

**SENTENCING COMMISSION**

**MINUTES**

<b>Committee:</b>	<b>SENTENCING COMMISSION MEETING</b>
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<b>Date:</b>	Wednesday, October 6, 2004	<b>Time:</b>	12:00pm-2:00pm	<b>Place:</b>	State Capitol Complex East Wing
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<b>Members Present</b>	Senator Gregory Bell, Judge Jeffrey Burbank, Paul Boyden, Blake Chard, K.S. Cornaby, Scott Daniels, John Hill, Jim Marchel, Judge Paul Maughan, Rep.Ty McCartney, Ed McConkie, G. Fred Metos, Brian Namba, Judge Gregory K. Orme, Chief Ed Rhoades, Mike Sibbett, Kirk Torgenson, Judge Robert S.Yeates
<b>Members Excused</b>	Sheriff Phil Barney, Scott Carver, Judge Terry Christiansen, Calvin Clegg, Senator Mike Dmitrich, Marlene Gonzalez, Kathy Reimherr, Sy Snarr, Rep.Mike Thompson
<b>Staff</b>	Julie Christenson, Reg Garff, Ron Gordon, Mike Haddon, Jo Lynn Kruse

<b>Visitors</b>	Mayor Rocky Anderson, Sam Guevara, Fraser Nelson, Chris Mitchell, Cliff Butter, Grand County Sheriff James Nyland
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<b>Agenda Item:</b>	<b>Welcome and Approval of Minutes</b>
Notes:	Kay Cornaby called the meeting to order and recognized our guests, Mayor Rocky Anderson and Sam Guevara. Jim Marchel made the <b>motion</b> to approve the September minutes. Chief Rhoades <b>seconded</b> the motion and it <b>passed unanimously</b> .

<b>Agenda Item:</b>	<b>Dangerous Weapons Laws</b>
Notes:	<p>Ron Gordon reviewed Utah law on penalties for unlawful possession or use of dangerous weapons and law and penalties for ten surrounding states, including: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Washington and Wyoming. The handout refers specifically to crimes of possession of a weapon or use of a weapon absent any other crime. Today's discussion deals with the Class B misdemeanor/Possession of a handgun by a minor. Eight out of the ten states we studied have restrictions on minors in possession of a handgun. The two that do not are Montana and Wyoming. Most states do have some exceptions, such as hunting, firing range, hunter safety courses etc. Most states that criminalize possession of a handgun as a minor establish the penalty as a misdemeanor.</p> <p>Kay Cornaby introduced Mayor Anderson who voiced his concerns about minors in possession of dangerous weapons. He feels that the offense should be a third degree felony. The Mayor related a recent incident at Libby Park where a 17 year old had a stolen handgun. A 13 year old grabbed the weapon from him and fired into a crowd. Fortunately the victim survived and the incident was determined to be gang related. Mayor Anderson also feels that providing a handgun to a minor and a parent knowing of their minor's possession of a handgun should be third degree felonies.</p> <p>The Commission discussed several issues relating to possession of a handgun by a minor and discussed pros and cons of increasing the penalty. No action was taken by the Commission.</p>

<b>Agenda Item:</b>	<b>Restitution – Draft Legislation</b>
Notes:	<p>There were several issues relating to restitution that led this commission to form a subcommittee in conjunction with the Utah Council on Victims of Crime. That subcommittee met during the spring and summer and developed a few recommendations. The first recommendation extends the authority of the Board of Pardons and Parole to order restitution for 60 days after termination or expiration of sentence. The second recommendation amends the definition of “pecuniary damages” to avoid the use of the terms special damages and general damages. The third recommendation concerns jurisdiction over restitution orders and where that ought to happen and who is in the best situation to enter the restitution order. Fred Metos made a <b>motion</b> to approve the first recommendation. Paul Boyden <b>seconded</b> the motion and it <b>passed unanimously</b>. Fred Metos moved to request further clarification on the definition of “pecuniary damages” to avoid speculative restitution orders. Judge Orme made a <b>substitute motion</b> to approve the amendments to the definition of pecuniary damages. Paul Boyden <b>seconded</b> the motion and it <b>passed with a few no votes</b>.</p> <p>The Commission then discussed jurisdiction over restitution orders. The Board of District Court Judges rejected the subcommittee’s proposal and offered a different proposal. Judge Orme made a <b>motion</b> to provide that the District Court has exclusive and continuing jurisdiction over restitution, and that absent good cause as documented by the sentencing court, restitution order will be completed not later than 180 days following sentencing. Kirk Torgensen <b>seconded</b> the motion and it <b>passed</b> with one no vote.</p>

**The next meeting is scheduled for Wednesday, November 3, 2004 at noon, State Capitol Complex, East Office Building, Corner room on the 1<sup>st</sup> floor, off the cafeteria.**

Minutes prepared by Jo Lynn Kruse - Executive Secretary, CCJJ