

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Tuesday, January 20, 2015 – 9:00 a.m. – Room 445 State Capitol

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. Curtis Oda, House Chair  
Sen. J. Stuart Adams  
Sen. Jim Dabakis  
Sen. Gene Davis  
Sen. Mark B. Madsen  
Rep. LaVar Christensen

Rep. Carol Spackman Moss  
Rep. Mark A. Wheatley  
Rep. R. Curt Webb

**Staff Present:**

Mr. Leif G. Elder, Policy Analyst  
Ms. Christine R. Gilbert, Associate General Counsel  
Mr. Timothy J. Barber, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Stephenson called the meeting to order at 9:21 a.m.

**MOTION:** Sen. Dabakis moved to approve the minutes of the January 12, 2015 meeting. The motion passed unanimously. Sen. Davis and Sen. Madsen were absent for the vote.

**2. Law Enforcement and Community Issues**

Mr. Spencer Austin, Chief Criminal Deputy, Utah Attorney General's Office, distributed "White Paper: Law Enforcement Use of Force" and summarized that policies regarding use of force in law enforcement agencies throughout the state are relatively uniform, but policies regarding training, investigation, and consequences for inappropriate use of force vary dramatically.

Mr. Ken Wallentine, retired chief, Utah Attorney General's office, said that he has worked with several police departments in a consulting capacity and that he has seen a reduction in the use of force by law enforcement personnel as a result of an increase in training and with the implementation of body worn cameras.

Chair Stephenson asked Mr. Wallentine if there is a lack of clarity in statute regarding investigations of inappropriate use of force by law enforcement and if that is what has led to the variability of policies regarding the issue throughout local law enforcement agencies in the state.

Mr. Wallentine said there is a lack of clarity in statute and suggested that the legislature avoid correcting that lack of clarity in the upcoming legislative session, but take more time to deliberate.

Rep. Moss asked Mr. Wallentine about the effectiveness of body cameras, and if they are easily broken, or knocked off of law enforcement officers.

Mr. Wallentine replied that is unlikely that a good quality camera would break during an encounter. He also said that body cameras are not a panacea, but they have led to improved behavior of both officers and the people with whom officers interact.

Rep. Webb asked how Utah's use of force statistics compares to other states and what direction they are trending.

Mr. Wallentine replied that Utah ranks near the middle nationwide and that for unknown reasons, situations in which law enforcement use deadly force tend to occur in clusters.

Rep. Christensen asked what the constitutional justification for a use of deadly force is and what authority law enforcement agencies have to make their own policies regarding use of force more restrictive, and if there are any examples of a more restrictive policy.

Mr. Wallentine said that local agencies can make their own policies more restrictive than the state law, but are not permitted to be less restrictive than the law. He also gave an example of a law enforcement agency he worked with that forbid the use of deadly force against a fleeing felon even though it is permitted under state law.

Rep. Wheatley asked what types of training tend to reduce the use of force.

Mr. Wallentine mentioned that there are several types of training that tend to reduce the use of force, but they tend to require large investments of time and resources. He spoke favorably of Crisis Intervention Training (CIT) which is currently utilized by the Salt Lake City Police Department, and verbal de-escalation.

Sen. Madsen asked Mr. Wallentine about psychological evaluations that are administered to peace officer candidates and the point in the process an evaluation is administered.

Mr. Wallentine responded that psychological evaluations are administered at the agency level before a hire is made and that many but not all agencies administer evaluations.

Mr. Paul Boyden, Executive Director, Statewide Association of Prosecutors, spoke to the committee about how prosecutors approach litigation regarding the use of force by police officers. He said that prosecutors have to consider whether the use of force was justified and the likelihood of conviction in such cases.

Mr. Boyden responded to questions from the committee regarding uniformity.

Mr. Chris Burbank, Chief, Salt Lake City Police Department, remarked that Salt Lake City Police Department (SLCPD) has been using body cameras on police officers for four years and believes they have had a positive effect on the behavior of his police officers. He noted that instances of deadly uses of force are down in Salt Lake City. He explained that his department does enact higher standards than state law to warrant the use of deadly force and outlined the review process of any use of force by a Salt Lake City police officer.

Chair Stephenson questioned the availability of body camera footage and if there is some policy regarding the release of the footage to the media.

Mr. Burbank replied that his agency believes body camera footage is public information and believes it should be released whether it casts the police officers involved in a favorable light or not. He believes the only exception should be cases where the footage is part of an ongoing investigation.

Chair Stephenson asked how the SLCPD minimizes instances of officer misconduct in difficult situations.

Mr. Burbank replied that the SLCPD offers generous support policies ranging from days off to psychological assistance. He also said that the SLCPD places a large emphasis on effectively diffusing difficult encounters with the public through communication and empathy, which he believes does a great deal to help reduce the use of force.

Sen. Madsen asked if the use of body cameras have allowed the SLCPD to detect a trend in how cameras affect their police work.

Mr. Burbank replied that it is too early to perceive a trend, but anecdotal reports have been very positive.

Sen. Dabakis asked Mr. Burbank if he believes it is appropriate to apply some minimum standards statewide that more closely resemble the high standards employed by the SLCPD regarding officer conduct.

Mr. Burbank replied that he believes community input is vital and endorses public participation in the policing process such as the civilian review board utilized by the SLCPD.

Mr. Scott Stephenson, Director, Peace Officer Standards and Training (POST), spoke of the importance of training police officer candidates in empathy, strong community relations, and managing situations involving mental health issues.

Chair Stephenson questioned what policy is in place for continuing and refreshing POST training.

Mr. Stephenson replied that officers are required, by statute, to attend 40 hours of in-service training per year in order to maintain their certification. If an officer fails to attain 40 hours of training in a given year, they face financial consequences related to their compensation and retirement benefits and any other discipline that their law enforcement department chooses. He also said police academy curriculum, and continuing education training is available online to officers from POST.

Responding to questions from the committee, Mr. Stephenson emphasized that more training has been beneficial for police officer recruits, but training is limited due to budget constraints. He also mentioned that recruitment of highly skilled candidates continues to be a challenge because current compensation levels are insufficient.

Mr. Terry Thompson, Weber County Sherriff, speaking on behalf of the Utah Sheriff's Association, stated his support of the comments of the previous speakers. He also emphasized the importance of mutual respect and accountability as driving principles.

Mr. Bryan Roberts, Chief of Police, Draper City, and Mr. Ron Kirby, Chief of Police, Tooele City, speaking on behalf of the Utah Chiefs of Police Association addressed the committee.

Mr. Roberts said that the number of officer involved shootings constitutes a very low percentage considering the amount of public contacts police make, both nationwide and statewide. He emphasized the need for proper risk management and adequate equipment and training for law enforcement.

Mr. Kirby clarified that psychological evaluations are done by professionals before an officer is hired. He explained that evaluations include several tests on various dimensions of personality. He also spoke to the high standard police officers are held to while placing themselves in harm's way. He said he would welcome more resources to help improve training, support police officers, and help reduce the use of force.

Mr. Sean Hullinger, attorney, said that he believes it is time to redefine the roles of government, law enforcement, and the public. He also spoke to the importance of CIT training because it changes behavior. He encouraged the creation and implementation of a neutral third party to, when necessary, oversee, investigate, and prosecute law enforcement.

Mr. Bill Manzanares, police officer, SLCPD, responded to questions from the committee, about the toll on families due to police service and how the use of body cameras has affected his work. He said that he has a

strong family support system, but also spoke favorably of the support systems offered by SLCPD to mitigate the difficulty and stress of working as a police officer. He also said the experience of working with a body camera has been beneficial for him.

The committee discussed the issues that have been brought up during the meeting and the possibility of creating a legislative task force to address law enforcement reforms and the structure of a potential task force.

**MOTION:** Sen. Madsen moved to support creating legislation to create a legislative task force to address several reforms in law enforcement including uniformity of policies, fines, forfeiture, psychological evaluations, and body cameras. The motion passed unanimously. Sen. Dabakis and Rep. Moss were absent for the vote.

## **2. Adjourn**

Rep. Oda moved to adjourn the meeting. The motion passed unanimously. Sen. Dabakis and Rep. Moss were absent for the vote. Chair Stephenson adjourned the meeting at 12:21 p.m.