



Utah Sentencing Commission

2017

ANNUAL REPORT

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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 2016 Adult Sentencing & Release Guidelines incorporated both the directives and principles of House Bill 348, Justice Reinvestment Initiative (“JRI”). The primary targets of the 2016 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.

In 2017, the primary targets of revisions were to: 1) maintain the long-term policy goals of JRI; 2) revise criminal history scoring; 3) relabel, rename, and renumber forms for greater clarity, sequencing, and ease of use; 4) incorporate updated

Response and Incentive Matrix (RIM) tools.

A complete copy of the 2017 guidelines, as well as an FAQ of the 2016 revisions and a summary of the specific 2017 revisions can be located at: <https://justice.utah.gov/Sentencing/>. Hard copies of the guidelines are also available upon request.

MASTER OFFENSE LIST

The Sentencing Commission made a monumental effort this year to compile the 2017 Master Offense List. The list contains all criminal offenses no matter where they occur in the Utah Code. The Master Offense List will be a useful tool for legislators, policy advisors, practitioners, and academics. The Master Offense List can be accessed at <https://justice.utah.gov/Sentencing/Handouts/MASTER%20OFFENSE%20LIST%20FINAL.pdf>.

If you notice any errors or omissions in the Master Offense List, please e-mail marshallthompson@utah.gov.

TRAINING & EDUCATION

Statewide Training on the 2016 and 2017 Revisions to the Adult Sentencing & Release Guidelines continued. Several 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.

Representatives of the Sentencing Commission also participated in the smarter sentencing conferences organized by the Administrative Office of the Courts. These conferences convened teams of judges, prosecutors, defense attorneys, probation and parole officers, and others to receive training on evidence-based sentencing and then perform practical exercises together. Feedback from the conferences was extremely positive and more Smarter Sentencing conferences are planned for 2018.

The Sentencing Commission's website was fully updated in 2017, including PowerPoint presentations, interactive eforms, and interactive links in the guidelines themselves to the underlying research and data. Please contact

marshallthompson@utah.gov to schedule training.

LEGISLATIVE RECOMMENDATIONS

The Misdemeanor Subcommittee of the Sentencing Commission developed several legislative recommendations that are anticipated to be senate bills in the 2018 Legislative Session. These include a bill to clarify that indigent defendants facing misdemeanors must be offered appointed counsel, a bill to render the default penalty for an unspecified misdemeanor an infraction instead of a class B misdemeanor, a bill to revise the theft statute for clarity, and a bill to remove the separate misdemeanor charge for failure to appear.

The Sentencing Commission convened a working group to specifically address concerns regarding expungements in 2016. After coordinating with other interested groups, the proposal was revised and is anticipated to be a senate bill in the 2018 Legislative Session. When a person has criminal charges against them dismissed without prejudice, they cannot get the criminal filings removed from publically accessible databases until the statute of limitation runs. This means that criminal case filings, which are not evidence of guilt, can prevent a person from gaining employment or housing for significant amounts of time. The working group has proposed a bill to delink the person's name from the case filings in the publically available databases so that the filings can only be searched by someone who has the case

number. This will allow law enforcement to track the cases and the individuals, but will make it more difficult for landlords or employers to unfairly use criminal case filings as a basis to deny housing or employment.

MEMBERSHIP CHANGES

After many years of distinguished service as the Executive Director of the Utah Commission on Criminal and Juvenile Justice, Ron Gordon has moved on to be general counsel for the Governor. He will be greatly missed at the Sentencing Commission and the CCJJ. Kim Cordova was confirmed by the Senate in December to be the new Executive Director of the CCJJ. She will take Ron's place on the Sentencing Commission beginning in January of 2018.

In December, the Senate also confirmed Judge Camille Neider to be a district court judge in the Second District. The Utah State Bar has not yet selected a successor for Judge Neider's vacancy.

Paul Boyden, the representative for the Statewide Association of Prosecutors is retiring. His replacement will be announced soon.

Darin Carver will also be leaving the Sentencing Commission. The Governor has not yet appointed a successor for Darin.

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 a unique perspective and concerns and

then participates in a manner that 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 2017 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, Rich Mauro, Craig Barlow, Rollin Cook, and Mike Haddon. A summary of all positions taken is listed below.



Summary

**1,272 Bills Filed by 2017 Legislature
535 Bills Passed
1 Bill Vetoed**

**160 Bills on CCJJ’s Legislative Tracking List
130 Substantive Positions Taken by the
Sentencing Commission**

Sentencing Commission Positions:

- Beyond the Scope: 62
- No Position: 12
- Hold: 2
- Oppose: 25 (13 passed, 52%)
- Support Concept 9 (7 passed, 78%)
- Support 23 (17 passed, 74%)

2017 NEW CRIME TOTALS

2017 Penalty Impact 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	16	17	14	7	2	18	12	\$2,467,600
2016 Totals									
	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

* 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.

2017 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

Rick Westmoreland
Utah Youth Parole Authority

Darin Carver

Adult Treatment Provider, Weber Human Svs.

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