

# Report of the Louisiana Sentencing Commission

March 1

# 2012

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Report to the Governor and the Legislature by the Louisiana Sentencing Commission in fulfillment of R.S. 15:321I. This report contains the recommendations of the Commission for the 2010 and 2011 Terms.

**Bi-Annual  
Report**

# **Louisiana Sentencing Commission**

## **Bi-Annual Report**

### **Recommendations of the Louisiana Sentencing Commission for the 2010 and 2011 Terms**

**Honorable Ricky Babin**

**District Attorney, 23<sup>rd</sup> Judicial District**

**Chair**

Contact:

Carle L. Jackson

Louisiana Commission on Law Enforcement

P.O. Box 3133

Baton Rouge, LA 70821-3133

225.342.1729

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## Chapter 1

### Introduction

#### Brief History

Act 158 of the 1987 Regular Session of the Louisiana Legislature established the Sentencing Commission. The commission's original focus was to develop Felony Sentencing Guidelines that ensured similarly situated offenders were treated similarly and that the penalties imposed were proportionate to the crime committed. The guidelines were to be developed by the Sentencing Commission, subject to oversight by the House Committee on the Administration of Criminal Justice and Senate Committee on the Judiciary "C," and promulgated under the Administrative Procedures Act, as part of the Louisiana Administrative Code.

During the 2008 Regular Session of the Louisiana Legislature, two bills were passed that essentially restructured the Louisiana Sentencing Commission. Act 916 reduced the size and redefined the voting membership of the commission. Act 629 redefined the responsibilities of the commission. Generally speaking, Act 629 broadened the research mandate of the Louisiana Sentencing Commission, and refocused its efforts with a greater emphasis on outcomes rather than the act of sentencing itself. The new research mandates not only require an examination of the statutes and policies related to sentencing but also as to how those provisions and other laws relate to the use of correctional programming designed to facilitate offender re-entry. They also aim to reduce recidivism and to evaluate these sentencing structures within the context of the resulting outcomes.

## Current Statutory Mandate and Report

The Louisiana Sentencing Commission is required by R.S. 15:321 (I) to report every two years, presenting its work to the Governor, the chairman of the House Committee on the Administration of Criminal Justice, the chairman of the House Committee on the Judiciary and the Senate Committees on the Judiciary B and C. The initial report of the Commission was submitted on March 1, 2010. To fulfill its statutory requirement, the commission respectfully submits this, the second report of the Louisiana Sentencing Commission, to the Governor and Legislature.

The present report is the product of two years of effort without funding or external financial support. It could not have been accomplished without many man-hours graciously contributed by its members as well as numerous prosecutors, members of the defense bar, the Louisiana Public Defenders Office, judges, law enforcement officials, corrections staff and Sheriffs. Special mention is due to several organizations which have contributed time and resources to this effort, for which the Commission owes a deep debt of gratitude. These include:

Louisiana Department of Public Safety and Correction

Louisiana Commission on Law Enforcement and the Administration of Criminal Justice

Louisiana Fifth Circuit Court of Appeal

Louisiana Association of Chiefs of Police

Louisiana Sheriffs' Association

Louisiana District Attorneys' Association

Louisiana District Court Judges Association

Louisiana Judicial College

PEW Center on the States

VERA Institute of Justice

as well as other organizations and individuals too numerous to mention. Please note that inclusion on this list does not in any way constitute an endorsement by the organizations named of any particular recommendation of the Commission or of the recommendations as a whole.

The business model adopted by the Commission is to work closely in conjunction with everyone involved in the criminal justice system so that reform can be made as a community effort rather than recommendations from an isolated body. The Commission also determined that, to the extent possible, its recommendations would be data driven and based on “best practices” from around the nation, modified to fit the unique environment of the Louisiana Criminal Justice System. Even then, the recommendations are to be “vetted” through our criminal justice partners before final consideration.

### **Commission Profile**

The Louisiana Sentencing Commission was created under the jurisdiction of the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice within the Office of the Governor.

### **Membership**

The Commission is comprised of 20 members, 16 of which are voting members with the remaining 4 serving as non-voting members. The voting members are:

#### **Legislative Members**

- A member of the House of Representatives appointed by the Speaker of the House;

- The Chairman of the House Committee on the Administration of Criminal Justice;
- One member of the Senate appointed by the President of the Senate;
- The Chairman of the Senate Committee on the Judiciary C;

#### Members Appointed by the Governor

- One District Attorney;
- President of the Louisiana District Attorneys Association;
- The State Public Defender;
- One Attorney specializing in criminal defense;
- One Sheriff;
- President of the Louisiana Sheriffs' Association;
- President of the Louisiana Association of Clerks of Court;
- One Judge of the Court of Appeals;
- Three District Court Judges having criminal experience, at least one of which must be active;
- One member selected from a list of three nominees submitted by the Louisiana Chamber of Commerce;
- One Louisiana citizen who is not an attorney, nor formally associated with the criminal justice system, and who is a victim of a felony crime, from a list of three names submitted by Victims and Citizens Against Crime, Inc.

## Members Appointed by the Chief Justice

- One Justice of the Louisiana Supreme Court

The non-voting members are:

- A representative of the Louisiana State Law Institute as designated by its president;
- A representative of the Louisiana Commission on Law Enforcement as designated by its chairman;
- The Secretary of the Department of Public Safety and Corrections or his designee;
- A professional holding a doctorate degree in a social science or criminal justice as appointed by the Governor.

The members of the Commission as of February 2012 are:

\* Denotes a voting member

|                                  |  |
|----------------------------------|--|
| *Ackal, Louis M.                 | Sheriff, Iberia Parish   |
| *Babin, Ricky Lamar, Chairman    | District Attorney, 23 <sup>rd</sup> JDC  |
| *Barkerding, Robert Russell, Jr. | Citizen (Victim Representative)  |
| *Cazes, Mike,                    | Sheriff, West Baton Rouge Parish,<br>President of the Louisiana Sheriffs'<br>Association |
| *Daniel, Louis R.                | District Court Judge, 19 <sup>th</sup> JDC   |

|                          |   |
|--------------------------|---|
| *Davis, Lynda Van        | District Court Judge, Orleans<br>Criminal District Court                        |
| *Dorsey, Yvonne          | Senator   |
| *Dugas, David            | Defense Bar   |
| *Faria, Jean M           | State Public Defender   |
| *Graffeo, Mark           | Clerk of Court, President of the<br>Louisiana Association of Clerks of<br>Court |
| *Guidry, Greg G.         | Associate Justice, Supreme Court of<br>Louisiana                                |
| Joseph, Cheney C., Jr.   | Law Institute   |
| *Kostelka, Robert        | Chairman, Senate Committee on the<br>Judiciary C                                |
| Le Blanc, James M.       | Secretary, Department of Public<br>Safety and Corrections                       |
| *Lopinto, Joseph P., III | Chairman, House Committee on<br>Criminal Justice                                |
| Manhein, Mary H.,        | Professional  |
| *McCallum, Jay B.        | District Judge, 3 <sup>rd</sup> JDC   |
| *McDonald, James Michael | Judge, 1 <sup>st</sup> Circuit Court of Appeal                                  |
| Mehrtens, Robert         | LCLE  |
| *Moreno, Helena          | Member of the House   |
| *Riddle, Charles A., III | District Attorney, 12 <sup>th</sup> JDC   |

The Commission is now fully established and is proceeding with the tasks assigned to it under R.S. 15:321. During this two year period, the Commission focused on analyzing of sentencing outcomes with a view toward examining ways in which evidence based practices might be incorporated into Louisiana's sentencing structure. This effort will be undertaken in conjunction with the Louisiana Department of Corrections at the state level, and the Sheriffs of Louisiana who operate the local correctional systems. Significant efforts are currently underway within both state and local corrections to improve correctional outcomes. The work of the Louisiana Sentencing Commission will complement these efforts and will be carried out in cooperation with the state and local correctional authorities.

## Chapter II

### 2011 Term

The 2011 Term of the Louisiana Sentencing Commission was a period of organization and consideration of issues relating to the reduction of recidivism and reducing costs while improving public safety. The Commission divided into working committees covering major areas of responsibility, subdividing those committees into teams to address specific issues. As the Sentencing Commission operates with no budget, the process relied heavily on the volunteer efforts of Advisory Members representing every aspect of the Louisiana Criminal Justice System. These individuals, along with the members of the Commission, and staff from the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice, the Louisiana Department of Corrections, and the Fifth Circuit Court of Appeal accomplished most of the work reflected in the recommendations. Substantial technical assistance was received from the PEW Center on the States' Public Safety Performance Project and, through their good offices, the VERA Institute for Justice's Center on Sentencing and Corrections.

### Areas of Concentration

During the 2011 Term, the Louisiana Sentencing Commission examined the operation of the network of laws and policy governing sentencing practices in the state and how they affect the operations of the correctional system. This effort focused on identifying the large scale factors that drive the Louisiana correctional system and their effect on recidivism. Specifically, the Commission was examining ways to:

- Ensure available prison space for violent and high-risk offenders
- Increase offender accountability and reduce recidivism
- Improve the transparency of the system for victims and all other parties to a criminal conviction

- Improve Louisiana's taxpayers' return on its investment in the correctional system by increasing efficacy and reducing recidivism

The first step was to examine the data related to the correction of felony offenders in the state. In undertaking this review, the Commission determined several major issue areas to provide the focus for its initial term.

## Focus Issues

### Issues related to the Sentencing Process

*First Issue:* Members of the Commission identified the complexity and overlapping provisions of Louisiana statutes relating to handling of certain types of offenders. Specifically identified for consideration are the provisions relating to particular types of offenses and minimum mandatory sentencing provisions that remove discretion from the hands of prosecutors and judges in determining sentence. As a rule these provisions are necessary and proper; however, some of the offenses falling under them cover a wide range of conduct some of which clearly meriting the types of sentences required, while others require further consideration.

*The Response:* The Front End (charging to sentence) workgroup was tasked with analyzing the relevant data from Louisiana and determining whether: 1) Other states have made changes to these kinds of sentencing laws that have reduced prison population while ensuring that violent and other very serious offenders are appropriately sentenced; 2) Whether those changes have jeopardized public safety or increased recidivism in any way; 3) Whether those measures produced better offender outcomes (reduced recidivism) as well as reduced costs, and, if so, by how much; and 4) Whether such changes would result in lowering recidivism and reducing costs in Louisiana.

*The Result:* Due to the complexity of the issues involved, the Commission referred the matter for further study and consideration for the 2012 term.

### **Issues related to release and re-entry**

*Second Issue:* Well over 50% of prison admissions in Louisiana are for parole or probation revocations. More than 44% of those revocations are, according to the information available, for technical violations, not new crimes.

*The Response:* The Release Mechanisms committee carefully examined the available data relative to the impact of revocations of both probation and parole in terms of prison populations, the associated cost, and recidivism. The team assigned to this topic was tasked with: 1) Reviewing changes in other states that have addressed the question of revocation and supervision practices; 2) Determining whether any states have reduced technical revocations and associated prison costs while reducing recidivism and maintaining public safety; and 3) Determining whether similar modifications would be workable within the context of the Louisiana Criminal Justice System.

*The Result:* The committee found that the best approach would be to increase offender accountability at all stages of supervision by authorizing probation/parole officers to administratively sanction persons under supervision for technical violations. Technical violations are anything other than an allegation of a subsequent criminal act. Permitting supervising officers to apply administrative sanctions would create a system of “swift and certain” consequences for technical violations with a view toward preventing future, more serious, violations. Currently offenders often do not receive any sanction for a technical violation until such time as the behavior is repeated and persistent. Then offenders are placed in jail, often up to thirty days or more, awaiting a Court hearing on revocation. The proposed recommendation would allow supervising officers, with the permission of the Court, to impose immediate sanctions at the first violation, with the ability to increase those sanctions for subsequent violations. While violators may be sanctioned to jail time, supervising officers would have other cost-effective sanctions at their disposal including electronic monitoring, community service work, intensive supervision, additional drug testing, or mandatory attendance at a day-reporting center. The underlying principle is to apply “swift and certain” consequences for each violation, progressively applied, in order to prevent such behavior from escalating to the level of a new crime.

*Third Issue:* Pardon and Parole Systems. The Release Mechanisms committee in reviewing the available data on discretionary release (Pardon and Parole processes) and recidivism determined that the system can better support the decision makers involved and, in so doing, increase confidence in release/deny decisions and improve outcomes. The committee also examined the timing of parole eligibility with a view toward looking at non-violent, non-sex offense, and non-habitual offenders earlier in their sentence to determine their suitability for release on Parole supervision for the remainder of their sentences. In examining this issue, the committee was cognizant of the fact that parole eligibility does not equate to release on parole supervision, and that in FY 2010 the Parole Board granted parole in 28% of the cases heard according to the Department of Corrections.

*The Response:* The team tasked with reviewing the process through which offenders are released from secure confinement and the resulting outcomes were charged with exploring the following questions: 1) How is the current system of decision support available to the Pardon and Parole Boards functioning in terms of numbers of offenders released and the associated outcomes (recidivism); 2) Have other states successfully reduced costs and improved release decision making, and if so, how; 3) What measures were taken in states successfully implementing such strategies to improve the information available to release decision makers; 4) Could such mechanisms be productively utilized within the Louisiana system of Parole and Pardon decision making?

*The Result:* The team's recommendation is in several parts.

First, develop the necessary mechanisms for the use of Administrative Sanctions (Second Issue above) in the Parole setting.

Second, add the warden or deputy warden of the institution in which an inmate is housed as an *ex-officio*, non-voting, member of the Pardon Board, thus allowing the warden's firsthand experience with the offender to be considered. The warden is in the best position to provide information relative to the offender's period of incarceration, institutional adjustment, program participation, and conduct. This provision is already in place for the Board of Parole and has proven effective.

Third, consider changing the timing of parole eligibility for offenders who are not violent offenders, sex offenders, or serving time as habitual offenders (R.S.

15:529.1) and who are otherwise eligible for parole. Currently, parole eligibility for first felony offenders begins after serving one-third of sentence and for second felony offenders after serving one half of their sentence. Third felony offenders are not eligible for Parole. According to the available data from the Department of Corrections, offenders who are not sex, violent, or habitual offenders constitute 45% of the total Louisiana prison population or 18,330 inmates. The top three offenses of conviction for these individuals, according to the data received, are violations of Schedule II of the Controlled Dangerous Substances Act (6,037), Simple Burglary (2,745) and violations of Schedule I of the Controlled Dangerous Substances Act (2,353). In making its recommendation, the team noted that parole eligibility does not equate with release on supervision, but only means that the Parole Board can consider the case and that proper notice would be given to the District Attorney and the victim, allowing them opportunity to be heard.

Fourth, the team recommended that the Department enhance the training available to members of the Parole Board and make risk assessment information available to the Board in making decisions relative to timing and conditions of parole. Currently, there are no requirements for Parole Board members to receive training to assist them in performing their duties. Research has demonstrated that actuarial risk assessment tools can provide valuable insight into the future conduct of individuals and, when properly used, can assist decision makers in arriving at better decisions concerning release and conditions of release than professional judgment alone. The evidence shows that the best outcomes (lower recidivism) are achieved through a combination of empirically based actuarial risk assessment tools and clinical judgment. The Department of Corrections currently utilizes such risk assessment tools for both inmate management and programming (LARNA II) for persons held in state adult correctional facilities and supervision planning (LARNA I) for persons under probation or parole supervision provided by the Department. At the present time, no risk assessment tools are utilized statewide for inmates housed in local correctional facilities. The Department of Corrections is working with the Sheriffs in an effort to extend the benefits of such assessments for these populations as well. The recommendation to include valid risk assessment information to the Parole Board can be accomplished within the existing framework. The team further recommends that at least eight (8) hours of training be provided by the Department to the members of the Parole Board annually, and

that such training include instruction on the appropriate use of risk assessment information in parole decision making, and that all training be consistent with that offered by the National Institute of Corrections or the American Probation and Parole Association. The team also recommends that the Board of Parole make an annual report to the Legislature and the Department as to its operations during the preceding year.

Fourth Issue: Aged and infirm inmates. The Release Mechanisms committee examined the issue of the growing number of aging, severely infirm and incapacitated prisoners, and the consequent rapid growth in health care costs to the Department of Corrections.

*The Response:* The team tasked with this issue examined what other states have done to address infirm and medical parole for severely disabled and incapacitated inmates and whether such policies could work within the framework of the Louisiana Criminal Justice system and serve to reduce the costs associated with such prisoners while maintaining public safety.

*The Result:* It was recommended that the Commission take no action on this matter and that the Department of Corrections be requested to explore options under existing law that would reduce the cost to the taxpayer while preserving public safety and the confidence of the public in the criminal justice system.

Fifth Issue: The use of Home Incarceration. Home Incarceration is currently used throughout the criminal justice system in Louisiana. At the present time there is no data available on the use, quality, and availability of home incarceration services in the state.

*The Response:* The team tasked with examining the use of home incarceration as a sanction within the framework of the criminal justice system determined that no recommendations could be responsibly made in the absence of the most basic data. The team acknowledged that home incarceration and related technologies such as electronic monitoring and GPS tracking are very promising for certain types of offenders under proper circumstances, application, and quality control.

*The Result:* It was recommended by the committee that the Department of Corrections be given the authority to gather information relative to the use of home incarceration in the state, who provides the service, the qualifications of the service provider, the technologies utilized, on which defendants the each technology was utilized and at what stage of the criminal justice process, as well as the outcomes associated with it.

Sixth Issue: Good time and Sentencing Orders. Louisiana has a large number of criminal statutes that jointly and severally affect good time computation and sentencing. The laws relating to good time were passed at different points in time and establish different rates and computational rules, some applying to the same offender at the same time. This makes it exceedingly difficult for the victims, prosecutors, defendants, and judges to know with certainty what a sentence imposed actually means relative to the minimum length of time the offender will serve under incarceration and how much of the sentence can be served under supervision. A related issue is the confusion that sometimes arises related to sentencing orders currently transmitted to the Department of Corrections in the form of minute entries. This issue is currently being addressed by the District Court Judges Association in conjunction with the Supreme Court of Louisiana.

*The Response:* The team tasked with this issue examined the pertinent statutes and determined: 1) The current network of statutes relating to good time should be simplified so as to ensure transparency in the “real life” outcome of the sentencing process and a common understanding of what the sentence actually means; 2) Changes can be made which consolidate the various statutes making them simpler, eliminating obsolete and/or outdated provisions, e.g. those rendered inoperable by changes in the law or no longer applicable, simplifying the calculations required with the result that the sentence becomes more comprehensible and transparent to all parties involved especially the victim; and 3) Consideration should be given to the proper balance between the amount of sentence served under incarceration and the amount served under supervision for non-violent, non-sex offender, and non-habitual offenders with a view toward lowering the correctional costs associated with such defendants while improving outcomes by reducing recidivism.

*The Result:* It was recommended by the committee that a comprehensive revision of the statutes pertaining to good time be undertaken with a view toward

consolidation and simplification of the law, and increasing the transparency of the process. It was also recommended that the calculation of good time be simplified and that consideration be given to increasing the amount of good time earned by non-violent, non-sex offender, and non-habitual offender inmates. During the course of reviewing the statutes applicable to good time it was discovered that the laws were sufficiently confusing so as to allow “double counting” of credit for time served under certain circumstances. The committee therefore recommended clear limitations be placed on how credit for time served is to be determined. The committee also recommended reducing the amount of good time forfeited as a result of a lawful disciplinary action that can be restored from a maximum of 540 days (current law) to 240 days.

### **Recommendations of the Commission**

1. Modify the Code of Criminal Procedure to include Administrative Sanctions for a technical violation of the conditions of supervision. Provided:
  - a. The district court may at any time direct the Department of Corrections in a particular case or in every case to proceed directly to a rule to revoke before the sentencing court, forgoing the use of administrative sanctions.
  - b. The offender is allowed the option of proceeding directly to a court hearing on revocation.
  - c. The Department of Corrections will formulate rules and regulations to carry out the administrative sanctions in a uniform, proportionate, and safe manner; and to provide for waiver of rights, notification of the court, district attorney and defense attorney.
  - d. The maximum sanction should not exceed 10 days of jail time per violation and 60 days per year; thereafter, the case should proceed to court.
  - e. Because the offender is under the supervision of the Department of Corrections and the sanction is under the Department’s authority, the Department should pay for housing the prisoner while serving a sanction in a local jail facility.

2. Modify the Pardon and Parole systems by:
  - a. Modifying R.S. 15:574.7 to conform to the administrative sanction provisions proposed in recommendation 1 above.
  - b. Add the warden or deputy warden of the institution in which an inmate is housed as an *ex officio* non-voting member of the Pardon Board.
  - c. For offenders who are not under sentence for a sex offense (R.S. 15:536), violent offense (R.S. 14:2 B), or as an habitual offender (R.S. 15:529.1) and are otherwise eligible for parole, change the timing of parole eligibility to begin at twenty-five percent of sentence for first felony offenders, twenty-five percent of sentence for second felony offenders and fifty percent of sentence for third felony offenders. This recommendation is consistent with the Parole Board's statutory directive that is parole release decision be based on a "reasonable probability" that the inmate will be law abiding such that "he can be released without detriment to the community or to himself."(R.S. 15:542.4E. These provisions should apply to cases prospectively so as to not violate the understanding given to the victims of crimes where the offender has already been sentenced.
  - d. Provide training for members of the Parole Board:
    - i. Upon appointment or as soon thereafter as practical (within 90 days) each member of the Board of Parole should complete a training program developed by the Department of Corrections that is consistent with the training components offered by the National Institute of Corrections or that of the American Probation and Parole Association including classes on the following topics:
      1. The elements of the parole decision making process through the use of evidence-based practices for determining offender risk, needs, and motivation to change, including the actuarial assessment tool used by parole officers.
      2. The security classifications as established by the Department of Corrections.

3. The programming and disciplinary processes of the Department of Corrections as well as the Department's supervision, case planning and violation process.
  4. The dynamics of criminal victimization.
  5. Collaboration with corrections related stakeholders, both public and private, to increase the probability of offender success and public safety.
- ii. Each year, members of the Board of Parole should complete eight hours of professional training developed by the Department of Corrections that is consistent with the training components offered by the National Institute of Corrections or that of the American Probation and Parole Association including classes on the following topics:
1. A review and analysis of the effectiveness of the assessment tool used by parole officers.
  2. A review of the Department's progress toward attaining its public safety goals.
  3. The use of data in decision making.
  4. Any information regarding promising and evidenced-based practices offered in the corrections related and crime victim dynamics field.
- e. In addition to those items already required by law (R.S. 15:574.2 D 4) the Board of Parole should include in its annual report to the Secretary of the Department of Corrections for inclusion in his report to the Governor relevant data concerning board decisions, a summary of past practices and outcomes, and plans for the coming year.
- f. The Department of Corrections should establish a comprehensive process for the development and use of a validated actuarial risk needs assessment protocol. This would be accomplished by developing a process for the adoption, use and goals for a validated actuarial risk and needs assessment tool to provide information to the Board of Parole as well as the Department, a set of procedures for the Department on the use of the tool to guide its operations, the Parole Board, and agents of the Department in determining supervision and management strategies for all offenders under the department's

supervision, including offender risk classification, case planning and treatment decisions to address criminal risk factors and reduce offender recidivism. The protocols should also include the establishment of goals for the Department in this regard, which include training requirements, mechanisms to ensure quality implementation of the validated assessment tool, and safety performance indicators.

3. Gather the information necessary to evaluate the use and related outcomes of home incarceration in the criminal justice system by:
  - a. Since home incarceration and related technologies are currently used both on persons sentenced (currently envisioned under C.Cr.P. Art. 894.2) and defendants not yet adjudicated as a condition of pretrial release or as a condition of probation or deferred sentence, the language of the statute should be changed to reflect the current usages. Replace “sentenced to home incarceration” with the more inclusive phrase “placed on home incarceration” so that reporting requirements will apply to all uses of home incarceration ordered by the court.
  - b. Require all providers of home incarceration and/or electronic monitoring services to submit information to the court, the sheriff and the Department of Corrections including:
    - i. An annual report of areas served, number of defendants served, number of defendants who successfully completed home incarceration and the provider’s qualifications and credentials;
    - ii. A monthly report of individual defendant information, including name, date of birth, and offense.
  - c. Establish penalties on the provider for failure to report up to and including loss of the provider’s authority to do business.
  - d. Require the Department of Corrections to develop regulations and procedures that will ensure uniformity and efficiency in the data collection process.
  - e. Require the court to place in the minute entry information reflecting placement on home incarceration, including available contact information on the service provider and cause this entry to be transmitted to the Department of Corrections within thirty days of the order or sentence.

4. Simplify and consolidate the statutes relative to good time and earned credits; eliminate confusion in determining credit for time served; and further limit the amount of good time that can be restored after forfeiture due to a disciplinary action by:
  - a. Amending the Code of Criminal Procedure Article 880 to include clarifying limitations on credit for time served:
    - i. A defendant shall receive credit only for time in actual custody once during any calendar month when consecutive sentences are imposed.
    - ii. No defendant shall receive credit for any time served prior to the commission of the crime for which he is sentenced.
    - iii. A defendant shall not receive credit for time served under home incarceration.
    - iv. A defendant shall not receive overlapping jail credit, except in the instance of concurrent sentences and then only for time spent in jail on the instant felony.
  - b. Increasing the transparency and uniformity of sentencing information received by the Department of Corrections by requiring a copy of the Uniform Sentencing Commitment Order as authorized by the Supreme Court of Louisiana be attached to the documents sent by the clerk to the Department when a Sheriff's post-sentence statement is required relative to the time spent in custody prior to conviction.
  - c. Change the amount of good time an inmate can earn from the current rate of 35 days for every 30 days in actual custody to the rate of one and one half day for every one day in actual custody. This provision simplifies the required calculations significantly and increases the amount of good time earned by 17 days/year in actual custody. Generally this applies to only to persons not otherwise restricted by being a violent offender, sex offender or habitual offender.
  - d. Reorganize the statutes pertaining to good time credits for a first time offender convicted of a crime of violence. This recommendation would not change the amount of good time earned by such offenders but rather simplifies and clarifies the relevant statutes.
  - e. Reduce the amount of forfeited goodtime that can be restored to a person from a maximum of 540 days (current law) to 250 days.

- f. Clarify and consolidate statutes relative to earned credits toward reduction of the projected good time parole supervision date and harmonize them with the forfeiture and restoration provisions relative to good time.
- g. Repeal Code of Criminal Procedure Art. 890.1 (Sentence imposed on crimes of violence), R.S. 15:571.6 (Report of persons eligible for discharge), and R.S. 15:571.8 (Forfeiture of good behavior allowance or commutation) as redundant.
- h. These provisions should apply to cases prospectively so as to not violate the understanding given to the victims of crimes where the offender has already been sentenced.

### **Result of the Recommendations of the 2011 Term**

The recommendations of the 2011 Term of the Louisiana Sentencing Commission were communicated to the Governor and members of the legislature. As a result, all of the recommendations were converted into bills for consideration during the 2011 Regular Session. After due deliberation, the legislature refined several of the recommendations but passed all bills related to the recommendations of the 2011 Term of the Louisiana Sentencing Commission. The resulting ACTs are appended to this report.

|        |          |                          |         |
|--------|----------|--------------------------|---------|
| HB 106 | Moreno   | Home Incarceration       | Act 168 |
| HB 414 | Lopinto  | Goodtime                 | Act 186 |
| HB 415 | Lopinto  | Administrative Sanctions | Act 104 |
| HB 416 | Lopinto  | Parole Eligibility       | Act 285 |
| SB 202 | Guillory | Parole/Pardon Board      | Act 153 |

#### **Membership and Training**

While neither the recommendations of the Commission nor the legislative instruments crafted in response to them represent a major change in the fabric of the Louisiana criminal justice system, they do advance the goals of the

Commission to improve public safety and while providing cost-effective solutions to long standing issues. The proposals as adopted by Legislature during the 2011 Regular Session were designed to improve the efficiency and effectiveness of the state's criminal justice system and address the long term growth and unsustainable costs associated with the state correctional system. Since more than half of the admissions into Louisiana prisons are revocations of probation or post-incarceration supervision, these steps attempt to address the problem of recidivism. Through the increased use of evidence based tools and programming, as well as the administration of swift and certain consequences for technical violations, Louisiana can better utilize its community and correctional resources and reduce recidivism. These efforts build on the already substantial strides made by the Louisiana Department of Corrections toward re-entry programming and the better structuring of supervision resources that together take us closer to the goal of reducing prison populations and the associated costs by better performing the task of correction. Addressing the issue in this manner allows Louisiana to both save money while increasing public safety through the reduction of reoffending. It also helps ensure that Louisiana will always have the capacity to incarcerate violent and predatory offenders.

## Chapter III

### 2012 Term

The 2011 Term was a learning experience for the Louisiana Sentencing Commission as it was the initial effort of the newly reconstituted Commission conducted within a limited time period. The 2012 Term would allow for more time to prepare recommendations and provide the Governor and the Legislature with more fully refined proposals. It will also allow time to begin the long term projects that, in the end, will have the greatest positive impact on the criminal justice system.

Beginning with the 2012 Term the Sentencing Commission formalized the process utilized to develop its recommendations. The Commission is divided into committees that cover the major points in the sentencing process. These committees meet and identify issues for examination for the upcoming term. The issues are then assigned to teams, composed of Commission members and subject matter experts that work on very specific areas. Issues are further refined by the teams and the basic research conducted. After due consideration and examination of the available evidence, the teams report their recommendations to the full committees. The committees then review the recommendations and the evidence, and if the recommendation looks promising, it is passed to the full Commission. The Commission then further refines the recommendations based on the evidence and the expertise of the members and advisory members, and if the recommendation shows promise, the Commission sends it for vetting through our criminal justice partners, which include the Louisiana Association of Chiefs of Police, the Louisiana Sheriffs' Association, the Louisiana District Attorneys' Association, the District Court Judges Association, state and local Correctional officials, and various victims groups among others. The purpose of the vetting process is to determine whether or not the proposals have merit when viewed from the perspective of those directly impacted by them, and to further refine those recommendations by eliminating elements that may have unintended consequences, and crafting them to best fit within the framework of actual practice.

After the vetting process, the recommendations are further refined by the committees and presented to the full Commission for final action. This process is utilized to ensure that the Commission considers all available evidence and receives comment from as many view points as possible prior to final consideration.

## Areas of Concentration

During the 2012 Term, the Louisiana Sentencing Commission continued its examination of the operation of the network of law and policy governing sentencing practices in the state and how they affect the operations of the correctional system. This term's effort focused on examining the impact of minimum mandatory sentence provisions on the effectiveness of the criminal justice system, streamlining the system to make more resources available for the job of correction and protecting public safety, and expanding the use of promising approaches to the issue of re-entry. Specifically, the Commission is exploring ways to:

- Allow appropriate discretion within the criminal justice system to permit sentences more responsive to the facts of individual cases
- Eliminate unnecessary expenditures through consolidation and streamlining of services allowing for greater investment toward the primary job of correction
- Expand the use of promising re-entry strategies to reduce recidivism
- Initiate work on long range strategies to improve offender outcomes

## Focus Issues

### Issues related to the Sentencing Process

*First Issue:* The growth of minimum mandatory provisions and the need for discretion in the sentencing process. During the 2011 Term, the Commission identified the number of minimum mandatory sentencing provisions in the law as a

major factor in the growth of the Louisiana prison population. It was noted that these provisions while very appropriate in certain types of crimes, may overly restrict the flexibility of the system in dealing with specific cases arising under other statutes. Minimum mandatory sentencing provisions are those where the statute specifies a minimum term of incarceration and provides that the sentence is to be imposed without benefit of probation, parole, or suspension of sentence. In some instances the facts of the case do not justify such a penalty or the nature of the offender is such that a longer term of imprisonment is needed but with the possibility of examining case at some point to see what progress the offender has made toward reformation. In the latter instance the longer term of imprisonment is available should the offender not prove responsive to correction, but the option exists to allow non-violent, non-sex offense, and non-habitual offenders the possibility of serving the remaining term on supervision. The longer period of supervision increases the likelihood of successful re-entry when accompanied by appropriate programming faithfully executed. This also allows the Department of Corrections to utilize its incarceration capacity for the high-risk, violent and predatory offenders while freeing additional resources to build the capacity for successful re-entry and the reduction of recidivism.

*The Response:* The Front End and Release Mechanisms workgroups were assigned to work on this issue together as it involves both sentencing and release. The group was tasked with 1) identify how other states have addressed the issue of putting limited discretion with the prosecutor and sentencing court without sacrificing their minimum mandatory structures and their effect on offender outcomes; and 2) reviewing the complex set of issues involved with those closest to the cases and the victims to determine whether such changes would fit within the realities of the Louisiana criminal justice system and serve to improve outcomes. As the numbers of minimum mandatory sentencing provisions have increased over time in a large number of states, some have developed ways to restore an appropriate level of discretion to the system without harm to the intent of the original statutes. Pennsylvania and New Jersey both had unique solutions. In Pennsylvania, under certain of their minimum mandatory provisions the prosecution is required to provide notice in the accusatory instrument that the state intends to proceed under the minimum mandatory provisions of the statute. If no such notice is given, the court is relieved from the mandatory provisions in sentencing in that specific case.

New Jersey took a different approach by allowing the prosecutor under certain circumstances to waive the minimum mandatory provisions as part of a plea agreement or a post-conviction agreement. The two workgroups then met with representatives of the District Attorneys and Sheriffs to perform a statute by statute review in an effort to determine which, if any, of Louisiana's minimum mandatory provisions could be improved by the restoration of discretion in specific types of cases and how that discretion may best be structured. Both groups thought a limited return of discretion would be of benefit in certain types of cases and that it would best result would be derived from the New Jersey model. This model would give the prosecutor additional tools to work with in obtaining an appropriate plea or information for the prosecution of more serious offenders. It is logical to place the discretion with the prosecutor in the first instance as it is the prosecutor who is most familiar with the facts of the case, the criminal characteristics of the offender, and knows first-hand the views of the victim and the impact of the crime.

*The Result:* The joint committee recommended to the Commission that consideration be given to allowing for the restoration of discretion to the prosecutor in certain cases where minimum mandatory provisions currently apply. It was further recommended that this be placed in the context of a plea or post-conviction agreement because such an arrangement provides the additional checks and balances provided by the defense and the judge as all three must approve any such agreement. Because of the action of the Victims' Rights law, the process has transparency because the victim must be notified ahead of time and allowed input into any such agreement. The Commission adopted this proposal but restricted its availability to non-violent, non-sex offense, and non-habitual offender cases in the final recommendation.

*Second Issue:* Consider the expansion of the re-entry court concept to areas outside of New Orleans provided the Department of Corrections had the resources to accommodate the additional offenders within its current resources and where the local courts have evidenced an interest.

*The Response:* The Re-entry court concept is currently in operation on a pilot bases in the Orleans Criminal District Court and shows great promise. Judges from the 19<sup>th</sup> Judicial District Court (East Baton Rouge Parish) and the 22<sup>nd</sup> Judicial District Court (St. Tammany and Washington Parishes) have been observing the process in

New Orleans and have expressed great interest in utilizing the concept within their jurisdictions. The Louisiana Department of Corrections indicated that it has resources available for a limited number of cases from these two districts. Expanding the scope of the Re-Entry Court pilot project to two different environments would further aid in the evaluation of the concept before recommending it for statewide implementation.

The Re-Entry Court concept is similar to Drug Courts except that it is more broadly based on the issues of re-entry and recidivism prevention. Under this concept eligible non-violent, non-sex offense offenders are screened first by the District Court and then by the Judge of the Re-Entry Court. If the defendant is found to be a good candidate, he is sentenced by the court to participate in the Re-Entry Court program. The sentence is for a term of incarceration not to exceed ten years. After sentencing the offender is sent to Angola State Prison where he participates in an intensive 18 month program where he is provided with work force development, GED and literacy training, substance abuse treatment where necessary, and other specialized programs aimed at preparing him for successful re-entry into society. During his period of incarceration the Re-Entry Court receives reports and carefully monitors his progress. If the offender completes the program to the satisfaction of the Re-Entry Court, he can make a motion to reconsider sentence, at which time the offender may be re-sentenced to intensive supervision probation. As with the Drug Court model, the offender frequently visits the Re-Entry Court for a review of his progress by the Judge. In this environment inappropriate actions or criminal activity are met with swift and certain consequences. The pilot program in New Orleans was authorized by law in 2010. Nearly 100 offenders have since been sentenced to the program and most are making progress. The Re-Entry Court concept is a “best practice” that is gaining in popularity as its success in preventing recidivism becomes more widely known. The expansion of the program into the two requesting Judicial Districts provides an additional tool for Judges in those districts to use in the prevention of recidivism and the resulting long terms of incarceration. It also provides a more diverse test environment for the concept.

*The Result:* The committee recommended to the Commission that the Re-Entry Court concept be allowed in the 22<sup>nd</sup> and 19<sup>th</sup> Judicial Districts up to the limits of the available resources at the Department of Corrections.

*Third Issue:* Consolidation of the Pardon and Parole Boards into a single Board. Currently, Louisiana has both a constitutionally authorized Board of Pardons and a Parole Board established in statute. The Pardon Board has five members appointed by the Governor and confirmed by the Senate, who make recommendations relative to the commutation of sentences and pardon for those convicted of felony crimes. The Parole Board has seven members also appointed by the Governor and confirmed by the Senate, who determine the time and conditions of release for offender eligible for parole consideration. Both Boards have separate administrative staffs.

*The Response:* At least eighteen other states have a single board for pardon and parole, including Louisiana's close neighbors Alabama, Arkansas, Georgia, and Texas. In most of these states the single Board concept appears to function well. Louisiana could merge the two Boards by abolishing the statutory Parole Board, merging its functions into an expanded Pardon Board which is constitutionally authorized. The merger could occur as soon as August 2012, with a single seven member board managing both functions. The qualifications, training requirements, and other procedures in current law would be maintained for the new consolidated board. This could save the state approximately \$250,000 per year without sacrificing the integrity of either process.

*The Response:* The committee decided to recommend the merger of the two Boards while maintaining the independence of each functions and the special qualifications and training requirements that have recently been put in place by the legislature for persons tasked with the responsibility of making parole decisions.

*Forth Issue:* Repeal of the Risk Review Panels. The Risk Review Panels established in the 1990's were very useful in safely managing the prison population for several years. The use of the Risk Review Panel reports to actually commute or reduce sentences and release individual offenders on parole has declined dramatically during the past five years. Currently the Risk Review Panel process requires extensive work by the Department of Corrections, with little return on investment as the pool of good candidates for the process has steadily declined.

*The Response:* The Committee reviewed the cost – benefit of the operation of the Risk Review Panels as they are currently functioning within the system. The process requires the Department of Corrections to devote many hours to the development of reports that do not result in action by the Pardon or Parole Boards as originally intended. The Department of Corrections currently operates three Risk Review Panels in the north, central and southern areas of the state. These panels are tasked with the responsibility of evaluating the “risk of danger to society which each person who has been convicted of a crime and who is confined in a prison facility of any kind may present if released from confinement” with a view toward informing decisions of first the Pardon and then the Parole Boards. In recent years the utility of these extensive reports has declined and the process becoming cumbersome. The Department of Corrections is currently accomplishing the intent of the Risk Review Panels through other more effective means by the use of Actuarial Risk Assessment instruments and participation in rigorous re-entry programming.

*The Result:* The Committee has recommended that the Risk Review Panels be eliminated and the resulting savings reinvested in re-entry or other more promising programs.

*Fifth Issue:* Clarify any ambiguity of law relative to the uses to which statements made pursuant to the Administrative Sanctions process enacted by the 2011 Regular Session, so as to not prevent offenders from agreeing to the program for fear of self-incrimination. Part of the Administrative Sanctions process involves the offender acknowledging the violation for which he is to be sanctioned. If such statement, signed by the offender, could later be used in a criminal proceeding as proof of a crime then offenders would be unlikely to agree to the Administrative Sanctions process.

*The Response:* The committee heard from judges involved in programs similar to the Administrative Sanctions program that to allow the possibility that required elements of the program could be used in a later criminal proceeding as evidence against the defendant would likely have a chilling effect on the program thereby defeating its purpose of increasing offender accountability through swift and certain consequences for conduct so as to decrease the likelihood of future misconduct leading to revocation.

*The Result:* The committee recommended to the Commission that consideration be given to protecting the acknowledgement of a violation of the terms of probation or parole that is a required part of the Administrative Sanctions program against use in a subsequent criminal proceeding. The acknowledgement of the violation is a key element in making the Administrative Sanctions process work in correcting behavior and reducing the necessity for later revocation and return to prison. The notion is that the offender accepts responsibility for the violation by knowingly signing a confession of the conduct. The conduct then has immediate and certain consequences through the operation of the Administrative Sanction. Criminological research clearly shows that swift and certain consequences to an action are of greater reformatory value than more severe sanctions that are uncertain and if imposed, delayed. The state benefits both in saving money and less crime when such sanctions are successful in reforming the defendant.

### **Recommendations of the Commission**

1. That provision be made to allow the waiver of all or part of a minimum mandatory provision in cases that are not punishable by Death or Life without Parole, and the offense of conviction or charge is not a crime of violence as defined in R.S. 14:2B, a sex offense as defined in R.S. 15:536, or involve an habitual offender prosecuted under provisions of R.S. 15:529.1. In such cases the prosecutor, defense, and judge could concur to accept a plea agreement or a post sentence agreement wherein the entire mandatory provision is waived or waived after a specified period of time. The latter case could arise where the sentence imposed is for twenty years, but only the first ten are without benefit of probation, parole or suspension of sentence. Such an arrangement would ensure that the offender was incarcerated for ten years at the end of which time the Parole Board could examine the case for possible release under supervision.
2. Expand the Re-Entry Court program by allowing Re-Entry Courts in the 19<sup>th</sup> and 22<sup>nd</sup> Judicial District Courts subject to the same restrictions and safeguards as specified by law for the original pilot program in the Orleans

Criminal District Court. The Department of Corrections has committed to absorbing the costs of the new participants within their existing budget.

3. Consolidate the Pardon and Parole Boards into a single Pardon Board with an expanded membership and a parole committee. Retain the training and membership qualifications in present law, phasing in their application to the initial membership so as to accommodate recent appointments by the Governor to the Board of Pardons.
4. Repeal the Risk Review Panel law and reinvest the savings in programming more directly related to successful re-entry and the reduction of recidivism.
5. Amend the Code of Evidence to treat Administrative Sanction proceedings in the same manner as investigative reports by law enforcement, factual findings offered by the prosecution in a criminal case, or factual findings resulting from the investigation of a particular complaint or incident on which the present proceeding is based.

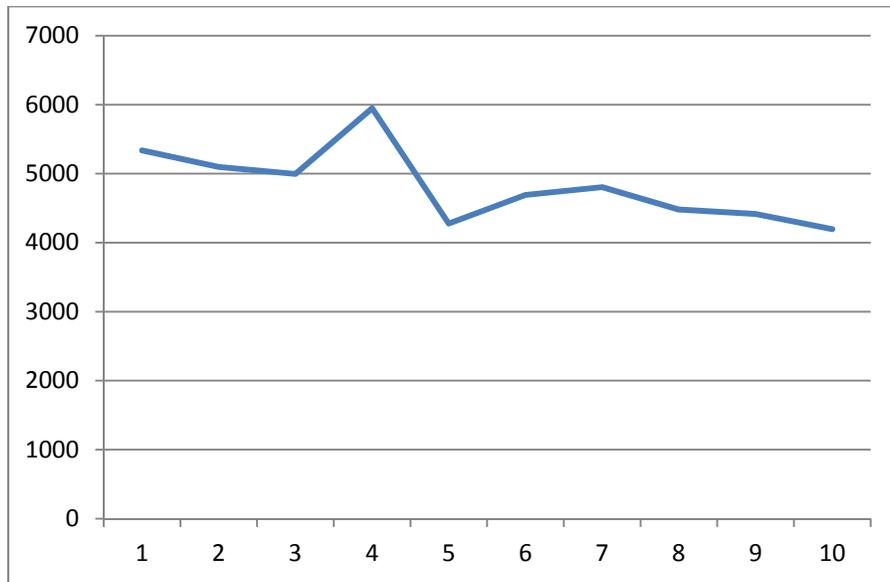
## **Future Directions**

The Louisiana Sentencing Commission will begin work on its 2013 term at its meeting in March 2012. The major issue areas that are under consideration include: Problem Solving Courts (specialized courts that work within the framework of the trial court, such as Drug Courts, Re-Entry Courts, Veterans Courts, Mental Health Courts), evidence-based sentencing, education and its relationship to recidivism, mental health and its relationship to recidivism, re-entry programming, effective use of correctional and community resources, and the development of information sources to better inform public policy discussions relative to criminal justice and sentencing. The Louisiana Sentencing Commission remain committed to the development of data driven recommendations and the use of “best practices” as they apply to the Louisiana criminal justice system.

The Data Tables appended to this report are for informational purposes.

## DATA TABLES

Louisiana Crime Rate Trend  
Raw Data



| Year       | 2001   | 2002   | 2003   | 2004   | 2005   | 2006   | 2007   | 2008   | 2009   | 2010   |
|------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Crime Rate | 5338.1 | 5098.1 | 4995.9 | 5948.9 | 4277.5 | 4691.4 | 4805.5 | 4479.3 | 4414.6 | 4196.5 |

Source: *Crime in Louisiana Series*, <http://lcle.la.gov/programs/sac.asp>

| Category            | Louisiana's Rank in the Nation in 2010 |
|---------------------|--|
| Total Crime Rate    | 9 <sup>th</sup>                        |
| Violent Crime Rate  | 7 <sup>th</sup>                        |
| Murder Rate         | 1 <sup>st</sup>                        |
| Rape                | 34 <sup>th</sup>                       |
| Armed Robbery       | 15 <sup>th</sup>                       |
| Aggravated Assault  | 6 <sup>th</sup>                        |
| Property Crime      | 5 <sup>th</sup>                        |
| Burglary            | 6 <sup>th</sup>                        |
| Larceny-Theft       | 18 <sup>th</sup>                       |
| Motor Vehicle Theft | 22 <sup>nd</sup>                       |

Source: *Crime in Louisiana 2010* <http://lcle.la.gov/programs/sac.asp>  
Rate = number of offenses reported/population expressed in 100,000s

Louisiana: Population, Crime, Incarceration, and DOC Admissions 1998-2010

| Year | State Population | Part I Offenses | Crime Rate | Incarceration Rate | DOC Admissions |               |           |
|------|------------------|-----------------|------------|--------------------|----------------|---------------|-----------|
|      |                  |                 |            |                    | Total          | Incarceration | Probation |
| 1998 | 4,369,000        | 266,435         | 6,098.3    | 709                | 27,105         | 15,628        | 11,477    |
| 1999 | 4,372,000        | 251,252         | 5,746.8    | 763                | 27,555         | 15,361        | 12,194    |
| 2000 | 4,468,976        | 242,344         | 5,422.8    | 793                | 27,929         | 16,038        | 11,891    |
| 2001 | 4,465,430        | 238,371         | 5,338.1    | 795                | 27,135         | 15,573        | 11,562    |
| 2002 | 4,465,430        | 228,528         | 5,098.1    | 799                | 27,960         | 15,559        | 12,401    |
| 2003 | 4,496,334        | 224,631         | 4,995.9    | 803                | 29,320         | 16,135        | 13,187    |
| 2004 | 4,515,770        | 227,997         | 5,048.9    | 814                | 29,413         | 16,025        | 13,388    |
| 2005 | 4,523,628        | 193,500         | 4,277.5    | 824                | 27,708         | 15,006        | 12,702    |
| 2006 | 4,287,768        | 201,158         | 4,691.4    | 835                | 27,625         | 15,210        | 12,415    |
| 2007 | 4,293,204        | 206,308         | 4,805.5    | 857                | 29,359         | 15,816        | 13,543    |
| 2008 | 4,410,796        | 197,574         | 4,479.3    | 853                | 30,125         | 16,295        | 13,830    |
| 2009 | 4,492,076        | 198,305         | 4,414.6    | 881                | 32,291         | 17,230        | 15,061    |
| 2010 | 4,533,372        | 190,243         | 4,196.5    | 867                | 31,332         | 17,371        | 13,961    |

Data Sources:

State Population: FBI UCR Reports <http://www.fbi.gov/stats-services/crimestats>

Part I Offenses: FBI UCR Reports <http://www.fbi.gov/stats-services/crimestats>

Crime Rate: FBI UCR Reports <http://www.fbi.gov/stats-services/crimestats>

Incarceration Rate: Prisoners in 2010 NCJ 236096,  
<http://bjs.gov/index.cfm?ty=pbdetail&iid=2232>  
Bureau of Justice Statistics, USDOJ

DOC Admissions: Department of Public Safety and Corrections: Summary of Adult Admissions 1994-2010

Table 4-3  
Incarceration Rates: Year-end 2010

| State            | Incarceration Rate | Rank            |
|------------------|--------------------|-----------------|
| Louisiana        | 867                | 1 <sup>st</sup> |
| Mississippi      | 686                | 2 <sup>nd</sup> |
| Oklahoma         | 654                | 3 <sup>rd</sup> |
| Alabama (1,330)* | 648                | 4 <sup>th</sup> |
| Texas (1,294)*   | 648                | 5 <sup>th</sup> |
| United States    | 497                | NA              |

Data Source: *Prisoners Series*, Bureau of Justice Statistics, United States Department of Justice,  
<http://bjs.gov/index.cfm?ty=pbse&sid=40>

\*Alabama and Texas have the same incarceration rate but Alabama had 1,330 and Texas had 1,294 thus the difference in rank of 4<sup>th</sup> and 5<sup>th</sup> place.

Table 4-4  
Prison Admissions by Offense Type

| Year | Violent Crimes | Property Crimes | Drug Offenses | All Others | Total  |
|------|----------------|-----------------|---------------|------------|--------|
| 1998 | 2,496          | 4,955           | 5,970         | 2,207      | 15,628 |
| 1999 | 3,064          | 5,342           | 5,348         | 1,607      | 15,361 |
| 2000 | 3,499          | 5,428           | 5,521         | 1,590      | 16,038 |
| 2001 | 3,171          | 5,339           | 5,465         | 1,598      | 15,573 |
| 2002 | 2,969          | 5,278           | 5,737         | 1,575      | 15,559 |
| 2003 | 2,859          | 5,185           | 6,279         | 1,810      | 16,135 |
| 2004 | 2,749          | 5,396           | 6,120         | 1,760      | 16,025 |
| 2005 | 2,385          | 5,176           | 5,855         | 1,590      | 15,006 |
| 2006 | 2,476          | 5,208           | 5,864         | 1,662      | 15,210 |
| 2007 | 2,559          | 5,306           | 6,274         | 1,677      | 15,816 |
| 2008 | 2,735          | 5,600           | 6,296         | 1,664      | 16,295 |
| 2009 | 3,096          | 5,777           | 6,445         | 1,939      | 17,230 |
| 2010 | 3,147          | 5,916           | 6,246         | 2,049      | 17,358 |

Source: Department of Public Safety and Corrections: *Statistical Briefing Book, Adult Admissions 1994-2010 (Incarceration Only)*, <http://www.corrections.state.la.us/quicklinks/statistics/statistics-briefing-book>

Table 4-5  
Average Sentence for Persons Sentenced to Incarceration by Admission Year

| Year    | Average Sentence in years by Crime Type* |          |      |       |       |
|---------|--|----------|------|-------|-------|
|         | Violent**                                | Property | Drug | Other | Total |
| 1998    | 14.93                                    | 3.7      | 4.92 | 5.18  | 6.17  |
| 1999    | 13.86                                    | 3.73     | 4.76 | 4.20  | 6.16  |
| 2000    | 13.10                                    | 4.23     | 4.92 | 3.84  | 6.37  |
| 2001    | 12.70                                    | 4.23     | 4.75 | 3.98  | 6.11  |
| 2002    | 12.59                                    | 4.06     | 4.50 | 4.25  | 5.87  |
| 2003    | 12.35                                    | 3.89     | 4.40 | 4.73  | 5.68  |
| 2004    | 11.83                                    | 3.84     | 4.17 | 4.41  | 5.40  |
| 2005*** | 11.81                                    | 3.80     | 4.12 | 5.35  | 5.36  |
| 2006    | 12.06                                    | 3.66     | 4.12 | 4.55  | 5.28  |
| 2007    | 11.12                                    | 3.66     | 4.21 | 4.58  | 5.17  |
| 2008    | 11.86                                    | 4.42     | 4.98 | 5.81  | 6.03  |
| 2009    | 10.08                                    | 4.38     | 4.90 | 4.88  | 5.65  |
| 2010    | 9.84                                     | 4.36     | 4.95 | 4.72  | 5.62  |

Source: DOC Admissions Department of Public Safety and Corrections, *Summary of Adult Admissions 1994-2011, (Including Incarcerations and Supervisions,* <http://www.corrections.state.la.us/quicklinks/statistics/statistics-briefing-book>

\*Includes revocations for new felonies. The felony with the longest sentence governs the offense type.

\*\*The average sentence length for violent offenders does not include life sentences. For this reason, the averages for violent offenders is somewhat understated.

\*\*\*Definitions may have been changed in 2005 so data may not be comparable before and after 2005.

Table 4-6  
Recidivism by Year of Release  
And Release Facility Type

| Facility Type    | 2005<br>5         | 2006<br>4         | 2007<br>3         | 2008<br>2         | 2009<br>1         |
|------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Total Population | 49.1%<br>(13,235) | 44.0%<br>(12,791) | 38.7%<br>(12,438) | 30.0%<br>(12,616) | 16.0%<br>(12,740) |
| State Prison     | 47.3%<br>(2,986)  | 42.5%<br>(3,475)  | 37.7%<br>(3,279)  | 30.1%<br>(3,148)  | 15.4%<br>(3,132)  |
| Local Facilities | 50.3%<br>(7,060)  | 47.2%<br>(5,900)  | 42.2%<br>(5,726)  | 32.1%<br>(6,145)  | 18.0%<br>(6,611)  |

Source: Louisiana Department of Corrections, Statistical Briefing Book, <http://www.corrections.state.la.us/quicklinks/statistics/statistics-briefing-book>

Table 4-6

Recidivism by Program Participation by Release Cohort

| Program                                | 2005<br>5         | 2006<br>4         | 2007<br>3         | 2008<br>2         | 2009<br>1         |
|--|-------------------|-------------------|-------------------|-------------------|-------------------|
| Baseline<br>(Total Release Population) | 49.1%<br>(13,235) | 44.0%<br>(12,791) | 38.7%<br>(12,438) | 30.0%<br>(12,616) | 16.0%<br>(12,740) |
| Work Release                           | 47.5%<br>(2,722)  | 39.2%<br>(3,017)  | 33.3%<br>(3,045)  | 26.2%<br>(2,988)  | 12.1%<br>(2,667)  |
| IMPACT<br>(Graduates)                  | 45.8%<br>(225)    | 42.3%<br>(175)    | 32.6%<br>(181)    | 19.5%<br>(236)    | 13.5%<br>(245)    |
| Steve Hoyle                            | No Data           | 30.4%<br>(56)     | 33.3%<br>(72)     | 32.5%<br>(77)     | No Data           |
| Blue Walters                           | 59.6%<br>(265)    | 48.5%<br>(241)    | 48.3%<br>(172)    | 32.4%<br>(105)    | 14.9%<br>(101)    |
| Faith Based                            | 42.2%<br>(322)    | 41.7%<br>(355)    | 35.8%<br>(201)    | 31.5%<br>(165)    | 13.2%<br>(190)    |
| Education                              | 42.4%<br>(1,152)  | 33.5%<br>(1,228)  | 30.4%<br>(1,240)  | 23.7%<br>(1,450)  | 12.2%<br>(1,470)  |
| Sex Offenders                          | 47.3%<br>(752)    | 45.4%<br>(659)    | 35.2%<br>(568)    | 25.2%<br>(606)    | 15.0%<br>(600)    |
| Females                                | 37.4%<br>(1,451)  | 30.9%<br>(1,408)  | 26.2%<br>(1,384)  | 20.2%<br>(1,404)  | 9.3%<br>(1,418)   |
| Parole Board Releases                  | 47.9%<br>(1,003)  | 36.2%<br>(1,014)  | 33.0%<br>(1,119)  | 23.8%<br>(618)    | 9.0%<br>(377)     |

Source: Louisiana Department of Corrections, *Statistical Briefing Book*,  
<http://www.corrections.state.la.us/quicklinks/statistics/statistics-briefing-book>

Year = year released

In the cells— percent returned to prison

Number in parenthesis reflects the total number of offenders participating

Table 4-7  
 Recidivism: Improvement over Baseline by Program Participation  
 Five Years Out  
 2003 Release Cohort

|              |       |          |
|--------------|-------|----------|
| Baseline     | 49.1% |          |
| Faith Based  | 42.2% | 6.9%     |
| Work Release | 47.5% | 1.6%     |
| Education    | 42.4% | 6.7      |
| IMPACT       | 45.8% | 3.3%     |
| Blue Walters | 59.6% | (-10.5%) |

Source: Louisiana Department of Corrections, *Statistical Briefing Book, Recidivism in Adult Corrections (Percent Return)*, <http://www.corrections.state.la.us/quicklinks/statistics/statistics-briefing-book>

Table 4.8  
 Recidivism Improvement over Baselines by Program Participation  
 Three Years Out  
 2007 Release Cohort

| Program      | Reincarceration after 3 years (2007 Release Cohort) | Improvement over State Baseline After 3 years (2007 Release Cohort) | Improvement over National Baseline After 3 years (1994 releases) |
|--------------|---|---|--|
| Baseline     | 38.7%   |   | 51.8%  |
| Faith Based  | 35.8%   | 2.9%  | 16.%   |
| Work Release | 33.3%   | 5.4%  | 18.5%  |
| Education    | 30.4%   | 8.3%  | 21.4%  |
| IMPACT       | 32.6%   | 14.4%   | 19.2%  |
| Blue Walters | 48.3%   | (-9.6%)   | 3.5%   |

Source: Louisiana Department of Corrections, *Statistical Briefing Book, Recidivism in Adult Corrections (Percent Return)*, <http://www.corrections.state.la.us/quicklinks/statistics/statistics-briefing-book>

**ACTS of the Legislature related to the Recommendations of the Louisiana  
Sentencing Commission**

