

SENTENCING COMMISSION

MINUTES

Committee:	SENTENCING COMMISSION MEETING
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Date:	Wednesday, Jan. 4, 2006	Time:	12:00pm-2:00pm	Place:	State Capitol Complex East Wing, Beehive Room
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Members Present	Sheriff Phil Barney, Senator Gregory Bell, Don Blanchard, Paul Boyden, Scott Carver, Michele Christiansen, Judge Terry Christiansen, K.S. Cornaby, Marlene Gonzalez, John Hill, , Judge Kimberly Hornak, Gaby Anderson for Dan Maldonado, Jim Marchel, Judge Paul Maughan, Brian Namba, Judge Gregory K.Orme, Kathy Reimherr, Sy Snarr
Members Excused	Rep. Duane Bourdeaux, Judge Jeffrey Burbank, Scott Daniels, Senator Mike Dmitrich, Rep. Eric Hutchings, Randy Kester, Kathy Peterson, Chief Ed Rhoades, Kirk Torgenson
Staff	Julie Christenson, Mike Haddon, Jo Lynn Kruse, Tom Patterson, Ned Searle

Visitors	Derek Byrne, Chris Mitchell, Fraser Nelson, Scott Sabey
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Agenda Item:	Welcome and Approval of Minutes
Notes:	Kay Cornaby called the meeting to order and welcomed everyone. Brian Namba made the motion to accept the November minutes. Judge Hornak seconded the motion and it was approved unanimously . Three members of the Sentencing Commission have been re-appointed by the Governor. They are Kay Cornaby, Marlene Gonzalez and Chief Rhoades.

Agenda Item:	Camcorder Model Legislation
Notes:	<p>Senator Bell introduced Attorney Scott Sabey to the Commission and spoke briefly about the draft bill– Model State Anti-Camcorder Piracy Legislation, that he and Mr. Sabey are drafting. Thirty seven states have addressed the problem. This draft legislation recommends some heavy sentences, with the charge for a first offense being a felony or a tiered response. Mr. Sabey spoke about the problems that the movie industry is facing with sophisticated pirating of movies. Movies are pirated often on the first day of release and in some cases even before the first day. In 2003, more than 125 major piracy labs were shut down in the U.S. That’s more than double the year before. Right now, if a movie owner catches someone recording a movie, nothing can be done except to kick them out of the theater. The Motion Picture Association of America, Inc. strongly supports the enactment of “anti-camcorder” legislation in Utah. The legislation would prohibit the operation of recording devices in a motion picture theater so as to better address the new and growing problem of digital theft of motion pictures in theaters.</p> <p>The Commission then discussed the pros and cons of the proposed legislation. Utah does not have a huge problem with this issue presently. One concern is that if we don’t have a</p>

	<p>law, we could end up having people set up shop here because there is no law. Judge Orme suggested that the bill could include the music industry as well. Kathy Reimherr objected to the word “any.” Utah laws already include intellectual property, maybe we would be able to prosecute on those grounds. Some discussion led to concerns about teenagers recording a movie who are not big time pirates and how would those instances be handled? Discussion ended with Senator Bell adding that he would re-work the bill.</p>
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Agenda Item:	Review of Pending Bills
Notes:	<p>Senator Madsen, the sponsor of SB24, could not be here today. This bill creates an exception to penalty provisions related to the carrying of a concealed dangerous weapon, which is not a firearm, to include carrying a concealed dangerous weapon in or on a vehicle lawfully under a person's control. Removes the prohibition from carrying a loaded firearm in or on a vehicle, conditioned on the vehicle being lawfully under the person's control. Provides that a person may have a loaded firearm at the person's residence, on the person's property, in or on a vehicle legally under the person's control, and at a business under the person's control.</p> <p>Sheriff Barney spoke in opposition to this bill. The problems that would ensue if one's car is stolen would be unthinkable. Also, the danger that law enforcement would encounter would be huge. It would be an invitation for children to injure themselves or someone else. Judge Hornak added that we're not just talking about the owner of the vehicle, but that the problems would extend to additional people in the vehicle. A concealed weapon is least effective under your seat. It should be on your person. Michele Christiansen added that current law is a little sketchy on what's legal and what isn't. Some clean up of the present law would be helpful.</p>

Agenda Item:	Mission of Commission & Philosophical Approach
Notes:	<p>Tom led discussion on the mission and philosophical approach of the Sentencing Commission. The primary purposes of sentencing are to punish the offender, protect and compensate the victim and society, and reduce the likelihood of future crimes by the offender through rehabilitation or incapacitation. Tom asked John Hill if he thought that the statement is too one-sided. John is satisfied with the language. Kay Cornaby suggested all to review the handout and bring any questions or comments to the annual meeting in April. It is a good idea to focus on our mission due to the addition of new members on the Commission. Mike Haddon did mention that when the mission statement was created that there was no mention about a juvenile component and that we might want to discuss that. Judge Orme stated that the Commission could prepare a separate mission statement for juveniles.</p>

Agenda Item:	Privatization of Prisons – Scott Carver
Notes:	<p>In the last Law Enforcement/Criminal Justice interim session, the Department of Corrections was given the assignment to explore the feasibility to allow a private vendor to operate Utah prisons. During the course of studying the issue, it became evident that the answer to the question is not driven by a vendor’s desire or lobbying coming in, but rather a public policy issue. As such, this body, as one that makes public policy in the criminal justice arena, should take a position on this issue. The Interim Committee was given presentations by both the Association of Private Prison Providers, and a couple of private providers themselves. The Department of Corrections gave its views on the issue, public comment was taken, and the study was proposed. Scott asks for the Sentencing Commission’s input prior to April when the final report is due. The Department of Correction’s position is that the incarceration of people is primarily a government function. Judge Orme thinks that the commissary portion can be privatized and in fact that is already being done. Privatization would mean that a private company would build prisons and train officers and manage inmates according to our specifications. John Hill made the motion to support the continued running of prisons by the government of the State of Utah and reject privatization. Dan Maldonado seconded the motion. The motion passed with one dissenting vote.</p> <p>Tom noted that the Interim Committee made some strong recommendations from the findings of the Anomalies Committee regarding drug free zones. We were on the agenda but never got to present. Tom however provided the Legislature with copies of that information.</p> <p>The Juvenile Justice Sub Committee will look at the findings of the lower court in the case on ZC.</p>

The next meeting is scheduled for Wednesday, April 5, 2006, 9am – 4pm,
Cabela’s, 2502 W Grand Terrace Parkway, Lehi, Utah 84043
Minutes prepared by Jo Lynn Kruse - Executive Secretary, CCJJ