Human Resources - Legal Defenders

Mission Statement

In alignment with Davis County principles, values and vision, it is our mission to support the larger community – the employees of this organization and the citizens of this county - to meet its objectives through its most valuable resource – its PEOPLE. We serve them with respect and integrity by promoting their livelihood, safety, equity, liberty and opportunity.

Prior Year Inputs/Outputs

2022 FTES: 3 *

*The Legal Defenders are requesting funding to hire a 4th FTE. That person would be social worker, preferably an LCSW, to assist defenders in counseling clients, gathering medical/mental health records, securing treatment placements and other benefits for clients. Other counties who have social worker support have found that clients enter treatment more quickly and obtain more favorable results than they do without that support.

Core Functions & Services

The Legal Defenders provide effective, compassionate and professional legal advocacy for indigent persons facing criminal charges, juvenile delinquency allegations, the possible termination of parental rights, or mental health commitments in cases filed in Davis County. Per statutory and constitutional mandates, the legal defenders automatically represent all juveniles facing delinquency allegations in juvenile court as well as all parents who are subjects of child welfare/parental rights cases in both juvenile and district court unless they hire private counsel. Once we are appointed, however, people rarely retain counsel. We also represent Davis County residents facing possible civil, mental health commitments with hearings held in courts located within the county as well as at the State Hospital in Provo. Finally, the defenders represent all indigent persons facing criminal charges in district court and in our justice court. That amounts to approximately 80% of the cases prosecuted by the Davis County Attorney's Office.

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Current Year Projected Outcomes

Like all departments, for the last two years the Legal Defender program had to adapt to COVID-19 restrictions. With the recent lifting of those restrictions for court proceedings, Davis County courts are now conducting numerous jury trials each month as the justice system addresses the backlog of cases awaiting trials. With this increase in jury trials, there will be an increased need for investigative and other professional services (expert witnesses, transcripts, interpreters, etc.). It appears we will not exceed the $250,000.00 allocated for Professional and Technical Services, but it will likely be close. As more cases go to trial there will also be more appeals. Indeed, we have already had too many appeals for our current appellate attorney to handle without additional assistance. (Six new appeals were filed in just the last month.) As a result, we have contracted with other appellate counsel to handle some of those appeals on an hourly basis. Fortunately, we anticipated an increase in appeals and it appears we will remain within budget on this issue. Finally, it appears we may go over the amount of funding allocated for civil commitment proceedings ($35,000.00 under "P&T Sanity Hearings"). Hopefully, any overage in that area can be covered from unused funds allocated for extra appellate counsel. In sum, while it appears we will remain within budget for 2022, whether are able to do so may depend upon how many of the backlogged criminal cases go to trial before the end of the year.

Next Year Budget Initiatives

The most significant changes between this year's budget and next year's budget are as follow:

1. Our main request for next year is for an additional FTE – a Social Worker (preferably an LCSW or at minimum a CSW) to improve the overall quality of representation and, most importantly, improve client outcomes and assist them in becoming productive members of the Davis County community. This person will assist defenders in gathering client medical/mental health records to facilitate case resolution and identify client treatment needs, facilitating early treatment placements of clients as well as providing post-sentencing support for clients by helping to secure treatment and other benefits. Other counties (including Salt Lake and Utah counties) have had social worker support for many years and report that the added support facilitates case resolutions and improves outcomes for clients. Weber County started using social workers on a trial basis three years and likewise has found improved outcomes. Similarly, our program has contracted with an LCSW to provide support in a limited number of parental rights cases. Through her efforts, parents had improved compliance with court ordered reunification efforts and thus helped keep families intact instead of having parental rights terminated.

2. In keeping with contractual obligations and past practices, a 3% increase in compensation for the contract legal defenders is accounted for in the proposed 2023 budget. Given the high rate of inflation, that is a modest increase but it is the amount specified in the defender contracts.
3. As noted above, we are experiencing an increased need for investigative and other defense resources as the backlog of cases set for trial are processed. Further, the hourly rates for investigative service was recently increased for the first time in eight years in order to remain competitive with other counties. Accordingly, we are requesting a 10% increase in funding for investigative and other expert defense service. That would mean an increase from $250,000.00 to $275,000.00 for that fund.
4. Davis County is statutorily required to provide representation to residents of the county who are the subject of civil commitment proceedings. There appears to be an increase in those types of proceedings – partly due to a small increase in the number of cases filed but also the need for more court hearings or review proceedings in some cases. It appears we may go over budget for those types of cases in 2022 and it is unclear whether that signals a one-time increase or a trend. In order to prepare for the latter possibility, we are requesting an increase in the fund for mental health commitment proceedings from the present level of $35,000.00 to $45,000.00 for 2023.

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Possible Additional Budget Issue

This year we will evaluate the compensation level of juvenile court defenders. For various reasons, the compensation levels for juvenile court defenders have lagged behind those of the district court defenders. Years ago, lower compensation levels for juvenile court defenders were purportedly justified because cases in juvenile court were typically less complex than those in district court. Juvenile court cases were sometimes considered less important than criminal cases because incarceration (or juvenile detention) was relatively infrequent whereas incarceration for convicted criminals was the norm. Both of those compensation factors have changed dramatically over the last several years. Sentencing issue for juvenile delinquency cases are more complex than in years past. In the meantime, adult offenders in district court are less likely to serve jail time than in years past because judges have more sentencing alternatives – such as ankle monitors – available to them.

Parental rights cases now require highly specialized representation in order to meet recent statutory and ruled-based requirements. All cases have become more complicated with increased awareness of mental health issues, substance abuse, and financial challenges. Because of these changes, there are a limited number of attorneys who are now qualified to provide representation in juvenile court. Compensation levels offered by other counties have increased to such an extent that Davis County had a difficult time attracting qualified applicants for recent juvenile court defender positions. Davis County does receive approximately $50,000.00 a year in federal grant money via the IDC as reimbursement for certain juvenile court legal defender services. That money must be used to improve legal defender services in juvenile court. The IDC has indicated that those funds can properly be used to fund additional attorneys or to increase attorney compensation levels. Even assuming that grant money can be used to increase compensation levels for the juvenile defenders, additional county funds will likely be needed to keep pace with the compensation packages offered by other counties. In the coming year, these issues will be explored with the HR department, the auditor's office and the IDC.