

# SENTENCING COMMISSION MINUTES

<b>Committee</b>	<b>Utah Sentencing Commission</b>
<b>Date</b>	<b>Wednesday, November 5, 2008</b>
<b>Time</b>	<b>Noon – 1:30 p.m.</b>
<b>Location</b>	<b>Utah State Capitol, Capitol Board Room</b>
<b>Members Present</b>	Patrick Anderson, Paul Boyden, Judge Jeffrey Burbank, K.S. Cornaby, Scott Daniels, Rep. Carl Duckworth, Rep. Lorie Fowlke, Marlene Gonzalez, Senator Jon Greiner, Judge Kimberly Hornak, Dan Maldonado, Jim Marchel, Judge Paul Maughan, Judge Gregory K. Orme, Tom Patterson, Kathy Reimherr, Sy Snarr, Doyle Talbot, Craig Barlow for Kirk Torgensen, Bob Yeates
<b>Members Excused</b>	David Brickey, Judge Terry Christiansen, Senator Mike Dmitrich, Curt Garner, Randy Kester, Chief Ed Rhoades, Sheriff Brad Slater
<b>Staff</b>	Jo Lynn Kruse, Dr. Chris Mitchell, Ben Peterson, Ned Searle
<b>Visitors</b>	Senator Greg Bell, Susan Duckworth, Wade Farraway, Rob Latham, Rep. David Litvack, Jacey Skinner, Adria Swindle, Thomas Vaughn
<b>Agenda Item</b>	<b>Welcome and Approval of Minutes</b>
<b>Notes</b>	Kay Cornaby called the meeting to order and welcomed everyone. Marlene Gonzalez made the <b>motion</b> to approve the minutes from the September meeting. Judge Orme <b>seconded</b> the motion which <b>passed unanimously</b> . Bob introduced Patrick Anderson who replaces John Hill as the new Executive Director of Salt Lake Legal Defenders Office.
<b>Agenda Item</b>	<b>Sentencing Commission Director Replacement</b>
<b>Notes</b>	Bob Yeates introduced Jacey Skinner, who will be replacing Scott Carver as Sentencing Commission Director on January 5, 2009. Jacey is a trial attorney and has a history of working on legislative issues with the Salt Lake District Attorney's Office. Judge Orme made the <b>motion</b> to welcome and support the governor's appointment of Jacey Skinner. Tom Patterson <b>seconded</b> the motion which <b>passed unanimously</b> .
<b>Agenda Item</b>	<b>Gang Legislation</b>
<b>Notes</b>	<p>Paul Boyden gave a summary of three bills which have passed interim and are available for review.</p> <p><b>Criminal Offense Penalties Amendment</b> – Sponsor Jon Greiner Amends the Criminal Code to provide an increased penalty for crimes committed in relation to a criminal street gang. If a person acts (1) in concert with two or more persons, (2) for the benefit of, at the direction of, or in association with any criminal street gang or (3) to gain recognition, acceptance, membership, or increased status with a criminal street gang, they are subject to an enhanced penalty for the offense. The enhanced penalties change: a class B misdemeanor to a class A, a class A misdemeanor to a third degree felony, a third degree felony to a second degree felony, a second degree felony to a first degree felony and a first degree felony to an indeterminate prison term of not less than nine years and which may be for life.</p> <p><b>Violent Offenses Amendments</b> – This bill, sponsored by Rep. Jennifer Seelig, modifies provisions of the Criminal Code, including a felony committed with other persons, aggravated murder, predicate criminal gang offenses, and the offense of felony discharge of a firearm. This bill:</p> <ul style="list-style-type: none"> <li>- amends the enhanced penalty for committing a first degree felony with other persons by imposing five more years imprisonment in addition to the statutory minimum term of imprisonment for the felony</li> <li>- amends the elements of aggravated murder to include felony discharge of a firearm</li> <li>- amends the definition of predicate gang offenses that constitute criminal gang activity in defined circumstances to include retail theft</li> <li>- adds the offense of retail theft to the offenses subject to an enhanced penalty if committed with two or more persons</li> </ul>

	<ul style="list-style-type: none"> <li>- amends the offense of felony discharge of a firearm to include situations that constitute criminal homicide or attempted criminal homicide.</li> </ul> <p><b>Criminal Offense Elements and Penalties</b> – Sponsor Rep. Carl Wimmer  This bill modifies the Criminal Code regarding the elements of the offenses of aggravated assault, failure to stop at the command of a peace officer, and modifies the offense and penalties regarding felony discharge of a firearm.</p> <ul style="list-style-type: none"> <li>- amends the offense of aggravated assault to provide that the infliction of serious bodily injury is a second degree felony, including if the injury is not caused intentionally</li> <li>- amends the penalty for the offense of a driver's failure to stop at the direction of a peace officer to provide that a second or subsequent offense is a second degree felony, and the offense is also subject to a fine of not less than \$5,000</li> <li>- amends the penalties for the offense of felony discharge of a firearm by (1) increasing the penalty for specified discharge offenses from a third degree felony to a second degree felony and (2) increasing the possible imprisonment from not more than five years to not more than 15 years</li> <li>- increases the possible imprisonment for discharge of a firearm causing injury from not less than three years to not less than five years, but does not amend the current limitation of not more than 15 years; and</li> <li>- amends the offense of felony discharge of a firearm to include situations that constitute criminal homicide or attempted criminal homicide.</li> </ul> <p>Kathy Reimherr made the <b>motion</b> to support these bills in concept. Craig Barlow <b>seconded</b> the motion which <b>passed unanimously</b>.</p> <p>A gang loitering bill will be presented to the commission in January for review by Senator Greiner.</p>
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<b>Agenda Item</b>	<b>Dating Violence Legislation</b>
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<b>Notes</b>	Ned Searle presented some Utah data on dating relationship violence and deaths and is working to gather more. Ned will work with Mark Nash from the Utah Domestic Violence Council Death Review Committee to obtain those statistics for interim day. Judge Orme suggested adding the wordage "have been killed by individuals with whom they were in dating relationships" to the literature supporting the bill to add clarity. Rep. Litvack addressed the gun issues associated with this bill. What this bill does not do is that it does not change the nature of interactions between guns and protective orders. This bill was considered last month and the commission voted to support it in concept by a majority vote with four dissenting votes.
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<b>Agenda Item</b>	<b>Rape in Utah Survey</b>
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<b>Notes</b>	This item is moved to the January meeting.
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<b>Agenda Item</b>	<b>Meeting Dates for 2009</b>
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<b>Notes</b>	January 7, April 1 (Annual Meeting), June 3, August 5, September 2, November 4.
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<b>Next Meeting</b>	The next meeting will be January 7, 2009, Utah State Capitol, Senate Bldg., Spruce Room
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Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ