



**UTAH INDIGENT
DEFENSE COMMISSION**
IDC.UTAH.GOV

2018 ANNUAL REPORT

THE UTAH INDIGENT DEFENSE COMMISSION WORKS TO PROTECT
CONSTITUTIONALLY GUARANTEED LIBERTIES THROUGH ONGOING
SUPPORT FOR THE PROVISION OF EFFECTIVE INDIGENT DEFENSE
SERVICES THROUGHOUT THE STATE.

The Indigent Defense Commission in 2018

A letter from IDC Chair, Michael Zimmerman, Ret. Chief Justice Utah Supreme Court

Since its creation in 2016, the IDC has played a significant roll in helping to improve the local delivery of indigent defense services for indigent individuals in Utah's district, juvenile, and appellate courts. In its collaboration with many counties and some cities—through funding, guidance, and support for improvements to indigent defense services—the IDC has helped develop better services for Utah's indigent individuals, more effective court calendars, and more manageable caseloads and court calendars. The IDC's first report of one county's improvements, *Growing Gideon: Improving Indigent Defense in Juab County*, is reflective of the work the IDC hopes to continue accomplishing across the state.

The counties and cities that are working with IDC funding, such as Juab, Utah, Sanpete, Carbon, and Uintah Counties, have improved their indigent defense systems in a variety of ways to achieve independent oversight, increased access to defense resources to investigate and defend cases fully, and attorneys with specialized experience to handle criminal, juvenile, parent, and appellate representation. Several new counties are working with the IDC in 2019 to the same ends. With additional funding, the IDC will continue to grow the networks of local governments working together with the state, to provide for constitutional indigent defense services. I am privileged to be a part of this historic state effort.

Sincerely, Michael Zimmerman



What is Indigent Defense?

The United States and Utah Constitutions require the appointment of defense lawyers for people who cannot afford them. This is the right to counsel.

The right to counsel applies when a person faces incarceration, which includes: any Utah misdemeanor or felony charge, juveniles facing formal court proceedings, and any action to terminate parental rights.

In criminal and juvenile delinquency cases, the prosecution must prove guilt beyond a reasonable doubt. When a party seeks to terminate parental rights, the court will only do so on the basis of clear and convincing evidence.

Defense lawyers test the prosecution's evidence and protect the accused's right to due process. Where appropriate, they argue for pretrial release, diversion, treatment, and shorter or no incarceration, resulting in cost savings.

Since 2016, the Utah Indigent Defense Commission (IDC) has worked to protect constitutionally guaranteed liberties through ongoing support for effective indigent defense services throughout the state, by :

- Developing collaborations and partnerships with local governments in the state;
- Advising on minimum guidelines for indigent defense;
- Providing financial support and guidance;
- Encouraging and aiding in the regionalization of indigent defense services;
- Collecting and reporting data about local defense services; and
- Making policy recommendations for improvements to indigent defense.



How are indigent defense services provided for by Utah's local governments?

There are 3 primary methods of providing indigent defense in Utah:

- **Public Defender Office.** Full-time, salaried attorneys managed and organized in an independent law office. The office is appointed and attorneys assigned to balance caseloads and ensure effective representation.
 - **Salt Lake County & City, and Utah County**
- **Managed Assigned Counsel System:** Private attorneys organized by county defense provider or organization.
 - **Uintah and Davis** Counties employ attorney public defenders to manage or organize private contract attorneys.
 - **Sanpete, Millard, and Juab, & Nephi city** contract w/ the Utah County Public Defender Assoc. to manage defense services
 - **Cache & Washington** Counties contract with a private attorney to organize the attorneys representing indigent parties and administer resources.
- **Contracts with private attorneys:** Counties/cities contract directly with one or more private attorneys to handle cases, usually at a flat annual rate with little oversight.

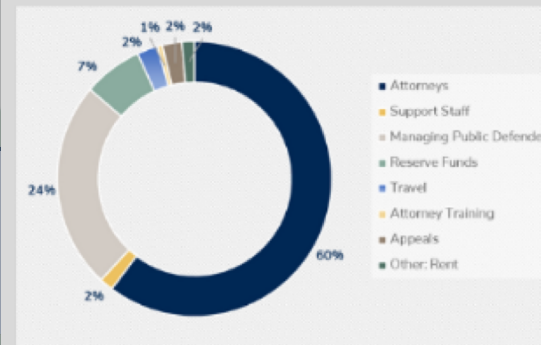
TOTAL IDC GRANT FUNDING AWARDED: \$5,215,061

Number of Counties Receiving IDC Funding: 12

- Carbon County
- Daggett County
- Duchesne County
- Juab County
- Millard County
- Salt Lake County
- Sanpete County
- Sevier County
- Summit County
- Uintah County
- Utah County
- Wayne County

Number of Cities Receiving IDC Funding: 4

- Lindon City
- Nephi City
- Ogden City
- Pleasant Grove City



FISCAL YEAR 2019

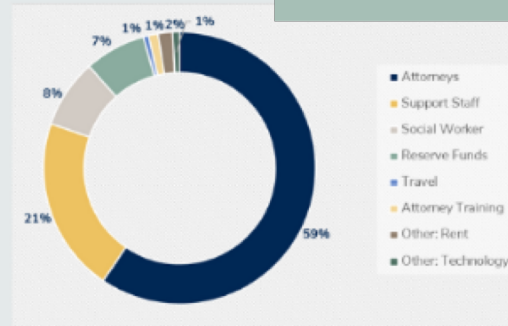
\$1,625,110

TOTAL GRANT FUNDING AWARDED

FISCAL YEAR 2018

\$3,494,027

TOTAL GRANT FUNDING AWARDED



FISCAL YEAR 2017

\$95,924

TOTAL GRANT FUNDING AWARDED



Utah Indigent Defense Commission

In 2017, Juab County was the first recipient of an IDC grant award to make structural improvements to indigent defense services through a partnership with state and local stakeholders. Indigent defense in Juab County has seen the following improvements corresponding with the IDC's core principles:

PRINCIPLE 1/ ORGANIZATIONAL CAPACITY

- 86% increase to the indigent defense budget.
- \$67,000 allocation specifically for defense resources.
- Independent oversight and monitoring, including tracking appointed cases.

PRINCIPLE 2/ COUNSEL TO ALL ELIGIBLE DEFENDANTS

- 12% increase in appointment at initial appearance.

PRINCIPLE 3/ PROPER SCOPE OF REPRESENTATION

- 5 – 10% increase in bail modifications.
- 8% increase in days spent on indigent defense cases by attorneys.

PRINCIPLE 4/ INDEPENDENT REPRESENTATION

- Independent administration of the indigent defense budget, outside of the prosecution or judiciary.

PRINCIPLE 5/ SPECIALIZATION WITHIN INDIGENT DEFENSE

- Specialized attorneys appearing in District, Juvenile, and Drug Courts.

PRINCIPLE 6/ RIGHT TO APPEAL

- 150% increase in the number of appeals filed.

PRINCIPLE 7/ FREE FROM CONFLICTS OF INTEREST

- Reduced conflicts of interest as a result of splitting cases among attorneys.

PRINCIPLE 8/ EFFECTIVE REPRESENTATION

- Contracting with qualified attorneys who are “vigorously defending cases.”
- Appropriate compensation to avoid financial disincentives in representation

GROWING GIDEON: IMPROVING INDIGENT DEFENSE IN JUAB COUNTY

A REPORT BY THE UTAH INDIGENT DEFENSE COMMISSION

Allocation of Expenditures for Defense Resources



Attorney Specialization in District and Juvenile Courts

	2016	2017
Specialization by Practice Area	NO	YES
Adult Criminal	1 Primary Attorney + 1 Conflict Attorney	5 Attorneys
Juvenile Delinquency		2 Attorneys
Parental Defense		
TOTAL	2 Attorneys	7 Attorneys

This is a snapshot of the rural counties working with IDC funds in 2019.

Carbon County

- Median income is \$15,000 below the state average.
- Poverty rate is 50% higher than the state average.
- Unemployment rate is 2% higher than the state average.
- Second-highest rate of food stamp recipients in the state.
- Opioid overdose death rate is three times higher than the state rate.

IDC GRANT AMOUNT: \$245,600

- Budget increase of 43% -- from \$570,000 to \$815,600 over two years.
- Improving caseloads -- from one public defender to four public defenders handling 500 District Court and 300 Juvenile Court cases.



Utah Indigent Defense Commission

Sanpete County

- Median income ranks in the bottom third for the state at \$59,928.
- Poverty rate is the fourth highest in the state at 14.2%.
- Intergenerational poverty persists as about 800 children are at risk of remaining in poverty as adults.

IDC GRANT AMOUNT: \$249,450

- Budget increase of 151% -- from \$165,150 to \$414,600 over one and a half years.
- Improving attorney specialization -- designated attorneys in juvenile delinquency, child welfare, and drug cases.
- 4th Judicial District regionalization -- independent oversight and monitoring provided by Utah County Public Defender's Office.

Sevier County

- Poverty rate is 28% higher than the state average.
- Third-highest rate of food stamp recipients in the state.
- Intergenerational poverty persists with 15% of children living in poverty and 22% at risk of remaining in poverty as adults.

IDC GRANT AMOUNT: \$260,510

- Budget increase of 221% -- from \$117,800 to \$378,310 over one year.
- Improving attorney specialization -- designated attorneys in juvenile delinquency, child welfare, and appellate cases.
- Managing Public Defender role -- responsible for the management and supervision of indigent defense services as well as compliance with core principles.

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Daggett County

- Fluctuating annual unemployment rate from a low of 3.3% to a high of 6.6%.
- Loss of 30% in county revenue due to closure of Daggett County Jail.

- Budget increase of 57% -- from \$1,047,050 to \$1,639,900 over one year for all three counties.

Duchesne County

- Poverty rate of 13.3% is higher than the state average.
- Unemployment rate is 2% higher than the state average.

IDC GRANT AMOUNT: \$592,850

- 8th Judicial District regionalization -- independent oversight and monitoring provided by the Managing Public Defender located in Uintah County.

Uintah County

- Poverty rate is 3% higher than the state average.
- Unemployment rate is the fourth-highest in the state at 6.1%.

- Managing Public Defender role -- responsible for the management and supervision of indigent defense services as well as compliance with core principles.

Indigent Defense Funding in Utah

Utah began state-level funding of indigent defense services in 2016. Since then, the IDC has obligated \$5.2 million to Utah's local governments in grant awards, to support indigent defense services and supplement local spending on defense attorneys and resources such as: legal training, investigators, and experts, to allow defense attorneys to adequately test the prosecution's evidence and protect the rights of the accused.

The prior page discussed methods of providing public defense services in Utah, and the chart to the right illustrates the county and state funding behind those methods. Indicated in green in the chart are the counties currently receiving IDC funds

Per capita funding is not the only quality measure of systems—see page nine for a fuller evaluation of the quality of indigent defense services—but it is one measure that is useful to compare indigent defense systems across the state.

Class	County	2017 Per Capita	2018 Per Capita	2019 Per Capita*
FIFTH	Juab County	\$13.25	\$36.74	\$40.48
THIRD	Uintah County	\$14.66	\$21.62	\$31.95
FIFTH	Grand County	\$27.13	\$27.86	\$27.86
FOURTH	Duchesne County	\$17.91	\$20.07	\$25.82
FOURTH	Millard County	\$11.91	\$11.23	\$20.76
FOURTH	Carbon County	\$13.99	\$17.10	\$20.09
FIRST	Salt Lake County	\$17.79	\$18.52	\$18.87
FOURTH	Sevier County	\$4.97	\$5.77	\$17.75
SIXTH	Wayne County	\$4.99	\$7.91	\$15.26
SIXTH	Rich County	\$15.18	\$14.64	\$14.64
FIFTH	Kane County	\$13.69	\$13.26	\$13.60
FOURTH	San Juan County	\$13.07	\$13.02	\$13.02
ALL	TOTAL	\$10.90	\$11.60	\$12.45
FIFTH	Beaver County	\$12.09	\$12.21	\$12.21
SECOND	Utah County	\$7.12	\$8.10	\$9.28
FOURTH	Sanpete County	\$3.76	\$6.43	\$9.20
THIRD	Summit County	\$7.29	\$7.13	\$8.96
FIFTH	Emery County	\$8.83	\$8.91	\$8.91
FOURTH	Wasatch County	\$8.18	\$8.57	\$8.57
THIRD	Iron County	\$9.19	\$7.92	\$7.92
SECOND	Weber County	\$6.66	\$6.89	\$7.65
FIFTH	Garfield County	\$6.90	\$6.79	\$6.79
SECOND	Davis County	\$6.10	\$6.16	\$6.38
SIXTH	Daggett County	\$5.55	\$5.10	\$6.37
SECOND	Washington County	\$5.49	\$5.83	\$6.04
THIRD	Tooele County	\$4.94	\$4.86	\$4.86
SIXTH	Piute County	\$4.10	\$4.23	\$4.23
THIRD	Cache County	\$3.43	\$4.18	\$4.18
THIRD	Box Elder County	\$3.74	\$3.73	\$3.90
FIFTH	Morgan County	\$3.13	\$1.31	\$1.31

*Counties without 2019 budget information were held constant at 2018 spending levels. Per capita spending in green indicates an IDC grant recipient.

This chart presents another way of looking at relative per capita and state/local spending in Utah's 29 counties.

Indicated in green, are the 6 counties that received IDC funds and support in 2018.

*An additional 6 counties applied for and received IDC funding for 2019.

Class	County	2018 Per Capita*	Local Per Capita	State Per Capita	% Local Funding	% State Funding
FIFTH	Juab County	\$36.74	\$12.46	\$24.28	34%	66%
FIFTH	Grand County	\$27.86	\$27.86	\$0.00	100%	0%
THIRD	Uintah County	\$21.62	\$17.38	\$4.24	80%	20%
FOURTH	Duchesne County	\$20.07	\$20.07	\$0.00	100%	0%
FIRST	Salt Lake County	\$18.52	\$18.36	\$0.16	99%	1%
FOURTH	Carbon County	\$17.10	\$14.04	\$3.06	82%	18%
SIXTH	Rich County	\$14.64	\$14.64	\$0.00	100%	0%
FIFTH	Kane County	\$13.26	\$13.26	\$0.00	100%	0%
FOURTH	San Juan County	\$13.02	\$13.02	\$0.00	100%	0%
FIFTH	Beaver County	\$12.21	\$12.21	\$0.00	100%	0%
ALL	TOTAL	\$11.60	\$11.18	\$0.44	96%	4%
FOURTH	Millard County	\$11.23	\$11.23	\$0.00	100%	0%
FIFTH	Emery County	\$8.91	\$8.91	\$0.00	100%	0%
FOURTH	Wasatch County	\$8.57	\$8.57	\$0.00	100%	0%
SECOND	Utah County	\$8.10	\$7.06	\$1.04	87%	13%
THIRD	Iron County	\$7.92	\$7.92	\$0.00	100%	0%
SIXTH	Wayne County	\$7.91	\$7.91	\$0.00	100%	0%
THIRD	Summit County	\$7.13	\$7.13	\$0.00	100%	0%
SECOND	Weber County	\$6.89	\$6.89	\$0.00	100%	0%
FIFTH	Garfield County	\$6.79	\$6.79	\$0.00	100%	0%
FOURTH	Sanpete County	\$6.43	\$3.67	\$2.77	57%	43%
SECOND	Davis County	\$6.16	\$6.16	\$0.00	100%	0%
SECOND	Washington County	\$5.83	\$5.83	\$0.00	100%	0%
FOURTH	Sevier County	\$5.77	\$5.77	\$0.00	100%	0%
SIXTH	Daggett County	\$5.10	\$5.10	\$0.00	100%	0%
THIRD	Tooele County	\$4.86	\$4.86	\$0.00	100%	0%
SIXTH	Piute County	\$4.23	\$4.23	\$0.00	100%	0%
THIRD	Cache County	\$4.18	\$4.18	\$0.00	100%	0%
THIRD	Box Elder County	\$3.73	\$3.73	\$0.00	100%	0%
FIFTH	Morgan County	\$1.31	\$1.31	\$0.00	100%	0%

*Per capita spending in green indicates an IDC grant recipient.

INDIGENT DEFENSE SYSTEM SPENDING COMPARISON

FY18	Per Capita	Total Spending (Millions)	Utah at Same Rate (Millions)
Utah - Local	\$12.42	\$34.67	\$38.51 (Current Total)
Utah - State		\$3.85	
STATE & COUNTY SYSTEMS			
Nevada (Local 93% / State 7%)	\$41.34	\$123.93	\$128.22
Idaho (Local 82% / State 18%)	\$24.30	\$41.72	\$75.37
Washington (Local 96% / State 4%)	\$22.36	\$160.29	\$69.34
STATEWIDE SYSTEMS			
Oregon	\$36.80	\$152.47	\$114.46
Montana	\$32.33	\$33.96	\$100.27
Colorado	\$28.00	\$156.98	\$86.84
Missouri	\$7.46	\$45.61	\$22.63

This chart considers Utah's funding compared to other states, and the amounts Utah would need to spend by comparison to meet the amounts of spending by other states.

Nationally, 29 states provide for entirely state-funded indigent defense systems. 20 others provide it as Utah does, in partnership with local governments. Pennsylvania remains the only state with no state-level funding.

Inadequate funding exposes a state and local governments to liability for inadequate indigent defense services.



Utah children and parents benefit from improved indigent defense services

The IDC's mandate includes adult criminal matters, the representation of minors in delinquency cases, and indigent parents facing proceedings to terminate their parental rights. In 2018, the Utah Legislature expanded the right to counsel to indigent parents in privately-initiated termination cases in district and juvenile court.

The Legislature tasked the IDC with creating a discretionary reimbursement program to reimburse Counties for these indigent defense services. Nearly half of Utah's 29 counties are participating in the IDC program, and it continues to expand.

In 2018, IDC grants to Juab, Millard, Sanpete, Carbon, and Uintah counties supported the specialization of attorneys in juvenile court practice, by funding and bringing in attorneys with juvenile court experience.

In February 2018, the IDC adopted [Core Principles for Appointed Attorneys Representing Indigent Parents in Child Welfare Proceedings](#) and [Core Principles for Appointed Attorneys Representing Youth in Delinquency Proceedings](#), to provide advisory guidance to indigent defense systems, parent and delinquency attorneys, and other juvenile court stakeholders.

In early 2018, the IDC implemented a pilot project to enhance parent representation through an interdisciplinary model in Juab and Sanpete Counties. In 2019, the IDC, in partnership with the University Of Utah School Of Social Work, will embark on program-assessment of this pilot project to determine whether enhanced parental representation results in improved permanency outcomes for children.



Utah Indigent Defense Commission

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