

Utah lawmakers consider tougher penalties for protesters who break laws

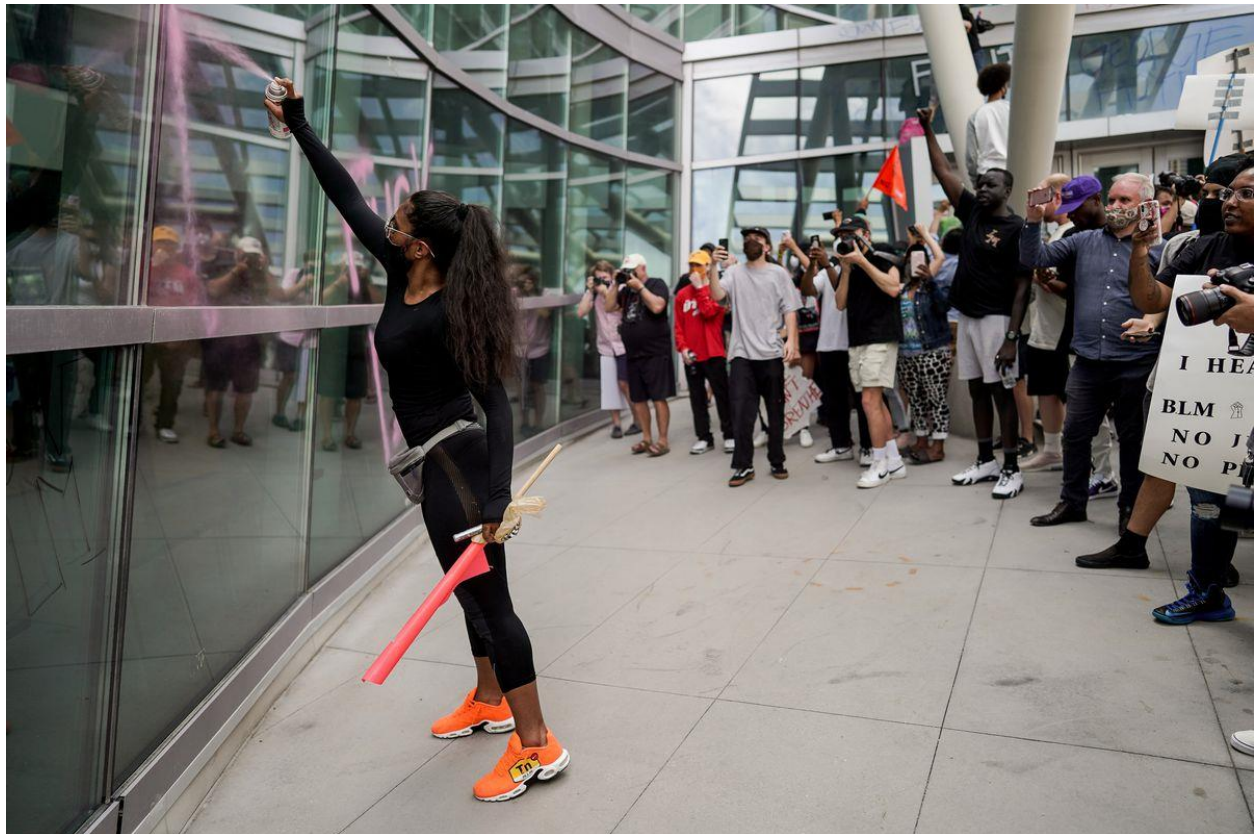
At sheriffs' urging, legislative panel signals early support; critics say police reform is more urgent

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A woman spray-paints the windows of the Salt Lake Public Safety Building as people protest in Salt Lake City on Saturday, May 30, 2020, in the wake of the death of George Floyd, who died in police custody in Minneapolis. *Spenser Heaps, Deseret News*

SALT LAKE CITY — Some Utah sheriffs are urging state lawmakers to follow other states in moving to strengthen penalties for protesters who break laws. Their request comes amid a wave of opposition to racial injustice that has sparked protests nationwide, including some that have ended in clashes with police or damage to public property.

No proposal has been drafted, but a state legislative panel signaled early support for tougher punishments, voting unanimously to open a bill file and study the issue ahead of the 2021 Legislature.

“We want to encourage protesting, but we do not want to encourage rioting,” said Rep. Lee Perry, co-chairman of the Law Enforcement and Criminal Justice Interim Committee.

Supporters of such a measure say it would help protect first responders from harm and penalize the few who seize on protests as an opportunity to commit crimes. Critics say the effort deflects attention from unjust policing and may infringe on the First Amendment.

At protests in Utah in recent months, Weber County Sheriff Ryan Arbon and his colleagues have observed “people that were truly there to protest peaceably, carry their signs, get their message out,” Arbon told the panel. But others dubbed “lone wolves” sought to take advantage of the opportunity and carry out crimes, he said. Arbon said he and several of his counterparts in Utah believe the state should adopt measures like a new Tennessee law.

The wide-ranging law in that state mandates a jail term of at least 45 days for those convicted of aggravated rioting, enhances the restitution owed for damaging public property and codifies a felony offense for assaulting a first responder.

Several demonstrators in Utah have faced charges ranging from disorderly conduct to assault. Some faced first-degree felonies in connection with a pool of red paint and smashed windows at the Salt Lake County District Attorney’s Office building, prompting public outcry before District Attorney Sim Gill referred the cases to an outside prosecutor who later downgraded the charges.

Brian Redd, chief at the Utah Department of Public Safety, told the panel his agency has used facial recognition technology this year to track down those accused of offenses including rioting. Such programs have drawn criticism from some racial and ethnic minority groups.

Lex Scott, founder of the Utah chapter of Black Lives Matter, called the panel’s unanimous Tuesday vote “another step in the wrong direction.”

“It is clear to me that they are completely missing the point,” Scott said. “The community has erupted in anger due to decades upon decades of injustice in policing and the criminal justice system. And instead of trying to work to make policing and the criminal justice system more equal, they would prefer to silence people who would protest against injustice. This is the definition of fascism.”

Scott emphasized that her group does not condone damaging property or inciting violence and said its members plan to be a presence at next year’s legislative session. The ACLU of Utah similarly opposes the idea.

“There is already a tendency to overcharge protesters in Utah, so increasing penalties and removing discretion from judges seems like a wrong approach when we could be investing in solving the underlying issues driving these protests,” said Marina Lowe, legislative and policy counsel with the ACLU.

She cautioned that lawmakers need to be extremely careful when expanding Utah’s criminal code in the realm of the First Amendment.

“History has shown that escalating criminal penalties in response to newspaper headlines rarely improves justice over time,” Lowe said.

The 45-day jail term is a “notable departure” from current Utah law, legislative analyst John Feinauer told the committee. He said Oklahoma is considering a different sort of measure that would strengthen trespassing bans in response to concerns about demonstrations.

In Utah, rioting — defined as intentional or reckless “tumultuous or violent conduct” by at least two people — is a misdemeanor offense. But it can rise to a felony if a person injures someone, is armed or causes substantial property damage. Similar Utah laws prohibit disorderly conduct, disrupting a meeting, failing to disperse and criminal mischief.

Cache County Sheriff Chad Jensen spoke in favor of a bill strengthening penalties, saying it would help “better protect the citizens of Utah and our law enforcement and all first responders as they respond to these types of incidents across the state.”