

## **Alabama Sentencing Commission**

Minutes of Commission Meeting  
January 4, 2002

The Alabama Sentencing Commission met in the Mezzanine Classroom at the Judicial Building in Montgomery on Friday, January 4, 2002. Present at the meeting were:

Honorable Ellen Brooks, District Attorney, 15<sup>th</sup> Judicial Circuit, Montgomery  
Rosa Davis, Chief Assistant Attorney General, Montgomery  
Stephen Glassroth, Esq., Glassroth & Van Heest, P. C., Montgomery  
Becki Goggins, The Sentencing Institute, Montgomery  
John Hamm, Public Information Officer, Department of Corrections, Montgomery  
Lou Harris, D.P.A., Faulkner University, Montgomery  
Honorable O. L. Pete Johnson  
Emily A. Landers, Deputy Director of Constituent, Governor's Office, Montgomery  
Honorable David Rains, Circuit Judge, 9<sup>th</sup> Judicial Circuit, DeKalb  
Rodger M. Smitherman, Chair, Senate Judiciary Committee, Birmingham

Staff:

Lynda Flynt, Executive Director, Alabama Sentencing Commission

The meeting convened at approximately 10:00 a.m. Lynda Flynt, Executive Director, of the Alabama Sentencing Commission called the meeting to order and made introductory remarks.

### ***Introductory Remarks***

Ms. Flynt stated that Judge Colquitt was sick and unable to attend the meeting. She noted that this was one of the Commission's most important meetings because the Initial Report to the Legislature needed to be finalized. Ms. Flynt stated that the Commission is faced with the predicament of not going to the legislature with specifics in January because of the lack of sufficient data on which to base the Commission's recommendations and because it will be an election year and our recommendations for reform may not receive the support they need.

### ***New Commission Members***

Ms. Flynt mentioned that Don Parker has retired as Director of the Board of Pardons and Paroles and that Bill Segrest, the new director would be taking his place, serving out the remainder of Don's term. In addition, Judge Sam Monk resigned as representative for the Circuit Judges Association and Circuit Judge Ben McLaughlin was appointed to serve the remainder of his term.

### ***Commission Funding***

Ms. Flynt reported on funding for the Commission during FY 2002, stating that with the help of Rosa Davis, Ted Hosp and Emily Landers, the Commission has been able get funding through September. The Commission was awarded a \$100,000 Byrne grant, received \$183,000 from the Governor's Contingency Fund and received a \$94,000 interagency transfer from ADECA. With these funds, the Commission can follow through with its plans to hire a permanent analyst, collect additional data and update the database already developed by Applied Research Services.

### ***Commission involvement with Criminal Justice Associations***

#### *Circuit and District Judge's Midwinter Conference*

Ms. Flynt advised the members that the Sentencing Commission will sponsor programs on the agenda for the Circuit and District Judges Mid-Winter Conference and this participation will provide the cash match needed for the FY 2002 Byrne grant. With the help of AOC and the Judges' Education Committee, the Commission will be able to get the grant without any additional funding. Tammy Meredith and John Speir of Applied Research Services will present data from the 48,000 cohort of felony offenders they have developed and Dr. Richard Kern, Director of the Virginia Sentencing Commission, Judge Richard Walker, past chair of the Kansas Sentencing Commission will be addressing the judges on the first day in a plenary session, giving a general presentation on what problems they have encountered.

#### *District Attorney's Association Meeting and Circuit Clerks and Registers Meeting*

Ms. Flynt advised that the Commission would be represented by Judge Colquitt at the District Attorney's Conference in Birmingham and also by her at the Clerks Conference. Through short presentations at these meetings, we plan to explain to the participants what the Commission is doing and request their support. Although the Commission does not have very long on the agenda for the Clerks Conference, there is enough time to explain to the clerks that one of the Commission's biggest problems is missing data on defendants' criminal histories and emphasize how important accurate data entry is for the development of a reliable sentencing database.

#### *Board of Probation and Parole*

Commission members and staff also attended the National Conference of Probation and Parole Officers held at the Perdido Beach Hilton and provided an update on the Commission's activities and plans for the future.

### ***UAB Proposal***

Ms. Flynt distributed to Commission members a preliminary proposal that was provided by Dr. Kay Morgan from the University of Alabama in Birmingham. Dr. Morgan did not prepare a specific proposal between UAB and the Alabama Sentencing Commission but sent the Pennsylvania proposal she had been involved in to obtain the members general support. It was explained that if the Commission wants to pursue this proposal, Dr. Morgan will draft a specific proposal for UAB. Dr. Morgan is not asking for any money for this project but is very interesting in getting UAB involved in the work of the Sentencing Commission, primarily in the area of data analysis. Dr. Morgan has been explained the privacy concerns of the Commission and understands that UAB staff and students would be expected to enter into confidentiality agreements regarding personal information which is provided for statistical purposes only. Ms. Flynt explained that UAB has received grants and will get grant opportunities, if they will develop this partnership but there must be a vote of the Commission approving this project before the partnership agreement could go into effect.

Commission member Rosa Davis stated that Dr. Morgan is looking at cooperative agreements between UAB and agencies like the Sentencing Commission to provide services such as assisting with analyzing data. The University of Pennsylvania has an agreement with the Pennsylvania Sentencing Commission to assist with data collection and analysis, which is what Dr. Morgan asked to be distributed to give the Commission members an idea of the project she is proposing to establish with the Sentencing Commission. The Commission members are being asked to take a look at the proposal and see if ultimately it thinks there is some merit in the Commission being able to form those types of agreements with one or more universities in Alabama to assist with its work.

Ms. Davis commented that some of the money that the Commission has received from the federal government from the National Institute of Justice and Corrections Program in the Department of Justice (not through ADECA), is no longer being awarded. Instead, what is now being awarded are cooperative agreement grants to do the kind of work Dr. Morgan is proposing. Ms. Davis further commented that the money the Commission received to work with from Vera Institute of Justice is now going in another direction. Voicing her support for the project, she stated that this is something that the Commission probably needs to take a look at and see what ideas it can come up with in regard to working not only with UAB, but other institutions also.

### ***Commission's Legislative Report***

Ms. Flynt handed out a draft of the Commission's initial report to the Legislature which must be submitted no later than January 7, 2002. She stated that although it did not include a comprehensive legislative reform package, it would bring the existence of

the Commission to the Legislature's attention, since it had been her experience that not many Legislators were even aware of the Commission's existence. Senator Smitherman addressed the Commission saying that he thinks that the Legislators, in general, know that the Sentencing Commission has been created and the impression that he gets is that they are looking for the Sentencing Commission to recommend to them ways to resolve prison/jail overcrowding. Senator Smitherman further stated that the Legislature is looking for solutions/alternatives for people who have committed less serious crimes that are being kept in jail too long, tying up cells where the bed space is needed to get the criminals who have committed more serious offenses off the streets.

Senator Smitherman stated that the Legislators realize that there is a disparity in sentencing and that people with less serious crimes are getting longer sentences in one area of the state than in others. They are saying that there needs to be some type of self-controlled mechanism, without mandatory sentencing that takes away discretion from the judges totally. Senator Smitherman advised that the Commission should tell the Legislators that it must collect additional data and should not include the statistics shown in the draft report. He stated that the Legislators need to see how many people are being released, how many of them are repeat offenders, how many are coming back and what is being doing to keep them from coming back. Senator Smitherman further advised that the Commission needs to show that it is concerned about the safety of the public and that it wants to be sure that the violent offenders who need to be incarcerated are and that the nonviolent offenders who need alternative programs are getting those.

Lynda Flynt requested input from the Commission members about how to address the problem of going to the Legislature and saying that we don't have the report they expect or a report with specific recommendations for reform because of incomplete data and the best way of presenting and distributing the report to the Legislators. Rosa Davis mentioned that it was previously suggested that Representative Marcel Black and Senator Rodger Smitherman receive the report from the Commission dated January 7<sup>th</sup> and that each of them would ask for time from the head of their perspective bodies and on the floor and present the report to the Legislature.

After several suggestions from members as to changes that needed to be made in the draft report, primary of which was to omit all tables, charts and references to the sentencing data provided by Applied Research Services, Ellen Brooks motioned to delegate editorial changes that the Commission made to the report to the executive committee and the staff. The motion was seconded. The motion carried.

### ***Formation of New Work Groups***

Lynda Flynt stated that the work groups have presented their reports to the Commission and that they have been disbanded. Ms. Flynt further stated that if there is anything else that the work groups are going to need to help the Commission with then new work groups or task forces will need to be established. A motion was made that the executive committee determine whether or not the Commission should follow the same work group

pattern when establishing the new task forces. The motion was seconded. The motion carried.

It was announced that the next Commission meeting was tentatively scheduled for February, but that announcements would be sent to all members when a date was finalized.

There being no further business, the meeting was adjourned.