

SENTENCING COMMISSION MINUTES

Committee	Utah Sentencing Commission
Date	Wednesday, November 4, 2009
Time	Noon – 1:30 p.m.
Location	Utah State Capitol, Senate Bldg., Spruce Room
Members Present	Patrick Anderson, Paul Boyden, David Brickey, Scott Daniels, Rep. Lorie Fowlke, Curt Garner, Ron Gordon, Senator Jon Greiner, Randy Kester, Judge Paul Maughan, Judge Gregory K. Orme, Tom Patterson, Kathy Reimherr, Representative Jennifer Seelig, Doyle Talbot, Kirk Torgensen, Judge Stephen Van Dyke, Carlene Walker
Members Excused	Judge Terry Christiansen, Marlene Gonzalez, Dan Maldonado, Senator Scott McCoy, Chief Ed Rhoades, Sy Snarr, Sheriff James Winder
Staff	Jo Lynn Kruse, Dave Loden, Dr. Chris Mitchell, Ben Peterson, Jacey Skinner, David Walsh
Visitors	Judge Kimberly Hornak, Esther Chelsea-McCarty, Lana Taylor
Agenda Item	Welcome and Approval of Minutes
Notes	The meeting was called to order by Carlene Walker. Judge Van Dyke made the motion to approve the minutes from the September meeting. Curt Garner seconded the motion which passed unanimously .
Agenda Item	Recognition of Departing Member
Notes	Carlene recognized Judge Hornak for her service on the Sentencing Commission since 2005. Judge Hornak is leaving because she has been elected to the judicial council. Carlene also recognized Dr. Christine Mitchell, who is retiring in December, for many years of providing research to the State of Utah.
Agenda Item	Welcome New Member
Notes	Judge Frederic (Ric) M. Oddone, who could not attend today, will replace Judge Hornak on the commission.
Agenda Item	Jail as a Condition of Probation
Notes	<p>In response to the decision of the commission at the August and September meetings, the subcommittee has been meeting and presented a draft of the proposed jail as a condition of probation guidelines. The proposed guidelines represent a tailored view of the average of the current jail sentences in each of the boxes on the adult sentencing matrix.</p> <p>Chris proposed that we create instructions, send out to the DOC for use from three to six months and then re-evaluate. Ron Gordon made the motion that we move forward and request input on this draft guideline from AP&P, the Board of District Court Judges, prosecutors, criminal defense lawyers, and the Victim's Council, and that we ask for that input to be received no later than January 4, 2010. Randy Kester seconded the motion, which passed unanimously.</p>
Agenda Item	2009 Legislation
Notes	<p>Expungement – Lana Taylor presented the latest draft on expungement. If BCI finds someone has received an expungement in another state, they cannot expunge in this state. This legislation also attempts to specify that a person can expunge no more than one felony and three misdemeanors. Judge Orme made the motion that the sentencing commission takes no stand on this legislative proposal or any related or substitute proposal as being outside the core function of the sentencing commission. Judge Van Dyke seconded the motion. The motion failed. Kirk and Lana will get together with Senator Greiner to address issues and concerns and present again on January 6.</p> <p>Post Conviction Relief – Kirk stated that it appears we will not be back with a constitutional amendment. A small group got together to discuss the draft, which went very well. The group's preference is to go with court rule and small statutory fix rather than the constitutional amendment route. Kirk believes the court will adopt the rule in December and the small statutory fix in January. The purpose is to cut down those continued post conviction cases that oft times are redone over and</p>

	over again. Paul Boyden made the motion to support the rule and statutory change. Judge Van Dyke seconded the motion. The motion passed with one no vote from Patrick Anderson and with Tom Patterson, Kathy Reimherr, Judge Maughan and Curt Garner abstaining. Controlled Substances Scheduling – This item moved to January agenda.
Agenda Item	Philosophy for Approving Legislation
Notes	During the legislative session, a lot of legislation comes up that is very pertinent to sentencing issues. Many members of this commission attend weekly meetings at CCJJ to discuss issues and develop positions on legislation. At one time there was a formal executive committee to do this and the full commission authorized this group to act on their behalf. There would be a waiting period before the position could become final, so that any member of the commission could make an objection. On subsequent years, that was done away with and the executive committee just made recommendations on behalf of the full commission. Jacey requested that we formalize the process. Jacey and Ron will put together a recommendation that the commission may take a formal vote in January.
Agenda Item	Meeting Schedule for 2010
Notes	January 6, April 7 (annual meeting), June 2, August 4, October 6, and November 3, 2010. Unless otherwise notified, all meetings will be held at noon in the Spruce Room of the Utah State Capitol Senate Building.
Next Meeting	The next meeting will be, January 6, 2010, Spruce Room

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ