

UTAH PROSECUTION COUNCIL
Friday, January 11, 2019
5272 College Drive, #302
Murray, Utah

APPROVED MINUTES

UPC : Barry Huntington, Chair, Garfield County Attorney
 Haley Christensen, UPAAC Co-Chair, Salt Lake County District Attorney's Office
 Robert Cosson, Chief Prosecutor, St. George City Attorney (*designee of Steve Garside, Layton City Attorney*)
 Stephen Foote, Chair-elect, Duchesne County Attorney
 Will Carlson, Deputy Salt Lake County District Attorney (*designee of Sim Gill, Salt Lake County District Attorney*)
 Dave Carlson (*designee of Sean Reyes, Utah Attorney General*)

EXCUSED: Jann Farris, Morgan County Attorney
 Steven Garside, Layton City Attorney
 Sim Gill, Salt Lake County District Attorney
 Ryan Peters, Juab County Attorney
 Sean Reyes, Utah Attorney General
 Commissioner Keith Squires, Utah Department of Public Safety
 Scott Stephenson, Deputy Director of P.O.S.T (*designee of Commissioner Keith Squires*) *via telephone*

UPC

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

GUESTS: Robert VanDyke, Kane County Attorney

I. WELCOME AND APPROVAL OF THE MINUTES - SEPTEMBER 19, 2019

- A. The Council members were welcomed and the meeting convened.
- B. Robert Cosson made the motion to approve the September 19, 2019 minutes. Stephen Foote seconded the motion and it passed unanimously.

II. FINANCIAL REPORT

Robert Church gave the following in depth financial report. Additional information can be found in the Director's Summary.

A. *Amended FY19 Budget*

1. Hold the Train the Trainer in lieu of Advanced Trial and Cyber Crime Course
2. Ethics Course - Co-sponsored with Layton
 - a. A 2-hour Ethics course. UPC co-sponsor and will spend \$1,000. Anticipate recouping the cost in registration fees.
3. Conference Materials
 - a. Handouts, etc., Calendars. Reduced amount in both categories.
4. Regional Training
 - a. Increased the amount from \$700 to \$2,000.
5. Postage
 - a. Decreased by several hundred dollars.
6. Telephone
 - a. Increase by \$1,000 to cover all 5 UPC phones, data plan, etc.
7. Law Clerk
 - a. There continues be no space for a law clerk. It's anticipated not having space in the immediate future so moved the \$20,000 to cover other costs, conferences, etc.
 - b. In an AG Justice Division meeting, a proposed remedy was discussed for creating a pool of law clerks that each section could use. This would be a cost saving fix by having access to a law clerk pool and could reduce the cost of employing a dedicated UPC clerk. A meeting is set between Janise Macanas, Spence Austin and Bob to address this issue. **Bob will keep the Council updated on this issue.**
8. Employee Incentive
 - a. Amount reduced by \$2,000, down to \$3,000.
 - b. In December, the Council approved employee incentive awards for Marlesse, Marilyn, Ron and Tyson ranging in amounts between \$500 and \$750.

C. *Projecting Surcharge*

1. Bob indicated he's taken a very conservative approach in estimating the budget such as how much the surcharge will be and will receive. On average the surcharge carry over has been around \$80-100,000. FY18's carryover was as large as it was due to UPC receiving a one-time influx of \$30,000 from the AG's office to be used for DV training (a consolation for the office releasing the .5% surcharge without consulting UPC.) Council's guidance was to remain conservative in estimating the budget.

Robert Cosson made the motion to approve the amended FY19 Budget. Will Carlson (*designee of Sim Gill*) seconded the motion. The motion passed unanimously.

D. *FY19 Budget Comparison Report*

Financial numbers were available up to November. December figures were yet to be received and, of course, there are still six months left in the FY. Bob highlighted the following expenses.

- a. Civil Conference. Collected more registration fees than predicted. SWAP contributed \$3,500 toward the cost of the conference.

- b. Fall Conference. Registration fees lower than as expected.
- c. eProsecutor. Pass-through money only. Not all has been received and paid out.
- d. SADVRP Resource Prosecutor. The \$182,000 shown as expense reimbursements is from HB200 funds. They are accounted for in various other expense categories.
- e. PIMS revenue little more than predicted.
 - (1) Once eProsecutor goes live across the state, if we have 150 users paying \$204 per user, UPC will collect \$30,600.00
- f. Basic. Came in under budget.
- g. County Executive. Over budget. Originally, did not factor Marilyn attending/presenting at the seminar.
- h. Fall Conference. Under budget.
- i. NAPC Winter. Over budget. Ended up being a more expensive. Despite requesting airfare be booked early, reservations were not made until closer to the conference after prices had gone up. Bob discussed this problem with the AG finance department and they will work on measures so this doesn't happen again.
- j. UMPA. Under budget.

E. FY19 Surcharge Report

- 1. Monthly and Year End Comparison.
 - a. Nov18: \$41,462.63 Nov17: \$37,154.63
 - b. Oct18: \$36,553.45 Oct17: \$38,184.71
 - c. Sep18: \$39,099.57 Sep17: \$43,043.04
- 2. Year End
 - a. FY18: \$511,483.77 FY17: \$511,291.74
 - b. We ended FY18 \$192.03 better than we did last year.
- 3. Bob demonstrated yearly totals from 2008 to 2016. FY09 reached the 10-year high of \$588,600.00. Over those last 10 years, UPC lost as much as \$77,116.23, the equivalent of Spring, Fall, a law clerk, and/or the .5% Surcharge, \$70,000 for DV training.

III. TRAINING COMMITTEE REPORT

Steve Garside, Chair of the UPC Training Committee, was excused so Bob gave the training committee report. Additional information can be found in Directory's Summary.

F. Civil

- 1. As mentioned above, SWAP contributed \$3,500 toward the cost of this conference.

G. Train the Trainer

- 1. The training committee and staff discussed the initial training schedule and determined to hold a Train the Trainer course this year and table the Advanced Trial Skills and a Cyber Crime conference until next year. The reason was a decline in losing experienced trainers and the committee realized that there was a need to increase the pool of trained trainers. These trainers would be used especially for Basic.
- 2. March 18-22, 2019, Holiday Inn Express, Springdale, UT (the former Zion Park Inn)

3. The following individuals were invited to attend.
 - a. Bastian, Lance Utah
 - b. Carlson, Will DA
 - c. Hansen, Matt Weber
 - d. Lyons, Nathan Davis
 - e. Miles, Brandon Davis
 - f. Nielson, John AG
 - g. Rodier, Yvette WVC
 - h. Scott, Christine Utah
 - i. Telles, Ivy Summit
 - j. Walsh, Spencer Cache
 - k. Wardle, Blair Box Elder
 - l. Young, Kelsey Utah
4. The faculty invited consists of the following individuals
 - a. Steve Garside Layton
 - b. Bob Church UPC
 - c. Tyson Skeen UPC
 - d. Marlesse Jones UPC
 - e. Josh Player SLCDA
 - f. Sandi Johnson SLCDA
 - g. AnnMarie Howard Juab
 - h. Jared Olsen Idaho TSRP
 - i. Marilyn Jaspersen UPC

H. Government Ethics

1. March 18, 2019, Northridge High School, Layton
2. Marianne M. Jennings, Emeritus Professor of Legal and Ethical Studies will be the featured presenter.

I. Spring and 2019 Training Schedule

1. April 18-19, 2019, Salt Lake Sheraton
2. John Nielsen and, hopefully, Steve Garside will give the case law update.
3. The civility presentation will most likely be given by Federal Magistrate, Brooke Wells.
4. Will Carlson, Tyson Skeen and Marlesse Jones have agreed to give the criminal legislative update.
5. The civil update will be given by Jami Brackin.
6. A presentation on all things marijuana.
7. TED Talk style ethics presentation during lunch on Friday

J. New County Attorney

1. January 16-18, 2019, College Drive offices, Murray, 1st Floor Training Room
2. All new County Attorneys have been invited.
 - a. Christine Sloan - Grand
 - b. David Leavitt - Utah
 - c. Greg Lamb - Uintah
 - d. Chad Dotson - Iron
 - e. Ryan Peters - Juab

- f. Jeremy Humes - Carbon
 - g. Kevin Daniels - Sanpete
 - h. Margaret Olson - Summit
 - i. Ben Willoughby - Rich
3. All incumbent county attorneys were welcomed to attend.

IV. UPAА REPORT

- A. There are currently two openings on the board - city and county positions.

V. RESOURCE PROSECUTOR REPORTS

- A. Tyson Skeen referred the Council to the in depth TSRP report as outlined in the handouts. It was noted that Tyson trained 1,711 people, the most ever trained by a Utah TSRP since we've been keeping track of the numbers.
- B. Marlesse Jones referred the Council to the in depth SADVRP report as outlined in the handouts. Marlesse has train 1,923 people.
- J. In addition, Bob mentioned that he asked Ron and Marilyn for the same data. Marilyn trained 171 people at three conferences. Ron provided hands-on, technical training to 36 people.

VI. IT ISSUES - ePROSECUTOR

- A. Grant funding.
 - 1. The final \$235K grant funds were awarded/committed. Grant manager says it should come through in the next few weeks. These funds will cover the entire purchased price of the contract.
- B. Current Project Status
 - 1. Ron reported that on Monday, January 7, 2019, South Jordan City and Wasatch County went live with very little problems or glitches. Provo City and Juab County are expected to go live later this month.
 - 2. JTI will be providing training/support until the above mentioned four offices are up and running after that Ron will then take over that role. If Ron runs into an issue, he can consult with JTI .
 - 3. Those offices who have signed the agreement will be next in line to go live. They need to contact Ron to set an appointment. It is anticipated there will be a total of 150 users. If that number is exceeded the costs associated with additional users will need to be addressed.
 - 4. There is a search facility in the system where a user can search for a case to see if a defendant has other issues in another jurisdiction. Information is limited to the court case and a phone number to contact that respective court.
 - 5. Tyson will continue doing the offense table.
 - 6. Ron will be maintaining local/city codes. If there are changes to the codes, agencies need to contact Ron so he can update the system.
 - 7. The civil portion will be added sometime in May 2019.
 - 8. Sending declinations automatically will be a separate project in the future.
 - 9. Access to the testing version and live version is available. The civil portion will be added in May.
 - 10. The UPC webpage has been updated to include an eProsecutor section that addresses common problems and how to solve them. Also, Ron will be posting how-to videos in the near future.

Ron was complimented on the great work he's been doing as he is always responsive and helpful whenever called upon.

VII. 2019 LEGISLATIVE SESSION

- a. UPC Statute
Bob indicated that his last conversation with Steve Garside is that Steve has contacted a representative.
- b. .5% Surcharge, \$70,000 in DV training dollars
Dan Burton, AGO has reached out to Rep Hutchings to try and schedule a meeting with Bob, Steve Garside, Reed Richards to discuss recovering the \$70,000 in DV training dollars. Bob has language drafted to present at the meeting.

VIII. FINANCIAL ISSUES

Robert Church discussed the following financial issues for the Council's consideration. Additional information can be found in the Director's Summary as well as the addendum to the budget.

- A. Non-timely payment of registration fees consisting of 2018 Spring to County Attorney Executive Seminar
 1. Out standing registration fees and the associated problems was discussed. The time frame covered only 2018 conferences which included Spring Conference to County Attorney Executive Seminar. It was noted that the County Attorney Executive Seminar does not require a registration fee even though UPC pays for the CLE.
Recommended remedies included:
 - a. Email an invoice to the participant, office secretary/manager, and the boss/office.
 - b. UPAA Board will be asked to develop a regional contact list of office secretaries/managers so the appropriate office personnel will receive the notices.
 - c. After 90 days of no response, to process the payment/donation.
 - d. Going forward, there will be no change to the registration process. However, the participants' access to the evaluation/CLE link will not be activated until payment is received. Participants will have 90 days to make payment and thereby be able receive credit for the conference(s) they attended. If the participant does not respond after the 90 days, they could self report.
Bob will send out an email blast for the 2019 conferences. Also, the change will be noted on the UPC website, the registration page, it will be included on UPC brochures, and will be announced at each conference.
- B. Increase in registration fees to \$125
 1. Increasing the registration fee from \$75 up to \$125 was mentioned.
Question regarding credit card payments. Marilyn has contacted finance and was turned down because the AG finance department did want to deal with processing fees associated with the transactions. However, she will revisit the issue with AG finance department and report at the next meeting.

- a. UPC provides a high quality training for a very inexpensive rate.
 - b. Over the past 10 years UPC has lost about \$77,000 in surcharge reimbursements.
 - c. In the past 5 years Marilyn, Ron and Bob have not received any kind of pay raise, other than the minimal COLA's approved by the legislature. There are no funds available this year for raises. Bob encouraged the Council to consider pay raises for FY20.
 - a. The question will become on how to fund raises. Without raising registration fees, in UPC's current situation, we would have to look at cutting services, conferences.
- C. Additional conferences
- 1. UPC has its standard repertoire of conferences that our budget can meet. When we start adding additional conferences, we obviously run into budgeting challenges.
 - 2. There are times we must offer additional training, i.e., Train the Trainer. This is a significant cost that strains our budget and staff time. Bob provided a list of speciality conferences. However, given our current financial situation does not allow us to legitimately consider offering them. It was discussed to partner with other agencies. Collaborate with other agencies and include break out sessions or a dedicated track of specific subjects. Fall Conference would be a good event to add break outs/tracks. The latter may be the solution to accommodate prosecutors demanding schedules and maximize attendance.
- D. Change UPC's funding from surcharge funds to dedicated funds was discussed.
- 1. Reed Richards and Bob have preliminarily talked about this.
- E. Charge an administrative fee to the JRJ grant
- 1. Up until now, UPC has absorbed the cost of all the work involved in managing this grant.
 - 2. The grant does allow administrative costs to be charged to the grant. If the Council decides to charge the grant, we'll have to look at the requirements and see just how much we can reasonably charge and then document it.

IX. "CHALLENGE THE PROCESS"¹

Robert Church discussed the following section for the Council's consideration. Additional information can be found in the Director's Summary.

- A. Bob mentioned that he has attended a couple of leadership conferences as well as read leadership books. His intent was to bring this process to the Council and discuss how UPC can become a better organization and how to provide the best services for our clientele. What UPC as an organization can learn and benefit from examining what we do and why we do it. For example:
 - 1. What is the Council's role? Are Council members talents being fully

¹ *The Leadership Challenge, How to Make Extraordinary Things Happen in Organizations*, 6th Edition, James M. Kouzes and Barry Z. Posner

utilized?

2. How can the Director improve the existing processes?

Bob proposed having a Council retreat later this summer where the Council can discuss those items outlined in the Director's Summary as well as other issues the Council feel are important. The Council agreed that a retreat would be beneficial. **Bob will check the calendar for May/June dates.** Looking at the Prosecutor Handbook was a suggested agenda item.

X. OTHER

A. NDAA Veteran's Committee

1. Bob informed the Council that he has been invited to be on this committee to address how veterans interact with the criminal justice system, whether as a defendant in a case or a veteran.

B. Orem ALJ

3. With the Council's approval, Bob applied for and was hired to be Orem's ALJ. This will only require a few hours each month. He will be hearing appeals to their nuisance ordinance and hearings will be scheduled on his days off or take annual leave so as not to interfere with his full-time responsibilities. He has a 30-day termination clause in his contract with the City if needing to cancel the contract.

C. GRAMA Issues

1. A former employee noticed that the written minutes from the October 18, 2015 emergency Council Meeting said that a recording was made using "Freeconferencecall.com" and asked for a copy. Bob had forgotten about it but searched the program and found the recording.

2. He provided the recording to the AG's GRAMA officer who redacted portions of the recording. The redacted recording was provided to the former employee.

3. An appeal has been filed with the state records committee wanting an unredacted copy. The AG's office will obviously handle the appeal. **Bob will attend the hearing (not scheduled yet) and report back.**

XI. NEXT MEETING

A. Wednesday, April 17, 2019, 8:30 a.m. (and/or coordinate with SWAP)

B. Location SLCDA

XII. ADJOURN