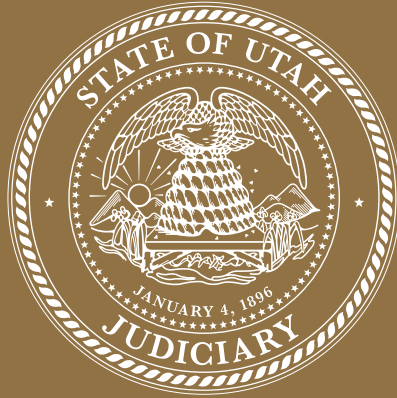




2021

# UTAH JUDICIAL COUNCIL

*ANNUAL REPORT TO THE CHIEF JUSTICE,  
GOVERNOR, AND LEGISLATURE*



*The mission of the Utah State Courts  
is to provide an open, fair, efficient, and  
independent system for the  
advancement of justice under the law.*

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# The Utah Judicial Council

*The Utah Judiciary is governed by the Judicial Council, a sixteen-member group of justices, judges, and a commissioner selected by the Utah Bar. The Council is the voice of the judicial branch. It meets at least one day each month, in various locations around the state, and oversees the administration of the judiciary.*

The Utah Judicial Council is established in the Utah Constitution. This sixteen-member group is the voice of the Judicial Branch and is responsible for general management of the courts, adoption of uniform policies for general administration of the courts, including facilities, court security, support services, staffing, budgeting, and all other administrative matters. The Council meets at least one day each month to oversee the administration of the judiciary. Members of the Council are elected by their peers to serve three-year terms, while simultaneously maintaining the regular duties of their appointed office.

The Council is supported by four executive committees: Management Committee; Liaison Committee; Policy & Planning Committee; and Budget and Fiscal Management Committee. The Council also coordinates its work through a number of standing committees, the court-level boards of judges, and managers working in both the judicial districts and at the Administrative Office of the Courts. The details for these groups can found at <https://www.utcourts.gov/committees/>



Chief Justice/  
Presiding Officer



Supreme  
Court Justice



Court of  
Appeals Judge



District  
Court Judges



Juvenile  
Court Judges



Justice  
Court Judges



Bar  
Commissioner

## 16 MEMBERS

Elected by the judges of each court



*Honorable Matthew B. Durrant, Chief Justice, Utah Supreme Court*

*Judge Mary T. Noonan, State Court Administrator*



*Judge Kate Appleby<sup>1</sup>, Utah Court of Appeals*

*Judge Brian Cannell, First District Court*

*Judge Samuel Chiara, Eighth District Court*

*Judge Augustus Chin, Holladay Justice Court*

*Judge David Connors, Second District Court*



*Judge Ryan Evershed, Eighth District Juvenile Court*

*Judge Paul Farr, Alta, Herriman, and Sandy Justice Courts*

*Judge Michelle Heward, Second District Juvenile Court*

*Justice Deno Himonas, Utah Supreme Court*

*Judge Mark May, Third District Juvenile Court*



*Judge Kara Pettit, Third District Court*

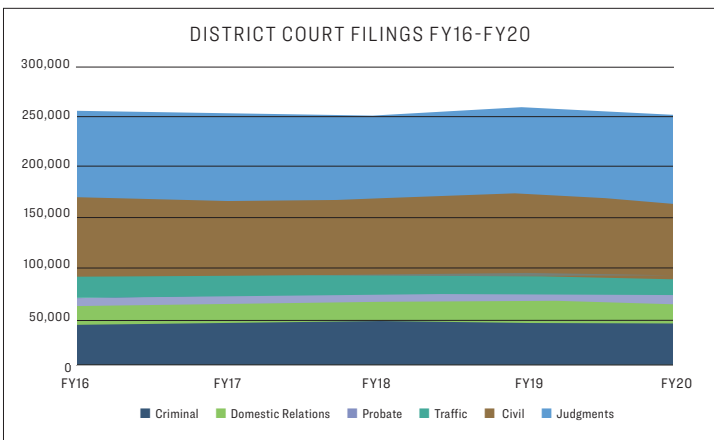
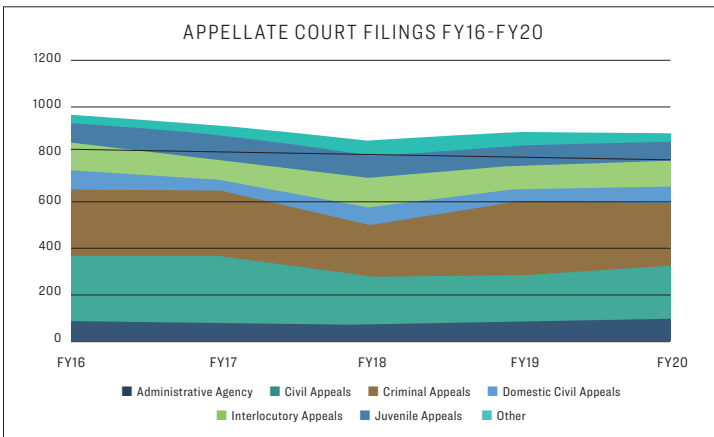
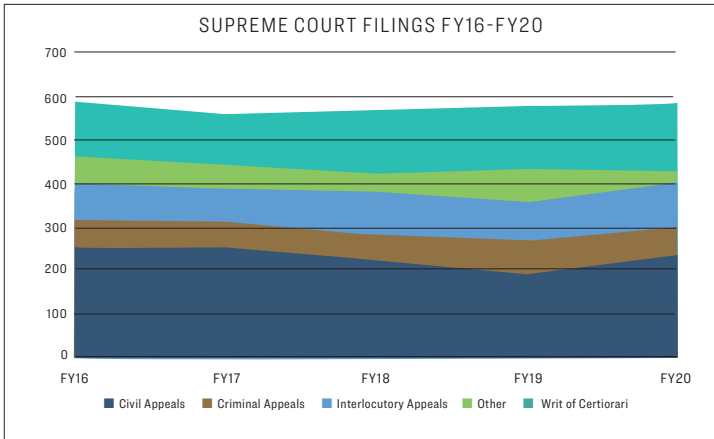
*Judge Derek Pullan, Fourth District Court*

*Mr. Rob Rice, Utah State Bar Commissioner*

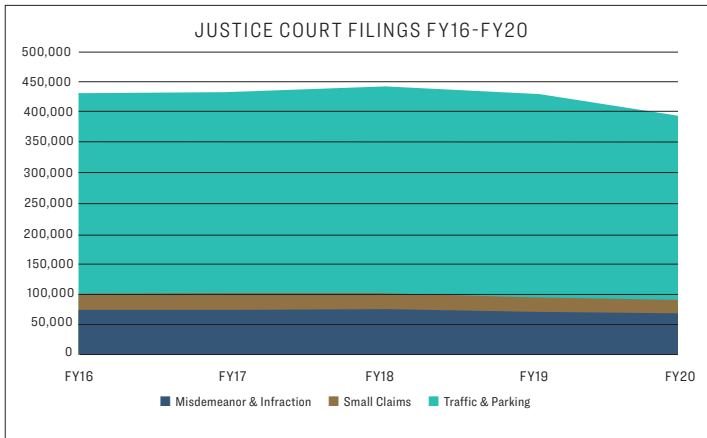
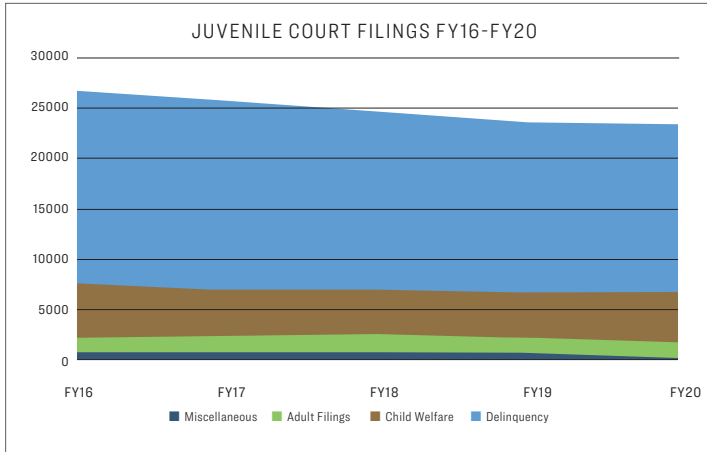
*Judge Todd M. Shaughnessy, Third District Court*

<sup>1</sup> In January 2021, Judge Kate Appleby will retire. Judge David N. Mortensen will fill this seat.

# Court Case Statistics



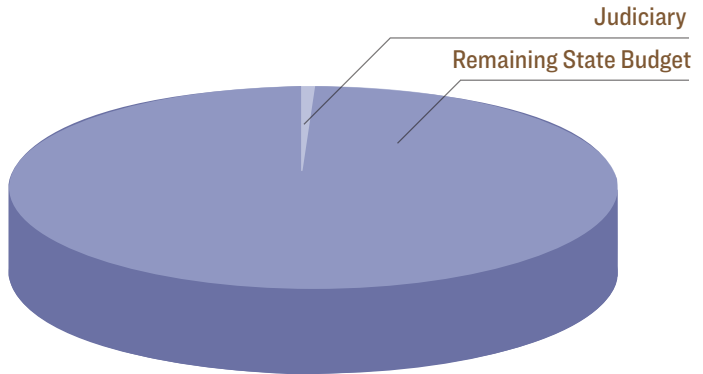
# Court Case Statistics



# Operations of Courts

## 2020 FINANCIAL DATA

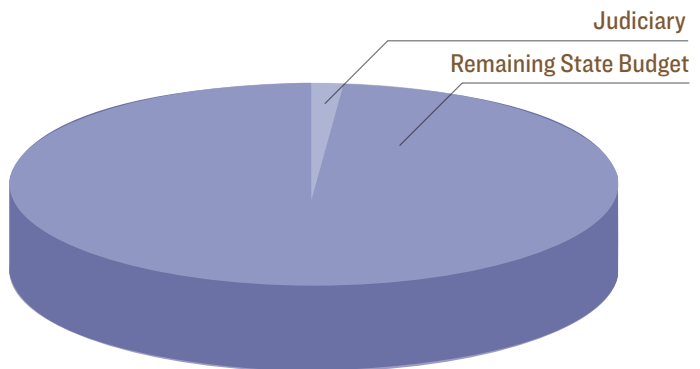
**Judicial Branch:**  
*.8% of all funding,  
 including  
 state and federal*



### *All Funds Including State and Federal Sources*

Total State of Utah Budget:	\$ 21,161,900,600
Total Judiciary Budget:	\$ 167,843,000

**Judicial Branch:**  
*5.9% of general fund*



### *General Funds Only*

State of Utah General Fund Budget:	\$ 2,375,013,200
Judiciary General Fund Budget:	\$ 141,586,400



# Pandemic Response

2020 required the judiciary to make unprecedented shifts in operations in response to the global pandemic caused by COVID-19. The most important response the courts made was to remain open to conduct business such as accepting filings, answering phones, responding to protective orders, and other essential business that cannot be conducted remotely. In mid-March, the judiciary announced that non-essential in-person hearings would be canceled, and would be conducted by video where possible. The decision to suspend in-person hearings in all but the most extraordinary circumstances, to move virtually all court operations to remote hearings, and the many decisions that followed over the coming weeks and months, were not easily made. Those responsible for the decisions, including the Utah Judicial Council and Utah Supreme Court, understood the significant financial, emotional and personal interests involved in cases before the courts, and the crucial need for the courts to remain open for business during our most challenging times. Ultimately, three principles guided each decision: first, and foremost, the health and safety of patrons who visit the courts and the employees who work there; second, the need to fulfill our constitutional responsibility to hear and decide cases; and third, the advice of public health professionals and adherence to their evidence-based recommendations.

Some have asked why individuals can shop in-person at stores or dine-in at restaurants when, at the same time, the courts remain closed to in-person proceedings, particularly when those proceedings involve such important issues. The difference is found in the unique ability the courts have to compel the court attendance of parties, attorneys, witnesses, and jurors. Utah's courts typically interact with thousands

of citizens each week, and the courts took seriously its role in limiting the spread of infectious disease.

Among the most difficult issues the Council confronted was whether to temporarily suspend jury trials. The Council is mindful, of course, of the constitutional right to a jury trial in criminal and civil cases, the rights of criminal defendants to a speedy trial, and of the critical role juries play in resolving disputes. The Council also is aware of the fact that many times the prospect of a jury trial is the key ingredient needed to cause stipulated resolution of a case. Against these weighty considerations, however, the Council, in consultation with community health experts, considered the health and safety of jurors and prospective jurors, and their families and loved ones. Although parties, witnesses, and others may be willing participants in a trial, jurors are not. It's one thing for participants to voluntarily risk exposure to COVID-19, but quite another to compel someone to face that risk in the name of jury service. Beyond jurors, the Council also considered the health and safety of other participants in the trial, including witnesses, parties, counsel and their staff, as well as our own court staff. Also important, and yet difficult to quantify, was the risk that jurors compelled to appear may not give a case their undivided attention with the cloud of possible exposure hanging over the courtroom. Finally, things like age, race, and ethnicity, are all known risk factors associated with COVID-19. Eliminating prospective jurors based on these or other risk factors could skew the jury pool in a constitutionally impermissible manner.

# Pandemic Response

In 2020, the courts continued to conduct a significant volume of work during the pandemic. Our IT staff worked successfully to secure software and hardware necessary to facilitate every judge in the State, at every level, being able to conduct a video hearing at any time of the day or night, and to invite an almost unlimited number of participants to attend those hearings. Our judges and staff received training on this new system, we educated stakeholders and the public about it, and integrated it with our existing case management systems. The courts also received support from the stakeholders with whom we work on a daily basis. Personnel from all of the county jails and the prison worked tirelessly to set up Webex systems in their facilities and transition their work from transporting inmates to and from courthouses to holding video court in custody. Prosecutors, public defenders, attorneys, and others in the community upon whom the courts rely have supported (and endured) the sometimes long learning process with few if any complaints.

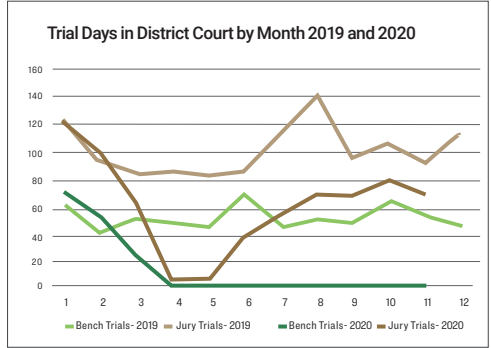
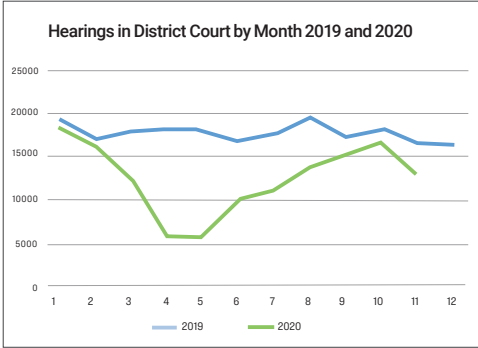
We believe this experience will ultimately make the courts stronger and more efficient over time. Some aspects of court procedure, such as jury trials, are ideal for in-person proceedings. But many other hearing types are easily conducted remotely. Individuals who previously had to take time off of work to attend a court hearing may be able to take a quick break and attend a hearing on their cell phones. Pretrial conferences are easily handled by video, allowing attorneys to appear in multiple courts during

the same morning or afternoon. Remote arraignments allow parties who live outside of the jurisdiction to appear without the expense and burden of travel. Failures to appear may decline as the convenience of participating improves, making courts more accessible and less intimidating. In addition to parties and their lawyers, these changes benefit the public and provide greater transparency of court proceedings. Members of the public can access court calendars and find links to online hearings. Any interested party can now tune in to court proceedings remotely. We expect that many of these positive changes will continue even after the pandemic has resolved.

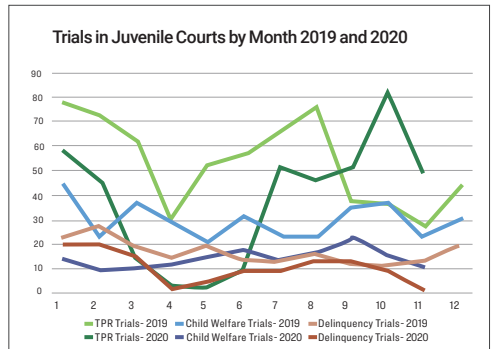
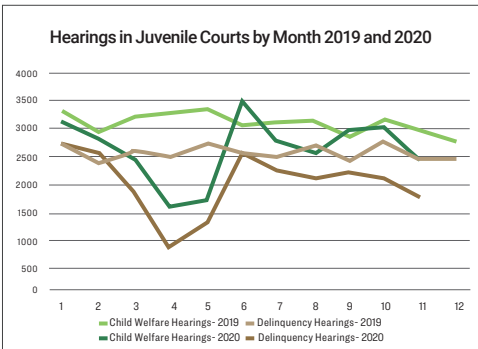
While we are all anxious to resume something more closely resembling what was normal prior to March 2020 as soon as possible, we recognize that the judiciary has learned much in 2020 that will help us more effectively and efficiently serve the public for decades into the future. For now, we thank the public, court patrons, parties, attorneys, and witnesses for their patience and commitment during 2020. We also express our gratitude to the legislature and the governor for the leadership shown as Utah addressed this pandemic. And we offer a special thank you to those serving at the Utah Department of Health, the local health departments, and the medical professionals at the University of Utah who have consistently consulted with the judiciary throughout 2020.

# HEARINGS AND TRIALS: 2019 AND 2020

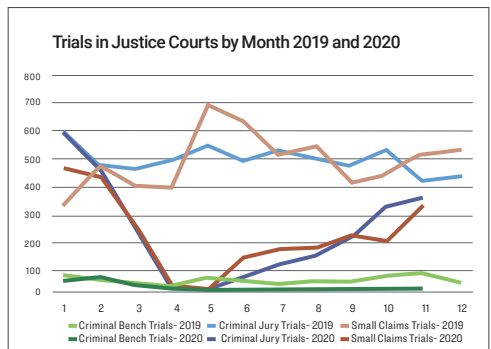
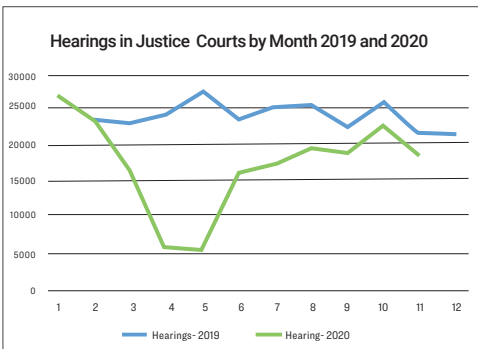
## District Courts



## Juvenile Courts



## Justice Courts



# Pandemic Response

## Self-Help Center: now more important than ever

*“The Self-Help Center has proven to be a vital lifeline for self-represented litigants during the pandemic.”*

The Self-Help Center (SHC) is a service of the Courts that is accessible statewide through email, text, a toll-free phone line, and the courts’ website. To promote access to justice for all people, the service is offered free of charge to the public. People contacting the SHC receive plain-language explanations of complex legal issues, details on next steps in their cases, and connection to resources including forms and legal services. SHC staff attorneys are able to assist people directly in English and Spanish, and, through certified interpreters, many other languages.

The delivery of remote services, which is at the core of the SHC’s model, has become even more critical in this time of social distancing. Throughout the pandemic court patrons did not experience any service reductions from the SHC. In fact, the SHC has been completely unfazed by the trials of this year: neither the earthquake, nor the pandemic, nor the windstorm, nor power outages, stayed the SHC from providing much needed access to the courts.

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### Uninterrupted statewide service from the SHC meant Utahns coping with the volatilities of 2020 received:

- Clarification regarding parent-time responsibilities in light of stay-at-home orders and COVID-19 safety concerns
- Guidance and focused help when seeking protection from domestic violence, including improved referral networks
- Accurate and current information for landlords and tenants about eviction and rental assistance
- Up-to-date online guidance in response to the changing needs and anxieties citizens faced this year
- Numerous presentations, including virtual town halls, online forums, and television appearances about all of these topics

With 23,466 contacts in fiscal year 2020, the SHC had more annual contacts than ever before, including over 10,000 calls. This is a nearly 9% increase in contacts year-over-year, which highlights the demand for services.

# Budget Requests

## FY2022 Budget Priorities and Building Block Information

*Ongoing\* and one-time funding requests, as established by the Judicial Council (listed in order of priority)*

*\* = funded during 2020 general session, but then reversed in June 2020 special session*

### #1: TECHNOLOGY INVESTMENT — \$1,452,000

**\$650,000\*** – IT Developers

**PURPOSE:** increase IT staff by six to support continued development of Utah's court IT infrastructure

The number of core technology applications needed to serve the public and support the courts has more than doubled (from 6 to 13) in the last 10 years. Yet ongoing resources for developing and staffing these increased electronic services have remained virtually unchanged.

**\$210,000\*** – Online Court Assistance Program (OCAP)

**PURPOSE:** hire two dedicated OCAP technical support staff

For many individuals, OCAP is the only method for them to prepare documents to file or respond in a court case. OCAP is a simple to use, but complex to design, computer system that assists self-represented parties and others to generate necessary legal forms. The current system cannot reliably meet existing or future demand. OCAP requires maintenance and technical support to ensure the software reflects current Utah Code and court rules, security best-practices, and to expand OCAP to additional case types so that more people can benefit from the service.

**\$450,000** – Cybersecurity Infrastructure

**PURPOSE:** maintain a robust cybersecurity platform

In recent years, the Judicial Council has been able to address cyber security issues with one-time carryforward funding. With the 2020 budget reductions, that funding is no longer available. In May 2022, the courts' current cybersecurity software will term out and will need to be converted to ongoing funding to maintain existing protections.

# Budget Requests

## **\$25,000** – Rural Court Location Bandwidth Increases

**PURPOSE:** provide parties, attorneys, judges, and staff with sufficient bandwidth at rural courthouses

In rural Utah, internet bandwidth is often limited. Many rural courthouses are currently forced to operate with internet speeds that are far slower than the speeds that even residential consumers commonly access along the Wasatch Front. In our current technology-based legal landscape where web-based video is often used for court business, insufficient bandwidth artificially constrains what can be accomplished in these courthouses, limiting efficiency for patrons and the courts that serve them.

## **\$45,000** – Webex Licensing

**PURPOSE:** continued access to remote meeting software for court

As part of the courts' 2020 pandemic response, court hearings moved online. This required an investment in software licensing, which was paid for one-time with 2020 CARES Act funding. Remote court hearings are proving to be advantageous for parties and attorneys for many hearing types. The courts anticipate these types of remote hearings will continue post-pandemic.

## **\$72,000** \* – Microsoft Licensing

**PURPOSE:** upgrade outdated Microsoft software

The courts rely on Microsoft Office products as the standard for documents in the legal field. Currently, more than 1500 court devices use Office 2010, which is no longer supported by Microsoft (as of October 2020), leaving users without security updates and exposing the courts to increased risk of cyberattacks.

## **#2: PUBLIC OUTREACH & EDUCATION COORDINATOR – \$120,000**

**PURPOSE:** to establish consistent, sustainable bridges with marginalized communities

This coordinator would provide critical support for public outreach and education in all of Utah's communities, with a special focus on those communities that have expressed perceived bias due to race and gender. Purposeful and targeted education about the courts and available services will increase public trust and confidence in the courts.

### #3: PUBLIC SAFETY OUT-OF-STATE CRIMINAL HISTORY REVIEW — \$220,500

**PURPOSE:** provide judges with more criminal history information when making release decisions

Judges have been using the Public Safety Assessment (PSA) for more than two years to assist in making release decisions when an individual has been arrested. Part of the PSA provides information to a judge regarding an individual's criminal history. Currently, if an individual has any out-of-state criminal history, a PSA is not able to be provided to the judge. This request seeks ongoing funding to improve the PSA creation process by adding a manual review of an individual's out-of-state criminal history information (if any). Data shows that by adding this manual review to the process, judges will receive a PSA in 30% more cases (bringing the statewide total to over 90%).

### #4: COURT COMMISSIONERS – RECRUIT & RETAIN — \$92,500 \*

**PURPOSE:** retain experienced commissioners and recruit the highest quality candidates

Court commissioners are quasi-judicial officers assigned to domestic cases, including divorce, child custody/support, and protective orders. The courts have experienced turnover and difficulty recruiting qualified applicants. Most court commissioners can make significantly more in the private sector. This would increase current salary by 6.4%.

### #5: JUDICIAL ADMINISTRATION CERTIFICATE PROGRAM

— \$50,000 + \$10,000 *ONE-TIME*

**PURPOSE:** provide professional development to address future judicial administrator knowledge and skills

This is an investment in future judicial administrative leadership. This funding would be used to provide a path for professional development to specifically address the knowledge, skills, and abilities needed to enhance the career growth of judicial administrators. As a pilot program, it is anticipated that instruction would begin in August 2021 with an enrollment cohort of 15 students.

# Court Initiatives Progress Report

In 2020, the Utah Judicial Council and the Utah Supreme Court continued their groundbreaking efforts to combat the access to justice crises, which has only worsened because of the COVID-19 pandemic. Of the many initiatives underway within the judiciary, four stand out: the Council's Office of Fairness and Accountability; the Council's online dispute resolution (ODR) program; the Court's licensed paralegal practitioner (LPP) program; and the Court's regulatory reform.

## Office of Fairness and Accountability

The Utah judiciary belongs to the people of Utah. The work of the courts is to provide an open, fair, efficient, and independent system to advance access to justice under the law. Fairness is the basic premise of our system of justice. The goal is a fair process that produces a just result. The goal cannot be achieved in a system tainted by racism or any other form of bias.

The Utah judiciary understands the public's trust and confidence in the courts requires us to identify any part of our process or outcomes that contribute to or cause the unequal treatment of individuals based on factors such as race, ethnicity, socioeconomic status, sexual orientation or gender. We understand we must take action to address inequities and hold ourselves accountable for equitable treatment for all.

The Office of Fairness and Accountability is created to organize and lead the Utah Courts in examining and addressing bias within the judicial system. The Office will work collaboratively, both within the courts and with individuals and entities outside our system, including the executive and legislative branches of government. The Office will focus on, among other items, outreach to marginalized communities; data collection and research; judicial officer and employee education; recruitment and selection of court commissioners and employees; interpreter and language access; and reporting.

The Office of Fairness and Accountability—composed of a Director and additional staff—will work collaboratively with other offices and departments in the judiciary, such as Data Services, Judicial Education, Human Resources, the State Law Library and Self-Help Center, and Information Technology Services. The Director will also collaborate with Judicial Council standing





committees including: the Standing Committee on Judicial Outreach; the Standing Committee for Self-Represented Parties; the Standing Committee on Language Access; and the Standing Committee on Judicial Branch Education.

The Director will create and operationalize a strategic plan with a focus on: identifying and addressing racism and other forms of bias within the judicial system; increasing and sustaining community outreach, including collaborating on recruitment for judicial openings; collecting, analyzing, and disseminating relevant data; and educating judicial officers and employees regarding cultural competency, bias (implicit, institutional, and individual).

We hope that now, more than ever, we can receive increased public input regarding how we can continue to reform as we strive toward the more perfect Union our constitution promises.

*\* Mr. Jonathan Puente is Director of the Office of Fairness and Accountability, starting January 4, 2021.*

# Court Initiatives Progress Report

## Online Dispute Resolution (ODR) Update

*“The ODR pilot project was an unqualified success for the court: the process for litigants on the ODR platform significantly streamlined internal court processing.”*

Impact of the Utah Online Dispute Resolution (ODR) Pilot Program:  
*Final Report National Center for State Courts December 2020*

A pilot ODR program has been operating in small claims in the West Valley Justice Court for over two years, and in the Orem and Carbon Justice Courts for over one year. The mission of the program is to lower the burdens and costs of justice by bringing the courts to the people rather than the people to the courts. The program has received national and international recognition. A recent National Center for State Courts study of the ODR program found clear success for case processing efficiencies, and also made recommendations to address identified technology barriers and increase education and outreach through community partners so that the ODR program can more effectively fulfill its intended purposes.

Earlier this year the Council authorized taking the program statewide. It is anticipated that by this time in 2021, all small claims cases in Utah will be handled through the ODR platform. Because the ODR platform is asynchronous and allows for participation across the geographical divide, trained ODR facilitators will be available as a resource in small claims cases to every community throughout the state.

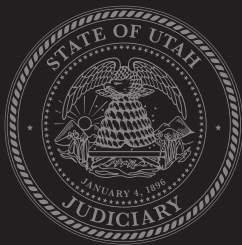
## Licensed Paralegal Practitioner (LPP) Program

Utah saw its first group of LPPs sworn in to practice in October of 2019. A second group was sworn into practice in October of this year, bringing the total to 13. LPPs are able to practice in the areas of debt collection, landlord/tenant, and family law. The Utah Supreme Court is currently considering expanding those eligible to practice under the LPP license to individuals who graduate from an accredited program with a Masters in Legal Studies.

## Regulatory Reform Update

In August of 2020, the Utah Supreme Court officially launched its Office of Legal Services Innovation. Under the oversight of the Court, the Office is responsible for overseeing the world’s first legal regulatory sandbox. The concept of the sandbox is to allow for and test legal innovations in a controlled environment. The Court has, to date, authorized over a dozen entities to offer services in the sandbox. The Innovation Office is receiving approximately two new applications each week. To learn more, visit <https://sandbox.utcourts.gov/sandbox/>





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