

Alabama Sentencing Commission

Minutes of Commission Meeting
September 12, 2003

The Alabama Sentencing Commission met in the Mezzanine Classroom of the Judicial Building in Montgomery on Friday, September 12, 2003. Present at the meeting were:

Commission Members:

Honorable Joseph Colquitt, Chairman, Retired Circuit Judge, Professor, University of Alabama School of Law, Tuscaloosa
Honorable Ellen Brooks, District Attorney, 15th Judicial Circuit, Montgomery
Rosa Davis, Chief Assistant Attorney General, Montgomery
Honorable P. B. McLaughlin, Presiding Circuit Judge, 33rd Judicial Circuit, Ozark
Emily Landers, Deputy Director of Constituent Services, Governor's Office
Honorable O. L. Pete Johnson, District Judge, Jefferson County, Birmingham
William Segrest, Executive Director, Pardons and Paroles, Montgomery
Lou Harris, D. P. A., Faulkner University, Montgomery
Commissioner Donal Campbell, Department of Corrections, Montgomery
Stephen Glassroth, Esquire, The Glassroth Law Firm, P.C., Montgomery
Honorable David Rains, Circuit Judge, 9th Judicial Circuit, DeKalb County

Advisory Council:

Doris Dease, Crime Victims Compensation, Montgomery
Adolph South, Tuscaloosa
Doug Parker, Director, DeKalb County Community Punishment & Corrections

Others Attending:

Stan Bailey, Reporter, Birmingham News
Foster Cook, UAB TASC, Birmingham
Ralph Hendrix, UAB TASC, Birmingham
David Horn, Department of Corrections, Montgomery
Cynthia Dillard, Pardons and Paroles, Montgomery
Becki Goggins, The Sentencing Institute, Montgomery
John Hamm, Montgomery Community Corrections, Montgomery
Paul Whaley, Department of Corrections, Montgomery

Staff:

Lynda Flynt, Executive Director, Alabama Sentencing Commission
Melisa Morrison, Research Analyst, Alabama Sentencing Commission

Welcome and Introductory Remarks

The meeting convened at 10:00 a.m. with Chairman Colquitt making introductory remarks. He thanked members for their attendance and recognized the hard work of the commission members and staff in getting the Commission's recommended legislation approved during the 2003 Regular Session of the Legislature. He noted that the Legislature approved the legislation as a package, recognizing that the Commission had

presented good ideas for sentencing reform. Copies of the bills were provided to the Commission members. *Attachment A*

Chairman Colquitt noted that this legislation was the result of the hard work of a number of task forces, committees, and individuals working on some of the many issues that needed addressing. On behalf of the Commission, the Chair formally thanked everyone for their participation and their efforts.

Chairman Colquitt mentioned that there was a Special Session of the Legislature coming that was going to be looking at budgets, monies and a lot of programs. He noted that the Legislature was already looking to the Commission for answers to many of the problems the state is facing. The Commission has already received several requests to identify other types of innovative programs or projects where it might be able to assist the Legislature in identifying savings in the system. He stated that the Commission should expect that legislators, the governor, and others will be depending on it for ideas and recommended programs that will assist them as they deal with monetary issues throughout the Special Session, as well as the 2004 Regular Session.

He also advised the members that the Legislature was going to be expecting the Commission to develop the necessary legislative packages to implement some of the recommendations that the Commission has already proposed. This year's legislative package laid out a game plan but now the Commission is going to have to carry through and come back with additional legislation, ideas, and packages that will implement the recommendations that have already been made it has already started.

Chairman Colquitt emphasized that the Commission should also understand that even though it has been able to make it through troubled financial times and has received adequate funding, primarily through the award of federal grants, the Commission should continue to remind the various officials and agents of the state of the work of the Alabama Sentencing Commission and let them know that this is a worthwhile project that needs their support in the coming years. He stated that he didn't anticipate that the Legislature or the Governor would be looking at the Sentencing Commission as one of those entities that should be eliminated; however, Commission members should remind people, as opportunities present themselves, of the fact that the Commission has been working, and will continue to work, on its multi-year major legislative recommendations for sentencing reform. We need to remind them that we are not a big expense for the State of Alabama and that we offer the potential for a great savings to the state of Alabama in what we are presenting to the legislature and the governor's office.

Revision of the Criminal Code

Chairman Colquitt reported that one of the issues that the Sentencing Commission previously considered was whether or not to revise the Alabama Criminal Code. He advised that Bob McCurley of the Alabama Law Institute has undertaken a project to look at that issue to determine what it would entail and what benefits might come from it. At the present time, this project is more of a fact-finding effort, with several research assistants of the University Law School investigating what other states have done with their criminal code. Judge Colquitt noted that other states have multilevel structures with many more classifications than Alabama. One state has established 9 levels, going from Class A thru Class I, unlike the 3 levels of felonies Alabama utilizes. He stated that some

the Alabama Law Institute's initial report was not yet ready to present to the Commission.

Chairman Colquitt said that he anticipates a report would be ready to present to the Commission at its next meeting, or meeting after that. At that time the Commission would have a better idea about the benefits and drawbacks of undertaking this type and can decide whether or not to pursue a reclassification project. Because the Commission had expressed an interest in revision of the Criminal Code and it had been discussed at some length, Judge Colquitt stated that he went ahead and asked that the study be initiated.

Reviewing the agenda, Chairman Colquitt noted that the Commission had a busy schedule ahead for the day. The agenda consisted of updates from the Department of Corrections and the Board of Pardons and Paroles. Dr. Tammy Meredith of Applied Research Services, Inc., was also scheduled to discuss the data included in the Sentencing Reference manual that had been distributed to judges, prosecutors and community correction program directors across the state. Melisa Morrison, Research Analyst for the Sentencing Commission was to report on the presentence investigation (PSI) project; Lynda Flynt, Executive Director of the Commission, would provide the Commission with information on the various reform acts, discuss the creation of committees to work on sentencing standards, legislation and technology; and Rosa Davis, Chief Assistant Attorney General and Commission and staff member, would give an update on the Commission's budget. Chairman Colquitt reminded members that the Commission does not have a lot of time to get its next legislative package put together and it was essential that work immediately begin on drafting proposed legislation.

Update From the Department of Corrections

David Horn, Senior Analyst of the Department of Corrections gave a PowerPoint presentation on the Comparison of Alabama Prison System to other States. The information was obtained from the 2003 American Correctional Association Directory. Mr. Horn explained that emphasis was placed on neighboring states with similar inmate population. The comparison included the following: dollars budgeted per inmate, 2002 corrections operating budget, how much more other states are budgeting per inmate than Alabama, the number of correctional officers and the ratio of inmates to officers.

Appendix B

The averages of the United States were compared to those of Alabama. The average inmate population was 22,000 inmates, with the average budget being approximately \$577,000,000. Mr. Horn stated that generally, the states averaged \$20,000 per inmate. He noted the averages of seven highlighted states, explaining that instead of looking at 50 states, the focus was on neighboring states and those that have similar inmate populations.

Referencing the 2002 inmate to officer ratios, Mr. Horn stated that this ratio was based on total inmates, not in-house inmates. Alabama's inmate to officer ration is 10.5 inmates to one officer. The next state even close to this number is Mississippi with 7.92 inmates to one officer; South Carolina is 6.04 inmates, Tennessee is 5.66 inmates per one officer, Georgia is 5.51, Florida is 5.03, Arizona is 4.13 and Maryland is 4.04.

In terms of dollars budgeted per inmate, Alabama ranks the lowest of the seven highlighted states. Mr. Horn noted that in reviewing the amounts expended on inmates throughout the United States, Alabama is the lowest in the nation. Alabama budgets \$9,703 per inmate, Mississippi budgets \$12,500 and Maryland \$39,000.

Reviewing the Community Corrections programs funded through the Department of Corrections, Mr. Horn reported that there are 21 existing community corrections programs now operating in 23 of Alabama's 67 counties. Commission members were provided with a map showing the location of these programs and counties in which community programs were developing or anticipated to be created in the future. *Appendix C* He explained that community corrections programs were developed basically by staff of the Department of Corrections talking to judges throughout the state who indicated that they wanted a community corrections program in their jurisdiction. On average, Mr. Horn stated that since October 1 through June 2003, community corrections had diverted approximately 84 inmates a month, which is about 66 inmates on the front- end that never came into the system and 18 that judges opted to take out of Department of Corrections facilities. He stated that the Department of Corrections contracts with counties to divert felons, paying for front-end diversions (people that never come into the system) at the rate of \$15.00 a day for the first six months, \$10.00 a day for the next three months, and then it's \$5.00 a day for the remainder of the time up to a period of two years.

Mr. Horn explained that judges also have the option of releasing inmates through institutional diversion and for these the programs are paid \$10.00 a day for the first six months and then \$5.00 a day for the remainder of time up to two years. He stated that normally these inmates do not stay in community corrections for two years since most end their sentence (EOS) within a with very short period (usually within three to six months). From Oct. 1, 2002 to June 2003 there were 275 institutional diversions. In other words, they freed up 275 beds and 1,199 felons were front-end diversions who were kept from ever coming into a DOC facility, for a total of 1474 diversions that would have otherwise been sent to DOC if community corrections programs did not exist.

Chairman Colquitt suggested including on the agenda of the next Commission meeting an educational segment on community corrections to address some of the concerns, specifically, how community corrections differs from probation. Based on comments from Commission members, he noted that there appears to be a need to educate the judiciary on utilizing community corrections programs, what programs are available, what they include, and how they offer an alternative between probation and incarceration.

Commissioner Donal Campbell, Department of Corrections

Donal Campbell, Commissioner of the Department of Corrections provided an update on the status of inmates in county jails and out-of-state prisoners housed in private facilities. Commissioner Campbell commented further on what had already been said regarding the cost per day per inmate in Alabama as compared to other states. Alabama currently has the lowest cost of \$27.50 per day. Commissioner Campbell emphasized that Alabama has an inadequate amount of staff. Many times there is one correctional officer in a gymnasium or a building that is not designed for housing watching, overseeing, and supervising more than 250 inmates. Many times they have a minimum

and in most cases no more than 22 correctional officers at night from 10:00 p.m. to 6:00 a.m. trying to supervise over 2000 inmates.

Commissioner Campbell reported since 1997, when the last prison in this state opened, more than 6200 inmates have been added. Although more beds have been added, no additional facilities have been built to provide for the increased prison population. Elaborating on the deplorable conditions, he told the Commission that inmates are sleeping three per cell in cells that were designed for one prisoner, some are sleeping in gymnasiums and in buildings referred to as old canning plants, where the department had previously processed vegetables that had now been converted into living quarters. The Commissioner stated that although the corrections budget and inmate costs are low compared to other states, this savings is achieved at the expense of DOC 's employees – the conditions pose a great risk to officers and employees who are expected to oversee a large numbers of inmates. In addition, it creates a great risk to the community. Commissioner Campbell further stated, “Whenever these inmates decide one day that they want to come out, there is no way that anyone can stop them. There is no way to lock them down. They are only two prisons that we have the capability to lock down. The majority of the prisons are large rooms, such as the one that we are sitting in today, with inmates everywhere and one correctional officer--hundreds of inmates and one correctional officer.”

He stated that there has not been any money provided to the department to upgrade or upkeep any of the infrastructure or the security systems. Wastewater treatment systems are failing all over the state because prisons designed for 500 are housing 2000 in many cases. Kitchens, dining facilities (inmates are served around the clock—24 hours per day everyday. By the time you finish one meal it's time to prepare to next based on the number of inmates in the facilities), and clinics designed for a population of 500 now accommodate a population of 2000.

Commissioner Campbell emphasized that it is very difficult to get anyone to visit the facilities so that they can see what the Department of Corrections is dealing with. He stated that he is very proud of the employees of the department, noting that he is continually amazed at what they are able to do with the resources that they are provided. He told the Commission members that the Corrections System of Alabama is broken and that he doesn't anticipate anything relieving the situation any time soon. Although the DOC picture looks bleak, the Commissioner commented that they are going to continue to fight this battle. He told the Commission members that when they heard that he was requesting more resources for the department to remember that it was for bare necessities, not for luxury items.

Emphasizing the need for adequate resources, he reminded the members that there is no air conditioning in most of the facilities. Noting the high turnover rate in employees working for the department, Commissioner Campbell stated that the system should be evaluated to see what could be done to improve employee working conditions. These employees are having to supervise too many inmates – 200 to 300.

Commenting on the jail overcrowding condition and compliance with the court order to reduce backlogs in county jails, the Commissioner advised that there were 550 inmates in county jails over 30 days ready on July 2, 2003, but that today there are only

six inmates in county jails over 30 days ready. He noted that these six were only still in county jails because DOC had not been able to get the sheriffs to send inmates to them or there are two or three who finish serving their sentence next week.

Basically, you can say that at the present time there are zero inmates who have been awaiting transfer to the penitentiary for more than 30 days. This improvement can be attributed to the transfer of inmates to out-of-state facilities. Commissioner Campbell stated that there are now 1421 male inmates in Mississippi and 310 female inmates housed in Louisiana facilities. The Commissioner indicated his opposition to transferring prisoners out-of-state, stating that although he felt that this was one of the worst things that Alabama could do, it was the only option available. He stated that Alabama is now paying \$27.50 per inmate per day for male inmates housed in Mississippi and paying less (\$24.00) per day for the females prisoners incarcerated in Louisiana. The cost to house prisoners in Alabama is \$27.50 per day, which is the lowest per diem per inmate in the United States. The Southeastern average is approximately \$40.00 per day and the national average is about \$60.00 per day. The main reason that Alabama's inmate costs are so low is because we do not have enough personnel. Commissioner Campbell noted that the majority of the costs associated with housing inmates are attributed to staff. He stated that there is not adequate staff in any division in Alabama's Department of Corrections; noting that it is not just correctional officers but, also employees in food service, classification, planning and research. Commenting on Alabama's inmate to officer ratio, the Commissioner compared the next highest-ranking state, Arkansas, noting that there was a five-inmate difference per correctional officer. The plan and goal, according to Commissioner Campbell, is to bring those inmates back to Alabama as quickly as possible; however, as of today, there are no additional beds.

Commissioner Campbell stated that he had met with county sheriffs and county commissioners hoping to one day reach an agreement that we will be able to house inmates in this state in county jails and the state would reimburse the counties; however until we are able to get the numbers down they don't even want to talk about it. He said that there is a lot of mistrust today between the counties and the state because they have been told over the years and promised things that were never followed up on. He considers it his job to develop that trust and working relationship.

Referring to the Department of Corrections budget the Commissioner said that the governor has indicated that he will recommend a little more than a \$253 million budget for the DOC. That would include level funding plus approximately a \$16 million increase. He explained that the \$16 million would go to mandated services - \$10 million for inmate health services contracts, \$3 million dollars toward the mental health lawsuit settlement, which is a case which is still in litigation claiming that the department had not adequately provided mental health services to the inmate population and \$3 million to continue housing felony offenders (mainly male inmates) outside the state. Even though the inmates in the county jails over thirty days ready for transfer is zero today, the Commissioner stated that we have not solved the county jail backlog because there are still several hundred out there that are creeping up on that 30 days. We will have to continue to bring those offenders back in from the county jails and the intake is not going to stop until we do more with towards sentencing reform.

Commissioner Campbell reminded the Commission members that the Department had to ask for \$30 million dollars for the current year just to finish out this year's budget cycle. He emphasized that it was not because the Department spent money where it was not supposed to be spent; the \$30 million was for mandated costs such as employee health benefits, subsistence pay, and utility cost increases – items that the Department had no control over. He concluded, stating that the Department would continue to do what we think is in the best interest of this state and the tax payers of this state and encouraged members of the Commission and Legislators to visit the Department of Corrections facilities.

Q&A

Judge McLaughlin asked if young female offenders that are sent off to prison all go to Tutwiler?

Commissioner Campbell responded that young females are sent to Tutwiler. In Alabama there is no law that mandates separation of any offender because of their age if they have been convicted as an adult and there are no facilities to enable the Department of Corrections to separate those offenders.

One Commission member commented that in the eyes of the public the Department of Corrections is doing a good job despite Commissioner Campbell's assertion that Alabama is on the verge of a crisis. In regard to the turnover problem, it was noted that two years ago the Department had one of the lowest turnover rates in correctional officers in the country.

Commissioner Campbell responded that many things have changed in the past two years. In the last 5 ½ years we have had over 6,000 additional inmates enter the system. He stated that there are very few people, young adults, that you could train for 12 weeks, throw them in that prison with the grave overcrowding that we have, and expect them to stay. In addition, DOC has mandatory overtime in many of its locations.

Dr. Harris commented that, given the overwhelming defeat of Amendment One recently, Alabamians are saying we want less government not more; however what the Commissioner appears to be saying is that we need more state employees. Commissioner Campbell replied that we do need more correctional employees.

One member stated that we should go to the public to make them aware of the situation. Commissioner Campbell noted that he was doing just that, starting here. He emphasized that it was not just the DOC employees that were at risk, there is a grave risk to you and all the citizens of the state.

After a discussion of the crisis that the Department is facing and the risks involved, Commissioner Campbell advised the Commission that the Department would operate on the dollars that are appropriated to DOC. He repeated his warning that there was a risk of escapes since they did not have adequate staff and a risk of riots. In addition, there are health risks with this inmate population. He referred to recent news articles on tuberculosis cases inside the prison system, which he believes has a lot to do with the overcrowding situation.

Lynda Flynt questioned whether the Department's budget request included funding for Community Corrections programs, specifically referring to the \$5.5 million that got taken out of the community corrections bill and was suppose to be included in the appropriations bill.

Commissioner Campbell stated that he has not heard whether it was included in the appropriations bill and he would not know until the Legislature passes the budget. He noted that all he was referring to when he mentioned the Department's budget was what he had been told that the governor was going to recommend.

Board of Pardons and Paroles – Bill Segrest, Executive Director

Before providing his status report on the Board of Pardons and Parole, Executive Director Bill Segrest stated that he fully agrees with everything that Commissioner Campbell reported in his presentation on the status of inmates in county jails, agreeing that there was a very drastic need to provide more resources to the Department of Corrections and acknowledging that the actions of the Board of Pardons and Paroles are not going to cure that.

He explained that one of the plans the administration is putting forth is for the Board of Pardons and Paroles to increase the number of members on the Board from the present three to seven to allow for two panels of the Board to meet. It is expected that the Board will parole an additional 5,000 to 6,000 people within the next fiscal year. Mr. Segrest explained that before he puts his stamp of approval on that plan, he would insist on having more probation and parole officers to supervise the people that are being paroled. The plan that is being presented by the administration to the legislature will allow the Board to hire enough probation officers - almost 50% more supervising probation and parole officers - than they have right now; all in one year.

Mr. Segrest explained the procedure that the Board uses to determine whether inmates are granted paroles. He presented the Commission with a special review worksheet, stating that the Board has clerical staff that pull the files, examine them and apply the established criteria. The criteria that the Board uses to select the people who go on their special review docket include the following: If they get to a single "yes" category, then that case is pulled off the special docket. They are not eligible for parole if they are serving a split sentence, if they have unsatisfactory institutional adjustment (which includes a disciplinary within the last 6 months involving drugs, alcohol or violence, not other minor disciplinaries. Inmates with a current or prior conviction for a Class A felony are not considered for the special docket. Multiple revocations of probation or parole (defined as three or more within the last five years not including municipal juvenile probation revocations) will cause an inmate not to be considered for early parole. Inmates that have a current or prior conviction involving the use of a firearm or knife will also be ineligible for the special docket. He stated that the Board recently added "knife" to that category because some cases that were being reviewed involved injuries to victims that involved a knife, but since it wasn't involving a firearm it previously would not have eliminated the offender from being brought up on the special parole docket. In addition, if the *current* offense involves victim injury, an inmate will not be considered for the special docket. Mr. Segrest noted that this only refers to the current offense, not inmates who have in the past served sentences for

offenses involving victim injury. If the current event involves domestic violence, the current or a prior conviction is for drug trafficking, a current or prior conviction for a sex offense and inmates with a history of child abuse convictions are not eligible candidates for the special docket.

Mr. Segrest reminded the Commission members that the Governor had transferred a million dollars to the Board of Pardons and Paroles on Feb. 21, 2003, with the understanding that these special dockets be implemented. He stated, "We promised him that we would parole at least 250 females and at least 750 inmates this fiscal year between the time it started in April and September 30, 2003. The Board has actually done better than promised. With the additional one million dollars the Board has been able to grant paroles to 1,312 people during this time frame. Of those, 361 were females and 951 were males." Mr. Segrest explained that those people were released to caseloads that are capped at 60. He noted that maintaining this inmate to officer ration has been difficult because across the state we have some probation and parole officers they have caseloads approaching 300.

He advised that, as of this morning, the Board has 232 supervising probation/parole officers with a total caseload of 44,000 people. Of that 44,000, some 7,000 are actually in a delinquent status. In other words, they have lost them. Mr. Segrest explained that the Board has procedures and policies in place and that the officers are supposed to be looking for these people to try to find them and bring them back to prison. One of the problems with the Board's enabling statute is that if a person is serving on parole for life, there is no way that we can keep those people off the caseload until we can either prove they are dead or catch them. He noted that about half of those that are delinquent have been delinquent more than 5 years; with some of them being delinquent since 1940. Of the 44,000 about 3,000 of them have been arrested and are in custody; they are in county jails or in prison awaiting action of the parole board. These people don't stay in that category for a long period of time. Mr. Segrest explained that approximately 28,000 of the 44,000 are under normal supervision. There are six levels of supervision; the most stringent level of supervision involves electronic monitoring and extremely frequent face-to-face contacts with their probation/parole officer. Probationers as well as parolees are in that category. The next step down is a category that has essentially the same contact requirements except there is no electronic monitoring. In his experience Mr. Segrest reported that he has found that the electronic monitoring is only a good curfew check, it does not prevent a violent offender or sex offender from committing crimes. He stated that there is no degree of safety to the public exercised by putting an electronic monitor on an offender. Based on his experience, Mr. Segrest opined that electronic monitoring should be used for DUI offenders and drug abusers. Those are the people that should be on curfew and if kept off the street at night would have a much better chance of being rehabilitated. For dangerous people, it is a false sense of security that we are offering to the public when we put electronic monitoring on violent offenders. Unfortunately, the offenders that are likely to benefit from this type of supervision are not receiving it, just the opposite has happened, the electronic monitors are put on the people who are violent or sex offenders.

Addressing the reintegration problem, Mr. Segrest said that one of the things that drives the Board's internal policies is we like to think about what could happen if we had enough resources to provide a substance abuse program for inmates after they leave

prison. He stated that the DOC substance abuse program that is provided in-house is very important and whatever resources that have to be allocated to keep that program going should be provided. Mr. Segrest acknowledged that there was a void that occurs when the Board paroles an inmate who has a substance addiction. Even for inmates that have been in the prison system and gone through their program, if they come back for normal parole supervision assigned to an officer that has a caseload of 150 to 200 people, the chances that that person is going to reoffend is very high. The last calendar year, the Board of Pardons and Paroles revoked over 2,000 people from probation and parole, which is a huge influx into DOC's system. He stated that he believed these rates could be greatly reduced if we had better cooperation with Foster (TASC) and other community corrections programs to put people in substance abuse treatment rather than back into prison. We need a sanction that is less than prison that we can put these people into, those inmates who just refuse to check in with their supervising officers.

I am extremely hopeful that in the near future we will have some in-house substance abuse treatment programs for the people who need substance abuse treatment. I would like to open transition centers that would take the people who are getting out of prison and admit them to a substance abuse program there, to gradually ease them back into the community in which they lived. The budget that has been presented by the Governor will allow us to have two very small centers this year. I hope that the Legislature will allow us to establish these centers and support our efforts, if for no other reason than to get a track record of what we can do if we do it right.

Q&A

Ms. Ellen Brooks expressed concern that none of the additional money that is being given to the Parole Board is going to the prosecutors who are charged with screening these cases. She stated that this was a classic example of the system not thinking it through - how a change in one area affects many others such as judges and prosecutors.

Alabama Sentencing Reference Manual

Tammy Meredith of Applied Research Services reported that 11% of the current prison population is in prison for 4 offenses—theft of property in the first and second degrees and first and second degrees of receiving stolen property. One of the questions posed with the simulation model was what would be the effect of changing the property value thresholds. She explained that the base data on those thresholds came from the study of presentence investigation reports to determine how much money was involved and the value of the property stolen. The result of that simulation is a projection of the prison population five years into the future. We determined that if you change those thresholds amounts 5 years into the future our projected prison population would be 9% lower than what we could otherwise expect. Instead of an anticipated 32,000 inmates in 5 years, if these statutes are changed, it was determined Alabama could expect 29,000, 3,000 less inmates in the system. With this data and the simulation model, we can now show how changes in the law can have a real impact on the number of bodies coming into the prison system in 5 years. Dr. Meredith noted that this was an interesting simulation because they found that the change would have a more profound impact among the female inmate population, reducing the female inmate population by 12% in five years. This is because 1 out of 3 female inmates in Alabama are serving time for theft of property and receiving

stolen property offenses. With this one change you would have a big impact on reducing the number of female offenders incarcerated in the penitentiary in the future.

Dr. Meredith explained to the Commission members that ARS had spent a considerable amount of time dating Alabama's sentencing cohort. The database now consists of everyone convicted of a felony in the last 5 years, which amount to almost 75,000 felony offenders. She noted that in comparing the updated cohort to the original 4-year cohort, both were fairly consistent: The number of offenders that received a prison sentence dropped slightly. The 4-year cohort was 57%; in the 5-year cohort it is 55%. For the portion of the cohort with no prior convictions it is higher now than it was—almost half 47%. The top 25 offenses changed very little, it contains the same offenses, accounting for 90% of offenders, but 2 of the crimes got moved around a bit. The top 25 offenses are the same as it was last time except theft of property in the first degree moved up above burglary. It did reflect that a few less people are getting prison sentences, with a slight increase in first timers in terms of convictions.

Dr. Meredith explained to the Commission Applied Research Services proposal for FY 2004. Starting in October, they will be under contract continue their work of the past 2 years, which is ongoing analysis of data, presentation of findings, assisting the Commission, assisting the commission staff. In addition they will be working on more amendments to the simulation model to answer the simulation questions we would like answered. She advised that the simulation model has been developed and is now housed on the Commission's computer where the Commission's analyst, Melisa Morrison has access to it. In addition to answering more questions with the simulation model this year, Applied Research Services will also be doing more PSI data analysis. Dr. Meredith explained the ongoing project undertaken by the Commission staff to obtain PSI data on 7,000 more inmates. She stated that this data is essential to develop sentencing standards worksheets, which is going to be the primary job of ARS in the coming year. Once the worksheets are developed, the simulation model can be used to forecast the results of adopting this structured sentencing plan, telling us what would be the outcome in 5 years, i.e., what would be the impact on the prison system—who will be going to prison for how long, what would be the makeup of the prison population, who would be diverted to probation.

Q&A

One Commission member asked if we would be able to use the simulation model as the standards are being developed. Dr. Meredith answered in the affirmative, explaining that it would be an ongoing process and that this is exactly how she saw the standards development process working. She noted that since the standards are empirically based, the data would have to be analyzed first to come up with the factors that judges are using in this state to sentence offenders. We are starting with an historical foundation. We may find from the data that there have been 5 or 6 factors that judges have been using—specific details of the offense, prior record, probation and parole failures in the past, drug history, etc. Dr. Meredith explained that they could utilize the simulation model if they keep on this track, i.e., if we give those factors the same weight judges have been using in the past and mimic history then we will be able to determine the impact on the prison system. The committee that has been working on all of this, along with the research team, can then decide if we have a subjective goal. For example, if we have people that are seriously drug addicted convicted for a drug or property offense we would want to

move them out of prison, even though historically they were sentenced to serve prison terms. We will be making some subjective decisions now that reflect our goals in our worksheets. The goal is not just to mimic historical sentencing patterns, but make future decisions to head us in the right direction. Dr. Meredith stated that it will be an iterate process and that she expects multiple gyrations of those work sheets and examination of the potential impact; that is why the simulation model was developed first. She noted that Melisa, the Commission's research analyst, has been working with her and Dr. Speir and is doing a wonderful job. In this respect things have really improved in the last year in terms of the research support to the Commission, now that there is a full-time research analyst available.

PSI Project

Melisa Morrison, Senior Research Analyst to the Sentencing Commission, provided members with copies of a spreadsheet and form. *Appendix A* Ms. Morrison reported that part of the Sentencing Commission's reform package that was passed this year by the Legislature is going to guide the Commission in the development of sentencing standards work sheets, noting that the first phase in this project has begun. Referring to the spreadsheet, Ms. Morrison noted that the focus has been on developing three worksheets dealing with personal, property, and drug/alcohol offenses. She explained that the offenses that will be covered on the worksheets are listed, indicating that the first three columns consisted of the five-year cohort population —both nonprison and prison groups, and that a stratified sample of prison and nonprison cases has been created. She explained that 2500 cases will be collected for each worksheet and that a total of 7500 cases will be needed in order to complete the analysis for the standards and worksheets.

Ms. Morrison acknowledged that in the first round of PSI data sampling, which focused on six offenses, there was a 50% return rate for actual PSI reports in the file or actual information that could be used to capture the information usually found on presentence investigation reports. She explained that this time they had decided to over sample by 50% in order to get back enough information to develop these detailed work sheets. Ms. Morrison distributed a copy of the form that was being used to collect this information in order that members could see the sampling process and strategy for pulling these cases needed to develop the sentencing standards work sheets. *Appendix B* She reiterated that the sample would include a number of probation cases, nonprison and prison cases.

Ms. Morrison stated that the next phase of the project would be actually going out in the field and collecting this data. She explained that all of the nonprison cases were sent to probation officers in the field who had offered to assist in gather this information, while the clerical staff and the officers in Montgomery collected the information on the prison cases. Going over the form and instructions, she noted that although the form was simple, it was comprehensive, with a lot of information being requested. Ms. Morrison explained that the first thing being asked is, within that sentencing event, what are the other offenses at conviction (in addition to the offense listed on the label). The reason for requesting this list is because we wanted to be sure that if there are multiple offenses included during the sentencing event, we had the PSI information for the most serious offense at the time of conviction. The Commission staff compiled a seriousness ranking score list to determine which offense is more serious. We instructed the officers and clerical staff completing these forms that that if the information on the label is not the

most serious to circle it and include the information on the most serious offense. We emphasized that we only wanted the information on the most serious offense at the time of conviction.

Ms. Morrison explained the forms and instructions in details as follows:

“The current offense detail information questions the degree of the offender’s participation in commission of the crime - was this offense gang related, was there a weapon present and if so was that weapon used, was the firearm acquired during the offense, was alcohol or drugs used at the time of the offense. In addition we are acquiring important victim information: the number of victims involved, the type of victim, if it was a person, we are collecting information on their race, sex and age, the type of victim injury, victim relationship to the offender. For certain personal offenses, such as burglary or assault, we are also asking whether the offender committed the offense with the intent to rape, rob or murder. Also included is a section for the property type and the value of the property involved. We wanted to collect more detailed information that will be included on the work sheet such as the type of items taken, if the offense was burglary - did it occur during the day or nighttime, and the property value.

“Information regarding drugs is also being requested so that we will be able to capture the drug type and the amount, and if the offense was a sale/distribution did it occur within 3 miles of a school or housing project.

“There is also a section on the form to capture prior conviction history – all prior felony and misdemeanor convictions, both in-state and out-of-state, as well as juvenile and YO adjudication. We are asking for the arrest date, conviction date, the offense, the classification, the offense type, whether the offense was a juvenile adjudication or YO or whether it was an out-of-state case. Below that section we are counting the total number of prior convictions for the current offense. We want a total number for those prior convictions for the offense listed on the label. We are also requesting the number of prior probations, the number of parole revocations, and the number of prior incarcerations.

“On offender demographics, we are asking for information on the offender’s marital status, highest level of education, whether they have a history of problems with drugs, alcohol, or domestic violence and whether they have ever received any treatment, whether he or she was employed at the time of the offense and his or her legal status at that time.”

According to Ms. Morrison, this process took about five weeks to collect the information from the probation offices and also here in the Montgomery office at Pardons and Parole, with the collection process ending on Sept. 5th. The second phase will begin next week, in which the data collected will be entered into a database so that the analysis for the work sheets can begin. The estimated time line for completing this phase is about 6 weeks. Ms. Morrison also reported that phase III of the project would be the analysis of data and development of sentencing worksheets.

Dr. Tammy Meredith explained the procedure for pulling the samples, stating that a quota was established for each offense. The computer was then used to select all of the people

convicted of specific convictions, e.g., burglary III in the last five years (that went through that 5 year cohort). Based on the quota, the computer then drew a simple random sample of the population. This procedure was followed for each individual offense group.

Review of Commission's Sentencing Reform Acts

Theft and Similar Property Crimes – Increase in Values

Lynda Flynt, Executive Director of the Commission, with the aid of a PowerPoint presentation (*Appendix C*), gave an overview of the primary provisions in all three of the Commission's bills that were enacted by the Legislature, Acts 2003-353 (HB 490) the Community Punishment and Corrections Act of 2003; Act 2003-354 (HB 489) the Sentencing Reform Act and Act 2003-355 (HB 491) the theft crime bill. Starting with the theft act, she noted that although it was projected that changes in four offenses alone (theft of property in the first and second degrees and receiving stolen property in the first and second degrees) would save the state around 3,000 prison beds in the next five years and to reduce the projected prison population by at least 1,000 offenders, we could actually expect more prison beds to be saved and a larger decrease in the prison population than projected since the Act changed the property values by raising the felony threshold for 31 theft and property offenses.

Ms. Flynt distributed a handout which contained a chart showing the amendments - the Act raised the felony threshold for second degree theft and related offenses from \$250 to \$500 and raised the threshold for first degree theft and related offenses from property valued at over \$1,000 to property valued over \$2,500. She explained that, basically what this did for Class B felonies was to raise the property value for anything over \$2500; now a Class C Felony is anything from \$500 to \$2500 and a Class A misdemeanor is property valued at \$500 or less. Ms. Flynt noted that it just became effective Sept. 1st so we have not had the chance to see the total impact yet.

Explaining the amendments to the bill as it traveled through the Legislature, Ms. Flynt Stated that the retailers had some opposition to the bill as originally introduced but that there was a compromise, which can be seen in the amendments to the statutes for theft of property 2nd and receiving stolen property in the second degree. For repeat offenders there is now a provision in the theft of property II statute providing for a decrease in the value of property in cases in which there was a prior conviction for Theft I or II. We also added a similar provision for repeat offenders previously convicted for receiving stolen property 1st or 2nd who are subsequently convicted for receiving stolen property in the 2nd degree.

Other property valued statutes that were amended included Theft of Services, Theft of Lost Property in all degrees, Utility Theft, Identity Theft 1st and 2nd degrees, Charitable Fraud 1st, 2nd and 3rd, Criminal Mischief in all degrees, Illegal Possession of Food Stamps in all degrees, offenses against intellectual Property in the first degree, fraudulent leasing/rental of property in the 2nd and 3rd degrees and Defacement of Public Property in all degrees.

Ms. Flynt stated that passage of this bill represented a major accomplishment for Alabama, and with its passage the Legislature acknowledged that revision of Alabama's theft laws were well overdue. These amendments were needed not only to ensure that property values were consistent with other states, consistent with similar property crimes in Alabama's Criminal Code, but also to reflect increases in the value of property over the last decade.

Community Corrections and Punishment Act of 2003

Ms. Flynt reminded the Commission members that the primary intent behind the Community Punishment and Corrections Act of 2003 (2003-353 (HB 490) was to ensure accountability and encourage the growth of local community corrections programs as alternatives to prison incarceration. She explained that the major changes included new provisions that 1) specifically authorized state appropriations to be utilized for start-up costs of local community correction programs as the operation of continuing programs; 2) Authorizes counties to establish community correction programs by passage of a county resolution, rather than establishing non-profit authorities; 3) create a separate community corrections division in the Department of Corrections with a full-time director and support staff; and 4) establish a State-County Community Partnership Fund as an identifiable fund to receive appropriations for community corrections programs, with monies appropriated to this Fund earmarked solely for community corrections. Ms. Flynt noted that another major provision of this Act, as it was originally introduced, was the appropriation of \$5.5 million for community corrections programs. She said that although this provision was amended out of the bill, Commission staff was given assurances by key legislators that it would be included in the General Fund Budget that will be considered in a special session of the legislature later this summer. As this bill traveled through the Legislature, the initiative to build more community punishment alternatives began to grow, with Governor Bob Riley working with the Department of Corrections and Department of Mental Health to also establish five transition centers for inmates diverted from prison or ending their term of incarceration.

Although the new Community Punishment and Corrections Act became effective July 20, 2003, Ms. Flynt acknowledged that some of the provisions have not been implemented, i.e., a permanent full-time director in DOC for community corrections programs, a separate community corrections division within DOC. She advised that we were not certain how good the prospects now were that DOC would receive the \$5.5 million appropriations that were originally in the bill.

Ms. Flynt stated that another key provision of the Act was the creation of a state-county partnership fund that would provide that DOC appropriations for Community Corrections to be channeled through this fund. The intent was to guard against these funds being used by the department for other purposes, earmark these funds for community corrections programs and it would provide that any funds remaining in the fund would not revert at the General Fund at the end of the fiscal year.

It was also the intention that, under the bill's provisions, DOC would be held more accountable. With the bill's passage, the Administrative Procedures Act now expressly governs DOC rules and regulations; the Department is required to produce an annual

report on the effectiveness of community corrections programs to the Legislative Prison Oversight Committee and the Alabama Sentencing Committee. Ms. Flynt stated that although the existing law required the Department to report annually to the Legislative Prison Oversight Committee, it was discovered that no report had been submitted in the past two years, primarily because the committee had not met for at least that long. No one has seen any reports and that no evaluations of the programs have been provided in the past.

The Act also specifically provides that all DOC standards and regulations governing community corrections programs and evaluations of these programs are public records. Another major provision of the Act is that it authorizes judges to sentence offenders directly to these programs (but with a cap provision that was included at the request of the Association County Commission to ensure that the community corrections programs wouldn't end up in the same overcrowded problems as our jails and prisons. There was also a provision that Buddy Sharpness asked to include to ensure that county governing bodies incurred only limited liability, although there is another statute that already exist on that topic.

Ms. Flynt explained that the provision authorizing the judges to grant discretionary award of half credit time for work release programs was eliminated. She explained that the reason the Commission and subcommittee decided for elimination rather than to retain that provision in its existing or an amended form was because it did not fit into a reformed system advocating truth-in-sentence and the elimination of unwarranted disparity. Under the present statute, any judge in the state is allowed to award up to one half credit for the time an offender participates in a community corrections program. This is a totally discretionary award with no guidelines established.

Addressing the distribution of inmate wages, Ms. Flynt reminded the members that Judge Rains had previously expressed concern that the provision in the current statute that governed the distribution of wages for inmates was not very clear. She explained that the committee reviewed this provision and decided that it should be expressly stated that the distribution of the wages would be to the community corrections provider that houses the defendant. This would allow counties that decide to establish a program to get the money.

Reviewing the new provision on due process for violations, Ms. Flynt noted that there was concern expressed in one of our committee meetings that there was no provision for the kind of procedure that applied when there was a violation of one of the conditions of community corrections. Therefore, the committee specifically included a provision that stated the same due process procedure that are applicable to probation revocations would apply to community corrections violations. In addition, the committee voted to include provisions that would authorize program administrators to impose minor sanctions for some violations that did involve jail time without going back to court

Ms. Flynt advised the members that there were now 21 existing community corrections programs serving 23 counties and distributed a map reflecting which counties had community corrections programs. She also distributed a handout showing the "Top 10" counties according the number of state inmates diverted from DOC. *Appendix D*

Reviewing the history of Alabama's Community Punishment and Corrections statutes, Ms. Flynt noted that although the original statute was enacted 1992, we wanted to amend it to encourage the counties to start community corrections programs. What came out of the Commission's subcommittee was actually a mandate that each county that didn't have a community corrections program, at a minimum, form a group of local officials and citizens to meet together and see what might be available and discuss the issues. She noted that because of opposition from DOC and the Association of County Commission the bill that was presented to the Commission, approved and introduced in the Legislature, was actually a watered down version of what had originally been proposed. The original proposal approved by the subcommittee was based on Okalahoma's Community Corrections law. Ms. Flynt told the Commission members that Oklahoma had been very successful in establishing community corrections programs through legislation with similar mandates; however, when we ran into opposition from DOC and the Association of County Commissions, we had to go back to the drawing board.

In addition to allowing counties to develop community corrections programs by resolution of the county commission, Ms. Flynt stated that the Act also clarified questions regarding the receipt of grant funds through DOC. She noted that while one statute provided that counties would be able to participate and establish these programs; when it came to the availability of funding through DOC, the statute failed to mention programs established by the county - only referring to community corrections authorities or other non-profit organizations. Another important amendment was the elimination of the provision in the existing statute that established more liability for multi-county programs.

Briefly discussing drug courts, Ms. Flynt stated that there were now 16 drug courts in Alabama. She stated that she understood that Jefferson County's program had a low recidivism rate. According to the statistics she had from a drug court survey, last year these courts served 10,820 felony offenders and 14,326 misdemeanants.

A commission member noted that another benefit of an established community corrections program is that it can help, through pretrial release programs, to reduce jail overcrowding and it can divert otherwise prison bound offenders. It was noted that their program saved the state over 2.6 million dollars, in 2003 alone.

Sentencing Reform Act of 2003

Ms. Flynt then reviewed the major provisions of Act No.2003-354, "The Sentencing Reform Act of 2003," which requires the Sentencing Commission to draft a structured sentencing program for Alabama consisting of voluntary, non-appealable sentencing standards. She noted that the program would be implemented over a 3-year period; beginning in 2004, when the Commission would submit the first set of voluntary sentencing standards (or guidelines) for legislative approval. She reminded the Commission that these standards would be constructed based on historical time-imposed patterns, with adjustments made to reflect reality.

The Legislation also sets 2006 as the goal for submitting a second set of standards or guidelines to the legislature. This second set of guidelines is necessary to implement truth-in-sentencing in Alabama, and if approved by the Legislature will become effective October 1, 2006. This Legislation represents the true beginning of sentencing reform for our state.

Noting the apparent need for more community corrections programs and drug courts, Ms. Flynt referred to statistics on Alabama's criminal justice system. As noted in the publication by Vera Institute which compared Alabama's prison population with other states, she reminded the members that Alabama has the 5th highest incarceration rate in the nation; with one out of every 165 adults incarcerated. Repeating statistics from the Commission's annual report, she reiterated that although Alabama's general population increased 30% over the last 30 years, our inmate population has increased 600 percent. One out of 5 new admissions is for drug possession or felony dui. Forty-eight (48%) percent of DOC inmates are now in substance abuse programs and according to the last figures we have, there are 7400 that are on the waiting list. There are 80 councilors available to treat 12,744 offenders.

Reviewing the "Top 10" crimes of conviction where all drug and alcohol offenses were indicated in red and all offenses that were most likely drug or alcohol related noted in green, Ms. Flynt stated that this pictorial emphasizes the fact that we have a real drug and alcohol problem in this state and that it is time to do something about it. .

Regional Meetings to Explain the Sentencing Reform Act, Standards and Reference Manual

Ms. Flynt told the Commission members that there is a real need to conduct educational workshops for judges, lawyers, district attorneys and probation officers on the Sentencing Commissions legislative package (specifically the Sentencing Reform Act) and the Sentencing Reference manual. She asked the members, especially the judges on the Commission, for their help in arranging some of these meetings. Ms. Flynt said that although we have given copies of the acts and the manual to judges and prosecutors, we need to explain to them what these acts do and go over the reference manual with them. She stated that it was very important for us to explain that these are voluntary nonappealable sentencing because we still have opposition to the standards from judges and other criminal justice officials who believe these are going to be like the federal guidelines and that they are going to be mandatory and appealable. Other facts that we need to emphasize are: the 2004 standards are historically based; the 2006 standards will be the truth-in-sentencing standards; the mandatory minimum penalty provisions and enhancement statutes, such as the Habitual Felony Offender Act, will not apply if the judge follows the recommended standards in imposing sentence; and that reporting to the Sentencing Commission is necessary for statistical data analysis, which is essential for the development of worksheets and for later modification(s) of the standards.

Ms. Flynt explained the proposed truth-in-sentencing standards that are to be submitted to the Legislature for approval and implementation in 2006 as follows:

“They set a minimum term of imprisonment so, at the time of sentencing, the judge, prosecutor, offender and the victim know the minimum term of

imprisonment the defendant will serve. There will also be an extended term of imprisonment, or “bad time” that will include an additional term, calculated as 20% of the minimum term of imprisonment. In other words, if you sentence someone to 10 years, 2 additional years could be added if the inmate acts up in prison and gets a disciplinary or if he doesn’t complete his drug program. In addition, a year of post-release supervision will be required for *every* incarcerated felony offender upon release from prison. This is one requirement will require the Board of Pardons and Paroles to have a lot more officers to provide one year of post-release supervision.

“Another major part of truth-in-sentencing is that, in 2006, when they were implemented, it was intended that we were not going to have parole for anyone committing an offense after the implementation date. As the bill was being considered by the Senate – due to a lack of understanding more than anything else - at the last minute, the provision abolishing parole for any offenders after that time was eliminated. I believe the Legislators believed that the Parole Board was being abolished, which was not the case because they would still have a limited function. They would have to exist to handle paroles and pardons for offenders that are now incarcerated. Parole would be abolished for only those offenders sentenced under the standards.

“We will have to come back with an amendment to correct this by adding back a provision specifically abolishing parole for those offenders sentenced under the standards. However, it is questionable whether parole was actually revived for those sentenced under the 2006 standards by the elimination of that one provision. Although one sentence was struck, over in another part of the bill, there is a provision that states ‘ not withstanding any other law to the contrary ... no other release provision applies (to those sentenced pursuant to the standards). Since it is questionable, we need to work on that aspect of the bill and explain to the Legislators what we were intending to accomplish. It must be eliminated for the truth-in-sentencing standards to work; if you continue to have discretionary parole granted by a non-judicial body, you are not going to have truth-in-sentencing.

“Under the Act, the Board of Pardons and Parole will be required establish release/reintegration plans. One amendment that was made at the request of the Association of County Commissions included a provision that if there was a violation of post-incarceration supervision, there would be a 20-day maximum cap on the time the defendant would be allowed to stay in a county jail. Instead of 30 days, they would have to transfer state inmates to the penitentiary within 20 days.

“The Act also has a definitional section which includes the terms “continuum of punishment,” “violent offense” and “violent offender.” It lists 45 specific offenses including: threatening the use of a deadly weapon, any offense involving substantial risk of physical injury, sex offenses, or any attempt, conspiracy or solicitation to solicitation to commit any of those types of crimes.”

Ms. Flynt concluded the PowerPoint presentation by showing the members a display of the continuum of punishments, noting that the Commission and staff need to work on this

topic more, and suggested that a pamphlet be developed to provide more descriptive distinctions between community corrections and probation.

In terms of data needs, Ms. Flynt stated that the Commission is still trying to obtain vital information on community corrections programs, drug courts and county jails. In regard to county jails, she said that while Commission staff was attempting to obtain information on the type of prisoners that are in the county jails – both county and state inmates - they discovered that nobody had statewide data on who was in the county jails. Although DOC has a weekly jail report for state inmates, this is not a true overall picture of who is occupying jail space. Ms. Flynt announced that Mike Carroll of AOC was working on trying to get the county jails to come online with AOC. As an incentive, AOC would provide jails with access to the warrant system and they would provide data that could be used to get a statewide picture reflecting, at a minimum, how many are housed in the county jails, who they are, what they are in there for and how long. Ms. Flynt asked the Commission members to talk to their county commissions or sheriff and ask them if they are online with AOC and, if not, encourage them to sign up with AOC. She noted that in 2002 when a survey was conducted (with the help of the Sheriff's Association), they found out that, at that time, 27 jails had reached or exceeded capacity, 4 were over 200% capacity and the largest majority of inmates were prisoners awaiting trial. Twenty percent (20%) were state inmates waiting to be transferred to serve time in the penitentiary and 74% of those had been in jail over 30 days or more.

Future Tasks of the Commission

Ms. Flynt told the Commission members that the staff and committees of the Commission were trying to look at the different projects the Commission would tackle during FY 04. She stated that one of the projects was an evaluation of the data on habitual felony offenders. In addition to pursuing a supplemental appropriation for community corrections, there was an obvious need to review our state's laws on drugs (particularly those dealing with marijuana possession), habitual felony offenders, and the Sentencing Reform Act to put back in the provision abolishing parole in 2006 for offenders sentenced under the truth-in-sentencing standards. Ms. Flynt reminded the members that the Commission was still considering revision of the Criminal Code, as Judge Colquitt had previously mentioned, and that another area that appeared to merit review were our probation and parole procedures; there was particularly a need to examine data on technical violations to see what offenders were being imprisoned for technical violations and for how long. She stated that the Commission was also required to develop and implement the first set of sentencing standards and that these had to be completed and ready to present to the Legislature during the 2004 Regular Session, which begins in February. This project is in addition to the Commission's annual report and the drafting of other legislation that we recommend. Ms. Flynt reiterated that the Commission had to do a lot of education and had committed to helping with drug court evaluations being proposed by the Supreme Court Committee that Callie Dietz had been assigned to coordinate.

The Commission was also informed that the original plan for transition centers, i.e., to have 5 operational by FY04, had gotten pared down considerably, but the Governor still seemed interested in this proposal.

Ms. Flynt advised the members that the Commission now has a website, which has the annual reports, the sentencing reference manual, minutes of meetings and notices of meeting dates and times posted. She requested recommendations for improvement from the members.

Formation of Committees for FY 04 projects/Schedule Meeting Dates

Chairman Colquitt stated that one of the things that the Commission is going to have to do is structure some committees to work on specific topics. The three topics that have been identified are: Sentencing Standards and Worksheet Development, Legislation and Technology. Lynda Flynt distributed copies of initial appointments to those committees.

Chairman Colquitt emphasized that these three topics are the principal targeted areas. He stated that these committees would be quite active in their respective areas, coming up with proposals for the Commission to consider. He indicated that the one that the Commission should particularly think about is legislation, because the legislation drafted might involve some of the reports of the technology and sentencing standards committees. He reminded the members that legislation will have to be drafted for sentencing standards and he hoped that they would help identify and develop similar legislation dealing with particular issues or troublesome areas in our criminal justice system. Chairman Colquitt stated that one of the things that the Commission dealt with during this year's Legislative Session was theft, and encouraged members to consider what other crimes may need restructuring and/or redefining. He mentioned that some of the topics routinely suggested are the habitual offender act and drug offenses.

Status of Commission's Budget – Prospects for Next Year

Rosa Davis, Chief Assistant Attorney General, Commission and staff member reported that the Sentencing Commission asked ADECA for a Byrne grant in the amount of \$226,000. She stated that the Commission has been level funded by the Legislature for \$170,000 and it was essential to obtain the remaining \$56,000, for FY 04.

Ms. Davis stated that in the original budget that was submitted to the Legislature by AOC, AOC asked for \$194,000, which was just a little bit more than level funding last year; however, the budget request did not include any money for "operating expenses." She explained that the Commission staff had to work with that and try to straighten out that mistake. Ms. Davis mentioned other prospects for money that the Commission had, i.e., she had asked for a direct appropriation from the United States Congress for funds for special projects. She stated that the prospects on receiving those funds looked good, but we would probably only get about a third of what was requested. She cautioned that funding was going to be critical for the Sentencing Commission, like everybody else that must depend on a General Fund budget; however, if the Commission receives funding from Congress, the Alabama Sentencing Commission should be ok.

Input from Members

Members were given an opportunity to bring up any topic they felt needed to be brought before the Commission, and specifically encouraged to make suggestions or present any ideas that they had on other legislation.

Ms. Ellen Brooks asked about the simulation that was conducted when the Commission projected the effect of increasing values on the theft and theft-related statutes, specifically

whether we had focused just on who was in prison for those crimes and who wouldn't have been convicted of a felony, or whether the forecast included habitual offenders, or those who had previously been sentenced for theft of property or receiving stolen property in the first and second degrees. She was advised that the simulation conducted was only on those offenders with current theft convictions and sentences.

Pilot Projects – Regional Education Forums

Ms. Brooks also expressed her concern that in addition to all of the hard work that we are doing internally, the Commission should be very open to hearing what criminal justice officials and employees say as they began to work with the reference manual, sentencing standards and worksheets. She stated that we must do a thorough job of selling what we have already accomplished and what we plan to accomplish. Ms. Brooks noted that there would be a large turnover of district attorneys in the next year, which is an election year for most prosecutors. In addition, a number will be retiring, so the Commission should be prepared to start from scratch in a lot of ways. She stated that with the budget crunches, prosecutors are going to be more worried about how to get enough lawyers in the courtroom and handling all the paperwork from the parole board, etc. than interested in learning a new system.

Lynda Flynt acknowledged that there was indeed a great need to explain our proposals and garner the support of judges, prosecutors, and other criminal justice officials. She stated that educational efforts to date have been limited, and have consisted primarily of regional meetings with judges and civic groups. Recognizing that more education was needed than has been accomplished by her and Rosa traveling around the state, they originally considered establishing a committee of education and pilot committees. It was decided that the Commission members first be asked to help in setting up regional educational meetings in their areas and letting the Commission staff know those that would be interested in volunteering as a pilot site for the sentencing standards. Ms. Flynt asked the members to discuss these needs with their criminal justice officials (judges, prosecutors, defense bar, probation officers, community corrections programs) when they went back, and to call and let her or Rosa know of available dates, times and places that educational meetings could be scheduled.

Future Projects

Mr. Bill Segrest, Director of the Board of Pardons and Paroles, stated that he wanted the Commission members to consider developing a study committee on the criminalization of addictive behavior. He stated that there appeared to be a great need to study this problem since much of DOC's prison space is being used to lock up addicts, noting that these addicts are the same one who are burglarizing our houses and stealing our property. Mr. Segrest opined that our state is paying a very high price to keep addicts locked up, and that the money spent in this regard could be better spent addressing the issue - which is their addiction - rather than locking them up for a long period of time.

Lynda Flynt mentioned that she plans on having updated information on drug statutes and the criminal penalties authorized from other states available at the next Commission meeting for the members to see how Alabama ranks.

Closing Remarks and Scheduling of Next Meeting

The next Commission meeting was scheduled for November 7, 2003. Members were advised that they would be mailed notices as soon as final details had been made.

There being no further business, the meeting was adjourned.