UTAH JUDICIAL COUNCIL

2023

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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UTAH JUDICIAL COUNCIL

The Utah Judicial Council is the policy-making body for the judiciary. It has the constitutional authority to adopt uniform rules for the administration of all court levels. The Council also sets standards for judicial performance, court facilities, information technology, support services, and judicial and non-judicial staff levels. The Council consists of 16 members that each serve three-year terms. The Chief Justice of the Supreme Court chairs the Council. The other members include: one Supreme Court justice; one Court of Appeals judge; six District Court judges; three Juvenile Court judges; three Justice Court judges; and a representative of the Utah State Bar. The State Court Administrator, Ronald B. Gordon, serves as secretariat to the Council.

The members of the Judicial Council are Chief Justice Matthew B. Durrant, Judge David N. Mortensen, Judge Keith Barnes, Judge Suchada Bazzelle, Judge Brian Brower, Judge Samuel Chiara, Judge Augustus Chin, Judge David Connors, Judge Ryan Evershed, Judge Paul Farr, Judge James Gardner, Judge Elizabeth Lindsley, Judge Thomas Low, Justice Paige Petersen, Judge Kara Pettit, and Margaret Plane (Utah State Bar).

ADMINISTRATIVE OFFICE OF THE COURTS

The Administrative Office of the Courts (AOC) provides administrative direction and operational support for all state and local courts and within all eight of Utah's judicial districts. The office consists of approximately 160 staff in the divisions of District, Juvenile, Justice, and Appellate Courts, as well as Legal, IT, Finance, Facilities, Security, Audit, HR, Education, Dispute Resolution, Communications, Data and Research, a Self-Help Center, and an Office of Fairness and Accountability. The State Court Administrator leads the AOC and is appointed by the Chief Justice with the concurrence of the Supreme Court. Under the guidance of the Chief Justice and the Judicial Council, the State Court Administrator, with the help of the District, Juvenile, Justice, and Appellate Court Administrators, is responsible for the administration of all non-judicial activities in the state court system.

IMPROVING SERVICE TO THE COMMUNITY

The mission of the Utah Judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law. The principles of the mission are the foundation for the judiciary's work in serving the public. Few people choose to come to court, and they often face stressful and difficult circumstances or even a crisis. We recognize that the judiciary must continue to adapt our service delivery to the needs of the people with an emphasis on lessening the distress and challenges of the court experience without sacrificing access to justice, efficiency, and openness of the courts. This requires a deep understanding of our community's needs which can only be realized by listening to feedback from the people we serve and collaborating with other branches of government to implement innovative solutions that improve access to justice and to the courts.

Some examples of the judiciary's responsiveness to the input from the community and the direction from the legislature include virtual hearings, a Community Court pilot, enhancements to Xchange, deferred traffic prosecution, and automatic expungement.

Virtual Hearings Provide An Additional Way to Access the Courts

During the COVID-19 pandemic, virtual meeting technology allowed the judiciary to continue striving to provide the public an open, fair, efficient, and independent system for the advancement of justice, even while public health considerations significantly restricted in-person gatherings. The widespread use of virtual hearings was initially implemented out of necessity. At the time, we did not know whether their use would continue once the significant health risks of in-person gatherings abated.

Virtual hearings offer a significant convenience factor for many court patrons and also expand access to justice in many situations. They also create additional work for court staff and some inefficiencies that can interfere with the work of the court in some situations. The Judicial Council has sought to ascertain how virtual meeting technology can be employed into the future to continue offering the increased access to the courts without sacrificing the effectiveness inherent in in-person proceedings.

In doing so, the Judicial Council has articulated factors that judges should consider when deciding whether a hearing will be in person or virtual. The Judicial Council also established best practices to assist judges, court staff, and court patrons during virtual hearings. Recognizing that not all court patrons have access to reliable internet and may want to participate in virtual hearings, the Judicial Council is placing 50 kiosks throughout the state that allow court patrons to access a virtual hearing in a private setting. The kiosks will be located in courthouses, city buildings, and at least one community health center.

Community Court

The judiciary's office of Fairness and Accountability, in partnership with the Self-Help Center, recently launched Community Court. This pilot program brings the court to the people by providing certain court services in local community centers. Types of cases heard at Community Court include divorces, custody, paternity, child support, temporary separation, and enforcement of family law orders. We are currently looking for opportunities to expand this pilot.

IMPROVING SERVICE TO THE COMMUNITY

Xchange Enhancements Increase Public Access to Court Records

Since the late 90's, the judiciary has made public court records available online through a portal called Xchange. As a result of a recent partnership between the legislature and the courts, Utahns can now search public court records online more easily than ever.

During the 2021 general session, the legislature passed HB0249, a bill that expanded access to Xchange. As a result of this legislation and the judiciary's work to implement it, individuals can now access court records without having to submit a paper application to sign-up for an ongoing monthly subscription and without having to travel to a courthouse. The entire sign-up process is now automated, instantaneous, and available online by going to xchange.utcourts.gov and paying a $5 fee, which goes toward searches and documents.

Members of the public can create an account or they can simply log in as a guest. For either option, a valid email address is required. The $5 fee will cover records searches (at 20¢ per search) and document retrieval (at 50¢ per document). There is no limit on how many times an individual can pay the $5 fee to continue searching records. These new enhancements to Xchange were released in February 2022.

Deferred Traffic Prosecution: a New Option for Resolving Traffic Citations

In 2022, the legislature tasked the courts with creating a new process that would allow eligible individuals who receive a ticket for certain moving traffic violations to automatically resolve that ticket without having to go to court. This process is completely voluntary and is called "Deferred Traffic Prosecution" (full legislation details can be found in HB0139 or in Utah Code § 77-2-4.2(5)).

A driver who successfully resolves their ticket through this process will have the ticket automatically dropped after 12 months.

To implement this new statutory program, the Administrative Office of the Courts developed a one-of-a-kind online application process that:

- allows the driver to confirm that the driver and the ticket are eligible for the program;
- explains the options that the driver has to resolve their ticket, including all of the usual options that existed before this new program; and
- enables the driver to complete and submit the application, including payment of any required fines and a $5 administrative fee.

To be eligible for the program, statute requires a driver to be at least 21 years old, have a current Utah driver's license (but not a commercial driver's license), have no traffic convictions in the last 24 months, and not currently be in a Deferred Traffic Prosecution. Eligible tickets must include only one moving traffic infraction from the Utah traffic code (or similar local ordinance) and may also include any number of non-moving infractions. Tickets without a moving traffic infraction, tickets for multiple moving traffic infractions, tickets involving any offense higher than an infraction, tickets involving a traffic accident, and tickets for speeding 20 mph or more over the speed limit are all ineligible.

To apply for Deferred Traffic Prosecution, the driver must be eligible and must pay the entire fine applicable to the offense(s) included on their ticket.

IMPROVING SERVICE TO THE COMMUNITY

Once the application is submitted, the system reviews the application. If all criteria are met, the application is automatically approved. The system then monitors the driver's record to ensure no new traffic convictions appear. If the driver has no traffic convictions in the 12 months immediately following their successful application, then the ticket will be automatically dropped from their record and the court case closed successfully. If a new conviction enters on their record in that time period, the deferred traffic ticket will automatically enter on their record without the court imposing any further sanction.

As the public's knowledge of this new voluntary program grows, the courts anticipate that up to 50% of Utah's 300,000+ annual traffic citations and cases may ultimately be resolved through this Deferred Traffic Prosecution program.

New Expungement Process Automatically Clears Old and Minor Criminal Records

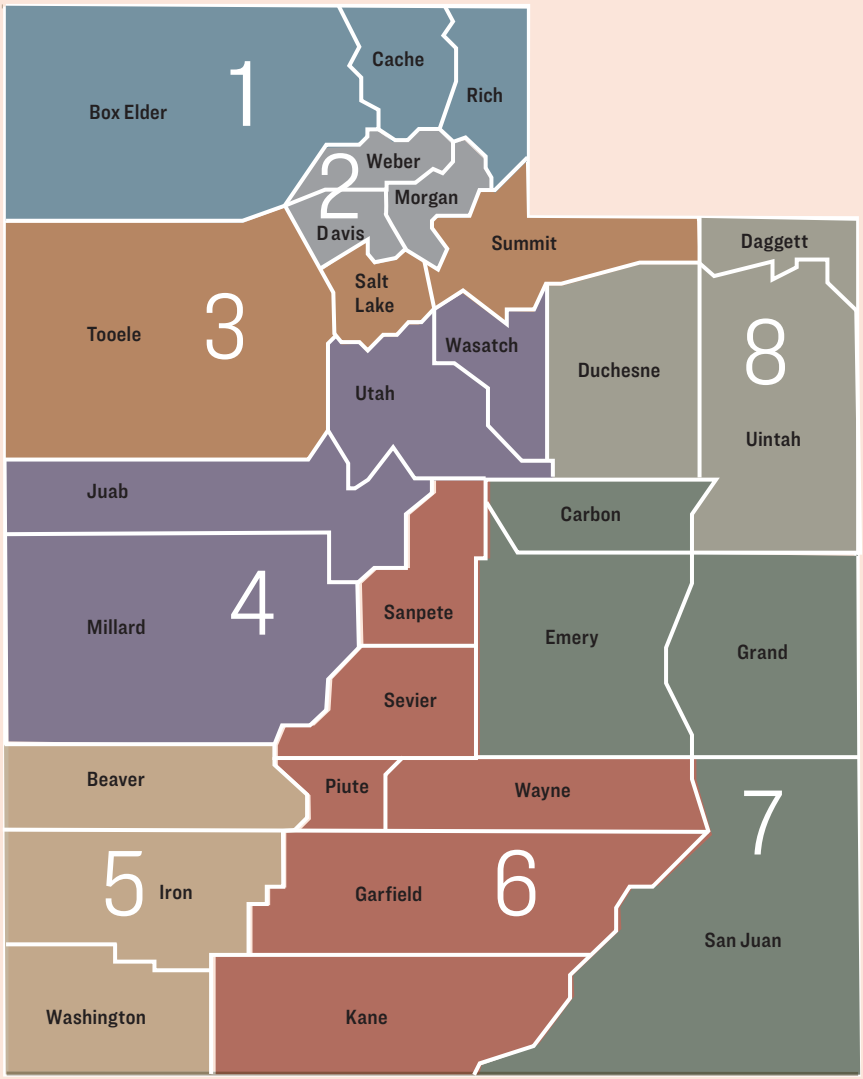
During the 2019 legislative session, Utah lawmakers passed a bill requiring automatic expungement or deletion of certain old and minor criminal records for individuals who have remained crime free for a set period of time. The legislature anticipated that the development time to implement this system would take several years. After less than three years of concerted effort, the Utah judiciary and BCI officially began automatically expunging eligible cases in February 2022.

For the courts, this law is about access to justice, a critical issue for the judiciary. Many of the neediest Utahns require a lawyer to help them and cannot afford one. Criminal record expungement is one of these areas. Utah's automatic expungement law changes this landscape completely."

Implementing a system capable of accomplishing the legislature's intention was a massive technological lift. The Administrative Office of the Courts partnered with a nonprofit entity — Code for America — to create the algorithm that automatically and accurately identifies individuals and cases that are eligible to be cleared. To be eligible, individuals must have remained conviction-free for five to seven years, depending on the level of the offense. The underlying criminal matters are limited to class A misdemeanors for drug possession, most class B and C misdemeanors, and all infractions. The law also applies to cases that have been completely dismissed or resulted in an acquittal. Felony cases are ineligible, as well as all domestic violence related offenses, sex offenses, assaults, and DUI offenses, regardless of the level of the offense.

Cases are expunged in batches and additional cases are continuously rolled into the system for processing as eligibility criteria are satisfied. Since February 2022, the courts have issued more than 200,000 automatic expungement orders related to tens of thousands of unique individuals. For comparison purposes, prior to automatic expunge-ment, the only expungement process was manual and required an individual to file a petition, pay filing fees, serve other parties, etc. That system continues to operate in parallel with automatic expungement, resulting in approximately 6,500 manual expungement orders each year.

JUDICIAL DISTRICTS



CRITICAL WORK OF PROBATION OFFICERS

Since the establishment of juvenile probation officers shortly after the turn of the 20th century, probation work has experienced substantial changes. The most notable, recent change was the legislature's juvenile justice reform effort arising from its 2017 enactment of HB 239. Among other things, HB 239 established standards by which youth may be placed in secure care and for pre-court diversions, capped fines and fees, limited school-based court referrals, and set limits on the amount of time youth can spend in detention centers or under court ordered probation supervision.

Today, juvenile probation comprises of 200 employees, including 13 Probation Chiefs, 29 supervisors, and 146 probation and deputy probation officers.

In FY22, juvenile probation worked with 9,115 youth and their families, some of whom were referred on multiple occasions. There were 3,651 delinquency petitions filed, and 1,354 youth placed on formal or intake probation.

Many juvenile offenses can be resolved without the youth seeing a judge through a process called a non-judicial agreement. These agreements are managed by juvenile probation officers. In FY22, non-judicial agreements were offered to resolve 7,832 delinquency referrals, 92% of which were completed successfully by referred youth. Probation officers participated in 21,472 delinquency hearings, and worked with youth to complete 17,821 community service hours. Adjudicated youth paid nearly $450,000 in restitution to the victims they harmed. The charges that probation handled included:

- 1,792 acts that would be felonies if committed by an adult;
- 9,890 acts that would be misdemeanors if committed by an adult;
- 457 infractions; and
- 560 age-based status offenses.

CRITICAL WORK OF PROBATION OFFICERS

Probation officers made nearly 100 referrals to an intensive in-home family intervention program through which critical family support was offered. Additionally, hundreds of referrals were made to other intervention services, most of which were for youth determined to be moderate or high-risk.

To know these facts is to know that a small workforce has handled a high volume of work for the youth of our State. Probation officers use evidence-based practices to prioritize public safety and reduce the risk of recidivism. But numbers alone do not fully capture the work of a probation officer.

The role of a juvenile probation officer is nuanced and multifaceted. On any given day, a juvenile probation officer may:

- interview a youth
- assess a youth's risk-level and needs in order to provide individualized skill-based interventions
- collaborate with treatment providers to establish progress goals
- work with youth and families to complete a non-judicial agreement
- mediate a domestic conflict between a parent and child
- work to locate a runaway
- participate in a committee meeting
- present and justify recommendations in court

Juvenile probation officers are called upon to act as social workers, teachers, law enforcers, paralegals, mediators, coaches, mentors, and victim advocates.

The fruits of a probation officer's work may often not be seen firsthand because success, at its very best, is reflected in youth who grow into contributing members of our society and no longer have contact with the justice system. The Commission on Criminal and Juvenile Justice' Utah Pathways Study, conducted by the Sorenson Impact Center and published in November of 2022, studied the number of juvenile justice-involved youth who reach the adult criminal justice system. According to the Utah Pathways Study, an overwhelming number of the youth with whom probation officers come into contact do not become involved in the criminal justice system, underscoring the importance of a continued focus on diverting low-risk youth to preserve intervention resources for youth who present the highest risk to Utah communities.

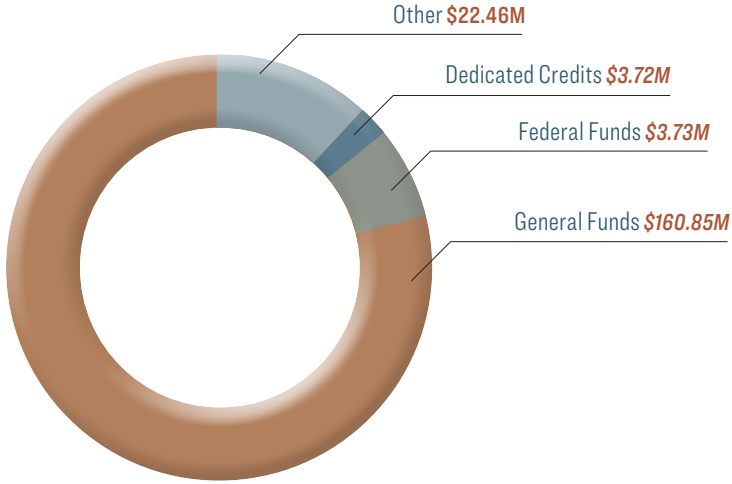
The findings from the Commission on Criminal and Juvenile Justice appear to reiterate what Utah's Supreme Court observed of the Juvenile Court in 1907, when Justice Joseph Frick wrote, "[t]hose who come, and are intended to be brought, before juvenile courts must be reached through love, not fear. The purpose in bringing them before the court is to lead them away from, and to destroy their propensities to, vice; to elevate, not degrade; to reform, not to punish them." Mill v. Brown, 88 P. 609, 615 (Utah 1907).

The possibility of reaching the ultimate measure of success for a probation officer is what motivates juvenile probation as we continue to work to enhance the lives of all youth by fostering personal growth and positive change through evidence-based principles and accountability.

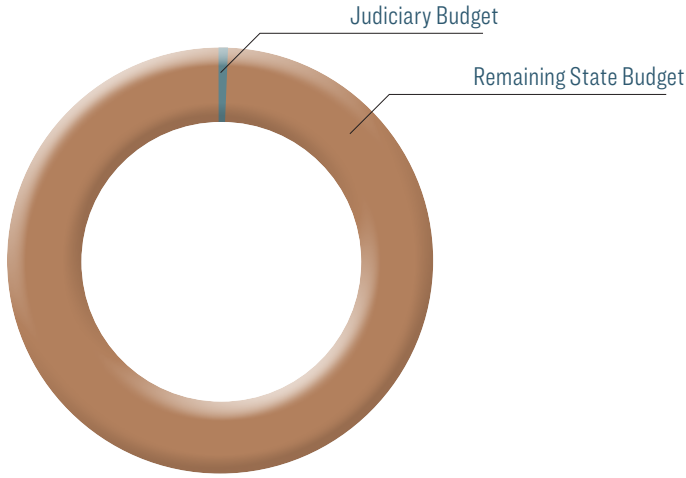
OPERATION OF THE COURTS

2022 FINANCIAL DATA

FY22-23 SOURCES
$190.76M



JUDICIAL BRANCH
.73% OF ALL FUNDING,
INCLUDING STATE AND FEDERAL



All Funds Including State and Federal Sources

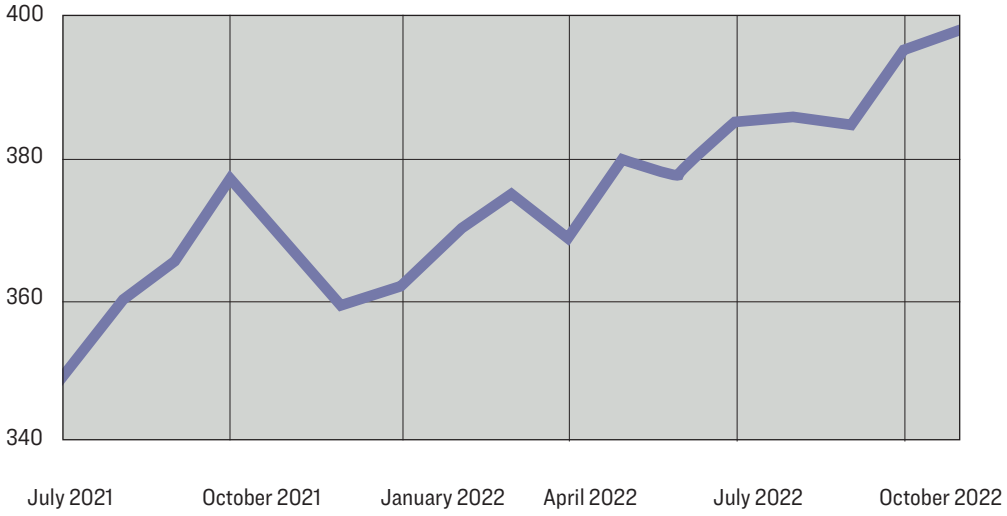
Total State of Utah Budget:	$ $25.99B
Total Judiciary Budget:	$ 190.76M

For more information on court finances go to *https://cobi.utah.gov/2022/12/overview*

SUCCESS IN RETENTION OF JUDICIAL ASSISTANTS

Judicial Assistants (JAs) make up nearly 30% of all court employees and are critical to the court's mission to provide people an open, fair, efficient, and independent system for the advancement of justice under the law. Over the years, the courts have had a harder and harder time hiring and retaining JAs, because the pay rate wasn't competitive. However, in 2022, the legislature approved a $3.9 million budget request to recruit and retain qualified Judicial Assistants, and we are extremely pleased to report that it's working. Data for the past year shows that turnover is on a downward trajectory and also that staffing levels for JAs are increasing. We appreciate the legislature's investment in court staff and are grateful that investment can help address the issues we are facing, so we can continue to recruit and retain employees who are a crucial part of making the court system run smoothly.

JUDICIAL ASSISTANT POSITIONS FILLED OVER TIME



JUDICIAL BUDGET REQUESTS

1 LEGAL EXPERTISE – RECRUIT AND RETAIN

$5,090,000 ONGOING ($3,475,000 FOR JUDGES; $1,615,000 FOR ATTORNEYS)

A compensation increase for judges and court-employed attorneys that support judicial operations and administration is necessary for the judiciary to continue to attract — and retain — the highest quality legal practitioners.

The Judicial Council supports the* 10% compensation increase for each state court judge *recommended by the legislature's Elected Officials and Judicial Compensation Commission.

FOR JUDGES: The quality of Utah's judges is of preeminent importance. During 2022, two Utah Supreme Court justices left the bench and returned to private practice for financial reasons. Since 2019, the average number of applicants for trial court vacancies has decreased by nearly 20%. Twice in 2022 only 13 individuals applied for a judicial vacancy. These are very concerning trends. The last significant non-COLA judicial compensation increase was in 2016, which is also the last time the State experienced a significant increase in applicants for judicial vacancies. For more details: *https://le.utah.gov/interim/2022/pdf/00004709.pdf*

FOR COURT-EMPLOYED ATTORNEYS: Judges rely on court-employed attorneys having necessary legal expertise to handle essential ancillary legal matters related to judicial decision-making and administration. The entry pay rate for the majority of these jobs is just under $27/hour (~$56K/year), with the average pay rate currently just over $35/hour (~$70K/year). These pay rates are not competitive with other government attorney jobs (let alone the private legal market). This funding is designed to help recruit, and then retain, qualified attorneys in these 75 critical positions.

2 FOURTH DISTRICT JUVENILE COURT JUDGE

$475,000 ONGOING

The 4th Judicial District (Utah, Wasatch, Juab, and Millard Counties) needs an additional juvenile court judge. Population growth is resulting in rapidly increasing caseloads. Currently the **five juvenile court judges in 4th District are handling the workload of 6.9 judges** (139% of standard). This results in delay for families who need juvenile court services. This appropriation will fund the judge position and two judicial assistants to support that judge.

3 SELF-HELP CENTER – FORMS ATTORNEY

$127,000 ONGOING

Self-represented litigants represent the overwhelming majority of court users. Self-Help Center attorneys provide assistance all across the state to thousands of these individuals annually. Well-drafted court forms and templates make legal processes accessible, comprehensible, and efficient. Having **a Self-Help Center attorney dedicated to the preparation and promulgation of court forms will expand access to justice** and keep the courts' substantial collection of forms current with legislative changes.

4 WASATCH COUNTY COURTROOM ADDITION

$163,300 FOR DURATION OF 15-YEAR LEASE

The judiciary currently leases a single courtroom to serve all of Wasatch County. Caseloads have increased in the district and juvenile courts — **it is no longer possible to effectively manage the workload with only one shared courtroom.** Wasatch County is expanding its Justice Center and this funding will allow the courts to build out and lease space for an additional courtroom.

5 DOMESTIC VIOLENCE PROGRAM MANAGER **$110,000 ONGOING**

Domestic violence represents a significant threat to the health, safety, and well-being of Utah's residents. This budget request seeks ongoing funding for a full-time Domestic Violence Program Manager **to promote best practices that most effectively address domestic violence**, sexual violence, dating violence, stalking, and protective order cases for court patrons.

6 ESSENTIAL COURT OPERATIONS SOFTWARE **$978,000 ONGOING**

Modern court operations requires software:

- to conduct court business (Windows = $135,000; Google = $148,000; Adobe Experience = $150,000; Adobe eSignatures = $300,000)
- to preserve the record of court proceedings, ensure robust backups, and make the recordings available for review ("For the Record" = $220,000).
- to accomplish statutory obligations (Automatic Expungement = $25,000)

7 DISTRICT COURT JUDICIAL LAW CLERKS **$1,020,700 ONGOING**

Judicial law clerk attorneys assist judges by conducting in-depth legal research, drafting legal opinions, and creating trial briefings. This accelerates the judicial process and expands judicial capacity. There are currently 30 law clerk attorneys serving 77 district court judges. This funding would be used **to retain nine law clerk attorneys**, allocating these resources to provide **one law clerk for every two judges.**

8 TRIBAL OUTREACH PROGRAM COORDINATOR **$64,900 ONGOING**

The Tribal Outreach Program Coordinator (TOPC) currently serves as the **judiciary liaison to the eight Native American Nations** sharing borders with Utah. The TOPC is limited to addressing issues related to the grants that fund the position. By funding 50% of the TOPC position, the TOPC will have flexibility to address additional matters that the judiciary and Nation leadership highlight for intervention, strengthening working relationships.

9 THIRD DISTRICT JURY SELECTION ASSISTANTS **$233,100 ONGOING**

One of the beneficial practices that emerged from the COVID-19 pandemic is virtual jury selection. This process allows a jury to be selected from a jury pool without requiring the entire jury pool to travel to the courthouse for the selection process. Instead, **jury selection can be accomplished from home or work**. This funding would fund three FTEs in the 3rd District to continue virtual jury selection after current ARPA funding is exhausted.

10 ONLINE DISPUTE RESOLUTION ADMIN **$120,000 ONGOING**

In an effort to improve access to justice, the judiciary designed Online Dispute Resolution (ODR) to allow parties to more conveniently resolve legal disputes without having to travel to a courthouse. Operational since 2018, ODR is ready to move into the next phase of operations. This will require a dedicated FTE program administrator to manage the system, to oversee scaling the program for new case types, and to provide education.

COURT INITIATIVES PROGRESS REPORT

THE OFFICE OF LEGAL SERVICES INNOVATION- AN OFFICE OF THE UTAH SUPREME COURT

The Office of Legal Services Innovation oversees Utah's legal regulatory sandbox, through which entities may use new models for legal businesses and offer new kinds of legal services to the public. Since the establishment of the Office of Legal Services Innovation in August 2020, there have been 34,074 individual legal services provided to 24,000 unduplicated consumers. Entities have reported twelve consumer complaints — or 1 in 2,840 services. 38 % of the provided services dealt with business issues, 26.8% dealt with military/veteran's benefits, and 8.9% dealt with immigration. The majority of the remaining services dealt with end of life planning (6.8%), accident/injury (6.8%), marriage/family (2.9%), and financial/bankruptcy (1.7%).

SANDBOX ENTITY HIGHLIGHT

lifting lives through the law
TIMPANOGOS
LEGAL CENTER

CERTIFIED ADVOCATE
Partners Program

Timpanogos Legal Center (TLC) provides free legal services to individuals without the means to hire an attorney. Primarily, TLC provides services to victims of domestic violence. These services increased when TLC created the Certified Advocate Partners Program (CAPP), a program to certify nonlawyer victim advocates to provide limited legal services. One example of the positive impacts of CAPP came in summer 2022, when a woman was confronted at her house by a man from her community. The man came to the woman's door and accused her of transmitting his thoughts to the FBI, and threatened her to stop or he would get violent. The man also repeatedly attempted to contact the woman at her place of employment, culminating in him being escorted away from the business by law enforcement. The woman contacted her local victim advocate for help. She was able to meet with Devin, a CAPP certified advocate, and walk through the process on how to attain a civil stalking injunction. Devin gave her limited legal advice, prepared court forms, and eventually prepared her for the permanent stalking injunction hearing. The woman was successful in getting both a temporary civil stalking injunction and a permanent civil stalking injunction. When asked to provide feedback on the assistance of the program she stated:

"I have never dealt with a situation such as this or with the court system before. I was feeling incredibly overwhelmed and had no idea where to start. Devin assisted me with every step of the process, answered all of my questions, was kind and made me feel like I was supported and not alone. I'm incredibly grateful."

The Innovation Office is a well-regulated, data-driven experiment. The Utah Supreme Court is hopeful that this experiment will provide another tool to combat the access-to-justice gap in our state, but is not tied to that conclusion. The Supreme Court is encouraged by some of the initial data it has seen and hopes that these efforts prove to be worthwhile.

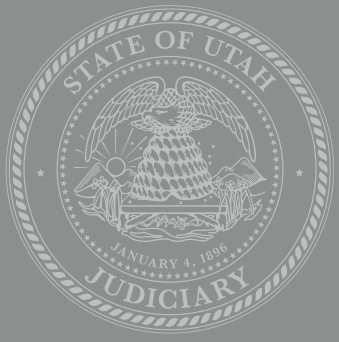
For more information about Timpanogos Legal Center visit ***timplegal.org***.

For more information about the Office of Legal Services Innovation, including a full listing of entities engaged in the project and all of the monthly data reports, visit ***utahinnovationoffice.org***.

COURT INITIATIVES PROGRESS REPORT

LEADING THE WAY IN WATER LAW

The West faces a water crisis. Courts do not make water policy, but Utah's Judiciary is a national leader in preparing its judges to decide the legally and scientifically complex water-rights cases before them. In May 2022, the Judicial Council approved a rule, effective November 1, providing for designation of certain district judges, who have or have agreed to acquire expertise in water law, as "water judges." The rule provides for assignment of specified categories of cases to them, selection of a supervising water judge, water-law education, and posting of decisions. Ten judges have volunteered and cases have already been assigned. The first training, featuring state and national experts, was held in December. Other states are looking to Utah's model. Utah's Judiciary also is leading the way on judicial education in water law. The Council recently approved funding of $40,000 to begin development, by the National Judicial College and Southern Utah University, of phase one of an innovative online, on-demand curriculum in water law and science for judges. SUU will match that funding with in-kind contributions. Those partners hope to obtain sufficient funding from other public and private sources to complete the curriculum's development and further Utah's leadership in this crucial area.



ADMINISTRATIVE OFFICE OF THE COURTS

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