

United States District Court for the District of Utah  
Utah Alternatives to Conviction Track

The United States District Court for the District of Utah, U.S. Probation Office (USPO), U.S. Attorney's Office (USAO), and Federal Public Defender's Office (FPDO) designed the Utah Alternatives to Conviction Track program (UACT) in 2016 to provide rehabilitative services to selected defendants. The UACT program is a *post-guilty plea diversion program*. Participation is entirely voluntary.

Defendants who are interested in UACT must submit an application and file a standard Speedy Trial motion with their presiding judge. An order excluding the time from when an application is submitted for UACT until the entry of a guilty plea will be entered pursuant to the Speedy Trial Act, and a defendant who is accepted into UACT by the Selection Committee will have his or her case transferred to the District Court Judge who presides over UACT. Upon acceptance, that judge, the UACT Judicial Officer, will hold a status conference, order the preparation of a pre-sentence report, and schedule a date and time for a change of plea, approximately 60 days from the status conference. The USPO will prepare the pre-sentence report and allow sufficient time to allow for responses from USAO and defense counsel.

Prior to the change of plea date, the defendant and the USAO will negotiate a Rule 11(c)(1)(C) plea agreement that requires participation in the UACT program pursuant to the terms of the Interagency Agreement, and that specifies the benefit to be received if the program is successfully completed, and the sentence to be imposed if the program is not successfully completed.

In addition to agreeing to the terms of that plea agreement, the defendant will also be asked to waive confidentiality with any treatment providers who see the participant as part of the UACT program, waive confidentiality with the Assistant Federal Public Defenders who are assigned to represent the defendant during the UACT proceedings, and allow the UACT team to access subsequent criminal history for research purposes.

Once the defendant enters a guilty plea in accordance with the negotiated plea agreement, and with the necessary waivers, the Judicial Officer will appoint the Federal Public Defender's representative to represent the participant for all proceedings related to UACT. In the event that the Judicial Officer does not accept the 11(c)(1)(C) plea agreement, the participant will not proceed into UACT and will return to the originally assigned District Court Judge.

After entering a guilty plea, each participant will be subject to intensive pretrial services supervision. The conditions of supervision will include regular appearances before the UACT team, as well as participation in a program plan designed to address the participant's criminogenic needs. Among other things, participants may be asked to attend substance abuse and mental health treatment or vocational programs.

Participants will be in UACT at least 12 months, and up to 24 months. Each defendant determined by the UACT team to have successfully completed the program will receive the benefit specified in his or her plea agreement, including either (a) dismissal of the charges; or (b) sentence of probation instead of imprisonment. Defendants who fail to complete the program successfully will proceed to sentencing before the UACT Judge on the charges to which they entered a guilty plea.

The Selection Committee must unanimously agree to admit a defendant to UACT. Although there is no fixed criteria for admitting defendants to the program, the USAO will not support admission for cases with the following factors:

1. Career Offenders;
2. Armed Career Criminals;
3. Offenders with criminal history scores of V or VI (unless those categories over-represent criminal risk);
4. 924(c) cases (with recognition there may be rare circumstances where such cases are appropriate);
5. Victim cases, including child pornography cases, other than identity theft cases and note bank robberies; and
6. Non-victim white-collar cases involving more than \$500,000 in losses.

Participants will be placed into program tracks at the time of admission:

**Track 1** is for those with minimal criminal histories and for whom the current criminal conduct, though serious enough to warrant a felony charge (as opposed to pre-charge diversion), appears to be an aberration that could be addressed appropriately by a period of pretrial supervision with terms including:

- restorative penalties such as restitution and community service; and, where appropriate,
- programs intended to address any contributing causes for the aberrational criminal conduct, such as substance abuse, behavioral issues, or lack of education or employment training.

**Track 2** is for those with more serious criminal histories, and whose current criminal conduct warrants a conviction and sentence of probation instead of incarceration. Participants who successfully complete Track II keep their felony convictions, but the hope is that future criminal conduct will be deterred not only by the skills they learn in the program, but also by the continued supervision and treatment they will have during their probation sentence.

UACT is administered in accordance with the Interagency Agreement by the UACT team, which is comprised of the supervising UACT Judge, a Magistrate Judge, and designated representatives from USPO, USAO, and FPDO. The UACT program's operations include:

1. regular meetings to review prospective participants and select those who will participate in the program;
2. design of the programs to be completed by particular participants;
3. preparation for and attendance at regular court sessions to be conducted as part of UACT;
4. decisions regarding rewards for successes and sanctions for failures, while defendants are participating in UACT; and
5. determination of whether each defendant has successfully completed UACT and should receive the benefit specified in the plea agreement, namely, dismissal or a sentence reduction.

**Primary UACT contacts:**

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