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Utah State Legislature

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August 17, 2015

Todd Weiler, Senate Chair
Don L. Ipson, House Chair
Law Enforcement and Criminal Justice Interim Committee
Utah State Capitol Complex
W210 House Building
Salt Lake City, Utah 84114

SUBJECT: Issues Related to Peace Officer Use of Force

Dear Chairs:

The Administrative Rules Review Committee has studied issues related to peace officer use of force during several meetings this year, and has now concluded its work on the subject. The Administrative Rules Review Committee recognizes that the Law Enforcement and Criminal Justice Interim Committee has also been studying this important matter, and recommends that your committee consider certain issues as part of its continuing study.

Utah's current approach to peace officer use of force is, in many ways, very effective. For example, Ken Wallentine, a national expert on policies governing peace officer use of force, told the committee that Utah has one of the best statutes in the nation governing peace officer's use of deadly force (Utah Code § 76-2-404).

Mr. Wallentine, however, indicated that Utah does not have an effective approach to investigations of peace officer use of force, and that the committee feels that to assure public confidence, greater clarity is needed in how these investigations are handled.

While the committee recognizes that local police agencies may need some flexibility in decision making regarding issues such as body cameras, it has concluded that the Legislature should address the lack of uniformity in state statute, state agency administrative rules, and local police agency policies governing peace officer use of force. The need for uniformity and impartiality in investigating peace officer use of force is particularly urgent.

Based on its study of the topic, the Administrative Rules Review Committee recommends that your committee propose, in draft legislation, the statutory standards

that the Legislature should apply to both state and local law enforcement agencies addressing:

- Officer training, particularly de-escalation and addressing mental health issues as part of Crisis Intervention Training, including how to address the costs of training and which officers should receive the training;
- Involvement of minority communities by local police agencies as they develop their "Use of Force" policies, and in the bodies that investigate incidents;
- Investigations of incidents involving peace officer use of force, including the formation by the Legislature of an independent entity, such as an inspector general, to assure that the investigative process is consistent and impartial throughout the state (this entity would then pass on recommendations to the district attorney when charges are warranted);
- Body cameras, including:
 - how long police agencies should keep the footage;
 - under what circumstances footage should be released to the public;
 - whether, or under what circumstances, a peace officer should be required to activate the peace officer's body camera;
 - funding for body cameras, including video storage costs;
- Psychological evaluations and counseling, both prior to hiring an officer and periodically during the course of an officer's service, and under what circumstances evaluations and counseling should be required; and
- Forced Entry, including under what circumstances knock/no knock procedures should be used.

We offer our support of your efforts to prepare legislation to address these important issues. Please contact us if our experience studying these issues may be of any help.

With your committee's expertise in this subject matter, we are confident that your deliberations will yield valuable results for the citizens of Utah.

Sincerely,

Howard A. Stephenson, Senate Chair
Administrative Rules Review Committee

Curtis Oda, House Chair
Administrative Rules Review Committee