



## INDIGENT DEFENSE COMMISSION CASE COUNTING DEFINITIONS

The Utah Indigent Defense Commission (IDC) collects data on cases, finances, and representation from local governments, to fulfill its mandate to help the State better understand its compliance with 6th Amendment requirements and identify areas for organizational and funding improvements.

The IDC provides the following definitions in response to its legislative mandate and to assist indigent defense service providers and local indigent defense systems in reporting statistical information about their systems to the IDC in an accurate and consistent manner.<sup>1</sup> The IDC is committed to supporting local governments and providers as they implement procedures to help report information that complies with these definitions.

The IDC has developed these definitions from many sources, and has designed them to align, wherever possible, with the existing case counting methods of the Utah State Courts, and existing providers of indigent defense services.

Case counting is inherently unique to each party involved in a case. A judge may count a case very differently than a prosecutor, and then a defender may need to count it in yet another way. None is more valid than the other, they are inherently reflective of different parts of the process, but for the purposes of statistical consistency, a case counting method is necessary for reporting from one source.

For example, the Utah State Courts count cases by case number, which is assigned to criminal cases when a prosecutor files an information and does not change throughout the process. This method would leave attorneys unable to separately account for an order to show cause hearings, or the combination of charges that fall under that single case number. Then, in the arena of juvenile delinquency cases, a single case number attaches to a child, no matter the number of incidents. For matters involving abuse, neglect, and dependency claims, cases are identified by the child, rather than the respondent parent. The IDC has attempted to identify a means of counting cases that reflects the actual workload defense attorneys perform on a case at various stages in various courts. The IDC welcomes feedback on this methodology.

### TRIAL COURT CASES (JUSTICE, DISTRICT & JUVENILE COURTS).

- **THE BEGINNING OF A CASE.**
  - > A case should be counted when an indigent defense services provider (attorney or entity) is appointed by a court, or when the attorney or entity has provided legal

<sup>1</sup> Definitions that are not provided here can be found in statute. See Utah Code § 78B-22-102 [https://le.utah.gov/xcode/Title78B/Chapter22/78B-22-S102.html?v=C78B-22-S102\\_2019051420190514](https://le.utah.gov/xcode/Title78B/Chapter22/78B-22-S102.html?v=C78B-22-S102_2019051420190514)

advice and/or representation to an individual charged by a charging document or petition as a defendant or respondent.

- › A case should not be counted if legal advice and/or representation are not provided, such as when an attorney or entity screens a defendant for a conflict of interest, unless in that process legal advice and/or representation has been provided.

- **CRIMINAL CASES.**

- › One case includes one or more charges listed in a *single* charging document against a single individual, which all arise from an alleged single criminal episode under Utah Code § 76-1-401. Such cases should be counted as one case, by the highest offense listed in the charging document.
- › One case includes one or more charges listed in *multiple* charging documents against a single individual, which all arise from an alleged single criminal episode. Such cases should be counted as one case by the highest offense listed in the charging document.
- › Where one individual is prosecuted in separate prosecutions in separate courts, the cases should be counted separately by the highest offense listed in each individual case.
- › A case that is filed in a justice court and refiled in the district court, before any disposition, should be counted as two cases, with one case in each court.
- › A case that is transferred from juvenile court to a district court should be counted as two cases, with one case in each court.
- › A case that is appealed *de novo* from a justice court final order to a district court, should be counted as two cases, with one case in each court.
- › A new incident from an existing case that gives rise to an Order to Show Cause, probation violation or contempt proceeding counts as one new case.

- **JUVENILE DELINQUENCY CASES**

- › One case includes one or more offense charged in a single petition against a single minor, which arise from an alleged single criminal episode, as defined by Utah Code § 76-1-401. Such cases should be counted by the highest offense alleged in the charging document.
- › A new incident from an existing case that gives rise to an Order to Show Cause, probation violation or contempt proceeding counts as one new case.

- › A contested restitution hearing arising from an existing case counts as one new case.
- › Where multiple attorneys are assigned to a single complex matter (e.g., a Serious Youth Offender or Transfer case), the case counts as one case for each attorney assigned.
- **JUVENILE COURT CHILD WELFARE CASES (PARENTAL DEFENSE)**
  - › A petition to Terminate Parental Rights, whether or not arising from a related dependency petition, counts as one new case.
  - › One case consists of a single petition commencing juvenile court jurisdiction on a family, child, or multiple children. However, where a single petition involves multiple respondents, the matter counts as one case for each attorney assigned to a respondent.
  - › A new incident from an existing case that gives rise to an Order to Show Cause, probation violation or contempt proceeding counts as one new case.
- **CASES IN THE UTAH COURT OF APPEALS & UTAH SUPREME COURT**
  - › An appellate case is defined as single appeal from a conviction, or final order of a district or juvenile court, in a single appellate court.
  - › A petition for certiorari from an appellate case that has been decided by the Utah Court of Appeals, is counted as one additional case regardless of whether the Petition is accepted or not.
  - › A case that consolidates two separate trial court cases into one appeal, would be counted as one appeal (until it is considered by both appellate courts).
  - › Parental Defense/Child Welfare Appeals. While Rule 55 is in effect, any petition filed from a juvenile court order should be counted as one case. If the Petition goes to full briefing, that should be counted as the same case. Only if that case is first decided by the Utah Court of Appeals, and then the Utah Supreme Court, would it be counted as two cases.