

Utah County Attorney speaks against proposed prosecutorial review board

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Utah County attorneys and law enforcement spoke strongly against a proposed resolution Tuesday that aims to implement a review-board to look at prosecutor misconduct.

The resolution, which first appeared before the commission last week, was tabled for a second time Tuesday by Commissioner Bill Lee, who said he wished to continue discussing the proposed resolution with concerned parties.



The resolution references allegations of misconduct by prosecutors that the Utah County Commissioners were made aware of, and [seeks to establish a board to review such allegations](#). Utah County Attorney Jeff Buhman had strong rebuke for the proposed resolution.

“The way I view the one that was on the agenda last week is as a direct attack on the prosecutors of Utah County Attorney’s Office,” Buhman told the commission. “And to a certain extent, an attack on the police departments that investigate and prepare cases, the ones that we file. I believe it is unconstitutional. ... We have a system set up with publicly elected prosecutors that answer to the electorate and the courts, but not to the county commission.” The resolution is unconstitutional, Buhman said, because under state statute, the commission does not have the authority to direct or supervise other elected county officers, such as the Utah County Attorney, with respect to duties.

Buhman said that, when approached by the commission months earlier about the resolution, his office had opened up files on cases where people had alleged to the commission that misconduct took place.

“We acknowledge that we are not perfect,” Buhman said. “We’ve had instances where witnesses have lied to us, we’ve had mistakes gathering evidence, documenting evidence, we’ve made wrong legal arguments. But none of the cases the commissioners mentioned to us had any misconduct whatsoever.”

Buhman also took issue with a phrase in the resolution that says prosecutorial immunity can create obstacles and barriers for victims to obtain justice.

"In my view, it's the exact opposite," Buhman said. "Prosecutorial immunity supports victims as they seek to obtain justice."

Without prosecutorial immunity, Buhman said, prosecutors would be timid in bringing forward cases, unwilling to put their financial security and livelihood on the line any time they have a tough case involving something like domestic violence or sexual assault.

Tim Taylor, chief deputy to the county attorney, said that if the resolution passes as written, he would be negligent if he told county prosecutors to continue with business as usual.

He would instruct prosecutors to only pursue cases if they had a confession, physical evidence or some other kind of profound evidence in a case, Taylor said.

"I would be negligent if I told my prosecutors to go ahead and make those tough decisions," Taylor said. "And leave them open to scrutiny by some group of individuals where we don't even know what misconduct may be defined as."

Steve Turley, a former Provo Councilman who resigned his elected position in 2011 after being charged with 10 felony charges of fraud and exploitation, spoke in favor of creating the review board.

The last of Turley's charges were dropped in 2015, leaving him with a clean legal slate. But, he told the commission Tuesday, his reputation will never recover from the years that the charges were brought against him.

"I rise in support of any improvement," Turley said. "This county's attorney office filed charges against me for 10 felonies. It wrecked my life. It took away my reputation that no money can give back to me."

Turley was joined in his support of the resolution by Jason Groth, with the ACLU of Utah.

Groth, a former public defender, said he realized it's hard for Utah County prosecutors to accept an oversight committee that feels punitive when there is not a significant number of prosecutorial misconduct cases in Utah County.

"But the ACLU also understands that the prosecutor is the most powerful person in the criminal justice system," Groth said. "The prosecutor decides which charges to file, what plea deals to offer, and what bond arguments to make at a bond hearing. The prosecutor brings the power of the state which includes law enforcement against an individual and can deprive that individual of life, liberty or property."

A prosecutorial review board is a way to address that imbalance in the system, Groth said, and ensure fair and just outcomes for individuals and the community itself.

But of the 24 people who spoke to the commission Tuesday, those in favor of the resolution were far outnumbered. The 21 people who spoke against the proposed review board were heavily made up of Utah County attorneys and members of law enforcement entities.

Sheriff Jim Tracy said he hesitated to bring any semi-judiciary entity into the system.

"It's just a slippery slope," Tracy said, saying it has the potential to have unintended consequences for victims.

Multiple others brought up concerns about the possibility of such a commission re-victimizing victims of crimes and making them less likely to come forward.

"There is no way a prosecutorial board can reopen cases without affecting my victims," said Utah County Deputy Attorney Christine Scott. "It will inevitably reopen chapters in their lives they simply want to shut."

Buhman brought his own resolution to the commission. In Buhman's recommended resolution, a prosecution review and advisory commission would still be created, though the commission would make recommendations directly to the Utah County Attorney rather than the Utah County Commission.

Buhman's recommended resolution also stipulates that members are nominated by the Utah County Attorney, then confirmed by the Utah County Commission, as opposed to the original resolution that would leave selection of committee members entirely to the Utah County Commission.

Commissioner Greg Graves, who left the meeting in the middle of the discussion, said just before leaving that he was no longer in favor of the commission's resolution, though he stated favor for the version Buhman proposed.

"I'm here to tell you, this thing has a lot of problems," Graves said. "My support for this has waned a lot since August."

Commission Chair Nathan Ivie said the resolution is not intended as an attack on the Utah County Attorney's office, but invoked the old adage that "An ounce of prevention is worth a pound of cure."

"I have to look at this as an elected official and say, is there something we can do to make sure that the problem that does exist within this system we operate in never occurs within Utah County," Ivie said.

Lee said he looked forward to continuing the discussion on the resolution.

"I feel we will come to something that will hopefully work and we can agree on," Lee said.