



Utah Sentencing Commission

2016

ANNUAL REPORT

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[HTTPS://JUSTICE.UTAH.GOV/SENTENCING/](https://justice.utah.gov/sentencing/)

THE UTAH SENTENCING COMMISSION:

- Publishes Guidelines
- Advises all three branches of government on sentencing policy
- Conducts research
- Reviews and makes recommendations on legislation
- Tracks legislative changes to sentencing statutes
- Tracks judicial decisions related to sentencing issues
- Assists the legislature in the review and study of sentencing issues
- Conducts training and education statewide
- Responds to public comment and inquiries

ADULT SENTENCING & RELEASE GUIDELINES

The 2015 Adult Sentencing & Release Guidelines incorporated both the directives and principles of House Bill 348, Justice Reinvestment Initiative (“JRI”). The primary targets of the 2015 revisions were to: 1) establish guidelines which were both legal and evidence-based; 2) incorporate specific directives and principles from JRI; 3) increase objectivity and transparency in decision-making; and 4) prioritize limited correctional dollars for serious and/or violent offenders.

In 2016, the primary targets of revisions were to: 1) maintain the long term policy goals of JRI; 2) address initial implementation concerns specific to the guidelines; 3) relabel, rename, and renumber forms for greater clarity, sequencing, and ease of use; 4) incorporate a comprehensive crime listing into Addendum B; and 5) incorporate data and

research into the aggravating and mitigating factors listed in the Guidelines.

A complete copy of the 2016 guidelines, as well as an FAQ of the 2015 revisions and a summary of the specific 2016 revisions can be located at: <https://justice.utah.gov/Sentencing/>. Hard copies of the guidelines are also available upon request.

JUVENILE DISPOSITION GUIDELINES

The Juvenile Disposition Guidelines have been pending revision since 2014. Although the Juvenile Justice Subcommittee has made significant progress over a considerable amount of time, further action was deferred in order to collaborate with the Commission on Criminal & Juvenile Justice on a comprehensive Juvenile Justice Policy Study in 2016.

Three members of the Juvenile Justice Subcommittee of the

Sentencing Commission participated in the study and resulting recommendations: Susan Burke, Pam Vickrey, and Darin Carver. Sincere thanks are extended to them for their significant time, efforts, and contributions; to the Pew Charitable Trusts, who provided technical assistance to the Working Group; and to Ron Gordon, who chaired the Working Group. Data presentations and the final report are available at https://justice.utah.gov/ccij_juvenile_justice_policy_study.html.

The Juvenile Justice Subcommittee of the Sentencing Commission will resume meetings in 2017 in order to incorporate the recommendations. Publication of the revised Juvenile Disposition Guidelines are anticipated in 2017.

TRAINING & EDUCATION

Statewide Training on the 2015 Revisions to the Adult Sentencing & Release Guidelines continued in 2016. Over 30 separate training sessions were held throughout the state with representatives of Department of Corrections, Institutional Operations and Adult Probation & Parole; Salt Lake County Probation; Salt Lake Legal Defenders; Utah Correctional Association; Utah Sheriffs Association; Judicial Conferences; the University of Utah College of Law; and the Utah State Bar.

The Sentencing Commission's website was fully updated in 2016, including PowerPoint presentations, interactive eforms, and interactive links in the guidelines themselves to

the underlying research and data. Please contact jvalencia@utah.gov to scheduled training.

For the first time in 19 years, the Utah Sentencing Commission also hosted the National Association of Sentencing Commission's Annual Conference here in Salt Lake City, Utah. Sincere thanks are extended to all who made this conference possible, including the Commission on Criminal and Juvenile Justice; Utah Governor Herbert; General Counsel to Governor Herbert, Jacey Skinner; Utah Supreme Court Chief Justice Durrant and the Administrative Office of the Courts; the University of Utah College of Law; the University of Utah College of Social Work; Stirba Law Office; individual members of the Sentencing Commission; and criminal justice professionals from throughout the State of Utah.

The conference was a unique opportunity for Utah to both learn from the experiences of others and to highlight the wealth of expertise and innovation which exists in Utah. It was truly an honor and a privilege to welcome national, international and local representatives to this educational and collaborative event.

LEGISLATIVE RECOMMENDATIONS

The Sentencing Commission convened a Working Group to specifically address concerns regarding expungements in 2016. The product of the Working Group was presented to the Law Enforcement Interim

Committee and is anticipated to be a Senate Bill in the 2017 Legislative Session.

The Anomalies Subcommittee of the Sentencing Commission collaborated on legislative recommendations regarding distinguishing Aggravated Unlawful Detention from Aggravated Kidnapping, The Anomalies Subcommittee also collaborated on legislative recommendations regarding Felony Theft Amendments. Both were approved by the full Commission in August 2016 and are pending legislative sponsorship in the 2017 Legislative Session. Further details on the issues and discussions surrounding the legislative recommendations can be located at https://justice.utah.gov/Sentencing/sentencing_subcommittee_notes.html.

The Juvenile Justice Subcommittee of the Sentencing Commission also developed legislative recommendations pertaining to two appellate cases addressing unlawful sexual behavior between minors. The product of the subcommittee's recommendations are anticipated as a House Bill in the 2017 Legislative Session.

The Misdemeanor Subcommittee of the Sentencing Commission also developed legislative recommendations in 2015, which were further vetted in 2016, to address Constitutional concerns raised in several lawsuits nationwide regarding the use of incarceration to collect fines and fees. The recommendations represent a recodification of the entire

criminal accounts receivable section of the Utah Code. The product of the subcommittee's recommendation are anticipated to be a Senate Bill in the 2017 Legislative Session.

RECOMMENDATIONS TO THE JUDICIAL COUNCIL

The Expungements Working Group of the Sentencing Commission also identified an issue which is not capable of legislative resolution, but which could be addressed by the Judicial Council. Of concern is that the filing of a criminal information with the court's xchange system is problematic. The system is widely accessible to the public and may be used as though it is evidence of guilt and/or conviction. For purposes of employment, housing, and law enforcement related investigations, the filing of a case with the court is not evidence of guilt.

The Sentencing Commission recommends that the Judicial Council consider limiting, restricting, or otherwise re-classifying criminal case filings which are either dismissed or where no intent to refile has been affirmatively expressed to the court.

MEMBERSHIP CHANGES

After many years of distinguished service as the Director of Salt Lake Legal Defenders, Patrick Anderson retired in December 2016 and will be sorely missed at the Sentencing Commission. His successor will be Rich Mauro, who has been serving on the Sentencing Commission on behalf of the Utah State Bar. Rich Mauro will fill the vacancy

created by Patrick Anderson's retirement, but the Utah State Bar has not yet selected a successor for Rich Mauro's vacancy.

The Honorable Mark Andrus also retired in 2016 after many years of service on the Second District Juvenile Court bench. His thoughtful and deliberate service to the Sentencing Commission will be sorely missed as well. The Commission looks forward to continuing to work with First District Juvenile Court Judge Angela Fannesbeck, who was selected to fill the vacancy on the Sentencing Commission by the Chief Justice.

Utah County Sheriff Jim Tracy stepped down from his service to the Sentencing Commission on behalf of the Utah Sheriff's Association in 2016. The Sheriff's Association selected Davis County Sheriff Todd Richardson to serve as their representative.

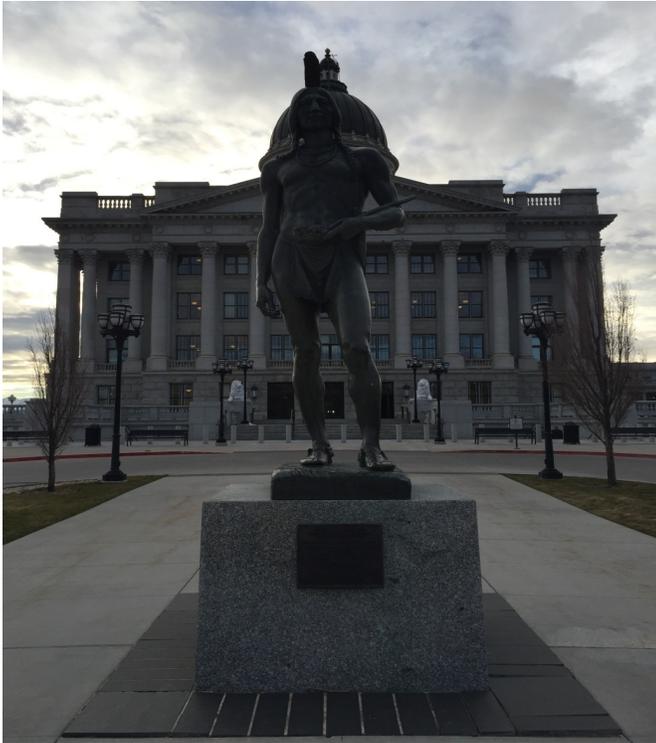
Alvin Emery has served many years as the Chair of the Youth Parole Authority on behalf of Department of Human Services. He also stepped down in 2016. Rick Westmoreland has been selected to fill the vacancy created by Al Emery's departure.

The Sentencing Commission extends its sincere thanks to those who are no longer serving on the Commission and best wishes to all in future endeavors. While many changes in the composition of the Sentencing Commission have occurred this year, the continued dedication and sincerity with which all

members serve is astounding. With 27 members of the Sentencing Commission, each representing very diverse and often divergent points of view throughout the criminal justice system, obtaining consensus on any given issue may appear impossible. However, each member brings their unique perspective and concerns and then participates in a manner which is ultimately driven to improve our criminal justice system and sentencing in particular. The continued service of such dedicated and conscientious individuals as those who serve on the Sentencing Commission is truly an asset to the State of Utah. After observing the makeup, function, and existence (or lack thereof) of other sentencing commissions on a national and even global scale, Utah is undoubtedly unique and well-served by its membership.

EXECUTIVE COMMITTEE

The following members participated in weekly meetings during the 2016 Legislative Session to review bills, to take positions on behalf of the full Commission, and to coordinate communication of concerns: Peter Stirba, Pam Vickrey, Chyleen Arbon, Judge Vernice Trease, Scott Garrett, Rich Mauro, Rollin Cook, and Darin Carver. A summary of all positions taken is listed below. "BS" indicates the bill was considered "Beyond the Scope;" "H" indicates "Hold;" PRI indicates "Priority;" "S" indicates "Support;" "SC" indicates "Support in Concept;" and "OPP" indicates "Oppose."



Summary

824 Bills Filed by 2016 Legislature
 474 Bills Passed
 (58%)

63 Bills Impact Sentencing (13%)
 Of those 63, USC positions were:
 36 BS/NP/H (57%)
 23 PRI/S/SC (36%)
 4 OPP (7%)

179 Bills Reviewed by Exec. Comm.
 Of those 179, USC positions were:
 121 BS/NP/H (67%)
 44 PRI/S/SC (25%)
 14 OPP (8%)

2016 NEW CRIME TOTALS

* New Crime totals include penalties which are newly created or which have been reduced from previously existing penalties.

^a The anticipated fiscal impact predicts costs to state agencies projected for FY2016 & FY2017. Does not include ongoing costs, costs to local govts. or savings.

2016 Totals *									
New 1 st Degree Felonies	New 2 nd Degree Felonies	New 3 rd Degree Felonies	New Class A Misdemeanors	New Class B Misdemeanors	New Class C Misdemeanors	New Infractions	New Fines or Fees	Anticipated Prison Admissions per year	Anticipated Fiscal Impact ^a
	2	6	3	5	2	41	9	1	\$74,542,000
2015 Totals									
1		5	11	16	38	257	9		\$15,051,000
2014 Totals									
		4	5	7	1		5		\$105,600
2013 Totals									
3	10	4	2	11	1			7.3	\$6,663,850
2012 Totals									
1	12	16	13	26	6	1	4		\$1,780,400

2016 SENTENCING COMMISSION MEMBERS

Peter Stirba, Chair
Citizen Representative

Pamela Vickrey, Vice Chair
Juvenile Defense Attorney, Utah State Bar

Chyleen Arbon
Utah Board of Pardons and Parole

Ron Gordon
Executive Director,
Commission on Criminal & Juvenile Justice

Rollin Cook
Executive Director,
Utah Department of Corrections

Judge Michele Christiansen
Utah Court of Appeals

Judge Vernice Trease
District Court Judge, Third District

Judge Thomas Low
District Court Judge, Fourth District

Judge Julie Lund
Juvenile Court Judge, Third District

Judge Angela Fannesbeck
Juvenile Court Judge, First District

Susan Burke
Director, Utah Juvenile Justice Services

Al Emery
Utah Youth Parole Authority

Darin Carver
Adult Treatment Provider, Weber Human Svcs.

Christina Zidow
Juvenile Treatment Provider, Odyssey House

Chief Craig S. Black
Utah Chiefs of Police Association

Sheriff Todd Richardson
Utah Sheriffs Association, Davis County

Representative Marc Roberts
Utah House of Representatives, Republican

Representative Brian King
Utah House of Representatives, Democrat

Senator Daniel Thatcher
Utah State Senate, Republican

Senator Gene Davis
Utah State Senate, Democrat

Rachelle Hill
Victims' Representative, West Valley City

Prof. Shima Baughman
Ethnic Representative, University of Utah
College of Law

Patrick Anderson
Director, Salt Lake Legal Defenders

Rich Mauro
Defense Attorney, Utah State Bar, Federal
Defenders

Paul Boyden
Director, Statewide Association of Prosecutors

Scott Garrett
Juvenile Prosecutor, Statewide Association of
Prosecutors, Iron County Attorney

Craig Barlow
Utah Attorney General's Office