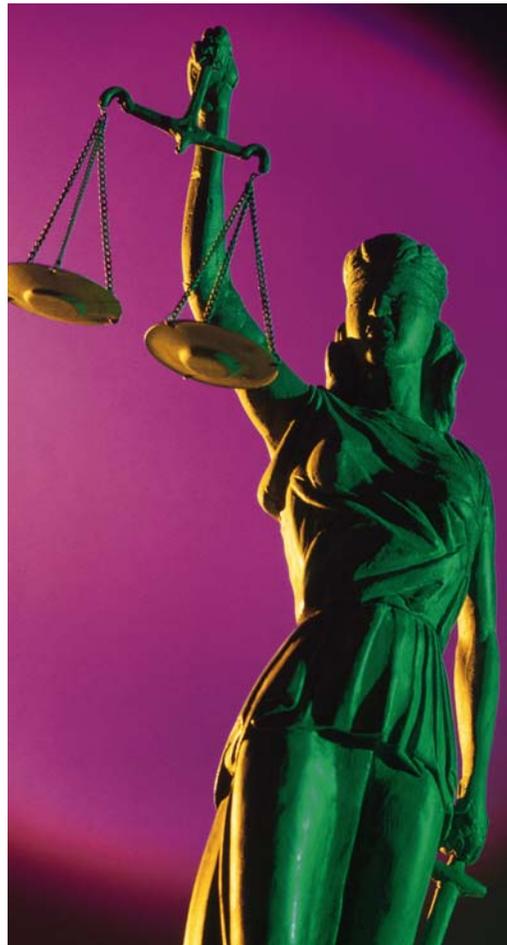


Alabama Sentencing Commission



2007 Report

Collaborative Success:

Alabama Implements Sentencing Standards

ALABAMA
SENTENCING
COMMISSION

2007 Report

Collaborative Success:
Alabama Implements Sentencing Standards

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The success the Sentencing Commission has had in obtaining passage of the first set of sentencing standards and other laws that will improve Alabama's criminal justice system is the result of the work and dedication of many people. Through the participation and collaboration of all the major actors within the system, there is now a united and coordinated effort to address the recurrent problems of crime that afflict our state.

The Alabama Sentencing Commission realized from the start that representatives from all areas of the system must be involved in the decision making process and that their input and involvement in all aspects of our reform efforts would be required to ensure success. A concerted effort has always been made to involve additional representatives from the bench and bar, criminal justice agencies and departments, and those directly affected by the sentencing decision. The Sentencing Commission's accomplishments would not have been 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 support and assistance of 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 undertaking.

Joseph A. Colquitt, Chair of the Sentencing Commission
Chief Justice Sue Bell Cobb
Former Chief Justice Drayton Nabers, Jr.
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Alabama Circuit and District Judges' Associations
Governor Bob Riley and staff
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May 30, 2007



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

I am pleased to present the Alabama Sentencing Commission's 2007 report, which chronicles the achievements of the Commission during FY 2006 and outlines projects the Commission has now begun, as well as those planned for the future. While the report may be viewed as a success story of the Commission's accomplishments, in actuality it is a tribute to each of you for your assistance and support, without which, none of our reform recommendations would have been approved and implemented.

Alabama has now joined the states that recognize the importance of relying on empirical data for the analysis of sentencing practices and procedures. Utilizing historically-based sentences, the Sentencing Commission developed the initial voluntary sentencing standards that were approved by the Legislature during the 2006 Regular Session and became effective October 1, 2006. With implementation of these sentence recommendations, it is expected that unwarranted sentencing disparity will be eliminated and, with the utilization of alternative sentencing options for non-violent offenders, prison populations will be reduced. While judges have now begun utilizing the standards, there will not be sufficient data collected to assess the actual impact on the prison population until the end of 2007.

Other major projects of the Commission for FY 2007 will include creation of the second set of sentencing recommendations, the truth-in-sentencing standards, which are slated for introduction in the 2009 Regular Session of the Legislature; enhancement of community correction programs; state-wide expansion of drug courts; and the creation of re-entry and revocation programs.

Through a review of recent data, this report provides insight into the true condition of Alabama's criminal justice system and the broad impact of its sentencing practices. Not only do the numbers assist in examining where we are now, but with the Sentencing Commission's simulation model, the data can predict the future impact of changes to the system.

Again, thank you for supporting the work of the Sentencing Commission and for assisting in our efforts to improve Alabama's Criminal Justice System. With the adoption and implementation of the sentencing standards and our efforts to establish alternative sentencing options, Alabama has already received national recognition for its achievements. With your continued support, we are confident that this success will continue.

Sincerely,

Joseph A. Colquitt, Chair
Alabama Sentencing Commission

Table of Contents

<i>Executive Summary</i>		i-iv
<i>Year in Review</i>		1-4
Chapter 1.	History and Overview of the Alabama Sentencing Commission	5-10
	A. Membership of Commission	6
	B. Signs of Success	8
Chapter 2.	Legislation Passed	11-14
	A. Initial Voluntary Sentencing Standards	11
	B. Correction of Theft of Property 2 nd Statute	12
	C. Burglary 1 st and 2 nd Degree Amendment	12
	D. Maximum Fine Increase	12
	E. Pre-sentence and Post-sentence Investigation Reports	13
	F. DUI – Use of Out-of-State Convictions	13
Chapter 3.	Sentencing Standards Workshop Training	15-18
	A. Sentencing Workshops Conducted in 2006	15
	B. Advantages of Using the Electronic Worksheets	17
Chapter 4.	Alabama Department of Corrections	19-23
	A. Drug and Alcohol Related Offenses Prominent	19
	B. Drug Admissions	19
	C. Re-entry and Transitional Services	20
	D. Pre-Release Centers and Work Release Programs	21
	E. Correctional Industry Development/Expansion	22
	F. On-site Prison Industry	22
	G. Technological Advances	22
	H. ADOC Community Corrections Division	23
Chapter 5.	Creating a True Continuum of Punishment Options	25-46
	A. Community Corrections Programs	25
	1. Supervision and Treatment Essential to Offender Accountability	25
	2. Continued Expansion of Intermediate Punishment - Alternative Sentencing	25
	3. Community Corrections can Provide Judges with a Wider Array of Sentencing Options for Nonviolent Offenders	26
	4. Expansion Efforts	26
	5. Cost Savings by Diversion to Community Corrections	28
	6. What are Community Corrections Programs	28
	7. Types of Programs	28
	8. Existing Programs	29
	9. Counties with Existing Community Corrections Programs	30
	10. Community Corrections Programs Map	31
	11. Direct Sentence to Community Corrections	32
	12. Front-End and Institutional Diversions	32
	13. Felons Excluded from Consideration for Direct Sentencing to Community Corrections Programs	33
	14. Offenders Excluded from Institutional Diversion to Community Corrections by ADOC Regulation	33

	15. Felony Diversions and Program Reimbursement	35
	16. Rate of Reimbursement	35
	17. Felony Diversions by County	36
	18. Felony Diversions by Type	37
	19. Technological Advances in Case Management	37
	B. Drug Courts	38
	1. The Chief Justice’s Drug Court Task Force	39
	2. Drug Courts in Alabama	40
	3. Drug Court Map	41
	C. Alabama Board of Pardons and Paroles	42
	1. Implementing the Initial Voluntary Sentencing Standards	42
	2. Improved Supervision	42
	3. Electronic PSI Expansion	43
	4. Transition Centers	44
	5. Technical Violator Centers	45
	6. Special Parole Board	46
Chapter 6.	Commission Projects for 2007	47-50
	A. Continue Implementation of the Initial Sentencing Standards	47
	B. Expansion of Databases	48
	C. Truth-in-Sentencing	49
	D. Provide Impact Statements	49
	E. Simulation Model	49
	F. Increase Alternative Sentencing Opportunities - A Continuum of Sanctions	50
	G. Risk/Needs Assessment	50
Chapter 7.	Using Data to Map Our Course	51-70
	A. Alabama Department of Corrections	51
	1. ADOC Population Growth	51
	Figure 1. Growth from Dec 1993-Dec 2006	51
	2. ADOC Year End Population	51
	Figure 2. Population at Year’s End	51
	3. Habitual Felony Offenders	52
	Figure 3. Habitual Felony Offenders by Crime Type	52
	4. Inmates in County Jails Awaiting Transfer to ADOC	53
	Figure 4. Graph of Jail Population from Dec 2001-Dec 2006	53
	Figure 5. State Inmates in County Jails at Year’s End 01-06	53
	5. Who is in Our Prisons - Top 25	54
	Figure 6. Stock Population on May 14, 2007 by Offense	54
	Figure 7. Stock Population by Offense Category	54
	B. Most Frequent Crimes at Conviction	55
	1. Top 10	55
	Figure 8. Oct. 1, 1998-May 31, 2006 Top 10 Most Frequent Crimes at Conviction	55
	2. Top 25	56
	Figure 9. Top 25 Most Frequent Crimes at Conviction	57
	3. Type Offenses	58
	Figure 10. Most Frequent Crime at Conviction by Offense Category	58

4. Most Frequent Offense at Conviction – Drug Convictions	59
Figure 11. Most Frequent Drug Convictions Comparison 2004-2006	59
5. Type of Trafficking Convictions	60
Figure 12. Drug Type	60
C. Prison Admissions	61
1. Top 25	61
Figure 13. Prison Admissions for New Offenses - 3 year Comparison of Top 25 Offenses	61
2. Prison Admissions for New Offenses by Offense Category	62
Figure 14. Admissions by Offense Category - 3 year comparison	62
3. Type	63
Figure 15. Admissions by Type	63
D. Prison Releases	64
1. Top 25	64
Figure 16. Prison Releases - 3 year Comparison of Top 25 Offenses	65
2. Prison Releases by Offense Category	66
Figure 17. Prison Releases by Offense Category - 3 year Comparison	66
3. Prison Releases by Type	67
Figure 18. Prison Releases by Type	67
4. Type of Prison Releases by Offense Category	68
Figure 19. Type of Prison Releases by Offense Category	68
Figure 20. Prison Releases - Offense Category by Type	69
E. Simulation Model	70
1. Simulation Model	70
Figure 21. Status Quo v. Standards Graph	70
	71-87

Chapter 8. Timeline of Events

Executive Summary

A United and Coordinated Effort

A united and coordinated effort of all state and local agencies involved in the Alabama criminal justice system is necessary to achieve lasting reform and resolve our state's chronic prison overcrowding problem. The Alabama Sentencing Commission was established as a permanent state agency to lead that unified effort and to make recommendations to the Legislature to improve all aspects of our corrections system. Sentencing Commission recommendations have led to some success in containing prison population growth, reducing the number of state inmates housed in county jails, increasing intermediate punishment options, and building a felony offender database and simulation model for use in determining the effect of sentencing policy proposals. The Sentencing Commission continues to critique criminal laws and sentencing practices and work with all state and local agencies to identify and recommend changes to make the system more responsive to its primary mission, maintaining public safety for the citizens of Alabama.

Legislation

In 2006, the major focus of the Alabama Sentencing Commission was the approval and implementation of the Initial Voluntary Sentencing Standards. The Legislature approved the standards and worksheets in Act No. 2006-312, effective October 1, 2006. The standards are designed to eliminate unwarranted disparity in sentencing by weighting sentencing factors evenly across Alabama.

In addition, the Legislature passed, and the Governor signed, five more bills proposed by the Sentencing Commission. Four of these new acts correct or clarify criminal statutes to more clearly reflect the intent of the Legislature when the acts were initially adopted. These four Acts are Act No. 2006-297, correcting the Theft of Property 2nd statute; Act No. 2006-198, correcting the Burglary 1st and 2nd statutes; Act No. 2006-197, adjusting the maximum fines allowed for felonies to reflect inflation; and Act No. 2006-654, allowing the use of out-of-state convictions to determine felony DUI. The fifth act, Act No. 218, requires the completion of a pre- or post-sentence investigation report for each convicted felony offender. These reports are necessary to give supervising officers complete information on persons supervised and provide detailed demographic data for proposing and evaluating the success of sentencing policy. These reports are used by the Sentencing Commission, sentencing judges, probation and parole officers, district attorneys, and the Alabama Department of Corrections to provide essential information on convicted offenders.

Training for Implementation of the Initial Voluntary Sentencing Standards

With the cooperation and assistance of other criminal justice agencies, the Commission and staff conducted over 30 workshops to introduce the standards and worksheets to persons involved in criminal sentencing. The Alabama Sentencing Commission, the Alabama Board of Pardons and Paroles, the Alabama Department of Corrections, Alabama circuit judges, and Alabama district attorneys participated in the presentation of the standards and worksheets in these seminars describing not only how to use the worksheets and standards, but also, the role of each agency in making both the standards and sentence reform effective.

During the workshops the Sentencing Commission also introduced its electronic worksheets application. This application is designed to decrease the workload of circuit clerks and worksheet preparers in using the new sentencing system.

Alabama Department of Corrections

There has been a major change in the direction of the Alabama Department of Corrections. Recognizing that incarceration in crowded prisons does not alone protect public safety from future criminal activity, Governor Riley formed a temporary task force to assist him in addressing this issue. The task force was, like the Sentencing Commission, made up of representatives from state and local agencies and citizens affected by the criminal justice system. That task force proposed to the Governor many of the recommendations previously proposed by the Alabama Sentencing Commission. The major components recommended are preparing prisoners for re-entry and transition to the free world, providing improved technology for the Department of Corrections, implementing a stronger prison industry program to occupy offenders who will never be released, and increasing intermediate punishment options through the development of community corrections programs. The implementation of those proposals has begun.

Creating a True Continuum of Sanctions

A true continuum of punishment options is essential to a fair, effective and efficient criminal justice system. Alabama is slowly moving away from a simple duplex corrections system that has in the past only included two punishment options, probation and prison. Intermediate punishment options have been greatly expanded over the last four years and are continuing to expand.

Community Corrections Programs

The Sentencing Commission and the Department of Corrections, along with the Alabama Association of Community Corrections is working to increase the number and effectiveness of community programs in Alabama. State funding for community corrections has increased from \$1.5 million in FY 00 to \$6.2 million in FY 06. The additional funds are designated for

reimbursing programs for otherwise prison bound offenders and for expanding old programs and implementing new ones. By the end of FY 06 there were 26 active community corrections programs in Alabama serving 34 counties. There were still 33 counties not served by their own local community corrections program. A fair, effective, and efficient sentencing system requires the availability of these programs for every appropriate offender.

Drug Courts

At the end of FY 06, Alabama had 17 adult drug courts in 15 circuits providing services to 23 counties. Recognizing the pervasiveness of drug use and addiction as a contributor to criminal conduct, Alabama must continue to investigate and adopt any means at its disposal to address these issues. Drug courts are a proven means of affecting drug use and should be expanded to every county in Alabama.

Pardons and Paroles

The Alabama Board of Pardons and Paroles has assisted the Sentencing Commission in recommending and adopting positive policy changes in Alabama to expand the continuum of sanctions necessary for a fair, effective, and efficient criminal justice system. Not only did Pardons and Paroles assist in conducting the workshops for the Initial Voluntary Sentencing Standards and Worksheets, the Board increased the number of supervising officers for both parolees and probationers, changed its supervision system, and adopted and implemented a risk and needs assessment for offenders to effect more meaningful supervision.

Pardons and Paroles also expanded its transition centers designed to prepare persons not quite ready for parole for re-entry into the free world. The first transition center for women in Wetumpka has a remarkable recidivism rate, indicating the success of the program. A second center was opened, this one for men, in April 2006, in Thomasville. The men's transition center has not been open long enough to establish viable statistics.

The Future

The work of the Alabama Sentencing Commission has begun in earnest but much is yet to be done. In 2007, the Commission will continue to coordinate with agencies and officials and others involved in the criminal justice system to make Alabama safer for all citizens. The projects for 2007 are numerous:

- Continue implementation of the initial voluntary sentencing standards
- Begin evaluation of the use and effectiveness of the initial voluntary sentencing standards
- Improve and continue to build databases of convicted offenders for use in recommending and evaluating sentencing policies

- Improve and update the Commission's simulation model
- Begin the development of truth-in-sentencing standards through collecting and analyzing data
- Provide impact statements for proposed legislation and other policy changes
- Work with ADOC, Pardons and Paroles, Community Corrections, and other state and local officials to increase alternative sentencing options
- Analyze risk and needs assessment instruments in use in Alabama to identify a single instrument appropriate for use at every stage of the corrections system.

Data

A review of sentencing data for 2006 reinforces the impact that drug crimes have on the criminal justice system from convictions to admissions to releases. These offenses have remained consistently at the top of crimes convicted and crimes admitted to prison. Possession of a controlled substance is the number one offense at conviction, the number one offense admitted to prison, and the third largest segment of the prison population. These statistics indicate that addressing drug issues must be a high priority in effecting sentence reform. It will take a united and coordinated effort of many state and local agencies and public officials to continue progress on the road to positive reform for the safety of Alabama citizens.

Year in Review FY 2006

Meetings

The Sentencing Commission and Related Task Forces

In addition to the quarterly meetings of the Sentencing Commission and Advisory Council, the Alabama Sentencing Commission sponsored five meetings of the Reentry Task Force, three meetings of the Governor's Prison Crowding Task Force, and six meetings of representatives from the Board of Pardons and Paroles and victim advocates to draft a compromise Victim's Notification Bill.

Meetings with criminal justice partners encourage collaboration.

Other Criminal Justice Meetings

In addition to the Commission committee meetings, Commission staff attended and/or made presentations to other criminal justice groups during FY 06: these included meetings of the Association of Community Corrections, the Supreme Court's Standing Committee on Criminal Procedure, the UJS Legislative Coordinating Council, New Judges' Orientation, Circuit and District Judges Conference, Circuit Clerks Conference, VOCAL Board meetings, various civic organizations, Defense Lawyers Association, presentations to legislators and sheriffs sponsored by the Alabama Law Institute.

Community Corrections

Staff of the Sentencing Commission has continued to work closely with directors of the community corrections programs and the Alabama Association of Community Corrections (AACC). Last year, ASC staff attended the Association's monthly meetings, periodically met with the various program directors, and participating in the AACC winter and summer conferences.

Sentencing Standards Workshops

To provide adequate training to judges, prosecutors, court clerks, defense attorneys, probation and parole officers, and the general public on implementation of the initial sentencing standards which became effective October 1, 2006, over 30 workshops were held throughout the state during the months of May through September of 2006.

Regional workshops for implementation of sentencing standards.

Education regarding the proposed sentencing standards was also provided through presentations to civic organizations, criminal defense lawyers, legislators, law students, sheriffs, and students of the University of Alabama. Additional presentations were provided for the Birmingham Bar and the staff of the Jefferson County and Montgomery County District Attorneys.

Conferences and Training

Alabama represented on NASC board.

Commission staff represented Alabama at the National Association of Sentencing Commissions (NASC), held in Philadelphia, Pennsylvania, at which time the Director of Alabama’s Sentencing Commission was elected to the NASC Board.

Studies

Auburn recidivism study ongoing.

Other projects undertaken during FY 06 included continuing the felony offender recidivism study with Auburn University, and assisting the Legislative Commission on Girls and Women in the Criminal Justice System with data and providing Justice Strategies with data for their report on drug and alcohol offenses in Alabama.

FY 2006

2005

FY 2006 begins with focus on legislation.

October 8 th	Reentry Conference
October 13 th	Meeting of Governor’s Prison Task Force
October 14 th	Community Corrections Conference
October 18 th	Meeting on Victim Notification Bill
November 7 th	Meeting on Victim Notification Bill
November 9 th	Meeting on Victim Notification Bill
November 15 th	Meeting on Victim Notification Bill
November 17 th	Meeting of Reentry Task Force
November 29 th	UJS Legislative Council meeting
November 30 th	Meeting on Victim Notification Bill
December 5 th	New Judge’s Orientation
December 12 th	Community Corrections meeting
December 13 th	Legislative Committee meeting
December 16 th	Sentencing Commission meeting

2006

Sentencing Commission’s recommendations presented to Governor’s Prison Task Force.

January 5 th	Presentation to Victim Advocates
January 9 th	VOCAL Board meeting
January 10 th	Meeting with ADOC
January 18 th	Hearing – Governor’s Prison Crowding Task Force
January 19 th	Presentation to Judges – Midwinter Conference
February 6 th	Presentation to Rotary Club
February 7 th	Presentation to Zona Club

February 9 th	Meeting of Reentry Task Force	
February 27 th	Meeting of Reentry Task Force Subcommittee	
February 28 th	Meeting with ADOC Community Corrections Director	Planning for community punishment treatment and reentry.
March 8 th	Meeting with ADOC – AM Dr. Cavanaugh on Drug Treatment PM - Vernon Barnett and Jeff Williams on community corrections programs	
March 15 th	Meeting of Reentry Task Force	
March 29 th - 30 th	Association of Community Corrections Conference	
March 31 st	Sentencing Commission meeting	
April 7 th	Circuit Clerks’ Education meeting	
April 10 th	New Judges’ Orientation	
April 13 th	Meeting of Reentry Task Force	
April 14 th	Meeting on Victim Notification Bill	
April 19 th - 21 st	Vera Institution of Justice – On-site Consultation	
April 20 th	ASC Education Committee meeting	
April 25 th	Governor’s Conference	
April 26 th - 27 th	U of A Law School Presentation	
May 4 th - 5 th	Montgomery Standards Workshop	
May 9 th	Presentation to Selma City Council Committee	
May 11 th	Birmingham - meeting with Presiding Circuit Judge	
May 23 rd	Meeting with ADOC Commissioner Richard Allen	
May 25 th - 26 th	Dothan Standards Workshop	Regional workshops on sentencing standards begin.
June 1 st - 2 nd	Tuscaloosa Standards Workshop	
June 9 th	Meeting Re: Restorative Justice	
June 12 th	Association of Community Corrections meeting	
June 15 th - 16 th	Alex City Standards Workshop	
June 22 nd	Presentation for Victims’ Network - Clanton	
June 27 th - 28 th	On-Site Consultation with Drs. Meredith and Speir	
June 29 th - 30 th	Anniston Standards Workshop	
July 12 th	Community Corrections meeting - Muscle Shoals	
July 13 th - 14 th	Muscle Shoals Standards Workshop	
July 16 th - 18 th	Circuit and District Judges’ Conference	
July 20 th - 25 th	Court Clerks’ Conference	
July 26 th - 28 th	Community Corrections meeting and Huntsville Standards Workshop	

FY 2006 ends with the second Birmingham workshop.

August 6 th - 9 th	Annual Conference National Association of Sentencing Commissions
August 10 th - 11 th	DeKalb County Standards Workshop
August 16 th - 18 th	Community Corrections meeting with judges and Birmingham Standards Workshop
August 23 rd	Conference Call with Applied Research Services
August 24 th - 25 th	Jasper Standards Workshop
August 28 th	Lee County Standards Workshop
August 31 st	Presentation – Rotary Club, Montgomery
September 7 th -8 th	Baldwin County Standards Workshop
September 12 th - 13 th	Training of analyst and statistician by Consultants Applied Research Services, Inc.
September 13 th	Criminal Rules Committee
September 14 th - 15 th	Montgomery Standards Workshop
September 18 th	Workshop for Montgomery judges and DAs
September 19 th - 20 th	TASC Conference
September 20 th	Meeting with Pew Charitable Trusts – Mobile
September 21 st - 22 nd	Mobile Standards Workshops
September 29 th	Birmingham Standards Workshop

FY 2007

2006

Presentations essential for support of reform efforts and successful implementation of sentencing standards.

October 3 rd	Criminal Rules Bail Committee
October 18 th - 19 th	Training by Consultants ARS
October 18 th	Limestone County – Standards
October 23 rd	VOCAL Board meeting
October 25 th	AM - Presentation Before Rotary Club Covington County - Opp PM - Presentation on Standards – Andalusia
October 27 th	Standards Presentation to Mobile Bar
November 9 th	Sentencing Standards Committee meeting
November 16 th	Reentry Task Force meeting
December 1 st	Presentations to Defense Lawyers Enterprise, Florence & Montgomery
December 5 th	New Judges Orientation
December 6 th	Presentation to Legislators – Tuscaloosa
December 8 th	Presentations to Defense Lawyers Mobile, Anniston & Tuscaloosa
December 11 th	Presentation to Court Clerks
December 12 th	Legislative committee meeting
December 13 th	Criminal Rules meeting
December 14 th	Meeting with Drug Policy Alliance
December 15 th	Sentencing Commission meeting

Chapter 1. History and Overview - The Alabama Sentencing Commission

After six years of work, the Alabama Sentencing Commission has made remarkable progress and achieved exceptional success in its efforts to improve Alabama's criminal justice system. These accomplishments have been possible only through the collaborative efforts of all branches of government and the strong support provided by the officials and employees of the various departments and agencies that are actively involved in our criminal justice system. Because of this united effort, Alabama has received national recognition as one of the most progressive states implementing sentencing reforms and developing sentencing options geared toward the rehabilitation and reintegration of non-violent offenders.

Collaborative efforts get results.

Since 2000, when the Sentencing Commission was created by the Legislature, the Commission has made substantial gains towards reaching its goals to eliminate unwarranted disparity in Alabama's criminal justice system and address prison and jail overcrowding. Among its accomplishments, the Commission has developed and implemented the initial set of voluntary sentencing standards, acquired a simulation model to predict the impact of procedural and substantive changes in the criminal justice system, and precipitated a revision of many criminal statutes and rules. In addition, the Commission has played a key role in the development and expansion of alternative sentencing options for Alabama's trial judges.

Voluntary sentencing standards approved and implemented.

While working to achieve these goals, the Commission noted a collateral benefit rarely achieved in other states – the formation of a cooperative alliance among the criminal justice stakeholders. These relationships have developed through the constant contact and communication stemming from participation in Commission and committee meetings, as well as through daily contact with Commission staff. Working together with leaders from the executive, legislative and judicial branches of state and local government has not only focused attention on the critical issues facing our criminal justice system, but has also created an awareness that these problems are not the responsibility of any one department or agency, but rather, are concerns that can only be resolved through a united state and local effort. With the Sentencing Commission as the coordinating agency for criminal justice reform and the state clearinghouse on criminal practices and procedures, the Commission expects to continue to meet the benchmarks that have been established to meet the goals set by the Legislature, including identifying and addressing other areas of the criminal justice system in need of improvement.

Cooperative alliance among criminal justice stakeholders benefit Commission's reform efforts.

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

Non-partisan membership of Commission representative of all aspects of criminal justice system.

Created as an agency within the judicial branch of government, under the provisions of its enabling Act, the Commission is composed of 16 members representing all aspects of the criminal justice system. The Commission is a nonpartisan body composed of members from all branches of government and the public with diverse backgrounds:

Executive Branch:

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

Legislative Branch:

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

Judicial Branch:

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

Private Sector:

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

Truth-in-sentencing primary objective of Sentencing Commission.

Since its creation, the Alabama Sentencing Commission has been conscientiously fulfilling its statutory responsibilities and the Legislature's mandate to recommend ways to improve Alabama's criminal justice system. Foremost among the duties delineated by the Legislature in the Commission's enabling act was the establishment of an effective, fair, and efficient sentencing system that would provide certainty, consistency, and proportionality in sentencing and eliminate unwarranted sentencing disparity. While the primary objective enumerated by the Legislature is the adoption of a sentencing system that promotes truth-in-sentencing by assuring that the sentence served bears a certain relationship to the sentence imposed, the Legislature also charged the Commission with ensuring that any system reform should be designed to maintain meaningful judicial discretion and

flexibility and address unwarranted disparity and prison overcrowding. Specifically, the Legislature noted that the sentencing system developed should be designed to:

- Enhance the availability and use of a wide array of sentencing options in appropriate cases, providing judges with flexible sentencing options and meaningful discretion in the imposition of sentences;
- Prevent prison overcrowding by recognizing those offenders who may best be punished, supervised, and rehabilitated through more cost-effective alternatives to incarceration;
- Prevent the premature release of inmates, recognizing the impact of crime on victims and concentrating on incarceration and incapacitation of those offenders who most egregiously harm the public by inflicting personal injury, emotional injury and great economic injury; and
- Provide restitution to the victim and community.

Reform efforts should address unwarranted sentencing disparity while maintaining meaningful judicial discretion.

An essential prerequisite to the task of developing a new sentencing system that met the specified goals, while also eliminating jail and prison overcrowding, was to obtain reliable information on felony offenders. Implicit in the mandate to improve sentencing practices was the acknowledgment that Alabama must have information regarding past sentencing practices, and the impact the imposed sentences have had on our available corrections resources.

Commission's goal to expand alternative sentencing options.

A critical step for beginning this task, as well as for becoming a clearinghouse for the collection, preparation and dissemination of information on sentencing practices and developing the initial set of sentencing standards, was the creation of felony offender database with information on the offender and crime(s) of conviction. This involved retrieving information from several databases – the Administrative Office of Courts, Pardons and Paroles, the Department of Corrections and Criminal Justice Information Center. Information had to be retrieved, reviewed, cleaned, and culled for consistent coding. After this data was restructured for consistency, it was necessary to obtain more detailed offender demographics and offense details. Therefore, a comprehensive manual search of presentence investigation reports supplied by the Board of Pardons and Paroles was undertaken by Commission staff and probation and parole officers and employees.

The Sentencing Commission becomes a clearinghouse on state criminal practices and procedures.

After devoting two years to this project, the Sentencing Commission had a reliable 5 year felony offender database. The next year was devoted to creating the initial sentencing standards and developing a simulation model to predict the impact of legislation and sentencing practices on the prison system and other aspects of our criminal justice system. As a result, Alabama

Felony offender database updated each year.

now has an integrated database and simulation model that provides current and reliable information on felony sentencing practices and the impact these sentences have on county jails, prisons, and supervision services. The database, which is updated each year, enables the Commission to provide current information on all aspects of our criminal justice system and predict the impact of proposed changes in criminal laws or sentencing practices.

Electronic worksheets developed for standards implementation.

The next two years were devoted to obtaining legislative approval of the sentencing standards bill (and the other reform bills included in the Sentencing Commission's legislative package) and conducting workshops to educate judges, prosecutors, defense attorneys and others in implementation of the standards. This training has been ongoing, requiring five months for the second round of intensive regional training to ensure successful implementation when the standards went into effect on October 1st of 2006. During the latter part of FY 2006, the Commission staff, with technical assistance of the IT Division of the Administrative Office of Courts, developed and implemented electronic worksheets used to determine sentence recommendations under the new standards system. This system not only enables designated preparers to complete the worksheets with ease, but also provides criminal histories, including youthful offender and juvenile delinquency adjudications, and case information in a readily accessible format for use in sentencing outcomes. While aspects of this system are continually being refined, we are confident that it is one of the best in the nation, which we expect to confirm when the Sentencing Commission demonstrates this program during the summer conference of the National Association of Sentencing Commissions.

While there is still much work to be done, the efforts of the Commission have been demonstratively successful.

Signs of Success

11 new community corrections programs established since 2002.

- At the end of FY 2002, the inmate population was 27,656. As of September 30, 2006, the inmate population was 27,954. While these figures appear to show a slight increase, deducting the 1,114 inmates deferred to community corrections programs shows an actual decrease.
- There are now 29 community correction programs established in 38 counties of Alabama, with 12 other counties expressing an interest in establishing a program. This is a vast improvement over the 18 programs that were operational in 2002.
- ADOC regulations pertaining to community corrections have been revised to assist programs in evaluation and expansion.
- As of January 19, 2007, there were 565 state inmates housed in county jails, only 17 of which had been in custody awaiting transfer to ADOC more than 30 days after their transcripts were completed.

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- The initial sentencing standards have been adopted and implemented.
 - Alabama has a felony offender database and a simulation model used to predict the impact of changes in the law and sentencing practices on Alabama's criminal justice system.
 - The website for electronic worksheets has been developed and is available statewide.
 - The Sentencing Commission now has a full-time statistician and analyst.
 - The Governor, the Chief Justice, the Legislature, the Commissioner of the Department of Corrections, the Director of the Board of Pardons of Paroles, the Administrative Director of Courts, the Department of Mental Health and the Alabama Community Corrections Association have provided active assistance and encouragement to the Commission in implementing the sentencing standards and encouraging the use of alternative sentencing options for non-violent offenders.
 - The Sentencing Commission has received national recognition for its endeavors from the National Association of Sentencing Commissions, Vera Institute of Justice and Pew Charitable Trusts.
 - Two L.I.F.E. Tech Transition Centers are in operation providing offenders programs that they need to successfully transition back into the community.
 - A health care administrative and clinical staff has been created in the ADOC Central Office and is implementing a quality improvement program. Discounted inpatient hospital rates through Blue Cross/Blue Shield have been obtained.
 - An aggressive "inmate assessment" process has been initiated by ADOC to evaluate the classification records of medium security inmates to determine eligibility for transfer to minimum security work center facilities.
 - Construction was completed on the Bullock Mental Health Unit and established a facility with the capacity to house 280 medium custody inmates with mental health illnesses.
 - Montgomery work center was converted to the Montgomery pre-release center, with a capacity to house 296 medium security inmates. Plans are underway to construct a second pre-release center at the Limestone Correctional Facility.

Initial sentencing standards implemented October 1, 2006.

Alabama Sentencing Commission receives national recognition.

ADOC initiates reforms.

The Commission will continue its efforts to achieve true sentence reform in Alabama as outlined in the objectives defined by the Legislature for achieving a fair, effective, and efficient criminal justice system in Alabama.



Chapter 2: Legislation Passed

The 2006 Legislative Session proved to be extremely successful for the Alabama Sentencing Commission. The Legislature passed, and the Governor signed into law, six of the nine bills proposed by the Commission, including the bill approving the sentencing standards adopted by the Commission that became effective October 1, 2006, and which we are now in the process of implementing. The other bills were amendments to specific statutes necessary to create clarity, eliminate disparity, and assure more informed sentencing. Among the Commission bills enacted were: Act 2006-297, amending the crime of theft of property in the second degree to correct the value of property stolen, bringing this statute in line with the values for thefts in the first and third degrees; Act 2006-198, eliminating the disparity in charging burglary in the first degree where a weapon is taken as loot; Act 2006-654, amending Alabama's DUI statute to authorize the use of a defendant's prior out-of-state convictions for enhancement purposes; Act 2006-218, assuring more informed sentencing by requiring electronic pre- or post-sentence investigation reports for all convicted felons; and Act 2006-197, updating the fine schedules for felony and some misdemeanor offenses. These were the major bills in the Commission's package.

In 2006, six bills proposed by the Commission were signed into law.

Act No. 2006-312 Adoption of the Initial Voluntary Sentencing Standards Effective October 1, 2006

The most important bill receiving legislative approval was, of course, Act No. 2006-312, in which the Legislature approved the Initial Voluntary Sentencing Standards that became effective on October 1, 2006. This Act adopts voluntary sentencing standards with appropriate worksheets for the most frequent felony convictions. These recommended sentences provide judges with additional information and direction in lieu of the wider ranges currently available under existing statutory law.

The initial voluntary sentencing standards were adopted and became effective October 1, 2006.

The initial voluntary sentencing standards are voluntary, non-appealable, historically based, time imposed sentencing recommendations developed for 26 felony offenses, representing 87% of all felony convictions imposed in Alabama over a five year period from October 1, 1998 through May 31, 2003. These standards, which provide recommended sentence ranges and dispositions for the covered offenses, were developed utilizing key factors normally considered by judges in imposing sentences.

The Commission anticipates that judges will follow the sentencing recommendations in 75% of sentenced cases because the standards represent the "normal" case containing recognized sentencing factors. Of course, factors will undoubtedly exist in some cases resulting in judges imposing either a more harsh or more lenient sentence than the standards recommend. Preliminary testing of the standards has indicated that use of the standards will produce the desired result, i.e., greater uniformity in sentencing and the elimination of unwarranted sentencing disparity.

In addition, this Act extended the submission date for truth-in-sentencing standards based on time served, until the 2009 legislative session.

The monetary thresholds for Theft of Property 2nd have been corrected.

Act No. 2006-297
§ 13A-8-4

Theft of Property 2nd
Effective April 4, 2006

This Act corrects a mistake made in 2004, when the threshold for Theft of Property in the 2nd degree was inadvertently changed back to the pre-2003 level of \$1,000. The pre-2003 statutory language was used in making an unrelated amendment, which resulted in the anomaly of omitting property valued between \$1,000 to \$2,500 from the offense of theft. After Act No. 2006-297 became law, property valued within these amounts was again considered subject to the second degree theft of property statute.

Act No. 2006-198
§§ 13A-7-5, 13A-7-6

Burglary 1st and 2nd
Effective June 1, 2006

The loot rule for Burglary 1st and 2nd has been clarified.

This Act amends §§ 13A-7-5 and 13A-7-6 of the *Code of Alabama 1975*, relating to Burglary in the 1st and 2nd degrees, requiring that an offender either be armed with a deadly weapon upon entry into a dwelling or building or use or threaten the immediate use of a deadly weapon in order to be convicted of the higher offense. It is specifically provided that, if the deadly weapon or dangerous instrument is one of the items stolen in the burglary, the crime does *not* involve the “use” or “threatened use” of the deadly weapon or dangerous instrument. Prior to this act, the vagueness of the statute allowed prosecutors to determine whether to charge burglary in the first degree or burglary in the second degree based on the same facts, i.e. a burglar entered a dwelling unarmed and left with a dangerous weapon or dangerous instrument. Now the offender must be in possession of the deadly weapon or dangerous instrument upon entry into the dwelling or actually use or threaten to use the weapon during the burglary or flight from the dwelling to be charged with burglary in the first degree.

Act No. 2006-197
§§ 13A-5-11, 13A-5-12

Maximum Fine Increase
Effective June 1, 2006

Fines for criminal offenses were adjusted for the first time in three decades.

The fines authorized for criminal offenses have not been adjusted since Alabama’s Criminal Code was enacted three decades ago. This Act amends §§ 13A-5-11 and 13A-5-12 of the *Code of Alabama 1975*, to increase (based on the inflation index) the maximum amount of fines authorized to be assessed upon one convicted of a felony and Class A and B misdemeanors. The amendments do not affect the judge’s discretion in imposing fines but simply allow the judge to retain his/her discretion to impose any lesser fine amount and would authorize the imposition of a larger fine in appropriate cases.

The new maximum authorized 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.

Act No. 2006-218

**Pre-/Post-Sentence Investigation
Reports
Effective March 10, 2006**

§ 13A-5-5

Under prior law, pre-sentence investigation reports on convicted felony offenders were required only upon motion of a party or the court, and these reports could be provided in either written or electronic format. These reports contain information essential to the supervision of probationers and the classification of prison-bound offenders, and are also essential upon subsequent conviction and sentencing of the same offender. The reports also contain vital information for maintaining current data on convicted offenders on which policy decisions can be made for improving Alabama's criminal justice system. This Act requires either the filing of *pre-sentence* or *post-sentence* reports, to avoid case processing delays, and also requires such reports to be completed in electronic format. These reports will be a rich data source for future analyses of the offender population in probation, prison, or serving alternative punishments.

An electronic pre-sentence or post-sentence investigation report must now be filed for all felony offenses.

Act No. 2006-654

**DUI Amendment, Out-of-State
Convictions
Effective April 28, 2006**

§ 32-5A-191

This Act addresses a second area where disparity in sentencing was built into the prior law. The appellate courts had interpreted Alabama's DUI statute as prohibiting the use of prior out-of-state DUI convictions for the purpose of enhancing punishment when a person was subsequently convicted for violating Alabama's DUI statute. Act 2006-654 amended Alabama's DUI statute to specifically authorize the use of out-of-state convictions for enhancements under § 32-5A-191, Alabama's DUI Law. As amended in its passage through the Legislature, a new subsection (o) was added referencing prior convictions occurring within a 5 year period for enhanced punishment. That provision reads, in its entirety, as follows: "(o) A prior conviction within a five-year period for driving under the influence of alcohol or drugs from this state, a municipality within this state, or another state or territory or a municipality of another state or territory shall be considered by a court for imposing a sentence pursuant to this section." Subsection (f) still limits the use of a prior conviction to those occurring within a five year period, however, subsection (g) relating to third convictions and subsection (h) relating to fourth or subsequent convictions, have no limitation period specified in the subsections. With this amendment, it is now unclear whether a five year limitation is imposed on the use of all prior convictions. There has been a bill introduced during the 2007 Regular Session, SB 225, to clarify this provision.

Out-of-state DUI convictions can now be used for enhancing punishment for violating Alabama's DUI statute.

The Sentencing Commission is very grateful for the support provided by the Legislature, the Governor, the Chief Justice, Administrative Office of Courts and others within the Unified Judicial System that made possible the passage of Alabama's first sentencing standards and the other reform bills. This marks the beginning of more informed sentencing in Alabama based on empirically-based sentencing practices.

Passage of the Sentencing Commission's reform bills due to the support of many.



Chapter 3: Sentencing Standards Workshop Training

Immediately following passage of Act 2006-312, the Alabama Sentencing Commission members and staff began laying the groundwork to facilitate implementation of the new voluntary sentencing standards that became effective October 1, 2006. Expanding on the sentencing workshops that were conducted around the state in 2004 when the sentencing standards were developed and first presented to the Legislature for approval, another round of 2-day workshops began.

Second round of sentencing workshops begin.

The first two workshops of the 30 scheduled were held in Montgomery on May 4th and 5th, 2006. These were followed by workshops throughout the summer months and into September in Dothan, Tuscaloosa, Alex City, Anniston, Muscle Shoals, Huntsville, Rainsville, Birmingham, Jasper, Bay Minette and Mobile. Additional workshops were held during September in Montgomery and Birmingham at the request of the local bar associations. The workshops provided members of the bench and bar, court personnel, and criminal justice officials and employees with hands-on experience in completing the worksheets that will lead to more informed sentencing decisions and eliminate unwarranted sentencing disparity. The workshops were cosponsored by the Alabama Sentencing Commission, the Judicial College of the Administrative Office of Courts (AOC) and the State Board of Education and were provided free of charge, offering CLE, CEU, Judicial College, and court referral continuing education credit to participants.

Sentencing Workshops Conducted During Calendar Year 2006

Montgomery May 4 th and 5 th	Dothan May 25 th & 26 th	Tuscaloosa June 1 st and 2 nd
Alex City June 15 th and 16 th	Anniston June 29 th & 30 th	Muscle Shoals July 13 th and 14 th
Huntsville July 27 th & 28 th	Rainsville August 10 th & 11 th	Birmingham August 17 th & 18 th
Jasper August 24 th & 25 th	Bay Minette September 7 th & 8 th	Montgomery Sept. 14 th and 15 th
Montgomery Sept. 18 th	Mobile Sept. 21 st and 22 nd	Birmingham Sept. 29 th
Athens Oct. 18 th	Andalusia Oct. 25 th	

The Sentencing Commission conducted over 30 regional sentencing standards workshops.

Trial judge must consider the sentencing standards in all applicable cases.

The voluntary sentencing standards are a major component of the Alabama Sentencing Commission's reform efforts. These standards were developed to eliminate unwarranted disparity in sentences, while maintaining meaningful judicial discretion. They are voluntary and nonappealable sentencing recommendations for 26 of the most frequent non-capital crimes, representing 87% of the most frequent crimes of conviction. Although the standards are voluntary, the law does require that judges consider the sentences recommended under the standards for the applicable offenses, and note this fact in the court record. We expect that the sentencing standards will provide judges with the information needed for informed sentencing decisions and will be followed in at least 75% of applicable cases.

Electronic worksheets are now available providing users many benefits compared to worksheets completed manually.

To facilitate completion of the sentencing standards worksheets in a timely and efficient manner, electronic worksheets were developed through the technical assistance of the Administrative Office of Courts. These worksheets are now available statewide to designated worksheet preparers through the website <http://worksheets.alacourt.gov>. The electronic forms reduce the time required to complete the worksheets by eliminating the need to complete the actual sentence imposed, refer to a separate table for sentencing recommendations, or add the points from factors to obtain the total scores. In addition, the electronic worksheets provide prior Alabama criminal history and identifying information for offenders through AOC's NameMaster system, Pardon and Paroles' electronic pre-/post-sentence investigation reports, and Alabama arrest records.

Statewide juvenile and YO records are available electronically for sentencing standards worksheet purposes.

Because prior juvenile and youthful offender adjudications are factored into the sentencing standards, it was necessary that judges, prosecutors and probation and parole officers be provided statewide access to these records. At the request of the Sentencing Commission, the Alabama Supreme Court issued an administrative order dated August 31st, 2006, (effective October 1, 2006), providing that criminal records of persons subsequently charged with a felony offense and previously adjudged a youthful offender or juvenile delinquent would be available statewide to all judges, prosecutors, victim service officers, probation and parole officers and court personnel. These juvenile and YO criminal records are to be used only for the purpose of completing the worksheets required for sentencing standards; however, access to these records is available for designated officials without requiring a special hearing or issuing an individual court order.

Measuring compliance with the sentencing standards and encouraging utilization of the electronic worksheets will be the primary points of interest this year. Training on the use of electronic worksheets and the standards website has begun; however, additional educational programs will be required to demonstrate the convenience and efficiency of electronic worksheets. A direct help line to the Commission staff is provided and an on-line tutorial is also scheduled to be developed and included on the electronic worksheets website at <http://worksheets.alacourt.gov>.

In addition to reducing the time it takes to complete the worksheets and the ease of submission, there are several other incentives that are provided by

using the e-worksheets. If electronic worksheets are used, the information is entered into AOC's database and there is no additional work for the court clerk's office. Copying of the worksheet and sentencing order is not required and no other documents need to be sent to the Sentencing Commission if the electronic worksheets are used. It is hoped that the advantages of using the electronic worksheets as the official form will be acknowledged and become the general practice.

Utilizing electronic worksheets eases the workload of the court clerk's office.

The worksheet website contains sample worksheets that can be obtained by anyone that has not been designated the official worksheet preparer. These forms, although not the official worksheets, can be saved as a pdf file and distributed via email.

The Initial Voluntary Sentencing Standards and Worksheets instructional manual and sample pdf worksheet forms are available from the Sentencing Commission website at <http://sentencingcommission.alacourt.gov>. A copy of the manual is filed with the Legislature and the Alabama Supreme Court along with this report. The Sentencing Commission is planning to develop an e-worksheets instructions tutorial during this fiscal year and continue to provide training through our help-line and additional training seminars.

Instructional manuals are available for completing the standards worksheets and using the electronic worksheets.

Advantages of Using the Electronic Worksheets as Official Form

1. Copies of the worksheets are not required to be mailed to the Sentencing Commission.
2. Keeping a copy of the worksheets is not required.
3. No court order is required to be sent to the Commission.
4. Can be distributed by e-mail to defense attorneys, prosecutors, probation officers, judges, etc.
5. Pdf file can be saved to computer and emailed as an attachment.
6. Statewide juvenile delinquency and youthful offender information is available on defendants.
7. Prior criminal history conviction information from AOC and CJIC available (not as comprehensive as NCIC).
8. Points added to obtain scores - avoiding mathematical errors.
9. Recommended sentence range automatically populated, without requiring reference to standards charts.
10. Identifying information on defendant through NameMaster available.
11. Electronic PSI available.
12. Savings in time, paper, supplies and postage.

Use of E-Worksheets saves time and money.

Through implementation of the sentencing standards and continued support from the bench and bar and designated worksheet preparers, we expect to achieve many of the Commission's goals, i.e., elimination of unwarranted sentencing disparity and a reduction of the prison population.



Chapter 4: The Alabama Department of Corrections

Drug and Alcohol Related Offenses Prominent

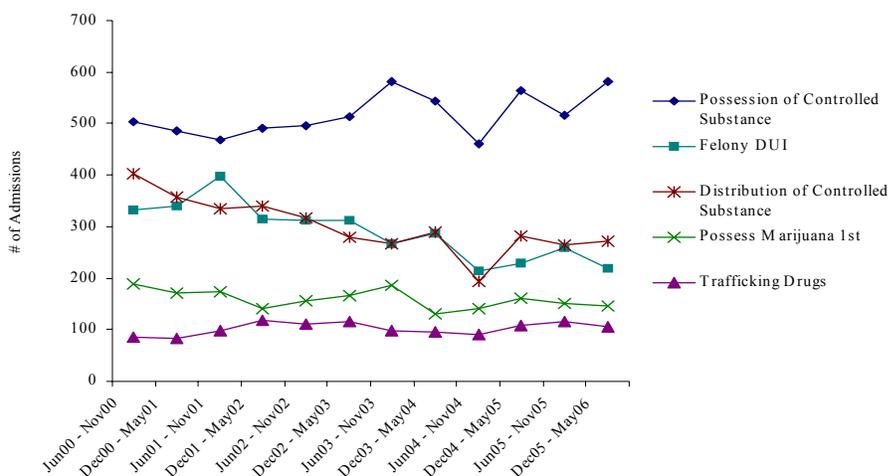
Over 1/3 of the offenders admitted to prison in the last five years were convicted of drug offenses or felony DUI. The Alabama Department of Corrections (ADOC) collects statistical information via the Drug Evaluation and Treatment System. As of the reporting period ending June of 2006, the ADOC had assessed the drug usage history of 50,384 inmates entering the correctional system. Of this number, 34,539 or 69% were classified as “addicts” with an average age of 17 when drug usage began. Drug related crimes among this group resulted in 51,025 total arrests with 39,682 convictions. Of these offenders, 30,424 had received some type of previous drug treatment.

Of the 27,954 total inmates under the jurisdiction of the ADOC at the end of September 2006, 28.3 percent were convicted of property offenses, many of which were alcohol or drug related. Most of these offenders are among the sixty percent of the inmate population that have previously served time in ADOC. Based on these figures, Alabama does not appear to be adequately addressing drug addiction and abuse in our state, and this failure has had a direct effect on our criminal justice system.

Drug Admissions

The five drug and alcohol offenses shown in the figure below represent nearly all of the drug/alcohol admissions to ADOC. Admissions for possession of controlled substances continue to far outpace any other drug or alcohol offense admissions and appear to be increasing slightly in recent years. Both distribution of controlled substance and felony DUI offenses have exhibited decreasing trends in admissions over the past six years. Possession of marijuana 1st and trafficking offense admissions have tracked one another fairly closely since May 2004.

Figure 1.



Drug and alcohol related offenses are a major factor in prison crowding.

Possession of controlled substance is the #1 prison admission offense.

ADOC increases administrative support for drug and alcohol treatment.

Following the recommendations of the Alabama Sentencing Commission and the Governor's Task Force on Prison Crowding, the Department of Corrections initiated several actions in FY 06 to provide more adequate administrative support for drug treatment. The process of hiring a full time drug treatment supervisor was initiated and that individual was brought on board in early FY 07. Twenty-nine drug treatment counselors were certified to be substance abuse specialists, possessing specific educational and clinical training credentials. Senior management personnel are currently researching and evaluating medical services management systems that would provide the administrative tools necessary for efficient program operations.

Reentry and transition programs are necessary to reintroduce prisoners to the free world at the end of their sentence.

Re-entry and Transitional Services

Among the innovative projects recently initiated by ADOC Commissioner Richard Allen, is the creation of a new re-entry program designed to successfully transition inmates to a crime-free and productive life outside of prison. The program, patterned after an existing HIV/AIDS program for inmates of ADOC, will be designed and implemented by Re-entry Coordinator and Public Health Liaison, Elana M. Parker. Ms. Parker is an employee on loan to ADOC from the Alabama Department of Public Health, who has worked with ADOC in the past as coordinator of the Prison Initiative for HIV positive inmates at Kilby, Limestone and Tutwiler Correctional Facilities.

The new re-entry program will have many of the same features as the HIV Prison Initiative, providing inmates assistance with discharge planning, preventive health education, drug treatment, vocational training, and housing. The need for improvement in this area is obvious. Providing an inmate with \$10 and a one-way bus ticket home has assured only failure and a quick return of the inmate to prison, many times for the commission of more serious offenses.

A new re-entry program established coordinating ADOC, Mental Health, Public Health, and other free world assistance services.

One of the primary objectives of the new re-entry program will be helping inmates obtain the information and necessary resources needed for successful reintegration into the community. Assistance obtaining basic items such as a driver's license, social security card, birth certificate, or GED certificate could make the difference between success and failure. At a minimum, any person released from prison needs a place to live, employment, and contacts with programs on the outside to help them live a law abiding life and become a productive citizen.

Among the duties that Ms. Parker assumed as ADOC's re-entry Coordinator and Public Health Liaison was the development of a statewide comprehensive discharge planning re-entry model, which will include use of process and outcome monitoring tools to evaluate the effectiveness of the discharge model. In carrying out these responsibilities, Ms. Parker will serve as liaison between ADOC, Public Health, Mental Health, and the various agencies and departments that are essential to successful re-entry.

Pre-Release Centers & Work Release Programs

A recurring theme from the public is that prisoners should be put to work while they are serving their sentence. Employment provides inmates with a means to pay restitution to victims and other court-ordered monies in addition to obtaining skills that will benefit them when they are released from prison. The administration of the ADOC firmly believes in utilizing inmates in various work programs established to reduce idle time for prisoners, while at the same time allowing them to repay a portion of their debt to society and assisting with their transition back into the community.

New pre-release centers established to prepare prisoners for successful re-entry into society.

Balancing the need to put inmates to work with concerns from the public about the classification of some work release inmates, the paramount priority of the Sentencing Commission and the Governor's Prison Crowding Task Force is public safety. Among the recommendations made by the Governor's Task Force were several involving the Department of Correction's work release programs. The first was that the Department conduct a thorough review of each inmate currently on work release to ensure that the public is protected. In FY 06, the ADOC created a committee to study the existing criteria for inmate participation in the work release program. The committee recommended changes that would ensure that proper decisions are made in the classification process, maximizing the number of inmates in the program, while ensuring the protection of the general public. The recommendations were approved and implemented and, in FY 06, the ADOC Central Review Board utilized the new criteria in an exhaustive and detailed review of the ADOC inmate population.

A thorough review of inmates on work release conducted.

Another recommended initiative involved the conversion of existing work center facilities to pre-release centers where inmates would receive intensive drug counseling, as well as educational and vocational training, enhancing re-entry into society. In FY 06, the ADOC converted the Montgomery Community Work Center into the Montgomery Pre-Release Center with the ability to house 296 inmates. Future plans for this site include the construction of a classroom building for conducting educational and treatment programs.

A second pre-release center is now under construction on the grounds of the Limestone Correctional Institution. Upon completion, this new center will house approximately 300 additional inmates, with programs available similar to those of the Montgomery Pre-Release Center. The Bullock Work Release Facility was closed in FY 06 and the security personnel previously assigned there were utilized to operate the newly constructed Bullock Mental Health Unit.

New Bullock Mental Health Unit established.

At the end of FY 06, the ADOC had 3,378 beds allotted to work release and community work center facilities, with 2,717 of those beds filled. Because work release facilities have the greatest number of vacant beds (584), a goal of ADOC is to increase the number of inmates in the work release program to 3,000 by the end of FY 07.

ADOC is seeking to expand prison industries, putting prisoners to work while teaching productive skills.

Inmates who commit major rule violations while in the work release program are returned to a higher security institution. A “re-track” program is being planned, that would allow inmates who commit a minor violation while in work release to transfer to a minimum security work camp for a period of time where these violators would be subject to intensive work schedules as a rehabilitative measure to regain community custody status and return to the work release program.

Correctional Industry Development/Expansion

The ADOC is working to expand its current industries, as well as create new industries. Plans include the expansion of auto paint/detail production, chair production, furniture restoration, printing production, and janitorial chemical production. New industries under development include embroidery/screen printing, tilapia fish production, asbestos removal services, and saltwater produce.

On-Site Prison Industry

One problem facing the ADOC is the inability to provide on-site employment for inmates not eligible for work release. In addition, under existing laws, there is a limited market to which the Department may sell goods. Legislation is required to authorize ADOC to contract with private businesses for on-site industries as well as to authorize ADOC to sell the goods that it produces to state employees and nonprofit entities. The Department of Corrections has introduced legislation in the 2007 Regular Session (HB 618 by Representative Ball and Senate Bill 391 by Senator Griffith) to implement this project. The Alabama Sentencing Commission endorses the concept of prison industry and the expansion of the market for the sale of prison-made products.

Technological Advances

Modern technology is necessary to track prisoners and to collect data to promulgate evidence based policies.

A critical component for the successful operation of a criminal justice system is technologically advanced databases that allow networking with the courts, and primary governmental agencies and departments. Currently, essential information is sometimes not available at the time of sentencing and the system lacks the ability to track defendants from the time of conviction, while awaiting pre-sentence investigation, pending a sentencing hearing, or awaiting transportation to the Department of Corrections, etc.

This deficiency is caused by an antiquated computer system utilized by the Department of Corrections that is not modern by modern IT standards and hinders data compilation and analysis efforts. The Department initiated several IT projects during FY 06 to address the inadequacies of the archaic system and to capture essential information. Contracted development specialists have been brought in to assist in planning for and converting to state-of-the-art equipment and software applications. Assistance is also being provided by the Information Technology Division of the Administrative Office of Courts. All current mainframe program modules are being updated as part of a re-engineering effort and will bring the ADOC database systems

up to modern IT standards. This is an ongoing process that is scheduled to be completed by the end of FY 07.

Among the technology projects undertaken by ADOC is a court transcript module referred to as “E-Transcripts.” The E-Transcripts module was developed to allow for the electronic transmission and input of transcript records directly into the ADOC database, eliminating the need for ADOC personnel to rekey sentencing information. This system is currently being pilot tested with several circuit courts.

ADOC has undertaken technological projects that will improve accuracy and accessibility to vital records and information.

Another technological advance by ADOC currently under development is an inmate records module titled “The Vault System”, that will allow electronic scanning and on-demand retrieval of inmate documents from a records database. This process will eliminate the current paper-based file system and is expected to greatly increase the efficiency of administrative functions. The process of scanning all active inmate files into electronic format began in FY 06 and will be a significant improvement in the management and security of ADOC records.

ADOC Community Corrections Division

Because of the 2003 amendment of the Community Corrections and Punishment Act recommended by the Alabama Sentencing Commission, there is now a separate division of the Department of Corrections devoted to the expansion and improvement of community corrections programs in Alabama. The Community Corrections Division of the Department of Corrections has now been operational for two years, with a Director and support staff working full time to implement and administer the Community Punishment and Corrections Act and any provisions of law relating to the operation and management of a community-based sentencing program.

Last year, the division director participated in the regional sentencing standards workshops sponsored by the Sentencing Commission presenting the advantages of community corrections programs to the participants. In many instances the director traveled to the locale the day before the workshop to meet with judges, prosecutors and local officials to discuss the advantages of utilizing the services of community corrections programs. As a result of his efforts, there have been four additional programs established since last year and twelve additional counties¹ have expressed an interest in developing a community corrections program.

Community Corrections Division Director works with the Sentencing Commission to enhance and expand community corrections programs.

¹ Autauga/Elmore, Baldwin, Barbour, Chilton, Cleburne, Covington, Morgan, Russell, Talladega, Tallapoosa, and Washington.



Chapter 5: Creating a True Continuum of Punishment Options

Community Corrections Programs

Supervision and Treatment are Essential to Offender Accountability.

Successful reform of Alabama's criminal justice system requires a true continuum of sanctions containing viable sentencing options. As prisons have filled beyond capacity, probation rolls have also soared beyond capacity and planned transition from a prison environment to the free world has been almost non-existent. Alabama must improve in all of these areas, establishing a true continuum of sanctions that protects public safety by making sure that the sentence fits the crime and the offender.

Successful criminal justice reform in Alabama requires a true continuum of punishment sanctions.

Prison is the most costly sentencing option and should, therefore, be used only where it exists as the only feasible punishment option for holding a violent or repeat offender accountable for his or her offense(s). Simple probation is the least costly sentencing option and should be used for offenders who evidence a minimum risk of re-offending. These two sanctions are the outer limits of a continuum of sanctions that provides options of increasing limitations on liberty from straight (unsupervised) probation to prison (full incarceration at a state institution).

Major crimes and violent offenders require incarceration. Based on the Sentencing Commission's felony offender cohort for 2006, these offenders make up only about 24% of those sentenced last year. If alternatives are available, the remaining 76% of offenders sentenced can be considered for effective community supervision and treatment alternatives.

Continued Expansion of Intermediate Punishment - Alternative Sentencing

The governing principle to guide trial court judges in criminal sentencing was established in 1991 by the Alabama Supreme Court with adoption of Rule 26.8 of the Alabama Rules of Criminal Procedure. This principle calls for the least restrictive sanction based on the gravity of the crime, taking into consideration safety to the public and the impact of the sentence on all facets of the criminal justice system.

Governing principle for sentencing established by adoption of Rule 26.8 ARCP in 1991.

The sentence imposed in each case should call for the least restrictive sanction that is consistent with the protection of the public and the gravity of the crime ... Judges should be sensitive to the impact their sentences have on all components of the criminal justice system and should consider alternatives to long-term institutional confinement or incarceration in cases

involving offenders whom the court deems to pose no serious danger to society.

Although this principle has existed for over a decade, it is only recently that sentencing options beyond probation have become available in Alabama.

Community Corrections Can Provide Judges with a Wider Array of Sentencing Options for Nonviolent Offenders

Community corrections programs can provide additional levels to the sentencing spectrum.

Historically, there have been only two real options available for Alabama judges to choose from when imposing criminal sentences - probation and imprisonment. Community-based corrections programs, which focus on both rehabilitation and punishment, can provide additional levels to the sentencing spectrum with enhanced supervision and treatment options beyond those available under traditional probation supervision. Through the use of community punishment and corrections programs, judicial officials have greater control over elements of the sentences imposed and the offender has a greater chance of becoming a productive and law-abiding citizen by maintaining employment, obtaining treatment for problems with drug or alcohol abuse, and paying fines, court costs, and victim restitution.

Offenders in community corrections programs pay fines, costs and victim restitution.

Intermediate punishment fulfilled under the supervision of community corrections programs permit offenders to pay their debt to society while remaining sufficiently linked with the community to support their families and make restitution to the victims. Offenders participating in community corrections programs may be required to repay the community through community service work, undergo drug and alcohol testing and treatment, make restitution to victims, submit to intensive supervision, participate in work release programs, undergo house arrest with or without electronic monitoring, and comply with day reporting requirements and probation monitoring with varying levels of supervision. Rehabilitative programs that can be offered through community programs include literacy training, job training, job placement and GED preparation. Moreover, community-based sanctions are less expensive than prison, inasmuch as they do not require investment in a secure prison infrastructure and the associated manpower needs.

Expansion Efforts

Alabama has made advances in the expansion of community corrections programs.

In the last six years, Alabama has made advances in the expansion and utilization of community correction programs as a viable intermediate punishment alternative for nonviolent felony offenders. While there has been improvement, additional work remains to create a true continuum of punishment and provide sentencing options that range from probation to incarceration, graduating the level of punishment for violations and for inmates released from prison for their successful reentry into the community.

For over two decades, the one reoccurring recommendation of commissions and committees that have studied Alabama's criminal justice system has been the development of intermediate sentencing options. With the establishment of the Alabama Sentencing Commission, the Legislature

specified that it would be one of the prioritized goals of the Commission to establish a criminal justice system with a wider array of sentencing options for nonviolent offenders. Since that time, Commission members and staff have worked closely with the Alabama Association of Community Corrections and the Department of Corrections to establish community corrections programs statewide and to improve existing programs to provide services and supervision to offenders that address their needs.

Until FY 2006, General Fund money has not been available to sufficiently fund existing community correction programs for an entire fiscal year. In prior years, funds were depleted prior to the end of the fiscal year, resulting in existing programs not receiving reimbursement payments from the Department of Corrections for the full year. FY 2006 was the first year that sufficient funding was provided by the Legislature to enable ADOC to reimburse programs for felony diversion, offer assistance in expansion costs, and provide start-up grants to counties or circuits seeking to establish a community corrections program.

In FY 2006, reimbursement to 26 community correction programs by the Department of Corrections for diverted felony offenders totaled \$2,586,975.¹ An additional \$2,696,956 in expansion grants to 10 programs was provided,² along with \$676,900 start-up grants to 6 programs.³

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

FY 00	\$1.5 million
FY 01	\$1.5 million
FY 02	\$2 million
FY 03	\$2.975 million (<u>\$2 million + \$975,000 supplemental</u>)
FY 04	\$2.975 million
FY 05	\$2.975 million
FY 06	\$6.2 million (<u>\$5.2 million + \$1,000,000 supplemental</u>)
FY 07	\$6.1 million

FY 06 was the first year that General Fund money adequately funded existing community corrections programs.

In FY 06 reimbursement to community corrections programs for diverted felony offenders totaled nearly \$2.6 million, expansion grants \$2.7 million, and start-up grants \$676,900.

¹ 4th Judicial Circuit (Bibb, Dallas, Hale, Perry, and Wilcox Counties), 24th Judicial Circuit (Fayette, Lamar, Pickens Counties), 25th Circuit (Marion and Winston Counties), Blount, Calhoun, Cherokee, Colbert, Cullman, Dale, DeKalb, Escambia, Etowah, Franklin, Geneva, Houston, Jackson, Jefferson, Lauderdale, Lawrence, Limestone, Marshall, Mobile, Montgomery, Shelby, Tuscaloosa, and Walker Counties.

² 4th Judicial Circuit (Bibb, Dallas, Hale, Perry, and Wilcox Counties), 25th Judicial Circuit (Marion and Winston Counties), Calhoun, Colbert, Dale, Franklin, Jefferson, Lauderdale, Lawrence, and Montgomery Counties.

³ 2nd Judicial Circuit (Butler, Crenshaw and Lowndes Counties), Blount, Colbert, Limestone, Madison and St. Clair Counties.

Cost Savings by Diversion to Community Corrections

Community corrections saved the state millions by diverting felony offenders last year.

The average daily cost of a community corrections offender for FY 2006 was \$9.12 as compared to \$36.76 per day for an inmate incarcerated in the penitentiary. ADOC estimates that by diverting felony offenders to community corrections programs, there was a cost savings of almost \$92 million dollars. This savings reflects the tax savings of approximately \$12 million realized just this year by the reduced costs of housing the offenders in correctional facilities and the estimated \$80 million in construction costs that would be required to build a new facility to house these offenders. Further comparison of the reimbursements provided by ADOC to the community corrections programs against immediate savings in housing costs show a positive return on investment of over \$9.3 million.

Last year the Alabama Association of Community Corrections began advocating the expansion and improvement of services offered by community corrections programs to felony offenders, the development of uniform program standards, and the need to provide assistance to courts in completing sentencing worksheets for those felons convicted of crimes covered by the sentencing standards. In the latter part of FY 2006, the Association also began focusing on training for directors and staff. Training has been offered by the ADOC and sessions are expected to begin in FY 2007. While these projects are not ones that will easily convert to immediate cost savings, improvement in services will ultimately lead to increased utilization of the programs by judges and, it is hoped, a reduction in recidivism.

What are Community Corrections Programs?

Scarce prison space is reserved by diverting low-risk felony offenders to community corrections.

Community Punishment programs offer a variety of services as alternative punishment options for judges to utilize and assist the state and counties in reducing the number of offenders committed to state prisons and county jails. In addition to rehabilitation, a major objective of community corrections is to provide services that expand the options available for sentencing criminal defendants. By diverting low-risk felony offenders to community corrections programs, scarce prison space is available for the incarceration of violent and repeat offenders.

Types of Programs

Community corrections programs can be one of three types pursuant to the Community Punishment and Corrections Act of 2003: a county agency, a county (non-profit) authority or a private non-profit 501(c)(3). Currently 20 of the 29 programs (69%) are private non-profit organizations: Jefferson, Blount, Butler, Crenshaw, Lowndes, St. Clair, Colbert, Calhoun, Shelby, Cullman, Walker, Marshall, DeKalb, Cherokee, Jackson, Franklin, Dale, Geneva, Lawrence, the 24th Circuit (Fayette, Lamar, and Pickens), the 25th Circuit (Winston and Marion), and the 4th Circuit (Dallas, Bibb, Hale, Perry and Wilcox). Seven (7) of 29 of the programs (23%) are non-profit county authorities: Limestone, Madison, Montgomery, Tuscaloosa, Houston, Etowah and Lauderdale. Two (2) programs (8%) are county agencies: Mobile and Escambia.

Existing Programs

There are currently 29 community corrections programs in the state serving 38 counties. One-third of the active programs have been formed since 2000, with DOC reimbursing programs for a total of 5,000 diversions over the last three fiscal years. The 29 existing Community Punishment and Corrections programs in the state and the counties they serve are listed on the following page.

Over one half of Alabama counties now have a community corrections program available.

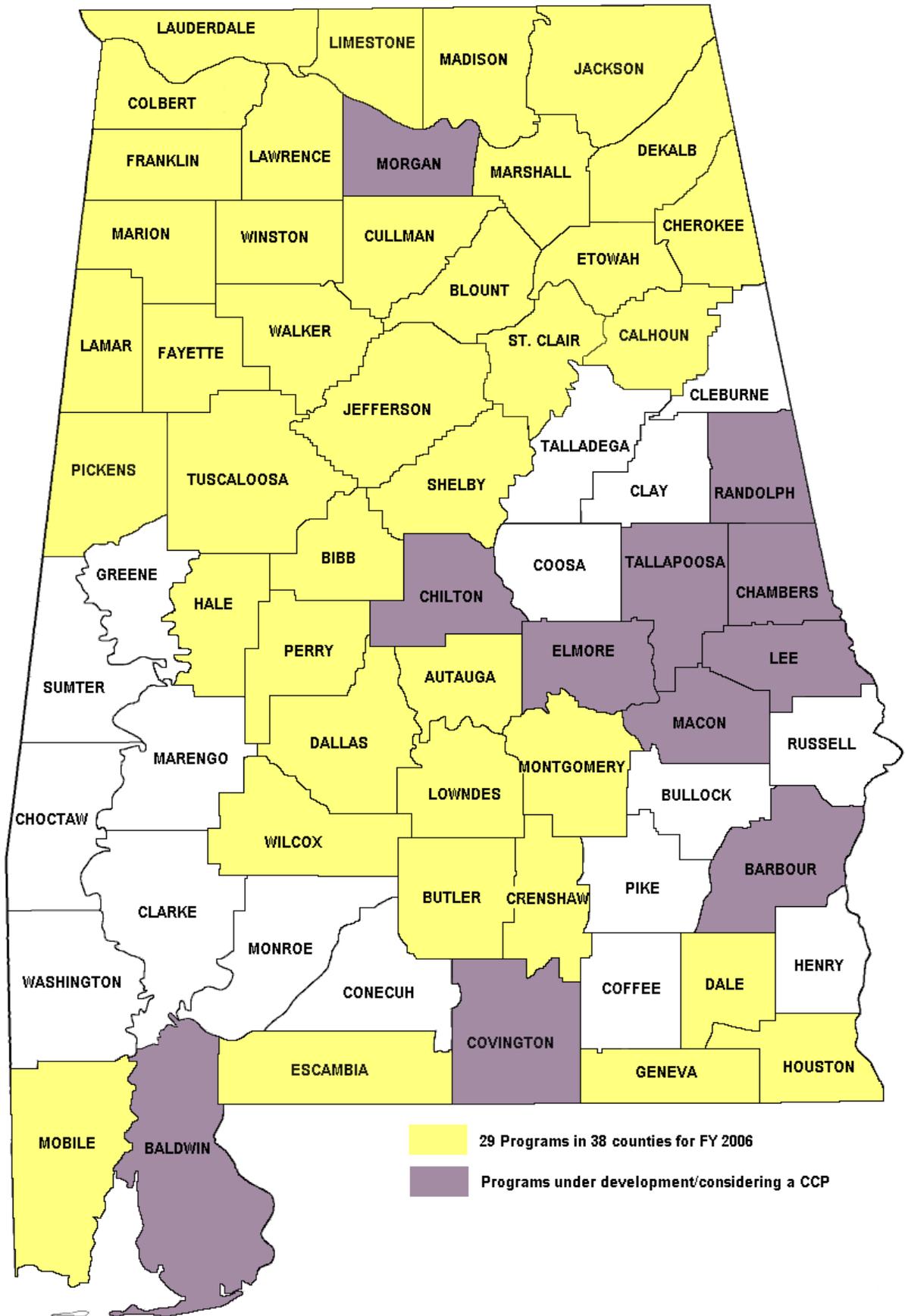
At the present time, there are only a few community correction programs that have in house treatment facilities operating in the community. New programs and existing programs are considering establishing such facilities to concentrate on in-house treatment for offenders with drug and alcohol addictions.

In 2006, four new programs were established, representing six additional counties: Blount, Limestone, Madison and the 2nd Judicial Circuit consisting of Butler, Crenshaw and Lowndes counties. Other counties that have expressed an interest in establishing a community corrections program are: Autauga/Elmore, Baldwin, Barbour/Bullock (3rd Circuit), Chilton, Choctaw/Clarke/Washington (1st Circuit), Clay/Coosa (40th Circuit), Cleburne, Covington, Morgan, Lee, Russell, Talladega, Tallapoosa, and Washington.

Counties With Existing Community Punishment and Corrections Programs For Nonviolent Felony Offenders

29 community corrections programs serving 38 counties.

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



Direct Sentence to Community Corrections

Pursuant to Alabama’s Community Punishment and Corrections Act (§15-18-170 et seq.), a judge may sentence an eligible offender directly to a community corrections program as an alternative to prison, as a part of, or in conjunction with a split sentence, or as a condition of probation. The duration of the sentence for an offender that is sentenced to a community-based program can be for “any period of time up to the maximum sentence within the appropriate sentence range for the particular offense,” taking into consideration that the participation level may not exceed the program’s maximum capacity limit. Offenders sentenced to community corrections programs pursuant to the Community Corrections Act are not eligible for parole consideration. Those felony offenders that are diverted to community corrections programs either as front-end diversions or institutional diversions, are considered ADOC inmates and are entitled to good time credit while participating in the program.

Front-end and institutional diversions are considered ADOC inmates and receive good time credit.

Front-End and Institutional Diversions

There are two types of diversions – referred to as front-end diversions and institutional diversions. *Front-End diversions* are felons directly sentenced to a community corrections program that would otherwise be sentenced to incarceration in the penitentiary. The Department approves inmates for front-end diversion if they are not excluded by committing a statutorily prohibited crime and score 10 points or more on the Department of Corrections diversion checklist. The *Department of Corrections’ diversion checklist* is a measure of likelihood that a defendant will be committed to prison based on factors such as the type of crime committed, prior convictions, (both felony and misdemeanor), victim injury, juvenile record and probation/parole status. Funding is allocated only to those offenders that receive 10 points or more and are not convicted of an excluded offense. The 10 point scale is utilized to ensure that state reimbursement is provided only for those offenders that would otherwise be sent to prison - not those that would have been released on probation or given jail time. The only exception to compliance with the 10 point checklist as a prerequisite for reimbursement by ADOC is when the new sentencing standards apply and the recommendation under the standards is for the defendant to be sentenced to prison. If the court sentences the offender to an approved community corrections program, the community corrections program can receive reimbursement from ADOC, even if the offender fails to score 10 or more points on the department’s reimbursement checklist.

A sentencing standard’s recommendation of prison or an ADOC checklist score of 10 or more will allow reimbursement to a community corrections program for offender supervision.

Applying the sentencing standards where the sentence recommendation is incarceration, a court will be considered as complying with the standards if an eligible offender is sentenced to “Community Corrections at DOC.” Under this sentence, the offender will be subject to supervision by the community corrections program but still considered a DOC inmate although not actually housed in a DOC facility. The program will be authorized to receive reimbursement from DOC at the front-end diversion rate and the offender will be eligible for “good time” credit while under supervision, but will not be eligible for parole.

Institutional diversions are state inmates incarcerated in a state facility approved by the ADOC and authorized by the sentencing judge to participate in an ADOC approved community corrections program. These inmates do not have to meet the 10 point scale and must not be excluded under §15-18-171 (14). Approval must be granted by the Department of Corrections and sentencing judge before an inmate can be released to a community corrections program and accepted by the program.

Institutional diversions require judicial approval.

Felons Excluded from Consideration for Direct Sentencing to Community Corrections Programs §15-18-171(14)

Statutory Exclusions

Any felon convicted of the following offenses:

- 1) murder
- 2) kidnapping 1st
- 3) rape 1st
- 4) sodomy 1st
- 5) arson 1st
- 6) selling or trafficking in controlled substances
- 7) robbery 1st
- 8) sexual abuse 1st
- 9) forcible sex crimes
- 10) lewd and lascivious acts upon a child
- 11) assault 1st if the assault leaves the victim permanently disfigured or disabled; or
- 12) any person that demonstrates a pattern of violent behavior. “In reaching this determination, the court *may* consider prior convictions and other acts not resulting in conviction or criminal charges, and the offender’s behavior while in state or county confinement.”
§ 15-18-175(b)(2)

The above eligibility criteria are guidelines for the benefit of the court in making a determination of eligibility of offenders and assessment of funds under the Community Corrections Act. § 15-18-175 (c)

Offenders Excluded From Institutional Diversion to Community Corrections by ADOC Regulation

- 1) Any sex offenders, i.e., inmates with an AIS “S” suffix (including pornography)
- 2) Inmates in other states. These are inmates serving a sentence from another state in addition to their Alabama sentence. Inmates sentenced from Alabama only and simply housed in another state are not excluded.
- 3) Inmates in SIR
- 4) Inmates in Drug Treatment (inmates from dorms CB, DP, RP, and TC)
- 5) Inmates set to be released within two months (60 days)
- 6) Inmates who were sentenced within 3 months (excludes new inmates from being considered)

Exclusions under ADOC’s regulations.

- 7) Inmates who have an escape for this incarceration
- 8) Inmates that have 21 or more disciplinaries
- 9) Inmates with 9 or more major disciplinaries
- 10) Inmates that have ever, even prior incarcerations, had a drug crime that includes trafficking, distribution or the sale of drugs.
- 11) Inmates who have ever been convicted, even on prior incarceration, of any of the following offenses:
 1. Aggravated murder
 2. Murder by life sentence convict
 3. Murder
 4. Manslaughter
 5. Rape 1st, 2nd
 6. Sexual abuse 1st
 7. Sodomy 1st, 2nd
 8. Sexual torture/abuse
 9. Soliciting child by computer
 10. Violating sex offender registration law
 11. Aiding prisoners to escape – felons
 12. Arson 1st
 13. Assault 1st
 14. Assisting a prisoner escape custody (misd)
 15. Attempted murder
 16. Carnal knowledge/impersonating husb./over 12 under 16/ over 14,drugs,etc/under 12
 17. Child abuse
 18. Child molestation
 19. Conceal/harbor/aid escaped convict
 20. Distributing controlled substance
 21. Controlled substance crime solicit/involve murder or attempt or conspiracy to commit such CS Crime
 22. Display/distribute obscenity minor (misd)
 23. Parent permit child - obscene matter
 24. Parent/permit child production obscene enticing child enter/immoral purpose
 25. Possession/obscenity of person under 17
 26. Escape from penitentiary or attempt thereof
 27. Escape 1st, 2nd, 3rd
 28. Hindering apprehension of escape
 29. Permitting/aiding escape
 30. Poisons - placing in springs/wells
 31. Permitting or facilitating escape 1st, 2nd
 32. Incest
 33. Kidnapping 1st, 2nd
 34. *Parole violation***
 35. *Probation violation***
 36. Drug trafficking (amphetamines, cannabis, cocaine, hydro, LSD, methaqualone, opium/morphine/heroin/phencyclidine)
 37. Drug trafficking enterprise 1st and 2nd convict
 38. Train robbery

Inmates convicted of drug distribution, sale or trafficking are ineligible for institutional diversion under ADOC regulation.

Child sex offenders are not eligible for community corrections programs.

“Stalking, or crime involving stalking behavior, or felony kidnapping (any degree) or cases wherein the details of the crime reflect behavior which could be construed by the Code of Alabama or constitute a kidnapping even though not convicted of such.”

***Pursuant to Administrative Regulation #490 A1.b. Parole, probation, and community corrections condition violators whose violation conduct is non-criminal are eligible for diversion to community corrections at the time of sentencing.*

Felony Diversions and Program Reimbursement

The felony diversion program is designed as an alternative to incarceration to the penitentiary for felons convicted of nonviolent offenses, providing judge’s a viable alternative for non-violent offenders. Community Corrections programs contract with the Alabama Department of Corrections to manage felony diversion inmates and, utilizing a sliding scale, pay the programs a specified amount to help offset program costs. By diverting felons, who would otherwise be sent to the penitentiary, to community corrections programs, scarce prison space is reserved for violent and repeat offenders.

Diverting prison bound offenders to community corrections saves the state money and reserves prison space for violent offenders.

Rate of Reimbursement

The Department pays programs for *front-end diversion* at the rate \$15 per day for the first six months, \$10 per day for the next three months and \$5 per day for any remaining days up to a total of a two-year period. For institutional diversions of inmates sentenced on or after September 15, 2005, the Department pays the contracting program \$10 per day for the first six month period in the program and \$5 per day for the next year and a half. On September 20, 2005, new reimbursement rates for institutional diversions were implemented, increasing the reimbursement to \$15 per day for the initial three months, \$10 per day for the next 6 months and \$5 per day for the remainder of the two year period. This revised reimbursement rate, which only applies to inmates sentenced prior to September 15, 2005 who are in a ADOC facility or awaiting transfer from a county jail, authorizes an increased rate of reimbursement to community corrections programs of \$5 per inmate for the first three months of participation in the program. Since the Special Diversion Program applies to institutional diversions, the 10 point checklist will not apply to this program.

At the request of the Alabama Association of Community Corrections, the Department of Corrections has revised the departmental regulation relating to community corrections programs. One major revision was the implementation of a consistent reimbursement rate for both front-end and institutional diversions. Beginning in April of this year programs will be reimbursed \$15 per day up to two years for either type of felony diversion.

Beginning in April 2007 diversion reimbursement rates became a flat \$15 per day, up to 2 years.

In fiscal year 2006, the Department paid programs for 1,836 felony diversions. Of the total reimbursements, 1,108 were new diversions

occurring in FY 06, of which 725 (65%) were front-end diversions and 383 (35%) were institutional diversions. While new diversions occurring at the time of sentencing (front-end) continued to outpace institutional diversions, the percentage of front-end diversions dropped 9 percent in 2006, from 74 percent to 65 percent, while the percentage of institutional diversions increased 9 percent in 2006, from 26 percent to 35 percent. These figures do not include felony offenders who did not meet the 10 point scale, yet served some or part of their time with a community corrections program.

Front-end diversions continue to outpace institutional diversions, constituting 65% of all felony diversions.

County	FY 2006		
	Institutional Diversions	Front End Diversions	Total New Diversions
Blount	3	2	5
Calhoun	1	0	1
Cherokee	7	17	24
Colbert	39	16	55
Cullman	4	8	12
Dale	12	11	23
DeKalb	17	19	36
Escambia	11	5	16
Etowah	12	31	43
Fayette	5	5	10
Franklin	20	15	35
Geneva	0	2	2
Houston	78	46	124
Jackson	2	8	10
Jefferson	4	265	269
Lauderdale	15	22	37
Lawrence	9	17	26
Limestone	4	4	8
Marion	9	2	11
Marshall	0	22	22
Mobile	92	60	152
Montgomery	16	73	89
Shelby	9	61	70
Tuscaloosa	3	14	17
Walker	5	0	5
4 th Circuit	6	0	6
Total	383	725	1,108

Diversion of Felony Offenders to Community Correction Programs				
	FY 03	FY 04	FY 05	FY 06
New Diversions	1,127	917	1,156	1,108
Carried Over From Another FY	627	1,086	740	728
Total	<i>1,754</i>	<i>2,003</i>	<i>1,896</i>	<i>1,836</i>

Technological Advances in Case Management

The Administrative Office of Courts has developed an advanced web-based case management system, the Model Integrated Defendant Access System (MIDAS), to assist community corrections programs in monitoring the progress of defendants through the system. MIDAS is an automated system that is integrated with other criminal justice systems allowing access to current information on the offender, including existing criminal and driver history records. In addition to providing networking capability to the various state courts and Law Enforcement Tactical System (LETS), included as a system component is an assessment instrument utilized by Court Referral programs.

MIDAS assists community corrections programs in monitoring progress of defendants.

This system, which was originally designed as a case management tool for court referral programs, has now been expanded to include community corrections programs and drug courts. Utilizing MIDAS, these programs can produce automatic reports, correspondence, and account information.

Drug Courts

Drug crimes are the largest offense category for both convictions and admissions.

Alabama’s criminal justice system has evidenced the impact of drug abuse and addiction through the increase in drug and drug related crimes. During FY 06, 47% of convictions and 40% of prison admissions were for drug or felony DUI offenses. While these figures are disturbing, they do not reflect the true seriousness of the problem because property crimes that were drug or alcohol related are not included. That drugs contribute to the escalating prison population may be best evidenced by the fact that during FY 06, there were 17,731 inmates participating in drug treatment programs and, as of February 1, 2007, 877 inmates on the waiting list for admission to a program.

As of April 2007, there were 5,588 inmates participating in an ADOC drug treatment program and 1,009 on a waiting list (637 waiting to participate in the 8-week SAP program, 248 in the Crime Bill program, 64 in the Therapeutic Community program, 52 in the Relapse Prevention program and 8 in the Dual Diagnosis program). Current program participation among programs is as follows:

	<u>Participants</u>
1. Crime Bill program	1,250
2. 8-week SAP	1,171
3. Relapse Prevention	312
4. Methamphetamine Group	15
5. Dual Diagnosis	74
6. Therapeutic Community	290
7. Pre-Treatment	224
8. Aftercare	2,252

Drug courts are specialized courts providing an immediate and structured intervention process.

To address this problem, Alabama has established drug courts as an alternative to incarceration for defendants charged with drug and alcohol related offenses. Drug courts are specialized courts that provide an immediate and structured judicial intervention process for substance abuse treatment, bringing together substance abuse professionals, local social programs and judicial monitoring. These courts, designed to provide more comprehensive monitoring and drug testing than other forms of supervision, have proven effective in reducing crime rates among participants and graduates.¹

The first drug court in Alabama was established in 1993.

Spurred by the increase in drug crime convictions and the desire to focus on the underlying problem to decrease the rate of re-offending among drug offenders through an effective form of intervention, the first drug court was established in Mobile in 1993. Encouraged by its success, Jefferson County created a drug court in 1996, followed by implementation of the Tuscaloosa Drug Court in 1997. Since that time, drug courts have expanded,

¹ National Drug Court Institute, *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States* (May 2004).

but at a slow pace. There are currently 17 adult drug court programs in 15 judicial circuits, providing services to 23 counties.²

The Chief Justice’s Drug Court Task Force

One of Chief Justice Sue Bell Cobb’s first actions upon assuming office was to create a 27 member Drug Court Task Force to map out ways to establish an effective drug court in every county of the state. The Task Force, composed of community leaders and representatives from all three branches of government, is chaired by retired District Court Judge Pete Johnson who is nationally recognized for the success of the Birmingham Drug Court.

Among the tasks assigned to the members were establishing uniform standards for the drug court programs and seeking the support and funding necessary to sustain a model statewide drug court system. Collaborative efforts have already proven successful. The Governor has committed \$250,000 to hire retired judges to preside over new drug courts, the Legislature has committed \$1,000,000 to fund treatment services for new drug courts, and Vera Institute of Justice and Pew Charitable Trusts are assisting with the development of a continuum of comprehensive alternatives to incarceration, including the statewide expansion of drug courts, focusing on training and evaluation.

Strategic planning for success of this initiative involves the incorporation of five major components: 1) statewide eligibility standards to target appropriate prison-bound offenders; 2) standards for treatment services that must include effective risk and need assessments to determine the appropriate level of care placement, types, scope and duration of treatment services; 3) standards for reliable program assessment and evaluation; 4) statewide training for existing drug courts and drug court planning teams and; 5) the development of a statewide management and reporting system for drug courts.

With the assistance of community correction programs and strong support from agencies and leaders in the community, drug courts can be successful in turning criminal offenders into productive and law abiding citizens. In a recent conference sponsored by the U.S. Department of Justice’s Drug Courts Program Office and Center for Court Innovation, it was noted that successful reintegration was a key issue that needs to be addressed. Recognizing the important leadership role drug courts play, it was suggested that this leadership should be directed to encourage agencies, program providers, and local communities to take a more proactive approach in identifying available programs, bringing resources into the court and expanding the resources that are available to drug court participants. Through improved discharge planning, including assistance with employment, treatment services, housing, education and employment training, the success drug courts achieve can be optimized.

Chief Justice Sue Bell Cobb wants an effective drug court in every Alabama county.

Strategic planning for development of a successful statewide drug court program is underway.

Successful reintegration into the community must be addressed.

² The most recent drug courts that have been established are in the 4th Circuit (Dallas, Hale, Perry, Bibb and Wilcox Counties) and Russell County.

Drug Courts in Alabama

2nd Judicial Circuit
Butler, Crenshaw, and Lowndes
Counties

Jefferson County Drug Court
10th Judicial Circuit

4th Judicial Circuit
Bibb, Dallas, Hale, Perry and
Wilcox Counties

Madison County Drug Court
23rd Judicial Circuit

17 drug courts serving 23 counties.

Cherokee County Drug Court
9th Judicial Circuit

Marshall County Drug Court
27th Judicial Circuit

Colbert County Drug Court
31st Judicial Circuit

Mobile County Drug Court
13th Judicial Circuit

DeKalb County Drug Court
9th Judicial Circuit

Montgomery County Drug Court
15th Judicial Circuit

Escambia County Drug Court
21st Judicial Circuit

Russell County Drug Court
16th Judicial Circuit

Etowah County Drug Court
16th Judicial Circuit

Shelby County Drug Court
18th Judicial Circuit

Franklin County Drug Court
34th Judicial Circuit

Tuscaloosa County Drug Court
6th Judicial Circuit

Jefferson Co. Bessemer Drug
Court
10th Judicial Circuit

Baldwin County (28th Circuit) is in the process of establishing a drug court, and is scheduled to begin operation in FY07. In addition to adult drug courts, there are juvenile drug courts established in six counties: Jefferson, Madison, Marshall, Mobile, Shelby and Tuscaloosa Counties.



Alabama Board of Pardons and Paroles

The Board of Pardons and Paroles and staff have taken steps to meet the challenge of expanding alternative sentencing options while increasing Alabama's ability to provide additional, more meaningful supervision for probationers and parolees. However, these steps provide only a beginning and much remains to be done. Alabama must greatly expand these initial steps to solve the problems of a burgeoning prison and community supervision population.

The Board provided valuable assistance to the Sentencing Commission in conducting standards workshops.

Implementing the Initial Voluntary Sentencing Standards

After legislative approval of the Initial Voluntary Sentencing Standards in 2006, the Board of Pardons and Paroles assisted the Sentencing Commission Staff in presenting workshops to teach the use of the standards to appropriate personnel across Alabama. The Executive Director or Deputy Director attended every seminar, explaining to those present the role of probation and parole services in implementing the standards. In addition, all probation and parole officers who had not received training were required to attend the workshops, making sure they were prepared for implementation on October 1, 2006.

The Sentencing Commission and staff are extremely grateful to the Board for providing invaluable assistance in accomplishing this monumental task.

An increase in the number of P&P officers, the adoption of a risk and needs assessment and change to "results" based supervision have enhanced probation & parole officer's ability to protect public safety.

Improved Supervision

Three changes in probation and parole supervision have enhanced the ability of probation and parole officers to better protect public safety by providing more realistic supervision of each offender. These changes are: (1) the increase in probation and parole officers, reducing the caseload of these officers; (2) the adoption of a risk and needs assessment tool for determining the level of supervision needed for each offender and identifying programs that will assist the offender in changing to a crime-free lifestyle; and (3) the change from "contacts" based supervision to "results" based supervision. These innovations reflect a change in the direction of community supervision for parolees and probationers in Alabama.

Increased number of parole and probation officers.

The average caseload of a P&P officer has dropped after additional officers were hired; however, more officers are needed.

In the last two years, Alabama has increased the number of probation and parole officers providing field supervision for probationers and parolees. These additions, along with other factors, have allowed a decrease in the average caseload of a supervising officer from 203 to 159 offenders. While this decrease in caseloads is significant and allows officers to spend more time supervising each offender, in many instances, this number still represents an unmanageable caseload for officers in many larger counties, and remains well above the caseload of 100 per officer recommended by the Alabama Sentencing Commission. There is a continuing need for increasing the number of field supervising officers to better manage caseloads based on the risks and needs of the offenders. The Sentencing Commission continues

to recommend that the Legislature increase funding to the Board of Pardons and Paroles to finance the hiring of 60 additional officers each year until the caseload goal of 100 per officer is met.

Adoption and Implementation of A Risk and Needs Assessment Tool

The Alabama Sentencing Commission has long recognized the advantages of using a risk and needs assessment tool as an instrument for projecting the level of risk an offender poses to the community and identifying those needs that must be met to support crime free behavior for the offender. In 2004-2005, Pardons and Paroles adopted a risk and needs assessment tool developed for Alabama by the National Council on Crime and Delinquency. In 2005-2006, that instrument has been implemented for purposes of planning probation requirements and parole eligibility. In addition, the instrument is used to identify areas in which parolees must improve to lead a crime free life. The development and implementation of this tool has led to a change in the supervision method used by parole and probation officers to the more realistic “results” based supervision.

The risk and needs assessment allows effectiveness testing of sentencing policies and treatment programs.

An additional use of the risk and needs assessment instrument is the collection of offender specific data for use in determining the effectiveness of sentencing policies and treatment programs. For this information to be accessible, it is recommended that Pardons and Paroles develop an electronic application for this instrument. Electronic data will save innumerable manpower hours in collecting empirical data for evaluating policies and programs. The Board of Pardons and Paroles is encouraged to take immediate steps to make this type of data available for implementation of evidence-based practices.

Change in Supervision Accountability

In 2006, Pardons and Paroles experienced its first full year of “results” based supervision rather than “contacts” based supervision. The “results” based supervision was made possible by the implementation of the risk and needs assessment. Under this method of supervision, an offender’s success is measured by whether the offender makes progress in those areas identified as needs by the assessment instrument, i.e. undertakes substance abuse treatment, makes progress towards achieving a GED, makes progress toward learning a marketable skill, engaging in an anger management course, and improving life skills, etc. Identifying and changing behaviors that contribute to criminal conduct improves the safety of Alabama’s communities, as well as, creating more productive citizens out of ex-felons.

The change to “results” based supervision improves public safety by identifying and then changing behaviors contributing to criminal conduct.

Electronic PSI Expansion

Traditionally, pre- or post-sentence investigations (PSI) have been completed for only about one half of Alabama’s convicted felony offenders. These investigation reports bring valuable information to the attention of the courts and to those supervising convicted felons and are useful in determining the most appropriate supervision for each offender. The information contained

Filing electronic PSIs benefits informed sentencing and P&P officers' access to vital information.

in these reports includes offender demographics (age, personal and family history, education and military history, etc), as well as offense demographics (details of the offense, age, sex and race of the victim, relationship of the offender to the victim etc) and prior criminal history. While this information appears essential to sentencing, it is difficult to perceive how a supervising officer can perform his or her functions without having this information as part of the offenders file. For this reason, as well to collect this data for analysis purposes, electronic presentence or postsentence investigation reports are now required to be completed for all convicted felony offenders. In 2006, probation services completed over 14,886 electronic PSIs. This number compares well with the 17,956 persons convicted of felony offenses in the Alabama Sentencing Commission 2006 cohort.

The change to “results” based supervision improves public safety by identifying and changing behaviors contributing to criminal conduct.

A related matter pertaining to historical demographic data on offenders was the statewide accessibility by judges, prosecutors and probation officers of prior youthful offender and juvenile delinquency adjudications. After conducting the first regional workshops on implementation of the sentencing standards, it became apparent that access to these records varied from county to county, and that very rarely did key criminal justice officials, including judges, have statewide access to this information. To remedy this situation, the Sentencing Commission requested assistance from the Supreme Court. On August 31, 2006, the Supreme Court responded. An Order was issued providing all judges, prosecutors, victim service officers, probation and parole officers, and court personnel statewide access of youthful offender and juvenile delinquency records of any person subsequently charged with a felony offense, for the sole purpose of completing the worksheets required for implementation of the sentencing standards. It is specifically provided that these records shall be made available to the designated persons without requiring a special hearing or issuance of an order by the court of adjudication.

Transition Centers

Two transition centers established for successful re-entry of offenders.

Since 2003, the Alabama Sentencing Commission has advocated the creation of transition centers in Alabama to assist in the successful re-entry of offenders from the confines of imprisonment back into the free world. The Commission has recognized that persons confined for a period of time become institutionalized and their life skills have often diminished during their incarceration. This is especially true of ex-prisoners who are released into a world often vastly different from the world they left when first incarcerated, leading to further criminal conduct and subsequent incarceration. For these reasons, the Commission recognized the need for preparing incarcerated offenders for release into the free world. The Board of Pardons and Paroles has accepted the challenge and now provides two transition centers as another step in establishing a continuum of sanctions in Alabama. These transition centers, originally designed as a stepping stone from prison to the free world, are now used not only for that purpose, but also as a “last step” before prison for some women offenders for whom every other avenue has failed. The two transition centers are the women’s L.I.F.E. Tech in Wetumpka and the men’s L.I.F.E Tech facility in Thomasville.

The women's facility, designed to help reduce the crowded conditions at Tutwiler Prison, as well as to assist women transition from prison to the free world, originally focused on accepting incarcerated women who were not ready for parole. Since the inception of that facility, its mission appears to have changed.

	Completed Program	Failed to Complete	Current Residents	Total
Parolees	401	112	30	610
Probationers	255	87	106	498
Total	656	199	136	1,108

In the past, the majority (60%) of residents at the women's L.I.F.E. Tech facility were parolees. However, parolees now account, as of May 25, 2007, for only 22% of the current residents. It is recommended that the Board of Pardons & Paroles, in conjunction with the Department of Corrections, conduct a thorough study of the women incarcerated at Tutwiler to find those offenders who could benefit from the intensive L.I.F.E. Tech programs to further ease the crowded conditions at that facility and to provide released women with the skills necessary to successfully transition into the free world.

The women's facility continues to offer a successful program to those who complete the courses offered. To date, only 2.6% of the L.I.F.E Tech women have been convicted of a new offense after leaving the facility. This compares very favorably with a recidivism rate of over 25% for those who are released without the benefits of the program.

The men's facility at Thomasville is still too new to evaluate. That facility came on line April 2, 2006 and has a current enrollment of 231. The recidivism rate of the early graduates is almost double that of the women, but still lower than those released without the benefits of the program.

Alabama must continue to work to provide a true continuum of punishment including more opportunities for successful reentry into the free world after prison. The safety of the public depends on the successful re-entry of these individuals. The L.I.F.E Tech programs must continue to expand to offer successful re-entry to all offenders who can take advantage of these opportunities.

Technical Violator Centers

In FY 2006, more than 425 offenders were returned to prison for technical parole violations (no new offense committed) and 1,056 for technical violations of probation. Technical violations include violating a condition of parole or probation other than the commission of a new offense. These violations include matters such as failure to report to a parole or probation officer in a timely fashion, failing drug tests, violations of curfew, late reporting, failing to notify of address change, etc. The violations indicate an inability to comply with rules and a lack of structure in the lives of the offenders. The violations are often more indicative of the offender's danger

The change to "results" based supervision improves public safety by identifying and then changing behaviors contributing to criminal conduct.

L.I.F.E Tech programs must be expanded to offer successful re-entry programs to all offenders who can benefit from participation.

Technical violator centers could have reduced prison admissions by nearly 1,500 in FY 06.

to him/herself than to the community. To address these issues, many states are now implementing technical violator centers, special programs for addressing these issues. Such centers in Alabama could have reduced prison admissions by almost 1,500 in 2006.

The needs of offenders returning for technical violations can be more effectively met in a technical violator center, not a prison.

The Sentencing Commission continues to recommend the creation of technical violator centers in Alabama, not only because of prison crowding, but also because the needs of these offenders can be more effectively addressed in centers aimed specifically at the problems these offenders face. Again this is an issue of public safety. If these issues can be resolved with a 60 to 90 day program at a technical violator center, then Alabama does not need to waste scarce prison resources on these offenders.

Special Parole Board

The parole release mechanism cannot be expected to stabilize the prison population.

In Act 2003-415, the Legislature created a second branch of the Board of Pardons and Paroles to assist the original Board in hearing parole dockets to clear up backlogs in those dockets. By statute, the terms of the new board members ended on September 30, 2006. While there were some proposals to continue the second board to hear additional cases, the Legislature refused to extend the original terms due to the reduced number of parole eligible offenders. The special board was effective in increasing the number of inmates considered for parole, helping to alleviate some of the immediate crowding of state prisons, but this success was short-lived. While paroles continue, this release mechanism alone cannot be expected to stabilize the prison population.

Chapter 6: Commission Projects for 2007

Alabama has taken several major steps in the slow crawl to building a meaningful, fair, effective, and efficient criminal justice system. While these steps include the implementation of bills passed since 2001 to address numerous sentencing issues in Alabama (theft, burglary, voluntary sentencing standards), the work for the Alabama Sentencing Commission has just begun.

The year 2007 promises to be a busy one as the Commission and staff continue to compile and use empirical data to effect criminal justice policy decisions. The Commission's plans are ambitious. The Commission will continue working on effective implementation of the voluntary sentencing standards by conducting additional training, focusing on statewide use of the e-worksheets and the uniform entry of sentence information; begin the process of verifying the effectiveness of those standards; and initiate the development of truth-in-sentencing standards to present to the Legislature in 2009. In the midst of these projects, the Commission and staff will continue to address and assist in implementing the expansion of intermediate sanctions in Alabama to establish a meaningful intermediate punishment system and provide the Legislature with impact statements on proposed criminal justice legislation.

Also included in the plans for the upcoming year is the update and expansion of the Commission's simulation model used to examine the impact of policy decisions on the criminal justice system. In addition, the Commission will begin to review and identify risk assessment tools toward the goal of adopting a single instrument that can be used at every stage of the corrections system to assure proper placement of offenders within the system. This work has already begun.

Continue Implementation of the Initial Voluntary Sentencing Standards

While the Commission held workshops instructing over 1,000 individuals in the use of the new sentencing standards, the enormity of the task of changing sentencing recommendations for over 15,000 criminal offenders each year cannot be overstated. Having already reached some 200 judges, 42 district attorneys, almost 300 assistant district attorneys, several hundred probation officers, hundreds of defense counsel and personnel from community correction programs and circuit clerks' offices, the Commission must continue the implementation process through training and monitoring. The Commission will continue the implementation on three fronts: additional workshops and one-on-one assistance in the implementation process, evaluating the use of the standards, and improving the online worksheet application.

As part of the implementation process, the Commission must remain in touch with personnel around the state involved in criminal sentencing. Contact is maintained in at least four ways. (1) The Commission has established an office hotline for answering questions about the standards. This hotline receives numerous telephone calls each day from district

The Commission's plans are ambitious for projects in 2007 and beyond.

Changing sentencing recommendations for over 15,000 criminal offenders yearly was a monumental task that requires continuing statewide training and monitoring.

Commission staff have established a hotline to answer user's questions regarding implementation of the sentencing standards and use of the electronic worksheets application.

attorneys, judges, probation officers, community punishment personnel, and defense attorneys seeking assistance in the implementation of the standards. (2) The Commission staff also answers daily emails from worksheet preparers and others in the criminal justice system about the use of the voluntary sentencing standards. (3) The Commission staff is entering worksheet information submitted on paper forms into the Sentencing Standards database and monitoring the worksheets that are filed with the Commission office. Local judges, district attorneys, clerks, and others are contacted to assist local officers in properly completing the worksheets and utilizing the standards. (4) Upon request, the Commission staff will also continue to provide training and updates through seminars around the state to enhance the use of the initial voluntary sentencing standards. This training is especially important for clerks' office personnel who must record and properly enter circuit court actions and sentences into the SJIS database.

Another major part of implementing the new voluntary sentencing standards is evaluation of the composition of the worksheets, worksheet completion in each judicial circuit and identifying common user errors. The Commission is seeking an impartial evaluation and, through a grant made available by the Pew Charitable Trusts, will use the technical assistance of the Vera Institute of Justice to perform an independent evaluation at no cost to the State of Alabama. The Vera Institute's Center for State Sentencing is familiar with Alabama's sentence reform efforts and is an excellent choice to provide this initial evaluation.

The Commission continues to refine and encourage the use of the electronic worksheet application developed by the Administrative Office of Courts Technical Assistance Division. Ultimately the use of these electronic worksheets will allow easier access to data necessary for sentencing purposes and evaluating the use of the voluntary sentencing standards.

Expansion of Databases

The Commission continues to compile and analyze criminal justice data including expanding the cohort of felony offenders.

Through creation of the Alabama Sentencing Commission, the legislative, executive, and judicial branches of government recognized an essential function within the criminal justice system is to foster an environment of making policy decisions based on empirical data. The Commission was assigned the task as serving as a clearinghouse for criminal justice data and making that data available through its publications and through other means for use in recommending and enacting policy decisions. To this end, the Commission continues to expand its data cohorts of sentenced offenders to add new convictions and additional demographic data. This is a continuous function of the Commission and is necessary not only for evaluating the initial voluntary sentencing standards, but also to build and recommend truth-in-sentencing standards, provide realistic impact analyses on other recommended policy decisions, and maintain a current simulation model of the criminal justice system.

Truth-In-Sentencing

One of the primary goals of sentence reform in Alabama is to achieve truth-in-sentencing. Truth-in-sentencing has been defined as handing down sentences where the sentence imposed by the court bears a certain relationship to the sentence actually carried out. Overcrowded prisons, indeterminate sentencing, and lack of resources have led to a sentencing system in Alabama in which it is very difficult to predict how or to what extent most sentences will be served. Therefore, along with implementing the initial voluntary sentencing standards and evaluating the effectiveness of those standards, the Legislature has tasked the Sentencing Commission with developing truth-in-sentencing standards and to present those standards to the Legislature for approval in 2009.

The development of truth-in-sentencing will be a process similar to that followed in the development of the initial voluntary sentencing standards. The Commission will determine data sources, collect data on historical “time served” in Alabama, analyze the major determining factors for “time served” decisions, and weight those factors to establish both a durational and a dispositional sentencing recommendation for each case. This process requires accurate demographic data for both inmates and probationers. The Commission must immediately begin developing an accurate “time served” database to enable the development of truth-in-sentencing standards in 2008 for submission to the Legislature in 2009.

Provide Impact Statements

One of the continuous services of the Alabama Sentencing Commission is to provide impact statements on pending legislation to the Legislature through the Legislative Fiscal Office and legislative committees. When requested, the Commission provides the Legislative Fiscal Office with an analysis of the impact of pending legislation on the Alabama corrections system, based on the analysis of current practices and status quo projections.

Simulation Model

In 2004, the Alabama Sentencing Commission developed a sentencing simulation model to analyze the likely impact of Alabama’s new sentencing standards, as well as to project the prison population under a status quo scenario. Since the baseline 5-year projection was published in 2004, the model has performed above expectations. In March 2007, the reported Department of Corrections population was off by only 205 inmates compared to the predicted population published in December 2004. With an error rate under 1 percent for March 2007, the simulation model predictions continue to demonstrate high accuracy over two years after development.

As the Commission moves into developing time-served standards, the simulation model must undergo an overhaul to account for changes in the standards as well as the availability of new information systems, including the electronic pre-sentence investigation report (E-PSI) data, the new ADOC

Development of truth-in-sentencing standards is the next major project for the Commission in continuing criminal justice reform in Alabama.

“Time served” felony database must be created.

Revised simulation model to incorporate E-PSI and sentencing worksheet data.

In 2007, the Commission will continue exploring alternative sentencing options including community punishment/treatment options and expanding the number of drug courts.

The Commission will review risk and needs instruments to assess the possibility of adopting a single tool for use throughout the criminal justice field.

SQL-Server platform, and the E-worksheet data generated on the current sentencing standards. The planned overhaul will create a new simulation model. In addition to new data, the new simulation model will provide users with interfaces that make it both easy to use and to update as Alabama revises worksheets and changes criminal statutes. It is anticipated that with the updated simulation model, the Alabama Sentencing Commission will be able to continue to provide accurate projections of the prison population while adding projections for probation, parole, and alternative sentencing options.

Increase Alternative Sentencing Opportunities – A Continuum of Sanctions

In 2000, the Legislature recognized the necessity of providing a “wider array” of sentencing options to trial court judges sentencing felony offenders. The Commission continues to work with the Department of Corrections; the Board of Pardons and Paroles; the Alabama Community Corrections Association; local county commissions, community corrections programs and judges to expand alternative felony sentencing options in Alabama. Two major projects will be tackled in 2007. The Commission will work with the Alabama Community Corrections Association and local programs, as well as the Board of Pardons and Paroles, to analyze the mission and means of expansion of alternative sentencing and treatment programs that involve the community. The Commission will also work with Chief Justice Cobb to expand drug court programs to every county in the state.

Risk/Needs Assessment

Risk and needs assessments of offenders are an integral part of any attempt to define the proper placement of offenders in the criminal justice system. Probation and confinement classification systems are examples of risk assessment systems that have been used for years. As Alabama and the nation move into corrections systems designed on evidence based factors, refining risk and needs assessments for the proper classification and punishment of offenders can be used to greatly enhance public safety by more clearly defining which offenders are safe for community punishment and supervision.

Needs assessment tools also enhance public safety by identifying those short comings attributed to an offender that, if improved, decrease the likelihood of criminal conduct. Following assessment on an offender, the criminal justice system can begin to find ways to address those shortcomings. Pardons and Paroles has developed and is using a risk and needs assessment instrument for probationers and parolees, and ADOC is developing a new classification system for inmates. The Sentencing Commission will review these and other instruments to assess the possibility of adopting uniform needs and risk assessments that can be used throughout the criminal justice system. Uniform instruments would allow officials to better trace an offender’s progress through the system.

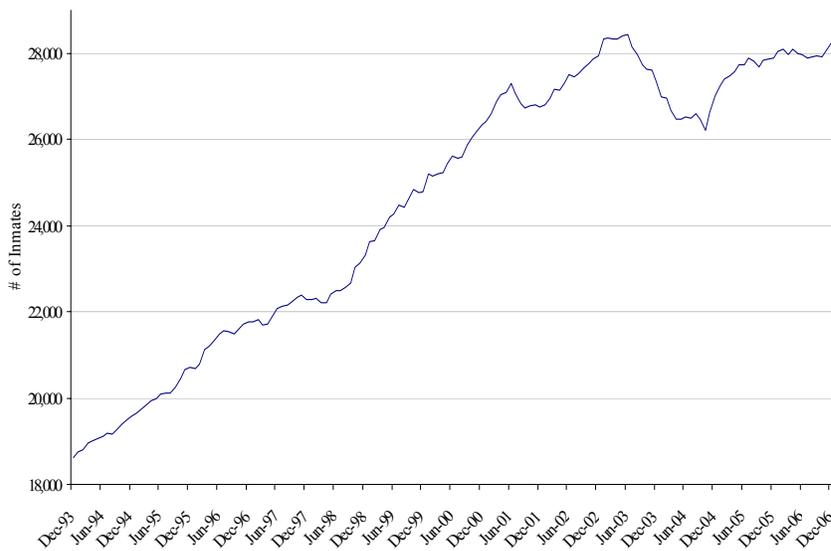
Chapter 7: Using Data to Map Our Course

ADOC Population Growth

Figure 1 below displays the growth in the Alabama Department of Corrections from December 1993 through December 2006. The inmate population has been characterized by steady growth for much of the period. The only period of sustained reduction occurred due to special parole dockets beginning in April 2003, but this decline ceased in late 2004.

The decrease in ADOC caused by special parole dockets was short lived.

Figure 1.



ADOC Year End Population

The inmate population changes daily. The table (Figure 2) below shows the inmate population at the end of December for each year, the numeric change from the previous year, and the percent change from the previous year.

At year's end, ADOC population increased 1.3% from 2005.

Figure 2.

Prison Population at Year's End as of December 31st

Year Ended	ADOC Population	Increase/Decrease	% Change
Dec-00	26,332	1,548	6.2
Dec-01	26,741	409	1.6
Dec-02	27,947	1,206	4.5
Dec-03	27,344	-603	-2.2
Dec-04	27,016	-328	-1.2
Dec-05	27,888	872	3.2
Dec-06	28,241	353	1.3

Habitual Felony Offenders - The Impact of Our HFOA Statute

During FY06, the HFOA population grew by 192 inmates (2%).

The number of habitual offenders in the Department of Corrections has steadily increased. Nearly one-third of inmates are sentenced as habitual offenders. The Department of Corrections monthly statistical reports indicate that roughly 80 percent of sentenced habitual offenders are personal or property offenders.

Figure 3.

Habitual Felony Offenders in ADOC Population by Crime Type

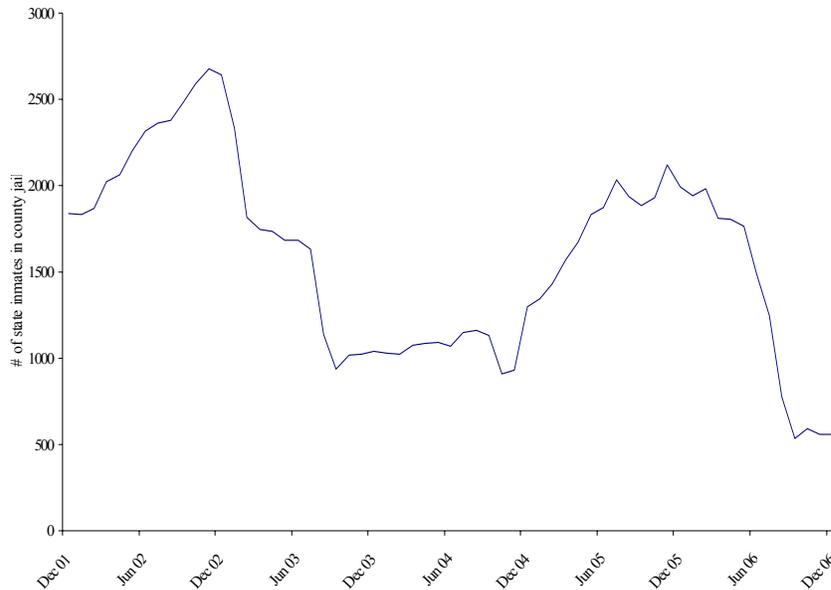
FY 2006	Personal	Property	Drugs	Other	Total	% Habitual of Total Pop.
Oct-05	3,304	3,597	1,428	175	8,504	30.5
Nov-05	3,320	3,600	1,430	174	8,524	30.6
Dec-05	3,326	3,612	1,451	174	8,563	30.7
Jan-06	3,333	3,631	1,457	178	8,599	30.7
Feb-06	3,328	3,624	1,470	182	8,604	30.6
Mar-06	3,328	3,619	1,485	189	8,621	30.8
Apr-06	3,336	3,622	1,489	199	8,646	30.8
May-06	3,322	3,618	1,491	200	8,631	30.8
Jun-06	3,327	3,634	1,489	200	8,650	30.9
Jul-06	3,336	3,630	1,493	209	8,668	31.1
Aug-06	3,343	3,620	1,530	205	8,698	31.2
Sep-06	3,338	3,605	1,551	202	8,696	31.1

Inmates in County Jail

The number of inmates awaiting transfer to the Department of Corrections from county jails eased in 2006, especially in the latter part of the year. The number of inmates awaiting transfer in the county jails has stayed under 600 from September through December of this past year. The recent decline in the number of inmates awaiting transfer followed a period of fairly rapid growth beginning in October 2004.

The number of inmates in county jail awaiting transfer to ADOC fell sharply in 2006.

Figure 4.



The number of inmates in county jails with transcripts over 30 days ready has dramatically dropped in 2006.

Figure 5.

	Dec-01	Dec-02	Dec-03	Dec-04	Dec-05	Dec-06
Transferred to ADOC from Jail	210	248	196	179	175	211
State Inmates in Jails	1,839	2,643	1,039	1,299	1,993	555
Transcripts Over 30 Days Ready	331	1,564	0	182	804	24
Total Transcripts Ready	998	2,261	557	585	1,257	409

Who is in Our Prisons - Top 25

Inmates convicted of murder and robbery 1st comprise 26% of all active inmates.

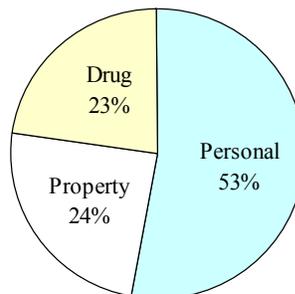
Two primary factors drive the offenses that are the most common in the stock population of inmates - length of sentence and number of admissions for specific offenses. The top eight offenses in the stock population top 25 list, all accounting for 900 current inmates or more, are either Class A felonies (receiving longer sentences) or offenses among the top 6 in prison admissions. The top two offenses - murder and robbery 1st - account for 1 out of every 4 (26 percent) active inmates. The top eight offenses in the list are responsible for 57 percent of all active inmates.

Figure 6.

Stock Population on May 14, 2007

Murder	1	3,939
Robbery 1st	2	3,619
Possession of Controlled Substance	3	2,110
Distribution of Controlled Substance	4	1,690
Burglary 3rd	5	1,525
Theft of Property 1st	6	1,308
Rape 1st	7	1,272
Burglary 1st	8	941
Robbery 3rd	9	869
Theft of Property 2nd	10	828
Trafficking Drugs	11	800
Manslaughter	12	753
Felony DUI	13	668
Possess Marijuana 1st	14	598
Sodomy 1st	15	567
Assault 2nd	16	523
Robbery 2nd	17	515
Poss Forged Instrument 2nd	18	476
Sexual Abuse 1st	19	464
Assault 1st	20	447
Burglary 2nd	21	439
Receiving Stolen Property 1st	22	422
Rape 2nd	23	354
Breaking/Entering a Vehicle	24	338
Attempted Murder	25	312
Top 25 Offenses		25,777
Other Offenses		3,055
Total Stock Population		28,832

Figure 7. **Stock Population Top 25 Offense Category**



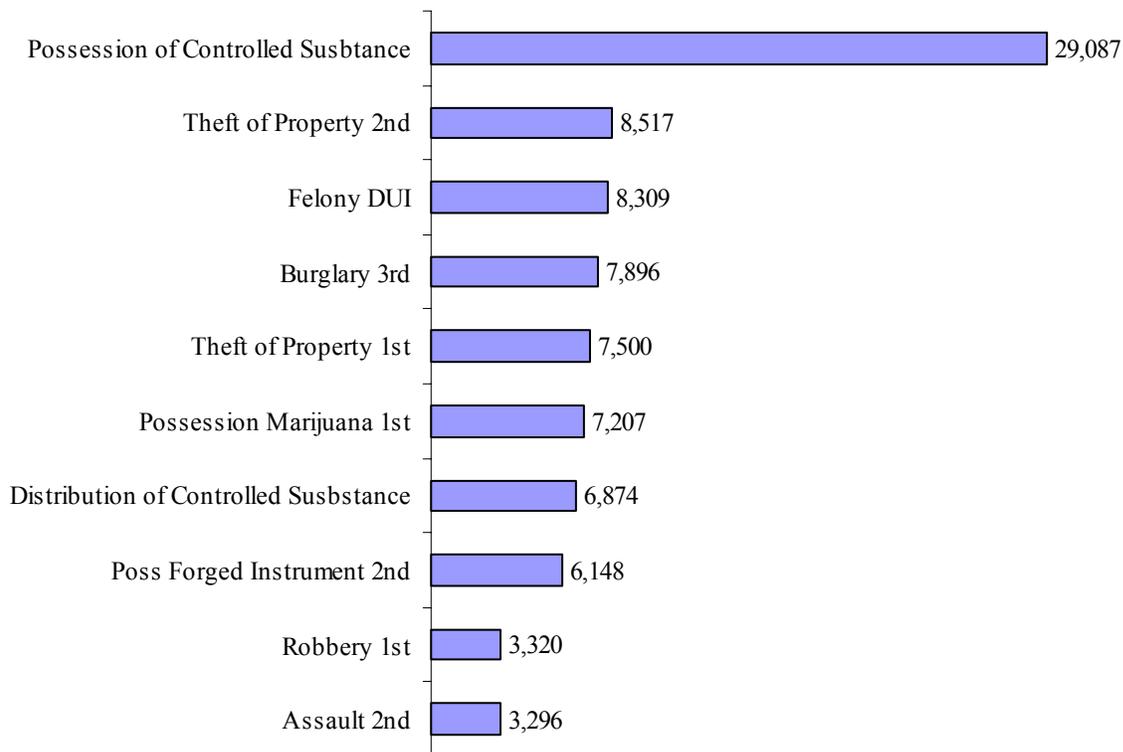
Most Frequent Crimes at Conviction - Top 10

Figure 8 shows the top 10 most serious offenses at conviction from October 1, 1998 through May 31, 2006. These top 10 conviction offenses have accounted for over 68 percent of all most serious offense convictions for the same time period. Drug offenses (including felony DUI) have made up a majority of the top 10 most serious offenses at conviction. Four drug offenses (possession of a controlled substance, felony DUI, possession of marijuana 1st, and distribution of a controlled substance) appear in the top 10 and have accounted for 58 percent of the top 10 convictions and have constituted 40 percent of all most serious convictions. By a wide margin, the leading offense is possession of a controlled substance which has been responsible for 33 percent of the top 10 offenses and 22 percent of all most serious conviction offenses. The four property crimes appearing in the top 10 (theft of property 2nd, burglary 3rd, theft of property 1st, and possession of a forged instrument 2nd) have made up 34 percent of the top 10 offenses and 23 percent of all most serious convictions offenses. Robbery 1st and Assault 2nd - the only personal crimes appearing in the top 10 - have accounted for only 8 percent of the top 10 list and 5 percent of all most serious conviction offenses.

Possession of a controlled substance offenses represent 33% of the Top 10 most frequent crimes at conviction.

Figure 8.

Most Frequent Crimes at Conviction October 1, 1998 - May 31, 2006



Most Frequent Offense at Conviction - Top 25

Figure 9 shows the top 25 most serious offenses at conviction for the past three years through May 2006 (each year runs June 1-May 31). This table shows the movement, or stability, of offenses in the Top 25 list along with the frequency of each offense for the past three years. For 2006, the Top 25 list of Most Serious Offense Convictions constitutes nearly 88 percent of all felonies constituting the most serious crimes at conviction. Drug offenses (including felony DUI) continue to make up a majority of the list. Drug offenses account for 54 percent of the list, property offenses 37 percent, and personal offenses 9 percent.

Possession of controlled substances continues to rank #1 of most frequent felony crimes at conviction.

Possession of a controlled substance continues to lead this Top 25 list. The number of these possession offenses has grown 13 percent since 2005, and has increased 25 percent since 2004. This offense accounts for over 30 percent of the Top 25 offenses and more than 1 in every 4 most serious offense convictions.

The largest numeric increase, since 2005, other than possession of a controlled substance, was theft of property 2nd (a gain of 125 convictions), while the largest percent increase was a first time ranking to the top 25 list - obstructing justice using a false identity (60 percent increase to 154 convictions). The largest numeric fall was theft of property 1st (dropped by 103 to 808 convictions) and the largest percent decline was assault 2nd (down 18 percent to 325 convictions). Manslaughter dropped out of the top 25 list this year with a 23 percent drop in convictions.

The 2006 Top 25 list had two additions - obstructing justice using a false identity (#20) and robbery 2nd (tied with murder for 24th) and two deletions - assault 1st (#23 last year) and manslaughter (#25 last year).

Figure 9.

**Most Frequent Non-Capital Offense at Conviction
June 1, 2003 - May 31, 2006**

	2004	2005	2006
Possession of Controlled Substance	1 3,823	1 4,247	1 4,787
Burglary 3rd	5 934	2 1,039	2 1,146
Theft of Property 2nd	2 1,023	7 871	3 996
Felony DUI	3 993	4 939	4 984
Distribution of Controlled Substance	6 895	5 922	5 953
Possession Marijuana 1st	7 833	3 967	6 906
Poss Forged Instrument 2nd	8 782	8 858	7 871
Theft of Property 1st	4 963	6 911	8 808
Robbery 1st	10 407	10 387	9 432
Receiving Stolen Property 2nd	9 418	12 328	10 335
Assault 2nd	11 397	9 395	T11 325
Breaking/Entering a Vehicle	13 331	14 322	T11 325
Receiving Stolen Property 1st	12 362	13 324	13 323
Robbery 3rd	16 240	T16 305	14 305
Manufacturing Controlled Substance 2nd	T17 228	11 344	15 299
Fraud/Illegal Use Debit/Credit Card	T17 228	18 241	16 298
Trafficking Drugs	14 284	15 314	17 297
Forgery 2nd	15 273	T16 305	18 281
Manufacturing Controlled Substance 1st	19 158	19 226	19 195
Obstruct Justice-False Identity		124 96	20 154
Burglary 2nd	23 146	21 146	21 153
Burglary 1st	21 150	20 156	22 144
Sexual Abuse 1st	20 151	22 143	23 139
Robbery 2nd	22 147	108	T24 133
Murder	110	24 134	T24 133
Assault 1st	25 124	23 141	121
Escape 3rd	24 125	110	113
Manslaughter	102	25 128	98
Top 25 Offenses	14,415	15,093	15,722
Other Offenses	2,028	1,932	2,234
Total Most Serious Felony Offense Convictions	16,443	17,025	17,956

Drug and felony DUI crimes account for 54%, property crimes 37%, and personal crimes 9% of the Top 25 convictions in 2006.

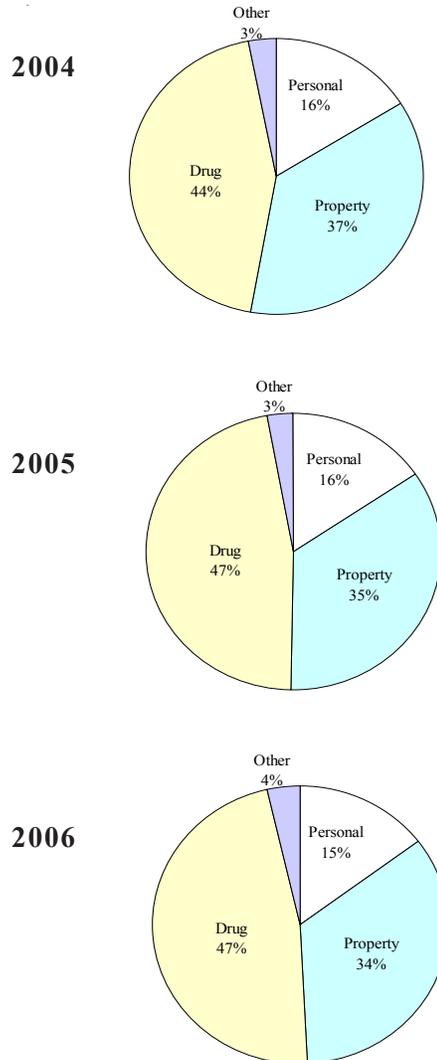
Type of Most Frequent Offense at Conviction

Figure 10 details the percentage of convictions of all of the most frequent crimes at conviction by offense type for the past three years. The percentage distribution of offense categories has remained relatively stable with only a mild shift among two of the offense categories since 2004. Drug convictions have increased slightly from 44 percent in 2004 up to 47 percent in both 2005 and 2006. Property crimes have dipped from 37 percent of convictions in 2004 to 34 percent in 2006.

Figure 10.

The distribution of offense categories at conviction in 2006 varies slightly from the distribution in 2005.

Most Frequent Non-Capital Offense at Conviction Offense Category June 1, 2003 - May 31, 2006



Drug Convictions

Drug Offenses (including felony DUI) continue to make up a majority of all most serious conviction offenses. The table below shows the most frequent drug offenses at conviction for the past three years. Possession of a controlled substance offenses continue to dominate this list, accounting for 56 percent of all drug offenses in 2006. These possession cases also continue to experience the largest gains, both in numeric and percentage changes as well. Possession of a controlled substances offenses have risen 13 percent since last year, and jumped 25 percent since 2004. After moving to the #2 spot last year, possession of marijuana 1st fell to the fourth spot this year, dropping 61 convictions from the previous year. Three other drug offenses also experienced drops in convictions from last year - manufacturing of a controlled substance 1st & 2nd, and drug trafficking. Manufacturing of a controlled substance 2nd and manufacturing of a controlled substance 1st experienced large increases last year, 31 and 23 percent respectively, before both falling between 13 and 14 percent this year. Despite losses in four of the offense categories on this list, because of the increase in convictions for felony DUI, distribution of a controlled substance offenses, and the large jump in possession cases, drug offenses increased 6 percent over last year's total.

After large increases in 2005, both manufacturing controlled substance 1st and 2nd offense convictions decreased in 2006.

Figure 11.

Most Frequent Offense at Conviction Drug Offenses June 1, 2003 - May 31, 2006

	2004	2005	2006
Possession of Controlled Substance	1 3,823	1 4,247	1 4,787
Felony DUI	2 993	3 939	2 984
Distribution of Controlled Substance	3 895	4 922	3 953
Possession Marijuana 1st	4 833	2 967	4 906
Manufacturing Controlled Substance 2nd	6 228	5 344	5 299
Trafficking Drugs	5 284	6 314	6 297
Manufacturing Controlled Substance 1st	7 158	7 226	7 195
Other Drug Offenses	77	60	71
Total Drug Offenses	7,291	8,019	8,492
Other Offenses	9,152	9,006	9,464
Total Most Serious Felony Offense Convictions	16,443	17,025	17,956

Type of Trafficking Convictions

The top three trafficking offenses (cocaine, marijuana, and methamphetamine) continue to exhibit similar counts compared to the previous year. Trafficking convictions dropped by 17 since 2005, but have risen 13 convictions from 2004. The only trafficking offense that experienced a rise in convictions since 2005 was cocaine (a modest increase of 6 convictions).

Methamphetamine trafficking convictions fell to 3rd in 2006 after a large jump to 2nd in 2005.

Figure 12.

Most Frequent Trafficking Convictions Drug Type June 1, 2003 - May 31, 2006

	2004	2005	2006
Trafficking - Morphine	1	3	2
Trafficking - Methamphetamine	81	86	75
Trafficking - Marijuana	58	87	83
Trafficking - Illegal Drugs	48	52	46
Trafficking - Cocaine	91	78	84
Other	5	8	7
Trafficking Drugs	284	314	297

Prison Admissions - Top 25

Prison admissions for new offenses increased by 411, or 5 percent, from last year. The top 25 offenses responsible for new commitments also increased in 2006, by 396 new commitments (6 percent). The top 25 offenses responsible for new commitments are responsible for 88 percent of all new prison commitments. Drug offenses comprise 45 percent, property offenses 34 percent, and drug offenses 21 percent of this top 25 list's admissions. Possession of a controlled substance and distribution of a controlled substance offenses accounted for nearly 1 out of every 4 (23 percent) prison admissions for new offenses in 2006. Twelve offenses rose in the top 25 rankings - murder, receiving stolen property 2nd, and burglary 2nd, all jumped four spots. Seven offenses fell in the top 25 rankings - the largest drop was breaking/entering a vehicle which fell six spots to #19.

Prison admissions for new offenses increased 5% in 2006.

Figure 13.

Prison Admissions for New Offenses June 1, 2003 - May 31, 2006

	2004	2005	2006
Possession of Controlled Substance	1 1,236	1 1,176	1 1,229
Distribution of Controlled Substance	2 701	2 670	2 689
Burglary 3rd	4 544	3 573	3 587
Felony DUI	3 581	4 519	4 541
Robbery 1st	6 415	6 364	5 494
Theft of Property 1st	5 486	5 399	6 410
Theft of Property 2nd	8 329	9 257	7 364
Possess Marijuana 1st	7 348	7 360	8 340
Trafficking Drugs	12 214	10 218	9 254
Poss Forged Instrument 2nd	9 284	8 267	10 246
Robbery 3rd	14 192	12 205	11 216
Murder	16 167	16 138	12 187
Assault 2nd	10 232	11 206	13 184
Receiving Stolen Property 1st	15 185	14 186	14 170
Burglary 1st	18 150	17 128	15 150
Receiving Stolen Property 2nd	17 163	20 111	16 141
Burglary 2nd	21 123	21 110	17 135
Manufacturing Controlled Substance 2nd	0	18 123	18 133
Breaking/Entering a Vehicle	11 216	13 195	19 129
Robbery 2nd	T19 135	22 104	20 125
Manufacturing Controlled Substance 1st	13 205	15 150	21 117
Manslaughter	24 93	23 103	22 109
Sexual Abuse 1st	22 112	25 91	23 108
Forgery 2nd	T19 135	19 119	24 107
Rape 2nd	25 82	73	25 96
Assault 1st	23 105	24 93	71
Top 25 Offenses	7,433	6,865	7,261
Other Offenses	1,230	971	986
Total Prison Admissions for New Offenses	8,663	7,836	8,247

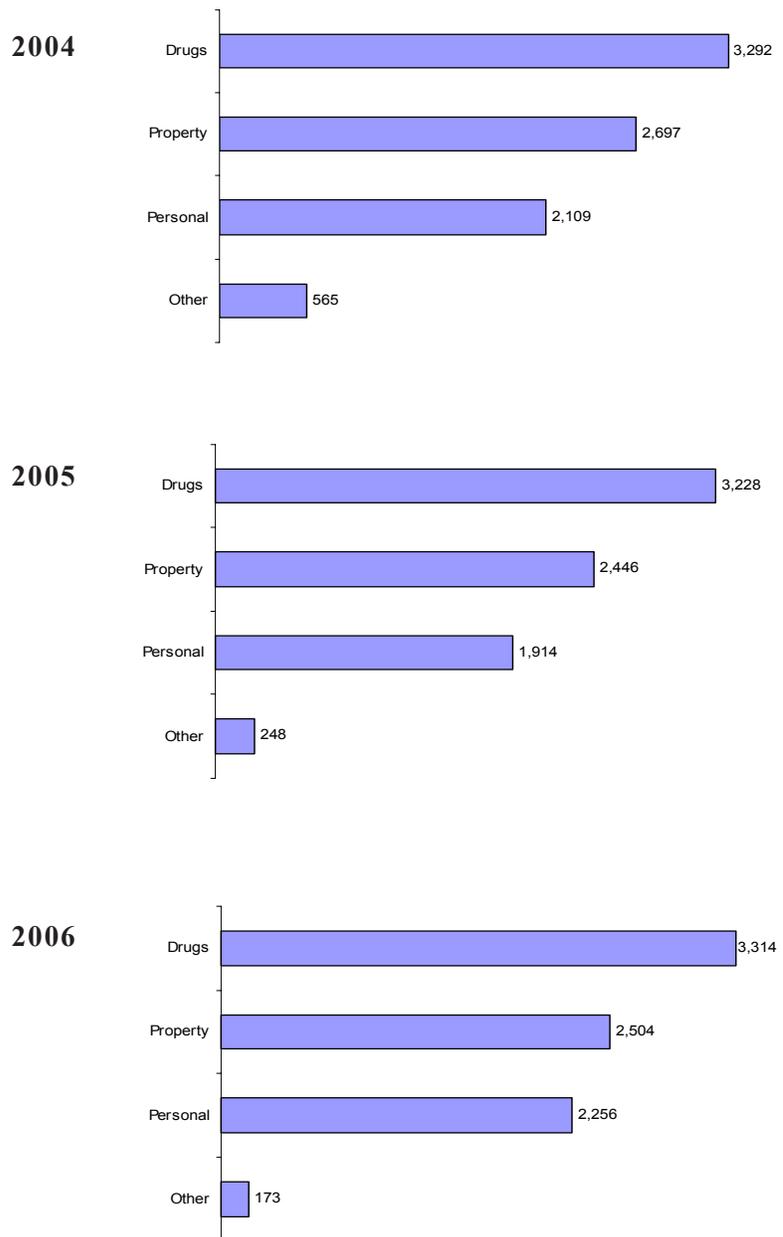
Prison Admissions for New Offenses by Offense Category

All categories, with the exception of the “other” category, increased in 2006. The personal category had both the largest percent and numeric increases, rising 18 percent with 342 commitments for new offenses. The drugs category remained the leading contributor in 2006, constituting 40 percent of all new admissions.

Figure 14.

All major offense categories increased in 2006.

**Prison Admissions for New Offenses
Offense Category
June 1, 2003 - May 31, 2006**

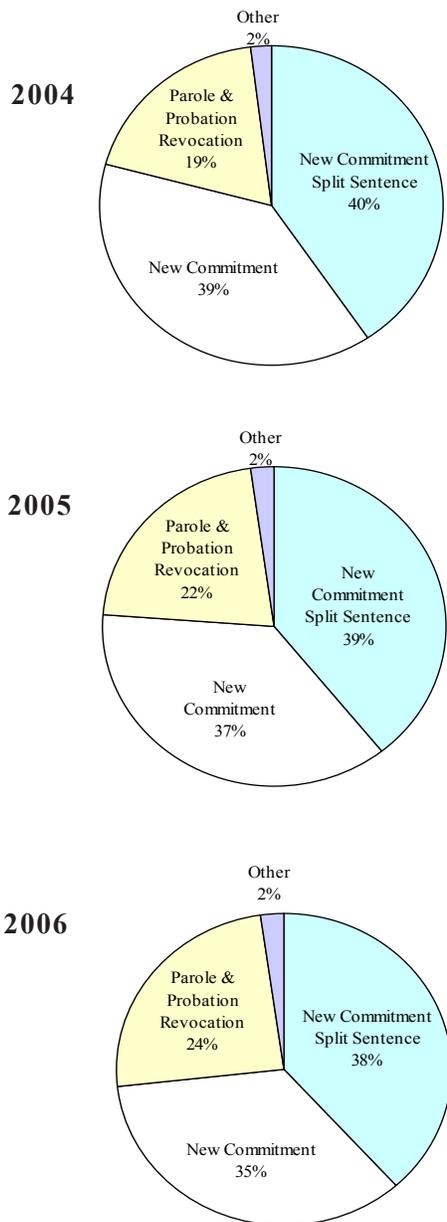


Prison Admissions by Type of Admission

The distribution of types of prison admissions has remained fairly stable since 2005, however, there has been a consistent increase in the percentage of admissions due to parole and probation revocations since 2004.

Figure 15.

Prison Admissions (all admissions)
Type
June 1, 2003 - May 31, 2006



Parole and probation revocations have increased from 19% of admissions in 2004 to 24% in 2006.

Prison Releases - Top 25

Prison releases down 12% since 2004 with drug possession accounting for 1 in every 7 releases.

Overall prison releases in 2006 rose 8 percent from 2005, but have dropped 12 percent since 2004. The top 25 offense prison releases show similar numbers, rising 11 percent from 2005, but falling 10 percent since 2004. Possession of a controlled substance offenses continue to top prison release offenses, accounted for 1 in every 7 releases in 2006. Twenty offenses appearing in the top 25 list had numeric gains in 2006 and eight offenses appearing in the top 25 list have increased in rank since 2005. Robbery 1st releases increased 42 percent from 562 releases in 2005, to 797 releases in 2006, easily leading the largest numeric leaps in 2006. Manufacturing of a controlled substance 2nd releases jumped 200 percent from 48 releases last year to 144 this year, far outpacing any other percent increases. Eight offenses appearing in the top 25 list in 2006 dropped in rank, but only five offenses in the top 25 in 2006 experienced numeric drops in releases. The offense in the 2006 top 25 list with the largest numeric and percent declines in 2006 was breaking/entering a vehicle decreasing 23 percent and 68 releases.

Manufacturing of Controlled Substance  200%

Robbery 1st  42%

Breaking/Entering a Vehicle  23%

Figure 16.

Prison Releases
June 1, 2003 - May 31, 2006

	2004	2005	2006
Possession of Controlled Substance	1 1,705	1 1,511	1 1,599
Distribution of Controlled Substance	2 1,434	2 790	2 844
Burglary 3rd	3 972	3 703	3 799
Robbery 1st	9 402	6 562	4 797
Felony DUI	5 828	4 603	5 667
Theft of Property 1st	4 846	5 596	6 642
Theft of Property 2nd	6 531	8 421	7 563
Poss Marijuana 1st	7 508	7 428	8 510
Poss Forged Instrument 2nd	8 478	9 344	9 358
Robbery 3rd	14 258	12 257	10 324
Assault 2nd	12 301	11 294	11 284
Receiving Stolen Property 1st	10 354	13 244	12 260
Trafficking Drugs	15 250	14 225	13 247
Breaking/Entering a Vehicle	11 336	10 296	14 228
Receiving Stolen Property 2nd	13 261	16 200	T15 216
Murder	21 136	17 185	T15 216
Robbery 2nd	T17 200	15 214	17 215
Burglary 1st	20 138	18 178	18 193
Burglary 2nd	16 231	T21 135	19 169
Forgery 2nd	T17 200	19 152	20 159
Assault 1st	19 161	20 150	21 155
Manufacturing of Controlled Substance 2nd	0	48	22 144
Sexual Abuse 1st	22 134	T21 135	T24 123
Manslaughter	23 116	23 134	T24 123
Manufacturing of Controlled Substance 1st	83	25 102	25 97
Rape 2nd	25 84	94	91
Poss Fraud Use of Credit/Debit Card	24 115	24 122	63
Top 25 Offenses	10,979	8,981	9,932
Other Offenses	1,602	1,177	1,080
Total Prison Releases	12,581	10,158	11,012

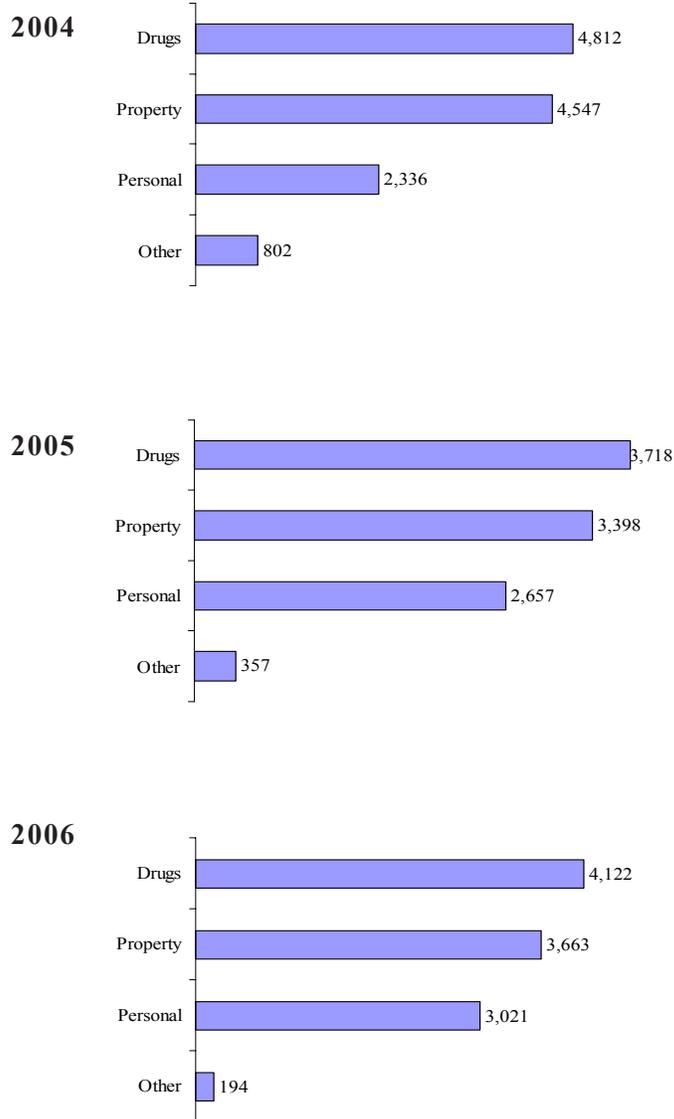
Prison releases increased 8% in 2006, but are significantly lower than releases in 2004.

Prison Releases by Offense Category

Releases for all major categories were up from the previous year. Personal offense releases increased 14 percent, drug offense releases rose 11 percent, and property offense releases grew 8 percent in 2006 from the previous year. Personal offense releases have grown 29 percent since 2004 and is the only category that has increased since 2004 (the end of the special parole docket). Property offense releases and drug offense releases have gone down 19 and 15 percent, respectively, in the same time period.

Figure 17.

**Prison Releases
Offense Category
June 1, 2003 - May 31, 2006**

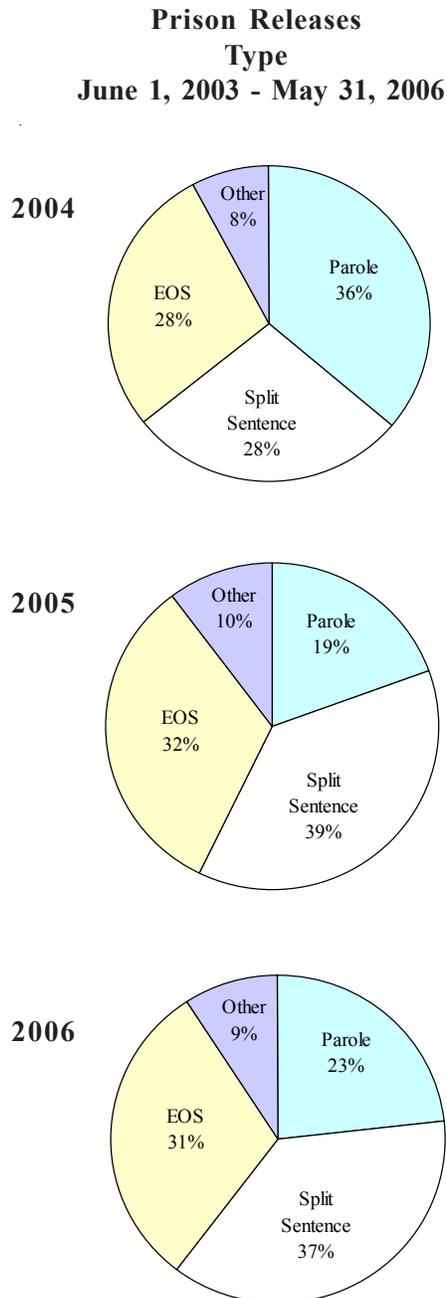


The number of prison releases for all major categories increased in 2006.

Prison Releases by Type

After an increase in releases as a result of the special parole docket, the percentage of prison releases through parole continues to stay well below the high mark of 36 percent set in 2004. The percent of releases that were paroled in 2006 increased by 4 percent, however, all other categories varied by 2 percent or less from last year.

Figure 18.



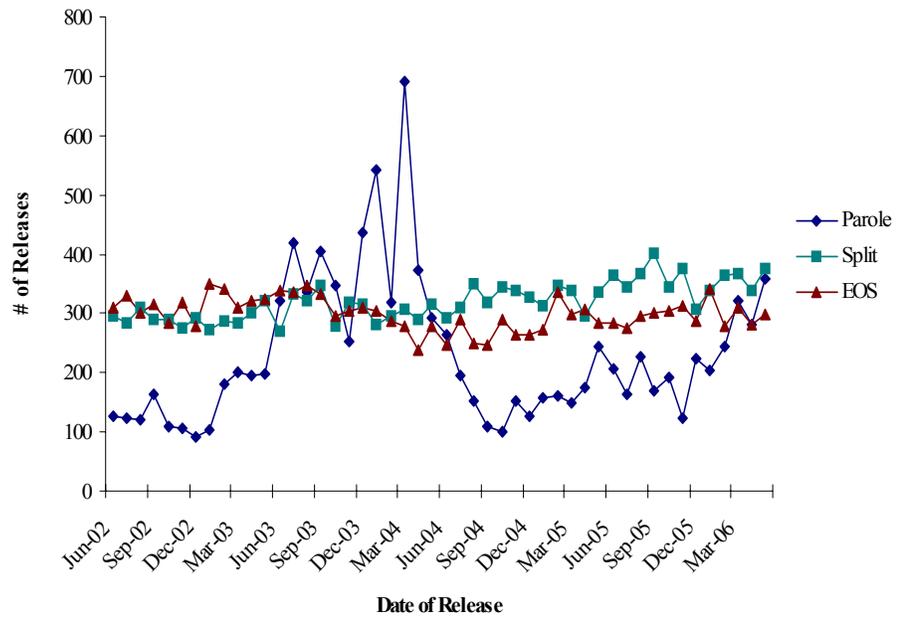
Parole releases dropped from 36% in 2004 to 19% in 2005 and have increased to 23% in 2006.

Type of Prison Releases by Offense Category

The graph below shows a visual depiction of prison releases over the past four years. The special parole docket drastically increased the number of parole releases over the period the special docket was in place. Following the special docket, the number of paroles plummeted but has recently begun to increase. The number of split sentence and expiration of sentence (EOS) releases have remained relatively stable over the four year period.

Figure 19.

The special parole docket drastically increased the number of parole releases while the number of split and EOS releases have remained fairly stable.



Through the implementation of the special parole docket, drug and property releases increased greatly in 2004. Drug and property releases dropped in large numbers the following year, but the number of releases for these two categories of offenses have both increased by 20 percent and 28 percent respectively in 2006. The distribution of release types within these offense categories has had no major changes, however; split sentence releases have fallen by approximately four percent in the two groups, and the other release types experienced swings of less than three percent between 2005 and 2006 (including parole). Personal offense releases have risen the last two years, increasing 24 percent in 2006 since 2004.

Figure 20.

**Prison Releases
Offense Category by Type
June 1, 2003 - May 31, 2006**

In 2006, personal releases increased 19%, property releases 28%, and drug releases 20%.

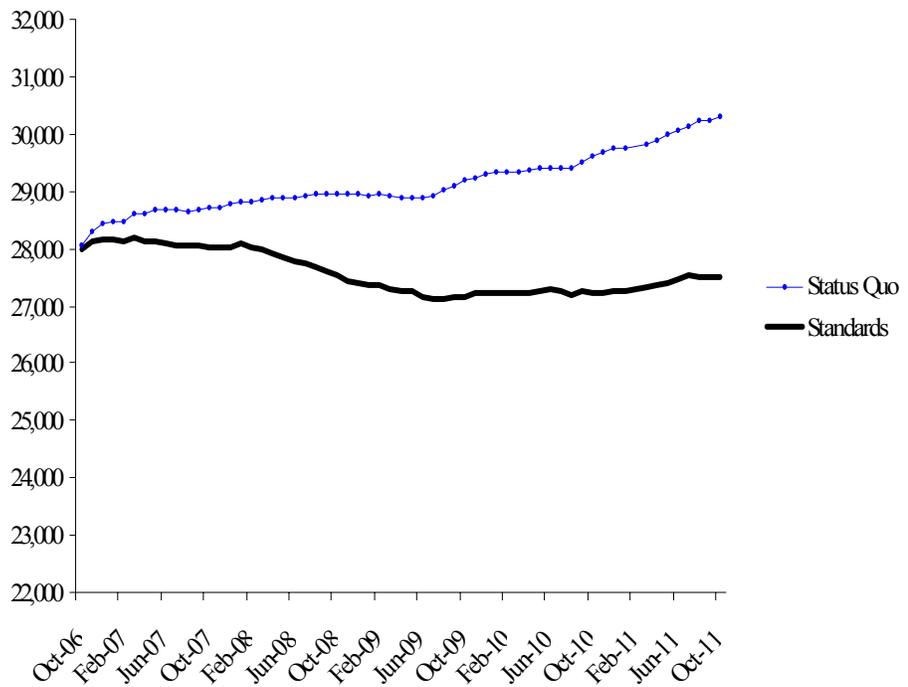
		Parole	Split	EOS	Other	Total
Personal	1999	482	761	597	311	2,151
	2000	473	790	779	296	2,338
	2001	288	806	755	248	2,097
	2002	392	755	860	230	2,237
	2003	259	851	773	249	2,132
	2004	525	868	873	230	2,496
	2005	663	970	763	208	2,604
	2006	957	1,124	685	338	3,104
		4,039	6,925	6,085	2,110	19,159
Property	1999	724	1,037	1,189	310	3,260
	2000	619	1,045	1,295	344	3,303
	2001	439	1,093	1,338	209	3,079
	2002	905	1,104	1,325	216	3,550
	2003	588	1,127	1,295	235	3,245
	2004	1,822	1,151	1,224	244	4,441
	2005	588	1,192	1,095	205	3,080
	2006	858	1,343	1,351	375	3,927
		6,543	9,092	10,112	2,138	27,885
Drugs	1999	707	925	902	325	2,859
	2000	604	1,101	1,125	354	3,184
	2001	474	1,182	1,419	165	3,240
	2002	1,126	1,338	1,405	225	4,094
	2003	839	1,341	1,429	226	3,835
	2004	2,076	1,460	1,229	225	4,990
	2005	660	1,570	1,134	230	3,594
	2006	864	1,715	1,419	299	4,297
		7,350	10,632	10,062	2,049	30,093

Simulation Model

75% compliance with the sentencing standards would stabilize the ADOC population.

The graph below shows the predictions of the Alabama Sentencing Commission’s simulation model for ADOC population for the next five years. The graph contains two different projections—one “status quo” prediction and one “standards” prediction. The status quo projection was created under the status quo conditions that existed prior to adoption of the sentencing standards. The standards projections were created using the assumption that the newly adopted sentencing standards would be followed in 75 percent of applicable cases from October 2006 forward. Data continues to be corrected to obtain reliable rates of compliance. If the sentencing standards are followed in 75 percent of applicable cases, the projections show the ADOC population would be 2,800 less in October 2011 than if sentencing continued under status quo conditions.

Figure 21.



Chapter 8: Timeline of Events

1971

Protracted litigation commenced involving conditions of Alabama's prison system.

Work Release Act Passed, Act 71-307, 3rd SS

10/1971

Alabama's Judicial Study Commission created by Act No. 2337, 1971. The Commission was established to "continuously study the judicial system of the state, the courts of the state, the administration of justice in Alabama, criminal rehabilitation, criminal punishment methods and procedures and all matters relating directly or indirectly to the administration of justice in Alabama and make recommendations pertaining thereto." § 12-9-1, *Code of Alabama* 1975.

1972

10/4/72

In class action brought by state inmates (represented by court appointed attorney Joe Phelps), Federal District Court Judge Frank M. Johnson found 8th and 14th Amendment violations relating to the inadequate medical care and treatment of state inmates, granting declaratory and injunctive relief and awarding attorney fees. *Newman v. State of Alabama et al.*, 349 F.Supp. 278 (Ala. M.D. Ala. 1972), aff'd in part, 503 F.2d1320 (5th Cir. 1974), cert. Denied, 421 U.S. 948, 95 S.Ct. 1680, 44 L.Ed.2d 102 (1975).

Study prepared by University of Alabama Center for Correctional Psychology under contract with Board of Corrections, highlighted woefully inadequate mental health programs in Alabama prisons and suggested minimum standards.

Work Release program initiated (335 inmates) State inmate population of 3,842 and prison budget of \$8.8 million.

8/29/73

Federal District Court finds unconstitutional conditions existing in local Alabama Jails. *Thrasher v. Bailey*, CA 73P 816-S (N.D. Ala. 1973).

1974

9/30/74

Class action for declaratory and injunction relief, brought by 6 inmates incarcerated in Holman's maximum security unit alleging 8th and 14th Amendment violations for the state's failure to provide adequate facilities and programs. Motion to dismiss complaint denied. *James v. Wallace*,

- 382 F. Supp. 1177 (M.D. Ala. 1976). Complaint originally filed on 6/21/74. Amended complaint filed by court appointed attorney, Peach Taylor, on 6/29/74.
- 11/8/74 Appeal by the State and Alabama's Attorney General from Judge Johnson's order that the Board of Corrections undertake extensive changes in its present practice to provide adequate medical care to inmates. The 5th Circuit Court of Appeals, en banc, remanded to a 3-judge panel, which held that the case was properly disposed of by a single-judge district court, sustaining Judge Johnson's finding of constitutional violations. *Newman v. State of Alabama et al.*, 503 F.2d 1320 (CA 5th 1974). Rehearing and Rehearing En Banc Denied 1/10/75, cert denied 421 U.S. 948, 95 S.Ct. 1680, 44 L.Ed.2d 102 (1975). In addressing the medical needs of state inmates the court found that approximately 10% of the inmate population was psychotic and another 60% mentally disturbed enough to require treatment.
- 1975**
- Legislature expanded felony murder by adding aggravated forms of escape, kidnapping and sodomy to the list of enumerated felonies.
- 8/7/75 Civil rights action brought by state prisoners against prison officials complaining of conditions and treatment. Federal District Judge, William Brevard Hand, held State had violated constitutional rights of inmates by confining them in overcrowded and understaffed prisons, but gave the Alabama Legislature the opportunity to remedy without federal interference. *McCray v. Sullivan, et al.*, 399 F. Supp. 271 (U.S. Dist. S.D. Ala.)
- 8/29/75 District Court Judge Frank Johnson enjoins Board of Corrections from accepting any additional state prisoners into state prison facilities until inmate population is reduced below design capacity (joint order issued in *McCray v. Sullivan*, Civ. Action 5620-69-H; *McCray v. Sullivan*, Civ. Action 6091-70-H; *White v. Commissioner of Alabama Board of Corrections*, Civil Action 7094-72-H; *Pugh v. Sullivan, et al.*, Civ. Action 74-57N; and *James v. Wallace, et al.*, Civ. Action 74-203-N.
- 1976**
- 1/13/76 Federal District Judge Frank Johnson holds Alabama's prison system's living conditions unconstitutional in violation of the 8th and 14th Amendments in a consolidated class action suit. (Pugh originally filed February 26, 1974). The State of Alabama and the Board of Corrections was

enjoined from maintaining a prison system not in compliance with constitutional standards and a 39 member Human Rights Committee for the Alabama Prison System (with Rod Nachman as chair) was appointed to monitor implementation of the court order. *Pugh v. Locke*, 406 F. Supp. 318 (M.D. Ala. 1976); aff'd with modifications sub nom.; *Newman v. Alabama*, 559 F.2d 283 (5th Cir. 1977); rev'd in part and remanded sub nom., *Alabama v. Pugh*, 438 U.S. 781, 98 S.Ct. 3057, 57 L.Ed. 2d 1114 (1978), holding Alabama's prison system's living conditions and 39-member Implementation Committee established pursuant to Judge Johnson's Order unconstitutional); See, *Newman v. State*, 683 F.2d 1312 (11th Cir. 1982), (reversing district court's order of 12/14/81 ordering prisoner release and holding civil contempt proceedings and coercive sanctions must precede prisoner relief.) See, also, *Newman v. Graddick*, 740 F.2d 1513 (11th Cir. 1984).

Capacity limitations placed on state correctional facilities, blocking transfers to DOC, results in the backlog of state inmates in county jails (by the end of 1976, 2,160 inmates were housed in county jails).

- 2/10/76 Since the Alabama Legislature failed to address the issue of overcrowded and understaffed prisons in the 1975 legislative session, Judge Hand ordered prison officials to provide a report on present prison conditions and propose recommendations to be presented by the Board of Corrections at the next session of the Alabama Legislature. Supplemental reports were ordered, with the Court retaining jurisdiction. *McCray v. Sullivan et al.*, 413 F. Supp 444 (S.D. Ala. 1976).
- 10/76–11/76 Reduction of inmate population in state facilities below design capacity accomplished.
- 12/20/76 Montgomery County Commission filed suit in Montgomery Circuit Court seeking an order requiring Prison Commissioner Judson Locke to transfer state prisoners in Montgomery County jail to other jail facilities.
- 12/30/76 Order issued by Montgomery Circuit Court (Judge Thetford) to transfer 16 maximum security state prisoners and 20 state prisoners to Dallas county jail.
- Circuit Judge Russell (Dallas County), issues order to Sheriff of Dallas County directing him to decline to receive prisoners from any other county.

Faced with conflicting orders, Commissioner Locke petitions U.S. District Court for instructions – None are given.

1977

- 1/4/77 Commissioner Locke petitions the Alabama Supreme Court for writ of Mandamus or Prohibition. In *McKinney et al. v. Locke*, 346 So.2d 419 (1977), the Alabama Supreme Court held that Judge Thetford's order was void for lack of due process.
- 2/7/77 Washington County Circuit Court grants TRO enjoining transfer of 15 state prisoners from Mobile County jail to Washington County jail. Preliminary injunction issued 2/23/77.
- 3/14/77 Permanent injunction issued by Fayette County Circuit Court against transfer of state prisoners from Marshall County jail to Fayette County jail.
- 5/23/77 Repeat felony offender statute goes into effect (§15-22-27.1). Act 1977, No. 639
- 9/16/77 Three class actions filed by Alabama inmates alleging unconstitutional prison conditions in Alabama prisons, *Pugh v. Lock et al.*, 406 F. Supp 318 (M.D. Ala. N. Div. 1976), *James v. Wallace et al.*, 382 F. Supp. 1177 (M.D. Ala. 1976) and *Newman v. Alabama*, 349 F. Supp. 278 (M.D. Ala. 1972), were consolidated on appeal by the 5th Circuit in *Newman v. Alabama*, 559 F. 2d 283 (CA5 1977). Affirming the District Court's finding of constitutional violations, the Court of Appeals dissolved the 39 member Human Rights Committee for the Alabama Prison System that was formed by Judge Johnson, ordered that their functions would terminate, remanding the cause to the District Court to appoint a monitor for each prison.
- 9/30/77 Alabama Supreme Court restrains Commissioner Locke from transferring state prisoners from Mobile County to Washington County, due to failure to comply with Alabama's notice provisions. *Locke v. Wheat*, 350 2d 451 (Ala. 1977). In his dissent, Justice Maddox notes that the emergency conditions exist in county jails because of a federal court order prohibiting the Board of Corrections from accepting state prisoners from county jails.
- 12/2/77 Prison Commissioner Locke's attempt to transfer 20 state prisoners from Marshall County jail to Fayette County jail restrained, as exercise of authority did not comply with notice provisions of Alabama's transfer statute. *Alabama*

State Board of Corrections v. Norris, 352 So.2d 1106 (Ala. 1977).

Alabama passes Habitual Felony Offender Act. Act 77-607 as a provision of the New Criminal Code, providing enhanced penalty of five years or greater on the maximum term of imprisonment otherwise authorized for felons committed by a repeat felony offender. Prior to Act 77-607 going into effect, it was subsequently amended in 1979 by passage of Act 79-664), again in 2000 by Act 2000-759, effective 5/25/00, and in 2001 by Act 2001-977, effective 12/1/01.

7/3/78 United States Supreme Court holds civil rights suit against the State of Alabama and the Alabama Board of Corrections brought to eradicate alleged cruel and unusual punishment in Alabama prisons was barred by the 11th Amendment. *Alabama v. Pugh*, 438 U.S. 781, 98 S. Ct. 3057, 57 L.Ed. 2d 1114 (1978).

1979

2/1979 District Court entered order appointing Governor Fob James receiver of Alabama's prison system.

7/30/79 Adoption of New Habitual Felony Offender Law with mandatory minimum sentences for repeat offenders based on the felony classification of the current offense.

1980

1/1/80 New Criminal Code adopted. Revised Code increased penalties for repeat felons and violent offenders.

Abolition of good-time credits for long-term (over ten years) inmates.

Sentence enhancements for felonies involving a firearm or other deadly weapon (20 year mandatory imprisonment for Class A, 10 years for Class B and C).

Parole Board adopts guidelines to increase the amount of time served by violent offenders.

Significant Changes in Alabama's Good Time Law - abolishing good time for all Class A felons. Correctional Incentive Time Act, Act 80-446.

Federal District Judge Frank M. Johnson appoints a 21-person committee to oversee the operation of the system;

	later replaced by a 3-member monitoring panel to ensure state compliance with federal court orders.
5/28/80	Drug Trafficking law goes into effect. Act 80-587
7/21/80	Civil rights suit alleging unconstitutional condition of confinement brought against state and county officials by inmates incarcerated in Montgomery County jail. Consent decree entered and Judge Varner taxed attorney fees against the State alone. In a per curiam opinion, the 5th Circuit Court of Appeals reversed, holding the State could not be held solely responsible for conditions in the county jail. <i>Bibb v. Montgomery County Jail et al.</i> , 622 F. 2d 116 (CA 5 1980).
10/9/80	District Court finds Alabama prison system has failed to comply with standards in prior orders and establishes deadlines. District court approves consent decree which required state to remove inmates from county jails by September 1, 1981, comply with all other minimum standards established by the <i>Pugh</i> and <i>James</i> cases and set standards relating to living space.
1981	
5/18/81	District Court hearing held where it was stipulated that Alabama prisons had not met deadlines set by the federal court order, and in fact, overcrowding situation had gotten worse.
5/27/81	Firearm Enhancement Act goes into effect. Act 81-840
7/15/81	District Court ordered release of 400 named inmates on 7/24/81.
7/16/81	Attorney General Graddick seeks to intervene and stay district court release order. Hearing set for 8/6/81.
7/22/81	Attorney General Graddick files notice of appeal with the 5th Circuit Court of Appeals, requesting stay pending appeal.
7/23/81	5th Circuit Court of Appeals denied stay.
7/24/81	Pursuant to Order of the District Court, Alabama Middle District, 400 inmates were to be released at midnight on 7/24/81. Justice Powell, as Circuit Justice, granted temporary stay.
7/25/81	Powell, as Circuit Justice, denied Attorney General Graddick's request for permanent stay.

9/2/81 Graddick's reapplication for a stay filed with the Chief Justice denied by full court. *Graddick v. Newman*, 453 U.S. 928, 102 S.Ct. 4, 69 L. Ed 2d 1025 (1981).

10/30/81 Declaratory judgment action filed in Madison County Circuit Court against the Governor in his capacity as temporary receiver of the Alabama prison system, seeking relief regarding confinement of state prisoners in Madison County jail. *Ex parte Madison County, AL.*, 406 So.2d 398 (Ala. 1981).

1982

% increase in Criminal Court Filings and 30% increase in criminal dispositions since 1979, doubling the number of inmates received by the Department of Corrections (despite the decrease in crime rate).

7/4/82 Pharmacy Robbery statute goes into effect. Act 82-434

8/9/82 Federal Circuit Court, Robert Varner held that District Court erred in ordering DOC to release prisoners to reduce unconstitutional overcrowding, abusing its discretion by ordering relief that was "impermissibly intrusive on State's prerogative to administer its prison and parole system." *Newman v. Alabama*, 683 F. 2d 1312 (11th Cir. 1982).

1982-1983

Work Release Expanded (1,865 –20% of inmate population)
11 work release facilities in operation

Prediscretionary Release Program (PDL) established by DOC

Supervised Intensive Restitution Program (SIR) established Act 83-838.

1982-1985

4 new major prisons built, equipped and staffed

1983

1/18/83 US. District Judge Robert Varner approves consent agreement filed January 6, 1983, setting up a 4 person Prison Oversight Committee, chaired by Rod Nachman (members Ralph Knowles, Dr. George Beto and John Conrad). Attorney General Graddick did not agree to the settlement.

7/21/83	Supplemental interim report of Implementation Committee filed.
9/30/83	District Court orders Smith and Graddick to show cause.
10/18/83	October 14th Interim report of Implementation Committee filed.
11/4/83	District court order and judgment restraining defendants from enforcing State court order, ordering release of prisoners (effective March 15th), ordering Commissioner Smith to continue implementation of SIR program and holding Graddick in contempt of court. <i>Graddick v. Smith</i> , No. 83-1262-P. Graddick appeals.
12/7/83	District Court denies Commissioner Smith's request to delay release until hearing held to determine current conditions of prison system.
1984	
9/10/84	The United States Court of Appeals for the 11th Circuit, reviewing the orders issued by District Judge Varner (Ala. M.D.), reverses finding of Graddick in contempt and held that the District Court erred in ordering release of inmates without allowing a showing that conditions of confinement were no longer unconstitutional. <i>Newman v. Graddick</i> , 740 F. 2d 1513 (11th Cir. 1984).
11/27/84	Federal District Judge Robert Varner rules case will be dismissed without prejudice December 3, 1984 with the Prison Oversight Committee continuing in existence until January 1, 1988 unless a majority of Oversight Committee recommends otherwise.
1986	
3/1986	Circuit Judge Edmonson of the 11th Circuit Court of Appeals vacated and remanded U.S. District Judge U.W. Clemon's order holding the State of Alabama in contempt for violating a consent order to transfer state prisoners from the Morgan County jail within 30 days of receipt by the State of the conviction and sentencing transcript for the transferring inmate. <i>Chairs v. Burgess</i> , 143 F.3d 1432 (C.A. 11 Ala. 1998).
4/30/86	Drug Baron's Enforcement Act implemented. Act 86-534

1987

6/15/87 *B.W. Johnson, et al. v. M.R. Nachman, et.al.*, (suit against members of the Prison Oversight Committee by inmates of Holman Prison alleging violation of constitutional right by failure to monitor conditions at Holman prison and seeking to reactivate *Newman* case). Complaint Dismissed with prejudice by Federal District Judge Varner.

9/9/87 Judicial Study Commission, Chief Justice Torbert, Chair, forms Prison Review Task Force, chaired by Administrative Director of Courts, Allen Tapley. At the request of the District Court's Prison Oversight Committee, the Judicial Study Commission accepts responsibility to make recommendations concerning the incarceration of prisoners and how they are housed and to study and develop plans to prevent future prison overcrowding in the state's corrections system. (state inmate population 12,360 with capacity for 11,435; prison budget of \$114 million)

Passage of 5 year Enhancement Statute for sale of controlled substance within 3 miles of a school. Act 87-610

11/7/87-
11/8/87

Task Force holds its first meeting.

1988

Termination of *Pugh* injunctions.

1/7/88

Report of Prison Review Task Force

1989

Passage of 5-year enhancement statute for sale of a controlled substance within 3 miles of a housing project. Act 89-951

5/1989

6 Regional Sentencing Workshops presented by UJS Judicial College in conjunction with Pardons and Paroles and the Department of Corrections to review existing sentencing and custody options.

Findings Included:

85% of Alabama inmates are first time offenders, compared to the national average of 38%, with correctional officers having caseloads of 160 cases per officer.

Absence of intermediate sentencing and custody options.

50% of inmates incarcerated for non-violent offenses.

46% of the inmates received by DOC in 1987 had sentences of 4 years or less; 16% were sentenced to 2 years or less.

Recommendations Included:

- Expanded supervision options
- More intensive probation and parole supervision programs.
- Increased use of community agencies
- Wider array of correctional options
- Support for Supervised Intensive Release

1990

Barbour County v. Thigpen (Commissioner Haley substituted), CV-92-388, 92-399, Montgomery Circuit Court (two civil actions consolidated). Class action brought by counties and sheriffs against the Department of Corrections for refusal to accept state inmates.

1991

Community Punishment and Corrections Act of 1991 enacted.

2/1991

The Sentencing Institute (TSI) established as a private nonprofit corporation by Allen Tapley.

11/15/91

Class action lawsuit filed by sheriffs of Barbour, Bullock, Calhoun, Fayette and Limestone counties against Prison Commissioner Morris Thigpen and the Department of Corrections (counties not having existing federal court orders permanently enjoining the Commissioner and the Department of Corrections from retaining inmates in county jails).

1992

2/21/92

TRO issued in Barbour County case.

2/25/92

Circuit Judge Randall Thomas entered a preliminary injunction enjoining Commissioner Thigpen from refusing to accept state inmates incarcerated in county jails, and ordered transfers from the county jails to be made within 30 days of receipt of transcripts from counties.

8/6/92

Randall Thomas, Presiding Judge of Alabama's 15th Judicial Circuit, requested TSI to review the problem of jail and prison overcrowding in Alabama and offer recommendations.

Legislature added 4 aggravated forms of murder.

1993

9/15/93 Class certification of action brought by mentally ill inmates of Alabama's prison System challenging deficiencies in system for delivery of mental health care to acutely and seriously mentally ill inmates. *Bradley v. Harrelson*, 151 F.R.D. 422 (U.S. District Court 1993).

1994

Passage of Hate Crime Act, Act 94-581, effective 4/21/94. § 13A-6-2, *Code of Alabama* 1975

4/22/94 Felony DUI law goes into effect. Act 94-591

1995

ADECA awarded grant to AOC, TSI and the University of Alabama to conduct a series of sentencing workshops in the fall of 1995 with follow-up regional training programs held in 1996.

Alabama Criminal Justice Advisory Commission (ACJAC) established.

Working Committee of the Alabama Criminal Justice Advisory Commission (ACJAC) formed.

August 17, 1995 report - "There is a serious need to provide community based programs and punishment options." FY 1996 DOC received \$2.7 million for community correction programs.

September 22, 1995 Report of ACJAC on Alabama's Criminal Justice System, Criminal Sentencing, Punishment Options and Criminal Law.

Recommendations included:

Enhance SIR;

Require evaluation of all new and existing punishment programs in terms of their effectiveness;

Implement the Community Punishment and Corrections Act of 1991;

Establish a comprehensive network of punishment options;

Improve informational systems "to assist the Legislative Fiscal Office in development of economic impact assessments of legislation affecting the state's criminal justice system;"

Reserve prison bed space for violent/serious offenders requiring incarceration; Develop community and other community based punishment programs and other programs designed to divert property offenders from the state's prison system; Increase the number of probation officers to achieve the nationally recommended caseload (50

	offenders per officer compared to current caseload of 179 offenders per officer); Implement the Community punishment and Corrections Act of 1991 with DOC working with local communities to develop a plan for adequately funding and implementing a formal, comprehensive community corrections network.
11/17/95	Mandatory Incarceration Act proposed
1997	
12/19/97	HIV- positive inmates file § 1983 action challenging conditions of confinement. See <i>Edwards v. Alabama Department of Corrections</i> , 81 F.Supp. 2d 1242 (M.D. Ala. 2000) dismissing action. See also, <i>Harris v. Thigpen</i> , 941 F.2d 1495 (CCA 11 Ala. 1991), upholding ADOC's policies and procedures regarding HIV inmates.
1998	
1/23/98	The Judicial Study Commission creates a special committee to study sentencing policies and practices in Alabama, appointing Retired Judge Joe Colquitt as chair.
8/10/98	U.S. District Judge Myron Thompson holds use of hitching post unconstitutional, and DOC's visitation and privilege policy constitutional. <i>Austin v. Hopper</i> , 15 F.Supp. 2 1210 (M.D. Ala. 1998).
9/9/98	Plaintiffs file contempt petition in the Montgomery Circuit Court, <i>Barbour County v. Thigpen, supra</i> , Settlement agreement was approved and adopted by the court (Judge William A. Shashy), and petition dismissed without prejudice.
1999	
10/22/99	Sentencing Committee of Judicial Study Commission issues its report.
2000	
3/24/00	Governor Don Siegelman issued Executive Order 24, establishing the Commission on Corrections, Sentencing and Law Enforcement, appointing Chris Retan, Executive Director of Aletheia House in Birmingham, as chair.
5/17/00	Alabama Sentencing Commission is established as a state agency. Act 2000-596.

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- 7/1/00 Mandatory minimums for Domestic Violence Offenses implemented. Act 2000-266
- 12/4/00 Circuit Court, 20th Judicial Circuit (Houston and Henry Counties), entered order directing Houston County Sheriff to transfer certain inmates from county jail to the Department of Corrections and if the Department refuses to accept inmates, secure inmates to DOC property.
- 2001**
- 1/15/01 Governor's Commission issues its report.
- 1/29/01 Alabama Sentencing Commission director appointed and staff established, with office provided in the judicial building.
- 2/2/01 Eleventh Circuit Court of Appeals holds that inmate's 8th Amendment rights were violated when he was handcuffed to hitching post on two occasions but affirmed granting of qualified immunity to correctional officials. *Hope v. Pelzer*, 240 F.3d 975 (C.A. 11 Ala. 2001). On November 17, 2005, U.S. District Court, Judge Bowdre, granted Judgment as a Matter of Law to correctional officials and dismissed plaintiff's claims.
- 4/7/01 Class action brought by inmates of Morgan County jail against state and county officials. District Judge Clemons held jail conditions violated 8th Amendment (housing 221 inmates in a jail with the capacity to house 96) and issued preliminary injunction, ordering DOC to present plan for removal of all state ready inmates by 4/23/01 and transfer inmates by 5/18/01. *Maynor v. Morgan County Alabama*, 147 F. Supp.2d 1185 (U.S. Dist. N.D. Ala. 2001).
- 5/4/01 Commissioner Haley petitioned the Alabama Supreme Court for writ of mandamus to direct the Houston County Circuit Judges to vacate order directing sheriffs to transfer certain inmates from the county jail to the Department of Corrections. The petition was denied by the Court, holding that mandamus was not the proper method for challenging the circuit court order. *Ex parte Glover*, 2001 WL 470181 (Ala. 2001).
- 5/18/01 Montgomery County Circuit Court, Hon. William A. Shashy issued an order directing Prison Commissioner Haley to comply with the 1998 Consent Order and accept all inmates sentenced to the penitentiary and held over 30 days in county jails awaiting transfer by June 18, 2001. *Barbour County et al. v. Commissioner of Corrections et al.* (CV-92-399-SH), 15th Judicial Circuit.

- Governor Don Siegelman establishes Prison Task Force to Resolve Jail and Prison Overcrowding Problem
- 6/14/01 Prison Task Force Report issued.
- 6/28/01 Show Cause hearing before Judge Shashy.
- 2002**
- PMOD Interest. § 1983 action brought by inmate alleging that ADOC's policy prohibiting inmates from receiving interest on wages from work release deposited in bank accounts. The Eleventh Circuit Court of Appeals held that this practice was not an unconstitutional taking since no property interest existed. *Givens v. Alabama Department of Corrections* 381 F.3d 1064 (C.A. 11 Ala 2004).
- 1/9/02 The Southern Center for Human Rights files lawsuit alleging medical and living conditions at Tutwiler facility unconstitutional.
- 4/21/02 New Crime of Terrorism goes into effect. Act 2002-431
- 6/27/02 United States Supreme Court holds that ADOC subjected inmate to cruel and unusual punishment in violation of 8th Amendment when guards handcuffed prisoner to hitching post for disruptive behavior, reversing the grant of qualified immunity. *Hope v. Pelzer*, 536 U.S. 730, 122 S.Ct. 2508 (2002).
- 8/20/02 Class action filed alleging 8th Amendment violations in conditions of confinement, medical care and mental health treatment at Tutwiler Prison for women and Birmingham work release. *Laube v. Campbell*, CV-02-T-957-N, U.S. District Court, Middle District of Alabama, Judge Myron Thompson.
- 11/21/02 Eighth Amendment class action filed on behalf of all HIV positive inmates at Limestone Correctional Facility. Settlement agreement approved by Magistrate Judge John Ott on April 29, 2004. Termination of agreement expected the end of 2006. *Leatherwood v. Campbell*, CV-02-BEE-2812-#W, U.S. District Court, Northern District of Alabama, Judge Karen Bowdre, Mediator: Magistrate Judge John Ott. Case terminated June 2006.
- 12/2/02 Myron Thompson holds Tutwiler facility unconstitutional and issues temporary injunction on requiring ADOC to come up with plan to eliminate crowding and understaffing. *Laube v. Haley*, 234 F.Supp.2d 1227 (M.D. Ala. 2002)

12/6/02 In *Haley v. Barbour County*, Judge Shashy orders DOC Commissioner to pay monetary sanctions.

12/12/02 Judge Shashy orders DOC to accept specific number of inmates in *Barbour County* case.

2003

3/14/03 Alabama Court of Civil Appeals uphold ADOC action in withholding money benefits paid to inmate for injuries incurred while participating in works release. The Court held that the Department was authorized to seize portion of the inmate's benefits to pay for costs of incarceration. *Gober v. Alabama Department of Corrections*, 871 So.2d 838 (Ala.Civ. App. 2003).

4/7/03 Special Parole Dockets Begin.

4/9/03 Class Action brought on behalf of all diabetic inmates in Alabama claiming constitutional violations in the management and provision of medical care, alleging Eighth Amendment violations and seeking injunctive relief. Settlement agreement approved January 15, 2004. *Gaddis v. Campbell*, CV-03-T-390-N, U.S. District Court, Middle District of Alabama, Judge Myron Thompson.

4/15/03 70 female and 600 male inmates sent to Louisiana private prisons.

5/13/03 Eighth Amendment medical class action filed challenging medical care of all inmates that are currently incarcerated or who will be incarcerated at St. Clair Corrections Facility. *Baker v. Campbell*, CV-03-C-1114-M, U.S. District Court, Northern District of Alabama, Judge U.W. Clemon. Settlement agreement approved August 31, 2005 and terminated June 30, 2006.

6/25/03 Settlement agreement entered in Tutwiler *Laube* case; inmates down to 750 (lowest since early 1990s). Plaintiffs are requesting \$980,000 in attorney fees, defendants have offered to resolve attorney fee issue by payment of approximately \$294,000. Attorneys for plaintiff are Southern Center for Human Rights and Holand and Knight, LLC in Atlanta.

2004

1/30/04 Alabama Supreme Court holds that § 14 of Alabama's Constitution (state sovereign immunity) forbids the State from being assessed a monetary sanction for contempt. *Haley v. Barbour County*, 885 So.2d 783 (Ala. 2004)

- 2/4/04 U.S. District Judge Myron Thompson approves settlement in *Gaddis* case. *Gaddis v. Campbell*, 301 F.Supp. 2d 1310 (M.D. Ala. 2004).
- 4/21/04 Hate Crime statutes take effect. Act 94-266
- 8/23/04 U.S. District Judge Myron Thompson approves settlement agreement to revamp medical care and living conditions at Tutwiler prison for women. *Laube v. Campbell*, 333 F.Supp 2d 1234 (M.D. Ala. 2004)
- 2005**
- 1/2005 Pollution Cases – Attorney General and Alabama Department of Environmental Management file suit to enforce provisions of the Alabama Water Pollution Control Act. Suit is over river pollution caused by old wastewater treatment facilities at Donaldson Correctional Facility. CV-05-40, on administrative Docket Circuit Court, Jefferson County, Bessemer Division, Judge Dan King.
- 2/22/05 Class action filed in U.S. District Court against ADOC employees alleging inadequate medical care, overcrowding condition, intolerable living conditions, and violation of the American with Disabilities Act at Hamilton Correctional Facility for the Aged and Infirm, seeking only prospective injunctive relief. Settlement agreement is pending. *Aris v. Campbell*, CV-05- PWG-396 (U.S. District Court, ND 2005), Judge Paul Greene.
- 7/29/05 Child Sex Offender Act adding new criminal penalties and increasing existing penalties approved by the Legislature, to become effective October 1, 2005.
- 8/15/05 Second pollution lawsuit filed by the Attorney General to enforce the provisions of the Alabama Water Pollution Control Act. Arises from wastewater treatment plants and sewage lagoons operated at St. Clair, Draper, Elmore, Fountain, Holman, Limestone prisons and at DOC's Farquhar Cattle Ranch and Red Eagle Honor Farm. Currently on administrative docket, Circuit Court of Montgomery County, Judge Hardwick.
- 10/1/05 Child Sex Offense enhancements take effect. Act 2005-301
- 11/17/05 *Hope v. Pelzer*, 240 F.3d 975 (C.A. 11 Ala. 2001). On November 17, 2005, U.S. District Court, Judge Bowdre, granted Judgment as a Matter of Law to correctional officials and dismissed plaintiff's claims.

2006

- 1/10/06 U.S. Supreme Court holds that disabled inmates may sue state for money damages under Title II of the Americans with Disabilities Act of 1990. *U.S. v. Georgia*, 546 U.S. 151, 126 S.Ct. 877 (2006).
- 2/9/06 Alabama Sentencing Commission bill amending Burglary 1st and 2nd statutes (Act 2006-198) and Increasing maximum authorized fine for felonies and Class A and B misdemeanors enacted (Act 2006-197, effective June 1, 2006).
- 2/10/06 Alabama Sentencing Commission bill requiring a pre- or post-sentence investigation report to be filed on convicted felony offenders enacted (Act 2006-218), effective March 10, 2006
- 4/4/06 Alabama Sentencing Commission bill correcting the threshold value of property stolen in the Theft of Property 2nd statute passed (Act 2006-297), effective April 4, 2006.
- 4/5/06 Initial Sentencing Standards enacted – Act 2006-312, to become effective October 1, 2006.
- 4/28/06 Alabama Sentencing Commission’s bill amending the DUI statute enacted (Act 2006-654), effective 4/28/06.
- 6/2006 *Leatherwood v. Campbell*, CV-02-BEE-2812-#W, U.S. District Court, Northern District of Alabama, Case terminated.
- 7/7/06 Certified question from the U.S. District Court for the Southern District of Alabama regarding breach of DOC’s statutory duty to periodically inspect jails. Alabama Supreme Court found no beach and no cognizable claim against DOC for relief. *Carpenter v. Tillman*, 2006 WL 1875461 (Ala. 2006).
- 5/06-10/06 30 Regional Sentencing Standards Workshops Conducted for judges, prosecutors, probation and parole officers, defense attorneys, community correction personnel, court clerks and the general public.
- 10/1/06 Initial Sentencing Standards are implemented.
- 12/13/06 Pew Charitable Trusts Spotlights Alabama’s Reform Efforts – Alabama Chosen to Participate in National Initiative on Public Safety and Corrections.