

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

Wednesday, July 18, 2007 – 2:00 p.m. – Room W020 House Building

Members Present:

Sen. Jon Greiner, Senate Chair
Rep. DeMar "Bud" Bowman, House Chair
Sen. D. Chris Buttars
Sen. Scott D. McCoy
Rep. David Litvack
Rep. Rebecca D. Lockhart
Rep. Michael T. Morley
Rep. Curtis Oda
Rep. Paul Ray
Rep. Jennifer M. Seelig
Rep. Kenneth W. Sumsion
Rep. Larry B. Wiley
Rep. Carl Wimmer

Members Absent:

Sen. William "Bill" Hickman
Rep. Brad L. Dee

Staff Present:

Mr. Stewart E. Smith, Policy Analyst/Special Projects Mgr.
Ms. Susan Creager Allred, Associate General Counsel
Ms. Wendy Bangerter, 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 Greiner called the meeting to order at 2:20 p.m.

MOTION: Sen. McCoy moved to approve the minutes of the June 20, 2007 meeting. The motion passed unanimously. Sen. Buttars, Rep. Lockhart, Rep. Oda, and Rep. Sumsion were absent for the vote.

2. Issues Relating to Correctional Officers' Safety

Chair Greiner read the guidelines for this committee discussion, noting that information may be limited due to the ongoing investigation into the death of Officer Anderson. He asked that members of the Committee limit their questions and discussion to policies and practices in order to preserve the integrity of the prosecution.

Rep. Seelig expressed appreciation for the parameters set forth and introduced the discussion of prisoner transportation.

Mr. Tom Patterson, Executive Director, UDC (Utah Department of Corrections), made a presentation to the Committee regarding UDC's officer safety practices and policies. He acknowledged the service and loss of Officer Anderson. He expressed appreciation for the legislative support UDC has received. He addressed changes UDC is making to reduce the need for transporting prisoners, to train officers, and to provide better tools for the officers. He reviewed the three categories of risk used in determining prisoner transport. He said increasing security would require an appropriation of approximately \$1.2 million. The Department makes approximately 21,317 inmate transports per year.

Mr. Curtis Garner, Chair, and Mr. Clark Harms, Vice Chair, Utah Board of Pardons and Parole, reviewed the process and criteria for pardons, paroles, and parole violations.

Mr. Jim Winder, Salt Lake County Sheriff, stated that classification and threat analysis determine how a prisoner is transported. He also reviewed Salt Lake County's position regarding prisoner contact with the media.

Lieutenant Jerry Mora, Tooele County Sheriff's Office, stated that Tooele County also makes prisoner transport determinations using prisoner history. He also noted that Tooele County works through the prisoner's attorney when a prisoner wishes to speak with the media.

Committee discussion followed.

Chair Greiner relinquished the gavel to Chair Bowman.

3. Search Warrant Procedure Amendments

Sen. Jon Greiner explained the history behind the 2008 General Session draft legislation, "Search Warrant Procedure Amendments," which provides a process for a warrantless search and seizure of parolees by law enforcement officers regarding evidence of a parole violation or a criminal law violation.

Committee discussion followed.

Mr. Roy Droddy, a former inmate, spoke in opposition to the legislation, stating that a parole officer having the search and seizure authority is adequate constraint.

MOTION: Sen. Greiner moved to amend the bill by deleting "for an offense committed" from lines 54-55. The motion passed unanimously.

MOTION: Rep. Wimmer moved to adopt the amended 2008 General Session draft legislation, "Search Warrant Procedure Amendments," as a committee bill. The motion passed unanimously.

Chair Greiner resumed chairing the meeting.

4. Criminal Statute of Limitations Amendments

Rep. Carl Wimmer explained 2008 General Session draft legislation, "Criminal Statute of Limitations Amendments," which removes the statute of limitations for prosecution of all first degree felony sex offenses. He stated that many other states have no statute of limitations on first degree felony sex offenses.

Committee discussion followed.

MOTION: Rep. Ray moved to adopt 2008 General Session draft legislation, "Criminal Statute of Limitations Amendments," as a committee bill. The motion passed unanimously.

5. Discharge of Firearm Amendments

Rep. Carl Wimmer explained 2008 General Session draft legislation, "Discharge of Firearm Amendments," which amends the Utah Criminal Code, to provide specified enhanced penalties for felony offenses involving the discharge of a firearm in drive-by shootings. He explained recent changes made to the bill.

MOTION: Rep. Wiley moved to adopt 2008 General Session draft legislation, "Discharge of Firearm Amendments," as a committee bill. The motion passed unanimously. Rep. Litvack, Rep. Lockhart, and Rep. Seelig were absent for the vote.

6. Review of Authority to Establish Criminal Penalties by Rule

Ms. Susan Allred, Associate General Counsel, explained that the Legislative Administrative Rules Review Committee has asked that legislative interim committees review with the agencies they oversee the authority granted in statute to establish criminal penalties by rule, and then to communicate any recommendations to the Administrative Rules Review Committee.

Committee discussion followed.

Mr. Dan Maldonado, Director, Division of Juvenile Justice Services, explained the Division's understanding that the Division has the authority to write a rule defining the boundaries where a concealed gun permit holder could bring a firearm into a secure facility.

Mr. Dallas Earnshaw, Superintendent, Utah State Hospital, emphasized the importance of being able to establish and identify secure areas by rule. He explained that the hospital's rules only establish boundaries for those bringing weapons onto the campus, not penalties.

MOTION: Rep. Sumsion moved to recommend that the Legislature not permit a criminal penalty to be established by administrative rule and to address the issue further at a future meeting. The motion passed unanimously. Rep. Lockhart was absent for the vote.

7. Other Items/Adjourn

MOTION: Sen. McCoy moved to adjourn the meeting. The motion passed unanimously. Rep. Lockhart was absent for the vote.

Chair Greiner adjourned the meeting at 4:05 p.m.