

# Alabama Sentencing Commission

Minutes of Commission Meeting  
June 23, 2006

The Alabama Sentencing Commission met in the Mezzanine Classroom of the Judicial Building in Montgomery on Friday, June 23, 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  
Bill Segrest, Executive Director, Pardons and Paroles, Montgomery

**Advisory Council:**

Doris Dease  
Deborah Daniels

**Staff:**

Lynda Flynt, Executive Director  
Melisa Morrison, Senior Research Analyst

**Others Attending:**

Kayla Wallace (Intern)  
Cynthia Dillard  
Rosemary Collins  
Jeff Williams  
Julia McInis (Speaker Seth Hammett)  
Carol Gundloch  
Dr. Ron Cavanaugh

**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.

The Chair reported that the staff prepared a new roster of commission members and advisory counsel members. Copies of these rosters were placed on the sign-in table for the members to pick up. Justice Hugh Maddox, Senator Sundra Escott, Representative John Knight, Chaplain Adolph South and Senator Sundra Escott were reappointed to the Advisory Council. Their terms will expire 3/31/2010. Judge Colquitt welcomed these Advisory Council members to their new term.

## **Report from the Department of Corrections**

### *Sentencing Commission Reform Effort*

Chief Deputy Commissioner and Commission member Vernon Barnett reported for the Alabama Department of Corrections. He noted that the Sentencing Commission's reform legislation, which was supported by Governor Riley, was designed to help address the prison and jail overcrowding problems in the state and reserve scarce prison beds for violent offenders. In addition, he noted that this legislation and other reform efforts of the Sentencing Commission would eliminate unwarranted sentencing disparity, resolve ambiguities in our criminal laws, and expand judges' sentencing options. Through prison population projections Mr. Barnett stated that it has been projected that there will be annual reductions in the prison population of 500 the first year, 1,000 in year 2 and 3,000 by year 5 through the use of sentencing standards and community correction alternatives.

### *I.T. Improvement/Data Exchange*

Mr. Barnett advised the Commission members that DOC recognizes that there exists critical operational deficiencies in their existing antiquated soft and hardware IT system, i.e., the lack of a compatible and state-of-the-art information system, the inability to collect, process and exchange criminal data with other departments and agencies and lack of available maintenance resources. Many of these problems are now addressed, with the combined help of AOC, Pardons and Paroles and the Sentencing Commission. AOC is implementing an E-Transcript system to automate the integration of court transcript data into the ADOC database, eliminating manual input which costs approximately \$125,000 per year. Act 2006-218 which requires the filing of either post-sentence or pre-sentence electronic investigation reports for every felony conviction will enhance the acquisition of reliable criminal history data. While legislation authorizing the legal exchange of criminal history information among criminal justice agencies failed to pass during the 2006 Legislative Session, it is expected to be reintroduced next year. Other IT Improvement plans are 1) Scanning of 28,000+ inmate records into DOC's records' management system (to be outsourced to a private serve company this year with a projected completion date in FY 2007. 2) An electronic time and attendance system with a projected savings of \$750,000 the first year and up to \$1 million per annum in subsequent years; 3) Information technology re-engineering project to design and develop hardware/software architecture systems featuring state-of-the-art web-based application programs and database files; 4) Upgrading to a new state-wide financial system.

### *Alternative Corrections/Punishment*

Discussing planned actions for punishment alternatives, Mr. Barnett stated that ADOC plans to work with Pardons and Paroles to support their efforts in the planning, design, and implementation of a technical violator center. He stated that it is estimated that 50 parolees per month could be diverted to these centers. He also congratulated Pardons and Paroles on the success they have made with the L.I.F.E Tech Parole Transition Centers. Through the early release of these inmates these transition facilities provide invaluable programs to assist the inmates in the successful re-entry into the society. Mr. Barnett noted that the selection of eligible medium custody inmates on a priority basis to participate in the program would provide the maximum benefit to ADOC, with the potential DOC population reduction of 65 inmates per month. To assist

in this effort, ADOC plans to work aggressively with Pardons and Paroles to identify inmates that might be eligible for parole to L.I.F.E. Tech Centers. In addition ADOC plans to support the Board of Pardons and Paroles Board by implementing an inmate assessment initiative to assist in the identification of potential parole candidates.

In regards to Community Corrections Programs, through its Community Corrections Division, DOC has aggressively sought to expand existing programs and establish new programs in counties around the state. Implementation of these programs has proven to be an effective means for addressing the overcrowding issue. Mr. Barnett noted that over the past two years more than 2,000 offenders that would have otherwise been housed in a DOC facility have been diverted to established community corrections programs. DOC's goals are 1) to increase "front-end" and "institutional" diversions in the short term; 2) long term goal is 4,000 diversions per year; 3) within 5 years, have programs established for all 67 counties; 4) additional funding to achieve statewide expansion.

#### *Prison Industries/Work Programs*

The Department will emphasize current and new assessment processes to make appropriate decisions on housing, work programs and rehab programs. In addition to intake evaluations to determine classification levels and minimum security eligibility, evaluations will be conducted in regard to an inmate's educational level, work skills and rehabilitation needs.

Mr. Barnett advised that a committee comprised of DOC personnel and representatives from the Legislative Oversight Committee, Southern Poverty Law Center and the Association of County Commissioners just completed an assessment of the existing work release classification criteria for eligibility in minimum security placement and this criteria has been implemented. The Department has also undertaken the short term initiative to evaluate and identify inmates that are currently housed in major facilities who may qualify for transfer to lower security institutions. He explained that inmates that have been denied parole will be evaluated for less restrictive placement and that all inmates housed in major facilities will be evaluated for minimum security placement.

Plans for prison industries include the expansion of existing ACI programs and the creation of new industry programs, including the development of on-site private sector industry partnerships. Mr. Barnett noted that ACI industries benefit ADOC by supplementing the department's operational budget through the profit made from sales while also providing meaningful work opportunities for inmates. It was noted that legislation was introduced to expand authority for marketing ACI products, but it failed to pass last session. DOC plans to reintroduce this legislation next year. Its goal is to increase sales revenue by 15-20%, address governmental markets at all levels and expand the current sales market to include non-profit businesses, employees of the State of Alabama, and other non-governmental state associations.

Industry expansion plans for existing operations include the auto paint/detail shop, furniture restoration operation, janitorial chemical market, printing plant, chair assembly plant, fleet service garage and sewing plant. New industry operation to be developed includes embroidery/screen-printing plant, asbestos removal service and tilapia fish production plant. System upgrades are planned for enhancement of the ACI website, on-line catalog, enterprise management software, and job-tracking software. Mr. Barnett noted that the Department is currently exploring the potential for on-site private industry development through legislation authorizing on-site prison industries/work programs. It is envisioned that a short term activities will include the acquisition of prison industry enterprise certificate program certificate, planning and design of on-site industry projects and identification of potential business partners. After legislation is passed and authority is granted, Mr. Barnett stated that private industry contracts should be secured and facility construction completed within 1-2 years. Implementation of on-site industry could be completed in 2-4 years.

#### *Special Training Centers*

The ADOC is exploring a partnership with the Alabama Department of Post-Secondary Education to plan and develop Special Training Centers for selected medium custody male inmates who are 3-4 years away from EOS release date. The 4-6 month program will include activities such as 1) inmate needs assessment; 2) cognitive-behavioral training; 3) substance abuse treatment; 4) life skills; 5) general education (GED); and 6) vocational training. It is expected that program completion will accelerate the transition to minimum custody, with the 400 bed program implemented to “re-program” 800-1200 inmates per year. It is estimated that the program could generate a realized profit of \$9.5 million by FY 2010.

#### *Work Release*

To utilize work release capacity the Department plans to implement additional treatment programs for inmates whose sentencing includes completion of SAP as an eligibility requirement for work release. Additional SAP programs could be implemented within 1-2 years, freeing medium custody beds occupied by offenders who need SAP treatment. Also planned is a 3-month “re-trak” program for inmates that have failed their eligibility requirements for work release. The program will include manual labor, restricted privileges, supplemental treatment programs, etc. and upon successful completion would allow the inmate to return to the work release facility. The Re-Track program could be implemented in FY 2007.

#### *Mental Health Unit at Bullock WR*

The Bullock County Work Release facility will be closed to facilitate the opening of the Mental Health Unit at the Bullock Correctional Facility and will in effect, decrease work release beds by 230 and increase medium beds by 250.

#### *Correctional Officer Staff*

Security personnel staffing shortage is a critical problem within the Department of Corrections. Currently, the ADOC has an 18% shortage of security personnel. The officer to inmate ratio is now 1:10 as compared to 1:6 for surrounding

states. A reduced applicant pool has resulted from competition with other local and state law enforcement agencies, competition with private industry, poor “career” perception of ADOC security positions; noncompetitive salaries, and a poor working environment. Attrition of currently employed staff is a contributing factor. The average attrition loss is 30 officers per month. In addition, many of the currently employed officers have been placed on active military duty and increasing numbers are reaching retirement eligibility.

To address this problem, the ADOC is having a manpower study conducted to assess the needs for appropriate staffing levels in all facilities and divisions. The study should be completed within one year. In addition, an aggressive recruiting initiative will be implemented through the use of television and radio ads and PSA’s. The department has developed a state-wide recruiting partnership with the Alabama National Guard and Army Reserve and is also seeking to recruit officers via Federal Job Corp training programs.

The State Personnel Department recently conducted a study of ADOC security classification pay ranges and the Department intends to seek legislative support for future pay rate increases.

#### *Pre-Release Centers*

Plans for increasing inmate capacity include the establishment of pre-release centers, new construction and leasing beds. Two sites have been selected for development as pre-release centers for inmates approaching EOS – Montgomery CWC and Limestone CF. Programming will include class lecture, video and computer presentation in areas of literacy, communication skills, basic computer skills, job search activity and life skills development. Montgomery CWC, which currently has an operational capacity of 296 beds, will serve as a pilot center for the pre-release program. Current minimum security inmates will transfer. DOC will renovate the LCF pre-release center with a capacity for 300 inmates. This center should be completed in a year, with the program implemented by June 2007. Current end of sentence (EOS) release rates for the general inmate population should allow an estimated 200 inmates to be transferred monthly into the pre-release program.

#### *New Construction*

Planned actions for new construction and leasing of beds include: 1) a short term contract to secure private bed capacity for female and male inmates; 2) A contract will be issued to assess the Department’s capacity and to develop plans for a 1500 women’s prison; (It is anticipated that Tutwiler PFW will close when the new women’s prison is online) 3) Plans will also include construction of a 200 bed infirmary unit; and 4) a mental health unit consisting of 250 beds will be brought online in FY 2006 and Bullock Work Release will close.

### *Facility Renovation*

The lack of funding and of maintenance personnel has resulted in major facility infrastructure problems such as roofing leaks, inadequate sewage capacity, and inadequate fire safety systems. Mr. Barnett mentioned the following as among the areas needing assessment and improvement: optimum number and types of beds needed at each facility; mechanical, electrical, and plumbing (MEP) and fire protection systems; building code and ACA physical plant standard compliance; structural condition of each building; life safety and code compliance, ADA code compliances; cost to replace or repair MEP systems and building structure; infrastructure ability to support current/projected inmate population; cost benefit analysis of remodeling, expansion and new construction.

### *Sewage Treatment Litigation*

Mr. Barnett advised commission members that a lawsuit was currently pending against ADOC to enforce the provisions of the Alabama Water Pollution Control Act. The DOC wastewater treatment plants and sewage lagoons at several facilities have been cited by the Alabama Department of Environmental Management for non-compliance with their respective discharge permits. At the present time a Request for Proposal has been drafted to outsource the operation, maintenance, and control of these wastewater treatment operations. Outsourcing these operations will result in the elimination of environmental problems, the decreased exposure to liability, resolve pending litigation and avoid a capital outlay of \$6 to \$8 million needed to correct these problems.

### *Drug Treatment Programs*

Recognizing the vast majority of inmates has drug and/or alcohol problems, the Department of Corrections' plans to hire additional supervisory and support personnel to provide necessary administrative oversight. Among the Department's priorities is evaluation of a program management system for medical, mental health and substance abuse treatment data collection and evaluation of an electronic healthcare records system. System implementation could be completed in FY 2007 with a potential savings of \$750,000 at that time, increasing to \$1.8 million in FY 08 and \$2.3 million in subsequent years.

### *Drug Treatment Personnel and Program Certification*

At the present time the Department of Corrections is investigating the requirements for program certification by the Department of Mental Health and the requirements for personnel certification by the Alabama Alcohol and Drug Abuse Association. Drug treatment personnel are presently earning continuing education credits.

### Inmate Health Services

### *Comprehensive Medical care*

The Department of Corrections Inmate Health Services encompasses medical, mental health and substance abuse treatment programs and services. Mr. Barnett explained that comprehensive services are available at the major institutions with some regionalization of specialty services such as dialysis at St. Clair and HIV at Limestone. He advised that temporary housing structures and mobile services will be implemented with an anticipated annual savings of \$487,000. The Department intends to expand the dialysis unit at St Clair to accommodate the on-site dialysis needs and this will take place with the next 12 months. There will be the construction of a 200 bed infirmary unit in conjunction with the new 1,600 bed women's facility which will enable the Department to provide acute care services. Expansion of long term acute care specialty services at the Just Care, Inc. will reduce DOC costs.

### *Minimum Security Inmate Medical Care*

Mr. Barnett explained that housing minimum custody inmates within community work center facilities has required DOC to develop a system that will provide expanded health care services to these inmates. In this regard, a mobile regional multidisciplinary health services team is under development to deliver services to the outlying camps, utilization of a van or bus to provide a portable exam room and store equipment and supplies is being investigated and there is a proposal to include these serves as a part of the Medical services Contract renewal.

### *Medical Services Contract*

The current health service contract expires November 3, 2006. Now under consideration is a modified proposal to renew the current vendor and preparing for the release of a RFP request.

Mr. Barnett stated that the initiation of the interagency agreement with the State Employees Insurance Board (SEIB) to access the Blue Cross Blue Shield discounted inpatient hospital rates in December of 2005, has the potential of securing long term savings associated with inpatient care. This contract should ensure the ADOC with the most cost effective private hospital network rates.

### *Medical Services Court Settlements.*

There are four court settlement agreements currently active in ADOC. From these, direct and indirect cost increases have resulted. Mr. Barnett advised that significant progress has been made in meeting the settlement requirements and that three of the four settlement agreements could terminate in FY 06, given continued compliance by the ADOC.

## **Community Corrections Update**

Jeffrey Williams, Director, Community Corrections Division of the Alabama Department of Corrections reported on the status of community corrections in Alabama. Mr. Williams displayed a map of the state showing that community corrections programs are now available in 33 counties and include 24 programs. Mr. Williams reported that Madison County is interested in expanding its misdemeanor program to cover felony diversions as well and that Butler County is very close to initiating its program. Mr. Williams will also be meeting with representatives in Russell County and with representatives of the 5<sup>th</sup> Judicial Circuit covering Tallapoosa, Chambers, Macon, and Randolph Counties. Mr. Williams pointed out the void in programs in East Central, West Central, and South Central Alabama.

Mr. Williams is seeking local input to identify and address obstacles to establishing and expanding community corrections programs. He, Lynda Flynt, and Rosa Davis, have begun meeting with local judges prior to the scheduled sentencing standards workshops to discuss these matters. Mr. Williams reported that the Department of Corrections has appropriated funds available at this time for expanding and establishing programs. The DOC believes that at least 2,000 inmates could be diverted annually from prison to these programs.

## **Board of Pardons and Paroles**

### ***Transition Centers***

Mr. Bill Segrest, Executive Director of the Alabama Board of Pardons and Paroles updated the Commission on the progress of the Pardons and Paroles Transition facilities. Mr. Segrest thanked Dr. Roy Johnson and the Department of Post-Secondary Education for assistance in establishing and operating the educational and training programs used in the Pardons and Paroles transition facilities.

L.I.F.E. Tech Wetumpka has a capacity of 200 parolees and has housed as many as 240. Right now there is room for a few more offenders. Mr. Segrest stated that when this facility is not at full capacity population, they will accept women sentenced to probation and assigned directly to the facility. The facility and program are designed to be completed in approximately 6 months. So far, the success rate has been extremely promising but Mr. Segrest noted that they would not know the true recidivism rate until they had acquired 3 years of records for analysis.

L.I.F.E. Tech, Thomasville has received the first 167 male parolees on its campus. July 17, another 75 will be sent to Thomasville. This facility is also designed to be a 6 month program. These offenders are currently transported to educational and training programs at the local community college. Post-Secondary Education has purchased part of the campus and is building a large facility on this land to make these programs available completely on campus. Scheduled completion for this facility is August 2006.

The original goal of Pardons and Paroles was to populate this facility with 50 new parolees per month to reach a capacity of 300. That has now been changed to 75 every five weeks. Like the Wetumpka program, the parolees stay in the program until they complete the program. The time of the projected stay is approximately 6 months, but



could be longer or shorter depending on how long the offender takes to complete his individually assessed and tailored program.

Mr. Segrest noted the women's G.E.D. program ranked #1 in the state as the highest composite score on the G.E.D. test. Pardons and Paroles is very pleased with this result. Mr. Segrest also noted the residents are given training in marketable skills that can earn a good living outside of corrections. The training includes welding, construction skills, computer skills, etc., as well as life skills that can better support a crime free lifestyle. These programs are very intensive and keep the residents busy during waking hours.

#### ***Technical Violator Center***

Mr. Segrest noted that the plans for opening a Technical Violator (Revocation) Center on October 1, 2006 have been delayed. These plans have run into a snag due to the lack of an available facility, however, Pardons and Paroles is meeting with DOC this week to attempt to resolve the issue of finding an adequate facility. Once implemented, the Center will offer intensive drug rehab and job skill training. This training will be even more intensive than that offered at the L.I.F.E. Tech. facilities.

Ms. Davis stated that for the first time the Commission can see the birth of a true continuum of sanctions in Alabama with DOC providing for the transition of inmates who are released at the end of their sentence and Pardons and Paroles providing transition for inmates who can be paroled but not ready for release straight back into the community. A technical violator center will provide another step between prison and freedom for people on parole or probation.

#### **Sentencing Standards Workshops**

Chief Assistant Attorney General reported on the progress of the Sentencing Standards Workshops. Ms. Davis stated that so far the workshops have included approximately 150 participants attending 8 workshops – Montgomery, Dothan, Tuscaloosa and Alex City - with the largest workshop in Montgomery. Ms. Davis noted at this rate the Commission will train about 470 people on the use of the sentencing standards by October 1. This compares with over 750 participants who received training in the 2004 workshops. Efforts are being made prior to each workshop to make sure that interested persons are notified that the Commission is holding the workshops in the area.

Ms. Davis noted it is important that judges, lawyers, and court officials attend the workshops so they can plan for the October 1 implementation of the standards. She stated that, because sentencing is done in different ways from circuit to circuit in Alabama, there are plans that need to be made in each circuit for a smooth transition to using the standards. Ms. Davis stated that many judges and attorneys do not seem to be aware that these voluntary sentencing standards must be considered in each applicable case. She stated that apparently many people believe “voluntary” means the worksheets and standards can simply be ignored. This is not true. She noted that the law requires that in each applicable case, the sentencing judge must review the worksheets and sentencing standards for that case and must so state for the record. After considering the

standards, the judge may sentence either under the standards or under existing penalty provisions, utilizing enhancements. Mrs. Davis emphasized that it was very important that judges and lawyers become aware that plans need to be made in each circuit for the implementation of the standards.

Ms. Flynt added that prior to workshops; she is scheduling meetings with local judges wherever possible to discuss the use of community corrections as an intermediate sentencing alternative.

The Commission made available a schedule of remaining workshops and asked everyone to take them back to their communities for distribution.

### **Demonstration of On-Line Worksheets**

During a working Lunch, Melisa Morrison, Data Analyst for the Commission, demonstrated the use of the on-line worksheets currently under development by the Administrative Office of Courts. Commission member Ellen Brooks expressed some concerns and volunteered for the application to be piloted in her office. The first concern discussed was the inability to change the most serious offense which is automatically selected at conviction. Ms. Brooks noted that most of the worksheets will be started prior to conviction and used in plea bargaining. Worksheets will, therefore, need to begin with the offense charged, which might be pled down. The second concern was the inability to save a draft of the worksheet. For instance, if an assistant district attorney starts to fill out the worksheet and is interrupted, there is no mechanism to save the work done to that point. A third concern was that in larger circuits it will be difficult for a judge to designate one person for his/her courtroom to receive a user identification number to fill out worksheets related to the judge. Especially in larger circuits, P & P may need a user identification for each probation officer for every judge because there is no certainty as to which probation officer will work on which case prior to sentencing. These concerns will be conveyed to AOC who is developing the on-line application.

### **Commission on Girls and Women in the Criminal Justice System**

Carol Gundlach, member of the Joint Legislative Commission on Girls and Women in the Criminal Justice System and Director of the Coalition Against Domestic Violence, reported on the work of that Commission. She noted that the Commission was formed by a Joint Resolution of the Legislature during the 2006 regular session. Ms. Gundlach read the Resolution to the Commission. She reported that the members of the commission are established in the Resolution and it was noted that the Sentencing Commission, VOCAL, and law enforcement are not included as commission members, nor is there a mechanic for adding these interested parties to the commission. Ms. Gundlach noted that the Resolution was drafted by a prisoner's rights group in Atlanta.

She advised that the Commission has had three meetings and a fourth is scheduled for July, with presentations given regarding community corrections and the work of various criminal justice agencies and departments. Mrs. Gundlach stated that the Commission has established a Planning Committee that is attempting to staff the

Commission and to find funding for the Commission, since no funding was provided by the Legislature. According to the Resolution, the Commission is required to report its findings to the Legislature by December 31, 2007 and which time the Commission is terminated.

Mrs. Gundlach noted that one of the Commission's concerns is the barriers to Community Corrections and Work Release for women. Some of these barriers appear to be split sentences, lack of community corrections programs for women, and health care issues.

She advised the Sentencing Commission members that she would ask that the Legislative Commission include the Sentencing Commission in its discussions and have them notified of the meetings, which were open to the public. Currently the Commission can be contacted through Representative Barbara Boyd (Secretary/Clerk, Teresa Evans, 353-9450. Ms. Flynt noted that Sharon Bivens in the Legislative Fiscal Office has made several requests for data from the Alabama Sentencing Commission which appear to be related to the work of Dr. Boyd's Commission.

Ms. Gundlach also noted that the Department of Youth Services has seen a huge increase in the number of girls committing violent offenses and expects to see the prison population mirror these increases. She also noted that crystal meth was a problem for women.

## **New Business**

### **Possible Legislation for 2007**

Ms. Flynt noted that the Sentencing Commission's Legislative Committee should meet before the next Commission meeting to discuss possible legislation for the 2007 Legislative Session. She asked that anyone with any suggestions submit those to her or Dr. Lou Harris, the committee chair. The next meeting for the Committee on Legislation was set for November 3, 2006 and will be held in the formal conference room from 10:00 a.m. until 12:30 p.m.

### **Statistician Position**

Ms. Flynt noted the statistician position with the Commission is still uncertain, however, the Commission should know before the end of the day if the position has been filled. (Joe MacFadden notified Ms. Flynt that he will accept the position and start work July 24, 2006.

### **Online Sentencing Standards Tutorial**

Ms. Flynt noted that the staff, in conjunction with AOC, is planning to develop and online Tutorial training session for the sentencing standards and worksheets. This tutorial should be completed and online before the October 1, 2006 implementation date for the standards.

### **Recidivism Study**

Ms. Flynt reported the staff is still working with Auburn University to complete a major recidivism study for Alabama. Ms. Flynt has been advised by Auburn that they will put this project on the fast track and can have it completed by the end of the year.

**Next Commission meeting**

The next quarterly meeting of the Alabama Sentencing Commission was set for Friday, November 17, 2006.

There being no further business, the meeting was adjourned.