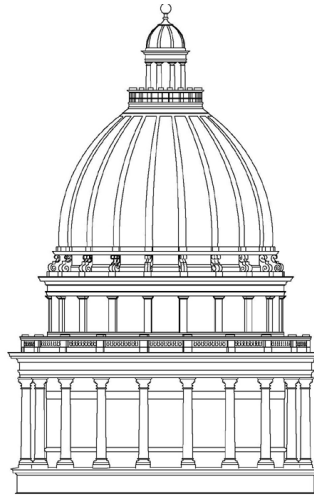


REPORT TO THE  
**UTAH LEGISLATURE**

Number 2011-11



**A Performance Audit of  
The Operating Efficiency of the  
Utah State Court System**

September 2011

Office of the  
LEGISLATIVE AUDITOR GENERAL  
State of Utah





STATE OF UTAH

# Office of the Legislative Auditor General

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

**Audit Subcommittee of the Legislative Management Committee**  
President Michael G. Waddoups, Co-Chair • Speaker Rebecca D. Lockhart, Co-Chair  
Senator Ross I. Romero • Representative David Litvack

JOHN M. SCHAFF, CIA  
AUDITOR GENERAL

September, 2011

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Performance Audit of the Operating Efficiency of the Utah State Court System** (Report #2011-11). A digest is found on the blue pages located at the front of the report. The objectives and scope of the audit are explained in the Introduction.

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

Sincerely,

A handwritten signature in black ink that reads "John M. Schaff" with a stylized flourish at the end.

John M. Schaff, CIA  
Auditor General

JMS/lm



# Digest of A Performance Audit of The Operating Efficiency of the Utah Court System

The mission statement of the Utah State Courts (courts) is “to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.” Our office was asked to review the courts’ budgets, personnel practices, and operations. Risk analysis led to our focused attention on the courts’ Electronic Records Project. The audit scope was further expanded to include a review of custody evaluations as well as an evaluation of whether potential increases in traffic citations and traffic school utilization in municipalities were being used by local management as a means of making up for recession-related revenue shortfalls.

**A Dual System of Paper and Electronic Records is a Necessary Transition.** The courts are in the middle of a comprehensive conversion from paper to electronic records and court personnel are already reporting benefits from this change. As the courts transition from paper to an electronic record, they are temporarily operating in an inefficient dual system that involves the use of both paper and electronic records. This transition is expected for a period of time given the importance of maintaining reliable records, but every reasonable effort should be made to reduce the amount of time spent in a dual system. This chapter offers some recommendations to help the courts expedite and plan their conversion to an electronic record. These recommendations include an enhanced focus on timelines and objectives, addressing judge’s technical concerns, and mandating electronic filing.

**Utah State Courts Should Implement Time Standards for Criminal and Civil Cases.** Case processing time standards are an integral component to effective case management. According to a number of sources, case processing time standards promote effective case management by establishing a well-organized and more efficient court system. Forty-one states have adopted some type of individualized case processing time standards. In 2005, our office issued *A Performance Audit of the Timeliness of Civil Cases in District Court*, which recommended the District Court “develop and adopt a set of overall goals or standards for civil case timeliness...” In response to the audit, the courts put in place performance measures referred to as CourTools, but did not adopt formal case processing time standards. However, the CourTools performance measures also require

## Chapter I: Introduction

## Chapter II: Courts’ Electronic Records Project is Progressing

## Chapter III: Case Processing Time Standards Will Promote Better Case Management

**Chapter IV:  
Court Budgeting and  
Personnel Practices  
Appear Consistent  
with Executive  
Branch Practices**

case processing time standards. If utilized, time standards could further enhance the courts' case management.

**Courts Budgeting Practices are Increasingly Transparent and Personnel Policies Compare Favorably with DHRM Policies.** Our review found court budgeting practices to be increasingly transparent and consistent with the budgeting practices of executive branch state agencies despite legislative concern that court budgeting practices were not sufficiently transparent. This conclusion was supported by staff who are familiar with the courts' budget in both the Governor's Office of Planning and Budget (GOPB) and the Legislative Fiscal Analyst (LFA). We also reviewed the personnel practices of the courts and found that personnel policies and practices were reasonable and substantially similar to that of the Division of Human Resource Management (DHRM).

**Chapter V:  
Courts Are  
Addressing  
Legislative Concerns  
with Custody  
Evaluations**

**Courts Have Worked To Improve Custody Evaluations, but Oversight of Evaluators Can Be Improved.** There was some legislative concern with the cost and lack of timeliness of custody evaluations; however, our review of the custody evaluation process has shown that the courts have been addressing these issues. In our review we examined the rules and custody evaluation processes, relying heavily on self reported information from the courts. We found that the process of these important evaluations has been improving, but oversight of custody evaluators needs to be increased. The courts, as well as interested parties not employed by the courts, concurred with this conclusion.

**Chapter VI:  
Statewide Traffic  
Citation Trends Have  
Remained Constant,  
and Traffic Schools  
Are Unregulated**

**Statewide Traffic Citation Trends Have Remained Level During the Last Economic Recession.** There was legislative concern that municipalities may increase the number of traffic citations issued, merely to increase revenues. An analysis of traffic citations submitted to justice courts indicates that despite fluctuations, the overall statewide trend has remained constant before and after the recent economic recession. However, individually, 36 percent of justice courts have shown an increase in traffic citations. We cannot rule out the possibility that some municipalities may have increased the number of traffic citations to cover shortfalls in revenues, but there are other factors that may also account for much of these increases.

**Legislators Should Consider Whether Traffic Schools Should Be Regulated.** Traffic schools in Utah's municipalities are unregulated. This has led to at least one municipality avoiding the sharing of revenue with the state by issuing invitations to traffic school in lieu of issuing citations. Since traffic schools are unregulated, they can vary greatly in quality and cost. Therefore, we recommend that the Legislature consider whether traffic schools should be regulated to ensure quality and consistency.

# REPORT TO THE UTAH LEGISLATURE

Report No. 2011-11

## **A Performance Audit of The Operating Efficiency of the Utah State Court System**

September 2011

Audit Performed By:

Audit Manager	Darin Underwood
Audit Supervisor	Brian Dean
Audit Staff	August Lehman Anndrea Parrish





# Table of Contents

	Page
Digest .....	i
<b>Chapter I</b> .....	1
Introduction.....	1
Courts Are in the Process of Implementing Numerous Changes .....	3
Audit Scope and Objectives.....	5
<b>Chapter II</b> .....	7
Courts' Electronic Records Project is Progressing .....	7
A Dual System of Paper and Electronic Records Is a Necessary Transition.....	7
Courts Need to Address Some Concerns With Electronic Records Project.....	10
Electronic Filing Should Be Mandated In Near Future .....	14
Recommendations .....	20
<b>Chapter III</b> .....	23
Case Processing Time Standards Will Promote Better Case Mangement .....	23
Courts Should Implement Time Standards for Criminal and Civil Cases .....	23
Standards Should Increase Focus on Case Management and Help Eliminate Inactive Cases .....	28
Recommendations .....	29
<b>Chapter IV</b> .....	31
Court Budgeting and Personnel Practices Appear Consistent with Executive Branch Practices .....	31
Court Budgeting Practices are Increasingly Transparent and Have Been Responsive to the Economic Recession .....	31
Courts' Personnel Practices Compare Favorably with DHRM Policies .....	36
<b>Chapter V</b> .....	39
Courts Are Addressing Legislative Concerns with Custody Evaluations .....	39
Courts Have Worked to Improve Custody Evaluations .....	40
Oversight of Custody Evaluators Can Be Improved.....	42
Recommendation .....	45
<b>Chapter VI</b> .....	47
Statewide Traffic Citation Trends Have Remained Constant, and Traffic Schools are Unregulated .....	47

Statewide Traffic Citation Trends Have Remained Level During the Last Economic Recession .....	47
Legislature Should Consider Whether Traffic Schools Should Be Regulated .....	53
Recommendations .....	55
<b>Appendices</b> .....	<b>57</b>
<b>Agency Response</b> .....	<b>63</b>

# Chapter I

## Introduction

The mission statement of the Utah State Courts (courts) is “to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.” Section 12, Article VIII of the Utah Constitution vests authority with the Judicial Council to oversee the Utah State Courts. The Judicial Council is a policy-making body comprised of 14 members that represent each of the state courts’ three levels, with one member representing the Utah Bar Association. Its role is to adopt rules for the administration of the courts. The Utah Supreme Court and the Judicial Council appoint a state court administrator to oversee the operations of the Administrative Office of the Courts (AOC) as outlined in statute. The AOC serves to implement the standards, policies, and rules established by the Judicial Council. The AOC communicates with the Utah State Courts’ eight judicial districts through trial court executives.

The Utah Court System consists of three general levels of courts:

- **Level 1:** The trial courts, which constitute the lowest level, are courts of original jurisdiction, meaning that a trial court can hear and decide a case for which it has jurisdiction before appellate review occurs. Utah’s trial courts include the justice, juvenile, and district courts. Any person unsatisfied with the judgment rendered in justice court can appeal to district court and receive a new trial.
- **Level 2:** Above the trial court is the intermediate appellate court called the Utah Court of Appeals. This court reviews the decisions of trial court cases that have been appealed by parties.
- **Level 3:** The Utah Supreme Court is the court of last resort, or the final appellate court that can review decisions made in the lower courts. The court has appellate jurisdiction in cases involving first-degree felonies and capital felony convictions that come from district court. The Supreme Court is the final arbiter of the interpretation of state laws.

---

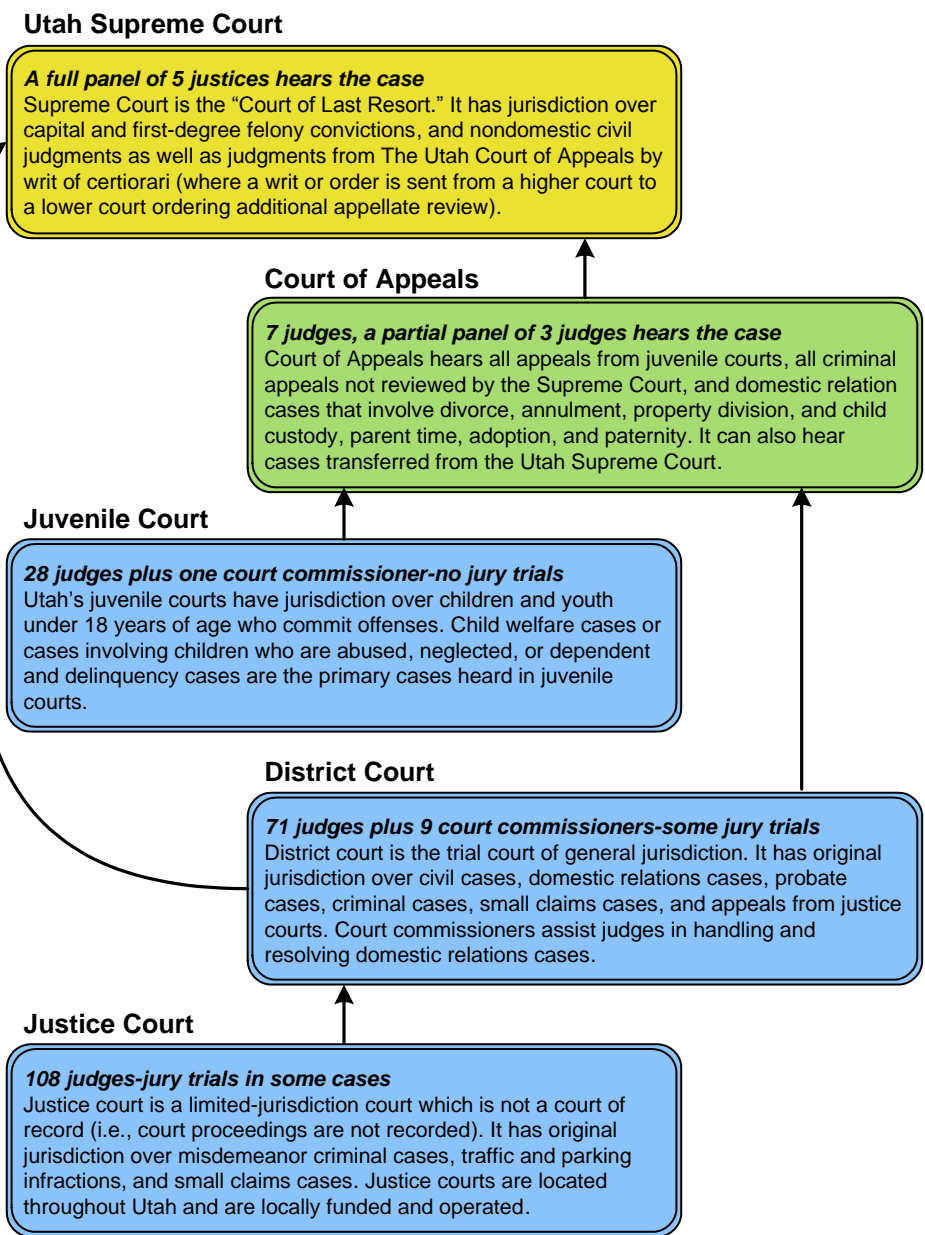
**The AOC serves to implement the standards, policies, and rules established by the Judicial Council.**

---

Justice courts are locally funded and operated, juvenile and district courts are state funded, and the two appellate courts (the Court of Appeals and the Supreme Court) are state funded. Figure 1.1 further illustrates the Utah Court System.

**Figure 1.1 Utah State Court System.** There are three general levels of courts: the trial-level courts, the intermediate appeal court, and the court of last resort. The justice, juvenile, and district courts marked in blue represent the trial-level, the Utah Court of Appeals marked in green represents the appellate level; and the Utah Supreme Court marked in yellow represents the court of last resort.

The Justice courts are locally funded and operated. Juvenile and district courts are state funded, and the two appellate courts (the Court of Appeals and the Supreme Court) are state funded.



## **Courts Are in the Process of Implementing Numerous Changes**

Like all other state agencies, the courts have had to make changes to their business practices in response to the economic recession's impact on state revenue and budgets. Rather than respond to budget reductions with short-term spending cuts, the Judicial Council elected to reengineer the way the courts do business altogether. According to court administrators, a series of changes were central to this reengineering. These changes included (1) the adoption of a single case management system for all justice courts, (2) a re-engineering of clerical operations and functions, and (3) a major endeavor to move from paper records to electronic records. Chapters II and III of this audit review key aspects of these interrelated and pivotal changes, focusing on the courts' electronic records and case management.

### **CORIS Conversion Resulted in a Single Case Management System**

The first pivotal change began in 2008, when the Legislature enacted a bill that required all 137 justice courts to convert to a single case management system known as the Court Records Information System (CORIS). This conversion process was just completed on July 11, 2011, resulting in the conversion of 4.6 million cases. As we pointed out in our August 2009 audit of the conversion of justice courts to CORIS, improved uniformity, enhanced case management, and timeliness of justice are among the advantages of this conversion. Moreover, converting all justice courts to CORIS was an integral step toward adopting the courts' goal of transforming all paper records into electronic records.

In response to budget reductions and the accompanying motto of doing more with less, the courts initiated a major endeavor to move from paper to electronic files called the Electronic Records Project. September of 2008 marked the initial authorization by the Judicial Council for the AOC to move forward with their electronic filing initiative (one key aspect of the Electronic Records Project). According to the AOC, effective case management and efficient use of staff became the primary goal of the Electronic Records Project. In accordance with this goal, clerical operations and functions were

---

**Rather than respond to budget reductions with short-term spending cuts, the Judicial Council elected to reengineer the way the courts do business altogether.**

---

---

**The conversion to a single case management system, CORIS, started in 2008 and was completed in July 2011.**

---

---

**September 2008 marked the initial authorization by the Judicial Council for the AOC to move forward with the Electronic Records Project.**

---

restructured, laying the groundwork for the Electronic Records Project.

### **The Courts Recently Restructured Clerical Operations and Functions**

---

**The objective of the clerical restructure was to enhance efficiencies by improving case management and by preparing clerical staff with the skills needed for effectively operating within an electronic court.**

---

The second change was the clerical restructure which involved substantial changes to the organizational structure of clerks. The objective of the restructure was to enhance efficiencies by improving case management and by preparing clerical staff with the skills needed for effectively operating within an electronic court. Clerk structure changed from a hierarchical management structure of specialists to a structure built around teams of “generalists.” Clerks who were, prior to the restructure, organized around a specialized clerical task were cross-trained to perform all clerical duties. Along with structural changes came new job titles, classifications, and salary structures that were intended to reward competency rather than tenure.

One key goal of the clerical restructure was to improve caseload management which is defined by the courts as, “the entire set of actions a court takes to monitor and control the progress of cases, from initiation through trial or other initial disposition, to the completion of all post-disposition court work, in order to make sure that justice is done promptly.” In accordance with this goal, case manager positions were created. Unfortunately, many case managers report that they are having difficulty dedicating the time they need to actively manage cases. As the old, paper file management paradigm is slowly replaced with a new, electronic case management paradigm, more clerical efficiencies are needed to fully support caseload management.

While the move from a paper record to an electronic record has long been an objective of the courts, additional budget reductions in 2009 and 2010, coupled with rising caseloads, accelerated the pace of adopting electronic records statewide. This accelerated response contributed to planning and implementation difficulties, as well as to temporary inefficiencies, as discussed in Chapter II. We observed that this accelerated time frame lacked the formal cost-benefit analysis and planning that accompanied the implementation of CORIS and the clerical restructure. While we acknowledge that time constraints impeded the planning process, continued uncoordinated planning will result in unnecessary delays and inefficiencies.

## **Electronic Records Project Promotes An Increasingly Paperless Courthouse**

The third change was the Electronic Records Project which is a major endeavor by the courts that enables an increasing number of court operations to be performed and accessed online. This includes the electronic filing of court cases, online access to case files, and a host of additional services as shown in Appendix A. All of the services mentioned in Appendix A are components of the Electronic Records Project. Most districts have begun offering the electronic services illustrated in Appendix A, although not all services are fully implemented or utilized in every courthouse. Chapter II focuses largely on the electronic records and electronic filings.

---

**The Electronic Records Project is a major endeavor by the courts to enable an increasing number of court operations to be performed and accessed online.**

---

## **Audit Scope and Objectives**

The Office of the Legislative Auditor General was asked to review the courts' budgets, personnel practices, and operations. Risk analysis led to our focused attention on the courts' electronic records. The audit's scope was further expanded to include a review of custody evaluations as well as an evaluation of potential increases in traffic citations and traffic school utilization in municipalities as a means of making up for recession-related revenue shortfalls. The following is a brief outline of each chapter:

**Chapter II:** Reviews the progress of the Electronic Records Project, focusing on electronic records and e-filing.

**Chapter III:** Reviews case processing time standards for civil and criminal cases and case management.

**Chapter IV:** Reviews the transparency of the courts' budget and the courts personnel practices.

**Chapter V:** Reviews custody evaluations, which are used in some divorce cases where the custody of children is involved.

**Chapter VI:** Reviews the current condition of traffic citations submitted to justice courts throughout the state, and a more limited review of traffic schools.

**This Page Left Blank Intentionally**



## **Chapter II Courts' Electronic Records Project is Progressing**

The Utah State Courts (courts) are in the middle of a comprehensive conversion from paper to electronic records and court personnel are already reporting benefits from this change. As the courts transition from paper to an electronic record, they are temporarily operating in an inefficient dual system that involves the use of both paper and electronic records. This transition is expected for a period of time given the importance of maintaining reliable records, but every reasonable effort should be made to reduce the amount of time spent in a dual system. This chapter offers some recommendations to help the courts expedite and plan their conversion to an electronic record. These recommendations include an enhanced focus on timelines and objectives, addressing judges' technical concerns, and mandating electronic filing (e-filing).

In order to deal with reduced budgets and decreased staff, the courts began converting to a paperless court in January 2011. A paperless court uses an electronic record for most internal processes, greatly reducing the use of paper. As discussed in Chapter I, the Electronic Records Project entails many different aspects. This chapter, however, focuses primarily on the courts' efforts in establishing a paperless system and e-filing. The efficiencies gained by going paperless will allow the courts to streamline operations with reduced personnel.

### **A Dual System of Paper and Electronic Records Is a Necessary Transition**

Converting from paper to electronic records and completely restructuring the clerical system have both presented significant challenges for the courts. Not surprisingly, implementing a new electronic records system can create temporary inefficiencies and add to the existing workload rather than relieve it. This is because, the process of converting from a paper filing system to an electronic filing system results in the utilization of an inefficient dual system where both paper and electronic files are used. While we anticipate that such

---

**The transition from paper to an electronic system has created a temporary dual system that involves the use of both paper and electronic files. However, benefits are already being reported from this change.**

---

---

**Not surprisingly, implementing a new electronic records system can create temporary inefficiencies and add to the existing workload rather than relieve it.**

---

a transitional period is necessary, the courts should work to minimize the time spent in a dual system.

Traditionally, to build a case file, paper documents are physically delivered to a court by attorneys and non-attorneys from outside the courts. Clerical staff will validate these paper documents, manually attach them to paper folders, and deliver these files to judges for additional review. Unused case files are stored in secure filing rooms where they can be retrieved for future use. Case file copies are made by dismantling and reassembling the case file.

E-filing documents change how case files are assembled, accessed, utilized and copied. Documents are drafted on computers by attorneys outside the courts, submitted over the Internet to the courts, and approved by clerical staff electronically. Judges can automatically retrieve case files and electronically append their signatures.

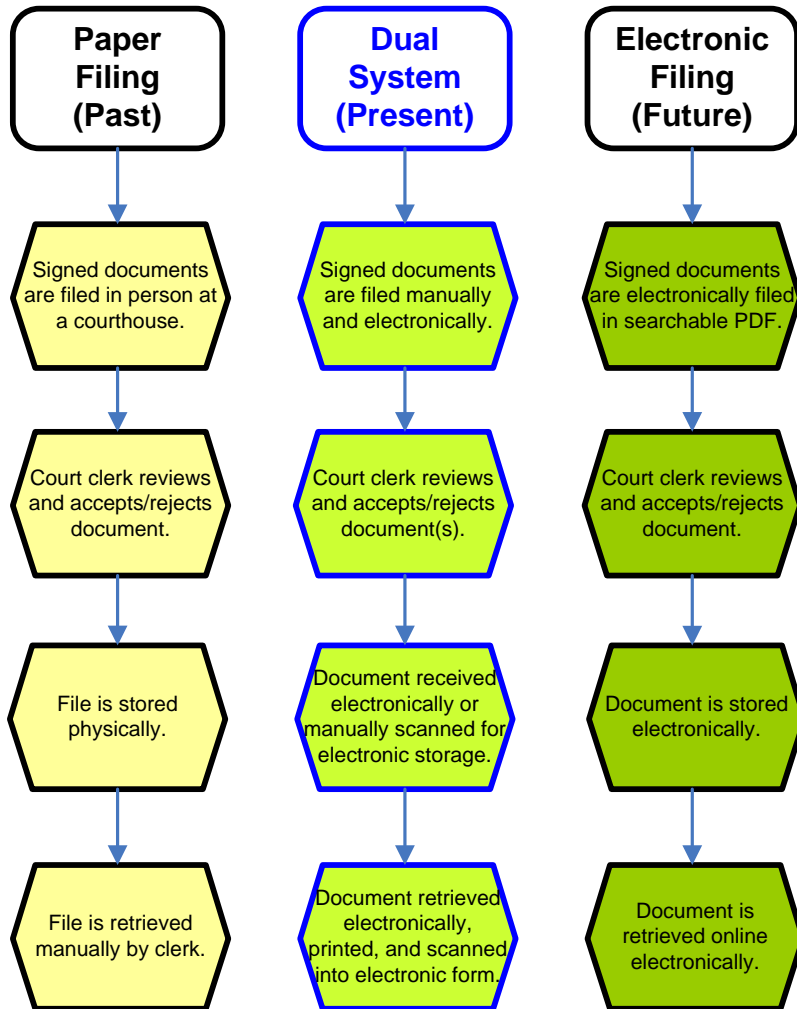
Figure 2.1 shows how court operations will change once a fully electronic filing system is in place. Unfortunately, the transition from a paper system to an electronic system has resulted in a less efficient **dual system (shown in blue)**. In this dual system, court documents are submitted manually, scanned into an electronic form, and then printed back into a paper form for judicial review. Once a judge has had the opportunity to review and sign the appropriate documents, the case file must once again be scanned back into an electronic record. In the Fifth District, clerks are required to maintain hard copies of many documents and also maintain the electronic version, thus creating even more work for the clerks.

---

**In the Fifth District, clerks are required to maintain hard copies of many documents and also maintain the electronic version, thus creating even more work for the clerks.**

---

**Figure 2.1 Utah Courts Are Currently Operating a Transitional Dual Filing System.** As the courts move from the paper filing system of the past to the electronic filing system of the future, anticipated inefficiencies have resulted because both paper and electronic filing systems are operating simultaneously, slowing court operations.



In contrast to the paper filing system, an e-filing system will enhance efficiencies by allowing electronic entry of case information, eliminating the time-intensive scanning of documents, and improving access to case files. Most of Utah’s district courts have only recently begun accepting electronic files, and the vast majority of paper documents are still submitted manually. As discussed later in this chapter, mandating e-filing will substantially increase the number of electronically submitted files, thereby reducing the amount of time the courts spend in the transitional dual system.

**In contrast to the paper filing system, an e-filing system will enhance efficiencies by allowing electronic entry of case information, eliminating the time-intensive scanning of documents, and improving access to case files.**

## **Courts Need to Address Some Concerns With Electronic Records Project**

We concur with the courts that electronic records will improve court efficiencies and deliver cost savings. Because this conversion will fundamentally change how the courts operate, we offer recommendations to help improve some concerns identified in this audit. Consistent with the courts' management philosophy, policy decisions are made by the Judicial Council and then local administrators are responsible for planning and implementation. Although we are not challenging this management philosophy, the development of timelines and objectives will improve the conversion process. We also found that while the conversion is still a work in progress, the courts will need to address judges' technical concerns with the current paperless system.

---

**Electronic records will help the courts operate more efficiently and we offer some recommendations to help improve the conversion process.**

---

According to court administration, the completion of the Electronic Records Project has three priorities:

- Priority 1: Establishing and protecting the electronic record
- Priority 2: Eliminating the paper file
- Priority 3: Providing tools for judges so that they can more effectively work in the electronic environment

In order to provide electronic services, as discussed in Chapter I, the Electronic Records Project has involved numerous changes, with court districts at varying degrees of implementation. A list of these electronic services can be found in Appendix A. The courts report that priority one is close to being complete. Priority two will be completed by five of the eight districts no later than December 31, 2011. The remaining districts are working on setting a deadline. Priority three is just now getting underway.

### **Electronic Records Will Improve Court Efficiency and Deliver Cost Savings**

Because clerks must scan documents from older cases into the computer system, the conversion process requires additional work. E-filing largely eliminates the need to scan because documents are already electronic. There are a number of benefits to e-filing and

utilizing electronic records that clerks have identified and have been realized in other states, including the following:

- Reduced document storage and retrieval costs
- Reduced data entry costs
- Reduced number of missing documents
- Improved efficiencies due to immediate and simultaneous access to case records

Some savings have already been realized by the courts. For example, a reduction of 18 FTEs in court reporting staff promoted savings with improved service when electronic court recordings replaced court reporters. In the courts' transition to a paperless system it is understandable that difficulties and temporary inefficiencies will arise. In pointing out some of the factors contributing to these inefficiencies, the next two sections suggest ways to improve the conversion to a paperless system.

### **Courts Need More Focus on Timelines and Objectives**

According to the 2010 Government Auditing Standards of the General Accounting Office (GAO), an agency demonstrates good internal controls by instituting a “processes for planning, organizing, directing, and controlling program operations” in order “to meet its missions, goals, and objectives.” Our interviews with many district court personnel revealed that some districts have few objectives and timelines for adopting the electronic record, indicating that internal controls could improve. A number of clerks, judges, and managers we talked to were unsure what their next target deadline was or what their current objectives were for going paperless. Several judges, trial court executives, and clerks voiced concerns regarding insufficient initial planning for going paperless.

The Tax Commission has been undergoing similar broad changes by converting numerous separate computer systems into a combined system. Developing objectives, setting target dates, and measuring weekly progress have helped the Tax Commission meet deadlines on their multiyear conversion project. We recognize that the courts have different challenges than the Tax Commission, but the courts can benefit from improving their establishment of appropriate timelines, objectives and the measurement of progress. The AOC can better

---

**Our interviews with many district court personnel revealed that some districts have few objectives and timelines for adopting the electronic record, indicating that internal controls could improve.**

---

direct the conversion to a paperless court and enhance the overall operational efficiency of the courts. This operational efficiency will be realized by speeding up the conversion process and reducing time spent in the inefficient dual system.

The courts decentralized method of implementation for converting to a paperless system has led to a disparity among courts. Figure 2.2 helps show the differences among districts in their efforts to reduce the use of paper for new filings.

**Figure 2.2 Fewer than Half of All New Filings Are Fully Electronic.** There is wide variation by district in the percentage of new cases that are fully electronic.

New Filings by District in 1st Quarter of 2011	Cases Not Electronic	Cases Partially Electronic	Cases Fully Electronic
5th District	40 %	22 %	38 %
4th District	21	31	48
3rd District	28	24	48
7th District	29	22	49
6th District	35	15	50
8th District	23	25	52
1st District	23	23	54
2nd District	21	22	57
<b>State Average</b>	<b>26 %</b>	<b>25 %</b>	<b>49 %</b>

The Second District is ahead of the other districts with 57 percent of all new cases fully electronic.

Observations and discussions with staff in the Fifth and Third districts revealed that they still operate mainly on the paper system, with desks covered in files and clerks traveling to and from vaults to file paper.

Analysis of new case filing data shows that the Fifth District is furthest behind in going paperless, with nearly 40 percent of new cases not electronic and only 38 percent fully electronic. Cases that are partially electronic are those cases where some documents are in paper form and others are in electronic form. The Second District is furthest ahead of the other districts with 57 percent of all new cases fully electronic. Older cases that are in paper files are scanned into the system as they become active. Due to limited physical file-storage space, the Second District has been scanning in these older cases for a number of years.

New filing data only shows some of the advances that the Second District has made. In the Second District we observed many desks devoid of files, large stacks of recently scanned documents ready to be destroyed, and some courts claiming to be as paperless as is currently possible. Conversely, observations and discussions with staff in the Fifth and Third districts revealed that they still operate mainly on the

paper system, with desks covered in files and clerks traveling to and from vaults to retrieve files. Unlike personnel in other judicial districts we interviewed, the Second District staff could cite timelines when specific objectives would be accomplished.

The AOC manages IT enhancements related to e-filing and CORIS but has allowed individual districts to determine how to convert to a paperless system. This approach to the paperless conversion is unlike the AOC's method of converting all justice courts over to the CORIS information system. In that conversion, the Legislature set a date when all justice courts should be on the CORIS system, and the AOC worked to meet that deadline with each court. In the conversion to paperless courts, the AOC should also work with districts to set timelines and objectives for its implementation.

### **Judges' Technical Concerns with the Current Paperless System Need to Be Addressed**

As part of the courts' third priority, the AOC has begun to develop an electronic interface for judges. We acknowledge that the initial conversion to a paperless system focused on clerical operations while judicial operations are just now being addressed. This is because budgetary pressures led the Judicial Council to begin the conversion to a paperless system earlier than anticipated, leaving less time to address judicial operations. Judicial use of the electronic record is needed in order to reduce the inefficiencies of the dual system previously mentioned in this chapter. Our interviews with judges reveal that they have technical concerns about adopting a paperless system that have not been fully satisfied by the current training and technology employed by the courts.

The CORIS data system that the courts use to record all case information was originally created as a clerical tool and is not well suited for use by judges. Although judges can use it to look up cases and sign documents, many judges we talked with did not find the current system user friendly and have been frustrated that they cannot easily do the following:

- quickly review and sign documents,
- insert notes on documents,
- modify documents,

---

**The AOC manages IT enhancements related to e-filing and CORIS but has allowed individual districts to determine how to convert to a paperless system.**

---

---

**The initial conversion to a paperless system focused on clerical operations while judicial operations are just now being addressed.**

---

- highlight documents, and
- access multiple related documents quickly in several programs.

Some judges we spoke with report that the electronic method of reviewing and signing documents can take more judge time than the previous method of signing paper documents. We have observed that the current method of signing documents in CORIS requires a number of keystrokes and judges must often toggle between programs to find and open related documentation. Judicial time is valuable. In recognition of this, the AOC is currently developing a new interface designed to make the system more user friendly and more efficient for judges than what is currently available. If the new interface allows judges to sign groups of similar documents simultaneously, as can be done in the juvenile court's CARE system, judges should soon be able to more efficiently sign electronic documents than paper documents.

Judicial use and acceptance of a paperless system is critical to the courts' success. Part of the reason why some of these judges have not fully embraced the paperless system is because they are not familiar with it. A few judges we interviewed were unaware of some of the capabilities of the system, like remote access or a built-in electronic signature. Increased exposure to the capabilities and benefits of the paperless system should help solve this problem. Colorado has completed their conversion to a paperless court and achieved judicial acceptance through increased education that demonstrated the benefits of an electronic system for judges. Judicial time is limited, and making time for training can be difficult; however, when the new judicial interface has been accepted for use, the courts should focus on training judges to expose them to the benefits and advantages of the paperless system.

## **Electronic Filing Should Be Mandated In the Near Future**

The courts should consider mandating e-filing as soon as feasible. By requiring attorneys to e-file documents, the courts could free up a considerable amount of clerk time. Adoption of e-filing by attorneys has been slow, and mandating e-filing would increase its use. In states that had e-filing available, more than half have mandated electronic filing. E-filing is also mandated in federal courts. Most attorneys and

---

**Judicial use and acceptance of a paperless system is critical to the courts' success.**

---

---

**Most attorneys and court staff interviewed responded favorably to mandated e-filing and agree it will benefit the courts.**

---



court staff interviewed responded favorably to mandated e-filing and agree it will benefit the courts. Currently, the courts have the means to accept electronic documents for general civil cases only, but they are working with prosecutors on the capability to receive other documents electronically such as criminal filings. Even though courts can accept e-filings, not all courts are ready to accept the amount of e-filing that mandating would entail, therefore, some work remains. When the courts are ready, the Judicial Council should consider mandating e-filing for attorneys in general civil cases.

When paper documents are received, clerks must scan the paper documents to create an electronic record, which takes a lot of clerk time. If documents are e-filed, scanning is not required, greatly reducing the amount of time needed to process an incoming document and avoiding the dual system mentioned earlier. E-filing also allows data to be entered once at the source, avoiding potential scanning errors.

### **The Courts Have Been Working Towards E-Filing Since the Beginning of 2009**

Electronic filing began as a pilot study in Davis County’s (Second Judicial District) courts in January 2009. Figure 2.3 is a timeline of significant events pertinent to e-filing initiatives taken by the courts.

**Figure 2.3 Timeline of Significant Events Regarding E-Filing Initiatives Taken by the Utah State Courts.** In order to expedite the conversion process, the courts should work to ensure that all districts are capable of handling mandated e-filing.

Jan. 2009	E-Filing began as a pilot study in Davis County’s courts
July 2009	Utah State Bar Association embraced e-filing by providing electronic filing services to its subscribing members
Oct. 2009	Davis County’s Second Judicial District pilot project deemed successful and the AOC announced its intentions to extend general civil electronic filings statewide
Jan. 2010	Other districts began accepting e-filing
April 2011	All districts accept electronically filed civil cases*

\* While an increasing array of services are now being offered electronically, not every district has adopted e-filing at the same pace.

Not every district has adopted e-filing at the same pace. Davis County’s Second District has recently implemented the state’s first

---

**When district courts are ready, electronic filing should be mandated.**

---



---

**If documents are e-filed, scanning is not required, greatly reducing the amount of time needed to process an incoming document.**

---



---

**Not every district has adopted e-filing at the same pace.**

---

fully paperless filing system, while visits to the Fifth District demonstrated a relative lag in adopting and implementing a paperless filing system. As an example of the obstacles the courts have faced, Cedar City has experienced difficulty using electronic case files because their internet speed was insufficient for supporting such activities. Additionally, electronic civil filings are not being accepted in the contract court sites (contract sites that are not state operated) of Randolph, Morgan, Manila, Fillmore, Loa, Kanab, Panguitch, and Junction due to an inability to locally process credit cards.

### Sample Suggests Electronic Filing Saves Time

Many clerks we interviewed expressed concern about the amount of time they spend scanning incoming documents. Large portions of some clerks' time are being spent scanning in paper documents each day. Figure 2.4 shows a sample of types of documents clerks receive and the time it takes to process them if they have to be scanned in, versus being e-filed. The sample shows significant time savings, on average, per e-filed document.

Large portions of some clerks' time are being spent scanning in paper documents each day.

**Figure 2.4 Paper Documents Must Be Scanned and Take Longer to Process.** The time savings for each e-filed document may be small, in some cases less than a minute, but since the courts process thousands of documents, the total time saved is significant.

	Number of Documents	Avg. Time to Process in Minutes : Seconds			Percent Change
		Scanned	E-filed	Difference	
Default Judgments	188	4:21	2:54	1:27	49 %
Garnishments	56	1:28	0:48	0:40	83 %

Our nonstatistical sample of 188 default judgments shows that it takes on average 49 percent longer to scan and process a paper document than it does to process a similar electronic document. A convenience sample of 56 garnishments<sup>1</sup> shows that, on average, it takes 83 percent longer to scan and process a paper document than it

It takes on average 49 percent longer to scan and process a paper document than it does to process a similar electronic document.

<sup>1</sup> A garnishment is money or property seized to satisfy a debt.

does to process a similar electronic document. Also, document lengths can range from 1 to more than 100 pages. Longer paper documents take longer to scan, but e-filed documents generally take about the same amount of time to process despite their length. Even though the time saved per document is small, with about 117,000 documents that could potentially be e-filed each month, the courts could free up significant clerk time.

### Acceptance of Electronic Filing Has Been Slow

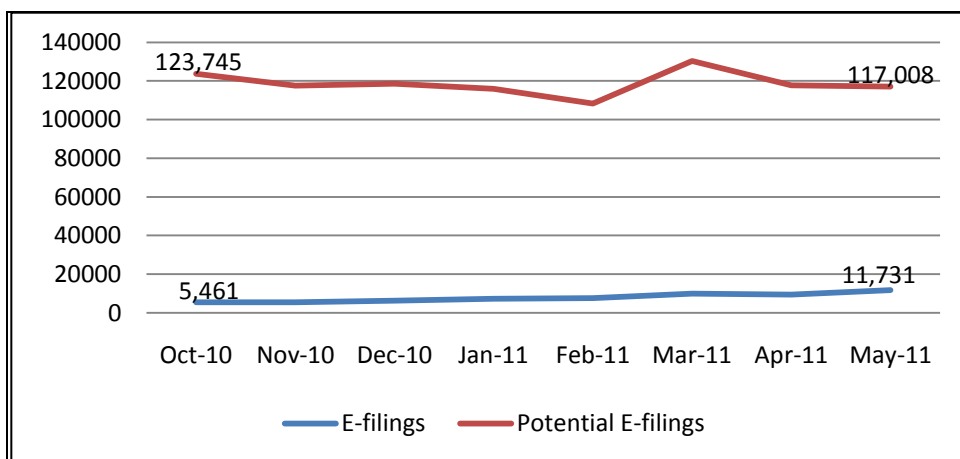
Since 2009, when e-filing was first tested, the number of electronic filings has made progress, but currently remains a small percentage of total new documents received. Figure 2.5 illustrates that of those cases where at least one party had an attorney, the courts received fewer than 12,000 e-filed documents out of an estimated potential of 117,000 each month. The red line represents the documents that could potentially be e-filed, and the blue line represents the number of e-filed documents. As of May 2011, about 10 percent of cases were e-filed.

---

Since 2009, the number of electronic filings has made progress, but currently remains a small percentage of total new documents received.

---

**Figure 2.5 Total Potential E-filings and E-filings Received by Month Since October 2010.** As of May 2011, the number of e-filings is increasing, but is still less than 10 percent of documents that could be e-filed.



By our estimates, attorneys account for 55 percent or 65,000 of the total documents filed (117,008) in May of 2011. Mandating e-filing for attorneys would mean more than half of all documents that

---

Mandating e-filing for attorneys would mean more than half of all documents that could be e-filed would be e-filed.

---

could be e-filed would be e-filed. The Judicial Council could also consider mandating e-filing for non-attorneys as well, which would then result in most documents filed with the courts being filed electronically. Although e-filings have doubled in the six months reviewed, the numbers of attorneys that use e-filing remains relatively small.

Adoption of e-filing by attorneys has been slow. The number of attorneys who have registered for e-filing is relatively low compared to the number of attorneys who could potentially e-file. The number of attorneys that were registered to e-file as of March 2011 is 305. The number of attorneys who have current cases that could be potentially e-filed is 3,400. This means that fewer than 10 percent of attorneys have registered for e-filing since e-filing began for most courts in early 2010. Mandating electronic filing could accelerate the transition to a paperless record by placing pressure on attorneys to file electronically. Moreover, the full benefit of electronic filing cannot be realized if few people participate.

---

**Mandating electronic filing could accelerate the transition to a paperless record by placing pressure on attorneys to file electronically.**

---

### **Nationwide, Courts are Moving Towards Mandated Electronic Filing**

According to a recent 2011 study published by New York State Courts, “E-filing is coming of age in almost all of the state courts.” This study indicates that 41 states are authorized to provide e-filing and of those states, more than one-third have mandatory e-filing. From our review, Connecticut has made e-filing mandatory on all civil cases, excluding family law cases. In Colorado, every court except the Supreme Court accepts e-filed documents. Moreover, all cases in Colorado’s county court and most civil cases in district court are mandatorily e-filed through LexisNexis. Having instituted e-filing since 2009, Utah is part of this e-filing trend.

### **Attorneys and Court Staff Respond Favorably to Mandating E-Filing**

In interviews we conducted with attorneys, court clerks, and judges the majority agreed that mandating e-filing would be beneficial to the courts. In a nonrandom sample of 46 attorneys attending the Matheson Courthouse on two separate occasions in May 2011, 65 percent agreed that the Utah Courts should mandate e-filing. From our interviews with court staff, we found that 100 percent of the

---

**65 percent of attorneys we interviewed agreed that the Utah Courts should mandate e-filing.**

---

judges and 85 percent of the clerks also felt that e-filing should be mandated (we interviewed 8 judges and 27 clerks). To further gauge bar acceptance, we also interviewed a representative of the Utah Bar. The representative expected that e-filing would be mandated by the courts sometime in the near future.

**Attorneys Can Benefit From E-Filing.** Although the majority of those we interviewed felt that mandating e-filing for attorneys would be helpful for the courts those who expressed concern about mandating e-filing were usually concerned about the small practitioner who files infrequently. There are three service providers that have software programs that allow attorneys to submit documents to the courts. These providers are: CaseRover, GreenFiling, and the Utah Bar, which uses Tybera software. The Utah Bar currently charges \$26 per month, \$71 per quarter or \$270 per year. Yearly subscription prices are lower for larger groups of attorneys. A single attorney with one or two active cases at the courts might find the added cost and effort a bit burdensome, but electronic filing provides the following benefits:

- No longer needing to make trips to the courthouse or pay postage
- The ability to submit documents at their own convenience, not just when the courts are open
- 24/7 online access to all case documents
- Electronic notification of changes

While a \$26 monthly fee may seem somewhat excessive for a lawyer with one or two cases with the courts, the subscription to the service does allow for 24/7 access to documents and notifications, related to the case. For complex cases this may be an advantage, but for less complex cases the courts may consider working with the Utah Bar to provide more affordable options for lawyers who file infrequently.

**Attorneys Need Training to Properly E-File.** In our discussions with court clerks, a number were concerned that increased training was needed for attorneys to properly utilize the e-filing system to

---

**There are three service providers that have software programs that allow attorneys to submit documents to the courts.**

---

---

**In our discussions with court clerks, a number were concerned that increased training was needed for attorneys to properly utilize the e-filing system to avoid errors.**

---

avoid errors. They felt that attorneys did not fully understand the process a document must go through prior to approval. Some clerks said attorneys combine documents that should be sent separately and make other errors that slow the process down. E-filing vendors are responsible for providing attorney training on how to use their e-filing programs. In order to better meet court needs, we recommend that the courts help facilitate training for attorneys to better utilize the e-filing system.

### **Not All Districts Are Ready To Accept Mandated E-Filing**

By mandating e-filing, the courts should dramatically increase the number of documents that are e-filed, saving clerical time while improving document processing speeds and court efficiency. However, two districts we visited said they were not ready to accept the large number of e-filings that mandating would create. Many districts have been accepting e-filed documents since early 2010. However, because of the small number of e-filed documents received in some districts and the need to sufficiently train staff to process e-filings, some districts are not yet ready to deal with large increases.

Currently, the courts have the means to accept electronic documents for general civil cases only, but they are working on the capability to receive other documents electronically, such as criminal filings. We recommend that the courts develop a plan to help aid districts readiness to accept an increased number of e-filings. We also recommend that the Judicial Council mandate electronic filing when districts are ready to handle the increased e-filing loads.

## **Recommendations**

1. We recommend that the Administrative Office of the Courts work with each district to expedite the conversion to a paperless court. To do this, the Administrative Office of the Courts should implement the following recommendations:
  - a. Develop a master plan with overall objectives and timeframes for each court to reduce its utilization of paper for record keeping.

---

**Two districts we visited said they were not ready to accept the large number of e-filings that mandating would create.**

---

- b. Focus resources on enhancing the system's interface for judges.
  - c. Help facilitate more frequent training for judges to help enhance the full utilization of paperless tools.
  - d. Help facilitate training for attorneys to better utilize the e-filing system.
  - e. Help prepare districts for an increased number of e-filings.
2. We recommend that the Judicial Council mandate electronic filing when there is sufficient evidence that the districts are ready to handle the increased e-filing loads.

**This Page Left Blank Intentionally**



## **Chapter III**

# **Case Processing Time Standards Will Promote Better Case Management**

Case processing time standards are an integral component to effective case management. According to a number of sources including the American Bar Association (ABA), the Conference of State Court Administrators (COSCA), and the National Center for State Courts (NCSC), case processing time standards promote effective case management by establishing a well-organized and more efficient court system. As of 2007, 41 states have adopted some type of individualized case processing time standard. In 2005, our office issued *A Performance Audit of the Timeliness of Civil Cases in District Court*, which recommended the District Court “develop and adopt a set of overall goals or standards for civil case timeliness...” In response to the audit, the Utah State Courts (courts) put in place performance measures referred to as CourTools, but did not adopt formal case processing time standards. However, the CourTools performance measures also require case processing time standards. If utilized, time standards could further enhance the courts’ case management.

We credit the courts’ Judicial Council for recently authorizing a pilot study to develop time standards. However, more can be done to promote case management. As of March 2011, approximately 4,000 inactive cases existed, negatively impacting the courts’ ability to measure performance. While the percent of inactive cases has declined in Salt Lake’s third district since the 2005 legislative audit, a significant number of inactive cases persist throughout the state. Additionally, case managers report that they are having difficulty dedicating the time they need to actively manage cases. Implementing time standards, monitoring and removing inactive cases, and ensuring that case managers are actively monitoring cases are among the steps the courts can take to promote better case management.

### **Courts Should Implement Time Standards For Criminal and Civil Cases**

While not yet implemented, the courts report that they are working on developing case processing standards. Utah’s courts came

---

**Case processing time standards are an integral component to effective case management.**

---

**Case processing time standards are goals used by courts to track a case from start to finish.**

close to meeting the ABA’s civil time standards, but they do not meet the criminal case processing time standards. Case processing time standards are goals used by courts to track the number of days that have elapsed from initial filing of a complaint by a plaintiff to the resolution or disposition of the case. Since Utah has not implemented case processing time standards for either civil or criminal cases, it is difficult to compare and evaluate each district’s effectiveness in managing caseload. Nonetheless, we attempted to evaluate court performance by comparing the courts’ time to disposition against ABA standards. While ABA standards are largely considered outdated and too stringent, the standards provide a useful starting point for assessing the courts’ case processing performance and enable a direct comparison with the courts performance highlighted in the 2005 legislative audit.

**Utah Civil Case Processing Time Standards Compare Favorably with ABA Standards**

**Utah’s times to disposition compare favorably with ABA for civil cases, but not as favorably for criminal cases.**

A review of times to disposition for Utah’s courts against the ABA case processing time standards revealed that most court districts came close to meeting the ABA standards for civil cases. Criminal cases, however, which include felonies and misdemeanors, were further behind in meeting ABA standards. Figure 3.1 compares Utah’s performance by district when compared against ABA case processing time standards for calendar year 2010.

**Figure 3.1 The Percentage of Criminal and Civil Cases that Met ABA Standard Timeframes in 2010.** All eight Utah district courts came very close to meeting the ABA standards for civil cases but were further behind in meeting criminal case standards.

Case Category	Case Type	ABA Standard	Utah's Performance by District								
			1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	State
CRIMINAL	Felony	90% within 120 days	64	69	67	57	52	64	69	56	64%
		98% within 180 days	78	83	80	73	65	74	82	77	78%
		100% within 365 days	93	95	94	91	85	89	97	93	92%
	Misdemeanor	90% within 30 days	36	32	18	29	14	28	26	32	26%
		100% within 90 days	70	78	57	62	35	57	67	76	63%
CIVIL	General Civil	90% within 365 days	89	95	91	80	81	91	97	94	89%
		98% within 540 days	93	98	96	88	86	96	98	97	94%
		100% within 730 days	95	99	99	92	89	97	99	98	97%

The ABA time standard requires that 90 percent of felony cases reach disposition within 120 days, but the state total shows that only 64 percent of cases reached disposition within 120 days. In total, 78 percent of cases met the 180 day goal and 92 percent met the 365 day goal, indicating that nearly all felony cases reach disposition within a year. For civil cases, five of the eight districts met the 90 percent standard of cases reaching disposition within a year. Two districts met the 98 percent standard, and the remaining districts were extremely close. Additionally, all of the districts came close but did not meet the 100 percent standard. Time to disposition for civil cases improved slightly when compared with the 2005 legislative audit using the same ABA standards, as shown in Figure 3.2

**Figure 3.2 Times to Disposition for Civil Cases in 2004 and 2010.** Time to disposition has improved since 2004.

ABA Standard:	2005 Audit	2011 Audit
	(2004 data)	(2010 data)
Civil cases disposed of within 1 year	87 %	89 %
Civil cases disposed of within a 1.5 years	91 %	94 %
Civil cases disposed of within 2 years	95 %	97 %

Improvements from the previous audit and generally good disposition times for civil cases do not diminish the need for the courts to adopt case processing time standards. Adopting time standards will help further improve case management by identifying specific goals.

Case pending reports and time to disposition reports are used by the courts to identify districts that fall behind in case processing times by comparing them to the district average. This method is problematic because it does not set a specific goal; it merely identifies districts that stand out. Without a target goal, such as the ABA standards demonstrated in Figure 3.1, it can be difficult to evaluate performance and identify where improvement is needed. As previously discussed, the utility of using ABA standards may be questionable because they have not been updated since 1992 and were found to be difficult to achieve in most states. The committee of the Conference of Chief Justices and the Conference of State Court Administrators adopted a resolution in support of model time standards. These standards were

**Without a target goal it can be difficult to evaluate performance.**

made available in August of 2011 and replace the 90, 98, and 100 percent time standard shown in Figure 3.1 with a more attainable 75, 90, and 98 percent time standards.

A number of states have adopted their own standards and several have done away with the 100 percent requirement, realizing that a small percentage of cases will likely take longer than a year to resolve. While no formal standards have been adopted by the courts during this audit, the courts have recently initiated discussions about implementing case processing time standards. In fact, the Chief Justice of the Utah Supreme Court is part of a panel that is developing updated national case processing time standards.

On May 23, 2011, the Judicial Council approved a pilot study to test draft time standards. This study will help the courts examine the new time standards and modify these standards as needed. The pilot study results will be presented to the Judicial Council for formal approval at a future meeting, but no formal date has been set for implementing such standards. We support the courts' effort to develop time standards, and we maintain that the courts should formally adopt their own standards for processing cases.

### **Most States Have Case Processing Time Standards**

Since 2007, 41 states and the District of Columbia have adopted some form of case processing time standards. Case processing time standards have been around since as early as 1983, when COSCA created the first case processing time standards. In 1992, the ABA adopted a separate set of time standards. According to a recent ABA publication, the following court system time standards have been established:

- At least 39 states and the District of Columbia have overall felony time standards.
- At least 32 states and the District of Columbia have misdemeanor standards.
- At least 35 states and the District of Columbia have major civil time standards.

---

**Since 2007, 41 states and the District of Columbia have adopted some form of case processing time standards.**

---

It is important to note that while the majority of states have adopted case processing time standards, there is considerable variation in the time standards that have been adopted, as well as in the definitions for case types. Some states have adopted COSCA or ABA time standards directly, but, the majority of states appear to have drafted their own standards and modeled them after ABA standards.

A 2005 legislative audit recommended that the courts “develop and adopt a set of overall goals or standards for civil case timeliness, then develop procedures to regularly compare actual performance against those goals.” To address the recommendation, the courts began using CourTools, a nationally recognized set of performance measures, but they did not develop standards for case timeliness.

**The CourTools “Time to Disposition” Performance Measure Requires Established Time Frames.** The CourTools are a set of ten performance measures designed by the National Center for State Courts (NCSC), to help state courts evaluate how well they operate. The Utah Courts utilize five of these performance measures and publish the results on their website. One measure the courts employ is the “Time to Disposition” measure which “compares a court’s performance with local, state, or national guidelines for timely case processing.” As examples of case processing timelines for this measure, NCSC uses the COSCA and ABA case processing standards. By not having case processing time standards, the courts have negated the utility of the measure.

---

**CourTools  
performance measures  
require established  
time frames.**

---

By establishing case processing time standards for civil and criminal cases, the Utah State Courts will promote better case management as they allow individual courts to focus on the timeliness of cases and the routine elimination of inactive cases. The courts should adopt nationally recognized best practices and implement time standards for both civil and criminal cases.

### **Case Processing Time Standards Have a Wide Array of Benefits**

National court organizations have identified a number of benefits that courts have experienced from establishing case processing time standards. According to materials from the 2010 annual conference of the National Association for Court Management, adopting time standards will help with the following:

---

**Case processing time standards provide a wide array of benefits.**

---

- Establishing expectations for lawyers, litigants, court staff, and the public.
- Providing a framework for scheduling case events in individual cases.
- Providing a foundation for measuring overall effectiveness in caseload management.
- Stimulating self-examination and continuing assessment of case management practices.
- Eliminating old case backlogs.

By implementing case processing time standards, the courts could achieve many of these benefits and enhance caseload management.

### **Standards Should Increase Focus on Case Management and Help Eliminate Inactive Cases**

Case processing standards will promote case management accountability by establishing deadlines. Utah courts have several deadlines that help move cases along. According to *Utah Rules of Civil Procedure* for example, if a case has been inactive for 120 days, attorneys are required to explain why the case should continue. Additionally, judges have only 60 days to publish their decisions. However, there is no deadline to determine when cases should come to disposition; the only exception is child welfare cases, which have a deadline established in state law. This is despite *Utah Code 78A-5-103* requiring that each district court develop a case management system that promotes “judicial accountability for the just and timely disposition of cases.” Case processing time standards would help attorneys, clerks, and judges know when a typical case is expected to reach disposition. These standards would also provide direction as legal staff schedule case related events.

As of March 2011, nearly 4,000 old and inactive cases still persisted as current cases. This was a concern in the 2005 legislative audit where 1,162 civil cases in Salt Lake City’s Third District Courts (which included General Civil, Property Rights, and Torts) went

---

**Case processing standards will promote case management accountability by establishing deadlines.**

---

---

**As of March 2011, 4,000 old and inactive cases still persisted as current cases which should be addressed.**

---

without action for more than a year but still appeared on the case pending report. A comparative analysis done in February 2011 showed that the number of old and inactive cases was 899 cases. This indicates improvement since the last audit. Nonetheless, these old and inactive cases should be removed on a regular basis and not be allowed to build up, because they distort data by making case processing times longer than they should be.

As mentioned in Chapter I, the courts recently implemented a major clerical restructuring project, with an expected result of improving case management oversight. As part of the restructuring, some clerks were promoted to case managers. However, their ability to manage cases has been limited due to time constraints. As one clerk of court stated, “very little case management is possible because case management clerks are so busy with their judicial clerical duties.” Other case managers we spoke with echoed this concern. Time constraints are a partial result of the current dual system, which was an inefficiency identified in Chapter II. We therefore recommend the courts work towards clearing out inactive cases and ensuring that case managers are actively managing cases.

---

**Case manager’s ability to manage cases has been limited due to time constraints partially because of the current dual system identified in Chapter II.**

---

## **Recommendations**

1. We recommend that the Judicial Council adopt and implement their own guidelines for case processing time standards.
2. We recommend that the Utah State Courts clear out inactive cases and work to ensure that case managers are actively managing cases.

**This Page Left Blank Intentionally**



## **Chapter IV**

# **Court Budgeting and Personnel Practices Appear Consistent with Executive Branch Practices**

Our review found Utah State Courts (courts) budgeting practices to be increasingly transparent and consistent with the budgeting practices of executive branch state agencies, despite legislative concern that court budgeting practices were not sufficiently transparent. This conclusion was supported by legislative staff that are familiar with the courts' budget in both the Governor's Office of Planning and Budget (GOPB) and the Legislative Fiscal Analyst (LFA). Since personnel costs comprise about 70 percent of the courts budget, we reviewed the personnel practices of the courts and found that personnel practices were reasonable. Court policies and procedures were found to be substantially similar to the policies and procedures of the Division of Human Resource Management (DHRM) which is the central human resource agency for the executive branch of Utah State government.

### **Court Budgeting Practices Are Increasingly Transparent and Have Been Responsive to the Economic Recession**

Court budgeting practices appear to adhere to the same standards of budgeting transparency as those employed by executive branch state agencies. The courts have enhanced their transparency over the last two years through the utilization of electronic budgets and participation in the state's budget transparency website. Like other state agencies, the courts, have responded to the economic downturn by reducing budgets and cutting staff.

### **Court Budget Transparency is Consistent With Executive Branch State Agencies**

The courts' level of budget transparency equals the level of executive branch state agencies. Over the last two years (fiscal years 2011 & 2012), Utah courts have electronically submitted their budget requests to GOPB, further enhancing budget transparency since budget summary reports can now be viewed online by the public and

---

**GOPB and LFA concurred that the courts budgeting practices are transparent.**

---

the Legislature. Most state agencies did not submit their budgets electronically until September 2010. Unfortunately, court budgets prior to fiscal year 2010 are not available electronically, limiting the accessibility and transparency of budgetary data for previous fiscal years. This limitation is due to GOPB's transition from their old budgeting software system to a new BudgetPrep system. Hence, we express no opinion of the courts' budget transparency in earlier years.

---

**Both the judiciary and executive branch agencies electronically submit identical budgetary forms to GOPB.**

---

Both the judiciary and executive branch agencies electronically submit identical budgetary forms to GOPB using the aforementioned BudgetPrep. We validated this by comparing budgetary forms submitted by the Department of Corrections and the Department of Human Services against the forms submitted by the courts. Our comparison revealed identical submission forms with similar levels of detail. Discussions with GOPB and LFA both confirmed a transparent level of budgeting practices.

Each July, GOPB sends all state agencies, including the courts, budget guidelines to help them prepare their budgets for the upcoming fiscal year. Trial court executives representing each level of the courts submit their budget requests to the court administrator for review. These requests are consolidated into a budget document to be reviewed by the Judicial Council. In a public meeting, the Judicial Council prioritizes budget requests for the Legislature and approves the submission of budget items to GOPB. According to GOPB, since the courts are a separate branch of government, they are authorized to present items to the legislative appropriation committees that are not part of the Governor's budget recommendations. In contrast, executive branch agencies are not allowed to request building blocks in the subcommittee meetings that are not part of the Governor's recommendations. According to GOPB, occasionally the courts have asked for some exceptions to the budget guidelines but "have always tried to follow the spirit of the budget guidelines."

---

**Utah courts further enhance their budget transparency by participating in a state government website called [transparent.utah.gov](http://transparent.utah.gov).**

---

Utah courts further enhance their budget transparency by participating in a governmental website called [transparent.utah.gov](http://transparent.utah.gov). This website, administered by the Utah Division of Finance, provides detailed information about revenues and expenditures from participating state agencies with the intent of enhancing public access to public financial information. Utah's judicial branch has been included on the website since it began in July 2008.

The vast majority of court expenditures are personnel-related. In fiscal year 2010, 70 percent of the courts' total budget was spent on personnel. Figure 3.1 shows court expenditures for fiscal year 2010 by program.

**Figure 4.1 Judiciary Expenditures for Fiscal Year 2010.**  
 Personnel costs comprise a significant portion (70 percent) of the courts' total budget.

Line Item	Expenditure	Personnel Costs	Personnel Costs %
<b>Administration</b>			
District Courts*	\$ 39,348,047	\$ 37,026,806	94 %
Juvenile Courts*	33,751,896	31,140,482	92
Courts Security	7,071,274	94,106	1
Data Processing	5,193,788	3,670,277	71
Court of Appeals	3,151,709	3,057,172	97
Supreme Court	2,445,740	2,383,551	97
Administrative Office	3,282,082	2,546,934	78
Grants Program	1,465,340	707,107	48
Justice Courts	1,162,935	765,492	66
Law Library	671,215	354,322	53
Judicial Education	366,981	252,123	69
<b>Contracts and Leases*</b>	19,357,478	19,103	0
<b>Guardian ad Litem</b>	6,038,301	5,249,841	87
<b>Jury and Witness Fees</b>	2,131,347	165,752	8
<b>Grand Jury</b>	800	5	1
<b>Total</b>	<b>\$ 125,438,933</b>	<b>\$ 87,433,072</b>	<b>70 %</b>

**Personnel costs  
 comprise about  
 70 percent of the  
 courts total  
 expenditures.**

\*Trust & agency disbursements in the district and juvenile courts, along with an \$11 million expenditure used to purchase the Spanish Fork Courthouse, are not included in the total expenditure amount. Source: Division of Finance FINET Accounting System.

Most court expenditures and personnel-related costs are contained within the administration line item. When the court security, contract and leases line item, and jury and witness fees line items are removed which involve either pass through or contract related expenditures, then 89 percent of the courts total budget is in personnel related costs. District and juvenile courts together comprise well over half of all judicial expenditures and 80 percent of all court personnel. Not surprisingly, reductions to the courts' budget during the last three years have resulted in permanent staff reductions.

## Courts Have Been Responsive To the Economic Recession

The courts have responded to the economic downturn by reducing budgets and cutting staff.

The courts have responded to the economic downturn by reducing budgets and cutting staff. In response to Utah's economic downturn, both the Governor and the Legislature approved budget reductions in the 2008 Second Special Session and the 2009 General Session. The American Recovery and Reinvestment Act (ARRA), passed by the federal government in 2009, provided some temporary relief by offsetting reductions with one-time funds. In fiscal year 2010, the courts' operating budget was reduced 5 percent, or \$6.2 million, with a one-time backfill of \$55,000. The courts internally funded 21 clerk positions using \$585,000 in federal ARRA funding, \$260,000 in non-lapsing balances, and \$55,000 in one-time general funds. However, as reported by the courts, positions funded with one-time funding for fiscal years 2010 and 2011 have been eliminated. The combined impact on personnel from these budget reductions was a reduction of 93.3 full-time equivalents (FTEs). Figure 4.2 indicates specific reductions to staff since the recession.

**Figure 4.2 Court Personnel Reductions in Fiscal Year 2010 Through 2012.** According to data from the courts a total of 93.3 positions have been eliminated following the recession.

Positions Eliminated*	FY 2010	FY 2011	FY 2012
AOC positions	(11.0)	(2.0)	(1.0)
Clerk positions	(18.0)	(8.7)	(4.0)
Probation officers	(11.5)	(10.6)	(8.0)
Law clerks	(1.0)		(2.0)
Custodians	(4.0)		
Court reporters	(18.0)		
Other		(4.0)	(0.5)
<b>Subtotal</b>	<b>(63.5)</b>	<b>(25.3)</b>	<b>(15.5)</b>
<b>One-time Positions Funded with ARRA and Carry Forward Funds</b>			
Clerk positions	21	10	4
Law clerks	3.5	3.5	5.5
Small Claims Clerks		3	
Self-help Attorneys			1.5
<b>Subtotal</b>	<b>24.5</b>	<b>16.5</b>	<b>11</b>
<b>One-Time Positions Eliminated</b>		<b>(24.5)</b>	<b>(16.5)</b>
<b>Total Positions Eliminated</b>	<b>(39.0)</b>	<b>(33.3)</b>	<b>(21.0)</b>
<b>Total Positions Eliminated for Past Three Fiscal Years</b>			<b>(93.3)</b>

\*Reductions in FTEs are due to eliminated positions, reduction in force, and attrition.

To fully understand the impact of staff reductions on court operations, it is important to note how personnel reductions are achieved. Reductions in force have been largely achieved through attrition and hiring freezes. Because the courts count vacant positions in their total budgeted FTE counts, they are able to reduce vacant positions without reducing actual court personnel. An alternative measure of actual FTEs used by the Division of Finance, takes the total number of hours worked at the end of a fiscal year and divides this number by 2088, the total number of hours per year for one FTE. This calculation results in an actual FTE count for the courts that is lower than its budgeted FTE count. According to court management, the benefit of including vacancies in FTE counts is enhanced flexibility to fill positions as funding becomes available.

Vacancies also enable the courts to capture turnover savings. Turnover savings are funds realized from the time a position is vacant until it is filled or from hiring an individual at a lower salary than the person he or she is replacing. According to LFA, this practice occurs in other state agencies and is considered acceptable when used reasonably. To verify that the courts were “reasonably” capturing turnover savings, we reviewed the number of unfilled but funded FTE vacancies. Our review of court vacancies showed that the average number of vacant positions over the last six years was around 3 percent of the courts’ total FTEs. In contrast, a 2007 *Performance Audit of Higher Education Personnel Budgeting Practices* was critical of some institutions of higher education that budgeted for 12 to 14 percent more FTEs than actually used. The courts’ average vacancy rate of around 3 percent appears comparatively reasonable.

---

**The courts’ use of turnover savings appears reasonable.**

---

### **Electronic Records Will Help Address Increased Filings with Reduced Staff**

District court case filings have risen 9 percent since 2006 due, in part, to the economic recession. Much of this increase has been caused by increases in tax liens over the last two years. Filing increases, combined with hiring slowdowns and freezes, have resulted in larger workloads per personnel as evidenced by the district courts’ clerical weighted caseload. According to this indicator, created by the AOC, 12 percent more clerical hours were needed in 2010 than in 2006. Clerical weighted caseloads are a quantitative measure of workload based on the average time spent handling a case multiplied by the number of cases handled for any given case type. The combination of

rising district court filings, fewer clerical staff to process filings, and an inefficient dual (paper and electronic) filing system could potentially delay case-processing time-frames, causing a backlog in the courts.

Utah courts are attempting to address the problem of handling rising case filings with fewer staff by utilizing technology solutions. For example, eliminating court reporters in favor of digital recordings and automating a newly centralized transcription service reduced 18 FTE positions and saved the courts approximately \$1.2 million. Court efficiencies were also enhanced. According to a 2010 National Center for State Courts publication entitled, *Trends in State Courts*, the average time between requesting a transcript and filing a transcript fell dramatically from 138 days to 12 days for cases not on appeal and to 19 days for cases on appeal.

The courts have made extensive technological changes in support of their Electronic Records Project. As discussed in Chapter II, such changes have been met with significant challenges and are in need of additional refinement. Reengineering clerical operations has been an integral component of the Electronic Records Project but its relative success has been complicated by recent budget reductions. In an effort to sustain progress with the courts Electronic Records Project, the Judicial Council has decided to protect the courts' information technology department from recession-driven budget cuts. Given the need to stretch dollars and deliver results during these difficult economic times, it is increasingly important that Utah courts' technological solutions deliver projected efficiencies. Hence, Chapter II's recommendation of a comprehensive and swift transfer from a paper to an electronic record system appears necessary.

### **Courts' Personnel Practices Compare Favorably with DHRM Policies**

Because personnel was by far the most significant budgetary expense for the courts, we reviewed the courts' Human Resources Policies and Procedures Manual to document that procedures exist and to ensure that they are reasonable. Using the State of Utah's DHRM *Human Resource Management Rules* as a comparison, we found that the courts' policies and procedures are largely consistent with DHRM's policies. Both policies adhere to equal opportunity practices

---

**The Electronic Records Project is a long term solution to budget cuts.**

---

---

**The courts' personnel policies and procedures are largely consistent with DHRM's policies.**

---

for hiring and have detailed recruitment and selection criteria. Both describe employee compensation, benefits, personal conduct, discipline, and grievance procedures. The courts maintain a reciprocity agreement with DHRM that facilitates the transfer of employees from one branch of government to another by continuing to provide paychecks, accrued benefits, and insurance. This ability to transfer employees further indicates that the courts' policies and procedures are substantially equivalent to DHRM's.

A 2010 Legislative audit titled, *A Limited Review of the State's Career Service System*, credited the courts' performance policy. This policy requires that all new managers be trained on effectively managing employee performance. In our current review of court policies and procedures, we found no circumstance under which we witnessed policies or procedures being breached. A number of clerical staff reported feeling uncomfortable filing grievances or discussing concerns with management, especially concerns that arose surrounding the clerical restructuring project recently undertaken by the courts. While we could not substantiate these clerical concerns we did perform a review of all eight grievances filed in the last five years. Our review revealed that half of the grievances filed, dealt with the clerical restructure. However, the handling of all grievances filed appeared to follow court policies and procedures.

---

**We found no circumstance under which we witnessed policies or procedures being breached.**

---

**This Page Left Blank Intentionally**



## **Chapter V**

# **Courts Are Addressing Legislative Concerns with Custody Evaluations**

There was some legislative concern with the cost and lack of timeliness of custody evaluations; however, our review of the custody evaluation process has shown that the Utah State Courts (courts) have been addressing these issues. When needed, custody evaluators are used in divorce cases where the custody of children is involved. In our review we examined the rules and custody evaluation processes, relying heavily on self reported information from the courts. We found that the process of these important evaluations has been improving, but custody evaluator oversight needs to be increased. The courts, as well as interested parties not employed by the courts, concurred with this conclusion.

In a 2009 comprehensive review of the custody evaluation process in the Third District Court (a study that the courts have relied on for improvements), the caseload management program coordinator stated:

Custody and parent time come to the forefront of many divorce disputes. In most cases a little time, a competent attorney, and a skilled mediator can help the parties come to terms with the new reconfiguration of their lives. When agreement cannot be reached, the parties often ask the Court to order a custody evaluation- hoping to quickly obtain information from an unbiased expert who is able to assess the situation and provide recommendations tailored to meet the best interests of their children.

Because these evaluations help the courts determine the best interest of the child in matters pertaining to custody or parenting, it is important that they are conducted in a timely and accurate manner.

---

**When needed, custody evaluators are used in divorce cases where the custody of children is involved.**

---

---

**It is important that custody evaluations are conducted in a timely and accurate manner.**

---

## Courts Have Worked To Improve Custody Evaluations

In 2003, the courts made substantial efforts to improve the process of custody evaluations.

The courts have been working diligently to improve the custody evaluation process, with documented efforts made in 2003, 2008, and 2009. In March 2003, the courts, recognizing the need for new custody evaluation procedures, studied the issue and released a memorandum announcing the results of their efforts. The purpose of the 2003 memo is stated in Figure 5.1.

**Figure 5.1 Utah State Courts Memorandum Addressing New Custody Evaluation Procedures.** This 2003 memo was issued to address substantial changes to the custody evaluation process in order to improve the overall process.

Noting that custody evaluations are of varying quality, the high quality evaluations can be costly, and that waiting for evaluations stalls the legal process, the Judicial Council charged the Standing Committee on Children and Family Law to “improve the quality and timeliness of custody evaluations.” Having studied the issue in depth, the Standing Committee now presents substantial revisions to Rule 4-903, “Custody Evaluations” of the Code of Judicial Administration, as well as these accompanying forms. This memo explains the process envisioned by the forms, and details the changes made to the rules.

The work of the Judicial Council’s Standing Committee on Children and Family Law resulted in substantial changes to the rules regarding custody evaluations. Some of the primary purposes driving the courts to make these changes were to improve the quality and timeliness of custody evaluations. While we did not audit the results of these changes, the following examples were reported by the courts:

- Custody evaluation forms were approved by the Supreme Court and the Judicial Council to reduce the need for extensive, formally-prepared evaluations and to make custody considerations more accessible to the commissioner or judge on the bench (i.e., standardized forms vs. lengthy, formally prepared evaluations).
- Settlement conference procedures were designed to (1) reduce the time and expense of preparing a written report in cases where this might not be needed, (2) disclose the custody

evaluation findings in such a way that is less adversarial and less damaging to family relationships, and (3) allow the parties a final opportunity to participate in the fashioning of an agreement.

- Additional rule changes (1) addressed who is competent to perform custody evaluations, (2) provided inclusions on motions or stipulations for the performance of custody evaluations, and (3) expanded consideration in cases in which special concerns are at issue, like domestic violence or psychological testing.

To further improve the quality and timeliness of custody evaluations, as a result of internal evaluations, the Third District Court (which hears roughly 50 to 60 percent of the cases in Utah that use custody evaluators) issued a letter in June 2008. The letter addressed all family law practitioners informing them that planning requirements were not being honored and that moving forward, compliance would be monitored.

In their ongoing efforts to develop best practices, the 2009 comprehensive review of the custody evaluation process in the Third District Court listed a number of additional recommendations to further improve the process. The recommendations include the following:

- The courts should explore the establishment of guidelines stating when a custody evaluation, an early neutral evaluation, and a parent time coordinator may be warranted. The courts should also clearly define what each of these services entail.
- The courts should require custody evaluators to indicate readiness (when they are ready to start on a case) only when they are actually prepared for the conference and all payments have been made (payments made by the parties involved in the case).
- The courts should work with the family law section of the Utah Bar Association to create a comprehensive list of custody evaluators practicing in Utah.

---

**In 2008, the Third District, which hears roughly 50 to 60 percent of the cases that utilizes custody evaluators, informed family practitioners that compliance with time standards would be monitored.**

---

---

**In 2009, a comprehensive review of the custody evaluation process helped the courts further improve.**

---

A number of the recommendations made in this comprehensive review were promptly acted upon by the courts. The willingness of the courts to improve in this area was highlighted by the author's cover letter to the 2009 report, which stated, "The commissioners were willing to initiate changes to their work processes and to test new ideas. As a result, many of the recommendations have been developed in concert with the commissioners and are already moving toward district-wide implementation."

## **Oversight of Custody Evaluators Can Be Improved**

Although the courts have been working to continually enhance the custody evaluation process, oversight of custody evaluators still needs improvement. In our discussions with interested parties, the lack of oversight of custody evaluators was identified as an area in the current process that needs to be strengthened. Based on our discussions with the district court administrator for the Utah State Courts, it appears that two key issues must be addressed in order to improve the oversight of custody evaluators: (1) delay in preparation and cost of evaluation, and (2) evaluator performance or behavior.

### **Oversight of Custody Evaluators Should Include Continued Review to Help Reduce Delays and Costs**

The courts share concerns that delays in preparation and completion of custody evaluations are contrary to the best interests of the children involved in custody disputes. While we did not conduct a case review of custody evaluators to determine a baseline for improvements, interested parties have indicated that the oversight of custody evaluators needs to be addressed. Because increased cost is often a result of delays, improving timeliness of custody evaluations would help reduce costs.

As previously discussed in this chapter, substantial changes to rules regarding the custody evaluation process were made by the courts several years ago in order to improve the quality and timeliness of the process. Now that the courts have had time to understand and apply those new rules, court personnel should evaluate the results of those changes to determine if additional amendments to current rules are

---

**Interested parties and the courts concur that the oversight of custody evaluators can improve.**

---

---

**Because increased cost is often a result of delays, improving timeliness of custody evaluations would help reduce costs.**

---

needed. Court administrators and staff agree that continued review of the custody evaluation process would be beneficial.

For example, the courts should continually evaluate the enforcement of rule provisions that could help minimize delays. One such provision is the *Utah Code of Judicial Administration* 4-903(2)(B), which states:

Every motion or stipulation for the performance of a custody evaluation shall include: the anticipated dates of commencement and completion of the evaluation and the estimated cost of the evaluation.

The courts anticipated that including the completion date in the rule would improve the timeliness of the parties. Ongoing review of this rule and others would help the courts in their goal of reducing delays and costs in the custody evaluation process.

### **Oversight Concerns of Evaluators Could Be Addressed by the Development of Reporting Procedures**

The courts should develop procedures to report any unprofessional conduct of custody evaluators. Custody evaluators are not court employees or public employees, but they are required to be licensed by the state through the Division of Occupational and Professional Licensing (DOPL). The *Utah Code of Judicial Administration* 4-903 addresses who can perform custody evaluations. It is cited in Figure 5.2.

---

**The courts should develop procedures to report any unprofessional conduct of custody evaluators to DOPL.**

---

**Figure 5.2 Code of Judicial Administration (UCJA) 4-903 Establishes the Minimum Qualifications for Individuals to Perform Custody Evaluations.** According to UCJA, to be eligible to perform custody evaluations, one must hold a license from the state.

UCJA 4-903 (emphasis added)

(1) Custody evaluations shall be performed by persons with the following minimum qualifications:

(1)(A) Social workers who hold the designation of Licensed Clinical Social Worker or equivalent license by the state in which they practice may perform custody evaluations within the scope of their licensure.

(1)(B) Doctoral level psychologists who are licensed by the state in which they practice may perform custody evaluations within the scope of their licensure.

(1)(C) Physicians who are board certified in psychiatry and are licensed by the state in which they practice may perform custody evaluations within the scope of their licensure.

(1)(D) Marriage and family therapists who hold the designation of Licensed Marriage and Family Therapist (Masters level minimum) or equivalent license by the state in which they practice may perform custody evaluations within the scope of their licensure.

UCJA 4-903 clearly states that only individuals holding an appropriate license from the state are allowed to perform custody evaluations.

A custody evaluator's conduct during an individual case is a matter for the judge of that case to address. Ongoing unprofessional or unethical behavior by a licensed custody evaluator would be a matter for DOPL. Regarding our questions of this matter, the district court administrator suggested that if there is a pattern of performance or behavior by a licensed professional engaged in private practice that is alleged to be unprofessional, then it would be more appropriate for DOPL to investigate.

Because custody evaluators are not court or public employees but can serve a critical role in custody disputes before the courts, we recommend that the courts develop a mechanism for reporting allegations of unprofessional or unethical conduct to DOPL. This would help ensure that custody evaluators are adhering to the standards that are expected of them.

**Custody evaluators are not court or public employees, but are licensed by DOPL.**

## **Recommendation**

1. We recommend that the Utah State Courts develop a mechanism for reporting allegations of unprofessional or unethical conduct of custody evaluators to the Division of Occupational and Professional Licensing.

**This Page Left Blank Intentionally**



## **Chapter VI**

# **Statewide Traffic Citation Trends Have Remained Constant, and Traffic Schools Are Unregulated**

There was legislative concern that municipalities may increase the number of traffic citations issued, merely to increase revenues. An analysis of traffic citations submitted to justice courts shows that despite fluctuations, the overall number of citations has remained relatively constant before and after the recent economic recession. However, individually, 36 percent of justice courts have shown an increase in traffic citations with 11 percent showing an increase of greater than 30 percent after the recession. We cannot rule out the possibility that some municipalities may have increased the number of traffic citations to cover shortfalls in revenues. There are other factors unrelated to the recession, however, that may also account for much of these increases such as: citizen requests for increased enforcement, increased population, hiring of new officers and placing more officers on patrol duties.

Traffic school revenue is another way that cities may be increasing their revenue streams. Our review revealed that traffic schools in Utah's municipalities are unregulated. This has led to at least one municipality avoiding the sharing of revenue with the state by issuing invitations to traffic school, and thus sending people to traffic school instead of issuing citations. Additionally, since traffic schools are unregulated, they can vary greatly in quality and cost. To address these problems, the Legislature should consider tightening regulations for traffic schools to ensure that traffic schools are consistent in providing quality information and state resources are safeguarded.

## **Statewide Traffic Citation Trends Have Remained Level During the Last Economic Recession**

There is some concern that municipalities may increase the number of traffic citations in order increase revenues. This belief may become increasingly prominent after the recession, when municipal budgets faced shortfalls. Despite this notion, our analysis of traffic citations

---

**The overall trend of traffic citations issued statewide has remained constant, but some municipalities have seen increases. However, other factors may explain these increases other than a desire to increase revenues.**

---

---

**Traffic school is another means to increase local revenue and these schools are unregulated.**

---

revealed that the trend of statewide traffic citations has remained level during the recent recession.

When three years of traffic data before the recession was compared to three years of data after the recession 36 percent of justice courts showed an increase in citations. However, only 16 percent of justice courts showed an increase in traffic citations of greater than 21 percent. While we cannot rule out the possibility that these increased citations were driven by the need to cover budget shortfalls, other legitimate factors, unrelated to the recession, could account for the increases.

### **Traffic Citation Data Appears To Be Captured in CORIS**

It is important that traffic citation data is entered in the Court Records Information System (CORIS) to ensure that revenue generated from these citations is properly distributed. Independent audit tests conducted by the Administrative Office of the Courts (AOC) and our office did not identify any significant systemic concerns with justice court data recorded in the CORIS system or in the separate database for justice court data.

The AOC's own internal audit team conducted tests on two separate occasions by tracing over 300 citations administered by law enforcement and sent to the justice courts. They were able to account for all citations. Another test they conducted showed little concern with the quality of the justice court self reported data. The AOC audit team did, however, identify one justice court that was creating a traffic case for every violation on a citation when they should be recording one case with several violations. This inflated the number of court filings for this court, but does not appear significant enough to impact our trend analysis. Our limited review of justice court data from Lehi and Salt Lake City indicated that self-reported data matched the data maintained by the courts.

According to city officials, when officers issue traffic citations, the standard procedure is for those citations to be forwarded to the justice court in the jurisdiction where it was issued. Smaller cities may send their citations to a county justice court, and a few cities send them to the district court. Therefore, a justice court would receive citations not

---

**Independent audit tests conducted by the AOC and our office did not identify any significant systemic concerns with justice court data recorded in the CORIS system.**

---

just from the municipal police department, but from other law enforcement agencies such as the Utah Highway Patrol and the county sheriff. Even though most justice courts represent a single city they will have more citations than their municipal police issue.

Once received by the courts, traffic citations should then be included in the CORIS database as a case. Since municipalities send the majority of their traffic citations to their local municipal court we used justice court data available in CORIS and in the self reported database to assess traffic citation trends. According to an AOC representative, in the past, justice courts submitted monthly data from their independent data systems to the AOC. The AOC included this self-reported data in a separate data base. During the last three years, all justice courts have been converted to the new justice court CORIS system. This will further improve data quality by standardizing procedures, such as requiring that all violations on a citation be recorded as one traffic case. In summary, our limited review of the data did not identify any systematic concerns with the accuracy of the CORIS data. Due to the fact that all justice courts completed the conversion to CORIS in July 2011, we only did a limited review of the accuracy of self-reported traffic data submitted before CORIS was in use, because this data is no longer applicable.

### **Statewide Traffic Citations Are Cyclical, but Overall Trends Have Remained Constant**

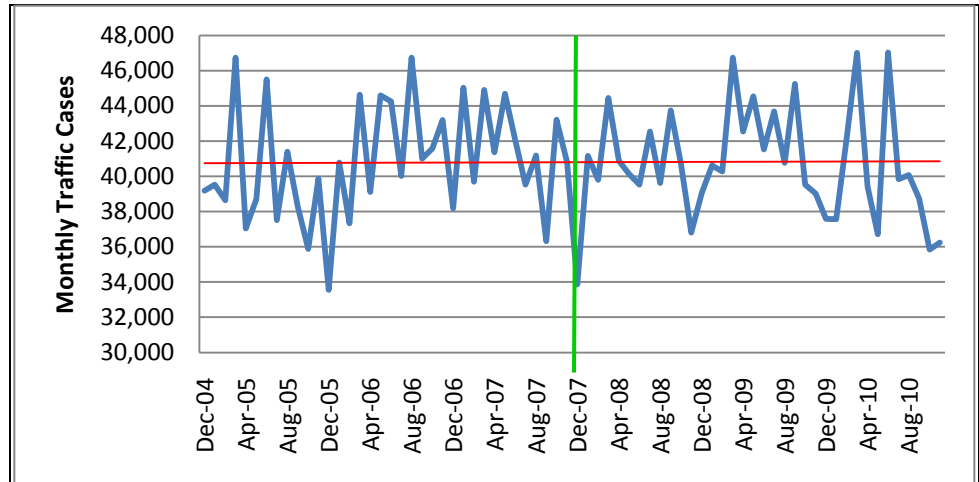
Statewide monthly traffic citations appear cyclical, but trendlines do not show recessionary increases. Using traffic citation data self-reported by over 130 justice courts, we analyzed six years of traffic citation data from December 2004 through November 2010. Figure 6.1 shows that the statewide trend (**red line**) in traffic citations remained level over the period of time examined. The current recession officially began in December of 2007(**green line**) and does not appear to have impacted the overall trend in traffic citations.

---

**Due to the fact that all justice courts completed the conversion to CORIS in July 2011, we only did a limited review of traffic data submitted before CORIS was in use, because this data is no longer applicable.**

---

**Figure 6.1 Recent Recession Did Not Increase the Number of Traffic Citations Overall.** Trend lines suggest that there is no significant statewide change in the number of traffic citations following the recession onset in December 2007.



Note: The red trend line was created using an Excel linear regression.

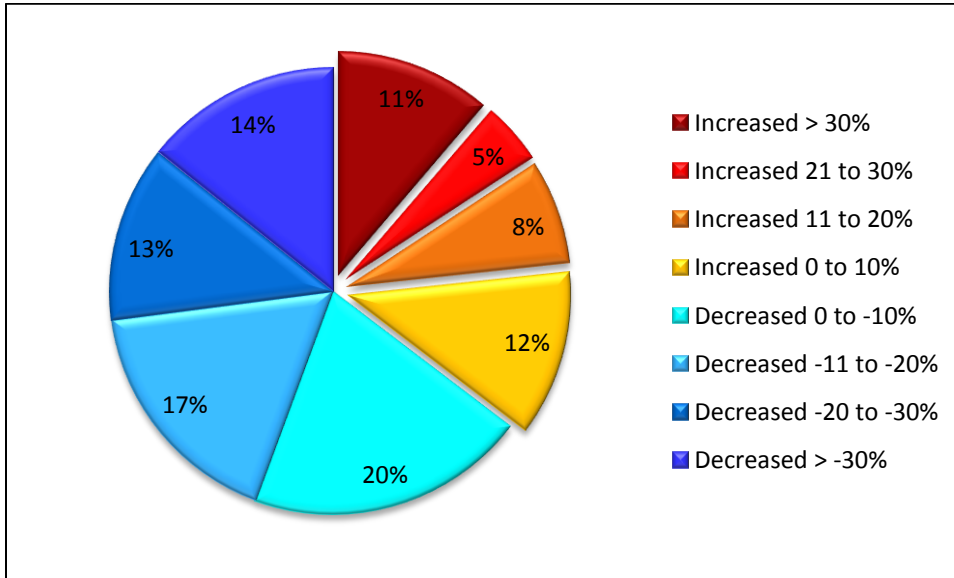
**This analysis shows that although the number of traffic citations can fluctuate widely, no long-term increasing trend (represented by the red line) has occurred statewide to date.**

The number of traffic citations tends to be cyclical, with fewer citations being cited in the month of December. Spring and summer citation numbers are somewhat higher. Overall, total traffic citations for the state typically range between 36,000 and 46,000 per month. This analysis shows that although the number of traffic citations can fluctuate widely, no long-term increasing trend has occurred to date.

### **Some Justice Courts Had Increases in Traffic Citations After the Recession, but Two-Thirds Saw Decreases**

To identify the direction and strength of the change in traffic citations for justice courts, we compared citations issued in the three years prior to the recession to citations issued in the three-year period after the recession began. Figure 6.2 shows the percent of municipal courts that increased or decreased in the number of traffic citations following the beginning of the recession. Almost two-thirds of all justice courts indicated a decrease in traffic citations after the recession and one-third reported citation increases.

**Figure 6.2 Sixty-Four Percent of Reviewed Justice Courts (shown in four shades of blue) Reported a Decrease in Traffic Citations Issued.** Thirty-six percent of justice courts (shown as separated pieces) reported an increase in the number of traffic citations issued, but statewide trends have remained constant.



*Note: Due to incomplete data, 18 justice courts were excluded from this figure, traffic data from district courts for 8 municipalities was included.*

If municipalities had increased the number of traffic citations to cover budget shortfalls after the recession, we would expect to see sustained increases in the number of traffic citations soon after the recession began. However, the data indicates that this has generally not been the case. Sixty-four percent of justice courts reviewed, shown in the four shades of blue, indicated a decrease in traffic citations after the recession. Thirty-six percent of justice courts showed an increase in traffic citations, shown in shades of red, orange and yellow.

**Sixty-four percent of justice courts reviewed indicated a decrease in traffic citations after the recession.**

Breaking down the data illustration in Figure 6.2, we found:

- Courts in fifteen cities and two counties increased at least 30 percent. The data from those courts reveal that:
  - Seven courts often had less than 40 citations per month and a dozen more a month makes for a large percentage increase.
  - Four courts had increases that did not start until well after the recession began.

- Four courts had increasing numbers of citations even before the recession began.
- Three courts had traffic citations that fluctuated widely from month to month.
- Courts in five cities and one county increased between 21- 30 percent. The data from those courts reveal that:
  - Two courts had several large spiked increases in traffic citations after the recession began, but were otherwise consistent or level in their citations reported.
  - Three courts had increasing numbers of citations even before the recession began.
  - Two courts had traffic citations that fluctuated widely from month to month.
- Courts in nine cities and one county increased between 11 – 20 percent. The data from those courts reveal that:
  - Four courts actually had level or declining trend lines, but a few spikes in the number of citations issued after the recession began increased their percentages.
  - Three courts had traffic citations that fluctuated widely from month to month.
  - Two courts had increases that began before the recession.
  - Two courts had small numbers of citations issued per month and a dozen more citations issued per month makes a large percentage increase.

---

**We cannot rule out the possibility that some municipalities may have increased traffic citations to cover budget shortfalls, but other factors, unrelated to the recession, may better explain some municipalities' increases in the number of traffic citations issued.**

---

Discussions with city and county officials suggest that there are a number of reasons for increases in the number of traffic citations, such as population increases, increases in the number of officers, placing more officers on patrol duties, and a public desire for increased traffic enforcement.

We cannot rule out the possibility that some municipalities may have increased traffic citations to cover budget shortfalls. However, other factors, unrelated to the recession, may better explain increased traffic citations. It is important to note that after the last recession began, of the justice courts we were able to review, more experienced

decreases rather than increases in the number of traffic citations issued. While the number of traffic citations can fluctuate widely from month to month, statewide trends indicate that traffic citations have remained level.

## **Legislature Should Consider Whether Traffic Schools Should Be Regulated**

In a separate issue, we found that since traffic schools are unregulated, there is variation in the quality of traffic schools and ambiguity surrounding how traffic school charges should be assessed. This ambiguity has led to at least one city generating revenue from traffic schools without issuing traffic citations, potentially diminishing the state’s allocation of funds. More regulation of traffic schools could help safeguard state resources and standardize the quality of traffic schools.

The criminal procedure sections of the *Utah Code* says little regarding the regulation of traffic schools. *Utah Code* 77-2-4.2 offers the only section of statute that mentions traffic schools. This section discusses how prosecutors, defendants, and courts process traffic charges. Offenders may participate in “traffic school or other school, class, or remedial or rehabilitative program” as part of their plea in abeyance agreement. Although the plea is reported to the Driver License Division for public safety purposes, the citation will not negatively impact the defendant’s driving record unless the plea is breached. Since traffic schools are not special statutory programs and are not operated by the courts, court involvement in traffic schools is minimal. A 2010 memorandum publishing the opinion of the courts’ General Counsel on traffic schools states, “Traffic schools should be treated the same as any other treatment program, school, class, etc. to which a justice court might order a defendant to attend.” This means that traffic schools are not operated by the court.

### **Traffic School Revenue Is Generally Shared With State**

Our review found that traffic school revenue is generally shared with the state. However, one city’s police department has been issuing invitations to participate in traffic school in lieu of issuing citations in

---

**Since traffic schools are unregulated, there is variation in the quality of traffic schools and ambiguity surrounding how traffic school charges should be assessed.**

---

---

**Traffic school revenue is generally shared with the state, however, one city’s police department have been issuing invitations to traffic school in lieu of issuing citations in some circumstances.**

---

some circumstances. This practice bypasses the citation process and allows the traffic offender to only pay for traffic school. Since a citation was not issued, the fees that are typically associated with a citation (a plea in abeyance fee and surcharges) are not paid and thus no revenue sharing occurs with the state. Revenue sharing is only addressed in statute when a citation is issued. In our example city, if an individual does not accept the invitation to pay for and attend traffic school, then the citation is issued. This practice has enabled the city to retain all of the revenue generated from their traffic school, since a citation is never issued and the courts are not involved.

We contacted the city's attorney about this practice. Not only did the attorney defend the legalities of the practice, but he was surprised other cities were not taking advantage of the same legal loophole. According to this attorney, the practice of issuing an invitation to traffic school has been temporarily suspended to determine if there is sufficient financial incentive for the city to continue the practice. However, accounting data from the city's director of finance indicates that the suspension of this practice has resulted in significant losses for the city. Over the last four years, this city has generated an average of \$100,000 in traffic school revenue each year. According to the city's director of finance, this revenue is no longer coming into the city's coffers, resulting in reductions to other areas of the city's budget.

While this practice was found in only one city, there is the potential for other municipalities to do the same. According to the AOC, 26 justice courts with traffic school programs requiring a fee were found in the CORIS system in May 2011.

Since traffic school fees are collected and retained by the provider of the traffic schools, traffic schools are a viable avenue for municipalities to generate revenue. Appendix B illustrates how revenue is distributed between local governments and the state using the example of a speeding ticket. While the distribution of revenue can be complicated, it is important to note that most of the revenue is divided between local and state treasurers, but traffic school fees are retained by the provider (which is often a municipality). To ensure that state resources are safeguarded, the Legislature may want to consider if municipalities should be allowed to use traffic school invitations as an alternative to issuing citations.

---

**Invitations to traffic school in lieu of issuing citations is a legal loophole that can allow a municipality to retain all revenue from the traffic offense and not share with the state.**

---

---

**The Legislature may want to consider if local governments should be allowed to bypass the citation process by issuing invitations to traffic school.**

---



## **Variance in the Quality of Traffic Schools May be Problematic**

An independent legislative request prompted a review of this problem several years ago. The review was based on constituent allegations that their time and money was being wasted on traffic schools. According to the attorney that performed this review, there appeared to be wide variation in the cost and quality of traffic schools. Since minimum standards have not been established for traffic schools, there is no guarantee that traffic schools will effectively modify the behavior of the traffic offender and, at least in theory, promote public safety. Thus, the Legislature may want to consider implementing minimum requirements for traffic schools.

### **Recommendations**

1. We recommend that the Legislature consider whether municipalities should be allowed to use traffic school invitations as an alternative to issuing citations.
2. We recommend that the Legislature consider whether traffic schools should be regulated to ensure quality and consistency.

---

**The Legislature may want to consider implementing minimum requirements for traffic school.**

---

**This Page Left Blank Intentionally**

## **Appendices**

**This Page Left Blank Intentionally**

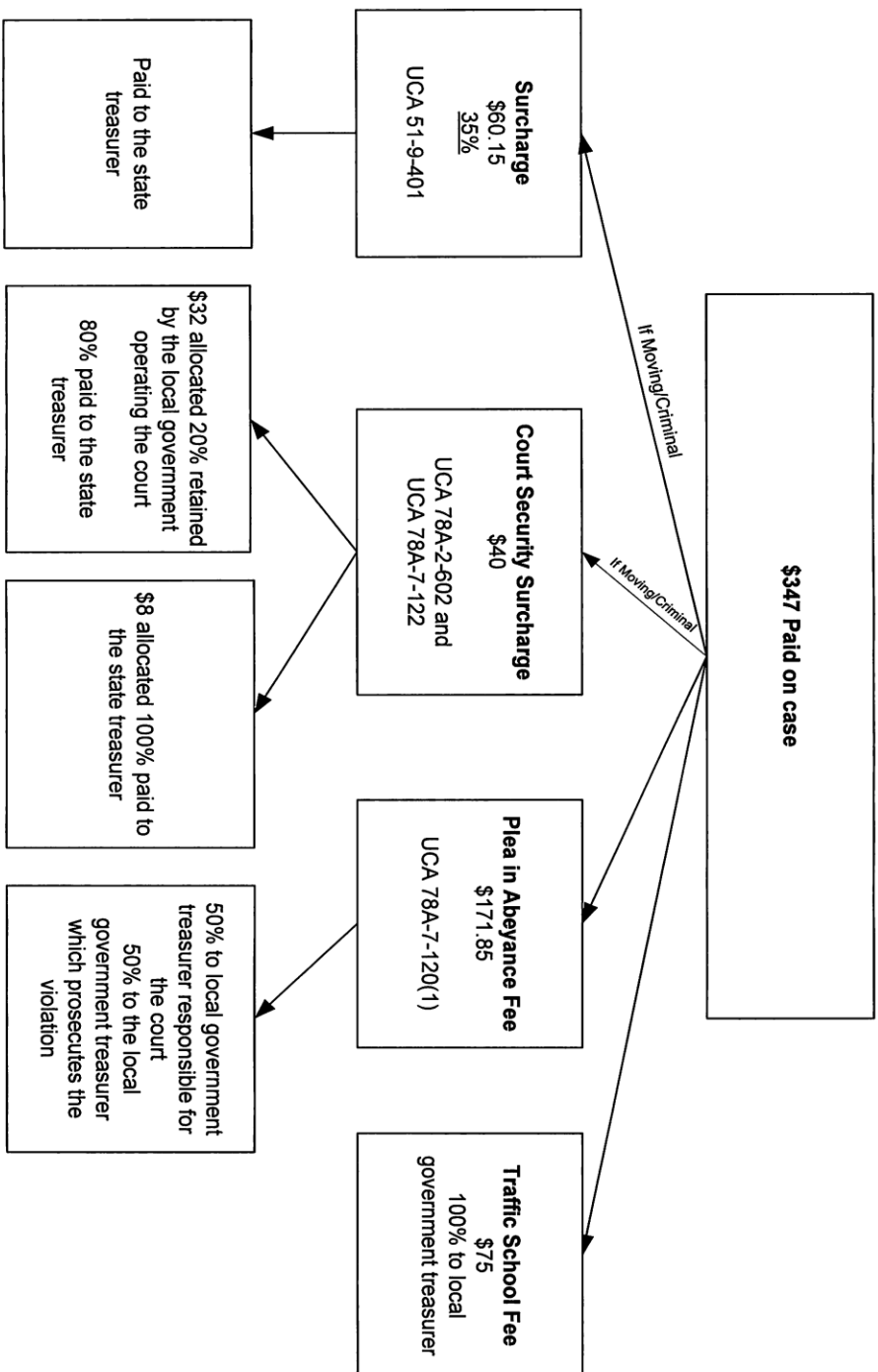
## Appendix A

These electronic services are all components of the courts Electronic Records Project.

<b>Electronic Service:</b>	<b>Description:</b>
<b>e-record</b>	A paperless form of record keeping. The 2nd district is the only district to date that has implemented a fully paperless system.
<b>e-filing civil</b>	An electronically delivered court document. Court contract sites, which are not state run, are not presently accepting e-filed civil cases.
<b>e-filing criminal</b>	A way to file criminal cases electronically. Although not available yet, the 2nd district has scheduled a pilot study.
<b>e-payments</b>	A way for district and juvenile court users to pay for fines, fees, and other court related costs.
<b>e-documents</b>	An electronic document that is made digital either through e-filing or through scanning documents into an electronic form.
<b>e-warrants</b>	A way for law enforcement to electronically request and receive blood draws or search warrants from judges.
<b>e-warrants (juv.)</b>	A way to speed up the search warrant request and approval process for juvenile cases. A pilot study has begun with plans to adopt statewide.
<b>e-citations</b>	A way to move a citation from the patrol car to the court. By rule, all citations must be filled electronically as of July 2011.
<b>e-transcripts</b>	An Internet service that allows an attorney to identify a court hearing and request a verbatim transcript made from the courts' digital recording.
<b>e-notice</b>	A way to notify attorneys that are participating on a case electronically that an event has occurred on a case to which they are a party.
<b>e-service</b>	Except for primary service, where documents are served in person, the system supports secondary services that notify parties when additional documents are submitted.
<b>e-access</b>	Enables the public to access case history and public documents online for a minimal fee through XChange for district and justice courts and MyCase for juvenile courts.

**This Page Left Blank Intentionally**

# Appendix B



## Justice Court Traffic Citation – Speeding UCA 41-6a-601 25 Over -MC Severity 35% surcharge

The citation was processed in CORIS as a No-Appearance Plea in Abeyance with Traffic School Fee

The suggested bail amount is \$247 + \$25 increase (UCA 77-2-4-2(3)(a)(iii)) = \$272 and a \$75 Traffic School Fee for a total of \$347

**This Page Left Blank Intentionally**



## **Agency Response**

**This Page Left Blank Intentionally**

# Administrative Office of the Courts

**Chief Justice Christine M. Durham**  
Utah Supreme Court  
Chair, Utah Judicial Council

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

September 2, 2011

Mr. John Schaff  
Legislative Auditor General  
W315, Utah State Capitol  
Salt Lake City, Utah 84114

Dear Mr. Schaff:

Thank you for the opportunity to respond to the recently completed audit entitled *A Performance Audit of the Operating Efficiency of the Utah State Court System*. We have reviewed the audit closely and support all of the recommendations set forth. I should note that the timing of this audit response has not permitted a discussion with the Judicial Council, so we are responding only on behalf of the Administrative Office of the Courts.

We are gratified that the original purpose of the audit, which is addressed in Chapter IV - Court Budgeting and Personnel, found the courts operation both transparent and responsive to the economic recession. There were no recommendations to respond to in this chapter. The recommendations under #1 in Chapter II either have been or are in the process of being addressed. Recommendation #2, which speaks to mandating electronic filing, is directed to the Judicial Council. This recommendation will be calendared as an agenda item for the October Judicial Council meeting. In Chapter 3, recommendation #1 dealing with the adoption of time standards, will be calendared for consideration by the Judicial Council. With respect to this recommendation, I should note that several months ago the Judicial Council authorized the Administrative Office of the Courts to begin a pilot project to evaluate the model time standards referenced in the audit. Utah is the first state to begin use of the model standards. Recommendation #2, regarding inactive cases, is currently being addressed. The recommendation in Chapter V, regarding a mechanism for reporting allegations of unprofessional or unethical conduct by custody evaluators, will be addressed both with the Board of District Court Judges and the Judicial Council. The two recommendations in Chapter VI are both directed to the attention of the Legislature.

While, as I said at the outset of this response, we support the recommendations contained in the audit, there are a number of representations in Chapters II and III, that warrant comment. Left unaddressed, a reader might draw conclusions which, in my opinion, are incorrect.

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

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

## Electronic Record

The audit recommends, and I concur, that we should expedite the transition to a paperless/file-less environment, and that e-filing be made mandatory as soon as there is sufficient evidence that the districts are ready to handle the increased e-filing caseload. The audit goes on to cite the experience of other states and the federal courts as examples of comprehensive e-filing systems, implying that our efforts, both in moving to a paperless system, and mandating e-filing, need to proceed at a more rapid pace.

The reality of what is happening in other states is very different from what is implied. In fact, Utah is moving to a state wide electronic record system as fast, if not faster, than any other state. According to the National Center for State Courts, which is the national authority on court automation, no state has proceeded as rapidly to a paperless environment as Utah and only one state, Connecticut, has mandated e-filing comprehensively for civil cases in all general jurisdiction trial courts.

Colorado, which is held out as an example of a successfully implemented state wide system, is not a state system at all. The Colorado courts entered into a contract with a private vendor to deliver an e-filing service. All documents are retained by the vendor and are duplicated by the courts. The system is built around the needs of the attorneys, rather than the needs of the courts, making the interface with other court records difficult. Because of these limitations and the exceedingly high cost charged to users, the Colorado Legislature has recently mandated that the courts terminate their contract with the vendor. Accordingly, the Colorado courts are retooling and their existing e-filing project is proceeding on a very incremental basis, with the first stage limited to a pilot project involving only small claims cases.

The audit report also states that “in states that had e-filing available, more than half have mandated electronic filing.” Elsewhere in the report, a New York study is cited saying “that 41 states are authorized to provide e-filing and of those states, more than one-third have mandatory e-filing.” In reviewing the footnotes for this citation and in gathering the most current information on e-filing efforts in other states, a very different picture emerges. In fact, only Connecticut has state-wide, comprehensively mandated e-filing in civil cases, and even then, it excludes domestic relations cases. What “authorized” in the New York study actually means is that e-filing is recognized either in statute or court rule, or e-filing is not expressly prohibited by statute or rule. There is a big difference between permitting e-filing and realizing its implementation. A fair examination of the national e-filing landscape reveals that mandatory e-filing, where it exists, is limited to very select case types, in only certain courts, in only specified pilot sites or in limited judicial districts, and/or for only certain types of filings - hardly the comprehensive approach being undertaken in Utah.

As for the reference to e-filing in federal courts, they are rightly recognized for their advances. But, it also important to note that the federal courts took five years to implement e-filing. Each court took ten months to make the transition, even though their caseload is a small fraction of that of state courts, there is a relatively small bar practicing in the federal courts, and each implementation was conducted by a specialized team from the federal Administrative Office

of the Courts. The mandatory component of e-filing only went into effect after a voluntary program reached in excess of 50 % of all filings. This process took years in most courts.

Our purpose in sharing this information is to provide additional context to the audit findings and recommendations. Utah's courts are attempting to do something very few, if any, state court systems have done. We undertook this effort not because we were directed to by legislation or some other mandate, but because the Judicial Council had the foresight to recognize that, with such a system, we could operate with a smaller workforce, improve our performance, and provide improved access and services to court users. This initiative was undertaken without any additional appropriation, any additional information technology (IT) staff, at a time when budgets were being cut, and the courts were downsizing its workforce by approximately 10 %. Complicating the process was the fact that our court staff were contending with historic caseload increases and our IT staff was working to meet a legislative mandate to convert all justice courts to CORIS. Our courts are rightfully proud of this sweeping undertaking.

### Time Standards

Again, while we have no fault with the recommendations relating to time standards, we do not agree with the assessment of the audit that performance measures are of limited utility without time standards. Specifically, the statement, "By not having case processing standards, the courts have negated the utility of the measure" (meaning the CourTools performance measures), is akin to saying that the function of a speedometer is negated by not having a speed limit.

In fact, our use of performance measures has produced very good results. As evidenced by the information presented in the audit, our processing times compare very favorably with the ABA time standards, for both civil and criminal cases. We should note that the misdemeanor standard cited in the audit is better applied to the justice courts, which handle 98% of all B and C misdemeanors, rather than to the district courts.

The statement that 41 states have, over the years, adopted time standards, isn't particularly useful information without knowing how they were applied. Our courts pay very close attention to our performance measures. Every presiding judge and court executive are provided regular reports for both their district as well as comparable data for every other district. They are used in training and progress meetings with local court officials. The Judicial Council relies on such measures for monitoring system performance, making systemic changes, and for resource allocation and budgeting.

The performance outcome, not the specific tool, is what is important. By that standard, our performance measures have proven very effective. It is interesting to note that in the recent report of the Conference of Chief Justice and the Conference of State Court Administrators committee calling for new model time standards, the committee largely relied on Utah data to demonstrate that the measures were attainable, rather than data from states which had adopted time standards. The mere adoption of any standard does nothing to improve performance.

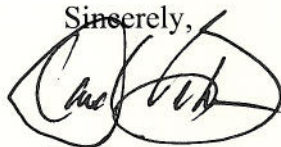
While we are pilot testing the new model standards they will, at best, be a complement to our already very effective performance measures. I should note that Utah remains the only state to make comprehensive performance measures publically searchable and accessible on the internet.

#### Traffic School Invitations

We share the concerns expressed in the audit about the reported practice of local law enforcement issuing an invitation to traffic school in lieu of issuing citations in some circumstances. In addition to the potential for lost revenue identified in the audit, such a practice also can undermine public trust and confidence in the courts. A traffic offender who is given the option of attending traffic school or being issued a citation to appear in court will not likely draw the distinction between the local law enforcement tactic and the judicial process. To the offender, it will appear the threat of court is being made by the judiciary, while in reality the court is not even aware the offender has been cited. Any practice which potentially undermines public trust and confidence in the judicial process is a serious concern to us.

I would like to acknowledge the manner in which the staff of your office conducted this audit. As usual, they were professional in all respects. I will be available to respond to any questions when the audit is presented to the Legislative Audit Committee.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Becker', enclosed within a large, loopy circular flourish.

Daniel J. Becker  
State Court Administrator

cc: Chief Justice Christine M. Durham