

SENTENCING COMMISSION MINUTES

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Committee	Utah Sentencing Commission
Date	Wednesday, June 1, 2011
Time	Noon – 2 p.m.
Location	Utah State Capitol Complex, Senate Bldg., Copper Room
Members Present	Judge Kevin Allen, Patrick Anderson, Paul Boyden, David Brickey, , Judge Janice Frost, Clark Harms for Curt Garner, Marlene Gonzalez, Ron Gordon, Rep. Richard Greenwood, Judge Thomas Low, Senator Ben McAdams, Benjamin McMurray, Mark Moffat, Judge Ric Oddone, Judge Gregory Orme, Mike Haddon for Tom Patterson, Chief Ed Rhoades, Rep. Jennifer Seelig, Sy Snarr, Doyle Talbot, Craig Barlow for Kirk Torgensen, Carlene Walker
Members Excused	Sheriff James Winder
Staff & Visitors	Staff: Dr. Ben Peterson, Jacey Skinner, David Walsh Visitors: Susan Allred, Steve Gehrke, Gary Syphus
Agenda Item	Welcome and Approval of Minutes
Notes	Carlene Walker called the meeting to order and welcomed everyone. Mark Moffat made a motion to approve the April minutes. Chief Rhoades seconded the motion which passed unanimously .
Agenda Item	Prison Emergency Release Statute
Notes	<p>Mike Haddon reviewed changes to Utah Code 64-13-38. Emergency release due to overcrowding.</p> <p>As discussed in the last meeting of the Commission, the Emergency release statute had several problems that became evident with the potential cuts the Department of Corrections was faced with last year and during the legislative session. As the prison started to hit maximum capacity, the Department was faced with more male prisoners than there were beds for, but still had a few additional female beds. The Department quickly realized that even though there was perhaps one-half of a pod available for female population, we could not put our male population within that pod. The statute refers to <i>maximum capacity</i>, but does not differentiate between male and female inmates. With the rates of the female population growth, it would possibly take a year or two to reach maximum capacity, which would be an unacceptably length of time to wait for a bed within the male population.</p> <p>The working group formed at the last meeting reported on their progress and proposed changes to the statute. The original thought of the working group studying this issue was to simply clarify this statute to indicate that maximum capacity would be separated out for males and females. However, it became apparent that there were other problems with the statute. Much of the existing statute doesn't make much sense, for instance it directs the Board of Pardons to do a release within the parameters of certain criteria, when the Board already has that authority and the statute contains reporting requirements to CCJJ but does not direct CCJJ to do anything. Additionally, while the statute directs a release after 45 consecutive days at maximum capacity, it doesn't address the ongoing population issues and the release back to maximum capacity means the release time frames begin again immediately.</p> <p>The proposal of the working group includes three definitions for capacity, Maximum Capacity, Operational Capacity and Emergency Release Capacity. The statute would authorize a release after 45 days at Emergency Release Capacity back to Operational Capacity. The intent is to prevent the prison from ever reaching Maximum Capacity. Additionally, most of the specifics and reporting requirements will be removed from the statute, allowing the Board to operate and manage the release together with the Department of Corrections according to their constitutional authority and discretion.</p> <p>David Brickey made the motion to approve the emergency release statute as presented. Sy Snarr seconded the motion, which passed unanimously.</p>

Agenda Item	Discussion-Review of the Criminal Code
Notes	<p>Over the last couple of years, we've gotten a request to review the Criminal Code to make changes to guidelines as well as other changes. Jacey has tasked the Sentencing Commission with a comprehensive review of the Criminal Code. This will be a long and involved project.</p> <p>The first thing Jacey would like members to look at is the proportionality of our penalties, catalog them and ask our anomalies committee if things are where they should be, and to look at those penalties in light of the guidelines. Because we've made very few substantive changes to the length of stay recommendations in the guidelines since their creation, the Commission will then look at the length of stay recommendations from the guidelines to determine if they reflect what the Commission intended when the guidelines were created and the current recommendations of the Commission. The Commission will also look at those also in comparison with actual length of stay and the amount of time people are actually serving on offenses, and to make sure they are where we want them to be, that they are reflecting what they actually should be. Also, the Commission will review this information to determine if our current penalty structure is meeting the needs of the existing offenses, current length of stay information, and consistent with intended penalties.</p> <p>Jacey asked for input on other items that may be in need of review as well. The following members volunteered to serve on a subcommittee to review the criminal code: Benji McMurray, Paul Boyden, Ron Gordon, David Brickey and Susan Allred and Clark Harms (Ad Hoc).</p>
Agenda Item	Legislature's Interim Study Items
Notes	<p>We reviewed and prioritized our own items for study at our annual meeting. The items that the legislature has prioritized for study during interim are: Domestic violence in the presence of a minor, jail reimbursement, the elements of domestic violence and process regarding the prosecution of domestic violence cases, removal of names from the sex and kidnap offender registry, protective orders, crimes involving sexual conduct with a student, and the release of inmates without proper identification and other certified documents. If anyone has interest or input on these items, please contact Jacey.</p>
Agenda Item	Other Items
Notes	<p>Judge Allen encouraged all interested members to attend the Mental Health Court Conference to be held in Logan, Utah the end of this month. The conference will be very worthwhile to attend. On the last day of the conference there will be a discussion on ways to implement Mental Health Court statewide.</p> <p>Sentencing Commission Field trip for June – Jacey would like to arrange a visit to sentencing court (both juvenile and district court). Jacey will pick out a Monday and email the Commission regarding the date.</p>
Next Meeting	The next meeting will be on August 3, 2011, Utah State Capitol Complex, Senate Bldg., Copper Room

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ