

**Minutes of the Louisiana Sentencing Commission
DPS&C Headquarters, Building 1
504 Mayflower, Baton Rouge, LA 70802
1:00 p.m. October 27, 2011**

The meeting was called to order by Chairman Ricky Babin at 1:13 p.m. There was a quorum with 14 of 21 present. The following persons were in attendance:

Commission Members

Mr. Ricky Babin, LSC Chairperson, District Attorney
Mr. Robert Barkerding
Mr. David Dugas,
Mr. John DiGiulio, Louisiana Public Defender (Proxy for Jean Faria)
Honorable Jules Edwards, 15th JDC (Proxy for Judge Jay McCallum) (By Phone)
Mr. Chaney Joseph, LSU Law Institute
Representative Joseph Lopinto
Ms. Mary Manhein
Mr. Robert Mehrtens, LCLE
Honorable Michael McDonald
Honorable Charles Riddle (By Phone)
Representative Helena Moreno, (Proxy for Representative Wooton)
Ms. Angela Whittaker, (Proxy for Mr. James LeBlanc)
Honorable Ricky Wicker, Judge, 5th Circuit (Proxy for Justice Guidry)

Advisory Members

Winzer Andrews, Louisiana Parole Board
Darryl Campbell, DOC
Camile Conaway, SSA Consultants
Tracy DiBenedetto, DOC
Gerri Garon, DOC/P&P
Henry Goines, Retired DOC
Melanie Gueho, DOC
Richard Hilton, DOC
Carle Jackson, LCLE
William Kline, DOC
Mariana Leger, DOC
Barry Matheny, DOC/P&P
Rhonda Nicholls, AIM
Jan Rodrigue, DOC/P&P
Charles Scott (By Phone)

Angela Whittaker, DOC

Guests

James Cazelot Jr., CURE

Cloyce Clark, Governor's Office

Jennifer Davis, Seeking His Holy Face: Counseling and Resource Center

Michele Ducharme, Senate

Linda Duscoe, CURE

Sheila Feigley, Private Citizen Crime Victim

Diane Hanley, Louisiana Interfaith Conference

Gerri John-Lewis, CURE

Senator Danny Martiny

Peggy McGarry, Vera

Checo Yancy, CURE

Staff

Sandra Laborie, Fifth Circuit Court of Appeal

Sonya Lars, SAC Director, LCLE

I Welcome and Introductions

- A. Peggy McGarry informed the group that Bobby Constantino is no longer with Vera and she will be our main contact now.

II. Approval of Minuets

Moved by DiGuilio Second by Riddle

III. Orientation to 2012 Regular Session Work

- A. Chairman Babin gave a brief overview of the legislation presented by the Louisiana Sentencing Commission that passed in the 2011 Legislative Session.

IV. Committee Reports

A. Workgroup 2 Release Mechanism

1. Team 1 Probation/Administrative Sanctions –

Judge Jules Edwards

- a. The Committee plans to educate criminal justice community on the statutes, rules and regulations of the Administrative Sanctions Statute and how it will work in practice.

- i. The offender continues to pay supervision fees.

- ii. The offender has no reporting requirements but must still request permission to travel outside of the state.
- iii. The offender remains under the supervision of the P&P officer, the case remains on the caseload of Probation and Parole until the expiration of the term of supervision. The P&P Officer will continue to run State and FBI Rap Sheets semiannually, investigate reports of, is conduct document compliance and/or the reason for a return to a higher level of supervision. Therefore, the current policy seems to be appropriate with increased training for P&P officers instead of a reduction of the maximum period of supervision.
- b. Consider legislation that will reduce maximum probation from 5 to 3 years. Research of other states will be used to determine what will work best in Louisiana.
- c. Review probation terms for earned compliance credits to move toward 'self-reporting' for those at the end of the probation period that have had complete compliance.
- d. Review of the current statutory structure of default to consecutive instead of concurrent.

Recommendation

Possible legislation from Team 1 would be to change the statute from defaulting to consecutive to concurrent when not reflected in the clerk's minutes.

- 2. Team 2 Parole and Pardons – Genie Powers
 - a. Cloyce Clark is assisting by researching the possibility of combining the Parole and Pardon Boards.
 - i. Beneficial financially and in the administration of justice.
 - ii. The question is should this be a statutory change or a constitutional amendment?
 - b. Parole Eligibility: Should it be based on the number of times an offender has been incarcerated at hard labor or the number of convictions.
 - c. Statute by statute review of the benefit restrictions that may impact how an offender is sentenced. An analysis will follow once they are identified.

- d. The current Sex Offender Assessment Panel statute is unworkable as written. It needs to be rewritten.
- e. The Risk Review Panel is a costly statute with minor impact. The committee suggests elimination.
- f. Requested an outcome evaluation of the Impact Program.
- g. Suggested that Representative Lopinto present a resolution to request the Sentencing Commission work with the Law Institute and other justice partners to eliminate the statutory contradictions, simplify the statutory scheme and address the agreed upon goals of expungement.
- h. The date for the Parole and Pardon Boards will be asked to submit their report to the Louisiana Sentencing Commission by January 1, 2012. Carle Jackson will submit that request in writing.

Motion for the date of January 1, 2012 for the Pardon Parole Board Report

Moved by Robert Mehrrens

Second by Judge Ricky Wicker

Motion Approved

- 3. Team 3 Infirm and Medical Parole – Representative Joe Lopinto
 - A. This 2010 legislation for medical paroles only impacted 9 inmates.
 - i. DOC recommends a policy that will allow DOC to move prisoners through the Parole Board with the current statutory structure for medical parole.
 - ii. A clearer definition of the inmates this change will impact should be written.
- 4. Team 4 Home Incarceration, Deferred Sentences, Chromogenic Factors, Specialty Courts - Darryl Campbell
 - A. Act No. 168 Home Incarceration
 - i. Discussing the DOC draft of the Departmental Regulation with a current provider of monitoring, Rhonda Nicholls (AIM, LLC), to get feedback from a member of those providers.
 - ii. The Provider and Offender reporting form will be placed on the DPS&C website https://webmail.corrections.state.la.us/hi_em.nsf, if approved.

- ii. The committee will finalize the method of distributing the information to the courts, clerks, sheriffs, etc.
 - iv. Reports will be provided monthly with basic information and a more comprehensive report will be provided annually.
- B. Specialty Courts
- i. There are 47 Drug Courts supervised by the Supreme Court: 29 Adult, 17 Juvenile and one Family Preservation. These are funded through a TANIF grant of \$6 million and State General Funds of \$11 million
 - ii. There are 7 DWI Courts funded by the Department of Highway Safety.
 - iii. Mental Health Courts are a new area that some other states have ventured into but there is no current funding source available in Louisiana.
 - 1). There is a limited applicant pool for these courts. Other states provide this resource for high risk/high need defendants. This may require a legislative change.
 - 2). Data collection to track recidivism of new convictions is also costs prohibitive at this time.
 - iv. Reentry Courts are currently operating in Orleans Parish. There are 120 beds available and 59 have been sentenced to the program. Of those three were released on probation, one medical release, and six removed due to disciplinary reasons.
 - 1). Minimal cost at \$44,000 per year with no n new hires and using long term offenders as mentors/teachers.
 - 2). Expansion of this program to other areas is recommended.
Judge Rusty Knight has requested that the legislation be expanded to add St. Tammany to the program.
5. Team 5 Good Time/Uniform Commitment Order
- a. The Uniform Sentencing Commitment Order has been approved by the Supreme Court and are preparing to

educate the judges on its use and address any issues that arise.

- b. Traci DiBenedetto reported that several other states do require transient sex offenders to report more frequently such as every 7 days or every 30 days.
- c. Representative Helena Moreno requested that this committee also study the issue of homeless sex offenders in regards to the zones that they are avoid such as school zones.
 - i. How many are there statewide?
 - ii. What alternatives are there for the homeless sex offenders to be monitored?
 - iii. Clarification of whether they can use the address of a homeless shelter for reporting by a homeless sex offender.

Recommendations

1. Provide legislation to change and expand the use of the good time calculation through the use of earned credits in the calculation of good time.

2. Draft legislation that will clarify the language of acceptable addresses for homeless sex offenders and the reporting requirements for this group.

- B. Workgroup I Front End Committee – Ricky Babin interim chairperson
Much of the discussion from the report given for Workgroup 2 (Release Mechanisms) crossed in with the work of Workgroup 1 (Front End).

- 1. The review of the language included in 890.1 is ongoing.
- 2. The Minimum Mandatory discussion was covered in Judge Wicker’s report.
- 3. Reviewing using a hinge in place of the Mandatory Minimums to allow the district attorneys, defense lawyers and judges more flexibility in the sentencing process on a case by case basis.
- 4. The committee requested the number of institutional admissions for each offense to determine which ones need to be reviewed and to not address those that have little or no impact on the number of offenders on the DOC roster.
- 5. Drug Courts of other sprecialized courts such as Reentry Courts, Mental Health Courts, Veterans Courts, etc. Due to the costs involved this discussion will not take place during this fiscal year.
- 6. This committee will review the Title 40 offense codes to see if there are changes needed in the current wording of the offenses

to clear up inconsistencies between sentences, the allowable benefits, minimum mandatories, fines, etc.

7. Expanded use of the Home Incarceration option will also be reviewed in terms of oversight for the vendors and their interaction and reporting to the criminal justice community. The District Attorney's agree that this could be a means to redirect the savings of DOC into education, P&P or other areas of DOC.
 8. This committee is also looking for more ways to partner with other state agency such as DHH on mental health issues. Dr. Sue Austin of DHH serves on this committee to assist in making the necessary connections. This will help to move those mentally incompetent offenders through the system.
- C. Reentry and Evidence Based Corrections – Reported by Carle Jackson
1. The Transitional Work Program has been expanded.
 2. Secretary LeBlanc is pushing to set aside state level beds for offenders that need drug abuse treatment.
 3. Discussions about the number of conditions placed on probationers and parolees being too onerous and causing the offender to recidivate as well as placing an additional workload on the P&P staff.
 4. Review the relationship between education and recidivism as a cost benefit analysis.
 - i. Washington State has researched the cost benefit of drug courts and education programs to see which provide the best return on costs.
 - ii. Texas studied 1 million students that were suspended or expelled versus those that had some alternative method of punishment as discipline.
 5. Teams are being established to carry out the work described above for the Reentry Committee.

.Recommendations

- 1. Draft legislation that will set aside state beds and necessary funding to treat substance abuse of offenders while incarcerated.**
- 2. Review the conditions placed on probationers and parolees and draft legislation that will adjust the current system to include more self reporting and fewer conditions for the probationers and parolees that are successfully completing their sentences.**

D. Research and Technology – Melanie Gueho

1. The Research and Technology (R&T) are continuing to review ways to share data between agencies.
2. A data dictionary is being developed so agencies will be able to recognize or match data from one agency to the next without having to convert their systems to be able to share data.
3. R&T is also working on a uniformed charge code table so that Louisiana offense codes will be equated to national offense code. They are starting with the Louisiana Supreme Court charge table which has the most detailed code table.
4. Creating a database to submit request for data through DOC that will also serve as the avenue to return the data to the requestor.

V. Committee Assignments

- A. Chairman Babin reminded each commission member, advisory member and committee chairs to stay on top of their committee assignments.

VI. Other Business

- A. James Cazelot of the Criminal Defense Lawyers (CDL) volunteered to get the information of the Code changes to members of the CDL through a list serve for their organization.

VII. Adjourn

The meeting was adjourned at 2:05 p.m.

PLEASE MARK YOUR CALENDARS!

The remaining meetings of the Louisiana Sentencing Commission FOR 2011 will be November 17 and December 15.