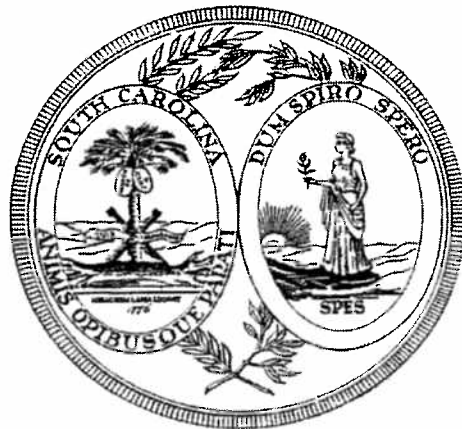


# THE SOUTH CAROLINA SENTENCING REFORM OVERSIGHT COMMITTEE

## STATE EXPENDITURE SAVINGS REPORT



December 1, 2011

### Committee Members:

Senator Gerald Malloy, Chair  
Senator Glenn F. McConnell  
Rep. Bruce W. Bannister  
Rep. J. Todd Rutherford  
Robert M. "Mike" Hammond  
R. Keith Kelly  
Jon E. Ozmint

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**THE SOUTH CAROLINA SENTENCING REFORM OVERSIGHT COMMITTEE**  
**STATE EXPENDITURE SAVINGS REPORT**

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## **BACKGROUND**

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

On February 1, 2010, the South Carolina Sentencing Reform Commission (SCSRC) issued a report to the South Carolina General Assembly regarding criminal sentencing in South Carolina. In the report, the SCSRC noted that over the past twenty-five 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 correctional population growth had come at a significant financial cost. In 1983, the State spent \$63.71 million on prison operations. By 2008, the costs increased by more than 500% to \$394.15 million. The SCSRC warned that on the current course, in five years, South Carolina could expect to see the State's inmate 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' (SCDOC) 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 to the General Assembly, the SCSRC noted that one of the driving forces behind the rapid increase in the inmate population was an increasing number of offenders in South Carolina who were being incarcerated for violating technical conditions of their probation or parole, not for committing new crimes. In fiscal year 2009, the South Carolina Department of Probation, Parole and Pardon Services (SCDPPPS) 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 show up on time. The SCSRC also noted that the proportion of the SCDPPPS funding from State dollars in fiscal year 2009 was 44%, down from 57% in 2000. The remainder of the SCDPPPS funding comes from client fees. Over the years, both the SCDPPPS and the SCDOC have had to reduce the number of fulltime employees to accommodate budget limitations while their offender populations have increased. The SCSRC also noted in the report to the General Assembly that, based on data supplied by the SCDPPPS and the SCDOC, in five years, a 25% reduction in parole or probation revocations based on technical violations could result in cost reductions of more than \$3 million.

The SCSRC recommended that the General Assembly enact legislation to require the SCDPPPS to adopt assessment tools designed with evidence-based practices that target criminogenic need factors. The SCSRC 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 SCSRC recommended that the General Assembly enact legislation to allow probationers and parolees who are sentenced to at least one year under the supervision of the SCDPPPS to earn a reduction of their time on active supervision by up to twenty 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"**

In 2010, as a result of the SCSRC'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 there is prison space for high-risk, violent offenders and that those offenders serve longer terms in prison;
- (2) require supervision for offenders leaving prison so they cannot disappear into South Carolina communities without any oversight;
- (3) improve supervision for those on probation and parole so that there are incentives to stay crime and drug free and 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 II of the act focuses on obtaining and using proven methods to make smarter use of the resources of the SCDPPPS, to focus on using evidence-based practices, provide incentives to persons under supervision to comply with conditions, and reduce overall costs of the correctional system. The act requires the SCDPPPS director and agents to write policies and procedures 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 the SCDPPPS agents to use more data and evidence-based practices for assessment and supervision of probationers and parolees. Also, as an incentive to complying with the terms of an offender's supervision, provisions in the act allow offenders under the SCDPPPS supervision to earn good-time credits for meeting conditions of probation or parole. Furthermore, the act establishes administrative intermediate sanctions, which can be imposed by the SCDPPPS against persons under supervision. These sanctions allow for swift and immediate action to be imposed so punishment is timely and proportionate to the violation. Finally, the act requires the SCDPPPS to report on:

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

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

The "Omnibus Crime Reduction and Sentencing Reform Act of 2010" also established the South Carolina Sentencing Reform Oversight Committee (Oversight Committee). South Carolina Code Section 24-28-20 provides that the Oversight Committee is composed of the following members:

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

The current members of the Oversight Committee are:

- (1) South Carolina Senator Gerald Malloy, Chair of the Oversight Committee, South Carolina Senator Glenn F. McConnell, and Robert M. "Mike" Hammond;
- (2) South Carolina Representative Bruce W. Bannister, South Carolina Representative J. Todd Rutherford, and R. Keith Kelly; and
- (3) Jon E. Ozmint.

South Carolina Code Section 24-28-30 provides that, among the Oversight Committee's powers and duties, the Oversight Committee shall:

- (1) review the report from the SCDPPPS on:
  - (a) the number and percentage of individuals placed on administrative sanctions and the number and percentage of individuals who have earned compliance credits; and
  - (b) the number and percentage of probationers and parolees whose supervision has been revoked for violations of conditions or for convictions of new offenses; and

- (2) annually calculate:
  - (a) any State expenditures that have been avoided by reductions in the revocation rate as calculated by the SCDPPPS and reported under South Carolina Code Sections 24-21-450 and 24-21-680; and
  - (b) any state expenditures that have been avoided by reductions in the new felony offense conviction rate as calculated by SCDPPPS and reported under South Carolina Code Sections 24-21-450 and 24-21-680; and
- (3) on or before December first of each year, beginning in 2011, report the 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 report also shall recommend whether to appropriate up to 35% of any state expenditures that are avoided to the SCDPPPS. With respect to the recommended appropriation, none of the calculated savings shall be recommended for appropriation for that fiscal year if there is an increase in the percentage of individuals supervised by the SCDPPPS who are convicted of a new felony offense. Any funds appropriated must be used to supplement, not replace, any other state appropriations to the SCDPPPS. Funds received through appropriations must be used by the SCDPPPS for the following purposes:
  - (a) implementing evidence-based practices;
  - (b) increasing the availability of risk reduction programs and interventions, including substance abuse treatment programs, for supervised individuals; or
  - (c) providing grants to nonprofit victim services organizations to partner with the SCDPPPS and courts to assist victims and increase the amount of restitution collected from offenders.

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

The “Omnibus Crime Reduction and Sentencing Reform Act of 2010” requires that, among the Oversight Committee’s powers and duties, the Oversight Committee review the report from the SCDPPPS on:

- (1) the number and percentage of individuals placed on administrative sanctions and the number and percentage of individuals who have earned compliance credits; and
- (2) the number and percentage of probationers and parolees whose supervision has been revoked for violations of conditions or for convictions of new offenses.

On November 16, 2011, the SCDPPPS presented the agency’s report to the Oversight Committee. This was the SCDPPPS’ first report to the Oversight Committee. The “Omnibus Crime Reduction and Sentencing Reform Act of 2010” did not become law until late in 2010 and early in 2011. Therefore, the amount of implementation, information, data, and feedback is somewhat limited in the SCDPPPS’ first report. The SCDPPPS reported all of the information available at the time and reported that the agency has fully embraced the concept of evidence-based practices, integrating such practices into all aspects of the agency’s operations. Additionally, the SCDPPPS and the SCDOC have developed a joint strategic plan to improve reentry and reduce recidivism in South Carolina. The mission is to improve public safety by providing a seamless system of coordinated and focused services in institutions and community corrections.

**Administrative Sanctions**

The SCDPPPS reported that the agency has targeted administrative sanction practices and initiated best practice strategies to enhance outcomes. These strategies include:

- (1) a comprehensive review of SCDPPPS administrative sanctions policies and the implementation of strategies to ensure practices are consistent with policies; and
- (2) implementation of the “Data Analysis for Reduction of Recidivism” (DARR) model in August 2011 to guide management to effectively review and respond to the trends and outcomes of offender supervision and violation response strategies. This project is based on the “CompStat” data analysis model that is widely recognized for evidence-based outcomes that improve the ability of law enforcement to identify and respond to crime trends.

**The “Justice Reinvestment Initiative”**

The SCDPPPS also reported that the agency, in coordination with the SCDOC and the SCDJJ, spearheaded efforts to seek technical assistance through the “Justice Reinvestment Initiative.” The United States Department of Justice, the Bureau of Justice Assistance, and the Justice Reinvestment Steering Committee selected South Carolina for funding of South Carolina’s efforts to fully implement the “Omnibus Sentencing Crime Reduction and Sentencing Reform Act of 2010.” The “Justice Reinvestment Initiative” will provide seed funding for technical assistance to support the implementation of sentencing reform strategies and will allow South Carolina to systemically implement sentencing reform requirements to successfully impact the rate of incarceration. The targeted areas include the design and implementation of:

- (1) an evidence-based violation and incentives matrix to enhance administrative sanction strategies;
- (2) a continuum of evidence-based treatment options to address criminogenic needs in the community; and
- (3) an evidence-based evaluation plan for sentencing reform measures.

## The Actuarial Risk/Needs Assessment Instrument

As well, the SCDPPPS reported that the agency identified and selected a validated actuarial risk/needs assessment instrument for the purpose of offender supervision, case management, and parole release decision making. The SCDPPPS procured the “Correctional Offender Management Profiling for Alternative Sanctions” tool (COMPAS) in order to meet needs for offender risk/needs assessments based on evidence-based practices. This assessment tool will guide case management and parole release decision making by identifying the criminogenic needs of the offender and the potential risk the offender poses to recidivate while under community correctional supervision. Furthermore, by acquiring the “COMPAS” assessment tool, the SCDPPPS has the ability to address the factors related to criminality and refer offenders to appropriate treatment and program services in the community. The implementation of the “COMPAS” assessment tool began in September 2011.

### Statistics

The SCDPPPS reported that the agency’s sentencing reform strategies have resulted in the reduction of recidivism by offenders and the reduction of the fiscal impact to the SCDOC, while maintaining public safety. The SCDPPPS reported the following statistics for fiscal year 2011:

- (1) an 18% reduction of compliance revocation admissions to the SCDOC;
- (2) a 12% overall reduction in supervision revocation rates;
- (3) a 13% reduction in compliance revocation rates;
- (4) a 6% reduction in new offense revocation rates (The SCDPPPS in coordination with the SCDOC is seeking a methodology to identify new felony conviction data. Technical assistance provided through the “Justice Reinvestment Initiative” is intended to assist with the development of this methodology.);
- (5) an 18% overall reduction in the issuance of legal process (warrants and citations); and
- (6) a 29% overall reduction of administrative hearings.

The SCDPPPS reported that during fiscal year 2011, there have been 20,758 offenders who required an administrative sanctions response. This number represents 67% of the SCDPPPS active offender population as of June 30, 2011. The SCDPPPS has experienced an 11% reduction in the rate of violations compared to fiscal year 2010.

Also, the SCDPPPS reported that during fiscal year 2011, 294 offenders were eligible to earn compliance credits. This number represents 1% of the SCDPPPS active offender population as of June 30, 2011. Offenders earned 2,080 compliance credits during fiscal year 2011, and 8,140 compliance credits were denied during fiscal year 2011. The primary reason for denial was supervision fee arrearages. The secondary reason for denial was financial restitution arrearages.

As well, the SCDPPPS reported that during fiscal year 2011, there were a total of 4,966 offender revocations. This number represents a reduction of 697 (12%) total revocations from fiscal year 2010. Of this total, 4,141 involved compliance revocations. This number represents a reduction of 642 (13%) compliance revocations from fiscal year 2010. Of the total revocations, 825 involved new offense revocations. This number represents a reduction of 55 (6%) new offense revocations from fiscal year 2010.

Additionally, the SCDPPPS reported that during the fiscal year 2011, the number of offenders admitted to the SCDOC as the result of compliance revocations reduced by 579. The SCDPPPS reported that the SCDPPPS and the SCDOC agreed upon this number.

## **CALCULATION OF STATE EXPENDITURE SAVINGS**

The “Omnibus Crime Reduction and Sentencing Reform Act of 2010” requires that, among the Oversight Committee’s powers and duties, the Oversight Committee shall annually calculate:

- (1) any State expenditures that have been avoided by reductions in the revocation rate as calculated by the SCDPPPS and reported under South Carolina Code Sections 24-21-450 and 24-21-680; and
- (2) any state expenditures that have been avoided by reductions in the new felony offense conviction rate as calculated by SCDPPPS and reported under South Carolina Code Sections 24-21-450 and 24-21-680; and
- (3) recommend whether to appropriate up to 35% of any state expenditures that are avoided to the SCDPPPS. With respect to the recommended appropriation, none of the calculated savings shall be recommended for appropriation for that fiscal year if there is an increase in the percentage of individuals supervised by the SCDPPPS who are convicted of a new felony offense. Any funds appropriated must be used to supplement, not replace, any other state appropriations to the SCDPPPS.

This is the Oversight Committee’s first report. The “Omnibus Crime Reduction and Sentencing Reform Act of 2010” did not become law until later in 2010, and early in 2011. Therefore, the amount of implementation, information, data, and feedback is somewhat limited in this first report. Due to the short period of time between the SCDPPPS first report to the Commission on November 16, 2011, and the statutory deadline for the Oversight Committee’s report, December 1, 2011, the Oversight Committee is relying on the information and calculations provided by the SCDPPPS. The Oversight Committee has not employed consultants to assist in the evaluation of the information provided by the SCDPPPS as permitted by the “Omnibus Crime Reduction and Sentencing Reform Act of 2010.” Beginning in 2012, the Oversight Committee will require the SCDPPPS to report to the Oversight Committee at an earlier date in order to give the Oversight Committee an opportunity to perform a full analysis of the SCDPPPS report and calculations.

### **Total State Expenditure Savings**

The SCDPPPS calculated the total cost avoidance in state funds for the SCDOC during fiscal year 2011, based on the state’s annual cost per inmate (\$13,534), to be \$4,229,456.

$$\$4,229,456 = \$37.08 \text{ (State's total daily cost per inmate)} \times 114,063 \text{ (Inmate Bed Days for Year 1)}$$

### **Marginal State Expenditure Savings**

The SCDPPPS calculated the marginal cost avoidance in state funds for the SCDOC during fiscal year 2011, based on marginal daily costs and total bed days, to be \$1,067,630.

A marginal rate is used to account for the variable costs averted such as food, medical expenses, and fixed expenditures. The “Omnibus Crime Reduction and Sentencing Reform Act of 2010” allows a maximum marginal rate of 35% of the total cost avoidance. The SCDPPPS reported that the SCDPPPS and the SCDOC agreed that a marginal rate of 25.24% best represents the cost avoidance rate for fiscal year 2011.



## **REINVESTMENT OF STATE EXPENDITURE SAVINGS**

The “Omnibus Crime Reduction and Sentencing Reform Act of 2010” provides that the Oversight Committee shall recommend whether to appropriate up to 35% of any state expenditures that are avoided to the SCDPPPS for reinvestment in sentencing reform measures. With respect to the recommended appropriation, none of the calculated savings may be recommended for appropriation for that fiscal year if there is an increase in the percentage of individuals supervised by the SCDPPPS who are convicted of a new felony offense. Any funds appropriated must be used to supplement, not replace, any other state appropriations to the SCDPPPS.

The Oversight Committee recommends the appropriation of \$1,067,630 to the SCDPPPS for reinvestment in sentencing reform measures as recommended by the SCDPPPS in the agency’s report to the Oversight Committee. This amount reflects the marginal cost avoidance in state funds during fiscal year 2011, based on the agreed upon marginal rate of 25.24%.

### **Reinvestment Recommendations**

The “Omnibus Crime Reduction and Sentencing Reform Act of 2010” provides that funds received through appropriations must be used by the SCDPPPS for the following purposes:

- (1) implementation of evidence-based practices;
- (2) increasing the availability of risk reduction programs and interventions, including substance abuse treatment programs, for supervised individuals; or
- (3) grants to nonprofit victim services organizations to partner with the SCDPPPS and courts to assist victims and increase the amount of restitution collected from offenders.

The SCDPPPS recommended to the Oversight Committee that the expenditure savings in the amount of \$1,067,630 be used by the SCDPPPS to develop and operate various community correctional strategies focused on the risk/needs principle to reduce offender recidivism. The SCDPPPS intends to continue development of programs and initiatives which use evidence-based behavioral modification strategies and interventions. These programs will promote offender accountability, ensure public safety, and minimize the costs to the SCDOC attributed to technical revocations by providing targeted offenders with essential competencies and appropriate treatment considered necessary for successful reintegration into society.

### **Violations and Incentives Matrix**

The SCDPPPS recommended that the agency reinvest \$50,000 of the expenditure savings in a violation and incentives matrix. The SCDPPPS reported that the matrix would be used in conjunction with the actuarial risk/needs instrument to identify swift and certain responses to designated and ranked offender violations. In addition, the matrix would also identify positive reinforcement strategies in support of evidence-based practices to reduce the rate of recidivism. The six counties with the highest revocation rates would be targeted initially. These counties contributed to 3,293 revocations in fiscal year 2010. Modification to the “Offender Management System” (OMS) would need to be made to fully operate a matrix and to ensure quality assurance mechanisms are functional to measure outcomes.

### **Young Offender Supervision Program**

The SCDPPPS recommended that the agency reinvest \$695,000 of the expenditure savings in a “Young Offender Supervision Program” (YOSP). The YOSP would be developed and implemented in the ten counties with the highest impact to the SCDOC incarceration rates. The YOSP program is inspired by the “Intensive Supervision Officers Program” (ISOP) operated by SCDJJ. The ISOP program

is widely recognized for its effectiveness at reducing recidivism among a similar population and reducing the incarceration costs of the SCDJJ. Young Offender Supervision Specialists would supervise a caseload with a ratio of 1:50. The smaller caseload would promote structured supervision to include individualized case management, a continuum of treatment services, offender accountability, and the use of an evidence-based violation and incentives matrix. The estimated population for this program is approximately 750 young adult offenders annually. Fifteen fulltime employees would be needed for Young Offender Supervision Specialists.

### **Service Provider Model**

The SCDPPPS recommended that the agency reinvest \$266,000 of the expenditure savings in a “Service Provider Model.” The Model would be implemented into the OMS to allow for a continuum of evidence-based treatment options from the agent to the treatment service provider in a collaborative, treatment team approach to address criminogenic needs in the community and reduce recidivism. This continuum of evidence-based treatment options would reduce the barriers offenders face associated with program treatment participation and completion, such as transportation issues, lack of available or suitable resources, and the inability to pay for necessary treatment services. Counselors would be hired within the agency to provide individual or group counseling to supplement or reinforce treatment provided from external community partnerships. An internal behavioral management treatment team would provide oversight functions of case management support to the agents and provide supportive counseling in a multi-systemic team approach to treatment between the supervising agent, the offender, and external service providers. Through the use of Therapeutic Behavioral Specialists, the role of these regional treatment coordinators would be to:

- (1) use the results of assessments to align programming options with offender risk and needs;
- (2) ensure offenders are being referred to the services they need, and that the programs are purposefully addressing their needs and mitigating their risk through quality assurance mechanisms;
- (3) collaborate with community partners at the State and local levels to provide education and put into place the continuum of internal and external interventions that address the drivers of criminality and reduce the risk of recidivism; and
- (4) use evidence acquired through assessments and quality assurance mechanisms to demonstrate services needed and acquire grants or reinvestment monies to fund initiatives.

Modification to the OMS would create a Model with a quality assurance mechanism to measure outcomes of the program’s effectiveness. Four fulltime employees would be needed for Therapeutic Behavioral Specialists (TBS) throughout the State to provide services with SCDPPPS offices to assure communication with an agent and the appropriate level of services are achieved and measured to conform to evidence-based practices and sentencing reform guidelines.

### **Victim Services and Community Partnerships**

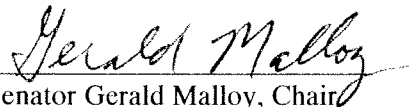
The SCDPPPS recommended that the agency reinvest \$57,000 of the expenditure savings in programs and initiatives to build collaborative relationships with victim services organizations and the courts. The aim of these victim-related programs would be to provide funding to:

- (1) assist victims through educational opportunities about the criminal justice system with emphasis on community corrections and restorative justice initiatives; and
- (2) provide a forum for criminal justice professionals to bring about change and improvement in efforts to collect restitution from offenders on the behalf of crime victims.

One fulltime employee would be needed as a Victim Services Education Specialists.

## CONCLUSION

The Sentencing Reform Oversight Committee reports a marginal cost avoidance in state funds during fiscal year 2011, as a result of the implementation of sentencing reform measures and based on the report provided by the SCDPPPS, as \$1,067,630. The Oversight Committee recommends that these funds be appropriated to the SCDPPPS for reinvestment in sentencing reform measures as required by the "Omnibus Crime Reduction and Sentencing Reform Act of 2010."

A handwritten signature in cursive script that reads "Gerald Malloy".

Senator Gerald Malloy, Chair  
South Carolina Sentencing Reform Oversight Committee