

Alabama Sentencing Commission

Minutes of Commission Meeting May 10, 2002

The Alabama Sentencing Commission met in the Mezzanine Classroom of the Judicial Building in Montgomery on Friday, May 10, 2002. Present at the meeting were:

Hon. Joe Colquitt, Chairman, Retired Circuit Judge, Professor, University of Alabama School of Law, Tuscaloosa
Ellen Brooks, District Attorney, 15th Judicial Circuit, Montgomery
Rosa Davis, Chief Assistant Attorney General, Montgomery
Honorable Ben McLaughlin, Presiding Circuit Judge, 33rd Judicial Circuit, Ozark
Lou Harris, D. P. A., Faulkner University, Montgomery
Honorable David Rains, Circuit Judge, 9th Judicial Circuit, DeKalb
Stephen Glassroth, Esquire, Glassroth & Van Heest, P. C., Montgomery

Advisory Council:

Chaplin Adolph South, Tuscaloosa
Doug Parker, Director, DeKalb County Community Punishment & Corrections Authority, Inc., DeKalb

Speakers:

Dr. Tammy Meredith, Applied Research Services, Atlanta, Georgia
Dr. Kay Morgan, Associate Professor of Justice Science, University of Alabama at Birmingham
Dr. John Speir, Applied Research Services, Atlanta, Georgia

Others Attending:

Jimmy Doyle, Deputy Legal Advisor, Governor's Office

Staff:

Lynda Flynt, Executive Director, Alabama Sentencing Commission

Welcome and Introductory Remarks

The meeting convened at approximately 10:00 a.m. Chairman Colquitt welcomed the Commission and thanked them for their attendance.

Vacancy on the Commission

Chairman Colquitt mentioned that Clyde Jones has been on the Commission as an appointee of the Alabama Lawyers Association and has been appointed Circuit Judge in Jefferson County. The president of the Alabama Lawyers Association would have to make a determination about their representation on the Commission.

Recent Developments

Financial Report – Grant Application Pending

Chairman Colquitt reported that the Commission has been placed in the budget and the Commission's needs are beginning to get some recognition from the Legislature. He stated that

the Legislature was already aware of the fact that the Commission existed but they just hadn't provided any funding. The Commission has a grant application that is pending, because there will be some shortfall in funds the Commission will need some supplementary funds from other sources.

ARS Contract Renewed

The Applied Research Services contract has been renewed. The Commission has requested proposals from Applied Research Services for a contract to do the modeling and to create the software needed in order to get answers.

Continuation of Technical Assistance from Vera Institute of Justice

Chairman Colquitt reported that BJA (Bureau of Justice Assistance) is going to continue assisting the Commission with some funding so that it can continue its relationship with Vera.

Drug Court Survey

The Administrative Office of Courts is conducting a survey with regard to drug courts. The Commission is expecting information with regard to the drugs courts shortly. That survey is in its final stages.

Automated PSI Reports

Mike Carroll and the Department of Pardons and Paroles are working on an ongoing project to create automated PSI (Pre-Sentence Investigation) reports.

Senior Research Analyst Position

Chairman Colquitt reported that the Commission currently has an opening establishing a position for a senior research analyst. This would be an in-house person who would assist the Commission with a lot of the questions and answers from the data base and assist in keeping the data base current, etc. That particular position has been advertised and qualified applicants are being interviewed.

Summer Intern

A summer intern has been hired and will be working with Lynda and Rosa assisting them during the summer.

Chairman Colquitt stated that later in the morning the Commission would hear reports from the Offender Seriousness Subcommittee (Chair, Rosa Davis) and the Offense Seriousness Subcommittee (Chair, Judge Ben McLauchlin). The two subcommittees have met and also have scheduled meetings for the month of June. Lynda Flynt, Executive Director of the Commission will present a report on passage of Criminal Bills. Dr. Kay Morgan will talk briefly to the Commission about a proposed partnership with the University of Alabama of Birmingham.

Proposed Partnership with UAB

Dr. Kay Morgan, Associate Professor of Justice Science at the University of Alabama at Birmingham presented a proposal on Partnership with the University of Alabama at Birmingham. Dr. Morgan stated that when she moved to Alabama in 1991 to take the position at the University of Alabama at Birmingham, she was interested in the kind of relationships between universities and state agencies. Dr. Morgan discovered that basically there were no research relations between the state universities and the state agencies. Dr. Morgan reported that

they have done some random and informal kinds of partnerships with agencies in the state but nothing very formal. There have been some research partnerships with the Board of Pardons and Paroles, the Department of Corrections, Sheriff Departments and the Birmingham Police Department but nothing that was lasting or formal.

Dr. Morgan commented that her purpose for attending the Commission meeting was basically to explain what she as well as the UAB is proposing to do. They are interested in developing a collaborative research partnership between the Alabama Sentencing Commission and the University of Alabama at Birmingham's Department of Criminal Justice Sciences. Dr. Morgan provided the Commission with copies of the University of Alabama's proposal and also a copy of the faculties' curriculum vita.

Dr. Morgan emphasized that the University of Alabama will work with the Commission and its contracted agency to develop a research coalition or participate in research activities. The University of Alabama at Birmingham would have an opportunity to be a part of the implementation of those sentencing reforms as well as an evaluation of those reforms at a later date. There have been some very productive research relationship correlations. Florida State University has developed a very productive and effective partnership with the Department of Corrections in Florida. Penn State has developed a very productive research coalition with the Pennsylvania Sentencing Commission.

Dr. Morgan reported that the goals of this research coalition would be to:

- Produce theoretically and methodologically sophisticated research on sentencing practices in Alabama and the impact of changes in sentencing practices on various agencies within the criminal justice system.
- Secondly, they anticipate conducting research projects that will produce data for further examination and assimilation by way of seminar presentations.
- Thirdly, they anticipate setting forth a research agenda to work with the Commission to focus on Alabama Sentencing Commission research projects and to assess the impact of sentencing changes.

Dr. Morgan commented that collaborative research could be beneficial to both the Alabama Sentencing Commission as well as to the University of Alabama. It will help the University of Alabama Birmingham to train their graduate students, because they will have available data. It is also an opportunity for faculty members to have access to data so they can produce higher quality research. It's also beneficial to the Sentencing Commission because the UAB will assist with data analysis. The UAB will assist the Commission's contracted services with data analysis. The UAB can assist the Commission as it makes recommendation for sentencing reform.

What do we propose to do? How do we propose to go about developing a research coalition between the Alabama Sentencing Commission and the University of Alabama at Birmingham Department of Justice Sciences? Dr. Morgan in presenting her proposal to the Commission noted the following:

- The UAB understands that it must develop some kind of organizational structure.
- A very significant part of the planning of this research coalition involves funding. This proposed coalition cannot exist without funding. One of the major things that the university would probably be involved in during the planning stage of this (if you see as being appropriate) is to seek out extra mirror funding. The Department has been very successful in securing federal funding.
- It would involve visiting other states looking at coalitions there and looking at research partnership in those states. Looking at how they have developed and what they are doing over time.
- Fourthly, developing a sustained research agenda.

Dr. Morgan reported that the Department of Justice Science at the University of Alabama at Birmingham is administering over 1 million dollars in federal funds. The University has proposals for an additional \$250,000.00 and those proposals are presently under review at the NIJ (National Institute of Justice). The Chair of the department is in the process of creating a Center for Terrorism Study at the University of Alabama in Birmingham. A few weeks ago one of the forensic science professors obtained funding from the National Institute of Justice to do D & A testing.

Sentencing Data Report by Applied Research, Inc.

Dr. Tammy Meredith in addressing the Commission revisited some of the data that she presented to members at the March 3rd meeting. Dr. Meredith stated that the data that they have been working on gives the Commission a picture of who gets sentenced and who gets convicted. She reminded Commission members that they have been studying the 48,000 convicted felons (everybody who gets convicted of at least one felony offense). There are about 16,000 to 18,000 people that get convicted every year. The data was gathered from three different agencies the Administrative Office of Courts, Department of Corrections and Criminal Justice Information Center. Dr. Meredith provided the Commission with an updated revised list of the most frequent offenses. (See Attached Handouts)

Chairman Colquitt stated that he thinks that part of the problem is that there is a great distinction made in the system between an imposed sentence and served sentence. In Alabama except for certain specific types of programs every convicted felony gets sentenced to prison. A lot of them never go to prison. You are going to have at least 3 different groups:

- People that are sentenced to prison who basically only spent the night in jail or a few hours in jail during the booking process and made bond and they were placed on probation. There is not anything that ever shows up where they get time served or anything.
- People who never made bail, who have a significant period of time of pre-sentence jail credit that was awarded to their sentence. It may be a part of their probation where the judge has made notation of the pre-sentence jail-time credit to void that sentence. There

is in neither of those cases an imposed sentence with no actual sending off. On the day of sentencing these two individuals may get probation.

- The third type whether they have any pre-sentence jail credit or not, they may have been out on bail or they may have been in jail but now they get sent to the penitentiary. After the sentencing the judge denies probation or if they are ineligible for probation and they are sent to prison.

Chairman Colquitt stated that when we start talking about these things and as each of us thinks of different examples that come to mind, we get confused on what the terminology is. For example, when I look at convicted felons by sentence type and I am thinking of Alabama's practice and if I don't know what you doing what I see is convicted felons by sentence type. I see prison and my mine tells me immediately all convicted prisons or felons are sentenced to prison unless they are sentenced to split sentencing, to a treatment facility, etc. It gets confusing unless we know exactly what you are talking about. My understanding is that you are telling us that we are looking at people who actually post sentence period enter some type of institution/incarceration.

Dr. Meredith responded that the prison group that you have is sentenced to some amount of incarcerated time. That incarceration time could include he was sentenced time served or serving in jail.

Chairman Colquitt asked do we know right this minute how circuits are handling the reports on that? It would strike me that in some circuits when the judge says that pre-sentence jail set is awarded or not when it comes to filling in the blocks on the sentence sheet the clerk would enter in 55 days pre-sentence jail setting because by law they are entitled to that. That would show up on your data file.

Question: When you look at the 59% are those individuals who actually went through the classification sentence? Time served in jail and was released on probation?

Dr. Meredith responded that it's more like incarceration time than prison. I would investigate how time was served depending on that data.

Table 2 of the handout shows you all of the top 20 offenses and it shows you the hundreds of people with repeat prison offenses--some amount of incarceration time. The percentage of people that receive some amount of time for each of those top 20 offenses. What I have here is the top five. I broke them out into 3 groups. The zero priors show across the top of your table and then the prior felony convictions. They either have none, one or two or more.

Chairman Colquitt stated that the Administrative Office of Courts has a form on every case pending in circuit. They are telling me that what they are doing is if a person comes before Judge Johnson this morning assuming that Jefferson County does the same way that Tuscaloosa does pleads guilty. They have been in jail for 60 days. Judge Johnson sentences them to a year and one day and places on probation for 2 years. All she would enter on the AOC document is this person was sentenced 1 year and a day and placed on probation for 2 years. That terminates the AOC form and shows it as closed case. At that point the clerk's office takes position that there is no reason to enter any pre-sentence jail

setting because they are not going to be serving time so they don't need to finish. If Judge Johnson calls this person back in a revocation and revokes their probation they update the AOC forms to show that probation has been revoked and because they have prepared a pre-prison bound transcript they have to go back and take out pre-sentence jail credit and put it on the transcript and they also put it on the AOC form. Until the person is prison bound they are not generating any data on how long a person stayed in jail pre-sentence.

We need to know what our terms mean. If we are saying sentence type what does that mean.

Rosa Davis stated that one thing that we can already tell based on the Department of Correction's data is how many people serve their time out in the county jail after they were sentenced because transcripts are generated so we can tell those sentences. The ones that I am hearing that we can't tell are the ones that the judge says I sentence you to time served then you get not jail time. Apparently, it will show up here as no sentence.

Stephen Glassroth right now is locked in the men's room and they are bringing security to help get him out so that counts. That's what all the hammering was.

Dr. Meredith stated that in looking at Table 2 in looking at the percentage of people that receive some sort of incarceration time tells you something about current change cohorts on sentencing in Alabama. Table 2 shows you when you look at that part of, I think, your ? should be are these the patterns that we want to see. Table 2 tells you which people are most/least likely to commit new crimes.

Of the people that receive some amount of time called prison time Table 3 outlines the top 20 offenses in the ranging order of your average sentence to that crime. We have 3 categories and broke them up according to their number of prior felony convictions. So that we could compare similar cases we picked out people that are non-life sentenced. We also picked the people that were convicted of Theft I case (one offense).

Dr. John Speir stated that there are three different populations. The characteristics change across the three populations. We have what we call people admitted to prison, people who actually got sentenced to jail and served their time in jail or actually showed up at Kilby. That counts for approximately 15,944 prison admissions during this particular limited period--about half of FY2001. This is a real difficult process. Thirdly, what Department of Corrections call on hand Active or current--27,174.

In terms of who comes to prison Dr. Speirs referred to Table 4 in the handout. These are people who are processed by the Department of Corrections more frequently. Possession and distribution, felony DUI, burglary ? by property account for a large percentage of admissions.

Who served the longest time in prison this is using our release cohort. Keep in mind when you are talking about releases it sometimes only represents only those persons who were worthy enough one way or the other got out.

For sentence served

On sentence length – one thing that we gave noticed is and we have a limited snapshot of data in our study database. We have seen the average drop sentence length on personal injury.

How do inmates leave prison – 42% of them walk out on EOS (expiration of sentence). Probation 38% and parole 18% and what we call special discretionary.

Prison admissions – 23% property injury, property 30%.

Admissions by prior history using the CJIS data. Quite a few are coming in with not a whole lot of extensive prior history.

Active Alabama population – As of March 2000 27,000

Regarding demographics in Alabama – African Americans/white distribution breaks down to about 63/36.

Active inmates by crime – murder, robbery I, distribution of drugs, possession, burglary 3rd and rape at about 4%.

Statistical Report published by the DOC: life sentences 3400, life without parole 1300, on death row as of March 2002, 186.

Active Inmate sentenced to life without parole or death: 591 sentenced for property, about 90 of that group (591) are burglary in the 1st degree. Drugs 5%.

Active Inmates by crime type- mostly personal injury and overall Class A offenders it doesn't matter what you prior history is you go to prison. 52% of property don't have an extensive criminal history.

Offense Seriousness Subcommittee Report

Offender Seriousness Subcommittee Report

Report on Passage of Criminal Bills

Closing Remarks

The next Commission meeting has been tentatively set for June 28, 2002. Members will be notified as soon as final details are confirmed.