



2023

ANNUAL REPORT

UTAH ATTORNEY GENERAL'S OFFICE



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The background of the page is a photograph of the Utah State Capitol building. The building is a large, classical-style structure with a prominent central dome and a portico with many columns. In the foreground, there are wide stone steps leading up to the building, and a grassy area with some fallen leaves. The sky is a pale, overcast blue.

ATTORNEY GENERAL'S OFFICE

MISSION & VISION

MISSION

The mission of the Utah Attorney General's Office (AGO) 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 AGO strives to be the best public law office in 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'S OFFICE

PRIORITIES

Protect Utahns, particularly children

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 AGO investigates and prosecutes these crimes to make the state safe for Utah families and to support victims.

Defend the Constitution and provide effective legal representation

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.

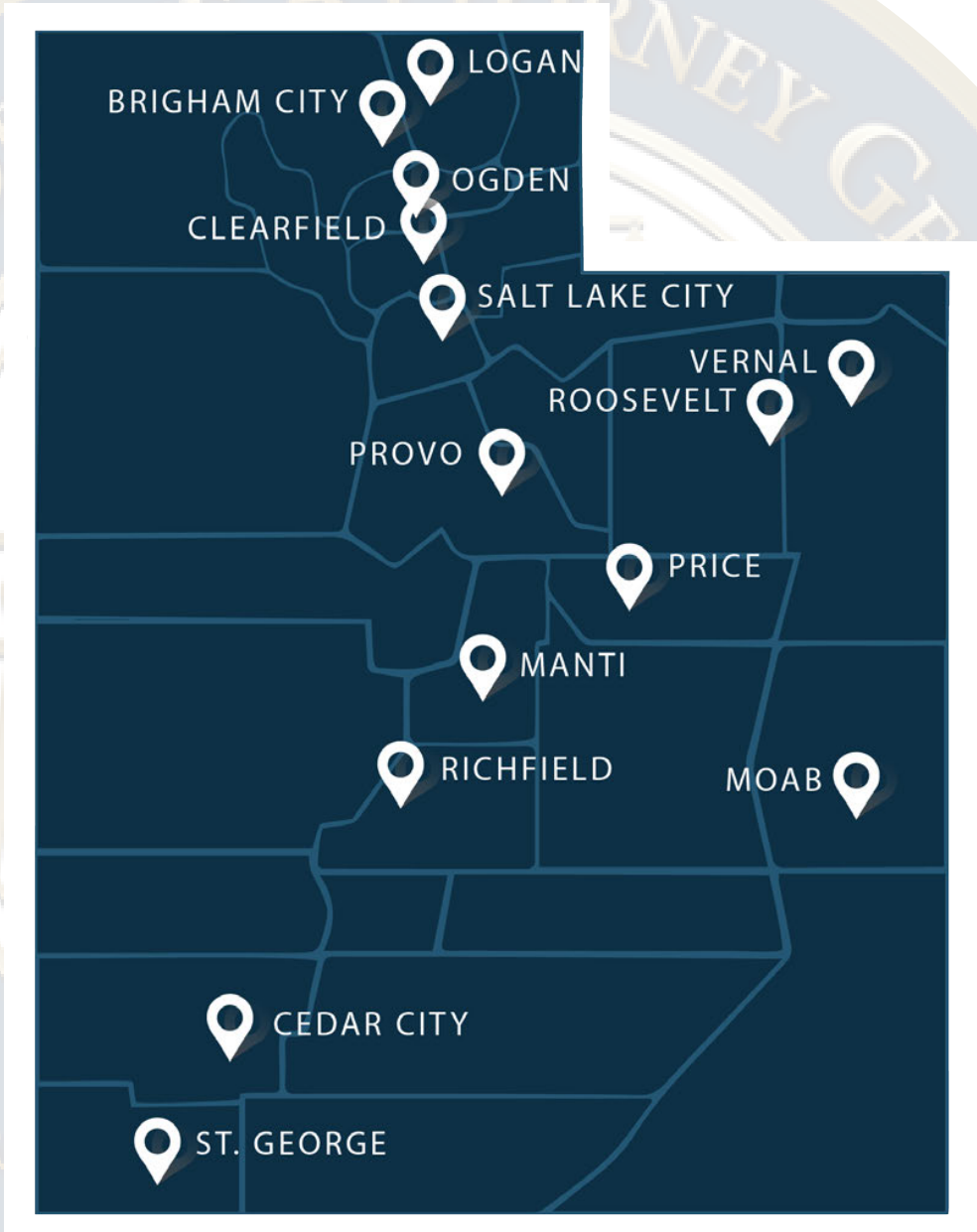
Defend Utah laws against federal government overreach

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

Protect Utah businesses and consumers from white collar frauds and scams

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

AG'S OFFICE LOCATIONS



Multistate Lawsuits, Amicus Briefs, & Comments Letters

In 2023, Utah filed or joined numerous multistate lawsuits challenging federal overreach including but not limited to:

State of Utah v. EPA, No. 23-1157 (D.C. Cir.); Utah v. EPA, No. 23-9509 (Tenth Cir.)

Utah challenged EPA's denial of its state implementation plan (SIP) regarding EPA's good neighbor rule that limits emissions affecting neighboring states. After EPA denied Utah's SIP, it promulgated a federal implementation plan (FIP) for Utah and 22 other states regarding good neighbor rule requirements. EPA's FIP would force the early retirement of Utah's coal power plants. Utah also filed a challenge to the FIP. Both challenges remain pending.

State of Utah v. Su, No. 23-11097

Utah led a 27-state lawsuit in the Northern District of Texas against a Department of Labor rule that unlawfully subverts protections in the Employee Retirement Income Security Act of 1974 (ERISA) for Americans' retirement accounts. The 2022 Rule makes changes that unlawfully authorize fiduciaries to consider and promote "nonpecuniary benefits" when making investment decisions. These changes make it easier for fiduciaries to act with mixed motives and harder for beneficiaries to police such conduct. The District Court denied the challenge and the states appealed to the Fifth Circuit.

Garfield County v. Biden, No. 23-4106 (Tenth Cir.)

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 in the District of Utah. 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." The District Court dismissed the complaint, and the state has appealed to the Tenth Circuit.

West Virginia v. EPA, No. 3:23-00032 (D.N.D.)

Utah joined 23 other states in a lawsuit against the Biden administration's "Waters of the United States" (WOTUS) rule that attempts to expand federal authority over nearly every waterway in the country. While the case was pending, the U.S. Supreme Court decided *Sackett v. EPA*, 21-454 where the court held that the Clean Water Act only applied to wetlands that were indistinguishable from waters of the United States. *Sackett* provided much clarity, but other issues remain regarding the EPA's revised WOTUS rule and the states will continue to litigate.

Indiana, et al. v. Mayorkas, et al., No. 1:23-cv-00106 (D.N.D.)

Utah joined an 18-state lawsuit challenging a proposed rule that provides that noncitizens who cross the southern border are presumed ineligible for asylum unless they were authorized to travel to the US under a DHS-approved parole process; they used the border patrol app to schedule a time and place to present at a port of entry, or show they were unable to access the app; or they were denied asylum in a third country en route to the US. The states argue that the rule's exceptions to the rebuttable presumption of asylum ineligibility unlawfully circumvent federal immigration laws and encourage immigrants to use the border patrol app to make false asylum claims.

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

BlackRock, Inc. (FERC, Docket No. EC16-77-002)

Utah led a coalition of 17 states in filing a Motion to Intervene and a Motion for Relief with the U.S. Federal Regulatory Commission (FERC) regarding BlackRock, Inc.'s blanket authorizations to buy, acquire or take over \$10 million in voting securities of public, electric, utility, transmitting or holding companies. The states argued that BlackRock was skirting federal law by telling FERC it is a passive investor in public utilities while actively pursuing its multiple commitments to net-zero initiatives. BlackRock's net-zero efforts threaten to make electricity more expensive and less reliable for the states.

Utah-led Amicus Briefs

In 2023, in addition to joining 95 amicus briefs, Utah led the filing of amicus briefs in multiple actions including but not limited to:

Biden v. Nebraska, et al., 22A444 (U.S. Supreme Court)

Utah co-led an amicus brief with Ohio and was joined by 15 other states in support of Respondents and objecting to President Biden's debt cancellation program. By a 6-3 vote, the court held that the Higher Education Relief Opportunities for Students (HEROES) Act did not authorize the Biden Administration's cancellation of approximately \$430 billion in student debt.

Tyler v. Hennepin, No. 22-166 (U.S. Supreme Court)

Utah led an 8-state amicus brief supporting the petitioner and seeking reversal of the Eighth Circuit's interpretation of the Takings Clause. There, a county sold the petitioner's home for \$40,000 to satisfy a \$15,000 tax bill and kept the remaining \$25,000. The court unanimously held that "history and precedent" establish that the county "could not use the toehold of the tax debt to confiscate more property than was due." The petitioner stated a claim under the Takings Clause and was entitled to just compensation.

Texas v. New Mexico, No. 220141 (U.S. Supreme Court)

Utah led an amicus brief joined by 22 other states in support of the states of Texas, New Mexico, and Colorado responding to the United States' objection. Texas filed an original action against New Mexico and Colorado alleging breach of the Rio Grande Compact. The United States is an intervenor in the case and objected to the states' joint motion to enter a consent decree. The amicus brief addresses the sovereign authority of the states to compact to equitably apportion and govern water among themselves and the states' authority to administer their state's water to meet compact obligations.

Stein v. PETA, No. 22-1150 (U.S. Supreme Court)

Utah led an amicus brief joined by 15 other states in support of North Carolina's certiorari petition in *Stein v. PETA*, No. 22-1150. The question presented is whether the First Amendment prohibits applying state tort law against double-agent employees who gather information, including by secretly recording, in the nonpublic areas of an employer's property and who use that information to breach their duty of loyalty to the employer.

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

Comments and Sign-On Letters

Utah led or joined over 30 comments and sign-on letters in 2023 opposing federal action or regulations including but not limited to:

FTC Non-Compete Rule

West Virginia and Utah submitted a comment letter for a coalition of 19 states regarding the Federal Trade Commission's (FTC) proposed ban of non-compete agreements. The letter argues that the proposed ban exceeds FTC's statutory authority, violates the U.S. Constitution, usurps states' existing enforcement regimes, and is arbitrary and capricious for many reasons.

Insurance Group ESG Commitments

Utah and Louisiana led a 23-state coalition in a letter to Net Zero Insurance Alliance members detailing concerns about the insurers' commitment to force insurance companies and their clients to rapidly reduce emissions leading to increased insurance costs and other financial hardships for our citizens. The letter detailed serious concerns about whether the requirements violated federal and state-equivalent antitrust laws and prohibitions on insurers altering insurance terms for reasons not reasonably related to the risk or expense of providing the insurance. Shortly after the letter, founding members of the alliance announced their intent to leave, some announcing that given the exposure to material antitrust risks, it was more advisable to work individually.

ATF Pistol Brace Rule

Utah joined a coalition of 27 state attorneys in a letter urging Congress to schedule a vote on a resolution involving the Bureau of Alcohol, Tobacco, Firearms and Explosives rule regulating pistol stabilizing braces. Stabilizing braces were designed to help people with disabilities use pistols. Since then, many others, including older persons, people with limited mobility, and those with smaller stature, have come to use the braces. These braces have been sold as firearms attachments for more than a decade, not subject to regulation.

BLM Conservation Lease Rule

Utah joined two comment letters to the Bureau of Land Management (BLM) opposing its proposed "Conservation and Landscape Health" rule. Idaho and Alaska spearheaded the letters. The letters detail multiple concerns with the rule including BLM's lack of authority to lease public lands for 'conservation' as a use.

Protecting Veterans from Fraud

Utah joined a bipartisan coalition of 44 attorneys general sending a letter to U.S. Congressional leaders expressing support for the Governing Unaccredited Representatives Defrauding VA Benefits Act (GUARD VA Benefits Act). The letter urged members of Congress to protect veterans, and their families, from unaccredited predatory actors who seek to profit from veterans' service.



AG'S OFFICE

2023 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 AGO 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 AGO's Best of State 2023 awards.

Elected State Official: Utah Attorney General Sean D. Reyes

Military Personnel/Unit: Utah@EASE

Public Safety: AGO Investigations Division

Public Safety Officer: Utah County Sheriff Michael Smith

State Agency/Office: Utah Attorney General's Office

Youth Resource: AGO Youth Advisory Committee | Teen Titans

State Agency/Office: Utah Attorney General's Office

Web-based Community Resource: SafeUT

Public Safety Training: Utah VirTra Training





INITIATIVES & PROGRAMS



UTAH OPIOID TASK FORCE

OVERVIEW

The Utah Opioid Task Force (OTF) 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 AGO, U.S. Drug Enforcement Administration, and Office of the U.S. Senate in 2017, this initiative is a voluntary task force that helps to prevent opioid misuse and overdose, while having dedicated staff to create action-oriented agendas, collaborate, provide education, and have the capacity to respond to timely occurrences in the opioid realm. This multidisciplinary approach is a place to discuss comprehensive legislation and innovation of active solutions that happen at quarterly meetings and beyond. The OTF 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 108,000 people will have died due to a drug related overdose in 2023. Provisional data from June 2022 to June 2023 shows Utah had 691 cases of drug overdose death. Utah was once ranked 4th in the nation for drug overdose deaths but is now ranked 38th in the nation.

OPIOID LITIGATION

The AGO 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 \$495 million will be paid out to Utah over 18 years, with 50 percent of those dollars going to the state and 50 percent to the counties.

In addition, in 2023, Attorney General Reyes announced a settlement with drug makers Teva, Allergan, and the pharmacies of CVS and Walgreens. Utah will receive \$209 million, to be paid over 15 years. In addition to the funds that the state will receive, the settlements also required Teva to prevent all opioid marketing and ensure systems are in place to prevent drug misuse. Allergan was required to stop selling opioids for the next ten years. CVS and Walgreens pharmacies are required to monitor, report, and share data about suspicious activity related to opioid prescriptions.

SAVING LIVES & ADDICTION RECOVERY

In anticipation of these opioid settlements, 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 the community to collect feedback about how opioid settlement dollars should be allocated. The OSAC published the Utah Opioid Crisis Response Blueprint here: <https://www.utahopioidpriorities.org/>

This blueprint provides guidelines regarding how this funding should be allocated based on subject matter expertise, community input, and research. The principles highlighted in the blueprint have been presented to the Utah Legislature to establish them into Utah statute. The OSAC makes recommendations to the Utah Legislature about how to allocate settlement dollars, which go towards ventures that truly ameliorate the harms of the opioid crisis through efforts like community education, prevention, and treatment services.



Utah@EASE

OVERVIEW

Utah@EASE is a referral program led by the AGO in conjunction with the Utah Department of Veterans and Military Affairs and the Utah State Bar. The public-private partnership offers pro bono referrals for legal assistance and representation to those in uniform and no longer in uniform, who were characterized Honorable or General at discharge, for SCRA, USERRA, landlord, debt, consumer fraud, predatory lending, immigration, and wills. Criminal, family, and personal injury matters, among others, and legal matters against the fed, a state, county, or city are not covered.

Utah@EASE works closely with the U.S. Department of Veterans Affairs (VA), Veterans Justice Outreach Office, to ensure that veterans who contact their offices seeking covered legal assistance are referred to Utah@EASE. Legal assistance to veterans is not a federal benefit. The VA does not directly provide legal services.

Utah@EASE regularly works with the National Association of Attorneys General (NAAG) on updating and publishing its Veterans Legal Manual as well as serving on the NAAG Military Affairs committees. In 2023, Utah@EASE won Utah Best of State, Best Military Personnel/Unit, for the fifth straight year.

BY THE NUMBERS (UTAH@EASE)



ATTORNEY
VOLUNTEERS

59

INQUIRIES

231

SUPPORTED

*(SCREENING, READY,
PLACED, CLOSED,
WITHDREW)*

164



SAFEUT

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 and chaired by the AGO. SafeUT allows students in crisis or with other concerns to open a two-way messaging service with licensed 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. The app is staffed by master's-level crisis counselors at the Huntsman Mental Health Institute (HMHI) 24 hours a day, 365 days a year.

In 2023, SafeUT won the Best of State Award for Best Web-based Community Resource for the sixth 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 a texting option which youth are more comfortable using. In the past year, staff have worked to make SafeUT even more teen friendly and approachable, as well as increased the number of parents who are aware of the service.

In 2023, SafeUT clarified its messaging to help drive change around the stigma of talking about mental health. Messaging campaigns such as "Any Size Crisis. Any Time" communicate that no matter how extreme or insignificant a problem seems, SafeUT can help students conquer frustration, anxiety, or anything else they may face.

BY THE NUMBERS



BACK-AND-FORTH CHATS

1,160,727

STUDENTS WITH ACCESS TO SAFEUT

885,519+

LIFE-SAVING INTERVENTIONS

536

Statewide Success Stopping Teen Suicide & Violence in Schools

At the end of the 2022-2023 school year, 96% 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 885,519+ students with access. In fiscal year July 1, 2022- June 30, 2023, SafeUT's licensed mental health counselors responded to over 1,160,727 back-and-forth chats, with 536 life-saving interventions.

Additionally, there were 791 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.

About 10% of potential school threat tips submitted via the app were categorized as planned school attacks.

SafeUT Frontline & SafeUT National Guard

The 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 2023, SafeUT added corrections officers to the list of first responders.

SafeUT expanded its services to the Utah National Guard in 2019 and then Utah's first responders and their families in 2020.

Since launching in 2019, SafeUT National Guard has had more than 4,000 downloads with 15,789 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.

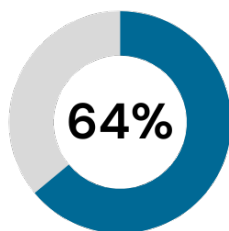
The app is a lifeline to members who don't feel comfortable seeking professional help, with HMHI counselors who are trained to understand the unique challenges they face.

In FY 2023, HMHI counselors participated in 26,336 back-and-forth chat messages with frontline workers: 64% were from the health care sector, while 25% were law enforcement, and 11% were fire/EMS.

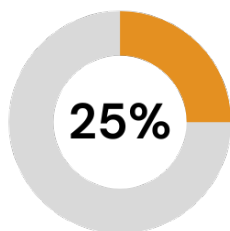
Promoting the app as a confidential 24/7 tool for these professionals was paramount, all centered around messaging that supports their unique situations.

SafeUT and its partners continue to destigmatize talking about mental health through its messaging.

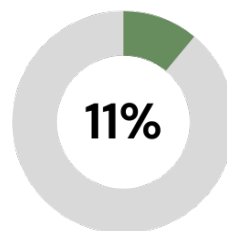
FRONTLINE WORKER CHATS



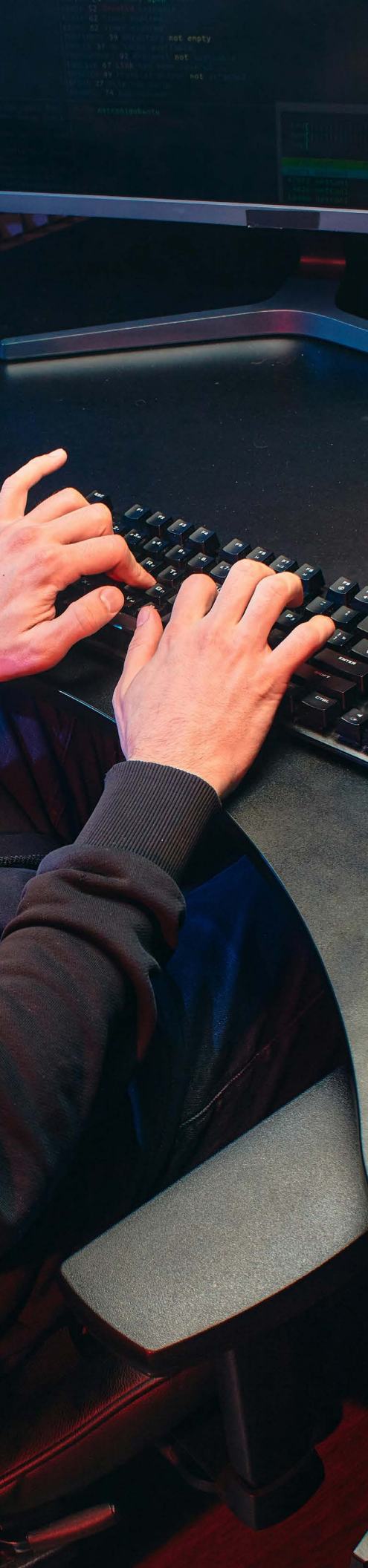
HEALTH CARE



LAW ENFORCEMENT



FIRE / EMS



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 AGO 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 WCCOR 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 WCCOR won the Utah Best of State Award for Best Publication.

In FY 2023, 36 offenders were added to the WCCOR. There are currently 355 offenders on the WCCOR.

The WCCOR can be accessed at utfraud.com.



TEEN TITANS

AGO YOUTH ADVISORY COMMITTEE

OVERVIEW

The Utah Attorney General's Youth Advisory Committee (Teen Titans) engages youth aged 13-18 to help improve Utah. They explore topics that affect them and provide advice to the AGO on events, programs, and policies that directly influence teens.

In preparation for the 2023/2024 school year, six teens were invited to join the AGO during the summer to evaluate the program and provide their top topics of choice for the coming school year. The group was led by a University of Utah undergrad student who brought energy and a lot of fun to the summer program. Each week they met at the Utah State Capitol to work on content and to promote the program to schools and recreation centers throughout the valley.

2023 / 2024 School Year to Date

The youth are getting to know each other more, which is vital as many of them come from different schools, age ranges, and cultures.

Some of the highlighted topics of discussion this year include:

- AI, with experts from the college and law sector
- Labor and sex trafficking in Utah, presented by the anti-trafficking investigators
- Sustainable consumerism
- National Security Agency and what it's like to work in a top-secret agency
- Mental Health Screenings, Rep. Steve Eliason and how to eliminate the stigma of talking about mental health

PLAY Dates at Elementary Schools

In addition to bi-weekly meetings, the Youth Advisory Committee introduced the Police Leading Activities for Youth (PLAY) program, which was initiated by the summer interns as a way to get younger kids to socialize more, eliminate isolation, and introduce them to members of law enforcement in a friendly setting. The Committee teamed up with the AGO's law enforcement officers and two elementary schools in the Granite School District.

The youth visited the first school in November and had a great time. An AGO ICAC Education Officer taught internet safety through an interactive game and then Teen Titans, elementary students, and law enforcement officers played group games together.



AGO/Youth Advisory: Elementary School PLAY Event







APPEALS,
CONSTITUTIONAL
DEFENSE, &
ANTITRUST

4 SECTIONS

37 ATTORNEYS & 8 STAFF



CONSTITUTIONAL DEFENSE & SPECIAL LITIGATION

OVERVIEW

The Constitutional Defense and Special Litigation (CDSL) Division 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

46

AGENCY OR COUNTY
CONSULTATIONS

36

NOTABLE CASES

Free Speech Coalition, Inc., et al. v. Anderson, et al.

This new law requires internet sites that distribute content harmful to minors to verify users' age. The plaintiffs brought First Amendment, due process, and Commerce Clause claims.

The CDSL secured dismissal of the complaint, rendering the plaintiffs' request for preliminary injunctive relief moot.

This was a big win for children in Utah. The case is now on appeal to the 10th Circuit.

Denning v. Henderson, et al.

In this case, the CDSL defended the Lt. Governor, prevented a preliminary injunction, and obtained dismissal of the raised claims.

This case involved placement of the Republican Party's nominee on the ballot for the upcoming special election to fill a vacancy in Utah's Second Congressional District.

Medina, et al. v. Allen, et al.

The CDSL successfully defended the constitutionality of Utah's laws governing bail procedures for criminal defendants.

The plaintiffs brought a class action lawsuit and raised due process, equal protection, and Sixth Amendment claims.

After several rounds of briefing and oral argument, Judge Nuffer dismissed the plaintiffs' claims. The case is now on appeal to the 10th Circuit.

Merastar Insurance Company v. Utah State Tax Commission, et al.

The CDSL successfully defended the Utah Tax Commission and Division of Motor Vehicles in this case involving a constitutional challenge to the towing and impounding fee statute.

HB 11

The CDSL is currently defending the constitutionality of HB 11, a bill that became law in 2022.

This bill established parameters for participation in female interscholastic sports to preserve fair competition and safety.

Planned Parenthood Association, et al. v. Utah, et al. (Trigger Law and HB 467)

The CDSL continues to defend Utah's trigger law in this case, which prohibits abortions after conception with limited and defined exceptions, along with the consolidated claims against HB 467, a 2022 law imposing licensing restrictions on abortion clinics.



OTHER NOTABLE CASES

Utah v. NAAG

CDSL is prosecuting the state's claims against the National Association of Attorneys General (NAAG), seeking an accounting and distribution of money held by NAAG as required by the State Money Management Act.

Menzies, et al. v. Redd, et al.

In *Menzies v. Redd*, CDSL is defending the plaintiffs' constitutional challenges to the methods of execution the state employs to execute prisoners sentenced to death.

League of Women Voters, et al. v. Utah State Legislature, et al.

CDSL represents the Lt. Governor in a pending challenge to the legislature's redistricting of congressional boundaries. The plaintiffs contend the districts, as drawn, constitute political gerrymandering prohibited by the state constitution.

Summit County v. Park City, et al.

CDSL was tasked with defending SB 84 from the 2023 legislative session that changed certain zoning laws in Summit County.

CDSL secured dismissal of the plaintiffs' Due Process Clause, Uniform Operations of Laws claims, special legislation, and spot zoning claims.

Great Salt Lake Litigation

In *UPHE, et al. v. Utah Department of Natural Resources, et al.* CDSL is working collectively with assistant attorneys general in the Natural Resources Division to defend against the plaintiffs' claims that the public trust doctrine requires the state to divert and curtail upstream appropriated water rights to maintain minimum safe water levels in the Great Salt Lake.

CIVIL APPEALS

OVERVIEW

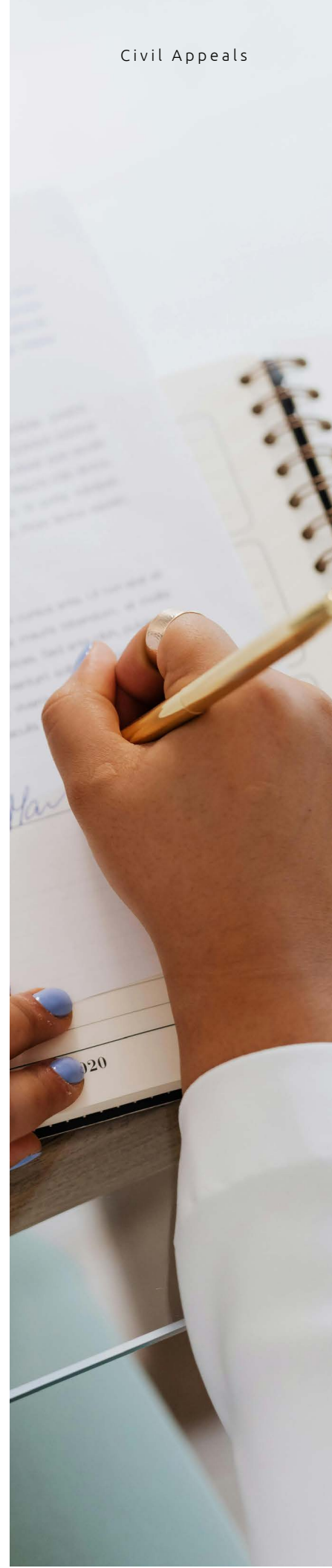
Civil Appeals Division appellate lawyers defend the state's victories from challenges on appeal or obtain reversals by the appellate court of erroneous, adverse decisions. The division frequently works together with other trial attorneys in the AGO on complex substantive matters involving challenges 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 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 AGO 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.

Planned Parenthood Association of Utah v. State of Utah (Utah Supreme Court)

The Planned Parenthood Association of Utah (PPAU) sued to enjoin enforcement of Utah’s “Trigger law,” which prohibits abortions subject to a few exceptions. PPAU argued the law violated various Utah constitutional provisions.

The district court granted PPAU a preliminary injunction. The AGO successfully requested an interlocutory appeal of the order.

The parties’ briefs focused on whether the original public meaning of the Utah Constitution guarantees a right to an abortion. The Supreme Court heard oral argument in August 2023. The decision is still pending.

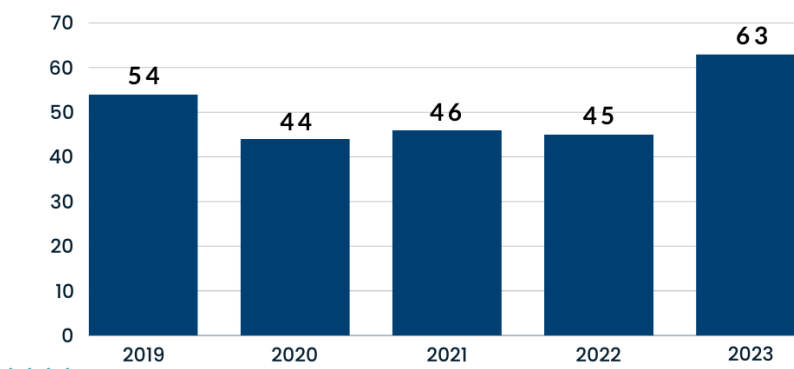
BY THE NUMBERS



NUMBER OF BRIEFS FILED
IN 2023

63

THROUGH THE YEARS



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 trains and advises local prosecutors throughout the state. The division also writes states' amici 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 the 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



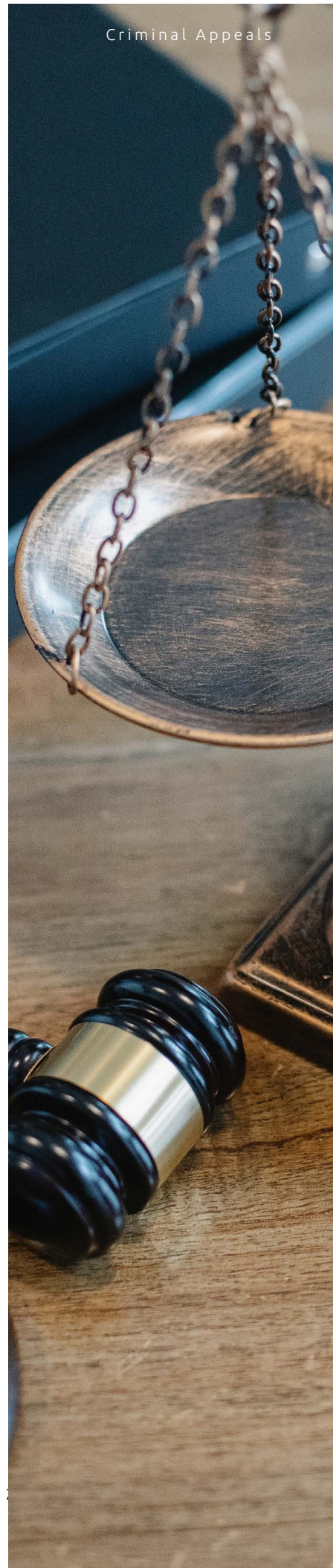
NUMBER OF BRIEFS FILED
IN 2023

118



AVERAGE # OF
EXTENSIONS

3.24





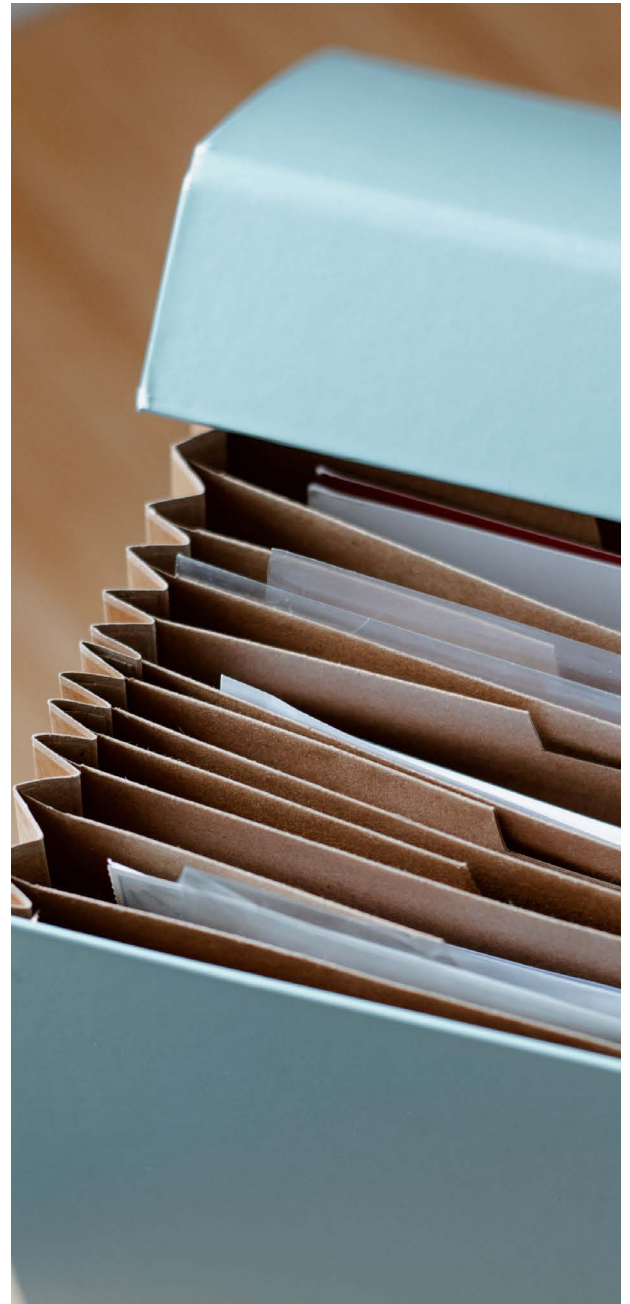
CASE HIGHLIGHTS

State v. Chadwick

In this matter before the Utah Supreme Court, our attorneys obtained a ruling protecting crime victims from intrusive review of their confidential therapy records. The court has previously struck a very careful balance between victims' rights and defendants' rights, allowing trial courts to view crime victims' therapy records under limited circumstances to determine whether they contain any material a defendant is constitutionally entitled to. In this case, Chadwick argued that his appellate attorney should also get to look through the victim's therapy records so the attorney could argue that the trial court should have turned over more records. The supreme court rejected that argument, reaffirming the importance of having a strong therapist–patient privilege to encourage crime victims to seek help.

State v. Green

In this high-profile case involving serial-rapist Torrey Green, our attorneys persuaded the Utah Supreme Court to reconsider its rules about when the jury can hear about a defendant's other bad acts. The jury convicted Green of sexual assault, rape, forcible sexual abuse, sexual battery, and object rape against six different women. In his appeal, Green claimed that each of the six cases should have been tried separately—without informing jurors of Green's previous convictions. The court rejected Green's arguments, held that Green's victims could testify about events that were not charged in Green's case, and recast the rules about other bad acts to make it easier for prosecutors to admit evidence of similar acts of sexual assault against multiple victims in future sexual assault prosecutions.





HIGHLIGHTS

- During FY 2023, 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 Antitrust Division settled several significant cases, including a “product hopping” case against the manufacturer of Suboxone. That case settled for a national total of over \$102 million, of which Utah's share was \$3.4 million.
- The section successfully represented Utah consumers in several high-profile data breach investigations and obtained settlements totaling nearly \$140,000 for civil penalties and attorneys' fees.
- The division takes a leadership role in cases and investigations that primarily affect Utah, and by joining the executive committee on selected major national multistate cases and investigations.

BY THE NUMBERS (ANTITRUST)



ACTIVE MATTERS
(LEADERSHIP ROLE)

9



ACTIVE MATTERS
(SECONDARY ROLE)

26



AGGREGATE RECOVERY

\$3.546 M



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CIVIL DEPARTMENT

7 DIVISIONS

146 ATTORNEYS & 60 STAFF



STATE AGENCY COUNSEL

OVERVIEW

The State Agency Counsel (SAC) Division acts as a catch-all for the AGO, handling work that doesn't fit within more narrowly focused divisions.

LEGAL COUNSEL & SERVICES PROVIDED

The SAC 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 & 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



NOTABLE SUCCESSES

This year, the SAC broke records when it came to collections and obtaining money judgments. Counsel for the Office of State Debt Collection was responsible for **collecting \$16.4 million for that office in FY 23.**

Additionally, despite staffing setbacks, we were still able to collect over \$1 million for the Industrial Accidents Division of the Labor Commission.

Also of note, counsel for the Utah Office for Victim's of Crime obtained orders for over \$1 million in restitution.

Other highlights for 2023 include:

- The Utah Inland Port Authority initiated discussions to return to AGO representation, which began in June 2023. Leadership of the Inland Port reports high satisfaction with the quality and value of AGO legal services.
- *Ute v. Utah*: This case, now, technically in its 75th year, involves the delineation of Indian Country in the Uintah Basin, and therefore the assignment of criminal, civil, and regulatory jurisdiction. The case has been in mediation since the start of 2016. The matter has been moved forward by the division by working on a consent decree and hopefully MOUs regarding law enforcement and other matters. Most recently, the parties agreed to bifurcate a specific issue of Indian country status of split estate land and have that question litigated. Meantime, the Tribe agreed it would dismiss the pending appeals before the 10th Circuit, and to let the consent decree and jurisdiction map reflect the decision of the courts on the split estate issue.
- Other Ute cases: The Tribe has other pending litigation naming the state regarding water rights, the Uncompahgre portion of the Reservation, the right to purchase Tabby Mountain, officer involved shootings in the Basin, and other matters. The SAC has advised the Lt. Governor, and worked closely with the litigating AAGs to keep these several separate matters from affecting the others. And, generally speaking, the state has been successful in getting these cases dismissed or otherwise resolved.
- Municipal incorporation litigation: Since 2020 there have been at least six separate actions involving the sponsors of the incorporation of Erda City, and landowners who were not happy about the incorporation. The Lt. Governor's Office has been involved as a necessary party to at least four of these cases. Two of those were dismissed; two others are on appeal to the Utah Supreme Court and pending. In representing the Lt. Governor's Office, SAC has been involved in these cases and resulting legislative amendments and other policy decisions. There is a separate GRAMA appeal stemming from the Erda matters, also.

- **GOEO:** The SAC assisted the Governor’s Office of Economic Opportunity (GOEO) to successfully close a deal with Texas Instruments to expand their chip fabricating plant here in Utah, which was an \$11 billion investment for the state.
- **Easements:** The division assisted GOEO to update and expand the inventory of state owned easements around Hill Air Force Base (HAFB). The state acquired these easements over the past decades, and invested millions of dollars to preserve the land around the base, and thereby prevent development from interfering with HAFB operations. The inventory had become outdated and useless. The SAC reviewed thousands of pages of easement records, ten bankers boxes of documents, to update the inventory and make it more accurate. We are now moving into renegotiating a number of those easements and otherwise perfecting the state’s interest in all of the easements.
- **Pete Suazo Utah Athletic Commission (PSUAC):** The AGO amended administrative rules so that PSUAC could charge more broadcast fees from events. The increase went from \$25,000 to \$50,000, so when the Ultimate Fighting Championship event (UFC 291) took place at the Vivint Arena/Delta Center on July 29, PSUAC received an additional \$25,000.
- **In January 2020,** two Muslim inmates at the Central Utah Correctional Facility (CUCF) filed suit against the Utah Department of Corrections (UDC) alleging that Muslim inmates were being denied access to congregate religious services. After almost three years of navigating complex discovery and negotiations during the onset of the COVID-19 pandemic, Corrections Section AAGs representing UDC successfully reached a settlement that both ensured Muslim inmates would have access to congregate religious services and effectively minimized risk of a potentially long, drawn out court battle that could have affected UDC both monetarily and reputationally.



BY THE NUMBERS (SAC)



OFFICE OF STATE DEBT COLLECTION (OSDC) AMOUNT COLLECTED

\$16,293,539



RESTITUTION AMOUNT FOR UTAH OFFICE FOR VICTIMS OF CRIME

\$1,073,661

RULES/POLICIES REVIEWED

261

CIVIL REVIEW COMMITTEE RESPONSES TO COMPLAINTS

478

NOTABLE CASES

GRAMA

Members of the public sued Utah, Juab, and Millard Counties over the denial of their GRAMA requests for certain election materials, including the “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.”

The Lt. Governor’s Office, represented by the AGO, intervened in the lawsuit 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.

The Fourth District Court dismissed the case holding that the 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. He brought the action in front of the Utah Retirement Systems Board. Exposure for the state would potentially have been millions of dollars if 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, 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



APPROX.
NUMBER OF
CONSULTATIONS

700



APPROX. NUMBER
OF RULES DRAFTED
& REVIEWED

75



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.



AMOUNT COLLECTED

\$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 333 active lawsuits at any given time.**

LAWSUITS

In FY 2023, the Litigation Division closed 244 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 2023, the Litigation Division received 235 new cases, screened 380 employment matters, and provided 128 training hours to state agencies, universities, and school districts.

BY THE NUMBERS



NEW CASES

235



CLOSED CASES

244



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

128



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 considering discipline or termination of an employee. This advice helps agencies avoid exposure if the employee later sues the state. Recently, the Utah Division of Risk Management 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, 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 assisted in resolving several pre-lawsuit disputes and continue to offer assistance on civil

rights matters at the request of state agencies, school districts, colleges, and universities.

Trainings. Attorneys in the Litigation Division provide training to state agencies, universities, and school districts in Title VII, Title IX, Whistleblower, and the ADA. Division attorneys also provide continuing legal education around the state and the country in their areas of expertise, including the First Amendment, qualified immunity, constitutional interpretation, and appellate law updates.

Professional Activities. Litigation attorneys participate in professional legal organizations, are members of rule-making committees, and sit on the board or chair state and national legal organizations.

NOTABLE CASES

Robinson v. Cox, et al.

After the jury deliberated for approximately three hours, they returned verdicts finding that none of the officers violated the plaintiffs' civil rights.

This case arose out of a March 27, 2021, Salt Lake Tribune article in which seven women accused Robinson, the communications director for the Salt Lake County Republican Party, of body shaming them, calling them degrading names, and describing people with demeaning, derogatory, and sexual terms.

The night before the story broke, the chair of the Salt Lake County Republican Party sent a letter to the delegates and others, claiming the women had made their allegations against Robinson because of their own political agendas.

State officials, including the Governor and Lt. Governor, legislators, and state employees responded to the letter and the alleged misconduct via joint press statements, blogs, and posts on social media, condemning the bullying, harassment, and sexism while voicing support for the "brave women" who went public with their complaints.

Robinson sued, claiming the press statements, posts, tweets, blogs, and other public statements defamed him. But the judge dismissed the claims against the state officials and state employees, ruling that the comments they made were "opinions, criticisms, and hyperbolic rhetoric" that were not defamatory as a matter of law.

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." The 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.

The 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.

Merino v. UTA

After a three-day trial in March, the jury returned a verdict for UTA.

Merino claimed he was injured when a UTA bus hit his food truck. But UTA bus cam video and physical evidence showed the bus never hit the food truck; only the passenger-side mirror of the UTA bus clipped the food truck's mirror, which cracked the glass and did some minor damage to the truck.

Merino had demanded \$150,000 before trial for his alleged injuries, but the jury found he was only entitled to \$38,000.

Thompson v. Murray City School District

After a four-day trial, the jury decided in favor of Murray City School District in a lawsuit brought by a former high school student who claimed he got an inguinal hernia from lifting weights in his class in 2017.

Thompson claimed that he was attempting a "one-rep max" deadlift in class and that his teacher forced him to lift more weight than he could safely handle.

The jury returned with a "no cause," finding there was not sufficient evidence that Thompson's hernia was caused by the deadlift he did in his class.

A vertical photograph on the left side of the page shows a mountain landscape. In the foreground, there is a rocky shoreline with a small pool of water reflecting the sky. The middle ground is dominated by a dense forest of evergreen trees. In the background, misty mountains rise under a hazy sky.

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 (DOG); 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; Utah Lake Authority; and Office of the Great Salt Lake Commissioner 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 legal 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

Six of the Natural Resource Division attorneys and a paralegal represent three agencies and advise the Division of Oil, Gas & Mining (DOG M), Bureau of Oil & Gas Management (BOGM), and Forestry, Fire & State Lands (FFSL).

FORESTRY, FIRE & 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, Upper Weber, 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.

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 50 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.



WATER RIGHTS, WATER RESOURCES, AND INTERSTATE WATERS

The eight 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 (two attorneys), and Colorado River Authority of Utah (one attorney). They are all co-located with their respective clients 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 (½ attorney), and Division of Recreation (½ 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; criminally prosecuting livestock theft cases; 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 Coordinating 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 (DNR)

JUDICIAL CASES

98

ADMINISTRATIVE
ACTIONS

142

MAJOR LEGAL PROJECTS
(CONTRACTS, RULES, NEGOTIATIONS)

165

Public Lands Coordinating Office (PLPCO)



62 CASES

Department of Agriculture and Food (UDAF)

CASES

4

ADMINISTRATIVE
ACTIONS

38

MAJOR LEGAL PROJECTS
(CONTRACTS, RULES, NEGOTIATIONS)

50

NOTABLE CASES

WATER RESOURCES

In *Water Horse Reserve, LLC v. Teresa Wilhemsen*, the Division of Water Rights with the Division of Water Resources and other intervening defendants successfully defended a judicial review appeal challenging the State Engineer's denial of an application to appropriate 55,000 acre-feet of water from the Green River. On December 4, 2023, the court granted the State Engineer and intervening parties' motion for summary judgment and denied Water Horse's application to appropriate.

DEPARTMENT OF AGRICULTURE & FOOD (UDAF)

The AAGs representing the UDAF were instrumental in assisting and advising UDAF's Livestock and Wildlife Predator Management Program in its transition from a cooperative program with APHIS-WS (federal USDA program) to an entirely state-run program. This team also assisted UDAF's Conservation Division in its new land trust agency role to help owners place their private property under conservation easements.

PARKS & OUTDOOR RECREATION

With support and assistance from its assigned AAG, the Division of State Parks made extensive changes to its real property management administrative rule and the Division of Outdoor Recreation enacted over 30 new administrative rules.

OIL, GAS & MINING (DOGM)

AAGs provided significant support and assistance to the DOGM in securing \$300,000,000 in bonding from Kennecott Copper to insure the state against any reclamation costs associated with the mine in the future. DOGM handled more administrative matters in 2023 than in any previous year.

PUBLIC LANDS POLICY (PLPCO)

In *Center for Biological Diversity (CBD) v. Dept. of Interior*, the state intervened to help defend the Bureau of Reclamation's (BOR) FONSI and EA

authorizing the execution of the Green River Block Exchange (GRBE) agreement. The GRBE agreement was designed to facilitate an exchange of water allowing Utah to use an existing water right without impairing BOR's flow and temperature obligations for endangered fish below Flaming Gorge Dam. The plaintiffs claimed the GRBE was a new use of water and caused an over-allocation of Colorado River Basin water, and that BOR's failure to analyze cumulative impacts was arbitrary and capricious, and a violation of NEPA. The Federal District Court rejected the plaintiffs' claims on July 7, 2021, and the plaintiffs appealed. On July 10, 2023, the Tenth Circuit affirmed the District Court decision.

DIVISION OF WILDLIFE RESOURCES (DWR)

AAGs assisted the DWR in reaching agreement with Colorado and US Fish and Wildlife Services (FWS) concerning Colorado's intended reintroduction of gray wolves in the western half of the state. Through the AGO and DWR's efforts, FWS issued DWR a 10(a)(1)(A) permit authorizing it to capture any gray wolf in Utah and return it to Colorado. The AGO also helped reorganize and recodify the entire Wildlife Code.

FORESTRY, FIRE & STATE LANDS (FFSL)

AAG's for FFSL successfully defended an administrative appeal and subsequent judicial appeal challenging FFSL's denial of Lake Restoration Solutions' (LRS) permit application to construct a series of islands on Utah Lake interconnected by bridges and causeways. Mike Begley and Emma Whitaker received ENREL's Attorney of the Year award for this work.

STATE ENGINEER & WATER RIGHTS

The Water Rights Adjudication team resolved 18 Proposed Determination objections, one List of Unclaimed Rights objection, and assisted or secured multiple LUR and PD interlocutory decrees within various subdivisions. The team also participated as amicus curiae for the State Engineer in an appeal before the Utah Court of Appeals concerning the scope of general adjudications in the state.

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 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 AGO 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, administrating, 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.

NOTABLE CASES

EXECUTIVE DIRECTOR'S OFFICE (EDO)

Allocation of Responsibility for Program Management Division of Air Quality (DAQ)

The delegation authority for federal environmental programs is often referred to as “primacy.” To maintain primacy, Utah Department of Environmental Quality’s (DEQ) statutes and rules must be at least as strict as the federal law. The Environmental Protection Agency (EPA) retains an oversight role for the delegated programs and remains responsible for ensuring the delegated federal programs are properly implemented, managed, and enforced by the state. Each year, the DEQ and the EPA enter into a Performance Partnership Agreement to allocate responsibility for program management. The Environment Section provides legal support to the Executive Director’s Office (EDO) in resolving program management responsibilities.

Interactions with Local Health Departments

Unlike the media specific environmental programs delegated to the state, the authority of local governments has traditionally focused on public health matters such as immunizations, sanitation, safety, and the general welfare of residents. Local Health Departments (LHDs) may assist the DEQ in various environmental regulatory matters, subject to the more specific provisions in the Environment Code (Title 19). The Environment Section assists the DEQ with creating stronger partnerships with the LHDs.

NOTABLE CASES *(cont.)*

DIVISION OF AIR QUALITY (DAQ)

Regional Haze Tenth Circuit Appeal

The DAQ administers the Federal Regional Haze Program by preparing State Implementation Plans. The program regulates visibility in national parks to achieve natural visibility conditions by 2064. The main facilities subject to these regulations are the Hunter and Huntington coal-fired power plants owned by PacifiCorp and several other smaller co-owners.

The program is long-term and is divided into several planning periods. During the first planning period, the DAQ issued a state plan to control emissions of nitrogen oxide that included the closure of the Carbon power plant in 2015, and upgraded Low NOx Burners with Overfire Air controls on Hunter and Huntington units subject to regulation.

This plan was economically feasible for the industry and reduced haze-causing pollutants in compliance with the reasonable progress requirements of the Clean Air Act toward natural visibility.

Good Neighbor Litigation: Ozone Transport Plans

Utah was successful in obtaining a stay of the state plan disapproval from the Tenth Circuit. Due to this ruling, the EPA issued a final interim rule exempting Utah facilities subject to the federal plan from the requirements of the federal plan. Even though the stay is temporary and only lasts until the litigation concludes, this is an important development for Utah. Exemption from the federal plan means that Hunter and Huntington do not have to install costly controls while the matter is litigated.

If Utah is ultimately successful in challenging disapproval, the controls may not be required at all. This ruling has a similar positive effect on the stability of the grid and electricity prices as the regional haze ruling discussed above.

DIVISION OF DRINKING WATER (DDW)

The DDW has been working on comprehensive rulemaking to address complex legal and regulatory issues relating to fundamental drinking water regulatory issues, including filling important gaps in the current rules.

This rulemaking effort goes back to before 2018 and, after extensive stakeholder involvement during 2022-2023, is scheduled for formal rulemaking in 2024.

This rulemaking has involved significant input, drafting, and analysis from the Environment Section, including extensive legal review and comment responses involving the EPA.

DIVISION OF ENVIRONMENTAL RESPONSE AND REMEDIATION (DERR)

The Environment Section attorneys drafted nine 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. During that same period of time, the DERR issued No Further Action letters closing out petroleum releases, and the Environment Section is active in serving on the DERR's Closure Committee in helping to close out difficult sites, often including drafting environmental covenants to help with risk-based closures.

ENVIRONMENT NOTABLE CASES *(cont.)*

DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL (DWMRC)

Promontory Point Resources Class V Permit Application

Promontory Point Resources (PPR) holds a Class I (non-commercial) Solid Waste Permit for its Promontory Point Landfill. The first landfill cell has been constructed under that Permit.

In 2020, PPR re-applied for a Class V (commercial) Solid Waste Permit for its Landfill. The Director of the Division of Waste Management and Radiation Control (DWMRC), his staff, and the assigned member of the Environment Section of the AGO have been reviewing and evaluating the permit application, PPR's statutorily required Needs Assessment, and related submissions from PPR.

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 DOGM to the DWMRC, directly under the EPA programs.

This is a new program for the DWMRC and has required extensive coordination with the 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 and plan for the major program transitions.

The AGO Natural Resources Division representing the DOGM have played similar roles

In March 2023, the DWMRC and the DOGM published a joint outline that described how the proposed changes may affect exploration and production waste facilities.

With the support of the Environment Section, the WMRC has begun to draft new rules to address the proposed changes.

These rules are expected to proceed to the rulemaking process in 2024. This has been a constructive, cross-agency effort that is ongoing and will have long-term, statewide effects.

DIVISION OF WATER QUALITY (DWQ)

The DWQ received over 750 public comments in response to the Draft Clean Water Act 401 Water Quality Certification prepared for the proposed U.S. Magnesium Canal Continuation Project.

The Environment Section assisted the DWQ in reviewing, considering, and researching all legal issues raised in the comments, in responding to comments, in compiling the administrative record, and in preparing the final certification decision.

ADMINISTRATIVE LAW COMMITTEE & TRAINING

Attorneys in the Environment Section of the AGO have played a lead role in supporting the formation of a new committee within the AGO to support professional development, training, and support for attorneys who practice administrative law. These efforts have included creating continuing legal education and training materials, organizing an environmental law bootcamp for the AGO, as well as working towards improving the Utah Rules of Civil Procedure as relating to interface with the Utah Administrative Procedures Act.



HEALTH & HUMAN SERVICES

OVERVIEW

The Health and Human Services (HHS) Section completed its first full year as a section and its representation of the consolidated Utah Department of Health and Human Services (DHHS). In addition to its public health activities, the DHHS administers many programs for services provided to vulnerable individuals in Utah. The HHS Section's team of 13 attorneys provide substantive legal services to each DHHS program, which includes Medicaid, the Children's Health Insurance Program, the Office of Substance Abuse and Mental Health, Services for People with Disabilities, the Utah State Developmental Center, Adult Protective Services, the Office of Public Guardian, the Center for Medical Cannabis, the Utah State Hospital, Juvenile Justice and Youth Services, Office of the Medical Examiner, Primary Care and Rural Health, the State Laboratory, the Office of Vital Records, the Division of Licensing and Background Checks, Maternal and Child Health Services, the DHHS Fatality Review Committee, the Center for Health Data and Informatic, Health Promotion and Prevention, Communicable Diseases and Emerging Infections.

HHS RESPONSIBILITIES

- Advising DHHS 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 DHHS.
- Assisting in the drafting and implementation in more than 100 administrative rules of DHHS.
- Representing DHHS 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 DHHS 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 DHHS programs in administrative hearings, adjudicative proceedings, and civil litigation in state and federal court.
- Providing legal guidance to DHHS in its efforts to identify, control, and prevent communicable diseases and in the reduction of risk factors causing injury, sickness, death and disability to Utahns such as the syringe exchange program, Baby Your Baby media campaigns, and health disparities reduction.
- Advising DHHS in drafting and implementing rules related to public areas safety and sanitation such as public pools and public eating establishments.
- Advising DHHS 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 DHHS in carrying out the Settlement Agreement entered in *Christensen and DLC v. 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 DHHS'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 DHHS'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 DHHS.



HEALTH AND HUMAN SERVICES NOTABLE SUCCESSES

UTAH STATE HOSPITAL

The Utah State Hospital (USH) is the only state psychiatric hospital which is accredited by the Joint Commission. The USH provides therapeutic psychiatric services to adult, pediatric, and forensic patients under court order. The AAG represents and appears in criminal court almost daily, to assist with forensic cases, which includes motion work and legal argument, and provides legal counsel related to civil commitment employment issues, patient asset management, Medicaid enrollment, and patient job training.

PUBLIC HEALTH

Utah Vapor Business Association Litigation

The Utah Vapor Business Association (UVBA) represents retailers of e-cigarettes and other nicotine and vaping-related products in Utah. Starting in 2021, the Utah Department of Health (DOH) engaged in rulemaking as required by statute to regulate the sale of such products in Utah. Vapes are favored by young users, and nicotine is a highly addictive substance. The DOH proposed revisions to existing rule through the first half of 2021. In July 2021, the final revision to Electronic Cigarette Substance Standards (R384-415) became effective and imposed a limit on nicotine content in manufacturer sealed systems for sale in Utah (3% by weight or 36mg/ml by volume). After R384-415 became effective, the UVBA filed suit seeking to invalidate and/or enjoin the rule. The Third District Court heard and denied motions by the UVBA, seeking a temporary restraining order and a subsequent preliminary injunction. In May 2023, the parties settled and the case was dismissed with prejudice per the stipulation of the parties. R384-415 remains in force and was amended by the DOH to mirror Food and Drug Association review and approvals of vaping products more closely. It remains the only state-level regulation of nicotine in vapes in the United States.

Crystal Lagoons Litigation

In February 2022, Crystal Lagoons, a designer of multi-acre swimming and recreational facilities requested a Utah Administrative Procedures Act adjudication, alleging that the DOH had failed to enforce rules governing the health and safety of public swimming pools (R392-302) at a commercial rival's facility (Desert Color) in southern Utah. In July 2021, the DOH issued a declaratory order at Crystal Lagoons' request, which clarified that R392-302 governs the Desert Color facility, but that the rule did not include standards of performance or construction applicable to such non-standard designs. The request sought an order by the DOH to shut the Desert Color facility until it complied with the rule, or an order to the local health department to inspect and enforce the rule. In April 2022, the DOH denied Crystal Lagoons' request, due to lack of standing. Crystal Lagoons subsequently filed in Third District Court seeking an order to compel enforcement of R392-302 by the Utah Department of Health and Human Services (DHHS) and/or the Southwest Utah Public Health Department. In June 2023, Judge Gibson granted the DHHS' joint motion to dismiss on three alternative basis: lack of subject matter jurisdiction (ripeness); failure to state a claim for which relief may be granted; and lack of statutory standing. Crystal Lagoons has appealed the dismissal, which is in briefing.



NOTABLE SUCCESSES *(cont.)*

MEDICAID / DIVISION FOR SERVICES WITH DISABILITIES

The Disability Law Center, Staci Christensen, John Weakly, and all individuals that are similarly situated residing in Intermediate Care Facilities for individuals with intellectual disabilities filed suit which asserted the program to transition individuals into Home and Community Based Services did not comply with the American with Disabilities Act. The parties negotiated a five-year settlement agreement approved by the legislature in HJR 28 (2019). Since that time, the legislature, parties, and community have worked together to implement the settlement and make improvements to the transition program for individuals receiving services.

DATA PRIVACY AND SECURITY

Executive Order 23-01 Legal Workgroup

The Governor's Executive Order 23-01 tasked state agencies with crafting an action plan to increase data sharing among agencies. A key component was identifying legal roadblocks and proposing solutions. The Executive Order 23-01 Task Force created a Legal Workgroup and AAG Bri Murphy served as Co-Chair and DHHS legal representative. The challenges included evolving goals, conveying the importance of federal compliance, and proposing flexible solutions.

ADULT PROTECTIVE SERVICES / OFFICE OF PUBLIC GUARDIAN

The AGO conducts all litigation necessary to ensure that necessary guardianships are put in place and that perpetrators of elderly abuse are held accountable through court proceedings. Most recently, the aging population has seen a sharp increase in incidents of financial exploitation, which leaves them without sufficient funds to provide for their remaining years.

The exploding incidents of dementia have left many people without options for care and necessary decision making in their lives. The Office of Public Guardian steps in to fill this important role.

DIVISION OF LICENSING AND BACKGROUND CHECKS

Utah-licensed teen treatment facilities have been in the news due to Paris Hilton's podcast and media. Historically, the Office of Licensing within the DHHS has not taken licensing action to close facilities down. Since July 1, 2022, the AGO Health and Human Services Section helped the DHHS take more aggressive licensing actions. With the help of the AAGs, the DHHS has issued agency actions, held administrative hearings, amended administrative rules, and created an emergency agency action which can be utilized in the event that there is a death at a human services facility.

BY THE NUMBERS

ENVIRONMENT



ADMINISTRATIVE ENFORCEMENT
MATTERS

92



PERMITTING

46



CORRECTIVE ACTION

7



MATTERS WITH REPRESENTATION
(OPPOSING COUNSEL)

138

HEALTH & HUMAN SERVICES



CONTRACTS & GRANTS

2,647



CONSULTATIONS FOR LEGAL ADVICE

1,371



JUDICIAL & CIVIL
COMMITMENT CASES

635



ADMINISTRATIVE RULES
REVIEWED/DRAFTED

257

HIGHWAYS & UTILITIES

OVERVIEW

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 (DPU) and the Office of Consumer Services (OCS) 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.



BY THE NUMBERS

DEPARTMENT OF PUBLIC SAFETY (DPS)



NEW MATTERS

123



CLOSED MATTERS

99

UTAH DEPARTMENT OF TRANSPORTATION (UDOT)



NEW MATTERS

38



CLOSED MATTERS

65

UTAH TRANSIT AUTHORITY (UTA)



NEW MATTERS

36



CLOSED MATTERS

41

APPROXIMATE DOLLAR AMOUNTS
IN CONTROVERSY

\$8,700,000

APPROXIMATE DOLLAR AMOUNTS
IN CONTROVERSY

\$108,613,992

DIVISION OF PUBLIC UTILITIES*

*DPU and OCS cases combined.



MATTERS

286

DRIVERS LICENCE DIVISION



NEW CASES

80



CASES CLOSED

45

APPROXIMATE TOTAL DOLLAR
AMOUNTS AT ISSUE

\$7.16 B



NOTABLE CASES

Sugarloaf Holdings, LLC v. UDOT (Fourth District Court, Millard County)

This case concerned a wellhead that was buried adjacent to a roadside fence in the early 1990s with Sugarloaf alleging damage caused by UDOT. AGO attorneys argued the claim was time-barred and that previous owners would have been aware of any damages caused by UDOT. The court found UDOT's evidence more persuasive and dismissed the \$3,649,000 claim.

West Davis Corridor Acquisition

This was a complicated case concerning multiple tracts of land owned by a political subdivision needed for the construction of the West Davis Corridor project. AGO attorneys were able to settle multiple cases through mediation for \$5,500,000. The original amount proposed by the political subdivision for just one of the properties was \$8,330,000.

Vote Solar v. Pub. Serv. Comm'n (2023 UT App 125)

Attorneys representing the Office of Consumer Services (OCS) and the Division of Public Utilities (DPU) defended the Public Service Commission order establishing the Export Credit Rate, which is the amount of credit rooftop solar customer receives for excess power transported back to the grid.

The case was extremely complex, a matter of public controversy, and was litigated for multiple years. However, the appellate court favorably resolved the majority of the case pursuant to a jurisdictional argument brought by the OCS. The remainder of the case was upheld pursuant to substantive arguments brought by the DPU, OCS, and Rocky Mountain Power.

NOTABLE CASES *(cont.)*

Laker v. Caras (2023 UT App 125)

In this DPS case, a motorist brought an action challenging the administrative suspension of his driver license due to refusal to submit to chemical testing to determine his blood alcohol level. The District Court affirmed the suspension, and the motorist appealed.

The appellate court held that:

- (1) the motorist had already “refused” chemical testing before officer said anything about being given a “reasonable time” to make a decision, and thus the initial refusal supported suspension of his driver license;
- (2) evidence was sufficient to support the finding that the motorist was afforded a “reasonable time” to make a decision about submitting to a chemical test in line with officer’s statement; and
- (3) the motorist did not have any due process right to an explanation, at the time of implied consent warning, of what constituted a “refusal” of a chemical test.

UTA Matters

In 2023, UTA underwent an extensive audit from the Department of Labor’s Wage and Hour Division of the agency’s leave policies and practices. The audit included an extensive look at the agency’s accounting of FMLA time for its employees.

AGO attorneys took the lead in representing the agency in this audit, coordinating the agency’s response, and providing documents requested by the DOL investigator. The audit returned a favorable finding for UTA.

UTA negotiated, with assistance of AGO counsel, two collective bargaining agreements with the two unions who represent UTA employees.

UTA’s AGO counsel represented the agency in various proceedings and investigations conducted by both the Equal Employment Opportunity Commission (EEOC) and the Utah Antidiscrimination and Labor Division (UALD) of the Utah Labor Commission. None of these investigations have resulted in a final order finding a pattern or practice of employment discrimination by the agency.



Publication 505
Cat. No. 15008E
Tax Withholding and Fctin

**SCHEDULE D
(Form 1040)**

Department of the Treasury
Internal Revenue Service (99)

Name(s) shown on return

Part I Short-T

See instructions for
lines below.
This form may be
whole dollars.

1a Totals for
1099-B
which
Howe
on Fr

1b Tot
Be

2 1

3

TAX & FINANCIAL SERVICES

OVERVIEW

The Tax & Financial Services Division of the AGO provides legal representation to the Utah State Tax Commission, the Utah Insurance Department, and the Utah Department of Financial Institutions. The division also represents 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.

Auditing attorneys represented various divisions of the Tax Commission in administrative proceedings involving corporate franchise, individual income, sales, cigarette and tobacco, and other state taxes. Resolution of these matters corrected errors and facilitated compliance with Utah's tax laws. Auditing Section attorneys also represented the Tax Commission in matters before the State Records Committee and in state court.



PROPERTY

The Property Tax Section represents the Tax Commission in property tax, collection and motor vehicle titling, registration, and dealer regulation matters. Property tax matters include representing the Centrally Assessed Division of the Tax Commission in defending its assessment of mining, oil & gas, utility, and transportation properties.

The Property Tax Section matters also include representing the Tax Commission in district and appellate courts on appeal of its centrally and locally assessed property decisions. Collection matters include representing the Tax Commission in bankruptcy court actions locally and nationwide when taxes are owed by the entity or individual filing bankruptcy.

Collection matters also include assisting the Tax Commission in District Court. It provides advice to the Tax Commission in many different areas, including maintaining the confidentiality of taxpayer information and responding to GRAMA requests. In addition, the Property Tax Section represents the AGO regarding its common law authority to protect the public charitable interest regarding the termination and modification of charitable trusts.

TAX

The Tax Section of the division represents the Utah State Tax Commission in administrative proceedings heard by the Tax Commission and in trial and appellate courts (if the Tax Commission's decisions are appealed) in the areas related to the following units of the Tax Commission: Customer Services, Miscellaneous Tax, Tax and Revenue, and Enforcement (motor vehicle).

FINANCIAL SERVICES

The Financial Services Section of the Tax and Financial Services Division represents the Insurance Department, Financial Institutions, and State Treasurer for purposes of issuing municipal bonds.

AAGs represent these agencies as both general counsel and as enforcement counsel in matters dealing with violations of Utah law. AAGs were successful in revoking the insurance license from a company and insurance agent that were involved in defrauding customers and stealing money from insureds.

AAGs were successful in issuing bonds to secure funding for several charter schools in Utah. The state did not need to issue general obligation or lease revenue bonds this year because of the positive cash flow of the state in FY 2023.







CRIMINAL DEPARTMENT

7 DIVISIONS

114 ATTORNEYS, 61 AGENTS,
& 93 STAFF

WHITE COLLAR & COMMERCIAL ENFORCEMENT

OVERVIEW

The White Collar & Commercial Enforcement (WCCE) Division takes on some of the uniquely meaningful and far-reaching cases for Utahns. WCCE serves as agency counsel for the Department of Commerce and its various divisions, including: the Division of Consumer Protection (DCP), Division of Professional Licensing (DOPL), the Division of Real Estate (DRE), the Division of Corporations and Uniform Commercial Code, and the Division of Securities. WCCE counsels and litigates these agencies' enforcement matters in administrative hearings and state or federal courts, including multi-district litigation. At the same time, WCCE brings actions based on common and statutory law reserved for the AGO on behalf of Utah and the public.

BY THE NUMBERS



NUMBER OF TOTAL
CASES OPENED

302



NUMBER OF TOTAL
CASES CLOSED

254





NOTABLE CASES

SOCIAL MEDIA

TikTok: After seeking compliance with multiple DCP subpoenas, WCCE filed a state-court action and obtained an order holding TikTok in contempt for not complying timely. WCCE also brought DCP’s lawsuit against TikTok for engaging in deceptive and unconscionable practices including misrepresenting its geographic origin. WCCE is litigating both actions against stiff opposition from the largest law firms in the country.

Meta: In October, after a year-long investigation, WCCE filed DCP’s suit against Meta for harming Utah’s children by engaging in deceptive and unconscionable practices. This investigation and resulting litigation is a collaborative and bipartisan effort with 40 other states and the District of Columbia.

2022 Utah Social Media Regulation Act: The WCCE assists with DCP’s implementation of the Utah Social Media Regulation Act through a full analysis of the effects of this legislation. WCCE assisted DCP’s development of its mandated rulemaking process that has all social media companies interests piqued and engaged. WCCE continues to work hand-in-hand with Commerce and DCP to investigate the effects of other social media platforms and technology on Utah’s children. This involves not only reviewing addictive algorithms, but data privacy, artificial intelligence, and other novel technologies entering the marketplace.

PHARMACEUTICAL/HEALTH ISSUES

Insulin: WCCE developed a legal strategy of pursuing an action to stop major manufacturers of insulin and the ruthless pharmacy benefit managers who have artificially hiked the prices of insulin. Their insulin pricing scheme has pushed up the price of insulin by 1,527% between 1997 and 2018. The estimated cost on Utah’s economy is \$1.7 billion per year.

In July, WCCE acted quickly to be one of the first states to object to one manufacturer’s creative attempt to settle all Utah’s potential legal rights in a class action in a federal court in New Jersey. Later in November, WCCE commenced litigation, asserting DCP and AGO causes of action.

Opioid Epidemic Abatement: WCCE has pursued litigation against pharmacies, including Kroger, Rite Aid, and Walgreens. Early in the year, WCCE worked with other states to form a national settlement agreement with Walgreens, CVS, Walmart, Teva, and Allergan for \$209 million. This expands the first wave of settlement that included major distributors and Johnson & Johnson. To date, WCCE has worked to form agreements with defendants and potential defendants, bringing \$481 million to fund opioid abatement efforts within Utah.

PROFESSIONAL LICENSING

Currently, there are ongoing cases regarding two respondent nurses using high-pressure sales to defraud the elderly at True Health; Starks Funeral Parlor investigations; a Belle Medical nurse performing unauthorized body sculpting procedures; and various real estate scams.



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 Statewide Enforcement of Crimes by Undocumented RESidents (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.

The Justice Division thrived during the 2022-2023 fiscal year. The legislature's willingness to bring attorney and staff salaries closer to market comparability allowed the Justice Division to fill several important personnel positions. A number of meaningful cases were successfully tried and resolved when the division was able to hire capable individuals. The Human Trafficking Section (SECURE) charged and resolved a number of serious trafficking cases for sexual extortion, labor trafficking, and exploitation of prostitution.

The ICAC Section tried a number of important cases of rape, attempted sodomy of a child, and possession of child pornography. The Felony Review Section screened dozens of first-degree felonies referred for additional investigation and review. The Insurance Fraud Section filed and resolved dozens of insurance fraud cases around the state.

Finally, several members of the division served on a variety of state task forces, commissions, working groups, and committees focused on improving the state's criminal justice system.



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 AGO 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 the AGO, 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 federal 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

976



ACTIVE CASES

222



CASES CLOSED

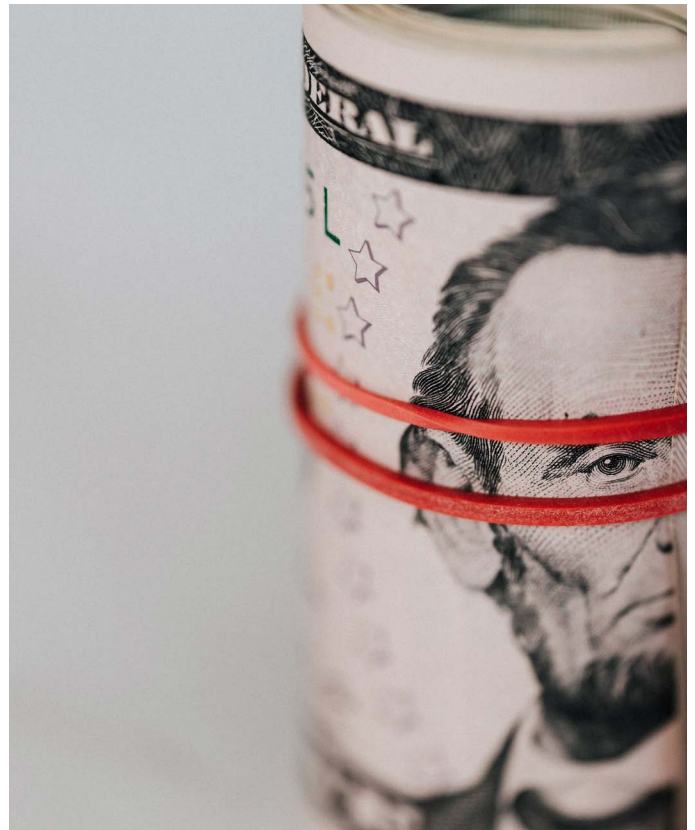
69

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) of the Utah Insurance Department 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

88



REFERRALS

1187



CHARGES FILED

830

RESTITUTION COLLECTED

\$41,882

INVESTIGATIVE COSTS ORDERED

\$40,312



CRIMINAL NON-SUPPORT

OVERVIEW

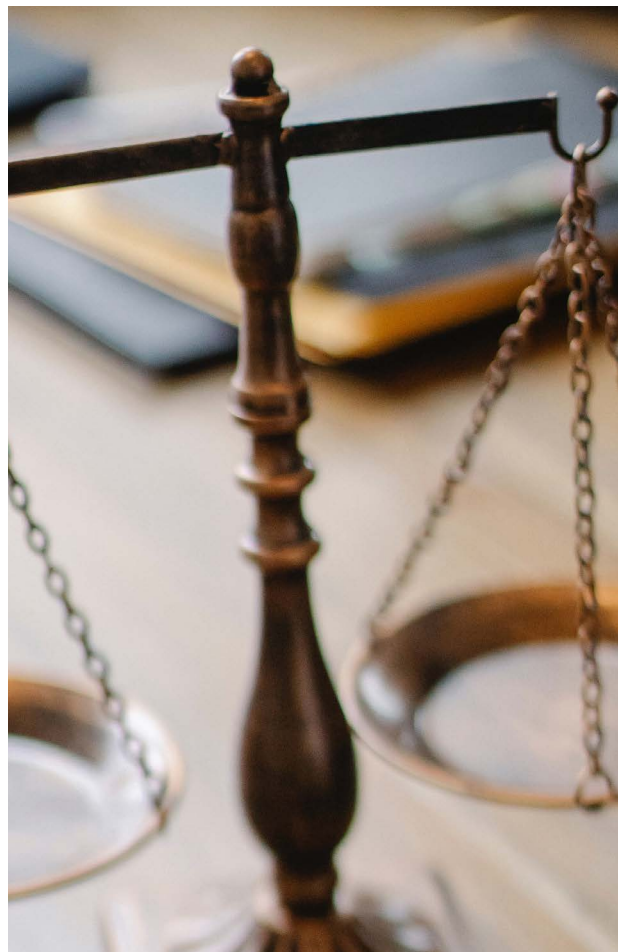
Utah's Legislature has declared that children are presumed to need the financial support of both parents. When a noncustodial parent fails to provide their portion of that support, extreme hardship may befall both the child and the custodial parent. The AGO utilizes Utah's Criminal Non-Support (CNS)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

When a noncustodial parent has failed to pay full court-ordered child support for at least 18 months within a 24-month period and the child support arrears exceed \$10,000, the Utah Office of Recovery Services (ORS) may refer the matter to the AGO to review for CNS charges. These matters have been pursued by ORS for many years with little or no success. In such cases, the state is regularly forced to provide public assistance for basic needs like food, shelter, and medical treatment. However, for some 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 CNS Team's 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 (CNS)

TOTAL CASELOAD

24

REFERRED CASES

14

CONVICTIONS

172

NUMBER OF VICTIMS

163

AVERAGE CASELOAD
PER ATTORNEY

6

COURT APPEARANCES

1,128





INTERNET CRIMES AGAINST CHILDREN TASK FORCE OVERVIEW

The Internet Crimes Against Children (ICAC) Program is a national program composed of a network of sixty-one coordinated state and regional task forces representing more than 5,400 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in both proactive and reactive investigations, forensic examinations, and criminal prosecutions. By helping state and local agencies develop effective, sustainable responses to online child victimization—including responses to child sexual abuse images—the ICAC Task Force has increased law enforcement's capacity to combat technology-facilitated crimes against children at every level.

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

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



ICAC Tip Line:

801.281.1211

ICAC Email:

utahicac@agutah.gov



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

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

CRIMINAL OFFENSES PROSECUTED

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

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

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

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



2023 Utah Winner

Kellen Whitehead | Age 11
Trailside Elementary

2023 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.

Kellen Whitehead from Trailside Elementary was our 2023 Utah Winner with a poster entitled "Bringing our missing children home." Kellen shared that "the face represents all the missing children around the world, and the houses on each side represent that the missing children all have a house that they want to get back to."





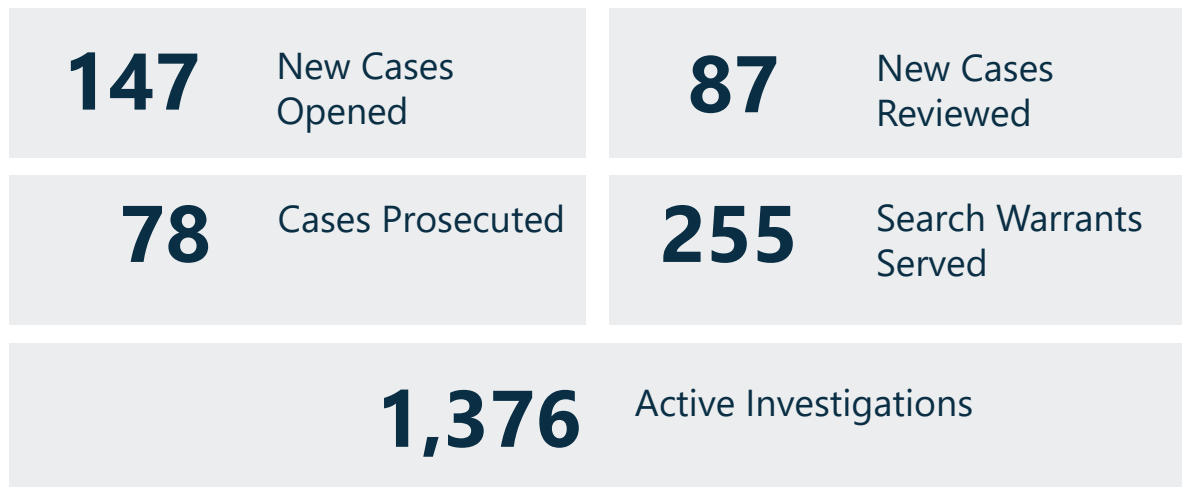
STATEWIDE COMMUNITY ADVISORY BOARD

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.

INTERNET CRIMES AGAINST CHILDREN

BY THE NUMBERS - INVESTIGATIONS



BY THE NUMBERS - PROSECUTIONS





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

In 2009, the Utah Legislature tasked the AGO to “administer and coordinate the operation of a multi-agency strike force to combat violent and other major felony crimes within this state that are associated with illegal immigration and human trafficking.” U.C.A. § 67-5-22.7. Today, a team of elite Special Agent Investigators and highly qualified and experienced prosecutors and support staff carry out this mandate in the form of the Statewide Enforcement of Crimes involving Undocumented REsidents (SECURE) Strike Force.

The SECURE Strike Force partners with many federal and state law enforcement agencies to ensure the directive of the legislature, including the U.S. Attorney’s Office, U.S. Immigration & Customs Enforcement (ICE/ERO), U.S. Secret Service, U.S. Postal Inspection Service, West Jordan Police Department, West Valley City Police Department, Ogden Police Department and other state and local law enforcement agencies throughout the state.

SECURE prosecutors are crossed-deputized as Special Assistant U.S. Attorneys, allowing them to prosecute in both state and federal court. Through these partnerships and its own independent investigations, the SECURE Strike Force capably investigates and prosecutes cases involving human trafficking, illegal immigration, identity theft, fraudulent documents, and illicit narcotics and firearms. These crimes often cross jurisdictional boundaries and can affect hundreds of victims.

The SECURE Strike Force pursues these cases statewide and federally, to ensure these offenders receive sentences appropriate to the scale of their crimes. The SECURE team of investigators, prosecutors, and support staff are active participants in the Utah Trafficking in Persons Task Force (UTIP). In this role, they work with non-governmental organizations, victim service providers, educators, and other stakeholders to combat human trafficking throughout Utah. The SECURE team has become recognized experts in the human trafficking field, presenting on the topic across the state and at major national human trafficking conferences.

Goals

The SECURE Strike 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 Strike Force will also evaluate investigative techniques as traffickers have adapted in response to the success the SECURE Strike Force has had in arresting them.



NOTABLE CASES

MACFARLANE

Ryan MacFarlane was found guilty of rape, forcible sodomy, and object rape, all first-degree felonies. MacFarlane received a sentence on January 9, 2023, of five years to life in prison for each of the three first-degree felony convictions. The charges arose from MacFarlane's conduct involving a 16-year-old female runaway.

BOBADILLA

From a 2021 case, Edgar Flores Bobadilla was sentenced on January 18, 2023, to up to fifteen years in prison for his conviction of a pattern of unlawful activity, up to five years for each remaining guilty conviction, and agreed to forfeit \$100,000 to the Office of Victims of Crime. The prison term was suspended, and Bobadilla was ordered 90 days in jail, with a 24-month probation period. He was charged with 17 felony charges ranging from surreptitious administering of poisonous substance, 6 counts of aggravated assault, communications fraud, selling, dispensing or trafficking in prescription drugs, unlawful/unprofessional conduct in practicing medicine, money laundering, and pattern of unlawful activity.

The charges arose from allegations that Bobadilla practiced medicine out of his home in Payson, that he only took patients on a referral basis from other patients, and he only treated illegal immigrants. At his sentencing, the court found that he caused substantial physical and psychological damage to the victims, exhibited extreme cruelty in his actions, participated in the activity over a significant period of time, and caused significant monetary loss to his victims.

BUSCO, RAFAL & JALLOW

An investigation into the human trafficking of a 16-year-old female in early 2023 led to multiple charges being filed against three individuals: Kent "Superman" Busco, Abdule Rafal, and Abdoulie Jallow.

Charges were filed against Busco on May 17, 2023, for human trafficking of a child, a first-degree felony, aggravated exploitation of prostitution involving a child, a first-degree felony, sexual exploitation of a minor, a first-degree felony, two counts of distribution of a controlled substance, first-degree felonies, and three counts of unlawful sexual conduct with a 16- or 17-year-old, third-degree felonies.

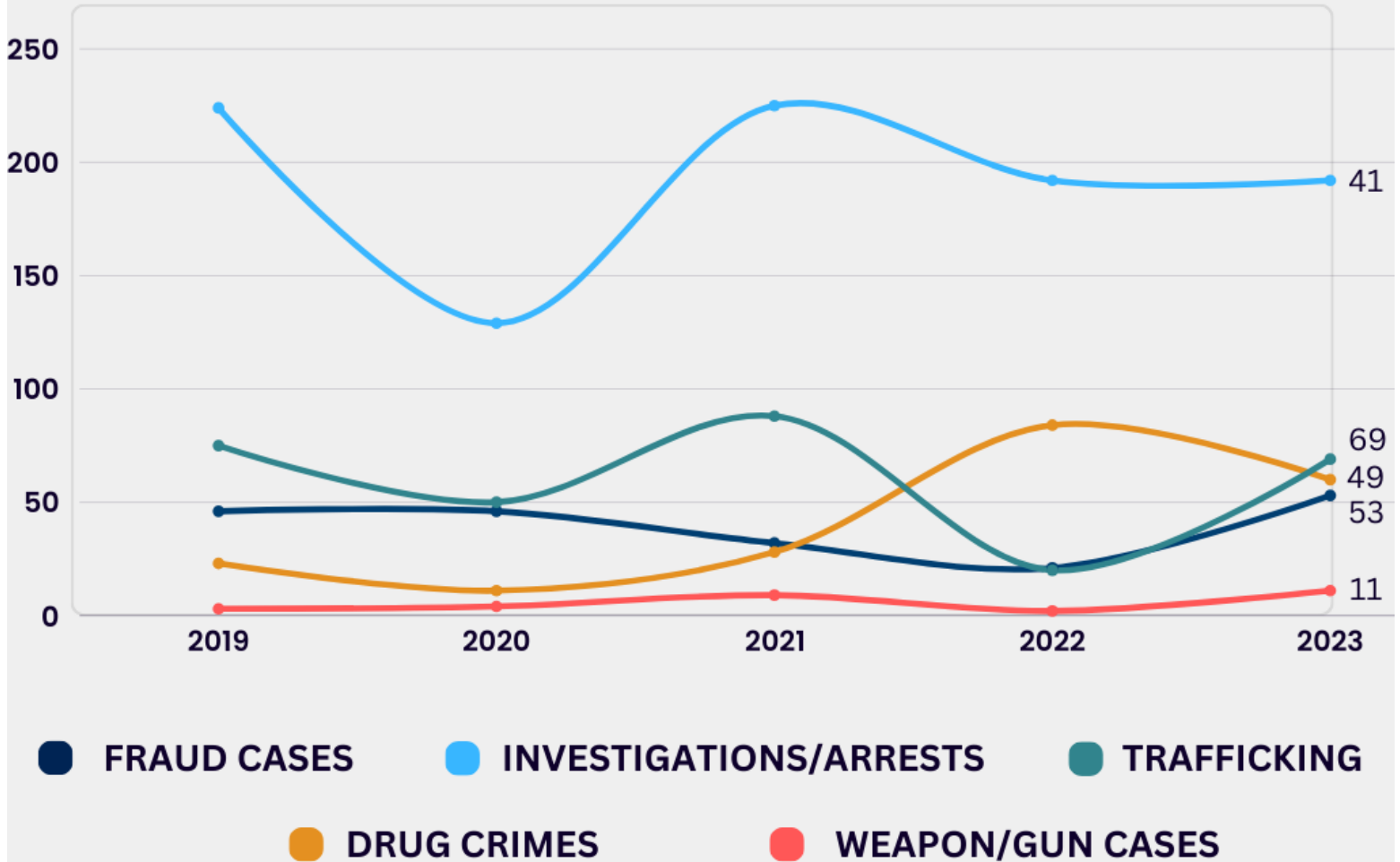
Charges against Jallow were filed on May 18, 2023, for rape, a first-degree felony, distribution of a controlled substance, a first-degree felony, and unlawful sexual conduct, a third-degree felony. Rafal was charged on May 30, 2023, for human trafficking of a child, a first-degree felony, aggravated exploitation of prostitution involving a child, a first-degree felony, two counts of distribution of a controlled substance, degree felonies, and two counts of unlawful sexual conduct, third-degree felonies.

GARY WAYNE STUCKEY

On May 12, 2023, charges were filed against Gary Wayne Stuckey for aggravated exploitation of prostitution, a second-degree felony, aiding prostitution, a Class A misdemeanor, possession of a controlled substance, a second-degree felony, pattern of unlawful activity, a second-degree felony, and money laundering, a second-degree felony. Stuckey is accused of coercion, drug possession with intent to distribute, and threats to control the adult victim into engaging in prostitution.

BY THE NUMBERS

SECURE TASK FORCE



41 State Cases Filed

6 Federal Cases Filed

58 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) Section is an experienced group of elite attorneys specializing in aggravated felonies, public corruption, sexual abuse, narcotics, weapons, theft, and fraud.

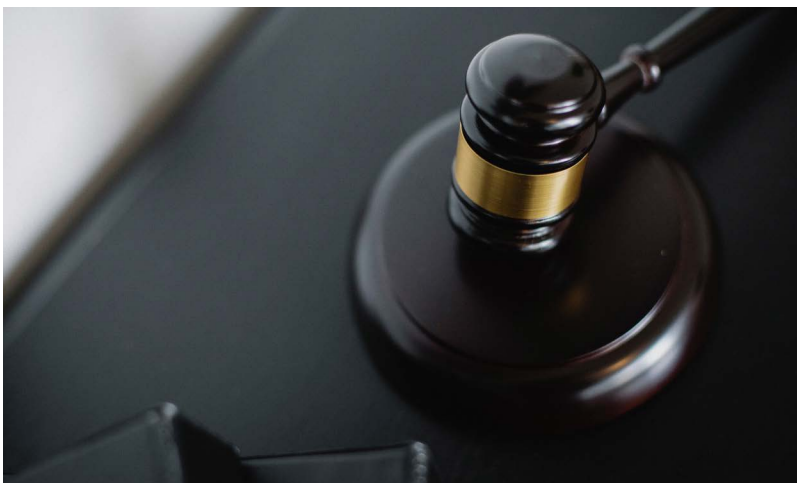
The section works in partnership with both the AGO Special Investigations Unit and local law enforcement agencies to promote a safe and lawful environment for residents statewide.

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 SPU 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 (SPU)



CASES FILED
(STATE)

187



CASES FILED
(FEDERAL)

52



CONVICTIONS

137

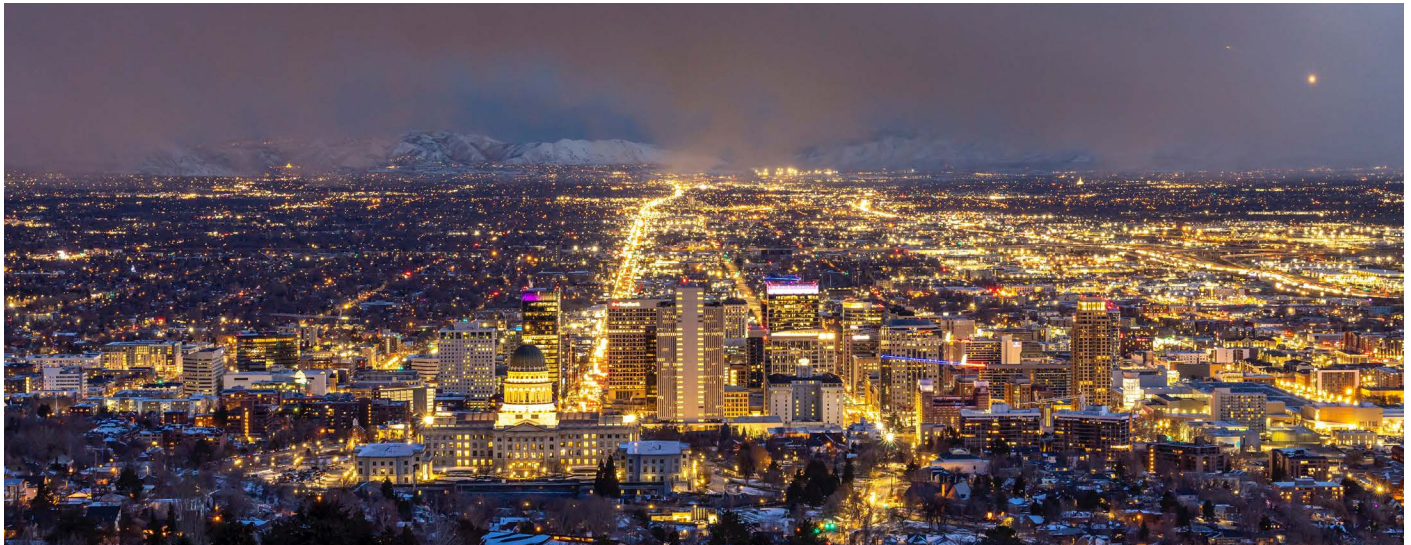
RESTITUTION COLLECTED

\$303,996

ASSET FORFEITURE

\$27,355





FIRST-DEGREE FELONY CASE REVIEW (HB 281 CASES)

In accordance with 2020's HB 281, the AGO 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 AGO.

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.

NOTABLE 2023 CASES

Ryan Macfarlane: Rape, forcible sodomy and object rape, first-degree felonies. Charged in January 2023.

Edgar Flores Bobadilla: Seventeen felony charges, unlawful practice of medicine and pattern of unlawful activity. Charged in January 2023.

Bryan Finkel: Unlawful sexual conduct, third-degree felonies, and four counts of sexual exploitation of a minor. Charged in January 2023.

BY THE NUMBERS



Feng, Chen & Huo: Prostitution. Charged in May 2023.

City Inn Motel: Commercial sex & drug trafficking. Charged in June 2023.

Dustin Giles Andrus: First-degree felony human trafficking. Charged in September 2023.

Gabriel & Angelica Calederon: Possession & endangerment of a child. Charged in November 2023.



UPC | UTAH PROSECUTION COUNCIL

Training and Serving Utah Prosecutors Since 1990

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

41



TOTAL NUMBER OF INDIVIDUALS TRAINED AT UPC EVENTS

1,772



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, HB 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

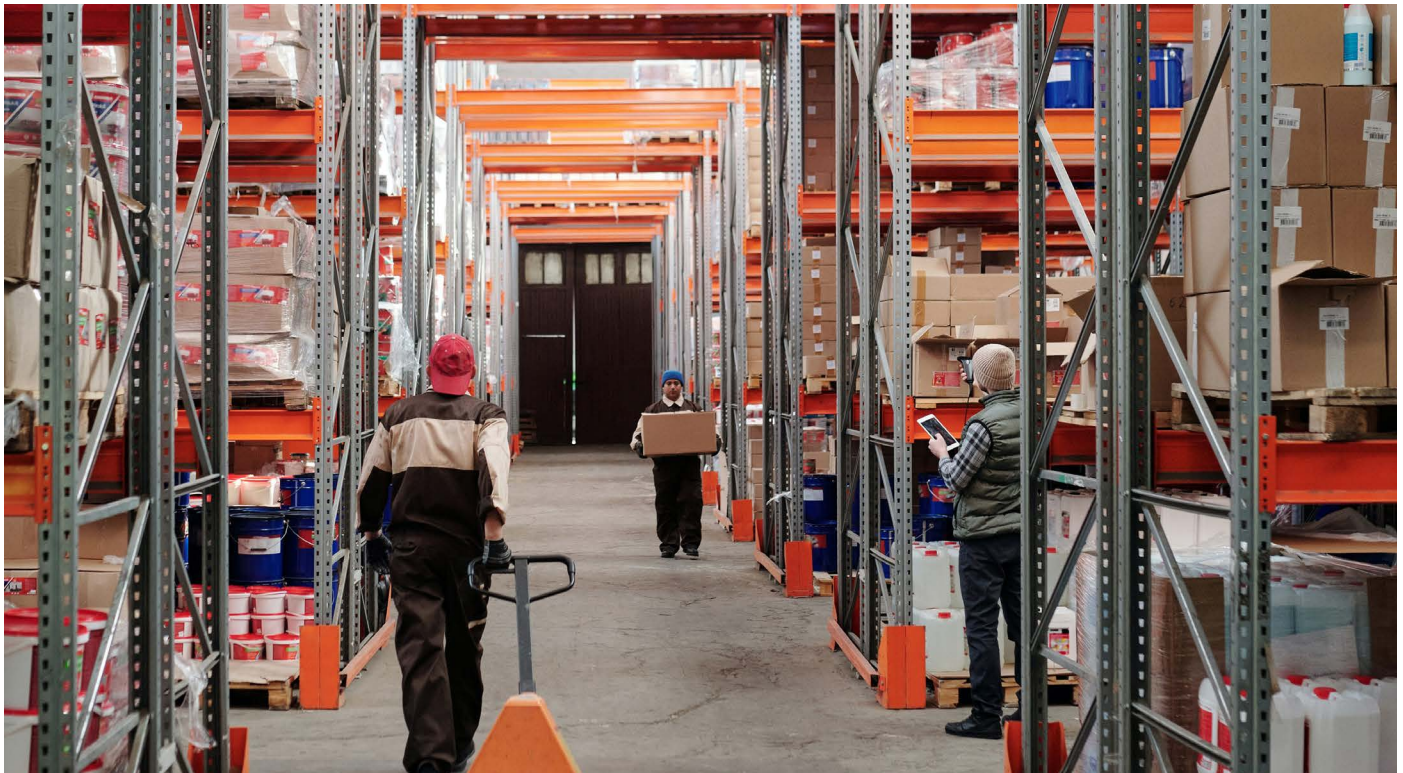
OVERVIEW

The Investigations Division identifies, apprehends, and assists in the prosecution of violations of the criminal laws of 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)

With the passage of HB 461 in 2020, the Utah Legislature tasked the AGO and DPS to “create and coordinate the operation of a multi-agency joint strike force to combat criminal activity that may have a negative impact on the state's economy” (U.C.A. § 67-5-37). Today, a team of elite investigators, highly qualified prosecutors, and support staff carry out this mandate in the form of the Crimes Against State Economy (CASE) Strike Force.

The CASE Strike Force partners with many federal, state, and local law enforcement agencies as well as law enforcement agencies in surrounding states.

Through the following partnerships and its own independent investigations, the CASE Strike Force capably investigates and prosecutes cases including but not limited to: Organized Retail Crime, Cargo Theft, Porch Piracy, Gambling, and Catalytic Converter Scrap Metal thefts each year.

- AGO Investigations Division
- Department of Public Safety, State Bureau of Investigations
- West Jordan Police Department
- Taylorsville Police Department

The CASE Strike Force regularly partners with corporate investigators from dozens of national retailers to monitor nationwide trends and track suspects that may travel to and victimize retailers in Utah. CASE Strike Force agents regularly communicate with corporate investigators from Lowes, Target, Burlington, TJ Maxx, 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 to combat the sale of stolen goods online.

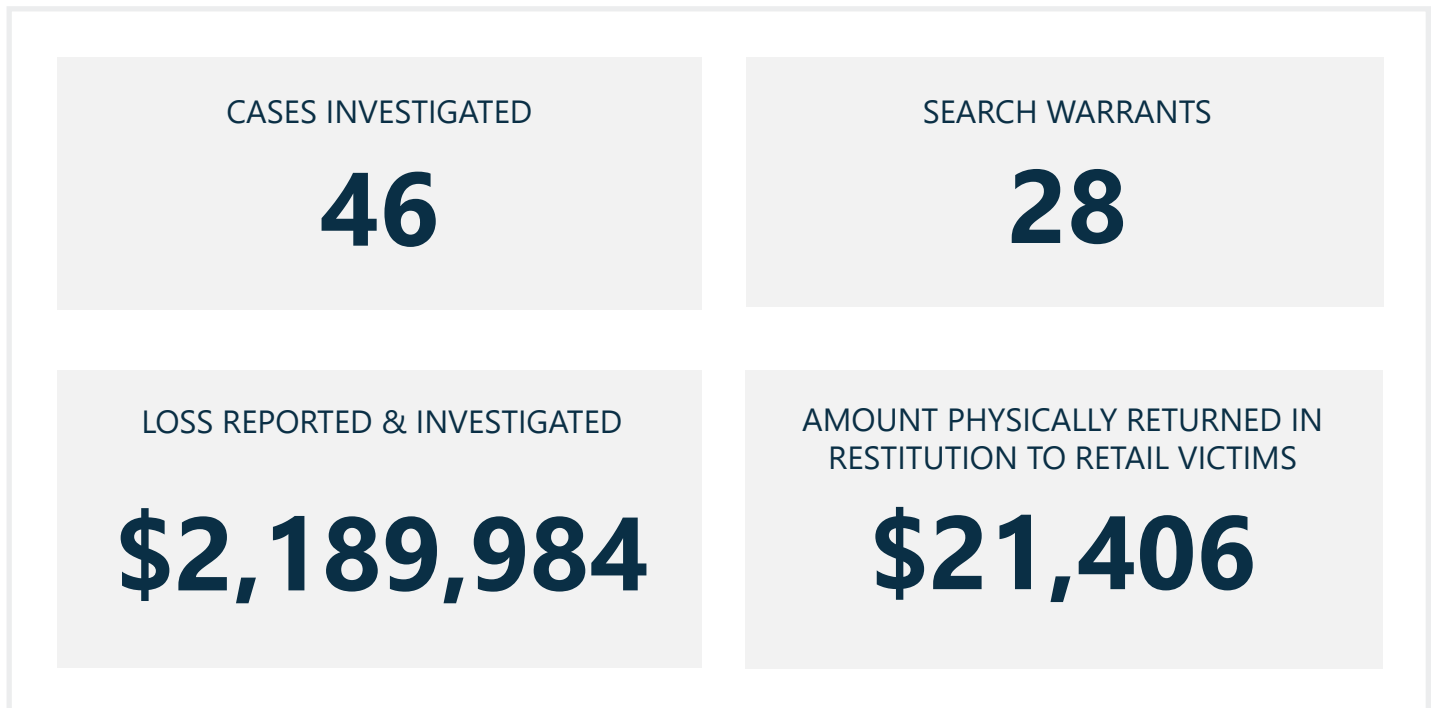
The CASE Strike Force team of investigators, prosecutors, and support staff are active participants in the private industry groups such as the Utah Organized Retail Crime Association, the Retail Industry Leaders Association, Chamber West, and the Coalition of Law Enforcement and Retail.

In this role, they work with non-governmental organizations and other stakeholders to combat crimes that impact retailers doing business in Utah. Investigators from the CASE Strike Force have become recognized experts in their field, presenting on these topics across the country and at major national conferences.

Agents from CASE have been invited to speak to retail stakeholders and elected officials from numerous other states regarding the importance of starting similar strike forces and have conducted training on how to investigate and prosecute these types of complex cases.

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 Strike Force team'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 - CASE



NOTABLE CASES

Organized Retail Crime

The CASE Strike Force received information from a local retailer regarding two male suspects who had stolen clothing from multiple stores. These males were identified, and the team began monitoring their activities in order to determine where the stolen items were being sold.

Over the course of four months, the CASE Strike Force was able to identify four individuals from two different households who were purchasing the stolen items from the initial male suspects. Based on the investigation, search warrants were served on the two different households where just under \$20,000 in stolen property from seven different retailers was recovered. Seven individuals were arrested and charged with felony theft related charges.

Organized Crime Traveling Crew

A Sandy City Police Department officer contacted CASE Strike Force about two females arrested for stealing electrical breakers worth thousands of dollars. Together with the Sandy Officer and Home Depot, CASE Strike Force investigators were able to identify multiple thefts at four Home Depot stores in three counties.

Counterfeit NBA Products

During the 2022 NBA Allstar game in Salt Lake City, the CASE Strike Force partnered with Homeland Security, Salt Lake City Police, and representatives from the NBA to enforce intellectual property laws pertaining to NBA products such as jerseys, shorts, and hats. The team was able to find multiple locations along the Wasatch Front selling counterfeit NBA products; with all of the sellers opting to turn over the property to the NBA for destruction in lieu of facing criminal charges.

A total of 1,170 items were seized which the NBA valued at \$131,170.

Catalytic Converter Thefts Report

The theft of catalytic converters in Utah and across the country decreased significantly this year. Salt Lake County has seen a 90 percent drop in stolen catalytic converter cases since 2022.

There are three main reasons for this decline. First, rhodium values declined over 70 percent, palladium values fell over 45 percent, and platinum values dropped over 20 percent between February and July 2023. The decline in the value of catalytic converters has impacted the risk-to-reward ratio. Second, new laws put in place to track catalytic converter sales likely have impacted how easy it is for individuals to sell catalytic converters and notify metal recyclers of their purchases. Third, enforcement initiatives have removed major players, such as the arrest of a major catalytic converter buyer by CASE in October of 2022. In 2023, there were 76 stolen catalytic converters in Salt Lake County.

Pawshop Compliance

The CASE Strike Force received a tip that pawnshops in American Fork were buying new items without receipts. In the pawnshop, we found over \$17,000 worth of brand-new tools. Upon further investigation into the seized items, multiple individuals were identified with a history of retail theft, no current employment, and selling multiple new tool items to the pawnshop.



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). The UTIP Task Force 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 Task Force'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 Task Force, the AGO has made major strides in bolstering Utah's response to human trafficking. Utah 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 Task Force 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)

One SIU agent 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.

BY THE NUMBERS - SIU

CASES OPENED

108

INVESTIGATIONS
REQUESTED/REVIEWED

362

SEARCH WARRANTS

74

ARRESTS

14

VIRTRA

The AGO's VirTra™ Virtual Reality Training Center started operations in September 2015 with the support of the Legislature, the 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 100 Utah law enforcement agencies.

The center provides a safe training environment in the areas of autism awareness, tactical medical, street-smart de-escalation, crisis communications, duty to intervene, officer self-de-escalation, stress management, decision making, taser management, officer survival, community leader education, and constitutional use of force.

VIRTRA NOTABLE SUCCESSES

The Kyle Dinkheller Program

New programs are added annually to the training center course offerings. In 2023, the Kyle Dinkheller Program was added. This remarkable program will help Utah law enforcement agencies promote officer and citizen safety during traffic stops based on lessons learned from the tragic Dinkheller Incident.

Duty to Self-De-Escalate and Community Accountability

As part of VirTra's continued effort to support constitutional policing and community accountability, the training center offers a training program to help officers and deputies self-de-escalate and manage their emotions during highly charged situations and crisis events.

Autism Awareness for First Responders

The AGO VirTra continues to support Utah's autism community by providing autism awareness training. This program includes a multimedia presentation, interactive simulator scenarios, classroom instruction, and discussion with leaders and volunteers from the Autism Council of Utah.

Duty to Intervene

In 2022, the Utah Legislature passed SB 126, codifying an officer's duty to intervene in another officer's unconstitutional use of force or other violations of constitutional rights. The bill received broad support from law enforcement, civic advocacy groups, the legal community, and 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 prohibited retaliatory action against an officer who reports police misconduct.

In response to this law, the center continues to educate officers on the standards, requirements, and community expectations for officer intervention and reporting officer misconduct.

VIRTRA NOTABLE TRAINING SUCCESSES

Core Training: Use of Force / De-escalation

The training center offers fundamental training courses on the use of force and de-escalation decision-making for allied law enforcement agencies, and encourages them to use the training facilities to evaluate new candidates and lateral officer transfers. The training center assists agencies in assessing officers while 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 AGO's 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 allows leaders to step into the shoes of a police officer in the VirTra™ simulator and make split-second judgments under circumstances that are "tense, uncertain, and rapidly evolving." It helps community leaders understand the practical limits of police policy improvement.

Cop Talks Video Library

The training center's Cop Talks library contains over 30 video titles. This video series addresses various legal and best practices and is produced to be used with the virtual reality scenarios shown in the VirTra™ simulator. Utah law enforcement community members have requested the AGO's training center to make its Cop Talks video library available for in-service and roll-call training. Access to this library is now open to allied law enforcement agencies.

BY THE NUMBERS (VIRTRA)



33

Local and state law enforcement agencies have completed training programs in the VirTra Simulator



916

Law enforcement officer training sessions completed



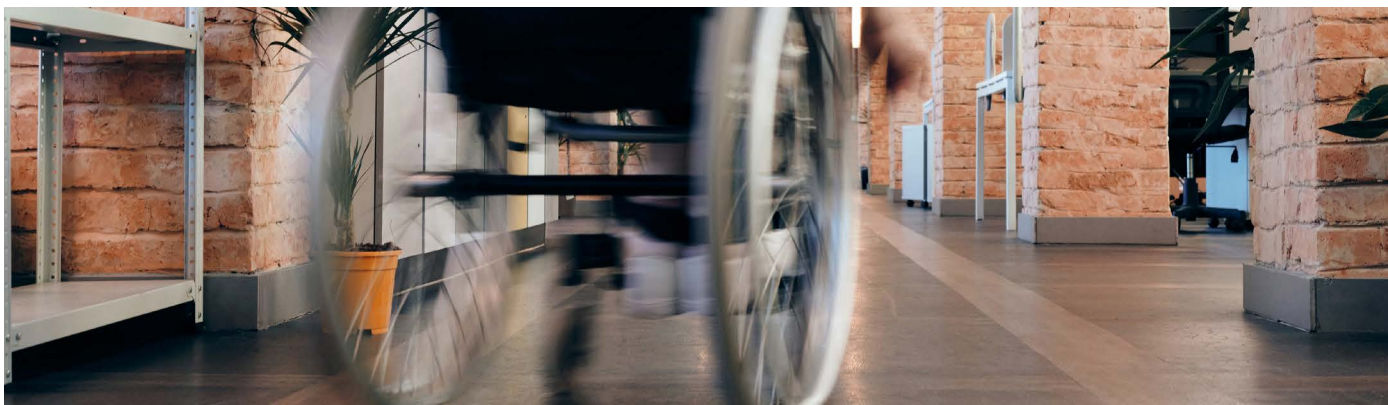
26

Community leader groups that have participated in police use of force and de-escalation educational presentations (city, county, and state government organizations; religious, school, and media organizations)



275

Community leaders that have participated in police 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 AGO.

BY THE NUMBERS



ALLEGATIONS
RECEIVED

71



CASES
OPENED

48



CASES
COMPLETED

68



TOTAL SAVINGS

\$7,833,278

CHILD PROTECTION

OVERVIEW

The Child Protection (CP) 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 (CP)



TOTAL NUMBER OF
JUVENILE COURT CASES

3,177



TERMINATION OF
PARENTAL RIGHTS TRIALS

257



AVERAGE JUVENILE
COURT CASE LOAD PER
ATTORNEY

88



TOTAL NUMBER OF HEARINGS
ATTENDED ACROSS THE STATE

16,491



TOTAL NUMBER OF
APPEALS

76



TOTAL NUMBER OF
ADMIN HEARINGS

96

CHILD & FAMILY SUPPORT

OVERVIEW

The Child & Family Support (CFS) Division 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 (CFS)



DIVISION CASELOAD

3,112



AVERAGE CASELOAD PER ATTORNEY*

173



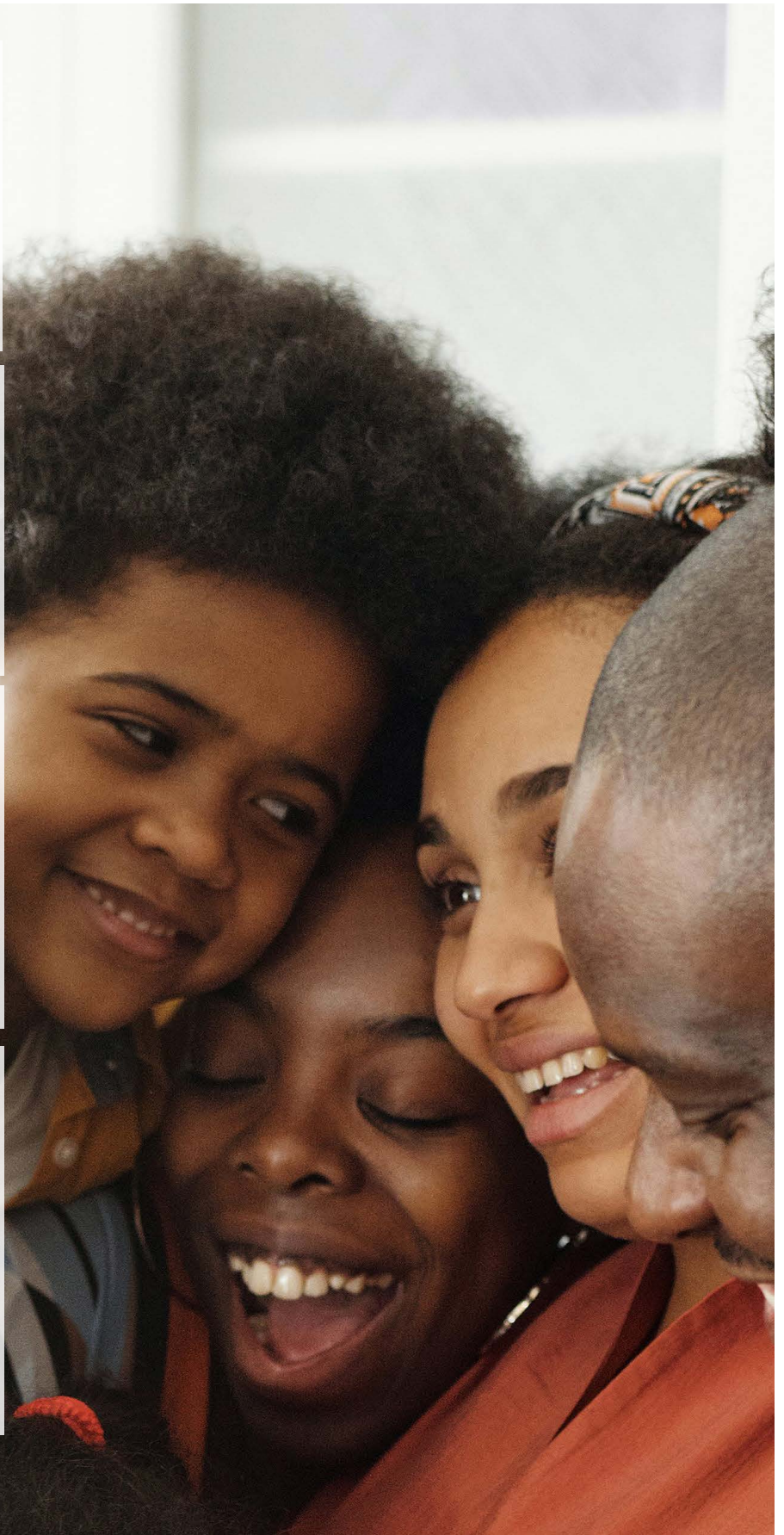
NUMBER OF COURT APPEARANCES STATEWIDE

1,985



AVERAGE NUMBER OF APPEARANCES PER ATTORNEY EACH MONTH

110



*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 AGO, 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 CJCs, 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 CJC Program is to provide a comfortable, neutral, child-friendly atmosphere for children to receive coordinated services during the child abuse investigative process.





HIGHLIGHTS

Additional Funding for Victim Services

The CJC Program worked with Representative Ken Ivory, the Commission on Criminal and Juvenile Justice, the Utah Office for Victims of Crime, the Division of Child and Family Services, and victim service providers to request additional funding for victim service programs in the face of another wave of impending, significant federal victim grant cuts.

The legislature's generous appropriation of an additional \$3.2 million in ongoing funding and \$5.1 million one-time funding, available in FY24, enabled CJC's to retain key service staff, maintain mental health and medical services, and in many instances, add forensic interviewing and victim advocacy staff.

Expanded Mental Health Services for Children

Through a \$1 million grant from the Cambia Health Foundation, the CJC Program has been able to expand mental health services in rural counties, and in January of 2023, hired its first mental health services specialist.

The addition of this clinician dramatically increased the program's capacity to provide training support and technical assistance to CJC's in operating their respective mental health services.

Primary goals include expanding the network of CJC-affiliated clinicians to meet service demand and ensuring those clinicians are trained to use evidence-based modalities with adequate ongoing peer support.

Through partnerships with the National Children's Alliance, Yale University, and the University of South Carolina, 123 clinicians were trained in various modalities, including TF-CBT and CFTSI, as well as skills to deliver effective therapy via telehealth.

Almost 2,000 therapy sessions were provided by CJC's and 100% of CJC's reported that Cambia funding filled gaps where other sources could not support those treatment sessions.

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 for Pediatric Traumatic Stress (CPM-PTS), a trauma symptom screening tool, in CJC's. Of the children who completed the CPM-PTS in FY23, 1 in 2 reported severe trauma symptoms and 1 in 10 recorded a high concern for suicide risk. The National Children's Alliance, the national accrediting organization for Children's Justice/Advocacy Centers, featured our partners' findings from Utah's implementation of CPM-PTS and, as a result, other states and centers are adopting the screening tool.

HIGHLIGHTS *(cont.)*

Digital Evidence Management System

In FY23, the program implemented a digital evidence management platform with military-grade security to house and manage child forensic interviews—reducing the risk of sensitive material being lost or misused. This has resulted in a 99.9% decrease in unsecured copy production. More than 550 agencies are participating, with almost 50% law enforcement and 21% child protective services. More than \$1 million has been saved on DVD creation, distribution, storage, and transcriptions, resulting in a time savings of 6,741 hours.

New Facilities Under Construction

In 2023, Washington County began expanding to provide more space for medical exams, mental health services, CJC training, and MDT meetings. With the area's growth, Iron County is building a new facility in Enoch that will triple its current service space.

Additional Forensic Interview (FI) Specialists

The program has expanded support to specialists in seven CJCs during FY23, and the availability of additional funding in July has enabled two more CJCs to do so.

Each year, these specialists conduct 1,600 interviews, more than 500 peer reviews, and over 120 consultations with prosecutors and child protection assistant attorneys general.

CJC Family Feedback

To identify CJC strengths and improve services, CJCs invite families to give feedback on their experience. Of families, 97.5% were given the resources they needed to support their child, 97.9% would recommend the center, and 94.3% reported the CJC model fosters collaboration.

BY THE NUMBERS (CJC)

PRIMARY VICTIMS SERVED

7,517

OTHER PEOPLE SERVED
(INCLUDING SECONDARY VICTIMS)

12,118

TOTAL NUMBER OF
ALLEGATIONS

13,540

MOST COMMON ALLEGATIONS

CHILD SEXUAL ABUSE/
ASSAULT

59%

CHILD PHYSICAL ABUSE

15%

DOMESTIC VIOLENCE

9%

CHILD ENDANGERMENT

3%

CHILD SEXUAL ABUSE MATERIAL

2%



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 RECOGNITION

The Utah MFCU was awarded the *Inspector General's Award for Excellence in Fighting Fraud, Waste, and Abuse*.

The award recognized the unit's outstanding partnerships with the Office of Inspector General and other federal and state agencies, as well as success in combating Medicaid fraud and patient abuse and neglect.

Continuing this commitment to state and federal partner collaboration, the Utah MFCU and DEA recently signed an MOU to enable a MFCU agent to serve as a task force officer, working closely with DEA to combat the opioid crisis in the Medicaid fraud arena.



NOTABLE CASES

Eye Surgeon Assault

An ophthalmic surgeon was convicted of multiple counts of aggravated assault and unlawful conduct.

He is currently serving a prison sentence for severely injuring patients because of his substandard surgical procedures and unacceptable negative surgical outcomes.

Granddaughter Financially Exploits Grandfather

On June 26, 2023, a prior resident of Beaver County pleaded guilty to attempted financial exploitation of her grandfather, a vulnerable adult, and was ordered to pay \$150,000 in restitution.

Hospice Agency Repays \$1,000,000 for Improper Medicaid Billings

In a coordinated investigation, a civil settlement of over one million dollars was reached with a local hospice company for improper Medicaid and Medicare claims.

This case involved allegations of unusually high live discharge rates, long lengths of stay, and the ineligibility of Medicaid recipients for hospice services.

Woman Poses as a Nurse Using Another's RN License

In November 2022, a Salt Lake County woman was convicted of identity fraud for using the nursing license number and information of another person with the fraudulent intent to obtain employment as a registered nurse.

The defendant worked as a registered nurse for almost three years before the case was referred to MFCU and a conviction was obtained.

BY THE NUMBERS (MFCU)



TOTAL NUMBER OF FRAUD CASES OPENED

55



TOTAL NUMBER OF FRAUD CASES CLOSED

46



TOTAL NUMBER OF ABUSE & NEGLECT CASES OPENED

40



TOTAL NUMBER OF ABUSE & NEGLECT CASES CLOSED

38



CRIMINAL RESTITUTION ORDERED

\$251,748



CIVIL RESTITUTION ORDERED

\$1,872,441

MORTGAGE & FINANCIAL FRAUD

OVERVIEW

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

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



BY THE NUMBERS (MFFU)



NEW CRIMINAL CASES OPENED

10



CRIMINAL CASES CLOSED

23

RESTITUTION ORDERED
UPON CONVICTION

\$4,083,462

RESTITUTION COLLECTED
THROUGH AG'S OFFICE*

\$54,375



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



NOTABLE CASES

State of Utah v. Chris B. Anderson

Anderson was convicted at trial of one count of securities fraud, a second-degree felony. Anderson, in connection with the offer and sale of a security, engaged in a practice or course of business that operated as a fraud upon the investors. Anderson also used investors' funds in a manner inconsistent with statements made to investors. Anderson paid \$400,000 in restitution to the victims and was given a term of probation.

State of Utah v. Harrison Ashley Grimes

Grimes was convicted at trial of one count of communications fraud, a second-degree felony. Grimes was employed by Moby1, which was owned and operated by his father, Benjamin Grimes (*State of Utah v. Benjamin Ashley Grimes II*).

Grimes participated in a scheme or artifice to obtain money from customers by promising them customized travel trailers in short periods of time if the customers paid for half the trailer upfront and paid an expedited fee.

There was no reasonable basis to make these statements. The victim in this case never received his promised trailer or his money back.

Grimes was ordered to serve 30 days in jail and pay restitution in the amount of \$40,000.

His father, Benjamin Grimes, pleaded guilty to a pattern of unlawful activity, a second-degree felony, and was ordered to pay over \$900,000 in restitution to the victims.

State of Utah v. Robert L. Jensen

Jensen was charged with multiple felony counts of tax evasion and failure to file state income tax returns. Jensen's tax liability was nearly \$200,000, including interest and penalties. Jensen pleaded guilty to one felony count of tax evasion.

Through plea negotiations, Jensen paid a significant amount of his principal tax liability prior to sentencing.



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