

# 2022

## 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

Under the leadership of Attorney General Sean D. Reyes, 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 approximately 550 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**

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The top priority of the AGO is to protect citizens, especially children, from violent and predatory crimes. Our 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**

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Defending the Constitutions 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**

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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.

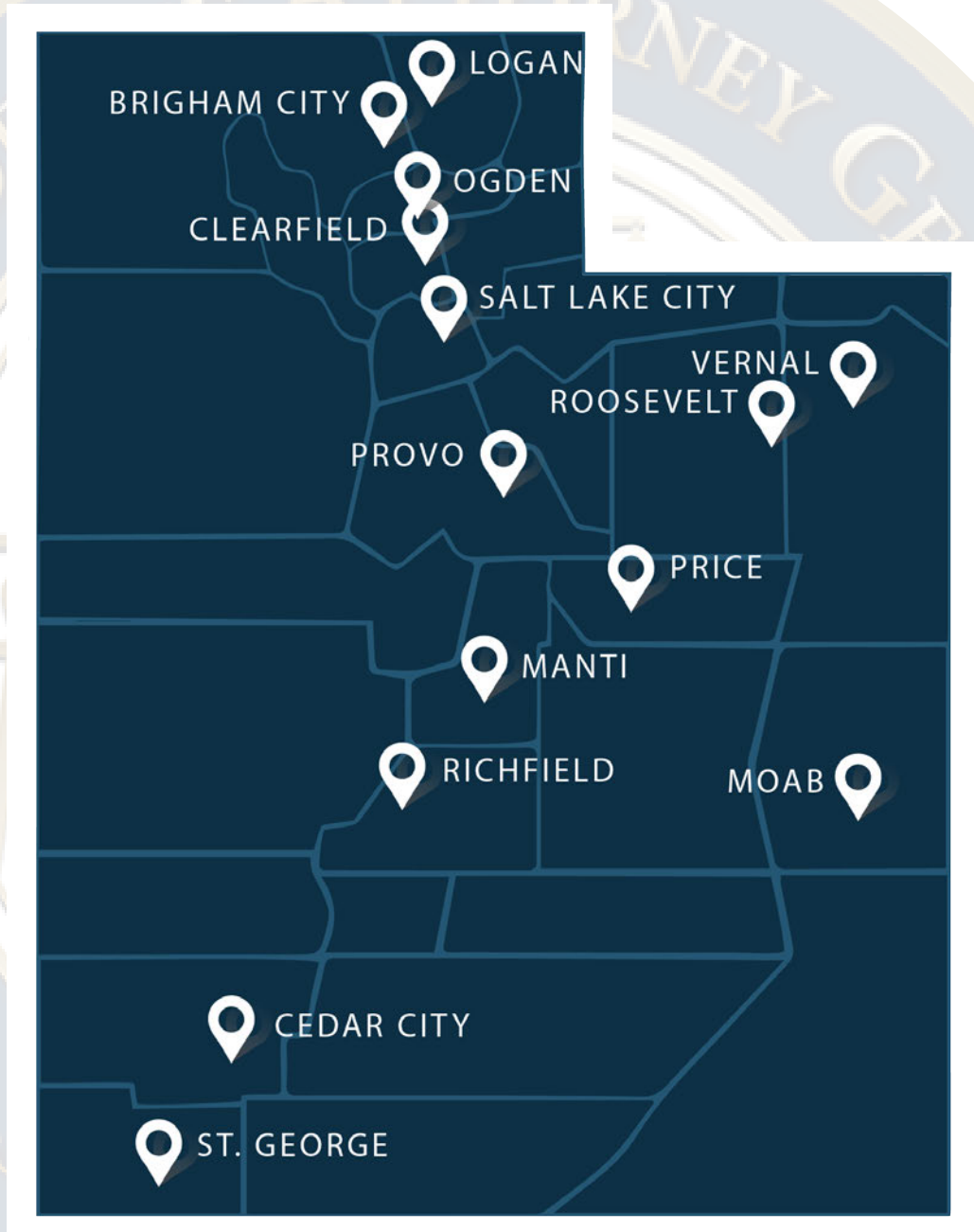
### **Protect Utah businesses and consumers from white collar frauds and scams**

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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





# Multistate Lawsuits, Amicus Briefs, & Comments Letters

*In 2022, the State of Utah filed or joined numerous multistate lawsuits challenging federal overreach including but not limited to:*

## ***Garfield County v. Biden, No. 4:22-cv-00059 (D. Utah)***

Utah, along with Garfield County and Kane County, sued President Biden and other federal officials regarding the expansion of the Bears Ears and Grand Staircase-Escalante National Monuments. The lawsuit alleges that the proclamations contravene the Antiquities Act of 1906 because the designations include objects that do not qualify under the Act and that the 3.2 million acres of vast landscapes are not “the smallest area compatible with proper care and management of the objects to be protected.”

## ***West Virginia, et al. v. EPA., No. 10-1530 (U.S. 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. The Supreme Court issued its opinion on June 30, 2022 ruling in favor of the states. The Court held that Congress did not grant EPA in Section 111(d) of the Clean Air Act the authority to devise emissions caps based on the generation shifting approach the EPA took in the Clean Power Plan.

## ***The Vanguard Group, Inc., et al., Docket No. EC19-57-001 (Federal Energy Regulatory Commission)***

Utah and Indiana led a 13-state coalition in a motion to intervene filed with the Federal Energy Regulatory Commission challenging Vanguard’s application for a three-year extension of their authorization to acquire voting securities of publicly traded utilities. The intervention argued that the authorization was not in the public interest because contrary to Vanguard’s assertions, it was engaging in environmental activism (including its commitment to the Net Zero Asset Managers Alliance (NZAM)) and using its financial influence to manipulate the activities of the utility companies. Shortly after Utah filed its motion, Vanguard issued a statement withdrawing from NZAM. The intervention remains pending.

## ***West Virginia, et al. v. Department of Treasury, No. 22-10168 (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, veterans, and the elderly. The states successfully obtained an injunction prohibiting enforcement. The federal government appealed but the Eleventh Circuit affirmed.

## ***Morehouse Enterprises LLC v. ATF, Nos. 22-2812/22-2854 (8th Cir.)***

Utah joined a 17-state coalition led by Arizona and West Virginia challenging the ATF’s rulemaking that expands the regulatory definition of firearm “frame or receiver.” The lawsuit argues that the ATF’s rule exceeds its statutory authority under the Gun Control Act and National Firearms Act by expanding the definition to cover items the ATF has previously declared do not fall under the acts. The district court denied the motion for preliminary injunction and the states joined the private plaintiffs in appealing which remains pending.



# Multistate Lawsuits, Amicus Briefs, & Comments Letters (*cont.*)

## ***Florida, et al. v. Rochelle Walensky, et al., No. 6:22-cv-00885 (M.D. Fla.)***

Utah joined a 21-state coalition led by Florida challenging the CDC's mask mandate, which applies on conveyances (planes, buses, etc.) and at transportation hubs.

## ***Louisiana, et al. v. Biden, No. 21-30505 (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.

## Recent Utah-led Amicus Briefs

*In 2022, the State of Utah led the filing of amicus briefs in multiple actions including but not limited to:*

## ***Eagle County, Colorado, et al., v. Surface Transportation Board, et al., and Seven County Infrastructure Coalition, et al., Nos. 22-1019, 22-1020 (D.C. Cir.)***

Utah filed an amicus brief supporting respondents and affirming the Surface Transportation Board's approval of the Uintah Basin Railway Project. Utah's amicus brief highlights the positive impacts the project would have on the relevant counties, the State, and its residents.

## ***In re Wawa, Inc. Data Security Litigation, No. 22-1950 (3d Cir.)***

Utah filed a brief joined by nine other states supporting a consumer's appeal challenging approval of a class action settlement. *Amici* States filed the brief speaking on behalf of citizen consumers who will be harmed by a rule that permits class counsel to be the foremost beneficiaries of class action settlements and attorneys' fee awards based on the amount of relief made available rather than relief actually delivered to class members.

## ***Twyford v. Shoop, No. 21-511 (U.S. Sup. Ct.)***

Utah filed a 21-state amicus brief requesting the Supreme Court to reverse the Sixth Circuit's rule that poses unnecessary risks to the public caused by permitting transport of prisoners for no valid reason. The Supreme Court held that "[a] transportation order that allows a prisoner to search for new evidence is not 'necessary or appropriate in aid of' a federal court's adjudication of a habeas corpus action, 28 U.S.C. §1651(a), when the prisoner has not shown that the desired evidence would be admissible in connection with a particular claim for relief.

## ***Biden v. Nebraska, et al., 22A444 (U.S. Sup. Ct.)***

Utah co-led an amicus brief with Ohio and joined by 15 other states in support of Respondents and objecting to President Biden's debt cancellation program because the administration had no authority to cancel the loans under the Higher Education Relief Opportunities for Students (HEROES) Act. The district court dismissed Nebraska's challenge to the loan-forgiveness program and the Eighth Circuit enjoined the program pending appeal. The federal government sought to vacate the Eighth Circuit's injunction in the Supreme Court. The case remains pending in the Supreme Court.



# Multistate Lawsuits, Amicus Briefs, & Comments Letters (*cont.*)

## Amicus Briefs Joined by Utah

*In 2022, the State of Utah led the filing of amicus briefs in multiple actions including but not limited to:*

### ***SFFA v. Harvard & UNC, No. 20-119 & 21-707 (U.S. Sup. Ct.)***

Utah joined Oklahoma’s merits-stage amicus for *Students for Fair Admissions v. Harvard and Univ. of North Carolina*, arguing that Grutter’s endorsement of race-based university admissions should be overruled.

### ***Texas v. Biden, No. 21-954 (U.S. Sup. Ct.)***

Utah joined Indiana’s amicus brief supporting Texas’s challenge to the Biden Administration’s termination of the migrant protection protocols (MPP). The amicus brief argued that the United States cannot use its limited parole authority under Section 1182(d)(5)(A) (allowing parole on a “case-by-case basis for urgent humanitarian reasons”) to justify paroling aliens en masse. The brief also discussed the significant costs to the States and their citizens caused by the federal government’s refusal to enforce immigration laws at the border.

### ***National Pork Producers Council v. Ross, No. 21-468 (U.S. Sup. Ct.)***

Utah joined an Indiana-led amicus brief supporting petitioners which concerns the constitutionality of California’s law prohibiting the retail sale of pork, eggs, and veal if the animals in question are “confined in a cruel manner.”

### ***Moody, et al. v. Net Choice LLC, et al., No. 22-277 (U.S. Sup. Ct.)***

Utah joined a 16-state amicus brief led by Ohio in support of Florida on the question of whether the States can regulate censorship on social-media platforms.

### ***Pharmaceutical Care Management Association v. Mulready, No. 22-6074 (10th Cir.)***

Utah joined a 35-state bipartisan amicus led by Minnesota supporting Oklahoma. The case addresses whether federal law preempts state regulations of pharmacy benefit managers.

### ***People v. Sneed, No. 127968 (Ill. Sup. Ct.)***

Utah joined an amicus brief by Indiana supporting Illinois in the Illinois Supreme Court on the question of whether an order compelling a person to unlock a device is consistent with the Fifth Amendment where it is a foregone conclusion that the person knows the passcode.

# Multistate Lawsuits, Amicus Briefs, & Comments Letters (*cont.*)

## Comments Letters

*Utah has joined over 30 comments letters opposing federal action or regulations including but not limited to:*

### **CMS Vaccine Mandate**

Utah joined a 26-state comments letter led by Kentucky to Centers for Medicare & Medicaid Services objecting to the Interim Final Rule mandating COVID-19 vaccinations for health care staff.

### **Robocalls**

Utah joined a letter joined by 50 states and the District of Columbia to the FCC urging them to put in place measures that would help prevent foreign-originated illegal robocalls.

### **Corporate Transparency Act**

Attorney General Sean D. Reyes, joined by Governor Spencer Cox, Treasurer Marlo Oaks, Auditor John Dougall and Department of Commerce Executive Director Margaret Busse, sent a letter to the Department of Treasury asking the Financial Crimes Enforcement Network FinCEN to minimize the burden of proposed new federal reporting requirements for small Utah businesses.

### **OCC Climate Risk**

Utah led a coalition of 17 states submitting a letter to the OCC's Acting Comptroller of the Currency regarding the recent appointment of a Climate Risk Officer. The letter explained that the OCC is not an environmental regulator and does not have the statutory authority to use the financial regulatory system to achieve net-zero emissions.

### **Opioid Prescribing Guidelines**

Utah joined an 11-state comments letter to the CDC asking to keep diversion and abuse a central consideration as it develops revisions to prescribing guidelines; the letter also provides examples of places where CDC should take a more aggressive approach.

### **Threats Against Pro-Life Organizations**

Utah joined an 18-state letter to Attorney General Garland urging him to take action in response to the threats and acts of violence being carried out against pro-life organizations.

### **Title IX Gender Identity**

Utah joined several multistate comments letters in response to the U.S. Department of Education's Title IX Notice of Proposed Rulemaking redefining the term "sex" from "biological sex" to mean "gender identity."

### **Highway CO2 Targets**

Utah joined Kentucky's 19-state comments letter to the Federal Highway Administration (FHWA) objecting to a proposed rule that would require states to set "on-road" CO2 targets that align with the Biden administration's goal of net-zero emissions by 2050.





# AG's OFFICE

## 2022 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 2022 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 leadership, stakeholders, subject matter experts 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 dedicated staff to create action oriented agendas, collaboration, provide education, and capacity to respond to timely occurrences in the realm. This multidisciplinary approach is a place to discuss comprehensive legislation and innovation of active solutions that happen at quarterly meetings and beyond. The Task Force supports overdose prevention strategies, harm reduction efforts, rehabilitation, extended needed services programs, and policies to improve mental health and drug overdose death initiatives.

Preliminary data from the CDC shows over 107,000 people will have died due to a drug related overdose in 2022. Provisional data from June 2021 to June 2022 shows Utah's drug overdose rate at 20.5 deaths per 100,000 people.

## OPIOID LITIGATION

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 of dollars coming to the state and its subdivisions. Approximately 286 million will come to the state of Utah, ~50 percent of those dollars going to the state and 50 percent to the counties.

In addition, in 2022, Attorney General Reyes announced a settlement with Walmart to resolve allegations that the company contributed to the opioid addiction crisis by failing to appropriately oversee the dispensing of opioids at its stores. The settlement will provide more than \$3 billion nationally, and will require significant improvements in how Walmart's pharmacies handle opioids. Utah is anticipated to receive an estimated 31 million of these dollars.

### SAVING LIVES & ADDICTION RECOVERY

In anticipation of this settlement finalizing in 2022, the Opioid Task Force formed the Utah Opioid Settlement Advisory Committee (OSAC) comprised of subject matter experts from the varying applicable fields: public health, harm reduction, justice system, law enforcement, health systems, addiction medicine, persons with lived experiences, and policy professionals.

The OSAC facilitated two statewide surveys, one reserved for subject matter experts and the other for community to give feedback on how opioid settlement dollars should be allocated. The OSAC published the Utah Opioid Crisis Response Blueprint here: <https://www.utahopioidpriorities.org/>

This blueprint has provided guidelines regarding how this funding should be allocated, based on subject matter expertise, community, and research. The principles highlighted have been presented to the Utah Legislature to formally put them into statute. The Task Force prioritizes this funding to go towards ventures that truly ameliorate the harms of the opioid crisis.





# 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 2022, Utah@EASE won the Best of State Award for best Military Personnel/Unit for the fourth year in a row.

## BY THE NUMBERS



ATTORNEY  
VOLUNTEERS

**62**

INQUIRIES

**260**

SUPPORTED

(SCREENING, READY,  
PLACED, CLOSED,  
WITHDREW)

**185**





## 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 2022, SafeUT won the 2022 Best of State Award for Best Web-based Community Resource for the fourth year in a row.

## Messaging to Lessen the Stigma of Talking about Mental Health

SafeUT is far more than an app – it's a mental health system of care. Its success can be attributed to the texting option, which youth are more comfortable using, rather than talking on a phone. In the past year, staff have worked to make SafeUT even more teen friendly and approachable, as well as increase the number of parents who are aware of the service.

SafeUT clarified its messaging to help drive change around the stigma of talking about mental health. Messaging, such as "Any Size Crisis. Any Time" communicates no matter how extreme or insignificant a problem seems, SafeUT can help students conquer frustration, anxiety, or anything else they may face.

## Statewide Success Stopping Violence & Suicide in Schools

At the end of the 2021-2022 school year, 96.3% of all Utah K-12 schools (including public, private, and charter) and 100% of public universities were enrolled in SafeUT. That's a total of 882,427+ students with access. In fiscal year July 1 2021- June 30, 2022, SafeUT's licensed mental health counselors responded to over 1,009,000 back-and-forth chats, with 349 life-

saving interventions. Additionally, there were 801 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. 19% of potential school threat tips submitted via the app were categorized as planned school attacks.

## BY THE NUMBERS



# 28,111

TOTAL K-12 & HIGHER ED CHATS



# 75,088

BACK-AND-FORTH MESSAGES  
FOR TIP CONVERSATIONS



# 1,009,604

K-12 & HIGHER ED BACK-AND-  
FORTH CHAT MESSAGES

## SafeUT Frontline & SafeUT National Guard

SafeUT expanded its services to the Utah National Guard in 2019 and then Utah's first responders and their families in 2020. SafeUT Commission recognized the need for quick and easy access to crisis support and mental health services for Utah law enforcement, fire/EMS, health care providers, and Utah National Guard members and their families.

In FY 2022, HMHI counselors participated in 8,980 back-and-forth chat messages with frontline workers: 69% were from the health care sector, while 17% were law enforcement and 14% fire/EMS. Promoting the app as a confidential 24/7 tool for these professionals was paramount, all centered around messaging that

supports their unique situations. SafeUT and its partners continue to destigmatize talking about mental health through its messaging.

Since launching in 2019, SafeUT National Guard has had more than 4,000 downloads with 3,835 back-and-forth chat messages. The app is available to Utah Air and Army National Guard members, civilian personnel and their families. Sadly, the National Guard reported 120 suicides throughout the United States in 2020. The app is a lifeline to members who don't feel comfortable seeking professional help, with HMHI counselors who are trained to understand the unique challenges they face.





# 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 FY2022, 29 offenders were added to the WCCOR. There are currently 350 offenders on the Registry.

The registry can be accessed at **[utfraud.com](https://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 2022, the Youth Advisory continues to work with youth from a wide spectrum of Utah. This year, 53 students participated, representing 24 schools from St. George, Beaver, and Cedar City in the south to Ogden and Willard in the north. Most students meet in person at the Utah State Capitol every two weeks, while students in outlying areas participate remotely.



*Digital Safety Working Group with Aimee Winder Newton*

## ACCOMPLISHMENTS

### Exploring the Myriad of Topics that Affect Youth in Utah

The 2022/2023 program was created during the summer of 2022 as a way to help student leaders learn more about government. The interns explored important policy topics that resonated with themselves and their peers. Youth Advisory leaders were tasked with planning discussions and potential guest speakers for the upcoming school year. Additionally, they assisted with promoting the program to expand participation to rural and underserved areas.

### Working Together for a Common Cause

Since the start of the 2022 school year, youth advisory members have been working together on three separate topics of interest to them: Water & the Environment, Digital Safety in Schools, and Mental Health in Schools. The three topics were chosen for their potential to drive change or be written into statute from a bill proposal. The students will continue working on these ideas throughout the school year and have high hopes that their voices can impact decisions in Utah.



Anh Khoa Le and Joyce Wang of Skyline High presented to the Digital Wellness, Citizenship, and Safe Technology Commission

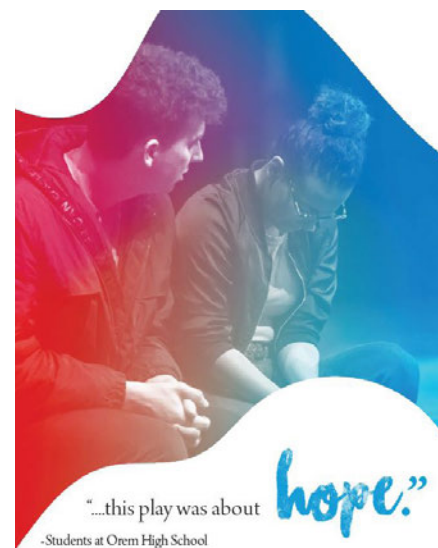
### Digital Safety in Schools

The Digital Safety in Schools topic gained the most traction of the three worked on. The group refined their plan over several weeks and consulted experts such as Aimee Winder Newton, Director of the Governor's Office of Families and representatives from the Board of Education.

Anh Khoa Le and Joyce Wang of Skyline High presented to the Digital Wellness, Citizenship, and Safe Technology Commission with the concept to require a more well-rounded and robust curriculum centered on digital wellness and positive behaviors. In addition, the group pitched an idea that would require a final test for high school seniors to graduate. They received great feedback and gained valuable knowledge from the experience.

### Utah Shakespeare Festival and Every Brilliant Thing

In November 2022, the group partnered with the Utah Shakespeare Festival in gearing up for the 2023 season of the educational school tour 'Every Brilliant Thing.' Students learned about the plan and where the Shakespeare Festival plans on performing. Each student, after participating in QPR training, will have the opportunity to offer resources to students after the play, such as connecting them to the SafeUT app. Youth Advisory members are excited to be part of this experience in 2023.











# APPEALS, CONSTITUTIONAL DEFENSE, & ANTITRUST

4 SECTIONS

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35 ATTORNEYS & 8 STAFF





# CONSTITUTIONAL DEFENSE & SPECIAL LITIGATION

## OVERVIEW

The Constitutional Defense and Special Litigation Division (“CDSL”) is charged with defending state laws against constitutional challenges and takes the lead in litigating cases of significant importance to the state.

CDSL also plays a pivotal role in reducing the likelihood of litigation by working closely with the Legislature and state agencies to help craft legislation that accomplishes desired policy objectives, while staying within constitutional boundaries.

## BY THE NUMBERS

CASES DEFENDED

**53**

AGENCY OR COUNTY  
CONSULTATIONS

**29**

## NOTABLE CASES

### ***Concerned Coalition v. Cox***

In *Concerned Coalition v. Cox*, CDSL successfully defended a challenge to the state's statutory authority to limit the ability of school districts to impose or rescind mask mandates that Plaintiffs claimed were necessary to provide a safe environment for their children to attend school during the Covid-19 pandemic.

### ***Roussel v. State of Utah***

In *Roussel v. State of Utah*, CDSL recently secured dismissal of a lawsuit seeking to strike down Utah's laws promoting the development and use of fossil fuels. There, the district court found Plaintiffs' claims were not redressable, posed a political question best left to the Legislature to resolve, there is no constitutional right to a clean and healthy environment, and the substantive due process doctrine could not be extended to fossil fuels policy.

### **Disability Law Center Class-action Lawsuit**

After more than five years of litigation, the federal district court dismissed a class-action lawsuit brought by the Disability Law Center against the state. The resolution of this matter fundamentally improved the way in which competency restoration for criminal defendants is administered throughout the state.

### **Utah Law Criminalizing Abortions**

CDSL also successfully defended Utah's law prohibiting abortions after a fetus reaches 18 weeks-gestation, and is currently defending Planned Parenthood of Utah's challenge to Utah's law criminalizing abortions performed at any point during pregnancy, subject to exceptions related to preserving the life of the mother, rape and incest, and specifically defined birth defects.

### ***Medina v. Allen***

In *Medina v. Allen*, CDSL is currently defending criminal defendants' challenge to the methods through which district court judges set monetary bail.

### **League of Women's Voters & Redistricting Boundaries**

CDSL also represents the Lt. Governor's interests in the League of Women's Voters pending challenge to the Legislature's redistricting of congressional boundaries. There, Plaintiffs contend the districts, as drawn, constitute political gerrymandering prohibited by the state constitution.

### ***Rojas v. Steinagel***

In *Rojas v. Steinagel*, CDSL is defending DOPL against claims that licensing professionals who provide nail gel and eyelash cosmetology services is unconstitutional.

### **House Bill 11**

CDSL is defending House Bill 11, which prohibits transgender girls from competing in girls' high school sports.

CDSL has authored and assisted in several amicus briefs, including:

#### ***Brackeen v. Haaland***

In *Brackeen v. Haaland*, CDSL prepared a portion of an amicus brief in the United States Supreme Court submitted by 26 states in support of the constitutionality of the Indian Child Welfare Act.

#### ***Northwest Band of Shoshone v. State of Idaho***

In *Northwest Band of Shoshone v. State of Idaho*, CDSL prepared and submitted in an amicus brief in the Ninth Circuit in support of the Northwest Band of Shoshone Nation's efforts to have Idaho recognize its treaty-based hunting and fishing rights.





# 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.

In addition to managing a high case load under very trying circumstances (including historically high attrition and loss of senior leaders), the Criminal Appeals Division has had dramatic successes over the last year that illustrate the confidence and prestige with which our Division is viewed by the judiciary.

Utah Supreme Court Advisory committees:

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

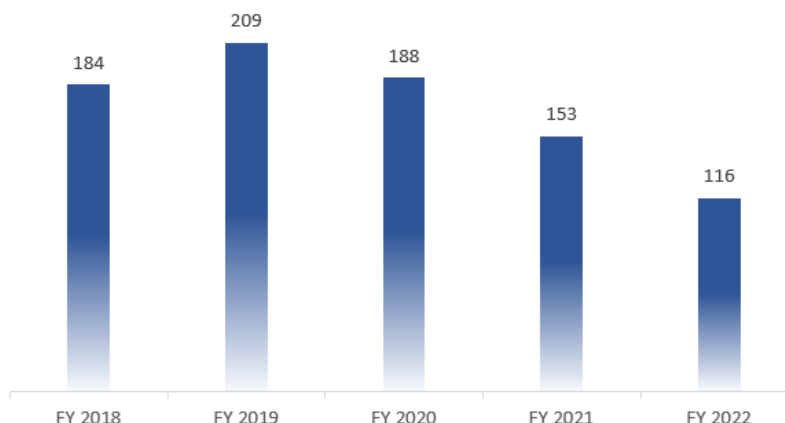
## BY THE NUMBERS



NUMBER OF BRIEFS FILED  
IN 2022

**116**

### THROUGH THE YEARS



## HIGHLIGHTS

### *Shoop v. Twyford*

In one United States Supreme Court case, *Shoop v. Twyford*, our attorneys wrote an amicus brief in support of the State of Ohio. This was a very complex habeas corpus matter testing the limits of federal power to command State corrections officials to transport prisoners for exploratory medical examinations unrelated to the prisoner's health needs. Our amicus brief, joined by several sister States, argued that federal courts should not have sweeping power to order State officials to transport dangerous prisoners, especially where doing so would serve no legitimate litigation purpose, because transport of dangerous prisoners frequently results in escapes or escape attempts that result in injury and death to an innocent and unsuspecting public. Our brief illustrated many concrete examples of this public danger. **The Supreme Court's opinion cited our brief in its opinion, relying on our argument—rather than the parties to the case itself—to rule that federal power over corrections officials is very limited in these circumstances.**

### *F.L. v. Court of Appeals*

In a Utah Supreme Court matter, *F.L. v. Court of Appeals*, the State of Utah was again merely an amicus

curiae and not a party to the dispute. **The supreme court relied on our amicus brief to craft the holding of the court rather than the parties' briefs.** Our brief argued, and the Utah Supreme Court agreed, that crime victims have full rights to appear as "limited-purpose parties" in appellate matters where their rights to privacy are subject to judicial invasion because of defendants' efforts to obtain the victims' medical or other privileged materials. **Our brief not only influenced the court's decision, but gives crime victims a very powerful tool to protect their privacy and dignity against the criminals who harmed them in the first place.**

### **Ralph Menzies**

Our attorneys brought to virtual conclusion the oldest capital case in Utah. Ralph Menzies has been on death row since the late 1980's, and has been challenging his conviction and sentence continuously since that time. In November 2022, the Tenth Circuit Court of Appeals ruled in Utah's favor and finally denied Menzies's request for a writ of habeas corpus. While a few procedural hurdles remain that will delay execution, our attorneys have finally broken through the logjam of intrusive federal review. The State will soon begin proceedings to obtain an execution warrant and bring Menzies to justice at last.





# 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.

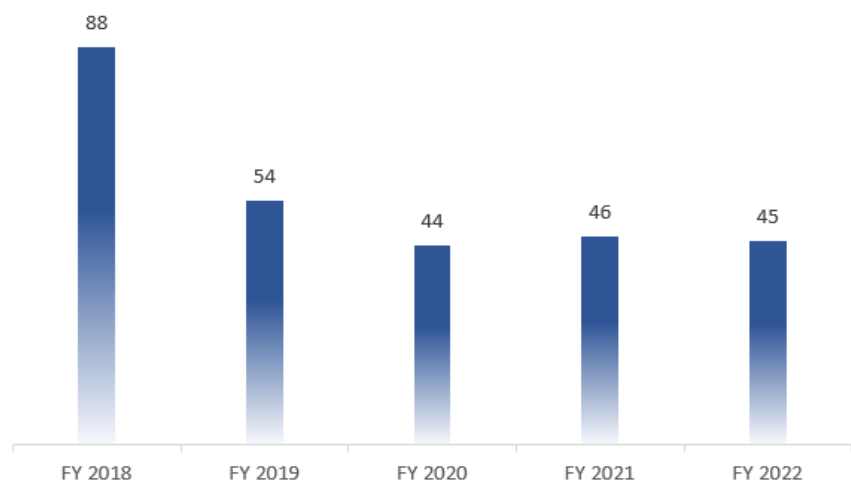
## BY THE NUMBERS



NUMBER OF BRIEFS FILED  
IN 2022

**45**

### THROUGH THE YEARS







## NOTABLE CASES

***Rossi v. Dudek*, 2022 WL 1421957 (10th Cir. May 5, 2022).**

Ph.D. candidate Rossi was dismissed from the graduate program for failing her dissertation defense. She claimed the dissertation committee members were biased. The university had provided an extensive administrative appeals process, which was free from bias, so there was no violation of student’s due process rights, even despite the plaintiff’s claims that dissertation committee was biased. The Tenth Circuit held “It was not clearly established that an administrative appeals process fails to produce a careful and deliberate decision just because it may not have involved de novo review of all aspects of an academic determination that is alleged to have been based on nonacademic factors.”

***GeoMetWatch v. Utah State Univ. Research Found.*, 38 F.4th 1183 (10th Cir. 2022).**

This lawsuit was over the failed development of a weather-detecting satellite sensor system. The Legislature enacted a statute that allowed state universities to create research foundations. In furtherance of its educational and research purposes, Utah State University had created a research foundation to invent and develop technologies in many fields, including weather, space, and energy. The foundation was a nonprofit

public corporation wholly owned and operated by the university. The Tenth Circuit found that the research foundation was an “instrumentality of the state” under all three prongs of the legal test and therefore a governmental entity under Utah’s immunity act. This was a significant win because there are many similar research foundations in the state, because of the potential impact on setting precedent for other research foundations. In this case particularly, there was a potential risk of a judgment against the State in the billions of dollars.

***Salt Lake City Corp. v. Utah Inland Port Authority*, 2022 UT 27**

Salt Lake City argued that three provisions of the Utah Inland Port Authority Act violate the Utah Constitution’s Ripper Clause and Uniform Operations of Laws Clause. The Court held that two of the three challenged provisions—involving land use and zoning—are constitutional. The Court asked for supplemental briefing to determine whether the City’s challenge to the third provision—dealing with property and sales tax allocation—is moot after 2022 amendments to the Act and whether the tax money at issue is “municipal money” protected by the Ripper Clause from legislative interference. The supplemental briefing is currently due in January 2023.

# ANTITRUST & DATA PRIVACY SECTION

## OVERVIEW

The Antitrust and Data Privacy Section protects Utah consumers from monopolistic behavior and from misuse of their personal information.

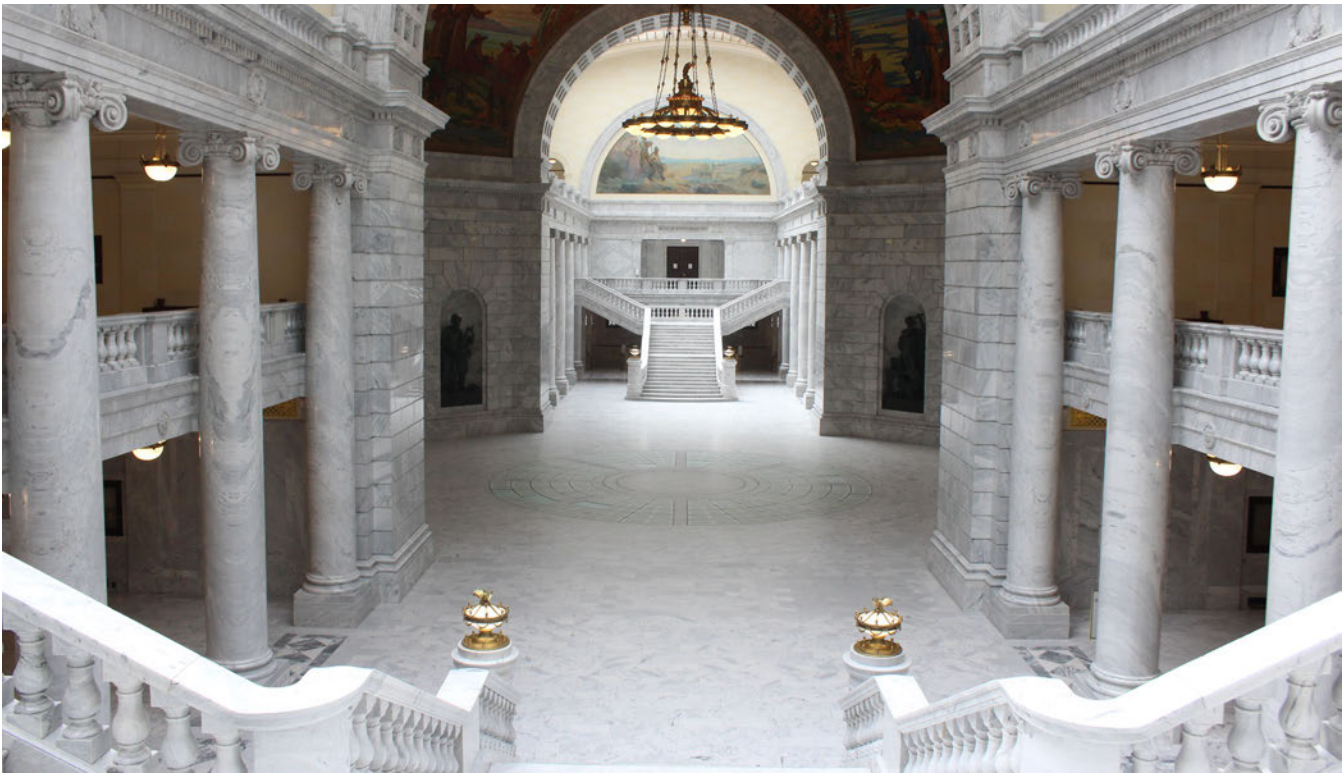
On the antitrust side, the Section enforces federal and state antitrust laws to keep the free market competitive. The Section promotes fair competition by challenging monopolistic behavior through enforcement lawsuits. The Section also reviews mergers that may have anti-competitive effects in Utah, seeking divestitures and other remedies where appropriate.

The Section enforces the Utah Protection of Personal Information act. It protects consumers from the effects of data breaches involving their personal information by bringing actions against companies that violate the act through inadequate data security practices. The Section is actively preparing to enforce the Utah Consumer Privacy Act, which will give consumers more control over what companies do with their personal information, when that act becomes effective on 12/31/23.

In addition to enforcing these areas of law locally, the Section works closely with federal agencies and with other states' antitrust and data privacy units to solve national and regional problems.







## HIGHLIGHTS

- During FY 2022 the Section continued to litigate three massive antitrust enforcement actions against Google, including *Utah v. Google* (challenging Google’s domination of Android app distribution), and other major cases, including the largest group of price fixing cases ever (against the generic pharmaceutical industry).
- The Section reviewed several significant proposed mergers, particularly in health care, which could affect Utah consumers.
- The Section successfully represented Utah consumers in a number of high profile data breach investigations.

## BY THE NUMBERS



NEW CASES  
(LEADERSHIP)

11



NEW CASES  
(SECONDARY ROLE)

9



AGGREGATE  
RECOVERY

\$80,000

A faint, grayscale background image of classical architecture, featuring large columns and a pediment, likely from a government building or museum.

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# CIVIL DEPARTMENT

7 DIVISIONS

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140 ATTORNEYS & 56 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)
- Governor's Economic Development Council
- GoUtah (Governor's Office of Economic Opportunity Development)
- Governor's Office of Planning & Budget (GOPB)
- 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
- Pete Suazo Boxing Commission
- 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 Services (DABS)/DABS 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)

**Government Operations Section**

- Capitol Preservation Board (CPB)
- Department of Government Operations Executive Office (DGO)
  - Utah Division of Finance (DOF)
    - Capital Indigent Defense Trust Fund Board
  - Utah Division of Fleet Operations (DFO)
  - Utah Division of Purchasing
    - Division of Surplus Property
    - Procurement Policy Board
  - Utah Office Administrative Rules (DAR)
  - Indigent Parental Defense Board
  - Division of Human Resources Management (DHRM)
  - Utah Division of Facilities and Construction Management (DFCM)
    - New Prison
    - Utah State Building Board
  - State Archives & Records Committee (SARC)
    - State Records Committee (SRC)
    - State Records Management Committee
  - Utah Office of State Debt Collection (OSDC) -
  - Division of Technology Services (DTS)
    - DTS Data Security Management Council
- Judicial Performance Evaluation Commission (JPEC)
- Workers Classification Coordination Enforcement Council
- Utah Land Trust Advocacy Committee

## BY THE NUMBERS



OFFICE OF STATE DEBT COLLECTION (OSDC) AMOUNT  
COLLECTED

**\$15,782,731**



RESTITUTION AMOUNT FOR UOVC

**\$1,156,303**

RULES/POLICIES REVIEWED

**138**

CIVIL REVIEW COMMITTEE  
RESPONSES TO COMPLAINTS

**363**

## NOTABLE SUCCESSES

### GRAMA

GRAMA requesters sued Utah, Juab, and Millard counties over the denial of their GRAMA requests for certain election materials, including “back-up database” and ballot images. The Election Code requires election officers (county clerks), after the canvass, to secure, store, and keep “unopened and unexamined” election materials. And, by its own terms, GRAMA does not govern access to materials “to which access is restricted pursuant to court rule, other state statute.”

Lt. Governor’s Office, represented by the AGO intervened in the lawsuit, as defendant, to argue for compliance with the Election Code, and to protect local elections officers from being pressured to distribute restricted elections materials in response to dozens of GRAMA requests in violation of the Election Code.

Judge Pullan of 4th District Court heard arguments on the issue and dismissed the case holding that Election Code is another state statute that restricts access to election materials, and therefore GRAMA does not apply, and those election materials are particularly exempted from production under GRAMA.

### *Howard v. URS, UDC*

A former employee of the Department of Corrections sued URS and UDC, alleging UDC had underpaid on his retirement contributions. Because he had worked mandatory overtime. He brought the action in front of the Utah Retirement Systems Board. Exposure for the State would potentially have been millions of dollars in UDC had to pay for retirement benefits above an 80 hour pay period. UDC prevailed on summary judgment in front of the Retirement Systems Board.



# 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



APPROX. HOURS OF  
CONSULTATIONS &  
LEGAL ADVICE

**71**



APPROX. HOURS  
SPENT DRAFTING  
& REVIEWING  
DOCUMENTS

**313**



## 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.



HOURS SPENT BY  
HIGHER EDUCATION  
ATTORNEYS  
ADDRESSING MATTERS

**13,073.5**



MONIES COLLECTED FOR  
PAST DUE ACCOUNTS  
WITH U OF U HOSPITAL

**\$12,000,000**

# LITIGATION

## OVERVIEW

The 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 285 active lawsuits at any given time.**

## LAWSUITS

In FY 2022, the Litigation Division closed 218 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 2022, the Litigation Division received 205 new cases, screened 321 employment matters, and provided 101 training hours to state agencies, universities, and school districts.

## BY THE NUMBERS



NEW CASES

**205**



CLOSED CASES

**218**



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

**101**





## 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:

- Board of Directors of Utah Defense Lawyers Association;
- Member of Utah Supreme Court Advisory committee for the Rules of Professional Conduct;
- Member of Utah Supreme Court Advisory Committee for Model Civil Jury Rules;
- Chair of the Civil Rights Section of the Federal Bar Association;
- Co-Chair of the Utah State Bar Governmental Relations Committee;
- Co-Chair of the Utah State Bar Innovation in Law 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 and 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.



## NOTABLE CASES

### *Linin v. Neff*

Litigation attorneys and their team won a jury verdict in favor of their client, Sergeant Chamberlin Neff of the Utah Highway Patrol, who was accused of an unlawful stop. The man who sued Sgt. Neff was stopped for a traffic violation when Neff noticed the man appeared impaired. Neff conducted field sobriety tests, which the man failed spectacularly. Neff arrested him for DUI, but the man refused to take a breath test and the phlebotomist was unable to draw blood so there was no chemical evidence of the blood alcohol level and prosecutors declined to charge the man. He later filed the civil lawsuit against Neff alleging Neff violated his Fourth Amendment rights under the Federal Constitution. The case went to trial on whether Neff had legal cause to give the field sobriety test. Sergeant Neff testified confidently at trial that he smelled alcohol on the man, observed his bloodshot, glossy eyes, and heard his slurred speech. The man testified he hadn't been drinking, but his testimony on details of the stop and arrest had changed repeatedly over the course of the case. The jury deliberated for less than two hours before returning a verdict that Sergeant Neff complied with the constitution.

### *Ramirez v. Reddish, et al.*

In this case several family members claimed that federal and state agents exceeded the scope of the search warrant allowing them to search for a fugitive when the agents searched their home. The plaintiffs claimed agents looked in places where a person could not hide, effectively “looking for an elephant in a breadbox.” Plaintiffs claimed that the agents opened drawers, knocked closet doors off hinges, unmade beds, and “made a mess.” Many family members claimed the agents’ entry and search of the residence caused them to have PTSD. Plaintiffs were represented by attorneys from the American Civil Liberties Union and from large national law firms. The federal agents were represented by Department of Justice while civil rights attorneys from the Litigation Division represented the two Adult Probation and Parole agents. The jury deliberated for approximately three hours before returning verdicts finding that none of the officers violated Plaintiffs’ civil rights.



# 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; Utah Geological Survey; Office of Energy Development; and Public Lands Policy Coordination Office (PLPCO). The division also represents and supports the Utah Department of Agriculture and Food (UDAF) and its divisions; Constitutional Defense Council (CDC); Colorado River Authority of Utah; and Utah Lake Authority in the protection, preservation, development, use, stewardship, and conservation of the State public lands, roads, natural resources, water resources, and agricultural resources.

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

## A DAY IN THE LIFE...

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 and responsible development 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

Five of the Natural Resource Division attorneys and a paralegal represent four agencies and advise: the Utah Division of Oil, Gas & Mining (DOGM); Utah Board of Oil, Gas & Mining (BOGM); and Division of Forestry, Fire & State Lands (FFSL).

## 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.

### FORESTRY, FIRE, AND STATE LANDS

#### 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.

#### Wildland Fire Litigation and Related Cost-Recovery Efforts

- Assist and represent the division in recovering costs incurred 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.



## WATER RIGHTS, WATER RESOURCES, AND INTERSTATE WATERS

The seven Natural Resource Division attorneys and a paralegal provide legal support and representation to the Division of Water Rights (five attorneys and a paralegal), Division of Water Resources (one attorney), and Colorado River Authority of Utah (one attorney). They are all co-located with their respective clients at the Natural Resources Building and perform diverse legal tasks involving the State's water resources, including civil and administrative adjudication cases, water conservation, administration of interstate waters, and development of critical water storage and conveyance infrastructure.

The attorneys representing the Division of Water Rights and the State Engineer in the general adjudication program participate in the monumental task of determining thousands of water rights in different areas of the state. Others in the division work to protect the

state's interests in interstate waters such as the Colorado River; minimize the impact of the quantification of federal reserved water rights such as for national parks and monuments and Indian reservations; guide the development of large-scale water projects, such as the Lake Powell Pipeline; enforce water rights and participate in water right adjudications; and equitably allocate water resources. 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 attorneys representing the Department of Natural Resources, Division of Water Rights, and Division of Water Resources, collectively litigated dozens of civil cases, handled multiple cases in appellate courts, and participated in significantly more administrative adjudications.





## WILDLIFE, PARKS, AND RECREATION

Three Natural Resources Division attorneys represent and provide legal support to the Division of Wildlife Resources (two attorneys), Division of Parks ( $\frac{1}{2}$  attorney), and Division of Recreation ( $\frac{1}{2}$  attorney). Another Natural Resources Division attorney acts as the administrative law judge for the Division of Wildlife Resources in hunting and fishing license suspension hearings. While these attorneys provide all the judicial and administrative litigation support needed in the three divisions, the bulk of their day-to-day work is transactional in nature. Transactional work includes: participating in complex, multi-million dollar

real estate transactions; drafting and reviewing routine and highly complex contracts; reviewing and representing the State's interests in high-profile listing decisions, such as the gray wolf, 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; responding to GRAMA requests; and much more.

## AGRICULTURE AND FOOD

Three Natural Resources Division attorneys represent and provide legal support to the Utah Department of Agriculture and Food and its seven divisions. They provide the legal support for the Department to carry out its complex and highly diversified responsibilities. This includes providing both litigation and transactional legal support to the Department in: administering an array of grant programs; negotiating and closing real estate transactions, drafting and reviewing

contracts, regulating medical cannabis; drafting statutes, rules, and policies; regulating numerous animal industry programs, ranging from horse racing to private aquaculture; overseeing and permitting animal imports; issuing and defending livestock disease quarantines; and handling all the other legal matters common to State government, such as records requests under GRAMA, open and public meeting laws, procurement regulations, etc.

## PUBLIC LANDS AND PLPCO

Six Natural Resources Division attorneys represent and provide legal support primarily to the Public Lands Policy Coordination Office (PLPCO). These attorneys also represent the Constitutional Defense Council (CDC), which has required representation in legal and political matters. The group 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 effort 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 group is also involved in litigation on: sage-grouse, gray wolves, and other endangered species matters; 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; tribal water claims; and other matters.

## BY THE NUMBERS

### Department of Natural Resources

JUDICIAL CASES

103

ADMINISTRATIVE  
ACTIONS

124

MAJOR LEGAL PROJECTS

(SIGNIFICANT CONTRACTS, RULES,  
NEGOTIATIONS, SETTLEMENTS, ETC.)

91

### Public Lands Coordinating Office



62 CASES

### Department of Agriculture and Food

CASES

6

ADMINISTRATIVE  
ACTIONS

34

MAJOR LEGAL PROJECTS

(SIGNIFICANT CONTRACTS, RULES,  
NEGOTIATIONS, SETTLEMENTS, ETC.)

32



## NOTABLE CASES

### WATER RIGHTS

The adjudication team worked on 171 matters and closed out a total of 43 objections in the last year. Of particular note was the resolution of a long-standing water right adjudication issue involving Camp Williams. After years of negotiations, the United States, the State Armory Board, the State Engineer, and certain affected canal companies reached a settlement which resolves the issues and filed it with the court in August of 2022.

AAGs assisted the State Engineer and the Division of Water Rights in finalizing and executing a reserved water right settlement between the Navajo Nation and the State of Utah. This historic settlement was decades in the making and provides critical water resources to the Navajo Nation and its members in southeastern Utah.

### UDAF

The Department of Agriculture and Food was instrumental in avoiding a number of disease outbreaks that would have otherwise devastated Utah producers. The avian influenza struck several large chicken and turkey producers. The AAGs worked diligently with USDA to ensure the disease was contained, and now avian influenza is completely eliminated in Utah facilities.

### PARKS AND OUTDOOR RECREATION

In 2022, the Division of State Parks enacted and changed multiple administrative rules, entered into several long-term agreements related to management of its parks and programs, and

settled a complex administrative action against a former employee who was terminated after being convicted of defrauding the division.

### PLPCO

AAGs representing PLPCO were particularly successful in another procedural issue arising in the R.S. 2477 Bellwether Case. (*Kane Co (2) v. U.S.* (2:10-cv-1073 CW (D. Utah)) 10th Cir 22-4087. The Southern Utah Wilderness Alliance (SUWA) was denied intervention in the Bellwether Case and was also denied a stay of proceedings pending appeal.

### WILDLIFE RESOURCES

AAGs representing the Division of Wildlife Resources (Division) helped finalize a Memorandum of Understanding with the Northwest Band of the Shoshone Nation for hunting and fishing in northern Utah. The Division also finalized an MOU with the U.S. Forest Service, the Utah Dept. of Agriculture and Food, and grazing permittees establishing a site-specific management strategy for High Uinta Big Horn Sheep populations.

### FFSL

AAG's for FFSL resolved 8 fire suppression cost recovery matters for a total recovery to the State of \$2,137,121.52. These cases were also resolved prior to initiating formal litigation, further saving the State unnecessary attorney's fees and costs.



# ENVIRONMENT, HEALTH, & HUMAN SERVICES

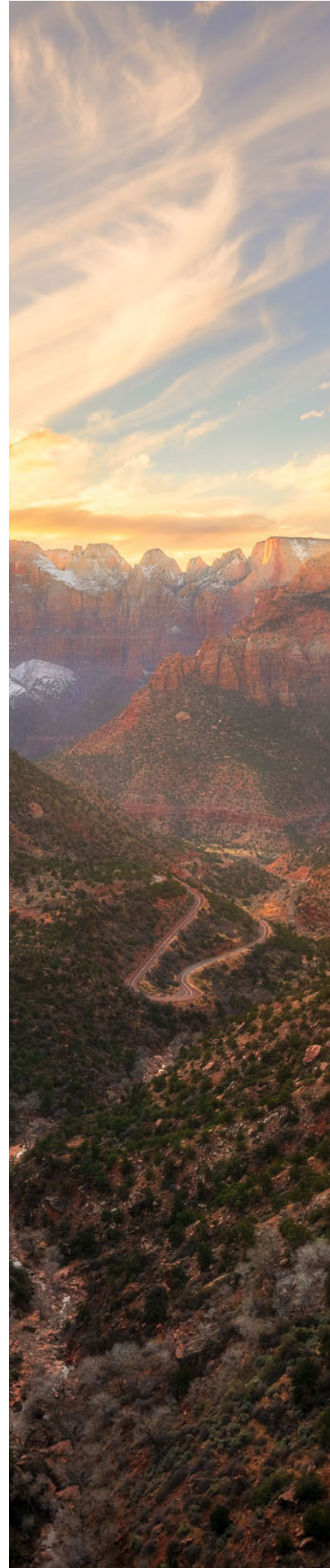
## ENVIRONMENT

### OVERVIEW

Most federal environmental laws grant expansive regulatory authority to federal agencies, as well as authorize states to implement plans outlined in federal laws. States are asked to implement and enforce federal laws while retaining the power to create laws more stringent than federal laws. This delegation of authority is important because it allows for local regulation by a state agency rather than a remote federal agency. Regulated entities and stakeholders can interact with the technical staff and participate in agency processes at the local level.

This delegation of authority is based on representations that the state has the necessary constitutional and statutory authority to assume the implementation, management, and enforcement of specific delegated federal programs. These programs include, but are not limited to, the Clean Air Act, the Clean Water Act, the Pollution Prevention Act, the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Toxic Substances Control Act.

For the State of Utah, these programs are implemented through statutes enacted by the State Legislature and contained in Utah Code Title 19 (the Utah Environmental Code). The Utah Department of Environmental Quality (“DEQ”) maintains and implements the federal programs in conformance with State laws, regulations, and conditions. The Environment Section of the Utah Attorney General’s Office provides legal representation to all five Divisions of the DEQ (i.e., Air Quality, Drinking Water, Environmental Response and Remediation, Waste Management and Radiation Control, and Water Quality) as they implement the federal environmental programs delegated to the State.





## 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

### Executive Director's Office (EDO)

#### *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. A settlement was ultimately negotiated with the EPA and the DOJ in August 2020.

In 2022, several monetary claims were resolved in the pending multi-district litigation, including: a \$5.5 million settlement with the mining companies; and, a \$1.5 million settlement with a mining contractor. The Gold King settlements will serve as a legacy for surface water quality improvements in Utah for generations to come.

### Division of Air Quality (DAQ)

#### *Volkswagen Clean Diesel Trust*

Pursuant to two partial consent decrees and the court approved Trust Agreement, the Environment Section prepared and filed certain certifications and documents for the State of Utah to receive almost \$35.2 million related to the partial settlements of Volkswagen violations of the Clean Air Act. These funds may only be used for “eligible mitigation actions,” as defined in the Trust Agreement, to offset excess nitrogen oxide emissions from noncompliant 2.0-liter and 3.0-liter diesel Volkswagen, Audi, and Porsche vehicles. The Utah Department of Environmental Quality (“UDEQ”) selected eligible mitigation projects from local municipalities and state agencies to install electric vehicle supply equipment or replace diesel vehicles.

## ENVIRONMENT NOTABLE CASES *cont.*

### ***Finley Resources***

Finley Resources signed a voluntary commitment letter on December 9, 2021, to fix issues at the inspected facilities where the Environmental Protection Agency (EPA) and the DAQ team found violations of environmental laws. The implementation was successful with many ongoing issues fixed, facilities redesigned, and monitored frequently. Finley's obligation under the commitment letter ended this October and we are in the process of negotiating a larger consent decree with the company that will cover more facilities. These projects are anticipated to be funded in 2023.

### **Division of Environmental Response and Remediation (DERR)**

#### ***Notice of Violations and Enforcement Orders***

The Environment Section attorneys drafted 36 orders, stipulations and consent orders, and orders to revoke for Underground Storage Tank ("UST") facilities that were out of compliance with the Utah UST Act, thereby helping to avoid spills of petroleum into the groundwater.

#### ***EP Energy***

Utah and the EPA settled a lawsuit against EP Energy for environmental violations at its oil and gas facilities in the Uinta Basin. Javelin, the company that bought assets from EP Energy, is currently implementing the provisions of the consent decree at 246 facilities. The facilities are being closely monitored for environmental compliance and properly designed to reduce emissions. These measures are resulting in reductions in volatile organic compounds emissions, which are precursors to ozone formation in the ozone nonattainment

area. Additionally, EP Energy agreed to do a supplemental environmental project by installing emission controls at uncontrolled facilities to mitigate past excess emissions. This project will reduce volatile organic compounds emissions by approximately 370 tons per year and will cost \$1.2 million.

#### ***Crescent Point***

This is another joint EPA/Utah settlement with an oil and gas company. Crescent Point sold its oil and gas facilities to Uinta Wax Operating, and the EPA and Utah are currently negotiating with Uinta Wax Operating regarding injunctive relief and requirements for the facilities' design and operation. Crescent Point was only responsible for the penalties for past environmental violations. Utah received \$1.5 million under this settlement with \$1.2 million deposited into the Environmental Mitigation Fund that will fund air quality-related projects in the Uinta Basin area.

#### ***Hunter Title V Permit***

Several years ago, the DAQ renewed an air quality permit for PacifiCorp's Hunter power plant. The Sierra Club asked the EPA to object to the renewal, but the EPA refused. This refusal was appealed to the federal court of appeals, which remanded the matter back to the EPA. The EPA ordered the DAQ to provide a comprehensive response to Sierra Club, which it did with the assistance of the AGO, and renewed the permit again. The Sierra Club again asked the EPA to object, and on September 27, 2022, the EPA refused, again siding with the Utah DAQ. Although this decision can be appealed again, this is a significant victory because there was some concern that the Biden EPA would decide against Utah.



## ENVIRONMENT NOTABLE CASES *cont.*

### **Division of Waste Management and Radiation Control (DWMRC)**

#### ***Integration of Oil and Gas Exploration and Production Waste Management Facilities into Solid Waste Program***

As required by the EPA, the Legislature decided to move the primary responsibility for management of wastes generated in connection with oil and gas (except for the re-injection of produced water) from the Division of Oil, Gas, and Mining (“DOGM”) to the DWMRC, directly under the EPA programs. This is a new program for the DWMRC and has required extensive coordination with DOGM, stakeholders, industry groups, outside engineers and consultants, local and State political leadership, and so forth. The DWMRC Director has relied on the support and advice of the Environment Section to provide appropriate legal analysis, help draft new rules, and plan for the major program transitions. The Natural Resources Division representing the DOGM have played similar roles. It has been a constructive, cross-agency effort that is ongoing and will have long-term, statewide effects.

#### ***Revised Utah Admin. Code R315-101, Risk Assessment Rule***

The State of Utah was one of the first states in the nation to promulgate a rule, Utah Admin. Code R315-101, making it possible for owners of contaminated properties to demonstrate, through science-based risk assessment, that their properties could be put to additional uses and to ascertain and impose use restrictions needed to protect human health and the environment. With years of experience applying this rule, the Director and his staff, with the support of the Environment Section, have spent the last few years significantly re-writing R315-101. The rule has completed its second public comment period, and rulemaking should be complete by the end of 2022.

#### ***EnergySolutions License Amendment #26***

EnergySolutions, License Amendment 26, involved legal, political, and regulatory issues relating to

events that date as far back as 2011 when the former Division of Radiation Control (“DRC”) operated as a stand-alone agency. EnergySolutions applied for an amendment to its license to clarify certain administrative actions that the former DRC had taken in 2014 involving a 2011-era political arrangement between EnergySolutions and then-Governor Huntsman. The amendment request touched on important separation of powers questions, including whether Governor Huntsman’s 2011-era political policies continued to be binding on future governors and/or the agency as a matter of law. After rigorous legal analysis, the Director determined the amendment request has merit and has recently adopted it. The time for appeal has not yet passed.

#### ***Energy Fuels Resources, Inc. – White Mesa Mill, License Amendment #10***

Energy Fuels Resources, Inc., operates the only conventional uranium mill in the United States. It tends to garner significant attention, not only regionally, but nationally and even internationally. In response to this amendment, some 12,092 people and organizations provided comments by e mail and by letter by the close of the general public comment period. This was an all-time record number of comments for the UDEQ based on available data. Addressing these comments required significant agency support by the Environment Section. After the matter was completed, only one Petition for Review was filed by one party and this petition is limited to only two issues (final resolution pending). The client agency counts this as a successful process.

### **Division of Water Quality (DWQ)**

The Environment Section assisted the DWQ in commencing numerous enforcement actions against individuals and companies for contamination to waters of the State, including both groundwater and surface water. These enforcement actions will ensure that those who illicitly discharge will be held accountable, and the citizens of the State will continue to have access to clean water for drinking, recreating, and irrigation.



# HEALTH & HUMAN SERVICES

## OVERVIEW

The Health and Human Services Section of the Attorney General's Office is a newly organized section that represents the Utah Department of Health and Human Services, a consolidation of the Department of Health and the Department of Human Services. The Section represents the Department's many organizational units, including the Office of Vital Records and Statistics, the Utah Medicaid program, the Center for Medical Cannabis, the Utah Public Health Laboratory, the Office of the Medical Examiner, the Office of Substance Use and Mental Health, the Utah State Hospital, Adult Protective Services, the Office of Public Guardian, the Utah State Division of Services for People with Disabilities, the Utah State Development Center, the Utah Developmental Disabilities Council, the Utah Division of Licensing and Background Checks, Juvenile Justice and Youth Services, the Division of Family Health (containing Children with Special Healthcare Needs and Maternal and Child Health), the Office of Communicable Diseases, the Office of Emerging Infections, Health Promotion and Prevention, and Emergency Medical Services, and the Division of Data, Systems, & Evaluations.

## RESPONSIBILITIES

- Advising the Department to ensure the privacy and security of all individual data collected by the Department, including compliance with HIPAA and HITECH and State health data code.
- Assisting in the drafting and execution of all contracts and memoranda of agreements executed by the Department.
- Assisting in the drafting and implementation in more than 100 administrative rules of the Department.
- Representing the Department in the compliance of licensing requirements of healthcare facilities, foster homes, childcare facilities, adult day care, adoption agencies, day treatment, intermediate secure care, outpatient treatment, residential support, residential treatment, social detoxification, outdoor youth programs, recovery residences, and other various human services programs that protect the dependent and vulnerable individuals in Utah.
- Advising the Department in carrying out its statutory duties under the Utah Emergency Medical Services System Act to coordinate the provision of emergency medical services, including ground transport, air transport and non-transport services, in all areas of the state.
- Representing Department programs in administrative hearings, adjudicative proceedings, and civil litigation in state and federal court
- Providing legal guidance to the Department in its efforts to identify, control, and prevent communicable diseases and in the reduction of risk factors causing injury, sickness, death and disability to Utahans such as the syringe exchange program, Baby Your Baby media campaigns, and health disparities reduction.
- Advise the Department in drafting and implementing rules related to public areas safety and sanitation such as public pools, public eating establishments,
- Advising the Department on various legal issues arising from its administration of the Utah State Hospital as part of the State's comprehensive mental health program, including representing the Utah State Hospital in competency determinations for criminal defendants.
- Advising the Department in carrying out the Settlement Agreement entered in Christensen and DLC vs. DHHS including contracts, guardianships, rulemaking, bed delicensing, HCBS Grants, education and training, reporting, licensing, statutory changes, advisory committee, and discouragement log issues.
- Providing legal advice to the Department's various ombudsman and oversight programs such as the Long-Term Care Ombudsman, Disability Ombudsman, Child Protection Ombudsman, the Department Fatality Review Committee, and the Division of Continuous Quality Improvement.
- Advising the Department's Division of Integrated Healthcare in coordinating the provision for or payment of healthcare to uninsured, low-income, elderly, or disabled Utah residents.
- Providing legal advice to 34 statutory boards and commissions overseen by the Department.





## HEALTH AND HUMAN SERVICES NOTABLE SUCCESSES

The HHS Section spent a considerable amount of effort advising the former Department of Health and Department of Human Services to accomplish the statutory directive to consolidate into a single agency. Section AAGs advised the several consolidation subcommittees to review and resolve all obstacles to achieve the consolidation of the Department in a manner that complies with all state and federal laws.

In addition to advising the Department's response to the COVID-19 pandemic, the HHS Section advised the Department in its response to the monkeypox outbreak and the delivery of vaccines throughout the state.

The Section continues to provide important legal services, including litigation, to the Department's Tobacco Prevention and Control Program, in its ongoing efforts to protect Utah residents from the harmful effects of tobacco and e-cigarette products.

The Section continues to provide legal services in a class action lawsuit filed by the Disability Law Center on behalf of individuals who wish to move from Intermediate Care Facilities to community settings. The Department entered into a settlement agreement with the class. Generally, the settlement agreement requires DHHS to provide education to individuals in ICFs about community based services, move a specified number of individuals out of ICFs and into community based settings, and reduce the number of available ICF beds. To date, the State defendants are on track to meet all of the requirements of the settlement agreement.

The Section represents the Division of Aging and Adult Services, which includes two key agencies: Adult Protective Services (APS); and the Office of

Public Guardian (OPG). These two agencies provide pivotal services to Utah's aging population. APS is tasked with removing adults out of abusive and unfit situations, protecting their rights, and improving their lives. OPG, often working hand-in-hand with APS, provides guardianship services for those who have no one to care for them or whose guardians have been abusive or exploitative in some way, frequently financially. Without these services, Utah's elders have few options for protection and care. The AAG works to help APS and OPG protect this section of Utah's vulnerable population by filing for guardianship, holding administrative hearings, and securing placement of elders who have been abused.

The Section represents the Division of Services for People with Disabilities (DSPD). DSPD is responsible to supervise, care for, and treat persons with an intellectual disability who are committed to DSPD's jurisdiction. DSPD is also responsible for evaluating and determining the most appropriate, least restrictive setting for an individual with an intellectual disability. This includes examining individuals with intellectual disabilities and petitioning courts to involuntarily commit those individuals with intellectual disabilities who pose an immediate danger to themselves and others, who cannot provide for themselves the basic necessities of life, and who are in need of habilitation, rehabilitation, care, or treatment. When individuals are committed to DSPD's care, DSPD ensures those individuals receive adequate treatment, care, habilitation, or rehabilitation that is adequate and appropriate to the individual's condition and needs. Attorneys for the Section also represent the Division in annual review hearings for individuals committed to DSPD's care.

## BY THE NUMBERS

### ENVIRONMENT



ENFORCEMENT

**129**



PERMITTING

**28**



CORRECTIVE ACTION

**15**



MATTERS WITH REPRESENTATION  
(OPPOSING COUNSEL)

**181**

### HEALTH & HUMAN SERVICES



CONTRACTS & GRANTS

**5,684**



CONSULTATIONS FOR  
LEGAL ADVICE

**1,288**



JUVENILE JUSTICE  
MATTERS

**221**



ADMINISTRATIVE RULES  
REVIEWED/DRAFTED

**221**

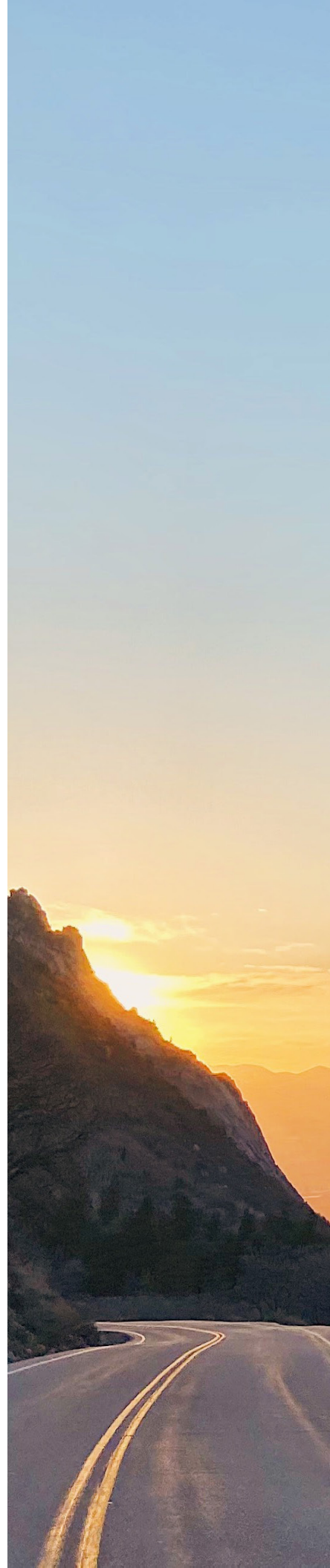
# HIGHWAYS & UTILITIES

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

**145**



CLOSED MATTERS

**117**

## UTAH TRANSIT AUTHORITY (UTA)

### BY THE NUMBERS



NEW MATTERS

**35**



CLOSED MATTERS

**71**

APPROXIMATE DOLLAR AMOUNTS  
IN CONTROVERSY

**\$4,000,000**

## DRIVERS LICENCE DIVISION

### BY THE NUMBERS



NEW CASES

**94**



CASES CLOSED

**119**

## UTAH DEPARTMENT OF TRANSPORTATION (UDOT)

### BY THE NUMBERS



NEW MATTERS

**57**



CLOSED MATTERS

**31**

APPROXIMATE DOLLAR AMOUNTS  
IN CONTROVERSY

**\$117,844,220**

## DIVISION OF PUBLIC UTILITIES\*

### BY THE NUMBERS



MATTERS

**239**

APPROXIMATE TOTAL DOLLAR  
AMOUNTS AT ISSUE

**\$7,900,000,000**

\*DPU and OCS cases combined.



## NOTABLE CASES

### ***UDOT v. Arthur Grant Investments LTD et al.,*** **5th District Court, Washington County.**

This was a partial taking case at a well-known corner, Bluff Street and St. George Boulevard. The verdict was \$2,533,003, including \$276,188 in severance damages. The owners' appraisal was \$4.280M. The midpoint between the owners' ask and UDOT's number was \$2,592,500. Therefore, the verdict was a low split between the experts. During trial, AGO lawyers successfully handled an improper display of excluded evidence during an opening statement by opposing counsel. That evidence concerned an \$820,000 damage claim that had been excluded by the court in a signed order. The landowner was represented by a prominent regional law firm.

### ***UDOT v. Thanksgiving Point Development Co. L.C., et al.,*** 4th District Court, Utah County.

This case involved the Lehi Tech Corridor Project and the Thanksgiving Point Megaplex theater

property. A key issue was the closure of one access point to the parking lot. The owners asked for \$2,318,500, including both severance damages of \$539,000 and cost to cure damages of \$1.574M. The verdict came in at UDOT's numbers, \$310,398 plus interest. Opposing counsel was a leading trial lawyer in eminent domain circles.

### ***UDOT v. Boggess-Draper, LC,*** Third District Court, Salt Lake County.

This case involved property on 114th South just west of I-15. Following a successful appeal to the Utah Supreme Court on a critical evidentiary issue, a jury awarded \$329,637 and no severance damages for property interests acquired by UDOT from the landowner. The award was consistent with UDOT's requested just compensation award and a complete rejection of the multimillion-dollar just compensation demand asserted by the landowner, which included a \$1.4M severance damage claim.



# 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.

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.





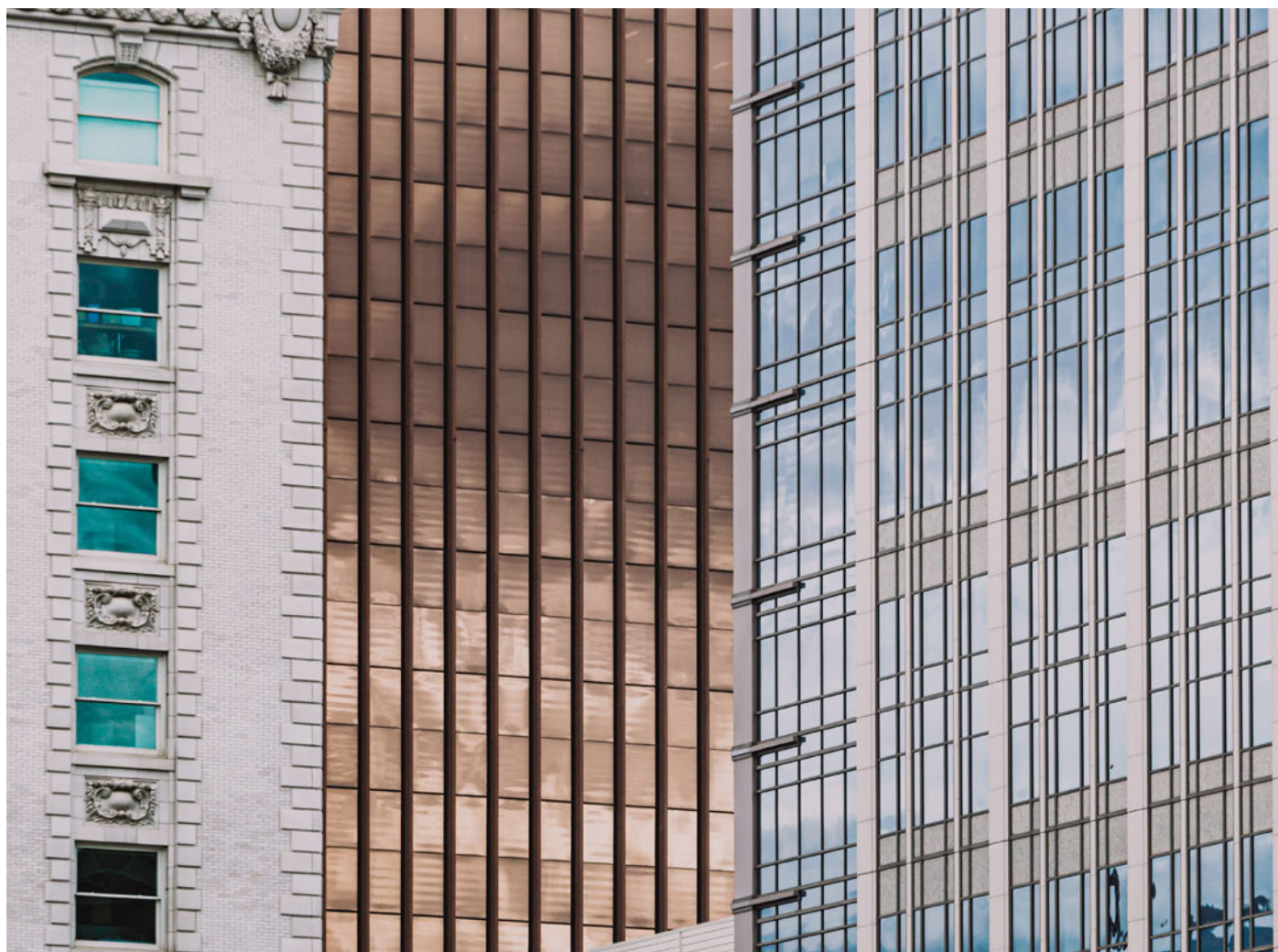
## TAX SECTIONS

The Tax Sections of the division represent 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: Customer Services, Miscellaneous Tax, Tax and Revenue, and Enforcement (motor vehicle).

## 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.

The Financial Services Section also represents the Tax Commission on tobacco issues including the Master Settlement Agreement and any other subsequent agreements.



## NOTABLE SUCCESSES

The **Financial Services Section** continues to work with the Insurance Department in re-writing all of the administrative rules for 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 continue to have reviewed and revised these rules.

The **Property Tax Section** prevailed in a case confirming the correctness of the Property Tax Division's methodology to determine the cost of equity for rate regulated utility valuations.



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# CRIMINAL DEPARTMENT

7 DIVISIONS

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95 ATTORNEYS, 54 AGENTS,  
& 86 STAFF



# JUSTICE

## OVERVIEW

The Justice Division is comprised of prosecutorial units working together with specialized investigative units in the areas of Criminal Non-Support (CNS), Internet Crimes Against Children (ICAC), the SECURE Strike Force, and the DEA/HIDTA Drug Prosecution Unit, as well as units servicing the Insurance Division, the Office of Recovery Services (ORS), and the Department of Workforce Services (DWS). The division includes a Special Prosecution Unit (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

**746**



ACTIVE CASES

**186**



CASES CLOSED

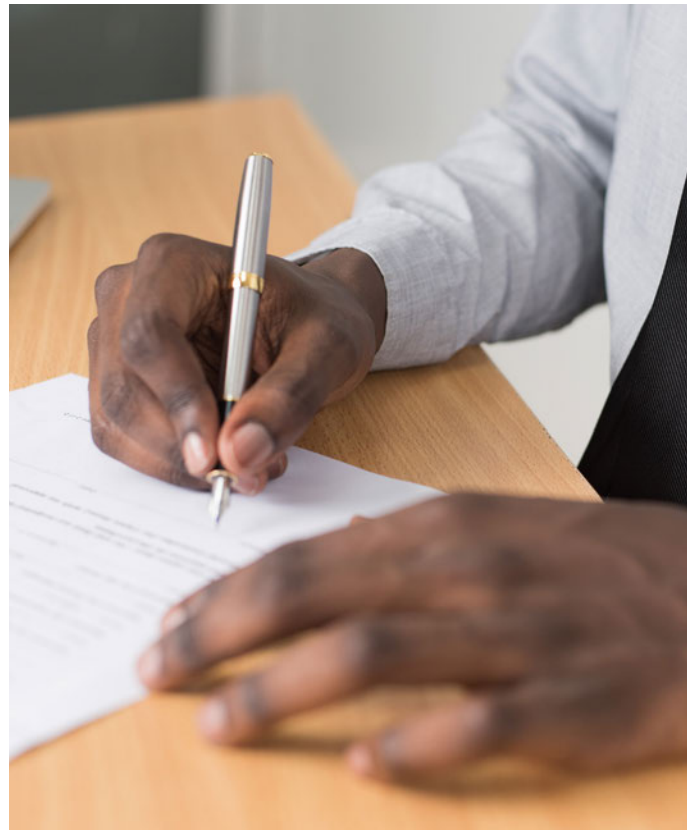
**103**

## 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



DEFENDANTS SENTENCED

**95**



REFERRALS

**933**



CHARGES FILED

**166**

RESTITUTION ORDERED

**\$367,014**

INVESTIGATIVE COSTS COLLECTED

**\$95,235**



## CRIMINAL NONSUPPORT

### OVERVIEW

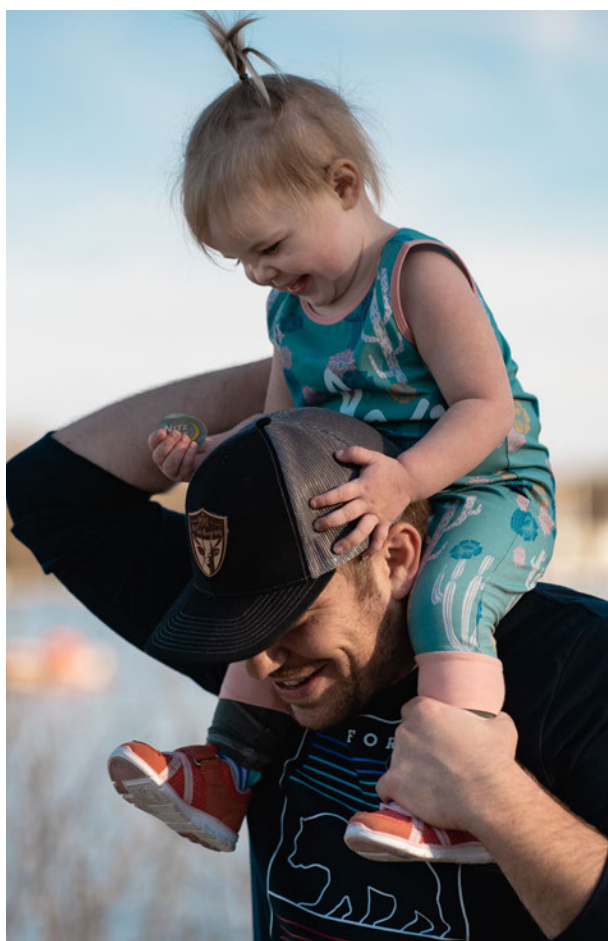
Utah's legislature has declared that children are presumed to need the financial support of both parents. When a noncustodial parent fails to provide their portion of that support, extreme hardship may befall both the child and the custodial parent. The AGO utilizes Utah's Criminal Nonsupport (CNS) statute 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

TOTAL CASELOAD	NEW CASES FILED	REFERRED CASES	CONVICTIONS
345	13	19	17
NUMBER OF VICTIMS	AVERAGE CASELOAD PER ATTORNEY	CHILD SUPPORT COLLECTED	
986	173	\$2,259,305	





## 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](mailto: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



### 2022 Utah Winner

Elouise June Fuller  
Highland Park  
Elementary

## 2022 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.

"The poster, why I made it the way it is, is because it shows people connecting and people that helped find lost kids to who we [owe] great thanks to because no [matter] the crime everyone should get a home, a bed and a second chance. Why I entered in the contest is because I want to tell people that there are lost kids out there and that we need to help find them," Eloise 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.

## BY THE NUMBERS

### INVESTIGATIONS BY THE NUMBERS

**3,558** Child Exploitation  
Referrals

**4,490** Electronic Devices  
Forensically Examined

**1,477** Investigations  
Conducted

**872** Search Warrants  
Served

**176** Arrests

### PROSECUTIONS BY THE NUMBERS

**75** New Cases  
Reviewed

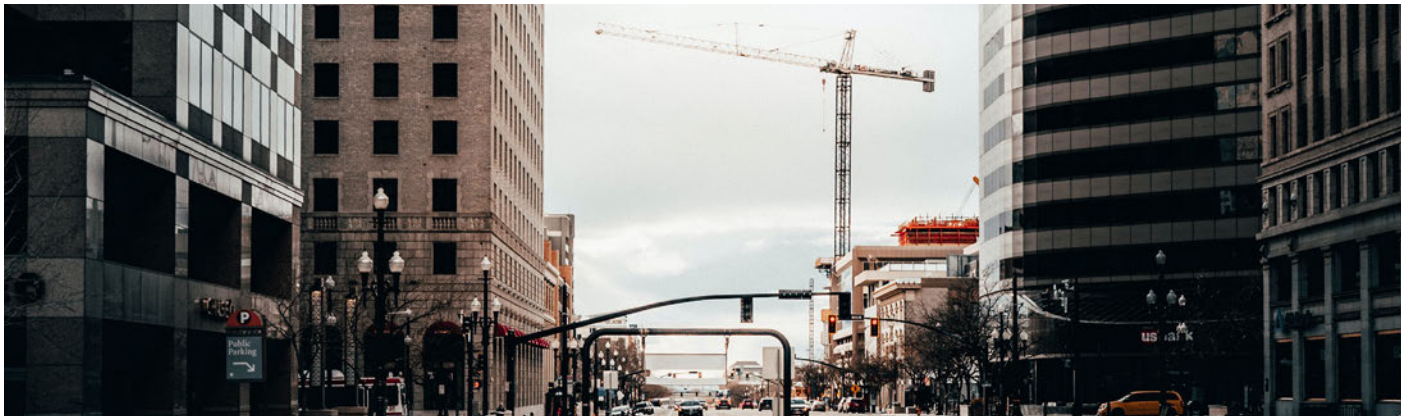
**33** Sentenced/Probation

**80** Cases Filed  
(State & Federal)

**47** Child Victims  
Identified

**67** Arrests





*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

### *SECURE & ICAC*

#### **Dustin Giles Andrus**

On January 14, 2021, the Utah Attorney General's Office filed a criminal information in Davis County, alleging Dustin Giles Andrus, a registered sex offender, had sexually assaulted a minor in Davis and Summit County. The assaults began in 2019 and continued into 2020. The charges filed against Andrus include Rape, Human Trafficking of a Child, Sexual Extortion of a Minor, Sexual Exploitation of a Minor, Unlawful Sexual Conduct with 16/17 year old, Enticement, and Distribution of a Controlled Substance. Andrus met the victim through a social media app when she was 16 years old. Andrus regularly met up with the minor to engage in sexual activity in exchange for narcotics. The minor was also forcibly raped by Andrus and attempted to cut ties with him, but Andrus would later re-contact her and attempt to solicit the minor to engage in sexual activity with him. **A 4-day jury trial was held March 28-31, 2022 and the jury found Andrus guilty on all counts.** Andrus was sentenced to multiple consecutive 5 years to life sentences in the Utah State Prison. The Defendant also has federal charges pending arising from the same series of events.

#### **Ryan Macfarlane**

On April 17, 2019, the Utah Attorney General's Office filed a criminal information in Davis County charging Ryan Macfarlane with Aggravated Human Trafficking of a Child, a 1st degree felony; Aggravated Exploitation of Prostitution Involving a Child, a 1st degree felony; Aggravated Kidnapping, a 1st degree felony; Forcible Sodomy, a 1st degree felony; Object Rape, a 1st degree felony; and Rape, a

1st degree felony. The charges arose from the Defendant's conduct involving a 16-year-old female runaway. Macfarlane picked the child up in his vehicle in downtown Salt Lake City, transported the child to a storage unit in Davis County where he engaged in repeated sexual acts with the child, transported the child across state lines, and coerced the child into offering sexual acts in exchange for money along the way. Macfarlane was held to answer on all charges following the preliminary hearing and a Trial was held August 22-25, 2022. **The Jury found Macfarlane guilty of Rape, Forcible Sodomy and Object Rape, all 1st Degree Felonies.** Sentencing is set for January 2023.

#### **Johnathan Isaac Dew**

On November 9, 2018, the Utah Attorney General's Office filed a criminal information in Davis County charging Johnathan Isaac Dew with 17 counts of Sexual Exploitation of A Minor, all 2nd Degree Felonies. An investigation by the Utah Attorney General's Office Internet Crimes Against Children Task Force identified a computer suspected of sourcing files of known child pornography to online users for download. The suspected computer was located at a residence in Syracuse, Utah, in which Dew, who was a police officer at the time, was a resident. Agents executed a search warrant and located a silver HP laptop belonging to Dew, in which images of child pornography were found. **A 4-day jury trial was held in March 2022 and the jury found Dew guilty on 13 counts of Sexual Exploitation of a Minor, 2nd degree felonies. Dew was sentenced to thirteen terms of 1-15 years in the Utah State Prison, to run concurrently.**

BY THE NUMBERS



**192** CASES GENERATED BY INVESTIGATORS

INVESTIGATIONS/ARRESTS

**44** Investigations/  
Arrests

**20** Trafficking/  
Smuggling Cases  
*(Human, Sex, Labor, Human  
Smuggling)*

**21** Fraud/Forgery/  
Counterfeiting

**2** Drug/Gun Cases

**84** Drug Crimes

**32** Warrants



**41** CRIMINAL CASES INITIATED BY/ASSIGNED TO  
SECURE PROSECUTORS

**1** State Cases  
Filed

**15** Federal  
Cases Filed

**39** Search  
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.

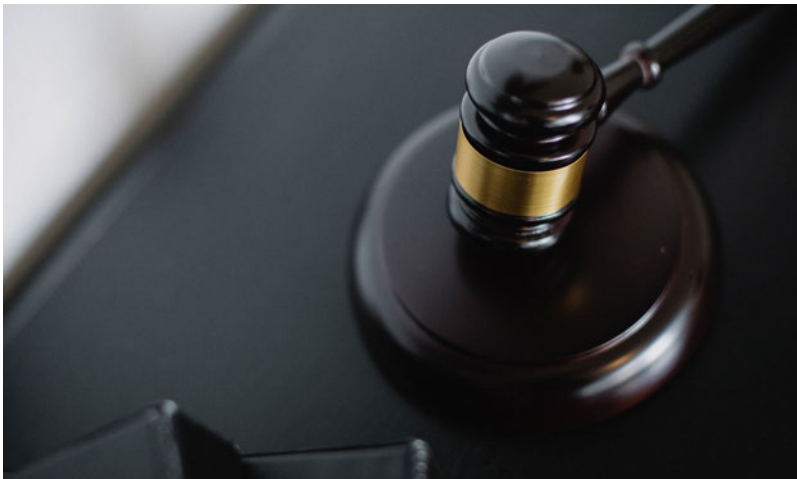
The section works in partnership with both the AGO Special Investigations Unit and local law enforcement agencies to promote a safe and lawful environment for residents statewide.

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)

**83**



CASES FILED  
(FEDERAL)

**43**



CONVICTIONS

**96**

RESTITUTION COLLECTED

**\$485,577**

ASSET FORFEITURE

**\$26,390**







## FIRST-DEGREE FELONY CASE REVIEW (HB 281 CASES)

In accordance with House Bill 281, the Utah Attorney General's office accepts cases for review that have been investigated, then screened, and declined for prosecution by a district or county attorney.

Victims in such a case, or the representative of a victim, can refer their case to the Justice Division of the Utah AG's office.

The request will be quickly evaluated to determine whether the case meets the review criteria of the new law. If criteria are met, the victim or representative is contacted for the next steps.

## BY THE NUMBERS

**20**

CASES REFERRED  
FOR REVIEW

**12**

CASES OPEN &  
UNDER REVIEW

**6**

CASES CLOSED WITHOUT  
CRIMINAL FILING

## NOTABLE SERIAL RAPIST CASE

### Braydon M. Brailsford

On August 1, 2022, in Box Elder County, First District Court, the defendant, 21 year-old Braydon M. Brailsford, pleaded guilty to three counts of rape of three separate victims, and one count of forcible sodomy of a fourth victim, all first-degree felonies. **The defendant was sentenced on September 28, 2022 by the honorable Judge Brandon Maynard to the maximum indeterminate term of imprisonment of 5 years to life on each count.** Judge Maynard ordered the counts to run consecutively with one another, and consecutively to another indeterminate

sentence of 5 to life the defendant is currently serving for a forcible sodomy conviction that was prosecuted by the Box Elder County Attorney's Office. The case was investigated and prosecuted by the Attorney General's Office under the authority granted in the 2019 General Legislative Session's House Bill 281.

As admitted in his plea, the defendant engaged in repeated, aggressive, and predatory sexual offenses across Northern Utah. The defendant utilized social media to meet and then sexually assault twelve (12) separate women between 2016 and 2021.





# 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

**39**



TOTAL NUMBER OF INDIVIDUALS  
TRAINED AT UPC Events

**1,314**



## 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

## OVERVIEW

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

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

All investigators are POST-certified state peace officers.





## 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.

## BY THE NUMBERS

CASES INVESTIGATED

**58**

SEARCH WARRANTS

**11**

LOSS REPORTED & INVESTIGATED

**\$1,064,681**

AMOUNT PHYSICALLY RETURNED IN  
RESTITUTION TO RETAIL VICTIMS

**\$61,061**





## NOTABLE CASES

### **Over \$60,000 in New in the Box Product Recovered From West Valley City Man**

A 47-year-old male out of West Valley City was selling, on multiple online platforms, significant numbers of new in the box tools for well under the known retail price. He was suspected of purchasing these tools from thieves in order to resell them and Home Depot estimated a loss of over \$500,000 based on the online records. Multiple undercover transactions were made with the suspect where the suspect purchased new in the box tools under suspicious circumstances. A search warrant was executed on his home in West Valley and over \$60,000 in new in the box tools were recovered. The defendant plead guilty to wrongful appropriation and the seized property was returned to the retailers.

### **Over \$27,000 Seized From West Valley City Man Operating Multiple Gambling Machines in Salt Lake City Convenience Store**

A 53-year-old male out of West Valley City, running a convenience store in Salt Lake City was found to be operating multiple gambling machines in the convenience store. Multiple undercover operations were conducted in the convenience store which led to a search warrant for the business. Incident to the search warrant 20 gambling machines were seized and over \$27,000 in gambling proceeds were seized. The defendant plead to one felony Fringe Gaming Device charge and one Misdemeanor Fringe Gaming Device charge and over \$27,000 in restitution.



## 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 is assigned to investigate 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

**120**

INVESTIGATIONS  
REQUESTED/REVIEWED

**276**

SEARCH WARRANTS

**27**

ARRESTS

**9**

## VIRTRA BACKGROUND

The Utah Attorney General's VirTra™ Virtual Reality Training Center started operations in September of 2015 with the support of the Legislature, Governor, and many other public safety partners. The Center's mission is to advance law enforcement training in Utah by providing cutting-edge high-tech virtual reality training to over 110 Utah law enforcement agencies. The Center provides excellence in police training in

Autism Awareness, Tactical Medical, Street-Smart De-escalation, Crisis Communications, Stress Management, Decision Making, Community Leader Education, and Constitutional Use of Force all within a safe training environment. New programs are added each year such as our new Officer Duty to Intervene and Duty to Self-De-Escalate.

## VIRTRA NOTABLE SUCCESSES

### Duty to Intervene

In 2022, the Utah Legislature passed Senate Bill 126, codifying an officer's duty to intervene in another officer's unconstitutional use of force or other violation of constitutional rights. The bill received broad support from law enforcement groups, civic advocacy groups, the legal community, and both major political parties. The bill passed unanimously in the Senate and the House of Representatives.

Utah Code Annotated 53-6-210.5 created standards defining police misconduct; set standards for intervention and reporting requirements in law enforcement agencies; directed the Peace Officer Standards and Training Council to establish minimum standards for reporting police misconduct; and prohibits retaliatory action against an officer who reports police misconduct.

In response to this new law, the VirTra team developed a training program to educate Utah's law enforcement community on the standards, requirements, and community expectations for officer intervention and reporting officer misconduct. They worked in partnership with Utah Police Chief's Association President, West Jordan Police Chief Ken Wallentine, to produce a training video, classroom instruction, and practice scenarios in the VirTra™ simulator.

### Duty to Self-De-Escalate and Community Accountability

As part of the continued effort to support constitutional policing and community accountability, the VirTra team has produced a new training program designed to help officers and deputies to self-de-escalation and manage their emotions during highly charged situations and crisis events. The Duty to Self-De-Escalate course is taught in conjunction with the Officer Duty To Intervene Course.

### Listen, Explain - Cooperate, Communicate, Public Awareness Campaign

The AGO VirTra team is working with Utah's Law Enforcement Legislative Committee (LELC) to develop a resolution that legislators can support encouraging positive encounters between Utah citizens and public safety officers. The resolution is a call to support and fund a public service campaign Listen, Explain – Cooperate, Communicate. The goal of the campaign is for Utah's communities to work with their local law enforcement agencies to foster cooperation, save lives, reduce injuries, and continue to make Utah the great state that it is for generations to come.

### Best In State – Public Safety Education

In 2022, the Utah Attorney General's VirTra™ Virtual Reality Training Center was a recipient of the Best of State award for public safety education.

## VIRTRA NOTABLE TRAINING SUCCESSES

### Autism Awareness PART 2

This year the AGO worked with VirTra™ to produce an additional program addressing Autism Awareness for First Responders. The PART 2 program will address the challenges of Autism in adults as they come in contact with police. The program will include a multimedia presentation, interactive simulator scenarios, classroom instruction, and discussion with members of Utah's autism community. PART 2 is expected to launch in the spring of 2023.

### Core Training - Use of Force / De-escalation

Core training courses continued to be offered on Use of Force and De-Escalation Decision Making in-service training to all local, county, state, and federal law enforcement agencies in Utah. Agencies are encouraged to use the AGO VirTra facilities to evaluate new officer candidates and lateral officer transfers. The AGO assists agencies in evaluating officers while they are participating in Field Training Programs.

### Community Leader Educational Program

To help community leaders make sound decisions concerning police budgets, policies, training, and

organizational deployment the Training Center has developed a Community Leader Education Program. This program is designed to help legislators, mayors, council members, district attorneys, educators, faith-based leaders, media, and others understand the realities and challenging work environment of police. The program provides them with the opportunity to step into the shoes of a police officer in the VirTra™ simulator and make split-second judgements under circumstances that are “tense, uncertain, and rapidly evolving.” The program helps community leaders understand the practical limits of police policy improvement.

### COPTALKS Video Library

Several new videos have been produced as part of the COPTALKS video library, which contains over 30 titles. The library contains a series of short videos addressing a variety of legal and best practices designed for use in conjunction with the scenarios used in the VirTra™ simulator. Members of Utah's law enforcement community have requested the Utah Attorney General's Training Center to make its COPTALKS video library available for in-service and roll call training. Access to this library is now being made available to law enforcement.

## VIRTRA BY THE NUMBERS



# 37

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



# 614

LAW ENFORCEMENT OFFICER TRAINING SESSIONS COMPLETED



# 29

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)



# 235

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)





## 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

**93**



CASES  
OPENED

**73**



CASES  
COMPLETED

**67**



TOTAL SAVINGS

**\$2,056,274**

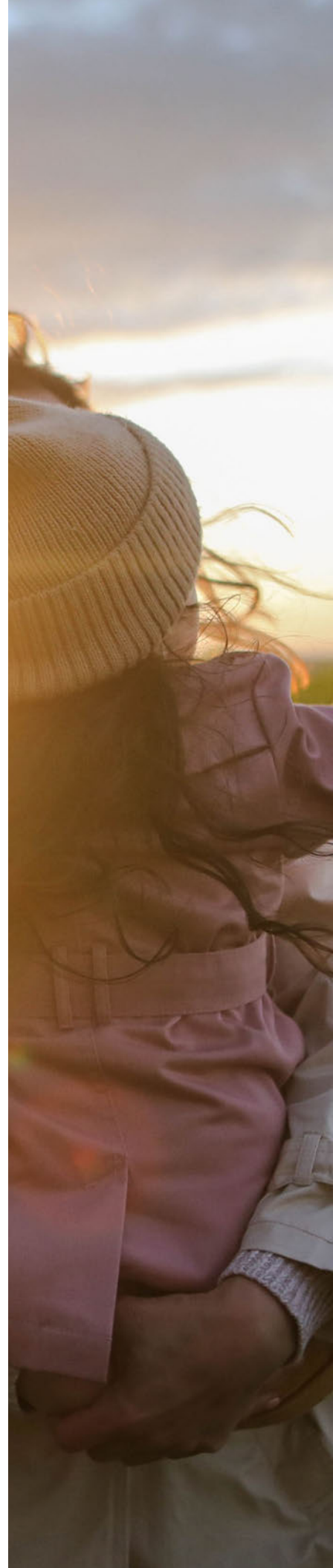
# CHILD PROTECTION

## 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

**2,122**



TERMINATION OF  
PARENTAL RIGHTS TRIALS

**346**



AVERAGE JUVENILE  
COURT CASE LOAD PER  
ATTORNEY

**61**



TOTAL NUMBER OF HEARINGS  
ATTENDED ACROSS THE STATE

**17,711**



TOTAL NUMBER OF  
APPEALS

**61**



TOTAL NUMBER OF  
ADMIN HEARINGS

**60**



# 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

**3,728**



AVERAGE CASELOAD PER  
ATTORNEY\*

**219**



NUMBER OF COURT  
APPEARANCES  
STATEWIDE

**2,825**



AVERAGE NUMBER OF  
APPEARANCES PER  
ATTORNEY EACH MONTH

**166**

*\*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 2021 the Cambia Health Foundation donated \$1 million to Utah's CJs to provide mental health services to children in rural areas, and that project continued through 2022. Through partnerships with the National Children's Alliance, Yale University, and the University of South Carolina, dozens of therapists received evidence-based mental health training, videos and resources promoting telehealth services were produced and circulated, and hundreds of children received trauma-informed care. Cambia has extended this project through 2023.

The Program has continued its partnership with researchers at the University of Utah and Primary Children's Center for Safe and Healthy Families to utilize the Care Process Model (CPM) in CJs. Developed by our partners, the CPM screens for trauma symptoms and suicide risk. Among children seen at CJs, 1 in 2 screen high for trauma symptoms and 1 in 8 of those ages 11-18 screen high for suicide risk. This project was recently featured in the Journal of Child Sexual Abuse and is garnering national attention, with other states seeking to replicate the tool in their centers.

### Digital Evidence Management System

In 2022 the Program received legislative funding to support broad implementation of a digital evidence management platform equipped with military-

grade security to house and manage child forensic interviews, safe from loss, misuse, or mishandling. Since then, the system has tracked almost 234,000 chain of custody actions and the savings on DVD creation and distribution, storage, and transcriptions totals almost \$460,000. Almost 350 agencies are using the system through their CJs. Law enforcement are the most active users, followed by Child Protective Services.

### Expansion of Forensic Interview (FI) Specialists

The Program continues to work with CJs to expand the use of onsite forensic interview specialists (instead of relying on law enforcement and child protective services to conduct interviews). Research shows that specialization improves the quality and consistency of interviews. Additional funding appropriated in 2022 is enabling at least three more centers to add FI specialists to their centers. The addition of specialists also increases the Program's pool of FI training faculty as well as experts that can provide case consultation to county and state prosecutors.

### New Facilities Opened and Planned

In April of 2022 the Box Elder County CJC opened its newly renovated facility. The Weber/Morgan CJC and the Iron County CJs are in the middle of capital campaigns to build new facilities, as their existing buildings are simply too small to meet the service demand.

## HIGHLIGHTS *cont.*

### Quality Assurance and Training/Technical Assistance

In 2022 the Program restructured some of its key staff positions, creating a Quality Assurance Analyst position to ensure that CJs are meeting evidenced-based standards of care, to maintain the data systems CJs rely upon to manage cases and measure family's satisfaction with services, and to support CJs in meeting their statutory obligations.

In 2022 the CJC Program held more than a dozen trainings statewide, including its annual Symposium for 550 child abuse professionals, eight forensic interview training sessions, and several monthly "Brown Bag" virtual training sessions for CJC staff statewide.

### Coordination and Funding for Victim Services

The CJC Program has worked throughout 2022 with the Utah Office for Victims of Crime, the Division of Child and Family Services, victim service providers, legislative fiscal analysts, and others to identify

gaps in victim service provision, funding needs, and strategies to help improve the quality and availability of victim services statewide. Those efforts culminated in a report to the Social Services and Executive Offices & Criminal Justice appropriations subcommittees in October and have since evolved into efforts to secure more funding and recommend a state commission to improve coordination.

### Wellness and Self-Care for CJC Employees and MDT Partners

Because the daily exposure to trauma can cause vicarious trauma, the Program facilitated training and discussions about resources to help CJs enhance resiliency and provide mental health services to professionals. Some CJs are piloting said services with their employees and teams. The Program and CJs applaud the State's efforts to provide mental health services for first responders and would like to see eligibility expanded to include other professionals, including CJC employees and CPS workers.

## BY THE NUMBERS

PRIMARY VICTIMS SERVED

**8,015**

OTHER PEOPLE SERVED  
(INCLUDING SECONDARY VICTIMS)

**16,057**

TOTAL NUMBER OF  
ALLEGATIONS

**15,216**

### MOST COMMON ALLEGATIONS

CHILD SEXUAL ABUSE/  
ASSAULT

**9,247**

CHILD PHYSICAL ABUSE

**1,917**

DOMESTIC VIOLENCE

**1,367**

CHILD ENDANGERMENT

**578**

CHILD PORNOGRAPHY

**308**



# 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

### **Two Nurses Pled Guilty for Diverting Medications Intended for Use by Residents**

On March 10, 2022, a Weber County man entered a plea of no contest to two counts of Possession or Use of a Controlled Substance, both Class A Misdemeanors. Mr. Gibbs admitted that he had been diverting pain medications, including hydromorphone and oxycodone, at a healthcare facility. On September 1, 2022, a Salt Lake County woman entered a plea of guilty to a Class B Misdemeanor for Attempted Possession of a Controlled Substance and a Class B Misdemeanor for Theft. MFCU's investigation determined that Ms. Arbogast, a registered nurse, had diverted a controlled substance intended for patient use at the same healthcare facility.

Both of these convictions were reported to the Office of Inspector General (OIG) for consideration of federal exclusion, which could prevent these defendants from working as caregivers or health care providers in any facility that receives federal funds.



## NOTABLE PROSECUTIONS *cont.*

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

In December 2021, a Utah County man who worked at the Utah State Developmental Center pled guilty to committing abuse of a vulnerable adult, a Class B Misdemeanor. Mr. Lealiki was assigned to provide care for a non-verbal, vulnerable adult with developmental delays. As part of the plea, defendant admitted to becoming upset over the vulnerable adult's behavior and then grabbing the vulnerable adult, dragging him across a concrete floor and onto an outdoor patio, forcefully pushing the vulnerable adult onto his back, and then leaving the vulnerable adult in cold December weather for approximately 12 minutes. The vulnerable adult was wearing only underwear. For these offenses, defendant was ordered to serve 12 months probation and pay a fine of \$300 or complete 50 hours of community service. Mr. Lealiki's name was submitted to the Federal Office of Inspector General (OIG) 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 for a minimum of five years.

### **Registered Nurse pleads guilty to Forcible Sexual Abuse with Patients**

In October 2018, a jury found Adam Tae Kyun Lim, a registered nurse who had worked in numerous hospitals, and skilled nursing facilities, guilty of two counts of Object Rape, 1st Degree Felonies, and one count Forcible Sexual Abuse, a 2nd Degree Felony. Judge Trease sentenced Lim to two, consecutive five-year-to-life sentences. The trial was emotional and difficult for all three

victims, as they had to describe to jurors how Lim had committed these sexual offenses while they were hospitalized for serious illnesses. Given that these events ranged from 2009 to 2015, some of the women had been struggling with emotional, physical, and psychological trauma for a long period of time. Lim appealed all three convictions, alleging the court exceeded its discretion in failing to grant his motion to sever, allowing all three cases to be tried in one jury trial. The Utah Court of Appeals agreed, concluding, "the district court exceeded its discretion in denying Lim's motion to sever the three charged counts. They were not part of a common scheme or plan, and joining them was unfairly prejudicial." The case was reversed and remanded. After working closely with all three victims, one victim decided that she had already faced too much and felt unable physically, emotionally, or psychologically to participate in another trial. The State refiled charges for both counts of Object Rape with the support of the remaining two victims. On November 28, 2022, Lim entered guilty pleas to reduced charges of Forcible Sexual Abuse, both 2nd Degree Felonies (Case #'s 221907489 and 221907850) and was sentenced by Judge Trease, in a Rule 11 Plea, to a lifetime exclusion from working in the healthcare industry or in any position as a paid caregiver, in addition to other terms of probation. The prison term of not less than one nor more than fifteen years was suspended given that Lim had already served close to four years in prison based on the initial conviction. None of the witnesses chose to testify at trial, indicating that Lim had already caused too much pain and it was time for them to move on with their lives.

## **Son Pleads Guilty for Financially Exploiting his Mother**

On December 21, 2021, a resident of Duchesne County pled guilty for financially exploiting his mother, an elderly woman with a traumatic brain injury and neurocognitive disorder. Mr. Glines admitted that between January 2020 and July 2020, he used over \$205,000 of his mother's money for the benefit of someone other than his mother. As a result of this guilty plea to a second-degree felony, Mr. Glines was placed on court-ordered probation for thirty-six months and ordered to pay restitution in full. Full restitution was able to be obtained and returned to the vulnerable adult as a result of the State filing a *lis pendens* on a home which had been involved in the financial scheme. This enabled the State to preserve this asset until sentencing.

## **Mallinckrodt to Pay More Than \$230 Million to Settle Lawsuit Alleging Underpayment of Medicaid Drug Rebates**

In May 2022, the State of Utah, through the National Association of Medicaid Fraud Control Units, joined with 49 other states, Washington, D.C., Puerto Rico, and the federal government to settle allegations of fraud against Mallinckrodt ARD, LLC (formerly known as Questcor Pharmaceuticals, Inc.), a U.S. subsidiary of the Irish pharmaceutical company Mallinckrodt plc (collectively Mallinckrodt), which sells and markets pharmaceutical products throughout the nation. Mallinckrodt's U.S. headquarters is located in Bedminster, New Jersey. The total value of the settlement is \$233,707,865.18, plus interest, to be paid over a period of seven years. Of this amount, Utah will receive \$202,443.55, consisting of \$60,632.91 in state funding and \$141,810.64 in matching federal funds.

The settlement resolves allegations that from January 1, 2013, through June 30, 2020, Mallinckrodt knowingly underpaid Medicaid rebates due for its drug H.P. Acthar Gel (Acthar). The government alleges that Mallinckrodt's conduct violated the Federal False Claims Act and the Utah False Claims Act, UCA §26-20-7 et seq., resulting in the submission of false claims to the Utah Medicaid program.

Under the Medicaid Drug Rebate Program, when a manufacturer increases the price of a drug faster than the rate of inflation, it must pay the Medicaid program a per-unit rebate of the difference between the drug's

current price and the price of the drug if its price had gone up at the general rate of inflation since 1990 or the year the drug first came to market, whichever is later.

However, the government alleges that Mallinckrodt and its predecessor Questcor began paying rebates for Acthar in 2013 as if Acthar was a "new drug" just approved by the U.S. Food and Drug Administration (FDA), rather than a drug that was first introduced to market in 1952. Allegedly, this practice meant the companies ignored all pre-2013 price increases when calculating and paying Medicaid rebates for Acthar from 2013 until 2020. In particular, the government alleges that Acthar's price had already risen to over \$28,000 per vial by 2013; therefore, ignoring all pre-2013 price increases for Medicaid rebate purposes significantly lowered Medicaid rebate payments for Acthar. Under the settlement agreement, Mallinckrodt admitted that Acthar was not a new drug as of 2013 but rather was approved by the FDA and marketed prior to 1990. Mallinckrodt agreed to correct Acthar's base date AMP and that it will not change the date in the future.

This settlement results from a whistleblower lawsuit originally filed in the United States District Court for the District of Massachusetts. The federal government, twenty-six states, the District of Columbia, and Puerto Rico intervened in the civil action in 2020. The settlement, which is based on Mallinckrodt's financial condition, required final approval of the U.S. Bankruptcy Court for the District of Delaware, which approved the settlement on March 2, 2022.

A team from the National Association of Medicaid Fraud Control Units participated in the litigation and conducted settlement negotiations on behalf of the states. The team included representatives from the Offices of the Attorneys General for the states of California, Florida, Massachusetts, Michigan, Nevada, New York, Texas, and Wisconsin.

This resolution was coordinated through the Utah Medicaid Fraud Control Unit (MFCU), a division within the Utah Attorney General's Office responsible for investigating and prosecuting Medicaid fraud and the abuse, neglect, and exploitation of vulnerable individuals. The Utah MFCU receives 75 percent of its funding from the U.S. Department of Health and Human Services under a grant award totaling \$2,371,792 for fiscal year 2022. The remaining 25 percent, totaling \$790,596 for FY 2022, was funded by the State of Utah.

# 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

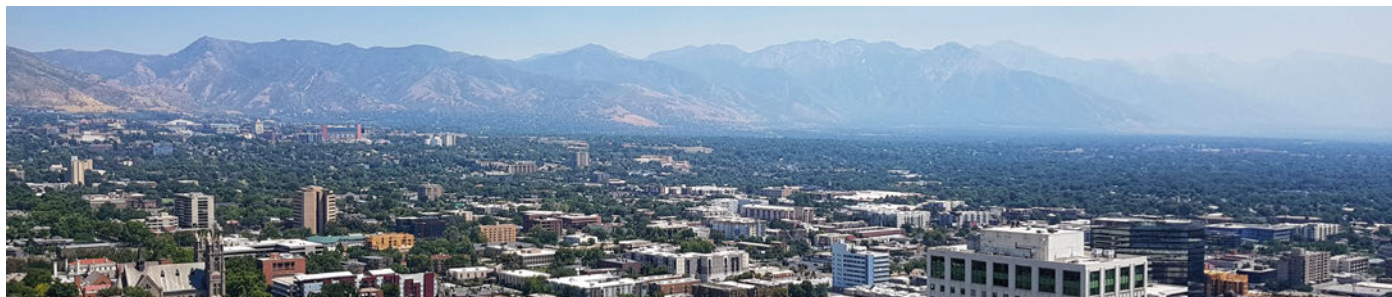
**354**



NUMBER OF TOTAL  
CASES CLOSED

**328**





## NOTABLE PROSECUTIONS

### Opioid Litigation

The Attorney General remains committed to addressing the opioid epidemic, and WCCE continues to play a vital role in doing so. WCCE represented the State in reaching a settlement with three major distributors for \$272 million that will be evenly split between the State and the counties. The State, represented by WCCE, reached a settlement with Walmart regarding its pharmacy practices; filed a lawsuit against three large pharmacy chains, which remains in litigation; and WCCE is pursuing settlements with two pharmaceutical manufacturers. WCCE represents the State in the Purdue bankruptcy. The Utah State Legislature has directed that all recoveries in these, or any related matters, be directed to our State's epidemic response. WCCE has been working with the Legislature, Governor's Office, counties, municipalities, state agencies, and other stakeholders on all these matters.

### Multistate Settlements

WCCE has represented the Division of Consumer Protection in multistate settlements with: Google, misrepresentations about its location tracking practices, \$392 million nationally; CarMax, misrepresentations about NHTSA recalls, \$1 million nationally; Ford, misrepresentations about fuel economy and maximum payload capacities, \$19 million nationally; Juul, misrepresentations about product performance and characteristics, and marketing toward minors, \$438.5 million nationally; and Intuit, misrepresentations about its "free" tax filing program, \$141 million nationally. All of these matters included requirements about how the companies were to change conduct going forward to better protect consumers.

### In-State Consumer Protection Cases

WCCE is engaged in three large cases in state and federal court that seek to enforce Utah's consumer protection statutes, including the Business Opportunity Disclosure Act, which requires sellers of certain products, those purported to be lucrative business opportunities, to give consumers truthful and accurate information. The WCCE successfully obtained partial summary judgments in two of the cases enforcing the Business Opportunity Disclosure Act. One of these cases settled for \$112 million.

Enforcing the Utah Consumer Sales Practices Act, WCCE took action against a headstone company that received payments for orders but failed to deliver headstones or issue refunds. The AGO prevailed and was able to obtain partial restitution for the victims.

### Securities

WCCE prevailed against a company's sales agents, who helped perpetuate massive Ponzi schemes that bilked thousands of investors out of hundreds of millions of dollars. One sold \$1.5 million in these bogus securities in or from Utah while unlicensed, was barred from future licensure, and agreed to disgorge \$73,321 in commissions and pay a fine. Several more such cases are yet to be filed. WCCE is engaged in two large cases in federal court to enforce Utah's securities laws after obtaining emergency restraining orders to stop ongoing securities fraud.

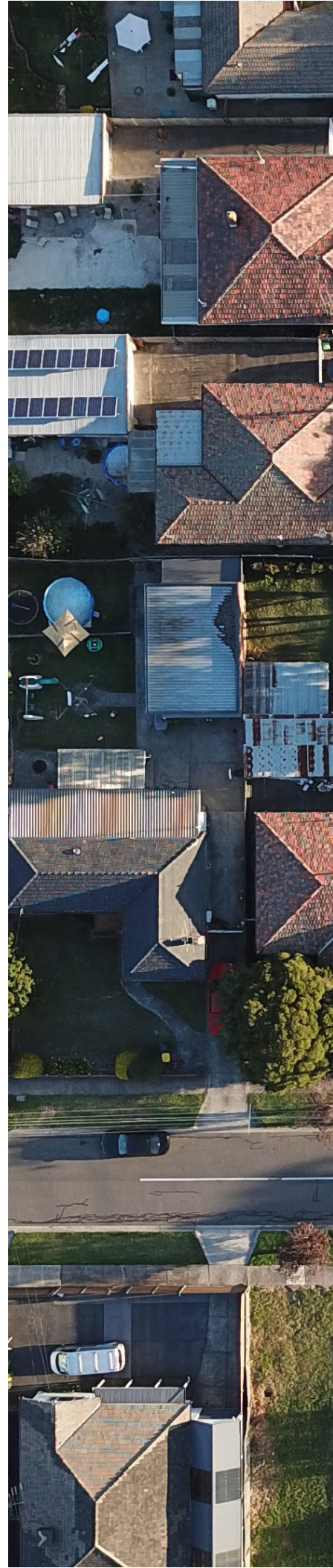
WCCE is currently participating in a multistate federal action against a company alleged to have fraudulently solicited customers to purchase precious metals, and which targeted a vulnerable population of mostly elderly or retirement-aged persons.

# MORTGAGE & FINANCIAL FRAUD

## OVERVIEW

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

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



## BY THE NUMBERS



NEW CRIMINAL CASES OPENED

**28**



CRIMINAL CASES CLOSED

**29**

RESTITUTION ORDERED  
UPON CONVICTION

**\$2,384,720**

RESTITUTION COLLECTED  
THROUGH AG'S OFFICE\*

**\$540,451**



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





## NOTABLE CASES

### Stacey Austin Johnson

Defendant was convicted at trial of five counts of Communications Fraud and one count of Pattern of Unlawful Activity, each second degree felonies relating to an advance fee loan scheme. The case was investigated by the FBI and prosecuted by the Mortgage and Financial Fraud Division. **The defendant was ordered to serve 90 days in jail and to pay restitution in the amount of \$1,541,000.00 to more than a dozen victims.**

### Dale Christoferson

Defendant pled guilty to one count of Pattern of Unlawful Activity, a second degree felony. Defendant engaged in multiple acts of securities fraud constituting a Pattern of Unlawful Activity. Defendant in connection with the offer and sale of investment opportunities in limited liability companies and investment contracts made false statements. Defendant also used investors' funds in a manner inconsistent with statements made to investors. **Defendant was ordered to serve 150 days jail and to pay \$105,977.77 in restitution.**

### Chris McCormick

Defendant pled guilty to one count of Communications Fraud, one count of Unlawful Dealing of Property by a Fiduciary, and one count of Pattern of Unlawful Activity, each second degree felonies, relating to his role in a debt settlement scheme. **Defendant was sentenced to 1-15 years in the Utah State prison. A restitution hearing is scheduled later this year to determine restitution to more than 20 identified victims.**

### Josh Pryor

Co-defendant to Chris McCormick was found guilty by a trial court of two counts of Communications Fraud and one count of Pattern of Unlawful Activity, each second degree felonies, relating to his role in the debt settlement scheme. **Defendant was sentenced to 1-15 years in the Utah State prison with the Communication Fraud counts running consecutive to the Pattern of Unlawful Activity count.** A restitution hearing is scheduled later this year to determine restitution.



2022 OFFICE OF THE UTAH ATTORNEY GENERAL  
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