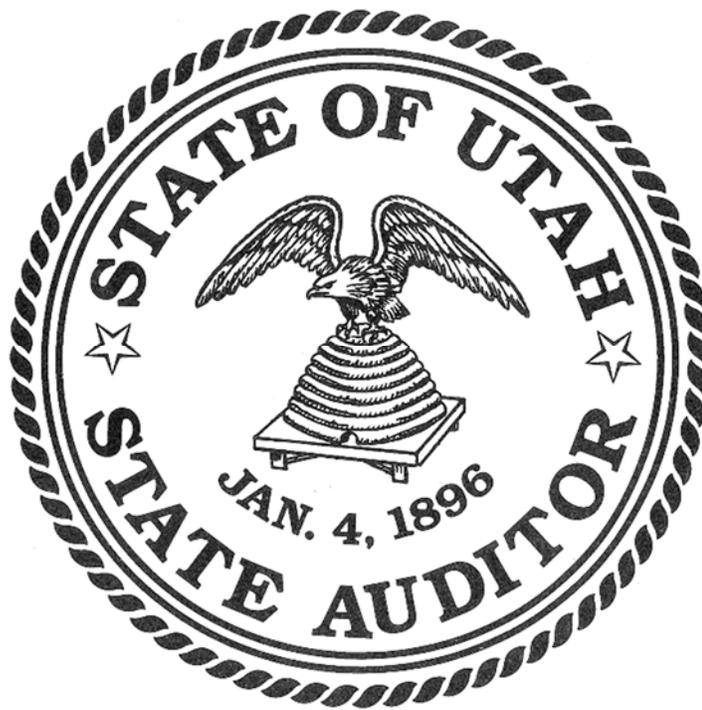


**Performance Audit No. 19-03**

**An Audit of  
Evidence Storage and Management Among  
Selected Utah District and Juvenile Courts**

**August 27, 2019**



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# Background

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The Utah State Court System (Court System) is comprised of: 1) two appellate courts - the Supreme Court and Court of Appeals; 2) trial courts, including district and juvenile courts; and 3) City and County Justice Courts.<sup>1</sup>

The Utah Judicial Council is the policy-making body for the Court System. It has the constitutional authority to adopt uniform rules for the administration of all the courts in the state.<sup>2</sup> The Administrative Office of the Courts serves as staff to the Judicial Council.<sup>3</sup>

Utah statute authorizes a peace officer (officer) to take possession of property through various means, including seizing property related to a crime.<sup>4</sup> Examples of the property taken into custody include money, firearms, controlled substances, and drug paraphernalia. A prosecutor may eventually require the officer to produce the seized property as evidence in a criminal proceeding held in a court of law.

Utah statute also requires agencies, including district and juvenile courts,<sup>5</sup> to hold seized property “in safe custody” and maintain a “detailed inventory of all property seized.”<sup>6</sup> Securing, tracking, and maintaining the property ensures its integrity and enables its safe return to the owner.

For this report, “evidence” refers to anything that a Utah court receives as evidence in conjunction with a court proceeding. Court clerks and court exhibit managers are responsible for storing and safekeeping evidence.<sup>7</sup>

To provide reasonable assurance that evidence in a court’s possession is secure, the Utah Judicial Council<sup>8</sup> and the Administrative Office of the Courts<sup>9</sup> are required to establish appropriate management controls and procedures. These controls and procedures should address documenting and auditing the evidence inventory, tracking the Chain of Custody<sup>10</sup> for each piece of evidence, and controlling access to and disposing of the evidence. Failure to provide adequate

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<sup>1</sup> <https://www.utcourts.gov/knowcts/>

<sup>2</sup> <https://www.utcourts.gov/knowcts/>

<sup>3</sup> <https://www.utcourts.gov/knowcts/>

<sup>4</sup> See Utah Code § 24-2-102.

<sup>5</sup> See Utah Code § 24-2-102(3)

<sup>6</sup> See Utah Code § 24-2-103.

<sup>7</sup> Judicial Council Code of Judicial Administration Rule 4-206

<sup>8</sup> See Utah Code § 78A-2-104

<sup>9</sup> See Utah Code § 78A-2-107

<sup>10</sup> CHAIN OF CUSTODY refers to the chronological documentation of the seizure, custody, control, transfer (temporary or permanent), and disposition of evidence, either physical or electronic.

management controls and procedures may lead to lost, stolen, or compromised evidence as well as a loss of public trust.

The objective of this review was to determine the extent to which the Court System has established appropriate controls over the handling and storing of evidence, with particular emphasis on money,<sup>11</sup> firearms, and controlled substances.<sup>12</sup> We sampled six district courts and three juvenile courts. We reviewed each court's controls, policies, and procedures for compliance with applicable state statutes and application of industry best practices.<sup>13</sup>

A key measure used to determine whether a court has established adequate controls over its evidence function is the number of missing items, which can be determined by conducting an inventory. However, due to the inadequacy of the courts' evidence management practices, we were unable to conduct an inventory.

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<sup>11</sup> For purposes of this review, money includes all of the cash, coinage, and checks possessed by the courts.

<sup>12</sup> For purposes of this review, a controlled substance means a substance that is unlawful to produce or to possess under state or federal law.

<sup>13</sup> To determine applicable best practices, auditors reviewed industry standards, recommendations, and procedures from, among other entities, the International Association for Property and Evidence (IAPE); the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA); and other states. We primarily rely on standards from the IAPE, which "is a non-profit organization created by and for law enforcement professionals to help establish recommended standards for all property and evidence departments" (see [home.iape.org/about-us/about-us.html](http://home.iape.org/about-us/about-us.html)).

# **Finding 1**

## **Inadequate Evidence Management Practices Severely Limit the Ability to Detect Missing Evidence**

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The Court System’s evidence management practices are not adequate enough to enable us to conduct an inventory for our testwork, as originally planned in the scope of this audit.

### **Failure to Conduct Regular Inventories, Annual Audits, and Storage Room Inspections**

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None of the clerks or exhibit managers we interviewed had knowledge of an evidence inventory, a self-audit, or an independent audit ever being performed.

Inventories can provide early identifications of problems and deficiencies in the system. According to the International Association for Property and Evidence (IAPE), agencies that conduct regular inventories are far less likely to experience an internal loss of property or evidence.<sup>14</sup> An inventory should be conducted annually or whenever there is a change in evidence room personnel.<sup>15</sup> Auditors conduct inventories, among other reasons, to discover whether an agency is missing property (or in this case missing evidence). Persons who do not have responsibilities associated with the evidence room should conduct the inventories.

In addition, audits help determine whether courts meet the recognized standards, employ best practices, and comply with applicable statutes and codes.<sup>16</sup> A comprehensive audit of the evidence function, including a review of policies and procedures, is an important internal control that courts should conduct at least annually.

Additionally, supervisors who oversee the evidence function should regularly inspect the storage rooms.<sup>17</sup>

### **The Courts’ Case Management System is Not Designed for Evidence Management**

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The courts’ current method of managing evidence makes it difficult to conduct comprehensive evidence inventories and to track evidence. Pursuant to the Code of Judicial Administration and under the direction of the head clerk,<sup>18</sup> court clerks are required to perform a variety of

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<sup>14</sup> IAPE Standard 15.1: Inventories

<sup>15</sup> IAPE Standard 15.1: Inventories

<sup>16</sup> IAPE Standard 15:2 Audits and Inspections

<sup>17</sup> IAPE Standard 15:2 Audits and Inspections

<sup>18</sup> The Judicial Council Code of Judicial Administration refers to the head clerk as the Clerk of the Court.

administrative tasks, including keeping court records, issuing court notices, and ensuring the safekeeping of exhibits.<sup>19</sup> The head clerk is required to appoint an exhibit manager who is responsible for the security, maintenance, and disposition of evidence submitted to a court.<sup>20</sup> At each of the courts we examined, the exhibit manager was responsible for a room dedicated to storing evidence.

We noted two problems with the courts' case management system:

- a. District and Juvenile Court clerks and exhibit managers use various features from their case management systems (CORIS and CARE) which allow them to record an evidentiary item admitted during a court hearing, indicate where an item is being stored, and specify an item's final disposition. However, these systems do not allow exhibit managers to produce an inventory list. Without an inventory list, exhibit managers have no way of knowing what items should be in the evidence room, which prohibits them from conducting an inventory to detect missing items.
- b. In addition, some exhibit managers create handwritten logs, notes, or index cards to help document, track, and locate evidence. The handwritten logs and index cards used by exhibit managers are tedious to search, introduce additional opportunities for human error, and can be easily lost or destroyed.

Between the features provided in the case management system and handwritten notes, each clerk seemed to have his or her own method of managing evidence.

## **Recommendations**

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We recommend that the Utah State Court System:

1. Implement modern evidence management practices that more effectively document and track evidence, including replacing the handwritten evidence logs, index card systems, and notes with a modern records system.
2. Implement evidence management practices that allow court clerks and exhibit managers to generate an accurate inventory list of evidence physically located in the evidence room.
3. Implement evidence management practices where court staff conduct regular evidence inventories.
4. Perform an evidence inventory and audit annually, and whenever there is a change in evidence room personnel.
5. Ensure that court supervisors conduct regular inspections of the evidence function.

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<sup>19</sup> Judicial Council Code of Judicial Administration Rule 3-302

<sup>20</sup> Judicial Council Code of Judicial Administration Rule 4-206

## Finding 2 Utah Courts Have Inadequate Controls To Protect Evidence During Storage

In our review of nine courts, we found weak controls and, in some cases, a lack of controls over evidence storage (See Figure 1). Specifically, some of the courts sampled failed to:

- Perform regular evidence inventories (see Finding 1);
- Control and document access to evidence;
- Implement sufficient security measures such as cameras and alarms; and
- Protect evidence from damage.

These oversights increase the risk that evidence could be lost, stolen, damaged, or tampered with. The courts should implement management controls to provide reasonable assurance regarding the security and integrity of facilities used to store evidence.

Figure 1 Controls for Evidence Rooms by Sampled Court<sup>21</sup>

Sampled Court	Documented a Previous Inventory	Access Log	Unauthorized Access Allowed <sup>22</sup>	Method of Entry	Alarm and Security Measures
A	No	No	No	Hard key kept in a locked safe with dual entry	Camera, no alarm
B	No	No	No	Key card and hard key	Neither
C	No	No	No	Key card or hard key	Neither
D	No	No	No	Hard key kept in a locked safe with dual entry	Camera, no alarm
E	No	No	Yes	Key card and combination safe	Neither
F	No	No	Yes	Key card only	Neither
G	No	No	Yes	Hard key only	Neither
H	No	No	No	Key card only	Neither
I	No	No	No	Key card only	Neither

<sup>21</sup> All sampled courts had a main evidence room. Sampled courts universally used evidence rooms to store evidence retained by the court at the conclusion of a court proceeding. However, during court proceedings, some sampled courts stored evidence in closets near the courtroom rather than in their evidence room. The information in Figure 1 is in regards to the main evidence rooms only, not the closets.

<sup>22</sup> Unauthorized access includes an individual who can access the evidence room without the aid of an exhibit manager or supervisor.

## **Access to Evidence Rooms Not Adequately Controlled or Documented**

We found the following regarding controls for entry to the evidence rooms (see Figure 1):

- None of the sampled courts maintain access logs;
- Five of the sampled courts did not have multiple requirements to enter the evidence room (e.g. personnel card, biometric identification, hard key, etc.);
- Three courts allow persons other than the exhibit manager and supervisor to access the evidence room; and
- Four evidence rooms are accessible with just a hard key, leaving no audit trail.

According to IAPE standards, agencies should closely control access to evidence storage areas to prevent alteration, unauthorized removal, or theft of evidence. Restricted access also helps agencies protect the chain of custody. The courts should limit access to storage areas to exhibit managers and their supervisors. When other people enter evidence facilities, the name of the person and reason for entry should be logged, and the exhibit manager should accompany them or provide an escort.<sup>23</sup> IAPE standards also recommend that supervisors review the access log on a regular basis, at least monthly, and should inspect logs as part of periodic inventory audits. Because missing evidence may not be readily discovered, IAPE recommends that agencies maintain access logs for at least 10 years.<sup>24</sup>

Additionally, IAPE recommends multiple entrance controls to secure the evidence room. Multiple entrance requirements are especially important when a hard key is used because hard keys do not create an audit trail.<sup>25</sup>

## **Evidence Rooms Lack Alarm or Surveillance Systems**

None of the courts we reviewed had an alarm system for their evidence room. Only two of the sampled courts had cameras near their respective evidence room doors (See Figure 1). Evidence room cameras should record all individuals who enter the room, as well as surveil the entire premises of the room.

According to IAPE, an alarm system and surveillance cameras are critical to maintaining public confidence in court-operated evidence rooms because these systems demonstrate that only authorized personnel had access to high-risk areas.<sup>26</sup> Alarm and surveillance systems serve to further protect and preserve the chain of custody. IAPE recommends that surveillance systems

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<sup>23</sup> IAPE Standard 8.1 and 8.2: Security – Policy, Access

<sup>24</sup> IAPE Standard 8.3: Security – Access Logs

<sup>25</sup> IAPE Standard 8.5: Security – Key Control/Electronic Access Control

<sup>26</sup> CA POST 3-4, 3-6, and IAPE 8.7, 8.9

have three to four years storage capacity.<sup>27</sup> The lack of adequate surveillance may result in unauthorized individuals being able to access the evidence room undetected.

## **Storage Facilities Used During Court Proceedings Lack Controls**

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During trials and other court proceedings, some courts permit evidence related to the proceeding to be stored in closets in or near the courtroom. At a minimum, court clerks and deputy sheriffs have access to these closets. Court staff could not provide us with a complete list of closet keys and their whereabouts. Because the doors are opened with a hard key, closet access is not logged and cannot be monitored. Closets also lacked adequate surveillance, including cameras and alarms. If these closets are going to be used to store evidence, the closets should have controls similar to a properly controlled and secured evidence room.

## **Facility-Related Issues Could Damage Evidence**

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At one of the courthouses we observed water leaking into the evidence room. A large portion of the carpet was damp. A fan was in use in an attempt to dry the carpet. Sixteen weeks later, we observed the same conditions. Water damage and other facility-related issues could cause damage to evidence.

## **Recommendations**

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We recommend that the Utah State Court System:

1. Require anyone that is not an exhibit manager or supervisor to sign and date an access log before entering an evidence room.
2. Require supervisors to review the signed access logs and keycard access reports at least monthly.
3. Implement multiple entrance controls for gaining access to the evidence room. At least one entrance control should provide an audit trail.
4. Ensure each evidence room has adequate video surveillance and perimeter alarms.
5. Ensure evidence is protected from water leaks and other threats to physical security.

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<sup>27</sup> IAPE Standard 8.9: Security – Video Surveillance

## **Finding 3                      Insufficient Controls over Disposal of Evidence**

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According to IAPE, documentation regarding destruction of evidence should provide a transparent and verifiable audit trail through final disposal.<sup>28</sup> Before disposing of a particular piece of evidence, exhibit managers should first receive authorization to destroy it from the prosecuting attorney.<sup>29</sup> Exhibit managers should document the disposal process and require an independent witness for high-risk components of the process.

### **Sampled Courts are Not Sufficiently Documenting the Disposal of Controlled Substances and Firearms**

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Some of the sampled courts had inadequate documentation for the disposal of vulnerable evidence. For example, we learned of a previous exhibit manager who disposed of “a lot of firearms and narcotics” by returning them to different police agencies by “loading a trunk full of weapons and then returning them to the agencies.” The current exhibit manager could not provide documentation regarding the disposal of those controlled substances or firearms.

The district court's case management system does not describe the destruction of an item. The system only utilizes a checkbox for released items.

Because of the danger controlled substances and firearms pose to court personnel and the public, the Court System should provide reasonable assurance that controlled substances and firearms held by the courts are released or actually disposed of.<sup>30</sup> Key controls include documenting who is involved in the disposal process and requiring independent witnesses for high-risk components of the process.<sup>31</sup> IAPE standards state that documentation should include the name of the person who:

- Authorized the item for release or disposal;
- Staged and verified the item on the disposal list (witness needed);
- Transported the item to the disposal location or turned the item over to the party who presented the evidence (witness needed); and
- Witnessed the disposal or release.<sup>32</sup>

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<sup>28</sup> IAPE Standard 4.1: Documentation – Property Report

<sup>29</sup> Utah Code § 24-3-103(1)

<sup>30</sup> IAPE Standard 9.7: Drugs – Destruction Documentation

<sup>31</sup> IAPE Standard 9.7: Drugs – Destruction Documentation

<sup>32</sup> IAPE Standard 9.7: Drugs – Destruction Documentation

Furthermore, court rule states that the “exhibit manager shall record disposition of the exhibits.”<sup>33</sup>

According to IAPE, controlled substances and firearms pending destruction have the greatest likelihood of being pilfered since the items are no longer needed for prosecution.<sup>34</sup> Controlled substances and firearms may be stolen directly from an evidence storage facility or during the destruction process. As a result, there is a need for defined disposal procedures that provide thorough documentation, verification, and reasonable assurance regarding the final disposition. A witness should be required for critical steps of the disposal process. Additionally, disposal documentation should remain on file according to the court’s normal report retention schedule.<sup>35</sup>

## **Records Show Incorrect Disposition for Some Evidence**

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We identified several records for controlled substances,<sup>36</sup> firearms, and money that incorrectly described the item’s disposition as destroyed or released. In one instance we observed an open box marked Bio Hazard which appeared to have been in the court’s evidence room since 2001. The box contained items from a methamphetamine lab, along with a crystal substance. The court’s only record regarding the box was an index card stating the contents of the box had already been destroyed.

The Court System should tighten their policies and procedures for evidence handling from the time evidence is received to its final disposition. Items marked destroyed but remaining in the evidence room are of particular concern because these items could be easy targets for misuse or pilferage. Furthermore, clerks should not record evidence as being destroyed or released until the actual destruction or release has occurred.<sup>37</sup>

## **Recommendations**

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We recommend that the Utah State Court System:

1. Implement policies and procedures that are specific and detailed for handling evidence, from the time the courts take possession of an item through its final disposition.
2. Obtain proper documentation for the authorization of destruction or release of evidence, and retain the documentation in accordance with the normal report retention schedule.

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<sup>33</sup> Judicial Council Code of Judicial Administration Rule 4-206(4)(C)

<sup>34</sup> IAPE Standard 9.7: Drugs – Destruction Documentation and 11.9: Firearms – Destruction Documentation

<sup>35</sup> IAPE Standard 9.7: Drugs – Destruction Documentation

<sup>36</sup> Controlled substances included marijuana and cocaine.

<sup>37</sup> IAPE Standard 9.7: Drugs – Destruction Documentation

3. Establish sufficient controls and documentation policies to provide reasonable assurance that evidence, especially a controlled substance or a firearm, is either released to the party offering the evidence or properly destroyed.
4. Require a witness to verify, document, and account for critical steps of the disposal process, especially the release or destruction of high value items such as firearms, controlled substances, and cash.
5. Inspect controlled substances for any signs of tampering prior to release or destruction.
6. Develop policies and procedures that ensure items are not designated as released or destroyed until the actual release or destruction has occurred.
7. Ensure the safety of court personnel in handling and storing of controlled substances and other biohazards.

## **Finding 4                      Lack of Training and Weak Policies and Procedures**

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A lack of training for court clerks and evidence managers, as well as ambiguous or weak policies, procedures, and court rules, have contributed to inadequate evidence storage and management in the Court System. None of the clerks or exhibit managers that we interviewed have had formal training in handling, tracking, or disposing of evidence of any kind. Furthermore, several clerks indicated they lack the knowledge and guidance to properly dispose of evidentiary items. There were also clerks who were unfamiliar with court rules pertaining to handling and disposing of evidence. Management is responsible for ensuring that employees have sufficient training and guidance to do their jobs efficiently and effectively. The Court System should provide court clerks and exhibit managers training on handling evidence from the receipt of the evidence to the disposal of the evidence.

### **Court Clerks and Exhibit Managers Have Not Been Adequately Trained in Handling Certain Items**

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Court clerks and exhibit managers do not appear to have received any formal training in handling, storing, returning, or destroying evidence. Professional instructors in the field of evidence management should provide this training. Additionally, the training should include detailed information regarding case law, policies, procedures, and best practices.<sup>38</sup> Lack of training can result in spoiled, lost, pilfered, or damaged evidence, as well as a break in the chain of custody.

The major responsibilities pertaining to handling of evidence for which court clerks and exhibit managers should receive training include:

- Receiving all incoming evidence;
- Systematically storing the evidence;
- Preserving the condition of the evidence;
- Maintaining the evidence securely;
- Lawfully releasing or disposing of the evidence;
- Maintaining a chain of custody for the entire process that is sufficiently accurate and complete to satisfy any court requirements; and
- Fully documenting the process.<sup>39</sup>

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<sup>38</sup> IAPE Standard 1:8

<sup>39</sup> IAPE Standard 1:6

We observed the following areas where the training of clerks and exhibit managers could be beneficial.

**Handling and securing items during court proceedings.** Some clerks may lack the knowledge and guidance to properly handle and secure items during court proceedings. For example, we spoke with a clerk who described receiving items of evidence in a criminal trial and, at the end of the day, leaving the items on a desk. The cubicle containing the desk was in a large open room. Numerous individuals have access to the room, including individuals who are not members of the court staff. The following day, a different clerk retrieved the evidence from the desk and took them to the trial. The second clerk also kept the evidence on a desk overnight. Neither of the clerks documented the chain of custody during the trial as required by court rule.<sup>40</sup>

At a district court, deputy sheriffs are being asked to handle and store evidentiary items during court proceedings. However, the supervisor of the deputy sheriffs informed us that there was not a policy addressing how a deputy sheriff should handle evidence. The deputy sheriffs have not received training from the court on how to handle and store evidence received by that court.

Clerks at multiple sampled courts said the reason clerks do not know how to deal with evidence during a court proceeding is because they rarely have cases that go to trial. In fact, some clerks could not remember the last time their court had a criminal trial. Even so, it is possible that these courts will have trials at some point and, therefore, should be prepared to handle and store evidence accordingly.

**Handling and storing controlled substances.** Exhibit managers demonstrated a lack of knowledge about properly handling and storing controlled substances. For example, we observed an open box marked biohazard sitting on a shelf in the evidence room. The box contained items from a methamphetamine lab along with a crystal substance. On another occasion, an exhibit manager spilled a white powder on a desk while showing us the contents of a box, which contained several controlled substances. We also observed leaky packages in a cabinet that contained controlled substances.

It is important to note that the Court System adopted a policy several years ago that prohibits exhibit managers from storing controlled substances and certain other items at the conclusion of court proceedings.<sup>41</sup> Sampled courts seem to be complying with this prohibition. However, a few

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<sup>40</sup> Rule 4-206(2)(E) states that “[e]ach person with custody of an exhibit shall identify herself or himself in the exhibit custody tracking record.” The rule defines “exhibit custody tracking record” as CORIS or an approved form.

<sup>41</sup> Rule 4-206(2)(B) prohibits the court from retaining “narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit money, and exhibits of unusual bulk or weight.”

of the courts are currently storing prohibited items that were received before the courts implemented the prohibition.<sup>42</sup>

**Disposing of controlled substances and firearms.** We are concerned that exhibit managers do not know how to dispose of the controlled substances and firearms that are in their inventories. A clerk estimated that the prohibition on retaining controlled substances and firearms went into effect around 2013. The majority of the controlled substances and firearms stored by the courts are from old cases dating as far back as the 1980s. Court rule states that exhibit managers should dispose of evidence if “three months have expired from final disposition of the case and no appeals have been filed or requests for new trials or rehearing have been made.”<sup>43</sup> When asked about disposing of controlled substances and firearms that we observed, exhibit managers and clerks expressed a desire to dispose of these items but indicated they did not know how to do so.

**Receiving items from entities other than the courts.** Exhibit managers and clerks may also need training on what to do with items that are not received in conjunction with a court proceeding. For example, some court clerks have received items from probation officers and are unsure what to do with the items. These items include drug paraphernalia, clothing, a fake urine sample, pornographic materials, and a green leafy substance.

## **Court Rules Lack Guidance for Handling Evidence During Trials and Other Court Proceedings**

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We are concerned that Court System rules do not provide adequate guidance for handling evidence during trials and other court proceedings. The rules are not clear as to who should be handling and safeguarding the evidence and how it should be stored. Management is responsible for promulgating adequate rules, policies, and procedures.

During a trial or other court proceedings, clerks take possession of all types of evidence.<sup>44</sup> The Judicial Council Code of Judicial Administration Rule 4-206 restricts the clerks and exhibit managers from retaining certain evidentiary items, such as firearms and controlled substances, at the *conclusion* of a trial or other proceedings. However, some exhibit managers interpret the restrictions in Rule 4-206 to apply *during* the trials and other proceedings. We found that some exhibit managers will not accept these restricted items from the clerks even for a short time, such as during a recess or overnight in the case of a multiple-day proceeding.

Exhibit managers’ refusal to accept certain items of evidence during a proceeding has created confusion as to who should store and protect evidence during court recesses. This policy

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<sup>42</sup> Examples of prohibited items stored by exhibit managers include pills, marijuana, mushrooms, heroin, methamphetamine, cocaine, cash, and firearms.

<sup>43</sup> Judicial Council Code of Judicial Administration Rule 4-206(4)

<sup>44</sup> Judicial Council Code of Judicial Administration Rule 4-206(2)

confusion could potentially result in issues with preserving the chain of custody along with the danger of evidence being lost, pilfered, or tampered with in some way. Some clerks and officers we interviewed will ask courtroom bailiffs to handle and store evidentiary items. The clerks and bailiffs will often use closets in or near the courtroom to store the evidence. Storage in these rooms gives an appearance of being secure, but lacks the required documentation for maintaining the chain of custody. Additionally, numerous individuals have unfettered access to these rooms. Also, some exhibit managers who would normally accept the evidence *during* a proceeding, may be unavailable at the end of the day to secure the items in the evidence room.

## **Recommendations**

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We recommend that the Utah State Court System:

1. Ensure judicial policy is consistent with state statute and rules of criminal procedures, and ensure compliance with the policy.
2. Provide formal training to court clerks and exhibit managers in each aspect of handling and storing evidence, from receipt to disposal, including:
  - a. Handling and securing items during court proceedings;
  - b. Handling and storing controlled substances;
  - c. Disposing of controlled substances and firearms; and
  - d. Receiving items from entities other than the courts.
3. Ensure proper chain of custody is maintained and documented.
4. Implement policies and procedures for the handling of evidence during trials and other proceedings, including court recesses.
5. Determine the proper role of courtroom bailiffs and deputy sheriffs regarding allowance or restrictions on evidence handling.
6. Properly dispose of or return all money, controlled substances, and firearms to “the party offering them”<sup>45</sup> for all closed cases.

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<sup>45</sup> Judicial Council Code of Judicial Administration Rule 4-206(2)(E)

# Appendix A      **Audit Objectives, Scope, Methodology, and Limitations**

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The objective of this audit was to determine to what extent the Court System, specifically the district and juvenile courts, has established appropriate controls over the handling of evidence, with particular emphasis on money, firearms, and controlled substances. We reviewed six district courts and three juvenile courts, checking each court's controls, policies, and procedures for compliance with applicable state statutes<sup>46</sup> and application of industry best practices.<sup>47</sup>

We selected courts through a judgmental sample based on several factors, including the size and population served. Other activities conducted during the audit included the following:

- Reviewing state statutes, industry best practices, and similar audits performed in other states;
- Touring facilities where the courts store and maintain evidence;
- Interviewing court personnel, including exhibit managers and supervisors;
- Reviewing court policy and procedure manuals;
- Examining evidence being stored by the individual courts;
- Reviewing documentation associated with chain of evidence, including documents related to the courts assuming custody of the evidence, the intake and storage of the evidence, and the evidence being transferred, checked out, released, or destroyed.

We did not conduct detailed inventories because the courts' record management system does not have the ability to produce an inventory report.

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<sup>46</sup> Applicable state statutes include Title 24, Forfeiture and Disposition of Property Act; Title 53, Chapter 5c, Firearms Safe Harbor; and the Utah Courts, Judicial Council of Judicial Administration, Rule 4-206.

<sup>47</sup> To determine applicable best practices, auditors reviewed industry standards, recommendations, and procedures from the International Association for Property and Evidence (IAPE); the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA); other states; and other law enforcement entities. We primarily relied on standards from the IAPE, which "is a non-profit organization created by and for law enforcement professionals to help establish recommended standards for all property and evidence departments" (see <http://home.iape.org/about-us/about-us.html>).

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## **Appendix B**

### **Response from the Administrative Office of the Courts**

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## Administrative Office of the Courts

Chief Justice Matthew B. Durrant  
Utah Supreme Court  
Chair, Utah Judicial Council

August 26, 2019

Hon. Mary T. Noonan  
State Court Administrator  
Catherine J. Dupont  
Deputy Court Administrator

Mr. John Dougall  
State Auditor  
E310, Utah State Capitol  
Salt Lake City, Utah 84114

Dear Mr. Dougall,

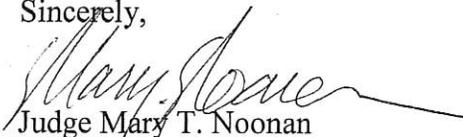
Thank you for the opportunity to respond to the recently completed *Audit of Evidence Storage and Management Among Selected Utah District and Juvenile Courts*. We agree with the findings and appreciate the candid approach and professionalism of the audit managers who performed the audit. Jim Phelps brings a perspective to the audit recommendations that is based on sound criteria and years of experience in evidence storage and management.

As a result of the audit, we have already prioritized the first steps necessary to address the audit findings:

- The Judicial Council's Policy and Planning Executive Committee will be reviewing the audit and Rule 4-206 of the Code of Judicial Administration at their September meeting;
- Effective immediately, all evidence storage locations throughout the state courts have been secured by our trial court executives, working in conjunction with our court security director;
- We are compiling a baseline inventory of evidence stored in all District and Juvenile courts, which should be completed in the next few months;
- We are drafting detailed evidence and inventory policies and procedures; and
- We are generating a plan to train court clerks and evidence managers on how to effectively apply the evidence and inventory policies and procedures.

Again, our thanks to your team for their assistance in helping us fulfill our mission.

Sincerely,

  
Judge Mary T. Noonan  
State Court Administrator

Cc: Cathy Dupont, Deputy State Court Administrator

The mission of the Utah judiciary is to provide the people an open, fair,  
efficient, and independent system for the advancement of justice under the law.