

2011 Annual Report

Utah County Attorney's Office

Jeffrey R. Buhman, County Attorney



The employees of the Utah County Attorney's Office protect our community by vigorously prosecuting and investigating crime, compassionately assisting crime victims, and by providing the highest quality legal representation to Utah County Government.

Welcome

This annual report for 2011 marks the completion of my fifth year as County Attorney for Utah County. Once again I am very pleased and proud to report on the work of the County Attorney's Office. The Office is staffed by highly professional and dedicated attorneys, police officers and support staff who work diligently to protect Utah County citizens and the integrity of Utah County governmental institutions. The purpose of this report is to highlight a few of our accomplishments in 2011 and to account for the resources entrusted to me as the Utah County Attorney.

If you have any comments about this report, I would appreciate an email to ucadm.utahcnty@state.ut.us or a phone call to (801)851-8026.

Office Objectives

- Make Utah County safer
- Change lives for the better—victims, defendants, their families and friends
- Protect Utah County Government
- Facilitate efficient governmental operations
- Protect police and government integrity
- Serve in a manner that instills public and private confidence in our professionalism and high ethical standards

Jeffrey R. Buhman

Utah County Attorney

About Utah County

Utah County is located 44 miles south of Salt Lake City, Utah. The name "Utah" comes from the Native American Ute tribe and means "people of the mountains," which is appropriate for the County as it is bounded by the Wasatch Range to the east and the Oquirrh and Tintic Mountains to the West. The major cities form a 40 mile chain north to south, aligning with Interstate 15. Utah Lake lies in the center of the county and it is the State's largest body of fresh water encompassing over 132 square miles. The county is 2,143 square miles, 2.45% of the State's land area, 16th largest county in area in the state. The average elevation is between 4300-4700 feet above sea level. Utah County is the 2nd most populous county in the state, with an estimated population of over 530,000 people. The county seat is the city of Provo.

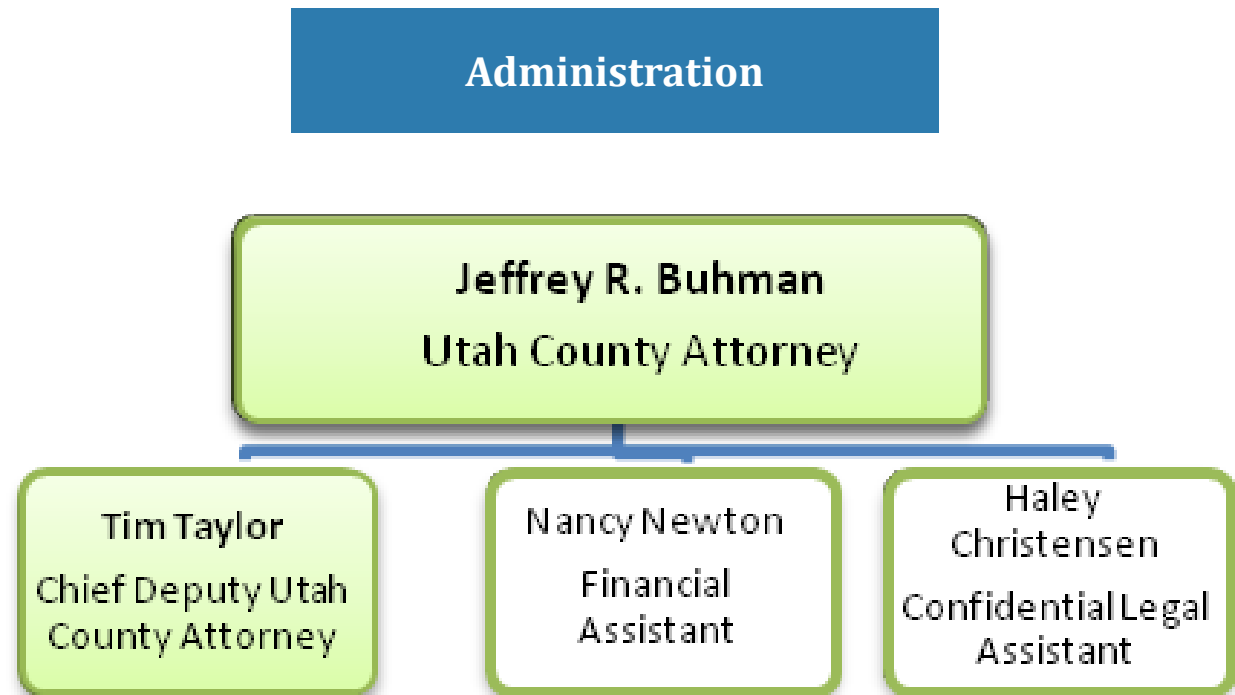
For many years, Geneva Steel, built during World War II to provide steel for the war effort, was one of the county's few major employers outside of agriculture, government and schools. But starting in the 1980s the valley has become one of the entrepreneurial hot spots of the nation and, in particular, has become a center for high-tech, computer-related companies. Utah County now boasts over 10,575 businesses, a young, healthy, well-educated population, a very low crime rate and a solid economy.



Organization

The County Attorney's Office is led by the elected County Attorney, Jeffrey R. Buhman. The County Attorney's Chief Deputy is Timothy L. Taylor. The Chief Deputy acts as the County Attorney in the elected County Attorney's absence.

The office is organized into an administrative element, Administration, and three divisions, Criminal, Civil and the Bureau of Investigations. Administration is responsible for the management of the office, including its financial (i.e. budget, payroll, travel, purchasing) and administrative needs. Administration consists of the County Attorney, Chief Deputy, an executive/legal assistant and a financial assistant.



The Criminal Division is responsible for the prosecution or adjudication of crimes that occur in Utah County. The Criminal Division consists of the Chief Deputy and five trial teams. The Chief Deputy oversees the operations and personnel of the Criminal Division and reports to the County Attorney. Trial teams prosecute criminal cases in the Utah County Justice Court, in the district and appellate courts, and prosecute criminal or delinquency matters in the juvenile courts. Trial teams also act as liaisons and provide advice on criminal matters to Utah County law enforcement agencies. A trial team consists of a Supervising Attorney (the Chief Deputy also manages one trial team), prosecutors, legal assistants and may include a paralegal and victim/witness coordinator(s). Supervising Attorneys oversee the operations and personnel of a trial team and report to the Chief Deputy.

- Prosecute for the state in the juvenile court of the county in any proceeding involving delinquency. UCA 17-18-1
- Prosecute before the court any person charged with abuse, neglect, or contributing to the delinquency or dependency of a juvenile. UCA 17-18-1
- Call attention to any defect in the operation of the laws and suggest amendments to correct the defect. UCA 17-18-1

Stated differently, The Criminal Division has the following duties:

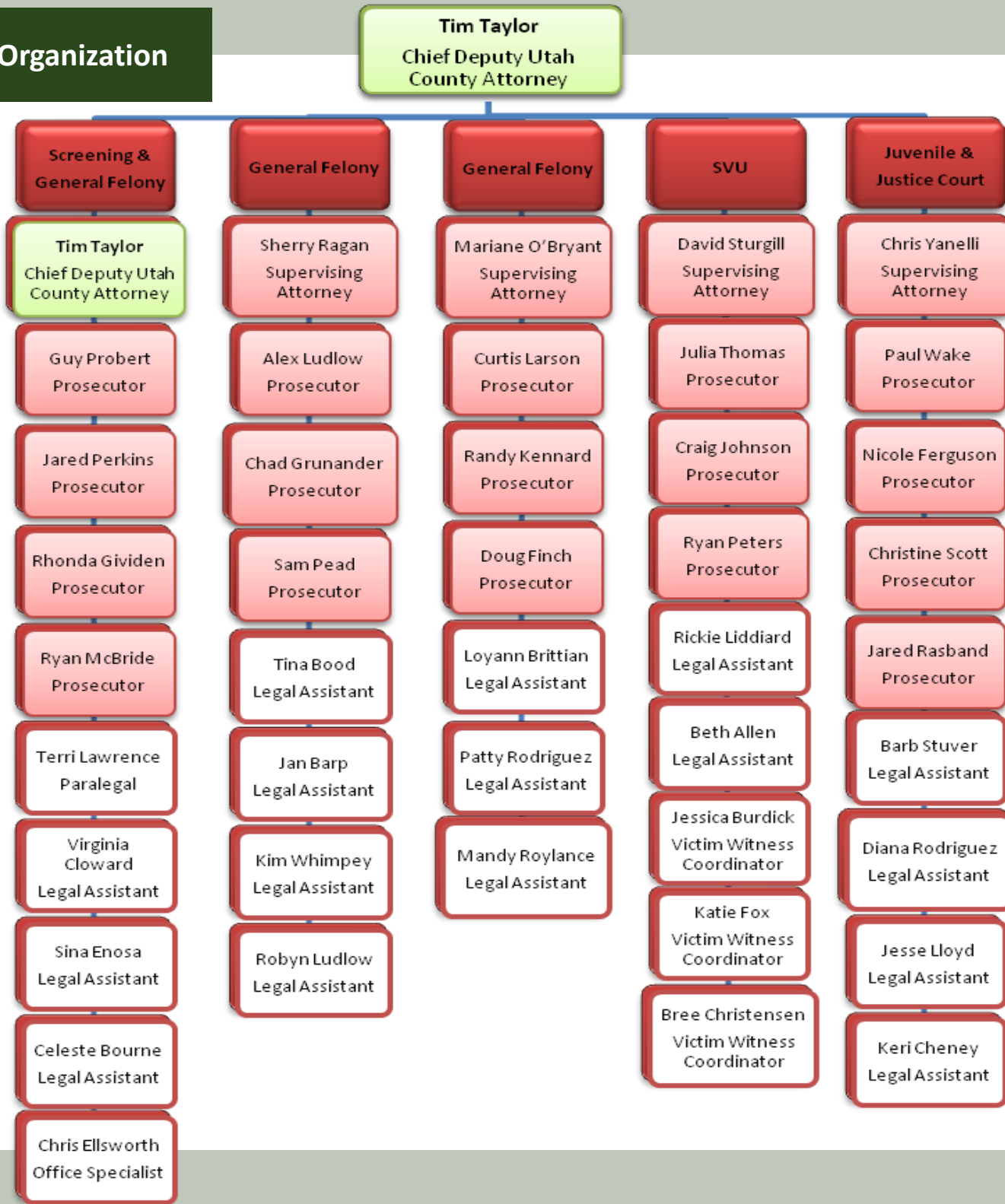
1. Prosecute all felony level crimes that occur in Utah County.
2. Prosecute all misdemeanor crimes that occur within Utah County - but outside the boundaries of any incorporated city.
3. Prosecute all juvenile crimes that occur in Utah County, excepting minor traffic offenses.
4. Provide victim assistance services for cases prosecuted by the office.
5. Advise and assist all Utah County police agencies in their criminal investigations.

The Criminal Division

Statutorily, the County Attorney derives his prosecution authority as follows:

- Prosecute on behalf of the state all public offenses committed within the county, except for prosecutions undertaken by city attorneys. UCA 17-18-1

Criminal Division Organization



The Civil Division provides legal advice and representation to Utah County officials and departments. The Civil Division consists of the Civil Division Chief, Kent Sundberg, attorneys and legal assistants. The Civil Division Chief oversees the operations and personnel of the Civil Division, acts as the County Attorney in the Absence of the County Attorney and Chief Deputy, and reports to the County Attorney.

Stated differently, the Civil Division has the following duties:

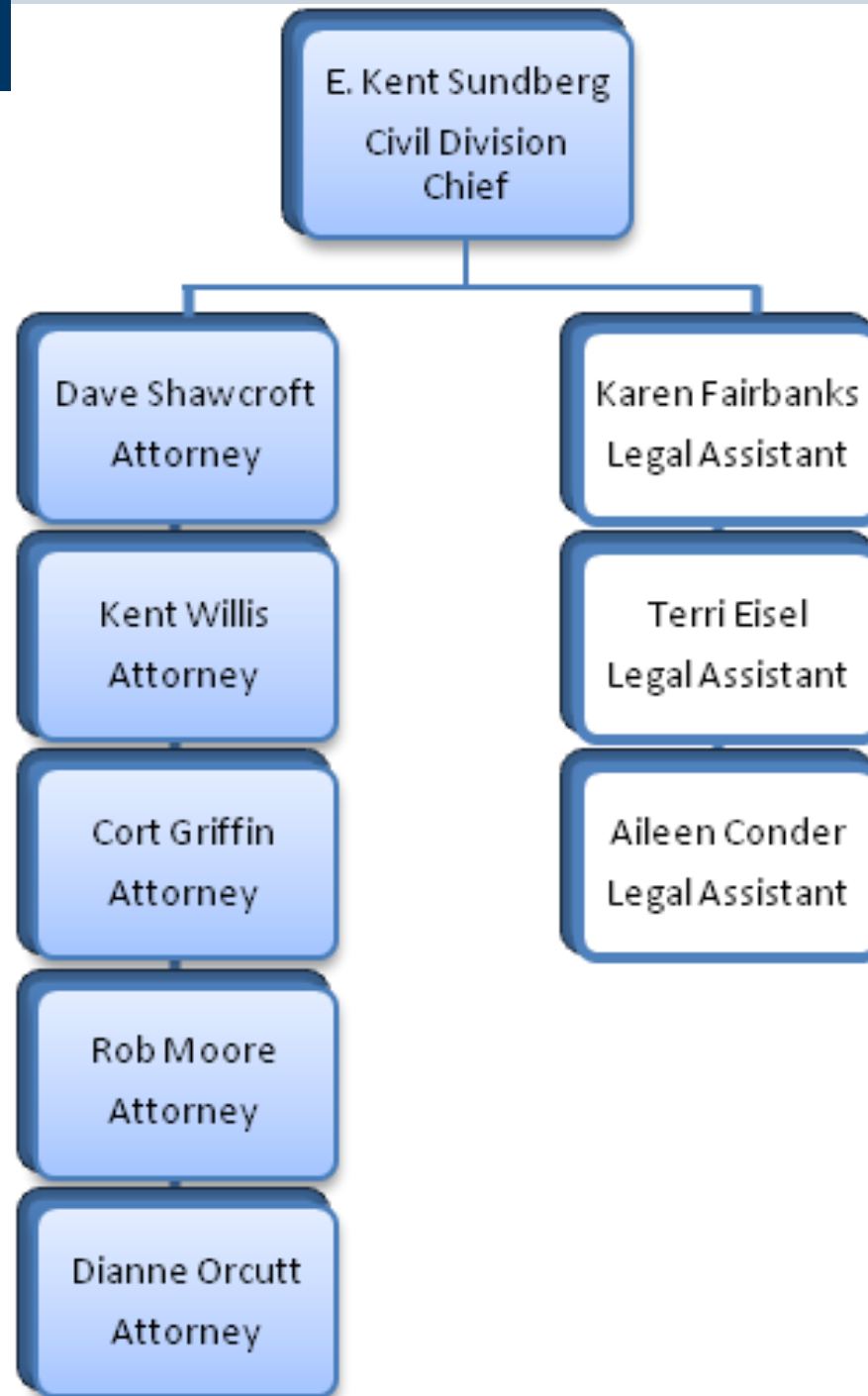
1. Provide legal advice and representation to Utah County Government officials and departments.
2. Handle all claims filed against Utah County Government. For matters referred to our insurance carrier, manage the litigation of claims litigated by the insurance carrier's legal counsel.
3. Handle all collection matters for Utah County Government.

The Civil Division

Statutorily, the County Attorney derives his civil legal representation duties as follows:

- Legal adviser of the county. UCA 17-18-2
- Give opinions in writing to county, district, and precinct officers on matters relating to the duties of their respective offices. UCA 17-18-1
- Defend all actions brought against the county. UCA 17-18-1
- Prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the county. UCA 17-18-1
- Appear and prosecute in all civil cases in which the state may be interested. UCA 17-18-1

Civil Division Organization



The Bureau of Investigations investigates crimes pursuant to the guidelines and priorities of the County Attorney. The Bureau consists of the Bureau Chief, Jeff Robinson, sworn investigator-sergeants, a paralegal and a legal assistant. The Bureau Chief oversees the operations and personnel of the Bureau and reports to the County Attorney.

The County Attorney derives his investigative duties and authority both from statutes and from national prosecution standards:

by other agencies (this includes providing assistance to prosecutors in the investigation of active and closed cases): National Prosecution Standard 3-3.1 Prosecutor.

Unlike the Civil and Criminal Divisions, the Bureau does not have sufficient resources to do all it is called upon to accomplish. Accordingly and out of necessity, the County Attorney limits and prioritizes the cases the Bureau works. The County Attorney's priorities governing the Bureau's use of resources when receiving and investigating the above cases are:

First, sensitive investigations, including officer involved incidents (these are normally incidents where an officer has discharged a weapon at another person), internal investigations on behalf of police agencies and investigations involving public offices and officials.

Second, investigations needed to support criminal cases prosecuted by the County Attorney's Office.

Third, fraud investigations, including those where the Bureau is assisting another police agency conduct a fraud investigation.

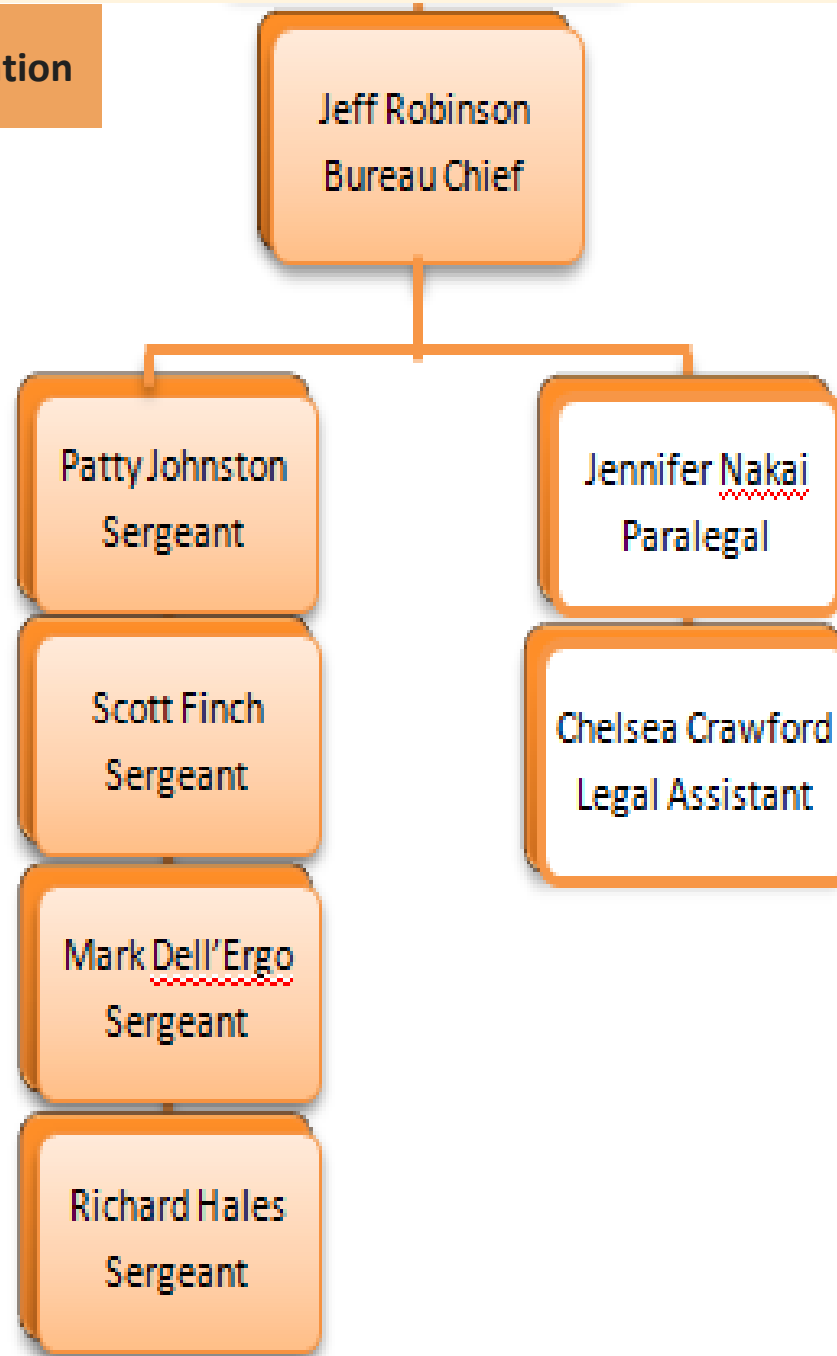
And fourth, the Bureau conducts some investigations that are not criminal in nature when those investigations further the mission of the Office. Normally these are internal investigations for Utah County Government.

Additionally, within these priorities, and recognizing that city and county police agencies have the primary duty to investigate crimes occurring within their jurisdictions, the County Attorney has established guidelines (available on our web site) to control the number and type of cases the Bureau investigates.

Bureau of Investigations

- Investigate Utah County deaths and determine if the decedent died by unlawful means and whether criminal prosecution should be instituted. UCA 26-4-6 and 26-4-7
- Investigate city/county officers and justice court judges for high crimes and misdemeanors or malfeasance in office. UCA 77-6-2, 77-6-3, 77-22-2. "[T]he prosecutor may need to conduct investigations that the police are unable or unwilling to undertake, such as investigations of public officials, including the police themselves." ABA Standards for Criminal Justice, Standard 3-2.4 Commentary, p. 29
- Investigate pyramid schemes. UCA 76-6a-4
- Investigate cases referred from grand juries. UCA 77-10a-2
- Assist in fire investigations. UCA 53-7-211
- Investigate criminal violations by financial institutions. UCA 7-1-319
- Conduct investigations into criminal conspiracies/activities (joint authority with police). UCA 77-22-2
- Investigate state judges for criminal misconduct (joint authority with police). UCA 78a-11-106
- Investigate crime when not adequately dealt with

Bureau of Investigations Organization

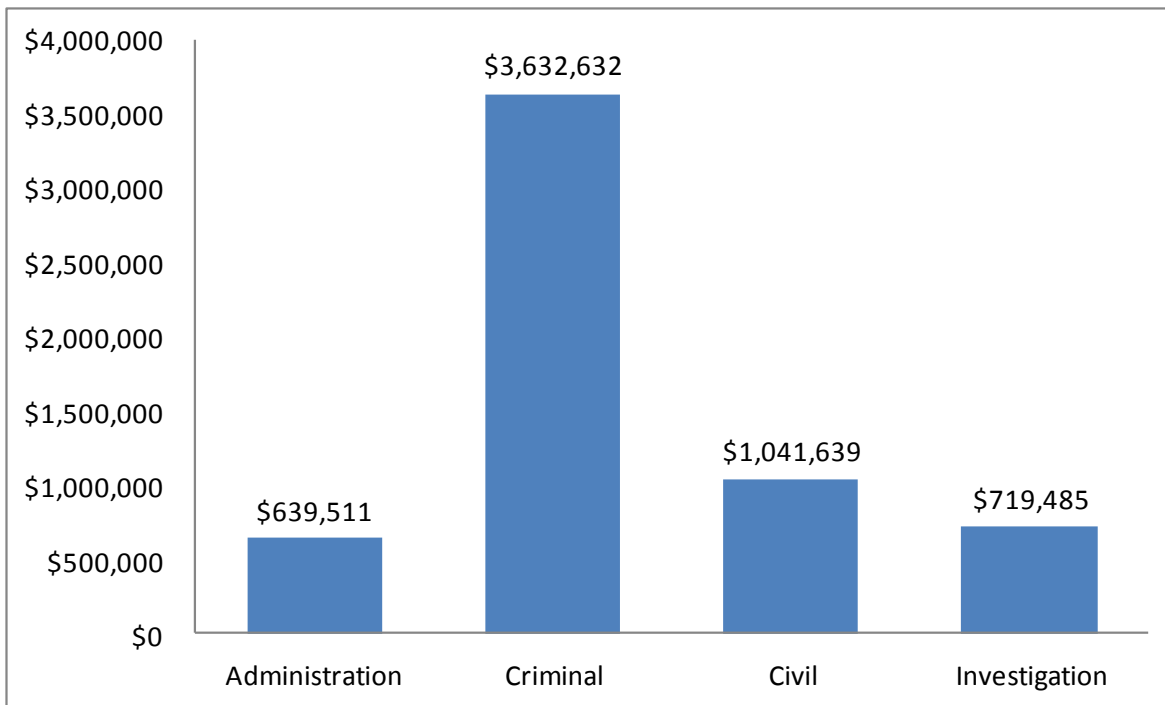


2011 Office Highlights



2011 Financial Highlights

Fiscal Year 2011 Budget . . . \$6,033,268



The County Attorney's Office is funded through the general fund of the Utah County budget, as well as some state and federal grant monies

Office Grant Funding

Grant funding comes from a variety of sources to support the activities of County Attorney's Office.

- VOCA (Victims of Crime Act) is a federally funded and state administered program which funds the salaries and activities for two part-time victim advocates to handle cases with victims of personal and property crime.
- VAWA (Violence Against Women Act) funds a part-time prosecutor to prosecute acts such as sexual assault, rape, stalking, protective order violations, child sexual and physical abuse, and domestic assault.
- JAG: The Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program (Byrne Formula Grant Program) is a partnership among federal, state, and local governments to create safer communities. BJA is authorized to award grants to states for use by states and units of local government to improve the functioning of the criminal justice system, with emphasis on violent crime and serious offenders. Grants may be used to provide personnel, equipment, training, technical assistance, and information systems for more widespread apprehension, prosecution, adjudication, detention, and rehabilitation of offenders who violate such state and local laws.
- COVERDELL: The Paul Coverdell Forensic Science Improvement Grants Program (the Coverdell Program) awards grants to States and units of local government to help improve the quality and timeliness of forensic science and medical examiner services. Among other things, we have received funds to eliminate a backlog in the analysis of electronic forensic evidence and to train and employ forensic laboratory personnel.

The Criminal Division

- *In 2011 the Utah County Attorney's Office prosecuted 6674 total cases. This included 3246 felony cases, 934 juvenile cases, 2277 cases in the Utah County Justice Court and 94 adult class A misdemeanors.*
- *We completed five homicide cases: State v. Ramon Somoza (murder), State v. Damien Candland (aggravated murder), State v. Benjamin Rettig (aggravated murder), State v. Steven Strate (acquitted), and State v. Merrill McKell (negligent homicide).*
- *Through aggressive prosecution, six more career criminals from our Persona Non Grata list are now at the Utah State Prison (in addition to many of our other felony defendants).*
- *We prosecuted the first (we believe) non-homicide criminal case in Utah where the defendant was sent to prison for life without the possibility of parole—State v. Shawn Leonard.*

The Criminal Division Goes Paperless

In 2011 the Criminal Division fully transitioned from a paper-based case management system to a paperless or digitized case management system. This change has allowed us to eliminate over 95% of the paper documents and paper files we have traditionally handled, stored, and ultimately archived in a warehouse.

The County Attorney's Office was able to accomplish this with no budget increase (in fact, we had a budget decrease) and without the need for outside consultants.

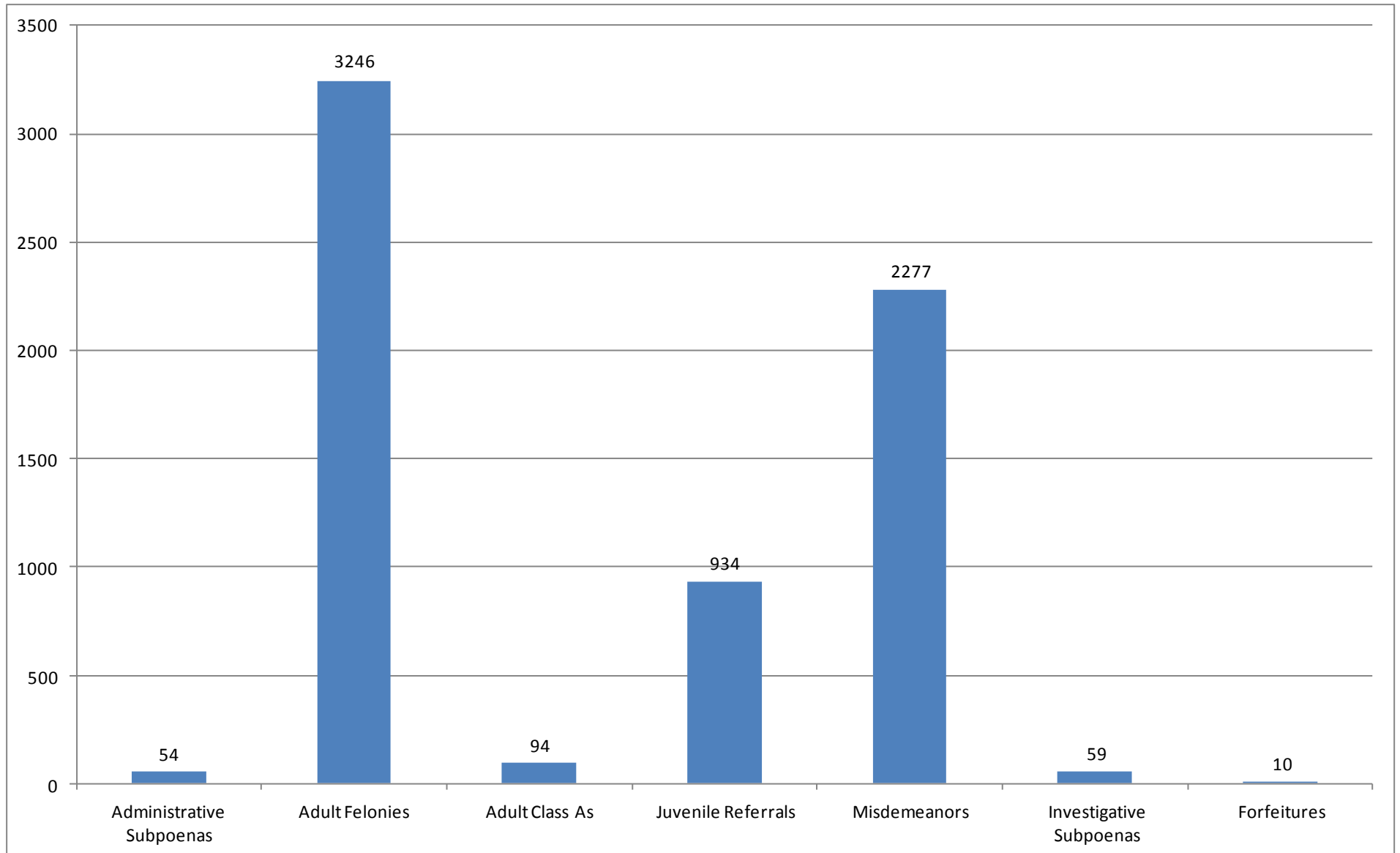


Although we have not had sufficient time to fully evaluate this change to our office, we anticipate the following benefits:

- Cost savings in paper, paper products, file folders, toner and copier maintenance, postage, etc.
- No lost files
- Simultaneous file access by multiple users without the need for a file to move from desk to desk
- Greatly reduced staff time spent filing documents in files
- Enhanced court and trial preparation
- Reduced clutter and increased space in the office environment (we hope to eliminate 50-60 of our file cabinets)
- Streamlined archiving without the need for warehouse storage
- Faster, easier discovery—all documents to defense attorneys are sent electronically, without the need to print, copy or mail
- Enhanced file security—the contents of physical files are difficult or impossible to replace; our electronic case records are separately backed-up to off-site locations each night, vastly improving our disaster recovery preparedness
- Administrative advantages—supervisors can instantly access the contents of all files, enabling them to track what is occurring with their team members and to immediately resolve any issues with victims, witnesses and police officers
- A reduced environmental impact through a significant reduction in paper usage (2 boxes of paper equal one tree)

Criminal Case Numbers

In 2011 the County Attorney's Office prosecuted 6674 total cases. This included 3246 felony cases, 934 juvenile cases, 2277 cases in the Utah County Justice Court and 94 adult class A misdemeanors.



Homicides and Other Noteworthy Cases

State v. Shawn Leonard:



Shawn Michael Leonard was sentenced to life without Parole by Judge Claudia Laycock on July 5, 2011. He will be the only inmate

at the Utah State Prison who hasn't committed murder serving a true life sentence. Leonard pleaded guilty to four first-degree felonies: Two counts of Aggravated Kidnapping, one count of Attempted Aggravated Murder and one count of Aggravated Robbery.

On June 9, 2010, Leonard attacked and strangled a 19 year old woman near the Provo River Trail, dragged her into some bushes, sexually assaulted her and then bashed her face repeatedly with a large cinder block. At the time, Leonard was part of a jail industries program through the Utah County Jail and had walked away from that program.

After he left the scene of the Provo River Trail attack, he went to the Riverwoods shopping area in Provo and robbed a female employee of the retail store Trendy Tots at knife point. He eventu-

ally tied the employee up, left her in a back room and told her not to call the police for at least half an hour.



The victim of the attack at the Provo River Trail has endured numerous surgeries to her face and mouth. She will have double vision permanently from the attack. She remains optimistic and feels grateful to be alive because, as indicated by the doctors who testified at Leonard's preliminary hearing, she was within minutes of death when she arrived at the hospital. She has a loving and supportive family that is helping her recover.

State v. Damien Candland:



In February, 2010, the 22-year old defendant was living at a home in Provo with his 41 year-old hearing-

impaired aunt, Amy Jo Candland, and a friend.

In his 22 years, Candland had lived in eight different states. It wasn't until he arrived in Provo that he began accumulating criminal charges; in ten months he was arrested in three separate felony cases and an additional misdemeanor criminal mischief. case Two of the felony arrests were for aggravated assaults. In one, he attacked a friend over a skateboard he thought the friend had stolen, beating him so severely that the victim had to have reconstructive facial surgery (Candland pleaded guilty to a second degree felony aggravated assault in that matter). In another, he became involved in some kind of drug deal with a number of other people during which he and his father attacked a third party, who responded by stabbing both of his attackers.

In another case, Candland had stolen his aunt Amy's checks and forged them, and had also taken her truck without her permission. He pled guilty to misdemeanor theft and possession of a controlled substance (marijuana) in that case. In addition to stealing from his aunt, Candland was known to have a volatile relationship with her. He had physically assaulted her in the past, causing minor injuries for which she sought medical treatment. The week before the murder, Candland called his stepmother in a rage and told her that he

“couldn’t take Amy’s s*** anymore,” he wanted to “rip her f***ing head off” and that he wanted to “pound her face and shut her the hell up.” He told his stepmother he couldn’t take it any more and he was going to snap.

On Sunday, February 21, 2010, Amy called her housemate Josh Peterson and asked him to come back to the house and let her in, as she had inadvertently locked herself out of the house. Josh, who was with Candland, arrived at the house in Provo somewhere between 11 a.m. and 12 p.m. Josh watched Candland go into the house and then saw Amy go in after him. At the time, Candland was wearing a dark gray or black t-shirt and some DC shoes that Josh recognized as a pair that Candland had purchased. Josh then left to go spend the rest of the day with his ex-wife and children.

At about 4 p.m. that afternoon, a snowshoer at Jolley’s Ranch in Springville Canyon noticed a body lying at the foot of a dumpster. The body was ultimately determined to be that of Amy Jo Candland. She had an electrical cord tied around her neck, significant strangulation marks up and down her throat, a bruised face, hands fastened behind her back with duct tape, and she had signs she had been sexually assaulted.



Utah County Sheriff’s detectives and deputies theorized from the scene that the person who had brought Amy’s body there had parked at the fence blocking the road from further access, dumped Amy’s body over the nearby incline down to the creek, walked upstream a short distance to a spot where he could easily cross, then dragged Amy’s body through the creek and up to a dumpster some yards away, where she was left. Detectives were able to locate and preserve several well-defined shoe prints despite the heavy snow. Those preserved prints were later shown to match the tread of the shoes Candland was wearing when last seen with the victim.

When it was learned who the victim was and where she lived, the case was turned over to the Provo Police Department. Provo detectives searched the victim’s home, finding indications of a sexual assault and wet DC shoes and pants in Candland’s bedroom. Detectives also obtained Candland’s cell phone records, which showed his cell phone “pinging” off of cell towers from Provo down to Springville and back north again - consistent with Candland transporting his aunt’s body from their home in Provo to the Jolley’s Ranch area.

Later laboratory analysis revealed DNA matching Candland to his aunt’s assault, including

Candland’s DNA under the victim’s fingernails and the victim’s blood on the shoulder of the t-shirt Candland was wearing when he was arrested within 12 hours of the murder. The autopsy of the victim found abrasions and contusions to her neck consistent with strangulation, abrasions and bruises to her face and head, intracranial hemorrhaging, and injuries consistent with a sexual assault.

Candland entered a guilty plea in January, 2011 to aggravated murder and obstruction of justice. He immediately attempted to withdraw his plea, but that motion was ultimately denied and he was sentenced on July 21, 2011 to life in prison without the possibility of parole.

State v. Ramon Somoza:

On December 28, 2010, Ramon Somoza lured Jesus Landin, a prior employee, into the basement apartment of the American Fork Apollo Dance



Hall with the ruse that Somoza was going to pay Landin the remaining \$400 that Landin believed he was owed for work he had completed at the Apollo and Swap Meet owned by Somoza. Somoza called Landin and told him he had the money he owed him and wanted to meet with him immediately.

Somoza arrived at the apartment about an hour and half before the planned meeting. He took his .357 handgun from his car and placed it on his person. At about 5:30 p.m. Landin arrived at the Apollo. He walked into the basement apartment while Somoza was on the phone. According to Somoza, Landin went into the living room area to look at his DJ lights which Somoza had borrowed and damaged during an event at the Apollo. This living room is small with no windows, and has a very small closet area. Somoza stood at the only exit point for this room.

Somoza shot at Landin six times, hitting him with five of the shots. One bullet went in and out through the Landin's left cheek, but this was not a life threatening wound. One bullet went through his chest, and this was a serious but not life-threatening wound—if Landin had been given immediate medical treatment. But while Landin was on the ground, Somoza shot three additional bullets into his back on the right side area. Of these last three bullets, one exited his left neck area and the other two remained in his body, one transecting the spinal cord and the other went through part of the heart and lung. These last two were fatal shots.

Somoza left Landin in the basement living room for four days before finally removing Landin's body. He practically mummified Landin's body by using a bunch of black garbage bags and multiple rolls of duct tape to wrap up the body. Somoza used a big garbage can and dolly to get Landin's body from the basement apartment into his truck. He drove through the night to a desolate dirt road off of I-80 and dumped Landin's body in a ditch and covered it with a white shower curtain to camouflage it in the winter snow.

While Somoza eventually confessed to shooting Mr. Landin, he claimed that Mr. Landin had attacked him and he only shot in self defense. After three weeks of trial, 32 State witnesses and 13 defense witnesses, and after four hours of deliberation, a jury decided that Somoza's killing of Mr. Landin was not in self defense and convicted him First Degree Murder, Desecration of a Human Body, and Obstruction of Justice.

State v. Merrill McKell:



had been shot at an alcohol party held in some-

one's home. When police arrived they found the soon to be decedent, Code Hales, conscious with a gun shot wound to the head. Though nine people were present in the home at the time,



only one claimed to have been present when the injury occurred. In interviews this witness described how the decedent had suggested to his friend that it would be fun to play "Russian Roulette" after the two had finished listening to a rock song by a group called Seether that talked about suicide. McKell then produced a .22 caliber handgun from somewhere in the room, changed out the cylinder to facilitate using a magnum powered round, inserted the round, spun the chamber and placed it on the bed. The decedent apparently indicated that he would go first, picked up the pistol, cocked the hammer, placed it to the side of his head and then fired the one and only fatal round. Subsequent investigation showed that both McKell and the decedent had consumed very large amounts of alcohol and/or drugs prior to the event occurring.

Though cases involving death by encouraging someone else to participate in deadly games of chance regularly arise from time to time throughout the United States, most attempts to prosecute them fail either at the trial or the appellate level due to the problem of the decedent's voluntary

On April 21, 2010, officers from the Spanish Fork Police Department responded to a report of someone who

independent, intervening action in choosing to pull the trigger.

Deputy county attorneys worked with Spanish Fork police in reviewing the case and reviewing case law before ultimately deciding that the facts in this case were sufficiently unique to overcome the obvious defense that the decedent's voluntary actions has caused his own death.

Though originally filed as a 2nd degree Manslaughter, requiring a mens rea showing of recklessness (that he was "aware of but consciously disregards a substantial and unjustifiable risk that the [death] will occur"), through plea negotiations the charge was eventually amended to class A misdemeanor, Negligent Homicide (requiring a lesser mens rea, that "he ought to [have been] aware of a substantial and unjustifiable risk that the [death] would occur) and McKell pleaded guilty to that charge.

Though normally a reduction from a second degree felony to a class A misdemeanor would be seen as a less-than-optimal resolution case resolution, the Utah County Attorney's Office felt this resolution was a just outcome due to the significant factual and legal hurdles that make obtaining a conviction on similar cases close to impossible. Thanks to the thoroughness of Spanish Fork Police's investigation into what could have been ruled an accident, McKell saw the necessity of accepting the State's plea offer rather than risking a manslaughter conviction at trial.

On March 2, 2011, McKell was sentenced to

the maximum: 365 days in jail, for his involvement in encouraging the decedent to participate in a game of chance which he should have known involved a "substantial and unjustifiable risk that death would occur"—and in fact, where death did occur.

As a side note to the real difficulty in prosecuting these cases, despite obtaining a conviction by plea, the Utah County Attorney's Office was unsuccessful in convincing the court that McKell should be liable for the reasonable restitution costs of the decedent's funeral.

State v. Benjamin Rettig:



On November 16, 2009, Kay Mortensen, a retired BYU professor, was alone at his home in Payson Canyon, Utah. Martin Bond, friend of the Mortensen family, had visited the Payson Canyon home previously and knew Mortensen had a substantial gun collection. That evening Bond and Rettig went to the home and forced Mortensen to show them where he stored his firearms. After

discovering the firearms, Bond and Rettig took Mortensen at gun point to an upstairs bathroom where they killed Mortensen with a knife.



Shortly after Mortensen's murder, his son and daughter-in-law arrived at the home and were allowed to enter. Bond and Rettig placed zip ties on the son and daughter-in-law's wrists while Bond and Rettig removed multiple weapons from the home.

A tip in December 2010 led to the arrest of Bond and Rettig. On June 2, 2011, Rettig pleaded guilty to Aggravated Murder and Aggravated Kidnapping. On December 13, 2011, the court sentenced Rettig to 25 years to life.

Bond is facing the death penalty and his trial is currently scheduled for October 2012.



Persona Non Grata List

To further its goal of protecting Utah County, the County Attorney's Office pays particular attention to persons who singlehandedly endeavor to increase the County's crime rate. Our "PNG" list, begun in 2007, is populated by persons who the criminal justice system has never been able to get their attention, and (a) they are repeat, repeat offenders, or (b) their current crime spree is particularly

egregious. In other words, the PNG List is for persons who should have already gone to prison, but keep getting off of their charges or getting sentences that are too light with regard to their criminal history.

Recognizing that our duty is not merely to obtain convictions--but to "do justice," we are careful to only place someone on our PNG list who has earned that distinction

through a long track record of breaking the law. Once we place someone on our PNG list we severely limit their cases' plea bargaining and the assigned prosecutor puts their cases right onto a trial track.

In 2011 the following from our PNG list were prosecuted and convicted:



Tracy Valdez

Mr. Valdez has been arrested at least 45 times from February of 1980 to January of 2011. In January 2011 Tracy was sentenced to an indeterminate term of 1-15 years in the Utah State Prison.



Jonathan Ramirez

Mr. Ramirez has been arrested 20 times from June of 2001 to January of 2011. In April of 2011 Jonathan was sentenced to an indeterminate term of 0-5 years in the Utah State Prison on multiple felony cases.



Jack Wilkinson

Mr. Wilkinson has been arrested 38 times from August of 1973 to August of 2010. In July of 2011 Jack was sentenced to an indeterminate term of 1-15 years in the Utah State Prison on multiple felony cases.

Persona Non Grata List - Continued



Shawn Michael Leonard

Mr. Leonard has been arrested 21 times from January of 1998 to December of 2010. As previously mentioned, in July of 2011 he was sentenced to serve a life sentence in the Utah State Prison without parole.



Alexis Vanderhoeven

Ms. Vanderhoeven has been arrested 16 times from December of 2001 to April of 2011. In August of 2011 Alexis was sentenced to serve an indeterminate term of 0-5 years in the Utah State Prison on multiple felony cases.



Justin Spencer

Mr. Spencer has been arrested 22 times from May of 2003 to June of 2011. In October of 2011 Justin was sentenced to an indeterminate term of 0-5 years in the Utah State Prison on multiple felony cases.



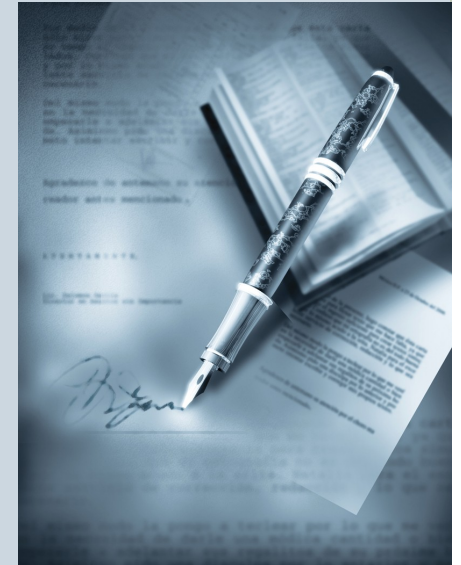
LOCKUP

The Civil Division

The Civil Division of the County Attorney's Office provides legal services not only to traditional County departments, but also to entities created by and functioning for County government.

Civil Division Statistics

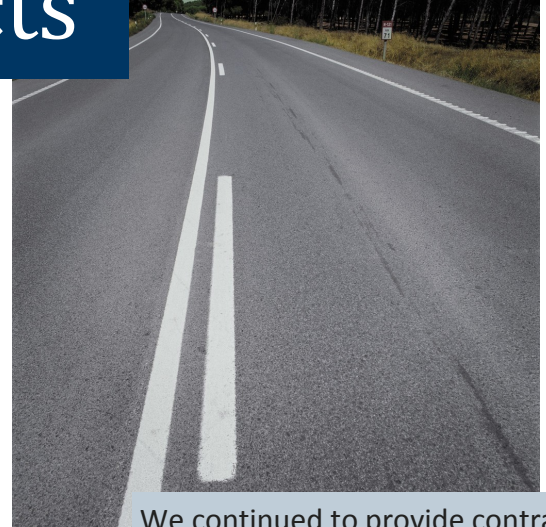
Dismissed Claims or lawsuits against the County.....	28
Total dollar amount of bonds issued by County.....	\$32,375,000
Ordinances drafted by Civil Division and adopted by the County	44
Resolutions drafted by Civil Division and adopted by the County	147
Contracts reviewed by Civil Division and approved by the County	816
Board of Equalization matters	67
Planning Commission matters	52
Board of Adjustment cases.....	10
GRAMA requests processed	490
Bankruptcy cases opened.....	151
Bankruptcy cases closed.....	201
Sanity hearings (at the Utah State Hospital) cases handled	561



Civil Division Ongoing Projects



In 2011 the Civil Division continued to provide legal advise and support to the construction of the Utah County Convention Center .



We continued to provide contract and property purchasing support for the North County Boulevard project.

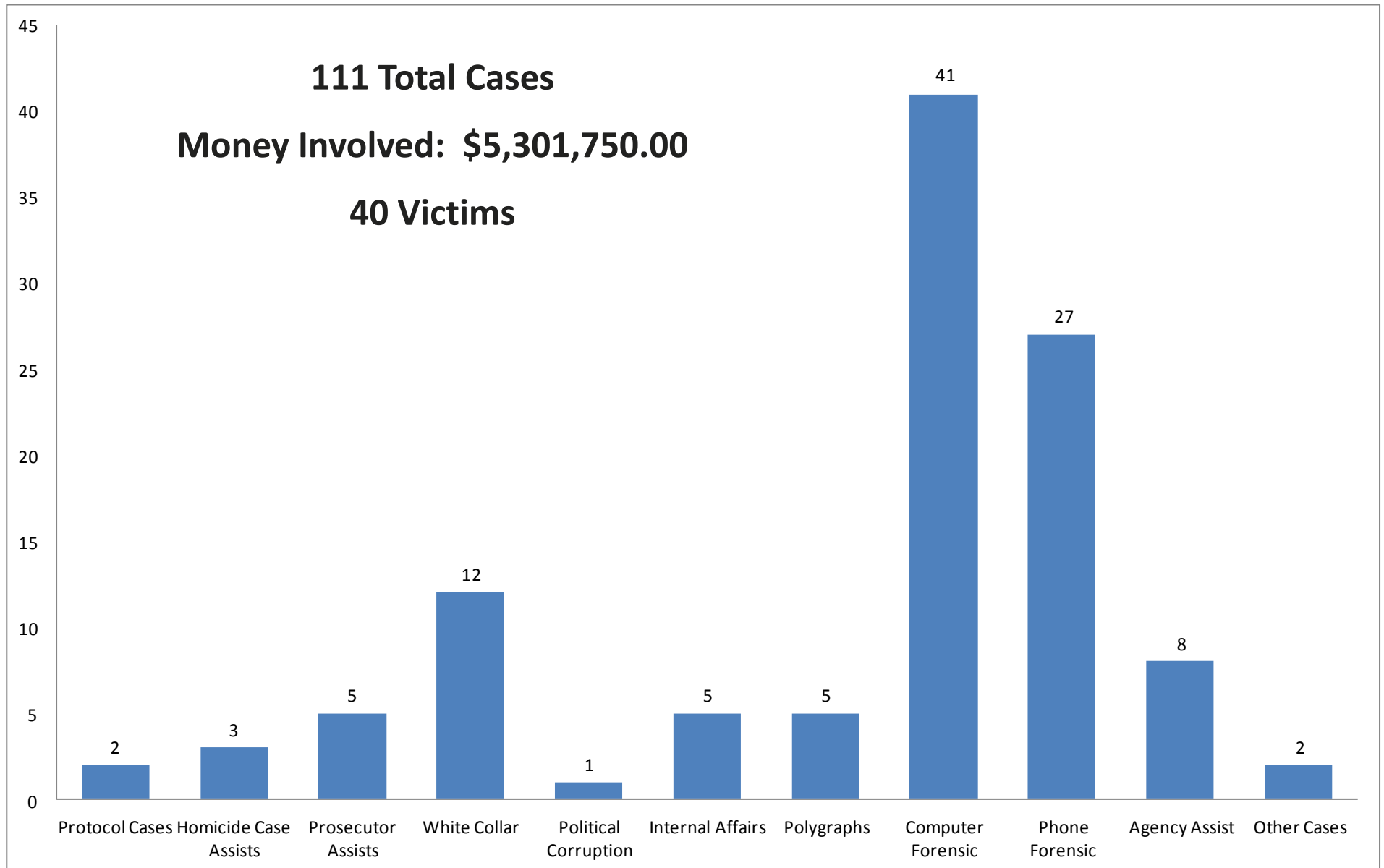


We completed multiple agreements with the BLM, the Provo River Water Users and eight other parties for the development of a public trail system in conjunction with the enclosure of the Murdock Canal.



We received 100% score on the Utah Counties Insurance Pool's "2010 Best Practices" risk management program, giving the County the maximum insurance premium discount.

The Bureau of Investigations—Statistics



Ongoing Crime Prevention Programs

Public safety is our top priority in the Utah County Attorney's Office. Unlike in times past, we recognize that we cannot enhance public safety simply by prosecuting crimes and sending offenders to jail or prison. We increase public safety, within available resources, with innovative crime prevention programs.

Programs for Adults

Probation Reform

In 2009, the Sentencing Reform Committee of the Board of Utah District Court Judges held a conference to discuss ways to improve sentencing and probation supervision practices in Utah courts. After that conference, stakeholders in the Fourth District met and formed a subcommittee of the Sentencing Reform Committee in order to discuss improvements it could implement in the Fourth District.

Over many months of research, discussion and planning, the subcommittee decided to first look at making improvements to the felony probation process and it developed project goals and outcome measures, identified problems and weaknesses to the current probation sanction process, identified evidence based solutions and improvements to the probation sanction process, developed a probation violation sanction matrix, and developed a probation compliance reward matrix.

Beginning March of 2010, Adult Probation and Parole began implementing the new probation process developed by the subcommittee. Spe-

cifically, AP&P began using a Sanctions Matrix and a Rewards Matrix in its supervision of offenders in Utah, County. Practically, this means that AP&P imposes sanctions swiftly, fairly and the sanctions are certain, and that probationers will not be referred to the court until AP&P is unable to effectively supervise them or they have committed a new criminal offense. It also means that AP&P and the court will use rewards to recognize and motivate probationers who are complying with probation.

We anticipate that these reforms will result in fewer hearings in court, fewer probationers in jail and shorter jail terms. We also anticipate that AP&P will be empowered to hold probationers more strictly to the terms and conditions of probation and will have a greater number of “tools” to work more effectively with probationers. Ultimately, we believe

these reforms will result in a greater number of probationers successfully completing probation, remaining crime free and becoming productive members of our community.

The initial data indicates that these reforms seem to be successful, though we will not know for certain until a thorough study is conducted by the Department of Corrections sometime in 2012.



Mental Health Court

Mental Health Courts are a recent innovation in the integration of mental health and criminal justice services and are based on the model of therapeutic justice exemplified by the drug courts. The Council of State Government's Criminal Justice/ Mental Health Consensus Project XII (June 2002), found that "people with mental illness are falling through the cracks of this country's social safety net and are landing in the criminal justice system at an alarming rate." Often, these individuals are overlooked, "turned away or intimidated by the mental health system" and "end up disconnected from community supports." Id. This disconnection leads to increased recidivism and eventual criminalization of individuals with mental illnesses. In fact, one report found that over one-quarter of the inmates with mental illnesses in local jails were incarcerated for mi-

nor offenses. Bureau of Justice Statistics, US Dept. of Justice, Pub., No. N U 174463, Mental Health Treatment of Inmates and Probationers 1 (July 1999).

Consequently, a disproportionate number of individuals with mental illnesses are incarcer-

ated for minor offenses, contributing to the overcrowding of county jails. Based on available data, the outcomes of these incarcerations and associated costs have been the opposite of what was intended; rather than leading to

remediation, the data shows that incarceration of mentally ill individuals increases recidivism and criminal acting out.

Mental Health Courts address this issue by integrating the criminal justice and mental health world, requiring collaboration and consideration from both sides for the benefit of all involved. Based on the premise that these individuals act out criminally secondary to their

mental illness, mental health courts embrace a "therapeutic justice" stance geared toward enforcing mental health treatment and medication compliance.

Extrapolation of national data suggests that of the more than 13,000 bookings annually in Utah County, about 1,000 individuals booked suffer from a mental illness. Thus, at any given time, about 88 inmates in the Utah

County jail would have a mental illness and approximately half of those would report at least one admission to a hospital for psychiatric reasons.



Wasatch Mental Health
Embracing Wellness



In Utah County, Wasatch Mental Health (our county community health center), in collaboration with the Fourth District Court, the Utah County Attorney's Office, city prosecutors, and the defense bar launched a Mental Health Court in early 2004. The Mental Health Court focuses on the following goals:

1. Divert participants from the Criminal Justice System

2. Keep the community safe (through decreased recidivism)
3. Avoid the revolving door at inpatient facilities and jails
4. Enhance the participants' quality of life
5. Use limited available funds in the most effective way
6. Increase treatment compliance with difficult to treat clients

Admission into the Mental Health Court Program is a two-step process. First, the individual's mental health status and the charged offenses are reviewed by the prosecutor's office to insure appropriate candidates are referred. The second step occurs when a referred individual is screened by a therapist at Wasatch Mental Health.

If accepted into the program, the individual is assigned a case manager, and a therapist and medical doctor as appropriate. Participants are then monitored on a weekly basis by both Wasatch Mental Health and the Court to help ensure compliance with the treatment plan that has been developed for each individual. A typical treatment program is designed to be completed within one year, but may be adjusted

based upon the individual's responsiveness to their treatment and therapy.

After more than six years of operation, the Mental Health Court has been a huge success. 90% of the participants successfully complete and graduate from the program. The number of jail days saved (as compared to a similar population not in Mental Health Court) accounts for a cost reduction of more than \$600.00 per client per year, saving the Utah County Jail (and our tax dollars) approximately \$62,000 per year in jail bed days. Additionally, a recent study indicates that the likelihood of mental health court graduates recidivating was approximately 22% lower than mentally ill persons who received treatment alone, and their likelihood to commit a violent offense was approximately 50% lower.

Dale E. McNiel and Renée L. Binder, Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence, *Am J Psychiatry* 164:1395-1403, September 2007.



Felony Drug Court

Drug courts offer an alternative to incarceration, which, by itself, has not been effective in breaking the cycle of drugs and crime. Treatment has been shown to work—if substance abusers stick with it; however, between 80 and 90 percent of conventional drug treatment clients drop out before 12 months of treatment, the period generally found to be the minimum effective duration. Drug Courts provide a structure that links supervision and treatment, and exert legal pressure on defendants to enter and remain in treatment long enough to realize benefits.

More than two-thirds of participants who begin treatment through a drug court complete it in a year or more—a six fold increase in retention compared with programs outside the justice system. According to the National Institute of Drug Abuse, involuntary treatment can be effective. Of the thousands of offenders who have participated in Drug Courts throughout the country since 1989, it is fair to say that most would not have entered treatment by choice. Drug courts have coerced an impressive number of substance involved offenders—many of whom have concurring mental, emotional, and physical health problems— to re-

ceive treatment, counseling, and other services that they need if they are to lead productive and law abiding lives.

In Utah County, the Felony Drug Court program has been operating since 1998, and serves about 72 clients at any given time. For some clients, Drug Court is operated on a plea in abeyance model where clients plead guilty to a drug related felony charge or probation violation, and their plea is held in abeyance until they complete the program and graduate. If they do not complete the program, they are convicted and sentenced. For other clients, usually those who have an extensive criminal history, Drug Court is operated on post-conviction model, where clients do not enter Drug Court until after a guilty plea and Drug Court is part of the sentence—the “last chance” before prison.

Admission criteria to Drug Court are: an offender must (a) have a drug related felony charge or be on felony probation for a drug related charge, (b) be a Utah County resident, (c) have no history of violent offenses, (d) have no more than \$1000.00 owing in restitution and must pay off restitution during drug court, (e) have no charges relating to drug distribution,

and (f) have not been to prison previously. Also, if there is a crime victim, the victim must be in agreement with the offender entering into drug court. The program is designed to be 12 months in length; however, some clients have taken up to 18 months to graduate.

Graduation criteria include completion of treatment and no positive drug tests during the final six months of participation in the program. The program encourages and assists participants to obtain employment and schooling, improve their day-to-day choices of friends and living circumstances, and to become productive members of our community. The incentive for some participants is that upon successful completion of Drug Court their felony charge does not appear on their record. For participants already on probation, the incentive for successful completion of Drug Court is they avoid a prison sentence.

Participants must pay Drug Court fees which include the costs of regular, random drug testing, but most funding for Drug Court comes from federal, state, and county funds, and a drug court grant provided by the Utah State Department of Human Services, Division of Substance Abuse and Mental Health.



SAILR

In 2009, after state funding cuts eliminated our first offender felony drug court, in conjunction with Adult Probation and Parole, we established the STOP Program (Supervised Treatment On Probation), a program mimicking drug court for first time felony drug offenders—but without direct state funding and at no additional expense to the County. In 2010, after some organizational changes at Adult Probation and Parole, we made substantial changes to the STOP Program and created a new program

called SAILR (Substance Abuse Intervention Low Risk). Similar to the STOP Program, SAILR is intended for first time felony drug offenders.

In a nutshell, if a person charged with a felony drug crime meets the eligibility requirements, that person will enter a guilty plea which will be held in abeyance for one to two years. If the person completes the program requirements successfully, their charges will be dismissed. If the person does not successfully complete the program requirements, they are convicted of

their offense and sentenced accordingly.

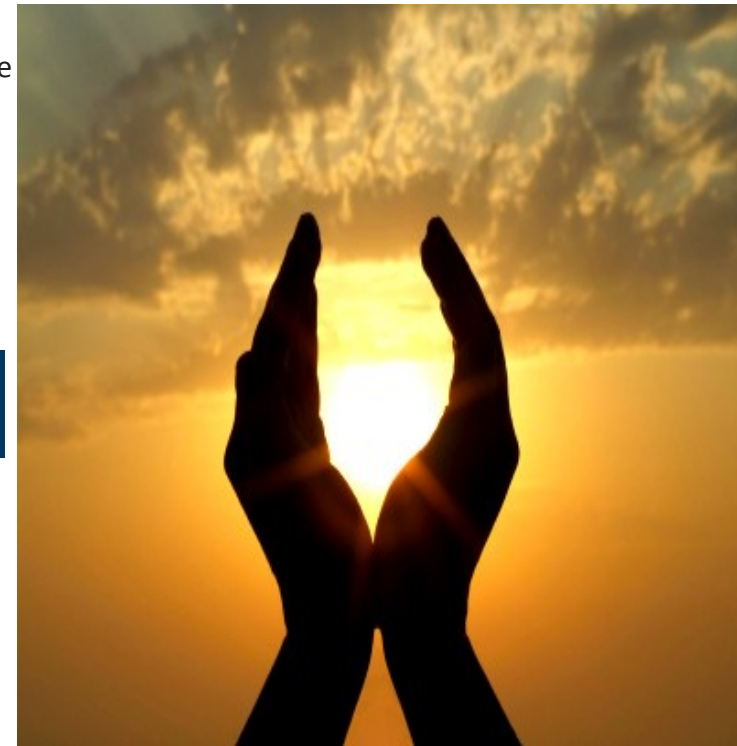
The program is intended only for what are considered “low risk” offenders, and it provides the participants with intensive supervision and substance abuse treatment.

DORA

Approximately 85% of Utah's prison population has a substance abuse problem related to their criminal behavior and the prison is at capacity. Unfortunately, many of these offenders have not been identified as needing substance abuse treatment before they get to prison, so we miss out on opportunities to provide treatment, break the criminal cycle and save prison beds for other offenders who pose a greater risk to our county. The Drug Offender Reform Act (DORA), was implemented statewide starting in 2007 to target for treatment those offenders

who have a drug-related problem and are on track to fill a prison bed.

In Utah County, DORA is a collaboration between the Utah County Division of Substance Abuse, the Department of Corrections, the courts, the Utah County Attorney's Office and the Utah County Sheriff's Office. Offenders are identified by their risk to recidivate and, if their risk is moderate or high, they may be accepted into DORA where they are able to access more substance abuse treatment resources and options than offenders not in DORA.



Programs for Juveniles

In addition to the above programs which are targeted mainly at adults charged with felony offenses, we have a number of programs intended to reduce juvenile crime and, more importantly, to help juveniles not become adult criminals.

Truancy Court

The juvenile court runs a truancy court which is similar to drug court, mental health court, or a domestic violence court. Students who are truant are identified by the school districts and charges referred to the juvenile court. The ultimate goal is getting the child to school on time, every day. Through Truancy Court family needs can be assessed, services can be accessed, and special needs of the children can be identified and addressed.



Youth Drug Court

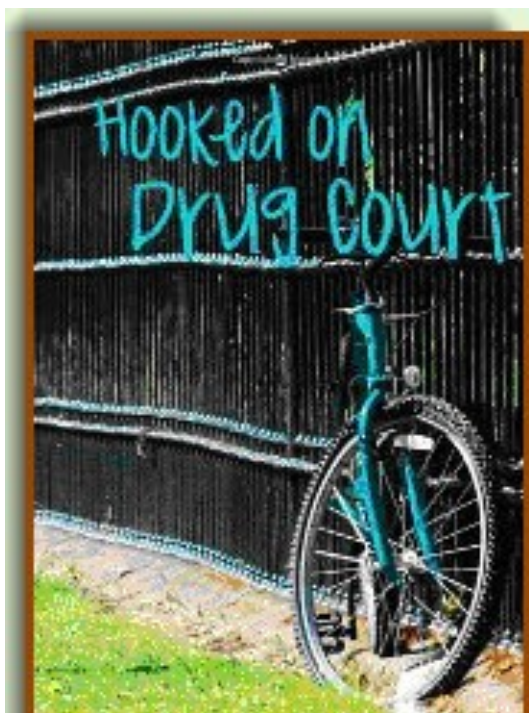
Utah County's Youth Drug Court is a collaborative effort among the 4th District Juvenile Court, Juvenile Parole Authority, the Utah County Attorney's Office, the Utah County Public Defender Association, Youth Corrections, all three Utah County School Districts, and the Utah County Division of Substance Abuse. Utah County's Drug Court has been operating since 1999 and its current capacity is 26 juveniles.

Adolescents are less likely than adults to ac-

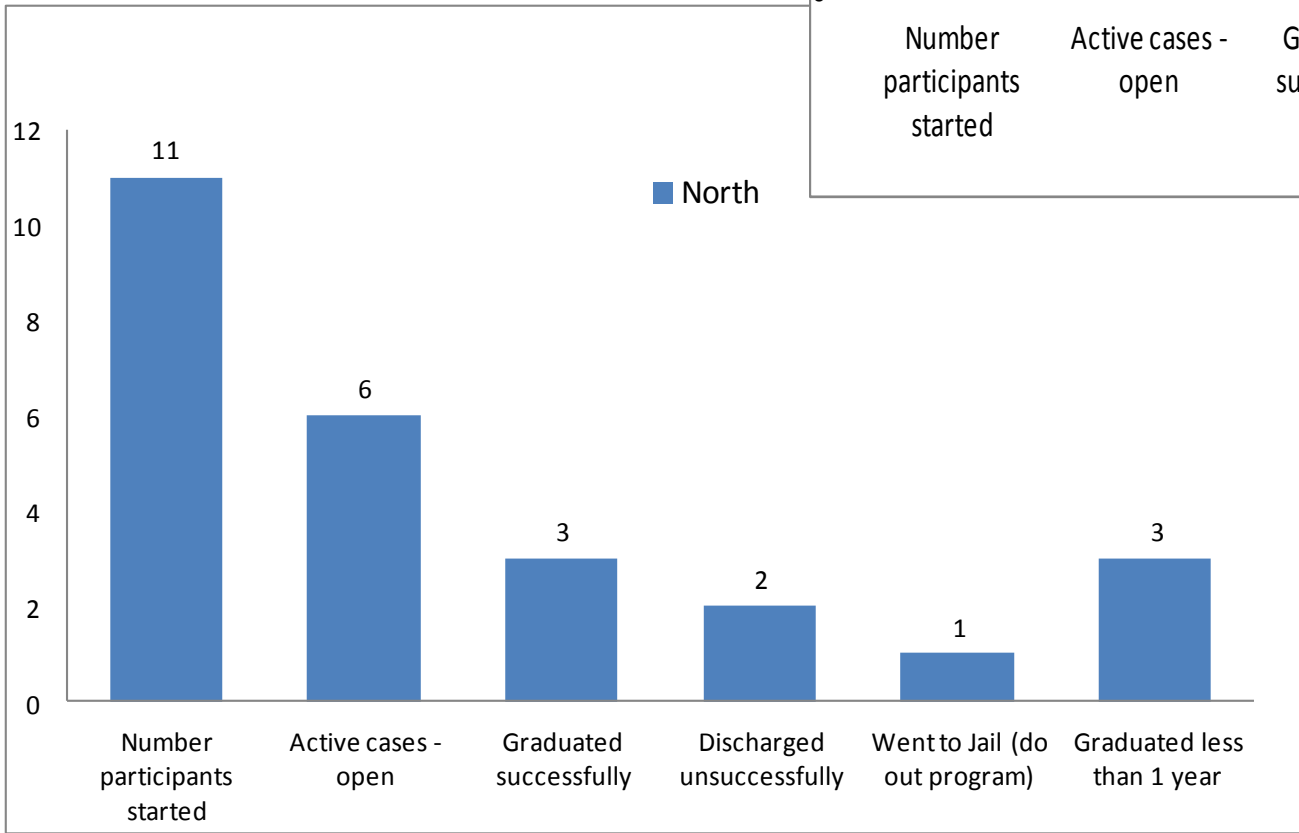
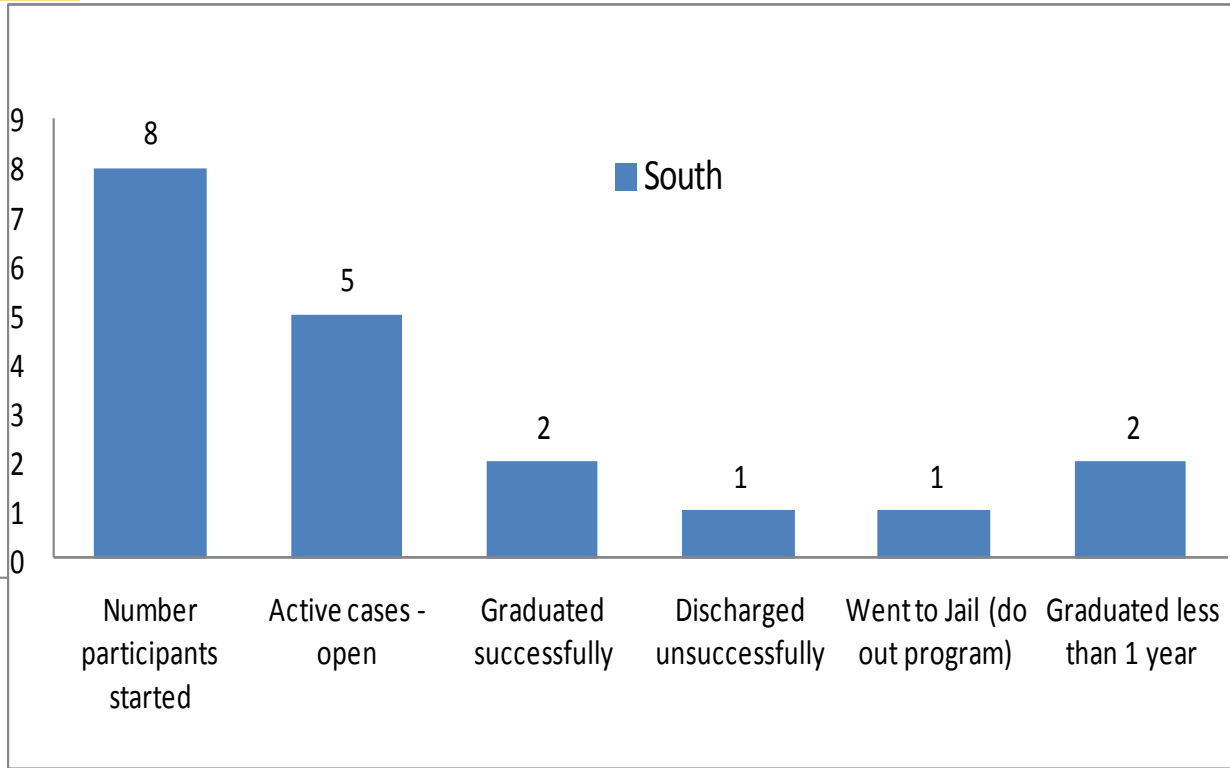
knowledge adverse consequences of their drug use, thus incentives and sanctions have been integrated into the program in order to provide external motivation. Overall, the process is designed to facilitate prompt multi-system responses to youth involved in drug and alcohol offenses. The process is non-adversarial, emphasizing the support of the youth and family. Potential clients are identified early by juvenile court probation officers. Admission criteria include: an arrest involving drugs or alcohol; an evaluation resulting in a determination of a substance abuse or dependence problem; motivation for treatment, parental involvement and support of the program, and voluntary participation.

The juveniles participate in an intensive drug and alcohol treatment program, have court hearings every other week, are regularly drug

tested, and their school performance and treatment is monitored regularly. The average length of stay in drug court is 12 months and the minimum is 9 months. Juveniles who need intensive substance abuse treatment can access residential treatment through drug court. Graduation criteria include: completion of all drug court requirements, clean drug tests during the entire fourth phase of the program, attend and pass school classes or work 40 hours per week. Juveniles who graduate from this program have a lower rate of recidivism, and have a much lower rate of relapse as adults.



2011 Juvenile Drug Court



Citation Diversion Unit (CDU)

Approximately 85% of juveniles referred to juvenile court will never be referred again. Since most juveniles do not reoffend, the juvenile court, in 1997, started the CDU to deal primarily with low level misdemeanor offenses. The intent of this program is to educate juveniles and their parents as to the laws of the State of Utah, provide a consequence for juveniles who

commit minor offenses, and to ensure a fast turnaround from arrest/citation to consequence. This program seems to have a significant impact on the juveniles that come through the Juvenile Court system as well as other juveniles within the community.

The CDU's basic purposes are to provide early intervention and establish immediate conse-

quences, help the juvenile accept responsibility for his or her own behavior, provide education for both the juvenile and the parent, and provide support for the parent.

The main focus of CDU is the Accelerated Misdemeanor Program. This is a process by which Class 'B' and 'C' misdemeanor offenders are cited and directed to appear at a citation class within two weeks of the offense date. The referring officer gives the juvenile and parent a specific date and time to appear to address the delinquent behavior. This enhances the court's ability to impact the offender while deterring further delinquent behavior. This program has improved court response time by eliminating what commonly had been months between the juvenile's arrest and appearance in Court.



Looking to the Future

Utah County continues to experience budgetary challenges. The County Attorney's Office has experienced no decrease in workload and, before the country entered into the current recession, we were already understaffed. Our primary challenge for 2012—similar to 2011—is to maintain our high quality of work without needed additional resources.

One of the ways that we are attempting to "do more with less," is as mentioned previously, by moving to a largely paperless case management system. We have now completed that project for our Criminal Division and our Bureau of Investigations. We believe that by going paperless we are able to handle our current caseload and, possibly, a small increase, without the necessity of adding significantly more staff. However, going paperless is no panacea for budget problems. We are already minimally staffed for our work load and going paperless will only provide a short reprieve before we will need to

add staff or decrease services. In fact, the real benefit of going paperless is an improvement in our internal efficiencies and processes (and some cost savings) rather than actually reducing staff.

With the resources we have, we continue to reallocate or focus them to combat the issues we believe most affect our community. One area that we have been working on extensively is to focus our attention and resources to aggressively prosecute habitual criminals. A small proportion of criminals commit a disproportionate amount of our crime, yet they seem to revolve through the doors of the criminal justice system. As mentioned earlier in this report, we maintain our "Persona Non Grata" program to ensure that the system does not keep opening the door. We have also implemented an internal system to help prosecutors focus their time and attention on habitual criminals.

In addition to aggressive prosecution, we must rehabilitate those we prosecute so they do not recidivate. As mentioned above, in the past couple of years we have implemented a major reform of our felony probation system and our SAILR program. We continue to await the results of data analysis to evaluate the efficacy of those changes.

In 2011 we also began to develop a pretrial services program for persons who have been arrested and remain in the jail awaiting adjudication of their charges. This pretrial services program will be "beta tested" in the jail in 2012, and the results of that test will drive whether the program is a good fit for Utah County.

Finally, we are working to improve our legal services to our in-house clients—the departments of Utah County Government. We have begun by improving our communication and by conducting annual legal updates with the various department administrations we represent.

Jeffrey R. Buhman

Utah County Attorney

