

(Draft – Awaiting Formal Approval)
**MINUTES OF THE
EXECUTIVE OFFICES & CRIMINAL JUSTICE
APPROPRIATIONS SUBCOMMITTEE
Scott M. Matheson Courthouse
Room W19A
450 South State Street, Salt Lake City, Utah
Thursday, November 20, 2014**

Members Present: Sen. Daniel W. Thatcher, Chair
Rep. Eric K. Hutchings, Chair
Rep. Keven J. Stratton, House Vice Chair
Sen. Ralph Okerlund
Rep. Rich Cunningham
Rep. Brian S. King
Rep. Curtis Oda

Members Absent: Sen. Curtis S. Bramble
Sen. Jim Dabakis
Sen. Mark B. Madsen
Sen. Stuart C. Reid
Rep. Richard A. Greenwood
Rep. Craig Hall
Rep. Gregory H. Hughes
Rep. Merrill F. Nelson
Rep. Jennifer M. Seelig

Staff Present: Mr. Gary Syphus, Fiscal Analyst
Ms. Clare Tobin Lence, Fiscal Analyst
Ms. Linda Service, Committee Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

Chair Hutchings called the meeting to order at 8:20 a.m.

1. Criminal Surcharge Restricted Account Shortfall/Peace Officers Standards and Training

Mr. David Walsh, Commission on Criminal and Juvenile Justice, Governor's Office, discussed the handout "Total Surcharge Collections by Month and Fiscal Year" detailing the shortfall in the Criminal Surcharge Restricted Account FY2014. He reported on how the surcharge is collected and what agencies are entitled to the funds. Generally speaking, in FY2014, surcharges generated \$18.7 million which was distributed to 14 different accounts, eight agencies, three appropriation subcommittees, and the statewide General Fund.

Chair Hutchings noted his appreciation for the overview of the surcharge account and asked for clarification regarding the apparent change that has occurred resulting in decreased revenue. Mr. Rick Schwermer, Assistant State Court Administrator, Administrative Office of the Courts, explained that the economic downturn over the last five years resulted in a dramatic and steady loss of revenue. The committee and others discussed concerns over the loss of revenue and the tendency to increase fines and surcharges to cover shortfalls.

Mr. Derek Byrne, Budget Director, Utah State Courts, commented on the handout "Total Collections by Type of Court and Surcharge: FY10-FY14" and discussed the overall surcharge/distribution process.

It was Mr. Schwermer's recommendation that the committee take a "wait and see" attitude when considering any additional action. He said that the number of traffic citations will either stabilize or increase and suggested seeing how the trend plays out given the changes made in June.

Mr. Joe Brown, Administrative Services Director, Department of Public Safety, when discussing the handout, "Post Surcharge Allocation," noted that the gap between the funds being allocated and what is actually received is growing wider each year. However, he stated that those revenues are increasing for 2015.

2. State Crime Lab Update

Mr. Jeff Carr, Deputy Commissioner, Utah Department of Public Safety, reported that his office has taken an extended look at the challenges they are facing with DNA evidence to ensure long-term continuity and stability of DNA testing. In the last five years, the number of cases submitted to the lab for testing has increased dramatically resulting in longer turn-around times. After committing to address this issue, the lab has taken a months-long look at areas where improvements can be made. They are looking at: (1) a robotics system to free up more time for the analyses which will help with training and turn-over; (2) meetings with chiefs and sheriffs to discuss how they can be of help, and (3) a rapid DNA system.

Mr. Jay Henry, Laboratory Director, Department of Public Safety Crime Lab, elaborated on Rapid DNA which is a technology that allows non-laboratory people to obtain DNA results in the field. In addition, to improve efficiency, the lab is looking at the UQuick process for rape kit analysis.

Sen. Thatcher, in an effort to clarify the term "backlog" with reference to rape kit efficiency, mentioned that the state has been able to process the kits that have been sent to them by agencies throughout the state in a timely manner. However, at times the kits are not being sent from the agencies in a timely manner. The backlog is at the local law enforcement level and not at the state level.

3. Offender Garnishment/Employment Withholdings

In response to concerns from constituents dealing with garnishments and employee holdings, Mr. Schwermer was asked to present an overview of the handout "Potential Charges, Fees, Fines, Surcharges and Other Obligations." A fine or a fee will usually be based on a negotiation between the prosecution and the defense with the judge imposing the restitution rate based on the defendant's ability to pay.

Mr. Rick Beckstead, Accounting Operations Manager, Office of State Debt Collection, outlined the process for collecting debts assigned by the courts noting that his office is limited to the lesser of 25% of an individual's pay after their legally required deductions, or a floor of \$217.50 per week. It is the responsibility of employers to know the rules where garnishments and employee withholdings are concerned. However, if an employer withholds too much out of an employee's wages, the employee can apply for a court hearing within 14 days and the funds can be reinstated.

Ms. Liesa Stockdale, Director, Office of Recovery Services, informed the committee that priorities are set in connection with garnishment withholdings. The first priority is taxes, with the second being support of a child or any other individual. A maximum of 50% of disposable income is allowed to be taken for garnishments assuming all garnishments - federal, state, etc. Concerns were expressed regarding debt collectors harassing debtors beyond that limit.

Mr. Jacob Franklin, Assistant Attorney General, Office of Debt Collection, explained the formula used by his office to determine the amount to be collected for a garnishment, noting it has been approved by the Utah Board of District Court Judges.

4. Attorney General Budget Items and Reorganization (Agenda Item 5)

Utah Attorney General, Sean Reyes, expressed his appreciation to the Legislature for being able to work with the Legislative Auditor's staff in helping highlight areas in his office which need to be addressed. He provided the handout "Utah Attorney General's Office 2014 Organization Improvement" and gave an update of the organizational improvements implemented over the past year to improve efficiency, responsiveness, and fiscal accountability. He mentioned that the results from a survey by the Utah State Auditor titled "A Limited Review of the Office of the Attorney General (OAG) Client Satisfaction," shows that recent organizational improvements are working. He emphasized the importance of 2015 appropriations for increased IT needs, additional attorney and paralegal positions responding to the rising level of GRAMA requests, and increased employee compensation.

5. Commerce/Attorney General Lawsuit Settlement (Agenda Item 6)

Mr. Reyes reported on a recent settlement ruling in favor of the Department of Commerce which brought in significant dollars. Rep. Hutchings spoke on the record complimenting the OAG for the work done to bring in the ruling and the timely notification of the available funds.

6. Statewide Judicial Case Management System E-file (Agenda Item 4)

Mr. Robert Church, Director, Utah Prosecution Council (UPC), presented background information on the history of the Council. The OAG handles the administrative duties and the budget for the Council which shows as a line item on the OAG's budget. However, the UPC does not compete for dollars going to that office. Mr. Church referred the committee to the handout, "One Family and Friends Plan," which is a proposal from the UPC for an improved judicial case management system. The current system, Prosecutor Information Management System (PIMS), is not meeting their needs; it does not have the capability to universally communicate between the various agencies in the state. Currently the state has different case management systems - some can communicate with the court but not each other. The need is to have the same case management system able to communicate with the court and other state agencies.

Mr. Scott Morrill, Program Manager, UPC, noted that, in addition to selecting a product that is appropriate for their goals, the security of the data in the current system is crucial. It is important to find a system that will increase data security within the case management system of the state.

7. Corrections Budget Reorganization (Agenda Item 8)

Mr. Gary Syphus, Fiscal Analyst, referred the committee to the Issue Brief, "Department of Corrections: Main Line Item Changes," with a recommendation to divide the department's main line item into three separate line items: (1) Adult Probation and Parole, (2) Programming and Treatment, and (3) Operations. He feels that with this change the Legislature can better review deployment of funds but still allow for accountability/oversight and relatively broad flexibility. Chair Hutchings commented on the advantages and disadvantages of increasing the line items.

Mr. Mike Haddon, Deputy Director, Department of Corrections, mentioned that currently the department is working under three primary line items: (1) Jail Contracting, (2) Medical, and (3) Adult Probation and Parole. He stated that these functionalities work hand-in-hand, however, along with the need to be transparent and accountable, it is essential for the Department to have agility of funds to work with a dynamic, ever changing operation.

8. Off-Budget Funds Review (Agenda Item 9)

Mr. Syphus discussed the Issue Brief, "EOCJ Off-Budget Funds, Remaining Action Items." He reported that there are 20 relevant off-budget funds that fall outside the appropriations process. The biggest portion of these funds are those that are not the state's monies. In an in-depth review of these funds by the Office of the Legislative Fiscal Analyst, individual recommendations for each "off-budget" item or fund were formulated. However, ten funds have recommendations that remain unimplemented.

Mr. Gary Sessions, Director, Division of Finance, Utah Department of Corrections, gave a brief overview of some of the off-budget funds such as the Federal Trust Fund, Adult Probation and Parole Trust Fund, Fund 8115 Corrections Inventory, and non-state funds belonging to offenders.

9. Observe/Tour Court Program (Agenda Item 7)

Due to time constraints, the tour of the court program was eliminated from the agenda.

Chair Hutchings adjourned the meeting at 11:45 a.m.