

Alabama Sentencing Commission

Minutes of Offender Seriousness Subcommittee Meeting April 26, 2002

The Offender Seriousness Subcommittee of the Alabama Sentencing Commission, chaired by Rosa Davis, met in Commission Office, Suite 2-230 of the Judicial Building in Montgomery on Friday, April 26, 2002. Present at the meeting were:

Rosa Davis, Chief Assistant Attorney General, Chair
Lynda Flynt, Executive Director, Alabama Sentencing Commission
Becki Goggins, The Sentencing Institute
Dr. Michael Haley, Commissioner, Department of Corrections
Honorable O. L. Pete Johnson, District Judge
Emily A. Landers, Deputy Director of Constituent Services, Governor's Office
Bill Segrest, Executive Director, Board of Pardon and Paroles, Montgomery

Mission

Ms. Davis explained that the charge of the subcommittee is to develop offender classifications that rank offenders identifying specific factors that make one offender a more serious offender than another, given that both are convicted of the same crime. The committee must identify information about an offender that is or should be considered at sentencing and determine whether this information should include both culpability and future criminality. When the factors are identified, decisions will be made on how the factors should be used. Should certain factors automatically result in a harsher sentence, if so, which ones and why. Examples of factors that will be considered by the committee include matter such as prior criminal history, status at time of arrest, prior juvenile history, drug abuse, addiction, harm to the victim.

Review of Most Recent Data Compiled by Applied Research Services

Data recently compiled by Applied Research Services reflecting offense seriousness scores and ranked according to sentences imposed was distributed to the members for them to briefly review. Ms. Davis explained that although these tables were developed to assist Judge McLauchlin's Offense Seriousness subcommittee in their ranking of offenses, she wanted the Offender Seriousness Subcommittee to also review the information provided and see if there were any questions or comments. *See Appendix A*

The following is a summary of the questions and comments that were discussed:

- It was suggested that it might be useful to review data on prison sentences imposed over a period of time. When asked if this information was available, Ms. Davis indicated that she thought this could be obtained from the ARS database by comparing the time imposed on the defendants recently sentenced and

incarcerated to the prison sentences given defendants who were within the release cohort.

- Some members questioned why trafficking in marijuana received a less serious score of 8 than other trafficking offenses, which were given a higher seriousness score of 4, and suggested that this offense be given a similar rating.
- The lower rating of 6 for rape 2nd compared to the score of 2 for rape 1st was explained as based on the fact that (1) rape 2nd does not include the element of forcible compulsion (2) although it includes statutory rape, unlike Rape 1st which applies when a defendant is 16 years of age with a victim who is less than 12 years of age, it applies to older victims – those less than 16 but more than 12 years of age.
- It was suggested that aggravated stalking, with a current score of 9 (Stalking is scored as 15), be assigned a more serious score.

TASKS

1. Review Factors Presently Considered in Alabama

The subcommittee will begin addressing these issues by reviewing factors presently considered in Alabama including (1) factors that probation and parole officers examine in making their recommendations to the sentencing judges, (2) risk assessment factors, and (2) mandatory enhancement statutes that have been passed by Alabama's Legislature, representing policy judgments made by that body. A list of mandatory minimum and enhanced punishment statutes, compiled for and reviewed by the Mandatory Minimums and Enhanced Punishment work group last year, was distributed to the members of the subcommittee. *See Appendix B.*

2. Review of Offender seriousness decisions in other states, especially those that now have some form of structured sentencing

General information on criminal history scores/prior record levels utilized by Massachusetts, Minnesota, and Virginia, was distributed, along with questions that the Alaska Sentencing Commission addressed in developing an offender criminal history score. *See Appendix C.* The committee will obtain additional information from specific states, with subcommittee members calling the directors of those Sentencing Commissions to determine: (1) What factors are used in those states to determine offender seriousness and how the factors are used (to create sentencing levels or aggravating and mitigating circumstances) (2) Why those factors were deemed important and others were not. (2) What influenced the determination of the rankings that were finally adopted. Assignments were given for the following people to canvass 5 states.

Assignments

Becki Goggins – Virginia

LyndaFlynt – Kansas

Bill Segrest – Pennsylvania

Ellen Brooks - Delaware

Rosa Davis – North Carolina

Scheduling of Next Meeting

After a brief discussion of the best date in May to schedule the next meeting, the Committee members were advised they would be notified by mail as soon as the next meeting date had been determined.

There being no further business, the meeting was adjourned.