

SENTENCING COMMISSION MINUTES

Committee	Utah Sentencing Commission
Date	Wednesday, January 7, 2009
Time	Noon – 1:30 p.m.
Location	Utah State Capitol, Senate Bldg., Spruce Room
Members Present	Patrick Anderson, Paul Boyden, Joy Natale for David Brickey, Judge Jeffrey Burbank, K.S. Cornaby, Judge Terry Christiansen, Scott Daniels, Rep. Lorie Fowlke, Curt Garner, Senator Jon Greiner, Judge Kimberly Hornak, Gaby Anderson for Dan Maldonado, Jim Marchel, Judge Paul Maughan, Tom Patterson, Kathy Reimherr, Doyle Talbot, Craig Barlow for Kirk Torgensen, Bob Yeates
Members Excused	Senator Mike Dmitrich, Rep. Carl Duckworth, Marlene Gonzalez, Randy Kester, Judge Gregory K. Orme, Chief Ed Rhoades, Sheriff Brad Slater, Sy Snarr
Staff	Jo Lynn Kruse, Dr. Chris Mitchell, Ben Peterson, Jacey Skinner, David Walsh
Visitors	Tom Bruncker, Cliff Butter, Scott Carver, Wade Faraway, Rob Latham
Agenda Item	Welcome and Approval of Minutes
Notes	<p>Kay Cornaby called the meeting to order and welcomed everyone. Judge Maughan made the motion to approve the minutes from the November meeting. Paul Boyden seconded the motion which passed unanimously. Kay Cornaby introduced Jacey Skinner, the new Director of the Sentencing Commission. Introductions were made around the room.</p> <p>Kay recognized Scott Carver for his leadership and service as Sentencing Commission Director from 2006 – 2008.</p>
Agenda Item	Sentencing Commission Membership
Notes	The UACDL (Utah Association of Criminal Defense Lawyers) has requested that the Sentencing Commission add a member (Rob Latham) to the commission via legislation sponsored by Rep. Sheryl Allen. After discussion, the commission decided to have Kay and Jacey do some research and get back to the commission by the next meeting.
Agenda Item	Gang Loitering Bill
Notes	Senator Greiner spoke about SB 16, Prohibited Gang Activity, which stems from problems with gang activity/loitering in the Ogden area. The bill amends the Criminal Code by creating the offense of failure to disperse from loitering in a public place by groups that include gang members. The commission discussed elements of the bill and Judge Christiansen made the motion to endorse the bill. Doyle Talbot seconded the motion which passed with one dissenting vote .
Agenda Item	Post Conviction Appeal Constitutional Amendment
Notes	<p>The following amendment was distributed to the commission:</p> <p>Notwithstanding any other provision in this Constitution, the Legislature shall have sole authority to establish and regulate a cause of action to challenge a criminal conviction or sentence after the conviction and sentence have been affirmed in the direct appeal permitted by Article I, Section 12, or after the time to file such an appeal has expired; provided, however, that the Legislature may not bar relief for a convicted person who can prove by clear and convincing evidence that the person did not (a) engage in the conduct for which the person was convicted; (b) engage in conduct relating to any lesser included offenses; and (c) commit any other felony arising out of or reasonably connected to the facts supporting the indictment or information upon which the person was convicted.</p> <p>This amendment shall apply to cases pending on or after its effective date.</p> <p>Tom Bruncker from the Attorney General's office stated that this constitutional amendment is designed to address delays in the post conviction review process. This will essentially do two things:</p>

	<ol style="list-style-type: none"> 1. It will give full effect to the Post Conviction Remedies Act which was passed in 1996 with additional provisions passed in 1997. It will eliminate the common law post conviction rules that the State High Court has held survive the Post Convicted Remedies Act. Those common law rules have been preventing repetitive state litigation and broader more intrusive federal review of state claims. This has been particularly acute in death penalty cases. 2. The entire second portion of that amendment would absolutely prohibit the legislature from ever barring relief for someone who is actually innocent <p>Jacey stated that a meeting is scheduled on January 26 at 1:30pm, for CCJJ, the Utah Victims Council and the Sentencing Commission to meet and review this post constitution amendment so all may become well versed on the subject. A follow-up email will be sent with the date, time and location.</p>
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Agenda Item	Rape in Utah Survey
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Notes	<p>Christine Mitchell, Ph.D., gave a power point presentation on a follow-up survey done in 2007 titled <i>Rape in Utah 2007, A Survey of Utah Women</i>. The complete report is posted on the CCJJ website at www.justice.utah.gov.</p> <p>Utah's rate for the crime of rape is above that of the national average. Survey findings reveal that only about a quarter of rape or sexual assault victims report the crime to law enforcement. Therefore, Utah's high rate for rape may be underestimated.</p> <p>A brief summary of the findings include:</p> <ul style="list-style-type: none"> ▪ Of the 1,816 female respondents reporting, 28.9% experienced some type of sexual assault during their lifetime. ▪ Child molestation was common, with 12.8% reporting that they had been molested before the age of 18. ▪ Half the respondents reporting a sexual assault were victimized by more than one individual. ▪ Over three-fourths of victims (78.7%) reported that their first sexual assault occurred before their 18th birthday. ▪ Most sexual assaults were committed by male perpetrators who were known to the victims. Thirteen percent said that they had been victimized by a stranger and 30.9% by a non-spouse family member. ▪ Victims were very concerned about others knowing that they had been sexually assaulted. ▪ Only 18 individuals contacted a rape crisis line. ▪ Sexual assault victims were less likely than non-victims to say that they would recommend that other victims talk to their relatives or change their lifestyles.
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Next Meeting	The next meeting will be the Annual Meeting, April 1, 2009. Location to be determined.
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Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ