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THE LAW

CHAPTER 4

UTAH STATE BOARD OF EDUCATION
CAREER AND TECHNICAL EDUCATION

CHAPTER FOUR: THE LAW

“True freedom requires the ‘rule of law’ and justice, and a judicial system in which the rights of some are not secured by the denial of the rights of others.”

—Johnathan Sacks

INTRODUCTION

What is the law? The law is a system of rules that a community or country uses to regulate the actions of the people, and that can be enforced by applying sanctions to those who violate these rules. The United States has based its laws on English law.

English law is based upon two similar concepts, *common law* and *case law* or *precedent*. *Common law* centers on tradition or custom, sometimes known as the rules of the common man. This means that what had been done previously becomes the basis for how decisions are to be made today. *Case law* is the system by which the decision or interpretation of a judge in the original case becomes the standard by which all later identical cases will be decided.

U.S. history has seen a development of our laws, and today we have four sources of written law: the Constitution, statutory law, case law, and administrative law. Case law is the set of rulings by the courts that set precedent, or the standard by which all other lower courts must abide. Statutes are laws made by the legislature, and can originate either with the states or the federal government. Administrative laws are the rules created by a regulatory agency, such as the Department of Natural Resources, Division of Fish and Game.

In the United States of America, *statute law* is another means used to develop our laws. Article I of the United States Constitution provides that the legislative branch of government is charged with the responsibility to provide our laws through debate and majority decision. The other two branches of government, judicial and executive, through designed checks and balances, have additional responsibilities. The executive (president) has the power of veto, and the judiciary (Supreme Court) can find a law to be unconstitutional.

A law can be violated by an act of omission or by an act of commission. An act of omission signifies that an individual failed to do something that he/she was required by law to do. An example of this would be failing to shovel snow from a sidewalk during the winter months as required by statute. An act of commission means that an individual has carried out a physical act in violation of the law. An example of this would be a burglar who enters a house without the owner’s permission and takes items before departing.

UTAH LAW

In Article VI of the Utah Constitution, the Legislature, made up of the Senate and House of Representatives, is given the responsibility to “initiate any desired legislation” that is needed in our state. This power to make state laws has produced the Utah Code Annotated (UCA). This Code was produced by the Utah Legislature in 1953, and is revised each time the Legislature meets and enacts new laws. The Utah Code Annotated is the statutory law for the State of Utah, and is made up of 78 different titles ranging from cemeteries and highways to probate law and public utilities. (These laws are available to the public on the website <http://le.utah.gov>.)

The Utah Code also designates various judicial rules to be followed in trial proceedings. These rules deal with the rules of evidence, civil procedure, appellate procedure, juvenile court procedure, and rules of practice in district and justice courts. The Utah Supreme Court is responsible for revising these sections of the Utah Code.

Each title designates the laws of the state of Utah regarding a specific subject area. The following titles are those that most often affect law enforcement officers in the normal conduct of their duties:

Title 23—Wildlife Resources

Title 32A—Alcoholic Beverages

Title 41—Motor Vehicles Code

Title 53—Public Safety (Driver’s License, Concealed Weapons)

Title 53A—State System of Public Education

Title 58—Occupational and Professional Licensing (Controlled Substances Act)

Title 76—Criminal Code

Title 77—Criminal Procedure

Title 78—Judicial Code

In order to delineate specific laws within the Utah Code, a numbering system was adopted. The system identifies the specific title, chapter, and section where a statute can be located. For instance, the number 76-6-301 signifies that you will find the particular statute in Title 76 (The Criminal Code), Chapter 6 (Offenses against Property), Section 301 (Robbery).

The remainder of this chapter of the manual will focus on one particular title within the Utah Code. Law enforcement officers must be familiar with the Criminal Code (Title 76) in order to carry out their assigned duties as an officer. Utah’s Criminal Code is composed of 10 separate chapters. The first four chapters explain various aspects of the Criminal Code, while the last six chapters list the individual laws and accompanying penalties.

Chapter 1—General Provisions

Chapter 2—Principles of Criminal Responsibility

Chapter 3—Punishments

Chapter 4—Inchoate Offenses

Chapter 5—Offenses Against the Person

Chapter 5b—Sexual Exploitation Act

Chapter 6—Offenses Against Property

Chapter 7—Offenses Against the Family

Chapter 8—Offenses Against the Administration of Government

Chapter 9—Offenses Against Public Order and Decency

Chapter 10—Offenses Against Public Health, Safety, Welfare, and Morals

TITLE 76 / CHAPTER 1—GENERAL PROVISIONS

Also among the general provisions of this chapter are guidelines for decisions and questions that involve *jurisdiction* (76-1-201) and *venue* (76-1-202.) *Jurisdiction* is the right or authority of a government entity (city, county, or state) within the state to hear a case or conduct other court proceedings. *Venue* is the right of a county or district to prosecute a criminal action (i.e., to determine the proper location for a trial). Most offenses will be tried in the district/county/precinct where they occurred.

Another provision is the limitation of actions known commonly throughout the nation as the *statute of limitations*. By statute, time limitations are placed on how long the prosecution has to begin judicial proceedings after a crime has been committed. The limitations are as follows:

Statute of Limitations	Crime Classification
1 year	Infraction
2 years	Misdemeanor
4 years	Felony (with some exceptions)
Prosecution can start at any time	Embezzling from the government or falsifying public records; also capital offenses punishable by a life sentence or death (e.g., homicide, rape, child sex offenses)

In felony cases such as criminal homicide and sex offenses where DNA samples have been collected but the suspect is unknown, prosecution can begin anytime once a suspect has been identified and a DNA comparison made.

Prosecution begins when an *information* is filed, not when a trial or appeal begins. An *information* is a legal document filed with the appropriate court specifying what law a defendant has allegedly violated and what proof exists. Time that a suspect has spent out of the state of Utah after having committed a crime does not count toward the limitation of actions. Special extensions to the limitation of actions are available when certain sexual offenses against children are involved.

The right to be free from double jeopardy is also defined and clarified in the General Provisions, in conformity with the Fifth Amendment to the United States Constitution. This provision limits the circumstances under which an individual may be twice tried for the same offense.

TITLE 76 / CHAPTER 2—PRINCIPLES OF CRIMINAL RESPONSIBILITY

The prosecution must prove that the required culpable mental state for the offense was present in order to obtain a *conviction*. (If the required mental state cannot be proven then the prosecutor must find another statute that will meet the test of culpability.) In cases requiring an intentional or knowing culpable mental state, the prosecution must prove that the defendant possessed a guilty mind, which is called *mens rea*. Included with the guilty mind, the court will also require a guilty act, or *actus reus*.

The criminal homicide statute is an example of the four categories of criminal states of mind, or culpable mental states. The criminal homicide statute includes the crimes of aggravated murder,

murder, manslaughter, negligent homicide, and automobile homicide. The first two criminal acts, aggravated murder and murder, require a mental state that is knowing or intentional, meaning that the perpetrator knew what the outcome of his actions would be and took the life of another consciously and with premeditation. In addition to other aspects of the case, the prosecution would also have to prove that the defendant had a guilty mind (*mens rea*) and had committed a guilty act (*actus reus*). Manslaughter requires a mental state of recklessness, implying that the person took another's life without malice aforethought (meaning that there was no premeditation). Negligent homicide requires the person to have been *negligent* in his actions, causing the death of another through failure to exercise the proper care that a reasonable person would use under the same circumstances.

Most laws found outside of the Criminal Code (known as street liability crimes) do not require a culpable mental state for a law to be violated. An example of this would be a motor vehicle traffic violation. An officer who has issued a traffic citation need not prove that the violator intended to run a red light. When testifying in court, he need only prove that the violator did run the light.

ELEMENTS OF A CRIME

Each statute is composed of *elements*, all of which must be proven in order for the defendant to be found guilty. Several elements are always present in any criminal case, including the unlawful act(s), the issue of court jurisdiction, and the culpable mental state required of the defendant. All elements must be shown to be present in order for the prosecutor to get a conviction.

TITLE 76 / CHAPTER 3—PUNISHMENT

Criminal acts, under Utah law, are classified by the seriousness of the crime and the extent of the punishment which may be given to the defendant if he/she is found guilty of the offense. Three categories have been established by the legislature to allow for consistency and uniformity in the sentencing of convicted individuals. These classifications, listed in descending order by severity, are *felony*, *misdemeanor*, and *infraction*. The punishments may include, but are not limited to, a sentence of confinement in the Utah State Prison System (for a felony) or one of the various county jails (for a misdemeanor), and/or a fine payable to the specific court in which the case was tried and the government entity that brought the charges against the defendant.

A felony is an offense punishable by a prison sentence; a *capital felony* may be punished by a sentence of death or by life imprisonment. For both types of felonies, two separate hearings take place, one to determine guilt or innocence and the other to determine what penalty should be imposed.

Classification	Maximum Punishment	Examples
Capital felony	Life imprisonment/death	➤ Aggravated murder
First degree felony	5 years to life imprisonment Up to \$10,000 fine	➤ Murder ➤ Aggravated burglary ➤ Aggravated robbery ➤ Aggravated kidnapping ➤ Rape

Second degree felony	One to 15 years imprisonment Up to \$10,000 fine	<ul style="list-style-type: none"> ➤ Manslaughter ➤ Kidnapping ➤ Burglary of residence ➤ Forcible sexual abuse ➤ Robbery ➤ Theft of items in excess of \$5,000
Third degree felony	0 to 5 years imprisonment Up to a \$5,000 fine	<ul style="list-style-type: none"> ➤ Arson/insurance fraud ➤ Aggravated assault ➤ Vehicle theft ➤ Damaging jails ➤ Possession of stolen credit card ➤ Child neglect ➤ Retaliation against a witness, victim, or informant ➤ Theft of items valued at \$1,500 but less than \$4,999
Class A misdemeanor	Up to one year in jail Up to \$2,500 fine	<ul style="list-style-type: none"> ➤ Assault with injury ➤ DUI with injury/with passenger < 18 ➤ Assault—police/EMT/teacher/pregnant ➤ Sexual battery ➤ Criminal trespass (in a dwelling) ➤ Failure to stop at command of police ➤ Theft of items valued at \$500 to \$1499
Class B misdemeanor	Up to 6 months in jail Up to \$1,000 fine	<ul style="list-style-type: none"> ➤ Assault ➤ Criminal trespass (posted/warning given) ➤ Lewdness ➤ Harassment ➤ Possession of drug paraphernalia ➤ DUI ➤ Theft of items valued at \$1-\$499
Class C misdemeanor	Up to 3 months in jail Up to \$750 fine	<ul style="list-style-type: none"> ➤ Criminal trespass (no warning given) ➤ Disorderly conduct (warning given) ➤ Intoxication ➤ Littering ➤ Public urination ➤ Most traffic violations
Infraction	No jail sentence Up to \$750 fine	<ul style="list-style-type: none"> ➤ Disorderly conduct (no warning given) ➤ Jaywalking ➤ Parking violations ➤ Equipment violations (e.g., tail light out)

TITLE 76 / CHAPTER 4—INCHOATE OFFENSES

An *inchoate* offense is an offense that is not completed or finished. The two types of inchoate offenses in Utah are an *attempt* and *conspiracy*. Inchoate offenses are punishable in the category one degree less than if the crime had been completed. For example, burglary is a second degree felony. Therefore, an attempt or conspiracy to commit burglary would be punished as a third degree felony.

An **attempted crime (76-4-101)** is when a person began the crime but was unable to complete it. If someone were to attempt to break into a business but was caught prior to entry due to an alarm system, this would be an attempt. In order to show that an attempt has been made, the prosecution would need to produce evidence that the defendant had engaged in conduct that constituted a substantial step toward commission of the offense. The actions taken by the defendant must clearly indicate intent to commit an illegal act.

Conspiracy (76-4-201) is an agreement with one or more other persons to commit a crime. One of those involved in the agreement must then commit an overt act that would further the conspiracy. For example, if three friends decide to rob a store and one of them purchases three ski masks to conceal their identities, a conspiracy to commit robbery has occurred.

The following information is taken from chapters five through ten of the Criminal Code. It is impossible to list all of the laws within each chapter; therefore, a random selection of statutes is listed. The comments following each statute suggest areas on which law enforcement officers should focus with regard to investigation and preparation for report writing activities.

TITLE 76 / CHAPTER 5—CRIMES AGAINST PERSONS

Major categories under this heading include assault, criminal homicide, kidnapping, and sexual offenses.

Criminal homicide (76-5-201): A person commits criminal homicide if he intentionally, knowingly, recklessly, with criminal negligence, causes the death of another human being, including an unborn child. There are five different categories of criminal homicide within the statute. They are aggravated murder, murder, manslaughter, child abuse murder, negligent homicide, homicide by assault, and automobile homicide.

Aggravated murder is intentionally or knowingly causing the death of another under any of the following circumstances:

- The defendant was a jail prisoner or prison inmate.
- Two or more persons were killed, or the defendant attempted to kill one or more other persons.
- The defendant created a great risk of death to another person.
- The defendant was committing a forcible felony.
- The victim is a peace officer attempting to arrest or prevent the escape of the defendant or another, or any public official carrying out his/her duties.
- The defendant was avoiding/preventing an arrest by a peace officer while trying to escape.
- The defendant committed the crime for money, or the murder was committed for personal gain, such as a contract killing.
- The defendant was previously convicted of another murder.
- The murder was committed to stop a person from testifying in court or aiding an investigation.

To secure a murder conviction, it must be demonstrated that death resulted from any of the following:

- The defendant intentionally or knowingly caused the death of another.
- The defendant, intending to cause serious bodily injury, committed an act that caused the death of another.
- The defendant acted recklessly, indifferent to the safety of others.
- While committing a forcible felony, the defendant caused the death of a victim or bystander who was not involved.
- The defendant recklessly caused the death of a peace officer, by an assault or by interfering with an officer making a lawful arrest.

A manslaughter conviction can be obtained if a death results from the following:

- Recklessness.
- Extreme mental or emotional disturbance for which there is a reasonable explanation.
- The defendant has a reasonable belief that he/she had a legal right to take such action, although the conduct is not legally justifiable.

While looking for evidence of who committed a criminal homicide, police must also secure evidence as to the motivation and circumstances surrounding the incident. However, it is a judge or a jury that will decide what type of criminal homicide has occurred.

Kidnapping (76-5-301): A person commits kidnapping when he intentionally or knowingly, without authority of law, and against the will of the victim:

- Detains or restrains another for any substantial period.
- Detains or restrains a minor without consent of its parents or guardian.

Police must prove the time period involved; otherwise, the charge could be Unlawful detention, which is a class B misdemeanor. Police must also be able to prove that the victim went unwillingly. Minors cannot legally consent. However, the age of the victim may be considered. Specifics must be obtained as to how the victim was restrained or detained (e.g., force, ropes, locked doors, verbal threats, etc.).

Rape (76-5-402): A person commits rape when he has sexual intercourse with another person without the victim's consent. It is essential that medical and laboratory evidence be secured to prove that penetration occurred. Otherwise, forcible sexual abuse or another less serious crime may have to be charged. This places time restrictions on the victim and on law enforcement. Circumstances surrounding the incident must be investigated to show whether consent was present. In Utah, anyone under 14 years of age cannot consent as a matter of law. This also applies to individuals who are married.

Assault (76-5-102): An attempt to do bodily injury to another; a threat, with unlawful force or violence, to do injury to another; or an act committed with unlawful force or violence that causes or creates a substantial risk of bodily injury to another. Note that the police are not required to prove that the victim was actually struck or injured. They must, however, be able to prove the intent of the suspect to do bodily harm by a show of immediate force or violence. If the officer can show that serious bodily injury resulted, or that a deadly weapon or extreme force was used, the charge would be aggravated

assault. If the offender knows the victim in the assault is a police officer, school employee, health care employee, military, pregnant, or the assault caused bodily injury, the classification is raised from a class B to a class A misdemeanor.

TITLE 76 / CHAPTER 6—CRIMES AGAINST PROPERTY

Major categories of crimes against property include criminal mischief, burglary, criminal trespass, robbery, theft, and fraud.

Arson (76-6-102): A person is guilty of arson if, by means of fire or explosives, he unlawfully and intentionally damages any property with intention of defrauding an insurer, or the property of another.

Besides linking the suspect to the crime, the officer must establish the ownership of the property involved. If insurance fraud is involved, the officer should obtain copies of all related police reports, claim forms, statements, etc.

Criminal mischief (76-6-106): This crime is commonly known as vandalism. A person commits criminal mischief if he/she:

- Intentionally and unlawfully tampers with the property of another and thereby recklessly endangers human life.
- Recklessly causes or threatens a substantial interruption or impairment of any public utility service.
- Intentionally damages, defaces, or destroys the property of another.

The criminal charge will depend on the value of the damage, which the officer must establish through estimates, insurance payments, replacement costs, etc. The dollar value of the damage is identical to the theft statute in deciding the classification of the crime. Photographs are an appropriate form of evidence in many of these cases.

Burglary (76-6-202): A person is guilty of burglary if he/she enters or remains unlawfully in a building or any portion of a building with intent to commit a felony or theft, or to commit an assault on any person.

Vehicle burglary (76-6-204): A person is guilty of burglary of a vehicle if or she enters unlawfully in a vehicle with intent to commit a felony or theft.

Police must obtain evidence that the suspect **did not have permission** to be in the building or vehicle. The officer must prove that any part of the suspect's body entered the building or vehicle. The officer must also secure evidence of the intent to commit a felony, assault, theft, or one of the sexual or related crimes after entering the building. Otherwise, the crime is criminal trespass. If the officer can show that the building involved is a dwelling, then the penalty is increased from a third degree felony to a second degree felony. If a suspect successfully enters the building and removes property, the suspect can be charged with burglary and theft when apprehended.

Criminal trespass (76-6-206): A person is guilty of criminal trespass if he/she:

- Enters or remains unlawfully on property and intends to cause annoyance or injury to any person or damage to any property.
- Intends to commit any crime other than theft or a felony.
- Is reckless as to whether his/her presence will cause fear for the safety of another.

- Knowing his entry or presence is unlawful, enters or remains on property as to which notice against entering is given by:
 - Personal communication to the suspect by the owner or someone with apparent authority to act for the owner.
 - Fencing or other enclosure obviously designed to exclude intruders.
 - Posting of signs reasonably likely to come to the attention of intruders.

If any of the last three situations exist, evidence of the communication of the owner or the owner's agents should be obtained, and the location and description of signs and other warning devices should be made. Photographs would be appropriate evidence.

Robbery (76-6-301): Robbery is the unlawful and intentional taking of personal property in the possession of another, from his person or immediate presence, against his will, accomplished by means of force or fear.

The officer must prove that the suspect did not have a lawful right to the object(s) taken. The officer need not prove ownership, however—simply that the victim was in possession of the object(s). The officer must secure evidence that property possession was actually accomplished by the suspect, against the victim's will. Most importantly, the officer must be able to establish that force or fear was used, either by evidencing the use of weapons or the creation of fear through physical intimidation, threats, etc. (Note: A weapon is not needed, if threats or fear are used.)

Theft (76-6-404): A person commits theft if he/she obtains or exercises unauthorized control over the property of another with intent to deprive him or her thereof.

The officer must secure evidence of the value of the property taken through receipts, market value, replacement cost, etc. The value will determine the classification of the crime. Unauthorized control may be proven by the officer through evidence of outright taking, failing to return property as required, embezzlement, disposal of property authorization, etc.

Proving the intent to deprive the owner of his property can be done by producing evidence that the suspect did not intend to return the property, such as hiding it, demanding payment for its return, or sale of the property so that the owner is unlikely to recover it.

Victims and merchants can also sue in civil court for three times the amount stolen, court costs, and attorney's fees, regardless of whether the property was recovered or not. A third conviction for misdemeanor theft can be enhanced to a third degree felony.

TITLE 76 / CHAPTER 7—OFFENSES AGAINST THE FAMILY

Major categories include marital violations, bigamy, incest, adultery, non-support (failure to pay child support) the sale of children, and abortion.

TITLE 76 / CHAPTER 8—OFFENSES AGAINST ADMINISTRATION OF GOVERNMENT

Major categories include corrupt practices, abuse of office, obstructing governmental operations, offenses against public property, falsification in official matters, abuse of process, colleges and universities, syndicalism, sabotage, and habitual criminals.

Interfering with an arrest (76-8-305): A person is guilty of a class B misdemeanor if he/she has knowledge, or by the exercise of reasonable care should have knowledge, that a peace officer is

seeking to effect a lawful arrest or detention of himself or another, and interferes with such arrest or detention by the use of force or by the use of any weapon.

Obstructing justice (76-8-306): A person is guilty of an offense if, with intent to hinder, prevent, or delay the discovery, apprehension, prosecution, conviction, or punishment of another for the commission of a crime, he/she:

- Knowingly conceals the commission of an offense from a magistrate.
- Harbors or conceals the offender.
- Provides the offender with a weapon, transportation, disguise, or other means for avoiding discovery or apprehension.
- Warns the offender of impending discovery or apprehension.
- Conceals, destroys, or alters any physical evidence that might aid the discovery, apprehension, or conviction of the offender.
- Obstructs, by force, intimidation, or deception, anyone from performing an act that might aid in the discovery, apprehension, prosecution, or conviction of the offender.

Obstructing justice is a class B misdemeanors unless the actor knows that the offender has committed a capital offense or a felony of the first degree; then it is a felony of the second degree.

Escape (76-8-309): A person is guilty of escape if he/she leaves official custody without authorization. Aggravated escape is a first degree felony, escape from a state prison is a second degree felony, and all other escape is a third degree felony. “Official custody” means arrest with or without a warrant; confinement in a state prison, jail, a secure institution for confinement of juvenile offenders; or other confinement pursuant to an order of the court.

False report of a crime (76-8-506): A person is guilty of a class B misdemeanor if he/she:

- Knowingly gives or causes to be given false information to any police officer with the purpose of inducing the officer to believe that another has committed an offense.
- Knowingly gives or causes to be given to any peace officer information concerning the commission of an offense, knowing that the offense did not occur, or knowing that he/she has no information relating to the offense or danger.

Giving false personal information to a peace officer (76-8-507): A person commits a class C misdemeanor if, with intent of misleading a peace officer as to his identity, birthdate, or place of residence, he/she knowingly gives a false name, birthdate, or address to a peace officer in the lawful discharge of his/her official duties.

TITLE 76 / CHAPTER 9—OFFENSES AGAINST PUBLIC ORDER AND DECENCY

Major categories include breaches of the peace, telephone abuse, cruelty to animals, offenses against privacy, libel and slander, and offenses against the flag.

Disorderly conduct (76-9-102): A person is guilty of disorderly conduct if he/she:

- Refuses to comply with the lawful order of the police to move from a public place.
- Knowingly creates a hazardous or physically offensive condition by any act that serves no legitimate purpose.

- Engages in fighting or in violent, tumultuous, or threatening behavior intending to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof.
- Makes unreasonable noises in a public place.
- Makes unreasonable noise in a private place that can be heard in a public place.

For the purpose of this section, “Public place,” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and common areas of schools, hospitals, apartments, office buildings, transport facilities, and shops. Disorderly conduct is a class C misdemeanor if the offense continues after a request by a person to desist; otherwise it is an infraction.

Electronic communication harassment (76-9-201): A person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if, with intent to annoy, offend, abuse, threaten, harass, frighten or disrupt the electronic communication of another, the person:

- Makes repeated contact by means of electronic communication, whether or not a conversation ensues, or after having been told not to contact.
- Makes contact by electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response.
- Makes electronic communication and uses any lewd or profane language or suggests any lewd or lascivious act.
- Makes electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person.
- Electronic communication harassment is a class B misdemeanor unless committed against a minor; then, it is a class A if committed by another minor against a minor, or a third degree felony if committed by and adult against a minor.

Intoxication (76-9-701): A person is guilty of intoxication if he/she is under the influence of alcohol, a controlled substance, or any substance having the property of releasing toxic vapors to a degree that the person may endanger himself or herself or another in a public place, or in a private place where he/she unreasonably disturbs other persons.

A peace officer or a magistrate may release from custody an individual arrested under this section if he/she believes imprisonment is unnecessary for the protection of the individual or another; or a peace officer may take the arrested person to a detoxification center or other special facility. Intoxication is a class C misdemeanor.

Lewdness (76-9-702): A person is guilty of lewdness if the person exposes his/her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area; masturbates; or engages in sexual intercourse in a public place, under circumstances which the person should know will likely cause affront or alarm to another. Lewdness is a class B misdemeanor.

Sexual battery (76-9-702.2): A person is guilty of sexual battery if the person intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the actor’s conduct is under circumstances that the actor knows or should know will likely cause affront or alarm to the person touched. Sexual battery is a class A misdemeanor.

Public urination (76-9-702.3): A person is guilty of public urination if the person urinates or defecates in a public place, other than a public rest room, under circumstances which the person should know will likely cause affront of alarm to another. Public urination is a class C misdemeanor.

TITLE 76 / CHAPTER 10—OFFENSES AGAINST PUBLIC HEALTH, SAFETY, WELFARE, AND MORALS

Included in this chapter are laws that deal with cigarettes, tobacco, public water explosives, weapons, firearms, gambling, pornographic and harmful materials, littering and prostitution.

Definition of a firearm (76-10-501(9)(a): “Firearm” means a pistol, revolver, shotgun, sawed-off shotgun, rifle or sawed-off rifle, or any device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

When a weapon is deemed loaded (76-10-502): Any pistol, revolver, shotgun, rifle or other weapon described in this part shall be deemed to be loaded when there is an unexpended cartridge, shell, or projectile in the firing position, and the unexpended cartridge, shell, or projectile is in such a position that the manual operation of any mechanism once would cause the unexpended cartridge, shell or projectile to be fired.

Restrictions on possession of a firearm (76-10-503): Any person who is not a citizen of the United States, or any person who has been convicted of any crime of violence under the laws of the United States, the State of Utah, or any other state government or country, or who is addicted to the use of any narcotic drug, or any person who has been declared mentally incompetent, shall not own or have in his possession or under his custody or control any dangerous weapon as defined in this part. Any person who violates this section is guilty of a class A misdemeanor, and if the dangerous weapon is a firearm or sawed-off shotgun, he or shall be guilty of a felony of the third degree.

Possession of a dangerous weapon by a minor (76-10-509): A minor under eighteen years of age may not possess a dangerous weapon **unless he/she has the permission of his parent or guardian** to have the weapon, **or is accompanied by parent or guardian** while he/she has the weapon in his/her possession. Any minor under 14 years of age in possession of a dangerous weapon shall be accompanied by a responsible adult. A first violation is a class B misdemeanor; any subsequent violation is a class A misdemeanor.

Carrying a loaded firearm in a vehicle or on the street (76-10-505): Unless otherwise authorized by law (i.e., a peace officer or a valid concealed carry permit holder), a person may not carry a loaded firearm in or on a vehicle (unless he/she is the owner of the vehicle or has the vehicle owner’s permission to carry the loaded firearm, and is not restricted by law) on any public street, or in a posted prohibited area. A person may not possess a loaded rifle, shotgun, or muzzle-loading rifle in a vehicle. Violation of this section is a class B misdemeanor.

Threatening with or using a dangerous weapon in a fight or quarrel (76-10-506): Any person who, not in necessary self-defense and in the presence of two or more persons, draws or exhibits any dangerous weapon in an angry and threatening manner, or unlawfully uses the same in any fight or quarrel, is guilty of a class A misdemeanor.

CONTROLLED SUBSTANCES

Possession of a controlled substance (58-37-8(2)(a)(i)): It is unlawful for any person to knowingly and intentionally possess or use a controlled substance. (The penalty varies by type and quantity of the controlled substance). There are enhancements for distribution (i.e., drug dealing).

ALCOHOL-RELATED OFFENSES

Unlawful purchase, possession, or consumption by a minor (32B-4-409): It is unlawful for any person under the age of 21 years to purchase, attempt to purchase, solicit another person to purchase, possess, or consume any alcoholic beverage or product. It is also unlawful for any person under the age of 21 to misrepresent his/her age, or for any other person to misrepresent the age of a minor, for the purpose of purchasing or otherwise obtaining an alcoholic beverage or product for a minor.

When a person who is at least 13 years old, but younger than 18 years old, is found by the court to have violated this section, the provisions regarding the suspension of the driver's license apply to the violation.

Liability for injuries resulting from distribution of alcohol beverages (32B-15-201): A person is liable for any resulting injuries if the person directly gives, sells, or otherwise provides an alcohol beverage, and those actions cause the intoxication of any individual under the age of 21 years; also, any individual who is apparently under the influence of intoxicating alcoholic beverages or drugs is liable for an injury in person, property, or means of support to any third person, or the heir of that third person or for the death of the third person.

LOCAL LAWS AND ORDINANCES

In addition to federal laws and state laws, there are also laws written at the local level by various cities and counties through mayors, councils, and commissions which dictate how the local governments will be run. Examples of a county ordinance is given below:

Unlawful acts about schools, colleges, or universities (Salt Lake County Ordinance 10.32.010): It is unlawful for any person to annoy, disturb or otherwise prevent the orderly conduct of the activities, administration or classes of any school, college or university.

It is unlawful for any person to annoy, disturb, assault or molest any student or employee of any school, college or university while in or on such school, college, or university building, or on the grounds thereof.

It is unlawful for any person to loiter, idle, wander, stroll, or play in, about or on any school, college or university grounds, or buildings, either on foot or in or on any vehicle, without having some lawful business therein or thereabout, or in connection with such school, college or university, or the employees thereof.

It is unlawful for any person to conduct himself or herself in a lewd, wanton or lascivious manner in speech or behavior in, about or on any school, college or university building or grounds.

It is unlawful for any person to park or move a vehicle in the immediate vicinity of or on the grounds of any school, college or university for the purpose of annoying or molesting the students or employees thereof; or in an effort to induce, entice or invite students or employees into or on the vehicle for immoral purposes.

16-year-old curfew (Salt Lake County Ordinance 10.60): It is unlawful for any minor under the age of sixteen years to remain or loiter upon any of the sidewalks, streets, alleys or public places in the county between the hours of eleven p.m. and five a.m. the following morning.

18-year-old curfew (Salt Lake County Ordinance 10.60): It is unlawful for any minor under the age of eighteen years to remain or loiter upon any of the sidewalks, streets, alleys or public places in the county between the hours of one a.m. and five a.m.

EXPUNGEMENT

Expungement is the sealing of a court record, including records of the investigation, arrest, detention, or conviction of the petitioner. Expungement can be utilized for both adult and juvenile records. The petitioner must be 18 or older.

A person convicted of a crime can petition the court for expungement of the record of conviction. The court requires a certificate of eligibility. If the courts find the petitioner is eligible for relief, no filing fees or other fees will be assessed. A petition must be filed for each conviction that the petitioner wishes to have expunged. Any victims of the petitioner must be notified, can submit a written request for notice of expungement, and may address the court on the issue.

Type of Offense	Expungement May Be Considered After:
Capital felony	No expungement
First or second degree felony/any sex act against a minor	No Expungement
Third degree felony	7 years
Alcohol-related traffic offenses	6 years
Class A misdemeanor	5 years
Class B or C misdemeanors and infractions	3 or 4 years
Multiple misdemeanor offenses	12 years

U.C.A. Expungement Requirements, 77-40-102, refer to the Utah Department of Public Safety at: <http://bci.utah.gov/expungements/> for more information.

The time period listed does not begin until all confinement and probation has been completed. If the petitioner has previously had his/her record expunged and is then convicted of another offense, he cannot have his record expunged again. If a proceeding involving a crime is being initiated by any jurisdiction, the petition will be denied. If the petitioner has been convicted of two or more felonies, regardless of the jurisdiction, the petition will be denied.