

SENTENCING COMMISSION MINUTES

Committee	Utah Sentencing Commission
Date	Wednesday, June 2, 2010
Time	Noon – 1:30 p.m.
Location	Utah State Capitol, Senate Bldg., Spruce Room
Members Present	Patrick Anderson, Paul Boyden, David Brickey, Rep. Lorie Fowlke, Dan Maldonado, Marlene Gonzalez, Ron Gordon, Senator Jon Greiner, Judge Ric Oddone, Judge Gregory K. Orme, Sy Snarr, Kirk Torgensen, Carlene Walker
Members Excused	Curt Garner, Judge Paul Maughan, Senator Ben McAdams, Benjamin McMurray, Mark Moffat, Tom Patterson, Kathy Reimherr, Chief Ed Rhoades, Representative Jennifer Seelig, Doyle Talbot, Judge Stephen Van Dyke, Sheriff James Winder
Staff	Nate Dorsey, Jo Lynn Kruse, Ben Peterson, Jacey Skinner, Gary Syphus
Visitors	Mary Hoffman, Rob Latham, Suzanne Mitchell
Agenda Item	Welcome and Approval of Minutes
Notes	The meeting was called to order by Carlene Walker. The April meeting's minutes could not be approved due to the lack of a quorum present.
Agenda Item	Report on May Interim Committee Meeting
Notes	The authorization for the Sentencing Commission is set to sunset at the end of next year. Carlene, Jacey and a few other commission members met with legislature at the last Interim Committee meeting to speak about the role and purpose of the Sentencing Commission and its membership. They asked that the legislature not only reauthorize the Commission, but to do away with the sunset requirement in the future. The committee was very complimentary of the Commission and expressed appreciation for our work. Two separate votes were taken. One to reauthorize and the other to do away with the sunset. The vote was unanimous to reauthorize. The vote to do away with the sunset passed with three dissenting votes.
Agenda Item	2010 Adult Sentencing and Release Guidelines
Notes	<p>Paul Boyden reported that the Adult Sentencing and Release Guidelines Subcommittee has decided to wait until August to present a final draft for approval. Because the basic concept behind sentencing guidelines is to structure decision making, and manslaughter cases tend to be controlled much more by the facts of the case rather than other factors, such as criminal history, the committee is working to make the coordinating crime category column more accurate.</p> <p>Jacey discussed the following changes made to the Adult Sentencing and Release Guidelines: Form 2 – change Guidelines Recommendation to Guidelines Placement Recommendation.</p> <p>Form 3 changes– added the words “except kidnapping, 76-5-301” to offenses that require registration under Utah Code Ann. § 77-27-21.5(1)(e) Aggravated kidnapping <u>should</u> may be scored on Form 1 if the offense does not involve a sexual component. <u>As a result of this study</u>, mandatory imprisonment, lifetime parole, treatment resources, and the separate guidelines matrix <u>were implemented</u>. resulted from this study.</p> <p>Corrected a few discrepancies to the Crime Column Listing (by severity): #9 is now 1st Degree Death under the General matrix #9 changed to 10, 1st Degree Person #10 changed to 11 2nd Degree Death #11 1st Degree 15 to Life, Sex Offense matrix deleted</p> <p>Changes to Form 1 General Offense Matrix: Felony offenses on the General Matrix (Form 1), which does not include sex offenses, are categorized as <u>murder</u>, death ... Offenses actually resulting in the death of the victim have been classified as <u>either murder or death</u>. Updated language was added: <u>Offenses that consist of only the possession of a controlled substance, are categorized as possession only</u>. Then, look on this list to determine whether the offense is categorized as <u>murder</u>, death, person, possession only or other.</p>

	<p>New statutes added: 76-5-112.5, Endangerment of child or elder adult – Person, <u>death</u> 76-5-302, Aggravated Kidnapping (no sexual component) – Person 76-9-301, Animal Cruelty – Other</p> <p>Jacey will check on the elder/vulnerable adult wording to see which one is more inclusive.</p>
Agenda Item	Age of Consent Laws
Notes	<p>The age of consent issue for non forcible sex offenses came up at the last legislative session. Representative Edwards presented a bill that would change the age differences that are currently in statute. The Sentencing Commission had not discussed nor had the opportunity to offer input. The policy change was significant enough that we asked Rep. Edwards and the committee to postpone action on the bill until the commission had the opportunity to study and discuss the issue over this summer. The legislature has placed this as an interim study item. Rep. Edwards was scheduled to be here today, and has been detained, so Jacey went over what the current laws are.</p> <p>The age differences in the statute have not been altered since 1998. The current state of the law is that those younger than 14 years old cannot legally consent to any sexual activity. In 2007, there was a case in Weber County, where a 13 year old and a 12 year old engaged in sexual activity and the girl became pregnant. Both were charged with rape of a child. The female said that she couldn't be a perpetrator and a victim at the same time. The Utah Supreme Court issued its decision on the case. But before the decision was issued, legislation was passed to try and address this in the offenses ineligible for diversion statute: When a person under the age of 16 is alleged to of committed any violation of 76-5(4), the court may enter a diversion in that matter if the court enters on the record its findings that the person did not use coercion or force. There is no more than a two year age difference between the participants. The court must make all these findings on the record and if it would be in the best interest of the person to grant a diversion. Note that it does not say that they consented, but rather that it is "mutually welcome activity".</p> <p>Rep. Edwards' bill proposes lowering the age range differences, changing the unlawful touching or indecent liberties statute to 4 years and changing the unlawful sexual conduct with a 16 or 17 year old from 10 years to 4 years. The Legislature asks the Sentencing Commission to evaluate the law and see if adjustments need to be made. Jacey will put together the list, from the constituent that wants the law changed, and email it to the commission for review. Rep. Edwards will be invited back for the August meeting.</p>
Agenda Item	Evidence Based Practices Seminar
Notes	<p>Ron Gordon spoke about a recent presentation from Roger Przybylski on <i>Evidence-Based Practices and Programs</i>. The CCJJ executive committee, CCJJ Staff and members of the sentencing commission were invited to attend.</p> <p>Roger spoke about the 5 principles of effective interventions, which are:</p> <ol style="list-style-type: none"> 1. Target multiple criminogenic needs (Need Principle) 2. Focus on high risk offenders (Risk Principle) (Assess offender risk and need using reliable, valid instrument. 3. Enhance offender motivation to change, use positive reinforcement 4. Use intensive, behavioral interventions 5. Match between program, staff and client (Responsivity Principle) <p>Roger noted that programs that focus on all five principles experience recidivism rates of 17%. Adherence to 3 principles results in a 26% reduction in recidivism. Adherence to 2 principles results in an 18% reduction. Adherence to only 1 principle results in a 2% reduction. Adherence to none of the principles results in recidivism increase.</p> <p>The more time devoted to conditions of probation the higher the recidivism rate, and the more time devoted to criminogenic needs the lower the recidivism rate.</p> <p>CCJJ is going to use this study to establish a grant for evidence based practices. We may partner with the DOC or Workforce Services on educational or vocational programs.</p>
Next Meeting	The next meeting will be on August 4, 2010, Utah State Capitol Complex, Senate Bldg., Spruce Room

