

UTAH PROSECUTION COUNCIL
Updated Agenda

Friday, January 5, 2018, 10:30 a.m.

Location: Utah Association of Counties Offices
5397 S Vine Street
Murray 84107

Conference Call-in Number: 1-800-582-3014
Access Code: 26880457

*Pre-meeting Reminder: The meeting is recorded and the equipment is pretty sensitive.
It does pick up sidebar conversations.*

1. Thank you to Steve Garside and “Change of Command” Issues, **Tab A**
2. Appearance by Judge Dane Nolan, Editor-in-Chief, Utah Journal of Criminal Law
3. Approval of the Minutes - Barry, **Tab B**
4. Financial Report - Bob, **Tab C** and **Tab D**
5. Conferences - Bob and Marilyn, **Tab E**
6. Training Committee - Steve, **Tab F**
7. UPAA Report - Haley, Marilyn
8. Resource Prosecutor Reports - Tyson and Peter, **Tab G** and **Tab H**
9. IT Issues - Bob and Ron
10. Other Business - Bob, **Tab I**
11. Next meeting: April 25, 2018
12. Adjourn

Proposed/Draft Director's Summary of UPC Agenda Items

1. "Change of Command"
 - a. My thanks to Steve Garside for serving as the Council Chair for the last two years. He has provided invaluable assistance to me as UPC has dealt with challenging and unique issues.
 - b. Barry Huntington now assumes the role as Chair.
 - c. Chair-elect
 - i. It would be helpful to have a "seasoned" Council member, especially in light of recent events UPC has faced, but it's not a necessity.
 - d. Council Membership, **Tab A**
 - i. Region II. My thanks to Scott Sweat for serving as Region II's representative.
 - (1) Scott's term of service is up as of January 10, 2018.
 - (2) He has chosen not to run for re-election so a new Council member will be selected.
 - ii. Region IV. Stephen Foote's term of service was up on November 15, 2017.
 - (1) He can continue to serve for four months from the date his term expired.
 - (2) He would like to continue his service on the Council.
 - iii. UCDA meets January 5, 2018 at 1 p.m. Elections will be held during that meeting for those two regions.
2. Appearance by Judge Dane Nolan, Editor-in-Chief, Utah Journal of Criminal Law
 - a. Judge Nolan has requested to address the Council regarding the Journal.
3. Approval of the Minutes. **Tab B**
 - a. See the enclosed pending minutes from the October 3, 2017, meeting.
 - b. See the enclosed pending minutes from the November 20, 2017 meeting
4. Financial Report - Bob
 - a. Surcharge FY18 and Year to Date, **Tab C**
 - i. Monthly totals since last meeting.

| | | |
|-----|---------------------|---------------------|
| (1) | Sep 17:\$43,043.04 | Sep 17:\$43,522.25 |
| (2) | Oct 17: \$38,184.71 | Oct 17: \$41,264.59 |
| (3) | Nov 17: \$37,154.63 | Nov 17: \$37,057.34 |
 - b. FY18 Budget, **Tab D**
 - i. We have not received reimbursement numbers yet for Peter's salary. We should have that by next meeting.
 - c. John R. Justice Grant
 - i. Approved for \$36,409

5. Conferences

a. Past, *Tab E*

i. Basic

- (1) See attached financial report. We did not have all the numbers in at the last meeting and I said we'd report on the final numbers at this council meeting.

ii. Fall Conference

- (1) Great reviews. People liked the theme - "the fight before the fight."
- (2) They liked information to help with pre-trial issues, protect the record, motions, etc.

iii. Civil

- (1) Great reviews.
- (2) Not as expensive as in the past but still need to keep an eye on them.

iv. County Executive

- (1) I actually haven't seen the course evaluations but from the comments, it was a good conference.

v. National Association of Prosecutor Coordinators (NAPC)

- (1) These are our national counterparts.
- (2) We hosted the conference at Zion's.
- (3) Everyone loved it.
- (4) Marilyn negotiated a great contract with the hotel, saving NAPC a huge amount of money - \$15,000. Tom Robertson, NAPC's executive director, wanted to let you know how much he appreciated her hard work.
 - (a) Way to go Marilyn!
- (5) Peter made great contacts and got some very useful information for his trauma training.
- (6) Tyson hosted his traffic safety resource prosecutor (TSRP) counterparts during NAPC's plenary session.
 - (a) He brought in Ranger Brody Young to talk about seated FST's and a little about his miracle story.
 - (b) Discussed multiple timely and important topics.
 - (c) He's been told multiple times by multiple TSRP's that this was the best TSRP-breakout ever held at an NAPC conference.
 - (i) Kudos to Tyson!

b. Upcoming

i. Spring Conference, April 26-27, 2018

- (1) John Nielsen and Peter Leavitt will do the case law update.
- (2) Tyson Skeen has volunteered to be part of the legislative update team.

- ii. Regional Legislative Updates, April - May, 2018
 - iii. CJC/DV Conference, May 14-16, 2018
 - iv. UPAA, June 20-22, 2018
 - c. Top Gun - Bob, Marilyn
 - i. Advanced trainer training.
 - (1) Train the Trainer on steroids.
 - (2) Students would be a small group of our best trainers, including the faculty for Basic.
 - ii. Marilyn has worked on the agenda.
 - iii. We are going to apply to NAPC for a \$16,000 grant to pay for this course.
 - (1) If we get the grant we will work with the training committee to plan and implement this training.
6. Training Committee - Steve, *Tab F*
- a. 2018 training schedule
 - b. All conference location contracts have been signed.
 - c. All conference info is up on our webpage.
 - d. Next meeting: March 22, 2018.
7. UPAA Report - Marilyn/Haley
- a. Two newly re-elected board members.
 - i. JoElle Rowley, Wasatch County
 - ii. Christine Stevens, Millard County
8. Resource Prosecutors
- a. TSRP, Tyson, *Tab G*
 - i. Tyson has done great things of late, creating and presenting on new DUI related issues.
 - b. SADVRP, Peter, *Tab H*
 - i. Peter has taken the ball and run with his assignment.
 - ii. He has proven to be a great addition to our team.
9. IT Issues
- a. eProsecutor
 - i. Ron is the chair of the oversight committee.
 - ii. The committee members are:
 - (1) Scott Sweat, Wastch
 - (2) Ryan Peters, Juab
 - (3) Ed Montgomery, South Jordan
 - (4) Doug Johnson, Sandy
 - (5) JoEll Rowley, Wasatch
 - (6) Karyn Walker, Provo
 - iii. The committee has met twice with representatives from Journal Technologies.

- (1) They have set forth a plan to tailor the program for Utah's needs.
 - (2) They will have regular meetings via conference call, to monitor progress.
- iv. Ron's summary of information:
- (1) The UPC eProsecutor Governance committee has met with the Journal Technologies (JTI) project managers a couple of times. We went over questions that we had and talked about security and change management. The most common questions with their answers are on our website at: <http://upc.utah.gov/eProsecutor-FAQ.php>. These topics were critical to getting started on the project. We are in the early phases of identifying the issues that need to be addressed so JTI can make the necessary changes to customize eProsecutor for deployment.
 - (2) There is a testing site available that we can start working with now. This will allow us to see and use the system in its current iteration. For now, it will be available to just the committee members. As the committee makes decisions on how things should work and how forms should look, JTI will update the test site so we can see the changes soon after we discuss them. This will help us get ready for deployment.
 - (3) We are in the process of developing a change management process that all agencies will need to use to request changes to the system. It will be available from our web site and will be ready once we get closer to deployment.
 - (4) The estimated time to get ready for the first go-live deployment is 6 months to a year.
 - (5) The following are those agencies that have completed and returned a signed MOA and Joinder agreement as required before eProsecutor can be deployed.
 - (a) Iron County
 - (b) Kane County
 - (c) Sanpete County
 - (d) Summit County
 - (e) Cedar City
 - (f) Grantsville City
 - (g) Park City
 - (h) Saratoga Springs City
 - (i) Spanish Fork City
 - (j) West Valley City
 - (k) San Juan County
- v. Pre-payment of user fees - Stephen Foote's question from last Council meeting.
- (1) The AG's office cannot hold jurisdiction's pre-paid user fees.

- (2) Journal Technologies will accept pre-payment fees and hold them for a jurisdiction. However,
 - (a) any interest accrued on those held funds will accrue to Journal;
 - (b) there is no refund if the jurisdiction decides not to go with Journal.
 - vi. BCI Issues
 - (1) Grand County raised the issue of eProsecutor and its interaction with BCI.
 - (2) Ron spoke with with Lisa Ashman from the SL County DA's office about what we need to do to get an OK from BCI for eProsecutor. It seems they need it because they send declination reports to BCI and that requires an approval process from them.
 - (3) The approval process seems to be some sort of questionnaire and/or interview and should only need to be done once for a single product. Lisa and Ron both feel that it would not be necessary for every agency to do this, but simply the first. Evidently there are several questions that JTI will need to answer and we hope that they can coordinate this as SL County does it so it applies to all of us. There shouldn't be a need to do it again, but Ron recommends that Journal coordinate this with their program manger/ IT folks working with SL County to make sure it's done for all of Utah at the same time so we don't have to repeat it.
 - b. Cost of video equipment/streaming for UPC Conferences
 - i. I reported last meeting that POST will now charge for their video recording services. The Council asked me to look at the cost to UPC. Here are rough estimates and/or ranges.
 - (1) Video/audio equipment: \$2,500 - 7,000 for basic, no frills equipment
 - (2) Editing software: \$50 - 80 per month
 - (3) Streaming service: \$100 - 500 per month
10. Other Business
- a. UPC's Google Forum
 - i. Recent post, *Tab I*
 - (1) Deputy county attorney (DCA) posted a summary of events involving his interaction with a local law firm and an attorney they hired to handle the appeal.
 - (2) The DCA described the appellate attorney's conduct as "incredibly unethical." The appellate attorney and the law firm are extremely upset and have engaged in numerous phone calls and e-mails, demanding a retraction and apology.
 - (3) Bob was contacted by the appellate attorney and was asked to take down the e-mail.

- (a) Bob began researching whether the post violated the Rules of Professionalism and Civility before taking down the post. He also talked with the DCA who asked that the post be taken off the forum.
 - (b) Bob never finished his research before taking down the post.
 - (4) The appellate attorney e-mailed Bob, asking that UPC post its own explanation, clarification, etc. to the forum. The e-mail is contained in *Tab I*.
 - (a) My response is also included.
 - (b) I told the attorney I would be raising this issue with the Council and seek your guidance.
 - (5) One of the attorney's from the law firm e-mailed Bob. That e-mail and my response are also included in *Tab I*.
- ii. UPC Staff discussion
 - (1) As a staff, we met to discuss the situation. We thought of the following:
 - (a) Disclaimer.
 - (i) Somewhere on the forum, if possible, state that UPC is not the author of individual posts and cannot be held responsible for individual posts or comments.
 - (b) Develop a broad set of guidelines/principles and disseminate to everyone on the forum.
 - (i) No "name calling."
 - (ii) Make only statements supported by fact.
 - (iii) That all posts are confidential and confined to members of the forum.
 - (iv) Agree not to forward posts to anyone outside the prosecution community.
 - (v) Avoid calling someone's behavior unethical - let the facts speak for themselves.
 - (vi) If you disagree with something that is posted, you take it up directly with the poster.
 - (vii) Etc.
 - (c) Wait until later in the early spring to post/address anything, in terms of guidelines/principles, so as not to draw undue attention to this incident.
 - (d) We are looking for guidance, not only in how to respond to the appellate attorney but how to administer the forum.
- iii. Confidentiality Issue
 - (1) How do we stress that the forum is intended for prosecutors only?
 - (2) Major chilling effect now that we know that prosecutors are willing to forward e-mails to defense attorneys.
 - (a) Just so the Council is aware, the appellate attorney's spouse was not a member of the forum prior to this incident.

- b. GRAMA Issues
 - i. Summary of the most recent GRAMA request.
 - (1) After the November 20, 2017 conference call meeting, I notified Lonny Pehrson of the Council's decision.
 - (2) He released a copy of the record to the petitioner and filed a Motion to dismiss the hearing.
 - (3) The petitioner objected to the dismissal, claiming the records committee needed to take testimony to determine that the records turned over were in fact the actual records provided the Council for the October 21, 2015 meeting.
 - (4) Lonny filed an objection, citing lack of jurisdiction of the records committee to hear the appeal, since the records requested were the records provided.
 - (5) The records committee said the December 14, 2017 hearing would still be held.
 - (6) Lonny had me prepare an affidavit that could be filed, summarizing what testimony I would give if subpoena'd. I prepared it and sent it to Lonny.
 - (7) He instructed me not to appear before the committee since I hadn't been issued a subpoena. I told him I would remain on standby.
 - (8) Lonny appeared, argued his motion and lost. Petitioner was allowed to make a 20-minute argument. After that, Lonny provided the committee and petitioner with my affidavit. The Petitioner then withdrew his appeal and the hearing was closed.
- c. Justice Division Director
 - i. Greg Ferbrache, the AG's Justice Division Director resigned his position with the AG's office. He is going into private practice.
 - ii. Greg was the AG's designee on the Council.
 - iii. Interviews are taking place to replace Greg. My assumption is the new person will become the AG designee.
 - iv. My thanks to him for his service.
- d. Utah League of Cities and Towns
 - i. I met with the new Director, Cameron Diehl.
 - ii. We talked about how we can maximize training opportunities.
 - (1) Their mid-year conference is April 25-27, 2018 in St. George and the Dixie Center.
 - (a) This conference is designed to be an overview of the legislative session.
 - (2) Their annual convention is September 12-14, 2018 at the SLC Sheraton.
 - (a) This is their big conference, similar to our Civil Conference.

- (3) We agreed to meet after the first of the year to discuss the possibility of joining forces, seeing where we train on the same kinds of issues, etc.
 - e. Catering at future combined meetings (UPC, SWAP, UCDAAs)
 - i. We are proposing that UPC pay for lunch for two of the four quarterly meetings per year.
 - ii. Proposing that SWAP and/or UCDAAs pay for lunch the other two meetings.
 - iii. UPC will provide drinks for all three meetings.
- 11. Next Meeting
 - a. April 25, 2018
 - i. FYI, I may be away on military orders that week.
 - b. Location TBD
- 12. Adjourn

Tab A

COUNCIL MEMBERS and TERMS OF SERVICE

| <u>Member</u> | <u>Represents</u> | <u>Term Expires</u> |
|--|--|---------------------|
| Jann L. Farris | UPC Region I* | June 14, 2021 |
| Scott H. Sweat | UPC Region II** | January 10, 2018 |
| Barry Huntington, Chair | UPC Region III*** | April 4, 2019 |
| Stephen Foote | UPC Region IV**** | November 15, 2017 |
| Steven Garside | City Prosecutor | July 1, 2018 |
| Robert Cosson | City Prosecutor | September 2, 2020 |
| Sean D. Reyes Designee: | Attorney General Spencer Austin | <i>Ex officio</i> |
| Sim Gill | Chair, SWAP Board | <i>Ex officio</i> |
| Keith D. Squires Designee: Scott Stephenson | Commissioner of Public Safety Dept of Public Safety | <i>Ex officio</i> |
| Haley Christensen | Chair, UPAA Board | <i>Ex officio</i> |

| Region I* | Region II** | Region III*** | Region IV**** |
|---------------------------------------|-------------------------------------|--|--------------------------------------|
| Stephen Hadfield Box Elder County | Ryan Peters Juab County | Von Christiansen Beaver County | Gene Strate Carbon County |
| James Swink Cache County | Patrick Finlinson Millard County | Barry Huntington*** Garfield County | Neil Lund Daggett County Attorney |
| Troy Rawlings Davis County | Margaret Olsen Summit County | Scott Garrett Iron County | Stephen Foote**** Duchesne County |
| Jann Farris* Morgan County | Scott Broadhead Tooele County | Robert C. Van Dyke Kane County | Mike Olsen Emery County |
| Gary Heward Rich County | Jeff Buhman Utah County | Scott Burns Piute County | Andrew Fitzgerald Grand County |
| Chris Allred Weber County Attorney | Scott Sweat** Wasatch County | <i>Vacant</i> Sanpete County | Kendall Laws San Juan County |
| | | Dale Eyre Sevier County | G. Mark Thomas Uintah County |
| | | Brock Belnap Washington County | |
| | | Michael Olsen Wayne County | |

Tab B

These pending minutes have not been approved by the Utah Prosecution Council and are subject to change until approved and adopted by the Council.

UTAH PROSECUTION COUNCIL
Wednesday, October 4, 2017
Hilton Garden Inn
1731 S. Convention Center Drive
St. George, Utah

PENDING MINUTES

UPC : Steven Garside, Chair, Layton City Attorney
Barry Huntington, Chair-elect, Garfield County Attorney
Haley Christensen, UPAAC Co-Chair, Salt Lake County District Attorney's Office
Robert Cosson, Chief Prosecutor, St. George City Attorney
Jann Farris, Morgan County Attorney
Greg Ferbrache, Justice Division Director, Utah Attorney General (*attending for Spence Austin, designee of Sean Reyes, Utah Attorney General*)
Stephen Foote, Duchesne County Attorney
Will Carlson, Deputy Salt Lake District Attorney, (*designee of Sim Gill, Salt Lake District Attorney*)
Scott Stephenson, Deputy Director of P.O.S.T (*designee of Commissioner Keith Squires via telephone*)
Scott Sweat, Wasatch County Attorney

EXCUSED: Sean Reyes, Utah Attorney General
Commissioner Keith Squires, Utah Department of Public Safety

UPC Bob Church, Director
STAFF: Marilyn Jaspersen, Training Coordinator
 Tyson Skeen, Staff Attorney
 Ronald Weight, IT Director

GUESTS: Dan Barton, Chief of Policy and Communication, Utah Attorney General's Office
 Jeff Buhman, Utah County Attorney
 Ryan Robinson, West Valley City Chief Prosecutor
 Robert Van Dyke, Kane County Attorney
 Jeremiah Humes, Deputy Carbon County Attorney

I. WELCOME AND APPROVAL OF THE JUNE 28, 2017 MEETING MINUTES

- A. The Council members were welcomed and the meeting convened.
- B. Will Carlson made the motion to approve the minutes from June 28, 2017, seconded by Barry Huntington. The motion passed unanimously.

II. FINANCIAL REPORT

- A. Conference Financial Reports
Bob Church gave an in depth report on the following completed conferences. Please refer to the Director's Summary for details.
 1. UMPA Summer Conference - August 3-4, 2017, St. George Courtyard Marriott. Gross income was \$9,275. Net cost of \$11,495 leaving \$2,100 over budget. However, it was well attended.

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2. Basic Prosecutor Course - August 14-18, 2017, USU University Inn.
To date, the gross income was 19,775. Net cost was at \$18,505.00 leaving \$1,275 to the good. However, not all expenses have been submitted. Bob will give an update report at the next meeting. The conference was very well received and attended.
- B. Proposed FY18 Budget:
 1. Bob indicated that the proposed budget of FY18 has not changed much since the last meeting. He has met with Kimberly Schmelling, AG Finance Director and there has not been any historical changes. The Council agreed that the motion to adopt the budget from the last meeting should stand.
- C. Surcharge FY18 and Year to Date:
 1. Surcharge report includes receipts through to June and August 2017. Surcharge receipts for June ending at \$49,717.27 a gain of \$10,709.41 from 2016. July ended at \$36,286.88 which was \$5,079.44 lower than last year. August 2017 ended at \$41,482.06 with slight difference of \$347.94 from last year.
- D. FY Budget Closeout Report
 1. Bob indicated that while our numbers show total expenses at \$818,199.13, a 83.1% expenditure. We are waiting for final year-end data from finance. Bob will give an update report at the next meeting.

III. PAST AND UPCOMING CONFERENCES

- A. Regional Legislative Update -
Bob indicated that notification/fliers for the 2018 Regional Legislative Update will go out earlier next year such as in February. This effort should boast attendance from last year's lower numbers because notices did not reach the various agencies in time.
- B. UMPA Conference (August 3-4, 2017) -
As mentioned, this year's conference was very well received and attended. The 2018 UMPA Conference will be held in November either in Springdale or Moab depending if the state rate is available at those locations.
- C. Basic Prosecutor Course (August 13-18, 2017) -
There were 22 attendees which were more than expected and required an extra break out. Bob and Marilyn filled in for the extra break outs. Suggestion for next year's agenda was to add back the evidence presentation.
- D. Fall Prosecutors Training Conference (October 4-6, 2017) -
This year's Fall Conference was well received. Keisa Williams, Associate-General Counsel, Administration of the Courts asked to be added to the agenda to inform prosecutors that as of November 13, 2017 Utah judges will begin using a validated risk assessment instrument at probable cause determinations and at any future bail determinations prior to adjudication.
- E. Government Civil Practice Conference (October 18-20, 2017) -
Bob Church gave an in depth report on the payment/reimbursement for this conference and asked the Council for a vote to no longer fund this conference. He reported on the organizational oversight regarding the reorganization of SWAP and those changes. He asked the Council to divest UPC of the responsibility for planning and hosting this conference and turn it over to SWAP. And he explained the Utah Municipal Attorney's Association (UMAA) factor. Please refer to the Director's Summary for details. After a lengthy discussion, Scott Sweat made the motion that Bob look into the feasibility of combining the two conferences, UPC Civil Conference and UMAA Conference, evaluate the costs of providing that training and UPC's relationship with

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law enforcement, civil, and whether it's time to revisit increasing the registration fees. Will Carlson seconded the motion and the motion passed unanimously.

- F. County Attorney Executive Seminar (November 16-17, 2017 - This will be held at the St. George Dixie Center. UPC participates with helping to set agenda, publishing the brochure/agenda, and requests approval for MCLE from the Bar. Marilyn and Bob attend this event.

IV. TRAINING COMMITTEE REPORT

Steve Garside, UPC Training Committee Chair gave the following report.

- A. Training Committee will meet October 16-17, 2017 in Torrey, Utah.
 - 1. The committee will welcome two new members, Troy Little, Deputy Iron County and Jake Summers, Orem City Prosecutor, Utah.
 - 2. Thanks to Letitia Toombs, Deputy Weber County for her past service.
 - 3. The committee will look at drafting by-laws on issues such as term of service, how many members and from what types of jurisdictions and attendance at planning meetings.

V. UPAA

Haley Christensen, UPAA Co-Chair gave the following UPAA report.

- A. There are two board memberships will be opening. Haley will report on the new appointments.
- B. The Board is beginning on planning the 2018 UPAA Conference agenda.

VI. RESOURCE PROSECUTORS REPORTS

- A. Tyson Skeen referred the Council to the in depth TSRP report as outlined in the handouts. He reported on his training schedule.
- B. Bob expressed his thanks to the interview committee for the Sexual Assault/Domestic Violence Resource Prosecutor (SA/DVRP) open position. He stated that the interview committee interviewed a total of six candidates of which they unanimously selected Peter Leavitt and is recommending him to the Council.
 - 1. The question of his salary needed to be addressed. Greg Ferbrache indicated he endorsed the selection but recommended that since UPC is under the AG's pay scale that UPC stay as close to the AG's scale as possible. After a lengthy discussion, Will Carlson made the motion to pay Peter the \$90K salary (\$43.51 per hour.) Stephen Foote seconded the motion and the motion carried with one nay from Jann Farris and one nay from Greg Ferbrache on the basis of the salary amount, but endorsed the recommendation.

VII. IT ISSUES

In addition to the in depth report in the Director's Summary, Ronald Weight and Bob Church reviewed comments as outlined in the Director's Summary. Please refer to the Director's Summary and attachment (Tab) H. After some discussion, the following was a result of that exchange.

- A. eProsecutor:
 - 1. Oversight Committee - It was agreed to form an oversight committee with Ron Weight as the Chair. Committee members suggested was JoEll Rowley, Wasatch County Attorney's office; Ale Crow, West Valley City Attorney's

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Office; Karyn Walker, Provo City Attorney's office, representative from Juab County. Also, Scott Sweat and Ryan Peters expressed an interest in participating on the committee as well. John Peak of Journal Technologies has agreed to attend the meeting. The first meeting was planned for the first of November.

2. Fee for system administrator - Because this will take up quite a bit of Ron's time, Bob proposed that each jurisdiction be assessed a fee for this service. However, if Bob can get another grant that can cover the remaining \$235,000 that is not now covered, it would be divided between the users and would eliminate a cost of an administrator fee from the user. If there is a fee, the Council agreed to have the Oversight Committee come up with a fee amount. After the five years of the grant, Bob plans on reapplying for funds to cover the user fees. It was agreed that the annual licensing fee is covered for five years. Question was asked if a user fee can be prepaid their user fee, Bob indicated he would need to check with the AG Finance to see if that's possible.

XIII. OTHER BUSINESS

- A. *Brady/Giglio* Oversight Committee -
Scott Stephenson asked the Council's guidance on what is the process for officer to appealing this in an attempt to clear his/her name. Scott indicated that Chief Ross has called a meeting, Thursday, October 4th with law enforcement at the Bountiful Police Department to discuss this matter. Will Carlson indicated that he and Blake Nakamura will be at the meeting to announce Salt Lake County District Attorney's *Brady/Giglio* protocol.
- B. POST Recording Fees -
POST can no longer record our conferences for free. POST is willing to pay for half of those costs. The bill to UPC would be in the amount of \$2,975 which is half of POST's fee. In the past, we have had POST film Fall and Civil Conference. Bob was asked to check if there is a difference in live feed versus recording costs. UPC has small, handheld cameras that record, but not to the level and quality as provided by POST.
- C. GRAMA Requests - Bob directed the Council's attention to the Directory Summary report. Hearing no comments or questions, the Council moved to the next item.

XIV. NEXT MEETING

Friday, January 5, 2018
10:30 a.m.
SLDA 's Office
ADDRESS
Salt Lake City, Utah

XVI. ADJOURN

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SPECIAL UTAH PROSECUTION COUNCIL MEETING

Monday, November 20, 2017

**5272 College Drive
Murray, Utah**

Via Telephone Conference Call

PENDING MINUTES

UPC via Conference Call :

Steven Garside, Chair, Layton City Attorney

Haley Christensen, UPAA Chair, Utah County Attorney's Office

Robert Cosson, St. George City Chief Prosecuting Attorney

Jann Farris, Morgan County Attorney

Stephen Foote, Duchesne County Attorney

Scott Stephenson, Deputy Director of P.O.S.T (*designee of Commissioner Keith Squires*)

UPC in person:

Greg Ferbrache, Deputy Utah Attorney General (*attending for Spencer Austin, designee of General Reyes*)

EXCUSED:

Sim Gill, Salt Lake District Attorney

Barry Huntington, Chair-elect Garfield County Attorney

Commissioner Keith Squires, Utah Department of Public Safety

Scott Sweat, Wasatch County Attorney

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UPC STAFF IN PERSON:

Bob Church, Director

Marilyn Jaspersen, Training Coordinator

Ronald Weight, IT Director

I. WELCOME AND ROLL CALL

- A. The Council members were welcomed and the meeting convened via telephone conference call.
- B. Roll call by phone included Steven Garside; Haley Christensen; Robert Cosson; Jann Farris; Stephen Foote; and Scott Stephenson. Greg Ferbrache attended in person.

II. BERKOVICH GRAMA REQUEST - SEPTEMBER 2017

Bob stated that back in September 2017 Mr. Berkovich filed a GRAMA Request asking for a copy of the memo and the exhibits that were provided at the October 21, 2015 Council meeting where Mr. Berkovich's employment was discussed. Haley, Greg, Robert and Scott were not in attendance at that meeting. For purpose of this discussion that does not matter.

The memo was very detailed - 29 pages long. It included a summary of incidents that happened between Bob and Ed; between Marilyn and Ed, it summarized all of the enclosures that Bob provided to the Council for their consideration.

Lonnie Pearson, AG GRAMA Attorney, responded to Mr. Berkovich claiming that the documents were protected the under attorney-client privilege as well as client confidentiality. Mr. Berkovich then filed an appeal with the State Records Committee and they have set a hearing for December 14, 2017.

Last week, Bob met with Lonnie who provided a recent opinion from the State's Record Committee of, *Davidson vs. the Attorney General's office*. He also referred Bob to a 2008 Utah Supreme Court case. With those two cases, Lonnie indicated that it would be highly unlikely that UPC would prevail at the State Records Committee.

Bob summarized the Davidson case and why did not support keeping his Memo protected. Bob indicated that Lonnie asked him if while preparing the memo and enclosures if UPC anticipated any litigation. Bob's answer was that he was not anticipating any litigation just simply to determine Mr. Berkovich's continued employment status. There was the discussion of the possibility that if Mr. Berkovich were let go he would sue. But if asked by the Records Committee Bob would honestly say that these documents were not prepared in anticipation of litigation or for an administrative

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hearing.

Bob then summarized the Supreme Court case, *South Western Wilderness Alliance vs. Automated Geographic Reference Center*, and again why it did not support keeping his Memo protected. Regarding the attorney-client privilege, Lonnie asked Bob what was his relationship to the Council. Was Bob the Council's employee or does he provide legal advice. Bob could argue to that effect but Lonnie's opinion was that, based on past cases, the Records Committee would not agree.

In further research, Bob found that under GRAMA, if the AG's office had categorized these documents as a record of a closed meeting, they might be protected. At that point, Mr. Berkovich wanted to challenge the legality of that closed meeting he could take us to district court and get a court order ordering that those records be reclassified as public. Lonnie indicated to Bob that in his response memo to the Board that Bob could raise this as a new issue since the government can reclassify records at any time. That maybe a better argument.

Bob asked the Council's guidance on whether to draft a response to Mr. Berkovich's memo and argue this before the state's Records Committee with the likely possibility that we would loose and Mr. Berkovich would prevail. Also, Bob indicated that he had discussed this matter with Steve Garside and Barry Huntington last week and they recommended convening the Council, that is why we are meeting today.

Steve Garside mentioned that he thought the Council was locked into the classification of the AG's office and was hoping they would have given us a little more flexibility. For example, the notes are not a completed product and not relied upon and could have been redacted. Steve asked the Council if they wanted to fight this or if they didn't care what was released.

Bob reviewed the contents of the 29 page memo. They are as follows:

- 1) Talks about Mr. Berkovich's employment status. That he was a non-merit employee.
- 2) There was a brief overview of the history between Mr. Berkovich and Marilyn.
 - a. Specific events included July 10, 2014. This was the incident that Bob personally witnessed where Mr. Berkovich blew up at Marilyn at the law school.
 - b. The affidavit from the UPC law clerk who was there at the time.
 - c. Summary of what happened after that.
 - d. Bob's conversation with Mr. Berkovich and Marilyn.
 - e. The investigation that was completed by the Attorney General's office.
- 3) Summary of Bob's conversation/counseling with Mr. Berkovich.
- 4) Summary of Bob's conversation with Jay Francis Valarga. He was the AG's employment law specialist at the time.
- 5) Summary of pages of information from Marilyn.
- 6) Summary of discussion with Mr. Berkovich in light of the meeting with Greg Ferbrache, Kris Knowlton, and Jay Francis.
- 7) Included an email Mr. Berkovich had sent to Mark Nash which was a very lengthy and unprofessional memo that included all of UPC staff and cc'd to Scott Reed.

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- 8) Talked about how Mr. Berkovich disagrees about Bob's grammar.
- 9) Included the incident that happened at the 2015 October Training Committee meeting of which some of you were there and witnessed.
- 10) Subsequent meetings Bob had with Mr. Berkovich per #9.
 - a. Bob talked with Mr. Berkovich about the course of action to be taken.
 - b. The Council was going to meet per Steve Garside and Stephen Foote's recommendation.
 - c. Bob advised Mr. Berkovich that the Council would convene to discuss what happened. Ed was packing up his office as he anticipated being fired. Bob told him to wait until after the Council convened.
- 11) Bob again counseled with Jay Francis.
- 12) Summary of Bob's thoughts and comments.
- 13) Enclosures. They include the following:
 - a. Letter offer of employment. Status of an at-will employee, non-merit status.
 - b. Attachment are notes of the conversation between Bob and Mark Nash in July 2014.
 - c. Lengthy email Mr. Berkovich sent to Mark Nash.
 - d. Statement from Marilyn that she provided to Bob and the AG investigator summarizing what had happened between her and Mr. Berkovich.
 - e. Email between Mr. Berkovich, Marilyn and others.

These are the documents that Mr. Berkovich is requesting.

Steve stated that he wondered what Mr. Berkovich wanted to do with the documents and this was concerning. In a long conversation with Mr. Berkovich, Steve told him that he needed to let this go or it would cancer his soul. Mr. Berkovich's response to Steve was that he was able to separate himself from it.

Scott Stephenson's question was clarified regarding losing this through attempting to reclassify it through the GRAMA statute as protected that it wouldn't work under the closed meeting because it was the documents provided to the council not the minutes of closed meeting.

Stephen Foote pointed out that attorney-client privilege would be between Jay Francis and who he counseled is protected. But the rest can come out. Steve Garside responded that because Mr. Berkovich was an at will employee and we didn't have to give him a basis for his termination. The only thing we have to do is give him a name clearing hearing and that has been done. The question is this going to give additional ammunition to bad mouth UPC and its staff. Bob anticipates that and Mr. Berkovich could take things out of context and exact vengeance on UPC and staff.

Rob Cosson asked what happens at the schedule hearing if the Council agrees to turn over all but the employment documents as far as taking away the forum from Mr. Berkovich. And if the employment parts are redacted, Mr. Berkovich may still argue for that and Bob might have to appear for that portion. As it appears, this may give him more of a forum. These are the last of the document as Mr. Berkovich has all the other documents.

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Steve asked Council members if they wanted to review the package again.

It was indicated by Scott Stephenson and Jann Farris that if there is nothing in the documents of concern to release them.

Stephen Foote made the motion to release the information with the understanding that does not prevent us from reclassifying anything in the future. The motion was seconded by Scott Stephenson. No further questions or discussion. Voice vote included:

Stephen Foote - yay

Haley Christensen - yay

Scott Stephenson - yay

Steve Garside - yay

Robert Cosson - yay

Greg Ferbrach - abstain (AG's already made a finding.)

III. MEETING ADJOURN

Tab C

Please remember to spend the lessor of the (AMOUNT COLLECTED plus ending fund balance) or the Appropriation

To Receive Am

| Description | Total Surcharged Collected | General Fund First \$30,000 Obj 7953 | LESA First 4-5% Obj 7954 | Total Before Allocation | Pros Council 3% Obj 7959 | AG Train 5% Obj 7963 | Check Totals |
|-----------------------------------|----------------------------|--------------------------------------|--------------------------|-------------------------|--------------------------|----------------------|--------------|
| | July New FY 18 | 1,270,915.99 | 30,000.00 | 31,353.47 | 1,209,562.52 | 36,286.88 | 6,047.81 |
| Total YTD | 1,270,915.99 | 30,000.00 | 31,353.47 | 1,209,562.52 | 36,286.88 | 6,047.81 | 1,270,915.99 |
| August | 1,422,622.45 | 0.00 | 39,887.02 | 1,382,735.43 | 41,482.06 | 6,913.68 | 1,422,622.45 |
| Total YTD | 2,693,538.44 | 30,000.00 | 71,240.49 | 2,592,297.95 | 77,768.94 | 12,961.49 | 2,693,538.44 |
| September | 1,474,451.38 | 0.00 | 39,683.31 | 1,434,768.07 | 43,043.04 | 7,173.84 | 1,474,451.38 |
| Total YTD | 4,167,989.82 | 30,000.00 | 110,923.80 | 4,027,066.02 | 120,811.98 | 20,135.33 | 4,167,989.82 |
| October | 1,308,788.16 | 0.00 | 35,964.58 | 1,272,823.58 | 38,184.71 | 6,364.12 | 1,308,788.16 |
| Total YTD | 5,476,777.98 | 30,000.00 | 146,888.38 | 5,299,889.60 | 158,996.69 | 26,499.45 | 5,476,777.98 |
| November | 1,274,494.98 | 0.00 | 36,007.29 | 1,238,487.69 | 37,154.63 | 6,192.44 | 1,274,494.98 |
| Total YTD | 6,751,272.96 | 30,000.00 | 182,895.67 | 6,538,377.29 | 196,151.32 | 32,691.89 | 6,751,272.96 |
| December | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total YTD | 6,751,272.96 | 30,000.00 | 182,895.67 | 6,538,377.29 | 196,151.32 | 32,691.89 | 6,751,272.96 |
| January | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total YTD | 6,751,272.96 | 30,000.00 | 182,895.67 | 6,538,377.29 | 196,151.32 | 32,691.89 | 6,751,272.96 |
| February | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total YTD | 6,751,272.96 | 30,000.00 | 182,895.67 | 6,538,377.29 | 196,151.32 | 32,691.89 | 6,751,272.96 |
| March | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total YTD | 6,751,272.96 | 30,000.00 | 182,895.67 | 6,538,377.29 | 196,151.32 | 32,691.89 | 6,751,272.96 |
| April | 0.00 | 0.00 | 0.00 | 0.00 | | | |
| Correct Adjust | | | | | | | 0.00 |
| April Cor. Alloc. | | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Correct Adjust | | | | | | | 0.00 |
| April Revised | | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total YTD | 6,751,272.96 | 30,000.00 | 182,895.67 | 6,538,377.29 | 196,151.32 | 32,691.89 | 6,751,272.96 |
| May | 0.00 | 0.00 | 0.00 | 0.00 | | | 0.00 |
| Correct Adjust | | | | | | | 0.00 |
| May Cor. Alloc. | | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Correct Adjust | | | | | | | 0.00 |
| May Revised | | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total YTD | 6,751,272.96 | 30,000.00 | 182,895.67 | 6,538,377.29 | 196,151.32 | 32,691.89 | 6,751,272.96 |
| June | 0.00 | 0.00 | 0.00 | 0.00 | | | 0.00 |
| Correct Adjust | | | | | | | 0.00 |
| June Cor Alloc | | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Correct Adjust | | | | | | | 0.00 |
| June Revised | | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Total YTD | 6,751,272.96 | 30,000.00 | 182,895.67 | 6,538,377.29 | 196,151.32 | 32,691.89 | 6,751,272.96 |
| FUND | | Fd 1000 | Fd 1408 | | Fd 1255 | Fd 1110 | |
| LINE ITEM | | | CEAA | | DGAA | DLAA | |
| FY2018 Approp | 30,000.00 | 30,000.00 | 617,900.00 | 535,700.00 | 78,300.00 | | |
| Total Collected Revenue to Approp | 30,000.00 | 30,000.00 | 13,731,111.11 | 17,856,666.67 | 15,660,000.00 | | |
| Over/(Under) Approp Limitation | - | - | (435,004.33) | (339,548.68) | (45,608.11) | | |

| Description | RS 4107 | RS 4108 | RS 4109 | RS 4110 | Total Collected |
|----------------|--------------------------|--------------------------|--------------------------|--------------------------|-----------------|
| | St Courts 90% surchrg | St Courts 35% surchrg | JP Courts 90% surchrg | JP Courts 35% surchrg | |
| July Old FY17 | 3,549.05 | 931.76 | | | 105,048.24 |
| July New FY 18 | 125,584.51 | 13,192.14 | 597,610.18 | 530,048.35 | 1,344,467.59 |
| Total YTD | 129,133.56 | 14,123.90 | 597,610.18 | 530,048.35 | 1,449,515.83 |
| August | 265,451.77 | 23,314.47 | 620,926.41 | 512,929.80 | 1,410,731.22 |
| Total YTD | 394,585.33 | 37,438.37 | 1,218,536.59 | 1,042,978.15 | 2,860,247.05 |
| September | 203,149.18 | 22,822.88 | 678,702.19 | 569,777.13 | 1,493,800.46 |
| Total YTD | 597,734.51 | 60,261.25 | 1,897,238.78 | 1,612,755.28 | 4,354,047.51 |
| October | 189,723.03 | 20,157.40 | 609,489.92 | 489,417.81 | 1,414,886.98 |
| Total YTD | 787,457.54 | 80,418.65 | 2,506,728.70 | 2,102,173.09 | 5,768,934.49 |
| November | 262,860.50 | 23,195.46 | 537,301.48 | 451,137.54 | 1,272,291.25 |
| Total YTD | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 7,041,225.74 |
| December | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 1,258,982.86 |
| Total YTD | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 8,300,208.60 |
| January | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 1,275,323.52 |
| Total YTD | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 9,575,532.12 |
| February | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 1,449,696.62 |
| Total YTD | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 11,025,228.74 |
| March | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 1,631,611.81 |
| Total YTD | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 12,656,840.55 |
| April | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 1,695,858.18 |
| Total YTD | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 14,352,698.73 |
| May | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 1,508,430.79 |
| Total YTD | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 15,861,129.52 |
| June | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 1,723,545.14 |
| Total YTD | 1,050,318.04 | 103,614.11 | 3,044,030.18 | 2,553,310.63 | 17,584,674.66 |

Summary of Surcharge

Yearly Collection Comparisons

FY 2018

| Description | A/C 4107 | | A/C 4108 | | A/C 4109 | | A/C 4110 | |
|-----------------|---------------------|----------------|------------------|-------------|------------------|----------------|---------------------|-------------|
| | St Courts | 85/90% surchrg | St Courts | 35% surchrg | JP Courts | 85/90% surchrg | JP Courts | 35% surchrg |
| Total FY - 2017 | 3,240,179.11 | | 280,649.82 | | 8,159,085.97 | | 5,904,759.76 | |
| Total FY - 2016 | 3,381,103.38 | | 305,153.45 | | 8,655,462.23 | | 5,958,374.18 | |
| Total FY - 2015 | 3,659,715.47 | | 369,116.53 | | 8,934,842.94 | | 6,295,271.45 | |
| Total FY - 2014 | 3,458,361.62 | | 258,980.88 | | 9,381,737.40 | | 5,680,080.91 | |
| Total FY - 2013 | 3,477,219.44 | | 272,318.28 | | 9,515,958.43 | | 5,651,821.17 | |
| Total FY - 2012 | 3,633,751.61 | | 311,318.07 | | 9,989,459.89 | | 6,081,796.49 | |
| Total FY - 2011 | 3,592,100.42 | | 381,274.81 | | 9,815,812.80 | | 6,204,206.80 | |
| Total FY - 2010 | 3,476,779.82 | | 458,829.94 | | 9,418,245.80 | | 6,271,018.18 | |
| Total FY - 2009 | 3,500,533.58 | | 427,513.65 | | 9,425,156.14 | | 6,269,822.55 | |
| Total FY - 2008 | 3,799,353.18 | | 492,700.66 | | 9,437,968.83 | | 5,939,739.26 | |
| Total FY - 2007 | 3,875,029.24 | | 600,659.17 | | 8,790,531.74 | | 6,397,852.98 | |
| Total FY - 2006 | 3,774,211.02 | | 717,626.35 | | 7,826,225.41 | | 5,967,300.10 | |
| Total FY - 2005 | 3,494,397.61 | | 807,780.01 | | 7,398,508.39 | | 5,963,479.37 | |
| Total FY - 2004 | 3,503,207.26 | | 694,188.98 | | 6,631,928.30 | | 5,028,735.85 | |
| Total FY - 2003 | 3,843,161.16 | | 777,392.23 | | 5,782,692.45 | | 4,661,025.71 | |
| Total FY - 2002 | 3,952,486.08 | | 859,333.64 | | 6,169,928.43 | | 4,304,152.75 | |
| Total FY - 2001 | 4,209,865.67 | | 775,130.13 | | 5,938,168.90 | | 3,737,992.45 | |
| Total FY - 2000 | 4,213,566.46 | | 886,816.15 | | 5,478,580.39 | | 3,141,456.21 | |
| | Total 85/90% | | Total 35% | | Total All | | 35% of Total | |
| Total FY - 2017 | 11,399,265.08 | | 6,185,409.58 | | 17,584,674.66 | | 35.18% | |
| Total FY - 2016 | 12,036,565.61 | | 6,263,527.63 | | 18,300,093.24 | | 34.23% | |
| Total FY - 2015 | 12,594,558.41 | | 6,664,387.98 | | 19,258,946.39 | | 34.60% | |
| Total FY - 2014 | 12,840,099.02 | | 5,939,061.79 | | 18,779,160.81 | | 31.63% | |
| Total FY - 2013 | 12,993,177.87 | | 5,924,139.45 | | 18,917,317.32 | | 31.32% | |
| Total FY - 2012 | 13,623,211.50 | | 6,393,114.56 | | 20,016,326.06 | | 31.94% | |
| Total FY - 2011 | 13,407,913.22 | | 6,585,481.61 | | 19,993,394.83 | | 32.94% | |
| Total FY - 2010 | 12,895,025.62 | | 6,729,848.12 | | 19,624,873.74 | | 34.29% | |
| Total FY - 2009 | 12,925,689.72 | | 6,697,336.20 | | 19,623,025.92 | | 34.13% | |
| Total FY - 2008 | 13,237,322.01 | | 6,432,439.92 | | 19,669,761.93 | | 32.70% | |
| Total FY - 2007 | 12,665,560.98 | | 6,998,512.15 | | 19,664,073.13 | | 35.59% | |
| Total FY - 2006 | 11,600,436.43 | | 6,684,926.45 | | 18,285,362.88 | | 36.56% | |
| Total FY - 2005 | 10,892,906.00 | | 6,771,259.38 | | 17,664,165.38 | | 38.33% | |
| Total FY - 2004 | 10,135,135.56 | | 5,722,924.83 | | 15,858,060.39 | | 36.09% | |
| Total FY - 2003 | 9,625,853.61 | | 5,438,417.94 | | 15,064,271.55 | | 36.10% | |
| Total FY - 2002 | 10,122,414.51 | | 5,163,486.39 | | 15,285,900.90 | | 33.78% | |
| Total FY - 2001 | 10,148,034.57 | | 4,513,122.58 | | 14,661,157.15 | | 30.78% | |
| Total FY - 2000 | 9,692,146.85 | | 4,028,272.36 | | 13,720,419.21 | | 29.36% | |

Tab D

Utah Prosecution Council
Comparison Report - Budget vs. Actual
July 2017 through June 2018

| | Jul '17 - Jun 18 | Budget | \$ Over Budget | % of Budget |
|--|------------------|--------------|----------------|-------------|
| Income | | | | |
| CONFERENCE REGISTRATION FEES | | | | |
| Advanced Trial Skills Training | 0.00 | 1,500.00 | -1,500.00 | 0.0% |
| Basic Prosecutor | 1,800.00 | 1,275.00 | 525.00 | 141.2% |
| Civil Conference | 2,724.00 | 3,600.00 | -876.00 | 75.7% |
| Fall Conference | 6,150.00 | 7,000.00 | -850.00 | 87.9% |
| Spring Conference | 75.00 | 22,500.00 | -22,425.00 | 0.3% |
| UMPA | 2,475.00 | 2,100.00 | 375.00 | 117.9% |
| Total CONFERENCE REGISTRATION FEES | 13,224.00 | 37,975.00 | -24,751.00 | 34.8% |
| EXPENSE REIMBURSEMENTS | | | | |
| HB200 Funds for Trauma - SADVRP | 0.00 | 182,800.00 | -182,800.00 | 0.0% |
| John R Justice Grant | 0.00 | 36,409.00 | -36,409.00 | 0.0% |
| Reimb from SWAP for Civil Conf | 0.00 | 0.00 | 0.00 | 0.0% |
| Staff Atty DV & SVRP | 0.00 | 0.00 | 0.00 | 0.0% |
| Staff Atty Traffic Safety | 0.00 | 0.00 | 0.00 | 0.0% |
| DPS Traffic Safety Funds - TSRP | 0.00 | 136,017.91 | -136,017.91 | 0.0% |
| Total Staff Atty Traffic Safety | 0.00 | 136,017.91 | -136,017.91 | 0.0% |
| Total EXPENSE REIMBURSEMENTS | 0.00 | 355,226.91 | -355,226.91 | 0.0% |
| PIMS Income | | | | |
| PIMS User Fees | 11,433.00 | 20,000.00 | -8,567.00 | 57.2% |
| Total PIMS Income | 11,433.00 | 20,000.00 | -8,567.00 | 57.2% |
| SCHARGE & NON-LAPSING CARRYOVER | | | | |
| Non-lapsing carry over | 80,156.00 | 80,156.00 | 0.00 | 100.0% |
| Surcharge Receipts | 196,150.78 | 546,495.00 | -350,344.22 | 35.9% |
| Total SCHARGE & NON-LAPSING CARRYOVER | 276,306.78 | 626,651.00 | -350,344.22 | 44.1% |
| UNCATEGORIZED INCOME | | | | |
| Total Income | 300,963.78 | 1,039,852.91 | -738,889.13 | 28.9% |
| Expense | | | | |
| ADMINISTRATIVE FEES | | | | |
| Administrative fee to AG | 14,875.00 | 35,700.00 | -20,825.00 | 41.7% |
| Building OS&M | 1,500.00 | 3,600.00 | -2,100.00 | 41.7% |
| DB Purc (West Law) | 666.65 | 1,600.00 | -933.35 | 41.7% |
| Ins & Bonds | 500.00 | 1,200.00 | -700.00 | 41.7% |
| Total ADMINISTRATIVE FEES | 17,541.65 | 42,100.00 | -24,558.35 | 41.7% |
| Conferences | | | | |
| Advanced Trial Skills Training | 0.00 | 6,000.00 | -6,000.00 | 0.0% |
| Basic Prosecutor Course | | | | |
| catering | 2,744.66 | | | |
| facilities charge | 93.76 | | | |
| meals | 1,038.00 | | | |
| mileage | 1,469.72 | | | |
| miscellaneous | 630.99 | | | |
| Basic Prosecutor Course - Other | 0.00 | 18,700.00 | -18,700.00 | 0.0% |
| Total Basic Prosecutor Course | 5,977.13 | 18,700.00 | -12,722.87 | 32.0% |
| Civil Training Conference | | | | |
| catering | 2,601.00 | | | |
| facilities charge | 2,614.80 | | | |
| lodging | 3,465.00 | | | |
| meals | 742.00 | | | |
| mileage | 2,830.74 | | | |
| miscellaneous | 1,043.19 | | | |
| Civil Training Conference - Other | 0.00 | 16,500.00 | -16,500.00 | 0.0% |
| Total Civil Training Conference | 13,296.73 | 16,500.00 | -3,203.27 | 80.6% |

Utah Prosecution Council Comparison Report - Budget vs. Actual July 2017 through June 2018

| | Jul '17 - Jun 18 | Budget | \$ Over Budget | % of Budget |
|---|------------------|------------|----------------|-------------|
| Conference Materials | | | | |
| Handouts, Materials, SWAG | 0.00 | 4,000.00 | -4,000.00 | 0.0% |
| Utah Travel Council Calendars | 0.00 | 1,900.00 | -1,900.00 | 0.0% |
| Total Conference Materials | 0.00 | 5,900.00 | -5,900.00 | 0.0% |
| Executive | | | | |
| meals | 98.00 | | | |
| mileage | 425.58 | | | |
| Executive - Other | 0.00 | 2,000.00 | -2,000.00 | 0.0% |
| Total Executive | 523.58 | 2,000.00 | -1,476.42 | 26.2% |
| Fall Conference | | | | |
| audio-visual | 750.00 | | | |
| catering | 3,095.13 | | | |
| facilities charge | 1,295.32 | | | |
| honoraria | 1,400.00 | | | |
| lodging | 6,509.75 | | | |
| meals | 1,447.00 | | | |
| mileage | 5,780.84 | | | |
| UPC Brief Cases | 0.00 | 7,500.00 | -7,500.00 | 0.0% |
| Fall Conference - Other | 0.00 | 22,000.00 | -22,000.00 | 0.0% |
| Total Fall Conference | 20,278.04 | 29,500.00 | -9,221.96 | 68.7% |
| Regional Training | | | | |
| Legislative Update | 0.00 | 2,500.00 | -2,500.00 | 0.0% |
| Total Regional Training | 0.00 | 2,500.00 | -2,500.00 | 0.0% |
| Spring Conference | | | | |
| Staff Attorney Training | 0.00 | 26,000.00 | -26,000.00 | 0.0% |
| SVD/VRP Training Materials | 0.00 | 1,500.00 | -1,500.00 | 0.0% |
| TSRP Scholarships | 0.00 | 1,050.00 | -1,050.00 | 0.0% |
| TSRP Training | | | | |
| lodging | 201.12 | | | |
| meals | 64.00 | | | |
| mileage/car rental | 355.31 | | | |
| TSRP Training - Other | 0.00 | | | |
| Total TSRP Training | 620.43 | 13,500.00 | -13,500.00 | 0.0% |
| Total Staff Attorney Training | 620.43 | 16,050.00 | -15,429.57 | 3.9% |
| UMPA Summer Conf | | | | |
| audio-visual | 531.00 | | | |
| catering | 2,657.96 | | | |
| facilities charge | 1,750.00 | | | |
| lodging | 2,564.35 | | | |
| MCLE fee | 430.00 | | | |
| meals | 780.00 | | | |
| mileage | 3,489.32 | | | |
| miscellaneous | 116.31 | | | |
| UMPA Summer Conf - Other | 0.00 | 11,500.00 | -11,500.00 | 0.0% |
| Total UMPA Summer Conf | 12,328.94 | 11,500.00 | 828.94 | 107.2% |
| UPAA | 0.00 | 12,000.00 | -12,000.00 | 0.0% |
| Total Conferences | 53,024.85 | 146,650.00 | -93,625.15 | 36.2% |
| COUNCIL AND COMMITTEE MEETINGS | | | | |
| Council and other committees | | | | |
| catering | 573.19 | | | |
| Council and other committees - Other | 0.00 | 6,500.00 | -6,500.00 | 0.0% |
| Total Council and other committees | 573.19 | 6,500.00 | -5,926.81 | 8.8% |

**Utah Prosecution Council
Comparison Report - Budget vs. Actual
July 2017 through June 2018**

5:16 PM
01/02/18
Cash Basis

| | Jul '17 - Jun 18 | Budget | \$ Over Budget | % of Budget |
|---|------------------|-----------|----------------|-------------|
| Training Committee | | | | |
| catering | 218.90 | | | |
| lodging | 2,292.16 | | | |
| meals | 686.00 | | | |
| mileage | 2,384.48 | | | |
| miscellaneous | 125.00 | | | |
| Training Committee - Other | 0.00 | 4,000.00 | -4,000.00 | 0.0% |
| Total Training Committee | 5,716.54 | 4,000.00 | 1,716.54 | 142.9% |
| | 6,289.73 | 10,500.00 | -4,210.27 | 59.9% |
| Total COUNCIL AND COMMITTEE MEETINGS | | | | |
| CURRENT EXPENSES | | | | |
| Annual MCLE Fee | 1,511.00 | 220.00 | 1,291.00 | 686.8% |
| Donations UT Crnci Victims Crime | 0.00 | 1,000.00 | -1,000.00 | 0.0% |
| Dues & Memberships | 133.50 | 2,000.00 | -1,866.50 | 6.7% |
| Equipment/Supplies-not Data Pro | 930.35 | 0.00 | 930.35 | 100.0% |
| IT (Hardware and software requirements for UPC.) | | | | |
| Hardware | 9,678.82 | 9,000.00 | 678.82 | 107.5% |
| Network Services | 694.65 | 4,700.00 | -4,005.35 | 14.8% |
| Software | 774.00 | 1,710.00 | -936.00 | 45.3% |
| UPC Website | 335.52 | 1,140.00 | -804.48 | 29.4% |
| Total IT (Hardware and software requirements for UPC.) | 11,482.99 | 16,550.00 | -5,067.01 | 69.4% |
| LEOJ Training | 0.00 | 2,000.00 | -2,000.00 | 0.0% |
| Library & Subscriptions | 2,313.63 | 3,000.00 | -686.37 | 77.1% |
| Miscellaneous | 631.17 | 3,200.00 | -2,568.83 | 19.7% |
| Postage | 519.45 | 500.00 | 19.45 | 103.9% |
| Telephone | 1,379.88 | 6,000.00 | -4,620.12 | 23.0% |
| Total CURRENT EXPENSES | 16,901.97 | 34,470.00 | -15,568.03 | 54.8% |
| DATA MANAGEMENT - PIMS PROGRAM | | | | |
| PIMS Support & Installation | | | | |
| Maintenance / Installation | | | | |
| Lodging | 0.00 | 300.00 | -300.00 | 0.0% |
| Meals | 0.00 | 150.00 | -150.00 | 0.0% |
| mileage | 277.52 | 100.00 | 177.52 | 277.5% |
| Total Maintenance / Installation | 277.52 | 550.00 | -272.48 | 50.5% |
| Server hosting charges | 795.68 | | | |
| Total PIMS Support & Installation | 1,073.20 | 550.00 | 523.20 | 195.1% |
| Total DATA MANAGEMENT - PIMS PROGRAM | 1,073.20 | 550.00 | 523.20 | 195.1% |
| HB 200 Expenses - SADVRP | | | | |
| Airfare | 599.40 | | | |
| Catering | 42.00 | | | |
| Misc | 209.50 | | | |
| Total HB 200 Expenses - SADVRP | 850.90 | | | |
| John R Justice Grant | | | | |
| OUT-OF-STATE TRAVEL | | | | |
| NAJIS | | | | |
| Board Meeting | 1,860.42 | 1,500.00 | 360.42 | 124.0% |
| Summer Conference | 595.00 | 2,352.00 | -1,757.00 | 25.3% |
| Total NAJIS | 2,455.42 | 3,852.00 | -1,396.58 | 63.7% |
| NAPC | | | | |
| NAPC Summer mtg | 3,310.06 | 6,500.00 | -3,189.94 | 50.9% |
| NAPC Winter mtg | 1,968.60 | 2,000.00 | -31.40 | 98.4% |
| NAPC - Other | 500.00 | | | |
| Total NAPC | 5,778.66 | 8,500.00 | -2,721.34 | 68.0% |

**Utah Prosecution Council
Comparison Report - Budget vs. Actual
July 2017 through June 2018**

| | Jul '17 - Jun 18 | Budget | \$ Over Budget | % of Budget |
|--|------------------|------------------|-------------------|---------------|
| Total OUT-OF-STATE TRAVEL | 8,234.08 | 33,252.00 | -25,017.92 | 24.8% |
| PERSONNEL SERVICES | | | | |
| Director | | | | |
| base salary | 0.00 | 6,500.00 | -6,500.00 | 0.0% |
| benefits | 0.00 | 1,200.00 | -1,200.00 | 0.0% |
| Total Director | 59,276.89 | 167,530.00 | -108,253.11 | 35.4% |
| Incentive Award | 0.00 | 0.00 | 0.00 | 0.0% |
| IT Director | | | | |
| base salary | 29,174.26 | 80,122.00 | -50,947.74 | 36.4% |
| benefits | 16,664.07 | 42,828.00 | -26,163.93 | 38.9% |
| Total IT Director | 45,838.33 | 122,950.00 | -77,111.67 | 37.3% |
| Law Clerk I | | | | |
| base salary | 0.00 | 14,440.00 | -14,440.00 | 0.0% |
| benefits | 0.00 | 2,053.00 | -2,053.00 | 0.0% |
| Total Law Clerk I | 0.00 | 16,493.00 | -16,493.00 | 0.0% |
| Staff Attorney - DV & SVRP | | | | |
| base salary | 4,351.00 | 102,648.00 | -98,297.00 | 4.2% |
| benefits | 1,676.97 | 55,767.65 | -54,110.68 | 3.0% |
| Total Staff Attorney - DV & SVRP | 6,027.97 | 158,435.65 | -152,407.68 | 3.8% |
| Staff Attorney - Traffic Safety | | | | |
| base salary | 27,907.97 | 80,931.00 | -53,023.03 | 34.5% |
| benefits | 16,761.73 | 47,317.00 | -30,555.27 | 35.4% |
| Total Staff Attorney - Traffic Safety | 44,669.70 | 128,248.00 | -83,578.30 | 34.8% |
| Training Coordinator | | | | |
| base salary | 26,420.71 | 73,528.00 | -47,107.29 | 35.9% |
| benefits | 15,751.49 | 45,556.49 | -29,805.00 | 34.6% |
| Total Training Coordinator | 42,172.20 | 119,084.49 | -76,912.29 | 35.4% |
| Total PERSONNEL SERVICES | 197,985.09 | 712,741.14 | -514,756.05 | 27.8% |
| UNCATEGORIZED EXPENSES | 0.00 | 100.00 | -100.00 | 0.0% |
| UNUSUAL PROSECUTION EXPENSES | 0.00 | 0.00 | 0.00 | 0.0% |
| UPAA APPROPRIATION | 0.00 | 12,000.00 | -12,000.00 | 0.0% |
| UPPAC | 0.00 | 500.00 | -500.00 | 0.0% |
| Total Expense | 303,901.47 | 1,028,126.14 | -724,224.67 | 29.6% |
| Net Income | -2,937.69 | 11,726.77 | -14,664.46 | -25.1% |

Tab E

**Utah Prosecution Council
Net Cost of Conference
Basic Prosecutor Course**

| | Basic Prosecutor Course (Conferences) | Total Conferences | TOTAL |
|---|--|-------------------|------------|
| Income | | | |
| CONFERENCE REGISTRATION FEES | | | |
| Basic Prosecutor | 3,000.00 | 3,000.00 | 3,000.00 |
| Total CONFERENCE REGISTRATION FEES | 3,000.00 | 3,000.00 | 3,000.00 |
| Total Income | 3,000.00 | 3,000.00 | 3,000.00 |
| Expense | | | |
| Conferences | | | |
| Basic Prosecutor Course | | | |
| catering | 2,889.80 | 2,889.80 | 2,889.80 |
| facilities charge | 990.00 | 990.00 | 990.00 |
| lodging | 3,536.35 | 3,536.35 | 3,536.35 |
| MCLE fee | 370.00 | 370.00 | 370.00 |
| meals | 2,338.70 | 2,338.70 | 2,338.70 |
| mileage | 3,418.83 | 3,418.83 | 3,418.83 |
| miscellaneous | 435.02 | 435.02 | 435.02 |
| printing | 236.68 | 236.68 | 236.68 |
| Total Basic Prosecutor Course | 14,215.38 | 14,215.38 | 14,215.38 |
| Total Conferences | 14,215.38 | 14,215.38 | 14,215.38 |
| Total Expense | 14,215.38 | 14,215.38 | 14,215.38 |
| Net Income | -11,215.38 | -11,215.38 | -11,215.38 |

Utah Prosecution Council Net Cost of Conference Fall

| | Fall Conference (Conferences) | Total Conferences | TOTAL |
|--|----------------------------------|-------------------|-------------------|
| Income | | | |
| CONFERENCE REGISTRATION FEES | | | |
| Fall Conference | 6,150.00 | 6,150.00 | 6,150.00 |
| Total CONFERENCE REGISTRATION FEES... | 6,150.00 | 6,150.00 | 6,150.00 |
| Total Income | 6,150.00 | 6,150.00 | 6,150.00 |
| Expense | | | |
| Conferences | | | |
| Fall Conference | | | |
| audio-visual | 750.00 | 750.00 | 750.00 |
| catering | 3,095.13 | 3,095.13 | 3,095.13 |
| facilities charge | 1,295.32 | 1,295.32 | 1,295.32 |
| honoraria | 1,400.00 | 1,400.00 | 1,400.00 |
| lodging | 6,509.75 | 6,509.75 | 6,509.75 |
| meals | 1,200.00 | 1,200.00 | 1,200.00 |
| mileage | 4,730.33 | 4,730.33 | 4,730.33 |
| Total Fall Conference | 18,980.53 | 18,980.53 | 18,980.53 |
| Total Conferences | 18,980.53 | 18,980.53 | 18,980.53 |
| Total Expense | 18,980.53 | 18,980.53 | 18,980.53 |
| Net Income | -12,830.53 | -12,830.53 | -12,830.53 |

Utah Prosecution Council Net Cost of Conference Civil

| | Civil Conference (Conferences) | Total Conferences | TOTAL |
|--|-----------------------------------|-------------------|------------------|
| Income | | | |
| CONFERENCE REGISTRATION FEES | | | |
| Civil Conference | 2,649.00 | 2,649.00 | 2,649.00 |
| Total Income | 2,649.00 | 2,649.00 | 2,649.00 |
| Expense | | | |
| Conferences | | | |
| Civil Training Conference | | | |
| catering | 2,601.00 | 2,601.00 | 2,601.00 |
| facilities charge | 2,614.80 | 2,614.80 | 2,614.80 |
| lodging | 3,465.00 | 3,465.00 | 3,465.00 |
| meals | 640.00 | 640.00 | 640.00 |
| mileage | 2,161.69 | 2,161.69 | 2,161.69 |
| miscellaneous | 1,043.19 | 1,043.19 | 1,043.19 |
| Total Civil Training Conference | 12,525.68 | 12,525.68 | 12,525.68 |
| Total Conferences | 12,525.68 | 12,525.68 | 12,525.68 |
| Total Expense | 12,525.68 | 12,525.68 | 12,525.68 |
| Net Income | -9,876.68 | -9,876.68 | -9,876.68 |

**Utah Prosecution Council
Net Cost of Conference
County Executive**

| | Executive (Conferences) | Total Conferences | TOTAL |
|-------------------|----------------------------|-------------------|----------------|
| Income | 0.00 | 0.00 | 0.00 |
| Expense | | | |
| Conferences | | | |
| Executive | 98.00 | 98.00 | 98.00 |
| meals | 425.58 | 425.58 | 425.58 |
| mileage | | | |
| Total Executive | 523.58 | 523.58 | 523.58 |
| Total Conferences | 523.58 | 523.58 | 523.58 |
| Total Expense | 523.58 | 523.58 | 523.58 |
| Net Income | -523.58 | -523.58 | -523.58 |

Tab F

2018 TRAINING SCHEDULE

UTAH PROSECUTION COUNCIL

| | | |
|----------------|---|--|
| April 26-27 | SPRING CONFERENCE <i>Legislative and case law updates, civility/professionalism and more</i> | Sheraton SLC Hotel Salt Lake City, UT |
| April & May | REGIONAL LEGISLATIVE UPDATES | 23 Locations around the state |
| May 14-16 | CJC/DV CONFERENCE <i>For anyone who has a role in DV or Child Abuse Cases</i> | Cliff Lodge Snowbird Resort |
| June 20-22 | UTAH PROSECUTORIAL ASSISTANTS ASSN. ANNUAL CONFERENCE <i>Training for para-legals and secretarial staff in prosecutor offices</i> | Ramada Hotel & Stes. Cedar City, UT |
| August 13-17 | BASIC PROSECUTOR COURSE <i>Trial advocacy and substantive legal instruction for new prosecutors</i> | University Inn Logan, UT |
| October 3-5 | FALL PROSECUTORS TRAINING CONFERENCE <i>The annual CLE and idea sharing event for all Utah prosecutors</i> | SpringHill Suites & Inn Moab, UT |
| October 17-19 | GOVERNMENT CIVIL PRACTICE CONFERENCE <i>Training designed specifically for government civil attorneys from counties and cities</i> | SpringHill Suites & Inn Moab, UT |
| Nov. 8-9 | UTAH MISDEMEANOR PROSECUTORS ASSN. SUMMER CONFERENCE <i>Training for city prosecutors and others who carry a misdemeanor case load</i> | SpringHill Suites & Inn Moab, UT |
| November 15-16 | COUNTY/DISTRICT ATTORNEYS' EXECUTIVE SEMINAR <i>An opportunity for all county/district attorneys to discuss common issues</i> | Dixie Center St. George, UT |

Tab G

October - December 2017 TSRP Report

Trainings Attended/Conducted:

- October 4-6, 2017 – UPC Fall Prosecutor Conference, St George, UT
- October 9, 2017 – Airport Police Department Legislative Update, SLC, UT
 - **1 hour instruction**
 - **10 law enforcement attendees**
- October 10, 2017 – Airport Police Department Legislative Update, SLC, UT
 - **1 hour instruction**
 - **17 law enforcement attendees**
- October 11, 2017 – Airport Police Department Legislative Update, SLC, UT
 - **1 hour instruction**
 - **16 law enforcement attendees**
- October 12, 2017 – Airport Police Department Legislative Update, SLC, UT
 - **1 hour instruction**
 - **11 law enforcement attendees**
- November 3, 2017 – Salt Lake City Prosecutor’s Office training, Salt Lake City, UT
 - **1 hour instruction**
 - **7 attorneys**
- November 15, 2017 – Utah Drug Impaired Driving Symposium, Salt Lake City, UT
 - Was a member of expert lunch panel
 - **1 hour panel discussion**
 - **215 attendees**
- November 29, 2017 – Police In-Service Training, Vernal, UT
 - **4 hours instruction**
 - **17 law enforcement, 2 attorneys – 19 total attendees**
- December 4-6, 2017 – National Association of Prosecutor Coordinators Winter Meeting, Springdale, UT
 - Coordinated TSRP breakout session
 - 3-hour breakout on seated Field Sobriety Tests
- December 7, 2017 – Police In-Service Training, Clearfield, UT
 - **4 hours instruction**
 - **14 law enforcement, 2 prosecutor - 16 total**
- December 12, 2017 – Ethics in Impaired Driving Cases Webinar
 - 1 hour webinar on ethical issues in impaired driving prosecution
- December 14, 2017 – Police In-Service Training, Clearfield, UT
 - **4 hours instruction**
 - **17 law enforcement, 1 prosecutor – 18 total attendees**

Current Projects:

- Updating Utah TSRP Training Curriculum
- Report writing training for law enforcement

Meetings Attended:

- October 4, 2017 – Utah Prosecution Council Meeting, St George, UT
- October 4, 2017 – Statewide Association of Prosecutors Board meeting, St George, UT
- October 12, 2017 – Multi-Agency Taskforce Meeting, West Jordan, UT
- October 16-17, 2017 – UPC Training Committee meeting, Torrey, UT
- October 30, 2017 – Drug Impaired Driving Symposium planning committee meeting, Salt Lake City, UT
- November 7, 2017 – Multi-Agency Taskforce Meeting, Ogden, UT
- November 8, 2017 – MADD DUI Luncheon, Murray, UT
- November 9, 2017 – Utah Prosecution Council staff meeting, Murray, UT
- December 11, 2017 – Alcohol and Drug Fee Committee, Sandy, UT
- December 11, 2017 – Drug-Impaired Driving Symposium Review, Sandy, UT
- December 20, 2017 – UPC Staff Meeting, Murray, UT

Other Notables:

- Updated TSRP blog with relevant new case law that was just released.
- Participated as a voting member of the Alcohol and Drug Fee Committee (ADF) in distributing approximately \$800,000 in awards to law enforcement agencies for DUI investigation and training.

Technical Assistance Provided:

| MONTH | TECHNICAL ASSISTANCE | TRAINING PROVIDED | NUMBER OF PARTICIPANTS | CLASS HOURS |
|---------------------|-----------------------------|--------------------------|-------------------------------|--------------------|
| October 2017 | 55 | 4 | 70 | 4 |
| November | 54 | 3 | 239 | 6 |
| December | 44* | 2 | 34 | 8 |
| January 2018 | | | | |
| February | | | | |
| March | | | | |
| April | | | | |
| May | | | | |
| June | | | | |
| July | | | | |
| August | | | | |
| September | | | | |
| TOTALS | 153 | 9 | 343 | 18 |

*Total through 12/23

Tab H

Peter Leavitt
Sexual Assault Domestic Violence Resource Prosecutor
Fourth Quarter Report 2017

Meetings Attended

UPC Training Committee Meeting October 15-18

My assignments for 2018 UPC Conferences discussed at meeting

Spring Conference Case Law Update

Fall Conference Advocacy at Sentencing

Paul Cassell (victims) Dee Benson (Evidence) Sandi and Steve (Difficult witnesses)

Other October Meetings

Met with Ned Searle (CCJJ) to discuss goals of HB-200

Crystal Hazlett (CCJJ) about SAKI project

Met with Donna Kelly to discuss past projects

Lt. Wade Bruer POST- review video used at POST video training, reviewed the script, discussed future planning of intensive training for detectives as second part of HB-200

November

UPOA Board Meeting (got on agenda for winter conference)

Sexual Violence Council Meeting CCJJ

December

Advanced Sexual Assault Curriculum planning meeting

SWAP board meeting (Nominated to crime victims council to replace Donna)

Crime Victims Council Meeting- Discussed problems with juvenile JRI mess and made plans to work on changes in upcoming legislative session

Conferences and Trainings Attended

Fordham Debate (Utah Law School) on Affirmative Consent (post debate dinner)

Campus Rape Symposium NDAA, New Orleans LA, Nov. 14-17

NAPC- Springdale Utah, Dec. 3-6.

Conferences and Trainings Presented

Utah State Fall Forum- Part of panel discussion about issues in juvenile murder cases

Resource Assistance Provided

SAKI Case Reviews with MDT at Crime Lab.

Worked with CCJJ on suggested amendments to HB-200

Changes in protocol for "restricted kits"

Changes in definitions of terms used throughout the bill

Member of Following Councils

DV Advisory Council

Sexual Violence Council

Utah Council on Victims of Crime

Future Presentations set for 2018

HB-200 Trainings

February 22nd -23rd-UPOA Mid-Winter Convention- 50-100

April- UCASA Crime Victims Conference- 100

May- 17-18 Utah County Attorney Law enforcement training

Additional trainings to be set up through training coordinators around the state

Other State Trainings

May 16-17 CJC Symposium Snowbird- *Opening Statements in Child Sexual Abuse Cases*

CJC Symposium Snowbird- *Closing Arguments in Child Sexual Abuse cases*

NDAAs Presentations

Prosecutor Boot Camp (Opening statements, closing arguments, cross examination),
Kansas City, KS, March 12-15, 2018.

Career Prosecutor Course- Trial ad topic (Possibly opening statements in Sexual Assault cases, or cross examination of eyewitness ID expert) New Orleans, LA, Mid May.

Other Notable Work

During the first couple of months, I have focused much of my time on the development the first portion of my legislative mandate as part of HB-200. This training by statute is designed for all law enforcement officers. It will cover topics such as: recognizing the symptoms of trauma, understanding the impact of trauma, responding to the needs and concerns of victims, dealing with victims in a compassionate and sensitive manner, cultural perceptions and myths about sexual violence, report writing techniques, working with an MDT, investigating the crime scene, establishing each officers role in the investigation, interviewing the suspect, and an introduction to proper forensic interview techniques for adult victims of sex crimes. I anticipate that majority of my time during the first half of 2018 will be focused on taking this training to officers around the state. This training is the first piece of a two-part legislative mandate created by HB-200.

The second part is a 3 day course that is focused on officers who investigate these crimes (i.e. SVU Detectives for larger agencies, Do-it-all sheriffs in rural communities). This training will take place at POST and as such I am working with an already organized team to develop the curriculum for this training. One of the largest components of this training will focus on forensic interview guidelines for victims of trauma. We plan to focus on the guidelines created by UPC and West Valley City: Trauma Informed Interview Guidelines. By statute this training needs to be available by July 1, 2018.

Long Term Ideas and Goals

DV 101 Bootcamp for Prosecutors

Build up data base for trauma expert witnesses

Co-chair one of cases created through SAKI backlog tests

Develop skills based trainings to help prosecutors improve courtroom advocacy

Tab I



Robert Church <upcforum1@gmail.com>

[upc_forum] Trouble With

5 messages

>

Tue, Dec 19, 2017 at 9:32 AM

Reply-To: upc_forum@googlegroups.com

To: "upc_forum@googlegroups.com" <upc_forum@googlegroups.com>

Has anyone had to deal with [redacted] on an appeal? I previously held [redacted] in high regards, but since he's been working against me on an appeal, he's been [redacted] his arguments have been strange. I'm just wondering if anyone has any advice. Here's a brief summary of what's going on:

Earlier this year I had a [redacted] jury trial for a [redacted] that I charged with

[redacted]. After numerous witnesses (including five paid experts by the defense team), [redacted] was found guilty [redacted] by a jury of his peers, which included a Sheriff Deputy, the daughter of a police chief, and the wife of an [redacted] Police Officer. After the verdict was read, the jury was polled and all agreed on the guilty verdict.

Subsequent to the trial, [redacted] retained the services of [redacted] who filed a number of lengthy motions asking the judge to overturn the conviction. Included with those motions, [redacted] attached an affidavit that he obtained from one of the jurors. In the affidavit, the juror explained how she was initially reluctant to find him guilty, but ultimately decided to concede to the other five jurors, who ardently felt he was guilty. The case was emotionally taxing on her [redacted] and she felt sympathy for the defendant. Pursuant to rule 606(b), I filed a motion to strike the juror affidavit. As a refresher, here's what 606(b) states:

During an inquiry into the validity of a verdict or indictment, a juror may not testify about any statement made or incident that occurred during the jury's deliberations; the effect of anything on that juror's or another juror's vote; or any juror's mental processes concerning the verdict or indictment. The court may not receive a juror's affidavit or evidence of a juror's statement on these matters.

[redacted] objected to my motion to strike and insisted that 606(b) shouldn't apply in this case.

As if that isn't troubling enough, the juror and her [redacted] husband came in and met with us. What we discovered was alarming. Although she did not want to get involved, the defense team hounded her to provide an affidavit. As such, she wrote up the affidavit and sent it to [redacted] and his team, who then proceeded to edit, rewrite, and change the affidavit, until it was only 3 pages long. The juror contacted the defense and insisted that they use her full affidavit (which was 5 pages long), but they did not [redacted] never informed me or the Court about the full-length affidavit. To make matter worse, the defense team then, against the will of the juror, sent the shorter affidavit to the news media and asked them to write a story about it. The juror was furious. Since that time, the juror has provided me with a copy of her

full and complete statement and has informed me that the defense blew the whole thing out of proportion, making a mountain out of a mole hill.

The precedent that is trying to set is alarming. If has his way, then no jury verdict will ever be safe. Although none of us likes to see how the sausage is made, jury deliberations should be held sacrosanct. Allowing juror affidavits about the discussions and decision-making that was done behind closed doors upsets the finality of a jury verdict. This will have serious adverse effects on prosecutors and victims, who will always have to worry about a verdict getting overturned.

Any thoughts or advice on how to go about handling this situation?

Thanks in advance.

Chief Criminal Deputy

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You received this message because you are subscribed to the Google Groups "UPC_Forum" group.
To unsubscribe from this group and stop receiving emails from it, send an email to upc_forum+unsubscribe@googlegroups.com.
To post to this group, send email to upc_forum@googlegroups.com.
To view this discussion on the web visit https://groups.google.com/d/msgid/upc_forum/08a1530c1f594736891c8ac937d99e86%40Exchange2013.becs.int.
For more options, visit <https://groups.google.com/d/optout>.

Robert Church

From: Paul Cassell <cassellp@law.utah.edu>
Sent: Friday, December 22, 2017 11:08 AM
To: Robert Church
Cc: Lindsay Jarvis; Brent Hatch; Brad Anderson; Blair Wardle; Stephen Hadfield
Subject: RE: correcting Mr. Wardle's false and defamatory email

Dear Bob,

Thanks for the note – we look forward to seeing what the Council decides.

Dear Stephen,

We assume that we will receive a copy of any materials that Box Elder County chooses to provide to UPC so that we can consider replying.

Thanks all! Have a great holiday break. Paul

Paul G. Cassell
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From: Robert Church [mailto:rjchurch@agutah.gov]
Sent: Friday, December 22, 2017 10:55 AM
To: Paul Cassell <cassellp@law.utah.edu>
Cc: Lindsay Jarvis <ljarvis21@gmail.com>; Brent Hatch <bhatch@hjdllaw.com>; Brad Anderson <banderson@jarvisdefense.com>; Blair Wardle <BWardle@boxeldercounty.org>; Stephen Hadfield <SHadfield@boxeldercounty.org>
Subject: RE: correcting Mr. Wardle's false and defamatory email

Dear Paul,

Thank you for your two e-mails. As I mentioned earlier this week I will be taking this issue to the Council at the January 5, 2018 Council meeting. I will include a copy of this e-mail in their agenda for consideration and then follow their guidance.

I will also provide the Council with any response or input from Mr. Wardle and Mr. Hadfield for the Council's consideration.

On a separate, but related note, as you and I discussed earlier this week, the defense bar has their own forum where prosecutors are discussed. Since Tuesday I have spoken with prosecutors who are aware they have been disparaged on

that forum. Whether those disparaging comments were equivalent to the language used in Mr. Wardle's e-mail, I do not know. I do know however, that each respective forum is intended to be a place where prosecutors and defenders can communicate with each other in a spirit of confidence. I am not excusing the use of defamatory language but would expect the defense bar to be held to the same standard.

I will let you know what course of action the Council decides to take.

Best,

Bob

Robert J. Church

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From: Paul Cassell [<mailto:cassellp@law.utah.edu>]

Sent: Friday, December 22, 2017 10:30 AM

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Subject: Re: correcting Mr. Wardle's false and defamatory email

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Here is a brief summary (some information omitted) of the relevant facts – and I am cc'ing Mr. Wardle and his supervisor, Mr. Hatfield, who can obviously add or correct anything that they might wish you to consider.

Earlier this week, Mr. Wardle sent an email to hundreds of prosecutors who subscribe to the UPC Forum accusing me and Ms. Jarvis (and member of her firm) of being "incredibly unethical" in our handling of litigation involving Wardle. Two of the key allegations were that we had concealed a full-length affidavit from the court and that Ms. Jarvis initiated leaked information to the press. Immediately upon learning of the email, I contacted Wardle. Around noon that day, Wardle and I had a telephone call in which Wardle apologized and tentatively agreed to send an email to the UPC Forum withdrawing his allegations and admitting they were (as I recall) "inaccurate." After that agreement, there was a further telephone conference call – involving Wardle, the Civil Deputy in Box Elder County, and Mr. Hatfield on the one side, and Mr. Hatch, me, and Ms. Jarvis on the other side. Again, there was tentative agreement in that call (which is viewed by some as "settlement discussions", and thus inadmissible in court proceedings – but not in informal

discussions such as this one) that Wardle would send an email stating that his allegations were “inaccurate”. Following that call, Mr. Hadfield apparently conferred with the liability counsel for Box Elder County. And then, as reflected in a letter sent out to those concerned, Mr. Hatfield directed Mr. Wardle not to send out that apology that the allegations were inaccurate because it would not be “in the best interests of the County” for Wardle to admit the truth – i.e., that his allegations were unfounded because that admission could serve as a partial predicate for a defamation action. Mr. Hadfield has also said that liability counsel – and thus the County – will not engage in any further settlement discussions until a lawsuit is filed. This has blocked us from further discussing a direct retraction by Mr. Wardle.

The upshot was that Mr. Wardle sent only a non-apology email to the UPC Forum. He did not say that his original allegations were inaccurate, but only that his comments “were insensitive and unfair” and that he apologized to anyone “that may have been offended.”

Whatever may be in the best interests of Box Elder County, it seems to me that the best interests of the UPC Forum – and all of its many readers – would be served if they were told directly that Mr. Wardle’s statements were inaccurate. Given the foregoing, it appears that Box Elder County is now blocking transmission of this fact to the forum merely to try to avoid financial liability. So I would like to suggest that you, as the supervisor or moderator of the Forum, could step in as a simple matter of fairness to me, as well as to Ms. Jarvis and member of her law firm. Our reputations have already suffered significantly because of Mr. Wardle’s admittedly “unprofessional” conduct, and we are trying to reduce further damage that is occurring everyday (judging from reported discussions we have heard about) because his uncorrected remarks are lingering out there.

I want to make clear that Mr. Wardle’s allegations of “incredibly unethical” conduct against me, as well as against Ms. Jarvis and her law firm are completely unsupported and completely inaccurate. With regard to alleged concealment of the affidavit, the relevant facts are reviewed in the attach draft motion that we have submitted to Box Elder County for its stipulation. (They have not yet responded.) You will notice from this draft that I contacted the Utah Bar’s Office of Professional Conduct, who have advised that I am proceeding appropriately. With regard to alleged leaking of information, Ms. Jarvis has reminded Mr. Wardle that it was his (alleged) victims in his case who contacted Pat Reavy at KSL. Ms. Jarvis spoke to Mr. Reavy earlier this week to confirm her recollection – and Mr. Reavy agreed that the allegedly “leaked” information was in fact something that he had obtained on his own from court files.

I believe that these facts will be undisputed – Mr. Hadfield is on this email chain and can confirm if I am missing anything or correct anything that I may have misdescribed in dashing off this email. It is my understanding that he in no way wants to compound the damage that his subordinate’s unprofessional comments have already done to me and Ms. Jarvis, and he in no way want to reaffirm defamatory statements that are clearly and obviously false.

In light of these facts, including the fact that Mr. Hadfield will not permit Mr. Wardle to directly retract his false statements, perhaps you could send out an email like the following to the Forum:

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It is my understanding, based on discussions with Mr. Wardle’s employer (Box Elder County), that he has been directed not to make any further statements about the inaccuracy of his allegations. I have also reviewed materials submitted to me by Mr. Cassell and Ms. Jarvis – materials that Box Elder County has not contested. Based on these materials – and Box Elder County’s decision not to defend Mr. Wardle’s admittedly “unprofessional” statements -- I have concluded that Mr. Wardle’s allegations of unethical conduct against Mr. Cassell and Ms. Jarvis and her firm are unsupported and

inaccurate. I thought, in fairness to the reputations of those involved, that I should communicate to the readers of the Forum what I understand to be the facts based on the information that I have received. I encourage users of this Forum to avoid making these kinds of allegations against named individuals in this Forum in the future.

On a personal note, both Mr. Cassell and Ms. Jarvis have frequently worked with prosecutors in general and UPC in particular in the past, and I know that the UPC looks forward to working with them in the future.

Sincerely, etc.

Thanks in advance for considering this idea. We appreciate that you quickly "took down" Mr. Wardle's comments. However, our current understanding is that the way the Forum works is largely through an e-mail blast, which had the effect of sending Wardle's comments out immediately to everyone's e-mail in-boxes. While UPC's take down may have some (very limited) effect on prevent dissemination of the comments, it has not undone the significant damage from the initial email blast. As a matter of fundamental fairness, UPC should not let its forum be used to tarnish legal reputations in the way Mr. Wardle has done.

If you would like to further discuss this idea of a statement from you, I can be reached at (801) 201-8271. I am pushing this point because Ms. Jarvis and I very much value our reputations in Utah's prosecutorial community. We are happy to try to work with you to come up with some way of responding to the problem of a widely-broadcast false statement that Mr. Wardle is apparently unwilling – or more likely, unable – to address.

Thanks in advance for looking at this quickly. As you can appreciate, time is of the essence in addressing the false and defamatory statements.

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Case No. 20170746-CA

IN THE
UTAH COURT OF APPEALS

STATE OF UTAH,
Plaintiff/Appellee,

v.

LANCE BESS,
Defendant/Appellant.

Notice of Service of Proposed Supplementation of the Record

Appeal from judgment and conviction entered in the First
Judicial District, Box Elder County, the Honorable Brandon
Maynard presiding

PAUL G. CASSELL (6078)
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(above for identification purposes
only, not to imply endorsement)

Lindsay Jarvis
Brad Anderson
JARVIS & ASSOCIATES, LLC
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Sandy, UT 84070

STEPHEN R. HADFIELD (5707)
Blair T Wardle (1363)
BOX ELDER COUNTY ATTORNEY'S
OFFICE
81 North Main Street, Suite 102
Brigham City, UT 84302
(435) 734-3329
(435) 723-0785 (fax)

Counsel for Appellant

Counsel for Appellee

**NOTICE OF SERVICE OF PROPOSED SUPPLEMENTATION OF THE
RECORD**

COMES NOW appellant Lance Bess, by and through undersigned counsel, pursuant to Utah R. App. 11(h), to serve on opposing counsel the following notice of supplementation of the record on appeal, pursuant to Rule 11(h) of the Utah Rules of Appellate procedure.

One issue on appeal concerns whether an affidavit from a juror in the case, submitted to the trial court at 7:04 p.m. on Friday, August 11, was untimely and therefore not properly considered the district court. A copy of that affidavit is part of the appellate record in this case. Six days later - the next Thursday, August 17 -- the district court struck the juror's affidavit as being filed after the 5:00 p.m. filing deadline for the filing of the reply brief on the new trial motion. Accordingly, the district court did not reach the issue of whether the juror's affidavit created grounds for a new trial. One issue on appeal is whether the district court should have accepted the "late" affidavit as newly-discovered evidence.

Meanwhile, on Saturday afternoon, August 12, the juror sent a slightly revised affidavit, adding additional language to the original affidavit, to the defense investigator. The investigator did not think the few additions were

significant and tried to make arrangement the following week to meet with the juror to get the supplemental affidavit physically signed. (The previous affidavits had a “/s/” signature.) However, the investigator was called away on other business and never was able to get the signature before the Thursday, August 17, hearing. After the investigator learned that the first affidavit had been struck by the court as untimely, the investigator focused on those tasks and did not work on getting a signature for the even later affidavit that the juror had sent to him on Saturday. The investigator did not communicate to defense counsel that the juror had sent this supplemental affidavit to him because the investigator did not think it was important.

Thereafter, the prosecutor handling the matter learned of the supplemental affidavit.

On December 19, 2017, in an email forum addressed to hundreds of prosecutors, the prosecutor handling the matter called defense counsel “incredibly unethical” for not disclosing the supplemental affidavit to the district court. (The prosecutor had not previously asked defense counsel whether he knew about the supplemental affidavit, and the prosecutor has since apologized for those “unprofessional” comments.)

Without disclosing any confidential or protected communications, undersigned counsel can report that, on December 19, 2017, upon learning of

the allegation of unethical conduct, he promptly contacted the defense investigator. On December 20, 2017, defense counsel first learned that the supplemental affidavit had been sent to the investigator. After reviewing the affidavit, defense counsel agreed with the investigator's assessment that the changes in the affidavit were not significant. Moreover, the supplemental affidavit is not formally part of the "record" on appeal, as the appellate record has already been certified - so the district court either erred or did not err based on the record before it.

Nonetheless, to avoid any dispute over whether relevant information is not being made available to the court, appellant Bess asks that, pursuant to Rule 11(h) of the Utah Rules of Appellate procedure, that the supplemental juror affidavit (never submitted to the district court) also be part of the record on this appeal. Appellant Bess does not intend to rely on the supplemental affidavit, but it would be available for the prosecution to use if they believe it to be significant. A copy of the original juror affidavit (already part of the record) and the supplemental affidavit (the subject of this notice) are attached to this notice. To protect the juror's privacy, her name has been redacted from both affidavits.

On December 21, 2017, defense counsel contacted the Utah State Bar's Office of Professional Conduct ethics hotline about how to handle the issue

of the supplemental affidavit, suggesting a motion to supplement via Rule 11(h). The Office of Professional Conduct advised that while such an additional step appeared to be unnecessary to satisfy the ethical obligations of defense counsel, a motion to supplement the record might be a good idea to avoid any confusion.

This notice has previously been provided to the State, which takes the position **[INSERT POSITION OF THE STATE HERE]**_____.

For all the reasons described herein, this Court should supplement the record on this appeal with the attached supplemental affidavit of a juror in the case.

Respectfully submitted on December __, 2017.

PAUL G. CASSELL
Counsel for Appellant

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was provided to opposing counsel via email.

/s/ Paul Cassell

PAUL G. CASSELL

Robert Church

From: Robert Church
Sent: Friday, December 22, 2017 12:15 PM
To: Lindsay Jarvis
Subject: RE: correcting Mr. Wardle's false and defamatory email

Lindsay,

Thank you for your e-mail. I understand and appreciate your concerns. I also appreciate knowing that the forum, when used as it is intended to be, can be a useful tool.

Whatever the Council decides to do, this will be a learning experience for us all.

Have a wonderful holiday season. My best to you and your family.

Bob

Robert J. Church

Director, Utah Prosecution Council
5272 College Drive, Suite 200
Murray, UT 84123
rjchurch@agutah.gov
O. 801.281.1212
C. 801.921.3274
upc.agutah.gov



Training and Serving Utah Prosecutors Since 1990

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Sent: Friday, December 22, 2017 12:00 PM
To: Robert Church <rjchurch@agutah.gov>
Subject: Re: correcting Mr. Wardle's false and defamatory email

Bob,

Thank you for taking the time to review this information. I sincerely apologize that you've been put in the middle of this situation. I wanted to speak with you privately, as a former colleague, and someone I would consider a friend, in regards to my feelings about this.

I just had a chance look at your last email, and on a personal note, I wanted to let you know that neither myself, nor members of my firm are members of UACDL. The UACDL's forum was used to "bash" Keith Stoney when he was on the bench. As such, when we "switched sides," we purposefully avoided the UACDL and declined invitations to join their forum. We do not promote, nor do we get involved in that sort of unprofessional banter.

That being said, I want you to know that I did benefit from the UPC's list serve when I was a prosecutor.

When I was a member, I was always advised that it was a place to seek advice and request assistance from other prosecutors who may be experiencing similar issues.

Especially as a young attorney, I paid close attention to the communications, as I was constantly trying to learn and develop my legal mind. Please understand, it is this same mindset that makes this particular situation so disturbing for me. I personally feel that Mr. Wardle could have solicited advice in the forum without making unprofessional and demeaning comments, and certainly without communicating false statements.

As a defense attorney, I literally practice in almost every jurisdiction in this State. As such, I am engaging in discussions with prosecutors regarding the resolution of cases on a daily basis. Mr. Wardle's defaming email may not have the same impact on prosecutors who work with me routinely, but the next time I travel to a remote location and interact with a prosecutor who doesn't know me, or who may be new to prosecution, this email will precede me. They will be wondering whether I altered documents, surreptitiously contacted and leaked information to the media, and whether I associate with "incredibly unethical" attorneys like Paul Cassell. It's unfair, and it's unnecessary, and it clearly has the potential to damage my ability to practice effectively.

I've always held you in high regard, and I've always valued my relationship with members of the UPC. At the end of the day, the forum is only as effective as those who are using it. When used appropriately, the forum is incredibly helpful to practicing prosecutors. However, when used inappropriately, it becomes a place that promotes hate and discontent, as well as unprofessional and uncivil behavior. We are attorneys. We are supposed to be professionals. Even if the defense bar is practicing this behavior, I don't feel as though the UPC should promote it. The UPC is better than this. Personally, I guess I expect more from prosecutors. I expect fairness and professionalism, and that's why I hope this situation can be used as an opportunity to prevent this sort of behavior from continuing.

That being said, I again apologize that you've been put in the middle. I hope this issue can be addressed quickly. You have been incredibly responsive, and we do appreciate that.

I hope you have a great holiday. Thanks for all that you do. Merry Christmas!

Lindsay

Sent From My iPhone

On Dec 22, 2017, at 10:55 AM, Robert Church <rjchurch@agutah.gov> wrote:

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<image001.jpg>

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