

Louisiana Sentencing Commission

March 2012

The Problem

- Louisiana has the highest incarceration rate in the country (one out of every 55 adults).
- The prison population has doubled in the past 20 years (40,000 + 69,000 on supervision).
- Only 37 percent of incarcerated offenders have been convicted of violent crimes.
- Crime and recidivism rates remain too high.
- Prison costs have tripled in the past 20 years (\$700 million).
- The state budget is declining at record rates

The Sentencing Commission

- Created in statute in 1987, but dormant for years
- Re-invigorated by the Louisiana Legislature in 2008
- Statutorily mandated to “conduct a comprehensive review of Louisiana’s current sentencing structure, sentencing practices, probation and parole supervision, and the use of alternatives to incarceration” (R.S. 15:321)
- 22-member body, chaired by District Attorney Ricky Babin, 23rd Judicial District
- Work began in earnest in 2010 with recommendations made for the 2011 legislative session

GOVERNING LAW

R.S. 15:321 *ET SEQ*

- Conduct a continuous review of the Louisiana Sentencing System and make recommendations for its improvement
 - Comprehensive review of sentencing law, practices, and policy
 - Uniformity
 - Certainty
 - Consistency
 - Adequacy
 - Comprehensive review of release mechanisms and their effectiveness
 - Length of Incarceration and term of sentence served under supervision relative to incentives and barriers to appropriate use of alternative sanctions
 - Examine the factors that serve to reduce recidivism
 - Impact of Sentencing Structure on the operation of the criminal justice system

GOVERNING LAW 2

- Study the relationship between sentence and how it is served to recidivism and public safety
- Study the effectiveness of education, job training and re-entry programming relative to reducing recidivism
- Future trends in sentencing
- Make biannual recommendations to the Governor and the Legislature for changes to state law relative to improve sentencing and sentencing outcomes (recidivism)

MISSION STATEMENT

- The Louisiana Sentencing Commission shall assist in the improvement of public safety, efficiency of the criminal justice system and maintain an effective and fair sentencing system for the State of Louisiana by advocating for truth (transparency) in sentencing, consistent application of sentences while maintaining proper judicial discretion, and seeking to use correctional resources in the most effective and efficient manner possible.
- February 24, 2010

The Sentencing Commission

5 Members With Positions Specified in Law

- Rep. Joe Lopinto (Chair House Criminal Justice)
- Rep. Helena Moreno (by Speaker)
- Sen. Robert Kostelka (Chair Judiciary C)
- Sen. Yvonne Dorsey (by President)
- *Associate Justice Greg Guidry (by Chief Justice)*

13 Members Appointed by the Governor

- DA Ricky Babin
- DA Charlie Riddle
- Jean Faria (Public Defender)
- Sheriff Louis Ackal
- Sheriff Mike Cazes
- Judge Jay McCallum
- Judge Mike McDonald
- Judge Louis Daniel
- Judge Lynda Van Davis
- Clerk Mark Graffeno
- Robert Barkerding (Victims)
- David Dugas (Defense)
- *Open seat (Chamber of Commerce)*

4 Non-Voting Members With Positions Specified in Law

- Cheney Joseph (Law Institute)
- Robert Mehrtens (by chairman of LCLE)
- Sec. Jimmy Leblanc
- Ms. Mary Manheim (LSU)

NATURE OF THE COMMISSION

- **Advisory:** recommends, does not make policy
- **Apolitical:** recommendations based on
 - Data and Research
 - Best Practices
 - Experience of the Members
- **Consensus Building:** Works toward a consensus of the criminal justice community as to solving problems within the realities of the Louisiana Criminal Justice System

HOW THE COMMISSION OPERATES

- **Full Commission: Frames work, refines and adopts recommendations (Composed of Commission Members)**
 - **Committees: Develop work plans within the framework, conducts research, and develops recommendations for consideration by the Commission (Composed of Commission Members and Advisory Members representing various disciplines)**
 - **Teams: Assigned specific issue areas by Committees to perform the detailed research, review best practices, and develop initial recommendation for the Committee (Composed of Commission Members, Advisory Members, and Subject Matter experts from the appropriate state and local agencies as well as the private and non-profit sector)**

MAJOR COMMITTEES

- **The Commission is divided into Committees working on various aspects of the Criminal justice System**
 - **Front End Framework (legal and policy framework from Charging to Sentencing)**
 - **Release Mechanisms (legal and policy framework as to how offenders are released)**
 - **Re-Entry and Evidence Based Corrections (Policies, Programs and Processes that reduce recidivism and best utilize resources)**
 - **Research and Technology (Methods for sharing information among criminal justice decision makers during the criminal process; Methods of collecting and analyzing data to support the work of the Commission and other policy development efforts)**

CRIMINAL JUSTICE PARTNERS

- Victims Organizations
- Louisiana Association of Chiefs of Police
- Louisiana Sheriffs' Association
- Criminal Defense Bar
- Louisiana District Attorney's Association
- Louisiana Judiciary
- Louisiana Department of Public Safety and Corrections
- Private and Non Profit organizations involved in the criminal justice process
- Citizen groups

NON CRIMINAL JUSTICE PARTNERS

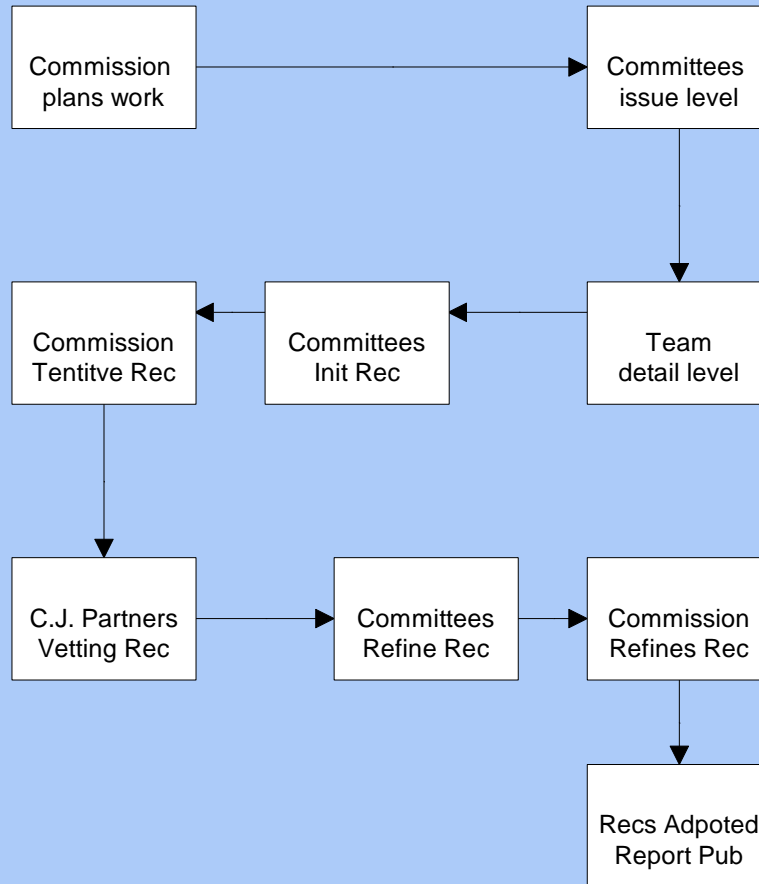
- PEW Center on the State: Corrections and Public Safety
- VERA Institute of Justice

These partners provide much needed technical assistance and information on best practices and what works in other states

GENERAL CALENDAR

- Terms begin in March and are number for the Legislative Session where the recommendations are to be made
- March: Organization and Issue Identification; Support to Legislative Process as requested
- March-July: Non legislative issues, data gathering and research
- August-February: Develop recommendations for legislative session
- August: Focus areas for legislative recommendations identified
- December: Draft recommendations for vetting
- December-February: Vetting Process
- February: Recommendations Adopted
- March 1st in even number years: Report Published

GENERAL PROCESS



2011 Enacted Legislation

- 1. Act 285 revised the criteria for parole eligibility for first-time non-violent offenders (25 percent); included provisions to reinvest savings into parole supervision and evidence-based programs that reduce recidivism.**
- 2. Act 186 simplified and consolidated the “good time” and earned credit statutes and required a Uniform Commitment Order.**
- 3. Act 104 established a process for immediate administrative sanctions for parole and probation violations.**
- 4. Act 153 required annual training for Parole Board members and established a plan requiring DOC to provide the Parole Board with research-based risk and needs assessments for parole-eligible inmates in state prisons and parish jails.**
- 5. Act 168 required all providers of home incarceration and electronic monitoring to submit annual and monthly data on defendants to the courts, the sheriffs, and the Department.**

Implementing 2011 Legislation

- ***Uniform Commitment Order:*** Monitor use and impact, address problems that may arise
- ***Administrative Sanctions:*** Develop rules and regulations, provide training for and work with stakeholders, and collect impact data
- ***Parole and Pardon Boards:*** Develop training program and monitor implementation (report requested from the Boards by January 1, 2012)
- ***Home Incarceration:*** Develop rules and the new report form, train and work with stakeholders, and study the new data for future recommendations

2012 Program of Work

- 1. Implementing 2011 legislation**
- 2. Conduct research to make recommendations in 2012-both legislative and non-legislative**
 - 1. Crimes of Violence**
 - 2. Minimum Mandatories**
 - 3. Title 40**
 - 4. Parole and Pardon Process and Risk Review**
 - 5. Problem Solving Courts**
 - 6. Clean up on 2011 recommendations**

2012 PROGRAM OF WORK 2

3. Conduct Long-term research projects

- Education and Job Training
- Re-Entry Programming
- Substance Abuse
- Mental Health
- Alternative Sanctions (Home Incarceration)

4. Research and Technology

- Sharing information among criminal justice decision makers for subject in process (ability to exchange information)
- Developing the capability to support criminal justice policy development including that of the Commission

Research Areas for 2012

A. FRONT END OF THE SYSTEM: THE SENTENCE

- 1. Consider two classifications for crimes of violence – variable and non-variable. Create a “hinge” with regard to certain enumerated offenses (R.S. 14:2).**

- 2. Individually review mandatory minimums and benefit restrictions in Title 14 and Title 40 statute-by-statute to potentially modify, eliminate, or render subject to a “hinge”.**
 - **A preliminary line-by-line review of Title 14 was completed in collaboration with district attorneys and sheriffs; Title 40 Task Force has been formed to conduct review.**

 - **The identified statutes will be discussed by justice partners for possible revision to provide more discretion to district attorneys and judges.**

Research Areas for 2012 (cont.)

- 3. Consider a “hinge” for Title 14 and Title 40 mandatory minimum and benefits restriction laws that would give discretion to the District Attorney and judge on a case-by-case basis.**
- 4. Eliminate all mandatory minimum fines, allowing for discretion in the amount of the fine.**
- 5. Reduce the statutory drug-free zone from 2,000 feet to 1,000 feet.**

Research Areas for 2012_(cont.)

B. “GOOD TIME” AND PAROLE

- 6. Simplify “good time” calculations for complete transparency in the duration of sentence.**
- 7. Consider merging the pardon and parole boards.**
- 8. Consider a repeal of costly Risk Review Panels.**

Research Areas for 2012_(cont.)

C. Problem Solving Courts

- 9. Authorize the expansion of Re-Entry Court into the 19th JDC (East Baton Rouge Parish) and the 22nd JDC (Washington and St. Tammany Parishes).**

Long-Term Research

- 1. Review and make recommendations to simplify the Louisiana expungement process. Consider legislative resolution in 2012.**
- 2. Conduct a comprehensive review and revision of the Uniform Controlled Dangerous Substances Code.**
- 3. Consider creating evidence-based, validated Risk/Needs Assessment Tools for voluntary use by judges, district attorneys, sheriffs, and defense attorneys – beginning at bail settings, prosecutorial screenings for diversion, and at sentencing.**
- 4. Study and revise the statutory limitations on the use of probation, home incarceration, and community service.**
- 5. Review and rewrite the Sex Offender Assessment Panel statute.**

Long-Term Research (cont.)

- 6. Study ways to improve the time delays in treating inmates who have been declared incompetent to stand trial.**
- 7. Research the impact of reducing the maximum probation term from five years to three years for some offenses**
- 8. Review the default provisions for “concurrent” and “consecutive” probation sentences (C.Cr.P. art. 883).**
- 9. Explore legislative changes to Specialty Courts to expand service to high-risk, high-need defendants. Research ways to collect data based on conviction level – in part, to enable review of defendants who entered drug court program compared to those who qualify but do not participate.**
- 10. Research the impact of re-drafting parole eligibility language to address offender *class* (incarceration) rather than offender *number* (conviction).**

Long-Term Research (cont.)

- 11. Consider earned compliance credit during probation and graduated levels of reduced supervision.**
- 12. Examine the structure of the Transitional Work Program and evaluate the effectiveness of the program in reducing recidivism.**
- 13. Examine the role of substance abuse treatment in the prevention of recidivism.**
- 14. Examine the role of conditions of supervision (probation, parole, and “good time” release) in the prevention of recidivism.**
- 15. Study the relationship between poor education outcomes and the risk for criminal behavior – and how we can address it.**

2012 Recommendations

- Repeal Risk Review Panel (HB 432)
- Administrative Sanctions evidentiary issues (HB 512)
- Merger of Pardon and Parole Boards (HB 518, HB 519; SB 400)
- Expand Re-Entry Courts (HB 521)
- Minimum Mandatory Sentence waiver (SB 401)

WHERE ARE WE NOW

- Examine the organization of the Commission to determine any needed changes in committee structure and work flow process
- Identify broad issues for the 2013 Term of the Commission
- Provide support to the legislative process at request of Committees or individual members relative to legislative proposals arising from or related to Commission recommendations
- Get to Work

Questions

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COMMITTEE MEMBERSHIP

2012 Term

FRONT END PROCESS COMMITTEE

- Appellate Judge Mike McDonald, Chair
- District Attorney Ricky Babin
- Cheney Joseph, Law Institute
- Judge Lou Daniel
- Judge Lynda Van Davis
- Judge Mike McDonald
- Jean Faria, State Public Defender
- David Dugas, Defense Bar
- Ricky Wicker representing Associate Justice Guidry
- Debbie Hudnall representing Mark Graffeo, President of the Clerks of Court Association

RELEASE MECHANISMS COMMITTEE

- Appellate Judge Ricky Wicker, Chair
- Secretary James Le Blanc
- Sheriff Mike Cazes
- Judge Jay McCallum
- District Attorney Charles Riddle
- Jean Faria, State Public Defender
- Robert Mehrstens, LCLE
- Sheriff Louis Ackal

RE-ENTRY AND EVIDENCE BASED CORRECTIONS

- Charles Riddle, District Attorney (CHAIR)
- Secretary James Le Blanc
- R. R. “Rusty” Barkerding, Jr.
- Sheriff Mike Cazes
- Jean Faria, State Public Defender
- Mary Manhein, LSU
- Robert Mehrtens, LCLE

RESEARCH AND TECHNOLOGY

- Frank DiFulco and Melanie Gueho, Co-Chair (non members)
- Robert Mehrstens LCLE
- Judge Ricky Wicker
- Sheriff Mike Cazes
- Debbie Hudnall (for Mark Graffeo)
- Ricky Babin, District Attorney

FOCUS AREAS

2012 TERM FOCUS AREAS

- **Limitations on flexibility and discretion within the sentencing process**
 - Crimes of Violence
 - Minimum Mandatory provisions in Titles 14 and 40
- **Good Time**
 - Simplification of Calculations
 - Amount
- **Parole and Pardon Process**
 - Consolidation of Boards
 - Risk Review Panels
 - (Monitoring of training)
 - (Use of Risk/Needs Assessment Instruments in decision making)

2012 CONTINUED

- **Problem Solving Courts**
 - **Re-Entry Courts**
 - **(Drug Courts)**
 - **(Mental Health Courts)**
 - **(Veterans Courts)**

2012 LONG TERM ITEMS

- **Use of Risk/Needs Assessment Instruments (Scientifically valid)—Such instruments would be informational only for use by the decision maker**
 - **Bail/Bond**
 - **Charging**
 - **Sentencing**
 - **Offenders in Local Facilities (currently used in state facilities)**
 - **Probation/Parole Case Management (currently in use)**
 - **Parole**
- **Development of a uniform method for the exchange of defendant specific information among criminal justice decision makers**

LONG TERM CONTINUED

- Review current statutory sentencing guidelines (clarity and utility)
- Study and revise the statutory limitations on the use of probation, home incarceration, and community service.
- Study situation relative to persons determined permanently incompetent to stand trial
- Review and revision of Sex Offender Risk Panels to make them more efficient and effective
- Review the Uniform Controlled Dangerous Substances Law and propose revisions that simplify the law, provide consistent structure, and improve the utility for prosecutors

LONG TERM CONTINUED

- Consider earned compliance credit during probation and graduated levels of reduced supervision.
- Examine the structure of the Transitional Work Program and evaluate the effectiveness of the program in reducing recidivism.
- Examine the role of substance abuse treatment in the prevention of recidivism.
- Examine the role of conditions of supervision (probation, parole, and “good time” release) in the prevention of recidivism.
- Study the relationship between poor education outcomes and the risk for criminal behavior – and how we can address it.

OTHER IDEAS FROM COMMITTEES

- Reports from Committees
 - Front End
 - Release Mechanisms
 - Re-Entry
 - Research and Technology