

# Alabama Sentencing Commission

## Minutes of Commission Meeting March 31, 2006

The Alabama Sentencing Commission met in the Small Classroom of the Judicial Building in Montgomery on Friday, March 31, 2006. Present at the meeting were:

Hon. Joseph Colquitt, Chairman, Retired Circuit Judge, Professor, University of Alabama School of Law, Tuscaloosa  
Vernon Barnett, Deputy Commissioner, Department of Corrections  
Hon. Terri Bozeman, District Judge, Lowndes  
Ellen Brooks, District Attorney, 15<sup>th</sup> Judicial Circuit, Montgomery  
Rosa Davis, Chief Assistant Attorney General, Montgomery  
Lou Harris, D.P.A., Faulkner University, Montgomery  
Hon. Ben McLaughlin, Presiding Circuit Judge, Ozark  
Hon. David A. Rains, Circuit Judge, Fort Payne  
Bill Segrest, Executive Director, Pardons and Paroles, Montgomery

### **Advisory Council:**

Shelly Linderman, VOCAL  
Adolph South, Tuscaloosa

### **Staff:**

Lynda Flynt, Executive Director  
Melisa Morrison, Senior Research Analyst

### **Others Attending:**

Eddie Cook, Jr., Pardons and Paroles  
Becki Goggins, Criminal Justice Information Center, Montgomery  
Amanda Luckey  
Rhonda Harper  
Jim Hill  
Samira Jafari, Associated Press  
Cynthia Dillard  
Rosemary Collins

### **Welcome and Introductory Remarks**

The meeting convened at 10:00 a.m. Chairman Colquitt called the meeting to order and made introductory remarks. He thanked everyone for attending and asked each person to introduce themselves.

Chairman Colquitt noted that today's meeting was a business meeting to bring everyone up to date and to do some planning. He reminded the Commission members

that the Commission is authorized to appoint members of the Advisory Council from time to time. Members were asked to complete their ballots for Advisory Council members whose terms were expiring and new nominees and give them to Lynda Flynt. He noted that the Advisory Council is an important organization for the Commission that provides us a lot of information about various issues and also helps the Commission with task forces and committee work.

Chairman Colquitt announced that the Commission has recently had the following legislation passed:

**Act 2006-312**

**Sentencing Standards  
Effective October 1, 2006**

This bill was also a part of the Governor's packet. Chairman Colquitt noted that Vernon and Governor Riley will have an interest in this bill when it officially arrives at the Governor's desk. He stated that he hoped the Governor would take the opportunity to have a little ceremony and pay special attention to the fact that Lynda Flynt, Rosa Davis, staff, members of the Sentencing Commission, and many of our advisory council members and supporters have worked so hard over a period of years to get this particular legislation drafted, amended as necessary, and approved by the Legislature. The work done this spring, as well as year by Lynda, Rosa and other members of the staff and Commission has paid off. Judge Colquitt noted that it was a very long and arduous road to get this bill passed.

The Act adopts voluntary sentencing standards with appropriate worksheets for 26 felony offenses and becomes effective October 1, 2006. These recommended sentences provide judges with additional information and direction in lieu of the wider ranges currently available under existing statutory law.

The recommendations, or "sentencing standards" as they are called, are voluntary, non-appealable, historically based, time-imposed sentencing recommendations developed for 26 felony offenses, representing 87% of all felony convictions and sentences imposed in Alabama over an approximate five-year period from October 1, 1998 through May 31, 2003. The standards are recommended sentence ranges and dispositions for the covered offenses, developed utilizing key factors normally considered by judges in imposing sentences.

The Commission believes that judges will follow the sentencing recommendations in about 75% of sentenced cases. The standards represent the "normal" case containing recognized sentencing factors. Of course, other factors will undoubtedly exist in about 25% of sentenced cases, in which judges are expected to take those additional factors into consideration and impose either a harsher or more lenient sentence than recommended. Preliminary testing of the standards has indicated that use of the standards will produce the desired result, i.e., greater uniformity in sentencing and the elimination of unwarranted sentencing disparity.

This legislation is virtually the same as the sentencing standards bill that was introduced during the 2004 and 2005 Regular Sessions that passed the House both years, and was in a position to pass on the last night of the 2005 Regular Session. Some minor changes have been made to the bill, including a new implementation date for the sentencing standards and some minor improvements in the standards themselves to clarify definitions and recommendations. In addition, a provision was added to require filing of the standards with the Clerks of the Senate and House, as well as the Clerk of the Alabama Supreme Court.

**Act 2006-297**

**Theft of Property 2<sup>nd</sup>  
Effective April 4, 2006**

In 2003 the Commission presented to the Legislature a theft package raising the value of the property stolen. The Legislature passed it and the next year the theft 2<sup>nd</sup> statute was again amended by the Legislature with a bill that unraveled some of what had been passed before. In 2004, instead of amending the revised statute, the Legislature went back to the old provisions with the lower property values. The threshold for Theft of Property 2<sup>nd</sup> Degree was inadvertently changed back to the pre-2003 level in a bill changing the words “horses” and “mules” to “equine” and “equidae.” The pre-2003 statutory language was used in making the amendment. This change resulted in an omission for theft of property valued from \$1,000 to \$2,500. It was just a mistake but has taken 2 years to get it corrected. Judge Colquitt noted that yesterday the Legislature passed that bill which corrects the mistake.

**2006-198**

**Burglary 1<sup>st</sup> and 2<sup>nd</sup>  
Effective June 1, 2006**

This Act amends §§ 13A-7-5 and 13A-7-6 of the *Code of Alabama 1975*, relating to Burglary in the 1<sup>st</sup> and 2<sup>nd</sup> degrees, requiring that an offender either be armed with a deadly weapon upon entry into a dwelling or building or use or threaten the immediate use of a deadly weapon in order to be convicted of the higher offense. It is specifically provided that, if the deadly weapon or dangerous instrument is one of the items stolen in the burglary, the crime does *not* involve the “use” or “threatened use” of the deadly weapon or dangerous instrument.

**2006-197**

**Maximum Fine Increase  
Effective June 1, 2006**

The fines authorized for criminal offenses have not been adjusted since the Criminal Code was originally codified back in the 1970’s. This Act amends §§ 13A-5-11 and 13A-5-12 of the *Code of Alabama 1975*, to increase (based on the inflation index) the

maximum amount of fines authorized to be assessed upon one convicted of a felony, and Class A or B misdemeanors. The amendments allow the judge to retain his/her discretion to impose any lesser fine amount and would simply authorize the imposition of a larger fine in appropriate cases.

The new maximum authorized fines are comparable to those authorized in Tennessee, Georgia, and Virginia as well as to the fines imposed for new offenses in Florida, Mississippi, and South Carolina.

**2006-218                      Pre-/ Post-Sentence Investigation Reports**  
**Effective March 10, 2006**

Under prior law, pre-sentence investigation reports on convicted felony offenders were required only upon motion of a party or the court and these reports were provided in written or electronic form. These reports contain information essential to the supervision of probationers and the classification of prison-bound offenders. The reports also contain vital information for maintaining current data on convicted offenders on which policy decisions can be made for improving Alabama's criminal justice system. This Act requires either the filing of *post-sentence or* pre-sentence reports, to avoid case processing delays, and also requires such reports to be completed in electronic format.

**2006-654      Effective 4/28/06                      DUI**

Other legislation that passed was the DUI Out-of-State priors bill, which specifically provides that out of state convictions for DUIs can now be considered at sentencing when a defendant is convicted and sentenced for a subsequent DUI offense. The appellate courts had interpreted Alabama's DUI statute as prohibiting the use of prior DUI convictions from out-of-state for the purpose of enhancing punishment when a person was subsequently convicted for violating Alabama's DUI statute. Act 2006-654 amended Alabama's DUI statute to specifically authorize the use of out-of-state convictions for enhancements under § 32-5A-191, Alabama's DUI Law. As substituted, HB 117 included a provision under new subsection (o) referencing prior convictions occurring within a 5 year period for enhanced punishment. It reads, in its entirety, as follows: "(o) A prior conviction within a five-year period for driving under the influence of alcohol or drugs from this state, a municipality within this state, or another state or territory or a municipality of another state or territory shall be considered by a court for imposing a sentence pursuant to this section." Subsection (f) still limits the use of a prior conviction to those occurring within a five year period, however, subsection (g) relating to third convictions and subsection (h) relating to fourth or subsequent convictions, have no limitation period specified therein. Whether this imposes a five year limitation on the use of all prior convictions is an issue that will ultimately have to be decided by the

courts. In addition, to correct drafting errors in 2006-298 omitting reference to commercial motor vehicles, Act 2006-654, specifically repealed Act 2006-298.

Judge Colquitt noted that yesterday was a remarkable day; however, the Commission still has a lot of work left to do and he hoped that all the members understood that. To implement the sentencing standards effectively, more workshops must be conducted for the judiciary of Alabama, prosecutors, probation and parole officers and defense lawyers. Commission staff and members must educate the principle actors in the criminal justice system on how to apply the sentencing standards and complete the worksheets. He noted that the Commission conducted regional workshops 2 years ago, but follow-up and more extensive training is now required before October 1<sup>st</sup> when the standards go into effect. In closing, Chairman Colquitt stated that this is a day of celebration and also a day of kickoff for a lot of work.

Judge Colquitt stated that the Commission would be receiving several reports from various agencies and departments today. He began by introducing Commission member and the new Deputy Commission of the Department of Corrections, Vernon Barnett.

### **Report from the Governor's Office and DOC**

Vernon Barnett, Deputy Commissioner of the Department of Corrections, gave a report prepared by the Overcrowding Task Force and on the Department of Correction's efforts in implementing these recommendations. He also gave an update on changes that have been made at the Department of Corrections. He noted that Terrance Jones and Steve Hayes have moved on and that Terry McDonald, Warden III, has replaced John Jacobs. Rachel Lee has been promoted to replace Terrance Jones. The Department is also bringing in a senior leadership council made up of Warden IIIs. This gives the Department the benefit of many years of service, a great diversity of background, and also complete dedication to the agency.

Mr. Barnett noted that every month the Department has a net growth of its population of 119 inmates. He stated that you will see that at any one time the Department will have 700 inmates over 30 days in jails. He stated that there are approximately 234 that EOS out of the system every month on the average, there are about 236 inmates moved to minimum custody and work release and 91 are paroled.

Bill Segrest noted that there are a lot more than that paroled. The chart in MR. Barnett's PowerPoint showed the minimum paroled. Actually, there were 235 paroled in February, 198 paroled in January, 221 in December, 120 in November, and 152 paroled in October. Mr. Segrest stated that the Board has never paroled as low as 91 in 5 years. Cynthia Dillard added that one year it was low, because of the notices.

Mr. Barnett explained that the Department is under a lot of pressure from the Association of County Commissioners and litigation before Judge Shashy. He stated that the Department is going to meet some of those demands by converting the Montgomery

work release center to medium custody which will create about 300 medium security beds. Montgomery work release is actually Kirby prison. In addition, the mental health facility at the Bullock County prison is a medium security facility. He advised that the Department was closing work release there so that it will have appropriate officers to staff the new facility. The facility in Limestone County is now under construction. It is an old factory that is being converted to medium security beds.

Mr. Barnett stated that the Governor had some specific orders for the Task Force which included: public safety, the safety of officers, the provision of constitutional humane conditions for inmates, provision for educational opportunities, vocational training and seeing that their spiritual needs are met. The draft of the 30-day plan has been submitted to the Governor. He advised that as soon as the report is finalized, a copy will be made public to everyone who would like to review it.

With passage of the sentencing reform legislation, Mr. Barnett noted that one of the things that they have been doing is meeting with their counterparts in other agencies working on those lines of communication and working on the exchange of data. They are working with the Administrative Office of Courts to bring online the new computer system at the Department of Corrections. He stated that this was a huge priority and noted that the new system will give the Department information when needed so that they will know how to move people around and make plans based on actual data.

The technical violator center which Pardons and Paroles are working on will hopefully be online next year. Bill Segrest noted that it's in the General Fund budget and that it is pending passage in the House.

Mr. Barnett stated that the new male facility is coming online Monday. They will take in about 50 inmates a month until they reach capacity.

### **Expansion of Community Corrections**

Vernon noted that the Alabama Association of Community Corrections seminar was held in Cheaha recently. He stated that Jeff Williams was in charge of community corrections for the Department of Corrections and has been named as director of that division. He advised that the Department is making a great deal of progress in not only expanding the role community corrections plays, but also in streamlining the process for reimbursement.

Judge Rains stated that in the minutes of the last meeting there was a discussion about an increased fee that was going to be paid by the Department of Corrections to the community correction programs for institutional diversion. Mr. Barnett noted that did not begin until September. Ms. Davis noted that this reimbursement rate was a special rate for people that had been sentenced to DOC prior to September.

Mr. Barnett elaborated, stating that there are a number of offenders in the facility that would be eligible for community corrections. On September 20<sup>th</sup> a special diversion program was implemented for all offenders that were eligible for community corrections

and sentenced prior to September 15<sup>th</sup> of 2005. Normally, that institutional diversion rate starts at \$10.00 per day for the first six months and then it moves to \$5.00 per day for up to a maximum of 2 years. On September 20, 2005, new reimbursement rates for institutional diversions were temporarily implemented, increasing the reimbursement to \$15 per day for the initial three months, \$10 per day for the next 6 months and \$5 per day for the remainder of the two year period. . This new program, which only applies to inmates sentenced prior to September 15, 2005 who are now in a DOC facility or awaiting transfer from a county jail, authorizes an increased rate of reimbursement to community corrections programs of \$5 per inmate for the first three months of participation in the program. Although this rate is still lower than the amount authorized for front-end diversions (those eligible inmates sentenced directly to community corrections programs), it does bring recoupment costs closer with front-end diversions. Front-end diversions receive only \$5 more a month per inmate for a period of three additional months when compared to the new institutional diversion rate. Since the Special Diversion Program applies to institutional diversions, the 10 point checklist will not apply to this program. He reiterated that these new rates apply to inmates sentenced prior to September 15, 2005, who are in a DOC facility or housed in a county jail awaiting transfer to a DOC facility.

Judge Rains noted that the amount paid now for somebody sentenced after September of 2005 to the local program is \$10.00 a day for first six months. He asked, "What is the reaction of the community corrections programs about the money." Is that enough money for these community corrections programs to be effective?

Mr. Barnett stated that he thought that this was an adequate amount noting that there were some programs that had indicated that they would like a higher reimbursement rate. He advised that the higher rate is with the front-end diversions. It starts at \$15.00 per day so there is a greater incentive for programs for the front-end diversions. The institutional diversions were implemented several years back. Prior to that, there were only the front end diversions; those defenders sentenced directly to community corrections from the court.

Mr. Barnett reported that the Department of Corrections is entering into a partnership with Dr. Johnson of Postsecondary Education, who is very interested in rehabilitation and particularly workforce training. The Department is in the process of developing a partnership with him whereby it will take higher level inmates and put them through an education facility run by the Department of Corrections in conjunction with Postsecondary, making sure that they get the training that they need, and then put them out into either work release or prison industries. He stated that prison industries makes a wide array of products and the state agencies are actually required by statute to buy from them as long as their prices are competitive.

Ms. Davis mentioned that people think that the prison industry is just a fund raising effort inside the prison. She explained that what it does, which is more important than any money raised by it, is it takes care of the idleness among inmates. It is important

to keep them working and have them acclimated to a working regimen so that when they get out they have a better chance to become a law abiding citizen.

Mr. Barnett stated that there currently were not enough jobs for the number of inmates who want to work. A number of people will share one job. For instance, if one job is four yards of wheat then there may be six or eight inmates sharing that job just to get a few hours a week. Mr. Barnett noted that one of the things that Dr. Johnson has been talking to the Department of Corrections about is sending work release inmates through his programs in anticipation that they will come out very skilled welders and high-end construction workers. Dr. Johnson's folks will assist with placement once these inmates are either on paroled, placed on work release, end their sentence (EOS), or otherwise released.

Dr. Lou Harris, a commission member, asked whether there had been a study done on what the retention and turn over rate or correctional officers was. He also asked how many officers the Department is losing per month -not from retirement or other means but actually losing people that Department would like to keep. He stated that the second part of the question deals with the statement that was made when visiting Donaldson. He noted that many of the officers at Donaldson said that in order to make a decent living they had to work overtime as many as 60 or 70 hours. Based on this statement Dr. Harris said that he didn't think that we have been given a very accurate view of what the turnover rate is in the past. For instance, the studies that we have looked at suggest that 25 to 50% turnover is normal in correction systems throughout the United States. The concern in terms of officers working 60 or 70 hours is that certainly it creates a tremendously amount of stress on them. It reduces their ability to respond to emergencies. Noting that you have to have the data to be able to address this, Dr. Harris asked if that been done.

Mr. Barnett stated that the Department is losing, on average, 30 officers a month. He explained that it takes three months to train officers. The Department has lost 90 officers and that includes retirement. He advised that the personnel department is going to increase the pay ranges for officers so they will have the ability to make more money, noting that there are few legislators that are willing to support a bill to raise the actual salaries.

Mr. Barnett also noted that, as far as recruitment, the Department has entered into a partnership with the National Guard to recruit. One of the things that the Department can offer because of its partnership with the guard is not just a fulltime job but also a part-time job that will come along with the guard.

As a long term strategy, one of the main things that the Department is challenged with is not only are the institutions very old but they don't comply with the Americans With Disabilities' Act. The Federal government is sending representative to check all of the facilities and they will be forcing compliance. That's why the Department is going to be looking at long term strategy to build at least one new prison. Rather than asking for a



large lump sum at one time they will be looking at amortizing the cost of this facility over 30 years.

Mr. Barnett advised that drug treatment was another problem area and that unfortunately, a number of judges send people to the Department of Corrections for drug treatment. He noted that one of the messages that he would like to get out to everybody is that there is a waiting list for drug treatment.

Another problem in the drug treatment arena is that DOC has been paying for treatment from a federal grant and the federal grant is being discontinued. In addition, to the under funding for the Department, that is another three million dollars that they are trying to find so that they can continue drug treatment in the facilities next year. In the short term, they are trying to come up with the money to continue drug treatment and then to improve it.

### **Report from Jeff Williams, Director, Community Corrections Division of the Department of Corrections**

Jeff Williams gave the Commission an update on community corrections. He reiterated that community corrections held its spring conference at Cheaha State Park recently, noting that he talked to the programs and asked them to continue to work with the Department in expanding community corrections throughout the state. He stated that there are currently 25 programs operating in 32 counties.

In 2005 there were a total of nearly 1900 diversions for which the Department of Corrections reimbursed programs. Of those numbers, 1159 were new diversions that went to the program—a combination of front-end diversions as well as institutional diversions. Of the 1896, there were 737 that were carried over from the 2004 fiscal year. Currently in their facilities they have just over 1800 inmates that will be released ending their sentence this fiscal year.

The Department of Corrections is currently sending each of the counties it contracts with that has a community corrections program a monthly diversion list. From that diversion listing there are eligible offenders that can be placed in the community corrections that were sentenced from those respective counties. The Department also conducts a secondary review. In addition to computer generated lists, DOC is also going back and reviewing those lists to make sure they offer the best possible candidates for diversion. Mr. Williams noted that from that list they are sending out on a monthly basis, letters are included that are signed by the Commissioner. They are sent to the sentencing judge asking the judge to consider those eligible offenders for placement in community corrections.

Mr. Williams stated that the Department of Corrections has enough money to bring on as many as 10 new programs this fiscal year. Letters were sent out about two months ago to judges, county commissions, and DAs advising them that the Department

of Corrections had funding in its 2006 budget to assist counties with the development of community corrections programs.

Mr. Williams noted that the Alabama Association of Community Corrections continues to help the Department of Corrections in making contact with those programs/counties that don't currently have programs. He has a commitment from the new President of the Association, Eugene Pierce, to assist and establish a committee that would provide assistance to those counties who are looking to develop community corrections programs.

Judge McLaughlin noted that it would help in the counties, where community corrections has just gotten started, if judges were provided with an outline as to exactly what happens and what the real status of these prisoners are when they come into community corrections.

Judge Rains stated that each county can design the community corrections program the way that they want to do it. For example, if a county wants to have a day reporting center, they can have that in that county and the neighboring county might choose to have a different kind of facility.

Judge Rains further stated that for a while the DeKalb county program had to take over the Cherokee county program. He said it was worse than starting from scratch to take over a program that has not been managed properly to begin with. Getting a community corrections program started from scratch is tough to do financially. It is a difficult thing to afford, especially if you want to have some of the bells and whistles that the statute really authorizes.

For example, if you wanted to have a day reporting center staffed by the proper people and to make a community corrections program something different from and more than mere probation, you have got to have those extra bells and whistles; otherwise, it is just probation by another name. Because these people are high risk people, they require special attention and special programs that the normal probationer wouldn't require. Judge Rains said that this daily fee that is paid by the Department of Corrections may not be enough money to do the bells and whistles.

Judge McLaughlin mentioned that Houston County has a great residential community corrections. He stated that community corrections is where the action is going to be in the future. It is going to take a lot of leadership from the Department of Corrections and it is going to take some money to make sure the community corrections program is more than probation.

Mr. Williams stated that community corrections has to do more than probation in dealing with offenders. It has to be a more intensive type supervision that offers various forms of treatment in addressing the offender's shortcomings. In most cases, the Department of Corrections has run out of funds prior to the end of the year. Last year was the first year that the Department had funding throughout the year. Basically what

the Department of Corrections has offered was on the front-end from startup with grant money.

### **Report from Board of Pardons and Paroles**

Bill Segrest, Executive Director of the Board of Pardons and Paroles reported that the transition center for men located in Thomasville is up and running. He said that if all of the hurricane evacuees are out, they can put 50 parolees in there on Monday morning. He noted that while they were signing the certificates they looked at how long the people were going to have to stay and the minimum release date. Mr. Segrest stated that they found that out of 50 parolees two of them are actually serving life sentences. The mean sentence on the remaining 48 is 3 ½ years.

He stated that 10 of the inmates going there on Monday would actually EOS the sentence in 2006. He noted that while they were signing those certificates they also looked through those files and they are indeed short term. Most of them have 9 or 10 DUIs or they have very significant substance abuse problems. *They have had no treatment whatsoever at Department of Corrections.* HE noted that the treatment program at Life Tech is certified by the Department of Mental Health and is a very comprehensive and demanding treatment.

Mr. Segrest explained the phases of a transition center: The first phase is stabilization and assessment. They are assigned an individual case action of what they are expected to accomplish while they are in there. The second phase is intensive substance abuse treatment. He stated that the participants may be a part of group and individual counseling as much as 12 to 16 hours a day and it doesn't stop on the weekend. Phase three begins their education component with Post Secondary Education onsite. The fourth phase is vocational rehabilitation. Mr. Segrest noted that the Department of Vocational Rehab is onsite already. They are the ones who actually transition the people from the center back to the community. They try to build bridges to employers, from education opportunities or substance or mental health treatment programs in the community. He emphasized that these people need to have some actual work experience. Mr. Segrest mentioned that they have got some places where they can build some dormitory type buildings so that these people would have a place to stay and have jobs in the community. He noted that they will need that bill passed that lets them pay 25% of their earnings for upkeep and maintenance.

Mr. Segrest provided Commission members with a packet to read at their leisure. He explained that the first two pages is a docket comparison broken down by month. The special docket actually started in April 2003. The second panel came in on December of 2003. He stated that the Governor had a conference and explained that he was getting all sorts of complaints from the district attorney and that they had to stop hearing these people so soon. He noted that it changed their criteria, because they were in the process of granting a consideration hearing for every person in the prison system who was sentenced for an offense that was nonviolent immediately just as soon as they would get them on the docket.

The packet also contained the report from the Department of Corrections. Mr. Segrest stated that it has some of the best information for the criminal justice system in Alabama that he has ever seen.

He noted that the column under parole was the number per month that are released on parole. Parole reinstatement is people who have been locked up for a parole violation rather than being revoked they are reinstated to parole. DOC counts in their gains column delinquent parolees as soon as they get custody of them, whether they are revoked or not.

In January through March the Board granted parole to over 1,000 inmates. Mr. Segrest pointed that out because when the Parole Board considers a person for the transition center they first determine whether or not that person can be placed on a regular parole caseload. If they can they are paroled to parole supervision. If the person cannot go to a regular caseload, then they consider whether he or she is eligible to be placed in a transition center.

Mr. Segrest advised that there is a bill pending in the legislature that will require all female inmates in Louisiana to be brought back to Alabama by June 2006, stating that they have tried to find female inmates that could be put on the parole docket.

Ms. Flynt mentioned that TASC had free beds for violent women and is receiving a federal grant that they are going to lose if they don't utilize this program more. According to Foster Cook and Ralph Hendrix with TASC, a lot of the women that they could have gotten into this program were being put into the transition centers. Ms. Flynt noted that they worked out four different options that they are going to look into to get the women who might be eligible. It's not just violent offenders but serious offenders. These would be an "inhouse" facility with programs. They need to fill up 40 beds right now. They have been meeting with not only Department of Corrections and Pardons and Paroles but also with the Alabama Association of Community Corrections.

Chairman Colquitt reminded everyone that although the Commission has heard a lot about prison crowding and overcrowding etc., which greatly affects what the Commission can do, the Commission's principal charge is to address a lot of other issues rather than prison overcrowding. The Commission is to deal with such things as truth-in-sentencing, unwarranted disparity in sentencing, and various aspects of sentencing policies, practices, and procedures. He noted that much of the Commission's work really has no direct impact on overcrowding in the prison system.

### **2006 Commission Report – Approval for Distribution**

Lynda Flynt provided members with a tracking package and sentencing commission bills. *See summaries of Acts above.* She reminded the members that the Commission voted not to pursue amendment of the split sentencing statute to address the interpretation by the Court of Criminal Appeal's on the limited authority a judge possesses in regard to revocation.

*Fines and Increase* - passed

*Burglary and Loot Rule* - passed

*Electronic Pre Post Sentence Report* – will become effective March 10<sup>th</sup>

*Sentencing Standards* are now pending the Governor's signature

*Theft of Property 2<sup>nd</sup>* – passed

*DUI* – passed

*Juvenile and YO Records*

Ms. Flynt noted that the Juvenile and YO Record Access bill is not going to pass this year. She explained that there was opposition because a lot of legislators did not understand the fact that this was not going to open up all these juvenile and YOs to the public. It only was applicable to criminal justice officials and it would allow them to have statewide access for purposes of completing the sentencing standards worksheets and applying the new standards.

*In addition, Ms. Flynt advised that the bills increasing Drug Trafficking fines and the bill authorizing a Pardons and Parole facility fee were both dead. She briefly mentioned other bills that might have passed or that were in a good position to pass:*

*Municipality Responsible for Expense of Juvenile in Detention* - had its second reading in the senate.

*Justifiable Use of Deadly Force* – passed and awaiting Governor's signature.

*Homicide "Person" Including Unborn Child* – got its second reading in the Senate with an amendment yesterday.

*The Dangerous Dog Procedures* - had its second reading in the House.

*Crime, Hog and Canine Fighting* - had its second reading in the senate yesterday

*Theft of Property 1<sup>st</sup> Degree; Expanding Definition* - It had its second reading in the Senate on 3/15/06.

*Criminal Trespass Revision* – Second reading in the house was 3/15/06.

*Pardons of Persons - Rosa Parks Act* - passed the House, substituted and amended.

Ms. Flynt noted that the Commission owes Senator Smitherman, Representative Marcel Black and Helen Jordan, Senator Black's secretary, special thanks for their assistance and support. She encouraged members to write to each of them thanking them for their help.

Ms. Flynt announced that Joe Mahoney, President of the Alabama Association of Community Corrections and advisory council member to the Sentencing Commission, has retired from Mobile Community Corrections. She advised that the new president of the Association is Eugene Pierce and that the new Director of Mobile Community Corrections is Mr. Steve Greene. Ms. Flynt noted that until she is notified further, Mr. Mahoney is still on the advisory council.

Ms. Flynt mentioned that the statistician position for the Sentencing Commission is still vacant and that the job announcement will be open until April 15<sup>th</sup>.

Melisa Morrison gave an update on the recidivism study. She stated that the Commission has to complete an internal review board application. Mrs. Morrison explained that even though the Commission is not directly involved with the inmates, Auburn considers that a human subject. She noted that the Commission has submitted a timeline for its participation in the program for the recidivism study.

Ms. Flynt mentioned that the Commission has been working with the Faith Based Reentry Task Force, explaining that this body originated out of the Governor's office but is not a Governor's Task Force. The Task Force was formed primarily to prepare for the Second Chance money that they are expecting from Congress. They have outlined some proposals. Ms. Flynt noted that they have also obtained information from Chaplain Walker on inmates that have participated in faith based programs; however, they are awaiting additional information on the statistics that were supplied.

Ms. Flynt advised that Vera Institute of Justice is going to continue to assist the Commission. She stated that Vera has chosen two states, Alabama and Nebraska to work with this coming year. Barb Tombs of Vera has schedule a visit to Alabama to meet with Commission staff on April 18<sup>th</sup> – April 21<sup>st</sup>. Ms. Tombs is expected to work with the Commission staff on what is needed as far as technical assistance in conducting the sentencing standards workshops. Lou Harris, Chair of the Education Committee, will be meeting while she is here.

Ms. Flynt mentioned that the Commission has also been asked to get involved with the drug courts, noting that there is a Supreme Court Committee on Drug Courts. Mike Carroll and the Judicial College have been working with the Drug Court Committee; however, the Judicial College does not have staff or time to plan the meetings and work with them. Ms. Flynt volunteered the Commission staff to host meetings for this committee.

Chairman Colquitt mentioned that the Commission needed to adopt the report so that it could be submitted to the Legislature, stating that the report has to be submitted

during the session. He noted that the Commission approved it in concept at the last meeting. This is the final draft.

Motion: That the Commission approve the report. Seconded and approved.

Ellen Brooks asked if a copy of the report will be sent to all the DAs and the judges.

Ms. Flynt responded that legislators will be provided with a copy of the report first and then a copy will be sent to presiding judges and DAs.

### **Scheduling of Committee Meetings**

The next Commission meeting was tentatively set for June 16, 2006.

*There being no further business, the meeting was adjourned.*