

UTAH PROSECUTION COUNCIL
Wednesday, April 25, 2018
Salt Lake County District Attorney Offices
1st Floor Conference Room
35 East 500 South
Murray, Utah

APPROVED MINUTES

UPC : Barry Huntington, Chair, Garfield County Attorney
 Haley Christensen, UPAA Co-Chair, Salt Lake County District Attorney's Office
 Robert Cosson, Chief Prosecutor, St. George City Attorney
 Stephen Foote, Chair-elect, Duchesne County Attorney
 Steven Garside, Layton City Attorney
 Sim Gill, Salt Lake County District Attorney
 Ryan Peters, Juab County Attorney

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

GUESTS: Spencer Austin, Chief Criminal Deputy, Utah Attorney General
 Jeff Buhman, Utah County Attorney
 David Carlson, Justice Division Director, Utah Attorney General
 Stephen Hadfield, Box Elder County Attorney
 Jeff Hall, Deputy Salt Lake County District Attorney
 Margaret Olsen, Summit County Attorney
 Ryan Robinson, West Valley City Attorney
 Scott Sweat, Wasatch County Attorney
 James Swink, Cache County Attorney

- I. WELCOME AND APPROVAL OF THE MINUTES - JANUARY 5, 2018**
- A. The Council members were welcomed and the meeting convened. Council members thanked Sim Gill for hosting today's meeting.
 - B. Steve Garside made the motion to approve the January 5, 2018 minutes. Stephen Foote seconded the motion and it passed unanimously.

II. COUNCIL MEMBERSHIP

- A. New councilman Ryan Peters, Juab County Attorney, representing Region II, replaces Scott Sweat who did not wish to be considered for reelection to the Council. Stephen Foote, Duchesne County Attorney, representative of Region IV will continue his service on the Council. Sim Gill made the motion to approve Ryan Peters, Juab County Attorney, representing Region II as a new council member and Stephen Foote, Duchesne County Attorney, representative of Region IV to continue another term. Stephen Foote seconded the motion and it passed unanimously.

III. IT ISSUES

A. eProsecutor

In addition to the in depth report in the Director's Summary, Ronald Weight and Bob Church reviewed comments as outlined in the Director's Summary. Please refer to the Director's Summary and attachment Tab K.

1. Report from Ron/committee on the progress.

Ron reported that the UPC eProsecutor committee has met several times with Journal Technology (JTI) to work out the configuration and tailor eProsecutor to look and function universally for its users. Ron noted one exciting feature of electronic discovery with verification of receipt will be available. Also during this initial phase, connecting with law enforcement, i.e. Spillman, will not be developed. However, Sandy City is working with JTI on this feature and when they have it is up and running Ron can integrate it into eProsecutor after the initial deployment. This may not happen for a couple years. In the meantime, connecting to law enforcement can be done through PIMS or a portal users are currently using. He also indicated there is a test website that potential users, support staff, can access and test the system, and provide feedback. The feedback would be helpful in the further development of the system. Ron estimated the first deployment of eProsecutor would be sometime in September/October 2018. Users who have yet to sign the MOU must do so before they will receive eProsecutor. Ron encouraged those who haven't signed the MOU do so as soon as possible. For more details, please refer to his summary under attachment Tab K.

2. Individual Jurisdiction Costs

Bob explained the reason UPC cannot provide an actual final cost.

- a. The contract price was \$1.235M. UPC received a grant for \$1M which leaves a remaining balance of \$235,000 that will need to be covered, most likely, by users. However, Bob is in the process of applying for additional grant money to cover the remaining balance. If awarded, the full contract price would be covered by the additional grant with no expenses incurred to the jurisdictions for the life, five years, of the contract. If UPC is not awarded the additional grant, the balance of \$235,000 would need to be apportioned among all users and would be due in the first year of the grant period. For budgetary purposes, it is estimated there will be 150 users. (150 users ÷ \$235,000 is \$1,566.67 per user or \$1,600 rounded up to cover remaining balance of the contract.) If there are more or less than 150

users, those numbers would change. Currently, there are approximately less than 70 confirmed users. However, there are approximately 100 plus PIMS users and it's anticipated to reach 150 eProsecutor users.

- b. Under the contract JTI requires one person be the contact person or a system administrator to represent all the jurisdictions. Ron Weight has been designated as the system administrator.

3. Regional or Individual Jurisdiction Training & Cost

- a. Because UPC was able to get a great deal with JTI, JTI is unwilling to accept or make general service calls from or to individual jurisdictions. So any general contract-related issues individual jurisdictions would need to go first through, Ron, System Administrator. Ron will then take the issues to JTI.
- b. Currently, Journals' rate for contract work is \$175 per hour plus expenses. Individual jurisdictions would only need to contract with JTI if an agency wanted something specific, above and beyond what the final product entails. The evaluation committee is trying to ensure that this is a "universal" product. The committee is working to develop standard reports and documents that most offices use such as discovery, filings, information, subpoenas, etc. However, if an agency wants something specific, they will have to individually contract with Journal.
- c. In negotiating the contract and to keep the total contract cost down, the evaluation committee *intentionally* decided that each jurisdiction should be responsible for their own training/deployment costs, beyond what is already included in the contract. We have paid for 150 individuals to be trained. JTI and UPC will provide regional training sessions where agencies can send their representatives to be trained. Then those people can return and train the rest of their staff. However, Bob was verbally told by Journal, which confirms the information in pricing information in the contract, that if a jurisdiction wants them to come to their location and train, the cost would be \$500 per user or a minimum cost of \$2,500. For example, if a jurisdiction had 6 users their cost would be \$3,000, but if a jurisdiction had two users their minimum cost would be \$2,500, plus expenses. Hopefully, the initial training will be sufficient. Ron added he would be available to help out with individual training or if a jurisdiction representative was not able to make it to a regional training. Having said that, Bob felt confident that there shouldn't be any additional training costs.
- d. Ron spent a lot of his time up front, but not limiting his other UPC responsibilities, implementing and setting up PIMS. As the eProsecutor System Administrator, Ron will most likely have the same demands. To that end, the Council discussed assessing a fee for Ron's services if jurisdictions need additional training after the initial training. More details are found in the Director's Summary. Ron gave a breakdown of how much time he is currently spending as well as how much time he anticipates spending on eProsecutor over the course of the contract.
 - (1) Currently, 8-14 hours a week spent on eProsecutor.
 - (2) During roll-out, Deployment - 90-100% of his time for 6-12 months.
 - (3) After year one live - 50-75% of his time

- (4) After two years live - 35-65% of his time
 - (5) Last three years of contract - 25-45% of his time
 - (i) Ron's hourly rate is \$38.37.
4. The Offense Table.
 Currently, the offense table is not compatible with eProsecutor. Ron expects it will take a significant amount of time to design, test and implement this new process. Once created, it will be easy to maintain. UPC pays 10% of Tyson's salary with his grants paying the rest. Tyson has been updating the offense table as part of his 10% UPC responsibilities. Tyson indicated that after the legislative session it takes approximately 15-20 hours of his time and during the year not much more than that. Currently under PIMS, the offense table will continue to work as long as needed and won't go away when PIMS dies.
5. The Council decided over a year ago to let PIMS "die a natural death." The grant, as currently written and approved, would not allow an overhaul of PIMS. For those jurisdictions who will continue with PIMS and not go with eProsecutor, the Council agreed that they may obtain the source codes from Ron to maintain PIMS on their own.

Given the report, Bob asked the Council if a user fee, similar to the PIMS user fee, be assessed each jurisdiction for Ron's work associated with eProsecutor for, at least, the first five years of the contract. Steve Garside commented that if the second grant is awarded and for budgetary purposes, users would expect they would not be charged more than their current PIMS user fee. **Bob was asked to keep the Council informed of jurisdictions who haven't signed the MOU, what user fee would be affordable and what amount would not.** **The question regarding how city codes will be handled in eProsecutor will be addressed at the next Council meeting.** After an in depth discussion, Stephen Foote made the motion that if the additional grant of \$235,000 is awarded and there is no user fee cost to jurisdictions, than a user fee could be equivalent to what they are paying now (max. of \$206 per user per year) and if the additional grant of \$235,000 was not awarded than their user fee would be no more than half of the current PIMS user fee. Steve Garside, reluctantly, seconded the motion. Hearing no more discussion, the motion passed unanimously.

IV. 2018 LEGISLATIVE RECAP AND 2019 LEGISLATIVE ACTIVITIES

- A. In addition to Bob's report, please refer to the Director's Summary for details.
 Bob informed the Council that this year was an unusual year, requiring him to appear on the hill and testify. He became aware that Senator Christensen's SB142 repealed the .5% of the surcharge that went to the AG's office to be used to train municipal and county attorneys in the prosecution of domestic violence offenses. After Bob was made aware of this bill and following the AG's protocol and approval to appear on the hill, he, Reed Richards, Dan Burton, Dave Carlson, Ned Searle, and others lobbied multiple Representatives and Senators to keep the money in the AG's office. There was a great deal of support to do this but a change to the general fund had already been made so the money was not returned. Bob testified 3-4 times in front of different committees asking that the money be returned. Senator Christensen agreed to withdraw the bill if they could get others on board and get the money back. Senator Christensen said if he had known of UPC's need and ability to use the money prior to the drafting of the bill and it being moved to the general fund, he wouldn't have introduced the bill. Ultimately, the money was gone. In any event, the AG's office agreed to provide UPC

with \$30,000 from this year's surcharge allocation to be used for the stated DV training purpose. Bob is hopeful there is a good chance to get some or all of the money back. Typically, it has been a rare occasion where the UPC Director has appeared on the hill before a committee. But in light of Paul's retirement, SWAP's reorganization and only having a part-time lobbyist, is there a need for the Director to take an increased role during the session? Of course, if he does, he will approve things through the AG's established channels. Bob asked the Council for their guidance in this regard. Council affirmed that only on special occasions and by following AG policy should he appear. Currently, the Council does not feel that he needs to expand his role on the hill. Spencer Austin affirmed that Bob has been very good in following the AG's protocol, policy, and keeping principal players well apprised of the issues.

B. UPC needs to amend its statute.

Bob proposed the following amendments. The following either are possible suggestions or reflect proposed substantive changes. "Clean-up" language is not specifically referenced here. Council's changes or comments are highlighted in red and/or otherwise left as in agreement to the proposed changes.

1. 67-5a-1(2). Council shall...
 - a. Adds "provide assistance to local prosecutors"
 - b. Deletes unusual prosecution expense provision. [The Council wants to leave this option/language in]
 - c. Adds "provide training and assistance to law enforcement officers, as required elsewhere within this code." Covers the required trauma informed training. [leave in: c: as funds are available as are budgeted for this purpose, provide reimbursement for unusual expenses related to prosecution for violations of state laws. The Council wants this to continue to be an option so it is statutorily in place for years when there are funds available.]
2. 67-5a-1(3). Increasing Council membership to 12 by adding two more Municipal Attorneys.
 - a. Currently UMAA nominates UPC's two municipal attorneys.
 - b. To better reflect UPC's membership and give an equal voice to municipal prosecutors, Bob proposed that two city prosecutors be added. They would be nominated by the leadership of the Utah Misdemeanor Prosecutor Attorneys Association (UMPA). [Total of 2 from UMAA & 2 from UMPA]
3. 67-5a-1(4). Any new council member appointed must be approved by a majority of currently serving council members.
4. 67-5a-2. Members will now be "approved" by the council v. qualified. Vacancies will be filled according to the provisions of 67-5a-1
5. 67-5a-5. Quorum Meetings
 - a. Changes from 5 to 6 members to constitute a quorum. [a simple majority]
 - b. Allows the council director to call a special meeting.
6. 67-5a-6. Council employees.
 - a. Adds that the director shall appoint resource prosecutors with the consent of the council, resource prosecutors serve at the pleasure of the council, and lists the requirements to be a resource prosecutor.

- b. Adds that the director shall appoint and supervise administrative staff **[consistent with state policy]**.
- c. Adds that the Council shall establish the compensation for the director, resource prosecutors and administrative staff **[consistent with state policy]**, consistent with state personnel policies.
- 7. 67-5a-7. Responsibilities of the director
 - a. Deletes the old requirement to screen any specialized investigation and prosecution unit created in the AG's office for the investigation and prosecution of any child abuse offense.
 - b. Adds, "ensures all statutory required training occurs," i.e. informed trauma training for officers.
- 8. 67-5a-8. Adds "and training" costs of this chapter.
- 9. **51-9-406. Victims of Domestic Violence Services Account established - Funding - Uses. [Go to Rep. Ivory for support.]**
- 10. As currently drafted, the only fiscal impact is accounting for the possible travel related expenses for the two new Council members. That will be minimal.
- 11. Bob will work with Reed Richards and Dan Burton so this can get done next year.

Steve Garside believes he has a representative who will run this bill. Bob will send out another draft in preparation for the council's approval at the next meeting.

V. FINANCIAL REPORT

A. Financial Reports

Bob Church gave an in depth financial report up to the month of February. March receipts were not available. Revenue receipts were not available.

Surcharge FY18 and Year to Date

- 1. Monthly Totals Since Last Meeting
 - a. Dec17: \$41,410.09 Dec 16: \$36,657.75
 - b. Jan18: \$37,262.05 Jan 17: \$37,157.86
 - c. Feb18: \$43,322.61 Feb 17: \$42,183.85
- 2. YTD Surcharge Totals
 - a. Feb 18: \$318,146.07 Feb 17: \$320,344.08
- 3. YTD Court Receipts
 - a. DC 2018: \$1,841,446.57 DC 2017: \$2,109,003.12
 - b. JC 2018: \$9,092,968.99 JC 2017: \$8,916,225.62

B. FY18 Budget Update

- 1. Significant addition to the budget
 - a. One-time \$30,000 to be used for DV training.
- 2. All expenses to date have been entered.
- 3. We have not yet received a report from the AG's office reflecting reimbursable expenses, i.e. grant funding, SB200 funds, etc..

VI. UPC DOMESTIC VIOLENCE AND SEXUAL ASSAULT TRAINING SCHOLARSHIPS

Bob Church gave an in depth report of the use of DV training dollars. Please refer to the Directors Summary for details.

- A. \$18,000 to fund scholarships for eight (8) DV prosecutors to attend NDAA's DV course: Investigating, Prosecuting and Providing Essential and Meaningful Victim

Resources to be held October 29 - November 2, 2018, Long Beach, CA. Scholarships will be awarded based upon a criteria as detailed in the Directors Summary.

- B. \$12,000 to offset student's lodging expenses who attend the Basic Prosecutor Course. June 30, 2018 is the deadline to have these funds expended or committed as much as possible.
- C. SB 200 Funding - Use of Sexual Assault Training Dollars
 - 1. Fund at least two scholarships to attend NDAA's Prosecuting Sexual Assault and Related Violent Crimes, Course Agenda
 - 2. August 13-17, Bellevue, Washington
 - 3. Application Period: Monday, May 7 - Friday, May 25, 2018
 - 4. Similar application process as described above.
- D. The Council agreed that if the student cancels for reasons other than sickness, emergency, or death, the student or the office should be required to reimburse UPC the cost of non-refundable expenses; plane, registration.

VII. TRAINING COMMITTEE REPORT

In addition to Steve Garside's, UPC Training Committee Chair, report, please refer to the Director's Summary for details. The Training Committee met March 22, 2018. He highlighted the following.

- A. Spring Conference - Salt Lake Sheraton Hotel April 26-27. Registration count was 322.
- B. Fall Prosecutors Training Conference - Provo Marriott - Sept. 19-21, 2018 (the District Judicial Educational Conference will be held the same time.)
- C. Basic Prosecutor Course - The Riverwoods Conference/SpringHill Suites - August 20-24, 2018. New location and different date.
- D. Civil Conference - Moab SpringHill Suites by Marriott - October 17-19, 2018
- E. UMPA - Moab SpringHill Suites by Marriott - November 8-9, 2018
- F. County Attorney Executive Seminar - St. George Dixie Center - November 15-16, 2018.
- G. Other training - DV 101
Format will be patterned after Basic Prosecutor Course. Suggested curriculum will be focused on emotional abuse.
- H. Nominations for 2019 Fall Conference. Stephen Foote made the motion to hold the 2019 Fall Conference at one of the following locations, 1st choice, Moab or 2nd choice St. George. Marilyn was asked to find a venue that will honor the state rate. Robert Cosson seconded the motion and it passed unanimously

VIII. UPAA

Haley Christensen, UPAA Co-Chair gave the following UPAA report.

- A. There was one open position on the board. Haley welcomed any recommendations from the Council.
- B. The 2018 UPAA Conference will be held at the Cedar City Courtyard Marriott, June 20-22, 2018.

IX. RESOURCE PROSECUTORS REPORTS

- A. Tyson Skeen referred the Council to the in depth TSRP report as outlined in the handouts. He reported on his training schedule.

- B. The Council introduced and welcomed Marlesse Jones as the new Sexual Assault/Domestic Violence Resource Prosecutor. Marlesse replaces Peter Leavitt. Marlesse referred the Council to the in depth SA/DVRP report as outlined in the handouts.
- C. Bob praised the work of both Tyson and Marlesse. They are doing great things and are proactive in their approach to training.

X. GRAMA REQUESTS

Bob Church reviewed comments as outlined in the Director's Summary. Bob directed the Council's attention to the Directory Summary report and attachments for details. Hearing no comments or questions, the Council moved to the next item

XI. VIRTRA TRAINING

In addition to the in depth report in the Director's Summary, Bob Church indicated that upon recommendation from the training committee, UPC and the AG's office have arranged for prosecutors to be trained on the AG's VIRTRA system. The VIRTRA is the AG's high-tech virtual reality simulator. It takes the student into a shooter scenario where the student has to make split decisions whether to fire their weapon. Ken Wallentine and Will Fowlke have developed a 90 minute instruction and shooting course. Two hours of CLE can be earned which UPC will submit to the Bar. Registration opens April 30, 2018 first-come, first-served basis. If demand is high, add additional dates can be arranged. The following dates and times are available:

Thursday, May 17, 2018

- 1. 9-10:30 a.m.
- 2. 12:30 a.m. - 12:00 p.m.
- 3. 1:00 p.m. - 2:30 p.m.
- 4. 2:30 p.m. - 4:00 p.m.

Thursday, June 28, 2018

- 1. Same times as above

Thursday, July 19, 2018

- 1. Same times as above

XII. UTAH JOURNAL OF CRIMINAL LAW

Judge Nolan and the editorial board sent their thanks for UPC's \$1,500 donation. The latest edition is almost ready for printing. Bob has provided names and mailing addresses of all prosecutors in our database so everyone should be receiving a copy.

XIII. MEETING WITH UMAA

The February meeting with UMAA was postponed because of inclement weather. A new date is yet to be set.

XIV. POST RECORDING FEES

This item was tabled for the next Council meeting.

XV. NEXT UPC MEETING:

Friday, June 29, 2018

10:30 a.m.

Hosted by Summit County (Park City location)

XVI. ADJOURN

