



Utah Sentencing Commission

2011

ANNUAL REPORT

Jacey Skinner, Director

(801) 538-1645

www.sentencing.utah.gov

Utah Sentencing Commission

The Utah Sentencing Commission is responsible for developing sentencing guidelines for adult and juvenile offenders and for proposing recommendations to all three branches of government regarding the sentencing and release of adult and juvenile offenders. The following policy statement guides the Sentencing Commission in these efforts:

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

Adult Sentencing Guidelines eForms

The most recognizable parts of the Adult Sentencing and Release Guidelines are the General and the Sex Offense Matrix and the accompanying forms listing the aggravating and mitigating factors. The Utah Sentencing Commission website provides an electronic version of these forms for use by presentence report writers and the Board of Pardons and Parole.

During 2011, these forms were updated and made more easily accessible to the agents and officials that use them regularly. The forms can be found at sentencing.utah.gov/eForms.

Focus on Proportionality

Utah Code dictates that the Sentencing Commission make recommendations to the Legislature, the Governor, and the Judicial Council about sentencing in order to, among other things, "increase equity in criminal sentencing." Utah Code Annotated 63M-7-404(3).

One of the underlying philosophies of the Commission is that there should be a definite continuum of sanctions. That continuum should be proportionate based upon many factors including the severity of the offense and the risk the offender poses to the community. *Adult Sentencing and Release Determinations: A Philosophical Approach.*

During 2011, the Sentencing Commission undertook the project of evaluating and categorizing the various criminal penalties in the Utah Code. Many of these penalties are scattered throughout the code and associated with behavior that is not generally thought of as criminal. The Commission's intention is to catalog and review the continuum of these penalties to determine if the current penalties are proportionate in relation to one another and to the conduct with which they are associated.

Part two of this project will look at sentencing practices associated with the various penalties. The Commission will review the data to determine if the sentencing patterns of the court and the Board of Pardons and Parole are reflective of that proportionality and will make recommendations to adjust penalties that are disproportionate.

Emphasis on Evidence Based Sentencing

The Commission continued its work with the Board of District Judges and the Department of Corrections to ensure evidence based practices are effectively used in all areas of our sentencing system.

The Commission is currently working to increase the use and understanding of risk and needs assessments in the sentencing of offenders. The intent is to ensure that the conditions of an offender's sentence will address the specific risks and the specific needs of that offender in an effort to reduce the likelihood that they will reoffend in the future. This is a cooperative effort between Adult Probation and Parole, who conducts the assessments and makes recommendations to the Courts regarding sentencing, the Commission, and the Courts.

Utah's Department of Corrections has been a leader in implementing evidence based practices into their policies and practices while supervising offenders. The Commission is supportive of this effort and will continue to recommend that these practices are used in each stage of the sentencing process.

Legislative Action and Initiatives

During the 2011 Legislative Session the Sentencing Commission supported legislation to remove the option for an offender convicted of a class A misdemeanor to elect to serve their sentence at the

Utah State Prison. Although there were relatively few offenders choosing to serve misdemeanor sentences in prison, this long standing practice allowed less serious offenders to take up prison beds and resources displacing other offenders with more serious offenses. These recommendations were adopted by the legislature and are now law.

Consistent with its charge to propose recommendations to the legislature, the Commission reviewed and made recommendations on all proposed legislation related to sentencing policy during the 2011 legislative session. In addition to these recommendations, the Commission expanded its efforts to work more closely with members of the legislature. The Commission's goal is to provide decision makers with information to assist them in making policy decisions that are effective in punishing offenders and reducing recidivism, while prioritizing public safety and the efficient use of the ever decreasing resources of the criminal justice system.

2012 Recommendations

During the interim the Commission reviewed the current procedure for emergency release due to

overcrowding at the prison and made recommendations to clarify and alter the required process. The Commission presented the recommendations to the Judiciary, Law Enforcement, and Criminal Justice Interim Committee: Representative Eric Hutchings will sponsor the legislation during the 2012 legislative session.

2011 Penalty and Sentencing Policy Changes

Each year the Sentencing Commission tracks changes to sentencing policy, the creation of new crimes and changes to existing penalties. During the 2011 legislative session, the Utah Legislature created 14 new felony offenses and 14 new misdemeanor offenses. The Commission's report summarizing all off the 2011 sentencing related legislation changes to penalties, and

the fiscal impact is available on the Sentencing Commission's website, www.sentencing.utah.gov.

The majority of new offenses created in 2011 were changes to existing statutes and crimes. Several new substances were added to the schedule of controlled substances, creating 4 new felonies and 2 new misdemeanors. Immigration related legislation resulted in 2 new felony and 2 new misdemeanor offenses.

2011 Penalty Change 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	Anticipated Fiscal Impact ^a
	10	4	2	11	1			7.3	\$6,663,850
2010 Totals									
1	3	4	6	14	4		4		\$918,000
2009 Totals									
	1	7	9	10	4	2	°	1	\$301,700
2008 Totals									
1	3	11	6	2			°	15	\$360,000

* New Crime totals include penalties increased or decreased from a previously existing penalty.

^a The anticipated fiscal impact predicts costs to state agencies in the fiscal year FY11 or the year indicated only and does not include ongoing costs or the costs to county or local governments.

° Information regarding new fines or fees to offenders was not tracked in these years.

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