THE UTAH INDIGENT DEFENSE COMMISSION: DATA

Judiciary Interim Committee
-August 2017-

Utah Indigent Defense Commission

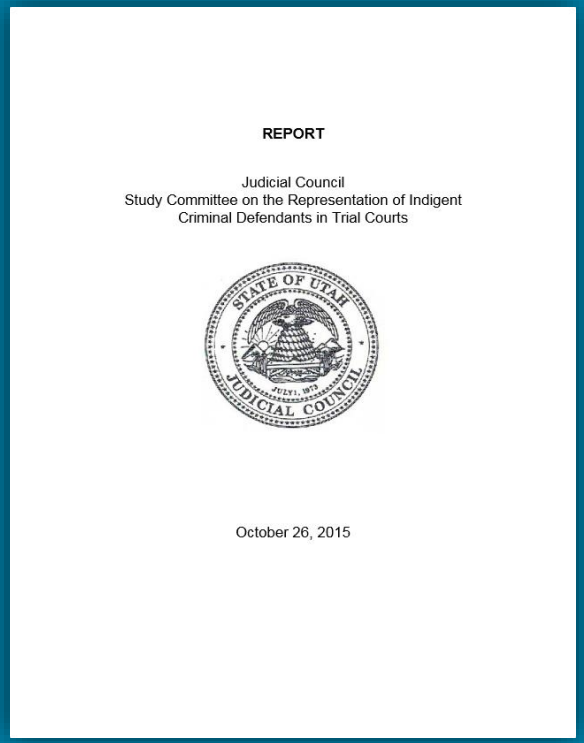
Wait, why do we have the Utah Indigent Defense Commission?

Created in 2016, to "assist the state in meeting the state's obligations for the provision of indigent defense services, consistent with the United States Constitution, the Utah Constitution, and the Utah Code."

You have the right to the effective assistance of counsel in Utah

In Utah, the right to counsel extends to:	• *Indigent parties in all **criminal** proceedings (misdemeanor—direct appeal); **juvenile** delinquency proceedings; **abuse, neglect, & dependency** proceedings, & certain **private termination** of parental rights proceedings.* **Utah Code §§ 77-32-301/78A-6-1111**
Local govt's must provide indigent defense services.	• *Every **county, city, & town shall provide for the legal defense of an indigent defendant** in criminal cases in the courts of the state.* **Utah Code § 77-32-301** • *The **cost of appointed counsel** for a party found to be indigent, including the cost of counsel and expense of the first appeal, **shall be paid by the county** in which the trial court proceedings are held.* **Utah Code § 78A-6-1111**
Effective Representation Required	• *When indigent defense service providers are court appointed, they "shall provide the legal defense services necessary for **effective representation**."* **Utah Code § 77-32-302**

2015 Judicial Council Report on the Representation of Indigent Criminal Defendants in Trial Courts



REPORT

Judicial Council
Study Committee on the Representation of Indigent
Criminal Defendants in Trial Courts

October 26, 2015

This Report first recognizes that the absence of State oversight of the way in which the right to counsel is administered by counties and municipal governments means that there is:

- **No mechanism for gathering needed comparative data across jurisdictional boundaries,**
- **No statewide mechanism for overseeing how the right is actually provided by local governments, and**
- **No statewide standards that can be relied upon by counties and municipal governments to assure that the constitutional obligation to provide counsel is adequately met.**

The Utah Indigent Defense Commission's Statutory Duties

- **IDC SCOPE:**
  - Adult Criminal (misdemeanor – direct appeal)
  - Juvenile Delinquency Proceedings
  - Abuse, Neglect, & Dependency Proceedings
  - Certain Private Parental Termination Cases
- **IDC Duties:**
  - **Collect Data & Report**
  - Give Constitutional guidance on standards & caseloads
  - Award Grants
  - Encourage Regionalization . . . **and more**

The IDC's Statutory Duty to Collect Statewide Indigent Defense Data

The commission shall . . . identify and collect data necessary . . . to:

Establish procedures for the collection and analysis of the data; and

Provide reports regarding the operation of the commission and the provision of indigent defense services by each indigent defense system. . .

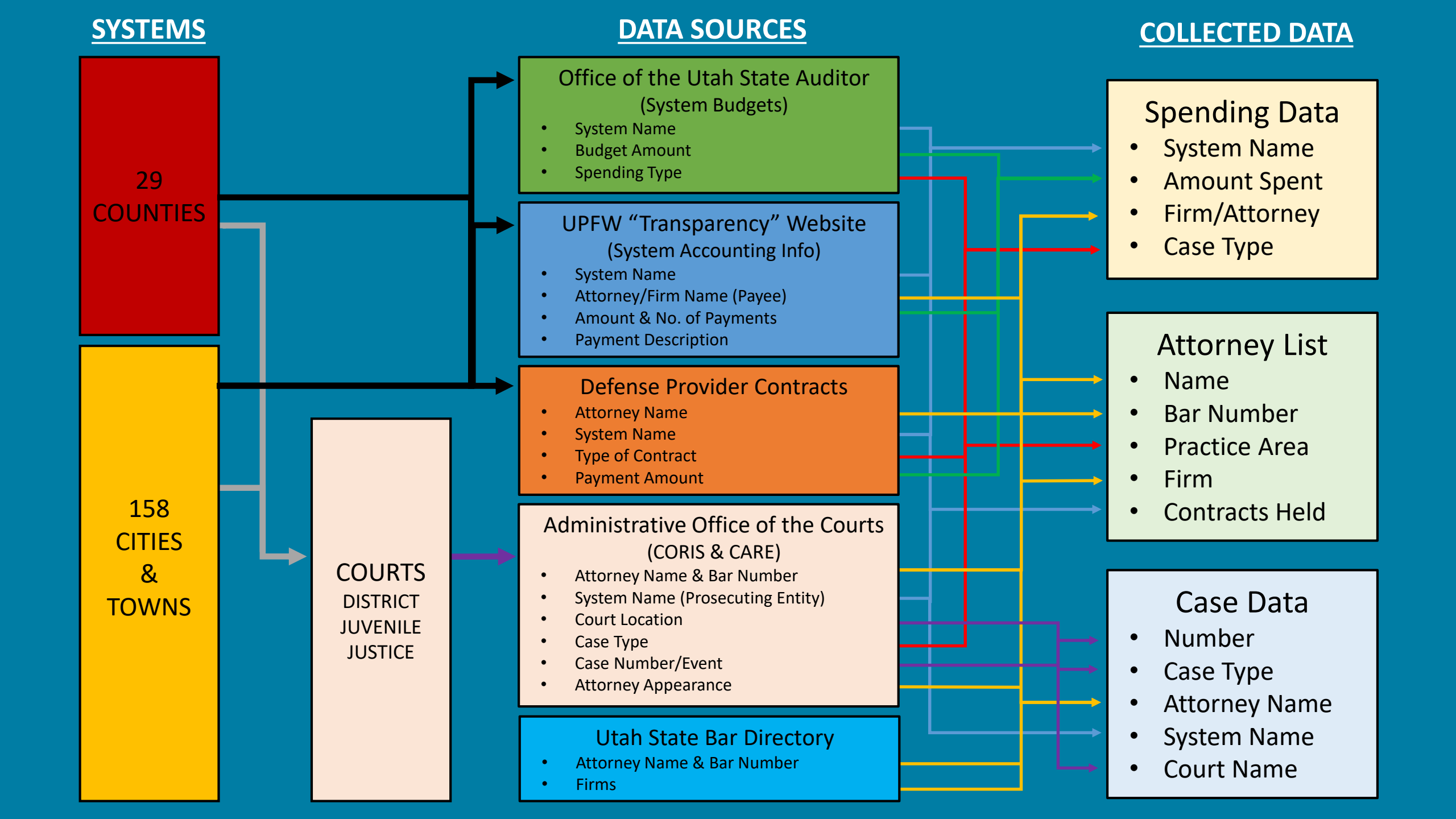
. . .

The director shall hire staff as necessary to carry out the duties of the commission, including . . . one individual with data collection and analysis skills to carry out the duties as outlined

UT Code §§ 77-32-803 & 804

Where does the IDC collect indigent defense data?

- AOC Case Data (CORIS & CARE)
- Local government contracts w/ attorneys
- Local government budgets
- Local government financial information
- Local Court Data
- Individual Attorney Records
- Surveys & Studies


SYSTEMS
DATA SOURCES
COLLECTED DATA
29 COUNTIES
158 CITIES & TOWNS
COURTS
DISTRICT
JUVENILE
JUSTICE
Office of the Utah State Auditor
(System Budgets)
System Name
Budget Amount
Spending Type
UPFW "Transparency" Website
(System Accounting Info)
System Name
Attorney/Firm Name (Payee)
Amount & No. of Payments
Payment Description
Defense Provider Contracts
Attorney Name
System Name
Type of Contract
Payment Amount
Administrative Office of the Courts
(CORIS & CARE)
Attorney Name & Bar Number
System Name (Prosecuting Entity)
Court Location
Case Type
Case Number/Event
Attorney Appearance
Utah State Bar Directory
Attorney Name & Bar Number
Firms
Spending Data
System Name
Amount Spent
Firm/Attorney
Case Type
Attorney List
Name
Bar Number
Practice Area
Firm
Contracts Held
Case Data
Number
Case Type
Attorney Name
System Name
Court Name

FOCUS: AOC CORIS Indigent Defense Data

- AOC Case Data **(CORIS)**

Appointment "Flag": Court has appointed an attorney to that case.

Attorney Appearance: Individual attorney appeared on case on specific date or time.

What We Currently Know – FY16

Number of Systems

29 Counties

158 Cities and Towns (out of 246)

Number of Courts

36 District Courts

125 Justice Courts

Total Number of Cases Filed

103,908 (Class C Misdemeanors and up)

22,265 Felonies

81,643 Class A - C Misdemeanors

Total Number of Appointed Cases According to AOC Data

26,037 Cases **Flagged as Appointed**

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26,037 Cases **Flagged as Appointed** – Actual number is much higher!

The Ten Largest Systems By Case Volume

System Name	Criminal Cases Filed in FY16	Criminal Cases Flagged as Appointed	Criminal Cases No Flag But One or More Attorney Appearance
SALT LAKE COUNTY	16647	431	12785
SALT LAKE CITY	11941	6	6185
UTAH COUNTY	4630	2640	1106
WEST VALLEY CITY	4172	1524	1424
OGDEN CITY	3039	851	1293
WEBER COUNTY	2735	1940	593
WASHINGTON COUNTY	2583	1708	575
DAVIS COUNTY	2529	1520	695
PROVO CITY	2432	1393	376
WEST JORDAN CITY	2387	656	419

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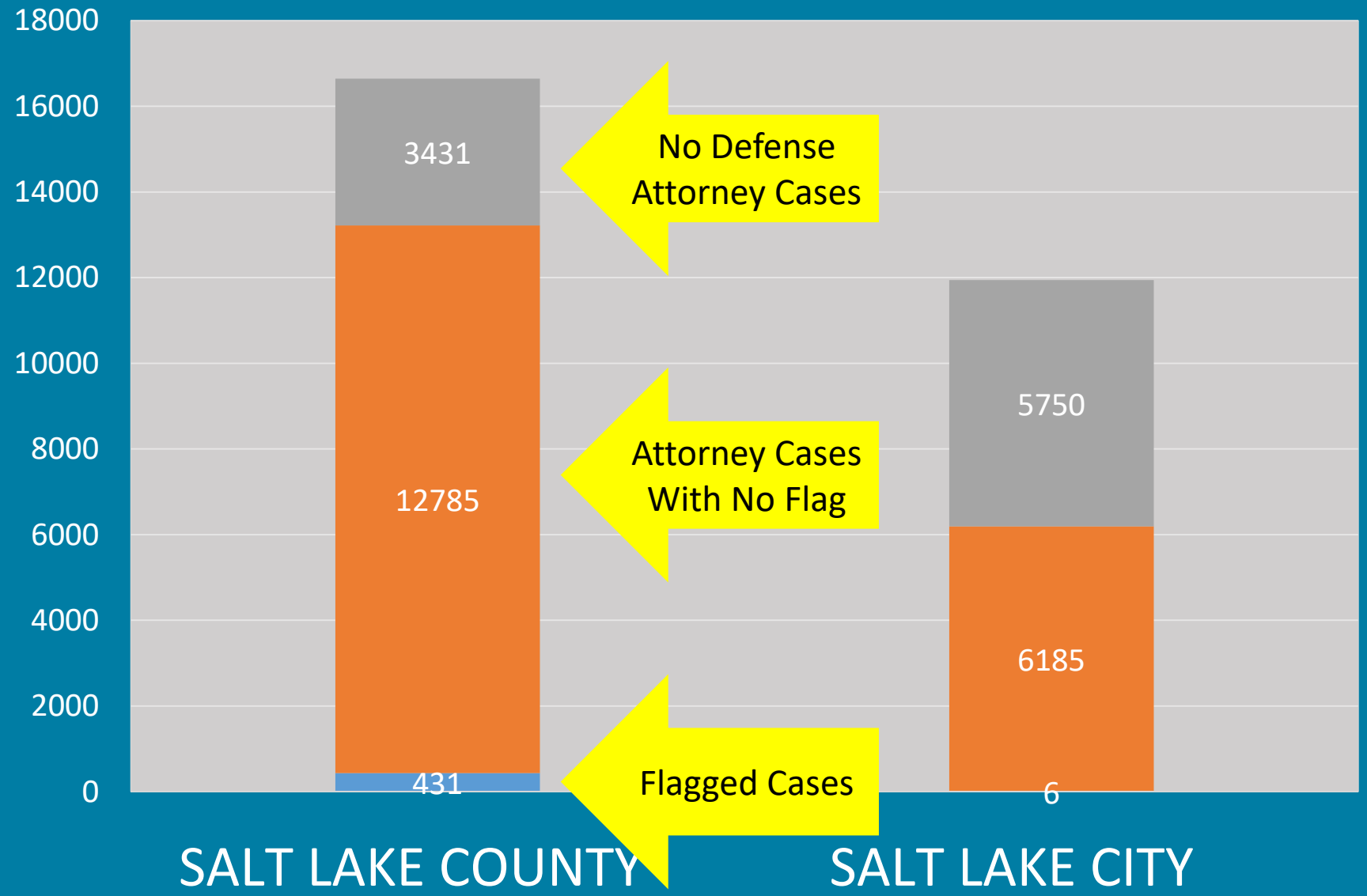
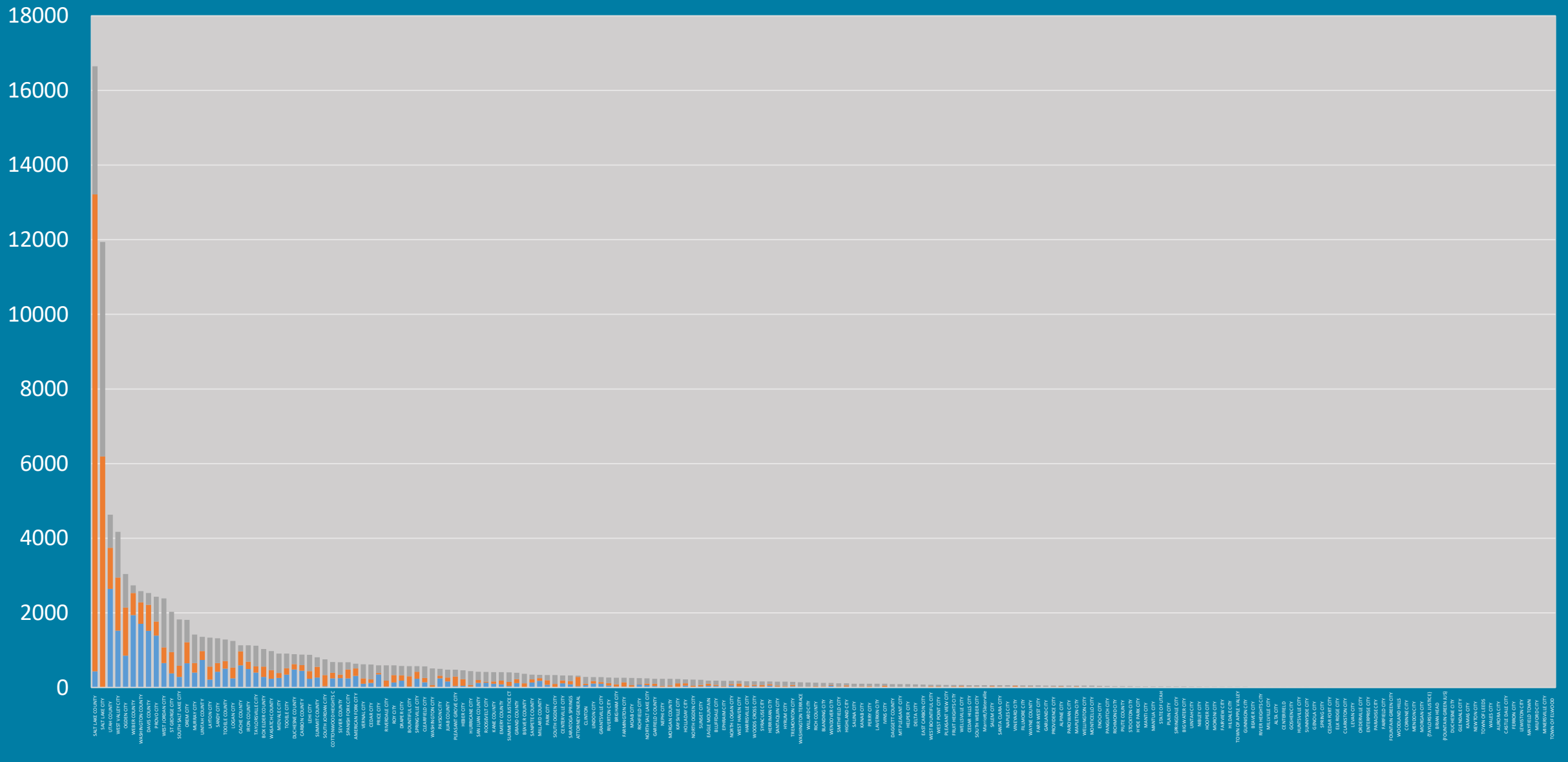
According to internal data collection, SLLDA had 12,000+ cases in FY16

Largest Systems By Case Volume (CORIS)



Scale of Indigent Defense Systems in Utah



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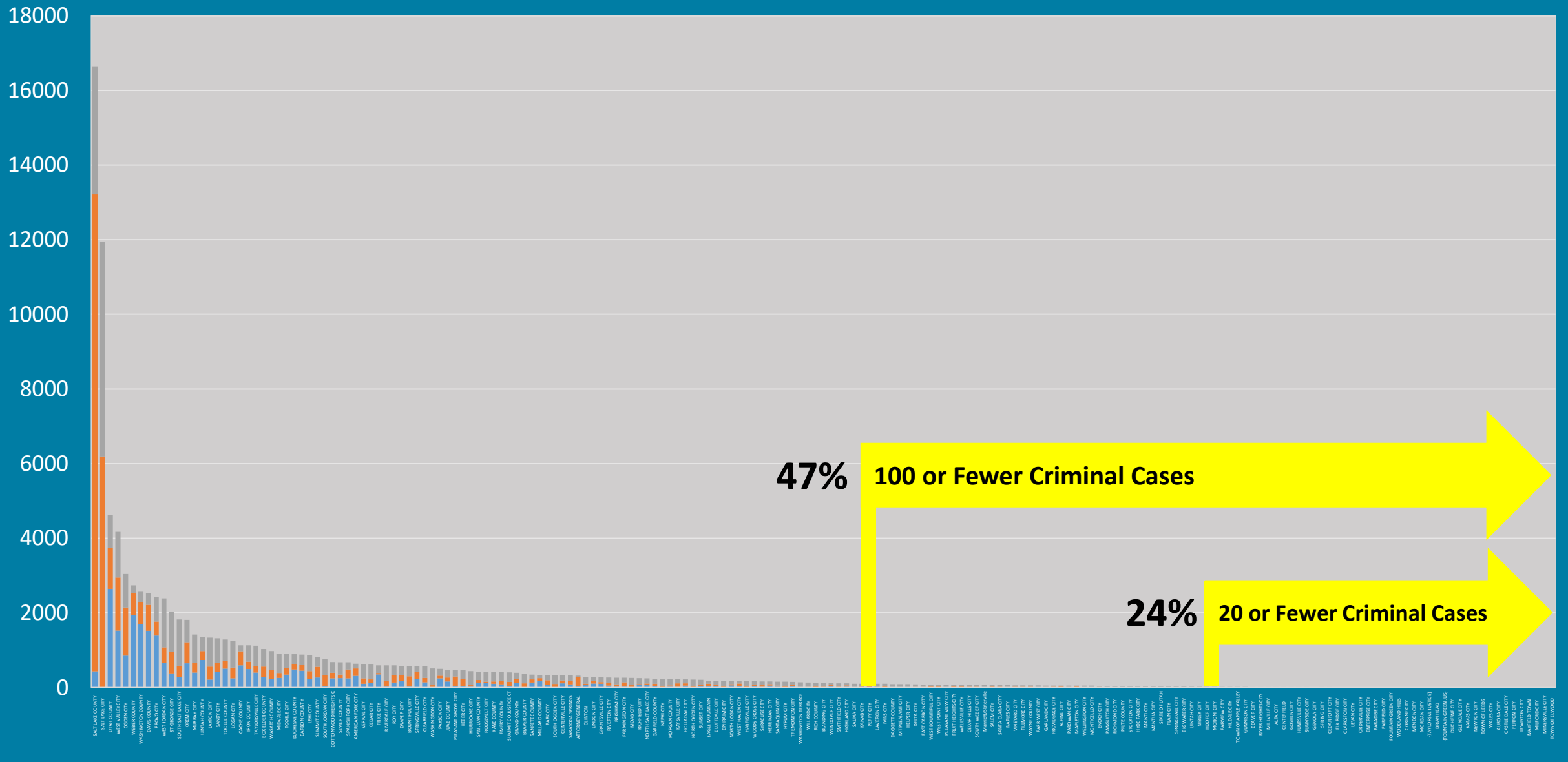
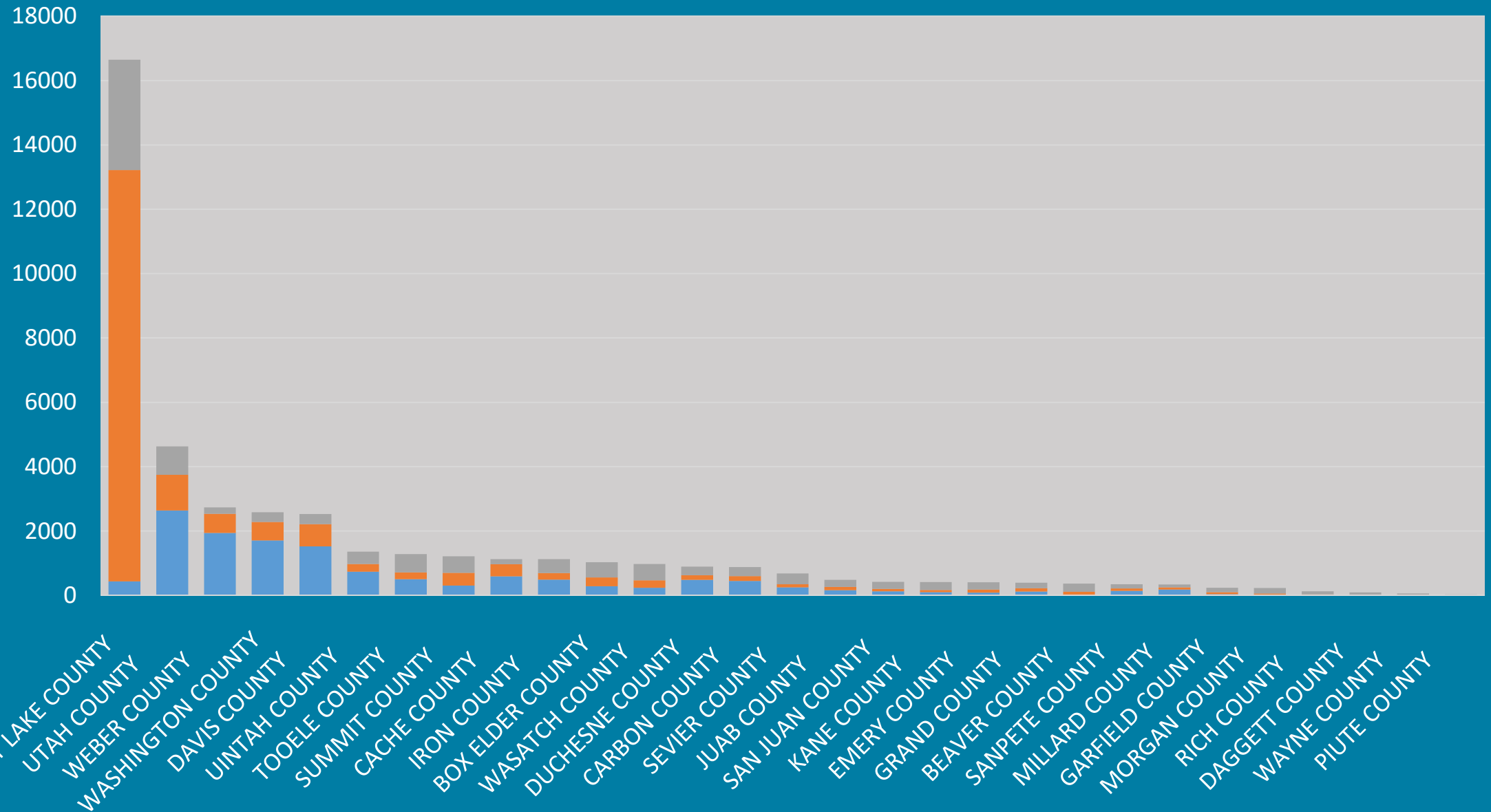


Case Distribution By County



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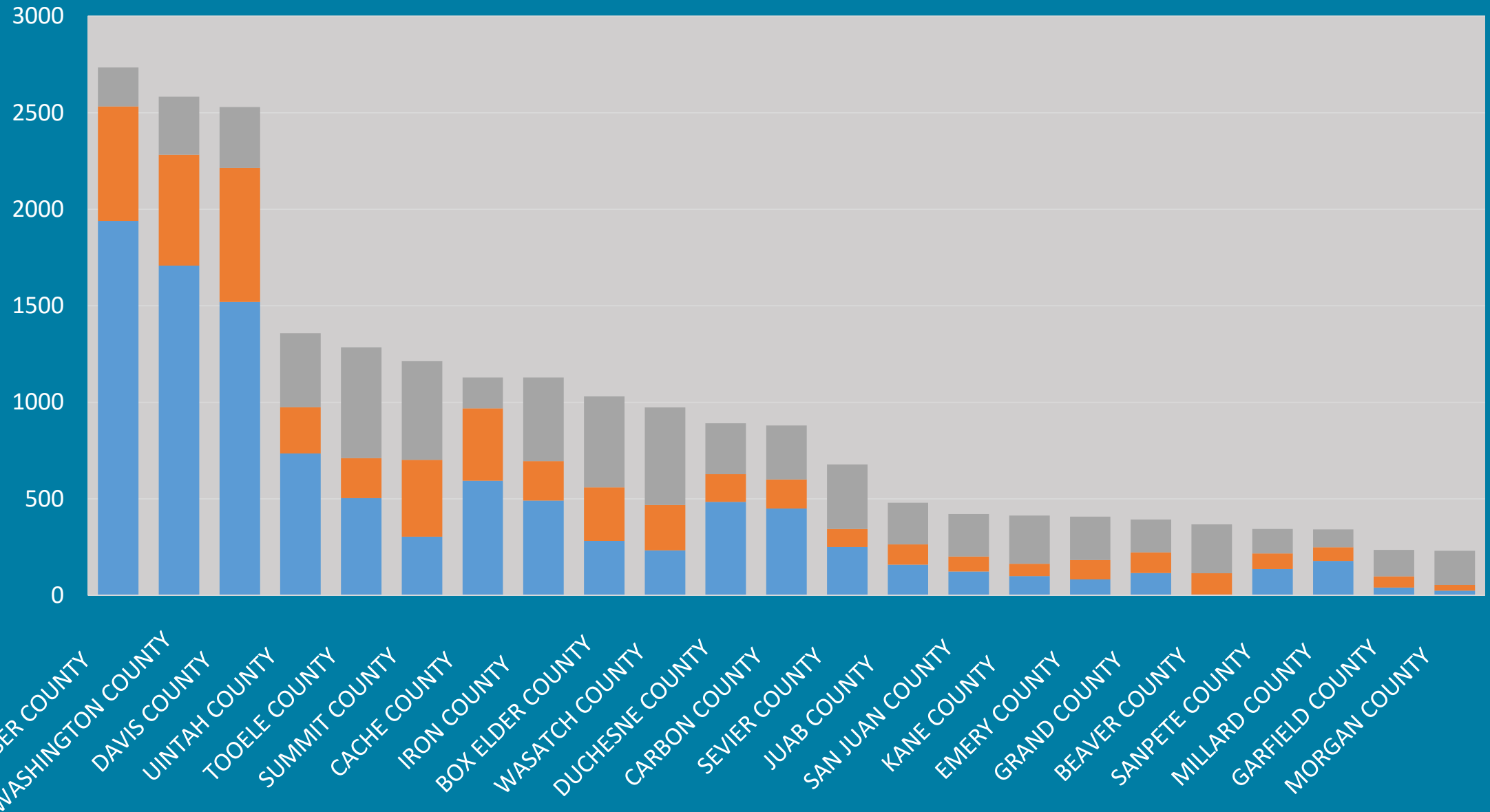
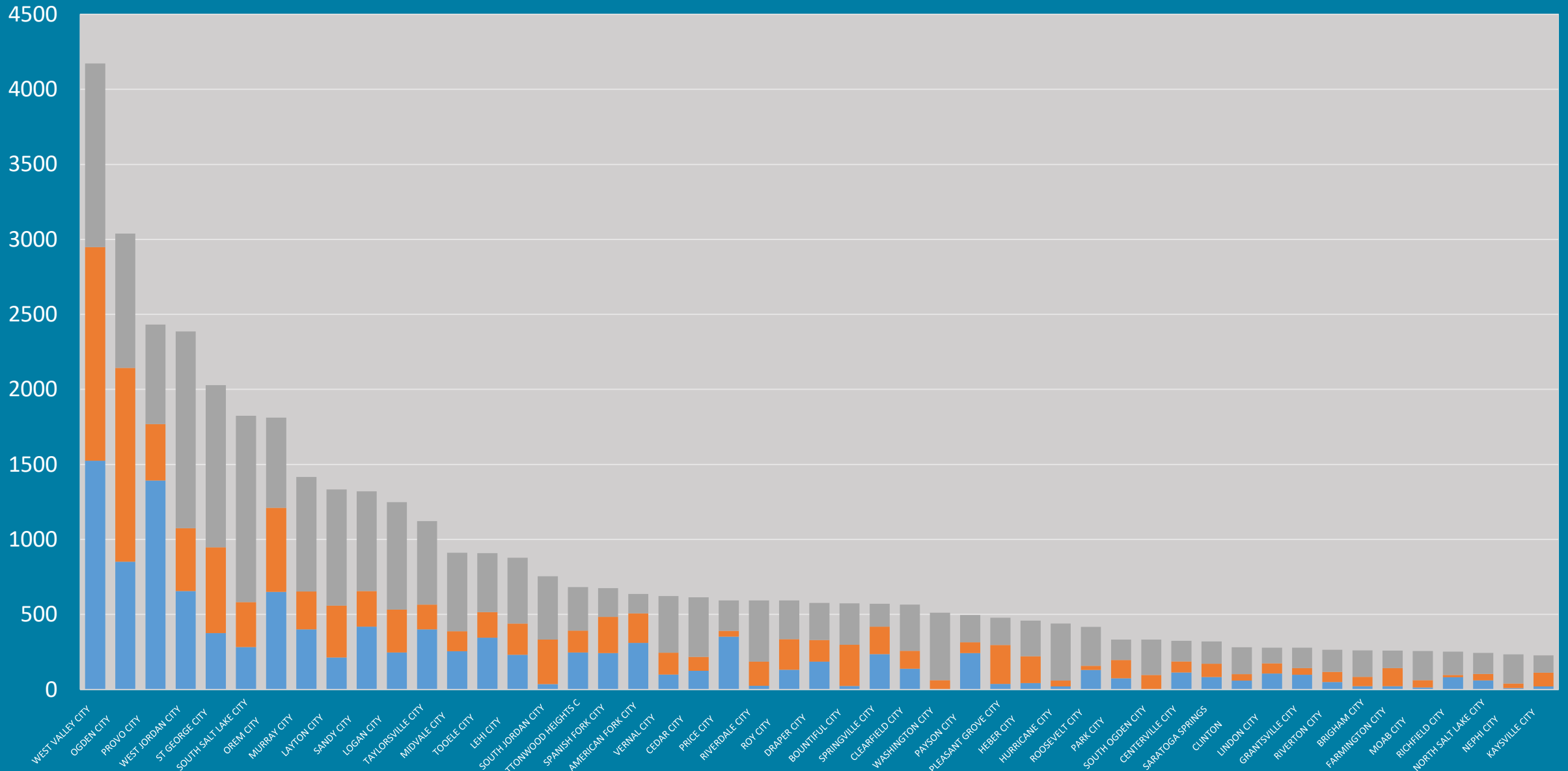


Case Distribution By City and Town

The 50 Largest City Systems Excluding SLC



Scale of Discrepancy in Actual Appointed Cases

With no baseline it is extremely difficult to tell the difference between what is a "normal" rate of appointment and what might be a problem with the data

Number of systems with no flagged cases: 53 systems (38 courts)

37,333 Total Criminal Cases No Flag But One or More Attorney Appearance

Pool of Possible Missing Appointed Cases

1,494 Individual Attorneys Appearing on Criminal Cases Filed in FY16

Pool of Potential Public Defenders

Appointed vs. Private Cases

Are PDs restricted from taking private cases?

Challenges

With so many possible variables, actors involved, and such large differences in scale between individual systems, there is so much we don't yet know.

- Are there appointment flagging data entry issues?
- Are there attorney appearance data entry issues?
- Are there actual procedural appointment issues?
- Are there other system specific reasons (type of cases, socioeconomic, location, etc.)?
- Or a combination of multiple factors…

Solutions

SHORT TERM

- Use other data sources:
  - Transparency Website
  - Individual Provider Contracts
  - State Bar Directory
  - ULCT Survey (only 25% have responded)
- Contact local court administrators and local providers

LONG TERM

- Use IDC grants to encourage regionalization and concentrate attorneys to facilitate data reporting
- Changes to CORIS data collection
- Court Clerk and Judicial education
- Reporting requirements for attorneys & systems (?)

IDC Data will help fulfill statutory duties

LONG TERM

- Appointment rates & total appointed cases in systems
- Individual system spending: on attorneys & case
  → *To determine if spending on representation is adequate*
- Determining caseloads of Public Defenders practicing in many systems
  → *To determine if workloads are appropriate & allow for effective representation*
- System compliance with Constitutional & IDC standards
  → *To fulfill auditing duty and grant monitoring*

Utah Indigent Defense Commission

Contact the IDC:

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Direct: 801-209-5440

https://justice.utah.gov/indigent-defense.html