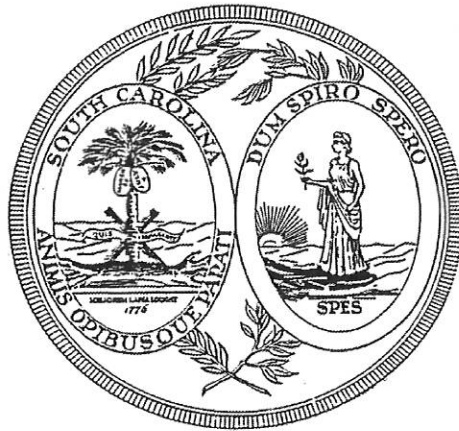


# THE SOUTH CAROLINA SENTENCING REFORM OVERSIGHT COMMITTEE

## STATE EXPENDITURES SAVINGS REPORT



December 2015

### Committee Members:

Senator Gerald Malloy, Chairman  
Senator George E. "Chip" Campsen  
Jennifer C. Davis  
Honorable Cecil Kelly Jackson  
Representative Christopher J. "Chris" Murphy  
Jon E. Ozmint  
Representative J. Todd Rutherford

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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 9,000 inmates in 1983, to more than 25,000 inmates in 2009. The population growth came at a significant financial cost. In 1983, South Carolina spent approximately \$63.7 million on prison operations. By 2008, the costs increased by more than 500% to approximately \$394 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 who were being incarcerated for violating technical conditions of probation or parole. 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 were sent back to prison for non-criminal, technical violations, such as failure to appear on time.

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 the "Omnibus Crime Reduction and Sentencing Reform Act of 2010." The overall purpose of the Act is to:

- (1) ensure prison space for high-risk and violent offenders;
- (2) require supervision for offenders leaving prison;
- (3) improve supervision for those on probation and parole; 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 that 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 Cecil Kelly Jackson.
- (2) Representative Christopher J. "Chris" Murphy, Representative J. Todd Rutherford, and Jennifer C. Davis; 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.

## **OVERALL SUCCESSES**

The sentencing reform initiatives implemented pursuant to the “Omnibus Crime Reduction and Sentencing Reform Act of 2010” have resulted in significant successes. In September of 2015, the PEW Charitable Trusts (PEW) issued a report titled “Imprisonment and Crime Rates Fell in 30 States Over 5 Years.” PEW estimated that South Carolina is one of the top five states that has experienced the largest decrease in imprisonment rates, while at the same time South Carolina has experienced a significant decrease in crime rates. In April of 2015, Dr. David Mitchell, president of C.C.M. Economics, L.L.C, issued a report titled “2014 Fiscal Year Economic Impact Analysis of the 2010 SRA on the South Carolina Economy.” Dr. Mitchell estimated that the economic impact of sentencing reform initiatives for fiscal year 2014 was significant. In fiscal year 2014, because of the sentencing reform initiatives, South Carolina’s economy was larger by almost \$30 million in output, which resulted in an increase in gross state product of \$18.5 million. The sentencing reform initiatives also generated 281 new jobs and increased personal income by \$10 million. Finally, this induced economic activity generated \$1.7 million in state tax revenues and \$2.5 million in federal tax revenues. The goal of the sentencing reform initiatives isn’t just to save money, but also to make the public safer. According to the latest crime statistics, South Carolina has experienced a 6.3% decrease in the violent crime rate. Also, in June of 2014, the National Reentry Resource Center issued a report titled “Reducing Recidivism” estimating that South Carolina has experienced a 17.9% decrease in the rate of crime recidivism.

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

On November 23, 2015, the South Carolina Department of Corrections (DOC) presented a report to the Oversight Committee regarding South Carolina’s prison system. Overall the inmate population and annual admissions of offenders has decreased in fiscal year 2015. The DOC has eliminated budget deficits and has closed three-and-a-half institutions.

### **Average Daily Inmate Population**

The average daily inmate population for fiscal year 2015 totals 21,248. This number represents a 2.6% decrease in the population compared to fiscal year 2014, and an 11.8% 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 as of June 30, 2015, totaled 7,431. This number represents a 6.8% decrease in the population compared to 2014, and a 34% decrease in the population compared to 2010. The violent inmate population as of June 30, 2015, totaled 13,820. This number represents a 0.8% decrease compared to fiscal year 2014, and a 5% increase in the population compared to fiscal year 2010.

### **Annual Admissions**

Annual admissions of offenders to DOC in fiscal year 2015 totaled 8,656. This number represents a 5.3% decrease in admissions compared to fiscal year 2014, and a 31% decrease in admissions compared to fiscal year 2010.

Annual admissions of non-violent offenders to DOC in fiscal year 2015 totaled 6,725. This number represents a 6.4% decrease in admissions compared to fiscal year 2014, and a 35.6% decrease in admissions compared to fiscal year 2010. Annual admissions of violent offenders to DOC in fiscal year 2015 totaled 1,931. This number represents a 1.2% decrease in admissions compared to fiscal year 2014, and a 10% decrease in admissions compared to fiscal year 2010.

## **Recidivism**

The recidivism rate of inmates released in fiscal year 2012 who returned to DOC within 3 years or less is 24.9%. This number represents a .8% decrease in recidivism compared to inmates released in fiscal year 2011, and a 2.6% decrease in recidivism compared to inmates released in fiscal year 2010.

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

On November 23, 2015, 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 a risk and needs assessment tool, community reentry services, education and job training programs, and internal employment practices has resulted in the reduction of recidivism by offenders and the reduction of the fiscal impact to DOC, while at the same time maintaining public safety.

In fiscal year 2015, the rate of successful completion was 77% for probation and 87% for parole. These numbers reflect a 0% increase for probation and 3% decrease for parole since fiscal year 2014, and a 12% increase for probation and 6% increase for parole since fiscal year 2010. PPP's successful completion rates are above the national average of 66% for probation and 62% for parole.

## **Active Offender Population**

The active offender population for fiscal year 2015 is 30,929 as of June 30, 2015. This number represents a 4% decrease in the population compared to fiscal year 2014, and a 1% decrease in the population compared to fiscal year 2010.

## **Administrative Sanctions**

During fiscal year 2015, there have been 22,899 offenders with at least one violation. PPP utilized 62,508 administrative sanctions to address violations. This number represents a 3% decrease in the use of administrative sanctions compared to fiscal year 2014, and a 46% increase in the use of administrative sanctions compared to fiscal year 2010.

## **Compliance Credits**

During fiscal year 2015, 27,640 offenders have been eligible to earn compliance credits. This number represents 89% of the active offender population. The number of offenders who earned compliance credits totals 8,552. PPP has experienced a 4% decrease in the number of offenders who earned compliance credits compared to fiscal year 2014 and a 39% increase in the number of offenders who earned compliance credits compared to fiscal year 2013. Offenders who received early discharge from supervision due to earned compliance credits totaled 1,399.

## **Supervision Revocations for Condition Violations**

During fiscal year 2015, 2,598 offenders have had their supervision revoked for violations of conditions of parole or probation. PPP has experienced a 0.3% decrease in the number of offenders who have had their supervision revoked for violations of conditions compared to fiscal year 2014, and a 46% 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 totals 1,788. PPP has experienced a 2% increase in the number of offenders who have been admitted to the DOC for compliance revocations compared to fiscal year 2014, and a 46% 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 2015, 562 offenders have had their supervision revoked for new offense convictions. PPP has experienced a 23% decrease in the number of offenders who have had their supervision revoked for new offense convictions compared to fiscal year 2014, and a 36% decrease in the number of offenders who have had their supervision revoked for new offense convictions compared to fiscal year 2010.

### **Recidivism**

The recidivism rate of persons admitted to PPP custody in fiscal year 2012 who returned to DOC within 3 years or less is 20%. This number represents a 2% decrease in recidivism compared to persons admitted to PPP custody in fiscal year 2011, and a 3% decrease in recidivism compared to persons admitted to PPP custody in fiscal year 2010.

### **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 designated to be used by the Oversight Committee to obtain technical assistance in developing the rules and regulations for calculating state expenditures savings. Vera Institute of Justice (VERA) provided the 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 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. The savings are then reported to the Oversight Committee.

### **SOUTH CAROLINA DEPARTMENT OF CORRECTIONS AND DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES FUNDING**

Before discussing the State expenditure savings for fiscal year 2015, the Oversight Committee would like to bring attention to general concerns about the DOC and PPP funding. Despite the successes in reducing the inmate population, the DOC has been historically underfunded, especially when compared to other states. The operating cost of housing inmates has significantly increased over the last five years. The daily cost per inmate has increased from \$43.73 in fiscal year 2010 to \$54.05 in fiscal year 2015. As a result, the DOC’s expenditures have significantly increased. In fiscal year 2010, the DOC expenditures totaled \$410.6 million. In fiscal year 2015, the DOC expenditures have increased to \$436.6 million. In addition, as the proportion of the prison population that consists of violent offenders increases, so does the need to have more secure facilities and well trained officers. As a result, the DOC is in need of experienced officers with manageable supervision caseloads. The DOC may not need increased funding to build new prisons; however, the DOC does need increased funding to safely manage the growing violent inmate population. Additionally, the DOC assumed supervision of the youthful offenders under the Young Offenders Parole and Reentry Services Program. Since the inception of the program, the caseload has

gradually increased, creating a lack of funding for the program. The program has successfully decreased the number of revocations and recidivism for the population served.

Likewise, PPP has been historically underfunded, especially when compared to other states. While sentencing reform initiatives have had the intended effect of decreasing the number of offenders revoked to prison, this has also had the effect of increasing the probation and parole population. Although the cost of probation and parole supervision is significantly less than incarceration, community-based supervision programs only work when probation and parole agents have a manageable caseload so that offenders receive individualized supervision. Without a manageable caseload, PPP may experience high supervision failure rates and a decrease in the ability to maintain safety in the community. PPP needs increased funding to safely manage the growing community corrections population.

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

The State expenditures savings for fiscal year 2015 total \$6,186,810. This amount includes a variable cost avoidance totaling \$3,856,909 (602,642 avoided bed days x \$6.40 per diem variable cost per inmate), and a step-fixed cost avoidance of \$2,329,902 (602,642 avoided bed days x \$3.87 per diem officer cost avoidance per inmate). The total State expenditures savings for fiscal year 2010 through fiscal year 2015 is \$24,891,463.

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

Reinvestment of state expenditures savings in 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 2015 totals \$2,165,384. The total maximum reinvestment from fiscal year 2010 through fiscal year 2015 is \$8,299,333. Although the Oversight Committee each year has recommended the reinvestment of these expenditures savings, PPP has not received such funding. PPP has continued to implement sentencing reform measures without the justice reinvestment funding. However, as the community corrections population continues to grow the more difficult it is for PPP to continue to implement sentencing reform measures. The reinvestment of the State's expenditure savings will be crucial to the success of sentencing reform measures and public safety in future years. Thus, the Oversight Committee recommends the appropriation of \$2,165,384 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 60.8% of the appropriation (\$1,317,024) be reinvested in the expansion of PPP's reentry services through increased funding for restorative justice programs and referrals.

Also, the Oversight Committee recommends that 37% of the appropriation (\$800,000) be reinvested in a security upgrade of the Offender Management System (OMS) software used by PPP.

Finally, the Oversight Committee recommends that 2.2% of the appropriation (\$48,360) be reinvested in the expansion of the Self-Paced In-Class Education (S.P.I.C.E.) Program, which is a voluntary faith-based inmate education and employment initiative.

  
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Senator Gerald Malloy, Chairman

SC Sentencing Reform Oversight Committee