

# SENTENCING COMMISSION MINUTES

<b>Committee</b>	<b>Utah Sentencing Commission</b>
<b>Date</b>	<b>Wednesday, August 6, 2008</b>
<b>Time</b>	<b>Noon – 1:30 p.m.</b>
<b>Location</b>	<b>Utah State Capitol, Capitol Board Room</b>
<b>Members Present</b>	Paul Boyden, Judge Jeffrey Burbank, Judge Terry Christiansen, K.S. Cornaby, Scott Daniels, Curt Garner, Representative Lorie Fowlke, Senator Jon Greiner, John Hill, Rob Latham for Randy Kester, Dan Maldonado, Jim Marchel, Judge Gregory K. Orme, Mike Haddon for Tom Patterson, Kathy Reimherr, Sy Snarr, Craig Barlow for Kirk Torgensen
<b>Members Excused</b>	David Brickey, Senator Mike Dmitrich, Representative Carl Duckworth, Marlene Gonzalez, Judge Kimberly Hornak, Judge Paul Maughan, Chief Ed Rhoades, Sheriff Brad Slater, Doyle Talbot, Bob Yeates
<b>Staff</b>	Scott Carver, Jo Lynn Kruse, Dave Walsh
<b>Visitors</b>	Representative Sheryl Allen, Susan Allred, Larry Bench, Cliff Butter, Wade Farraway, Jim Ingle, Adria Swindle
<b>Agenda Item</b>	<b>Welcome and Approval of Minutes</b>
<b>Notes</b>	Kay Cornaby called the meeting to order and welcomed everyone. Kay introduced our guests, Representative Sheryl Allen, Susan Allred, Larry Bench, Jim Ingle and Wade Farraway. Rep. Lorie Fowlke made the <b>motion</b> to approve the minutes from the June meeting. Judge Orme <b>seconded</b> the motion which <b>passed unanimously</b> .
<b>Agenda Item</b>	<b>Sex Offender Study</b>
<b>Notes</b>	<p>Dr. Larry L. Bench, Ph.D., presented findings from his study “<i>Constructing a Profile of Sex Offender Recidivism Using Multiple Measures: A Longitudinal Analysis</i>”. The purpose of the study was to get a comprehensive view of sex offender recidivism. There is a long standing controversy over the amount of recidivism among this group. Approximately 383 offenders were tracked through the criminal justice system for approximately sixteen years with some being tracked up to twenty five years.</p> <p>The power point presentation listed the offending behaviors (original charges) by those in the study group along with types of recidivistic activity. Most of those offenders incarcerated were for acts against children.</p> <p>Out of all the variables observed, there were only four variables that were statistically significant: Age of first arrest, number of parole violations, whether or not the offender failed treatment, and whether or not the offender was intoxicated at the time of the offense. The age at first arrest was the biggest predictor of whether or not people would come back into the system. In summary, the amount of recidivism committed by sex offenders is substantially lower than what it is perceived to be and that we probably need to pay attention to the data and construct policies on the basis of what we know rather than some of the things that have been driving it in the last few years. Dr. Bench will keep us updated as necessary.</p>
<b>Agenda Item</b>	<b>Sex Offender Registry Update – Jim Ingle, Department of Corrections</b>
<b>Notes</b>	HB 492 passed last legislative session which made significant changes to the registry statute for the state of Utah, mostly to come into compliance with the Federal Adam Walsh Act. Utah chose to write statute that makes sense for Utah rather than adopting Adam Walsh as a whole. Ohio accepted Adam Walsh in its entirety and has over 3,000 lawsuits pending as a

	<p>result.</p> <p>The Sex Offender Registry is now known as the Sex and Kidnap Offense Registry (SKOR).</p> <ul style="list-style-type: none"> <li>▪ Four new offenses have been added as register-able offenses: Voyeurism, Kidnapping, Aggravated Kidnapping and Unlawful Detention (a Class B offense). An exemption was made for natural parent on kidnap offenses (minor's biological or adoptive parent, and includes the minor's non-custodial parent).</li> <li>▪ Offenders found not in compliance with registration requirements will be required to complete an additional year on the registry for each year of non-compliance.</li> <li>▪ Offenders now have three working days instead of five to report changes in their information.</li> <li>▪ Offenders must now register every six months instead of annually.</li> <li>▪ Annual fee is now \$100.</li> </ul> <p>New information which offenders must now report include: Internet information (including addresses and passwords for sites the individual frequents except for personal finance or work matters), secondary addresses, copy of passport, copy of INS paperwork, employer information, volunteer organization information, vehicle information on all vehicles the offender owns or regularly drives (including plate numbers), DNA, telephone numbers, professional licenses and social security number. Social security numbers are not posted on the website. A man in Weber County is challenging the requirement of computer passwords, saying it violates his constitutional rights. That federal lawsuit is still pending. Computer passwords will not be made public but are available to law enforcement.</p> <p>Cliff Butter will prepare a report one year from now to see how many people on the registry are there because of kidnapping only. Jim Ingle will prepare a report a year from now with a breakdown of offenses on the registry.</p>
<b>Agenda Item</b>	<b>Cell Phone Pornography</b>
<b>Notes</b>	<p>Rep. Sheryl Allen presented the draft "Material Harmful To Minors Amendments" and asked the commission for its approval and endorsement. This item is on the Judiciary agenda for August 20. The bill addresses youth who use electronic devices to distribute pornography or material harmful to a minor.</p> <p>Paul Boyden stated that the easiest way to deal with this is to have different graded penalties depending on the age of the perpetrator. An offense under the pornographic material section (see line 55) <i>committed by a person 18 years of age or older</i> is a third degree felony (the same as it is now). Line 61 states "<i>An offense under this section committed by a person 16 or 17 years of age is a class A misdemeanor</i>". And on line 63 "<i>An offense under this section committed by a person younger than 16 years of age is a class B misdemeanor</i>". And finally, line 66 states "<i>A person 18 years of age or older who knowingly solicits, requests, commands, encourages, or intentionally aids another person younger than 18 years of age to engage in conduct prohibited under Subsections (1), (2), or (3) is guilty of a third degree felony and is subject to the penalties under Subsection (4) (a)</i>". Dan Maldonado made the <b>motion</b> that the Sentencing Commission approve and endorse the bill. Judge Burbank <b>seconded</b> the motion. The motion <b>passed</b> with one dissenting vote.</p>
<b>Next Meeting</b>	The next meeting will be September 3, 2008, Utah State Capitol, Capitol Board Room
	Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ