



**UTAH INDIGENT
DEFENSE COMMISSION**

**ANNUAL REPORT
2022**

COMMISSION MEMBERS

2022-2023

Lorene Miner Kamalu

IDC Chair

Davis County Commissioner

*Utah Association of Counties representative -
large county*

Ryan Loose

City Attorney, South Jordan

Utah League of Cities and Towns representative

Representative Steven J. Lund

Utah State House District 58

Utah State House representative

Sam Alba

IDC Chair 2020- 2021

Federal Magistrate Judge (Ret.)

Shareholder, Snow Christensen & Martineau

Utah Minority Bar Association representative

Richard Mauro

Executive Director

Salt Lake Legal Defender Association

*Utah Association of Criminal Defense Lawyers
representative - public defender*

Michael Zimmerman

IDC Chair 2016 - 2019

Utah Supreme Court Chief Justice (Ret.) Founding

Member, Zimmerman Booher

Judicial Council representative

Shawn Milne

Cache Valley Economic Director

*Utah Association of Counties representative - small
county*

Wally Bugden

Partner, Bugden & Isaacson

Utah Association of Criminal Defense Lawyers

representative - private defender

Tom Ross

Executive Director

Commission on Criminal and Juvenile Justice

CCJJ Representative

Mary Corporon

Partner, Christensen & Jensen

Utah Association of Criminal Defense Lawyers

representative - private defender

Heather Schriever*

City Attorney, Orem

Utah League of Cities and Towns representative

Ron Gordon

State Court Administrator

Administrative Office of the Courts representative

Pamela Vickrey

Executive Director

Utah Juvenile Defender Attorneys

*Utah Association of Criminal Defense Lawyers
representative - juvenile delinquency*

Margaret Lindsay

Supervising Attorney

Utah County Public Defender Association

Child Welfare Parental Defense Program representative

Senator Todd Weiler

Utah State Senate District 23

Attorney, Christensen & Jensen

Utah State Senate representative

*Resigned in mid-2022. Position is currently vacant

A GREETING FROM THE COMMISSION CHAIR

Lorene Miner Kamalu

We are approaching March 18th, 2023, the 60th anniversary of *Gideon v. Wainwright*. With this landmark case, the U.S. Supreme Court established an indigent person's right to court-appointed counsel. The anniversary gives us the opportunity to reflect on the state of indigent defense in Utah and the Indigent Defense Commission's role in protecting constitutionally guaranteed liberties.

The IDC has made great strides this year to improve indigent defense statewide: we funded additional attorney positions to reduce overwhelming caseloads; we partnered with Weber County to establish a full-time public defender office; our appellate division continued to expand the quantity and quality of appeals filed in rural counties; and for the first time in Utah's history, there is a designated office to handle post-conviction cases.

Even as we celebrate our successes, we know that there is more work to be done and improvements to be made. To help guide those efforts, we engaged in a months-long strategic planning process and are proud to share the IDC's 5-year strategic plan, which can be found here: [UIDC Strategic Plan 2023-2028](#). This document will help guide us to ensure our future work continues in a thoughtful and equitable manner.

We are grateful for the continued support of the legislature, governor, and our county and city partners all of whom recognize the importance of providing a robust, effective defense. And we are eager to continue working to fulfill the duties and obligations handed down 60 years ago in *Gideon*.

SCOPE OF THE GRANT PROGRAM

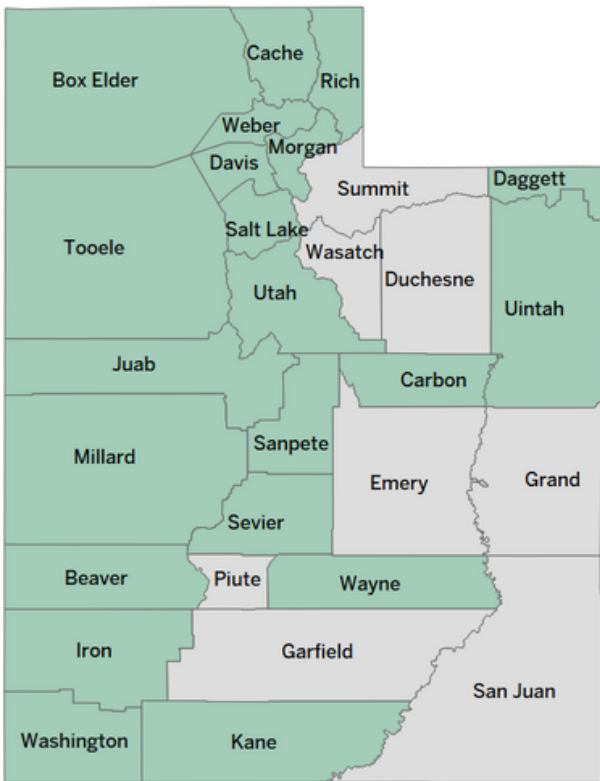
FY 2023 Grant Year

\$6,567,500
in grant funds benefitting

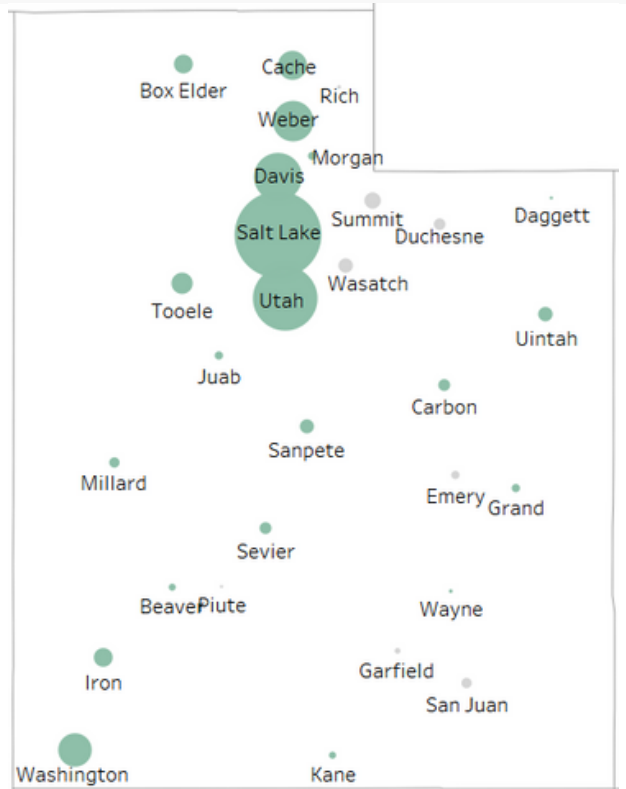
21 Counties
out of 29

2 Cities
out of 247

The IDC Grant Program supports local governments' ability to provide effective indigent defense services that comply with state and federal laws. For the FY 2023 grant year, the IDC awarded more than \$6.5 million in state funding to 18 counties and two cities. In addition, Uintah, Weber, and Cache counties, which receive IDC grants, help support indigent defense services in their neighboring counties: Daggett, Morgan, and Rich, respectively.



Counties Benefitting from Grant Funds



Counties Scaled to Number of Appointed District Court Cases

95%

OF APPOINTED DISTRICT COURT CASES IN UTAH ARE HANDLED BY COUNTIES THAT RECEIVE IDC GRANTS

GRANT PROGRAM HIGHLIGHTS

FY 2023 Grant Year

Grant Funding Increase

Available grant funding for FY23 increased by **\$1,300,000 due to new one-time state appropriations**. This funding was requested due to critical indigent defense needs identified in the FY22 grant application process that were unmet due to limited resources.

Grant Process

The IDC grant application process is designed to identify and meet critical indigent defense needs through a collaborative planning process with local governments. The process relies on caseload surveys and system needs evaluations completed by indigent defense providers to inform collaborative planning and target funding toward the highest needs across the state.

Renewals Prioritized

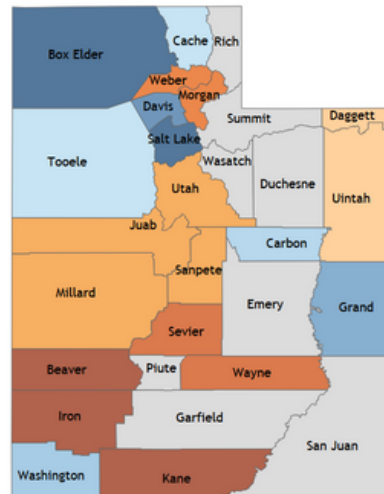
The IDC continues to prioritize renewing existing grant-funded positions to provide stability for local government partners.

Increase in the Number of Defenders

Studies confirm that Utah's defenders often have excessive caseloads. To help address this problem, \$1,080,922 in IDC grant funds went towards **14 new attorney positions**.

Regionalization

15 of the 21 counties receiving grants are part of a regionalized system. Regionalization allows these counties to benefit from shared attorneys and resources, increased specialization, and more efficiency.



Orange/brown counties are regionalized. Blue counties are not. Grey counties are not grantees.

WEBER COUNTY PUBLIC DEFENDER OFFICE

FY 2023 Grant Year Highlight

Weber County has demonstrated its commitment to improving indigent defense by increasing its public defense budget by 40% over the last two years.

A critical part of that commitment was creating a public defender office last year. The IDC supported Weber County by providing grant funding for six new full-time attorney positions and by helping with costs to furnish and equip the new office.

Studies indicate that having a full-time public defender office results in better outcomes for the people they represent.¹

The benefits of having a public defender office extend beyond Weber County's borders: the office also provides management, administrative help, and staff support to neighboring Morgan County.

6 new full-time attorney positions funded by the IDC

Weber County increased indigent defense spending by **40%**

¹ Cohen, Thomas H. (2014) "Who is Better at Defending Criminal? Does Type of Defense Attorney Matter in Terms of Producing Favorable Case Outcomes?" *Criminal Justice Policy Review* 25(1), 29-58

TRAINING PROGRAM

July 1, 2021 – June 30, 2022, by the numbers:

16 Online CLEs

8 criminal 3 juvenile delinquency 4 appellate 1 parental advocacy

398
Hours CLE credit earned
in criminal defense

495
Hours CLE credit earned in
appellate advocacy and
preparing cases for appeal

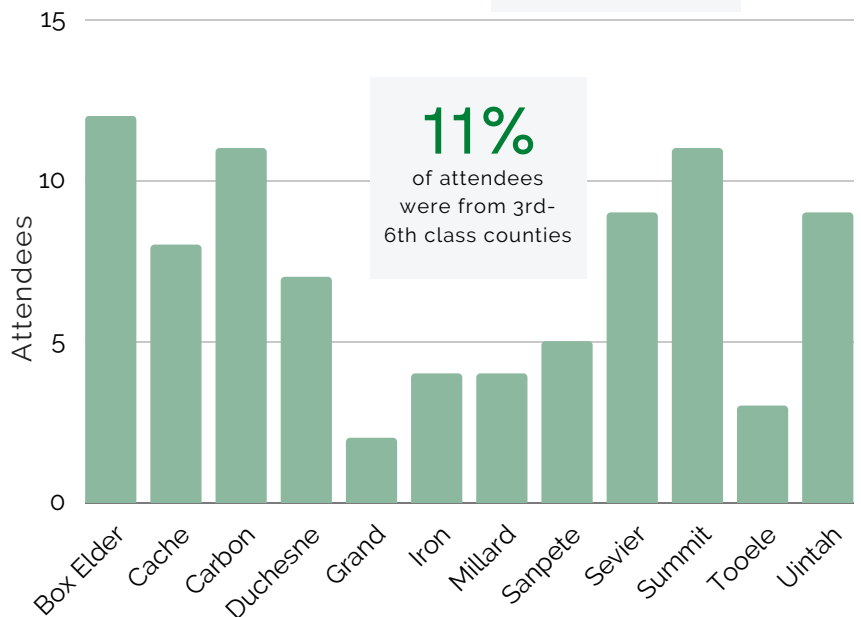
The IDC is continuing to provide targeted training, resources and support to build a robust, connected community of specialized indigent defense practitioners who elevate the quality of representation. Last year, the training program expanded its scope by offering specialized training for legal admins and support staff. These training activities included bi-monthly roundtable meetings and case management software training.

765
Attendees

Some attorneys attended multiple events

38%

of attendees were from outside of Salt Lake County



Other Important Funding Areas

Specialization

Specialization in criminal defense refers to the focus by an attorney on a particular area of law, such as adult criminal defense, juvenile delinquency defense, or parental defense, or appellate advocacy. Each area of practice has distinct rules, practices, standards, and case law. By developing expertise in a particular area of law, an attorney is able to provide more effective representation to clients. However, it is common for defenders to practice in multiple areas of law due to an inadequate number of available attorneys and lack of resources. For example, over half of public defenders working on parental defense cases also spend a significant amount of time working on juvenile delinquency or adult criminal cases.

To encourage specialization, the IDC works with counties to establish distinct contracts for each area of practice. The IDC also provides trainings tailored to the different areas of law.

Private Termination Defense

The IDC reimburses counties for costs associated with providing counsel for indigent birth/legal parents who oppose the termination of their parental rights in cases brought by private parties. In FY2022 the IDC **provided nearly \$120,000 in support** to counties through this program.

Parental Defense/Child Welfare Representation

The Utah Parental Defenders Association (former Parental Defense Alliance of Utah) is a 501(c)(3) non-profit organization, which contracts with the IDC to provide the following services to enhance parent representation in Utah:

- Develop and provide geographically accessible educational and training programs to attorneys who provide representation to parents in child welfare cases;
- Develop resources and provide advice to assist parental representation attorneys to comply with the IDC Core Principle and to comply with their professional, contractual and ethical duties;
- Develop a statewide community of parental defense advocates who identify as attorneys with expertise in the specialized area of parental defense practice and enhance their access to defense resources, consultation with their peers and to work together to address issues relating to legal defense of parents in child welfare cases; and
- Cultivate and advance collaborative relationships between the legislature, juvenile courts, and state agencies that serve youth and families.

Federal Funding

4E Drawdown

Two years ago, the IDC and the Utah Division of Child and Family Services developed a program that allows counties to receive partial reimbursement from the federal government for the costs of providing defense representation to parents in child welfare cases. Since then, the Title IV-E Program has provided more than \$1M in federal reimbursements to the participating counties. The funds are required to be used to enhance parent representation. The IDC is continuing to expand this program.

Office of Juvenile Justice and Delinquency Prevention Grant (OJJDP)

The Utah Statewide Juvenile Delinquency Defense Training and Sustainable Capacity Project, a project funded by a federal grant from the Office of Juvenile Justice and Delinquency Prevention, undertook many new initiatives last year. They included presenting five Community Forums and two Young Adult Lived Expert panels, launching a mentorship initiative, developing law school outreach materials, and publishing two practice manuals. The program trained 111 individual youth defenders across the state on specialized topics on juvenile delinquency advocacy both at the trial and appellate levels.

Edward Byrne Memorial Justice Assistance Grant (JAG)

- The IDC leveraged Federal JAG grant funds to provide Defender Data case management software to indigent defense attorneys.
- In FY22, funding was used to provide **more than 150 licenses** for attorneys and staff, including twenty-eight new licenses.
- JAG funding has also been used to customize the Defender Data case management system to improve data reporting capabilities and protect confidential attorney notes.

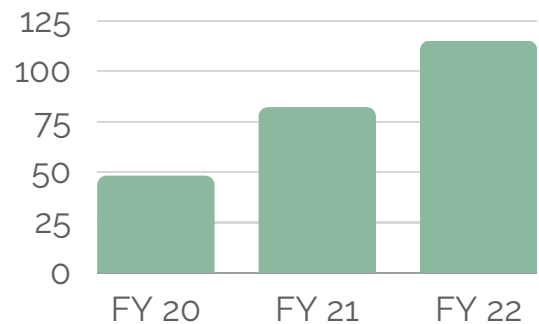
INDIGENT APPELLATE DEFENSE DIVISION

Post-Conviction Relief

During the 2022 legislative session, IADD's statutory responsibilities were expanded to include providing statewide appellate representation in cases filed under the Post-Conviction Remedies Act (PCRA). It was anticipated that when IADD began accepting PCRA cases in July 2022, it would receive **3 appointments yearly**. However, IADD has already been appointed on **7 PCRA cases in just the first few months**.

Increase in Appeals

Since IADD was founded in 2020, the number of appeals in 3rd-6th counties has increased from approximately 48 appeals a year to 115 appeals a year. This a **140% increase**.



Child Welfare Appeals

Through its child welfare pilot program, **IADD successfully challenged a juvenile court's order terminating a couple's parental rights** as not being in the best interest of the children. The Court of Appeals reversed the termination order, concluding the juvenile court's best interest determination was clearly against the evidence presented at trial and that the State failed to prove the termination was strictly necessary. This is just one example of IADD's successful efforts to defend parental rights in the appellate court.

IADD Conference

In April 2022, IADD hosted its **first Annual Appellate Defense Conference**, a two-day event that attracted nearly 200 people from all over Utah and the country. The conference featured 22 different speakers, made up of public defenders, civil rights attorneys, and professors. The event concluded with a panel discussion highlighted by Judge Eunice Lee—a former public defender—from the Second Circuit Court of Appeals.

CONTACT THE IDC

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