

**Minutes of the Sentencing Commission
Re-Entry and Evidenced Based Corrections Committee, and
Statutory Committee: Workgroup 2Release Mechanisms
Joint Meeting
1885 Wooddale Blvd, 7th Floor Conference Room
July 26, 2010 9:30 a.m.**

Secretary James LeBlanc called the meeting to order.

Carle Jackson welcomed the group and commented on the breadth of coverage from all parts of the criminal justice community (judges, prosecutors, defense bar and DOC staff). Carle stated the purpose of the meeting was for the committees to receive information from the subject matter experts at DOC and to begin working on a mission statement. The two committees have complementary areas of review: Workgroup 2: How and when are offenders released; and Re-entry: When offenders are released, how do we improve their performance and reduce recidivism.

Persons present for this meeting were Secretary James LeBlanc (DOC), Carle Jackson (LCLE), Whalen Gibbs (DOC), Judge Fredericka Wicker (5th Circuit Court of Appeals), Will Joyner (DOC), Carey Brennan (DOC), Jeff Bashaw (Consultant), Charles Riddle (District Attorney for the 12th Judicial District), Jean Faria (State Public Defender), Robert Mehrtens (LCLE), Joey Watson (Executive Director, LCLE), Sonya Lars (LCLE), Rhett Covington (DOC), Angela Griffin (DOC), Genie Powers (DOC—Probation and Parole), Phyllis Sheridan (DOC—Probation and Parole), Jeff Travis (DOC), William Kline (DOC), Tracy DiBenedetto (DOC), Angela Whittaker (DOC), Debbie Rutledge (DOC), Henry Goines (DOC), Sheryl Ranatza (DOC), Fredia Dunn (LCLE) and Jennifer Morgan (LCLE).

Secretary James LeBlanc began the meeting by presenting his vision from the Department of Corrections point of view of the release process and re-entry programming can work together to reduce recidivism. He also reviewed the legislative proposals relating to release and re-entry presented during the 2009 and 2010 Regular Sessions.

It was moved by Charles Riddle and seconded by Jean Faria to select Secretary James LeBlanc as the Chairman of the joint committees. The Sentencing Commission members present concurred.

Secretary Leblanc reiterated the purpose of the meeting to review the current situation with reference to release mechanisms and reentry programming with a view toward identifying issues that can be addressed for the 2011 Regular Session. It is anticipated that the work will build upon the changes recommended by DOC during the 2009 and 2010 Regular Sessions.

Among the recent changes to law noted were:

- The Parole Board now votes by majority and not consensus in certain cases that meet the criteria specified in the law. Violent and sex offenders are excluded from the revised

voting procedures. Those types of cases are handled as they were before the law (consensus required). Additionally, wardens are now ex-officio members of the Parole Board, which allows them to provide information but does not give them a vote.

- Re-entry Council has been developed with a strong work force development component.
- The rate at which good time is earned was increased to 35 days/30 days served, in place of 30 days/30 days. This essentially returns the goodtime rate to the 1992 level.

There were several proposals that failed to pass in the 2010 Regular Session, which merit consideration as to whether or not they can be properly modified with the legislature in 2010 that should be revisited in the future such as:

- Habitual Offenders being allowed to earn Educational Good time credit. The most they will be able to get is 540 days of credit.
- Allowing parole eligibility for those 60 years old after they have served at least 10 years of their sentence.
- Good time 85 to 75 - Abolishment of mandatory sentencing and allow the judges to make the call at their discretion.
- Parole eligibility for 2nd offenders after serving 1/3 of sentence and eligibility for 3rd offenders after serving 1/2 of their sentence. This proposal was not introduced to the committee but was discussed at the table.

Other helpful changes that could be considered include but are not limited to:

- Certified tutors can be paid up to \$.75 per hour which will be mostly lifers coming out of the Bible College.
- Restoration of Good time after the offender has been free of disciplinary reports for 24 months.
- Work Release programs were extended from 6 months to a year for offenders who have been in for at least 15 years.
- Sex Offender Panels are still being revamped.
- Reentry has added entrepreneurship to its programs; possibly consider a tax credit for employers who hire ex-offenders.
- The Risk Review Panel has not been utilized effectively as their findings often go unused.
- Home incarceration

RELEASE MECHANISM

A discussion of the handout from DOC "Sentencing Commission- Work Group 2- Legal Framework: Release Mechanism" was led by Secretary LeBlanc. He noted there is some overlap between the two committees, as release mechanisms and re-entry programming are linked in the effort to reduce recidivism.

Secretary LeBlanc suggested getting the consultant that was featured at the National Governor's Association Best Practices in Corrections meeting be invited to present the changes made in Pennsylvania to their parole system.

The costs of caring for ailing and aging elderly offenders needs to be considered in regard to release mechanisms so as to reduce the costs of medical care while maintaining public safety. Judge Yeager from Alexandria provided a letter on evidenced based sentencing. Carle also offered the name of Rick Kern from Virginia for a return visit to discuss Risk based sentencing.

RE-ENTRY

James LeBlanc led a discussion on the handout from DOC “Sentencing Commission – Re-entry and Evidenced Based Corrections Committee.” The main points cited by Secretary LeBlanc included:

- Re-entry programs and policies affecting last 12 months of incarceration and first 12 months of release should be examined.
- Statutes, policies, regulations and policies related to re-entry.
- Availability and access to programming on state and local level.
- The use of risk assessment instruments.

Secretary LeBlanc reported on a new diversion program that shows great promise. It is a diversion that takes place before prosecution is initiated. The basic structure involves both work (similar to work release) and skill development. The first program was launched in Jefferson Davis Parish and currently has 80 participants. The American Correctional Association accredits the program. They will be breaking ground in Lafayette soon for a second location to provide more space for non-violent offenders that allows them to continue to work and interact with their families. We will be monitoring the effectiveness of these programs in preventing recidivism.

Secretary LeBlanc questioned whether the instrument currently in use helps in determining an offender’s likelihood to recidivate. Genie Powers and others responded that the Risk Assessment takes into consideration the factors that caused an offender to revoke. Currently the Department of Corrections utilizes two instruments: LARNA 1 is used by P&P and LARNA 2 is used in the institutions Judge Wicker noted that risk assessment should be applied pre-sentence to assist the judges in determining a proper sentence. Judge Wicker commented that Kansas and Virginia both have pre-adjudication tools from data mined within their own state. Carle requested electronic copies of the Risk Assessment tool being used by our Probation and Parole staff. Secretary LeBlanc commented that a written instrument does not make the decision but only provides additional information; however, it does take some of the liability off the Parole Board Judge Wicker commented that the front-end needs assessment should be simple, easy to fill out quickly when pressed with a court docket while the back end can continue to be more detailed and complex. Carle Jackson noted that however we decide to use risk assessment instruments in the process, they must be validated for Louisiana populations and monitored for effectiveness. He suggested that the instruments be revalidated on a five-year cycle, or whenever the performance monitoring system reports that they are becoming less effective.

DOC has met with the criminal justice community in every P&P region to discuss issues of P&P. There was good participation across the board in each region. This will take place again this fall. It was suggested that the police chiefs also be included in these training sessions. Secretary LeBlanc commented that we need better communication throughout the criminal justice

community. We need collaboration from all parties if we are to be effective in reducing recidivism.

There is a Research and Technology Committee that will be key to the overall success of revamping sentencing in this state. It is absolutely necessary if we are to develop evidence based policy and support best practices. Secretary LeBlanc would like to see this group analyzing sentencing and correctional trends, generate policy options to protect public safety, hold offenders accountable and control the growth of corrections. In this way, we can determine how the changes we make in policies will impact the system overall. There is a letter for the Governor's and others to sign that will solicit funding from PEW to support the Research and Technology Committee. A meeting scheduled for August 12 at 1:30 in the Hainkel Room at the State Capitol followed by a meeting with PEW at 2:00 in the same location.

Another success that we can add to the letter is that we are currently working with the prosecutors, public defenders, legislators and judiciary that are all at the table and lending their observations of the system from their perspectives. In addition, ways to strengthen P&P are being developed to reduce the number of incarcerated persons. Mr. LeBlanc acknowledged that William Kline is working to reduce the numbers through administrative releases.

Secretary LeBlanc stated that a uniform database is essential to a chorus of agreement. He would like to see this put into statute. Jean Faria commented that uniformity in reporting will be necessary, such as how we count cases and having uniform definitions from the front end to the back end of the system. Carle Jackson stated that there is a statute that houses an Integrated Criminal Justice Policy Board that gives LCLE authority over state level systems. Mr. Jackson stated that what we truly need is an analytical database. We need to enhance the front end of the data system to match with the back end data housed by the Department of Corrections. There are several excellent systems at the operational level in the state. The issue will be how to link the information in a meaningful way and to protect the security of data provided by the participating agencies.

GOOD TIME – (See the handout “Sentence Computation Statutes”)

Henry Goines presented the history of Good time legislation in the state. The changes throughout the years have not been retroactive or over-arching but are often based on the parole eligibility date, the sentence date, the release date or revocation dates and the rate that was in effect on the date in question. This means that the DOC staff has to know which of the 20 legislative Acts, the offender class, type of crime (violent or non-violent) and the age of the offender (juvenile or adult) to determine the Good time rate for the offender's sentence. There are currently 14 classes of Good time release. William Kline suggests that the system should be much simpler and more transparent. Perhaps we should have only two or three options—violent offenders in one, all other offender in another, excluding sex offenders. A related issue in sentence computation occurs when a judge attempts to combine time served on consecutive sentences. This occurs when a judge attempts to combine convictions that are on separate docket numbers and cannot be followed by the DOC staff that calculates Good time because there is no commitment order for the staff to follow. Henry Goines concluded by saying that truth in sentencing needs to be reviewed.

Judge Wicker presented the memorandum from Carey Brennan and Will Joyner that provides proposals for revisions to Good time for the committees' consideration. This prompted the additional discussion by Whalen Gibbs of how many times an offender should be allowed to be revoked and put back in the system to start a new cycle of Good time. An example was given of an offender that had a 10 year sentence that could be recommitted up to 5 times as they are paroled and revoked while half timing out each time. This strains the system with the time involved in processing them in and out of the P&P system and the DOC system. We should consider limiting the number of times an individual is allowed to return to the system and still earn goodtime.

PROBATION AND PAROLE (See the attached PowerPoint and Parole Board Handout)
Genie Powers provided an excellent PowerPoint presentation on the numerous duties of P&P. There are seven members appointed by the Governor to the Parole Board. They serve on three panels. Video conferencing has been used to cut down on the amount of travel. The new law requires 2/3 vote instead of the unanimous vote required previously to grant a parole for certain offenders. The Parole Board sees the offenders 6-9 months before their possible parole date. This allows the offenders to complete any additional activities required by the Board such as substance abuse treatment, Work Release, GED, etcetera before being released. That has returned a rate of release on the actual parole date instead of later as had been the case in recent years.

Carle Jackson asked if there was a difference in performance between offenders released by Good time versus those released by parole. Ms. Powers noted that those released on Goodtime tend to recidivate at a higher rate. Data from a recent DOC study indicates that of offenders who have completed supervision, parolees revoke at 18% and Good timers are closer to 22%. The good timers are generally not eligible for parole. Five years after completing supervision probationers are only 14% likely to recidivate. The Parole grant rate has increased in the last six months. A factor in some paroles being denied may be due to them being too close to their goodtime release date, which is mandatory. Good time parolees are released under the same supervision guidelines as those released by the Parole Board. For offenders doing well on Parole or Goodtime release supervision there is no mechanism to terminate parolee's supervision early although they can be placed on suspended status. This could be used as an incentive to get them to do better by reducing the supervision length. This would require a change in the law to allow administrative reduction of the supervision period.

The average caseload for regular probation officers is 150. There are other officers that focus on sex offenders and others for the drug courts. The drug courts are currently funded by the ARRA funds which will be ending soon. Robert Mehrtens questioned how the courts would be funded once the Stimulus funds have ended. Charles Riddle asked if the fees are still collected by supplying the probationer/parolee with the envelopes. Ms. Powers responded that the fees could now be collected through Western Union. It is \$3.25 per transaction to be paid by the offender. In FY2008-2009 P&P collected over \$25 million in fees and restitution. Fees are 28% of the P&P budget and take about 20% of the officer's time. Project Intercept is to collect on fees that are behind. The names are sent to the Department of Revenue to deduct the funds from their income tax refunds. Collection of fees/restitution not collected by the end of the supervision period will remain on the books and be collected by Project Intercept or by a collection agency

that will be contracted for this purpose. Some judges suspend the supervision fees without realizing that this affects the P&P budget. Judge Wicker noted that we need to have uniformity in how the monies are collected and distributed across judicial districts. The officers need to know whether the offenders are current with their fees/restitutions since this is part of meeting the requirements of their supervision.

Probation and Parole made over 5,500 arrests conducted over 25,000 drug tests, process over 25,000 new cases and 30,000 miscellaneous investigations. P&P run their own POST Academy and will soon include Office of Juvenile Justice P&P officers to make sure they get all of the POST mandates and also have a good focus on P&P functions. P&P is responsible for NCIC and fugitive warrants. It costs P&P approximately \$500,000 a year to return probationers to Louisiana. It is more cost effective to send two officers to retrieve the probationers but that affects our workload by keeping them from their caseloads. The cost of supervision in Louisiana is \$2.50 per day while the southern average is \$3.15 per day. Electronic monitoring is used for DUI and runs \$1.72 per day. GPS tracking is used for sex offenders and costs \$4 for passive and \$8-\$10 a day for active. There are a limited number of units since there was no money allocated to fund this program. Some judges make the offenders pay. There is an in-house case management system. The biggest driver of P&P is how to balance accountability and enforcement with rehabilitation services.

Sex Offender supervision has been a big focus. A planning and implementation grant was secured from BJA to enhance our supervision of sex offenders. A special committee has been formed to work on these issues. There are currently 2,000 sex offenders on supervision.

The Francois Center in Concordia is an alternative center for technical violators that take probationers and parolees. They can remain there for 90 days and receive services during this time. There are reporting centers in New Orleans and Shreveport. When DHH and DSS receive budgetary cuts, it has an immediate impact on the services that can be provided to offenders through DOC.

There is a re-entry committee within in P&P. An Indigent Inmate Welfare Fund collects the interest from the inmate welfare fund to assist indigent parolees with the basics when released. It has to be spent within 14 days of their release. Standards are being developed to formalize and get consistency in what constitutes a revocation.

RE-ENTRY PROGRAMMING

Whalen Gibbs began the discussion on this topic. Re-entry began here in Louisiana in 2002. The stats show that 68% will be rearrested, 47% will commit new crimes and the costs in corrections will continue to skyrocket. In five years, more than 50% of the inmates return to prison for new crimes or technical violations. Of the risk assessment tools, the LARNA 2 is the risk assessment tool currently in use. Education, vocational training, substance abuse education and treatment, and the 100-hour pre-release program are the tools used in helping DOC reduce recidivism. He compared the number of high school dropouts (16,000 per year) to the numbers added to the DOC rolls each year. Carle Jackson asked about the demographics of the offenders. He commented that 16 year olds that dropped out of high school could not find gainful employment. Mr. Gibbs stated that most offenders enter the system reading at a 5th or 6th grade

level. The lack of education affects their ability to secure a job with a livable wage. The Louisiana Workforce Commission is working with DOC to help prepare the inmates to be employable. Work release **assist assists** in this process as well.

Eighty percent of offenders can have drug related problems. Fort Wade now has a substance abuse component. RSAT is also still in effect at the Concordia Parish Prison. Memoranda of Understanding are being put in place to address more of the mental health issues of the inmates. The inmates will receive their prescriptions for medications while still incarcerated to allow a seamless transition to re-entry. Corrections has become an extension of the Office of Motor Vehicles to be able to provide state ID's and to secure a valid social security card since they will need 2 forms of valid identification. This works in conjunction with the 100-Hour Pre-Release Program Corrections was previously a closed system. Some of the partners that are helping Corrections to rehabilitate and facilitate re-entry are other state agencies such as Louisiana Workforce Commission, Department of Economic Development, Department of Education, Community Based Partners and Faith Based entities.

Rhett Covington completed the presentation on 'Reducing Recidivism'. There is a catalog of all rehabilitative resources on the DOC website. Nationwide the trend is that we must attempt to rehabilitate inmates so that they can re-enter our communities as positive contributors. Half of the prisoners in Louisiana are in local jails and do not benefit from the programs outlined by Whalen Gibbs. There are three re-entry facilities currently operational: Caddo, Madison and Orleans. Seven additional sites are planned, and will be brought online in three phases. Those will be West Baton Rouge, Calcasieu, Concordia, West Feliciana, Lafourche, St. Tammany and St. Landry. Day Reporting Centers at the local level will also address the needs of offenders as they return to their communities. These services may be offered onsite at the day reporting centers, but referrals will be made if the services can be provided at reduced costs through other programs. Over time, the services provided at the Day Reporting Centers will increase which should help crime decrease. The return on investment is projected to reduce the five-year recidivism rate by 20%. The most significant return on investment will be fewer victims, more workers to fill employment gaps with more taxpayers supporting themselves and role models for other offenders. Challenges for re-entry will remain employment of ex-offenders, housing barriers, interagency communication and reduced options to earn good time credit.

Secretary LeBlanc suggested that everyone review all handouts especially the mission statements.

The members present elect chairmen for the respective committees. The chair and co-chair of the Re-entry Committee are District Attorney Charles Riddle and State Public Defender Jean Faria, respectively. The chair and co-chair of the Statutory Committee: Workgroup 2- Release Mechanisms are Judge Ricky Wicker and William Kline, respectively.

Release Mechanism (Workgroup 2) will meet **August 23, 2010 at 1:00 p.m. at the DOC headquarters building at 504 Mayflower Street, Baton Rouge.**

Re-entry Committee will meet **August 16, 2010 at 9:30a.m. at the DOC headquarters building 504 Mayflower Street, Baton Rouge.**

All members will meet with PEW on August 12, 2010 at 1:30 p.m. in the Hainkel Senate Briefing Room at the State Capitol. The next planning session of the full Sentencing Commission will take place on August 25, 2010 at 10:00A.M. at DOC Headquarters.

The meeting ended at 1:20 p.m.