

SENTENCING COMMISSION

MINUTES

Committee:	SENTENCING COMMISSION MEETING
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Date:	Wednesday, Nov. 1, 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, Paul Boyden, Augustus Chin for David Brickey, Judge Jeffrey Burbank, Scott Carver, Judge Terry Christiansen, K.S. Cornaby, Scott Daniels, Curt Garner for Keith Hamilton, John Hill, Judge Kimberly Hornak, Randy Kester, Dan Maldonado, Jim Marchel, Judge Paul Maughan, Judge Gregory Orme, Tom Patterson, Kathy Peterson, Lauren Hilton for Kathy Reimherr, Creighton Horton for Kirk Torgenson
Members Excused	Senator Mike Dmitrich, Rep. Carl W. Duckworth, Marlene Gonzalez, Rep. Eric Hutchings, Chief Ed Rhoades, Sy Snarr
Staff	Julie Christenson, Mike Haddon, Jo Lynn Kruse, Tom Patterson, Robert Yeates

Visitors	Cliff Butter, Derek Byrne, Chris Mitchell
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Agenda Item:	Welcome and Approval of Minutes
Notes:	Kay Cornaby welcomed everyone and called the meeting to order. Senator Bell made the motion to approve the September minutes. Judge Christiansen seconded the motion and it passed unanimously . Tom Patterson introduced Judge Robert Yeates, the new Sentencing Commission Director.

Agenda Item:	Update on Projects
Notes:	<p>Tom reported that the Sentencing Commission is still working on the penalties project, looking at all the penalties in our criminal code to hopefully identify potential anomalies and see whether or not our present classification of penalties is appropriate or if changes/modifications need to be made.</p> <p>A copy of the document <i>A Statement Regarding Utah's Indeterminate Sentencing System</i> has been given to each member of the legislature. It is our hope that the legislators may use it as a reference during the upcoming legislative session. We have had no feed-back from the legislature yet. More copies are available if needed. Judge Orme suggested that copies of the document be sent to the Public Information Officers of the courts and each of the local trial court executives and the media. The document is posted on the Sentencing Commission website at www.sentencing.utah.gov.</p> <p>Mike Haddon spoke briefly regarding the Utah Sexual Violence Council and the Adam Walsh Act. CCJJ has the Utah Sexual Violence Council and the Registration</p>

	<p>Subcommittee is part of that group. The last three or four months the Registration Subcommittee has been working on rewriting Utah Code to conform to the Adam Walsh Act. The Adam Walsh Act divides sex offenders into three tiers, with level one being the lowest risk and level three being the highest risk. Tier I sex offenders have to register for a period of fifteen years and have to appear in person to update. Tier II sex offenders are required to register for twenty five years and have to report in person with an update every six months. Tier III sex offenders are required to register for a lifetime and are also required to report in person every three months to update their registration information. Offenders have to register in several places, where the event took place, where they reside, where they work and where they are a student if applicable. Any time the offender has a change in status, they have to appear in person within three business days to update their sex offender registration information. Some juveniles will now be required to be on the sex offender registry. Failure to register will be a third degree felony. The SOR currently gets numerous calls from out-of-state offenders, asking questions about Utah's registry laws, virtually shopping around for a less restrictive place to live. Every state in the nation will likely be coming into compliance and if Utah does not follow suit, could end up a magnet for offenders. The sex offender registry website can be found at www.corrections.utah.gov. Questions were raised as how to handle plea in abeyance and diversion cases. Paul Boyden replied that diversion agreements do not constitute convictions. This should be reflected in any new State legislation. Rep. Hughes is working on a draft on the sex offender zones and is open to discussion on that issue. Senator Bell would like a subcommittee to meet with Rep. Hughes.</p>
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Agenda Item:	Review/Discussion of Representative Ray's Draft Legislation
Notes:	<p>Representative Ray's draft legislation, <i>Internet Sexual Predator Penalties</i> is currently being revised. The first paragraph on the first page where it speaks of: A person commits enticement of a minor over the Internet when the person knowingly etc. Rep. Ray wants to change that language to include other forms of electronic communication, such as text messaging. He will be modifying the proposed legislation to that effect.</p> <p>On page two, paragraph three; An enticement of a Minor under subsection (1) is a second degree felony, except that any second or subsequent violation of subsection (1) is a first degree felony. Therefore, any solicitation, whether or not it is going to be prosecuted as a second degree felony, will include crimes that if committed would include crimes that would not rise to a second degree felony. This would create a significant penalty for enticement crimes. In some cases, enticement would be a more serious crime than if the actual underlying sexual act was completed. It is important that this issue be addressed. Tom reviewed some of the sexual offences under 76-5-401 that if solicited by electronic communication, would be prosecuted as a second degree felony as opposed to how they</p>

Notes:	<p>are dealt with now as less serious offences. Presently solicitation is one level less serious than what it would have been had the act been committed.</p> <p>Cliff Butter presented statistics on the sentencing information for the last six years regarding 76.4-401 Enticing a minor over the internet.</p> <p>Paul Boyden made the motion to ask Rep. Ray to take these concerns under consideration and respond with something more moderate on sentencing, with more specific application to different crimes that reflects different punishment for varied age groups. Judge Christiansen seconded the motion and it passed unanimously.</p>
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Agenda Item:	Continued Discussion of Commission’s Philosophical Approach Regarding Adult Sentencing and Release Determinations
Notes:	The latest version of the Philosophical Approach was discussed and well received. Scott Daniels made the motion to adopt the document with correction to remove the (a) under position three. Judge Orme seconded the motion and it passed unanimously .

Agenda Item:	Future Priorities
Notes:	Randy Kester is concerned about the quality of PSI’s, regarding inaccuracies and wrong criminal records. Please include that on a future agenda.

Agenda Item:	Future Meeting Dates
Notes:	Meetings for 2007 will be January 3, April 4 (annual meeting), June 6, August 1, September 5, and November 7.

**The next meeting is scheduled for Wednesday, January 3, 2007, State Capitol Complex, Beehive Room.
Minutes prepared by Jo Lynn Kruse - Executive Secretary, CCJJ**