UTAH INDIGENT DEFENSE

EXECUTIVE OFFICES AND CRIMINAL JUSTICE APPROPRIATIONS SUBCOMMITTEE
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ISSUE BRIEF

Executive Summary

In 2016 the Utah Legislature established the Indigent Defense Commission (IDC) to assure adequate legal defense for those unable to afford counsel. The IDC has used its $5.1 million state base budget to establish core principles and issue grants to local indigent defense systems. Policymakers disagree on the extent to which indigent defense should be centralized and data provided by the IDC comparing per capita spending across states fails to include important independent variables that influence indigent defense. The Legislative Fiscal Analyst recommends the Legislature consider directing an interim committee or task force to study the proposal of this brief including: IDC's core principles, similarities and differences in indigent defense across states, effective measures of challenges and metrics for success, and appropriate state support for indigent defense in Utah. The Legislative Fiscal Analyst further proposes the Legislature consider increasing funding for the IDC by $15 million ongoing from the General Fund beginning in FY 2021, offset by -$10 million one-time in FY 2021 and -$5 million one-time in FY 2022 while policymakers refine state and local governments' approach to indigent defense.

Background

The Sixth Amendment to the U.S. Constitution requires that all citizens enjoy an adequate defense. During the 2016 General Session, the Legislature passed Senate Bill 155, "Indigent Defense" creating the Indigent Defense Commission (IDC), to assure fulfillment of this right in Utah. Prior to S.B. 155, Utah statute required all indigent defense services to be managed and funded by local governmental entities.

Since the inception of the IDC, it has issued several grants throughout the State and defined and voted on a set of "Core Principles" or values intended to guide indigent defense in the State. The core principles and corresponding criteria are listed in Appendix A on page 10.

Though the IDC claims improvement through its efforts, it continues to report that indigent defense faces many challenges. Current estimates from the IDC to address these challenges are based on per capita spending on indigent defense in nearby states. They estimate Utah's per capita rate at $12.42 while comparison states spend $22.36 and $41.34. If Utah were to match similar rates, total spending would move from $38.51 million to between $69.34 and $128.22 million. This is an increase of $30.83 million to $89.71 million, most of which the IDC asserts ought to come from the State.

Per capita spending is an interesting comparison of funding, but it ignores several other independent variables that influence the success of indigent defense. These variables might include crime rates, urbanization, employment, personal income, homelessness, drug abuse and mental health incidence, and many others. Without including such independent variables in an analysis of outcomes, it is impossible to determine the effectiveness of funding in a state or across states.

Legislators have indicated a desire for more data to be confident when making indigent defense appropriations decision. During the 2019 General Session, the Executive Offices and Criminal Justice Appropriations Subcommittee passed a motion to study the Indigent Defense Commission grant program including options to structure the program. This brief attempts to fulfill that requirement.

In addition to their concern of inadequate data, policymakers expressed apprehension about IDC's comprehensive plan to ensure a state-local partnership model which could promote maintenance of effort by the local governments and support by the state as outlined in Utah Code (§UCA 78B-22). The IDC has suggested what a centralized approach to indigent defense might look like, but legislators and local governments appear to prefer a coordinated but decentralized model.

Using IDC's core principles as a starting point, the first section of this brief explores performance criteria that might help determine the health of Utah's indigent defense system. Due to resource constraints, this study does not include statistically significant independent variables to determine whether the variation in performance is due to the current system or other external factors. The second section of this brief provides initial budget proposals that legislators might implement while pursuing additional data suggested in the first part of the brief.

Part 1 – Performance: Defining and Evaluating the Health of the Indigent Defense System

Performance - Summary of Performance Criteria

Criteria	Results
Indigency Appointment Rates	- 10 Counties are below an 80% appointment rate. - 2 Counties as low as 30%-40% - City Justice Appointment rates appear random ranging from 0% to 100%
Appeals Rates	- Most counties fall between a rate of 0.5% and 2% - Utah County (assumed benchmark) 1.7% - Low numbers of appeals skew the data - Kane (5.06%) and Grand (3.3%) high, while Morgan, Piute, Daggett, Garfield, Wayne, Rich at 0%.
Appeals Dispositions	- Carbon, Iron, and Washington Counties have a high proportion of Voluntary Dismissals and Summary Dispositions
Appeals Caseloads	- Caseload appears to be under the NAC standard of 25 per attorney/year
Other Caseloads	- 10% of survey respondents are over the highest standard of 400 cases per year. - The distribution is strongly weighted to between 250 and 300 cases well over the felony (150) and juvenile (200) caseload standard

Performance – Methodology

One of the first actions of the IDC was to create and approve a set of eight Core Principles defining Utah's indigent defense values. We identify criteria for each Core Principle by using the formula: "We want the State to achieve this (core principle), as measured by _____." These criteria can be found in Appendix A on page 10. During this research, the project defined 23 criteria by which to measure the eight core principles. Data did not exist for each criterion and the project did not have sufficient resources to collect data in each area. By comparing the priority of the core principle to the availability of data, the project determined the most relevant information to evaluate the health of the indigent defense system. The most relevant criteria are: 1. Indigency Appointment Rates; 2. Appeals Rates; 3. Disposition on Appeals; 4. Caseloads; and 5. Counsel at First Appearance. This brief will focus on numbers 1-4; the IDC has provided its own research regarding number 5 provided in Appendix C on page 12.

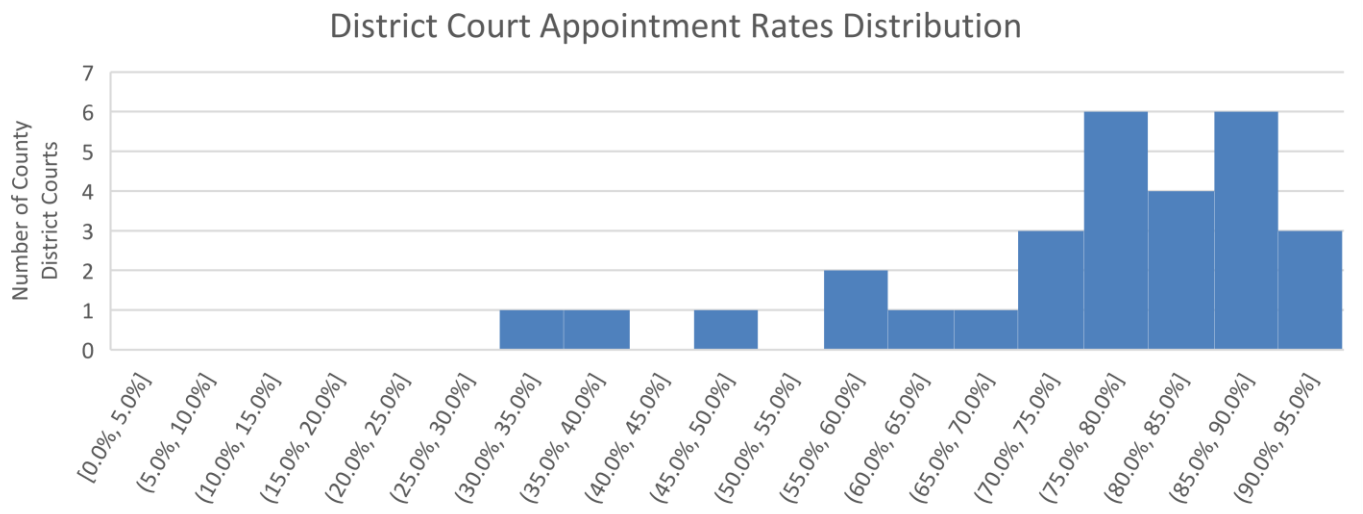
Performance – Indigency Appointment Rates

The appointment rate is the rate at which judges appoint public defenders out of the total number of cases seen by the court. Comparing appointment rates across systems could be an indicator of the health of the indigent defense system. Graph 1 on page 3 shows the distribution appointment rates in county district courts. Not surprisingly, most district courts have an appointment rate over 75%. The distribution then thins from 75% to 55% with some outliers from 30% to 45%.

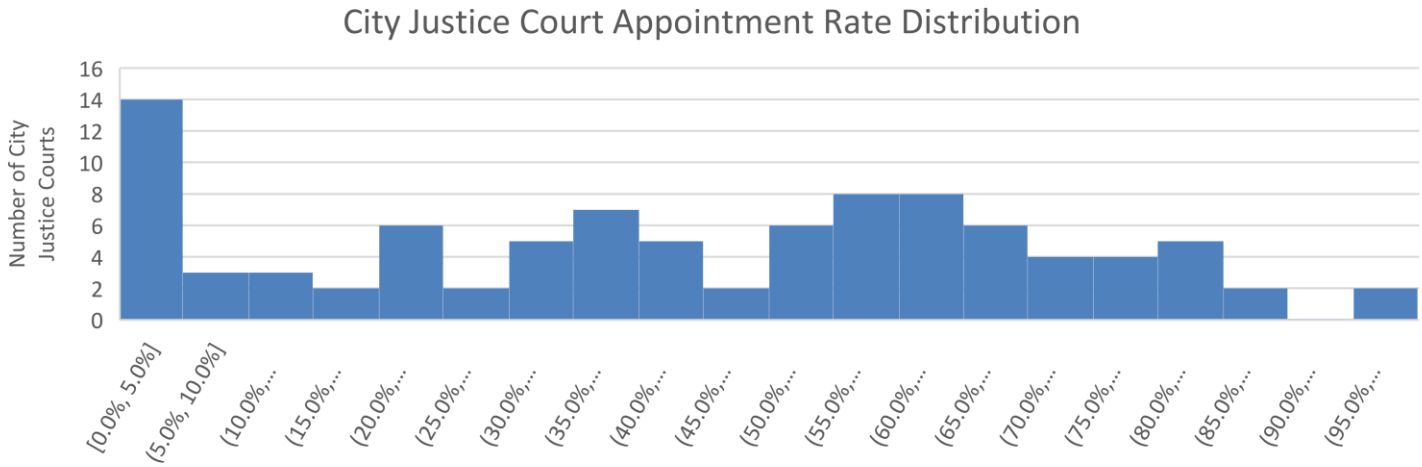
To further examine the data, Graph 2 on page 3 shows the appointment rate of city justice courts. While the district court appointment distribution shows an obvious pattern with some stark outliers, the justice court distribution shows no pattern whatsoever. It should be noted that justice courts adjudicate with less serious issues that are less likely to require an attorney or carry the same consequences of not having adequate defense.

Though a simple distribution does not consider additional independent variables to explain the variation, it is sufficient to show that there is inconsistency with appointment rates across the State. This project does not have the resources to determine these variables or the ability to add value to these findings and recommends further legislative study to do so.

Graph 1 – Are Indigent Appointment Rates in District Court Consistent Across Counties?



Graph 2 – Are Indigent Appointment Rates in Justice Court Consistent Across Cities?

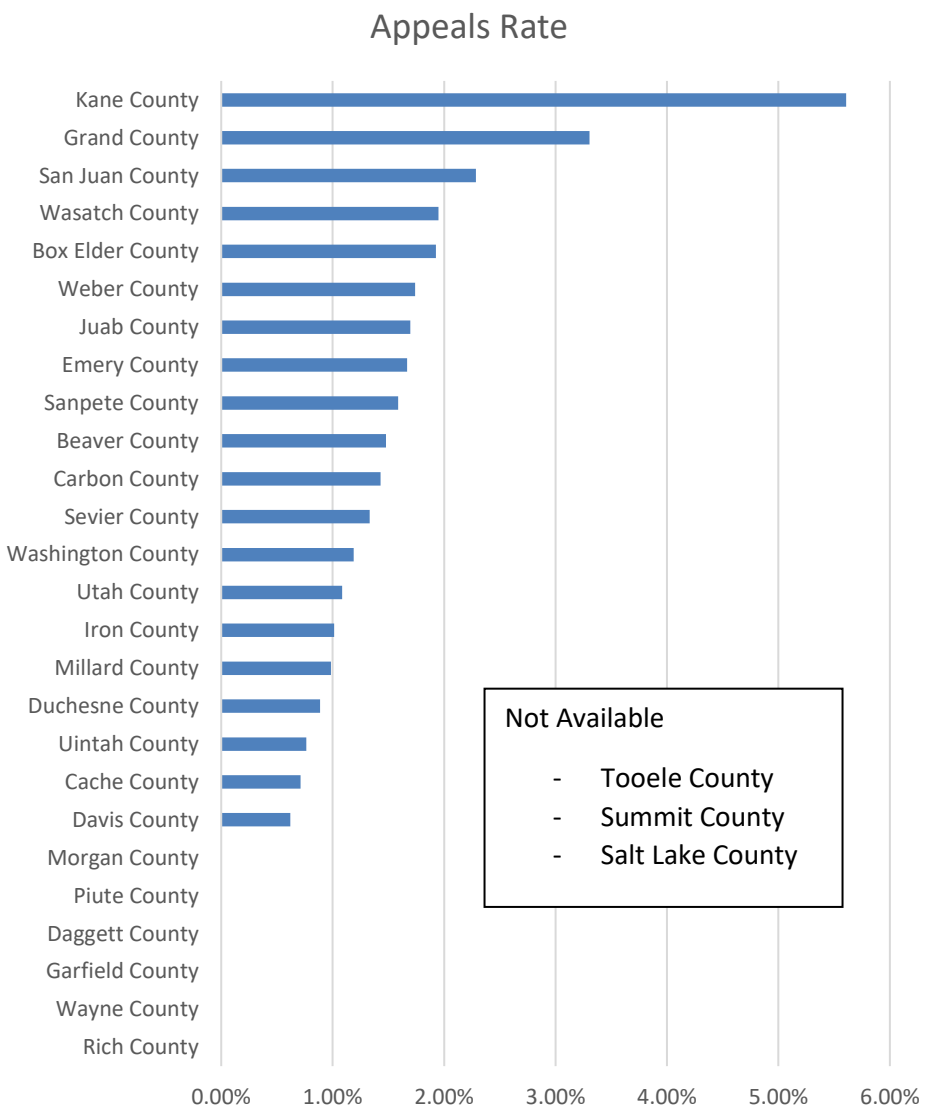


Performance – Appeals Rates

The appeals rate shows the rate of appeals in each county compared to total cases. Consistency of appeals rates, like appointment rates could be an indicator of the health of the indigent defense system. Graph 3 on page 4 shows the Appeals Rate across counties. It is hard to set a targeted appeals rate, but through comparison, it is possible to get some idea of what to expect. Utah County, which has one of the better organized Indigent Defense Systems, and could be used as a quality benchmark, has an appeals rate of slightly over 1%. Most counties fall between 0.5% of cases and 2% adding consistency to the benchmark. So, for the majority of the counties, the appeals rate appears consistent. However, there are some outliers with a higher appeals rate (i.e. Kane County and Grand County) and some counties with 0% appeals rate (i.e. Morgan, Piute, Dagget, Garfield, Wayne, and Rich Counties). The deviation in the rates for these counties appears to be a small sample size issue.

We conclude that the appeals rates across the State are consistently 1 to 2 per every 100 cases. However, two counties with 0% appointment rates had a large enough sample size that it could potentially be worth mention. Morgan county had 129 appointed cases while Garfield had 189. Statistically, the data would predict at least one appeal for Morgan county and almost 2 for Garfield. That said, this single year of data makes it challenging to draw any meaningful conclusions due to the small number of total cases.

Graph 3 – Is the Appeals Rate Consistent Across Counties?

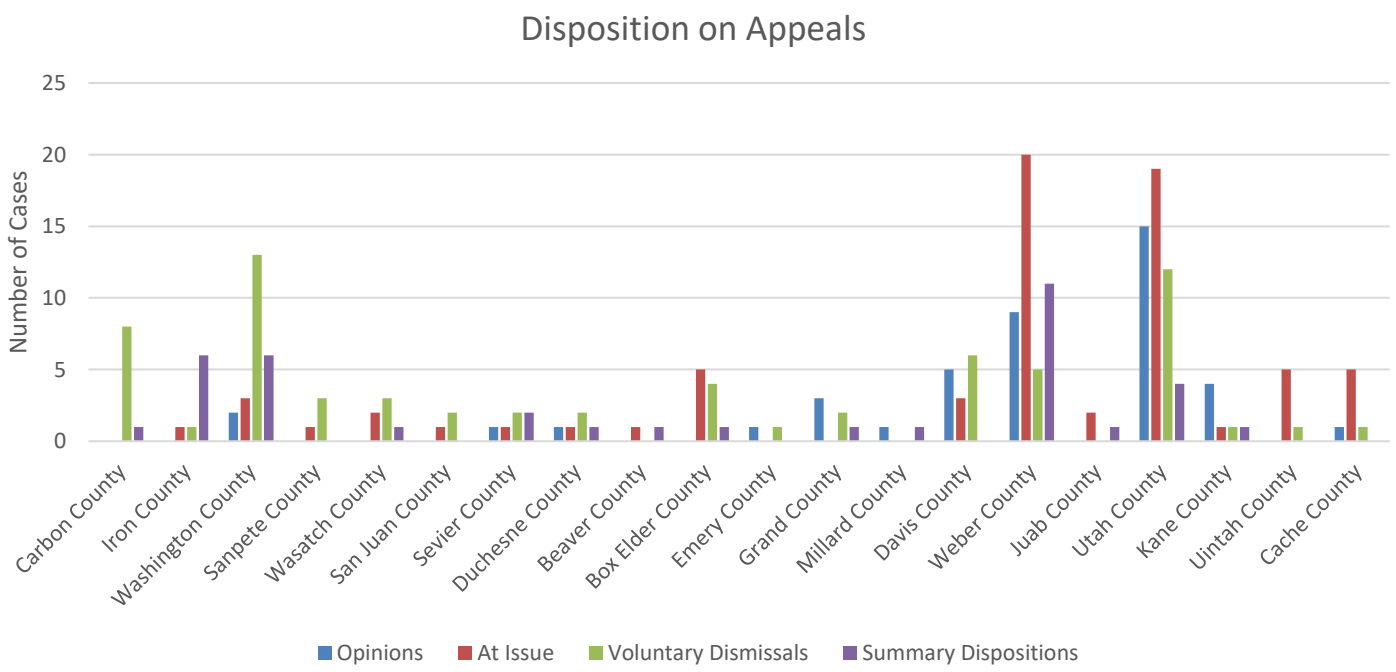


Performance – Appeals Disposition

Appeals Disposition shows what happened to an indigency case after it was appealed. Ideally, each appealed case would receive equally sufficient defense in the court system. This criterion is an attempt to capture whether this is true. The project took each case that was appealed through the State and assigned it one of the following categories based on its outcome: 1. Opinion; 2. At Issue; 3. Voluntary Dismissal; and 4. Summary Disposition. If the court issues either an opinion on the case or places the appeal at issue (all parties have been served and the issue will need to be resolved), it is likely that that case received sufficient defense. On the other hand, if the court receives a voluntary dismissal (the plaintiff chooses to dismiss the appeal for whatever reason) or the court issues a summary disposition (issue resolved without a trial, arguably due to not receiving a quality counter-argument from public defense) then the case likely did not receive sufficient defense. Not all voluntary dismissals and summary dispositions should be considered unfavorable outcomes of an appeals court. However, the concern is when a court has a disproportional number of voluntary dismissals and summary dispositions compared to opinions or the court placing and appeal at issue.

Graph 4 on page 5 shows each county and the number of cases for each disposition. The counties are organized to show that counties closer to the left side of the graph are more likely to have a high proportion voluntary dismissals and summary dispositions. Because most counties have small appeals caseloads, it is challenging to make any meaningful conclusions based on the proportions. However, it should be noted that the data for Carbon, Iron, and Washington counties appear to have enough cases to do so and have a high proportion of voluntary dismissals and summary dispositions.

Graph 4 – Are Dispositions of Appealed Cases Consisted Across Counties?



Performance – Caseloads

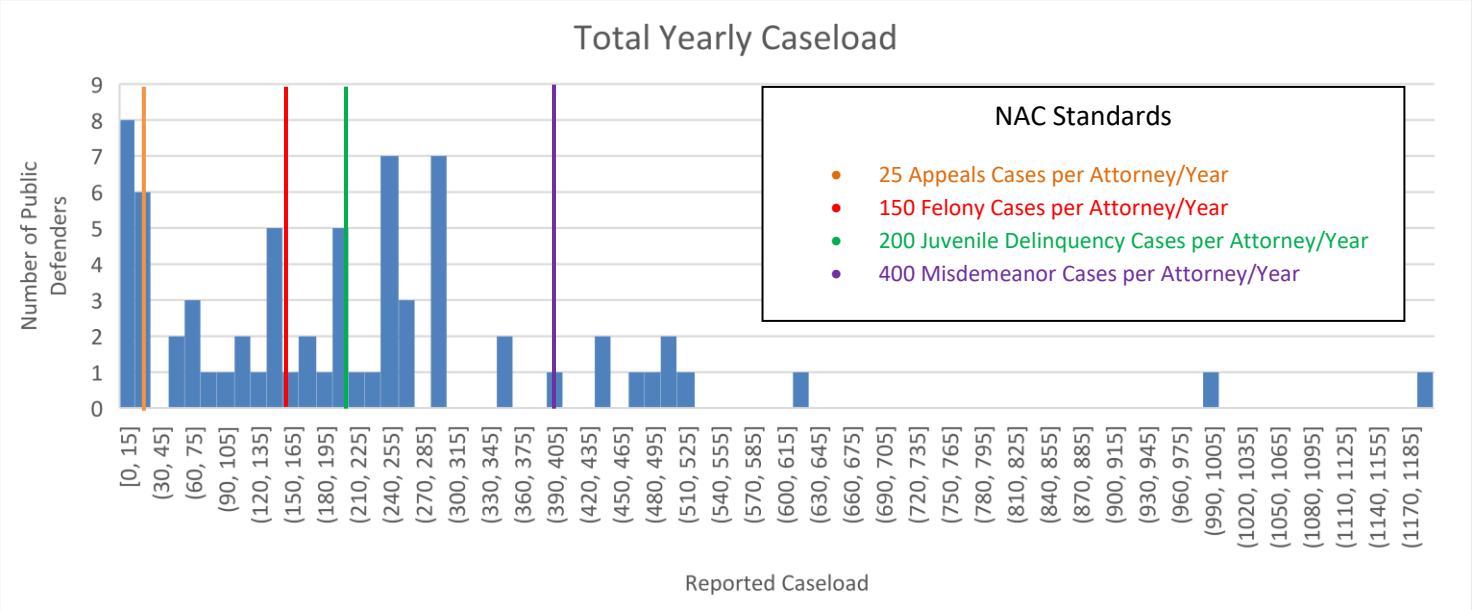
To address whether public defenders carry high caseloads, this project conducted a caseload study survey to each public defender in the State. The survey shows that if the State subscribed to national caseload standards as defined by the National Advisory Commission on Criminal Justice Standards and Goals (NAC), then there are likely a large number of attorneys in the State that exceed these standards.

The survey asked respondents to provide Total Yearly Caseloads shown as a distribution in Graph 5 on page 6. This graph also shows the NAC maximum caseload standards created in 1973 through a U.S. Department of Justice-funded initiative. Comparing the standards to the estimated Total Yearly Caseload, the State appears to be close to the standards, but ultimately out of compliance in some areas. Because the individual data does not account for attorney type, we make the assumptions based on the pattern of the distribution and shows four distinct sections:

1. **Outliers** – 3 public defenders reported: 615, 1000, and 1185 cases. These responses are dismissed because it is unlikely that they are accurate or are counting cases in the same way as other respondents. However, if they did reflect reality, they would only enhance the conclusion of this section that the State is not currently meeting NAC standards.
2. **Appeals Attorneys** – We assume the far-left side of the distribution in Graph 5 shows appeals attorneys with 0 to 30 cases. The highest caseload from these respondents was 24 cases, which is under the 25-case standard.
3. **Felony and Juvenile Attorneys** – We assume that the distribution likely shows Felony and Juvenile (with some misdemeanor) cases, between 45 to 300 cases. Most defendants in the distribution have at least 150 cases (the standard for felonies) and the largest number of respondents are found between 250 cases and 300 cases. It is important to note that if the attorneys who carry 250 to 300 cases only carry misdemeanors, they are in compliance with the NAC standards. However, as an attorney acquires a higher ratio of felony and misdemeanor cases, it becomes more difficult to assume compliance.
4. **Misdemeanor Attorneys** – Between 350 cases and 525 cases, we assume are the attorneys that focus on misdemeanor cases. Regardless of how the cases are sliced within this estimate, anything above 400 cases is out of compliance with the NAC caseload guidelines. Though there are much fewer respondents within this area of the distribution, it still accounts for 10% of the respondents, which may mean that these are not outliers, but a significant sample of the overall population. This section indicates that some attorneys exceed NAC standards.

There are enough unknowns regarding caseloads that if one were to gather more information beyond a single survey, evidence could emerge that would prove the results of this section false or incomplete. However, the independent respondents to the survey create a meaningful interpretable pattern, which should be worth consideration.

Graph 5 – What is the Distribution of Annual Indigent Defense Caseloads?



Part 2 – System Structure

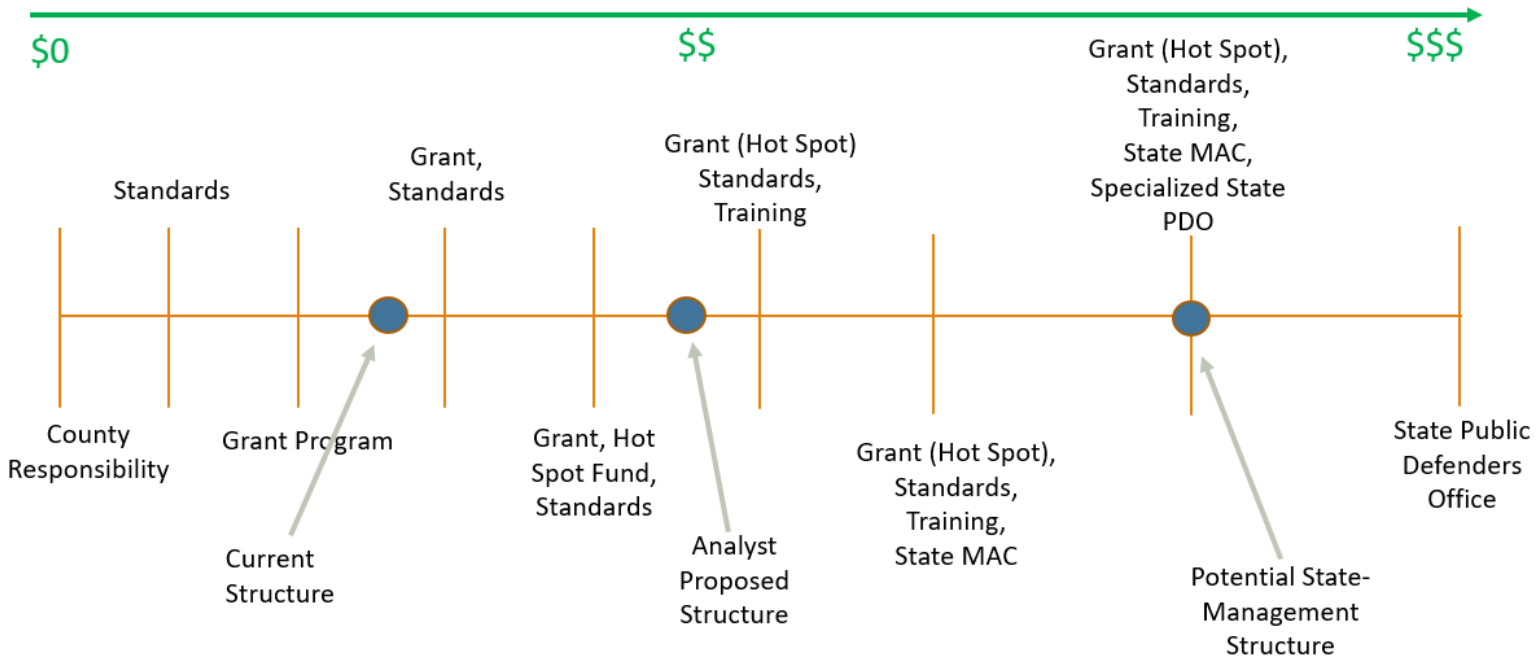
System Structure - County vs. State Responsibility:

The following section considers policymakers desire for a state-local cooperation regarding indigent defense and explores alternative structural options for the State. Indigent defense systems throughout the nation fall along a spectrum found in Figure 1 on page 7 from complete county coverage (on the left) to complete statewide coverage (on the right). An explanation of each piece of the spectrum can be found in Appendix B on page 11. The Analyst Proposed Structure is found on page 9 and a Potential State-Management Structure is found in Appendix D on page 14.

As the State discovers areas in which it can improve indigent defense, it may feel pressure to move its structure further toward state responsibility, which presumably departs from the Legislature's goal of a joint state-local partnership. Before the creation of the IDC, Utah was at the far left of the spectrum as complete county coverage. Since then it has moved right on the spectrum and created standards and a grant program. There are also various forces with intentions to implement some type of training program and some specialized Public Defender's Offices (PDOs) and Managed Assigned Counsel (MACs) systems. The proposal of this brief also moves the system further right on the spectrum than the status quo.

Despite the pressure to increase state responsibility for the system, increased costs and a loss of local accountability may be cautions to doing so. More control does not necessarily prove better outcomes. It is also possible to assign such strict values to a system, that no structure would be able to achieve those values. If the State were then to use the logic of more control while standards are unreasonably high it would eventually be a full burden to the State, while still lacking desired outcomes.

Figure 1 – Indigent Defense: County vs. State Responsibility Spectrum



Assuring Adequate Defense

Define Specific Statewide Values

If local governments are left to establish their own values regarding indigent defense, the evidence in this brief shows that those values will not likely be consistent across the State. If the State expects the indigent defense system to provide certain outcomes, it ought to communicate those outcomes clearly and specifically. Defining values is a much less expensive proposition than a formalized funded state structure of the indigent defense system, that could potentially have similar results.

Enforce Standards

One option available to policy makers is a new system model that requires compliance (as opposed to simple assistance). As such, appropriate responses may be necessary to ensure compliance. One idea comes from the Idaho State Public Defense Commission (ISPDC). The ISPDC currently operates a system similar to the proposal of this brief. The language of the ISPDC statute states that if a county "willfully and materially" fails to comply with ISPDC standards, the State can take over all services and bill the county. If the county does not provide payment within 60 days, the State is allowed to intercept sales tax money that would be paid to the county to cover ISPDC costs. The proposal in this brief would require a similar ability to enforce the State's standards.

Address Local Concerns

As organizations or individuals are asked to change, many concerns typically arise that indicate the challenge of achieving the desired behavior. If addressed correctly, concerns can often be predictable and avoided with sufficient forethought. We propose that the IDC create and approve an official document identifying individual system concerns and include an official response to each.

Increase Transparency

If the State is interested in keeping some of the responsibility with local governments, but requires additional oversight to achieve consistent values, it could achieve oversight without formal state control by increasing the transparency of the system. The current transparency of indigent defense outcomes in Utah is low, as evidenced by the difficulty of collecting data for this brief. Transparency of efforts and results often lead to improvements in both and is much more cost efficient then State takeover. For these reasons, we propose increasing transparency.

Continued State Investment Over Time

Under the current system, the IDC plans on increasing grants each year and could continually request additional annual appropriations. The Legislative Fiscal Analyst proposes continuing state investment in indigent defense over time. We further, propose an upper limit on state appropriations to ensure that additional asks do not continue each year without a comprehensive plan. Assuming current data, a satisfactory plan, and IDC core values, we propose a phased in approach of up to $20 million ongoing in indigent defense funding and a plan to reassess in the future. Spending of up to $15 million more in ongoing funding is significantly more than the state is currently spending. However, it could defer future costs of running a statewide indigent defense agency if estimates on page 1 of the brief are reasonable.

Legislative Fiscal Analyst Proposal

Because of imperfect information, an unclear vision, undefined results, and the challenge of estimating final costs one option proposed in this brief is a short to medium term plan that addresses the system for the next 3 to 5 years. This plan would focus on an appropriate structure to foster a state and local government partnership with increased state funding. The brief shows quantitative results for important indigent defense principles that ought to be considered. Yet acknowledges some policymakers concern against a new state-level organization to meet a change in standards. We acknowledge that it may not be possible to achieve the desired standards through the proposed system in this brief but may be a more cost-effective comprehensive option. After three to five years, if locals are unable to achieve standards set by the State, the State may need to consider a stronger state-centered system to provide sufficient oversight and resources.

Based on the findings, the Legislative Fiscal Analyst proposes one potential comprehensive plan:

1. Create a legislative task force or assign an interim committee to further study the proposal of this brief and additional indigent defense issues including: funding, best practice, system design, strategic plan etc.
2. Maintain the current grant program but increase and cap the appropriations up to $20 million ongoing. Appropriate the total amount in $5 million increments over the next three years.
3. Should it be necessary, use a portion of the capped appropriations to create a “hot spot” fund to assist locals that cannot achieve standards and have shown deliberate attempts to do so.
4. Create a set of statewide priority standards based on the Core Principles created by the IDC.
    a. If necessary, request legislation to require these standards.
    b. In cases where systems do not meet basic standards or report adequately, allow the State to respond by assuming responsibility for that jurisdiction and charge the entity for the costs of the takeover. Assign other penalties as necessary.
5. Require quarterly performance reporting on each of these standards for the public.
6. Create a document outlining local concerns regarding the challenges of meeting state standards. Include in the document a state-level response to each issue.
7. Review performance over the next three to five years. Consider additional statewide control if the State does not achieve adequate outcomes.

If the plan outlined in this brief does not achieve the intended outcomes, a plan for more state control could potentially be a viable solution. The IDC has proposed a viable plan found in Appendix D on page 14. This proposal includes a grant system, a policy-setting board, some specialized public defenders’ offices, and some specialized state level managed assigned counsel systems.

Appendix A - Core Principles and Corresponding Criteria

Core Principles and Corresponding Criteria

1. Organizational Capacity of Defense System is Sufficient to Ensure Compliance with Core Principles
    - *System Types*
    - *Performance Reports*

2. System Provides Counsel to all Eligible Defendants, Minors, and Respondents who do not Knowingly, Intelligently, and Voluntarily Waive Counsel.
    - *Appointment Rates*

3. System Provides Proper Scope of Representation
    - *Counsel at First Appearance*
    - *Counsel at Orders to Show Cause*
    - *Counsel at Post Dispositional Reviews*

4. System Provides Representation that is Independent and Free from Interference
    - *Budget Separate from Prosecution and Judiciary*

5. System Recognizes Distinct Areas of Specialization Within Indigent Defense
    - *Specialized Workload*
    - *Specialized CLE Training*

6. System Ensures the Right to Appeal
    - *Appeals per Appointed Cases*
    - *Disposition on Appeals*

7. System Provides Representation that is Free from Conflicts of Interest
    - *Queryable Database*
    - *Conflict Contract*
    - *Conflict Cases*

8. System Provides Effective Representation –

    8a – Qualifications and Training
    - *Defense Related CLE Training*
    - *Defense Experience*
    - *Motions*

    8b – Appropriate Caseloads
    - *Caseloads*

    8c – Access to Defense Resources
    - *Independent Defense Resources Budget*
    - *Defense Resources Separate from Compensation*
    - *Defense Resource Spending*

    8d – Proper Compensation
    - *Compensation Structure*
    - *Attorney Salary*

Appendix B – Explanation of Structural Spectrum

Standards:

As the State moves away from complete county control, it arguably does so because it finds that the counties are not achieving values defined by the State. It then becomes the task of the State to define those values. Ideally, this would have the effect of bringing consistency throughout the State and pointing out problem areas. Standards should be as specific and as clear as possible.

Grant Program:

As the State adjusts and defines its values, locals tend to respond that they do not have sufficient resources to achieve the desired values. Many states, including Utah, have responded to these objections by creating a grant program that could assist locals in achieving those values. Typically, these grants attempt to maintain a shared responsibility for the indigent defense system (i.e. require some type of match in order to receive funds).

Hot Spot Fund:

As the grants program continues, it is possible that some local entities of the State may not have sufficient resources to meet matching requirements of the grants. For these local entities, the State can offer special funding to help achieve its standards. However, the State should be cautious when issuing these "hot spot" funds as locals have an incentive to take advantage of the State's funding. The entities that request "hot spot" funding should show that they have actively, over the course of a certain amount of time, attempted to achieve the standards set by the State and are unable to do so without additional funding.

Training:

As the system is evaluated, eventually quality of defense and therefore attorney training becomes a debatable topic. Training in the context of the spectrum above refers to the creation of a statewide entity to manage training for public defenders.

State-Operated Managed Assigned Counsel (MAC):

A managed assigned counsel system manages contracts of public defenders but does so through an attorney. Having an attorney as the manager arguably helps the system have better outcomes as the attorney at the top can assure sufficient time, effort, and expertise are spent on each case. A State-Operated MAC would have a qualified manager at the top of the organizational structure for the State and would hire attorneys and manage contracts from the State level. This system could be for all types of cases or only to specialized areas such as appeals, juvenile, or parental defense.

Specialized Public Defense Offices (PDO):

A public defense office is a structured organization that hires public defenders as managed employees. A specialized public defense office would allow the State to have oversight of certain specializations (criminal, juvenile delinquency, parental defense, or appeals) while leaving others under local control.

Full State Public Defenders Office:

This option describes the structure that moves public defense from any local control to complete state control. All public defenders would be state employees and indigent defense would no longer be considered a local responsibility on any level.

Appendix C – Counsel at First Appearance, Indigent Defense Commission Research

Utah Indigent
Defense Commission

INDIGENT DEFENSE & COUNSEL AT FIRST APPEARANCE (CAFA)

Initial Bail / Release Decision

When a criminal defendant is first arrested or cited for an offense, a judge must make an immediate decision about whether a defendant should be in custody (with a bail determination) or release her on "O.R." (own recognizance), to appear at a later first court appearance —an "arraignment (in justice court) or "first appearance" (in district court).

This initial determination is made quickly and based on limited information: a judge may have a probable cause statement written by the arresting officer and in some jurisdictions, a PSA (the pretrial risk assessment tool in place in many Utah Courts). The judge rarely has any additional information—they don't know whether the defendant has a full-time job, or whether he is the primary caretaker for children, has rent due that day, a dog stuck inside, etc. Importantly, this initial determination is not made as part of a court proceeding—judges make this determination electronically from chambers or even home, and counsel is not present.

A Defendant's First Court Appearance

A defendant's first opportunity to challenge that initial determination and seek release or a bail adjustment is the "arraignment" (in justice court) or "first appearance" (in district court).

Constitutionally, the right to counsel applies to *all critical stages*[1] of criminal proceedings. Often clients with private counsel will be represented at first appearances. Early representation is critical as rights may be lost when counsel is not available or able to be secured in the early stages of a case. Particularly when you consider the potential for counsel to develop arguments for release of non-violent offenders, to prevent their job loss, family and housing disruptions, etc. because no one is there to develop the argument for O.R., resulting in the unnecessary use of jail beds while awaiting court proceedings.

Without defense representation, accused persons experience extended time in custody because there is no attorney to advocate for their release, resulting in the disappearance of critical evidence as bruises heal, video footage is erased, and essential witnesses disappear. Early appointment of counsel provides the necessary safeguards to protect against many forms of injustice and result in a savings across the criminal justice system.

Current Data Landscape re: CAFA

From qualitative data (stakeholder interviews, etc.) and data from IDC grant applications and reporting, we know defense counsel is commonly not present at initial court appearances.

In Utah justice courts, usually neither the prosecution or defense is at arraignments, or only the prosecutor is present. Some Examples: South Jordan justice court has only the judge and bailiff present; SLC justice court has had only prosecutors present in court for decades; 3rd District Court has only the prosecution on Class A misdemeanors and felony first appearances.[2]

[1] Rothgery v. Gillespie County, 554 U.S. 191 (2008)

[2] The majority of the 70% of un-adjudicated people in SLC jail are there on Class A misdemeanors. West Valley City does have its public defenders present at most first appearances in District Court.

Utah Indigent Defense Commission

Qualitative data (stakeholder interviews, etc.) and data gathered from IDC grant applications and grant reporting reveal that defense counsel is commonly not contractually required to be present at the initial court appearance. Some examples include:

- 5 counties reported having contractual requirements for defense counsel to appear at the first appearance;
- 4 counties and 2 cities have mixed requirements for defense counsel to appear at first appearances. For example, one county does not have CAFA in District Court (criminal cases and termination/adoption cases) or County Justice Court, but does have CAFA in Juvenile Court for delinquency and child welfare proceedings. (Required under SB32).
- 2 counties and 1 city do not have any requirements for defense counsel to appear at the first hearing in front of a judge.
- 1 city did not know if there was any contractual requirement for defense counsel to appear at the first hearing in front of a judge.

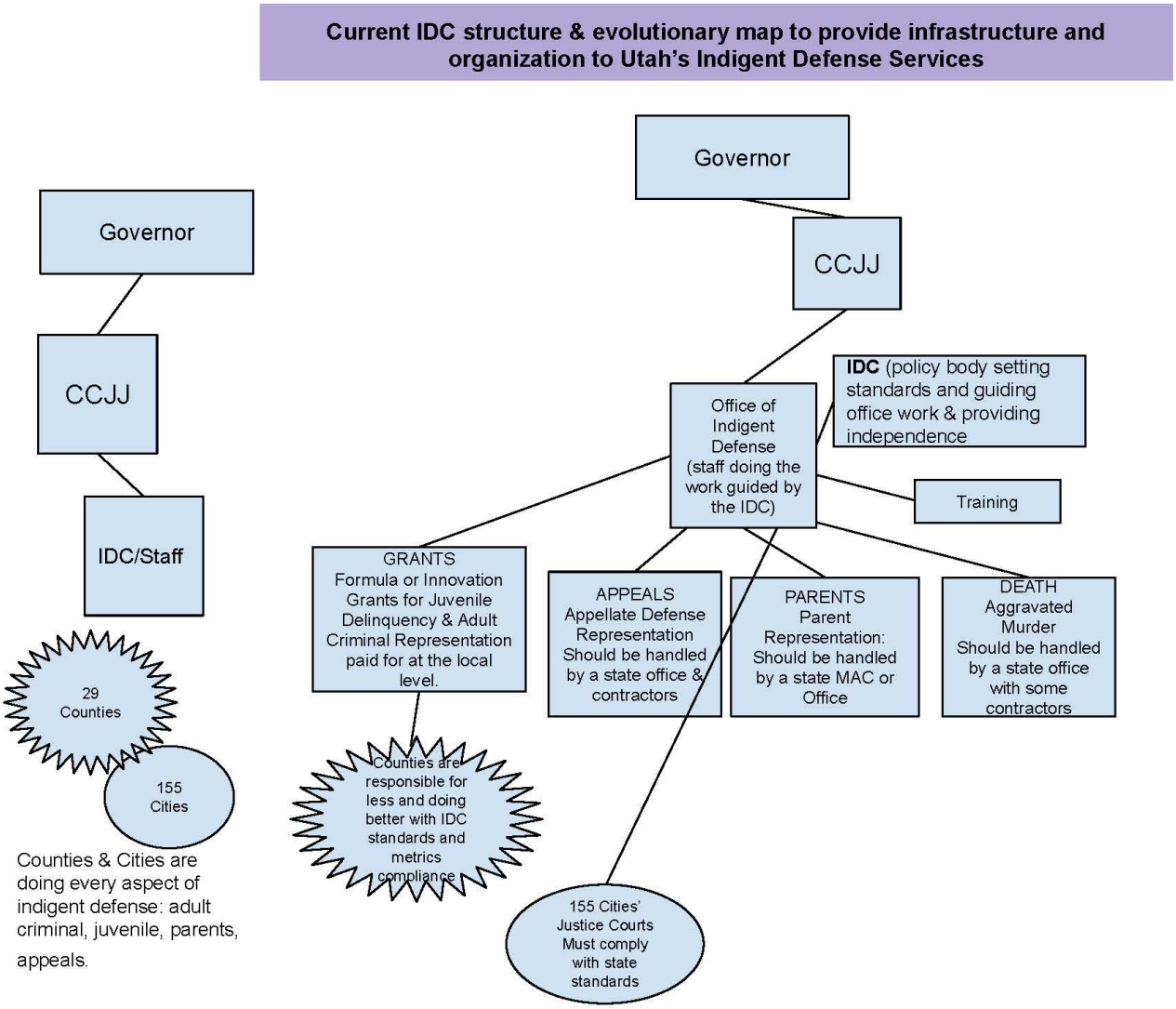
Several mornings spent observing high-volume district and justice courts in August of 2019 yielded several examples of the need for CAFA:

- A defendant was held in jail on $100 bail, which he was unable to afford, did not have access to an attorney to advocate for a bail reduction or an O.R. release.
- A college student facing a charge of retail theft, had questions about whether a plea in abeyance would affect her plans to apply to medical school. She accepted the plea that was offered without the ability to consult with a defense attorney.
- An 18-year-old heading to school at UVU on a scholarship with a work-study job lined up, insisted on pleading guilty to a possession charge—over the judge's careful admonitions about collateral consequences and the advisability of consulting with a public defender.
- In a case alleging domestic violence, a defendant and his spouse/the alleged victim, collectively desired to have a protective order lifted to allow the defendant to care for his children, but without defense counsel the judge would not entertain the request.

Closing the Data Gaps

One purpose of the IDC grant program is to yield data on indigent defense quality indicators. Another purpose is to spur improvement relative to those indicators—for example, one performance metric measured by the grant program is % of representation at first appearance. (Indigent defense systems not receiving IDC grant funds do not track this information.) Quarterly reporting due at the end of September, will yield CAFA information from our grantees.

A comprehensive data picture re: CAFA including all defense systems (not just grantees) is in development involving these additional action steps:

- Collect and analyze available court data;
- Survey court staff re: current CAFA practices

Appendix D – Potential State-Management Structure