

SENTENCING COMMISSION MINUTES

Committee	Utah Sentencing Commission – Annual Meeting
Date	Wednesday, April 2, 2014
Time	8 a.m. – 4 p.m.
Location	Utah State Capitol, Senate Caucus Room
Members Present	Patrick Anderson, Craig Barlow, Chief Craig Black, Paul Boyden, David Brickey, Darin Carver, Rollin Cook, Senator Gene Davis, Al Emery, Judge Janice Frost, Jesse Gallegos, Ron Gordon, Rachele Hill, Judge Scott Johansen, Judge Thomas Low, Richard Mauro, Judge Gregory Orme, Chris Roach, Rep. Jennifer Seelig, Senator Dan Thatcher, Judge Vernice Trease, Bill Russell for Pam Vickrey, Carlene Walker, Christina Zidow
Members Excused	Rep. Richard Greenwood, Sheriff James Winder
Staff & Visitors	Staff: Jo Lynn Kruse, Jennifer Valencia, David Walsh Visitors: Susan Allred, Julie Christenson, Marlene Gonzalez, Mike Haddon, Audrey Hickert, Glen Collett, Geri Miller-Fox, Mark Moffat, Debra Moore, Sy Snarr
Agenda Item	Welcome and Approval of Minutes, Review of by-laws, Commission Elections
Notes	<p>Carlene Walker called the meeting to order and welcomed everyone. Carlene introduced new members Darin Carver (Adult Treatment), Rachele Hill (Victims' Representative), Judge Johansen (Juvenile Judge), Richard Mauro (Utah Federal Defenders), Chris Roach (JJS), Judge Trease, (District Court Judge), Pam Vickrey (Utah State Bar, in absentia) and Christina Zidow (Juvenile Treatment).</p> <p>Patrick Anderson made a motion to approve the January minutes. Al Emery seconded the motion which passed unanimously.</p> <p>Carlene Walker reviewed the by-laws, which were approved in June 2012.</p> <p>Jennifer opened the floor for nominations for Chair. Jennifer made the motion to nominate Carlene Walker continue serving as Chair. Judge Frost seconded the motion, which passed unanimously. Jennifer then accepted nominations for Vice Chair. Carlene Walker made the motion to nominate Paul Boyden continue serving as Vice Chair. Judge Trease seconded the motion which passed unanimously.</p>
Agenda Item	Governor's Directive & Public Hearing Notice (tape 46:00 part 1)
Notes	<p>In the governor's January 29th, 2014, State of the State address, Governor Herbert stated, "Addressing population growth also involves improving our criminal justice system and providing structure for individuals to become productive members of society. There has been a great deal of discussion about relocating the state prison. This is a discussion worth having, but must be done in the larger context of reforming our criminal justice system as a whole."</p> <p>The Governor asked for a full review of our current system to develop a plan to reduce recidivism, maximize offenders' success in becoming law-abiding citizens, and provide judges with the tools they need to accomplish these goals.</p> <p>CCJJ Executive Director, Ronald B. Gordon, scheduled public hearings at various locations throughout the state, to allow interested parties to share ideas for criminal justice policy changes that should be considered by the Commission as a follow-up to Governor Herbert's charge for reform given during his 2014 State of the State address. The notice was distributed previously and commission members were reminded of the upcoming dates.</p>
Agenda Item	Legislative Update and Discussion (tape 51:00)
Notes	Jennifer reviewed the sentencing related legislative changes that took place this year. The summary

	<p>includes all the bills that passed this legislative session on which the Commission took a position. A document will be posted on the Sentencing Commission website with those bills relevant to sentencing. Five bills originated from the Commission this year:</p> <ol style="list-style-type: none"> 1. HB 290 Criminal Code – General Provisions 2. HB 308 Criminal Penalty Amendments 3. SB 205 Controlled Substance Penalty Enhancements - This bill provides that increased penalties for the possession of a controlled substance in certain circumstances may not result in an offense greater than a second degree felony. 4. HB 11 Overdose Reporting Amendments 5. HB 119S01 Opiate Overdose Emergency Treatment <p>Additional bills discussed included:</p> <p>HB 48 Reports on Alternative Sentencing HB 71S01 Distribution of Intimate Images [new 3rd Degree Felony and Class A Misdemeanor] HB 157S01 Rape Kit Amendments HB 411 Victim Restitution Amendment SB 36S05 Voter Information Amendments [New Class B Misdemeanor & fine] HB 53 Restitution Amendments HB 185 Juvenile Detention Facility Amendments HB 254S01 Human Trafficking Victim Amendments HB 257 Aggravated Sexual Abuse of Child Amendments SB 88S01 Child Interview Amendments [New Class B Misdemeanor for Distribution, Release or Display] HB 30 Controlled Substance Amendments [New Class B Misdemeanor for 6 new analogs] SB 13 Theft Amendments [Reduced some 3rd Degree Felonies to Class A Misdemeanors: 3rd in 10 is Class A] HB 15 Driver License Suspension Amendments HB 137S01 Amendment to Driver License Sanctions for Alcohol Related Offense SB 226 Professional Licensing Amendments HB 213S01 Criminal Penalties for Sexual Contact with a Student [New 3rd Degree Felony] HB 268S02 Dangerous Weapon Amendments [Removes a 3rd Degree Felony & Class A Misdemeanor] HB 392S01 Delegate Responsibility Amendments [New 3rd Degree Felony] SB 212 Invasive Species Amendment [New Class B Misdemeanor] HB 68S01 Protection of State Park Resources [New 3rd Degree Felony, Class A & fine of up to 3x damage] HB 101 Roadway & Sidewalk Safety Amendments [New Class C Misdemeanor] HB 105S09 Plant Extract Amendments [Removed Class B Misdemeanor] SB 253S01 Distracted Driver Amendments [Expanded definition but reduced fine from \$200 to \$100] HB 277 Music Therapist Licensure Amendments [New Class B Misdemeanor] SB 87 Contractor Employee Amendments [New Class A Misdemeanor & fines \$50,\$100,\$500] SB 137S01 Health Care Professionals Truth in Advertising [New Class A Misdemeanor & fines \$1,000/\$2,000] HB 200 Unlawful Removal or Vandalism of Campaign Signs [New Class B Misdemeanor] HB 390 Unlawful Activities Amendments [New Class A Misdemeanor] HB 394S01 Campaign Finance Revisions [New Class B Misdemeanor & \$100 fine] HB 414S01 Legislative Subpoena Amendments [New Class A Misdemeanor & \$1,000 fine]</p>
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Agenda Item	Shifting Our Philosophical Approach (tape Part 2)
Notes	<p>Jennifer began her presentation with a “Moneyball” metaphor. Moneyball is using statistics and data to drive decision-making, and not relying on gut instinct alone. Jennifer related how Moneyball relates to sentencing.</p> <p>First we want logic-based sentences. Building another prison is not the answer, even if we had the money, building another prison would not solve the problem we face. The problem we face is achieving genuine public safety and not artificial results. Research has repeatedly shown that prison is effective for punishment and incapacitation; however, it is not the best place for rehabilitation of all</p>

	<p>offenders.</p> <p>There is still some misunderstanding about what Evidence-Based Practice is (EBP). Utah’s domestic violence murder rates and domestic violence abuse rates are higher than the national average and climbing. We cannot simply use EBP as a “buzz word”. The four key components of EBP are Risk, Need, Responsivity and Fidelity. We are still in the early stages of knowing how to implement EBP effectively and have a number of different sources of assistance: PEW, U of U Criminal Justice Center, NADCP Annals of Research & Knowledge, other states, and the National Institute of Corrections.</p> <p>We don’t need all the answers today, but do need to be on the same page philosophically. Recidivism through EBP will be our filter. Other priorities include: Deciding on subcommittees and working groups and the next meeting date for subcommittees and working groups. The Sentencing Commission Executive Committee will attend CCJJ meetings to learn of the PEW results. Jennifer will email this PowerPoint presentation to the Commission.</p>
Agenda Item	PEW Public Safety Performance Project (tape 35:00 part 2)
Notes	<p>Ron Gordon announced that Governor Herbert has instructed CCJJ to be the hub for the <i>Justice Reinvestment Initiative</i> evaluation effort. The PEW Charitable Trust has agreed to help us. Our task is to determine incarceration trends in length of stay and redirect criminal justice resources to get better results and a better return on our investment. This is not a budget reducing effort, but rather an effort to redirect resources and spend what we have more wisely. PEW is collecting data from the Utah justice system and will make a preliminary presentation to CCJJ on April 10. PEW will return toward the end of April or beginning of May and will give an intensive presentation. By June, we expect to have subcommittees established that will begin looking at specific policy areas. The idea is to have specific recommendations to deliver to the legislature by November’s Legislative Interim Day. CCJJ will start meeting every month instead of every other month, and include additional subcommittee meetings as needed to accomplish the task.</p>
Agenda Item	2013 Sentencing & Length of Stay Data (tape 52:00 part 2)
Notes	<p>Mike Haddon and Julie Christenson presented information about the driving factors in sentencing, length of stay and admission populations for the Department of Corrections for 2013.</p> <p>This year we hit an historic high in population, yet Utah’s rate is half the national rate of incarceration. One third of our prison population is sex offenders (which is an anomaly in that most states are much lower). This does not necessarily mean there actually are more rapes committed in Utah; it could be that our state reports more than others. Rape is a much underreported crime. Thirteen percent of inmates are comprised of drug and alcohol offenses. Both those categories could be singled out for reform, as well as property crimes.</p> <p>Sex Offender Convictions to Prison versus Probation 1988 – 2013 shows a marked increase in sex offenders going to prison since 1996 when mandatory minimums were removed.</p> <p>The presentation moved on to show statistics on the following:</p> <ul style="list-style-type: none"> • Percent of Sex Offenders to Prison versus Probation by Degree • Sex Offender Growth in Prison Compared to Treatment Funding 1980 – 2013 (1996 was the last year of additional general fund allocation for treatment funding increases to address growth, in the meantime the sex offender population has increased every year). • Total Felony Drug Admissions to Prison (was at 92 in 1988 to an all-time high of 961 in 2004). • Felony Drug Admissions to Prison by Degree • Felony Probation (showing a net growth equaling 257 per year). • Murder (by degree) Length of Stay (LOS) • Sex Offenders (by degree) LOS • Person Crimes (by degree) LOS • Drug Crimes (by degree) LOS • Parole Violator LOS • Probation Violations/Conditions versus New Commitment 1988 – 2013 (probation violations with no new crime has increased greatly over probation violations with an additional new

	crime)
Agenda Item	Juvenile Parole Guidelines, Length of Stay Data & Issues (tape part 3)
Notes	<p>Chris Roach, Deputy Director of Juvenile Justice Services, gave a presentation on Utah's Juvenile Justice Services <i>Length of Stay, Outcome Measures and Risk Level</i>.</p> <p>Chris displayed a map of Utah by county with locations of Utah's detention facilities and average lengths of stay (days). The total LOS averaged 9. Another map showed locations of Utah's O & A (Observation and Assessment) facilities and average lengths of stay (days) with a total LOS average of 43. A third map showed locations of Utah's secure care facilities and average LOS (days), with a total LOS average of 295.</p> <p>Case Planning – Youth coming out of secure care are tracked for one year. Currently, 97.9% of youth have a case plan in place. Case plans with Dynamic Risk by Domain include: Skills, Attitudes/Behaviors, Alcohol/Drugs, Relationships, School, Current Living, Mental Health and Use of Free Time, and how frequently those are being identified as needs. Risk Factors need to be dynamic, meaning they can change and need to be identified. They need to be things that are directly related to the criminal behavior and behavior that we can show.</p> <p>Length of Stay Research Study - A Cooperative study between JJS and UCJC is being done and the title of the study is <i>Evaluation of Factors Predicting and Relating to Length of Stay in Utah's Juvenile Justice Services Secure Care</i>. Part One: A Quantitative analysis of possible predictors of LOS at both the individual in system level and Part Two: A qualitative analysis of data collected from case managers, facility staff and youth parole authority members.</p> <p>Chris also showed forms used by the Youth Parole Authority for delinquency history, guideline matrix, and aggravating and mitigating circumstances. Chris recommends looking at their annual report online at http://www.jjs.utah.gov/services.htm</p>
Agenda Item	Recognition of Departing Commission Members
Notes	Marlene Gonzalez, Mark Moffat and Sy Snarr were recognized for their years of service on the Sentencing Commission. Marlene as Ethnic Representative, Mark as Juvenile Defense Attorney and Sy as Victim's Representative. Thank you for your dedication and service.
Agenda Item	AP&P Subcommittee Report (tape part 4)
Notes	<p>Geri Miller-Fox reported that this subcommittee was formed as the result of a Legislative Audit of the Department of Corrections (DOC) and the recommendations from that audit. The first set of recommendations had to do with EBP and the second set dealt with a violations rewards matrix. This group started meeting in November of 2013 and has been meeting about every three weeks. Debra Moore talked about the recommendations and guidelines set up by the subcommittee. Those attending are these meetings are: Ron Gordon, Clark Harms, Audrey Hickert, Judge Thomas Low, Judge Paul Maughan, Geri Miller-Fox, Debra Moore, Dr. Ben Peterson, Kort Prince, London Stromberg, Jennifer Valencia, and Erin Becker Worwood. The group would like to add an additional member to represent treatment and also someone representing the county.</p> <p>Work on a matrix has begun and they are working on the rewards side first. They have developed a continuum of graduated responses and then turned their focus to the sanctions side. They are in process of meeting to bring a draft to the committee. There are currently three different drafts being worked on.</p>
Agenda Item	Report on Status of Active & Dormant Subcommittees (tape 10:22 part 4)
Notes	<p>Juvenile Subcommittee Juvenile Guidelines Subcommittee Juveniles Charged & Tried as Adults Working Group</p> <p>All three committees are currently inactive. David Brickey made the motion to combine these three to make one Juvenile Subcommittee. Jesse Gallegos seconded the motion which passed unanimously.</p>

Goals: To address the revision of the Juvenile Sentencing Guidelines and alternatives for sentencing youth offenders up to age 25 (including blended sentences and other alternatives).

Members: Patrick Anderson, Paul Boyden, David Brickey, Darin Carver, Judge Frost, Reg Garff, Ron Gordon, Judge Johansen, Richard Mauro, Chris Roach (chair), Jennifer Valencia, Pam Vickrey, Carlene Walker, Christina Zidow.

Justice Courts Subcommittee - Currently inactive. Judge Orme made the **motion** to reactivate the Justice Court Subcommittee. Ron Gordon **seconded** the motion which **passed unanimously**.

Goals: To address the incorporation of evidence-based practices and/or best practices in the justice courts and the accreditation and/or licensing requirements for treatment providers operating with justice courts.

Members: Ron Gordon, Rachelle Hill, Richard Mauro, Judge McCullough, Judge Orme, Rick Schwermer, Senator Thatcher (chair), Jennifer Valencia, Carlene Walker.

Anomalies Subcommittee – Currently inactive. Patrick Anderson made the **motion** to call the anomalies subcommittee inactive/to meet as needed. Paul Boyden **seconded** the motion which **passed unanimously**.

Goals: To address statutory changes, both anomalies as well as statutory changes needed to address EBP in sentencing. Potential issues to be addressed include: double enhancements, drug free zones, stolen property database, human trafficking amendments, rape kit processing issues, and collateral consequences of convictions.

Members: Patrick Anderson (co-chair), Paul Boyden (co-chair), Jesse Gallegos, Ron Gordon, James Swink, Senator Thatcher, Jennifer Valencia, Carlene Walker.

Guidelines Subcommittee – Currently inactive. David Brickey made the **motion** to activate the guidelines subcommittee. Christina Zidow **seconded** the motion which **passed unanimously**.

Goals: To address revision of the Sentencing Guidelines philosophical approach, the incorporation of evidence based practices into the Guidelines, and to incorporate recent legislative amendments.

Members: Darin Carver, Rollin Cook, Jesse Gallegos (chair), Ron Gordon, Richard Mauro, Carlene Walker, Christina Zidow.

Best Practice Subcommittee – Incorporate into the Justice Courts Subcommittee.

Interstate Compact Council – Active. The next meeting is May 7, 2014 at 2 p.m.

Mental Health Initiative – Inactive. Coordinate all treatment with USAAV. Remain inactive.

AP&P Guidelines/Matrix Working Group – Active.

Goals: To develop a Guideline and/or Matrix for use by AP&P in order to implement an evidence-based approach to probation violations, rewards, and sanctions.

Members: Ron Gordon, Clark Harms, Audrey Hickert, Judge Low, Gerri Miller-Fox, Judge Maughan, Debra Moore, Dr. Ben Peterson, Carlene Walker, Christina Zidow. (Geri Miller-Fox and Debra Moore, chairs)

Agenda Item	Overview of What 'Evidence Based Practices' Means
Notes	Dr. Peterson is out sick today and could not present.
Agenda Item	Research Report on Resources & Current Projects at CJC (tape 47:23 part 4)

Notes	Audrey Hickert, Research Assistant Professor with the Utah Criminal Justice Center, reviewed a list of UCJC projects. Full reports of ten of those projects are available at the UCJC website: http://ucjc.utah.edu/ .
Agenda Item	Interim Study Items (from Legislative Session)
Notes	There are numerous items suggested for study from the 2013 agenda, legislators, members, the general public and from the Master Study Resolution SJR20. The Sentencing Commission is going to be very busy this year with the Governor's request. If you have further suggestions for study, please contact Carlene or Jennifer. The sentencing executive committee (Carlene, Jennifer, Patrick and Paul) will attend the CCJJ meetings to learn about the PEW research results and report back to the Commission.
Next Meeting	The next meeting will be on June 4, 2014, Utah State Capitol Bldg., Senate Caucus Room

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ