

SENTENCING COMMISSION

MINUTES

Committee:	SENTENCING COMMISSION MEETING
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Date:	Wednesday, September 3, 2003	Time:	12pm-2pm	Place:	Matheson Courthouse Conf. Room A
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Members Present	Paul Boyden, Judge Jeffrey Burbank, Cliff Butter, Scott Carver, Blake Chard, Judge Terry Christiansen, Calvin Clegg, K.S. Cornaby, Marlene Gonzalez, Jim Marchel, Judge Paul Maughan, Rep. Ty McCartney, Ed McConkie, G. Fred Metos, Judge Gregory K. Orme, Kathy Reimherr, Chief Ed Rhoades, Michael Sibbett, Sy Snarr, Judge Robert S. Yeates
Members Excused	Sheriff Phil Barney, Senator Gregory Bell, Mary S. Corporon, Senator Mike Dmitrich, John Hill, Chris Mitchell, Brian Namba, Rep. Mike Thompson, Kirk Torgenson
Staff	Gary Franchina, Ron Gordon, Mike Haddon, Jo Lynn Kruse and visitor Chris Mitchell

Agenda Item:	Welcome and Approval of Minutes
Notes:	Kay Cornaby welcomed the commission and visitors. He introduced new members, Kathy Reimherr, representing Adult Treatment and Jim Marchel, representing Juvenile Treatment. Chris Mitchell noted a mistake in the August minutes. On page two the first sentence reads initiative B defeated. It should say initiative B passed. Motion to approve the August minutes with correction was made by Mike Sibbett and was seconded by Paul Boyden. Passed unanimously.

Agenda Item:	Adult Guidelines Revision Subcommittee Report – Chris Mitchell and Ron Gordon
Notes:	<p>The Adult Guidelines Revision Subcommittee recommends the following changes to the Adult Sentencing and Release Guidelines:</p> <ol style="list-style-type: none"> 1. Remove aggravated kidnapping from the sex offense matrix and place it on the general matrix. 2. Add an explanatory note regarding minimum sentences that exceed the recommended length of stay. Delete the part that states punishable by 6, 10, or 15 years to life. Keep the part that says “A similar note should be added for any other crime with a minimum sentence that might exceed the guidelines recommendation including: continuing criminal enterprise regarding controlled substance (7 to life), certain financial crimes (3 to 15), drive-by shooting (3 to 5). Blake Chard made the following motion. Leave aggravated kidnapping on form two. Put a footnote on the Sex Offense Matrix that the BOP should carefully review the elements of this particular crime to find if it was a sex offense. Also make note of the anomaly regarding minimum sentences that exceed the recommended length of stay. Paul Boyden seconded and it passed unanimously. 3. Note on the general matrix and in the instructions when prison is mandatory. Mike Sibbett made the following motion. Put a note in the instructions listing all those cases that have mandatory prison or jail time. Judge Maughan seconded and it passed unanimously. 4. Add the following aggravating factor to the general matrix: “Financial crime or theft crime involved numerous victims, an exploitation of a position of trust, an unusually large amount of money, or receipt of money representing equity in a person’s home or a withdrawal from a person’s retirement account.” Judge Orme suggested that the wordage should be changed to: “Financial crime or theft crime involved numerous victims, an exploitation of a position of trust, a substantial amount of money,

	<p>or receipt of money from sources including, but not limited to, equity in a person's home or a withdrawal from a person's retirement fund or savings account.”</p> <ol style="list-style-type: none"> 5. Change the description of R671-205-1, Credit for time served, on page 14 of the guidelines so that it is consistent with the amended rule. 6. Update Addendum B to include new offenses and offenses omitted during first publication. <p>The subcommittee further recommends that the Adult Sentencing and Release Guidelines be reprinted and distributed after these changes are made.</p> <p>Motion made by Ed McConkie to approve #4 with amendments and approve #5. Judge Yeates seconded and it passed unanimously.</p> <p>Mike Sibbett brought up a subject that needs addressing, which is the problem of increased female prisoners. Kay Cornaby asked Chris Mitchell to do some research on it.</p>
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Agenda Item:	Juvenile Justice Subcommittee Report – Ron Gordon
Notes:	<p>Recently the Sentencing Commission asked the Juvenile Justice Subcommittee to look at the Serious Youth Offender Law. There was question to whether or not the law was accomplishing its initial purposes, which is to send the chronic juveniles to the adult system. The study found that many first time offenders were going to district court under SYO. The study also found that nearly 70 percent of SYO offenders were being sentenced to probation. Eight options were presented.</p> <ol style="list-style-type: none"> 1. Make no changes 2. Amend third retention factor. 3. Provide judges with addition discretion to retain minors in juvenile court. 4. Transfer based on chronicity 5. Direct file. 6. Give district judges authority to sentence minors to juvenile court sanctions. 7. Give juvenile court judges authority to sentence minors to district court sanctions. 8. Reverse waiver. <p>The subcommittee recommended option 1, make no changes. The subcommittee concluded that while SYO is not operating exactly as originally intended, every other option would likely result in additional problems. Judge Yeates motioned to make no changes. Mike Sibbett seconded and it passed unanimously.</p>

Agenda Item:	Death Penalty Amendments – Draft Legislation (Ron Gordon)
Notes:	Mike Sibbett motioned to table the issue of retroactivity issue to allow more research on when a defendant actually chooses method of execution. Scott Carver seconded and it passed unanimously .

The next meeting is scheduled for Wednesday, October 1, 2003 at noon, Matheson Courthouse, Conference Room A

Minutes prepared by Jo Lynn Kruse - Executive Secretary CCJJ