

SENTENCING COMMISSION MINUTES

Committee	
Utah Sentencing Commission	
Date	
Wednesday, December 3, 2014	
Time	
Noon – 2 p.m.	
Location	
Utah State Capitol, Senate Caucus Room	
Members Present	
Patrick Corum for Patrick Anderson, Shima Baradaran, Craig Barlow, David Brickey, Susan Burke, Darin Carver, Mike Haddon for Rollin Cook, Sen. Gene Davis, Al Emery, Jesse Gallegos, Ron Gordon, Rachelle Hill, Judge Scott Johansen, Judge Thomas Low, Judge Julie Lund, Richard Mauro, Chris Roach, Rep. Jennifer Seelig, Senator Dan Thatcher, Judge Vernice Trease, Pam Vickrey, Carlene Walker, Christina Zidow	
Members Excused	
Chief Craig Black, Paul Boyden, Judge Janice Frost, Rep. Richard Greenwood, Judge Gregory Orme, Sheriff James Winder	
Staff & Visitors	
Staff: Jo Lynn Kruse, Jennifer Valencia, David Walsh, Doreen Weyland Visitors: Susan Allred, Jean Hill, Sheriff James Tracy, Rick Schwermer	
Agenda Item	
Welcome - Approval of Minutes	
Notes	<p>Carlene Walker called the meeting to order and welcomed everyone. Rich Mauro made the motion to approve the October minutes. Rachelle Hill seconded the motion which passed unanimously.</p> <p>Carlene welcomed and introduced new members Shima Baradaran and Judge Julie Lund.</p> <p>Carlene recognized four members that have expired terms and thanked them for their years of service : Rep. Greenwood (2011-2014), Judge Janice Frost (2010-2014), Rep. Jennifer Seelig (2009 – 2014) , and Sheriff Winder (2011-2014).</p>
Agenda Item	
Observations/Takeaways from Board of Pardons Hearings and Prison Tour (tape 9:00)	
Notes	<p>Carlene opened discussion with her observations from the tour, indicating that society has some deep rooted family and intergenerational problems that feed our prison system. Many of the cases heard that day involved child abuse, familial drug abuse, and gangs. Carlene noted two quotes from two different inmates, with one saying he was afraid to get out of prison and has nothing on the street. The other prisoner said he had been in prison for 13 years, was scared to get out, and was more comfortable in prison than out. Their comments go along with our goals of how to transition these people out of prison, so they can become productive members of society again and not just continue the revolving door at the prison.</p> <p>Carlene and Jennifer stayed the full day and were permitted to interview a couple female inmates in the Excell Program. The women mentioned that the halfway house was right in the middle of a drug infested area of town and wish it could be relocated. They also talked about their hopes of having a mentoring program. And lastly, Carlene expressed interest in speaking to parolees to ask them what would help them be successful on the outside. Thanks to all who were able to attend.</p>
Agenda Item	
Proposed Revisions to Juvenile Guidelines (tape 17:00)	
Notes	<p>Jennifer presented the revisions made to the prefatory language to the juvenile guidelines. Several months ago several subgroups were formed, one to address the prefatory language, one to address the aggravating and mitigating factors and another to address sex offenders. Those three groups have been independently developing recommendations that will be incorporated into the full subcommittee as soon as there is consensus on the recommendations. Please review the material and send any input, corrections or changes to Jennifer Valencia before the next meeting in January. A vote will be taken at that time.</p> <p>The sex offender review group is still meeting and it may be some months before they have a proposal. The aggravating and mitigating factors group is reviewing the Florida matrix. Susan Burke discussed the Florida matrix which is based on the premise of kids that have a higher risk to reoffend needing more supervision. The goal is to focus resources on the appropriate youth, for the appropriate type of intensity for supervision and treatment needs.</p> <p>Our current juvenile and sentencing guidelines don't take into consideration when a youth decreases their level of risk. The committee is considering using the Florida model.</p>
Agenda Item	
Brief Review of Screened Legislation by Anomalies Subcommittee (tape 24:00)	
Notes	<p>Paul Boyden is not here today so Jennifer led discussion on legislation. It was agreed at our last meeting that the anomalies subcommittee would serve as a screening subcommittee for pending legislative proposals. The three discussed today are:</p> <ul style="list-style-type: none"> • Death Penalty Procedure Amendments- the bill modifies the Utah Code of Criminal Procedure regarding the execution of the death penalty, which provides that if substances are not reasonably

	<p>available to carry out the death penalty by lethal injection on the date specified by warrant, the death penalty shall be carried out by firing squad. The subcommittee recommends the Commission take no position.</p> <ul style="list-style-type: none"> • Sex and Kidnap Offender Registry amendments – to be sponsored by Rep. Draxler. We anticipate supporting this legislation, as it is largely administrative clarification amendments which Jim Ingle at AP&P has suggested. • Acceptance of Plea of Guilty to Domestic Violence Related Charges – Restrictions. The subcommittee discussed the two drafts and voted to support the original draft, but not the revised draft. A fiscal note would likely be attached to the revised draft and there is no consensus regarding the type of treatment or intervention which is effective at reducing recidivism within the domestic violence context at this point. Rob Butters at the University of Utah Criminal Justice Center is conducting an ongoing study and Jennifer can forward his most recent presentation regarding this issue if interested.
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Agenda Item	CCJJ Justice Reinvestment Initiative Report (tape 29:30)
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Notes	<p>Ron Gordon reported that Utah’s prison population grew by 18% in the last decade. Without reform, it is projected to grow an additional 37% in the next 20 years, requiring an additional 2,700 prison beds. CCJJ members split into three subgroups (Sentencing, Release, and Supervision & Treatment) in order to study detailed analysis and discuss specific issues. The JRI Report has 18 recommendations:</p> <ol style="list-style-type: none"> 1. Revise drug penalties to target chronic felony offenders and drug dealers who sell in the presence of minors and where minors are likely to be. 2. Revise criminal history scoring to avoid double-counting and limit factors to those most relevant to the risk of re-offense. 3. Revise Sentencing Guidelines for certain lower-level crimes. 4. Establish formal graduated revocation caps for technical probation revocations. 5. Establish formal graduated revocation caps for technical parole revocations. 6. Establish a system of earned time credits offered by the Board 7. Implement a graduated sanctions and incentives matrix 8. Establish a system of earned compliance credits on supervision 9. Expand treatment services 10. Establish treatment standards and certification 11. Establish standards for recovery and reentry support programs 12. Enhance transition planning, supports, and services for offenders returning to their communities 13. Reclassify moving vehicle misdemeanors in order to focus jail resources on higher-level offenders and relieve undue burdens on localities 14. Establish evidence-based jail treatment standards 15. Establish a county performance-incentive grant program 16. Provide better support to victims of crime 17. Provide enhanced training for decision makers and community supervision officers 18. Require collection and reporting of key performance measures and establish oversight. <p>The recommendation to change penalties for drug crimes is getting the most attention. We are hopeful this will be one bill. The sponsors are Rep. Hutchings and Rep. Adams (both are on the CCJJ Commission). Another key component for the bill is funding.</p> <p>Susan Burke made the motion to overall support the recommendations from the JRI report. Richard Mauro seconded the motion which passed, with David Brickey and Judge Johansen voting no.</p>
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Agenda Item	Incorporating the JRI Recommendations into Ongoing Subcommittees (tape 1:15)
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Notes	<p>Jennifer gave a PowerPoint presentation “Evidence-Based Sentencing, <i>Incorporating Principles of Effective Intervention into Sentencing, Supervision & Treatment</i>”.</p> <ul style="list-style-type: none"> • There are three major goals: Risk Management (accountability, Incapacitation, Punishment), Risk Reduction (recidivism) and Restoration/Restitution, all three are legitimate goals. • The Process – should be swift, certain, consistent, proportionate and fair • The Tools – policies, grids and guidelines and a graduated continuum of rewards, incentives, services and sanctions <p>Public perception shows 89% believe substance abuse causes crime, whereas Gendreau’s Risk Factors Ranking (taken directly from the LSI-R) rates Antisocial Supports, Antisocial Cognitions and Antisocial Personality as number one, two and three. Substance abuse is not in the top 4. We can’t continue to assume that treating substance abuse alone is enough. The LSI-R is a validated tool. Validated tools are based on meta-analytic data. This is not just one expert opinion. It is expert opinion that has been subjected to rigorous testing over the course of the past 20-30 years. This is the top of the pyramid in terms of the level of confidence in the results. Multiple validated tools exist, most of which have been in existence for almost 20 years now. All of those tools focus on the 8 dynamic factors in addition to criminal history. Criminal history does not change, but is still a major indicator of the likelihood of future criminal behavior. Criminal history will continue to be addressed in forms 1, 3 and 5 of the guidelines. There is still a question of how to address the 8 dynamic factors in a more structured fashion. AP&P</p>
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	<p>currently administers the LSI-R and prepares a Pre-Sentence Report which includes the 8 dynamic factors. However, there is still a disconnect between the LSI-R/PSR and the terms of probation, supervision and treatment that are ordered and implemented.</p> <p>Jennifer has proposed that we consider a two-step process where the 8 dynamic factors would be addressed in a second grid form. For instance, after the initial incarceration decision is made based on forms 1, 3 and 5, which are based on the degree of the crime and the criminal history of the offender, the Criminogenic Risk Reduction Form would be a second form to tailor the supervision level and the treatment level according the appropriate risk and needs level of the offender based on the LSI-R results. That form would then tie directly into the Incentives and Response Matrix. Primary colors illustrate the “dynamic factors,” which are capable of change; and the pastel colors illustrate potential barriers, also known as “responsivity factors.” Responsivity factors should not drive incarceration decisions or be used in a punitive fashion. They should be used only to tailor supervision and treatment appropriately to the offender.</p> <p>Jennifer presented several slides detailing what criminogenic EBP is, including:</p> <ul style="list-style-type: none"> • What a Criminogenic EBP treatment session looks like; • What is not Crimminogenic EBP • Criminogenic EBP uses ‘Cognitive Behavioral Therapy’ • Criminogenic EBP does not include low risk offenders • Criminogenic EBP targets 4+ needs • Criminogenic EBP should be used in the prison, but is more effective in the community <p>If anyone has input, comments or concerns, alternative proposals, etc. please contact Jennifer as we want to develop a document that incorporates the research and is also in a usable, understandable, workable format for use by both judges and AP&P. This document was developed based on the overall Comprehensive Strategy document developed by Darin Carver and incorporated into a format similar to the Napa County document discussed at our last meeting.</p> <p>Guidelines Subcommittee – Nothing scheduled currently AP&P Matrix Subcommittee – Next meeting on December 19 at noon Justice Court (misdemeanor guidelines) – Next meeting on December 17 at 9 a.m.</p>
Next Meeting	The next meeting will be on January 7, 2015, Utah State Capitol Bldg, Senate Caucus Room

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ