

**MINUTES OF THE
LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**
Wednesday, May 16, 2012 – 9:00 a.m. – Room 450 State Capitol

Members Present:

Sen. Todd Weiler, Senate Chair
Rep. Curtis Oda, House Chair
Sen. Luz Robles
Pres. Michael G. Waddoups
Rep. Patrice M. Arent
Rep. James A. Dunnigan
Rep. Richard A. Greenwood
Rep. Gregory H. Hughes
Rep. Don L. Ipson
Rep. David Litvack

Rep. Daniel McCay
Rep. Lee B. Perry
Rep. Jennifer M. Seelig
Rep. Keven J. Stratton

Staff Present:

Mr. Nathan Brady, Policy Analyst
Mr. John L. Fellows, 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 Oda called the meeting to order at 9:07 a.m.

New committee members were introduced.

Minutes of the November 16, 2011 meeting were discussed and, at the request of Rep. Greenwood, staff was directed to confirm that the minutes accurately reflected what was said in the November 16, 2011 meeting. Staff listened to the audio of that meeting and determined that the minutes do accurately reflect what was stated. The minutes were approved by the Judiciary Interim Committee.

Mr. Brady gave an overview of the Open and Public Meetings Act.

2. General Session Summary and 2012 Interim Studies

Mr. Brady reviewed three documents previously distributed to the committee in the mailing packet: 1) 2012 Annual General Session Statistics: Bills and Resolutions Requested, Introduced, Passed, and Vetoed; 2) Committee bills from the Law Enforcement and Criminal Justice Interim Committee, 2012 General Session, which showed a pass rate of 100%; and 3) Statutory Reports referred by the Legislative Management Committee for the 2012 Interim.

3. Inmate Recidivism in Utah

Mr. Brady presented statistics regarding inmate recidivism in Utah, including comparisons of Utah's rate with national statistics. He reviewed parole violation numbers and types, then discussed the vocational programs available to prisoners. Mr. Brady took questions from the committee.

Mr. Mike Haddon, Deputy Director, Utah Department of Corrections (UDC), assisted Mr. Brady in answering questions from the committee regarding the availability of vocational programs for female inmates.

4. Utah Department of Corrections (UDC) - Issues and Agency Update

Mr. Thomas Patterson, Director, UDC, introduced Mr. Haddon.

Mr. Haddon made a presentation showing the increase in the number of prison admissions and releases. He discussed prison offense distribution between violent criminals and drug or alcohol offenders. He continued by reviewing the amount of time prisoners spend incarcerated, initially and as a result of parole violations, and the effect of those statistics on prison populations. Mr. Patterson and Mr. Haddon took questions from the committee.

Mr. Patterson continued the presentation, showing that, with the increase in the prison population, a new maximum security facility will soon be required. He also addressed other options for reducing the prison population, including different parole guidelines and better treatment programs. Mr. Patterson answered additional questions from the committee.

5. Master Study Resolution Items

Mr. Brady reviewed the Master Study Resolution items and their ranking for discussion during this interim. He mentioned that priorities were determined by the responses he received, which did not include all members of the committee.

In response to a question from Chair Oda concerning suggestions from the committee for changes to the five priority items, Rep. Seelig asked that item #89, Correctional Health Care, be included in the items to be considered during the interim.

MOTION: Rep Greenwood moved to include item #89, Correctional Health Care, as number six on the Master Study list of priority study items. The motion passed unanimously with Rep. Dunnigan and Pres. Waddoups absent for the vote.

MOTION: Rep. Ipson moved that the top six priority items on the Master Study list be moved to interim study. The motion passed unanimously with Rep. Dunnigan and Pres. Waddoups absent for the vote.

6. Department of Public Safety - Issues and Agency Update

Commissioner D. Lance Davenport, Executive Director, Department of Public Safety, reported on the recent earthquake drill, which enabled state and local entities to practice emergency response coordination and identify areas for improvement. He explained the newly formed Alcohol Abuse Tracking Committee, including its members and objectives. He then discussed the additional funding for the state crime lab, approved by the Legislature last year, which has resulted in the purchase of lab supplies and the hiring of three new employees. Commissioner Davenport took questions from the committee.

Colonel Danny Fuhr, Utah Highway Patrol, updated the committee on the use of recently allocated funding, including purchasing a helicopter and hiring 13 additional troopers. He reviewed how and where the additional troopers will be used. Colonel Fuhr then took questions from the committee.

Mr. Jay Henry, Director, Department of Public Safety Crime Laboratory, addressed some of the committee's questions and expounded on the use of the newly allocated funds. He explained that Spice analysis takes about a third of the crime lab's time, but one to five new substances are being introduced and examined each month for consideration as controlled substances. The state crime lab does not charge law enforcement agencies for its services, and there are many demands by law enforcement on the crime lab's time and resources. He stated that, because the lab has many samples to analyze, it must make an effort to determine what is probative and what is not.

6. License Plate Readers - Overview

Sheriff Cameron M. Noel, Beaver County, discussed the placement of two automatic License Plate Readers (LPRs) on Interstate 15 – one in Washington County, northbound, and one in Beaver County, southbound – for building cases against drug trafficking organizations and drug traffickers. He discussed the prevalence of drug trafficking in Beaver County and the potential effectiveness of the LPRs in solving crimes and tracking criminals. Sheriff Noel took questions from the committee regarding placement of the LPRs, power requirements, and costs involved.

Mr. Gary Newcomb, Drug Enforcement Administration, Office of Special Intelligence, explained that the plate number, location, and direction of travel of each passing vehicle will be recorded and stored for two years. He presented an overview of the use of the LPR in other states for two primary purposes: to provide information on a targeted query, and as a tactical alerting device. He said the agency's goal is to place devices in multiple states to more effectively track travel of suspected criminals. Mr. Newcomb also said current funding for the LPRs is provided by the federal government and the devices require little power, which must be provided and paid for by the state, for their use. Ideally, the device is placed adjacent to a currently powered sign, so a new dedicated power source need not be installed. He mentioned that some of the participating states stipulate only a one year storage duration of the data collected by the LPR; however, two years' worth of data is often necessary to build a criminal case. Mr. Newcomb then took questions from the committee.

Mr. John Fellows, Office of Legislative Research and General Counsel, asked about the subpoena of the information for civil cases and the existence of federal law in regard to the use and storage of the data collected by the LPRs. Mr. Newcomb and Sheriff Cory Pulsipher, Washington County, stated that, currently, the federal government does not allow them to provide this information in civil cases. In response to a question from Rep. Seelig, Mr. Fellows addressed the issue of authority between the Utah Department of Transportation (UDOT) and the Legislature in the placement of the LPRs. Sheriff Noel stated that they had approached UDOT first and were told by UDOT that they would need to receive approval from the Legislature before placing the devices on the interstate. Mr. Fellows clarified that this is a policy issue, and the Legislature can choose to regulate it through statute, or it can delegate that authority back to the Department of Transportation.

Rep. Greenwood expressed concern regarding the two year storage of the information collected, perhaps without the public's knowledge, by both the proposed stationary LPRs and mobile LPRs already in use.

Chair Oda invited public comment on the issue.

Ms. Marina Lowe, Legislative and Policy Counsel, American Civil Liberties Union of Utah, suggested a

larger debate should occur regarding current use of mobile LPRs, as she shares the belief that the public is not aware of the current use or prevalence of this technology.

Ms. Susan Thomas, Supervisory Special Agent, Drug Enforcement Administration, explained how her agents in southern Utah would use the LPR technology: local law enforcement would immediately receive an alert if a known drug trafficker's or Amber Alert suspect's license plate were photographed. In response to the concerns expressed, she assured the committee that she is not obligated to provide information in response to a subpoena in a civil case.

Chair Oda asked Sheriff Noel to return to June's interim meeting of the committee with a presentation regarding the size of the device, details regarding storage of the data, and information on the use of the mobile LPR devices. He asked that, if possible, Sheriff Noel bring one of the proposed stationary units as well. Committee members were asked to forward their questions to Mr. Brady in preparation for next month's meeting.

7. Other Business / Adjourn

MOTION: Rep. Ipson moved to adjourn the meeting. The motion passed unanimously with Pres. Waddoups absent for the vote.

Chair Oda adjourned the meeting at 11:55 a.m.