

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

Webex video conferencing
May 6, 2021 – 12 p.m. (noon) to 2 p.m.

MEMBERS	PRESENT	EXCUSED	GUESTS
Judge George Harmond, Chair	X		Tucker Samuelson
Heidi Anderson	X		Jojo Liu
Wayne Carlos		X	Clay Carlos
Judge Keith Eddington	X		Paul Barron
Josh Graves	X		Sheriff Richard Jacobson
Andrea Jacobsen	X		Renae Cowley
Comm. Lorene Kamalu	X		Sheriff Mike Smith
Judge William Kendall		X	Joanna Landau
Cpt. Corey Kiddle	X		Eric Hutchings
Tom Ross	X		Jeff Greenwell
Rich Mauro	X		Cameron McCarty
Judge Brendan McCullagh	X		Rep. Karianne Lisonbee
Judge Jeanne Robison	X		Riley Riser
Cara Tangaro	X		Brian Baggs
Brent Johnson	X		Nick Mecham
			Jon Puente
STAFF:			Matthew Higley
Keisa Williams			Lexie, SL Community Bail Fund
Minhvan Brimhall			Emily Lyver
			Patty Fox
			C Kerr
			Doyle Peck
			Michael Drechsel
			Brody Arishita

1) Welcome and Approval of Minutes (Judge Harmond):

Judge Harmond welcomed members and guests to the meeting. The committee considered the minutes from the March 4, 2021 meeting. With no objections or further discussion, Commissioner Kamalu moved to approve the minutes as written. Tom Ross seconded the motion and it passed unanimously.

2) Update: Salt Lake County Time-to-File and Initial Appearance procedures:

Mr. Graves: Judge Kouris and Judge McCullagh signed orders indicating that the misdemeanor bookings should be screened within two calendar days or the jail will release those offenders. The order needs to be tweaked a little bit because the time for release was at 5 pm on the second day, instead of 3 pm. Captain Kiddle, the jail, and the jail's counsel want the timing to be consistent with URCrP Rule 9 so that they are not operating on two different time frames. I get daily reports on how many offenders are set to be released from the jail due to a failure to file charges and rarely see any misdemeanor bookings on those reports. Pretrial is doing a good job either releasing them on pretrial supervision or they're being held without bail. I'm hoping to have some data in the next few months. Our e-prosecutor system should be up next month, which should allow us to analyze these types of issues.

Mr. Mauro: We're seeing far fewer misdemeanor clients in jail, so we don't anticipate this changing much.

Judge Harmond: Do you anticipate any big changes as a result of the passage of new legislation?

Mr. Graves: No. I believe our office will continue to seek more no-bail holds in lieu of high cash bail and stick with the ability to pay concept on lower risk offenders.

3) Update: Proposed Rules of Criminal Procedure:

Ms. Williams: The Rules of Criminal Procedure Committee is meeting toward the middle of this month. A pretrial subcommittee will review the proposed rules and present their feedback to the advisory committee as a whole. The advisory committee will decide whether to send the rule drafts to the Supreme Court for consideration.

4) Update: Data Collection Subcommittee:

Mr. Hutchings: We are working on a couple of different tracks. Track one is: What do we need to know before a release decision is made? What type of information do we need and who needs to know it? When do they need to know it? Track two is: What do we need to know about outcomes? What data should we be tracking to determine the effect of certain policies and procedures?

We have some very good, current data from the Salt Lake County jail and have the ability to update it regularly. We appreciate Sherriff Rivera's willingness to allow us access to certain data and to make it public. Ms. Liu and Mr. Samuelson have offered to help other counties duplicate some of their processes. There will be significant programming dollars needed on the front end in order to get the right information to the right person, but I think we've got a pretty good idea of what we need.

Ms. Liu discussed their efforts and how those efforts might be duplicated statewide. Mr. Ross

discussed data discussions at the state level, including improving criminal justice data sharing by connecting disparate systems and the potential availability of CARES Act funding to get things started. Commissioner Kamalu discussed potential one-time funding opportunities for counties to make programmatic changes at the local level, and noted that smaller counties could create efficiencies by working together to share resources.

5) Legislative Pretrial Reform Working Group:

Judge Harmond: The legislature formed a legislative Pretrial reform working group and several members of this committee also sit on that workgroup, including Tom Ross, myself, Josh Graves, Rich Mauro, Michael Drechsel, Judge Shaughnessy, and Representative Lisonbee.

Mr. Drechsel: I wanted to provide an update from the session and legislative workgroup discussions, tap into some of your experience and expertise on these issues as committee members, and keep the channels of communication open.

Mr. Drechsel discussed the structure of the workgroup and its members, and provided a summary of some of the priorities expressed by attendees:

- Public safety
- More and better data to drive decisions
- Balancing public safety and the rights of the defendants
- Attentiveness to the disparate impacts of money bail, while recognizing the rational relationship between release conditions and the risks to public safety and failure to appear.
- Looking at the data provisions in 77-20-1.1 as a starting point for data discussions
- Understanding the need for meaningful, timely (days not weeks) hearings when detention issues arise
- The need for indigent defense involvement, including counsel at first appearance
- Not to lose focus of the presumption of innocence
- A robust set of factors for judges to consider when making release/detention decisions
- Recognize that pretrial release is a fundamental right and that policies should include provisions for the homeless, mentally ill, and minority populations
- There is a place for own recognizance release when safety isn't an issue

The five legislators involved in the workgroup - Representative Schultz, Representative Lisonbee, Representative Pitcher, Senator Weiler, and Senator Cullimore – were very open to receiving input and feedback from everybody.

One of the workgroup's subcommittee assignments is to explore data and we met with this committee's data subcommittee. The workgroup will hear from Ms. Liu and Mr. Samuelsen next week.

Another subcommittee assignment is to look at whether the sheriffs should have the ability to

release people on their own recognizance. The group should be reviewing a proposed rough draft next week.

The workgroup is also trying to better understand the Pretrial supervision context and what conditions actually work.

Ms. Williams: Has the workgroup discussed the issues associated with delayed initial appearances and the need to hold initial appearances within 48 hours of arrest? As most of us know, that is a best practice and is what's done in many jurisdictions across the country. It resolves so many issues because the parties are both represented and the judge is provided with a full picture of the individuals' aggravating and mitigating circumstances which allows them to make better, more informed decisions regarding release or detention. It would resolve a lot of the public safety and due process concerns. Victims, via the prosecutor, would have the ability to provide input prior to the initial release decision, something they aren't able to do now.

Mr. Drechsel: No, there haven't been a lot of in-depth discussions about the mechanics of that. It has been mentioned briefly in connection with other discussion items, but it is something that probably needs attention.

After further discussion, Judge Harmond thanked everyone for attending.

Adjourn:

There being no further business, the meeting was adjourned at 1:27 p.m. The next meeting is scheduled for June 3, 2021 at 12 pm (noon) via Webex video conferencing.