

# Executive Summary



## Justice or Injustice in Salt Lake County

*“A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, and that guilt is decided upon the basis of sufficient evidence.” – Utah Supreme Court Rule of Professional Practices 3.8*

*“The prosecutor in a criminal case shall... refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause...” – Utah Supreme Court Rule of Professional Practices 3.8*





Seven 2<sup>nd</sup> Degree Felonies = 1 to 15 years and \$10,000 per count

# Investigation of the Investigators

## Thomas J. Harvey

Thomas J. Harvey is a private investigator licensed in Utah. Prior to retiring as a journalist, he was an editor and a business and white-collar crime reporter for the Salt Lake Tribune where he won numerous awards. He also worked in 15 different countries as a journalist and in the states of Montana, Utah and Florida, as well as Washington, D.C.

### Education:

- Ph.D., American history, Department of History, University of Utah, August 2004
- Bachelor of Arts degree in Journalism, University of Montana, Missoula, 1979

### Professional Experience:

- 2009 – present: part-time investigator for criminal defense attorneys
- 1993 – 2017: reporter, editor, The Salt Lake Tribune, investigating white collar crime and writing business-related stories. Also served stints as an editor
- 1991 – 1992: Chief foreign correspondent, Sun-Sentinel, Fort Lauderdale, Fla.
- 1982 – 1990: Correspondent, United Press International



## Authorization of Payment for Mr. Bullock's Legal Counsel

- The Auditor's staff accountant claimed that Mr. Bullock was not a Trustee
  - Once Mr. Bullock resigned from the League he could no longer serve as a Trustee
  - Mr. Bullock Assumed the Role
- To the contrary, the evidence was contained in the 28/38 boxes of Trust documents
  - 1996 Amendment to Trust Agreement did not contain language linking Trustees to roles with the League
  - Mr. Bullock was acknowledged as a Trustee and administrator by other Trustees, legal counsel for the Trust and the State Auditor.

*"Oh, [Mr. Bullock's] a trustee and administrator."* – District Attorney Interview with Trustee

- 1996 Amendment to Trust Agreements provided indemnification for Trustees

*"Trustees shall be indemnified from the Trust Estate to the fullest extent permitted by law, against any liability incurred in connection with the performance of their duties."*



## Why Stop to Ask the Right Questions

- At no time during the initial two interviews did the members of the District Attorney's Office ask if the information had been provided with the State Auditor's knowledge or if it the Government Records Access and Management Act have been followed. Nor did the District Attorney's Office issue a formal request for information.
- At no time was the State Auditor interviewed by the District Attorney's Office.
- Finally on May 18, 2019, the chief district attorney acknowledged the source of the information.
- As a representative from the State Attorney General's Office revealed in an August 26, 2019, hearing, the documents had not been requested by the District Attorney's Office, they had been provided by the State Auditor's staff accountant.



## In Search of a Case

- Salt Lake County District Attorney's office relied, almost entirely on information obtained from a disgruntled staff accountant from the State Auditor's Office
  - The expert adopted the staff accountant's categorization of expenses
  - The District Attorney's interviews with the Auditor's staff accountant were full of speculations that would have raised questions if conducted by proper standards.
  - Information obtain from interviews conducted by the staff accountant were based on hand-written notes that were not accurately reflected in the typed notes provided the District Attorney's office

*“I have speculated which I wouldn't do again.” – Defense Counsel Interview with Staff Accountant*



# AI Rounds Paintings





## Utah Prosecutor's Best Practices

### 3.2.1 Filing and Maintaining Criminal Charges.

- b. A prosecutor should file and maintain criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge or maintain charges is in the interests of justice.
- c. A prosecutor should only file and maintain charges in number and degree that are reasonably necessary to fairly reflect the gravity of the offense or deter similar conduct
- d. In the event that a prosecutor learns of previously unknown information that could affect a screening decision previously made, the prosecutor should reevaluate that earlier decision in light of the new information.



## In Search of a Case

- When the District Attorney's office did conduct interviews, they were problematic
  - At the request of the interviewee, recordings were terminated early
  - The investigator lied to and intimidated vulnerable interviewees.

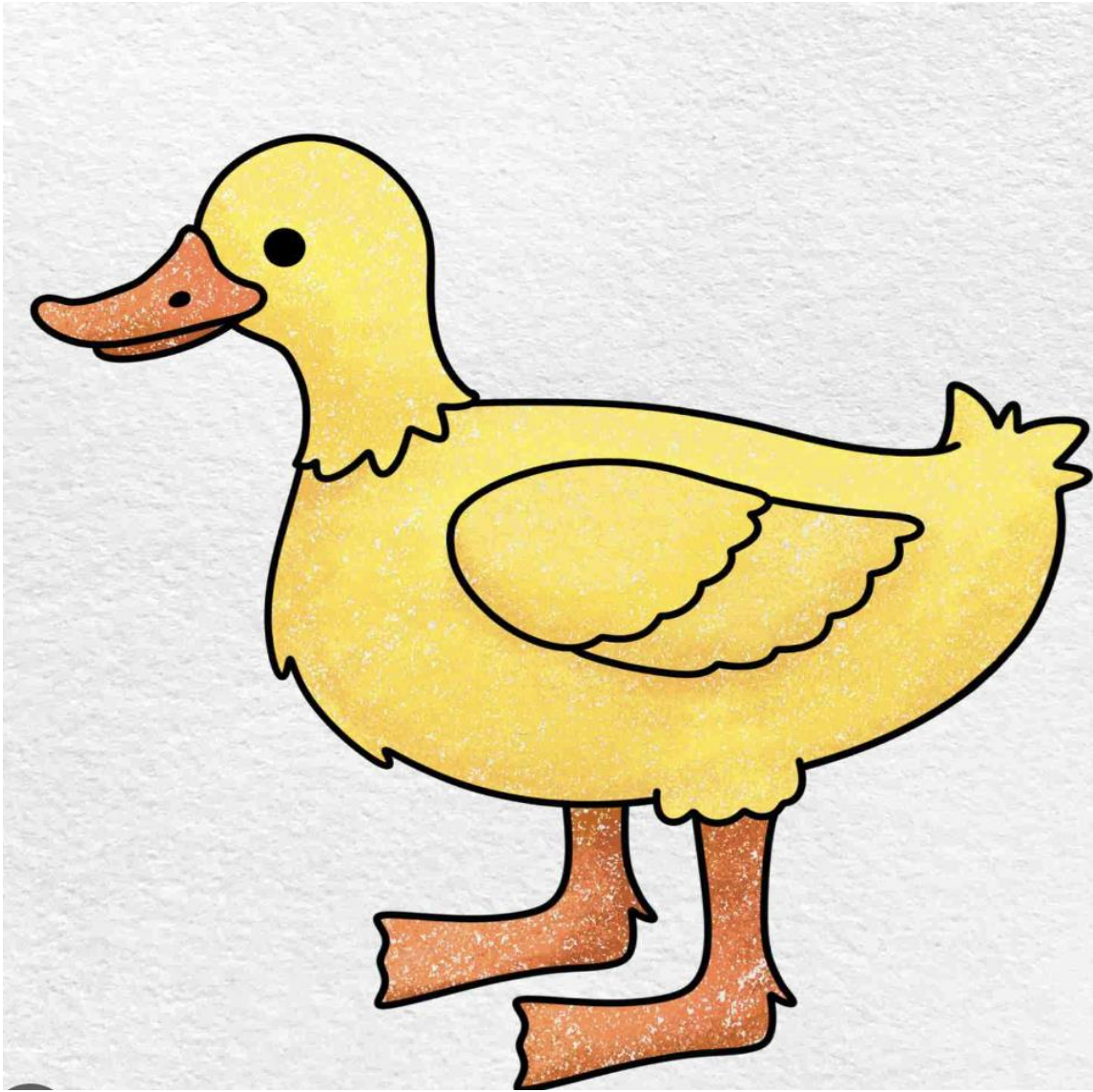
*"I am too old to go to jail."* – Former League Treasurer



*“When we fail to follow our own rules, then the legitimacy of our outcomes are themselves without merit. Put another way, the means by which we convict people, hold them accountable, the process we employ, is just as, if not more important than the ends that we desire.” – Sim Gill*

**Deseret News August 24, 2021, by Pat Reavy**





# Independent Forensic Audit

## Brent Robbins, CPP, CFE

Brent Robbins is the director at Kokomo Enterprises, Inc., dba B&T Forensic Accounting and Investigations. As a certified private investigator, certified protection professional and certified fraud examiner (“CFE”) he specializes in white collar/fraud investigations, identification of assets, tracing and recoveries.

### Education:

- Bachelor of Science in Accounting, University of Utah – Eccles School of Business 1974

### Professional Experience

- 2010 – present: Director at Kokomo Enterprises
- 2009 – 2020: Criminal and Civil Financial Investigations at West River Group Government Services/Sullivan Cove Consultants LLC – Forensic accounting investigations for the Department of Justice, Federal Bureau of Investigation
- 2006 – 2008: V.P./Corporate Fraud Investigations Manager Zions Bancorporation
- 1976 – 2005: Federal Bureau of Investigation – Special Agent, Conducted criminal investigations specializing in drugs, money laundering, fraud and other white-collar crimes



## CPA vs CFA/CFE

- The State Auditor staff accountant was a certified public accountant (“CPA”) not a certified forensic accountant (“CFA”) or certified fraud examiner (“CFE”)
  - CPAs provide financial services and advice and often specialize in areas such as taxation, solvency or financial reporting
  - CFAs and CFEs combine accounting knowledge with investigative skills to investigate fraud or embezzlement and to analyze financial information for use in legal proceedings.



## What Principles Serve to Control Accountants

- Generally Accepted Accounting Principles (GAAP) represent best accounting practice as measured by four constraints – they are considered the “bible” in accounting
  - Consistency
  - Objectivity
  - Materiality
  - Prudence



## Proper Procedures in a Forensic Accounting Investigation

- Conducting a forensic accounting investigation requires precision and compliance with established protocols to uncover financial fraud
  
- Investigative Steps
  - Define the scope
  - Collect and document all financial records and other relevant documentation
  - Analysis of data and document all findings in detail relying on facts
  - Prepare objective and factually objective report without assumptions





# Proper Investigative Steps

- By adhering to proper investigative steps, law enforcement ensures investigations are thorough, fair and in-line with the rule of law, which is vital for maintaining the public trust of the justice system
  
- Investigative Steps
  - The six W's
  - Collect and preserve all evidence
  - Serve search warrants or subpoenas if appropriate
  - Interview witnesses
  - Interrogate suspect
  - Case analysis to for coherent theory of the crime
  - Work with prosecutors to determine if charges should be filed.



## Business Expense Receipts

- Internal Revenue Service rules state an expense item is deductible as a business expense *if it furthers the entity's going concern.*
- A tax-deductible business expense would consist of an expenditure which is ordinary, necessary and reasonable, which can be verified by means of a receipt, credit card slips or similar document



## Where Did They Go Wrong?

- The State Auditor's Office failed to follow Generally Accepted Accounting Principles
- The expert witness for the District Attorney's Office failed to conduct a proper forensic accounting investigation or follow Generally Accepted Accounting Principles. The District Attorney's expert relied upon the State Auditor's Office audit results without challenging the designation of expenses
- The District Attorney's Office did not interview the State Auditor at any time during the investigation or the litigation of the charges. The DA's office used poor judgement in pursuit of justice



## A Calamity of Errors

- The District Attorney's expert relied upon the State Auditor's Office audit results without challenging the designation of expenses

*“The personal charges during the period are the charges that were deemed personal in the State Auditors report. The questionable charges, same situation. Those were the charges deemed questionable during that time-period.” – District Attorney's Expert, Preliminary Hearing  
Timestamp 00:30:54*

*“Witness Statements, bank Statements. I think that would be primarily and the audit report from the State Auditor's Office.” – Timestamp 00:38:35*

*“Whether the State auditor's office believed they'd be personal in nature...” – Timestamp 00:50:59*



## A Calamity of Errors

- Consistency – The State Auditor’s Office erroneously classified types of expenses, i.e., business, personal or questionable (unsure of type)
  
- The result:
  - Identical types of expenses were classified differently
  - Receipted expense items were classified as personal or questionable expenses without necessary additional investigation



## A Calamity of Errors (cont.)

- Objectivity – If a discrepancy, such as an omission or misstatement would impact a reasonable user’s decision-making, it is material
  - The District Attorney’s Office disregarded exculpatory information obtained during their interviews of individuals which provided evidence favorable to the accused
  - The State Auditor’s staff accountant told the District Attorney (5/18/18 interview p. 154) that he believed the MFA and Trust were the most abusive and the best area to be pursued in a criminal investigation, not Mr. Bullock’s credit card charges. He said the DA would have a difficult time moving beyond the auditor’s classifications of expenses and the fact that the accused had paid all that he owed
- The State Auditor’s results were not verifiable, based solely on this fact it is questionable whether the individual conducting the analysis was objective.
- In reviewing the analysis conducted by the State Auditor’s Office there were countless times of favoritism and bias in an effort to support the District Attorney’s objectives.
- In an interview with defense counsel, the State Auditor himself stated, *“it became clear that [his staff accountant’s] independence in regard to Mr. Bullock was impaired.”*



## A Calamity of Errors (cont.)

- Materiality – If a discrepancy, such as an omission or misstatement would impact a reasonable user’s decision-making, it is material.
  - The District Attorney’s Office disregarded exculpatory information obtained during their interviews of individuals which provided evidence favorable to the accused
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*“I think these questionable things that we didn’t pursue, you’re going to have a tough time moving them into another category with more certainty... But the stuff that’s never gone public, the MFA and the Trust, I fell like that’s really the most abusive. That’s the most clear-cut... the money that Mr. Bullock obfuscated through the credit cards has been recovered.” – District Attorney interview with staff accountant May 18, 2018, page 154 lines 2 – 11*



## A Calamity of Errors (cont.)

- Prudence – The State Auditor’s Office failed to exercise cautiousness by being reckless and irresponsible while conducting their audit.
  - There were three boxes of receipts never reviewed by the State Auditor’s Office or the District Attorney’s Office –receipts documenting information, generally handwritten on the front or back of a receipt
  - The Auditor’s staff accountant made no attempt to investigate expenses to determine their legitimacy

*“[League staff member] provided me with three file boxes filled with receipts. The documents will be scanned into this case.” District Attorney Investigator July 25, 2019, memo*

- The District Attorney’s office failed to use good judgement by adding business expenses identified by the State Auditor’s Office to the second amended information





# Impact

- The State Auditor's Office and by extension the District Attorney's expert made numerous errors
  - Transposition errors regarding expense amounts
  - Omission of business expense receipts
  - Failure to account for all reimbursements made by Mr. Bullock
  - Failure to investigate legitimate expenses
- Correcting for the errors shows that the League had been fully reimbursed prior to the State Auditor's Office audit ; in total Mr. Bullock reimbursed the League of Cities and Towns approximately \$13,000 more than owed.



## Utah Prosecutor's Best Practices

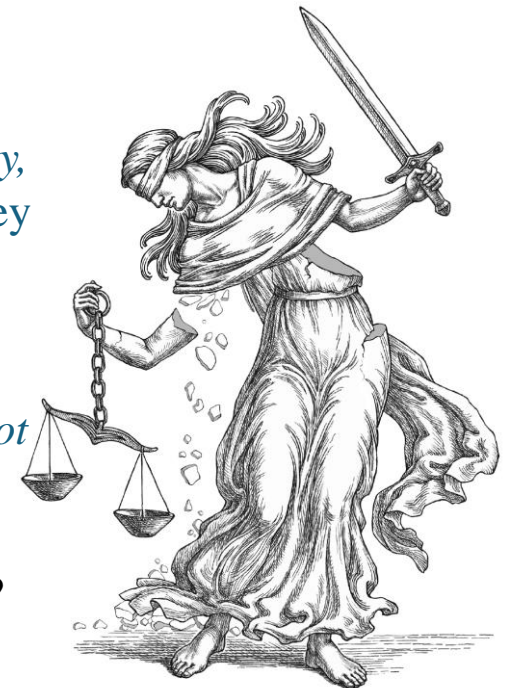
### 3.2.1 Filing and Maintaining Criminal Charges.

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- c. A prosecutor should only file and maintain charges in number and degree that are reasonably necessary to fairly reflect the gravity of the offense or deter similar conduct
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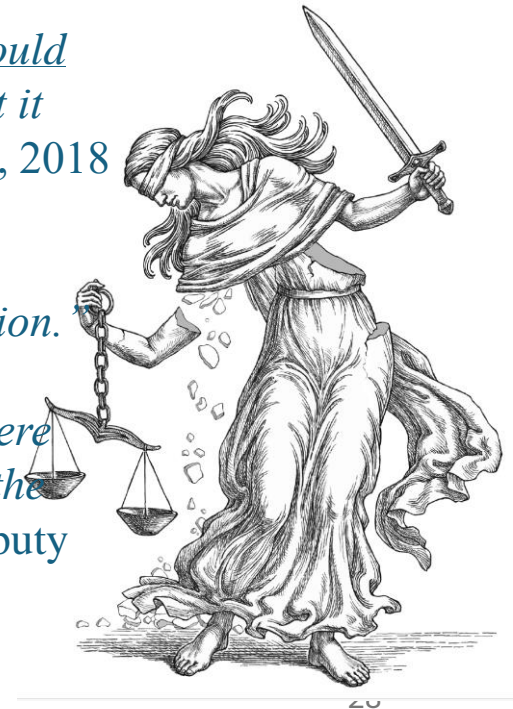
## Questions I Would Like Answers To

- What expectations should a defendant charged with a crime have of the Judiciary process?
- Do auditors and prosecutors have ethical standards and policies?
- Does the Auditor give out working drafts of investigation's?
  - *“The Auditor’s Office... has an obligation to classify its records pursuant to the Government Records Access Management Act before they are provided to a third party, regardless of whether the request is made through GRAMA or a subpoena.”* – Attorney General Motion June 29, 2018
  - *“We don’t share [draft reports].”* – State Auditor Interview with Defense
  - *“... the reason why [the Office of the State Auditor’s] notes and... draft reports are protected under GRAMA because the State Auditor wasn’t able to verify whether or not the veracity of the claims.”* – Assistant Attorney General August 29 Hearing
- How should have prosecutors gone about acquiring documents to establish their case?



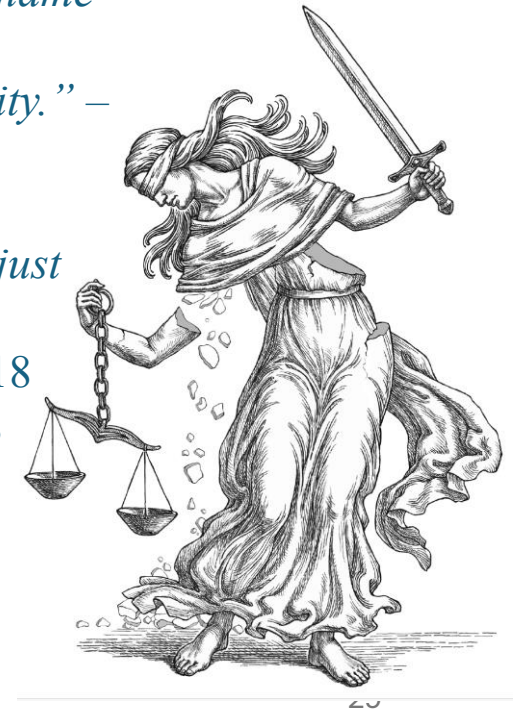
## Questions I Would Like Answers To

- Why and how did the Salt Lake County prosecutors receive documents, incomplete drafts working papers and spread sheets without making a GRAMA request?
  - *“Of [the State Auditor’s] position with which disagreed, I said I don’t care if we lose the case the public deserves to [information contained in the draft report.]” – Auditor’s Staff Accountant May 18, 2018*
  - *“... the reason I put it in the work papers the way I did was in hopes that you guys would get it, and it would just tell the story.... Same with this [draft] report here. I knew that it probably wasn’t going to see the light of day...” – Auditor’s Staff Accountant May 18, 2018*
  - *“Well, we got it and it told a story.” District Attorney Investigator May 18, 2018*
  - *“[The chief deputy district attorney] forwarded me a link to the Auditor’s notes and findings. The file was very large and included every aspect of the Auditors investigation. – District Attorney Investigator Notes November 3, 2017 Meeting*
  - *“Now, [Auditor’s staff accountant], what we would say is this, too. We also know where we got them, ultimately, it was from you... Okay, On the ask, and then you provided [the documents on the Google drive], but they were. not provided originally.” ” Chief Deputy District Attorney May 18, 2018*



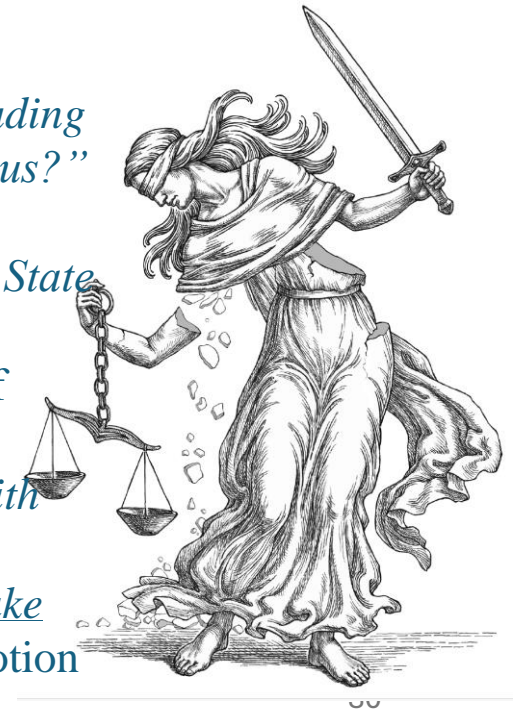
## Questions I Would Like Answers To

- Should the State Auditor's staff accountant conducting the audits be objective?
  - *".. it became clear that [staff member's] independence in regard to [Mr. Bullock] was impaired."* - State Auditor Interview with Defense
  - *"But what got released got released and... you've seen what has not been released. So I've expressed my issues. I ultimately washed my hands of it and said, 'I will not have my name associated with that report.'"*
  - *"So, [ADA], how did you feel when you heard Mr. Bullock got a job with Salt Lake City."* – Auditor's Staff Accountant May 18, 2018
    - "I mean, it incensed me. I mean, I know what he's..."* – Deputy District Attorney
    - "So we're on the same page then... When you've seen what you've seen... you got to just think, how can this happen?"* – Auditor's Staff Accountant May 18, 2018
  - *"I hope it leads to successful prosecution."* – Auditor's Staff Accountant May 18, 2018
  - *"You guys realize this is catnip for me..."* – Auditor's Staff Accountant May 18, 2018



## Questions I Would Like Answers To

- Should witnesses, such as the Auditor’s staff accountant, be required to “swear to tell the truth and nothing but the truth?”
  - The State Auditor asked his staff accountant what had happened with the District Attorney’s Office [regarding the League and Trust audits]. He indicated the staff accountant said, *“oh, they forgot about it. I think they didn’t care.”* – State Auditor Interview with Defense
  - *“Did [the State Auditor] know that you were going to give us all the documents, including all of these more salient ones, before you actually gave it to us or after you gave it to us?”* – Chief Deputy District Attorney May 18, 2018
  - *“... I would not have given documents [to the District Attorney’s Office] without [the State Auditor’s] permission, but once I was given permission to give documents, unless specifically told not to, I was going to include everything I could...”* – Auditor’s Staff Accountant
  - *“Unbeknownst to the Auditor’s Office, [staff accountant] had subsequent meetings with individuals from the Salt Lake County Attorney’s Office. The Auditor’s Office is now informed that [the staff accountant] provided additional records... though the Salt Lake County Attorney’s Office had not made any formal request...”* – Attorney General Motion June 29, 2019



## Questions I Would Like Answers To

- Should the District Attorney's expert witness be expected to do his own independent investigation?
  - *“We looked at the Utah State Auditor's report ... We've looked at their work papers...”* – District Attorney's Expert in the Preliminary Hearing
  - *“We relied on the Auditor's report as the questionable expenditures.”* – District Attorney's Expert in the Preliminary Hearing
  - *“The personal charges during the period are the charges that were deemed personal in the State Auditors report. The questionable charges, same situation...”* – District Attorney's Expert in the Preliminary Hearing



## Questions I Would Like Answers To

- What role does transparency play in the prosecution of a case?
  - *“When you go to work on Monday, are you going to be expected to discuss with [the State Auditor] everything we discussed.... If we asked you to not discuss what we discussed with you with anybody else, you would... invoke that catch phrase. [‘I spoke with some attorneys about a pending potential criminal prosecution, and I’m not allowed to say anything until its’ over...’] and we would ask you to be circumspect... even with members within your own office.”* – Chief Deputy District Attorney May 18, 2018
  - *“You clarified, before, in your request to not disclose the details... of our conversation[ to the State Auditor].”* – Auditor’s Staff Accountant May 18, 2018





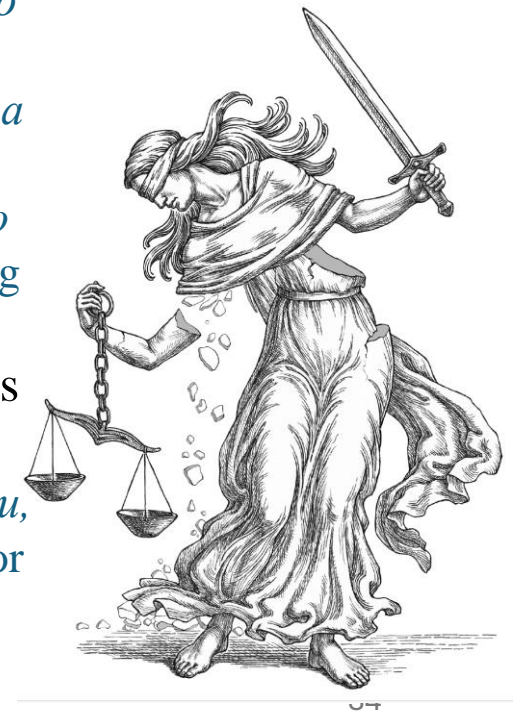
## Questions I Would Like Answers To

- Should the District Attorney's Office conduct its own investigation
  - *“You know, our interest, really, in speaking with you... is just to kind of verify the information that we have because ultimately, we're going to be relying upon it to make some fairly important decisions.”* – Chief Deputy District Attorney
  - *“We probably need to have at least a road map of what we need to look at, where to start and go from. And that's what I'm hoping that you can kind of point us in the direction...”* – Deputy District Attorney December 8, 2017
  - *“Good. I mean, we're asking the questions as we need your expertise... I mean, you are the expert...”* Deputy District Attorney May 18, 2018
  - *“[The draft Trust audit is] like the bible for this case.”* District Attorney Investigator May 18, 2018



## Questions I Would Like Answers To

- Should evidence used to charge me for a crime be turned over in a timely manner?
  - *“I think it’s unusual for defense counsel to ask us to disclose who we’re subpoenaing so that they can issue subpoenas.”* - Deputy District Attorney October 20, 2019 Hearing
  - *“... [if] we turn over 1102 to defense counsel, there’s going to be a subpoena issued to every one of those witnesses...”* - Deputy District Attorney October 20, 2019 Hearing
  - *“I think the motion to dismiss essentially needs to be litigated before the court enters a decision on the motion to compel, because I think the court needs to come to conclusions about what sorts of information would be relevant, and I think we need to litigate. I, I think that issue is...”* - Deputy District Attorney October 20, 2019 Hearing
  
- In interviewing witnesses should the DA investigators threaten potential witnesses with false claims?
  - *“... somebody had to sign those checks for the [Trust]... And, and to be honest with you, your name is on some of those checks...”*\* – Former Trustee Interview with Investigator
  - *Her Response “... I am too old to go to jail.”* – Former Trustee



\* The former Trustee signed a single check in 25 years

## Questions I Would Like Answers To

- Should the District Attorney's Office withhold documents obtained in violation of the Government Records Access and Management Act from the State Auditor?

*“... [the Attorney General's Office] also asked the County for copies of the records and other information provided by [Auditor's staff accountant], in order to ensure that the State had received complete and accurate records and classifications, as well as allow the Auditor to be prepared to fully respond to questions from counsel for Defendant. The County attorney's were uncomfortable providing these records and information but suggested counsel for the Auditor's Office obtain information from Defense counsel.” – Attorney General's Motion June 29, 2019*



## Questions I Would Like Answers To

- How thorough should we expect our prosecutors and investigators be in establishing a case?
  - *The chief deputy district attorney merely responded “oh,” to the Auditor’s staff accountant’s statement, “so, [State Auditor] ... made efforts to try to get a legal opinion through our AG... assigned attorney to answer that question, from our perspective, whether [the Trust] was or was not [a government entity] and was never decisively successful ...” – District Attorney Interview with Auditor Staff Accountant May 18, 2018, Page 25, Lines 15 – 24*
  - The chief deputy district attorney ignored the statement without conferring with (1) the State Auditor, (2) State Attorney General, (3) the Internal Revenue Service, (4) the national recognized law firms that represented the Trust or (4) the local attorney’s for the Trust.



*Prosecutors hold people accountable for their actions. Prosecutors in turn are accountable for theirs... Unethical behavior by one prosecutor, if unpunished, can poison the atmosphere in an entire office...*

State Wide Association of Prosecutors and Public Attorneys  
Best Practices

**What about the defendants that are subject to unethical conduct?**

