The cover features a background of classical columns in a courtroom or government building, overlaid with a semi-transparent orange-red filter. The text is arranged in a clear hierarchy from top to bottom.

**ALABAMA
SENTENCING COMMISSION**

Signs of Progress

**2010
REPORT**

ALABAMA SENTENCING COMMISSION

2010 Report

Signs of Progress

300 Dexter Avenue
Suite 2-230
Montgomery, Alabama 36104
Phone: (334) 954-5095
1-866-954-9411 ext.5095
Fax: (334) 954-5201
E-mail: sentencing.commission@alacourt.gov
Website: <http://sentencingcommission.alacourt.gov>

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Acknowledgements

In recognition of the assistance and support provided to the Alabama Sentencing Commission by the various criminal justice agencies and departments and state and local officials, the Sentencing Commission takes this opportunity to acknowledge and thank each one for their contributions and determination to improve Alabama's Criminal Justice System. Successes based on recommendations of the Sentencing Commission have only been accomplished due to their invaluable and consistent service and efforts. The extraordinary collaboration and coordination which exists between the Executive, Legislative, and Judicial branches for ways to improve sentencing and correctional practices have resulted in a united and coordinated effort to bring about sentencing reform and address the persistent problem of overcrowding in our prisons and jails.

This nonpartisan cooperation and collaboration among all branches of government is consistent with the Sentencing Commission's determination to involve representatives from every part of the criminal justice system in its decision making process. In addition to the members of the Sentencing Commission and Advisory Board, which are governed by statute, additional groups and individuals, have been appointed as Advisory Board members or for service on one of the Sentencing Commission's various committees. These members, representing crime victims, legislators, the bench and bar and criminal justice agencies and departments enable the Sentencing Commission to receive valuable input from those directly affected by the sentencing decision.

The Sentencing Commission and staff extend our sincere appreciation for the continuing assistance that has been provided by these individuals to assist in our efforts to improve Alabama's Criminal Justice System. Special recognition is extended to the following individuals and organizations for lending their knowledge, expertise and assistance to this crucial undertaking.

Chief Justice Sue Bell Cobb

Joseph A. Colquitt, Chairman of the Sentencing Commission

Judges of the Court of Criminal Appeals

Alabama Circuit and District Judges' Associations

Governor Bob Riley and staff

Troy King, Attorney General

The Alabama Board of Pardons and Paroles and staff: Cynthia Dillard, Eddie Cook, and Robert Oaks

Commissioner Richard Allen, Alabama Department of Corrections

Vernon Barnett, Chief Deputy Commissioner of the Alabama Department of Corrections

Administrative Office of Courts and Alabama Judicial College

Callie Dietz, as Administrative Director of Courts

Victim Advocates, VOCAL, MADD, Angel House, Coalition Against Domestic Violence

Legislative Reading and Research Service

Dr. Tammy Meredith and Dr. John Speir, Applied Research Services

The National Association of Sentencing Commissions and NASC Executive Board

Vera Institute of Justice and Pew Charitable Trusts

The Crime and Justice Institute

Alabama Association of Community Corrections

Becki Goggins, Criminal Justice Information Center

Alabama Lawyer's Association

The Criminal Defense Lawyers Association

Faulkner University and Dr. Lou Harris

Circuit Judge Mark Craig and Retired Judge Philip Reich, District Attorney Jim Osborn, Lawrence County

Commission and local agencies participating as a CCASP Pilot Site

Circuit Judges Charles Price and Gene Reese, District Attorney Ellen Brooks, Montgomery County Commission and local agencies participating as a CCASP Pilot Site

**Alabama Sentencing
Commission Members**

Appointed by the Chief Justice of the Supreme Court
Retired Circuit Judge Joseph A. Colquitt, Chair
Beasley Professor of Law, University of Alabama School of Law

Governor's Appointments
Vernon Barnett, Chief Deputy Commissioner
Alabama Department of Corrections

Miriam Shehane, Executive Director
Victims of Crime and Leniency (VOCAL)
Victims' Advocate

Joe Faulk, Commissioner
Elmore County Commission

Attorney General Appointment
Rosa Davis, Esquire
Chief Assistant Attorney General

**President of the Alabama District Attorneys' Association
Appointment**
Eleanor I. Brooks, District Attorney, 15th Judicial Circuit

**President of the Alabama Association of Circuit Court
Judges' Appointments**
P.B. McLaughlin, 33rd Judicial Circuit
David A. Rains, 9th Judicial Circuit

**President of the Alabama Association of District Court
Judges' Appointment**
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Chair of the House of the Judiciary Committee
Representative Marcel Black, 3rd District, Colbert County

Chair of the Senate Judiciary Committee
Senator Myron Penn, 28th District

Alabama Department of Corrections
Richard Allen, Commissioner

Alabama Board of Pardons and Paroles' Appointment
Cynthia Dillard, Executive Director

Appointment by the Chief Justice of the Supreme Court
Lou Harris, D.P.A., Faulkner University

President of the Alabama Lawyers' Association Appointment
Joe Reed, Jr., Esquire, Montgomery, AL

**President of the Alabama Criminal Defense Lawyers'
Association Appointment**
Joel Sogol, Esquire, Tuscaloosa, AL

Executive Committee

Retired Circuit Judge Joseph A. Colquitt
Beasley Professor of Law, University of Alabama School of Law

Rosa Davis, Esquire
Chief Assistant Attorney General

Advisory Council

Circuit Judge John W. Cole
10th Judicial Circuit

Eddie Cook, Associate Director
Alabama Board of Pardons and Paroles

Doris Dease
Victim Advocate

Denis Devane
Shepherd's Fold

Lee Blank, Chief
Clanton Police Department

Kent Hunt, Associate Commissioner
Alabama Department of Mental Health and Mental Retardation

Representative John F. Knight
Alabama House of Representatives

Shelly Linderman, Project Director
Victims of Crime and Leniency (VOCAL)

Retired Justice Hugh Maddox
Alabama Supreme Court

J. Christopher Murphy, Director
Alabama Department of Public Safety

Sheriff Wally Olson
Dale County Sheriff's Office

David Horn, President
Alabama Community Corrections Association
Director, Shelby County Community Corrections

Mary Pons, Staff Attorney
Association of County Commissions

Chaplin Adolph South
Tuscaloosa, AL

Walter Wood, Executive Director
Alabama Department of Youth Services

Jeff Williams, Director
Community Corrections Division, Alabama Department of Corrections

Commission Staff

Lynda Flynt, Executive Director
Rosa Davis, Chief Assistant Attorney General
Melisa Morrison, Research Analyst
Paul Sullivan, Sentencing Worksheets Specialist
Bennet Wright, Statistician

Standards Committee

Rosa Davis, Chair
Chief Assistant Attorney General

Eleanor I. Brooks, District Attorney
15th Judicial Circuit

Cynthia Dillard, Executive Director
Alabama Board of Pardons and Paroles

Becki Goggins
Criminal Justice Information Center

Randy Hillman, Executive Director
Alabama District Attorneys' Association

Shelly Linderman, Project Director
Victims of Crime and Leniency (VOCAL)

Circuit Judge P. B. McLauchlin
33rd Judicial Circuit

Circuit Judge David A. Rains
9th Judicial Circuit

Joe Reed, Jr., Esquire
Montgomery, AL

Miriam Shehane, Executive Director
Victims of Crime and Leniency (VOCAL)

Tommy Smith, District Attorney
6th Judicial Circuit

Joel Sogol, Esquire
Tuscaloosa, AL

Circuit Judge Malcolm Street, Jr.
7th Judicial Circuit

Circuit Judge Virginia Vinson
10th Judicial Circuit - Birmingham

Mitzie Wheat
Victims of Crime and Leniency (VOCAL)

Bob Williams, Public Defender
Shelby County

Eddie Cook, Associate Director
Alabama Board of Pardons and Paroles

Kathy Eades Daniel, Deputy District Attorney
10th Judicial Circuit

Doris Dease
Victim's Advocate

Brandon Falls, District Attorney
10th Judicial Circuit

Lynda Flynt, Executive Director
Alabama Sentencing Commission

Ralph Hendrix
UAB Treatment Alternatives to Street Crime (TASC)

Bob Johnston, Assistant District Attorney
9th Judicial Circuit

Tommy Spina, Esquire
Birmingham, AL

Legislative Committee

Lou Harris, D.P.A., Chair
Faulkner University

Nick Abbett, District Attorney
37th Judicial Circuit

Vernon Barnett, Chief Deputy Commissioner
Alabama Department of Corrections

Sharon Bivens, Legislative Fiscal Analyst
Legislative Fiscal Office

Representative Marcel Black, Chair
House Judiciary Committee

Eleanor I. Brooks, District Attorney
15th Judicial Circuit

Presiding Circuit Judge John B. Bush
19th Judicial Circuit

Rosa Davis, Esquire
Chief Assistant Attorney General

Cynthia Dillard, Executive Director
Board of Pardons and Paroles

Lynda Flynt, Executive Director
Alabama Sentencing Commission

Beck Goggins
Criminal Justice Information Center

Ralph Hendrix
UAB Treatment Alternatives to Street Crime (TASC)

Retired Circuit Judge Robert M. Harper
Haygood, Cleveland, Pierce, Mattson & Thompson
Lee County

Circuit Judge James E. Hill
30th Judicial Circuit

Kent Hunt, Associate Commissioner
Alabama Department of Mental Health and Mental Retardation

Representative John F. Knight
Alabama House of Representatives

Kim Martin, General Counsel
Crimes Victims Compensation Commission

Senator Myron Penn, Chair
Senate Judiciary Committee

Marty Ramsay, Director
Court Services Division, Administrative Office of Courts

Joe Reed, Jr., Esquire
Montgomery, AL

Miriam Shehane, Executive Director
Victims of Crime and Leniency (VOCAL)

Mary Pons, Staff Attorney
Association of County Commissions

Stacey Neeley, Director
DeKalb County Community Punishment & Corrections Authority, Inc.

Eddie Cook, Associate Director
Alabama Board of Pardons and Paroles

**Uniform Sentencing Order
Committee**

Circuit Judge Virginia A. Vinson, Chair
10th Judicial Circuit - Birmingham

Nick Abbett, District Attorney
37th Judicial Circuit

Anne Adams, Special Counsel
Alabama Department of Corrections

Eleanor I. Brooks, District Attorney
15th Judicial Circuit

Foster Cook, Director
UAB Treatment Alternatives to Street Crime (TASC)

Rosa Davis, Esquire
Chief Assistant Attorney General

Circuit Judge Scott Donaldson
6th Judicial Circuit

Brandon Falls, District Attorney
10th Judicial Circuit - Jefferson

Lynda Flynt, Executive Director
Alabama Sentencing Commission

Greg Gambriel, District Attorney
22nd Judicial Circuit

Kathy Holt, Director
Central Records Division, Alabama Department of Corrections

Corinne Hurst, Circuit Clerk
Lee County

Bob Johnston, Assistant District Attorney
9th Judicial Circuit

Circuit Judge P.B. McLaughlin
33rd Judicial Circuit

Melissa Rittenour, Circuit Clerk
Montgomery County

Joel Sogol, Esquire
Tuscaloosa, AL

Circuit Judge David Rains
9th Judicial Circuit

Bob Williams, Public Defender
Shelby County

Jeff Williams, Director
Community Corrections Division, Alabama Department of Corrections

Nathan Wilson, Staff Attorney
Administrative Office of Courts

**Cooperative Community
Alternative Sentencing
Project
(CCASP)**

State Steering Committee

Chief Justice Sue Bell Cobb, Co-Chair
Supreme Court of Alabama

Rosa Davis, Co-Chair
Chief Assistant Attorney General

Lindsey Allison, County Commissioner
Shelby County

Vernon Barnett, Chief Deputy Commissioner
Alabama Department of Corrections

Art Baylor, Chief of Police
Montgomery Police Department

District Judge Michael Bellamy
26th Judicial Circuit

Representative Barbara Boyd
32nd District, Calhoun and Talladega Counties

Sonny Brasfield, Executive Director
Association of County Commissions

Eleanor I. Brooks, District Attorney
15th Judicial Circuit

Foster Cook, Director
UAB Treatment Alternatives to Street Crime (TASC)

Deborah Daniels
Prison Fellowship Ministries

Cynthia Dillard, Executive Director
Board of Pardons and Paroles

Circuit Judge Clark Hall
16th Judicial Circuit

Kent Hunt, Associate Commissioner
Alabama Department of Mental Health and Mental Retardation

David Horn, President
Alabama Community Corrections Association
Director, Shelby County Community Corrections

Retired District Judge Orson “Pete” Johnson
Chief Justice’s Drug Court Task Force

Rebecca Johnson, Deputy Director
Montgomery County Community Corrections Program

Lee Knowles, Esquire
Geneva County

Stacy Neely, Director
DeKalb County Community Punishment & Corrections Authority, Inc.

Judy Newcomb, District Attorney
28th Judicial Circuit

Marty Ramsay, Director
Court Services Division, Administrative Office of Courts

Retired Circuit Judge Philip Reich, II
36th Judicial Circuit

Miriam Shehane, Executive Director
Victims of Crime and Leniency (VOCAL)

Jeff Williams, Director
Community Corrections Division, Alabama Department of Corrections

Rev. Jiles Williams, County Commissioner
Montgomery County

Mission Statement

The Alabama Sentencing Commission shall work to establish and maintain an effective, fair, and efficient sentencing system for Alabama that enhances public safety, provides truth-in-sentencing, avoids unwarranted disparity, retains meaningful judicial discretion, recognizes the most efficient and effective use of correctional resources, and provides a meaningful array of sentencing options.



ALABAMA SENTENCING COMMISSION

300 Dexter Avenue
Montgomery, Alabama 36104-3741
(334) 954-5095
FAX: (334) 954-5201

Website - <http://sentencingcommission.alacourt.gov>

January 12, 2010

Joseph A. Colquitt, Chairman
Beasley Professor of Law

Vernon Barnett, Esq.
*Chief Deputy Commissioner
Department of Corrections*

Hon. Marcel Black
State Representative

Hon. Terri Bozeman-Lovell
District Judge

Hon. Eleanor I. Brooks
District Attorney

Richard F. Allen
*Commissioner
Department of Corrections*

Rosa Davis, Esq.
Chief Assistant Attorney General

Cynthia S. Dillard
*Director
Board of Pardons and Paroles*

Miriam Shehane
*Director, VOCAL
Victims' Advocate*

Dr. Lou M. Harris, Jr.
Faulkner University

Hon. P. B. McLaughlin, Jr.
Circuit Judge

Joe Faulk
*County Commissioner
Elmore County*

Hon. David A. Rains
Circuit Judge

Joe Reed, Jr., Esq.
Attorney

Hon. Myron Penn
*Chair, Senate Judiciary Committee
Senator*

Joel Sogol
Attorney

Lynda Flynt, Esq.
Executive Director

Honorable Bob Riley, Governor of Alabama
Honorable Sue Bell Cobb, Chief Justice of the Alabama Supreme Court
Honorable Troy King, Attorney General, State of Alabama
The Honorable Members of the Alabama Senate
The Honorable Members of the Alabama House of Representatives
The Honorable Members of the Judicial Study Commission
The Citizens of Alabama

Section 12-25-33 of the Code of Alabama requires the Alabama Sentencing Commission to report upon its work and recommendations annually. In compliance with this statutory obligation, on behalf of the Commission members and staff, I respectfully submit for your review the 2010 Report of the Alabama Sentencing Commission.

The 2010 report, "Signs of Progress," compliments last year's report which contained the first compliance results of the initial sentencing standards. This year's report provides a comparative analysis of the sentencing practices for worksheet offenses before the sentencing standards were implemented, with sentences imposed after the standards became effective on October 1, 2006. Through this comparison it is shown that the sentencing standards have had a positive impact on sentencing practices, with judges more often utilizing alternatives to incarceration for non-violent offenders and reserving long prison terms for violent felons committing personal offenses. The report also includes a summary of the achievements of the Commission during FY 2009 as well as since the Sentencing Commission began its work in 2001.

Because this report provides only a summary of the major accomplishments of the Sentencing Commission, I encourage you to visit our website: <http://sentencingcommission.alacourt.gov> for a more comprehensive review of our successes and the progress made by the other departments and agencies that have been active participants in improving Alabama's Criminal Justice System. The Commission members and staff greatly appreciate the support and encouragement that have been provided toward achieving our goals and objectives and the commitment for advancement that has been demonstrated by our State's leaders. A special thanks is extended to Chief Justice Cobb for her achievements in the expansion of drug courts, her active participation as co-chair of the CCASP project to improve community supervision, and her steadfast support for the work of the Sentencing Commission.

The Alabama Sentencing Commission is hosting the National Association of Sentencing Commissions' 2010 Annual Conference August 8th-10th in Point Clear, Alabama. This is a rare opportunity to have prominent and highly respected criminal justice experts visit our state and share information and their experiences on sentencing policies and criminal justice matters. The NASC Annual Conference is always a valuable learning experience, bringing together judges, legislators, policy makers, academics, researchers, correctional officials and practitioners from around the country to examine sentencing laws and practices, examine other states' experiences with sentencing laws and practices and discuss emerging issues and innovative ways to address escalating prison and jail populations. We are honored that Alabama has been selected as a conference site for 2010 and hope that you will plan to attend this informative and useful conference.

Sincerely,

Joseph A. Colquitt, Chair
Alabama Sentencing Commission



Executive Summary

Signs of Progress

The Alabama Sentencing Commission dedicates this report to the leaders of our State who continue to struggle with the problems of Alabama's Criminal Justice System and, despite limited resources, push ahead and make improvements. While advances may have been small ones, when combined with the progressive changes undertaken by others, the overall effect has been impressive. Special recognition is extended to Chief Justice Sue Bell Cobb for her work in the expansion of drug courts and improvement of community supervision services, to Commissioner Richard Allen for his persistent determination to improve Alabama's prison system, and to Cynthia Dillard and the Board of Pardons and Paroles for acting on new and innovative approaches to change criminal behavior. Special appreciation is extended to these officials for their consistent efforts to improve Alabama's Criminal Justice System.

Among the Legislative mandates contained in the Commission's enabling act was the study of Alabama's Criminal Justice System and the charge to make recommendations that could address prison crowding and create a wider array of sentencing options, while maintaining meaningful judicial discretion and protecting public safety. The Commission chose to address these mandates by encouraging use of alternative sentencing options for non-violent offenders to make room in the prisons for violent and serious offenders. The Commission has pursued these goals in two ways: (1) drafting and adopting the initial voluntary sentencing standards that were approved by the Legislature in 2006 and which became effective on October 1, 2006; and (2) providing recommendations and assistance in establishing a wider array of intermediate punishment options. These two approaches have been successful in changing sentencing practices to redirect non-violent offenders to a wider array of intermediate punishment options and addressing criminal behavior by targeting specific conduct through treatment and community supervision.

This year's report focuses on achievements that have been made in Alabama's Criminal Justice System that grew out of recommendations made by the Sentencing Commission. There is particular emphasis on the impact of the voluntary sentencing standards since they were implemented three years ago and growth of intermediate punishment options.

The Commission's analysis of sentencing practices before and after the implementation of the initial voluntary sentencing standards, demonstrates that the standards are influencing sentencing decisions to divert a larger percentage of non-violent offenders from prison with no decrease in the percentage of more violent offenders receiving incarceration. The analysis shows the standards are working to increase the use of alternative sentencing options for nonviolent offenders and to reserve scarce prison beds for more violent offenders.

Drug and property standards offenses, which are tracked and reported annually by the Sentencing Commission, account for 69% of all convictions. Since adoption and implementation of the sentencing standards, there has been a marked decrease in the percentage of offenders convicted of these offenses sentenced to serve time in the penitentiary, with five of the drug and property worksheet offenses registering double digit percentage point drops. These declines are examined in detail in Appendix B. For each of the 26 sentencing standards offenses information is provided on convictions, prison admissions, and prison sentences imposed for first time offenders for the three years prior to implementation of the standards (2004-2006) and for the two years following implementation of the standards (2007 and 2008). There have been significant decreases in the use of prison for first time offenders for property and drug worksheet offenses.

Intermediate punishment options are now more available than before the Sentencing Commission was established and began making recommendations for the expansion of alternative punishment and treatment programs. These options, initially recommended by the Commission, include drug courts, community corrections programs, transitions centers (LIFE Tech) for men and women, and a technical violator center for probationers and parolees on the verge of returning to prison. These options and others undertaken by the Department of Corrections and the Board of Pardons and Paroles have resulted in over 3,000 otherwise prison bound offenders either remaining in the community or being referred to other intermediate punishment options. These programs have been successful in providing judges with a wider array of sentencing options.

The Commission is now engaged in a pilot project, the Cooperative Community Alternative Sentencing Project (CCASP), whose goal is to continue to increase and improve alternative sentencing options by providing a true continuum of graduated punishment in four pilot jurisdictions, using a committee of local stakeholders to determine the best options for each jurisdiction, ultimately using evidence-based practices to accomplish changes in criminal behavior. The pilot jurisdictions are testing a comprehensive risk and needs assessment system that could greatly benefit the criminal justice system by determining the risk of offending for each convicted offender and suggesting the dynamic factors present for each offender that, if changed, can lower the risk. Lowering the risk of reoffending, of course, increases public safety. By identifying those whose behavior can be changed by addressing needs, and identifying those needs, the criminal justice system can target those offenders most likely to change and identify the services needed to accomplish those changes. The use of the risk and needs assessment system would thereby allow the State to more specifically target the best use of its scarce resources.

Much is left to be done. These difficult economic times require that the Alabama Sentencing Commission and all components of our State's criminal justice system continue to analyze our criminal laws and sentencing practices and seek additional ways to improve the system.

Year in Review

Meetings

The Sentencing Commission

The Sentencing Commission and Advisory Council held its quarterly meetings during FY2009 and CY2009 on December 5, 2008, January 16, 2009, May 15, 2009, September 11, 2009 and November 6, 2009. The Legislative Committee of the Sentencing Commission, chaired by Dr. Lou Harris, met three times: October 9, 2008, August 25, 2009, and October 20, 2009. The Standards Committee, chaired by Rosa Davis, also met three times: November 7, 2008, August 13, 2009, and October 16, 2009. The Uniform Sentencing Order Committee, chaired by Circuit Judge Virginia Vinson, met six times: June 9, 2009, July 10, 2009, August 14, 2009, September 8, 2009, October 15, 2009, and December 10, 2009.

Commission & Committee Meetings

With technical assistance provided by the Vera Institute of Justice and the Crime and Justice Institute, several meetings were held to pursue the goals of the Cooperative Community Alternative Sentencing Project (CCASP). This project, aimed at improving the services available through the community to offenders that are returning from prison or diverted from prison and being supervised in the community, is one for which Alabama is receiving technical assistance through a grant provided by Pew Charitable Trusts.

Cooperative Community Alternative Sentencing Project

During 2009 there were 14 meetings involving the CCASP Statewide Steering Committee, the Pilot Site Selection Committee and local meetings in the pilot sites of Lawrence and Montgomery Counties. In addition there were 12 meetings devoted to selection, training, and proper implementation of a Uniform Risk/Needs Assessment Instrument.

Sentencing Standards Worksheet Training and Sentencing Entries

During 2009 the Sentencing Commission staff has continued to conduct educational workshops on completion of the worksheets and use of the sentencing standards to encourage utilization of the standards and alternative sentences for eligible offenders. In addition to manning a helpline for questions on the sentencing standards and worksheets, additional training was provided in Tuscaloosa, Jefferson, Montgomery and Baldwin Counties. Individual meetings were also held with Presiding Circuit Judges in circuits with low compliance rates.

Educational Training on Sentencing Standards

The Sentencing Commission plans to continue its efforts to improve the reliability of sentencing information entered into the court system's database, realizing that it is essential to establish and implement a uniform procedure for the entry of sentences. Reduced staff and insufficient funding have delayed the educational efforts for court specialists this year.

Other Criminal Justice Activities

Sentencing Commission staff participated on various boards and committees and made presentations to various criminal justice groups. A substantial amount of time was spent this year on the Cooperative Community

**ASC Commission & Staff
Serve on Numerous
Criminal Justice Boards &
Committees**

Alternative Sentencing Project, co-chaired by Chief Justice Cobb and Chief Assistant Attorney General Rosa Davis. In addition, staff served on the Judicial Study Commission (JSC), the JSC's Consolidation of Supervision Services Committee, the Pro's and Con's Subcommittee of the Committee on Consolidation of Supervision of Services, the Chief Justice's Drug Court Task Force and the Legislative Committee of that Task Force. The Commission's Director also served as a member of the VOCAL Board, the Supreme Court's Advisory Committee on Criminal Procedure, the Alabama Association of Community Corrections, the UJS Judicial Study Commission (JSC), the Court Clerk's Advisory Committee of the JSC, the State Bar Warrant and Indictment Manual Committee, the Alabama Law Institute (ALI), Criminal Code Revision Committee, and as secretary on the Executive Board of the National Association of Sentencing Commissions.

Commission members and staff attended and/or made presentations to several criminal justice groups this year including: the Jefferson County probation officers, circuit and district judges, court specialists, county bar associations, the Legislative Commission on Women and Girls in the Criminal Justice System, the Alabama Association of Community Corrections, the Criminal Code Revision Committee, and the Association of County Commissions.

Technical Assistance

***Vera Institute of Justice, Crime and Justice Institute and Pew
Charitable Trusts***

Continuing a project begun in 2007, with grant funding from Pew Charitable Trusts, the Vera Institute of Justice (Vera), joined by the Crime and Justice Institute (CJI), continued to provide technical assistance to the Sentencing Commission by implementing the Cooperative Community Alternative Sentencing Project (CCASP) in the two pilot sites of Lawrence and Montgomery Counties. CCASP is an alternative sentencing strategies project whose goal is expanding and improving community supervision programs and community services and implementing evidence-based practices. This project is a joint initiative of the Chief Justice and Alabama Sentencing Commission, with significant assistance and staff support provided by Vera Institute of Justice and the Crime and Justice Institute. One of the major achievements this year was approval of a statewide risk and needs assessment instrument and initiation of training on proper use of the instrument.

**CCASP Initiated in Two
Pilot Sites**

National Recognition

This year the Alabama Sentencing Commission will host the National Association of Sentencing Commissions' 2010 Annual Conference on August 8th – 10th at the Marriott Grand Hotel in Point Clear, Alabama. This is a great honor for our State, and we hope will be as successful as last year's conference in Baltimore, Maryland hosted by the Maryland Sentencing Commission and the memorable conference in 2008 hosted by Stanford Law School in San Francisco, California.

**Alabama to Host NASC
2010 Conference**

The National Association of Sentencing Commissions (NASC) is a nonprofit organization whose mission is to facilitate the exchange and sharing of information, ideas, data, expertise and experiences and to educate on issues related to sentencing policies, sentencing guidelines and sentencing commissions. Each year the NASC Conference offers a wide array of outstanding topics and nationally recognized speakers. Through this conference, sentencing commission members, legislators and criminal justice officials can share research findings on topics associated with sentencing policy and incorporate these into the development of a sentencing system that addresses their state's specific areas of concern or need. This is an invaluable forum to exchange experiences among states regarding sentencing reform and discuss sentencing issues that arise around new crimes.

Sentencing Commission members and staff have greatly benefited from their association with NASC. Through NASC membership and participation as an Executive Board member, Commission staff has acquired knowledge of new reforms implemented in other states, learning first-hand what works and what doesn't. Through the mentoring channels of the NASC membership, Alabama has been introduced to expert consultants, trained in the use of voluntary guidelines, and provided invaluable advice regarding successful legislative initiatives in other states. We look forward to many more years of a close association with NASC and encourage participation of legislators and criminal justice officials at this year's NASC Conference. Information regarding conference registration may be obtained from our website: <http://sentencingcommission.alacourt.gov>.

YEAR IN REVIEW – FY 2009

October 1 st	NASC Executive Board Meeting
October 2 nd	CCASP Site Selection Committee
October 3 rd	CCASP Statewide Steering Committee
October 9 th	ASC Legislative Committee Meeting
October 16 th	Warrant and Indictment Committee
October 20 th	Meeting with Vernon Barnett and Jeff Williams - ADOC
October 21 st	Conference Call with Vera Institute of Justice
October 22 nd – 23 rd	Community Corrections and CRO Conference - Birmingham
October 28 th	Drug Court Task Force Meeting
November 5 th	NASC Planning Board Meeting and NASC Executive Board Meeting Meeting with AOC and National Center for State Courts VOCAL Conference
November 7 th	ASC Sentencing Standards Committee Meeting
November 10 th	CCASP Risk and Needs Workgroup Meeting CCASP Evaluation Workgroup Meeting
November 11 th – 13 th	CCASP Meeting with Lawrence County
November 12 th	CCASP Statewide Steering Committee Meeting
November 14 th	Vera Conference Call Judicial Study Commission Meeting
November 12 th	Standards Workshop – Tuscaloosa
December 2 nd	AOC Directors' Meeting
December 3 rd	NASC Planning Board Meeting and NASC Executive Board Meeting
December 5th	Alabama Sentencing Commission Meeting
December 8 th	Association of Community Corrections Meeting
December 10 th	Alabama Association of County Commission – Presentation on ASC Legislative Package for 2009 Regular Session
December 15 th	Meeting with Finance Department on Smart Budget

YEAR IN REVIEW – CY & FY 2009

January 6 th	Meeting with Chief Justice and ADOC Commissioner
January 7 th	Supreme Court Advisory Committee on Criminal Rules NASC Planning Board Meeting and NASC Executive Board Meeting
January 12 th	VOCAL Meeting
January 15 th	Budget Hearing
January 16th	Alabama Sentencing Commission Meeting
January 21 st	New Judges Orientation

January 22 nd	ASC Presentation to Judges – Circuit and District Judges Midwinter Conference
January 27 th	Meeting with Maggie Peck – Vera Institute of Justice
January 28 th	NASC Bylaws Committee Meeting
February 3 rd	Beginning of 2009 Regular Session of the Legislature
February 4 th	NASC Planning Board Meeting and NASC Executive Board Meeting
February 9 th – 12 th	CCASP Risk and Needs Assessment Meetings
February 11 th	Drug Court Conference Call
February 26 th	Warrant and Indictment Committee Meeting
March 4 th	NASC Planning Board Meeting and NASC Executive Board Meeting
March 9 th	Association of Community Corrections Meeting
March 23 rd	CCASP Evaluation Committee Meeting
March 24 th	CCASP Statewide Steering Committee Meeting
March 25 th	NASC Bylaws Committee Meeting
April 1 st	NASC Planning Board Meeting and NASC Executive Board Meeting
April 2 nd	Judicial Study Commission’s Consolidation of Field Services Committee Meeting
April 13 th	Association of Community Corrections Meeting
April 21 st	VOCAL Conference
April 22 nd	NASC Bylaws Committee Meeting
April 27 th – 28 th	CCASP Meetings
May 6 th	NASC Planning Board Meeting and NASC Executive Board Meeting
May 8 th	Meeting with Presiding Judge Charles Price
May 11 th	Association of Community Corrections Meeting
May 13 th	NASC Bylaws Committee Meeting
May 15th	Alabama Sentencing Commission Meeting
May 27 th	Judicial Study Commission’s Consolidation of Field Services Pros and Cons Subcommittee Meeting
	Meeting with Chief Justice Cobb
May 28 th	Judicial Study Commission’s Clerk’s Oversight Committee
	Meeting with Presiding Circuit Judge Tommy Jones
June 2 nd	CCASP Lawrence County Meeting
June 3 rd	NASC Planning Board Meeting and NASC Executive Board Meeting
June 4 th	Commission on Women and Girls Meeting
June 8 th	Association of Community Corrections Meeting
June 9 th	Uniform Sentencing Order Committee Meeting

June 10 th	ADOC Data Meeting
June 18 th	Judicial Study Commission’s Consolidation of Field Services Pros and Cons Subcommittee Meeting
June 22 nd	CCASP Montgomery County Meeting
June 24 th	Conference Call on Risk/Needs Assessments – Chief Justice, Vera Institute of Justice and Crime and Justice Institute
June 29 th – 30 th	CCASP Montgomery County Meetings
July 3 rd	NASC Planning Board Meeting and NASC Executive Board Meeting
July 6 th	Conference Call with Consultants Applied Research Services
July 10 th	ASC Uniform Sentencing Order Committee
July 13 th - 16 th	Circuit and District Judges Conference – ASC Presentation
July 21 st	Meeting with Administrative Director of Courts
July 29 th	Meeting with Ford Foundation & Public Welfare Foundation
August 1 st – 4 th	National Association of Sentencing Commission’s Conference – Baltimore, Maryland
August 6 th	Judicial Study Commission’s Consolidation of Field Services Pros and Cons Subcommittee Meeting
August 13 th	ASC Sentencing Standards Committee
August 14 th	ASC Uniform Sentencing Order Committee
August 20 th	Judicial Study Commission’s Clerks Advisory Committee Meeting
August 25 th	ASC Legislative Committee Meeting
August 26 th	Risk and Needs Assessment Workshop
August 27 th	Warrant and Indictment Manual Committee – Tuscaloosa
August 28 th	Judicial Study Commission Meeting
September 8 th	ASC Uniform Sentencing Order Committee
September 9 th	NASC Executive Board Meeting
September 11th	Alabama Sentencing Commission Meeting
September 14 th	Association of Community Corrections Meeting
September 17 th	Meeting with the Chief Justice
September 18 th	Presentation to Probation Officers and Community Correction Officers – Birmingham
September 23 rd	Supreme Court Advisory Committee on Criminal Rules Criminal Code Revision Committee
September 24 th	CCASP – Montgomery Meeting Warrant and Indictment Manual Committee Meeting

YEAR IN REVIEW – CY 2009 & FY 2010

October 6 th	Meeting with Adam Gelb of Pew Charitable Trusts and Chief Justice Cobb
October 7 th	NASC Planning Board Meeting and NASC Executive Board Meeting Meeting with Chief Justice and Sonny Brasfield, Director of Alabama Association of County Commissions Meeting with Presiding Circuit Judge Charles Price Regarding Montgomery Sentencing Standards Workshop
October 15 th	ASC Uniform Sentencing Order Committee
October 16 th	ASC Sentencing Standards Committee
October 20 th	ASC Legislative Committee Meeting
October 22 nd	Warrant and Indictment Manual Committee
October 27 th – 30 th	CCASP Risk and Needs Training
October 28 th	Conference Call with Director of Maryland Sentencing Commission
November 2 nd	Presentation before Alabama Association of County Commissions' Minority Issues Steering Committee
November 4 th	NASC Planning Board Meeting and NASC Executive Board Meeting
November 6th	Alabama Sentencing Commission Meeting
November 9 th	Montgomery Sentencing Standards Workshop
November 10 th	Court Specialist Training
November 13 th	Criminal Code Revision Committee Technical Violator Work Group – Clanton
November 17 th	Baldwin County Sentencing Standards Workshop
December 2 nd	NASC Planning Board Meeting and NASC Executive Board Meeting
December 8 th	Drug Court Task Force Meeting
December 10 th	Uniform Sentencing Order Committee Meeting – Birmingham
December 14 th	Birmingham Judges – Risk & Needs Assessments
December 15 th	Vera Institute of Justice and Crime and Justice Institute Site Visit
December 16 th	Montgomery Judges – Risk & Needs Assessments Supreme Court Advisory Committee on Criminal Rules



I. History & Overview

Based on the recommendations of the Unified Judicial System Study Commission, the Legislature passed Act 2000-596 creating the Alabama Sentencing Commission as a state agency in the judicial branch of government. This action was taken based on a detailed study conducted by a special sentencing committee of the Study Commission which reviewed Alabama's sentencing procedures and practices, its prison and jail overcrowding problems, and the criminal justice reform efforts of other states. By establishing a permanent state agency to monitor sentencing practices and the impact of these practices on other criminal justice agencies, the Legislature took an affirmative step towards addressing major problems that have been confronting the state for decades and have historically been dealt with only by implementing various temporary crisis management strategies.

Alabama Sentencing Commission Established as State Agency

The Sentencing Commission is a 16 member nonpartisan body composed of representatives from all parts of the Criminal Justice System and from all branches of government and the general public:

Executive Branch:

Governor or his designee;
Attorney General or designee;
A county commissioner appointed by the Governor;
A district attorney appointed by the President of the Alabama District Attorneys' Association;
Commissioner of the Department of Corrections or designee;

Legislative Branch:

Chair of the House Judiciary Committee or designated committee member;
Chair of the Senate Judiciary Committee or designated committee member;
Chair of the Board of Pardons and Paroles or designee;

Judiciary Branch:

Chief Justice of the Supreme Court, or a sitting or retired judge designated by the Chief Justice, who serves as chair;
Two circuit judges appointed by the President of the Alabama Association of Circuit Court Judges;
A district judge appointed by the President of the Alabama Association of District Court Judges;

Private Sector:

A defense attorney specializing in criminal law appointed by the President of the Alabama Criminal Defense Lawyer's Association;
A private attorney specializing in criminal law appointed by the President of the Alabama Lawyers' Association;
A victim of a violent felony or family member appointed by the Governor;
A member of the academic community with a background in criminal justice or corrections policy appointed by the Chief Justice.

§ 12-25-3, *Code of Alabama, 1975.*

ASC Duties & Responsibilities

Among the duties enumerated in its enabling Act, the Sentencing Commission was given the responsibility to evaluate and to recommend ways to enhance Alabama’s Criminal Justice System. The Sentencing Commission was directed to recommend ways to improve sentencing practices and procedures and prevent jail and prison overcrowding, while at the same time maintaining fidelity to the Sentencing Commission’s commitment to protect public safety. Since the Sentencing Commission and staff began its work in 2001, the Legislature has adopted a number of the Sentencing Commission’s recommendations. Foremost among these are the adoption and implementation of the Initial Voluntary Sentencing Standards, the creation of a division of community corrections in the Alabama Department of Corrections, and amending theft statutes and fine schedules to reflect inflationary changes. These measures, along with other non-statutory recommendations, are working to change sentencing practices by redirecting less serious and nonviolent offenders to intermediate punishment options, and reserving scarce prison beds for violent and more serious offenders.

Summary of Progress Made

This report is a review of the major goals established by the Legislature for the Sentencing Commission and the progress that has been made toward achieving these. While the Sentencing Commission staff was able to present information on Sentencing Standards compliance for the first time last year, this year a comparative analysis is presented utilizing data on sentencing practices before and after implementation of the Sentencing Standards on October 1, 2006. This evaluation of sentences imposed prior to and after the Sentencing Standards readily demonstrates the progress that has occurred and acknowledges the increased awareness and shift toward applying our State’s Principles of Sentencing in practice.

Principles of Sentencing – Rule 26.8 Rules of Criminal Procedure

“The sentence imposed in each case should call for the least restrictive sanction that is consistent with the protection of the public and the gravity of the crime. In determining the sentence, the court should evaluate the crime and its consequences, as well as the background and record of the defendant and give serious consideration to the goal of sentencing equality and the need to avoid unwarranted disparities.”

“Judges should be sensitive to the impact their sentences have on all components of the criminal justice system and should consider alternatives to long-term institutional confinement or incarceration in cases involving offenders whom the court deems to pose no serious danger to society”.

II. Achievements and Signs of Progress

Over the eight years that the Alabama Sentencing Commission and staff have been working on improving Alabama’s Criminal Justice System and sentencing practices, there has been substantial progress made. This progress has occurred in three major areas: (1) setting the stage to achieve reform through improving data systems and developing a simulation model to gauge the effect of proposed changes; (2) improvements in sentencing practices by the adoption of the sentencing standards that promote more fair and effective sentences; and (3) establishing a wider array of sentencing options that promotes public safety by directing offenders to the most appropriate sanctions designed to change criminal behavior. This progress continues, despite the economic downturn that has adversely affected all state departments and agencies. Indeed, this progress is even more essential because of the need for more efficient criminal justice options. The following is a summary of the goals of the Sentencing Commission in which significant achievements have been accomplished, and a synopsis of the bills included in the Sentencing Commission’s 2010 Legislative package for recommendations for continued improvements. A more comprehensive list of the major achievements of the Sentencing Commission is included as **Appendix A**.

3 Major Areas of Progress

Improvements in Data and Data Systems from which to Evaluate Alabama’s Criminal Justice System

An essential first step in evaluating Alabama’s Criminal Justice System and sentencing practices was determining available information on which such an evaluation could be made. The Sentencing Commission sought reliable data to review who was sentenced, for what offenses, and what sentences were imposed. The Sentencing Commission sought to determine who was sent to prison, who was sentenced to probation, what sentencing options were available, and how were all of the options utilized. The Sentencing Commission also wanted to know if sentencing practices changed, how those changes would affect the corrections system. The first achievements of the Sentencing Commission, therefore, included finding the data necessary to evaluate the system, evaluating the system from the available data, and creating a simulation model to forecast the effect of future proposed changes to the system. This task involved merging available data from different segments of the system (the courts, corrections, and probation and parole) and creating a reliable database of sentenced offenders. The Sentencing Commission’s achievements and accomplishments in establishing the necessary databases and simulation model are set out more specifically in **Appendix A**, page 2.

Reliable Data Essential for Success

A Fair, Effective, and Efficient Sentencing System - Implementation of Initial Voluntary Sentencing Standards

Among the statutory mandates enumerated in the Sentencing Commission’s enabling Act was the creation of a fair, effective, and efficient sentencing system, which would: secure public safety, providing a swift and sure

Initial Voluntary Sentencing Standards Implemented

**Standards Target ASC
Goals for Sentencing
Reform**

response to the commission of crime; provide certainty and consistency in sentencing, avoiding unwarranted disparity; prevent prison and jail overcrowding and the premature release of prisoners; enhance the availability and use of sentencing alternatives; provide proportionality in sentencing (ensuring that the sentence imposed reflects the severity of the offense relative to other offenses), while maintaining meaningful judicial discretion to impose sentences based on aggravating and mitigating factors of the offense and offender. To accomplish these objectives, in 2003 the Sentencing Commission developed voluntary sentencing standards utilizing data capturing historical sentencing practices (sentence disposition data), and offender/offense data. Developing the standards was a major undertaking involving manual examination of presentence investigation reports. The resulting sentencing standards are similar to the sentencing guidelines used in Virginia, inasmuch as they are 1) voluntary and 2) utilize scores for offense and offender factors, rather than a grid or matrix. The standards apply to 26 felony offenses, utilizing personal, property and drug worksheet categories, representing 87% of the most frequent felony convictions.

**Focus on Securing Space
in Prison for Violent &
Serious Offenders**

Initially submitted for Legislative approval in 2004, the Initial Voluntary Sentencing Standards were approved by the 2006 Regular Legislative Session and became effective October 1, 2006. Based on simulation model projections, the Sentencing Standards would divert more nonviolent and less serious offenders to non-prison sanctions and continue the practice of sending violent and serious offenders to prison. The Sentencing Standards are beginning to prove effective for these purposes.

**Continued Education
Essential for Successful
Implementation**

The Sentencing Standards provide sentencing recommendations for both sentence length and sentence disposition for 26 of the most frequently sentenced offenses in Alabama. The Sentencing Commission provides training for the major criminal justice stakeholders for proper implementation of the Sentencing Standards. Until the Sentencing Standards are uniformly utilized, continuous education on their use is essential, especially in view of the fact that Alabama's Sentencing Standards are voluntary rather than presumptive, and failure to consider or comply with the Sentencing Standards recommendations is not subject to appellate review. The Sentencing Commission continues to conduct workshops on the Sentencing Standards, make presentations to judges and prosecutors and local bar associations, and conduct data entry training for court specialists.

**Evaluation of Sentencing
Standards in 2009 Report**

In 2009, the Sentencing Standards had been in existence long enough for the Sentencing Commission to begin evaluating their effectiveness. This evaluation included a beginning evaluation of the process of using the Sentencing Standards, as well as an evaluation of Sentencing Standards compliance (whether judges are following the standards recommendations).

The evaluation began by gathering completed worksheets, determining their validity and establishing a database of completed valid worksheets. The

initial results detailing judicial compliance with the Sentencing Standards worksheet recommendations, reported in the Sentencing Commission's 2009 Report,¹ were inconclusive as to the evidence of the Sentencing Standards effectiveness because of the low worksheet submission rates. Of the 12,499 valid worksheets received, 11,485 were used to report judicial compliance with the worksheet recommendations. The valid worksheets received represented only 45% of all worksheet sentencing events. While the data gave indications of compliance, it proved much more useful in determining process issues that the Sentencing Commission needed to address. The Sentencing Commission is currently addressing these issues by continuing training on the use of the Sentencing Standards, interviewing and consulting with key stakeholders required to consider the Sentencing Standards, and modifying the instructions and worksheets to clarify the instructions for easier use. The modifications to the instructions are included in the Sentencing Commission's Legislative package this year.

2010 Bill Proposes Modifications of Sentencing Standards

Comparative Analysis of Sentencing Practices Before and After Implementation of the Sentencing Standards

Following the initial analysis, Sentencing Commission staff has now completed a project evaluating the impact the Sentencing Standards have had on sentencing practices involving worksheet offenses before and after the implementation of the Sentencing Standards. Has the introduction of the Sentencing Standards and worksheets changed sentencing practice? This is the fundamental question that must be answered to determine if the Sentencing Standards are being utilized and are proving to be an effective agent of sentencing reform. This study proves the Sentencing Standards are effective.

This Year's Analysis Proves Sentencing Standards Have Been Effective

The table on the following page displays the 26 worksheet offenses grouped by offense category. The pre-standards column represents the percentage of offenders receiving a prison sentence during fiscal years 2004, 2005, and 2006. The post-standards column represents the percentage of offenders receiving a prison sentence during fiscal years 2007 and 2008. The percentage point change column measures the difference in the use of prison before and after the implementation of the Sentencing Standards.

¹ Initial compliance suggested by this data is set out in part 2 of Appendix A.

Use of Prison - Sentencing Before and After Implementation of the Sentencing Standards

	Pre-Standards (FY 2004-2006)	Post-Standards (FY2007-2008)	% Point Change
DRUGS			
Distribution of Controlled Substance	69.0%	63.0%	-6.0%
Felony DUI	64.0%	53.0%	-11.0%
Possession of Controlled Substance	51.0%	42.0%	-9.0%
Possession of Marihuana 1st	44.0%	39.0%	-5.0%
PROPERTY			
Breaking/Entering a Vehicle	69.0%	58.0%	-11.0%
Burglary 1st	83.0%	80.0%	-3.0%
Burglary 2nd	77.0%	74.0%	-3.0%
Burglary 3rd	69.0%	60.0%	-9.0%
Forgery 2nd	53.0%	43.0%	-10.0%
Fraud/Illegal Use Debit/Credit Card	47.0%	42.0%	-5.0%
Possession Forged Instrument 2nd	52.0%	42.0%	-10.0%
Receiving Stolen Property 1st	63.0%	56.0%	-7.0%
Receiving Stolen Property 2nd	60.0%	50.0%	-10.0%
Theft of Property 1st	57.0%	51.0%	-6.0%
Theft of Property 2nd	51.0%	43.0%	-8.0%
PERSONAL			
Assault 1st	72.0%	73.0%	1.0%
Assault 2nd	60.0%	53.0%	-7.0%
Manslaughter	88.0%	89.0%	1.0%
Murder	99.0%	100.0%	1.0%
Rape 1st	94.0%	95.0%	1.0%
Rape 2nd	76.0%	75.0%	-1.0%
Robbery 1st	95.0%	95.0%	0.0%
Robbery 2nd	81.0%	73.0%	-8.0%
Robbery 3rd	77.0%	66.0%	-11.0%
Sodomy 1st	93.0%	92.0%	-1.0%
Sodomy 2nd	81.0%	81.0%	0.0%

Reviewing the change in the use of prison before and after implementation of the Sentencing Standards, two general themes emerge. First, personal offenses (excluding Assault 2nd, Robbery 2nd, and Robbery 3rd) exhibit consistent use of prison before and after the implementation of the Sentencing Standards. The use of prison for these personal offenses either stayed the same or varied by no more than one percentage point. Assault 2nd, Robbery 2nd, and Robbery 3rd all had large reductions in first time offender incarceration (discussed below) which, in cases with limited prior conviction history and/or absence of a weapon could result in non-prison worksheet recommendations. The severe personal offenses have maintained the use of prison after the Sentencing Standards became effective consistent with the original intent of the Sentencing Standards to ensure that prison resources would be available for violent offenders.

The second trend is the use of prison for property and drug offenses is declining. The use of prison for every drug and property worksheet offense declined after the Sentencing Standards were implemented. Double digit percentage point drops occurred with Forgery 2nd, Possession of a Forged Instrument 2nd, Receiving Stolen Property 2nd, Unauthorized Use/Breaking & Entering Vehicle, and Felony DUI convictions. Burglary 3rd and Possession of a Controlled Substance saw percentage point drops of 9 percent.

One of the components of the analysis of sentencing trends before and after the implementation of the Sentencing Standards was to identify how “1st Timers” convicted of a worksheet offense were sentenced - that is, how often were first time offenders sentenced to prison or non-prison sanctions. First time offenders are defined as those offenders having no prior felony convictions in Alabama (available criminal history information was limited to Alabama information). One of the significant findings from this entire analysis is that the implementation of the Sentencing Standards has diminished the use of prison for first time offenders for certain offenses while remaining constant for others. The use of prison for first time severe violent offenders remains constant while the use of prison for first time offenders for other drug and property offenses has decreased since the Sentencing Standards became effective.

The percentage of first time offenders convicted of a personal worksheet offense stayed consistent with a high probability of receiving a prison sentence, with the exceptions of Assault 2nd, Robbery 2nd, and Robbery 3rd. These three offenses all experienced double digit percentage point drops in first timers receiving prison sentences. In lieu of possession of a deadly weapon/dangerous instrument and numerous prior juvenile or youthful offender adjudications, these offenses would be non-prison worksheet recommendations. The significant drop in the use of prison for these offenses following the effective date of the sentencing standards demonstrates the utilization of the Sentencing Standards and worksheets.

All drug and property worksheet offenses (except Burglary 1st) have seen declines in the use of prison for first time offenders after the Sentencing Standards were implemented. These drops have all included percentage point drops of 10 percent or greater in at least one of the years following

Two Themes Emerge from Analysis

1) Sentencing Unchanged for Personal Offenses

2) Diversion for Property & Drug Crimes Increases

Use of Prison Declines for First Time Nonviolent Offenders

First Time Personal Offenders Continue to Receive Prison Sentences

10% or Greater Decline of Prison Sentences for First Time Drug & Property Offenders

the effective date of the Sentencing Standards from one of the three years prior to the effective date. The use of prison for first time offenders convicted of Burglary 3rd had hovered around 50 percent prior to the Sentencing Standards and then dropped to 38.4 percent and 34.2 percent in the years following the introduction of the Sentencing Standards.

**Increased Use of
Alternative Sentences for
Nonviolent Offenders
Attributable to Sentencing
Standards**

Except for adoption and implementation of the Sentencing Standards, there has been no other identifiable major change in recent years that would impact sentencing practice as evidenced by the increased use of alternative sentencing sanctions for many of the offenses covered by the Sentencing Standards. Increased use of alternative sanctions for nonviolent and less serious offenses, while maintaining consistent prison utilization for violent and serious offenses, demonstrates that the Sentencing Standards are influencing sentencing practice and policy in Alabama.

Appendix B contains additional information for each of the 26 felony offenses covered by the Sentencing Standards and worksheets. Each worksheet offense has a dedicated page displaying the percentage that offenders convicted and sentenced to prison make up of the entire felony population convicted and the total population of prison admissions, respectively. The Appendix also contains information for each offense on how often first time offenders are sentenced to prison and provides sentence information for first timers.

Mission Statement

The Alabama Sentencing Commission shall work to establish and maintain an effective, fair, and efficient sentencing system for Alabama that enhances public safety, provides truth-in-sentencing, avoids unwarranted disparity, retains meaningful judicial discretion, recognizes the most efficient and effective use of correctional resources, and provides a meaningful array of sentencing options.

Creating a Wider Array of Sentencing Options

**ASC Recommends to
Establish More
Sentencing Alternatives**

In 2003 the Sentencing Commission recommended, and the Legislature adopted, the policy of creating a wider array of sentencing and intermediate punishment options. Among the Sentencing Commission's recommendations were: 1) increasing the number of probation officers; 2) the adoption of a risk and needs assessment to provide more offender appropriate case planning and to better direct the use of scarce correctional resources; 3) increasing the use of community corrections programs for otherwise prison-bound nonviolent offenders; 4) the creation of drug courts and other specialty courts to address substance abuse and addiction and other specific issues faced by a great number of offenders; and 5) the creation of a true continuum of sanctions in Alabama that provides graduated sanctions from probation to prison, including transition centers and technical violator centers that would divert offenders from prison to more resource specific programs, and reentry into the community from prison. Progress has been made in all of these areas.

Community Corrections Programs

Substantial progress has been made in the expansion of community corrections programs in Alabama.² This expansion is largely attributable to efforts of the Alabama Department of Corrections after the creation of the Community Corrections Division of ADOC. The Director of that division and his staff administer the line item appropriation for state funding of community corrections programs, actively encourage local jurisdictions to implement or expand local programs for otherwise prison-bound felony offenders who qualify for community punishment, and assist local jurisdictions in identifying state prisoners who are eligible and can benefit from community supervision.

ADOC Community Corrections Division Established

The expansion and growth of community corrections programs are shown in the chart below:

	2003	2008
# of programs	19	34
# of counties served	21	45
# of counties not served	46	22
# of felony offenders	1,754	2,649
New admittees	1,127	1,615
# of offenders assigned on 9/30/09	503	2,203
State appropriations	---	\$6.1 million

The growth over this five year period is apparent. The number of community corrections programs has increased by 79% and the number of counties served has increased by 114%. The number of otherwise prison-bound felony offenders served increased by 51%. Most importantly, the number of beds saved by the prison system as of a specific date (September 30 of each year) increased by 338% or 1,700 beds, almost an entire prison. To house these offenders in minimum custody in ADOC, at current spending levels for one year would have cost the State an additional \$23,138,445 in fiscal year 2008 rather than the \$6.1 million appropriated and used for community corrections. The savings of over \$17 million is substantial.

Growth of Programs & Increased Diversions Result in Cost Savings

During fiscal year 2009, the number of new diversions was down slightly to 1,432. However, a carryover of offenders caused the number of offenders served to increase by almost 300 to 2,927. Without these programs, 2,927 offenders in 2009 would have been housed in an Alabama Department of Corrections facility. During the 2010 fiscal year, additional growth in the number of diversions and/or programs should occur with the Legislative increase in the appropriations for community corrections from \$6.1 to \$7.1 million.

In 2009, Almost 3,000 Offenders Diverted from Prison

² See **Appendix C** for a current list of programs and a map.

**Data Needed for
Evaluation of Programs**

While the Sentencing Commission is encouraged by Alabama’s decision to pursue the expansion of community corrections programs, the Sentencing Commission is concerned with the lack of essential data from the programs to evaluate the programs for evidence-based practice results. Such an evaluation is essential to promote the effectiveness of the programs and continue to increase each program’s capacity. This is an issue that remains to be fully addressed.

**Substance Abuse
Prevalent Among
Prisoners**

Drug Courts

In 2003, the Sentencing Commission recommended the expansion of drug courts to divert offenders with substance abuse issues to an effective treatment alternative to prison. The Alabama Department of Corrections, then and now, serves as the largest substance abuse treatment provider in Alabama. In January 2009, almost 4,000 (3,996) inmates were enrolled in one of ADOC’s drug treatment programs, with 1,162 on a waiting list to participate. Prison admissions for drug offenders accounted for 38% of January 2009 prison admissions. At intake, 68%-75% of the inmates have a documented or self-reported history of illegal drug use. Alabama needs to take a hard look at how strongly drug crimes continue to drive the State’s prison population.

**53 Drug Courts Now
Operating in 50 Counties**

In 2007 Chief Justice Sue Bell Cobb, with the assistance of retired District Judge O.L. “Pete” Johnson (Drug Court), began a campaign to implement the Sentencing Commission’s recommendation for increased drug court activity in Alabama. In 2003, there were 17 drug courts serving 16 counties. In 2007, when the Chief Justice began her campaign, there were 17 drug courts operating in 23 counties (15 judicial circuits). By December 2009, through the efforts of the Chief Justice, Judge Johnson, the Chief Justice’s Drug Court Task Force, and many others, 53 drug courts now serve 50 counties.³ In the words of the Chief Justice, a commitment to “fixing people” in the criminal justice system has begun to produce significant results.

**Drug Courts Provide
Non-Prison Alternative to
Address Drug Abuse &
Addiction**

These courts provide a non-prison alternative to address drug abuse and addiction that led to criminal activities. These programs utilize an integrated process that provides treatment and punishment with regular judicial supervision, drug testing, and graduated sanctions, adjustments in treatment in responses to relapse, and a system of rewards for success. Drug Courts are designed to ensure that the coordinated efforts of the judiciary, prosecution, defense, probation, law enforcement, mental health, social services, and the treatment community actively coalesce to intervene and break the cycle of substance abuse, addiction, and crime. Breaking this cycle, for which prison is not always the best answer, leads to greater public safety.

Nationwide studies have shown that through drug courts designed and operated at the local level, recidivism rates have been reduced, resulting in fewer re-arrests and reconvictions than traditional probation or incarceration. Evaluations of cost savings resulting primarily from the reductions in arrests,

³ See **Appendix C** for a current list of programs and a map.

incarceration, case processing, and victimization have been estimated as ranging from \$1,000 to \$15,000 per drug court graduate.⁴

While establishing and expanding drug courts is a sign of significant progress, Alabama must continue to establish uniform standards for drug courts and build a data support system that can be used to actually measure the progress and effect of this option on both individuals and the criminal justice system. Without this data support system, the overall success of the programs is more difficult, if not impossible to monitor.

Alabama Board of Pardons and Paroles

The Board of Pardons and Paroles addresses alternatives to incarceration in several ways. While being assigned the supervision of probationers and parolees, the Board has noticed and begun to address the need for other alternatives such as those recommended by the Sentencing Commission in its 2003 report to establish a true continuum of punishment options in Alabama. The Sentencing Commission made a number of recommendations that the Board and the Legislature have begun to address, yet much remains to be done. Recommendations of the Sentencing Commission included addressing community supervision by increasing the number of probation officers providing actual supervision. The Sentencing Commission also suggested other alternatives to incarceration, including the creation of technical violator centers for probationers and parolees and establishing transition centers as the last step before prison and the first step toward release from prison. The Board has embraced and acted on the recommendation for transition centers and continues to pursue establishing centers for technical violators.

The Board has consistently applied to the Legislature for an increase in funds to hire supervising officers. These requests have resulted in an increase in supervising officers from 209 on February 1, 2003 to 294 supervising officers at the end of FY09. This increase is much less than recommended and is not adequate for the Board to meet the increased demand for supervision services. This moderate increase of 85 officers cannot keep up with the rise in the number of probationers supervised by the Board from 33,000 in 2003 to over 56,338 at the end of 2009.

In addition to increasing the number of supervising officers, the Board adopted a risk and needs assessment instrument for use by probation officers. This is a single instrument that does not translate to pre-trial risk or risk assessment at release from prison. While it is a strong instrument for predicting risk assessment for Alabama's probation population, there are other instruments that may be more inclusive for assessing needs of the offender to prevent reoffending. With the introduction of this instrument, the Board has attempted to move its officers from supervision based on contacts to "results" supervision. This change has proved a daunting task, inhibited by insufficient officers to allow appropriate time for case planning

Uniform Standards & Data Support Systems Needed for Drug Courts

Board of Pardons & Paroles Support and Implementation of ASC Recommendations

More Probation Officers Needed to Keep Pace with Increased Number of Probationers

Risk/Needs Assessment Implemented by Board

Board Changes from "Contact" to "Results" Supervision

⁴ The Sentencing Project, *Drug Courts: A Review of the Evidence* by Ryan King and Jill Pasquarella, April 2009, http://www.sentencingproject.org/doc/dp_drugcourts.pdf; http://www.ncjrs.gov/spotlight/drug_courts/summary.html

and inadequate resources to address dynamic criminogenic needs. The Board of Pardons and Paroles has agreed to pilot test another risk and needs tool that may have a more inclusive needs component and can be used to determine what community-based services are required to address those needs.

LIFE Tech Transition Centers Utilized for Probationers & Parolees Violating Conditions of Supervision

The Board has continued to address the need for transition centers for felony offenders. Initially developed as a step-down from prison, the Board's two transition centers, LIFE Tech Wetumpka (for women) and LIFE Tech Thomasville (for men), now include programs and services for those offenders whose conduct has brought them within one step of prison. Both facilities now receive probationers who would otherwise be revoked and sent to prison. The centers can efficiently and effectively address the causes that lead the offenders to the point of revocation. Because of these centers, 111 male probationers have been sent to Thomasville LIFE Tech and 187 women to Wetumpka LIFE Tech rather than to prison - a savings of 298 new admittees to the prison system.

Technical Violator Centers Needed

The development of technical violator centers is still under discussion. By sending probationers who test dirty for drugs, fail to report on time, or violate the conditions of supervision in ways other than by committing a new crime, to a special center to address the causes of their infractions, additional prison bed space can be saved for more violent or needy offenders. In 2009, 1,208 probationers were revoked for "technical violations" of conditions of their probation. A strong technical violator center could have diverted some portion of these offenders from the costly beds of the Alabama Department of Corrections.

Sound Probation System Requires Clearly Defined Continuum of Services in Every County

As more and more prison space is needed to house violent offenders for longer periods of time, the importance of probation services cannot be exaggerated. A first-rate probation system is needed now more than ever. A sound probation system increases public safety by reducing recidivism by addressing the causes of criminal conduct and by keeping low level first time offenders away from the networking system of incarceration. Alabama needs to increase its support of probation services and to find better ways to merge all community supervision services into a more defined continuum of services in each county of the State. The Board, Executive Director, and central office staff have worked tirelessly with the Cooperative Community Alternative Sentencing Project (CCASP), discussed below, to achieve this end. While there is progress to report, there still remains much to be done.

Cooperative Community Alternative Sentencing Project

One of the most exciting initiatives of the Alabama Sentencing Commission is the Cooperative Community Alternative Sentencing Project (CCASP)⁵, a joint project of the Chief Justice and the Alabama Sentencing Commission, which began in 2007. From the very beginning, the Sentencing Commission recognized that Alabama lacked a true continuum of sanctions including clearly defined community supervision and intermediate sanction alternatives. While there are at least five different agencies engaged in community supervision of felony offenders, there is no organized system of community punishment. Community supervision exists as a diffracted system of services provided by ADOC (work release); Pardons and Paroles (probation and parole); county governments (community corrections programs); district attorneys (pre-trial diversion programs); drug courts; and AOC (Court Referral program). The Sentencing Commission questioned the effectiveness and efficiency of these programs, many of which seemed to be providing duplicative services.

To add to the confusion, there is no system of data collection, (or even consistent or comprehensive individual program data collection) for these programs to aid in determining their effectiveness. Since 2003, the Sentencing Commission has attempted through various means to bring the parties together at the State and local levels to address the issues arising out of this lack of a cohesive system of community supervision of nonviolent felony offenders. Because state efforts on these issues have failed to actively engage local jurisdictions or substantially advance correction of these deficiencies, CCASP is providing a new approach. By encouraging active community involvement and focusing on evidence-based practices, collaboration among agencies, and coordination of services, CCASP is working with four pilot sites that are expected to become models and mentors for other community programs. The need for this project is exacerbated by the current financial crisis. Alabama cannot afford to duplicate services or provide services to offenders the services will not benefit.

CCASP is guided by a state steering committee but the work and the decisions are produced and made at the local level. The primary goal of the project is for each jurisdiction to actively involve all its major criminal justice stakeholders and, through self-examination and analysis, collaboration, and cooperation, improve services at the local level. With the formation of local alliances among the agencies supervising offenders in the community, each jurisdiction can define a model system that establishes a continuum of graduated supervision for the fair, effective, and efficient delivery of services.

CCASP Initiated in 2007

4 Pilot Sites Participate to Improve Programs and Become Mentors to Others

All Major Criminal Stakeholders Involved at the Local Level

⁵ CCASP is funded by the Pew Charitable Trusts and is facilitated through technical assistance provided by the Vera Institute of Justice (Vera) and the Crime and Justice Institute (CJI). The national experts from Vera and CJI helped design the CCASP project and have facilitated meetings of the State Steering Committee and local steering committees, providing research assistance on various topics to help Alabama come to grips with the State's local supervision issues.

Pilot Sites Develop Comprehensive Plans

Four pilot sites, Lawrence, Montgomery, Jefferson, and Marshall Counties, were chosen based on competitive applications, to participate in the project and develop a comprehensive plan at the local level. These jurisdictions are charged with defining the role of each of the five agencies involved in supervision of convicted offenders sentenced to community supervision. To develop the plan each jurisdiction will –

- assess the structure, effectiveness and efficiency of community supervision of offenders;
- learn and implement the principals of evidence-based practices to use in deciding which programs work for what offenders;
- use a uniform risk and needs assessment instrument, the Alabama ORAS (Offender Risk Assessment System), to identify dynamic criminal risk factors that, if addressed, will decrease the risk of reoffending;
- collect data from the risk and needs assessment to identify services needed in each jurisdiction to better address criminogenic needs; and
- draft a local plan to define inter-agency cooperation and reduce duplication of local services.

All of these efforts are directed at making the most effective use of the resources available to each jurisdiction and toward developing additional resources where necessary. The efforts in these four pilot sites will be reviewed to suggest public policy for the State.

Work Begun in Lawrence & Montgomery Counties

Work to Begin in 2010 with Jefferson & Marshall Counties

CCASP has been active in two jurisdictions in 2009 - Lawrence and Montgomery Counties and will become active in Jefferson and Marshall Counties in 2010. Lawrence County, the first site selected to participate in 2008, has completed the self-analysis with the assistance of Vera Institute of Justice (Vera) and The Crime and Justice Institute (CJI) and is now in the process of beginning its comprehensive plan for community supervision. Montgomery is still in the analysis stage of the process. The project is already beginning to show success in the form of identifying specific strengths and weaknesses in each jurisdiction. Strengths include the dedication of the staff in the local agencies and the commitment to public safety. Weaknesses identified include the lack of sufficient data for a comprehensive assessment of each program or to implement evidence-based practices and the failure to use a uniform comprehensive risk and needs assessment tool for either the placement of offenders or case planning.

Implementation of Uniform Risk/Needs Assessment

CCASP, with the assistance of the Chief Justice, the Board of Pardons and Paroles, and local community corrections agencies has begun implementation of uniform risk and needs assessment tools in the four pilot sites and Shelby County. A committee of major stakeholders reviewed the use of risk and needs assessments in other jurisdictions and determined the instruments offer impressive assistance in supervising and treating offenders, reducing recidivism, and identifying needed services to better effect public safety. Recognizing that programs are effective and efficient if they reduce recidivism at the lowest possible cost to the taxpayers, the committee

determined that effective practices are evidence-based, i.e., using data to determine what works and what does not. Implementing evidence-based practices along with risk and needs assessment will allow Alabama to assess and improve existing programs. This capability will allow Alabama to make optimal use of the scarce resources available for supervising convicted offenders.

Focus on Implementing Evidence-Based Practices

The risk/needs assessment instruments the CCASP Statewide Committee suggested Alabama adopt are the new Ohio Risk and Needs Assessment Tools that provide a set of instruments used at various stages of the process. They were developed by well-known leaders in the field of risk and needs assessment. The instruments are non-proprietary and can be used in Alabama at no cost. Thirty probation and Community Corrections supervision officers of the pilot jurisdictions have begun using the instruments (now referred to as the Alabama ORAS) on a small scale. Ten of those trained will now be trained to teach others how to use the instruments. Those 10 trainers will then begin the process of training all of the users in the pilot sites.

Ohio Risk & Needs Assessment Tools Adopted for Use

Initially the risk and needs assessment instruments will be used in the pilot sites to direct case planning and identify resources or services needed in the community for supervision to be successful. The instrument results, along with case plans for offenders, will be forwarded to the Sentencing Commission for recording and form a risk/needs database for analysis. This process will initiate the collection of data necessary to begin the first steps of implementing essential evidence-based practices in our State's community supervision programs.

ASC to Compile Data for Analysis of Results

CCASP has also begun to address the need for consistent data to implement evidence-based practices in each jurisdiction. In Lawrence and Montgomery Counties, the Community Corrections programs are migrating to the MIDAS data system provided by the Administrative Office of Courts (AOC). In addition, the Board of Pardons and Paroles is developing a compatible data system using MIDAS as the starting point. Having compatible data systems should simplify the future development of a more universal data system for the State when resources become available and the time is otherwise right.

Use of MIDAS Data System - A Step Towards Compatible Data Systems of Supervision Programs

CCASP is offering the State the opportunity, at the local level, to do what could not be accomplished at the state level - the development of a true continuum of graduated sanctions as part of a local system of community supervision of offenders. Involving key criminal justice officials in each locale provides a sensible means of optimizing local input and accountability and ensuring the best utilization of available resources.

Substance Abuse Treatment and Reentry Programs

ADOC Substance Abuse Programs

Despite scarce resources, the Alabama Department of Corrections has continued to offer substance abuse programs and to aggressively implement "best practices" in treatment to improve continuity of care, reduce prison

ADOC Commended for Progress

Drug Treatment Essential for Prisoners

overcrowding, and improve the overall public safety. Although lacking sufficient funds and staff, the ADOC realizes how crucial drug treatment is for the rehabilitation of the vast majority of inmates suffering from drug abuse or addiction and is committed to including treatment as a priority. This progress, in view of the fact that Alabama’s prison system is one of the worse overcrowded correctional systems in the nation (distinguished as being “The #1 State” receiving the smallest portion of a state’s general fund with facilities in desperate need of repair, and insufficient correctional officers to provide adequate security) speaks volumes.

Adequate Funding Lacking for ADOC Drug Programs

Funding for correctional drug treatment last year did not differ from the past. A small portion of the cost for providing treatment was offset by a federal RSAT grant, the return from which has diminished substantially from years past. The majority of funding for ADOC drug treatment came directly from the ADOC General Fund budget, with almost all of this being dedicated toward paying the salaries of drug treatment personnel. A much smaller amount – a mere \$20,000 for all institutional substance abuse treatment programs – was allotted for non-durable supplies such as paper and printer ink. Funding for more durable, long-term supplies such as published treatment materials, books, tables, chairs, television monitors and DVD players remained basically unbudgeted, as has been the case for several years. Normal wear and tear on such items has occurred to such a degree that the condition of existing materials of this type is marginal, at best.

Yet progress is being made.⁶

ADOC Establishes Technical Violator Center

Reentry Programs

ADOC ReStart SAP Program – Technical Violators (Parole)

The Restart SAP program is the result of a collaborative effort between the ADOC and the Alabama Board of Pardons & Paroles designed to serve the specific needs of technical violators of parole. These individuals are returned to prison for not more than 90 days. During this period, they are routed through the intake process at Kilby Correctional Facility, during which time they receive thorough medical, psychological, and social needs screening. Upon completion of screening and evaluation, individuals are classified based on factors identified during the initial screening process and in compliance with the requirements of the Parole Board and the ADOC Classification Manual.

Those that meet all necessary classification requirements and have been identified as in need of drug treatment services are routed to Decatur Work Release, where they participate in a brief but intensive 120-hour Restart SAP program that was designed to meet the specific needs of drug abusing and drug dependent parole technical violators.

⁶ See **Appendix D**.

The 120-hour Restart SAP program curriculum includes 5 of the 6 competencies contained in traditional 8-week SAP. Restart SAP participants are given the opportunity to achieve proficiency in the following competencies: 1) Drug Use, Abuse, and Consequences; 2) Disease Process of Addiction; 3) Understanding Criminal Thinking; 4) The Recovery Process; and 5) Relapse Prevention. In lieu of the 6th competency of 8-week SAP (Transition and Reintegration into Society), participants receive 60 hours of training in the ADOC Pre-Release Program.

5 Components of Restart Curriculum

Important components of this treatment regimen are deconstruction of past relapse events, identification of high-risk situations, development of refusal skills, identification of criminal thinking errors, discarding anti-social attitudes and building pro-social values, and formulation of a comprehensive, thorough relapse prevention plan that must be presented to the participant's supervising parole officer at first contact following release from ADOC custody.

Also built into this program are two 1-hour sessions that are conducted jointly with ADOC drug treatment staff and an officer of the Alabama Board of Pardons and Paroles. This provides participants with an opportunity to learn about post-release expectations and receive clarification on any issues that may be in question.

Reentry Initiatives Included

Some individuals are then routed to Limestone Correctional Facility, where they have the opportunity to participate in rehabilitative and reentry programs identified as appropriate in the intake and classification process. Those routed to Limestone Correctional Facility include individuals determined ineligible for placement in Level I or Level II facilities (for example, convicted murderers and sex offenders), and others that have been determined as not being in need of drug treatment rehabilitation.

ADOC Institutional Pre-Release and Reentry Programs

Prior to April 2007, the Alabama Department of Corrections' Reentry program consisted of handing an inmate who was ending his sentence a \$10 bill and a one-way bus ticket. A person leaving prison received only this meager amount of assistance but was expected to succeed in the community as a law abiding citizen, despite having a prison record, no job or job skills or knowledge of services that may be available. One of the first projects that Commissioner Richard Allen undertook upon his appointment as the head of the Alabama Department of Corrections was to establish a Reentry Program under the supervision of Elana Parker, on loan from the Alabama Health Department. Two years later, the ADOC has made great strides by providing pre-release and reentry services in many of the correctional facilities and work release centers for inmates that are soon to be released and for many ex-offenders who have reentered the community.

New ADOC Pre-Release & Reentry Services

Pre-release programs are coordinated to provide life improvement services and access to community resources. Services provided range from assistance with basic needs such as food, clothing, and shelter, to substance abuse treatment, job placement, vocational training and career development.

Types of Reentry Services

Elements of 6-Model Program

An expanded Reentry Program under development is designed to present a six module program that will encourage, support and recognize community involvement. The six model program consists of: 1) addictions and recovery; 2) job, career, communication and financial skills; 3) faith and character building skills; 4) health education, screenings and referrals; 5) Family re-integration; and 6) law enforcement. These Reentry models are designed to expand and enhance services and opportunities offered to inmates and achieve the goals of: decreasing recidivism and overcrowding, promoting public safety for the general community, reuniting parents and children, decreasing public health and social disparities, and offering referral linkages to help inmates successfully transition into the community.

Coordinated Community Involvement Essential for Success

Through the coordinated efforts of the Governor's Community Partnership for Recovery and Reentry (CPR) network, the Alabama Department of Corrections, Pardons and Paroles, churches and other organizations in the community, inmates are provided valuable information and assistance prior to their reentry and connected with social service agencies and community-based organizations for the access to resources needed to make a successful reentry into society.

Transition Centers Report High Completion Rates Since Opening

Alabama Pardons and Paroles – LIFE Tech Transition Facilities

The Board of Pardons and Paroles has two transitional centers - LIFE Tech Wetumpka for women, which has served 1,720 probationers and parolees since it was established 6 years ago and LIFE Tech Thomasville, the 300 bed male facility which has served 1,741 parolees and probationers since it opened April 1, 2006. These transitional facilities provide on-site intensive substance abuse treatment, education, and vocational training in a secure setting to parolees who are not ready for release to community parole supervision. These facilities also provide services to probationers or parolees who may have violated conditions of supervision as an alternative to revocation and incarceration for the remainder of their sentence. Both programs have had a successful completion rate - LIFE Tech Wetumpka has had 1,033 program graduates, with 241 GED certificates issued, and LIFE Tech Thomasville has had 1,121 graduates for a 74.6% graduation rate, with 110 receiving GED certificates and 682 forklift certificates.

FY 2009	LIFE Tech Wetumpka	LIFE Tech Thomasville
Total Admissions	288	504
Probation	187	111
Parole	38	393
ADOC SRP's	30	
TSRP's*	30	
TP's*	3	
Total Completed	145	306
Probation	104	54
Parole	38	252
ADOC SRP's	3	
Clients Terminated for Violations		
Total	87	94
Probation	57	28
Parole	14	66
ADOC SRP's	16	
Housed as of Sept. 2009		
Total	138	235
Probation	70	53
Parole	22	182
ADOC SRP's/TSRP's/TP's*	46	

**Almost 800 Admissions
for FY 2009**

**TSRP's are inmates housed at Wetumpka awaiting clearance for an SRP program. TP's are inmates housed at Wetumpka who were paroled and are waiting approval of home plan.*

ADOC Medical and Geriatric Release

The Alabama Department of Corrections was successful in having the Alabama Medical Furlough Act, Act 2008-550, passed by the Legislature. This Act provides a procedure for the discretionary medical release of state inmates convicted for non-capital felony offenses. While the ADOC is given discretionary authority to release inmates that qualify under the Act, since it has been in effect there have only been 4 applications granted out of 216 applications received. As required by §14-14-4(i), Commissioner Allen has provided a report detailing the FY 09 statistics of the Medical Furlough Program. While only four applications were granted, 37 applications are currently in the review process and 35 offenders died during the time their applications were being reviewed. Cancer, liver disease, coronary artery disease and pulmonary disease are the primary health issues of applicants. The major reasons for denial of medical furlough is because the inmate fails to meet medical and/or criminal offense criteria. It was noted that eight non-applicant offenders with serious medical conditions were paroled during FY 09.

**4 Applicants Granted
Release Since Act 2008-550
Became Effective**

III. Sentencing Commission's 2010 Legislative Package⁷

ASC Bills Address 3 Goals

The Sentencing Commission will introduce three bills during the 2010 Regular Session of the Legislature. The bills' provisions focus on three goals that were mandated in the Sentencing Commission's enabling statute: 1) the elimination of unwarranted disparity among like offenders convicted of similar offenses; 2) providing sentencing alternatives, other than incarceration in prison, for offenders who can best be supervised and rehabilitated through more cost-effective means while protecting the public; and 3) proposing recommendations to the Legislature "that will help alleviate prison crowding".

Modification of Sentencing Standards to Include Attempts, Conspiracies, and Solicitations for Certain Offenses

1. Modifications to Existing Sentencing Standards, Worksheets and Instructions.

Based on suggestions made by judges and prosecutors, the Sentencing Standards Committee reevaluated the existing worksheets and standards and recommended modification of these to include attempts, conspiracies, and solicitations to commit murder and attempts, conspiracies, and solicitations to commit certain controlled substances offenses. Because the statutory punishment is the same as for committing the substantive offense (§§ 13A-4-1 through 13-4-3 and §§ 13A-12-202 through 13A-12-204), the Sentencing Commission approved amendment of the Sentencing Standards, worksheets and instructions to include these inchoate crimes for murder and for the drug offenses of: possession of marihuana; unlawful possession of a controlled substance (other than to a minor); sale/distribution of marijuana (other than to a minor); and sale/distribution of schedule I-V (other than to a minor), which are covered offenses under the Sentencing Standards. In addition, modifications to the worksheets and instructions were made to further clarify the use of the worksheets and the sentence length tables of the Initial Voluntary Sentencing Standards approved by the Legislature and implemented in 2006. These modifications are to improve the process of using the Sentencing Standards.

Average of 235 Convictions a Year for Targeted Inchoate Offenses

Utilizing its felony offender database and focusing on the years FY 2004 through FY 2008, the Sentencing Commission determined that there were 1,175 felony convictions (an average of 235 convictions a year) for attempts, conspiracies, and solicitations of murder and the drug offenses of: possession of marihuana; unlawful possession of a controlled substance (other than to a minor); sale/distribution of marijuana (other than to a minor); and sale/distribution of schedule I-V (other than to a minor). While the numbers per year are modest, the primary reason for including these inchoate offenses was to eliminate the possibility of unwarranted disparity between like

⁷ See **Appendix E** for a synopsis of the crime bills enacted during the 2009 Regular Session.

offenders convicted of choate and inchoate offenses. Without these modifications, an offender convicted of the inchoate offense could be given a harsher sentence than the offender who actually completed the offense.

2. Amendments to Community Punishment and Corrections Act

As it now exists, Alabama's Community Punishment and Corrections Act provides an absolute bar to offenders convicted of selling controlled substances (in any amount) from participating in a community corrections program as an alternative to incarceration. The primary provision of this bill is amendment of § 15-18-171 defining eligible offenders, to delete the absolute statutory prohibition of offenders convicted for selling controlled substances from participating in a community corrections program, leaving this decision within the discretion of the sentencing judge. Not only will this change afford the opportunity to increase the use of alternatives to incarceration for nonviolent offenders and maintain meaningful judicial discretion, but will increase the possibility of drug treatment for offenders suffering from drug abuse or addiction.

The unique nature of Alabama's drug distribution statute, which encompasses sales, deliveries and giving away controlled substances, makes no distinction between sales and non-sales. However, it is this very distinction that determines the eligibility for community corrections programs and reimbursement of those programs by the Alabama Department of Corrections for eligible drug offenders convicted of non-sale distribution.

For the four year period from FY 04 through FY 08, there were 4,726 convictions for Distribution of Controlled Substances, or an average of 945 convictions per year. Distribution of Controlled Substances has always been the number one felony crime of conviction, and has steadily increased each year, with 1,059 convictions during FY 08. Due to the broad definition of "distribution" it is unknown which of these convictions were for non-sale transfers. However, assuming one half were for sales that would be sentenced to at least one year and one day, this would be 530 convictions which could be considered for diversion to community corrections, for a possible savings of over \$6 million per year.

This bill also amends Alabama's Community Punishment and Corrections Act to include reference to community corrections programs operating as nonprofit entities under the definition of "board" and would specifically authorize county commissions to provide liability insurance coverage to both authorities and nonprofit entities.

3. Amendments to Split Sentence and Probation Revocation Statutes

This bill amends Alabama's split sentencing statute, § 15-18-8, to expressly prohibit the imposition of consecutive split sentences or "the stacking" of split sentences for separate convictions sentenced at the same event. Under current practice, consecutive splits are sometimes imposed, in which case a defendant is required to serve more than the statutory minimum

Deletion of Absolute Prohibition of Defendants Convicted of Selling Drugs from Participating in Community Corrections Programs

Crime of Distribution of Controlled Substances Includes Sales and Non-Sale Transfers

Stacking of Split Sentences Prohibited

Probation Portion of Split Sentence Limited

imprisonment portion of a split sentence without the possibility of parole or good time credit. The other major provision of the bill is to amend § 15-22-54, *Code of Alabama* 1975, to uniformly apply the same limitation period (5 years for a felony and 2 years for a misdemeanor) on the terms of probation for all types of sentences, whether straight probation or the probation portion of a split sentence. In addition, amendments are proposed to:

- clarify that a split sentence is not authorized for a Class A or B child sex offense as defined in §15-20-21(5).
- specify that a defendant may be confined in a “rehabilitation or reentry facility,” as part of the imprisonment or probation portion of a split sentence.
- provide for participation in substance abuse treatment or a community corrections program as an intermediate sanction upon revocation of probation.
- Amend §15-22-54(d)(3) to provide that upon successful completion of a certified residential treatment program, the trial court may award credit for the time served in the program.

IV. Unified Judicial System Bill Supported by the Sentencing Commission

Alabama Drug Offender Accountability Act of 2010

Drug Court Bill Supported by Sentencing Commission

Although not among the bills included in the Sentencing Commission’s 2010 Legislative Package, the Sentencing Commission voted once again to provide support for the UJS Drug Court bill. This bill is the result of the work of the Chief Justice’s Drug Court Task Force and is basically the same as the bill that was introduced during the 2009 Regular Session. Members of the Sentencing Commission staff worked closely with the Task Force and its Chair, Judge Orson (Pete) Johnson, in the drafting and review of the bill’s provisions. The bill’s major provisions include:

- Authority of the presiding judge of each judicial circuit to establish a drug court or courts to address the drug offender’s identified substance abuse problem as a condition of pretrial release, pretrial diversion, probation, jail, prison, parole, community corrections, or other release from a correctional facility.
 - Does not affect the authority of the district attorney to establish a deferred prosecution program or a pretrial diversion program or to nolle prosequere a particular case, but does require all drug courts to comply with the Act and any rules promulgated by the Supreme Court for Drug Courts.

- Details the goals of the Act are to:
 - Enhance community safety and quality of life for citizens.
 - Reduce recidivism.
 - Reduce substance abuse.
 - Increase the personal, familial and societal accountability of drug offenders.
 - Restore drug offenders to productive, law-abiding, and taxpaying citizens.
 - Promote effective interaction and use of resources among criminal justice and community agencies.
 - Reduce the costs of incarceration.
 - Improve the efficiency of the criminal justice system by enacting an effective methodology.

- Requires disposition of the offender upon successful completion to be as per the written agreement and in accordance with the drug court polices and procedures, which may include, withholding criminal charges, nolle prosee of charges recommended by the district attorney, probation, deferred sentencing, suspended sentencing, split sentencing or reduced incarceration.

- Provides that records of disposition are to be maintained and made available to judges and prosecutors statewide, noting juvenile or youthful offender records are not to be released to the general public.

- Provides that the Act does not create a right or expectation of a right to participate in drug court, nor does it obligate the drug court to accept every drug offender. Each drug court judge may establish rules and make special orders provided they do not conflict with the Act or the Rules promulgated by the Alabama Supreme Court.

- Stipulates a drug offender shall not be eligible for admission if the drug offender:
 - has a pending violent criminal charge or any felony charge involving a firearm or deadly weapon or dangerous instrument,
 - has been convicted of a violent felony offense or any felony charge involving a firearm or deadly weapon or dangerous instrument,
 - is required to register as a sex offender or currently charged with a sex offense,
 - is charged with manufacturing, or trafficking of a controlled substance.

- Requires the Commissioner of the Alabama Department of Corrections to develop criteria for eligibility and evaluation for early release into reentry drug court programs.

Goals of Drug Court Bill

Alabama Supreme Court to Promulgate Rules of Procedure

Eligibility Requirements

Reentry Drug Courts

**Annual Reports on Act's
Implementation Required**

- Requires the AOC to assist in the planning, implementing, and developing drug courts. Including recommendations concerning the legal, policy, and procedural issues confronting drug courts.
- Requires the presiding judge of each circuit court to report to AOC each year, from which AOC is to compile an annual statewide report for the Alabama Supreme Court, Legislature and Governor regarding the need for and the implementation of the Act.
- Provides for the collection and maintenance of information for each drug offender, including instances of recidivism, the number of drug offenders screened, and the cost of the operation. Records are to be kept in accordance with federal and state confidentiality laws.

**V. Recommendations of the Alabama Sentencing
Commission**

**Commission's 2010
Recommendations**

In compliance with the statutory mandate of § 12-25-33 of the *Code of Alabama* to make recommendations annually to the Governor, the Legislature, the Chief Justice, and the Attorney General, the Sentencing Commission provides the following recommendations for 2010, which are designed to reserve the use of incarceration for violent and serious offenders and make more effective use of limited resources.

1. Adoption of Bills

#1 Enact the bills included in the Sentencing Commission's legislative package: 1) modifying the Sentencing Standards and worksheets, 2) amending Alabama's Split Sentencing Act, and 3) amending the Community Punishment and Corrections Act.

**2. Funding for Diversion
& Treatment Programs**

#2 Provide adequate funding from the State General Fund for programs that divert appropriate offenders from the Alabama Department of Corrections and provide essential services for correcting criminal behavior, e.g., substance abuse treatment, supervision, and transition services.

**3. Development of Data
Systems for Jail &
Supervision Programs**

#3 Continue the development and expand utilization of data systems, essential for the implementation of evidence-based practices, for county jails, community corrections programs, drug courts and other specialty courts, pre-trial diversion programs and probation and parole.

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1. Achievements and Signs of Progress

- Initial Voluntary Sentencing Standards implemented October 1, 2006.
- E-Worksheets and Sentencing Standards website created.
- Increased accessibility to prior criminal history records for more informed sentencing decisions using the Sentencing Standards.
- Passage of Act authorizing Sentencing Commission access to information from Board of Pardons and Paroles, Alabama Criminal Justice Information Center and the Administrative Office of Courts.
- Revision of sentencing information functions on SJIS to more accurately capture sentences imposed.
- Drug Courts expanded from 7 in 2001 to 53 in 2009.
- Community Corrections programs expanded from 18 in 2001 to 34 serving 45 counties in 2009.
- Creation of Alabama Department of Corrections Division of Community Corrections.
- Increased Community Corrections appropriation from zero to \$7.1 million.
- Comprehensive integrated statewide felony offender sentencing database created.
- Alabama simulation model developed and updated with user-friendly functionalities.
- Theft statutes revised to increase threshold property values.
- 30% decrease in jail backlogs in the past nine years (comparing populations of January 2000 with those of January 2009).
- Implementing evidence-based practices in community corrections programs through the Cooperative Community Alternative Sentencing Project.
- Proposed Uniform Sentencing Order finalized by the Commissions Sentencing Order Committee.
- Uniform Risk/Needs Assessment system selected for use in Alabama and training begun.
- Pardons and Paroles Transition Centers offer effective transition programs in residential setting and are cost-effective alternatives to incarceration.
- Slight increase in the number of supervising officers for probationers and parolees.
- Pardons and Paroles adoption of a risk assessment tool for probationers.

-
- Decrease in jail backlog. As of August 2009, the prison population (custody population plus those in county jails awaiting transfer) was 28,785 - only slightly more than the total population of 28,316 reported by ADOC for January 2003.
 - Implementation of supervised release programs for offenders who would otherwise end their sentences and return to the community without supervision.
 - Shifts in sentencing toward reserving scarce prison space for violent and more serious offenders.
 - Creation of an ADOC Technical Violator center for parolees in 2009.
 - ADOC standards for medical and geriatric release for some offenders.
 - Creation of ADOC reentry program to assist released offenders in assimilating into the free world.

Additional Highlights

Creation of Felony Offender Database - Essential for Development of Sentencing Standards and Critical First Step toward Implementation of Evidence-Based Practices

Before recommending a new and improved sentencing system, the Alabama Sentencing Commission's first challenge was to create a felony offender database with information on offenders, crimes of conviction, and past sentencing practices. This information, while contained in separate databases, was not in a form that was easily combined because the information was maintained in inconsistent formats depending on the agency's needs i.e., offender vs. case-based. The necessary data mining techniques employed were further complicated by the fact that there was no unique identifier common to all databases.

After structuring the information to utilize consistent components, the Sentencing Commission's consultants, Applied Research Services, Inc. (ARS), combined information from the Administrative Office of Courts, Board of Pardons and Paroles, the Department of Corrections, and Alabama Criminal Justice Information Center to create Alabama's first comprehensive felony offender database. This first integrated database consisted of a 4-year cohort of 64,000 convicted adult felony offenders. The database is updated annually and now includes 175,358 felony offenders convicted and sentenced during the years 1999-2008.

From the felony offender database, ARS assisted the Sentencing Commission in developing the initial voluntary sentencing standards, along with a simulation model to predict the impact changes in laws and practices have on prisons, jails, and supervision services. These major projects, essential to the work of the Sentencing Commission, were accomplished during the Sentencing Commission's formative years when there was no staff trained in data collection and statistical analysis. The Sentencing Commission now has its own statistician and analyst and has created a separate Sentencing Standards worksheet database, which is utilized to measure judicial compliance with the Sentencing Standards.

Simulation Model Forecasts Impact of Legislative Changes on Prison Population

Alabama now has the capability to forecast the impact of some proposed changes before they are enacted. Utilizing the simulation model, the Sentencing Commission can predict the impact of proposed legislation on incarceration based on historical trends. Development, maintenance, and enhancement of the simulation model is a continuing process due to constant changes in Alabama's corrections and sentencing system. Applied Research Services recently modified the simulation model to incorporate a user-friendly interface, allowing

Sentencing Commission staff to perform simulations in a more efficient manner. When data becomes available, further enhancements will be included, such as adding classification information to project types of prison beds needed and incorporating a module to capture jail backlogs and offenders sentenced to alternative programs.

Data Improvement

Alabama's Sentencing Commission was not immune from the common problems experienced by sentencing commissions across the nation when compiling and analyzing data. Data problems continue to arise and are addressed as they are identified. One such problem undermined the Sentencing Commission's use of the State Judicial Information System (SJIS) data to determine compliance with the Initial Voluntary Sentencing Standards. The initial sentence entered into SJIS is overridden when probation or community corrections supervision is revoked or when a split sentence is modified. To immediately address this problem until programming changes can be made by the Administrative Office of Courts, the Sentencing Commission created its own sentencing database for court orders submitted with paper worksheets. Utilizing this database, the Sentencing Commission staff cross-checks the sentence ordered with the sentence entered in SJIS, noting error frequency and making accurate entries. The Sentencing Commission will continue to utilize this separate database as a cross-check against sentencing information in SJIS.

MIDAS - Evidence-Based Practices Tool

MIDAS, the Administrative Office of Court's Model Integrated Defendant Access System, is beginning to address the need for a uniform data collection and case management system for community-based programs. Over the last three years, the Administrative Office of Courts has made major revisions to MIDAS, the case management system originally developed in 2003 for court referral programs. Today, MIDAS provides an integrated statewide system which enables alternative sentencing programs to establish and implement uniform evidence-based practices and uniform reporting capabilities. Among the improvements made were the addition of new functionalities designed for drug courts and community correction programs. Today, there are drug courts in 29 counties using MIDAS and community correction programs in 34 counties utilizing all major components of MIDAS.

Revisions to MIDAS have already been made by the Board of Pardons and Paroles to provide a case management and data collection component for probation and parole officers, referred to as the Integrated Supervision Information System (ISIS). Modifications are being finalized to the Juvenile Probation Intake Treatment Integrated Resource (JUPITER), a version of MIDAS developed for utilization by juvenile probation officers. This version is now in its last stages of revision before going to test mode.

MIDAS is a valuable management and monitoring system for community supervision programs, and is provided by the Administrative Office of Courts free of charge. Future plans include expanding utilization to more community corrections programs and drug courts, incorporating a risk/needs tool, and incorporating an "inmate assessment" process initiated by the Alabama Department of Corrections to evaluate the classification records of medium security inmates to determine eligibility for transfer to minimum security work center facilities.

Dissemination of Sentencing Information – Criminal Justice Clearinghouse

Alabama Sentencing Commission Website and E-Worksheets

To provide the public with a general overview of the work of the Sentencing Commission and easy access to publications, the staff developed the Sentencing Commission's official website <http://sentencingcommission.alacourt.gov>. The website also includes information on utilization of the Sentencing Standards and completion of the worksheets, news articles regarding sentencing reform, announcements of Sentencing Commission meetings, minutes of Sentencing Commission and committee meetings, the Sentencing Commission's legislation, annual reports, and the Sentencing Reference Manual.

After development and implementation of the Initial Voluntary Sentencing Standards, to facilitate completion and submission of the worksheets, a separate website was provided to enable designated worksheet preparers to

complete the appropriate worksheet online (E-Worksheets) and submit the final form to the Sentencing Commission electronically. While E-Worksheets have been a great help to worksheet preparers in terms of time and cost savings, these forms are often completed and submitted prior to being finalized, i.e. while a probation hearing is pending, resulting in invalid worksheets being received which are not useable for data analysis. To resolve this problem, the Sentencing Commission voted to disconnect this feature as the “official” form and, beginning in 2010, require the filing of the final worksheet utilized by the court and signed or initialed by the judge. While these electronic worksheets can still be utilized for completing the factors, searching prior history, and adding the scores, the final worksheet considered by the court must be initialed or signed by the judge and submitted by the court clerk to the Sentencing Commission.

Uniform Sentencing Order

During the process of compiling and analyzing compliance data, the Sentencing Commission staff was confronted with two major obstacles hindering an accurate assessment of implementation of the Initial Sentencing Standards. First, because no uniform sentencing order existed, judges often imposed the same sentence in numerous, often inconsistent, ways. This, along with the fact that court specialists lacked sufficient training in the proper way to enter these sentences in the SJIS database, produced inaccurate and incomprehensible sentence entries.

To remedy this situation and improve the quality of sentencing data, the Sentencing Commission established the Uniform Sentencing Order Committee, charged with the task of developing a standard sentencing order for Alabama judges to use. A committee of judges, prosecutors, defense lawyers and others have been working on this project for more than two years, reviewing sentencing orders used throughout the State to determine the basic provisions to incorporate in the uniform order. The latest revision of this committee was finalized during their last meeting held on December 10, 2009. The final order will be presented to the Sentencing Commission for approval at its February 12, 2010 meeting. The Uniform Sentencing Order, included at the end of this Appendix, will be included in the 2010 Judges’ Sentencing Reference Manual and provided to AOC staff to incorporate in the criminal E-Filing system.

Reference Manual

One of the Legislative mandates in the Sentencing Reform Act, Act 2003-354, was for the Sentencing Commission to develop a judges sentencing reference manual. The first Sentencing Reference Manual included the sentencing statutes and case law, as well as an analysis of sentencing practices. Data included in the manual was based on a five-year cohort of felony offenders of the “Top 25” most frequent offenses of conviction. The manual contained simple explanations of the current practices and procedures governing parole and good time.¹

The Sentencing Commission staff updates this manual annually with the latest criminal statutes and case law, providing a general overview of Alabama’s sentencing laws and rules, available alternative sentencing, important cases relating to criminal sentencing, and a listing of key criminal justice contacts. This manual has been described by trial judges as “a gold mine” of Alabama sentencing law and practices.

Legislative Recommendations Enacted

Sentencing Reform Act

Act 2003-354, the Alabama Sentencing Reform Act, was an important legislative achievement for the Sentencing Commission inasmuch as it outlined the powers and duties of the Commission, set goals and objectives, provided for the development of voluntary sentencing standards, required the expansion of sentencing alternatives, and outlined a blueprint for the subsequent development and implementation of truth-in-sentencing standards. This

¹ The Sentencing Reference Manual can be downloaded from the Sentencing Commission’s website <http://sentencingcommission.alacourt.gov>

Act was later amended by adoption of the initial sentencing standards and worksheets in 2006 and in 2009 with postponement of development and implementation of the truth-in-sentencing standards until 2011.

Access to Data

From the outset, the Sentencing Commission realized that reliable data and data sharing among all criminal justice department and agencies was essential to accomplish its assigned tasks. While the Sentencing Commission's enabling act, Act 2000-596, included a provision requiring interagency cooperation with the Sentencing Commission and specified that information be provided, there was concern regarding access to confidential data and conflicting statutes on confidentiality. To overcome these obstacles and any reluctance regarding data sharing, the Sentencing Commission was successful in obtaining passage of SB 263 as Act 2002-503. Now codified as §12-25-11, *Code of Alabama 1975*, the Sentencing Commission is statutorily authorized to "have access to all offender records maintained by other state departments and agencies, including, but not limited to, the Department of Corrections, the Board of Pardons and Paroles, the Administrative Office of Courts, and the Alabama Criminal Justice Information Center." The confidentiality issues were resolved by including a provision stating that offender information received by the Sentencing Commission was to remain subject to the same confidentiality requirements of the department or agency providing the information, noting that the Sentencing Commission was authorized to release non-identifying offender information for statistical purposes. In addition, a provision was included that this information was to be provided to the Sentencing Commission electronically, if possible.

Another records access issue arose during the process of implementing the Initial Voluntary Sentencing Standards. It was brought to the Sentencing Commission's attention that juvenile and youthful offender records were not available statewide to court officials. To resolve this problem (which was a major one for criminal history records), at the request of the Sentencing Commission the Supreme Court issued an Order on August 31, 2006, expressly providing that these records, while not considered public records, would be made available to all judges, prosecutors, victim service officers, probation and parole officers, and court personnel for the sole purpose of completing the Sentencing Standards worksheets, without requiring a special hearing or special order from the court of adjudication.

Amendment of Theft and Value-Based Property Statutes

One proposal for sentencing reform recommended by the Sentencing Commission was amendment of 31 theft and value-based property statutes to raise felony thresholds, reflecting inflationary increases occurring since the statutes were initially adopted. This legislation was enacted as Act 2003-355 and became effective September 1, 2003. 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. This Act was a major accomplishment by the Alabama Legislature in recognizing that revision of Alabama's theft laws was well overdue and necessary to ensure that property values were consistent with other states and consistent with similar property crimes in Alabama's Criminal Code. Comparing the convictions and admissions in 2003 for the crimes of Theft of Property in the First and Second Degrees with those of 2007, there was a 3% decrease in theft 1st convictions, 1% decrease in Theft 2nd convictions and a 12% and 7% decrease in prison admissions for the respective offenses.

Maximum Authorized Fine Increase

Act 2006-197, effective June 1, 2006, amended § 13A-5-11 and § 13A-5-12 of the *Code of Alabama* to increase, based on the inflation index, the maximum amount of fines authorized to be assessed upon convictions for felonies and Class A and B misdemeanors as follows:

	1977 Amount		New Amount	Inflation Amount
Class A felony from	\$20,000	to	\$60,000	\$61,046.10
Class B felony from	\$10,000	to	\$30,000	\$30,523.05
Class C felony from	\$5,000	to	\$15,000	\$15,264.03
Class A misdemeanor	\$2,000	to	\$6,000	\$6,105.61
Class B misdemeanor	\$1,000	to	\$3,000	\$3,052.81

The maximum fine for Class C misdemeanors remained unchanged at \$500, although the inflationary value had increased to \$1,526.40. Similarly, although the inflation index suggested an increase to \$600, the maximum fine for state violations remained fixed at \$200.

The Sentencing Commission recommended these changes because the fine amounts in the Criminal Code had not been revised since they were originally set in 1977. The proposed fines were also comparable to those authorized in Tennessee, Georgia and Virginia, as well as to the fines imposed for new offenses in Florida, Mississippi and South Carolina (states that do not have a general fine statute or that have not revised their statute in many years).

These fine amounts are the maximum authorized (not required) to be assessed upon conviction and can produce additional revenue for the state. Pursuant to § 12-19-152 of the *Code of Alabama* 1975, all fines collected in state courts, with the exception of municipal ordinance violations or where otherwise designated for use by state agencies or departments, are deposited in the State General Fund.

Amendment of the Community Punishment and Corrections Act of 1991

Based on the Sentencing Commission's recommendation, the Legislature amended the Community Punishment and Corrections Act in 2003 with passage of Act No. 2003-353, effective July 30, 2003. These amendments ensured more accountability and encouraged the growth of local community corrections programs as alternatives to incarceration.

Among the Act's major provisions was establishment of a procedure to authorize counties to create community corrections programs by passage of a county resolution, rather than establishing non-profit authorities. The other key provision of the Act was the creation of a separate community corrections division in the Alabama Department of Corrections with a full-time director and support staff.

As a direct result of passage of these amendments and in recognition of the importance of the use of community corrections programs as an alternative to incarceration, over the last three years the Legislature has appropriated \$7.2 million from the General Fund for community corrections programs. These funds have been used as start-up grants for local programs as well as the operation of existing programs through reimbursements provided through the Alabama Department of Corrections for eligible felons diverted from prison. Today, there are 34 community corrections programs operating in 45 counties, which account for almost 3,000 felons diverted from prison in 2009.

2. Preliminary Findings – Sentencing Standards Compliance

2009 Sentencing Commission Report

Submission Compliance. The first data analysis indicated that valid worksheets were submitted to the Sentencing Commission in only 45% of the applicable cases statewide with county ranges from a low of 0% to a high of 89%. Twelve counties had submission rates above 70%, 25 counties had submission rates between 50% and 70%, 17 counties had submission rates above 30% but below 50%, 6 counties had submission rates between 10% and 30%, and 7 counties had submission rates below 10%. During the past year, the Sentencing Commission has reviewed recommended corrective measures to improve the process that resulted in the low submission rates. There is evidence, however, that actual compliance with the statutory requirement of considering the Sentencing Standards is much higher than the submission rate for the worksheets. Recommendations for improving the worksheets process are included in the Sentencing Commission's legislation proposing modifications to the Sentencing Standards that will be submitted in the 2010 Regular Session of the Legislature for approval.

Compliance rates were also obtained for the valid worksheets submitted based on 1) In/Out (Dispositional) Compliance, 2) Sentence Length Compliance and 3) Overall Compliance, and included in the Sentencing Commission's 2009 Report.

Dispositional Compliance. In/Out or dispositional compliance measures the number of times the judge follows the recommendation of the sentencing worksheet in either sentencing a defendant to incarceration in the penitentiary or according to a non-prison recommendation. Sixty one percent (61%) of the worksheets recommended an “Out” disposition; of those, 72% were in compliance with the worksheet recommendation. Thirty nine percent (39%) of the valid worksheets submitted had a prison recommendation, of which 79% were in compliance.

Sentence Length Compliance. Compliance by sentence length was determined for those offenses in which prison was the worksheet recommendation and was the sentence imposed by the court. Of these worksheets 49% were in compliance with the sentence length that was recommended, 33% were above the range recommended, 1.9% were below the recommended range and 16% were mixed.

Overall Compliance. Overall compliance with the Sentencing Standards worksheet recommendations means that for an “Out” recommendation, the judge imposes a non-prison sentence, and for a prison recommendation, that the defendant is sentenced to the penitentiary for a term which is within the recommended sentence range provided by the Sentencing Standards. For a mixed (split) sentence, compliance requires that the defendant be sentenced to the penitentiary on a split sentence and that the total sentence and the actual time to serve are both within the ranges recommended by the Sentencing Standards. The statewide overall compliance rate was 59%, with 27% of the sentencing events being “aggravated,” i.e. imposition of a prison sentence when the worksheets recommended a non-prison sentence or a prison sentence on an “In” recommendation with the sentence length higher than recommend by the Sentencing Standards. The “mitigated” category is composed of those non-prison sentences given when the worksheet recommendation is incarceration in the penitentiary and those prison sentences imposed based on a prison recommendation whose sentence length is lower than the sentence length recommended by the Sentencing Standards. Five percent of the worksheets submitted were for defendants sentenced to split sentences and at least one of the portions of the split (total sentence or incarceration portion) was not within the recommended worksheet range. The majority of noncompliant sentences falling within the “mixed” category were instances where the incarceration portion of the sentence actually complied with the Sentencing Standards’ recommendation, although the total sentence imposed exceeded the sentence length recommendation.

While the first measure of compliance with the Sentencing Standards falls short of the Sentencing Commission’s goal of 100% submission compliance and 75% overall compliance. It is encouraging that of the worksheets submitted, 79% showed compliance with the recommended prison dispositions and 72% of the non-prison recommendations were followed. In 68% of the sentencing events, the judge either followed the Sentencing Standards (59% compliant) or imposed a more lenient sentence than the Sentencing Standards recommended (9% mitigated sentences).

IN THE _____ COURT OF _____ COUNTY, ALABAMA
STATE OF ALABAMA v. _____

The Defendant appears in court for sentencing with counsel, _____, and having pled or been found guilty, is **adjudicated** guilty of _____, under Section _____, *Code of Alabama* 1975, as charged/embraced/amended in Count _____ of the Information/Indictment. A **Presentence Report** is considered by the Court is waived will be considered at probation hearing. Having been given an opportunity to say why sentence should not now be imposed, the Defendant is hereby **sentenced** to a term of _____ months in the custody of :

- Department of Corrections
- Community Corrections
- County Jail.

The Defendant shall be given **jail credit** in an amount certified by the Court Clerk.

The sentence shall run consecutively concurrently, with _____.

I. SENTENCE LENGTH DETERMINATION

A. This is a sentencing event covered by the sentencing standards. Yes No

1. If no, go to paragraph B.

2. If yes, the Court has considered the worksheet recommendations. Yes No

3. The recommended sentence disposition is Prison Non-Prison.

4. The recommended sentence length is _____ to _____ months (total); _____ to _____ months (incarceration portion, if split).

B. Because this sentence is not imposed under the sentencing standards, the following enhancements apply:

1. Habitual Offender Act; the Court finds the Defendant has been duly convicted of _____ prior adult felony offense(s) and had reasonable notice of the State's intention to seek enhancement under this Act

2. 5 years for the Sale of Drugs within 3 miles of a school

3. 5 years for the Sale of Drugs within 3 miles of a housing project

4. Firearm or Deadly Weapon enhancement

5. _____

II. COURT COSTS, FINES, ASSESSMENTS, FEES & RESTITUTION

A. The Defendant shall pay to the Court Clerk:

Court Costs.

Fine of \$_____.

Alabama Crime Victims Compensation Assessment of \$_____.

Appointed Attorney Fees of \$_____ in an amount to be determined.

Restitution (jointly & severally with any co-defendant) to _____ of \$_____ in an amount to be determined by further hearing on _____.

_____.

B. The following are remitted: _____.

III. DRUG OFFENSE – The Defendant shall surrender all Driver's Licenses to the Department of Public Safety for suspension, pay CRO Fees, successfully complete a Substance Abuse Program, pay the Forensic Science Trust Fund fee of \$100, and pay the Drug Demand Reduction Assessment of \$____,000 which may be suspended pursuant to Section 13A-12-284, *Code of Alabama* 1975.

IV. PAYMENT

A. The full amount shall be paid: in full by _____ in installments in the amount of \$_____ each month with the first payment on _____ and on or before the same day each month thereafter.

B. Payment shall be a condition of probation, parole, community corrections, work release, SIR, SRP or any other release program.

C. ADOC or the Sheriff, if the inmate is incarcerated in the county jail, shall collect monthly _____% of the inmate's institutional account and forward payments to the Court Clerk at least once every three months.

D. Court Clerk shall apply payments to restitution first.

V. APPLICATION FOR PROBATION is set for a hearing on _____. Imposition of this sentence is hereby suspended and the Defendant is continued on the same \$_____ bond until the hearing. A pre-sentence investigation report shall shall not be prepared.

DONE and ORDERED _____ (date) _____ **JUDGE**

VI. DISPOSITION

- This is a **straight** sentence to be served.
- This sentence is **suspended**. The Defendant is placed on straight probation for a term of _____ months. The Defendant shall abide by all conditions, rules and regulations of the supervising agency and those specifically noted in this Order.

This probation shall be supervised by:

- State Probation Community Corrections _____ Unsupervised.

- This is a **split** sentence. The Defendant shall **serve** a term of _____ months, in the:
 - Department of Corrections Community Corrections County Jail _____, beginning on _____.
 - The Court may reconsider the split portion of this sentence after the defendant completes
 - ADOC Substance Abuse Program _____

Following incarceration, the unserved portion of the sentence shall be suspended and the defendant shall be placed on probation for a term of _____ months.

The Defendant shall abide by all conditions, rules and regulations of the supervising agency and those noted in this Order.

This probation shall be supervised by:

- State Probation Community Corrections _____ Unsupervised.

VII. SPECIAL CONDITIONS

The Defendant shall fulfill every item marked as a special condition of probation, community corrections or other such program.

Enroll in, cooperate fully with, and successfully complete all of the following marked programs as directed by any supervising agency, and file proof of completion with the supervising agency:

- | | |
|--|---|
| <input type="checkbox"/> Anger Management Training | <input type="checkbox"/> Parenting Skills Training |
| <input type="checkbox"/> Domestic Violence Education/Treatment | <input type="checkbox"/> Sex Offender Evaluation /Treatment |
| <input type="checkbox"/> Life Skills Training | <input type="checkbox"/> Substance Abuse Evaluation/Treatment |
| <input type="checkbox"/> Mental Health Evaluation/Treatment | <input type="checkbox"/> _____ |

- Avoid initiating any contact with _____
- Complete _____ hours of community service at _____
- _____.

VIII. APPEAL

The Defendant pled guilty and for appeal did not reserve any issues reserved these issues:

_____.

IX. DISTRIBUTION OF COPIES

If the conviction is a sentencing standards worksheet offense (see I.A.), the Court Clerk shall forward to the Alabama Sentencing Commission within 45 days of this Order a copy of this Sentencing Order and a copy of the Sentencing Standards worksheet in this case.

The Court Clerk shall provide a copy of this Sentencing Order to counsel for all parties.

DONE and ORDERED _____ (date) _____, **JUDGE**

APPENDIX B

Example Page Layout	1
<u>Worksheet Offense</u>	
Assault 1st	2
Assault 2nd	3
Burglary 1st	4
Burglary 2nd	5
Burglary 3rd	6
Distribution of Controlled Substance	7
Felony DUI	8
Forgery 2nd	9
Manslaughter	10
Murder	11
Possession of Controlled Substance	12
Possession of Forged Instrument 2nd	13
Possession of Marihuana 1st	14
Possession/Use of Credit/Debit Card	15
Rape 1st	16
Rape 2nd	17
Receiving Stolen Property 1st	18
Receiving Stolen Property 2nd	19
Robbery 1st	20
Robbery 2nd	21
Robbery 3rd	22
Sodomy 1st	23
Sodomy 2nd	24
Theft of Property 1st	25
Theft of Property 2nd	26
Unauthorized Use/Breaking & Entering Vehicle	27

Appendix Layout

This appendix contains additional information for the 26 offenses covered by the sentencing standards and worksheets with a dedicated page for each offense. The example below describes the data displayed for each of the offenses in this Appendix.

Offense Name	Felony Classification (A, B, or C) § Code Section	
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>> CONVICTIONS¹

Average Number of Convictions (FY 2004 - 2008) #

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
	The percentage that offenders convicted of this offense represent of the total number of felony offenders in Alabama.	%	%	%	%

>> PRISON ADMISSIONS²

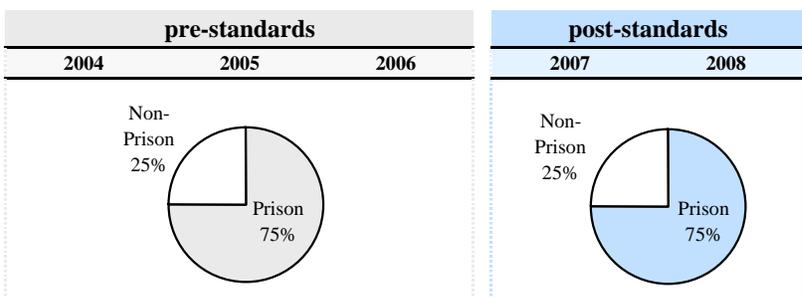
	pre-standards			post-standards	
	2004	2005	2006	2007	2008
	The percentage of the total population of prison admissions for offenders convicted of this offense.	%	%	%	%

>> PRISON SENTENCES¹ - 1st Timers - - - defined as offenders convicted of a single count having no prior Alabama felony convictions

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
	The percentage of 1st Time offenders convicted of this offense that received a prison sentence.	%	%	%	%
The prison sentence midpoint for 1st Time offenders - 1/2 of offenders are sentenced above the midpoint and 1/2 are sentenced below (in months).	#	#	#	#	#
The average (mean) prison sentence for 1st Time offenders (in months).	#	#	#	#	#

>> SENTENCE DISPOSITION¹

The percentage of offenders convicted of this offense that received prison vs. non-prison sentences before (FY04-06) and after (FY07-08) implementation of the standards.



¹ Source: Alabama Administrative Office of Courts

² Source: Alabama Department of Corrections

Assault 1st

Class B Felony
§ 13A-6-20

>> CONVICTIONS

Average Number of Convictions 148

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.7%	0.7%	0.7%	1.0%	0.9%

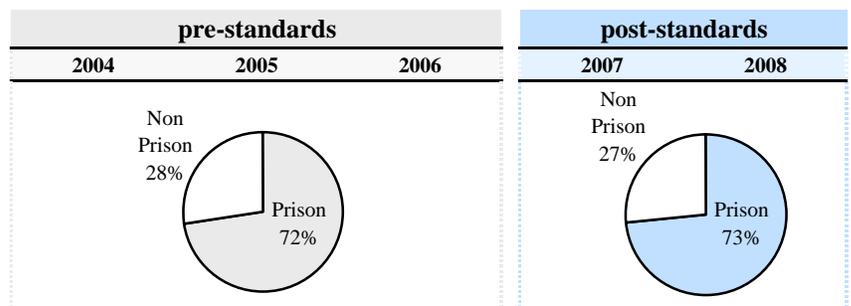
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	1.0%	1.0%	1.0%	1.4%	1.4%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	67.8%	69.0%	54.1%	63.6%	64.3%
Midpoint	48	24	42	36	36
Average	78	57	76	80	66

>> SENTENCE DISPOSITION



Assault 2nd

Class C Felony
§ 13A-6-21

>> CONVICTIONS

Average Number of Convictions 407

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	2.4%	2.2%	1.9%	2.3%	2.3%

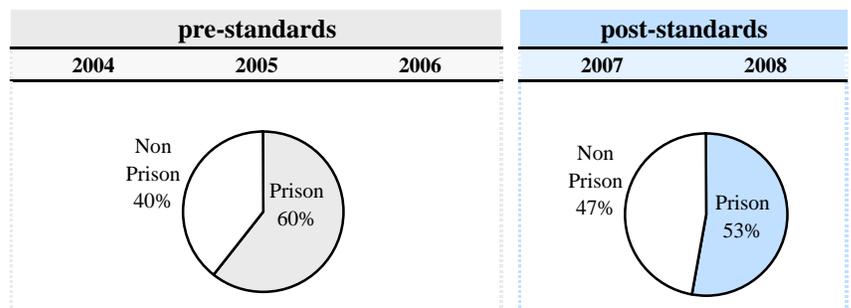
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	2.5%	2.5%	2.2%	2.4%	2.5%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	50.7%	47.1%	45.1%	36.6%	37.2%
Midpoint	36	36	36	24	36
Average	50	47	55	40	43

>> SENTENCE DISPOSITION



Burglary 1st

Class A Felony
§ 13A-7-5

>> CONVICTIONS

Average Number of Convictions 119

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.7%	0.8%	0.8%	0.5%	0.4%

>> PRISON ADMISSIONS

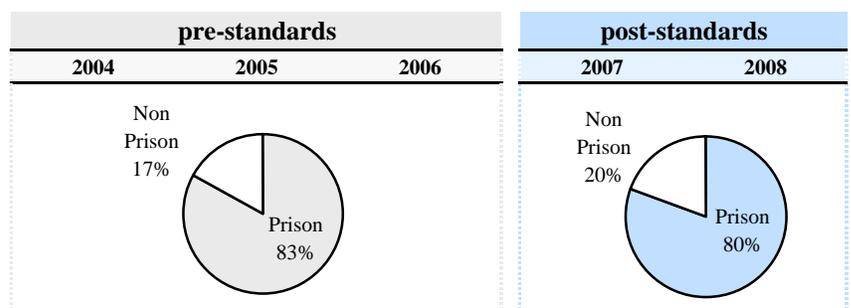
	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	1.3%	1.9%	1.7%	1.8%	1.5%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008*
% of 1st Timers Receiving a Prison Sentence	70.6%	86.5%	63.4%	69.7%	64.0%
Midpoint	120	42	60	48	36
Average	101	96	92	81	81

*20 or fewer offenders statewide

>> SENTENCE DISPOSITION



Burglary 2nd

Class B Felony
§ 13A-7-6

>> CONVICTIONS

Average Number of Convictions 147

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.9%	0.8%	0.9%	0.8%	0.6%

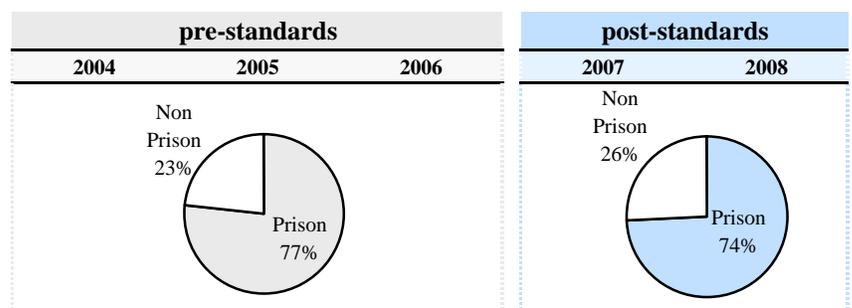
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	1.3%	1.5%	1.5%	1.4%	1.2%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	70.7%	69.6%	65.2%	54.2%	61.9%
Midpoint	36	60	36	24	46
Average	57	87	62	54	60

>> SENTENCE DISPOSITION



Burglary 3rd

Class C Felony
§ 13A-7-7

>> CONVICTIONS

Average Number of Convictions 1,187

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	5.8%	6.3%	6.3%	6.5%	7.2%

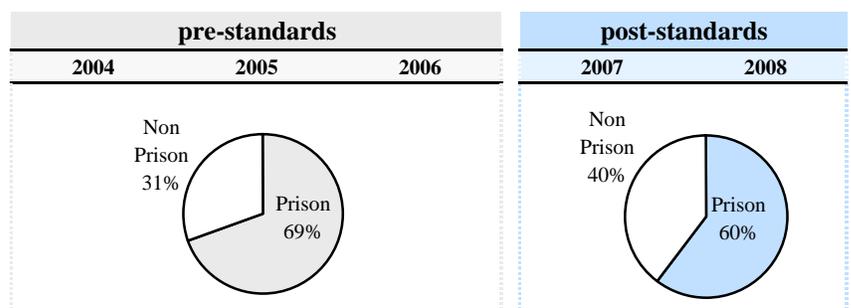
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	6.9%	7.6%	7.4%	7.5%	7.7%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	51.7%	48.1%	45.0%	38.4%	34.2%
Midpoint	36	24	36	24	24
Average	44	34	41	35	34

>> SENTENCE DISPOSITION



Distribution of Controlled Substance

Class B Felony
§ 13A-12-211

>> CONVICTIONS

Average Number of Convictions 945

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	5.0%	5.1%	5.1%	5.0%	5.5%

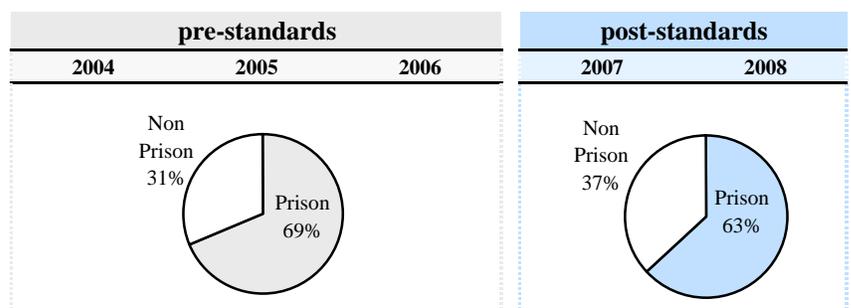
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	7.9%	7.8%	7.9%	7.4%	8.4%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	67.3%	55.5%	56.6%	41.8%	52.9%
Midpoint	36	36	30	36	36
Average	63	60	56	56	56

>> SENTENCE DISPOSITION



Felony DUI

Class C Felony
§ 32-5A-19(h)

>> CONVICTIONS

Average Number of Convictions 710

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	6.0%	5.4%	4.8%	2.9%	0.7%

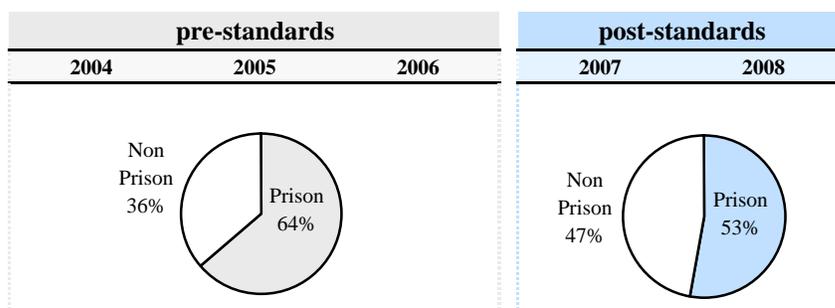
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	6.5%	6.3%	5.3%	3.9%	1.6%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	56.9%	52.6%	48.6%	47.1%	36.2%
Midpoint	24	36	24	12	36
Average	35	35	36	28	41

>> SENTENCE DISPOSITION



Forgery 2nd

Class C Felony
§ 13A-9-3

>> CONVICTIONS

Average Number of Convictions 278

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	1.6%	1.6%	1.3%	1.5%	1.6%

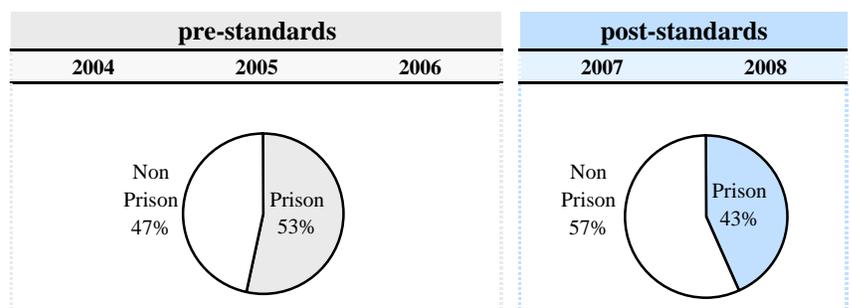
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	1.7%	1.6%	1.4%	1.3%	1.5%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	39.1%	43.6%	27.6%	21.7%	22.4%
Midpoint	36	36	36	24	30
Average	44	39	35	24	37

>> SENTENCE DISPOSITION



Manslaughter

Class B Felony
§ 13A-6-3

>> CONVICTIONS

Average Number of Convictions 117

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.5%	0.7%	0.6%	0.6%	0.7%

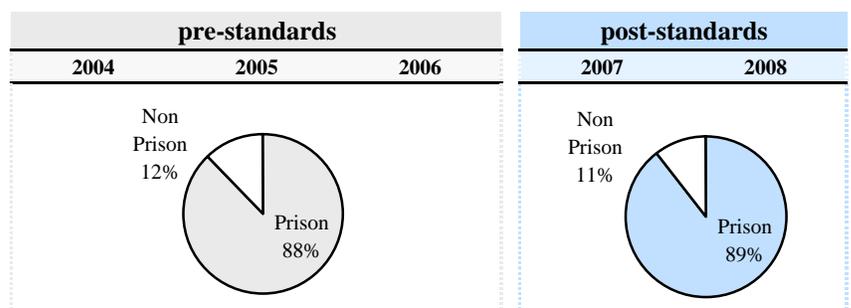
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	0.9%	1.1%	1.0%	0.9%	1.2%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	83.9%	84.3%	85.7%	84.1%	90.5%
Midpoint	120	180	180	60	72
Average	128	139	160	116	120

>> SENTENCE DISPOSITION



Murder

Class A Felony
§ 13A-6-2

>> CONVICTIONS

Average Number of Convictions 135

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.5%	0.6%	0.8%	0.9%	0.8%

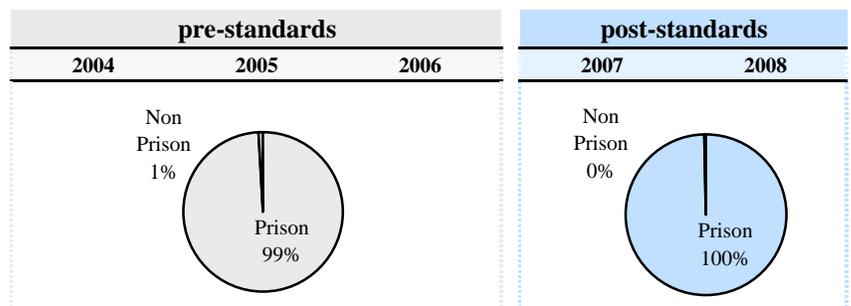
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	1.2%	1.6%	2.0%	2.2%	1.6%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	100.0%	98.6%	100.0%	100.0%	98.9%
Midpoint	360	360	348	300	360
Average	370	393	390	364	355

>> SENTENCE DISPOSITION



Possession of Controlled Substance

Class C Felony
§ 13A-012-212

>> CONVICTIONS

Average Number of Convictions 4,597

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	23.1%	24.7%	26.1%	26.3%	24.7%

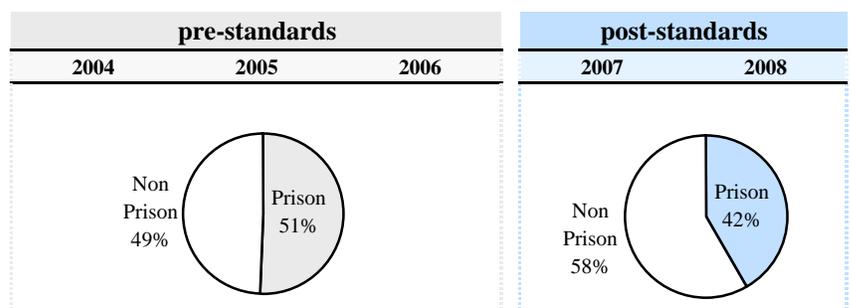
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	14.8%	16.0%	16.7%	18.0%	17.5%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	42.1%	40.0%	33.9%	28.8%	27.3%
Midpoint	24	36	36	24	24
Average	34	36	36	32	37

>> SENTENCE DISPOSITION



Possession of Forged Instrument 2nd

Class C Felony
§ 13A-9-6

>> CONVICTIONS

Average Number of Convictions 870

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	5.0%	5.4%	4.7%	4.6%	4.1%

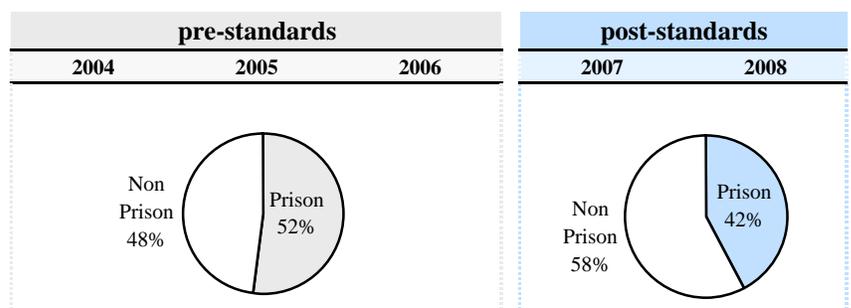
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	3.8%	3.8%	3.5%	3.7%	3.4%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	36.3%	38.4%	33.9%	24.3%	21.9%
Midpoint	24	24	36	24	24
Average	38	27	37	32	32

>> SENTENCE DISPOSITION



Possession of Marihuana 1st

Class C Felony
§ 13A-12-213

>> CONVICTIONS

Average Number of Convictions 928

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	5.2%	5.4%	4.6%	4.9%	5.2%

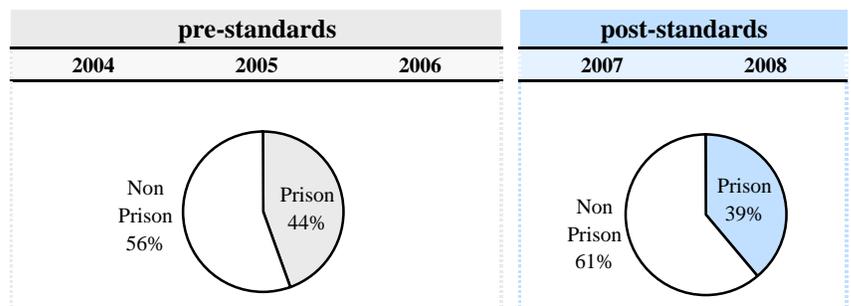
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	4.2%	4.8%	4.1%	4.7%	4.5%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	35.8%	32.3%	31.7%	24.3%	23.9%
Midpoint	24	24	24	24	24
Average	33	35	35	26	38

>> SENTENCE DISPOSITION



Possession/Use of Credit/Debit Card

Class C Felony
§ 13A-9-14

>> CONVICTIONS

Average Number of Convictions 283

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	1.4%	1.4%	1.6%	1.5%	1.8%

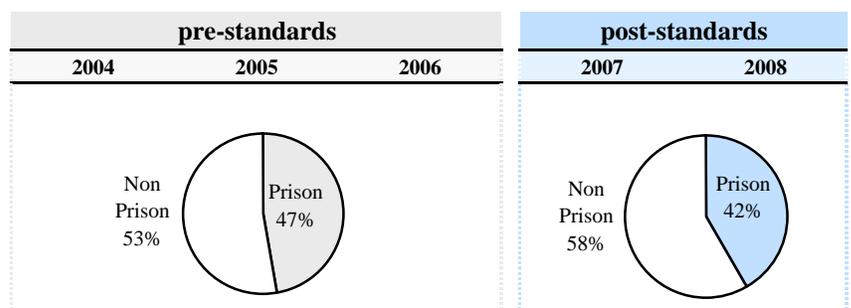
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	1.1%	1.1%	1.0%	1.2%	1.5%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	28.7%	34.7%	30.6%	24.1%	23.1%
Midpoint	24	24	24	24	36
Average	25	33	33	30	33

>> SENTENCE DISPOSITION



Rape 1st

Class A Felony
§ 13A-6-61

>> CONVICTIONS

Average Number of Convictions 69

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.4%	0.3%	0.3%	0.3%	0.5%

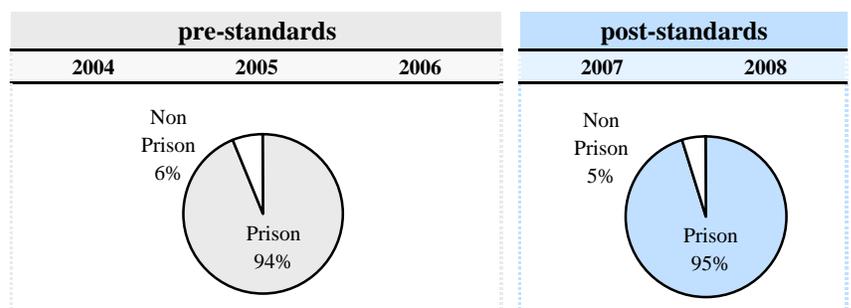
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	0.6%	0.8%	0.9%	0.7%	0.8%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	87.5%	88.6%	92.6%	92.6%	91.4%
Midpoint	180	180	60	240	180
Average	236	236	164	199	171

>> SENTENCE DISPOSITION



Rape 2nd

Class B Felony
§ 13A-6-62

>> CONVICTIONS

Average Number of Convictions 105

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.6%	0.6%	0.5%	0.5%	0.6%

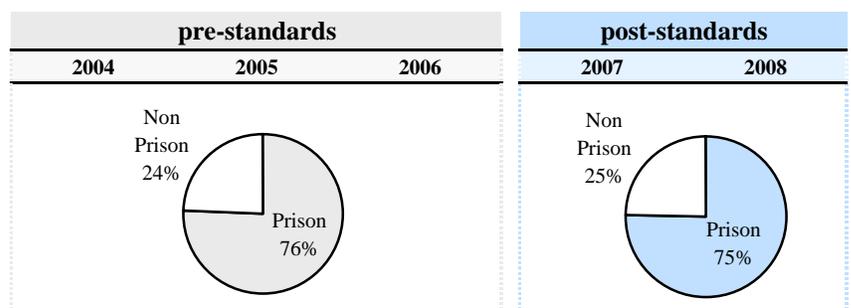
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	0.8%	0.9%	1.2%	1.0%	1.1%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	72.9%	71.4%	69.1%	71.7%	68.4%
Midpoint	48	60	48	28	60
Average	67	71	70	54	76

>> SENTENCE DISPOSITION



Receiving Stolen Property 1st

Class B Felony
§ 13A-8-17

>> CONVICTIONS

Average Number of Convictions 353

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	2.1%	1.8%	1.7%	1.9%	2.2%

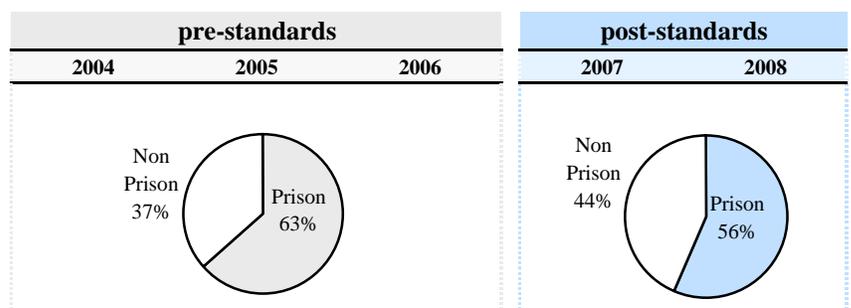
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	2.6%	2.6%	2.4%	2.6%	2.8%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	43.2%	45.9%	48.5%	34.7%	36.5%
Midpoint	36	36	36	36	24
Average	49	49	48	54	43

>> SENTENCE DISPOSITION



Receiving Stolen Property 2nd

Class C Felony
§ 13A-8-18

>> CONVICTIONS

Average Number of Convictions 378

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	2.3%	2.0%	2.1%	1.9%	2.0%

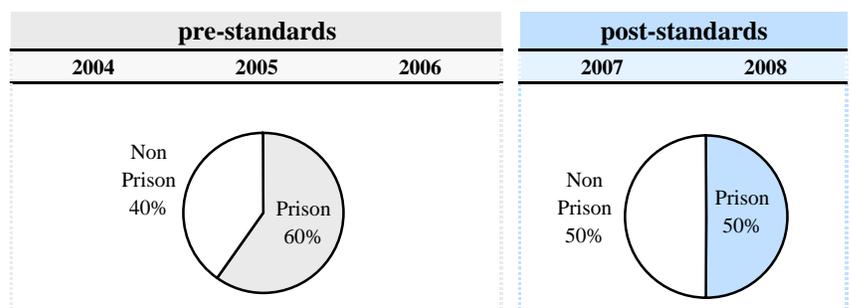
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	2.2%	1.6%	2.0%	1.5%	1.4%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	43.6%	39.3%	41.3%	30.2%	28.1%
Midpoint	36	24	24	24	24
Average	38	38	36	36	32

>> SENTENCE DISPOSITION



Robbery 1st

Class A Felony
§ 13A-8-41

>> CONVICTIONS

Average Number of Convictions 468

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	2.4%	2.1%	2.5%	2.8%	3.0%

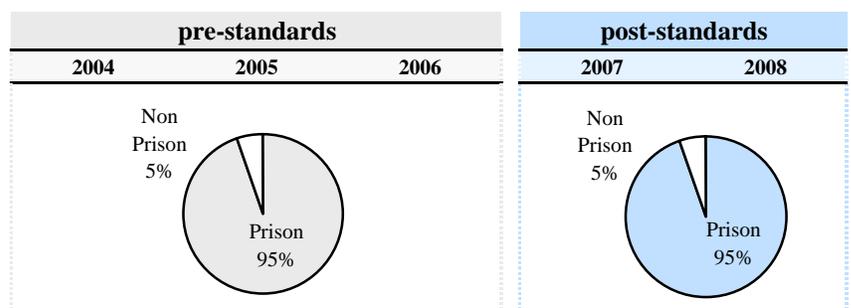
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	3.9%	4.4%	5.4%	6.1%	6.5%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	93.1%	92.4%	90.4%	91.4%	91.7%
Midpoint	48	48	48	42	60
Average	115	130	129	92	124

>> SENTENCE DISPOSITION



Robbery 2nd

Class B Felony
§ 13A-8-42

>> CONVICTIONS

Average Number of Convictions 136

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.8%	0.7%	0.7%	0.7%	0.8%

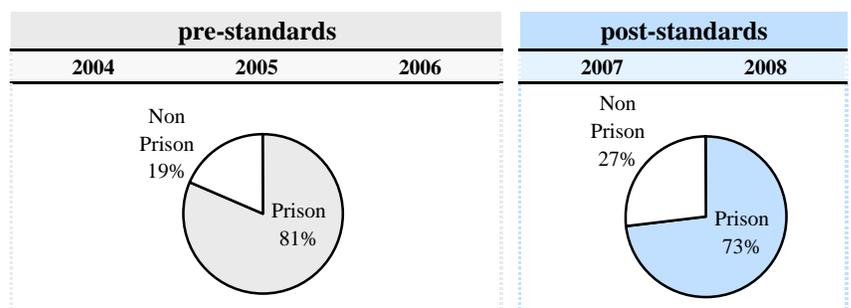
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	1.3%	1.3%	1.6%	1.5%	1.7%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	85.5%	71.2%	77.8%	66.7%	58.8%
Midpoint	36	60	36	30	84
Average	65	85	71	51	92

>> SENTENCE DISPOSITION



Robbery 3rd

Class C Felony
§ 13A-8-43

>> CONVICTIONS

Average Number of Convictions 295

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	1.8%	1.6%	1.7%	1.5%	1.5%

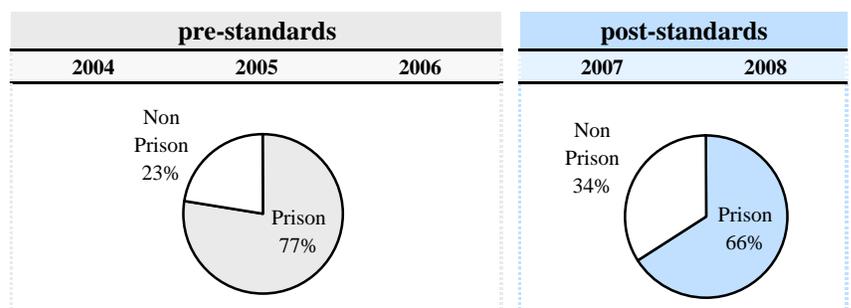
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	2.3%	2.4%	2.5%	2.4%	2.3%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	66.3%	64.2%	57.4%	36.6%	49.0%
Midpoint	60	36	24	36	37
Average	61	56	48	37	55

>> SENTENCE DISPOSITION



Sodomy 1st

Class A Felony
§ 13A-6-63

>> CONVICTIONS

Average Number of Convictions 77

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.3%	0.5%	0.5%	0.4%	0.4%

>> PRISON ADMISSIONS

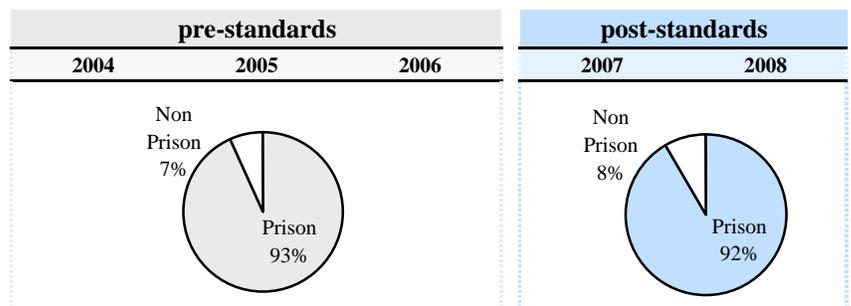
	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	0.4%	0.6%	0.5%	0.4%	0.4%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004*	2005*	2006*	2007*	2008*
% of 1st Timers Receiving a Prison Sentence	82.4%	90.9%	66.7%	75.0%	76.5%
Midpoint	180	210	49	132	240
Average	176	272	119	146	262

*20 or fewer offenders statewide

>> SENTENCE DISPOSITION



Sodomy 2nd

Class B Felony
§ 13A-6-64

>> CONVICTIONS

Average Number of Convictions 29

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	0.2%	0.1%	0.2%	0.1%	0.2%

>> PRISON ADMISSIONS

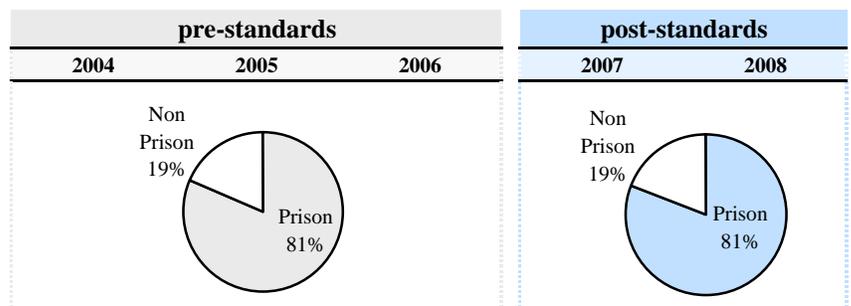
	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	0.2%	0.1%	0.2%	0.1%	0.3%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004*	2005*	2006*	2007*	2008*
% of 1st Timers Receiving a Prison Sentence	64.3%	90.0%	58.3%	66.7%	71.4%
Midpoint	36	36	36	12	49
Average	50	70	69	22	86

*20 or fewer offenders statewide

>> SENTENCE DISPOSITION



Theft of Property 1st

Class B Felony
§ 13A-8-3

>> CONVICTIONS

Average Number of Convictions 927

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	5.3%	4.7%	4.6%	5.1%	5.5%

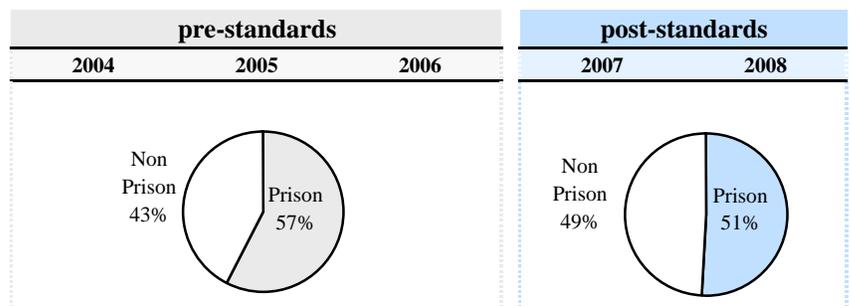
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	5.9%	5.7%	5.4%	5.1%	5.7%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	42.5%	40.3%	39.3%	31.4%	30.1%
Midpoint	36	36	36	24	36
Average	56	54	50	42	43

>> SENTENCE DISPOSITION



Theft of Property 2nd

Class C Felony
§ 13A-8-4

>> CONVICTIONS

Average Number of Convictions 1,057

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	6.1%	5.4%	5.6%	5.7%	5.9%

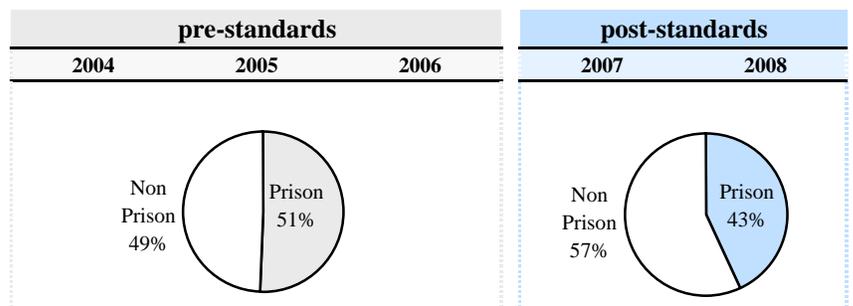
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	4.2%	4.2%	4.4%	3.8%	3.5%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	38.2%	34.2%	25.1%	24.9%	24.4%
Midpoint	24	36	24	24	24
Average	34	42	32	29	31

>> SENTENCE DISPOSITION



Unauthorized Use/Break & Entering Vehicle

Class C Felony
§ 13A-8-11(a)(4) & (b)

>> CONVICTIONS

Average Number of Convictions 339

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Convicted Felony Offenders	2.0%	1.9%	1.8%	1.9%	1.8%

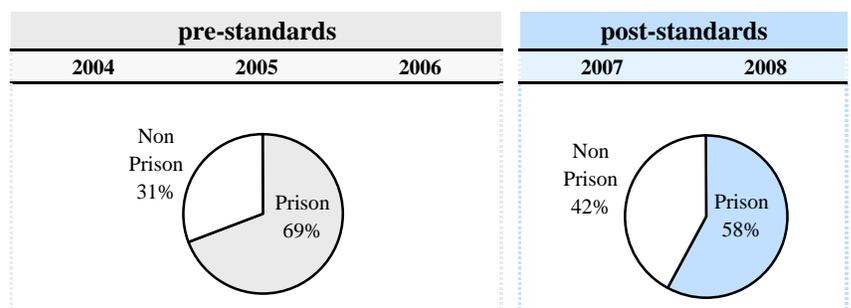
>> PRISON ADMISSIONS

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of Prison Admissions	2.9%	2.3%	2.2%	2.5%	2.6%

>> PRISON SENTENCES - 1st Timers

	pre-standards			post-standards	
	2004	2005	2006	2007	2008
% of 1st Timers Receiving a Prison Sentence	52.7%	46.2%	55.6%	27.8%	36.1%
Midpoint	33	24	24	24	24
Average	35	29	32	28	30

>> SENTENCE DISPOSITION



APPENDIX C

Community Corrections Programs

List of Community Corrections Programs	1
List of Counties with Community Corrections Programs	2
Map of Community Corrections Programs	3

Drug Courts

List of Drug Courts	4
Map of Drug Courts	7

Community Corrections Programs

34 Programs Serving 45 Counties

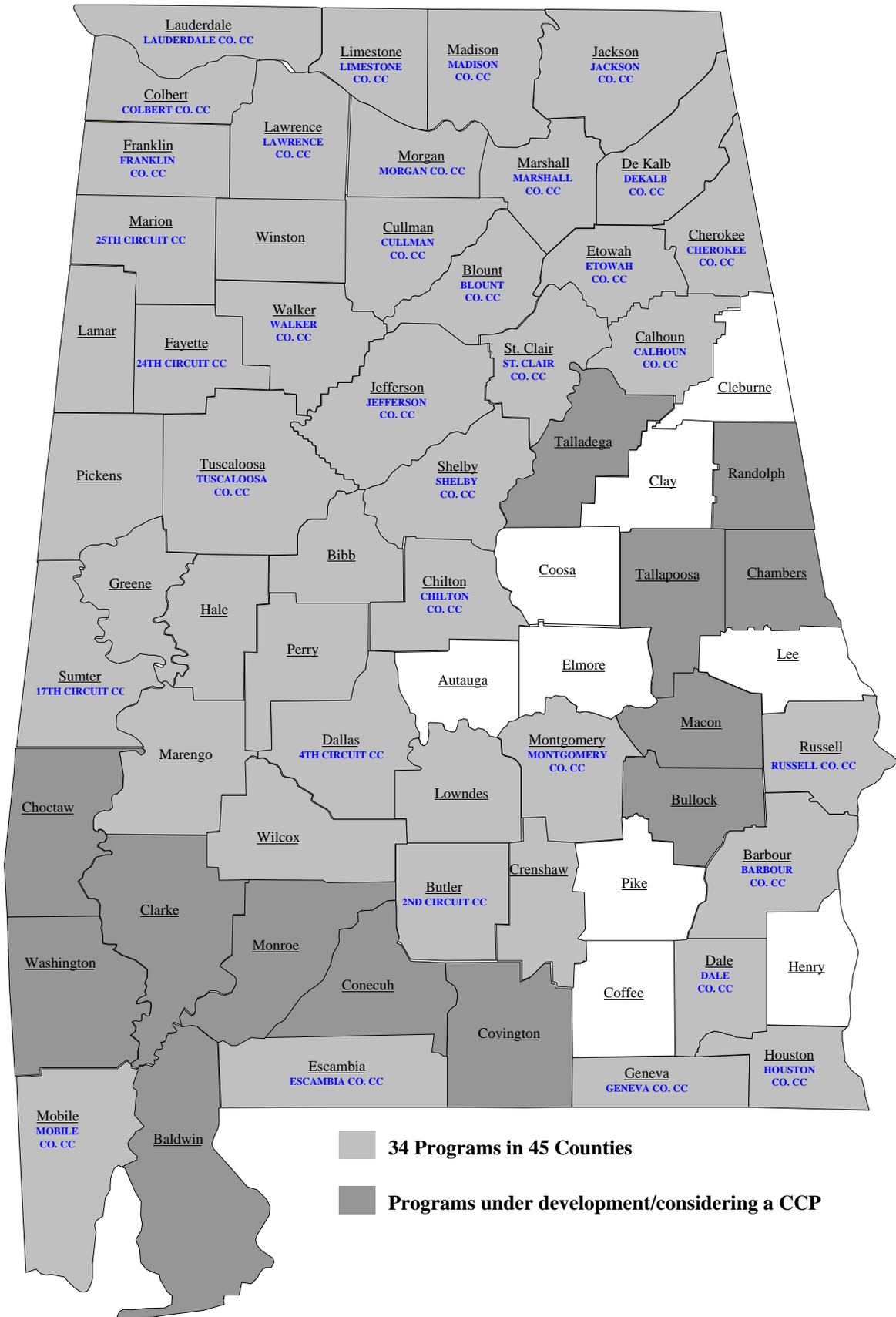
As of January 2010

1. 2nd Judicial Circuit Community Corrections - Butler, Crenshaw, Lowndes
2. 4th Judicial Circuit Community Corrections - Bibb, Dallas, Hale, Perry and Wilcox
3. 17th Judicial Circuit Community Corrections - Greene, Marengo and Sumter
4. 24th Judicial Circuit Community Corrections - Fayette, Lamar & Pickens Counties
5. 25th Judicial Circuit Community Corrections - Marion & Winston Counties
6. Barbour County Community Corrections
7. Blount County Community Corrections
8. Calhoun County Community Punishment & Corrections Authority
9. Cherokee County Community Corrections
10. Chilton County Community Corrections
11. Colbert County Community Corrections
12. Cullman County Community Corrections
13. Dale County Community Corrections
14. DeKalb County Community Corrections
15. Escambia County Community Corrections
16. Etowah County Community Corrections
17. Franklin County Community Corrections
18. Geneva County Community Corrections
19. Houston County Community Corrections
20. Jackson County Community Punishment & Corrections
21. Jefferson County Community Corrections – TASC
22. Lauderdale County Community Punishment & Corrections Authority
23. Lawrence County Community Corrections
24. Limestone County Community Corrections
25. Madison County Community Corrections
26. Marshall County Community Corrections
27. Mobile County Community Corrections Center
28. Montgomery County Community Punishment and Corrections
29. Morgan County Community Corrections
30. Russell County Community Corrections
31. Shelby County Community Corrections
32. St. Clair County Community Corrections
33. Tuscaloosa County Community Corrections
34. Walker County Community Corrections

Counties with Existing Community Punishment and Corrections Programs
For Eligible Felony Offenders
As of January 2010

1. Bibb - 4th Judicial Circuit Community Corrections
2. Barbour - Barbour County Community Corrections
3. Blount - Blount County Community Corrections
4. Butler - 2nd Judicial Circuit Community Corrections
5. Calhoun - Calhoun County Community Punishment & Corrections Authority
6. Cherokee - Cherokee County Community Corrections
7. Chilton - Chilton County Community Corrections
8. Colbert - Colbert County Community Corrections
9. Crenshaw - 2nd Judicial Circuit Community Corrections
10. Cullman - Cullman County Community Corrections
11. Dale - Dale County Community Corrections
12. Dallas - 4th Judicial Circuit Community Corrections
13. DeKalb - DeKalb County Community Corrections
14. Escambia - Escambia County Community Corrections
15. Etowah - Etowah County Community Corrections
16. Fayette - 24th Judicial Circuit Community Corrections
17. Franklin - Franklin County Community Corrections
18. Geneva - Geneva County Community Corrections
19. Greene - 17th Circuit Community Corrections
20. Hale - 4th Judicial Circuit Community Corrections
21. Houston - Houston County Community Corrections
22. Jackson - Jackson County Community Punishment & Corrections
23. Jefferson - Jefferson County Community Corrections – TASC
24. Lamar - 24th Judicial Circuit Community Corrections
25. Lauderdale - Lauderdale County Community Punishment & Corrections Authority
26. Lawrence - Lawrence County Community Corrections
27. Limestone - Limestone County Community Corrections
28. Lowndes - 2nd Judicial Circuit Community Corrections
29. Madison - Madison County Community Corrections
30. Marengo - 17th Circuit Community Corrections
31. Marion - 25th Judicial Circuit Community Corrections
32. Marshall - Marshall County Community Corrections
33. Mobile - Mobile County Community Corrections Center
34. Montgomery - Montgomery County Community Punishment & Corrections
35. Morgan - Morgan County Community Corrections
36. Perry - 4th Judicial Circuit Community Corrections
37. Pickens - 24th Judicial Circuit Community Corrections
38. Russell - Russell County Community Corrections
39. Shelby - Shelby County Community Corrections
40. St. Clair - St. Clair County Community Corrections
41. Sumter - 17th Circuit Community Corrections
42. Tuscaloosa - Tuscaloosa County Community Corrections
43. Walker - Walker County Community Corrections
44. Wilcox - 4th Judicial Circuit Community Corrections
45. Winston - 25th Judicial Circuit Community Corrections

ALABAMA COMMUNITY CORRECTIONS PROGRAMS



ALABAMA ADULT DRUG COURTS
53 Drug Courts in 50 Counties
(as of January 2010)

Baldwin County Drug Court 28 th Judicial Circuit Circuit Judge Robert Wilters	Barbour County Drug Court 3 rd Judicial Circuit Circuit Judge Burt Smithart
Bibb County Drug Court 4 th Judicial Circuit District Judge William Owings	Bullock County Drug Court 3 rd Judicial Circuit Circuit Judge Burt Smithart
Butler County Drug Court 2 nd Judicial Circuit District Judge Terri Bozeman Lovell	Calhoun County Drug Court 7 th Judicial Circuit Circuit Judge Joel Laird
Chambers County Drug Court 5 th Judicial Circuit District Judge Calvin Milford	Cherokee County Drug Court 9 th Judicial Circuit District Judge Sheri Carver
Choctaw County Drug Court 1 st Judicial Circuit Retired Circuit Judge Harold Crow	Clarke County Drug Court 1 st Judicial Circuit Retired Circuit Judge Harold Crow
Clay County Drug Court 40 th Judicial Circuit Circuit Judge John Rochester	Cleburne County Drug Court 7 th Judicial Circuit Circuit Judge Joel Laird
Colbert County Drug Court 31 st Judicial Circuit Circuit Judge Jacqueline Hatcher	Coosa County Drug Court 40 th Judicial Circuit Circuit Judge John Rochester
Crenshaw County Drug Court 2 nd Judicial Circuit District Judge Terri Bozeman Lovell	Cullman County Drug Court 32 nd Judicial Circuit District Judge Greg Nicholas District Judge Kim Chaney
Dale County Drug Court 33 rd Judicial Circuit District Judge Fred Steagall	Dallas County Drug Court 4 th Judicial Circuit District Judge Robert Armstrong
DeKalb County Drug Court 9 th Judicial Circuit Retired District Judge Steven Whitmire	Elmore County Drug Court 19 th Judicial Circuit Circuit Judge John Bush District Judge Glenn Goggans
Escambia County Drug Court 21 st Judicial Circuit Circuit Judge Bradley Byrne	Etowah County Drug Court 16 th Judicial Circuit District Judge William Russell

Franklin County Drug Court
34th Judicial Circuit
Circuit Judge Terry Dempsey

Greene County Drug Court
17th Judicial Circuit
Circuit Judge Eddie Hardaway

Jackson County Drug Court
38th Judicial Circuit
Circuit Judge John Graham

**Jefferson County
Bessemer Property Drug Court**
10th Judicial Circuit
Circuit Judge Teresa Petelos

Lauderdale County Drug Court
1st Judicial Circuit
Circuit Judge Michael Jones

Limestone County Drug Court
39th Judicial Circuit
District Judge Jerry Batts

Madison County Drug Court
23rd Judicial Circuit
District Judge Lynn Sherrod

Marion County Drug Court
25th Judicial Circuit
Circuit Judge Lee Carter

Mobile County Drug Court
13th Judicial Circuit
District Judge Mike McMaken

Morgan County Drug Court
8th Judicial Circuit
Circuit Judge Glenn Thompson

Randolph County Drug Court
5th Judicial Circuit
District Judge Patrick Whaley

Shelby County Drug Court
18th Judicial Circuit
Circuit Judge Michael Joiner

Geneva County Drug Court
33rd Judicial Circuit
District Judge Charles Fleming

Hale County Drug Court
4th Judicial Circuit
District Judge Sonny Ryan

**Jefferson County Drug Court
Bessemer**
10th Judicial Circuit
District Judge Eric Fancher

**Jefferson County Drug Court
Birmingham**
10th Judicial Circuit
District Judge Shanta Owens

Lawrence County Drug Court
36th Judicial Circuit
Retired Circuit Judge Philip Reich

Lowndes County Drug Court
2nd Judicial Circuit
District Judge Terri Bozeman Lovell

Marengo County Drug Court
17th Judicial Circuit
Circuit Judge Eddie Hardaway

Marshall County Drug Court
27th Judicial Circuit
Circuit Judge Tim Jolly

Montgomery County Drug Court
15th Judicial Circuit
Circuit Judge Tracy McCooey

Perry County Drug Court
4th Judicial Circuit
District Judge Donald McMillan

Russell County Drug Court
26th Judicial Circuit
District Judge Michael Bellamy

St. Clair County Drug Court
30th Judicial Circuit
District Judge Phil Seay

Sumter County Drug Court
17th Judicial Circuit
Circuit Judge Eddie Hardaway

Walker County Drug Court
14th Judicial Circuit
Circuit Judge Doug Farris

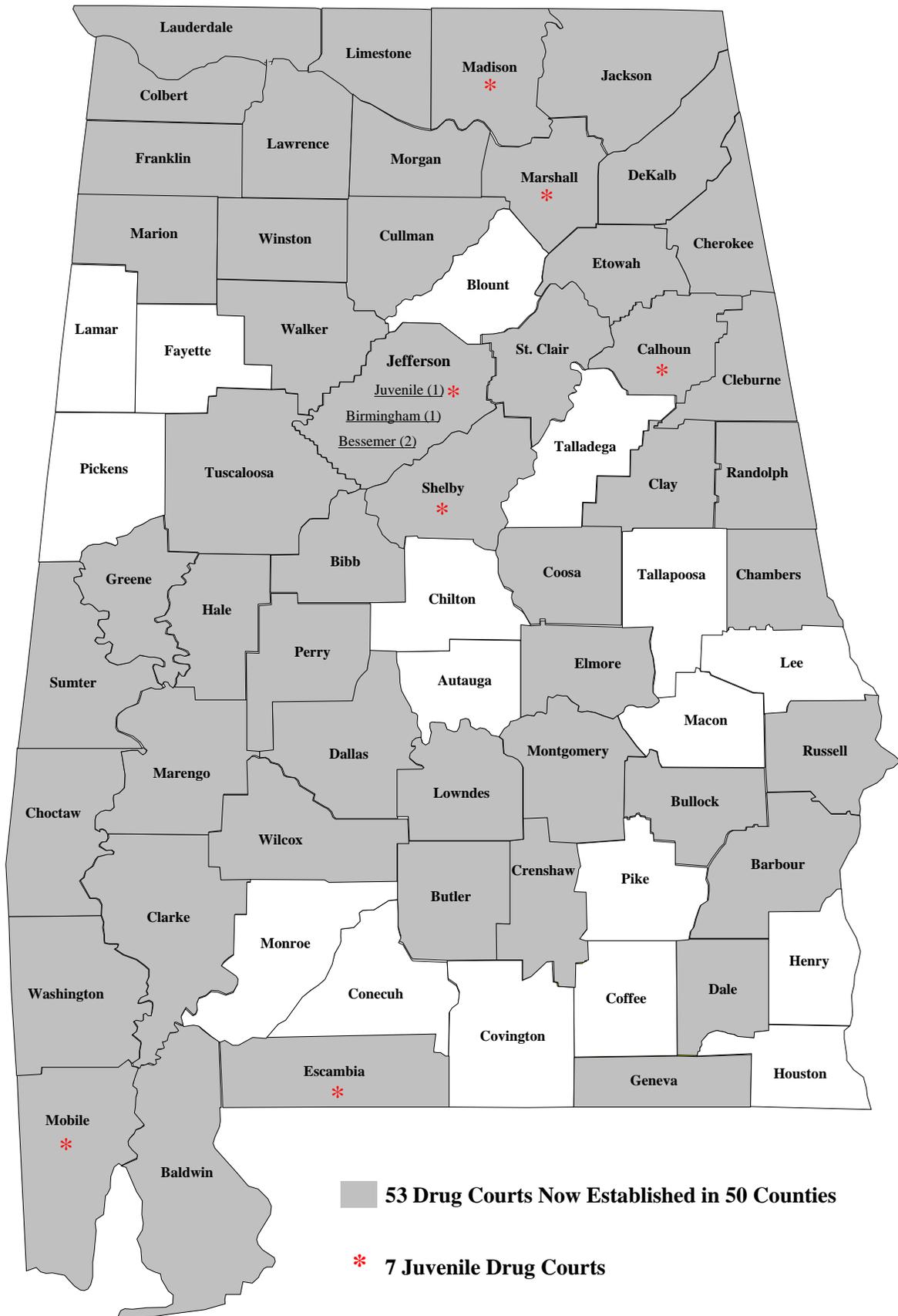
Wilcox County Drug Court
4th Judicial Circuit
District Judge Jo Celeste Pettway

Tuscaloosa County Drug Court
6th Judicial Circuit
Circuit Judge Phillip Lisenby
Circuit Judge John England

Washington County Drug Court
1st Judicial Circuit
Retired Circuit Judge Harold Crow

Winston County Drug Court
25th Judicial Circuit
Circuit Judge Lee Carter

Drug Courts in Alabama



APPENDIX D

ADOC Substance Abuse Programs

1

ADOC Substance Abuse Programs

In January 2009, at the direction of Commissioner Richard Allen, drug treatment services were moved from under the auspices of the Office of Health Services and into the Office of Plans and Programs. At that time, a system-wide assessment of practices and needs was conducted to identify bottlenecks to timely enrollment of inmates into treatment and increase through-put across the board.

This resulted in a major, system-wide drug treatment program reconfiguration – the first in many years. Among the highlights:

- A priority code system was developed and implemented, in conjunction with ADOC Classification, to ensure that inmates most in need of treatment receive it first. Categorized waiting lists are now generated monthly on the institutional level and submitted to both the Office of Plans and Programs and the Assistant Director of Classification. This ensures that inmates most in need of treatment receive priority placement in treatment. Highest priorities include inmates eligible Level I or Level II levels of security upon completion of treatment, inmates eligible for community corrections or placement in the Supervised Reentry program, inmates with split sentences who are court-ordered to receive treatment, inmates eligible for parole, and inmates with imminent EOS dates.
- Evidence-based practices have now been implemented through use of standardized counselors' treatment manuals in the following programs:
 - Pre-treatment;
 - 8-Week SAP ;
 - 8-Week Secular SAP;
 - 8-Week Matrix-model treatment for stimulant abusers;
 - 8-Week "Restart" SAP specifically targeting technical/low-level violators referred by the Alabama Board of Pardons & Paroles;
 - The 120-hour Relapse Treatment program;
 - The 6-Month Secular SAP program, and
 - Aftercare programs.
- Work remains ongoing in developing a counselors' treatment manual for the 6-Month Crime Bill programs and the Therapeutic Community.
- Due to duplication of services and to provide better use of scant resources, the Therapeutic Community program at Ventress Correctional facility was integrated into the flagship Therapeutic Community at St. Clair Correctional Facility.
- The 6-Month Crime Bill programs were identified as a major bottleneck that negatively impacted timely through-put. As one of the major contributing factors positively influencing treatment outcome is length of treatment – the longer the better. This presented a dilemma that was resolved by placing more emphasis on the 8-Week programs while strengthening the Aftercare programs which provide the long-term treatment component once participants have completed a primary treatment program.

-
- Another factor that positively influences treatment outcome is the provision of treatment to individuals as close to inmate release date as possible. Work Release settings that have drug treatment services available (all but three) now have structured Aftercare programs and Relapse Treatment programs available to inmates.
 - Because Relapse Treatment programs are now widely available in the Work Release setting, inmates that have positive urine drug screens no longer have to be sent back to major institutions to receive treatment. Because of this availability, the distinctions between “soft” drug positive urine drug screens (i.e., alcohol and marijuana) and “hard” positive urine drug screens (all other self-administered mood-altering illicit drugs) - which was contrary to “best practices” and had counter-therapeutic on inmates in the work release setting – have been abandoned.
 - Historically, drug treatment programs in the ADOC employed a “closed enrollment” model with participants all beginning together each time a new treatment cycle was begun. If, for one reason or another, participants were unable to complete the treatment regimen (i.e., transfer, removal due to non-disciplinary reasons such as court appearances, medical issues, or were terminated for disciplinary reasons), those slots remained empty until the next treatment cycle. While this approach had some benefits, it was not in line with best practices employed by other drug treatment entities in either the public or private sectors.
 - An “open enrollment” model of treatment was piloted in the Alabama Prisoner Reentry Initiative dedicated 8-Week SAP programs and the Relapse Treatment programs. Because of the success of these pilot programs, all drug treatment services adopted the “open enrollment” model effective December 1, 2009. This model ensures that no available seat remains unfilled, with the next eligible candidate for treatment moved into treatment as soon as a slot becomes available.
 - Audits of institutional drug treatment programs have continued, with corrective action plans issued when discrepancies are noted, and follow-up audits occurring to ensure program integrity and fidelity.

APPENDIX E

Criminal Justice Bills That Passed During the 2009 Regular Session	1
Sentencing Commission Bill	1
Crime Bills	1
Local Acts	10

Criminal Justice Bills That Passed During the 2009 Regular Session

Sentencing Commission Bill

Act 2009-742 Truth-in-Sentencing – Implementation Delayed Until 2011
SB 97 Effective May 22, 2009

This Act postponed the development and implementation of Truth-in-Sentencing Standards, (the sentencing standards that will be based on historical *time-served* data) until 2011. Although the Alabama Sentencing Commission originally planned to develop the second set of sentencing standards and implement truth-in-sentencing in 2009, several obstacles required delay until at least 2011, foremost of which included the lack of viable alternative sentencing options for nonviolent offenders, the effectiveness of the initial standards, and funding for data analysis, standards development, and training.

Because the initial sentencing standards were not approved until the third year they were presented to the Legislature, the entire sentencing reform timetable had to be recalculated to ensure that the initial “time imposed” standards are being used effectively and are addressing the established objectives. In addition to delaying Phase II of sentencing reform until the success of the first standards (implemented in 2006) has been gauged and an adequate alternative sentencing infrastructure has been established, the Act amends § 12-25-36 to clarify that the provisions in § 12-25-36, § 12-25-37 and § 12-25-38 relating to truth-in-sentencing standards were *proposals* for future implementation only, that they do *not* apply to the existing sentencing standards, and will require legislative approval for implementation.

Crime Bills

Act 2009-558 Convicted Sex Offenders – Residence Restriction by College
HB 1 Effective August 1, 2009

Amends § 15-20-26 to prohibit an adult sex offender from establishing a residence or living accommodation within 2,000 feet of a college or university (in addition to elementary and secondary schools). The Act also prohibits an adult sex offender from loitering within 500 feet of a school bus stop. Violations of the Act are Class C felonies, punishable by imprisonment from 1 year and 1 day to 10 years.

Act 2009-619 Convicted Sex Offenders – Residence Restrictions
SB 58 Effective May 21, 2009

This Act amends Section 15-20-22 to lengthen the time within which an inmate must begin the sex offender notification process – from 45 days prior to release, to 180 days prior to release from a correctional facility.

Under the amendments, the responsible agency must ensure that the adult criminal sex offender declares in writing the actual *physical* address where he will live or reside following his release (a court is the responsible agency if no imprisonment is imposed). The bill requires that the local law enforcement agency verify this information prior to release and notify the responsible agency at least 110 days before release whether the address has been verified. If the address cannot be verified, at least 100 days before the scheduled release, the responsible agency must notify the inmate that the address could not be verified and why, and provide written notice to the inmate that if he does not provide a verifiable address at least 70 days before his scheduled release he will be considered in violation of the Act’s provisions and subject to criminal penalties as a Class C felony offense - punishable by imprisonment of one year and one day up to 10 years and ineligible for release or parole.

For noncomplying inmates due to be released that have no accumulated incentive good time

Five days prior to the release date, ADOC must notify the sheriff of the county of last conviction for the sex crime and the sheriff must make arrangements to have the offender remanded to his custody at the time of release. As under prior law, the inmate can only be released on bond if in compliance with the notification provisions.

For noncomplying inmates due to be released that do have incentive good time

All accumulated good time is forfeited, (s)he earns no further good time, the inmate cannot be released, and must be charged with non-compliance.

The Act adds a provision requiring “the responsible agency” (the court) to provide the adult sex offender a form promulgated by the Attorney General listing the requirements of the Community Notification Act both “upon conviction” and (ADOC) provides at the time address/employment information is required upon release. The Act requires the form to be provided to all sex offenders that have already been released at their next scheduled date (s)he must appear in person following the effective date of the Act (5/21/09). The offender is required to sign an acknowledgement and the Department of Public Safety (DPS) must retain the form.

Act 2009-745 Crime – Solicit Child by Computer; Removal of Age Limit for Defendant
SB 120 Effective May 22, 2009

This Act repealed §13A-6-110, relating to the existing crime of Soliciting a Child by Computer. It broadened the offense to provide that a person could be charged with Solicitation of a Child (a person under 16 years of age) if the person utilizes a computer, computer on-line service, Internet service, phone, cell phone, video game system, fax, camera, Internet bulletin board service, weblog or other electronic communication or storage device to solicit a child at least 3 years younger (or believed to be 3 years younger) than the defendant, for the purpose of committing an unlawful sex act. It removed the age limit for a person who solicits a child by a computer. (It was for a person 19 years of age or older), and included a specific provision that any person charged under this statute is to be tried as an adult and the court records could not be sealed or subject to expungement.

The Act created new offenses as follows:

Electronic Solicitation of a Child.

“[K]nowingly, with the intent to commit an unlawful sex act, entices, induces, persuades, seduces, prevails, advises, coerces, lures, or orders, or attempts to entice, induce, persuade, seduce, prevail, advise, coerce, lure, or order; by means of a computer, on-line service, Internet service, Internet bulletin board service, weblog, cellular phone, video game system, personal data assistant, telephone, facsimile machine, camera, universal serial bus drive, writable compact disc, magnetic storage device, floppy disk, or any other electronic communication or storage device, a child who is at least three years younger than the defendant, or another person believed by the defendant to be a child at least three years younger than the defendant to meet with the defendant or any other person for the purpose of engaging in sexual intercourse, sodomy, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his or her benefit or for the benefit of another...”

The offense of Electronic Solicitation of a Child, while listed as a Class B Felony (imprisonment not less than 2 years nor more than 20 years), if the victim is a child under the age of 12 , would be considered a child sex crime carrying a **minimum mandatory period of imprisonment for 10 years** [§13A-5-6(a)(5)], **which cannot be suspended or probated or paroled**, does not receive good time credit,

cannot be sentenced under the sentencing standards, cannot be given a split sentence and imposes the registration, notification, employment, and housing restrictions for a sex offender.

Facilitating Solicitation of Unlawful Sexual Conduct with a Child

Makes it “*a crime to knowingly compile, enter into, or transmit by use of computer or otherwise; make, print, publish, or reproduce by computerized or other means; knowingly cause or allow to be entered into or transmitted by use of computer or otherwise; or buy, sell, receive, exchange, or disseminate any notice, statement, or advertisement of any child’s name, telephone number, place of residence, other geographical location, physical characteristics, or other descriptive or identifying information for the purpose of facilitating, encouraging, offering, or soliciting unlawful sexual conduct of or with any child, or the visual depiction of such conduct, is guilty of facilitating solicitation of unlawful sexual conduct with a child.*” Listed as a Class C felony (imprisonment not more than 10 years or less than 1 year and 1 day); however, if the victim is a child under 12 years of age it is a child sex crime and the person cannot be sentenced under the sentencing standards, must serve day-for-day, and is not eligible for good time credit.

Facilitating the On-line Solicitation of a Child

Makes it a crime for an owner or operator of a computer on-line service, weblog, Internet service, or Internet bulletin board service, to knowingly permit any person to use the service to commit a violation of the Act. Listed as a Class B Felony (imprisonment not more than 20 years or less than 2 years); however, if a child victim under 12 years of age, it is a child sex crime carrying **a minimum mandatory period of imprisonment for 10 years** (§13A-5-6(a)(5), **which cannot be suspended or probated or paroled**, does not receive good time credit, cannot be sentenced under the sentencing standards, cannot be given a split sentence and imposes the registration, notification and housing restrictions for a sex offender.

Traveling to Meet a Child for an Unlawful Sex Act

Makes it a Class A felony for any person to travel either within this state, to or from this state or to attempt to do so, or knowingly cause another to do so or to attempt to do so, for the purpose of engaging in any unlawful sex act with a child. While it provides that the crime is a Class A felony which is generally punishable by 10 years to 99 years or life imprisonment; however, if the victim is a child under the age of 12 this is a child sex offense that carries **a minimum mandatory period of imprisonment for 20 years** (§13A-5-6(a)(5), **which cannot be suspended or probated or paroled**, the offender does not receive good time credit, cannot be sentenced under the sentencing standards, cannot be given a split sentence and imposes the registration, notification, employment, and housing restrictions for a sex offender, and must serve 10 years of electronic monitoring after being released from the penitentiary.

Facilitating the Travel of a Child for an Unlawful Sex Act

It makes it a Class A felony for any person to facilitate, arrange, provide, or pay to transport a child for the purposes of engaging in an unlawful sex act with the child, including sexual intercourse, sodomy, a sexual performance, obscene sexual performance, or other sexual conduct for his or her benefit or for the benefit of another. While it provides that the crime is a Class A felony which is generally punishable by 10 years to 99 years or life imprisonment, if a child victim under the age of 12, it is a child sex offense carrying **a minimum mandatory period of imprisonment for 20 years** (§13A-5-6(a)(5), **which cannot be suspended or probated or paroled**, the defendant does not receive good time credit, cannot be sentenced under the sentencing standards, cannot be given a split sentence and imposes the registration, notification and employment, housing restrictions for a sex offender, and must serve 10 years of electronic monitoring after being released from the penitentiary.

The bill specifies that it is no defense to prosecution that an undercover operative or law enforcement officer was involved in the detection and investigation of the offer or that a meeting did not occur.

Act 2009-566 Drug Paraphernalia to Include Glass Tubes
HB 25 Effective August 1, 2009

Section 13A-12-260 defining “drug paraphernalia” was amended to include hollow glass tubes smaller than ¾ inch in diameter and shorter than 12 inches in length. This statute makes it a Class A misdemeanor to deliver, sell, possess, manufacture, etc. drug paraphernalia; a Class C felony on subsequent convictions; and a Class B Felony for delivery by person over 18 years of age to a person under 18 years of age who is at least three years the defendant’s junior.

Act 2009-768 DNA Test, Capital Convictions and for All Felony Arrests Effective
10/1/2010 – Increased Court Costs
HB 146 Effective August 1, 2009

This Act authorizes any person convicted of a capital offense to file a motion for DNA testing with the sentencing court. The Circuit Court is required to notify the prosecutor upon receipt of the motion and afford the State an opportunity to respond. The Act enumerates factors that must be considered by the court before authorizing DNA testing: 1) Evidence subject to testing still exists and is in a condition that testing would yield reliable and accurate results and 2) the evidence was not previously subjected to DNA testing and testing requested is generally accepted in the forensic community with results eligible to include in the FBI National DNA database.

Under the Act’s provisions, the State and Court must “take steps reasonably necessary to ensure that any remaining biological material in the possession of the State or Court is preserved,” upon receipt of a motion for DNA testing. The Act enumerates in specific detail the information that must be included in a motion for DNA testing.

Costs of testing indigents are to be paid out of the Fair Trial Tax Fund if testing is not performed by the Department of Forensic Sciences (DFS), and out of the DNA Database Fund if conducted by DFS. The circuit court may appoint counsel for indigent petitioners for the purpose of post-conviction DNA testing.

The Act also amends § 36-18-24 and § 36-18-25 to provide for the collection of a DNA sample for all persons arrested for a felony offense on or after October 1, 2010, or for any sexual offense. Juveniles arrested or adjudicated delinquent for the commission of a felony–grade delinquent act must be given a DNA test also. The Act amends §36-18-12 to increase the DNA court costs from \$2.00 to \$12 in all municipal, district and circuit criminal cases, bond forfeiture proceedings, issuance of alias or capias warrants. These fees are to be distributed to the DNA Database Fund and the Citizenship Trust, a nonprofit Association created by the Joint Legislative Committee on Southern Leadership.

Act 2009-658 Drivers License Suspension, Rehabilitation Credit
HB 291 Effective August 1, 2009

Amends § 13A-12-290 requiring six months suspension of driver’s license for defendants convicted of drug offenses (*unlawful distribution of controlled substance, criminal solicitations, conspiracies and attempts to commit a controlled substance crime, unlawful possession or receipt of a controlled substance, unlawful possession of marihuana in the 1st or 2nd degrees, trafficking in controlled substances, sale or furnishing controlled substances by persons over age 18 to persons under age 18, and DUIs involving controlled substances*), to specifically provide that suspension shall begin immediately and time spent in an in-patient drug or alcohol rehabilitation facility shall be credited toward the license suspension period. Credit applies only in instances in which the program certifies that the defendant completed treatment or that completion was not necessary. If the Court orders the defendant into a alcohol/drug treatment facility, the Act’s provisions require

the defendant to surrender his or her driver's license and requires the court to "destroy" the license and notify the Department of Public Safety within 10 days (of entry of order requiring participation in program) of the status of the individual's license – which may be accomplished by mail, fax or electronic means.

Act 2009- 578 Minors, False ID Tobacco Products
HB 391 Effective August 1, 2009

Creates the non-criminal violation of Use of False Identification by a Minor to Purchase Tobacco Products and increases the penalties for the Unlawful Possession of Contraband Tobacco. Provides for issuance of a nontraffic citation and punishment in the form of fines of not less than \$10 nor more than \$50 for each violation. No court costs can be assessed. Specifies that jurisdiction is in either the district or municipal court and not the juvenile court. Violations are not considered criminal offenses and are to be administratively adjudicated by the municipal or district courts.

Act 2009-586 Assaulting Correctional Officer; 2ndDegree Assault
HB 518 Effective August 1, 2009

Amends § 13A-6-21 of the *Code of Alabama* providing for Assault in the 2nd degree, a Class C felony (punishable by 1 year 1 day – 10 years imprisonment), to include Assault of a Correctional Officer at any municipal or county jail or state penitentiary with the intent to prevent the officer from performing a lawful duty. The elements of the offense include: intent to cause physical injury, intent to prevent officer from performing a lawful duty and causing physical injury to any person.

Act 2009-718 Prohibit Explosives; Bio-Weapons -Mandatory Minimum Sentences
HB 528 Effective August 1, 2009

Repeals § 13A-7-44 relating to Criminal Possession of Explosives (Class C felony). Provides for the following crimes and punishments:

Unlawful possession, manufacturing, transporting or distributing a destructive device or bacteriological or biological weapon

Class B felony

If Corporation or other entity - fine of not less than \$25,000 but no more than \$100,000 and/or not less than 5,000 nor more than 10,000 hours of community service.

Unlawful selling, furnishing, giving away, delivery or distribution of a destructive device, bacteriological or biological weapon to a person less than 21 years of age.

Class A felony

Makes it a Class A felony and includes Juvenile delinquency adjudications under the definition of "conviction."

If Corporation or other entity – fine of not less than \$100,000 nor more than \$250,000 and/or not less than 10,000 nor more than 25,000 hours of community service.

Unlawful distribution of a detonator, explosive, poison gas or hoax device by a person under indictment or previously convicted of a felony.

Knowing distribution of a detonator, explosive, poison gas or hoax device to convicted felons, mental incompetents, persons less than 21 years of age.

Class C felony

If Corporation or other entity – fine of not less than \$20,000 nor more than \$50,000 and/or not less than 2,500 nor more than 7,500 hours of community service.

Requires courts to provide law enforcement agencies and the prosecuting attorney with information on persons adjudicated mentally incompetent “*notwithstanding any other provision of the law to the contrary.*”

Unlawful manufacturing, possession, transportation or distribution of a hoax device or replica of a destructive device, detonator or bacteriological or biological weapon.

Class A misdemeanor

If Corporation or other entity – fine of not less than \$1,000 nor more than \$5,000 and/or not less than 1,000 nor more than 5,000 hours of community service.

Transmitting or communicating to another that hoax device or replica of a destructive device or detonator is real, with the intent to obtain property of another or interfere with the ability of another to carry on the ordinary course of business, trade, education or government.

Class C Felony

If Corporation or other entity – fine of not less than \$20,000 nor more than \$50,000 and/or not less than 2,500 nor more than 7,500 hours of community service.

Hindering or obstructing an explosive ordnance disposal or technician or bomb technician, law enforcement officer, fire official, emergency management official, animal trained to detect destructive devices or bacteriological or biological weapons, robot or mechanical device, etc. in the detection of a destructive device, bacteriological or biological weapon

Class C felony

If Corporation or other entity – fine of not less than \$20,000 nor more than \$50,000 and/or not less than 2,500 nor more than 7,500 hours of community service.

Possession, transportation, receipt, or attempt thereof, of a destructive device, explosive, bacteriological or biological weapon with the knowledge or intent that it will be used to kill or injure a person or destroy a public building

Class A felony

Minimum mandatory 10 years imprisonment which cannot be probated, deferred, suspended or withheld and offender is not eligible for early release, leave, work release, good time, or any other release program.

Knowingly using or attempting to use a destructive device, explosive, or bacteriological or biological weapon to kill or injure an individual or knowingly destroying a public building

Class A felony

Mandatory minimum imprisonment of 20 years and fined the greater of the cost of replacing the destroyed property or \$250,000. Minimum imprisonment cannot be probated, deferred, suspended or withheld and offender is not eligible for early release, leave, work release, good time, or any other release program.

If corporation or other entity – fined greater of cost of replacing destroyed property or \$1,000,000 and/or 20,000 hours to 40,000 hours community service.

Failure to Maintain Records

Class C misdemeanor

Amends §13A-11-11 providing for the crime of Falsely Reporting an Incident to include Initiating or Circulating a False Report or Warning of an Alleged Release or Impending Release of a Hazardous or Dangerous Substance, including, but not limited to chemical, biological, or bacteriological substance and makes it a Class C felony. The Act includes a specific provision that if the object of the person is to interfere with the attendance, operation, activities or other business conducted at a public or private school, college, university, etc., no part of the sentence can be suspended, deferred, or withheld and the offender will not be eligible for early release, leave, work release, earned time, good time, or any other program.

Attempts and conspiracies to commit an explosives or destructive device or bacteriological or biological weapons crimes are punished the same as crime attempted or conspired.

The Act further provides subpoena power to the Attorney General, district attorney or their designees in any case where there is “reason to believe that a destructive device, detonator, explosive, bacteriological or biological weapon or hoax device has been possessed, manufactured, transported, distributed, etc. in violation of the Act.

Provides that “it shall be the duty of the clerk of court, the court reporter of the court, or any other person authorized by the court to immediately photograph any destructive device, explosive, poison gas, detonator, or bacteriological or biological weapon” that has been rendered safe when it is introduced in any criminal or civil action and “transfer custody of the device or weapon to the Director of the Department of Public Safety or his or her designee or an explosive ordnance disposal technician.

**Act 2009-721
HB 559**

**Juvenile Mental Health Commitment Hearings – Notice
Effective May 21, 2009**

Amends §§ 12-14-405, 12-15-409 and 12-15-410 of the Juvenile Code to provide that the Court shall notify the Department of Mental Health and Mental Retardation “no less than 14 days prior to the date of a *final* commitment hearing (was within 14 days prior to the hearing). Further includes admissions to facilities under contract with or under the supervision and control of the Department of Mental Health. Still requires the Department to notify the Court “not less than 24 hours prior to the final hearing” if adequate facilities are available for the minor or child. The bill specifically authorizes the Commissioner of the Department of Mental Health or his or her designee to designate a hospital outside the Department where the child or minor can be committed for treatment.

Act 2009-616 **Eluding Law Enforcement Officer (Officer Keith Houts Act)**
SB 15 **Effective August 1, 2009**

This Act repeals § 32-5A-193, relating to Fleeing or Attempting to Elude a Police Officer in a vehicle after being given a visual or audible signal to stop (an unclassified misdemeanor now punishable by imprisonment not less than 30 days or more than 6 months or a fine of \$100-\$500).

The Act creates a new crime, making it a Class A misdemeanor (punishable by up to 12 months imprisonment in the county jail) to flee from the arrest of an officer if the defendant knows the officer is attempting to arrest the person; no signal from the officer is required.

The Act increases to a Class A misdemeanor (from maximum imprisonment of 6 months to maximum of 1 year) the offense of Fleeing or Attempting to Elude a Law Enforcement Officer in a motor vehicle after having been signaled to stop by the officer.

The Act also creates a new offense – Aggravated Fleeing or Attempting to Elude a Law Enforcement Officer by a Vehicle, a Class C felony (2 years to 20 years imprisonment), if such conduct involves a risk of death or injury to innocent bystanders. Does not require serious physical injury.

There is an express provision that a person charged under this Act cannot be also charged with the crime of Resisting Arrest under § 13A-10-41, *Code of Alabama* 1975, based on the same facts.

Act 2009-143 **Failure to Secure Loads; Penalties**
SB 136 **Metal Coil Securement Act of 2009**
Effective June 1, 2009

Amends § 32-9A-2 and § 32-9A-4 relating to the operation of commercial motor vehicles, to create new Class A misdemeanor offenses for motor carriers and drivers who fail to comply with federal regulations for securing metal coils or who allow metal coils to fall onto public roads. It authorizes arrest without a warrant or without witnessing the violation personally.

Provides misdemeanor (unclassified) penalties and minimum fines ranging from \$2,500 to \$10,000. In addition, imprisonment up to one year in the county jail is authorized.

Act 2009-752 **Residential Mortgage Fraud – New Felony**
SB 233 **Effective August 22, 2009**

This Act establishes the new Class C felony offense of Residential Mortgage Fraud. The offense is committed by:

- making a “material deliberate misstatement or misrepresentation, with intent to defraud, knowing the same to be a misstatement or misrepresentation during the mortgage lending process, with the specific intention that it will be relied on by the mortgage broker, lender, servicer, processor, borrower or any other party to the process.”
- knowingly using or facilitating “the use of any material deliberate and known misstatement or misrepresentation during the mortgage process with the specific intent that it will be relied on by the mortgage broker, lender, servicer, processor, borrower or any other party to the mortgage lending process.”

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- filing or causing “to be filed in a public office any document the person knows contains a martial deliberate misstatement or misrepresentation with the specific intent to cause a residential mortgage fraud.”

A specific venue provision is included, noting that venue is proper in the county where the residential property is located, where the criminal act of fraud was performed, any county where the defendant had control or possession of the proceeds from the violation, the county of closing, or any county where the document was filed with a public official.

A specific provision is included providing that each residential mortgage transaction is considered a separate offense “and shall not merge with any other crimes set forth in this section.”

Act 2009-632 Mandatory Restitution for Capital Offenses and Rape
SB 383 Effective August 1, 2009 (for convictions after February 1, 2009)

For all convictions after February 1, 2009 (prior to the Act’s effective date), **mandatory restitution** is required in the amount of no less than \$50,000 for capital offenses and \$10,000 for Rape in the first degree if the defendant has one or more prior convictions for Rape 1st.

Amends § 15-18-71 to provide that an Order of Restitution for anyone sentenced to a term of imprisonment is enforceable during his incarceration if he or she has income or “any asset or other income or any portion thereof to which the defendant is or may be entitled.”

Amends § 15-18-144 to authorize the Attorney General (as well as the victim or DA) to move the Court to order any asset or income of the defendant to be attached to fulfill an Order of Restitution. The amendment also provides that *the Restitution Order can direct* that all outgoing mail of the prisoner be inspected to determine if the prisoner has any asset that can be seized until the restitution is paid in full. *If such Restitution Order exists directing inspection and seizure*, for items seized, it requires the Court to determine the monetary value of the seized item and transfer it to the Crime Victims Compensation Fund for disbursement, transfer or assignment to the victim. If the item is determined to have no monetary value, the Court must promptly return it to the prison by U.S. mail. The Department of Corrections is authorized to promulgate “reasonable” rules to effectuate the intent of the Act.

Act 2009-283 Sale of Ephedrine or Pseudoephedrine
SB 47 Effective April 21, 2009

Amends Section 20-2-190 of the *Code of Alabama* 1975, regulating the sale of products containing certain precursor chemicals which may be used to manufacture illegal controlled substances to delete the provision prohibiting the sale of products containing ephedrine or pseudoephedrine after October 1, 2009 “unless the product is manufactured in such a manner that the ephedrine or pseudoephedrine cannot be extracted so as to be used as an ingredient in the production of methamphetamine.”

Act 2009-565 Child Labor Laws
HB 144 Effective May 18, 2009

Prohibits persons, corporations, or entities from violating the Child Labor laws or refusing to obey a lawful order of the State official charged with enforcement within a reasonable time, and provides misdemeanor punishment and civil penalties. Also provides that any parent, guardian or custodian who permits a child under 19 years (was

10 years) to work in violation of the labor laws is subject to misdemeanor penalties. First violations are punishable as Class C misdemeanors and second and subsequent violations are punishable as Class B misdemeanors, in addition to civil penalties.

Provides that first violations of § 25-8-35 by an employer involving serious injury or death are punishable as a Class A misdemeanor and subsequent violations are punishable as a Class C felony, in addition to civil penalties. The statute is amended to prohibit employing a person under 16 years of age to sell fireworks, unless supervised by a person at least 18 years of age.

LOCAL ACTS

Act 2009-330 Lee County Alternative Sentencing Board Created
HB 732 Effective July 1, 2009

Creates the Lee County Alternative Sentencing Board to oversee and operate all alternative sentencing programs (including drug court, court referral officer programs, pre-district court probation, etc. for nonviolent offenders), services and administrative functions in the county. Authorizes the sheriff to assess a reasonable fee for participation in any rehabilitation program operated in the Lee County Detention Facility. Authorizes the Board to set, assess and collect reasonable fees from program participants and provides for the waiver of fees for indigents. Specific provisions relating to the establishment of a drug court program, eligibility, authority to hire a drug court coordinator and duties of the drug court team

Act 2009-373 Talladega Co. 29th Circuit DA Fund
HB 780 Effective May 5, 2009

Creates a DA Fund in Talladega County, requiring all funds in the county treasury designated for the DA to be transferred to the DA's office for deposit in this fund. Fees taxed at costs and collected in all criminal cases and fees collected by the Worthless Check Unit, and forfeited fees are to be deposited in the DA Fund. Monies deposited in the Fund are to be expended by the DA in performing the duties of his or her office.

Act 2009-460 2nd Judicial Circuit DA Pre-Trial Diversion Program
SB 413 Effective May 8, 2009

Provides that the program will be under the direction, supervision and control of the district attorney, who may contract for services. Allows only offenders charged with a traffic offense, property offense, offense not involving serious physical injury, an offense not involving a victim that is a child under 14, a law enforcement officer, a school official or a correction officer, a misdemeanor offense (except excluded offenses), or a violation. DUI Offenders are not expressly excluded. Excluded offenses are sex offenses, Class A felony offenses, those involving serious injury or death, trafficking, distribution or manufacturing of drugs, commercial driver's license violations.

Act 2009-735 6th Judicial Circuit (Tuscaloosa) DA Pretrial Diversion
HB 914 Effective May 21, 2009

Relating to Tuscaloosa County, this local Act authorizes the District Attorney to establish a Pretrial Diversion Program, which would be under his direct supervision and control. Admission to the program is in the absolute

discretion of the district attorney. Offenders charged with Class A felonies, offenses involving the intentional, knowing or reckless infliction of death or serious injury, the use of a deadly weapon, child sex offenses, most sex offenses, drug trafficking offenses, etc. are specifically ineligible for admission to the program.

In addition to paying all evaluation, test and treatment costs required by the District Attorney, the defendant may be assessed an application fee when approved for the Pretrial Diversion Program in the following amounts, as determined by the DA:

Felony	Up to \$1000
Misdemeanors	Up to \$750
Traffic Offenses	Up to \$500
Violations	Up to \$100

The fees collected are to be distributed: 70% to the District Attorney, 10% to the arresting agency, 10% to the Department of Forensic Sciences, and 10% to the Court Clerk. Provision is included for the waiver or reduction of fee due to an offender's indigency. Indigency, for purposes of program fee mitigation, is to be made by the DA. As a prerequisite for participation, a defendant must enter a guilty plea. The case is placed on an administrative docket or "withdrawn and filed" until the offender successfully completes the program, withdraws, or is terminated. Upon successful completion, the District Attorney notifies the Court and an Order of Disposition is entered pursuant to the Plea Agreement.

A specific provision is included that the District Attorney, to the extent practicable, will use the services of community corrections programs for the supervision of offenders under the DA's Diversion Program.

Act 2009-484 6th Judicial Circuit (Tuscaloosa) DAs Special Service Fee
HB 915 May 13, 2009

Authorizes the DA "to pay" any and all fees or funds intended for the use of the DA's office and collected by the special services division of DA's office (including but not limited to the Worthless check unit and restitution recovery unit). Further provides that the fees and funds shall include any moneys otherwise paid into the county treasury by the division and units for use by the office of the district attorney.

Act 2009-602 15th Circuit DA Pretrial Diversion Program Revision
HB 852 Effective August 1, 2009

Provides for the assessment of a fee up to \$1000 for any defendant admitted to the program, with the fee to be set by the Circuit Judge, paid to the County Commission, and earmarked for the DA's Pretrial Diversion Program. Costs for all programs and treatment ordered must be paid by the offender unless waived or reduced by the judge assigned to the case or the Presiding Circuit Judge due to indigency. The District Attorney has sole discretion to approve who is admitted into the program.

Act 2009-354 35th Circuit (Conecuh and Monroe Co) DA Pre-Trial Diversion Program
HB 544 Effective May 5, 2009

Amends Act 2004-478 to specify who is eligible to apply for the pre-trial diversion program: persons charged with traffic offenses; property offenses; where the victim did not receive serious physical; where the victim was not a child under 14 years of age, a law enforcement officer, a school official or correctional officer; any misdemeanor except sex offenses or those involving serious injury or death; or those deemed by the DA to be a threat to public safety.