
ALABAMA SENTENCING COMMISSION

2011 Report

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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Collaborating with all branches of government, the Sentencing Commission has been able to obtain input from all components of the Criminal Justice system. By employing a deliberative and evidence-based process, the Commission has made, and will continue to make, recommendations for reform that reflect its number one priority – public safety.

The Commission is grateful for the assistance provided by the following individuals and agencies for the improvement of Alabama's Criminal Justice System and sentencing practices.

Joseph A. Colquitt, Chairman of the Sentencing Commission
Callie Dietz, Administrative Director of Courts
The staff of the Administrative Office of Courts
Alabama Judicial College
Judges of the Court of Criminal Appeals
Alabama Circuit and District Judges' Associations
Governor Robert Bentley
Governor Bob Riley
Attorney General Luther Strange
Attorney General Troy King
Chief Justice Sue Bell Cobb
Representative Paul DeMarco, Chair, House Judiciary Committee
Senators Cam Ward and Ben Brooks, Co-Chairmen, Senate Judiciary Committee
The Alabama Department of Corrections
The Alabama Board of Pardons and Paroles and staff
Cynthia Dillard, Director, Board of Pardons and Paroles
Dr. Tammy Meredith and Dr. John Speir, Applied Research Services, Inc.
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Legislative Reading and Research Service
The Office of Prosecution Services
District Attorneys of Alabama
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
Alabama Criminal Defense Lawyer's Association
County Commissions 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
Chuck Malone, Chief of Staff
Governor's Office

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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Representative Paul DeMarco, 46th District

Chair of the Senate Judiciary Committee
Senator Cam Ward, 14th District

Alabama Department of Corrections
Kim Thomas, 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
Stephanie Daniels, 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

Tammy Peacock, Ph.D., Associate Commissioner
Alabama Department of Mental Health

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

Chief Terry Davis
Alabama Association of Police Chiefs

David Horn, Director
Shelby County Community Corrections

Steve Green, President
Alabama Community Corrections Association
Director, Mobile County Community Corrections

Mary Pons, Staff Attorney
Association of County Commissions

Chaplin Adolph South
Tuscaloosa, AL

Catherine Roden-Jones
Alabama Women's Resource Network

Walter Wood, Executive Director
Alabama Department of Youth Services

Jeff Williams, Deputy Commissioner
Alabama Department of Corrections

Deborah Daniels
Alabama Department of Corrections Appointee

Commission Staff

Bennet Wright, Executive Director

Rosa Davis, Chief Assistant Attorney General

Melisa Morrison, Research Analyst

Paul Sullivan, Sentencing Worksheets Specialist

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

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

Tommy Smith, District Attorney
6th Judicial Circuit

Joel Sogol, Esquire
Tuscaloosa, AL

Circuit Judge David Kimberly
16th Judicial Circuit

Circuit Judge Virginia Vinson
10th Judicial Circuit - Birmingham

Darlene Hutchinson Biehl
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

Brandon Falls, District Attorney
10th Judicial Circuit

Bennet Wright, 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

Circuit Judge John W. Cole
10th Judicial Circuit

Stephanie Daniels, Esquire
Montgomery, AL

Steve Marshall, District Attorney
27th Judicial Circuit

Joe VanHeest, Public Defender
Tuscaloosa, AL

Legislative Committee

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

Kim Thomas, Commissioner
Alabama Department of Corrections

Sharon Bivens, Legislative Fiscal Analyst
Legislative Fiscal Office

Representative John F. Knight
Alabama House of Representatives

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

Bennet Wright, 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

District Judge Tim Riley
Marshall County

Tammy Peacock, Ph.D., Associate Commissioner
Alabama Department of Mental Health

Representative Paul DeMarco, Chair
House Judiciary Committee

Kim Martin, General Counsel
Crimes Victims Compensation Commission

Senator Cam Ward, Co-Chair
Senate Judiciary Committee

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

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

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

Joel Sogol, Esquire
Tuscaloosa, AL

Circuit Judge David Rains
9th Judicial Circuit

Bob Williams, Public Defender
Shelby County

Jeff Williams, Deputy Commissioner
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

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

David Horn, 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

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

Jeff Williams, Deputy Commissioner
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



Joseph A. Colquitt, Chairman

Beasley Professor of Law

Ellen Brooks

District Attorney, 15th Judicial Circuit

Stephanie Daniels

Alabama Lawyers' Association

Rosa Davis

Chief Assistant Attorney General

Paul DeMarco

House Judiciary Committee

Cynthia Dillard

Director, Bd. of Pardons and Paroles

Joe Faulk

Elmore County Commissioner

Lou Harris

Faulkner University

Chuck Malone

Chief of Staff, Governor's Office

P. B. McLaughlin

Circuit Judge, 33rd Judicial Circuit

David Rains

Circuit Judge, 9th Judicial Circuit

Tim Riley

District Judge, Marshall County

Miriam Shehane

Director, VOCAL

Joel Sogol

Criminal Defense Lawyers' Association

Kim Thomas

Commissioner, Dept. of Corrections

Cam Ward

Senate Judiciary Committee

Bennet Wright

Executive Director

I am pleased to present to you the Alabama Sentencing Commission's 2011 Report. This report includes information on the actions and recommendations of the Commission to improve Alabama's ability to make fiscally responsible criminal justice policies that better protect public safety.

The Commission's primary focus is now the development of Truth-In-Sentencing for the State. The Sentencing Standards Committee has been actively reviewing data and exploring different options employed in other states and discussing all available opportunities to develop a successful Truth-In-Sentencing system. The Standards Committee in the current year will choose a system to employ and craft suggested dispositions and sentence lengths that will result in more certainty in sentencing practices.

Judicial compliance with the Initial Voluntary Sentencing Standards is also reported. The Commission continues to work with key criminal justice stakeholders and professionals to improve the use and efficiency of the Sentencing Standards. Although not reflected in the data for the time period reported in this report, the Commission has made recommendations and changes to the submission of Standards and Worksheets to take advantage of technological innovations and improve data quality. These corrections and changes although implemented and calculated to produce measurable improvement will not be apparent until the next data run is analyzed due to the lag time between implementation and the availability of data.

The Sentencing Commission was honored to partner with Chief Justice Sue Bell Cobb in the Cooperative Community Alternative Sentencing Project (CCASP) designed to build collaborative models for organizing community punishment at the local level. Through this project we were able to develop at least one model, Marshall County, to demonstrate how community punishment agencies can work together to enhance public safety by lowering both victimization and recidivism. Jefferson County has also continued with the collaborative efforts begun through CCASP, retaining the local CCASP steering committee as a forum for continued efforts. CCASP identified strengths and weaknesses in four pilot sites and, through the eyes of the local entities, the barriers to effective community supervision. Some of the recommendations may well form the basis for proposed legislation in future years.

Sincerely,

Joseph A. Colquitt, Chair
Alabama Sentencing Commission

Chapter 1: History and Overview

The Alabama Legislature, through the passage of Act 2000-596, created the Alabama Sentencing Commission as a permanent state agency to study our State's criminal justice system and make unbiased, bipartisan recommendations to improve public safety. The Legislature created the Commission on the recommendation of a subcommittee of the Unified Judicial System Study Commission led by Republicans Chief Justice Perry Hooper and Attorney General Bill Pryor and then democratic Governor, Don Seigelman. The Legislative purpose for creating the Commission was to aid public officials in their efforts to address prison and jail overcrowding, eliminate unwarranted sentencing disparity, establish truth-in-sentencing, and establish sentencing reform based on evidence-based practices. By creating a permanent state agency to monitor sentencing practices and their impact on criminal justice agencies, the Legislature took an affirmative step towards shaping fiscally responsible public policy around empirical data.

Bill Pryor as Attorney General and Perry Hooper as Chief Justice led Efforts to Establish Alabama Sentencing Commission

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

Executive Branch:

Governor or his designee;
Attorney General, or his 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 his designee;

To Provide a Representative Agency

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 his designee;

Judicial 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 Lawyer's 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.

To Research Sentencing & Corrections Issues

§ 12-25-3, Code of Alabama, 1975.

A Decade of Progress

The Commission:

Prepared for its Mission to Protect Public Safety

The Sentencing Commission began its work by becoming familiar with the use of evidence based principals and empirical data in forming public policy to improve public safety. The Commission studied Alabama data systems and national sentencing reform to understand the tasks ahead. The Commission identified weaknesses in the criminal justice system, including the availability of sufficient data, and has undertaken to recommend viable alternatives to address those weaknesses. Substantial progress has been made in providing recommendations based on evidence based practices for improving public safety. This progress was achieved by relying on thorough, methodical research and data analysis so that all recommendations are empirically based.

Bases Actions on Committee Research

Commission recommendations are adopted only after the Commission considers the report of a committee of the Commission which has studied the issue under consideration. The committees are chaired by Commission members and include in their membership other commission members as well as various participants in the criminal justice system including prosecutors, defense attorneys, sentencing judges, victims of crime, law enforcement, and corrections personnel from the Department of Corrections, Community Corrections programs, and the Board of Pardons and Paroles. Through this committee structure, the Commission developed a felony offender database and simulation model to better understand the effect of policy changes on the criminal justice system and its components and has reviewed and continues to review Alabama policies and national trends to recommend improvements to better effect public safety.

Gives Policy Makers a Scientific Basis for Decision-Making

Alabama is no longer required to rely on guess work and anecdotal evidence to establish sentencing policy. The Commission provides an alternative through the work done through its committee structure. The Commission staff provides the committees and the Commission with expertise in criminal law and empirical research on evidence based practices, the effectiveness of national trends in sentencing policy, and Alabama trends. The Commission staff also provides additional information through criminal justice policy research and data analysis experts. The policy research and empirical information aid in making sound, reasoned data based policy recommendations and are more essential than ever in this difficult economy.

The Commission, with its three full-time and one part-time staff, continues to make progress despite recent staff reductions due to the economic downturn. This report provides a brief review of the statutory goals established for the Sentencing Commission and the progress being made toward achieving and maintaining those goals.

Creation of Felony Offender Database - Critical for Evidence-Based Practices

Because the Commission grounds its recommendations in evidence-based practices that rely on empirical data and statistics, the Commission's first priority was the creation of a felony offender database including information on offenders, crimes at charging and conviction, and past sentencing practices. The Commission found this information contained in separate databases in inconsistent formats i.e., offender vs. case-based, and different data systems. The Commission brought this data together for analysis purposes and continues to update its data bases with more current data annually.

Prior to engaging the current staff, the Commission worked with Applied Research Services, Inc. (ARS) of Atlanta, Georgia in developing Alabama's first comprehensive felony offender database. ARS partners Dr. Tammy Meredith and Dr. John Speir, both come from law enforcement backgrounds and earned PhD's in criminology at Florida State University. ARS combined information from the Administrative Office of Courts, Board of Pardons and Paroles, the Department of Corrections, and the Alabama Criminal Justice Information Center to form one complete picture of Alabama's sentenced offender populations. This first integrated database consisted of a 4-year cohort of 64,000 convicted adult felony offenders, from which the initial voluntary sentencing standards were developed. The felony offender database is updated annually by staff analysts and now includes 129,959 felony offenders convicted and sentenced during the fiscal years 2003-2009.

The Commission uses the data base to assist the Legislative Fiscal Office in preparing fiscal notes for pending criminal justice legislation, to review and study the impact of changes that have been made in criminal sentencing policies and practices, and to answer question presented to the staff by public officials.

Creation of an Alabama Simulation Model to Forecast Prison Population and Impact of Recommended Changes

The Sentencing Commission has created a simulation model of the Alabama Department of Corrections to forecast the effect of changes on the DOC population. The model is based on actual sentencing and time served data in a Department of Corrections' facility. This simulation model gives the Sentencing Commission the ability to forecast the impact of some proposed changes before the changes are enacted or implemented. Development, maintenance, and enhancement of the simulation model is a continuing process due to constant changes in Alabama's corrections and sentencing system. ARS recently modified the simulation model to incorporate a user-friendly interface allowing Commission staff to perform simulations in a more efficient manner. The model is limited to available data. When funding is available to increase the data collection capacity of the Commission, the Commission can add additional data items to the model and increase the forecasting ability of the model. For instance, as ADOC classification

Rational Policy Making Begins with Empirical Research

Assistance to Legislative Fiscal Office and Others

**Simulation Tests
Prospective Impact of
Policy Proposals**

becomes more user friendly, that information can be added to the model to forecast not only the number but the type of prison beds that will be affected by a proposed policy change. There are many such enhancements that can be included when funding is available.

The Legislative Directives

The Legislature directed the Commission to recommend a fair, effective, and efficient sentencing system. The Legislature further directed that the system should provide certainty and consistency in sentencing; avoid unwarranted sentencing disparity; prevent prison and jail overcrowding and the premature release of prisoners; enhance the availability and use of sentencing alternatives; and provide proportionality in sentencing, while maintaining meaningful judicial discretion to impose sentences based on aggravating and mitigating factors of the offense and offender. The Legislature further directed a three step approach to achieving these goals:

- (1) Develop a Sentencing Reference Manual for Judges providing pertinent information on sentencing issues;
- (2) Develop Initial Voluntary Sentencing Standards based on historical sentencing data related to prison time imposed;
- (3) Develop and maintain Voluntary Sentencing Standards based on historical sentencing data related to actual time served by convicted offenders (truth-in-sentencing).

The Commission has accomplished steps one and two and is currently maintaining those two accomplishments while working on the third. Both the Sentencing Reference Manual and the Initial Voluntary Sentencing Standards are continuously reviewed for improvements and constitute on going projects of the Commission.

Sentencing Reference Manual

In 2004 the Commission Staff compiled and published a sentencing reference manual bringing together rules, statutes and case law relating criminal sentencing. The manual also includes information on sentencing alternatives, current sentencing trends, and a listing of criminal justice contacts. The manual has been updated each year since 2004 and is maintained on the Commission's website and given to Alabama sentencing judges at the annual state judicial conference each year. Access the manual at the Commission's website at <http://sentencingcommission.alacourt.gov>

Implementation of Initial Voluntary Sentencing Standards

In 2003 the Sentencing Commission began the process of developing the Initial Voluntary Sentencing Standards. These standards serve as sentencing guidelines for judges to consider at sentencing. As directed by the legislature, the Commission developed voluntary sentencing standards (guidelines) utilizing data capturing historical sentencing practices and offender/offense data and considering the weight given to various factors during sentencing. Following a thorough and methodical approach, the Commission used its databases to select a random sample of 13,000 felons sentenced to prison

Three Specific Legislative Mandates to the Commission

First Two Mandates Initiated and Maintained Annually

and supplemented the data bases with manual examination of presentence investigation reports. The Commission staff and consultants (ARS) combined the formation manually gathered from the pre-sentence reports and the Commission's database to form the database for the simulation model and for constructing the standards. The initial standards apply to 26 offenses, utilizing personal, property and drug worksheet categories, representing 87% of the most frequent felony convictions.

The sentencing standards, worksheets and instructions developed in 2004 were approved by the Legislature during the 2006 Regular Session, to become effective October 1, 2006. Between 2004 and 2005, the Commission conducted 32 sentencing workshops around the State for judges, prosecutors, defense attorneys, probation officers, court clerks and community corrections officers, and teaching the proposed sentencing system and inviting input as to their viability. Suggested changes were incorporated and the standards were presented to the Legislature for approval in 2005 and again in 2006. Because continuous education on the use of the standards is essential, the Sentencing Commission continues to conduct workshops on the standards, to make presentations to judges and prosecutors and local bar associations, and conduct data entry training for court specialists to increase their effectiveness.

Sentencing Standards Development Requires Careful Study & Research

In 2010 the Commission made the first study of standards compliance. Although these standards are voluntary, the statute provides that every judge shall consider the standards in cases in which they would apply, requiring the sentencing standards worksheet to be completed and the recommended disposition and sentence range considered by the judge prior to pronouncing sentence. The study included an analysis of compliance data during the first 18 months of use. The Commission received worksheets in 45% of the applicable cases. Based on the worksheets received, the Commission implemented a number of procedures to improve submission compliance. The Commission will be able to test the effectiveness of these measures when data for 2010 is analyzed.

Truth-in-Sentencing Standards

The Commission has begun the process of developing truth-in-sentencing standards. Following the process used in developing the initial standards, this process should take from 18 months to 24 months. A committee has been convened and has begun the review of data and truth-in-sentencing systems.

Formation of Truth-in-Sentencing has Begun

Data Improvement

Statutorily Recognized Access to Criminal Justice Data

Reliable data and data sharing from all criminal justice department and agencies were essential to accomplish its statutory duties. While the Commission's enabling act includes a provision for interagency cooperation requiring criminal justice agencies cooperate with the Commission's data requests, there was concern regarding access to confidential data and conflicting statutes on confidentiality. Commission recommended legislation

to respond to these issues resulting in the passage of Act 2002-503. Now codified as §12-25-11, *Code of Alabama* 1975, the Commission is 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.” Offender information received by the Commission remains subject to the same confidentiality requirements of the department or agency providing the information. A provision was also included requiring this information to be provided to the Commission electronically, if possible.

Website Provides Public Access to Commission Work

Alabama Sentencing Commission Website and E-Worksheets

The Commission maintains an active website at <http://sentencingcommission.alacourt.gov> to provide information to the public and to assist judges, prosecutors, and defense attorneys with sentencing issues. The website includes information on utilization of the sentencing standards and completion of the worksheets, news articles regarding sentencing reform, announcements of Commission meetings, minutes of Commission and committee meetings, the Commission’s legislation, annual reports, the Sentencing Reference Manual, and links to other state sentencing commissions.

The website also includes a program allowing for the electronic completion of sentencing standards worksheets. These e-worksheets assist worksheet preparers in preparing the worksheets, allowing electronic access to sentencing information saving both time and costs. The completed worksheet must be printed and filed in court to assure that any in court changes are incorporated in the document received by the Commission as the “final” worksheet. The on-line application is allows users to search prior criminal history and cases.

At the Commission’s request, the Administrative Office of Courts has established a scanning procedure that may be utilized by the court clerks, avoiding copying and mailing costs.

Sentencing Order Database

Alabama’s Sentencing Commission was not immune from the common problems experienced by sentencing commissions across the nation when compiling and analyzing data. One such problem that undermines use of SJIS data to determine compliance with the Sentencing Standards is the fact that the initial sentence entered into SJIS is overridden when probation or community corrections supervision is revoked or when a split sentence is modified. To address this problem until programming changes can be made to SJIS, 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 Commission will continue to utilize this separate database as a cross-check to ensure accurate and reliable sentencing information.

Uniform Sentencing Order

During the process of compiling and analyzing compliance data, the Sentencing Commission staff discovered two major obstacles hindering an accurate assessment of implementation of the initial sentencing standards: the variety of ways judges draft sentencing orders and the imaginative ways in which court specialists interpret the orders in entering court data. The Commission addressed these issues through constructing a Uniform Sentencing Order and providing additional training for court specialists.

**Uniform Sentencing Order
Corrects Errors**

Again, working through the committee structure and forming the Uniform Sentencing Order Committee, the Committee drafted a Uniform Sentencing Order, which was approved by the Sentencing Commission at its February 12, 2010 meeting. The Uniform Sentencing Order is now included in the Judges' Sentencing Reference Manual and is available electronically through the judges' dashboard and on the Commissions website.

MIDAS; Evidence-Based Practices Tool

The Commission's need for accurate, complete data, has influenced the development of electronic docketing and data collection throughout the criminal justice system. In almost direct response to this need, the Administrative Office of Courts (AOC) developed MIDAS, the courts' Model Integrated Defendant Access System, to address the need for a uniform data collection and case management system for community-based programs. MIDAS now provides an integrated statewide system that can enable alternative sentencing programs to establish and implement uniform evidence-based practices and uniform reporting capabilities. AOC has developed new functionalities designed for drug courts and community correction programs. The system is provided free of charge to any community supervision program. Future plans include incorporating a risk needs tool and an "inmate assessment" process initiated by the Department of Corrections to evaluate the classification records of medium security inmates to determine eligibility for transfer to minimum security work center facilities.

**Uniform Community
Supervision Database &
Case Management
Available but Needs
More Participation**

Modernizing Value Based Statutes

When the Commission began its work, value based property offenses had not been evaluated for more than 15 years. The effects of inflation were not taken into account causing criminal penalties to become harsher simply as a result of inflation. For instance a \$100 theft in 1977 involved considerably more property than a \$100 theft in 2003. The Commission recommended and the Legislature enacted legislation taking into account the inflationary effect on the amount of the thefts. 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.

**Updating Theft Laws
Based on Inflation Helped
Slow Prison Growth**

Revision of Alabama's theft laws was consistent with similar property crimes in other states and helped restrict the growth in the prison population.

Maximum Fine Increase

Along with considering the inflationary effect on property crimes, the Commission considered the same effect on allowable fines for criminal offenses. The Commission recommended and the Legislature adopted raising the allowable based on the inflation index. Sections 13A-5-11 and § 13A-5-12 of the *Code of Alabama* Act 2006-197, were amended effective June 1, 2006, to increase the maximum amount of fines authorized upon conviction for a felony, or Class A or B misdemeanor as follows:

Updated Fines Based on Inflation	Current/1977 Amt.		New Amount	With Inflation
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 Misd. from	\$2,000	to	\$6,000	\$6,105.61
Class B Misd. from	\$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.

These fines were 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.

Effective Prison Industry and Community Alternatives Could Provide Revenue

In an effective system that allows for prison industry and community punishment, these fines 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 and where otherwise designated for use by state agencies or departments, are deposited in the State General Fund.

Creating a Wider Array of Sentencing Alternatives

Wider Array of Community Sanctions Needed for Offender Accountability & Reduced Victimization

In 2003, the Commission recommended the creation of a wider array of sentencing and intermediate punishment options. Among the 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 offenders; 4) the expansion of drug courts and other specialty courts to address the substance abuse and other specific issues faced by a great number of offenders; and 5) the creation of a true continuum of sanctions in Alabama, providing graduated sanctions from probation to prison.

Community Corrections and Punishment Act Amendments

Based on the Sentencing Commission's recommendation, the Community Corrections and Punishment Act was amended by Act No. 2003-353, effective July 30, 2003. These amendments were needed to ensure more accountability and encourage the growth of local community corrections programs as an alternative to incarceration. The key provision of the Act was the creation of a community corrections division in the Department of Corrections with a full-time director and support staff. Another major provision of the Act established a procedure to authorize counties to create community correction programs by passage of a county resolution, rather than by establishing non-profit authorities.

2003-2011 Community Corrections Programs Expand from 16 to 34

As a direct result of passage of these amendments and recognizing the importance of utilizing community corrections supervision as an alternative to incarceration for nonviolent offenders, the Legislature has included a line item for community corrections in ADOC's General Fund appropriations since 2003. For FY 2011, the Legislature appropriated \$6,248,000 (up from 2 million in 2003) community corrections programs as a line item in the DOC budget. These funds can be used as start-up grants for local programs, as well as the operation of existing programs through reimbursements provided from the Department of Corrections for eligible felons diverted from prison.

Today, there are 34 community corrections programs (up from 15 in 2003) operating in 45 counties, which account for over 3,000 felons diverted from prison each year. During fiscal year 2010, there were 3,197 felony offenders diverted to community corrections. Of these 1,766 were new diversions and 1,431 were diverted offenders carried over from FY2009. Without these programs, last year alone almost 3,200 more offenders would have been housed in an Alabama Department of Corrections facility.

45 of 67 Counties Now Covered

Cooperative Community Alternative Sentencing Project

In an effort to develop a true continuum of sanctions with clearly defined intermediate sentencing alternatives that utilize evidence-based practices, in 2008 the Alabama Sentencing Commission and Chief Justice Sue Bell Cobb co-sponsored the Cooperative Alternative Sentencing Project (CCASP).

The primary goal of this project was to bring the affected agencies and leaders together at the State and local levels to address issues in local supervision of offenders. These issues, i.e., duplication of services and efforts, caused by the lack of a cohesive system of community supervision for nonviolent felony offenders nurture fiscal irresponsibility and program ineffectiveness. Because past efforts by the State to resolve these issues had failed, CCASP was established to provide a new approach encouraging active community involvement and focusing on evidence-based practices, collaboration among local agencies, and coordination of services. CCASP began working with four pilot sites develop models and mentors for other community programs.

CCASP Identifies Local Issues & Assists with Collaborative Solution

The pilot sites chosen to participate in the project and develop a comprehensive plan at the local level were Lawrence, Montgomery, Jefferson, and Marshall Counties. Each jurisdiction was asked to form local alliances among the agencies supervising offenders in the community and define a system, including a continuum of graduated supervision, that was fair, effective, and efficient and a model for other jurisdictions to imitate. They were expected to actively involve all major criminal justice stakeholders, and through self-examination, data analysis, collaboration, and cooperation, improve services at the local level.

CCASP has now been active in all four jurisdictions and all have completed a self analysis phase and, with the assistance of Vera Institute of Justice (Vera) and The Crime and Justice Institute (CJI). Two of the jurisdictions, Marshall and Jefferson Counties, are actively continuing the process, utilizing the CCASP format to consider and adopt changes in their local agencies. The project fostered a better understanding of local criminal justice efforts in all of the pilot sites. Reports completed by Vera are on file in the Commission office.

**Community Corrections
Programs Implementing
Risk & Needs Assessment
Provided by CCASP**

As with any project undertaken for improvement, success does not happen overnight. The initial advancement with CCASP was that each site successfully identified their specific strengths and weaknesses. Strengths included the dedication of the staff in the local agencies and the commitment to public safety. Weaknesses identified included the lack of sufficient data for a comprehensive assessment of each program or for implementation of evidence-based practices, and the failure to use a uniform comprehensive Risk and Needs Assessment tool for either placement of offenders or case planning.

CCASP sites and community corrections programs, statewide, are in the process of implementing a validated risk and needs assessment tool. Alabama adopted the new Ohio Risk and Needs Assessment Tools (now referred to as the “Alabama ORAS”), which is non-proprietary and can be used at no cost. These instruments have been shown to offer impressive assistance in supervising and treating offenders, reducing recidivism, and identifying needed services to better effect public safety and will allow Alabama to make optimal use of the scarce resources available for supervising convicted offenders. The greatest benefit to the criminal justice system is the instruments help identify specific services needed to change a specific offender’s behavior. Use of the instruments, therefore, allows for a more directed use of available resources.

**Risk & Needs
Assessments help Direct
Use of Rehabilitative
Resources**

Community Corrections supervision officers are now beginning to use the instruments to direct case planning and identify resources or services needed in the community for successful supervision. The instrument results are being sent to the Sentencing Commission and entered into a database for analysis. This process is essential for the implementation of evidence-based practices in Alabama’s community supervision programs.

The project has also begun to address the need for consistent data to support each jurisdiction. In Lawrence and Montgomery Counties, the Community

Corrections programs have migrated to the MIDAS data system provided by the Administrative Office of Courts (AOC). In addition, the Board of Pardons and Paroles is in the process of developing a compatible data system using MIDAS as the starting point. The goal is to establish compatible data systems for statewide reporting of reliable data on offenders sentenced to community supervision.

Drug Courts

In recognition of the fact that a large percentage of ADOC's inmate population is suffering from alcohol or substance abuse or addiction, prison admissions for drug offenders accounted for 37% of 2009 prison admissions, and 68%-75% of the inmates at intake have a documented or self reported history of illicit drug use, the Sentencing Commission has consistently recommended the expansion of drug courts to divert offenders with substance abuse issues to an effective treatment alternative other than prison. Alabama can no longer afford to rely on the Department of Corrections to continue to serve as the largest substance abuse treatment provider in the state. As of January 2010, there were 4,239 inmates enrolled in one of ADOC's drug treatment programs, which was an increase of 6% from January 2009, with numerous inmates on a waiting list to participate.

Drugs a Major Source of Corrections Population Growth

In 2007, there were only 17 drug courts serving 16 counties (15 circuits). With the assistance of retired District Court Judge O.L. "Pete" Johnson, Chief Justice Sue Bell Cobb began a campaign, supported by the Sentencing Commission to implement the Commission's recommendation for increased drug court activity in Alabama. The Commission had in 2003 recommended the expansion of drug courts as an effective alternative to promote public safety. Drug courts have been expanded from 17 drug courts operating in 23 counties (15 judicial circuits) to 59 drug courts serving 58 counties. In addition, the Sentencing Commission recently received a commitment from the Substance Abuse Division Director of the Department of Mental Health to expand alcohol and drug treatment programs in the 22 counties where they do not currently exist.

Drug Courts Increased from 17 to 59

Other Criminal Justice Activities

In addition to performing its statutory duties, the Sentencing Commission members and staff actively participate on various criminal justice boards, committees, task forces and coalitions or provide assistance through statistical analysis or legal research. The following are among the projects with which the Commission has been directly involved:

Commission Works with All Criminal Justice Agencies

- The Public Safety and Interagency Sentencing Coalition
- The Alabama State Bar and ALI Warrant and Indictment Committee
- ALI Criminal Code Revision Committee
- The National Association of Sentencing Commissions
- The Cooperative Community Alternative Sentencing Project
- UJS Judicial Study Commission (JSC)

- JSC's Consolidation of Supervision Services Committee
- Pros and Cons Subcommittee of the Committee on Consolidation of Supervision of Services
- Drug Court Task Force and its Legislative Committee

Chapter 2: Sentencing Standards & Worksheets Compliance and Data

The Alabama Sentencing Commission continues to evaluate and look for ways to improve the use of the Initial Voluntary Sentencing Standards in the State. The Commission has taken a methodical approach to measure judicial compliance with the Sentencing Standards and worksheet recommendations while continuing to refine and improve the worksheet process and improve future data quality.

After receiving over two years' worth of sentencing worksheets and court database and sentencing information, Commission staff identified a number of issues pertaining to the analysis of compliance with the Sentencing Standards and worksheet recommendations. The Commission has proposed solutions and improvements to the Standards and worksheets process for increased effectiveness and data quality improvement. The largest change became effective January 1, 2011 changing the procedure for the receipt of sentencing information by the Commission. The primary source of statewide criminal sentencing information is the State Judicial Information System (SJIS). Many issues have been identified with the sentencing information found in SJIS that include multiple and inconsistent sentencing entries, sentence overrides and the difficulty capturing nuanced sentences. The Commission, working in conjunction with Administrative Office of Courts staff, has devised a procedure for the Commission to receive the actual court order(s) in each case to record sentencing information. The Commission staff believes this change, although not reflected in the compliance data found in this report, will greatly improve data quality and accuracy. The Commission also assembled a Uniform Sentence Order Committee consisting of judges, prosecutors, and defense attorneys and drafted an order aimed at being used statewide by judges reducing the number of variations of orders throughout the state and reducing confusion of court specialists tasked with entering the information into SJIS.

The Commission's *2009 Report* identified the 4-Stage model used to gauge judicial compliance with the Initial Voluntary Sentencing Standards. The first stage in the process (Use Compliance) consisted of contacting local practitioners and determining how implementation of the Standards was proceeding. The second stage (Submission Compliance) entails comparing the number of submitted *valid* worksheets to the number of applicable worksheet sentencing events. The third and fourth stages (In/Out and Sentence Length Compliance) measure compliance with the dispositional and sentence length recommendations found on the Standards' worksheets.

Use Compliance was completed by contacting judges, prosecutors, court clerks, the defense bar, and probation and parole officers to ascertain how implementation and use of the Standards was proceeding in local jurisdictions. Submission compliance is measured by comparing the number of valid received Sentencing Standards worksheets to the total number of applicable Standards worksheet sentencing events. The Commission knows the submission compliance measure is not an accurate indication of worksheet usage in local jurisdictions. A large number of worksheets received by the

Commission Continues to Improve Sentencing Standards Compliance

4-Stage Model to Gauge Compliance

Commission are not categorized as valid worksheets because the conviction offense indicated on the worksheet was not consistent with the conviction offense found in SJIS or on received sentencing orders. The submission procedure that has now been rectified with court orders and worksheets was not completed for the time period this report covers. For fiscal year 2009 the Commission received valid worksheets in 46 percent of applicable cases, but worksheets were used and submitted in far more cases but had to be excluded because of inconsistent conviction offense information. Figure 1 shows submission compliance by county and for the entire State.

**Greatest Compliance for
Violent Crimes**

**Lowest Compliance for
Property Crimes**

Figures 4, 5 and 6 report In/Out compliance for the three different worksheet categories; Personal, Property, and Drugs respectively. The Personal worksheet has the highest compliance with “In” recommendations at 92 percent of offenders receiving a prison sentence for a corresponding “In” recommendation. The Property worksheet had 81 percent compliance with “In” recommendations while the Drugs worksheet had 74 percent compliance with “In” recommendations. The Personal worksheet, while having the highest compliance with “In” recommendations, had the lowest compliance with “Out” recommendations at 53 percent. The Property and Drugs worksheets both had 64 percent compliance with “Out” recommendations.

Figure 1.

**Sentencing Standards Worksheets Received
October 1, 2008-September 30, 2009**

	Worksheet Sentencing Events	Received Worksheets for Sentencing Events	% of Worksheets Sentencing Events with Received Worksheets
Autauga	132	105	79.5%
Baldwin	457	121	26.5%
Barbour	92	59	64.1%
Bibb	81	58	71.6%
Blount	137	76	55.5%
Bullock	35	0	0.0%
Butler	90	63	70.0%
Calhoun	397	73	18.4%
Chambers	168	128	76.2%
Cherokee	88	33	37.5%
Chilton	166	79	47.6%
Choctaw	36	21	58.3%
Clarke	107	51	47.7%
Clay	43	38	88.4%
Cleburne	71	42	59.2%
Coffee	259	191	73.7%
Colbert	209	162	77.5%
Conecuh	61	16	26.2%
Coosa	38	33	86.8%
Covington	248	208	83.9%
Crenshaw	21	9	42.9%
Cullman	257	186	72.4%
Dale	134	106	79.1%
Dallas	175	47	26.9%
Dekalb	139	56	40.3%
Elmore	242	158	65.3%
Escambia	141	44	31.2%
Etowah	487	234	48.0%
Fayette	60	28	46.7%
Franklin	99	64	64.6%
Geneva	80	47	58.8%
Greene	28	14	50.0%
Hale	22	1	4.5%
Henry	79	0	0.0%

Figure 1. (Continued)

**Sentencing Standards Worksheets Received
October 1, 2008-September 30, 2009**

	Worksheet Sentencing Events	Received Worksheets for Sentencing Events	% of Worksheets Sentencing Events with Received Worksheets
Houston	682	178	26.1%
Jackson	147	62	42.2%
Jefferson	2,910	961	33.0%
Lamar	61	34	55.7%
Lauderdale	152	109	71.7%
Lawrence	116	78	67.2%
Lee	282	225	79.8%
Limestone	244	18	7.4%
Lowndes	14	0	0.0%
Macon	95	36	37.9%
Madison	1,109	653	58.9%
Marengo	66	52	78.8%
Marion	83	2	2.4%
Marshall	304	141	46.4%
Mobile	1,191	275	23.1%
Monroe	85	26	30.6%
Montgomery	1,109	585	52.8%
Morgan	346	211	61.0%
Perry	15	0	0.0%
Pickens	64	16	25.0%
Pike	117	98	83.8%
Randolph	69	66	95.7%
Russell	273	71	26.0%
Shelby	530	311	58.7%
St. Clair	317	216	68.1%
Sumter	22	12	54.5%
Talladega	334	257	76.9%
Tallapoosa	198	77	38.9%
Tuscaloosa	884	313	35.4%
Walker	96	69	71.9%
Washington	48	36	75.0%
Wilcox	18	0	0.0%
Winston	113	23	20.4%
Total	16,973	7,762	45.7%

IN/OUT COMPLIANCE

Figure 2 on the following page is a flowchart displaying the “In/Out” worksheet recommendations and “In/Out” dispositions for the worksheets for which judicial compliance is reported statewide. This flowchart is organized as follows:

Valid Worksheets

- o **Box A** - Displays the number of number of completed and valid worksheets received by the Sentencing Commission used to determine judicial compliance;

Recommended Dispositions

- o **Box B** - Displays the number of “In” recommendations from the completed worksheets and the percentage of submitted worksheets with a resulting “In” recommendation;
- o **Box C** - Displays the number of “Out” recommendations from the completed worksheets and the percentage of submitted worksheets with a resulting “Out” recommendation;

Imposed Dispositions

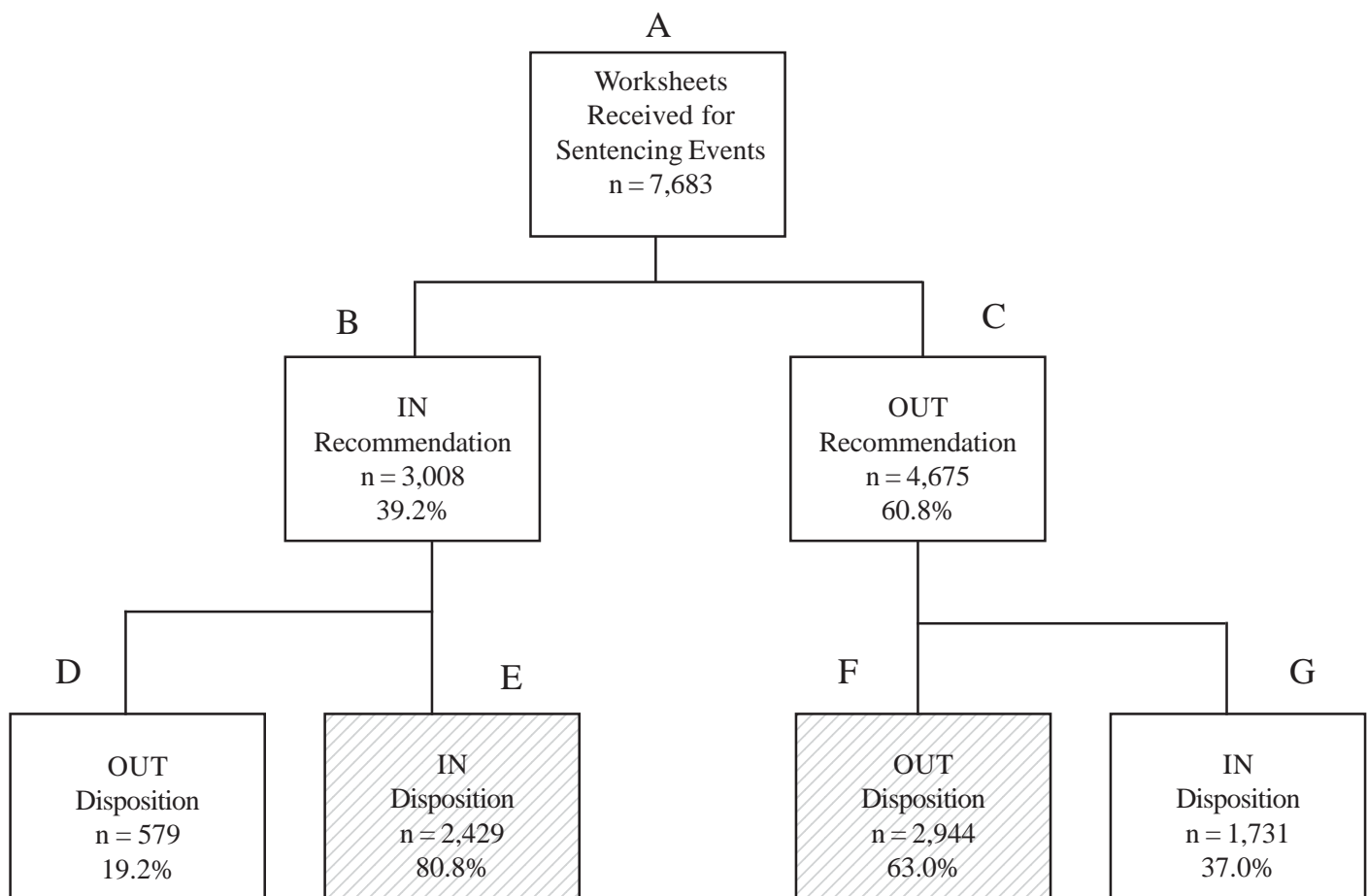
- o **Box D** - Displays the number of “In” recommendations that received an “Out” Disposition. The percentage displayed is the percentage of “In” recommendations that received an “Out” disposition;
- o **Box E** - Displays the number of “In” recommendations that received an “In” Disposition. The percentage displayed is the percentage of “In” recommendations that received an “In” disposition;
- o **Box F** - Displays the number of “Out” recommendations that received an “Out” Disposition. The percentage displayed is the percentage of “Out” recommendations that received an “Out” disposition;
- o **Box G** - Displays the number of “Out” recommendations that received an “In” Disposition. The percentage displayed is the percentage of “Out” recommendations that received an “In” disposition.

Box A shows the starting number of valid worksheets used to report judicial compliance - 7,683 worksheets. The “In/Out” recommendations reflect the Prison vs. Non-Prison recommendation based on the total score of the “In/Out” worksheet. An “Out” disposition was recommended in 61 percent of the received worksheets and an “In” disposition was recommended in 39 percent of the received worksheets. For those worksheets with an “In” recommendation, an “In” disposition was imposed 81 percent of the time (Box E). For those worksheets with an “Out” recommendation, an “Out” disposition was imposed 63 percent of the time (Box F).

The shaded boxes (Boxes E and F) indicate sentencing events that were “In/Out” compliant - that is a “prison” sentence was imposed for an “In” recommendation, or a “non-prison” sentence was imposed for an “Out” recommendation¹. A diagram is presented (Figure 3) providing examples of combinations of worksheet recommendations and case dispositions to show where sentencing events are categorized on the In/Out flowchart.

Figure 2.

In/Out Compliance Flowchart



¹ For the purpose of determining compliance only, an imposed community corrections sentence was categorized as In/Out compliant regardless of the worksheet In/Out recommendation (see Figure 3 for examples).

Figure 3.

In/Out Compliance Examples

Worksheet Recommendation	Imposed Sentence	Box Destination	IN/OUT Compliant
IN	Probation	Box D	No
IN	Community Corrections	Box E	Yes
IN	Jail	Box D	No
IN	Prison	Box E	Yes
<hr/>			
OUT	Probation	Box F	Yes
OUT	Community Corrections	Box F	Yes
OUT	Jail	Box F	Yes
OUT	Prison	Box G	No

Offense Category Compliance Flowcharts

Figure 4.

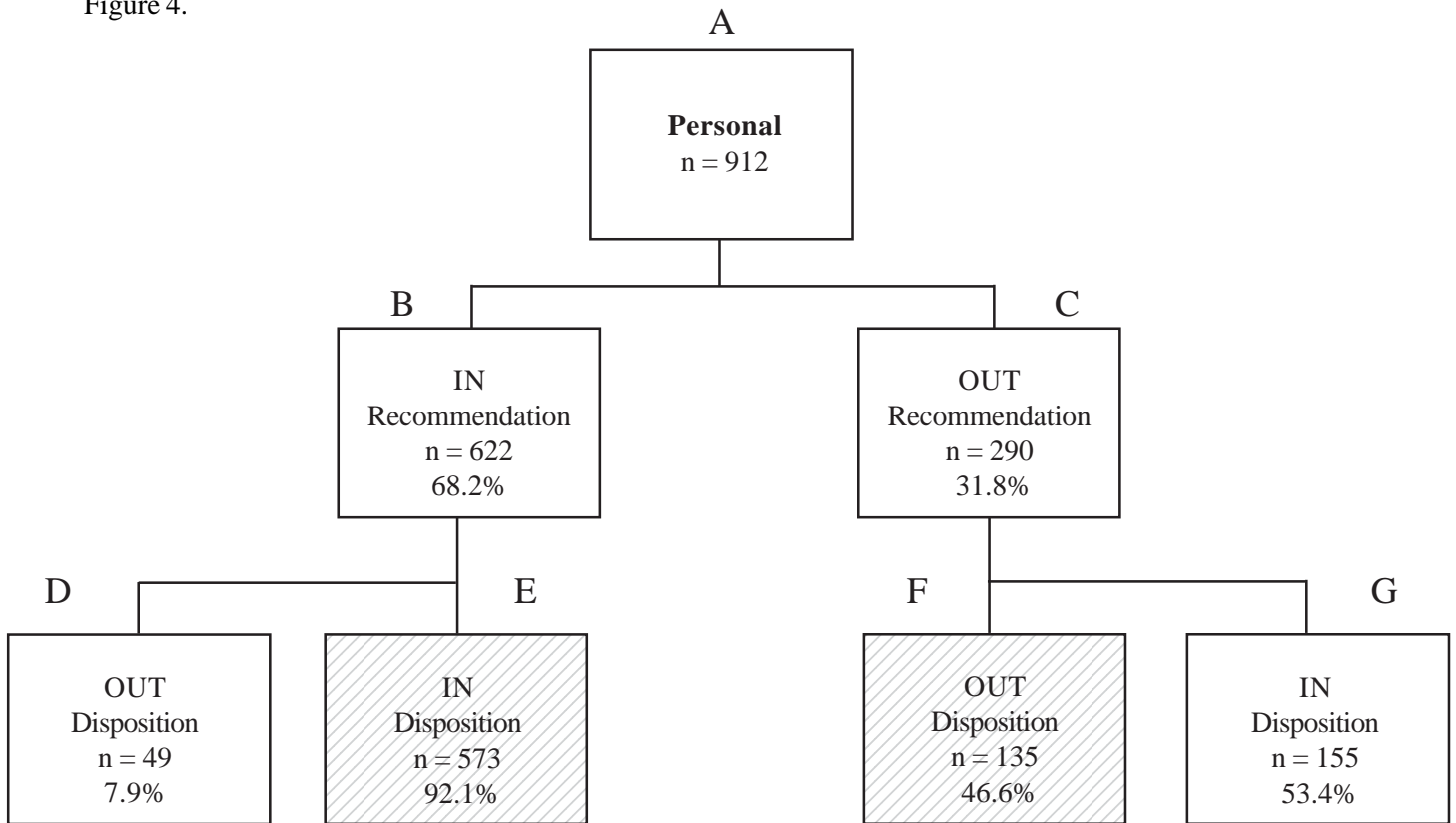
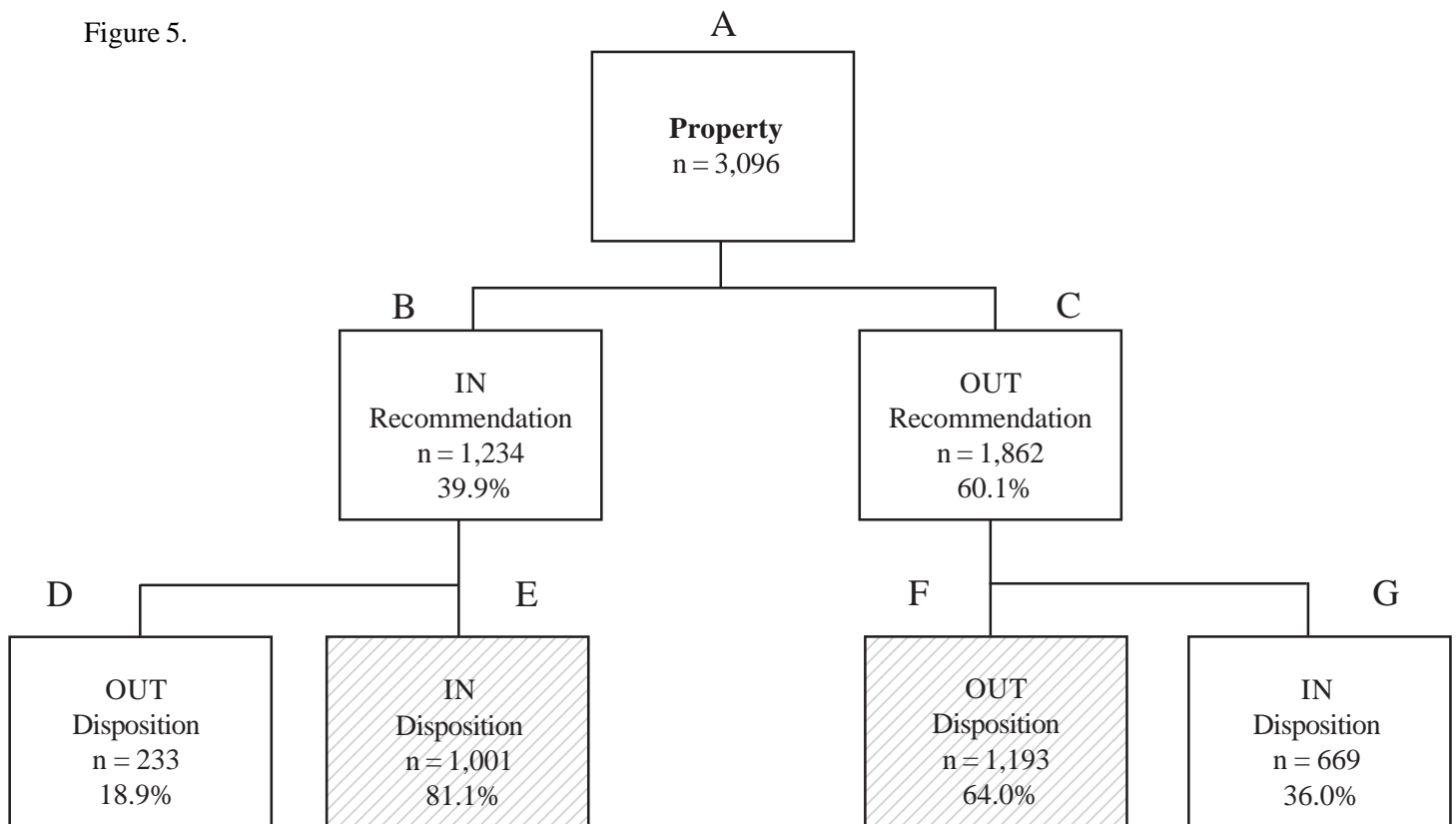
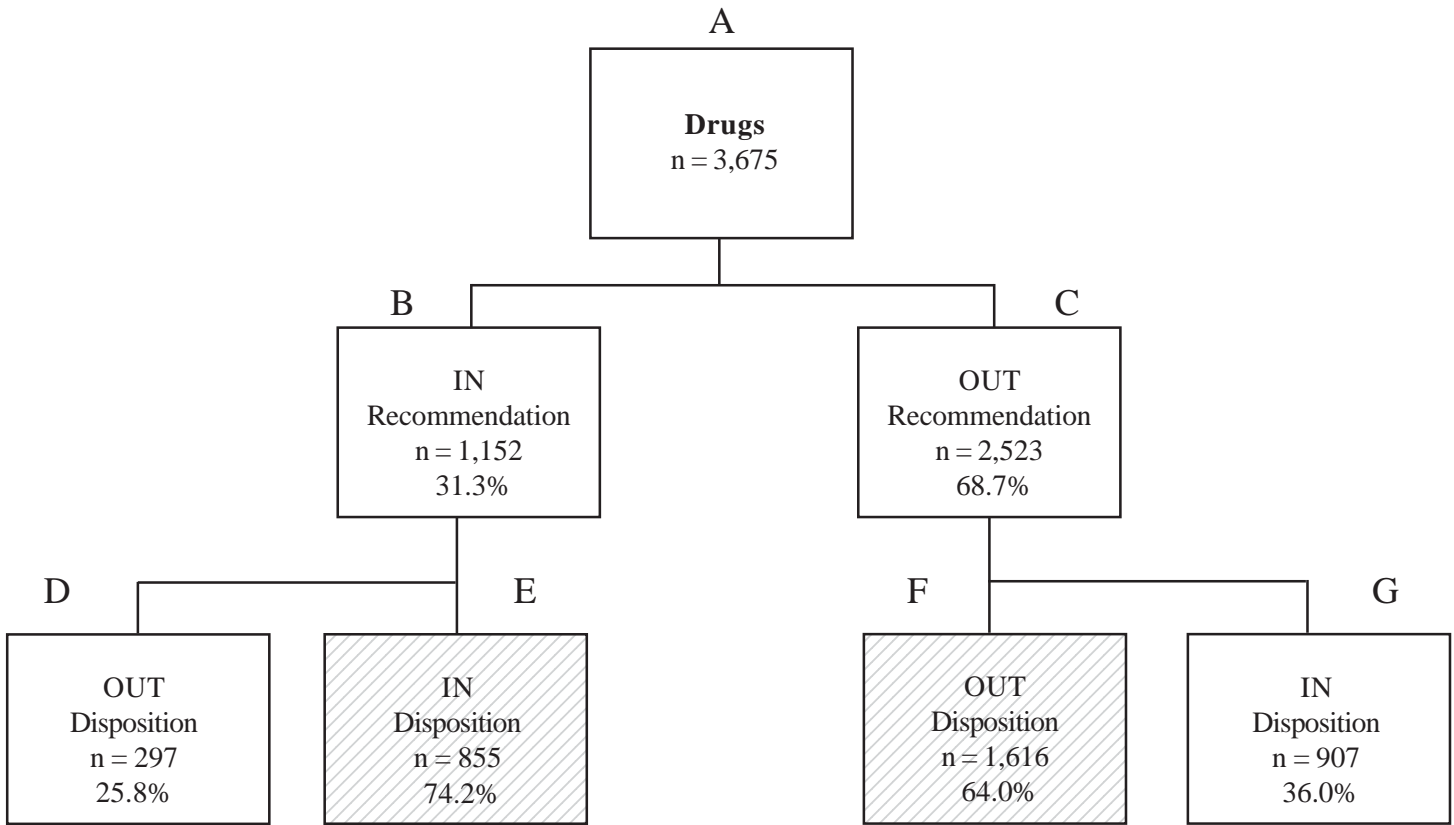


Figure 5.



Offense Category Compliance Flowcharts (Continued)

Figure 6.



Race & Gender Compliance Charts

Figures 7 and 8 display statewide compliance with the Initial Voluntary Sentencing Standards by race and gender respectively. Compliance data with the Standards show similar compliance rates for Black and White offenders. The “Other” category consists of a small number (n=33) of offenders representing numerous racial groups prohibiting meaningful analysis. While no large disparity is found in the compliance figures controlling for race, the overall compliance percentage for females is higher than males due to higher compliance with “Out” recommendations for females.

Figure 7.

Race			
	Overall	In/Out	
Black	56.3%	73.8%	n=4,022
White	57.8%	72.8%	n=3,628
Other			n=33

Figure 8.

Gender			
	Overall	In/Out	
Female	67.7%	75.5%	n=1,513
Male	54.4%	72.7%	n=6,170

SENTENCE LENGTH COMPLIANCE

Sentence Length compliance is measured by comparing the imposed term of confinement to the recommended term(s) of confinement found on the Sentence Length sentencing worksheet. For an imposed direct/straight prison sentence, the length of imposed confinement is compared to the “straight” recommended sentence range found on the Sentence Length worksheet. For an imposed split sentence, the split portion *and* the total sentence lengths are compared to the split and straight Sentence Length recommended sentence ranges found on the Sentence Length worksheet. For a direct/straight sentence to be Sentence Length compliant, the imposed confinement must fall within the “straight” Sentence Length range found on the worksheet. For a split sentence to be Sentence Length compliant, the split portion of the sentence and the total length portion of the sentence must both be within the “straight” and “split” ranges found on the worksheet.

Sentence Length compliance is only reported for those sentencing events where the worksheet recommendation was “In” and the sentencing event also had a corresponding “In” disposition (those events located in Box E of the In/Out flowchart). Less than one-third of all worksheets received were used to report Sentence Length compliance as only 2,429 worksheet sentencing events received an “In” recommendation and an “In” sentence (those in Box E).

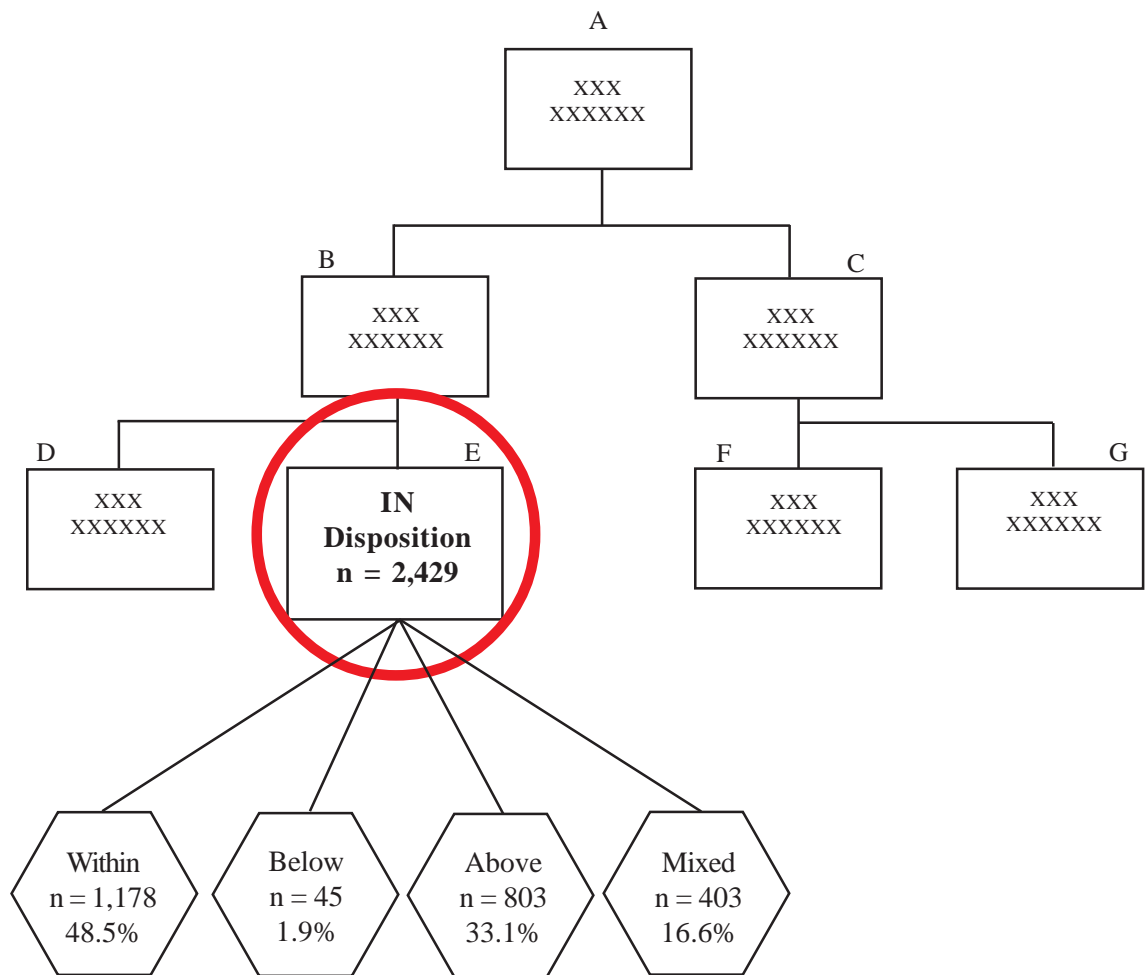
The diagram (Figure 9) on the following page displays statewide Sentence Length compliance using four categories - Within, Below, Above, and Mixed. The “Mixed” category is applicable only to split sentences when the different portions of the sentence (incarceration and total portions) are not consistent with each other (both either “Below”, “Above”, or “Within” the recommendations). Instances when the incarceration portion is above the recommended range and the total portion is below the recommended range, or the incarceration portion is within the recommended range and the total range is above the recommended range are examples of split sentences that would fall in the “Mixed” category. If both the split and total portions are within, above, or below the worksheet sentence length recommendations, they would be categorized as such, if they are not, they are categorized as “Mixed”. Nearly half (49%) of eligible sentencing events were sentence length compliant, almost one-third of the sentencing events received sentences above the worksheet recommendations, almost 2 percent received sentences below the worksheet recommendations, and 17 percent fell in the Mixed category. The overwhelming majority of events in the “Mixed” category consisted of sentences when the incarceration portion of the split sentence fell within the recommendations, but the total sentence exceeded the recommendations.

The three pie charts on page 25 (Figures 10, 11, and 12) display sentence length compliance for each worksheet offense category - Personal, Property, and Drugs. The three different worksheet offense categories all have markedly different sentence length compliance patterns. Personal worksheet sentence length recommendations were followed in 72 percent of events, drug worksheet sentence length recommendations were followed

in 46 percent of events, and property worksheet sentence length recommendations were followed in 38 percent of events.

Departures from the worksheet sentence length recommendations varied by worksheet offense category as well. Nearly 43 percent of all sentences imposed for property offenses fell above worksheet recommendations while 32 percent of drug sentences fell above, and only 17 percent of personal offense sentences exceeded the worksheet recommendations. The “Mixed” Category is most prevalent in drug events, but also is relatively high in property cases. Sentences imposed below worksheet recommendations were very low, at 2% or lower, across all three worksheet offense categories,

Figure 9.



Sentence Length Compliance

Figure 10.

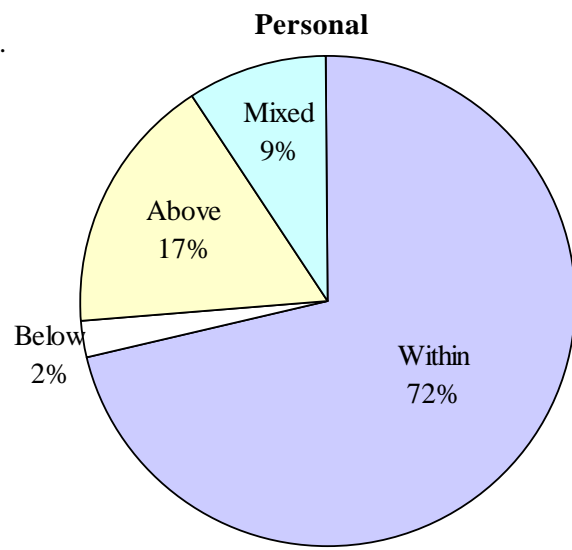


Figure 11.

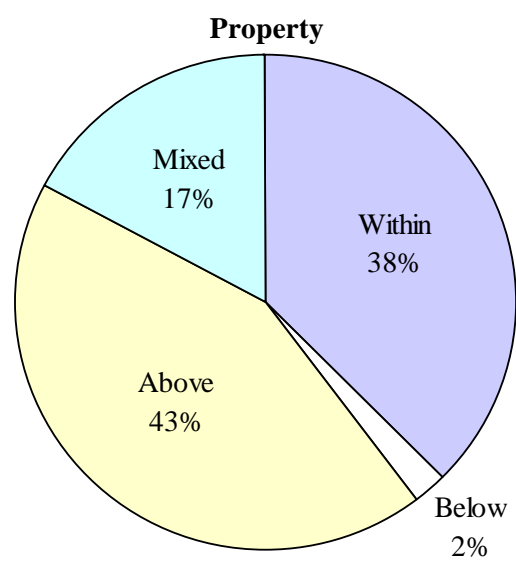
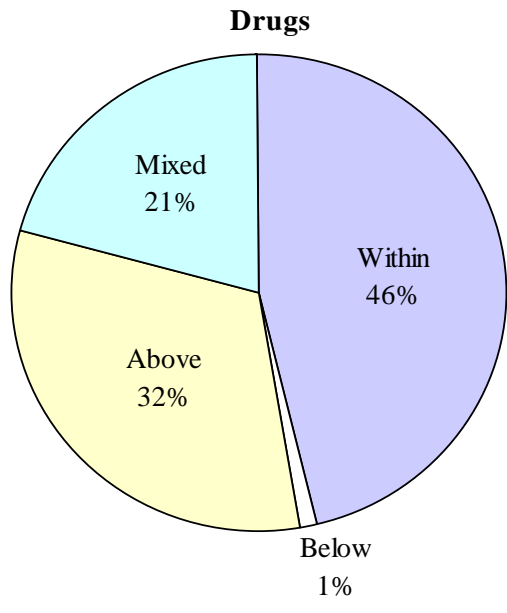


Figure 12.

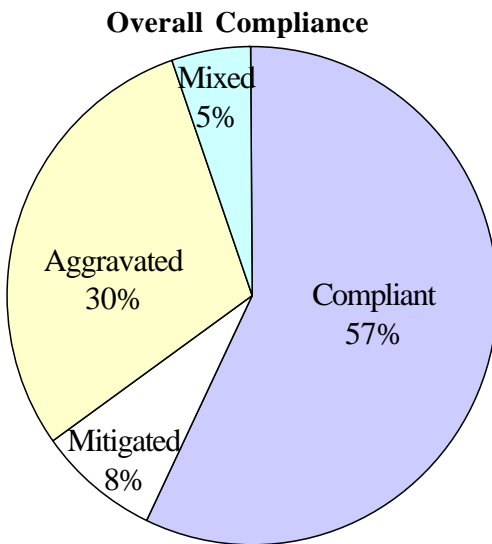


OVERALL COMPLIANCE

Overall compliance with the sentencing standards worksheet recommendations is achieved by conforming to the “In/Out” recommendation and the “Sentence Length” recommendation (when applicable). For the determination of compliance, sentence length recommendations are only applicable when the worksheets recommend “In” *and* an “In” sentence is imposed – those events located in Box E of the In/Out flowchart (Figure 2).

Consider the following examples for clarification:

Figure 13.



- If the worksheet recommendation is “Out”, the sentence length recommendation is not applicable for compliance purposes. If in this example, an “Out” sentence was imposed, this event would be overall compliant. If however an “In” sentence was imposed, this event would be overall non-compliant;
- If the worksheet recommendation is “In”, and an “Out” sentence is imposed, this event would be overall non-compliant. If in this example, an “In” sentence was imposed and the sentence was not within the sentence length recommendation(s), this event would also be overall non-compliant. If using this same scenario, an “In” sentence was imposed and the sentence was within the sentence length recommendation(s), this event would be classified as overall compliant.

Most Non-Compliant Sentences are Upward Departures

Overall compliance statewide is displayed in graphical format in the pie chart (Figure 13). All valid received worksheets are categorized into one of the categories in the pie chart. Overall compliance was realized in 57 percent of sentencing events. Over one quarter (30 percent) of the events were categorized as “Aggravated”, meaning either an “In” sentence was imposed on an “Out” recommendation or the sentence imposed exceeded the worksheet recommendations. The “Mitigated” category was significantly smaller than the “Aggravated” category – only 8 percent of events were “Mitigated”. This category is comprised of “Out” sentences imposed on “In” recommendations and sentences that were imposed that fell below the worksheet recommendations. The Mixed category (exclusive to splits) contained 5 percent of all worksheet sentencing events – the majority of these events were instances when the incarceration portion of the sentence complied with the recommendation but the total sentence exceeded the sentence length recommendation.

Who is in our Prisons - Top 25

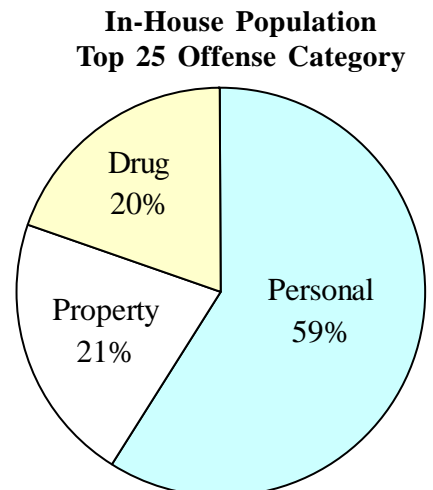
Figure 14.

In-House Population on January 11, 2010

Robbery 1st	1	3,628
Murder	2	3,153
Possession of Controlled Substance	3	1,487
Distribution of Controlled Substance	4	1,403
Burglary 3rd	5	1,131
Rape 1st	6	1,052
Burglary 1st	7	963
Theft of Property 1st	8	885
Capital Murder	9	883
Trafficking Drugs	10	784
Robbery 3rd	11	731
Manslaughter	12	726
Attempted Murder	13	587
Assault 1st	14	525
Sodomy 1st	15	520
Robbery 2nd	16	479
Assault 2nd	17	446
Receiving Stolen Property 1st	18	429
Possess Marihuana 1st	19	412
Breaking/Entering a Vehicle	20	392
Sexual Abuse 1st	21	386
Burglary 2nd	22	368
Theft of Property 2nd	23	312
Poss Forged Instrument 2nd	24	302
Manufacturing Controlled Substance 2nd	25	295
Top 25 Offenses		22,279
Other Offenses		3,230
Total In-House Population		25,509

**Design Capacity for
Alabama Prisons less
than 14,000**

Figure 15.



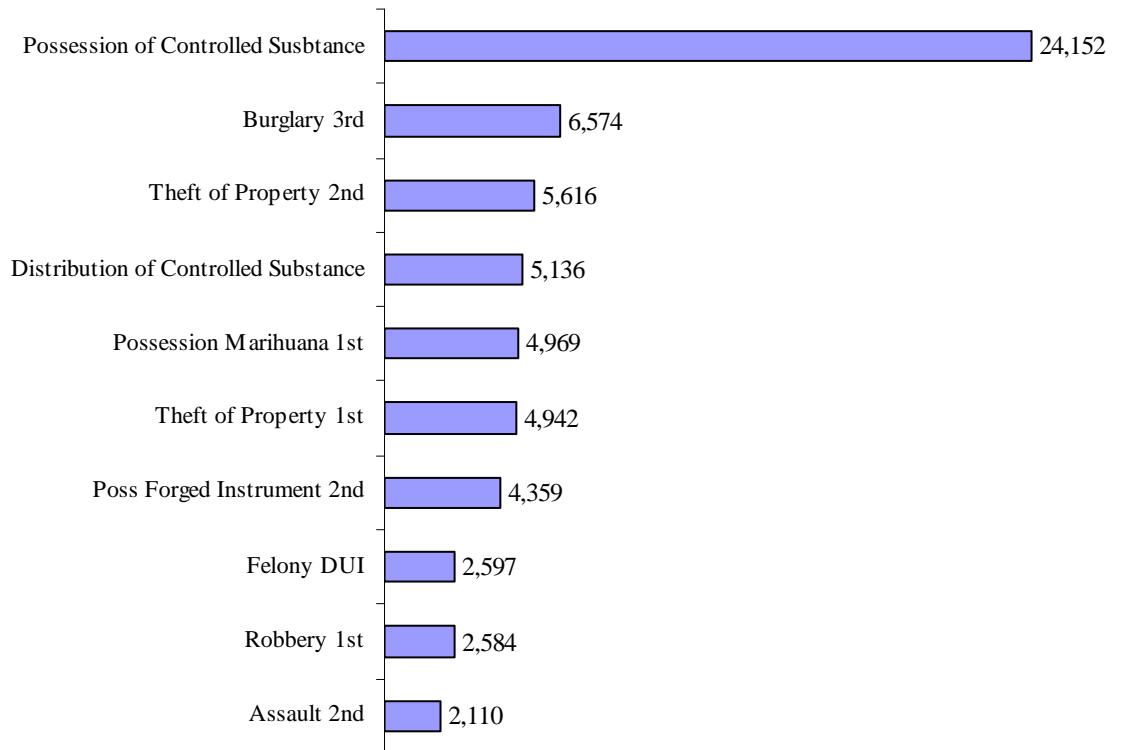
Most Frequent Felony Offense at Conviction

Possession of Controlled Substances convictions far surpass the number of convictions for any other offense. In the the past five fiscal years Possession of Controlled Substance convictions are nearly four times that of the next most frequent conviction offense.

Possession of Controlled Substance Drives Convicted Population

Figure 16.

**Most Frequent Felony Offense at Conviction - Top 10
October 1, 2004 - September 30, 2009**



Most Frequent Felony Offense at Conviction - Top 25

For the first time the number of offenders convicted for Possession of a Controlled Substance topped 5,000 for a single year and accounted for nearly a quarter of all felony offenders in 2009. Possession convictions (Controlled Substance *and* Marihuana) total nearly 3 out of every 10 felony convictions. The Top 25 felony conviction offense rankings remained stable with two notable exceptions. The number of offenders convicted for Manufacturing a Controlled Substance in the 1st *and* 2nd degrees in 2009 more than doubled from the previous year - Manufacturing 1st rose from #19 in the past two years to #10, Manufacturing 2nd rose from outside of the Top 25 last year to #17. After peaking at #2 numerous years, Felony DUI has now dropped out of the Top 25 this year. The number of offenders convicted increased 10 percent from 2008 and now exceeds 21,000 offenders.

Manufacturing of a Controlled Substance 1st & 2nd Convictions More than Double From Previous Years

Figure 17.

Most Frequent Felony Offense at Conviction October 1, 2006 - September 30, 2009

	FY07		FY08		FY09	
Possession of Controlled Substance	1	4,983	1	4,745	1	5,038
Burglary 3rd	2	1,237	2	1,376	2	1,618
Theft of Property 2nd	3	1,083	3	1,140	3	1,348
Distribution of Controlled Substance	5	955	5	1,059	4	1,255
Possession Marihuana 1st	6	923	6	1,002	5	1,197
Theft of Property 1st	4	965	4	1,061	6	1,190
Poss Forged Instrument 2nd	7	871	7	787	7	847
Robbery 1st	9	523	8	574	8	648
Assault 2nd	10	436	9	434	9	481
Manufacturing Controlled Substance 2nd	19	192	19	221	10	478
Breaking/Entering a Vehicle	13	352	12	341	11	421
Fraud/Illegal Use Debit/Credit Card	15	290	13	340	12	377
Receiving Stolen Property 1st	12	360	10	418	13	358
Receiving Stolen Property 2nd	11	366	11	377	14	340
Trafficking Drugs	14	331	14	318	15	323
Robbery 3rd	16	282	16	289	16	303
Manufacturing Controlled Substance 1st	24	145		132	17	287
Obstruct Justice-False Identity	18	227	17	288	18	273
Community Notification Act-Moving Notice	25	132	18	225	19	227
Forgery 2nd	17	279	15	300	20	223
Robbery 2nd		131	T21	161	21	201
Assault 1st	20	180	20	180	22	193
Murder	21	168	T21	161	23	167
Attempt - Possession of Controlled Substance		129	T24	136	24	164
Burglary 2nd	23	147		121	25	155
Manslaughter		113	23	139		120
Sexual Abuse 1st	22	158		101		104
Felony DUI	8	546	T24	136		46
Top 25 Offenses		16,131		16,208		18,112
Other Offenses		2,848		3,004		3,072
Total Most Serious Felony Offense Convictions		18,979		19,212		21,184

Type of Most Frequent Felony Offense at Conviction

The distribution of convictions by offense type remains nearly identical to last year's distribution. The distribution of convictions by offense type remains fairly stable year to year and does not show much variability.

Figure 18.

Most Frequent Felony Offense at Conviction Offense Category October 1, 2006 - September 30, 2009

**Distribution of
Convictions by Offense
Type Consistent**



Drug Convictions

Over one half of all felony drug convictions are Possession of a Controlled Substances convictions (56%). Possession (Controlled Substance and Marihuana) & Distribution of a Controlled Substance convictions account for 83% of the 9,013 drug convictions in 2009. Trafficking offenses continue to constitute a small percentage of the total number of drug convictions, less than 4 percent in 2009.

Possession and Distribution Offenses Comprise Over 80% of Drug Convictions

Figure 19.

Most Frequent Offense at Conviction Drug Offenses October 1, 2006 - September 30, 2009

	FY07	FY08	FY09
Possession of Controlled Substance	1 4,983	1 4,745	1 5,038
Disribution of Controlled Substance	2 955	2 1,059	2 1,255
Possession Marihuana 1st	3 923	3 1,002	3 1,197
Manufacturing Controlled Substance 2nd	6 192	5 221	4 478
Trafficking Drugs	5 331	4 318	5 323
Manufacturing Controlled Substance 1st	7 145	7 132	6 287
Attempt - Possession of Controlled Substance	8 129	T6 136	7 164
Precursor Chemical - Sale/Poss	31	19	8 54
Felony DUI	4 546	T6 136	46
Top Drug Offenses	8,204	7,749	8,842
Other Drug Offenses	147	118	171
Total Drug Offenses	8,351	7,867	9,013

Type of Trafficking Convictions

The number of Trafficking convictions has remained stable over the past three years.

Approximately 300 Trafficking Convictions per Year

Figure 20.

Most Frequent Drug Trafficking Convictions Drug Type October 1, 2006 - September 30, 2009

	FY07	FY08	FY09
Trafficking - Cocaine	111	117	1 116
Trafficking - Marihuana	61	89	2 88
Trafficking - Methamphetamine	92	64	3 58
Trafficking - Illegal Drugs	50	36	4 50
Other	17	12	5 11
Total Most Serious Felony Offense Convictions for Trafficking	331	318	323

Prison Admissions - Top 25**Jurisdictional Admissions
for Possession of
Controlled Substance
Offenders Far Surpass
Those for Any Other
Offense**

Jurisdictional admissions to the Department of Corrections have increased in fiscal years 2008 and 2009. The number of jurisdictional admissions have increased by over 1,100 admissions since 2007.

Figure 21.

**Prison Admissions for New Offenses
October 1, 2006 - September 30, 2009**

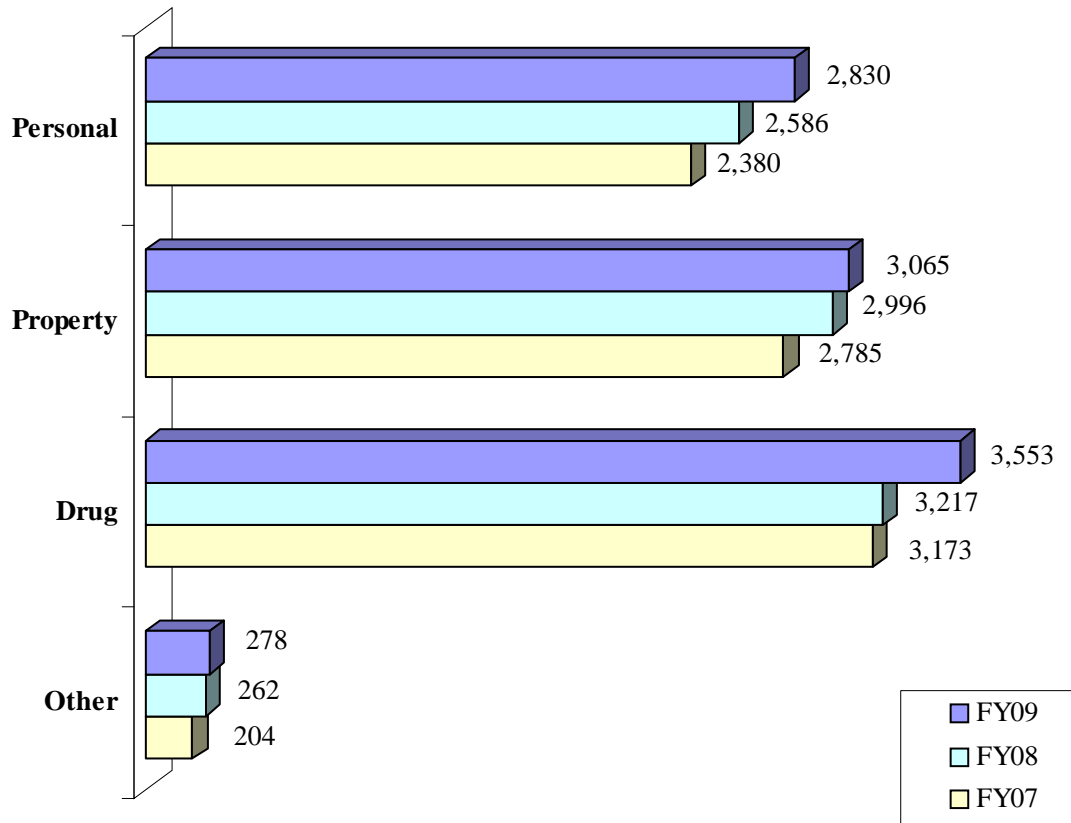
	FY07	FY08	FY09
Possession of Controlled Substance	1 1,402	1 1,433	1 1,467
Distribution of Controlled Substance	2 653	2 822	2 845
Robbery 1st	4 617	3 703	3 783
Burglary 3rd	3 629	4 672	4 735
Theft of Property 1st	5 398	5 490	5 518
Poss Marihuana 1st	6 368	6 353	6 444
Theft of Property 2nd	8 294	7 297	7 341
Trafficking Drugs	11 228	9 259	8 298
Robbery 3rd	T12 214	13 218	9 259
Assault 2nd	T12 214	11 227	10 247
Manufacturing of Controlled Substance 2nd	89	22 120	11 240
Breaking/Entering a Vehicle	15 193	12 220	12 238
Poss Forged Instrument 2nd	9 275	8 272	13 232
Murder	10 241	14 192	14 208
Receiving Stolen Property 1st	14 206	10 238	15 195
Manufacturing of Controlled Substance 1st	88	97	16 181
Robbery 2nd	17 140	15 160	17 173
Assault 1st	18 138	17 143	T18 169
Community Notification Act Violations	24 94	16 152	T18 169
Burglary 1st	16 157	18 141	20 123
Manslaughter	86	19 132	21 119
Poss Fraud Use of Credit/Debit Card	21 104	24 116	22 111
Receiving Stolen Property 2nd	20 107	21 124	23 110
Burglary 2nd	19 117	25 108	24 108
Attempted Murder	67	73	25 93
Forgery 2nd	23 97	23 119	91
Rape 2nd	25 91	104	87
Felony DUI	7 343	20 129	76
Sexual Abuse 1st	22 101	83	72
Top 25 Offenses	7,421	7,840	8,406
Other Offenses	1,127	1,237	1,320
Total Prison Admissions for New Offenses	8,548	9,077	9,726

Prison Admissions for New Offenses by Offense Category

Figure 22.

**Prison Admissions for New Offenses
Offense Category
October 1, 2006 - September 30, 2009**

**Drug Offenders
Continue to be
Largest Offense
Group Admitted to the
Jurisdiction of ADOC**

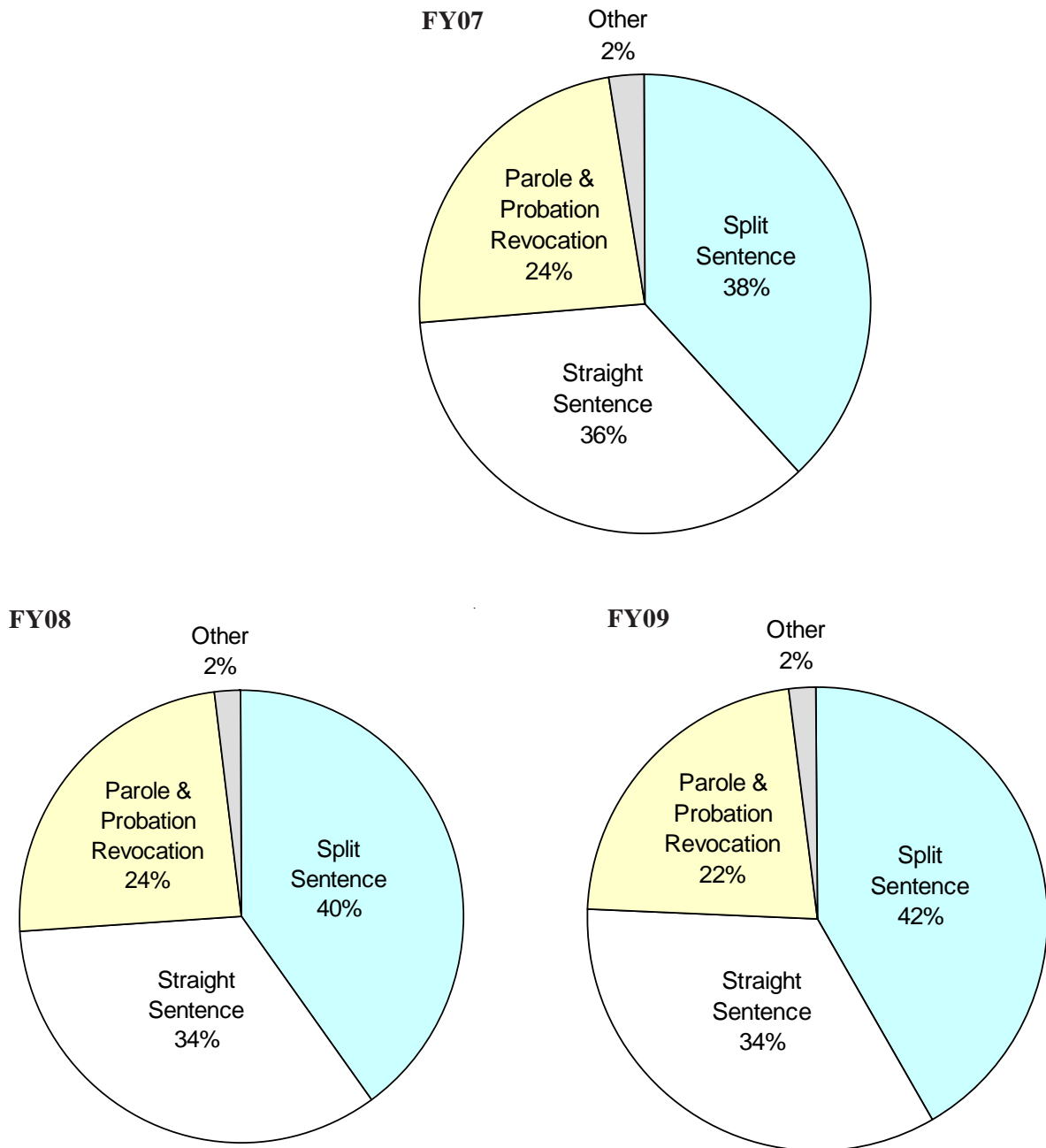


Prison Admissions by Type of Admission

Split Sentence Admissions have Increased from 38 percent in Fiscal Year 2007 to 42 percent in Fiscal Year 2009.

Figure 23.

**Prison Admissions (all admissions)
Type
October 1, 2006 - September 30, 2009**



Prison Releases - Top 25

Over 25 percent of jurisdictional releases from the Department of Corrections are offenders convicted of Possession of Controlled Substance and Distribution of Controlled Substance.

1 out of every 6 Releases is an Offender Convicted of Possession of Controlled Substance

Figure 24.

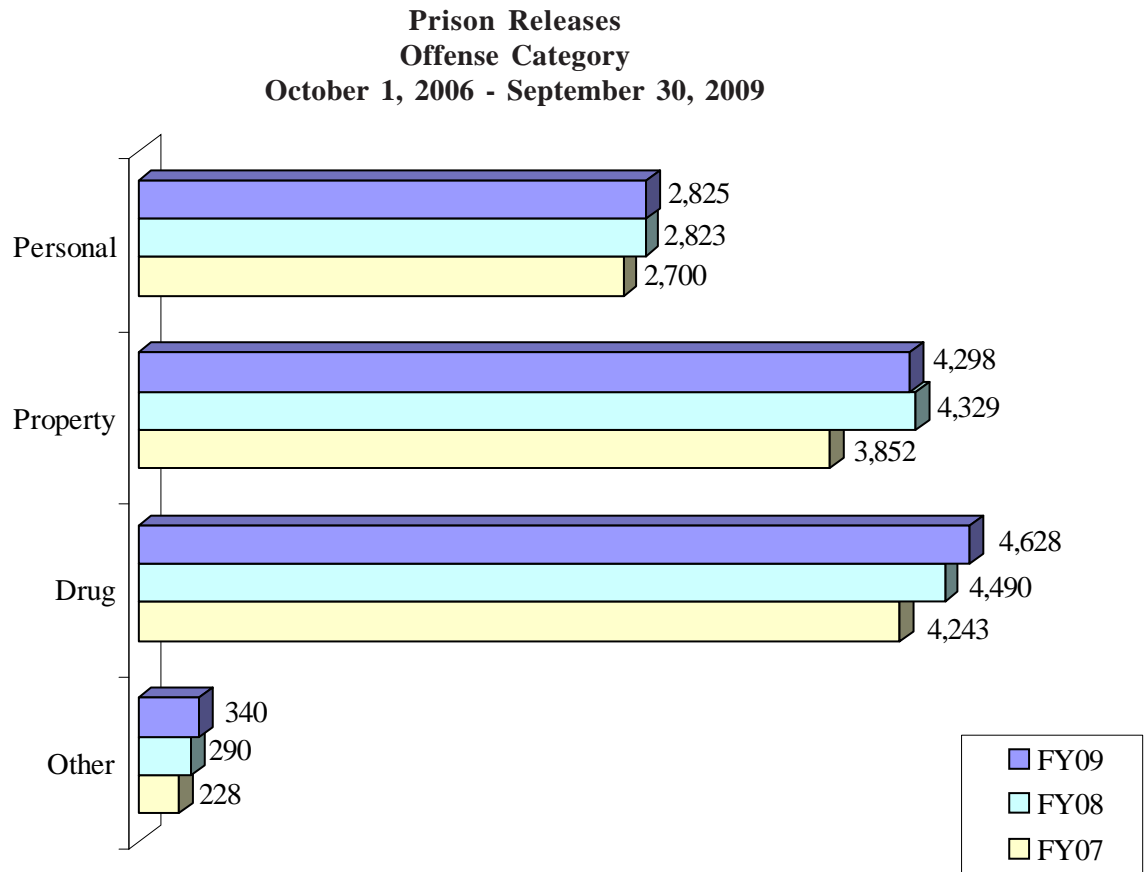
Prison Releases			
October 1, 2006 - September 30, 2009			
	FY07	FY08	FY09
Possession of Controlled Substance	1 1,848	1 1,978	1 2,148
Distribution of Controlled Substance	2 836	3 913	2 1,065
Burglary 3rd	4 790	2 918	3 957
Robbery 1st	3 796	4 734	4 736
Theft of Property 1st	5 590	5 695	5 702
Poss Marihuana 1st	7 470	6 567	6 563
Theft of Property 2nd	9 369	9 445	7 432
Poss Forged Instrument 2nd	8 406	7 453	8 383
Receiving Stolen Property 1st	12 282	12 308	9 327
Assault 2nd	13 266	14 286	10 324
Breaking/Entering a Vehicle	11 291	11 309	11 313
Robbery 3rd	10 315	10 353	12 295
Felony DUI	6 571	8 451	13 251
Robbery 2nd	18 180	16 195	14 195
Burglary 1st	15 222	15 210	15 194
Receiving Stolen Property 2nd	16 195	T18 181	16 173
Assault 1st	23 129	22 163	T17 167
Manufacturing of Controlled Substance 2nd	21 141	23 162	T17 167
Murder	17 188	T18 181	19 166
Burglary 2nd	20 160	21 174	20 165
Poss Fraud Use of Credit/Debit Card	22 131	20 175	21 161
Forgery 2nd	19 170	17 185	22 158
Sex Offender-Fail to Register	71	113	23 156
Manufacturing of Controlled Substance 1st	25 108	25 125	24 128
Rape 2nd	24 109	106	25 120
Trafficking Drugs	14 263	13 290	
Sexual Abuse 1st	104	24 128	
Top 25 Offenses	9,826	10,579	10,446
Other Offenses	1,211	1,368	1,645
Total Prison Releases	11,037	11,947	12,091

Prison Releases by Offense Category

Offenders Convicted of Drug Offenses Constitute Largest Category of Jurisdictional Releases

The largest category of offenders released from the jurisdiction of the Department of Corrections are those convicted of drug offenses. In each of the last three years the the offense categories have remained constant in the order of the number offenders released.

Figure 25.



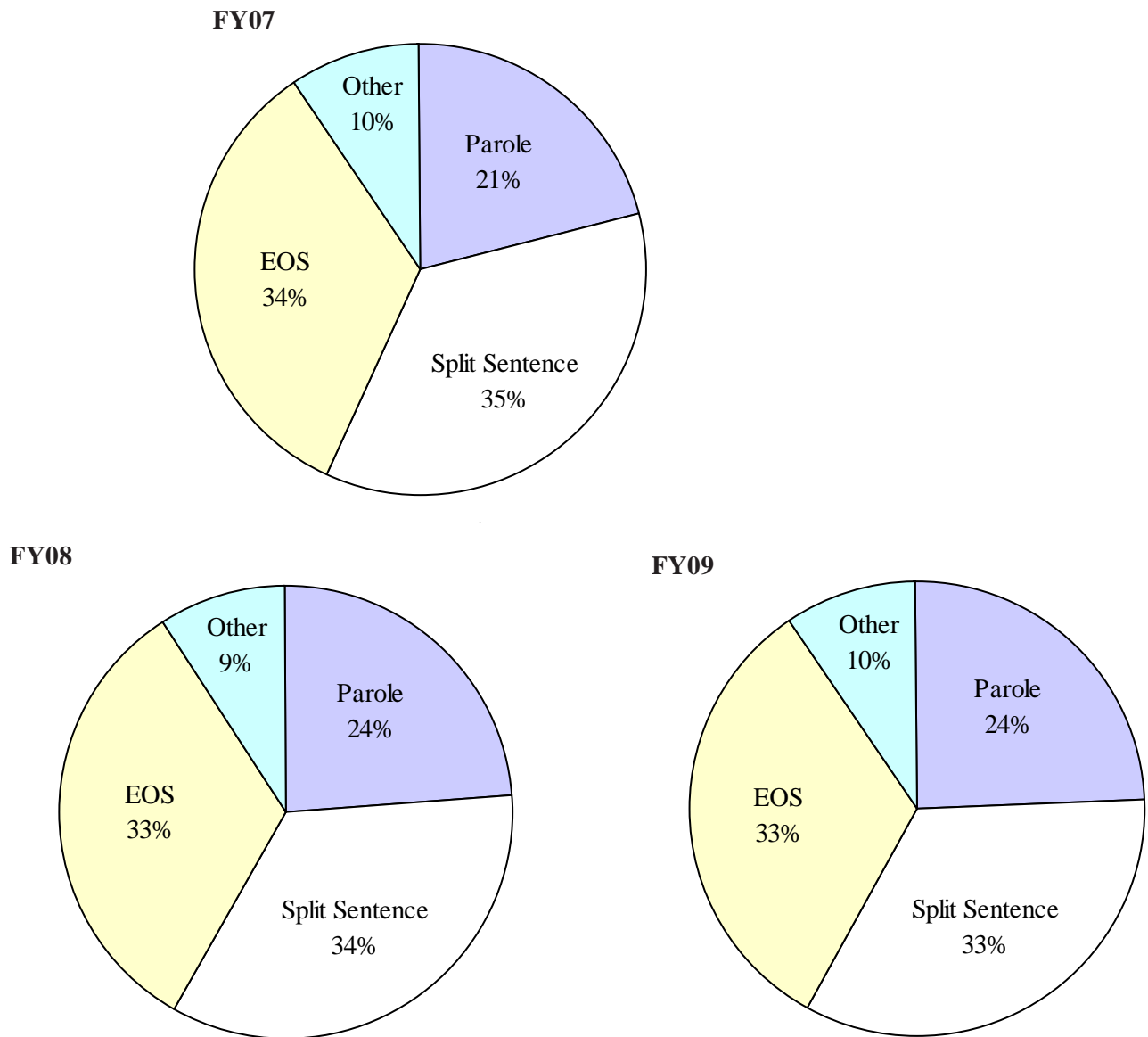
Prison Releases by Type

The distribution of released offenders from the Department of Corrections in Fiscal Year 2009 is nearly identical to the distribution of releases in Fiscal Year 2008.

Figure 26.

Distribution of Release Types in FY09 Nearly Identical to Distribution in FY08

**Prison Releases
Type of Release
October 1, 2006 - September 30, 2009**



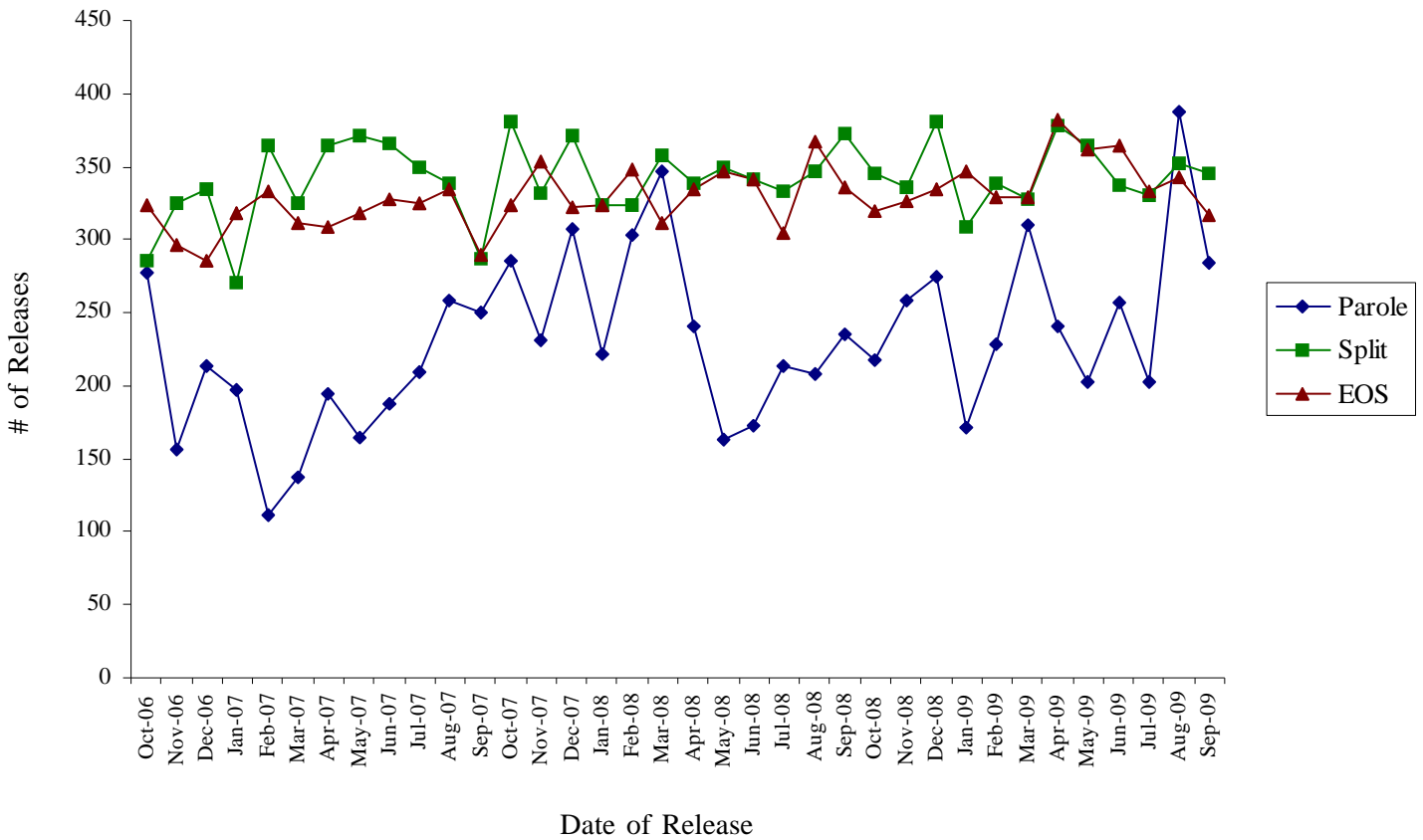
Prison Releases by Type

Variability of Parole Releases Higher than Other Release Types

The number of offenders released from the Department of Corrections via parole, split sentence, and expiration of sentence (EOS) monthly varies. The number of offenders released via parole and split sentence is fairly consistent while the number of released via parole shows more variability.

Figure 27.

**Prison Releases
Type of Release
October 1, 2006 - September 30, 2009**



Prison Releases by Offense Category by Type

The most common release type for offenders convicted of personal and drug offenses is a split sentence release, while the most common release type for property offenders is an expiration of sentence release.

Figure 28.

Release Type Varies by Conviction Offense Category

Prison Releases Offense Category by Type October 1, 2004 - September 30, 2009						
		Parole	Split	EOS	Other	Total
Personal	2005	727	1,039	774	283	2,823
	2006	928	1,071	689	306	2,994
	2007	779	931	701	289	2,700
	2008	741	1,008	744	330	2,823
	2009	655	1,069	778	323	2,825
			3,830	5,118	3,686	1,531
Property	2005	543	1,265	1,314	321	3,443
	2006	857	1,307	1,340	285	3,789
	2007	739	1,298	1,415	400	3,852
	2008	1,000	1,391	1,554	384	4,329
	2009	1,044	1,293	1,556	405	4,298
			4,183	6,554	7,179	1,795
Drugs	2005	621	1,650	1,291	291	3,853
	2006	880	1,654	1,461	263	4,258
	2007	755	1,637	1,558	293	4,243
	2008	992	1,606	1,588	304	4,490
	2009	1,154	1,564	1,615	295	4,628
			4,402	8,111	7,513	1,446

Chapter 3: Evaluating “Truth” in Alabama Sentencing

The Alabama Sentencing Commission is developing “Truth-In-Sentencing” (TIS) through the work of the Commission’s Sentencing Standards Committee. The Standards Committee is comprised of judges, prosecutors, defense counsel, victims’ advocates, and criminal justice professionals within the State. This committee has begun reviewing initial data on the lengths of stay for offenders in Alabama while also researching TIS schemes employed in other states.

Work on Truth-in-Sentencing has Begun with Moderate Data Analysis

The compilation of length of stay information was an important task. This data provided Committee members important information about length of stay for offenders released from incarceration in the Department of Corrections. Length of stay data was provided using, among others, the following variables;

- Classification of Felony (A, B, C);
- Offense Type (Personal, Property, Drugs);
- Individual Offenses;
- Type of Release (Expiration of Sentence, Split Sentence, Parole);
- Offenders with Life Sentences Released via Parole.

The Committee is reviewing data to see if “pockets” of TIS already exist in Alabama. The first step in the process is the review of historical empirical data to view length of stay information. At the same time, the Committee is reviewing how other states have developed and implemented TIS structures and what their experiences have been with the different structures.

TIS refers to a range of reforms and sentencing practices to ensure that offenders serve time in prison that is reflective of the sentence imposed by judges. During the 1980s with the overcrowding of our nation’s prisons, it was commonplace for offenders to only serve a small portion of their sentence. Washington was the first state to enact TIS legislation in 1984. In that same year TIS was introduced into the federal justice system in the form of The Sentencing Reform Act of 1984, which required offenders convicted of federal offenses to serve a minimum of 85% of their court-imposed sentence.

What is Truth-in-Sentencing?

The Violent Crime Control and Law Enforcement Act of 1994 provided states with Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) incentive grants to expand their prison capacity to house violent offenders. To receive VOI/TIS funds, states provided assurances that they had (or would implement) programs to ensure that violent offenders served a substantial amount of their court-imposed sentence in prison. The Act was amended in 1996 and applicants for TIS monies were required to demonstrate current truth-in-sentencing laws or laws that would take effect within three years, or demonstrate that violent offenders served at least 85% of either their court-imposed sentence, or demonstrate an average of 85% of prison terms served under the state’s sentencing guidelines. This

Truth-in-Sentencing History

allowed states with both determinate and indeterminate sentencing systems to participate. In 2008, 35 states qualified for federal TIS funding to expand prison capacity.

Truth-in-Sentencing Can Take Many Forms

While the term “truth-in-sentencing” often refers to the federal 85% time-served requirements for violent offenders, the phrase has come to be more generally accepted to include any sentencing practice designed to reduce uncertainty about the length of time an offender spends in prison. In 1999, for example, 29 states had adopted laws or policies that put them into compliance with the federal TIS grant funding standards. Fourteen states enacted laws aimed at improving TIS which did not meet the federal funding eligibility standard. Today, states’ TIS measures range from sentencing guidelines, mandatory minimum sentence laws, parole abolition, parole eligibility criteria, to recidivist statutes such as “three-strikes” laws.

As Alabama moves forward with the development of TIS sentencing standards, it is prudent to examine the experiences of other states. Virginia adopted a voluntary guidelines system, Minnesota enacted mandatory guidelines and Ohio, who once adopted mandatory guidelines, has moved towards an advisory system. Each state has developed sentencing practices in unique directions in order to obtain their goal of a truth-in-sentencing system.

Experience of Other States - Minnesota

Minnesota was the first state in the country to adopt presumptive (mandatory) sentencing, with adoption of sentencing guidelines in 1980. Their guidelines grid has undergone many changes since 1980 and currently includes 11 offense and 7 prior record levels, as well as a separate sex offense grid. Judges are required to sentence within narrow recommended ranges, and offenders serve at least two-thirds of the judicially imposed sentence. Legislative changes in 2009 allow sentencing without regard to mandatory minimums for certain drug offenses, but all other sentence departures require “substantial and compelling circumstance” which must be documented and may be cause for appeal. In 2009, 25% of all felony offenders sentenced received some type of departure from the guidelines sentence, with 11% of these cases receiving a mitigated dispositional departure (the guidelines recommend prison but the judge imposes an intermediate sanction).¹

The Minnesota model has a goal of controlling prison population growth and is used to focus prison resources on violent offenders. Kramer and colleagues (2010) compared the Minnesota, Pennsylvania and Washington sentencing guidelines systems and finds the Minnesota and Washington models effectively preserve resources for violent offenders.²

¹ Minnesota Sentencing Guidelines Commission. (October 2010). *Sentencing Practices – Annual Summary Statistics for Felony Offenders Sentenced in 2009*.

² Bureau of Justice Assistance. *National Assessment of Structured Sentencing Monograph*. Retrieved from <http://www.ncjrs.gov/pdffiles/strsent.pdf>

Between 1994 and 1997, while the average number of months served by Minnesota violent offenders increased, the percent of time served did not.³

Virginia provides judges with 17 offense-based worksheets to determine voluntary sentence recommendations for the majority of felony offenders. While compliance with the guidelines recommendation is voluntary, completion of the worksheet is mandatory. After 30 years of guidelines history, compliance among judges remains high (75% - 80% of sentences comply with guidelines recommendations). The current TIS guidelines recommend an actual time to serve in prison and offenders must serve 85% of their imposed sentence. Parole was abolished in 1995. In 2002 Virginia added a risk assessment tool to the guidelines with a goal of redirecting the 25% lowest risk property and drug offenders recommended for prison incarceration into prison alternatives. The legislature established a network of community alternatives to incarceration for nonviolent offenders, including detention and diversion probation centers. An evaluation by the National Center for State Courts (2008) indicates violent offenders in Virginia serve more time in prison than prior to guidelines and the state has successfully redirected low-risk nonviolent offenders to alternatives.⁴

Experience of Other States - Virginia

A report completed by the Virginia Criminal Sentencing Commission ten years after implementation of truth-in-sentencing guidelines shows success in several key areas.⁵ TIS is achieved with most felons serving 90% of their sentence, and the average prison stay for violent felons is significantly longer than prison terms served prior to parole abolition. Violent offenders occupy nearly 69% of prison beds (up from 59% in 1994), and judges are sentencing fewer violent recidivists. Finally, high compliance by judges significantly reduces unwarranted sentencing disparity.

Ohio adopted mandatory sentencing guidelines in 1996. Responding to new case law, the state subsequently moved to a voluntary system. Judges are no longer required to complete guidelines worksheets and they may depart from recommendations without justification. The system utilizes a single grid with five offense levels which has undergone many revisions since adoption, including substantial changes in sex offense penalties.⁶

Experience of Other States - Ohio

³ Turner, S., Fain, T., Greenwood, P., Chen, E., Chiesa, J. (September 2001). *National Evaluation of the Violent Offender Incarceration/Truth-in-Sentencing Incentive Grant Program*. Retrieved from <http://www.sconet.state.oh.us/Boards/Sentencing/resources/Publications/sentencingReform.pdf> <http://www.ncjrs.gov/pdffiles1/nij/grants/191201.pdf>

⁴ The Virginia Criminal Sentencing Commission (2008). *2008 Annual Report*. Retrieved from <http://www.vcsc.virginia.gov/2008AnnualReport.pdf>

⁵ The Virginia Criminal Sentencing Commission (2004). *A Decade of Truth-in-Sentencing in Virginia*. Retrieved from <http://www.vcsc.virginia.gov/ReptCdPDFfinal.pdf>

⁶ Diroll, D. (March 2007). *A Decade of Sentencing Reform*. Retrieved from <http://sentencing.nj.gov/downloads/pdf/articles/2007/Apr2007/document01.3.pdf>

The Ohio Sentencing Commission released a report in 2005 that examined the success of guidelines.⁷ The report concluded that both crime rates and prison populations have declined since the guidelines were enacted. Offenders sent to prison are violent and repeat offenders, while community sanctions are being regularly used for less serious offenders. Finally, they report improved consistency in sentencing across the state and within felony class levels. After this report was issued new case law limited the effects of past sentence reform and created a surge in Ohio’s prison population.⁸ Ohio’s prison population has increased in excess of 6,500 inmates since 2005.

The Alabama Sentencing Commission must recommend fiscally sound Truth-in-Sentencing. To this end, the Standards Committee of the Commission is currently analyzing Truth-in-Sentencing forms from other states along with Alabama sentencing data. Fiscally sound Truth-in-Sentencing must take into consideration the projected impact of any proposal adopted. The Committee is deliberately considering critical issues to accomplish this and will make its recommendation after due consideration to the issues of public safety, capacity, fairness and uniformity in sentencing as viewed by all facets of the criminal justice system.

⁷ Harris, J., Diroll, D. (January 2005). *Monitoring Sentencing Reform*. Retrieved from http://www.sconet.state.oh.us/Boards/Sentencing/resources/Publications/monitoring_report_2005.pdf

⁸ O’Conner M., Diroll D. (March 2011). *Prison Crowding: The Long View, with Suggestions*. Retrieved from <http://www.supremecourt.ohio.gov/Boards/...MonitoringReport2011.pdf>

Chapter 4: Recommendations

The Commission makes the following five recommendations:

1. Continue to develop fiscally responsible truth-in-sentencing for Alabama. Much uncertainty remains as to the given effect of sentences imposed in Alabama. The Sentencing Commission is working to develop a system of more truthful sentencing based on empirical data with the goal of reserving scarce prison resources for violent offenders.
2. Continue to expand and improve community corrections programs in Alabama to include effective programs that reduce recidivism for higher risk offenders using a valid risk and needs assessment instrument. Community corrections programs are less costly than prison and have proved very effective in reducing longer term recidivism with appropriate offenders. A strong community punishment system is essential to the affordability of truth-in-sentencing.
3. Expand and improve community drug treatment and rehabilitation programs. A vast majority of offenders have substance abuse, mental health, educational, and vocational issues. Other jurisdictions have found a significant reduction in recidivism by addressing these issues in less costly community programs using evidenced-based practices.
4. Continue to work towards improved compliance with the Initial Voluntary Sentencing Standards & Worksheets. The Commission's Standards Committee has made recommended changes improving and clarifying the Standards' instructions, and recommending trial judges sign or initial worksheets for data quality purposes ensuring the Commission receives the exact worksheet considered by the trial judge at time of sentencing.
5. Support the Judicial Study Commission's recommendation for the consolidation of corrections services under one agency combining probation and parole supervision, community corrections administration, and prisons under one agency. A combined agency could reduce costs and provide a truer continuum of offender supervision and rehabilitation services.