

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

Wednesday, September 17, 2014 – 9:00 a.m. – Room 25 House Building

**Members Present:**

Sen. Todd Weiler, Senate Chair  
Rep. Curtis Oda, House Chair  
Sen. Margaret Dayton  
Sen. Luz Robles  
Sen. Daniel W. Thatcher  
Rep. Richard A. Greenwood  
Rep. Keith Grover  
Rep. Dana L. Layton  
Rep. Paul Ray  
Rep. Edward H. Redd  
Rep. Marc K. Roberts  
Rep. Jennifer M. Seelig

Rep. Robert M. Spendlove  
Rep. Keven J. Stratton  
Rep. Mark A. Wheatley

**Members Absent:**

Pres. Wayne L. Niederhauser

**Staff Present:**

Mr. Nathan W. 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 Weiler called the meeting to order at 9:18 a.m.

**MOTION:** Rep. Oda moved to approve the minutes of the July 16, 2014, meeting. The vote in favor was unanimous. Sen. Robles, Sen. Thatcher, Rep. Grover, Rep. Layton, Rep. Ray, Rep. Spendlove, and Rep. Stratton were absent for the vote.

**2. Forfeited Property Report**

Ms. Doreen Weyland, Contract and Grant Analyst, Commission on Criminal and Juvenile Justice, presented the 2014 Federal Equitable Sharing Report, identified the agencies that received funds, and elaborated on the difference between federal and state asset forfeitures. She noted that the trend is a decrease in federal sharing but an increase in state asset forfeitures, perhaps due to the fact that there are fewer cases going through the federal courts.

**3. Multi-Agency Strike Force**

Mr. Leo Lucey, Chief of Law Enforcement, Utah Office of the Attorney General, presented the 2014 Attorney General S.E.C.U.R.E. (Statewide Enforcement of Crimes by Undocumented Residents) Legislative Report and stated that the number of cases, from weapons to search warrants, is up from previous years. He explained how the composition of the task force has changed in the last six months and reviewed the current membership of the task force.

Mr. Gregory Ferbrache, Assistant Attorney General, Utah Office of the Attorney General, reported on the task force's success in prosecuting perpetrators of human trafficking. He added that the task force also continues to investigate identification fraud in accordance with its legislative mandate. He responded to questions from the committee regarding deportation of illegal immigrants involved in identity fraud, saying that the federal government makes the decisions regarding deportation of prosecuted individuals.

#### **4. Penalty for Traffic Violation Causing a Death**

Rep. Patrice M. Arent introduced draft legislation, "Penalty for Traffic Violation Causing a Death" (2015FL-0093/014), and introduced Ms. Drew Quinn, widow of Judge Anthony Quinn, who was the victim of an automobile-bicycle accident. Rep. Arent explained that the draft legislation would provide that a violation of the Traffic Code, otherwise punishable as an infraction or a class C misdemeanor, could be a class B misdemeanor if the operator of the vehicle causes the death of another person. She also provided background on her reasons for proposing this draft legislation, explaining that the traffic violation with which a driver is charged when responsible for the death of an individual does not reflect criminal negligence or a death.

Ms. Quinn reviewed the circumstances surrounding the charging of the driver who was responsible for the death of her husband, and her frustration that the charge did not reflect that this was a traffic violation involving a death. Rep. Arent's legislation, she said, would give judges the ability to stipulate that a traffic violation had resulted in a death.

Mr. Paul Boyden, Executive Director, Statewide Association of Prosecutors, reviewed the issues addressed by the proposed draft legislation, including adding the language "operating a motor vehicle" and stipulating the penalty as a class B misdemeanor. Mr. Boyden responded to questions from the committee, clarifying that the purpose of the legislation is to stipulate that a death has occurred in relation to a traffic violation. He stated that review of the legislation by the sentencing commission is scheduled for October.

Rep. Oda suggested that the issue of causing a death is not unique to motor vehicle operators, as bicyclists and pedestrians can cause traffic accidents as well.

**MOTION:** Rep. Oda moved that the word "motor" in lines 13 and 40 of the draft legislation be struck from the bill. The vote in favor was unanimous.

Mr. Dan Fazzim, a cyclist, spoke regarding the amended language and agreed that bicyclists can also be responsible for deaths. He suggested the committee consider that the Driver License Act already gives authority to the division to revoke a driver license. He also suggested that the charge associated with the violation should be allowed to be increased by one level when a death is involved.

Mr. Dan Moser, a close personal friend of Judge Anthony Quinn and a fellow cyclist, expressed support for enhancing the penalty. He said it seems wrong that causing someone's death, even through negligence, does not result in more than a simple traffic violation.

**MOTION:** Rep. Oda moved that, in Line 47, the word "driving" be deleted and replaced with "operating." The vote in favor was unanimous.

Chair Weiler directed that staff place this issue and the consideration of the draft legislation on a future agenda, after the bill has been reviewed by the Sentencing Commission.

#### **5. Federal 1033 Program**

Mr. Dan Martinez, 1033 and 1122 Program State Coordinator, State Surplus Property Program, distributed "Utah's Federal 1033 Program," which listed examples of equipment received, and he provided lists of 1033 property by congressional district, participating 1033 program agencies, and questions and answers regarding the program. He went on to explain, in response to questions from the committee, that the State Surplus Property Program does charge a one-time service and handling fee of up to 20% of the acquisition

cost (the amount the federal government was charged at the time of purchase) of the equipment. He clarified that the federal government does not charge the state program for the items. He reviewed the costs incurred by the program, including two part-time employees, specialized software licenses, and building lease costs. He discussed the conditions of the loan of the equipment, the restrictions on its use, and the agency's obligation to return the equipment when it is no longer needed.

Ms. Marina Lowe, Legislative and Policy Counsel, American Civil Liberties Union of Utah, stated that her concern with the 1033 Program concerns the larger issue of militarization of local police departments. She reviewed the history of the program, the types of equipment concerned, and the program requirements. She stated that the requirement to use the items within one year or relinquish them to the federal government gives police departments an incentive to utilize and deploy the equipment. She reviewed the results of the American Civil Liberties Union's 2013 study of militarization of police departments, which found several contributing factors, including increased SWAT activity, increased authority to enter homes in a forcible way, and incentives for law enforcement agencies to use military equipment. Ms. Lowe said that too little oversight is the biggest concern with the Federal 1033 Program and suggested that an agency could be created to evaluate whether a request for surplus military equipment is justified. Ms. Lowe responded to questions from the committee, defining the term "militarization" as the movement away from community policing and working with individuals within the community, and towards the deployment of equipment that casts individuals as "the enemy."

Rep. Ray suggested that increased firepower and use of sophisticated equipment by criminals has necessitated the acquisition of comparable equipment by local police forces.

Colonel Daniel Fuhr, Utah Highway Patrol, pointed out the importance of the type of equipment police departments receive through the Federal 1033 Program. He discussed, in particular, the MRAP (Mine-Resistant Ambush Protected) armored vehicle's ability to protect hostages and officers in life-threatening situations by allowing officers to safely move close enough to criminals to evaluate a situation and possibly negotiate. He described the recent use of the Highway Patrol's MRAP in apprehending a shooter who had stolen a recreational vehicle. He expressed concern with a possible overreaction to the use of equipment that keeps police officers safe. Colonel Fuhr responded to questions from the committee, describing the authority required to deploy 1033 program items and stated that the Highway Patrol has yet to be contacted by the federal government about its use of this equipment.

## **6. Gang Issues in Utah**

This item was postponed.

## **7. Adjourn**

**MOTION:** Rep. Greenwood moved to adjourn the meeting. The vote in favor was unanimous. Sen. Dayton and Rep. Stratton were absent for the vote.

Chair Weiler adjourned the meeting at 11:29 a.m.