

# ALABAMA SENTENCING COMMISSION

# 2004

## ANNUAL REPORT



*Developing an effective, fair and efficient sentencing system with an emphasis on public safety.*



# THE ALABAMA SENTENCING COMMISSION

Recommendations for Reform of Alabama's  
Criminal Justice System

2004 Report

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“A Rational Approach to Sentence Reform”



May 12, 2004

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# ALABAMA SENTENCING COMMISSION

300 Dexter Avenue  
Montgomery, Alabama 36104-3741  
(334) 353-4830  
FAX: (334) 353-5785

May 12, 2004

**Joseph A. Colquitt, Chairman**  
*Beasley Professor of Law*

**Hon. Marcel Black**  
*State Representative*

**Hon. Eleanor I. Brooks**  
*District Attorney*

**Donal Campbell, Commissioner**  
*Department of Corrections*

**Rosa Davis, Esq.**  
*Chief Assistant Attorney General*

**Stephen Glassroth, Esq.**  
*Attorney at Law*

**Dr. Lou M. Harris, Jr.**  
*Faulkner University*

**Terri L. Bozeman**  
*District Judge*

**Samuel L. Jones**  
*County Commissioner*

**Ken Wallis, Esq.**  
*Governor's Legal Advisor*

**Emily A. Landers**  
*Victims Advocate*

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

**Hon. David A. Rains**  
*Circuit Judge*

**Joe Reed, Jr.**  
*Attorney at Law*

**Hon. William C. Segrest**  
*Board of Pardons and Paroles*

**Hon. Rodger M. Smitherman**  
*State Senator*

**Lynda Flynt**  
*Executive Director*

TO: Honorable Bob Riley, Governor of Alabama  
Honorable Gorman Houston, Acting 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 Citizens of Alabama

On behalf of the Alabama Sentencing Commission, I present you with the Commission's third annual report, which outlines the progress that has been made toward a reformed sentencing system for Alabama, the current state of our criminal justice system, and the recommendations of the Commission for further improvements.

During this fiscal year, the Commission and its committees have been extremely active. A sentencing reference manual was published and distributed to legislators, judges, prosecutors and defense attorneys. The manual explains our existing sentencing laws and procedures and provides data demonstrating current sentencing practices. In compliance with the 2003 Sentencing Reform Act, with the assistance of our consultants, the Commission developed the first set of voluntary sentencing standards, along with worksheets and instructions. These standards accompanied by four revenue raising bills, a bill requesting supplemental funding for community corrections and two parole related bills were presented to the Legislature during the 2004 Regular Session for approval. The Commission members and other criminal justice practitioners that served on various committees during the year should be commended for their efforts and their remarkable commitment to improving our State's criminal justice system.

Although the Legislature did not approve the Commission's Sentencing Standards that were slated for implementation in October 1, 2004, the Commission is optimistic that these recommended standards will be approved during the next session; therefore, we will continue our efforts to explain the standards and worksheets to Legislators, all criminal justice officials and the citizens of Alabama. We believe everyone will recognize the value of the voluntary standards and realize that they are nothing like the federal guidelines or other state mandatory sentencing guidelines. Instead, they will preserve judicial discretion and promote sentencing uniformity. Moreover, these standards are the first step toward truth-in-sentencing and more informed sentences.

Thank you for your continued support and interest in the work of the Alabama Sentencing Commission. If you have any questions or need our assistance, please do not hesitate to call on me or the Commission's staff.

Sincerely,

Joseph A. Colquitt, Chair  
Alabama Sentencing Commission

## Acknowledgments

Any effort to improve our state's criminal justice system requires the active participation and collaboration of all the major actors. The Alabama Sentencing Commission continues to make every effort to ensure that representatives from all areas of the system are included in the decision making process. To this end, additional representatives from the District Attorneys' Association, the Circuit and District Judges Associations, Victim Advocates, Pardons and Paroles, Alabama Community Corrections Association and the Department of Corrections were solicited to attend Commission meetings and become members of the Commission's working committees. The Sentencing Commission's accomplishments would not be possible without the support and efforts of these volunteers, the members of the Commission, the Advisory Council and the representatives who served on the Commission's various committees. The Commission and staff appreciate the numerous hours sacrificed and the many miles traveled by these officials and concerned citizens to improve Alabama's Criminal Justice System. Special recognition is extended to the following individuals and organizations for lending their knowledge, expertise, and assistance to this important project.

Joseph A. Colquitt, Chairman of the Sentencing Commission  
Judge and Former Attorney General Bill Pryor  
Attorney General Troy King  
Acting Chief Justice Gorman Houston  
Governor Bob Riley and staff  
Judges of the Court of Criminal Appeals  
Alabama Circuit and District Judges' Associations  
Randy Helms, Administrative Director of Courts  
Mike Carroll, Deputy Administrative Director of Courts  
Bob Bradford, Finance Director, Administrative Office of Courts  
Leslie Jacques, Budget Manager, Administrative Office of Courts  
Callie Dietz, Director of Judicial College, Administrative Office of Courts  
Rob Sachar, Judicial College, Administrative Office of Courts  
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Tom Goree, Law Enforcement, Alabama Department of Economic and Community Affairs  
The Office of Prosecution Services and the District Attorneys' Association  
Allen Tapley, Director, The Sentencing Institute (TSI)  
Becki Goggins, Analyst, Alabama Criminal Justice Information Center, formerly with TSI  
Legislative Reading and Research Service  
Frank Caskeg, Legislative Reference Service  
David Horn, Community Corrections Programs, Department of Corrections  
Paul Whaley, Research and Evaluation, Department of Corrections  
Steve McBee, Research and Evaluation, Department of Corrections  
Dr. Tammy Meredith and Dr. John Speir, Applied Research Services, Inc.  
Vera Institute of Justice  
Alabama Association of Community Corrections  
Maury Mitchell, Director, Alabama Criminal Justice Information Center  
Mark Dowdy, Law Clerk  
Alabama Bar Association  
Alabama Lawyers' Association  
The Criminal Defense Lawyers' Association

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Circuit Judge (Retired) and Beasley Professor of Law,  
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Emily A. Landers, former Victims' Advocate  
Samuel L. Jones, County Commissioner, Mobile

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Rosa Davis, Chief Assistant Attorney General\*

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Senator Rodger M. Smitherman, 18<sup>th</sup> District, Jefferson County\*

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Stephen Glassroth, Esquire, Montgomery, Alabama

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Joe Reed, Jr., Esquire, Montgomery, Alabama

### **Alabama Department of Corrections**

Donal Campbell, Commissioner\*

### **Alabama Board of Pardons and Paroles Appointment**

William C. Segrest, Executive Director

### **Appointment by the Chief Justice of the Supreme Court**

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

*\*Also serving on the Sentencing Commission's Executive Committee*

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Walter Wood, Director

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Denis Devane, Prison Fellowship Ministries

Willa Kate Matthews Richardson, Prison Fellowship Ministries

Chaplain Adolph South, Tuscaloosa

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Justice Hugh Maddox, Associate Justice (Retired), Alabama Supreme Court

Representative John F. Knight, 77<sup>th</sup> District, Montgomery

Doris Dease, Victims' Advocate

Senator Sundra E. Escott

## **Alabama Sentencing Commission Staff**

Lynda Flynt, Executive Director

Melisa P. Morrison, Research Analyst

Mary Duncan, Administrative Assistant

Mark Dowdy, Intern

## **Consultants**

### Applied Research Services, Inc.

Tammy Meredith, Ph.D

John Speir, Ph.D

Sharon Johnson

Heather Hull

## **Alabama Sentencing Commission Committees**

### **Sentencing Standards and Worksheets Committee**

*Rosa Davis, Chief Assistant Attorney General, Chair*

Ellen I. Brooks, District Attorney, 15<sup>th</sup> Judicial Circuit

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Becki Goggins, Criminal Justice Information Center

O.L. (Pete) Johnson, District Judge, Jefferson County (former Commission member)

Emily Landers, Victims' Advocate

Eugenia Loggins, District Attorney, 22<sup>nd</sup> Judicial Circuit

P.B. McLauchlin, Presiding Circuit Judge, 33<sup>rd</sup> Judicial Circuit

David A. Rains, Circuit Judge, 9<sup>th</sup> Judicial Circuit

Joe Reed, Jr., Esquire, Montgomery, Alabama

Eugene Reese, Circuit Judge, 15<sup>th</sup> Judicial Circuit

Tommy Smith, District Attorney, 6<sup>th</sup> Judicial Circuit

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Sundra E. Escott, Senator, Alabama Legislature

Jerry L. Fielding, Retired Circuit Judge, 29<sup>th</sup> Judicial Circuit

Becki Goggins, Criminal Justice Information Center

James E. Hedgspeth, Jr., District Attorney, 16<sup>th</sup> Judicial Circuit

Troy King, (as former Legal Adviser to the Governor), Attorney General of the State of Alabama

John F. Knight, Representative and Chair of House Government Finance and Appropriations Committee, Alabama Legislature

Doug Parker, Director, DeKalb County Community Punishment and Corrections Authority

Joe Reed, Jr., Esquire, Montgomery, Alabama

William C. Segrest, Executive Director, Board of Pardons and Paroles

Rodger M. Smitherman, Senator and Chair of Senate Judiciary Committee, Alabama Legislature

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## Chapter 1: The Sentencing Commission Proposed Fact-Based Reforms

**The first rule of holes** – When you are in one, stop digging. Based on its initial analysis of sentencing data, the Alabama Sentencing Commission reported last year that our state corrections system was, and is, most definitely in a hole. With the adoption of changes in theft laws and the Sentence Reform Act of 2003, along with increased funding for community supervision in both community corrections and probation and parole services, Alabama not only quit digging but also began to lay the foundation for climbing out of the hole. The hole, however, remains. Alabama must build on this initial foundation, step by step, beginning as outlined in our 2003 report and the Sentence Reform Act of 2003, to climb out. Alabama must continue to examine its criminal justice system to build the fair, effective, and efficient system demanded by the Alabama Legislature and the people of Alabama. To this end, our state has employed some temporary measures but *must* continue to seek long-term solutions to the age-old problems confronting our criminal justice system.

**“When you’re in a hole,  
stop digging.”**

**THE HOLE** – In 2002, Alabama’s prisons operated at 200% design capacity. Alabama’s incarceration rate is now 24% greater than the United States average and 53% greater than the state average, ranking 5<sup>th</sup> among all states.<sup>1</sup> In January 2004, Alabama housed almost 27,000 offenders (some out of state) with an in-state capacity of slightly over 12,000.<sup>2</sup> In addition, counties had to contend with a back up of state inmates in county jails. According to a recent study of the Alabama Department of Corrections<sup>3</sup>, the estimate for building out of this continuing crisis is \$933.8 million in capital outlay alone. This amount does not include the cost of operating the expanded facilities. The inability of the prison system to function under these circumstances led to two court orders addressing overcrowding issues as well as litigation challenging the adequacy of inmate health care. Court orders or threats of court orders led to housing inmates out of state and early paroles of other offenders.

**Prisons 200% over design  
capacity.**

**Alabama has 5th highest  
incarceration rate in nation.**

**\$933.8 million needed to  
add sufficient beds, but we  
have no additional money.**

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<sup>1</sup> According to the most current statistics available, as of 1/1/02, the national average incarceration per 100,000 residents was 470, the state average was 382, while Alabama’s incarceration rate was 584. This was a slight improvement over the previous year when the national average incarceration per 100,000 residents was 466, the state average 373, and Alabama ranked 4<sup>th</sup> among states with the highest incarceration rate. Only Louisiana (783), Texas (701), and Oklahoma (670) ranked higher. Under the latest figures, Mississippi edged Alabama out of 4<sup>th</sup> place and Alabama now ranks as the state with the 5<sup>th</sup> highest incarceration rate. Camille Graham Camp and George M. Camp, *The Corrections Yearbook: 2002 Adult Systems and 2001 Adult Systems* (Middletown, Connecticut, Criminal Justice Institute, Inc.), 2002, p. 26 and 2003, p. 3.

<sup>2</sup> As of January 2004, there were 26,989 inmates committed to imprisonment in DOC facilities designed to house 12,388. Last year, the inmate population reached an all time high of over 28,000. Through diversions to community corrections and implementation of the special parole docket, the inmate population was reduced by 1,350.

<sup>3</sup> Carter Gobel Associates, Inc., Alabama Adult Corrections Master Plan, March 1, 2003, Executive summary, pp. 8-11.

**Alabama must again rely on  
temporary measures for  
crisis management.**

The uncertainty of punishment due to lack of capacity creates an ineffective, unfair, and inefficient criminal justice system. Alabama must create a criminal justice system designed to protect the public safety by incapacitating dangerous and violent offenders, emphasizing punishment that requires accountability and victim restitution, and that leads to greater truth-in sentencing.

**Emphasis must be placed on incapacitating violent offenders and making all offenders accountable.**

**Over \$10 million spent housing inmates in out-of-state private prisons.**

**STOP DIGGING – Temporary solutions** - Facing crisis management, Alabama was forced to take action using temporary solutions. For immediate results, Alabama opted to send prisoners out of state, housing them in facilities operated by private entities at a cost of \$11.4 million.<sup>4</sup> Alabama also implemented an accelerated parole release docket that required expansion of the parole board and the employment of 28 additional probation and parole officers at a cost of \$1 million. These temporary measures have reduced to zero the number of state inmates detained in county jails over 30 days with transcripts ready, allowing DOC to comply with an existing court order and have lowered the in-house inmates to 188% of capacity allowing for the return of some inmates from out of state.<sup>5</sup> However, as of May 7, 2004, there were still 1,074 state inmates housed in county jails, 550 of which were “transcript ready” and had been awaiting transfer to the state penitentiary between 1-30 days. These temporary solutions are just that, *temporary*. Alabama must continue to work toward fact-based reforms to establish a permanent criminal justice system that is fair, efficient, and effective. The Alabama Sentencing Commission continues to work on this task.

<b>Monthly Averages - State Inmates in County Jails</b>						
	<b>Jan 2002</b>	<b>Jan 2003</b>	<b>% Increase</b>	<b>Jan 2004</b>	<b>Change 02</b>	<b>Change 03</b>
<b>Transferred to DOC facility during period</b>	172	241	+40%	149	(-13%)	(-38%)
<b>Total inmates in county jail</b>	1832	2333	+27%	1032	(-44%)	(-56%)
<b>Transcript Ready Over 30 days</b>	406	1248	+207%	0	-406 inmates	-1248 inmates
<b>Total with transcripts ready</b>	938	1982	+111%	527	(-44%)	(-73%)

<sup>4</sup> During FY 2003, \$3,495,497 was expended to house inmates out-of-state and as of April 2004, Alabama has spent \$7,941,570 this fiscal year. It is projected that \$8,986,569 will be spent during FY 2004.

<sup>5</sup> “Search for Crime Victims Backlogs Violent Prisoners’ Chances for Parole,” Carla Crowder, Birmingham News, May 12, 2004, quote from Brian Corbett.

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## **CLIMB OUT - Long-term Solutions - Fact Based Reform**

In early 2001, Alabama recognized that reforms must be “fact” based. The Alabama Sentencing Commission created a reliable database recognizing that knowledge and consideration of the sentences imposed and served by felony offenders is an essential first step for reform. The Sentencing Commission focused first on establishing a comprehensive felony offender database and simulation model to provide analyses and impact projections. A felony offender database of 74,696 offenders sentenced over a five-year period was created and utilized to analyze current sentencing laws and practices and their impact on prison and jail populations. Based on historical sentencing practices and projections of the impact staying the course would have on our prisons, jails, and probation and parole services, as well as the impact on public safety, the Alabama Sentencing Commission has proposed practical recommendations for reform.

**The Commission’s database and simulation model provide the means for rational decisions.**

Over the last three years, the Sentencing Commission has presented practical legislation to improve Alabama’s criminal justice system. The Commission has been successful in its efforts thus far and is grateful to the Alabama Legislature, especially the Commission members, Representative Marcel Black and Senator Rodger Smitherman, for their efforts and support.

**Sentencing Reform Act of 2003 provides long-term solutions.**

By adopting three changes recommended by the Alabama Sentencing Commission recommendations in 2003, the Legislature began to address criminal justice issues by providing long-term solutions. These recommendations included (1) the Sentence Reform Act of 2003, requiring the Commission to present to the Legislature in 2004 a voluntary structured sentencing system that would address Alabama’s criminal justice problems; (2) changes to Alabama’s theft and theft related statutes that are projected to have at a minimum a 3,000 bed impact (decrease) over a five year period; and (3) additional funding for Community Corrections programs and probation and parole supervision.

**2003 theft changes:**

- less charged
- less sentenced to prison

These recommendations are proving successful. Preliminary data indicates the long-term impact predictions of the effect of the legislation amending the theft statutes are on target. Increased funding has allowed the expansion of community corrections programs and more intensive community supervision for probationers and parolees. Five new community corrections programs in 10 counties have been established since last year and 13 counties have expressed an interest in starting a program in FY 2005. The Commission has drafted and presented to the Legislature for approval a voluntary structured sentencing system that addresses the problems of sentencing disparity, provides a greater opportunity for sentencing alternatives, and gives judge’s more guidance in formulating appropriate sentences while retaining meaningful judicial discretion. This initial system, based on sentences imposed, lays the foundation to test the system for the future implementation of truth-in-sentencing as set out in the Sentence Reform Act of 2003.

**Community Corrections expanded to 10 more counties this year, with 13 more counties interested.**

**Recommendations:**

- **Voluntary structured sentencing to assist court officials**
- **increased funding for Community Corrections**
- **collection of court costs and restitution in transition centers**
- **increase fines**
- **release of geriatric and terminally ill inmates**
- **clarify victim notification**

This year, eight bills are included in the Commission's 2004 legislative package. The central piece of this package is the structured sentencing system including sentence length standards and worksheets to predict sentence lengths and dispositions for 27 felony offenses. These 27 offenses consist of personal, property and drug/alcohol related crimes, representing 86% of the felons convicted and sentenced over the past 5 years. Concomitant with sentencing standards, the Commission recommended approval of bills to adequately fund community punishment and corrections programs at \$5.5 million, essential for the expansion of alternative sentencing options throughout our state and to implement the provisions of the Community Punishment and Corrections Act of 2003. Other Commission bills offer ways to provide additional funding for Community Corrections programs; provide a mechanism for the release of elderly and incapacitated inmates who no longer pose a threat to public safety; increase fines for felony offenses consistent with inflation and provide fines for some drug trafficking offenses; provide additional funding, through fee increases for transition centers operated by the Board of Pardons and Paroles; and clarify victim notification requirements for the Board of Pardons and Paroles.

**We must put "corrections" back into our correctional system.**

Acceptance of these recommendations will promote the continued development of a more rational sentencing system and more efficient and effective use of correctional resources in Alabama. To be truly tough on crime, Alabama must increase the effectiveness and certainty in its criminal penalties. An overcrowded, under-funded Department of Corrections cannot stand alone to provide adequate or effective punishment for criminal offenders. Alabama must reserve incarceration for dangerous and violent offenders while expanding other punishment options to emphasize alternative punishments that combine effective sanctions with restitution, rehabilitation, and treatment programs. Change will only come about if there is a true commitment by our leaders to put "corrections" back into our correctional system and address the primary contributing factors of crime, i.e., drug and alcohol abuse and addiction, unemployment, illiteracy and lack of education, while punishing those who break the laws.

**Our entire criminal justice system needs improving.**

To adequately address the safety concerns of our communities, we must reform our entire criminal justice system - from sentencing laws and procedures, corrections policies, and probation and parole practices. Laws establishing mandatory minimum punishments, enhanced sentences for repeat offenders, and strict drug laws are not always the answer, and at times have been major contributors to the problems we are now facing. Alabama must find a way to resolve its enormous jail and prison populations, preferably in a manner that will emphasize the need for rehabilitation and treatment, follow-up and supervision, and offender accountability, rather than simply providing "early" release from prison.

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Alabama now ranks 5<sup>th</sup> among all states as having the highest prison admissions. Our inmate population consists of 20% serving time for drug and/or alcohol offenses and 46% for non-violent property and drug crimes. The Department of Corrections substance abuse programs are filled to capacity with 4,665 enrolled during March 2004 and 2,761 on that month's waiting list.<sup>5</sup> Based on these facts alone, the focus of our reform efforts should be obvious.

Our options are limited. We can stay the course and continue to rely on incarceration as the sanction of choice for all offenders, violent and non-violent alike, at the current cost of over \$265 million per year (\$8.9 million of which is projected to be expended this fiscal year to house 1730 inmates in out-of-state facilities). This entails building more prisons. According to the Carter-Goble report, it would require the constructions of at least 6 new prisons, a work release facility and 5 minimum security transition facilities providing 11,420 new beds by the end of 2008, at a cost of \$933.8 million (\$786.5 million in new construction and \$142.2 million to remodel and expand existing facilities) just to meet the current growth in our prison population and reduce the capacity rate of our facilities to 100%. While some construction for new facilities and remodeling old facilities is necessary, Alabama must address more fiscally responsible options that focus on long-term solutions for Alabama's prison and jail overpopulation problem by finding other means of punishing nonviolent offenders. Alabama must rely more heavily on community corrections programs and post-incarceration supervision. We must also make sure, confronted with high recidivism rates, the commission of more violent crimes and severely overcrowded jails and prisons, that we alter the course we have been traveling for the last 30 years.

**46% of our inmate population are serving time for non-violent property and drug/alcohol crimes.**

If our leaders continue to espouse, and citizens continue to believe, the same unplanned "get tough on crime" political rhetoric, adopting harsher sentencing laws for all crimes, they must be prepared to (1) release prisoners and/or (2) expend scarce state resources on building many more prisons to house offenders who could be punished in other ways. It is axiomatic that this approach will only intensify the danger to the public that will result when these offenders are released back into the community.

**"Tough on Crime" means effective punishment.**

Finding alternative sentencing options, emphasizing supervision for all felons reentering the community following incarceration, and encouraging judges to impose sentences consistent with the sentencing standards are the Sentencing Commission's recommendations for reforming our criminal justice system. Through these reforms, Alabama can reduce its prison population without posing a threat to public safety. It will cost money but much less, now and in the long-term, than continuing on our present course.

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<sup>5</sup> As of March 25, 2004, correspondence with Brian Corbett, Department of Corrections.



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## **Chapter 2: The Sentencing Commission's 2004 Legislative Package**

### **Voluntary Sentencing Standards and Worksheets – a Structured Sentencing System HB 791 SB 526**

The centerpiece of the Legislative package of the Alabama Sentencing Commission is the recommendation of voluntary sentencing standards and worksheets promulgated by the Sentencing Commission. Utilizing historical data with modifications, the Commission developed sentencing standards and worksheets to implement structured sentencing in Alabama, as directed by the Sentence Reform Act of 2003, Act No. 2003-354. The standards, which were presented to the Legislature for approval during the 2004 Regular Session and will provide uniform sentencing recommendations for consideration by trial court judges in imposing sentence on convicted felony offenders. These recommendations address both the length of sentence and the disposition of the offender (probation, intermediate alternatives or prison) for defendants convicted of 27 of the most frequently committed felony offenses, composing 86% of the offenses included in the Commission's cohort of over 76,000 felons convicted over the last five years. The recommended sentence length and disposition standards will be predicted by a worksheet that scores and weighs factors shown to be historically relevant in Alabama in making sentencing decisions. The recommendations should determine the sentence range and disposition in 75% of the covered cases.

The standards and worksheets, which are included as an appendix to this report, were developed to apply separately to three groups of offenses - drug offenses, property offenses, and personal offenses. The drug and property standards and worksheets have undergone preliminary testing in selected project sites and, along with the personal worksheets and standards, will continue to be tested this summer.

Pursuant to the Sentence Reform Act of 2003, implementation of the worksheets and standards, if adopted, is expected to begin October 1, 2004. In other states, structured sentencing, like that proposed for Alabama, has provided a useful mechanism for making informed decisions relating to management of prison populations without increasing the risk to public safety. During the summer of 2003, the Sentencing Commission will conduct regional workshops for judges, prosecutors, defense attorneys, probation officers, community corrections officials, and court referral officers to explain the use of the voluntary standards and worksheets. These workshops will introduce a statewide testing program.

**Sentencing standards and worksheets developed for 27 offenses and submitted to Legislature.**

- **Standards cover 86% of offenders**
- **Score and weight sentencing factors based on actual sentencing practices**
- **Will continue to be tested through summer of 2004**

**Maximum Authorized Fine Increase  
HB 608 SB 341**

These bills amend § 13A-5-11 and § 13A-5-12 of the Code of Alabama to increase, based on the inflation index, the maximum amount of fines authorized to be assessed upon conviction for a felony, misdemeanor or state violation as follows:

**Additional revenue through increased fines.**

	<u>Current/1977 Amt.</u>	<u>New Proposed</u>	<u>Present Value*</u>
Class A felony	from \$20,000 to	\$60,000	\$61,046.10
Class B felony	from \$10,000 to	\$30,000	\$30,523.05
Class C felony	from \$5,000 to	\$15,000	\$15,264.03
Class A Misd.	from \$2,000 to	\$6,000	\$6,105.61
Class B Misd.	from \$1,000 to	\$3,000	\$3,052.81
Class C Misd.	from \$500 to	\$1,500	\$1,526.40
State Violation	from \$200 to	\$600	\$614.52

\*Based on consumer inflation index, U.S. Department of Labor, Bureau of Labor Statistics, [www.bls.gov](http://www.bls.gov).

The fine amounts in the Criminal Code have not been revised since they were originally set in 1977. 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 (states that do not have a general fine statute or that have not revised their statute in many years).

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

Because these increases relate only to the maximum fines that a judge is authorized to assess and do not take into consideration fines assessed but not collected, predicting the amount of revenue that will be generated is not possible.

**Trafficking – Fines Assessed for the Most Serious Offenders  
HB 533**

**Fines should be established for the most serious drug offenders.**

Alabama’s trafficking statute fails to provide a fine for the most serious trafficking offense and fails to impose a graduated increase for trafficking in hydromorphone where the drug amount is 4,000 or more, but less than 10,000 pills or capsules. Under current law, the fine authorized is the same fine established for possessing a lesser amount, more than 1,000 but less than 4,000 pills or capsules. This bill amends §13A-12-231, Alabama’s Drug Trafficking statute, to authorize assessment of mandatory fines upon

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conviction of the highest level drug trafficking offense (those in which the largest drug amounts are involved), to be consistent with the other provisions of the statute and corrects the fine for possessing more than 4000, but not more than 10,000 pills of hydromorphone to increase the fine from \$100,000 to \$250,000. The fines assessed and collected will be deposited in the State General Fund.

**Bondsman’s Process Fee for Community Corrections**  
**HB 711 SB 342**

This bill amends § 15-13-125, Code of Alabama 1975, to authorize the assessment of a \$20 fee for the issuance of bondsman’s process and to provide for distribution of the fees collected in district and circuit courts to the State-County Community Corrections Partnership Fund created by Act 2003-353. Bondsman’s process fees collected in municipal courts are to be distributed to the Corrections Fund of the municipality and earmarked for the funding of community corrections and work release programs. Under existing law, bondsman’s process must be issued by the court clerk upon the request of any bondsman and there are no fees assessed upon application for, or issuance of, the process. By assessing a fee, this bill will not only raise revenue, but should also reduce the number of requests, and decreasing the clerk’s workload.

**Charging a fine for bondsman’s process can help fund Community Corrections.**

This bill also provides for the distribution of the \$50 penalty that is now authorized to be assessed for tardy returns of bondsman’s process. Although current law authorizes assessment of this penalty, no fund is established for distribution of this fee when collected in district or circuit court. Under the provisions of this bill, fees collected in district and circuit courts are authorized to be distributed to the clerk’s fund created by § 12-17-225.4 or, for counties that do not have a clerk’s fund established, the Clerk’s Administrative Fund established by this bill. The \$50 penalty collected in municipal courts is to be deposited into the Corrections Fund of the municipality and earmarked for the funding of Community Corrections and work release programs.

**Supplemental Appropriations for Community Corrections**  
**HB 607 SB 338**

The Alabama Sentencing Commission strongly encouraged that this bill be a priority in the legislative package presented this year because funding is essential for statewide expansion of community corrections programs and is a fundamental part of the Commission’s sentencing reform efforts. Funding in the amount of \$5.5 million was a major part of the Commission’s recommendation in 2003 for full implementation of the Community Punishment and Corrections Act (Act 2003-353), and is required before the

**Funding for Community Corrections *must* be a priority.**

Department of Corrections (DOC) establishes a Community Corrections Division and appoints a full-time Director. An appropriation of \$2.9 million was included as a line item in DOC's budget for Community Corrections and the \$2.6 million requested in this bill will provide DOC with the \$5.5 million originally requested.

**Amendment of § 15-22-30 – Increase in Pardons and Paroles Residential Facility Fees  
HB 531**

**Offenders in transition centers should help pay for upkeep.**

This bill increases the amount the Board of Pardons and Paroles can deduct from the wages of residents of their community residential facilities from 25% to 45%, with the additional 20% designated for the payment of court costs, fines, fees, assessments and victim restitution. Under existing law, there is no authorization for the deduction from the wages of the persons for payment of restitution, court costs, fines, or other court-ordered monies. These wage deductions are consistent with the amounts now authorized to be deducted in § 15-18-180, as amended by Act 2003-353, for defendants assigned to a work release or other residential program operated by a community corrections provider. Of the person's earnings, 25% of the gross wages are to be applied to costs incident to the person's supervision and upkeep, 10% to court costs, fines, court-ordered fees and assessments, and 10% to restitution. After the full 45% is deducted for these expenses, the remainder of the wages is to be credited to an account established for the person by the Board and may be paid out for dependent care, savings and spending money.

**Payment of restitution and court costs required.**

This bill implements a 2003 recommendation of the Sentencing Commission by granting additional authority for funding "transition" facilities for incarcerated offenders and providing additional offender accountability through the payment of court costs and restitution.

**Board of Pardons and Paroles Notification Act  
HB 539**

This bill amends § 15-23-36 to provide that the notice of Board hearings shall:

**Clarification of the notice to victims requirement is needed.**

- 1) Include the actual time the prisoner has been held in confinement as computed by the Department of Corrections and the date of "sentence" rather than date of conviction.
- 2) Be provided to the chief of police or the city or town only if the crime was committed in an incorporated area with a

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police department.

- 3) Be sent to the last known address provided by the victim or otherwise noted in the board files or indictment, for robbery victims who were robbed while on duty as an employee of a business.
- 4) Be discontinued for those victims requesting not to be notified, with a confirmation procedure established.
- 5) Be sent to minors who have attained majority since the time of the offense.
- 6) Not be required if, *after the exercise of due diligence*, all attempts to locate the victim have failed and this fact is certified by an agent of the Board.
- 7) Be required to be provided, regardless of request, to immediate family members of a deceased victim only when the victim died as a result of the offense.

**Pardons and Paroles has a backlog of 2,200 cases due to inability to locate victims.**

As of March 16, 2004, the Board of Pardons and Paroles had a backlog of over 2,200 cases for parole consideration due to the inability to locate victims or victims' families, and this number is increasing daily. This bill frees the officers from conducting extensive, redundant investigations searching for victims who cannot be found or who do not want to be found.

### **Medical and Geriatric Release HB 603 SB 339**

This bill provides for discretionary medical and geriatric release by the Board of Pardons and Paroles of "terminally ill," "permanently incapacitated," and "geriatric inmates,"\* who do not constitute a danger to themselves or society and establishes procedures for submitting applications for consideration of eligibility and time frames for the Board and the Department of Corrections. The authority to grant medical or geriatric release is within the Board's discretion and not subject to judicial review in either the exercise of authority or the manner in which it is exercised. In determining an inmate's eligibility for release the Board is to consider the inmate's (1) risk for violence; (2) criminal history; (3) institutional behavior; (4) age (currently and at the time of the offense); (5) the severity of the illness, disease or infirmities; (6) all available medical and mental health records; and (7) release plans, which include alternatives to caring for terminally ill, permanently ill, or geriatric inmates in traditional prison settings. Inmates convicted of capital murder or sentenced to life without parole are not eligible for release under the provisions of this bill.

There are currently 311 permanently incapacitated state inmates incarcerated in a DOC facility, 52 terminally ill inmates and approximately 8 geriatric inmates over the age of 70 suffering from a chronic illness related to aging. Therefore, there are 363 state inmates that could apply for medical release (terminally ill or permanently incapacitated) and 15 possibly eligible for geriatric release, for a maximum of 37 inmates who could apply for release under the provisions of this bill.

\* A geriatric inmate is defined as an inmate convicted of a non-capital felony offense sentenced to the penitentiary (for less than life without parole), is 65 years of age or older, and "who suffers from a chronic infirmity, illness, or disease related to aging and poses a low risk to the community (does not constitute a danger to himself or society)."

### **ADDITIONAL LEGISLATION CONSIDERED BY THE COMMISSION BUT NOT APPROVED FOR INTRODUCTION IN THE 2004 REGULAR SESSION**

#### **Amendment of Split Sentence Statute**

Alabama's split sentence statute and habitual felony offender statute are being reviewed.

The Alabama Sentencing Commission reviewed the opinion of *Hollis v. State*, 845 So.2d 5 (Ala.Crim.App.2002), to determine if amendment was necessary to clarify the continuing jurisdiction of the trial court over defendants who have completed their incarceration term and are now serving the probation part of the split sentence and to ensure that the judge has options on revocation other than simply revoking and incarcerating the parolee for the remainder of the sentence. Dicta in another appellate case brought into question the authority to impose a reverse split sentence (probation before incarceration).

#### **Habitual Felony Offender Act**

Sentencing Commission intern Mark Dowdy completed an extensive study of the three strike laws in existence throughout the United States for comparison with Alabama's habitual felony offender statute and presented a summary of the repeat offender statutes in all 50 states and U.S. territories to the Commission members. It was found that Alabama's repeat offender statute is unlike the vast majority of states, inasmuch as there is no limitation according to type or degree of the offense, or decaying provision (time limits for consideration of the prior convictions). Most states with repeat offender statutes limit application to convictions for certain violent and sex offenses. Alabama does not even weigh the classification (A, B, or C) of prior convictions except to make an exception for imposition of the most severe penalties for defendants convicted of a Class A felony after having been convicted of three prior felony offenses (in which case those with no prior Class A felony conviction may be sentenced to life without parole). Because the members requested more time to review the material and compare Alabama's statute with the other states, legislation amending Alabama's existing statute was not approved this year.

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## Possession of Marihuana

The Commission was presented with a proposed bill amending § 13A-12-213, “Unlawful possession of marihuana in the first degree,” to provide that a person would be guilty of this offense and convicted as a felony only after possessing marihuana for personal use after having three previous convictions of unlawful possession of marihuana in the second degree. It was noted that according to the Commission’s cohort, 378 inmates per year were sentenced to the penitentiary for possession of marijuana and of these, perhaps 1/3 were repeat offenders.

**378 inmates a year are sentenced to the penitentiary for possession of marihuana; 1/3 are repeat offenders.**

After additional research was conducted on the marihuana possession statutes of other states, the Commission members discussed the possibility of making all crimes for the possession of marihuana under a certain amount, regardless of prior convictions, punishable only as a misdemeanor. The proposal was tabled until the members had a chance to review the research of laws from other states.

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## Chapter 3: The Data Tells the Story

### How does Alabama Rank?

- ✓ Alabama has the 5<sup>th</sup> highest incarceration rate in the nation.
- ✓ Over the last 30 years, while Alabama's population has increased only 30%, our inmate population has increased 600%.
- ✓ Alabama ranks #1 for the fewest dollars budgeted per state inmate. Our state appropriates considerably less per inmate than any other state - \$3,503 less per inmate per year than Mississippi.
- ✓ Alabama expends the least amount daily per prisoner for food and medical costs than any other state - \$26.42 compared to the state average of \$62.22.
- ✓ Tied with Missouri for 11<sup>th</sup> in longest sentences imposed, 18% over the average sentences imposed in other states.
- ✓ Alabama ranks 14<sup>th</sup> among states with longest lengths of incarceration - 12% higher than other states (32.8 months compared to state average of 29.2 months).

**Alabama ranks 5th in incarceration rate.**

**Alabama ranks 11th for longest sentenced imposed.**

### We Have An Antiquated and Inadequate Prison System

- ✓ Alabama's prisons are operating over 185% of capacity.
- ✓ Out of 50 states, Alabama budgets the least amount of money per year per inmate at \$9,073.
- ✓ Alabama has the 2<sup>nd</sup> highest inmate-to-officer ratio – 10.50.
- ✓ To address the prison overcrowding crisis, Alabama transferred over 1,700 prisoners out of state to private prisons at a cost of over \$46,000 per day. As of April 2004, Alabama has expended \$10,531,068 to house inmates in other states.
- ✓ With a supplemental appropriation provided to the Alabama Department of Corrections, DOC has been able to bring back those inmates housed in Louisiana and Mississippi. As of April 8, 2004, only 200 female inmates remain out-of-state.

**Alabama ranks 14th for longest terms of incarceration.**

**Alabama has the 2nd highest inmate-to-officer ratio.**

- ✓ With early release and out-of-state transfers, Alabama was able to reduce the jail backlog; however, there are still 1,074 state inmates housed in county jails.

### **What Does Our Prison Population Look Like?**

**Property and drug offenders make up 43% of our prison population.**

- ✓ There were 26,686 inmates in prison as of March 2004 (24,903 males and 1,783 females).
- ✓ One out of 5 new admissions is for drug possession or felony DUI.
- ✓ There were 14,195 (53%) personal offenders, 7,244 (27%) property offenders and 3,934 (15%) drug offenders in prison as of March 2004.
- ✓ FY03 - 24% of DOC inmates completed the substance abuse treatment program in DOC with 88% participating in the program.
- ✓ During March 2004, there were over 2,761 inmates on the waiting list to participate in a substance abuse program.

**88% of inmates participated in substance abuse programs last year.**

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**Pardons and Paroles Needs Help!!!**

	<b>FY2004</b>	<b>FY2003</b>	
<b>Supervising Officers</b>	250	209 (as of Feb 2001)	
<b>Administrative Staff</b>	21	19	
<b>Caseload per Officer*</b>	167.30	183.77	(-9%)
<b>Probationers</b>	33,797	33,112	2%+
<b>Parolees</b>	7,754	6,153	26%+
<b>Both</b>	273	143	91%+
<b>Total</b>	41,824	39,408	6%+

**There are more officers this year, but also more offenders to supervise.**

\*The Legislature has set a caseload goal of 150.

FY 2003 Revocations: 2,369 probationers and 796 parolees.

**Special Parole Docket  
April 6, 2003 –March 1, 2004**

<b>Total Parolees Considered:</b>	<b>7,211<sup>7</sup></b>	
Granted	3,329	46%
Denied	3,882	54%
Denied w/reset <sup>8</sup>	2,406	62%
Denied w/o reset	1,476	38%

**During the last 12 months, 8,346 cases have been considered on Pardons and Paroles special docket.**

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<sup>7</sup> From April 6, 2003 through April 1, 2004, there were 8,346 cases considered on the special docket, with 3,637 (43.6%) granted.

<sup>8</sup> Parole eligibility date established in the future.

### **Community Corrections Must Continue to Expand**

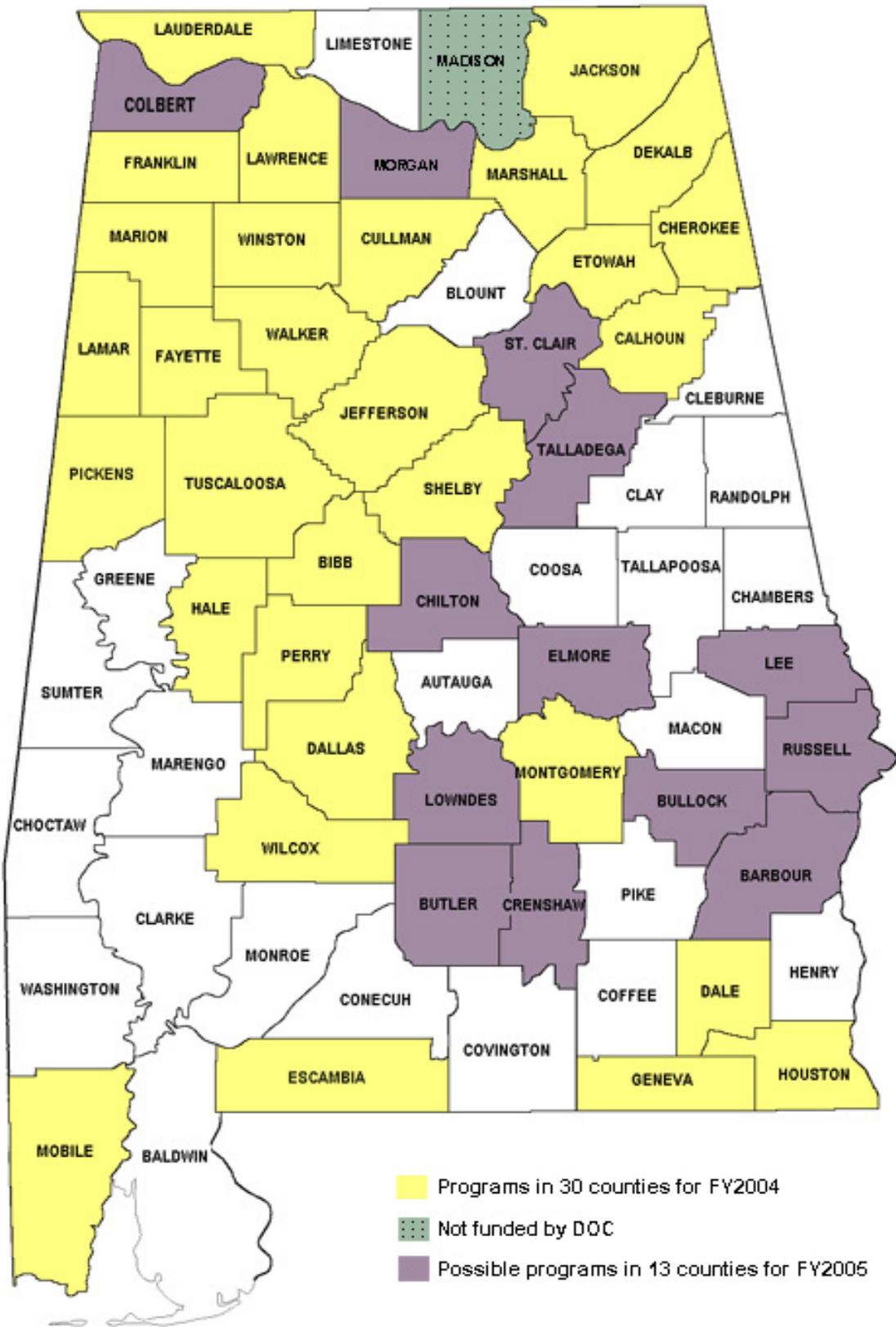
There are 24 Community Corrections programs serving 31 counties, 3 of which were established in the last year (noted with \*).

1. Jefferson (Birmingham and Bessemer)
2. Mobile
3. Montgomery
4. Madison
5. Tuscaloosa
6. Houston
7. Etowah
8. Calhoun
9. Shelby
10. Cullman
11. Walker
12. Marshall
13. Lauderdale
14. DeKalb
15. Jackson
16. Franklin
17. Geneva
18. Fayette, Lamar and Pickens
19. Cherokee
20. Lawrence
21. Escambia
22. Winston/Marion
23. Dale\*
24. Dallas, Hale, Perry, Wilcox & Bibb\*

**36 counties do NOT have  
Community Corrections  
programs.**

Twelve counties (Colbert, Morgan, St. Clair, Talladega, Chilton, Lowndes, Butler, Crenshaw, Lee, Russell, Bullock and Barbour) have expressed an interest in establishing a community corrections program and it is hoped that 10 additional programs can be established in FY 2005.

In FY 2003, there were 1,700 felony offenders participating in community corrections programs who would otherwise have been sent to the state penitentiary at a cost of \$2,975,000.





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## Chapter 4: History of Alabama Sentencing Commission

### Created as an agency under the Alabama Supreme Court

§ 12-25-1, et seq., Code of Alabama (2002 Cum. Supp.)

The Alabama Sentencing Commission was created as a separate state agency by the Legislature to review Alabama’s criminal justice system, recommend changes in sentencing laws and to serve as a permanent research arm of the criminal justice system. The Sentencing Commission is responsible for acquiring, analyzing and reporting necessary information to officials and state agencies involved in the sentencing process, the Legislature, and the public.

The creation of the Alabama Sentencing Commission was based on the recommendations of the Judicial Study Commission (JSC) through the work of a special committee formed in 1998 to study sentencing policies and practices in Alabama. As a result of their study, the Legislature passed Act 2000-596, establishing the Alabama Sentencing Commission as a separate state agency under the Alabama Supreme Court.

**The Alabama Sentencing Commission was created as a state agency to provide information on criminal laws, sentencing practices and propose reform.**

### Goals and Guiding Principles

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

The Sentencing Commission’s enabling act, enumerates that the Commission’s responsibilities are to: (1) “serve as a clearinghouse for the collection, preparation, and dissemination of information on sentencing practices;” (2) “make recommendations to the Governor, Legislature, Attorney General, and Judicial Study Commission concerning the enactment of laws relating to criminal offenses, sentencing, and correctional and probation matters” and (3) “Review the overcrowding problem in county jails, with particular emphasis on funding for the county jails and the proper removal of state prisoners from county jails pursuant to state law and state and federal court orders, and to make recommendations for resolution of these issues to the Governor, Legislature, Attorney General, and the Judicial System Study Commission.” Recommendations of the Commission are to reflect the following guiding principles of Alabama’s sentencing philosophy:

1. *“Secure the public safety of the state by providing a swift and sure response to the commission of crime.”*

**Public safety is the Commission's first and most important concern.**

2. *“Establish an effective, fair and efficient sentencing system for Alabama adult and juvenile criminal offenders which provides certainty in sentencing, maintains judicial discretion and sufficient flexibility to permit individualized sentencing as warranted by mitigating or aggravating factors, and avoids unwarranted sentencing disparities among defendants with like criminal records who have been found guilty of similar criminal conduct. Where there is disparity, it should be rational and not related, for example, to geography, race, or judicial assignment.”*
3. *“Promote truth in sentencing, in order that parties involved in a criminal case and the criminal justice process are aware of the nature and length of the sentence and its basis.”*
4. *“Prevent prison overcrowding and the premature release of prisoners.”*
5. *“Provide judges with flexibility in sentencing options and meaningful discretion in the imposition of sentences.”*
6. *“Enhance the availability and use of a wider array of sentencing options in appropriate cases.”*
7. *“Limit the discretion of district attorneys in determining the charge or crime.”*

**The Commission's recommendations will achieve truth-in-sentencing and just and adequate punishment.**

**In recognition of these seven ideals, the Sentencing Commission's enabling Act further provides that sentences should be the least restrictive, while consistent with the protection of the public and gravity of the crime, and the Commission should consider sentencing laws and practices that will promote respect for the law, provide just and adequate punishment for the offense, protect the public, deter criminal conduct, and promote the rehabilitation of offenders.**

**Appointment of members to the Sentencing Commission.**

#### **Commission Members, Chair and Staff**

The Chief Justice of the Alabama Supreme Court appoints the Chair and Executive Director of the Sentencing Commission. The members of the Commission are provided by statute (§ 12-25-3) and include various officials or their designees: The governor or his designee; the victim of a violent felony or family member appointed by the Governor; a county commissioner appointed by the Governor; the Attorney General or his designee; a district attorney appointed by the President of the Alabama District Attorney's Association; 2 circuit judges (active or retired) appointed by the President of the Alabama Association of Circuit Court Judges; a district judge (active or retired) appointed by the President of the Alabama Association of District

Court judges; the Chair of the House Judiciary Committee or designated committee member; the Chair of the Senate Judiciary Committee or designated committee member; a private defense attorney specializing in criminal law, appointed by the President of the Alabama Criminal Defense Lawyer’s Association; a private attorney specializing in criminal law appointed by the president of the Alabama Lawyer’s Association; the chair of the Board of Pardons and Paroles or his designee; a member of the academic community with a background in criminal justice or corrections policy appointed by the Chief Justice.

**The membership of the Commission includes key players in the criminal justice system.**

The members of the Commission serve for four-year terms (except for members who serve by virtue of their position) and members may be reappointed for a second term. The term of current members will expire this year.

**Terms of the Commission members.**

Commission members, along with members of the advisory council and executive committee, serve without compensation but are entitled to reimbursement of expenses while on official business of the Commission. Expenses of members are paid out of Sentencing Commission funds or from funds available for travel through the members’ respective departments.

<b>C o m m i s s i o n M e m b e r s</b>	
<b>Joseph A . C o l q u i t t , C h a i m a n</b> R e t i r e d C i r c u i t J u d g e & B e a s l e y P r o f e s s o r o f L a w U n i v e r s i t y o f A l a b a m a S c h o o l o f L a w	
R e p r e s e n t a t i v e M a r c e l B l a c k 3 r d D i s t r i c t , C o b e r t C o u n t y	E l e a n o r L . B r o o k s D i s t r i c t A t t o r n e y , 1 5 t h J u d i c i a l C i r c u i t
D o n a l d C a m p b e l l C o m m i s s i o n e r , A l a b a m a D e p a r t m e n t o f C o r r e c t i o n s	R o s a D a v i s A c t i n g C h i e f D e p u t y A t t o r n e y G e n e r a l
S t e p h e n G l a s s i o t h , E s q u i r e T h e G l a s s i o t h L a w F i r m , P C .	L o u H a r r i s D P A . , F a u k n e r U n i v e r s i t y
T e r i B o z e m a n D i s t r i c t J u d g e , L o n d e s C o u n t y	S a m u e l L . J o n e s C o u n t y C o m m i s s i o n e r , M o b i l e C o u n t y
K e n W a l l i s , E s q u i r e L e g a l A d v i s o r t o t h e G o v e r n o r	E m i l y A . L a n d e r s C r i m e V i c t i m R e p r e s e n t a t i v e
J u d g e P . B . M c L a u c h l i n P r e s i d i n g C i r c u i t J u d g e , 3 3 r d J u d i c i a l C i r c u i t	J u d g e D a v i d A . R a i n s C i r c u i t J u d g e , 9 t h J u d i c i a l C i r c u i t
J o e R e e d , J r . , E s q u i r e F a u k & R e e d , L L P .	W i l l i a m C . S e g r e s t E x e c u t i v e D i r e c t o r , A l a b a m a B o a r d o f P a r d o n s & P a r o l e s
S e n a t o r R o d g e r M . S m i t h e m a n 1 8 t h D i s t r i c t , J e f f e r s o n C o u n t y	

<b>Advisory Council</b>	
Col James H. Alexander Director, Alabama Department of Public Safety	Sheriff Prince Arnold President, Alabama Sheriffs Association
Ms. Doris Dease Victim Advocate	Denis Devane Prison Fellowship Ministries
Senator Sandra E. Escott 20th District, Jefferson County	Representative John F. Knight 77th District, Montgomery County
Justice Hugh Maddox Associate Justice (Retired), Alabama Supreme Court	Doug Parker Director, DeKalb County Community Punishment
Willa Kate Matthews Richardson Department of Corrections	Chaplain Adolph South Tuscaloosa County
Chief Charles F. Trucks President, Alabama Association of Chiefs of Police	Walter Wood Director, Alabama Department of Youth Services

<b>Executive Committee</b>	
<b>Joseph A. Colquitt, Chairman</b> Retired Circuit Judge & Beasley Professor of Law University of Alabama School of Law	
Rosa Davis Chief Assistant Attorney General	Donal Campbell Commissioner, Alabama Department of Corrections
Samuel L. Jones County Commissioner, Mobile County	Senator Rodger M. Smithman 18th District, Jefferson County

<b>Commission Staff</b>	
<b>Lynda Flynt</b> Executive Director	
Mary Duncan Administrative Assistant	Melisa Morrison Research Analyst
Mark Dowdy Intern, Jones Law School	

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## Legislative Directives

### Sentencing Reform

The Commission has been statutorily mandated to review existing laws and procedures and recommend to the Legislature and Supreme Court changes regarding the criminal code, criminal procedures and other aspects of sentencing policies and practices that will protect public safety and promote public confidence in the criminal justice system by assuring an effective, fair, and efficient sentencing system that:

**Sentencing policies and practices must protect public safety and promote public confidence.**

- Provides *certainty and consistency* in sentencing;
- Avoids *unwarranted disparity* as between like offenders committing like offenses;
- Promotes *truth-in-sentencing* by assuring that a sentence served bears a certain relationship to the sentence imposed;
- Provides *proportionality in sentencing* so that the sentence imposed reflects the severity of the offense relative to other offenses;
- *Maintains judicial discretion* and flexibility to permit individualized sentencing as warranted by mitigating or aggravating factors in individual cases;
- Enhances the *availability of and use of a wide array of sentencing options* in appropriate cases and provides judges with flexible sentencing options and meaningful discretion in the imposition of sentences;
- *Prevents prison overcrowding* by recognizing those offenders who may best be punished, supervised, and rehabilitated through more cost effective alternatives to incarceration;
- *Prevents 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;
- *Provides restitution to the victim and the community;*  
and
- *Offender accountability.*



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## Chapter 5: Accomplishments

Since the Alabama Sentencing Commission became operative in February of 2001, the Commission has accomplished the following:

### *Creation of Felony Offender Database*

The Commission has spent considerable resources and time collecting information on felony offenders sentenced over the last four years to build a comprehensive reliable database that could be used to analyze and interpret information on Alabama sentencing and correctional practices. This was an essential first step that the Commission recognized must precede any recommendation for change of existing practices to demonstrate unwarranted sentencing disparities, Alabama's excessive reliance on incarceration for non-violent offenders and its limited use of alternative sanctions. Until creation of the Commission by Act 2000-596, Alabama did not have a single, reliable data source with which to evaluate the sentencing system against the legislative benchmarks. Therefore, the Commission undertook an intensive data collection effort involving the cooperation and support of numerous agencies, including the Administrative Office of the Courts, Department of Corrections, Board of Pardons and Paroles, Alabama Sheriff's Association, and the Alabama Criminal Justice Information Center. This effort is, and must remain, on-going to maintain current data.

**Commission launches intensive data collection project.**

Initially the Commission relied on data already maintained on agency information systems and recently updated the database to enlarge the felony cohort to include offenders sentenced over the past 5 years. The Commission has also initiated a number of ad hoc data collection projects to fill gaps in Alabama's existing system of records. These projects include collection and analysis of defendant pre-sentence investigative reports and surveys of community corrections programs, county jail populations and drug court programs. The result is an integrated database that gives the Commission unprecedented insight into the state's sentencing practices and correctional system.

**5-year cohort of felony offenders.**

The Commission has also been involved in the development of the Board of Pardons and Paroles and the Administrative Office of the Courts statewide information system to automate pre-sentence investigative reports for all felony defendants as a management tool for continued monitoring and evaluation of sentencing and correctional practices. A similar statewide system is under development for community corrections programs.

**Automated system for pre-sentence investigative reports developed.**

***Creation of a Simulation Model to Forecast The Impact of Legislative Changes on Jail and Prison Populations***

**Forecasting the impact of changes in the criminal law now possible.**

For the first time in our state’s history, Alabama has the capability to forecast the impact of law changes before they are enacted. This simulation model will enable the Commission to predict the impact of proposed legislation and incarceration trends. Additional information will be obtained by further review of pre-sentence investigation (PSI) files and district attorney records to be incorporated into the forecasting model, the major components of Alabama’s simulation model have been completed. This model will be fully operational and the Sentencing Commission staff will be able to prepare impact statements this year. Development and maintenance of the simulation model is a continuing process due to instant changes in Alabama’s corrections and sentencing system.

***Reference Manual***

**A quick sentencing resource tool is available.**

The Sentencing Commission has developed and distributed a reference manual for judges. The Sentencing Reference Manual is the Commission’s first endeavor to provide judges with an analysis of sentencing practices. Data included in the manual is based on a five-year cohort of felony offenders of the “Top 25” most frequent offenses of conviction. The manual contains simple explanations of the current practices and procedures governing parole and good time. It also provides an overview of Alabama’s general sentencing provisions and rules, available alternative sentencing, important cases relating to criminal sentencing, interesting facts regarding Alabama’s criminal justice and prison system and a listing of key criminal justice contacts.

***2003 Regular Session – ASC Sentencing Reform Acts***

**Last year, all Commission bills were enacted.**

The Alabama Sentencing Commission achieved a major goal with the enactment of the state’s first sentencing reform package. The reform bills address Alabama’s prison overcrowding and sentencing system from three directions – the theft bill, raising the value amounts for theft and property crimes; the Community Punishment and Corrections Act of 2003; and the Sentencing Reform Act of 2003. The three bills, signed into law by the governor, redefine felony theft; increase accountability of, and support for the initiation and continuation of community corrections programs for alternative sentencing; and establish timelines for the implementation of structured sentencing and truth-in- sentencing in Alabama.

**Theft and Similar Property Crimes – Increase in Values**

**31 theft and property offenses changed.**

Act No. 2003-355 raises the felony threshold for 31 theft and property offenses in Alabama to account for inflation since the statutes were originally enacted. The Act raises the felony threshold for second degree theft and related offenses from \$250 to \$500 and raises the threshold for first degree theft and related offenses from property valued at over \$1,000 to property valued over \$2,500. Concerns from the retailers’ lobbyists were alleviated with the addition of a recidivist provision for the offenses of second-degree theft of property and receiving stolen property.

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Changes in four offenses alone, theft of property in the first and second degrees and receiving stolen property in the first and second degrees, are projected to reduce the prison population by 3,000 inmates in the next five years. Comparing filings and dispositions for these crimes in a four-month period prior to the effective date of these statutory changes (November 2002 – February 2003) with filings and dispositions after the changes went into effect (November 2003 - February 2004), reveals a marked decrease in both filings and dispositions for these crimes. Filings for theft of property in the first degree dropped 20.6%<sup>9</sup> while dispositions dropped 18.3%;<sup>10</sup> filings for second degree theft of property dropped 13.4%,<sup>11</sup> with a reduction of 12.7%<sup>12</sup> in dispositions. The greatest decrease in filings, 24.4%,<sup>13</sup> occurred for the crime of receiving stolen property in the second degree, although dispositions for this offense dropped only 6.3%.<sup>14</sup> Dispositions for the offense of receiving stolen property in the first degree showed the greatest decrease, with a 19%<sup>15</sup> reduction, while filings decreased 12.9%.<sup>16</sup>

**Filings for theft offenses have dropped since the passage of Act 2003-355.**

This Act represents a major accomplishment of the Alabama Legislature in recognizing that revision of Alabama's theft laws were well overdue and needed to ensure that property values were consistent with other states, consistent with similar property crimes in Alabama's Criminal Code, and were adjusted for inflation.

**Expand and establish Community Corrections programs statewide to provide more punishment alternatives.**

#### Community Punishment and Corrections Act of 2003

Act No. 2003-353 implements changes in Alabama's Community Corrections Act to ensure accountability and to encourage the growth of local community corrections programs as alternatives to prison incarceration. These changes recognize that state appropriations for community corrections could be used as start-up grants for local programs as well as the operation of continuing programs. The Act also streamlines the start-up process by authorizing counties to establish community correction programs via passage of resolutions, rather than requiring the creation of nonprofit authorities. The other key initiatives in this Act are the creation of a separate community corrections division in the Department of Corrections with a full-time director and support staff and the formation of the State-County Community Partnership Fund as an identifiable fund to receive

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<sup>9</sup> From 2,033 to 1,614

<sup>10</sup> From 525 to 429

<sup>11</sup> From 2,057 to 1,781

<sup>12</sup> From 632 to 552

<sup>13</sup> From 858 to 649

<sup>14</sup> From 206 to 193

<sup>15</sup> From 179 to 145

<sup>16</sup> From 902 to 786

appropriations for community corrections programs, with monies appropriated to this Fund earmarked solely for community corrections. Another major provision of this bill was the appropriation of \$5.5 million for community corrections programs. Although this provision was amended out of the bill, Commission staff was given assurances that this amount would be included in the General Fund Budget. When the Appropriations bill passed in the special session, only \$2.9 million was authorized for community correction programs. This same amount is included for community corrections programs for FY 05.

**Sentence Reform Act required the Commission to propose a structured sentencing system for implementation in 2004 that:**

- is based on historical practices
- recognizes sentencing goals
- makes efficient use of corrections resources
- encourages more punishment alternatives

**An extensive data collection and assessment project was undertaken.**

### Sentencing Reform Act of 2003

Act No. 2003-354, entitled “The Sentencing Reform Act of 2003,” requires the Sentencing Commission to draft a structured sentencing program for Alabama consisting of voluntary, non-appealable sentencing standards. The program will be implemented over a 3-year period. This year the Commission will submit the first set of voluntary sentencing standards for legislative approval. These standards will be constructed based on historical time-imposed patterns, with adjustments made to reflect sentencing goals. Over the last 8 months, the Sentencing Commission staff, with the assistance of pardon and parole officers and employees and community correction providers, has been engaged in an extensive data collection, assimilation and analysis project to obtain offender specific and offense specific data essential to develop the sentencing standards and worksheets. This is the second such project undertaken by the Commission over the last 16 months, the first, focusing on theft offenses and the value of property stolen.

Data collected and analyzed to guide the Commission in developing “time-imposed” sentencing standards and worksheets consisted of offenses categorized by type – property, personal and drugs/alcohol. Eleven property offenses included in the sample were: credit card use/possession; theft of property in the 1<sup>st</sup> and 2<sup>nd</sup> degrees; receiving stolen property in the 1<sup>st</sup> and 2<sup>nd</sup> degrees; burglary 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>; possession of a forged instrument in the 2<sup>nd</sup> degree; and forgery in the 2<sup>nd</sup> degree. The following eleven personal offenses were also incorporated into the sample: non-capital murder; manslaughter; rape in the 1<sup>st</sup> and 2<sup>nd</sup> degrees; sodomy in the 1<sup>st</sup> and 2<sup>nd</sup> degrees; robbery 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup>; and assault in the 1<sup>st</sup> and 2<sup>nd</sup> degrees. The five drug offenses covered were: felony DUI; first degree possession of marihuana; possession of schedule I-V drugs; distribution of marihuana; and distribution of schedule I-V drugs.

To obtain the data necessary to develop the worksheets, a stratified sample of 15,000 cases was selected. This original sample size was chosen based on the assumption that pre-sentence investigative reports would be found for approximately 50% of the cases. As predicted, pre-sentence reports were found for a little over half of the cases in

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our original sample - 7,500 cases, with 2,500 for each category. This sample included sentences imposed over the past 5 years (October 1998 – March 2003) with prison and non-prison dispositions for each offense. Utilizing statistically significant factors (those that play an important role in the judge’s sentencing decision) and applying multivariate statistical equations, the Commission’s data consultants developed worksheets and sentencing standards for each offense category and simulated the impact that these sentences would have on prison admissions over the next 5 years, (assuming that other factors such as changes in criminal laws or offender profiles remained constant.)

**7,500 cases sampled included felons sentenced over the last year for selected crimes.**

The Sentencing Reform Act targeted the year 2006 for the Commission to submit a second set of standards, known as “truth-in-sentencing standards,” to the Legislature for approval. The reasons for delaying the use of the truth-in-sentencing standards were threefold: (1) to allow Alabama to create a statewide community corrections system; (2) to increase the caseload capacity of the Board of Pardons and Paroles whose officers would be responsible for providing post-incarceration supervision of all felony offenders and; (3) to allow time to test the effectiveness of a system of voluntary standards. This second set of standards will be developed utilizing time-served data obtained from our felony cohort, with adjustments made to reflect the goals established by the Legislature in the Commission’s enabling act and the Sentencing Reform Act of 2003. These second standards are necessary to implement truth-in-sentencing in Alabama, and if approved by the Legislature, will become effective October 1, 2006. This Act represents the true beginning of sentencing reform for our state.

**Truth-in-sentencing to be established in 2006.**

### ***Automated PSI System***

The Sentencing Commission is continuing to assist in the efforts of Administrative Office of Courts to define and develop an automated PSI system that will automate Pardons and Paroles data. The Commission has submitted a list of information that should be captured to aid in the development of sentencing standards. This data will be available to the Commission for further analysis of sentencing patterns.

**Data collection will be improved with automated pre-sentence investigative reports.**

### ***Legal Research and Legislative Drafting***

The Commission staff has researched laws and sentencing structures of other states, particularly focusing on the crimes of theft, felony DUI, drug possession, distribution and trafficking, three-strike/habitual felony offender statutes, and criminal code classifications. In conjunction, several bills have been drafted, some which were reviewed by the Commission but tabled for further consideration.

***Educational Efforts for Implementation of Reform Proposals***

A large portion of the staff's time has been, and will continue to be, expended on educating judges, prosecutors, defense attorneys and probation and parole officers, and community correction officials on the Commission's recommendations and the process of standards development and utilization. Over the past two years, staff and members of the Sentencing Commission have met on numerous occasions with legislators, the governor's staff, judges, prosecutors, victim advocates and civic groups, in addition to attending legislative committee meetings. This summer 6 regional seminars will be held for judges, prosecutors, defense lawyers, legislators, probation officers, community corrections officials, court referral officers, and court clerks.

**Regional seminars will be scheduled this summer.**

***Alabama Sentencing Commission Website***

The Commission website is now complete and can be accessed through the address: <http://sentencingcommission.alacourt.org>. The website includes news articles regarding sentencing reform, announcements of Commission meetings, minutes of Commission meetings and committee meetings, the Commission's legislation, publications, annual reports, and the Sentencing Reference Manual.

**Visit our website -  
<http://sentencingcommission.alacourt.org>**

# APPENDIX

## PROPOSED ALABAMA VOLUNTARY SENTENCING STANDARDS

### *SENTENCING RECOMMENDATIONS FOR MORE INFORMED AND PLANNED CRIMINAL DISPOSITIONS*

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**GENERAL INSTRUCTIONS FOR COMPLETING SENTENCING WORKSHEETS**

1. Worksheets should be completed when the “most serious conviction offense” is one of the following:

<b>Personal Worksheets</b>	<b>Property Worksheets</b>	<b>Drug Worksheets</b>
Assault I	Burglary I	Felony DUI
Assault II	Burglary II	Possession of Marihuana I
Manslaughter	Burglary III	Possession of Schedule I-V
Murder	Forgery II	Sale/Distribution of Marihuana
Rape I	Possession Forged Instrument II	Sale/Distribution of Schedule I-V
Rape II	Theft of Property I	
Robbery I	Theft of Property II	
Robbery II	Receiving Stolen Property I	
Robbery III	Receiving Stolen Property II	
Sodomy I	Unauthorized Use/B&E Vehicle	
Sodomy II	Unlawful Possession/Use Credit/Debit Card	

2. To determine the “most serious conviction offense” for the purpose of scoring worksheets, the preparer should select the offense with the highest number of points listed in the first section of the corresponding sentence length worksheet.
3. If a defendant is being sentenced for more than one crime type at the same sentencing event – e.g. both drug and property offenses – more than one set of worksheets may be completed to determine which offense would most likely result in a recommended prison sentence and/or longest sentence length.

Example:

- If a defendant is being sentenced for Assault II (72 points) and Burglary II (70 points) at the same sentencing event, the worksheet preparer should first complete the Personal Sentencing Worksheet(s) to determine the recommended sentencing outcome. This is because Assault II has the highest point value in the first section of the “personal” sentence length worksheet. Then, the preparer could elect to score Burglary II as the primary offense on the Property In/Out Sentencing Worksheets to determine which sentencing outcome would be most appropriate in this particular case.

4. If a “worksheet” offense and a “non-worksheet” offense being sentenced at the same sentencing event have the same statutory maximum penalty, then the user should select the “worksheet” offense as the primary offense and the “non-worksheet” offense should be scored as an additional offense.

Example:

- The maximum statutory penalty for Criminal Mischief I (with no prior felony convictions) is 10 years and the maximum statutory penalty for Assault II (with no prior felony convictions) is 10 years. If both are

being sentenced at the same event, the worksheet preparer should score the personal worksheets for Assault II. This is because Assault II is covered by the worksheets and Criminal Mischief I is not.

- In the scenario described in #4, if worksheet offense is a drug or property offense, the non-worksheet offense(s) should be scored under the “Number of Additional Felony Convictions (Including Counts)” section of the Sentence Length Worksheets.

5. If the “non-worksheet” offense has a higher maximum statutory penalty than a “worksheet” offense being sentenced at the same event, then the entire sentencing event is not covered by the worksheets.

Example:

- The maximum statutory penalty for Attempted Murder (with no prior felony convictions) is 20 years and the maximum statutory penalty for Assault II (with no prior felony convictions) is 10 years. If both are being sentenced at the same event, no worksheets should be prepared. This is because the statutory maximum penalty for Attempted Murder is greater than that for Assault II.

6. A person sentenced under the sentencing standards will only receive one sentence during a sentencing event. Once a sentence has been selected from the recommended sentence range, it is up to the sentencing judge to decide how it shall be imposed.

For instance, if a defendant is being sentenced for three felonies and the recommended time imposed is 30 years, then the judge has several options. He or she could:

1. order the defendant to serve a 30 year sentence for each offense to be served concurrently;
2. order the defendant to serve three 10 year sentences consecutively; or
3. order the defendant to serve one 20 year sentence and two 5 year sentences consecutively, etc.

7. Prior records are to be scored based on convictions, juvenile delinquency and/or youthful offender adjudications occurring before the arrest date(s) of the offense(s) being sentenced. If an ambiguous entry on a prior record document cannot be resolved, the scorer should treat the information in a way that gives the benefit of the doubt to the offender. If any prior record disposition information is missing, the scorer should assume that no conviction occurred. In the event of a dispute, the burden of proving the prior conviction is on the prosecutor. For the purposes of proving in-state prior convictions, any official court document – whether automated or hard copy – shall be sufficient for meeting the burden of proof requirement. When meeting the burden of proof for out-of-state convictions, certified copies of official court records shall be sufficient evidence. Out of state records need not be exemplified.
8. In the event a defendant has received a pardon for innocence, the conviction for which he or she received the pardon should be excluded when scoring prior convictions. Other pardons – e.g. those to restore voting rights – should not be construed to affect a defendant’s criminal history.
9. Worksheets must be used when the offense being sentenced is on a worksheet. They are not intended to provide guidance when sentencing similar crimes. This is because the factors included on the worksheets have been statistically derived specifically for the listed offenses and may or may not be statistically significant in predicting sentencing outcomes for others.

10. When scoring prior misdemeanor convictions, all criminal misdemeanor convictions should be counted. Traffic convictions do not count except: Driving Under the Influence, Boating Under the Influence, Leaving the Scene of an Accident, Attempting to Elude Law Enforcement, Driving without a License and Driving While License is Suspended or Revoked.
11. Sentence lengths recommended on the worksheets are intended to give guidance in imposing prison sentences. They are not intended to suggest terms of probation and/or other non-incarcerative sanctions.
12. Worksheets do not have to be filled out for offenders who are assigned to drug court or pre-trial diversion.
13. All prior offenses of Driving Under the Influence (DUI) should be counted as prior misdemeanors. This includes worksheets being completed for Felony DUI cases even though the prior DUI convictions are an element of the offense.
14. Prior to sentencing, judges should instruct the defendant as to both the statutory and recommended standards sentence ranges.
15. The recommended sentence ranges, in months, presented in the sentencing standards are expected to be applied in 75 percent of all cases being sentenced. They do not apply to mandatory life without parole sentences. It is expected that 25 percent of all cases will fall outside of the suggested range.
16. The minimum sentence imposed under the sentencing standards must not be less than the statutory sentences specified in Paragraphs 1-3, Section 13A-5-6, Code of Alabama 1975. (Provided, however, the minimum sentence may still be “split” pursuant to Section 15-18-8, Code of Alabama 1975.)
  1. For a Class A felony, the minimum sentence imposed must be at least 10 years.
  2. For a Class B felony, the minimum sentence imposed must be at least 2 years.
  3. For a Class C felony, the minimum sentence imposed must be at least 1 year and 1 day.
17. Pursuant to § 12-25-35, Code of Alabama, 1975, worksheets should be completed and the sentencing standards considered for all offenders to which they are applicable.
18. The Sentencing Commission requests that in any case in which a sentence is imposed that is a departure from the voluntary standards, the court provide a brief reason for the departure. Such statements may be included on forms (electronic or hard copy) provided by the Sentencing Commission and used solely by the Sentencing Commission in evaluating the effectiveness of these standards. See §12-25-35 (c) and (e).

Examples:

More severe

- Worksheets do not express the severity of criminality of the offender’s history.
- No alternatives to prison available.

- Offender needs long-term substance abuse treatment available only through the Department of Corrections.
- Injury to victim deserves greater punishment.

Less severe

- The worksheets exaggerate the severity of the offender's prior history.
- Prior history not relevant to this proceeding because the prior history is too remote.
- The recommended sentence punishes too harshly or too leniently.
- Offender shows sufficient progress toward rehabilitation to allow alternative to prison.

**INSTRUCTIONS FOR COMPLETING PERSONAL OFFENSE WORKSHEETS**

**Worksheet # 1 – PERSONAL PRISON IN/OUT WORKSHEET**

1. **Most Serious Conviction Offense** - The scorer should select only the most serious offense being sentenced at the current sentencing event. This is the offense that has the highest point value listed in the “most serious conviction offense” section of the Personal Sentence Length Worksheet.
2. **Number of Prior Adult Felony Convictions** - Count all prior felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
3. **Prior Incarceration with Sentence Imposed of One Year or More** - Count prior prison or jail sentences where the *non-suspended* time imposed was greater than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

Notes:

This should be counted each time a person enters (or re-enters) the prison system whether or not the person actually *serves* at least a year. As long as the “non-suspended” portion of the sentence was one year or longer at the time of admission, this should be counted.

This factor is not cumulative. For instance, if a defendant received two non-suspended six month sentences, they should not be counted here. Only count those sentences where the non-suspended time imposed was at least one year.

4. **Number of Prior Delinquency and Youthful Offender Adjudications** - Count all prior juvenile delinquency and Youthful Offender adjudications that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
5. **Use of a Deadly Weapon** - Count this factor if a deadly weapon was used during the commission of the offense(s) being scored on the worksheet. A deadly weapon is defined as a firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury. The term includes, but is not limited to, a pistol, rifle, or shotgun; or a switch-blade knife, gravity knife, stiletto, sword, or dagger; or any billy, black-jack, bludgeon, or metal knuckles.

**Most Serious Offense at Conviction Ranking**

Murder – 728 points	Assault I – 148 points
Rape I – 386 points	Rape II – 129 points
Robbery I – 374 points	Robbery III – 89 points
Manslaughter – 238 points	Sodomy II – 81 points
Sodomy I – 235 points	Assault II - 72 points
Robbery II – 173 points	

# Personal Prison In/Out Worksheet

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

**Most Serious Conviction Offense** \_\_\_\_\_

- |                   |   |
|-------------------|---|
| Assault 2 ..... 1 | Rape 2, Sodomy 2, Robbery 2 ..... 5               |
| Robbery 3 ..... 3 | Rape 1, Sodomy 1, Manslaughter, Robbery 1 ..... 8 |
| Assault 1 ..... 4 | Murder ..... 10                                   |

Score

**Number of Prior Adult Felony Convictions** \_\_\_\_\_

- |                 |   |
|-----------------|---|
| None.....       | 0 |
| 1 .....         | 2 |
| 2 .....         | 3 |
| 3 .....         | 5 |
| 4 .....         | 6 |
| 5 or more ..... | 8 |

Score

**Prior Incarceration with Sentence Imposed of 1 Year or More** \_\_\_\_\_

- |              |   |
|--------------|---|
| If Yes ..... | 1 |
|--------------|---|

Score

**Number of Prior Juvenile Delinquency or YO Adjudications (Misd/Felony)** \_\_\_\_\_

- |                 |   |
|-----------------|---|
| None.....       | 0 |
| 1-2 .....       | 1 |
| 3-4 .....       | 2 |
| 5 or more ..... | 3 |

Score

**Use of Deadly Weapon** \_\_\_\_\_

- |              |   |
|--------------|---|
| If Yes ..... | 4 |
|--------------|---|

Score

**Recommendation**

1-7 points: Non-Prison  
8+ points: Prison

**Total Score**

It is anticipated that the standards will only be applied 75 percent of the time, and that upward or downward departures are authorized and expected to occur.

**Worksheet # 2 - PERSONAL PRISON SENTENCE LENGTH WORKSHEET**

- 1. Most Serious Conviction Offense** - The scorer should select only the most serious offense being sentenced at the current sentencing event. This is the offense that has the highest point value listed in the “most serious conviction offense” section of the Personal Sentence Length Worksheet.
- 2. Number of Additional Felony Convictions (Including Counts)** - The scorer should total all offenses being sentenced in addition to the most serious offense being sentenced at the present time. In the event of a multi-count indictment, all counts in which the defendant was found guilty or entered a guilty plea should be counted the same as separate convictions.
- 3. Prior Incarceration with Sentence Imposed of One Year or More** - Count prior prison or jail sentences where the non-suspended time imposed was greater than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

Notes:

This should be counted each time a person enters (or re-enters) the prison system whether or not the person actually *serves* at least a year. As long as the “non-suspended” portion of the sentence was one year or longer at the time of admission, this should be counted.

This factor is not cumulative. For instance, if a defendant received two non-suspended six month sentences, they should not be counted here. Only count those sentences where the non-suspended time imposed was at least one year.

- 4. Prior Incarceration with Sentence Imposed of Less Than One Year** - Count prior prison or jail sentences where the non-suspended time imposed was less than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

Note: If a defendant received a non-suspended sentence of less than one year to be served concurrently with a sentence of more than one year, it should not be counted here. This factor should only be scored in cases where the defendant received a non-suspended sentence of less than one year separate and apart from any longer period of incarceration imposed.

# Personal Prison Sentence Length Worksheet

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

## Most Serious Conviction Offense

Assault 2 .....	72	Sodomy 1 .....	235
Sodomy 2 .....	81	Manslaughter .....	238
Robbery 3 .....	89	Robbery 1 .....	374
Rape 2 .....	129	Rape 1 .....	386
Assault 1 .....	148	Murder .....	728
Robbery 2 .....	173		

Score

## Number of Prior Adult Felony Convictions

None .....	0
1 .....	19
2 .....	37
3 .....	56
4 .....	75
5 .....	93
6 .....	112
7 .....	130
8 .....	149
9 .....	168
10 or more .....	186

Score

## Number of Prior Incarcerations with Sentence Imposed of 1 Year or More

None .....	0
1 .....	51
2 .....	101
3 .....	152
4 .....	202
5 or more .....	253

Score

## Prior Incarceration with Sentence Imposed of Less Than 1 Year

If Yes ..... 33

Score

**See Prison Sentence Length  
Recommendation Table**

Total Score

It is anticipated that the standards will only be applied 75 percent of the time, and that upward or downward departures are authorized and expected to occur.

## Personal Prison Sentence Length Ranges for Worksheet

Time in Months

<b>Score</b>	<b>Total Sentence</b>			<b>Time to Serve On Split</b>		
	<b>Low</b>	<b>Mid</b>	<b>High</b>	<b>Low</b>	<b>Mid</b>	<b>High</b>
<b>72</b>	13	37	60	6	15	24
<b>81</b>	13	37	60	6	15	24
<b>89</b>	13	37	60	6	15	24
<b>91</b>	13	37	60	6	15	24
<b>100</b>	13	37	60	3	14	24
<b>105</b>	13	47	80	6	15	24
<b>108</b>	13	47	80	6	15	24
<b>109</b>	13	47	80	6	15	24
<b>122</b>	13	47	80	6	15	24
<b>123</b>	13	47	80	6	15	24
<b>124</b>	13	47	80	6	15	24
<b>126</b>	13	47	80	6	15	24
<b>128</b>	13	47	80	6	15	24
<b>129</b>	39	71	102	6	15	24
<b>132</b>	47	74	102	12	18	24
<b>133</b>	47	74	102	12	18	24
<b>137</b>	47	74	102	12	18	24
<b>141</b>	55	78	102	12	18	24
<b>142</b>	55	99	143	12	24	36
<b>145</b>	55	99	143	12	24	36
<b>147</b>	55	99	143	12	24	36
<b>148</b>	55	99	143	12	24	36
<b>156</b>	55	99	143	12	24	36
<b>159</b>	62	103	143	12	24	36
<b>160</b>	62	103	143	12	24	36
<b>162</b>	62	103	143	12	24	36
<b>164</b>	62	103	143	12	24	36
<b>166</b>	62	108	153	12	24	36
<b>167</b>	78	116	153	12	24	36
<b>169</b>	78	116	153	12	24	36
<b>170</b>	78	116	153	12	24	36
<b>173</b>	78	116	153	12	24	36
<b>175</b>	78	116	153	12	24	36
<b>177</b>	78	116	153	12	24	36
<b>178</b>	78	116	153	12	24	36
<b>179</b>	78	116	153	12	24	36
<b>180</b>	78	116	153	12	24	36
<b>181</b>	78	116	153	12	24	36
<b>182</b>	78	116	153	12	24	36
<b>184</b>	78	116	153	12	24	36
<b>185</b>	78	116	153	12	24	36
<b>192</b>	78	126	173	12	24	36
<b>193</b>	78	126	173	12	24	36
<b>196</b>	78	126	173	12	24	36
<b>197</b>	78	126	173	12	24	36
<b>198</b>	78	126	173	12	24	36
<b>199</b>	78	126	173	12	24	36
<b>200</b>	78	126	173	12	24	36

<b>201</b>	78	126	173	12	24	36
<b>204</b>	78	126	173	12	24	36
<b>206</b>	78	126	173	12	24	36
<b>209</b>	78	126	173	12	24	36
<b>210</b>	78	126	173	12	24	36
<b>215</b>	78	126	173	12	24	36
<b>217</b>	78	126	173	12	24	36
<b>218</b>	78	126	173	12	24	36
<b>219</b>	78	126	173	12	24	36
<b>223</b>	78	126	173	12	24	36
<b>224</b>	78	126	173	12	24	36
<b>225</b>	78	126	173	12	24	36
<b>227</b>	78	126	173	12	24	36
<b>229</b>	78	126	173	12	24	36
<b>230</b>	78	126	173	12	24	36
<b>231</b>	78	126	173	12	24	36
<b>232</b>	78	126	173	18	29	40
<b>233</b>	78	126	173	18	29	40
<b>235</b>	78	126	173	18	29	40
<b>236</b>	78	126	173	18	33	48
<b>237</b>	78	126	173	18	33	48
<b>238</b>	78	126	173	18	33	48
<b>243</b>	78	126	173	18	33	48
<b>248</b>	78	141	204	18	33	48
<b>249</b>	78	141	204	18	33	48
<b>251</b>	78	141	204	18	33	48
<b>252</b>	78	141	204	18	33	48
<b>253</b>	78	141	204	18	33	48
<b>254</b>	86	145	204	18	33	48
<b>255</b>	86	145	204	18	33	48
<b>256</b>	86	145	204	18	33	48
<b>257</b>	86	145	204	18	33	48
<b>260</b>	86	145	204	18	33	48
<b>261</b>	86	145	204	18	33	48
<b>262</b>	86	145	204	18	33	48
<b>265</b>	86	145	204	18	33	48
<b>266</b>	86	145	204	18	33	48
<b>267</b>	86	145	204	18	33	48
<b>268</b>	86	145	204	18	33	48
<b>269</b>	86	145	204	18	33	48
<b>271</b>	86	145	204	18	33	48
<b>272</b>	86	145	204	18	33	48
<b>274</b>	86	145	204	18	33	48
<b>275</b>	86	145	204	18	33	48
<b>276</b>	86	145	204	18	33	48
<b>280</b>	86	145	204	18	33	48
<b>281</b>	86	145	204	18	33	48
<b>283</b>	101	153	204	18	33	48
<b>286</b>	101	153	204	18	33	48
<b>287</b>	101	153	204	18	33	48
<b>288</b>	101	153	204	18	33	48
<b>289</b>	101	153	204	18	33	48
<b>290</b>	101	153	204	18	33	48

Sentencing Standards and Worksheets

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291	101	153	204	18	33	48
292	101	153	204	18	33	48
294	101	153	204	18	33	48
299	101	153	204	18	33	48
300	101	153	204	18	33	48
305	101	153	204	18	33	48
307	101	153	204	18	33	48
308	101	153	204	18	33	48
311	101	153	204	22	41	60
313	101	153	204	22	41	60
316	101	153	204	22	41	60
317	101	153	204	22	41	60
319	101	153	204	22	41	60
322	101	153	204	22	41	60
323	101	153	204	22	41	60
324	101	153	204	22	41	60
326	117	161	204	22	41	60
330	117	161	204	22	41	60
331	117	161	204	22	41	60
332	117	161	204	22	41	60
334	117	161	204	22	41	60
335	117	161	204	22	41	60
336	117	161	204	22	41	60
337	117	161	204	22	41	60
338	117	161	204	22	41	60
339	117	161	204	24	42	60
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344	117	161	204	24	42	60
345	117	161	204	24	42	60
349	117	161	204	24	42	60
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355	117	161	204	24	42	60
356	117	161	204	24	42	60
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362	117	161	204	24	42	60
363	117	161	204	24	42	60
364	117	161	204	24	42	60
366	117	161	204	24	42	60
367	117	161	204	24	42	60
371	117	186	255	24	42	60
373	117	186	255	24	42	60
374	117	186	255	24	42	60
375	117	186	255	24	42	60
376	117	186	255	24	42	60
378	117	186	255	24	42	60
379	117	186	255	24	42	60
381	117	186	255	24	42	60
386	117	186	255	24	42	60
387	117	186	255	24	42	60
389	117	186	255	24	42	60
393	117	186	255	24	42	60
400	117	186	255	24	42	60

<b>403</b>	117	186	255	24	42	60
<b>404</b>	117	186	255	24	42	60
<b>405</b>	117	186	255	24	42	60
<b>406</b>	117	186	255	24	42	60
<b>407</b>	117	186	255	24	42	60
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<b>427</b>	117	186	255	24	42	60
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<b>430</b>	117	186	255	24	42	60
<b>431</b>	117	186	255	24	42	60
<b>436</b>	117	186	255	24	42	60
<b>437</b>	117	186	255	24	42	60
<b>438</b>	156	231	306	24	42	60
<b>439</b>	156	231	306	24	42	60
<b>442</b>	156	231	306	24	42	60
<b>444</b>	156	231	306	24	42	60
<b>449</b>	156	231	306	24	42	60
<b>450</b>	156	231	306	24	42	60
<b>451</b>	156	231	306	36	48	60
<b>455</b>	156	231	306	36	48	60
<b>456</b>	156	231	306	36	48	60
<b>457</b>	156	231	306	36	48	60
<b>458</b>	156	231	306	36	48	60
<b>460</b>	156	231	306	36	48	60
<b>461</b>	156	282	408	36	48	60
<b>462</b>	156	282	408	36	48	60
<b>463</b>	156	282	408	36	48	60
<b>465</b>	156	282	408	36	48	60
<b>467</b>	156	282	408	36	48	60
<b>470</b>	156	282	408	36	48	60
<b>474</b>	156	282	408	36	48	60
<b>475</b>	156	282	408	36	48	60
<b>476</b>	156	282	408	36	48	60
<b>477</b>	156	282	408	36	48	60
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<b>491</b>	156	282	408	36	48	60
<b>493</b>	156	282	408	36	48	60
<b>494</b>	156	282	408	36	48	60
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<b>498</b>	156	282	408	36	48	60
<b>500</b>	156	282	408	36	48	60
<b>501</b>	156	282	408	36	48	60
<b>505</b>	156	282	408	36	48	60
<b>506</b>	156	588	1020	36	48	60

Sentencing Standards and Worksheets

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<b>507</b>	156	588	1020	36	48	60
<b>510</b>	156	588	1020	36	48	60
<b>512</b>	156	588	1020	36	48	60
<b>513</b>	156	588	1020	36	48	60
<b>520</b>	156	588	1020	36	48	60
<b>524</b>	156	588	1020	36	48	60
<b>526</b>	156	588	1020	36	48	60
<b>528</b>	156	588	1020	36	48	60
<b>529</b>	156	588	1020	36	48	60
<b>530</b>	156	588	1020	36	48	60
<b>531</b>	156	588	1020	36	48	60
<b>533</b>	156	588	1020	36	48	60
<b>540</b>	156	588	1020			
<b>543</b>	156	588	1020			
<b>544</b>	156	588	1020			
<b>545</b>	156	588	1020			
<b>548</b>	156	588	1020			
<b>550</b>	156	588	1020			
<b>551</b>	156	588	1020			
<b>552</b>	156	588	1020			
<b>553</b>	156	588	1020			
<b>556</b>	156	588	1020			
<b>558</b>	156	588	1020			
<b>562</b>	156	588	1020			
<b>564</b>	156	588	1020			
<b>582</b>	156	588	1020			
<b>590</b>	156	588	1020			
<b>594</b>	156	588	1020			
<b>595</b>	156	588	1020			
<b>601</b>	156	588	1020			
<b>602</b>	156	588	1020			
<b>607</b>	156	588	1020			
<b>619</b>	156	588	1020			
<b>620</b>	156	588	1020			
<b>627</b>	156	588	1020			
<b>632</b>	156	588	1020			
<b>652</b>	156	588	1020			
<b>665</b>	156	588	1020			
<b>676</b>	156	588	1020			
<b>677</b>	156	588	1020			
<b>684</b>	156	588	1020			
<b>688</b>	156	588	1020			
<b>695</b>	156	588	1020			
<b>701</b>	156	588	1020			
<b>706</b>	156	588	1020			
<b>709</b>	156	588	1020			
<b>710</b>	156	588	1020			
<b>728</b>	156	588	1020			
<b>732</b>	156	588	1020			
<b>735</b>	234	627	1020			
<b>747</b>	234	627	1020			
<b>757</b>	234	627	1020			
<b>761</b>	234	627	1020			

<b>765</b>	234	627	1020
<b>780</b>	234	627	1020
<b>784</b>	234	627	1020
<b>790</b>	234	627	1020
<b>798</b>	234	627	1020
<b>803</b>	234	627	1020
<b>812</b>	234	627	1020
<b>816</b>	234	627	1020
<b>817</b>	234	627	1020
<b>831</b>	234	627	1020
<b>835</b>	234	627	1020
<b>836</b>	234	627	1020
<b>840</b>	234	627	1020
<b>848</b>	234	627	1020
<b>849</b>	234	627	1020
<b>854</b>	234	627	1020
<b>868</b>	234	627	1020
<b>872</b>	234	627	1020
<b>885</b>	234	627	1020
<b>904</b>	234	627	1020
<b>905</b>	234	627	1020
<b>918</b>	234	627	1020
<b>936</b>	234	627	1020
<b>950</b>	234	627	1020
<b>955</b>	234	627	1020
<b>986</b>	234	627	1020
<b>1010</b>	234	627	1020
<b>1111</b>	234	627	1020
<b>1126</b>	234	627	1020
<b>1130</b>	234	627	1020

**INSTRUCTIONS FOR COMPLETING PROPERTY OFFENSE WORKSHEETS****Worksheet # 1 - PROPERTY PRISON IN/OUT WORKSHEET**

- 1. Most Serious Conviction Offense** - The scorer should select only the most serious offense being sentenced at the current sentencing event. This is the offense that has the highest point value listed in the “most serious conviction offense” section of the Property Sentence Length Worksheet.
- 2. Number of Prior Adult Felony Convictions** - Count all prior felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. To compute the score for this factor, total the # of A, B and C offenses in each column, then add the three columns and fill in the total in the score box on the right hand side of the page.
- 3. Number of Prior Adult Felony Convictions for the Same Felony** - Count all prior felony convictions for the same offense that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only count those offenses where the crime and the degree are identical to the current offense. For instance, if the current offense is Burglary I, then a prior Burglary II or III conviction would not be scored.
- 4. Number of Adult Misdemeanor Convictions** - Count all prior criminal misdemeanor convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. When scoring prior misdemeanor convictions, all criminal misdemeanor convictions should be counted. Traffic convictions do not count except: Driving Under the Influence, Boating Under the Influence, Leaving the Scene of an Accident, Attempting to Elude Law Enforcement, Driving without a License and Driving While License is Suspended or Revoked.
- 5. Prior Incarceration with Sentence Imposed of One Year or More** - Count prior prison or jail sentences where the *non-suspended* time imposed was greater than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

Notes:

This should be counted each time a person enters (or re-enters) the prison system whether or not the person actually *serves* at least a year. As long as the “non-suspended” portion of the sentence was one year or longer at the time of admission, this should be counted.

This factor is not cumulative. For instance, if a defendant received two non-suspended six month sentences, they should not be counted here. Only count those sentences where the non-suspended time imposed was at least one year.

- 6. Prior Incarceration with Sentence Imposed of Less Than One Year** - Count prior prison or jail sentences where the non-suspended time imposed was less than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

Note: If a defendant received a non-suspended sentence of less than one year to be served concurrently with a sentence of more than one year, it should not be counted here. This factor should only be scored in cases where the defendant received a non-suspended sentence of less than one year separate and apart from any longer period of incarceration imposed.

7. **Prior Probation or Parole Revocation** - Count prior probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only state probation revocations should be scored. Misdemeanor probation violations should not be counted.

Note: If the current sentencing event is part of a probation revocation proceeding, this factor should not be scored unless the offender has a prior revocation.

8. **Number of Prior Delinquency and Youthful Offender Adjudications** - Count all prior juvenile delinquency and Youthful Offender adjudications that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
9. **Possession of a Deadly Weapon** - Count this factor if there was a connection other than the mere possession of a weapon between the presence of a deadly weapon with the commission of any of the offense(s) being sentenced at the current sentencing event. This should be scored even if the possession on a weapon is an element of the offense. A deadly weapon is defined as a firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury. The term includes, but is not limited to, a pistol, rifle, or shotgun; or a switch-blade knife, gravity knife, stiletto, sword, or dagger; or any billy, black-jack, bludgeon, or metal knuckles.
10. **Injury** – Count this factor if a victim suffered physical injury or serious physical injury during the commission or flight from the offense. Physical injury is defined as impairment of physical condition or substantial pain. Serious physical injury is defined as physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

**Most Serious Offense at Conviction Ranking**

Burglary I – 275 points  
Burglary II – 70 points  
Theft of Property I – 58 points  
Receiving Stolen Property I – 58 points  
Theft of Property II – 46 points  
Receiving Stolen Property II – 46 points  
Burglary III – 45 points  
Forgery II – 44 points  
Possession of a Forged Instrument II – 42 points  
Possession/Use Credit/Debit Card – 39 points  
Unauthorized Use/B&E Vehicle – 32 points

## Property Prison In/Out Worksheet

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

**Most Serious Conviction Offense**

- |  |                     |
|--|---------------------|
| Possession/Use Credit/Debit Card ..... 8   | Burglary 3 ..... 11 |
| Possession Forged Instrument 2, Forgery 2,<br>Theft of Prop. 2, Receive Stolen Prop. 2 ..... 9 | Burglary 2 ..... 13 |
| Theft of Prop. 1, Receive Stolen Prop. 1,<br>Unauthorized Use/B&E Vehicle ..... 10             | Burglary 1 ..... 14 |

Score

**Number of Prior Adult Felony Convictions**

- |                   |
|-------------------|
| None ..... 0      |
| 1-2 ..... 1       |
| 3-4 ..... 2       |
| 5 or more ..... 3 |

Score

**Number of Prior Adult Convictions for Same Felony**

- |                   |
|-------------------|
| None ..... 0      |
| 1 ..... 1         |
| 2 ..... 2         |
| 3-4 ..... 3       |
| 5 or more ..... 4 |

Score

**Number of Prior Adult Misdemeanor Convictions**

- |                    |
|--------------------|
| 0-1 ..... 0        |
| 2-5 ..... 1        |
| 6-9 ..... 2        |
| 10 or more ..... 3 |

Score

**Prior Incarceration with Sentence Imposed of 1 Year or More**

- |                |
|----------------|
| If Yes ..... 6 |
|----------------|

Score

**Prior Incarceration with Sentence Imposed of Less Than 1 Year**

- |                |
|----------------|
| If Yes ..... 3 |
|----------------|

Score

**Prior Probation or Parole Revocation**

- |                |
|----------------|
| If Yes ..... 2 |
|----------------|

Score

**Number of Prior Juvenile Delinquency or YO Adjudications (Misd/Felony)**

- |                   |
|-------------------|
| None ..... 0      |
| 1 ..... 1         |
| 2-3 ..... 2       |
| 4 ..... 3         |
| 5 or more ..... 4 |

Score

**Possession of Deadly Weapon**

- |                |
|----------------|
| If Yes ..... 1 |
|----------------|

Score

**Injury to Victim**

- |                |
|----------------|
| If Yes ..... 2 |
|----------------|

Score

**Recommendation**

8-14 points: Non-Prison  
15+ points: Prison

**Total Score**

It is anticipated that the standards will only be applied 75 percent of the time, and that upward or downward departures are authorized and expected to occur.

## Worksheet # 2 - PROPERTY PRISON SENTENCE LENGTH WORKSHEET

- 1. Most Serious Conviction Offense** - The scorer should select only the most serious offense being sentenced at the current sentencing event. This is the offense that has the highest point value listed in the “most serious conviction offense” section of the Property Sentence Length Worksheet.
- 2. Number of Additional Felony Convictions (Including Counts)** - The scorer should total all offenses being sentenced in addition to the most serious offense being sentenced at the present time. In the event of a multi-count indictment, all counts in which the defendant was found guilty or entered a guilty plea should be counted the same as separate convictions. This does not include prior convictions - they are counted elsewhere.
- 3. Number of Prior Adult Felony Convictions** - Count all prior felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 4. Number of Prior Adult Felony Property Convictions** - Count only the number of prior felony property convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.

Note: These offenses should have been scored in # 2 also. These are counted again, because they are statistically significant independent of the total number of adult prior felony convictions.

- 5. Prior Incarceration with Sentence Imposed of One Year or More** - Count prior prison or jail sentences where the non-suspended time imposed was greater than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

Notes:

This should be counted each time a person enters (or re-enters) the prison system whether or not the person actually *serves* at least a year. As long as the “non-suspended” portion of the sentence was one year or longer at the time of admission, this should be counted.

This factor is not cumulative. For instance, if a defendant received two non-suspended six month sentences, they should not be counted here. Only count those sentences where the non-suspended time imposed was at least one year.

- 6. Prior Probation of Parole Revocation** - Count prior probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 7. Use of a Deadly Weapon and/or Victim Injury** – Count this if the offender used or brandished a deadly weapon or dangerous instrument. A deadly weapon is defined as a firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury. The term includes, but is not limited to, a pistol, rifle, or shotgun; or a switch-blade knife, gravity knife, stiletto, sword, or dagger; or any billy, black-jack,

bludgeon, or metal knuckles. A dangerous instrument is defined as any instrument, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is highly capable of causing death or serious physical injury. The term includes a “vehicle” as defined in Section 13A-1-2, Code of Alabama 1975.

Count this factor if a victim suffered physical injury or serious physical injury during the commission or flight from the offense. Physical injury is defined as impairment of physical condition or substantial pain. Serious physical injury is defined as physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

Additionally, this factor should be counted if the defendant enters a dwelling with a deadly weapon whether or not it was used or brandished during the commission of the offense, or any time the defendant is in possession of a weapon at the initiation of the offense.

- 8. Acquired a Deadly Weapon During Offense** – Count this if a deadly weapon was acquired during the commission of the offense(s) being scored at the current sentencing event.

# Property Prison Sentence Length Worksheet

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

**Most Serious Conviction Offense**

Unauthorized Use/B&E Vehicle .....	32	Theft of Prop. 2, Receive Stolen Prop. 2 .....	46
Possession/Use Credit/Debit Card .....	39	Theft of Prop. 1, Receive Stolen Prop. 1 .....	58
Possession Forged Instrument 2 .....	42	Burglary 2 .....	70
Forgery 2 .....	44	Burglary 1 .....	275
Burglary 3 .....	45		

Score

**Number of Additional Felony Convictions (Including Counts)**

None .....	0
1 .....	5
2 .....	10
3 or more .....	15

Score

**Number of Prior Adult Felony Convictions**

None .....	0	6 .....	72
1 .....	12	7 .....	84
2 .....	24	8 .....	97
3 .....	36	9 .....	109
4 .....	48	10 or more .....	121
5 .....	60		

Score

**Number of Prior Adult Felony Property Convictions**

None .....	0
1 .....	7
2 .....	14
3 .....	21
4 .....	27
5 or more .....	34

Score

**Prior Incarceration with Sentence Imposed of 1 Year or More**

If Yes .....	15
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Score

**Prior Probation or Parole Revocation**

If Yes .....	7
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Score

**Use of a Deadly Weapon or Injury to Victim**

If Yes .....	37
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Score

**Acquired a Firearm During Offense**

If Yes .....	12
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Score

See Prison Sentence Length  
Recommendation Table

**Total Score**

It is anticipated that the standards will only be applied 75 percent of the time, and that upward or downward departures are authorized and expected to occur.

**Property Prison Sentence Length Ranges for Worksheet**

Time in Months

Score	Total Sentence			Time to Serve On Split		
	Low	Mid	High	Low	Mid	High
32	13	18	23	6	9	12
37	13	22	31	6	9	12
39	13	22	31	6	9	12
42	13	22	31	6	9	12
44	13	22	31	6	9	12
45	13	22	31	6	9	12
46	13	22	31	6	9	12
47	13	22	31	6	9	12
49	14	23	31	6	9	12
51	14	23	31	6	9	12
52	14	27	38	6	9	12
53	14	27	38	6	9	12
54	14	27	38	6	9	12
55	14	27	38	6	9	12
56	14	31	46	6	9	12
57	14	31	46	6	9	12
58	14	31	46	6	9	12
59	14	31	46	6	9	12
60	14	31	46	6	9	12
61	16	31	46	6	9	12
62	16	31	46	6	9	12
63	16	31	46	6	9	12
64	16	31	46	6	9	12
65	16	31	46	6	9	12
66	16	31	46	6	9	12
67	16	31	46	6	9	12
68	16	31	46	6	9	12
69	16	31	46	6	9	12
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71	19	32	46	6	9	12
72	19	32	46	6	9	12
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75	19	32	46	6	9	12
76	19	36	54	6	9	12
77	19	36	54	6	9	12
78	22	42	61	6	9	12
79	22	42	61	6	9	12
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81	22	42	61	6	9	12
82	22	42	61	6	9	12
83	22	42	61	6	9	12
84	22	42	61	6	9	12
85	22	42	61	6	9	12
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87	22	42	61	6	9	12
88	22	42	61	6	9	12
89	22	42	61	6	12	19

<b>90</b>	22	45	69	6	12	19
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<b>101</b>	22	68	115	6	12	19
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<b>143</b>	54	85	115	6	12	19
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<b>172</b>	81	102	123	12	18	25
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<b>178</b>	81	102	123	12	18	25
<b>179</b>	81	102	123	12	18	25
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<b>186</b>	81	102	123	12	18	25
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<b>190</b>	81	102	123	12	18	25
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<b>192</b>	81	117	154	12	18	25
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<b>197</b>	81	117	154	12	18	25
<b>198</b>	81	117	154	12	18	25

<b>199</b>	81	117	154	12	18	25
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<b>202</b>	81	117	154	12	18	25
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<b>215</b>	81	117	154	18	25	31
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<b>223</b>	81	117	154	18	25	31
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<b>250</b>	81	117	154	18	25	31
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<b>274</b>	81	117	154	18	25	31
<b>275</b>	120	135	156	24	36	48
<b>280</b>	120	135	156	24	36	48
<b>282</b>	120	135	156	24	36	48
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<b>314</b>	120	135	156	24	36	48
<b>317</b>	120	135	156	24	36	48
<b>318</b>	120	150	180	24	36	48
<b>320</b>	120	150	180	24	36	48
<b>321</b>	120	150	180	24	36	48
<b>323</b>	120	150	180	24	36	48

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<b>324</b>	120	150	180	24	36	48
<b>326</b>	120	150	180	24	36	48
<b>329</b>	120	150	180	24	36	48
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<b>333</b>	120	150	180	24	36	48
<b>335</b>	120	150	180	24	36	48
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<b>350</b>	120	150	180	36	48	60
<b>351</b>	120	150	180	36	48	60
<b>353</b>	144	192	240	36	48	60
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<b>364</b>	144	192	240	36	48	60
<b>369</b>	144	192	240	36	48	60
<b>370</b>	144	192	240	36	48	60
<b>375</b>	144	192	240	36	48	60
<b>380</b>	144	192	240	36	48	60
<b>382</b>	144	192	240	36	48	60
<b>385</b>	144	192	240	36	48	60
<b>396</b>	144	192	240	36	48	60
<b>404</b>	144	192	240	36	48	60
<b>418</b>	144	192	240	36	48	60

## INSTRUCTIONS FOR COMPLETING DRUG OFFENSE WORKSHEETS

### Worksheet # 1 - DRUG PRISON IN/OUT WORKSHEET

- 1. Most Serious Conviction Offense** - The scorer should select only the most serious offense being sentenced at the current sentencing event. This is the offense that has the highest point value listed in the “most serious conviction offense” section of the Drug Sentence Length Worksheet.
- 2. Number of Prior Adult Felony Convictions** - Count all prior felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 3. Number of Prior Adult Misdemeanor Convictions** - Count all prior criminal misdemeanor convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Traffic convictions do not count except: Driving Under the Influence, Boating Under the Influence, Leaving the Scene of an Accident, Attempting to Elude Law Enforcement, Driving without a License and Driving While License is Suspended or Revoked.
- 4. Prior Incarceration of One Year or More** - Count prior prison or jail sentences where the non-suspended time imposed was greater than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

Notes:

This should be counted each time a person enters (or re-enters) the prison system whether or not the person actually *serves* at least a year. As long as the “non-suspended” portion of the sentence was one year or longer at the time of admission, this should be counted.

This factor is not cumulative. For instance, if a defendant was sentenced to serve two separate non-suspended six month sentences, they should not be counted here. Only count those sentences where the non-suspended time imposed was at least one year.

- 5. Prior Probation or Parole Revocation** - Count prior probation or parole revocations that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event. Only state probation revocations should be scored. Misdemeanor probation violations should not be counted.

Note: If the current sentencing event is part of a probation revocation proceeding, this factor should not be scored unless the offender has a prior revocation.

- 6. Prior Delinquency and Youthful Offender Adjudications** - Count all prior juvenile delinquency and youthful offender adjudications that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 7. Possession of a Deadly Weapon** - Count this factor if there was a connection other than the mere possession of a weapon between the presence of a deadly weapon with the commission of any of the offense(s) being sentenced at the current sentencing event. This should be scored even if the possession on a weapon is an element of the offense. A deadly weapon is defined as a firearm or

anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury. The term includes, but is not limited to, a pistol, rifle, or shotgun; or a switch-blade knife, gravity knife, stiletto, sword, or dagger; or any billy, black-jack, bludgeon, or metal knuckles.

**Most Serious Offense at Conviction Ranking**

Sale Distribution of Schedule I-V – 113  
Sale/Distribution of Marihuana (to minor) – 113  
Sale/Distribution of Marihuana (other than to minor) – 84  
Possession of Schedule I-V – 71  
Felony DUI – 42  
Possession of Marihuana – 42

# Drug Prison In/Out Worksheet

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

**Most Serious Conviction Offense** \_\_\_\_\_

- Possession of Marihuana or Schedule I-V ..... 1
- Felony DUI ..... 4
- Sale/Distribution of Marihuana ..... 6
- Sale/Distribution of Schedule I-V ..... 6

Score

**Number of Prior Adult Felony Convictions** \_\_\_\_\_

- None ..... 0
- 1 ..... 2
- 2 ..... 3
- 3 ..... 5
- 4 ..... 6
- 5 or more ..... 7

Score

**Number of Prior Adult Misdemeanor Convictions** \_\_\_\_\_

- 0-1 ..... 0
- 2-5 ..... 1
- 6-9 ..... 2
- 10 or more ..... 3

Score

**Prior Incarceration with Sentence Imposed of 1 Year or More** \_\_\_\_\_

- If Yes ..... 3

Score

**Prior Probation or Parole Revocation** \_\_\_\_\_

- If Yes ..... 1

Score

**Number of Prior Juvenile Delinquency or YO Adjudications (Misd/Felony)** \_\_\_\_\_

- 0 ..... 0
- 1-2 ..... 1
- 3-4 ..... 2
- 5 or more ..... 3

Score

**Possession of Deadly Weapon** \_\_\_\_\_

- If Yes ..... 1

Score

**Recommendation**

1-7 points: Non-Prison

8+ points: Prison

**Total Score**

It is anticipated that the standards will only be applied 75 percent of the time, and that upward or downward departures are authorized and expected to occur.

**Worksheet # 2 - DRUG PRISON SENTENCE LENGTH WORKSHEET**

- 1. Most Serious Conviction Offense** - The scorer should select only the most serious offense being sentenced at the current sentencing event. This is the offense that has the highest point value listed in the “most serious conviction offense” section of this worksheet.
- 2. Number of Additional Felony Convictions (Including Counts)** - The scorer should total all offenses being sentenced *in addition to* the most serious offense *being sentenced at the present time*. In the event of a multi-count indictment, all counts in which the defendant was found guilty or entered a guilty plea should be counted the same as separate convictions.
- 3. Total Number of Prior Adult Felony Convictions** - Count all prior felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.
- 4. Total Number of Prior Adult Class C Felony Convictions** - Count only the number of prior Class C felony convictions that occurred prior to the arrest date(s) of the offense(s) being sentenced at the current sentencing event.

Note: These offenses should have been scored in # 3 also. These are counted again, because they are statistically significant independent of the total number of adult prior felony convictions.

- 5. Prior Incarceration with Sentence Imposed of One Year or More** - Count prior prison or jail sentences where the *non-suspended* time imposed was greater than one year. Count only sentences that occurred prior to the arrest date(s) of the offense(s) being sentenced.

Note: This is not cumulative. For instance, if a defendant received two non-suspended six month sentences, they should not be counted here. Only count those sentences where the non-suspended time imposed was at least one year.

# Drug Prison Sentence Length Worksheet

Defendant \_\_\_\_\_ Case No. \_\_\_\_\_

**Most Serious Conviction Offense** \_\_\_\_\_

Felony DUI/ Possession of Marihuana .....	42
Possession of Schedule I-V .....	71
Sale/Distribution of Marihuana (other than to minor) .....	84
Sale/Distribution of Marihuana (to minor) .....	113
Sale/Distribution of Schedule I-V .....	113

Score

**Number of Additional Felony Convictions (Including Counts)** \_\_\_\_\_

None .....	0
1 .....	15
2 .....	29
3 .....	44
4 or more .....	58

Score

**Number of Prior Adult Felony Convictions** \_\_\_\_\_

None .....	0
1 .....	10
2 .....	20
3 .....	30
4 .....	40
5 or more .....	50

Score

**Number of Prior Adult Felony Class C Convictions** \_\_\_\_\_

None .....	0
1 .....	7
2 .....	14
3 .....	21
4 .....	28
5 .....	35
6 .....	43
7 or more .....	50

Score

**Prior Incarceration with Sentence Imposed of 1 Year or More** \_\_\_\_\_

If Yes .....	14
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Score

**See Prison Sentence Length  
Recommendation Table**

Total Score

It is anticipated that the standards will only be applied 75 percent of the time, and that upward or downward departures are authorized and expected to occur.

## Drug Prison Sentence Length Ranges for Worksheet

Time in Months

Score	Total Sentence			Time to Serve On Split		
	Low	Mid	High	Low	Mid	High
42	13	23	32	6	9	12
49	13	23	32	6	10	14
52	13	23	32	6	10	14
56	13	23	32	6	10	14
57	13	23	32	6	10	14
59	13	23	32	6	10	14
62	13	23	32	6	10	14
64	13	23	32	6	10	14
66	13	23	32	6	12	18
67	13	23	32	6	12	18
69	13	23	32	6	12	18
70	13	23	32	6	12	18
71	13	23	32	6	12	18
72	13	23	32	6	12	18
73	13	23	32	6	12	18
74	13	23	32	6	12	18
76	13	39	65	6	12	18
77	13	39	65	6	12	18
78	13	39	65	6	17	27
79	13	39	65	6	17	27
80	13	39	65	8	18	27
81	13	39	65	8	18	27
82	13	39	65	8	18	27
83	13	39	65	8	18	27
84	13	39	65	8	18	27
86	13	39	65	8	18	27
87	13	39	65	8	18	27
88	13	39	65	8	18	27
89	13	39	65	8	18	27
90	13	39	65	8	18	27
91	13	39	65	8	18	27
92	13	39	65	8	18	27
93	13	39	65	8	18	27
94	13	39	65	8	18	27
95	13	39	65	8	18	27
96	13	39	65	8	18	27
97	13	39	65	8	18	27
98	13	39	65	8	18	27
99	13	39	65	8	18	27
100	13	39	65	8	18	27
101	13	39	65	8	18	27
102	13	39	65	8	18	27
103	13	39	65	8	18	27
104	13	55	97	8	18	27
105	15	56	97	8	18	27
106	15	56	97	8	18	27
107	15	56	97	8	18	27
108	15	56	97	8	18	27

<b>109</b>	15	56	97	8	18	27
<b>110</b>	15	56	97	8	18	27
<b>111</b>	15	56	97	8	18	27
<b>112</b>	15	56	97	8	18	27
<b>113</b>	15	56	97	8	18	27
<b>115</b>	15	56	97	8	18	27
<b>116</b>	15	56	97	8	18	27
<b>117</b>	15	56	97	8	18	27
<b>118</b>	15	56	97	8	18	27
<b>119</b>	15	56	97	8	18	27
<b>120</b>	15	56	97	8	18	27
<b>121</b>	15	56	97	8	18	27
<b>122</b>	15	56	97	8	18	27
<b>123</b>	15	56	97	8	18	27
<b>124</b>	15	56	97	8	18	27
<b>125</b>	15	56	97	8	18	27
<b>126</b>	18	58	97	8	18	27
<b>127</b>	18	58	97	8	18	27
<b>128</b>	18	58	97	8	18	27
<b>130</b>	18	58	97	8	18	27
<b>132</b>	18	58	97	8	18	27
<b>133</b>	18	58	97	8	18	27
<b>134</b>	18	58	97	8	18	27
<b>135</b>	18	58	97	8	18	27
<b>136</b>	18	58	97	8	18	27
<b>137</b>	18	58	97	8	18	27
<b>138</b>	18	58	97	8	18	27
<b>139</b>	18	58	97	8	18	27
<b>140</b>	18	58	97	8	18	27
<b>141</b>	21	62	104	8	18	27
<b>142</b>	21	62	104	8	18	27
<b>143</b>	21	62	104	8	18	27
<b>144</b>	21	62	104	8	18	27
<b>145</b>	21	62	104	8	18	27
<b>146</b>	21	62	104	8	18	27
<b>147</b>	21	62	104	8	18	27
<b>148</b>	24	64	104	8	18	27
<b>149</b>	24	64	104	8	18	27
<b>150</b>	24	64	104	8	18	27
<b>152</b>	24	64	104	8	18	27
<b>154</b>	30	67	104	12	20	27
<b>155</b>	30	67	104	12	20	27
<b>156</b>	30	67	104	12	20	27
<b>157</b>	30	67	104	12	20	27
<b>158</b>	30	67	104	12	20	27
<b>159</b>	30	67	104	12	20	27
<b>160</b>	30	67	104	12	20	27
<b>161</b>	30	67	104	12	20	27
<b>162</b>	30	67	104	12	20	27
<b>163</b>	30	67	104	12	20	27
<b>164</b>	30	67	104	12	20	27
<b>165</b>	30	67	104	12	20	27
<b>166</b>	30	67	104	12	20	27

Sentencing Standards and Worksheets

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<b>167</b>	30	67	104	12	20	27
<b>168</b>	30	67	104	12	20	27
<b>169</b>	30	67	104	12	20	27
<b>170</b>	30	67	104	12	20	27
<b>171</b>	30	67	104	12	20	27
<b>172</b>	36	70	104	12	20	27
<b>173</b>	36	70	104	12	20	27
<b>174</b>	36	70	104	12	20	27
<b>176</b>	36	70	104	12	20	27
<b>177</b>	36	70	104	12	24	36
<b>178</b>	36	70	104	12	24	36
<b>181</b>	45	87	130	16	26	36
<b>182</b>	45	87	130	16	26	36
<b>183</b>	45	87	130	16	26	36
<b>184</b>	45	87	130	16	26	36
<b>185</b>	45	87	130	16	26	36
<b>188</b>	45	87	130	24	30	36
<b>189</b>	45	87	130	24	30	36
<b>191</b>	45	87	130	24	30	36
<b>192</b>	45	87	130	24	30	36
<b>195</b>	45	87	130	24	30	36
<b>196</b>	45	87	130	24	30	36
<b>198</b>	45	87	130	24	30	36
<b>199</b>	45	87	130	24	30	36
<b>200</b>	45	87	130	24	30	36
<b>203</b>	45	87	130	24	30	36
<b>205</b>	45	87	130	24	30	36
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<b>213</b>	45	87	130	24	30	36
<b>214</b>	45	87	130	24	30	36
<b>220</b>	45	87	130	24	30	36
<b>222</b>	45	87	130	24	30	36
<b>227</b>	45	87	130	24	30	36
<b>232</b>	45	87	130	24	30	36
<b>235</b>	45	87	130	24	30	36
<b>242</b>	45	87	130	24	30	36