

**Minutes of the Louisiana Sentencing Commission  
Front End Committee  
DPS&C Headquarters, Building 1  
504 Mayflower, Baton Rouge, LA 70802  
9:00 a.m. September 22, 2011**

The meeting was called to order by Ricky Babin at 9:12 a.m. The following persons were in attendance:

**Commission Members**

Mr. Ricky Babin, Interim Chairperson, District Attorney

David Dugas,

Mr. John Di Giulio, Louisiana Public Defender (Proxy for Jean Faria)

Honorable Ricky Wicker, Judge, 5<sup>th</sup> Circuit (Proxy for Justice Guidry)

**Advisory Members**

Department of Corrections

Traci DiBenedetto

Melanie Gueho

William Kline

Genie Powers

Angela Whittaker

Cloyce Clark, Governor's Office

Henry Goines, Retired DOC

Rhonda Nicholls, AIM

**Staff**

Carle Jackson, Criminal Justice Policy Advisor, LCLE

Sandra Laborie, Fifth Circuit Court of Appeal

Sonya Lars, SAC Director, LCLE

Mr. Babin asked for a volunteer to chair the Front End Committee. The names of Judge Louis Daniel and Judge McDonald were suggested by the group. Carle Jackson was tasked with contacting each about this position.

Mr. Babin gave the group an overview of the meeting's purpose. He reminded the group that the legislation on Crimes of Violence was pulled last year due to the complexities of any change having multiple impacts on a sentence. Due to an earlier start date for the 2012 Legislative Session, all of the committees need to identify short term goals that are well defined to prepare for the 2012 session. The

initial proposals are due October 30, 2011. Carle Jackson suggested that the long term goals could be reviewed in March for the next phase of the sentencing Commissions activities. Mr. Jackson commented that drug convictions make up the largest percentage of DOC's population but will be a long process and thus not appropriated for the upcoming session.

### **Mandatory Minimums**

In a lengthy discussion on mandatory minimums, the group raised the merits and shortcomings of mandatory minimums. Carle Jackson raised the concept of a Pennsylvania model which uses a prosecutorial discretion which gives the system more flexibility in setting sentences. David Dugas raised the federal model which is known as a Safety Valve Provision. Billy Kline commented that the 529 would provide sentencing discretion if the minimum mandatorys were eliminated. Mr Kline suggested that we focus on the basics and then move toward where it needs to be to get the necessary legislative backing. Cloyce Clark asked if the changes will only apply to 1<sup>st</sup> offenses?

### **Minimum Mandatory/Safety Valve Provision Team**

#### *Commission Members*

Ricky Babin  
John Di Giulio  
David Dugas  
Ricky Wicker

#### *Advisory Members*

Pete Adams  
Michael Ranatza  
Hugo Holland  
Andy Shealy

*Note: The sub-committee members listed throughout these minutes were not all present at this meeting but were suggested to provide a balance of viewpoints from the sentencing community as a whole. Carle Jackson will follow-up with these individuals to make sure that the appropriate persons will be able to participate in this process.*

### **Uniform Controlled Dangerous Substance Law**

The wording on the current law needs to be redrafted to provide clarity. Rhonda Nicholls informed the group the DWI Task Force is already looking at DWI laws. Judge Wicker suggested getting grant funds to study this matter. She suggested applying for a grant from Baptist Ministries. Cloyce Clark volunteered to find a grant writer to research possible fund sources.

*Commission Member*

Judge Ricky Wicker

*Advisory Member*

Cloyce Clark

**Crimes of Violence**

Various Problem Solving Courts were provided in Carle Jackson's presentation such as Drug Courts, Mental Health Courts, Domestic Violence Courts, Reentry Courts, and Veterans Courts. Cloyce Clark reminded the group to avoid any projects that will cost money due to the current budgetary constraints. A question was raised as to whether problem solving courts are the task of Workgroup 1 or Workgroup 2. Judge Wicker stated that she will have the grid of offense completed to aid the group in meeting with other key groups such as LSA, LDAA and others to discuss possible statute changes.

**Crimes of Violence Team**

*Commission Members*

Ricky Babin

John Di Giulio (for Jean Faria)

Charlie Riddle

*Advisory Members*

Mark Dumaine, Assistant District Attorney, 19th JDC

Susan Griffin, DOC

Hugo Holland, Assistant District Attorney, 1<sup>st</sup> JDC

Carle Jackson, LCLE

Andy Shealy, Assistant District Attorney, 3<sup>rd</sup> JDC

**Reentry Courts**

Since Reentry Courts are already underway the consensus of the group was to focus on these as we begin collecting data on their impact on recidivism. Genie Powers informed the group that DA Cannizaro is interested in expanding the legislation to include all of Orleans courts in this program. Reentry has the ability to resentence an inmate if he follows the directions of the court while incarcerated by leaving the sentence open at pronouncement. Traci DiBenedetto suggested that we wait on more information about the success of the Reentry Courts before expanding this program. Cloyce Clark suggested that Reentry Courts be referred to the House Criminal Justice Committee. Also suggested the Joe Lopinto would be the person to approach the HCJC. Angela Whittaker informed the group that Secretary LeBlanc thinks that a letter for the Sentencing Commission to expand

Reentry Courts would have a greater impact in getting any changes to this legislation.

**Review of Reentry Courts Team** (may be assigned to Workgroup 2)

*Commission Members*

Judge Ricky Wicker

*Advisory Members*

Laurie White

Leon Cannizaro

Cathy Fontenot, DOC, Angola

**Drug Court Team**

*Commission Members*

Charlie Riddle

*Advisory Members*

Tony Mirabella (unavailable due to current workload)

Kerry Lintini, Drug Court Administrator, Louisiana Supreme Court

**Veterans Courts**

The group agreed to postpone discussion on this matter due to the lack of funds. Carle Jackson reminded the group that this is a priority of Veterans Affairs to get the benefits and treatments that were promised to veterans but have not been funded or provided to them.

**Domestic Violence Courts**

Domestic Violence Courts were also placed on the list of long term projects that the Commission will study and address in the future.

**Mental Health Courts**

Mental Health Courts will be addressed later when funding is not an issue.

**Review of Probation C.Cr.P. Art. 893**

This will be a long range goal. This will require a review of the requirements for probation for non-violent and non-sex offenders.

*Commission Members*

Ricky Wicker

**Review of Community Service C.Cr.P. Art 893.5**

This was tabled as a possible long range goal.

### **Risk Needs Assessment Instrument**

Chairman Babin stated that this will be a long term project. Someone suggested getting Vera and Pew to assist with this study. Carle Jackson reminded the Group that Virginia has recently worked on this issue which Rick Kearns gave the group a presentation on in 2010. The group agreed to wait until March 2012 to tackle this issue. In the meant time Carle Jackson was asked to gather information on this matter.

### **Special Populations - Treatment of M’Naghten Rule Inmates**

The name of Katherine Maddis of DOJ was given as a great resource for this issue. Calvin Johnson of DHH runs the Mental Health section. Traci DiBenedetto commented that the LSU Hospital in Shreveport has begun a study of offenders recently released that are being treated with a new medication. It requires daily injections. Judge Wicker suggested that a coroner be included on this group. This could tie into Mental Health Courts.

### **Special Populations Team (Incompetent to stand trial; M’Naghten rule defendants)**

#### *Commission Members*

Ricky Babin

Mike Cazes

David Dugas

#### *Advisory Members*

Calvin Johnson

Kathryn Maddis (?)

Tracy Dibenedetto (DOC)

Susan Griffin, DOC

Mike Ranatza (LSA)

Sue Austin (DHH)

TBA (LSU-S, researcher who conducted study of this issue)

### **Revisions to C.Cr.P. Art. 894.1 (Sentencing Guidelines Generally)**

This will be a long range goal.

#### *Commission Members*

Ricky Wicker

### **Registered Sex Offenders and the Homeless**

Representative Helena Moreno sent word that she wants the Commission to look into options for registered sex offenders that are homeless. How do we keep track of them? What options are available to them?

### **Registered Sex Offenders Team (home address when homeless)**

#### *Commission Members*

Ricky Babin

#### *Advisory Members*

Helena Moreno

Judy Benitez (Ex. Dir. Louisiana Foundation Against Sexual Assault)

Barry Matheny (adv. DOC P&P)

Tracy Dibenedetto (adv. DOC P&P)

Sue Bernie (ADA 19<sup>th</sup> JDC)

Lambert (scientific)

### **Summary**

**Short Term Goals:** minimum mandatory sentences, Pennsylvania Model/Safety Valve. Crimes of Violence statutes, Sex Offender Reporting (Homeless), Reentry Courts Review/Study, Drug Court Review/Study, and Reduced Probation for Non-violent/Non-sex Offenders

Long Term Goals: Review of Statutes, Problem Solving Courts (when funds available), Community Service, Risk Needs Assessment Instrument, Special Populations, Review of Outcomes from LSU-Shreveport's Mental Health Study, Review of C.Cr.P Articles 893, 893.5 and 894.1.

Each of the groups are to conference by phone or in person prior to the next Commission meeting.

### **Next Meeting**

The next meeting will be October 6, 2011

## Complete List of Workgroup I Committees

### Immediate Attention (for the 2012 Regular Session)

#### Crimes of Violence

##### *Commission Members*

Ricky Babin  
Charlie Riddle  
John Di Giulio (for Jean Faria)

##### *Advisory Members*

Hugo Holland (Assistant District Attorney, 1<sup>st</sup> JDC))  
Andy Shealy (Assistant District Attorney, 3<sup>rd</sup> JDC)  
Mark Dumaine (Assistant District Attorney, 19th JDC)

#### Minimum Mandatory Sentences

##### *Commission Members*

Ricky Babin  
John Di Giulio  
David Dugas  
Ricky Wicker

##### *Advisory Members*

Pete Adams  
Michael Ranatza  
Hugo Holland  
Andy Shealy

#### Problem Solving Courts

##### Drug Court

##### *Commission Members*

Charlie Riddle

##### *Advisory Members*

Tony Mirabella (unavailable due to current workload)  
Kerry Lintini, Drug Court Administrator, Louisiana Supreme Court  
TBA, DOC, Office of Probation and Parole

#### Re-Entry Court (may be assigned to Workgroup 2)

##### *Commission Members*

Judge Ricky Wicker

##### *Advisory Members*

Laurie White  
Leon Canniczar

Cathy Fontenot (DOC, Angola)

Registered Sex Offenders (home address when homeless)

*Commission Members*

Ricky Babin

*Advisory Members*

Helena Moreno

Judy Benitez (Ex. Dir. Louisiana Foundation Against Sexual Assault)

Barry Matheny (adv. DOC P&P)

Tracy Dibenedetto (adv. DOC P&P)

Sue Bernie (ADA 19<sup>th</sup> JDC)

Lambert (scientific)

**Long Term (Begin in March 2012)**

Drug Code Revision

*Commission Members*

Cloyce Clark

Ricky Wicker

John Di Giulio (for Jean Faria)

Ricky Babin

*Advisory Members*

Kerry Lintini (Supreme Court)

Special Populations (Incompetent to stand trial; M’Naghten rule defendants)

*Commission Members*

Ricky Babin

Mike Cazes

David Dugas

*Advisory Members*

Calvin Johnson

Kathryn Maddis (?)

Tracy Dibenedetto (DOC)

Mike Ranatza (LSA)

Sue Austin (DHH)

TBA (LSU-S, researcher who conducted study of this issue)

Revisions to C.Cr.P. Art. 894.1 (Sentencing Guidelines Generally)

*Commission Members*

Ricky Wicker