

# SENTENCING COMMISSION MINUTES

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| <b>Committee</b>       | <b>Utah Sentencing Commission</b>  |
| <b>Date</b>            | <b>Wednesday, September 2, 2009</b>  |
| <b>Time</b>            | <b>Noon – 1:30 p.m.</b>  |
| <b>Location</b>        | <b>Utah State Capitol, Senate Bldg., Spruce Room</b>   |
| <b>Members Present</b> | Patrick Anderson, Paul Boyden, David Brickey, Scott Daniels, Rep. Lorie Fowlke, Curt Garner, Ron Gordon, Judge Kimberly Hornak, Dan Maldonado, Judge Paul Maughan, Judge Gregory K. Orme, Tom Patterson, Kathy Reimherr, Chief Ed Rhoades, Representative Jennifer Seelig, Sy Snarr, Doyle Talbot, Scott Reed for Kirk Torgensen, Judge Stephen Van Dyke, Carlene Walker   |
| <b>Members Excused</b> | Judge Terry Christiansen, Marlene Gonzalez, Senator Jon Greiner, Randy Kester, Senator Scott McCoy, Sheriff James Winder   |
| <b>Staff</b>           | Jo Lynn Kruse, Dave Loden, Dr. Chris Mitchell, Ben Peterson, Ned Searle, Jacey Skinner, David Walsh  |
| <b>Visitors</b>        | Debra Moore, Adam Trupp  |
| <b>Agenda Item</b>     | <b>Welcome and Approval of Minutes</b>   |
| <b>Notes</b>           | The meeting was called to order by Carlene Walker. Carlene introduced our newest member, Judge Stephen Van Dyke who replaces Judge Burbank. Scott Daniels made the <b>motion</b> to approve the minutes from the August meeting. Judge Van Dyke <b>seconded</b> the motion which <b>passed unanimously</b> .   |
| <b>Agenda Item</b>     | <b>By-Laws Amendments</b>  |
| <b>Notes</b>           | Jacey reviewed the proposed changes to the by-laws, allowing members to participate and vote by telephone conference if necessary and requiring that arrangements must be made at least 48 hours prior to the scheduled meeting. Rep. Lorie Fowlke made the <b>motion</b> to approve the proposed changes. Tom Patterson <b>seconded</b> the motion which <b>passed unanimously</b> .  |
| <b>Agenda Item</b>     | <b>Aggravated Assault Amendments (Strangulation)</b>   |
| <b>Notes</b>           | <p>The Commission discussed SWAP Draft 8-28-09, 11:13a.m. Aggravated Assault Amendments, 2010 General Session. This bill, initiated by the Victims Council, has run the last couple years without success, mostly because of the fiscal note. Paul Boyden discussed line 6 of the draft, noting that “means or force likely to produce death or serious bodily injury includes use of the person’s hand or any other means or force likely to impede: (i) the normal breathing of another person; or (ii) the circulation of another person’s blood by applying pressure on the throat or neck of that person” codifies current law as stated in State v. Speer, 720 P.2d186, 191 (Utah 1988).</p> <p>Discussion ensued as to whether or not this language would eliminate the fiscal note and upon the importance of this legislation in the prosecution of domestic violence and homicides. Tom Patterson offered to gather statistics from his researchers regarding the fiscal note. Judge Orme made the <b>motion</b> to endorse the bill upon the condition that the word “substantially” is added before the word impede. Judge Van Dyke <b>seconded</b> the motion. The motion <b>passed</b> with one no vote from Patrick Anderson and one abstaining vote from Tom Patterson. The sponsor of the bill, Rep. Seelig asked that this subject be put on the November agenda for a vote of support. Rep. Seelig will decide on the final wording before that time.</p> |
| <b>Agenda Item</b>     | <b>Expungement Amendments</b>  |
| <b>Notes</b>           | Scott Reed spoke about Rep. Julie Fisher’s proposed legislation; there is no draft available yet. Rep. Fisher has had a group working on this in recent months. There are six major issues on how certificates of eligibility to have a conviction expunged are issued. The committee will finalize a draft before presenting it to the sentencing commission at its next meeting on November 4. Scott noted that the correct word to use is expunction, not expungement.  |
| <b>Agenda Item</b>     | <b>Jail as a Condition of Probation</b>  |

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| <b>Notes</b>        | Chris Mitchell presented data on jail time served as a condition of probation. She put together graphs to illustrate the number of days offenders are sentenced to jail as a condition of probation by the degree of the crime and sentencing county. Additional information was presented on the percent of cases receiving prison, probation with jail, and probation without jail for each crime category on the matrix. |
| <b>Agenda Item</b>  | <b>Other Business</b>   |
| <b>Notes</b>        | Ron Gordon announced that due to budget cuts, CCJJ will no longer provide food or drink at any meetings other than annual meetings. The sentencing commission decided to keep meetings during the lunch hour and for everyone to bring their own lunch if they desire.  |
| <b>Next Meeting</b> | The next meeting will be, November 4, 2009.   |

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ