



2021

ANNUAL REPORT

OFFICE OF THE UTAH ATTORNEY GENERAL





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AG OFFICE

MISSION & VISION

MISSION

The mission of the Utah Attorney General's Office is 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 530 attorneys and staff in offices across the state, the AGO advises 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 AGO is to protect citizens, especially children, from violent and predatory crimes. AGO attorneys, investigators, and staff work hard 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 and to support victims.

Defend the Constitution and effective legal representation

Defending the Constitution of the United States and Utah is at the heart of the AGO. The AGO is committed to best practices of proper government and providing the best possible legal representation to the State and its agencies.

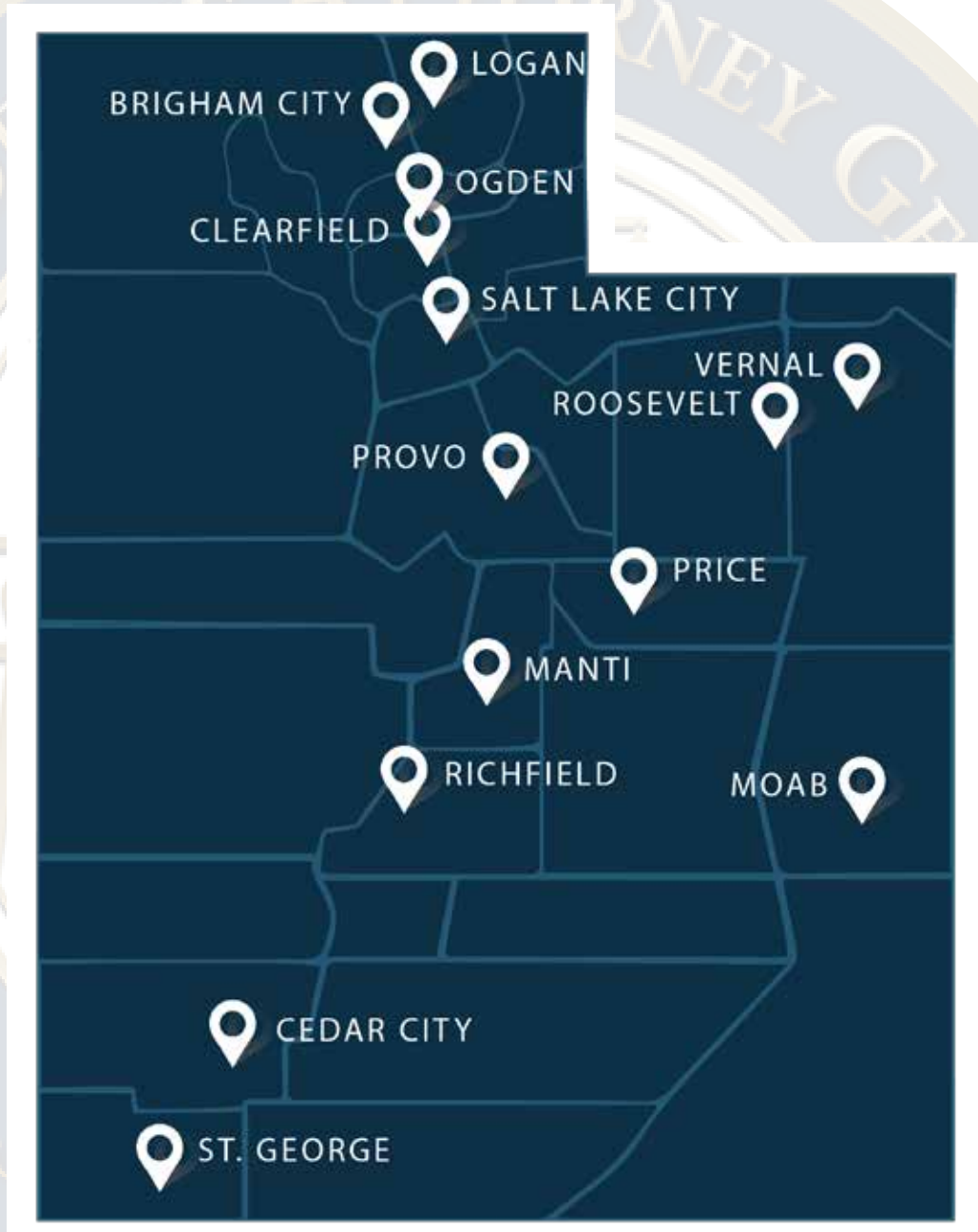
Defend Utah laws against federal government overreach

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

Protect Utah businesses and consumers from white collar frauds and scams

The AGO 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

2021 Highlights

MEDICAID FRAUD CONTROL UNIT

Indivior Pleads Guilty to Federal Felony Charge and Settles Criminal and Civil Allegations

On June 2, 2021 Utah and other states reached an agreement with Indivior PLC and Indivior Inc. (“Indivior”) to settle allegations that Indivior falsely and aggressively marketed and otherwise promoted the drug Suboxone, resulting in improper expenditures of state Medicaid funds. Indivior will pay a total of **\$300 million** to resolve various civil fraud allegations impacting Medicaid and other government health programs, of which **\$203,735,800** will go to Medicaid. As part of this settlement the state of Utah will receive **\$228,868.93** in restitution and other recoveries, paid out over a period of approximately six years. Thus far, Indivior has paid the state of Utah **\$27,117.22**.

CRIMINAL NONSUPPORT

The Criminal Nonsupport (CNS) team worked on a total of **392** cases, attended **782** hearings, handled **306** probation monitoring cases per month, helped **1,033** victims, and collected **\$1,782,280** in restitution.

CASE TASK FORCE

Crimes Against Statewide Economy (CASE) Task Force agents, assisted by prosecutors from the AGO Special Prosecutions have recovered **\$168,600** in stolen property and returned **\$102,312** in restitution to victims.

NATURAL RESOURCES

In 2021, the AGO assisted the Division of Forestry, Fire, and States Lands with pursuing four fire suppression cost recovery cases related to the River Dip Fire, the Pole Canyon Fire, the Pine Ridge Fire, and the Goose Point Fire. Successful judgments in these matters have yielded **\$504,632** in settlement proceeds for the State.

HIGHWAYS & UTILITIES

The AGO, representing the Division of Public Utilities and the Office of Consumer Services, successfully set the pension balancing account base at \$11.9 million instead of \$7.9 million argued for by Rocky Mountain Power, resulting in **\$4 million in annual savings** for Utah customers.

MORTGAGE & FINANCIAL FRAUD

State v. Jordan Schneiman

After an extensive investigation into the defendant’s dealings with over a million dollars he mismanaged as part of a house boat management business in the Bullfrog Marina at Lake Powell, the defendant was ordered to serve **270 days in jail and pay restitution in the amount of \$1,056,864** based on his guilty plea to Unlawful Dealing by a Fiduciary and Pattern of Unlawful Activity, both second degree felonies.

SPECIAL PROSECUTIONS UNIT

In 2021, the Special Prosecutions Unit (SPU) collected a total of **\$511,706 in restitution**.

SECURE TASK FORCE

State v. Paul Petersen

International Human Smuggling, Fraud, and Sale of a Child Prosecution

In April of 2021, Petersen was sentenced to one to 15 years in prison for charges arising from an investigation into an illegal adoption scheme he ran wherein he recruited pregnant women in the Marshall Islands to place their children for adoption to couples in the United States. The sentence will run concurrently with the five-year prison term in Arizona and six-year prison term in Arkansas. **He will spend 11 to 15 years in custody between all three states.**

Multistate Lawsuits, Comments, & Letters

Vaccine Mandates on Large Employers

Texas v. DOL (Sup. Ct.). Utah joined a 5-state coalition suing the Secretary of Labor challenging the OSHA vaccine mandate. After the petitions were consolidated in the 6th Circuit, 27 states successfully received an emergency application for stay from the U.S. Supreme Court. The states also submitted comments to the Federal Register relating to the proposed rule.

Vaccine Mandate for Medicaid and Medicare Providers

Louisiana v. Becerra (W.D. La.). Utah joined a 12-state coalition suing the Secretary of Health and Human Services challenging the vaccine mandate for Medicaid and Medicare providers. After successfully receiving an injunction in the district court, the government appealed and the U.S. Supreme Court granted the government's stay, allowing for immediate enforcement. The states also submitted comments to the Federal Register relating to the proposed rule. The district court recently ruled that some of the claims survive and the states may proceed against the rule.

Vaccine and Mask Mandate for Head Start

Louisiana v. Becerra (W.D. La.). Utah joined 24-state coalition suing the Secretary of Health and Human Services challenging the mask and vaccination mandate applying to preschool programs funded by the federal Head Start program. On January 1, 2022, the states successfully received an injunction preventing enforcement. The states also submitted comments to the Federal Register relating to the proposed rule.

Vaccine Mandate for Federal Contractor Employees

Georgia v. Biden (S.D. Ga.). Utah joined a 7-state coalition challenging the executive order requiring vaccinations of all federal contractor employees. The states successfully obtained an injunction stopping enforcement of the mandate. The government appealed, which remains pending.

Elimination of Oil-and-Gas Leasing Program

Juliana v. United States of America (D. Or.). Utah joined an 18-state coalition intervening for purposes of opposing any settlement between a group of student-plaintiffs and the U.S. relating to plaintiffs' claims seeking to eliminate oil-and-gas leasing programs. The states' intervention remains pending.

EPA Authority to Seize Control of Power Grids and Electricity Production

West Virginia v. EPA (Sup. Ct.). Utah joined a 19-state coalition intervening in a challenge to EPA's authority to seize control of power grids and electricity production nationwide.

Multistate Lawsuits, Comments, & Letters (*cont.*)

Moratorium on Federal Oil-and-Gas Leasing Programs

Louisiana v. Biden (5th Cir.). Utah joined a 13-state coalition challenging Biden's executive order requiring a moratorium on federal oil-and-gas leasing programs. The states successfully obtained an injunction against enforcement of the moratorium. The government has appealed that decision, which remains pending in the Fifth Circuit.

Tax Mandate in American Rescue Plan Act

West Virginia v. Department of Treasury (11th Cir.). Utah joined a 13-state coalition suing the Department of the Treasury regarding its tax mandate provision in the American Rescue Plan Act which would prohibit states from cutting taxes, threatening the state's cuts to taxes for families, vets, and the elderly. The states successfully obtained an injunction prohibiting enforcement, which the government has appealed and remains pending in the Eleventh Circuit.

Executive Order Revoking the Keystone Pipeline Border Permit

Texas v. Biden (5th Cir.). Utah joined a 21-state coalition challenging Biden's executive order revoking the Keystone Pipeline border permit. The district court dismissed the case and the states did not appeal.

"Social Cost" of Carbon

Missouri v. Biden (8th Cir.). Utah joined a 13-state coalition challenging Biden's executive order requiring a working group to set values for the global "social cost" of carbon dioxide, nitrous oxide, and methane that all federal agencies are required to use when monetizing the value of changes in greenhouse gas emissions resulting from regulations and other relevant agency actions. The district court has dismissed the case as not ripe and the states have appealed which remains pending.

Endangered Species Act (ESA)

Center for Biological Diversity v. Haaland (N.D. Cal.). The states intervened in a challenge to final rules relating to the Endangered Species Act (ESA). The federal government has indicated that it no longer intends to defend the rule and the states have requested the court to remand without vacatur.

Car-Emission Rule

Union of Concerned Scientists v. NHTSA (D.C. Cir.). Utah joined a 12-state coalition intervening in an action challenging the Trump Administration's car-emissions rule that withdrew a previously-issued waiver to California. The EPA had previously issued that waiver only to California under a rule that only allows waiver to California and would permit California to dictate emissions standards. The case remains pending.

Multistate Lawsuits, Comments, & Letters (*cont.*)

Recent Utah-led Amicus Briefs

Agricultural Operation Protection from Deceptive Trespassers

Kelly v. ALDF (Sup. Ct.). Utah drafted an amicus joined by 10 other states requesting the Supreme Court to grant certiorari relating to Kansas's law that protects agricultural operations from deceptive trespassers.

Transport of Prisoners

Twyford v. Shoop (Sup. Ct.). Utah drafted an amicus joined by 14 other states requesting the Supreme Court to grant certiorari relating to the Sixth Circuit's rule that poses unnecessary risks to the public caused by permitting transport of prisoners for no valid reason.

Comment Letters

Utah recently led a 22-state coalition of states submitting a letter to the Department of Labor regarding its proposed rule that threatens the retirement savings of all Americans. The rule amends **ERISA fiduciary obligations** and encourages the consideration of environmental, social, and governance factors in investment strategies.

Utah has joined over a dozen Comment Letters opposing federal regulations and dozens of other letters to the federal administration regarding various issues including antitrust, education, energy, environment, financial, health, religious liberty, and other issues.

Other Amicus Briefs

Utah took the lead on several other amicus briefs and also joined more than 50 amicus briefs last year concerning various issues including First Amendment rights, Second Amendment rights, Fourth Amendment rights, abortion, antitrust, voting rights, energy, environment, and others.





AG's OFFICE

2021 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.

The Utah Attorney General's Office found itself the proud recipient of multiple Best of State awards this year. Our sincere thanks to all those employees who give their time and energy to help make the Utah AGO the Best of State.

See below for a complete list of the Attorney General's Office Best of State 2021 awards.

Elected State Official: Utah Attorney General Sean D. Reyes

Military Personnel/Unit: Utah@EASE

Public Safety: Utah Attorney General Investigations Division

Public Safety Training: Utah VirTra Training

Public Works: Utah Opioid Task Force

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

State Agency/Office: Utah Attorney General's Office

Web-based Community Resource: SafeUT

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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 supports overdose prevention strategies, harm reduction efforts, rehabilitation and extended needed services programs, and policies to improve mental health and drug overdose death initiatives.

Data from the CDC shows over 100,000 people died from a drug related overdose in 2020. Provisional data from May 2020 to May 2021 shows Utah's death increased from 571 to 679, making this an 18.9% increase.

UTAH TAKE BACK DAY

The AGO encourages Utahns to prevent pill misuse by encouraging them to 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.

Utah Senate Bill 29, along with the U.S. Office of National Drug Control Policy, are encouraging communities to have more access 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.



22,869
POUNDS

of unwanted, unused, and expired prescription drugs were collected during Utah Take Back Days in 2021.

SAVING LIVES & ADDICTION RECOVERY

The Utah Opioid Task Force supports a wide variety of pilot projects aimed at combatting the opioid epidemic. The Utah Attorney General's Office has recently announced a settlement of opioid lawsuits against multiple producers and distributors of pharmaceutical opioids which will result in millions coming to the state and its subdivisions.

In anticipation of this settlement finalizing in 2022, the Task Force formed the Utah Opioid Advisory Committee comprised of subject matter experts from varying applicable fields: public health, harm reduction, justice system, law enforcement, health systems, addiction doctors, and policy professionals. This group will provide guidance to the Utah Legislature to assist the allocation of the settlement to projects that will impact the opioid epidemic.





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 2021, Utah@EASE won the Best of State Award for best Military Personnel/Unit for the third year in a row.

BY THE NUMBERS



ATTORNEY
VOLUNTEERS

61

INQUIRIES

229

SUPPORTED

(SCREENING, READY,
PLACED, CLOSED,
WITHDREW)

148



Overview

The SafeUT smartphone app is a statewide service that provides real-time crisis intervention to Utah's students, parents, and educators at no cost. SafeUT was developed by the legislatively created SafeUT Commission, chaired by the AGO. SafeUT allows students in crisis or with other concerns to open a two-way messaging service with master's-level mental health counselors, call a certified crisis worker directly, or submit confidential tips to crisis counselors and school administrators regarding bullying, violence, threats of harm to self or others, loss and grief, etc. The app is staffed by master's-level trained crisis counselors at the Huntsman Mental Health Institute (HMHI), formerly the University Neuropsychiatric Institute (UNI), 24 hours a day, 365 days a year.

In 2021, SafeUT won the 2021 Best of State Award for Best Web-based Community Service for the second year in a row.

New Look, Same Friendly Face

After carefully listening to feedback from end-users and the AGO's Youth Advisory Committee, the SafeUT Commission approved an updated look and feel for SafeUT, SafeUT National Guard, and SafeUT Frontline. The new logo and brand is inviting and modern, reflecting SafeUT's focus on school safety and providing emotional support to a wide range of users.

Statewide Success Stopping Violence & Suicide in Schools

At the end of the 2020-2021 school year, 87.8% of all Utah K-12 schools and universities (including public, private, and charter) have been enrolled in SafeUT. In fiscal year 2020-2021 (July 1, 2020 to June 30, 2021) SafeUT's licensed mental health counselors responded to 30,527 chats and tips, with

298 life-saving interventions initiated for users actively attempting or at imminent risk of suicide. Additionally, there were 256 threat and act of violence tips submitted that required coordination with school officials and/or law enforcement officers and kept schools safer for Utah students.

SafeUT Frontline



With the increasing demand and pressure on Utah's frontline workers due to the COVID-19 pandemic, the SafeUT Commission recognized the need for quick and easy access to crisis support and mental health services for Utah law enforcement, fire/EMS, and health care providers.

On December 30, 2020, SafeUT Frontline rolled out a pilot program to select groups across the

state, connecting Utah's frontline workers, and their families, with licensed mental health professionals. The distinguishing feature from SafeUT is the removal of the tip functionality on the app. This is because, for frontline workers, barriers to treatment tend to involve questions about the confidentiality in service provision. Instead, SafeUT Frontline focuses on the confidential chat option to text with crisis counselors 24/7/365. The app is now available to all frontline workers across the state.

850,790

STUDENTS HAVE ACCESS TO
THE APP ACROSS UTAH

30,527

TOTAL CHATS & TIPS

Received from July 1, 2020 to June 30, 2021

298

LIFE-SAVING INTERVENTIONS
FROM SAFEUT, SAFEUTNG,
AND SAFEUT FRONTLINE

From July 1, 2020 to June 30, 2021



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 interested citizens and businesses to look up white-collar offenders convicted of qualifying felonies in Utah state courts. Investors and businesses can use the registry to protect themselves and others, such as vulnerable family members, 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 2017 and 2019, the White Collar Crime Offender Registry won the Best of State Award for Best Publication.

In FY2021, 75 offenders were added to the WCCOR. There are currently 347 offenders on the Registry.

The registry can be accessed at **utfraud.com**.

TEEN TITANS

YOUTH ADVISORY COMMITTEE

OVERVIEW

The Utah Attorney General's Youth Advisory Committee (AKA Teen Titans) gives an opportunity for youth aged 13-18 to make the State of Utah a better place. They explore topics that affect them and provide advice to the Attorney General's Office on events, programs, and policies that directly influence teens.

In 2021, the Teen Titans expanded their reach to include youth from city areas to regional and rural areas. Every two weeks, either in person or remotely, 28 youth engage in discussion, and they reside in various areas from Bountiful to Draper and further afield from Ogden, Heber, Santaquin, Orem, Springville, Monroe, Beaver, and St. George.



ACCOMPLISHMENTS

Exploring the Myriad of Topics that Affect Youth in Utah

The 2021/2022 program was created during the summer of 2021 as a way to help student leaders learn more about government. The interns explored important public policy topics that resonated with themselves and their peers. Teen Titan leaders were tasked with planning discussions and potential guest speakers for the upcoming school year. Additionally, they assisted with marketing and promotion of the program to expand participation to rural students.

Exploration was a primary focus for the Teen Titans as they were exposed to many ideas and concepts encompassing civic engagement this year. They gain real world experience in leadership skills and learn the art of listening and debate without prejudice. As they develop their own opinions they also learn to voice and articulate their ideas to a larger audience.



Rural vs City

The Teen Titans' first discussion in early October 2021 focused on the comparison of living in a rural area of Utah and living in the city. They welcomed Public Lands Policy and Coordination Office Attorney Hayden Ballard from Southern Utah to explore opportunities and deficits when living in rural areas. Through this great discussion, the youth were able to gain a better understanding of each other in relation to pros and cons of living on the geographic spectrum here in Utah. Explorations like these open the door to ideas and problem solving solutions from youth that one day may make a difference in their own communities.

Mental Health and Personal Resilience

Over a series of three weeks the teens were led in QPR training (Question Persuade Refer) and learned more about how SafeUT works behind the scenes. In the final week, they welcomed guest speaker 18-year-old Utahn Smith Alley from PROTECHT.* They discussed their own mental health and personal resilience amongst the constant negative digital noise and explored the uncomfortable topic and ease of access to online pornography. The teens are learning to bring taboo subjects out to the forefront and tackle them head on. Smith Alley was an amazing peer who was engaging and provided motivation and inspiration.



**PROTECHT is a Utah-based company created to help prevent children from being exposed to pornography and the harmful aspects of social media.*



Operation Give Back

In December 2021, the Teen Titans again joined with AGO investigators and other law enforcement in identifying families who could use extra help around the holiday season. This is one of the Teen Titans' favorite activities during the year. Teen Titans are dispatched to different stores in areas with a lower socioeconomic status to look for potential gift recipients. They then radio law enforcement who attempt to pull the family over and present them with gifts instead of issuing a citation. Often teens are also able to ride with law enforcement to give away the gifts. Each family was deeply grateful.



SUPREME COURT



APPEALS, CONSTITUTIONAL DEFENSE, & ANTITRUST

4 SECTIONS

35 ATTORNEYS & 10 STAFF



CONSTITUTIONAL DEFENSE & SPECIAL LITIGATION

OVERVIEW

Lawsuits challenging the constitutionality of state law, which are not covered by indemnification for civil liability for money damages in the Risk Fund, are defended by the Constitutional Defense and Special Litigation (CDSL) Division.

Some of the cases handled by the CDSL team in 2021 include:

- Successfully defended a constitutional challenge to the Public Water Access Act, a state statute that regulates access to streams in Utah.
- Successfully defended a series of cases challenging various aspects of the statute that regulates how initiatives and referenda qualify for the ballot.
- Successfully defended two cases challenging a multitude of executive public health orders related to the COVID-19 pandemic.

NOTABLE CASES

Utah Stream Access Coalition v. VR Acquisitions

In a lawsuit spanning more than a decade, CDSL successfully defended a constitutional challenge to the Public Water Access Act, a state statute that regulates access to streams in Utah. The central question presented was when a small (non-navigable) stream runs over privately owned land, does the public have an easement to walk on the stream bed for recreational purposes? The district court initially granted summary judgment to the plaintiff, but the Utah Supreme Court reversed and remanded because, it said, the district court failed to determine whether Utah law recognized this easement at the time our constitution was ratified. After more than a year of discovery focusing on stream access rights at the time of ratification, CDSL, on behalf of the State, filed motions for summary judgment contending that no such easement existed at statehood. The district court reversed and granted the State's motion. The case is presently on appeal.

Maxfield v. Cox, et al.

CDSL successfully defended a series of cases challenging various aspects of the statute that regulates how initiatives and referenda qualify for the ballot. As part of this litigation, CDSL successfully opposed a motion by which the plaintiffs sought to be reimbursed \$125,000 in attorney fees.

Duerden v. Cox, et al.

CDSL successfully defended two cases challenging a multitude of executive public health orders related to the COVID-19 pandemic.

Peterson v. Cox

CDSL sought and was granted a motion to dismiss a case in which the plaintiff claimed that the Governor's decision to terminate federal pandemic unemployment benefits was unlawful. The Court adopted CDSL's arguments that the State has sovereign immunity for such claims.

Ute Tribe, et al. v. Dep't. of Interior

CDSL drafted and filed an amicus brief in the United States Supreme Court in support of the Ute Tribe

and other tribes from around the nation, urging the Court to ensure all COVID-19 relief funds that were designated for the tribes were properly distributed.

Brackeen v. Haaland

CDSL drafted a portion of an amicus brief that was filed on behalf of a coalition of states in the United States Supreme Court in support of several tribes and the Department of the Interior as they seek Supreme Court review of litigation in the Fifth Circuit Court of Appeals involving the constitutionality of the Indian Child Welfare Act (ICWA). The portion of the brief drafted by CDSL argues that the ICWA does not violate the Tenth Amendment.

Coalition of States v. Dep't. of Labor

Utah joined a coalition of states in filing a challenge to the Biden administration's mandate that all employees who work at companies with 100 or more employees must get vaccinated or undergo weekly COVID-19 testing. CDSL drafted the portions of the lawsuit that pertain to a state's sovereign powers protected by the Tenth Amendment. The coalition of states succeeded in obtaining an injunction from the Fifth Circuit Court of Appeals. The case has now been consolidated with other similar lawsuits in the Sixth Circuit Court of Appeals.

Coalition of States v. Dep't. of Health and Human Services

Utah joined a coalition of states in filing a challenge to the Biden administration's mandate that all healthcare workers must get vaccinated or lose their jobs. CDSL worked with the State's own Department of Health and Department of Human Services to obtain affidavits that the mandate would exacerbate an already-serious healthcare worker shortage in the State. The coalition of states obtained a nationwide injunction of the mandate.

Robison v. City of American Fork

CDSL intervened in this action to successfully defend the cap on property damages contained in the Governmental Immunity Act of Utah.



CRIMINAL APPEALS

OVERVIEW

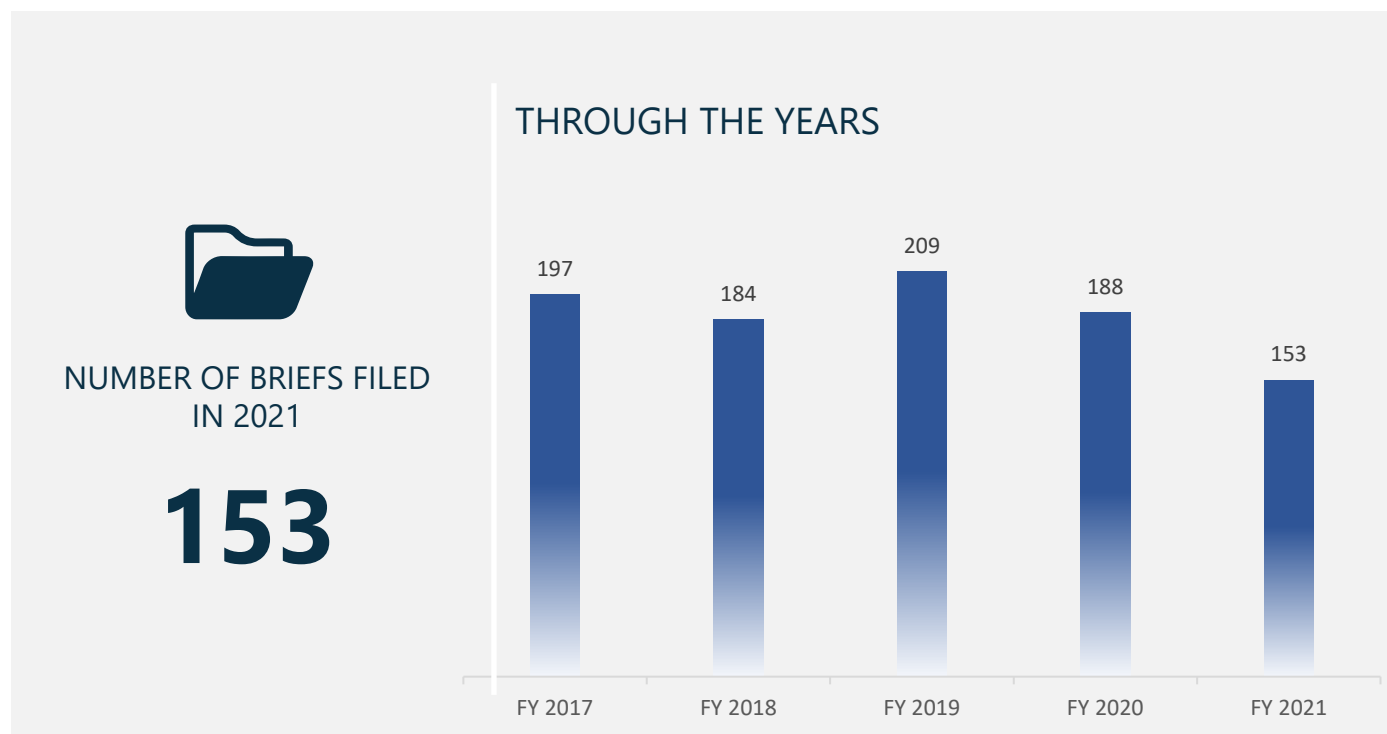
The Criminal Appeals Division defends all felony convictions—including capital murder convictions—from the direct appeal through all the remaining levels of review in State and Federal Court. In addition to briefing and argument in the appellate courts, which includes civil litigation practice covering complex discovery and evidentiary hearings, the Division works to shape precedent so that the law is fair to all of Utah's citizens.

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. In 2021, the Division wrote five such briefs.

Utah Supreme Court Advisory committees:

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

BY THE NUMBERS



HIGHLIGHTS

- After many years of litigation, the Criminal Appeals Division scored a victory in the Tenth Circuit Court of Appeals on a rule that would have allowed more intrusive federal review of Utah criminal convictions. The Tenth Circuit held that the rule does not apply to Utah convictions. In addition to limiting federal review, the win puts an end to nearly a decade of burdensome and repetitive briefing on that issue.
- The Criminal Appeals Division also successfully appealed a federal district court's order setting aside a capital conviction and death sentence. The district court found that the petitioner—who was one of two shooters at the scene—had established his innocence because he had proved that he fired no fatal shots. There was, however, no question that he was equally responsible for the murders as an accomplice. The Tenth Circuit reversed based on that indisputable guilt as an accomplice. In its own words, “But, given these facts, how can he be actually innocent?”





CIVIL APPEALS

OVERVIEW

Civil Appeals Division appellate lawyers 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

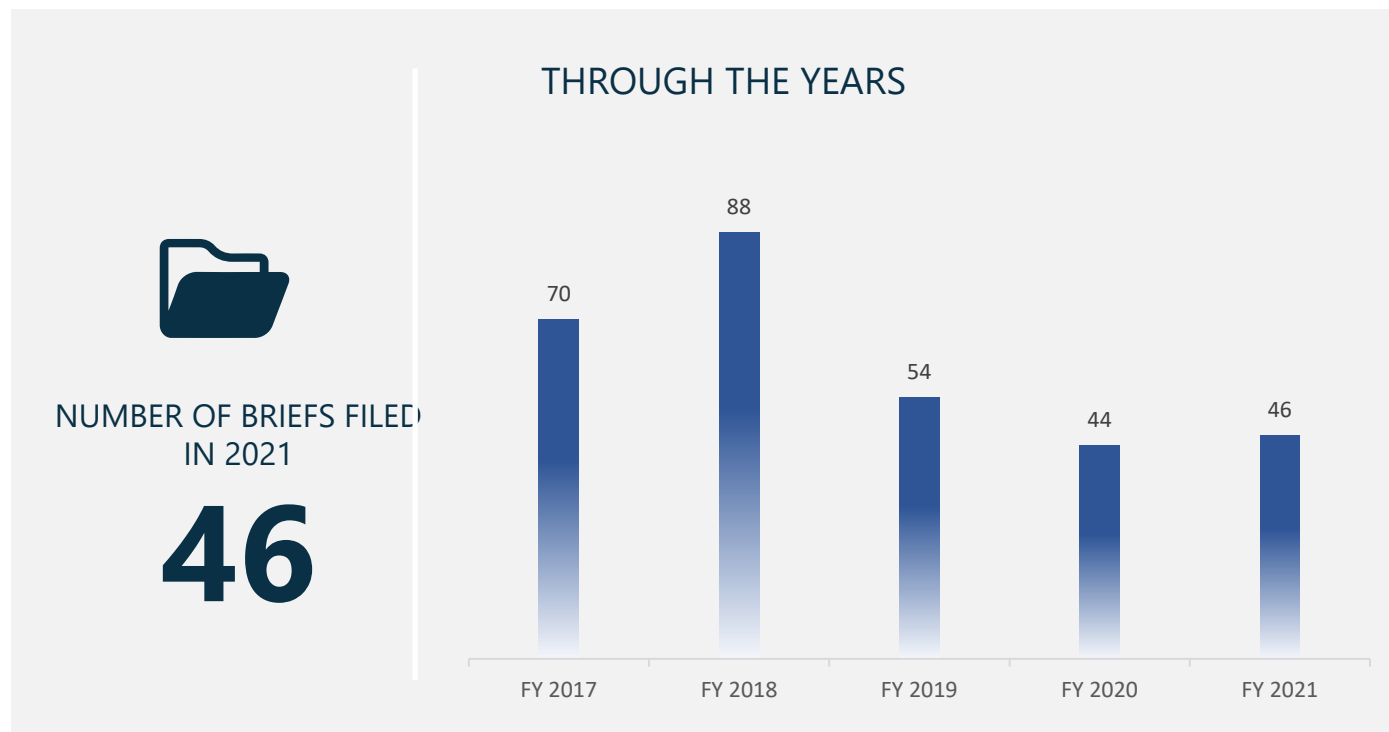
The division is divided into two sections: the Civil Appeals Section and the Litigation Appeals Section. The Civil Appeals Section has four attorneys and handles civil appeals within the AGO. These appeals cover a wide variety of issues, including constitutional challenges, Native American law, administrative 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



ANTITRUST

OVERVIEW

The Antitrust Section 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 division also enforces Utah's data breach laws, patent trolling laws, and procurement laws.

HIGHLIGHTS

- During FY 2021 the Antitrust Section focused mainly on preparing and filing three massive antitrust enforcement actions against Google: *Utah v. Google* (Re: Google Play Store and Apps), *Colorado v. Google* (Re: Google Search and Search advertising), and *Texas v. Google* (Re: Advertising technology).
- The Antitrust Section joined a major antitrust lawsuit against Facebook, and continued to pursue many ongoing cases, including the largest group of price fixing cases ever (against the generic pharmaceutical industry). The Antitrust Section took the lead in a multistate data breach investigation for the first time as well, and joined several other data breach cases.

BY THE NUMBERS



NEW CASES
(LEADERSHIP)

4



NEW CASES
(SECONDARY ROLE)

6



AGGREGATE
RECOVERY

\$47,656







CIVIL DEPARTMENT

7 DIVISIONS

141 ATTORNEYS & 51 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

- Arts Council Board and Division of Arts & Museums
- Board of Examiners (BOE)
- Board of State History and Division of State History
- Business Development Board
- Community Development Block Grant Policy Committee
- Department of Cultural & Community Engagement (formerly Heritage and Arts)
- Department of Technology Services (DTS)
- DTS Data Security Management Council
- Governor's Economic Development Council
- Governor's Office of Economic Opportunity Development (GOED)
- Governor's Office of Management & Budget (GOMB)
- Governor's Rural Partnership Board
- Utah Division of Indian Affairs (litigation)
- Legislative Compensation Commission
- Lt. Governor
- Martin Luther King, Jr. Human Rights Commission
- Motion Picture Advisory Commission/Utah Film Commission
- Multicultural Commission and Division
- Museum Services Advisory Board
- Native American Legislative Liaison Committee
- Native American Remains Review Committee
- Navajo Trust Fund
- Olene Walker Housing Loan Fund Board
- Permanent Community Impact Board
- Private Activity Bond Board
- Quality Growth Commission

Legal counsel and Services Provided *Cont.*

- State Armory Board
- State Auditor
- State Homeless Coordinating Committee
- State Treasurer
- STEM Activity Center Board
- Tobacco Settlement
- UServe Utah
- Utah Capital Investment State Board (Fund of Funds)
- Utah International Relations and Trade Commission
- Utah National Guard (UNG)
- Utah Outdoor Recreation Grant Advisory Committee
- Utah State Fair Corporation Board (USFCB)
- Utah State Library Board and Division
- Utah Tourism Board
- Veteran's Pro Bono Project (UDVMA)

Corrections Section

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

State Agency Section

- Utah Department of Alcoholic Beverage Control (DABC)/DABC Advisory Board
- Utah Labor Commission-Collections
- Utah Labor Commission-Industrial Accidents Division
- Utah Labor Commission-Uninsured
- Employer's Fund (UEF)
- Utah Labor Commission
- Antidiscrimination & Labor Division (UALD)
- Utah Labor Division-Occupational Health and Safety Division (OSHA)

Administrative Services Section

- Capital Indigent Defense Trust Fund Board
- Capitol Preservation Board (CPB)
- Department of Administrative Services (DAS)
- Executive Office
 - Division of Finance Transparency Board (DOFTB)
 - Utah Division of Finance (DOF)
 - Utah Division of Fleet Operations (DFO)
 - Utah Division of Purchasing
 - Division of Surplus Property
 - Utah Division of Risk Management
 - Utah Office Administrative Rules (DAR)
- Indigent Parental Defense Board
- Judicial Performance Evaluation Commission (JPEC)
- Juvenile Justice Services (JJS)
- New Prison
- Office of the Public Guardian
- Pete Suazo Boxing Commission
- State Archives & Records Committee (SARC)
- State Post-Retirement Benefits Trust Fund (OPEB)
- Utah Department of Human Services Executive Office (DHS)
 - Division of Licensing
- Utah Division of Adult and Aging Services
- Utah Division of Facilities and Construction Management (DFCM)
- Utah Division of Services for People with Disabilities (DSPD)
- Utah Money Management Council
- Utah Office of Energy Development (OED)
 - Utah Energy Infrastructure Authority Board
- Utah Office of State Debt Collection (OSDC)
- Utah School and Institutional Trust Funds Office (SITFO)
- Utah State Building Board
- Utah State Developmental Center
- Utah State Hospital (USH)

BY THE NUMBERS



APPROXIMATE NUMBER OF ISSUES & CASES HANDLED

17,977



OFFICE OF STATE DEBT COLLECTION DOLLAR AMOUNT COLLECTED
(LABOR COMMISSION CASES) INDUSTRIAL ACCIDENTS DIVISION

\$1,482,746



RULES DRAFTED/REVIEWED

10

NOTABLE SUCCESSES

Treaty with the Uinta Band of Utah Indians of 1861-64, and 1848 Lawsuit

Recently, Chief District Judge Robert James Shelby denied a motion for reconsideration brought by a plaintiff against the United State Secretary of the Interior Deb Haaland, Utah Attorney General Sean D. Reyes, and the Ute Tribal Council. The plaintiffs had asserted their claim under the "Treaty with the Uinta Band of Utah Indians of 1861-64, and 1848." In June, the plaintiffs asked the court to enjoin "Defendants from exercising jurisdiction over the Plaintiff Uinta Band of Indians in Indian Country." In September, the court denied Plaintiffs' motions. On October 1, Plaintiffs filed a "Motion for Reconsideration, and to Stay Issuance on Order Denying Plaintiff's Motion for Temporary Restraining Order" and on November 29, the court denied the motion.

Ute Tribe's Water-Rights Lawsuit

On September 15, a federal judge dismissed claims in a lawsuit filed by the Ute Indian Tribe against the U.S. Department of Interior, the State of Utah, and the Central Utah Water Conservancy District. The Tribe alleged mismanagement of water-development projects in northeastern Utah. The court dismissed 12 of the 16 claims against the United States and the State of Utah and transferred the remaining four claims to the District of Utah Federal Court.

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, Utah Tech University (fka DSU), 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.

BY THE NUMBERS - PUBLIC EDUCATION



CLIENT/STAFF/
CONSTITUENT
CONSULTATIONS
PER YEAR

625



RULES HELP
DRAFTED/REVISED/
REVIEWED PER
YEAR

50



DAILY ISSUES/
MATTERS HANDLED
PER YEAR

2,900



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

- Review, draft, and negotiate hundreds of grants, contracts, and procurements.
- Act to ensure compliance with state and federal laws and regulations to properly conduct educational programs and implement educational policies.
- Provide 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 ten 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 EDUCATION ATTORNEYS

50-75

LITIGATION

OVERVIEW

The Litigation Division's 27 attorneys and 13 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 2021, the Litigation Division closed 283 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 2021, the Litigation Division received 231 new cases, screened 354 employment matters, and provided 321.5 training hours to state agencies, universities, and school districts.

BY THE NUMBERS



NEW CASES

231



CLOSED CASES

283



TRAINING HOURS PROVIDED
(STATE AGENCIES/UNIVERSITIES/
SCHOOL DISTRICTS)

321



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 the Legislature, the Torts Section now also defends UTA's tort cases, which include accidents with UTA buses, TRAX, and Frontrunner.

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.

OTHER MATTERS

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

- **Early Intervention in Civil Rights and 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. Recently the Utah Division of Risk Management, the Division's client agency that insures the State, has recognized the value of early intervention in employment matters and has decided to cover the costs of early intervention for state agencies, school districts, and colleges and universities. Risk has already seen a decline in employment claim payouts. After seeing the benefits of early intervention in employment cases, Risk expanded its coverage of pre-lawsuit AGO involvement to civil rights claims. Civil Rights Section attorneys have already assisted in resolving a number of pre-lawsuit disputes and continue to offer assistance on civil rights matters at the request of state agencies, school districts, colleges, and universities.
- **Trainings.** The Attorneys in the Litigation Division provide training to state agencies, universities, and school districts in matters such as Title VII, Title IX, Whistleblower, and the ADA.
- **Participation in Professional Activities.** Attorneys in the Litigation Division actively participate in a number of 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 are members of State and Federal rule-making committees, including the Utah Supreme Court Advisory Committee for the Utah Rules of Professional Conduct; the Utah Supreme Court Advisory Committee for the Model Utah Jury Instructions, and the Utah Federal District Court local rules committee. Division attorneys sit on the board or chair state and national legal organizations including: Women Lawyers of Utah, Utah Law-Related Education, and the Civil Rights Section of the Federal Bar Association.



NOTABLE CASES

Bergstrom v. State of Utah, et al.

In this case, Litigation Attorneys defended a local school district's education delivery decisions during a pandemic against a novel state constitutional challenge. Some parents of Salt Lake City School District students sued the District's leaders, the Governor, the State, and the State School Board over the District's decision to continue online education for most of its students for the spring 2021 semester. The parents alleged that the online classes violated the provision of Utah's Constitution that requires the state's public education system to be "open to all children of the state," and the provision that requires laws to be applied uniformly. After an evidentiary hearing on January 19, 2021, the Court ruled Plaintiffs were not entitled to an order requiring the school to return to in-person classes. The Court concluded that there was no constitutional violation because the District was providing all students with access to its curriculum and because similarly situated students were being treated the same. Soon after the ruling, the Salt Lake School Board agreed to a phased reopening, and the parents dismissed their lawsuit with prejudice.

GeoMetWatch v. Utah State University Research Foundation, et al.

In 2014, GeoMetWatch (GMW) sued Utah State University's (USU) research foundation, now known as Space Dynamics Lab, and others in federal court

over a series of contracts to build and launch a Space Dynamics-designed next-generation weather satellite. The federal judge granted summary judgment to all defendants, but in 2019, GMW filed a new lawsuit in state court against USU, claiming USU breached a shareholder agreement relating to the weather satellite enterprise. If successful, the claim could have made USU liable for the over \$100 million in damages GMW had claimed in the federal action. The AGO successfully obtained summary judgment in favor of USU, with the Court holding that USU never entered into the shareholder agreement alleged by GMW. GMW has appealed that decision, and the matter is currently awaiting briefing before the Utah Court of Appeals.

McIntosh v. UT

Ms. McIntosh sued UTA for damages after a TRAX train rear-ended her car in a shared TRAX/vehicle lane near the University of Utah. She argued that the lane configuration was confusing and that the train operator acted negligently in failing to stop in time. The AGO, in addition to defending against the complaint's allegations, filed a countersuit against Ms. McIntosh contending that it was her failure to adhere to traffic signals that resulted in the accident. The case eventually went to trial, and the jury found for UTA on all claims, ordering Ms. McIntosh to reimburse UTA for the damages sustained by the TRAX train.



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 (FFSL); Oil, Gas & Mining (DOGM); 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 Natural Resources 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 (DNR) 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 (DWR) (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 and Forestry, Fire & State Lands Section

The Office has helped the Division of Oil, Gas, and Mining use its new Administrative Penalties Rules to promote compliance and enforcement matters. For example, the Division issued a Notice of Violation to a company for inappropriately operating an oil and gas well in violation of the Division's shut-in/temporarily abandoned well rules. A penalty was assessed for \$46,500 and a related reclamation bond was increased by an additional \$50,000 while the operator met conditions to bring the well into compliance with Division rules. In total, the Division has used the new administrative penalty rules to assess penalties against four operators since the rules have been promulgated. Assessing administrative penalties is another tool the Office has helped the Division employ to ensure regulatory compliance on operators extracting oil and gas and minerals in Utah. This is a positive response to the audit that found the assessment of penalties by the Division was lacking. The Office has also assisted the Board of Oil, Gas, and Mining to pursue administrative remedies against non-compliant operators.

In the 2021 Legislative session, the Legislature approved the hiring of an assistant attorney general to work on fire suppression cost recovery. In 2021, the Office assisted the Division of Forestry, Fire,

and State Lands to pursue four fire suppression cost recovery cases related to the River Dip Fire, the Pole Canyon Fire, the Pine Ridge Fire, and the Goose Point Fire. Successful judgments in these matters have yielded **\$504,632.37** in settlement proceeds for the State of Utah.

Several attorneys from the Office have represented the State in a long-standing dispute against the United States and the United States Fish and Wildlife Service involving sovereign lands within the Bear River Migratory Bird Refuge. After a significant amount of work, the parties have reached an agreement in principle to settle Utah's Quiet Title Act claim. This settlement will involve the United States agreeing that the State is the rightful owner of surveyed and unsurveyed railroad grant lands lakeward of the Ordinary Highwater Mark in the Lake. Contingent upon that recognition, the State will earmark 50% of any funds received for any sovereign lands located within the boundaries of the Refuge for the purpose of improving the ecology of the Great Salt Lake. This agreement in principle complies with State public trust requirements and forces the United States to recognize the State's arguments regarding the railroad grant lands in dispute.

WATER, WILDLIFE & PARKS

The eleven attorneys and two paralegals 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 CASE

Water Section

The State of Utah and the Navajo Nation opened a dialogue to negotiate the federal reserved water rights for a substantial portion of the Navajo Nation which lies within Utah's boundaries in 2003. By 2015, they had prepared an agreement to memorialize the settlement. Although the Nation could claim a water right to more than Utah had available under its Colorado River allocation for this purpose, the Nation expressed a willingness to accept less water if it received funds to construct water projects that would bring the water closer to the Navajo people who are also Utah citizens. The United States was motivated to provide the funds because the Nation expressed a willingness to waive all breach-of-trust claims related to water resources

in exchange for the project funding. Ultimately, the State, with considerable assistance from the AGO, the Nation, and the United States reached a complex agreement which Congress approved late in 2020. The deal authorized expenditure of some \$220 million for water project funding, of which the State agreed to pay \$8 million. In 2021, the Legislature finished appropriating the State's share, while Congress appropriated federal funds as part of its 2021 infrastructure spending bill. This monumental settlement provides some **81,500 acre-feet** of water depletion for the Nation from the Colorado River, which fits within Utah's Colorado River share. More work is needed in the next few years to finalize the settlement and build anticipated projects.



NOTABLE CASES

Agriculture, Wildlife, and Parks Section

Utah Olympic Legacy Foundation

The AGO was instrumental in negotiating a complex lease agreement between the Division of State Parks and the Utah Olympic Legacy Foundation. Under this long-term agreement, the Foundation will manage and develop the Soldier Hollow Nordic Center at Wasatch Mountain State Park to accomplish twin aims: development of recreation facilities for the public and development of Olympic event and training facilities. Improvements are anticipated to include substantial new outdoor recreation facilities, including ski lifts, new Nordic trails, snowmaking equipment, lodging facilities, event centers, and world-class training facilities. The AGO was also instrumental in negotiating a complicated software development agreement between the Division of State Parks and Utah Tech University. Utah Tech students will develop the Division's "ParksPass" application.

Cannabis

The AGO assisted the Utah Department of Agriculture and Food with numerous thorny issues related to regulation of industrial hemp and medical cannabis. This area of law is in constant flux, as new legislative and federal regulatory rules are adopted and implemented. In 2021, the Legislature created a new Cannabis Production Establishment Advisory Board to review applications for licenses, approve renewals, and review changes of operation within licensed facilities. Legal counsel has helped write rules and policies, answered questions about statutory interpretation, and ensured compliance with

yearly training requirements, among other things. Regulation of industrial hemp, particularly as it relates to its psychotropic properties, has also required close collaboration between the Office and the Department of Agriculture and Food.

Agriculture Producers Drought

Another challenge faced this year in agriculture was how to use existing statutory framework to provide immediate assistance to agricultural producers suffering from extreme drought conditions. The AGO has helped the Department implement new loan and grant programs dedicated to providing immediate relief for producers to purchase feed for their herds, implement water optimization projects, and receive mental health resources. Such programs provide direct and immediate relief to producers who otherwise may have been forced out of business.

SITLA Parcel

The AGO has also helped the Division of Wildlife Resources with the complicated process of placing a successful bid on an 8,000-acre parcel of undeveloped land in northern Utah put up for sale by the School and Institutional Trust Lands Administration. The parcel had high development value and was very susceptible to private acquisition. Purchase by a public entity will ensure the property remains pristine habitat for wildlife and accessible to the public for recreation. The AGO also helped the Division work through several issues related to bighorn sheep management while still protecting domestic sheep grazing.

PUBLIC LANDS

The Public Lands section is comprised of six lawyers who are co-located 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

Wolverine Fuels

In three cases filed in the Northern District of California federal court Wolverine Fuels, a Utah company, and others challenged the City of Richmond's passage of an ordinance prohibiting the transportation of coal through its port. Wolverine filed the action based on alleged violations of the Commerce Clause of the United States Constitution. Richmond filed a motion to dismiss, which the court denied. The court granted Utah's motion to intervene. The court stayed proceedings to allow the parties to negotiate a settlement. With considerable assistance from the AGO, the parties reached a settlement agreement which will keep the port open for Utah coal exports through 2026.

BY THE NUMBERS



CASES IN LITIGATION

101

ENVIRONMENT & HEALTH

ENVIRONMENT

OVERVIEW

The Environment Section of the AGO 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 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 (DEQ) 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 The DEQ in obtaining funding for ongoing 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, however, by changes in the administration at the EPA and the DOJ. Due to the passage of time, it was necessary to initiate litigation to preserve the State's claims. Outside counsel was retained to advance the State's claim for damage in a multi-district litigation filed in the United States

District Court in New Mexico. The Environment Section managed the litigation in Utah reducing the costs which otherwise would have been incurred by outside counsel. A review of monthly billing statements demonstrates that 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 ultimately negotiated with the EPA and the DOJ in August 2020. **The settlement provides \$3 million in grants to improve surface water quality conditions in Utah.** The settlement also confirms that the 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.** In 2021, the EPA initiated a site investigation at the Ophir Mining site, which will lead to additional remedial action. Finally, the settlement provides for a "re-opener" which allows 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.*

Division of Air Quality (DAQ)

Anticipating that the refinery would process new types of crude oil, Holly Refining sought permission to expand its refinery operations in south Davis County. The DAQ allowed the modifications but stated that if Holly could not meet the strict limitations, it would have to apply for another permit. After issuance, the permit was contested. The Environment Section successfully defended the DAQ's decision before the Utah Supreme Court. However, Holly had difficulty complying with the emission limits in the permit. The Environment Section worked with the DAQ as it sought to address the problem with Holly.

Now that the new permit has been issued, Holly is no longer in violation, but must address its previous violations. Settlement discussions have begun, and the Environment Section has been advising the DAQ on the preparation of a draft settlement proposal. While not complete, this point of the proceedings represents the final stage of a multi-year process of resolving Holly's permitting and compliance problems that holds Holly accountable for violations but also sets it on a path to comply in the future. This is a win for the state on both compliance and air quality.

Division of Drinking Water (DDW)

On February 5, 2019, the Sandy City public water system experienced a significant, accidental fluoride overfeed event that resulted in some serious public exposures. The DDW issued an Emergency Administrative Order (AO) in 2019. Sandy City appealed the AO and the Division engaged in extensive administrative litigation in order to be in a position to obtain judicial relief if that proved to be required.

After extensive negotiations and administrative litigation, Sandy City was finally able to achieve compliance with the AO. Sandy City also agreed to pay a penalty in the amount of \$37,200 covering administrative penalties and reimbursement of certain administrative costs. The Utah Drinking Water Board approved the settlement, and it became final in January of 2021. This was the first time in the history of the program that a violator paid administrative penalties under the Safe Drinking Water Act.

Division of Water Quality (DWQ)

The Environment Section assisted the DWQ in settling numerous Notices of Violation over the course of 2021, resulting in well over **\$100,000** in civil penalties and recovery of the agency's costs. For example, the Environment Section assisted with settlement for two major stormwater discharges into Jordanelle Reservoir, a Class 1 source of drinking water, which resulted in over **\$20,000** in civil penalties, recovery of the agency's costs, and major improvements to the offending site to prevent future discharges. Additionally, the Environment Section assisted the DWQ in reaching settlement agreements with Kennecott Utah Copper to resolve illicit discharges, resulting in over **\$20,000** in civil penalties and recovery of the agency's costs. Environment Section also assisted the DWQ in resolving a history of noncompliance by Pitman Family Farms at the Moroni City Wastewater Treatment Plant, resulting in over **\$60,000** in penalties, hundreds of thousands in facility improvements, cleanup of environmental hazards on the San Juan River, and recovery of the agency's costs.



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 SECTION NOTABLE SUCCESSES

The Health Section of the AGO continues to advise its client agency, the Utah Department of Health (DOH), in its work to address the COVID-19 pandemic. The Health Section worked closely to provide immediate but thorough legal advice on various COVID-19 issues related to funding, contracts, data gathering, data privacy and security, testing, legislation, public health orders, distributing and administering antiviral treatments, long-term care facilities, COVID-19 specific overflow facilities, and guidance to schools, long-term care facilities, and other organizations. For example, Health Section attorneys reviewed and approved over 5,200 contracts and agreements entered into by the DOH for which half were related to COVID-19 activities.

The Health Section also provides legal guidance and representation regarding the Medicaid and CHIP programs, public health and safety sanitation rules, the state's program regulating the Emergency Management System, child care facility licensing, and the fast-expanding Center for Medical Cannabis. The Health Section has also provided important legal services to the DOH's Tobacco Prevention and Control Program in its ongoing efforts to protect Utah residents, especially use, from the harmful effects of tobacco products including electronic vaping products

BY THE NUMBERS

ENVIRONMENT



RULE MAKING

9



CONTRACTS & GRANTS

100



CONSULTATIONS

748

HEALTH



LITIGATION

19



CONTRACTS &
GRANTS

5,348



AGENCY REVIEWS

1,598

HIGHWAYS & UTILITIES

The Highways & Utilities Division represents and provides legal advice to the Utah Department of Transportation (UDOT) 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 (DPS) 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 (UTA) 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



NEW MATTERS

98



CLOSED MATTERS

79

UTAH TRANSIT AUTHORITY (UTA)

BY THE NUMBERS



NEW MATTERS

31



CLOSED MATTERS

46

APPROXIMATE DOLLAR AMOUNTS
IN CONTROVERSY

\$8,000,000

DRIVERS LICENCE DIVISION

BY THE NUMBERS



NEW CASES

102



CASES CLOSED

53

UTAH DEPARTMENT OF TRANSPORTATION (UDOT)

BY THE NUMBERS



NEW MATTERS

32



CLOSED MATTERS

35

APPROXIMATE DOLLAR AMOUNTS
IN CONTROVERSY

\$137,949,848

DIVISION OF PUBLIC UTILITIES*

BY THE NUMBERS



MATTERS

248

APPROXIMATE TOTAL DOLLAR
AMOUNTS AT ISSUE

\$6,265,000,000

*DPU and OCS cases combined.



NOTABLE CASES

Utilities

The AGO, representing the Division of Public Utilities and the Office of Consumer Services, successfully set the pension balancing account base at \$11.9 million instead of \$7.9 million argued for by Rocky Mountain Power, resulting in **\$4 million in annual savings** for Utah customers. The Division was also successful in opposing a rate increase for a portion of a wind project that will result in customer savings of around \$5 million annually until the next general rate case.

Public Safety

The division's attorneys provided legal support for security operations at the Utah State Capitol during multiple protest situations. The Division also closed 53 cases suspending or revoking the licenses of impaired drivers.

Eminent Domain

The division handled multiple eminent domain cases with tens of millions of dollars in controversy. Five of those cases are set for trial in early 2022. The division was able to settle one case where the owner's claim exceeded the State's just compensation estimate by \$363,308. The case settled for \$45,000 above the state's appraised value after further consideration of claimed impacts.

Utilities

In another matter involving disruption of access to an auto auction property resulting from a new bridge over nearby railroad tracks, the State settled the auction company's claims of \$4.6 million for \$1,074,900 after relocating the access point and providing statutory utility relocation benefits.

CONCLUSION OF FEDERAL MONITORING OF UTA

With respect to the AGO's responsibility to represent the Utah Transit Authority (assigned during the 2018 General Legislative Session), Division attorneys worked with outside counsel to successfully conclude a multi-year period of federal monitorship involving four specific areas of concern. Following is the UTA press release describing the background.



June 21, 2021

MEDIA RELEASE

Contact: Carl Arky / 801.859.6095 / carky@rideuta.com

Federal Monitoring of UTA Concludes

UTA fully embraces its commitment to improvements and changes implemented by the Board of Trustees

Salt Lake City – The United States Department of Justice has officially concluded the almost three-year federal monitoring of UTA's prior agency practices as part of a Non-Prosecution Agreement (NPA) that stemmed from a federal investigation from 2014. The United States Attorney's Office (USAO) for the District of Utah has determined the work of the federal monitor to be completed, effective immediately.

UTA is pleased with the USAO's determination that the agency has made significant structural strides to identify, review and improve the key areas of concern, and recognized UTA's open collaboration during the federal monitorship and willingness to adopt additional recommendations for improvement.

"UTA agrees with the USAO that the agency has fully complied with the federal monitorship and terms of the NPA," said Carlton Christensen, UTA Board of Trustees Chair. "The Board of Trustees and UTA leadership are committed to these improvements as well as a continued focus on implementing best practices and ensuring the highest standards of accountability and transparency."

UTA appreciates the work of the federal monitorship and the USAO during this period. The agency was committed to full collaboration and cooperation throughout the process. In addition to the significant changes the agency had made early on, which were acknowledged by the federal monitor, UTA continues implementing improvements based on their recommendations.

"As UTA's legal counsel, I am pleased that the federal monitorship is over," said David Wilkins, Assistant Attorney General. "At the Utah Attorney General's Office we look forward to continue providing high-quality legal representation of UTA."

TAX & FINANCIAL SERVICES

OVERVIEW

The Tax & Financial Services 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 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.



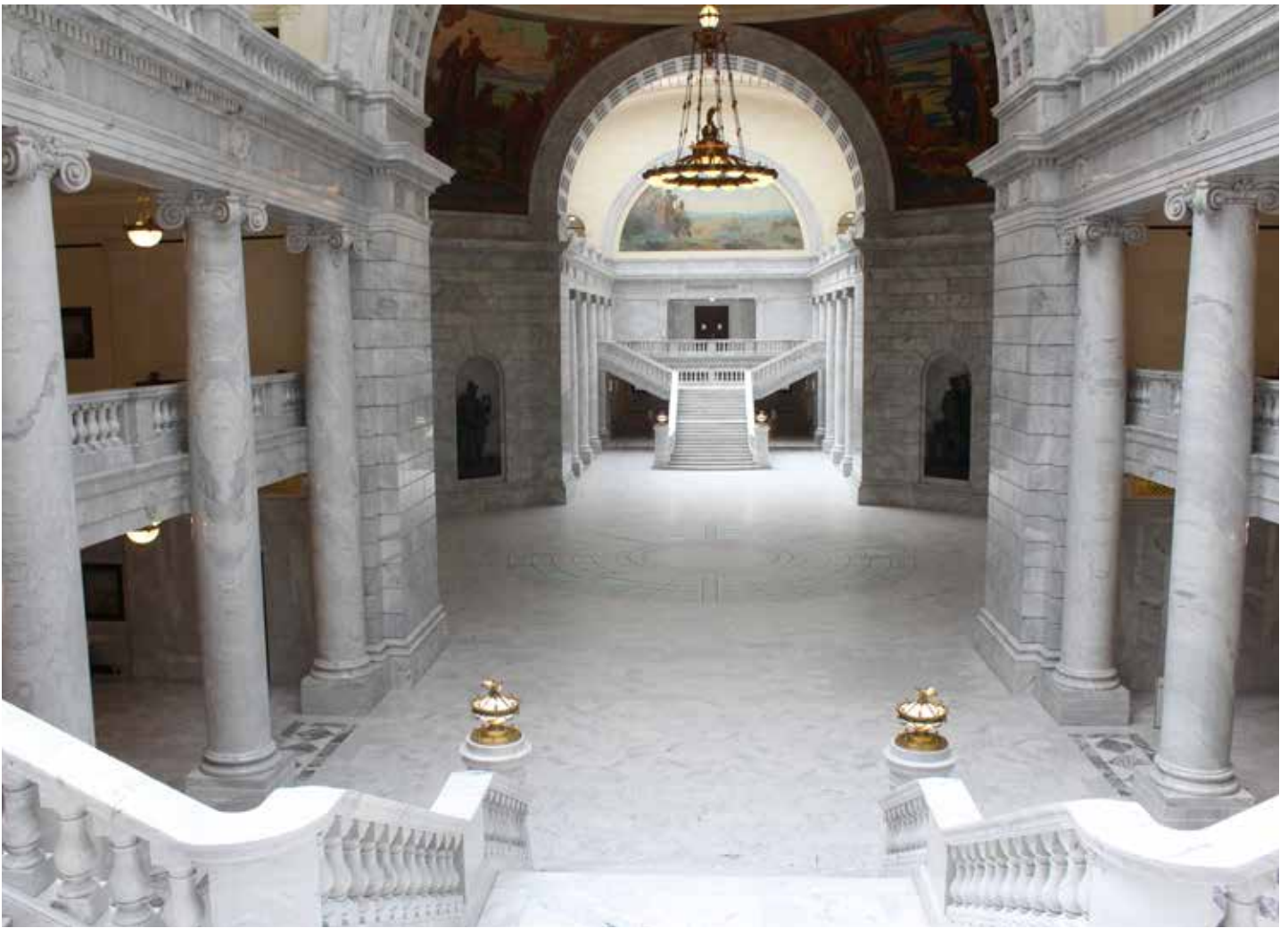


TAX

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.



NOTABLE SUCCESSES

- The **Financial Services Section** worked with the Insurance Department in re-writing all of the administrative rules for the Utah Insurance Department. Governor Cox signed an Executive Order directing state agencies to modernize their administrative rules. The department has 145 administrative rules, with some as long as 60 pages per rule. Between the three attorneys that represented the department, they have reviewed and revised these rules over the past five months. This was a huge task and will continue into the new year.
- The **Auditing Section** tried a sales tax case involving the purchase of a vehicle from a private seller but reported a much lower purchase price when registering the vehicle. This was done to avoid sales tax on the actual price. The Auditing Section won the case by showing what the actual sales price was, while also proving a 100% fraud penalty.





CRIMINAL DEPARTMENT

7 DIVISIONS

108 ATTORNEYS, 51 AGENTS,
& 84 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 (SPU) 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 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

669



Active Trial Cases

149

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 NONSUPPORT

OVERVIEW

Utah's legislature has declared that children are presumed to need the financial support of both parents. When a noncustodial 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 Nonsupport (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 noncustodial 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.

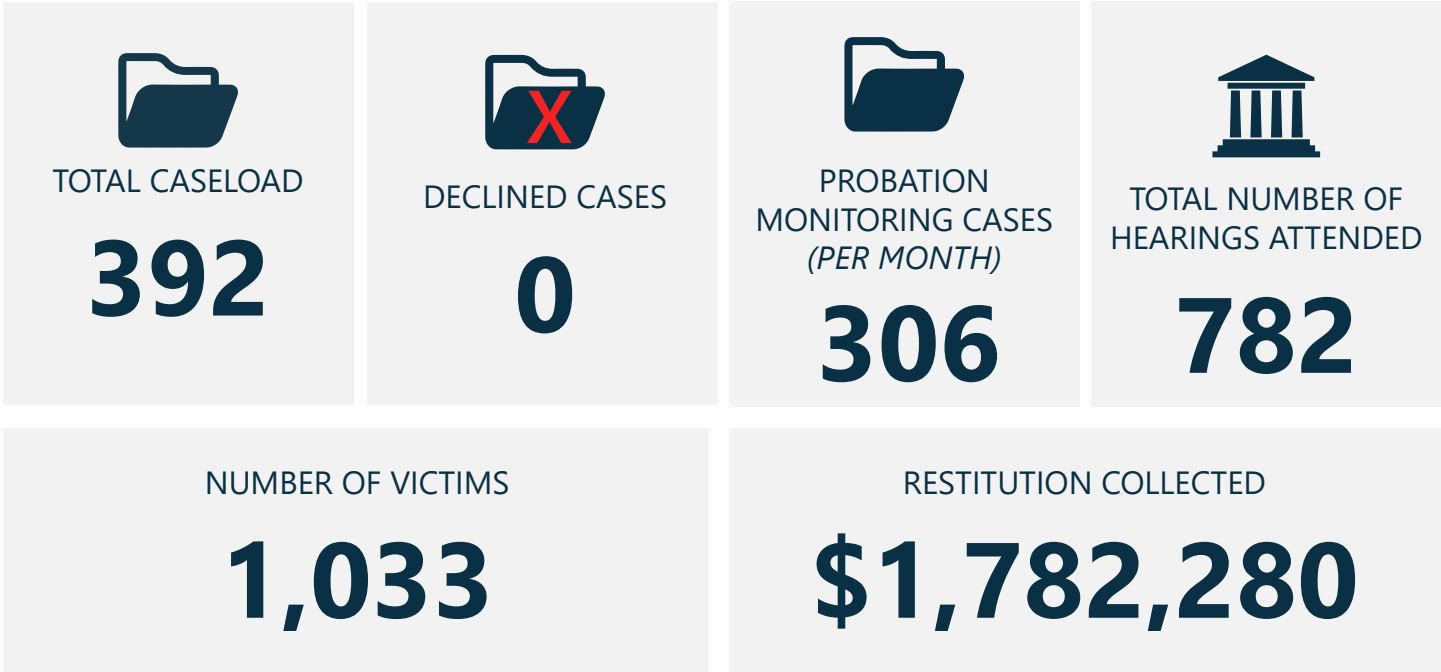
When CNS charges are filed and a plea agreement or conviction is obtained, the defendant is sentenced to abide by specific conditions. Chief among those terms is a requirement to make minimum monthly payments. The payments include all ongoing child support as well as a portion of the arrears. If a defendant 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 Nonsupport (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.



BY THE NUMBERS*



**The Office of Recovery Services (ORS) administration implemented a policy not to pursue collections because people were out of work due to COVID-19.*



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 5,400 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.

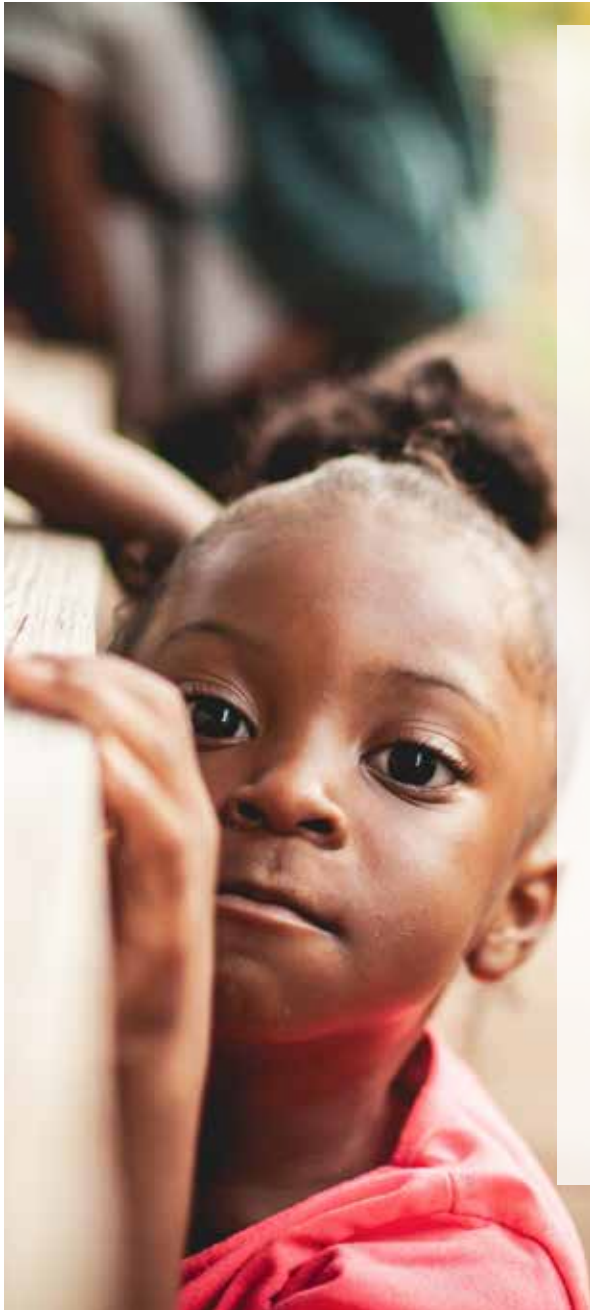


ICAC Tip Line:

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



2021 Utah Winner

Camille Summers
Dry Creek Elementary School
Lehi, Utah

2021 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.

Camille Summers drew the winning poster for the State of Utah for 2021. "It is a picture of a swing set and the shadow has a person [swinging in the] swing, but the real thing has no [one] in it as if the wind was blowing it. The background is a sunset to represent that the day is over and that the missing children have been gone for long and need to come back home," Camille said about her poster.





STATEWIDE COMMUNITY ADVISORY BOARD

In 2015, the AGO 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

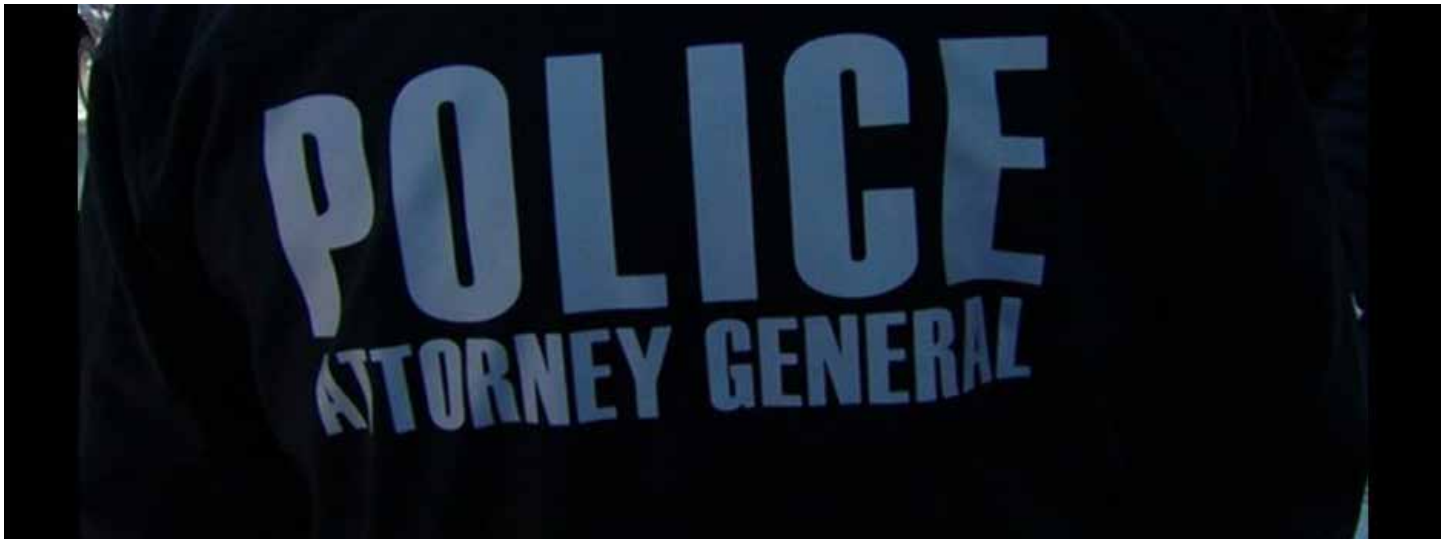
Conan Amos Sanchez

In September 2020, Yahoo, Inc! (Yahoo) filed a CT Report, reporting one of their users uploaded and distributed multiple files of child pornography using his account. After issuing a search warrant to Yahoo and judicial orders for IP address and cell phone subscriber information, the owner/user of the suspect account was identified as Conan Sanchez. While conducting the investigation, it was discovered that Conan was living in an apartment with a female friend and her two children, a seven year old girl, and a five year old boy.

In January 2021, a residential search warrant was served at the location and Sanchez was detained. During the search, multiple files of child pornography were found on his electronic devices, including those

reported by Yahoo. Post-Miranda, Sanchez admitted to possessing and distributing the files of child pornography. He also admitted to sexually abusing the female child at the residence on multiple occasions. Sanchez was booked into jail on multiple felony counts, including sexual exploitation of a minor (F2), sodomy on a child (F1), and aggravated sexual abuse of a child (F1).

ICAC Agents conducted a forensic interview of the child, and she confirmed the details of the abuse Sanchez admitted. Sanchez ultimately pleaded guilty on multiple counts. He was subsequently sentenced to **serve 25 years to life for sodomy on a child and 15 years to life for aggravated sexual abuse of a child.**



ICAC TASK FORCE HIGHLIGHTS *cont.*

Tyler Luu Lamberten

On January 5, 2021, the National Center for Missing and Exploited Children (NCMEC) received five reports from Google regarding approximately 200 files, most of which depicted apparent child pornography which one of their users uploaded to multiple accounts. Upon review of the accounts, information contained therein identified the account holder as Tyler Luu Lamberten. Data contained within multiple reported files depicting child pornography indicated that they were originally produced and uploaded by Lamberten in 2019 and 2020. His unique marks, tattoos, and his watch were seen in the images. On January 21, 2021, Lamberten was located and taken into custody. He ultimately admitted that he did produce the images and they were of his three-year-old daughter, who he was also abusing.

Lamberten ultimately pled guilty to one count of Aggravated Sexual Abuse of a Child in state court. A grand jury recently indicted him for 17 counts of Production in federal court.

Seven Child Predators Arrested in Washington County

The Utah Attorney General's ICAC Task Force focused their efforts to protect our most vulnerable in Washington County, targeting child sexual predators for five days in March 2020 and in November focused their efforts in

Utah County. The ICAC Task Force conducted online undercover work to locate and identify people using the Internet to sexually exploit and abuse children. The St. George Police Department hosted in March and the Orem Police Department hosted in November, and the following 15 agencies participated in the proactive work: Adult Probation and Parole, Enoch PD, Cedar City PD, Herriman PD, Iron County SO, Orem PD, Provo PD, Sevier County SO, South Salt Lake PD, St. George PD, Uintah County SO, Utah County SO, West Jordan PD, West Valley City PD, and Vernal PD.

The online activity started slowly, but the team remained committed to the joint effort of getting to the predators before they got to children. The undercover police work focused on social media sites frequented by our children. All the individuals we arrested were actively trying to lure children away from their home with the intent of sexually assaulting them.

Ultimately, the ICAC Task Force arrested seven 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 was in the law enforcement profession; others had enticed a minor for months; and all of them had the intention of sexually abusing a child.

BY THE NUMBERS

INVESTIGATIONS



CHILD EXPLOITATION REFERRALS

3,250

INVESTIGATIONS CONDUCTED

1,563

SEARCH WARRANTS SERVED

573ELECTRONIC DEVICES
FORENSICALLY EXAMINED**3,091**

ARRESTS

228

PROSECUTIONS



NEW CASES REVIEWED

81CASES FILED
*(State & Federal)***80**

ARRESTS

65

SENTENCED/PROBATION

37

CHILD VICTIMS IDENTIFIED

47



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 crimes 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

State v. Paul Petersen – International Human Smuggling, Fraud, and Sale of a Child Prosecution

On October 8, 2019, the Utah Attorney General's Office charged former Maricopa County Assessor Paul Petersen with: one count of Pattern of Unlawful Activity, a Second Degree Felony, four counts of Human Smuggling, a Third Degree Felony, three counts of Communications Fraud, a Second Degree Felony, and three counts of Sale of a Child, a Third Degree felony. The charges arose from an investigation into an illegal adoption scheme Petersen ran wherein he recruited pregnant women in the Marshall Islands to place their children for adoption to couples in the United States. The Marshallese women were offered payment and transportation to the United States in exchange for following through with the adoptions. The Human Smuggling and Sale of a Child counts were based on Petersen recruiting, paying, and transporting the Marshallese women into the United States for purposes of adoption in violation of international law. The Communications Fraud counts were based on Petersen's misrepresentations to the American couples adopting the children, who were never informed about the unlawful nature of the adoptions. There were elements of trafficking victimization involved as well, as some of the Marshallese women alleged they were defrauded and coerced into participating in the scheme.

Petersen was also charged with several felony offenses in Arizona and Arkansas for crimes related to the same scheme. In July of 2020, Petersen pleaded guilty to crimes in all three cases. In Utah, he pleaded to one count of Communications Fraud and three counts of Human Smuggling. He admitted to transporting women into the United States for purpose of adoption and for profit, in violation of an international compact. He also

admitted that he never disclosed the international adoption restrictions to American families who adopted the children involved. In April of 2021, Petersen was sentenced to one to 15 years in prison. The sentence will run concurrently with the five-year prison term in Arizona and six-year prison term in Arkansas. He will spend 11 to 15 years in custody between all three states.

State v. Jackson Ballard – Combined Internet Crimes Against Children and Human Trafficking of a Child case

On January 27, 2021, the Utah Attorney General's Office filed a criminal information in Salt Lake County, alleging Jackson Ballard had engaged in an improper relationship with a 13-year-old female he met through the social media app "Snapchat." The charges filed against Ballard include Human Trafficking of a Child, Sexual Exploitation of a minor, and Enticement. After Ballard met the minor he solicited her for oral sex in exchange for vape pens. Ballard also requested and received multiple nude/semi-nude photographs of the minor. On July 1, 2021, Ballard pled guilty to 2 counts of Human Trafficking of a Child, (1st Degree Felonies); Sexual Exploitation of a Minor, Enticement, and Dealing Materials Harmful to a Minor. The state dismissed remaining counts and agreed to forego removal of the case to federal court and filing additional Enticement counts in the state court system for multiple other conversations discovered on Ballard's cell phone. Ballard was sentenced to 5 years to Life in the Utah State Prison (USP) for Human Trafficking of a Child; 1 to 15 years for Enticing a Minor By Internet or Text; 1 to 15 years in the USP for Sexual Exploitation of a Minor; and 0 to 5 years in the USP for Dealing in Materials Harmful to a Minor. Count 1 to run consecutive to all other concurrent counts.

BY THE NUMBERS



225

CASES GENERATED BY INVESTIGATORS

INVESTIGATIONS/ARRESTS

47

Arrests

88

Sex Offenses/
Human Trafficking

32

Fraud/Forgery/
Counterfeiting

9

Weapons

28

Narcotics
Distribution/
Drug Crimes

63

Search Warrants

65

Misc. Cases, Citizen Assist, Police Assist, etc.



49

CRIMINAL CASES FILED BY SECURE PROSECUTORS

45

State Cases
Filed

4

Federal
Cases Filed

47

Arrest
Warrants

These cases include, but are not limited to, charges for:

- Sex Offenses/Rape/Human Trafficking of a Child
- Enticing a Minor by Internet or Text
- Identity Theft/Fraud/ Forgery/Counterfeiting
- Narcotics Distribution / Drug Crimes
- Sale/Possession of Dangerous Weapon
- Kidnapping
- Aggravated Exploitation of Prostitution/Aiding Prostitution
- Sale of a Child
- Human Smuggling
- Threats of Violence
- Communications Fraud
- Pattern of Unlawful Activity
- Money Laundering
- Assault



SPECIAL PROSECUTION UNIT

The Special Prosecution Unit (SPU) 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)

81



CASES FILED
(FEDERAL)

42



CONVICTIONS

76

RESTITUTION COLLECTED

\$511,706

ASSET FORFEITURE*

\$7,598,211

**Approximately 7.4 million of this was recovered by D.E.A. and our H.I.D.T.A. prosecutors. None of the money came to the State.*

NOTABLE CASE

State v. Jeffrey Paul Olson

Defendant raped two adult women and sexually abused children from three sibling groups: 1- his natural children from his first marriage; 2- his girlfriend's children; and 3- the children of his second wife. The assaults took place over time from 1995 – 2011, in three different counties in the State of Utah. Defendant was charged with 10 total counts (6 counts F1 Aggravated Sexual Abuse of a Child, 2 counts F1 Rape, and 2 counts F1 Forcible Sodomy).

After discussion with each of the sibling groups (most of whom are now adults) and their respective mothers, and the adult women he sexually assaulted, the defendant entered a guilty plea to four F1 counts:

3 counts of Attempted Aggravated Sexual Abuse of a child (one count for each familial sibling group); and 1 count of Attempted Rape (to cover the adult victims).

Each of the 4 counts, even though reduced to attempted, remained first degree felonies, and carried minimum mandatory prison. The SPU attorney argued at sentencing that, due to the multi-familial and generational harm done by the defendant, the Court should run his sentencing on each count consecutively rather than concurrent. The Judge agreed, and sentenced the defendant to 3 to Life on each count, with each running consecutive to the other.

UTAH PROSECUTION COUNCIL

OVERVIEW

Utah Prosecution Council (UPC) is a statutorily-created agency composed of twelve members that includes the Attorney General, four elected county/district attorneys, four 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 statewide.

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 also provides statutorily mandated training to law enforcement officers in trauma-informed responses and investigations of sexual assault and sexual abuse. UPC staff and select faculty travel the state offering this course several times each year.



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
- Train the Trainers
- DV101 Bootcamp (January 2021)
- 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 multiple times each year.

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
AND REGIONAL TRAINING
EVENTS

149



TOTAL NUMBER OF INDIVIDUALS
TRAINED AT UPC CONFERENCES AND
REGIONAL TRAINING EVENTS

5,942



TRAINING IN TRAUMA-INFORMED RESPONSE

Since 2014, UPC has been training law enforcement officers and prosecutors in trauma-informed responses to sexual assault and sexual violence. Through the use of the Trauma-Informed Victim Interview (TIVI) protocol which UPC developed with the West Valley City Police Department, there has been a significant increase in the investigation and successful prosecution of sexual assault cases in Utah. Victims are treated with greater respect and dignity and are able to participate more fully in the investigation and prosecution of their cases.

In 2017, H.B. 200 mandated that Peace Officer Standards and Training (POST) and UPC develop and offer training to officers who investigate sexual assault and sexual violence crimes using trauma-informed responses and skills. Since then, UPC staff and a select cadre of expert faculty members have trained thousands of officers statewide in trauma-

informed responses.

This three-day Sex Crimes Investigation Course was originally only offered at POST. Through the combined efforts of POST and UPC, this course is now offered across the state in multiple jurisdictions to ensure that officers across the state can receive this vital training.

In addition to this course, UPC's sexual assault/domestic violence resource prosecutor travels across the state training officers on trauma-informed responses. In 2021, she trained 2,998 law enforcement officers and allied personnel at 61 different locations.

UPC's Director teaches the Domestic Violence 101 course to police cadets at POST. Part of that curriculum includes training in trauma informed responses. UPC's goal is to train the largest number of officers in these important principles.



INVESTIGATIONS

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.



CRIMES AGAINST STATEWIDE ECONOMY (CASE)

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.

The CASE Task Force partners with many Federal, State and local law enforcement agencies including Homeland Security Investigations, U.S. Secret Service, U.S. Postal Inspection Service, and numerous Utah state and local law enforcement agencies. Through these partnerships and its own independent investigations, the CASE Task Force capably investigates and prosecutes cases including but not limited to:

- Organized Retail Crime
- Cargo Theft
- Porch Piracy
- Gambling
- Catalytic Converter Scrap Metal Thefts

The CASE unit includes investigators from the Utah Attorney General's Office, the Department of Public Safety, State Bureau of Investigations, West Jordan Police Department, the West Valley Police Department, and the Statewide Information and Analysis Center (SIAC), 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.

The CASE Task Force regularly partners with corporate retail investigators from dozens of agencies to monitor nationwide trends and track suspects that may travel to and victimize retailers in Utah. Task Force Agents from CASE regularly communicate with corporate investigators from Lowe's, Target, Walmart, Victoria's Secret, ULTA Beauty, Kohl's, Kroger, Walgreens, CVS Pharmacies, Lens Crafters, and many more. CASE Agents also regularly communicate and partner with e-commerce retailers from Offer-Up, Facebook Marketplace, eBay, and Amazon in an attempt to combat the sale of stolen goods online.



The CASE Team of Investigators, Prosecutors and support staff are active participants in the private industry groups such as the Utah Organized Retail Crime Association, The Retail Industry Leaders Association and the Coalition of Law Enforcement and Retail.

By nurturing and building these strong nationwide partnerships, CASE targets criminal enterprises associated with crimes committed against retailers and protecting other legitimate businesses throughout Utah. The CASE Task Force's unique ability to investigate and prosecute large-scale crimes helps ensure the safety of Utah's economy and protects the rights and property of all Utahns.

NOTABLE CASES

Cargo Theft

The CASE Task Force was notified of a theft of cargo from a Utah business, costing them several million dollars. An initial investigation determined that the shipment was likely stolen from the Los Angeles, California port. The CASE Task Force partnered with investigators from Homeland Security Investigations and California Highway Patrol to investigate who had stolen the cargo shipment, and how it was being distributed. The investigation found that the shipment was taken from the Union Pacific railyard prior to departing from Los Angeles, enroute to Utah. The CASE Task Force discovered the likely suspects and served several search warrants, recovering hundreds of stolen items that were later returned to the Utah retailer.

BY THE NUMBERS

CASES INVESTIGATED

110

ARRESTS

21

AMOUNT RECOVERED IN STOLEN
PROPERTY

\$168,000

AMOUNT RETURNED IN RESTITUTION
TO VICTIMS

\$102,313

SEARCH WARRANTS SERVED

12

REFERRALS MADE TO CONSUMER
PROTECTION

2

NOTABLE CASES *cont.*

Organized Retail Crime

The CASE Task Force partnered with corporate investigators from Walmart and Sam's Club to investigate suspects fraudulently obtaining large numbers of high-end cell phones to be shipped out of the United States for resale. Purchases and payment plans were made on the high-end cell phones under fake ID cards from stolen identities, and payments were never made. Multiple Utah identity theft victims reported receiving bills and collection notices regarding the fraudulently obtained cell phones throughout the state. The suspects, working in concert, hit multiple states, costing Sam's Club Utah stores approximately \$300,000 in losses and millions nationwide.

Through facial recognition and open-source photographs, the main suspect and apparent ringleader was identified with a most recent address in Detroit, Michigan. Multiple felonies were filed and a fully extraditable warrant was issued.

Retail Theft

The CASE Task Force received a complaint for a theft of \$7,049.99 in merchandise, impacting six Lowes hardware stores along the Wasatch Front. The suspect was accused of multiple high dollar/volume thefts as well as cutting cables and stealing utility trailers. The suspect had used various identity numbers by modifying his temporary Utah-issued identification. The suspect has been charged with two counts of retail theft, a second-degree felony, and two counts of forgery and with producing a false identification a third-degree felony. These charges were aggregated by county and charges filed through the Utah Attorney General's Office.

Catalytic Converter Theft

The CASE Task Force was contacted by a law enforcement agency outside of Utah and asked to assist in a large multi-jurisdictional investigation involving a suspected criminal organization that was purchasing stolen catalytic converters. The CASE Task Force discovered that an individual working in Utah was purchasing catalytic converters under suspicious circumstances after advertising online. Numerous undercover transactions were conducted with the suspect, which eventually led to numerous search warrants being served and approximately 124 catalytic converters were recovered subsequent to the search warrants.

Retail Theft

The CASE Task Force received a complaint of a theft of \$13,770.89 in merchandise impacting nine separate Lowes hardware stores along the Wasatch Front. The suspect was reselling the stolen merchandise for profit. Using UCJIS facial recognition technology and investigatory data gathering, the suspect was identified and has subsequently been charged with three counts of retail theft, a second-degree felony, and three Class A misdemeanor counts of removal of a theft detection shielding device. These charges were aggregated by county and charges filed through the Attorney General's Office.



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.

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 with investigating any potential crime involving the School and Institutional Trust Lands Administration (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 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 scenarios, 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

100



INVESTIGATIONS
REQUESTED/REVIEWED

474

SIU NOTABLE CASES

BRAILSFORD CASE

A case that initially came to our office as an HB 281 review, involved the rape of a teenage victim by a 20-year-old suspect. Braydon M. Brailsford was initially arrested for sexually abusing teenage victims in two cases. SIU investigators were able to locate seven additional victims since his initial arrest on March 16, 2021. Brailsford, in three separate criminal filings in two separate counties, stands accused of multiple criminal sexual acts, from at least nine different females, six of which were minors at the time of their alleged sexual assaults. In most of the cases, the victims met Brailsford on social media and he tried pressuring them into having sex with him shortly after meeting them in person for the first time.

Brailsford has been charged with multiple counts of rape, forcible sodomy, aggravated kidnapping, forcible sexual abuse, and sexual exploitation of a minor.

DAGHLIAN CASE

An investigation was conducted into a Salt Lake businessman who assaulted multiple victims, including a teenage girl, all of whom he met on a dating website. Raffi J. Daghlilian, was charged with rape, human trafficking of a child, aggravated exploitation of prostitution involving a child, forcible sexual abuse, a second-degree felony, and dealing in harmful materials to a minor. Daghlilian is the owner of a rug shop and a former well-known restaurant in Salt Lake City.

Defendants are presumed innocent until proven guilty.

VIRTRA BY THE NUMBERS



34

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



1,191

LAW ENFORCEMENT OFFICER TRAINING SESSIONS COMPLETED



23

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)



176

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

Autism Awareness Award

The “Autism Champion” award was presented by the Melisa Nellesen Center for Autism at Utah Valley University to Utah Attorney General Sean D. Reyes for his leadership in providing Autism awareness training for Utah law enforcement. Using the VirTra virtual reality system, law enforcement officers learn how to recognize behavior that may indicate an individual may be on the Autism Spectrum and how to take action accordingly to ensure a positive encounter.

As part of the award-winning program, Training Center staff produced media that included a video interview with several parents of children with Autism Spectrum Disorder designed to educate police on what they would like the police to know should they have encounters with their children in the community.

Utah has the second-highest population of individuals with Autism in the country. In response to the needs of this special population, VirTra staff has worked with the Attorney General’s Autism Advisory Board and the Autism Council of Utah to develop their award-winning Autism Awareness Program for police officers.

Force Science Certification

VirTra™ Training Center staff have completed the rigorous course requirements for Force Science Analyst Certification. Along with teaching constitutional policing best practices, the training center staff will now include education regarding the scientific realities surrounding officer performance under stress, action/reaction time, memory, decision-making, and more in complex, rapidly unfolding police encounters.

Police Reform

In preparation for the 2022 Utah legislative session, the VirTra Training Center staff presented to members of the legislature, ACLU, media, various think tanks, and other community leaders to educate

them on critical law enforcement reform issues. The presentation addressed the practical limitations of police reform. The goal was to help them understand that despite what recent headlines would have them believe, police use of force is not common, use of deadly force is rare, and abuse of deadly force is an anomaly. The data reveals that police use a great deal of both professionalism and restraint. Staff offered recommendations regarding various police reform bills emphasizing that any legislative reform should support constitutional policing.

Use of Force / De-escalation Training

The VirTra Training Center continues to offer the use of force and de-escalation in-service training to all local, county, state, and federal law enforcement agencies in Utah. The staff encourages agencies to use the VirTra Training Center facilities to evaluate new officer candidates and lateral officer transfers. The staff assists agencies to evaluate officers while they are participating in Field Training Programs.

Utah Highway Patrol Training

Over 400 Utah Highway Patrol troopers received in-service de-escalation legal issues training. Troopers were briefed on Supreme Court and federal court cases setting de-escalation standards for law enforcement. Troopers participated in several virtual reality simulations designed to test and hone their de-escalation skills.

VirTra™ Upgrade / Assembly

VirTra technicians installed the original products and simulator at the Attorney General's Training Center in September of 2015. The current contract called for a significant update in 2021, including installing new computers, cameras, sensors, video libraries, and weapon simulation components. The upgrade included testing and troubleshooting the new systems. The simulator's performance is now successfully upgraded.



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 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, 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

72



CASES
OPENED

47



CASES
COMPLETED

61



TOTAL SAVINGS

\$2,965,052



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

2,803



TOTAL NUMBER OF
TRIALS

2,217



AVERAGE JUVENILE
COURT CASE LOAD PER
ATTORNEY

82



TOTAL NUMBER OF HEARINGS

13,827



TOTAL NUMBER OF
APPEALS

59



TOTAL NUMBER OF
ADMIN REVIEWS

131

A vertical photograph on the left side of the page shows a woman with curly hair, wearing a floral shirt and red pants, walking and holding the hand of a young child. The child is wearing a floral dress and white pants. They are walking on a paved path with trees and foliage in the background, bathed in warm, golden light.

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

3,736



AVERAGE CASELOAD PER
ATTORNEY*

220



NUMBER OF COURT
APPEARANCES
STATEWIDE

3,826



AVERAGE NUMBER OF
APPEARANCES PER
ATTORNEY EACH MONTH

225



**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 25 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 25 CJsCs, 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

Mental Health Services for Children in Rural Utah

This year the CJC Program partnered with the Cambia Health Foundation, which is providing \$1 million to CJC's for children's mental health services in rural counties. Other partners include the National Children's Alliance, Medical University of South Carolina, and Yale University. In addition to training additional clinicians and funding in-person and telemental health services, this project will support continued collaboration with the University of Utah/Center for Safe and Healthy Families for trauma/suicide risk screening and resources.

Legislative Priority: "No Access Perpetrator" Policy Changes

As part of the 2020 COVID-related cuts, DCFS' funding to investigate cases involving "no access perpetrators" was cut. Law enforcement, already overtaxed and under-resourced, lacked the capacity to assume sole responsibility for these investigations, and CJC's experienced a significant drop in children being

brought in for critical services. The CJC Program, with the support of law enforcement, prosecutors, and child welfare leadership, successfully sought restoration of the funding in the 2021 session.

Development of New Centers, New Facilities, and Expansion of Services

In FY21, the Garfield County CJC opened as Utah's 25th location, and every county in the state is now officially affiliated with a CJC. Funding for the 24th CJC (in Utah County)—cut due to the pandemic—was restored. The Box Elder County CJC and Cache/Rich County CJC secured federal COVID-19 funds to purchase new buildings that are being renovated as CJC's. The Summit County CJC relocated to a renovated home that offers much more space for expanded services. The Primary Children's Center for Safe and Healthy Families, the Program's medical partner, hired an additional provider to better support the CJC's in Carbon, Emery, Grand, and San Juan counties.



A billboard featuring the SHINE Campaign, a national initiative to end the stigma around child abuse and encourage community members to support survivors. SHINE celebrates the resiliency of survivors and the critical role of CJC's in helping children find hope, support, and healing.

HIGHLIGHTS *cont.*

Training and Technical Assistance

With the help of federal grants and county support, Forensic Interview Specialists were added to CJC's in Uintah, Weber, Tooele, Utah, and Salt Lake counties. The Program's Forensic Interview (FI) and Multi-Disciplinary Team (MDT) Specialist provided extensive technical assistance and peer review to these professionals, who also serve as trainers for our statewide forensic interview training program. There are now 18 trainers that supported nine workshops in FY21, training hundreds of law enforcement and child protective service workers. Customized training was also provided to several other groups, including the ICAC Task Force and SECURE Task Force. The Program's specialist provided more than 50 case consultations to county prosecutors throughout Utah and served as an expert in several trials. The Program also partners with the Utah Office for Victims of Crime and regularly presents at its quarterly Victim Assistance Academy for advocates statewide.

The CJC Program held its 2021 Utah Children's Justice Symposium in a virtual format, drawing 1,000 attendees from all over the state. The pandemic created an opportunity to develop a monthly "Brown Bag" virtual training series for professionals statewide.

Community Awareness for CJC's and CJC Program Recognition

FY21 was the second and final year of the Program's VOCA grant to increase awareness of CJC's. Phase two featured new billboards and public service announcements. Website traffic increased more than 30,000 percent in Year 1 and an additional 37 percent in Year 2. For the fifth year in a row, the Utah CJC Program received the Best of State award in the category of Public-Private Partnership. KSL also featured the CJC's in a story about the pandemic, crediting centers for staying open to serve child abuse victims when most of the world was shut down.

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

Medicaid Recipient Pleads Guilty for Committing Fraud Against the Medicaid Program

A Utah County woman pled guilty to violations of the Utah False Claims Act (Utah Code §26-20-1) for causing claims to be billed to the Medicaid program which were wholly or partially false, fictitious, or fraudulent. An investigation conducted by MFCU led to evidence that in September 2019, the defendant provided a false date of birth to a medical clinic in order to obtain a controlled substance. The defendant, a Medicaid recipient, obtained opioid medications that were not medically necessary and provided the false date of birth to obscure her history of obtaining opioids through the health care system. These actions caused medically unnecessary claims to be paid by the State Medicaid program.

For these offenses, the defendant pled guilty to a third-degree felony and was ordered to pay restitution of \$903 and a fine in the amount of \$1,000.



NOTABLE PROSECUTIONS *cont.*

Indivior Pleads Guilty to Federal Felony Charge and Settles Criminal and Civil Allegations

Attorney General Sean Reyes announced on June 2, 2021 that Utah and other states have reached an agreement with Indivior plc and Indivior Inc. (Indivior) to settle allegations that Indivior falsely and aggressively marketed and otherwise promoted the drug Suboxone, resulting in improper expenditures of state Medicaid funds. Suboxone is a drug approved for use by recovering opioid addicts to avoid or reduce withdrawal symptoms while they undergo treatment. Suboxone and its active ingredient, buprenorphine, are powerful and addictive opioids. Indivior will pay a total of \$300,000,000 to resolve various civil fraud allegations impacting Medicaid and other government health programs, of which \$203,735,800 will go to Medicaid. As part of this settlement the state of Utah will receive \$228,868.93 in restitution and other recoveries, paid out over a period of approximately six years. Thus far, Indivior has paid the State of Utah \$27,117.22.

This civil settlement resolves allegations that, from 2010 through 2015, Indivior (a) promoted the sale and use of Suboxone to physicians who were writing prescriptions that were not for a medically accepted indication in that they lacked a legitimate medical purpose, were issued without any counseling or psychosocial support, were for uses that were unsafe, ineffective, or medically unnecessary and that were often diverted; (b) knowingly promoted the sale or use of Suboxone Sublingual Film based on false and misleading claims that Suboxone Sublingual Film was less subject to diversion and abuse than other buprenorphine products and that Suboxone Sublingual Film was less susceptible to accidental pediatric exposure than Suboxone Sublingual Tablets; and (c) submitted a petition to the U.S. Food and Drug Administration on September 25, 2012, fraudulently claiming that Suboxone Tablets had been discontinued “due to safety concerns” about the tablet formulation of the drug and took other steps to fraudulently delay the entry of generic competition for various forms of

BY THE NUMBERS



NUMBER OF TOTAL
CASES OPENED

94



NUMBER OF TOTAL
CASES CLOSED

119

Suboxone in order to improperly control pricing of Suboxone, including pricing to the States’ Medicaid programs.

Regarding the federal criminal case against Indivior, on July 24, 2020, Indivior Solutions pleaded guilty to a one-count felony information and, together with its parent companies Indivior Inc. and Indivior plc, agreed to pay a total of \$289,000,000 to resolve criminal liability associated with the marketing of Suboxone. On June 30, 2020, Indivior plc’s former CEO, Shaun Thaxton, pleaded guilty to a one-count misdemeanor information related to the same conduct and was sentenced to a six-month term of incarceration and \$600,000 in criminal fines and forfeiture. On August 26, 2020, Indivior’s former medical director, Tim Baxter, pleaded guilty to a one-count misdemeanor information related to the same conduct and was sentenced to six months home detention, 100 hours community service, and a \$100,000 criminal fine.

A National Association of Medicaid Fraud Control Units Team participated in settlement negotiations. The Utah MFCU receives 75% of its funding from the U.S. Department of Health and Human Services under a grant award totaling \$1,987,332 for Federal fiscal year FY 2020. The remaining 25%, totaling \$662,443 for FY 2020 is funded by the State of Utah.

NOTABLE PROSECUTIONS *cont.*

Health Care Worker Pleads Guilty for Abuse/Neglect of a Vulnerable Adult

In June 2021, a Washington County man who worked at a company that provides care for people with intellectual and developmental disabilities, as well as traumatic brain injuries, pleaded guilty to committing abuse of a vulnerable adult, a Class B Misdemeanor. Mr. Gullo was assigned to provide care for a vulnerable adult with a traumatic brain injury. As part of the plea, defendant admitted to becoming upset over the vulnerable adult's behavior and then throwing the vulnerable adult to the ground, yelling at him, spitting on him, and throwing an empty water bottle at him.

For these offenses, the defendant was ordered to serve 12 months on probation, pay a fine of \$300 or complete 50 hours of community service, and stay away from his prior employer's workplace, the victim's place of residence, and the location of the offense. Mr. Gullo's name was submitted to the Federal Office of Inspector General for consideration of federal exclusion, which would prevent the defendant from working in any capacity as a caregiver or health care provider in any facility that receives federal funds.

Skilled Nursing Facility Agrees to Repay \$30,000 for Failure to Provide Adequate Care

On May 19, 2021, a skilled nursing facility in Salt Lake County agreed to pay \$30,000 to resolve allegations that they violated the False Claims Act by failing to provide adequate care. MFCU received complaints alleging that residents were not receiving appropriate care at this facility. An investigation identified episodes of inadequate resident care, poor resident outcomes, and concerns regarding staffing, training, and protocols. To participate in the Medicaid program, facilities must meet Federal participation requirements, as specified in 42 CFR §486, and State Medicaid guidelines, as outlined in the Utah Medicaid Provider Manual. No civil litigation was filed in this case, as the facility agreed to resolve all claims by paying restitution and other damages totaling \$30,000.

The claims settled by this agreement are allegations only, and there has been no determination of liability or guilt.

Utah Legislature Expands MFCU's Authority to Fight Abuse, Neglect, and Exploitation

On March 17, 2021, Governor Cox signed HB 332 (sponsored by Representative Bradley Last), expanding the duties of the Medicaid Fraud Control Unit (MFCU) in Utah Code §67-5-1(18)-(19). MFCU has long had jurisdiction to investigate and prosecute abuse, neglect, and exploitation that occurs in medical and board and care facilities, but has not had authority in private homes or non-institutional settings. This has left MFCU unable to protect a large percentage of the vulnerable individuals in our community. Since 2017, the National Association of Medicaid Fraud Control Units and National Association of Attorneys General, including AG Sean Reyes, have urged Congress to expand the authority of MFCUs to investigate and prosecute Medicaid patient abuse in non-institutional settings, explaining that "[t]oday, more than 74 million Americans [as of 2016] are enrolled in Medicaid. Of those, more than 6.4 million are age 65 or older. Statistics cited by the [CDC] suggest that 1 in 10 persons age 65 and older who live at home will become a victim of abuse." (05/09/2017 letter sent by NAAG to Secretary Tom Price, DHHS)

The Federal Coronavirus Relief Package ("Consolidated Appropriations Act, 2021"), signed in December 2020, expanded the jurisdiction of MFCUs, allowing the investigation and prosecution of cases of abuse, neglect, and exploitation in "non-institutional" settings and providing federal funding of 75% to cover all MFCU expenses. With the passage of HB 332, the Utah MFCU will now be able to better protect Medicaid recipients and hold perpetrators accountable. Additionally, with the \$67,500 in State funding that was appropriated to fund this bill and the additional amount of \$202,500 of matching Federal dollars, MFCU will be able to fill two full-time positions to take on new cases.



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

369



NUMBER OF TOTAL
CASES CLOSED

259



NOTABLE PROSECUTIONS

Opioid Settlement

Consistent with the Attorney General's focus on the opioid epidemic, the WCCE has played a vital role in Utah's litigation with opioid manufacturers and distributors. The WCCE assisted in negotiating a successful completed settlement with McKinsey & Company which distributed \$573 million dollars to states. The state is near resolution with major distributors that would result in Utah receiving as much as \$271 million for opioid abatement. Utah sits on a bankruptcy committee in the Purdue bankruptcy which will provide at least \$10 billion to states and other creditors. The WCCE has also been assisting the legislature and governor's office in preparing an agreement with counties and municipalities to maximize Utah's share and allocate funds between the state and its localities.

Unscrupulous Business Practices

The WCCE has protected Utah citizens from unscrupulous business practices and professionals. The WCCE successfully prevailed against a pharmacist who improperly supervised prescription fulfillment which resulted in a patient's death and other professionals who engaged in improper sexual contact with patients. The WCCE is engaged in three large cases in state and federal court that seek to enforce Utah's Business Opportunity Disclosure Act

and other consumer protection statutes that would provide citizens with truthful and accurate information regarding products sold to enable citizens to start a business. The WCCE prevailed at trial against an auto repair shop near Cedar City that preyed on out-of-town and elderly travelers on I-15 by selling them unnecessary and expensive repairs to their vehicles. It also sought and obtained a multi-million dollar fine against a business that took customer money and failed to deliver promised dental products. The WCCE also has been actively supporting the Division of Consumer Protection in its response to numerous price gouging complaints resulting from pandemic profiteering.

Multistate Settlements

The WCCE continues to participate in numerous multistate investigations and settlements. These include multistate investigations into C.R. Bard and Boston Scientific's marketing of surgical mesh products, which resulted in a \$60 million settlement with C.R. Bard and a \$189 million settlement with Boston Scientific. The WCCE also participated in an investigation of Apple's iPhone performance management practices, which resulted in a \$113 million settlement and a multistate investigation of Honda's use of faulty Takata airbags, which resulted in an \$84 million settlement.

An aerial photograph of a suburban neighborhood. It shows several houses with green lawns, mature trees, and a paved road. A dark-colored car is parked in a driveway. The image is positioned on the left side of the page, partially overlapping the text area.

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, particularly 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

24



CRIMINAL CASES CLOSED

11

RESTITUTION ORDERED
UPON CONVICTION

\$925,526

RESTITUTION COLLECTED
THROUGH AG'S OFFICE*

\$876,123



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



NOTABLE CASES

State v. Jordan Schneiman

The defendant was ordered to serve **270 days in jail and pay restitution in the amount of \$1,056,864** based on his guilty plea to Unlawful Dealing by a Fiduciary and Pattern of Unlawful Activity, both second degree felonies. The defendant's conviction followed an extensive investigation into the defendant's dealings with over a million dollars he mismanaged as part of a house boat management business in the Bullfrog Marina at Lake Powell. Schneiman and his company, Lake Point Management, LLC, repeatedly removed funds from individual houseboat accounts for unauthorized purposes, often extensively comingling them in a general account, and failing to use them for the maintenance of the houseboats for which they were intended. In many instances, funds from one houseboat account were used to pay the expenses of another. Houseboat owners' funds also were used for a variety of other unauthorized personal and business purposes. A large part of the funds could not be traced fully due to extensive comingling and the sheer number of transactions and accounts involved. The case entailed multiple victims and extensive forensic accounting.

State v. Richard Baldwin

Defendant pled to one count of securities fraud, a third degree felony, based on his diversion of fund from a real estate investment. He took investment money he solicited for real estate investment and used it for personal expenditures. He was ordered to pay \$38,492 in restitution and given 36 months of probation.

State v. Kenneth Hyer

Defendant pled no contest to Securities Fraud, a third degree felony. The defendant solicited two investors for over \$100,000 to invest in a multi-state Ponzi scheme. The defendant was not a participant in the Ponzi scheme but was on notice of investigations relating to the investment which he did not disclose. The defendant was placed on probation and ordered to pay full restitution to two victims.

State v. Fred Samuel Keele

Defendant in Utah County pled guilty to a pattern of unlawful activity, a second degree felony, involving multiple instances of securities fraud. The defendant is ordered to pay back \$93,301 of restitution to four victims. He will be registered on the White Collar Crime Offender Registry database and will be on probation for five years.

The background of the page features a faint, grayscale image of classical architecture. On the left, there are several tall, fluted columns with decorative capitals. A curved balustrade or staircase railing is visible in the lower-left foreground. The overall image is semi-transparent, allowing the text to be clearly legible.

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