

**MINUTES OF THE
EXECUTIVE OFFICES & CRIMINAL JUSTICE
APPROPRIATIONS SUBCOMMITTEE
Room 25 House Building
January 31, 2012**

Members Present: Sen. Daniel Thatcher, Co-Chair
Rep. Eric K. Hutchings, Co-Chair
Sen. Ben McAdams
Sen. Howard A. Stephenson
Sen. John L. Valentine
Rep. Joel K. Briscoe
Rep. Richard Greenwood
Rep. Curtis Oda
Rep. Paul Ray
Rep. Brad R. Wilson

Members Excused: President Michael G. Waddoups
Sen. Peter C. Knudson
Rep. Christopher N. Herrod, House Vice Chair
Rep. Jennifer M. Seelig

Staff Present: Mr. Gary Syphus, Fiscal Analyst
Mr. Zackery King, Fiscal Analyst
Ms. Jennifer Eyring, Committee Secretary

Note: A list of visitors and a copy of handouts are filed with the committee minutes.

Sen. Thatcher called the meeting to order at 8:09 a.m.

Board of Pardons and Parole

Gary Syphus, Fiscal Analyst, gave an overview of the Board of Pardons and Parole budget brief, noting analyst recommendations, intent language, performance data, and the budget detail. He said their budget is relatively small, but their work has a big impact on the Department of Corrections budget.

Clark Harms, Chairman, assisted by Angela Miklos, Vice-Chair, Board of Pardons and Parole, requested the committee adopt the budget as recommended by the analyst. They are not requesting any additional funding. He noted two changes to fees. The first is the elimination of unused fees, and the second is a request to charge the actual cost of compilation for GRAMA requests over 100 pages. Requests under 100 pages would still be charged at the per page fee. Mr. Harms explained the incentive program in use. Those who complete programs, or pay restitution, for instance, can be recommended for consideration of shortened terms. Participation in those programs is expected to reduce the risk of recidivism.

Sen. Thatcher relinquished the chair to Rep. Hutchings.

Sen. Valentine encouraged the Board of Pardons to look at the study that showed the rate of recidivism had little change on parole terms longer than 26 months. Mr. Harms replied that longer parole terms were often in place while restitution payments were being made. Sex offenders also have a longer parole terms. He said they would look at the study.

Sen. Thatcher said he would be interested in talking with them further concerning the abuse of GRAMA requests.

Attorney General (AG)

Mark Shurtleff, Attorney General, introduced Werner Haidenthaler, Chief Administrative Officer. He expressed his appreciation to the committee for the opportunity of working with them over the past years. He said that he was proud to be an agency that provides income for the state, protects the state, and supports every state agency. He stated that there would soon be an announcement on a multi-state settlement with banks over the mortgage foreclosure crisis. This settlement would bring money to the state and to victims. He said Wade Faraway was his specialist on mortgage foreclosure issues and had done an excellent job. He also introduced his staff, Kirk Torgensen, Chief Deputy, Criminal Division, John Swallow, Chief Deputy, Civil Division, and Ken Wallentine, Investigations.

Mr. Shurtleff, stated they have been very active defending states' rights as found in the 10th amendment. He said he and Mr. Swallow would be going to the Supreme Court soon to defend states' rights concerning health care. Utah has played a significant role in the lawsuit that contends that the federal government cannot force citizens to purchase insurance. He also noted their work on public land issues and gun issues, such as the Montana gun case.

Zackery King, Fiscal Analyst, gave an overview of the five budget briefs for the Office of the Attorney General, 1) Main Line Item, 2) Prosecution Council, 3) Domestic Violence, 4) Contract Attorneys, and 5) Children's Justice Center. The Office is requesting \$800,000 as restoration of previous base funding, \$860,400 for the SECURE Strike Force, and \$131, 200 for the Criminal Non-Support Program. He noted that analyst recommendations are found in the budget briefs under Issues and Recommendations. Those recommendations found in other parts of the budget brief are not from the Legislative Analyst Office. He also provided the committee with a page that shows all building block requests for all agencies assigned to the committee. Mr. King pointed out information on the Pelt Settlement and the United Effort Plan Trust found in the Contract Attorney budget brief.

Rep. Hutchings clarified that the first two columns of the building block request page are agency requests and the last two columns are the Governor's recommendations.

Mr. Shurtleff discussed the reasons for requesting funds for the restoration of previous base funding cuts. He said their main problem is a backlog of appellate cases. They have had to ask the courts for extended time to respond to appellate briefs, and the courts have told them they cannot continue to grant extensions without a response. Additional funding would allow them to hire more staff to keep up with appellate cases. Another concern is a rise in homicide cases. The Attorney General Office helps counties, especially rural counties, with homicide cases. The counties reimburse what they can, but with small budgets, they often cannot fully reimburse the state.

Mr. Shurtleff explained their request for additional funding for the SECURE Strike Force. The strike force targets criminal aliens. They collaborate with the federal government and have had federal ARRA funding. Those funds run out mid-2012.

Mr. Wallentine discussed the "Utah Attorney General SECURE Strike January 2012 Executive Summary" page distributed to the committee. He noted the work and success of the strike force. He elaborated on document mills, which make fraudulent documents used in obtaining credit, government services, and are often associated with drug and gun trafficking. He stated that they are finding people who have been convicted of crime, served time, been deported, and then have illegally reentered the country. He said the strike force makes a valuable impact on crime and is a great resource for other law enforcement agencies. In response to committee questions, he said that fraudulent documents are in three categories, social security cards, driver license, and alien registration cards. Names are sometimes real and sometimes fictitious. He also explained that most convicted of crime serve their time here and are then deported, but they have found that it does not seem to deter them from returning to the state to resume criminal activity.

Mr. Shurtleff agreed that criminal reentry is a large problem. He explained the strike force is law enforcement that works with a prosecutor in state and federal courts. It is not associated with a program called secure communities. The SECURE strike force is Utah's own program.

Mr. Wallentine stated that they have stretched federal funds to last as long as possible. The strike force was appropriated \$350,000 one-time funding in FY 2012. With ARRA funds depleting, the requested ongoing funds of \$860,400 would keep the program running at the current level. He said to provide service to the entire state, it would require a 75 to 100 percent increase in budget.

Mr. Shurtleff explained the Citizens' Communications Portal. It allows citizens to report crime and to find information on crime in their area.

Mr. Torgensen explained the Criminal Non-support program. It has previously been funded in the Office of Recovery Services, but that funding has been cut. They are requesting \$131,000 to continue the program. He said parents who are chronic non-payers of child support are more likely to pay when there is a threat of having charges filed against them. A federal match pays a large portion of the cost of the program.

Mr. Shurtleff discussed the Pelt Settlement found on the Contract Attorneys budget brief.

Rep. Hutchings reiterated that Pelt settlement money goes through the Attorney General budget as pass through funds, and is not an increase in the AG budget. He also explained that the request for restoration funds would be used to reinstate the parity plan for attorneys in the AG Office.

Mr. Shurtleff explained the United Effort Plan Trust as found in the Contract Attorney Budget Brief. The state has paid the Fiduciary of the trust \$275,194, but is contending that the rest of the costs should be paid by the trust.

Mr. Swallow discussed public lands litigation. Last year they hired two litigators and a constitutional researcher, and have filed notice of intent to claim ownership on 18,000 segments of road. Funding is ongoing through the Constitutional Defense Council and is appropriated to the Attorney General Office.

Mr. Shurtleff reiterated the request for non-lapsing intent language.

Mr. Torgensen spoke about white collar crime prosecution. They previously had funding for a full time mortgage prosecutor, but that only lasted one year before budgets were cut. He said he worries about the state's approach to white collar fraud at a time when it is increasing at a rapid rate. He said he would like the issue more in the forefront and would like to use additional funding to hire another prosecutor.

In response to committee questions, Mr. Shurtleff said the legislative funding priority has been on public land issues, and white collar fraud has not been funded as they would like. He also suggested that some of the national mortgage foreclosure settlement money coming to the state could be used for white collar crime prosecution.

Rep. Wilson said that prior to the committee making a recommendation, he would like to at least look at the cost of the mortgage fraud work and the cost of expanding the SECURE strike force across the entire state.

Rep. Hutchings expressed appreciation to Mr. Shurtleff and the Attorney General Office for the great work they have done on behalf of the state and people of Utah. He said there has been both national and international attention to Utah due specifically to the work they have done. Other committee members also expressed their appreciation.

Federal Funds

Mr. Syphus explained the FY 2012 and FY 2013 Issue Briefs.

Rep. Hutchings reminded the committee that some of the requests for funding are to continue programs started with federal money which now need state funding to continue. He asked the committee to be aware of the possibility of federal funds being reduced as they consider federal fund approval. He noted that federal funds under CCJJ are mostly pass through funds.

Mr. Haidenthaller said that federal funding for the Medicaid Fraud Unit is funded through a separate grant and has different responsibilities than the Inspector General for Medicaid fraud.

Tenielle Young, Budget and Policy Analyst, Governor's Office, stated that the Governor's Office of Economic Development (GOED) federal funds listed in the FY 2012 issue brief are not part of this committee's responsibilities and should not be listed on the Governor's Office page.

MOTION: Rep. Wilson moved to eliminate the GOED portion listed on the "Executive Offices and Criminal Justice: Federal Funds FY 2012" issue brief. The motion passed unanimously with Sen Stephenson absent for the vote.

MOTION: Sen. Thatcher moved to approve the FY 2012 Supplemental Federal Funds as listed on the "Executive Offices and Criminal Justice: Federal Funds FY 2012" issue brief. The motion passed unanimously with Sen Stephenson absent for the vote.

MOTION: Sen. Thatcher moved to approve the FY 2013 Federal Funds as listed on the "Executive Offices and Criminal Justice: Federal Funds FY 2013" issue brief. The motion passed unanimously with Sen Stephenson absent for the vote.

Sen. Thatcher commented that it is wise policy to be aware of federal funding received by each agency, and to put in place contingency plans in case federal funds are lost. He said although it was good policy to plan, he felt it was not wise to cut off federal funds immediately.

Rep. Hutchings reminded the committee that the Executive Office and Criminal Justice base budget would be passed over the next few days, but that the committee would still be able to adjust and modify things to a degree to help the agencies.

Mr. Syphus reiterated that the base budget bill is a starting point and that options exist after passage of the bill. He pointed out that detailed information concerning the bill was provided in committee binders.

Rep. Ray asked staff to provide additional information on items listed on lines 95-97 of the bill, Gang Reduction Grant Program, Crime Reduction Assistance Program, and Sexual Exploitation of Children.

MOTION: Rep. Oda moved to adjourn. The motion passed unanimously with Sen. Stephenson, Sen. Valentine, Rep. Briscoe, and Rep. Wilson absent for the vote.

Rep. Hutchings adjourned the meeting at 9:53 a.m.

Sen. Daniel W. Thatcher, Co-Chair

Rep. Eric K. Hutchings, Co-Chair