

SENTENCING COMMISSION MINUTES

Committee	
Utah Sentencing Commission	
Date	
Wednesday, August 7, 2013	
Time	
Noon – 1:30 p.m.	
Location	
Utah State Capitol, Senate Caucus Room	
Members Present	
Judge Kevin Allen, Patrick Anderson, Craig Barlow, Craig Black, Paul Boyden, David Brickey, Susan Burke, Mike Haddon for Rollin Cook, Senator Gene Davis, Al Emery, Judge Janice Frost, Jesse Gallegos, Ron Gordon, Judge Thomas Low, Mark Moffat, Judge Ric Oddone, Sy Snarr, Senator Dan Thatcher, Carlene Walker	
Members Excused	
Marlene Gonzalez, Rep. Richard Greenwood, Benjamin McMurray, Judge Gregory Orme, Rep. Jennifer Seelig, Sheriff James Winder	
Staff & Visitors	
Staff: Jo Lynn Kruse, Jacey Skinner Visitors: Susan Allred, Clark Harms	
Agenda Item	
Welcome and Approval of Minutes	
Notes	
<p>Carlene Walker called the meeting to order and welcomed everyone. Judge Oddone made the motion to approve the June minutes. Mark Moffat seconded the motion which passed unanimously. Carlene introduced new member Al Emery, Chair of the Youth Parole Authority. Al replaces Deween Durrant.</p> <p>The newest version of Adult Sentencing Guidelines was distributed.</p>	
Agenda Item	
Board of Pardons and Parole Guideline Use	
Notes	
<p>Clark Harms and Jesse Gallegos explained how the Board of Pardons (BOP) uses the guidelines and the <i>Rationale for Decision</i> form in today's hand-outs and fielded many questions from the Commission. The BOP figures sentences for all new commitments. There are two case analysts that do nothing but calculate guidelines for everyone in the prison and make sure that the Board has all the information needed to determine sentences.</p> <p>The original pre-sentence investigator cannot accurately figure out consecutive and concurrent guidelines because the original pre-sentence report writer doesn't know whether or not the court is going to impose consecutive or concurrent sentencing, or if there are other cases that will be considered. As a result, the guideline calculation in the pre-sentence investigation report is often understated. Once the Board has received the guidelines, an initial parole hearing is scheduled. After the hearing, which could be many years after they are placed in the custody of the Department of Corrections, the Board deliberates and a majority decision of at least three people on the Board determines the length of stay.</p> <p>The first step is to review the guidelines and look at the nature of the convictions. The second step is to utilize the rationale sheet. The rationale sheet is used heavily in deciding if a sentence is at, below, or above the guideline and is something that the BOP can give the offender so that he/she has some understanding of how the Board came to their decision. If there is more than one case, the Board calculates guidelines for each case. The guidelines tell the Board to start with the most serious offense first.</p> <p>Prison sentences in Utah are indeterminate, meaning that imposed sentences are for a specified range of time, including a minimum and maximum time frame. The Legislature specifies the elements of, level of severity of, and applicable sentence for, each crime. When a sentencing court imposes a prison sentence following conviction, the court imposes the applicable indeterminate sentence. Currently, the typical indeterminate sentences in Utah are: 0-5 years for 3rd Degree Felonies; 1-15 years for 2nd Degree Felonies; and 5-Life for 1st Degree felonies. First degree felonies may carry a minimum sentence of between 3 and 25 years, depending upon the specific crime of conviction and applicable sentencing enhancements imposed by the court.</p> <p>Once a person is sentenced to prison for the commission of a felony or Class A misdemeanor, the Board of Pardons and Parole has jurisdiction over that individual. When a person is sent to prison in Utah, the offender must serve the entire sentence imposed unless the Board acts to release the offender prior to the expiration of the sentence.</p> <p>Jacey noted that the Sentencing Commission recently added the following paragraph to page one of the Sentencing Guidelines Introduction:</p> <p style="text-align: center;"><i>It is important to note that these are guidelines only. They are intended to inform the sentencing authority, but do not dictate their decision. They do not create any right, expectation, or liberty interest on behalf of the offender. The calculated matrix recommendation on the Forms creates a starting point and reflects a recommendation for a typical case. However, aggravating and mitigating circumstances are taken into</i></p>	

	<p><i>consideration by both the sentencing judge and the Board of Pardons and Parole in making their final decisions.</i></p> <p>In addition, on page fifteen of the guidelines, the following was added: “This list of aggravating and mitigating factors is non-exhaustive and illustrative only. The weight given to each factor by the sentencing authority will vary in each case. Any one factor could outweigh some or all other factors.”</p> <p>Credit for time served is discretionary.</p>
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Agenda Item	National Trends and Sentencing Issues
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Notes	<p>Jacey and Carlene recently attended the National Association of Sentencing Commissions (NASC) in Minneapolis, MN. Jacey is the current president of the organization.</p> <p>The NASC 2013 Survey of the States asked the following questions:</p> <ul style="list-style-type: none"> • What are one or two major challenges (other than money) currently faced by your jurisdiction’s sentencing commission and/or its criminal justice system? • What has been the most significant sentencing-related criminal justice initiative that received serious consideration in your jurisdiction in the past few years? Has it been adopted? • Have there been any recent trends in your jurisdiction’s jail, prison, or community supervision populations resulting from any particular sentencing policy or incident? • In which of the following areas is your state actively working (e.g., developing or revamping policy, implementing a new program, making tweaks to an existing program, etc.)? • Is your state actively working to implement evidence-based practices in any of the following areas? • Is risk assessment information provided to judges at sentencing? • If your answer to the previous question was ‘Yes’, are judges required to consider the risk assessment information when determining an appropriate sentence? • Do community supervision providers use risk assessment to guide or inform case management? • Are risk assessment tools used by correctional officials to decide on the timing and/or the conditions of post-prison release? • Since your guidelines became effective, have there been any major changes in criminal history scoring rules? • Have there been any major changes in the impact that the criminal history score has on recommendations as to disposition (i.e., prison vs. probation) or sentence duration? • In the past 5 years, have there been any major changes in the procedures and/or sanctions (including revocation) applicable to alleged violations of probation conditions? • In the past 5 years (or since your Guidelines have become effective), have there been any major changes in the procedures and/or sanctions (including revocation) applicable to alleged violation of post-prison release conditions? <p>The following responded to the survey: Alabama, Alaska, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, New Mexico, North Carolina, New York, Oregon, Pennsylvania, Utah, U.S. Sentencing Commission, Virginia, Washington, and Washington D.C. Any percentages given are only a compilation from the responding states.</p> <p>Challenges - Increase in female population growth, dealing with directives to commissions, how to best use information that is available, supervising with fewer agents and resources, and lack of adequate data.</p> <p>Initiatives – Justice reinvestment initiatives, raising the age of criminal responsibility, juvenile life without parole, drug reform laws (Utah has more rational and responsible laws than most), “HOPE” style programs (swift, certain sanction probation program, re-establishing a Sentencing Commission and minimum mandatory penalties.</p> <p>Policy Changes and Incarceration – Change in female population and an increase in certain drug penalties increase incarceration rates. While an increase in treatment resources, possible focus on reentry, reinstatement of good time and reform of drug laws decrease incarceration rates.</p> <p>Areas of Focus – Areas of focus include Justice Reinvestment Initiative (JRI), Juvenile Life Without Parole and Racial impact statements for new or amended crimes.</p> <p>Evidence Based Practices – Bail evaluation and release, sentencing, community supervision and post-prison release supervision.</p> <p>Risk Assessments (provided to judges at sentencing) – Out of all the responses, only 4 said yes, the rest do not. Of those that do provide them to the judge, only one was required for consideration by judges.</p>
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Next Meeting	The next meeting will be on October 2, 2013, Utah State Capitol Bldg, <i>Senate Caucus Room</i>
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Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ