				
Objective 3: Re-evaluate analyst resources in Court Data Services				
Objective 4: Establish best practices for documenting changes to the methodology.				
Objective 5: Create expert panels				
Objective 6: Establish a long-term roadmap for updating case weights				
Objective 7: Establish a long-term plan for regular third party reviews				

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# A Review of Utah's Juvenile and District Court Judicial Weighted Caseload Formula Methodology

*Final Report*

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## **PROJECT STAFF**

*Suzanne Tallarico, M.A.*

**COURT CONSULTING DIVISION | NATIONAL CENTER FOR STATE COURTS**

*December 2020*

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## Introduction

Across the country, judicial branches in the majority of states rely on weighted caseload models to determine the need for an adequate number of judicial officers to handle the workload in a jurisdiction in a fair, timely, and efficient manner. Judicial weighted caseload models are based on a set of case weights (average case processing times for each identified case type) and established averages for non-case-related work. To arrive at the total judicial workload expected, the case weights are multiplied by the number of case filings in each court location. This information is applied to the standard judge year (the average number of days judges are expected to work) and the judge day (the average number of hours judges are expected to work each day).

The weighting of cases is critical because it reflects the fact that court locations do not have the same complement of filings in a given year, and different types of filings require different amounts of judicial work. To that end, case weights ensure that cases involving a small amount of judge time, such as traffic infractions, are not given the same value as cases that require a lot of judge time, such as capital murder cases. When applying the expected workload to the judge year, the model provides an estimate of the number of judicial officers needed in each court location across the state to resolve the cases filed.

## Utah's Judicial Weighted Caseload Model Review

In Utah, the Administrative Office of the Courts has conducted its own judicial weighted caseload studies since the late 1990s. The earliest model reviewed was completed for the juvenile court in 1999; and the district court's earliest model was developed in 2001. The models are prepared separately for the district court and juvenile court. Weighted caseload models have also been developed for justice courts, court clerical staff and probation officers; however, these were not reviewed as part of this assessment. It is presumed that the methodology used to develop all of the weighted caseload models is consistent with the methodology used for the district and juvenile court judges, so the limited time available to conduct the assessment focused on the judicial models.

The development of the model is a joint effort between judicial boards and committees and the Administrative Office of the Courts (AOC). The Utah Judicial Council is the policy making body for the judiciary. The sixteen-member body has representatives from all levels of courts in the state. The Judicial Council is required to establish a Board of Judges for each level of court; the judicial weighted caseload model development is overseen by the Judicial Workload Formula Committees of the Boards of District Court Judges and Juvenile Court Judges. Each Board oversees the weighted caseload model for their respective courts. The AOC is responsible for establishing and maintaining uniformity and coordination across all courts in the state, and the Court Services Division is responsible for developing the judicial weighted caseload models for both courts.

This document provides the results of an independent review of the judicial weighted caseload models used in Utah's district and juvenile courts that was conducted by the National Center for State Courts (NCSC). The NCSC is the leader in conducting workload assessment studies for courts and justice system partners in the U.S. and internationally, employing a sophisticated multi-method approach to translating caseload into workload.



At the outset of this project, the Director of Court Services transferred all documents associated with workload assessment studies conducted in Utah, since 1999 to a private and secure server maintained by the NCSC. These documents, including excel spreadsheets containing models and analytical data, and written documents, including notes, memos and reports, were reviewed, with an eye toward the appropriateness and completeness of the methodology, looking for ways in which the judicial weighted caseload models could be strengthened, if at all. Though scant written documentation exists to provide a clear description of the weighted caseload methodology used by the AOC, it was possible to review historical spreadsheets and intermittent notes and memos to determine how the models and their data elements were used, revised, and sometimes, how they were determined.

The basic methodology has remained relatively consistent since the initial weighted caseload models were developed some twenty years ago by the AOC. There are five main elements used in the weighted caseload models, as shown below, and discussed in the next section of this report.

- Standard Judicial Year value
  - Day value
  - Administrative time
  - Travel time
- Case and event weights
- Case and event frequency
- Case and event distributions (for juvenile court only)
- Case filings

## Standard Judicial Year Value

The standard judicial officer year is used to determine the amount of time a full time equivalent judicial officer has available for case-related work. In the juvenile court, the base year value has changed only once since the first weighted caseload model was developed for juvenile court in 1999.<sup>1</sup> Travel time has been adjusted from time to time, but not on a regular basis. From 1999 through 2002, the year value in the juvenile court was based on 6 bench hours per day (case-specific time) and a total of 211 working days. In 2003, the juvenile court judicial year value was revised to reflect a 220-day year. This change is the result of decreasing days associated with sick leave (reduced by 3 days) and training (reduced by 6 days).<sup>2</sup> In addition to increasing the total number of working days to 220, the juvenile court model increased the number of bench hours per day to 7. Since 2003, the base judicial officer year is the same for district and juvenile courts; the only variation is in the number of travel hours across districts.<sup>3</sup> The two variations of the year value are provided in Figure 1, below.

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<sup>1</sup> In the 2010 *Juvenile Judicial Workload Formula* report, reference is made to models in 1998 and before, but these were not available for the current review.

<sup>2</sup> For the 2003 juvenile court judicial officer weighted caseload model, documentation is noted in the spreadsheet that the change to the year value was authorized by AOC officials, but does not explain why. Presumably, the change was made to reflect the same base year value as used in the district court model.

<sup>3</sup> The 2010 *Juvenile Judicial Workload Formula* report states that the juvenile court judicial year value was changed to represent 1,540-hour bench-year; however, that figure was used in reports beginning in 2003.

**Figure 1: Standard Judicial Year Values: District and Juvenile Courts**

Year Value Elements	Year Value 1999 – 2002: Juvenile Court		Year Value 2003 – 2020: District & Juvenile Court	
<i>Bench hours per day</i>	<i>6</i>		<i>7</i>	
	Days	Hours	Days	Hours
Annual days	365	2,190	365	2,555
Weekend days	-104	-624	-104	-728
Holidays	-11	-66	-11	-77
Vacation	-20	-120	-20	-140
Average sick leave days	-4	-24	-1	-7
Training	-15	-90	-9	-63
Bench days per year	211	1,266	220	1,540
Travel hours	Specific to district		Specific to district	

**Bench hours.** The weighted caseload formula assumes all judicial officers work a standard number of hours each day. This standard day value represents the amount of time each judicial officer has available for case-specific work each day. This value is determined by subtracting time for lunch, breaks and non-case-related work, such as administrative duties, meetings and other work that is essential for judicial officers to engage in but is not related to a specific case. The only documentation that reflects how the bench hours per day figure was determined, is from the 2010 *Juvenile Judicial Weighted Workload* report that documents the revisions made to the model in 2010. Appendix B of this report contains the questionnaire that was distributed to all juvenile court judges. The questionnaire asked judges to provide the number of minutes per week they spend (a) serving on committees and (b) engaging in other off-bench activities, such as speaking to groups, completing paperwork, engaging in moot court, etc. Memos contained in the 2010 file folder for the district court judicial weighted caseload model contains references to updates made in that model, but there is no report that clearly documents all of the changes. It is assumed that the non-bench time estimates for both the district and juvenile courts were collected via survey.

**Annual days/Weekend days.** To begin the computation of the number of days worked per year, the model begins with the full year (not accounting for leap years) of 365 days and subtracts the number of weekend days (104), yielding the starting year value of 261 non-weekend days per year.

**Non-working days.** The next step in determining the year value is to subtract the number of days associated with holidays, a standard number of vacation days, average sick days taken, and the number of days judicial officers are away from court to attend training.

**Travel hours.** The travel hours are based on a self-reported number provided by each judicial district. In some cases, the trial court executive provides this value; in others individual judges report their annual travel time. Notes embedded in the spreadsheets often (but not always) indicate who reported this information and what the raw numbers are. Typically, the report provides the number of miles traveled from one court location to another, for one month, and then annualizes this figure by multiplying the monthly travel miles by 12. This figure is translated into hours by dividing the number of miles traveled by the speed of 60 mph (e.g., 90 miles/60 mph = 1.5 hours of driving). The travel hours for all judges in each district are summed, and the product is divided by the number of judges, to arrive at the average annual travel time per judge. The travel time is not updated on a regular basis;

in fact, the travel time in district court has only been adjusted once, for use in the 2012 model and beyond; in the juvenile court, travel times have changed at least five times since 1999. According to a footnote (number 10) found in the 2010 *Juvenile Judicial Workload Formula* report, travel time is defined as traveling to or from a courthouse, other than the judge's home court, to conduct court business. Travel associated with training is included in the training deduction of the standard year value and all other travel is included in the judicial administrative time deduction (non-bench hours); however, this is not the way the questions are asked on the survey provided in that report. For example, the travel-related questions in the 2010 juvenile judge questionnaire are: "How many days a week do you travel as part of the workday (not including commuting to your designated office)?" And "What is your average travel time per travel day?" Similarly, the question regarding committee work did not explicitly instruct respondents to include travel time. When conducting survey research, it is critical to be exceedingly clear in each of the questions asked, so all respondents are answering the questions within the same specific parameters.

**Discussion.** The development of the standard work year follows the model used by the National Center for State Courts, in terms of its computation and makeup. The AOC could make refinements to the time associated with work-related travel time computations.

**Standard work year.** As discussed above, the standard work year was established in juvenile court with a 211-day work year at 6 bench hours per day; and revised in 2003 to a 220-day work year with a 7-bench hour workday. Compared to the average year values established in ten years' worth of judicial officer time studies conducted by NCSC's Court Consulting Division, this is a relatively high work year. The average year value of 23 studies conducted over that time, the average standard year value is 211, with a range of 204 to 215 working days per year. The AOC should consider periodically reviewing the standard year value, either through the use of a judicial panel of experts or through the use of a survey to determine the average number of days worked by judicial officers. Specific areas to review include the number of days taken for vacation and illness. In the NCSC's experience, most states set 25 as the average number of vacation days, and sick leave is usually set at approximately 10 days. Most states base these averages on actual time that is available to be taken by senior level employees.

**Travel hours.** As described above, travel estimates are provided by either the trial court executive or judges in each district and then divided by a factor 60 mph to translate mileage into time. While this methodology is certainly acceptable, it could be refined in a couple of ways. While Utah uses 60 mph as a standard division factor with which to translate mileage into time traveled, most states with whom the NCSC works choose to use a lower travel rate, such as a traveling speed of 50 or 55 mph, reasoning that most travel is not done on roads allowing for travel at that rate. Changing this traveling speed factor and adding in travel time could result in a more accurate deduction for this data element.

In terms of what the travel time represents, questionnaires must be extremely specific in what time elements are expected to be included in each question to ensure that all respondents complete their responses in a consistent manner. It is likely travel time not related to between-court travel is not accurately estimated in the judicial weighted caseload models. The AOC should refine the travel-related questions and instructions in the next round of updates on standard year value and travel-related time.

## Recommendations:

- The AOC should consider periodically reviewing the standard year value, either through the use of a judicial panel of experts or through the use of a survey to determine the average number of days worked by judicial officers. Specific areas to review include the number of days taken for vacation and illness. In the NCSC's experience, most states set 25 as the average number of vacation days, and sick leave is usually set at approximately 10 days. Most states base these averages on actual time that is available to be taken by senior level employees.
- The AOC should consider reducing the speed by which the number of miles is divided by from 60 mph to either 50 or 55 mph. This change reflects the fact that a good portion of between courthouse travel is not conducted on highways. The AOC should also consider periodically validating the mileage deduction data by quantifying travel reimbursement logs for each judicial district.
- The AOC should refine the travel-related questions and instructions in the next round of updates on standard year value and travel-related time.

## Case and Event Weights

The most critical elements of a weighted caseload model are the case weights, or the average time needed to process a particular case type from filing to disposition. The case weight includes all activities associated with each case (event weights), including in and out of court time. There are only two reports that provide written documentation of the full judicial weighted caseload methodology used in Utah. The *Juvenile Judicial Workload Formula report*, dated January 2010, is a thorough report that provides clear documentation on the updates made to the juvenile judge formula. The May 2019 report, entitled *Utah Judicial Weighted Caseload Methodology Judicial Officers – District & Juvenile* provides some detail about the revisions to the 2019 juvenile and district court formulas, but this report lacks details. The latter report states that “a variant of the Delphi technique is used to gather information via survey from a group of respondents within their domain of expertise. The survey results are compiled and then reviewed for accuracy while an aggregate opinion or weight is then established for the amount of time needed to complete work tasks. As the judicial officers participate in the process of weight creation, this provides credibility for the case weights (P. 3).”

The methodology reports from 2010 and 2019, along with a handful of memos and PowerPoint presentations, provide some insight into the case weight development process. Taken together, these documents provide the ability to piece together details regarding the case weight development and validation process, assuming the process has remained consistent over the years. Various documents indicate that survey results were validated by reviewing a sample of hearings – selected from different courts and different judges - and comparing the actual hearing times (recorded digitally) to the time estimates provided by judges. When there are discrepancies between the survey data and the digital hearing review, it is unclear how the discrepancy is resolved. For example, if the survey data and validation data are inconsistent on average hearing times, how is the inconsistency handled? It appears that the decision is generally to accept the time estimates provided by the judges. One PowerPoint presentation described one of these inconsistencies, and the final decision on how to handle the inconsistency was reported, but not the process by which it was resolved. Additional memos found scattered amongst the documents provided for review indicate that significant amounts of time and energy are used to resolve perceived inconsistencies in time estimates. In the 2010 juvenile judicial workload

formula update, there was a discrepancy between the judicial response data and the digital recordings in one case type. The 42-minute discrepancy (the digitally recorded times were 42 minutes lower than the judges' estimates) was attributed to a small sample of digital recordings (n=63) for that case type, and the judicial responses were accepted. Another discrepancy, in which collectively, judicial respondents estimated the hearing time to require 43 minutes, but the digital record from 200 cases resulted in a 17-minute average hearing time, was not even noted as a discrepancy and, instead, all judicial time estimates were accepted.

There also appears to be a process by which one or more members of the Board of District Court Judges or the Judicial Workload Formula Committee raises a concern about a particular case weight and an AOC staff member(s) conducts research and then returns with a recommended resolution, but the resolutions do not appear to be data-based. For example, see Figure 2, below for an example of how concerns regarding drug court hearing weights were resolved in 2011 (*Judicial weighted Caseload Update After May 4<sup>th</sup> Board Meeting*):

**Figure 2: Sample Resolution of Case Weight Concerns**

<u>Drug Court Time</u>	
· <u>Drug Court hearings.</u> Add factor for staffing. Drug court staffings are 2.19 minutes. Judge __ indicates	
· their staffings last about an hour and their drug court calendar is about 100 per calendar.	
·	
· <b>Resolution: Change weight from 2.19 to 3 minutes.</b>	
·	
· If we round the length of each hearing up to 3 minutes per hearing, we should be adequately be	
· reflecting the time spent.	
·	

A copy of one survey, sent to district court judges in 2010 was reviewed to get a sense of the data collection process. In that year, district court judges were asked to respond to a survey that focused on a small number of data elements for which they were asked to provide estimates of the time required to engage in specific activities. In this example, judges were asked to provide time estimates for in-district travel, out-of-district travel, specialty court time, e-warrant time and for three specific activities in certain case types with a total of 19 questions. Responding judges are asked to provide their name and judicial district. A few questions from that survey are provided below.

**Figure 3: Sample Survey to Update Case Weights/Event Weights**

<u>Specialty Court Time</u>	
· Do you preside over a specialty court?	____ Yes ____ No
· How many specialty court calendars do you hold <b>per month</b> (e.g. how many times per month do you hold this specialty court)?	____ calendars/month
· About how many participants are on each specialty court calendar?	____ participants
·	
· How many minutes on average do you spend per participant in each calendar?	____ minutes/participant
·	
· How many minutes on average do you spend per week preparing for your specialty court calendar?	____ minutes/week

**Discussion.** The development of case weights is based on event and case processing time estimates provided by survey respondents. These times are partially verified, then aggregated and averaged to obtain the case weight. That general methodology is consistent with best practices; however, some improvements could be made.

**Questionnaires and survey process.** The AOC relies on a modified Delphi process (a single survey of judges), with some level of verification, to determine case weights. The NCSC does not generally recommend using the Delphi method as the primary means of establishing case weights, because, in our experience, respondents tend to overestimate the time it takes to complete certain tasks, even when going through multiple iterations of the survey process. While this method has been used in some NCSC studies, it is typically used in a limited capacity (i.e., for a single case type) or where time and funding constraints prohibit the use of a full-blown time study. A true Delphi method entails a system of multiple rounds of questionnaires sent to a panel of experts. Several rounds of questionnaires are sent out to the group of experts, and the anonymous responses are aggregated and shared with the group after each round. The experts are allowed to adjust their answers in subsequent rounds, based on how they interpret the "group response" that has been provided to them. Since multiple rounds of questions are asked and the panel is told what the group thinks as a whole, the Delphi method seeks to reach the correct response through consensus. The AOC's process entails a single survey with varying levels of guidance or instructions provided to assist judges on how to think about the one's responses. The district court judicial questionnaire used for the 2010 survey process had very limited instructions or explanations, whereas the questionnaire used with juvenile court judges contained excellent explanations and instructions. Future updates conducted through the survey process should more closely resemble the process and tools used with the juvenile court update in 2010.

**Survey findings accuracy and validation.** In terms of accuracy and validation, the survey responses are reviewed for accuracy; however, there is no explanation regarding this process. The AOC has the ability to partially validate case weight estimates by sampling cases and tracking the length of time for various types of hearings occurring within that case type. They can also obtain the average number of hearings within various case types, which can be used as a multiplying factor to establish case weights. This validating process strengthens the estimated case processing times; however, they can only use this process to validate in-court hearing activity, not out-of-court case processing activity, including hearing/trial preparation and post-hearing/trial time. It is unclear at this time how often the case weights are updated and validated through this extensive process, or whether all case types have undergone such a rigorous review. NCSC consultants have attempted to partially validate case weights in other states by relying on hearing times stored in various states' case management systems; however, for each state that has that capacity, none had confidence that the hearing start/stop time was accurate across all courts. The AOC should consider conducting a validation on the hearing start and stop time stamp process across court locations for a variety of hearing and case types by observing hearings and manually tracking start/stop times. If the hearing times contained in the case management system are accurate, the AOC could consider not relying on surveys to estimate judges' time for this activity, and simply rely on the surveys to address out-of-court work. This would reduce the burden on judges and improve the accuracy of the overall case weight.

**Consensus.** In terms of consensus, there were no documents found to describe if or how consensus on case weights is reached. By reviewing various PowerPoint presentations and memos, it appears the average case processing times are computed based on survey responses and partial validation and then provided to the

Committee and/or Board for response. Based on memos, if even one judge raises a concern, the case weight may be researched and adjusted. The AOC should consider employing directed expert groups (e.g., civil case experts, family case experts, etc.) to act as consensus groups when case weights are revised. This eliminates what could be seen as a self-serving interest to have a particular case weight adjusted by a single judge.

**Case weight computation.** After the survey results have been cleaned and validated, the data is used to compute case weights. The following three measures of time are combined to develop case weights:

- Jury Trials - the average number of days associated with jury trials in each case type is gathered via query from the case management system and the data are confirmed for accuracy through a manual review of the data. Each jury trial day is given a standard weight of 420 minutes.
- Bench Trials – the average amount of time required to prepare for, hold, and memorialize bench trial by case type, is based on the judicial officer survey findings.
- Hearings – the average amount of time required to prepare for, hold, and memorialize hearings by case and hearing type, is based on the judicial officer survey findings; the average number of hearings held for each case type is derived from the case management system data.

Once the three data elements are determined, the case weight is computed as follows:

Calculating the Case Weight	
<b>Total Weighted Minutes<sup>4</sup></b>	Jury Trial Minutes + Bench Trial Minutes + Hearing Minutes
	Weighted minutes per case type
<b>Case/Event Weight</b>	÷
	Case Filings (number of cases filed)/Events (average number of hearings)
	(Count of cases/events * Number of weighted minutes)
<b>Workload Weighted Hours</b>	÷
	60 min. per hour

The process for obtaining data and computing the case weights is reasonable and, in fact, is strengthened by the ability to apply real-time data on the length and frequency of jury trials and the frequency of bench trials and specific hearing types.

**Delphi Survey Instructions.** Including detailed instructions on the questionnaire can improve the integrity of the survey and ensure clarity in the survey responses. For example, judges should understand what is being asked of them and why; they should also be asked to direct their attention to specific issues. Consider the two introduction instructions presented in Figure 4, below. In both examples, respondents are told what they are being asked to do (provide time estimates) and why (to update a weighted caseload model); however, the

<sup>4</sup> Hearing minutes are adjusted by the frequency with which they occur. For example, if a jury trial occurs in 5% of all criminal cases, the jury trial weight is only applied for 5% of the cases. This same weighting process occurs for bench trials.

district court instructions do not provide guidance on the “how.” In the juvenile court example, judges were asked to consult with clerks and/or attorneys to generate estimates of time for hearings of a particular type. Psychologists refer to this process as *directed attention*. This process is used to manage one’s thoughts on a particular area or event by eliminating competing thoughts. Using this technique, respondents are likely to provide more thoughtful responses. If the AOC continues to use the modified Delphi process to collect case weight data, they should consider adding some additional instructions, that include a more detailed reason for the survey (e.g., annual update, recent change in statute) and guidance to judges on how to direct their attention to “average” cases. The instructions could even suggest that judges time their activities for a short period of time so that their responses are grounded in recent experience and not just based on non-directed memory.

**Figure 4: Comparative Instructions for Case Processing Time Questionnaires**

Utah’s 2010 District Court Questionnaire Instructions	Utah’s 2010 Juvenile Court Judge Questionnaire Instructions
<p>The Judicial Workload Formula Committee of the Board of District Court Judges, led by Judge Terry Christiansen, is updating the judicial workload formula. Your participation in this survey will help the judicial workload better reflect the demands on judge and commissioner time. This survey asks for your estimates on time spent on travel, specialty courts, e-warrants, and some specific case activities. These are areas of the existing workload formula identified as needing to be updated.</p>	<p><b>Introduction:</b> The Judicial Workload Formula Committee, chaired by Judge Dane Nolan, is updating the judicial workload formula to improve the Utah State Court’s understanding and tracking of <b>in-court</b> judicial processes. Your participation in the is survey will provide valuable information that is essential to the Committee’s ability to produce the most accurate and informative workload formula possible.</p> <p>Please complete the following survey and return it by May 4 to Susan Burke (email: <a href="mailto:susanvb@email.utcourts.gov">susanvb@email.utcourts.gov</a>; fax: 801-578-3843).</p> <p>If you have any questions regarding the survey, please contact Ray Wahl (phone: 801-578-3812; email: <a href="mailto:rayw@email.utcourts.gov">rayw@email.utcourts.gov</a>).</p> <p><b>Methodology:</b> The committee will be using two methods to arrive at the final workload formula. This survey utilizes the Delphi method whereby experts on a system are surveyed and their collective responses calculated. The committee will also review a random sample of digital recordings.</p> <p>Instructions and Suggestions: This survey relies upon your best estimates of time spent. To complete this survey, it may be helpful to consult with your clerk and/or involve attorneys that appear frequently in front of you.</p> <p>If the spaces provided below, please indicate in minutes the amount of time you spend in each of the following hearings. For delinquency cases, include the amount of time spent through disposition. For child welfare cases, include the amount of time spent per listed hearing type.</p> <p>Note: Please indicate your court time only. If you digitally sign and produce orders in court, include that time in your estimates and note that below. Do not include time spent preparing for hearings outside of court.</p>

**Respondents and response rates.** There is no clear indication regarding how many judges are asked to participate in any given survey, nor what the corresponding response rates are. As noted earlier, the 2019 methodology report indicates that the AOC surveys a group of respondents within their domain of expertise, but it is not clear how “expert” judges are selected. In a 2012 PowerPoint presentation, reporting indicates that 22 juvenile court judges responded to the survey, and a review of authorized judges for that year indicates that there were 32.59 judges. This indicates an adequate response rate of 67.5%; in the 2010 report on the



updated juvenile judges' weighted caseload formula, all juvenile court judges were surveyed, and 88% responded. Similarly, in a 2011 PowerPoint presentation, 54 district court judges reportedly responded to the survey. Models from that time period indicate there were 80.5 district court judges, so there was a 67.1% response rate. These response rates are sufficiently strong as to not have concerns about reliability; however, this information should be clearly documented any time surveys are conducted.

**Which weights get updated?** In the district court weighted caseload model there are well over 100 case types for which case weights have been developed; that number is significantly less for juvenile court, where the number of case types has ranged from 12 to 27. It is clear that periodic updating of case weights occurs; what is not clear is which criteria drive those changes. Furthermore, how did so many case weights originally get computed for the district court? There are simply too many to have derived weights from an initial survey process. Throughout this review, various memos were found that noted a need to update certain weights, but the memos never included the reasons for the updates. For example, a partial excerpt from a 2010 memo to the District Court Judicial Weighted Caseload Committee (*District Court Judicial Weighted Caseload 2010 Notes.doc*), the author states the following:

"I've completed a review of the existing district court weighted caseload to identify areas that may need attention. I have included my observations as well as concerns noted in the weighted caseload document prepared by Judge Memmott, Second District Court.

Attached is a list of current case weights with notes on weights. Other areas in the current weighted identified as needing review include:

- 1) travel time
- 2) time for specialty court overhead (hearings and staffings)
- 3) time spent on e-warrants is not included

Other

- 1) Orders to show cause in criminal and domestic cases were raised as work that was not being counted. Tim Shea has indicated that time was factored into the original criminal and domestic case weights.
- 2) Tax court cases that were transferred from one district to another were identified as not being counted. The transfer process should result in that case being counted in the receiving court as well. A review of all tax court case filed in the last 2 years showed these cases were counted in the receiving district.
- 3) Extradition counts were identified as not correlating with experience in 2<sup>nd</sup> district. This requires more research."

Below this, in the memo, is a listing of a number of case types, with their corresponding case weights, some containing notes (a sample of these is displayed below). While it is clear that the 2010 survey included questions about the issues raised above, it is unclear whether any adjustments were made to the other cases identified in the memo, such as those listed below.

Cohabitant Abuse	10	The accuracy of this case weight was called into question in the Memmott memo. I've pulled a few case histories to help the committee decide how to proceed.
Conservatorship	30	In 2007(ish), emphasis was placed on post-appointment requirements: status reports and annual accountings. This has affected

		clerical workload greatly. Has it affected judicial work in a significant way?
Contempt	35	<p>These cases are filed primarily in 1<sup>st</sup> Dt and Weber Cty District Ct. to calendar OSC hearings for non-appearance for jury service. The case weight of 35 minutes is an artifact of this activity once being counted under the Miscellaneous Civil case type.</p> <p>The weight needs to be revisited. Discussion as to whether there is a better way to get at this work that is more equitable across districts might also be appropriate.</p>

To maintain credibility in, and objectivity of the model, the AOC should consider updating case weights on a regular basis, for example, by selecting ten or twenty case types each year for updates. These could include two or four case types, each, within the civil, family, criminal, juvenile and probate categories, for example. A panel of experts could be named to address each case type so as to not overburden any single judge with too many questions. This would allow for constant updating of the case weights and could alleviate any potential illusions of case weight revisions for personal reasons. Of course, if new case types are created, or significant case processing or legislative changes are made that would impact case weights, these should be updated as well. The AOC should also look at the number of district court case types that are used in the models. The number currently used is quite excessive compared to most states, and this might add unnecessary complexity to the model and process of determining judicial officer need. To begin, the AOC could look at case types within a broad category, such as criminal cases, to determine whether case type groupings, such as violent felonies and non-violent felonies can be created.

### Recommendations

- The AOC should consider conducting a validation hearing start and stop time stamp process across court locations for a variety of hearing and case types by observing hearings and manually tracking start/stop times. If the hearing times contained in the case management system are accurate, the AOC could consider not relying on surveys to estimate judges' time for this activity, and simply rely on the surveys to address out-of-court work.
- The AOC should consider employing directed expert groups (e.g., civil case experts, family case experts, etc.) to act as consensus groups when case weights are revised.
- If the AOC continues to use the modified Delphi methodology to update case weights, they should consider providing additional instructions that include the reason for the survey and guidance for judges on how to direct their attention to "average" cases. The instructions could even suggest that judges time their activities for a short period of time so that their responses are grounded in recent experience and not just based on non-directed memory. The questionnaire used in the 2010 juvenile judicial weighted caseload update provides a very good template that could be replicated.

- To maintain credibility in, and objectivity of the model, the AOC should consider updating case weights on a regular basis, for example, by selecting ten or twenty case types each year for updates. These could include two or four case types, each, within the civil, family, criminal, juvenile and probate categories, for example. A panel of experts could be named to address each case type so as to not overburden any single judge with too many questions. This would allow for constant updating of the case weights and could alleviate any potential illusions of case weight revisions for personal reasons.
- If new case types are created, or significant case processing or legislative changes are made that would impact case weights, these should be updated as well.
- The AOC should also look at the number of district court case types that are used in the models. The number currently used is quite excessive, compared to most states and this might add unnecessary complexity to the model and process of determining judicial officer need. To begin, the AOC could look at case types within a broad category, such as criminal cases, to determine whether case type groupings, such as violent felonies and non-violent felonies can be created.

## Case and Event Frequency, Distribution and Filings

The final elements of a weighted caseload study include counting the number of cases filed. Ultimately the case counts are multiplied by the case weights to obtain the expected judicial workload. This in turn, when measured against the time a judge has to engage in case work (the standard judge year value), produces the number of judges needed to process that work.

Case and event counts are strong elements of the Utah model, because they are based on consistent and accurate data elements that are relatively easy to extract. Within the AOC's case management systems (CORIS in district court, CARES in juvenile court), each case filed is assigned to a particular case type. In the district court, this appears to be a straightforward process. The case type is determined by the plaintiff or petitioner. Twice annually, a query is run within the case management system's database to obtain case counts and, where necessary, event counts, or event frequency. These queries can be saved and used to obtain the case and event frequency counts annually. Presumably, this query only needs to be tweaked when there is a new case type or when a case type moves from the juvenile court to the district court, or vice versa.

In the juvenile court, the query is slightly more involved, because each case represents a single child and represents either a referral or an incident specific to the case. As described in the 2019 methodology report "Event counts are derived from data base queries of the CARE case management system. There are primarily three types of counting used to determine workload events in Juvenile Court. They are:

1. Incidents - Offense frequency counts. Counts all incidents (offenses, charges or counts) reported for each youth. The "offense" and associated "statute" terms are used interchangeably.
2. Incident of Record (IOR) - Referral frequency counts. Counts the most serious incident (offense, charge or count) of a single intake referral (episode). The "Incident of Record" (IOR) and "referral" terms are used interchangeably.
3. Hearings - Counts of hearing types that have occurred (not rescheduled).

Event counts are broken into several categories based on the amount of judicial time they take. The file ratio indicates the percentage of referrals requiring judicial involvement (percent petitioned). The admit/deny ratio is calculated from the number of hearings associated with each category (P. 10).” Again, this query seems well reasoned and straightforward; however, the filing ratio seemingly should change annually, based on the data, which it doesn’t. Similarly, the admit/deny ratios have remained relatively constant, with only a few changes over the years. Since the filing ratio and admit/deny rates are simple calculations, based on empirical data, they should be updated annually to maintain a closer alliance to the data.

Over the years, the judge need has fluctuated in both the district and juvenile courts. This is likely a function of both the case counts, which are decreasing in the juvenile court and could also be impacted by the standard filing ratios and admit/deny rates discussed above. The AOC should consider using a three-year average of filings, filing ratios and admit/deny rates as the basis against which the model is developed. Applying three-year averages of these metrics could smooth out the inconsistencies experienced with the juvenile court model, particularly in recent years.

#### Recommendations:

- Since the filing ratio and admit/deny rates are simple calculations, based on empirical data, they should be updated annually to maintain a closer alliance to the data.
- The AOC should consider using a three-year average of filings, events, filing ratios and admit/deny rates as the basis against which the model is developed. Applying three-year averages of these metrics could smooth out the inconsistencies experienced with the juvenile court model, particularly in recent years.

### Judicial Weighted Caseload Model

Once all of the data elements have been updated, the formula on which the judicial weighted caseload model is built is relatively simple. Figure 5 presents an explanation of the case weight computation; Figure 6 presents each key variable and computation used to determine judicial need; the column to the right of the written explanation in each of the two figures displays how the computations look, numerically.

**Figure 5: Case Weight Development Computation**

Model Variable	Description of Computation	Numerical Computation
<b>Case Weight</b>	Jury Trial Minutes + Bench Trial Minutes + Hearing Minutes	26 + 9 + 173 = 209 minutes per case

**Figure 6: Judicial Workload/Judicial Need Computations**

Model Variable	Description of Computation	Numerical Computation
<b>Annual Judicial Workload (total needed minutes)</b>	Case Weight x Case Filings for each case type	405,722
	Annual Judicial Workload	405,722
<b>Judicial Officers Needed</b>	÷ Standard Judicial Year Value – Travel Time	÷ 90,180 <sup>5</sup> = 4.50 judicial officers

<sup>5</sup> Standard year value minus travel equals 92,400 – 2,200 = 90,180 minutes available for case-specific work annually.

<b>Authorized Judicial Officers</b>	Number of Current Judicial Officers Authorized per Judicial District	4.34
<b>Need Exceeds Authorized Judicial Officers</b>	Judicial Officers Need	4.5
	-	-
	Authorized Judicial Officers	4.34 = .16
<b>Caseload as a % of Standard</b>	Total Needed Minutes per Judicial Officer = (Judicial Workload ÷ Authorized Judicial Officers)	(405,722 ÷ 4.34) = 93,496
	÷	÷
	Standard Judicial Year Value	90,180 = 103%

The computations are conducted individually, for each judicial district and, as described earlier in this report, the standard year value varies across judicial districts, based on the individual districts' travel requirements. In short, the need for judicial officers in each judicial district is determined by:

- (1) Multiplying the case weight for each of the case types in the workload assessment model by the most recent annual number of filings for each of those case types, which yields the total estimated number of judicial work minutes required to handle the case-related workload in the judicial district;
- (2) Dividing the result in step one by the average available time (minutes) judges have available for case-related work, which varies by district due to differences in the average amount of judicial travel time;
- (3) The result in step two yields the number of full-time equivalent (FTE) judicial officers needed to handle the case-related work in the judicial district;
- (4) Subtracting the judicial officers needed obtained in step three from the number of authorized judicial officers per district produces the number of FTE judicial officers over/under the current number of judges per judicial district;
- (5) Finally, the percentage of work above or below one FTE is expressed by first determining the average number of minutes each judge would be required to work, given no additional staffing. This is expressed by dividing the annual workload, determined in step one by the number of authorized judicial officers. The product of that equation is then divided by the standard judicial officer year value for each judicial officer; the product of this calculation is the percent of work each judicial officer is expected to undertake as a percentage of one FTE. For example, 103% means that judicial officers in a judicial district are expected to work 3% over the capacity of a judicial officer FTE.

The computations used to compute both the average case weights, judicial need and the diagnostic variables used to determine the threshold of need (*need exceeds authorized judicial officers* and *caseload as % of standard*) are standard computations used to determine judicial officer need and needs assessment threshold metrics, and no recommendations for change are offered at this time.

## Policy Issues and Considerations

The AOC develops two weighted caseload models for each staffing entity twice each year. Preliminary results are completed in mid-May, using filings from the previous 12 months. Results are provided to trial court

executives (TCEs) and the Boards of District Court and Juvenile Court Judges for budget prioritization. This gives TCEs and the Boards of Judges time to review the numbers for planning purposes and allows the branch to estimate potential judgeship needs (and for prioritizing these needs) for the next fiscal year. *Final results* are completed each July, using filings from the previous fiscal year (July 1-June 30). Results are provided to the Judicial Council for budget prioritization. This two-step process, though apparently somewhat time consuming allows for the Judicial Council, TCEs and the AOC to use preliminary numbers for planning purposes, thus preventing any major surprises in staffing needs that might otherwise exist if only a single set of needs models were developed closer to the budget request deadlines. This practice should definitely continue.

The judicial branch has established a threshold system to determine when new judgeships should be requested based on the judicial weighted caseload model. Prior to 2019, a threshold of 130% of the standard workload for a year was used by court administration to trigger the need for additional judgeships. That is, if the *Caseload as % of Standard* metric was 130% or above, an additional judgeship would be requested. In 2018, concerns were raised that the application of this static metric was not a suitable benchmark, because the addition of a new judicial officer position impacts this metric in significantly different ways, given the varying bench sizes of districts. For example, as shown in Figure 7 below, consider a scenario in which a judicial district has two authorized judges, and they are at 130% above standard. If one judge is added to that district, they move to 87% of the standard for all three judges. Alternatively, if a judicial district has 10 judges and they are at 130% above standard, adding one judge only reduces their workload standard to 118%. Given this disparity, the Judicial Council adopted a graduated range of workload standards to be applied to the judicial need model from FY 2019 and beyond, as shown in the Figure 7 below. Using this approach, the addition of a judicial officer resource will not cause a district to fall outside of 90% – 110% of the standard workload/standard work year.

**Figure 7: Revised Thresholds for New Judicial Officer Requests Beginning FY 2019**

Number of Judges in Judicial District	Target % of Standard	% of Standard with 1 Additional Judge	% of Standard with 2 Additional Judges
1 to 4	130%	65%-104%	43%-87%
5 to 6	125%	104% - 107%	89% - 94%
7 to 10	120%	105% - 109%	93% - 100%
11 to 19	115%	105% - 109%	97% - 104%
20 to 50	110%	105% - 108%	100% - 106%

The use of a threshold to prioritize judicial officer need is a reasonable approach to requesting judicial officer positions and adjusting them in the manner above adequately addresses the concern raised regarding the disproportional impact of staffing thresholds, given the size of the bench.

**Documentation.** The joint Boards of District Court/Juvenile Court Judges’ and AOC’s weighted caseload project has been ongoing for over twenty years in Utah; however, in the documents provided for this review only one report providing documentation on the methodology was included in those materials, and that report is incomplete and has no attribution as to the report’s author. Periodic notes and memos were also included in the material, but they generally are not detailed enough to determine the reasons for model changes. Currently, the only “official” document that accompanies the final weighted caseload model is a *Transmittal Letter* from the Director of Court Services to the State Court Administrator. This letter provides a very brief

overview of the goal of a weighted caseload study, then indicates the changes in judicial officer need from the previous year.

Detailed documentation of how weighted caseload studies are conducted annually is important for a number of reasons. First, documentation ensures that the process of updating weighted caseload models will be done consistently from year to year, or if processes are changed, documenting those changes will memorialize the changes, as well as the underlying reasons for making them. Second, documenting the process could actually streamline the work, as potentially repetitive processes could be eliminated. For example, when data queries are made, if no changes have been made, the analyst should simply be able to use the query from the previous use; if changes have been made, the documentation will allow that employee to identify the change, incorporate it into the query and submit the query for data extraction. Third, documentation of the process allows the organization to train new employees on the process and, thus, not rely on the institutional knowledge of one or more employees who have been intimately involved in the process. When thoroughly documented, the knowledge is not lost in the face of planned or unexpected employee absences or turnover.

The AOC should document each step of the process for updating the weighted caseload models annually. The documentation should include sufficient detail that would allow someone else to repeat the process with minimal additional explanation. All steps of the process should be identified, with a brief description of each step. If steps 1, 2 and 3 are identical to the previous year's project, simply cut and paste those steps into the new document. The 2010 *Juvenile Judicial Workload Formula* report offers a good example of documentation that could easily be built upon. When changes are made to any step in the process, they should be documented and explained, including what the change was and the reason for making the change. For example, if the committee believes three case types should be updated, the reasons for the update should be explained and the outcome should be presented (i.e., the difference in the case weight from the previous year). All relevant data associated with the model development, such as data queries, survey findings, etc. should also be kept in an easy-to-find location.

The AOC is to be commended for seeking this independent, third-party review of their weighted caseload model development and process. From the documentation reviewed, it appears that the weighted caseload work has been solely conducted within Utah's judicial branch. Again, as commendable as it is that the branch has developed a relatively sophisticated system which has been maintained for nearly 20 years, there is the potential to become tunnel-visioned and to appear to be self-serving, rather than seeking to be good stewards of state funds. This is not to say that a state's AOC cannot credibly produce their own weighted caseload models, but periodic reviews are a good idea to ensure that credibility. In the future, the AOC should seek periodic third-party reviews of their process, especially when new weighted caseload methodology and processes, or other significant changes are being contemplated.

## Recommendations

- The AOC should continue its practice of developing two models; a preliminary model for planning, and a final model, using the most recent fiscal year's data (or a three-year average) that can be used to make budget requests.
- The AOC should document each step of the process for updating the weighted caseload models annually. The documentation should include sufficient detail that would allow someone else to repeat

the process with minimal additional explanation. All steps of the process should be identified, with a brief description of that step.

- The AOC should seek periodic third-party reviews of their weighted caseload methodology and process, especially when new processes, or other significant changes are being contemplated.

## Conclusion

The review of the judicial weighted caseload study process and model development was conducted by the NCSC at the request of the Utah Administrative Office of the Court's Court Services Division. Simply making this request indicates the desire of the AOC to generate weighted caseload models that use the best methodological approaches and that maintains consistency and credibility. Again, the NCSC commends the AOC for requesting this external review.

While this review offers several recommendations that could be undertaken to improve and/or to validate the results, it is by no means indicating that the current approaches are without merit. With a few exceptions, the judicial weighted caseload models reviewed have maintained a remarkable consistency over the years. The AOC and the Judicial Workload Formula Committees have taken the process of updating the models seriously over the years and have generally focused on the right areas when certain model elements no longer appeared to be accurate.

The recommendations presented below are offered as a means of strengthening the judicial weighted caseload models. The recommendations can be applied to the other workload study groups as well (e.g., justice courts, court staff and probation officers).

## Recommendations

Weighted Caseload Model Components:

### *Standard Year Value*

- The AOC should consider periodically reviewing the standard year value, either through the use of a judicial panel of experts or through the use of a survey to determine the average number of days worked by judicial officers. Specific areas to review include the number of days taken for vacation and illness. In the NCSC's experience, most states set 25 as the average number of vacation days, and sick leave is usually set at approximately 10 days. Most states base these averages on actual time that is available to be taken by senior level employees.
- The AOC should consider reducing the speed by which the number of miles is divided by 60 mph to either 50 or 55 mph. This change reflects the fact that a good portion of between courthouse travel is not conducted on highways. The AOC should also consider periodically validating the mileage deduction data by quantifying travel reimbursement logs for each judicial district.
- The AOC should refine the travel-related questions and instructions in the next round of updates on standard year value and travel-related time.



### *Case and Event Weights*

- The AOC should consider conducting a validation hearing start and stop time stamp process across court locations for a variety of hearing and case types by observing hearings and manually tracking start/stop times. If the hearing times contained in the case management system are accurate, the AOC could consider not relying on surveys to estimate judges' time for this activity, and simply rely on the surveys to address out-of-court work.
- The AOC should consider employing directed expert groups (e.g., civil case experts, family case experts, etc.) to act as consensus groups when case weights are revised.
- If the AOC continues to use the modified Delphi methodology to update case weights, they should consider providing additional instructions, that include the reason for the survey and guidance for judges on how to direct their attention to "average" cases. The instructions could even suggest that judges time their activities for a short period of time so that their responses are grounded in recent experience and not just based on non-directed memory. The questionnaire used in 2010 juvenile judicial weighted caseload update provides a very good template that could be replicated.
- To maintain credibility in, and objectivity of the model, the AOC should consider updating case weights on a regular basis, for example, by selecting ten or twenty case types each year for updates. These could include two or four case types, each, within the civil, family, criminal, juvenile and probate categories, for example. A panel of experts could be named to address each case type so as to not overburden any single judge with too many questions. This would allow for constant updating of the case weights and could alleviate any potential illusions of case weight revisions for personal reasons.
- If new case types are created, or significant case processing or legislative changes are made that would impact case weights, these should be updated as well.

### *Case and Event Frequency, Distribution and Filings*

- Since the filing ratio and admit/deny rates are simple calculations, based on empirical data, they should be updated annually to maintain a closer alliance to the data.
- The AOC should consider using a three-year average of filings, events, filing ratios and admit/deny rates as the basis against which the model is developed. Applying three-year averages of these metrics could smooth out the inconsistencies experienced with the juvenile court model, particularly in recent years.

### *Policy Issues and Documentation*

- The AOC should continue its practice of developing two models; a preliminary model for planning, and a final model, using the most recent fiscal year's data (or a three-year average) that can be used to make budget requests.
- The AOC should document each step of the process for updating the weighted caseload models annually. The documentation should include sufficient detail that would allow someone else to repeat the process with minimal additional explanation. All steps of the process should be identified, with a brief description of that step.
- The AOC should seek periodic third-party reviews of their weighted caseload methodology and process, especially when new processes, or other significant changes are being contemplated.

# Tab 7

## Agenda



## Administrative Office of the Courts

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

February 19, 2021

Hon. Mary T. Noonan  
State Court Administrator  
Cathy Dupont  
Deputy Court Administrator

March 12, 2021 Consent Calendar –

Pursuant to Code of Judicial Administration Rule 3-411 Grant Management sections 1 (F) and 1 (J), we seek approval by the Judicial Council of the acceptance of \$180,000 in Justice Assistance Grant (“JAG”) funds from the Commission on Criminal and Juvenile Justice (“CCJJ”) – see attached document A.

These funds will be used to cover costs related to H. B. 206 from the 2020 Legislative session – as further set forth in the Court’s carryforward funding request *IT Costs to Implement FY 2020 Legislation* (see attached document B, page 2, top of right-hand column). The carryforward spending request was approved in the June 22, 2020 Judicial Council for \$288,900 with a stipulation that \$180,000 of additional funds to address H. B. 206 would not be requested from carryforward funds pending a reply from CCJJ on our request for a \$180,000 grant. Document A represents the \$180,000 CCJJ grant which was successfully obtained.

We request Judicial Council authorization to accept the \$180,000 in CCJJ JAG grant funds.

*Jordan Murray*  
AOC Grant Coordinator

*Karl Sweeney*  
AOC Finance Director

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.



Spencer J. Cox  
Governor  
Deidre Henderson  
Lieutenant Governor

# State of Utah

## Commission on Criminal and Juvenile Justice

Tom Ross  
*Executive Director*

Utah State Capitol Complex, Senate Building, Suite 330 • Salt Lake City, Utah 84114  
801-538-1031 • Fax: 801-538-1024 • [www.justice.utah.gov](http://www.justice.utah.gov)

February 5, 2021

Keisa Williams  
Utah Administrative Office of the Courts

Dear Ms. Williams,

It is my privilege to inform you that the Utah Commission on Criminal and Juvenile Justice (CCJJ) has approved an award from the **Justice Assistance Grant Program (JAG)** in the amount of **\$180,000**. Please use the assigned grant number, **19A71**, in all correspondence regarding this project. The award period is from **October 1, 2020 through September 30, 2021**.

By accepting this award, you assume certain administrative and financial responsibilities including the timely submission of all financial and programmatic reports, and resolution of all audit findings. Should your organization not adhere to the terms and conditions of this award, it is subject to termination for cause or other administrative action as appropriate. For these reasons, I encourage you to read the Certified Assurances and Grant Conditions, as they summarize important grant management issues.

All CCJJ grants are based on the reimbursement of actual costs. No funding will be provided up-front. Also, do not begin spending funds prior to the start date of your award or on any item not approved in your grant budget or an approved grant adjustment.

Please note that Narrative Progress Reports, Financial Status Reports (FSR), and Program Income Reports (where applicable) are due quarterly. Instruction and general reporting information will be provided each quarter.

Note that all project-related materials and accounting records must be maintained for a period of three years from the date of your last financial status report, unless an audit has been initiated or unresolved audit findings remain. All records must be maintained until the audit findings are resolved.

If you have any questions regarding this award, please contact Richard Ziebarth at (801) 538-1812 or e-mail [rzebarth@utah.gov](mailto:rzebarth@utah.gov). We look forward to working with you in the months ahead.

Sincerely,

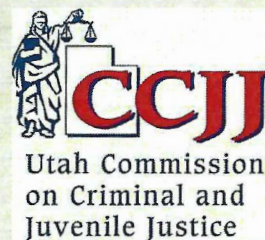
Tom Ross  
CCJJ Executive Director





**State of Utah**  
**Commission on Criminal and**  
**Juvenile Justice**

Utah State Capitol Complex  
 East Office Building, Suite E330  
 Salt Lake City, Utah 84114-2330  
 Ph: (801) 538-1031  
 Fax: (801) 538-1024



**Justice Assistance Grant (JAG)**

**CCJJ Grant # 19A71**

**1. Your Agency Name and Address:**

**Utah Administrative Office of the Courts**  
**450 S. State Street**  
**Salt Lake City, UT 84114**

**2. Agency Contact (Grant Project Director):**

**Keisa Williams**

**3. Phone Number:**

**385-227-1426**

**4. E-mail Address:**

**keisaw@utcourts.gov**

**5. Grant Start Date and End Date:**

**10/1/2020 through 9/30/2021**

**6. Federal Tax Identification Number (87-\_\_\_\_\_):**

**87-6000 545**

**7. DUNS #**

**09 631 1365**

**8. INDIRECT COSTS** – New federal regulations allow you to request indirect costs. If you choose to request indirect costs it will come directly from funds you are applying for in this grant. CCJJ will not increase your grant award to cover indirect costs. If you are only requesting equipment, supplies and operating costs in this application then you will need to select option 1 - Waive indirect costs. **More information on indirect costs can be found page 13 (condition # 28) of this application.**

**Please CHECK only ONE:**

- 1) ☒ **NO**, We waive indirect costs  
 2) ☐ **YES**, MTDC Rate (\_\_\_%)  
 3) ☐ **YES**, Request 10% minimum

**9. Application Budget Summary:**

Personnel:	\$0
Fringe Benefits:	\$0
Contract Services	\$180,000.00
Equipment:	\$0
Supplies and Operating :	\$0
Travel & Training:	\$0
Indirect Costs	\$0
<b>Total Grant Funds:</b>	<b>\$180,000.00</b>

Signatures constitute acceptance of all grant conditions and certified assurances.

**10. \*Print Name and Title of Official Authorized to Sign**

Hon. Mary T. Noonan (ret.), Utah State Court Administrator

**11. \*Signature of Official Authorized to Sign**

*Mary T. Noonan 2/5/2021*  
 Mary T. Noonan 2/5/2021 (Feb 5, 2021 07:45 MST)

**For CCJJ use ONLY**

*Tom Ross*  
 Executive Director of CCJJ

*[Signature]* 02-05-2021



**State of Utah**  
**Commission on Criminal and**  
**Juvenile Justice**

Utah State Capitol Complex  
 East Office Building, Suite E330  
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**Justice Assistance Grant (JAG)**

**CCJJ Grant # 19A71**

**1. Your Agency Name and Address:**

**Utah Administrative Office of the Courts**  
**450 S. State Street**  
**Salt Lake City, UT 84114**

**2. Agency Contact (Grant Project Director):**

**Keisa Williams**

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**385-227-1426**

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**keisaw@utcourts.gov**

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**Please CHECK only ONE:**

- 1) ☒ X NO, We waive indirect costs  
 2) ☐ YES, MTDC Rate (\_\_\_\_%)  
 3) ☐ YES, Request 10% minimum

**9. Application Budget Summary:**

Personnel: \$0

Fringe Benefits: \$0

Contract Services: \$180,000.00

Equipment: \$0

Supplies and Operating : \$0

Travel & Training: \$0

Indirect Costs: \$0

**Total Grant Funds: \$180,000.00**

Signatures constitute acceptance of all grant conditions and certified assurances.

**10. \*Print Name and Title of Official Authorized to Sign**

Hon. Mary T. Noonan (ret.), Utah State Court Administrator

**11. \*Signature of Official Authorized to Sign**

*Mary T. Noonan 2/5/2021*  
Mary T. Noonan 2/5/2021 (Feb 5, 2021 07:45 MST)

**For CCJJ use ONLY**

**Kim Cordova,**  
**Executive Director of CCJJ**



## Application Narrative

**Please address each of the following bullet points in your application (limit to no more than 5 pages):**

- Clearly identify the problem(s) to be addressed with funding from this grant (use statistics and other data where possible).
- House Bill 206 passed during the 2020 legislative session. If a magistrate determines that a financial condition of pretrial release is necessary, under HB 206, magistrates are required to consider an individual's ability to pay when determining the amount of the financial condition (Utah Code §77-20-1(4)(c)(effective October 1, 2020)). Initial release decisions are conducted via a statewide electronic probable cause (PC) system within 24 hours of an individual's jail booking following an arrest. Currently, magistrates do not have access to an individual's financial information and do not have an opportunity to speak to the defendant or to counsel within that timeframe. Without programming changes to the automated PC system, magistrates will be unable to conduct the required ability-to-pay analysis.
- HB 206 and the Judicial Council removed the monetary bail component from the charge-based Uniform Fine Schedule. Recommended financial conditions of release will no longer be tied to the old schedule. Instead, the Judicial Council developed an ability-to-pay matrix that incorporates an individual's financial information and provides a recommended monetary bail amount depending upon where the individual falls on the poverty guidelines, and accounting for the individual's risk of failing to appear in court. Currently, the PC system is auto-populated with monetary amounts pulled from the old schedule. Those amounts are no longer valid.
- HB 206 provides an exception to the ability-to-pay analysis if the magistrate issues an unsecured bond. An unsecured bond is a written agreement between the defendant and the court ("written undertaking without sureties"). The defendant would not be required to pay any money upon release from jail, but if the defendant failed to show up in court the unsecured bond could be forfeited and a judgment entered in the amount listed on the bond. The timelines and procedures for unsecured bond forfeitures are different from those for secured bonds. Currently, the court's case management system (CORIS) is only programmed to recognize secured bonds. In addition, CORIS does not include a data field to capture a defendant's email address so that a notice of bond forfeiture could be sent to a defendant electronically.
- When an individual is first fingerprinted, the State assigns that individual a State Identification Number (SID) that is linked to the individual's fingerprints. This number is unique to the individual and does not change. The SID is used to associate an individual to their state and federal criminal histories (through a correlating FBI number). The court receives SIDs from a few sources: law enforcement agencies often (but not always) submit an SID number to the court via the PC system; the Utah Bureau of Criminal Investigation (BCI) transmits SID numbers to the court electronically every hour; and prosecutors and parties could, but rarely do, provide SID numbers after a case has been initiated.
- The court stores SIDs in CORIS and if an SID is attached to a case file, CORIS automatically links the PC affidavit, pretrial release order, and pretrial risk assessment (if available) to a case file. CORIS will also link an individual to all of their cases statewide. Judges can use the SID link to better assess whether an individual poses a public safety risk or has failed to appear in previous cases. Unfortunately, the e-filing system does not include a data field for SIDs when a prosecutor files official charges to initiate a case. As a result, all of a defendant's cases may not show up in a judge's query.
- Often, individuals are released from jail only to be re-arrested on new charges within a short period of time. Because prosecutors cannot provide an SID at the time of filing, judges may have no idea that a new case is pending at the time they are making an initial release decision on a subsequent arrest. For example, an

## DOCUMENT A (cont.)

individual is arrested on 8/1, the on-call PC judge sets a monetary bail amount. The individual<sup>000088</sup> pays the monetary bail and is released from jail on 8/1 only to be picked up on a new charge a week later (8/7). A prosecutor files charges on the 8/1 arrest and opens a case. The on-call PC judge for the 8/7 arrest (different judge) clicks on the SID link but the 8/1 case doesn't appear because the e-filing system won't allow a prosecutor to include it. The 8/7 judge has no knowledge of the 8/1 arrest. If the judge knew, he/she may have determined that the individual posed a public safety risk or failed to appear in the previous case and chosen not to set a monetary bail amount a second time.

- How will you use funding from this grant to address the problem(s) you have identified?
  - All law enforcement agencies across the state have agreed to add three fields to the automated PC system: 1) gross household income, 2) number of dependents, and 3) an opt-out button if a defendant is unable or unwilling to answer those two questions. All three data fields would be transmitted to the court via the PC system, allowing magistrates to conduct an ability-to-pay analysis at the time an initial release decision is made. There would also be a link to the new ability-to-pay matrix and the monetary bail amounts tied to the old bail schedule would be removed.
  - Because an individual may refuse (or may be unable) to provide financial information at the time of arrest, judges may not always have information from which to conduct an ability-to-pay analysis - even if the above programming were completed. If unsecured bonds were an option, magistrates would still be able to comply with the requirements in HB 206. Programming changes to CORIS would create the functionality necessary for the court to file and forfeit unsecured bonds, while differentiating them from secured bonds and providing electronic notice to defendants.
  - To provide judges with complete information from which to make an informed decision about an individual's failure to appear and public safety risks, the e-filing system would be programmed to include a data field for SIDs in the case initiation screens. There are numerous e-filing service providers. The court will need to communicate with each service provider and test the changes made to each system for errors.
- Provide a time-line of project milestones for the period of your grant.

Estimated completion dates/milestones for each phase of the project:

1. Adding 3 financial information fields to the PC System: 12/21/20
2. New recommended monetary bail amounts and link to new ability-to-pay matrix: 3/31/21
3. Unsecured Bond filing and forfeitures in CORIS: 6/30/21
4. SID field in e-filing system: 9/30/21



**8 U.S.C. § 1373 Certification**

**Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE):** Each applicant must provide responses to the following questions. **It is recommended that you consult your agency legal counsel regarding the following questions**, before responding (this certification does not apply to tribal government/organization, a nonprofit organization, or a private institution of higher education).

- (1) Does your jurisdiction have any laws, policies, or practices related to whether, when, or how employees may communicate with DHS or ICE? **Yes**
- (2) Is your jurisdiction subject to any laws from a superior political entity (e.g., a state law that binds a city) that meet the description in question 1? **No**
- (3) If **yes** to either Q1 or Q2, then answer the following:
  - Please provide a copy of each law or policy.
  - Please describe each practice.

If a juvenile probation officer becomes aware of a minor's immigration or foreign national status, the probation officer may communicate with U.S. Immigration Customs Enforcement (ICE) about that minor if directed by the court or at the request of ICE.

Upon the request of a foreign national minor or if an ICE detention hold has been filed, juvenile probation officers shall notify the appropriate consulate of the minor's arrest or detention. In cases where the foreign national minor is from a mandatory notification country, the consulate must be notified of the arrest or detention even if the foreign national does not request or desire notification.

Juvenile probation officers shall inform the court when ICE has submitted a written detainer to hold a foreign national minor.

- Please explain how the law, policy, or practice complies with 8 U.S.C. § 1373.

Allows juvenile probation officers to communicate and cooperate with ICE regarding a foreign national minor.

**Complete the Budget Tables page by including cost and quantity of items to be purchased. Within each budget category, you must provide a brief narrative description of the items and explain how they will benefit your grant project.**

#### PERSONNEL

**Do not request grant funding for an employee who is already on the payroll unless the original position held by that person will be filled by a new employee.** *Salaries may not exceed those normally paid* for comparable positions in the unit of government associated with the project. The hourly rate for personnel salaries can be determined on the basis of 8 hours per day, 40 hours per week, 173.33 hours per month, or 2,088 hours per year. Paid vacation and sick leave are allowable expenditures, but *must not exceed the time that is normally allowed by the unit of government* associated with the project. All leave earned must be used or paid during the period of the grant.

**– Attach additional pages for personnel information if needed:**

Name	Title	FTE/PTE	# Hours	Hourly Rate	Total Salary
N/A					
Salary Subtotal					\$0.00

#### EMPLOYER'S SHARE OF FRINGE BENEFITS

Fringe benefits are to be based on the employer's share only. Enter the percentage of monthly rate for each fringe benefit, the total wage amount, the number of months, if applicable, and the total amount of the employer's share of benefits. Fringe benefit base wage amounts for part-time employees must be prorated according to the percentage of total time spent with each employer. "FICA," "Pension," "Health Insurance," "Workers Compensation," and "Unemployment Compensation" are matters that should be reviewed by the applicant's fiscal or personnel officer before completing this part of the application.

Fringe Benefits	% or Monthly Rate	Eligible Wage Amount or Number of Months	Total Fringe Benefits
FICA	N/A		\$0
Pension/Medicare	N/A		\$0
Health Insurance	N/A		\$0
Worker's Comp	N/A		\$0
Unemployment Comp	N/A		\$0
401K	N/A		\$0
Fringe Subtotal			\$0.00

**Personnel Narrative:** Not applicable.

#### PERSONNEL SALARIES AND FRINGE BENEFITS

Total Personnel Costs	\$0
-----------------------	-----

**CONTRACT SERVICES**

Persons with specialized skills who are not on the payroll are considered consultants. **When a consultant is known, a resume listing the consultant's qualifications and contract must accompany the application.** However, if the position is vacant and the project receives funding, this information must be forwarded to the Commission when a contract with the consultant is signed. All procurement transactions, whether negotiated or competitively bid without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. Describe the procedure to be used in acquiring the consultant (i.e., small purchase procedures, competitively sealed bids, non-competitive negotiation, etc.). **Fee justification must be provided in the budget narrative.**

Contractor Name	Services to be Provided	# of Hours	Hourly Rate	Total Cost
Rohan Tulhadar	IT Programming	1659	\$101	\$167,559
Maliha Fawad	Business Analyst/Project Management	248.8	\$50	\$12,440

**Contract Narrative:**

Two contractors with existing relationships to the courts will complete the work. One development resource and one resource to manage the project and complete all requirements analysis.

**CONTRACT SERVICES**

<b>Total Contract Costs</b>	<b>\$180,000</b>
-----------------------------	------------------

**EQUIPMENT**

Equipment is tangible, nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A recipient may use its own definition of equipment provided that such definition would at least include all equipment defined above. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide a maximum open and free competition. A competitive sealed bid process must be conducted. Sole source contracts must be approved by the Commission prior to being awarded.

**Equipment Narrative:** N/A

**EQUIPMENT**

<b>Total Equipment Costs</b>	<b>\$0.00</b>
------------------------------	---------------

**SUPPLIES AND OPERATION**

Supplies include general office supplies, cleaning, maintenance costs, training materials, books and subscriptions, research forms, postage stamps, operating expenses, and other expendable materials for the life of the project. All supply purchases covered by this grant must be necessary for the project to achieve its goals and objectives. All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide a maximum open and free competition. Purchases between \$1,000 and \$5,000:

## DOCUMENT A (cont.)

000092  
Quotes should be obtained (by phone, fax or letter) from at least two vendors. Awards must be made to vendor submitting the lowest quote meeting the minimum specifications and required delivery date. Purchases exceeding \$5,000: A competitive sealed bid process must be conducted. Sole source contracts must be approved by the Commission prior to being awarded.

<b>Supplies and Operation Narrative:</b>
--

SUPPLIES AND OPERATION	
------------------------	--

<b>Total Supplies and Operation Costs</b>	<b>\$0</b>
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### TRAVEL AND TRAINING

Briefly describe the Travel/Training costs you will pay for with JAG funds. Include your travel destination, travel purpose, cost of lodging, per diem, ground transport, airfare, etc. Travel costs (including per diem) must follow state of Utah rates unless your agency travel rates are more restrictive. See Utah State Travel Rates at:

<https://fleet.utah.gov/state-travel-a/in-state-per-diem-rates-1/>

<b>Travel and Training Narrative:</b>
---------------------------------------

TRAVEL AND TRAINING	
---------------------	--

<b>Total Travel and Training Costs</b>	<b>\$0</b>
--	------------

<b>TOTAL GRANT BUDGET</b>	<b>\$180,000</b>
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## APPENDIX 1

## GRANT ASSURANCES, CONDITIONS, CERTIFICATIONS AND REQUIREMENTS

FFY 2017

Utah Commission on Criminal and Juvenile Justice (CCJJ) Administered Federal Awards

Revised – January 2019

## I. CERTIFIED ASSURANCES AND GRANT CONDITIONS

1. The applicant assures that grant funds awarded under CCJJ administered federal funds authorized by Congress and administered by the U.S. Department of Justice - Bureau of Justice Assistance (BJA), **will not supplant State or local funds**. Federal funds must be used to supplement existing funds for program activities and not replace those funds that have been appropriated for the same purpose.
2. The applicant assures that fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Utah Commission on Criminal and Juvenile Justice (CCJJ) shall prescribe shall be provided to assure fiscal control, proper management, and efficient disbursement of federal funds received from CCJJ. Additionally, the applicant assures that it shall maintain such data and information and submit such reports, in such form, at such times, and containing such information as CCJJ may require. Failure to submit required reports by established deadlines may result in the freezing of grant funds and High Risk designation.
3. The applicant assures that it will comply with State of Utah travel rates and policies unless the grantee's home agency rates are more restrictive. Furthermore, the applicant assures that it will have and comply with written policies regarding personnel, purchasing supplies and equipment, contractual agreements, etc. If the grantee is working through a fiduciary agent, the policies of the fiduciary agent become the applicable policies with regard to expending grant funds.\* If the applicant does not currently have written policies or a fiduciary agent the general policies adopted by the State of Utah - Department of Finance must be complied with in expending grant funds.  
  
See State of Utah Travel Rates: <http://fleet.utah.gov/menu-state-travel.html>
- \*The only exception to this policy is **personnel expenditures** when the applicant agency is acting as a fiduciary in a single grant serving two or more independent agencies. According to the Fair Labor Standards Act, personnel costs including **overtime** must be paid according to each individual agency's personnel policies.*
4. The applicant certifies that the programs contained in its application meet all requirements, that all the information is correct, that there has been appropriate coordination with affected agencies and that the applicant will comply with all provisions of the **JAG** grant program and all other applicable Federal laws, regulations, and guidelines.
5. The applicant assures that it will comply, and all its contractors will comply, with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968 as amended; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990; the Violence Against Women Reauthorization Act of 2013; the Department of Justice Nondiscriminating Regulations 28 CFR Part 42, Subparts C, D, E, and G; and their implementing regulations, 41 CFR Part 60. 1 et. seq., as applicable to construction contracts.
6. The applicant assures that in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of actual or perceived race, color, national origin, religion, and sex against a recipient of funds the recipient will forward a copy of the findings to the CCJJ.
7. Subgrantees should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. In light of the Advisory for Recipients of Financial Assistance from the

## DOCUMENT A (cont.)

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U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013), available at [http://www.ojp.usdoj.gov/about/ocr/pdfs/UseofConviction\\_Advisory.pdf](http://www.ojp.usdoj.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf), recipients should consult local counsel in reviewing their employment practices. If warranted, recipients should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plans (EEOs).

8. The applicant assures that it will comply with the applicable provisions of the Residential Substance Abuse Treatment for State Prisoners grant program and the 2015 Department of Justice (DOJ) Grants Financial Guide. The 2015 Financial Guide is available in print or through the internet at: <http://ojp.gov/financialguide/DOJ/>

9. The applicant assures that it will comply with the provision of 28 CFR applicable to grants and cooperative agreements, including Part 200 of Title 2 Grants and Agreements, Office of Management and Budget Guidance for Grants and Agreements, Uniform Administrative Requirements, cost principles, and audit requirements for federal awards - [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl); Part 18, Administrative Review Procedures; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies (For more information on 28 CFR Part 23 - <http://www.iir.com/28cfr/guideline.htm>); Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 38, Equal Treatment for Faith-Based Organizations; Part 42, Nondiscrimination Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; and Part 63 Flood plan Management and Wetland Protection Procedures.

10. No subgrantee, or entity that receives a contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information. The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

11. The subgrantee must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has – (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by – mail: Office of the Inspector General, U.S. Department of Justice Investigations Division, 950 Pennsylvania Avenue, N.W., Room 4706, Washington, DC 20530; e-mail: [oig.hotline@usdoj.gov](mailto:oig.hotline@usdoj.gov); hotline: (contact information in English and Spanish): (800)869-4499; or hotline fax: (202) 616-9881. Additional information is available from the DOJ OIG website at [www.usdoj.gov/oig](http://www.usdoj.gov/oig).

12. The subgrantee agrees to comply with applicable requirements regarding registration with the System for Award management (SAM) (or with a successor government-wide system officially designated by OMB and OJP). The subgrantee also agrees to comply with applicable restrictions on subawards to first-tier subrecipients that do not acquire and provide a Data Universal numbering System (DUNS) number. The details of recipient obligations are posted on the Office of Justice Programs website at <http://www.ojp.gov/funding/sam.htm> (Award condition: Registration with the System for Award Management and Universal Identifier Requirements), and are incorporated by reference here. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

13. The subgrantee agrees to comply with all applicable laws, regulations, policies, and guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events. Information on rules applicable to this award appear in the DOJ Grants

14. The subgrantee understands and agrees that – (a) No award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography, and (b) Nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.

15. The applicant assures that it will comply with the provisions of 23 USC sections 402, 403 and 29 USC section 668 wherein any recipient agency of Federal contracts, subcontracts, and grants shall encourage adoption and enforcement of on-the-job seat belt policies and programs for their employees, contractors, and subrecipients when operating company-owned, rented, or personally owned vehicles.

16. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed Reg. 51225 (October 1, 2009), the Department of Justice encourages sub recipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

### **STANDARD ASSURANCES (Federal)**

On behalf of the Applicant, and in support of this application for a grant or cooperative agreement, I certify under penalty of perjury to the U.S. Department of Justice ("Department"), that all of the following are true and correct:

(1) I have the authority to make the following representations on behalf of myself and the Applicant. I understand that these representations will be relied upon as material in any Department decision to make an award to the Applicant based on its application.

(2) I certify that the Applicant has the legal authority to apply for the federal assistance sought by the application, and that it has the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project costs) to plan, manage, and complete the project described in the application properly.

(3) I assure that, throughout the period of performance for the award (if any) made by the Department based on the application--

- a. the Applicant will comply with all award requirements and all federal statutes and regulations applicable to the award;
- b. the Applicant will require all subrecipients to comply with all applicable award requirements and all applicable federal statutes and regulations; and
- c. the Applicant will maintain safeguards to address and prevent any organizational conflict of interest, and also to prohibit employees from using their positions in any manner that poses, or appears to pose, a personal or financial conflict of interest.

(4) The Applicant understands that the federal statutes and regulations applicable to the award (if any) made by the Department based on the application specifically include statutes and regulations pertaining to civil rights and nondiscrimination, and, in addition--

- a. the Applicant understands that the applicable statutes pertaining to civil rights will include section 601 of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); section 901 of the Education Amendments of 1972 (20 U.S.C. § 1681); and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. § 6102);
- b. the Applicant understands that the applicable statutes pertaining to nondiscrimination may include section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. § 10228(c)); section 1407(e) of the Victims of Crime Act of 1984 (34 U.S.C. § 20110(e)); section 299A(b) of the Juvenile Justice and Delinquency Prevention Act of 2002 (34 U.S.C. § 11182(b)); and that the grant condition set out at section 40002(b)(13) of the Violence Against Women Act (34 U.S.C. § 12291(b)(13)), which will apply to all awards

made by the Office on Violence Against Women, also may apply to an award made otherwise;

- c. the Applicant understands that it must require any subrecipient to comply with all such applicable statutes (and associated regulations); and
- d. on behalf of the Applicant, I make the specific assurances set out in 28 C.F.R. §§ 42.105 and 42.204.

(5) The Applicant also understands that (in addition to any applicable program-specific regulations and to applicable federal regulations that pertain to civil rights and nondiscrimination) the federal regulations applicable to the award (if any) made by the Department based on the application may include, but are not limited to, 2 C.F.R. Part 2800 (the DOJ "Part 200 Uniform Requirements") and 28 C.F.R. Parts 22 (confidentiality - research and statistical information), 23 (criminal intelligence systems), 38 (regarding faith-based or religious organizations participating in federal financial assistance programs), and 46 (human subjects protection).

(6) I assure that the Applicant will assist the Department as necessary (and will require subrecipients and contractors to assist as necessary) with the Department's compliance with section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306108), the Archeological and Historical Preservation Act of 1974 (54 U.S.C. §§ 312501-312508), and the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4335), and 28 C.F.R. Parts 61 (NEPA) and 63 (floodplains and wetlands).

(7) I assure that the Applicant will give the Department and the Government Accountability Office, through any authorized representative, access to, and opportunity to examine, all paper or electronic records related to the award (if any) made by the Department based on the application.

(8) I assure that, if the Applicant is a governmental entity, with respect to the award (if any) made by the Department based on the application--

- a. it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
- b. it will comply with requirements of 5 U.S.C. §§ 1501-1508 and 7324-7328, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

(9) If the Applicant applies for and receives an award from the Office of Community Oriented Policing Services (COPS Office), I assure that as required by 34 U.S.C. § 10382(c)(11), it will, to the extent practicable and consistent with applicable law—including, but not limited to, the Indian Self- Determination and Education Assistance Act—seek, recruit, and hire qualified members of racial and ethnic minority groups and qualified women in order to further effective law enforcement by increasing their ranks within the sworn positions, as provided under 34 U.S.C. § 10382(c)(11).

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the Applicant to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729-3730 and 3801-3812). I also acknowledge that the Department's awards, including certifications provided in connection with such awards, are subject to review by the Department, including by its Office of the Inspector General.



**GRANT CONDITIONS****1. COMPENSATION AND METHOD OF PAYMENT**

The Utah Commission on Criminal and Juvenile Justice (CCJJ) will **reimburse** the subgrantee for the federal share of approved program expenditures on a monthly or quarterly basis as financial status reports are submitted and approved up to the amount of approved federal expenditures.

**2. REPORTS**

The subgrantee shall submit, at such times and in such form as may be prescribed, such reports as CCJJ may reasonably require, including at least quarterly Financial Status Reports (FSR's), Narrative Progress Reports, and quarterly Performance Measure data. Performance Measures are mandatory and will be provided to the subgrantee by CCJJ. All reports are to be submitted to CCJJ no more than 25 days following the end of each calendar quarter. Subgrantees will have up to 90 days past the closing date of their grant award to submit a final FSR.

**3. AUDIT REPORTS**

Subgrantees are to have annual examinations in the form of audits. These audits will be **submitted to CCJJ with any Management Letters no less than one month after completion** of the audit. Local governments have **180 days** after the end of their fiscal year to complete their audits while all other subgrantees have **nine months** to complete their audit. The audits must conform with OMB Circular A-133, and **contain grant information in the Schedule of Federal Financial Assistance**. During the audit process, either the subgrantee or the auditor will **send CCJJ a verification letter to confirm grant payments**.

**4. UTILIZATION AND PAYMENT OF FUNDS**

Funds awarded are to be expended only for purposes and activities covered by subgrantee's approved project activities and budget. Project funds will be made available in accordance with provisions as prescribed by CCJJ. The subgrantee agrees to return to the CCJJ all unexpended Federal funds provided hereunder to the CCJJ within 60 days of termination of the subgrant. Payments will be adjusted to correct previous overpayment or underpayment and disallowances resulting from audit.

**5. OBLIGATION OF GRANT FUNDS**

Subgrant funds may not be obligated prior to the effective date or subsequent to the termination date of the subgrant period. Obligations outstanding as of the termination date shall be liquidated within 90 days. Such obligations must be related to goods or services provided and utilized within the grant period.

**6. CONSULTANT RATE**

Approval of a subgrantee award does not indicate approval of any consultant rate in excess of **\$650 per day**. A detailed justification must be submitted to and approved by CCJJ prior to obligation or expenditure of such funds.

**7. EXPENSES NOT ALLOWABLE**

Project funds may not be expended for: **(a) items not part of the approved budget** or separately approved by CCJJ; (b) the purchase of land; or (c) construction projects. **Expenditure of funds in excess of ten percent (10%) of the amount budgeted per budget category will be permitted only with CCJJ's prior written approval.**

**8. TERMINATION OF AID**

If through any cause the subgrantee shall fail to substantially fulfill in a timely and proper manner all its obligations, terms, covenants, conditions, or stipulations of the subgrant agreement, or substantially fails to comply with the Violent Crime Control and Law Enforcement Act of 1994 and any regulations promulgated under these laws, as determined by the CCJJ, then the CCJJ shall have the right to terminate the subgrant agreement or to suspend fund payments by giving written notice to the subgrantee of such action and specifying the effective date thereof, at least thirty (30) days before the effective date of such action. In such event, all finished and unfinished documents, data studies, surveys, drawings, maps, models, photographs and reports prepared by or on behalf of the subgrantee under the subgrant agreement shall at the option of the CCJJ, become its property, and the subgrantee shall be entitled to receive just and equitable reimbursement of any work satisfactorily completed under the subgrant agreement.

#### 9. INSPECTION AND AUDIT

CCJJ, the Department of Justice, and the Comptroller General of the United States, or any of their duly authorized representatives shall have access for purpose of audit and examinations to any books, documents, papers, and records of the subgrantee, and to relevant books and records of subgrantees and contractors as provided for in P.L. 90-351 as amended, P.L. 99-570, and the Office of Justice Programs' "Financial Guide@. The 2015 DOJ Grants Financial Guide is available in print or through the internet at: <http://ojp.gov/financialguide/DOJ/>

#### 10. PERSONAL PROPERTY

The subgrantee shall retain any nonexpendable personal property acquired with subgrant funds in the grant program as long as there is a need for the property to accomplish the purpose of the grant program whether or not the program continues to be supported by CCJJ subgrant funds. When there is no longer a need for the property to accomplish the purpose of the program, the subgrantee shall request property disposition instructions from the CCJJ.

#### 11. MAINTENANCE OF RECORDS

For purposes of state and federal examinations and audits, all financial and statistical records, supporting documents, and all other records pertinent to subgrants or contracts shall be retained for at least three (3) years after the close of the federal award from which the subgrantee's award was funded.

#### 12. WRITTEN APPROVAL OF CHANGES

**Subgrantees must obtain prior written approval from CCJJ for program changes.** These include (a) change of substance in program activities, designs, or objectives; (b) changes in the project director or key professional personnel identified in the approved application; (c) changes in the approved project budget; and (d) budget adjustments in excess of ten percent (10%) of the affected budget category.

#### 13. THIRD PARTY PARTICIPATION

No contract or agreement may be entered into by the subgrantee for execution of project activities or provision of services that is not incorporated in the approved proposal or approved in advance by CCJJ. Any such arrangement shall provide that the subgrantee will retain ultimate control and responsibility for the subgrant project and that the subgrantee shall be bound by these subgrant conditions and any other requirements applicable to the subgrantee in the conduct of the project. **CCJJ shall be provided with a copy of all such contracts and agreements entered into by subgrantees.**

#### 14. PUBLICATIONS

The subgrantee agrees to submit to CCJJ for review and approval any curricula, training materials, proposed publications, reports, or any other written materials that will be published, including web-based materials and web site content, through funds from this grant at least thirty (30) working days prior to the targeted dissemination date. Any written, visual, or audio publications, with the exception of press releases, whether published at the grantee's or government's expense, shall contain the following statements:

**"This project was supported by Grant No. 2019-DJ-BX-0079 awarded by the Bureau of Justice Assistance.**

All published material and written reports submitted under grants or in conjunction with contracts under grants must be originally developed material unless otherwise specifically provided in the grant or contract document. When material, not originally developed, is included in the report, it must have the source identified. This identification may be in the body of the report or by footnote. This provision is applicable when the material is in a verbatim or extensive paraphrase format.

#### 15. WRITTEN DESCRIPTIONS OF PROGRAMS

The subgrantee agrees that when issuing statements, press releases, requests for proposals, bid solicitation, and other documents describing projects or programs funded in whole or in part with Federal money, the subgrantee receiving Federal funds **shall clearly state (a) the percentage of the total cost of the program or project that will be financed**

**with Federal money, and (b) the dollar amount of Federal funds for the project or program.**

16. CONFLICT OF INTEREST

The subgrantee covenants that if it is a not-for-profit entity none of its officers, agents, members, or persons owning a "substantial interest" in the entity, is presently, nor during the life of this contract shall be, officers or employees of CCJJ, provided that if such persons are or become officers or employees of CCJJ they must disqualify this application and any future discussions concerning the entity making this application.

17. PROJECT DIRECTOR

There shall at all times during the life of the subgrant agreement be an individual appointed by the subgrantee as "Program Director." This individual will be responsible for program planning, operation, reporting and administration under the subgrant agreement.

18. CONFIDENTIALITY OF RESEARCH INFORMATION

Pursuant to Section 229 of the Justice System Improvements Act of 1979, research information identifiable to an individual, that was obtained through a program funded wholly or in part with BJA funds, shall remain confidential and copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. 28 CFR Part 22.

19. RELEASE OF INFORMATION

All records, papers and other documents kept by recipients of CCJJ or BJA funds, their subgrantees and contractors, relating to the receipt and disposition of such funds, are required to be made available to the CCJJ or the BJA. These records and other documents submitted to CCJJ or the BJA pursuant to application for funds, are required to be made available to CCJJ or the BJA under the terms and conditions of the Federal Freedom of Information Act, 5 U.S.C. 552.

20. PROGRAM INCOME

All interest or other income earned by the subgrantee with respect to grant funds or as a result of conduct of the grant project (asset forfeitures, sale of publications, registration fees, services charges on fees, taskforce participating agency contributions, interest income from program income, etc.) shall be deemed program income and must be tracked. Whenever possible, program income is to be used to offset grant expenses. All other program income will remain with the project or be used to reduce projects costs. Program income is subject to the same requirements as Federal grant and match monies. In the event of a subgrantee's grant project concluding for any cause, the final disposition of any and all remaining balance(s) from program income shall be left to the discretion of CCJJ as the State Administrative Agency of the grant program.

21. POLITICAL ACTIVITY

The restrictions of the Hatch Act, P.L. 93-443, 5 U.S.C. Chapter 73, Subchapter III (as amended), concerning the political activity of government employees are applicable to state and local government employees whose principal employment is in connection with activities financed, in whole or in part, by Title I grants. Under a 1975 amendment to the Hatch Act, such State and local government employees may take an active part in political management and campaigns except they may not be candidates for office.

22. COPYRIGHTS AND RIGHTS IN DATA

Where activities supported by this grant produce original computer programs, writings, sound recordings, pictorial reproductions, drawing or other graphical representation and works of any similar nature (the term computer programs includes executable computer programs and supporting data in any form), the government has the right to use, duplicate and disclose, in whole, in part, or in any manner for any purpose whatsoever and have others do so. If the material is copyrightable, the grantee may copyright such, but the government reserves a royalty-free non-exclusive and irreversible license to reproduce, publish and use such materials in whole or in part and authorize others to do so.

**23. PATENTS**

If any discovery or invention arises or is developed in course of, or as result of work performed under this grant, the subgrantee shall refer the discovery or invention to the BJA. The subgrantee hereby agrees that determination of rights to inventions made under this grant shall be made by the Administrator of BJA or his duly authorized representative, who shall have the sole and exclusive powers to determine whether or not and where patent application should be filed and to determine the disposition of all rights in such inventions, including title to and license rights under any patent application or patent which may issue thereon. The determination of the Administrator, or his duly authorized representative, shall be accepted as final. In addition, the subgrantee hereby agrees and otherwise recognizes that the Government shall acquire at least an irrevocable non-exclusive royalty free license to practice and have practiced throughout the world for governmental purposes any invention made in the course of or under this subgrant.

**24. INFORMATION SYSTEMS**

With respect to programs related to criminal justice information systems, the grantee agrees to comply with the provisions of 28 CFR, Part 20 governing the protection of the individual privacy and the insurance of integrity and accuracy of data collection. The grantee further agrees:

- a. That all computer programs (software) produced under this grant will be made available to the BJA for transfer to authorized users in the criminal justice community without cost other than that directly associated with the transfer. The software will be documented in sufficient detail to enable potential users to adapt the system, or portions thereof, to usage on a computer of similar size and configuration.
- b. To provide a complete copy of the computer programs and documentation, upon request, to BJA. The documentation will include but not be limited to system description, operating instruction, program maintenance instructions, input forms, file descriptions, report formats, program listings, and flow charts for the system and programs.

**25. PROTECTION OF VICTIMS**

- a. The subgrantee assures that it will not ask or require an adult, youth, or child victim of an alleged sex offense to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of such an offense. The subgrantee further assures that the refusal of a victim to submit to a polygraph or other truth telling examination shall not prevent the investigation, charging, or prosecution of an alleged sex offense.
- b. The subgrantee assures that it will not require a victim of sexual assault to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, or to be reimbursed for charges incurred on account of such an exam.

**26. CRIMINAL PENALTIES**

- a. Whoever embezzles, willfully misapplies, steals or obtains by fraud or endeavors to embezzle, willfully misapply, steal or obtain by fraud any funds, assets, or property which are the subject of grant or contractor or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration; or whether receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property to have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.
- c. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to the Act, whether received directly or indirectly from the Administration, shall be subject to the provisions of Section 371 of Title 18, U.S.C.

**27. JAIL "PAY TO STAY" PROHIBITION:**

No funding from this grant can be awarded to a local jail for any purpose if that jail is operating a Pay-to-Stay program.

## DOCUMENT A (cont.)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2016, are set out at <http://ojp.gov/funding/Explore/FY2016-AppropriationsLawRestrictions.htm>, and are incorporated by reference here. <sup>000101</sup>

### 28. INDIRECT COST RATE

The new Federal Uniform Guideline allows for Indirect Costs to be charged by subgrantees as part of the grant budget. According to the Guideline, one of the following options must be chosen by grantees:

Option One: If a subgrantee's operational costs are fully covered by charging these costs as administrative (direct) costs, or if the subgrantee calculates indirect costs and determines that these costs are immaterial, then the subgrantee may waive any indirect cost reimbursements.

Option Two: If a subgrantee has a negotiated Modified Total Direct Cost (MTDC)\* rate with the Federal Government, then this Indirect Cost Rate must be applied to the grant application as part of the proposal request. Proof of the negotiated rate must be submitted with the grant application.

Option Three: If a subgrantee does not have a negotiated Modified Total Direct Cost rate with the Federal Government, or if the negotiated rate has lapsed, the Guideline allows the subgrantee to request a minimum MTDC rate of 10%. **Note:** Once this option has been chosen, it must be chosen again on all future grant applications until a subgrantee negotiates a rate with the Federal Government.

**It should be noted that choosing any one of the three options above will neither detract from nor enhance the consideration of the grant proposal.**

*Modified Total Direct Costs (MTDC) are defined as all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.*

*A governmental department or agency unit that receives more than \$35 million in direct federal funding must submit its indirect cost rate proposal to its cognizant agency for indirect costs. Other governmental departments or agencies must develop an indirect cost proposal in accordance with the requirements of this Uniform Guide and maintain the proposal and related supporting documentation for audit. These governmental departments or agencies are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency for indirect costs. Where a non-federal entity only receives funds as a subrecipient, the pass-through entity will be responsible for negotiating and/or monitoring the subrecipient's indirect costs.*

## **II. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 28 CFR Part 67, Section 67.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211).

(1) The prospective lower tier participant certifies by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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### III. CERTIFICATION REGARDING LOBBYING

Each person shall file the most current edition of this certification and disclosure form, if applicable, with each submission that initiates agency consideration of such person for an award of a Federal contract, grant, or cooperative agreement.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more the \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) No Federal appropriated funds have been paid or will be paid to any public or private agency, organization, institution, or individual for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device the design or intent of which is to influence a member of Congress or any other federal, state, or local elected official to favor or oppose any act, bills, resolutions, or similar legislation or any referendum, initiative, constitutional amendment, or any similar governing body.

(3) Upon request of federal or state officials through the proper official channels, Federal appropriated funds may be used in connection with communications to federal, state, or local elected officials pertaining to authorization, appropriation of oversight measures which will directly affect the operation of the program involved.

(4) If any non-Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, **the undersigned shall initial here \_\_\_\_** and complete and submit Standard Form # LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.

(5) The undersigned shall require that the language of this certification be included in the award documents of all subawards at all tiers and that all subrecipients shall certify and disclose accordingly.

---

### IV. AUDIT REQUIREMENTS (LOCAL GOVERNMENT AGENCIES, PRIVATE NON-PROFIT & FAITH BASED ORGANIZATIONS ONLY)

The applicant agency assures that it will submit audit reports (with Management Letters) to CCJJ annually. The audit report must comply with OMB circular A-133 and be submitted to CCJJ within one month of completion of the audit.

By State code, **local governments** must complete their audit within **six months** of the end of their fiscal year; **other agencies** must complete their audit within **nine months**. During the audit process subgrantees or their auditors must send CCJJ a **confirmation letter** that verifies payments made to the grant program.

The audit will include a Schedule of Federal Financial Assistance that contains revenue and expenditure information from the grant. The following information will assist the auditors in completing the Schedule of Federal Financial assistance:

- Grant Name: **Justice Assistance Grant (JAG)**
  - Federal Grantor Agency: **U.S. Department of Justice - Bureau of Justice Assistance**
  - Federal Grantor Number: **2019-DJ-BX-0079**
  - Federal CFDA Number: **16.738**
- 

## **V. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS (STATE AGENCIES ONLY)**

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 28 CFR Part 67, Subpart F. The regulations, published in the January 31, 1989 *Federal Register*, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment (see 28 CFR Part 67, Section 67.615 and 67.620)

**The grantee certifies that it will provide a drug-free workplace by:**

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - (b) Establishing a drug-free awareness program to inform employees about--
    - The dangers of drug abuse in the workplace;
    - The grantee's policy of maintaining a drug-free workplace;
    - Any available drug counseling, rehabilitation, and employee assistance programs; and
    - The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a),
  - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant the employee will:
    - Abide by the terms of the statement; and
    - Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction;
  - (e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
  - (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--
    - Taking appropriate personnel action against such an employee, up to and including termination; or
    - Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- 

## **VI. CIVIL RIGHTS AND DISCRIMINATION POLICY REQUIREMENTS**



The applicant agency assures that it will comply with all applicable federal civil rights laws and regulations.

**Please complete the following:**

- Agency Name: Utah Administrative Office of the Courts
- Number of Persons Employed Your Agency: 120
- Federal Funds Requested with this Application: \$180,000.00

Equal Employment Opportunity Plan. The purpose of an Equal Employment Opportunity Plan (EEOP) is to insure full and equal participation of men and women regardless of race or national origin in the workforce of the recipient agency. An EEOP is a comprehensive document that analyzes that agency's workforce in comparison to its relevant labor market data and all agency employment practices to determine their impact on the basis of race, sex, or national origin.

The agency will provide an EEOP to the Office for Civil Rights, Office of Justice Programs (OCR) and the CCJJ, if it has received a single reward of \$25,000 or more. If the agency receives \$25,000 or more, unless otherwise exempt, it will maintain a current EEOP on file and submit an EEOP Certification Form to the OCR, certifying that its EEOP is on file. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption (a copy should also be submitted to the CCJJ). EEOP Certification must be submitted electronically through OJP's EEO Reporter Tool, available at <https://ojp.gov/about/ocr/eeop.htm>.

For more information on how to prepare your EEOP plan (if required) or for additional information on Civil Rights issues please visit the Office for Civil Rights (OCR) website at: <http://www.ojp.usdoj.gov/about/offices/ocr.htm>

Before your agency can be reimbursed for any expenses associated with this grant, the grant project director must first review and certify compliance with Federal Equal Employment Opportunity policies.

Please go to the following web link and review the PowerPoint presentation on Discrimination Policy Training: <http://www.justice.utah.gov/Documents/CCJJ/Grants/COMMISSIONONCRIMINALANDJUVENILEJUSTICE.ppt>

Procedures for Responding to Discrimination Complaints:

<http://www.justice.utah.gov/Documents/CCJJ/Grants/PROCEDURESFORRESPONDINGTODISCRIMINATION.docx>

The signature below certifies that the program proposed in this application meets all the requirements of the Violent Crime Control and Law Enforcement Act of 1994, that all the information presented is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with the provisions of the Crime Control Act and all other Federal laws. By appropriate language incorporated in each grant, subgrant or other document under which funds are to be disbursed, the authorized official shall assure that the applicable certified assurances and grant conditions will be complied with by their own agency and any other agency with whom they make contracts or agreements.

**SUBGRANTEE ACCEPTANCE OF GRANT ASSURANCES, CONDITIONS and CERTIFICATIONS including the 8 U.S.C. § 1373 Certification** (signing indicates that your agency has reviewed and agrees to comply with each of the grant assurances, conditions, certifications and requirements of this grant application)

**Name and Title of Authorized Official:**

Hon. Mary T. Noonan (ret.)

**Print Name**

Mary T. Noonan 2/5/2021

Mary T. Noonan 2/5/2021 (Feb 5, 2021 07:45 MST)

**Signature of Authorized Official**

Utah State Court Administrator

**Print Title**

Feb 5, 2021

**Date**



# DOCUMENT B

**9. FY 2020 Carryforward Spending Request – IT – Updated 6.18. 2020 Development Costs for Legislation passed in March 2020**

The Judicial Branch receives budget funds annually through the Legislative appropriations process. Funds appropriated for FY 2020 are normally to be spent between July 1, 2019 and June 30, 2020; however the Legislature is expected to approve that the Judicial Branch carryforward approx. \$2.5M in unspent FY 2020 funds into FY 2021. This is a request to the Budget and Finance Committee and the Judicial Council to allocate the use of some of these anticipated unspent funds for one-time or ongoing projects that will be delivered in FY 2021.

**Date:** 4/22/20

**Department or District:** Information Technology

**Requested by:** Heidi Anderson

**Request title:** Fund Legislative Bills with Unfunded Mandates

**Amount requested:** One-time \$ 288,900 (Excludes HB 206 costs seeking CCJJ grant funding). The ongoing money is added to the request to fund FY 2021 needs only.

**Ongoing** \$ 0

**Purpose of funding request:** Legislative bills are not always passed with adequate funding to implement them. Further, the June Special Legislative Session has indicated plans to reverse all fiscal notes to the funding bills passed in March 2020. The following lists the costs IT believes it will incur to implement the March 2020 legislation taking into account the repeal of fiscal notes by the June Special Session.

**Executive summary (include background/history, expected outcomes, relation to performance measures and court mission). Attach supporting data or documents.**

HB 206 – Judges must take into consideration a person’s ability to pay when setting bail. IT to build a calculator that shows amount to set by asking monthly income, family size, and rent. These program changes will cost \$180,000. ***Michael Drechsel is working with CCJJ to obtain Federal CARES grant funding for these amounts. Michael is optimistic these funds will be approved. Timing of the receipt of the funds is uncertain. These \$180,000 in costs are excluded from the request.***

Other parts of HB 2016 will require funding in excess of the amounts given by the legislature in the amount of \$90,000 one-time funding. No opportunity for grant funding on this amount.

See attachment for description of each bill and the carryforward money requested.

**Alternative funding sources, if any:** Grant money only for HB 206.

**If this request is not funded at this time, what are the consequences or is there an alternative strategy?** These projects will not be completed.

**9. FY 2020 Carryforward Spending Request – IT – Updated 6.18. 2020 Development Costs for Legislation passed in March 2020**

IT Costs to Implement FY 2020 Legislation – FY 2021

Bill	Title	(A) Brief Description – Amounts originally funded by legislature; amounts reversed shown in yellow and added to columns B,C,D	(B) One Time – needed not funded by legislature	(C) On-Going needed (provided) not funded by legislature	(D) One-time with potential other sources – not funded by legislature
HB 206 S3	Pre-trial, ability to pay; bonds	Surety bond-email; ability to pay  \$63,000 (1x) (\$13,000) (On-going)	\$27,000 \$63,000	(\$13,000)	\$180,000 (CCJJ)
HB 139	DUI Liability Amendments	\$1,400 (On-going)		\$1,400	
SB 173	Disorderly Conduct Amendments	\$41,300 (On-going)		\$41,300	
SB 32	Prisoner Offense Amendments	\$3,000 (On-going)		\$3,000	
HB 247	Unlawful Sexual Activity Amendments	\$8,300 (On-going)		\$8,300	
HB 243	Warning Label Adjustments	\$200 (On-going)		\$200	
HB 33	Abuse, Neglect and Dependency Proceedings	\$800 (On-going)		\$800	
HB 288 S1	CCJJ reporting	Twice yearly data reporting to CCJJ (defendant info);  \$33,000 (1x) \$2,400 (ongoing)	\$33,000	\$2,400	\$0.00
HB 291 S1	Vacature/human trafficking	CARE expungement at an incident level	\$90,000	\$0.00	\$0.00
HB 343	Probate - notice to Office of Recovery Services (ORS)	We need to start requiring the decedent's DOB. \$20,500 (1x) \$1,500 (on- going)	\$20,500	\$1,500	\$0.00
HB 485 S1	Security Surcharge	Increase in amounts in tables; change to computation stored procedures	\$0.00	\$0.00	\$0.00

**9. FY 2020 Carryforward Spending Request – IT – Updated 6.18. 2020 Development Costs for Legislation passed in March 2020**

		\$10,500 (1x)			
SB 238	Mitigation of severity	Battered persons - severity decrease - possible new doc type; possible new screen in sentencing area like 402;	\$9,500	\$0.00	\$0.00
<b>Totals</b>			<b>\$243,000</b>	<b>\$45,900</b>	<b>\$180,000</b>

Unfunded Mandate Grand totals including EAC fiscal notes repealed from Columns B and C (funding ongoing as one-time for FY 2021) – excluding the amounts expected to be funded by CCJJ in column D, total \$288,900 (see blue-green shaded amounts).

# Tab 8

Agenda



## Administrative Office of the Courts

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

February 16, 2021

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: Committee Membership -Uniform Fine Committee**

---

Standing Committee Vacancy in Question: Uniform Fine Committee

Reason for Vacancy: Justice Court Judge Mike Junk's three year term ended in December 2020

Eligibility requirements: Rule 1-205 states the Uniform Fine/Bail Schedule Committee shall consist of one district court judge who has experience with a felony docket, three district court judges who have experience with a misdemeanor docket and four justice court judges. Rule 1-205 requires a district judge from either district two, district three or district four.

Current committee member list: Hon. David Hamilton, Chair (Second District Court), Hon. Brian Brower (Justice Court), Hon. Carpenter (Justice Court), Hon. Patrick Corum (Third District Court), Hon. Linda Jones (Third District Court), Hon. Jennifer Valencia (Second District Court), Vacant (Justice Court)

Recommendation: The Board of Justice Court Judges recommends that Judge Michael Junk serve a second term on the Uniform Fine Committee. Judge Junk has expressed his willingness to serve another term.

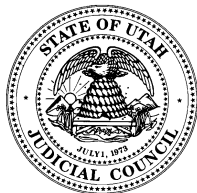
Thank you for your consideration,

Shane Bahr  
District Court Administrator

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

**JUDGE MICHAEL JUNK**

Judge Michael S. Junk was appointed to the Ogden City Justice Court in January of 2017. Judge Junk received a Bachelor of Science in Economics from Weber State University in 1984 and a Juris Doctor from the University of Utah in 1987. After law school he went on to work as the Ogden City prosecutor for over 27 years prior to being appointed to the Ogden City Justice Court. Judge Junk also teaches at Weber State University as an adjunct professor in the Business Administration department. 9/17



## Administrative Office of the Courts

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

February 9, 2021

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

### MEMORANDUM

**TO: Management Committee/ Judicial Council**

**FROM: Kara J. Mann**

**RE: Language Access Committee Appointment**

---

Currently, there is a vacancy on the Language Access Committee which must be filled by an American Sign Language representative in accordance with CJA Rule 1-205(1)(B)(ix). Michelle Draper was serving on the committee; however, she has completed her second consecutive term.

At this time the Language Access Committee is comprised of the following members:

- Judge Michael Leavitt, Fifth District Juvenile Court- Chair
- Yadira Call, Certified Court Interpreter
- Evangelina Burrows, Third District Interpreter Coordinator
- Amine El Fajri, Certified Court Interpreter
- Rory Jones, Chief Probation Officer, Seventh District
- Russ Pearson, TCE, Eighth District
- Judge Michael Westfall, Fifth District Court
- Lynn Wiseman, Clerk of Court, Second District (term ending soon)
- Judge Kelly Schaeffer-Bullock, Highland Justice Court

I emailed all court approved ASL interpreters announcing the open position on the committee on March 13, 2020. I then sent a second email about the vacant position to the court approved ASL interpreters in December 2020. Through this recruitment process, the Language Access Committee has the following candidate to submit for consideration.

- Chip Royce

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efficient, and independent system for the advancement of justice under the law.



Mr. Royce's résumé is enclosed for your consideration. Additionally, Mr. Royce is not currently serving on any other committee for Utah State Courts.

Encl. Chip Royce résumé

Chip Johnny Royce

3628 Sunrise Drive

Saratoga Springs UT 84045

chipjohnny@gmail.com

801-369-9152

## EXPERIENCE

### ASL Interpreter

1990-Present

All aspects of interpreting and translating including but not limited to: Legal, medical, religious, education, technology, business, training, employment, Federal/State agencies, etc...

Legal/law enforcement experience including investigation, interrogation, deposition, mediation and all court proceedings remain confidential. Please inquire for further details and references.

### Business Consultant/Entrepreneur

1992-Present

## EDUCATION

### West High School, Torrance CA

GED

### El Camino College, Torrance CA

General Education/Liberal Arts



## AWARDS

UTRID Interpreter of the Year 2008

## LANGUAGES

Fluent in English and American Sign Language

## REFERENCES

Available upon request

Chip Johnny Royce

3628 Sunrise Drive

Saratoga Springs UT 84045

chipjohnny@gmail.com

801-369-9152

## EXPERIENCE

### ASL Interpreter

1990-Present

All aspects of interpreting and translating including but not limited to: Legal, medical, religious, education, technology, business, training, employment, Federal/State agencies, etc...

Legal/law enforcement experience including investigation, interrogation, deposition, mediation and all court proceedings remain confidential. Please inquire for further details and references.

### Business Consultant/Entrepreneur

1992-Present

## EDUCATION

### West High School, Torrance CA

GED

### El Camino College, Torrance CA

General Education/Liberal Arts



## AWARDS

UTRID Interpreter of the Year 2008

## LANGUAGES

Fluent in English and American Sign Language

## REFERENCES

Available upon request



## Administrative Office of the Courts

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

January 29, 2021

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

### MEMORANDUM

TO: Management Committee / Utah Judicial Council

FROM: Chris Talbot, Court Facilities Director

RE: Court Facilities Planning Standing Committee - Appointment of new chairperson and a new committee member

The Standing Committee for Court Facilities Planning is seeking approval to appoint a new chairperson and a new committee member to fill the vacancy left by Judge Mortensen's appointment to the Judicial Council.

The current committee members are as follows:

1. Vacant - Court of Appeals
2. Hon. M. James Brady - Fourth District Court, Provo
3. Hon. Jeffrey Noland - Second District Juvenile, Ogden
4. Hon. Jon Carpenter - Carbon County Justice Court
5. Hon. Mary Noonan - Court Administrator
6. Mark Urry - Trial Court Executive, 4<sup>th</sup> District
7. Archie Phillips - Architect
8. David McKay - Architect

Judge Mortensen, past committee chair, and I support Judge M. James Brady as a candidate for the open chairperson vacancy. Judge Brady has been a member of the committee for several years and his experience would be of great benefit to the committee as the new chairperson.

I am also seeking approval to appoint Judge Michele Christiansen Forster from the Utah Court of Appeals for a 3 year term. She has already graciously agreed to be the nominee from the Appeals Court.

Thank you for your consideration on these two new appointments to the Court Facilities Planning Standing Committee.

**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.**



## Administrative Office of the Courts

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

February 16, 2021

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

### MEMORANDUM

**TO: Management Committee/Utah Judicial Council**

**FROM: Lauren Andersen/Standing Education Committee**

**RE: Appointment to serve on Standing Education Committee**

---

Rule 1-205 (1) (1) (B) (iv) requires the Standing Education Committee to be populated by two court clerks from different levels of court and different judicial districts.

Lynn Wiseman, Clerk of Court – Second District Court, is retiring in March 2021. Melissa Kennedy, Clerk of Court – Third District Juvenile Court, has requested to be considered to fill the vacancy.

The following is her statement of interest:

To Whom It May Concern:

Since February 13, 2017, I have been employed with the Third District Juvenile Court, and, throughout my time with the Court, I have grown very comfortable with the people and job duties within the judicial workplace and environment. My intention is to spend my career with the Third District Court, and I am interested in the opportunities provided by becoming a member of the Judicial Education Committee. In my career within the court system, I have grown to love working with the Third District more than I ever anticipated when I applied for a position as a Judicial Assistant. Therefore, I am excited about this opportunity to assist the Utah Courts in their pursuit of continued education and growth, and I am confident that I will continue to meet and exceed expectations of the Utah judiciary.

In my current position as the Clerk of Court for the Third District Juvenile Court, I have become adept at handling stressful situations, working with others in developing and implementing solutions in a timely manner, and successfully managing my team. I have developed strong business relationships with attorneys, caseworkers, probation officers,

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

and other professionals who serve the judicial system. Additionally, I continue to enjoy forming professional relationships and being a part of furthering the Court's positive image.

During my career, I have consistently upheld the standards of the Court and showcased my strengths by performing a variety of tasks and functions inside and outside of the courtroom. Throughout my employment with the Court, I have advanced quickly due to my knowledge of the Court structure and its policies and procedures, my ability to handle stressful situations, and a love for the Court and the community we serve. I possess strong values and truly believe that I can assist the Judicial Education Committee as it responds to the needs of our staff and the community we serve. Over the years, I have demonstrated the ability to learn quickly and adapt to situations with ease. I have a strong work ethic and pride in myself, the district, the state of Utah and those we serve. I would enjoy the opportunity to lead others, foster growth, facilitate progression within the Court and to leverage my knowledge of the court system to assist in making sure all those involved are treated fairly, respectfully, and honestly.

I welcome the opportunity to discuss my possible position within the Judicial Education Committee with you.

Kind Regards,  
Melissa Kennedy

**Melissa Kennedy**

Clerk of Court – Third District Juvenile Court

Phone: 801-233-9619 Email: melissak@utcourts.gov

---

**Position:**

Judicial Education Committee Member

**To Whom It May Concern:**

Since February 13, 2017, I have been employed with the Third District Juvenile Court, and, throughout my time with the Court, I have grown very comfortable with the people and job duties within the judicial workplace and environment. My intention is to spend my career with the Third District Court, and I am interested in the opportunities provided by becoming a member of the Judicial Education Committee. In my career within the court system, I have grown to love working with the Third District more than I ever anticipated when I applied for a position as a Judicial Assistant. Therefore, I am excited about this opportunity to assist the Utah Courts in their pursuit of continued education and growth, and I am confident that I will continue to meet and exceed expectations of the Utah judiciary.

In my current position as the Clerk of Court for the Third District Juvenile Court, I have become adept at handling stressful situations, working with others in developing and implementing solutions in a timely manner, and successfully managing my team. I have developed strong business relationships with attorneys, caseworkers, probation officers, and other professionals who serve the judicial system. Additionally, I continue to enjoy forming professional relationships and being a part of furthering the Court's positive image.

During my career, I have consistently upheld the standards of the Court and showcased my strengths by performing a variety of tasks and functions inside and outside of the courtroom. Throughout my employment with the Court, I have advanced quickly due to my knowledge of the Court structure and its policies and procedures, my ability to handle stressful situations, and a love for the Court and the community we serve. I possess strong values and truly believe that I can assist the Judicial Education Committee as it responds to the needs of our staff and the community we serve.

Over the years, I have demonstrated the ability to learn quickly and adapt to situations with ease. I have a strong work ethic and pride in myself, the district, the state of Utah and those we serve. I would enjoy the opportunity to lead others, foster growth, facilitate progression within the Court and to leverage my knowledge of the court system to assist in making sure all those involved are treated fairly, respectfully, and honestly.

I welcome the opportunity to discuss my possible position within the Judicial Education Committee with you.

Kind Regards,

Melissa Kennedy

# Melissa Kennedy

801-233-9619 | [melissak@utcourts.gov](mailto:melissak@utcourts.gov)

## Summary

Hard working, professional, trained in the Criminal Justice field through Utah Valley University. Associates of Science received from Salt Lake Community College. Bachelors of Criminal Justice received from Utah Valley University. Leverages creative problem solving abilities in solving complex cases. Equipped with excellent judgment and reasoning.

## Highlights

- Skilled typist tested at 70+ words per minute.
- Proficient in the following computer programs: CARE, Google Platform, Windows Excel, Word Perfect, Power Point, DOS based systems
- Computer literate and able to learn new systems and procedures with ease.
- Proficient understanding of the legal process
- Email management skills
- Able to work as a team as well as individually
- Trained in the following areas
  - Homicide investigations
  - Court testimony
  - Evidence collection and preservation
  - Deadline and results-oriented
  - Crime prevention

## Accomplishments

I maintain high accuracy levels and uphold all laws and regulations within my job position. I am quick without losing focus and able to complete all tasks assigned without assistance. I perform well on a team but am able to handle duties on my own. I strive for excellence with everything I do.

## Experience

### Clerk of Court – Third District Juvenile Court

#### State of Utah

**02/2017-Current**

Management of the clerical staff for the Third District Juvenile Court. Work closely with the Presiding Judge and Trial Court Executive to ensure that all staff and processes align with the Utah State Court's mission. Ensure that the Third District Juvenile Court is following all current legislation as well as upholding standards set by the Judicial Counsel. Maintaining positive relationships with stakeholders and community leaders.

Previous experience as a Judicial Case Manager and Judicial Assistant within the Third District Juvenile Court.

### Patient Care Liaison

#### HCA – Mountain Star

**9/2016-02/2017**

Facilitate patients with locating and scheduling appointment with specialist providers and for complex procedures. Verify insurance and check for pre-authorization requirements on all cases. Comply with HIPAA regulations. Work diligently with patients across the United States. Comply with all referring provider specifications.

### Emergency Room Registrar

#### Iasis – Jordan Valley Hospital

**4/2015-9/2016**

Complete all patient registration in the emergency room. Handle insurance information and verify all account information. Comply with all HIPAA and EMTALA regulations. Provide fast and accurate service for doctors, nurses and patients to ensure that there are no interruptions in service within the emergency room.

### BGCO Phone Support Coordinator

#### Verizon

**1/2015 to 11/2015  
West Valley City, UT**

Customer support for small/medium and large scale companies. Perform troubleshooting of wireless equipment as well as help manage accounts. Responsible for self-management within specified parameters while meeting company goals. Ability to handle a fast paced environment with ever changing requests and products.



**Service Coordinator****3/2008 to 1/2015****Hydro Engineering Inc****Salt Lake City, UT**

Manage multiple employees. Maintain clients at the state level, nation level and world-wide level. Solving all customer related issues. Proficient in handling clients from a number of different backgrounds as well as overcoming language barriers. Adept at handling stressful situations with ease. Management of all return goods authorizations/maintaining a correct inventory alongside our parts department.

**Cashier, Line Manager, In Focus Supervisor, Bookkeeper, Customer****4/2003 to 6/2008****Service, Sales Representative****The Home Depot****Salt Lake City, UT**

In charge of transaction handling for multiple stores. Successful maintenance of cash flow throughout the store through bookkeeping position. Management of safety committee. Overall customer service throughout entire career with the company.

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**Education**


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**Bachelors of Science: Criminal Justice**

2014

Utah Valley University

Orem, UT

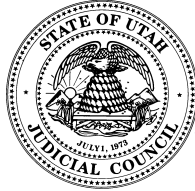
**Associate of Science: General Studies**

2010

Salt Lake Community College

Salt Lake City, UT

# Tab 9



# Administrative Office of the Courts

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

March 5, 2021

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

## MEMORANDUM

**TO: Judicial Council**

**FROM: Keisa Williams**

**RE: Rules for Public Comment**

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The Policy and Planning Committee recommends the following rules to the Judicial Council for public comment.

### **CJA 1-204. Executive committees (AMEND)**

The proposed amendments in lines 49-52 allow the Policy and Planning Committee, Liaison Committee, and Budget and Fiscal Management Committee to each determine their own schedule for electing chairs. The experience or expertise required of a chair may differ among committees, necessitating a longer or shorter term. The proposed amendment in line 58 isn't substantive. The proposed language matches that found in other rules.

### **CJA 2-103. Open and closed meetings (AMEND)**

The proposed amendment in line 77 adds the category of "safeguarded" to the list of reasons that a Council meeting may be closed. The amendment corrects an oversight. The rule wasn't updated when "safeguarded court records" were added as a classification in CJA rule 4-202.02.

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 1-204. Executive committees.****Intent:**

- To establish executive committees of the Council.
- To identify the responsibility and authority of the executive committees.
- To identify the membership and composition of the executive committees.
- To establish procedures for executive committee meetings.

**Applicability:**

This rule shall apply to the judiciary.

**Statement of the Rule:**

- (1) **Executive Committees.** The following executive committees of the Council are hereby established:
  - (1)(a) the Management Committee;
  - (1)(b) the Policy and Planning Committee;
  - (1)(c) the Liaison Committee; and
  - (1)(d) the Budget and Fiscal Management Committee.
- (2) **Management Committee.** The Management Committee shall be comprised of at least four Council members, one of whom shall be the Presiding Officer of the Council. Three Committee members constitute a quorum. The Presiding Officer of the Council or Presiding Officer's designee shall serve as the Chair. When at least three members concur, the Management Committee is authorized to act on behalf of the entire Council when the Council is not in session and to act on any matter specifically delegated to the Management Committee by the Council. The Management Committee is responsible for managing the agenda of the Council consistently with Rule 2-102 of this Code. The Management Committee is responsible for deciding procurement protest appeals.
- (3) **Policy and Planning Committee.** The Policy and Planning Committee shall recommend to the Council new and amended rules for the Code of Judicial Administration. The committee shall recommend to the Council new and amended policies, or repeals, for the Human Resource Policies and Procedures Manual, pursuant to Rule 3-402. The committee shall recommend to the Council periodic and long term planning efforts as necessary for the efficient administration of justice. The committee shall research and make recommendations regarding any matter referred by the Council.
- (4) **Liaison Committee.** The Liaison Committee shall recommend to the Council legislation to be sponsored by the Council. The committee shall review legislation affecting the

authority, jurisdiction, organization or administration of the judiciary. When the exigencies of the legislative process preclude full discussion of the issues by the Council, the Committee may endorse or oppose the legislation, take no position or offer amendments on behalf of the Council.

(5) **Budget and Fiscal Management Committee.** The Budget and Fiscal Management Committee shall review court budget proposals, recommend fiscal priorities and the allocation of funds, and make recommendations to the Council regarding budget management and budget development in accordance with Rule 3-406.

(6) **Members.** Members of the executive committees must be members of the Council. Each executive committee shall consist of at least three members appointed by the Council to serve at its pleasure. The members of the Policy and Planning Committee, the Budget and Fiscal Management Committee, and the Liaison Committee shall elect their respective chairs ~~annually and select a new chair on a schedule deemed appropriate by each Committee. at least once every two years. Chairs must be members of the Council.~~

(7) **Meetings and Judicial Council Reports.** Each committee shall meet as often as necessary to perform its responsibilities, but a minimum of four times per year. Each committee shall report to the Council as necessary.

(8) **Staff.** The Administrative Office shall ~~serve as provide the secretariat~~ staff support to the executive committees.

*Effective May/November 1, 20\_\_*

**Rule 2-103. Open and closed meetings.****Intent:**

To establish the Council's responsibility for providing public notice of its meetings and to ensure the opportunity for public attendance at Council meetings.

To establish procedures consistent with the philosophy of the Utah Open and Public Meetings Act.

To provide the Council with sufficient flexibility to close meetings when discussing matters of a sensitive nature.

**Applicability:**

This rule shall apply to all meetings of the Council.

**Statement of the Rule:**

(1) **Definitions.** As used in this rule "meeting" means the gathering of a quorum of the Council, whether in person or by means of electronic communication, for the purpose of discussing or acting upon any matter over which the Council has jurisdiction, but does not include a chance or social meeting of Council members.

**(2) Public notice of meetings.**

(2)(A) After the Council has set its annual meeting schedule, the administrative office of the courts shall publish on the court's website and on the Utah Public Notice Website the date, time and place of the meetings. At least 24 hours before each meeting, the administrative office of the courts shall post on the websites the meeting agenda and notify at least one newspaper of general circulation within the state of the postings. The administrative office of the courts shall notify a media agency of the postings by email upon request for routine notice. The Council may address a matter not on the meeting agenda but will take no final action on the matter.

(2)(B) When, due to unforeseen circumstances, it is necessary for the Council to consider matters of an urgent nature, the requirement of public notice may be suspended and the best notice practicable given. No such meeting of the Council shall be held unless:

(2)(B)(i) an attempt has been made to notify all members;

(2)(B)(ii) at least a quorum is present; and

(2)(B)(iii) a majority of those present vote to hold the meeting.

(3) **Open meetings.** Meetings of the Council are open to the public unless closed as provided in this rule.

(4) **Reasons for closed meetings.** A closed meeting of the Council may be held for discussions regarding any of the following:

(4)(A) the character, professional competence, or physical or mental health of an individual;

(4)(B) collective bargaining or litigation;

(4)(C) the purchase, exchange or lease of real property if public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(4)(D) the sale of real property if:

(4)(D)(i) public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the Council from completing the transaction on the best possible terms;

(4)(D)(ii) the Council has previously given public notice that the property would be offered for sale; and

(4)(D)(iii) the terms of the sale are publicly disclosed before the Council approves the sale;

(4)(E) deployment of security personnel or devices;

(4)(F) allegations of criminal misconduct; or

(4)(G) consideration of a private, protected, sealed, juvenile court social, ~~or~~ juvenile court legal, or safeguarded record as defined in Rule 4-202.02.

(5) **Procedure for closing a meeting.**

(5)(A) A closed meeting may be held only upon the affirmative vote of two-thirds of the members present at an open meeting for which public notice is given, provided a quorum is present.

(5)(B) The recording and minutes otherwise required by Rule 2-104 shall not be made if a meeting is closed to discuss the character, competence, or physical or mental health of an individual or to discuss the deployment of security personnel or devices. The

88 presiding officer shall sign a sworn statement, which is a public record, affirming that the  
89 sole purpose for closing the meeting is to discuss the character, competence, or physical  
90 or mental health of an individual or the deployment of security personnel, devices, or  
91 systems.  
92

93 (6) **Limit on actions at a closed meeting.** No contract, appointment, rule or resolution may  
94 be approved at a closed meeting. A contract, appointment, rule or resolution approved at an  
95 open meeting may be based upon discussions had at a closed meeting.  
96

97 (7) **Limit on discussions outside of closed meeting.** No one who attends a closed  
98 meeting may disclose information discussed or materials distributed outside of the closed  
99 meeting except with  
100

101 (7)(A) others who participated in the closed meeting, and  
102

103 (7)(B) a member of the Judicial Council.  
104

105 (8) **Right of removal.** All or any part of an open meeting may be recorded by any person in  
106 attendance, provided the recording does not interfere with the conduct of the meeting. The  
107 Council may order the removal of any person who disrupts a meeting.  
108

109 (9) **Training.** The administrative office of the courts shall annually train the members of the  
110 Council on the requirements of this rule and of Rule 2-104.  
111

112 *Effective May/November 1, 20\_\_*



# Tab 10

Agenda



## Administrative Office of the Courts

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

February 12, 2021

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:** February 12, 2021

**RE:** Proposed Probation Policies for Review and Approval

---

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 March 12, 2021.

#### ***Section 2.3 Case and Referral Transfers***

*This policy was last updated October 22, 2018. The purpose of this policy is to provide direction for the transfer of referrals and cases for youth who reside outside of the district in which an offense occurred. Updates to this policy include: changes to processes involving the transfer of referrals eligible for nonjudicial adjustment; quality assurance review processes for probation managers prior to the transfer of a case; removal of declination of a nonjudicial adjustment by a parent or guardian as a basis for the submission of a referral for prosecutorial review.*

#### ***Section 2.9 Detention Admission and Hearings***

*This policy was last updated December 17, 2018. The purpose of this policy is to provide direction to probation staff for youth placed in secure detention or a home detention program. Updates to this policy include a requirement for probation officers to review a youth's detention status as directed by statute and requirements for probation officers to coordinate with the defense attorney and the home district for cases in which a youth is booked into a detention center outside of their home district*

I will be available to respond to questions during your meeting on February 22, 2021.

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.**

## 2.3 Case and Referral Transfers

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**Policy:**

This policy provides direction for the transfer of cases and referrals for minors that reside out of the district where an offense occurs.

**Scope:**

This policy applies to all probation department staff of the Utah State Juvenile Court

**Authority:**

- [UCA 78A-6-603](#)
- [UCA 78A-6-110](#)
- [Utah Rules of Juvenile Procedure, Rule 16](#)

**Procedure:****Referral Processing**

1. The probation department shall ensure that all referrals are entered into CARE upon receipt by the court.
2. The probation department of the district where the offense occurred shall request that their prosecutor screen referrals on minors that do not reside in their district when it is necessary to determine legal sufficiency to proceed or to petition the referral.
3. The probation department of the district where the offense occurred shall send the referral to the district office email address where the minor resides for further processing of the referral.
  - 3.1. A case note shall be entered into CARE indicating the date the referral was sent, the district it was sent to, and the decision of the prosecutor of the sending district, if necessary.
    - 3.1.1. If no screening decision was made by the prosecutor prior to the sending of the referral, the sending district shall also include the prosecutor's office and attorney information in the case note in CARE, so the receiving district can complete a Request for Action in CARE if needed.
  - 3.2. If completed, the screening sheet or email from the prosecutor shall be eFiled into CARE as Probation Record Shared document type, titled *Prosecutor Screening Form/Email*.
4. The probation officer shall proceed with all referrals and cases received from another district as though the referral or case originated in their district and was screened by their district's prosecutor.

### **Nonjudicial Adjustments**

5. The probation officer shall request that the prosecutor in the county where the episode occurred review the referral when the minor:
  - 5.1. declines the offer of a nonjudicial adjustment;
  - 5.2. cannot be located; or
  - 5.3. failed to appear after receiving notice for a preliminary interview.
6. The probation officer shall submit the case to the prosecutor in the county where the episode occurred for review and direction when the minor fails to substantially comply with the nonjudicial adjustment.

### **Petitioned Offenses**

7. The probation department of the sending district shall collaborate with their clerical department regarding any cases being transferred.
8. The probation officer from the sending district office shall contact the probation department of the receiving district to notify them of the transfer.

### **Adjudicated Cases**

9. The probation officer shall, following an order by the court, notify the probation supervisor or chief probation officer of the pending case transfer. The probation supervisor or chief shall review the electronic file for quality assurance and enter a case note verifying that the case is ready for transfer.
  10. The probation department of the sending district shall collaborate with their clerical department regarding any cases being transferred.
  11. The probation officer from the sending district office shall contact the probation supervisor of the receiving district office to notify them of:
    - 11.1. the case transfer;
    - 11.2. current court orders;
    - 11.3. status of the minor's assessments/case plan; and
    - 11.4. any other pertinent case information.
  12. The probation officer of the sending district shall update the case profile screen in CARE and any other information relating to the case.
  13. The probation officer of the sending district shall provide contact information as well as any reporting instructions to the minor and the minor's parent/guardian/custodian.
-

**History:**

Approved by the Judicial Council on October 22, 2018

Updated by Probation Policy April 15, 2020

Legal Review May 19, 2020

Comment Period Ended August 3, 2020

Updated by Probation Policy December 17, 2020

Approved by Probation Chiefs January 14, 2021

Approved by JTCE group February 4, 2021

Approved by Board of Juvenile Court Judges February 12, 2021

DRAFT FOR APPROVAL

## 2.3 Case and Referral Transfers

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### Policy:

This policy provides direction for the transfer of cases and referrals for minors that reside out of the district where an offense occurs.

### Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court

### Authority:

- [UCA 78A-6-603](#)
- [UCA 78A-6-110](#)
- [Utah Rules of Juvenile Administration Procedure, Rule 16](#)

### Procedure:

#### **Referral Processing**

1. The probation department shall ensure that all referrals are entered into CARE upon receipt by the court.
2. The probation department of the district where the offense occurred shall request that their prosecutor screen ~~all~~ referrals on minors that do not reside in their district ~~to when it is necessary to~~ determine legal sufficiency to proceed, qualifications for a nonjudicial offer, or to petition the referral.
3. The probation department of the district where the offense occurred shall send the referral to the district office email address where the minor resides for further processing of the referral.
  - 3.1. A case note shall be entered into CARE indicating the date the referral was sent, the district it was sent to, and the decision of the prosecutor of the sending district, **if necessary.**
    - 3.1.1. **If no screening decision was made by the prosecutor prior to the sending of the referral, the sending district shall also include the prosecutor's office and attorney information in the case note in CARE, so the receiving district can complete a Request for Action in CARE if needed.**

- 3.2. **If completed,** ~~The~~ screening sheet or email from the prosecutor shall be eFiled into CARE as Probation Record Shared document type, titled *Prosecutor Screening Form/Email*.
4. The probation officer shall proceed with all referrals and cases received from another district as though the referral or case originated in their district and was screened by their district's prosecutor.

### **Nonjudicial Adjustments**

5. The probation officer shall request that the prosecutor in the county where the episode occurred review the referral when the minor ~~or the minor's~~ **parent/guardian/custodian:**
  - 5.1. declines the offer of a nonjudicial adjustment;
  - 5.2. cannot be located; or
  - 5.3. failed to appear after receiving notice for a preliminary interview.
6. The probation officer shall submit the case to the prosecutor in the county where the episode occurred for review and direction when the minor fails to substantially comply with the nonjudicial adjustment.

### **Petitioned Offenses**

7. The probation department of the sending district shall collaborate with their clerical department regarding any cases being transferred.
8. The probation officer from the sending district office shall contact the probation department of the receiving district to notify them of the transfer.

### **Adjudicated Cases**

9. The probation officer shall, **following an order by the court, notify** ~~obtain approval from a probation supervisor or chief probation officer prior to~~ of the pending transferring a case transfer. **The probation supervisor or chief shall review the electronic file for quality assurance and enter a case note verifying that the case is ready for transfer.** ~~The probation officer shall enter a case note documenting the date and name of probation supervisor or chief probation officer~~

~~approving the case transfer. The probation supervisor shall review the electronic file for quality assurance prior to transfer of the case.~~

10. The probation department of the sending district shall collaborate with their clerical department regarding any cases being transferred.
11. The probation officer from the sending district office shall contact the probation supervisor of the receiving district office to notify them of:
  - 11.1. the case transfer;
  - 11.2. current court orders;
  - 11.3. status of the minor's assessments/case plan; and
  - 11.4. any other pertinent case information.
12. The probation officer of the sending district shall update the case profile screen in CARE and any other information relating to the case.
13. The probation officer of the sending district shall provide contact information as well as any reporting instructions to the minor and the minor's parent/guardian/custodian.

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#### **History:**

Approved by the Judicial Council on October 22, 2018

**Updated by Probation Policy April 15, 2020**

**Legal Review May 19, 2020**

**Comment Period Ended August 3, 2020**

**Updated by Probation Policy December 17, 2020**

**Approved by Probation Chiefs January 14, 2021**

**Approved by JTCE group February 4, 2021**

**Approved by Board of Juvenile Court Judges February 12, 2021**



## **Proposed Policy Update for 2.3 Case and Referral Transfers**

### **1. Comment/Theme:**

- ❖ The policy doesn't indicate a signed order is required for a transfer after a petition has been filed or if the youth is on probation. Our clerical resources indicate a signed order is required in those instances. In the interest of consistency, I wanted to point this out. I'm not saying the clerical document is correct, just that there is a disconnect. Also, the clerical document references a few other statutes that the probation document does not. Perhaps the discrepancy lies in the definition of "the court". I know some interpret the court as the judge and some interpret it as an employee of the court. Just thought I would forward this on and ask you/your team to take a look at it and determine which would be the best direction so we can get the documents to mirror each other.

- **Policy Committee Response:** NA

- **Policy Committee Decision:** Updated paragraph #9 to add clarification about when the transfer should occur.

### **2. Comment/Theme:**

If a victim is involved, I think it would be beneficial to state which district (sending or receiving) is responsible for sending the victim packet and gathering restitution information.

- **Policy Committee Response:** We should always collaborate with the receiving district and provide updates on what's happened on the case. There may be circumstances where it will be the sending district and some where it may be the receiving. #4 indicates that the PO will handle the case as if it originated in their district, so the receiving PO will be responsible for sending the victim packet if it hasn't already been sent.

- **Policy Committee Decision:** NA

### **3. Comment/Theme:**

- ❖ Was hoping to add a time frame for the receiving district to assign a PO.

- **Policy Committee Response:** Due to varying circumstances and different processes for types of cases it may be hard to put a timeline on how long it should take for a district to assign a case. Indicating when the case timeline should start may be a challenge, such as should it be from the order, or from clerical processing, from the time the PO transfers it. Clerical best practice documents indicate that transfers should be processed within 3 days, and probation should make every attempt to assign the case as quickly as possible. Each district could review their

internal processes to see if there's something preventing cases from being assigned quickly and work within their district to address any concerns. The Policy group will let the Chiefs know that this may be an issue to consider the best way to address it.

- **Policy Committee Decision:** Policy group will let the Chiefs know that this may be an issue to consider the best way to address it.

#### 4. Comment/Theme:

- ❖ #9 I'm in agreement in having supervisors/chief's look over the case, but for adjudicated cases isn't it clerical's role in transferring the cases and adding that case note?

- **Policy Committee Response:** The clerical note is more of an administrative note to assure the transfer took place, but the probation note is for follow-up about the staffing conversation about who approved the transfer of the case. So for adjudicated cases there would be two places the transfer was documented, one by clerical and then the other by probation.
- **Policy Committee Decision:** NA

## 2.9 Detention Admission and Hearings

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**Policy:**

This policy provides direction to probation staff in regard to minors being placed in a secure youth detention facility or on a home detention program.

**Scope:**

This policy applies to all probation department staff of the Utah State Juvenile Court.

**Authority:**

- [UCA 78A-6-110](#)
- [UCA 78A-6-113](#)
- [UCA 78A-6-604](#)
- Utah Rules of Juvenile Procedure
  - [Rule 4](#)
  - [Rule 6](#)
  - [Rule 7](#)
  - [Rule 9](#)
  - [Rule 11](#)
  - [Rule 26](#)
  - [Rule 29B](#)
- [Utah Administrative Code Title R547-13 Human Services, Juvenile Justice Services, Guidelines for Admissions to Secure Youth Detention Facilities](#)

**Procedure:**

1. A minor may be admitted to a secure youth detention facility when:
  - 1.1. The minor is alleged to have committed an offense outlined in the Utah Administrative Code [Title R547-13](#)
  - 1.2. The minor is an out of state runaway ([Probation Policy Section 4.7 Interstate Compact for Juveniles](#))
  - 1.3. The Court has issued a warrant for detention
2. The probation officer shall attempt to make contact with the minor's parent/guardian/custodian prior to the detention hearing to discuss the minor's detention status.
3. The probation officer shall review the minor's detention status and determine if it is appropriate to release the minor to the minor's parent/guardian/custodian prior to the initial detention hearing.
  - 3.1. The probation officer shall eFile the Early Release from Detention/Promise to Appear form when releasing a minor prior to the initial detention hearing (see Addendum 2.9.1 Early Release from Detention/Promise to Appear Form).

4. The probation officer shall determine whether the youth has, through their attorney, waived their right to an in-person hearing in the home district and requests to appear remotely for any future hearings to be conducted by the district in which they do not reside and be prepared to provide information to the Court regarding future hearings.
  - 4.1. The probation officer shall contact the local chief probation officer and the chief probation officer in the minor's home district to request that a probation officer from the minor's home district be assigned to the case. The probation officer shall coordinate with the home district as outlined in [Probation Policy 2.3 Case and Referral Transfers](#).
5. A minor may not be held in a detention facility longer than 48 hours prior to a detention hearing, excluding weekends and holidays, unless the court has entered an order for continued detention.
6. At the time of the detention hearing, the probation officer shall provide information to the Court whether or not:
  - 6.1. Releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;
  - 6.2. Less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and
  - 6.3. An out of district minor has signed the Detention Placement Waiver form.
7. If a minor remains in a detention facility prior to disposition, a review shall be held at least every seven calendar days.
  - 7.1. At the detention review the probation officer shall provide information to the court whether or not:
    - 7.1.1. A petition has been filed within five working days of the date the minor was admitted to detention;
    - 7.1.2. An arraignment hearing has been scheduled within 10 days of the date the petition was filed.
8. The probation officer shall notify Juvenile Justice Services (JJS) when the minor is ordered into a JJS home detention program and direct the parent, guardian, or custodian to contact the program immediately upon release from detention.
  - 8.1. Following an order to home detention, only the court may release a minor from home detention.
  - 8.2. A review shall be held at least every 15 calendar days while a minor is on home detention.
    - 8.2.1. At the home detention review, the probation officer shall provide information to the court whether or not a petition has been filed within 30 days of the placement of the minor on home detention.

#### **Addendum 2.9.1 Early Release from Detention/Promise to Appear Form**

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**History:**

Approved by the Judicial Council and Effective December 17, 2018

Updated by Policy Committee March 19, 2020

Legal Review Completed May 26, 2020

Comment Period Ended August 3, 2020

Approved by Chiefs September 10, 2020

Update by Probation Policy Committee December 1, 2020

Approved by Probation Chiefs January 14, 2021

Approved by JTCE group February 4, 2021

Approved by Board of Juvenile Court Judges February 12, 2021

DRAFT FOR APPROVAL



**State of Utah, Juvenile Court**  
**Release from Detention Prior to Detention Hearing**  
**And Promise to Appear**

IN THE JUVENILE COURT OF \_\_\_\_\_ COUNTY, UTAH

State of Utah, in the interest of \_\_\_\_\_, Case Number: \_\_\_\_\_

Attention \_\_\_\_\_  
(Name of Juvenile Detention Facility)

In compliance with UCA 78A-6-113, I, \_\_\_\_\_, as an authorized officer of the Juvenile Court consider the above named minor eligible for release from detention prior to an initial detention hearing for the following reason(s):

- The minor was not placed in detention for felony offense(s).
- It appears safe for the minor, family, and community to release the minor to the supervision of a parent, guardian, or custodian. The parent, guardian, or custodian agreed to have the minor returned to their custody; **OR** there are other less restrictive nonresidential alternatives available, specifically: \_\_\_\_\_.

Additionally (Check all that apply):

- ☐ The minor is 12 years of age or younger.
- ☐ The minor was admitted to detention on a failure to appear (FTA) warrant and it appears the minor's absence from court was inadvertent and there is no history of absconding within the last 12 months.
- ☐ The minor will participate in an alternative to detention program:
  - ☐ House arrest
  - ☐ Other: \_\_\_\_\_

\_\_\_\_\_  
Signature of the Juvenile Court Officer

\_\_\_\_\_  
Date

**Promise to Appear** (Does not apply if alleged charges are eligible for a nonjudicial adjustment and a hearing is not required)

Next Court Hearing: \_\_\_\_\_ Before: \_\_\_\_\_  
Date and time Judge or commissioner

Court Location: \_\_\_\_\_  
Address

As the parent, guardian, and/or custodian of the above named minor, I promise to bring said minor to court for the above designated proceeding at the time, place and date stated. I further promise to appear in court for all other proceedings in this case whenever so directed by any notice, order, or process of the court served either by depositing the same in the United States Mail, postage prepaid, addressed to me at the above address (or such other address as I may hereafter provide the Court) or by any other means that reasonably informs me of the time, place, and date my appearance is required. I understand that if I fail to so appear, bail may be forfeited, a bench warrant may be issued for my arrest, and court proceedings may go forward in my absence.

- As my child is being released from detention prior to a detention hearing, I/we stipulate consent to participate in house arrest and follow the rules of house arrest as an alternative to detention.

I hereby acknowledge receipt of this document on: \_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of parent, guardian, or custodian

\_\_\_\_\_  
Signature of Juvenile

Signed in the presence of: \_\_\_\_\_  
Officer Of the Court

## 2.9 Detention Admission and Hearings

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### Policy:

This policy provides direction to probation staff in regard to minors being placed in a secure youth detention facility or on a home detention program.

### Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

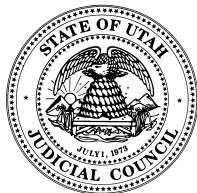
### Authority:

- [UCA 78A-6-110](#)
- [UCA 78A-6-113](#)
- [UCA 78A-6-604](#)
- Utah Rules of Juvenile Procedure--
  - [Rule 4](#);
  - [Rule 6](#);
  - [Rule 7](#);
  - [Rule 9](#);
  - [Rule 11](#);
  - [Rule 26](#)
- [Utah Administrative Code Title R547-13 Human Services, Juvenile Justice Services, Guidelines for Admissions to Secure Youth Detention Facilities](#)

### Procedure:

1. A minor may be admitted to a secure youth detention facility when:
  - 1.1. The minor is alleged to have committed an offense outlined in the Utah Administrative Code [Title R547-13](#)
  - 1.2. The minor is an out of state runaway ([Probation Policy Section 4.7 Interstate Compact for Juveniles](#))
  - 1.3. The Court has issued a warrant for detention
2. The probation officer shall attempt to make contact with the minor's parent/guardian/custodian prior to the detention hearing to discuss the minor's detention status.
3. The probation officer ~~may~~ **shall** review the minor's detention status and determine if it is appropriate to release the minor to the minor's parent/guardian/custodian prior to the initial detention hearing.

Agenda



## 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

### MEMORANDUM

**TO:** Members of the Judicial Council Management Committee

**FROM:** Neira Siaperas  
Utah Juvenile Court Administrator

**DATE:** February 8, 2021

**RE:** Proposed Probation Policies for Review and Approval

---

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 February 22, 2021.

#### **Section 4.8**

*This policy was last updated August 17, 2018. The purpose of this policy is to provide direction to the probation department in regards to fingerprinting and photographing minors. Updates to this policy include a requirement that probation officers request that all minors placed on Intake or Formal Probation be photographed and for probation officers to obtain permission from the parent to photograph the minor when the minor is under the age of 14. Updates were also made to the documentation requirements for photographs in the CARE system and to the provision regarding the release of photographs to allied agencies.*

I will be available to respond to questions during your meeting on February 16, 2021.

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.



## 4.8 Fingerprints and Photographs

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**Policy:**

This policy outlines when fingerprints and photographs of minors will be taken.

**Scope:**

This policy applies to all probation department staff of the Utah State Juvenile Court.

**Authority:**

- [UCA 78A-6-1104](#)
- [UCA 78A-6-103](#)
- [Utah Rules of Juvenile Procedure Rule 27\(a\)](#)

**Reference:**

- [Memorandum from AOC General Counsel re: Collecting DNA Samples, Photographs, and Fingerprints](#)

**Procedure:**

1. The probation officer shall recommend to the Court an order for the collection of fingerprints and photographs of any minor who, at the time of the offense, is 14 years of age or older and is adjudicated on an offense that would be a Class A misdemeanor or a felony if the minor was an adult, including offenses held in abeyance.
2. The probation officer shall ensure that fingerprints and photographs are collected from any minor ordered by the Court.
  - 2.1. The probation officer shall direct the minor to a juvenile detention facility or local law enforcement agency for fingerprinting. Upon verification that law enforcement has obtained the fingerprints, the probation officer shall create a fingerprint critical message in CARE.
  - 2.2. The probation officer shall ensure that a current photograph of the minor is added to the minor's CARE profile.
  - 2.3. The probation officer shall inform the court when the minor has previously been fingerprinted or photographed as a result of a prior adjudication or admission to a detention facility.
3. The probation officer shall request that any minor placed on Intake or Formal Probation be photographed within 30 days.
  - 3.1. The probation officer shall also obtain the permission of a parent/ guardian/ legal custodian when the minor is under the age of 14, before taking the photograph.
  - 3.2. The photograph shall be added to the minor's CARE profile.
  - 3.3. The probation officer shall document in case notes when the minor or their parent/ guardian/ custodian declines to be photographed or when they

have obtained permission from the parent/ guardian/ custodian for the photograph.

4. Photographs may be distributed or disbursed, subject to any other records access rule requirements, to state or local law enforcement agencies, the judiciary and the Department of Human Services.
5. All photographs and other records shall be sealed upon an expungement order by the Court. Fingerprint records may not be destroyed.

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**History:**

Approved by the Judicial Council on August 17, 2018

Updated by Policy Group March 19, 2020

Legal Review Completed March 19, 2020

Comment Period Ended August 3, 2020

Approved by Chiefs September 10, 2020

Approved by JTCEs October 1, 2020

Approved by BJCJ October 9, 2020

## 4.8 Fingerprints and Photographs

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### Policy:

This policy outlines when fingerprints and photographs of minors will be taken.

### Scope:

This policy applies to all probation **department** staff of the Utah State Juvenile Court.

### Authority:

- [UCA 78A-6-1104](#)
- [UCA 78A-6-701](#)
- [UCA 78A-6-702](#)
- [UCA 78A-6-103](#)
- [Utah Rules of Juvenile Procedure Rule 27\(a\)](#)

### Reference:

- [Memorandum from AOC General Counsel re: Collecting DNA Samples, Photographs, and Fingerprints](#)

### Procedure:

1. The probation officer shall recommend to the Court an order for the collection of fingerprints and photographs of any minor who, **at the time of the offense**, is 14 years of age or older ~~-(at the time of offense)-~~ and is adjudicated on an offense that would be a Class A misdemeanor or a felony if the minor was an adult, including offenses held in abeyance.
2. The probation officer shall ensure that fingerprints and photographs are collected from any minor ordered by the Court.
  - 2.1. The probation officer shall direct the minor to a juvenile detention facility or local law enforcement agency for fingerprinting. Upon verification that law enforcement has obtained the fingerprints, the probation officer shall create a fingerprint critical message in CARE.
  - 2.2. The probation officer shall ensure that a current photograph of ~~all-eligible~~ **the** minors is ~~taken and displayed in CARE~~ **added to the minor's CARE profile.**
  - 2.3. The probation officer shall inform the court when the minor has previously been fingerprinted or photographed as a result of a prior adjudication or admission to a detention facility.
3. **The probation officer shall request that any minor placed on Intake or Formal Probation be photographed within 30 days.**
  - 3.1. **The probation officer shall also obtain the permission of a parent/guardian/legal custodian when the minor is under the age of 14, before taking the photograph.**

- 3.2. The photograph shall be added to the minor's CARE profile.
- 3.3. The probation officer shall document in case notes when the minor or their parent/guardian/custodian declines to be photographed or when they have obtained permission from the parent/ guardian/ custodian for the photograph.
- 4. Photographs may be distributed or disbursed, subject to any other records access rule requirements, to state or local law enforcement agencies, the judiciary and the ~~Division of Juvenile Justice Services~~ Department of Human Services.
- 5. All photographs and other records shall be sealed upon an expungement order by the Court. Fingerprint records may not be destroyed.

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