

UTAH PROSECUTION COUNCIL MEETING

PENDING AGENDA

Wednesday, April 26, 2017, 10:30 a.m.
Salt Lake County District Attorney's Office
111 E Broadway Ste 400
Salt Lake City Ut 84111-5232

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

- I. Name Tents
- II. Approval of the minutes from the January 20, 2017 meeting - Steve **Tab A**
- III. Appearance by Ed Berkovich
- IV. Berkovich GRAMA Request, **Tabs B, C**
- V. UPC Conferences - Bob and Marilyn
 - A. 2017 Conference Schedule, **Tab D**
- VI. Financial Report - Bob
 - A. Surcharge FY17 and Year to Date, **Tab E**
 - B. FY17 Budget Comparison Report, **Tab F**
- VII. Training Committee Report - Steve
 - A. 2017/18 Conference Schedule, **Tab G**
- VIII. UPAAs Report - Marilyn/Haley
- IX. Resource Prosecutor Reports
 - A. Tyson: **Tab H**
 - B. Replacing the Domestic Violence/Sexual Assault Resource Prosecutor
- X. IT Issues - Ron and Bob
 - A. PIMS
 - B. Case Management RFP
- XI. Reports From UPC Reps on Various Committees, **Tab I**
- XII. Other Business
 - A. UPC's Temporary Offices
 - B. Election of Region I Council Member
 - C. Open Meetings Act Review as it Pertains to UPC
 - D. Civility Discussion
 - E. Donation to Utah Journal of Criminal Law
 - F. Survey Monkey
- XIII. Next meeting: June TBD, Location TBD
- XIV. Adjourn

Director's Summary of UPC Agenda Items

- I. Name Tents
 - A. To lend a more official air to our meetings, I'm asking that each Council Member sit in front of their name tent.
 - B. This will allow new members and visitors to know who the voting Council Members are.

- II. Approval of the Minutes.
 - A. See the enclosed pending minutes from the January 20, 2017 , meeting. *Tab A*

- III. Appearance by Ed Berkovich
 - A. At the Council's last meeting it was decided to give Mr. Berkovich the opportunity to appear before the Council to raise those issues he is concerned with.
 - B. Steve Garside contacted Mr. Berkovich and extended the invitation, notifying him of the date, time and location of the meeting.

- IV. Berkovich GRAMA Requests,
 - A. February 9, 2017. Records Request #17-024, Audio recording from closed-door Council session, June 24, 2016. All the documents in my possession related to this request are included in *Tab B*.
 1. Mr. Berkovich filed a GRAMA request for a copy of the closed-door session. I was forwarded a copy of the request from Lonny Pehrson, Government Records Counsel, AG's office.
 2. No recording was made due to the exception noted in UCA 52-4-206, when the purpose of the meeting is to discuss the character of an individual, not an employee. After the motion was made, the Council took a short break while those not staying for the closed door session left the room.
 3. As Council members reconvened the conversation focused on the character, professional competence, or physical or mental health of an individual and the recording was not turned on.
 - a. After reviewing statute, the recording should have been turned on, the purpose of the closed door session stated on the record, then the recorder should have been turned off.
 - b. This procedure will be followed in the future.
 4. Per statutory requirements as to why the meeting was not recorded, the Chair of the Council submitted a supporting affidavit why there was no recording.
 5. Mr. Berkovich filed an appeal, requesting clarification stating that the reason the Council went into closed door session, based upon the Agenda and Motion was at odds with Chair Garside's stated reason in his affidavit.
 6. He further argued that case law does not support a public body going into a closed-session to discuss the character, professional competence or physical

- or mental health of a non-employee.
 - 7. The AG's office responded to his appeal.
 - 8. Mr. Berkovich filed an appeal with the State Records Committee. The AG's office responded to his appeal.
 - 9. I have not received any notice from the State Records Committee on their decision.
 - B. March 12, 2017. Records Request #(unassigned number), Copy of Personnel File, Tab H and Memo Addressing Three Issues. All the documents in my possession related to this request, except for the contents of Mr. Berkovich's personnel file, are included in **Tab C**.
 - 1. Mr. Berkovich filed a request for the above listed items. I requested the Human Resources Manager of the AG's office provide me with a copy of his personnel file. Once I received it, I forwarded all the requested information to Mr. Pehrson.
 - 2. I never received copies of any response sent to Mr. Berkovich. I requested copies prior to preparing this Agenda but have not received them yet.
- V. UPC Conferences - Bob and Marilyn
 - A. 2017 Conference Schedule, **Tab D**
 - 1. Spring Conference
 - a. April 27, 28, 2017
 - b. Riverwoods Conference Center, Logan, UT
 - c. Numbers
 - d. Remote Broadcast
 - (1) Will be broadcasting to three locations in Salt Lake; 2-DA's office, 1 AG's training room and 1 in Utah County
 - 2. Regional Legislative Updates
 - a. Have not yet set the dates. Hope to have that for you next week.
 - (1) Since we are holding Spring Conference in Logan our plan is not to conduct regional training in Cache of Box Elder counties, unless the Council directs otherwise.
 - (2) When the update has been held in Salt Lake County, we traditionally have not conducted regional training in Salt Lake.
 - 3. UPAA Conference
 - a. "Fossils, Footprints & the Bones of What We Do"
 - b. June 21-23, 2017
 - c. Uintah Conference Center
 - 4. UMPA Conference
 - a. August 3-4, 2017
 - b. St. George Courtyard
 - 5. Basic Prosecutor Course
 - a. August 14-18, 2017
 - b. University Inn, Logan
 - B. CLE Fee
 - 1. The CLE processing fees have not gone up. Disregard from last meetings discussion. It was a typo.

- VI. FY 16/17 Financial Report - Bob
 - A. Surcharge Report *Tab G*
 - 1. Monthly totals since last meeting.
 - a. Jan 17: \$37,157.86 Jan 16: \$40,036.65
 - b. Feb 17: \$42,183.85 Feb 16: \$49,969.33
 - c. Mar 17: \$47,396.61 Mar 16: \$53,788.07
 - B. FY17 Budget/Comparison Report, *Tab H*
 - 1. SWAP reimbursed UPC for the net cost of Civil Conference in the amount of \$12,545.31

- VII. Training Committee Report - Steve Garside

- VIII. UPAAC Report - Marilyn/Haley
 - A. UPAAC Conference

- IX. Resource Prosecutors
 - A. Tyson: *Tab G*
 - B. Replacing the domestic violence/sexual assault resource prosecutor (DVSARP)
 - 1. With the passing of HB0200 UPC will receive dedicated funding in the amount of \$186,000 for a prosecutor to work with DPS to develop trauma informed training.
 - a. All officers must be initially trained by July 2018
 - b. Detectives must receive advance training by the following year
 - 2. These funds will cover:
 - a. salary
 - (1) the amount budgeted for salary is that of a Grade 5 attorney (what Donna would have made had she stayed)
 - (a) this will allow the Council to hire someone with many years experience or expertise
 - (b) it means the Council could pay this person more than an attorney in the AG's office with the same bar date
 - b. ongoing training for the trauma prosecutor
 - (1) attendance at 3-4 conferences per year
 - c. some administrative expenses
 - (1) phone
 - (2) supplies
 - d. some in-state travel
 - 3. Rep Romero intends that this person also do training on domestic violence
 - 4. Timeline
 - a. Funding will not begin until July 1, 2017
 - b. Because we are occupying temporary offices, there is no office available for the DVSARP
 - c. Until we know where and when we will be moving into permanent offices I can't replace this position
 - d. Once we know a date, I will open the position approximately 30 days prior to moving into permanent offices
 - e. I will ask Donna to help with the interviews

- X. IT Issues
 - A. PIMS
 - 1. Users continue to dwindle in number
 - 2. Few offices will continue to use it
 - B. Case Management
 - 1. Because of state purchasing statute, I can't give you specific details at this point. However, I can tell you the following.
 - a. RFP Issued and vendors submitted proposals.
 - b. The evaluation committee met and reviewed the initial proposals.
 - (1) Voting Committee Members
 - (a) Scott Sweat - Wasatch County
 - (b) Jared Eldridge - Juab County
 - (c) Doug Johnson - Sandy City
 - (d) Ed Montgomery - South Jordan City
 - (e) Haley Christensen - Utah County
 - (f) JoEll Rowley - Wasatch County
 - (g) Ron Weight - UPC
 - (2) Non-Voting Members
 - (a) Bob Church - UPC
 - (b) Marilyn Jaspersen - UPC
 - (c) Christopher Jennings - Contract Analyst
 - c. Those companies that achieved a minimum score of 700 have been invited to give a live presentation.
 - d. Live Presentation
 - (1) Tuesday, April 25, 2017
 - e. Cost Evaluation Meeting and Announcement of Award
 - (1) Tuesday, May 2, 2017

- XI. Written Reports From UPC Reps on Various Committees/Commissions
 - A. State Advisory Board on Children's Justice - Craig Johnson, Utah County
 - 1. Committee meets this Friday, April 21, 2017.
 - 2. Still working on fixing amending 1102 on the CJC video admissibility issue.
 - B. Criminal Law Section, State Bar - Janise McAnas, AG's Office
 - 1. As for the Criminal Law Section, they are finalizing two CLE's ahead, one the end May and another the end of June, 2017 for the section members. The topics, speakers, etc are being finalized.
 - C. Indigent Defense Trust Funds Board - Brody Keisel, Sanpete County
 - D. Justice Court Subcommittee - Ed Montgomery, South Jordan City
 - E. Sentencing Commission - Scott Garrett, Iron County

- XII. Other Business
 - A. UPC has temporarily relocated to the second floor of the AG's College Drive Campus. We've been told that we'll move to the third floor once the State Fire Marshall moves out.
 - 1. New address:
 - a. 5272 College Dr., Suite 201, Murray, UT 84123
 - 2. New phone numbers:
 - a. Bob: (801) 281-1212

- b. Marilyn: (801) 281-1208
 - c. Tyson: (801) 281-1209
 - d. Ron: (801) 281-1234
 - 3. New e-mail addresses:
 - a. Bob: rjchurch@agutah.gov
 - b. Marilyn: mjasperson@agutah.gov
 - c. Tyson: tskeen@agutah.gov
 - d. Ron: rweight@agutah.gov
- B. Election of UPC Region I Council Member
 - 1. Jann Farris's term expires June 14, 2017
 - 2. I've sent letter to all voting members of Region I and ask that they be prepared to nominate and vote on who their representative will be at UCDAAs meeting next Wednesday evening
 - a. Box Elder County - Steven Hadfield
 - b. Cache County - James Swink
 - c. Davis County - Troy Rawlings
 - d. Morgan County - Jann Farris
 - e. Rich County - Gary Heward
 - f. Weber County - Chris Allred
- C. Open Meetings Act Review as it Pertains to the Council
 - 1. Public Notice
 - a. Post notice in our building
 - b. Utah Public Notice Website
 - c. Provide notice to at least one newspaper of general circulation
 - 2. Minutes
 - a. Pending v. adopted
 - (1) Pending minutes will contain the following statement as a header to each page. This is per statute.
 - (a) *These pending minutes have not been approved by the Utah Prosecution Council and are subject to change until approved and adopted by the Council.*
 - 3. Location
 - a. Open to the public.
 - b. What is the SLDA's policy if a member of the public wants to attend the meeting when it's held in their offices?
 - 4. Closed Meeting
 - a. May only be held if a quorum is present;
 - b. 2/3's vote to go into closed meeting;
 - c. The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:
 - (1) reason(s) for the holding the closed meeting;
 - (2) location where the closed meeting will be held;
 - (3) vote by name of each member either for or against the motion for a closed meeting
 - d. Purpose of a closed meeting may only be for:
 - (1) discussion of character, professional competence, or

- physical or mental health of an “individual”
 - (2) pending reasonably imminent litigation
 - e. Record of Closed Meeting
 - (1) Shall make a recording of the closed portion of the meeting; and
 - (2) May keep detailed written minutes that disclose the content of the closed portion of the meeting
 - f. Recording of Closed Meeting
 - (1) complete, unedited from commencement through adjournment of the closed meeting
 - g. Written and audio recording shall include:
 - (1) date, time and place of meeting;
 - (2) names of members present and absent;
 - (3) names of all other persons present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of the closed meeting.
 - h. Written and audio recordings are protected records
 - i. Exception to requirement of “shall” make a recording and “may” keep detailed written minutes:
 - (1) when the purpose is to discuss the character, professional competence, or physical or mental health of an “individual”
 - (2) person presiding shall sign a sworn statement affirming the sole purpose for closing the meeting was to discuss one of the exceptions

D. Civility Discussion

1. Russell Smith, General Reyes designee, was placed in a difficult position at the last Council meeting as he had no knowledge about how the AG’s office was using funds earmarked for training municipal and county prosecutors in the prosecution of domestic violence.
2. It was a heated discussion without the benefit of anyone with knowledge or authority to speak on behalf of the AG’s office.
3. We all understand we must treat opposing counsel with civility but we should also treat fellow Council Members with equal of greater civility.
4. Possible Solutions
 - a. Not discuss volatile issues that may affect a Council Member(s) unless the actual Council Member(s) is/are present.
 - (1) Table the issue for the next meeting if need be
 - b. When Council Members sends a designee, it is incumbent upon the Council Member to fully brief the designee on the issue so they can speak on behalf of the Council Member.
 - (1) Marilyn informed me of Mark’s policy on this issue which I will adopt.
 - (a) “Designee, are you familiar with this issue? Are you prepared to discuss this issue? Do you have authority to make a decision on this issue?”
 - (b) If any of the answers are “no” I will suggest the

issue be tabled.

- c. Specifically put Council Member on notice of any issue that may arise.
 - (1) I will try to make the Proposed Agenda and Director Summary clearer if there is an issue to be addressed.
 - (2) This presents a challenge if the issue arises during Council Meeting.
- E. Donation to the Utah Journal of Criminal Law
 - 1. Questions from last Council Meeting
 - a. While it is the stated intent that every prosecutor, defense counsel and judge in the state receive a copy, that was not the case. The mailing address was terribly outdated and did not include every possible candidate.
 - (1) I'm cleaning up the prosecutor side of the mailing list to ensure every current prosecutor is on it.
 - b. Subscription Fees have never been charged for the Journal and the preference is not to have to charge a fee.
 - c. Online version is available but it receives very little traffic. There is no one who actively monitors the webpage or who can send out notices that an online edition is available.
 - 2. I have drafted a letter seeking donations that will be sent to the large criminal defense firms in the state. For their donation, they will receive free advertising space in the Journal.
 - a. Discussion on the issue of making a donation.
- F. Survey Monkey
 - 1. That went out and I've received many responses. I just haven't had the time to create new mailing lists.
 - 2. I will work on it in small steps.

XIII. Next Meeting: June

- A. Date and Location TBD

XIV. Adjourn

Tab A

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**UTAH PROSECUTION COUNCIL
Friday, January 20, 2017
Utah Association of County's Office
5397 S. Vine Street
Murray, Utah**

PENDING MINUTES

UPC : 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
Sim Gill, Salt Lake District Attorney
Barry Huntington, Chair-elect Garfield County Attorney
Russell Smith, Deputy Utah Attorney General (*attending for Spencer Austin, designee of General Reyes*)
Scott Stephenson, Deputy Director of P.O.S.T (*designee of Commissioner Keith Squires*)
Scott Sweat, Wasatch County Attorney

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

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

GUESTS: Jeff Buhman, Utah County Attorney
Paul Boyden, Executive Director, SWAP
Will Carlson, Deputy Salt Lake County District Attorney
Andy Choate, Assistant United States Attorney, District of Utah

I. WELCOME AND WELCOME TO HALEY CHRISTENSEN

- A. The Council members were welcomed and the meeting convened.
- B. Welcome to Haley Christensen, new UPAA Chair, from Utah County Attorney's Office. She replaces Christine Stevens.

II. APPROVAL OF THE OCTOBER 6, 2016 MINUTES

- A. Barry Huntington made the motion to approve the minutes from October 6, 2016 with the amendment to page 2, IV. C. from "Reimbursement from SWAP" to read "Reimbursement from SWAP Board and page 2, IV. C.1.a from "Continuing the discussion regarding SWAP reimbursing" to read "Continuing the discussion regarding

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SWAP Board reimbursing” Russell Smith seconded the motion and it passed unanimously.

III. UPC CONFERENCES

A. Completed Conferences

Bob Church gave an in depth report on the following completed conferences. Please refer to the Director’s Summary for details.

1. Government Civil Practice Report:
Overall Civil Conference was a great success. Total budget was \$16,000. The gross cost came in at \$16,220.31. After crediting the registration fee, the net cost of the conference was \$12,453.31 to the good.
2. County Attorney Executive Seminar:
The discussions at the seminar were productive. One major decision was to hold Spring Conference the same time as the judicial conference, April 27-28, 2017. The only venue available from Utah County to Cache County was the Riverwoods Conference Center in Logan. Bob indicated that an announcement will be published well in advance. Total budget for this event was \$1,500.00, net cost was \$1,600.53. Leaving this line item \$100.53 over budget and pending the MCLE Fees yet to be determined and paid by UPC.

B. 2017 Conference Schedule

1. Spring Conference:
As stated above, the Spring Conference will be held the same time as the judicial conference on April 27, 28, 2017 at the Riverwoods Conference Center, Logan, UT. Bob reviewed the agenda.
2. Expert Witness in DV and Sexual Assault Cases “Creation” Conference:
UPC has been working with the Salt Lake County District Attorney’s Office to bring this training to Utah on March 28-29, 2017 at the Veridian Center. Presenters will include Donna Kelly and an instructor from Aequitas. The conference is designed to develop expert witnesses in the areas of DV and Sexual Assault. Attending prosecutors will be asked to bring with them individuals who they want to develop as expert witnesses; i.e., officers, victim advocates. It is by invitation only at this point. Funding provided by the Salt Lake County District Attorney’s office.
3. Title 3 Wiretap Conference:
At the request of Rich Hamp, Salt Lake County District Attorney’s Office, Bob inquired if the council would be interested in co-sponsoring, in terms of funding and other resources, such a conference. After a lengthy discussion, it was the consensus of the Council to co-sponsor a Title 3 Wiretap Conference. It was recommended that it be a one to two day, A to Z training. Attendees to include 15 prosecutors and 30 law enforcement. Suggested places to hold the event was either the Veridian Center, the U.S. Attorney’s new facility or at POST where it could be filmed. Bob will reach out to prosecutors for feedback and begin putting a training together.

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C. CLE Fee

Bob indicated that UPC was notified that the Bar would be increasing the cost of processing CLE fees from \$15 to \$20. Currently, as required by State of Utah Supreme Court - Board of Continuing Legal Education. Rule 14-417 Miscellaneous Fees and Expenses requires that all Utah CLE sponsors who offer any course for a fee shall pay to the Board, within 60 days of presenting the course, a fee of \$1.50 per credit hour per attendee. The \$1.50 per credit hour fee with a cap at \$15.00 per attendee. UPC staff proposed raising all conference registration fees by \$5 to cover this additional cost. In other words, the MCLE cost is per attendee who attends a particular UPC conference. For example, 2016 Spring Conference MCLE Fees paid to the Bar was \$3,262.00 and 2016 Fall conference was \$1,328.00. After a lengthy discussion, Russell Smith made the motion to increase the cost of UPC's registration fees from \$75 for public attorneys, law enforcement to \$80 and from \$300 to \$305 for private attorneys. Sim Gill seconded the motion and the motion passed unanimously.

IV. FINANCIAL REPORT

Bob Church made the following financial report. Additional information is included in the Director's Summary.

A. Surcharge FY16/17 Report:

1. December 2016 surcharge receipts ended at \$36,657.76 as compared to the 2015 December surcharge receipts that end at \$40,811.85. Bob noted that the October number was a typo and would be corrected at the next meeting.

B. FY17 Budget/Comparison Report:

1. Bob Church indicated that the budget has remained relatively the same as reported and adopted at the October 2016 UPC meeting. However, there are a couple of changes.
 - a. Donna's salary under the SV grant was approved by CCJJ and with an additional 5% salary increase through the end of FY17. Also, because Donna has reached the 5-year mark, she was awarded a \$500 annual pay increase as part of the AG attorney compensation plan.
 - b. Bob's request to be reimbursed by the SWAP Board for the net cost of the Government Civil Practice Conference was approved. Accordingly, Bob will submit an invoice in the amount \$12,545.31.
 - c. Donation to Utah Journal of Criminal Law?
Bob inquired if the Council would be willing to authorize a donation to the Journal. He explained that the Journal's printing costs were erroneously covered by Utah's law school up to this point and now is without a funding source. The price to print one edition is approximately \$5,000 for 1,200 issues. Issues are sent to all prosecutors, public defenders and judges. The Council responded that given the Journal's dissemination history, as some prosecutors have never received the

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Journal and that there was a subscription fee paid by some prosecutors in the past, they suggested that the Journal consider other cost effective methods such as an online journal. UPC would be willing to make the Journal available through a link on the UPC website.

V. TRAINING COMMITTEE REPORT

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

- A. The committee set the agendas for the 2017 Spring and Fall Conferences. The committee discussed possible replacements for Laura Dupaix and Matt Bates. Suggested individuals included John Nielsen, Assistant AG; Peter Leavitt, SLDA's Office; Marlesse Jones, Chief Prosecutor, Layton City Attorney's office and Richard Larsen, Deputy Davis County Attorney. It also set the 2017 training schedule which was reviewed with the Council. A continued discussion and consideration for using distance learning techniques, such as webinars, to expand the UPC training effort. The committee discussed training ideas for 2018.
- B. In addition to the training events mentioned above, the Council suggested a training on active shooter training/threats to prosecutors. Layton City and SLDA's office has held an active shooter training for their office and found it beneficial.
- C. The Training Committee will next meet on Friday, March 17th.

VI. UPAA

Haley Christensen, UPAA Chair and Marilyn Jaspersen gave the following report.

- A. The UPAA conference will be held June 21-23, 2017 at the Uintah Conference Center in Vernal, Utah. The Board has met and is drafting its agenda.
- B. New Board members are Janice Evans, Hurricane City and Karyn Walker from Provo City.
- C. At the 2016 November County Attorney Executive Seminar, 12 attorney's took a condensed version of the Certified Utah Prosecutorial Assistants (CUPA) exam. Two of the 12 county attorneys passed. Feedback from the attorney's was very valuable and will help when the Board updates the exam. The exam will be refreshed by retiring some questions and developing new ones. On behalf of the Board, Marilyn expressed appreciation for their participation.

VII. RESOURCE PROSECUTORS REPORTS

- A. Donna Kelly was excused. Please refer to the SA/DVRP report as outlined in the handouts.
- B. Tyson Skeen referred the Council to the TSRP report outlined in the handouts.
 1. Tyson indicated he is willing to provide DUI training anytime and/or assist with any in-house training.
 2. He offered his services as a resource in DRE cases. He would like to see a presentation concerning DRE at the UMPA conference.

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3. It was suggested to include Ambien defense as one area in the DRE cases.

VIII. IT ISSUES

In addition to the in depth report in the Director's Summary, Ronald Weight and Bob Church gave the following PIMS report.

A. UPC Webpage

1. Ron presented UPC's Webpage new design and demonstrated some of the new features.

B. Management System:

Bob reported that UAC has applied to CCJJ for a \$500,000 grant for the purchase of a case management system for the benefit of Counties, either LeadProsecutor or JustWare. As a result, Bob will be making a few changes to UPC's RFP and most likely UPC's grant will be used to purchase a case management system for cities. Because UPC has to go through the RFP process, there is a real possibility that it may not be the same system as the counties. Bob suggested that probably there should be more city reps to sit on the evaluation committee than county reps. Jann Farris agreed to give up his seat. Bob will also reach out to other city prosecutors.

IX. .5% SURCHARGE TO BE USED TO TRAIN STATE AND MUNICIPAL PROSECUTORS IN THE PROSECUTION OF DOMESTIC VIOLENCE

In addition to the report in the Director's Summary, Bob Church made the following report.

- A. Bob stated that the pass through \$15,000 for the CJC Symposium-DV Conference is included in the \$78,000. He has requested its return to UPC but has yet to receive an answer. Since 2008, the \$15,000 has been going to help with expenses for the CJC Symposium-DV Conference for its DV training. Prior to 2008, it went to UPC for the DV Conference and DV training.
- B. Sim Gill expressed concern over how the \$78,000, or at least \$63,000, has been expended for the last five to six years if there were to be an audit. It could potentially put the AG's office in a bad light. He suggested that the Council reach out to the AG's office. The Council will suggest that if the AG's office is not going to use this funding for DV training then the total \$78,000 ought to come to UPC. UPC will then conduct DV training and/or hire an FTE to conduct the training as required in the statute.
- C. The AG's response has been that they would look at this issue. If the UPC were to get the entire amount then they may have to reevaluate what UPC is being charged for services such as office space and use of AG's Admin/finance services. That amount is currently \$15,000. Sim Gill asked if the AG's office is billing all offices/agencies rent as well. No one knew the answer. As it states in Title 67 – State Officers and Employees Chapter 6a - Utah Prosecution Council, 67-5a-1. 1) "There is created within the Office of the Attorney General the Utah Prosecution Council." Councilman

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Gill vehemently stated that UPC should be able to fulfill its mandated purpose and not be treated differently than any other AG office/agency in terms of proper and justified allocation of funding, billing for office overhead and administrative services.

- D. Bob indicated he had two meetings with Spence Austin and Craig Barlow where they discussed the language in the statute concerning the \$78,000. Bob also met with the new Budget Director and made her aware of the issue as well as the AG's Chief of Staff. To date, he has not heard anything back.
- E. In addition, Bob indicated that per the Council's guidance from the October's meeting, he drafted a proposed MOU and gave it to Spence and Craig for their review as well as a copy to UPC Chair Steve Garside.
- E. The Council discussed the current relationship between UPC and the AG's office. It is recognized that Bob has to balance his relationship with the AG's administration as well as representing the Council and the potential conflict this can create.
- F. Bob was directed to follow up with Spence Austin and Craig Barlow. He will keep the Council apprised as things develop.

X. MINUTES FROM OCTOBER 21, 2015 EMERGENCY COUNCIL MEETING

In addition to the in depth report in the Director's Summary, Bob Church gave the following report.

- A. Bob reported that Mr. Berkovich made a request to correct the minutes of October 21, 2015 meeting. Please refer the Director's Summary under X., XI. After discussing the request, the Council agreed not to allow a correction to the October 21, 2015 minutes as the minutes reflect what happened. Steve asked the Council if they would like to add information as an addendum. Councilman Farris stated that it wasn't a good policy to allow someone to rewrite the minutes who was not in attendance. Jann Farris made the motion to not allow any correction to the minutes or add an addendum to the minutes as they should stand on their own. Scott Stephenson seconded the motion and the motion passed unanimously.
- B. As a follow up, Bob referred the Council to item X., D., 2., regarding another email from Mr. Berkovich requesting "At least two more corrections possibly needed to UPC minutes for 11/21/15 [sic] emergency council meeting." This second request pertains to recording the minutes and posting the recording on the UPC webpage. In light of the discussion of the first request, the Council agreed that the previous motion applies to this request and would not change the outcome. Jann Farris made the motion to not allow any correction to the minutes as stated above, XI. A. Russell Smith seconded the motion. The motion passed unanimously.
Bob indicated that as required he has instructed Ron to post council meeting minutes on the UPC webpage. In this particular matter, he did not forward these minutes of the open meeting to be posted because it had to do with personnel issues and he wanted to respect Mr. Berkovich's privacy. Bob asked the Council whether he should post them. The Council directed Bob not to post these particular minutes. Steve informed the Council that his office has received a GRAMA request from Mr. Berkovich and possibly Council members will be receiving one as well.

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XI. BERKOVICH GRAMA REQUEST: STATUS

Bob reviewed the brief history of the GRAMA requests from Mr. Berkovich, UPC's response, e-mail traffic and the AG's response. Copies of all documents associated with these requests can be provided to the Council upon request. Hearing no questions. Bob moved to the next item.

XII. REPORTS FROM UPC REPS ON VARIOUS COMMITTEES

In addition to the in depth report in the Director's Summary, Bob reviewed the brief summary on the various UPC reps that serve on the following committees: State Advisory Board on Children's Justice-Craig Johnson; Criminal Law Section-Janise Macanas; Indigent Defense Trust Funds Board-Brody Keisel; Justice Court Subcommittee-Ed Montgomery; and Sentencing Commission-Scott Garrett. Bob will make another update at the next meeting.

XIII. OTHER BUSINESS

A. Developing In-State Experts

Bob mentioned that after Fall Conference several people mentioned the need to develop or foster a mental health expert that we once had in Creighton Horton. Also, a Title 3/Wiretap expert was suggested. Hearing no comments. Bob moved to the next item.

B. Representative Romero's Rape Kit Processing Amendment

Bob indicated that he and Donna recently learned about this bill (later numbered as HB0200) which will require UPC and the Department of Public Safety to develop and offer training in trauma-informed response and investigation of sexual assault and sexual abuse. It states that the training of all officers must be done by July 1, 2018 but that it could include on-line training. It also included an advanced training course for officers who investigate cases of sexual assault or abuse. Ned Searle is planning on asking for funding for a full-time position, such as the one Donna has. If the funding does not come through, UPC would be hard pressed to absorb this additional mandate.

C. Changes to UPC Statute

Bob stated that in December UPC staff began working on proposed changes to the UPC statute. Bob will keep the Council apprised of its progress.

D. Audit of Utah's Monetary Bail System by the Office of the Legislative Auditor General (OLAG)

In addition to the in depth report in the Director's Summary, Bob informed the Council that on January 17, 2017 Andrea Parrish an Audit Supervisor of OLAG contacted him regarding OLAG had conducted an audit of the two types of monetary bail commonly used in Utah's District Courts. The report is currently protected but will be released in the near future. She called Bob based on one of the recommendations which states "We recommend that the Administrative Office of the Courts provide ongoing training to judges, clerks and prosecution regarding requirements for completing the forfeiture process." The AOC expressed concern that they had no authority to train prosecutors and referred Andrea to Bob. As a result of the meeting, the language was modified to read 'We recommend that the Administrative Office of the Courts provide ongoing

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training to judges, clerks, and coordinate with prosecuting attorneys to receive training regarding statutory requirements for completing the forfeiture process.” Potentially, UPC would be willing to do an hour training at a Fall Conference. Bob indicated to Andrea that whatever training the court or clerks plan, they need to include prosecutors so everyone is receiving the same training.

- E. Possible Office Move to College Drive
Bob was made aware that UPC’s offices maybe relocating to College Drive in Murray. Details will be forthcoming.
- F. National Association of Prosecutors Coordinators (NAPC) (Bob’s national counterpart organization)
Bob informed the Council that he is the Chair of its Finance Committee. Bob has been encouraged by the Executive Director to apply for the NAPC’s Board of Directors at the July 2017 meeting. Also, UPC will be hosting the NAPC 2017 winter meeting to be held in Springdale, Utah!
- G. Cleaning Up Mail Lists
Bob indicated that a “Survey Monkey” survey will be sent out to everyone on UPC’s mailing lists in an effort to determine what kinds of emails attorneys want and to help clean up those lists.

XIV. CLOSED DOOR SESSION

- A. Jann Farris made the motion to move into a closed-door session. Scott Stephenson seconded the motion and it passed unanimously.
- B. The Council reconvened.

XV. COUNCIL MEETING RECONVENED OPEN DOOR SESSION

- A. Salary Increase for Donna Kelly
Bob made a formal request to provide a salary increase for Donna Kelly in the amount of 5.5%. This amount was included in the CCJJ grant. Jann Farris made the motion to grant Bob’s request and increase Donna Kelly’s salary by 5.5%. Scott Stephenson seconded the motion and it passed unanimously.
- B. Review UMAA Appointment of Ed Berkovich
Regarding Mr. Berkovich’s position with UPC and the UMAA appointment. Jann Farris made the motion to review the UMAA appointment of Ed Berkovich at the next Council meeting. Russell Smith seconded the motion and it passed unanimously.
- C. Leadership Challenge Value Exercise
Was tabled for another meeting.

XVI. NEXT MEETING

Wednesday, April 26, 2017, 10:30 a.m.
Salt Lake County District Attorney’s Office
111 East Broadway - 4th Floor
Salt Lake City, Utah

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

XVI. ADJOURN

Pending Minutes

UTAH GOVERNMENT RECORDS REQUEST FORM

TO: Utah Prosecution Council, Utah Attorney General's Office (Name of government office holding the records and/or name of agency contact person.)

Address of government office: 161 East 300 South, 6th Floor, Salt Lake City, Utah 84111

Description of records sought (records must be described with reasonable specificity):

Audio recording of the following: On Friday, June 24, 2016, the Utah Prosecution Council discussed my May 17, 2016, GRAMA request in a closed-door session. (See item XII and the second item IX of the attached minutes. The first item IX of the attached minutes appears to be unrelated.) That closed-door session will have been recorded pursuant to Utah Code § 52-4-206(1)(a). Mr. Church will have taken over responsibility for that recording. (See page 1 of Mr. Church's letter to Parker Douglas dated January 17, 2017 ("Church-Douglas letter")). Reasonable specificity of location of audio recording: UPC IT personnel Ronald Weight's computer. (See Church-Douglas letter, p. 1).

- I would like to inspect (view) the records.
- I would like to receive a copy of the records. I understand that I may be responsible for fees associated with copying charges or research charges as permitted by UCA 63G-2-203. **I do not authorize costs.**
- UCA 63G-2-203 (4) encourages agencies to fulfill a records request without charge. Based on UCA 63G-2-203 (4), I am requesting a waiver of copy costs because:
releasing the record primarily benefits the public rather than a person. Please explain:

I am the subject of the record. (Specifically, I was the subject of discussion in this meeting, as was my GRAMA request dated May 15, 2016).

- I am the authorized representative of the subject of the record.
- My legal rights are directly affected by the record and I am impoverished.
(Please attach information supporting your request for a waiver of the fees.)

If the requested records are not public, please explain why you believe you are entitled to access.

I am the subject of the record.

- I am the person who provided the information.
- I am authorized to have access by the subject of the record or by the person who submitted the information. Documentation required by UCA 63G-2-202, is attached.

Other. Please explain:

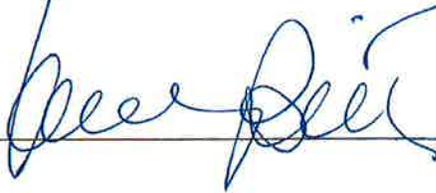
-
- I am requesting expedited response as permitted by UCA 63G-2-204 (3)(b). (Please attach information that shows your status as a member of the media and a statement that the records are required for a story for broadcast or publication; or other information that demonstrates that you are entitled to expedited response.)

Requester's Name: Edward A. Berkovich

Mailing Address: 215 Quince Street, Apt. 8, Salt Lake City, UT 84103

Daytime telephone number: 801 441 9113 Date: February 9, 2016

Signature: _____



UTAH PROSECUTION COUNCIL

Friday, June 24, 2016

**Park City Marriott
1895 Sidewinder Drive
Park City, Utah**

PENDING MINUTES

- UPC : Steven Garside, Chair, Layton City Attorney
Barry Huntington, Chair-elect, Garfield County Attorney
Paul Bittmenn, Cedar City Attorney
Jann Farris, Morgan County Attorney
Stephen Foote, Duchesne County Attorney
Sim Gill, Salt Lake District Attorney
Scott Sweat, Wasatch County Attorney
Christine Stevens, UPAA Chair, Millard County Attorney's Office
- EXCUSED: Sean Reyes, Utah Attorney General
Commissioner Lance Davenport, Utah Department of Public Safety
- UPC
STAFF: Bob Church, Director
Marilyn Jaspersen, Training Coordinator
Donna Kelly, Staff Attorney
Tyson Skeen, Staff Attorney
Ronald Weight, IT Director
- GUESTS: Brock Belnap, Washington County Attorney
Jeff Buhman, Utah County Attorney
Wade Faraway, Assistant Attorney General
Greg Ferbrache, Justice Division Director, Utah Attorney General
Darcy Goddard, Deputy Salt Lake County District Attorney
Will Carlson, Deputy Salt Lake County District Attorney
Jason Sant, Spanish Fork City Attorney
Robert Van Dyke, Kane County Attorney

I. WELCOME. MEMORIES OF CHAD

- A. The Council members were welcomed and the meeting convened.
B. Fond memories were expressed in behalf of Chad Platt who passed away recently.

II. APPROVAL OF THE JANUARY 8, 2016 MEETING MINUTES

- A. Jann Farris moved to approve the minutes from April 13, 2016, seconded by Paul Bittmenn. The motion passed unanimously.

III. REPORT FROM MATT LLOYD, COUNCIL REPRESENTATIVE ON STATE BAR CRIMINAL LAW SECTION

Bob Church gave the following report as Matt was excused. Bob reported that Matt and Tegan Troutner, AAG presented an ethics training at the Bar on "Social Media Pitfalls." The CLE was presented by the Criminal Law Section. Clayton Sims co-presented and gave the criminal defense perspective. After the training elections were held. Joel Kittrell was voted in as the Chair, and John Gunderson, Defense Attorney, as Vice Chair. Also, Mike Bohem, SLDA's Office was made a member of the committee. There was a new member of the committee assigned to work on CLE. Colleen McGee, past Chair, expressed thanks to UPC for Matt's appointment. Bob indicated that he was not aware that UPC should track this appointment, but will watch it more closely in the future. Bob encouraged anyone who would like to submit scholarly articles to the Utah Journal of Criminal Law are welcome to do so.

IV. UPC CONFERENCES

A. Completed Conferences

Bob Church gave an in depth report on the following completed conferences. Please refer to the Director's Summary for details.

1. Regional Legislative Updates
 - a. Was well received. Over 300 officers attended.
 - b. Greg Ferbrache and others from the AG's Justice Division was a new addition to the training. They discussed the various task forces in the AG's office and other services they can provide. They mentioned the VIRTRA trainer. We plan to have them come every year.
2. CJC/DV Conference
 - a. Held May 16-18, 2016
 - b. Great attendance from prosecutors. Great reviews asking for the same prosecutor track next year.
 - c. Keynote speakers were almost all suggested by Donna/UPC.
3. UPAA Conference
 - a. June 22-24, 2016, Park City Marriott
 - b. This conference concluded just an hour before the Council meeting. Please refer to VII below for the full UPAA report.

B. 2016 Conference Schedule

In addition to the UPC 2016 Training Schedule the following was mentioned:

1. UMPA Summer Conference - August 4-5, 2016, Ruby's Inn. The focus will be on drug related driving and will be discussing the effects of legalized marijuana and traffic related offenses. There will be some UMPA business matters addressed (i.e., new UMPA By-Laws, election of President, President Elect and Executive Representative and more involvement in MIS-LAC.)
2. Basic Prosecutor Course - August 15-19, 2016, University Inn, Logan, Utah
Draft agenda has been set. AnnMarie Howard has been invited to be part of the full time faculty. She replaces Matt Bates. AnnMarie is a recent graduate of Train the Trainer. There will also be other graduates from Train the Train to start teaching at the course.
3. Fall Prosecutor Training Course - October 5-7, 2016, Uintah Conference Center, Logan, Utah featuring Creighton Horton! The title or theme of the conference is mental issues, "Magical Mystery Tour: What Happens When Your Case Involves Mental Health Issues."
Draft agenda has been set.
4. Government Civil Practice Conference - October 19-21, 2016, St. George Hilton Garden Inn.

- Draft agenda has been set.
- 5 County/District Attorney's Executive Seminar - November 10-11, 2016,
Dixie Center, St. George, Utah

V. FINANCIAL REPORT

Bob Church made the following financial report. Additional information is included in the Director's Summary.

- A. Surcharge Report:
The surcharge report includes receipts through to May 2016. Below are the monthly totals since the last meeting.

- | | | |
|----|---------------------|---------------------|
| 1. | Mar 16: \$53,799.07 | Mar 15: \$52,186.65 |
| 2. | Apr 16: \$48,853.94 | Apr 15: \$57,988.06 |
| 3. | May 16: \$55,338.18 | May 15: \$49,032.16 |

- B. FY16 Budget/Comparison Report:

1. Final grant reimbursement numbers for Donna's and Tyson's salaries and grants will be available until July.
2. Conference registration and PIMS fees continue to come in.

- C. Proposed FY17 Budget

1. Reimbursement from SWAP
 - a. Several years ago SWAP had agreed to reimburse UPC for the costs of Civil Conference. Paul Boyden approached Bob and proposed reimbursing UPC \$42,437.40 for the last five years conferences. UPC has not sought or asked for reimbursed since taking over the coordination of this conference. After a lengthy discussion, it was decided to table this item and forward it to SWAP for their full consideration and response.
3. Non-lapsing Carryover - \$50,000
 - a. This is only a projection based on the past four years.
4. PIMS Income
 - a. The following is how Bob determined the amount:
 - (1) He subtracted those agencies who have already gone to a third party vendor from the list of PIMS users. That would mean UPC would receive approximately \$20,000 in PIMS income.
 - (2) Bob planned for UPC having its own case management system sometime in the next fiscal year.
 - (3) Not everyone will come on board during the next fiscal year, simply due to the amount of time it takes to install the software and work out the bugs.
 - (4) Therefore, Bob projected that our PIMS income would be reduced by half next year and accounted for PIMS income of \$10,000.00.
5. \$105,190.00 carry over.
 - a. Bob didn't show this as income on the first comparison report sent out last week. With this additional income UPC is in a good position financially.

Stephen Foote made the motion to approve the proposed FY17 Budget. Barry Huntington seconded. The motion carried unanimously.

VI. TRAINING COMMITTEE REPORT

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

The committee's next meeting will be October 17-18, 2016. They meet bi-annually, typically, in March and October.

A. New Presenters

1. Steve reported that with Laura Dupaix retiring and Matt Bates taking the bench there is the need to find new presenters. The following individuals were suggested as possible presenters for Spring Conference.
 - a. Ryan Tenney, formerly from the AG's office, now at the U.S. Attorney's office, Blair Wardle with the Box Elder County Attorney's office and Peter Leavitt with SLDA's office.
 - b. John Nielsen, AG's office, has agreed to present the Supreme Court case update at Fall Conference.
6. Will Carlson was introduced. He will be Chad Platt's replacement for the legislative update. Welcome Will.

VII. UPAA

Christine Stevens gave the following UPAA report.

- A. The UPAA conference concluded just an hour before the council meeting.
- B. It was a banner year with 101 in attendance. By all accounts, it was very well received.
- C. Twelve individuals took the CUPA exam. Results on how many passed the exam will be reported at the next Council meeting. The question was asked if the test could be viewed by the bosses. In order to keep the integrity, confidentiality of the test and the scores private of those who take the test, the Board has made it a practice not to release the test or test results. However, to give the bosses a sample of what is on the test a compressed exam will be made available at the County Executive meeting in November. County attorneys will have the opportunity to test their knowledge on criminal and civil questions.
- D. There are two board positions available. Chris will report on those replacements at the next meeting.

VIII. RESOURCE PROSECUTORS REPORTS

- A. Donna Kelly referred the Council to the in depth SA/DVRP report as outlined in the handouts.
- B. Tyson Skeen referred the Council to the in depth TSRP report as outlined in the handouts.

IX. IT ISSUES: PIMS/CASE MANAGEMENT/WEB PAGE

In addition to the in depth report in the Director's Summary, Ronald Weight and Bob Church gave the following PIMS report.

- A. Bar code scanners for conference registration.
 1. Ron has developed a way to create bar codes for individual attendees to scan when they attend a conference. UPAA was the first conference to try out the new feature.
- B. Case Management
 1. Received a 12-month extension through August 31, 2017.
 2. RFP Process
 - a. Met with State Purchasing and got their feedback on the RFP. Bob started making the changes but was interrupted with the legislative updates.

- b. It is hoped to have the changes made, submitted and back from Purchasing by the end of July, early August.
 - c. Will issue the RFP after that.
 - C. PIMS
 - 1. Bob anticipates at least one more year of PIMS billing. Once a contract is entered into for a CMS it will take time to get it installed across the state.

X. UPPAC

Nothing new to report. Bob invited questions. Hearing none, he moved to the next item.

XI. JOHN R. JUSTICE GRANT

Bob Church made the following report.

- A. The application process closed for this year's grant. DOJ's matching requirement does not go into effect until after next year's grant. This means two more years of JRJ.

XII. OTHER BUSINESS

A. Berkovich GRAMA Request

This item was moved to the Closed Door Meeting under IX.

B. UPC's Statute

Bob Church gave an in depth report on this item. Please refer to the Director's Summary for details. Bob will, however, update the Council at the next meeting on the out come of the survey. He will know more if it will be economically possible for UPC to become its own entity, relocate and whether to change the language in the statute from public attorneys to prosecutors.

C. Sexual Assault Kit Initiative (SAKI) Training Prosecutor

Bob Church gave an in depth report on this item. Please refer to the Director's Summary for details. In summary, CCJJ received a grant for a 3/4 time person. This person would develop a victim center approach in investigating, prosecuting and notifying victims of cold case sexual assault cases within Salt Lake County. On June 6th, Bob, Greg Ferbrache, Ned Searle and April Ensign met to discuss the position and the apparent challenges. Greg Ferbrache suggested that it might be a better fit if this person was housed with Heidi Nestel at the Utah Crime Victims Legal Clinic. April and Ned were assigned to approach Heidi. Bob will report the findings at the next meeting.

IX. CLOSED DOOR MEETING

Barry Huntington made the motion to go into an Executive Session. Scott Sweat seconded the motion and the motion passed unanimously. The Council went into closed door session.

X. NEXT MEETING

In conjunction with the Fall Prosecutor's Training Conference.

Wednesday, October 5, 2016

8:30 a.m.

SpringHill Suites by Marriott

1205 West Highway 40

Vernal, Utah

XI. ADJOURN

January 17, 2017

Parker Douglas
Chief Federal Deputy and General Counsel
Office of the Utah Attorney General
350 North State Street, Suite 230
Salt Lake City, UT 84114-2320

Re: Berkovich Appeal, GRAMA Request 20161220175614

Dear Chief Douglas,

I have been asked to respond to Mr. Berkovich's appeal of the above referenced GRAMA request, claiming that a reasonable search for audio recordings did not take place.

Before responding to the specifics of the appeal let me briefly explain how the Utah Prosecution Council (UPC) meetings are recorded and the minutes prepared, the steps taken to record the October 21, 2015 Council Meeting and what steps I took in regards to the original request. I will then offer an opinion as to why there is no audio recording. Finally I will respond to the request.

1. Recording of Council Meeting and Preparation of Minutes.

Prior to each Council meeting starting, Ron Weight, UPC's IT Director sets up a digital recording device that records the meeting to an SD card. There are several microphones scattered around the room that are very sensitive and can pick up sidebar conversations. Ron monitors the equipment during the meetings. **If the Council goes into closed door session, I take over the responsibility of the recording equipment as Ron does not attend those sessions.**

After Council meeting, Ron cuts and pastes the audio files from the SD card to his computer then wipes the SD card clean in preparation for the next meeting. He then prepares the audio files so they can be posted to our webpage. <http://upc.utah.gov/council-meetings.php>

Marilyn Jaspersen, UPC Training Coordinator, takes written notes of each meeting. She then prepares a draft copy of the minutes to be presented at the next Council meeting for approval. Once approved, they too are posted to our webpage. If while preparing the minutes she has questions, she listens to the recording posted to our webpage. It is not her practice to listen to the recording from the SD card or have the SD card in her possession. If the Council

goes into closed door session the Chair of the Utah Prosecutor Assistant's Association (UPAA) who is also a member of the Council, takes minutes during those sessions.

2. October 21, 2015 Emergency Council Meeting and Minutes Preparation.

Knowing the October 21, 2015 Emergency Council Meeting would primarily be a closed door session, I set up the recording equipment. I thought that I had set up the equipment properly, even changing out the batteries of the three microphones. When the meeting began, I remember hitting the "record" button. I thought that I checked to make sure the equipment was recording. As the Council went into and out of closed door session, I hit the appropriate buttons on the recorder.

This meeting was to address the employment status of Mr. Berkovich. Marilyn did not attend this Council session. Christine Stevens, UPAA Chair and Council Member, took minutes of the open and closed door sessions. After the meeting she gathered up her notes only. The other Council members gave me their notes to be shredded. I did not give her the SD card from the recorder. She later sent me an electronic copy of the minutes. The electronic minutes reflect her memory of the meeting and her hand written notes.

3. Original Berkovich GRAMA Request.

Knowing that Marilyn did not prepare the minutes and would not normally have had the SD card in her possession, I did not verify with her that she had a copy of the recording or the SD card. I believed that checking with Ron was the reasonable search required.

Knowing Christine did not have the SD card I did not check with her to see if she was in possession of the card.

I have never had a Council meeting SD card in my office so did not check to see if it had somehow ended up in my office.

4. Further Inquiry, Preparation for UPC's Quarterly Council Meeting and Opinion Regarding the Lack of an Audio Recording.

The Council meets this Friday, January 20, 2017, for their quarterly council meeting. In preparation for this meeting I knew they would want an update on Mr. Berkovich's GRAMA requests. I again verified with Ron that he checked all our SD cards. He confirmed that he has checked all SD cards, that all are blank and that he does not have a recording of the October 21, 2015 meeting on his computer.

Parker Douglas
Berkovich Appeal, GRAMA Request 20161220175614
Page 3

The only conclusion I am left with regarding the lack of an audio recording is either operator or equipment error. I remember pushing the "record" and "stop" buttons. I have no other explanation as to the lack of an audio recording. I did not hide, delete or destroy the SD card or audio recording. I have no reason to believe that Ron or other UPC staff members did either.

5. Berkovich Appeal, Challenging the Reasonableness of the Search.

As explained above, I knew Marilyn would not have had the SD card or a copy of the recording. However, in response to Mr. Berkovich's request, I verified today that Ms. Jasperson does not have, nor ever had, the SD card from the Emergency Council Meeting on October 21, 2015.

Ron is at a conference this week but as previously stated, I had already verified with him a second time that he does not have a copy of the recording and that all SD cards are empty.

I verified with Christine today that she never had the SD card.

UPC's resource prosecutors, Donna Kelly and Tyson Skeen do not have the SD card. Tyson did not work for UPC at the time and Donna has never had Council meeting SD cards in her possession.

UPC's law clerk at the time, Steve Young, has since left UPC's employ. There are no Council meeting SD cards in or around the law clerks desk.

I checked and verified that I do not have any Council meeting SD cards in my office. I do not have any recordings from any Council meetings on my computer.

If there is additional information you or anyone else needs, please let me know.

Respectfully,



Robert J. Church
Director

MEMO

From: Robert J. Church, Director, Utah Prosecution Council 
To: Lonny Pehrson, Assistant Attorney General, State of Utah, Government Records
Counsel
Date: February 14, 2017
Re: Berkovich GRAMA Request

There is no audio recording of the closed-door session of the June 24, 2016 meeting referenced in this GRAMA request. While U.C.A. 52-4-206 generally requires closed-door meetings to be recorded, paragraph (6) provides conditions for which a closed-door meeting may not be recorded.

Per the requirements of paragraph (6) Attachment 1 is a sworn statement from the presiding Council member stating why the meeting was not recorded.

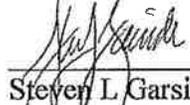
Attachment 1

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

Comes now the affiant, Steven L Garside, Chair of the Utah Prosecution Council, being first duly sworn on oath and says:

1. I am the Chair of the Utah Prosecution Council;
2. On Friday, June 24, 2016 at a regularly scheduled Utah Prosecution Council Meeting, the Council moved to go into closed door session to discuss the character, professional competence, or physical or mental health of an individual, which encompassed a GRAMA request filed by Mr. Edward Berkovich on May 17, 2016; and
3. The sole purpose of the closed door session was to discuss the character, professional competence, or physical or mental health of an individual.

DATED this ¹⁴10th day of February, 2017.



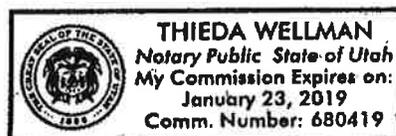
Steven L Garside
Chair, Utah Prosecution Council
Assistant Layton City Attorney

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this 14th day of February, 2017, by STEVEN L GARSIDE.



NOTARY PUBLIC



STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

Spencer E. Austin
Chief Criminal Deputy

Parker Douglas
Federal Solicitor & General Counsel

Tyler R. Green
Solicitor General

Bridget K. Roman
Chief Civil Deputy

February 24, 2017

Sent via Email and U.S. Mail

Edward A. Berkovich
215 Quince St. Apt. 8
Salt Lake City, UT 84103
Email: edberkovich.utah@gmail.com

Re: Response to records request #17-024 to the Utah Attorney General's Office.

Dear Mr. Berkovich,

The Attorney General's Office has completed processing your records request received February 9, 2017, requesting any audio recording of the June 24, 2016, meeting of the Utah Prosecution Council.

Please find enclosed a Memo from UPC Director Robert J. Church explaining the lack of any audio recording of that meeting and the supporting Affidavit of Steven L. Garside, UPC Chair. This completes the Office's response to your request.

The Office has waived any fees for this request pursuant to Utah Code Ann. § 63G-2-203(4).

Sincerely,

A handwritten signature in cursive script that reads "Lonny Pehrson".

Lonny J. Pehrson
Assistant Attorney General
Government Records Counsel

Encl.

Right of Appeal

You have the right to appeal this response to the chief administrative officer of the Attorney General's Office, as provided in Utah Code Ann. § 63G-2-401(1)(a). To do so, you must submit a Notice of Appeal within 30 days to Attorney General Sean D. Reyes at the following address:

(If by hand delivery)

GRAMA Appeal
Office of the Attorney General
Utah State Capitol Complex
350 North State Street Suite 230
Salt Lake City, UT 84114

(If by mail)

GRAMA Appeal
Office of the Attorney General
PO Box 140860
Salt Lake City, UT 84114 0860

(If by email)

GRAMA Coordinator
grama_coordinator@utah.gov

Your Notice of Appeal must contain your name, mailing address, daytime telephone number, and a statement of the relief you seek. You may also file a short statement of facts, reasons and legal authority in support of your appeal. Please note that Utah Code Ann. Section 63G-2-401(9) provides that the duties of the chief administrative officer for handling such appeals may be delegated.

MEMO

From: Robert J. Church, Director, Utah Prosecution Council 
To: Lonny Pehrson, Assistant Attorney General, State of Utah, Government Records
Counsel
Date: February 14, 2017
Re: Berkovich GRAMA Request

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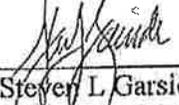
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2. On Friday, June 24, 2016 at a regularly scheduled Utah Prosecution Council Meeting, the Council moved to go into closed door session to discuss the character, professional competence, or physical or mental health of an individual, which encompassed a GRAMA request filed by Mr. Edward Berkovich on May 17, 2016; and
3. The sole purpose of the closed door session was to discuss the character, professional competence, or physical or mental health of an individual.

DATED this ¹⁴10th day of February, 2017.



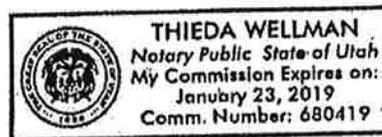
Steven L Garside
Chair, Utah Prosecution Council
Assistant Layton City Attorney

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this 14th day of February, 2017, by STEVEN L GARSIDE.



NOTARY PUBLIC





Robert Church <rjchurch@utah.gov>

Utah Attorney General's Office response to GRAMA request #17-024

1 message

Lonny Pehrson <lpehrson@utah.gov>
To: edberkovich.utah@gmail.com
Bcc: rjchurch@utah.gov

Fri, Feb 24, 2017 at 11:42 AM

Dear Mr. Berkovich,

Please see the attached documents in response to your above-referenced GRAMA request. Copies are also being set via U.S. Mail.

Sincerely,

Lonny J. Pehrson
Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

PRIVACY NOTICE: This transmission, from the Office of the Utah State Attorney General, contains information which may be confidential and/or legally privileged. The information is intended only for the use of the addressee. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this fax is strictly prohibited, and that the documents should be returned to this office immediately. The unauthorized disclosure, use or publication of confidential or privileged information inadvertently transmitted to you may result in criminal and/or civil liability.

 **17-024 Berkovich-Response Letter-no records.pdf**
116K

March 13, 2017

Sent via U.S. Mail and email

Edward A. Berkovich
215 Quince St. Apt. 8
Salt Lake City, UT 84103
Email: edberkovich.utah@gmail.com

Re: Appeal of response to GRAMA request #17-024.

Dear Mr. Berkovich,

Attorney General Sean D. Reyes has delegated me to respond to all appeals under the Government Records Access and Management Act (GRAMA) to the Chief Administrative Officer of the Utah Attorney General's Office (OAG). Accordingly, I am responding to your appeal submitted via email on March 6, 2017, regarding the above-referenced records request.

Your request sought any audio recording of the June 24, 2016, meeting of the Utah Prosecution Council. In a response dated February 24, 2017, Government Records Counsel Lonny Pehrson provided to you a Memo from UPC Director Robert J. Church and a supporting Affidavit of Steven L. Garside, UPC Chair, explaining the lack of any audio recording of that meeting. Your appeal asks for "[f]urther explanation for the lack of any audio recording of the subject meeting."

In response to your appeal, Mr. Church submitted to me a letter on behalf of the UPC responding to your concerns. I have enclosed that letter for your review. As he explains, your previous GRAMA request was placed on the June 24, 2016 UPC agenda for a status update but when the topic was raised a motion was made to move into executive session. Because the executive, or closed-door, session focused on "the character, professional competence, or physical or mental health of an individual," it was not recorded, as permitted under Utah Code § 52-4-205(1)(a).

The only issue presented in this GRAMA appeal is whether the Office has properly handled your request for records, not whether meetings were properly conducted or recorded. Based on Mr. Church's letter I am satisfied that a proper search for records was conducted and that the Office has not withheld any records responsive to your request. Accordingly, your request for further explanation is granted and this matter is closed.

Under Utah Code § 63G-2-402 you have the right to appeal this decision to the State Records Committee pursuant to Utah Code § 63G-2-403, or by filing a petition for judicial review in district court pursuant to Utah Code Ann. § 63G-2-404. Any appeal must be brought within 30 days after the date of this decision. An appeal to the State Records Committee should be addressed to:

Nova Dubovik
Executive Secretary of the State Records Committee
346 S. Rio Grande
Salt Lake City, UT 84101-1106
Phone: 801-531-3834
E-mail: ndubovik@utah.gov.

Sincerely,

Parker Douglas
Chief Federal Deputy & General Counsel

Encl.

March 7, 2017

Parker Douglas
Chief Federal Deputy and General Counsel
Office of the Utah Attorney General
350 North State Street, Suite 230
Salt Lake City, UT 84114-2320

Re: Berkovich Appeal, GRAMA Request 17-024

Dear Chief Douglas,

I have been asked to respond to Mr. Berkovich's appeal of the above referenced GRAMA request wherein he requests further explanation for the lack of any audio recording from the Council's June 24, 2016 meeting.

I placed the topic of Mr. Berkovich's GRAMA request on the June 24, 2016 Council agenda and addressed it in my Director's Summary, anticipating I would simply relay the status of the GRAMA request to the Council. When the topic was raised, Councilman Barry Huntington moved to go into executive session as he believed the GRAMA request was a prelude to litigation. www.upc.utah.gov/council-meetings.php, Council Meeting Audio and Minutes, Friday, 24 June 2016, Audio Links, Track 3 at 25:38. U.C.A. 52-4-205(1)(c). That motion was seconded by Councilman Scott Sweat.

Once in executive, or closed-door, session the discussion focused on the "character, professional competence, or physical or mental health of an individual." (Emphasis added.) U.C.A. 52-4-205 (1)(a) and no recording took place. The discussion contemplated by U.C.A. 52-4-205(1)(a) makes no reference to whether the person subject to the discussion is an employee or former employee. It simply says "individual." Mr. Berkovich cites to *Cf., Ward v. Richfield City*, 776 P.2d 93 (Utah Ct. App. 1989) for the proposition that a public body may not go into closed-session to discuss a non-employee. His interpretation is incorrect. The court said "Where at least two-thirds of the public body present at an open meeting vote to hold a closed meeting to discuss the character, professional competence, or physical or mental health of an individual, then a closed meeting may be held." *Id.* The court did not interpret "individual" to mean current, or even former, employee.

If there is additional information you or anyone else needs, please let me know.

Respectfully,



Robert J. Church
Director

Appeal of response to records request 17-024 to the Utah Attorney General's Office

Name, mailing address, and daytime telephone number of requester:

Edward A. Berkovich
215 Quince St. Apt. 8
Salt Lake City, UT 84103
edberkovich.utah@gmail.com

The relief sought:

Further explanation for the lack of any audio recording of the subject meeting.

Short statement of facts, reasons, and legal authority in support of the appeal:

On or about May 17, 2016, I mailed a GRAMA request to the AG's office, and eventually received a satisfactory response to it.

That GRAMA request was an agenda item for the June 24, 2016, Utah Prosecution Council (UPC) quarterly meeting, listed as "Berkovich GRAMA Request, Tab H." (See highlighted part of attached agenda).

The director's summary for the same June 24, 2016, meeting describes the item as "Berkovich GRAMA Request, Tab H," and the description is: "Ed Berkovich filed a GRAMA request with the AG's office on May 20, 2016 requesting documents from UPC. I provided the requested documents to the AG's GRAMA attorney, along with a Memo.... The Memo is fairly self-explanatory but I will answer any additional questions at Council meeting. ... The AG's office mailed him the documents...." (See highlighted part of attached director's summary).

Thus, according to the agenda and director's summary, it appears as though the reason this item was placed on the June 24, 2016, UPC agenda and director's summary was to discuss my May 17, 2016 GRAMA request. This appearance indicated by the phrases and words, "GRAMA request" (twice), "documents" (three times), and "Memo" (twice).

But upon reaching the GRAMA agenda item, the UPC council went into closed-door session to discuss my May 17, 2016, GRAMA request. (See highlighted part of attached pending minutes). That was still on June 24, 2016.

The UPC council went into closed-door session even though discussion of a GRAMA request is not a reason for a public body to go into closed-door session. Utah Code Ann. § 52-4-205. State law requires audio recording of closed-door meetings. Utah Code Ann. § 52-4-206(1)(a).

Seven months later, in February 2017, not knowing there was no recording, I filed another GRAMA request, requesting a copy of the audio recording of the June 24, 2016, closed-door session wherein my May 17, 2016, GRAMA request was discussed. That February 2017 GRAMA request became Request 17-024, according to the AG's office numbering system.

Relying on documents provided by the UPC Director and the UPC Chair, the AG's office response to Request 17-024 was that there is no recording. (*See* attached highlighted letter signed by Lonny Pehrson).

The first relied-upon document is a memo from UPC Director Bob Church, dated February 14, 2017, representing that a recording was not made because the purpose of the closed-door session met a statutory exception to the recording requirement. (*See* attached highlighted Robert J. Church memo to Lonny Pehrson dated February 14, 2017).

The second relied-upon document is a sworn statement from the UPC Chair, also dated February 14, 2017, representing that the sole purpose of the closed-door session was to discuss one of the subjects excepted from the recording requirement. UPC Chair Steve Garside, after being "sworn on oath," executed an affidavit saying "the sole purpose of the closed door [sic] session [on June 24, 2016] was to discuss the character, professional competence, or physical or mental health of an individual." He also said that discussion somehow "encompassed a GRAMA request...." (*See* attached highlighted Steven L. Garside sworn statement).

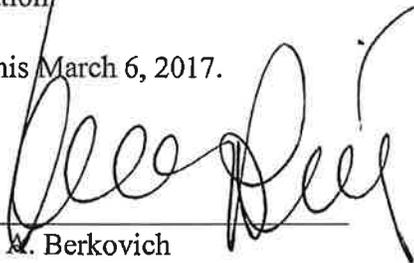
The reason I request further explanation is that Mr. Garside's affidavit about the "sole purpose" is somewhat puzzling, in light of the agenda and director's summary's references to: "Berkovich GRAMA Request;" "Ed Berkovich filed a GRAMA request with the AG's office on May 20, 2016 requesting documents from UPC. I provided the requested documents to the AG's GRAMA attorney, along with a Memo.... The Memo is fairly self-explanatory but *I will answer any additional questions at Council meeting.* The AG's office mailed him the documents...." (*See* highlighted part of attached agenda and director's summary; emphasis added).

To someone new to GRAMA and Open Meetings Act laws, there appears to be possible incongruity between the stated purpose of the agenda item, and the seven-months-after-the-fact affidavit. It looks as though the subject of the closed-door meeting on June 24, 2016, changed over a period of seven months. Back on June 24, 2016, the subject of the closed-door session was my GRAMA request. More recently, as of February 14, 2017, the subject of that same meeting was character, professional competence, or physical or mental health of an individual. This is why I am respectfully requesting further explanation for the lack of any audio recording of the subject meeting.

Case law does not appear to support a public body going into closed-session to discuss the character, professional competence, or physical or mental health of a non-employee who had left about eight months before June 24, 2016. *Cf., Ward v. Richfield City*, 776 P.2d 93 (Utah Ct. App. 1989). Closed-session to discuss current employee or appointee, sure, but not former. *Id.*

As you know, the exceptions to Utah Open Meetings Act are “strictly construed,” “to further the declared statutory purpose of openness.” *Kearns-Tribune Corp. v. Salt Lake County Comm’n.*, 2001 UT 55, ¶ 15. Construing the phrases and words “GRAMA request” (twice), “documents” (three times), and “Memo” (twice), and “any additional questions [about the GRAMA request] at Council meeting [in closed-session],” to mean character, professional competence, or physical or mental health of an individual is something I find challenging. Thus, my request for further explanation.

Dated this March 6, 2017.



Edward A. Berkovich

**UTAH PROSECUTION COUNCIL MEETING
AGENDA**

Friday, June 24, 2016, 12:30 p.m.
Park City Marriott
1895 Sidewinder Drive
Park City, UT 84060

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

- I. Welcome. Memories of Chad.
- II. Approval of the minutes from the April 13, 2016 meeting - Steve *Tab A*
- III. Report from Matt Lloyd, Council Representative on State Bar Criminal Law Section
- IV. UPC Conferences - Bob and Marilyn
 - A. Completed Conferences
 - B. 2016/17 Conference Schedule, *Tab B*
- V. Financial Report - Bob
 - A. Surcharge FY16 and Year to Date, *Tab C*
 - B. FY16/Budget Comparison Report, *Tab D*
 - C. Proposed FY17 Budget, *Tab E*
- VI. Training Committee Report - Steve
- VII. UPAA Report - Chris
- VIII. Resource Prosecutors Reports
 - A. Donna: *Tab F*
 - B. Tyson: *Tab G*
- IX. IT Issues: PIMS / Case Management / Webpage - Ron and Bob
 - A. Conference Registration Innovations
 - B. Case Management: RFP

- X. UPPAC - Bob
- XI. John R. Justice
- XII. Other Business
 - A. Berkovich GRAMA Request, *Tab H*
 - B. UPC's Statute
 - C. Sexual Assault Kit Initiative (SAKI) Prosecutor/Trainer, *Tab I*
- XIII. Closed Door Meeting - Employee Incentive Awards Determination, *Tab J*
- XIV. Next meeting: September 14, 2016
- XV. Adjourn

Director's Summary of UPC Agenda Items

- I. Welcome. Memories of Chad
 - A. Steve wanted to give everyone the opportunity to remember Chad and share any memories and thoughts you may have.
 - B. Sim's office held a Memorial in Chad's honor the week following his death. Many were in attendance and shared their thoughts and memories of him.
 - 1. Sim did a great job recalling Chad's professionalism and contributions to the office and state. He reminded us to remember Chad for who he was and his many years of service.
 - 2. Paul gave a beautiful, heartfelt tribute. Not a dry eye.
 - 3. Josh Player had everyone laughing, crying and seeing a side of Chad most people didn't know. Very moving.
 - 4. Police officers extolled his expertise and the help he was always willing to provide.
 - 5. One of the greatest tributes was paid by a former defendant Chad prosecuted. He said that Chad treated him fairly but held him accountable. He said he was glad Chad was his prosecutor. They ran into each other several years later and struck up a friendship, discovering they had many things in common. He considers Chad a good friend.
- II. Approval of the Minutes.
 - A. See the enclosed minutes from the April 13, 2016, meeting. *Tab A*
- III. Report from Matt Lloyd, Council Representative on State Bar Criminal Law Section
- IV. UPC Conferences - Bob and Marilyn
 - A. Completed Conferences
 - 1. Regional Legislative Updates
 - a. Went great. Trained over 300 officers.
 - b. Greg Ferbrache and others from the Justice Division went with us. They discussed the various task forces in the AG's office and other services they can provide. They also put a plug in for the VIRTRA trainer. It was a great outreach opportunity. They plan to come every year.
 - 2. CJC/DV Conference
 - a. May 16-18, 2016
 - b. Great attendance from prosecutors. Great reviews asking for the same prosecutor specific track next year.
 - c. Keynote speakers were almost all suggested by Donna/UPC
 - B. Upcoming Conferences, *Tab B*
 - 1. UPAA
 - a. June 22-24, 2016
 - b. Park City Marriott

2. UMPA
 - a. August 4-5
 - b. Bryce Canyon, Utah
 - c. Agenda set
 - d. Focus on drug related driving. Bringing the TSRP from Colorado to discuss the effects of legalized marijuana and traffic related offenses.
3. Basic
 - a. August 15-19, 2016
 - b. University Inn, Logan, UT
 - c. Agenda set
 - d. Will be looking for nominations from offices.
 - (1) Already have several who have registered.
 - e. Two prosecutors from Wyoming will be attending. They're paying all their own expenses.
4. Fall Conference
 - a. October 5-7, 2016
 - b. Vernal, Utah
 - (1) Visited the new conference building. It's beautiful. Probably the nicest venue we will have used for a very long time.
 - c. Agenda set
 - (1) Focus on mental health issues. Creighton Horton will be teaching several of the sessions.
 - (2) DA from Aurora, CO theater shooting to be keynote speaker. Comes highly recommended.
5. Government Civil Practice
 - a. October 19-21, 2016
 - b. St. George, UT
 - c. Planning committee meeting April 25, 2016
 - (1) Send suggestions for topics to me, Marilyn, Kelly Wright
6. County/District Attorney's Executive Seminar
 - a. November 10-11, 2016
 - b. St. George, UT
7. Future Conferences
 - a. With a healthy carryover we are hoping to use those funds and hold the Advanced Trial Practice, a Train the Trainers Bootcamp and possibly other advanced courses.

V. FY 15/16 Financial Report - Bob

A. Surcharge Report *Tab C*

1. Monthly totals since last meeting.
 - a. Mar 16: \$53,799.07 Mar 15: \$52,186.65
 - b. Apr 16: \$48,853.94 Apr 15: \$57,988.06
 - c. May 16: \$55,338.18 May 15: \$49,032.16

- B. FY16 Budget/Comparison Report, *Tab D*
 - 1. The surcharge report includes receipts through to May 2016.
 - a. Final grant reimbursement numbers for Donna's and Tyson's salaries and grants will be available until July.
 - 2. Conference registration and PIMS fees continue to come in.

- C. FY17 Proposed Budget, *Tab E*
 - 1. Reimbursement from SWAP
 - a. Thanks to Paul Boyden/SWAP for bringing it to our attention that SWAP had agreed to reimburse UPC for the costs of Civil Conference. They have not done so for several years. Depending on how things go in their meeting, Paul is proposing reimbursing UPC \$42,437.40 for the last 5 years conferences.
 - b. Averaging the last 5 year's conferences I project that they will reimburse us a little over \$8,000 this year.
 - c. I anticipate we will receive \$50,437.40 from SWAP for next year's budget.
 - 2. Non-lapsing Carryover
 - a. This is only a projection based on the past 4 years.
 - 3. PIMS Income
 - a. Here is how I determined this amount:
 - (1) I subtracted those agencies who have already gone to a third party vendor from the list of PIMS users. That would mean UPC would receive approximately \$20,000 in PIMS income.
 - (2) I planned for having our own case management system sometime in the next fiscal year.
 - (3) Not everyone will come on board during the next fiscal year, simply due to the amount of time it takes to install the software and work out the bugs.
 - (4) Therefore I projected that our PIMS income would be reduced by half next year and accounted for PIMS income of \$10,000.00
 - 4. \$105,190.00 carry over.
 - a. I didn't show this as income on the first comparison report sent out last week. With this additional income UPC is in a good position financially.

VI. Training Committee Report - Steve Garside

- A. The committee hasn't met since last Council meeting.
- B. New presenters.
 - 1. With Laura Dupaix retiring and Matt Bates taking the bench will need to select new presenters for Spring Conference.
 - a. John Nielsen, AG's office, will present Supreme Court case update at Fall Conference.

- b. John Nielsen suggested the following names as presenters:
 - (1) Ryan Tenney. Formerly at the AG's office, now at the U.S. Attorney's office.
 - (2) Blair Wardle. Box Elder County
 - (3) Peter Leavitt - SLDA's office
 - 2. Will need to select someone to replace Chad for the legislative update.
- VII. UPAA Report - Chris Stevens
- A. Report on UPAA's conference.
 - B. Searching for two new board members - city and county representative.
- VIII. Resource Prosecutors Reports
- A. Donna, *Tab F*
 - B. Tyson: *Tab G*
- IX. IT Issues: PIMS / Case Management / Webpage
- A. Bar code scanners for conference registration.
 - 1. Ron has developed a way to create bar codes for individual attendees to scan when they attend a conference.
 - B. Case Management
 - 1. Got a 12-month extension through August 31, 2017.
 - 2. RFP Process
 - a. Met with State Purchasing and got their feedback on the RFP. I started making the changes but got interrupted with legislative updates.
 - b. Hope to have the changes made, submitted and back from Purchasing by the end of July, early August.
 - c. Will issue the RFP after that.
 - C. PIMS
 - 1. Anticipate at least one more year of PIMS billing. Even once a contract is entered into for a CMS it will take time to get it installed across the state.
- X. UPPAC
- A. Nothing new to report.
- XI. John R. Justice Grant
- A. Application process closed for this year's grant.
 - B. DOJ's matching requirement does not go into effect until after next year's grant.
 - C. This means two more years of JRJ.
- XII. Other Business
- A. Berkovich GRAMA Request, *Tab H*
 - 1. Ed Berkovich filed a GRAMA request with the AG's office on May 20, 2016 requesting documents from UPC.

2. I provided the requested documents to the AG's GRAMA attorney, along with a Memo addressing three issues on May 25, 2016.
 - a. The Memo is fairly self explanatory but I will answer any additional questions at Council meeting.
 3. The AG's office mailed him the documents on June 1, 2016.
- B. Redrafting of UPC's statute
1. UPC law clerk is doing a survey of all states that have similar prosecution councils, focusing on those who are organized similar to UPC; located within the AG's office, funded by surcharge, etc.
 2. Spoken with Paul Boyden and Mark Nash regarding UPC's origins. UPC was based on Arkansas' model but they have since changed somewhat.
 3. It was decided to house UPC in the AG's office more by default than any formal negotiation, discussion, etc. It seemed the practical thing to do in light of the fact that in 1991 UPC staff was small, the funds were coming from the state, the AG's office had space and the AG at the time offered.
 4. General Reyes has asked for a report back to explore a couple issues.
 - a. Office space is at a premium in the Heber Wells building and they would like our offices.
 - (1) Looked at possibly moving in with the Insurance Fraud unit at 1300 S. State street but there wasn't enough room for us and even if there were it would have been cost prohibitive.
 - (2) We pay \$15,000 in rent and overhead costs to the AG's office. Cannot get that price elsewhere.
 - b. Approach the legislature for solution to budget issues, similar to POST. Guaranteed funds.
 5. UPC as its own entity.
 - a. Would need a substantial increase in funding.
 - b. At least two FTE's.
 - (1) Grant manager
 - (2) Secretary/travel/admin, etc.
 - c. Don't see that as a feasible alternative.
- C. Sexual Assault Kit Initiative (SAKI) Training Prosecutor *Tab I*
1. CCJJ obtained a grant to fund this position.
 - a. This training prosecutor is funded solely by a grant from the National Sexual Assault Kit Initiative Grant.
 - (1) 30-hours per week
 - (2) \$35 hourly = \$55,000 per year
 - b. This person's goal is to provide and develop a victim-centered approach in investigating, prosecuting and notifying victims of cold case sexual assault cases within Salt Lake County.
 - c. This person will research topics related to unsubmitted sexual assault kits and victim-centered and trauma informed protocols and prepare appropriate training.

- d. This person will prepare and administer trainings to criminal justice agencies in Utah, focusing first in Salt Lake County.
2. Initially they approached the Salt Lake County DA's office about housing this person there but determined it would not be a good fit.
3. Ned Searle approached Donna, Greg Ferbrache and myself about the possibility of this person falling under UPC. The way it was described, a training prosecutor, similar to what Donna does, it seemed a good fit for UPC.
 - a. First obstacle, we have no room to add another person in the Heber Wells building.
4. April Ensign is the grant manager. She and I exchanged e-mails back and forth.
 - a. Once I saw the actual description of what this job would entail, it raised several concerns that I addressed in the e-mail that I won't reproduce here.
5. Greg Ferbrache, Ned Searle, April Ensign and I met June 6, 2016 to talk about this position and the apparent challenges.
 - a. We all acknowledge that the idea for this position is a good one but recognize there are a myriad of issues that need to be addressed before anyone can move forward with this.
 - b. Towards the end of our meeting, Greg had the great idea of possibly housing this person with Heidi Nestel at Utah Crime Victims Legal Clinic.
 - (1) April and Ned will approach Heidi about that possibility.

XIII. Closed-door Session: UPC Employee Incentive Awards, *Tab J*

- A. Continue discussion from last time.

XIV. Next Meeting: September 14, 2016

XV. Adjourn

UTAH PROSECUTION COUNCIL

**Friday, June 24, 2016
Park City Marriott
1895 Sidewinder Drive
Park City, Utah**

PENDING MINUTES

UPC : Steven Garside, Chair, Layton City Attorney
Barry Huntington, Chair-elect, Garfield County Attorney
Paul Bittmenn, Cedar City Attorney
Jann Farris, Morgan County Attorney
Stephen Foote, Duchesne County Attorney
Sim Gill, Salt Lake District Attorney
Scott Sweat, Wasatch County Attorney
Christine Stevens, UPAA Chair, Millard County Attorney's Office

EXCUSED: Sean Reyes, Utah Attorney General
Commissioner Lance Davenport, Utah Department of Public Safety

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

GUESTS: Brock Belnap, Washington County Attorney
Jeff Buhman, Utah County Attorney
Wade Faraway, Assistant Attorney General
Greg Ferbrache, Justice Division Director, Utah Attorney General
Darcy Goddard, Deputy Salt Lake County District Attorney
Will Carlson, Deputy Salt Lake County District Attorney
Jason Sant, Spanish Fork City Attorney
Robert Van Dyke, Kane County Attorney

I. WELCOME. MEMORIES OF CHAD

- A. The Council members were welcomed and the meeting convened.
- B. Fond memories were expressed in behalf of Chad Platt who passed away recently.

II. APPROVAL OF THE JANUARY 8, 2016 MEETING MINUTES

- A. Jann Farris moved to approve the minutes from April 13, 2016, seconded by Paul Bittmenn. The motion passed unanimously.

III. REPORT FROM MATT LLOYD, COUNCIL REPRESENTATIVE ON STATE BAR CRIMINAL LAW SECTION

Bob Church gave the following report as Matt was excused. Bob reported that Matt and Tegan Troutner, AAG presented an ethics training at the Bar on "Social Media Pitfalls." The CLE was presented by the Criminal Law Section. Clayton Sims co-presented and gave the criminal defense perspective. After the training elections were held. Joel Kittrell was voted in as the Chair, and John Gunderson, Defense Attorney, as Vice Chair. Also, Mike Bohem, SLDA's Office was made a member of the committee. There was a new member of the committee assigned to work on CLE. Colleen McGee, past Chair, expressed thanks to UPC for Matt's appointment. Bob indicated that he was not aware that UPC should track this appointment, but will watch it more closely in the future. Bob encouraged anyone who would like to submit scholarly articles to the Utah Journal of Criminal Law are welcome to do so.

IV. UPC CONFERENCES

A. Completed Conferences

Bob Church gave an in depth report on the following completed conferences. Please refer to the Director's Summary for details.

1. Regional Legislative Updates
 - a. Was well received. Over 300 officers attended.
 - b. Greg Ferbrache and others from the AG's Justice Division was a new addition to the training. They discussed the various task forces in the AG's office and other services they can provide. They mentioned the VIRTRA trainer. We plan to have them come every year.
2. CJC/DV Conference
 - a. Held May 16-18, 2016
 - b. Great attendance from prosecutors. Great reviews asking for the same prosecutor track next year.
 - c. Keynote speakers were almost all suggested by Donna/UPC.
3. UPAA Conference
 - a. June 22-24, 2016, Park City Marriott
 - b. This conference concluded just an hour before the Council meeting. Please refer to VII below for the full UPAA report.

B. 2016 Conference Schedule

In addition to the UPC 2016 Training Schedule the following was mentioned:

1. UMPA Summer Conference - August 4-5, 2016, Ruby's Inn. The focus will be on drug related driving and will be discussing the effects of legalized marijuana and traffic related offenses. There will be some UMPA business matters addressed (i.e., new UMPA By-Laws, election of President, President Elect and Executive Representative and more involvement in MIS-LAC.)
2. Basic Prosecutor Course - August 15-19, 2016, University Inn, Logan, Utah
Draft agenda has been set. AnnMarie Howard has been invited to be part of the full time faculty. She replaces Matt Bates. AnnMarie is a recent graduate of Train the Trainer. There will also be other graduates from Train the Train to start teaching at the course.
3. Fall Prosecutor Training Course - October 5-7, 2016, Uintah Conference Center, Logan, Utah featuring Creighton Horton! The title or theme of the conference is mental issues, "Magical Mystery Tour: What Happens When Your Case Involves Mental Health Issues."
Draft agenda has been set.
4. Government Civil Practice Conference - October 19-21, 2016, St. George Hilton Garden Inn.

V. FINANCIAL REPORT

Bob Church made the following financial report. Additional information is included in the Director's Summary.

A. Surcharge Report:

The surcharge report includes receipts through to May 2016. Below are the monthly totals since the last meeting.

- | | | |
|----|---------------------|---------------------|
| 1. | Mar 16: \$53,799.07 | Mar 15: \$52,186.65 |
| 2. | Apr 16: \$48,853.94 | Apr 15: \$57,988.06 |
| 3. | May 16: \$55,338.18 | May 15: \$49,032.16 |

B. FY16 Budget/Comparison Report:

1. Final grant reimbursement numbers for Donna's and Tyson's salaries and grants will be available until July.
2. Conference registration and PIMS fees continue to come in.

C. Proposed FY17 Budget

1. Reimbursement from SWAP
 - a. Several years ago SWAP had agreed to reimburse UPC for the costs of Civil Conference. Paul Boyden approached Bob and proposed reimbursing UPC \$42,437.40 for the last five years conferences. UPC has not sought or asked for reimbursed since taking over the coordination of this conference. After a lengthy discussion, it was decided to table this item and forward it to SWAP for their full consideration and response.
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 - a. This is only a projection based on the past four years.
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 - a. The following is how Bob determined the amount:
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5. \$105,190.00 carry over.
 - a. Bob didn't show this as income on the first comparison report sent out last week. With this additional income UPC is in a good position financially.

Stephen Foote made the motion to approve the proposed FY17 Budget. Barry Huntington seconded. The motion carried unanimously.

VI. TRAINING COMMITTEE REPORT

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

The committee's next meeting will be October 17-18, 2016. They meet bi-annually, typically, in March and October.

A. New Presenters

1. Steve reported that with Laura Dupaix retiring and Matt Bates taking the bench there is the need to find new presenters. The following individuals were suggested as possible presenters for Spring Conference.
 - a. Ryan Tenney, formerly from the AG's office, now at the U.S. Attorney's office, Blair Wardle with the Box Elder County Attorney's office and Peter Leavitt with SLDA's office.
 - b. John Nielsen, AG's office, has agreed to present the Supreme Court case update at Fall Conference.
6. Will Carlson was introduced. He will be Chad Platt's replacement for the legislative update. Welcome Will.

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Christine Stevens gave the following UPAA report.

- A. The UPAA conference concluded just an hour before the council meeting.
- B. It was a banner year with 101 in attendance. By all accounts, it was very well received.
- C. Twelve individuals took the CUPA exam. Results on how many passed the exam will be reported at the next Council meeting. The question was asked if the test could be viewed by the bosses. In order to keep the integrity, confidentiality of the test and the scores private of those who take the test, the Board has made it a practice not to release the test or test results. However, to give the bosses a sample of what is on the test a compressed exam will be made available at the County Executive meeting in November. County attorneys will have the opportunity to test their knowledge on criminal and civil questions.
- D. There are two board positions available. Chris will report on those replacements at the next meeting.

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- A. Donna Kelly referred the Council to the in depth SA/DVRP report as outlined in the handouts.
- B. Tyson Skeen referred the Council to the in depth TSRP report as outlined in the handouts.

IX. IT ISSUES: PIMS/CASE MANAGEMENT/WEB PAGE

In addition to the in depth report in the Director's Summary, Ronald Weight and Bob Church gave the following PIMS report.

- A. Bar code scanners for conference registration.
 1. Ron has developed a way to create bar codes for individual attendees to scan when they attend a conference. UPAA was the first conference to try out the new feature.
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 1. Received a 12-month extension through August 31, 2017.
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 - a. Met with State Purchasing and got their feedback on the RFP. Bob started making the changes but was interrupted with the legislative updates.

- b. It is hoped to have the changes made, submitted and back from Purchasing by the end of July, early August.
- c. Will issue the RFP after that.

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- 1. Bob anticipates at least one more year of PIMS billing. Once a contract is entered into for a CMS it will take time to get it installed across the state.

X. UPPAC

Nothing new to report. Bob invited questions. Hearing none, he moved to the next item.

XI. JOHN R. JUSTICE GRANT

Bob Church made the following report.

- A. The application process closed for this year's grant. DOJ's matching requirement does not go into effect until after next year's grant. This means two more years of JRJ.

XII. OTHER BUSINESS

A. Berkovich GRAMA Request

This item was moved to the Closed Door Meeting under IX.

B. UPC's Statute

Bob Church gave an in depth report on this item. Please refer to the Director's Summary for details. Bob will, however, update the Council at the next meeting on the out come of the survey. He will know more if it will be economically possible for UPC to become its own entity, relocate and whether to change the language in the statute from public attorneys to prosecutors.

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IX. CLOSED DOOR MEETING

Barry Huntington made the motion to go into an Executive Session. Scott Sweat seconded the motion and the motion passed unanimously. The Council went into closed door session.

X. NEXT MEETING

In conjunction with the Fall Prosecutor's Training Conference.

Wednesday, October 5, 2016

8:30 a.m.

SpringHill Suites by Marriott

1205 West Highway 40

Vernal, Utah

XI. ADJOURN

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

Spencer E. Austin
Chief Criminal Deputy

Parker Douglas
Federal Solicitor & General Counsel

Tyler R. Green
Solicitor General

Bridget K. Romano
Chief Civil Deputy

February 24, 2017

Sent via Email and U.S. Mail

Edward A. Berkovich
215 Quince St. Apt. 8
Salt Lake City, UT 84103
Email: edberkovich.utah@gmail.com

Re: Response to records request #17-024 to the Utah Attorney General's Office.

Dear Mr. Berkovich,

The Attorney General's Office has completed processing your records request received February 9, 2017, requesting any audio recording of the June 24, 2016, meeting of the Utah Prosecution Council.

Please find enclosed a Memo from UPC Director Robert J. Church explaining the lack of any audio recording of that meeting and the supporting Affidavit of Steven L. Garside, UPC Chair. This completes the Office's response to your request.

The Office has waived any fees for this request pursuant to Utah Code Ann. § 63G-2-203(4).

Sincerely,

A handwritten signature in cursive script that reads "Lonny Pehrson".

Lonny J. Pehrson
Assistant Attorney General
Government Records Counsel

Encl.

MEMO

From: Robert J. Church, Director, Utah Prosecution Council 
To: Lonny Pehrson, Assistant Attorney General, State of Utah, Government Records
Counsel
Date: February 14, 2017
Re: Berkovich GRAMA Request

There is no audio recording of the closed-door session of the June 24, 2016 meeting referenced in this GRAMA request. While U.C.A. 52-4-206 generally requires closed-door meetings to be recorded, paragraph (6) provides conditions for which a closed-door meeting may not be recorded.

Per the requirements of paragraph (6) Attachment 1 is a sworn statement from the presiding Council member stating why the meeting was not recorded.

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

Comes now the affiant, Steven L Garside, Chair of the Utah Prosecution Council, being first duly sworn on oath and says:

1. I am the Chair of the Utah Prosecution Council;
2. On Friday, June 24, 2016 at a regularly scheduled Utah Prosecution Council Meeting, the Council moved to go into closed door session to discuss the character, professional competence, or physical or mental health of an individual, which encompassed a GRAMA request filed by Mr. Edward Berkovich on May 17, 2016; and
3. The sole purpose of the closed door session was to discuss the character, professional competence, or physical or mental health of an individual.

DATED this ¹⁴10th day of February, 2017.



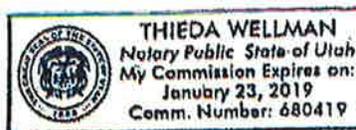
Steven L. Garside
Chair, Utah Prosecution Council
Assistant Layton City Attorney

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this 14th day of February, 2017, by STEVEN L GARSIDE.



NOTARY PUBLIC





EDWARD A. BERKOVICH
215 QUINCE STREET, APT. 8
SALT LAKE CITY, UT 84103
MOBILE: 801 441 9113
eberkovich@yahoo.com

Sent by email only

APPEAL OF CHIEF ADMINISTRATIVE OFFICER'S DECISION
IN RE GRAMA REQUEST #17-024 ATTORNEY GENERAL'S OFFICE

April 6, 2017

Nova Dubovik
Executive Secretary
State Records Committee
346 S. Rio Grande
Salt Lake City, UT 84101-1106
Phone: 801-531-3834
E-mail: ndubovik@utah.gov

Dear Ms. Dubovik:

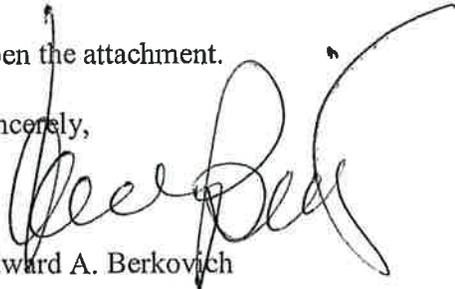
Name, mailing address, email address, and daytime telephone number of the records committee appellant: This information is at the top of this letter.

Copy of the decision being appealed: Attached are: (1) my original GRAMA request; (2) the Utah Prosecution Council (UPC)/Attorney General's (AG) Office response to that; (3) the Chief Administrative Officer's Response, which I am appealing here.

The relief sought: The record I have requested, specifically the audio recording of the June 24, 2016, closed meeting of the UPC.

Please acknowledge receipt and that you can open the attachment.

Sincerely,


Edward A. Berkovich

Attachments

cc:

grama_coordinator@utah.gov

UTAH GOVERNMENT RECORDS REQUEST FORM

TO: Utah Prosecution Council, Utah Attorney General's Office (Name of government office holding the records and/or name of agency contact person.)

Address of government office: 161 East 300 South, 6th Floor, Salt Lake City, Utah 84111

Description of records sought (records must be described with reasonable specificity):

Audio recording of the following: On Friday, June 24, 2016, the Utah Prosecution Council discussed my May 17, 2016, GRAMA request in a closed-door session. (See item XII and the second item IX of the attached minutes. The first item IX of the attached minutes appears to be unrelated.) That closed-door session will have been recorded pursuant to Utah Code § 52-4-206(1)(a). Mr. Church will have taken over responsibility for that recording. (See page 1 of Mr. Church's letter to Parker Douglas dated January 17, 2017 ("Church-Douglas letter")). Reasonable specificity of location of audio recording: UPC IT personnel Ronald Weight's computer. (See Church-Douglas letter, p. 1).

- I would like to inspect (view) the records.
- I would like to receive a copy of the records. I understand that I may be responsible for fees associated with copying charges or research charges as permitted by UCA 63G-2-203. I do not authorize costs.
- UCA 63G-2-203 (4) encourages agencies to fulfill a records request without charge. Based on UCA 63G-2-203 (4), I am requesting a waiver of copy costs because:
releasing the record primarily benefits the public rather than a person. Please explain:

I am the subject of the record. (Specifically, I was the subject of discussion in this meeting, as was my GRAMA request dated May 15, 2016).

- I am the authorized representative of the subject of the record.
- My legal rights are directly affected by the record and I am impoverished. (Please attach information supporting your request for a waiver of the fees.)

If the requested records are not public, please explain why you believe you are entitled to access.

I am the subject of the record.

- I am the person who provided the information.
- I am authorized to have access by the subject of the record or by the person who submitted the information. Documentation required by UCA 63G-2-202, is attached.

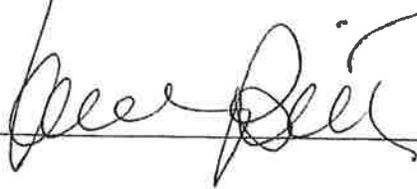
Other. Please explain:

-
- I am requesting expedited response as permitted by UCA 63G-2-204 (3)(b). (Please attach information that shows your status as a member of the media and a statement that the records are required for a story for broadcast or publication; or other information that demonstrates that you are entitled to expedited response.)

Requester's Name: Edward A. Berkovich

Mailing Address: 215 Quince Street, Apt. 8, Salt Lake City, UT 84103

Daytime telephone number: 801 441 9113 Date: February 9, 2016

Signature: 

UTAH PROSECUTION COUNCIL

Friday, June 24, 2016

**Park City Marriott
1895 Sidewinder Drive
Park City, Utah**

PENDING MINUTES

UPC : Steven Garside, Chair, Layton City Attorney
Barry Huntington, Chair-elect, Garfield County Attorney
Paul Bittmenn, Cedar City Attorney
Jann Farris, Morgan County Attorney
Stephen Foote, Duchesne County Attorney
Sim Gill, Salt Lake District Attorney
Scott Sweat, Wasatch County Attorney
Christine Stevens, UPAA Chair, Millard County Attorney's Office

EXCUSED: Sean Reyes, Utah Attorney General
Commissioner Lance Davenport, Utah Department of Public Safety

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

GUESTS: Brock Belnap, Washington County Attorney
 Jeff Buhman, Utah County Attorney
 Wade Faraway, Assistant Attorney General
 Greg Ferbrache, Justice Division Director, Utah Attorney General
 Darcy Goddard, Deputy Salt Lake County District Attorney
 Will Carlson, Deputy Salt Lake County District Attorney
 Jason Sant, Spanish Fork City Attorney
 Robert Van Dyke, Kane County Attorney

I. WELCOME. MEMORIES OF CHAD

- A. The Council members were welcomed and the meeting convened.
- B. Fond memories were expressed in behalf of Chad Platt who passed away recently.

II. APPROVAL OF THE JANUARY 8, 2016 MEETING MINUTES

- A. Jann Farris moved to approve the minutes from April 13, 2016, seconded by Paul Bittmenn. The motion passed unanimously.

III. REPORT FROM MATT LLOYD, COUNCIL REPRESENTATIVE ON STATE BAR CRIMINAL LAW SECTION

Bob Church gave the following report as Matt was excused. Bob reported that Matt and Tegan Troutner, AAG presented an ethics training at the Bar on "Social Media Pitfalls." The CLE was presented by the Criminal Law Section. Clayton Sims co-presented and gave the criminal defense perspective. After the training elections were held. Joel Kittrell was voted in as the Chair, and John Gunderson, Defense Attorney, as Vice Chair. Also, Mike Bohem, SLDA's Office was made a member of the committee. There was a new member of the committee assigned to work on CLE. Colleen McGee, past Chair, expressed thanks to UPC for Matt's appointment. Bob indicated that he was not aware that UPC should track this appointment, but will watch it more closely in the future. Bob encouraged anyone who would like to submit scholarly articles to the Utah Journal of Criminal Law are welcome to do so.

IV. UPC CONFERENCES

A. Completed Conferences

Bob Church gave an in depth report on the following completed conferences. Please refer to the Director's Summary for details.

1. Regional Legislative Updates
 - a. Was well received. Over 300 officers attended.
 - b. Greg Ferbrache and others from the AG's Justice Division was a new addition to the training. They discussed the various task forces in the AG's office and other services they can provide. They mentioned the VIRTRA trainer. We plan to have them come every year.
2. CJC/DV Conference
 - a. Held May 16-18, 2016
 - b. Great attendance from prosecutors. Great reviews asking for the same prosecutor track next year.
 - c. Keynote speakers were almost all suggested by Donna/UPC.
3. UPAA Conference
 - a. June 22-24, 2016, Park City Marriott
 - b. This conference concluded just an hour before the Council meeting. Please refer to VII below for the full UPAA report.

B. 2016 Conference Schedule

In addition to the UPC 2016 Training Schedule the following was mentioned:

1. UMPA Summer Conference - August 4-5, 2016, Ruby's Inn. The focus will be on drug related driving and will be discussing the effects of legalized marijuana and traffic related offenses. There will be some UMPA business matters addressed (i.e., new UMPA By-Laws, election of President, President Elect and Executive Representative and more involvement in MIS-LAC.)
2. Basic Prosecutor Course - August 15-19, 2016, University Inn, Logan, Utah
Draft agenda has been set. AnnMarie Howard has been invited to be part of the full time faculty. She replaces Matt Bates. AnnMarie is a recent graduate of Train the Trainer. There will also be other graduates from Train the Train to start teaching at the course.
3. Fall Prosecutor Training Course - October 5-7, 2016, Uintah Conference Center, Logan, Utah featuring Creighton Horton! The title or theme of the conference is mental issues, "Magical Mystery Tour: What Happens When Your Case Involves Mental Health Issues."
Draft agenda has been set.
4. Government Civil Practice Conference - October 19-21, 2016, St. George Hilton Garden Inn.

V. **FINANCIAL REPORT**

Bob Church made the following financial report. Additional information is included in the Director's Summary.

A. **Surcharge Report:**

The surcharge report includes receipts through to May 2016. Below are the monthly totals since the last meeting.

- | | | |
|----|---------------------|---------------------|
| 1. | Mar 16: \$53,799.07 | Mar 15: \$52,186.65 |
| 2. | Apr 16: \$48,853.94 | Apr 15: \$57,988.06 |
| 3. | May 16: \$55,338.18 | May 15: \$49,032.16 |

B. **FY16 Budget/Comparison Report:**

1. Final grant reimbursement numbers for Donna's and Tyson's salaries and grants will be available until July.
2. Conference registration and PIMS fees continue to come in.

C. **Proposed FY17 Budget**

1. **Reimbursement from SWAP**

- a. Several years ago SWAP had agreed to reimburse UPC for the costs of Civil Conference. Paul Boyden approached Bob and proposed reimbursing UPC \$42,437.40 for the last five years conferences. UPC has not sought or asked for reimbursed since taking over the coordination of this conference. After a lengthy discussion, it was decided to table this item and forward it to SWAP for their full consideration and response.

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SpringHill Suites by Marriott

1205 West Highway 40

Vernal, Utah

XI. ADJOURN



ROBERT J. CHURCH, DIRECTOR

COUNCIL MEMBERS
STEVEN L. CARPISSE, CHAIR
PAUL A. GIERMANN
JANNIL FARRIS
STEPHEN D. FOOTE
SAM S. GILL
BARRY L. HUNTINGTON
SEAN D. PEVES
KEITH D. SQUIRES
SCOTT H. SWELAI
CHRISTINE STEVENS

January 17, 2017

Parker Douglas
Chief Federal Deputy and General Counsel
Office of the Utah Attorney General
350 North State Street, Suite 230
Salt Lake City, UT 84114-2320

Re: Berkovich Appeal, GRAMA Request 20161220175614

Dear Chief Douglas,

I have been asked to respond to Mr. Berkovich's appeal of the above referenced GRAMA request, claiming that a reasonable search for audio recordings did not take place.

Before responding to the specifics of the appeal let me briefly explain how the Utah Prosecution Council (UPC) meetings are recorded and the minutes prepared, the steps taken to record the October 21, 2015 Council Meeting and what steps I took in regards to the original request. I will then offer an opinion as to why there is no audio recording. Finally I will respond to the request.

I. Recording of Council Meeting and Preparation of Minutes.

Prior to each Council meeting starting, Ron Weight, UPC's IT Director sets up a digital recording device that records the meeting to an SD card. There are several microphones scattered around the room that are very sensitive and can pick up sidebar conversations. Ron monitors the equipment during the meetings. **If the Council goes into closed door session, I take over the responsibility of the recording equipment as Ron does not attend those sessions.**

After Council meeting, Ron cuts and pastes the audio files from the SD card to his computer then wipes the SD card clean in preparation for the next meeting. He then prepares the audio files so they can be posted to our webpage. <http://upc.utah.gov/council-meetings.php>

Marilyn Jasperson, UPC Training Coordinator, takes written notes of each meeting. She then prepares a draft copy of the minutes to be presented at the next Council meeting for approval. Once approved, they too are posted to our webpage. If while preparing the minutes she has questions, she listens to the recording posted to our webpage. **It is not her practice to listen to the recording from the SD card or have the SD card in her possession. If the Council**

goes into closed door session the Chair of the Utah Prosecutor Assistant's Association (UPAA) who is also a member of the Council, takes minutes during those sessions.

2. October 21, 2015 Emergency Council Meeting and Minutes Preparation.

Knowing the October 21, 2015 Emergency Council Meeting would primarily be a closed door session, I set up the recording equipment. I thought that I had set up the equipment properly, even changing out the batteries of the three microphones. When the meeting began, I remember hitting the "record" button. I thought that I checked to make sure the equipment was recording. As the Council went into and out of closed door session, I hit the appropriate buttons on the recorder.

This meeting was to address the employment status of Mr. Berkovich. Marilyn did not attend this Council session. Christine Stevens, UPAA Chair and Council Member, took minutes of the open and closed door sessions. After the meeting she gathered up her notes only. The other Council members gave me their notes to be shredded. I did not give her the SD card from the recorder. She later sent me an electronic copy of the minutes. The electronic minutes reflect her memory of the meeting and her hand written notes.

3. Original Berkovich GRAMA Request.

Knowing that Marilyn did not prepare the minutes and would not normally have had the SD card in her possession, I did not verify with her that she had a copy of the recording or the SD card. I believed that checking with Ron was the reasonable search required.

Knowing Christine did not have the SD card I did not check with her to see if she was in possession of the card.

I have never had a Council meeting SD card in my office so did not check to see if it had somehow ended up in my office.

4. Further Inquiry, Preparation for UPC's Quarterly Council Meeting and Opinion Regarding the Lack of an Audio Recording.

The Council meets this Friday, January 20, 2017, for their quarterly council meeting. In preparation for this meeting I knew they would want an update on Mr. Berkovich's GRAMA requests. I again verified with Ron that he checked all our SD cards. He confirmed that he has checked all SD cards, that all are blank and that he does not have a recording of the October 21, 2015 meeting on his computer.

Parker Douglas
Berkovich Appeal, GRAMA Request 20161220175614
Page 3

The only conclusion I am left with regarding the lack of an audio recording is either operator or equipment error. I remember pushing the "record" and "stop" buttons. I have no other explanation as to the lack of an audio recording. I did not hide, delete or destroy the SD card or audio recording. I have no reason to believe that Ron or other UPC staff members did either.

5. Berkovich Appeal, Challenging the Reasonableness of the Search.

As explained above, I knew Marilyn would not have had the SD card or a copy of the recording. However, in response to Mr. Berkovich's request, I verified today that Ms. Jaspersen does not have, nor ever had, the SD card from the Emergency Council Meeting on October 21, 2015.

Ron is at a conference this week but as previously stated, I had already verified with him a second time that he does not have a copy of the recording and that all SD cards are empty.

I verified with Christine today that she never had the SD card.

UPC's resource prosecutors, Donna Kelly and Tyson Skeen do not have the SD card. Tyson did not work for UPC at the time and Donna has never had Council meeting SD cards in her possession.

UPC's law clerk at the time, Steve Young, has since left UPC's employ. There are no Council meeting SD cards in or around the law clerks desk.

I checked and verified that I do not have any Council meeting SD cards in my office. I do not have any recordings from any Council meetings on my computer.

If there is additional information you or anyone else needs, please let me know.

Respectfully,



Robert J. Church
Director

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

Spencer E. Austin
Chief Criminal Deputy

Parker Douglas
Federal Solicitor & General Counsel

Tyler R. Green
Solicitor General

Bridget K. Romano
Chief Civil Deputy

February 24, 2017

Sent via Email and U.S. Mail

Edward A. Berkovich
215 Quince St. Apt. 8
Salt Lake City, UT 84103
Email: edberkovich.utah@gmail.com

Re: Response to records request #17-024 to the Utah Attorney General's Office.

Dear Mr. Berkovich,

The Attorney General's Office has completed processing your records request received February 9, 2017, requesting any audio recording of the June 24, 2016, meeting of the Utah Prosecution Council.

Please find enclosed a Memo from UPC Director Robert J. Church explaining the lack of any audio recording of that meeting and the supporting Affidavit of Steven L. Garside, UPC Chair. This completes the Office's response to your request.

The Office has waived any fees for this request pursuant to Utah Code Ann. § 63G-2-203(4).

Sincerely,

A handwritten signature in cursive script that reads "Lonny Pehrson".

Lonny J. Pehrson
Assistant Attorney General
Government Records Counsel

Encl.

Right of Appeal

You have the right to appeal this response to the chief administrative officer of the Attorney General's Office, as provided in Utah Code Ann. § 63G 2 401(1)(a). To do so, you must submit a Notice of Appeal within 30 days to Attorney General Sean D. Reyes at the following address:

(If by hand delivery)

GRAMA Appeal
Office of the Attorney General
Utah State Capitol Complex
350 North State Street Suite 230
Salt Lake City, UT 84114

(If by mail)

GRAMA Appeal
Office of the Attorney General
PO Box 140860
Salt Lake City, UT 84114 0860

(If by email)

GRAMA Coordinator
grama_coordinator@utah.gov

Your Notice of Appeal must contain your name, mailing address, daytime telephone number, and a statement of the relief you seek. You may also file a short statement of facts, reasons and legal authority in support of your appeal. Please note that Utah Code Ann. Section 63G-2-401(9) provides that the duties of the chief administrative officer for handling such appeals may be delegated.

MEMO

From: Robert J. Church, Director, Utah Prosecution Council 
To: Lonny Pehrson, Assistant Attorney General, State of Utah, Government Records
Counsel
Date: February 14, 2017
Re: Berkovich GRAMA Request

There is no audio recording of the closed-door session of the June 24, 2016 meeting referenced in this GRAMA request. While U.C.A. 52-4-206 generally requires closed-door meetings to be recorded, paragraph (6) provides conditions for which a closed-door meeting may not be recorded.

Per the requirements of paragraph (6) Attachment 1 is a sworn statement from the presiding Council member stating why the meeting was not recorded.

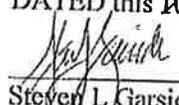
Attachment 1

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

Comes now the affiant, Steven L Garside, Chair of the Utah Prosecution Council, being first duly sworn on oath and says:

1. I am the Chair of the Utah Prosecution Council;
2. On Friday, June 24, 2016 at a regularly scheduled Utah Prosecution Council Meeting, the Council moved to go into closed door session to discuss the character, professional competence, or physical or mental health of an individual, which encompassed a GRAMA request filed by Mr. Edward Berkovich on May 17, 2016; and
3. The sole purpose of the closed door session was to discuss the character, professional competence, or physical or mental health of an individual.

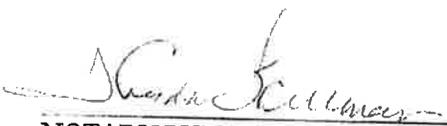
DATED this ¹⁴10th day of February, 2017.



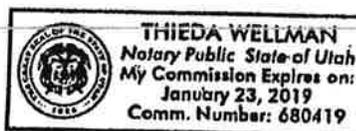
Steven L Garside
Chair, Utah Prosecution Council
Assistant Layton City Attorney

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this 14th day of February, 2017, by STEVEN L GARSIDE.



NOTARY PUBLIC



STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

SPENCER E. AUSTIN
Chief Criminal Deputy

PARKER DOUGLAS
Chief Federal Deputy
& General Counsel

TYLER R. GREEN
Solicitor General

MISSY W. LARSEN
Chief of Staff

BRIDGET K. ROMANO
Chief Civil Deputy

March 13, 2017
Sent via U.S. Mail and email

Edward A. Berkovich
215 Quince St. Apt. 8
Salt Lake City, UT 84103
Email: edberkovich.utah@gmail.com

Re: Appeal of response to GRAMA request #17-024.

Dear Mr. Berkovich,

Attorney General Sean D. Reyes has delegated me to respond to all appeals under the Government Records Access and Management Act (GRAMA) to the Chief Administrative Officer of the Utah Attorney General's Office (OAG). Accordingly, I am responding to your appeal submitted via email on March 6, 2017, regarding the above-referenced records request.

Your request sought any audio recording of the June 24, 2016, meeting of the Utah Prosecution Council. In a response dated February 24, 2017, Government Records Counsel Lonny Pehrson provided to you a Memo from UPC Director Robert J. Church and a supporting Affidavit of Steven L. Garside, UPC Chair, explaining the lack of any audio recording of that meeting. Your appeal asks for "[f]urther explanation for the lack of any audio recording of the subject meeting."

In response to your appeal, Mr. Church submitted to me a letter on behalf of the UPC responding to your concerns. I have enclosed that letter for your review. As he explains, your previous GRAMA request was placed on the June 24, 2016 UPC agenda for a status update but when the topic was raised a motion was made to move into executive session. Because the executive, or closed-door, session focused on "the character, professional competence, or physical or mental health of an individual," it was not recorded, as permitted under Utah Code § 52-4-205(1)(a).

The only issue presented in this GRAMA appeal is whether the Office has properly handled your request for records, not whether meetings were properly conducted or recorded. Based on Mr. Church's letter I am satisfied that a proper search for records was conducted and that the Office has not withheld any records responsive to your request. Accordingly, your request for further explanation is granted and this matter is closed.

Under Utah Code § 63G-2-402 you have the right to appeal this decision to the State Records Committee pursuant to Utah Code § 63G-2-403, or by filing a petition for judicial review in district court pursuant to Utah Code Ann. § 63G-2-404. Any appeal must be brought within 30 days after the date of this decision. An appeal to the State Records Committee should be addressed to:

Nova Dubovik
Executive Secretary of the State Records Committee
346 S. Rio Grande
Salt Lake City, UT 84101-1106
Phone: 801-531-3834
E-mail: ndubovik@utah.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Parker Douglas", written in a cursive style.

Parker Douglas
Chief Federal Deputy & General Counsel

Encl.



ROBERT J. CHURCH, DIRECTOR

COUNCIL MEMBERS
STEVEN L. GARSIDE, CHAIR
PAUL A. BITTMENN
JANN L. FARRIS
STEPHEN D. FOOTE
SIMS GILL
BARRY L. HUNTINGTON
SEAN D. REYES
KEITH D. SQUIRES
SCOTT H. SWEAT
CHRISTINE STEVENS

March 7, 2017

Parker Douglas
Chief Federal Deputy and General Counsel
Office of the Utah Attorney General
350 North State Street, Suite 230
Salt Lake City, UT 84114-2320

Re: Berkovich Appeal, GRAMA Request 17-024

Dear Chief Douglas,

I have been asked to respond to Mr. Berkovich's appeal of the above referenced GRAMA request wherein he requests further explanation for the lack of any audio recording from the Council's June 24, 2016 meeting.

I placed the topic of Mr. Berkovich's GRAMA request on the June 24, 2016 Council agenda and addressed it in my Director's Summary, anticipating I would simply relay the status of the GRAMA request to the Council. When the topic was raised, Councilman Barry Huntington moved to go into executive session as he believed the GRAMA request was a prelude to litigation. www.upc.utah.gov/council-meetings.php, Council Meeting Audio and Minutes, Friday, 24 June 2016, Audio Links, Track 3 at 25:38, U.C.A. 52-4-205(1)(c). That motion was seconded by Councilman Scott Sweat.

Once in executive, or closed-door, session the discussion focused on the "character, professional competence, or physical or mental health of an individual." (Emphasis added.) U.C.A. 52-4-205 (1)(a) and no recording took place. The discussion contemplated by U.C.A. 52-4-205(1)(a) makes no reference to whether the person subject to the discussion is an employee or former employee. It simply says "individual." Mr. Berkovich cites to *Cf. Ward v. Richfield City*, 776 P.2d 93 (Utah Ct. App. 1989) for the proposition that a public body may not go into closed-session to discuss a non-employee. His interpretation is incorrect. The court said "Where at least two-thirds of the public body present at an open meeting vote to hold a closed meeting to discuss the character, professional competence, or physical or mental health of an individual, then a closed meeting may be held." *Id.* The court did not interpret "individual" to mean current, or even former, employee.

If there is additional information you or anyone else needs, please let me know.

Respectfully,

Robert J. Church
Director



Robert Church <rjchurch@utah.gov>

Re: Appeal of Attorney General decision in GRAMA request #17-024

1 message

pdouglas@utah.gov <pdouglas@utah.gov>

Thu, Apr 6, 2017 at 5:02 PM

To: Lonny Pehrson <lpehrson@utah.gov>

Cc: Daniel Burton <danburton@utah.gov>, Robert Church <rjchurch@utah.gov>

I'll review to tonight and get any suggestions to you by the morning.

Sent from my iPhone

On Apr 6, 2017, at 3:46 PM, Lonny Pehrson <lpehrson@utah.gov> wrote:

Please see the attached draft objection letter. I have given them a heads up that I plan to submit it tomorrow. Thanks.

Lonny J. Pehrson
Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

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On Thu, Apr 6, 2017 at 2:53 PM, Daniel Burton <danburton@utah.gov> wrote:
I don't have any concerns.

Daniel Burton
Director of Communications/Government Records
Office of the Utah Attorney General
Mobile: 801-386-6830
Follow us on Twitter @UtahAG

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On Thu, Apr 6, 2017 at 2:36 PM, Lonny Pehrson <lpehrson@utah.gov> wrote:
All,

Please see the attached appeal filed today with the State Records Committee by Mr. Berkovich in regard to his request for audio recordings of the closed-door session of the UPC meeting. Under its Administrative Rules the SRC may decline to schedule a hearing on a GRAMA appeal in which the governmental entity asserts that it does not maintain the record sought by the requester/appellant. The rule requires the appellant in such cases to submit a statement of facts, reasons and legal authority showing that "the record was maintained by the governmental entity at one time, or that the governmental entity has concealed, or not sufficiently or improperly searched for the record." See Utah Admin. Code Rule R35-2(2). <https://rules.utah.gov/publicat/code/r035/r035-02.htm>

It appears that this is just such a case and that Mr. Berkovich has not made the required showing. Therefore, I am going to ask the committee to not scheduling a hearing on this appeal until such a showing has been made.

Please let me know if you are in agreement or if you have any questions or concerns.

Thanks,
Lonny

Lonny J. Pehrson
Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

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----- Forwarded message -----

From: **GRAMA_Coordinator AT** <grama_coordinator@utah.gov>
Date: Thu, Apr 6, 2017 at 2:13 PM
Subject: Fwd: Appeal of Attorney General decision in GRAMA request #17-024
To: Lonny Pehrson <lpehrson@utah.gov>

----- Forwarded message -----

From: **Edward Berkovich** <eberkovich@yahoo.com>
Date: Thu, Apr 6, 2017 at 1:50 PM
Subject: Appeal of Attorney General decision in GRAMA request #17-024
To: "grama_coordinator@utah.gov" <grama_coordinator@utah.gov>, Nova Dubovik <ndubovik@utah.gov>
Cc: Edward Berkovich <edberkovich.utah@gmail.com>

Dear Ms. Dubovik,

RE: Appeal of Attorney General decision in GRAMA request #17-024

Attached please find attached the referenced appeal.

Please acknowledge that you can open the attachment to this email, which contains my appeal documents.

Sincerely,

Edward A. Berkovich

<17-024 Berkovich-Objection to SRC appeal hearing (Draft).doc>



Robert Church <rjchurch@utah.gov>

Fwd: Appeal of Attorney General decision in GRAMA request #17-024

1 message

Robert Church <rjchurch@utah.gov>

Thu, Apr 6, 2017 at 4:02 PM

To: Robert Church <rjchurch@utah.gov>

Bcc: "Farris, Jann" <jfarris@morgan-county.net>, "Foote, Stephen" <sfoote@duchesne.utah.gov>, "Gill, Sim" <sgill@slco.org>, Haley Christensen <haleyo@utahcounty.gov>, "Huntington, Barry" <garfieldcountyattorney@color-country.net>, Keith Squires <ksquires@utah.gov>, Robert Cosson <robert.cosson@sgcity.org>, Scott Stephenson <sstephen@utah.gov>, Sean Reyes <seanreyes@utah.gov>, Spencer Austin <spenceraustin@utah.gov>, Steve Garside <sgarside@laytoncity.org>, "Sweat, Scott" <ssweat@co.wasatch.ut.us>, Gregory Ferbrache <gferbrache@utah.gov>

Council Members,

Please see the AG's response to Mr. Berkovich's appeal.

Bob

PLEASE NOTE: My civilian e-mail address has changed to rjchurch@agutah.gov. This [utah.gov](mailto:rjchurch@utah.gov) address will no longer be active after June 1, 2017.**Robert J. Church**Director, Utah Prosecution Council
5272 College Drive
Murray, UT 84123
O. 801-281-1212
C. 801-921-3274**CONFIDENTIALITY NOTICE**

This email transmission from the Utah Prosecution Council contains information which may be confidential and/or legally privileged. The information is intended only for the use of the individual or entity named in this transmission. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this email is strictly prohibited, and that the email should be deleted immediately. If you have received this email in error, please notify us at email@utah.gov. The unauthorized disclosure, use, or publication of confidential or privileged information inadvertently transmitted to you may result in criminal and/or civil liability.

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From: **Lonny Pehrson** <lpehrson@utah.gov>

Date: Thu, Apr 6, 2017 at 3:46 PM

Subject: Re: Appeal of Attorney General decision in GRAMA request #17-024

To: Daniel Burton <danburton@utah.gov>

Cc: Parker Douglas <pdouglas@utah.gov>, Robert Church <rjchurch@utah.gov>

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Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

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Please let me know if you are in agreement or if you have any questions or concerns.

Thanks,
Lonny

Lonny J. Pehrson
Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

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Date: Thu, Apr 6, 2017 at 1:50 PM

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To: "grama_coordinator@utah.gov" <grama_coordinator@utah.gov>, Nova Dubovik <ndubovik@utah.gov>

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RE: Appeal of Attorney General decision in GRAMA request #17-024

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Sincerely,

Edward A. Berkovich

 **17-024 Berkovich-Objection to SRC appeal hearing (Draft).doc**
44K





Robert Church <rjchurch@utah.gov>

Re: Appeal of Attorney General decision in GRAMA request #17-024

1 message

Lonny Pehrson <lpehrson@utah.gov>
To: Daniel Burton <danburton@utah.gov>
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Assistant Attorney General, State of Utah
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Tel: (801) 366-0312

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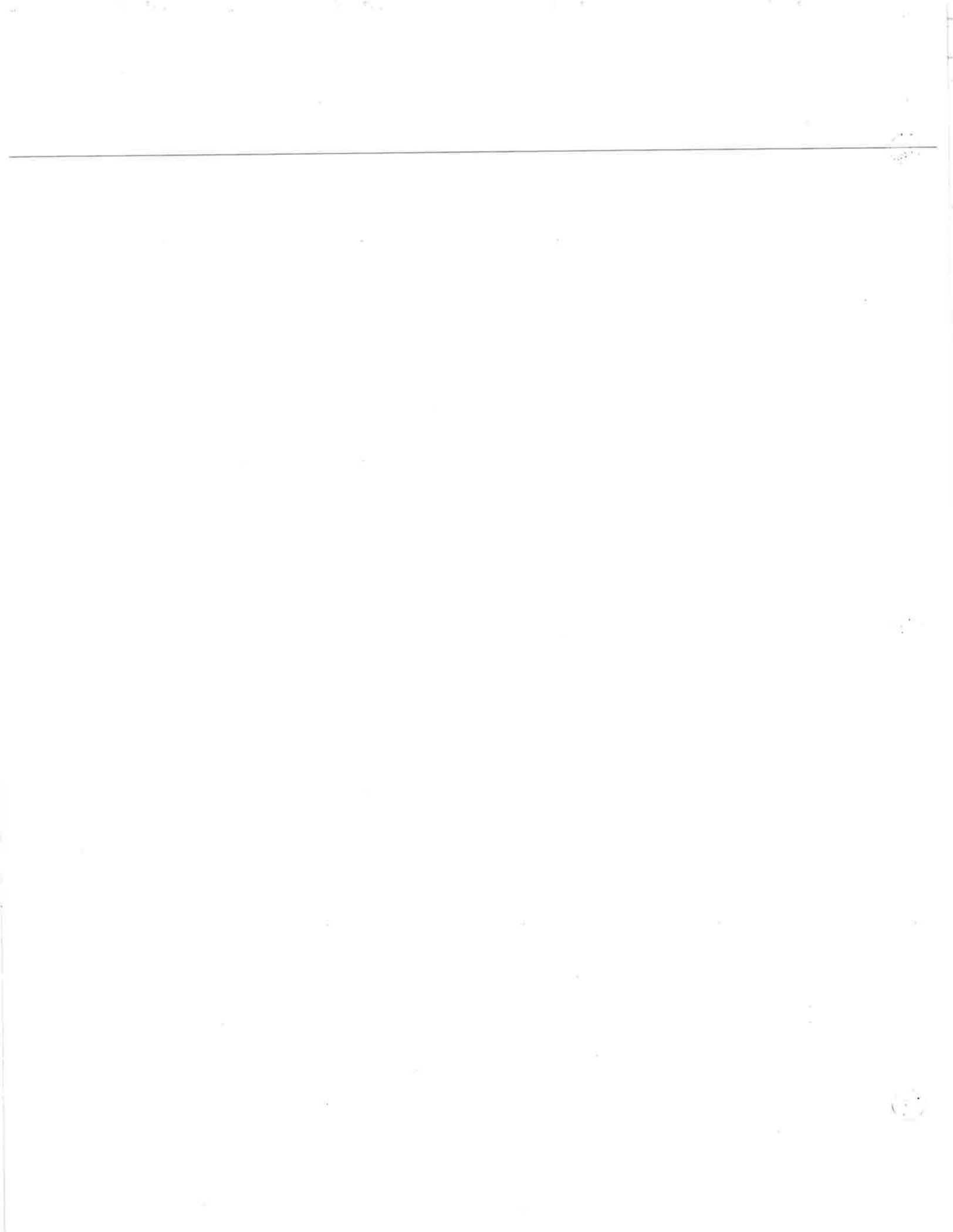
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Please let me know if you are in agreement or if you have any questions or concerns.

Thanks,
Lonny

Lonny J. Pehrson



STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

Spencer E. Austin
Chief Criminal Deputy

Parker Douglas
Federal Solicitor & General Counsel

Tyler R. Green
Solicitor General

Bridget K. Romano
Chief Civil Deputy

April 6, 2017

Sent via email only

Nova Dubovik
Executive Secretary
State Records Committee
346 S. Rio Grande
Salt Lake City, UT 84101-1106
Phone: 801-531-3834
E-mail: ndubovik@utah.gov

Re: Objection to appeal by Mr. Edward Berkovich to the State Records Committee regarding GRAMA Request #17-024 to the Utah Attorney General's Office.

Dear Ms. Dubovik,

I am writing in regard to the appeal submitted via email by Mr. Berkovich to the State Records Committee on April 6, 2017 (enclosed). The appeal is in regard to a records request submitted to the Utah Attorney General's Office (AGO) on February 9, 2017, seeking any audio recording of a June 24, 2016, meeting of the Utah Prosecution Council, which is administered by the AGO.

In response to Mr. Berkovich's request and appeal to the AGO's Chief Administrative Officer, the Office explained and documented that it has conducted a thorough search for the records requested and that it does not maintain the records he seeks. This is clearly demonstrated by the documents included with Mr. Berkovich's appeal to the Committee.

Utah Administrative Code Rule R.35-2-2(2), provides that:

In any appeal to the Committee of a governmental entity's denial of access to records for the reason that the record is not maintained by the governmental entity, the petitioner shall provide sufficient evidence in the petitioner's statement of facts, reasons, and legal authority in support of the appeal, that the record was maintained by the governmental entity at one time, or that the governmental entity has concealed, or not sufficiently or improperly searched for the record.

Despite the Office's documented explanation regarding its thorough search for and lack of any responsive records, Mr. Berkovich's appeal does not include the statement of facts, reasons and legal authority required under Rule R.35-2-2(2) when appealing such a determination. **Accordingly, the AGO submits this objection to Mr. Berkovich's appeal and requests that the Committee require Mr. Berkovich to make the required showing before a hearing is scheduled in this matter.** The AGO further requests an opportunity to respond to any such statement of facts, reasons or legal authority submitted by Mr. Berkovich before the Committee decides to schedule a hearing on his appeal.

Given the extensive documentation already provided to Mr. Berkovich showing that the AGO does not maintain, and has never maintained, the records he seeks, the AGO believes that a hearing before the Committee on this appeal is not appropriate and would not serve the public interest.

Thank you for your consideration and I look forward to hearing from you soon.

Sincerely,



Lonny J. Pehrson
Assistant Attorney General
Government Records Counsel

Encl.

cc:
Edward Berkovich (via email eberkovich@yahoo.com)

EDWARD A. BERKOVICH
215 QUINCE STREET, APT. 8
SALT LAKE CITY, UT 84103
MOBILE: 801 441 9113
eberkovich@yahoo.com

Sent by email

RESPONSE TO OBJECTION

Berkovich v. UPC/AGO, Appeal Req. #2017-33

April 7, 2017

Nova Dubovik
Executive Secretary
State Records Committee
346 S. Rio Grande
Salt Lake City, UT 84101-1106
Phone: 801-531-3834
E-mail: ndubovik@utah.gov

RE: Attorney General's Office 17-024

Dear Ms. Dubovik:

According to the Utah Prosecution Council's (UPC) own document, UPC went into a closed meeting on June 24, 2016, to discuss pending or reasonably imminent litigation. (See attachment 1). UPC was required to audio record that meeting. Utah Code Ann. §§ 52-4-205(1)(c), -206(1)(a).

Almost eight months later, on February 9, 2017, when I made a GRAMA request for a copy of that audio recording, UPC/AGO offered a completely different explanation for why it went into closed session back on June 24, 2016. This second explanation was one that does not require UPC to make an audio recording. (See attachments 2, 3, 4, 5).

The inconsistent explanations, and skipping over of facts in responses, is problematic. There is even an affidavit executed by the UPC Chair that is not supported by UPC's own document.

If the persons responsible for responding to my GRAMA request are providing explanations, some of which lack credibility or internal consistency, that calls into question the credibility of the response.

Facts, reasons, legal authority in support of appeal

On May 17, 2016, I filed a GRAMA request seeking some UPC/AGO documents, to which I eventually received a satisfactory response.

That GRAMA request was an agenda item for the UPC's June 24, 2016, meeting. By that date, I had not worked for UPC/AGO for about seven months. When that agenda item was reached, UPC went into closed session.

Upon reaching that agenda item, the UPC council went into closed-door session to discuss my May 17, 2016, GRAMA request. That was still on June 24, 2016.

Over seven months later, on February 9, 2017, I filed another GRAMA request, requesting a copy of the audio recording of the June 24, 2016, closed-door session, which is when my May 17, 2016, GRAMA request was discussed.

My February 9, 2017, GRAMA request became Request 17-024, according to the AGO numbering system, and it is the subject of this appeal to the State Records Committee.

The AGO response to Request 17-024 is dated February 24, 2017. On that date, the stated reason – the single reason – the only reason – given by UPC/AGO for there not being a recording of the closed-door session was that the UPC council went into closed session to discuss the “character, professional competence, physical or mental health of an individual,” which would meet one of the exemptions to the audio recording requirement. Utah Code Ann. § 52-4-206(6). That was the then-stated reason, even though by June 24, 2016, I had not worked at UPC/AGO for about seven months. (See attachments 2, 3, 4, 5).

To support that reason, UPC/AGO provided an affidavit. That is, on February 14, 2017, over seven months after the fact of the June 24, 2016, meeting, Mr. Steven L. Garside, UPC Chair, and Assistant Layton City Attorney, after being “sworn on oath,” signed his name on a writing saying “the sole purpose of the closed door [sic] session [on June 24, 2016] was to discuss the character, professional competence, or physical or mental health of an individual.” He also said that discussion somehow “encompassed a GRAMA request....” (See attachment 5).

As discussed below, Mr. Garside’s sworn affidavit is not credible. Mr. Garside skips over Mr. Huntington’s motion discussed below.

~~I appealed that response to the Chief Administrative Officer (CAO) because I thought it was a stretch to assert that a public body would have any reason to discuss the character, professional competence, or physical or mental health of a non-employee, or non-appointee of that public body. Cf., *Ward v. Richfield City*, 776 P.2d 93 (Utah Ct. App. 1989).~~

Especially when the agenda item was described as a discussion about my GRAMA request. And I thought it likely that the substantive content of my GRAMA request, and the UPC/AGO response thereto, would have been discussed in the closed session, thus possibly raising doubt about the "sole purpose" reason given for there being no recording.

As it turns out, I was not far off the mark thinking it a stretch. When the CAO's designee, Parker Douglas, responded to my appeal, his response agreed with the reasons in Mr. Garside's affidavit. But, inexplicably, Mr. Douglas relies on a letter from UPC Director Robert Church, who represents that the motion to go into closed session on June 24, 2016, was to discuss my GRAMA request as a "prelude to litigation," presumably referencing Utah Code Ann. § 52-4-205(1)(c), which permits a public body to go into closed session for "strategy sessions to discuss pending or reasonably imminent litigation." That motion was made by Garfield County Attorney Barry Huntington, seconded by Wasatch County Attorney Scott Sweat, and passed unanimously. Mr. Douglas skips over this fact in his response to my appeal to the CAO. (Mr. Church's letter is attachment 1; Mr. Douglas' letter is attachments 6, 7).

When a public body goes into closed session to discuss pending or reasonably imminent litigation, that body "shall make a recording of the closed portion of the meeting." Utah Code Ann. § 52-4-206(1)(a). This is why I think there should have been an audio recording. That is, the UPC council was required by law to record their strategy session to discuss my GRAMA request, which they apparently thought signaled pending or reasonably imminent litigation.

It is not credible for UPC/AGO to take the position that, based on a motion to go into closed session to discuss pending or reasonably imminent litigation, the sole purpose of the meeting was to discuss the character, professional competence, physical or mental health of an individual, and so there is no recording and the records search was reasonable. But that is the UPC/AGO position.

If the UPC council did not record the closed meeting, it is possible they may or may not have violated Utah's Open Meetings Act. UPC Director Mr. Church, in his letter to Mr. Douglas, states that, after the UPC council voted to go into closed session to discuss pending or reasonably imminent litigation, "[o]nce in executive, or closed-door, session the discussion focused on the "character, professional competence, or physical or mental health of an individual.'" (emphasis omitted). (Mr. Church's letter is attachment 1). More below about how that response is not grounded in statute or case law.

So in summary:

- Messrs. Huntington and Sweat motioned the UPC council into closed session to discuss pending or reasonably imminent litigation because, after all, that was the basis of the motion, according to Mr. Church.
- But Mr. Garside, who was in the same meeting, according to the minutes, has sworn upon an oath that the UPC council went into closed session for the “sole purpose” of discussing the character, professional competence, etc. of an individual. And Mr. Garside’s “sole purpose” affidavit makes no mention of pending or reasonably imminent litigation, which is the record basis for the UPC council going into closed session in the first place, back on June 24, 2016, according to Mr. Church’s letter.
- Mr. Church, who was also in the meeting, states the motion to go into closed session was to discuss a prelude to litigation, but once in closed session, the prelude to litigation focused on the character, professional competence, etc., of an individual. If that is the case, there should be minutes of the vote to change the purpose the closed session, from pending litigation to character, etc. This was a meeting full of government lawyers after all.
- And finally, Mr. Douglas, in reliance on Mr. Church’s letter, was left with the task of responding to my appeal, and his response skips over mentioning Mr. Huntington’s motion and the basis for it, and comes close to impliedly acknowledging the problematical chronology of all this (wherein he states his response to my appeal does not address “whether meetings were properly conducted or recorded”).
- Mr. Pehrson in his April 6, 2017, Objection references “the extensive documentation already provided to Mr. Berkovich” showing AGO does not have the audio recording. But he skips over the fact that some of the extensive documents conflict with others. What good is providing documents that support conflicting reasons to go into a closed session, one reason of which requires audio recording, and one reason of which does not require audio recording.

Mr. Church’s letter to Mr. Douglas takes a legally untenable position. There, he states that the motion to go into closed session was to discuss a “prelude to litigation,” which can only mean pending or reasonably imminent litigation, but once in closed session, the discussion focused on the character, professional competence, physical or mental health of an individual. This is not a legally tenable position, because the exceptions to the Open Meetings Act are statutorily distinct reasons for a public body to go into closed session. See Utah Code Ann. § 52-4-205(1)(a) and 205(1)(c). A subsection (a) reason need not be recorded; a subsection (c) reason must be recorded.

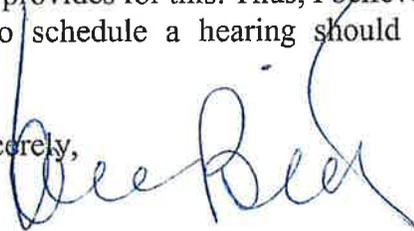
Also, the exceptions to Utah Open Meetings Act are "strictly construed," "to further the declared statutory purpose of openness." *Kearns-Tribune Corp. v. Salt Lake County Comm'n.*, 2001 UT 55, ¶ 15. In light of Mr. Huntington's stated basis to go into closed session to discuss my GRAMA request to discuss pending or reasonably imminent litigation, one would have to re-write some dictionary meanings to construe those words to mean character, professional competence, or physical or mental health of an individual.

Mr. Church's letter is internally inconsistent. It states "where at least two-thirds of the public body present at an open meeting vote to hold a closed meeting to discuss the character, professional competence, or physical or mental health of an individual, then a closed meeting may be held." This is the justification for the response that there is no audio recording, even though in the very same letter he states UPC went into closed session to discuss a "prelude to litigation," meaning there was a statutory requirement to audio record the meeting under the Open Meetings Act. There was no two-thirds vote to discuss character, professional competence, etc. of an individual. Rather, the two-thirds vote was to discuss "a prelude to litigation," based on Mr. Church's own letter. (See attachment 1).

When the UPC went into closed session to discuss pending or reasonably imminent litigation, UPC had a legal obligation to record that closed session. Assuming UPC did not commit an Open Meetings Act violation, UPC recorded that closed session. The State Records Committee should require UPC to provide it. The responses justifying not providing are too conflicting to the extent that they may or may not raise credibility questions.

Finally, Mr. Pehrson's letter states "The AGO further requests an opportunity to respond to any such statement of facts, reasons or legal authority submitted by Mr. Berkovich before the Committee decides to schedule a hearing on this appeal." I have not located a provision in Utah Admin. Rule 35-2-2(2) that provides for this. Thus, I believe this request should be denied. The decision whether to schedule a hearing should be made in accordance with the rules.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Berkovich", written over a large, faint circular stamp.

Edward A. Berkovich

Attachments

cc: Lonny Pehrson, AG GRAMA Council

ATTACHMENTS

UPC | UTAH PROSECUTION COUNCIL

ROBERT J. CHURCH, DIRECTOR

CO COUNCIL MEMBERS
TERRY L. GARDNER, CHAIR
DAVID A. BERTHOLD
BRIAN E. BROWN
MATTIE BIRD, EDGATE
SIBBS, GLE
BARRY L. HUNTINGTON
SEAN D. REYES
KEITH D. SOWERS
SCOTT H. SWEAT
CHRISTINE STEVENS

March 7, 2017

Parker Douglas
Chief Federal Deputy and General Counsel
Office of the Utah Attorney General
350 North State Street, Suite 230
Salt Lake City, UT 84114-2320

Re: Berkovich Appeal, GRAMA Request 17-024

Dear Chief Douglas,

I have been asked to respond to Mr. Berkovich's appeal of the above referenced GRAMA request wherein he requests further explanation for the lack of any audio recording from the Council's June 24, 2016 meeting.

I placed the topic of Mr. Berkovich's GRAMA request on the June 24, 2016 Council agenda and addressed it in my Director's Summary, anticipating I would simply relay the status of the GRAMA request to the Council. **When the topic was raised, Councilman Barry Huntington moved to go into executive session as he believed the GRAMA request was a prelude to litigation.** www.upc.utah.gov/council-meetings.php, Council Meeting Audio and Minutes, Friday, 24 June 2016, Audio Links, Track 3 at 25:38. U.C.A. 52-4-205(1)(c). **That motion was seconded by Councilman Scott Sweat.**

Once in executive, or closed-door, session the discussion focused on the "character, professional competence, or physical or mental health of an individual." (Emphasis added.) U.C.A. 52-4-205 (1)(a) and no recording took place. The discussion contemplated by U.C.A. 52-4-205(1)(a) makes no reference to whether the person subject to the discussion is an employee or former employee. It simply says "individual." Mr. Berkovich cites to *Cf., Ward v. Richfield City*, 776 P.2d 93 (Utah Ct. App. 1989) for the proposition that a public body may not go into closed-session to discuss a non-employee. His interpretation is incorrect. The court said "Where at least two-thirds of the public body present at an open meeting vote to hold a closed meeting to discuss the character, professional competence, or physical or mental health of an individual, then a closed meeting may be held." *Id.* The court did not interpret "individual" to mean current, or even former, employee.

If there is additional information you or anyone else needs, please let me know.

Respectfully,



Robert J. Church
Director



STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

Spencer E. Austin
Chief Criminal Deputy

Parker Douglas
Federal Solicitor & General Counsel

Tyler R. Green
Solicitor General

Bridget K. Romano
Chief Civil Deputy

February 24, 2017

Sent via Email and U.S. Mail

Edward A. Berkovich
215 Quince St. Apt. 8
Salt Lake City, UT 84103
Email: edberkovich.utah@gmail.com

Re: Response to records request #17-024 to the Utah Attorney General's Office.

Dear Mr. Berkovich,

The Attorney General's Office has completed processing your records request received February 9, 2017, requesting any audio recording of the June 24, 2016, meeting of the Utah Prosecution Council.

Please find enclosed a Memo from UPC Director Robert J. Church explaining the lack of any audio recording of that meeting and the supporting Affidavit of Steven L. Garside, UPC Chair. This completes the Office's response to your request.

The Office has waived any fees for this request pursuant to Utah Code Ann. § 63G-2-203(4).

Sincerely,

A handwritten signature in cursive script that reads "Lonny Pehrson".

Lonny J. Pehrson
Assistant Attorney General
Government Records Counsel

Encl.

2

MEMO

From: Robert J. Church, Director, Utah Prosecution Council 
To: Lonny Pehrson, Assistant Attorney General, State of Utah, Government Records
Counsel
Date: February 14, 2017
Re: Berkovich GRAMA Request

There is no audio recording of the closed-door session of the June 24, 2016 meeting referenced in this GRAMA request. While U.C.A. 52-4-206 generally requires closed-door meetings to be recorded, paragraph (6) provides conditions for which a closed-door meeting may not be recorded.

Per the requirements of paragraph (6) Attachment 1 is a sworn statement from the presiding Council member stating why the meeting was not recorded.

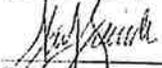
Attachment 1

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

Comes now the affiant, Steven L Garside, Chair of the Utah Prosecution Council, being first duly sworn on oath and says:

1. I am the Chair of the Utah Prosecution Council;
2. On Friday, June 24, 2016 at a regularly scheduled Utah Prosecution Council Meeting, the Council moved to go into closed door session to discuss the character, professional competence, or physical or mental health of an individual, which encompassed a GRAMA request filed by Mr. Edward Berkovich on May 17, 2016; and
3. The sole purpose of the closed door session was to discuss the character, professional competence, or physical or mental health of an individual.

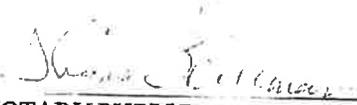
DATED this ¹⁴10th day of February, 2017.



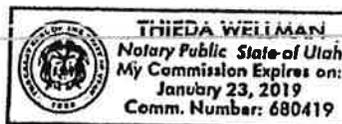
Steven L. Garside
Chair, Utah Prosecution Council
Assistant Layton City Attorney

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

Subscribed and sworn to before me on this ^{14th}17 day of February, 2017, by STEVEN L GARSIDE.



NOTARY PUBLIC



5

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

SPENCER E. AUSTIN
Chief Criminal Deputy

PARKER DOUGLAS
Chief Federal Deputy
& General Counsel

TYLER R. GREEN
Solicitor General

MISSY W. LARSEN
Chief of Staff

BRIDGET K. ROMANO
Chief Civil Deputy

March 13, 2017

Sent via U.S. Mail and email

Edward A. Berkovich
215 Quince St. Apt. 8
Salt Lake City, UT 84103
Email: edberkovich.utah@gmail.com

Re: Appeal of response to GRAMA request #17-024.

Dear Mr. Berkovich,

Attorney General Sean D. Reyes has delegated me to respond to all appeals under the Government Records Access and Management Act (GRAMA) to the Chief Administrative Officer of the Utah Attorney General's Office (OAG). Accordingly, I am responding to your appeal submitted via email on March 6, 2017, regarding the above-referenced records request.

Your request sought any audio recording of the June 24, 2016, meeting of the Utah Prosecution Council. In a response dated February 24, 2017, Government Records Counsel Lonny Pehrson provided to you a Memo from UPC Director Robert J. Church and a supporting Affidavit of Steven L. Garside, UPC Chair, explaining the lack of any audio recording of that meeting. Your appeal asks for "[f]urther explanation for the lack of any audio recording of the subject meeting."

In response to your appeal, Mr. Church submitted to me a letter on behalf of the UPC responding to your concerns. I have enclosed that letter for your review. As he explains, your previous GRAMA request was placed on the June 24, 2016 UPC agenda for a status update but when the topic was raised a motion was made to move into executive session. Because the executive, or closed-door, session focused on "the character, professional competence, or physical or mental health of an individual," it was not recorded, as permitted under Utah Code § 52-4-205(1)(a).

The only issue presented in this GRAMA appeal is whether the Office has properly handled your request for records, not whether meetings were properly conducted or recorded. Based on Mr. Church's letter I am satisfied that a proper search for records was conducted and that the Office has not withheld any records responsive to your request. Accordingly, your request for further explanation is granted and this matter is closed.

6

Under Utah Code § 63G-2-402 you have the right to appeal this decision to the State Records Committee pursuant to Utah Code § 63G-2-403, or by filing a petition for judicial review in district court pursuant to Utah Code Ann. § 63G-2-404. Any appeal must be brought within 30 days after the date of this decision. An appeal to the State Records Committee should be addressed to:

Nova Dubovik
Executive Secretary of the State Records Committee
346 S. Rio Grande
Salt Lake City, UT 84101-1106
Phone: 801-531-3834
E-mail: ndubovik@utah.gov.

Sincerely,



Parker Douglas
Chief Federal Deputy & General Counsel

Encl.

7



Robert Church <rjchurch@utah.gov>

wd: State Records Committee: Berkovich v. UPC/AGO, Appeal Req. #2017-33

1 message

Robert Church <rjchurch@utah.gov>

Wed, Apr 12, 2017 at 11:15 AM

To: Robert Church <rjchurch@utah.gov>, rjchurch@agutah.gov

Bcc: "Farris, Jann" <jfarris@morgan-county.net>, "Foote, Stephen" <sfoote@duchesne.utah.gov>, "Gill, Sim" <sgill@slco.org>, Haley Christensen <haleyo@utahcounty.gov>, "Huntington, Barry" <garfieldcountyattorney@color-country.net>, Keith Squires <ksquires@utah.gov>, Robert Cosson <robert.cosson@sgcity.org>, Scott Stephenson <sstephen@utah.gov>, Sean Reyes <seanreyes@utah.gov>, Spencer Austin <spenceraustin@utah.gov>, Steve Garside <sgarside@laytoncity.org>, "Sweat, Scott" <ssweat@co.wasatch.ut.us>, Gregory Ferbrache <gferbrache@utah.gov>

Council Members,

Attached is the AGO's response to Mr. Berkovich's statement of facts to the State Records Board.

PLEASE NOTE: My civilian e-mail address will be changing to rjchurch@agutah.gov. This utah.gov address longer be active after June 1, 2017.**Robert J. Church**

Director, Utah Prosecution Council
 5272 College Drive
 Murray, UT 84123
 O. 801-281-1212
 C. 801-921-3274

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----- Forwarded message -----

From: **Lonny Pehrson** <lpehrson@utah.gov>

Date: Wed, Apr 12, 2017 at 10:11 AM

Subject: Re: State Records Committee: Berkovich v. UPC/AGO, Appeal Req. #2017-33

To: Nova Dubovik <ndubovik@utah.gov>

Ms. Dubovik,

Please find attached the Attorney General's Office's response to Mr. Berkovich's statement of fact, reasons and legal authority supporting his appeal. The Office believes that Mr. Berkovich has not met his burden of showing that a hearing before the State Records Committee is appropriate in this matter.

Thank you for your consideration.

Sincerely,

Lonny J. Pehrson
Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

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 **AGO Response to Berkovich stmt of facts.pdf**
60K



Robert Church <rjchurch@utah.gov>

Re: State Records Committee: Berkovich v. UPC/AGO, Appeal Req. #2017-33

1 message

Lonny Pehrson <lpehrson@utah.gov>
To: Nova Dubovik <ndubovik@utah.gov>
Bcc: rjchurch@utah.gov

Wed, Apr 12, 2017 at 10:11 AM

Ms. Dubovik,

Please find attached the Attorney General's Office's response to Mr. Berkovich's statement of fact, reasons and legal authority supporting his appeal. The Office believes that Mr. Berkovich has not met his burden of showing that a hearing before the State Records Committee is appropriate in this matter.

Thank you for your consideration.

Sincerely,

Lonny J. Pehrson
Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

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On Mon, Apr 10, 2017 at 7:13 AM, Nova Dubovik <ndubovik@utah.gov> wrote:
Good morning Mr. Berkovich,

I will forward the response to the Chair.

Thank you.

Nova Dubovik

Nova Dubovik
Archivist II
State Records Committee Executive Secretary
Utah State Archives Records and Service
346 South Rio Grande St.
Salt Lake City, UT. 84101
(801) 531-3834
ndubovik@utah.gov

On Sat, Apr 8, 2017 at 8:05 AM, Edward Berkovich <edberkovich.utah@gmail.com> wrote:
Dear Ms. Dubovik,

Attached please find my response to the AGO's letter of objection to my appeal to the SRC.

Please transmit it to the SRC chair so he or she can consider it prior to deciding whether to schedule a hearing in this case.

Thank you,

Edward A. Berkovich

On Fri, Apr 7, 2017 at 12:29 PM, Lonny Pehrson <lpehrson@utah.gov> wrote:

Dear Ms. Dubovik,

Please see the attached letter from the AGO regarding Mr. Berkovich's appeal.

Thank you,

Lonny J. Pehrson
Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

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On Thu, Apr 6, 2017 at 2:54 PM, Nova Dubovik <ndubovik@utah.gov> wrote:

Good afternoon Mr. Berkovich:

I have received the Notice of Appeal and will begin processing the material.

Sincerely,

Nova Dubovik

Nova Dubovik
Archivist II
State Records Committee Executive Secretary
Utah State Archives Records and Service
346 South Rio Grande St.
Salt Lake City, UT. 84101
(801) 531-3834
ndubovik@utah.gov

On Thu, Apr 6, 2017 at 1:50 PM, Edward Berkovich <eberkovich@yahoo.com> wrote:

Dear Ms. Dubovik,

RE: Appeal of Attorney General decision in GRAMA request #17-024

Attached please find attached the referenced appeal.

Please acknowledge that you can open the attachment to this email, which contains my appeal documents.

Sincerely,

Edward A. Berkovich



Robert Church <rjchurch@utah.gov>

Draft Response to Berkovich Statement of Fact supporting SRC Appeal Berkovich v. UPC/AGO, Appeal Req. #2017-33

1 message

Tue, Apr 11, 2017 at 1:55 PM

Lonny Pehrson <lpehrson@utah.gov>
 To: Robert Church <rjchurch@utah.gov>
 Cc: Gregory Ferbrache <gferbrache@utah.gov>, Parker Douglas <pdouglas@utah.gov>

Bob,

Thanks for providing those thoughts. I've tried to work them into my response to the Committee attached. Please let me know if you have any suggestions or edits. I'm about to leave for the day so I plan to submit this tomorrow.

I've also CC'd Greg and Parker in case they have anything to add. And I've attached Mr. Berkovich's appeal statement again for your reference.

Thanks,
 Lonny

Lonny J. Pehrson
 Assistant Attorney General, State of Utah
 Government Records Counsel
 Tel: (801) 366-0312

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On Tue, Apr 11, 2017 at 12:44 PM, Robert Church <rjchurch@utah.gov> wrote:
 Thanks Lonny.

Here are my thoughts. If you would like them in an actual letter or memo, let me know and I'll do that.

1. Mr. Berkovich argues that unless UPC committed an Open Meetings Act there is a recording of the closed session. As previously stated, there is no recording but UPC's position is that it also did not commit an Open Meetings Act. Mr. Berkovich is correct, as supported by my own submitted documents, that the motion to go into closed door session was based on the Motion to discuss pending litigation. The recorder was turned off as the Council adjourned for a brief break and to allow non-attendees to leave the room. As the closed-door meeting convened the discussion immediately focused on Mr. Berkovich's character so the recorder was not turned on. This is not an issue for the appeals committee to address.
2. There was no reason for Parker to discuss why the meeting went into closed-door session in his response to Mr. Berkovich's appeal. It is not Parker's role to investigate the events.
3. Based on his extensive analysis, Mr. Berkovich thinks there should have been an audio recording. He can think what he wants but that will not change the fact that there never was a recording.
4. The inconsistencies he argues, including Mr. Garside's affidavit, the letters from me, the agenda, etc., are not anything the Board can resolve. The record is what it is. The Board cannot direct that these documents be changed.

Just so you are aware, the Council has invited Mr. Berkovich to appear at their April 26, 2017 Council meeting to make whatever statement or argument he wants. He will be first on the agenda. I will let you know what happens at that meeting.

Bob

PLEASE NOTE: My civilian e-mail address will be changing to rjchurch@agutah.gov. This utah.gov address will no longer be active after June 1, 2017.

Robert J. Church

Director, Utah Prosecution Council
5272 College Drive
Murray, UT 84123
O. 801-281-1212
C. 801-921-3274



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On Tue, Apr 11, 2017 at 12:13 PM, Lonny Pehrson <lpehrson@utah.gov> wrote:
Here it is again. See very bottom. Thanks.

Lonny J. Pehrson
Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

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----- Forwarded message -----

From: **Lonny Pehrson** <lpehrson@utah.gov>
Date: Sat, Apr 8, 2017 at 9:27 AM
Subject: Fwd: Re: State Records Committee: Berkovich v. UPC/AGO, Appeal Req. #2017-33
To: Robert Church <rjchurch@utah.gov>
Cc: Daniel Burton <danburton@utah.gov>, Parker Douglas <pdouglas@utah.gov>

----- Forwarded message -----

From: "Edward Berkovich" <edberkovich.utah@gmail.com>
Date: Apr 8, 2017 8:05 AM
Subject: Re: State Records Committee: Berkovich v. UPC/AGO, Appeal Req. #2017-33
To: "Lonny Pehrson" <lpehrson@utah.gov>, <grama_coordinator@utah.gov>, <ndubovik@utah.gov>
Cc: "Edward Berkovich" <eberkovich@yahoo.com>

Dear Ms. Dubovik,

Attached please find my response to the AGO's letter of objection to my appeal to the SRC.

Please transmit it to the SRC chair so he or she can consider it prior to deciding whether to schedule a hearing in this case.

Thank you,

Edward A. Berkovich

On Fri, Apr 7, 2017 at 12:29 PM, Lonny Pehrson <lpehrson@utah.gov> wrote:

Dear Ms. Dubovik,

Please see the attached letter from the AGO regarding Mr. Berkovich's appeal.

Thank you,

Lonny J. Pehrson
Assistant Attorney General, State of Utah
Government Records Counsel
Tel: (801) 366-0312

PRIVACY NOTICE: This transmission, from the Office of the Utah State Attorney General, contains information which may be confidential and/or legally privileged. The information is intended only for the use of the addressee. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this fax is strictly prohibited, and that the documents should be returned to this office immediately. The unauthorized disclosure, use or publication of confidential or privileged information inadvertently transmitted to you may result in criminal and/or civil liability.

On Thu, Apr 6, 2017 at 2:54 PM, Nova Dubovik <ndubovik@utah.gov> wrote:

Good afternoon Mr. Berkovich:

I have received the Notice of Appeal and will begin processing the material.

Sincerely,

Nova Dubovik

Nova Dubovik
Archivist II
State Records Committee Executive Secretary
Utah State Archives Records and Service
346 South Rio Grande St.
Salt Lake City, UT. 84101
(801) 531-3834
ndubovik@utah.gov

On Thu, Apr 6, 2017 at 1:50 PM, Edward Berkovich <eberkovich@yahoo.com> wrote:

Dear Ms. Dubovik,

RE: Appeal of Attorney General decision in GRAMA request #17-024

Attached please find attached the referenced appeal.

Please acknowledge that you can open the attachment to this email, which contains my appeal documents.

Sincerely,

Edward A. Berkovich

2 attachments

 **17-024 Berkovich-AGO Response to Berkovich stmt of facts.doc**
45K

 **grama response to AGO objection SRC 2017-33 04082017.pdf**
2876K



Robert Church <rjchurch@utah.gov>

Fwd: Re: State Records Committee: Berkovich v. UPC/AGO, Appeal Req. #2017-33

1 message

Lonny Pehrson <lpehrson@utah.gov>

Sat, Apr 8, 2017 at 9:27 AM

To: Robert Church <rjchurch@utah.gov>

Cc: Daniel Burton <danburton@utah.gov>, Parker Douglas <pdouglas@utah.gov>

----- Forwarded message -----

From: "Edward Berkovich" <edberkovich.utah@gmail.com>

Date: Apr 8, 2017 8:05 AM

Subject: Re: State Records Committee: Berkovich v. UPC/AGO, Appeal Req. #2017-33

To: "Lonny Pehrson" <lpehrson@utah.gov>, <grama_coordinator@utah.gov>, <ndubovik@utah.gov>

Cc: "Edward Berkovich" <eberkovich@yahoo.com>

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Assistant Attorney General, State of Utah
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Nova Dubovik

Nova Dubovik
Archivist II
State Records Committee Executive Secretary
Utah State Archives Records and Service

4/13/2017

State of Utah Mail - Fwd: Re: State Records Committee: Berkovich v. UPC/AGO, Appeal Req. #2017-33

346 South Rio Grande St.
Salt Lake City, UT. 84101
(801) 531-3834
ndubovik@utah.gov

On Thu, Apr 6, 2017 at 1:50 PM, Edward Berkovich <eberkovich@yahoo.com> wrote:

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RE: Appeal of Attorney General decision in GRAMA request #17-024

Attached please find attached the referenced appeal.

Please acknowledge that you can open the attachment to this email, which contains my appeal documents.

Sincerely,

Edward A. Berkovich

 **grama response to AGO objection SRC 2017-33 04082017.pdf**
2876K

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

Spencer E. Austin
Chief Criminal Deputy

Parker Douglas
Federal Solicitor & General Counsel

Tyler R. Green
Solicitor General

Bridget K. Romano
Chief Civil Deputy

April 11, 2017

Sent via email only

Nova Dubovik
Executive Secretary
State Records Committee
346 S. Rio Grande
Salt Lake City, UT 84101-1106
Phone: 801-531-3834
E-mail: ndubovik@utah.gov

Re: Response to Appellant's Statement of Fact, Reasons and Legal Authority in Support of Appeal to the State Records Committee.

Dear Ms. Dubovik,

On April 6, 2017, Mr. Berkovich ("Appellant") submitted an appeal to the State Record Committee ("Committee") regarding a records request submitted to the Utah Attorney General's Office (AGO) on February 9, 2017. Appellant's original request sought any audio recording of a June 24, 2016, meeting of the Utah Prosecution Council, which is administered by the AGO. The AGO's denial of Appellant's request was based on a determination, made after a thorough search, that it does not maintain, and never maintained, the record sought. On April 7, 2017, the AGO submitted an objection to the appeal based on Appellant's failure to provide a statement of facts, reasons and legal authority required under Utah Administrative Code Rule R.35-2-2(2). On April 10, 2017, the AGO received Appellant's statement and now responds as follows.¹

Rule R.35-2-2(2) requires the appellant to "provide sufficient evidence . . . that the record maintained by the governmental entity at one time, or that the governmental entity has concealed, or not sufficiently or improperly searched for the record." Appellant's statement makes no such showing.

First, Appellant offers no evidence that the record he seeks ever existed. Instead, he merely contends that the failure to create the record might amount to a violation of the Open and Public Meetings Act,

¹ Mr. Berkovich asserts that the AGO should not be permitted to respond to his statement of facts because a response is not specifically provided for by rule. However, nothing in the rules appears to prohibit such a response.

based on alleged inconsistencies in the UPC's explanations for not recording the meeting at issue. However, regardless of whether any such violation may have occurred, it does not alter the fact that no record was ever created. Moreover, Mr. Douglas was not required to address the alleged inconsistencies or resolve this issue when responding to Appellant's appeal to the AGO's Chief Administrative Officer. Instead, Mr. Douglas correctly affirmed that the AGO had conducted a reasonable search as required under GRAMA, and that no record was located.

Second, Appellant has not provided any evidence that the AGO may have concealed the record. In fact, he has provided nothing to refute the letters, memos and sworn affidavits provided by the AGO documenting that the records never existed. Appellant merely suggests that a recording must have been made based on his legal conclusion that it was required under the Open and Public Meetings Act. However, this conclusion is disputed by the AGO and the Committee does not have authority under GRAMA to review the issue.

Finally, Appellant offers nothing to suggest that the AGO insufficiently or improperly searched for the records at issue. The AGO has thoroughly documented its efforts to determine whether any responsive records were ever created, including requiring potential records custodians to explain and document why no recording was ever made. Appellant has offered nothing to suggest that this was all a sham or cover-up. Therefore, the AGO is entitled, based on the documentation provided, to the presumption that it has made a reasonable, good-faith effort to locate any responsive records.

Because Appellant has not made the required showing under Rule R.35-2-2(2), the AGO urges the Committee to decline a hearing in this matter. Given the well-developed record showing that a reasonable search was conducted and that the requested records do not exist, there is no reason to believe that a hearing before the Committee would shed any additional light on the matter. In addition, because the Committee lacks authority to provide a remedy for any alleged violation of the Open and Public Meetings Act, it should not consider that issue. Thus, a hearing before the Committee on this appeal would be inappropriate.

Thank you for your consideration.

Sincerely,



Lonny J. Pehrson
Assistant Attorney General
Government Records Counsel

Encl.

cc:

Edward Berkovich (via email eberkovich@yahoo.com)

Tab B

Tab C

MEMO

From: Robert J. Church, Director, Utah Prosecution Council 
To: Lonny Pehrson, Assistant Attorney General, State of Utah, Government Records
Counsel
Date: March 13, 2017
Re: GRAMA Request Dated March 12, 2017

In response to Mr. Berkovich's above referenced GRAMA request I am including the following documents:

1. An unredacted copy of Ed Berkovich's personnel file as provided to me from Susan May. I'm sending it in the envelope Susan gave it to me in. I have a redacted copy in my files.
2. A copy of the entire contents of Tab H from the June 24, 2016 Council meeting.
3. The "Memo addressing three issues" referred to in paragraph 3 of Mr. Berkovich's request is included in the contents of Tab H. It is a six page document, beginning on page ten of Tab H. For this reason I have not provided an additional copy

UTAH GOVERNMENT RECORDS REQUEST FORM

TO: Utah Prosecution Council, Utah Attorney General's Office (Name of government office holding the records and/or name of agency contact person.)

Address of government office: 161 East 300 South, 6th Floor, Salt Lake City, Utah 84111

Description of records sought (records must be described with reasonable specificity):

Susan

1. Copy of my personnel file from my employment with the Attorney General's Office, which began on or about June 30, 2008, and terminated on or about October 26, 2015.
- ✓ 2. Copy of Tab H (and copies of all the pages between Tab H and Tab I) referred to in Item XII.A.1, of Director's Summary of UPC Agenda Items (highlighted copy of summary attached, bottom of page 5).
- ✓ 3. Copy of the "Memo addressing three issues" referred to in Item XII.A.2, of Director's Summary of UPC Agenda Items (highlighted copy of summary attached, top of page 6).

[End of list of requested records]

- I would like to inspect (view) the records.
- I would like to receive a copy of the records. I understand that I may be responsible for fees associated with copying charges or research charges as permitted by UCA 63G-2-203. **I do not authorize costs.**

- UCA 63G-2-203 (4) encourages agencies to fulfill a records request without charge. Based on UCA 63G-2-203 (4), I am requesting a waiver of copy costs because: releasing the record primarily benefits the public rather than a person. Please explain:

I am the subject of the records.

- I am the authorized representative of the subject of the record.
- My legal rights are directly affected by the record and I am impoverished.
(Please attach information supporting your request for a waiver of the fees.)

If the requested records are not public, please explain why you believe you are entitled to access.

- I am the subject of the record.
- I am the person who provided the information.
- I am authorized to have access by the subject of the record or by the person who submitted the information. Documentation required by UCA 63G-2-202, is attached.

Other. Please explain:

Other. Please explain:

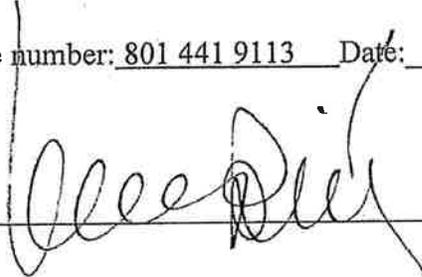
- I am requesting expedited response as permitted by UCA 63G-2-204 (3)(b). (Please attach information that shows your status as a member of the media and a statement that the records are required for a story for broadcast or publication; or other information that demonstrates that you are entitled to expedited response.)

Requester's Name: Edward A. Berkovich

Mailing Address: 215 Quince Street, Apt. 8, Salt Lake City, UT 84103

Daytime telephone number: 801 441 9113 Date: March 12, 2017

Signature: _____



Attachment

Copy of UPC Council Agenda for June 24, 2016

Copy of Director's Summary of UPC Agenda Items

**UTAH PROSECUTION COUNCIL MEETING
AGENDA**

Friday, June 24, 2016, 12:30 p.m.
Park City Marriott
1895 Sidewinder Drive
Park City, UT 84060

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

- I. Welcome. Memories of Chad.
- II. Approval of the minutes from the April 13, 2016 meeting - Steve *Tab A*
- III. Report from Matt Lloyd, Council Representative on State Bar Criminal Law Section
- IV. UPC Conferences - Bob and Marilyn
 - A. Completed Conferences
 - B. 2016/17 Conference Schedule, *Tab B*
- V. Financial Report - Bob
 - A. Surcharge FY16 and Year to Date, *Tab C*
 - B. FY16/Budget Comparison Report, *Tab D*
 - C. Proposed FY17 Budget, *Tab E*
- VI. Training Committee Report - Steve
- VII. UPAA Report - Chris
- VIII. Resource Prosecutors Reports
 - A. Donna: *Tab F*
 - B. Tyson: *Tab G*
- IX. IT Issues: PIMS / Case Management / Webpage - Ron and Bob
 - A. Conference Registration Innovations
 - B. Case Management: RFP

-
- X. UPPAC - Bob
 - XI. John R. Justice
 - XII. Other Business
 - A. Berkovich GRAMA Request, *Tab H*
 - B. UPC's Statute
 - C. Sexual Assault Kit Initiative (SAKI) Prosecutor/Trainer, *Tab I*
 - XIII. Closed Door Meeting - Employee Incentive Awards Determination, *Tab J*
 - XIV. Next meeting: September 14, 2016
 - XV. Adjourn

Director's Summary of UPC Agenda Items

- I. Welcome. Memories of Chad
 - A. Steve wanted to give everyone the opportunity to remember Chad and share any memories and thoughts you may have.
 - B. Sim's office held a Memorial in Chad's honor the week following his death. Many were in attendance and shared their thoughts and memories of him.
 - 1. Sim did a great job recalling Chad's professionalism and contributions to the office and state. He reminded us to remember Chad for who he was and his many years of service.
 - 2. Paul gave a beautiful, heartfelt tribute. Not a dry eye.
 - 3. Josh Player had everyone laughing, crying and seeing a side of Chad most people didn't know. Very moving.
 - 4. Police officers extolled his expertise and the help he was always willing to provide.
 - 5. One of the greatest tributes was paid by a former defendant Chad prosecuted. He said that Chad treated him fairly but held him accountable. He said he was glad Chad was his prosecutor. They ran into each other several years later and struck up a friendship, discovering they had many things in common. He considers Chad a good friend.
- II. Approval of the Minutes.
 - A. See the enclosed minutes from the April 13, 2016, meeting. *Tab A*
- III. Report from Matt Lloyd, Council Representative on State Bar Criminal Law Section
- IV. UPC Conferences - Bob and Marilyn
 - A. Completed Conferences
 - 1. Regional Legislative Updates
 - a. Went great. Trained over 300 officers.
 - b. Greg Ferbrache and others from the Justice Division went with us. They discussed the various task forces in the AG's office and other services they can provide. They also put a plug in for the VIRTRA trainer. It was a great outreach opportunity. They plan to come every year.
 - 2. CJC/DV Conference
 - a. May 16-18, 2016
 - b. Great attendance from prosecutors. Great reviews asking for the same prosecutor specific track next year.
 - c. Keynote speakers were almost all suggested by Donna/UPC
 - B. Upcoming Conferences, *Tab B*
 - 1. UPAA
 - a. June 22-24, 2016
 - b. Park City Marriott

2. UMPA
 - a. August 4-5
 - b. Bryce Canyon, Utah
 - c. Agenda set
 - d. Focus on drug related driving. Bringing the TSRP from Colorado to discuss the effects of legalized marijuana and traffic related offenses.
3. Basic
 - a. August 15-19, 2016
 - b. University Inn, Logan, UT
 - c. Agenda set
 - d. Will be looking for nominations from offices.
 - (1) Already have several who have registered.
 - e. Two prosecutors from Wyoming will be attending. They're paying all their own expenses.
4. Fall Conference
 - a. October 5-7, 2016
 - b. Vernal, Utah
 - (1) Visited the new conference building. It's beautiful. Probably the nicest venue we will have used for a very long time.
 - c. Agenda set
 - (1) Focus on mental health issues. Creighton Horton will be teaching several of the sessions.
 - (2) DA from Aurora, CO theater shooting to be keynote speaker. Comes highly recommended.
5. Government Civil Practice
 - a. October 19-21, 2016
 - b. St. George, UT
 - c. Planning committee meeting April 25, 2016
 - (1) Send suggestions for topics to me, Marilyn, Kelly Wright
6. County/District Attorney's Executive Seminar
 - a. November 10-11, 2016
 - b. St. George, UT
7. Future Conferences
 - a. With a healthy carryover we are hoping to use those funds and hold the Advanced Trial Practice, a Train the Trainers Bootcamp and possibly other advanced courses.

V. FY 15/16 Financial Report - Bob

A. Surcharge Report *Tab C*

1. Monthly totals since last meeting.
 - a. Mar 16: \$53,799.07 Mar 15: \$52,186.65
 - b. Apr 16: \$48,853.94 Apr 15: \$57,988.06
 - c. May 16: \$55,338.18 May 15: \$49,032.16

- B. FY16 Budget/Comparison Report, *Tab D*
 - 1. The surcharge report includes receipts through to May 2016.
 - a. Final grant reimbursement numbers for Donna's and Tyson's salaries and grants will be available until July.
 - 2. Conference registration and PIMS fees continue to come in.

- C. FY17 Proposed Budget, *Tab E*
 - 1. Reimbursement from SWAP
 - a. Thanks to Paul Boyden/SWAP for bringing it to our attention that SWAP had agreed to reimburse UPC for the costs of Civil Conference. They have not done so for several years. Depending on how things go in their meeting, Paul is proposing reimbursing UPC \$42,437.40 for the last 5 years conferences.
 - b. Averaging the last 5 year's conferences I project that they will reimburse us a little over \$8,000 this year.
 - c. I anticipate we will receive \$50,437.40 from SWAP for next year's budget.
 - 2. Non-lapsing Carryover
 - a. This is only a projection based on the past 4 years.
 - 3. PIMS Income
 - a. Here is how I determined this amount:
 - (1) I subtracted those agencies who have already gone to a third party vendor from the list of PIMS users. That would mean UPC would receive approximately \$20,000 in PIMS income.
 - (2) I planned for having our own case management system sometime in the next fiscal year.
 - (3) Not everyone will come on board during the next fiscal year, simply due to the amount of time it takes to install the software and work out the bugs.
 - (4) Therefore I projected that our PIMS income would be reduced by half next year and accounted for PIMS income of \$10,000.00
 - 4. \$105,190.00 carry over.
 - a. I didn't show this as income on the first comparison report sent out last week. With this additional income UPC is in a good position financially.

VI. Training Committee Report - Steve Garside

- A. The committee hasn't met since last Council meeting.
- B. New presenters.
 - 1. With Laura Dupaix retiring and Matt Bates taking the bench will need to select new presenters for Spring Conference.
 - a. John Nielsen, AG's office, will present Supreme Court case update at Fall Conference.

2. I provided the requested documents to the AG's GRAMA attorney, along with a Memo addressing three issues on May 25, 2016.
 - a. The Memo is fairly self explanatory but I will answer any additional questions at Council meeting.
 3. The AG's office mailed him the documents on June 1, 2016.
- B. Redrafting of UPC's statute
1. UPC law clerk is doing a survey of all states that have similar prosecution councils, focusing on those who are organized similar to UPC; located within the AG's office, funded by surcharge, etc.
 2. Spoken with Paul Boyden and Mark Nash regarding UPC's origins. UPC was based on Arkansas' model but they have since changed somewhat.
 3. It was decided to house UPC in the AG's office more by default than any formal negotiation, discussion, etc. It seemed the practical thing to do in light of the fact that in 1991 UPC staff was small, the funds were coming from the state, the AG's office had space and the AG at the time offered.
 4. General Reyes has asked for a report back to explore a couple issues.
 - a. Office space is at a premium in the Heber Wells building and they would like our offices.
 - (1) Looked at possibly moving in with the Insurance Fraud unit at 1300 S. State street but there wasn't enough room for us and even if there were it would have been cost prohibitive.
 - (2) We pay \$15,000 in rent and overhead costs to the AG's office. Cannot get that price elsewhere.
 - b. Approach the legislature for solution to budget issues, similar to POST. Guaranteed funds.
 5. UPC as its own entity.
 - a. Would need a substantial increase in funding.
 - b. At least two FTE's.
 - (1) Grant manager
 - (2) Secretary/travel/admin, etc.
 - c. Don't see that as a feasible alternative.
- C. Sexual Assault Kit Initiative (SAKI) Training Prosecutor *Tab I*
1. CCJJ obtained a grant to fund this position.
 - a. This training prosecutor is funded solely by a grant from the National Sexual Assault Kit Initiative Grant.
 - (1) 30-hours per week
 - (2) \$35 hourly = \$55,000 per year
 - b. This person's goal is to provide and develop a victim-centered approach in investigating, prosecuting and notifying victims of cold case sexual assault cases within Salt Lake County.
 - c. This person will research topics related to unsubmitted sexual assault kits and victim-centered and trauma informed protocols and prepare appropriate training.

-
- d. This person will prepare and administer trainings to criminal justice agencies in Utah, focusing first in Salt Lake County.
 2. Initially they approached the Salt Lake County DA's office about housing this person there but determined it would not be a good fit.
 3. Ned Searle approached Donna, Greg Ferbrache and myself about the possibility of this person falling under UPC. The way it was described, a training prosecutor, similar to what Donna does, it seemed a good fit for UPC.
 - a. First obstacle, we have no room to add another person in the Heber Wells building.
 4. April Ensign is the grant manager. She and I exchanged e-mails back and forth.
 - a. Once I saw the actual description of what this job would entail, it raised several concerns that I addressed in the e-mail that I won't reproduce here.
 5. Greg Ferbrache, Ned Searle, April Ensign and I met June 6, 2016 to talk about this position and the apparent challenges.
 - a. We all acknowledge that the idea for this position is a good one but recognize there are a myriad of issues that need to be addressed before anyone can move forward with this.
 - b. Towards the end of our meeting, Greg had the great idea of possibly housing this person with Heidi Nestel at Utah Crime Victims Legal Clinic.
 - (1) April and Ned will approach Heidi about that possibility.

XIII. Closed-door Session: UPC Employee Incentive Awards, *Tab J*

- A. Continue discussion from last time.

XIV. Next Meeting: September 14, 2016

XV. Adjourn

Tab H

STATE OF UTAH
OFFICE OF THE ATTORNEY GENERAL



SEAN D. REYES
ATTORNEY GENERAL

Spencer E. Austin
Chief Criminal Deputy

Parker Douglas
Federal Solicitor & General Counsel

Tyler R. Green
Solicitor General

Bridget K. Romano
Chief Civil Deputy

June 1, 2016

Transmitted via First Class Mail

Edward A. Berkovich
215 Quince St. Apt. 8
Salt Lake City, UT 84103

Re: Response to your records request to the Attorney General's Office (#16-73)

Dear Mr. Berkovich,

The Attorney General's Office has completed its processing of your records request (#16-73) received May 20, 2016.

Included herewith are the records identified as responsive to your request. They are numbered in accordance with the paragraph numbers used in your request, with the exception of Paragraph 7, for which no responsive records were found.

Please note that to the extent these records may be classified as private under GRAMA they are only being provided to you because you have been deemed to be the subject of the records. See Utah Code Ann. Section 63G-2-302(2)(d) (West Supp. 2015).

Also note that although the Office has chosen to provide these records to you free of charge, it has not made any determination regarding your eligibility for a fee waiver under Utah Code Ann. Section 63G-2-203(4). The Office reserves the right to revisit this issue with regard to any similar future requests.

If you are dissatisfied with this response you have the right to appeal to the chief administrative officer of the Attorney General's Office, as provided in Utah Code Ann. Section 63G-2-401(1)(a) (West Supp. 2015). The notice of appeal would need to be sent to Attorney General Sean D. Reyes at the following address:

(If by hand-delivery)

GRAMA Appeal
Office of the Attorney General
Utah State Capitol Complex
350 North State Street Suite 230
Salt Lake City, UT 84114

(If by mail)

GRAMA Appeal
Office of the Attorney General
PO Box 140860
Salt Lake City, UT 84114-0860

(If by email)

GRAMA Coordinator
grama_coordinator@utah.gov

To do so, you must file a Notice of Appeal with that officer within 30 days after the date of this response. Your Notice of Appeal must contain your name, your mailing address, your daytime telephone number, and a statement of the relief you seek. With your Notice of Appeal, you may also file a short statement of facts, reasons and legal authority in support of your appeal. Please note that Utah Code Ann. Section 63G-2-401(9) (West Supp. 2015) provides that the duties of the chief administrative officer for handling such appeals may be delegated.

Sincerely,

Lonny J. Pehrson
Assistant Attorney General
Government Records Counsel

Enclosure

UTAH GOVERNMENT RECORDS REQUEST FORM

TO: Utah Prosecution Council, Utah Attorney General's Office (Name of government office holding the records and/or name of agency contact person.)

Address of government office: 161 East 300 South, 6th Floor, Salt Lake City, Utah 84111

Description of records sought (records must be described with reasonable specificity):

See Appendix A (attached)

- I would like to inspect (view) the records.
- I would like to receive a copy of the records. I understand that I may be responsible for fees associated with copying charges or research charges as permitted by UCA 63G-2-203. I do not authorize costs.
- UCA 63G-2-203 (4) encourages agencies to fulfill a records request without charge. Based on UCA 63G-2-203 (4), I am requesting a waiver of copy costs because:
 releasing the record primarily benefits the public rather than a person. Please explain:

It is in the public interest that the director of the Utah Prosecution Council not request use of federal TSRP grant funds or NAPC/NHTSA mini-grant funds for the in-state travel of its law clerk. It is also in the public interest that staff of the state entity statutorily charged with training prosecutors not withhold information from its own training committee. The documents requested herein would establish whether these things and others happened. And these documents could be used to support one part of a memorandum about the administration of UPC for review by the appropriate persons and entities, and those persons and entities could determine whether corrective action is necessary.

I am the subject of the record. (Specifically, I was the recipient of some of these emails and one of the documents.)

- I am the authorized representative of the subject of the record.
- My legal rights are directly affected by the record and I am impoverished. (Please attach information supporting your request for a waiver of the fees.)

If the requested records are not public, please explain why you believe you are entitled to access.

- I am the subject of the record.
- I am the person who provided the information.
- I am authorized to have access by the subject of the record or by the person who submitted the information. Documentation required by UCA 63G-2-202, is attached.

Other. Please explain:

**UTAH ATTORNEY GENERAL
GRAMA COORDINATOR
Received 5/20/2016**

-
- I am requesting expedited response as permitted by UCA 63G-2-204 (3)(b). (Please attach information that shows your status as a member of the media and a statement that the records are required for a story for broadcast or publication; or other information that demonstrates that you are entitled to expedited response.)

Requester's Name: Edward A. Berkovich

Mailing Address: 215 Quince Street, Apt. 8, Salt Lake City, UT 84103

Daytime telephone number: 801 441 9113 Date: May 17, 2016

Signature: _____



Appendix A

Records requested:

1. Email sent from UPC director Robert Church to Edward Berkovich in late July or early August of 2015 asking for consideration for use of federal TSRP grant funds or NAPC/NHTSA mini grant funds for a non-federal grant purpose; specifically, the in-state travel of the UPC law clerk at the time, Steve Young. Reasonable specificity: 1. The date range above. 2. A sent email word search for the word "schlep" in that date range will likely yield rapid and efficient locating of this email.

Rob
Nothing

2. Email sent from UPC training coordinator Marilyn Jasperson to Edward Berkovich sent in September 2015, representing that UPC personnel had informed presenters and participants that CLE evaluations are anonymous and that Ms. Jasperson is basically the only person to view them. Reasonable specificity: 1. The date range above. 2. A sent email word search for the word "anonymous" in that date range will likely yield rapid and efficient locating of this email.

Marilyn

3. Minutes if any from the October 2015 UPC training meeting held at Moab, recording both Mr. Church and Ms. Jasperson's verbal concessions in front of the assembled training committee that neither of them had informed presenters and participants that CLE evaluations are anonymous.

M

4. Email sent from Ms. Jasperson to Edward Berkovich in late August or early September 2015 containing the word "legible" or "legibility" in the body of the email that Ms. Jasperson was responding to. Reasonable specificity: 1. The date range above. 2. A word search for the words in quotation marks in this paragraph will likely yield rapid and efficient locating of this email. 3. The email discussion would be regarding legibility of UPC agendas.

DA

5. With names and bar numbers appropriately redacted, copies of the CLE evaluations from UPC Fall 2015 conference at Park City showing the hand-written comments provided by participants at that conference. This record request may be fulfilled by providing only one CLE evaluation, i.e., the one containing comments that the conference agenda was difficult to read, and other similar comments, and these comments should be on the first line of the participant's hand-written comments, if memory serves.

M

6. The page from the packet distributed to participants at the October 2015 UPC training committee meeting at Moab which contains a transcription of the hand-written comments from the CLE evaluations from UPC Fall 2015 conference held at Park City, Utah. This will show whether the comments in paragraph 5 above were included or omitted from the comment summary provided to the training committee.

M

7. Minutes if any from October 2015 training committee meeting in Moab recording Mr. Church and Ms. Jasperson's verbal representations in front of the assembled training committee that Ronald Weight of UPC was the person who transcribed the hand-written comments from the CLE evaluations (referred to in paragraphs 5 and 6 above) to the comment summary provided to the training committee.

Nothing

8. Email from Mr. Church to Edward Berkovich in late July or early August 2015 stating he is not concerned about being grammatically incorrect in UPC agendas. Reasonable specificity: A word search for the word "grammatically" will likely yield rapid and efficient locating of this email.

B

9. Copy of page from confidential memorandum authored by Mr. Church to Edward Berkovich dated September __, 2014, containing paragraph stating he does not care what others think of my work product, it is only his personal experience with it that matters, or similar such sentiments. Reasonable specificity: while my personnel file may have been destroyed after I terminated from the Utah Prosecution Council, Mr. Church will likely have a copy of this document saved in his personal computer.

10. Ms. Jasperson's emails to Edward Berkovich giving explanations of who packed UPC promotional material ("SWAG") and when for transportation to Chicago for distribution at NAPC meetings there. Any emails sent between Mr. Church and Ms. Jasperson about this subject which were sent after Ms. Jasperson's emails to Edward Berkovich. Reasonable specificity: emails sent regarding this subject matter prior to the NAPC meetings in July 2015.

[End of list of records requested.]

EDWARD A. BERKOVICH
215 QUINCE ST APT 8
SALT LAKE CITY UT 84103

**UTAH ATTORNEY GENERAL
GRAMA COORDINATOR**
Received 5/20/2016



SALT LAKE CITY UT 84103

17 MAY 2016 PM 3:1

GRAMA COORDINATOR
OFFICE OF THE ATTORNEY GENERAL
PO BOX 840860
SALT LAKE CITY, UTAH 84114-0860
ATTORNEY GENERAL

84114-0860
POSTNET barcode



GRAMA_Coordinator AT <grama_coordinator@utah.gov>

Fwd: Scan from Tax Canon

1 message

Serafi Auvaa <sauvaa@utah.gov>
To: GRAMA_Coordinator AT <grama_coordinator@utah.gov>

Fri, May 20, 2016 at 1:38 PM

GRAMA request attached.

Serafi Tavita
Constituent Services
Utah Attorney General's Office
(801) 366-0260
uag@utah.gov

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—— Forwarded message ——
From: <canon.tax@utah.gov>
Date: 2016-05-20 11:37 GMT-06:00
Subject: Scan from Tax Canon
To: Serafi Tavita <sauvaa@utah.gov>

3500_001.pdf
225K

MEMO

From: Robert J. Church, Director, Utah Prosecution Council
To: Lonny Pehrson, Assistant Utah Attorney General
Greg Ferbrache, Director, Justice Division, Utah Attorney General's Office
Steve Garside, Chair, Utah Prosecution Council
Date: May 25, 2016
Re: Background Regarding UPC and Ed Berkovich, Explanation of Requested Documents, Assessing Reasonable Fees to Mr. Berkovich

This Memo will address three issues. The first is a brief explanation of the Utah Prosecution Council (UPC) and Mr. Berkovich's employment status. The second issue is an explanation of the attached documents. Finally, I argue why Mr. Berkovich should be required to pay reasonable costs.

1. EXPLANATION OF UPC AND MR. BERKOVICH'S EMPLOYMENT STATUS

UPC is created by statute, U.C.A. 67-5a-1, *et al* and is housed in the Attorney General's Office. The Council is composed of ten members. Council members come from prosecutor offices and law enforcement. The Director of the Council is appointed by the Council and serves at their pleasure. I have been the Director since April, 2014.

UPC is tasked with the training of prosecutors. UPC organizes and holds multiple conferences per year. A training committee is organized to plan these conferences. Each conference attendee completes a course evaluation. The form allows attendees to make comments. These comments are transcribed from the many course evaluation forms into a single, summary document. Various members of UPC's staff summarize these comments, including our law clerk, training coordinator and IT personnel. Because many of the comments run along the same vein; i.e. "great conference," "good conference," etc. not all comments are transcribed verbatim but rather summarized. These summaries are provided to the training committee at their semi-annual meetings.

Ed Berkovich was an at-will, non-merit employee of UPC and the AG's office and worked for UPC for at least seven years. He was UPC's traffic safety resource prosecutor (TSRP). His last official day was October 26, 2015. During his time with UPC he had several confrontations with UPC's Training Coordinator, Marilyn Jaspersen. The previous Director verbally counseled him regarding these incidents. He had a major confrontation with Ms. Jaspersen in June 2014 that I and my law clerk witnessed. He and Ms. Jaspersen filed formal grievances against each other with the AG's office. At the conclusion of the investigation I formally counseled and reprimanded Mr. Berkovich. I let him know that if anything like this happened again, his job would be in jeopardy.

In October, 2015, while at UPC's training committee meeting, Mr. Berkovich, in the presence of myself and the entire committee, proceeded to accuse Ms. Jasperson of lying and hiding documents. He didn't outright accuse me of lying but started down that road. His tone and demeanor were disrespectful. I individually spoke to each of the committee members and all but one found Mr. Berkovich's behavior inappropriate and felt that the situation could not be ignored.

The Chair and Chair-Elect of the Council were present as members of the training committee and witnessed his behavior. I informed them of Mr. Berkovich's past behavior and the counseling I had given him. It was decided that an emergency meeting of the Council would be convened to determine what to do with Mr. Berkovich.

In a closed session with the full Council on October 21, 2015, I presented all the information I had regarding Mr. Berkovich and Ms. Jasperson's history of conflict, the issues he had with me and my lack of concern over being grammatically correct and my counseling to him. Other than the information contained in his request number one, the Council is aware of most, if not all, of the issues he is requesting records on.

The Council voted to terminate his employment but were willing to give him the option of resigning. He was informed of their decision and he chose to resign. In an October 26, 2016 e-mail he sent to Donna Kelly, Sexual Assault/Domestic Violence Resource Prosecutor for UPC, he stated "just in case anybody gives Bob any shit, which they should not, **Bob made the right (and righteous) decision and you heard it from me...**" *emphasis in original.*

Mr. Berkovich has since changed his opinion of me and this situation. At UPC's Spring Conference, when I stopped to say "hello" and shake his hand, he gave me a cold look and did not return the hand shake. He was speaking to a friend of mine who later told me that as I walked away Mr. Berkovich said, "I will never shake that mother-fucker's hand."

While none of this has any bearing on whether or not the requested documents will be turned over I felt it important for you to have a little bit of background information to perhaps place his request into context.

2. APPENDIX A: RECORDS REQUESTED: EXPLANATION

1. Attached are seven (7) pages that represent the entire e-mail chain referred to in Mr. Berkovich's request. I could not locate the e-mail in my archives. I sought assistance from other IT personnel but was informed that only Chris Earl, IT Director, Utah Attorney General's office, had access to the necessary archives. He was able to locate this e-mail for me.
2. Attached are two (2) pages that represent the entire e-mail chain referred to in Mr. Berkovich's request.

3. Attached are four (4) pages of notes from the October 2015 UPC training meeting. There is no record in UPC's possession "recording both Mr. Church and Ms. Jasperson's verbal concessions in front of the assembled training committee that neither of them had informed presenters and participants that CLE evaluations are anonymous."

4. Attached are eight (8) pages of documents regarding this request. They include the e-mail Mr. Berkovich referred to as well as printed copies of attachments in the e-mails.

5. Attached are two (2) pages, reflecting the requested course evaluation and hand-written comments from the 2015 Fall Prosecutor's Conference. No redaction has taken place.

6. Attached are two (2) pages which summarize the course evaluation comments from the 2015 Fall Prosecutor Conference.

7. There is no record "recording Mr. Church and Ms. Jasperson's verbal representations in front of the assembled training committee that Ronald Weight of UPC was the person who transcribed the hand-written comments...." The only record available is that already provided in request number 3.

8. Attached are ten (10) pages that represent the entire e-mail chain referred to in Mr. Berkovich's request. I could not locate the e-mail in my archives. Chris Earl was able to locate this e-mail chain for me.

9. Attached is one (1) page from the confidential memorandum Mr. Berkovich is referring to.

10. Attached are six (6) pages representing the entire e-mail chain discussion referred to in Mr. Berkovich's request. I had Chris Earl search for this to make sure that every e-mail was included.

3. MR. BERKOVICH SHOULD BE REQUIRED TO PAY REASONABLE FEES IN ASSOCIATION WITH HIS GRAMA REQUEST.

Mr. Berkovich has requested a waiver of the fees associated with this request, claiming that the release of the records primarily benefits the public rather than a person. To support this request he states the following:

1. That the Director should not request use of federal TSRP grant funds for in-state travel of its law clerk.

I did inquire if grant funds could be used to fund in-state travel for our law clerk with the understanding that the law clerk would assist Mr. Berkovich while at a conference. Someone familiar with Mr. Berkovich's grant suggested this possibility to me. Mr. Berkovich informed me that would not be feasible and I thanked him for the information.

UPC funds paid for the law clerk to attend the conference and assist with staff responsibilities. UPC's law clerk has attended such conferences in the past so his attendance was not out of the ordinary. There is no benefit to the public in knowing about this request.

2. That UPC staff not withhold information from its own training committee.

Mr. Berkovich did not like the formatting of the agenda for a conference and brought his concerns to Ms. Jasperson's attention. One hundred twenty-seven (127) attendees completed course evaluations. One commented that the agenda was poorly formatted and hard to read. There were also positive comments on the evaluation. These comments were not transcribed or summarized into the comments summary for the conference.

Whether that information was withheld intentionally or unintentionally from the training committee is a question for the training committee to address. However, the training committee does not dictate the formatting of conference brochures and agendas. Since that conference, UPC has gone to on-line conference evaluations. All comments are recorded and printed in a conference summary. Comments can no longer be intentionally or unintentionally excluded.

3. This information will be used to support "one part of a memorandum about the administration of UPC for review by the appropriate persons and entities, and those persons and entities could determine whether corrective action is necessary."

The Director of UPC works for the Council. Ms. Jasperson, as UPC's training coordinator, works for the Director and also for the Council. It is the Council who would be tasked with taking any "corrective action."

As has been previously stated, other than the information in request number one, the Council is aware of these other issues that are the subject of Mr. Berkovich's GRAMA request. Any corrective action that was required would have been taken at the time the Council became aware of these issues.

Also previously stated, I made a one-time inquiry about the use of federal grant money. If it had not been suggested to me to ask, I would not have made the request. Once I was informed that money could not be used I made no further requests. I do not see how the public will be benefitted by knowing this information.

4. His clearly stated intention for seeking these documents is so that "corrective action" may be taken against UPC staff.

He is not acting on behalf of the public good but is acting on his own agenda. Even if the negative comment regarding the course agenda was intentionally deleted, and there is no

proof to support that accusation, it is not truly a public or a training committee issue. It would be an internal issue handled by the Director and it has been. Also, the problem has been resolved via the on-line course evaluation system. Further, if federal grant money had been inappropriately used to fund in-state travel for UPC's law clerk that would be an issue. Because money was not used the only accusation he is making is that it was inappropriate for me to inquire.

Mr. Berkovich is a disgruntled former employee. He is not requesting these documents for the benefit of the public but to try embarrass, bring discredit upon or subject UPC employees to unwarranted "corrective action."

The following time was spent by UPC and AG staff in searching for and accumulating Mr. Berkovich's requested data. I understand not all time may be charged to Mr. Berkovich. Rather, it is an accounting of all time spent on this request.

PERSON	TASK	TIME/ MINUTES
Church, R	Review GRAMA request, discuss with Ms. Jasperson	35
Church, R	Search e-mail archives for requested e-mails	20
Church, R	Seeking assistance from IT staff in help locating e-mails	20
Church, R	Compiling and drafting this Memo.	90
Earl, C	Searching archives for e-mails, printing	15
Jasperson, M	Review GRAMA request, discuss with M. Church	35
Jasperson, M	Search for and print e-mail archives for requested e-mails	55

Total time in minutes: 270

Steven Going to UMPA

email: "rjchurch@utah.gov Robert Church" Thursday, July 23, 2015 at 11:59:55 AM
To: email: "eberkovich@utah.gov Edward Berkovich"

Ed,

If Steve were to schlep your bags, build your TOXE kits, do any other grunt work you'd need at UMPA, would your grant pay for his travel, per diem, hotel? Not a big deal if it can't, just asking.

Hope training went well. Travel safe.

Bob

Robert J. Church

Director, Utah Prosecution Council
P.O. Box 140841
Salt Lake City, UT 84114-0841
O. 801-366-0201
C. 801-921-3274



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email: "eberkovich@utah.gov Edward Berkovich"
To: email: "rjchurch@utah.gov Robert Church"

Thursday, July 23, 2015 at 1:00:17 PM Mountain Daylight Time

Hi Bob,

There's not really a way to justify that expenditure from TSR15 travel funds or TOXE travel funds.

I hope Steve can join us nonetheless.

Ed

Sent from my iPad

On Jul 23, 2015, at 10:59 AM, Robert Church <rjchurch@utah.gov> wrote:

Ed,

If Steve were to schlep your bags, build your TOXE kits, do any other grunt work you'd need at UMPA, would your grant pay for his travel, per diem, hotel? Not a big deal if it can't, just asking.

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Thanks. Just thought I'd ask.

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email: "eberkovich@utah.gov Edward Berkovich" Friday, July 24, 2015 at 10:19:59 AM Mountain Daylight Time
To: email: "eberkovich@yahoo.com eberkovich@yahoo.com"

----- Forwarded message -----
From: **Robert Church** <rjchurch@utah.gov>
Date: Thu, Jul 23, 2015 at 1:20 PM
Subject: Re: Steven Going to UMPA
To: Edward Berkovich <eberkovich@utah.gov>

Thanks. Just thought I'd ask.

Robert J. Church

Director, Utah Prosecution Council
P.O. Box 140841
Salt Lake City, UT 84114-0841
O. 801-366-0201
C. 801-921-3274

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Edward A. Berkovich
Traffic Safety Resource Prosecutor
Utah Prosecution Council
160 East 300 South, 6th Floor
Salt Lake City, Utah 84114
Cell 801 350 1303 (use this phone number)
Office 801 366 0241
Fax 801 366 0204
E-mail: eberkovich@utah.gov



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Marilyn J.  n.gov>

Evaluations from UMPA

5 messages

Edward Berkovich <eberkovich@utah.gov>
 To: "Jasperson, Marilyn" <mjasperson@utah.gov>
 Cc: Robert Church <rjchurch@utah.gov>

Thu, Sep 3, 2015 at 8:28 AM

Marilyn,

May I please have the evaluations from UMPA or double-sided copies of them. I would like to read them.

I've read the ones from Basic and so I don't need those FWIW.

Thanks,

Ed.

—
 Edward A. Berkovich
 Traffic Safety Resource Prosecutor
 Utah Prosecution Council
 160 East 300 South, 6th Floor
 Salt Lake City, Utah 84114
Cell 801 350 1303 (use this phone number)
 Office 801 366 0241
 Fax 801 366 0204
 E-mail: eberkovich@utah.gov

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Marilyn Jasperson <mjasperson@utah.gov>
 To: Edward Berkovich <eberkovich@utah.gov>
 Bcc: Robert Church <rjchurch@utah.gov>

Thu, Sep 3, 2015 at 12:57 PM

Ed,

I'll leave the originals for you. It's been the practice not to copy them as we have assured participants and presenters that this info. is anonymous and that I was basically the only one to view them. So, to honor that, please do not copy them that's why we have the evaluation report generated.

Thanks,

Marilyn

[Quoted text hidden]

Marilyn Jasperson
UPC - Training Coordinator
160 East 300 South, 6th Fl.
Salt Lake City, Utah 84114
(801) 366-0202
(801) 366-0204

Edward Berkovich <eberkovich@utah.gov>
To: Marilyn Jasperson <mjasperson@utah.gov>

Thu, Sep 3, 2015 at 3:17 PM

Okay thank you.

Sent from my iPhone
[Quoted text hidden]

Marilyn Jasperson <mjasperson@utah.gov>
To: Edward Berkovich <eberkovich@utah.gov>
Bcc: Robert Church <rjchurch@utah.gov>

Thu, Sep 3, 2015 at 3:23 PM

Is Tuesday Ok - I have yet to finish processing them for CLE?

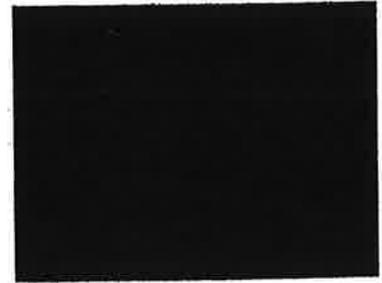
Sorry for the delay.
[Quoted text hidden]

Edward Berkovich <eberkovich@utah.gov>
To: Marilyn Jasperson <mjasperson@utah.gov>

Thu, Sep 3, 2015 at 3:53 PM

Yes Tuesday works. Thanks.
[Quoted text hidden]

UPC Training Committee
Fall Planning Meeting
Monday & Tuesday, October 12-13, 2015
Fairfield Inn & Suites by Marriott
1863 N Highway 191
Moab, Utah



NOTES

- I. Welcome -
The committee welcomed Rich Hamp, Salt Lake District Attorney's office, Training Coordinator and Janise Macanas, Utah Attorney General's Office and Bar Commissioner

2. Review of training events, including course evaluations -
Reviewed the 2015 training events, which included Spring Conference; Regional Legislative Updates; Domestic Violence / CJC Symposium; UPAA Conference; UMPA Summer Conference; Basic Prosecutor Course; Fall Prosecutor Training Conference and 2014 Government Civil Conference.

3. Remaining Conference Before Spring
 - a. Government Civil Practice Conference
 - i. Oct. 14-16, 2015
 - ii. Cosponsors UCIP and UAC
 - b. White Collar Crime Conference - Nov. 12, 2015
 - i. Viridian Events Center
 - ii. Cosponsor Salt Lake County District Attorney's Office
 - c. Human Trafficking Conference - Jan. 28-29, 2016
 - i. Salt Lake City Council Chambers
 - ii. Sponsored by NAAG

4. Finances
 - a. Reviewed FY15/16 Budget
Budget is in good shape.

5. Conference Other than UPC's Normal Schedule
 - a. In light of UPC's limited resources (i.e., staff and budget) it was discussed focusing on broad topics and/or joint efforts with other agencies for specific topics.

6. Brain Storming Session for FY 16 Training Schedule
The committee discussed topics and reviewed the list provided on the agenda of those who are interested in presenting at a UPC conference and those who are interested in participating in the Train the Trainer. Please refer to the agenda for details.
 - a. See below suggested topics.
 - b. Add and/or develop a mental health flow chart to the Tool Box.

7. 2016 Spring Conference
 - a. April 14-15, 2016
 - b. Location: Sheraton Hotel, 150 West 500 South, Salt Lake City
(Draft agenda attached)

8. 2016 Fall Prosecutor Training Conference
 - a. Sept. 14-16, 2016 or 21-23 depending on the Judicial calendar.
 - b. Location: Provo, St. George, Logan, Vernal

- (Draft agenda attached)
9. Remainder of 2016 training schedule
- a. Train the Trainer Course
 - i. February 8-12, 2016
 - ii. Layton Courtyard Marriott
 - iii. Suggested individuals to invite: Peter Leavitt; Tad May; Spencer Walsh, Marlesse Jones; Steve Nelson; Greg Ferbrache
 - b. Regional Legislative Updates: The 2016 regionals will be held the three weeks following Spring Conference.
 - c. Domestic Violence Conference / CJC Symposium
 - i. May 16-18, 2016
 - ii. Location: Cliff Lodge, Snowbird Resort
 - iii. Donna Kelly and Marilyn Jasperson are on the conference planning committee.
 - iv. It was suggested to have a DV track and advertise it as separate track on the agenda and have the room or hall logistically designated as well.
 - v. Suggested topics: expert witnesses (Marianne O'Bryant) and dealing with stress.
 - d. UPAAC Conference
 - i. June 22-24, 2016
 - ii. Park City Marriott
 - iii. UPAAC Chair is the assigned committee member to be on conference planning committee.
 - e. UMPA Summer Conference
 - i. August 4-5, 2016
 - ii. Ruby's Inn - Bryce, Utah
 - iii. Paul Bittmann assigned to serve on conference planning committee.
 - f. Basic Prosecutor Course
 - i. August 15-19, 2016
 - ii. Feedback from the students and faculty of the 2015 Basic Prosecutor Course will be considered when the planning committee meet. Beginning the course on Sunday was very well received and will become part of the regular agenda.
 - iii. University Inn, Logan
 - iv. Steve Garside to serve on the planning committee. Also, a student from the 2015 class will be invited to help with planning the course. Bob will make the invitation.
 - v. Planning committee should meet the end of February 2016.
 - g. Government Civil Practice Conference
 - i. Oct. 12-14 - TBD
 - ii. Kelly Wright collaborates with UPC in planning this conference. Kelly works with cities as well.
 - h. Advanced Trial Skills Course will be tabled to 2017
 - i. It was suggested to focus on a specific topic (i.e., DUI, DV) incorporating advocacy skills.
 - I. County/District Attorneys
 - i. Nov. 9-11, 2016
 - ii. St. George Dixie Center
10. TSRP Report
Ed Berkovich gave the TSRP report.
11. SA/DVRP Report
Donna Kelly gave an overview of her training.

- I2. Distance Learning (Depends on the above #5 a. as discussed)
 - a. E-training: short vignettes
 - b. Which offices have tech-savvy prosecutors, staff that can help film these?
 - c. Use young prosecutors who have an expertise but not yet ready for Train the Trainer.

- I3. Monthly Brown Bag (Depends on the above #5 a. as discussed)
 - a. Discussed suggested topics.

- I4. Working with POST
 - a. Continue to collaborate with POST
 - b. Janise suggested Ken Wallentine as a presenter. He also has ties to POST.

- I5. 2017 and beyond
 - a. 2017 Spring Conference.
 - i. Hopefully, remain at the Salt Lake City Sheraton Hotel
 - ii. Possible Spring Conference dates - April 13-14, 2017 or April 20-21, 2017. Easter falls on April 16th.
 - b. 2017 Fall Conference.
 - i. Location TBD determined.
 - ii. Proposed dates Sept. 13-15 or Sept. 20-22, 2017 depending on the Judicial calendar and approval of the Council.

BRAIN STORMING SESSION:

Juvenile - Serious Youth Offenders

Evidence - 404(b) / Priv.

DNA

Eye Witness/Caution Instru.

Child Sex Abuse

Child Witness

Trial Adv. -

Burden of Proof

Cross Examination

Use of the Elmo

Mental Health/Aurora

IV Amendment

Social Media Warrants

ICE

Writing

Appropriate Brief Writing

Elder Abuse

§1983 / Qual. Imm.

Protect the Make/Record (Laura Dupaix to make recommend a speaker)

K-9

Civility - through your staff's eyes.

Team

Accomplice Liability

DV

Body Cameras

Release of Videos

Narc. Traffic

Adv. Tr. Ad. (USA)

DLD (UMPA)

Wire Tap

V & VI Amendment

Ethics - Technology

Homicide - (Colo.)

Capital Considerations

Mental Health

Fund Electronics (Case Law)

Media (ethics)

Witness Intimidation

Financial fraud of vulnerable folks

Interstate Compact

Restitution -

Impact on Civil Litigation of Victim

Pros. Corporations (Environmental Crimes)

Noted - thanks.

[Quoted text hidden]

Marilyn Jasperson

UPC - Training Coordinator
160 East 300 South, 6th Fl.
Salt Lake City, Utah 84114
(801) 366-0202
(801) 366-0204

Marilyn Jasperson <mjasperson@utah.gov>
To: Edward Berkovich <eberkovich@utah.gov>
Cc: Robert Church <rjchurch@utah.gov>, "Kelly, Donna" <dkelly@utah.gov>

Wed, Sep 9, 2015 at 2:37 PM

Here is the updated version.

[Quoted text hidden]

 **Fall - Agenda.pdf**
130K

Edward Berkovich <eberkovich@utah.gov>
To: Marilyn Jasperson <mjasperson@utah.gov>
Cc: Robert Church <rjchurch@utah.gov>, "Kelly, Donna" <dkelly@utah.gov>

Wed, Sep 9, 2015 at 2:45 PM

I think everybody should look at how the italics saying 3:00 p.m. - 5:20 p.m. (small font black italics on red background) print out on paper and decide whether those instructions are legible.

[Quoted text hidden]

Edward Berkovich <eberkovich@utah.gov>
To: Marilyn Jasperson <mjasperson@utah.gov>
Cc: Robert Church <rjchurch@utah.gov>, "Kelly, Donna" <dkelly@utah.gov>

Wed, Sep 9, 2015 at 2:51 PM

The instructions themselves are good...it's the readability that I'm getting at.

[Quoted text hidden]

Marilyn Jasperson <mjasperson@utah.gov>
To: Edward Berkovich <eberkovich@utah.gov>
Cc: Robert Church <rjchurch@utah.gov>, "Kelly, Donna" <dkelly@utah.gov>

Wed, Sep 9, 2015 at 2:54 PM

I printed it out and ran it past Steve. He's thinks its fine.

[Quoted text hidden]

Edward Berkovich <eberkovich@utah.gov>
To: Marilyn Jasperson <mjasperson@utah.gov>
Cc: Robert Church <rjchurch@utah.gov>, "Kelly, Donna" <dkelly@utah.gov>

Wed, Sep 9, 2015 at 3:00 PM

ok sounds good.

[Quoted text hidden]

3:00 PM	POWERPOINT BASIC TO ADVANCED MANU SHILKA	TU & HARDWARE BASIC DAVID COLE	Let's do by Aes. Protocols DOWNARULLY	ADVANCED AND Basic LAW OF DUTY BLOW DEAN ARIES E. Benford
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3:50 PM	Repeat MANU ARISUR	Repeat MANU ARISUR	Repeat MANU ARISUR	Repeat MANU ARISUR
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4:40 PM	Repeat MANU ARISUR	Repeat MANU ARISUR	Repeat MANU ARISUR	Repeat MANU ARISUR
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TRIAL ADVOCACY

Break Out Sessions

<i>1:30</i>	<i>Cross Examination ~ Dawn Emery - Asst. Salt Lake City Prosecutor</i>	<i>Opening & Closing ~ Josh Player - Deputy Salt Lake District Attorney</i>	<i>Experts Witnesses ~ Donna Kelly - Sexual & Domestic Violence Resource Prosecutor, Utah Prosecution Council</i>
<i>2:30</i>	<i>Break</i>	<i>Break</i>	<i>Break</i>
<i>2:40</i>	<i>Direct Examination Repeat presentation</i>	<i>Opening & Closing Repeat presentation</i>	<i>Experts Witnesses Repeat presentation</i>

3:40 ADJOURN

FRIDAY, AUGUST 3^d:

8:15 CHECK IN

*8:30 DV 101 - RELUCTANT WITNESSES
~ Donna Kelly - Sexual & Domestic Violence Resource
Prosecutor, Utah Prosecution Council*

9:30 BREAK

*9:40 AN ADVOCATE'S PERSPECTIVE
~ Troy Little - Deputy Iron County Attorney
~ Rachelle Hill - West Valley City Advocate
~ Detective Michael Bleak - Cedar City Police Department*

10:40 BREAK

*10:50 PRELIM PRIMER
~ Jason Sant - Spanish Fork City Prosecutor & UMPA President*

11:50 ADJOURN

Utah Prosecution Council

2015 Fall Prosecutor Training Conference

"The Visual Trial"

September 16-18, 2015

Park City Marriott Hotel

1895 Sidewinder Drive

Park City, Utah

Agenda

Wednesday, September 16th

1:00 pm

Welcome & Administrative

Robert Church
Director, Utah Prosecution Council

1:15 pm

The Visual Trial: Using Courtroom Technology to Persuade

This presentation will focus on the unique issues involved in the use of courtroom technology in the prosecution of criminal cases. It is designed to introduce the prosecutor to the many ways to prepare and present digital media during trial. The presentation will briefly address the use of media editing software and then address how presentation software can be used during criminal trials, from evidence presentation, to closing argument. The presentation will then include demonstrations of actual trial technology presentations.

Mark A. Shlifka
Executive Assistant State's Attorney,
Supervisor Trial Technology Unit,
Cook County State's Attorney's
Office

2:45 pm

BREAK

#1 of 4

High-Tech Visuals: Bringing the Crime Scene Into the Courtroom

PowerPoint - Basic to advanced, step by step.

Mark A. Shlifka

#2 of 4

TV & Hardware Basics

Description

David Cole
Chief Deputy
Davis County Attorney

#3 of 4

The Lethality Assessment Protocols (LAP) Save Lives

Domestic Violence Lethality Assessment Protocols (LAP) used by first responders are in your future! Four pilot areas have been chosen to implement this important program: Cache County, West Jordan, Cedar City and Davis County and the goal is to have all Utah law enforcement agencies using the program. This presentation will focus on the basics of the LAP and how to use it to your advantage in court.

Donna Kelly
Sexual Assault/Domestic Violence
Resource Prosecutor,
Utah Prosecution Council

#4 of 4

Advocacy and Law for DUI Blood Draw Cases

This section "follows the blood" from a suspect's vein, through evidence labeling and packaging, intake ("accessioning") at the toxicology lab, and production of the final toxicology report. Aimed at providing prosecutors an overview of this process, it will teach responses to common defense claims in DUI blood draw cases, discuss applicable law and suggest visual methods advocacy.

Ed Berkovich
Traffic Safety Resource Prosecutor,
Utah Prosecution Council

5:20 pm

Adjourn

2015 Fall Prosecutor Training Conference

Thursday, September 17th

8:15 am Registration Desk Opens

8:30 am Presenting Expert Testimony - Mechanics & Visual Presentation
Description

Chris Shaw
Deputy Weber County Attorney
Branden Miles
Deputy Weber County Attorney

9:30 am BREAK

9:45 am Cross Examination of the Defense Expert
Description

Chris Shaw
Deputy Weber County Attorney
Letitia Toombs
Deputy Weber County Attorney

10:30 am BREAK

10:45 am Supreme Court Update

A review of opinions from the United States Supreme Court issued after the UPC Spring Conference that are pertinent to the work of prosecutors.

Matthew Bates
Deputy Summit County Attorney

12:00 pm Lunch (on your own)

1:30 pm A Prosecutor's Best Friend

Prosecutors win trials based on evidence. Almost all evidence is introduced through witnesses. Thus, witness preparation and presentation is the most consequential aspect of a successful trial

Robert Stott
Deputy Salt Lake District
County Attorney

2:30 am BREAK

2:40 pm FADE: Foundation and Admission of Digital Evidence - Examples of
Technology Used to Present Digital Evidence at Trial

Branden Miles
Deputy Weber County Attorney

3:40 pm BREAK

3:50 pm Avoiding Icebergs: Brady / Giglio

How, when, who and what we need to do to comply with Brady/Giglio.

Mariane O'Bryant
Deputy Utah County Office

4:50 pm Adjourn

Friday, September 18th

8:15 am Registration Desk Opens

8:30 am Jury Selection Panel

Knowing which potential jurors to eliminate during jury selection can be tricky. The panel will discuss ideas and suggestions they have utilized in trying to find that elusive "perfect juror."

Tim Taylor
Deputy Utah County Attorney
Letitia Toombs
Deputy Weber County Attorney
Brook Behnap
Washington County Attorney

9:00 am BREAK

2015 Fall Prosecutor Training Conference

Friday, September 18th (continued)

#1 of 4

Who is Watching the Kids? Our Role as Prosecutors in Juvenile Court

In light of recent changes, what responsibilities do we have now in dealing with juveniles, families and public and private attorneys.

*Ryan Perkins
Deputy Davis County Attorney*

#2 of 4

The Intersection of Military Justice and Civilian Criminal Justice

This presentation provides prosecutors an overview of the Military Justice system and how it intersects with civilian criminal justice. Several issues are common to civilian prosecution of active duty and reserve military members. Topics include: how a certain conviction might affect career, security clearance, or ability to bear arms; propriety of uniform wear by defendants and witnesses; how to vet defendants' claims as to military duty, experiences, disabilities, etc.; and coordination with JAGs to achieve justice.

*Major Aaron Drake
Chief Counsel for the
Utah National Guard*

#3 of 4

Cold Cases Prosecution

A fascinating look at the advances in DNA technology that improve success in investigation and prosecution of cold cases. We will discuss avoiding land mines, covering lost ground and presenting a solid case, even years after the crime happened.

*Donna Kelly
Sexual Assault/Domestic Violence
Resource Prosecutor,
Utah Prosecution Council*

#4 of 4

ICAC: Where's the Evidence?

Internet Crimes Against Children: The Utah Internet Crimes Against Children Task Force (ICAC) is a multi-jurisdictional law enforcement task force dedicated to protecting children. Digital evidence comes into play in child exploitation cases. As with any evidence-gathering, following proper procedures is crucial and will yield the most valuable data, but often times in ICAC cases, the suspect has cleverly disguised the evidence. This session will show what lengths suspects will take to hide the evidence against them using things like disguised digital media, social sites, on-line storage and encrypted hard-drives.

*Cody Tracy
Department of Homeland Security
Jessica Farnsworth
Section Chief Internet Against
Children Task Force*

11:15 am

BREAK

11:30 am

Prosecutorial Ethics: Pitfalls in Discovery and Argument

A review of cases from describing the ethical rules that prosecutors must follow in the

*Matt Bates
Deputy Summit County Attorney*

12:30 pm

Adjourn

FOR CLE CREDIT, PLEASE ENTER YOUR BAR # HERE:

2802

Please print your name here:

Clifford C. Ross

UTAH PROSECUTION COUNCIL

Program Evaluation Form

2015 Fall Prosecutors Training Conference

September 16-18, 2015

Wed 3 hrs
Thur 6 hrs
Fri 1 hr
Total 10 hrs

Please provide candid evaluations for each of the sessions that you attend. Please rate each session from 1 to 5 with 5 being excellent. You will only receive CLE credit for sessions that are scored.

1	The Visual Trial: Using Courtroom Technology to Persuade <i>-- Score ONLY the Breakout Session You Attend! --</i>	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
2	Breakout 1.1: High-Tech Visuals: Bringing the Crime Scene Into the Courtroom	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
3	Breakout 1.2: Building a Simple, Dependable Trial Presentation System	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
4	Breakout 1.3: The Lethality Assessment Protocols (LAP) Saves Lives!	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
5	Breakout 1.4: Advocacy and Law for DUI Blood Draw Cases <i>-- Score ONLY the Breakout Session You Attend! --</i>	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
6	Breakout 2.1: High-Tech Visuals: Bringing the Crime Scene Into the Courtroom	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
7	Breakout 2.2: Building a Simple, Dependable Trial Presentation System	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
8	Breakout 2.3: The Lethality Assessment Protocols (LAP) Saves Lives!	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
9	Breakout 2.4: Advocacy and Law for DUI Blood Draw Cases <i>-- Score ONLY the Breakout Session You Attend! --</i>	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
10	Breakout 3.1: High-Tech Visuals: Bringing the Crime Scene Into the Courtroom	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
11	Breakout 3.2: Building a Simple, Dependable Trial Presentation System	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
12	Breakout 3.3: The Lethality Assessment Protocols (LAP) Saves Lives!	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
13	Breakout 3.4: Advocacy and Law for DUI Blood Draw Cases	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
14	Presenting Expert Testimony - Mechanics & Visual Presentation	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
15	Cross Examination of the Defense Expert	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
16	Supreme Court Update	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
17	A Prosecutor's Best Friend	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5
18	FADE: Foundation and Admission of Digital Evidence - Examples of Technology Used to Present Digital Evidence at Trial	Presentation: 1 2 3 4 5 Material: 1 2 3 4 5

19	Avoiding Icebergs: Brady/Giglio	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
20	Jury Selection Panel	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
<i>-- Score ONLY the Breakout Session You Attend! --</i>							
21	Breakout 4.1: Who is Watching the Kids? Our Role as Prosecutors in Juvenile Court	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
22	Breakout 4.2: The Intersection of Military Justice and Civilian Criminal Justice	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
23	Breakout 4.3: Cold Case Prosecutions	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
24	Breakout 4.4: ICAC: Where's the Evidence?	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
<i>-- Score ONLY the Breakout Session You Attend! --</i>							
25	Breakout 5.1: Who is Watching the Kids? Our Role as Prosecutors in Juvenile Court	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
26	Breakout 5.2: The Intersection of Military Justice and Civilian Criminal Justice	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
27	Breakout 5.3: Cold Case Prosecutions	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
28	Breakout 5.4: ICAC: Where's the Evidence?	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
<i>-- Score ONLY the Breakout Session You Attend! --</i>							
29	Breakout 6.1: Who is Watching the Kids? Our Role as Prosecutors in Juvenile Court	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
30	Breakout 6.2: The Intersection of Military Justice and Civilian Criminal Justice	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
1	Breakout 6.3: Cold Case Prosecutions	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
32	Breakout 6.4: ICAC: Where's the Evidence?	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5
33	Prosecutorial Ethics: Pitfalls in Discovery and Argument	Presentation:	1	2	3	4	5
		Material:	1	2	3	4	5

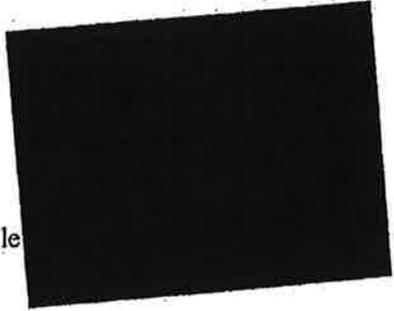
If you would like to suggest a topic for a future conference, please enter it here: _____

What was the most helpful topic or topics in this conference? Technology in the courtroom.

What topic was the least meaningful or helpful for you? _____

Do you have any feedback on the facility or location of this conference? Shifka's presentations on ppt were wonderful. UPC should focus on this subject matter in future CLE's. Agenda was hard to read. Use better font and layout.

EVALUATION COMMENTS
2015 Fall Prosecutors Training Conference



1. Suggestions of one or more topics for a future conference.

- Child Interviews
- How to discredit/impeach expert witnesses
- Negotiation Strategy
- Break-out session on serious youth offender issues for juvenile
- Presenting DNA evidence
- Combating eye-witness expert from defense
- Dealing with a victim who is lying
- Trial strategies for child sexual abuse cases
- Drug court and new misdemeanor drug offenses – how will one affect the other?
- 404(b) and (c) Evidence (and recent decisions)
- Doctor/Patient privilege
- Restart her juvenile conferences
- Evidence Rules/Practical Application in trial
- Discovery responses
- Criminal forfeiture
- Professional civility MCLE
- Novel Motions (need new ideas)
- Trial advocacy is always helpful
- Mental Health Issues and Prosecutors
- Legal writing
- Search and Seizure Review
- “What joker came up with the current probation guidelines? Why bother to prosecute?”

2. Most helpful topic or topics.

• <i>The Visual Trial: Using Courtroom Technology to Persuade</i>	13 hit
• <i>High-Tech Visuals: Bringing the Crime Scent Into the Courtroom</i>	9 hit
• <i>Building a Simple, Dependable Trial Presentation System</i>	7 hit
• <i>The Lethality Assessment Protocols (LAP) Saves Lives!</i>	hit
• <i>Advocacy and Law for DUI Blood Draw Cases</i>	2 hit
• <i>Presenting Expert Testimony - Mechanics & Visual Presentation</i>	1 hit
• <i>Cross Examination of the Defense Expert</i>	1 hit
• <i>Supreme Court Update</i>	7 hit
• <i>A Prosecutor=s Best Friend</i>	2hit
• <i>FADE</i>	3 hit
• <i>Avoiding Icebergs: Brady/Giglio</i>	1 hit
• <i>Jury Selection Panel</i>	1 hit
• <i>Who is Watching the Kids? Our Role as Prosecutors in Juvenile Court</i>	hit
• <i>The Intersection of Military Justice and Civilian Criminal Justice</i>	1 hit
• <i>Cold Case Prosecutions</i>	hit
• <i>ICAC: Where=s the Evidence?</i>	hit
• <i>Prosecutorial Ethics: Pitfalls in Discovery and Argument</i>	5 hit

3. Least meaningful or helpful topics.

• <i>The Visual Trial: Using Courtroom Technology to Persuade</i>	2 hit
• <i>High-Tech Visuals: Bringing the Crime Scent Into the Courtroom</i>	hit
• <i>Building a Simple, Dependable Trial Presentation System</i>	2 hit
• <i>The Lethality Assessment Protocols (LAP) Saves Lives!</i>	hit
• <i>Advocacy and Law for DUI Blood Draw Cases</i>	1 hit
• <i>Presenting Expert Testimony - Mechanics & Visual Presentation</i>	4 hit
• <i>Cross Examination of the Defense Expert</i>	hit
• <i>Supreme Court Update</i>	2 hit
• <i>A Prosecutor=s Best Friend</i>	3 hit
• <i>FADE</i>	hit
• <i>Avoiding Icebergs: Brady/Giglio</i>	2 hit

•	<i>Jury Selection Panel</i>	1 hit
•	<i>Who is Watching the Kids? Our Role as Prosecutors in Juvenile Court</i>	hit
•	<i>The Intersection of Military Justice and Civilian Criminal Justice</i>	1 hit
•	<i>Cold Case Prosecutions</i>	hit
•	<i>ICAC: Where=s the Evidence?</i>	hit
•	<i>Prosecutorial Ethics: Pitfalls in Discovery and Argument</i>	hit

4. **Feedback on the Facility or the Location of this conference.**

• **Compliment:**

- ~Great location!
- ~Break-out sessions are great!
- ~Great facilities, beautiful area.
- ~Great place, thanks!
- ~Brownies and cheesecake, DIVINE!
- ~Loved the facility, use it again.

• **Complaints:**

- ~Not enough hotel rooms, had to stay at other location.
- ~A little hard to see screen in main room.
- ~Most of room couldn't see bottom half of the screen.
- ~Too small, crowded, not enough seats, noisy.
- ~Terrible parking at hotel.
- ~Mics kept cutting out, room felt cramped.
- ~Schedule it with judges conference (more convenient).
- ~Bad parking, bad room, do it in SL County.
- ~Schedule at same time as judicial conference. For court scheduling purposes.
- ~Parking not great.
- ~Inadequate facilities, screen too low, audio cut out, Uintah breakout room was too small.
- ~Breakout rooms too small. Uintah WAY too small.
- ~Schedule with judicial conference.
- ~Park City sucks. Traffic from Heber side and parking is bad.
- ~Have at same time as judges conference.
- (Many more re: cramped rooms and having it at same time as judges conference)
- ~More UPC jackets!

• **Comment:**

- ~Have it in St. George!
- ~30-minute format for breakouts is too short. Better to have two 45-minute or 60 minute sessions than 3-30 minute ones.

(read second) Re: Agenda Questions Re: B Prosecutor Course

email: "eberkovich@utah.gov Edward Berkovich"

Tuesday, July 28, 2015 at 11:54:49 AM Mountain Daylight Time

To: email: "rjchurch@utah.gov Robert Church", email: "mjasperson@utah.gov Jasperson, Marilyn"

I noticed some other things on the agenda.

As one example, Greg Ferbrache's title. We indicate organizational position for others (e.g., Chief, Director, Deputy) but not for Greg. Here's his email signature line.

Gregory N. Ferbrache
Assistant Utah Attorney General
Special Assistant United States Attorney
Division Director
Justice Division
Utah Attorney General's Office

If either of you would prefer that I not make suggestions about our agendas, let me know.

On Tue, Jul 28, 2015 at 11:24 AM, Edward Berkovich <eberkovich@utah.gov> wrote:

Bob/Marilyn,

(1) The SFSTs, Intoxilyzer 8000: Operating Principles shows on the brochure for Monday, August 17, but not on the agenda for that day. Is this still a go? If it is, what time does the section on SFSTs & Intoxilyzer 8000 Operating Principles start and finish? And that latter way of titling it is how I suggest titling it. (I need to make sure my UHP trooper will be there at the right time (and an hour in advance to set up)).

(2) Re Driver License Issue (I think we should add an "s" to "Issue"): that is on the brochure for Wednesday, August 19, but not on the Agenda for that day. Assuming we still want Kim Gibb teaching Driver License Issues, we don't need to give her a separate section. See below for why.

(3) Also, as discussed with Bob, Nghia is not teaching this year (nor is anybody from the tox lab). The heading for August 19 at 1:30, assuming Kim is teaching, could be DUI Prosecution & Driver License Issues. The teachers are me and Kim Gibb, Driver License Division (or ~ Kim Gibb ~ Driver License Division, if we keep using the algebraic weak equivalence symbol or tilde symbol (~) that way in UPC agendas instead of a comma. I'm on record saying it is a mistake (as in an error of usage) to use that symbol like we do. Same goes for hyphens in some of our agendas).

(4) Also, in light of (3), Sgt. Newlin should be deleted from the August 19 at 1:30 slot.

Please let me know if you need further information from me.

Thanks, Ed.

On Mon, Jul 27, 2015 at 3:43 PM, Robert Church <rjchurch@utah.gov> wrote:

The Basic Prosecutor Course will be held August 17-21 at the University Inn on the campus of Utah State. The agenda and brochure is attached. You can also register online at: <http://upc.utah.gov/training-basic.php>
Remember, this course is for new prosecutors with up to 5 years experience.

UPC pays for lodging. Students will be placed on a master list with the University Inn so no one need make their own room reservations. Offices will be responsible for travel and per diem.

It's always a great course and we look forward to meeting and working with new prosecutors.

Bob

Robert J. Church

Director, Utah Prosecution Council
P.O. Box 140841
Salt Lake City, UT 84114-0841
O. 801-366-0201
C. 801-921-3274



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Traffic Safety Resource Prosecutor
Utah Prosecution Council
160 East 300 South, 6th Floor
Salt Lake City, Utah 84114
Cell 801 350 1303 (use this phone number)
Office 801 366 0241
Fax 801 366 0204
E-mail: eberkovich@utah.gov



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Fax 801 366 0204
E-mail: eberkovich@utah.gov



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email: "rjchurch@utah.gov Robert Church" Tuesday, July 28, 2015 at 3:51:02 PM Mountain Daylight Time
To: email: "eberkovich@utah.gov Edward Berkovich"
Cc: email: "mjasperson@utah.gov Jasperson, Marilyn"

Ed,

Thanks for the suggestions. I made the mistake and included the agenda before it was completed or formalized. It's just a draft that does not necessarily coincide with the brochure.

In terms of using the tilda or dashes, I know you're on record stating it's a grammatical mistake to use them but that's too far into the weeds for my concern. I use dashes myself and will continue to do so. Now I know I'm not grammatically correct. Oh well. Not too concerned.

I appreciate your technical expertise in looking at what we put out. Unfortunately I have embarrassed UPC by including a product that was not meant for public consumption.

Bob

Robert J. Church

Director, Utah Prosecution Council
P.O. Box 140841
Salt Lake City, UT 84114-0841
O. 801-366-0201
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On Tue, Jul 28, 2015 at 11:54 AM, Edward Berkovich <eberkovich@utah.gov> wrote:

I noticed some other things on the agenda.

As one example, Greg Ferbrache's title. We indicate organizational position for others (e.g., Chief, Director, Deputy) but not for Greg. Here's his email signature line.

Gregory N. Ferbrache
Assistant Utah Attorney General
Special Assistant United States Attorney
Division Director
Justice Division
Utah Attorney General's Office

If either of you would prefer that I not make suggestions about our agendas, let me know.

On Tue, Jul 28, 2015 at 11:24 AM, Edward Berkovich <eberkovich@utah.gov> wrote:

Bob/Marilyn,

(1) The SFSTs, Intoxilyzer 8000: Operating Principles shows on the brochure for Monday, August 17, but not on the agenda for that day. Is this still a go? If it is, what time does the section on SFSTs & Intoxilyzer 8000 Operating Principles start and finish? And that latter way of titling it is how I suggest titling it. (I need to make sure my UHP trooper will be there at the right time (and an hour in advance to set up)).

(2) Re Driver License Issue (I think we should add an "s" to "Issue"); that is on the brochure for Wednesday, August 19, but not on the Agenda for that day. Assuming we still want Kim Gibb teaching Driver License Issues, we don't need to give her a separate section. See below for why.

(3) Also, as discussed with Bob, Nghia is not teaching this year (nor is anybody from the tox lab). The heading for August 19 at 1:30, assuming Kim is teaching, could be DUI Prosecution & Driver License Issues. The teachers are me and Kim Gibb, Driver License Division (or ~ Kim Gibb ~ Driver License Division, if we keep using the the algebraic weak equivalence symbol or tilde symbol (~) that way in UPC agendas instead of a comma. I'm on record saying it is a mistake (as in an error of usage) to use that symbol like we do. Same goes for hyphens in some of our agendas).

(4) Also, in light of (3), Sgt. Newlin should be deleted from the August 19 at 1:30 slot.

Please let me know if you need further information from me.

Thanks, Ed.

On Mon, Jul 27, 2015 at 3:43 PM, Robert Church <rchurch@utah.gov> wrote:

The Basic Prosecutor Course will be held August 17-21 at the University Inn on the campus of Utah State. The agenda and brochure is attached. You can also register online at: <http://upe.utah.gov/training-basic.php>
Remember, this course is for new prosecutors with up to 5 years experience.

UPC pays for lodging. Students will be placed on a master list with the University Inn so no one need make their own room reservations. Offices will be responsible for travel and per diem.

It's always a great course and we look forward to meeting and working with new prosecutors.

Bob

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email: "eberkovich@utah.gov Edward Berkovich"

Tuesday, July 28, 2015 at 4:05:41 PM Mountain Daylight Time

To: email: "eberkovich@yahoo.com eberkovich@yahoo.com", email: "eberkovich@outlook.com"

----- Forwarded message -----

From: **Robert Church** <rjchurch@utah.gov>

Date: Tue, Jul 28, 2015 at 3:51 PM

Subject: Re: (read second) Re: Agenda Questions Re: Basic Prosecutor Course

To: Edward Berkovich <eberkovich@utah.gov>

Cc: "Jasperson, Marilyn" <mjasperson@utah.gov>

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5/24/2016

Google Apps Vault - (read second) Re: Agenda Questions Re: Basic Prosecutor Course



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my personality - I believe in giving praise where praise is deserved, even for doing what I have tried to comply with your wishes and will continue to try and comply with you.

You and I have different personalities in the way we interact with people, the way we teach, etc. I acknowledge that in certain areas I need to tighten things up, but I am not going to change who I am. I was hired for who I am and to implement the new ideas that I have. Perhaps some of my ideas and policies may cause you some grief. When, and if it does, my expectation is that you discuss them with me privately. Then, once a decision is made, even if you disagree with it, I will expect you to fully support it.

D. Working with Marilyn. With the conclusion of the investigation, the restriction on you and Marilyn communicating only by e-mail is lifted. I will expect your interactions with her to be professional. If she engages in behavior that you find annoying or harassing, I would expect you to follow the procedures outlined above.

E. Your e-mail to Mark Nash dated August 13, 2012

As Mark was doing turnover with me, he told me of this incident where he asked you to change the formatting of your training slides. I was provided a copy of the e-mail chain. My initial question was why Mark had not fired you at the time. I am telling you right now, if you ever engage in this type of behavior with me, send an e-mail like this to me, I will not hesitate to fire you.

As Director of UPC and as your boss, Mark had every right to ask you, tell you, to improve and change the content of your training slides. It was not your position to challenge him in the manner that you did. Your first response was the correct one. You accepted his suggestions and sent him an edited slide. A couple days later you sent him the e-mail telling him you were not going to follow his direction. Well I agree with Mark and will give you the same mandate.

Your presentations are excellent. You have great content. Your slides, though, have no long term value after the conclusion of your presentation. A specific example. Several years ago I had a question on a memo I was writing. I remembered that you had talked about it at UMPA. I pulled out your presentation and to my dismay, I couldn't find any specific information. I had to e-mail you about it and you sent me back a case and/or statute citation. I saw that it was in your materials but because there was no additional explanation associated with the cite, it was not helpful to me at the time I needed it.

In the future I want you to include more substance on your slides. You do not have to write volumes, but I want your slides to at least have enough information so that if someone who did not attend your presentation but had a copy of your slides, he or she could look at them and get an idea of the teaching point contained on the slide.

I don't care that others have said your slides are great. I know what I have experienced and I know what others have said to me.

Out of the office until July 20. Re: NAPC Merchandise Extravaganza Next Week

email: "rjchurch@utah.gov Robert Church" Thursday, July 9, 2015 at 2:16:44 PM Mountain Daylight Time
To: email: "eberkovich@utah.gov"

I'll be out of the office until July 20 - vacation the first 6 days then at a conference. I won't have access to my e-mail until Wednesday, July 15, and then, only limited access. Apologize for any inconvenience.

--

Robert J. Church

Director, Utah Prosecution Council
P.O. Box 140841
Salt Lake City, UT 84114-0841
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(read second) Re: NACP Merchandise Extravaganza Next Week

email: "eberkovich@utah.gov Edward Berkovich" Friday, July 10, 2015 at 3:07:15 PM Mountain Daylight Time
To: email: "rjchurch@utah.gov Robert Church" , email: "mjasperson@utah.gov Jasperson, Marilyn"

I've got this handled...4 purple UPC jackets are on my desk to to bring to Chicago does that work?

On Thu, Jul 9, 2015 at 2:16 PM, Edward Berkovich <eberkovich@utah.gov> wrote:

- Have we made plans what to bring to this? I.e., what Utah stuff (calendars, hoodies, etc.) we're going to offer to the give-away?

Edward A. Berkovich
Traffic Safety Resource Prosecutor
Utah Prosecution Council
160 East 300 South, 6th Floor
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email: "eberkovich@utah.gov Edward Berkovich"

Monday, July 13, 2015 at 9:19:26 AM Mountain Daylight Time

To: email: "mjasperson@utah.gov Marilyn Jasperson", email: "rjchurch@utah.gov Robert Church"

Thank you both for packing the SWAG. And you're welcome.

On Sat, Jul 11, 2015 at 1:42 PM, Marilyn Jasperson <mjasperson@utah.gov> wrote:
Bob & I already have the SWAG packed but thanks anyway.

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Marilyn Jasperson
UPC - Training Coordinator
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Salt Lake City, Utah 84114
(801) 366-0202
(801) 366-0204

--
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NAPC Merchandise Extravaganza Next Week

email: "eberkovich@utah.gov Edward Berkovich"

Thursday, July 9, 2015 at 2:16:42 PM Mountain Daylight Time

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Monday, July 13, 2015 at 9:21:02 AM Mountain Daylight Time

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Got it. I've put the purple pullovers back in their correct boxes according to size. Thanks.

On Sat, Jul 11, 2015 at 1:47 PM, Marilyn Jasperson <mjasperson@utah.gov> wrote:
Bob & I are bringing the pull overs & calendars.

Thanks

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Ed Berkovich

Personnel file

3/13/17



Tab D

Utah Prosecution Council

2017 Spring Conference

Thursday and Friday
April 27-28, 2018
The Riverwoods Conference Center
615 South Riverwoods Parkway
Logan, Utah
Agenda

Thursday, April 27th:

- 8:00 Registration Desk Open
- 8:45 Welcome and Administrative Matters
~ Robert Church - Director, Utah Prosecution Council
- 9:00 Case Law Update
~ John Nielsen - Assistant Utah Attorney General, Criminal Appeals Division
~ Peter Leavitt - Deputy Salt Lake County District Attorney
- 10:30 Break
- 10:45 Case Law Update - Continued
- 12:00 Lunch - on your own
- 1:30 Case Law Update - Continued
- 2:45 Break
- 3:00 Case Law Update - Continued
- 4:00 Break
- 4:10 Ethics Presentation
~ Dean Robert Alder - Dean of S.J. Quinney College of Law, University of Utah
- 5:10 Adjourn

Friday, April 28th:

- 8:15 Welcome - Registration Desk Open
- 8:30 What's In Your Toolbox?
~ Robert Church - Director, Utah Prosecution Council
- 9:30 Break
- 9:40 2017 Legislative Update
~ Paul Boyden - Executive Director, Statewide Association of Prosecutors
Deputy Salt Lake District Attorney
~ Will Carlson - Chair, SWAP Legislative Affairs Committee
Deputy Salt Lake District Attorney &
~ Darcy Goddard - Chief Policy Advisor, Civil Division, Deputy Salt Lake District Attorney
- 10:50 Break
- 11:00 2017 Legislative Update - Continued
- 12:00 Luncheon Presentation (Lunch Provided)
"Professionalism and Civility - Ten Reasons to Avoid the Darkness"
~ Clifford Ross - Deputy Salt Lake District Attorney
- 2:00 Adjourn

**Conference materials maybe accessed at
www.upc.utah.gov/training-spring.php**

Utah Prosecution Council

Utah Prosecutorial Assistants Association

June 21-23, 2017

Uintah Conference Center

313 East 200 South

Vernal, Utah

“Fossils, Footprints & the Bones of What We Do”

Agenda

Wednesday, June 21st:

12:30 Registration Desk Open

1:00 Welcome and Introductions

~ Haley Christensen - Chairperson, Utah Prosecutorial Assistants Association

~ Marilyn Jaspersen - Training Coordinator, Utah Prosecution Council

~ G. Mark Thomas - Uintah County Attorney

1:15 Keynote Speaker - What is Your Legal Team's Brand?

~ Kevin Miller - President/CEO VisionBound International LLC

Kevin will discuss developing team building between our attorney's and legal teams. He will also address why customer service is so important and how to improve customer service for those we serve.

2:45 Break

3:00 What Happened on the Hill This Year - A Review of the 2017 Legislative Session

~ Robert Church - Director, Utah Prosecution Council

A review and discussion of what bills passed this year and how they will affect how you do your job.

4:15 Adjourn

4:30 UPAA Study Group

Thursday, June 22nd:

8:00 *Registration Desk Open*

8:30 *Welcome*

8:45 *9 Miracles - The Brody Young Story*

~ *Ranger Brody Young - Utah State Park Ranger*

Life is full of surprises and it can be either tragic and/or wonderful. We have the choice in how we handle it. Such was the case for Utah State Park Ranger Brody Young as he began his patrol on the early evening of November 19, 2010. What happened next defies explanation. Brody's experience can bring hope and reflection. 9 Miracles will motivate and hopefully inspire you for years to come. You can't help but search for the meaning and miracles in you life!

10:15 *Break*

10:30 *GRAMA vs. Discovery - The Right Hand Doesn't Know What the Left Hand is Doing*

~ *Gavin Anderson - Deputy Salt Lake County District Attorney*

This presentation explores the relationship between the Government Records Access and Management Act and both civil and criminal discovery. What can we do when lawyers mix and match between these two processes to get information from the government?

11:30 *Lunch Provide*

Luncheon Presentation - How to Deal with Difficult People

~ *Kevin Miller - President/CEO VisionBound International LLC*

DESCRIPTION

1:00 *Sniffing Out Child Predator - Electronic Detection*

~ *Detective Cameron Hartman - Weber County Sheriff's Office*

~ *URL - EDK9's (a.k.a. Porn Dog)*

This presentation will discuss and demonstrate this unique training of an EDK-9. URL is a two-year old rescued Labrador from Indiana who has been trained to detect minute (extremely small) chemical odors found in the motherboards of electronic storage devices such as micro SD cards; SD cards; USB/thumb drives; external hard drives; cellular telephones; tablets; laptops; hard drives, etc. URL is a scent detection K9 for electronic storage devices.

1:45 *Break / Activity*

2:00 *Helping to Take the Bite Out of Crime - K9 Demonstrations*

~ *Uintah Basin Law Enforcement and K9 Unit*

Why do we need dogs in police work? Simply put, they can do things that their human partners can't. This session will discuss and demonstrate how the K9 program creates a partnership with the local community in an effort to solve crimes more effectively and discourage criminal activity.

4:00 *Adjourn*

4:30 *CUPA Test*

Friday, June 24th:

8:00 *Registration Desk Open*

8:15 *Animal Abuse and Violent Crime*

~ Scott Beckstead, Senior Oregon Director and Rural Outreach Director for the Humane Society of the United States

This session will explore animal cruelty investigations with a focus on Utah law and the critical link between animal abuse and other violent crime (namely, domestic violence/child abuse, drugs and gangs).

9:45 *Break / Activity*

10:00 *Understanding Our Differences*

~ Elaine E. Hill, EAP Coordinator

There's a tendency to believe that people who do things the way we do them are just like us, rather than understanding that we are surrounded by differences in personalities and styles.

In this class we will be using the Myers-Briggs Tool (MBTI) to identify individual preferences and discussing how this information can build and increase team performance.

12:00 *Closing Remarks and Adjourn*

Utah Prosecution Council
Utah Misdemeanor Prosecutors Association

2017 UMPA Summer Conference

August 3–4, 2017
St. George Courtyard by Marriott
185 South 1470 East
St. George, Utah

Agenda

Thursday, August 3rd:

- 8:15 Registration Desk Open
- 8:30 Welcome and Administrative Matters
- 8:40 Judicial Panel (A Professional & Civility Presentation) [Bob to contact]
Sentencing philosophies, practices, bail schedules
– The Honorable Rick Romney – Provo City Justice Court
– The Honorable Brook Sessions – Wasatch County Justice Court
– AOC
– Defense Attorney
DESCRIPTION –
- 9:40 Break
- 9:50 Roundtable – Survey, Creative Plea in Abeyance
– Jake Summers, Assistant Orem City Attorney
– Nic Mills, Assistant Layton City Attorney
– Ryan Robinson, Chief Prosecutor, West Valley City
– Tyler Romeril, Cedar City Attorney
DESCRIPTION –
- 10:20 Foundation
(Tox. Lab, 911 and objections)
– Troy Little, Deputy Iron County Attorney [Bob to contact]
DESCRIPTION –
- 10:50 Winning v. Self Defense
– Spencer Walsh, TITLE [Ryan to contact]
DESCRIPTION –

11:50 Lunch – provided
UMPA Business Meeting

1:00 DRE
–Tyson Skeen, Traffic Safety Resource Prosecutor, UPC
DESCRIPTION –

2:40 Break

2:50 K-9 [Tyson to contact]
– Local K-9 Unit
DESCRIPTION –

4:00 Adjourn

Friday, August 4th:

7:45 Registration Desk Open

8:00 Immigration/ICE Agent & Defense Agent [Bob to contact]
(Collateral damage for misdemeanors, removable offenses, U-Visas)
– Presenters TBD
DESCRIPTION –

9:00 Break

9:10 Post Conviction
(Review old PIA – 402)
– Lena Ward, Deputy Salt Lake District Attorney [Scott to contact]
DESCRIPTION –

10:10 Break

10:20 Brady/Giglio
(From an agency perspective, office policies/practices, tracking, what
type of things, building relationships with cops)
– Blake Nakamura, TITLE [Scott to contact]
– Mark Kittrell, TITLE [Scott to contact]
DESCRIPTION –

11:30 Adjourn

2017 Basic Prosecutor Course
 USU – University Inn – Logan, Utah
 August 14-18, 2017

Monday					
8:00 -8:15	Factual Scenario		Bob Church or New Donna		
8:15-9:00	Screening Lecture		Brandon/Josh		
9:00-9:30	Screening Breakout				
9:30-9:45	Break				
9:45-10:00	Group Reports				
10:00-10:15	Faculty Screening				
10:15-11:45	Foundation & Exhibits		Sandi J.		
11:45-1:00	Lunch				
1:00-2:30	Responding to Motions to Suppress/Preserve Record		Ann Marie		
2:30-2:45	Break				
2:45-3:15	E-Warrants		Sandi J.		
3:15-3:45	Prosecutor Toolbox		Bob Church		
3:45-4:00	Icebreaker Game				
4:00-5:00	Opening Statement		Ann Marie		
Tuesday					
8:00-9:00	Opening Statement Workshop				
9:00-9:15	Faculty Demo Opening				
9:15-9:45	Prepare Do-Over				
9:45-10:45	Do Over				
10:45-12:00	DUI Defenses & DLD		Tyson		
12:00-1:15	Lunch				
1:15-2:00	Plea Bargaining & Sentencing		Ryan Stack		
2:00-3:15	SFST & Toxicology		Chris Newlin		
3:15-3:30	Icebreaker Game				
3:30-4:30	Direct Examination Lecture		Josh P.		
4:30-5:00	Intoxilyzer if you want				
6:00	Kickball				
Wednesday					
8:00-9:00	Direct Exam Workshop				
9:00-9:15	Faculty Demonstration				

2017 Basic Prosecutor Course
 USU – University Inn – Logan, Utah
 August 14-18, 2017

9:15-10:30	6 th Amendment Pitfalls	Sandi J.	
10:30-10:45	Icebreaker Game/Break		
10:45-11:45	Witness Management	Brandon Miles	
11:45-1:00	Lunch		
1:00-2:00	Civility	Josh P.	
2:00-4:00	Drug Prosecution & K-9	Steve G.	
4:00-5:00	Cross Exam Lecture	Troy L.	
5:00-5:15	Direct of Defendant	Josh P.	
Thursday			
8:00-9:00	Cross Exam Workshop		
9:00-9:15	Cross Exam Faculty Demo	Troy L.	
9:15-9:45	Prepare Do-Over		
9:45-10:45	Do Over Cross Exam		
10:45-11:00	Icebreaker Game/Break		
11:00-11:30	Lessons Learned	Video Ronda	
11:30-1:00	Network Lunch		
1:00-2:00	Jury Selection	Jake Summers	
2:00-2:15	Icebreaker Game/Break		
2:15-4:00	Domestic Violence	Bob Church/New Donna	
4:00-5:00	Closing Argument Lecture	Steve G.	
6:00	Group BBQ		
Friday			
8:00-9:00	Closing Argument Workshop		
9:00-9:15	Closing Faculty Demo	Steve G.	
9:15-10:00	Faculty Q&A		
10:00-10:30	Keeping It Together	Marilyn J.	
10:30-10:45	Break		
10:45-11:45	Ethical Prosecutor – Ethics Matter	Dee Smith James Swink	
11:45-12:00	Wrap-Up		

Tab E

FY 2017 - Thru MAR 2017
Criminal Fine Surcharge

Please remember to spend the lessor of the (AMOB Allocation Schedule plus ending fund balance) or the Appropriation

Description	Total		General Fund		LESA		Total		Pros Council 3%		AG Train .5%	
	Surcharge Collected	First \$30,000 Obj 7953	First 4.5% Obj 7954	Before Allocation	Allocation	Obj 7959	Obj 7963	Obj 7959	Obj 7963			
July New FY 17	1,449,515.83	30,000.00	40,638.42	1,378,877.41		41,366.32	6,894.39					
Total YTD	1,449,515.83	30,000.00	40,638.42	1,378,877.41		41,366.32	6,894.39					
August	1,410,731.22	0.00	39,593.80	1,371,137.42		41,134.12	6,855.69					
Total YTD	2,860,247.05	30,000.00	80,232.22	2,750,014.83		82,500.44	13,750.08					
September	1,493,800.46	0.00	43,058.79	1,450,741.67		43,522.25	7,253.71					
Total YTD	4,354,047.51	30,000.00	123,291.01	4,200,756.50		126,022.69	21,003.79					
October	1,414,886.98	0.00	39,400.61	1,375,486.37		41,264.59	6,877.43					
Total YTD	5,768,934.49	30,000.00	162,691.61	5,576,242.88		167,287.28	27,881.22					
November	1,272,291.25	0.00	37,046.59	1,235,244.66		37,057.34	6,176.22					
Total YTD	7,041,225.74	30,000.00	199,738.20	6,811,487.54		204,344.62	34,057.44					
December	1,258,982.86	0.00	37,057.97	1,221,924.89		36,657.75	6,109.62					
Total YTD	8,300,208.60	30,000.00	236,796.17	8,033,412.43		241,002.37	40,167.06					
January	1,275,323.52	0.00	36,728.28	1,238,595.24		37,157.86	6,192.98					
Total YTD	9,575,532.12	30,000.00	273,524.45	9,272,007.67		278,160.23	46,360.04					
February	1,449,696.62	0.00	43,568.33	1,406,128.29		42,183.85	7,030.64					
Total YTD	11,025,228.74	30,000.00	317,092.78	10,678,135.96		320,344.08	53,390.68					
March	1,631,611.81	0.00	51,724.75	1,579,887.06		47,396.61	7,899.44					
Total YTD	12,656,840.55	30,000.00	368,817.53	12,258,023.02		367,740.69	61,290.12					
April	0.00	0.00	0.00	0.00		0.00	0.00					
Correct Adjust			0.00	0.00		0.00	0.00					
April Cor. Alloc.			0.00	0.00		0.00	0.00					
Correct Adjust			0.00	0.00		0.00	0.00					
April Revised			0.00	0.00		0.00	0.00					
Total YTD	12,656,840.55	30,000.00	368,817.53	12,258,023.02		367,740.69	61,290.12					
May	0.00	0.00	0.00	0.00		0.00	0.00					
Correct Adjust			0.00	0.00		0.00	0.00					
May Cor. Alloc.			0.00	0.00		0.00	0.00					
Correct Adjust			0.00	0.00		0.00	0.00					
May Revised			0.00	0.00		0.00	0.00					
Total YTD	12,656,840.55	30,000.00	368,817.53	12,258,023.02		367,740.69	61,290.12					
June	0.00	0.00	0.00	0.00		0.00	0.00					
Correct Adjust			0.00	0.00		0.00	0.00					
June Cor Alloc			0.00	0.00		0.00	0.00					
Correct Adjust			0.00	0.00		0.00	0.00					
June Revised			0.00	0.00		0.00	0.00					
Total YTD	12,656,840.55	30,000.00	368,817.53	12,258,023.02		367,740.69	61,290.12					

FUND **Fd 1000** **Criminal Fine Surcharge** **Fd 1255** **Fd 1110**
LINE ITEM **CEAA** **DLAA**
Allocation Schedule

FY2017 Approp	30,000.00	617,900.00	635,700.00	73,300.00
Total Collected Revenue to Approp	30,000.00	13,731,111.11	21,190,000.00	15,660,000.00
Over/(Under) Approp Limitation	-	(249,082.47)	(267,959.31)	(17,009.88)

Fund 8016 - Surcharge Fines - Receipts

Description	RS 4107 St Courts 90% surchrg	RS 4108 St Courts 35% surchrg	RS 4109 JP Courts 90% surchrg	RS 4110 JP Courts 35% surchrg	Total Collected Surcharge 2016
July Old FY16	103,461.76	1,586.48	658,376.00	500,597.00	1,483,277.23
July New FY 17	171,238.28	14,256.31	658,376.00	500,597.00	1,487,415.66
Total YTD	274,700.04	15,842.79	658,376.00	500,597.00	1,551,258.85
August	252,928.85	21,651.62	626,933.36	509,217.39	1,551,258.85
Total YTD	527,628.89	37,494.41	1,285,309.36	1,009,814.39	3,038,674.51
September	247,383.61	22,277.81	709,478.30	514,660.74	1,348,821.50
Total YTD	775,012.50	59,772.22	1,994,787.66	1,524,475.13	4,387,496.01
October	212,575.13	19,722.48	662,993.93	519,595.44	1,569,485.20
Total YTD	987,587.63	79,494.70	2,657,781.59	2,044,070.57	5,956,981.21
November	226,227.23	22,463.44	597,030.27	426,570.31	1,386,706.81
Total YTD	1,213,814.86	101,958.14	3,254,811.86	2,470,640.88	7,343,687.82
December	218,690.75	22,103.91	604,819.68	413,368.52	1,401,231.26
Total YTD	1,432,505.61	124,062.05	3,859,631.54	2,884,009.40	8,744,919.08
January	251,924.83	23,170.07	564,259.15	435,969.47	1,375,635.68
Total YTD	1,684,430.44	147,232.12	4,423,890.69	3,319,978.87	10,120,554.76
February	258,724.77	18,615.79	709,460.30	462,895.76	1,408,152.16
Total YTD	1,943,155.21	165,847.91	5,133,350.99	3,782,874.63	11,528,706.92
March	401,861.84	32,478.66	747,577.00	449,694.31	1,851,920.47
Total YTD	2,345,017.05	198,326.57	5,880,927.99	4,232,568.94	13,380,627.39
April	2,345,017.05	198,326.57	5,880,927.99	4,232,568.94	1,678,078.18
Total YTD	2,345,017.05	198,326.57	5,880,927.99	4,232,568.94	15,058,705.57
May	2,345,017.05	198,326.57	5,880,927.99	4,232,568.94	1,903,617.09
Total YTD	2,345,017.05	198,326.57	5,880,927.99	4,232,568.94	16,962,322.66
June	2,345,017.05	198,326.57	5,880,927.99	4,232,568.94	1,337,770.58
Total YTD	2,345,017.05	198,326.57	5,880,927.99	4,232,568.94	18,300,093.24

2016 Collections

IGH MARCH OF: YEAR END TOTALS FOR UPC IN:
 FY17= \$437,547.90
 FY16= \$388,693.96
 FY15= \$406,700.76

12 MONTH ESTIMATE THRU MARCH 2017

THRU: JULY: \$496,395.84
 AUG: \$495,002.64
 SEPT: \$504,090.76
 OCT: \$501,861.84
 NOV: \$490,427.09
 DEC: \$482,004.74
 JAN: \$476,846.11
 FEB: \$480,516.12
 MAR: \$490,320.92

TOTAL YTD STATE COURT RECEIPTS: \$2,543,343.62
 TOTAL YTD JUSTICE COURT RECEIPTS: \$10,113,496.93

BUDGETED: \$578,891.00
 APPROPRIATED: \$635,700.00

Tab F

Utah Prosecution Council
Comparison Report - Budget vs. Actual

July 2016 through June 2017

	Jul 16 - Jun 17	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	1,275.00	1,875.00	-600.00	68.0%
Civil Conference	3,875.00	3,750.00	125.00	98.0%
Domestic Violence	0.00	0.00	0.00	0.0%
Fall Conference	6,975.00	7,125.00	-150.00	97.9%
Sexual Assault Conf	0.00	0.00	0.00	0.0%
Spring Conference	8,340.00	24,375.00	-16,035.00	34.2%
Train the Trainer	0.00	0.00	0.00	0.0%
Umpa	2,775.00	3,000.00	-225.00	92.5%
CONFERENCE REGISTRATION FEES - Other	75.00	3,000.00	-2,925.00	55.5%
Total CONFERENCE REGISTRATION FEES	23,115.00	41,625.00	-18,510.00	100.0%
EXPENSE REIMBURSEMENTS				
John R Justice Grant	32,521.00	32,521.00	0.00	100.0%
Reimb from SWAP for Civil Conf	12,545.31	12,545.31	0.00	100.0%
Reimb from SWAP for Exec Conf	0.00	0.00	0.00	0.0%
Staff Atty DV & SVRP	0.00	0.00	0.00	0.0%
VAWA grant for DVRRP	18,503.54	90,926.66	-72,423.12	20.3%
VAWA grant for SVRRP	0.00	39,288.08	-39,288.08	0.0%
Total Staff Atty DV & SVRP	18,503.54	130,214.74	-111,711.20	14.2%
Staff Atty Traffic Safety				
DPS Traffic Safety Funds - TSRP	49,937.04	135,163.21	-85,226.17	36.9%
Total Staff Atty Traffic Safety	49,937.04	135,163.21	-85,226.17	36.9%
Total EXPENSE REIMBURSEMENTS	113,506.89	310,444.28	-196,937.37	36.2%
PIMS Income				
PIMS User Fees	28,016.00	10,000.00	18,016.00	280.2%
PIMS Income - Other	0.00	0.00	0.00	0.0%
Total PIMS Income	28,016.00	10,000.00	18,016.00	280.2%
CHARGE & NON-LAPSING CARRYOVER				
Non-lapsing carry over	0.00	1,025,519.00	-1,025,519.00	0.0%
Surcharge Receipts	246,528.47	578,891.00	-332,362.53	42.6%
Surcharge Receipts DV Training (Comes from the 5% received by the AG's office for the training of state and local pros	0.00	0.00	0.00	0.0%
Total CHARGE & NON-LAPSING CARRYOVER	246,528.47	681,410.00	-434,881.53	36.2%
Total Income	411,166.36	1,043,479.26	-632,312.90	39.4%
Expense				
ADMINISTRATIVE FEES				
Administrative Fee to AG	6,290.00	15,000.00	-8,710.00	41.7%
Building OS&M	1,492.50	3,600.00	-2,107.50	41.5%
DB Purc (West Law)	625.85	1,800.00	-1,174.15	39.1%
Ins & Bonds	488.45	12,000.00	-11,511.55	4.1%
Total ADMINISTRATIVE FEES	8,856.80	32,200.00	-23,343.20	27.5%
Conferences				
Advanced Trial Skills Training	0.00	0.00	0.00	0.0%
enterting	0.00	0.00	0.00	0.0%
facilities charge	0.00	0.00	0.00	0.0%
lodging	0.00	0.00	0.00	0.0%
MCLF fee	0.00	0.00	0.00	0.0%
meals	0.00	0.00	0.00	0.0%
mileage	0.00	6,000.00	-6,000.00	0.0%
Total Advanced Trial Skills Training	0.00	6,000.00	-6,000.00	0.0%
Basic Prosecutor Course				
catering	2,801.80	0.00	2,801.80	100.0%
featuring charge	990.00	0.00	990.00	100.0%
lodging	4,216.35	7,004.00	-2,787.65	41.5%
MCLF fee	370.00	0.00	370.00	100.0%
meals	1,428.70	0.00	1,428.70	100.0%
mileage	1,977.09	0.00	1,977.09	100.0%
printing	236.68	0.00	236.68	100.0%
Basic Prosecutor Course - Other	0.00	18,500.00	-18,500.00	0.0%
Total Basic Prosecutor Course	19,024.62	18,500.00	524.62	102.8%

Utah Prosecution Council
Comparison Report - Budget vs. Actual
July 2016 through June 2017

	Jul 16 - Jun 17	Budget	\$ Over Budget	% of Budget
Civil Training Conference				
Air fare	325.20	0.00	4,030.00	100.0%
catering	4,030.00	0.00	0.00	0.0%
facilities charge	1,767.84	0.00	716.00	100.0%
lodging	5,292.03	0.00	3,095.99	100.0%
MCLE fee	716.00	0.00	164.25	0.0%
meals	828.00	0.00	0.00	0.0%
mileage	3,095.99	0.00	16,000.00	220.31
miscellaneous	164.25	0.00	-1,870.24	-1,300.00
Civil Training Conference - Other	0.00	0.00	-3,170.24	0.0%
Total Civil Training Conference	16,220.31	16,000.00	220.31	101.4%
Conference Materials				
Handouts, Materials, SWAG	129.76	2,000.00	-1,870.24	6.5%
Utah Travel Council Calendars	0.00	1,300.00	-1,300.00	0.0%
Total Conference Materials	129.76	3,300.00	-3,170.24	3.9%
Domestic Violence				
catering	0.00	0.00	0.00	0.0%
Domestic Violence - Other	0.00	0.00	0.00	0.0%
Total Domestic Violence	0.00	0.00	0.00	0.0%
Executive				
air fare	0.00	0.00	0.00	0.0%
lodging	729.86	0.00	729.86	100.0%
meals	0.00	0.00	0.00	0.0%
mileage	870.67	0.00	870.67	100.0%
miscellaneous	104.00	0.00	104.00	100.0%
Executive - Other	0.00	1,500.00	-1,500.00	0.0%
Total Executive	1,704.53	1,500.00	204.53	113.6%
Fall Conference				
air fare	235.20	0.00	5,856.81	0.0%
catering	5,856.81	0.00	112.29	0.0%
handouts	112.29	0.00	3,950.00	0.0%
honoraria	3,950.00	0.00	4,951.21	0.0%
lodging	4,951.21	0.00	1,328.00	0.0%
MCLE fee	1,328.00	0.00	885.26	0.0%
meals	885.26	0.00	3,005.32	0.0%
mileage	3,005.32	0.00	236.67	0.0%
printing	236.67	0.00	0.00	0.0%
Fall Conference - Other	0.00	26,000.00	-26,000.00	0.0%
Total Fall Conference	20,540.76	26,000.00	-5,459.24	79.0%
Regional Training				
Legislative Update				
facilities charge	0.00	0.00	0.00	0.0%
lodging	0.00	0.00	0.00	0.0%
meals	0.00	0.00	0.00	0.0%
mileage	0.00	0.00	0.00	0.0%
printing	0.00	0.00	0.00	0.0%
Legislative Update - Other	0.00	0.00	0.00	0.0%
Total Legislative Update	0.00	0.00	0.00	0.0%
Regional Training - Other				
Total Regional Training	0.00	2,500.00	-2,500.00	0.0%
Sexual Assault Conf				
catering	0.00	0.00	0.00	0.0%
facilities charge	0.00	0.00	0.00	0.0%
honoraria	0.00	0.00	0.00	0.0%
lodging	0.00	0.00	0.00	0.0%
MCLE fee	0.00	0.00	0.00	0.0%
meals	0.00	0.00	0.00	0.0%
mileage	0.00	0.00	0.00	0.0%
printing	0.00	0.00	0.00	0.0%
Total Sexual Assault Conf	0.00	0.00	0.00	0.0%

Utah Prosecution Council
Comparison Report - Budget vs. Actual
July 2016 through June 2017

	Jul '16 - Jun '17	Budget	\$ Over Budget	% of Budget
Spring Conference	0.00	0.00	0.00	0.0%
audio-visual	0.00	0.00	0.00	0.0%
catering	0.00	0.00	0.00	0.0%
honorary	0.00	0.00	0.00	0.0%
lodging	0.00	0.00	0.00	0.0%
MCLE fee	91.50	0.00	91.50	100.0%
meals	0.00	0.00	0.00	0.0%
mileage	0.00	0.00	0.00	0.0%
printing	0.00	0.00	0.00	0.0%
Spring Conference - Other	0.00	0.00	0.00	0.0%
Total Spring Conference	91.50	26,000.00	-25,908.50	0.4%
Staff Attorney Training	153.04	2,000.00	-1,846.96	7.7%
SVD/VRP Training Materials	0.00	0.00	0.00	0.0%
SVD/VRP workshops	0.00	0.00	0.00	0.0%
lodging	0.00	0.00	0.00	0.0%
meals	0.00	0.00	0.00	0.0%
mileage/car rental	0.00	0.00	0.00	0.0%
miscellaneous	0.00	0.00	0.00	0.0%
Total SVD/VRP workshops	0.00	0.00	0.00	0.0%
SVRP Training beg Jan 2012	0.00	0.00	0.00	0.0%
audio/visual	0.00	0.00	0.00	0.0%
Total SVRP Training beg Jan 2012	0.00	0.00	0.00	0.0%
TSRP Scholarships	1,050.00	0.00	1,050.00	100.0%
TSRP Training	0.00	0.00	0.00	0.0%
lodging	0.00	0.00	0.00	0.0%
meals	0.00	0.00	0.00	0.0%
mileage/car rental	177.57	0.00	177.57	100.0%
miscellaneous	0.00	0.00	0.00	0.0%
printing	0.00	0.00	0.00	0.0%
TSRP Training - Other	0.00	0.00	0.00	0.0%
Total TSRP Training	177.57	13,500.00	-13,322.43	1.3%
Staff Attorney Training - Other	202.56	0.00	202.56	100.0%
Total Staff Attorney Training	1,583.17	15,500.00	-13,916.83	10.2%
Train the Trainers	0.00	0.00	0.00	0.0%
UMPA Summer Conf	39.99	0.00	2,050.00	100.0%
audio-visual	2,050.00	0.00	2,050.00	100.0%
catering	2,220.75	0.00	2,220.75	100.0%
lodging	528.00	0.00	528.00	100.0%
MCLE fee	661.00	0.00	661.00	100.0%
meals	2,537.44	0.00	2,537.44	100.0%
mileage	106.07	0.00	106.07	100.0%
miscellaneous	236.68	0.00	236.68	100.0%
printing	0.00	0.00	0.00	0.0%
UMPA Summer Conf - Other	8,379.93	6,500.00	1,879.93	128.9%
Total UMPA Summer Conf	8,379.93	6,500.00	1,879.93	128.9%
UPAA	0.00	12,000.00	-12,000.00	0.0%
Total Conferences	67,674.58	133,800.00	-66,125.42	50.6%
COUNCIL AND COMMITTEE MEETINGS				
Council and other committees	1,354.72	0.00	1,354.72	100.0%
catering	215.11	0.00	215.11	100.0%
lodging	503.00	0.00	503.00	100.0%
meals	2,321.04	0.00	2,321.04	100.0%
mileage	0.00	6,500.00	-6,500.00	0.0%
Council and other committees - Other	4,393.87	6,500.00	-2,106.13	67.6%
Total Council and other committees	4,393.87	6,500.00	-2,106.13	67.6%
Training Committee	410.00	0.00	410.00	100.0%
catering	0.00	0.00	0.00	0.0%
lodging	475.00	0.00	475.00	100.0%
meals	1,996.26	0.00	1,996.26	100.0%
mileage	200.00	0.00	200.00	100.0%
miscellaneous	0.00	8,300.00	-8,300.00	0.0%
Training Committee - Other	3,061.26	8,300.00	-5,238.74	37.1%
Total Training Committee	3,061.26	8,300.00	-5,238.74	37.1%
Total COUNCIL AND COMMITTEE MEETINGS	7,475.13	14,800.00	-7,324.87	50.5%

Utah Prosecution Council
Comparison Report - Budget vs. Actual
July 2016 through June 2017

	Jul '16 - Jun 17	Budget	\$ Over Budget	% of Budget
CURRENT EXPENSES				
Annual MCLE Fee	200.00	2,700.00	-2,500.00	7.4%
Donation to UT Journal Crim Law	0.00	0.00	0.00	0.0%
Donations UT Crim Victims Crime	0.00	1,000.00	-1,000.00	0.0%
Dues & Memberships	1,780.00	2,000.00	-240.00	88.0%
Equipment/Supplies-not Data Pro	1,015.33	0.00	1,015.33	100.0%
IT (Hardware and software requirements for UPC.)				
Hardware	0.00	3,000.00	-3,000.00	0.0%
Network Services	682.81	4,800.00	-4,117.19	13.8%
Software	1,805.43	2,000.00	-394.57	80.3%
UPC Website	895.83	1,100.00	-204.17	81.4%
Total IT (Hardware and software requirements for UPC.)	3,184.07	10,900.00	-7,715.93	29.0%
LEOJ Training	0.00	2,000.00	-2,000.00	0.0%
Library & Subscriptions	2,075.00	3,400.00	-1,325.00	61.0%
Miscellaneous	1,873.70	3,000.00	-1,126.30	62.5%
Miscellaneous Motor Pool	0.00	0.00	0.00	0.0%
Postage	340.91	700.00	-359.09	48.7%
Telephone	3,750.87	6,000.00	-2,249.13	62.5%
Total CURRENT EXPENSES	14,179.88	31,700.00	-17,520.12	44.7%
DATA MANAGEMENT - PIMS PROGRAM				
PIMS committees				
UPC Technology/ Committee				
Catering	0.00	0.00	0.00	0.0%
Mileage	0.00	0.00	0.00	0.0%
Total UPC Technology/ Committee	0.00	0.00	0.00	0.0%
PIMS committees - Other				
Total PIMS committees	0.00	0.00	0.00	0.0%
PIMS Programming & Testing				
Phase II	0.00	0.00	0.00	0.0%
Court Integration (e-filing)	0.00	0.00	0.00	0.0%
Phase II - Other	0.00	0.00	0.00	0.0%
Total Phase II	0.00	0.00	0.00	0.0%
Phase III				
PIMS modifications/improvements	0.00	0.00	0.00	0.0%
Total PIMS Programming & Testing	0.00	0.00	0.00	0.0%
PIMS Support / Installation				
Maintenance / Installation	0.00	500.00	-500.00	0.0%
Lodging	0.00	300.00	-300.00	0.0%
Meals	0.00	250.00	-250.00	0.0%
Mileage	0.00	1,050.00	-1,050.00	0.0%
Total Maintenance / Installation	0.00	2,210.00	-889.56	59.7%
Server hosting charges	1,320.44	0.00	1,320.44	0.0%
Software	0.00	0.00	0.00	0.0%
Total PIMS Support & Installation	1,320.44	3,260.00	-1,939.56	40.5%
Total DATA MANAGEMENT - PIMS PROGRAM	1,320.44	3,260.00	-1,939.56	40.5%
John R Justice Grant	0.00	32,521.00	-32,521.00	0.0%
OUT-OF-STATE TRAVEL				
NAJIS				
Board Meeting	1,292.45	1,600.00	-307.55	80.8%
Summer Conference	1,844.64	2,100.00	-255.36	87.8%
Total NAJIS	3,137.09	3,700.00	-562.91	84.6%
NAPC				
NAPC Leadership Meeting	0.00	2,500.00	-2,500.00	0.0%
NAPC Summer mtg	6,481.54	5,500.00	981.54	117.5%
NAPC Winter mtg	4,801.57	5,500.00	-698.43	83.7%
NAPC - Other	500.00	0.00	500.00	0.0%
Total NAPC	11,583.11	13,500.00	-1,916.89	85.7%
NDA CONFERENCE				
Out-of-state travel	0.00	6,000.00	-6,000.00	0.0%
STRP Out-of-State Travel	1,146.47	1,100.00	46.47	104.5%
TSRP Out-of-State Travel	0.00	2,000.00	-2,000.00	0.0%
Total OUT-OF-STATE TRAVEL	1,832.41	26,300.00	-24,467.59	91.6%
Total	17,879.08	67,290.00	-49,410.92	67.2%

Utah Prosecution Council
Comparison Report - Budget vs. Actual
July 2016 through June 2017

	Jul '16 - Jun '17	Budget	\$ Over Budget	% of Budget
PERSONNEL SERVICES				
Director	58,423.92	106,662.40	-48,238.48	54.8%
base salary	31,462.61	57,333.48	-25,870.87	54.9%
benefits	89,866.53	163,995.88	-74,109.35	54.8%
Total Director	0.00	3,000.00	-3,000.00	0.0%
Incentive Award	43,926.12	78,249.60	-34,323.48	56.1%
IT Director	23,044.89	42,107.15	-19,062.26	54.7%
base salary	66,971.01	120,356.75	-53,385.74	55.6%
benefits	7,045.66	14,872.00	-7,826.34	47.4%
Law Clerk I	498.40	1,256.68	-758.28	39.7%
base salary	7,544.06	18,128.68	-10,584.62	46.8%
benefits	48,249.68	108,284.80	-60,035.12	44.6%
Total Law Clerk I	24,969.70	57,358.48	-32,388.78	43.1%
Staff Attorney - DV & SVRP	73,219.38	166,243.25	-93,023.87	44.0%
base salary	41,001.14	79,040.00	-38,038.86	51.9%
benefits	26,781.95	46,686.21	-19,914.26	57.4%
Total Staff Attorney - DV & SVRP	57,783.09	125,726.21	-67,943.12	53.9%
Staff Attorney - Traffic Safety	37,418.81	69,992.00	-32,573.19	53.5%
base salary	22,936.29	43,211.63	-20,275.34	53.1%
benefits	60,355.10	113,203.83	-52,848.73	53.3%
Total Staff Attorney - Traffic Safety	365,759.17	708,664.60	-342,905.43	51.6%
Training Coordinator	0.00	0.00	0.00	0.0%
base salary	0.00	12,000.00	-12,000.00	0.0%
benefits	0.00	500.00	-500.00	0.0%
Total Training Coordinator	482,945.08	995,745.60	-512,800.52	48.5%
UNUSUAL PROSECUTION EXPENSES				
UPPA4 APPROPRIATION	-71,778.72	47,733.66	-119,512.38	-150.4%
UPPAC				
Total Expense				
Net Income				

Tab G

2017 TRAINING SCHEDULE

UTAH PROSECUTION COUNCIL

April 27-28	SPRING CONFERENCE <i>Legislative and case law updates, civility/professionalism and more</i>	Riverwoods Conference Center Logan, UT
April & May	REGIONAL LEGISLATIVE UPDATES	23 Locations around the state
May 15-17	CJC/DV CONFERENCE <i>For anyone who has a role in DV or Child Abuse Cases</i>	Cliff Lodge Snowbird Resort
June 21-23	UTAH PROSECUTORIAL ASSISTANTS ASSN. ANNUAL CONFERENCE <i>Training for para-legals and secretarial staff in prosecutor offices</i>	Uintah Conference Ctr. Vernal SpringHill Stes.
August 3-4	UTAH MISDEMEANOR PROSECUTORS ASSN. SUMMER CONFERENCE <i>Training for city prosecutors and others who carry a misdemeanor case load</i>	Courtyard by Marriott St. George
August 14-18	BASIC PROSECUTOR COURSE <i>Trial advocacy and substantive legal instruction for new prosecutors</i>	University Inn Logan, UT
October 4-6	FALL PROSECUTORS TRAINING CONFERENCE <i>The annual CLE and idea sharing event for all Utah prosecutors</i>	Hilton Garden Inn St. George
October 18-20	GOVERNMENT CIVIL PRACTICE CONFERENCE <i>Training designed specifically for government civil attorneys from counties and cities</i>	Hilton Garden Inn St. George, UT
November 16-17	COUNTY/DISTRICT ATTORNEYS' EXECUTIVE SEMINAR <i>An opportunity for all county/district attorneys to discuss common issues</i>	Dixie Center St. George, UT

Tab H

January-March 2017 TSRP Report

Trainings Attended/Conducted:

- January 10, 2017 – Understanding Birchfield v. North Dakota, Webinar Training
 - Webinar on the status of breath and blood tests for implied consent after the US Supreme Court ruling in Birchfield v. North Dakota
- January 18, 2017 – Marijuana Issues with Impaired Driving, Provo, UT
 - Presented to Utah County SMART Policy Task Force
 - **15 Attendees**
 - **1 hour meeting**
- February 6, 2017 – Multi-Agency Traffic Safety Task Force, Ogden, UT
 - Presented “Winning the DLD Hearing”
 - **22 Attendees**
 - **1 hour presentation**
- February 7, 2017 – Multi-Agency Traffic Safety Task Force, Orem, UT
 - Presented “Winning the DLD Hearing”
 - **20 Attendees**
 - **1 hour presentation**
- February 8, 2017 – Multi-Agency Traffic Safety Task Force, Centerville, UT
 - Presented “Winning the DLD Hearing”
 - **21 Attendees**
 - **1 hour presentation**
- February 9, 2017 – Multi-Agency Traffic Safety Task Force, Murray, UT
 - Presented “Winning the DLD Hearing”
 - **27 Attendees**
 - **1 hour presentation**
- February 24, 2017 – DUI Cases and the HIPAA Myth, Webinar, Salt Lake City, UT
- March 16, 2017 – Winning the DLD Hearing, Springville, UT
 - **18 Law Enforcement attendees**
 - **1 hour presentation**
- March 17, 2017 – Legal Issues for DREs, Sandy, UT
 - **31 Law Enforcement attendees**
 - **25 students, 6 instructors**
 - **1 hour presentation**
- March 23, 2017 – Winning the DLD Hearing, Sandy UT
 - **Recorded presentation at POST for officers to do self-study**
 - **1 hour presentation**
- March 26-28, 2017 – Lifesavers Conference, Charlotte, NC

Upcoming Trainings:

- April 27-28, 2017 – UPC Spring Conference, Logan, UT
- May 3-5, 2017 – National TSRP Meeting, Indianapolis, IN
- May-June – Legislative Updates around state

Current Projects:

- Updating Utah TSRP Training Curriculum
- Creating DUI-Drug specific curriculum for DREs and prosecutors

Meetings Attended:

- January 3, 2017 – DUI Sentencing legislation meeting, Salt Lake City, UT
- January 11, 2017 – MISLAC, Salt Lake City, UT
- January 20, 2017 – SWAP Board Meeting, Murray, UT
- January 20, 2017 – UPC Council Meeting, Murry, UT
- January 26, 2017 – DUI amendments legislative meeting, Salt Lake City, UT
- January 27, 2017 – SWAP-LAC Meeting, Salt Lake City, UT
- January 27, 2017 – USAAV DUI Committee Meeting, Salt Lake City, UT
- February 1, 2017 – eWarrant Committee Meeting, Taylorsville, UT
- February 13, 2017 – Highway Safety Office DUI process meeting, Salt Lake City, UT
- February 21, 2017 – UPC Staff Meeting, Salt Lake City, UT
- February 23, 2017 – Meeting at POST to train on video equipment, Sandy, UT
- February 24, 2017 – SWAPLAC, Salt Lake City, UT
- March 1, 2017 – Senate Committee Hearing, HB 155 (.05 BAC) Salt Lake City, UT
- March 1, 2017 – Training Consultation, Clearfield, UT
- March 6, 2017 – Multi-Agency Taskforce Meeting, Ogden, UT
- March 7, 2017 – Multi-Agency Taskforce Meeting, Orem, UT
- March 9, 2017 – Meet NHTSA regional reps, Salt Lake City, UT
- March 9, 2017 – UMPA Planning Committee Meeting, Salt Lake City, UT
- March 13, 2017 – LEL Coordination/Agency site visits, Various Locations
 - Visited Clearfield City, Weber County, Riverdale City, and American Fork City
- March 17, 2017 – UPC Training Committee Meeting, Murray, UT
- March 23, 2017 – Drug Impaired Driving Symposium planning meeting, Salt Lake City, UT
- March 31, 2017 - .05 Policy Discussion Meeting, Salt Lake City, UT

Other Notables:

- Created “Winning the DLD Hearing” training for police officers
- Facilitated a prosecutor from Utah County to be a part of a national advisory conference call on eWarrants and their implementation across the country in light of recent United States Supreme Court rulings regarding blood draws.

Technical Assistance Provided:

MONTH	TECHNICAL ASSISTANCE	TRAINING PROVIDED	NUMBER OF PARTICIPANTS	CLASS HOURS
October 2016	46	4	70	4
November	31	0	0	0
December	23	2	27	3
January 2017	60	1	15	1
February	39	4	90	4
March	68	3	49	3
April				
May				
June				
July				
August				
September				
TOTALS	267	14	251	15