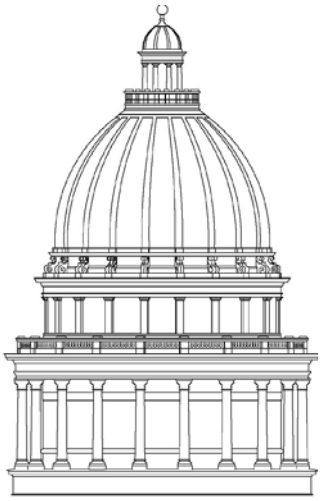
REPORT TO THE

UTAH LEGISLATURE

Number 2020-09



A Performance Audit of Information Sharing in the Criminal Justice System

October 2020

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah

STATE OF UTAH

Office of the Legislative Auditor General

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AUDITOR GENERAL

October 13, 2020

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report, **A Performance Audit of Information Sharing in the Criminal Justice System** (Report #2020-09). An audit summary is found 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,

Kade Minchey

Kade R. Minchey, CIA, CFE
Auditor General

UTAH STATE LEGISLATURE

AUDIT SUMMARY

REPORT #2020-09 | OCTOBER 2020

Office of the Legislative Auditor General | Kade R. Minchey, Auditor General

PERFORMANCE AUDIT

Information Sharing in the Criminal Justice System

AUDIT REQUEST

Concerns about state warrants not being entered into the National Crime Information Center database prompted the Legislative Audit Subcommittee to request a comprehensive audit on data sharing and coordination between criminal justice stakeholders.

BACKGROUND

Timely, accurate, and complete information is critical to the overall success of the criminal justice system. Because the criminal justice system is made up of a variety of organizations that span all three branches at every level of government, information can become siloed and is not always easily and reliably accessed by those who need it. When information is not shared between criminal justice agencies, operational effectiveness suffers, policies lack precision, and accountability weakens.

KEY FINDINGS

- Judges, police officers, the Commission on Criminal and Juvenile Justice (CCJJ), Legislators, local mental health authorities, and others in the criminal justice system frequently do not have timely or reliable access to credible information.
- Information is often "siloed" in agency databases, making it difficult to share.
- When information sharing improves, so does the efficiency and effectiveness of the system. We believe the creation of an Information Sharing Environment can facilitate information sharing.

When considering these findings, **privacy concerns are important and must be taken seriously. The need for communication, efficiency, and public safety must be balanced with privacy and security considerations.**

RECOMMENDATIONS

- The Legislature should consider creating an Information Sharing Environment (ISE) in legislation, including key elements such as:
  - Comprehensive privacy policy
  - Statewide data dictionary
  - Data as a public good
  - ISE board
- If the Legislature chooses to form an ISE Board, this Board should be tasked with overseeing the development and maintenance of the ISE, including key elements such as:
  - A gap analysis
  - ISE standards
  - A long-term plan
  - A technology committee

Summary continues on back >>

REPORT SUMMARY

Front Line Criminal Justice Personnel Are Not Always Receiving Needed Information

Without timely, accurate, and complete data, decision-makers cannot make informed decisions.

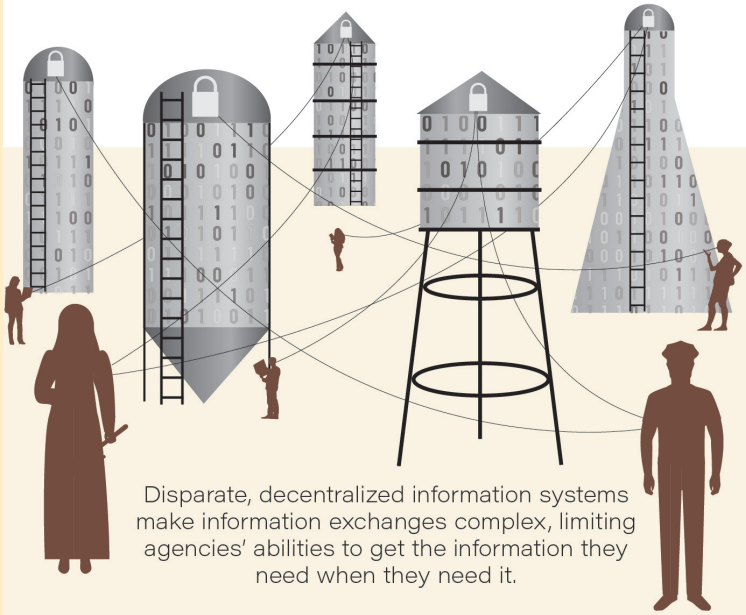
- Judges may have difficulty making pretrial release determinations that are well suited to the offender's risk level, which in turn may put the public at risk.
- Prosecutors may be unable to file charges with the courts.
- Police officers may not know if a suspect has been previously engaged by other officers.

Policymakers and Administrators Are Not Getting All the Data They Need

In the same vein, the Legislature, CCJJ, Utah Department of Corrections (UDC), Utah Courts, local health authorities, and others need credible information to drive policies and programs. For example, in 2015, the Legislature passed a reform initiative in criminal justice known as the Justice Reinvestment Initiative (JRI). However, due to poor quality or incomplete information, the real impacts have been largely unknown. Our companion report, entitled ***A Performance Audit of the Justice Reinvestment Initiative,*** 2020-08, examined the 2015 JRI reform in detail. However, JRI is an ongoing reform effort and requires more straightforward access to relevant data if subsequent assessments and revisions are to be made.

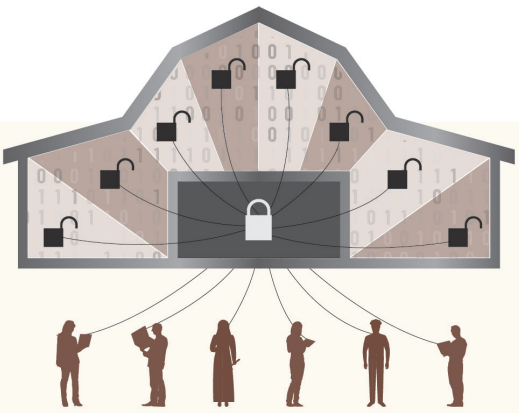
This is only one notable example of several that we provide in the report of a greater need for information sharing across Utah's criminal justice system. We believe legislative guidance is needed to overcome the information sharing barriers.

DATA SILOS
interfere with timely, accurate, and reliable sharing of information.



Disparate, decentralized information systems make information exchanges complex, limiting agencies' abilities to get the information they need when they need it.

AN INFORMATION SHARING ENVIRONMENT
Would give agencies the timely, accurate, and reliable information they need.



Standards and common procedures accompanied by a technological infrastructure would enable the seamless and secure sharing of information—information that would still securely reside with the originating agency.

REPORT TO THE
UTAH LEGISLATURE

Report No. 2020-09

A Performance Audit of Information Sharing in the Criminal Justice System

October 2020

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Chapter I
Introduction

To be effective, criminal justice stakeholders need access to timely, accurate, and reliable information. However, legislators have been concerned by reports that information that is crucial to decision making is not getting to those who need it. Even legislators themselves report that they are not always receiving the information they need to make important policy decisions. For this reason, the Legislature asked the Auditor General to evaluate information sharing within Utah's criminal justice system.

Communication Issues Underscore Larger Information Sharing Problem

Prior to this audit, the US Marshall who is involved in apprehending individuals with warrants informed the Legislature that Utah was reporting an extremely low number of its warrants to the national database. In response, legislators asked that we investigate this matter. Our findings are reported in the first section. In addition, legislators expressed concerns regarding the coordination of criminal justice organizations. This included things like access to accurate information and how Utah is doing with connecting separate databases. Though we began by investigating the problems associated with non-reporting of warrants, we quickly came across several other accounts of inadequate information sharing. As we looked into these other areas, it became apparent that there is, in fact, a larger information sharing problem across Utah's criminal justice system.

Failure to Report Warrants Was Concerning to Legislators

The Bureau of Justice Statistics reported that in 2016, Utah held a total of nearly 194,000 warrants in its state database, 19,000 of which were felony warrants. Yet only 1,600 of the state warrants were reported to the National Crime Information Center (NCIC).[1] This means less than 1 percent of active state warrants were also active in the national database. By August of 2019, the number of state warrants active in the NCIC database had only grown slightly, to

In 2016, Utah reported less than one percent of its state warrants to the national database.

[1] Not all misdemeanors need to be reported to NCIC.

1,700. The gravity of this underreporting is that the vast majority of individuals wanted on felony and severe misdemeanor offenses in the State of Utah could evade the consequences of their behavior by simply crossing state lines. Not only did this limit Utah's ability to enact justice through the exercise of its extradition powers, it exposed citizens throughout the country to dangerous individuals.

For example, one individual with a violent criminal history record was wanted in Utah for Sexual Abuse of a Child. Utah did not report the warrant to NCIC. Criminal justice agencies performed 39 separate searches for the individual in the NCIC wanted persons file and received no hits. The individual eventually was arrested in the State of Colorado for three counts of child abuse, two counts of kidnapping, and two counts of assault. Had Utah reported the warrant to NCIC with an assigned extradition status, the offender could have been apprehended before committing these subsequent offenses.

The Bureau of Criminal Identification reports all felony warrants are now uploaded to the national database.

In the 2019 General Session, a bill was passed requiring the Bureau of Criminal Identification (BCI) to submit the records of all violent felonies to NCIC. We met with BCI on several occasions throughout the audit to follow up on their progress toward implementation. BCI reports that as of the second week of April 2020, all felony warrants began to be uploaded to NCIC, including non-violent offenses. Due to FBI record requirements, the criminal justice agency that created the record is considered the holder of the record and is responsible for ensuring its accuracy. This includes determining the extradition status of the warrant. BCI provided documentation of training materials they currently use to ensure law enforcement agencies are appropriately performing their duties related to record ownership. BCI further reports it has now taken on the role of quality control, auditing entries and notifying law enforcement of missing information.

While we are pleased to note the progress made in submitting warrants to the national database as reported by BCI, this issue was just one of several concerns regarding information sharing that legislators were interested in. The following section notes some additional concerns that led to this audit.

Poor Communication Results in Undesirable Outcomes

Apart from the warrant issue, this audit was requested in response to numerous concerns of non-existent or ineffective communication

between criminal justice agencies in Utah. Policymakers have also been concerned by the challenge they face in making policy without adequate data from the criminal justice system. The following are a few examples:

Jurisdictional Boundaries Prevent the Apprehension of a Drunk Driver. One legislator reports trying to contact police while following a drunk driver in his community. After contacting his local dispatch center, he then followed the drunk driver into one jurisdiction and then into another. Each time he crossed a jurisdictional boundary, he was handed off to another dispatcher who asked the legislator to repeat his description of the suspected drunk driver.

Lawmakers Are Unable to Evaluate the Impacts of Policy Reform. In a companion report entitled *A Performance Audit of the Justice Reinvestment Initiative*, 2020-08, we look at the impact JRI had on local jails. The main reason legislators requested an audit of the Justice Reinvestment Initiative (JRI) was that they could not obtain reliable information regarding the impacts of that reform legislation.

Legislators have struggled to obtain reliable and complete information to assess the impact of the Justice Reinvestment Initiative (JRI).

Disparate Databases Make Coordination of Public Safety Entities Challenging. Legislators expressed concerns of coordination efforts being disjointed among the diverse criminal justice agencies. A suspected cause of this was accurate information not being shared regularly due to the many databases that do not communicate with each other.

Improved Information Sharing Can Enhance Public Safety, Policies, and Accountability

When information is not shared between criminal justice agencies, operational effectiveness suffers, policies lack precision, and accountability weakens. Communities and officers are better protected when criminal justice partners share information with one another. Policies are most effective and agile when policymakers and administrators have timely access to complete and reliable data. When law enforcement officers, judges, and treatment providers use data to coordinate their efforts, offenders can be held more accountable and are more likely to experience better outcomes.

Public Safety Can Be Strengthened Through Information Sharing

There have been numerous reports in Utah of the public being put at risk because of information sharing issues.

There have been several reports in Utah and in other states of law enforcement officers and the public being put at risk because critical information was not communicated in a timely manner to those who needed it. For example, a convicted rapist and murderer was released from a county jail prematurely last year due to a lapse in inter-agency communication. In addition, tragedies have occurred in recent well-publicized criminal cases in Utah. Among other concerns, poor information sharing was cited as a contributing factor.

One final example is the risk presented by fugitives who flee prosecution after either being charged or convicted of a crime. In fact, three of the last five police officers killed in Utah were by fugitives. Locating fugitives requires inter-agency coordination so that all known information is available to the officers that are in pursuit. It is imperative that our efforts are coordinated to ensure risk is minimized to law enforcement and the public.

Outside of Utah, we identified incidents that might not have ended as tragically as they did if key information had been shared among law enforcement agencies. For example, a Connecticut police officer responding to a domestic disturbance call, received information from the spouse that no guns were in the house. Upon entering the house, the officer was shot and killed with an assault rifle. However, it was later discovered that other Connecticut law enforcement agencies had information that the offender did in fact have a history of violence, including incidents involving a firearm. The Executive Director of Connecticut's Information Sharing System said:

> If the information had been shared…[the officer] would have known the gun was in the house and that the offender had a history of violence and of gun related issues. That wasn't known to the officer.

Although not all cases end in tragedy, they could prevent law enforcement from performing their jobs effectively. However, it is not only law enforcement that is affected by the lack of information sharing. As described in the following section, the lack of timely and reliable information may prevent lawmakers from enacting effective and efficient policies.

Targeted Policies Can Be Achieved Through Access to Complete and Accurate Data

Policymakers and administrators need data to form effective policies. Complex issues, like the administration of justice, are very difficult to work through with only part of the picture. When data is not available, policy choices may be influenced by anecdotal stories that do not reflect the prevailing condition. Lawmakers are expected to develop policies which address complex issues such as racial justice, mental illness, and misuse of prescriptive drugs. To ensure those policies are effective, lawmakers will need to have access to better and more timely data.

When data is not available, policy choices may be influenced by anecdotal stories that do not reflect the prevailing condition.

Here is an example to illustrate the point: Florida uses aggregate data to assess proposed bills for their impact. The Director of Florida's Criminal Justice Information System said:

> When a senator or representative proposes a bill, [the office does] a bill analysis and looks at the impact of the proposed legislation…[They consider] who and how many will be affected by the bill…They'll even tweak the wording to increase impact.

What we are saying is complete and real time data is essential to achieve the best policy outcomes. Targeted policies can be achieved through access to complete and accurate data. The Utah Legislature and other policymaking bodies would benefit from increased availability to accurate information so that they may perform this type of analysis, including weighing the potential impact of their policies.

Data Can Enable State and Local Officials to Act Strategically

Data regarding crime patterns and county jail populations can also be used to help criminal justice officials act strategically as they search for ways to reduce crime. For example, in the previously mentioned audit report on JRI, we describe the problems associated with chronic offenders and the outsized impact that a small population has on the criminal justice system. That report suggests an effective use of offender data would enable policing agencies, prosecutors, and judges to first identify chronic offenders and then to address those conditions that led to their criminal behavior.

But the problem with chronic offenders is just one example of how data can be used to address a current trend in criminal behavior. The area of focus may change from year to year as new crime trends appear in the data. One year it may be drug distribution, the next it may be gang activity. Furthermore, some regions of the state may face different types of crime than other areas of the state. These are just a few of the reasons why criminal justice partners at the state and local levels need data to craft an effective response to crime in their areas.

Audit Scope and Objectives

The Audit Subcommittee approved two audits requests made to the Legislative Auditor General related to criminal justice information sharing. The first request focused on the impact the Justice Reinvestment Initiative (JRI) has had on county jails, the prison, treatment providers, probation providers and other parts of the criminal justice system. The second request was regarding concerns of inadequate information sharing between Utah's public safety entities and the underreporting of state warrants to the national database.

Our companion report, entitled *A Performance Audit of the Justice Reinvestment Initiative*, 2020-08, examined the 2015 JRI reform in detail. In that report, we note considerable need for timely access to complete and reliable data to assess the impact of that legislation on Utah's criminal justice system. Our initial work on that audit confirmed the reports of inadequate information sharing across Utah's criminal justice system. In fact, it exposed the fragmented condition of inter-agency communication in the State of Utah. As a result, this report describes the information sharing issues we uncovered and provides a set of recommendations to address the concerns.

Chapter II examines the current condition of inter-agency communication across Utah's criminal justice system and explores the underlying causes of the weaknesses we uncovered.

Chapter III makes recommendations for improving information sharing using criteria from the federal government, national non-profits, other states, as well as state and local stakeholders.

Chapter II
Data Silos Inhibit Sharing of Crucial Criminal Justice Information

Utah does not have a unified criminal justice information system. Criminal justice is largely decentralized with federal, state, and local jurisdictions each participating in various aspects of the criminal justice system. This is a long-standing practice that this audit accepts. While the administration of criminal justice is decentralized, the information systems of criminal justice do not have to be. Because Utah does not have a unified approach to sharing criminal justice information, crucial information may not always be available to law enforcement officers, judges, prosecutors, and policymakers who need it to make critical decisions. As a result, public safety can be put at risk, policies are less effective, and accountability is weakened.

While the administration of criminal justice is decentralized, the information systems of criminal justice do not have to be.

Experts in information science use the term "data silos" to describe the condition in which information systems from related organizations cannot communicate with one another. As a result, information held by one agency cannot be easily sent to the individuals in other agencies who need it. This chapter outlines the current challenges of information sharing in Utah's siloed criminal justice system and the impact it has. We recommend in the next chapter (Chapter III) steps the Legislature should consider taking to correct this problem. We believe that because of the legitimate obstacles that exist to sharing information in the system, clear legislative guidance is needed to overcome these organizational barriers. The principal recommendation is that the Legislature consider enacting legislation for the development of an Information Sharing Environment. However, before we delve into the solution, we explore the problem in greater detail here in this chapter.

Data silos refer to the condition in which information systems from related organizations cannot communicate with one another.

Separate and Independent Criminal Justice Organizations Make Information Sharing Difficult

The data silo problem is largely the unintended consequence of decentralization. Decentralization, or the separation of powers, is foundational to our democracy. However, information, in modern times, can largely be decoupled from our decentralized system. In short, we recognize parts of the criminal justice system are rooted in

strong local control, but information can be shared. The following elaborates on what we observed in Utah's criminal justice system.

Distinct Justice Organizations Make Information Sharing Complex

Decentralization not only refers to separate branches of government, but also the federal, state, and local subdivisions. Generally, each department or agency has its own goals and objectives. Data systems are almost always created independently of one another and, consequently, reflect the decentralization that exists more generally in the system. This independence also makes it difficult to share information needed by the entire criminal justice system.

Organizations from all three branches and at every level of government play a part in criminal justice.

Many Independent Agencies Play a Role in Utah's Criminal Justice. The large number of criminal justice entities in Utah only compounds the problem of ensuring information reaches those who need it. Each agency has developed an information system that meets their unique needs but are not necessarily designed to be shared with other entities. Some of the agencies that make up Utah's criminal justice system include:

- 130 (+/-) local law enforcement agencies
- 24 county jails
- 29 county prosecutor offices
- Public and private defense counsel
- Courts
- Department of Corrections
- Board of Pardons and Parole
- Department of Public Safety
- Public and private probation and parole agencies
- Commission on Criminal and Juvenile Justice

This list does not include the nearly 200 public and private treatment providers that are treating those involved with the justice system. Most of these providers also operate and maintain their own separate data systems. The result is a fragmented approach to managing information within the criminal justice system. We use Figure 2.1 to describe the many separate "silos" or repositories where information is held within Utah's criminal justice system.

Figure 2.1 Data Is Siloed Within Individual Agencies. Cross-agency communication is fragmented within Utah's criminal justice system.

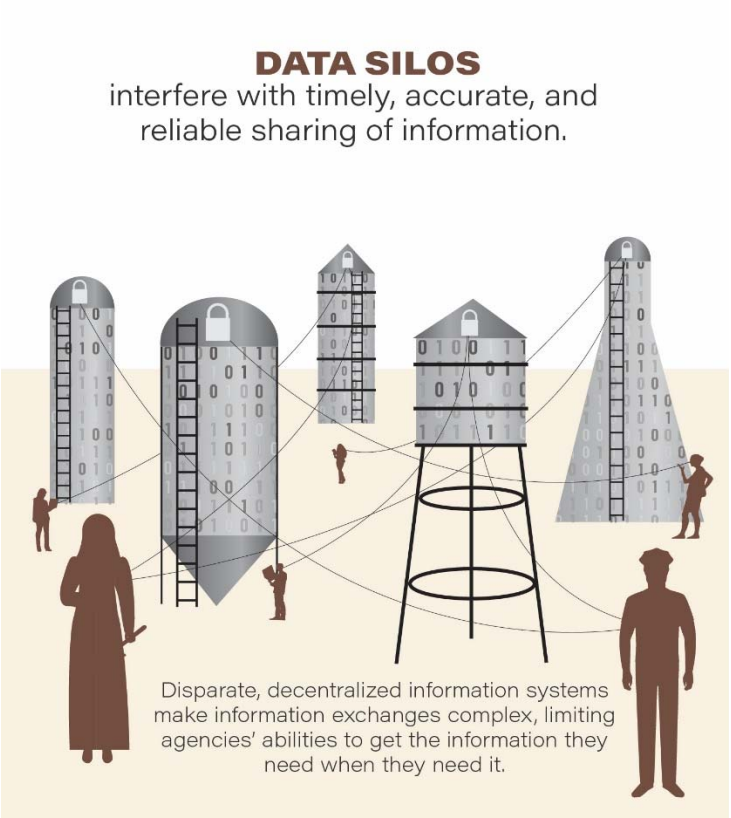


Figure 2.1 describes the "silo" effect which occurs when an organization or system operates independent management information systems in which data does not flow freely from one unit to another.

Data silos exist throughout Utah's criminal justice system, making it difficult to get information in the hands of those who need it.

Organizations Design Their Management Information Systems to Meet Their Own Needs, Not the Needs of the Larger System. During our audit of JRI, we learned first-hand the challenge of matching information from different agency systems. We found it extremely difficult to match county jail data with court data and BCI records because some county jails do not record the inmate's State Identification (SID) number in their booking records. During the booking process, a SID is identified when the inmate has his or her fingerprints taken. We asked the individual who runs the jail IT at one county jail why they did not record the SID in each inmate's booking record. His response was that they do not record that information because they have no use for it.

If each county had recorded the SID for each of their inmates, it would have made it much easier for us to obtain the data we needed to answer legislators' questions regarding the impact of JRI on county jails.

We have concluded that if each county had recorded the SID for each of their inmates, it would have made it much easier for us to

obtain the data we needed to answer legislators' questions regarding the impact of JRI on county jails. However, because the county jails, the state prison system, the courts, and county attorney offices operate separate management information systems, which are often designed to meet their own needs, rather than the needs of other agencies, we have a *system* of criminal justice agencies that cannot easily share data. Although agencies serve similar client populations, they cannot easily match their offender data to that of other agencies.

Upgrades to Utah's Criminal Justice Information System were estimated to save law enforcement 1.5 million hours statewide.

Utah's Criminal Justice Information System (UCJIS)[2] Demonstrates the Enormous Value of Sharing Data. A 2010 Government to Government Report reviewed the impact of information sharing enhancements made to UCJIS in 2007. They found that through expanded functionality and integration, UCJIS was able to save law enforcement an estimated 1.5 million man-hours per year, which is the equivalent of hiring roughly 721 new officers. They also found that it provided better and more comprehensive information for investigations and improved response times. The UCJIS information sharing upgrades demonstrate the tremendous value information sharing has in the criminal justice system.

The net positive effect of this endeavor is significant and commendable. However, the UCJIS project does not extend to the entire criminal justice system, though notable efforts to expand its impact have been made. Despite the progress made through UCJIS, data still largely remains siloed throughout Utah's criminal justice system. Our recommendations in the next chapter (Chapter III) describe steps Utah can take to advance information sharing across the entire criminal justice system.

Legal and Privacy Concerns Dissuade Information Sharing

Sharing data may expose organizations to liability if not done in accordance with legal and privacy rules.

Agencies feel more control and less liability when they retain and manage their own data. This is understandable. In contrast, sharing data exposes an agency to potential lawsuits if it does not conform to legal and privacy standards. For this reason, it appears many agencies and their staff find it easier and safer to avoid sharing their data.

[2] UCJIS is a portal, not a database. It allows authorized individuals to access certain databases in the criminal justice system, but does not store the data.

The Health Insurance Portability and Accountability Act (HIPAA) and Title 42 of The Code of Federal Regulations (CFR), Part 2, are two legal and privacy resources cited by stakeholders as a reason for withholding data. However, according to a report produced by the Bureau of Justice Assistance,[3]

> HIPAA and 42 CFR Part 2 rarely explicitly *prohibit* the exchange of information. Rather, they generally provide guidance about the conditions under which information can be shared.

We spoke with the Director of Florida's Criminal Justice Information System, who informed us that Florida built a Criminal Justice Network (CJNET). CJNET has secure email, secure websites, secure data transfers, and secure connectivity across the entire state for all criminal justice partners. He also described a tracking number that gets assigned to each individual and is carried through the system to allow for offender tracking. Other states report that they operate similar systems. These examples are evidence that legal and privacy concerns are not prohibitive when it comes to sharing information with criminal justice partners.

Other states have worked through legal and privacy concerns to effectively share information with one another.

Privacy Concerns Are Important and Must Be Taken Seriously. Balancing the need for privacy and security with communication, efficiency, and public safety is vital. We found that some other states appear to have struck a balance. We recommend policymakers balance these needs and look for ways to improve our criminal justice system and improve the safety of our communities.

Organizational Structures Sometimes Discourage Staff from Sharing Information

Organizational boundaries can lead to organizational politics. For example, data serves different purposes to different organizations. We received reports from agency staff describing data sharing conflicts with their criminal justice partner agencies. Furthermore, increased transparency necessarily leads to increased scrutiny. According to one national report,

[3]https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/CSG_CJMH_Info_Sharing.pdf

> …this scrutiny also makes many agencies apprehensive about releasing data because of the potential public response…

In short, as data sharing increases, agencies lose some control over how they are perceived. However, this is not a valid reason for not sharing data.

Another area that may discourage sharing information is concern for how agencies will share the cost of joint information sharing arrangements. For example, some file formats used for storing data are cumbersome to other agencies. Portable Document Formats (PDF) may be acceptable to the organization collecting the information, but this may not be true of a different department that needs to aggregate the information for analyses. These problems are compounded when new software is needed, or technical expertise must be sought out to enable the organization to meet the new demands.

Front Line Personnel, Administrators, and Policymakers Not Getting All Needed Information

As mentioned in Chapter I, having accurate and timely information is critical to an effective criminal justice system. Those on the front lines need real-time data to inform their daily decisions. Policymakers and administrators need aggregate data to craft and evaluate policies. While the effect is difficult to measure, other states have been able to enhance public safety at a reduced cost through improved information sharing. We believe the poor flow of information is hindering Utah's criminal justice system from achieving its goals to reduce crime and help offenders become more productive members of society. Though the state made an attempt to build an integrated information system in 2016, we believe there was a lack of broad representation and accountability, and the system was never completed.

Front Line Criminal Justice Personnel Are Not Always Receiving Needed Information

Criminal justice personnel need access to timely information to make informed decisions.

Criminal justice personnel need access to information to make informed decisions. Without timely, accurate, and complete data, decision-makers must rely on inference to fill in the gaps. Just to name

a few that we encountered during the audit, these situations exist without good information:

- judges may have difficulty making pretrial release determinations that are well suited to the offender's risk level, which in turn may put the public at risk
- criminal history records may be missing felony convictions, which may lead to convicted felons obtaining jobs working with vulnerable populations
- offenders may be granted too much or too little credit for time served by the Board of Pardons and Parole
- prosecutors may be unable to file charges with the courts
- police officers may not know if a suspect has been previously engaged by other officers.

Judges Do Not Receive the Public Safety Assessment in 30 Percent of Cases. The Public Safety Assessment (PSA) is an important tool used to assist judges in making pretrial release decisions. The assessment identifies the defendants' likelihood to appear in court and their risk for reoffense. However, an assessment cannot be generated unless the jails submit a State Identification (SID) number to the courts. The Administrative Office of the Courts provided documentation showing that as of September 2020, judges are not receiving the assessment due to a missing SID number for 1 out of every 6 of the defendants who appear before them. The PSA is also limited because other states' data are not feeding into the system correctly. Between these two data sharing issues, the courts report that, on average, judges do not receive the PSA 30 percent of the time.

The Public Safety Assessment assists judges in rendering pretrial decisions through determining risk. However, judges do not receive the PSA about 30 percent of the time.

Our concern is that the PSA provides valuable information regarding an inmate's risk level. If judges do not receive this information, it may hinder their ability to render decisions that reflect the defendant's risk level. It increases the possibility that a high-risk offender may be released to the community putting public safety at risk. It also increases the possibility that a low-risk offender be held in custody unnecessarily.

Other states have found that when risk is used to make pretrial release decisions, public safety is enhanced at a lower cost. For example, Kentucky discovered that by implementing the PSA, crime rates dropped 15 percent while the number of defendants released pretrial had increased. New Jersey reported a 6,000 person reduction

Accurately assessing risk has been shown to reduce crime and cost.

in incarceration from 2012 to 2018 while maintaining approximately the same court appearance and crime rates.

37,000 felony convictions are not in Utah's Criminal History database due to information sharing issues.

Bureau of Criminal Identification (BCI) Is Not Getting Data Needed to Connect Felony Charges to an Offender's Criminal History. According to BCI, over 37,000 felony convictions have not been attached to the person who committed the crime. In addition, BCI reports that as of February 2020, Utah's criminal history database was missing the penalties for over 300,000 distinct court cases. One reason given for the missing records is the challenge in matching offender information in different agency databases. Occasionally, offender names, State Identification (SID) numbers or other identifying information is recorded differently in separate agency systems.[4]

Incomplete records expose the public to heightened risk.

This causes some vulnerabilities in the system. A felony is a serious offense, with loss of rights attached to conviction. One service provided by BCI is to maintain a record of each offenders' criminal history. Maintaining a complete criminal history is important because external agencies rely on this information to ensure safety and improve decision-making.

The Board of Pardons and Parole (BOPP) May Not Always Receive Information About Credit for Time Served. The BOPP reports that, in some instances, it struggles to determine the amount of times an offender has already served in jail prior to a conviction due to inconsistencies in how the data is reported. Normally, the BOPP applies the amount of time already served in jail to the offender's sentence when calculating expiration and guideline dates. When credit for time served is not available or is incorrectly reported by the jails, there is a risk that the BOPP may issue a release decision without this information being considered. If the credit for time served is overestimated, offenders may be released prior to the completion of their sentence. In contrast, if an offender's time already served is not reported, the offender may be incarcerated for a longer period of time than allowed by their sentence. In either case, the BOPP's inability to account for the time served could represent a miscarriage of justice. The BOPP reports that their staff currently spend a great deal of time searching available records to make sure that the timed served is

[4] It is worth noting that there were reportedly over one million records previously missing from the database, showing that conditions have improved.

reported as accurately as possible. Even so, they report that occasionally they discover that the information is incomplete or inaccurate.

Prosecutors Are Not Always Receiving the Evidence They Need from Law Enforcement to File a Charge. Prosecutors rely on probable cause statements and additional evidence that may have been collected at the scene of the crime or during an investigation to make charging decisions. If prosecutors are not provided with all the evidence, they cannot proceed with the case, and the charges are then dropped.

We met with Salt Lake County Prosecutors who told us if they don't receive the information they need from law enforcement, they have no mechanism for digitally submitting a request for the missing or inaccurate information. Instead, they print out a report and put it in their filing room, where law enforcement must physically retrieve it. The law enforcement agency then must resubmit a new probable cause statement with the missing information. SLCO Prosecutors report that in about 15 percent of cases, they do not receive the necessary information from law enforcement to file with the court. We believe the cumbersome nature of sharing information back and forth at least partially accounts for this number. When charges are not filed due to missing information, suspected criminals may be released without a trial, and public safety is put at risk.

About 15 percent of the time, SLCO Prosecutors report they do not receive the information necessary from law enforcement to file charges.

Police Officers May Not Know if a Suspect Has Been Previously Engaged by Other Officers. At times, officers need to know what previous interaction an individual has had with other police departments to establish burden of proof for arrest. For example, if an officer attends to a domestic violence call, but lacks sufficient evidence to arrest, this information would not be available through UCJIS to police departments outside that jurisdiction. However, if that same individual were stopped in a different county for a separate offense, the officer may need to know of prior contact with law enforcement, to establish burden of proof. This highlights the importance of data being timely, as a report detailing this information after-the-fact would be too late. This means offenders may slip through the cracks due to records held in various record management systems.

Policymakers and Administrators Are Not Getting All the Data They Need for Programs and Analysis

Policymakers and administrators need complete and accurate information from which to craft new policies, rather than anecdotes and one-off events. We found the Utah Legislature, Judicial Council, and other key players in the criminal justice system do not always receive the information they need when they need it to craft effective policy. We believe timely, accurate, and reliable data from each of the relevant organizations would provide policymakers with a broader lens through which they could view the criminal justice system. Not only does this help enact policy in accordance with the most current information, it allows policymakers to assess those policies and modify them on an ongoing basis.

The Utah Legislature is unable to fully assess the impact JRI has had on Utah's criminal justice system.

The Utah State Legislature Lacks Information to Adequately Evaluate Criminal Justice Reform. In a companion audit report examining the Justice Reinvestment Initiative (JRI), we describe some of the challenges we faced as we tried to gather specific information requested by the Legislature. When it was first proposed in 2014, JRI was intended to lead towards a more data-driven, results oriented criminal justice system. However, as we tried to assess the impact of JRI on recidivism and on incarceration rates, we found it extremely difficult to provide legislators with the information they needed to assess the effects of the initiative. After several months of processing data, the audit team was only able to identify the inmate populations for seven county jails.

The Utah Courts recommended in 2016 that a uniform, statewide data system be developed.

The Judicial Council Has Not Received the Data It Needs to Monitor the Effectiveness of Pretrial Release. In 2015, the Utah Courts released a report on pretrial release practices in the state. In the report, the committee concluded that the Judicial Council did not have the data it needed to perform its oversight role. To address this concern, the report recommended that "Uniform, statewide data collection and retention systems should be established, improved, or modified."

The Judicial Council, the policymaking body for the Judicial Branch, enlists committees to study issues and advise them regarding reform opportunities. In 2015, one such committee was asked to "[conduct] a thorough assessment of existing pretrial release practices used in Utah's courts." At the conclusion of their study, the committee reported that, among other issues, "…there is a lack of meaningful,

reliable data" in the area of pretrial release. Specifically, they reported that basic data points could not be tracked, including the number of inmates remaining in custody while awaiting trial, the percentage of inmate populations that are pretrial, and the time pretrial detainees are in custody.

Local Officials Lack Treatment Data Needed to Hold Offenders Accountable and Monitor the Effectiveness of Their Interventions. Local officials told us that they currently lack information describing which programs and practices are effective at reducing recidivism and which are not. We found that information regarding treatment for drug abuse and mental illness is often not being shared with the law enforcement agencies and court personnel who need it. Each treatment provider collects and maintains its own substance abuse and mental health treatment records. Understandably, because treatment data contains protected information, providers may be reluctant to share important data points with criminal justice partners. Secure systems should be reviewed and considered, as discussed in Chapter III.

Local criminal justice officials told us they currently lack information describing which programs and practices are effective at reducing recidivism.

For example, judges and AP&P officers need reliable indicators such as "program attendance" and "treatment outcomes" to guide their decisions. These are frequently not available to judges or Adult Probation and Parole officers, despite attendance and successful completion of treatment sometimes being conditions of their probation or parole. Without this information, judges and AP&P officers cannot determine whether an offender has followed through with the court or BOPP order. The result is weakened accountability for justice-involved individuals in treatment.

Conversely, treatment providers do not have access to some indicators they need to evaluate their programs. We found that valuable measures such as "probation/parole violations" and "return to incarceration" are often not available to treatment providers. Our audit team performed a survey of treatment providers throughout the State of Utah. We found that many administrators are lacking recidivism data in their practice. If this outcome data is not adequately tracked and measured, the state may risk allocating funds to treatment programs that are ineffective. We make a recommendation in the following chapter to develop an Information Sharing Environment. This would assist judges, AP&P officers, and providers considerably in obtaining these and other critical indicators.

Treatment providers do not have access to some indicators they need to evaluate their programs.

The Commission on Criminal and Juvenile Justice (CCJJ) Lacks the Data it Needs to Entirely Fulfill its Statutory Mission. CCJJ's duties include, to "study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs..." The reports produced by CCJJ drive policy decisions across the entire criminal justice system. They perform crime analysis, minority impact studies, juvenile detention research, drug and alcohol revisions, and sex offender treatment program assessments, among others.

In 2013, CCJJ partnered with Pew Trusts to develop a strategy for the legislative reform effort that resulted in the 2015 Justice Reinvestment Initiative. However, the Director of Research and Data for CCJJ stated that certain data points have been omitted from their studies because of untimely or unreliable data. Furthermore, in speaking about their attempt to evaluate the ongoing JRI efforts, the director said, "We can't get a full picture." Specifically, local data must be sought out by CCJJ on a quarterly basis, and sometimes, the data is never submitted to them. With a better infrastructure to share information, CCJJ could query the information they need, or even have it automated, instead of having to rely on other agencies to submit the data they need for their research activities.

CCJJ told us they can't get a full picture of the impact of JRI.

The Sentencing Commission Is Missing Data Needed to Continually Assess and Advance Evidence-Based Practices. The Sentencing Commission has put forward policies and programs to be used by policymakers, administrators, and the front-line workers of Utah's criminal justice system. The Commission advises the Legislature, the Governor, and the Judicial Council regarding sentencing and release policy for the State of Utah. They also produce sentencing guidelines considered by judges as they render sentencing decisions. The Commission developed the Response Incentive Matrix (RIM), a series of graduated sanctions and incentives for offenders, to be used by probation and parole officers. In short, the policies and programs produced by The Sentencing Commission impact nearly everyone in Utah's criminal justice system. To ensure they are advancing the most current, evidence-based policies and programs, they need access to reliable and complete data.

The 2020 Sentencing Guidelines state:

> …research has demonstrated empirically that theoretically sound, well-designed programs implemented with fidelity can appreciably reduce recidivism.

However, the Director of the Sentencing Commission reports that much of the county and some state data has not been consistently available to inform these programs. As a result, it is difficult to assess the effectiveness of the policies and programs currently being used. Similarly, revisions and modifications to these programs are limited by insufficient data.

Much of the county data and some state data is not available to the Utah Sentencing Commission.

Local Officials and Administrators Are Not Getting the Information They Need to Act Strategically. Local elected officials and administrators need to think strategically about how to address issues such as gang violence, racial equality, expungement, or other matters involving crime and justice. To allocate resources to those programs that are most effective, timely and reliable data is needed. To do otherwise is to risk making resource allocation decisions based on anecdotal evidence that may not represent the actual condition.

To think and act strategically, state and local officials are becoming increasingly aware of their need to obtain better data. We recommend in our companion JRI report that Criminal Justice Coordinating Councils (CJCCs)—local cohorts of criminal justice partners—be created throughout the state and that they use data to make strategic plans. As part of our audit of JRI, we developed an online dashboard for demonstration purposes. The dashboard (available here) contains key measures of activity in the courts and in Utah's county jails. It is the result of extensive work collecting, cleaning, and joining datasets. When presented with this information, local officials recognized that the information could be a valuable tool for evaluating the effectiveness of their programs and strategic initiatives. They also expressed an interest in receiving the data on a regular basis. While the benefits of making decisions based on accurate and timely data are obvious, it is unreasonable to expect each county to repeat the process of gathering and analyzing data from various agency sources as we did during our audit of JRI.

Our data dashboards from the JRI audit contain key data and measures of activity in the courts and county jails.

For our criminal justice dashboard click here.

Improved Data Coordination Can Improve Monitoring of Agency and Individual Discretion. Utah's Sentencing Guidelines are intended to maintain judicial and parole board discretion. This

professional discretion is important, but also presents a control weakness in the system.

As agencies apply statutes and policies in unique ways, disparities in treatment of offenders may arise. To understand if disparities are concerning or problematic to the goals of criminal justice, more systemwide data is needed to be available and monitored. For example, CCJJ found in 2017 that changes to sentencing guidelines may have resulted in "regional differences" where inmates with similar crimes and history incarceration length varied by geographical location. Much of the data presented in our companion report, *A Performance Audit of the Justice Reinvestment Initiative*, 2020-08, describes how data can be used to identify different practices used by local officials. For example, Appendix G in that report describes the different practices in how sentences are issued for the same offense.

When discretion is unmonitored, it is very difficult to determine the causes of disparate treatment.

Obstacles During Previous Data Integration Project Highlights the Need for Legislative Guidance

During the years following the Legislature's approval of the Justice Reinvestment Initiative (JRI), the state tried but was unsuccessful in its attempt to create a more integrated criminal justice information system. We could not identify all the reasons why, but we suspect that the obstacles to integration previously described in this chapter played a role. Perhaps the main lesson to be learned from that initial effort is that without clear guidance from the Legislature, the obstacles to data sharing may be too difficult to overcome.

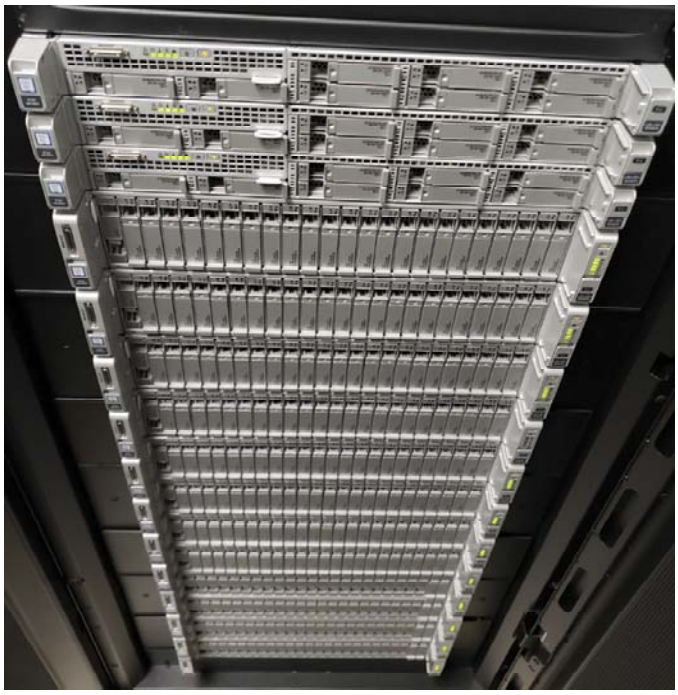
Without clear guidance from the Legislature, the obstacles to data sharing may be too difficult to overcome.

In 2016, the Utah State Legislature appropriated $2.0 million one-time money to the Department of Technology Services to develop "an integrated data system" for vulnerable populations, including individuals undergoing rehabilitation through the criminal justice system. According to the documents we were able to review, a significant amount of work and expense went into the project. Yet prior to completion, the project was halted and remaining funds were transferred to the Governor's Office of Management and Budget.

The reason for suspending the integrated data system project and transferring the remaining funds is unclear.[5] What is clear, is that nearly $1.1 million from the project were spent on products and services for an integrated data system that was never completed. For example, included in the $1.1 million was $224,000 for a server that was never used and still sits idle in the State Office Building. Another $293,000 was spent on software and a hosting service. The server is shown in Figure 2.2.

$1.1 million was spent on a data integration project, but the project was never completed.

Figure 2.2 Server Purchased for Integrated Data System Project. The hardware was never utilized.



We believe the main problem with the state's attempt to create an integrated information system was a lack of broad representation and accountability. Because broad authority was missing, it became too difficult to overcome the organizational obstacles that exist. In the next chapter, we describe steps the Legislature should consider if they decide to prioritize information sharing in criminal justice.

The main problem with the integrated data project was a lack of broad representation and accountability.

[5] The remaining funds from the integrated data system project are currently being used by the Governor's Office of Management and Budget for Blueprint Solution, a case management platform that integrates case plans between agencies accessed by vulnerable populations.

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Chapter III
Legislative Guidance Needed to Overcome Barriers to Data Sharing

As described in Chapter II, the need for a more interconnected criminal justice system exists in Utah. If the Legislature so desires, we believe it should consider enacting legislation requiring a shared data environment. This chapter lists some of the provisions that might be included in such legislation. Among other items, that legislation could lead to the creation of a board comprised of representatives from each stakeholder group in Utah's criminal justice system. That board would be responsible for planning and development, setting standards, and measuring performance in Utah's information sharing environment. We believe that the Legislature's guidance in this matter would enable the state to achieve the data-driven, results oriented criminal justice system that was promised as part of the JRI reforms of 2015.

The Legislature Should Consider Providing Direction on Information Sharing

The Utah Legislature should consider creating in the criminal justice system what is described in government and industry as an Information Sharing Environment, or ISE[6]. Simply put, the ISE is a conceptual framework composed of the policies, procedures, and technologies that link disparate databases together in a seamless and secure way. In 2016, the Legislature had the intention of connecting state and local criminal justice databases, as evidenced by the data integration project described in Chapter II. If the Legislature continues to make inter-agency information sharing a priority, development of an ISE is a method other states and the federal government have found beneficial. Figure 3.1 illustrates broadly the way an ISE is intended to function.

An Information Sharing Environment (ISE) is composed of policies, procedures, and technologies that link sets of data.

[6] Information Sharing Environments originated as a response to the 9/11 terrorist attacks. While originally centered around collecting and sharing terrorist-related information, some states have used the ISE framework to share information across their entire criminal justice system. This is how we use the term Information Sharing Environment throughout this report.

Figure 3.1 An Information Sharing Environment Provides Secure Access to Relevant Data. The policies and procedures governing access to data would be decided upon by the agencies who have or have need for the data.

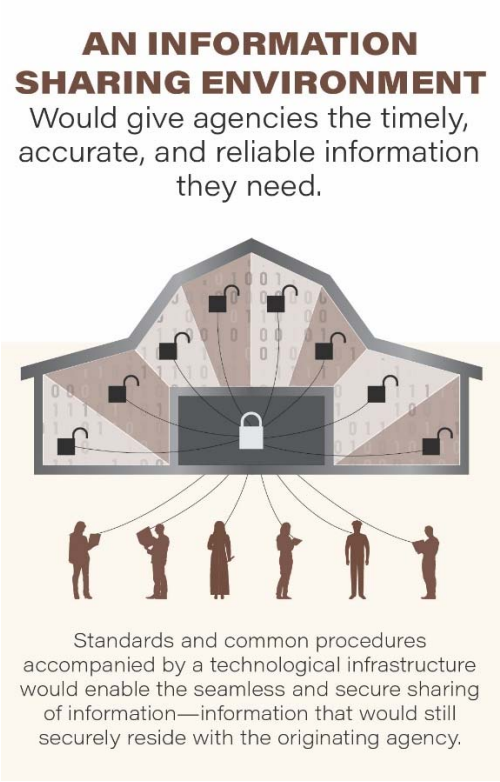

Figure 3.1 describes our recommended solution to the "silo" effect, which is to develop a set of policies, procedures, and technologies to connect the disparate databases in a secure and seamless way.

The ISE is a method that other states and the federal government have used to securely share criminal justice information.

The following are some of the features that the Legislature might include in legislation creating an ISE.

The Legislature Should Consider Overseeing the Development of a Comprehensive Privacy Policy

Trust is an integral component of the success of the system.

At the heart of information sharing is security. Several of the organizations we worked with expressed concerns about maintaining the confidentiality and protection of data. Safeguarding individual privacy is an essential responsibility of justice agencies that collect and share personally identifiable information. It isn't until the security of the system is assured that agencies feel comfortable sharing their data. As mentioned previously, safeguarding data also means preventing unauthorized access and use. Chapter II describes some of the liability that agencies assume by sharing their data. In fact, some agencies may choose to avoid sharing their data under any circumstance to reduce

that liability. Trust, then, becomes an integral component of the success of the system. Agencies must trust one another that their data, once shared, will be appropriately secured and used in compliance with relevant laws and regulation.

According to the Global Justice Information Sharing Initiative, a Federal Advisory Committee for the Department of Justice, "Without this trust, information sharing initiatives will not thrive and are ultimately doomed to public condemnation and civil liability." A comprehensive privacy policy is one way to establish this trust. It ensures criminal justice data is shared in accordance with all relevant federal, state, and local laws, thereby instilling the trust needed to confidently share information.

Privacy refers to the fair collection and use of personally identifiable information. Privacy policies convey appropriate collection of and allowable uses for information, and provide accountability for misuse. The federal government strongly encourages states to take a leadership role in the development of a comprehensive privacy policy. The Global Justice Information Sharing Initiative offers tools and resources to help state and local jurisdictions develop and implement robust privacy policies. The Legislature could oversee the creation of a comprehensive, statewide privacy policy.

The federal government strongly encourages states to take a leadership role in the development of a comprehensive privacy policy.

Consider Establishing Government Data as a Public Asset

Once a secure environment for sharing data has been established, efforts to improve the quality and usefulness of the data can follow. If the Legislature decides to create an ISE, they should consider establishing in statute the foundation for criminal justice information being an asset and a public good. Critical operational and financial decisions are made using criminal justice data. The accounting field broadly recognizes that information residing in an organization's data system is an intangible asset that has tangible value. Similarly, legislators should establish an expectation among agencies that criminal justice data must be valued, protected, and used according to an accepted set of rules. During our audit of JRI[7], we found many instances in which data was not accurate, was incomplete, or was not maintained in a format that could be easily used. Recognizing government data as a strategic asset will increase each agency's

Recognizing government data as a strategic asset can improve effectiveness while reducing costs.

[7] *A Performance Audit of the Justice Reinvestment Initiative*, 2020-08

operational efficiencies, reduce costs, improve services, support mission needs, safeguard personal information, and increase public access.

Consider Requiring the Creation Of a Statewide Data Dictionary

In the same way that accounting principles govern the reporting of financial information, we recommend that criminal justice data be standardized.

Managing data as an asset encourages valuing it as such. Consequently, we recommend that criminal justice data be standardized according to an agreed upon set of rules for its creation and use. This can be accomplished, in part, by creating a statewide data dictionary that identifies common definitions and formats for key reporting activities. During our audit of JRI, we found that counties were not consistent in their use of certain terms such as "arrest date," "intake date," "booking," and "violent." By requiring agencies to apply the definition included in the data dictionary, terms and measures should be used more consistently across the criminal justice system.

Consider Having CCJJ Audit Local Information Systems

Data collection and reporting must conform to state data standards.

In addition to setting data standards, steps should also be taken to verify that data collection and reporting methods comply with the state's data standards and definitions and that relevant data is not missing. One way this can be accomplished is through an audit function. The Commission on Criminal and Juvenile Justice (CCJJ) already has the statutory responsibility for "annually performing audits of criminal history record information maintained *by state* criminal justice agencies to assess their accuracy, completeness, and adherence to standards[8]" (emphasis added). However, the language "state criminal justice agencies" appears to preclude CCJJ from validating data prepared by local agencies. We believe the data generated by all agencies within the criminal justice system, both state and local, must comply with the statewide data standards.

Consider Creating an ISE Board

If the Legislature decides to pursue the development of an ISE, we recommend the Legislature form a governing board to oversee its development and maintenance. The Board should be comprised of the chief executives or their empowered appointees from all major justice

[8] See 63M-7-204 for statutory language

and justice-affiliated organizations. Some of the specific tasks that could be delegated to the board are listed in the final section, including the need to develop a long-term plan, data standards, and performance measures[9].

We recommend the Legislature form a governing board to oversee the ISE development and maintenance.

An ISE Board Is Needed to Provide Planning, Oversight, and Accountability of the ISE Project

Our audit research shows that many steps are needed to achieve the Information Sharing Environment.[10] After speaking with national experts, other state leaders, Utah criminal justice department heads, and reviewing the literature, we found that the following eight steps are likely the most critical to achieving the ISE. If the Legislature chooses to enact legislation to create an ISE and ISE Board, we recommend that the ISE Board take some or all of the following eight steps:

1. Complete a gap analysis.
2. Prepare a long-term plan for completing the ISE project.
3. Adopt or develop standards for information sharing.
4. Form a technology committee.
5. Design the ISE to be able to grow and change over time.
6. Include treatment data in the ISE in accordance with all applicable laws and regulations.
7. Develop systemwide measures of performance.
8. Utilize staff support from CCJJ.

These steps are only preliminary and do not constitute the full scope of the board's role. Once the board convenes, a governance structure should be established. The board should have the discretion to expand or modify these steps as they see fit.

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[9] A criminal justice information governing body is recommended in our companion report, *A Performance Audit of the Justice Reinvestment Initiative*, 2020-08. The ISE Board should be the same as this governing body.

[10] The Integrated Justice Information Systems (IJIS) Institute partnered with The Standards Coordinating Council (SCC) to produce the Information Sharing and Safeguarding (IS&S) Playbook. This resource can be found on SCC's website: http://www.standardscoordination.org/iss-playbook

The ISE Board Should Consider Completing a Gap Analysis

A gap analysis can help the board identify existing capabilities and gaps in Utah's information sharing needs.

The ISE must meet the needs of a variety of stakeholders who use the data differently. The board needs to know the current condition of Utah's criminal justice information systems and the informational needs of agencies to make prudent decisions about which information systems are included, how they are included, and when they are included. Completing a gap analysis can help answer these questions and set the stage for creating a long-term plan. Another reason the gap analysis is important is because we encountered some criminal justice information sharing projects in Utah similar to the ISE, but on a smaller scale. These projects should be considered to avoid duplication of efforts and to leverage the work that has already taken place.

Not All Data Elements Need to Be Included in the ISE. Because certain data points will only be relevant internally to the organization that collects the data, the ISE Board should establish which data points are needed by external organizations. Data that is not needed by any outside organization should not be included in the ISE. This reduces the likelihood that protected information is shared unnecessarily and streamlines the data points that are of value.

The ISE Board Should Prepare a Plan for Completing the ISE Project

We recognize that developing an ISE may require several years to complete. Consequently, we recommend that a long-term plan be prepared and a timeline established for achieving specific milestones described in the plan. The Board Chair should report to the legislature at regular intervals regarding the progress made towards completing the plan. One of the board's first tasks should be the development of a statewide data dictionary for both state and local organizations. This will ensure that the process of meaningful data collection and reporting begins immediately.

The Board Could Develop Standards for Information Sharing

Standards can lower overall acquisition costs by leveraging economies of scale at the different levels of government.

Standards are the at the core of information sharing. They provide a common approach to sharing information across the diverse array of organizations within the criminal justice system. Standards can lower overall acquisition costs by leveraging economies of scale at the different levels of government. They assist in defining business processes and provide a common framework, platform, and language

to exchange information. They should also address system controls for maintaining security and privacy in accordance with all applicable laws and regulations. The Global Information Sharing Initiative mentioned earlier in this report has produced a "standards package" that can be adopted or modified.[11]

One example of a technology standard that can be adopted is the National Information Exchange Model, or NIEM. NIEM connects different terms that mean the same thing. For example, one organization may use the term "Last Name" and a separate organization may use the term "Surname" when collecting data on a person. Both refer to the same thing but use different terms. NIEM allows agencies to retain their current internal vocabulary, minimizing burden. The issue of multiple terms describing the same thing is the inverse of the data dictionary problem. This is an example of the type of standards that need to be agreed upon.

The Board Should Form a Technology Committee

The ISE Board likely will not have the capability to address the many technical aspects of creating an ISE. With this in mind, the board should form a committee comprised of technical experts to determine the best way to structure and manage data systemwide. That committee should be expected to design a system whereby data analyses can be completed efficiently, operational data such as county inmate rolls, arrests, etc. are transmitted in real-time, and that the information regarding a single offender from all agencies can be gathered in a single report. One way to track the activity of individuals who are involved in the criminal justice system is to develop a common identifier that can be used by all justice and justice-affiliated organizations. These are examples of the type of issues that the ISE Board would hand off to a technology committee.

The ISE should allow for efficient analyses and transmission of real-time data.

The Technology Committee Should Ensure the ISE Is Able to Grow and Evolve Over Time. Informational needs are likely to change with time. An efficient mechanism for accommodating these changes and incorporating additional systems is critical. For example, there is national momentum toward integration of state data with federal data. Preempting collaborations of this sort and building in capacity for simplified expansion maximizes the longevity of the

Building capacity for growth into the ISE framework maximizes the longevity and utility of the system.

[11] https://it.ojp.gov/GSP

investment. Justice-affiliated organizations within the state may also wish to integrate their databases as time goes on. An additional advantage to this approach includes the ability to start the ISE with only a few databases. The technology committee should rely on the ISE Board to determine the prioritization of data sources. This is a more measured and manageable approach and allows costs to be distributed across several years. Another advantage is new data elements not captured in the original system can be added at the request of a policymaker or administrator. Early collaboration with prospective partners is a practical approach that ensures cost-effective investments that yield a positive return.

The Board Must Strive to Include Treatment Data in the ISE to the Extent Permissible by Law and Regulation

Health information is essential to provide assessments and treatment.

Of particular importance is that the ISE Board work toward the linking of criminal justice data with information from treatment providers and other social service databases. We understand the sensitive nature of this information and the absolute need for it to be protected and used on a limited and as needed basis. At the same time, the Bureau of Justice Assistance reports that "…health information is essential to provide adequate assessment and treatment" to individuals. At the program level, it assists in the identification of target populations for interventions, evaluating program effectiveness, and determining whether programs are cost-efficient.

The need for treatment data in the criminal justice system is further supported by the Utah Substance Abuse Advisory (USAAV) Council's recommendation in the 2014 CCJJ JRI report, that "strong linkages" be promoted between the treatment, justice, and support services system and that a "comprehensive and coordinated approach" be used. The federal government has developed guidance to help jurisdictions understand how they can share data within the framework of the Health Insurance Portability and Accountability Act (HIPAA),[12] as well as 42 CFR Part 2.[13] We recommend this area be studied as to how treatment data can be safely incorporated.

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[12]https://www.hhs.gov/hipaa/for-professionals/faq/disclosures-for-law-enforcement-purposes/index.html

[13]https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/CSG_CJMH_Info_Sharing.pdf

The ISE Would Enable the Board to Develop Systemwide Measures of Performance

The Legislature and CCJJ have identified specific goals that are to be achieved by the criminal justice system. For example, two of the goals of JRI are to reduce recidivism and reserve prison and jail beds for violent offenders. To monitor the state's progress towards achieving those goals, the ISE Board needs to develop a standardized method for measuring recidivism and the composition of the inmates in the state prison and county jails.

Systemwide measures would allow policymakers to monitor statewide progress.

The Board Could Rely on Staff Support from CCJJ

The Commission on Criminal and Juvenile Justice (CCJJ) is statutorily charged to "provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal and juvenile justice." Furthermore, their duties include to "promote the development of criminal and juvenile justice information systems." For these reasons, we believe CCJJ is uniquely positioned within the state to support the ISE Board and its activities. We did not determine what expenses may be incurred as a result of this involvement, though we acknowledge that some expense will likely be necessary. The Legislature should look to CCJJ to determine what additional costs, if any, may be imposed on their agency due to added responsibilities.

A Data-Driven and Results-Oriented Criminal Justice System Would be Beneficial for Utah

By creating an Information Sharing Environment, the Legislature could see the benefits of a data-driven, results-oriented criminal justice system for which it has asked for many years. The ISE should allow policymakers to ask for analyses and research to help them answer key questions and make evidence-based policies using their findings. It can get decision-makers the information they need when they need it. The ISE should also allow for increased oversight and accountability. Ultimately, the ISE should enable Utah's criminal justice system to be more efficient and effective at administering justice and protecting the public.

The ISE should enable Utah's criminal justice system to be more efficient and effective at administering justice and protecting the public.

The Information Sharing Environment Can Enhance Research

One example of a research benefit the ISE can afford is frequent and economical Randomized Control Trials (RCT). RCTs are the gold standard of research. This empowers agencies to answer systemwide questions and develop evidence-based policies and programs. Consequently, interventions are targeted and specific, and each agency can perform its role in the broader context of the system.

The Sentencing Commission, for example, has made the commitment to use a data-driven, evidence-based approach to sentencing. The ISE can provide the commission with additional tools needed to accomplish this task. Similarly, improved data should enable state agencies to identify recidivism rates for mental health treatment programs and other types of interventions. Utah policymakers can know what strategies are effective at reducing crime.

The ISE can advance research and policymaking in the criminal justice system.

Delaware is an example of a state which has improved its research capabilities as a result of integrating its criminal justice data. The Delaware Criminal Justice Coordinating Councils (CJCC) and the Statistical Analysis Center (SAC) have performed a variety of studies on topics ranging from recidivism, habitual offenders, drug law revisions, sentencing and detention, major crimes tracking, race and incarceration, and juvenile arrest and release patterns, among others. We believe that Delaware could not have performed that type of research and analysis if it had not integrated its criminal justice data.

Deidentified, Aggregate Data Can Be Made Public. In 2013, The President signed an executive order "making open and machine-readable the new default for government information." The order stated, "Openness in government strengthens our democracy, promotes the delivery of efficient and effective services to the public, and contributes to economic growth." In addition, making aggregate data outward facing engenders public trust in government.

Open data invites wider analysis from a broader range of individuals. Evidence of this comes from Florida. Because of the quality of their data, The Bureau of Justice Statistics (BJS), universities, and other states use Florida's criminal justice data to study criminal justice. This state-specific analysis comes at no cost to the state.

Though we acknowledge there are limitations to what data can accomplish, we believe an ISE can advance research and policymaking in the criminal justice system. We recommend that CCJJ make systemwide, aggregate and deidentified data outward facing in an interactive way.

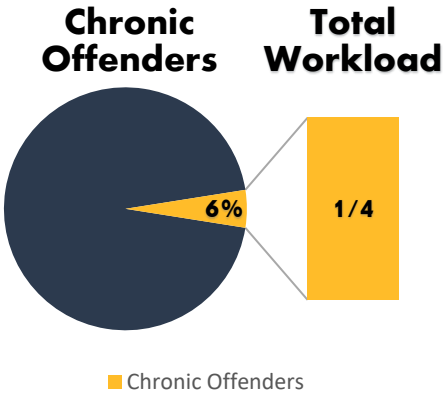
Local Officials Can Use Data to Act Strategically

Improved data can also help state and local officials respond more strategically to some of the specific challenges they face. For example, some jurisdictions face a problem of repeat offenders who create a large burden on state and local resources. Yet despite the large amount of resources devoted to this population, they are often provided in fragmented ways that do not lead to stabilization or improved outcomes for individuals. Sharing data can ensure continuity across service domains, resulting in better outcomes for individuals and lower costs for the state.

The ISE will give local officials a powerful tool to act strategically.

We performed an audit test to determine the toll that chronic offenders have on the criminal justice system. We found that the top 6 percent of justice-involved individuals accounted for nearly one-fourth of the total drug possession and drug paraphernalia cases processed by the courts, as shown in Figure 3.2.

Figure 3.2 Chronic Offenders Use a Significantly Disproportionate Amount of Court Resources. The top six percent of court users account for nearly one-quarter of the workload involving drug possession and drug paraphernalia cases.



We further found that the top 10 utilizers of the Third District Court, on average, had 90 arresting drug charges, 67 different total arresting incidents, nearly 39 separate court cases, and eight of the ten chronic offenders received substance use disorder services within the

past 6 years. While we did not quantify the fiscal impact of these individuals, we found a county that did complete a fiscal impact study. Miami-Dade, Florida found that 97 high utilizers accounted for $13.7 million across all services received over four years.

It is essential that chronic offenders be treated in a way that promotes their rehabilitation and exit from the criminal justice system. This is simply one example of the many issues that could be better addressed using data. We believe the ISE will give local officials a powerful tool to act strategically as a system.

Decision-Makers Can Access Credible Information When They Need It

Not only can timely, accurate, and complete information improve policymaking, it can improve decision-making. One stakeholder commented that having access to credible information produces the greatest opportunity to affect positive change in the individual. This requires that criminal justice personnel have real-time or near real-time data at the individual level to inform their choices.

Increased Transparency Can Inform and Improve Criminal Justice Discretionary Decisions

The ISE can provide critical information to decision-makers to guide their judgment.

Law enforcement officers, prosecutors, the judiciary, and others are required as part of their jobs to use their professional discretion in how they handle offenders who have been arrested and as they are processed through the criminal justice system. It is important to note that the concept of professional discretion does not run counter to the functions of the criminal justice system. In fact, one of the duties of the Utah Sentencing Commission is to "enhance the discretion of sentencing judges." In our opinion, this means that currently state policy supports professional discretion. To assist those who are required to use their professional discretion, we should provide them with accurate and reliable data. The ISE can provide the critical information needed to guide their judgment. It further grants policymakers the ability to examine the way professional discretion is used to ensure it is promoting system objectives.

The following seven key decision points shown in Figure 3.3 were identified by the MacArthur Foundation, a national nonprofit. They describe steps in the process of arresting and prosecuting offenders in which professional discretion is required.

Figure 3.3 Professional Discretion is Used During Seven Key Steps in the Process of Administering Justice. These decisions heavily rely on the judgment of criminal justice personnel.

Source: Auditor interpreted content produced by the MacArthur Foundation to develop this figure.

The ISE can enhance accountability for how professional discretion is used.

Because professional discretion impacts every facet of the criminal justice system, review is appropriate. To ensure that discretion is not misused, either intentionally or unintentionally, data can be explored to identify any potential unwarranted disparities in the system. We believe greater access to data and increased transparency through the ISE can enhance how professional discretion is used.

We understand the creation of an Information Sharing Environment is an important and critical decision and that many sensitive and critical areas need to be analyzed and carefully weighed. We believe the Legislature is the best body equipped to weigh this important matter. If the Legislature decides to proceed with the consideration of an ISE in the state, the information provided in this chapter can help inform their deliberations.

Recommendations

1. We recommend the Legislature consider creating an Information Sharing Environment (ISE) by enacting legislation, which includes some or all of the following features:

a. Enact legislation requiring the establishment of a comprehensive privacy policy.

b. Establish in statute data as a government asset and public good.

c. Enact legislation requiring the creation of a statewide data dictionary.

d. Expand legislation requiring CCJJ to audit local information systems.

e. Enact legislation to form an ISE Board, which would be the same board as the criminal justice information governing body recommended in our companion report, *A Performance Audit of the Justice Reinvestment Initiative*, 2020-08.

2. If the Legislature chooses to follow Recommendations #1 above, we recommend that the Information Sharing Environment Board take some or all of the following eight steps:

    a. Complete a gap analysis.

    b. Prepare a long-term plan for completing the ISE project.

    c. Adopt or develop standards for information sharing.

    d. Form a technology committee.

    e. Design the ISE to be able to grow and change over time.

    f. Include treatment data in the ISE in accordance with all applicable laws and regulations.

    g. Develop systemwide measures of performance.

    h. Utilize staff support from CCJJ.

Agency Responses

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OFFICE OF THE SHERIFF

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Richfield, Utah 84701

Phone (435) 896-2600
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SHERIFF NATHAN J. CURTIS

10-5-2020

Office of the Legislative Auditor General

To whom it may concern,

I want to formally thank the legislative auditors for this report and their effort to give clear assessments of the current situation in this matter. I feel they have taken a careful and measured approach to their fact finding and evaluation of the contents found in this audit.

As a deputy I was sometimes given very little information, or no information, while responding to a call. It was difficult at best to know exactly what I was responding to and there were times I would have changed my response had I had access to better and more reliable information. Information is without a doubt a valuable commodity, and in the criminal justice world, good information can be the difference between life and death.

Many Sheriff's Offices have years of information in the records management system. This was a repository for them to store reports of years gone by. Over the years these records systems have grown in usefulness and have become a tool to store information important to the agencies who use them. As this audit report shows, there is so much information stored right now it is difficult to know where to start and how to interpret all of the data without a local liaison to help make sense of it all. Agencies do share their data, but they do not just give access to anyone who wants it to protect privacy, to comply with legal obligations, and to maintain integrity of their records.

This audit is correct in the description of the data silos. There was an entity in Utah who was able to merge disparate data silos, but unforeseen circumstances have derailed their potential. There are other ideas out there, and all should be explored, but should also be explored with caution. Agencies have invested more money than they care to maintain their product and because of this will expect to maintain control over the use of and distribution of their information and work product. Other agencies have no system due to the cost of a commercial product and have done the best they can.

I want to commend the auditors for their work ethic and their integrity in seeking out the answers to the questions they had. They used multiple sources and were able to validate their results.

Sincerely,

Sheriff Nathan J. Curtis

Sevier County Sheriff

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State of Utah
Commission on Criminal and Juvenile Justice

Gary R. Herbert
Governor
Spencer J. Cox
Lieutenant Governor

Kim Cordova
Executive Director

Utah State Capitol Complex, Senate Building, Suite 330 • Salt Lake City, Utah 84114
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October 05, 2020

Office of the Legislative Auditor General

I write on behalf of the Commission on Criminal and Juvenile Justice (CCJJ) in response to the audit performed on the Justice Reinvestment Initiative (JRI) and data sharing in the criminal justice system.

The report on data sharing in the criminal justice system clearly identifies the challenges CCJJ has encountered over the last several years. While some state and local agencies partner well and collaborate on data sharing in order to complete projects and reports, others can be more challenging. CCJJ does, however, present the information given in the most comprehensible and useful manner. Nevertheless, the result is one dimensional and is not as comprehensive as it needs to be in order to give policy makers all the information needed to make decisions. The recommendations given in the report are very similar to ideas this agency has been working on as a solution and path forward. Consequently, CCJJ is in full agreement and supports the recommendations.

The report on JRI also clearly identifies the challenges encountered with the implementation of JRI's policy goals. Particularly, the report recognizes all of the agencies that were part of the creation of the policy recommendations and highlights the collaboration and communication needed for its success in implementation. The criminal justice system is not one system but rather an ecosystem of various state and local partners reliant and interwoven with each other. Each agency requires support and resources from the others to be successful. Local collaboration is an essential component that creates success for the larger whole, however, there needs to be clear directives on who is responsible for what and to whom for oversight and accountability.

As noted in the report, there are specific holes in terms of data collection that need to be addressed in order to give a full and accurate picture of the criminal justice system. In order to fulfill any reporting recommendations, CCJJ must rely on agencies to give information. As such, CCJJ requests that a reporting recommendation of any kind require agencies to give the data specifically and a deadline to ensure compliance. Otherwise, CCJJ agrees with and supports the recommendations.

Sincerely,

Kim Cordova
Executive Director for the Commission
on Criminal and Juvenile Justice

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Utah Department of Corrections
Executive Office

MIKE HADDON
Executive Director

October 5, 2020

Kade R. Minchey, Auditor General
Office of the Legislative Auditor General
315 House Building
P.O. Box 145315
Salt Lake City, Utah 84114-5315

Dear Mr. Minchey,

This letter contains the Utah Department of Corrections' (Department) response to the Office of the Legislative Auditor General regarding Audit Report Number 2020-09, "***A Performance Audit of Information Sharing in the Criminal Justice System***." I would like to commend you and your staff for their vision and insight on the critical issues explored in this audit.

The Department strongly believes data and information sharing is essential for several reasons. These reasons are effectively explored within this audit, and the recommendations contained within the audit will move Utah forward in important ways. Our Department has a long history of sharing data and information with other stakeholders because we understand the value in seeing and understanding a broader picture. We are committed to continuing to share our data as an Information Sharing Environment (ISE) is developed.

Work in the criminal justice system does not occur in a vacuum. Apart from the typical criminal justice stakeholders such as the Courts, Law Enforcement, the Board of Pardons and Parole, Prosecution, Defense, etc., the individuals we work with also need support services from stakeholders typically outside of the criminal justice system, such as access to medical care, employment assistance, housing assistance, transportation assistance, and mental health services. Only by sharing information and data can a more thorough and complete picture be developed to create understanding and collaboration among multiple entities that may be working with a single individual or family unit.

Further, creating an ISE will provide a robust and interconnected pool of data that can be used to help understand what programs and services are most effective. Additionally, it will assist in understanding where gaps or deficits in services exist. It will help all of those involved better understand if individuals are receiving the right services, in the right amount, and at the right time. Our Department believes this level of collaboration and understanding is fundamental to achieve better outcomes for people, and truly assist those individuals our Department serves to

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successfully exit the criminal justice system and move on to live productive lives. The impacts would be both immediate and generational.

The Department's response to this audit will be somewhat unconventional, in that we are not responding to specific recommendations. Rather, we are responding to the recommendations in whole. As already noted, most generally, our Department has a history of sharing information, and we are fully supportive of expanding data sharing and collaboration.

In terms of general observations, the Department would encourage the development and maintenance of an ISE through the Utah Commission on Criminal and Juvenile Justice (CCJJ). CCJJ, for decades, has served as a forum for collaboration among Utah's criminal and juvenile justice stakeholders. Our preference would be to not create a new and separate group as a steward responsible for the recommendations within this audit. It is likely that the same justice leaders would be involved in both efforts and may find it redundant to create two separate groups with mirrored membership. Further, if a new group were created, it would require an additional layer of collaboration between that new group and CCJJ. The Department believes CCJJ is already composed of a broad representation of federal, state, local, and non-profit organizations needed for an information sharing initiative.

Giving oversight of an ISE to CCJJ is a recommendation in the Office of the Legislative Auditor General companion audit number 2020-08, *A Performance Audit of the Justice Reinvestment Initiative*. The Department supports the recommendations, outlined below, included in *Chapter 3 Criminal Justice System Lacks the Accountability Called for by JRI, in this companion audit include the following recommendations:*

1. *We recommend that the Legislature consider forming a criminal justice information governing body comprised of representatives from each of the major agency groups within the criminal justice system and* ***that this body receive oversight and be accountable to the Commission on Criminal and Juvenile Justice****. (emphasis added)*

2. *We recommend that the Legislature consider empowering the criminal justice information governing body with the authority to set data standards and to prepare a plan for an integrated criminal justice information system.*

3. *We recommend that the Legislature require the criminal justice information governing body to submit its plan and periodically report to a legislative committee on the progress made towards implementing that plan.*

Additionally, the Department agrees with the recommendation that the Utah Legislature take an active role in the development of an ISE. Their authority and ability to establish frameworks within statute can assist in moving a project of this scope forward. As noted in the recommendations, foundational to the development of an ISE is a comprehensive privacy policy, a clear delineation that data is an asset, and the need for a data dictionary that outlines individual data elements and their meanings.

Although a gap analysis is included in the recommendations of this audit, the development of an ISE will require a process for determining specific data elements that would be useful to share within the ISE. As an example, our Department's primary records management system, O-Track, contains thousands of data elements. It is likely that most of those data elements would not be needed or helpful for collaboration purposes. At the same time, there are many data elements in O-Track that likely would prove to be incredibly useful in a shared environment. Although our Department would be willing to share nearly all data contained in O-Track, it would likely overwhelm an ISE and make it challenging for users outside of the Department to wade through so much data in order to find those data elements most relevant. We anticipate this may be similar in other entities' records management systems. As this work gets underway, the Department believes it essential that CCJJ assists in the process of identifying those data elements, across multiple information systems, that will prove most informative for efficient day-to-day operations, as well as evaluating justice system outcomes.

The Department stands ready to support and engage in the creation of an information system that shares data and information relevant to the efficient and effective delivery of services to those justice-involved individuals in Utah. We again express appreciation for the work and the vision of the Office of the Legislative Auditor on this important matter.

Sincerely,

Mike Haddon, Executive Director
Utah Department of Corrections

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State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

DEPARTMENT OF HUMAN SERVICES
ANN SILVERBERG WILLIAMSON
Executive Director

Division of Substance Abuse and Mental Health
DOUG THOMAS
Director

October 5, 2020

Department of Human Services
Division of Substance Abuse and Mental Health
Response to Recommendations

DRAFT RESPONSE: A Performance Audit of Information Sharing in the Criminal Justice System (Report #2020-09)

Thank you for the opportunity to respond to the audit titled: *A Performance Audit of Information Sharing in the Criminal Justice System (Report #2020-09).* The Department of Human Services Division of Substance Abuse and Mental Health (DSAMH) concurs with the recommendations in this report and appreciates the thoughtful work of the Legislative Auditors. DSAMH looks forward to working collaboratively to implement the recommendations made in this report. The DSAMH is committed to the efficient and effective use of taxpayer funds and values the insight this report provides on areas needing improvement.

As the audit indicates, treatment records contain sensitive information about a person's health and history. Sharing these records too broadly may have negative consequences for participants. Yet, effective treatment for many involved in the criminal justice system requires treatment providers to regularly communicate with Adult Probation and Parole, Law Enforcement, Courts, other social service providers and families. DSAMH will work diligently with the Legislature and other stakeholders to ensure that these competing interests are appropriately balanced and state and federal law around information sharing is followed.

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Administrative Office of the Courts

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

Hon. Mary T. Noonan
State Court Administrator

Catherine J. Dupont
Deputy Court Administrator

HON. MARY T. NOONAN, State Court Administrator
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October 5, 2020

MR. KADE R. MINCHEY, Auditor General
315 House Building
P.O. Box 145315
Salt Lake City, Utah 84114-5315
Via email to:
Kade Minchey (kminchey@le.utah.gov)
Darin Underwood (dunderwood@le.utah.gov)
Jim Behunin (jbehunin@le.utah.gov)

Re: Response to final exposure draft of "A Performance Audit of Information Sharing in the Criminal Justice System" (report no. 2020-09, dated September 25, 2020)

Dear Mr. Minchey,

Thank you for the opportunity to respond to the final exposure draft of "A Performance Audit of Information Sharing in the Criminal Justice System" (report no. 2020-09, dated September 25, 2020). We believe the information contained within the report is a valuable addition to the work your office conducted regarding the Justice Reinvestment Initiative (no. 2020-08). If the legislature adopts the recommendations in the report, the judicial branch is prepared to participate as a member of the Information Sharing Environment Board / criminal justice information governing body. The judiciary already shares a significant amount of data with other criminal justice partners including CCJJ, the Department of Corrections, the Department of Public Safety, and local law enforcement entities. While we are proud of the efforts we have made to share important criminal justice data, there is always more that can be done.

Best,

Judge Mary T. Noonan
State Court Administrator

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

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Department of Public Safety

JESS L. ANDERSON
Commissioner

State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

October 1, 2020

Kade R. Minchey
Auditor General
315 House Building
Utah State Capitol Complex
Salt Lake City, Utah 84114

Dear Mr. Minchey:

Thank you for the opportunity to review and respond to performance audit number 2020-09, "A Performance Audit of Information Sharing in the Criminal Justice System." The Department of Public Safety (DPS) appreciates the thoroughness of the audit in identifying areas of improvement and agrees with the recommendations outlined in the report.

As the oversight agency for the Utah Criminal Justice Information System (UCJIS), DPS is supportive of any effort to improve the sharing of information across agencies and jurisdictions. As the report states, stakeholders rely on this information and related data to make policy and program decisions that impact public safety. The sharing of information across agencies is also critical for law enforcement to make immediate decisions that can affect both public and officer safety. To improve the sharing of information across the criminal justice system, the report references legislation related to the national warrant database, which is the type of reform that is necessary.

The Department will continue to coordinate with other agencies when sharing information across systems. More specifically, DPS will be actively engaged in collaborating with stakeholder groups when considering and implementing the recommendations.

I appreciate you and your team's efforts to compile the information provided in the audit report and look forward to working to improve data sharing within the criminal justice system.

Sincerely,

Jess L. Anderson
Commissioner

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Carrie L. Cochran
Chair

Clark A. Harms
Vice Chair

Greg E. Johnson
Member

Denise M. Porter
Member

Marshall M. Thompson
Member

STATE OF UTAH
BOARD OF PARDONS AND PAROLE

October 6, 2020

Kade R. Minchey, Legislative Auditor General
Office of the Legislative Auditor General
W315 Utah State Capitol Complex
Salt Lake City, Utah 84114

Dear Mr. Michey:

The Board of Pardons and Parole (Board) is grateful to the Legislative Auditor General's Office and its many staff who contributed to this review. The review identifies many of the challenges that Utah's criminal justice system experience in effectively sharing valuable information. As each agency or organization works diligently toward their respective goals, creating effective and efficient strategies to share data with necessary stakeholders is critical to ensuring public safety. The Board is committed to our continued efforts toward the implementation of an electronic records management system. The Board is confident this project will contribute to enhanced data sharing that promotes public safety and increased transparency. The Board supports the findings and resulting recommendations that will benefit the people of the state of Utah by creating an improved and integrated criminal justice information system.

The Board is a committed partner in this process to provide the best possible service to the people of the state of Utah. As one of the many agencies involved in Utah's criminal justice system, the Board appreciates the review and recommendations clearly designed to improve processes and enhance outcomes.

Sincerely,

Carrie L. Cochran
Board Chair

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