

**2006 Report**



**ALABAMA  
SENTENCING  
COMMISSION**

**Addressing the Crisis: Charting the Course  
for Reform**

January 10, 2006

ALABAMA  
SENTENCING  
COMMISSION

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2006 Report

Addressing the Crisis: Charting the Course  
for Reform

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January 10, 2006

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Honorable Bob Riley, Governor of Alabama  
Honorable Drayton Nabers, Jr., Chief Justice of the Alabama Supreme Court  
Honorable Troy King, Attorney General, State of Alabama  
The Honorable Members of the Alabama Senate  
The Honorable Members of the Alabama House of Representatives  
The Honorable Members of the Judicial Study Commission  
The Citizens of Alabama

I am pleased to present to you the Sentencing Commission's fifth annual report, and once again, request your support and endorsement of the Commission's legislative package. Most of this year's legislative recommendations, primary of which are the initial voluntary sentencing standards, have been introduced in the Legislature before. It is encouraging that it was not due to opposition that the bills failed to be enacted, but rather, because other matters were given priority. I cannot overemphasize the importance of obtaining legislative approval for implementing the sentencing standards this year. Support has been obtained from the bench and bar, workshops have been held, and administrative procedures are in place. Further delay will only ensure that the problems our state's criminal justice system is facing will intensify and require postponing the implementation of truth-in-sentencing once again.

In addition to presenting the Commission's recommendations for reform, the report includes data that provides a critical appraisal of the current status of Alabama's criminal justice system and sentencing practices. We are now relying on data rather than anecdotal experiences to demonstrate the impact of our past practices and to forecast the consequences of our actions. No longer must we debate the question of whether the system needs fixing – the numbers tell the story.

I hope that you will continue to support the work of the Sentencing Commission and help ensure the adoption of the voluntary sentencing standards and the Commission's other legislative recommendations. Alabama can become a model for criminal justice reform and informed sentencing practices, but only with your assistance.

Sincerely,

Joseph A. Colquitt, Chair  
Alabama Sentencing Commission



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## Executive Summary

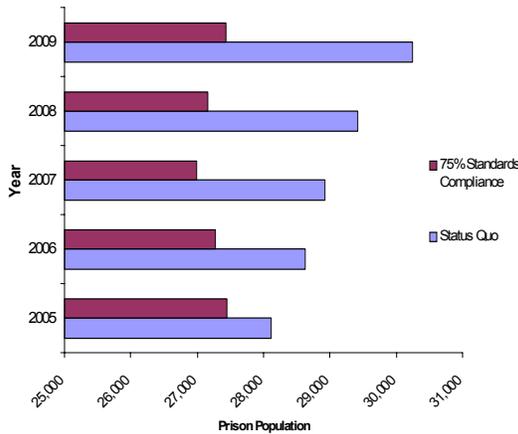
In compliance with §12-25-33, the Alabama Sentencing Commission is pleased to report to the Governor, the Legislature, the Chief Justice, the Attorney General and the citizens of Alabama upon its work and recommendations during FY 2005 and outline plans for FY 2006. The Commission respectfully presents this report, the fifth submitted since the Commission was established, and would like to take this opportunity to express our sincere appreciation for the support and assistance in our endeavors provided by Governor Bob Riley, Chief Justice Drayton Nabers, Jr., Attorney General Troy King, and our legislative members and bill sponsors, Representative Marcel Black and Senator Rodger Smitherman.

As in previous years, the report provides valuable information on the current state of Alabama's judicial system and the impact of existing criminal laws and sentencing practices on our state's prison and jail populations. In addition to explaining the work of the Commission and Commission staff during FY 05, the report presents the Commission's legislative recommendations which have been introduced and are awaiting approval by the Alabama Legislature.

The report is organized into 5 chapters, preceded by an overview of activities and projects, entitled "Year in Review." Chapter 1 provides a profile and brief historical synopsis of the Alabama Sentencing Commission, including the statutory mandates and goals established in its enabling Act and a general discussion of the sentencing reform recommendations that the Commission has submitted to the Legislature for approval. Chapter 2 provides a summary of the bills included in our legislative package and introduced in the 2006 Regular Session of the Legislature. The primary theme of this chapter, as well as the entire report, is the need for approval by the Legislature of the sentencing standards, avoiding further delay in sentencing reform. Implementation of the standards will address issues that are fundamental for the improvement of Alabama's criminal justice: the elimination of unwarranted sentencing disparity; helping reserve scarce bed space for violent offenders; and reducing prison and jail overcrowding without jeopardizing public safety. Chapter 2 is divided into two sections. The first is devoted to the Board of Pardons and Paroles; the achievements made over the last year and their needs and plans for improvement of the judicial system in the future. The second section is a continuation of the same recommendation that has been repeated by every task force and committee formed to improve the criminal justice system – establish a continuum of punishment options for judges by creating a statewide network of community corrections punishment and treatment program. Chapter 4 provides a discussion of some of the innovative proposals that have been adopted by the Department of Corrections and recommended by the Governor's Prison Crowding Task Force. The final chapter, which may be the most compelling, reports on the current state of our prison and jail overcrowding problem and our sentencing practices, using data to tell the story. Utilizing the Commission's felony offender database and simulation model, the inmate population growth is depicted from historical and predictive perspectives.

Projections are made regarding expected population growths, showing that sentencing reform can provide relief. In addition to showing growth trends, Chapter 5 reviews the most frequent crimes of conviction over the last year, examines prison admissions and releases over the last three years, provides a snapshot look at the current makeup of the prison population, and examines the number of inmates diverted from the penitentiary to community corrections programs.

**Projected Prison Population**



The story is not a pretty one. Inaction has taken a toll on Alabama’s Criminal Justice System and it only gets worse with inaction. It is not a matter of *whether* we will spend money on our criminal justice system, but rather, *how* it will be spent – on improvements or on litigation costs and lawyer fees. Population projections effectively demonstrate how implementation of the sentencing standards can help reduce the prison population growth. Assuming a 75% compliance rate with sentencing standards, by December 2009 the prison population can be reduced by 2,420 inmates, 10% less than the status quo projection.

On behalf of the Commission members and staff, thank you for your interest and for the opportunity to improve our state’s criminal justice system. Although reform is not an easy task, nor one that has a single solution, it is a worthy endeavor that we can no longer afford to ignore. From experience, we realize that to do so is akin to deferring a debt that must be eventually paid with the highest of interest rates.

**“It is not only for what we do that we are held responsible, but also for what we do not.”**

Moliere

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## YEAR IN REVIEW – FY 2005

### *Meetings*

#### **The Commission and Advisory Council**

The Sentencing Commission and Advisory Council met four times during FY 05: October 29, 2004, December 3, 2004, April 29, 2005, and September 30, 2005.

#### **Other Criminal Justice Meetings**

In addition to the Commission committee meetings, Commission staff attended and/or hosted other criminal justice meetings during FY 05: three meetings of the standards committee in November 04 and September 05; two meetings of the legislative committee in September and October 05; 5 meetings of the Governor's Prison Overcrowding Task Force June – October 05; 5 Reentry Task Force meetings; 3 Vocal Angel House Board meetings; the annual meeting of the Supreme Court's Standing Committee on Criminal Procedure, two meetings of the Supreme Court's Drug Court Coordinating Committee and the UJS Legislative Coordinating Council, and two meetings of the Criminal Pattern Jury Instructions Committee.

#### **Community Corrections**

Staff of the Sentencing Commission has continued to work closely with directors of the community corrections programs and the Alabama Association of Community Corrections (AACC). Last year, ASC staff attended the Association's monthly meetings, periodically met with the various program directors, and participated in the AACC winter and summer Conferences. As members of the AACC, staff also served on various subcommittees of the Association, the Legislative Committee and the committee formed to draft uniform standards for community corrections programs.

#### **Sentencing Standards Workshops**

To introduce judges, prosecutors, defense attorneys, legislators and the general public to the proposed sentencing standards and worksheets, during the summer and fall of 2004, the Sentencing Commission conducted six two-day regional workshops. The last of the regional workshops was held in Birmingham on October 7-8, 2004.

Education regarding the proposed sentencing standards was also provided through presentations to civic organizations, the Montgomery District Attorney's staff, the Council on Crime and Delinquency, Birmingham Criminal Defense Lawyers, legislators, law students, and students of Troy University.

#### **Conferences and Training**

Commission staff and members represented Alabama at the National Association of Sentencing Commissions, held in Washington D.C. In addition, staff attended Risk Assessment training by Triant Laboratories in Mobile and continued training with consultants Drs. Tammy Meredith and John

Speirs of Applied Research Services, Inc. on modifying and updating our felony offender database and simulation model.

### **Surveys and Studies**

To obtain vital information which is not available from any other department or agency in the state, the Commission again undertook a survey of county jails. Other projects undertaken during FY 05 included partnering with Auburn University to conduct a felony offender recidivism study, a survey on the use of electronic monitoring by community corrections programs, and the initiation of a recidivism study of inmates completing ADOC faith based programs.

## YEAR IN REVIEW – FY 2005

### **2004**

October 7-8	Birmingham Sentencing Standards Workshop
October 13 <sup>th</sup> -14 <sup>th</sup>	Council on Crime and Delinquency
<i>October 29<sup>th</sup></i>	<i>Sentencing Commission &amp; Advisory Council</i>
November 3 <sup>rd</sup>	Montgomery Women’s Club
November 4 <sup>th</sup>	Montgomery District Attorney’s Staff
November 8 <sup>th</sup>	VOCAL Board Meeting
November 16 <sup>th</sup> –19 <sup>th</sup>	Assn. Community Corrections Conference
<i>November 19<sup>th</sup></i>	<i>Sentencing Standards Committee</i>
November 23 <sup>rd</sup>	Criminal Rules of Procedure
<i>November 30<sup>th</sup></i>	<i>ASC Legislative Committee</i>
December 1 <sup>st</sup>	Supreme Court’s Drug Court Coordinating Council
<i>December 3<sup>rd</sup></i>	<i>Sentencing Commission &amp; Advisory Council</i>
December 13 <sup>th</sup>	Association of Community Corrections Meeting ADOC Meeting
December 16 <sup>th</sup>	Meeting with representatives from Justice Strategies

### **2005**

January 11 <sup>th</sup>	Sentencing Commission’s Bills Introduced
January 13 <sup>th</sup>	Birmingham Criminal Defense Lawyers
January 14 <sup>th</sup>	UJS Legislative Council
January 18 <sup>th</sup>	Training by Consultants
January 28 <sup>th</sup>	Commission’s Annual Report Distributed
February 9 <sup>th</sup>	Bills in House Judiciary Committee
February 14 <sup>th</sup>	Association of Community Correction’s Meeting
February 21 <sup>st</sup> -25 <sup>th</sup>	Interviews for Statistician Position
February 26 <sup>th</sup>	Court Management Course – Troy State

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March 7 <sup>th</sup> -11 <sup>th</sup>	Interviews for Statistician Position
March 13 <sup>th</sup> -16 <sup>th</sup>	Association of Community Corrections Conference
March 23 <sup>rd</sup>	Meeting with ADOC and Community Corrections
March 29 <sup>th</sup>	Meeting with ADOC and Community Corrections
April 5 <sup>th</sup>	Triant Training – Mobile
April 12 <sup>th</sup> -13 <sup>th</sup>	Crime Victims Conference
April 15 <sup>th</sup>	Reentry Task Force
<b>April 29<sup>th</sup></b>	<b><i>Sentencing Commission and Advisory Council</i></b>
May 4 <sup>th</sup>	Reentry Task Force
May 10 <sup>th</sup>	Governor’s Prison Overcrowding Task Force
May 12 <sup>th</sup>	Criminal Pattern Jury Instructions
May 16 <sup>th</sup>	ASC statistician employed
June 13 <sup>th</sup>	Community Corrections meeting
June 15 <sup>th</sup>	Meeting with Dr. Cavanaugh – ADOC
June 17 <sup>th</sup>	Drug Court Coordinating Council
June 20 <sup>th</sup>	Vocal Board Meeting
June 24 <sup>th</sup>	Meeting with Auburn – Recidivism Study
July 5 <sup>th</sup>	Meeting with Linda Connally – Risk Assessments
July 6 <sup>th</sup>	Tour of Bullock and Meeting with Chaplain Walker
July 8 <sup>th</sup>	Training by ARS – Drs. Speirs and Meredith
July 11 <sup>th</sup>	Community Corrections Meeting
July 12 <sup>th</sup>	Reentry Task Force Meeting
July 26 <sup>th</sup>	Governor’s Overcrowding Task Force
August 7-10 <sup>th</sup>	National Assn. of Sentencing Commissions’ Conference
August 24 <sup>th</sup>	University of Alabama Law School
August 25 <sup>th</sup>	Criminal Pattern Jury Instructions
August 25 <sup>th</sup> -26 <sup>th</sup>	Training by ARS – Drs. Speirs and Meredith
<b>August 30<sup>th</sup></b>	<b><i>Sentencing Commission and Advisory Council</i></b>
<i>September 2<sup>nd</sup></i>	<i>Sentencing Standards Committee</i>
September 12 <sup>th</sup>	VOCAL Board Meeting
<i>September 13<sup>th</sup></i>	<i>ASC Legislative Committee</i>
<i>September 16<sup>th</sup></i>	<i>Sentencing Standards Committee</i>
September 20 <sup>th</sup>	Reentry Task Force Meeting
September 27 <sup>th</sup>	Governor’s Prison Overcrowding Task Force
<b>September 30<sup>th</sup></b>	<b><i>Sentencing Commission and Advisory Council</i></b>

YEAR IN REVIEW – FY 2006

**2005**

October 7 <sup>th</sup> -8 <sup>th</sup>	Reentry Conference
October 12 <sup>th</sup>	Governor’s Prison Overcrowding Task Force
October 13 <sup>th</sup> -15 <sup>th</sup>	Assn. of Community Corrections Conference
October 18 <sup>th</sup>	Victim’s Notification Procedure Meeting

November 7<sup>th</sup>  
November 29<sup>th</sup>

Victims Notification Procedure Meeting  
UJS Legislative Council

*December 13<sup>th</sup>*  
*December 16<sup>th</sup>*

*ASC Legislative Committee*  
*Sentencing Commission & Advisory Council*

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## Chapter 1. INTRODUCTION

### History and Overview - The Alabama Sentencing Commission

Based on the recommendation of the Unified Judicial System's Judicial Study Commission, by adoption of Act 2000-596, the Legislature established the Alabama Sentencing Commission. The Study Commission's recommendation for the creation of a permanent state agency devoted to improving our state's criminal justice system and implementing sentencing reform came after years of research and study by a special sentencing committee of the Study Commission formed to review Alabama's sentencing procedures and practices.

Created as an independent agency of the judicial branch of government under the Alabama Supreme Court, the Commission is composed of 16 members representing all aspects of the criminal justice system. The Commission is a nonpartisan body composed of members from all branches of government and the public with diverse backgrounds:

**Executive Branch:** (1) the Governor or his designee  
(2) the Attorney General, or his designee;  
(3) the victim of a violent felony or family member appointed by the Governor;  
(4) a county commissioner appointed by the Governor;  
(5) a district attorney appointed by the President of the Alabama District Attorneys' Association;  
(6) the Commissioner of the Department of Corrections, or his designee;

**Legislative Branch:** (7) the Chair of the House Judiciary Committee or designated committee member;  
(8) the Chair of the Senate Judiciary Committee or designated committee member;  
(9) the Chair of the Board of Pardons and Paroles or his designee.

**Judicial Branch:** (10) the Chief Justice of the Supreme Court, or a sitting or retired judge designated by the Chief Justice, who serves as chair;  
(11-12) two circuit judges appointed by the President of the Alabama Association of Circuit Court Judges;  
(13) a district judge appointed by the President of the Alabama Association of District Court judges;  
(14) a member of the academic community with a background in criminal justice or corrections policy appointed by the Chief Justice

**Lawyers:** (15) a private defense attorney specializing in criminal law appointed by the President of the Alabama Criminal Defense Lawyer's Association;  
(16) a private attorney specializing in criminal law appointed by the President of the Alabama Lawyer's Association.

**Sentencing Commission established as state agency by Act 2000-596.**

**The Commission is a nonpartisan body composed of 16 members designated by statute.**

**Statutory mandates  
enumerated in enabling act.**

Since its creation as a separate state agency five years ago, the Alabama Sentencing Commission has been diligently carrying out its statutory responsibilities and the Legislature's charge to suggest ways to improve our state's criminal justice system. Foremost among the statutory mandates enumerated by the Legislature in the Commission's enabling act was the establishment of an effective, fair, and efficient sentencing system that would:

**Foremost among statutory  
mandates is establishment  
of an effective, fair and  
efficient sentencing  
system.**

- Protect public safety;
- Provide certainty and consistency in sentencing;
- Avoid unwarranted disparity as between like offenders committing like offenses;
- Promote truth-in-sentencing by assuring that a sentence served bears a certain relationship to the sentence imposed;
- Provide proportionality in sentencing, ensuring that the sentence imposed reflects the severity of the offense relative to other offenses;
- Maintain judicial discretion and flexibility to permit individualized sentencing as warranted by mitigating or aggravating factors in individual cases;
- Enhance the availability and use of a wide array of sentencing options in appropriate cases, providing judges with flexible sentencing options and meaningful discretion in the imposition of sentences;
- Prevent prison overcrowding by recognizing those offenders who may best be punished, supervised, and rehabilitated through more cost-effective alternatives to incarceration by alternative means;
- Prevent the premature release of inmates, recognizing the impact of crime on victims and concentrating on incarceration and incapacitation of those offenders who most egregiously harm the public by inflicting personal injury, emotional injury and great economic injury on others; and
- Provide restitution to the victim and community.

Faced with the formidable task of recommending ways to achieve sentencing reform that met the specified goals while also eliminating jail and prison

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overcrowding, the Commission's first priority was to obtain reliable information on felony offenders. Implicit in the mandate to improve sentencing practices was the acknowledgment that we must have information regarding past sentencing practices, the type of offenses, the criminal history of the offenders, and the impact the imposed sentences have had on our available corrections resources.

**Building a reliable felony offenders database first undertaking.**

An essential step for beginning this task, as well as becoming a clearinghouse for the collection, preparation and dissemination of information on sentencing practices and developing sentencing standards, was the creation of felony offender database with information on the offender and crime(s) of conviction. This was no simple undertaking. Information had to be retrieved, reviewed, cleaned, and culled for consistent coding. To obtain more detailed offender demographics and offense details, a comprehensive manual search of presentence investigation reports was undertaken by Commission staff and probation and parole officers and employees.

After two years of extensive work, the Sentencing Commission had a reliable 5 year felony offender database. The next year was devoted to creating sentencing standards and developing a simulation model to predict the impact of legislation and sentencing practices on the prison system and other aspects of our criminal justice system. As a result, Alabama now has an integrated database and simulation model which provide current and reliable information on felony sentencing practices and the impact these sentences have on county jails, prisons, and supervision services. The database, updated each year, enables the Commission to provide current information on all aspects of our criminal justice system and predict the impact of proposed changes in criminal laws or sentencing practices.

**Simulation model and sentencing standards developed.**

With reliable data, each year we have provided you sobering facts about our criminal justice system. To summarize our reports for the last two years:

***The nature and extent of overcrowding in Alabama's correctional system is dismal.***

**Summary of Commission's prior reports.**

- ✓ In 2003 the inmate population was 28,000 and climbing, with a 600 % increase in our prison population over the last 30 years, as compared to a 30% growth in the state's total population.
- ✓ Our state has one of the highest rates of incarceration in the nation with approximately 10,000 new admissions each year. Failing to learn from the past, we continue to experience cycles of prison overcrowding fueled by "get-tough-on-crime" policies followed by a patchwork of short-term solutions.
- ✓ In 2004, with the adoption of emergency measures - the implementation of special parole dockets and the

**Prison overcrowding fueled by "get-tough-on-crime" policies.**

transfer of inmates to out-of-state private prisons - the inmate population dropped from 28,440 to 26,220. Despite these emergency measures, the inmate population had risen to 27,255 by January 2005.

**Emergency measures provide only temporary relief.**

- ✓ Emergency measures provide only temporary relief. Long-range strategies for criminal justice reform are needed, such as the adoption and implementation of the proposed sentencing standards.

***Our Jails are Overcrowded with State Inmates Waiting Transfer to ADOC Facilities***

**Jail backlog on the rise.**

- ✓ As of February 18, 2005, there were 1,448 state inmates in county jails and 258 of these had transcripts over 30 days ready.
- ✓ While the jail backlog is not as bad as in 2001 and 2002, reductions were made possible only by implementing emergency short-term measures. The number of inmates backed up in the jails is again on the rise.

***Truth-in-sentencing does not exist in Alabama.***

***There is sentencing disparity among defendants with similar criminal histories and criminal conduct.***

**Transition and substance abuse programs needed.**

***Alabama does not effectively utilize community-based sanctions and intermediate punishment options for low risk offenders, reserving scarce prison beds for dangerous and habitual offenders.***

***Reentry and Substance Abuse programs are needed to successfully transition inmates who have served their time back into the community.***

***Informed Decisions Can be Made with Data – Utilized in Sentencing Standards for Judges and Impact Statements for Legislators.***

**Sentencing Standards Await Legislative Approval**

**Two phases of sentencing reform.**

The primary focus of the Sentencing Commission’s legislative package for the last two years has been a bill proposing the implementation of voluntary sentencing standards. The standards, based on historical time-imposed data, are the first stage of the Commission’s strategic plan to eliminate unwarranted sentencing disparity and achieve truth-in-sentencing. The truth-in-sentencing standards are planned for adoption and implementation three years after the original standards have been utilized in order to provide sufficient data to gauge the effectiveness of the original standards.

The Legislature has approved the Sentencing Commission’s reform plan by passage of the Sentencing Reform Act of 2003, Act 2003-354, which

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outlined Commission's two phase plan for adoption and use of the voluntary sentencing standards. Following this blueprint, the Commission has now developed the initial standards for 26 felony offenses, representing 87% of all felony convictions and sentences imposed over a five year period. These standards provide recommended sentences utilizing the major sentencing factors considered by judges in imposing sentences. They have been approved by the Commission, supported by the UJS Legislative Counsel, and endorsed by the Governor; we now need the Legislature's approval.

**Initial voluntary standards ready for adoption. The standards are designed to eliminate unwarranted sentencing disparity while maintaining judicial discretion.**

The Commission staff conducting 12 regional workshops throughout the state for training on completion of the worksheets to determine the recommended sentence disposition and duration. The standards were well received by both the bench and bar and recognized as a way to eliminate unwarranted sentencing disparity while maintaining meaningful judicial discretion.

The Commission will continue to concentrate of our efforts during the 2006 Regular Session on passage of the standards bill and will begin planning the second round of regional workshops to familiarize judges, prosecutors, defense lawyers, probation and parole officers and the public on how to complete the worksheets and utilize the recommended standards.

**Second round of workshops planned.**

**“Good thoughts are no better than good dreams, unless they be executed.”**

Ralph Waldo Emerson

## **SENTENCING COMMISSION'S LEGISLATIVE PACKAGE**

### **1. Sentencing Standards**

*HB 115*                      *SB 167 SB 231*

### **2. Access to Juvenile and Youthful Offender Records**

*HB 121*                      *SB 170 SB 172 SB 232*

### **3. Pardon and Paroles Facility Fees**

*HB 28*

### **4. Amendment of Burglary 1<sup>st</sup> and 2<sup>nd</sup> Degrees**

*HB 120*                      *SB 233*

### **5. Correction of Theft of Property 2<sup>nd</sup> Degree Statute**

*HB 116*                      *SB 229*

### **6. Amendment of DUI Statute**

*HB 117*                      *SB 230*

### **7. Increase of Maximum Fines**

*HB 118*                      *SB 236*

### **8. Amendment of Drug Trafficking Statute**

*HB 119*                      *SB 235*

### **9. Pre-Sentence and Post-Sentence Investigation Reports**

*HB 122*                      *SB 234*

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## **Chapter 2: The Sentencing Commission’s Legislative Package**

In compliance with legislative directives, for the last two years the Sentencing Commission has proposed legislation to implement sentencing reform, improve Alabama’s criminal justice system, and help alleviate our prison and jail overcrowding problems. The focal point of this legislation has been voluntary sentencing standards which were developed utilizing the Commission’s felony offender database and simulation model. These standards, which take into consideration various factors regarding the type of offense and the offender’s criminal history, are the result of over four years of work by the Sentencing Commission and represent the first step toward achieving truth-in-sentencing.

The Commission’s proposals offer both short-term and long-term solutions for criminal justice and sentencing reform. The recommendations of the Commission offer solutions to resolve obvious, but still unaddressed, needs – i.e., the need to incorporate “corrections” into punishment by providing effective drug and alcohol treatment programs for addicted offenders, as well as education and job training to assist prisoners returning to the community, and the expansion of sentencing options for nonviolent offenders. To achieve true criminal justice reform, a continuum of sanctions must be developed statewide, with community punishment and treatment programs available for nonviolent offenders as an alternative to incarceration, reserving scarce prison space for violent offenders. These alternative sanctions are incorporated into the proposed sentencing standards.

Although the Sentencing Commission’s legislative package received the endorsement of the Governor, the Unified Judicial System’s (UJS) Legislative Committee, the House of Representatives and the Senate Judiciary Committee, the bills failed to pass during the last two legislative sessions. While this delay of the implementation of sentencing reform is regrettable, it is encouraging to note there was no real opposition expressed to the proposed sentencing standards and accompanying bills. Failure to pass the Legislature was not because of opposition, but rather, due to other matters being given a higher priority in the Senate. The bipartisan Sentencing Commission, backed by the Governor, again asks the Legislature to approve the initial sentencing standards and adopt the Commission’s other legislative recommendations. With approval and implementation of these bills, we can begin to address the continuing crisis in our criminal justice system and pave the way for the adoption of “truth-in-sentencing.”

The Sentencing Commission has repeatedly reported that Alabama’s current penalty provisions, using broad statutory ranges, provide judges no guidance as to the sentence that should be imposed in a specific case. This lack of guidance has sometimes led to unwarranted disparity in sentencing, as well as a disproportionate use of incarceration over less expensive sentencing alternatives. As a result, over the years Alabama’s prisons have become severely overcrowded, precipitating state and federal lawsuits, requiring the transfer of prisoners to private prisons in other states, and the adoption of special parole dockets. The overcrowding problems in our jails and

**Focal point of Legislative package is sentencing standards bill.**

**Initial standards are first step to achieving truth-in-sentencing.**

**Sentencing standards recommend alternatives to incarceration for non-violent offenders.**

**Legislative approval needed to address continuing crisis in criminal justice system.**

**Sentencing reform needed.**

**Lack of community corrections, treatment and reentry programs raise security and public safety concerns.**

prisons, coupled with the lack of an effective statewide network of community corrections, treatment, and reentry programs, has resulted in security and public safety concerns, as well as the reduction or elimination of ADOC education, vocational and treatment programs, which is reflected in an increased recidivism rate. Not only are more offenders returning to our jails and prisons after their release, they are coming back sooner and usually after committing more serious crimes.

**Delay in adoption of legislation postpones sentencing reform.**

It is an understatement to say that Alabama has failed to develop sentencing alternatives with the same momentum as in other states. To address these issues, the Alabama Sentencing Commission has developed a legislative package that represents the first step toward establishing truth-in-sentencing, utilizing alternatives to incarceration, reducing unwarranted disparity, and reducing prison overcrowding. Adoption and implementation of this legislation represents the second step to achieving sentence reform in Alabama as outlined in the Alabama Sentencing Reform Act of 2003. Each delay in adopting these proposals postpones the eventual implementation of complete sentence reform in Alabama.

The bills the Sentencing Commission recommends for legislative approval are summarized below:

**More informed sentencing with standards.**

**1. Sentencing Standards Bill**

HB 115 SB 167 SB 231

In compliance with the directives included in the Sentencing Reform Act of 2003, this bill proposes the adoption of voluntary sentencing standards with appropriate work sheets for 26 felony offenses. These sentencing recommendations, for the first time in the history of this state, provide judges with a starting point when considering sentencing within the broad sentence ranges provided under our Criminal Code. These recommended sentences, which are within the wide ranges currently available under existing statutory law, provide judges with additional information and direction crucial for making informed sentencing decisions.

**Sentencing standards developed for 26 felony offenses.**

The recommendations, or "sentencing standards" as they are called, are voluntary, nonappealable, historically based, time imposed, sentencing recommendations developed for 26 felony offenses, representing 87% of all felony convictions and sentences imposed in Alabama over an approximate five-year period from October 1, 1998 through May 31, 2003. The standards are recommended sentence ranges and dispositions for the covered offenses, developed utilizing key factors normally considered by judges in imposing sentences.

**75% compliance rate expected.**

The Commission believes judges will follow the sentencing recommendations in about 75% of sentenced cases. The standards represent the "normal" case containing recognized sentencing factors. Of course, other factors will undoubtedly exist in about 25% of sentenced cases and judges are expected to take those additional factors into consideration to impose either a harsher or more lenient sentence than recommended. Preliminary testing of the standards has indicated that use of the standards will produce the desired result, i.e., greater

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uniformity in sentencing and the elimination of unwarranted sentencing disparity.

**Goals: uniformity in sentencing and elimination of unwarranted sentencing disparity.**

The proposed legislation is virtually the same as the sentencing standards bill that was introduced during the 2004 and 2005 Regular Sessions that passed the House in 2005, and was in a position to pass the Senate on the last night of the session. Some minor changes have been made to the bill, including a new implementation date for the sentencing standards and some minor improvements in the standards themselves to clarify definitions and recommendations. In addition, a provision was added to require filing of the standards with the Clerks of the Senate and House, as well as the Clerk of the Alabama Supreme Court.

## **2. Access to Juvenile and Youthful Offender Records**

HB 121 SB 170 SB 172 SB 232

This bill, necessary for implementation of the sentencing standards, amends §§ 12-15-100 and 15-19-7 of the *Code of Alabama* 1975, to provide statewide access to juvenile and youthful offender (YO) records for judges, prosecutors, victim service officers, probation and parole officers, court personnel, and defense attorneys. Confidentiality will, however, continue to be maintained with regard to the general public and all nonessential persons and entities. These records are significant in determining sentencing outcomes and essential for the completion of worksheets required for the implementation of the sentencing standards.

**Statewide access to YO and juvenile records needed for implementation of standards.**

Section 15-19-7 was also amended to provide penalties for the wrongful disclosure of youthful offender records. As amended, the wrongful disclosure of these records will be punishable as a Class A misdemeanor, the same as now provided for the wrongful disclosure of juvenile records.

## **3. Pardon and Paroles Facility Fees**

HB 28

This bill amends § 15-22-30 of the *Code of Alabama* 1975, increasing the amount that can be deducted from the wages of residents of residential facilities operated by the Board of Pardons and Paroles from 25% to 45%. Deduction of 25% is already authorized for recoupment of expenses for room and board. The additional 20% authorized by this bill is for the payment of court costs, fines, fees, assessments, and victim restitution. This comports with the amounts now authorized to be deducted in § 15-18-180 *Code of Alabama* 1975, as amended by Act 2003-353, for defendants assigned to a work release or other residential program operated by a community corrections provider.

**Increase authorizes additional 20% deduction from wages for payment of fines, costs and restitution - same as authorized for county and state work release inmates and defendants in residential community corrections programs.**

## **4. Amendment of Burglary 1<sup>st</sup> and 2<sup>nd</sup> Degree Statutes to Eliminate the “Loot Rule” for Deadly Weapons**

HB 120 SB 233

This bill recognizes that offenders in the same circumstances should be treated alike and amends §§ 13-7-5 and 13-7-6 of the *Code of Alabama* 1975, relating to Burglary in the 1st and 2nd degrees. The amendments require that an offender either be armed with a deadly weapon upon

**Terms “use” and “threatened use” of deadly weapon or dangerous instrument clarified.**

entry into a dwelling or building or use or threaten the immediate use of a deadly weapon in order to be convicted of the higher offense. The bill specifically provides that, if the deadly weapon or dangerous instrument is merely one of the items stolen in the burglary and thus, is not used in any way in the commission of the crime or flight from the crime scene, the crime does *not* involve the “use” or “threatened use” of the deadly weapon or dangerous instrument.

**Inadvertent error causes problems with theft crimes.**

**5. Correction of the Theft of Property 2nd Degree Statute**

HB 116 SB 229

In 2004, the threshold value of property stolen for the crime of Theft of Property 2nd degree was inadvertently changed back to the pre-2003 level in a bill changing the words “horses” and “mules” to “equine” and “equidae.” The pre-2003 statutory language was used in making the amendment. This change effectively eliminated the crime of Theft of Property in the 2nd degree. Under current law, there is no Theft of Property statute that makes it a crime to steal property ranging in value from \$1,000 to \$2,500.

**Prior out-of-state convictions of DUI should be considered for sentence enhancement.**

**6. Driving Under the Influence (DUI) Statute; Out of State Convictions**

HB 117 SB 230

Under current law, prior DUI convictions from out-of-state may not be used for the purpose of enhancing punishment when a person is subsequently convicted for violating Alabama's DUI statute. This creates an anomaly, in that a DUI offender could have numerous prior DUI convictions in another state and yet could be convicted and sentenced as a first offender if he drives drunk in Alabama. This Bill would amend Alabama's DUI statute to specifically authorize the use of out-of-state convictions for enhancements under § 32-5A-191, Alabama's DUI law, providing equal treatment for all DUI repeat offenders.

**Fines revised using inflation index.**

**7. Authorize (not mandate) Increase of the Maximum Fines for Offenses**

HB 118 SB 236

The fines authorized for criminal offenses have not been adjusted since the Criminal Code was originally codified back in the 1970's. This Bill amends §§ 13A-5-11 and 13A-5-12 of the *Code of Alabama 1975*, to increase (based on the inflation index) the maximum amount of fines authorized to be assessed upon one convicted of a felony, misdemeanor, or state law violation. If passed, the amendments would allow the judge to retain his/her discretion to impose any lesser fine amount and would simply authorize the imposition of a larger fine in appropriate cases.

The proposed fines are 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.

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**8. Drug Trafficking Statute**

HB 119 SB 235

Alabama’s current drug trafficking statute fails to provide a fine for the most serious trafficking offense and does not include the drug commonly referred to as “ecstasy.” This bill amends Alabama’s drug trafficking statute, § 13A-12-231 of the *Code of Alabama*, to provide a fine for the most serious trafficking offenses, to include the ecstasy drug, and to correct the fine for trafficking in hydromorphone (a popular narcotic prescribed for pain).

**Most serious trafficking offenses will also include fines as punishment and the drug ecstasy will be added to drug trafficking statute.**

**9. Pre-sentence or Post-sentence Investigation Reports Required in All Felony Cases**

HB 122 SB 234

Under current law, pre-sentence investigation reports on convicted felony offenders are required only upon motion of a party or the court and these reports are provided in written or electronic form. These reports contain information essential to the supervision of probationers and the classification of prison-bound offenders. The reports also contain vital information for maintaining current data on convicted offenders on which policy decisions can be made for improving Alabama’s criminal justice system. The bill requires either the filing of *post-sentence or* pre-sentence reports, to avoid case processing delays and also requires such reports to be completed in electronic format.

**Vital information for criminal justice agencies will be available in electronic format.**



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## **Chapter 3: Supervision and Treatment a Vital Part of Corrections**

Treatment of offenders, in both the community and the Department of Corrections, as well as community supervision, is vital to solving the problems in the State corrections system and protecting public safety in Alabama. To achieve goals for the system as a whole, each segment of the system - the Department of Corrections, the Board of Pardons and Paroles, and Community Corrections programs - provide essential services and must expand and improve both the treatment programs provided and community supervision. Each of these segments of the corrections system is working toward that end. As a result, recidivism can be positively affected and the need for incarceration reduced.

### **I. ALABAMA BOARD OF PARDONS AND PAROLES**

The Board of Pardons and Paroles and staff, with support from the Legislature and the Governor, have been working diligently to implement both long and short term solutions for Alabama's Corrections system. These solutions have included a temporary increase in the number of members of the Board and implementation of a special parole docket for non-violent offenders to alleviate a backlog in parole considerations; increasing the number of probation and parole officers to provide more intense supervision; changing the measure of supervision's success from a contact-based to a results-based test; implementing risk and needs assessments for offenders under the supervision of the Board; implementing improved data collection; implementing transition centers; improving procedures for considering medical and geriatric release of inmates; implementing procedures for the restoration of voting rights for offenders who have fulfilled their obligations; and recommending changes to increase the efficiency and effectiveness or victim notification of parole consideration for violent offenders. Each of these measures is designed to increase public safety by improving community supervision and reducing criminality in the offender.

#### **Special Parole Dockets and Additional Officers Get Results**

Over the last two years, the Board of Pardons and Paroles has implemented special parole dockets to release non-violent offenders to intensive community supervision to redirect offenders from prison into a secure community environment. The goal is to improve public safety by providing a more effective transition into the community from prison for these offenders. In effecting this change, the Alabama Board of Pardons and Paroles has experienced major growth in the past several years, helping to alleviate the state's prison overcrowding problem in a cost-effective and safe manner. The cost to the state for probation and parole supervision is \$2.18 per day as opposed to over \$32.00 per day to incarcerate an offender making the punishment of these offenders not only more effective but also more cost efficient.

**Probation and Parole play vital role in alleviating prison overcrowding.**

**Special dockets and additional board instituted in 2003.**

**Special parole docket instituted in April 2003.**

The agency was level funded in FY 2003 until Governor Riley transferred \$1,000,000 from his Departmental Emergency Fund with instructions to hire, train, and equip 28 Probation and Parole Officers and 2 support staff to supervise an increase in the number of inmates paroled. The Administration requested that the department review cases of inmates serving time for nonviolent offenses who could be paroled with the least risk to the safety of the public. In response, the Board instituted an additional day of parole consideration hearings for nonviolent cases beginning in April 2003. These cases heard on this additional day were referred to as special docket cases. Those special dockets continue; however, the numbers have been reduced enough to have them heard on the regular three-day-per-week schedule.

Later in 2003 during the special session of the Alabama Legislature, Act 2003-415 was passed which provided for the appointment of four temporary special board members. With these new appointments, two panels could consider cases simultaneously, thereby doubling the size of the dockets. Based on the increased workload projected, the Department's General Fund appropriation was increased by over \$7,000,000 to hire more probation and parole officers and support staff.

**4,202 inmates paroled after special dockets implemented, resulting in a 8% decrease in prison population.**

The special member panel began hearing cases in December 2003. Since the beginning of the Special Dockets in April 2003, 9173 such hearings have been held, and 4,202 inmates have been paroled, along with 4,667 regular paroles granted. According to Department of Corrections' statistics, the prison population dropped from a high of 28,440 in June 2003 to a low of 26,220 in October 2004. Virtually all parole eligible inmates serving during that period for nonviolent offenses had parole consideration hearings in those first two years. For those released, the track record has been favorable – thus far, only 16% of those paroled early have been revoked.

**Number of Paroles Granted Decline**

**Only 25% of those considered for parole were granted in FY 05.**

FY 04 and 05 have been record breaking years for the number of paroles considered, well over the yearly average over the last 16 years of 6,645. While the number of parole hearings has been increasing during this time frame, the number of paroles granted has taken a downward turn, with the percent granted to those considered in the last two years falling below the yearly average of 35.75%. It is noteworthy that in FY 05 the percentage of paroles granted to those considered was 25%, a low mark that was reached once before, in 1996.

FY	Parole Considered	Parole Denied	Parole Granted	% Granted of those considered
1990	5,039	2,350	2,487	49%
1991	5,363	3,054	1,973	37%
1992	5,423	2,750	2,287	42%
1993	5,443	2,930	2,093	38%
1994	5,633	3,338	1,942	34%
1995	6,155	3,868	2,287	37%
1996	6,549	4,300	1,644	25%
1997	7,822	5,110	2,712	35%
1998	7,834	5,073	2,761	35%
1999	5,592	3,863	1,729	31%
2000	5,406	3,570	1,836	34%
2001	5,452	3,680	1,772	33%
2002	5,811	3,642	2,169	37%
2003	6,936	3,738	3,198	46%
2004	11,603	7,649	3,954	34%
2005	8,657	6,467	2,190	25%

**25% less offenders considered for parole release in 2005.**

### **More Probation and Parole Officers Needed**

Increased funds for Pardons and Paroles has allowed the Board to hire additional staff, including over 67 new officers in FY 04 and over 43 in FY 05, and has brought about a reduction in the officers' caseloads. As of December 31, 2005, however, there were 278 officers supervising 43,249 probationers and parolees, for a caseload average of 156 per officer. This caseload is down from previous years but still substantially above the national and southeastern averages. The American Probation and Parole Association recommended workload is 60 offenders per officer, and that is for caseload supervising officers only. In Alabama the caseload supervising officers have the additional duty of conducting investigations.

**Caseload of 156 per officer is more than recommended.**

To establish and maintain a strong corrections system that best protects public safety, Alabama must take heed that supervision of more probationers and parolees requires more officers and support staff. This State must provide adequate funds to the Board to ensure the smaller caseloads for probation and parole officers that will allow supervising officers to spend more time addressing the criminality issues of their caseloads. Addressing these issues makes the public safer by reducing the risk of repeat offenders. Addressing these issues makes a difference in the offenders supervised and, thus, encourages sentencing judges to divert more offenders from prison to probation.

*The Commission recommends the hiring of 60 additional officers each year for three years in an effort to reduce the average caseloads to below 100 and to ensure that presentence or post-sentence investigation reports are completed on every offender convicted of a felony offense.*

**Increase of 60 additional officers each year recommended.**

### **Risk and Needs Assessment Instruments Instituted and Success of Supervision Measured**

**New risk & needs assessment instrument now in use.**

Other than the need for additional officers, two of the greatest deficiencies in the probation and parole segment of Alabama's corrections system that existed in 2003 have now been addressed by the Board of Pardons and Paroles. These deficiencies were the lack of modern risk and needs assessment instruments for offenders on probation or parole and the measurement of successful supervision of a probationer or parolee. The development of modern evaluation tools has been instrumental in changing the measure of successful supervision.

Evaluating an offender as to the risk of reoffending and evaluating the offenders needs is an elemental step in addressing the offender's criminality and improving his or her chance to live a crime free life. The Board developed a new risk and needs assessments by contracting with the National Council on Crime and Delinquency to construct a parole risk assessment instrument and a needs assessment instrument for probationers and parolees. Parole risk assessment instruments have been implemented by the Board for use in making parole decisions. Institutional parole officers conduct assessments on individual inmates and present these assessments, along with their usual reports to the Board prior to each parole consideration hearing.

**Periodic assessments are conducted on probationers and parolees.**

In addition to the parole risk assessment, the National Council on Crime and Delinquency developed a risk assessment instrument that is utilized by probation and parole officers to classify probationers for the offenders assigned level of supervision. A needs assessment instrument was also developed and is used to determine the needs of the individual offender to make him or her a law-abiding and contributing member of society (i.e., vocational, educational, substance abuse treatment, individual and family counseling, etc.) and to determine service referrals for prioritized needs. Offenders are periodically reassessed to determine their progress or changes in priority needs.

**Results-based supervision is a more realistic measure of success.**

The use of these instruments has allowed pardons and paroles officers to change the measurement for successful supervision to a more realistic model, replacing the former "contact supervision" method for an evidenced-based or results-based method of supervision of offenders. Under the previous measure, successful supervision was measured by the number of contacts the probationer or parolee had with the supervisor. Under the new procedure, supervision standards are determined, not by the number of contacts between officer and offender, but by the needs that are met and the progress made by the offender.

### **Expanded Data Collection**

**Over 16,000 electronic PSI reports produced this year.**

Improved and expanded data is essential to a planned and effective corrections system that focuses on public safety. In FY 05, electronic presentence investigation reports were fully implemented, substituting for the traditional hard copy reports. Probation and parole officers produced over 16,117 electronic presentence investigation reports in FY 05. These

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reports are crucial records for Alabama's criminal justice system, utilized not only by the courts for sentencing purposes but by various departments and agencies: the Department of Corrections for classification purposes; the Parole Board for assessing parole suitability; probation and parole supervising officers for risk and needs assessments; and by the Sentencing Commission for vital statistical information. *One of the Commission's recommendations is that, beginning in FY 06, a presentence or post-sentence investigation report be completed on every felony offender.* This recommendation is based on the need to capture and record essential criminal history and demographics on felony offenders for the whole criminal justice system. The Commission also recognizes that additional probation officers will be required to accomplish that goal. The cost to the Board of Pardons and Paroles would be approximately \$1.5 million to hire and train an additional 20 probation and parole officers.

**Electronic investigation reports on all felons needed (HB 122 and SB 234).**

### **Transition Centers**

In its initial report to the Legislature, the Governor, the Chief Justice and the Attorney General, the Alabama Sentencing Commission recommended the addition of transition centers as an essential element of an effective corrections system. These centers provide necessary training and services to offenders returning to the community from prison and can also serve as an alternative to sending a parole or probation violator to prison. In both instances public safety is better protected by addressing the criminality of the offender.

Due to the lawsuit over the overcrowded conditions at Tutwiler, the Board received a conditional appropriation of \$1,500,000 to open the closed Mental Health facility in Wetumpka as a transition center for women. With the collaborative efforts of the Department of Mental Health, the Department of Corrections, Postsecondary Education, ADECA, Rehabilitation Services, Public Health, Elmore County, the City of Wetumpka, Auburn University, local faith-based ministries, and Aid to Inmate Mothers, the Board of Pardons and Paroles established the first state reentry program in Alabama known as the L.I.F.E. Tech (Lifeskills Influenced by Freedom & Education) program. This program is designed for female inmates who are not ready for release on probation or parole and who need assistance in making a successful transition from prison to the community. As a condition of parole, the residents are offered life-changing opportunities in daily life skills, substance abuse recovery, education assessment and training, and vocational assessment and training. Long-term solutions are sought for each individual, taking a holistic approach, utilizing available resources, family participation, and positive peer support. The first residents were accepted in April 2004. Currently there are 188 residents enrolled, with over 500 having successfully completed the program

**First state reentry program established.**

**Over 500 female inmates have successfully completed L.I.F.E. Tech.**

The Department received funding for FY 06 to not only continue the current L.I.F.E. Tech program but also to open a transition center for males and to hire adequate officers and support personnel to further reduce average caseloads. The consensus of those practicing in the field of corrections is that probation, parole, and transition centers are viable, cost-effective

**Centers are cost effective alternatives to incarceration for some offenders.**

alternatives to incarceration. These centers not only free beds at ADOC facilities, but also help ensure payment of court-ordered restitution to victims and payment court costs, payment of taxes by employed parolees, reduction in ADC, food stamp, and Medicaid costs, and restoration of family units.

Approximately \$800 per year is spent by the Board to supervise an offender on regular supervision compared to the cost of incarceration, which is over \$12,000 a year. The cost of a transition center resident who stays an average of 4 months and then graduates to a regular caseload is \$5,160, which is approximately \$6,870 less than the cost of incarceration for a year.

**Transition centers for males scheduled to open in FY 06.**

Building on the Department's experiences in opening and running L.I.F.E. Tech, plans are underway to start a transition center for male probationers and parolees sometime in the spring of 2006. Negotiations are currently ongoing between the Board and the Department of Mental Health to purchase the closed mental health facility in Thomasville, and plans are to have the first residents enter April 1, 2006. Hurricane evacuees currently reside on the grounds and will be leaving by that time. If the facility serves 300 men who stay for an average of 4 months, there will be 900 inmates diverted from prison beds and the annualized cost of supervision per man will be about \$6,050, excluding renovation and facility purchase costs.

**900 inmates could be diverted yearly to new transition center.**

#### **Additional Transition Centers and a Technical Violation Center Recommended**

**Creation of technical violation centers recommended.**

In addition to the creation of the men's transition center to open in 2006, *the Sentencing Commission joins with the Governor's Prison Overcrowding Task Force in recommending the opening of two additional men's transition centers, one in FY 07 and one in FY 08.*

The Commission also recommends the establishment of a technical violation center in the next two fiscal years. It is envisioned that the facility would house male parolees and probationers found to have committed technical violations of their supervision or misdemeanor offense conditions, who would otherwise be revoked and sent to prison. During FY 05, 296 parolees and 1055 probationers were revoked for such violations. These persons have been returned to prison and can only be released via a parole consideration hearing by the Board or at expiration of sentence. These numbers constitute a significant percentage of the new prison admissions each month and typically remain in the prison system more than one year. The facility would incorporate programs similar to those of the transition centers, but in a secure facility. Success in the program would lead to reinstatement to probation and parole in a 60 to 90 day period.

**Administrative procedures implemented to review inmate eligible for medical/geriatric release.**

#### **Medical and Geriatric Release Procedures**

Since 2001, the Board's administrative rules and regulations have allowed for the Set Date Review Committee to change the parole consideration dates of inmates facing imminent death, upon receipt of written verification of the prison health services provider. This procedure was instituted after

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the Commission's Medical and Geriatric Release bill failed to pass the Legislature. The Department of Corrections provided the Board a list of approximately 165 inmates that were considered terminally ill, chronically ill or permanently incapacitated under the proposed bill's definition of inmates who could be considered eligible for release. Inmates serving life without parole, mandatory sentences, split sentences and inmates serving multiple sentences for multiple murders and sex offenses, those within 60 days of end of sentence, and those who had received parole consideration hearings within the past few months were removed from the list. Fifteen inmates remained and these were set for early parole consideration. Of those fifteen inmates, only one was granted parole. The other fourteen were serving sentences for heinous offenses and had previously had multiple parole consideration hearings and denials.

**Few inmates eligible for release under bill's provisions.**

Based on an impact analysis conducted by the Sentencing Commission and the experience of the Parole Board, it appears that any medical geriatric bill that includes the exclusions which were contained in the amended bill would result in a minimal impact on the prison population. As amended, the bill would have excluded inmates convicted of capital murder, sentenced to life without parole, convicted of sodomy in any degree, sexual abuse in any degree, incest, sexual torture, enticing a child to enter a vehicle, etc. for immoral purposes, soliciting a child by computer, production of obscene matter involving a minor, production of obscene matter involving a child, parents or guardians permitting children to engage in obscene matter, possession of obscene matter involving a child, possession with intent to distribute child pornography or any crime involving sexual misconduct of a minor. As originally introduced, only inmates who were deemed to pose a low risk to the community and would not constitute a danger to society could be considered for release under the bill.

### **Pardons and Voting Rights Restoration**

**3,589 felons restored voting rights in FY 05.**

As a result of the passage of Act 2003-415, a more streamlined process of restoring voting rights to certain felons was instituted. In FY 04, over 2000 such restorations were granted, along with 158 pardons. In FY 05, 3,589 applicants received their voting rights and an additional 561 pardon requests were heard. The Board anticipates additional requests for pardons in FY 06 as a result of a recent Attorney General's Opinion which advised that felons who were convicted of crimes that do not involve moral turpitude have not lost their right to vote.

### **Current Parole Procedure Problems**

One of the largest problems that the department currently faces is in setting cases for parole consideration that require victim notification when no victim information or inaccurate information is available to the Board. Under an existing consent decree, the Board is required to exercise due diligence to determine the correct name and address of any victim injured as a result of a crime, and if the victim has died as a result of the offense, the victim's next of kin. There are currently over 3,000 inmates serving sentences past their parole consideration docket dates, due to the victim notification problem.

**Victims advocates and Pardons & Paroles officials agree on victim notification bill.**

Alabama is the only state in the nation in which the Parole Board must identify, locate, and notify victims of certain offenses. All other states notify victims upon request. The Board encourages victim participation and input in the paroling process, but needs to find a way to ensure that the Board is kept apprised of current mailing addresses and names.

**Victim notification bill to be introduced this session.**

A committee consisting of members of the Sentencing Commission, VOCAL, Parole Board, District Attorney’s Association, Governor’s Office, among others, met several times during the later months of 2005 and the first week of January to discuss legislation to address the problems. As a result of these meetings, a proposed bill has now been drafted and approved by both groups for introduction in the 2006 Legislative Session.

## **II. Community Corrections – A Smarter Sentencing Option for Certain Offenders**

### **Continuum of Punishment Options Still Needed**

**Principle of sentencing established by Alabama Supreme Court.**

Alabama lags behind other states in developing intermediate punishment options essential for the full implementation of the governing principle of criminal sentencing. Over two decades ago our Supreme Court set out this principle as a baseline for trial court judges in Rule 26.8 of the Alabama Rules of Criminal Procedure.

“The sentence imposed in each case should call for the least restrictive sanction that is consistent with the protection of the public and the gravity of the crime. . . . Judges should be sensitive to the impact their sentences have on all components of the criminal justice system and should consider alternatives to long-term institutional confinement or incarceration in cases involving offenders whom the court deems to pose no serious danger to society.”

**Statewide network of community corrections programs consistently recommended.**

At that time, as now, there was prison overcrowding and very few alternatives to incarceration beyond probation, split sentences, and community service. Despite the recommendations of every task force and committee formed to study Alabama’s prison system that a statewide network of community-based punishment programs was needed, we still have only 25 community corrections programs for felons established in the state and no programs are available in half of our counties. Although six of the active programs have been formed since 2003, during FY 05 programs failed to be expanded to additional counties. Colbert County Community Corrections, which was previously served by Lauderdale County Community Corrections, did become a separate program during FY 05.

**Community corrections is a prerequisite for sentencing reform.**

As one of its statutory mandates, the Alabama Sentencing Commission was charged with recommending a sentencing system that provides judges with a wider array of sentencing options in appropriate cases. Thus, the Legislature made clear that a prerequisite for sentencing reform was the creation of alternative punishment options beyond traditional probation and

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prison for nonviolent offenders. A community corrections network is not only needed to help alleviate the prison and jail overcrowding problems by reserving scarce prison beds for violent and repeat offenders, community-based programs are needed to correct the offenders criminal behavior through programs designed to address issues such as drug and alcohol addiction and abuse. By focusing on, and addressing the issues that led to the criminal behavior, it is hoped that offenders can become law-abiding and contributing members of society rather than a career criminal that continues to recycle through the corrections system.

Prison overcrowding continues to frustrate Alabama's Criminal Justice system and, as predicted, it is only getting worse. As of the end of FY 05, our prisons were 213% over design capacity, and that is with 312 female inmates being housed in a private prison in Louisiana at the cost of \$2,345,310,<sup>1</sup> 2,166 inmates backed up in the county jails (compared to 1,307 for the same time in FY 04 – a 66% increase) and 414 inmates serving time in federal prisons or prisons in other states.

**Prisons are more than  
213% of design capacity.**

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<sup>1</sup> During FY 05 the monthly average of female inmates incarcerated in Louisiana was 267.

### **Community Punishment and Corrections**

There are currently 25 community corrections programs in the state serving 34 counties. One-third of the active programs have been formed since 2000, with ADOC reimbursing programs for a total of 5,650 diversions over the last three fiscal years. The 25 existing Community Punishment and Corrections programs in the state and the counties they serve are listed below.

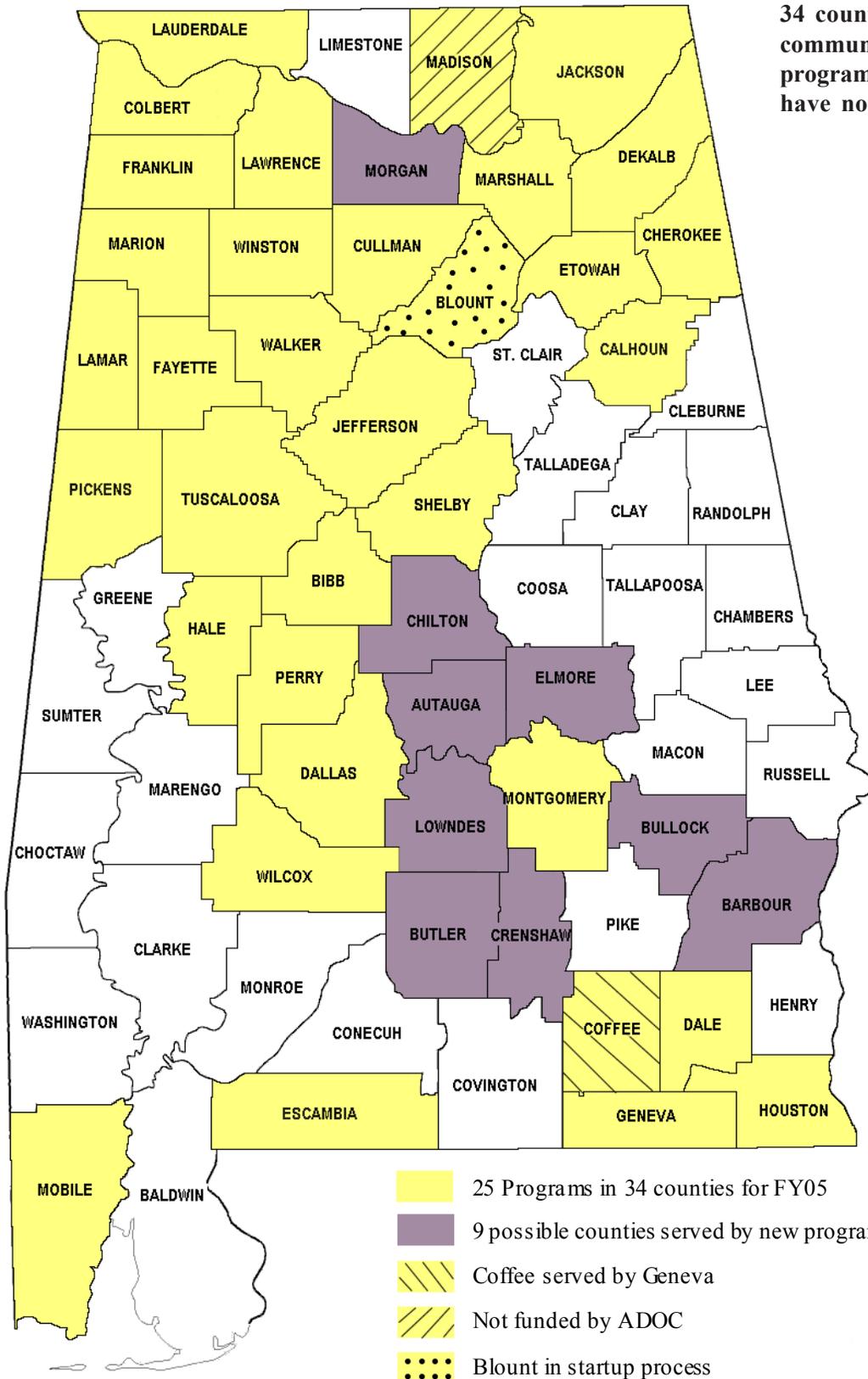
#### *Counties served by Community Punishment and Corrections Programs*

1. Bibb – 4<sup>th</sup> Judicial Circuit Community Corrections
2. Blount<sup>1</sup> - Blount County Community Corrections
3. Calhoun - Calhoun County Community Punishment & Corrections Authority
4. Cherokee - Cherokee County Community Corrections
5. Coffee<sup>2</sup> - Geneva & Coffee County Community Corrections
6. Colbert - Lauderdale County Community Corrections & Punishment Authority
7. Cullman - Cullman County Community Corrections
8. Dale - Dale County Community Corrections
9. Dallas – 4<sup>th</sup> Judicial Circuit Community Corrections
10. DeKalb - DeKalb County Community Corrections
11. Escambia - Escambia County Community Corrections
12. Etowah - Etowah Community Corrections
13. Fayette - Fayette, Lamar & Pickens Counties Community Corrections
14. Franklin - Franklin County Community Corrections
15. Geneva - Geneva & Coffee County Community Corrections
16. Hale – 4<sup>th</sup> Judicial Circuit Community Corrections
17. Houston - Houston County Community Corrections
18. Jackson - Jackson County Community Punishment & Corrections
19. Jefferson - Jefferson County Community Corrections – TASC
20. Lamar - Fayette, Lamar & Pickens Counties Community Corrections
21. Lauderdale - Lauderdale County Community Corrections & Punishment Authority
22. Lawrence - Lawrence County Community Corrections
23. Madison<sup>3</sup> - Madison County Office of Alternative Sentencing and Release
24. Marion - Marion & Winston Counties Community Corrections
25. Marshall - Marshall County Community Corrections
26. Mobile - Mobile County Community Corrections Center
27. Montgomery - Montgomery County Community Punishment and Corrections
28. Perry – 4<sup>th</sup> Judicial Circuit Community Corrections
29. Pickens - Fayette, Lamar & Pickens Counties Community Corrections
30. Shelby - Shelby County Community Corrections
31. Tuscaloosa - Tuscaloosa County Community Corrections
32. Walker - Walker County Community Corrections
33. Wilcox – 4<sup>th</sup> Judicial Circuit Community Corrections
34. Winston - Marion & Winston Counties Community Corrections

<sup>1</sup> Blount County plan was approved by the Blount County Commission on October 2004 and has been submitted to ADOC for funding.

<sup>2</sup> Coffee County served by Geneva & Coffee Community Corrections does not receive funding through ADOC.

<sup>3</sup> Madison County Office of Alternative Sentencing and Release is not funded by ADOC.



34 counties have community corrections programs - 33 counties have none.

- 25 Programs in 34 counties for FY05
- 9 possible counties served by new programs in FY05
- Coffee served by Geneva
- Not funded by ADOC
- Blount in startup process

### Felony Diversions

**Scarce prison beds should be reserved for violent offenders.**

The felony diversion program is designed as an alternative to incarceration in the penitentiary for non-violent felons, providing judges alternatives other than probation or incarceration. Community corrections programs contract with Alabama Department of Corrections to manage felony diversion inmates and, utilizing a sliding scale, pay the programs a set amount to help offset program costs. By diverting felons who would otherwise be sent to the penitentiary to community corrections programs, more correctional space is reserved for violent offenders.

**Two types of felony diversions -  
(1) front-end and  
(2) institutional.**

There are two types of diversions – referred to as front-end diversions and institutional diversions. *Front-End diversions* are felons directly sentenced to a community corrections program that would otherwise be sentenced to incarceration in the penitentiary. The Department approves inmates for front-end diversion if they are not excluded by committing a statutorily prohibited crime and score 10 points or more on the Alabama Department of Corrections’ diversion checklist. The Department’s diversion checklist is a measure of likelihood that a defendant will be sentenced to prison based on factors such as the type of crime committed, prior convictions, (both felony and misdemeanor), victim injury, juvenile record and probation/parole status. The 10-point scale is utilized to ensure that state reimbursement is provided only for those offenders that would otherwise be sent to prison - not those that would have been released on probation or given jail time. *Institutional diversions* are those instituted by the ADOC or the sentencing judge and these inmates do not have to meet the 10-point checklist. These are for inmates currently in state facilities, not convicted of excluded crimes under § 15-18-171 (14), that are approved by the Alabama Department of Corrections for release to a community corrections program, ordered by a circuit judge to community corrections and accepted by the program.

**New reimbursement rate implemented for institutional diversions.**

The Department pays programs for front-end diversions at the rate \$15 per day for the first six months, \$10 per day for the next three months and \$5 per day for any remaining days up to a total of a two-year period. Until recently, for institutional diversions, the Department paid the contracting program \$10 per day for the first six month period in the program and \$5 per day for the next year and a half. On September 20, 2005, Commissioner Campbell temporarily implemented new reimbursement rates for institutional diversions, increasing the reimbursement to \$15 per day for the initial three months, \$10 per day for the next 6 months and \$5 per day for the remainder of the two year period. These new rates are to apply to inmates sentenced prior to September 15, 2005, who are in an ADOC facility or housed in a county jail awaiting transfer to an ADOC facility.

**Community corrections programs paid for 1,896 felony diversions in FY 05.**

In fiscal year 2005, the Department paid programs for 1,896 felony diversions - 1,407 (74%) front-end diversions and 489 (26%) institutional diversions. Of the total reimbursements, 1,156 were new diversions occurring in FY 05 (801 front-end and 355 institutional diversions). In 2005, there was a 10% decrease of front-end diversions and a 12% increase in institutional diversions. There was an overall decrease of 5.2 percent in

Department-paid felony diversions between 2004 and 2005. These figures do not include felony offenders who did not meet the ten point scale, yet served some or part of their time with a community corrections program.

<b>Diversion of Felony Offenders to Community Correction Programs</b>			
	<b>FY 03</b>	<b>FY 04</b>	<b>FY 05</b>
New Diversions	1,127	917	489
Carried Over From Another FY	627	1,086	1,407
<b>Total</b>	<b>1,754</b>	<b>2,003</b>	<b>1,896</b>

**Jefferson, Mobile, Houston, Montgomery and DeKalb counties have largest number of ADOC reimbursed diversions.**

### **FY 05 Community Corrections Totals**

<b>FY 05</b>	<b>Total State Funded Diversions for FY 05</b>				
	<b>New Front-End Diversions</b>	<b>New Institutional Diversions</b>	<b>Institutional Diversions</b>	<b>Front-End Diversions</b>	<b>Total Diversions</b>
<b>Calhoun</b>	0	0	<b>0</b>	<b>2</b>	<b>2</b>
<b>Cherokee</b>	10	2	<b>9</b>	<b>10</b>	<b>19</b>
<b>Cullman</b>	20	15	<b>18</b>	<b>34</b>	<b>52</b>
<b>Dale</b>	7	0	<b>1</b>	<b>10</b>	<b>11</b>
<b>DeKalb</b>	26	30	<b>34</b>	<b>75</b>	<b>109</b>
<b>Escambia</b>	7	10	<b>20</b>	<b>11</b>	<b>31</b>
<b>Etowah</b>	34	22	<b>29</b>	<b>51</b>	<b>80</b>
<b>Fayette</b>	1	1	<b>3</b>	<b>14</b>	<b>17</b>
<b>Franklin</b>	8	22	<b>37</b>	<b>11</b>	<b>48</b>
<b>Geneva</b>	6	0	<b>0</b>	<b>8</b>	<b>8</b>
<b>Houston</b>	14	93	<b>145</b>	<b>15</b>	<b>160</b>
<b>Jackson</b>	17	1	<b>3</b>	<b>19</b>	<b>22</b>
<b>Jefferson</b>	276	19	<b>23</b>	<b>408</b>	<b>431</b>
<b>Lauderdale</b>	25	9	<b>11</b>	<b>44</b>	<b>55</b>
<b>Lawrence</b>	15	2	<b>12</b>	<b>24</b>	<b>36</b>
<b>Marion</b>	5	4	<b>7</b>	<b>9</b>	<b>16</b>
<b>Marshall</b>	57	2	<b>2</b>	<b>77</b>	<b>79</b>
<b>Mobile</b>	123	55	<b>57</b>	<b>316</b>	<b>373</b>
<b>Montgomery</b>	67	10	<b>12</b>	<b>99</b>	<b>111</b>
<b>Shelby</b>	48	5	<b>5</b>	<b>97</b>	<b>102</b>
<b>Tuscaloosa</b>	19	2	<b>3</b>	<b>52</b>	<b>55</b>
<b>Walker</b>	3	47	<b>54</b>	<b>7</b>	<b>61</b>
<b>4th Circuit</b>	13	4	<b>4</b>	<b>14</b>	<b>18</b>
<b>Total</b>	<b>801</b>	<b>355</b>	<b>489</b>	<b>1,407</b>	<b>1,896</b>

## **New ADOC Developments**

**New reimbursement rates implemented to reduce prison population.**

### **Special Diversion Program**

The Special Diversion program implemented in September was one effort by the Department of Corrections to assist in reducing the inmate population of Alabama's prisons and county jails. This new program, which only applies to inmates sentenced prior to September 15, 2005 who are now in an ADOC facility or awaiting transfer from a county jail, authorizes an increased rate of reimbursement to community corrections programs. Since the Special Diversion program applies to institutional diversions, the 10 point checklist will not apply to this program.

Under this new program, an additional \$5 per inmate is authorized for the first six months of participation in the program. Although this rate is still lower than the amount authorized for front-end diversions (those eligible inmates sentenced directly to community corrections programs), it does bring all reimbursements closer, regardless of type. Front-end diversions receive \$5 more a month per inmate for three additional months initially when compared to the new institutional diversion rate, but are reimbursed \$10 for only the next three months (as compared to the next 6 months under the special diversion program).

**Institutional diversions expected to increase under new expedited procedure.**

### **Expedited Process for Institutional Diversion Reviews**

Institutional diversions now represent approximately ¼ of total diversions to community correction programs. In an effort to increase this number, the Department of Corrections recently implemented a new procedure which was announced at the December 12<sup>th</sup> meeting of the Alabama Community Corrections Association. Under this procedure, each month, the Department will provide Community Correction programs a list of inmates sentenced from their county who are eligible for institutional diversions. In the past, the Department provided to the programs a monthly list of all community corrections eligible offenders who were incarcerated in the ADOC. The programs were asked to review the list with the courts to determine those offenders who could be transferred to community corrections. Since some programs failed to take full advantage of the institutional diversion process and because the original process included several steps, the ADOC has now streamlined the process. The new process will involve the ADOC specifically identifying individual inmates from the list of eligible offenders and asking the programs and courts to authorize the transfer of those offenders to community corrections. With this new procedure, institutional diversions are expected to increase, there should be a decrease in administrative time expended by community corrections programs on the approval of institutional diversions, and the time required for approval and diversion should be significantly reduced.

**10-point scale to be reviewed for revision.**

### **Review of 10 Point Scale for Possible Revision**

To ensure that only felony offenders that would otherwise be sentenced to serve time in the penitentiary are the defendants being sentenced to community corrections programs, in the early 1990's the Department of Corrections implemented a 10 point scale for front-end diversions. This scale provided a standard by which the Department determined which

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offenders would qualify the programs for reimbursement. Under this 10 point checklist, points are assigned based on the classification and type of current felony conviction, concurrent felony convictions, prior convictions (misdemeanor and juvenile) and factors such as whether there was victim injury, whether a weapon was involved in a concurrent felony and age of the victim. Funding for front-end diversions is allocated only to those offenders that receive 10 points or more and are not convicted of an excluded offense.

This point scale has not been extensively reviewed or revised since it was developed, and there have been complaints that the point scale is too low and does not adequately provide for aggravating circumstances. One example given was an offender convicted of felony DUI (fourth or subsequent DUI) after two prior felony DUI convictions. This offender would only receive a total of 8 points and would not be eligible for reimbursement if sentenced to a community corrections program, although he had been convicted 3 times for felony DUI. Based on requests to reevaluate program criteria, the Department of Corrections is currently reviewing its 10-point scale for possible revision.

**Review of diversion checklist initiated to address complaints.**

### **ADOC Community Corrections Division**

#### *Efforts of Expansion in FY 05*

Until FY 2006, funds have not been available to fully fund existing programs for an entire fiscal year. In prior years funds were depleted prior to the end of the fiscal year, resulting in existing programs not receiving payment from ADOC for the full year. Diversion totals for FY 2005 are less than in FY 2004, despite the availability of funds through a VOITIS grant and through General Fund appropriations earmarked for community corrections programs. Some diversions were not approved for reimbursement due to the offender's failure to meet the 10 point scale and reimbursements were delayed due to questions over the expenditure of federal grant funds.

**Adequate funds not provided for expansion efforts.**

There is expected to be a substantial increase in total diversions next year due to better funding, more administrative support, and newly implemented procedures by ADOC. FY 2006 will be the first year that sufficient funding is projected to be available to adequately fund existing programs and offer additional start-up grants to counties or circuits seeking to establish a community corrections program.

**Due to increased funding for FY 06, more diversions are expected.**

#### ADOC General Fund Appropriations Earmarked for Community Corrections

FY 00	\$1.5 million
FY 01	\$1.5 million
FY 02	\$2 million
FY 03	\$2.975 million ( <u>\$2 million + \$975,000 suppl.</u> )
FY 04	\$2.975 million
FY 05	\$2.975 million
FY 06	\$5.2 million
FY 07	\$5.5 million

**Funding in minimum amount of \$5.5 million needed.**

### **Full Time Director and Staff**

**Funds earmarked for community corrections are to be deposited in special fund.**

If the Department is successful in obtaining appropriations in the amount of \$5.5 million for community corrections programs in FY 07, there will be adequate administrative support devoted to the expansion of existing programs and start up of new programs throughout the state. Pursuant to the Community Punishment and Corrections Act of 2003, all funds earmarked for community corrections are to be deposited in a special fund, *the State-County Community Corrections Partnership Fund*. Under a specific provision in this Act (2003-353), funding in the minimum amount of \$5.5 million for community corrections is a prerequisite for full implementation of those parts of the act requiring the creation of a division of community corrections within the Department of Corrections with a full-time director and support staff.

### **Community Programs Focus on Correction**

**Programs provide punishment and correction.**

Offenders participating in community corrections programs may be required to repay the community through community service work, undergo drug and alcohol testing and treatment, make restitution to victims, submit to intensive supervision, participate in work release programs, undergo house arrest with or without electronic monitoring, and comply with day reporting requirements and probation monitoring with varying levels of supervision. Community Corrections Programs provide enhanced supervision and treatment options between traditional probation supervision and prison. Rehabilitative programs that can be offered through community programs include literacy training, job training, job placement and GED preparation.

## Paroles

FY	DOC Prison Population <sup>1</sup>	DOC Admissions <sup>2</sup>	Under Parole Supervision	Parole Considered	Parole Denied	Parole Granted	Parole Revocations
1987	12,014	4,932	3,698	3,659	2,005	1,657	459
1988	12,517	5,137	4,952	4,751	2,172	2,579	451
1989	13,055	6,484	5,765	3,905	1,595	2,310	725
1990	14,334	7,306	6,629	5,039	2,350	2,487	1,021
1991	15,998	7,200	6,786	5,363	3,054	1,973	857
1992	17,027	7,754	6,983	5,423	2,750	2,287	883
1993	17,906	7,888	7,172	5,443	2,930	2,093	765
1994	18,906	7,726	7,306	5,633	3,338	1,942	860
1995	19,848	8,064	7,249	6,155	3,868	2,287	1,000
1996	21,088	9,200	6,609	6,549	4,300	1,644	855
1997	21,886	9,036	4,631	7,822	5,110	2,712	425
1998	22,386	8,973	5,423	7,834	5,073	2,761	288
1999	23,889	10,274	4,988	5,592	3,863	1,729	335
2000	25,273	9,527	5,069	5,406	3,570	1,836	487
2001	26,709	9,387	4,772	5,452	3,680	1,772	581
2002	27,153	10,210	5,195	5,811	3,642	2,169	609
2003	28,134	10,077	6,153	6,936	3,738	3,198	796
2004	26,854	9,696	7,645	11,603	7,649	3,954	676
2005	27,687	10,711	7,133	8,657	6,467	2,190	807

## Probation

FY	Under Probation Supervision	Probation Granted	Probation Revocations	Probation/Parole Officers
1987	18,714	5,788	830	159
1988	19,584	7,241	962	180
1989	20,707	7,351	1,117	220
1990	22,462	8,909	1,326	221
1991	24,915	7,583	1,268	216
1992	27,425	9,672	1,552	213
1993	28,196	9,295	1,718	220
1994	27,996	8,347	1,930	221
1995	27,349	8,588	1,948	222
1996	27,442	8,170	1,982	220
1997	28,033	9,276	2,106	217
1998	29,375	9,024	1,958	218
1999	30,516	11,619	1,925	224
2000	31,204	10,933	1,925	222
2001	31,348	11,493	2,401	232
2002	31,752	11,774	2,665	238
2003	33,112	12,105	2,369	261
2004	33,845	11,315	1,652	326
2005	34,996	26,884	3,589	357*

<sup>1</sup> Average prison population for each fiscal year based on ADOC Monthly Reports - deducting Community Corrections reported the population would be 26,513.

<sup>2</sup> Average ADOC admissions for each fiscal year based on ADOC monthly reports.

\* Includes 278 caseload supervising officers - data provided by the Board of Pardons and Paroles.



## Chapter 4: Alabama Department of Corrections

### Innovative Proposals

#### ADOC Drug and Alcohol Treatment Programs

Approximately 39% of the offenders admitted to prison in the last five years for new offenses were convicted of drug offenses or felony DUI. Another 30% were convicted of property offenses, many of which were alcohol or drug related. Of these offenders, approximately 40% are not new to the system, having served time as inmates of the Alabama Department of Corrections before. Based on these figures alone, it is apparent that we are not adequately addressing drug addiction and abuse in our state, and it is quite evident that this failure has had a tremendous negative impact on our criminal justice system.

**39% of prison admissions over last 5 years convicted of drug crimes or felony DUI.**

#### *ADOC Drug Admissions*

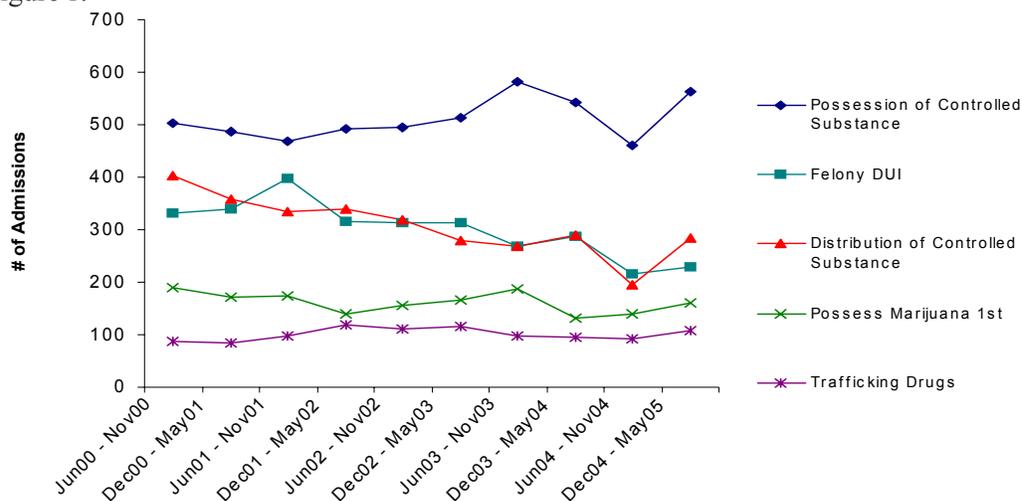
The five drug and alcohol offenses shown in the figure below represent 96 percent of all alcohol/drug offense admissions to ADOC from June, 2000 through May, 2005. Possession of a Controlled Substance consistently leads all drug/alcohol offenses in admissions to ADOC. Possession of Marijuana 1<sup>st</sup> and Trafficking Drugs<sup>1</sup> all show fairly stable patterns in admissions over the time period while Distribution of a Controlled Substance and Felony DUI show an overall decreasing trend.

**#1 drug crime of admittees: Possession of controlled substance.**

After the November 2002 time period interval, there was an increase in admissions for Possession of a Controlled Substance, coinciding with a slight decrease in admissions for Distribution of a Controlled Substance and Felony DUI, although Possession of a Controlled Substance and Distribution of a Controlled Substance show a sharp increase from December 2004 through May 2005.

**Felony DUI and possession of marijuana comprise 32% of drug admission cohort.**

Figure 1.



<sup>1</sup> Trafficking Drugs includes trafficking charges for cocaine, marijuana, methamphetamine, amphetamine, opium, LSD, hydromorphone, and unspecified narcotics.

**Certification of ADOC substance abuse programs and counselors a priority.**

Following up on the recommendations of the Governor's Task Force, the Department of Corrections will focus its efforts in FY 06 on providing adequate administrative support for drug treatment. Among the first steps that will be taken will be ensuring that all ADOC substance abuse programs and professionals are certified by the Department of Mental Health and that all SAP counselors and specialists possess specific educational and clinical training credentials.

**Pre-Release Work Centers**

A recurring theme heard by the Governor's Prison Crowding Task Force was the need to put prisoners to work. Employment would provide means for inmates to repay restitution to victims and other court-ordered monies and to obtain skills which will benefit them when they are released from prison. This recommendation came at a time when there was a growing concern from the public about the low-risk classification of some work release inmates.

**Work release inmates carefully monitored.**

Recognizing that public safety was *the* paramount concern of the public and members, the Task Force made several recommendations regarding work release programs, primary of which was that the Department of Corrections should conduct a thorough review of each inmate currently on work release to ensure that the public is protected. A review of work release eligibility criteria has now been completed by the Department. That review encompassed those inmates currently on work release at the time. The Department has made it a priority to continue to thoroughly review inmates before they are placed on work release and while they are participating in the program.

Based on the Task Force report, out of the 3,500 beds allotted to work release and community detention programs, at the end of FY 2005 only 1,500 were filled. This figure increased to 2,300 empty beds after inmates were removed from work release as a security precaution and others were paroled. The Department has implemented several programs aimed at utilizing as many empty work release beds as possible, without jeopardizing public safety. Inmates about to expire their sentences are now filling some of the empty work release beds. Currently, there are approximately 900 empty work release beds in the system.

**Work centers recommended by the Governor's Prison Crowding Task Force.**

The other proposal, which the Department of Correction is in the process of evaluating for implementation, was that unused work release facilities be transformed into pre-release/on-site work centers, which would reduce idle time for prisoners, while at the same time allow them to repay a portion of their debt to society and assist with their transition back into the community. In addition to the employment feature through on-site prison industries programs, it was recommended that inmates placed in the renovated work centers received intensive drug counseling, as well as educational and vocational training.

In order to fully utilize these beds without endangering public safety, the Alabama Sentencing Commission endorses the recommendation of the

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Governor's Prison Overcrowding Task Force that work centers be created in some of the facilities now utilized for work release and/or community detention programs. It was estimated that a maximum of three facilities could be renovated for work centers and that basic renovation of each facility with lighting, security and fencing would cost approximately \$200,000 per facility.

### **Prison Industry**

Providing a secure work environment for the employment of prisoners is half the problem. Industry and a market for the products produced is the second obstacle. Legislation is required to authorize ADOC to contract with private businesses for on-site industries and sell the goods that are produced to state agencies and nonprofit entities. The Department of Corrections, working in conjunction with the Governor's office, is currently in the process of drafting legislation to implement this concept and hope to introduce a bill for approval during the 2006 Regular Session of the Legislature.

Although a specific bill has not been approved for filing, the Alabama Sentencing Commission approves the concept on prison industry and expansion of the market for the sale of prison-made products.

### **Technological Advances**

#### Upgraded computer & electronic transcripts

A critical component for the successful operation of a criminal justice system is technologically advanced databases which allow networking with the courts and primary agencies and departments. Now, essential information is sometimes not available during the sentencing phase and the system currently lacks the ability to monitor defendants through the "pipeline" from conviction, awaiting pre-sentence investigation, pending sentence hearing, awaiting transportation to the Department of Corrections, etc. No one knows the status or location of a defendant in the "pipeline" until they literally arrive at the door of the Department of Corrections.

The Administrative Office of Courts (AOC), the Board of Pardons and Parole and the Department of Corrections, with assistance from the Sentencing Commission, have undertaken an innovative endeavor in information technology in hopes of not only improving our criminal history and tracking process, but creating a criminal justice reporting and tracking system which is one the most efficient in the nation. With the creation of a complete sentencing tracking module, criminal justice agencies will be able to track a defendant from the point of felony conviction and sentencing as he passes from agency to agency in the post-sentencing process.

The IT division of the Alabama Department of Corrections has begun a total systems' re-engineering process in an effort to convert their current legacy systems, which were originally written in 1980, over to the latest web-enabled client-server technologies. This is required in order to facilitate

**Employment of prisoners in secure work environment is being pursued.**

**State-of-the-art information technology will improve criminal justice reporting and tracking.**

**Data exchange among criminal justice agencies essential.**

the real-time sharing of information, which is critical for a successful state-of-the-art sentencing-tracking module. A number of information-sharing initiatives have already been implemented with other agencies: the sharing of essential data between the courts, the Board of Pardons and Paroles; and data transfer from the State Employees' Insurance Board for the issuance and tracking of health insurance contract information for the emergency-medical treatment of inmates. These initiatives are serving as facilitators of improvement on the IT infrastructure of the Alabama Department of Corrections, as well as the overall operational procedures of the Department as a whole.

Vast improvements will be made in 2006 for both in-house data processing and external data sharing by the Department. These advancements will enhance the ability of the State's criminal-justice community to monitor defendants through the entire cycle of their judicial processing.

Of major import to the proposed information exchange system are the electronic worksheets that will be utilized upon implementation of the sentencing standards recommended by the Sentencing Commission. The process begins with recording the sentence in the Alabama Judicial System. The sentencing judge has the option to use the sentencing worksheet proposed by the Sentencing Commission and follow the sentencing recommendation of the sentencing standards. Through this system the sentencing judge has access to vital background information on the defendant. Such information will include: previous presentence or post-sentence investigation reports (PSIs) prepared by probation officers, all state court dispositions since the early 1980's, driver's histories and a connection to the criminal justice information system to determine subsequent arrests.

**Electronic PSIs provide information on demand.**

An extremely valuable component of the system is the "alert" feature, which will alert other users of required action on their part. For example, when a judge requests a PSI, the request will be routed to the probation officer and be available to him as an incoming message. Similarly, a completed PSI will be automatically routed to the judge and prosecutor when released by the officer. After conviction and sentencing, conviction transcripts will also be automatically routed to the appropriate destination. This system, designed to provide information either on demand or automatically as action is needed, will greatly enhance the flow of information as well as the quality of information exchanged among agencies.

#### **Child Sex Offender Act – Will Result in a Substantial Increase in the Prison Population**

**Mandatory minimum prison terms, new offenses and increased penalties will substantially increase the prison population.**

The Alabama Sentencing Commission analyzed the child sex offender bill which became law on October 1, 2005 as Act 2005-301 and provided the Legislative Fiscal Office with information regarding the new law's impact on the prison population. This Act affects offenders convicted and sentenced for any child sex offense in which the victim is under the age of 12, offenders convicted for pornography offenses involving a child under 17 years of age and sex offenders in general. The Act makes numerous changes in Alabama

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law, increasing the punishment for existing offenses and creating new offenses.

Our impact statement considered only the Act's major provisions establishing mandatory minimum periods of incarceration for child sex offenders. It was estimated that over a 10-20 year period, the *additional* cost to the State of Alabama just for inmates convicted of a child sex offense and sentenced to the penitentiary in 2006, would be \$2,334,799. There would not be an initial additional expense incurred due to the fact that the offenders would have been sentenced and required to serve a certain number of years incarcerated in a ADOC facility under the law in effect before Act 2005-301 was implemented. The costs required for increased incarceration will only be incurred in the future, but when it starts there will be a snowball effect, since each year of inmate admissions will contribute to the long-term costs.

***Class A Felonies***

**Mandatory minimum imprisonment of 20 years (increase of 10 years) and 10 years post-incarceration supervision for Class A felony child sex offenses**

- Rape 1<sup>st</sup> § 13A-6-61
- Sodomy 1<sup>st</sup> § 13A-6-63
- Sexual Torture § 13A-6-65.1
- Kidnapping 1<sup>st</sup> § 13A-6-43
- Child Pornography
- Parents permitting Children to Engage in Obscene Production § 13A-12-196
- Production of Obscene Matter of person under 17 § 13A-12-197

For Class A child felony sex offenders admitted in 2006 alone, it is estimated that the cost of incarceration will be an *additional* cost over a 20 year period of \$1,062,977. Based on past practices, it is estimated that 25 Class A felony child sex offenders will be admitted per year.

***Class B Felonies***

**Mandatory minimum imprisonment of 10 years (increase of 8 years) for Class B felony child sex offenses and pornography offenses**

- Rape 2<sup>nd</sup> § 13A-6-62
- Sodomy 2<sup>nd</sup> § 13A-6-64
- Promoting Prostitution 1<sup>st</sup> § 13A-12-111
- Kidnapping 2<sup>nd</sup> § 13A-6-44
- Soliciting a Child by Computer § 13A-6-110
- Transmitting Obscene Matter to Child by Computer § 13A-6-111
- Child Pornography
- Disseminating or Display of Obscene Matter of persons under 17 § 13A-12-191
- Possession with Intent to Disseminate Obscene Matter of persons under 17 § 13A-12-192
- Attempt, solicitation, and conspiracy to commit Class A child sex offenses

**Substantial increases expected.**

**10 years add imprisonment mandatory for Class A child sex offenders.**

**Additional cost of \$1,062,977 over a 20 year period for each year of admittees.**

**Mandatory imprisonment of 10 years for Class B felony child sex offenses and child pornography.**

**Additional cost over a 10 year period of \$1,271,822 for sex offender/child pornography admissions to ADOC each year.**

For Class B child sex felony offenders admitted in 2006 alone, it is estimated that the cost of incarceration will be an *additional* cost over a 10 year period of \$1,271,822. It is estimated that 16 Class B felony child sex offenders will be admitted per year, based on past practices.

There are many changes in this Act requiring additional costs that have not been estimated. These include:

- 1) the cost of additional pardon and parole officers for the mandatory additional punishment of 10 years post-release supervision for violent sexual predators and Class A felony child sex offenders;
- 2) additional defendants considered child sex offenders based on pleas of nolo contendere entered in other jurisdictions;
- 3) the increase in incarceration for child sex offenders subject to additional enhancements pursuant to the Habitual Felony Offender statute;
- 4) the increase in inmates by the elimination of split sentences for Class A and B child sex offenders and probation (apparently for any sex offense involving a child);
- 5) the costs associated with increased penalties and supervision for defendants declared to be sexual violent predators (including the cost of a jury trial for determination of this sentencing factor);
- 6) the cost of sex offender treatment and risk assessments required for youthful offenders treated as juvenile criminal sex offenders pursuant to (§ 15-20-31); and
- 7) reporting or registration costs for public agencies and departments.

The primary provisions of Act 2005-301 affect defendants convicted and sentenced for any child sex offense in which the victim is under the age of 12 and pornography offenses involving a child under 17 years of age. The exact impact on the prison population is difficult to estimate due to unknown variables, including length of sentence imposed, application of possible sentencing enhancements, and likelihood of prison admission for new offenses.

#### **Increase In Penalties Raise Misdemeanors to Felonies**

**Act 2000-301 reclassifies 4 misdemeanors as felons.**

The offenses listed below were prior misdemeanor offenses that are now classified in Act 2005-301 as Class C felony offenses. The figure provided below each offense indicates the number of convictions for the offense during the timeframe of October 1, 1998 – May 31, 2004. Because of the uncertainty of the sentences that will be imposed for these new felony offenses, the only prediction that can be made would have to be based on the number of admissions in the past, which was 205 convictions over a five and a half year period. An estimated cost would depend not only on the sentence imposed, but time served, which is an unknown variable for inmates still serving their sentence.

- 
- Adult Criminal Sex Offender – Requirements Prior to Release § 15-20-22 (1)
    - *13 convictions*
  - Adult Criminal Sex Offender – Transfer and Establishment of Legal Residence § 15-20-23
    - *192 convictions*
  - Adult Criminal Sex Offender – Registration by Nonresident Workers and Students § 15-20-25.1
    - *0 convictions*
  - Adult Criminal Sex Offender – Notice of Employment, Enrollment, etc., at School or Institution of Higher Education § 15-20-25.2
    - *0 convictions*

There were also felony offenses that are new criminal offenses (Class C felonies) created by the Act. Because these are new offenses there is no past history available to project the impact these offenses will have on the prison population. The number of arrests, convictions, parole or probation occurring during the first 12 months of implementation should provide needed data for future status quo projections.

**New felony offenses are created by the Act.**

- Adult Criminal Sex Offender – Requirements Prior to Release § 15-20-22 (4d)
- Adult Criminal Sex Offender – Failure to Notify Change of Employment § 15-20-23.1
- Adult Criminal Sex Offender – Verification of Residence § 15-20-24
- Adult Criminal Sex Offender – Willfully or Knowingly Alter, Destroy, etc. Electronic Monitoring Device § 15-20-26.1
- Adult Criminal Sex Offender – Failure to Carry Driver’s License or Identification Card or § 15-20-26.2



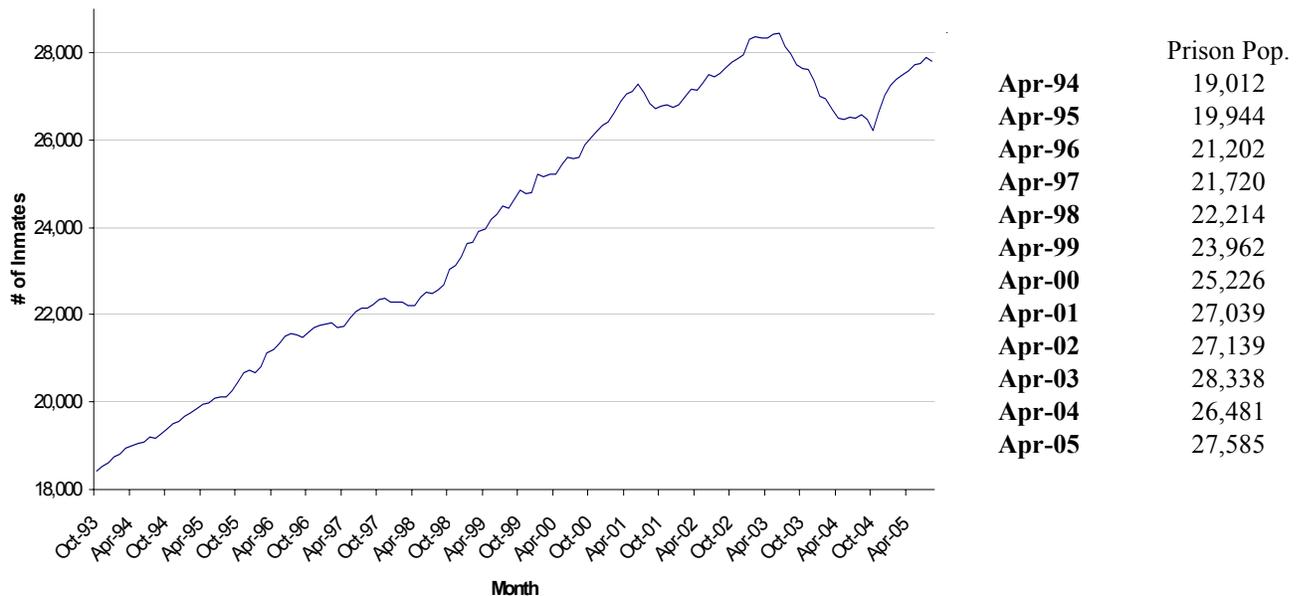
## Chapter 5: Relying on Data for Direction

### Where We Are Now and Where We Have Been?

#### ADOC Population Growth

Figure 1 below displays the growth in the ADOC population from October 1993 through April 2005. The growth in the population has been constant with the exception of one period of time. The implementation of special parole dockets in April 2003 caused the prison population to decline until October 2004, when the population of ADOC started to rise once again.

Figure 1.



#### Year End Population

The stock prison population changes daily. The table below reflects the inmate population as of the December 31<sup>st</sup> of each year. These figures will, therefore, differ from the figures that were obtained from the tally of monthly population averages.

Figure 2.

#### Prison population at Year's End as of December 31st

Year	Population	Increase/Decrease	% Change
December 2000	26,332		
December 2001	26,741	409	1.6%
December 2002	27,947	1,206	4.5%
December 2003	27,344	-603	-2.2%
December 2004	27,016	-328	-1.2%
December 2005	27,888	872	3.2%

**At year end, the prison population was 3.2% higher than in 2004.**

### ADOC Population - Monthly Averages

A snapshot look at ADOC's prison population from 1995-2005 representing the monthly average populations for these calendar years demonstrate that success from emergency measures was short-lived.

Figure 3.

	Calendar	Inmate	Increase/	% Change
	Year	Population	Decrease	
<b>Monthly average populations for each year show decrease in 2004 was short-lived.</b>	1995	20,131		
	1996	21,357	1,226	6.09%
	1997	22,047	690	3.23%
	1998	22,593	546	2.48%
	1999	24,299	1,706	7.55%
	2000	25,619	1,320	5.43%
	2001	26,855	1,236	4.82%
	2002	27,425	570	2.12%
	2003	28,052	627	2.29%
	2004	26,627	-1,425	-5.08%
	2005	27,888	1,261	4.74%

Source: ADOC Monthly Statistical Reports

### Who is in Our Prisons

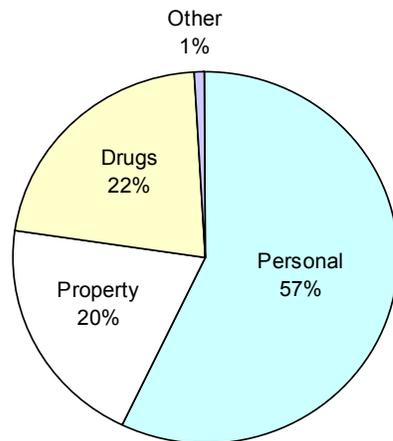
Figure 4.

<b>Stock Population on May 31, 2005</b>		
Murder	<b>1</b>	3,844
Robbery 1st	<b>2</b>	3,763
Possession of Controlled Substance	<b>3</b>	1,986
Distribution of Controlled Substance	<b>4</b>	1,536
Burglary 3rd	<b>5</b>	1,263
Theft of Property 1st	<b>6</b>	1,122
Burglary 1st	<b>7</b>	1,096
Rape 1st	<b>8</b>	1,020
Robbery 3rd	<b>9</b>	903
Felony DUI	<b>10</b>	745
Trafficking Drugs	<b>11</b>	745
Manslaughter	<b>12</b>	718
Possess Marijuana 1st	<b>13</b>	587
Robbery 2nd	<b>14</b>	570
Assault 1st	<b>15</b>	529
Assault 2nd	<b>16</b>	525
Receiving Stolen Property 1st	<b>17</b>	512
Sodomy 1st	<b>18</b>	499
Theft of Property 2nd	<b>19</b>	499
Breaking/Entering a Vehicle	<b>20</b>	467
Poss Forged Instrument 2nd	<b>21</b>	446
Sexual Abuse 1st	<b>22</b>	444
Attempted Murder	<b>23</b>	439
Burglary 2nd	<b>24</b>	422
Rape 2nd	<b>25</b>	296
<b>Top 25 Offenses</b>		<b>24,976</b>
Other Offenses		2,735
<b>Total Stock Population</b>		<b>27,711</b>

A snapshot look at our prison population on May 31, 2005 shows Top 25 offenses, while over 58% of the prisoners are incarcerated for committing personal offenses, 22% are serving time for drug or felony DUI crimes and 19% for property crimes.

Figure 5.

**Stock Population on May 31, 2005**



**42% of prisoners are serving time for drug or property crimes.**

**Habitual Felony Offenders - The Impact of Our HFOA Statute**

The number of habitual offenders serving time in ADOC has steadily increased. Based on ADOC's monthly statistical report, there has been a steady increase in the number of habitual offenders. Of Alabama's inmate population, almost 1 out of 3 inmates are sentenced as a habitual offender.

**Over 30% of the inmates were sentenced under the HFOA.**

According to data provided by ADOC monthly reports, the largest category of offenders serving time under a Habitual Felony Offender sentence is composed of those convicted and sentenced for property crimes. Utilizing these figures, a little over 30% of the inmates in the prison system are serving sentences enhanced under the HFOA. This figure is a conservative estimate because it was computed using the figure for the total inmate population, which includes inmates that are in community corrections programs, as well as those serving time in other states or federal prisons.

Figure 6.

**Habitual Felony Offenders in ADOC Population by Crime Type**

FY 2005	Personal	Property	Drugs	Other	Total	% Habitual of Total Pop.
Oct-04	3,183	3,185	1,122	161	7,651	29.2%
Nov-04	3,187	3,256	1,176	163	7,782	29.2%
Dec-04	3,218	3,351	1,217	168	7,954	29.4%
Jan-05	3,226	3,395	1,245	169	8,035	29.5%
Feb-05	3,225	3,436	1,283	163	8,107	29.6%
Mar-05	3,265	3,471	1,291	162	8,189	29.8%
Apr-05	3,268	3,472	1,309	159	8,208	29.8%
May-05	3,288	3,477	1,325	169	8,259	29.8%
Jun-05	3,291	3,502	1,350	170	8,313	30.0%
Jul-05	3,309	3,530	1,367	169	8,375	30.0%
Aug-05	3,302	3,532	1,384	174	8,392	30.2%
Sep-05	3,296	3,541	1,407	173	8,417	30.4%
<b>FY 2006</b>						
Oct-05	3,304	3,597	1,428	175	8,504	30.5%
Nov-05	3,320	3,600	1,430	174	8,524	30.6%
Dec-05	3,326	3,612	1,451	174	8,563	30.7%

**During FY 05, the HFOA population grew by 766 inmates (10%).**

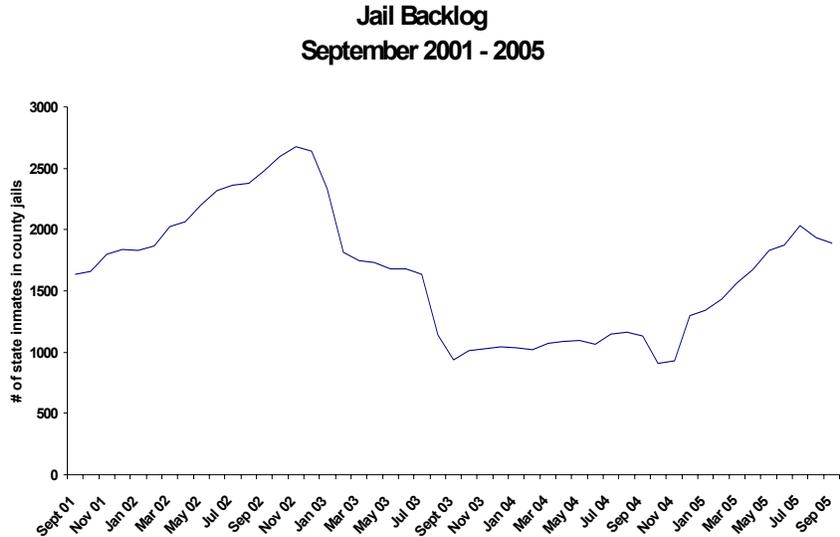
**11.4% increase since October 2005.**

**Jail Backlogs - Effect of Prison Growth on County Jail Population**

**Jail backlogs are back. Increases in last months of FY 05 produce greater backlogs than in prior 2 years.**

The backlog of state inmates in the county jails continues. Comparing the jail backlogs reported in the month of September for the years 2001 – 2005, shows that there were 254 more inmates in county jails in September of 2005 (1877 inmates) than in September 2001 (1633 inmates). The only time that the backlog has been greater than in the months July, August and September of 2005 was in 2002.

Figure 7.



**Summary ADOC Weekly Jail Reports**

**342% more state inmates in county jails with transcripts over 30 days ready than a year ago.**

As anticipated, after a short-lived decline in the number of state inmates housed in county jails, which resulted from the implementation of the special parole docket and transfer of prisoners to out-of-state prisons, we are again back to a crisis situation. Comparing the monthly averages last month with those of a year ago, shows that there has been a 54% increase of state inmates housed in county jails, with a 115% increase in the total number of inmates with transcripts ready, and a 342% increase in the number of inmates with transcripts over 30 days ready. While the jail backlogs have greatly increased, there has been an 86% decrease in the number of inmates participating in the supervised intensive restitution (SIR) program.

Figure 8 is a graphic display of the average number of inmates housed in county jails for the month of December demonstrates that the situation has deteriorated to a condition worse than we faced in 2001.

Figure 8.

	12/01	12/02	12/03	12/04	12/05
Transferred to DOC from Jail	210	248	196	179	175
State Inmates in Jails	1,839	2,643	1,039	1,299	1,993
Transcripts Over 30 Days Ready	331	1,564	0	182	804
Total Transcripts Ready	998	2,261	557	585	1,257
Empty Work Release	45	7	---	---	---
Waiting Work Release	60	40	---	---	---
SIR	355	295	89	14	2

**At the end of FY 05 there were 1,993 inmates in county jails.**

## Measures That Matter

### Growth Would be Worse Without Community Corrections

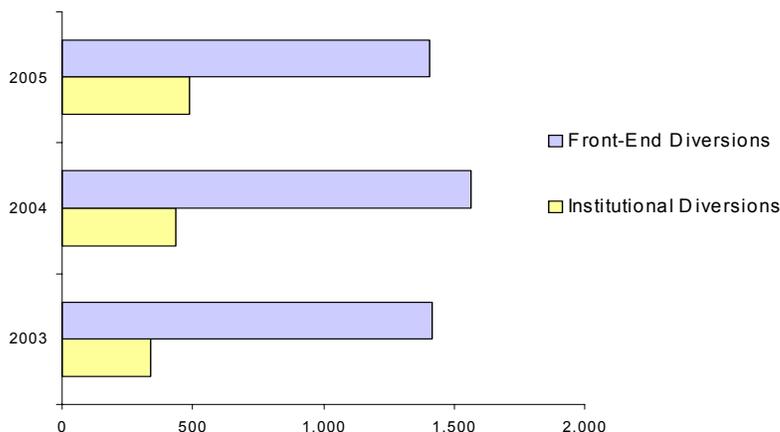
Of the total diversions in FY 05, 801 were *new* front-end diversions and 355 were *new* institutional diversions. This means that 801 felony offenders that would have been sent to prison instead served time community corrections programs. An additional 355 inmates were taken out of prison and placed in these same programs.

Figure 9.

### Fiscal Year Diversions to Community Corrections Programs

	2003	2004	2005
Institutional Diversions	339	437	489
Front-End Diversions	1,415	1,563	1,407
<b>Total</b>	<b>1,754</b>	<b>2,000</b>	<b>1,896</b>

**In 2005, there were 1,896 inmates in community corrections programs that had been diverted from ADOC.**



### Work Release Programs, Work Centers and Boot Camp Under Utilized

**Empty work release beds averaged 857 per month in FY 05.**

During the last fiscal year (October 2004 – September 2005), ADOC has averaged 1,639 inmates participating in a work release program with an average of 1,337 inmates participating in either boot camp or a community work center. During FY 2005, there were both work release beds and work camp/boot camp beds that were vacant, with the number of empty work release beds averaging 857 per month and the empty work camp/boot camp beds averaging 94 beds per month. As shown in figures 10 and 11 the number of empty beds for work release, work centers and boot camp have increased substantially in the first months of FY 2006.

Figure 10.

#### Work Release Beds - Average Daily Population

FY 2005	WR Beds	Avg. Monthly Pop	Empty WR Beds
Oct-04	2,624	1,598	1,026
Nov-04	2,624	1,612	1,012
Dec-04	2,449	1,577	872
Jan-05	2,449	1,615	834
Feb-05	2,449	1,622	827
Mar-05	2,444	1,640	804
Apr-05	2,444	1,692	752
May-05	2,444	1,696	748
Jun-05	2,444	1,549	895
Jul-05	2,444	1,605	839
Aug-05	2,444	1,635	809
Sep-05	2,444	1,576	868
			<i>FY05 Average 857</i>

**934 empty work release beds in November 2005.**

FY 2006	WR Beds	Avg. Monthly Pop	Empty WR Beds
Oct-05	2,444	1,537	907
Nov-05	2,444	1,510	934

Figure 11.

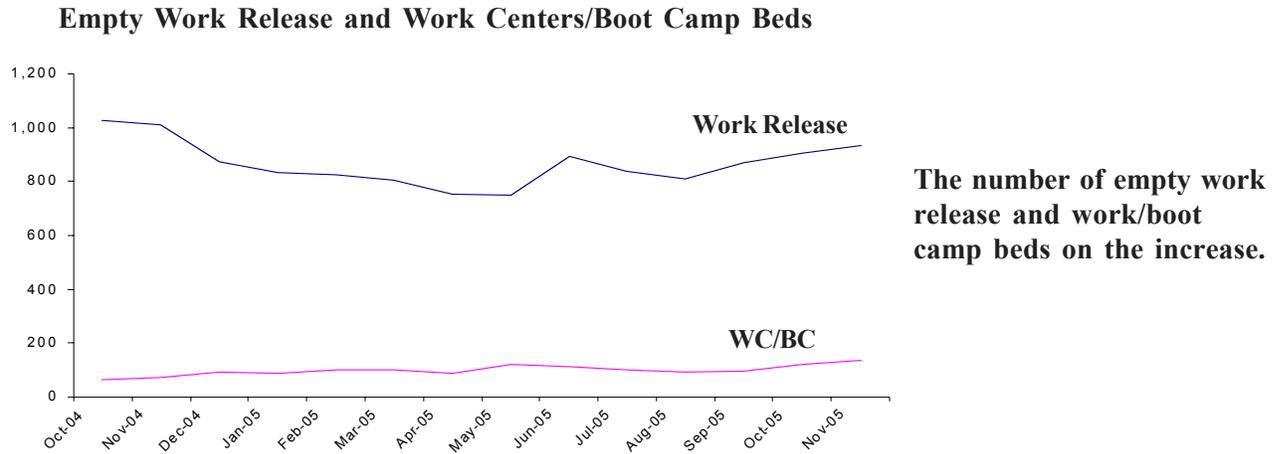
#### Work Camp/Boot Camp Beds - Average Monthly Population

FY 2005	WC/BC Beds	Avg. Monthly Pop	Empty WC/BC Beds
Oct-04	1,303	1,240	63
Nov-04	1,303	1,229	74
Dec-04	1,478	1,384	94
Jan-05	1,478	1,388	90
Feb-05	1,478	1,376	102
Mar-05	1,483	1,384	99
Apr-05	1,483	1,394	89
May-05	1,483	1,364	119
Jun-05	1,483	1,371	112
Jul-05	1,483	1,383	100
Aug-05	1,483	1,392	91
Sep-05	1,483	1,387	96
			<i>FY05 Average 94</i>

**137 empty work/boot camp beds in November 2005.**

FY 2006	WC/BC Beds	Avg. Monthly Pop	Empty WC/BC Beds
Oct-05	1,483	1,363	120
Nov-05	1,483	1,346	137

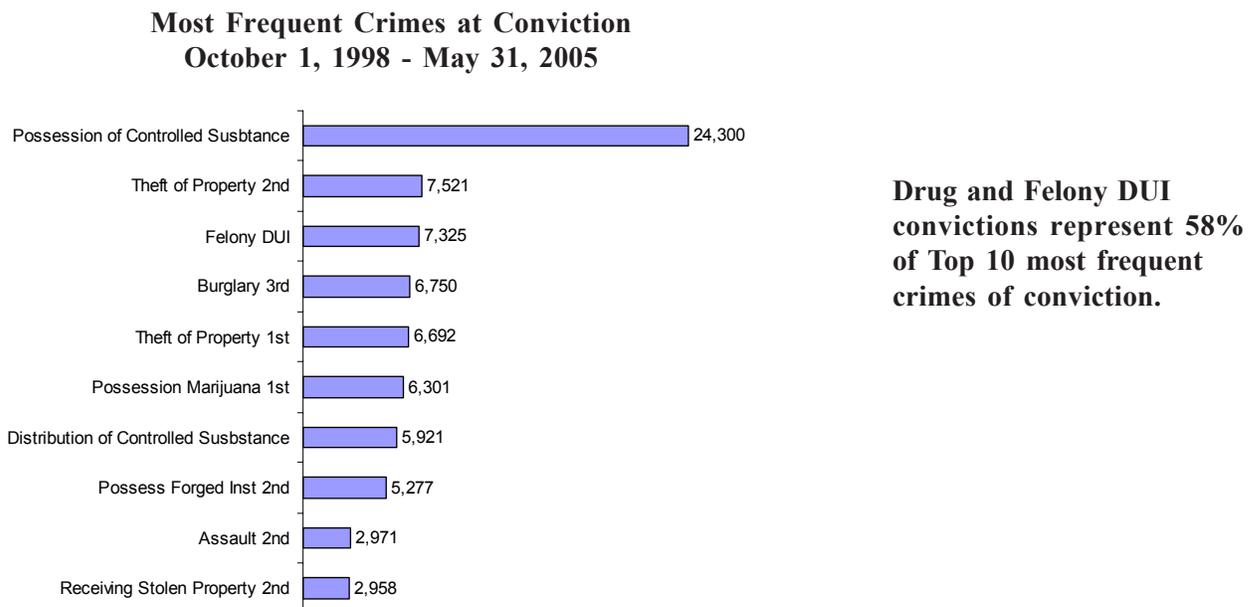
Figure 12.



### Most Frequent Crimes of Conviction

Figure 13 provides a graphic description of the top ten most frequent crimes of conviction, representing 68% of the convictions included in the Commission’s 6.5 year cohort. Focusing on these most common crimes among felony offenders convicted during the time frame October 1, 1998 to May 31, 2005, it is readily apparent that the vast majority of convictions (58%) are for drug and felony DUI convictions, with felony DUI convictions alone representing 10% of the “Top Ten” crimes of conviction. The remaining Top Ten crimes consist of property crimes (38%) and the personal crime of Assault 2<sup>nd</sup>, which represents only 3.9% of the ten most frequent crimes of conviction.

Figure 13.



**Drug and Felony DUI crimes represent 53% of Top 25 most frequent crimes of conviction and 47% of all convictions.**

### Most Frequent Offense at Conviction

Reviewing the total felony convictions over a 3 year period for the Top 25 crimes of conviction, drug and felony DUI convictions predominate, making up 47% of all convictions, property crimes rank next at 40% and personal offenses make up only 12% of the top 25 crimes of conviction. It is interesting to compare the conviction frequency for #4 ranked Felony DUI. In the context of the Top 25 crimes of conviction over a three year period, convictions for felony DUI are three times greater than for drug trafficking convictions and more than all convictions for sexual abuse 1<sup>st</sup>, assault 1<sup>st</sup>, robbery 2<sup>nd</sup>, burglary 2<sup>nd</sup>, murder, burglary 1<sup>st</sup> and manufacturing controlled substances 2<sup>nd</sup> combined.

Figure 14.

### Most Frequent Non-Capital Offense at Conviction June 1, 2002 - May 31, 2005

	2003		2004		2005	
Possession of Controlled Substance	1	3,525	1	3,823	1	4,247
Burglary 3rd	5	921	5	934	2	1,039
Possession Marijuana 1st	6	834	7	833	3	967
Felony DUI	3	1,091	3	993	4	939
Distribution of Controlled Substance	7	820	6	895	5	922
Theft of Property 1st	4	999	4	963	6	911
Theft of Property 2nd	2	1,091	2	1,023	7	871
Possess Forged Instrument 2nd	8	741	8	782	8	858
Assault 2nd	11	402	11	397	9	395
Robbery 1st	9	495	10	407	10	387
Manufacturing Controlled Substance 2nd	24	121	17	228	11	344
Receiving Stolen Property 2nd	10	404	9	418	12	328
Receiving Stolen Property 1st	12	351	12	362	13	324
Breaking/Entering a Vehicle	13	324	13	331	14	322
Trafficking Drugs	14	288	14	284	15	314
Forgery 2nd	15	277	15	273	16	305
Robbery 3rd	16	254	16	240	17	305
Fraud/Illegal Use Debit/Credit Card	17	234	18	228	18	241
Manufacturing Controlled Substance 1st		66	19	158	19	226
Burglary 1st		115	21	150	20	156
Burglary 2nd	21	143	23	146	21	146
Sexual Abuse 1st	19	175	20	151	22	143
Assault 1st	22	135	25	124	23	141
Murder	20	154		110	24	134
Manslaughter	23	124		102	25	128
Robbery 2nd	18	217	22	147		108
Escape 3rd	25	121	24	125		110
<b>Top 25 Offenses</b>		<b>14,241</b>		<b>14,415</b>		<b>15,093</b>
Other Offenses		2,053		2,028		1,932
<b>Total Felony Convictions</b>		<b>16,294</b>		<b>16,443</b>		<b>17,025</b>

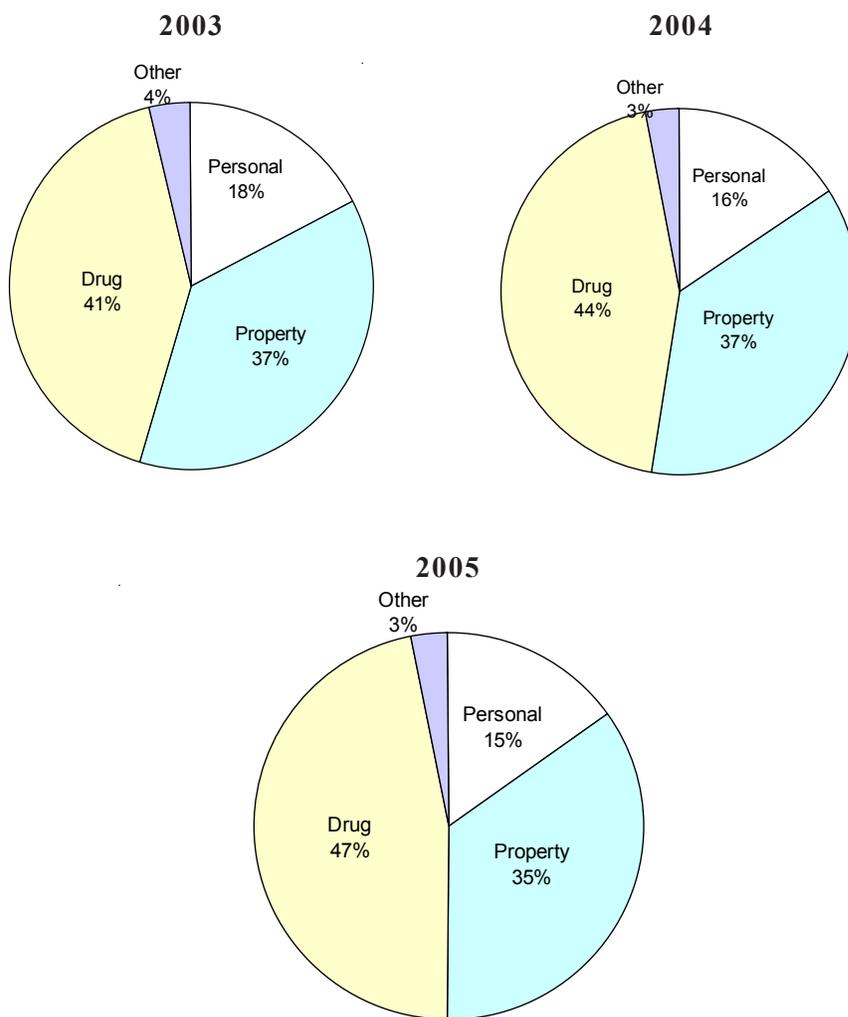
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## Type of Most Frequent Offense at Conviction

Figure 15 is a percentage representation of the most frequent crimes of conviction by type. While convictions for personal and property crimes decreased during 2005, the number of drug crimes rose to 47%. This is consistent with the 3% increase in convictions for drug crimes from 2003 to 2004.

Figure 15.

### Most Frequent Non-Capital Offense at Conviction Offense Category June 1, 2002 - May 31, 2005



**2005 shows increase in drug convictions and decrease in convictions for personal and property crimes.**

### Drug Convictions

**Felony DUI convictions decreased while other drug convictions increased in FY 05.**

In 2005, the crime of “possession of marijuana in the 1<sup>st</sup> degree” moved up in rank from previous years to the #2 slot, the frequency ranking assigned to felony DUI convictions since the year 2000. This change occurred due to an increase in convictions for marijuana possession and a decrease in felony DUI convictions from FY 2004. Although there were more drug trafficking convictions in 2005 than in 2004, it decreased in rank from #5 to #6 among the most frequent drug offenses of conviction.

The most significant development can be seen in the crime of “manufacturing controlled substances in the second degree.” Moving to place number #5, for the first time drug manufacturing ranks within the Top 5 drug crimes of conviction. Convictions for manufacturing controlled substances did not even appear until 2003; however, since that time drug manufacturing in the 1st and 2nd degrees have been ranked 5th, 6th and 7th for frequency of conviction.

Figure 16.

#### Most Frequent Offense at Conviction Drug Offenses June 1, 2002 - May 31, 2005

	2003	2004	2005
Possession of Controlled Substance	1 3,525	1 3,823	1 4,247
Possession of Marijuana 1st	3 834	4 833	2 967
Felony DUI	2 1,091	2 993	3 939
Distribution of Controlled Substance	4 820	3 895	4 922
Manufacture Controlled Substance 2nd	6 121	6 228	5 344
Trafficking Drugs	5 288	5 284	6 314
Manufacture Controlled Substance 1st	7 66	7 158	7 226
<b>Total Drug Offenses</b>	<b>6,745</b>	<b>7,214</b>	<b>7,959</b>
Other Offenses	9,549	9,229	9,066
<b>Total Felony Convictions</b>	<b>16,294</b>	<b>16,443</b>	<b>17,025</b>

**Convictions for drug manufacturing 1st more than tripled, and drug manufacturing 2nd almost tripled since 2003.**

Figure 17 indicates that over the past three years trafficking in methamphetamine has taken the lead among other drugs ranking #1 in 2005. Marijuana and cocaine are the next most popular drugs, ranking #2 and #3 respectively.

Figure 17.

**Most Frequent Trafficking Convictions by Drug Type  
June 1, 2002 - May 31, 2005**

	<b>2003</b>		<b>2004</b>		<b>2005</b>	
Methamphetamine	<b>1</b>	87	<b>2</b>	79	<b>1</b>	86
Marijuana	<b>3</b>	70	<b>3</b>	58	<b>2</b>	85
Cocaine	<b>2</b>	81	<b>1</b>	87	<b>3</b>	78
*Illegal Drugs	<b>4</b>	31	<b>4</b>	41	<b>4</b>	46
Others		11		6		11
<b>Trafficking Drugs</b>		<b>280</b>		<b>271</b>		<b>306</b>

**Meth takes the lead  
among drug trafficking  
convictions.**

\*Cases in which the type of drug was not listed and only the general trafficking statute was cited.

### Who is Coming Into Our Prisons?

Only 8 offenses show an increase in new commitments to prison in 2005. These are burglary 3rd, possess marijuana 1st, trafficking drugs, robbery 3rd, receiving stolen property 1st, manufacturing controlled substance 2nd, manslaughter and fraud/illegal use debit/credit card. The other offenses show a decrease for this time period.

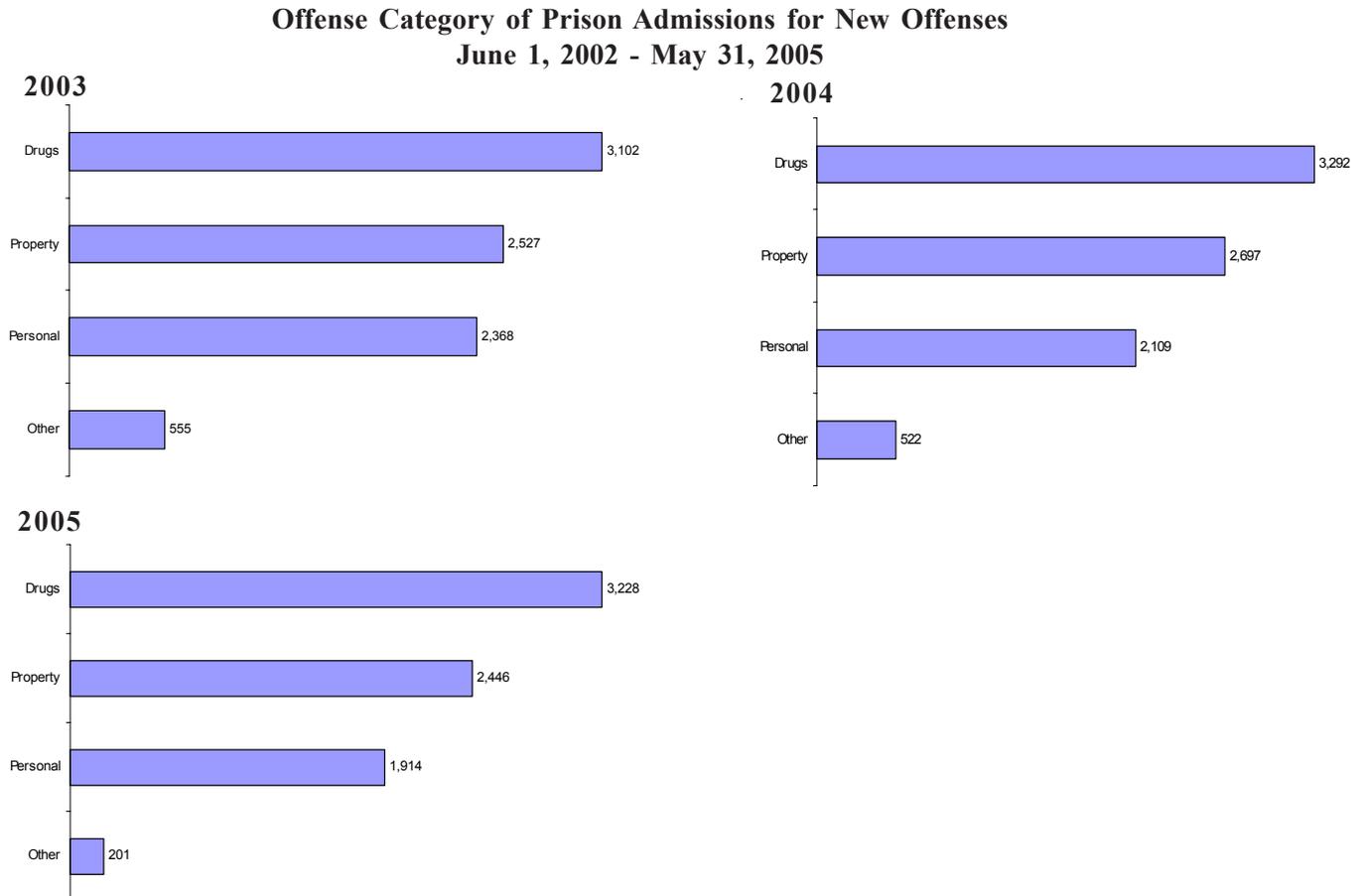
Figure 18.

#### Prison Admissions for New Offenses June 1, 2002 - May 31, 2005

	2003		2004		2005	
Possession of Controlled Substance	1	1,074	1	1,236	1	1,176
Distribution of Controlled Substance	2	703	2	701	2	670
Burglary 3rd	4	538	4	544	3	573
Felony DUI	3	656	3	581	4	519
Theft of Property 1st	6	452	5	486	5	399
Robbery 1st	5	520	6	415	6	364
Possess Marijuana 1st	7	345	7	348	7	360
Poss Forged Instrument 2nd	9	260	9	284	8	267
Theft of Property 2nd	8	316	8	329	9	257
Trafficking Drugs	11	236	12	214	10	218
Assault 2nd	15	185	10	232	11	206
Robbery 3rd	10	236	14	192	12	205
Breaking/Entering a Vehicle	12	201	11	216	13	195
Receiving Stolen Property 1st	13	194	15	185	14	186
Manufacturing Controlled Substance 1st		84	13	205	15	150
Murder	14	190	16	167	16	138
Burglary 1st	21	118	18	150	17	128
Manufacturing Controlled Substance 2nd		0		0	18	123
Forgery 2nd	23	106	20	135	19	119
Receiving Stolen Property 2nd	18	138	17	163	20	111
Burglary 2nd	22	113	21	123	21	110
Robbery 2nd	16	185	19	135	22	104
Manslaughter	19	128	24	93	23	103
Assault 1st	20	119	23	105	24	93
Sexual Abuse 1st	17	139	22	112	25	91
Fraud/Illegal Use Debit/Credit Card	24	95		76		84
Rape 2nd		81	25	82		73
Rape 1st	25	88		69		65
<b>Top 25 Offenses</b>		<b>7,335</b>		<b>7,433</b>		<b>6,865</b>

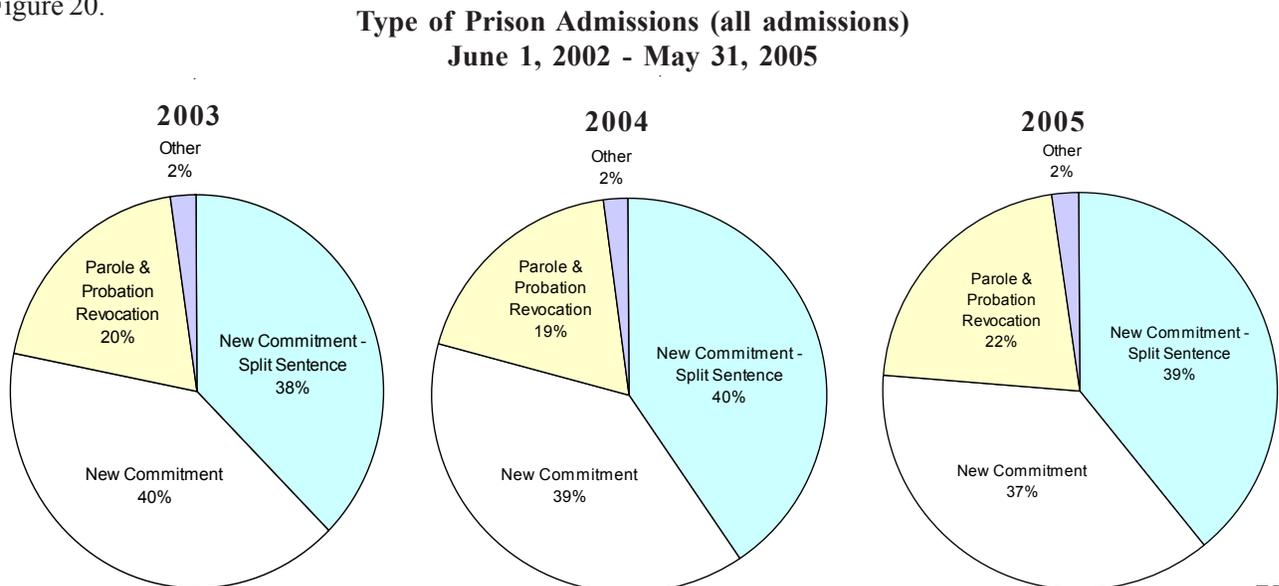
Prison admissions for new offenses show a slight decrease in all categories from 2004 to 2005. Thus while the felony convictions cohort shows a slight increase in convictions, prison admissions for new offenses has decreased. This would indicate that judges are using alternative sentences more than ever before.

Figure 19.



2005 shows a minor shift in admissions by type. Revocations now make up a slightly larger percentage for all admissions.

Figure 20.



## Who is Going Out and How?

### Prison Releases

**In the 5-year release cohort, 38% ended their sentence leaving prison under no supervision.**

Although the majority of prisoners now leaving prison are either released on parole or to serve the probation portion of a split sentence, there are still a large number that end their sentence (EOS) and return to the community under no form of supervision. Between June 2000 and May 2005, 18,291 inmates (38%) in the Alabama Department of Corrections (ADOC) were released based on the expiration of their sentence (EOS). In this same 5-year period, 17,717 inmates (37%) were released from ADOC after serving the incarceration portion of a split sentence and 12,181 inmates (25%) were paroled, revealing that 62% of the release cohort left prison under some form of supervision.

**The highest number of paroles granted was in March 2004.**

During this time frame, EOS releases ranged from a high of 380 inmates in September 2001 to a low of 237 inmates in April 2004. Inmates released after serving incarceration on split sentences peaked in August 2004 with 351 releases. The lowest number of releases for split sentences occurred in both February 2001 and January 2002 with 245 releases. The range of releases for parole is quite wide. The highest number of parole releases occurred in March 2004 when 690 inmates were paroled, and the fewest number of paroled inmates was 30 in March 2001.

**The number of parole releases has now decreased to prior levels.**

The special parole docket was created early in 2003 for the purpose of helping to alleviate an immediate overcrowding situation of state inmates in prison and backlogged in county jails awaiting transfer to an ADOC facility. The number of parole releases has the most variability due to the introduction of this special parole docket. As Figure 21 reflects, the number of inmates released on parole has stabilized back to levels prior to the onset of the special parole docket.

Figure 21.

### Parole Releases from Alabama Department of Corrections (DOC)

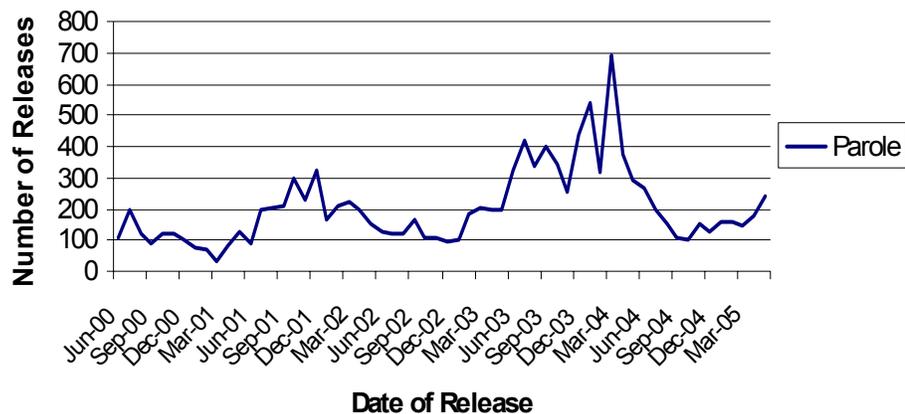


Figure 22 below shows the relationship between EOS and parole releases. The number of EOS releases demonstrates more consistency than parole releases over the five-year time period. The only prolonged period of decline of EOS releases coincides with the creation of the special docket previously mentioned. The special docket greatly increased the number of parole releases, partly as a function of taking many inmates who would have soon expired on their sentences. Therefore, the large spike in the number of parole releases was a result of the early parole of inmates who would have ended their sentence in later months, reducing the number of EOS releases.

**Reduction in EOS releases effected by early paroles.**

Figure 22.

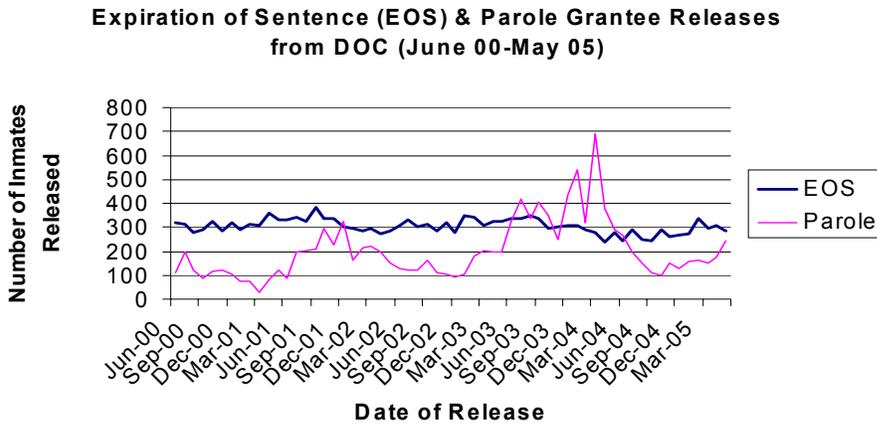
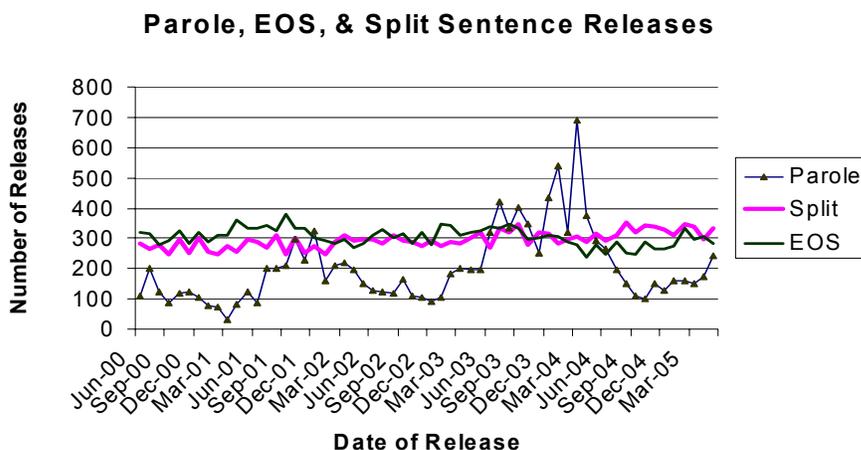


Figure 23 depicts the release cohort consisting of inmates leaving prison as a result of EOS, parole, and pursuant to split sentences. The special docket did have an impact on the number of split sentence releases as well as EOS releases, but the impact was not as great on split sentence releases. The number of EOS and split sentence releases remain similar over the time period while parole releases exhibit decidedly more fluctuation.

**EOS and split releases remain relatively stable over last 5 years.**

As discussed above, the number of EOS and split sentence releases remained fairly constant over time but the number of parole releases had greater dispersion. The marked decline of parole releases after the special docket, even with the constant flow of releases through EOS and split sentence releases, has allowed the population of ADOC to increase to levels higher than before the creation of the special parole docket.

Figure 23.



### Prison Releases

Comparing the rankings for crimes of release in 2005 with 2004, eleven crimes rose in rank, most of which were personal crimes. While murder was the offense showing the most substantial increase by rank, robbery 1<sup>st</sup> increased the most in the number of admissions. The other crimes in the release cohort that rose in rank which also showed an increase in the numbers from 2004 were: burglary 1<sup>st</sup>, manslaughter, and robbery 2<sup>nd</sup>. The rise in offense ranking in the release cohort does not necessarily mean that there were more inmates released for those crimes this year. When comparing the number of releases with the crimes that ranked in the Top 10 in 2005, there were actually less inmates released for all crimes except robbery 1<sup>st</sup>. The crimes that showed the largest decrease in number of releases, listed in descending order, were as follows: distribution of controlled substance, possession of controlled substance, burglary 3<sup>rd</sup>, theft of property 1<sup>st</sup>, felony DUI, theft of property 2<sup>nd</sup>, possession of marijuana 1<sup>st</sup>, possession of a forged instrument 2<sup>nd</sup>, and breaking/entering a vehicle.

**Drug possession and distribution offenders top the release cohort.**

Figure 24.

#### Prison Releases June 1, 2002 - May 31, 2005

	2003	2004	2005
Possession of Controlled Substance	1 1,312	1 1,705	1 1,511
Distribution of Controlled Substance	2 826	2 1,434	2 790
Burglary 3rd	4 627	3 972	3 703
Felony DUI	3 789	5 828	4 603
Theft of Property 1st	5 497	4 846	5 596
Robbery 1st	9 289	9 402	6 562
Poss Marijuana 1st	7 368	7 508	7 428
Theft of Property 2nd	6 381	6 531	8 421
Poss Forged Instrument 2nd	8 337	8 478	9 344
Breaking/Entering a Vehicle	13 212	11 336	10 296
Assault 2nd	10 263	12 301	11 294
Robbery 3rd	11 238	14 258	12 257
Receiving Stolen Property 1st	12 213	10 354	13 244
Trafficking Drugs	14 197	15 250	14 225
Robbery 2nd	15 191	17 200	15 214
Receiving Stolen Property 2nd	16 186	13 261	16 200
Murder	23 102	21 136	17 185
Burglary 1st	24 78	20 138	18 178
Forgery 2nd	18 154	18 200	19 152
Assault 1st	17 168	19 161	20 150
Sexual Abuse 1st	19 131	22 134	22 135
Burglary 2nd	20 125	16 231	21 135
Manslaughter	22 105	23 116	23 134
Poss Fraud Use of Credit/Debit Card	21 108	24 115	24 122
Manufacturing of Controlled Substance 1st	7	83	25 102
Rape 2nd	25 73	25 84	94
<b>Top 25 Offenses</b>	<b>7,970</b>	<b>10,979</b>	<b>8,981</b>
Other Offenses	1,277	1,602	1,177
<b>Total Prison Releases</b>	<b>9,247</b>	<b>12,581</b>	<b>10,158</b>

**Increases in the number of releases shown for Robbery 1st and 2nd, Murder, Burglary 1st, Sexual Abuse 1st and Manslaughter.**

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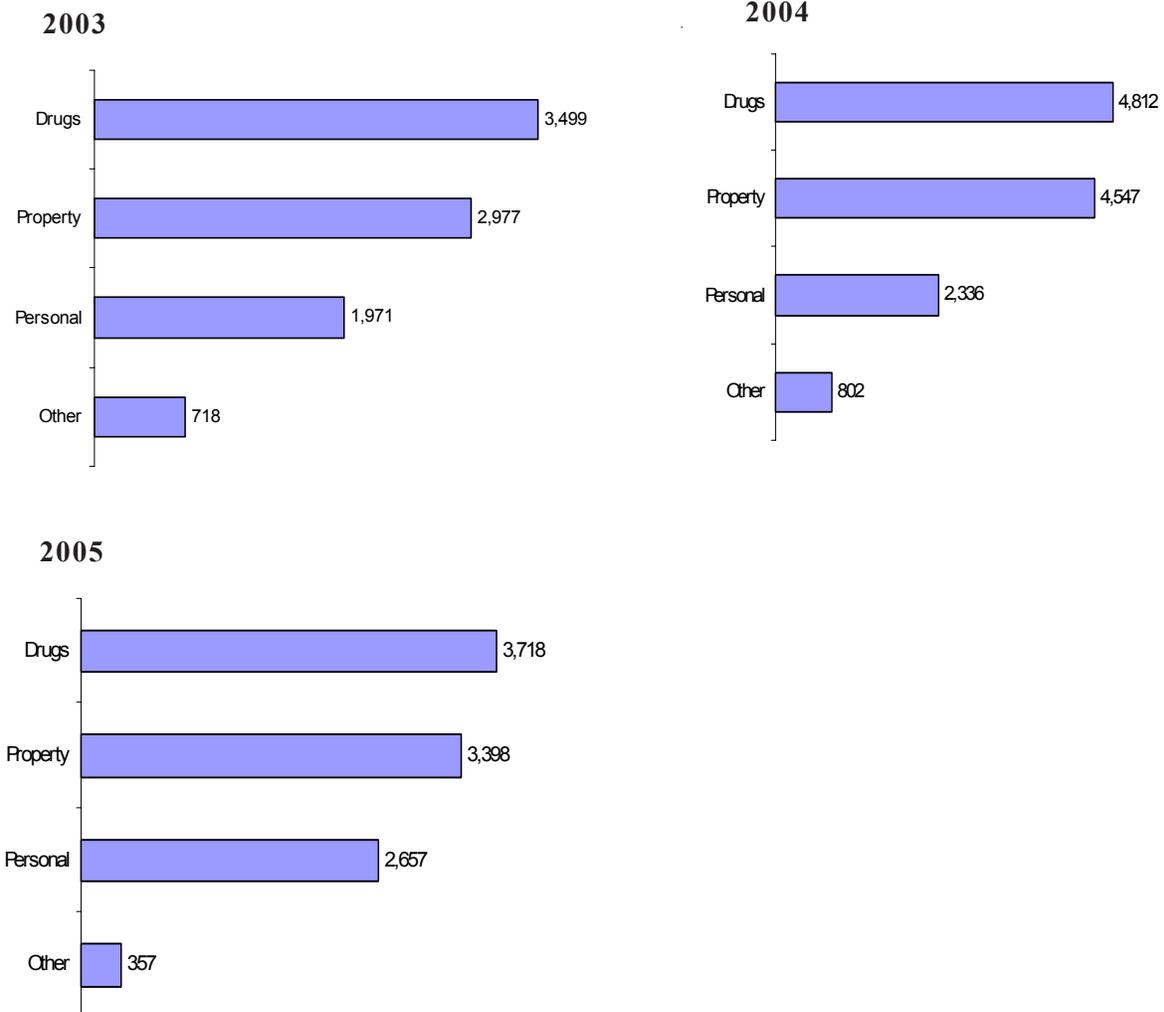
## Offense Category of Prison Releases

A comparison of release charts by offense category for 2004 and 2005 shows that the release cohort for 2005 consisted of more inmates convicted of personal crimes (7% increase) and less inmates convicted of drug (-5%) and property (-3%) crimes than in 2004.

**More inmates sentenced for personal crimes released.**

Figure 25.

### Offense Category of Prison Releases June 1, 2002 - May 31, 2005



**Type of Prison Releases**

**In 2005, more inmates were released after serving incarceration portion of split sentence.**

As Figure 26 shows, in 2005 more inmates were released by ending their sentence or as a result of the end of the incarceration portion of a split sentence, with the latter representing the most of all types of releases. Comparing releases in 2005 with those in 2004, there was a 58% decrease in the number of inmates paroled, a 8% decrease in the number that were released by ending their sentence, and a 6% increase in the number serving a split sentence and released to serve the probation portion of their sentence.

Figure 26.

**Type of Prison Releases  
June 1, 2002 - May 31, 2005**



During 2004, through implementation of the special parole docket, the number of paroles for property offenders tripled and the offenders convicted of drug and personal crimes that were paroled more than doubled. However, in 2005, the number of paroles has returned to the 2003 level.

Figure 27 also shows the release trend over the last 7 years is for more offenders in each crime category to leave prison on a split sentence (to serve the probation portion of their sentence) while the number that end their sentence without supervision has significantly decreased in the last year.

Figure 27.

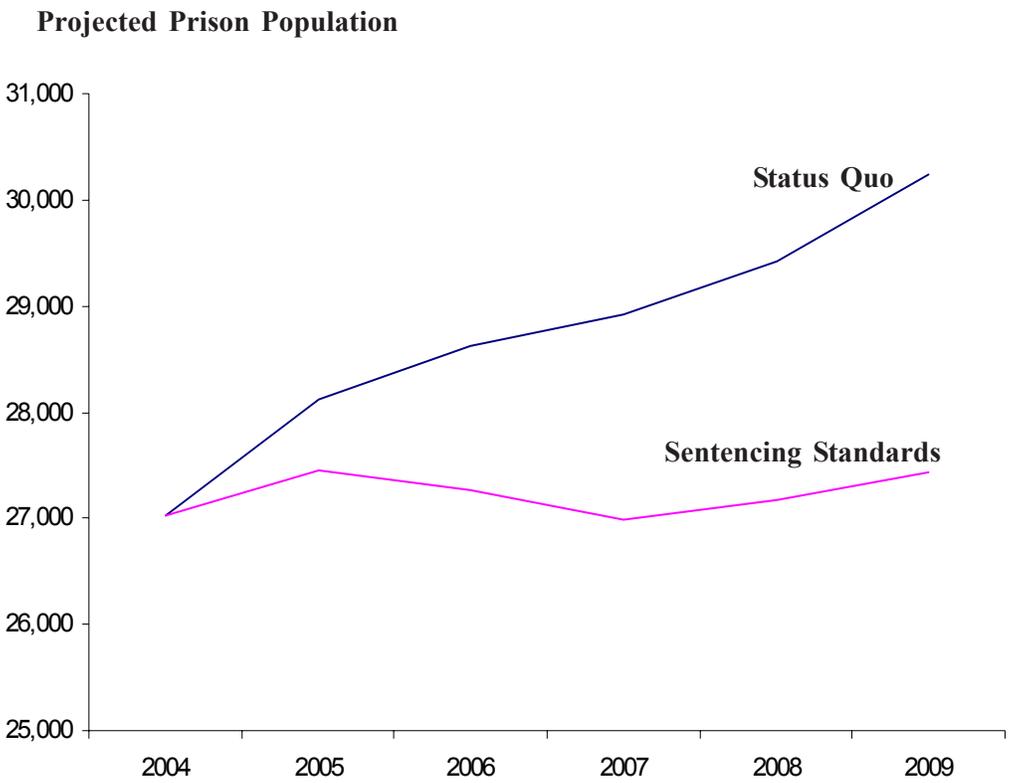
**Type of Prison Releases by Offense Category  
June 1, 1998 - May 31, 2005**

		<b>Parole</b>	<b>Split Probation</b>	<b>EOS</b>	<b>Other</b>	<b>Total</b>
<b>Personal</b>	1999	482	761	597	311	2,144
	2000	473	790	779	296	2,324
	2001	288	806	755	248	2,071
	2002	392	755	860	230	2,221
	2003	259	851	773	249	2,122
	2004	525	868	873	230	2,482
	2005	663	970	763	208	2,586
			<b>3,082</b>	<b>5,801</b>	<b>5,400</b>	<b>1,772</b>
<b>Property</b>	1999	724	1,037	1,189	310	3,260
	2000	619	1,045	1,295	344	3,303
	2001	439	1,093	1,338	209	3,079
	2002	905	1,104	1,325	216	3,550
	2003	588	1,127	1,295	235	3,245
	2004	1,822	1,151	1,224	244	4,441
	2005	588	1,192	1,095	205	3,080
			<b>5,685</b>	<b>7,749</b>	<b>8,761</b>	<b>1,763</b>
<b>Drugs</b>	1999	707	925	902	325	2,859
	2000	604	1,101	1,125	354	3,184
	2001	474	1,182	1,419	165	3,240
	2002	1,126	1,338	1,405	225	4,094
	2003	839	1,341	1,429	226	3,835
	2004	2,076	1,460	1,229	225	4,990
	2005	660	1,570	1,134	230	3,594
			<b>6,486</b>	<b>8,917</b>	<b>8,643</b>	<b>1,750</b>

### What Can We Expect

Based on a historical population increase of 2%, the Sentencing Commission projected a prison population of 28,112 for December 2005 if the sentencing standards were not adopted. The actual population at the end of December was 27,888, less than 1 % difference in the population projected.

Figure 28.



These projections show that if the sentencing standards had been approved the population would now be decreasing. It is important that the Legislature approve the standards for implementation this year to begin this downward trend and encourage more fairness in sentencing.

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**“Greatness is not in where we stand, but in what direction we are moving. We must sail sometimes with the wind and sometimes against it - but sail we must and not drift, nor lie at anchor.”**

Oliver Wendell Holmes