

**UTAH PROSECUTION COUNCIL**  
**Friday, June 14, 2013**  
**Weber State Football Stadium - 4<sup>th</sup> Floor**  
**Approximately 3800 Harrison Blvd.**  
**Ogden, Utah**

**APPROVED MINUTES**

UPC : Barry Huntington, Chair, Garfield County Attorney  
David Brickey, Summit County Attorney  
Jann Farris, Morgan County Attorney  
Steve Garside, Assistant Layton City Attorney (*also, proxy for Robert Church and CeCelia Zarbock*)  
Sim Gill, Salt Lake District Attorney  
Scott Reed, Chief, Criminal Justice Division, Attorney General's Office (*designee of Attorney General John Swallow*)  
Kelly Sparks, Deputy Director, P.O.S.T (*designee of Commissioner Lance Davenport*)

EXCUSED: Robert Church, Assistant Orem City Attorney  
Stephen Foote, Chair-elect, Duchesne and Daggett County Attorney  
John Swallow, Utah Attorney General  
Commissioner Lance Davenport, Utah Department of Public Safety  
CeCelia Zarbock, UPAA Chair  
Donna Kelly, Staff Attorney

UPC Mark Nash, Director  
STAFF: Edward Berkovich, Staff Attorney  
Marilyn Jasperson, Training Coordinator  
Ronald Weight, IT Director  
Jacob Fordham, UPC Law Clerk

GUESTS: Paul Boyden, Executive Director, SWAP  
Dee Smith, Weber County Attorney  
Scott Sweat, Wasatch County Attorney  
Kelly Wright, Deputy Salt District Attorney

- I. WELCOME AND APPROVAL OF THE APRIL 22, 2013 MINUTES
  - A. The Council members were welcomed and the meeting convened.
  - B. Steve Garside, Assistant Layton City Attorney (*designee of CeCelia Zarbock*) moved to approve the minutes from April 22, 2013, seconded by Steve Garside, Assistant Layton City Attorney (*designee of Robert Church*). The motion passed unanimously.

II. FINANCIAL REPORT:

Mark Nash made the following financial report. Additional information is included in the Director's Summary.

A. FY13, year to date:

1. Surcharge report: The surcharge report includes receipts through May of 2013. With the increased surcharge distribution amounts in March, April and the disappointing May amount, year end surcharge projections are \$47,974 less than the budgeted \$591,200. Hoping June figures pick up.
2. Detailed Expenditure Report: Mark Nash distributed detailed expenditure reports covering the months of April, May and June and invited questions. Hearing none, he moved to the next item
3. Net cost of conferences:
  - a. Spring Conference: The gross cost of the conference came in at \$29,230.79. After crediting registration fees of \$11,200, the net cost of the conference was \$18,010.79.
  - b. Regional Legislative Updates: At \$5,781.42, the total cost of the 23 regional updates sessions was \$1,218 less than the \$7,000 budgeted.
4. Budget Comparison-Budget vs. Actual Report:
  - a. Mark Nash explained that he projects UPC will end the fiscal year with a deficit of \$6,044.32. That would be the first such deficit in UPC history. The deficit is attributable to the near \$48,000 shortfall in surcharge collections.
  - b. Until the June figures come in, Mark proposed using the unusual prosecution expense reimbursement fund to offset the deficit. Requests for reimbursement of unusual prosecution expenses have been approved by the review committee in the amount of \$10,245.89. The other option would be to ask the Attorney General's office to waive the annual administrative fee of \$15,000. Mark did not recommend the latter.
  - c. Jann Farris moved to authorize Mark to withhold payment of any unusual prosecution expense reimbursements until after the June figures are known and the fiscal year financial status is known. Should there be sufficient funds at the close out of FY13, Mark will distribute those funds on a per propionate basis to the three counties. Sim Gill seconded the motion, which passed unanimously.

B. FY14 Budget:

1. Presentation of Director's Proposed Budget and Discussion and Adoption of FY14 Budget:
  - a. Given the surcharge figures and the expected surcharge receipts, Mark presented three alternative proposed budgets, Revised Budget A, Revised Budget B and Revised Budget C. The three alternative budgets are attached to the Directors Summary. After a difficult discussion, particularly that the surcharge fund might produce a similarly deficient amount in FY14, the following motion was made.

- b. Steve Garside moved to adopt Revised Budget A, with the following amendments.
- (1) Beginning July 1, 2013, registration fees for all UPC training events will be
    - (a) \$75 for public attorneys (prosecutors, civil side attorneys and attorneys who do prosecution or civil work for cities or counties by contract);
    - (b) \$150 for all private attorneys (any attorney not included in the above);
    - (c) \$40 for non-attorney staff in public attorney offices; and
    - (d) \$40 for law enforcement.
  - (2) Registration fees will be reviewed next fiscal year, and each year thereafter. If surcharge revenue or other conditions allow, registration fees may be reduced in future years.
  - (3) Mark Nash was directed to send a notice of the registration fee changes to all county and district attorneys and to all city attorneys and chief city prosecutors.
  - (4) No PIMS user fee will be charged.
  - (5) All conference written materials will be published in PDF format on the UPC website in advance of conferences, rather than printing a hard copy for each attendee.
  - (6) These changes in the FY14 Budget it will allow the inclusion of \$25,000 for Unusual Prosecution Expense Reimbursement and a \$1,000 donation for the Crime Victims Conference; \$7,000 to fund the traditional two-day planning meeting of the UPC Training Committee; and travel to the NAPC meetings by the Director and the Training Coordinator.
- c. Jann Farris seconded the motion, which passed unanimously.
- d. Mark will give an update report at the next meeting.

### III. UNUSUAL PROSECUTION EXPENSE REIMBURSEMENT REQUESTS:

Mark Nash made the following Unusual Prosecution Expense Reimbursement request report. Additional and in depth information is included in the Director's Summary.

- A. Three requests for reimbursement of unusual prosecution expenses were received:
  - 1. Emery County: *State v Clayton*;
  - 2. Summit County: *State v Aubrey Alta Anderson*; and
  - 3. Washington County: *State v Richard Andrew Jones*.
- B. The Unusual Prosecution Expense Reimbursement Committee met via a conference call. The members of the committee are David Blackwell of Emery County, David Brickey of Summit County and Brock Belnap from Washington County.
  - 1. The first addressed the conflict of interest issue raised because each committee member had submitted a reimbursement request and no requests were received from other counties. The committee decided to

make a recommendation to the Council, while disclosing the conflict. Each member recused himself from the vote on the request from his office.

2. The committee then considered the three claims. After a thorough discussion, the committee recommended reimbursement payments be authorized to:
  - a. Emery County in the amount of \$252.00 for mileage expenses incurred by a conflict prosecutor;
  - b. Summit County in the amount of \$3,191.00 for witness fees paid for translation of documents from Dutch into English; and
  - c. Washington County in the amount of \$6,802.64 for expert witness fees paid to Dr. Stephen Goulding.
  - d. Total pay out in the amount of \$10,245.89.

IV. PIMS REPORT: In addition to the in depth report in the Director's Summary, Ronald Weight and Mark Nash gave the following PIMS report.

- A. PIMS Governance Committee Report: Blake Nakamura reported that the Governance Committee had met on May 23<sup>rd</sup>. Scott Morrill, an IT Programer for the Attorney General's Office, has agreed to be a consultant for a subcommittee. Scott will be meeting with the User's Group to help identify the current capability of PIMS, what works and what improvements need to be made to continue to serve as the statewide prosecution case management system for prosecutors. The Governance Committee will suspend meeting and await recommendations from the subcommittee.

- B. PIMS Activity Report:  
The PIMS Governance Committee agreed e-filing should go forward. Ron Weight presented a list showing the order and tentative schedule he believes e-filing can be instituted in the counties. User fees were also discussed. It was agreed that there should be legislative financial support for PIMS.

V. TRAINING COMMITTEE REPORT: Mark Nash gave the Training Committee Report for Training Committee Chair William McGuire.

- A. Spring Conference: There were approximately 366 in attendance. This year's conference was held at the Salt Lake City Sheraton Hotel. The feedback has been extremely favorable regarding the new location and the agenda. Justice Lee's civility presentation was particularly well received. Marilyn has received a proposal from the Salt Lake City Sheraton Hotel for April 10-11, 2014 and is checking with Little America as a second option.
- B. Regional Legislative Updates: Attendance at the 23 regional sessions reached a new record of 800. The feedback was excellent regarding several pieces of legislation.

VI. STAFF ATTORNEY REPORTS:

- A. Ed Berkovich gave an in depth TSRP report as outlined in the Director's Summary.
- B. Donna Kelly gave an in depth SA/DVRP report as outlined in the Director's Summary.

VII. UPAA REPORT:

- A. Marilyn Jasperson gave the UPAA Board report for UPAA Chairperson Cecilia Zarbock. The annual UPAA Conference will be held at Ruby's Inn in Bryce Canyon on June 19-21, 2013. Registration was then at 85, a little down from last year. The conference will be paperless with materials put into an e-book.
- B. FY 14: The UPC appropriation of \$12,000 plus registration fees will remain as in past years.

VIII. NEXT MEETING:

Wednesday, Sept. 11, 2013  
8:30 a.m.  
The Riverwoods Conference Center  
Logan, Utah

IX. ADJOURN