

Testimony of

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BEFORE THE

UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

CONCERNING

"CRIMES ASSOCIATED WITH POLYGAMY: THE NEED FOR A COORDINATED STATE AND FEDERAL RESPONSE"

PRESENTED

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Chairman Leahy, Ranking Member Specter, and Members of the Committee, I am Brett Tolman, United States Attorney for the District of Utah. The title of this hearing is, "Crimes Associated with Polygamy: The Need for a Coordinated States and Federal Response". I am here to testify that Utah has a proud history of a coordinated State and federal response. For years now, my office and various agencies such as the Federal Bureau of Investigation (FBI), Drug Enforcement Administration, Internal Revenue Service (IRS), and Department of Health and Human Services have worked with state and local agencies to investigate allegations that crimes such as sexual exploitation of children, fraud, structuring financial transactions to avoid Bank Secrecy Act reporting requirements, drug trafficking, and violent crimes were

being committed by members of various polygamist groups in Utah. In fact, a large reason why several states and even other countries have confronted the issues surrounding polygamist communities is because of the great investigative and prosecutive efforts in Utah.

The aggressive prosecutions by the Utah Attorney General's Office, various county attorney offices, and the U.S. Attorney's Office have pushed some members of polygamist groups from Utah to other states and countries, resulting in Utah's inter-state coordination efforts.

Let me now speak to how the existing coordinated efforts have been successful. It is public knowledge that there are ongoing federal investigations involving potential federal criminal activity at polygamist communities. On April 10, 2008, the FBI and the United States Attorney's Office for the Northern District of Texas announced that a federal search warrant had been executed at the YFZ Ranch in Eldorado, Texas. At that time, they also stated that the application and affidavit were under seal, and that no further comment could be made because of the pending investigation. I understand that the investigation may be of interest at this hearing, but I am unable to discuss it as the investigation is still pending.

But I can assure the Committee that other federal efforts are ongoing. Without going into the details of non-public past or present investigations, such efforts have involved the full cooperation, coordination, and communication of multiple federal, State, and local agencies, including, but not limited to, the FBI in Utah, Nevada, and Dallas, Texas, the Arizona Attorney General's Office, the Utah Attorney General's Office, the United States Attorney's Offices in Arizona, Utah, Nevada, and the Northern District of Texas, county authorities from Mohave County, Arizona and Washington County, Utah, and other federal agencies such as IRS Criminal Investigations and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Just recently, on June 11, 2008, I personally met with many high-level State and federal law enforcement officials from Utah, Arizona, Texas, and Nevada to discuss these issues. United States Attorneys from throughout the country were present. The group agreed that the federal, State, and local prosecuting and investigating agencies have a proven and effective working relationship, but that we can do a better job of sharing information.

We shared a lot of information at the meeting and have continued to do so since. The group has been communicating by email, and a Special Interest Group on Law Enforcement On-Line and a central database for information sharing have been created. We have already experienced and expect to continue to experience great results from these new avenues of communication.

In addition to this, for example, the United States Attorney's Office in Arizona sent a prosecutor to Texas to talk with the Texas Attorney General's Office, the Texas Rangers, local sheriff's offices as well as federal law enforcement in Texas. The purpose of the meetings was to offer assistance to Texas law enforcement and to ascertain the facts as they may relate to any matters in Arizona. In addition, federal prosecutors in Arizona continue to partner with the Arizona Attorney General's Office to investigate crimes within the State.

Some have suggested creating a task force to deal specifically with these polygamist issues. With respect to crimes associated with polygamist groups, however, I believe that there is already substantial communication and coordination among federal, State, and local offices, indeed, just as much as there would be were a formal task force in place. Moreover, although task forces are an effective mechanism to combat many types of criminal conduct, they just may not be a good fit in this context. Polygamist communities are highly self-contained and insular, which makes them difficult for law enforcement to infiltrate. Moreover, whether it is due to loyalty, sincere religious belief, or coercion, their members are frequently uncooperative with law enforcement.

In large measure, when past investigations have stalled, it has been a result of these witness issues. In this context, a task force may be too blunt an instrument to accomplish an effective investigation, and subtler and more covert methods may be more profitably employed.

Let me turn now to some public cases in which federal law enforcement resources have been brought to bear on this issue. One example from the recent past is the case of Warren Jeffs, the leader of a polygamist sect in Utah.

Jeffs was charged by Utah with being an accomplice to rape, for using his religious influence over his followers to coerce a 14-year-old girl into marriage to her 19-year-old cousin. Jeffs went on the run and was missing for two years. The United States Attorney's Offices for the District of Utah and the District of Arizona brought federal "unlawful flight to avoid prosecution" (UFAP) charges, and a federal warrant was obtained. The federal UFAP statute, 18 U.S.C. § 1073, makes it a federal felony for a person to travel across State lines to avoid a State prosecution, or imprisonment after a State conviction. This statute allows a federal arrest warrant to be obtained and federal resources to be employed to capture state fugitives.

Jeffs was ultimately placed on the FBI's Ten Most Wanted Fugitives list, and, after a nationwide manhunt, he was eventually captured in Nevada and returned to face justice in Utah. He was convicted and is serving two consecutive terms of five years to life. He still faces charges in Arizona relating to the alleged arranged marriages of underage girls. After he faces State charges in Arizona, Jeffs will be returned to Utah, where he will be prosecuted by the U.S. Attorney's Office on a federal felony UFAP charge. Federal search warrants were also used to obtain evidence against Jeffs.

Another serious example occurred several years earlier in the case of Addam Swapp, his brother, Jonathan, and members of the Singer family - all members of a small polygamist clan in Utah. On January 16, 1988, they placed a bomb in a church building owned by the Church of Jesus Christ of Latter-day Saints in Marion, Utah, which exploded causing massive damage. A subsequent standoff with law enforcement authorities ended with a shootout at the family's compound on January 28, 2008.

A Utah Department of Corrections Officer, Lt. Fred House, working as a part of a federal-State law enforcement joint effort, was killed. Four family members from the Swapp/Singer families were prosecuted and convicted in Federal court on charges ranging from attempted murder of federal agents, bombing the church, and resisting arrest. Sentences ranged from 20 years to five years. John Timothy Singer and Addam Swapp were convicted of State charges arising out of the killing of the Utah corrections officer. Addam Swapp finished his federal sentence and is currently serving his State sentence.

This concludes my prepared comments. Thank you again for this opportunity to address you, and I would be happy to answer any questions you may have for me.