Agenda
Pretrial Release & Supervision Committee Meeting

January 7, 2021
12:00 – 2:00 p.m.

Meeting held via WEBEX

12:00	Welcome and Approval of Minutes • December 3, 2020	Action	Tab 1	Judge George Harmond
12:05	Update: New Salt Lake County Time-to-File and Initial Appearance procedures	Discussion		Josh Graves Rich Mauro
12:15	URCrP Subcommittee: • Rule 7 & 7A drafts for review • Working on new pretrial detention hearing rule	Discussion / Action	Tab 2	Keisa Williams Judge Kendall
1:00	Providing additional information from LE & pretrial at PC phase (mechanics)	Discussion	Tab 3	Andrea Jacobsen Cpt. Corey Kiddle
1:30	Data Collection Subcommittee Update: • SLCo Jail Dashboard • SLCo Bail/Pretrial Dashboard	Discussion		Rep. Eric Hutchings Jojo Liu Tucker Samuelsen
2:00	Adjourn	Action		Judge George Harmond

Committee Web Page: https://www.utcourts.gov/utc/pretrial-release/

2021 Meeting Schedule:

February 4, 2021
March 4, 2021
April 1, 2021
May 6, 2021
June 3, 2021
July 1, 2021
August 5, 2021
September 2, 2021
October 7, 2021
November 4, 2021
December 2, 2021

Tab 1

UTAH JUDICIAL COUNCIL
STANDING COMMITTEE ON PRETRIAL RELEASE AND SUPERVISION
MEETING MINUTES

Webex video conferencing
December 3, 2020 – 12 p.m. (noon) to 2 p.m.

DRAFT

MEMBERS:	**PRESENT**	**EXCUSED**
Judge George Harmond *Chair*	**x**	
Heidi Anderson		**x**
Wayne Carlos		**x**
Judge Keith Eddington		**x**
Josh Graves	**x**	
Rep. Eric Hutchings	**x**	
Andrea Jacobsen	**x**	
Comm. Lorene Kamalu	**x**	
Judge William Kendall		**x**
Cpt. Corey Kiddle	**x**	
Joanna Landau	**x**	
Richard Mauro	**x**	
Judge Brendan McCullagh	**x**	
Judge Jeanne Robison		**x**
Reed Stringham	**x**	
Cara Tangaro	**x**	

GUESTS:

Marc Ebel
Chief Matthew Higley
Dep. Chief Shanda Gonzalez
Tucker Samuelson
Brody Arishita
Paul Barron
Sheriff Travis Tucker
Deputy Jeff Greenwell
Geoff Fattah
Weber County Sheriff's Office
Chief Matthew Dumont
Renae Cowley
Dyonne Flannery
Rep. Pitcher
Chief Arnold Butcher
Lt. Roy Hall
Yvette Rhodier-Whibe
Lt. Ryan Larkin
Undersheriff James Standley

STAFF:

Keisa Williams
Minhvan Brimhall

1) <u>Welcome and Approval of Minutes (Judge Harmond):</u>

Judge Harmond welcomed committee members and guests to the meeting. The committee considered the minutes from the November 5, 2020 meeting. With no objections, Rich Mauro moved to approve the minutes as drafted. Josh Graves seconded the motion and it carried unanimously.

2) <u>Updates:</u>

- Public education events
- Ability-to-Pay Matrix
- Data collection subcommittee

<u>Public education events</u>:
Judge Harmond: We approached CCJJ about hosting remote public education events and they were not interested. Do members have ideas of other stakeholders or organizations that would be willing to host a few events around the state?

Commissioner Kamalu: The Utah Association of Counties may have an interest in holding some events around the state. At least one commissioner in every county works on criminal justice issues. It would be helpful to learn about this. The USAC group meets tomorrow and again in April. I will work with Ms. Williams to set something up.

Chief Butcher: Jail commanders have an association similar to the Sheriff's Association.

Ms. Tangaro: The Utah Bar Criminal Law Section would cover defense counsel and prosecutors. I will work with Ms. Williams to try and schedule a CLE.

Ms. Landau: The UACDL has a scheduled training on the December 11th to discuss pretrial reforms. Mr. Graves and Representative Pitcher will be on the panel.

Ms. Williams: It sounds like we have several ways to educate our stakeholders, but I am wondering if we should also be educating the public in general.

Mr. Fattah: I am the Communications Director for the Administrative Office of the Courts. In the past, we've held a series of town hall meetings in conjunction with our partners to help educate the public on issues like evictions and understanding child custody issues during COVID. One thought is to partner with other state agencies such as the Division of Multicultural Affairs. We've also held virtual town halls via Facebook live. We could also partner with a media outlet such as KUED or KUER and sponsor a virtual town hall panel discussion about bail reform.

Mr. Fattah will work with Ms. Williams on detailed options for presentation at the next meeting. Judge Harmond invited any other interested members to join in those discussions.

<u>Ability to Pay Matrix</u>:
Judge Harmond: The revised Ability-to-Pay Matrix was approved by the Judicial Council on an expedited basis and is currently out for public comment. So far, no public comments have been received. Once the comment period ends, the revised Matrix and any comments received will go through the approval process again, starting with the Policy and Planning Committee and then back to the Judicial Council for final approval.

Data collection subcommittee:
Ms. Jacobsen: The data collection subcommittee met two weeks ago. The discussion centered around how best to share information between agencies and how to provide judges the information they need prior to making an initial release decision. Next week, the subcommittee will be reviewing recommendations from members regarding the types of offenses or criminal histories that would indicate that a person is high risk and should not be eligible for release.

Ms. Williams: Professor Paul Cassell spoke to the subcommittee about his research on pretrial reforms in Cook County, Illinois last year, and why he testified in support of HB 206 this year. He explained how the study in Cook County was different from HB 206, provided insight into what Cook County did wrong, and made recommendations on how we can be sure to avoid making the same mistakes. Professor Cassell cautioned that COVID will make data analysis very difficult, especially when trying to study outcomes related to pretrial reforms. He discussed ways we might be able to make inferences by looking at data in a few counties, rather than statewide.

3) Holding initial appearance remotely after 48 hrs of arrest:

- New Salt Lake County procedures and how they might be duplicated
- DV cases

Judge Harmond: The Third District court is developing procedures on holding initial appearances remotely within 48 hours of booking. Depending on how this pilot project goes, it may be a model for the rest of the state.

Mr. Graves: On January 1st, district courts in Salt Lake County will start scheduling individuals for an initial appearance two days following the booking date. For example: Defendant was booked Wednesday at 3 a.m. The magistrate reviewing PCs determined that the person should be detained pending a DA screening review due to the nature of the crime or some other factor that indicates a public safety risk. The Salt Lake DA's office will get a list from the jail at 8 am. that same morning (Wednesday). The expectation is that the SLDA will do all it can to get an Information filed, and indicate whether they will be seeking pretrial detention, prior to the initial appearance at 2 p.m. on Thursday. The initial appearance judge would determine whether a pretrial detention hearing is granted. We are still discussing procedures related to motions for pretrial detention. It's unclear whether the pretrial detention hearing will be held at the initial appearance, or if the initial appearance judge will simply determine whether the state's motion, on its face, makes a reasonable case for detention.

The difficulty from a prosecution standpoint is that rule 9 still allows four calendar days to file charges. If the Third District shortens that to a two day filing deadline, we will do everything we can to develop a workable process, but having four days is helpful because it allows us and our law enforcement agencies to complete the investigation, interview witnesses, and follow up on evidence collection. We feel that this will rush charging

decisions and would likely result in charges being amended down the road. We will be meeting with the group again tomorrow to work out details.

Rep. Hutchings: When you are working on gathering information and you feel like you are rushed, is there anything outside of what you need from the arresting officers that we can be looking at to help you? Things that we could go back to the legislature or back to the courts and say that in order to shorten the timeline, we need to have x, y, and z in place?

Mr. Graves: It's hard to say. In Salt Lake County, we have to get police reports from 15-16 different agencies with their own internal processes on getting things approved. In one agency, the initial arresting officer writes the report and the report has to be reviewed by their patrol sergeant before it's disseminated. If the arresting officer writes the report at 3 a.m., but the sergeant doesn't come in until the next day, I may not see the report until right before the hearing at 2 p.m. Sometimes witness statements are not uploaded timely or they need to be collected because someone was seriously hurt or is hospitalized at the time. We are trying to give them time to recover and recollect what occurred before taking a formal statement from them. Little things like that have an impact on whether law enforcement officers can do a thorough and complete investigation in a short period of time.

This process may force us to try and make a charging decision from a booking statement. Oftentimes, those lead to a case that could carry a penalty of life. From a prosecutor standpoint, more consideration and analysis is needed before charging someone with an offense that carries that kind of penalty. I understand there are constitutional aspects to detaining individuals that we need to honor and we need to strive for that, but an under-the-gun mentality may result in sloppy work.

Rep. Hutchings: Is there a way to set different time standards for different types of offenses? Certain offenses, like those related to the sex offender registry, could operate under a different set of rules, similar to expungements. If a victim is hospitalized, maybe we can ask for a modification of the timelines?

Mr. Graves: If someone is booked on a no-bail eligible offense listed in the statute, there may be a way to delineate those offenses. We would need to think that through before carving certain offenses out. We don't want to engage in just filing extension after extension after extension and wasting everyone's time, but we need to give our detectives the space to finish their investigation.

Ms. Williams: The Rules of Criminal Procedure subcommittee that worked on the HB206-related rule revisions had a conversation about amending rule 9 to graduate the time-to-file deadlines based on the severity and/or type of the offense, similar to what Mr. Graves is saying. For most offenses, the filing deadline would be 48 hours, but if an offense qualifies for a no-bail hold, the time-to-file deadline would be 4 days. You would also need the ability to request an extension. I think it's a good idea and worth exploring. Feedback from law

enforcement would be helpful regarding the types of case that would require more in-depth reporting or more time to investigate.

Mr. Mauro: There will likely be less dispute with allowing more time on serious cases, particularly if motions for detention are filed. The disputes will happen when public safety arguments are made on less serious felony offenses and class B misdemeanor domestic assault cases. There are a couple of legislative bills, one is a riot bill and one is a DUI bill, where you are likely to see disputes. Since October 1st, we haven't seen many disputes on first degree felonies, aggravated assaults, or serious assaults with injuries. In those cases, our lawyers would rather have more time to make an argument for release.

Mr. Graves: I agree. I'm more concerned about having enough time to get things filed. In the cases Mr. Mauro mentioned, right now we are probably getting those filed in 3-4 days because we are asking the detectives to get the medical records or follow up on things. Once we get the cases filed, the courts are appropriately weighing the detention motions.

Rep. Hutchings: From a legislative perspective, tiering the deadlines by the seriousness of the offense would be more readily embraced, especially with all the work you've done with domestic violence, rape kits, and things of that nature. There is an appetite right now to protect victims and tiering it like that would not be a problem at all legislatively.

Judge Harmond: In respect to tiering, I would suggest that the policy include some criteria explaining what is considered to be most dangerous to public safety, and what is considered to be less dangerous to public safety. As a judge, I often prefer having criteria so that I can implement the policy the legislature has set out.

Rep. Hutchings: I would love to incorporate re-offenses somehow. What drives people crazy is when we release somebody on their third offense. The tiering effort could work to assure people that if you are a repeat offender, you are not going to just walk out of jail tomorrow. If you hurt someone, or incur a second domestic violence charge within the year, you will be held longer.

Ms. Jacobsen: From an information standpoint, I see this as a huge win. A pretrial screener will attend every first appearance court, including Saturday court. If those first appearances are within a couple of days and the judge is deciding whether to release or not within 48 hours, pretrial has all of the information with them and can share it with everyone. Pretrial would just need clear guidelines about what information, or how much information we can share. It may not help the DA's office, but pretrial has the ability to share information much more quickly.

Judge Harmond: Eventually, pretrial reports will be electronically filed so both the defense and prosecution would have access to them. Pretrial collects a great deal of information attorneys would probably like to see.

Ms. Jacobsen: The bigger push for my team is how to get the information to judges at the PC phase, so that they have more information than just the PC statement.

Judge McCullagh: Some judges are only looking at the probable cause statement, but there are a number of judges who also access court records in Xchange. You just have to do a little more digging and look for SID matches. At the PC phase, the statute already authorizes magistrates to rely on the kind of information pretrial can provide. I sometimes call pretrial on the phone and ask for more information. It isn't ex-parte information any more than a probable cause statement is ex-parte, or a search warrant application is ex-parte.

The committee discussed various potential procedures related to pretrial detention motions and hearings. Judge Harmond asked that Mr. Graves and Mr. Mauro provide an update on the pilot project at the next meeting. Ms. Williams will add the tiered approach to time-to-file deadlines in rule 9 on the URCrP subcommittee's next agenda.

4) <u>Bail commissioner authority (17-32-1):</u>

Judge Harmond: At the last meeting, law enforcement indicated that it would be helpful to allow bail commissioners to use the uniform fine schedule to set bail on low-level misdemeanor offenses. In response, we've included a draft revision of 17-32-1 for consideration. That code section wasn't revised under HB 206. The proposed amendments would allow bail commissioners to set bail amounts for city or county ordinance violations and infractions, and class B misdemeanors with certain exceptions such as domestic violence, driving while impaired, or driving while under the influence of drugs or alcohol. The bail amount set by a bail commissioner could not exceed the amount listed on the uniform fine schedule for the most serious offense for which the person was arrested. Paragraph (7) allows magistrates to modify release conditions, including the bail amount set by bail commissioners. Under paragraph (8), monetary bail must be refunded if the magistrate determines that there was no probable cause for the arrest or that monetary bail should not be a condition of release. Sections 10-3-920 deals with cities and mirrors 17-32-1.

Chief Higley: The Utah County Sheriff's office used bail commissioners until recently. I really like these changes, but DUI cases are clogging up our booking right now. I would recommend removing that from the list of exceptions.

Judge McCullagh: Domestic violence offenses have to be excluded because certain misdemeanor DV offenses may qualify for a no-bail hold. You don't want a person posting bail on a class B misdemeanor assault charge only to have the magistrate determine some number of hours later that they should have been held without bail. DUI offenses are often treated the same way because people have concerns about quickly releasing DUI offenders. I think the changes modernize the rule and to the extent we need that release mechanism, they make sense. In paragraph (8), the bail amount paid may not have been cash bail received by the jail. The person may have been released on a bond. Those bonds should be

vacated and the fees should be returned. I'm not aware of any city in the state that runs a jail. Section 10-3-920 only exists because it's old. It should probably be repealed.

Judge Harmond: With DUIs, would it be wise to consider how many offenses they've had?

Judge McCullagh: That would make a ton of sense on second or subsequent charges, which would only be the class B misdemeanors. Paragraph (3) should be amended to reflect that bail commissioners cannot set bail on class A misdemeanors (that change was made).

Judge Harmond: In a chat message, the Weber County Sheriff's Office asked for clarification on paragraph (3). Would the bail amount for an individual booked in on several class B's be the same for an individual booked on one class B? If $200 is the amount for one class B and the defendant is booked on three class B's, does that make his bail $600 or $200?

Ms. Williams: The way the language is written, the bail amount would be $200. You wouldn't "stack" or "sum" the amounts associated with each charge, you would use only the amount associated with the most serious offense for which the person was arrested. This gets back to our discussion about ability-to-pay and what money does and does not account for when it comes to safety. Money is only an incentive to show up for court, it has no effect on public safety. In this scenario, would he be less of a public safety risk if he could afford to pay $600 versus $200? If law enforcement really feels that someone is a public safety risk, I trust that they would use their discretion wisely and choose not to set bail. They would include their public safety concerns in the PC affidavit and wait for a judge to make a decision.

After further discussion, Representative Hutchings moved to recommend to the Legislative Liaison Committee that the Council support the proposed amendments to 17-32-1 as modified, and to repeal 10-3-920. Mr. Mauro seconded and the motion carried unanimously.

5) <u>Other business:</u>

Ms. Williams: Ryan Robinson from West Valley sent an email to the committee about issues related to HB 206. He recommends creating a checklist of factual information that law enforcement can provide to judges. I would recommend sending his suggestion to the URCrP subcommittee for review in conjunction with their discussion on providing additional information to judges at the PC phase.

Undersheriff Standley: There are a number of occasions when we arrest someone on public intoxication and they are released by a judge fairly quickly. That is probably not the safest person to release back into the public because they are still intoxicated. We were hoping for a judge's order that stipulates something along the lines that the person can be released when cleared by medical personnel. We have some concerns about releasing them back into the public in the same condition that they came in.

Judge Harmond: That is a real concern. The statute doesn't require bail commissioners to release someone, so even if we make modifications to 17-32-1, the bail commissioner would have the option of waiting for the magistrate to review the probable cause statement before someone is released.

Ms. Williams: In conversations I've had with law enforcement, the concern seems to stem from the timing of the PC reviewing magistrate's initial release decision. Judges are reviewing PCs much more quickly now, sometimes within 1-2 hours of booking. When the jail receives an order to release the person on their own recognizance or on monetary bail, the jail feels like they are put in a difficult position. They have an order from a judge to release the person, but the person hasn't sobered up yet. Judges have no way of knowing at the time they are reviewing PCs whether the person is still impaired. Is there a way to give the jail some level of discretion? Is it just a matter of training for judges to include language in release orders on DUIs or intoxication charges saying that if the person is impaired they can be released once cleared by a medical professional?

Rep. Hutchings: I would support making a statutory change requiring a medical clearance prior to release, if medical personnel are available. Not every jail has medical personnel, so I wouldn't make that a required condition.

Chief Dumont: In Salt Lake County, we put individuals on a detox hold until they are able to regain their composure and are able to make decisions.

Cpt. Kiddle: We should also keep in mind that many people are brought to the jail because they appear to be intoxicated, but they are really dealing with a mental health issue.

Ms. Williams: I think this issue is more procedure than policy. Rather than a statutory amendment, I would recommend starting with the rules committee, especially if it is something as simple as training. I can discuss it with Mr. Johnson.

Judge Harmond: I agree. I think this is something that judges will want to look into. Let's run it through the rules committee first. We could do training for judges as well. We can bring it back to this committee if statutory changes are needed.

Ms. Williams reminded committee members and law enforcement attendees that the three new fields in the PC system on ability-to-pay would go live on Saturday, and explained how they would function.

Adjourn:

There being no further business, the meeting was adjourned at 1:35 pm with no motion. The next meeting is scheduled for January 7, 2021 at 12 pm (noon) via Webex video conferencing.

Tab 2

Rule 7. Initial proceedings for class A misdemeanors and felonies.

(a) **First appearance.** At the defendant's first appearance, the court must inform the defendant of the following:

(a)(1) the charge(s) in the information or indictment and furnish a copy;

(a)(2) any affidavit or recorded testimony given in support of the information and how to obtain them;

(a)(3) the right to retain counsel or have counsel appointed by the court without expense if unable to obtain counsel;

(a)(4) rights concerning pretrial release; and

(a)(5) that the defendant is not required to make any statement, and that any statement the defendant makes may be used against the defendant in a court of law.

(b) **Right to counsel.** If the defendant is present at the initial appearance without counsel, the court must determine if the defendant is capable of retaining the services of an attorney within a reasonable time. If the court determines the defendant has such resources, the court must allow the defendant a reasonable time and opportunity to retain and consult with counsel. If the court determines the defendant is indigent, the court must appoint counsel pursuant to Rule 8, unless the defendant knowingly and intelligently waives the right to counsel.

(c) **Release conditions.**

(c)(1) Except as provided in paragraph (~~c~~d), the court ~~must issue a pretrial status order~~ shall determine whether the defendant is eligible for pretrial release pursuant to Utah Code § 77-20-1. ~~Parties should be prepared to address this issue, including the notice requirements under Utah Code section 77-37-3 and Utah Code section 77-38-3.~~The court shall impose the least restrictive reasonably available conditions of release reasonably necessary to:

(c)(1)(A) ensure the defendant's appearance at future court proceedings;

(c)(1)(B) ensure that the defendant will not obstruct or attempt to obstruct the criminal justice process;

(c)(1)(C) ensure the safety of any witnesses or victims of the offense allegedly committed by the defendant; and

(c)(1)(D) ensure the safety and welfare of the public and the community.

(c)(2) In determining whether a financial condition of release is least restrictive and reasonably necessary, the court shall consider the defendant's ability to pay and allow the defendant an opportunity to be heard.

(c)(32) A motion to modify the pretrial status order issued at the initial appearance may be made by either party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for the hearing and to permit each alleged victim to be notified and be present.

(c)(43) Subsequent motions to modify a pretrial status order may be made only upon a showing that there has been a material change in circumstances.

(c)(54) A hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(d) **Continuances.** Upon application of either party and a showing of good cause, the court may allow up to a seven day continuance of the hearing to allow for preparation, including notification to any victims. The court may allow more than seven days with the consent of the defendant.

(e) **Pretrial Detention Motions.**

(e)(1) If the prosecution has filed a motion for pretrial detention, the first appearance court must set a pretrial detention hearing without unnecessary delay, and no later than seven days following the initial appearance. Upon application of either party and a showing of good cause, the court may allow up to a three day continuance of the hearing. The court may allow more than three days with the consent of the defendant.

(e)(2) The court may delay issuing a pretrial status order upon review of the pretrial detention motion and a finding that:

(e)(2)(A) the motion states a reasonable case for detention, and

(e)(2)(B) detaining the defendant until after the pretrial detention hearing is in the interests of justice and public safety.

(fe) **Right to preliminary examination.**

(fe)(1) The court must inform the defendant of the right to a preliminary examination and the times for holding the hearing. If the defendant waives the right to a preliminary examination, and the prosecuting attorney consents, the court must order the defendant bound over for trial.

(fe)(2) If the defendant does not waive a preliminary examination, the court must schedule the preliminary examination upon request. The examination must be held within a reasonable time, but not later than 14 days if the defendant is in custody for the offense

charged and not later than 28 days if the defendant is not in custody. These time periods may be extended by the magistrate for good cause shown. Upon consent of the parties, the court may schedule the case for other proceedings before scheduling a preliminary hearing.

(fe)(3) A preliminary examination may not be held if the defendant is indicted.

Effective ~~October 1, 2020~~May/November 1, 20__

Rule 7A. Procedures for arraignment on class B or C misdemeanors, or infractions.

(a) **Initial appearance.** At the defendant's initial appearance, the court must inform the defendant of the following:

(a)(1) ~~of~~ the charge(s) in the information, indictment, or citation and furnish a copy;

(a)(2) ~~of~~ any affidavit or recorded testimony given in support of the information and how to obtain them;

(a)(3) ~~of~~ the right to retain counsel or have counsel appointed by the court without expense if unable to obtain counsel;

(a)(4) ~~of~~ rights concerning pretrial release; and

(a)(5) that the defendant is not required to make any statement, and that any statement the defendant makes may be used against the defendant in a court of law.

(b) **Right to counsel.** If the defendant is present at the initial appearance without counsel, the court must determine if the defendant is capable of retaining the services of an attorney within a reasonable time. If the court determines the defendant has such resources, the court must allow the defendant a reasonable time and opportunity to retain and consult with counsel. If the court determines the defendant is indigent, the court must appoint counsel pursuant to rule 8, unless the defendant knowingly and intelligently waives such appointment.

(c) **Release conditions.** Except as provided in paragraph (d), the court ~~must issue a pretrial status order~~ shall determine whether the defendant is eligible for pretrial release pursuant to Utah Code § 77-20-1. ~~Parties should be prepared to address this issue, including the notice requirements under Utah Code section 77-37-3 and Utah Code section 77-38-3.~~

(c)(1) The court shall impose the least restrictive reasonably available conditions of release reasonably necessary to:

(c)(1)(A) ensure the defendant's appearance at future court proceedings;

(c)(1)(B) ensure that the defendant will not obstruct or attempt to obstruct the criminal justice process;

(c)(1)(C) ensure the safety of any witnesses or victims of the offense allegedly committed by the defendant; and

(c)(1)(D) ensure the safety and welfare of the public and the community.

(c)(2) In determining whether a financial condition of release is least restrictive and reasonably necessary, the court shall consider the defendant's ability to pay and allow the defendant an opportunity to be heard.

(c)(3~~1~~) A motion to modify the pretrial status order issued at the initial appearance may be made by either party at any time upon notice to the opposing party sufficient to permit the opposing party to prepare for the hearing and to permit each alleged victim to be notified and be present.

(c)(4~~2~~) Subsequent motions to modify a pretrial status order may be made only upon a showing that there has been a material change in circumstances.

(c)(5~~3~~) A hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(d) **Continuances.** Upon application of either party and a showing of good cause, the court may allow up to a seven day continuance of the hearing to allow for preparation, including notification to any victims. The court may allow more than seven days with the consent of the defendant.

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(e)(2) The court may delay issuing a pretrial status order upon review of the pretrial detention motion and a finding that:

(e)(2)(A) the motion states a reasonable case for detention, and

(e)(2)(B) detaining the defendant until after the pretrial detention hearing is in the interests of justice and public safety.

(f~~e~~) **Entering a plea.**

(f~~e~~)(1) If defendant is prepared with counsel, or if defendant waives the right to be represented by counsel, the court must call upon the defendant to enter a plea.

(f~~e~~)(2) If the plea is guilty, the court must sentence the defendant as provided by law.

(f~~e~~)(3) If the plea is not guilty, the court must set the matter for trial or a pretrial conference within a reasonable time. Such time should be no longer than 30 days if defendant is in custody.

(fe)(4) The court may administratively enter a not guilty plea for the defendant. If the court has appointed counsel, the defendant does not desire to enter a plea, or for other good cause, the court must then schedule a pretrial conference.

Effective ~~October 1, 2020~~May/November 1, 20__

Tab 3

URCrP Subcommittee: Additional Information from LE and Pretrial at PC phase

1. **What information do the jail and SLCo Pretrial Services (PTS) have at time of arrest/PC that the judges don't (without doing homework)?**
    a. Jail & PTS can quickly see active warrants, NCIC hits and Federal Detainers.
    b. PTS can report on recent history (recent arrests or history with release to our agency) and any other jurisdictional involvement (AP&P, private probation, Board of Pardons, etc.).
    c. "Repeat Offender" info – example, DV/Violation of PO cases where client has been booked repeatedly over short period of time. Until initial case(s) file, Judge is not aware of the prior bookings when setting bail on current case.

2. **What of that information is appropriate to share with the judges?**
    a. 77-20-1; 2(b) Felony committed while on felony release.
        i. Information shared could include any client being booked on a felony while already out (probation, parole or pretrial phase) on another felony.
        ii. A history of compliance with release to PTS.

***Input from attorney's & judges needed here regarding anything outside of felony on felony. Refer to Judge McCullagh's opinion that bail-set judge is considered a Magistrate (as opposed to Trial Judge) and should have as much information as possible.*

3. **How do we get that information to them?**
    a. Currently, PTS is purely reacting in response to orders we see come through. If we see an order (either for hold or release) and we believe the judge may benefit from having information we have, we can call to provide that information.
    b. Our phone number has been shared with all judges to promote their contacting us on any concerning/questionable releases prior to decision (this is not happening with any regularity).
    c. See proposed flow for updates to PC system that could allow for proactive sharing of information – next page.

4. **If the info is only going to judges determining bail, how do DA and Defense know what information was considered in determining bail?**
    a. See proposed flow. If we can add the text box for additional information from Jail/PTS, this information is accessible by DA & LDA once case has filed.

5. **Are we concerned with the amount of private information that might go into the PC, which is currently a public document?** (The example was a recent PC that included mental health information.)
    a. Training topic for law enforcement.

6. **Can we change where the PC statement goes so that it is no longer public OR can any aggravating factors meant to support a hold be entered into a separate place that judges can see but not the public?**
    a. Who makes this decision? In 2017, PC statements moved from the charge of the jail. Prior to the new system, records were still marked as 'public,' however, the jail would release the records to outside agencies *only* if they made an official request for the record. Media and all others were directed to our records department where they could request the record.
    b. If we cannot remove them from public view, could we house the 'additional information' suggested somewhere that is NOT accessible by the public?

Probable Cause Statement flow from LE to bail-set Judge in **Salt Lake County**:

Current Process:

- Sheriff's Office enters client information and PC into Offender Management System (OMS)
- PC is sent to Sheriff's Office Intake Clerk for review and approval
- Intake Clerk forwards to Sheriff's Office PC Desk
- PC Desk pushes PC to Judges/UCJIS
- Judge reviews and sends PC determination (release orders) back to Intake Clerk

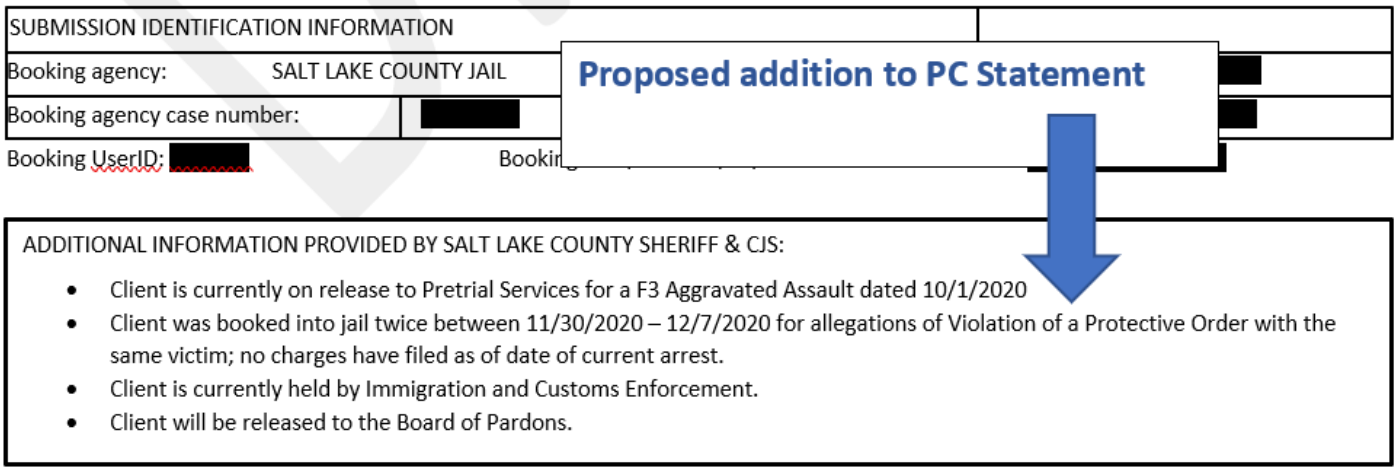
Proposed Process:

- LE enters client information and PC into Offender Management System (OMS)
- PC is submitted to Sheriff's Office Intake Clerk for review and approval
- Intake Clerk forwards to ~~Sheriff's Office PC Desk~~ **CJS/PTS for additional information**
- ~~PC Desk~~ **CJS/PTS sends to PC Desk to print and send to the Judge.**
- Judge reviews and sends PC determination (release orders) back to Intake Clerk

For consideration: Could jail and PTS coordinate so that judges are only sent the PC statements for clients that have not already been approved for release? Prior to electronic transfer of info, judge would only receive a hard copy of the PC statements for clients who Pretrial did not release per the authority granted in the MOU. This could eliminate workload for judges, confusion for clients getting conflicting information and judges would know that, if they are seeing a PC, that means PTS has looked at it and either cannot release or is not comfortable with release for some reason.

- **How does the DA receive PC statements? Would this change affect that process?**
- **Do the judges *want* to see all PC statement?**

Note – this update would require changes to PTS access/rights in UCJIS. We can currently review PC but not add to it. We would also need to be able to send PC to PC Desk as proposed above.



Keisa – Alternative proposal: Adding LE/PTS information, but keeping the process entirely electronic, while allowing us to easily capture, analyze, and report pretrial data.

I would hate to revert back to paper, but I understand that in order to accomplish something quickly that may be necessary. Everything below would involve programming costs and time. It has not been reviewed by IT.

In talking with several SLCo judges, they do not want to see or review PCs for arrestees that PTS chooses to release under their authority. That has been on our bucket list for a while, we just haven't had the programming funds or time to accomplish it. I call it the "sequencing issue." I think we can accomplish both the "sequencing issue" and the "additional notes from PTS" issue electronically, but it would require programming to the PC system in CORIS.

If all of the additional notes/information is coming from PTS (not LE), everything would work exactly as it does now for law enforcement. If information is coming from law enforcement, additional programming will be required in UCJIS. I have thoughts on that as well.

If PTS is the only agency sending info... when the Court receives the PC submission from law enforcement, the court would send all SLCo PCs to PTS's new queue on a 24/7/365 basis. The queue would have to be modified because, currently, the NCIC queue sends PTS the PSA's from the entire state, and it doesn't send any PCs. The SLCo PCs sent to the PTS queue with an NCIC hit would require them to do 2 things: 1) make a release decision, and 2) conduct the NCIC review for the PSA. SLCo PCs without an NCIC hit would need to include the PC and the PSA, and would require PTS to make a release decision.

PTS should be able to do the following with all SLCo PCs:

- Click a button that says PTS "released" or "did not release"
- If PTS releases:
    - PTS clicks on the supervision services they decided on (standard checkboxes from the SLCo DMF with an "add conditions" option)
    - PTS has a narrative box for notes
    - Hit submit. The PC, PSA, PTS release decision, and PTS notes are stored in our database and loaded in the case (if/when filed by DA), but none of it goes to the judge for a PC review.
        - Maybe the PC, PSA, and PTS's release decision without notes are also posted on Xchange? That would provide the DA and defense counsel with immediate access. But if attorneys want PTS's notes, we may need to create a function that emails all of those docs. What if defense counsel hasn't been appointed yet?
- If PTS does not release:
    - PTS clicks "PTS did not release"
    - PTS includes an explanation of why they didn't release
        - Checkbox that says "Outside release authority"
        - Could also be standard checkboxes if there are common reasons for refusing to supervise
        - Narrative field for additional notes
    - PTS clicks "no release recommended" and/or can provide a release recommendation: "If the defendant is released, PTS recommends the following..." Could include checkboxes of release conditions from the DMF and a narrative field
    - Hit submit. The PC, PSA, PTS notes, and PTS release recommendation are sent to the judge for a PC review and release decision.