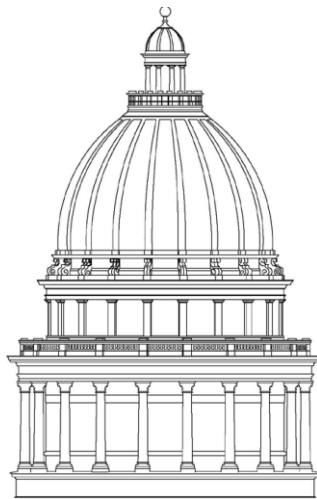


REPORT TO THE
UTAH LEGISLATURE

Number ILR 2016-C



**A Limited Review of the Timely
Issuance of Warrants**

February 2016

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah



STATE OF UTAH

Office of the Legislative Auditor General

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

Audit Subcommittee of the Legislative Management Committee

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

JOHN M. SCHAFF, CIA
AUDITOR GENERAL

February 24, 2016

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Limited Review of the Timely Issuance of Warrants** (Report # ILR 2016-C). We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

John M. Schaff, CIA
Auditor General

JMS/lm

REPORT TO THE UTAH LEGISLATURE

Report No. ILR 2016-C

A Limited Review of the Timely Issuance of Warrants

February 2016

Audit Performed By:

Audit Manager	Darin Underwood
Audit Supervisor	Jesse Martinson
Audit Staff	Derek Olson

Office of
LEGISLATIVE AUDITOR GENERAL
State of Utah

**Report Number ILR 2016-C
February 2016**

A Limited Review of the Timely Issuance of Warrants

We were asked to conduct a limited review of the Administrative Office of the Court's (AOC's) warrant system, because of a concern that a backlog may exist in processing warrant requests. A backlog could potentially lead to premature release of high-risk defendants from jail. The Salt Lake County District Attorney's Office (SLDA) provided us with 37 cases for which delays in processing warrant requests may have led to possible early release of suspects. Our review of these cases identified five cases in which a suspect was released prior to a warrant being issued, but we found no evidence that release was caused by a processing backlog. However, other concerns with these cases are discussed in this report. Overall, the AOC has improved its processes to reduce the likelihood of delays in warrant processing and has been working with the SLDA's office to address their concerns. We also spoke to other counties' district attorneys to ascertain if they had issues similar to Salt Lake County's; however, only one issue was reported by one other county, which has been addressed.

We reviewed 37 cases and identified 5 cases in which a defendant was released prior to a warrant being issued.

Some Defendants Were Released Before Warrants Were Issued

We examined 37 cases alleged to have backlogging issues and found 5 cases of possible premature defendant releases. We evaluated these five cases and found the following issues:

- Issue #1: Defendants in three cases were released before the prosecutor could file charges

- Issue #2: The defendant in one case was released under a Promise to Appear agreement
- Issue #3: The defendant in one case was released under a supervised release agreement

The releases in Issue #1 had two of the three cases in which a defendant was released before the prosecutor filed charges were caused by a late filing by the district attorney's office. The remaining case in Issue#1 involved a decision made by the jail to release the defendant before receiving the warrant. If the AOC receives cases after 5 p.m., processing will start the next day, raising the possibility that a defendant could be released before the jail receives the warrant. Warrant processing is discussed and depicted in the next section.

The releases in Issues#2 and #3 involved a Promise to Appear and a supervised release agreement are under the purview of the jails. The jails, through pretrial services, can release defendants with certain stipulations. Therefore, these cases represent scenarios that would not even involve warrants.

So, even though these reviewed cases did not highlight delay issues, we are aware that the SLDA had specific concerns about timely issuance of warrants that required the AOC to help address. These concerns are discussed next.

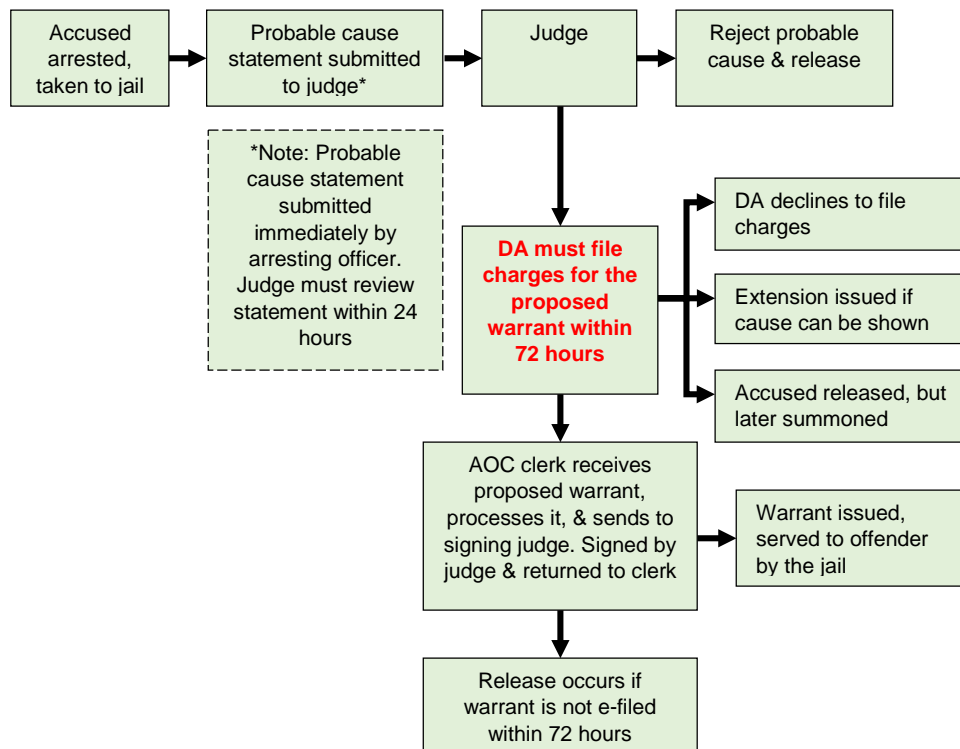
New Processes in Place to Prevent Delay of Warrant Requests

The Salt Lake County DA was concerned that warrant requests were not being processed in a timely manner, so the AOC examined its process and found that improvements in efficiency and effectiveness were possible. Because our scope was very limited, we only examined the cases in question and did not perform an independent system-wide review to determine whether further instances of warrant issuance delays occurred. The issuance of a warrant is outlined in Figure 1.1.

The reviewed cases did not highlight delay issues, but other specific concerns about timely issuance of warrants need to be addressed.

The Salt Lake County District Attorney was concerned that warrant requests were not being processed in a timely fashion.

Figure 1.1. Warrant Request Process Chart. The defendant is held in jail while the warrant is being processed, thus, the warrant is referred as an in-custody warrant.



As Figure 1.1 shows, the AOC becomes involved after the DA files charges for a warrant. It is at this point where concerns have been raised. Clerks generally receive batches of requests that include warrants as well as other work, such as debt collections that require the document to be converted to a PDF format. Since the warrants did not possess a unique identifier to separate them from the rest of the e-mails, the work was processed as it was received. In other words, time-sensitive warrants could possibly not be processed before the 72-hour time limit. It appears that the AOC has resolved this issue with two process adjustments:

- A visual indicator, or flag, has been added to in-custody (defendants being held in jail) warrants, which helps the clerk differentiate this request from others

Since the warrants did not possess a unique identifier to separate them from other emails, the work was processed as it was received.

- A new field has been added that allows the clerk to sort warrants that are closer to the deadline and require immediate attention

The AOC has informed the SLDA about these improvements and is working with the SLDA's office to prevent future problems. We met with representatives from both organizations on numerous occasions. It appears that the offices are now working together to ensure timely warrant issuance. Thus, we recommend the AOC and the Salt Lake County DA continue to work together to resolve any further warrant issues.

Most Counties Contacted Did Not Have Issues with the Issuance of Warrants

To learn whether there were similar concerns with warrants beyond Salt Lake County, we contacted the remaining 28 counties to see if they were experiencing similar problems. Of the 24 responding counties, including Salt Lake, only Grand County stated that they experienced delays in warrants through the AOC system. According to the county attorney, if requests are not completed in a timely manner, the county may be susceptible to lawsuits. Grand County staff stated that once they pointed out the delay issue to the AOC it was corrected, and they have not experienced any delays since. The remaining 22 counties claimed to have experienced no delays in warrants issued through the AOC.

Recommendation

1. We recommend that the Administrative Office of the Courts continue to work with the Salt Lake County District Attorney's Office to resolve any further issues to avoid future delays of the issuance of warrants.

In addition to Salt Lake County, Grand County had also experienced delays in the process of warrants, which have now been corrected.

Agency Response

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Administrative Office of the Courts

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

February 19, 2016

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

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

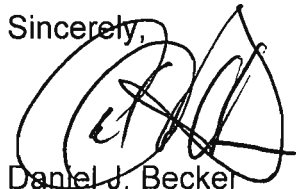
Dear Mr. Schaff:

Thank you for the opportunity to respond to the recently completed audit entitled *A Limited Review of the Timely Issuance of Warrants*. We concur in the audit findings and found the audit a thorough review of whether delay was present in the issuance of warrants.

With respect to the one recommendation provided in the report – that the Administrative Office of the Courts continue to work with the Salt Lake County District Attorney's Office to resolve any further issues to avoid future delays of the issuance of warrants – be assured that we have and will continue to be prepared to address any such issues.

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

Sincerely,



Daniel J. Becker
State Court Administrator

cc: Chief Justice Matthew B. Durrant

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

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Ralph Chamness
Chief Deputy
Civil Division

SIM GILL
DISTRICT ATTORNEY

Jeffrey William Hall
Chief Deputy
Justice Division

Lisa Ashman
Administrative
Operations

Blake Nakamura
Chief Deputy
Justice Division

February 18, 2016

John M. Schaff, Auditor General
Office of the Legislative Auditor General
W315 Utah State Capitol Complex
Salt Lake City, Utah 84114-5315

Re: Response to Exposure Draft, A Limited Review of the Timely Issuance of Warrants

Dear Mr. Schaff,

Thank you for the opportunity to review and respond to the Exposure Draft of your Office's review of the Administrative Office of the Court's electronic filing system related to the timely issuance of warrants.

The timely issuance of warrants upon the filing of charges was an issue when the electronic filing of criminal charges became mandatory in the beginning of 2015. The electronic filing system did not initially have a process by which warrants could be routed to law enforcement, particularly the Salt Lake County Adult Detention Center. When that lapse was discovered we along with the Administrative Office of the Courts and the Salt Lake County Sheriff's Department worked diligently to address the problem and the issue was largely resolved.

There were several more problems we experienced with the electronic filing system through its first year of implementation. Through eventually working more closely with the Administrative Office of the Courts and improving our communications with each other, we increased our collaborative efforts to address issues and continue to do so.

One problem that existed in the beginning and continues to this day is we continue to get notices of hearings directly from courts in paper and not electronically. This seems to be a pattern with certain judges though not a consistent pattern. There are other judges from whom we consistently receive only electronic notices.

The problem with receiving paper notices is we no longer have a process to route paper notices. During training on the electronic filing system, the Administrative Office of the Court directed us to implement electronic process to route court notices explaining that paper documents will no longer be used. We followed that direction and replaced the routing of court documents with an

electronic process. Without a process to route paper notices, when we receive paper notices significant delays occur before the notice is accurately delivered and acted upon. In some instances, the delay causes us to miss hearings, particularly when the hearing is scheduled shortly after the notice was issued. We have brought back a limited process to route paper to address the problem, but because receipt of paper notices is inconsistent delays still occur.

The problems with paper notices also makes it difficult to timely notify victims of hearings. That is significant because crime victims have a statutory right to be notified of and be present at hearings involving their cases.

We have discussed this issue with both the Third District Court and the Administrative Office of the Courts. We trust the issue is being meaningfully addressed and we will continue to work with both entities to resolve it.

We appreciate your Office's involvement and the work put toward the review. If there are any questions with this response, please do not hesitate to contact me at bnakamura@slco.org or 801 699-2656. We look forward to receiving the final draft of the review.

Sincerely,



Blake Nakamura

