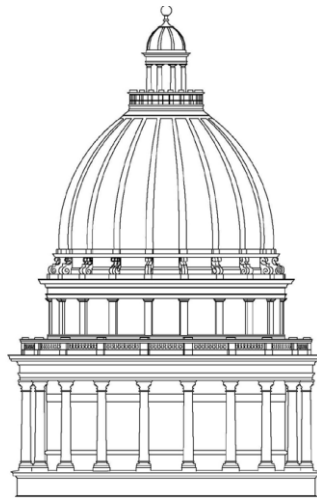


REPORT TO THE
UTAH LEGISLATURE

Number 2022-15



**A Limited Review of the Coordination
Between Public Safety Entities**

November 2022

Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah



Office of the Legislative Auditor General

Kade R. Minchey, Legislative Auditor General

W315 House Building State Capitol Complex | Salt Lake City, UT 84114 | Phone: 801.538.1033

November 15, 2022

The Utah State Legislature:

Transmitted herewith is our report, *A Limited Review of the Coordination Between Public Safety Entities* (Report #ILR 2022-15). An audit summary is found at the front of the report. The objectives and scope of the audit are explained in the Introduction.

This audit was requested by Representative Karianne Lisonbee, Representative Brady Brammer, Senator Kirk Cullimore, Representative Jon Hawkins, and Senator Ann Millner as part of an audit request which also resulted in two companion reports, released alongside this report – *A Performance Audit of the Oversight and Effectiveness of Adult Probation and Parole* (Report #2022-13) and *A Performance Audit of the Board of Pardons and Parole* (Report #2022-14).

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

Sincerely,

Kade R. Minchey, CIA, CFE
Auditor General
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Limited Review Audit

► AUDIT REQUEST

In response to the Legislative Audit Subcommittee's concern with the oversight and effectiveness of the supervision of individuals released from prison/jail, we conducted performance audits of the Board of Pardons and Parole (BOPP, Board) and Adult Probation and Parole (AP&P). In this process, we identified coordination concerns between these and other public safety entities. This audit details those concerns.

► BACKGROUND

We are releasing three reports addressing the audit areas requested by the subcommittee. The companion reports being released concurrently focus on community supervision by AP&P and the operations of the Board. This third, limited review audit, identified four areas of concern:

- (1) AP&P Agent Workload
- (2) Recidivism Measures
- (3) 72-Hour Jail Holds
- (4) Courts' Use of Probation

Coordination Between Public Safety Entities



KEY FINDINGS

- ✓ AP&P's optimal agent workload and total capacity is unknown. Justice entities should be aware of each other's capacity limits and work together to minimize public risk.
- ✓ Methods and definitions of recidivism used by different public safety entities vary and may create confusion.
- ✓ Jails are not required to hold probation or parole violators on a 72-hour hold and are sometimes released early due to overcrowding, creating public safety concerns.
- ✓ Courts may be sentencing violent and problematic offenders straight to probation, potentially creating public safety concerns.



RECOMMENDATIONS

- ✓ AP&P should conduct a professional agent workload study and communicate its capacity to Utah public safety entities.
- ✓ The Commission on Criminal and Juvenile Justice should coordinate with public safety partners to establish consistent metrics for recidivism.
- ✓ The Legislature should consider revising statute to include appropriate definition(s) of recidivism.
- ✓ AP&P should continue to work with jails to coordinate agreements on 72-hour holds.
- ✓ The Legislative Audit Subcommittee should consider prioritizing an audit on the Utah Court System's use of probation.



REPORT SUMMARY

AP&P Should Determine and Communicate Agent Workloads and Capacity to Stakeholders

A rise in high-risk offenders in supervision has increased workloads for AP&P agents. AP&P should conduct a study to determine optimal agent workload and total capacity. The results should be regularly reported to public safety entities.

Public Safety Entities Should Coordinate on Recidivism Measures

Public safety agencies vary in methodologies and definitions to analyze recidivism. Establishing consistent metrics for recidivism measures will benefit public safety and sharing these with the public will increase transparency. Revising statute to include appropriate definition(s) of recidivism could also

address confusion surrounding this area.

AP&P Should Continue to Coordinate 72-Hour Hold Agreements with Jails

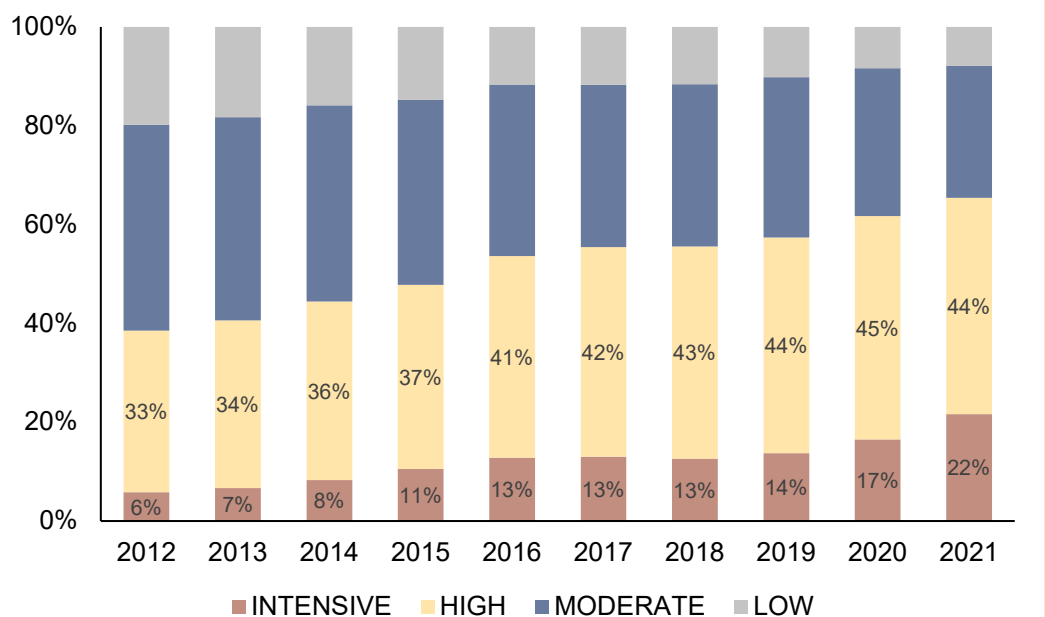
Utah Code does not require that jails hold AP&P offenders on a 72-hour hold, meant to give agents time to obtain a warrant. AP&P should continue to work with jails to establish agreements to hold offenders that may pose a threat to public safety, despite jail overcrowding.

Courts' Use of Probation May Require Review

AP&P agents reported concerns that courts were sentencing serious offenders to probation, despite the severity of their crime. We recommend the Legislative Audit Subcommittee consider an audit for further review.

Distribution of Probationer Risk Levels

The proportion of intensive- and high-risk offenders in probation has been steadily rising, spreading AP&P's resources thinner, potentially risking public safety.



Source: Auditor generated using data from Utah Department of Corrections.

REPORT TO THE UTAH LEGISLATURE

Report No. ILR 2022-15

A Limited Review of the Coordination Between Public Safety Entities

November 2022

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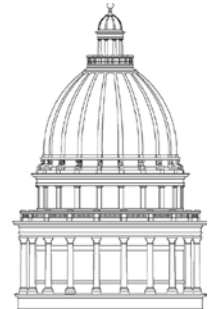
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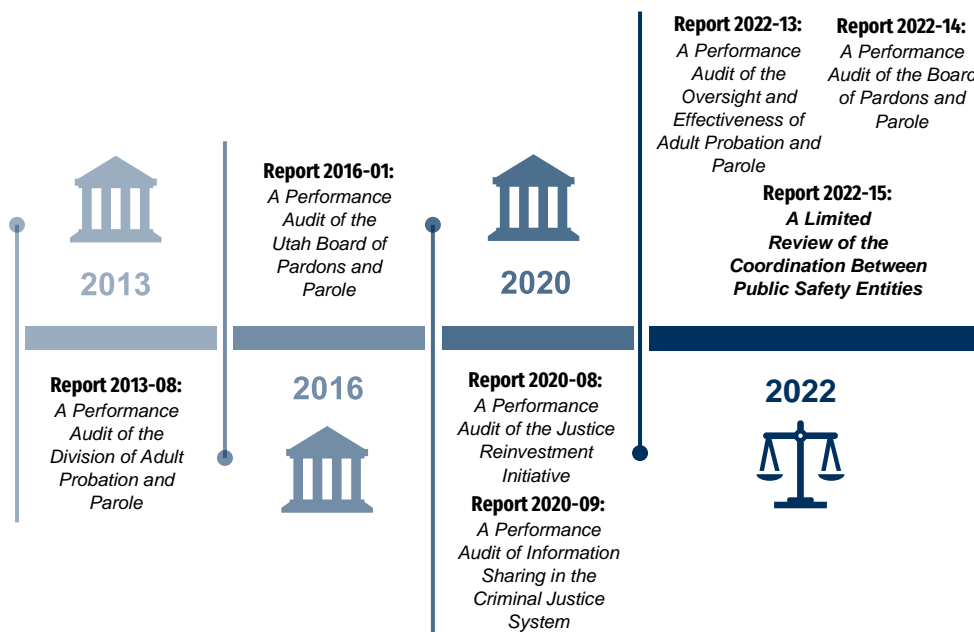
**A Limited Review of the Coordination
Between Public Safety Entities**



In conducting audits of the Board of Pardons and Parole (BOPP or Board) and Adult Probation and Parole (AP&P), we identified coordination concerns between these and other public safety entities in Utah. Figure 1 shows related audits since 2013, along with two companion audit reports being released concurrently with this audit: *A Performance Audit of the Oversight and Effectiveness of Adult Parole and Probation* (Report #2022-13) and *A Performance Audit of the Board of Pardons and Parole* (Report #2022-14).

We identified coordination concerns between BOPP and AP&P as well as other public safety entities.

Figure 1: Timeline of Comprehensive Audits. We are releasing three reports concurrently to address the areas requested by the Legislative Audit Subcommittee. The companion reports for this audit focus on the community supervision by AP&P and the operations of BOPP.



We identified four areas of concern among Utah’s criminal justice entities that could negatively impact public safety.

The purpose of this audit is to clarify coordination issues between various Utah entities to enhance public safety. Four areas of concern were identified:

AP&P Agent Workload

AP&P should determine optimal agent workload and supervision capacity, and consistently communicate this capacity to the Legislature and public safety entities. If policy makers, the Courts, and BOPP are unaware of AP&P’s capacity limit and agent caseloads get too high, public safety may be compromised.

- **Recommendation:** *Adult Probation and Parole should conduct a professional agent workload study and communicate this information with public safety entities.*

State Recidivism Measures

Recidivism rates are an important measure used to understand the success of individuals released from prison and to evaluate the efficacy of the correctional system. However, Utah has not established parameters for measuring recidivism, leading to variance in analyses.

- **Recommendation:** *The Commission on Criminal and Juvenile Justice should coordinate with public safety partners to establish consistent metrics for recidivism measures; also the Legislature should consider including appropriate definition(s) in statute once created.*

72-Hour Jail Holds

Jails are not statutorily required to hold AP&P offenders for 72 hours to give agents time to obtain a warrant. This means that some offenders who are deemed to be a public safety risk by AP&P may be released in as few as four hours due to overcrowding in jails, creating public safety concerns.

- **Recommendation:** *Adult Probation and Parole continue to work with jails to coordinate agreements on 72-hour holds to enhance public safety.*

Courts’ Use of Probation

Courts’ use of probation for violent and problematic offenders may need review. AP&P agents complained that certain violent offenders are being supervised in the community, possibly undermining public safety.

- **Recommendation:** *The Legislative Audit Subcommittee should consider an audit on the Utah Court System’s use of probation to ensure the Courts’ use of procedures are clear and public safety is being optimized.*

AP&P Should Determine Optimal Agent Workload and Supervision Capacity

Supervision quality and public safety may be jeopardized if agent workloads are too high. While AP&P administration indicated they are using a deliberate process to review caseload sizes and workload capacity over the last several years, these measures do not provide a clear range for optimal agent performance or system-wide resource needs. Presently, the Courts and the Board can release offenders to be supervised by AP&P without recognition that AP&P has limited capacity for supervision. We acknowledge that prisons and jails, like AP&P, have limited resources. However, to better manage public safety, all Utah justice entities should be aware of each other's capacity limits and more closely work together to minimize public risk. A professional agent workload study should be conducted to determine optimal workloads for agents, specialized caseloads, and AP&P's capacity thresholds and resource needs. Utah Department of Corrections (UDC) should also devise a communication mechanism that updates all Utah justice entities with their workload data and any supervision adjustments due to resource limitations.

AP&P Should Determine Optimal General and Specialized Caseloads for Agents

To ensure public safety, AP&P should determine the optimal offender caseload size for general agents and those with specialized caseloads. The blue line in Figure 2 shows AP&P's median agent caseload from 2012 to 2021, where a marked decline since 2018 creates an overall downward trend. Though caseloads have recently declined, agent workload is still on the rise – a direct result of the increase in intensive- and high-risk offenders on supervision. The yellow line in Figure 2 depicts agent workload¹ trending upward, but has declined since 2019, which better represents the volume of work an agent must perform. Workload includes caseload size but also accounts for the risk levels of the offenders an agent must supervise. Intensive-risk and high-risk offenders require far more field and office

¹ Workload was calculated using AP&P's internal risk-adjusted workload intensity multipliers, where low = 0.5, moderate = 1.5, high = 2, and intensive = 4. These numbers were then multiplied by the volume of offenders in each risk category for each year.

The Courts and the Board can release offenders to supervision regardless of AP&P's capacity.

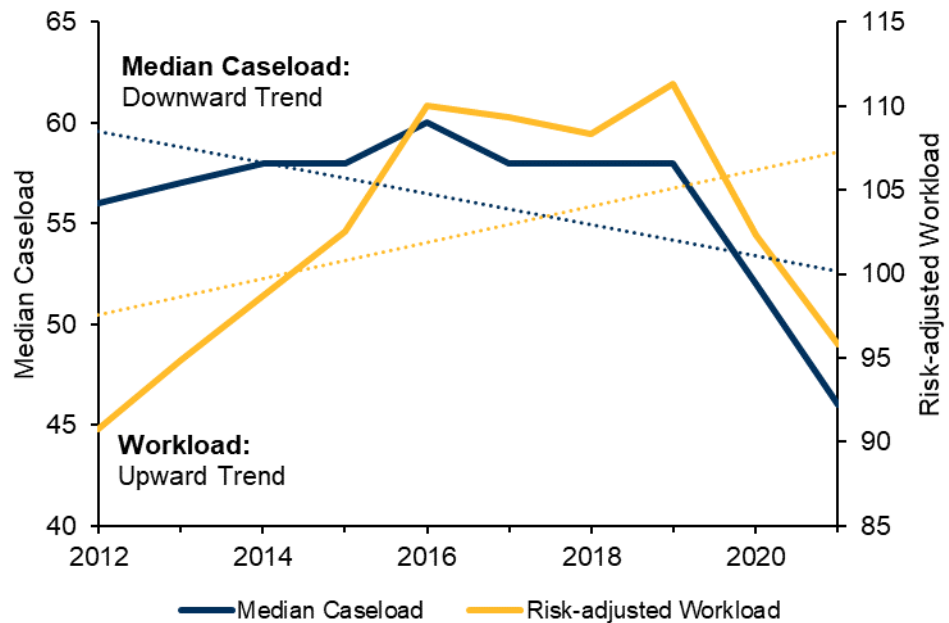
Agent workload includes caseload size and the risk levels of offenders.

Increases in intensive-risk and high-risk offenders have led to an increase in agent workload, despite decreases in agent caseload.

visits and greater agent attention than moderate- and low-risk offenders. See Appendix B for agent contact requirement comparison. Intensive-risk and high-risk offenders now make up a greater proportion of those on supervision. The number of intensive offenders supervised by AP&P has risen from six percent in 2012 to 22 percent in 2022, as shown later in Figure 3.

Figure 2: Median Agent Caseload Size and Agent Workload.

Agent caseloads have declined over the past ten years, but workload has generally trended up, though it has recently declined since 2019. This demonstrates that agent workload is rising and AP&P needs to understand and determine optimal agent workload.



Source: Auditor generated using data from Utah Department of Corrections.

With agent workload rising, it is important for AP&P to determine its capacity to safely supervise offenders. The American Probation and Parole Association (APPA) has suggested caseload ratios given offender risk levels.² However, APPA emphasize that it is difficult to establish national standards.

² Intensive-risk at 20 offenders to one agent, moderate and high-risk offenders at 50:1, and low risk at 200:1.

American Probation and Parole Association

“... it is virtually impossible to create national standards for probation and parole due to the large differences between state and sub-state agencies’ specific missions, sizes of jurisdiction, and offender populations.”

Source: New Mexico Sentencing Commission. *Research Adult Probation and Parole Services: A Response to House Joint Memorial 61.*

Furthermore, as acknowledged in UDC’s 2015 Internal Audit³, APPA recommends agencies adopt a strategy to determine staffing needs and caseload size.

Evidence suggests that appropriate caseload size improves probation outcomes. A U.S. Justice Department multi-state study⁴ showed improved outcomes for probationers who were supervised in smaller caseloads and with fully implemented evidence-based practices. In addition, a 2022 meta-analysis⁵ on the effects of caseload size on recidivism found that reductions in caseload size reduce recidivism and improve probation outcomes. These findings do not necessarily mean AP&P needs more agents – rather, AP&P should better understand and optimize their current workforce. We believe AP&P can reduce recidivism and enhance public safety if optimal caseload sizes are determined and implemented, and if AP&P’s caseload status is consistently communicated to all public safety entities.

Stakeholders Should Be Aware of Offender Capacities Throughout the Justice System to Make Informed Decisions

AP&P should conduct a professional workload study to determine the limit of its ability to provide quality supervision and enhance public safety. As indicated by the studies above and discussed in Chapter II of *A Performance Audit of the Oversight and Effectiveness of Adult Probation and Parole (2022-13)*, high caseloads strain AP&P resources and compromise public safety. Because AP&P doesn’t

³ Utah Department of Corrections Audit Bureau. Internal Audit # 15-02 *Performance Audit of AP&P Resource Allocation*

⁴ Jalbert S, Rhodes W, Kane M, Clawson E, Bogue B, Flygare C, Kling R, Guevara M (2011) *A Multi-Site Evaluation of Reduced Probation Caseload Size in an Evidence-Based Practice Setting*. Submitted to U.S. Department of Justice

⁵ Fox C, Harrison J, Hothersall G, Smith A (2022) *A Rapid Evidence Assessment of the impact of probation caseloads on reducing recidivism and other probation outcomes* Probation Journal Vol. 69(2) 138–158

Reductions in caseload size have been found to reduce recidivism and improve probation outcomes.

Criminal justice entities should be aware of each other's capacity limits to minimize public risks.

A workload study will help stakeholders manage staffing levels, prioritize and evaluate staff duties, and allow administrators to make informed management decisions.

currently have a workload study, the Courts and the Board cannot know whether AP&P is over capacity. Though prisons and jails also have limited resources, all justice entities should be aware of each other's capacity limits and work together to minimize public risk. Large releases due to policy changes, such as the Justice Reinvestment Initiative, or unforeseeable events, such as COVID-19, may further strain the system. Without a workload assessment and communication strategy, AP&P is unable to provide critical data for decision making in Utah.

In our audit process, we contacted several agencies from other states that have conducted or were conducting workload studies to address similar concerns and improve their general performance and efficiency. APPA's 2011 workload report⁶ says workload studies provide administrative insights for cost and funding issues, organizational functioning and goal development, and managerial design. A workload study will provide stakeholders with quantifiable evidence to manage staffing levels, prioritize and evaluate staff duties, and ultimately provide administrators with tools needed to make informed management decisions. We recommend AP&P conduct a professional agent workload study to determine the optimal workload for agents, specialized caseloads, AP&P's total capacity, and resource needs – and develop a strategy to communicate this information to the Legislature and all Utah public safety entities to reduce recidivism and enhance public safety.

Coordination on Recidivism Measures Would Benefit Public Safety and Increase Transparency

Varying methodologies and definitions used by different public safety agencies to analyze recidivism may create confusion. In addition, this information should be provided to the public. *Utah Code* directs the Commission on Criminal and Juvenile Justice (CCJJ) to coordinate with public safety agencies, including the Board and the UDC, to compile comprehensive data which includes studying recidivism and the effectiveness of each agency, which they have been

⁶ American Probation and Parole Association (2011) *Community Supervision Workload Considerations for Public Safety*. Grant Provided by Bureau of Justice Assistance.

unable to do. We therefore recommend that CCJJ coordinate with public safety partners to establish consistent metrics for recidivism measures.

While Some Agencies Track Recidivism, Varying Methodologies May Lead to Misunderstandings

Within and across agencies, there is variation in how recidivism is calculated. For instance, UDC may use one calculation for those on probation and another for the whole population in community supervision, while the Board uses other calculations. According to the Bureau of Justice Statistics, there is not a standard definition for recidivism. However, broadly speaking, recidivism refers to a return to criminal activity.

National Institute of Corrections

“... board members and executive staff should be able to ... Provide data and statistics that indicate the effect parole has on public safety.”

Source: National Institute of Corrections. *Parole Essentials: A Practical Guide for Parole Leaders - Core Competencies.*

According to the National Institute of Corrections, parole releasing agencies should be able to provide data and statistics that indicate the effect parole has on public safety. Recidivism is the most common measure of correctional success. Tracking metrics, such as the success of those released from prison, can tell us whether the criminal legal system is fulfilling its mission and whether public investments are being put to effective use. However, without established definitions, agencies use different measures to report recidivism in Utah.

CCJJ Should Coordinate to Establish Recidivism Measures

Utah Code 63M-7-201(2)(b) established CCJJ with multiple purposes, including to “provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal and juvenile justice to achieve those objectives.” One of those objectives is to “study, evaluate, and report on programs ... to address reducing recidivism ...”, which requires coordinated definitions of recidivism. According to CCJJ, there was an attempt to bring partners together to discuss this several years ago; however, these did not result in a consensus. In addition, data access, quality,

Recidivism refers to a return to criminal activity but there is not a standard definition.

Agencies may have different methods to measure recidivism of offenders.

and completeness are other concerns in conducting recidivism analyses. CCJJ still has only limited access, but it recently started working with the Department of Public Safety, the Division of Technology Services, and other partners to build a database for all data required by statute to be reported to CCJJ.

According to CCJJ, the lack of established definitions and incomplete data to calculate recidivism makes it hard to produce quality reports. Sometimes the choice is between showing outcomes that are simplistic, incomplete, and misleading because they do not capture the complexity of recidivism in a given context or to publish reports only in the limited instances where these issues can be overcome. Still, varying ways of evaluating recidivism may lead to misinterpretations. Therefore, we recommend that CCJJ coordinate with public safety partners, to establish consistent metrics for recidivism measures.

By way of comparison, other states, such as Oregon, Nebraska, Washington, Florida, and California, have specified in statute how recidivism is to be measured in certain instances. For the specific state statutes, see Appendix C of this report. However, Utah does not define recidivism in *Utah Code* or *Administrative Rule*, leaving the possibility of variance in calculations to be broad. This may lead to confusion if agencies use different methods to calculate recidivism and get different results. We recommend that the Legislature consider revising statute to include appropriate definition(s) of recidivism, once created by CCJJ.

Jails Are Not Required to Hold Offenders for 72 Hours, Creating Public Safety Concerns

Utah Code does not require that jails hold AP&P offenders for 72 hours, to give time for agents to obtain warrants. This means that some offenders who are deemed to be a public safety risk by AP&P may be released in as few as four hours due to overcrowding at the jail. AP&P and the Salt Lake County Metro Jail recently came to an agreement to hold AP&P offenders for up to 72 hours if AP&P declares them to be a public safety risk. Considering the costs and public safety concerns if high-risk offenders are released early, we recommend that AP&P continue to work with jails to coordinate agreements on 72-hour holds to enhance public safety.

A lack of established definitions and incomplete data make it difficult to report recidivism.

Other states have specified in statute how to measure recidivism in various situations.

Utah Code Does Not Require County Jails to Hold AP&P Offenders for 72 Hours

Utah Code allows AP&P agents to place those they supervise in jail for up to 72 hours, to give the agent time to apply for a warrant.

Utah Code 64-13-29(3)

“The department may take custody of and detain the parolee or probationer involved for a period not to exceed 72 hours excluding weekends and holidays.”

Though agents may take custody and detain offenders for up to 72 hours, this does not require the independent county jails to admit them. For example, the Salt Lake County Metro Jail has an over-crowding release (OCR) policy and uses its uniform admissions policy to release offenders in as few as four hours when its jail population reaches its maximum operating capacity.

Utah Code 17-22-5.5(2)

“Each county sheriff shall: (a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff’s control, based on facility design and staffing; and (b) upon a jail facility reaching the jail facility’s maximum operating capacity: (iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.”

According to the employees we spoke with at various jails, the public safety risk of the offender is taken into account when considering OCRs or refusing to admit certain prisoners. Given space constraints and limited resources, jails can be left with the difficult decision of whom to admit and whom to release on an OCR. Those we spoke with base their OCR decisions on the offender’s violations or other factors. However, AP&P uses validated risk assessment tools that incorporate more than just the crimes committed to determine risk to public safety. If either method determines that public safety may be at risk, the offender should be held by county jails long enough or up to 72 hours for an AP&P agent to obtain a warrant.

County jails release offenders based on factors such as offender violations due to over-crowding, but AP&P uses additional tools to determine risk.

Coordination Between AP&P and Jails Could Reduce Costs and Mitigate Public Safety Concerns

Conducting frequent fugitive apprehension operations can be costly. Still, some fugitives captured by AP&P have been released by the jail due to overcrowding, only to become fugitives immediately following their release. Across the state, AP&P and other members of UDC conduct fugitive operations for offenders that have absconded from supervision. During our audit process, we accompanied and observed 27 agents from two teams conducting a fugitive operation. AP&P management calculated that the average cost of a fugitive operation is around \$35,000 to \$40,000. Data we obtained from AP&P indicates that three fugitive operations between November 2021 and January 2022, resulted in the capture of 55 fugitives. Of these, nine were immediately released due to jail overcrowding, and three of those released early immediately became fugitives again. The inability to detain some fugitives in jail long enough to obtain a warrant from a judge, or to be seen by a judge on an outstanding warrant, wastes resources and creates public safety concerns. Agreements between AP&P and local jails could help address this problem.

Operations to apprehend fugitives are costly and releasing them due to overcrowding wastes resources and creates public safety concerns.

Recent Agreements Between Metro Jail and AP&P Address Concerns, Continued Coordination Recommended

As of February 2022, the Salt Lake County Metro Jail and AP&P have reached agreements on 72-hour holds to address public safety concerns. In this agreement, if AP&P managers provide a public safety exception for any offender, the jail will place a 72-hour hold on the offender. Then at 65 hours they will check with AP&P to determine the offender's status. If AP&P does not provide a public safety exception, the jail will determine if the offender is a public safety concern and may release the offender in as few as four hours. However, this process may change with each new sheriff and are not applicable to other jails that might experience overcrowding. We recommend that AP&P continue to work with jails to address issues with 72-hour holds to enhance public safety.

Courts' Use of Probation May Need Review

Several AP&P agents reported concerns that Courts were sentencing some offenders who had a violent, problematic record, including those with manslaughter convictions, straight to probation, potentially creating serious public safety concerns. During interviews with AP&P agents, several expressed concern that serious offenders were inappropriately sentenced to probation despite the severity of their crime, their enduring criminal record, or their persistent resistance to cooperation while on supervision. The President of the Utah Sheriffs' Association shared these concerns, noting that recent policy changes have made some judges adopt an "anything but incarceration" mentality. Of greatest concern, one agent provided us with five individual cases where offenders convicted of a fatal offense were sentenced directly to probation and whose only jail time was credit for time-served during their trials. We believe this important issue needs to be further reviewed and understood by conducting a full audit.

In our limited review, we found examples of cases that warrant further investigation.

Fatal Offense Convictions Sentenced to Probation

- A juvenile offender killed a rival gang member on a public bus and received a split juvenile and adult sentence - he stayed in a juvenile facility for six years, until his adult sentencing for manslaughter, where he received 14 years' probation. After just over a year on supervision, he was charged with aggravated assault and possession of a dangerous weapon. He was released on bail, and weeks later was associated with another gang-related murder where he was charged with obstructing justice.
- An offender stole a motorcycle, hit a pedestrian, crashed, and then fled the scene on the motorcycle. The pedestrian was killed as a result of the crash and the offender was sentenced to a year in jail and four years' probation. Since the incident, the offender was convicted of theft and possession with intent to distribute and amassed 48 probation violations.

Beyond these examples, agents provided our audit team with nine other cases where offenders with long-standing histories of violence, or repeated convictions of negligent behavior, such as driving under the influence, served little or no time incarcerated, and are released to supervision despite their threat to public safety. We would like to

An agent provided us with five individual cases where offenders convicted of a fatal offense were sentenced directly to probation.

These offenders sentenced to probation continued to commit crimes in the community after their initial fatal conviction.

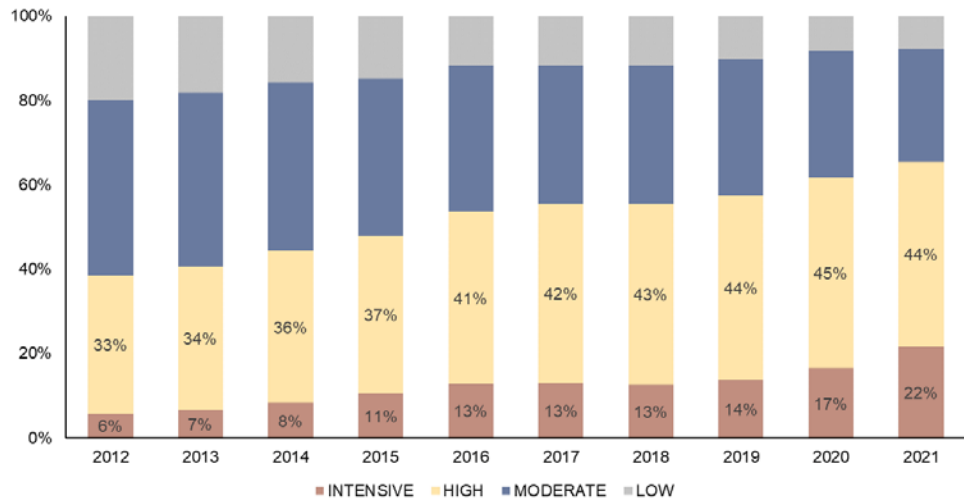
review these cases at greater depth in an audit to determine if the appropriate policies were followed and whether public safety is being put at risk. Therefore, we recommend that the Legislature consider an audit of the Courts' use of probation to determine whether public safety is unduly put at risk.

Probationers are sentenced by the Courts and account for three quarters of those in AP&P supervision. If greater numbers of dangerous offenders are sentenced to probation, AP&P's agent resources will be spread thinner, potentially risking public safety. However, we do acknowledge that offenders sent to prison may still be supervised on parole at a future date. Figure 3 shows the distribution of probationer risk levels⁷ from 2012-2021, showing a rise in intensive-risk offenders on probation from six percent to 22 percent during that time. One potential reason for this shift may be that low-risk offenders are being sent to private or county-based supervision, and higher-risk offenders are sent to AP&P, as they are better equipped to handle those needing the most serious supervision.

If greater numbers of dangerous offenders are sentenced to probation, AP&P's resources will be spread thinner.

The number of intensive-risk probationers on supervision is rising.

Figure 3: Distribution of Probationer Risk Levels. The number of intensive-risk probationers on supervision is rising.



Source: Auditor generated using data from the Utah Department of Corrections.

After reviewing the cases provided to us by agents, along with the evidence in Figure 3, we recommend that the Legislative Audit Subcommittee consider prioritizing an audit on the Utah Court

⁷ AP&P's risk assessment is not intended to predict danger to the community. It is a general probability of violating supervision or committing a new offense.

System's use of probation to determine if the procedures are clear and whether public safety is optimized.

Recommendations:

1. We recommend Adult Probation and Parole conduct a professional agent workload study to determine the optimal workload for agents, specialized caseloads, Adult Probation and Parole's total capacity, and resource needs – and develop a strategy to communicate this information to the Legislature and all Utah public safety entities to reduce recidivism and enhance public safety.
2. We recommend the Commission on Criminal and Juvenile Justice coordinate with public safety partners, to establish consistent metrics for recidivism measures.
3. We recommend the Legislature consider revising statute to include appropriate definition(s) of recidivism once created by the Commission on Criminal and Juvenile Justice.
4. We recommend that Adult Probation and Parole continue to work with jails to address concerns with 72-hour holds to enhance public safety.
5. We recommend that the Legislative Audit Subcommittee consider prioritizing an audit on the Utah Court System's use of probation to determine if the procedures are clear and whether public safety is optimized.

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Appendices

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Appendix A: Complete List of Audit Recommendations

This report made the following five recommendations.

Recommendation 1

We recommend Adult Probation and Parole conduct a professional agent workload study to determine the optimal workload for agents, specialized caseloads, Adult Probation and Parole's total capacity, and resource needs – and develop a strategy to communicate this information to the Legislature and all Utah public safety entities to reduce recidivism and enhance public safety.

Recommendation 2

We recommend the Commission on Criminal and Juvenile Justice coordinate with public safety partners, to establish consistent metrics for recidivism measures.

Recommendation 3

We recommend the Legislature consider revising statute to include appropriate definition(s) of recidivism once created by the Commission on Criminal and Juvenile Justice.

Recommendation 4

We recommend Adult Probation and Parole continue to work with jails to coordinate agreements on 72-hour holds to enhance public safety.

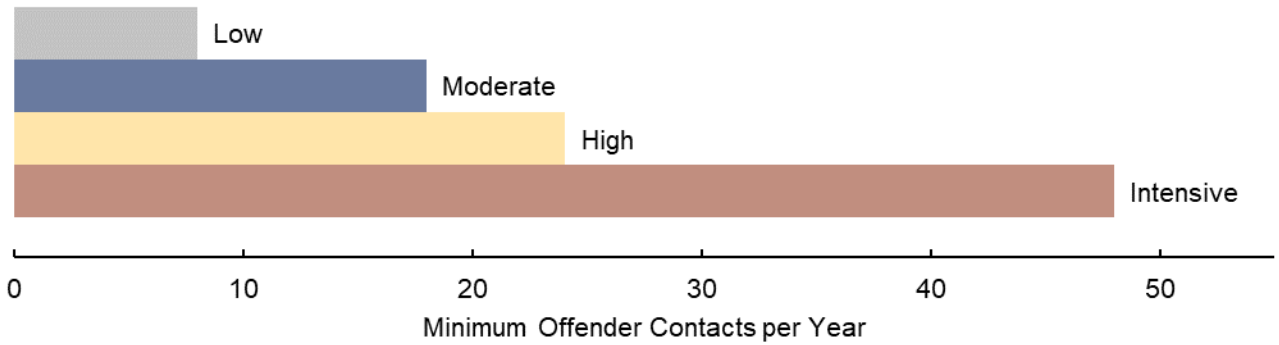
Recommendation 5

We recommend that the Legislative Audit Subcommittee consider prioritizing an audit on the Utah Court System's use of probation to determine if the procedures are clear and whether public safety is optimized.

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Appendix B: Number of Offender Contacts Required by Risk Level

Intensive-risk and high-risk offenders require far more field and office visits and greater agent attention than do moderate-risk and low-risk offenders. This chart compares the minimum number of contacts an agent is required to make per year based on an offender's risk level.



Source: Auditor generated using data provided by the Utah Department of Corrections.

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Appendix C: Recidivism Definitions in Statute

Statutes in other states specify how recidivism is defined and measured in certain instances. The specific statutes are outlined below.

Alaska



Alaska Stat. Ann. § 44.19.647

(a) The commission shall submit to the governor and the legislature an annual report. The report must include

(3) performance metrics and outcomes from the recommendations the commission made in its December 2015 report, including recidivism rates, defined as

(A) the percentage of inmates who return to prison within three years after release, broken down by offense type and risk level; and

(B) the percentage of inmates who return to prison within three years after release for a new criminal conviction, broken down by offense type and risk level

Source: Auditor generated based on Alaska's Statutes.

Arkansas



Ark. Code Ann. § 12-1-101

(a) As used in this section, "recidivism" means a criminal act that results in the rearrest, reconviction, or return to incarceration of a person with or without a new sentence during a three-year period following the person's release from custody.

(b) An entity that makes a recidivism report under this title shall use the definition of recidivism in this section for purposes of the recidivism report.

Note: **Ark. Code Ann. § 16-1-101** has a nearly identical definition.

Source: Auditor generated based on Arkansas' Statutes.

California



Cal. Penal Code § 6046.1

(d) "Recidivism" means a conviction of a new felony or misdemeanor committed within three years of release from custody or committed within three years of placement on supervision for a previous criminal conviction.

Source: Auditor generated based on California's Statutes.

Florida



Fla. Stat. Ann. § 945.041

(2) The recidivism rate. As used in this subsection, the term “recidivism” means an inmate's rearrest, reconviction, reincarceration, or probation revocation in the state within a 3-year time period following the inmate's release from incarceration.

Source: Auditor generated based on Florida's Statutes.

Michigan



Mich. Comp. Laws Ann. § 791.208a

(a) “Recidivism” means any rearrest, reconviction, or reincarceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation of an individual as measured first after 3 years and again after 5 years from the date of his or her release from incarceration, placement on probation, or conviction, whichever is later.

Source: Auditor generated based on Michigan's Statutes.

Mississippi



Miss. Code. Ann. § 47-5-11

(1) The Mississippi Department of Corrections shall collect the following information:

(a) Prison data shall include:

(viii) Recidivism rates. For the purposes of this report, “recidivism” means conviction of a new felony offense within three (3) years of release from prison;

1. Recidivism rates by offense type;
2. Recidivism rates by risk level;

Source: Auditor generated based on Mississippi's Statutes.

Nebraska



Neb. Ct. R. § 1-1001

For the purpose of accurately assessing post-program recidivism across justice programs, Nebraska State Probation and Nebraska Problem-Solving Courts shall utilize the following uniform definitions of recidivism for all adults and juveniles within their respective programs.

(A) Adults: As applied to adults, recidivism shall mean a final conviction of a Class I or II misdemeanor, a Class IV felony or above, or a Class W misdemeanor based on a violation of state law or an ordinance of any city or village enacted in conformance with state law, within 3 years of being successfully released.

(B) Juveniles:

(1) As applied to juveniles, recidivism shall mean that within 1 year of being successfully released from a probation or problem-solving court program the juvenile has:

- (a) an adjudication pursuant to Neb. Rev. Stat. § 43-247(1) or (2).
- (b) for a juvenile 14 years or older, a final conviction for a Class W misdemeanor based on a violation of state traffic laws or ordinances of any city or village enacted in conformance with state law; or
- (c) a prosecution and final conviction as an adult for any crimes set forth in subsection (A) above.

Source: Auditor generated based on Nebraska's Statutes.

Oregon



Or. Rev. Stat. Ann. § 423.557

(1) As used in this section, "recidivism" means the arrest, conviction or incarceration of a person who has previously been convicted of a crime, if the arrest, conviction or incarceration is for a new crime and occurs:

- (a) Three years or less after the date the person was convicted of the previous crime; or
- (b) Three years or less after the date the person was released from custody, if the person was incarcerated as a result of the conviction for the previous crime.

Source: Auditor generated based on Oregon's Statutes.

Vermont



Vt. Stat. Ann. tit. 28, § 4

The Department shall calculate the rate of recidivism based upon offenders who are sentenced to more than one year of incarceration who, after release from incarceration, return to prison within three years for a conviction for a new offense or a violation of supervision resulting, and the new incarceration sentence or time served on the violation is at least 90 days.

Source: Auditor generated based on Vermont's Statutes.

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Agency Response

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State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Utah Department of Corrections Executive Office

BRIAN NIELSON
Executive Director

Audit Response

November 07, 2022

Kade R. Minchey CIA, CFE, Auditor General
Office of the Legislative Auditor General Utah State Capitol Complex
Rebecca Lockhart House Building, Suite W315
P.O. Box 145315
Salt Lake City, UT 84114-5315

Dear Mr. Minchey,

Thank you for the opportunity to respond to the recommendations in *A Limited Review of the Coordination between Public Safety Entities* (Report #2022-15). We appreciate the effort and professionalism of you and your staff in this review and the collaboration needed from our staff to provide requested information, answer questions, and plan changes to improve the coordination of public safety entities in our state. We believe that the results of our combined efforts will increase coordination and enhance public safety.

We concur with all recommendations in this report and have outlined our actions and timelines to demonstrate our agreement and coordination with the other public safety entities. Our teams in Adult Probation and Parole are mobilized to partner on actions to assist the Legislature in their decisions on behalf of those we serve. The Department of Corrections is committed to efficient operational processes, effective use of taxpayer funds, and public safety. We value the insight this report provides on areas that can be improved.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Nielson".

Brian Nielson, Executive Director

A Limited Review of the Coordination Between Public Safety Entities

Recommendation 1. We recommend that Adult Probation and Parole conduct a professional agent workload study to determine the optimal workload for agents, specialized caseloads, Adult Probation and Parole's total capacity, and resource needs – and develop a strategy to communicate this information to the legislature and all Utah public safety entities to reduce recidivism and enhance public safety.

Department Response: The Department concurs.

What: AP&P will conduct a professional agent workload study to determine an optimal workload for agents and specialized caseloads. This study will include supervision capacity and quality considerations for potential resource needs. AP&P will communicate this information to the legislature and stakeholders to help reduce recidivism and improve public safety.

How: AP&P will work with Internal Audit, Planning and Research and Finance to identify and select an organization to conduct an agent workload study. AP&P will communicate findings and potential recommendations to the UDC executive team for communication with appropriate entities.

When: AP&P will open a request for proposal to identify potential organizations to conduct the agent workload study by October 2023.

Contact: Dan Blanchard, Division Director, danblanchard@utah.gov, 801-545-5901

Recommendation 4. We recommend that Adult Probation and Parole continue to work with jails to address concerns with 72-hour holds to enhance public safety.

Department Response: The Department concurs.

What: AP&P will continue to work with jails to address any issues with 72-hour holds to improve public safety.

How: AP&P regional chiefs will work with jails to address any issues with 72-hour holds. AP&P is also working on implementation of HB28 regarding 72-hour holds required in specific instances.

When: AP&P will continue to work with jails to address any issues with 72-hour holds as they arise.

Contact: Glenn Ercanbrack, Deputy Division Director, glennercanbrack@utah.gov, 801-545-5909

Carrie L. Cochran
Chair

Melissa G. Stirba
Vice Chair



Blake R. Hills
Member

Greg E. Johnson
Member

Marshall M. Thompson
Member

STATE OF UTAH BOARD OF PARDONS AND PAROLE

November 7, 2022

Carrie L. Cochran, Chair
Mike Haddon, Director
Utah Board of Pardons and Parole
448 East Winchester, Suite #300
Murray, Utah 84107

Kade Minchey, Legislative Auditor General
Office of the Legislative Auditor General
W315 Utah State Capitol Complex
Salt Lake City, Utah 84114-5315

Dear Mr. Minchey,

The Utah Board of Pardons and Parole appreciates the important work completed in the review, “A Limited Review of the Coordination Between Public Safety Entities.” Your team has been a pleasure to work with. The issues discussed in this limited review can be complicated, yet critically important. We sincerely appreciate the time and effort your team invested in the review and accompanying recommendations.

Where appropriate, the Board has provided brief responses to the recommendations made within this limited review. We look forward to working collaboratively with our partners in Utah’s justice system in the implementation of these recommendations.

Recommendation 1 We recommend that Adult Probation and Parole conduct a professional agent workload study to determine the optimal workload for agents, specialized caseloads, Adult Probation and Parole's total capacity, and resource needs - and develop a strategy to communicate this information to the legislature and all Utah public safety entities to reduce recidivism and protect public safety.

Response

The Board of Pardons and Parole is grateful for the regular, ongoing, and important collaboration with the Department of Corrections and their Division of Adult Probation and Parole. We recognize and appreciate the work being done every day by agents, as well as the real risk agents face as they engage in their work. The Board stands ready to assist where needed as this recommendation is considered and implemented.

Recommendation 2 We recommend the Commission on Criminal and Juvenile Justice coordinate with public safety partners, to establish consistent metrics for recidivism measures.

Response

The Board of Pardons and Parole has previously been involved in and supportive of the development of measures of recidivism across the criminal justice system that can be monitored and evaluated on an ongoing basis. We are committed to participating with our partners in the discussions to establish such measures. The Board recognizes that recidivism can be measured in multiple ways depending on the research question being asked, and that more discrete measures remain available to further inform tailored inquiries related to policies and program effectiveness.

Recommendation 3 We recommend the Legislature consider revising statute to include appropriate definition(s) of recidivism once created by the Commission on Criminal and Juvenile Justice.

Response

The Board, as a standing member of CCJJ, intends to be engaged in discussions related to establishing common recidivism measures.

Recommendation 4 We recommend that Adult Probation and Parole continue to work with jails to coordinate agreements on 72-hour holds to protect public safety.

Response

Although directed to Adult Probation and Parole, the Board recognizes the importance of this recommendation and will be of assistance as needed.

Recommendation 5 *We recommend that the Legislative Audit Subcommittee consider prioritizing an audit on the Utah Court System's use of probation to ensure the Courts' use of procedures are clear and public safety is being optimized.*

Response

This recommendation does not involve the Board of Pardons and Parole.

Again, the Board of Pardons and Parole would like to thank the staff members from the Office of the Legislative Auditor General for their dedicated work on this important review.

Sincerely,



Carrie L. Cochran, Chair
Utah Board of Pardons and Parole



Mike Haddon, Director
Utah Board of Pardons and Parole

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State of Utah

Commission on Criminal and Juvenile Justice

Spencer J. Cox
Governor

Tom Ross
Executive Director

Deidre M. Henderson
Lieutenant Governor

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

November 2, 2022

Kade R. Minchey, CIA, CFE
Auditor General
Office of the Legislative Auditor General
P.O. Box 145315
Salt Lake City, UT 84114-5315

Re: Response to *A Limited Review of the Coordination Between Public Safety Entities (2022-15)*

Dear Mr. Minchey:

Thank you for the opportunity to review and respond to the recommendations involving the Utah Commission on Criminal & Juvenile Justice (CCJJ) in *A Limited Review of the Coordination Between Public Safety Entities (2022-15)*.

CCJJ is aware of ongoing issues in coordination among the various criminal justice agencies and the need for standard definitions of recidivism in order to better assess the effectiveness of the system. We were able to provide feedback during this process on CCJJ's experience receiving information from other agencies and on the difficulties we have encountered in attempts to conduct outcome analyses (including recidivism), and we feel that the report effectively summarized those concerns. We concur with the recommendations in this report, particularly the need for establishing consistent metrics for recidivism measures and CCJJ's role in leading this effort. We also agree that it would be helpful to efforts moving forward if the appropriate definition(s), once established by CCJJ and its partners, are included in statute as has been done in multiple other states, with examples provided in the report. We will continue to work with our public safety partners and the Legislature to ensure that these recommendations are implemented.

Sincerely,

Handwritten signature of Tom Ross in black ink.

Tom Ross
Executive Director, Utah Commission on Criminal & Juvenile Justice

Handwritten signature of Dr. Ben Peterson in black ink.

Dr. Ben Peterson
Director of Research & Data, Utah Commission on Criminal & Juvenile Justice

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CACHE COUNTY SHERIFF'S OFFICE

D. CHAD JENSEN, SHERIFF
Doyle Peck, Lieutenant
Mikelshan Bartschi, Lieutenant
Roy Hall, Lieutenant

EMPATHY FAIRNESS INTEGRITY PROFESSIONALISM RESPECT RESPONSIBILITY TRUSTWORTHINESS

November 8, 2022

The Utah State Legislature:

To start, I would like to address County staffing issues and Probation. In my County, our probation agents are currently supervising 91 felony offenders on top of the 300 Misdemeanor offenders they were already supervising. These felony offenders were ordered by the Judges to County supervision rather than AP&P. County probation is also being ordered by the judges to prepare pre-sentence reports for the court proceedings on felony cases rather than AP&P who have traditionally done these investigations.

Some comments to me and my staff made by the District Court Judges concerning supervision and pre-sentence reports.

1. Supervision provided by County Probation is best for the public's safety. Local law enforcement oftentimes knows the offender, their families and other relationships better because of long-term dealings with the offender, their families and friends and other offender community relationships.
2. Decisions made by county agents can be made faster and more efficiently with less bureaucracy at a local level. Local decisions are based on risk factors and the community safety, not housing shortages, staffing shortages or political purposes.
3. Pre-sentence investigations and reports generated by county probation are more accurate, timely and reflect the needs for the community's safety first. Recommendations made at the local level are consistent with the offender's risk assessments and matrix rather than permission to recommend sanctions, prison bed space or AP&P and prison staffing issues.
4. AP&P no longer fully participates in Drug and Mental Health Courts. Reason offered by AP&P agents is by policy, they can no longer supervise plea in abeyance cases and they were told to reduce supervision caseloads because of staffing problems at the prison



CACHE COUNTY SHERIFF'S OFFICE

D. CHAD JENSEN, SHERIFF

Doyle Peck, Lieutenant

Mikelshan Bartschi, Lieutenant

Roy Hall, Lieutenant

EMPATHY

FAIRNESS

INTEGRITY

PROFESSIONALISM

RESPECT

RESPONSIBILITY

TRUSTWORTHINESS

In conclusion, the Utah Department of Corrections and all the divisions within have been great long-term partners with the Utah Sheriffs. Working together we have provided exceptional service to the citizens of our state and the public's safety. Together, we have offered a safe environment to the state's offenders along with resources, training and education to keep them out of the justice system and towards leading productive lives.

We are always willing to work with and help our partners in AP&P as they work through the difficulties in moving the prison and the never ending staffing issues. Unfortunately for all of us, today's climate has created hardships and shifted some of the workload from the State, in supervising felony offenders, onto the counties. Because of the types of offenses and the dangers they potentially pose to the public, if they go unsupervised, many counties will be burdened with the added work load and related expenses.

We are willing to work with our AP&P partners to take on a share these supervision cases, but there needs to be some financial discussions as to how the counties take on these additional responsibilities.

I have some ideas on what a pay formula may look like and I am happy to discuss this, and any other ideas, at your earliest convenience.

Sincerely,

D. Chad Jensen, Sheriff

Cache County Sheriff's Office

cjensen@cachesherriff.org