

**UTAH PROSECUTION COUNCIL**  
**Wednesday, September 11, 2013**  
**The Riverwoods Conference Center**  
**615 Riverwoods Parkway (about 640 S Main)**  
**Logan, Utah**

**APPROVED MINUTES**

UPC : Paul Boyden, Executive Director, SWAP (*Proxy for Sim Gill*)  
David Brickey, Summit County Attorney  
Robert Church, Assistant Orem City Attorney  
*(Robert also acted as Proxy for Steve Garside)*  
Stephen Foote, Chair-elect, Duchesne and Daggett County Attorney  
Jeff Carr, Deputy Commissioner, Department of Public Safety  
*(designee of Commissioner Lance Davenport)*  
Jann Farris, Morgan County Attorney  
Stephen Foote, Duchesne County Attorney, Chair-elect,  
Scott Reed, Chief, Criminal Justice Division, Attorney General's Office  
*(designee of Attorney General John Swallow)*  
Cecelia Zarbock, UPAA Chair

UPC Mark Nash, Director  
STAFF: Edward Berkovich, Staff Attorney  
Marilyn Jaspersen, Training Coordinator  
Ronald Weight, IT Director

GUESTS: Brook Belnap, Washington County Attorney  
Scott Garrett, Iron County Attorney  
Doug Hogan, Tooele County Attorney  
Mark McIff, Piute & Wayne Counties Attorney  
Chad Platt, Deputy Salt Lake District Attorney  
Ryan Robinson, Chief Prosecutor, West Valley City  
Scott Sweat, Wasatch County Attorney  
James Swink, Cache County Attorney  
G. Mark Thomas, Uintah County Attorney  
Kelly Wright, Deputy Salt Lake District Attorney

EXCUSED: Barry Huntington, Chair, Garfield County Attorney  
Steve Garside, Assistant Layton City Attorney  
Sim Gill, Salt Lake District Attorney  
Bill McGuire, Chair, UPC Training Committee  
John Swallow, Utah Attorney General  
Commissioner Keith Squires, Utah Department of Public Safety  
Donna Kelly, UPC Staff Attorney

I. WELCOME AND APPROVAL OF THE JUNE 14, 2013 MEETING MINUTES

- A. The Council members were welcomed and the meeting convened.
- B. David Brickey moved to approve the minutes from June 14, 2013, seconded by Robert Church, Assistant Orem City Attorney. 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 end report:
  - 1. Detailed Expenditure Report: Mark Nash distributed detailed expenditure report for June and invited questions. Hearing none, he moved to the next item.
  - 2. Budget Comparison-Budget vs. Actual Report – FY13 Year End:
    - a. UPC realized 90.6% of budgeted income for FY13. The major reason for that shortfall was the shortfall in surcharge receipts. UPC received 92.7% of budgeted surcharge. That amounted to a shortfall of \$41,545.91 from the budgeted \$591,200.00.
    - b. UPC expended 89.8% of its FY13 budget. That is somewhat misleading, however. In actuality, UPC ended the year in a negative position. Only the fact that the Attorney General's Office forgave all administrative fees usually collected from UPC allowed the year to end in a financially positive position. I have expressed gratitude to the Attorney General's Office. I recommend that the Council adopt a resolution expressing appreciation to the Attorney General and his office for its financial support. Unusual prosecution expense reimbursements were also not paid in FY13.
- B. FY14 Year to Date:
  - 1. Surcharge Receipts: Mark Nash reported that in July UPC received \$38,939 and in August it received 38,289. To achieve the FY14 budgeted surcharge amount of \$567,000.00, UPC must average \$47,250 in surcharge receipts each month. Using only the first two months of the fiscal year, the 12 month projection shows a shortfall of approximately \$104,000. UPC staff will conserve money at every opportunity. Also, when the UPC Training Committee meets in October to plan the 2014 calendar year training schedule, Mark will stress the need to avoid agenda items that increase expenses without adding to the overall experience of the training event.
  - 2. Detailed Expenditure Reports: Mark Nash distributed the detailed expenditure report for July. Figures for August were not available. He invited questions. Hearing none, he moved to the next item.
  - 3. Cost of Conference Reports:
    - a. UMPA: The gross cost came in at \$5,507.44. After crediting the registration fee, the net cost of the conference was \$2,927.44. This was the first conference to which the new \$75 registration fee applied.
    - b. Basic Prosecutor Course: All invoices for the Basic Prosecutor Course have yet to be received. That report will be provided at the

next meeting.

4. Unusual Prosecution Expense Reimbursements: This was covered above under II. A. 2.b. Because this item is always paid out at the end of the fiscal year, it was identified as a major budget item that may be used to balance the budget if there is a year-end shortfall.

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

- A. PIMS Activity Report: (Mark gave the PIMS Activity Report outlined in the Directory's Summary in Ron's stead as Ron was out of town attending the NAJIS Conference.)

Mark Nash explained the high level of frustration and outright revolt on the part of many law enforcement agencies since e-filing of citations became mandatory on July 1, 2013. Initially there was a very high percentage of e-filed citations that were rejected by the courts' computer because the statute number cited by the officer did not exactly correspond with a statute number in the courts' offense table. Initially the AOC was looking to UPC, Mark Nash specifically, to say whether a statute number cited by an officer was a proper charge. Mark explained that he was very uncomfortable with that. Following further discussion, David Brickey moved that Mark Nash should not act as the gatekeeper for all offense codes throughout the state. Furthermore, the courts should accept any citation filed by an officer and any Information filed by a prosecutor, regardless of whether the statute cited or charged is an exact match for a statute included in the courts' offense table. Mark Nash and the UPC staff should continue to maintain the PIMS offense table and work with the AOC to coordinate that table with the offense table in CORIS. Robert Church seconded the motion and the motion passed unanimously.

- B. PIMS Governance Committee Report: Chair Blake Nakamura was unable to be at the meeting because of issues that had come up in his office that morning. Blake's reports regarding activity by the PIMS Governance Committee and activity by the PIMS Futures Subcommittee were distributed. A survey prepared by the subcommittee is to be handed out to all Fall Conference attendees. It will also be e-mailed to non-attorney office staff members. Survey results will help the subcommittee to determine the current functionality of PIMS and what functionality features PIMS users want. Blake will make a full report at the next council meeting.

- C. PIMS Finance Discussion: The decline in surcharge receipts was identified by Mark Nash as a major problem, one that has prevented UPC from making desired upgrades to PIMS. He stated that additional funding must be identified and obtained if UPC is to continue to be able to support PIMS. UPC cannot continue to provide PIMS support from surcharge funds. During a discussion it was suggested that additional funds be sought from the legislature in the form of a building block. Mark Nash pointed out that, because UPC is a line item in the Attorney General's budget, any such request must first go to the Attorney General and his staff. Scott Reed explained that the Attorney General's FY15 budget request had already been pretty well finalized and that any request for additional UPC funding would need to be prepared within a week. The AG's budget has to

be given to the Governor and the legislative committee by the middle of September. David Brickey moved that Mark Nash work with the Attorney General's office in time for the January 2014 legislature, seeking an appropriation to offset the PIMS costs. Associations such as UMPA, UAC and the Utah City League and Towns should be included in helping to lobby the legislature. Doug Hogan seconded the motion and it passed unanimously.

IV. TRAINING COMMITTEE REPORT: Mark Nash gave the Training Committee Report in the absence of Training Committee Chair Bill McGuire.

- A. UMPA Conference: There were approximately 40 in attendance. That is in line with previous year. This year's conference was held August 1-2 in Torrey, Utah. Marilyn is seeking locations in either Springdale as a first choice or Cedar City as a second choice for the 2014 conference.
- B. Basic Prosecutor Course: There were 18 in attendees. It was again held at the University Inn in Logan, Utah. The positive feedback from both faculty and students suggests that this year's course was one of the best.
- C. Fall Prosecutor Training Conference: Registration is at 130. It will be held at the Riverwood's Convention Center in Logan, Utah, immediately following the UPC meeting.
- D. Remainder of calendar year 2013
  - 1. The Government Civil Practice Conference will be held in Springdale on October 16-18.
  - 2. The Advanced Trial Skills Course will be held at the West Jordan Hampton Inn on November 20-22.
  - 3. The 2014 Spring Conference is scheduled for Thursday and Friday, April 10-11 at the Salt Lake Sheraton Hotel.
  - 4. The Training Committee will meet Oct 14-15. The committee will set agendas for the 2014 Spring and Fall conferences, including identification of presenters. The committee will work on the 2015 training schedule.
  - 5. Training Committee Vacancies:
    - a. Long time Training Committee Chair Bill McGuire has announced that he will retire from the Davis County Attorney's Office on February 1, 2014. Because that means Bill will not be around for the items to be planned by the Training Committee, he suggested to UPC Chair Barry Huntington that he, Bill, probably should be replaced on the committee before it's October meeting.
    - b. The passing of Bill Daines, another long time member of the Training Committee leaves another vacancy on the committee.
    - c. Barry Huntington asked that Mark Nash solicit expressions of interest from prosecutors who may be interested in serving on the Training Committee. Following receipt of several such expressions of interest, Barry named David Cole, Chief Criminal Deputy Davis County Attorney, and Letitia Toombs, Deputy Weber County Attorney, as new members of the Training Committee. They will join the committee at its October meeting. The committee will select a new committee chair at that meeting.

- V. STAFF ATTORNEY REPORT: Donna Kelly and Ed Berkovich made the following report. Additional information is included in the Director's Summary.
- A. Ed Berkovich gave the in depth TSRP report as outlined in the Director's Summary.
  - B. In Donna Kelly's absence, Mark Nash referred the Council to her in depth SA/DVRP report as outlined in the Director's Summary.
- VI. UPAA REPORT: Chairperson Cecilia Zarbock reported that the UPAA Board has met and have begun planning the 2014 UPAA Conference. The conference will be held June 11-12, 2014. The conference will be held on the Wasatch Front but a specific location is yet to be determined.
- VII. JOHN R. JUSTICE STUDENT LOAN REPAYMENT ASSISTANCE PROGRAM:
- A. The Utah JRJ Committee met on September 4 and reviewed all applications. Due to congressional budget cuts, the committee had just \$56,408 to distribute; 50% to prosecutors and 50% to public defenders. That is a little less than half the amount that was available in 2011 and 2012.
    - 1. 37 application for JRJ benefits were received from prosecutors. 36 of those were deemed to be JRJ eligible. Of that number, 30 prosecutors received JRJ awards. The maximum award made this year to any prosecutor was \$1,060.00.
    - 2. 21 applications for JRJ benefits were received from Public Defenders. 18 of those were deemed to be JRJ eligible. Of that number, 14 public defenders received JRJ awards. The maximum award made this year to any public defender was \$2,217.00.
    - 3. While those individual award amounts seem to be relatively small, they often amount to several months' student loan payments for those who receive them. I have received a number of e-mailed expressions of gratitude from public defenders and prosecutors.
  - B. JRJ benefit checks will be mailed directly to the lenders before the end of September.
  - C. Utah's application for FY13-14 JRJ funding has been submitted to DOJ. No award has yet been made for next year.
  - D. While JRJ money is shown in the UPC budget as both an income and an expense item, such funds are 100% pass through. JRJ money has no effect on the UPC bottom line.
- VIII. NEXT MEETING:
- Friday, Jan. 10, 2014
  - 1:00 p.m.
  - Salt Lake District Attorney's Office
  - 111 East Broadway - 5<sup>th</sup> Floor Conference Room
  - Salt Lake City, Utah

IX. ADJOURN