

# THE SOUTH CAROLINA SENTENCING REFORM OVERSIGHT COMMITTEE

## STATE EXPENDITURES SAVINGS REPORT



December 1, 2013

### Committee Members:

Senator Gerald Malloy, Chairman  
Senator George E. "Chip" Campsen  
Representative J. Todd Rutherford  
Representative Christopher J. "Chris" Murphy  
Honorable William R. Byars, Jr.  
Stanley L. Myers  
Jon E. Ozmint

### Staff:

Emma Dean  
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## **BACKGROUND**

### **The South Carolina Sentencing Reform Commission**

In 2010, the South Carolina Sentencing Reform Commission (Commission) issued a report to the South Carolina General Assembly (General Assembly) regarding criminal sentencing in South Carolina. The Commission noted that over the past 25 years South Carolina's correctional population had soared, increasing from approximately 9,137 inmates in 1983, to more than 25,000 inmates in 2009. The population growth had come at a significant financial cost. In 1983, South Carolina spent \$63.71 million on prison operations. By 2008, the costs increased by more than 500% to \$394.15 million. The Commission warned that on the current course, in 5 years, South Carolina could expect to see the state's correctional population increase by over 3,200 to a total of 27,903 inmates. This increase could add an additional \$141 million to the South Carolina Department of Corrections' (DOC) annual operating costs. In addition, to house the inmates, construction of new prison space, at a cost of approximately \$317 million, could be required.

As part of the report, the Commission noted that one of the major driving forces behind the rapid increase in the correctional population was an increasing number of offenders in South Carolina who were being incarcerated for violating technical conditions of probation or parole, not for committing new crimes. In fiscal year 2009, the South Carolina Department of Probation, Parole and Pardon Services (PPP) revoked 3,205 offenders to prison, accounting for 24% of all prison admissions, 66% of whom, or more than 2,100 offenders, were sent back to prison for non-criminal, technical violations, such as failure to appear on time. The Commission also noted that the proportion of PPP funding from State appropriations in fiscal year 2009 was 44%, down from 57% in 2000. Over the years, both PPP and DOC have had to reduce the number of employees to accommodate budget limitations while the correctional population has soared. The Commission also noted that, in 5 years, a 25% reduction in parole or probation revocations based on technical violations could result in cost reductions of more than \$3 million.

The Commission recommended that the General Assembly enact legislation to require PPP to adopt evidence-based practices that target criminogenic need factors. The Commission also recommended that the General Assembly enact legislation to define technical violations of probation and parole and authorize appropriate administrative sanctions that are immediate and certain but proportionate to the violation. As well, the Commission recommended that the General Assembly enact legislation to allow probationers and parolees who are sentenced to at least 1 year under the supervision of PPP to earn a reduction of time on active supervision by up to 20 days for each month of compliance with the conditions of the probation or parole order.

### **The "Omnibus Crime Reduction and Sentencing Reform Act of 2010"**

As a result of the Commission's report, the General Assembly passed Act 273, also known as the "Omnibus Crime Reduction and Sentencing Reform Act of 2010." The overall purpose of the Act is to:

- (1) ensure prison space exists for high-risk, violent offenders, and ensure that such offenders serve longer prison terms;
- (2) require supervision for offenders leaving prison so such offenders cannot disappear into South Carolina communities without oversight;
- (3) improve supervision for those on probation and parole so that incentives exist to stay crime and drug free and to transition from tax burdens to taxpayers; and
- (4) get smart on crime, reduce recidivism, provide fair and effective sentencing options, employ evidence-based practices for smarter use of correctional funding, and improve public safety.

Part of the Act addresses obtaining and using proven methods to make smarter use of PPP's resources by focusing on evidence-based practices, providing incentives to persons under supervision to comply with conditions, and reducing overall costs of the correctional system. The Act requires PPP to use assessment tools that identify offender needs as well as criminal risks, so that probationers and parolees are better evaluated for needs as well as risks to the public. As well, the Act requires PPP to use evidence-based practices for assessment and supervision of probationers and parolees. As an incentive, the Act allows offenders to earn good-time credits for meeting conditions of probation or parole. Furthermore, the Act establishes administrative sanctions which can be imposed by PPP against persons under supervision. These sanctions allow for swift and immediate action so punishment is timely and proportionate to the violation. Finally, the Act requires PPP to report on:

- (1) PPP's goals and development of assessment tools consistent with evidence-based practices; and
- (2) the number and percentage of individuals placed on administrative sanctions, the number and percentage of individuals who have earned compliance credits, and the number and percentage of individuals whose supervision has been revoked for violations of conditions or for convictions for new offenses.

### **The South Carolina Sentencing Reform Oversight Committee**

The "Omnibus Crime Reduction and Sentencing Reform Act of 2010" established the South Carolina Sentencing Reform Oversight Committee (Oversight Committee) to oversee the Act's implementation. The Oversight Committee is composed of the following members:

- (1) 2 members of the South Carolina Senate and 1 member of the general public appointed by the South Carolina Senate's Judiciary Committee Chair;
- (2) 2 members of the South Carolina House of Representatives and 1 member of the general public appointed by the South Carolina House of Representative's Judiciary Committee Chair; and
- (3) 1 member appointed by the Governor of South Carolina.

The current members of the Oversight Committee are:

- (1) Senator Gerald Malloy, Chairman of the Oversight Committee, Senator George E. "Chip" Campsen, and the Honorable William R. Byars, Jr.
- (2) Representative J. Todd Rutherford, Representative Christopher J. "Chris" Murphy, and Stanley L. Myers; and
- (3) Jon E. Ozmint.

Part of the Oversight Committee's powers and duties is to:

- (1) annually review PPP's report on:
  - (a) the number and percentage of individuals placed on administrative sanctions and the number and percentage of individuals who earned compliance credits; and
  - (b) the number and percentage of individuals whose supervision has been revoked for violations of conditions or for convictions for new offenses;
- (2) develop rules and regulations for calculating state expenditures savings;
- (3) annually calculate:
  - (a) state expenditures that have been avoided by reductions in the revocation rate; and
  - (b) state expenditures that have been avoided by reductions in the new felony offense conviction rate; and
- (4) on or before December 1<sup>st</sup> of each year, report such State expenditures calculations to the President of the South Carolina Senate, the Speaker of the South Carolina House of Representatives, the Chief Justice of the South Carolina Supreme Court, and the Governor of South Carolina. The Oversight Committee shall recommend in the report whether to appropriate up to 35% of any savings to PPP for the following purposes:
  - (a) implementation of evidence-based practices;

(b) increasing the availability of risk reduction programs and interventions, including substance abuse treatment programs, for supervised individuals; or

(c) grants to nonprofit victim services organizations to partner with PPP and courts to assist victims and increase the amount of restitution collected from offenders.

None of the savings shall be recommended for appropriation if an increase exists in the percentage of individuals supervised by PPP who are convicted of new felony offenses.

### **REVIEW OF THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS REPORT**

On November 18, 2013, DOC presented a report to the Oversight Committee regarding South Carolina's prison system. Overall the inmate population and annual admissions of offenders to DOC has decreased in fiscal year 2013. The DOC has been able to eliminate budget deficits and has closed one-and-a-half Level 1 (minimum security) institutions. The DOC has expanded pre-release programs to better prepare inmates for release and transition into the community and has implemented a risk and needs assessment tool and intensive supervision services for Youthful Offenders. As well, recidivism rates have declined in each of the past three years.

#### **Average Daily Inmate Population**

The average daily inmate population for fiscal year 2013 is 22,680. This number represents a 2.8% decrease in the population compared to fiscal year 2012, and an 8.2% decrease in the population compared to fiscal year 2010, the year the General Assembly passed the "Omnibus Crime Reduction and Sentencing Reform Act of 2010." The non-violent inmate population has decreased from 54% in 2002 to 37% in 2013, while the violent inmate population has increased from 46% in 2002 to 63% in 2013.

#### **Annual Admissions**

Annual admissions of offenders to DOC in fiscal year 2013 are 9,569. This number represents a 5.9% decrease in admissions compared to fiscal year 2012, and a 24% decrease in admissions compared to fiscal year 2010. Specifically, annual admissions of non-violent offenders have decreased 27.9% compared to fiscal year 2010, while annual admissions of violent offenders have remained relatively the same compared to fiscal year 2010.

(See the attachment entitled "Report to the Sentencing Reform Oversight Committee" by the DOC and the attachment entitled "South Carolina's Prison System Report to the Sentencing Reform Oversight Committee" by the DOC for further information)

### **REVIEW OF THE SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES REPORT**

On November 18, 2013, PPP presented a report to the Oversight Committee regarding South Carolina's probation, parole, and pardon services. PPP reported that the agency's implementation of evidence-based sentencing reform measures such as risk and needs assessment evaluations, staff training on effective community supervision practices, implementation of earned compliance credits, and implementation of an administrative sanctions system have resulted in the reduction of recidivism by offenders and the reduction of the fiscal impact to DOC, while maintaining public safety.

### **Active Offender Population**

The active offender population for fiscal year 2013 is 33,842, as of June 30, 2013. This number represents a 4% increase in the population compared to fiscal year 2012, and an 8% increase in the population compared to fiscal year 2010.

### **Administrative Sanctions**

During fiscal year 2013, there have been 26,007 offenders with at least one violation. This number represents 77% of the active offender population. PPP utilized 72,227 administrative sanctions to address violations. This number represents a 27% increase in the use of administrative sanctions compared to fiscal year 2012, and a 69% increase in the use of administrative sanctions compared to fiscal year 2010.

### **Compliance Credits**

During fiscal year 2013, 14,322 offenders have been eligible to earn compliance credits. This number represents 42% of the active offender population. The number of offenders who earned compliance credits is 6,166. This number represents 43% of those eligible to earn compliance credits. PPP has experienced a 151% increase in the number of offenders who earned compliance credits compared to fiscal year 2012. Offenders who received early discharge from supervision due to earned compliance credits was 157.

### **Supervision Revocations for Condition Violations**

During fiscal year 2013, 2,626 offenders have had their supervision revoked for violations of conditions. This number represents 8% of the active offender population. PPP has experienced a 21% decrease in the number of offenders who have had their supervision revoked for violations of conditions compared to fiscal year 2012, and a 45% decrease in the number of offenders who have had their supervision revoked for violations of conditions compared to fiscal year 2010.

The number of offenders who have been admitted to the DOC for compliance revocations is 1,682. The number represents 5% of the active offender population. PPP has experienced a 23% decrease in the number of offenders who have been admitted to the DOC for compliance revocations compared to fiscal year 2012, and a 49% decrease in the number of offenders who have been admitted to the DOC for compliance revocations compared to fiscal year 2010.

### **Supervision Revocations for New Offense Convictions**

During fiscal year 2013, 823 offenders have had their supervision revoked for new offense convictions. This number represents 2.4% of the active offender population. PPP has experienced a 6% decrease in the number of offenders who have had their supervision revoked for new offense convictions compared to fiscal year 2010.

(See the attachment entitled "Report to the Sentencing Reform Oversight Committee" by PPP and the attachment entitled "Summary of the Sentencing Reform Oversight Committee Report" by PPP for further information)

## **RULES AND REGULATIONS FOR CALCULATING STATE EXPENDITURES SAVINGS**

In 2012, South Carolina received “Justice Reinvestment Initiative” funding from the United States Department of Justice’s Bureau of Justice Assistance (BJA) and the Public Safety Performance Project of the Pew Center on the States to be used for implementation of the “Omnibus Crime Reduction and Sentencing Reform Act of 2010.” A portion of the funding was specifically designated to be used by the Oversight Commission to obtain expert technical assistance in developing the rules and regulations for calculating state expenditures savings. The Vera Institute of Justice (VERA) provided the expert technical assistance. VERA worked with PPP and DOC to develop a methodology that can be used by the agencies and the Oversight Committee to calculate state expenditures savings on an annual basis. The methodology includes both variable and step-fixed costs. The methodology is now part of a computer program template. Each year PPP and DOC agree upon the data for input into the template and subsequently agree upon the calculation of state expenditures savings. Such savings are then reported to the Oversight Committee for approval.

### **CALCULATION OF STATE EXPENDITURES SAVINGS**

The State expenditures savings for fiscal year 2013 total \$5,276,329. This amount includes a variable cost avoidance totaling \$3,192,730 (538,403 avoided bed days x \$5.93 per diem variable cost per inmate), and a step-fixed cost avoidance of \$2,083,599 (538,403 avoided bed days x \$3.87 per diem officer cost avoidance per inmate).

(See the attachment entitled “South Carolina Sentencing Reform Oversight Committee Cost Avoidance Calculation” and the attachment entitled “Report to the Sentencing Reform Oversight Committee” by PPP for further information)

### **REINVESTMENT OF STATE EXPENDITURES SAVINGS**

Reinvestment of state expenditures savings in further sentencing reform measures is key to a state’s success in reducing criminal recidivism, improving public safety, and reducing correctional expenses. As a result, the “Omnibus Crime Reduction and Sentencing Reform Act of 2010” provides that the Oversight Committee can recommend to appropriate up to 35% of the saved expenditures to PPP for reinvestment in sentencing reform measures. The maximum reinvestment for fiscal year 2013 totals \$1,846,715 (\$5,276,329 x 35%).

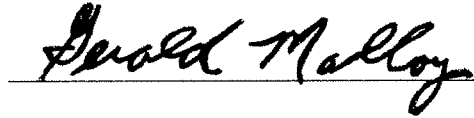
The Oversight Committee recommends the appropriation of \$1,846,715 to PPP for reinvestment in sentencing reform measures as suggested by PPP in the agency’s report to the Oversight Committee.

The Oversight Committee recommends that 65% of the appropriation (\$1,203,700) be reinvested in caseload management initiatives according to geography and risk level. The funds can be used to support case management of medium and high risk offenders for optimal caseload sizes.

Also, the Oversight Committee recommends that 29% of the appropriation (\$540,366) be reinvested for continued and additional support of the SMART Probation and Community-Based Treatment Model. The funds can be used to expand the number of agents trained, provide coaching support, and provide funding to support community-based treatment and reentry services for offenders.

Finally, the Oversight Committee recommends that 6% of the appropriation (\$102,649) be reinvested in the expansion of victim impact services and support strategies. The funds can be used to develop and implement programming to teach offenders about the impact of their offenses on victims, provide training for PPP’s victim services coordinators, and expand victim outreach and support services.

(See the attachment entitled “Report to the Sentencing Reform Oversight Committee” by PPP and the attachment entitled “Summary of the Sentencing Reform Oversight Committee Report” by PPP for further information)

A handwritten signature in black ink that reads "Gerald Malloy". The signature is written in a cursive style and is positioned above a horizontal line.

Senator Gerald Malloy, Chairman

SC Sentencing Reform Oversight Committee