

SENTENCING COMMISSION

MINUTES

Committee:	SENTENCING COMMISSION MEETING
-------------------	--------------------------------------

Date:	Wednesday, June 6, 2007	Time:	12:00pm-2:00pm	Place:	State Capitol Complex East Wing, Beehive Room
--------------	-------------------------	--------------	----------------	---------------	--

Members Present	Paul Boyden, Judge Jeffrey Burbank, Judge Terry Christiansen, K.S. Cornaby, Rep. Carl Duckworth, Marlene Gonzalez, Dan Maldonado, Judge Paul Maughan, Mike Haddon for Tom Patterson, Kathy Reimherr, Sheriff Brad Slater, Sy Snarr, Doyle Talbot, Scott Reed for Kirk Torgensen, Bob Yeates
Members Excused	David Brickey, Scott Daniels, Senator Mike Dmitrich, Senator Jon Greiner, John Hill, Judge Kimberly Hornak, Rep. Eric Hutchings, Randy Kester, Jim Marchel, Judge Gregory K. Orme, Chief Ed Rhoades
Staff	Scott Carver, Ryan Jibson, Jo Lynn Kruse, Chris Mitchell, Ned Searle, Dave Walsh,

Visitors	Cliff Butter, Derek Byrne, Brent Gardiner, Reed Richards, Adria Swindle, Sheriff James Tracy, Marlesse Whittington
-----------------	--

Agenda Item:	Welcome and Approval of Minutes
Notes:	Kay Cornaby welcomed everyone and introduced new members of the commission, Curt Garner who replaces Keith Hamilton and Doyle Talbot who replaces Kathy Peterson. Judge Maughan made the motion to approve the April minutes. Curt Garner seconded the motion and it passed unanimously .

Agenda Item:	Domestic Violence Sentencing Guidelines – Ned Searle
Notes:	<p>Ned distributed a handout that illustrates the number of women who experienced domestic violence in Utah for the year 2006. In 2004, there were twenty three domestic violence deaths and sixty seven alcohol related deaths. In 2005, there were thirty three domestic violence deaths and thirty three alcohol related deaths. In 2006, there were twenty eight domestic violence deaths. Our domestic violence homicides are generally about one third of the total homicides in Utah.</p> <p>Chris Mitchell discussed the Incident Based Reporting (IBR) of Domestic Violence from the <i>No More Secrets</i> report published by The Governor’s Violence Against Women and Families Cabinet Council. Sixteen out of one hundred thirty law enforcement agencies, have not submitted data for this report. The report reflects crime in Utah as far as it is completely and accurately reported by local law enforcement agencies to the Utah Bureau of Criminal Identification (BCI). Pages six, seven, and eight detail the number of</p>

	<p>crimes, relationship of the victim to the offender and types of crimes committed. In 2006, there were 18, 027 total domestic violence victim injuries reported. Page eleven has a graph that shows the number of domestic violence homicides as percent of all homicides rose from twenty seven percent in 2003 to sixty percent in 2006.</p> <p>Chris also distributed a handout detailing the legal status of incarcerated offenders, probationers, parolees and those not sentenced and the severity of their crimes. Currently 106 of the incarcerated offenders have committed domestic violence, probationers 280, parolees 45 and those not sentenced, 47.</p> <p>Ned handed out a list of the dangerousness factors to consider for custody/release status and/or sentencing. A major sign that a homicide is likely to happen is when strangulation occurs.</p> <p>The Victim Services Program Coordinator from Layton City, Marlesse Whittington discussed the Severity of Violence Matrix. The matrix contains rough ideas for sentences for domestic violence by category of offense. Marlesse suggested a multi-faceted approach as well as a Victim Impact Panel be set up for each court. She asked the commission's approval to continue research and development and return to the commission at a future date. Scott Carver volunteered to work on this subcommittee, as well as Marlene Gonzalez, and Kathy Reimherr. Sheriff Slater would like to get someone from the Sheriff's Association to serve as well as Brent Berckley, who is a domestic violence specialist prosecutor. Bob Yeates made the motion that the Sentencing Commission and others interested in the project proceed to develop a domestic violence matrix and return to the Sentencing Commission with a formalized recommendation at a future date. Kathy Reimherr seconded the motion and it passed unanimously.</p>
--	--

Agenda Item:	Jail Reimbursement – Reed Richards
Notes:	<p>Inmates in the state prison are the responsibility of the state. People in jails are the responsibility of the county. A third category is those that are in between, having been convicted of a felony and then sentenced to jail as a condition of probation. Are they the responsibility of the county or the state? There is yet another category, of those convicted and awaiting sentencing. Reed shared a handout that explains and illustrates factors leading to an increase in jail reimbursement use. The number of days billed by the Counties to the Jail Reimbursement fund since FY '94 has more than tripled. Three factors have led to an increase in the use of jail reimbursement funds.</p> <ol style="list-style-type: none"> 1. An increase in the number of offenders who are sentenced to jail as a condition of felony probation. (Since 1997, the number of offenders sentenced to jail has increased by 59%. 2. An increase in the length of jail sentences given to offenders. (Since 1997, the average sentenced time has increased from 118.8 days to an estimated 168.7 days in 2006, a 42% increase). 3. Improvement in billing processes by the Counties.

	<p>Discussion of the problem centered on sentencing guidelines. Counties are frustrated with legislature that they feel has not provided enough funding. The sentiment is that if adequate funding is not provided, then more bed space is needed.</p> <p>Sheriff Tracy spoke about the financial burden that is placed upon the jails. Utah County alone has approximately 200 felons incarcerated per day that should be in prison. Sheriff Tracy suggested that a jail as condition of probation guideline be created so there is uniformity throughout the state. Judge Christiansen made the motion to go forward with the development of a jail as condition of probation matrix. Sheriff Brad Slater seconded the motion and it passed unanimously.</p>
--	---

Agenda Item:	Discussion on Nitrogen Asphyxiation – Scott Carver
Notes:	<p>Representative Harper requested that the use of nitrogen asphyxiation be explored as a mode of execution. The preliminary findings show that there may be a viable method for execution. A group met with Rep. Harper and showed him what was found on the subject. Scott also contacted the Association of State Correctional Administrators to find if any other agencies around the country are interested. The DOC will survey whether other state departments of corrections have looked at the issue and assess levels of other state interests in exploring alternatives such as nitrogen asphyxiation. The DOC will report to Rep. Harper.</p>

Agenda Item:	Update on Jessica’s Law – Scott Carver
Notes:	<p>We established a small work group at our last meeting to work on this. Robert Yeates has spoken with a representative from the Bill O’Reilly Show and gave them a copy of laws that passed this past year. The producer of the show agreed to talk to Paul Boyden. Paul has an idea to draft the bill to satisfy Jessica’s Law while keeping our indeterminate sentencing status.</p>

The next meeting is scheduled for Wednesday, August 1, 2007, Utah State Capitol Complex, Beehive Room
Minutes prepared by Jo Lynn Kruse - Executive Secretary, CCJJ