

(Draft - Awaiting Formal Approval)
MINUTES OF THE
EXECUTIVE OFFICES & CRIMINAL JUSTICE
APPROPRIATIONS SUBCOMMITTEE
POST Academy Building, POST Council Room, Room 379
Sandy, Utah
September 22, 2015

MEMBERS PRESENT: Sen. Daniel Thatcher, Co-Chair
Rep. Eric K. Hutchings, Co-Chair
Rep. Keven J. Stratton, House Vice Chair
Sen. Jani Iwamoto
Sen. Scott K. Jenkins
Sen. Ralph Okerlund
Rep. Rich Cunningham
Rep. Sophia DiCaro
Rep. Brian S. King
Rep. Curtis Oda
Rep. Angela Romero
Rep. V. Lowry Snow

MEMBERS ABSENT: Sen. Curtis S. Bramble
Rep. Merrill F. Nelson

STAFF PRESENT: Mr. Gary Syphus, Fiscal Analyst
Ms. Clare Tobin Lence, Fiscal Analyst
Ms. Karen Mitchell, Committee Secretary

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

Co-Chair Thatcher called the meeting to order at 8:20 a.m.

1. Approval of Minutes

MOTION: Sen. Thatcher moved to approve the minutes of the February 5, 2015, February 9, 2015, February 11, 2015, and February 13, 2015 meetings. The motion passed unanimously with Sen. Okerlund absent for the vote.

2. Building Block and Budget Change Review

Fiscal Note Follow-up Report

Mr. Gary Syphus, Fiscal Analyst, provided a handout: "Fiscal Note and Budget Item Follow-Up Report". He explained some of the items the committee had motioned to review and potentially take action on. He stated that these items were recently funded either as Building Blocks or Fiscal Notes.

The first item Mr. Syphus discussed, Jail Contracting Growth, which in the 2014 General Session the committee approved about \$1.4 million for jail contracting. The state's prison population was expected to increase by 144 beds but approximately 50 percent of the beds were used in 2015, which was a savings of about \$2 million one-time funds. The Department expects to use more beds, at least in the short-term, as prison populations continue to rise, however not at the rate expected for FY 2015.

Mr. Syphus gave a "feel good" example. The Legislature appropriated \$1 million one-time for trooper overtime for use in FY2015. Beginning in July, the Department used the entire \$1 million appropriation for overtime shifts for emergency call-outs for critical incidents, holiday week-end enforcement, snow storms, natural disasters, increased coverage at the State Capitol, and other special events. This was about 35,500 hours or 17 FTEs of additional law enforcement strength deployed with the funding the committee allocated.

Ms. Clare Tobin Lence, Fiscal Analyst, explained that there is possible money the committee may want to reprioritize or money the agency may want to use for a different purpose. The Legislature appropriated \$83,000 ongoing from the General Fund to support justice court judge evaluations of the Judicial Performance Evaluation Commission (JPEC) for a new hire. This person has not been hired yet, leaving \$65,000 left over from last year which could be reprioritized.

Ms. Lence further explained that when the Attorney General's Office receives compensation from other agencies for legal services, it is in the form of Dedicated Credits. In 2014 the Attorney General was not able to collect the full amount of Dedicated Credits. During the 2015 General Session additional funds were appropriated to state agencies to pay for these legal services.

Mr. Mike Haddon, Deputy Director Department of Corrections, responded to questions from the committee regarding jail contracting. They pay a per bed-day rate for the county beds they access, with approximately 1800 county jail beds used for a full year. That is what they base their request for funding on. Delays in placing an inmate into a facility for various reasons can lead to savings on a day to day basis. The Department is trying to keep the capacity in county jails at the current rate. As the inmate population goes down, as it is now, they are trying to keep vacancies inside the Draper Prison so they can close down the aging facilities there. They also want to take some of the operating costs of running the prison in Draper and move it into programs and supervision into the field.

The committee wondered if the success of the overtime funding for the highway patrol could be used in corrections with a one-time appropriation. Mr. Haddon commented that he wasn't sure stating that they currently have approximately 150 correction officer vacancies at the Draper site. Their staff is currently working mandatory overtime due to the staffing vacancies. They are trying to get staff hired and trained in the academies. The problem they have is how they can keep and retain qualified candidates from the academies. It is felt that working overtime can also be unhealthy and dangerous. They are reaching out to other departments to work extra shifts at the Draper Prison site.

Co-Chair Thatcher stated the last session of the Legislature they gave the Department salary increases for the first time in five years. Mr. Haddon said it was very much appreciated by the Department and staff.

Mr. Haddon further responded to questions from the committee regarding the population in the county jails. He stated that there were inmates that could and should only be treated in the Draper facility rather than sending them to county jails. Several possibilities were presented to him from the committee. It was decided that this topic could be further discussed at another meeting.

Offender Treatment Outcome Measures

Mr. Haddon, assisted by Mr. Craig Burr, Division Director over Institutional Programing, and Mr. Alan James, Director Utah Correctional Industries, gave a quick review of outcome evaluation.

Treatment

Mr. Burr discussed the three therapeutic communities: (1) Female Therapeutic Community at the Draper site, (2) Conquest Male Therapeutic Community at the Draper site, and (3) The Hope Program at the Gunnison site.

He further discussed the county jail substance abuse programs. About six to eight months ago they made a change in the Beaver residential treatment program there. It is now a phase one or a pre-treatment program for those who can go to a county jail and receive treatment there. They have a four to seven month treatment and then are transferred to the Draper site or another county jail where they have a therapeutic treatment program to complete the phase two and phase three of the treatment. The other counties that have programs are: Kane, Garfield, Weber, Millard, and Davis.

Mr. Burr explained the Post Secondary Education Program where they have had a 5 year partnership with the Applied Technological Colleges throughout the state. At the Draper site they have Automotive and two Culinary Arts programs for male and female inmates, Industrial Maintenance, Machinery, Business Technology for both male and female, and Welding. He also stated that at the Gunnison site their partnership is with Snow College where they have Building Trades and Culinary Arts. At the Uintah County Jail they have Building Trades.

They are very appreciative of the school districts throughout the state that provide high school education to offenders. There were over 300 graduates this year that received their high school diplomas.

Co-Chair Hutchings stated that the Legislature appreciates CCJJ sub-working group on a screening protocol to answer questions on booking and working with the sheriffs the last several months noting that the sheriffs have been very helpful in getting that done. He further stated that starting in January, as people come into the county jails and are booked, they will do an assessment which will include criminogenic behaviors, substance abuse, and mental health.

Mr. Burr responded to the committee asking about inmates not being able to be released because they haven't had an opportunity to go through the sex offender treatment program. He explained that the sex offender is in the system longer than a substance abuse offender because of the state statute that has mandatory prison sentences for certain sex offences. They work closely with the Parole Board as the offender approaches his parole date to make sure they are ready to be released.

Work Programs

Mr. Alan James, Director of Correctional Industries, stated that UCI provides offender job training which helps to reduce recidivism as well as operate a self-sustaining program. They employ approximately 750 offenders in their programs, which is a little over 10 percent of the inmate population. UCI strives to be a leader in business practices. They operate about 19 different business units. As of the first of September they had 723 inmates employed at the Draper site and 70 inmates employed at the Gunnison site.

Mr. James pointed to success in the Furniture Shop. In working with the Governor's Success Initiative, they have been able to increase the number of offenders working in the shop from 42 inmates to 62

inmates. They now have the ability to track their production which helps meet delivery dates and increase revenue. They had similar results in their Print Shop and Construction Management area. Some inmates have gone through a 40 hour Certification Training Program to become internal auditors. It has been a great opportunity for the inmates.

The committee asked how many inmates are unable to participate in the UCI because of lack of funding. They also asked if they had a better working relationship with other state agencies in getting state work. Mr. James responded that their relationship with State Purchasing is much better and expressed thanks for their cooperation. Mr. James will report to the committee at another meeting how many inmates are unable to participate because of lack of funding.

Board of Pardons Hearing Officer Compensation Potential Budget Request

Mr. Syphus explained he felt the committee would benefit from hearing from the Board of Pardons regarding their compensation request in regards to hearing officers.

Mr. Greg Johnson, Administrative Coordinator for the Board turned the time over to Ms. Angela Micklos, Board Chair. Ms. Micklos responded to a comment from the committee regarding release of untreated sex offenders. She stated that the Board wants them to be treated before they are released, if not, they are at a great risk to reoffend. Having Corrections have the adequate therapists to move them through the program is absolutely critical. She further explained that third degree sex offenders have a much lower sentence, which is five years at the most. The Board wants the therapists to tell them if it is necessary for the person to complete the treatment in prison or if they can safely do so in a halfway house or in the community. Because of the lack of therapists, they are having a difficult time getting this information.

Mr. Greg Johnson, Administrative Coordinator, provided handouts to the committee, "Board of Pardons & Parole Critical Needs" and "Internal Operating Policies and Procedures". Mr. Johnson expressed concern about having enough hearing officers to do the job as well as having enough funds to attract and obtain qualified hearing officers. The hearing officers have a very complex job. They are expected to prepare for hearings, conduct many of the hearings, and provide very serious recommendations to the Board. They are trying to provide justice and fairness for the individual. They have been trying to work with the Governor's Office of Management and Budget (GOMB) to try and increase efficiencies with the hearing officers without cutting quality.

Mr. Johnson further stated that there are only 10.5 hearing officers. If an officer is ill, there is often insufficient capacity for coverage and the hearings must be rescheduled. This results in challenges to victims and their families. When hearings are missed it causes a ripple effect. They have taken several steps to try and improve the situation. They are asking for two hearing officers to take care of the problem.

Mr. Johnson also discussed the hearing officer salary range. He stated that they have a wealth of experience and expertise which is essential for handling the high volume of hearings. A concern they have is 73 percent of hearing officers currently qualify for retirement. They are aware that essential experience must be replaced. Because of the low pay range paid to hearing officers, they are unable to attract qualified people. They are currently working with DHRM to raise the salary cap and are asking the Legislature to help raise the salary range.

Ms. Micklos explained that the hearing officers carry out the same duties as the Parole Board but they cannot vote. They conduct hearings, thoroughly review massive files, create an excellent write-up, tell the Board members what happened, and explain what type of release plan they have developed, and make recommendations to the Board.

Co-Chair Thatcher asked if they had considered copying the successful highway patrol overtime model. He feels that might be a way to help alleviate some of the compensation pressure. Ms. Mickols and Mr. Johnson agreed to evaluate the possibility and report their findings to the committee.

3. Justice Reinvestment Initiative -- LFA Issue Brief and Agency Response

Mr. Syphus stated that the Pew Charitable Trusts findings supported the Legislature passing HB 348, which addresses some of the major issues in the Criminal Justice System in Utah. The Legislature appropriated about \$15 million across various agencies to implement what was required in the legislation. The treatment side of the bill appropriated approximately \$5 million to social services to address treatment needs; there is \$15 to 20 million of estimated unmet treatment need for offenders.

Mr. Syphus asked the committee if the accountability and infrastructure that agencies are formulating at this point is satisfactory or are there items they would like changed.

Mr. Syphus quoted from the brief: "CCJJ also stated in the report that implementing JRI will avert 98 percent of the anticipated growth in the prison population, avoid the need for 2,551 prison beds, and save tax payers at least \$542 million over the next two decades". In order to accomplish this goal, the Legislature built into this legislation the ability to hold agencies accountable for the funding. The status of funds determines what type of position needs to be created and then filled. In Corrections they have delayed hiring so there are funds that the committee could allow them to spend, or reprioritize.

Mr. Ron Gordon, Executive Director, Commission on Criminal and Juvenile Justice, explained they are in the process of implementing HB 348 and expressed appreciation to the Legislature for passing the bill. One of the most significant groups of changes they are implementing right now are the new sentencing release guidelines for adult offenders. They intend to address every violation by a probation or a parolee immediately with appropriate responses. It is not their intent to incarcerate them immediately, it is their intent to provide resources, treatment interventions in their community if possible. A handout was provided: "Adult Sentencing and Release Guidelines".

Members of the committee responded to and asked questions regarding the sentencing and release guidelines.

Director Gordon concluded that they will continue to have prisons for those individuals who need to be incarcerated and determine who needs to be incarcerated both by the offense and the risks and needs of the individual person. This is a system focused on individual risk and needs rather than focusing on the crime that was committed.

4. Attorney General Budget Analysis

OLAG Audit Findings

Mr. Darin Underwood introduced Mr. Brian Dean, Mr. Zack King, and Mr. Matt Harvey, Office of Legislative Auditor General (OLAG), auditors that performed the audit. They provided a handout, "An In-Depth Budget Review of the Office of the Utah Attorney General".

Mr. Dean, the audit supervisor, explained that there were two audits of the Office of the Attorney General (OAG): A Performance Audit, and an In-Depth Budget Review. He explained that 85 percent of the Office operating budget goes to personnel costs. Primary sources of funding for the OAG is General Fund appropriations and Dedicated Credits. The OAG bills the agencies for legal services, then the agencies pay the OAG through Dedicated Credits. Statutorily the OAG is not supposed to receive Dedicated Credits for legal services. He further explained that when you use Dedicated Credits it is double-counted in the budget, which is not transparent. Agencies may be under-billed or over-billed and agencies that pay for services with federal funds are at risk of losing their federal funds.

The primary billing system that the auditors recommended in conjunction with the Fiscal Analyst or LFA was moving selected services to an Internal Service Fund which provides internal controls and a transparent process that includes the Division of Finance, the Governor's Office, and the Legislature in determining their rates.

Over the years the OAG has been appropriated compensation increases. A big portion of their revenue is in Dedicated Credits. If the corresponding agencies aren't compensated to pay for the salary increases, then they are not able to collect all of the money. An ISF addresses this problem as well. That was the recommendation of OLAG and LFA but there are other options the Legislature may want to look at as well.

The AG's Office also needs to develop performance management by targets and measures. They need to report this to the public, what they are working towards, what they are achieving, and what their goals are. The auditors found the employee evaluation system under previous Attorneys General was so insufficient the system lacked effectiveness. They also need a case management system to help them move forward, that was funded by the Legislature last year but is still not up and running.

Mr. Dean stated that they had a very good relationship with the current Attorney General's Office while performing the audit. They were very open with them and are working to implement all of the recommendations that have been presented to them.

Attorney General Office Response to the Audit

Ms. Bridget Romano, Civil Chief Deputy for OAG, responded to some of the comments from the committee. She explained that they have already begun to employ some of the performance measures mentioned. They have brought back employee evaluations. They began the process in January and the evaluations took place in June with new goals set for the next year and moving forward. They have begun to put together their case management system thanks to the Legislature's funding in the last legislative session. Once the case management system is in place they can do the performance reporting.

In moving forward with the performance reporting, they asked that a bill file be open to require a specific provision in the OAG statute for annual performance reporting. This will be made public and it will be put on their web page whether this measure passes or not. It is important that the public know what they are getting for their legal dollars, Ms. Romano stated.

The OAG agrees that there have been some problems in their billing process. Ms. Romano questioned if an internal service fund would work given some of the services they provide. They would like to evaluate the suggestions made by the audit.

Ms. Lence told the committee that because of lack of time they could review portions of the audit and suggestions for implementation by reviewing the brief. She suggested they read it and be prepared to take action the next meeting.

Ms. Romano and Mr. Werner Haidenthaller, OAG Chief Administrator, responded to questions from the committee.

Co-Chair Thatcher asked the committee to read the briefing and other materials that will be made available to them before the next committee meeting and to be prepared to make necessary changes and or decisions at that time.

5. Adjourn

MOTION: Rep. Oda moved to adjourn. The motion passed unanimously with Sen. Jenkins, Sen. Okerlund, and Rep. DiCaro absent for the vote.

Co-Chair Thatcher adjourned the meeting at 11:30 a.m.

Note: Some members of the committee, under the direction of DPS, toured the POST facility, academy, firing range, and SIAC.