

2020 ANNUAL REPORT

OFFICE OF THE UTAH ATTORNEY GENERAL





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AG OFFICE

MISSION & VISION

MISSION

To uphold the constitutions of the United States and Utah, to enforce the law, and to protect the interests of Utah and its people, environment, and resources.

VISION

The Utah Attorney General's Office (AGO) strives to be the best public law office in the State of Utah and the United States. With 539 attorneys and staff in offices across the state, the Utah Attorney General's Office serves Utah in advising nearly 60 state agencies, boards and commissions, colleges, and universities, as well as the Governor and, on occasion, the Legislature. Each member of the AGO team is committed to representing the citizens of Utah with the highest level of integrity, professionalism, civility, and transparency.

AG OFFICE

PRIORITIES

Protect Utahns, particularly children

The top priority of the Utah Attorney General's Office is to keep citizens, especially children, safe from violent and predatory crimes. AGO attorneys, investigators, and staff work hard through its task forces and with law enforcement partners to fight internet crimes against children, human trafficking, government corruption, and many other types of serious criminal activity. The office investigates and prosecutes these crimes to make the state safe for Utah families while protecting victims and empowering them to reclaim their lives.

Defend the Constitution and effective legal representation

Upholding and defending the Constitution of the United States and Utah and defending the law is at the heart of the Utah AGO. The Utah Attorney General's Office is committed to best practices of proper government and providing the best possible legal representation.

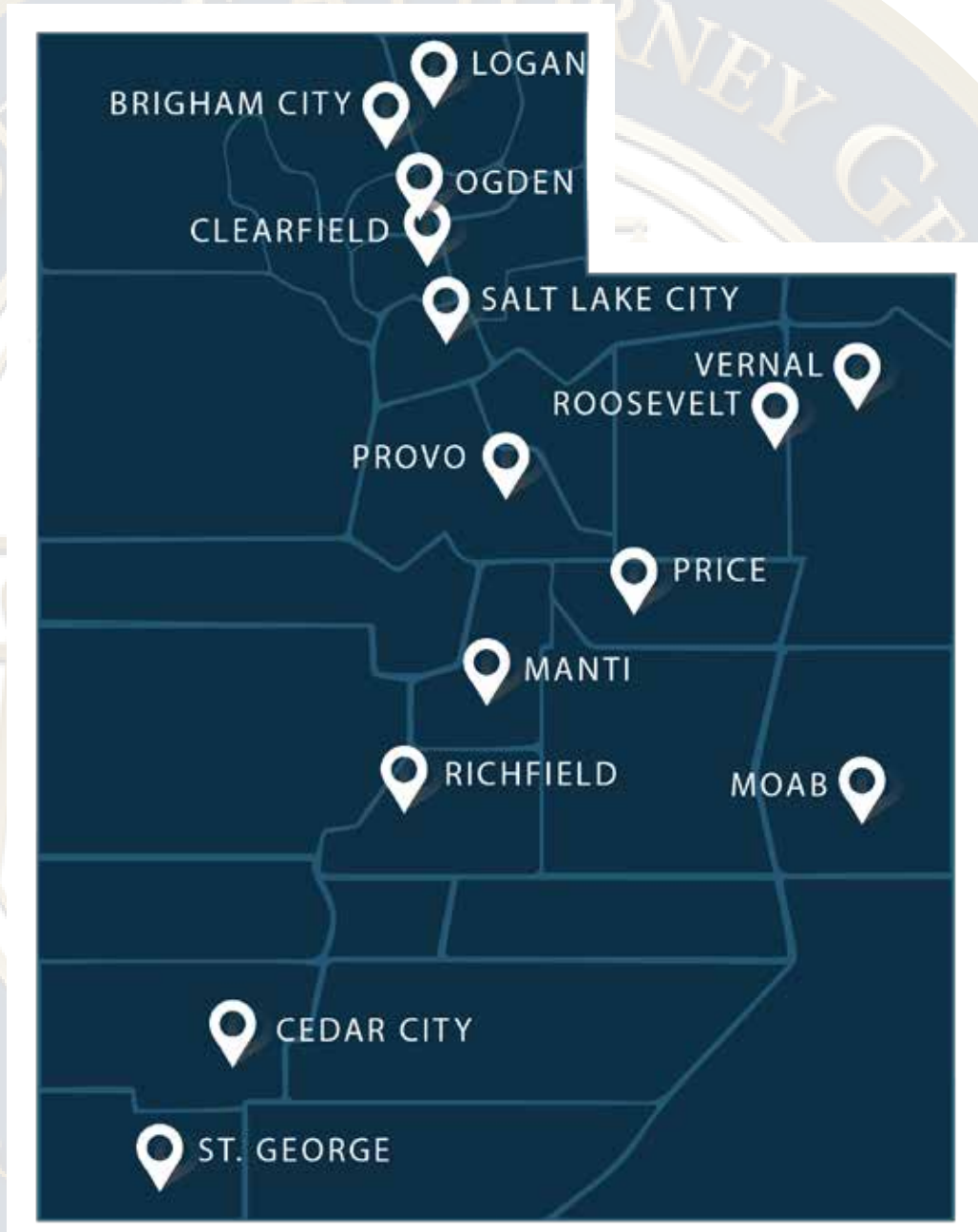
Defend Utah laws against federal government overreach

Utah's rich, natural resources and wild landscapes reflect a strength and independence that the Utah Attorney General's Office is proud to represent. From urban to rural interests, energy development to conservation, and pioneer stock to new residents, defense of our economy and enforcement of our laws has a far-reaching impact.

Protect Utah businesses and consumers from white collar frauds and scams

The Utah Attorney General's Office is committed to protecting businesses and consumers from those who abuse the law. Whether investigating and prosecuting tax fraud and Ponzi schemes, enforcing the Consumer Protection Act, cracking down on internet abuse and anti-competitive business practices, combating counterfeiting and identity theft, or safeguarding against other business crimes and abuses, these protections translate into a safer Utah for all of us.

AG OFFICE LOCATIONS



AG OFFICE

2020 Highlights

Children's Justice Centers

The Care Process Model (CPM) developed by Primary Children's Center for Safe and healthy Families and the University of Utah continued to be used in 21 CJsCs, and as of April of 2020, 8,700 children had been screened for traumatic stress in Children's Justice Centers and two primary care clinics.

The Program's Forensic Interview (FI) and Multidisciplinary Team (MDT) Specialists provided more than 100 instances of technical assistance and peer review to CJsCs in Uintah, Weber, Tooele, Utah, and Salt Lake Counties.

Gold King Mine Settlement

In the Gold King Mine Litigation, a settlement was negotiated with the EPA and DOJ in August 2020, providing \$3 million in grants to improve surface water quality conditions in Utah. The settlement also confirms that EPA has committed to costs of ongoing superfund response actions at mines in the Bonita Peak Mining District and other mining sites in Colorado upstream from Utah. These response costs are expected to exceed \$165 million.

Highways & Utilities

Rocky Mountain power submitted a revenue request of \$2.097 billion, with \$95.9 million in new requests. The case includes a requested rate increase of 4.8% phased in over three years, with 2.6% in 2021, 1.1% in 2022, and 1.1% in 2023.

Health

The Health Section provided the bulk of the legal advice to the Department of Health (DOH) on COVID-19 related matters including coordination with the Governor's counsel, and with county attorneys advising local health departments. The Section provided legal advice to DOH on data sharing, testing, public health orders, emergency rulemaking, federal and state vaccine distribution requirements, surge staffing issues, and so much more.

Internet Crimes Against Children Task Force

The ICAC Task Force focused their efforts to protect our most vulnerable in Salt Lake County, targeting child sexual predators for five days in June 2020. They arrested eight child predators for enticing a minor over the internet, and they have apprehended and prosecuted a minimum of seven repeat offenders on child pornography charges since January of 2020.

Human Smuggling

In December of 2020, Former Maricopa County Assessor Paul Petersen was sentenced on the Arkansas case to serve 74 months in federal prison. He will be sentenced on the Utah and Arizona cases early 2021. The AGO will seek the maximum sentence for Petersen's crimes of conviction, which includes up to 15 years in prison, a \$50,000 fine, forfeiting his law license and future ability to practice or facilitate adoptions in Utah.

Justice

In 2015- 2016, Aaron Michael Shamo engaged in a continuing criminal enterprise, in which he sold one million Fentanyl-laced fake oxycodone pills, primarily on the dark web, to recipients in every state in the Union. In October 2020, Shamo received a mandatory life sentence.

Litigation

In FY 2020, the Litigation Division received 233 new cases, 206 Notices of Claim, and screened 320 pre-suit employment matters. The Division closed 178 lawsuits through either settlement, dismissal on motion before trial, or tried to a jury or judge in federal or state court. The Torts Section of the Division also contributed significantly to the UTA's savings of over \$600,000 in legal costs since moving its legal work to the AGO through their work on handling UTA's accident cases.

AG OFFICE

2020 Best of State



The Utah Attorney General's Office found itself the proud recipient of multiple Best of State awards this year. Those in the Utah AG's Office work hard to uphold the Constitution, enforce the law, and protect the interests of Utah and its people. Our sincere thanks to all those who give their time and energy to help make our office the Best of State.

The Best of State Awards recognize outstanding individuals, organizations and businesses in Utah. More than 100 judges review the nominations and determine the winners based on achievement in the field of endeavor, innovation or creativity in approaches, techniques, methods or processes, and contribution to the quality of life in Utah.

See below for a complete list of the Attorney General's Office Best of State 2020 awards.

Elected State Official: Utah Attorney General Sean Reyes

Meritorious Service: Utah Solicitor General Tyler Green

Military Personnel/Unit: Utah@EASE

Public Safety Officer: Former ICAC Commander Jessica Farnsworth

Public/Private Partnership: The Utah Children's Justice Center Program

State Agency/Office: The Utah Attorney General's Office

Victim Advocacy: Attorney General Sean D. Reyes

Web-based Community Resource: SafeUT App

Youth Organization: AGO Youth Advisory Committee (aka The Teen Titans)

We congratulate Better Days 2020, a partner of the Attorney General's Office, for the following award for their dedication to promoting and bringing awareness to women's history in Utah.

Education/Advocacy Organization: Better Days 2020





INITIATIVES & PROGRAMS



UTAH OPIOID TASK FORCE

OVERVIEW

The Utah Opioid Task Force is a collection of federal, state, local, medical and community leaders across the state to address the pressing issues of the opioid crisis. Organized by the Utah Attorney General's Office, U.S. Drug Enforcement Administration and office of the U.S. Senate in 2017, this initiative is a voluntary task force to prevent opioid misuse and overdose, while having a dedicated staff to educate and enhance protective factors and prevention work for local communities. This multidisciplinary approach is a place to discuss comprehensive legislation and innovation of active solutions that happen at quarterly meetings and more. The task force also supports statewide rehabilitation efforts, policies to improve mental health and drug overdose death initiatives.

This collective approach has led to a 0.9% decrease in drug overdose death for year 2020. Utah is one of four states to see this decrease and is fully attributed to the success of the task force's coordinated efforts.



UTAH TAKE BACK DAY

The AGO encourages Utahns to prevent pill misuse by encouraging them participate in National Take Back Day by ridding their homes of unused, unwanted or expired medications.

In partnership with the U.S. Drug Enforcement Administration, the National Take Back day Initiative is a twice a year event to allow for communities to dispose of these potentially dangerous medications and prevent misuse.

With the pressing COVID-19 pandemic causing a cancellation of the Spring event, Utah still disposed of 16,970 pounds of unwanted, unused, and expired prescription drugs during Utah Take Back Days.

Utah Senate Bill 29 along with the U.S. Office of National Drug Control Policy are encouraging communities to have more outlets to self-disposal applications in order to reduce barriers to disposal. The AGO is working to increase opportunities to get more unused, unwanted and expired medications to be properly disposed of, whether through direct disposal via application or drop box.



16,970
POUNDS

of unwanted, unused, and expired prescription drugs were collected during Utah Take Back Days in 2020.

OTHER SUCCESSES

The Utah Opioid Task Force has been supporting various pilot projects across the state. Between the Davis Behavioral Receiving Center, University of Utah Bridges program and various research studies, over 7,000 people have been supported to direct access to care. The Utah Opioid Task Force also supports 5 centers of recovery spaces across the state and partnered with Utah Naloxone to have 350 individuals equipped to save a life.



Utah@EASE

OVERVIEW

Utah@EASE is a referral program led by the Office of the Utah Attorney General in conjunction with the Utah Department of Veterans and Military Affairs and the Utah State Bar.

It is a public-private partnership offering pro bono legal assistance and representation to veterans and Active Duty, Reserve, and National Guard service members for: military rights, immigration law, property/landlord cases, predatory lending, creditor/debtor issues, employment, consumer fraud, and wills/power of attorney.

Only matters listed above are covered under this program. Criminal, family law, personal injury, and legal matters against the USA or a state, among other issues, are not covered.

Assistance through the program is by referral only. If you have a legal emergency, contact an attorney. Utah@EASE referrals typically take several days.

Applicants must be Active Duty, Reserve, National Guard, or if a veteran, must have an honorable or general discharge, and have a legal issue that is covered.

In 2020, Utah@EASE won the Best of State Award for best Military Personnel/Unit for the second year in a row.

BY THE NUMBERS





SAFEUT

OVERVIEW

The SafeUT smartphone app is a free statewide service that provides real-time crisis intervention to Utah's students, parents, and educators. SafeUT was developed by the legislatively-created School Safety and Crisis Line Commission (the Commission), chaired by the Attorney General's Office. SafeUT allows teens in crisis to open a two-way messaging service with licensed clinicians, call a crisis counselor directly, or submit confidential tips to school administrators on bullying, threats, or violence. The app is staffed by trained crisis counselors at the University Neuropsychiatric Institute (UNI) 24 hours a day, 365 days a year.

SafeUT is far more than an app; it is a mental health system that acts to provide professional help for teens in crisis. Crisis help can be provided through texting, which factors into SafeUT's success with teens more comfortable texting than talking on a phone. Use is confidential, and crisis line workers do not inquire about identifying information except in emergency situations. SafeUT has been recognized nationwide for its effectiveness in saving lives and de-escalating potential school incidents. The Commission is currently working with several states to implement similar programs.

In 2020, SafeUT won the 2020 Best of State Award for Best Web-based Community Service for the second year in a row.

PURPOSE

To provide a means for a Utah student, parent, or school employee to access mental health crisis counseling 24/7/365, and to have the ability to submit confidential tips concerning unsafe, violent, or criminal activities, or the threat of such activities directly to their school.

Statewide Success Stopping Violence & Suicide in Schools

Enrolled schools are listed within SafeUT and school administrators are trained to handle submitted tips received through the app. At the end of 2019, 89.1% of all Utah schools (including public, private, charter schools, and universities) have been enrolled in SafeUT.

All tips submitted through the app are immediately reviewed by UNI staff. Non-urgent tips are sent daily to the appropriate school administrators, and

tips of a more threatening nature (including violence or planned school attacks) are sent immediately to law enforcement and administrators and resolved as quickly as possible. In 2020, the SafeUT app received tips about 279 unique potential school threats, including reports of explosives, guns, knives, and planned school attacks. While 78 of these tips were false, 201 of these events were verified by law enforcement as having merit and were dealt with immediately, saving many lives.

Development & Expansion

The SafeUT program was developed with funding from the Utah State Legislature in collaboration with the Utah Attorney General's Office, the University Neuropsychiatric Institute (UNI) and UHealth, the Utah State Board of Education, and the Utah Anti-Bullying Coalition.

In 2018, SafeUT expanded to Utah higher ed institutions and Utah technical colleges. In 2019, SafeUT expanded their services to the Utah National Guard.

Notable Successes

Saving Emma

"My cousin has a daughter named Emma [who was] struggling... she was using the SafeUT app on Saturday the 8th of February. Someone named Bryce [a SafeUT clinician] was texting back and forth with her as she proceeded to try and take her life.... Her parents and I are reaching out because we want to tell someone, anyone, everyone... The SafeUT app and Bryce saved her life.... Bryce had gotten enough information to figure out who she was and send the police and paramedics to save her... she survived and is getting help. I know you guys know how important this is, but as someone who has worked and volunteered in a similar capacity... I thought perhaps you... and Bryce if you can find him, might want to know she lived. This app saved their daughter's life and I am so grateful for you and your work."

Message from a grateful family member

"This App Saved My Life."

"This app saved my life. It gave me courage to speak up when I was in a dark time. I was about to end my life. I didn't because of this app."

Google App Review

802,373

STUDENTS HAVE ACCESS
TO THE APP

87.8% TOTAL STUDENT REACH



*Westminster College, BYU, and LDS Business College not enrolled

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WHITE COLLAR CRIME OFFENDER REGISTRY

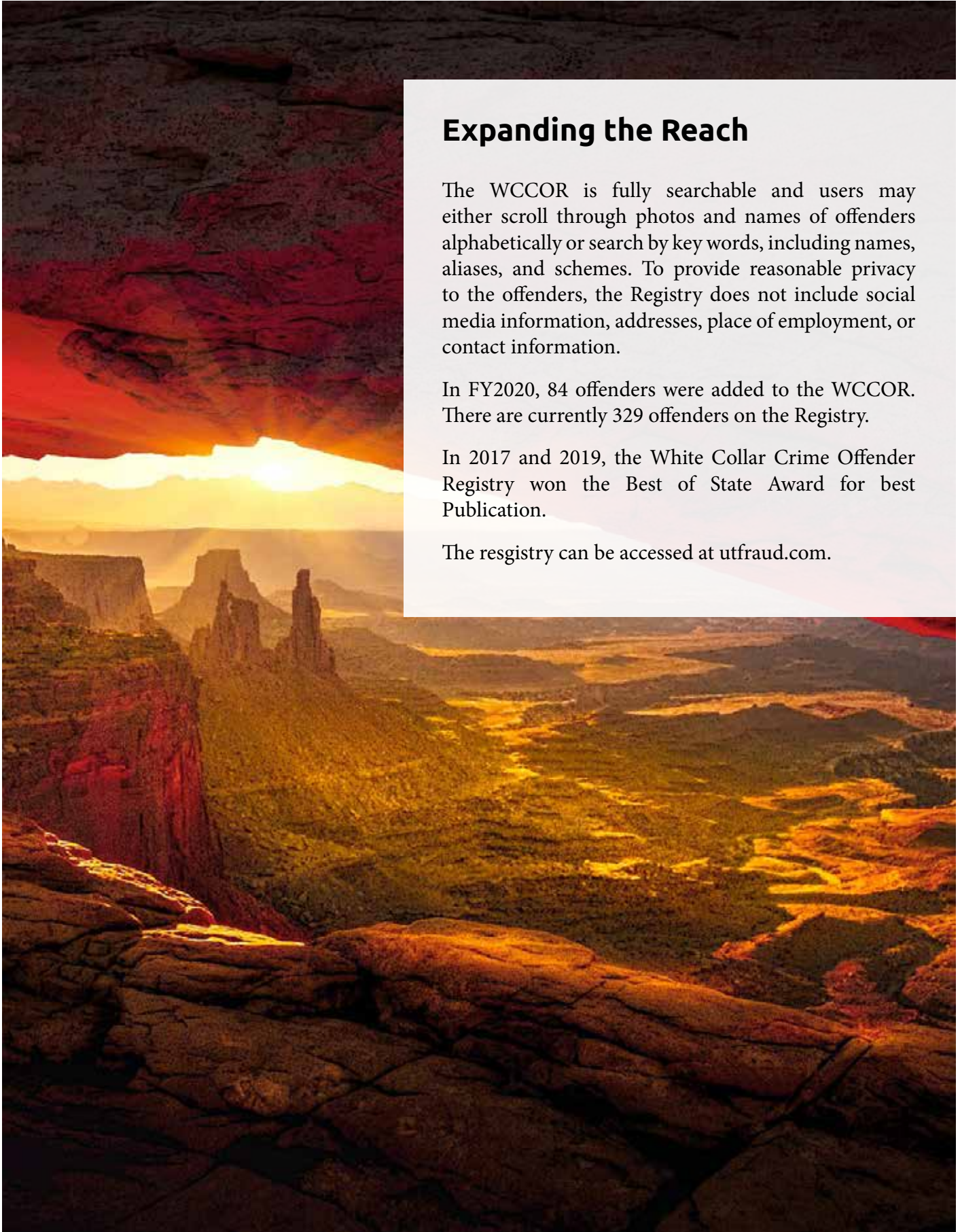
Overview

The White Collar Crime Offender Registry (WCCOR) is the first website nationwide that provides consumers with a central database of white-collar offenders. It allows investors to look up white-collar offenders and protect themselves from financial fraud.

The WCCOR was developed by the Attorney General's Office in cooperation with the Utah Legislature, the Utah Department of Commerce, the Utah Department of Consumer Protection, the Securities and Exchange Commission, and the Federal Bureau of Investigation.

Importance of the Database

While the main goal of the WCCOR is to provide a resource to investors, the database also incentivizes offenders to pay restitution. In Utah, over 100 people are convicted of white-collar crimes each year. Because of the volume and high dollar amounts of fraud crimes in Utah, most offenders the AGO prosecutes have defrauded their victims of over \$10 million. Investigations are complicated and can take years, translating into millions of dollars lost before criminals are brought to justice. While the AGO has expanded efforts to investigate and prosecute all fraud cases, very few victims ever receive restitution and those that do usually see only pennies on the dollar for their stolen investment. To help victims recover their money, the White Collar Crime Offender Registry incentivizes offenders to return property to victims to avoid being listed on the registry.



Expanding the Reach

The WCCOR is fully searchable and users may either scroll through photos and names of offenders alphabetically or search by key words, including names, aliases, and schemes. To provide reasonable privacy to the offenders, the Registry does not include social media information, addresses, place of employment, or contact information.

In FY2020, 84 offenders were added to the WCCOR. There are currently 329 offenders on the Registry.

In 2017 and 2019, the White Collar Crime Offender Registry won the Best of State Award for best Publication.

The registry can be accessed at utfraud.com.

YOUTH ADVISORY COMMITTEE *TEEN TITANS*

OVERVIEW

The Utah Attorney General's Youth Advisory Committee (aka Teen Titans) gives an opportunity to teenaged students to make the State of Utah a better place by providing advice to the Attorney General's Office on events, programs, and policies that affect teens.

The Committee meets every two weeks to tackle issues that are important to the State of Utah.



ACHIEVEMENTS

SafeUT App Review

The Teen Titans provided valuable input on how to make SafeUT more applicable and appealing to teenagers after reviewing the design, format, and chat features. The suggestions were adopted and put into place, resulting in a better app for all.

The Teen Titans frequently work with the SafeUT Commission and the SafeUT App Project Managers to create solutions to problems that affect Utah teens.



Advising Children's Justice Centers Program

The teens met with the statewide Children's Justice Centers Services Specialist, who showed them photos of the waiting rooms, exam rooms, and interview rooms at various CJC's throughout the state. The teens gave feedback on how to make the centers more welcoming for their peers who have been abused, as well as suggestions on how to communicate more effectively with teenagers during criminal investigations. These ideas are being implemented at centers across the state.



Operation Give Back

The teenagers joined with AGO Investigators and other law enforcement to identify families who could use extra help around the holiday season. They were dispatched to different stores in areas with a lower socioeconomic status to look for potential gift recipients. They then radioed to the law enforcement the car model and license plate of the recipients so that law enforcement could pull the family over and present them with the gift. The teens were also able to ride along with law enforcement to give away the gifts. Each family was deeply grateful.

Developing L.E.T.S. Stay Safe - A Gun Safety Program

The L.E.T.S. (Leave it alone; Educate others; Tell an adult; and Share threats with authorities) Stay Safe program and curriculum went live in the 2019-2020 school year. The Attorney General's Youth Advisory Committee was involved in the entire process, including early brainstorming meetings, curriculum design, and logo scheme. They helped the developers understand social media, different ways of learning, and Utah teen culture. They were also involved in the making of the instructional Gun Safety film and can be seen at multiple times throughout the video.



SUPREME COURT



APPEALS & CONSTITUTIONAL DEFENSE

3 DIVISIONS

29 ATTORNEYS & 7 STAFF

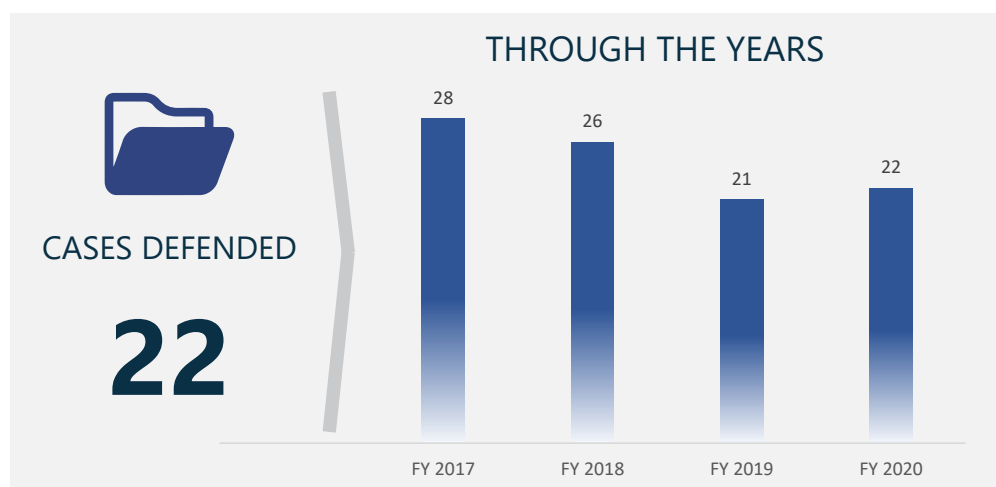
CONSTITUTIONAL DEFENSE & SPECIAL LITIGATION

OVERVIEW

Lawsuits challenging the constitutionality of state law (that are not covered by indemnification for civil liability for money damages in the Risk Fund) are defended by the Constitutional Defense and Special Litigation Division (“CDSL”) under the supervision of Solicitor General Melissa Holyoak. Some of the more publicized cases that have been handled by the Solicitor General and the CDSL team in 2020 include:

- Resolution of multiple lawsuits challenging executive orders related to public health and safety during the COVID-19 pandemic. These lawsuits challenged executive orders that changed election protocols, required mask mandates, and limited social gatherings.
- Dismissal of the constitutional challenges to Utah’s medical marijuana program.
- Dismissal of Salt Lake City’s challenging the statute authorizing the creation of the Inland Port—pending on appeal.

BY THE NUMBERS





NOTABLE CASES

Brown v. Herbert, et al.;
Burningham v. Herbert, et al.; and ***Garbett v. Herbert, et al.***

Gubernatorial and State House of Representative candidates challenged the signature petition process to secure a place on the ballot, arguing the effects of COVID-19 necessitated eliminating or reducing the requirements.

Epilepsy Association v. Herbert, et al.

Epilepsy Association of Utah challenged the Legislature's authority to amend the citizens' initiative creating a medical marijuana program for the State of Utah and further challenged the constitutionality of State administered distribution of marijuana—a substance that remains unlawful to possess or distribute under federal law.

Maxfield, et al. v. Cox; and
Maxfield, et al. v. Herbert, et al.

Individuals challenged the statutory requirements to sponsor citizen referenda, claiming that requiring sponsors to have voted in the State's general election in the past three years violates the first amendment and

requiring sponsors to secure the requisite signatures from 20 of the 29 counties within the State violates equal protection.

Planned Parenthood Association of Utah v. R. Saunders, et al.

(*Planned Parenthood v. Miner: et al.*)

Planned Parenthood of Utah has challenged the constitutionality of Utah Code §76-7-301 which does not allow abortions performed after the 18th week of pregnancy except in the case of incest, rape or when the health of the mother is in jeopardy.

Salt Lake City v. Herbert, et al.

Salt Lake City challenged the constitutionality of the legislation creating the Inland Port Authority. CDSL successfully defended the law in district court. Salt Lake City has appealed to the Utah Supreme Court.

Utah Stream Access Coalition v. VR Acquisitions LLC, and State of Utah

Utah Stream Access Coalition has challenged the law restricting the public's access to use the steam beds throughout the state for recreational purposes.



CRIMINAL APPEALS

OVERVIEW

The Criminal Appeals Division defends all felony convictions—including capital murder convictions—from the direct appeal through all the remaining levels of review in State and Federal Court. In addition to briefing and argument in the appellate courts, this includes civil litigation practice covering complex discovery and evidentiary hearings.

The Division works to shape precedent so that the law is fair to all of Utah's citizens.

HIGHLIGHTS

- *State v. Lopez and Nielsen*. The Division successfully defended against attempts to force crime victims to testify at preliminary hearings when their testimony can add nothing to the determination whether to bind the case over for trial. This means that crime victims—often child victims of sexual assault—will not have to face their victimizers or be subject to cross-examination more than one time.
- In three cases, the Division successfully persuaded the Utah Supreme Court to realign Utah precedent with United States Supreme Court precedent on the standards for evaluating defense counsel's representation. This should reduce the number of convictions overturned on ineffective-assistance-of-counsel claims that would have been upheld under the United States Supreme Court's precedent.

The Division also writes States' amici (friend of court) briefs in the United States Supreme Court supporting other States' appeals on issues that affect Utahns. Other States have begun recruiting the Division to write amici briefs on their cases. This year the Division wrote three such briefs, one of which defended an insanity defense statute that was nearly identical to Utah's.

Utah Supreme Court Advisory committees:

- Rules of Criminal Procedure
- Rules of Evidence
- Rules of Appellate Procedure.

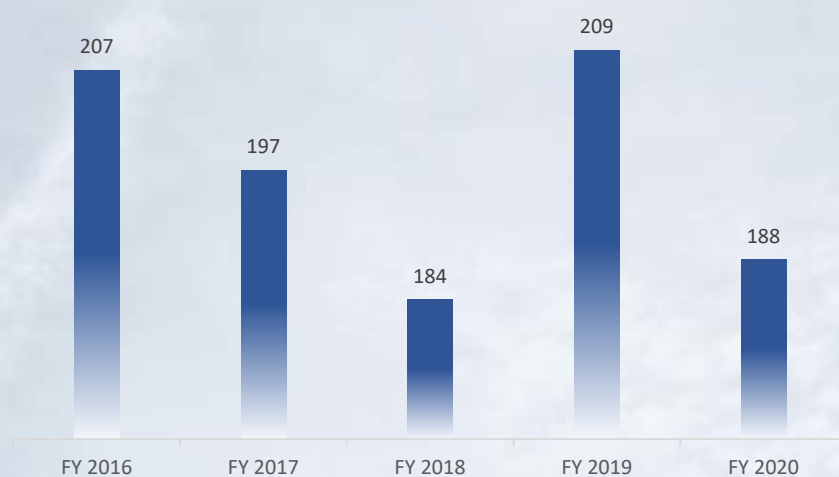
BY THE NUMBERS



NUMBER OF BRIEFS FILED

188

THROUGH THE YEARS





CIVIL APPEALS

OVERVIEW

The Civil Appeals Division is part of the Appellate Department under direction of Solicitor General Melissa Holyoak. Appellate lawyers in the division defend the state's victories from challenges on appeal or obtain reversals by the appellate court of erroneous, adverse decisions. The division frequently works together with other trial attorneys in the AGO on complex substantive matters involving challenges from administrative actions and district court cases, as well as questions certified to the Utah Supreme Court from other courts. Wide-ranging challenges handled by the division may involve constitutional challenges, Native American law, administrative law, eminent domain, tax law, water law, public lands, and prisoner parole issues.

IMPORTANCE OF CIVIL APPEALS

The division handles virtually all civil appellate matters involving the state and its myriad agencies, officers, and employees represented by the AGO. The division also drafts amicus briefs on important issues raised in other appellate cases that do not directly involve a state party. Civil appellate matters arise in both state and federal appellate courts, including the Utah Court of Appeals, Utah Supreme Court, U.S. Court of Appeals for the Tenth Circuit, and the United States Supreme Court. These are particularly important as they are likely to become binding precedent throughout the state, the Tenth Circuit (including six western states), or the nation.



HOW THE CIVIL APPEALS DIVISION WORKS

The division is divided into two sections: the Civil Appeals Section and the Litigation Appeals Section. The Civil Appeals Section has four attorneys and handles civil appeals within the AGO. These appeals cover a wide variety of issues, including constitutional challenges, Native American law, administrative law, eminent domain, tax law, water law, education law, public lands, environmental law, and prisoner parole decisions, among others.

The Litigation Appeals Section has three attorneys and handles appeals from risk management-covered cases involving torts, civil rights, and employment claims against the state, other governmental entities, and their employees. These appeals not only present important legal questions; they also often pose significant financial risk for the state and its agencies.

On appeal, attorneys generally defend the lower court's decision, but can occasionally take appeals seeking to reverse adverse lower court decisions. The appellate attorneys are some of the few attorneys in the office that are required to play both offense and defense, each of which involve different skill sets. Done properly, most appeals take significant time, effort, and skill.

In addition to briefs (merit or amicus), attorneys may have to draft other substantive pleadings, and they participate in mediations when settling an appeal is in the state's best interest. In addition to preparing for their own oral arguments, attorneys spend significant time helping prepare their colleagues for oral argument by reviewing the briefs, discussing the issues, and acting as judges in moot courts.

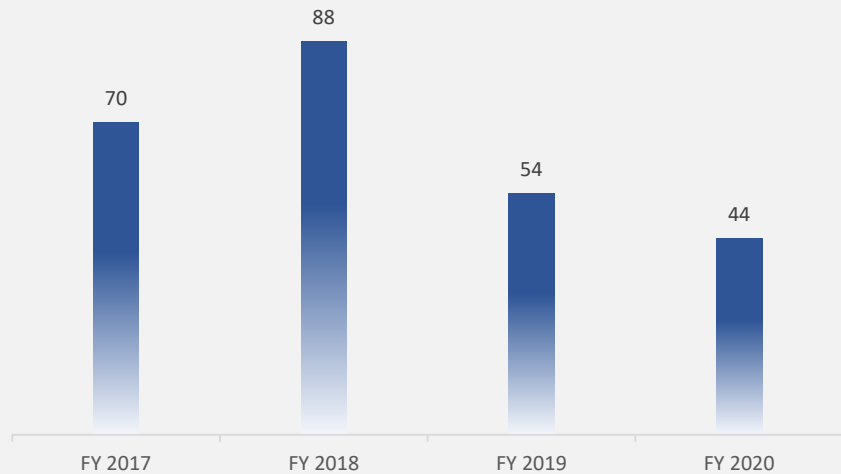
BY THE NUMBERS



BRIEFS FILED

44

THROUGH THE YEARS



NOTABLE CASES

ACLU v. Utah (Utah Supreme Court): The ACLU and others filed a petition in the Utah Supreme Court seeking immediate release of large groups of prisoners incarcerated in Utah state prisons and county jails. The Civil Appeals Division (with help from Criminal Appeals) quickly prepared a comprehensive response defending the State’s careful protocols for preventing exposure to the virus and treating patients that might get infected. The Supreme Court denied the ACLU’s petition.

Steiner v. Utah State Tax Commission (Utah Supreme Court): The Steiners challenged the constitutionality of Utah’s individual income tax statutes that taxed the Steiners on income generated in foreign countries and other states. The case raised novel tax issues involving the dormant Commerce Clause and the district court had ruled for the Steiners as to their foreign income. The Utah Supreme Court upheld Utah tax laws, and determined that it would not go into uncharted dormant Commerce Clause

territory to rule in the Steiners’ favor. The Steiners then sought review from the United States Supreme Court, which denied the request.

GeoMetWatch v. USURF (10th Circuit): GeoMetWatch (GMW) alleged that the Utah State University Research Foundation (USURF), the Utah State University Advanced Weather System Foundation, and several of USU’s current and former employees conspired with a venture capitalist Alan Hall to steal GMW’s trade secrets for development of a cutting-edge weather sensing and satellite technology that was invented by USURF. The case involved more than \$500,000 in litigation costs and numerous experts. GMW is seeking more than \$1,000,000 in damages. The district court granted USURF’s motion for summary judgment based on governmental immunity and lack of causation for GMW’s damages. Briefing before the 10th Circuit Court of Appeals is completed, and oral argument is scheduled for January 2021.

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CIVIL DEPARTMENT

7 DIVISIONS

137 ATTORNEYS & 64 STAFF



STATE AGENCY COUNSEL

OVERVIEW

The State Agency Counsel Division acts as a catch-all for the Office of the Attorney General, handling work that doesn't fit within more narrowly-focused divisions.

LEGAL COUNSEL & SERVICES PROVIDED

The State Agency Counsel Division provides legal counsel and services for the following:

Constitutional Offices & Executive Issues

- Lt. Governor
- Treasurer
- Department of Technology Services
- DTS Data Security Management Council
- Utah State Fair Corporation Board
- Olene Walker Housing Loan Fund Board
- Private Activity Bond Board
- State Homeless Coordinating Committee
- Community Development Block Grant Policy Committee
- Veteran's Pro Bono Project (UDVMA)
- Governor's Office of Management & Budget
- Board of Examiners
- Motion Picture Advisory Commission/Utah Film Commission
- Native American Legislative Liaison Committee
- Native American Remains Review Committee
- Pete Suazo Boxing Commission

Corrections Section

- Board of Pardons and Parole
- Department of Corrections-Executive, Institutions and Adult Probation & Parole
- Sex and Kidnap Offender Registry
- Child Abuse Offender Registry
- Interstate Agreement on Detainers and Extradition
- Utah Commission on Criminal and Juvenile Justice
- Office of Medicaid Inspector General
- Office of Crime Victims
- Interstate Compact

Legal counsel and Services Provided *Cont.*

- Governor's Rural Partnership Board
- STEM Activity Center Board
- Utah Capital Investment State Board (Fund of Funds)
- Legislative Compensation Commission
- Indian Affairs/litigation
- Utah National Guard
- State Armory Board
- Navajo Trust Fund
- Tourism Board
- Permanent Community Impact Board
- Native American Legislative Liaison Committee
- Utah Outdoor Recreation Grant Advisory Committee
- Quality Growth Commission
- Tobacco Settlement
- Governor's Office of Economic Development
- Business Development Board
- Governor's Economic Development Council
- USTAR
- USTAR Governing Authority
- Utah International Relations and Trade Commission
- DAS Risk Committee
- State Archives & Records Committee
- Purchasing
- Rules
- Finance
- Transparency Board
- Indigent Parental Defense Board
- Capital Indigent Defense Trust Fund Board
- Judicial Performance Evaluation Commission
- Fleet
- Surplus Property
- Division of Facilities and Construction Management
- Capitol Preservation Board
- State Building Board
- New Prison
- Utah Office of Energy Development
- Utah Energy Infrastructure Authority Board
- Utah Money Management Council
- OPEB Trust Fund
- State Institutional Trust Fund
- Utah Office of Debt Collection
- Workers' Classification Coordination Enforcement Council

State Agency Section

- State Auditor
- Department of Heritage and Arts (DHA)
 - Division of Arts and Museums
 - Utah Arts Council
 - Museum Services Advisory Board
 - Division of State History
 - State History Board
 - Division of State Library
 - State Library Board
 - Martin Luther King Jr. Human Rights Commission
 - Multicultural Commission
- Utah Commission on Service and Volunteerism
- Labor-Uninsured Employer's Fund
- Labor-Industrial Accidents Division
- Labor-Occupational Health and Safety Division (OSHA)
- Labor-Utah Antidiscrimination & Labor Division
- Labor-Collections
- Utah Department of Alcoholic Beverage Control
 - DABC Advisory Board
 - Alcoholic Beverage Control Commission

Administrative Services Section

- Department of Administrative Services Executive Office (DAS)

Human Services Section

- Division of Services for People with Disabilities
- Utah State Developmental Center
- Division of Aging Services
- Utah Department of Human Services Executive Office
- Utah State Hospital
- Juvenile Justice Services
- Division of Licensing
- Office of the Public Guardian

In addition to serving these agencies, AGO attorneys specialize and advise on the following:

- Civil Prisoner Relief Petitions
- Civil Review Committee & Local Government
- Competency Issues
- Constitutional Issues
- Gambling Complaints
- GRAMA
- Notary Public Issues
- Public Ethics
- State Government Powers and Authority
- Trademarks
- Weatherization

BY THE NUMBERS



APPROXIMATE NUMBER OF ISSUES & CASES HANDLED

21,139



APPROXIMATE TOTAL DOLLAR AMOUNTS AT ISSUE

\$21,300,227

NOTABLE SUCCESSES

State Agency Counsel negotiated multiple, multi-million dollar tax credit contracts estimated to bring billions of dollars to the state over the next 20 years – including for Amazon and Northrop Grumman.

State Agency Counsel has been representing the various agencies of the state as they navigate COVID-related issues. The Division helped them all continue to fulfill their statutory obligations like complying with the Open Public Meetings Act, meeting requirements for hearings, etc. The Division assisted the Department of Alcoholic Beverage Control on the Governor’s Emergency Orders and the way those orders interplay with the Alcoholic Beverage Control Act. The Division also provided front and back-end legal support for five COVID relief grant programs supporting Utah’s business community – primarily targeting small businesses most impacted by the pandemic.

The Division aided the Department of Corrections and Board of Pardons in working through the challenges of COVID-19 in corrections facilities, and they worked with Adult Probation and Parole on training issues involving racial sensitivity, searches when children are present, and excessive force.

The Division was also instrumental in responding in the case of *ACLU v. State of Utah, et. al.*, in the Utah Supreme Court. This was litigation brought early in the outbreak of COVID in Utah. ACLU argued that State and County inmates should be released in substantial numbers in response to the danger of COVID. It was a multi-division effort to create a lengthy brief in response to ACLU’s claims. State Agency Counsel was primarily responsible for gathering and organizing all of the factual information necessary to respond to the petition, including assisting in writing the statement of facts in the brief.

EDUCATION

OVERVIEW

The Education Division provides legal counsel to the state's systems of public education and higher education, which consists of the State Board of Regents, the University of Utah, Utah State University, Weber State University, Utah Valley University, Southern Utah University, Dixie State University, Snow College, and Salt Lake Community College. Legal services provided to the colleges and universities vary from campus to campus, but are primarily focused on practicing preventative law, complying with state and federal statutes, and defending the institutions during internal hearings, including student conduct hearings, employee discipline matters, and tenure appeal hearings.

PUBLIC EDUCATION

In public education, the division provides legal counsel and guidance to the 15-member State Board of Education (USBE) and its committees, the State Superintendent and staff, the State Charter School Board, the School and Institutional Trust Lands Administration (SITLA) nominating committee, the Utah Schools for the Deaf and Blind (USDB), and the various departments, programs and boards associated with the USBE. In addition, the division provides counsel for state agencies under the direct control and supervision of the USBE.



Attorney General Reyes meets with Student Council members from Midway Elementary School.



RESPONSIBILITIES

- Represent state colleges and universities before the State Records Committee related to the disclosure of records
- Represent institutions—as well as student loans serviced and held by the Utah Higher Education Assistance Authority—in bankruptcy courts
- Represent and advise internal university matters and hearings (student code of conduct, appeals of denial of tenure, student rights, and employee discipline)
- Represent colleges and universities in bonding efforts

In addition, the division also handles delinquent student loan collection for the Utah Higher Education Assistance Authority.

LEGAL SERVICES PROVIDED

- Reviewing, drafting, and negotiating hundreds of grants, contracts, and procurements.
- Acting to ensure compliance with state and federal laws and regulations to properly conduct educational programs and implement educational policies.
- Providing legal representation during administrative hearings and for non-Risk covered litigation, including public teacher misconduct, civil rights, educational rights of indigent or immigrant families, Equal Employment Opportunity Commission (EEOC) and Utah Antidiscrimination and Labor Division (UALD) discrimination claims, sexual misconduct or sexual harassment, and student rights.

HIGHER EDUCATION

The division has eleven attorneys assigned to provide legal counsel and advice to each of the state's eight institutions of higher education; the Offices of the Commission of Higher Education; the Utah System of Technical Colleges and its eight separate college campuses; the Utah Higher Education Assistance Authority; the Utah Educational Savings Plan; and the Utah Education and Telehealth Network.



APPROX. MATTERS PER WEEK ADDRESSED
BY HIGHER ED. ATTORNEYS

250-350

LITIGATION

OVERVIEW

The Division's 25 attorneys and 12 paralegals work in three different practice groups, or sections: employment, civil rights, and torts. In addition, three appellate attorneys from the Civil Appeals Division are dedicated to handling appeals of cases in the Litigation Division. Attorneys exercise independent, professional judgment and render candid advice, referring not only to the law but also to moral, economic, social, and political considerations relevant to the individual client's situation. The division handles some of the most important and highest profile cases in the state. On average, the division has about 250 active lawsuits at any given time.

LAWSUITS

In FY 2020, the Division closed 178 lawsuits. These closed cases were either settled, dismissed on motion before trial, or tried to a jury or judge in federal or state court or before an administrative body. Each of these cases demanded money from the state or state agencies, either a specific dollar amount or "reasonable damages." In 2020, the Litigation Division received 233 new cases, 206 Notices of Claims and screened 320 pre-suit employment matters.

BY THE NUMBERS



NEW CASES

233



CLOSED CASES

178



NOTICES OF CLAIM

206



SECTIONS

The **Civil Rights Section** deals with lawsuits claiming monetary damages for constitutional and statutory civil rights violations, such as free speech, religious freedom, and establishment claims, as well as search and seizure, due process, cruel and unusual punishment, equal protection, ADA, and Title IX.

Attorneys in the **Employment Section** specialize in defending state agencies, higher education, school districts, and charter schools who are sued by present and former public employees claiming wrongful termination or other job-related mistreatment under numerous federal and state laws including Title VII, Title IX, and the ADA. The attorneys also regularly advise these state entities when they are contemplating adverse employment actions.

The **Torts Section** handles lawsuits involving catastrophic bodily and emotional injury, property damage, and other personal loss allegedly caused by state employees' negligence. As mandated by recent legislation, the torts section now defends UTA's tort cases, which include accidents with UTA buses, TRAX, and Frontrunner. UTA has recently announced that since moving its legal work to the Attorney General's Office, it has saved over \$600,000 in legal costs. The torts section has contributed significantly to that savings by handling UTA's accident cases.

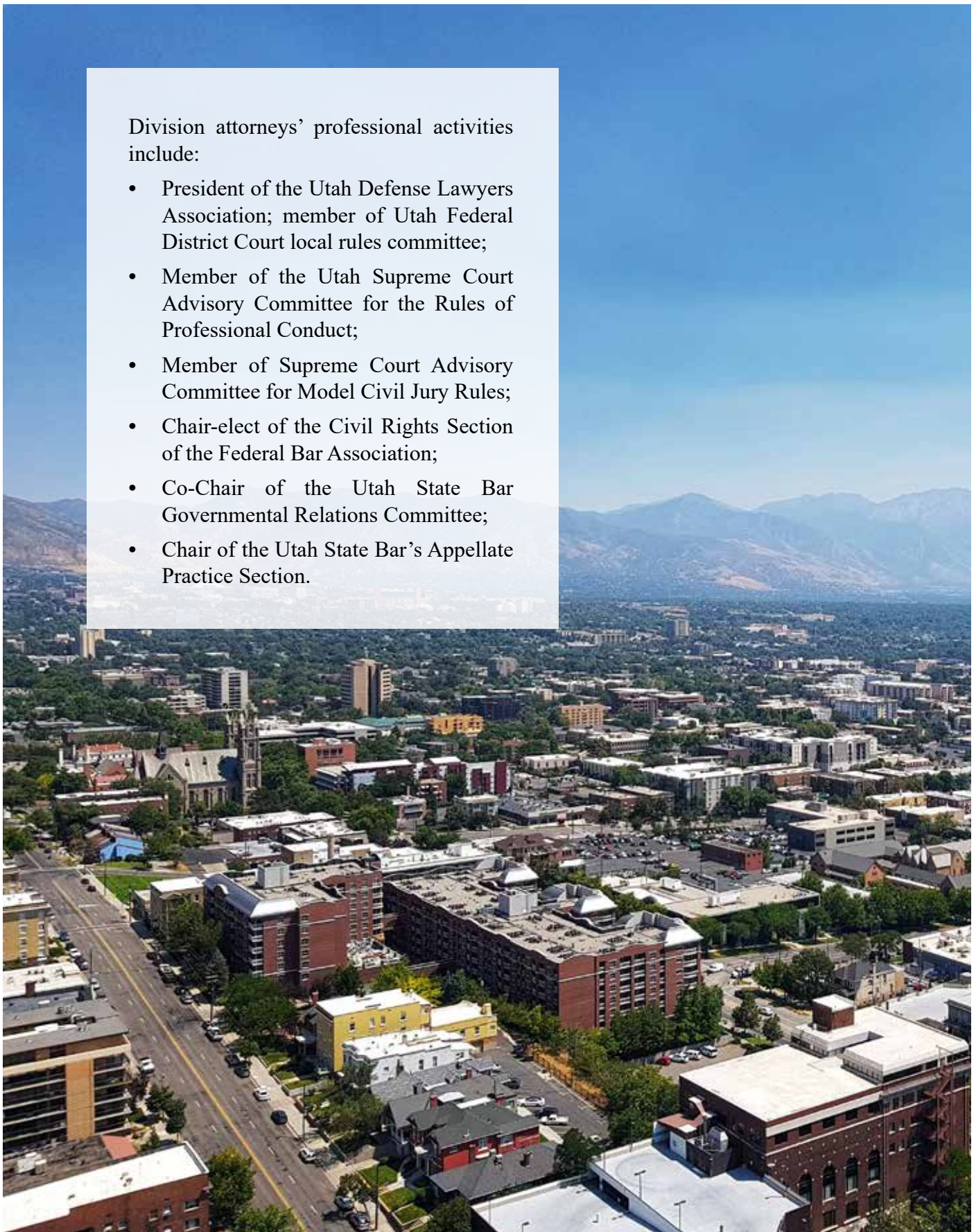
OTHER MATTERS

While litigation is the focus, the Division is also involved in other important activities, including:

- **Early Intervention in Employment Matters.** Employment attorneys advise state agencies that are considering whether to discipline or terminate an employee. This advice helps agencies to avoid exposure if the employee later sues the state. The Division of Risk Management, which ensures state agencies defending employment claims, has seen a decline in employment claim payouts since it began paying for employment section attorneys to advise state agencies on how and when to discipline an employee.
- **Trainings.** Risk Management is tasked by statute with providing training to state agencies to help minimize claims and Risk has increasingly used the Litigation Division attorneys to present training to agencies. The Division attorneys provide training not only to state agencies, but also to universities and school districts in matters such as Title VII, Title IX, the Utah Whistleblower statute, and the ADA. In addition, the Civil Rights Section provides annual training to the Department of Corrections on handling inmate complaints from the filing of a grievance at the prison through federal court litigation.
- **Participation in Professional Activities.** Attorneys in the Litigation Division actively participate in professional legal organizations in the state, enhancing the reputation and presence of state attorneys in the legal profession and contributing to the development of the law.

Division attorneys' professional activities include:

- President of the Utah Defense Lawyers Association; member of Utah Federal District Court local rules committee;
- Member of the Utah Supreme Court Advisory Committee for the Rules of Professional Conduct;
- Member of Supreme Court Advisory Committee for Model Civil Jury Rules;
- Chair-elect of the Civil Rights Section of the Federal Bar Association;
- Co-Chair of the Utah State Bar Governmental Relations Committee;
- Chair of the Utah State Bar's Appellate Practice Section.



NOTABLE CASES

Gordon v. Jordan School District, et al.

Brent Gordon—father of Samantha (Sam) Gordon, the nationally known girls tackle football phenom—and other parents have sued several local school districts claiming the districts are violating Title IX and the Federal Constitution by not offering girls tackle football in their high schools. This case has garnered national attention since it asks the question of whether federal law or the Equal Protection Clause requires high schools to offer all-girls tackle football if they offer boys tackle football. Since the lawsuit was filed, the districts have surveyed female students to determine their interest in participating in various sports, including girls-only tackle football. And the districts are working with the Utah High School Athletics Association—also being sued in the case—to create an emerging sports policy to grow opportunities for female student athletes. The case was tried before federal judge Howard Nielsen in November 2020. A ruling is expected in 2021.

May v. UDOC. This class action lawsuit was brought by inmates demanding that prison medical staff treat their Hep C with drugs that cure the disease rather than merely treat the symptoms, claiming that to allow the disease to go untreated could result in permanent injury or death, amounting to cruel and unusual punishment under the federal constitution. But the treatment to cure the disease is very expensive. The Hep-C litigation team was able to negotiate a settlement which provides all inmates who have chronic hepatitis C with ongoing monitoring of their disease, and provides direct-acting curative treatment for those whose disease advances to the stage where they develop symptoms. The structure of the settlement also provides significant cost savings to the state over the next five years in addition to the public health benefit of working toward eradicating hepatitis C in a high-risk population.

McCluskey v. University of Utah.

This tragic case involved the murder of University of Utah student track athlete Lauren McCluskey who was killed while walking from class to her car by an estranged boyfriend. Lauren’s parents sued the University and several of its employees seeking \$56 million in damages. Shortly before her murder Lauren had gone to University police and reported her ex-boyfriend was extorting her with explicit photos. The parents claimed police did not take Lauren’s complaints seriously because she was a woman reporting a dating-related incident and they claim police were not adequately trained in how to handle such reports. While the case was ongoing, media reported that a U of U police officer showed the photo Lauren had provided as evidence to other officers in circumstances that were not strictly for business. The University of Utah ordered an outside investigation by the Department of Public Safety, which found that the officer had shown the photograph for purposes that did not appear to be for business necessity. The McCluskeys added a claim to their lawsuit based on this alleged conduct. The case was resolved on the second anniversary of Lauren’s death for \$10.5 million in insurance money, \$3 million in donations from the University of Utah to the Lauren McCluskey Foundation to be used on campus safety, and a pledge to fund-raise for construction of an indoor track facility named or co-named for Lauren McCluskey. The settlement is subject to legislative approval.

Gomez v. O’Gwin

Joseph Gomez sued his former parole officer Andrew O’Gwin for a Fourth Amendment violation. Although it was expected this case would go to trial, the AG team on the case was able to resolve it through mediation in May for \$250,000.

NATURAL RESOURCES

OVERVIEW

The Natural Resources Division provides general legal and litigation support to the Utah Department of Natural Resources (DNR) and its divisions: Forestry, Fire & State Lands; Oil, Gas & Mining; Parks & Recreation; Water Resources; Water Rights; Wildlife Resources; and Utah Geological Survey. The division also represents and supports the Public Lands Policy Coordination Office (PLPCO), the Constitutional Defense Council (CDC), and the Utah Department of Agriculture and Food (UDAF) in the protection, preservation, development, use, stewardship, and conservation of the State public lands, roads, natural resources, and agricultural resources.

Division attorneys maintain specific expertise in the fields of water rights, oil and gas, public lands, sovereign lands, public roads, public recreation, wildlife, fire suppression cost-recovery, endangered species, Native American law, medical cannabis, and various aspects of agriculture law.

WORKLOAD

The attorneys in the division devote substantial time acting as in-house counsel and engaging in "advise-and-consent" practices and transactional work. As such, counting the number of cases they handle alone does not provide a complete picture of their workload and productivity. Their work is critical to the client agency's efficient operations, fulfillment of statutory mandates, compliance with state and federal laws in areas of complex regulation, and litigation avoidance. The division does not measure success by the number of cases litigated or won, but by the number of cases that never happen because of its attorneys consistently participating in client decision-making, providing sound legal advice, and creating trust between attorney and client. The product of these relationships is incalculable in saving the state funds and resources that would otherwise be required to litigate disputes. Any analysis of attorney workload and productivity must consider the array of legal tasks performed and the fact that many cases often drag on for years.



RESPONSIBILITIES

- Protecting Utah's interstate water allocations and providing litigation support for the general adjudication of water rights in Utah
- Determining rights-of-way across federal lands and litigating with the United States to determine ownership and maintain uses of land
- Overseeing ownership of and access to lands and waterways for recreational uses
- Conserving sensitive wildlife species and ensuring that the decisions under the federal Endangered Species Act are appropriate
- Preserving the State's sovereign authority to manage wildlife resources on private and public lands within its borders
- Negotiating with the United States and Native American tribes to resolve reserved water right claims for federal reservations
- Assuring all requirements are met to allow appropriate development of lands for extraction of mineral, oil, and gas resources
- Assuring the State's agricultural interests are enhanced and safeguarded consistent with statutory directive and necessary regulations
- Assuring the State medical cannabis program satisfies legislative directive

OIL, GAS & MINING AND FORESTRY, FIRE & STATE LANDS



OVERVIEW

Six of the attorneys and a paralegal are co-located with their clients at the Department of Natural Resources Building and represent four agencies: the Utah Division of Oil, Gas & Mining (DOGM); Utah Board of Oil, Gas & Mining (BOGM); Division of Forestry, Fire & State Lands (FFSL); and Division of Wildlife Resources (including acting as administrative law judges in hunting and fishing license suspension hearings).

RESPONSIBILITIES

OIL, GAS & MINING

Oil, Gas, Coal, and Hardrock Mine Permitting

- Advise the agency and board in connection with a host of regulatory and permitting matters for hundreds of oil and gas wells annually.
- Represent the agency and board in about 30 formal trial-type hearings per year to authorize oil and gas development projects statewide.
- Represent the agency in connection with permitting, bonding, and reclamation activities for coal and hardrock mines statewide.

Oil, Gas, and Mining-Related Litigation

- Defend the decisions of the agency and board before Utah's courts when appealed.
- Participate in bankruptcy proceedings.
- Represent the state in disputes with the federal government regarding Utah's primacy over the regulation of coal mines and challenges to federal overreach in areas such as the regulation of fracking.

SOVEREIGN LAND

Sovereign Land Management, Leasing, and Permitting

- Assist with the leasing of sovereign lands (primarily near the Great Salt Lake), an action that generates approximately \$10 million in revenue annually.
- Help FFSL draft comprehensive management and mineral leasing plans for sovereign lands such as the Great Salt Lake, Utah Lake, Bear Lake, and the Colorado, Green, Bear, and Jordan Rivers. The division also advises FFSL in connection with the issuance of leases and permits.

Sovereign Land Title and Boundary Litigation

- Represent FFSL in quiet title and boundary litigation concerning state-owned, submerged lands at the Great Salt Lake, Utah Lake, Bear Lake, and along the Colorado, Green, Bear, and Jordan Rivers. This litigation is frequently against the federal government and occurs on an ongoing basis as disputes arise.

WILDFIRE

Wildland Fire Litigation and Related Cost-Recovery Efforts

- Represent FFSL in seeking recovery of costs incurred in suppressing wildland fires. These efforts include litigating against those starting wildfires, pursuing federal FEMA funds on larger fires which require emergency/disaster response, and securing reimbursement from local governments for their share of wildland fire costs under the statutory framework established by the Legislature.

NOTABLE CASES

Oil, Gas & Mining

Oil and Gas Production “Operatorship” Regulations

The attorneys for DOGM and BOGM worked with industry and concerned stakeholders and were able to finalize a comprehensive regulatory scheme pertaining to the oil and gas production “operatorship” designation. With the advent of horizontal drilling, the oil and gas industry has been able to extract resources from larger and larger tracts of land, with a vastly minimized surface disturbance “footprint.” In Utah, the complex geology provides further complexity in coordinating drilling operations, particularly when there has been a history of vertical well development. With the adoption of the “operatorship” rules, conflicts between owners in terms of how to best develop Utah’s resources will be reduced. Resulting from the hard work of DOGM and BOGM’s attorneys, Utah will benefit from one of the more sophisticated and up-to-date regulatory schemes pertaining to “operatorship designation” in the country.

Response to Legislative Audit Regarding Perceived Lack of Enforcement of Oil and Gas Operating Permits

After receiving a legislative audit critical of the lack of Division-initiated enforcement actions, Assistant Attorneys General’s have done a remarkable job in initiating, litigating and completing multiple enforcement actions in a brief amount of time. DOGM attorneys were instrumental in working with legislators to adopt a revised set of enforcement regulations that will profoundly increase the efficiency of the AG’s Office in proceeding with enforcement matters. Of particular importance is a newly promulgated regulation that allows a Board order to be enforced and collected upon as if it were a final judgment issued by a District Court. AAGs have helped their clients to “rise to the occasion” and immediately and effectively cure many of the enforcement concerns raised by the legislative audit.

Forestry, Fire, & State Lands

Utah Lake Land Boundaries Finalized

Assistant Attorneys General have assisted their clients to put the final touches on completion of the adjudication of land boundaries surrounding Utah Lake. The last boundary settlement agreement’s material terms have been negotiated and the final documents are being prepared. Title adjudication stemming from a federal court filing, and resulting boundary line settlement agreements, have resulted in a long and laborious process. With the continual and consistent work of the AAG’s, and their client counterparts, Utah Lake land boundaries will finally be adjudicated and FFSL will be able to consistently apply management objectives that will ultimately benefit anyone enjoying Utah Lake.

Bear River Migratory Bird Refuge Boundary Settlement

Assistant Attorneys General have worked with their clients to negotiate and complete the complex settlement with the United States Wildlife Service to resolve the ordinary highwater mark on lands within the Bear River Migratory Bird Refuge. Although the Court has not entered the Decree, the parties have agreed to the material terms and have prepared settlement documents establishing in the ordinary high water mark, which is a pivotal step in complete resolution of litigation between Utah and the federal government. The parties will now know exactly which remaining state parcels within the bird refuge will require negotiation and purchase by the federal government. Once these transactions occur, the Bird Refuge litigation can be dismissed.



WATER, WILDLIFE & PARKS

The six attorneys and a paralegal in this section, co-located with their clients at the DNR Building, perform diverse legal tasks including civil and administrative adjudication cases relating to water, wildlife, and parks. Transactional work includes participating in complex, multi-million dollar real estate agreements; drafting and reviewing contracts, from the routine to the highly complex; reviewing high-profile listing decisions such as the Mexican wolf, sage-grouse, and Utah prairie dog under the Endangered Species Act; remediating natural resource damages caused by unlawful contaminant releases; allocating responsible use of natural resources; protecting natural resources from unlawful use; resisting federal encroachment on State sovereignty over its natural resources; guiding development of large-scale water projects, such as the Lake Powell Pipeline; enforcing water rights and participating in water right adjudications; equitably allocating water resources; responding to GRAMA requests; and much more.

The attorneys representing the State Engineer's Office in the general adjudication program participate in the monumental task of determining thousands of water rights in different areas of the state. Other attorneys in the division work to protect the state's interests in interstate waters such as the Colorado River; to minimize the impact of the quantification of federal reserved water rights such as for national parks and monuments and Indian reservations; and to promote water project construction. In addition to legal counsel and transactional work, each attorney also represents his or her client agency in civil and administrative adjudication matters and contract litigation. Over the past few years, the six attorneys representing the Department of Natural Resources, Division of Water Rights, Division of Water Resources, Division of Parks and Recreation, and Division of Wildlife Resources collectively litigated dozens of civil cases, handled multiple cases in appellate courts, and participated in significantly more administrative adjudications.

NOTABLE CASES

Wildlife Resources

Gray Wolf Delisting

The AGO has assisted the Division of Wildlife Resources for over 20 years in matters related to management of the gray wolf in Utah. These efforts came to fruition when the United States Fish & Wildlife Service published a final rule removing the gray wolf from the federal list of Endangered and Threatened Species in the lower 48 United States and Mexico. The rule will take effect early in 2021. The rule effectively restores state authority to manage gray wolves within its boundaries. While there are no known wolf packs currently residing in Utah, an increasing number of wolves dispersing from surrounding states have been documented in Utah. Should a wolf population establish in Utah, the state will have the ability to manage that population in balance with wild prey species and livestock.

Passage of Constitutional Amendment E – Right to Hunt and Fish

The AGO helped work towards passage of Constitutional Amendment E – Right to Hunt and Fish in the last election. The Amendment creates a qualified right to take game using traditional methods and a presumption that recreational hunting and fishing are the preferred means for wildlife management and population control. The right is subject to regulation by statute and by rules issued in accordance with statute, which will preserve DWR’s ability to regulate the sport through licensing, permit numbers, establishing legal methods and boundaries, etc.

Successes Accomplished by Assistant Attorneys General for Utah Department of Agriculture and Food

Successful Creation of State Hemp Program

The AGO assisted UDAF in numerous ways with the complicated and resource-intensive hemp program. The lawyers and their clients met every legislative deadline and legal requirement for the cannabis program. In addition, thanks in large part to the diligence of the cannabis team and the partnership established between the AAGs and their UDAF clients, a 90% compliance rate with hemp producers and processors throughout the state was achieved. Additionally, the team has successfully prevailed in every administrative challenge brought against the Department by licensees, and unsuccessful licensees, in that program. These accomplishments are made more noteworthy by the fact that the program had to be started “from scratch.”

Cooperation and Coordination with other State Agencies

The AGO and UDAF report continuing successful efforts to work effectively with several sister state agencies, most notably the Department of Health and the Department of Natural Resources, in facilitating joint programs and conservation efforts. Despite initial hiccups, the medical cannabis tracking system has allowed information to be quickly and efficiently shared between UDAF and DOH to provide assistance and guidance in facilitating relationships to ensure medical cannabis is tracked, tested and safe and that the product is available to consumers throughout the state. In conservation, AAGs and UDAF have finalized several important conservation easements to protect wildlife, Utah's natural resources, protected species and agricultural interests.



Water Rights Adjudication **NOTABLE CASES**

Tesoro Objection Resolution

The AGO successfully negotiated a settlement with Tesoro Refining and Marketing Company, LLC, and Salt Lake City on challenged water right claims in the Rose Park hydrologic subdivision. The settlement allows Tesoro to use its well as a backup supply under Salt Lake City's water rights while all parties avoid prolonged litigation over novel defenses to forfeiture. Following resolution of the Objection, the Court entered a decree that finally and completely adjudicated all water rights in the subdivision and closed the area to further assertions of diligence claims.

Trevisan, et al. Objection Resolution

The AGO reached an agreement to resolve the only remaining objection in the City Creek hydrologic subdivision. That agreement allows Salt Lake City to buyout existing landholdings in upper City Creek Canyon, while preserving the State Engineer's justified forfeiture recommendation. Once the Court

approves the resolution, this subdivision will be ready for a decree on all water rights in the City Creek Subdivision.

Bear River Bird Refuge Objection Resolution

Building on the 2019 settlement with the Bear River Club and the United States Fish and Wildlife Service that resolves challenges to the Bear River Club's water rights, the AGO successfully negotiated to resolve the final remaining portions of the objection filed by the United States Fish and Wildlife Service. The settlement will be served on potentially affected parties and presented to the Court for approval. Resolving the final portions of this objection on the lower Bear River brings the State closer to obtaining a decree for all water rights on the Bear River.

University of Utah Objection Resolution

The AGO successfully reached a settlement agreement with the University of Utah on the University's water rights claims in the Dry Creek hydrologic subdivision.



PUBLIC LANDS

The Public Lands section is comprised of six lawyers who are co-located in the State Office Building with its primary client being the Public Lands Policy Coordination Office (PLPCO). This section also represents the Constitutional Defense Council (CDC), which has required representation in legal and political matters. The section primarily litigates a large number of complex cases on various matters, including the assertion of the state's right to more than 12,000 R.S. 2477 Roads located on federal lands. This massive case involves taking hundreds of preservation depositions to memorialize witness testimony of individuals who traveled the roads during the time frame required under the federal statute.

This section is also involved in litigation on sage-grouse and endangered plant species, use of ATV trails, challenges to federal resource management plans for certain areas (including national monuments) and activities (including mineral leasing), designation of wildlands and wilderness areas, implementation of travel and transportation management plans, challenges to oil and gas leases located on federal lands, law enforcement issues on federal lands, and other matters.



NOTABLE CASE

R.S. 2477 Litigation

On July 31, 2015, and on its own initiative, the Federal District Court for the District of Utah entered an order establishing a process designed to ultimately result in a more efficient way of processing the 12,500 right-of-way claims throughout the state. The order creates a “Bellwether” process by which the parties stipulated to, and the Court approved, fifteen rights-of-way in Kane County that exemplify remaining legal issues regarding the determination of R.S. 2477 rights-of-way. These fifteen rights-of-way were the subject of a three-week trial before the Honorable Judge Waddoups in the Utah Federal District Court at a trial in February 2020. Utah, Kane County, and the federal defendants now are engaged in post-trial briefing and the preparation and submission of Findings of Fact

and Conclusions of Law. After these are filed, Judge Waddoups will render a decision on each of the fifteen rights-of-way and whether each factually and legally qualifies as an R.S. 2477 right-of-way.

It is anticipated that the decision of Judge Waddoups will be appealed to the Tenth Circuit Court of Appeals, where its rulings on the legal issues will become precedent for future R.S. 2477 determinations.

Under the current District Court order, once all legal issues have been resolved, one or more special masters will be appointed by the court to more expeditiously resolve all R.S. 2477 right-of-way claims throughout the state.

BY THE NUMBERS



ADMINISTRATIVE MATTERS

401



CASES IN LITIGATION

95



WATER RIGHTS
ADJUDICATIONS

139



ENVIRONMENT & HEALTH

ENVIRONMENT

OVERVIEW

The Environment Section of the Attorney General's Office provides legal representation to all five divisions of the Utah Department of Environmental Quality (DEQ): Division of Water Quality, Division of Air Quality, Division of Waste Management and Radiation Control, Division of Drinking Water, and Division of Environmental Response and Remediation.

RESPONSIBILITIES

- Writing and implementing environmental regulations as well as providing legal support in rule-making, record requests, and legislative requests
- Interpreting, administering, and enforcing permits issued to regulated facilities
- Participating in administrative hearings, adjudicative proceedings, civil litigation, and appeals before state and federal courts
- Working with the AG Investigations Division to investigate and prosecute environmental crimes throughout the state
- Providing counsel to the Natural Resource Damages Trustee appointed by the Governor and to four regulatory boards: the Utah Air Quality Board, the Utah Water Quality Board, the Utah Waste Management and Radiation Control Board, and the Utah Drinking Water Board



ENVIRONMENT NOTABLE CASES

Gold King Mine Litigation

Following the Gold King Mine blowout in August 2015, the Environment Section recovered the majority of response costs incurred by various state agencies to mitigate the impacts to the San Juan River and Lake Powell totaling more than **\$500,000.00**. The Environment Section assisted the Department of Environmental Quality and the Governor's Office in negotiations with the Environmental Protection Agency (EPA) and the Department of Justice (DOJ) to resolve the state's claims. The State's primary goal in the initial negotiations was to have a voice in the remedy selection at the Bonita Peak superfund site. The Environment Section also assisted DEQ in obtaining funding for on-going water quality sampling and analysis through the WINN Act passed by Congress in response to the Gold King Release.

Efforts to resolve the claims through negotiation were complicated by changes in the administration at EPA and DOJ, and it was necessary to litigate to preserve the State's claims. The plaintiffs in that action included: Utah, New Mexico and the Navajo Nation. The defendants included EPA, EPA's contractors, and several mining companies. The Environment Section managed the litigation in Utah—while assisting outside counsel during the course of the litigation—and reduced the costs that would have been incurred by outside counsel. The work performed by the Environment Section resulted in costs **savings totaling hundreds of thousands of dollars over the course of the litigation.**

A settlement was negotiated with EPA and DOJ in August 2020. The settlement provides \$3 million in grants to improve surface water quality conditions in Utah. The settlement also confirms that EPA has committed to costs of ongoing superfund response actions at mines in the Bonita Peak Mining District and other mining sites in Colorado upstream from Utah. These response costs are expected to exceed \$165 million. These response actions will eliminate or reduce discharges from the mines and improve downstream water quality in Utah. The EPA has opened a new office in Colorado ("Office of Mountains, Deserts and Plains") that will focus on cleaning up abandoned hard rock mine sites. The settlement also provides that Utah will have a "seat at the table" in ongoing and planned remedial actions in the Bonita Peak District.

In addition to the upstream response actions in Colorado, EPA will initiate removal site evaluations in the Big and Little Cottonwood Canyons in Salt Lake County, the Ophir Mining District in Tooele county, and at legacy uranium mining operations in the Lisbon Valley area of San Juan County. These site evaluations may lead to other remedial actions to improve surface water quality. Finally, the settlement provides for a "re-opener" to allow for the superfund claims to be reinstated if new data subsequently demonstrates a risk to human health. The Gold King settlement will serve as a legacy for surface water quality improvements for generations to come.

ENVIRONMENT NOTABLE CASES CONT.

Stericycle

Stericycle had compliance problems that were resolved by settlement, and Stericycle paid a significant stipulated penalty. Part of the penalty would be satisfied by Stericycle moving to a new location once it obtained all the necessary permits and then closing down its incinerator in North Salt Lake. This had the additional benefit of Stericycle leaving its location in a residential area where there was significant public opposition to its operation.

Under the original settlement, Stericycle planned to move to Tooele County, but that did not work out. In early 2019 Stericycle informed DAQ that it would move to North Las Vegas instead. This required an amendment to the settlement. The amendment was signed in mid-2019 and requires Stericycle to cease operations of the North Salt Lake incinerator by July 1, 2022 regardless of whether they have another location. This benefits the community near Stericycle, as the original settlement meant that they had to move only after getting permits to go somewhere else, which can drag on for years as they look for a new location. Now they just have a deadline to move. We have since learned that Stericycle was unable to move to North Las Vegas and is now pursuing a location in the Reno area. None of this impacts the settlement, as Stericycle must unconditionally cease operation of the North Salt Lake incinerator in 2022.

Volkswagen Mitigation Trust Funds

Two Volkswagen Clean Diesel partial consent decrees awarded a total of \$35.177 million to the State of Utah to mitigate the excess nitrogen oxide emissions from certain non-compliant vehicles manufactured by Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., Volkswagen of America Chattanooga Operations, LLC, Dr. Ing. H.c.F. Porsche AG, and Porsche Cars North America, Inc. A court appointed trustee distributes Utah's funds pursuant to the Environmental Mitigation Trust Agreement for State Beneficiaries (Trust). In accordance with the Trust and the direction of Governor Gary R. Herbert, the Department of Environmental Quality (DEQ) selected eligible mitigation projects from local municipalities and state agencies to install electric vehicle supply equipment (EVSE) or replace diesel vehicles.

DEQ selected eighteen EVSE projects – 13 municipalities, three colleges/universities, two state agencies, and one national park -- to install 98 level 2 chargers and 26 DC fast chargers throughout the state. Currently, 32 level 2 chargers and 11 DC fast chargers have been installed and are available for use by the public.

DEQ also selected fourteen projects to replace diesel vehicles – seven cities, five school districts, UDOT and UTA – 104 vehicles, including school and public buses, snow plows, fire trucks, etc. The entities are in various stages of procuring replacement vehicles.





HEALTH

OVERVIEW

The Health Section of the Attorney General's Office represents the Utah Department of Health (UDOH) in Medicaid hearings, licensing, and other administrative proceedings.

RESPONSIBILITIES

- Advising and assisting the UDOH with promulgating its rules and regulations
- Reviewing contracts and agreements with local health departments and other agencies
- Coordinating health care through Medicaid Managed Care Organizations (MCOs)
- Assisting with HIPAA/HITECH (privacy and security records) compliance
- Conducting formal and informal hearings regarding managed care and judicial appeals of administrative decisions
- Providing representation in such recent matters as implementation of medical marijuana legislation and in litigation surrounding same-sex couple marriages, birth certificates, and adoptions
- Advising a variety of boards and committees in UDOH
- Representing the Medical Examiner's Office, State Lab, and the licensing of ambulance services (air and ground) and health care facilities (hospitals, nursing homes, assisted living facilities, etc.)



HEALTH NOTABLE SUCCESSES

In addition to its full caseloads of the five attorneys, the Health Section provided the bulk of the legal advice to the Department of Health on COVID-19 related matters including coordination with the Governor's counsel, and with county attorneys advising local health departments. The Health Department reviewed and negotiated all contracts related to CARES Act grants to government and private parties, contracts with private, amendments to contracts entered into by GOMB and Purchasing early on in the pandemic. Some of these contracts were multi-million dollar contracts. The Health Section took the lead in providing legal advice to the Department of Health on data sharing, testing, public health orders, emergency rulemaking, regular rulemaking, federal and state vaccine distribution requirements, surge staffing issues, overflow Covid-19 facilities, responses to the Disability Law Centers federally authorized advocacy for residents in long term care facility laboratory certifications, and the issuance of standing orders issued by the Department's medical doctors. This section also advised the Department in its GRAMA responses which involved thousands of pages of government records.

BY THE NUMBERS

ENVIRONMENT



LITIGATION

7



NOTICES OF
VIOLATION/SCO's

133



PERMIT REVIEW

35

HEALTH



RULE MAKING

189



CONTRACTS & GRANTS

4,036



AGENCY REVIEWS

1,456



HIGHWAYS & UTILITIES

The Highways & Utilities Division represents and provides legal advice to the Utah Department of Transportation in the following areas: eminent domain actions (condemnation), real estate transactions, leases, property valuation, property encroachments, right-of-way boundary and access disputes, easements (construction, access, utility, light, air and view), exactions and dedications, construction disputes, construction contracts, debarments and suspension of contractors, relocation assistance, billboards/outdoor advertising regulation, junkyard regulation, ski lifts/ropeway/tram regulation, rulemaking and all aspects of motion and trial practice.

In addition, Highways & Utilities represents the Division of Public Utilities and the Office of Consumer Services to help ensure that public utilities only charge reasonable rates and provide efficient services.

The Division also serves as agency counsel to the Utah Department of Public Safety on a variety of matters such as law enforcement, peace officer certification, driver licensing, criminal history records, fire prevention, emergency response, forensics, and highway safety.

Finally, the Division advises and represents the Utah Transit Authority in a variety of matters involving public transit including complex civil litigation, capital improvement projects, procurement, federal grant compliance, property acquisition and management, transit-oriented development partnerships, police operations, agreements for enhanced access to public transit by disadvantaged persons and legal support for the Board of Trustees and its Local Advisory Council.

DEPARTMENT OF PUBLIC SAFETY (DPS)



BY THE NUMBERS



POST AGENCY
ACTIONS

77



POST FORMAL
HEARINGS

7

UTAH TRANSIT AUTHORITY (UTA)



BY THE NUMBERS



CONTRACTS/
AGREEMENTS

1,225



NON-LITIGATION
MATTERS

800



OTHER LITIGATION MATTERS

10

UTAH DEPARTMENT OF TRANSPORTATION (UDOT)



BY THE NUMBERS



NEW
CONDEMNATION
CASES

39



PENDING
CONDEMNATION
CASES

58



CONDEMNATION
CASES SETTLED/TRIED

37

APPROXIMATE TOTAL DOLLAR
AMOUNTS AT ISSUE

\$46,851,629



DRIVERS LICENCE DIVISION

BY THE NUMBERS



NEW CASES

109



CONTINUING CASES

85



CASES CLOSED

89



DIVISION OF PUBLIC UTILITIES

BY THE NUMBERS



MATTERS

257

OFFICE OF CONSUMER SERVICES

BY THE NUMBERS



MATTERS

60

APPROXIMATE TOTAL DOLLAR
AMOUNTS AT ISSUE

\$8,000,000



NOTABLE CASE

- UDOT v. Coalt, Inc.*** - The Utah Supreme Court reversed the Utah Court of Appeals and reinstated the Davis County District Court's judgment in favor of UDOT. UDOT sought to acquire 64 acres of vacant land for mitigation of the impacts of the Legacy Parkway at what is now the intersection of Legacy Parkway and 500 South in Davis County, west of Woods Cross. UDOT contended the land's value was \$2.4 million, which UDOT previously deposited into court for the defendant. The case went to trial and the court agreed that UDOT had the authority to condemn to settle the environmental case and agreed with UDOT's appraiser's valuation and awarded Coalt approximately \$2.4M for its property being acquired. On appeal to the Utah Court of Appeals, Coalt challenged UDOT's authority to acquire land as part of the settlement of environmental litigation. It also argued the land should have been valued at about \$9 million more than UDOT's appraised value—contending that the enhanced value caused the new parkway should have been considered by the trial court. **The win for UDOT eliminated the additional exposure of up to \$9 million plus additional litigation costs.**
- On the utility regulation docket, Rocky Mountain power submitted a revenue request of \$2.097 billion, with \$95.9 million in new requests. The case includes a requested rate increase of 4.8% phased in over three years, with 2.6% in 2021, 1.1% in 2022, and 1.1% in 2023. Factors for filing the rate increase were the Energy Vision 2020 projects that total \$3.3 billion company wide. Also included in this case are costs associated with a legislatively mandated wildfire mitigation plan. AGO utility lawyers have been involved in multiple technical and financial proceedings to make sure ratepayers are only charged reasonable rates for efficient delivery of services.
- Our lawyers handled 50 telecommunications cases, negotiated and drafted settlement agreements for many wireless designation filings, and represented the Division of Public Utilities in numerous high-profile cases including a large wind development proposal in southwestern Wyoming, a Dominion energy proposal to build a liquid natural gas facility in Utah, and cases related to Rocky Mountain Power and Dominion Energy seeking reduced rates as a result of tax reduction legislation.



TAX, FINANCIAL SERVICES & ANTITRUST

OVERVIEW

The Tax, Financial Services & Antitrust Division of the Attorney General's Office provides legal representation to the Utah State Tax Commission, the Utah Insurance Department, and the Utah Department of Financial Institutions. The division also represents the State of Utah in the issuance of state and local governmental bonds and monitors the termination and modification of charitable trusts.

Attorneys in the Tax, Financial Services & Antitrust Division are actively involved in data breach investigations and continue to work with a task force of other states to determine violations of the Utah Consumer Credit Protection Act and Utah's Protection of Personal Information Act.

The division represents the state in tax litigation involving millions of dollars in sales, income, and other taxes, as well as providing legal representation on a large number of key property-assessment tax matters.

TAX

The Tax Section of the division represents the Utah State Tax Commission in administrative proceedings heard by the Tax Commission and in trial and appellate courts (if the Tax Commission's decisions are appealed) in the areas related to the following units of the Tax Commission: Auditing, which includes tobacco; Centrally Assessed Property Tax; Taxpayer Services, which includes payment, collection, and tax lien issues; Motor Vehicle Division; and the Motor Vehicle Enforcement Division, which primarily regulates automobile dealers and salespersons. The division also represents the Taxpayer Services Division in matters originating in State and Federal Court, including Federal Bankruptcy Court.



FINANCIAL SERVICES

The Financial Services Section of the division acts as general counsel to the Utah Insurance Department, providing legal advice on all aspects of insurance law, and as enforcement counsel to the Insurance Department concerning violations of the Utah Insurance Code. The division also provides legal counsel to the Department of Financial Institutions to assist in carrying out the provisions and purposes of the Financial Institutions Act, which includes ensuring the safety and soundness of all state-chartered financial institutions and protecting the customers of financial institutions operating in Utah.

ANTITRUST

The Antitrust Section of the division protects Utah consumers and businesses from unfair competition. It enforces federal and state antitrust laws and related laws that help to keep the free market competitive. The Antitrust Section promotes fair competition by challenging monopolistic behavior and conspiracies to restrain trade or commerce and mergers that may have anti-competitive effects in Utah markets. In addition to enforcing those areas of law locally, the section works closely with federal agencies and with other states' antitrust units to solve national and regional problems. The section also enforces Utah's data breach laws, patent trolling laws, and procurement laws.



NOTABLE SUCCESS

Antitrust

During FY 2019 the Antitrust Section focused much of its efforts on massive investigations into certain high technology companies. Those investigations will lead to case filings in 2020, but probably will not result in resolutions for a number of years. Further, the remedies in those cases may be focused more on injunctive and structural relief than on financial compensation. Similarly, the Section dedicated significant resources to a group of price fixing cases against generic drug manufacturers, but do not anticipate a financial recovery for several more years. The Section continues to pursue a wide range of smaller antitrust and data breach cases. For example, in addition the aggregate recovery of

\$274,396.77 in cash to the state and its citizens, the Section has obtained credit monitoring and other benefits for many Utahns who have suffered data breaches, and helped to settle a multistate drug case that resulted in the creation of a \$1.2 million fund to be administered by the National Association of Attorneys General for use in future pharmaceutical antitrust investigations.

In addition, the Section engaged in crime prevention through citizen outreach and by running the White Collar Crime Offenders Registry. The Section added 84 new offenders to the registry last year, bringing the total up to 319. The website received 106,712 individual offender views during the year.

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CRIMINAL DEPARTMENT

7 DIVISIONS

103 ATTORNEYS, 39 AGENTS
& 86 STAFF



JUSTICE

OVERVIEW

The Justice Division is comprised of prosecutorial units working together with specialized investigative units in the areas of Criminal Non-Support (CNS), Internet Crimes Against Children (ICAC), the SECURE Strike Force, and the DEA/HIDTA Drug Prosecution Unit, as well as units servicing the Insurance Division, the Office of Recovery Services (ORS), and the Department of Workforce Services (DWS). The division includes a Special Prosecution Unit that handles or assists other jurisdictions on complex matters including public corruption; State RICO; identity theft; serious and violent felonies including murder, capital murder, child and elder abuse and exploitation; and asset forfeitures.

The division also manages and houses Identity Theft Central (formerly known as IRIS), the Utah Children's Justice Centers, the Victim's Assistance Program, and the Utah Prosecution Council.



VICTIM SERVICES

Critical to the AGO's efforts against crime is its support of victims of crime. Currently, the AGO has one Victim Coordinator for the thousands of cases it handles yearly.

The Victim Coordinator is tasked with ensuring the office complies with the Utah's Victims' Rights Statute, and provides assistance and support to victims and staff during the investigation, prosecution, and appeals of a case.

The Victim Coordinator also provides assistance to victims on inactive cases, victims on cases not prosecuted by our office, and members of the general public with inquiries. In addition, the coordinator often provides assistance to potential victims and witnesses while our SECURE team investigators determine a party's specific role in the case. The coordinator also serves on the Utah Trafficking in Persons (UTIP) task force, acts as Co-Chair of the UTIP Youth Subcommittee, and provides quarterly reports for the UTIP grant.

The Victim Coordinator currently serves on the following local/state committees:

- Third District's Rights Committee
- National Crime Victims' Rights Week Committee
- Utah Coalition Against Sexual Assault Training Committee
- Salt Lake County Victim Advocate Committee
- Utah DPS SIAC (Interdiction for the Protection for Children-Certified Trainer)
- Human Trafficking Juvenile Working Group
- STOP VAWA (Violence Against Women Act) Implementation & Planning Committee

BY THE NUMBERS



VICTIMS & WITNESSES

616



Active Trial Cases

34

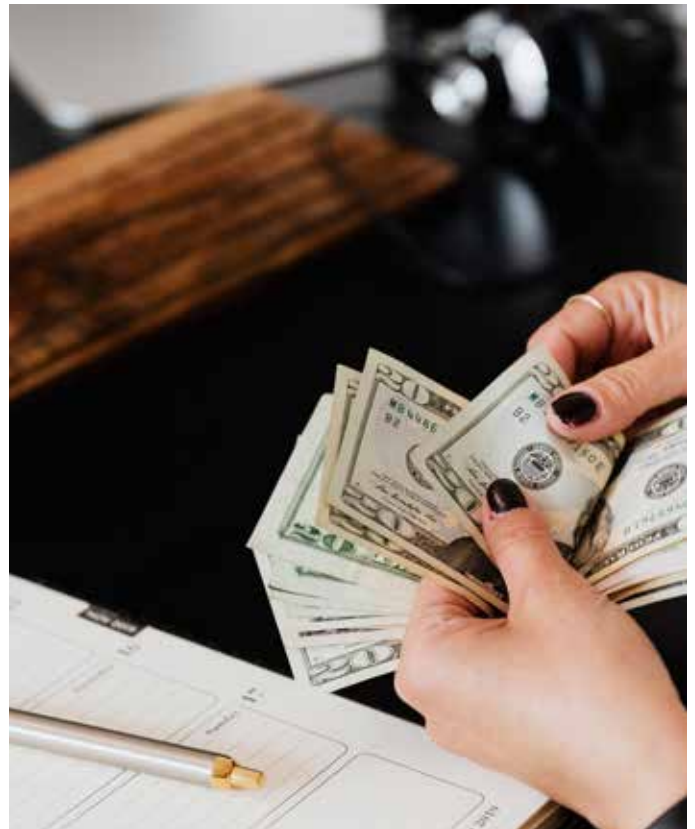
INSURANCE FRAUD

Insurance fraud occurs when individuals deceive an insurance company, agent, or other person to try to obtain money to which they are not entitled. It happens when someone puts false information on an insurance application and when false or misleading information is given or important information is omitted in an insurance transaction or claim.

Insurance fraud is committed by individuals from all walks of life.

The Insurance Fraud Division (IFD) has prosecuted doctors, lawyers, chiropractors, car salesmen, insurance agents and other persons in positions of trust.

Anyone who seeks to benefit from insurance with inflated or false claims of loss or injury commits insurance fraud.



BY THE NUMBERS



INSURANCE FRAUD
INCIDENTS

80



CHARGES FILED

153

RESTITUTION ORDERED

\$162,819

RESTITUTION COLLECTED

\$210,062



CRIMINAL NON-SUPPORT

Overview

Utah's legislature has declared that children are presumed to need the financial support of both parents. When a non-custodial parent fails to provide their portion of that support, extreme hardship may befall both the child and the custodial parent. The AGO utilizes Utah's Criminal Non-support (CNS) statute to prosecute those who would disregard this inherent parental responsibility and cause such hardship.

When a noncustodial parent has failed to pay full court-ordered child support for at least 18 months within a 24-month period and the child support arrears exceed \$10,000, the Utah Office of Recovery Services (ORS) may refer the matter to the AGO to review for CNS charges. These matters have been pursued by ORS for many years with little or no success. In such cases, the state is regularly forced to provide public assistance for basic needs like food, shelter, and medical treatment. However, for some non-custodial parents, the threat of criminal penalties — including prison — are sufficient enough to compel compliance with child support orders. If not for the increased child support collections resulting from the AGO prosecution of CNS cases, Utah taxpayers would increasingly be required to make up the difference with no hope of reimbursement.

When CNS charges are filed and a plea agreement or conviction obtained, the defendant is sentenced to abide by specific conditions. Chief among those terms is a requirement to make minimum monthly payments. The payments include all ongoing child support as well as a portion of the arrears. If a defendant fails to abide by the terms of the sentence, the AGO may recommend jail time. Continued violations will result in recommendations for increasing periods of jail time or even prison.

CNS Mission Statement

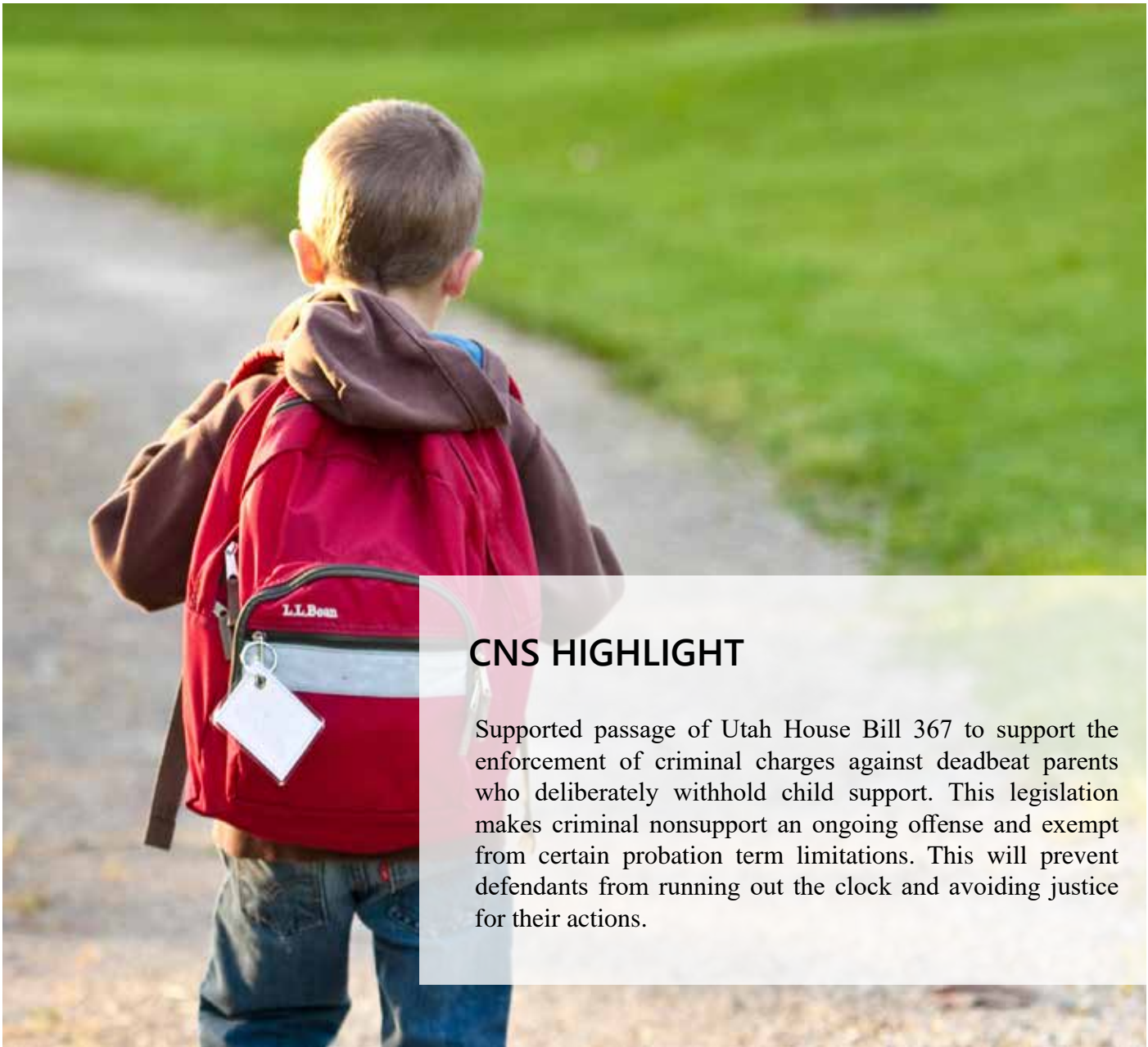
The Criminal Non-support (CNS) Team mission is to improve the lives of Utah families by helping parents provide for the financial and emotional needs of their children by establishing and enforcing child support orders. The CNS team consists of two attorneys, two paralegals, and a legal secretary.



AMOUNT OF CHILD SUPPORT COLLECTED

\$2,714,762

BY THE NUMBERS



CNS HIGHLIGHT

Supported passage of Utah House Bill 367 to support the enforcement of criminal charges against deadbeat parents who deliberately withhold child support. This legislation makes criminal nonsupport an ongoing offense and exempt from certain probation term limitations. This will prevent defendants from running out the clock and avoiding justice for their actions.



INTERNET CRIMES AGAINST CHILDREN TASK FORCE

OVERVIEW

The Internet Crimes Against Children (ICAC) Program is a national program composed of a network of sixty-one coordinated state and regional task forces representing more than 3,500 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in both proactive and reactive investigations, forensic examinations, and criminal prosecutions. By helping state and local agencies develop effective, sustainable responses to online child victimization—including responses to child sexual abuse images—the ICAC Task Force has increased law enforcement's capacity to combat technology-facilitated crimes against children at every level.

The ICAC Program was developed in response to the increasing number of children and teenagers using the Internet and other technology, the proliferation of child sexual abuse images available electronically, and the heightened online activity by predators seeking to commit illegal sexual acts against underage victims.

Because ICAC members understand that arrests alone cannot resolve the problem of technology-facilitated child sexual exploitation, the ICAC Task Force is also dedicated to training law enforcement officers and prosecutors, as well as educating parents and youth about potential dangers of online activity.



ICAC Tip Line:

801.281.1211

ICAC Email:

utahicac@agutah.gov



The Utah AGO ICAC Task Force is a multi-jurisdictional task force that investigates and prosecutes individuals who use the Internet to exploit children within Utah. The ICAC Task Force prosecution team consists of four attorneys and one legal secretary. Their mission is to serve the citizens of Utah through timely, proactive, ethical, vigorous, and impartial enforcement of the laws of Utah; improve the safety of our communities; and do justice in every matter. This mission is accomplished by:

- Assisting state and local law enforcement agencies and prosecutors in investigating and effectively prosecuting cases involving enticement of minors, dealing in material harmful to minors, child pornography, and other related Internet-facilitated crimes against children;
- Seeking the imposition of evidence-based sentences on offenders, appropriately protecting the children of our community, and effectively reducing recidivism;
- Acting as a resource and fostering continual collaboration between local, statewide, and federal agencies in information sharing, networking, and case prosecution; and
- Seeking and maintaining a reputation for professionalism, respect, efficiency, reliability, and legal expertise.

CRIMINAL OFFENSES PROSECUTED

The primary criminal offenses prosecuted under both state and federal law include the production, receipt, possession, or distribution of child sexual abuse images; enticing an underage victim to engage in any sexual activity which is a violation of state criminal law; distributing material harmful to a minor; and interstate travel offenses, such as transporting a minor across state lines or traveling

to another state to meet an underage victim for the purpose of illegal sexual exploitation. The prosecution team assists during all stages of a case, including investigation, warrant execution, and criminal prosecution. In addition, prosecutors act as a resource to numerous investigative, prosecutorial, and community agencies.

ICAC Task Force prosecutors participate in the following committees and writing groups:

- Child Fatality Review Committee
- Domestic Violence Fatality Review Committee
- Child Abduction Response Team (CART)
- Sexual Assault Response Team
- Utah Attorney General's Ethics Committee
- Salt Lake County Unsubmitted Sex Assault Kit Initiative
- Domestic Violence Planning Advisory Council
- Domestic Violence Planning Advisory Council Sub Committee
- National Association of Extradition Officials and the Domestic Violence Offender Management Group
- Case Management Software Committee



2020 Utah Winner

Merilyn Allred,
11 years


*Water Canyon
Elementary*

2020 National Missing Children's Day Poster Contest

The AGO again participated in the poster contest run by the U.S. Department of Justice for National Missing Children's Day. The AGO mailed out contest information to schools throughout Utah as well as to all of the state's community partners.

Merilyn Allred, 10, drew the winning poster for the State of Utah for 2020. "I created my poster because I believe that missing children deserve to be found. Missing children don't really deserve to go missing. My poster has pieces of a heart missing, every child should be part of someone's heart. When they go missing, it is like a piece of someone's heart is missing," Merilyn said about her poster.





UTAH CHILD ABDUCTION RESPONSE TEAM (CART)

The Utah Child Abduction Response Team (CART) is a resource managed and provided by the AGO to all Utah law enforcement agencies. The team is comprised of over 200 officers and support personnel from 36 local, state, and federal agencies. The Utah CART received National Certification from the Department of Justice in 2010. Whenever an AMBER alert is issued, a Utah CART coordinator will contact the issuing law enforcement agency to offer the assistance of Utah CART. Utah CART was activated in April to assist the South Salt Lake Police Department. The team was activated again in October to assist the Tooele City Police. In both cases, the child was located in good health. The team continues to train and add new members, and they are prepared in the event that a child goes missing and Utah law enforcement agencies need their assistance.

STATEWIDE COMMUNITY ADVISORY BOARD

In 2015, the ICAC Task Force Education Specialist created the ICAC Task Force Community Advisory Board. This group has increased awareness and bridged the gap between law enforcement and the communities they serve. It now includes more than 20 members from school districts, faith-based organizations, community groups, non-profit organizations, crime-prevention organizations, and others. The board meets bi-monthly and

collaborates with other professionals to raise awareness about issues associated with youth. The 60 minute trainings are called "ICAC Cops Q&A," and include an ICAC Task Force Investigator and the ICAC Task Force Education Specialist. These trainings are open to the public to promote Internet safety awareness and explain the role of the ICAC Task Force.



ICAC TASK FORCE HIGHLIGHTS

Undercover Operation

The Utah Attorney General's Internet Crime Against Children's Task Force (ICAC) focused their efforts to protect our most vulnerable in Salt Lake County, targeting child sexual predators for five days in June 2020. Utah ICAC conducted online undercover work to locate and identify people using the Internet to sexually exploit and abuse children. The Utah Attorney General's Office hosted, and the following 18 agencies participated: Adult Probation and Parole, Davis County Attorney's Office, Dixie State University, Herriman PD, Iron County SO, Logan PD, Orem PD, Provo PD, Riverton PD, Sevier County SO, South Salt Lake PD, St. George PD, Syracuse PD, Uintah County SO, Utah County SO, West Jordan PD, West Valley City PD and Vernal PD.

Despite difficulties due to social distancing, the team remained committed to the joint effort of getting

to the predators before they get to children. The undercover police work continued on social media sites that are most often frequented by our children. All the individuals arrested were actively trying to lure children away from their home with the intent of sexually assaulting them.

Ultimately, the ICAC Task Force arrested eight child predators, for enticing a minor over the Internet. Some of those arrested also distributed sexually explicit images and were also charged with Dealing Materials Harmful to a Minor. Some of those arrested borrowed the family car for the trek; one had a child who had several health issues and the medical equipment was located in the trunk of the car, others had enticed a minor for months; and all of them had the intention of sexually abusing a child. The ICAC professionals from the above listed agencies are passionate about protecting children and their work throughout Utah is priceless.



ICAC TASK FORCE HIGHLIGHTS

Thomas Elliott II

In a second ICAC case based on a cybertip, Elliott was charged with ten (10) counts of Sexual Exploitation of a Minor, all second-degree felonies, in violation of Utah Code§ 76-5b-201. Elliott possessed hundreds of images and videos depicting children, including infants and toddlers, being raped, sodomized, and sexually abused. Elliott has two prior sex offense convictions.

State v. Mary Royce

ICAC successfully prosecuted a mother who had been sexually abusing her two year-old daughter while filming the abuse for a male co-conspirator in New York. The defendant sexually abused and filmed that abuse before distributing it through Facebook. The defendant plead guilty to two counts of First Degree felony Aggravated Sexual Abuse of a Child in state court carrying a mandatory minimum of fifteen to life. The defendant and co-conspirator were also convicted in federal court with manufacturing and distribution of child pornography.

State v. Jason Smith

ICAC successfully prosecuted a father who had been abusing his teenage daughter while she slept. The defendant had been touching his daughter while she slept and filming the abuse. He would then use those videos as currency to trade for and acquire other child pornography from other abusers online. Smith belonged to several online child pornography groups that required new original child pornography

as the price for admittance to those groups. Smith was convicted of Forcible Sexual Abuse and Sexual Exploitation of a Minor as 2nd Degree Felonies. Regrettably, the defendant's conduct did not meet the statutory requirement for the manufacture or production of child pornography as a 1st Degree Felony. Smith was sentenced to consecutive prison commitments of one to fifteen years.

State v. Andrew Bednarik

Bednarik was found uploading images and videos depicting the rape and torture of infants and toddlers. During an interview, Bednarik admitted to two prior hands-on offenses against a 5 and 6-year-old. This case was charged Federally.

State v. Randall Berg

Defendant was the former director of SLC airport. ICAC agents found approximately 50,000 images of child pornography in his possession. Berg admitted to viewing child pornography for almost twenty years and referred to the child sexual images he viewed as "classy stuff." Resolution is still pending.



The ICAC Task Force has apprehended and prosecuted a minimum of seven repeat offenders on child pornography charges since January of 2020.

BY THE NUMBERS

INVESTIGATIONS



CHILD EXPLOITATION REFERRALS

2,900

INVESTIGATIONS CONDUCTED

1,093

SEARCH WARRANTS SERVED

557ELECTRONIC DEVICES
FORENSICALLY EXAMINED**3,401**

ARRESTS

212

PROSECUTIONS



NEW CASES REVIEWED

70

CASES FILED

64

ARRESTS

59

SENTENCED/PROBATION

35

CHILD VICTIMS IDENTIFIED

42



Investigation Team before a raid.

STATEWIDE ENFORCEMENT OF CRIMES BY UNDOCUMENTED RESIDENTS (SECURE) TASK FORCE

The SECURE Task Force is a state-funded task force that focuses on human trafficking, fraudulent government documents, and other felony-level crime within the undocumented population.

The SECURE Strike Force is currently staffed full-time by five AGO Special Agents, one West Jordan Police Department Detective, one Enforcement and Removal Operations (ERO) agent, one Homeland Security Investigations (HSI) agent, and one Department of Public Safety (DPS) agent. Part-time participating agencies include Bountiful PD, Park City PD, Summit County SO, Heber City PD, West Valley PD, and Davis County SO.

The SECURE team continues to follow the mandate of the Utah Legislature by ensuring the safety of Utah's communities, focusing its investigation on human trafficking, document mills, and criminal enterprises involving the trafficking of narcotics and firearms. Human trafficking investigations do not always result in human trafficking-related charges for various reasons, including the protection of the victim(s).

There are always more investigations than prosecutions. When a report is received by SECURE, a case is opened. At different stages of the investigation and for various reasons, the investigative case may be closed and not reflected as a prosecution statistic, even though the prosecutor may have advised on the investigation, approved search warrants, or opened an investigation.

Goals

The SECURE Task Force will continue to educate and train local law enforcement agencies, juvenile services, non-governmental organizations (NGOs), and other related entities in the area of human trafficking. The SECURE Task Force will also evaluate investigative techniques as traffickers have adapted in response to the success the SECURE Task Force has had in arresting them.



NOTABLE CASES

Jeffrey Fitzgerald Porter

On October 3, 2019, the Utah Attorney General's Office charged Jeffrey Fitzgerald Porter with one count of Aggravated Human Trafficking, a first degree felony; one count of Human Trafficking, a second degree felony; two counts of Aggravated Kidnapping, each first degree felonies; and two counts Aggravated Assault, each third degree felonies. The charges arose from Porter's alleged exploitation of two homeless women, one of whom was engaged in a long-term relationship with the Defendant. Porter's conduct included arranging "clients" for them, obtaining payment for acts of commercial sex engaged in by them, and supplying these women with drugs to keep them engaged in commercial sex. Porter was alleged to have strip-searched these women when they did not return with the money obtained from engaging in commercial sex, assaulting them with a crowbar, and refusing to allow them to leave his home by barricading the exits and threatening further violence. Porter was held to answer on the charges.

David Mackey, Chandra Jones, and Andre Gomez

On March 23, 2020, the SECURE Task Force charged David Mackey, Chandra Jones, and Andre Gomez with two counts of Aggravated Human Trafficking of a child, each first degree felonies and two counts of Aggravated Exploitation of Prostitution Involving a Child, each second degree felonies. Mackey, a registered sex offender from Nebraska, was also charged with Unlawful Sexual Conduct with a 16 or 17 year old, a third degree felony; Sexual Exploitation of a Minor, a second degree felony; and Failure to Register as a Sex Offender, a third Degree felony. Gomez, a convicted felon from Georgia, was also charged with four counts of Sexual Exploitation of a Minor, each second degree felonies, and one count of Dealing Materials Harmful to a Minor, a third degree felony.

The charges arose from a scheme wherein the defendants recruited, instructed, and facilitated the trafficking of two child victims in Weber County during the summer of 2019. The defendants instructed the child victims on how to obtain "clients" through posting ads for commercial sex online, purchased hotel rooms where the sex acts would take place, and collected money from the sexual exploitation of the child victims. On June 18, 2020, Jones, the girlfriend of Mackey, pleaded guilty to two counts of Pattern of Unlawful Activity, each a second degree felony. Jones will not be sentenced until after the resolution of cases against her co-defendants.

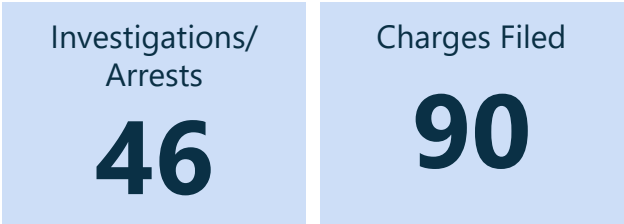
Rezvan Saisani and Sameer Syed

On April 21, 2020, the AGO charged Rezvan Saisani and Sameer Syed with Pattern of Unlawful Activity, a second degree felony; Money Laundering, a second degree felony; and three counts of Exploiting Prostitution, each third degree felonies. Saisani was also charged with Maintaining a Public Nuisance, a Class B Misdemeanor. The charges arose from Saisani and Syed's management and operation of a local motel. The motel, known for commercial sex and drug trafficking, was the long-term residence of multiple commercial sex workers that reported both Saisani and Syed were aware of their engagement in commercial sex and would allow them to use rooms at the motel for purposes of engaging in commercial sex. Saisani and Syed would require clients of commercial sex workers to pay an extra "visitor fee" directly to them in order to access the property. Saisani and Syed reportedly allowed the commercial sex workers to stay at the motel in exchange for sexual acts or without payment knowing that payment would be forthcoming from engaging in commercial sex. Both defendants are awaiting preliminary hearing dates.

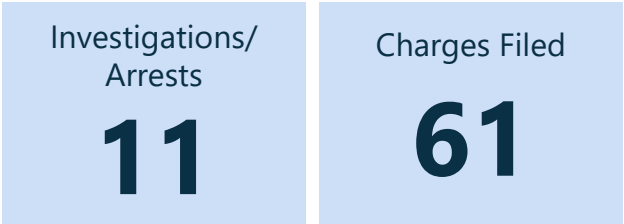
BY THE NUMBERS



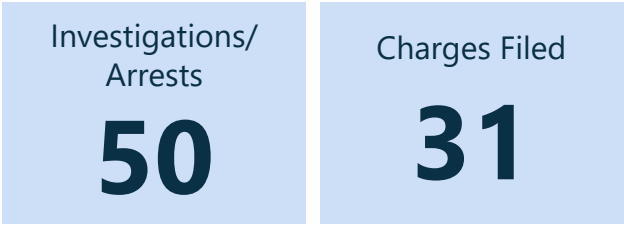
FRAUD/FORGERY/
COUNTERFEITING



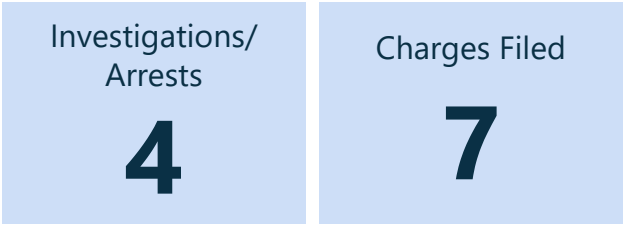
DRUG CRIMES



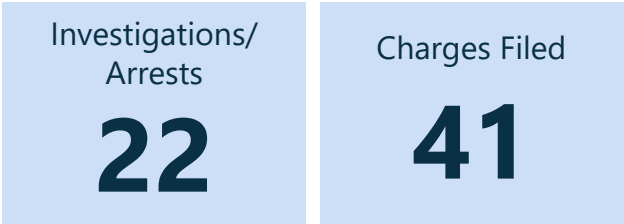
SEX OFFENSES/
HUMAN TRAFFICKING



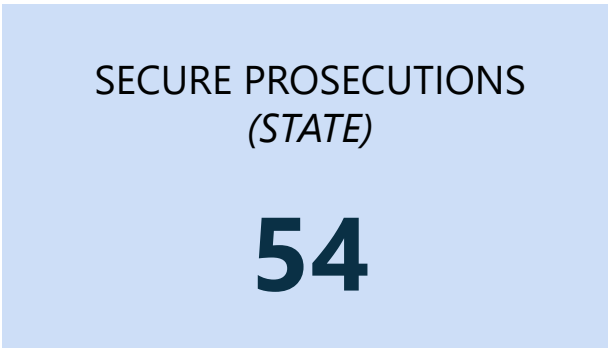
WEAPONS



MISC. CASES, CITIZEN
ASSIST, POLICE ASSIST, ETC.



SECURE PROSECUTIONS
(STATE)





SPECIAL PROSECUTION UNIT

The Special Prosecution Unit is an experienced group of elite attorneys specializing in aggravated felonies, public corruption, sexual abuse, narcotics, weapons, theft, and fraud.

The section works in partnership with both the AGO Special Investigations Unit and local law enforcement agencies to promote a safe and lawful environment for residents statewide.

The section serves to implement the criminal justice system and minimize negative impact upon the lives of victims, witnesses, and their families during the prosecution of felony crimes, which is best achieved through: justice, fairness, prompt and courteous attention, and cooperation with law enforcement.



The Special Prosecution Unit is comprised of the following units:

- DEA/HIDTA Drug Prosecution Unit, which handles Federal and State DEA-related cases.
- Department of Workforce Services and Social Security Administration Unit, which handles fraud cases.

The Special Prosecution Unit advises, handles, or assists other jurisdictions on complex matters including multi-jurisdiction and conflict cases, public corruption, asset forfeiture, factual innocence, State RICO, and all serious and violent felonies including death penalty, capital murder, homicide, and physical sexual abuse and exploitation.

BY THE NUMBERS



CASES FILED
(STATE)

89



CASES FILED
(FEDERAL)

24



CONVICTIONS

70

RESTITUTION COLLECTED

\$840,240

ASSET FORFEITURE

\$263,078

NOTABLE CASES

State v. Argyle

Robert Argyle was convicted of communication fraud, practicing law without a bar license, and forgery. Argyle defrauded family, friends, and employers, posed as a Stanford-educated attorney, worked at law firms, represented clients in court, and fabricated numerous documents which included the forged signature of a second district court judge. Argyle was compared to the fraudster Frank Abagnale highlighted by the movie "Catch Me If You Can". Argyle was sentenced to a year in jail and ordered to pay \$15,894.38 to his victims who believed him to be a licensed attorney in Utah.

State v. Price

Ryan Price was convicted of a second degree felony for forgery and producing false identification for dressing in military uniform and using a false Department of Defense identification card at Home Depot stores in order to take advantage of military discounts and buy

one get one free offers. Price profited in over \$33,000 in fraudulent transactions.

State v. Ridd

In August 2020, Janie Lynn Ridd was sentenced to consecutive terms of 1-15 years and 0-5 years in the Utah State Prison. Ridd was charged with engaging in a sustained effort to poison her roommate in order to take custody of the roommate's child. Ridd attempted to kill her roommate by injecting the roommate with insulin, E. Coli, and Vancomycin-Resistant Staphylococcus Aureus (VRSA), the latter of which she attempted to purchase off the dark web.

The case, which received national news attention, was investigated by the FBI's Joint Terrorism Task Force and included agents from the FBI, the Utah Department of Public Safety, and the United States Postal Inspection Service. Michael Gadd and Steve Wuthrich from the Attorney General's office prosecuted the case.

NOTABLE CASES CONT.

United States v. Shamo, Case

In October 2020, Aaron Michael Shamo received a mandatory life sentence. In 2015-2016, Shamo engaged in a continuing criminal enterprise, in which he sold one million Fentanyl-laced fake oxycodone pills, primarily on the dark web, to recipients in every state in the Union.

Shamo ran an organization, which he named Pharma-Master, that employed nearly two dozen subordinates. Shamo's online drug sales netted him millions in profits. To date, agents have seized more than \$8 million dollars' worth of drug proceeds from Shamo and his co-conspirators.

While Shamo churned out Fentanyl-laced oxycodone pills at ever-increasing rates, his Fentanyl pills were killing unsuspecting customers. While the true number of overdoses attributable to Shamo cannot be calculated, agents identified 90 of Shamo's known customers who subsequently died from overdoses.

A three-week trial was held for Mr. Shamo in United States District Court in August 2019. The jury heard from 47 witnesses, 15 of whom were experts, and reviewed more than 700 exhibits. The jury convicted Shamo on 12 of 13 counts, the most serious of which—Engaging in a Continuing Criminal Enterprise—carried a mandatory life sentence.

Michael Gadd and Kent Burggraaf from the Attorney General's office, along with Vernon Stejskal, an Attorney General's office alumnus, prosecuted the case.

State v. Carter

Child abuse homicide case in Tooele where the Defendant caused the death of her 1-year-old child. Carter pled guilty to second degree felony child abuse homicide and was sentenced to prison for 15 years with the recommendation from the court that she serve the maximum sentence.

State v. Eggleston

Criminal homicide case in Daggett County involved a boat operator who was under the influence and swamped the boat causing one of the passengers to drown. Eggleston pled guilty to Class A misdemeanor negligent homicide and was sentenced to 155 days in jail, drug and alcohol treatment and probation.

State v. Vanderlinden

Child abuse homicide case in Duchesne where the Defendant caused the death of her 2-year-old foster child. Vanderlinden pled guilty to first degree felony child abuse homicide and was sentenced to a suspended sentence of 5 years to life in prison, probation, and one year in jail with no credit for time served.

State v. Lockhart

Rapid DNA case involving vehicle burglary, burglary and possession of firearm by a restricted person. Rapid DNA used to identify defendant has having possessed the firearm. Defendant pled guilty to all 3 counts. Not yet sentenced.



UTAH PROSECUTION COUNCIL

OVERVIEW

Utah Prosecution Council (UPC) is a statutorily-created agency composed of ten members that includes the Attorney General, four elected county/district attorneys, two city prosecutors, the Commissioner of Public Safety, the Chair of the Utah Prosecutor Assistant's Association (UPAA), and the Chair of the Statewide Association of Prosecutors and Public Attorneys (SWAP). UPC is mandated to provide continuing legal education to prosecutors. UPC provides current and relevant legal training to state and local prosecutors, law enforcement agencies and officers, and victim advocates. UPC also works with SWAP to effectively and accurately represent and advocate for the interests of public attorneys.

Full-time staff include a Director, a training coordinator who is responsible for all logistical aspects related to UPC's conferences, an IT specialist who is the project manager for a statewide prosecutorial case management system, and two specialty resource prosecutors: a Traffic Safety Resource Prosecutor (TSRP) and a Sexual Assault/Domestic Violence Resource Prosecutor (SADVRP). These resource prosecutors provide expert assistance to prosecutors and law enforcement personnel.

PURPOSE

The purpose of the UPC is to provide high-quality continuing legal education training for state and local prosecutors through full participation of all prosecution agencies. UPC facilitates communication between law enforcement partners, state agencies, and advocacy groups working to achieve the highest levels of success. UPC provides cutting-edge training and resources to assist all members to better perform their duties.

UPC INVOLVEMENT

Conferences

UPC holds the following conferences on an annual basis:

- Spring Caselaw and Legislative Update
- Regional Legislative Updates
- Utah Prosecutorial Assistants Association Annual Conference
- Basic Prosecutor Course
- Fall Prosecutor Training
- Government Civil Practice Conference
- Utah Misdemeanor Prosecutors Association Conference
- County/District Attorney Executive Conference

Courses

UPC offers additional courses, including the following, as needed and as funding allows:

- New County/District Attorney Seminar (January 2019)
- Train the Trainers (March 2019)
- DV101 Bootcamp (June 2019)
- Mental Health 101
- Adult Sex Crimes
- Advanced Trial Skills
- DUI/DRE Training
- The Visual Trial
- White Collar Crime

UPC Director Robert Church teaches the Domestic Violence 101 course to new cadets at the Peace Officer Standards Training (POST) academy each quarter.

Boards & Commissions

Members of the UPC Staff serve on the following boards and commissions:

- Editorial Board of the Utah Journal of Criminal Law
- National District Attorneys Association Veterans Committee
- National Association of Prosecutor Coordinators (Chair of Finance Committee)
- Utah Prosecutor Assistants Association
- Utah Council for Victims of Crime, Crime Victims Conference Sub-Committee (Co-Chair)
- Sexual Assault Kit Initiative (SAKI) Case Review Committee
- Domestic Violence Advisory Council, Sexual Assault Advisory Council and Justice Sub-committee
- Multi-Disciplinary Trauma Informed Committee
- Trauma Curriculum Committee (Chair)
- Alcohol Drug and Fee Committee (Chair)
- Criminal Justice Track for the National Lifesaver's Conference
- Utah e-Warrant Review Committee

UPC also helps eligible prosecutors and public defenders repay their student loans through its administration of the John R. Justice Federal Student Loan Repayment Program.

BY THE NUMBERS



TOTAL NUMBER OF
CONFERENCES/EVENTS

125



TOTAL NUMBER OF
INDIVIDUALS TRAINED

3,966



TRAINING IN TRAUMA-INFORMED RESPONSE

In early 2014, a study on the number of sexual assault cases filed in Salt Lake County showed that only 6% of cases with a fully-collected sexual assault kit were being prosecuted. A major contributing factor to the low prosecution rate was a lack of understanding of the neurobiology of sexual assault trauma and how that trauma affects a victim's behavior and ability to recall key events of the assault.

As a result, UPC spearheaded the effort to develop a plan to make the criminal justice system in Utah more trauma-informed. UPC recognized that two important events must take place: (1) train criminal justice professionals in trauma neurobiology; and (2) develop a specific, easy-to-use interview protocol incorporating the principles of the neurobiology of trauma. UPC created the Trauma-Informed Victim Interview (TIVI) protocol. In the spring of 2014, UPC began training criminal justice professionals throughout Utah on the

impact of trauma upon a victim's behavior and memory and how to use the protocol. Since that first conference, UPC has trained on trauma-informed response and related issues at thirteen UPC-sponsored conferences, training hundreds of prosecutors and law enforcement officers.

UPC was able to work with Representative Angela Romero in her efforts to pass a bill to require UPC to train all law enforcement officers on this issue. 2017's H.B. 200 required DPS and UPC to offer this training to all certified law enforcement officers in the State of Utah. That requirement has been met as of July 1, 2018. DPS and UPC were also required to develop an advanced training course for officers who investigate cases of sexual assault or sexual abuse. The first course of this advanced training was provided in September 2018.

INVESTIGATIONS

OVERVIEW

The Investigations Division identifies, apprehends, and assists in the prosecution of violations of the criminal laws of the State of Utah and the United States through investigation of criminal complaints in the areas of: complex white-collar and financial crimes; public corruption; general fraud; child abuse and exploitation (includes sexual abuse, physical abuse, homicide, and child pornography); cybercrime, internet fraud, identity theft, and internet crimes against children; crimes associated with closed societies; environmental crimes; antitrust; disability; and significant street crime including homicide, aggravated assault, and sex crimes where a local authority requests involvement.

This division provides investigative support to the prosecutors of the Justice Division on prosecution referrals and also receives referrals from the Grand Jury Panel of Judges to conduct investigations to determine if sufficient cause exists to convene a state grand jury.

All investigators are POST-certified state peace officers.

SPECIAL INVESTIGATIONS UNIT (SIU)

The Special Investigations Unit (SIU) has a primary focus of complex, multi-jurisdictional, multi-victim, and felony-level investigations. These investigations include: fraud, public corruption, officer-involved critical incidents, conflict cases, agency assists, and other miscellaneous crimes.

SIU is currently made up of nine Special Agents and one Direct Supervisor, three Reserve Agents, two Evidence Technicians, and one Training Specialist.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION (SITLA)

There is one SIU agent that assists the School and Institutional Trust Lands Administration (SITLA) investigating any potential crime involving SITLA. These investigations have included issues arising from staged protests, seed gathering, illegal timber cutting, and illegal mining. This position is fully paid for by SITLA.





PROFESSIONAL DEVELOPMENT FOR LAW ENFORCEMENT

SIU houses the Professional Development Section which specializes in developing upper-level critical skills for patrol officers, detectives/investigators, and attorneys in relation to the application of force, de-escalation, law application, and other skills utilized by professionals in the criminal justice field.

GOALS

Fraud Training

SIU is working on developing a comprehensive fraud training for local jurisdictions. A survey has already been released statewide to detectives in order to assess what trainings are wanted by agencies. Once needs are assessed, SIU will assemble a tailored training to be offered statewide.

New Legal Education Video Media

SIU continues work to develop new legal education video media in consultation with AGO Prosecutors. This continues a partnership with Crisis Intervention Team Utah and major Utah public safety risk management groups to provide additional de-escalation learning opportunities. VirTra is an interactive software designed to teach de-escalation, active shooter scenerios, judgmental use of force, situational awareness, and firearms training for law enforcement, military, educational and commercial markets. SIU hopes not only to secure resources that allow a distance learning capability, but also to increase video production to maximize the benefit of using the legal subject matter experts. SIU is reconfiguring the core scenario learning experience to add value to the trainees' time. This comes at a significant staffing cost as it intensifies legal education for each trainee. Recruiting and training additional qualified VirTra operators/educators from within the division staff will facilitate these efforts.

BY THE NUMBERS



CASES OPENED

162



SEARCH WARRANTS

34

SIU NOTABLE CASES

Jeffrey Olsen

The AGO conducted an investigation into an individual who sexually abused several victims in Summit and Salt Lake County. After an extensive investigation the suspect, Jeffrey Olsen, was charged on January 22, 2020 with ten first degree felony charges of Aggravated Sexual Abuse of a Child, Rape, and Forcible Sodomy. On December 1st, 2020, Third District Court Judge Richard McKelvie sentenced Olson to three years to life on each of the four charges.

VIRTRA BY THE NUMBERS



28

LOCAL AND STATE LAW ENFORCEMENT AGENCIES HAVE COMPLETED TRAINING PROGRAMS IN THE VIRTRA SIMULATOR



600

LAW ENFORCEMENT OFFICER TRAINING SESSIONS COMPLETED



21

COMMUNITY LEADER GROUPS THAT PARTICIPATED IN POLICE USE OF FORCE AND DE-ESCALATION PRESENTATIONS
(CITY, COUNTY, AND STATE GOVERNMENT ORGANIZATIONS; RELIGIOUS, SCHOOL, AND MEDIA ORGANIZATIONS)



139

COMMUNITY LEADERS HAVE PARTICIPATED IN USE OF FORCE AND DE-ESCALATION EDUCATIONAL PRESENTATIONS
(MAYORS, COUNCIL MEMBERS, LEGISLATORS, CITIZEN ADVISORS, FAITH BASED LEADERS, SCHOOL ADMINISTRATORS, MEDIA PERSONNEL, AND OTHER COMMUNITY LEADERS)

VIRTRA NOTABLE SUCCESSES

COVID Response for Law Enforcement

Staff at the VirTra Center were assigned to lead the efforts of the Attorney General's offices PPE Coronavirus Task Force Response Team. Staff received many different shipments of PPE supplies including masks, hand sanitizer, bottles, gloves, and wipes. They have managed the inventory and coordinated the distribution statewide. Over the span of the operation, PPE supplies have been delivered to over 100 law enforcement agencies and Children's Justice Centers statewide.

PPE Delivered Included:

- 14,300 N95 masks
- 500 KN90 masks
- 1,200 Hand sanitizers
- 4,100 Gloves

Over 200 hours and nearly 10,000 miles have been driven by AG agents delivering PPE statewide.

Use of Force / De-escalation Training / Taser Targeting

Local, county, state, and federal law enforcement officers from across the state have participated in custom designed virtual reality simulation training at the Attorney General's VirTra training Center. Agencies have taken advantage of the Center's legal expertise, knowledge of best practices, and training resources regarding officer use of force decision making, de-escalation, taser targeting, and other specialty training.

Autism Awareness

Staff of the Attorney General's VirTra Training Center, in partnership with the Attorney General's Autism Advisory Committee developed and coordinated

an Autism awareness training program for law enforcement officers assigned as School Resource Officers (SROs). The training includes understanding autism, recognizing individuals on the spectrum, tools for law enforcement to have positive interactions with children and adults with autism. Center staff coordinated with the three other VirTra Simulator Centers in Utah to deliver training to SROs and Crisis Intervention Team members in their region.

Community Leader Education

Legislators, mayors, council members and other community leaders have attended specially designed use of force and de-escalation presentations at the VirTra Center. The presentations have been developed to assist leaders to address the practical limits of police reform during the 2021 legislative session. Leaders who have direct and indirect influence on the budgets, policies, and practices of law enforcement have benefited from this program.

Four-part TAC MED Video Series

Staff of the VirTra Training Center, in partnership with West Jordan Police Department, determined that lives could be saved with a small investment in training, practice, and equipment. The partnership is delivering training for Utah Law Enforcement including a four-part video series introducing tactical medical or TAC MED concepts for police officer self-rescue and victim treatment. In the series, officers learn about TAC MED concepts, including individual first aid kits (I.F.A.K.), tourniquet applications, applying pressure bandages, and chest seals. The series concludes by encouraging police officers to develop a Survival Mindset, which is illustrated by State Park Ranger Brody Young's story, who survived an ambush and being shot nine times. The series will become part of the VirTra Training Center's COPTALKS video library.



Paul Petersen Pleads Guilty in Marshall Islands Adoption Fraud and Human Smuggling Case

The Utah AGO led the investigation into a business the former Maricopa County Arizona Assessor Paul Petersen owned that involved recruiting, transporting, and paying Marshallese women to place their babies for adoption in the U.S. The scheme extended to Arkansas, which has a large Marshallese population and Arizona, where Petersen lives.

During the early months of 2020, in the midst of the pandemic, AGO prosecutors and staff were hard at work preparing to try the fraud and human smuggling case against Petersen. The AGO's robust efforts pushing this case forward and the strength of the evidence led to Petersen pleading guilty to several charges in June of 2020. Petersen pleaded guilty in Utah's Third District Court to three counts of Human Smuggling and one count of Communications Fraud. Petersen also pleaded guilty to fraud and smuggling charges in Arizona and the Western District of Arkansas.

In December of 2020, Petersen was sentenced on the Arkansas case to serve 74 months in federal prison. He will be sentenced on the Utah and Arizona cases in early 2021. The AGO will seek the maximum sentence for Petersen's crimes of conviction, which includes up to 15 years in prison, a \$50,000 fine, forfeiting his law license and future ability to practice or facilitate adoptions in Utah.

"Today, Utah is safer. The rest of America and our friends in the Marshall Islands are safer. Today, justice begins to be served as Mr. Petersen will be held accountable for his crimes while his many victims are given some closure in the aftermath of this tragedy," said Utah Attorney General Sean D. Reyes. "We've sent a clear message. Whether you are committing fraud, human smuggling, trafficking or any related crimes, we will aggressively protect Utahns and come after you."

Continued on page 90.



Assistant Attorney General Dan Strong announces the charges filed against Paul Petersen in Utah at a press conference in October 2019.

Continued from page 89.

“Convicting Paul Petersen of four serious felony charges is a just and encouraging resolution of the state’s criminal case,” said Dan Strong, Assistant Attorney General and SECURE Section Director. “Between the sentences in all three states, we are confident Petersen will serve a substantial prison term—a stronger result than any jurisdiction could likely have achieved individually. We are especially proud to have achieved this outcome without putting the victims in this case through a difficult trial that would have involved wrenching testimony on sensitive family issues. We hope this conviction and sentence gives these victims some closure, and that it will deter Petersen and others like him from flouting international law, exploiting vulnerable mothers, and defrauding parents seeking to adopt.”

An international compact between the United States and the Marshall Islands prohibits Marshallese citizens from traveling to the United States for purposes of adoption. During his guilty plea, Petersen admitted that he knowingly transported Marshallese women into the United States, knowing they were not United States citizens, and did so to facilitate adoptions. Petersen also admitted he did not inform

the American couples seeking to adopt these children about the international restrictions on Marshallese adoptions, and that he omitted this information to obtain the adoption payments.

These kinds of cases are complex, troubling and the crimes have a significant impact on the victims,” said Professor of Law Paul Cassell at the S.J. Quinney School of Law at the University of Utah and a former U.S. District Court Judge. “I have personally been involved in negotiating resolutions in these situations through the legal system and believe that this is a just resolution and will deter future violations of law and will provide a just punishment.”

Attorney General Reyes expressed gratitude to all those who dedicated time and effort in this case: “I’m extremely proud of the tireless work our Attorney General investigators, prosecutors, victim advocates and community partners have done on this case. Utah led out on the investigation which lasted well over a year and our prosecutors’ close working relationship with Arizona and Arkansas, will lead to a collective result that no state alone would likely have been able to obtain. I thank our state and federal partners and the Republic of the Marshall Islands for their cooperation and support on this complex case.”



L.E.T.S. STAY SAFE - FIREARM SAFETY & VIOLENCE PREVENTION PROGRAM

Firearm safety education is crucial to the well-being of Utah's children. L.E.T.S. Stay Safe is Utah's firearm safety and violence prevention program that promotes gun safety through education.

During the 2016 Legislative Session, Senator Todd Weiler and Senator Dan McCay sponsored SB 43, a bill that directed the Utah Attorney General's Office to produce a program that offers guidance and education to youth on the importance of firearm safety and reporting threats to schools. Together with the Utah Legislature, the Utah State Board of Education, and partner law enforcement agencies, the Utah Attorney General's Office produced L.E.T.S. Stay Safe. This comprehensive educational program was developed to help teachers and parents teach firearm safety by providing teaching materials and safety guidelines for students and children across the state.

Program materials include a 5-minute educational video that teaches children what to do when they find a gun or become aware of a threat at school. The

video is accompanied by a 50-minute lesson plan, PowerPoint presentation, posters, handouts, and a social media campaign. The program "L.E.T.S. Stay Safe," uses the mnemonic "L.E.T.S." to teach students the proper actions to take when they find a firearm: Leave it alone; Educate others; Tell an adult; and Share threats against the school or other students with authorities. School resource officers and other peace officers can voluntarily teach this lesson to grades 5 through 12 in school districts where the school board or chartered school governing board has given approval. All students may attend this class when a parent or legal guardian has given prior written consent.

Parents and community leaders can also access and use the program for family and community education. Details for the program are outlined in Utah State Code 53A-13-106.5.

Program materials can be found on the AGO website at attorneygeneral.utah.gov/lets-stay-safe-utah/.



COOPERATIVE DISABILITY INVESTIGATION UNIT

The Salt Lake Cooperative Disability Investigation Unit (CDIU) is a multi-agency task force that investigates fraudulent disability applicants and recipients. The Salt Lake CDIU investigates disability claims under the Social Security Administration's (SSA) Title II and Title XVI programs that Utah disability examiners believe are suspicious. There are currently four Special Agents (one of which acts as the supervisor) and one support staff member, as well as a Criminal Information Specialist, assigned to the Salt Lake CDIU from the AGO. The positions are all fully funded federally (wages and benefits), and the AGO is reimbursed from the SSA for the costs associated with the five staff members assigned to the Salt Lake CDIU. The Salt Lake CDIU program's primary mission is to obtain evidence that can resolve questions of fraud before benefits are ever paid. The Salt Lake CDIU may also provide investigative support to examiners during continuing disability reviews that can be used to cease benefits of in-payment beneficiaries.

Upon completion of the investigation, a report detailing the investigation is sent to Disability Determination Services (DDS), where staff serve as the ultimate decision-making entity in determining whether a person is eligible to receive a monthly disability benefit payment. If the claimant is already receiving benefits, DDS and/or SSA will determine whether the person's benefits should be continued or terminated. In some cases, there is a possibility of criminal prosecution, or the imposition of Civil Monetary Penalties (CMP), or administrative sanctions may occur.

The Salt Lake CDIU began operating in April 2011. A team leader assigned from the Office of the Inspector General (OIG) supervises the Salt Lake CDIU. The following agencies are members of the Salt Lake CDIU Task Force: the Office of the Inspector General, Disability Determination Services, the Social Security Administration, and the Utah Attorney General's Office.

BY THE NUMBERS



ALLEGATIONS RECEIVED

97



CASES OPENED

36



SSA SAVINGS

\$1,591,675

NOTABLE CASE HIGHLIGHTS

Case 1

The AGO investigated a 38-year-old male subject on a pre-effectuation case who was claiming numerous disabilities to include back problems, migraines, memory issues and depression. He is currently on 100% disability with the VA. He claimed he could not lift anything over 5 pounds and was using a stroller as a walker while he was waiting to obtain a real walker.

The CDIU conducted multiple surveillances of the subject and observed him working on sprinkler trenches at his new home, including using a pickaxe, wheelbarrow, and shovel while negotiating over and in the trenches in his yard. Investigators followed him as he attended a doctor's consultative exam and observed him drive with his family to the appointment. Approximately a mile out from the doctor's office the subject, stopped at an intersection, got out and ran around the vehicle and switched places with his wife who then drove the vehicle the rest of the way to the appointment. The subject was then observed using a walker to enter the doctor's office. This case is currently in the process of being presented to the examiner. The subject likely be denied benefits.

Case 2

The AGO investigated a 44-year-old male subject on a pre-effectuation case who was receiving disability payments based on his claim of having back problems that significantly affected his ability to walk, drive, and take care of himself. Through investigation, he was observed not utilizing a cane and driving. In addition, the investigator was able to work with the Utah Division of Wildlife Resources to show the subject had received numerous hunting licenses and tags.

Based on the investigation, Utah Disability Determination Services ceased the subject's disability payments with a projected savings over the next five years of \$210,042.00.



CRIMES AGAINST STATEWIDE ECONOMY C.A.S.E.

Beginning in March of 2020, the Utah Attorney General's Office created a new unit to combat the rise of specific criminal activity that has an impact on Utah's economy, the first of its kind nationwide. Legislation passed in 2020 authorized creation of the CASE task force. These identified crimes include:

- Gambling
- Counterfeit Goods
- Intellectual Property
- Porch Piracy
- Organized Retail Crime
- Anti-Trust
- Scrap Metal Investigations

The C.A.S.E. unit includes investigators from the Utah Attorney General's Office, the Department of Public Safety-State Bureau of Investigations West Jordan Police Department, and the West Valley Police Department, as well as prosecutors from the AGO's Justice Division, and works closely with the private sector to develop cases and share intelligence on retail crimes.

From September through March 1st, 2021 the C.A.S.E Task Force has investigated 54 cases, estimating approximately \$2.7 million in losses to our retail partners. Most of these cases have resulted in criminal charges.

BY THE NUMBERS



CASES INVESTIGATED

54



UTAH TRAFFICKING IN PERSONS TASK FORCE

OVERVIEW

The AGO SECURE Strike Force investigates and prosecutes human trafficking offenses as part of its mandate from the Utah Legislature. The AGO also hosts and coordinates the efforts of the Utah Trafficking in Persons Task Force (UTIP). UTIP is a multi-disciplinary group of experts from law enforcement, academia, victim services, state and federal agencies, and non-governmental organizations (NGOs) working together to combat human trafficking in Utah. UTIP's goal is to attack every aspect of the human trafficking problem—not just prosecuting offenders, but also rescuing victims and providing them with aftercare, educating the public on trafficking issues, and improving legislation. Working together with UTIP, the AGO has made major strides in bolstering Utah's response to human trafficking. Our state is now recognized as a leader in combatting this horrible crime.

MODERN SLAVERY

Human trafficking is a modern-day form of slavery involving the illegal trade of people for exploitation or commercial gain.

Every year, millions of men, women, and children are trafficked in countries around the world, including the United States. It is estimated that human trafficking is a \$150 billion per year industry worldwide, second only to drug trafficking as the most profitable form of transnational crime.

Human trafficking is a hidden crime, as victims rarely come forward to seek help because of language barriers, fear of the traffickers, and/or fear of law enforcement.

Traffickers use force, fraud, or coercion to lure their victims and force them into labor or commercial sexual exploitation. They look for people who are vulnerable for a variety of reasons, including economic hardship, natural disasters, or political instability. The trauma can be so great that many may not identify themselves as victims or ask for help, even in highly public settings.



HUMAN TRAFFICKING INVESTIGATIONS & PROSECUTIONS

Human trafficking investigations are complex and can stretch on for months or years before enough evidence is gathered to make an arrest. Proving the elements of these offenses often requires testimony from victims who have been severely traumatized by their experiences. Sometimes human trafficking victims do not wish to participate in an investigation or prosecution. In those cases, investigators and prosecutors will work to prosecute offenders for other offenses that do not require victim testimony. Prosecutors work closely with victim service providers to shepherd victims through the criminal justice process and to prepare them for the reality of testifying against their traffickers. In some cases, there will not be enough evidence to make an arrest. For those reasons, arrest numbers are lower than the number of investigations.

HUMAN TRAFFICKING INVESTIGATIONS

AGO investigators actively investigate human trafficking cases throughout the state. In addition to running its own proactive investigations, the Investigations Division also takes referrals from local police departments, follows up on tips from the National Human Trafficking Hotline, and works with victims referred by UTIP partners.

HUMAN TRAFFICKING VICTIMS

In the course of its human trafficking investigations, the division works to identify human trafficking victims and refer them to comprehensive victim services through its UTIP partners. Although arresting and prosecuting offenders is a major goal of the division, rescuing human trafficking victims is even more important.



HUMAN TRAFFICKING LEGISLATION

The AGO and members of the UTIP Task Force have consulted with the legislature on new legislation to combat human trafficking and help trafficking victims in Utah. Much of the human legislation proposed since 2015 has come directly out of work done by UTIP and cases prosecuted by the AGO. As the task force continues to lead the state's law enforcement effort to combat human trafficking, it becomes an issue experts on gaps in Utah code or ways in which it can be improved. The legislature has quickly and effectively responded with improvements to the Utah Code. These efforts have led Shared Hope International—an NGO working to combat child sex trafficking—to steadily increase Utah's "grade" on its anti-trafficking legislation report card from an F in 2011 to an A in 2019 (2020 grades have not yet been issued).

Human Trafficking Amendments

During the 2020 legislative session, the AGO consulted on HB 291, a successful bill from Representative Romero. This bill made human trafficking registerable under the sex and kidnapping registries, giving Utah communities the information they need to protect themselves from convicted trafficking offenders if they are released from prison.

HB 291 also strengthened provisions related to "safe harbor" protections for child sex trafficking victims in Utah. "Safe harbor" is the concept that human trafficking victims should be treated as victims in any contact with the justice system, rather than criminal suspects. The legislature

first granted safe harbor protections to child sex trafficking victims in 2015, but some gaps in the language of the code led to some child trafficking victims still being detained and adjudicated delinquent for sex solicitation. The new language passed in 2020 clearly prohibits this treatment of victims and requires instead that they be referred to services and that their cases be investigated for human trafficking.

To further emphasize this shift in perspective, HB 291 removed references to "child prostitution" and "child prostitute" throughout the code and replaced them with "child engaged in commercial sex."

Finally, HB 291 directing the AGO to create and offer human trafficking training to law enforcement officers throughout the state. The AGO has spent 2020 developing this curriculum and has already trained officers in Wasatch County. In 2021, the AGO will seek to train officers in all Utah police departments and implement training of new cadets through Peace Officer Standards and Training (POST).

"This bill will be adding on to what we're doing with sexual assault and domestic violence," Representative Angela Romero told members of the House Law Enforcement and Criminal Justice Committee. Representative Kelly Miles commented "[T]hese updates and changes are very appropriate with what we're trying to accomplish as a state."



CHILD PROTECTION

OVERVIEW

The Child Protection Division provides judicial protection for children who are in imminent danger or at risk of abuse or neglect. Division attorneys work in tandem with partners in the Utah Division of Child and Family Services (DCFS) to ensure that evidence is clear and that proper legal processes are followed whenever the state decides that it is necessary to intrude into the privacy of a family in order to protect a child.

RESPONSIBILITIES

- Present evidence of abuse and neglect to prove that a child is in need of the court's protection.
- Provide DCFS with legal advice on its duties and responsibilities, and represent the agency in making its recommendations regarding a child and its family to the court.
- Assure that court orders entered for the protection of the child and for the rehabilitation of the family are enforced.
- Bring legal action to provide supervision and services in the home or to determine an alternative permanent living arrangement for an abused or neglected child when a family fails or refuses to remedy the abuse or neglect within the time allowed by law and the behavior makes the home unsafe for the child.



BY THE NUMBERS



TOTAL NUMBER OF
JUVENILE COURT CASES

2,260



TOTAL NUMBER OF
TRIALS

1,632



AVERAGE JUVENILE
COURT CASE LOAD PER
ATTORNEY

71



TOTAL NUMBER OF HEARINGS

13,729



TOTAL NUMBER OF
APPEALS

57



TOTAL NUMBER OF
ADMIN REVIEWS

198



CHILD & FAMILY SUPPORT

OVERVIEW

The Division of Child & Family Support represents the Office of Recovery Services (ORS) in establishing paternity, enforcing and modifying child support orders, and ensuring child support orders are received to recover improperly received public benefits.

RESPONSIBILITIES

- Establish paternity
- Enforce and modify child support orders
- Ensure child support orders are recovered properly

Additionally, the division works in the areas of probate, torts, and bankruptcy.

BY THE NUMBERS



DIVISION CASELOAD

5,588



AVERAGE CASELOAD PER
ATTORNEY*

309



NUMBER OF COURT
APPEARANCES
STATEWIDE

3,567



NUMBER OF COUNTIES
IN WHICH APPEARANCES
WERE MADE

28



**Does not include cases in which the agency did not refer the file*



CHILDREN'S JUSTICE CENTERS

OVERVIEW

The Utah Children's Justice Center (CJC) Program is an accredited chapter of the Nation Children's Alliance and is dedicated to helping local communities respond to allegations of child abuse in ways that are effective and minimize trauma for the child. Administered by the Utah Attorney General's Office, the Utah CJC Program includes 26 locations statewide.

When abuse is suspected, the child is brought to a Children's Justice Center—a safe, child-focused facility—to talk to a trained interviewer. A team of law enforcement members, child protective services agents, medical and mental health providers, victim advocates, and prosecutors make decisions together about how to handle the case and help the child. Children and families are connected with services and supported throughout the process.

The CJC Program is responsible for administering the state's 26 CJC's, providing oversight, allocating state and federal funding, providing training and technical assistance, monitoring service delivery, and serving as the liaison to the many organizations and councils that have child abuse as a focus.

MISSION

The mission of the Children's Justice Center Program is to provide a comfortable, neutral, child-friendly atmosphere for children to receive coordinated services during the child abuse investigative process.



HIGHLIGHTS

Telemental Health Project with the Minnesota Chapter and National Children's Alliance

Through a partnership with Minnesota Children's Advocacy Center (CAC) Chapter and the National Children's Alliance (NCA), the CJC Program (Program) implemented telemental health services for child abuse victims. Experts from the Medical University of South Carolina trained 16 Utah clinicians on effectively providing therapy via a virtual platform.

Trauma Screening and Treatment for Child Abuse Victims

The Care Process Model (CPM) developed by Primary Children's Center for Safe and Healthy Families and the University of Utah continued to be used in 21 CJsCs, and as of April of 2020, 8,700 children had

been screened for traumatic stress in CJsCs and two primary care clinics. Based on the pilot data, more than 70% of children screened at centers reported moderate to high trauma symptoms, 5% required a new child abuse report, and 37% were identified as at-risk for suicide.

Expansion on CJC-Based Forensic Interview (FI) Specialists

With the help of federal grants and county support, additional FI specialists were added to CJsCs in Uintah, Weber, Tooele, Utah, and Salt Lake Counties. The Program's FI and Multidisciplinary Team (MDT) Specialist provided more than 100 instances of technical assistance and peer review to these professionals, who also serve as trainers for our statewide forensic interview training program.



SHINE Ambassadors Rabbi Avremi Zippel, former Senator Aaron Osmond, musician Deondra Brown and Attorney General Reyes launched the SHINE Campaign at a press conference in May 2020.

HIGHLIGHTS *cont.*

Response to COVID

While COVID forced much of the state to shut down in March, child abuse reports continued to come in to Child Protective Services and law enforcement. The CJC Program and CJCs worked together to adapt practices to ensure that centers could safely remain open and available for services. While there were some declines in reporting, CJCs' March to June caseload was still about 85% of what it was in 2019.

SHINE Awareness and Education Project

The CJC Program received almost \$500,000 in funding over a two-year period from the Victims of Crime Act to launch SHINE, a national public awareness initiative to transform the conversation around child abuse and connect people with their local CJC. Utah's SHINE project featured three ambassadors--Deondra Brown, Senator Aaron Osmond, and Rabbi Avremi Zippel--who served as spokespersons. In the spring and early summer of 2020, the Program had 88

billboards placed throughout the state of Utah and ads running on both digital media and television. As a result of the campaign, the Program had experienced a more than 14,000% increase in visitors to its website and 83% growth in its network on social media. We are currently in the second and final year of the project.

About Better Communication (ABC) Training and Advanced Interview Training

After meeting with law enforcement agencies who expressed a critical need for training for officers who may have to understand some basic interview techniques when talking to children, the Program's MDT and FI Specialist created "ABC – About Better Communication." ABC is a half-day curriculum suitable for law enforcement, school resource officers, first responders, and others. In addition, our Specialist developed a two-day curriculum on advanced interviewing techniques for reluctant victims, including victims who have been trafficked.

MEDICAID FRAUD CONTROL UNIT

OVERVIEW

The Medicaid Fraud Control Unit (MFCU) is a division of the AGO that investigates and prosecutes Medicaid fraud committed by providers of medical services, products, and drugs, including patient abuse and neglect. It lowers medical and drug costs for Utah consumers and employers by challenging fraudulent practices that result in over-payments to Medicaid. Cases range from local prosecutions of doctors and facilities that charge Medicaid for services that were not provided, to participating in national lawsuits against drug companies that conspire to limit competition for generic drugs.

NOTABLE PROSECUTIONS

United States v. Neilson

This case involved an emergency room nurse who admitted to tampering with controlled substances intended for patients and diverting the drugs for her own use. Neilson admitted that she would fill two syringes with pain medication and administer one to the patient and put one in her pocket to use later at home. Neilson would then take her used syringe back to work to get more medication. During this process, Neilson at times mixed up the syringes and injected patients with needles Neilson had used on herself. Neilson was unaware that she had Hepatitis C and she ended up transmitting a rare strain of the Hepatitis C virus to at least seven patients. MFCU teamed up with the U.S. Attorney's Office, multiple federal partners (FDA, HHS-OIG, FBI, and DEA), and DOPL to bring this nurse to justice.

For her actions, Neilson surrendered her nursing license and pled guilty to two counts of Tampering with a Consumer Product and two counts of Fraudulently Obtaining a Controlled Substance. On January 13, 2020, Neilson was sentenced by U.S. District Judge Dee Benson to serve five years in federal prison.

Other Abuse and Neglect Cases

MFCU currently has multiple cases involving resident abuse and neglect pending in court. These cases involve paid caregivers who either fail to provide care as ordered or mistreat vulnerable adults.



NOTABLE PROSECUTIONS *cont.*

Financial Exploitation of Vulnerable Adults: Current Trends and Cases

Exploitation of vulnerable adults, and especially aging adults, occurs at an alarming rate. Adult Protective Services (APS), State of Utah, reports that one in twenty older adults (age 60+) will experience some form of financial exploitation, and that family members are the most likely perpetrators. MFCU's caseload in the area of exploitation is growing drastically and seems to correlate with the statistics reported by APS. MFCU has investigated many exploitation cases over the past year and currently has 27 active cases being investigated or prosecuted. These cases share the following common theme:

- Family member, or other person of trust, gains access to the funds and assets of the vulnerable adult and then spends those funds for the benefit of someone other than the vulnerable adult
- The exploitation often starts out gradually and then increases to the point that the needs of the vulnerable adult are not met, and the funds and assets are depleted.

Exploitation

State v. Anderson

The defendant served as guardian and Representative Payee for her aunt, a vulnerable adult who resided in an assisted living facility. Instead of caring for her aunt's needs, the defendant took the victim's money, eventually failing to pay even room and board expenses for her aunt.

The defendant pled guilty to a Class A Misdemeanor for Exploitation of a Vulnerable Adult. The defendant sold her own home to make it possible to pay \$15,000 in restitution at the time of sentencing and was ordered to make monthly payments throughout her 36-month probationary period.

Opioid Diversion

MFCU has long had jurisdiction to investigate and prosecute opioid diversion committed by providers. Recently, MFCU was also granted jurisdiction to pursue opioid diversion committed by Medicaid recipients if that diversion results in the abuse or

BY THE NUMBERS



NUMBER OF TOTAL
CASES OPENED

116



NUMBER OF TOTAL
CASES CLOSED

143

neglect of vulnerable adults, or in fraud against the Medicaid program.

Nurse Opioid Diversion

During the 2020 fiscal year, MFCU prosecuted 3 nurses who diverted medications that were intended for resident use. In cases where the diversion prevents residents from receiving needed pain medication, perpetrators are charged with resident abuse or neglect, in addition to unlawful possession. When resident treatment is not impacted but Medicaid has paid for the diverted medication, the actions result in false claims act violations, in addition to possession. MFCU works closely with DOPL to coordinate efforts and resolve these cases.

Medicaid Fraud

The Utah MFCU worked on multiple cases with the U.S. Attorneys Office this past year involving medical providers who caused false claims to be submitted to the Medicaid program. These cases resulted in civil settlements, with providers paying back Medicaid for all losses, as follows:

- A dental practice submitted claims to Medicaid using the provider number of a dentist who no longer worked at the facility.
- A physical therapist billed services through her own provider number even though services were actually provided by other therapists at her clinic. The therapists who performed the services were not approved Medicaid providers.

WHITE COLLAR & COMMERCIAL ENFORCEMENT

OVERVIEW

The White Collar & Commercial Enforcement (WCCE) Division serves as agency counsel for the Utah Department of Commerce and its various divisions including: the Division of Occupational and Professional Licensing (DOPL), the Division of Consumer Protection, the Division of Real Estate, the Division of Securities, and the Division of Corporations and Uniform Commercial Code. WCCE represents the Commerce agencies in varying licensing and enforcement matters before professional boards and commissions, as well as in state and federal court.

BY THE NUMBERS



NUMBER OF TOTAL
CASES OPENED

669



NUMBER OF TOTAL
CASES CLOSED

393





NOTABLE PROSECUTIONS

Utah Division of Securities v. Mine Shaft Brewing, LLC, et al., involves a group of defendants who sold unregistered securities in a purported brewpub and beverage company, using numerous false and misleading representations and material omissions about the company's current operations and future prospects. The defendants told investors that the invested money would be used to build and operate a restaurant and brewery in Park City, Utah (and later, in California). In fact, the defendants pocketed the vast majority of investors' money for personal use. One of the defendants in particular, Timothy A. Nemeckay, used investor money to pay restitution he owed to investors he victimized in a prior securities fraud scheme. When soliciting investors, Mr. Nemeckay also failed to disclose the fact that he settled prior securities fraud claims with both the SEC and the Utah Division of Securities. Mr. Nemeckay was in the process of soliciting investments from additional, unwitting victims when we obtained a TRO and ultimately the preliminary injunction, putting an end to his scheme. Mr. Nemeckay is now also facing federal criminal charges.

In re: Purdue Pharma. Utah, along with many other states, sued Purdue Pharma for its role in the opioid crisis. The magnitude of the claims caused Purdue to seek the protection of the United States Bankruptcy Court for the Eastern District of New York. Utah is a member of the ad hoc committee representing the consenting states in the bankruptcy.

Division of Real Estate v. Bruce Armstrong was a license disciplinary action against a real estate broker who took more than \$50,000 of client funds from brokerage trust accounts and made repeated misrepresentations to his clients about the total amounts held in the trust accounts. The facts of the case were particularly complicated and required the Division to analyze more than 70,000 pages of bank account records to track the misappropriated funds and misrepresentations. The Division successfully negotiated a stipulated order which provided for the revocation of Armstrong's real estate licenses and a \$405,000 civil penalty, which is the highest fine amount ever ordered by the Real Estate Commission in a real estate disciplinary proceeding.

Division of Occupational and Professional Licensing v. Justin Peck/Source Investments, LLC. The Division negotiated a settlement with Justin Peck and his company, Source Investments, LLC ("Source"), related to allegations that from at least 2016 to 2019, Source illegally operated as an unlicensed drywall business. The Division alleged that Peck generated tens of millions of dollars of revenue each year by utilizing a stolen license to fraudulently induce contractors to hire Source. The proposed settlement, which remains subject to Commission approval, would require Peck and Source to cease and desist from all unlicensed activity and pay a \$1,147,000 civil penalty to the Division.



NOTABLE PROSECUTIONS *cont.*

DOPL v. Dr. H. The Division settled a complex licensure matter regarding a medical practitioner who prescribed large amounts of Ketamine for depression treatments. The case was made even more complex because of the dearth of established practice guidelines relating to Ketamine. As a result of the settlement, Dr. H is on probation and has made several extremely positive changes in his practice. This was an important case for the protection of the public.

DOPL v. Dr. A. The Division reached a settlement with a physician who was acting as a “cosmetic surgeon”. Dr. A fell within a loophole to the medical licensing act. Although she had not completed any surgical or anesthetic residency programs, she was performing cosmetic surgery. As part of the settlement, Dr. A was placed on probation and may not engage in surgery until completing a DOPL-approved surgical residency.

The Division also obtained significant decisions relating to government records. In one matter, Judge Mettler of the Third District Court denied plaintiff’s motion to compel DOPL to disclose the identities of three sexual assault victims. In another, an Administrative Law Judge denied a plaintiff’s motion to compel production of complaint forms that contained protected information. In a third, the Division prevailed before the State Records Committee in protecting the identity of a whistleblower.

The Division also saw continued success in expanding use of DOPL’s Controlled Substance Database by integrating it into the electronic health record systems of various health organizations, including the Utah Navajo Health System and the Veterans Health Administration.

An aerial photograph of a suburban neighborhood, showing several houses with different colored roofs (red, grey, blue) and green lawns. A street runs horizontally across the middle of the image. The houses are arranged in a typical suburban pattern with driveways and parking spaces.

MORTGAGE & FINANCIAL FRAUD

OVERVIEW

The Mortgage & Financial Fraud Division is a criminal unit. Its mission is to diligently and ethically investigate and prosecute mortgage fraud and other major financial fraud committed within the State of Utah. In every case, the division pursues justice on behalf of the state and victims of fraud and vigorously applies its resources toward investigation, prosecution, and financial remedies and recovery. The division specializes in felony-level multi-jurisdictional investment fraud matters and prosecutes large-scale communications fraud, theft, and racketeering cases.

The division protects Utah citizens by prosecuting many varieties of white collar crime, including mortgage fraud, securities fraud, communications fraud, affinity fraud, general consumer fraud, and other fraudulent conduct that threatens Utah consumers and businesses. Attorneys in this section aggressively prosecute fraud perpetrated against the most vulnerable citizens of Utah, in particular the elderly. The division works closely with many state and federal agencies to accomplish its goals. The division prosecutions can range from cases involving a single victim and a small loss to sophisticated schemes with hundreds of victims and millions of dollars in lost money and assets. The division regularly monitors and enforces all restitution orders against those people the unit convicts, and every year the unit returns substantial amounts of restitution to victims of these crimes.

BY THE NUMBERS



NEW CRIMINAL CASES OPENED

21



CRIMINAL CASES CLOSED

22

RESTITUTION ORDERED
UPON CONVICTION

\$1,450,217

RESTITUTION COLLECTED
THROUGH AG'S OFFICE*

\$840,976



*Does not include restitution collected through AP&P or OSDG, nor restitution for tax cases paid directly to the State Tax Commission



NOTABLE CASES

Investment/Securities Fraud

Spencer Barton

Between September 2016 and November 2017, Spencer Barton offered and sold investment contracts and/or working interests in natural gas and/or oil wells to approximately 50 investors and collected approximately \$359,157. In connection with the offer or sale of securities, Barton either directly or indirectly made untrue statements of material facts and/or omitted to state material facts, including statements such as the investor pool would be limited to a maximum of 20 accredited investors. Bank records revealed that Barton spent investor funds in a manner inconsistent with the representations he made to investors, including withdrawing approximately \$150,655 in cash with no apparent accounting of how the cash was used. Barton pleaded guilty to one count of Pattern of Unlawful Activity and was ordered to pay restitution in the amount of \$166,110.54 and serve 10 days jail as a term of his probation.

Robin Kartchner

In October 2019, Robin Kartchner was convicted of several counts of tax evasion and failure to file a proper tax return involving tax years 2007-2015. At trial, a Utah Tax Commission investigator testified that Kartchner failed to file proper income tax returns in some years and in other years filed returns claiming zero income. However, his employer reported income during the subject years ranged from approximately

\$77,000 to over \$112,000. At sentencing, Kartchner was placed on probation and ordered to pay restitution in the amount of \$19,915.99.

State v. Kenneth Hyer

In this case the defendant was charged with three counts of security fraud, three counts of sale of unregistered security, and three counts of unlicensed broker-dealer or agent on August 3, 2019. The defendant pled no contest on August 17, 2020 to security fraud. Hyer sold a security interest on behalf of the Woodbridge Group of Companies, LLC (“Woodbridge”) to three elderly victims after placing an advertisement in the Simply Seniors newsletter. An agent of the Simply Seniors newsletter expressed a concern about the product to Hyer before Hyer placed his advertisement with the newspaper and directed Hyer’s attention to adverse court rulings against Woodbridge and the security interest he was selling. Hyer disregarded the warning and placed the advertisement which led to the three victims investing \$125,000 in Woodbridge through Hyer. Woodbridge eventually filed bankruptcy. In addition to Hyer’s plea, Hyer agreed to pay the victim’s the full amount of their investments minus any payments made from the Woodbridge bankruptcy. He agreed to register with the White Collar Registry for ten years and to be on court probation for 36 months or until the restitution is paid in full.



NOTABLE CASES CONT.

State v. Lawrence Daniel

Daniel is a Texas-licensed attorney who resided in Cedar City. He solicited a couple of Cedar City residents to invest in a startup oil and gas venture that he had formed called Daniel Energy Company, LLC. Mr. Daniel claimed that his company was poised to exploit a patent-pending process for extracting natural gas from spent oil wells. Mr. Daniel's representations to the victims were false or misleading. The patent pending process did not belong to Mr. Daniel but to a third party over whom Mr. Daniel had no control. Mr. Daniel did not disclose that he would use nearly half of the investors' funds to compensate himself and to pay personal living expenses. In the end, all of the investors' funds were lost and no accounting was made for how they were used.

A two-day jury trial was held in Cedar City where the jury found Mr. Daniel guilty as charged of two felony counts of securities fraud. He has since been sentenced and must serve a brief jail term as part of probation. While out on bail awaiting trial in the Cedar City matter, Mr. Daniel reoffended by committing a new securities fraud and communications fraud violations. He was charged once again by the MFFU and was bound over for jury trial at a preliminary hearing.

Identity Theft and Fraud

State v. Dan Roberts

In this case the defendant was charged with one count of identity fraud, six counts of forgery, ten counts of filing a false (tax) return or statement, and one count of pattern of unlawful activity on September 3, 2019. Roberts used the signature stamp of the deceased person Jeanine Holyoak to file his business taxes for the tax years 2013 through 2018. Holyoak gave her signature stamp to Roberts to use for other business purposes and her consent to use the stamp ended when she passed away in December 2013. Roberts continued to use Holyoak's signature stamp after her death to avoid paying taxes in his name. Roberts pled to the three counts mentioned above and agreed to be placed on 36 months of court-ordered probation, to pay restitution to the Utah State Tax Commission in the amount of \$4,200.14 and to stop using Holyoak's name.

Tax Evasion

State v. David Smith

The defendant was charged with five counts of tax evasion and five counts of failure to render a proper tax return, for tax years 2013, 2014, 2016, 2017 and 2018. Smith was served on March 10, 2020 and the case resolved within nine months on November 23, 2020. Smith pled guilty to one count of failure to render a proper tax return and the plea was held in abeyance requiring Smith to have 36 months court-ordered supervision, and to pay all outstanding taxes and interest, and half the penalty for the tax years 2013, 2014, 2016, 2017 and 2018 which totaled \$31,264.13.



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