



INMATE VIOLENCE



Enhanced penalties for certain offenses committed by prisoner (UCA 76-3-203.6)

If the trier of fact finds beyond a reasonable doubt that a prisoner serving a sentence for a capital felony or a first degree felony commits any offense listed... the court shall sentence the defendant to life in prison without parole.

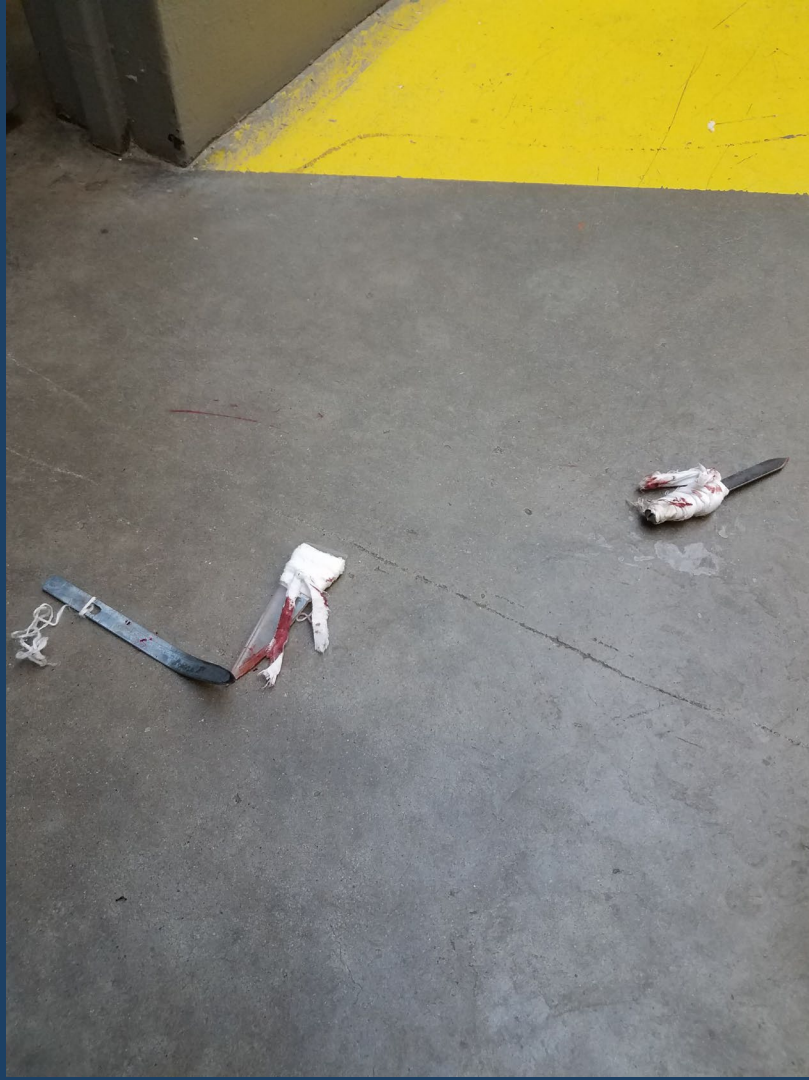


Enhanced penalties for certain offenses committed by prisoner (UCA 76-3-203.6)

- Agg assault
- Mayhem
- Att Murder
- Kidnapping
- Child kidnapping
- Agg kidnapping
- Rape/child
- Object rape/child
- Forcible sodomy
- Sodomy on child
- Agg sex abuse of child
- Agg sex assault
- Agg arson
- Agg burglary
- Agg robbery



The Smith Incident





Aggravated Assault versus Aggravated Assault by Prisoner

Aggravated Assault (76-5-103)

- Third-degree felony
(2nd w/ serious injury)
- Reckless, Knowing, or
Intentional
- No proof of intentional
injury needed

Aggravated Assault by Prisoner (76-5-103.5)

- Second-degree felony
(1st w/ serious injury)
- Prisoner element
- Must intentionally cause
serious injury for 1st



3 Problems with agg assault as an enhanced penalty for prisoner

1. A third-degree felony (0-5) can lead to life without parole;
2. Including Aggravated Assault (and not agg assault by prisoner) means proving less to obtain a more serious sentence;
3. Assaultive F1/Capital prisoners will be charged more leniently than assaultive prisoners serving on lesser charges.



3 recommendations:

1. Amend 76-3-203.6(2):

~~If the trier of fact finds beyond a reasonable doubt that~~
a prisoner serving a sentence for a capital felony or a first
degree felony commits any offense listed in Subsection (5),
that offense is a first-degree felony and the court shall
sentence the defendant to life in prison without parole.



3 recommendations:

2. Amend 76-3-203.6(5)(a):

~~aggravated assault, Section 76-5-103~~ aggravated assault by a prisoner, Section 76-5-103.5;



3 recommendations:

3. Amend 76-5-103.5:

Any prisoner who commits aggravated assault ~~not amounting to a violation of Section 76-3-203.6~~ is guilty of:

(1) a second degree felony if no serious bodily injury was intentionally caused; or

(2) a first degree felony if serious bodily injury was intentionally caused.