

SENTENCING COMMISSION MINUTES

Committee	Utah Sentencing Commission
Date	Wednesday, December 1, 2010
Time	Noon – 2p.m.
Location	Utah State Capitol, Senate Bldg., Spruce Room
Members Present	Patrick Anderson, David Brickey, Rep. Lorie Fowlke, Curt Garner, Ron Gordon, Senator Jon Greiner, Dan Maldonado, Senator Ben McAdams, Benjamin McMurray, Mark Moffat, Judge Ric Oddone, Judge Gregory Orme, Mike Haddon for Tom Patterson, Rep. Jennifer Seelig, Sy Snarr, Tom Brunner for Kirk Torgensen, Carlene Walker, Sheriff James Winder
Members Excused	Judge Kevin Allen, Paul Boyden, Judge Janice Frost, Marlene Gonzalez, Jim Marchel, Judge Paul Maughan, Kathy Reimherr, Chief Ed Rhoades, Doyle Talbot, Judge Stephen Van Dyke
Staff & Visitors	Staff: Jo Lynn Kruse, Jacey Skinner Visitors: Rep. Julie Fisher, Vince Meister, Lana Taylor, Thomas Vaughn, Keith Woodwell
Agenda Item	Welcome and Approval of Minutes
Notes	Carlene Walker called the meeting to order and welcomed everyone. Judge Oddone made a motion to approve the November minutes. Mark Moffat seconded the motion which passed unanimously .
Agenda Item	Securities Fraud
Notes	<p>Senator Ben McAdams and Keith Woodwell, Deputy Director of the Utah Department of Commerce, discussed the working draft of the Utah Uniform Securities Act Enforcement which modifies the Utah Uniform Securities Act to address enforcement.</p> <p>The bill requires consideration of certain aggravating factors in determining enforcement actions under the chapter, provides for criminal penalty enhancements for an individual who commits securities fraud and is in a position of trust in relation to their victim and securities fraud committed against a vulnerable adult, and makes technical and conforming amendments.</p> <p>The discussion centered on refining the language on the definition of “vulnerable adult” and “undue influence.” Senator McAdams thanked the Commission for their input and asked the Commission to revisit the issue in the January meeting.</p>
Agenda Item	DUI Penalties for Juveniles
Notes	<p>Jacey reviewed Senator Jenkins’ Alcohol or Drug Related Offense Amendments draft. This draft became a committee bill at the last interim committee day. A chart of Driver’s License Suspension Periods with current driver’s license suspensions and proposed changes was also discussed.</p> <p>Currently, a juvenile who is convicted of a DUI or has a not-a-drop administrative suspension will have their license suspended until they are 21 years old. This legislation’s goal is to give them an incentive to comply with the court orders to complete treatment, so they can get their license back. It is structured so that after a two year period, they can come to the court and if they have complied with all the court orders, have completed treatment, haven’t driven and have not consumed any alcohol, that the court can reinstate their license after that two year period.</p> <p>Discussion ensued regarding how two years feels like an eternity to a juvenile, and thus they have no incentive to comply with the court’s orders. Judge Oddone made the motion to support but with recommendations that the sponsor shorten the not-a-drop suspension period and address issues surrounding that administration penalty, that he shorten the suspension periods to less than 2 years and that the requirement for an affidavit from a parent or guardian be readdressed. Sy Snarr seconded the motion which passed unanimously. Jacey will convey the Commission’s concerns to Senator Jenkins and President Waddoups.</p>

Agenda Item	Vulnerable Adult Amendments
Notes	Rep. Jen Seelig and Thomas Vaughn, from Legislative Research and General Counsel, discussed the Sexual Exploitation Amendments draft. Sen. Hinkins is the sponsor of the bill and Rep. Seelig is the House sponsor. This bill amends provisions of the Utah Criminal Code relating to sexual exploitation of minors and vulnerable adults. The bill separates the provisions for sexual exploitation of a vulnerable adult from the financial exploitation of a vulnerable adult statute and moves it to the same section of the Code as sexual exploitation of a minor. The Commission recommended a change in the proposed penalty to make possession of vulnerable adult pornography a third degree felony and to make production/distribution and possession with intent to distribute vulnerable adult pornography a second degree felony.
Agenda Item	Limitation of Actions
Notes	Vince Meister, a prosecutor from the District Attorney's office, discussed offenses for which prosecution may be commenced at any time. This legislation addresses single criminal episodes in which the highest charge is a homicide or murder case. Those offenses do not have a statute of limitations and this bill addresses predicate offenses or accompanying offenses that take place in the same criminal episode. For instance, a kidnapping that took place in the course of a murder but not charged until 15 years later together with the murder charge, would be barred by the statute of limitations even though it is part of the same criminal episode as the murder. The bill proposes that the charges from the same criminal episode that are charged and tried together be exempted from the statute of limitations. The intent is to address the concerns of the victims of those crimes that are required to participate and testify at trial, and to avoid confusion of juries, who hear evidence of the crimes, must find that they occurred, but are not asked to render a verdict. The defense attorney members of the Commission expressed concern that prosecutors may attempt to charge these crimes together with a homicide, knowing that they could not prove the homicide but hoping for a conviction of the predicate offenses. David Brickey made the motion to support this legislation. Sheriff Winder seconded the motion. The motion passed with Patrick Anderson and Mark Moffat voting no and Benjamin McMurray and Curt Garner abstaining .
Agenda Item	Expungement
Notes	Lana Taylor, from the Attorney General's office, and Rep. Julie Fisher discussed the Expungement Eligibility Revisions draft. Benjamin McMurray made the motion to support the concept of this legislation with the recommendation to change the language on (b) to say: No criminal proceedings are pending in any Utah jurisdiction against the petitioner. Mark Moffat seconded the motion. The motion passed with one opposing vote from Senator Greiner.
Agenda Item	Executive Committee
Notes	Carlene Walker discussed the executive committee for the upcoming legislative session. Traditionally, the Sentencing Commission has held an executive meeting once a week with CCJJ during the legislative session to take positions on various pieces of legislation. Those attending in the past are Paul Boyden (Chair), Carlene Walker (Vice-Chair), Ron Gordon (CCJJ), Tom Patterson (DOC), Dan Maldonado (JJS) and Curt Garner (BOP). This practice will continue for the 2011 legislative session. Patrick Anderson volunteered to attend those meetings, which will start at noon on January 10, 2011. The executive committee will take positions on legislation and then send an email to the Commission and ask for additional input/feedback.
Agenda Item	Commission Priorities
Notes	We have discussed whether we should adopt some priorities from this Commission to recommend to the legislature and to the budget sub-committees regarding sentencing policy and appropriations. Commission members will let Jacey or Carlene know if they have suggestions or recommendations and the issue will be discussed at the January meeting.
Next Meeting	The next meeting will be on January 5, 2011, Utah State Capitol Complex, Senate Bldg., Spruce Room

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ