



# Utah Sentencing Commission

## Adult Sentencing and Release Determinations

### Philosophical Approach

The Commission promotes sentencing policies that: punish the offender, protect and compensate victims and society, and reduce the likelihood of future criminal conduct through the use of appropriate and evidence-based rehabilitation and incapacitation.

## Community Protection

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### Position 1: Public Safety

The first and foremost objective in the sentencing of offenders is to protect the public.

- (a) Risk to the public should be of paramount consideration at initial sentencing and in probation/parole deliberations.
- (b) **All other positions taken herein are considered secondary.**

### Position 2: The Interests of Victims

Victims' interests, including safety, restitution, and participation should be given

great emphasis at each stage of the criminal justice process.

- (a) Victim safety and peace of mind should be carefully considered prior to sentencing and before release if incarcerated.
- (b) As much as possible, victims should be fully informed and consulted as to their opinions and should be allowed to be heard at sentencing and Board of Pardons and Parole hearings.
- (c) Monetary restitution, or other forms of compensation to the victim, should be addressed in tailoring an offender's sentence and conditions of release.



## Sentencing Options

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### Position 3: Individualized Sentences

Criminal punishment, including intermediate sanctions, should focus on the particular circumstances of each situation and offender.

- (a) The severity of an offense and the sentence rendered should be determined by actual harm done and the intent of the offender.
- (b) The sentence should consider and address, but not necessarily be determined by, the specific criminogenic risks and needs of the offender.

### Position 4: Discretion

Sentencing judges should have discretion in sentencing offenders. The Board of Pardons and Parole should also have discretion in making its decision. Both judges and the Board of Pardons and Parole should use that discretion to make decisions based upon articulated factors as contained in these position statements and the Adult Sentencing and Release Guidelines. Policy decisions should maintain and enhance that discretion.

### Position 5: Resource Sensitivity

Sentencing approaches should take into account, without being controlled by,

available sanctioning resources and their relative cost-benefits.

### Position 6: Continuum of Sanctions

Sentencing should incorporate a defined continuum of sanctions. Different sanctions should be applied depending on:

- (a) the severity of the offense;
- (b) the risk the offender poses to the community;
- (c) the ability to rehabilitate the offender and prevent recidivism;
- (d) the offender's acceptance of responsibility for the crime committed;
- (e) restitution made or the ability and willingness to make restitution;
- (f) behavior while incarcerated; and
- (g) progress in treatment.

### Position 7: Self-Support and Restitution

Offenders should be required to pay victim restitution. Offenders should also be required to pay the costs of their supervision, treatment, and other related costs whenever possible.



## Incarceration

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### **Position 8: Serious Offenders**

Prison commitments should be used primarily for three types of offenders:

- (a) felons who have committed more serious crimes;
- (b) felons whose criminal behavior cannot be controlled in less secure settings; and
- (c) felons whose behavior or criminal history merits incarceration.

### **Position 9: Length of Incarceration**

The length of prison and jail incarceration should be proportionate to the offense and

related to the factors considered in these positions. Sentencing decisions should recognize that incarceration is not appropriate in all cases.

### **Position 10: Mandatory Minimum Sentences**

In furtherance of the Sentencing Commission's statutory mandate to "enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole..." (U.C.A. 63M-7-404(5)), mandatory minimum lengths of incarceration should not be legislatively imposed as they curtail the discretion needed by judges and the Board of Pardons and Parole.

## Release Criteria

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### **Position 11: Community Protection**

In concert with Position 1 herein, when considering whether to release an offender from incarceration, the sentencing and release authorities' primary concern should be the risk that offender poses to the community, including the victim(s).

### **Position 12: Requisite Punishment**

An offender who has been sentenced to prison should serve a term of punishment commensurate with the crime of commitment as determined by the sentencing and release authorities before being released.

### **Position 13: Indications of Possible Reform**

The sentencing and release authorities should also consider;

- (a) the offender's genuine acceptance of responsibility for the crime and for future behavior; and
- (b) the offender's efforts to address criminogenic needs while incarcerated by involvement in educational, treatment, and improvement programming, meaningful and steady employment, and restitution payments; and
- (c) the offender's efforts to pay restitution while incarcerated.



## Post - Release Considerations

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### Position 14: Post-Release Supervision, Sanctions & Reintegration

Parole authorities and supervisors should use a variety of approaches to enhance an offender’s chance of successful reintegration into the community. The approach should be individualized to each offender based upon an assessment of the offender’s risks and needs and be focused to reduce the likelihood of continued criminal conduct by the offender.

- (a) A parolee should be subjected to a continuum of supervision levels depending on:
  1. the risk the parolee poses to the community, including the victim; and
  2. the parolee’s behavior while on parole.
- (b) A spectrum of intermediate sanctions should be implemented while handling parole violations in order to protect the community, and where feasible, minimize unnecessarily returning parolees to prison.

## Research and Recommendations

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### Position 15: Research Based Sentencing Policies

Sentencing policies and programs should be based upon research and evidence with an emphasis on reducing future criminal conduct. Programs should be evaluated regularly to ensure that they are implemented in accordance with that research and evidence.

### Position 16: On-going Research

A rigorous program of record-keeping and information analysis should be conducted on the effects of various sanctioning policies. This research should be used to inform policy and practice.

### Position 17: Coordination

In order to assist the development of sound sentencing policy, all governmental agencies and private associations should coordinate with the Sentencing Commission regarding sentencing-related concerns.

### Position 18: Sentencing Commission Recommendations

The Sentencing Commission should, when so requested or when it deems appropriate, make recommendations to all branches of government regarding present or potential policy and fiscal impacts of existing or proposed sentencing-related legislation and initiatives.