

**MINUTES OF THE
LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**

Wednesday, June 18, 2014 – 9:00 a.m. – Room 25 House Building

Members Present:

Sen. Todd Weiler, Senate Chair
Rep. Curtis Oda, House Chair
Sen. Margaret Dayton
Sen. Luz Robles
Sen. Daniel W. Thatcher
Rep. Richard A. Greenwood
Rep. Keith Grover
Rep. Dana L. Layton
Rep. Paul Ray
Rep. Edward H. Redd
Rep. Marc K. Roberts
Rep. Jennifer M. Seelig

Rep. Robert M. Spendlove
Rep. Keven J. Stratton
Rep. Mark A. Wheatley

Members Absent:

Pres. Wayne L. Niederhauser

Staff Present:

Mr. Nathan W. Brady, Policy Analyst
Ms. Susan Creager Allred, Associate General Counsel
Ms. Lori Rammell, 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.

1. Committee Business

Chair Weiler called the meeting to order at 9:12 a.m.

MOTION: Sen. Dayton moved to approve the minutes of the May 21, 2014, meeting. The vote in favor was unanimous. Sen. Robles, Sen. Thatcher, Rep. Greenwood, Rep. Grover, Rep. Layton, Rep. Ray, and Rep. Stratton were absent for the vote.

2. Department of Public Safety - Issues and Agency Update

Commissioner Keith D. Squires, Department of Public Safety, presented "Department of Public Safety" and explained some of the changes he has made within the department, primarily related to collaboration and information sharing among agencies within the department. He reviewed the use of funding provided by the Legislature to the Department of Public Safety for the formation of a Cyber Crimes Task Force. Commissioner Squires responded to questions from the committee regarding the types and number of cyber attacks attempted each day.

Colonel Danny Fuhr, Utah Highway Patrol, reviewed highway patrol troopers' salaries and the salaries of other law enforcement agencies.

Mr. Phil Bates, Information Technology Director, Department of Public Safety, reviewed the changes made to the warrant process system that allow the department to more accurately track current addresses; download warrant information, maps, and vehicle information; generate letters to individuals who have warrants out for arrest or traffic violations; and provide warrant information to the Department of Workforce Services to automate eligibility searches. Mr. Bates responded to questions from the committee regarding the warrant system.

3. General Policies for Serving Search Warrants

Chair Weiler introduced the issue of general policies for serving search warrants. He expressed concern over reports in the media regarding the search warrants recently served on Mr. Mark Shurtleff and Mr. John Swallow, former Utah attorneys general. He requested that Commissioner Squires clarify the department's

policy on serving search warrants.

Commissioner Squires expressed appreciation for the opportunity to explain the search warrant policies and procedures. He introduced Colonel Fuhr and Major Brian Redd and requested that they explain the process of serving search warrants.

Colonel Fuhr gave a brief overview of the department's policies in serving search warrants. He said there are two different kinds of warrants: 1) knock and announce, which includes notification at the door; and 2) no-knock, which does not include notification at the door. Both, he said, require a tactical team to go into the residence to secure the residence before the search is conducted. He said the teams who went into the residences in these particular cases were not from his agency, so he cannot testify nor speculate regarding what occurred in these cases.

Major Brian Redd, Division Director, State Bureau of Investigation, stated, in response to questions from the committee, that the investigative team made the decision to use FBI personnel to secure Mr. Shurtleff's residence.

Colonel Fuhr explained the procedure for securing all individuals within a single room of the home while the search warrant is executed. He stated that securing persons in one location ensures the safety of both the occupants and the officers.

4. New Felonies and Enhancements on Existing Punishments

Ms. Carlene Walker, Chair, Utah Sentencing Commission, reviewed the sentencing commission's responsibilities to 1) respond to public comment; 2) work to balance sentencing practices and correctional resources; 3) increase equity in criminal sentencing, making sure that there is consistency across the state; 4) better define responsibility in criminal sentencing; and 5) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority.

Ms. Jennifer Valencia, Director, Sentencing Commission, presented "2014 Legislative Update," a report covering new felonies, and enhancements on existing crimes, that were enacted during the 2014 General Session. She discussed the bills the commission supported and those that it did not, and which of each of those passed. She said that 2014 saw a clear change from previous years, with fewer new felonies created, and even removal of some felony penalties. Ms. Valencia responded to questions from the committee.

5. Inmate Education Programs Report - Department of Corrections

Mr. Craig Burr, Division Director of Programming, Utah Department of Corrections, and Ms. Nori Huntsman, Deputy Director of Programming, Utah Department of Corrections, presented "Update—Post Secondary" and reviewed the postsecondary courses being offered at various correctional facilities throughout the state. Mr. Burr emphasized the efforts being made to ensure that offenders are receiving the same education at these satellite campuses that is available at the colleges' main campuses. He presented the results, including an 8% lower rate of recidivism, among those completing a vocational program. He also reviewed the department's efforts to encourage offenders to earn a high school diploma, as he said that a diploma has been shown to be more valued by potential employers than a GED. Mr. Burr responded to questions from the committee.

6. Rape Kit Processing – Discussion

Rep. Seelig introduced the issue of rape kit processing by reviewing the reports of a backlog of up to 2,000 evidence packets that had not been processed. She stated that the agencies involved have agreed to work

together to eliminate this backlog, and this report is the first from those agencies.

Mr. Ned Searle, Director of the Office on Domestic and Sexual Violence, Commission on Criminal and Juvenile Justice, briefly discussed the goals of the Utah Sexual Violence Council, of which he is cochair, and which was formed to address the issue of rape kit processing. He responded to questions from the committee regarding storage of the rape kits and the veracity of the evidence over time.

Ms. Donna Kelly, Cochair, Utah Sexual Violence Council, presented "Why Test Sexual Assault Kit Evidence?" and reviewed legislation passed by other states to address this issue. She stated that most sex offenders are serial offenders, and the council's goal is to identify these perpetrators through their DNA. She said that as states have worked through their backlogs of rape kit evidence, they have seen the resolution of sexual assault crimes within their states increase dramatically. Ms. Kelly responded to questions from the committee regarding resources and funding for rape kit processing.

Chief Greg Butler, Woods Cross City Police Department, and a member of the Utah Sexual Violence Council, stated that it is the duty of law enforcement to submit rape kits, investigate the results, and arrest the perpetrators. He responded to questions from the committee regarding the need for resources to expedite the processing of unexamined rape kits.

Mr. Jay Henry, Director, Bureau of Forensic Services, Department of Public Safety, responded to questions from the committee regarding the lab resources required to handle rape kit processing, and the value of those backlogged kits in solving active rape cases. He stated that his personnel need to know the number of cases law enforcement anticipates sending to them and the amount of time those law enforcement agencies will allow for the processing of each kit. He discussed the reasoning behind outsourcing rape kit processing.

Detective Justin Boardman, West Valley City Police Department, reviewed other evidence, in addition to a rape kit, that contributes to the investigation of rape cases. He stated that a standardization of procedure would ensure that cases are handled similarly among different agencies. He gave examples of the importance of a database of DNA profiles.

Ms. Holly Mullen, Executive Director, Rape Recovery Center, and a member of the Utah Sexual Violence Council, said that too often the processing of rape kits is being delayed by law enforcement officers while they evaluate evidence.

Chair Weiler turned the chair over to Rep. Oda.

7. Restoration of Civil Rights to Certain Non-Violent Felons

Chair Oda introduced the issue of the restoration of certain civil rights to some nonviolent offenders.

Ms. Valencia presented "Collateral Consequences of Convictions" and reviewed which crimes carry collateral consequences involving an offender's civil rights. She recommended that whatever action is taken should involve an evidence-based approach. She outlined possible areas to be addressed.

Mr. Paul Boyden, Executive Director, Statewide Association of Prosecutors, stated that expungement is an option in some cases and would allow the restoration of civil rights.

8. Adjourn

MOTION: Rep. Redd moved to adjourn the meeting. The vote in favor was unanimous. Sen. Weiler, Sen. Thatcher, Rep. Seelig, and Rep. Stratton were absent for the vote.

Chair Oda adjourned the meeting at 12:05 p.m.