

SENTENCING COMMISSION MINUTES – pending approval	
Committee	Utah Victim Services Commission
Date	Wednesday, October 18th, 2023
Time	12 PM – 2 PM
Location	Hybrid Zoom Virtual meeting – Capitol Board Room 240, East Senate Building
Members Present	<p><u>Virtual Attendance:</u> Sen. Daniel Thatcher, Rep. Stephanie Pitcher, Marsha Judkins, Judge Ryan Tenney, MayKela Cox, Judge Vernice Trease, Andrew Stoddard, Liliana Olvera-Arbon, Judge Sharon Sipes</p> <p><u>In-Person Attendance:</u> Will Carlson (for Rob Van Dyke), Dan Burton (for Craig Barlow), Ryan Robinson, Chief Craig Black, Tom Ross, Brian Redd, Richard Mauro, Pam Vickrey, Brett Peterson, Scott Stephenson, Beatriz Herrera, Christina Zidow, John Mejia</p>
Staff & Visitors	<p>Staff: Marlesse Jones, Michele Leslie, Dan Strong, Danica Bodley</p> <p>Visitors: Albert Cramer (virtual), Steve Burton, Glendon Mitchell, Mark Moffat, Raechel Lizon (virtual), Melissa Stirba (virtual), Jessica Walker (virtual)</p>
Agenda Item	Welcome and Introductions – Pam Vickrey, Chair
Notes	<p>Chair Pam Vickrey brings the commission meeting into session. Pam also introduces Beatriz Herrera and Michele Leslie.</p> <p>The commission reviewed the previous meeting minutes from Wednesday, August 16th 2023.</p> <p>Motion: Will Carlson (for Rob Van Dyke) motioned for the commission to accept the minutes as presented. Tom Ross seconds the motion. The motion passes unanimously.</p>
Agenda Item	Interim Session Guidelines Proposals – Dan Strong
Notes	<p>Dan Strong presented a review of the commission and its subcommittees’ interim work reviewing DUI Homicide sentencing guidelines. The commission agreed to study this issue in response to concerns from victims and other stakeholders that the current guideline recommendations for this offense did not provide a just sentence for the offense.</p> <p>The Anomalies Subcommittee studied current and historical DUI Homicide guidelines for Utah, finding that the recommended sentence had changed a few times over the years. Originally, this offense was categorized along with all other 2nd Degree felony death offenses, starting at a four year prison recommendation and escalating from there. Then there was a period when the guidelines did not have any recommended length of stay for any 2nd Degree felony death offenses, relying instead on the board of pardons to determine length of stay purely on a case by case basis. (During this period, the average length of stay for DUI Homicide was 72 months.) Then the guidelines were revised to again make recommendations for 2F Death offenses, but DUI homicide was broken out into its own matrix category beginning at three years’ imprisonment, while other 2F death offenses began at nine years.</p> <p>The Subcommittee also reviewed peer states’ sentencing practices for DUI Homicide. There is substantial variation around the country, but two trends were evident: 1) the floor sentence is typically between 3-5 years in prison; 2) many states escalate this sentence for cases where there is a prior conviction for DUI.</p> <p>A DUI Homicide working group was formed and crafted a recommended DUI Homicide matrix, with recommended sentences ranging from 50 – 120 months. The new matrix includes special aggravating factors for prior DUI and extreme impairment, using the terms defined in state code.</p> <p>Motion: Ryan Robinson motions for the commission to adopt the proposed matrix from the DUI homicide working group presented to the commission. Will Carlson (for Rob VanDyke) seconds the motion. The motion passes with the following abstentions and oppositions.</p> <p>(2) Oppositions: Richard Mauro, John Mejia</p> <p>(2) Abstentions: Judge Ryan Tenney, Judge Sharon Sipes</p>

Form 7 “Causing a Death” Aggravating Factor

Dan presented another recommendation from interim working groups to add “causing a death” as an aggravating factor in Form 7, alongside “causing substantial injury.” This aggravating factor would only apply if causing a death was not already an element of the offense.

Motion: Brett Peterson motions to support the addition. Christina Zidow seconds the motion. The motion passes unanimously.

MayKela Cox left the meeting

Marsha Judkins joined the meeting

Tool 2B Add Ammunition

Dan presents a proposed change to Tool 2B, brought forward by Corrections/AP+P. The change would be adding ammunition to the list of public safety conditions violations on Tool 2B.

Motion: Ryan Robinson motions to adopt the proposed item. Will Carlson (for Rob VanDyke) seconds the motion. The motion passes unanimously.

Form 1 “Specific 2nds” Column for Possession of Dangerous Weapon

Dan presented another subcommittee recommendation that the Adult Guidelines subcommittee crafted last year. The recommendation is to create a new category of offense for “Specific 2nds.” The only offense in this category, at least to start with, would be 2nd Degree Felony Possession of a Dangerous Weapon by a Restricted Person. This offense category would be scored in Form 1, Column D instead of Column E.

Data to support this change include:

- Only 5% of PSI reports in 2021 involved a lead weapons offense
 - Of which only 19% were 2F offenses
- 75% of defendants with a lead weapons offense scored intensive/high risk on LSI:RNR

Motion: Ryan Robinson motions to adopt suggested change in Form 1. Will Carlson (for Rob VanDyke) seconds the motion. The motion passes with the following oppositions and abstentions.

(2) Oppositions: Marsha Judkins, John Mejia

(2) Abstentions: Judge Ryan Tenney, Judge Sharon Sipes

Ryan Robinson left the meeting

Ryan Tenney left the meeting

Jessica Walker left the meeting

Judge Sharon Sipes left the meeting

Albert Cramer joined the meeting

Tool 5 Changes to parole caps for 4+ revocations

The commission discussed a proposed change from the Board of Pardons and Parole, presented to the High Frequency Criminal Justice Involvement interim working group. The proposal would be to stop applying the parole violation caps in Tool 5 for fourth and subsequent parole violations. Data to support this proposal include that only approximately 4% of parolees have parole revoked more than three times. These are typically the same parolees that present the greatest risk of reoffending, but they may not fit cleanly into the “substantial risk to public safety” exception to the parole violation caps.

The commission discussed the change and agreed that it might make sense to do this, but more analysis was needed—particularly about whether to make a similar change to probation violations. The commission discusses holding a pending vote to hold further discussion at a later meeting.

Motion: Brian Redd motions for the commission to not take action and table the item. Chief Craig Black seconds the motion. The motion passes unanimously.

	<i>Andrew Stoddard left the meeting</i>
Agenda Item	Board of Pardons and Parole Data Report FY 2023 – Raechel Lizon
Notes	Agenda item skipped due to being over time.
Agenda Item	Sentencing Commission Procedures and Criteria for Legislative Session – Dan Strong
Notes	Agenda item skipped due to over time.
Agenda Item	Public Comment
	No public comment was made.
Agenda Item	Adjourn
Notes	<p>Motion: Tom Ross motions for the commission to adjourn. Richard Mauro seconds the motion. The motion was unanimously agreed upon.</p> <p>The commission adjourns.</p> <p>Next meeting is scheduled for Thursday, December 14th, 2023 from Noon-2 PM.</p> <p>Location: <u>Anchor Location:</u> CCJJ Offices, East Senate Building</p> <p>Zoom link: https://us02web.zoom.us/j/83805802187?pwd=aDh4RndoNjR0ZnE4SXRrTkZaRHpDUT09</p>