



Utah Indigent Defense Commission

2016 ANNUAL REPORT

Joanna Landau, Executive Director (801) 209-5440 justice.utah.gov/indigent-defense.html

The Utah Indigent Defense Commission was created in 2016 by the Legislature to help the State ensure its indigent defense services are consistent with the United States and Utah Constitutions, and Utah law.

2016 Commissioners

Michael Zimmermann, Retired Chief Justice, Utah Supreme Court

Senator Todd Weiler, State Legislative District 23

Dave Wilson & Claudia Jarrett, representing the Utah Association of Counties

Nicole Cottle & Ryan Loose, representing the Utah League of Cities and Towns

Wally Bugden & Mary Corporon, representing the Utah Association of Criminal Defense Attorneys

Sam Alba, representing the Utah Minority Bar Association

Richard Mauro, Executive Director of the Salt Lake Legal Defender Association (*Mr. Mauro replaced Patrick Anderson who retired in January 2017)

Ron Gordon, Executive Director of The Commission on Criminal & Juvenile Justice (CCJJ)

Richard Schwermer, Assistant State Court Administrator

Notably, there is not a single formula for constitutional indigent defense, however, certain safeguards help to ensure the constitutionality of indigent defense services, such as:

- Independent representation where attorneys can zealously defend clients based on independent judgment and without fear of retaliation.
- Representation that is free of conflicts because separate contracts exist for conflict counsel.
- Representation at all critical stages of the criminal justice process.
- Reasonable case and workloads that allow attorneys to provide constitutionally effective representation.
- Fair compensation that incentivizes attorneys to represent clients fully.

COMMISSION DUTIES

The Commission is statutorily charged with many duties, chief among them is to develop guiding principles for statewide indigent defense systems; and to grant state-appropriated funds to improve the constitutionality of those systems.

The 2015 Judicial Council Report on Utah's trial-level indigent defense services is at:

https://www.utcourts.gov/knowcts/adm/docs/Indigent_Defense_Committee_Report.pdf

STAFF

In October of 2016, the Commission hired Joanna Landau as its Executive Director. Her relevant work experience includes years as an attorney-law clerk in the Third District Courts of

Salt Lake and Summit Counties, and as an appellate attorney with the Salt Lake Legal Defender Association, representing indigent defendants on appeal to the Utah Court of Appeals and the Utah Supreme Court.

Joanna began her new job at a full sprint: meeting with Commissioners and their representative bodies, as well as members of the Judicial Council's Study Committee on indigent defense. She also hired two additional staff members.

First, the relevant statute required hiring an "individual with data collection and analysis skills." Taylor Mosolf was hired for that position, beginning work January 5, 2017. Taylor came to the Commission from the State Auditor's Office where he was a performance auditor. He has a JD and an economics undergraduate degree, and brings solid state political and financial knowledge and insight to the Commission.

Then, a Grant Manager was hired to manage and monitor the grants made to statewide indigent defense systems. Collett Litchard comes to that role January 31, 2017, from the Attorney General's office. Collett has a solid background in budget-management and office organization. Because of the staff's small size, everyone will help fulfill administrative needs, and student interns will be utilized.

Joanna, her staff, and several Commissioners also participated in national conference calls with indigent defense leaders from across the nation.

NEW OFFICE SPACE

With the creation of the Commission under CCJJ, CCJJ realized it had no space to house the staff. New property was rented on South Temple and 400 East, and Joanna has been hard at work getting that office up and running.

Everyone should be able to work in the office by February 2017.

PILOT GRANT

To jump start the Commission's work dispensing state grant monies to improve indigent defense, Joanna brought the Commission its first, pilot, grant project.

Juab County had a critical need for improved public defense services. With help from a Commission grant, the Utah County Public Defenders' Office will provide those services in Juab County Courts for 2017.

Utah County has a well-established, independent, 501(c)(3) public defender's office, which will contract with, and supervise, experienced local attorneys to provide constitutional public defense services for Juab County.

In *State v. Martinez-Castellanos*, 2017 UT App 13, the Utah Court of Appeals delivered a harsh assessment of Juab County's public defense services before the grant from the Commission, highlighting Juab County's need for the State's assistance in improving its indigent defense services.

Juab, which was contributing \$120,000 to its public defense contracts for a relatively high number of appointed cases, increased that by \$10,000 and then was awarded an additional \$110,000 grant from the Commission to increase the number of attorneys representing indigent defendants, and reserve funds for investigators, experts, and other related expenses. The state grant monies thus helped to lower attorney caseloads, increase the quality of representation, and ensure Juab County provides constitutional indigent defense services in 2017.

The pilot project also fulfills the additional statutory mandate of encouraging the regionalization of public defense services throughout the State.

Anecdotal reports from Juab County prosecutors, the new defense attorneys, judges, and clients, are all positive. This project will serve as a model for the Commission's future grants.

Through this pilot project, the Commission began developing its forms, policies, procedures, and the standards it will use going forward, to give guidance and monitor indigent defense systems throughout the state.

The Commission staff is working to develop additional grant opportunities to improve the constitutionality of Utah's indigent defense systems.

2017 LEGISLATIVE SESSION

The Commission is tracking bills related to indigent criminal and juvenile defense in the 2017 legislative session, in particular, a bill brought by Senator Todd Weiler to expand the Commission's authority to grant State monies to indigent juvenile defense services in both delinquency and child welfare proceedings. That statutory expansion reflects the reality that many indigent defense contracts include adult and juvenile defense services. While the Commission encourages systems to provide separate contracts for juvenile and adult services, the grant monies will help it ensure that separation occurs.

NEXT MEETINGS

The next two Commission meetings are January 30 and February 28 at 2:15pm in the CCJJ conference room. Everyone is welcome.