

**UTAH PROSECUTION COUNCIL**  
**Wednesday, Sept 10, 2014**  
**St. George Courtyard by Marriott**  
**St. George, Utah**

**APPROVED MINUTES**

UPC : Stephen Foote, Chair, Duchesne County Attorney  
Steven Garside, Chair-elect, Layton City Attorney  
Paul Boyden, Executive Director, SWAP (*designee of Sim Gill*)  
Jann Farris, Morgan County Attorney  
Barry Huntington, Garfield County Attorney  
Kelly Sparks, Deputy Director of P.O.S.T (*designee of Commissioner Keith Squires*)  
Scott Sweat, Wasatch County Attorney  
CeCelia Zarbock, UPAA Chair, Provo City Attorney's Office

EXCUSED: Sim Gill, Salt Lake District Attorney  
Sean Reyes, Utah Attorney General  
Commissioner Lance Davenport, Utah Department of Public Safety

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

GUESTS: Christopher Allred, Deputy Weber County Attorney  
Paul Bitmann, Cedar City Attorney  
Jami Brackin, Deputy Summit County Attorney  
Gary Heward, Rich County Attorney / Deputy Weber County Attorney  
Brody Keisel, Sanpete County Attorney  
Chad Platt, Deputy Salt Lake District Attorney  
Dee Smith, Weber County Attorney  
G. Mark Thomas, Uintah County Attorney  
Kelly Wright, Deputy Salt Lake District Attorney

**I. WELCOME AND APPROVAL OF THE JUNE 13, 2014 MEETING MINUTES**

- A. The Council members were welcomed and the meeting convened.
- B. Jann Farris moved to approve the minutes from June 13, 2014, seconded by Barry Huntington. The motion passed unanimously.

**II. DIRECTOR'S SUMMARY**

Please refer to the Director's Summary for details.

### **III. UPC UPDATE, CURRENT ISSUES, ISSUES TO BE ADDRESSED AND SUMMARY OF EVENTS**

Bob Church made the following report high lighting upcoming UPC projects and events.

#### **A. Completed Conferences:**

1. UMPA Detailed Expense Report: There were 58 in attendance which was an all-time high for this conference. The increase was due to participants from county attorney offices who were attending for the first time. Bob attributed the increased attendance to planning and advertising the conference with misdemeanor topics. With the approval of the UMPA President, Bob proposed changing the name of the conference from Utah Municipal Prosecutor's Association to Utah Misdemeanor Prosecutor's Association. The intent is to continue to attract deputy county attorneys who prosecute misdemeanor cases as well. The Council felt that any change should be left to the UMPA presidency to decide. The facility and lodging expenses are yet to be received. An update will be made at the January 2015 meeting.
2. Basic Prosecutor Course Detailed Expense Report: The conference was well attended. The new video equipment worked well. Facility and lodging expenses are yet to be received. An update will be made at the January 2015 meeting.

#### **B. Upcoming Conferences:**

1. Government Civil Practice Conference: Will be held Oct. 15-17, 2014 at the Zion Park Inn in Springdale, Utah.
2. Advanced Trial Skills Course: Will be held Nov.19-21, 2014 at the Hilton Garden Inn, Sandy, Utah.
3. County/District Attorney's Executive Seminar will be held November 14-15, 2014.
4. Newly Elected County Attorney Seminar. Location to be determined. Bob will be working with Gavin Anderson, UAC and any other county attorney who would like to participate on the planning committee. Also, any county attorney's who would like to be presenters are welcome to contact Bob.

#### **C. Regional Training:**

1. Effective Document Foundations training was held August 15, 2014 in Vernal, Utah and was well received with six people in attendance. The training was taught by Ed Berkovich and David Cole. UAC has expressed interest in financially offsetting training costs for some of UPC's trainings. David Cole's travel expenses were covered by UAC's contribution. Bob expressed appreciation to Adam Trupp of UAC for their support. Bob indicated he will also budget for more regional trainings on specific topics.

#### **D. Honorarium for Instate Presenters:**

1. Council members did not approve of an honorarium for in-state presenters. UPC will pay in-state speakers for travel and per diem expenses only. Bob indicated he would like to update UPC's policy and make this a standard method of paying in-state presenters.

#### **E. UAC and Other Sponsors:**

1. Besides UAC as a cosponsor, the Council discussed other possible sponsors such as banks, police vendors, etc., keeping in mind the ethical concerns. It was suggested to address this with the Legislature and then create a policy to follow.
2. Civil Conference: UAC will contribute approximately \$500 to offset Kelly Wrights travel expenses to Springdale. UAC will be recognized on the

Government Civil Practice Conference brochure and in the agenda along with Utah Counties Indemnity Pool (UCIP) and the Government Law Section of the Utah State Bar as cosponsors. Any cosponsor of UPC will receive such recognition as well.

- F. John R. Justice:
  - 1. There were 50 applicants. Two of the 50 did not receive an award. Bob indicated that the award amount continues to go down.
- G. County Attorney Visits:

Bob has met with the following county attorneys, Stephen Hadfield of Box Elder County; James Swink of Cache County; Chad Woolley of Daggett County; Scott Garrett of Iron County; Jared Eldridge of Juab County; Jeff Buhman of Utah County; Scott Sweat of Wasatch County and LeEllen McCartney of Wayne County. Bob indicated that all visits went very well.
- H. UPC Google Forum: The UPC Forum has been a great success. Bob would like to start a similar forum on the civil side. He welcomed any public attorney to join. Please email Ed Berkovich to sign up.
- I. Informed Trauma Response Protocol: On Wednesday, January 7, 2015 there will be a one day conference on “Trauma Informed Response to Sexual Assault” featuring guest speaker Dr. Rebecca Campbell. Register at [www.wvc.ut.gov/conference](http://www.wvc.ut.gov/conference) by December 31, 2014. Donna Kelly would like to have expert witnesses attend. She is also working with Blake Nakamura to have child witnesses participate. UPC will send out an email and notice of the upcoming conference. Donna will check to see if UPC can record it and/or if a live feed can be set up so smaller cities and counties can participate via the web.

Bob mentioned that the Motion Bank is ready to publish. The first motion will be on admitting experts and these types of cases and the counter intuitive behavior.
- J. Best Practices Conference/Working Group: Sept. 29-30, 2014 G. Mark Thomas, Uintah County Attorney, Ryan Robinson, West Valley City Attorney and Bob Church will be attending a Best Practices Working Group Conference held in Denver, Colorado. It is a regional training to help states develop best practice programs across the country. There will be five states in attendance including Idaho, Texas, California, Colorado and Utah. It will be taught by Kristine Hammon. She will be the keynote speaker at the Fall Prosecutor Training Conference. The purpose is to have each state develop their own best practice program. Bob will give an update at the next UPC meeting.
- K. UPC Policy: Bob would like to revisit amending the UPC Statute and update it in terms of merit, non-merit/grant funded staff attorneys and their functions. Bob will give an update at the next meeting.
- L. Change to UPC Enabling Statute U.C.A. 67-5a-1 et. al: Bob discussed the following items -
  - 1. Unusual expenses will remain in the statute with the understanding that if there is no money in the budget, UPC won't be able to fund expenses. Bob will leave it in the statute but may not limit the money just to counties. The revision of the statute will include that clarification.
  - 2. Council composition will be discussed at the next Council meeting.
  - 3. Director responsibilities - Bob would like to delete as it is no longer relevant. Bob will draft changes for Council's final approval.
- M. UPC Logo: Stephen Foote made the motion to seek for more ideas and designs by opening up a UPC logo contest statewide. Barry Huntington seconded the motion and it then passed unanimously.

- N. Newsletter: It was suggested to include best practice articles in the newsletter. Bob indicated there may not be a September issue.
- O. Surcharge: Bob stated that in comparison the surcharge was the same as it was last year. It was suggested that UPC not approach the courts and task them to change but possibly seek increased funding from the Legislature. Bob will form a study group to look at trends (i.e., fines ordered, forfeiture fund, etc.) and to establish a unified voice.
- P. Electronic Copies of Newsletter, Brochures, Materials: Stephen Foote made the motion in support of UPC going paperless by sending out the newsletter, UPC conference brochures and conference materials electronically. A notation should be included in the publication advising participants to download the materials and/or print out their own hard copy and not to rely on the internet. Paul Bittman seconded the motion and it passed unanimously.
- Q. LEOJ in November: Registration is open. Everyone was encouraged to register early.

#### **IV. PIMS/CASE MANAGEMENT**

- A. User fees: To clarify the PIMS user fee for FY2014-15 is \$103 per user for six months or \$206 per user for the year. The money will be only used to fix bugs. A user is defined as anyone in the office who has PIMS on his or her computer as well as any attorney whose criminal work is prepared on PIMS but who does not otherwise personally use PIMS.
- B. Bob, Paul Boyden, Blake Nakamura, Steve Garside and Chad Woolley met with Rep. Eric Hutchings. Rep. Hutchings was supportive of funding a case management system that will meet the e-filing needs for prosecutors, law enforcement and the courts. They discussed the issues and needs facing each agency with the goal of a unified system. More meetings to follow.
- C. Grant Money: UPC will look into getting grant money to help fund the case management system. Rep. Hutchings is supportive of using grant money. The Attorney General's office is also supportive.
- D. New Dawn/Justware: After meeting with representatives from both companies, they will provide a tentative cost proposal. Whether there should be a local server or cloud hosting is yet to be determined. Also, an e-filing patch will need to be developed, but it will be at an additional cost. They offered to defer the costs until the system is up and running. It was discussed that there would need to be a person with legal expertise to do any of the legal updates and that UPC should remain involved in that process. Also, Ed Berkovich would continue updating the offense table.
- E. RFP Process: As discussed above, it would be beneficial and cost effective to have as many agencies as possible join the RFP process so as to achieve the unified objective of keeping costs down and have a statewide system.

#### **V. FINANCIAL REPORT**

- A. FY14 Closeout:
  - 1. June surcharge receipts ended at \$49,642.27. Last year June surcharge receipts end at \$49,033.92.
  - 2. PIMS income came in at \$45,55.00
  - 3. Detailed Expenditure report for June and July 2014 were reviewed.
  - 4. Comparison Report - Budget vs. Actual:
    - a. Income:
      - 1) 76% of conference fees collected. Statements will be sent out to those with outstanding registrations fees.
      - 2) Overall, 102.5% of budgeted income.

- b. Expenses:
  - 1) 303% of budgeted CJC/DV Conference;
  - 2) 130% of budgeted Sexual Assault Conference;
  - 3) 262.5% of budgeted TSRP training;
  - 4) 132.7% of budgeted Council and Committee expenses;
  - 5) 108.3% of total current expenses.
- c. PIMS/Data Management:
  - 1) 154.6% of budgeted PIMS Governance Committee
- d. Personnel:
  - 1) 95.4% of budgeted Donna's salary.
- e. Net Income: \$33,952.80

Bob will make an update on the FY14 budget.

**B. FY15:**

- 1. Proposed Budget:
  - a. White Collar Crime Conference: The cost will be included in the budget as a pre conference to the Fall Prosecutor Training Conference or will plan to include a white collar crimes track.
  - b. Train the Trainer: It was discussed to hold Train the Trainer in 2016.
  - c. Expense Reimbursements:
    - 1) John R. Justice: \$31,871 was allocated.
  - d. PIMS Income: If all 224 projected users pay \$103 in the first six months, \$23,072 will be realized. That number will double for the entire year in the amount of \$46,144.
  - e. The cost to attend the Best Practices Conference was substituted in lieu of attending the NDAA meetings.
- 2. Comparison Report: The council reviewed the report. Hearing no questions, Bob moved to the next item.
- 3. July and August 2014 Surcharge:
  - a. Surcharge receipts for July realized \$38,807.56
  - b. Surcharge receipts for August came in at \$43,807.00.

**VI. TRAINING COMMITTEE REPORT:** Steve Garside, UPC Training Committee Chair gave the following report.

- A. The Training Committee will meet October 13-14, 2014 at the Zion Park Inn in Springdale for its annual fall planning session to plan the 2015 Spring Conference and Fall Prosecutor Training Conference agendas as well as review the schedule for 2015 and beyond. Steve will give an updated report at the next council.

**VIII. UPAA REPORT:**

CeCelia Zarbock, UPAA Chair, gave the following report.

- A. The 2014 UPAA Conference agenda was held at the Homestead in Midway, Utah. It was very well received. There were 85 attendees.
- B. Kim Lee's term expires January 2015. The application process will begin in November. Also, CeCelia's term as UPAA Chair ends December 31, 2014. Christine Stevens will be UPAA Chair from January 2015 to 2017. The Board greatly appreciated her service as UPAA Chair. She will remain on the Board until her term ends in June 2015. An update will be given the next Council meeting.

**V. STAFF ATTORNEYS ACTIVITY**

Donna Kelly and Ed Berkovich referred the Council to the in depth SA/DVRP and TSRP reports as outlined in the handouts.

**X. NEXT MEETING:**

Friday, January 9, 2015

1:00 p.m.

Salt Lake District Attorney's Office

**VI. ADJOURN**