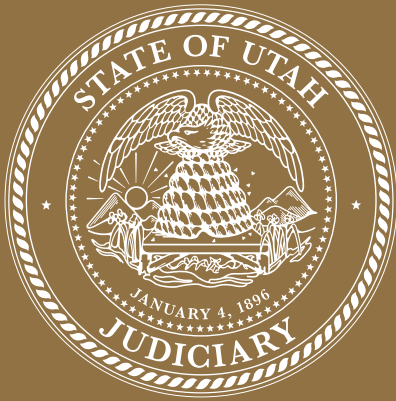


2020



UTAH JUDICIAL COUNCIL

ANNUAL REPORT TO THE GOVERNOR,
CHIEF JUSTICE, 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.

CONTENTS

INTRODUCTION

JUDICIAL COUNCIL INITIATIVES

BUDGET REQUESTS

PROGRESS REPORT

BUDGET INFORMATION

COURT CASE STATISTICS

An Introduction to the Judicial Council

The Utah Judiciary is governed by the Judicial Council, a fourteen-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 Council is the central hub for vetting of judiciary-wide policy changes, judicial reforms, legislative issues, and other internal and external developments that impact the administration of justice.

Members of the Council are elected by their peers to serve three-year terms. They are dedicated individuals who undertake a tremendous sacrifice in order to serve the courts, while simultaneously maintaining the regular duties of their appointed office. The Council is supported by three executive committees: the Management Committee, the Legislative Liaison Committee, and the Policy & Planning Committee. In the coming year, the Council intends to add a fourth executive committee which will focus on budget and finance.

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 committees develop recommendations for policies, programs, and initiatives that help to ensure the effective and efficient administration of justice in Utah.

The Council and its committees, subcommittees, and workgroups include judges, commissioners, trial court clerks, administrators, and community stakeholders from throughout Utah. It is through their collective work that the Utah judiciary is fulfilling its mission and achieving its goals to improve access to justice for the people of Utah.

Who Serves on the Judicial Council ?



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

Judge Mary T. Noonan, State Court Administrator

Judicial Council

Chair, Chief Justice of the Utah Supreme Court

MEMBERSHIP:

Supreme Court Justice 1	Court of Appeals Judge 1	District Court Judges 5	Juvenile Court Judges 2	Justice Court Judges 3	Utah State Bar Representative 1	State Court Administrator serves as secretariat
----------------------------	-----------------------------	----------------------------	----------------------------	---------------------------	------------------------------------	---

From left to right: Judge Brian Cannell, Judge Todd M. Shaughnessy, Rob Rice, Judge Ryan Evershed, Judge John Walton, Judge Kate A. Appleby, Chief Justice Matthew B. Durrant, Judge Paul Farr, Judge Kara Pettit, Judge Derek Pullan, Judge Mark May, Judge Augustus Chin, Judge Brooke Sessions, Judge Mary T. Noonan. Not pictured: Justice Deno Himonas.



Judicial Council Initiatives

I. Mental Health and the Justice System

Over the last several years, various state and federal agencies and organizations nationwide have recognized that our justice system has become a revolving door for persons with mental health conditions, turning jails and prisons into de facto mental health facilities. As a result, far too many are housed in penal systems instead of being directed to mental health services that are better suited to address the underlying causes of the behavior. Utah leaders from all branches of government have made efforts to recognize and respond to the issue.

Building upon these efforts the Judicial Council in July 2019 adopted an initiative to improve court and community responses to those with mental health conditions. The Council, with the assistance of the Utah Division of Substance Abuse and Mental Health (DSAMH), is prioritizing this issue and will work with

stakeholders across the spectrum of mental health services, corrections, local governments, and the courts, to strengthen the community wide response to this crisis. The Council is planning a kick-off event in August 2020, bringing together experts from state and local entities to discuss the issues, learn about current successful interventions in Utah and nationwide, and to offer our assistance in all judicial districts of the state.

The ultimate objective of the initiative is to halt the revolving door the justice system has become for persons with mental health conditions. It will require participation of state and local leaders at every level. The Council looks forward to working in strong collaboration with the other branches of government and local communities on this effort.

II. Judicial System Review

In 2019, the Judicial Council launched the first part of a two-part system review. The review is a purposeful self-assessment to learn the perceptions and needs of the judges and employees who work in the Judiciary. In short, the Council wants to know: What is working? What is not? And how can we improve? The second stage of the review will conclude in 2020 and will provide insight into how we can continue to strengthen the judiciary in service to Utah's citizens.



III. Online Dispute Resolution (ODR) is Expanding

In 2019 the Judiciary continued to pilot its Online Dispute Resolution (ODR) program for small claims cases. This allows parties to engage with one another on a online system with the assistance of a facilitator. The Court began the pilot in 2018 in West Valley City Justice Court.

The ODR program has helped hundreds of citizens navigate small claims matters. Early assessments of the platform indicate that the program encourages engagement. Parties engage online at a higher rate than they appear in the courtroom at approximately 50% more. Fewer cases have resulted in a default judgment (4% less) or resulted in a dismissal (29% less) when compared to cases prior to the ODR pilot.

Utah's ODR system is one of the first in the nation and has garnered attention from across the country.

A panel of representatives from Utah were invited to present at the South by Southwest Conference, known for inviting leaders of innovation and top thinkers of their industries. The Administrative Office of the Courts has partnered with the National Center for State Courts for an analysis of the ODR program and its impact on small claims cases in Utah which will be published in early 2020. Because of the success and positive feedback the pilot project was expanded to Carbon County Justice Court and Orem City Justice Court in 2019.

PAST JUDICIAL COUNCIL INITIATIVES

- Public Safety Assessment (PSA) – a pretrial risk assessment tool intended to help judges gauge a criminal defendant's risk level while awaiting trial
- Right to Counsel in Utah – an 18-month study of public defense services in Utah
- Pretrial Release and Supervision Practices – a thorough assessment of current and best practices for pretrial release
- Strategic Plan for Needs of Self-represented Parties – A study of the needs of non-lawyer parties and services to meet those needs, including the court Self-help Center
- Commission on Racial and Ethnic Fairness in the Criminal and Juvenile Justice System
- A study addressing disparities in the areas of workforce recruiting, training, interpreting, community outreach, complaint process, administration, and data/research

Budget Requests

FY 2021 Budget Priorities and Building Block Information

Established by the Judicial Council and listed in order of priority

TECHNOLOGY INVESTMENT: CONTINUING COMMITMENT TO PROVIDE EFFICIENT, OPEN, AND FAIR ACCESS TO JUSTICE:

\$650,000 (ongoing) – IT Developers

PURPOSE: increase IT staff by six to support continued development of the courts' IT infrastructure.

In the last 10 years the courts have developed innovative core technology applications to better serve the public and support the courts. While the number of applications more than doubled during this time, resources to support these services have remained virtually unchanged. The Judiciary's request to increase IT staff by six developers will ensure that efficient, cost-effective, and innovative solutions are available to the public.

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

PURPOSE: hire two dedicated OCAP technical support staff.

For many court patrons, OCAP is the only method for them to prepare documents, 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.

\$450,000 (one-time) – West Jordan Courthouse – Replace Failing Recording Equipment

PURPOSE: replace the now-failing audio recording system in the West Jordan Courthouse.

Creating a reliable audio recording of all court proceedings is a critical court function. When recording equipment fails, the result is, significant, unnecessary delay for court patrons, as well as possible evidentiary issues. Replacement parts are often no longer commercially available and must be purchased used on eBay.

\$72,000 (ongoing) – Microsoft Licensing

PURPOSE: upgrade outdated Microsoft software.

The courts rely on Microsoft Office products, which are the standard for documents in the legal field. Currently, 1540 court computers use MS Office 2010, which will no longer be supported by Microsoft in October 2020, leaving users without security updates and opening the courts to increased risk of cyber attacks.

SELF-HELP CENTER SERVICE EXPANSION: \$104,300 (ongoing)

PURPOSE: increase access to attorney staff at the Self-Help Center (SHC).

Free and available statewide, the SHC assists self-represented people via telephone, email, and text. There is overwhelming demand for these services, with nearly 22,000 contacts made in FY2019 (an average of 109 contacts per day). Yet nearly 70% of calls to the SHC are not able to be answered due to lack of available staff.

COMMISSIONERS – RECRUIT & RETAIN: \$92,500 (ongoing)

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

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

CHILD WELFARE MEDIATOR: \$54,947 (ongoing)

PURPOSE: provide ongoing funding to replace previous one-time funding for a half-time mediator.

A child welfare mediator helps the parties resolve their dispute in juvenile court child welfare cases. The high resolution rate of mediated cases (90%) has resulted in increased demand for services, congesting mediation calendars, and making it difficult to meet the strict case resolution timelines outlined in statute.

Progress Report

I. Utah's Expungement Act (H.B. 431)— Providing Better Opportunities

Individuals with criminal records often have trouble obtaining employment, housing, loans, and federally funded assistance, such as student loans, all of which can contribute to homelessness and dependence on public programs.

In the past, Utah's Expungement Act typically required individuals to petition the court and deal with other procedural hurdles to expunge criminal records. The traditional process remains available to any individual who is interested in seeking an expungement. Last year's H.B. 431 "Expungement Act Amendments," sponsored by Representative Eric Hutchings and Senator Daniel Thatcher, makes the expungement process for certain low level offenses easier by automating the expungement process after a certain number of years. If a qualifying case has a full acquittal, is dismissed with prejudice, or is clean slate eligible, it will be automatically expunged by a court. In addition, eligible

traffic offense cases will also be deleted without a court order. These cases will be expunged or deleted without the individual having to petition the court.

Implementation of this bill requires coordination and data sharing between state agencies, the courts, and some federal agencies. It also requires technology infrastructure to identify appropriate cases for expungement and deletion, relying on historical court data, including case data from various local justice courts whose records and data systems were not standardized in the past. The Judiciary received a portion of necessary resources for implementation of the automated expungement and have been hard at work since the bill took effect. We anticipate the first phase will be implemented in May 2020, starting with acquittals and cases dismissed with prejudice. Expungement of clean slate eligible cases and deletion of traffic cases will follow.

II. Seeking Positive Behavior Change Through Non-judicial Means

The Juvenile Court has continued to implement systematic shifts in how cases are processed and managed following the full implementation of juvenile justice reforms in July of 2018. Currently over half of all referrals to the Juvenile Court are addressed outside of the formal court process through a nonjudicial adjustment diversion process. In addition to the increase in referrals being diverted, contempt filings have decreased by 86% in the last year. The Juvenile Court probation department has adapted to this shift away from using contempt to address youth behaviors by implementing evidence-based practices aimed at eliciting positive behavior

change and addressing the individual needs of each youth. One of those practices is the recent implementation of an evidence-based Targeted Behavior Response model that consists of incentivizing a youth's positive behaviors while also holding the youth accountable by utilizing targeted consequences for noncompliant behavior. This structured response system assures that probation officers are responding to a youth's behavior in a way that engages the youth in interventions and the behavior change process.

Significant improvements have also been made with the availability of services for youth and families. One such improvement,



implemented in collaboration with the Department of Human Services, allows youth who are not in the custody of the State of Utah to access the same non-residential contracted service providers as youth who are in custody. This collaboration has expanded service options for youth and families statewide and is funded through savings realized from juvenile

justice reform. In addition, the Administrative Office of the Courts has secured contracts to provide in-home family services and skill-building classes to youth and families in rural areas across the state. These services are available for youth at all levels of court involvement, including youth whose cases are resolved through the nonjudicial adjustment diversion process.

During the 2019 General Legislative Session, the Legislature approve funds for pay increases and for two new judicial positions. Below are details on how those funds were implemented, and the difference it made.

III. Judicial Assistant Pay Increases

The Judiciary periodically analyzes market rates for the clerical position in the courts. Based on the most recent analysis of clerical salaries conducted in FY 2017, it was determined that clerical salaries were 16 to 17 percent below market. As a result, the Judiciary requested \$1.42 million for clerical salary increases, and the Legislature funded \$900,000 of that request.

With those funds, a Judiciary working group determined that it would be best to address pay compression by allocating the funds based upon years of service with the Courts. The Judiciary's Human Resources and Finance departments worked together to complete

a distribution of this funding to about 475 clerical positions. Each employee was given a percentage of the \$900,000 based upon their percentage of Court years of service compared to the total Court years of service of all of the included employees. That amount was then translated into an hourly rate increase.

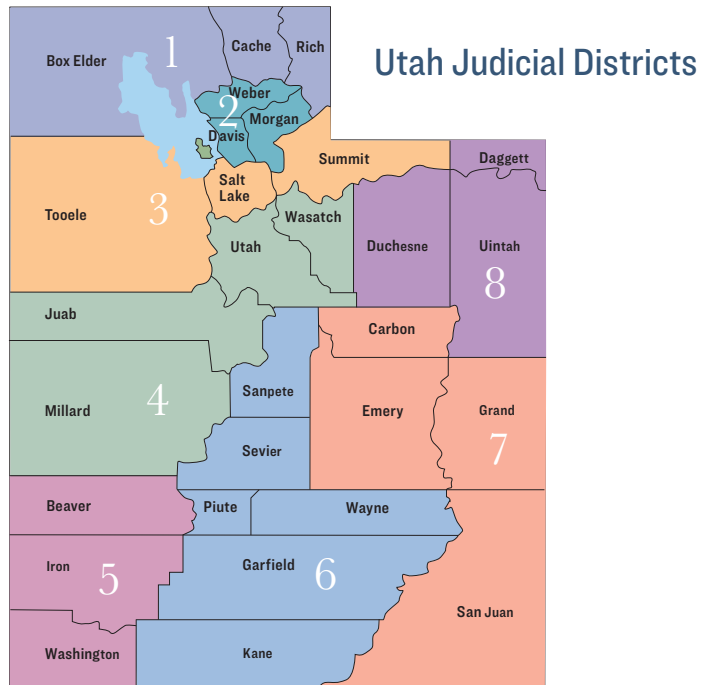
As a result of the funding received from the Legislature, clerical staff moved from 17% below market to 14% below market. Clerical staff were grateful for the salary increase and the Judicial Branch is hopeful that salary increases will help attract the best employees and result in less staff turnover in the future.



IV. New Judges Selected

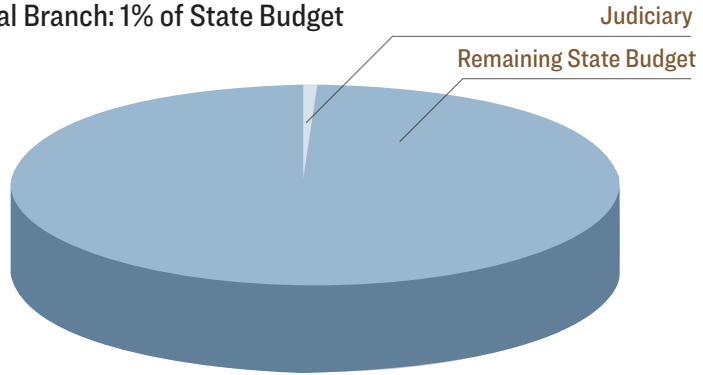
The Judiciary relies on a judicial weighted caseload report to help inform the Judicial Council of the number of judges needed in each judicial district to do the work that comes before the court. The FY18 Judicial Weighted Caseload indicated judges in the Third Judicial District were carrying a weighted caseload of 120%. For judges to reach a weighted caseload of 100% there would need

to be 4.6 judicial officer positions added to the Third District Court. The Judicial Council requested new judge positions and staff from the 2019 Legislature. The Legislature added two judges and four staff in the Third District (Salt Lake County). As a result, the Judicial Weighted Caseload in the Third District Court was reduced from 120% to 110%.



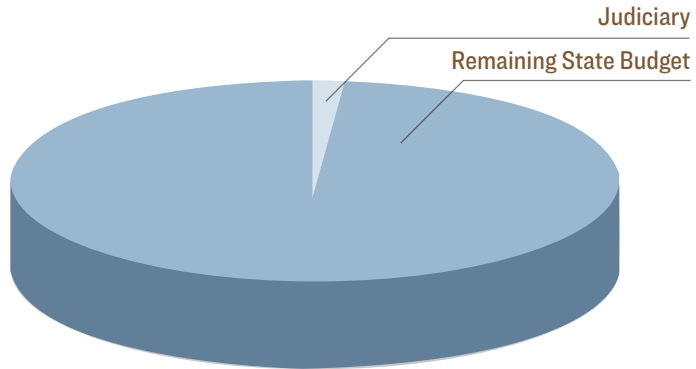
2020 Budget Information

Judicial Branch: 1% of State Budget



All Funds Including General Funds & Federal Funds

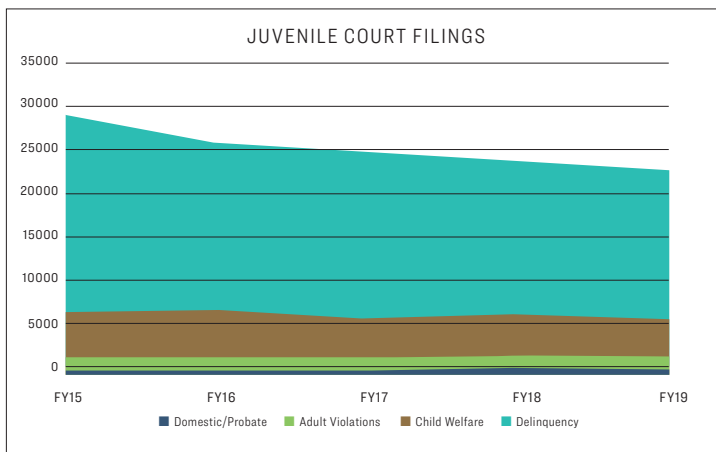
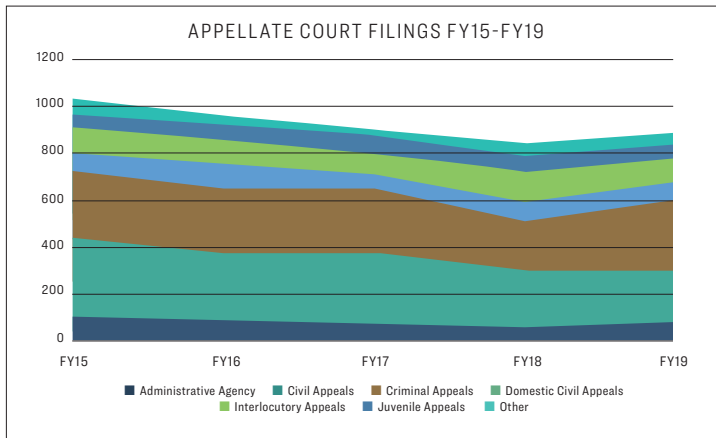
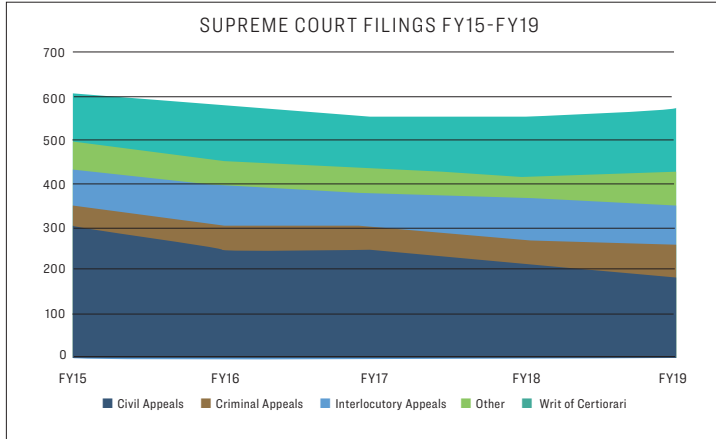
2020 total appropriated to State Budget:	\$ 18,205,279,300
2020 total appropriated to Judiciary:	\$ 172,240,400
<hr/>	
2020 total appropriated for total State Budget:	\$ 18,377,519,700



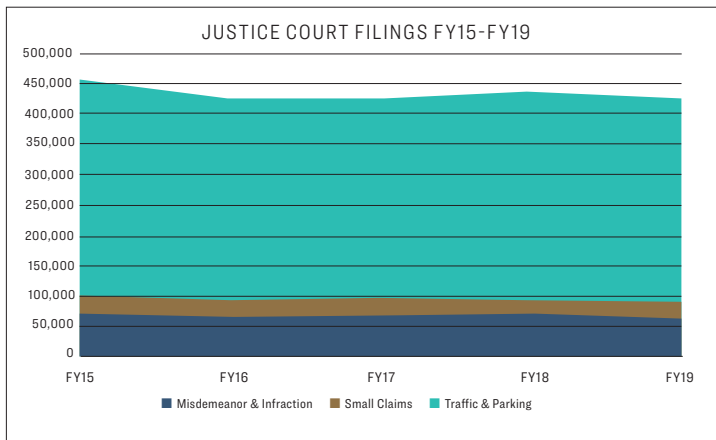
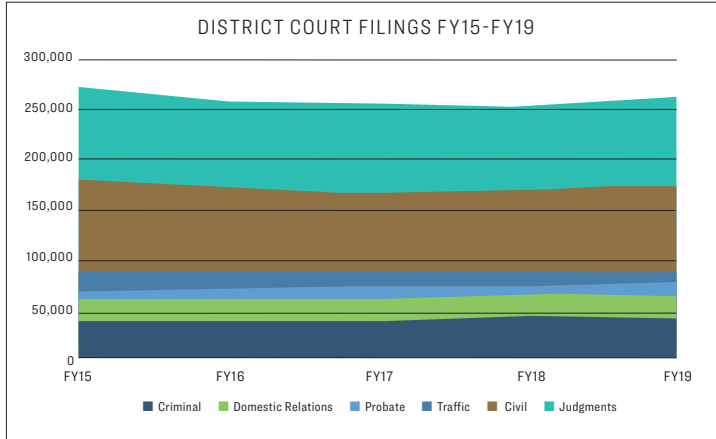
General Funds Only

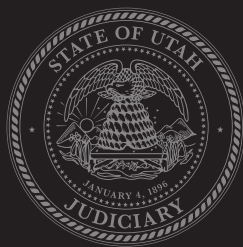
2020 total appropriated to State Budget:	\$ 2,415,005,000
2020 total appropriated to Judiciary:	\$ 145,370,400
<hr/>	
2020 total appropriated for total State Budget:	\$ 2,560,375,400

Court Case Statistics



Court Case Statistics





ADMINISTRATIVE OFFICE OF THE COURTS

Scott M. Matheson Courthouse

450 South State Street

Salt Lake City, Utah 84111

801-578-3800 | www.utcourts.gov