

**MINUTES OF THE  
LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE**  
Wednesday, October 17, 2012 – 9:00 a.m. – Room 450 Capitol Building

**Members Present:**

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

**Members Absent:**

Rep. Daniel McCay  
Rep. Gregory H. Hughes

**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**

Chair Oda called the meeting to order at 9:11 a.m. Rep. McCay was excused from the meeting.

**MOTION:** Sen. Weiler moved to approve the minutes of the September 19, 2012, meeting. The motion passed unanimously with Sen. Robles, President Waddoups, Rep. Dunnigan, Rep. Litvack, and Rep. Seelig absent for the vote.

**2. Enticing a Minor**

Rep. R. Curt Webb introduced draft legislation "Enticing a Minor" (2013FL-0199/007), which would modify the Criminal Code by clarifying that enticing a minor does not include the intent to complete a sexual offense with a minor and provides that the penalty for enticing a minor is based on the level of sexual conduct that the offender solicits.

Mr. Spencer Walsh, Deputy Attorney, Cache County Attorney's Office, related a case where a loophole was brought to light when an adult male attempted to use the Internet to entice a person he thought was a 13-year-old girl, but who was in fact a police officer. Mr. Walsh said the perpetrator agreed to meet the minor but failed to show up for the meeting. Mr. Walsh further stated that, at trial, the defendant's counsel argued that the state would have to prove the intent to engage in sexual activity with the minor in order for his client to be charged with that crime. Mr. Walsh expressed his belief that damage is done to the minor through those initial communications, whether or not the predator appears for a meeting with the minor.

Mr. Craig Barlow, attorney, Utah Attorney General's Office, stated that the current statute, which requires two levels of intent, was inadvertent. He said this bill corrects that unintended consequence.

Rep. Webb stated that the draft bill now reflects the original intent.

Sen. Weiler read aloud the new language and suggested some different wording to make the bill clearer.

Rep. Webb, Mr. Walsh, and Mr. Barlow responded to questions from the committee.

**MOTION:** Rep. Stratton moved that draft legislation "Enticing a Minor" be clarified as discussed, then brought back to the November meeting of the Law Enforcement and Criminal Justice Interim Committee. The motion passed unanimously. Sen. Robles, President Waddoups, and Rep. Dunnigan were absent for the vote.

### **3. Threat of Terrorism Penalty Amendments**

Rep. Eric K. Hutchings introduced draft legislation "Threat of Terrorism Penalty Amendments" (2013FL-0267/004), which modifies the Criminal Code regarding a threat to commit terrorism. He explained that the intent of this legislation is to clarify the penalty for the specified offense of threatening to commit terrorism.

**MOTION:** Rep. Arent moved that the committee pass "Threat of Terrorism Penalty Amendments" as a committee bill. The motion passed unanimously with Sen. Robles, President Waddoups, and Rep. Dunnigan absent for the vote.

### **4. Sex Offense Amendments**

Rep. Greenwood introduced draft legislation "Sex Offense Amendments" (2013FL-0043/003), which changes the offense of unlawful sexual conduct with a minor who is 16 or 17 years of age to apply to a defendant who is seven or more years older than the victim, rather than the current provision of ten or more years older than the victim.

**MOTION:** Rep. Ipson moved that the committee pass draft legislation "Sex Offense Amendments" as a committee bill. The motion passed unanimously. Sen. Robles, Pres. Waddoups, and Rep. Dunnigan were absent for the vote.

### **5. Gang Activities Overview**

Lieutenant Marianne Suarez, Unified Police, Salt Lake Area Gang Project, stated that while gang activity in Salt Lake County has decreased somewhat, it is difficult to measure, as there is no statewide gang database. She stated that narcotics distribution by gang members, especially the sale of heroin, is one of the primary issues her unit faces. She said that her unit is attempting to interact with the local community and schools as a means of discouraging children from joining gangs.

Lieutenant Rich Brede, Salt Lake City Police Department, Commander of the Safe Streets Gang Task Force, explained that the Safe Streets Task Force was formed with the assistance of the FBI and that the task force cooperates with various other gang units. He reiterated that there is difficulty in estimating gang activity due to the various databases involved. He said there has been a drop in the documented numbers of gang members in Salt Lake City between April and October of this year.

Lieutenant Scott Conley, Ogden Police Department, Gang Unit, gave a visual presentation "Ogden Metro Gang/Crime Reduction Unit," outlining the agencies involved in the gang unit and their roles. He described

the unit's efforts in selective enforcement, intervention, and prevention through public awareness using media partnerships to send a message about involvement in gangs. He reviewed the most active local gangs and the unit's methods to control each of them, including tracking each gang's members, the number of arrests of those individuals, and what their respective crimes were as a means of identifying the gang's leaders. He addressed recent legislation that has made possible additional enforcement actions against gangs, including defining gangs and gang activity and the governor's gang task force, which, he stated, was an excellent tool for law enforcement. Lieutenant Conley suggested legislation to address child endangerment laws against gang-involved parents. In response to a question from Rep. Perry, Lieutenant Conley stressed the importance of the Juvenile Justice Center in Ogden; closure of that facility would require moving officers off the street to transport detainees.

Lieutenant Suarez, Lieutenant Brede, and Lieutenant Conley responded to questions from the committee.

## **6. Inmate Medical Donation Act**

Rep. Steve Eliason introduced draft legislation "Inmate Medical Donation Act" (2013FL-0158/005), which would provide for inmates to voluntarily donate their organs posthumously. He stated that the legislation requires the Department of Corrections to provide a form for inmates that gives them the opportunity to sign up to be an organ donor. He reviewed the significant need for organ donors. He stated that there is no cost to the state, as all costs are covered by the recipient organization.

Mr. Mike Haddon, Utah Department of Corrections, testified that the department now gives an organ donation form to inmates either at intake or as they come in for medical visits.

Rep. Seelig asked about any coercion of inmates to sign up as organ donors. Rep. Eliason explained that there is no incentive offered to the inmates for signing the organ donation form. Mr. Haddon assured Rep. Seelig that he would look at the form and make sure that it is very clear that there is neither an incentive nor a penalty attached to signing the form.

Rep. Arent asked why the law needed to be changed if the Department of Corrections is already giving inmates an organ donation form. Rep. Eliason explained that the bill arose when a death row inmate wanted to donate his organs but was not allowed to, as no policy was in place. He stressed that the intent of the legislation is to secure this opportunity in state law.

Rep. Oda asked if there is a way to opt out of the program, once an inmate has opted in, and was told by Rep. Eliason that that was not part of the legislation.

Rep. Eliason and Mr. Haddon responded to questions from the committee and the public.

**MOTION:** Rep. Ipson moved that draft legislation "Inmate Medical Donation Act" be passed out as a committee bill. The motion passed unanimously. Rep. Dunnigan, Rep. Greenwood, and Rep. Perry were absent for the vote.

## **7. New Felonies and Enhancements on Existing Punishments**

Ms. Carlene Walker, Chair, Utah Sentencing Commission, introduced the Commission on Criminal and Juvenile Justice report, which covers new felonies and enhancements on existing crimes that have been

enacted over the past five years. Ms. Walker emphasized that what the Legislature does in regard to penalties and sentencing has a far-reaching effect on the criminal justice system.

Ms. Jacey Skinner, Director, Utah Sentencing Commission, gave a visual presentation "Sentencing and Penalty Changes," an overview of the commission's sentencing structure. She explained the distinction between felonies and misdemeanors and provided some examples of penalties that were enhanced and new felonies enacted during the last legislative session. She presented a sentencing matrix which outlined various offenses and the recommended penalties for those crimes, based on the criminal's history and other factors. Ms. Skinner outlined the increase in resources, including court time, defense, and prison beds, that must be expended when the degree of an offense is raised. She distributed and reviewed "2012 Legislative Session Sentencing Update," which showed the total increase in penalties for various crimes during the last legislative session. Ms. Skinner suggested that when the Legislature looks at corrections growth for the future, it should keep in mind the resources that will be required when penalties are increased.

#### **8. Drug Offender Reform Act (DORA)**

Ms. Mary Lou Emerson, Director, Utah Substance Abuse Advisory Council, Commission on Criminal and Juvenile Justice, presented the statutorily required report on implementation, impact, and results of the drug offender reform program. She distributed "DORA Quick Facts," which outlined goals and objectives; implementation phases, funding, and services; the number of participants receiving services; the estimated annualized costs per participant; the participant outcomes by implementation phase; and other participant outcomes.

Ms. Audrey Hickert, Research Assistant Professor, Utah Criminal Justice Center, distributed "DORA Statewide Evaluation" and explained DORA outcomes and recidivism rates for the last three years.

Rep. Oda asked if the conclusion was that DORA was working, and was told by Ms. Hickert that it is still too early to say if this intervention is having the desired effect.

#### **9. Other Business / Adjourn**

**MOTION:** Rep. Litvack moved to adjourn the meeting. The motion passed unanimously. President Waddoups, Sen. Weiler, Rep. Dunnigan, Rep. Greenwood, and Rep. Ipson were absent for the vote.

Rep. Oda adjourned the meeting at 11:50 a.m.