

**MINUTES OF THE  
LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**  
Wednesday, August 15, 2012 – 9:00 a.m. – Room 450 Capitol Building

**Members Present:**

Sen. Todd Weiler, Senate Chair  
Rep. Curtis Oda, House Chair  
Sen. Luz Robles  
Sen. Michael G. Waddoups  
Rep. Patrice M. Arent  
Rep. Richard A. Greenwood  
Rep. Don L. Ipson  
Rep. Daniel McCay  
Rep. Lee B. Perry  
Rep. Jennifer M. Seelig  
Rep. Keven J. Stratton

**Members Absent:**

Rep. James A. Dunnigan  
Rep. Gregory H. Hughes  
Rep. David Litvack

**Staff Present:**

Mr. Nathan 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](http://www.le.utah.gov).

**1. Committee Business**

Chairman Oda called the meeting to order at 9:11 a.m.

**MOTION:** Sen. Weiler moved to approve the minutes of the June 20, 2012 meeting. Voting in favor was unanimous. Sen. Waddoups was absent for the vote.

**2. Multi-agency Strike Force**

Mr. Kirk M. Torgensen, Deputy Attorney General, Utah Office of the Attorney General, presented the annual report required by Utah Code Subsection 67-5-22.7(5) on the Secure Strike Force's progress in combating major felony crimes associated with serious illegal activities, including credit card fraud, spice distribution, and document mills. He distributed and discussed "Utah Attorney General SECURE Strike Annual Report Executive Summary," which showed that, in fiscal year 2011, the strike force opened 158 investigations, arrested 113 suspects, dismantled 15 illegal document mills, and seized over \$1 million. Mr. Torgensen also discussed the strike force's efforts in identity theft detection and prosecution, especially as it concerns children's Social Security numbers. Mr. Torgensen then took questions from the committee.

Mr. Ken Wallentine, Chief of Law Enforcement, Utah Office of the Attorney General, further explained the issue of identity theft, including pointing out its relationship to government assistance fraud, illegal arms purchases and, in some cases, human trafficking. According to Mr. Wallentine, the strike force identifies fraudulent document purveyors and works with other law enforcement entities to identify and prosecute these offenders for additional crimes they may have committed.

Rep. Greenwood specifically requested that Mr. Wallentine and Mr. Torgensen return to a future committee meeting to present a more detailed discussion of the strike force's efforts to prevent identity theft, as Rep. Greenwood mentioned that his constituents have expressed many concerns about this issue. Rep. Greenwood also requested that the strike force representatives look at other states' legislation regulating the production of spice and other synthetic drugs and report those findings to the committee.

### **3. Forfeited Property Report**

Ms. Doreen Weyland, Contract/Grant Analyst, Commission on Criminal and Juvenile Justice (CCJJ), presented the annual report required by Utah Code Subsection 24-1-19(11). This report includes information regarding federal asset and forfeiture cases, the amount of funds or property seized, and how those funds and property are distributed and used among Utah law enforcement agencies. She distributed "Utah Asset Forfeiture Programs" and "2012 Federal Equitable Sharing Report," which showed that state agencies in Utah received just over \$2 million in fiscal year 2012 and \$1.8 million in fiscal year 2011.

Mr. Richard Ziebarth, Program Manager, Drug Task Force Grant Project, CCJJ, distributed "Crime Reduction Assistance Program, State Asset Forfeiture Grant - FY 2012 Legislative Update (August 15, 2012)" explaining the background of the program, the grant awards, and the operation of the fund. Mr. Ziebarth took questions from the committee.

### **4. Use of Criminal Surcharges and Fines**

Mr. Ziebarth presented the annual report required by Utah Code Subsection 51-9-411(10) concerning the amounts and uses of grants allocated from criminal surcharges and fines for funding law enforcement drug operations. He distributed "State Criminal Surcharge - Law Enforcement Operations Account," which reports that last year the Law Enforcement Operations Account and the Criminal Forfeiture Restricted Account provided Utah agencies with almost \$3 million in narcotics and major crime enforcement assistance. Mr. Ziebarth went on to discuss the background of the State Task Force Grant Program, the seventeen task forces being funded by the assets, and their use by those task forces for items such as officer overtime and confidential informant money. He also distributed "FY 2012 SAFG and STFG Grant Results," which showed a significant increase in meth seizures by the task force, the task force's increased arrest rate, and a decrease in statewide violent crime. Mr. Ziebarth then addressed questions from the committee.

### **5. Capital Punishment – Master Study Resolution Item**

Rep. Stephen G. Handy introduced the discussion of capital punishment in Utah, including the current process of capital punishment and the cost of imposing capital punishment versus sentencing a defendant to life in prison without the possibility of parole. The committee ranked this study item as its top priority.

Mr. Thomas Brunner, Assistant Attorney General, provided an overview of the capital punishment statutes in Utah, the legal process, how Utah laws meet or exceed federal requirements, and how the process compares to non-capital offense cases. He discussed "Snapshot of Utah's Current Death Row Inmates" and "The Conviction, Sentence, and Review Process," both distributed to the committee before the meeting. He described the circumstances under which a death sentence can be imposed and explained the appeal process in death penalty cases through the state and federal courts. Mr. Brunner took questions from the committee.

Mr. Gary Syphus, Legislative Fiscal Analyst, provided an overview of estimated costs of imposing the death penalty versus life in prison without the possibility of parole. He distributed and discussed "Memorandum for Law Enforcement and Criminal Justice Interim Committee," outlining the state financial

impact of capital punishment, including post-conviction processes and defense, state crime lab expenses, and Board of Pardons and Parole costs associated with reviews and hearings. He also noted costs to counties, including prosecution and defense costs and incarceration costs. Mr. Syphus answered questions from the committee.

Mr. Kent Hart, Executive Director, Utah Association of Criminal Defense Lawyers, noted that the Utah Criminal Justice Center at the University of Utah is currently undertaking a study to determine the actual costs of capital cases.

Mr. Patrick Anderson, Executive Director, Salt Lake Legal Defender Association, discussed the qualification guidelines for capital defense attorneys, both trial counsel and appellate counsel. Twelve of his 59 attorneys are lead counsel qualified capital attorneys. He explained that every time a suspect is arrested for a homicide, his office contacts the district attorney to learn if there is a possibility it will be a capital case, so appropriate staff attorneys are assigned. His office must also provide investigators and mental health evaluators, among other professionals. He estimated the average cost to his office for each capital attorney is \$130,000 per case; the mitigation specialist costs approximately \$50,000; and investigators cost \$10,000 per case, for a total of \$190,000 in salaries per capital case. Mr. Anderson emphasized that this does not include the appellate phase of these cases. He added that additional costs include training for capital attorneys, experts (\$30,000 minimum per case), medical and education records, and travel expenses for cases involving foreign nationals and others from outside the state. Mr. Anderson also stated that although death penalty cases constitute less than one percent of the caseload of his office, these capital cases use more than ten percent of the office budget.

Mr. David Christensen, Assistant Federal Public Defender, Federal Habeas Unit, District of Arizona, described his office's process in reviewing, investigating, examining, and defending a capital defendant during the federal appeal process. He informed the committee that life without parole defendants do not have the same right to appointed counsel, explaining why there are far fewer appeals among those defendants. Mr. Christensen outlined some of the expenses associated with his office's defense of capital cases.

Rep. Handy took questions from the committee, including Rep. Oda's suggestion that the issue be discussed at greater length in an upcoming meeting.

Public comment followed.

Ms. Maria Lowe, American Civil Liberties Union of Utah, made the point that death penalty cases incur greater upfront costs, and life without parole incurs more delayed costs.

Dr. McGonagal Smith, Utah Valley University, is leading a study of death row inmate costs, and she raised the issue of the expense of incarceration of death row inmates.

## **6. Other Business / Adjourn**

**MOTION:** Sen. Weiler moved to adjourn the meeting. Voting in favor was unanimous. Sen. Robles, Sen. Waddoups, Rep. Ipson, Rep. McCay, and Rep. Perry were absent for the vote.

Chair Oda adjourned the meeting at 11:38 a.m.

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