

# SENTENCING COMMISSION MINUTES

<b>Committee</b>	
<b>Utah Sentencing Commission</b>	
<b>Date</b>	
Wednesday, January 8, 2014	
<b>Time</b>	
Noon – 2 p.m.	
<b>Location</b>	
Utah State Capitol, Senate Caucus Room	
<b>Members Present</b>	
Patrick Corum for Patrick Anderson, Chief Craig Black, Paul Boyden, David Brickey, Susan Burke, Rollin Cook, Sen. Gene Davis, Al Emery, Jesse Gallegos, Ron Gordon, Judge Thomas Low, Judge Gregory Orme, Rep. Jennifer Seelig, Sy Snarr, Senator Dan Thatcher, Carlene Walker	
<b>Members Excused</b>	
Judge Kevin Allen, Craig Barlow, Judge Janice Frost, Marlene Gonzalez, Rep. Richard Greenwood, Benjamin McMurray, Mark Moffat, Judge Ric Oddone, Sheriff James Winder	
<b>Staff &amp; Visitors</b>	
Staff: Jo Lynn Kruse, Dr. Ben Peterson, Jennifer Valencia, David Walsh, Doreen Weyland Visitors: Susan Allred, Anna Brower, Greg Ferbrache, Mike Haddon, London Stromberg	
<b>Agenda Item</b>	
<b>Introduction of New Sentencing Commission Director</b>	
<b>Notes</b>	
Carlene Walker called the meeting to order, welcomed everyone, and introduced Jennifer Valencia, the new Sentencing Commission Director. Jennifer has worked for the Salt Lake District Attorney's Office for the past six years and worked for the Attorney General's Office for several years prior to that. She has experience in both district court and juvenile court.	
<b>Agenda Item</b>	
<b>Approval of Minutes</b> (tape 12:50)	
<b>Notes</b>	
David Brickey made the <b>motion</b> to approve the December minutes. Rollin Cook <b>seconded</b> the motion which <b>passed unanimously</b> .	
<b>Agenda Item</b>	
<b>Human Trafficking</b> (tape 13:44 )	
<b>Notes</b>	
Utah Assistant Attorney General, Greg Ferbrache, discussed the newest draft of Human Trafficking Victim Amendments. The bill amends provisions of Title 79, Chapter 10, Part 13, Prostitution. The bill provides that a child is not subject to a delinquency proceeding for prostitution unless the child has been referred to the Division of Child and Family Services (DCFS) on at least one prior occasion for an alleged act of prostitution; and makes technical changes.	
The legislation will require DCFS to keep a referral category for child prostitution, and to keep the record for law enforcement purposes. DCFS is willing to implement a mechanism necessary to assist with granting immunity to a child engaging in a first commercial sex act.	
This legislation is needed to provide immunity for those child victims who, at the time of being trafficked are committing commercial sexual offenses, taking into account that if at the time of the encounter, it is not clear that the child is being trafficked. Currently, there exists no alternate statutory guidance regarding children engaged in commercial sex, in lieu of charging the child with prostitution in a delinquency setting.	
One suggestion from The Commission was to check into the likelihood that a child may have been arrested in other states. Rep. Seelig thanked The Commission for their feedback on the legislation.	
<b>Agenda Item</b>	
<b>Drug Enhancement Language</b> (tape 52:22)	
<b>Notes</b>	
Ron Gordon discussed Utah Code Annotated 58-37-8. The issue is the enhancing of drug offenses. Ron stated that we need to decide what we don't want, which is that we don't want to see first degree felony drug possession offenses. From there, we need to decide, do we want to allow (for example) Class B misdemeanor possession to be enhanced to a third degree felony or do we want to limit all situations where possession is enhanced by two degrees.	
Paul Boyden noted that we are only talking about simple possession. There are correctional facilities issues, and having in the person's body any measurable amount of a controlled substance and the operating of a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another. Those already are not to be enhanced by being in one of these drug free zones. What we would like to do is say we are not going to enhance any simple possessions up to a first degree and that if you're talking about a Class B misdemeanor, which would be marijuana or spice, then you would only want those to go up one degree also, as long as it doesn't involve the driving issue.	
First we want to work on the policy desired and then Jennifer Valencia, Ron Gordon and Paul Boyden will work on the language. Ron added that we should base this on who we think should go to prison. Ron noted that based on what was agreed upon at the last meeting, we will move forward with the first degree felony prohibition and leave	

	<p>the rest of it for the annual meeting in April.</p> <p>Judge Low made an excellent point noting that one must have a felony charge in order to get into drug court.</p> <p>Paul Boyden and David Brickey will take the issue back to the next Statewide Association of Prosecutors (SWAP) meeting for discussion and Judge Low would like to discuss with the Judges.</p>
<b>Agenda Item</b>	<b>Probation/Parole Subcommittee Update</b> (tape 1:17)
<b>Notes</b>	No report today. This item will be moved to the annual meeting in April.
<b>Agenda Item</b>	<b>Executive Committee Legislative Session</b> (tape 1:23)
<b>Notes</b>	<p>Every year the executive committee meets on Mondays during the legislative session to discuss bills pertinent to criminal justice issues. Last year Carlene Walker, Paul Boyden and Patrick Anderson represented the Sentencing Commission. Carlene proposed the same persons to represent the Commission this year. Senator Davis made the <b>motion</b> to continue with those three attending the meetings. Judge Orme <b>seconded</b> the motion which <b>passed unanimously</b>. Ron Gordon stressed that these three will vote on behalf of the entire commission on legislative issues. Judge Orme made the <b>motion</b> to approve Carlene, Paul and Patrick having authority to vote on behalf of the entire commission. Senator Davis <b>seconded</b> the motion which <b>passed unanimously</b>.</p> <p>Doreen Weyland noted that the system for tracking legislative bills may be accessed at <a href="http://www.justice.utah.gov">www.justice.utah.gov</a>. If anyone has opposition to a bill, please offer a short explanation on the website. If there is a bill you are particularly concerned about, please contact Jennifer Valencia.</p>
<b>Next Meeting</b>	The next meeting will be the <b>Annual Meeting</b> on April 2, 2014, Utah State Capitol Bldg, <i>Senate Caucus Room</i>

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ